



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

27 October 2016
Trial Day 472

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 28-Dec-2016, 13:29
CMS/CFO: Sann Rada

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

The Accused: NUON Chea
KHIEU Samphan

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

Trial Chamber Greffiers/Legal Officers:
CHEA Sivhoang
Harshan ATHURELIYA

Lawyers for the Civil Parties:
CHET Vanly
Marie GUIRAUD
HONG Kimsuon
LOR Chunthy
PICH Ang
SIN Soworn
TY Srinna
VEN Pov

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

For Court Management Section:
UCH Arun

I N D E X

Mr. SOV Maing alias SAO Champi (2-TCW-1045)

Questioning by The President (NIL Nonn) page 2

Questioning by Mr. LYSAK page 6

Questioning by Mr. LOR Chunthy page 42

Questioning by Ms. GUISSÉ..... page 48

List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|----------------------------|----------|
| Judge FENZ | English |
| The GREFFIER | Khmer |
| Ms. GUISSSE | French |
| Mr. KONG Sam Onn | Khmer |
| Mr. KOPPE | English |
| Judge LAVERGNE | French |
| Mr. LOR Chunthy | Khmer |
| Mr. LYSAK | English |
| The President (NIL Nonn) | Khmer |
| Mr. PICH Ang | Khmer |
| Mr. SOV Maing (2-TCW-1045) | Khmer |

1

1 PROCEEDINGS

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear testimony of a witness, 2-TCW-1045.

6 Ms. Chea Sivhoang, please report the attendance of the parties

7 and other individuals to today's proceedings.

8 [09.03.12]

9 THE GREFFIER:

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

11 are present except <Madam> Marie Guiraud, the International Lead

12 Co-Lawyer for civil parties, who informed the Chamber that she

13 will be absent today for personal reasons.

14 Mr. Nuon Chea is present in the holding cell downstairs. He has

15 waived his right to be present in the courtroom. The waiver has

16 been delivered to the greffier.

17 The witness who is to testify today, namely, 2-TCW-1045, took an

18 oath before the Iron Club Statue yesterday, and he has Mr. Duch

19 Phary as his duty counsel. Both are present in the courtroom.

20 Thank you.

21 [09.04.05]

22 MR. PRESIDENT:

23 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the

24 request by Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea, dated 27

2

1 October 2016, which states that, due to his health, that is,
2 headache, back pain, he cannot sit or concentrate for long. And
3 in order to effectively participate in future hearings, he
4 requests to waive his right to be present at the 27 October 2016
5 hearing.

6 Having seen the medical report of Nuon Chea by the duty doctor
7 for the accused at the ECCC, dated 27 October 2016, which notes
8 that, today, Nuon Chea has a severe lower back pain and feels
9 dizzy when he sits for long and recommends that the Chamber shall
10 grant him his request so that he can follow the proceedings
11 remotely from the holding cell downstairs.

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

16 The Chamber instructs the AV Unit personnel to link the
17 proceedings to the room downstairs so that Nuon Chea can follow.
18 That applies for the whole day.

19 [09.05.36]

20 QUESTIONING BY THE PRESIDENT:

21 Q. Good morning, Mr. Witness. What is your name?

22 MR. SOV MAING:

23 A. My name is Sao Champi alias Sov Maing.

24 Q. Could you please repeat your alias? And please observe the
25 microphone.

1 A. Sov Maing.

2 Q. Thank you.

3 And for your official name, which one do you use? Is it Sao
4 Champi or Sov Maing?

5 A. It's Sov Maing.

6 [09.06.45]

7 Q. Do you have a Khmer identity card?

8 A. Yes.

9 Q. And on the Khmer identity card, what is the name?

10 A. It's Sov Maing.

11 Q. And when were you born, Mr. Sov Maing?

12 A. I cannot recall the day or the month. However, I was born in
13 1951.

14 Q. And where were you born?

15 A. I was born in Koh Mayeul village, Koh Nheak district,
16 Mondolkiri province.

17 Q. Where is your current address?

18 It's your current address, not your place of birth. Where is your
19 current address?

20 A. I live in Ou Am village, Srae Khtum <commune>, Kaev Seima
21 district, Mondolkiri province.

22 Q. What is your current occupation?

23 A. I worked in a plantation.

24 [09.08.45]

25 Q. What are the names of your parents?

4

1 A. My father is Nou, and my mother is Preng.

2 Q. What is your wife's name, and how many children do you have?

3 A. My wife is Pœu Sophy, and we have five children.

4 Q. The greffier made an oral report that, to your best knowledge,

5 you are not related, by blood or by law, to any of the two

6 accused, that is, Nuon Chea and Khieu Samphan, or to any of the

7 civil parties admitted in this case. Is the report accurate?

8 A. Yes, it is.

9 Q. And have you taken an oath before your appearance?

10 A. Yes, I have.

11 [09.10.10]

12 Q. Thank you.

13 And the Chamber would like to inform you of your rights and

14 obligations as a witness.

15 Mr. Sov Maing, as a witness in the proceedings before the

16 Chamber, you may refuse to respond to any question or to make any

17 comment, which may incriminate you. That is your right against

18 self-incrimination.

19 As for your obligations, as a witness in the proceedings before

20 the Chamber, you must respond to any questions by the Bench or

21 relevant parties except where your response comments to those

22 questions may incriminate you, as the Chamber has just informed

23 you of your right as a witness.

24 You must tell the truth that you have known, heard, seen,

25 remember, experienced or observed directly about an event or

5

1 occurrence relevant to the questions the Bench or parties pose to
2 you.

3 And Mr. Sov Maing, have you been interviewed by OCIJ
4 investigators? If so, how many times, when and where?

5 A. I was interviewed by investigators for one time.

6 [09.11.38]

7 Q. And when did it take place, and where?

8 A. I cannot recall the year.

9 Q. And where did it take place? Was it at your residence or was
10 it at this Khmer Rouge Tribunal?

11 A. It took place at my house in Ou Am village, Srae Khtum
12 commune, Kaev Seima district, Mondolkiri province.

13 Q. And thank you.

14 And before your appearance, have you read, reviewed or have your
15 written statement read aloud to you, that is, the statement of
16 your interview that took place at your house, in order to refresh
17 your memory?

18 A. I did not read it. However, it was read to me. That is all.

19 [09.12.59]

20 Q. To your best knowledge and recollection, is the written record
21 of your interview, which was read out to you, consistent with
22 your answers you gave to the investigators at your house?

23 A. Yes. Some are consistent.

24 MR. PRESIDENT:

25 Pursuant to Rule 91bis of the ECCC Internal Rules, the Chamber

6

1 gives the floor first to the Co-Prosecutors to put questions
2 before other parties. And the combined time for the
3 Co-Prosecutors and the Lead Co-Lawyers are two Court sessions.
4 You may proceed.

5 QUESTIONING BY MR. LYSAK:

6 Thank you, Mr. President. Good morning, Your Honours, counsel.

7 Q. Mr. Witness, my name is Dale Lysak, and I'm going to be asking
8 you some questions this morning on behalf of the Co-Prosecutors.
9 I'll start with some questions about your background. Can you
10 please tell the Court when -- what year it was that you joined
11 the Khmer Rouge revolution?

12 [09.14.45]

13 MR. SOV MAING:

14 A. I joined the Khmer Rouge movement in 1975, and that continued
15 to 1979.

16 Q. Did you become a Party member at any time and, if so, when?

17 A. I never became a Party member.

18 Q. When did you first become a soldier in the Khmer Rouge army?

19 A. After I joined the army, that is, from 1975, and that
20 continued to 1979.

21 Q. Let me just get some clarification from you.

22 In your OCIJ interview, you speak of 1974 rather than 1975, and
23 you said that in 1974 -- quote:

24 "I was a private in a platoon in Kaoh Nheaek district."

25 Can you clarify; was it 1974 or 1975 that you became a platoon --

1 became a private in a Kaoh Nheaek platoon?

2 A. I do not recall that.

3 [09.16.58]

4 Q. Let's talk about the period of the Khmer Rouge regime, that
5 is, April 1975 to January 1979.

6 What was your position in the Sector 105, the Mondolkiri sector
7 military during the regime?

8 A. In 1975, I was a soldier in the sector in Mondolkiri.

9 Q. You indicate in your OCIJ interview that you were the chief of
10 a company, one of the three companies of Battalion 2 of the
11 sector military.

12 When did you become a company chief in Battalion 2?

13 A. I do not recall that. It happened a long time ago.

14 Q. How many battalions in total were there in the Sector 105
15 military?

16 A. There were two companies.

17 Q. Were those companies or battalions?

18 A. There were two regiments, and underneath, they were the
19 sub-divided into battalions. There were three battalions under
20 each regiment.

21 [09.19.54]

22 Q. And just to clarify, who was the commander of the first
23 regiment and who was the commander of a regiment -- the second
24 regiment, Regiment 2?

25 A. For the second regiment, the name of the commander was Leng,

1 Vieng and myself.

2 Q. And who was the commander of Regiment 1?

3 A. For the first regiment, the commander was Lan.

4 Q. In your OCIJ interview, sir, you -- rather than referring to
5 these as regiments, you referred to them as Battalions 1 and 2.

6 Can you explain, why did you refer to them as Battalion --
7 Battalions 1 and 2 rather than regiments in your OCIJ interview?

8 Can you clarify that for the Court?

9 A. It happened a long time ago, and I cannot recall it that well.

10 [09.21.46]

11 Q. Now, for the either Regiment 2 or Battalion 2 committee,
12 you've identified three people, Leng, Vieng and yourself. What
13 were your respective positions and roles in the Regiment or
14 Battalion 2 committee?

