



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

12 December 2016

Trial Day 491

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 14-Feb-2017, 13:50
CMS/CFO: Sann Rada

Before the Judges: NIL Nonn, Presiding
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Jean-Marc LAVERGNE
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I N D E X

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
2-TCW-823	Khmer
Mr. BOYLE	English
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUISSSE	French
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
Mr. LIV Sovanna	Khmer
The President (NIL Nonn)	Khmer
Mr. NONG Nim (2-TCW-1070)	Khmer
Mr. PICH Ang	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear the testimony of <2->TCW-1070 via

6 video link from Tboung Khmum province.

7 Greffier Se Kolvuthy, please report the attendance of the parties

8 and other individuals to today's proceedings.

9 [09.07.25]

10 THE GREFFIER:

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

12 are present.

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

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

15 been delivered to the greffier.

16 The witness to testify today, 2-TCW-1070, confirms that, to his

17 best knowledge, he has no relationship, by blood or by law, to

18 any of the two accused, that is, Nuon Chea and Khieu Samphan, or

19 to any of the civil parties admitted in this case.

20 The witness already took an oath on 11 December 2016. This

21 witness will testify via video link from Tboung Khmum province.

22 The duty counsel is Mr. Moeurn Sovann. The witness is <> ready

23 for the testimony, and the AV video link is also ready, Mr.

24 President.

25 [09.08.34]

1 MR. PRESIDENT:

2 Thank you. The Chamber now decides on the request by Nuon Chea.

3 The Chamber has received a waiver from Nuon Chea, dated 12

4 December 2016, which states that, due to his health, headache,

5 back pain, he cannot sit or concentrate for long. And in order to

6 effectively participate in future hearings, he requests to waive

7 his right to be present at 12 December 2016 hearing.

8 His counsel advised him about the consequence of this waiver, in

9 no way, that is, in no way it can be construed as a waiver of his

10 rights to be tried fairly or to challenge evidence presented to

11 or admitted by this Court at any time during this trial.

12 [09.09.31]

13 Having seen the medical report of Nuon Chea by the duty doctor

14 for the accused at the ECCC, dated 12 December 2016, which notes

15 that Nuon Chea has a constant lower back pain and feel dizzy when

16 he sits for long and recommends that the Chamber shall grant him

17 his request so that he can follow the proceedings remotely from

18 the holding cell downstairs.

19 Based on the above information and pursuant to Rule 81.5 of the

20 ECCC Internal Rules, the Chamber grants Nuon Chea his request to

21 follow today's proceedings remotely from the holding cell

22 downstairs via an audio-visual means.

23 AV Unit personnel are instructed to link the proceedings to the

24 room downstairs so that Nuon Chea can follow. That applies for

25 the whole day.

1 Before the Chamber hears 2-TCW-1070, the Chamber is now issuing
2 two oral decisions. The first one is the oral ruling on Khieu
3 Samphan defence Internal Rule 87.3 and <87.4> requests to admit
4 E319/43.3.7 into evidence.

5 [09.10.58]

6 The Chamber notes that on 7 December 2016, the defence counsel
7 for Khieu Samphan informed -- informed the Trial Chamber that
8 they considered document E319/43.3.7 relevant for the upcoming
9 questioning of witness 2-TCW-823 and, therefore, requested its
10 admission according to Internal Rule 87.3 and Internal Rule 87.4.

11 Having heard submissions of the parties on the matter on 9
12 December 2016, noting that the other parties do not object to the
13 request and further noting the requirements of Internal Rules
14 87.3 and 87.4, the Chamber finds that the proposed documents
15 satisfy the criteria of Internal Rule 87.4 and admits it into
16 evidence. Document E319/43.3.7 is assigned document number
17 E3/10768.

18 And as for the second oral ruling on document E319/23.3.19.1
19 regarding 2-TCW-823, on 6 December 2016, the Trial Chamber
20 informed the parties that it would hear 2-TCW-823 instead of
21 2-TCW-871. The witness is scheduled to testify on Tuesday, 13
22 December 2016. The Chamber notes that one document related to
23 2-TCW-823, that is, E319/23.3.19.1, has not been admitted into
24 evidence yet.

25 [09.13.25]

1 On 7 December 2016, the Khieu Samphan defence informed the
2 Chamber by email that it sought the admission of this document
3 into evidence. The document consists of excerpts of the witness
4 2007 DC-Cam, E3/9069, containing a number of handwritten
5 corrections made by the witness during his subsequent interview
6 with the OCIJ.

7 The Chamber notes that the written record of this subsequent
8 interview with the OCIJ has already been admitted into evidence
9 as E3/9817. The Trial Chamber recalls its practice to admit into
10 evidence all prior statements of civil parties or witnesses who
11 appear before it pursuant to