15 A. Regarding the second regiment, its main task was to work along
16 the border area. And there were two companies. <The company> that
17 was under Vieng was at Bou Srar, and for my own company, we
18 stationed at Saen Monourom, Ou Reang district, as well as in Dak
19 Dam.

20 Q. In terms of your relative rank, you've stated that Leng was
21 the regiment or battalion commander. Is it correct that Vieng was
22 the deputy and you were the member? Was that the structure?

23 A. That is correct.

24 Q. And in terms of the appointments of yourself, Leng and being
25 to these positions, was it the sector secretary who made these

1 appointments, or someone else?

2 A. It was the sector.

3 [09.24.18]

4 Q. And does that mean that it was the sector secretary at the --
5 who, at the time, was Laing alias Ham? Was he the one who made
6 the appointments?

7 A. <It was appointed by the Sector>.

8 Q. Who was the chief of the Sector 105 military to whom the
9 regiment commanders Leng and Lan reported? Who was the chief --
10 overall chief of the sector military?

11 A. It was Laing, the provincial committee. He passed away.

12 Q. Perhaps my question wasn't clear.

13 I was asking about the chief of -- not the sector secretary, but
14 the chief of the sector military.

15 Do you remember a person named Ta Sophea and, if so, what was Ta
16 Sophea's position in the sector?

17 A. Ta Sophea was under Ta Laing.

18 [09.26.20]

19 Q. And was Ta Sophea the sector military chief?

20 A. Yes.

21 Q. Were you related to Ta Sophea, at least as an in-law?

22 A. Yes, I was his in-law.

23 Q. He was the husband of one of your sisters; is that correct?

24 A. Yes, he was the husband one of my elder sisters.

25 Q. And one of your brothers was Sao Sarun; is that correct? And

10

1 if so, can you tell the Court what position your brother, Sarun,
2 held in Sector 105 during the regime?

3 A. No, the name Sao Saroeun (phonetic) does not sound familiar.

4 Q. In your OCIJ interview, Mr. Witness, you identify a third
5 sibling, a brother, Sarun, who, at the time, was living in Anlong
6 Veng.

7 This brother of yours, Sarun, is he not the Sao Sarun who
8 testified in this Court on a number of occasions?

9 A. No, he's not my younger brother. He's my, actually, elder
10 brother, and his name is Sao Sarun.

11 [09.28.44]

12 Q. I apologize for my pronunciation.

13 Your older brother, Sao Sarun, what position did he hold in
14 Sector 105 during the regime?

15 A. I did not know his position at the time.

16 Q. And Mr. Witness, a number of witnesses have testified to your
17 brother's position, and including himself. But let me just read
18 to you the OCIJ interview of the person you've identified as the
19 commander of Regiment 1, San Lan.

20 This is document E3/1650, E3/1650; Khmer, 00236734; English,
21 00244338; French, 00274832. And former Regiment 1 commander, Lan,
22 testified that after the death of Laing alias Ham, the first
23 sector secretary -- quote: "Ta Lork became the member, and Ta
24 Sarun became the secretary." End of quote.

25 Is it correct that your brother, Sao Sarun, became the sector

11

1 secretary after the death of Ta Laing

2 A. Yes.

3 [09.31.10]

4 Q. And just to close out some of your family relations, did you
5 have a brother, maybe your youngest brother, named Bunsy, who was
6 married to the daughter of Laing, the first sector secretary?

7 A. Yes. He got married to Laing's daughter.

8 Q. And what did that brother, Bunsy -- what did he do during the
9 regime?

10 A. He did not do anything, but he drove the vehicle.

11 Q. Now, you state in your OCIJ interview that you married your
12 wife in 1974.

13 Was your marriage a traditional Khmer wedding or was it one that
14 was arranged and conducted by Angkar, by the Party?

15 A. Angkar arranged the marriage for me.

16 [09.32.56]

17 Q. Was the woman to whom you were married someone that you had
18 known before your marriage?

19 A. Yes, we knew each other and we had some relationship. We loved
20 each other.

21 Q. So this was a marriage that you wanted to do, the both of you.
22 Is that correct?

23 A. That's correct.

24 Q. Now, you've already described for the Court what the primary
25 function of your Regiment 2 or Battalion 2 indicated where your

12

1 company was based in Ou Reang district, Dak Dam area.

2 How many soldiers were in the company that you commanded?

3 A. There were 100 soldiers.

4 [09.34.38]

5 Q. And so if there were three companies that formed Battalion or
6 Regiment 2, does that mean it had a total of around 300 soldiers?

7 Is that right?

8 A. That's correct.

9 Q. And you've indicated that you were deployed to Ou Reang. Where
10 was the base -- the office of Battalion 2?

11 A. I do not understand your question.

12 Q. The -- Ta Laing, who was the commander of Battalion 2 or
13 Regiment 2, where was his base, his office?

14 A. The battalion -- I still do not get your question. Please ask
15 it again.

16 Q. Let me try this a different way. Let me read to you another
17 excerpt from the interview of Battalion 1 commander San Lan.

18 Again, Your Honours, E3/1650; Khmer, 00236731; English, 00244336;
19 French, 00274829 through 830; this is what the former commander
20 of Battalion or Regiment 1 said -- quote:

21 "The base of Battalion 1 was in the western part on the top of
22 Phnom Kraol mountain. The base of Battalion 2 was at the Phnom
23 Kraol dam, which was about one kilometre away from Battalion 1."

24 End of quote.

25 [09.37.38]

13

1 As testified by Battalion 1 secretary Lan, was your battalion
2 number 2 that its headquarters at least based at the Phnom Kraol
3 dam?

4 A. That's correct.

5 Q. Is that where Ta Leng, the Battalion 2 commander, had his
6 office, or was he located somewhere else?

7 A. His location was at a different place. It was a nearby place.

8 Q. Was his location at the sector military office that was known
9 as K-11? Is that where Ta Leng was located?

10 A. He was based nearby. He was based to the south at K-11.

11 [09.39.06]

12 Q. And is K-11 also where Ta Sophea -- where his office was
13 located?

14 A. Yes.

15 Q. I want to turn now to some questions related to what took
16 place on the border during the regime.

17 You've already indicated that you were assigned to Ou Reang
18 district. Can you explain to the Court what part of the border in
19 that area your company was assigned to defend?

20 A. At Ou Reang at the border, we were based at Dak Dam. It was a
21 border area.

22 Q. And when was it that your company was sent to guard the border
23 at Dak Dam?

24 Was it shortly after liberation in 1975, or was it not later
25 1976?

1 A. Since 1976 until 1979.

2 Q. And while your company was out guarding the border in Dak Dam,
3 were there any other military units also stationed in that same
4 area? And specifically what I'm interested in is whether there
5 were any Division 920 units that were also stationed in Dak Dam
6 and involved or responsible for guarding the border there.

7 A. Yes, soldiers from Division 920 were also there.

8 [09.42.15]

9 Q. Do you remember how many soldiers from Division 920 were
10 guarding the border in Dak Dam along with your company?

11 A. <I> did not know the number, but I saw that there were many
12 <soldiers>.

13 Q. How is it that the assignment or tasks of your company were
14 coordinated, if at all, with what Division 920 was doing?

15 My question is just was there -- was there coordination between
16 the Division 920 and the sector military forces that were trying
17 to guard the border, and how did that coordination work?

18 A. Yes, there were some coordinations because soldiers from the
19 division did not know well about the geographical aspects of the
20 area. And our force, we were familiar with the geography. <So we
21 were based close to each other.>

22 [09.43.46]

23 Q. Thank you for making that point.

24 Just to make sure it's clear, the soldiers in Division 920, do I
25 understand correctly, they were not people from Mondolkiri? They

15

1 came from other regions of the country? Is that right?

2 A. That's correct.

3 Q. There are a number of surviving documents that talk
4 specifically about or have references to Dak Dam and what took
5 place there. I'm going to ask you about a few of them over the
6 course of the morning.

7 But the first one is, Your Honours and counsel -- it's document
8 E3/1022, E3/1022. This is a 9 March 1976 report from the Division
9 920 secretary, Chhin, to Brother 89, the alias for Son Sen,
10 reporting on the situation at the border, and it reads as
11 follows, Mr. Witness. I quote:

12 "They have deployed their front troops along Au Dak Dam,
13 including all types of weapons. They told us that in four days,
14 they would be deploying on our soil five kilometres away from
15 their border.

16 "They also said that their army is the army of Thieu, and told us
17 to withdraw.

18 "There are 240 of them. They are well-armed with all types of
19 weapons.

20 "The situation activities are now being monitored. Troops have
21 been prepared to fight; an additional 100 Chenda forces and a DK
22 recoilless rifle was sent on 8 March." End of quote.

23 [09.46.06]

24 In this report, the Division 920 secretary says that these 240
25 troops who came to the border were -- said they were the army of

16

1 Thieu.

2 Do you understand what that reference meant, who the soldiers
3 were who were Thieuists?

4 A. I did not get your question.

5 Q. Let me be more specific and just ask you a general question.

6 Do you remember during the time you were at the Dak Dam border
7 whether there were soldiers who came who were former South
8 Vietnam soldiers?

9 A. No, I did not see.

10 [09.47.28]

11 Q. And while I'm talking about other types of soldiers, what
12 about FULRO fighters? Do you remember any FULRO fighters being at
13 the border?

14 A. No, I was not aware of that.

15 Q. Did you know who FULRO was?

16 A. No, I did not know.

17 Q. When you were deployed to the Dak Dam border area, were you
18 aware that there was a dispute between Vietnam and Democratic
19 Kampuchea about where the border line was and who the territory
20 belonged to?

21 A. No, I did not know about that.

22 [09.49.10]

23 Q. Let me see if I can refresh my memory at all. There's one or
24 two contemporaneous documents on this.

25 The first is E3/8377, E3/8377. It's a 19 February 1976 report

17

1 from the Division 920 commander, Chhin, and it states -- quote:

2 "At 8.30, Group 7 came to meet us near Au Dak Dam. There were 50

3 of them, including villagers and indigenous people. They were

4 armed. In the presence of their five-star commander, our people

5 asked them [what they were doing] and they responded that they

6 were patrolling the border.

7 Our people also talked with them about the border issue. They

8 claimed that the land that the Vietnamese border area in Ou Reang

9 and Ou Le was given by Sihanouk while he was in Beijing in 1971."

10 End of quote.

11 First, just something to clarify; who was Group 7? Who were the

12 people who were referred to as Group 7?

13 A. No, I did not know.

14 [09.50.51]

15 Q. Did you never hear the Vietnamese or any parts of the

16 Vietnamese, at least, referred to by your superiors as Group 7?

17 A. No, I never heard about that.

18 Q. Let me ask you about another document on the same subject,

19 this border dispute.

20 Your Honours, this is E3/217, E3/217 (sic). These are the minutes

21 of the 26 March 1976 Standing Committee meeting regarding results

22 of negotiations with Vietnam on the eastern border.

23 And it begins with the report from Ya, the Northeast Zone

24 secretary, on negotiations that had been held with Vietnam on the

25 7th to 9th of March 1976. Section 1.1(c) of the minutes, at the

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

18

1 beginning -- or on the second page is titled "Ou Reang area
2 between Au Dak Dang and Au Hup in the area of Dak Dam".

3 And this is a report on what the Vietnamese representative had
4 said at the meeting -- quote:

5 "He said that this site was the most serious and made the
6 accusation that we had violated their territory by tens of
7 kilometres. In that area, more than 50 of them had been killed or
8 wounded. The discussions were tense, and everyone's necks were
9 bulging and facial expressions were drawn, and aides on both
10 their side as well as ours quit writing." End of quote.

11 [09.53.18]

12 Does this refresh your memory at all, Mr. Witness? Do you
13 remember there being a rather intense dispute between Democratic
14 Kampuchea and Vietnam over the border territory and who it
15 belonged to?

16 MR. KOPPE:

17 Just very briefly, we were not able to follow this quote from
18 E3/217. Is it E3/217?

19 MR. LYSAK:

20 Yes. Let me give you the -- I gave you a section number. Let me
21 give you the specific ERN references: Khmer, 00000752; English,
22 00182652; French, 00334968.

23 [09.54.34]

24 MS. GUISSÉ:

25 Maybe to assist, it's E3/218, and not E3/217.

19

1 BY MR. LYSAK:

2 Thank you. Thank you, counsel. Indeed, I wrote the number down
3 incorrectly here.

4 Yes, E3/218. My apologies. The ERN references are correct.

5 Q. Mr. Witness, does hearing any of this ring a bell? Do you
6 remember there being a rather intense dispute between Democratic
7 Kampuchea and Vietnam over where the borderline was and who was
8 the rightful owner of this territory, this region?

9 A. No, I did not know.

10 [09.55.40]

11 Q. One more thing from the same -- the same document, E3218. In
12 the subsequent paragraph, Section 1.1(d) indicates that the
13 Vietnamese had proposed liaison committees to be set up at the
14 zone and sector level "to contact one another to facilitate the
15 situation so there would be no attacks and to facilitate the
16 occupational travel of people on both sides." End of quote.
17 The minutes indicate that the Democratic Kampuchea
18 representatives had agreed to that proposal, and the liaison
19 committee for Mondolkiri is indicated as including Comrade
20 Sophea, the person we've identified as the sector military chief.
21 Were you aware of the sector military chief, Ta Sophea, being
22 appointed to a liaison committee to have -- to try to work with
23 the Vietnamese in this area in 1976?

24 A. No, I did not know.

25 Q. Let me ask you about the fighting on the border in that area.

1 To your memory, what was the first time that there was any
2 fighting or combat between DK and Vietnamese military forces at
3 the Dak Dam border area?

4 A. It took place around 1976.

5 [09.58.02]

6 Q. And can you describe for the Court what you remember in terms
7 of how that fighting began?

8 A. I cannot recall it.

9 Q. Were you present yourself when your company, the company you
10 commanded, was engaged in fighting with Vietnamese troops?

11 A. (Microphone not activated)

12 MR. PRESIDENT:

13 Mr. Witness, please give your answer.

14 MR. SOV MAING:

15 A. Yes, there were fighting.

16 BY MR. LYSAK:

17 Q. And can you tell the Court about the fighting that took place
18 between your company and Vietnamese troops at the Dak Dam border?

19 MR. SOV MAING:

20 A. Yes, there were fighting.

21 [09.59.53]

22 Q. How many Vietnamese soldiers were on the other side of this
23 fighting?

24 A. I did not know about the number, but when we encountered each
25 other and then the fighting broke out.

21

1 Q. Now, I read to you some documents that showed there were
2 negotiations at high levels taking place about this border area
3 in March 1976.

4 Do you remember whether the fighting took place before March '76,
5 around the same time, or not until after March 1976?

6 A. I cannot recall that clearly. I cannot recall the date.
7 However, it happened within 1976 when the attacks started,
8 although sometimes there was minor and sometimes there were
9 larger attacks.

10 [10.01.36]

11 Q. And from the time that these -- this fighting, sometimes
12 minor, sometimes more major, started, how often was there
13 fighting or combat between -- with the Vietnamese forces between
14 1976 and the end of the regime in January '79?

15 A. The fighting was not that frequent in 1976, but it became more
16 intensified throughout 1977 and '78.

17 Q. And during 1977 and '78 when you say it became intensified,
18 how regular was the fighting? Was it daily -- happening on a
19 daily basis, a weekly basis? Can you give us some sense of how
20 often the fighting was taking place in 1977 and 1978?

21 A. Sometimes it happened once a month, sometimes once in two
22 months. And it became more frequent by 1978 until the time we
23 fled.

24 [10.03.30]

25 Q. Let me ask you now, then, about -- you said the time you fled.

1 When was it that your troops retreated or fled, and can you
2 describe to us what took place that caused your troops to retreat
3 or flee?

4 A. After we fought, we knew that we could not defeat them, then
5 we fled. We fled inside our territory, that is, moving to the
6 rear.

7 Q. Over the course of this period in 1977 and 1978 where there
8 was more intense fighting, how many casualties were there in your
9 company of 100 soldiers?

10 A. There were two wounded soldiers, and then we fled. And I did
11 not know what happened to them. They may have run to their
12 villages.

13 [10.05.20]

14 Q. Just to clarify, I'm asking about through the entire time that
15 you were engaged in combat, that is, from 1976 through to the
16 time that you fled in late '78 or early '79.

17 Let me just -- in your OCIJ interview, E3/506; Khmer, 00239944;
18 English, 00244491; French, 00289940; you said -- I quote:

19 "Some of my soldiers were wounded, and some were killed in those
20 clashes." End of quote.

21 Can you give us an estimate of how many soldiers in your company
22 were killed in the fighting between 1976 and through 1978?

23 A. Two of my soldiers were wounded, and one died during the
24 fighting. And then, later on, we fled. And when we fled, we were
25 all fleeing together.

1 [10.07.05]

2 Q. Do you know whether the Democratic Kampuchea military forces
3 at the border there, either your -- the sector military or
4 Division 920, whether they planted spikes or mines along the
5 border area in Mondolkiri?

6 A. Yes, we did.

7 Q. Did you use both mines and spike -- spike pits?

8 A. We did plant spikes.

9 Q. And where were these spikes planted; how close to the border?

10 A. I cannot recall that well, and let me think. They were planted
11 closer to the border.

12 [10.08.55]

13 Q. Let me -- there are a few documents -- surviving documents
14 that have references to this. Let me just ask you a couple of
15 questions about these. First document E3/9289, E3/9289. This is a
16 report titled "Summary of situations from 15 July to 31 August
17 1976"; Khmer, ERN 00021506; English, 00233965 through 966;
18 French, 01248464. And this is in a section that's a report from
19 Division 920. It states: "25 July 1976, in the morning, Group 7
20 fires M79 and rifles at us at Dak Dam."

21 And entry for 28 August 1976: "Group 7 secretly comes to take off
22 all of our mines. We then add some more mines and hidden spikes."
23 End of quote.

24 Did you ever hear of -- that the Vietnamese were able to come and
25 remove mines that had been planted by DK forces on the border?

1 A. No, I never heard of it.

2 [10.10.53]

3 Q. Do you know who it was that ordered the use of mines and spike
4 traps on the border?

5 A. I <did not> know about that.

6 Q. Do you know if there were casualties -- Vietnamese casualties
7 as a result of the mines or spike pits that were implanted by the
8 DK forces?

9 A. No, I did not.

10 MR. KOPPE:

11 Mr. President, if I may, an observation.

12 No objection, but I fail to see the relevance of these questions.
13 They're certainly not related to any crimes or war crimes
14 charged. We don't dispute the laying of mines, so I just don't
15 see the relevance.

16 [10.12.28]

17 MR. LYSAK:

18 I don't understand the objection. This is part of the conflict
19 that was going on at the border.

20 This was one of the tactics that was used. And the other
21 relevance is it shows because of the evidence this was something
22 specifically directed by the very top of the regime as -- I'm not
23 going to get into these documents, all of these documents now.
24 So it's clearly relevant to the armed conflict that was going on.

25 MR. PRESIDENT:

25

1 Prosecutor, you may continue. The Defence only made his
2 observation.

3 [10.13.10]

4 BY MR. LYSAK:

5 Thank you, Mr. President.

6 Q. I wanted to ask you also about whether there were Vietnamese
7 soldiers or Vietnamese nationals or citizens who were captured in
8 the border area or crossing in to Democratic Kampuchea territory
9 and, if so, what was done with those people when they were
10 captured.

11 MR. SOV MAING:

12 A. I did not know.

13 Q. Let me read to you one more document that's in evidence.

14 This is E3/877, E3/877. It's a 20 May 1977 telegram from sector
15 secretary Laing using his alias Chhan to Office 870.

16 And paragraph 2 of E3/877 reports as follows: "On 18 May 1977,
17 Division 2 arrested two 'Yuon' on the Kaev Seima and Srae Preah
18 spearheads. They were just contemptible Thieuists, one second and
19 one first lieutenant."

20 And at the end of the telegram, it states: "P.S: The problem of
21 these contemptible 'Yuon' has already been decided."

22 This telegram from the sector secretary, Laing, specifically
23 refers to some presumably Regiment or Battalion 2 forces of the
24 sector that were deployed at Kaev Seima and Srae Preah
25 spearheads.

26

1 Do you remember which companies of your battalion were deployed
2 at those spearheads?

3 A. It seems there was none.

4 [10.16.06]

5 MR. PRESIDENT:

6 Thank you, Co-Prosecutor.

7 The Chamber will take a break now and resume at 10.30 a.m. to
8 continue our proceedings.

9 Court officer, please assist the witness at the room reserved for
10 witnesses and invite him as well as his duty counsel back into
11 the courtroom at 10.30 a.m..

12 The Court stands in recess.

13 (Court recesses from 1016H to 1032H)

14 MR. PRESIDENT:

15 Please be seated.

16 The Chamber is back in session and I give the floor to the Deputy
17 Co-Prosecutor to continue putting questions to the witness. You
18 may now proceed.

19 [10.32.47]

20 BY MR. LYSAK:

21 Thank you, Mr. President.

22 Q. We were talking about captures of Vietnamese when we broke. I
23 want to ask you about another document that's in evidence. This
24 is E3/248, E3/248, which is a telegram that was sent by your
25 brother, sector secretary Sarun, to Office 870 on the 1st of

1 January 1978. The first paragraph of your brother's telegram
2 reports as follows -- quote:
3 "We would like to report nine 'Yuon' people fleeing from their
4 country. According to their interrogations, they said the 'Yuon'
5 had assigned them to come to spy inside Kampuchea and live with
6 the Kampuchean people in order to grasp the Kampuchean people.
7 Now we have swept them away." End of quote.

8 Does this refresh your memory, Mr. Witness? Do you remember
9 incidents in which Vietnamese people crossing the border were
10 captured?

11 [10.34.27]

12 MR. SOV MAING:

13 A. No, I was not aware of that.

14 Q. Do you know whether your brother, Sarun, acted on his own in
15 deciding to interrogate and sweep away these nine Vietnamese
16 people caught inside Democratic Kampuchea, or do you know if he
17 had orders or instructions from his superiors on what to do with
18 people captured?

19 A. No, I did not know.

20 Q. Let me, briefly, just go back to a question about the Division
21 920 forces that were deployed along with you -- along with your
22 company at the Dak Dam border. You've indicated that one of the
23 differences was that your soldiers were locals and aware of the
24 area; the Division 920 soldiers were outsiders. Were there any
25 differences between your -- the sector soldiers under your

28

1 command and the Division 920 soldiers in terms of, for example,
2 how quickly they resorted to combat; specifically, were the
3 Division 920 forces more aggressive and confrontational than the
4 sector military forces or were they less aggressive than the
5 sector forces?

6 [10.36.32]

7 A. I did not know.

8 Q. Were there occasions where you were able to observe combat
9 that was going on between the Vietnamese and Division 920
10 soldiers?

11 A. I did not know.

12 Q. Do you remember any occasions when you were at the border area
13 in which Democratic Kampuchea troops engaged in attacks inside
14 Vietnamese territory?

15 A. There was no fighting inside Vietnamese territory, only when
16 they came inside our territory that we fought. <If they did not
17 come inside our territory, we did not fight.>

18 [10.37.55]

19 Q. I want to ask you, then, about a -- I think this is the same
20 document I mentioned -- asked you about earlier. It's the
21 Standing Committee minutes about negotiations with Vietnam from
22 the 26th of March 1976, E3/218, and I'm going to read to you a
23 part from the very first section of the document, section 11A.
24 This is, again, a report on the statements by the Vietnam --
25 Vietnamese representative at these negotiations and this is

29

1 discussing a place called Saom -- Saom Village.

2 This is what the minutes state - quote: "The Vietnamese
3 representative said he regretted the events of 4 January when our
4 side gathered up people on their side and brought them into our
5 territory, took their property, and burned houses."

6 The Standing Committee minutes then go on to record that
7 Democratic Kampuchea representatives had agreed to return to
8 Vietnam these people from Saom village who had been captured.
9 My question to you, Mr. Witness: Do you know where Saom village
10 was and do you know who the DK forces were who had forcibly
11 moved--

12 [10.39.40]

13 A. No, I did not know the village.

14 MR. PRESIDENT:

15 The floor is given to defence counsel.

16 MS. GUISSSE:

17 Thank you, Mr. President. I'm obliged now to react <at this
18 stage> because not only <is> the Co-Prosecutor speaking about
19 facts that the accused have <not> been charged <with>, but
20 furthermore, we get the impression that this resembles more a
21 reading of documents <before> a witness <who was repeatedly
22 testified> about the fact that he was not of a very high rank.
23 <He was a company commander.>

24 [10.40.27]

25 He said that he didn't know much about what was going on and <he>

30

1 even <pointed out,> before the Co-Prosecutor's question, what
2 happened in Vietnam, the witness said that as far as he knows,
3 there were no incursions in Vietnam. So <from the moment in
4 which> he says that he's not aware of <an incursion into Vietnam>
5 and on top of that, it's outside of the scope and on top of that,
6 there's no reason to present him with documents because he said
7 that he does not even know what <may have> happened<. It's not
8 that he does not remember, but he> does not even know. So <I
9 object to> these questions. <They> are <irrelevant>, given the
10 witness' previous answers.

11 MR. LYSAK:

12 I don't, again, understand whether there is an objection here.
13 It's standard practice in this Court when we're dealing with
14 events from 30 years ago to try to use documents to refresh
15 memory of people even if they don't recall. This witness lived in
16 this region, so my only other question about this was just to
17 know if he was aware of this (unintelligible) refresh the memory
18 and does he remember who the Democratic Kampuchea forces were who
19 had engaged in this attack on this village.

20 [10.41.41]

21 JUDGE FENZ:

22 And if I may add, since this is not an objection, obviously,
23 because the answer was given, I think we have given quite a lot
24 of leeway when it comes to presenting documents to witnesses who
25 have said the umpteenth time, "I don't know" and I remember, for

31

1 instance, yesterday, the Nuon Chea team made use of that too. So
2 I think it's a practice of the Chamber where we are -- allow a
3 broader scope.

4 BY MR. LYSAK:

5 Q. So let me just confirm, Mr. Witness, you don't know a village
6 named Saom village and you're not aware of who the Democratic
7 Kampuchea forces were who had attacked this village; is that
8 correct?

9 MR. SOV MAING:

10 A. I did not know <Saom> village.

11 Q. Let me turn to another subject, Mr. Witness; was there a
12 security office or prison located at the battalion or regiment to
13 base at the Phnom Kraol Dam?

14 A. Yes, there was a prison which based at Phnom Kraol.

15 [10.43.15]

16 Q. And was it your battalion or regiment, Battalion 2 that was
17 responsible for the operation of that prison?

18 A. The person by the name Leng.

19 Q. You're referring to Leng, who was the commander of your
20 battalion -- of Battalion 2; is that correct?

21 A. That's correct.

22 [10.44.00]

23 Q. Let me read to you an excerpt from your OCIJ interview, E3506.
24 This is Khmer, 00239943; English, 00244490; French, 00289939; and
25 the testimony was as follows:

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

1 Question: "What did you know about the Phnom Kraol Prison?"

2 Answer: "Leng was in charge of prison affairs. I observed that
3 under Ta Sopheha's order and following the report from the base,
4 Ta Leng had his subordinate soldiers arrest people. The prison,
5 supervised by Ta Leng's company, was located about 1 kilometre to
6 the East of Phnom Kraol." End of quote.

7 You said in your OCIJ interview where you talked about arrests of
8 people by Ta Leng's soldiers, how did you know that Ta Leng's --
9 that Leng's soldiers arrested people?

10 A. I did not know because it was not my business.

11 [10.45.35]

12 Q. Well, you told OCIJ that you observed that Leng had
13 subordinate soldiers arrest people pursuant to orders from Ta
14 Sopheha and reports from the base; were you telling the truth when
15 you testified to OCIJ?

16 A. Sopheha and Leng were in charge of that, so both of them were
17 aware of the matter, but for me; I did not know because it was
18 not my business.

19 Q. All right. We'll come back to this. You just testified -- you
20 testified that Battalion 2 Commander Leng was in charge of prison
21 affairs and supervised the Phnom Kraol Prison at the Battalion 2
22 compound; what happened to Ta Leng in 1978?

23 A. I did not know.

24 [10.47.20]

25 Q. Well, let me read to you what you told OCIJ in your interview,

1 again, E3/506; Khmer, 239944; English, 244491; French, 289940.

2 This is what you said in your interview - quote:

3 "Ta Leng was called to study and disappeared forever about one
4 year before the arrival of Vietnamese. I do not know the reason
5 for that arrest, but only the upper echelon cadres knew that."

6 Mr. Witness, you said to OCIJ that Ta Leng was called to study
7 and disappeared; can you tell the Court what you remember about
8 that and how it was that Ta Leng was called to study and where he
9 was sent?

10 A. I did not know about those people's affairs.

11 [10.48.37]

12 Q. Now, Mr. Witness, he was the commander of your battalion and
13 he disappeared; what did you hear; how did you learn that Ta Leng
14 had disappeared?

15 A. It was Ta Vieng who told me.

16 Q. Mr. Witness, there are S-21 -- records from the S-21 security
17 office in Phnom Penh which record that Battalion 2, also called
18 Battalion 502, secretary Khveng Ngok alias Leng, entered S-21 on
19 the 13th of February 1978 -- 13 February 1978. This is, Your
20 Honours, number 2276 -- 2276 on the OCIJ S-21 list and Leng is
21 also recorded as -- in an S-21 interrogation log, E3/2100; Khmer,
22 ERN 00019238; English, 00855381; French, 00848715. In that, he's
23 number 3 on a list of prisoners from Sector 105.

24 Did you hear, Mr. Witness, how Ta Leng was transportated -- how
25 Leng was sent from Mondolkiri to Phnom Penh; did you hear

1 anything about that?

2 A. No, I did not hear about it.

3 [10.5120]

4 Q. Let me ask you about something your brother, who was sector

5 secretary at the time of Leng's arrest, said in his OCIJ

6 statement, E3/367; Khmer, ERN 00251440; English, 00278697;

7 French, 00486013. Your brother, Sarun, said, and I quote:

8 "Division 920 was one of the Centre's divisions that had the

9 right to arrest both the civilians and military at the sector

10 level; for example, Ta Leng was arrested." End of quote.

11 Do you know whether Division 920 was involved in conducting the

12 arrest of Ta Leng or arrests of other sector cadres?

13 A. I did not know.

14 [10.52.35]

15 Q. Now, you have said that Battalion 2 commander Leng was the one

16 who was in charge of the Phnom Kraol prison; who took over from

17 Leng after his arrest in February 1978?

18 A. I did not know.

19 Q. Well, Mr. Witness, you were -- you were one of the three

20 leaders of this battalion, along with Leng and Vieng; how could

21 you not know who took over from Leng when he disappeared?

22 A. Only those who were responsible for a certain task was well

23 aware of their task; for me, <I do not know about that. I know

24 about tasks at the border>.

25 Q. Well, I want you to hear what your brother, Sarun, who was the

35

1 Sector 105 secretary at the time, said about who replaced Leng.

2 In his OCIJ statement; this is E3/367 -- E3/367; Khmer, 00251440;

3 English, 00278696; French, 00486012; this is what your brother

4 said - quote:

5 "Maing, my younger brother in Battalion 2, who was in charge of

6 border affairs and later he came to replace Leng at the Phnom

7 Kraol Dam Office." End of quote.

8 As testified by your brother, the former sector secretary, was it

9 you who took over for Leng at the Phnom Kraol Dam office after

10 Leng's arrest?

11 A. No, I did not do that.

12 [10.55.36]

13 Q. Well, you confirmed earlier this morning, Mr. Witness, that it

14 was the sector secretary who made appointments of people to

15 positions in the sector military and the sector secretary, at the

16 time Leng was arrested, was your brother, Sao Sarun; why would

17 your own brother identify you as the person who took over

18 responsibility for the Phnom Kraol office if that wasn't the

19 case?

20 A. I did not know. I did not receive that position.

21 Q. How did your responsibilities change, Mr. Witness, after your

22 battalion commander was arrested in February 1978?

23 A. I do not understand your question.

24 Q. Well, someone had to take over the tasks of your battalion

25 commander after he disappeared in February 1978; did you take

1 over any of Leng's tasks and if not, who did?

2 A. <There was> Phai, from the company.

3 [10.58.05]

4 Q. Okay, let me -- I'll ask you about Phai in a second. After
5 Leng disappeared in February 1978, who did you report to after
6 that?

7 A. <> Vieng was also in the committee of the <Regiment>. <He was
8 the deputy.>

9 Q. Are you saying that Vieng was appointed the new battalion
10 commander; is that your testimony, Mr. Witness?

11 A. I do not understand your question.

12 Q. You just said that after Leng disappeared, you began reporting
13 to Vieng; was he appointed the new battalion -- the new commander
14 of Battalion 2?

15 A. Vieng was also the deputy chief, but I did not know to which
16 level he would report to.

17 Q. Let me turn to this person you identify, Phai; what was his
18 responsibility for the security office at Phnom Kraol Dam?

19 A. At Phnom Kraol, he was in charge of a company and he worked
20 together with Leng. Later on, I do not know of his position or
21 function.

22 [11.00.44]

23 Q. Do you know whether he served as the chief of the Phnom Kraol
24 Dam prison?

25 A. No, I did not.

1 Q. Can you describe, for the Court, the Phnom -- the prison that
2 was located at the Phnom Kraol Dam on the Battalion 2 compound;
3 can you describe how large it was and what it looked like, how
4 many buildings there were?

5 A. I saw it, while I was working, from a distance. I saw a long
6 house and there was a fence all around it.

7 Q. This long house, what type of roof did it have and did it have
8 walls or was it open -- an open, thatched building?

9 A. The roof was a thatch roof, but I could not say about the wall
10 because I could only see the fence.

11 [11.02.28]

12 Q. Did you see the prisoners who were in that compound?

13 A. When they were let out, I saw them; otherwise, I would not see
14 them.

15 Q. And what did you see them doing when they were let out?

16 A. I saw them taken to bathe and to clear grass.

17 Q. How many prisoners were you able to observe?

18 A. I did not know the number.

19 Q. This prison on the Battalion 2 compound, do you know how many
20 prisoners it was able to house, how many people could be detained
21 there?

22 A. I did not know.

23 [11.04.19]

24 Q. Let me read to you, Mr. Witness, a statement from one of the
25 people who was detained at that security office, a deceased

1 person, Ung -- Uong Dos, OCIJ statement E3/7703; Khmer, 00236746;
2 English, 00242171; French, 00426116. This is what the former
3 detainee at the prison testified - quote:

4 "The number of people held in that prison reached 385, the
5 majority of whom were soldiers from Division 920." End of quote.

6 Two questions, Mr. Witness: Do you remember Division 920 soldiers
7 being detained at the Phnom Kraol prison and is it correct that
8 the prison could hold up as many as almost 400 people?

9 A. I was not aware of that.

10 Q. Do you know whether the people who were detained at this
11 prison on the Battalion 2 compound were shackled when they were
12 inside the prison?

13 A. I did not know.

14 [11.06.12]

15 Q. Well, in your OCIJ interview; again, this is at Khmer, 239943;
16 English, 244490; French, 289939; of your interview, E3/506, in --
17 when you were describing the Phnom Kraol prison, you said -
18 quote: "The prisoners were probably shackled while they were in
19 the prison."

20 How did you know that, Mr. Witness?

21 MR. PRESIDENT:

22 Witness, please hold on and Counsel Anta Guisse, you have the
23 floor.

24 MS. GUISSÉ:

25 I would like to simply point out that in the French version, I

39

1 see that the sentence mentioned is that "Within the prison
2 premises, they were, perhaps, handcuffed." So the witness appears
3 to have <made an assumption> during the interview. <I'm not sure
4 what's in the French version - in the> English version, and also
5 <perhaps we should> crosscheck the Khmer. <In any case, in
6 French, there is maybe room to think that this was an
7 assumption.> I just wanted to draw the Chamber's attention to
8 this point.

9 [11.07.52]

10 BY MR. LYSAK:

11 I'll have my national colleague look for the original Khmer
12 language. You should find it at the end of an answer on
13 (unintelligible) and in the meantime, let me ask some -- him a
14 question.

15 Q. Whether you said shackled or handcuffed, how did you know that
16 prisoners were either shackled or handcuffed when they were
17 inside the prison?

18 (Short pause)

19 [11.09.01]

20 MS. GUISSSE:

21 I'm sorry to interrupt you <again>, Mr. Co-Prosecutor. We've
22 looked at the Khmer and it appears that the Khmer <notion of
23 "perhaps" is the same>. <I don't know if> perhaps my colleague,
24 Kong Sam Onn, can read the <excerpt so we can obtain the word> in
25 Khmer, <but if the word is indeed in Khmer>, you <will> have to

1 rephrase your question.

2 JUDGE LAVERGNE:

3 I do not understand because when the prosecutor read it, it was
4 said that <he> was probably shackled; whether it is "<perhaps>
5 handcuffed" or "<probably> shackled", there isn't much of a
6 difference.

7 [11.09.29]

8 MS. GUISSÉ:

9 There's no problem with what was read out, but <in that case>,
10 the question <cannot be:> "How did you know whether <they were>
11 handcuffed or shackled?" That question should be rephrased
12 because <seeing how "probably" was mentioned, it means that it's
13 not something that> the witness must have <necessarily> seen,
14 <but a conclusion he arrived at, or an assumption. So the
15 question should be rephrased>. That is the purpose of my
16 objection.

17 MR. LYSAK:

18 I think we're wasting time here. I'm happy to resolve this by
19 having Kong Sam Onn read it. My counterpart's voice is a little
20 -- is a little rough today, so I'm happy to have you read the
21 original language in Khmer as your counterpart has offered.

22 [11.10.41]

23 MS. GUISSÉ:

24 I do not know. It is possible that my objection was not properly
25 understood <in all its subtleties>. What I'm saying is that

41

1 <whether the> term <"probably" or "perhaps"> has been used,
2 <regardless,> the question <should> be rephrased. <It's not about
3 knowing how he knew if the> people were shackled or handcuffed,
4 <but rather, why he said "perhaps"."Was this> something he saw or
5 something he inferred; <so the question cannot be>: <"why did you
6 say they were> shackled?", because the sentence raises the issue
7 of a hypothesis <on behalf of the witness> here. <That is simply
8 what I wanted to point out.>

9 BY MR. LYSAK:

10 I think we're wasting time, so let me -- let me phrase the
11 question.

12 Q. You said in your interview that maybe the people were shackled
13 or handcuffed; why did you say -- why did you tell OCIJ that
14 maybe the prisoners were shackled or handcuffed inside the
15 prison?

16 Why did you tell OCIJ that?

17 MR. SOV MAING:

18 A. I provided that information to the investigator.

19 [11.13.18]

20 Q. Okay, I'd like to leave some time for my colleagues here, so
21 let me ask you one last question. You've said that you saw some
22 of the prisoners; you've admitted at least that. How did they
23 appear in terms of their health and weight when you saw them?

24 A. I did not know. I did not know whether they were light or they
25 were heavy.

1 MR. LYSAK:

2 Okay.

3 Mr. President, I'll end my questions here and turn the floor over
4 to my colleagues and the civil parties.

5 [11.14.15]

6 MR. PRESIDENT:

7 Yes, you may proceed.

8 MR. PICH ANG:

9 Mr. President, I'd like to seek your permission for Mr. Lor
10 Chunthy to put a question to the witness.

11 MR. PRESIDENT:

12 Yes, he may proceed.

13 [11.14.42]

14 QUESTIONING BY MR. LOR CHUNTHY:

15 Thank you, Mr. President and good morning, everyone. My name is
16 Lor Chunthy. I'm a lawyer for civil parties and from the Cambodia
17 Defence Project.

18 And good morning, Mr. Witness, I have a few questions that I'd
19 like to put to you to get clarification.

20 Q. You were asked by the Co-Prosecutor; that is <in> Khmer ERN
21 00239943, in reference to your statement, you said that the
22 prisoners were probably shackled and that is for clarity, Mr.
23 President.

24 And my question to you, Mr. Witness, is the following: Regarding
25 those prisoners who were detained at Phnom Kraol, did you know on

1 what charges they were accused of?

2 MR. SOV MAING:

3 A. No, I did not know.

4 Q. Prisoners who were detained there, were they civilians or were
5 they soldiers?

6 A. I did not know.

7 [11.16.32]

8 Q. Did you know if any other ethnicity or race was detained there
9 and namely, Vietnamese?

10 A. I did not know about that.

11 Q. Thank you. Let me move on.

12 When your troops were reassigned to station along the border
13 area, was there any meeting held that you were told that you had
14 to prepare your forces in order to combat the Vietnamese troops?

15 A. During the course of the preparation, we were told that we had
16 to prepare ourselves to fight against the Vietnamese.

17 Q. And during this preparatory meeting, who gave that
18 instruction?

19 A. It was Ta Leng who was the chief and who told us about that.

20 Q. And after you received that instruction, was the instruction
21 explicit; it means that the soldiers had to prepare themselves to
22 fight?

23 A. We were told to go to fight against them <if we encountered
24 them,> and if we did not encounter them, then we had to station
25 ourself at the assigned area.

1 [11.18.55]

2 Q. Does this mean your troops were stationed along the border
3 waiting for the other side to come so that you could engage in
4 combat?

5 A. Soldiers at the border were to patrol along the border and if
6 they entered our territory, then we would fight them and if they
7 did not, then we only stayed within our territory.

8 Q. For you, yourself, did you participate in the patrolling
9 activity or did you encounter any clashes; if that happened, how
10 frequent were the clashes and when did they happen?

11 A. It started from 1976 when we were assigned to go on patrol and
12 if we were to encounter them, we would fight them and we,
13 actually, encountered them once or twice.

14 Q. And during the clashes, were there casualties on both sides or
15 were there any prisoners of war captured?

16 A. No, sometimes, it did not happen because then <both sides>
17 retreated and sometimes, there were casualties; it means that our
18 soldiers were wounded, but I could not say about the Vietnamese
19 side.

20 [11.21.14]

21 Q. Can you tell us as to any particular clash that you had with
22 Vietnamese side and then some of the Vietnamese soldiers died
23 during the battle; did you ever encounter that?

24 A. No, I did not see that.

25 Q. Now, I move on to another topic, that is, when the sector

1 chief disappeared.

2 Did you know, at the time, where the sector chief disappeared or
3 whether the sector chief went somewhere on an assignment and if
4 so, from which level was the assignment came from?

5 A. I could not say anything about the disappearance.

6 Q. My question is this: Whether you knew that at the time of the
7 disappearance there was an order and if so, from which level and
8 maybe the order was for him to go somewhere and if so, by what
9 means?

10 A. I was not clear about that.

11 [11.23.46]

12 Q. At that time, did you attend any meeting with Ta Leng, Ta
13 Sophea, Ta Laing, or Ta Sarun; if so, were you given any
14 instruction in relation to Vietnamese?

15 A. Yes, there were meetings and there were instructions and the
16 instructions were for us to defend the country and not to allow
17 Vietnamese to enter our territory.

18 (Short pause)

19 [11.25.02]

20 Q. You spoke about the location of the Phnom Kraol Security
21 Centre; can you tell us its exact location; was it located along
22 Phnom Kraol Dam or was it located next to the base of the
23 mountain?

24 A. It was located next to the dam and it was also close to the
25 base of the mountain.

46

1 Q. At that time, were you nearby that security centre?

2 A. No, I was not.

3 Q. When you were asked by the Co-Prosecutor, you said that you
4 saw prisoners who were let out; it means that you were in close
5 proximity to the centre.

6 MR. PRESIDENT:

7 Witness, please observe the microphone.

8 [11.26.34]

9 MR. SOV MAING:

10 A. When I returned from the border area <or when I came to visit
11 my wife>, I passed by the area and I saw them.

12 BY MR. LOR CHUNTHY:

13 Q. And when your chiefs disappeared, what were your
14 responsibilities; were you promoted?

15 MR. SOV MAING:

16 A. I was not and my main responsibility was to look after my
17 troops and Vieng was the one who was above me.

18 Q. This may be my last question.

19 When you were in charge of your troops, were there any events
20 that were unfolded; for example, were there any military clashes;
21 for example, there were major clashes and that you can recall
22 them?

23 A. Yes, in 1979, Vietnamese attacked and entered the province.

24 [11.28.30]

25 Q. Did your troop fight back?

1 A. Yes, we did.

2 Q. Did you succeed?

3 A. No, then we fled.

4 MR. LOR CHUNTHY:

5 Thank you, Mr. President. I don't have any further questions. And
6 thank you, Mr. Witness.

7 MR. PRESIDENT:

8 Thank you, Counsel, and thank you, Witness.

9 It is now convenient time for our lunch break. We take a break
10 now and resume at 1.30 this afternoon to continue our
11 proceedings.

12 [11.29.29]

13 Court officer, please assist the witness at the waiting room
14 reserved for witnesses during the lunch break and invite him as
15 well as his duty counsel back in to the courtroom at 1.30 this
16 afternoon.

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

20 The Court stands in recess.

21 (Court recesses from 1129H to 1331H)

22 MR. PRESIDENT:

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

24 I give the floor to the defence counsel for Nuon Chea to put
25 questions to the witness.

1 MR. KOPPE:

2 Mr. President, we don't have any questions.

3 [13.32.54]

4 MR. PRESIDENT:

5 Thank you. And the floor is now given to the defence counsel for
6 Khieu Samphan.

7 MS. GUISSÉ:

8 Thank you, Mr. President.

9 QUESTIONING BY MS. GUISSÉ:

10 Q. Good afternoon, <Mr.> Witness, my name Anta Guisse. I am the
11 International Co-Lawyer with my <fellow counsel>, Kong Sam Onn,
12 in defence of Khieu Samphan, and I have just a few questions< --
13 not many -- >to ask you.

14 First of all, you were born in Mondolkiri. Did you stay in that
15 area between 1970 and 1975?

16 MR. SOV MAING:

17 A. I lived on Mondolkiri between 1975 and 1979.

18 Q. And before 1975, did you live there also or were you somewhere
19 else?

20 A. I was also living in Mondolkiri province.

21 [13.34.20]

22 Q. When you were answering the Co-Prosecutor, you told him that
23 you <joined> the revolution in 1975, so before 1975 were there
24 Khmer Rouge in Mondolkiri?

25 A. Yes, there were.

1 Q. Were there more after 1975? <Or> were there the same number of
2 Khmer Rouge present?

3 A. There were many of them. There were less than in 1975.

4 Q. Before 1975 and during the Vietnam War, were there Vietnamese
5 military in Mondolkiri?

6 A. I do not understand your question.

7 Q. Did you notice that there were Vietnamese soldiers before 1975
8 when they were still aligned with the Khmer Rouge <or> the
9 population; do you remember if you saw Vietnamese soldiers at
10 that time?

11 A. Yes, there were.

12 [13.36.18]

13 Q. Do you remember what they were doing in your area and how
14 their relations with the local population were organized?

15 A. I did not know about their relationship.

16 Q. At the time before 1975, did you know Lan, who later became
17 commander -- I'll find it in just a minute -- the battalion
18 chief; did you know him before 1975?

19 A. I did not know Lan (phonetic).

20 MR. KONG SAM ONN:

21 The name of the person is Lan. Did you know him?

22 MR. SOV MAING:

23 I knew a person by the name Laing (phonetic) but not Larn
24 (phonetic). <Laing (phonetic) was Mondolkiri provincial
25 governor.>

1 [13.38.25]

2 So thank you for the Khmer interpretation. Couldn't pronounce it
3 as my colleague did.

4 BY MS. GUISSÉ:

5 Q. Did you know this Lan before 1975? <And I ask that the Khmer
6 interpreters please pronounce the name the way my colleague did.>

7 A. I still cannot get your question. I don't know whether you are
8 asking me about Lan or Larn (phonetic).

9 Q. I'm really going to need help from the interpreters. I'll try
10 to say it differently. You talked about a certain Lan who was the
11 leader of Battalion 1. Did you know this Lan, the head of the 1st
12 Battalion, before 1975?

13 A. Lan, I knew him.

14 Q. Before 1975?

15 A. Yes.

16 [13.39.40]

17 Q. <He> also live in Mondolkiri as you did. And he was also
18 interviewed by DC-Cam in WRI E3/7822 and he indicated <in his
19 statement> that there might have been tensions in his area
20 between the local population and Vietnamese soldiers who, at the
21 time, were supported by the population and the Khmer Rouge. Do
22 you have any memory of such tensions?

23 A. I cannot recall it.

24 Q. I'll try to see if I can refresh your memory. So in document
25 E3/7822 at 00665323 in French, the Khmer ERN is 00229204, and the

51

1 ERN in English is 00667338, he talks about the protests that he
2 made to Vietnamese concerning their behaviour and this is the
3 question that was asked of him:

4 "Did you go to express your protest to the Vietnamese?"

5 And his answer: "Yes, to the Vietnamese. I ran after them to be
6 able to catch up with them and I succeeded in that."

7 [13.41.43]

8 And now I'm going to skip a sentence.

9 "This was normal because they were foreigners and they had scorn
10 for us. They shot elephants, pigs, and chickens, and they
11 <committed rape>. And then even the wife of the village chief was
12 raped. And why? Because <of this story of the war over the> pigs
13 and the rice store." End quote.

14 So my question is, do you remember that there were problems with
15 the Vietnamese soldiers who, at the time, were in Mondolkiri, and
16 do you remember that there were problems concerning livestock and
17 animals or local people who would have been taken by these
18 Vietnamese and also the rape of the wife of the village chief? Do
19 you have any memory of that?

20 A. No, I cannot recall it.

21 Q. Now, I'll come back to you the period 1975 to 1979 and the
22 clashes that you talked about with the Vietnamese troops.

23 So I have understood from your testimony that you said that it
24 was in 1976 that things really started to heat up and it got
25 worse in '77 and '78. I also understood that you could <not>

1 remember the number of soldiers in enemy troops. Without
2 remembering the exact number, do you remember, generally
3 speaking, if there were more Vietnamese troops than troops in the
4 Democratic Kampuchea?

5 A. Yes, there were many of them and then their numbers were
6 larger.

7 [13.44.00]

8 Q. I had a very brief answer, just "more", could you clarify?

9 A. The Vietnamese side had larger numbers than the Cambodian
10 side.

11 Q. In your WRI E3/506, <French ERN> 00289941, in Khmer, 00239944,
12 and in English 00244491, this is what you say:

13 "The Khmer Rouge soldiers often retreated because there were more
14 Vietnamese soldiers and they had more modern weaponry."

15 And you also say: "I never heard of or knew that any cadre was
16 arrested or reproached" --

17 and I note that the French translation is not very good - "but I
18 never knew of or heard of a Khmer Rouge cadre being arrested or
19 reproached due to battlefield issues <or retreating from the
20 battlefield at the> Vietnamese <border>." End quote.

21 [13.45.47]

22 My first question is, when you say that the Khmer Rouge retreated
23 often, are you talking about when the Vietnamese troops attacked
24 and you were trying to push back against them or are you trying
25 to indicate that the Khmer Rouge had difficulty in pushing them

1 back, or are you trying to talk about something else? Could you
2 please clarify that?

3 A. Because we were defeated we had to retreat, and then they kept
4 on pushing in.

5 Q. In the excerpt of your WRI that I just read out, you indicate
6 that the Vietnamese had more modern weaponry. Are you able to say
7 which types of weapons they had?

8 A. I cannot describe it because I did not see those weapons.

9 Q. Do you know if the Vietnamese troops used mines in Mondolkiri?

10 A. No, they did not lay mines. <They advanced into our
11 territory.>

12 [13.47.50]

13 Q. Did you have any knowledge of how the battles were carried out
14 in other areas along the border, not where you were, or <that is
15 to say,> do you have information <coming back to you> on how
16 <combat played out> in other battlefields?

17 A. No, I did not hear.

18 Q. Earlier, the Co-Prosecutor cited a passage of Sao Sarun, your
19 brother, of his statement, and I'd like to read you an excerpt of
20 his testimony in this Court -- because he did testify before this
21 Court -- where he says something a bit different from his WRI
22 E3/367. <For the information of the Chamber and all the parties,
23 I will cite a WRI> from 30 March 2016, <document> E1/411.1 (sic),
24 <the part that interests me can be found> a little bit before
25 11.06.33. So your brother <is asked a question> about your role

1 during the time of Democratic Kampuchea. And here's what he
2 answers, and I quote:

3 "To my knowledge, his role was to protect the border. He was a
4 deputy in the First Regiment and later in '78 he was told to go
5 protect the rear. I don't know anything about the tasks that
6 you're describing. I was with the district and I didn't see or
7 hear anything like that. Yes, he was my younger brother, but at
8 the time I didn't know if he was playing any role in relation to
9 the arrests. I was in Pech Chenda district. I <am not trying> to
10 hide anything he might have been doing, but I didn't witness or
11 hear anything about it at the time. He was my younger brother but
12 we had different missions." End quote.

13 My first question is the following. Earlier, you said that you
14 were posted in Ou Reang district. Did I understand that
15 correctly?

16 A. Yes, I was at Ou Reang district.

17 [13.51.04]

18 Q. Your brother in the passage that I just read out said that he
19 was in Pech Chenda district. Can you tell me how far the two
20 districts were from each other?

21 A. It's difficult for me to estimate the distance between them.
22 It <was> probably between or roughly 50 kilometres.

23 Q. All right, so it wasn't just next door, so my next question is
24 how often did you see your brother between 1975 and 1979?

25 A. I met him two or three times and during our meetings we met as

1 siblings, but related to work meeting we never met.

2 [13.52.36]

3 Q. And when you met each other as brothers, did you talk about
4 your respective missions of what you did in terms of work and the
5 tasks that you had achieved?

6 A. No, never.

7 Q. Earlier, when you were addressing the Co-Prosecutor, you
8 talked of the Phnom Kraol Security Centre saying that you had
9 seen it from afar.

10 My question is, did you ever hear about K-16 and K-17 Centres?

11 A. I do not understand your question.

12 Q. I'll repeat it, no problem.

13 You talked about the Phnom Kraol Security Centre. I would like to
14 know, aside from the Phnom Kraol Security Centre, did you ever
15 hear anything about the K-16 and K-17 security centres?

16 A. No, I never heard about them.

17 [13.54.25]

18 Q. You said earlier that you believe it was<, according to you,>
19 Ta Leng who was in charge of the security centre, Phnom Kraol,
20 and you did not know who took over after him.

21 It seems to me that <you> also spoke of someone named Phai. Do
22 you remember or did you know, aside from those people, do you
23 know who worked inside the Phnom Kraol Security Centre?

24 A. No, I did not know. I knew only about Phai <and Leng>.

25 Q. In <statement> E3/7703, someone named Uong Dos talked about

56

1 the Phnom Kraol Security Centre, and here's the question that was
2 asked of him. In French, the ERN is 00426116; in English,
3 00242171; in Khmer the ERN is 00236746, so 00236746 in Khmer. So
4 the question:

5 "Who was in charge of the Phnom Kraol Prison?"

6 And the answer: "The supervisors were Phai, Leng L-E-N-G, and Ta
7 Leang L-E-A-N-G. I don't know whether they are dead or alive now
8 or where they might live. All three of them were ethnic Lao." End
9 quote.

10 And my question is: Was Phai of Laotian ethnicity and was Ta Leng
11 L-E-N-G (sic), does that ring a bell for you?

12 A. I knew Ta Leng and Phai.

13 [13.57.20]

14 Q. And do you know if Ta Leang worked in the Phnom Kraol Prison?

15 A. Yes.

16 Q. And were they of Lao ethnicity?

17 A. No.

18 MS. GUISSÉ:

19 Mr. President, I have finished my questioning and my colleague,
20 Kong Sam Onn, does not have any other questions.

21 [13.58.12]

22 MR. PRESIDENT:

23 Thank you. The Chamber would like to thank Mr. Sov Maing. The
24 hearing of your testimony as a witness is now concluded. Your
25 testimony may contribute to ascertaining the truth in this case.

57

1 Your presence in this courtroom is no longer required and you may
2 be excused. The Chamber wishes you all the very best.

3 And the Chamber would also like to thank <Duty> Counsel Duch
4 Phary, you also may be excused.

5 Court officer, in collaboration with WESU, please make necessary
6 transport arrangement to send Mr. Sov Maing to his home.

7 Mr. Sov Maing and Counsel Duch Phary, you can leave the courtroom
8 now.

9 The Chamber now will hear responses to Khieu Samphan's defence
10 request for one-day times to hear witness <2-TCW->1046, and
11 second issue is related to two transcripts from DC-Cam and that
12 is in relation to two witnesses proposed by the defence team for
13 Nuon Chea yesterday. And in order to deal with these two
14 requests, I will listen to these responses from the parties.

15 [14.00.34]

16 First, we will hear the request by Khieu Samphan defence for
17 additional time for witness <2-TCW->1046, <who will come to
18 testify in the courtroom on Monday, 31 October,> that is from one
19 day to two days. And in order to be clear on this, I would like
20 to give the floor to the defence team for Khieu Samphan to
21 reiterate the request.

22 MS. GUISSÉ:

23 Thank you, Mr. President. Our request <is brief. We> have
24 <started reviewing the testimony given> <Monday's witness,>
25 TCW-1046, and we noted that the day that had initially been

1 planned to hear him by the Chamber might be a bit short in
2 relation to the questions that may be put to this witness for two
3 reasons.

4 [14.01.35]

5 We know that this witness was a division leader and that he was
6 posted at least in two <different> battlefronts: one at the
7 border of the Southwest Zone -- a battlefield at the border of
8 the Southwest Zone, and another battlefield in the East Zone. So,
9 this covers a great deal of the armed conflict and, furthermore,
10 it appears that he was part of a specific intervention brigade as
11 <the witness> Chuon Thy spoke about yesterday. So which means
12 that he was probably stationed in different places in the East
13 Zone and therefore we may obtain more information about the armed
14 conflict through this witness, compared to another witness, given
15 his rank.

16 And that's the second point that seems important to me and which
17 backs and justifies our request; that is to say that we noted
18 that the Chamber called witness TCW-1065, who was of a lower rank
19 than TCW-1046 and the Chamber, however, planned two days to hear
20 this witness.

21 [14.03.00]

22 Now, given the fact that we do not have an unlimited amount of
23 witnesses with regard to the segment on Armed Conflict, <and the
24 benefit of> having witnesses who partook in the fighting <is that
25 we are able> to confront them with evidence we have on the case

1 file and to understand if the different locations <mentioned> in
2 these documents remind them of anything and if they can provide
3 us with specifications of what happened during the conflicts.
4 One day for <witness> TCW-1046 seems to me to be a bit short
5 given, once again, that his rank and, a priori, his different
6 stations during the DK regime might be useful to the parties and
7 to the Chamber.

8 So this is why we are asking for a time extension, and the two
9 days were drawn up by establishing a parallel with what you had
10 noted or considered as useful for witness 2-TCW-1065. So, this
11 is, in brief terms, our request.

12 [14.04.31]

13 MR. PRESIDENT:

14 I'd like now to hand the floor to the <International> Deputy
15 Co-Prosecutor.

16 MR. LYSAK:

17 Thank you, Mr. President. I don't have a lot to say in response.
18 I think that the Trial Chamber can evaluate this. I'm not sure
19 that two days is necessary. I've -- keep in mind this witness
20 already testified for one day in the 002/01 trial as well.
21 But one possible alternative is -- that would keep the Court on
22 schedule as well -- you could hear both of the witnesses next
23 week for a day-and-a-half each rather than hearing one for one
24 day and one for two days. That would keep the Chamber on
25 schedule.

60

1 So that is an alternative consideration but I leave it to the
2 discretion of the Court and, of course, witness availability is
3 something that you're aware of there too.

4 MR. PRESIDENT:

5 Thank you. And what about the Lead Co-Lawyers for civil parties,
6 do you wish to express your opinion regarding the request by the
7 defence team for Khieu Samphan for additional time to put
8 questions to witness 2-TCW-1046?

9 [14.06.00]

10 MR. PICH ANG:

11 Good afternoon, Mr. President, Judges. We, the Lead Co-Lawyers,
12 would rely on the discretion of the Bench. Thank you.

13 MR. PRESIDENT:

14 Thank you. And what about the defence team for Nuon Chea, do you
15 wish to make observation?

16 MR. KOPPE:

17 Only that we support submissions and the request of the Khieu
18 Samphan team.

19 MR. PRESIDENT:

20 Thank you. Let me now move on to another issue.

21 Recently, we received information that two transcripts have been
22 received, that is, in relation to the written interviews by
23 DC-Cam concerning two witnesses, and they were requested by the
24 defence team for Nuon Chea yesterday.

25 We also heard observations by parties in relation to the two

61

1 documents as well as the request by the defence team for Nuon
2 Chea.

3 [14.07.19]

4 Additionally, there are issues in relation to what we heard
5 yesterday and the Chamber will consider these issues and issue
6 our rulings as soon as possible.

7 However, I'd like to now hand the floor to the parties and first
8 to the Co-Prosecutor whether you have seen the two transcripts
9 and do you wish to make any observation? In fact, we spoke or we
10 touched upon on this issue <yesterday> but there were no actual
11 transcripts available and now since they are available we want to
12 hear your opinion.

13 JUDGE FENZ:

14 The translation was a bit misleading. Does everybody know where
15 we are? The articles were the subject of yesterday's debate; the
16 subject of today's debate are the underlying transcripts,
17 translation wasn't very clear. There is a request by the Nuon
18 Chea team to allow the transcripts in.

19 [14.07.59]

20 MR. LYSAK:

21 Yes, I did understand. We, of course, have no objection to the
22 transcripts. I don't speak Khmer and they're only in Khmer so I
23 get -- haven't had a chance obviously to look at them but
24 assuming that they are the correct transcripts, we would have no
25 objection.

1 JUDGE FENZ:

2 Just one word to that. It's 160 pages in Khmer only and you
3 start. I'm drawing your attention to it.

4 MR. LYSAK:

5 Yes, I understand. I mean, we're -- it is -- we're in a bit of a
6 difficult situation here. We have no interest whatsoever in
7 suggesting that this be delayed and --

8 [14.09.00]

9 JUDGE FENZ:

10 No, no, I was just wondering since you came so late if Nuon Chea
11 could start if you couldn't -- if you say one day more will give
12 us all the difference, but if you can do it, it --

13 MR. LYSAK:

14 I don't want to speak --

15 JUDGE FENZ:

16 It's 160 pages, but frankly -- I can't read Khmer but very often
17 just two words in a line.

18 MR. LYSAK:

19 I'm also speaking for a colleague here as to whether they can be
20 ready, but I will take the chance of doing that.

21 I think that we can proceed. You know, if there's any issues that
22 arise, I don't think that these transcripts are going to be a big
23 difference in the testimony of this witness. If should any issues
24 arise subsequently when they're translated we can always bring
25 that onto the record.

1 [14.09.50]

2 MR. PRESIDENT:

3 And what about the Lead Co-Lawyers for civil parties, do you wish
4 to make your observation?

5 MR. PICH ANG:

6 Good afternoon, Mr. President. We do not have any objection to
7 that and, of course, we rely on your discretion.

8 MR. PRESIDENT:

9 And now, I hand the floor to Nuon Chea's defence.

10 MR. KOPPE:

11 No, no response other than -- and please correct me if I'm wrong
12 -- but it's my understanding that the Prosecution's office is
13 already in possession of both transcripts since 2015. So I
14 anticipate that there shouldn't be a problem in their
15 preparation.

16 JUDGE FENZ:

17 (Microphone not activated) -- anyway, so.

18 [14.10.55]

19 MR. PRESIDENT:

20 Thank you. What about the defence team for Khieu Samphan? Do you
21 wish to make your observation?

22 MS. GUISSSE:

23 No observations, Mr. President. <It is the same argument> as
24 yesterday; no objection.

25 MR. PRESIDENT:

64

1 Thank you. And the Chamber would like to thank all parties for
2 your observations in relation to the two matters. The Chamber
3 will consider them and we will issue a separate ruling <for the
4 first matter> in due course.

5 And another matter that is in relation to the transcripts, we
6 will consider it together with the request by Nuon Chea. And that
7 is also in addition to all the observations we heard from parties
8 yesterday.

9 (Judges deliberate)

10 [14.12.23]

11 MR. PRESIDENT:

12 Since the two requests are <urgent> and that the Chamber will
13 have to issue our ruling today so that parties can know the
14 status and prepare themselves for next week proceedings, <there
15 is no hearing tomorrow.> The Chamber will take a 20-minute break,
16 that is until 2.30, and we will resume the proceedings.

17 And during this break time, the Chamber will deliberate and
18 discuss these issues and then the ruling will be issued after we
19 resume.

20 The Court is now in recess.

21 (Court recesses from 1413H to 1436H)

22 MR. PRESIDENT:

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

24 The Chamber is now issuing oral rulings in relation to the
25 requests <by Parties>.

65

1 <> It's our oral ruling to the defence team for Nuon Chea. The
2 Chamber was requested to <admit> two documents by defence team
3 for Nuon Chea <in> E448 <under> Rule 87(3) and 87(4) of ECCC
4 Internal Rules, as well as the two transcripts, <which parties
5 have just made oral submissions today> in relation to the request
6 by Nuon Chea, E/448. <Regarding> the request E448 by defence team
7 for Nuon Chea to call two witnesses, the Chamber <defers> its
8 ruling <until> after <the> testimony of witness 2-TCW-1065 <>,
9 and the <full> reasonable decisions will <be> issued in due
10 course.

11 [14.38.02]

12 In relation to the second request, that is, the request is by the
13 defence counsel for Khieu Samphan. After we have heard the
14 request for additional time to put the questions to witness
15 2-TCW-1046, and after we have heard the responses from the
16 parties a while ago, the Chamber grants half a day for all
17 parties <> to put the questions to 2-TCW-1046 and this witness
18 will therefore be heard for one-and-a-half day.

19 It is now time for the Chamber to adjourn its proceedings, and we
20 will resume it on Monday, 31 October 2016, commencing from 9
21 o'clock in the morning.

22 For the proceedings on Monday next week, the Chamber will hear
23 testimony of 2-TCW-1046. This is for all parties and general
24 public.

25 Security personnel, you are instructed to take the two accused

1 back to the ECCC detention facilities and have them returned to
2 attend the proceedings on Monday, 31 October 2016 before 9
3 o'clock.

4 The Court is now adjourned.

5 (Court adjourns at 1439H)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.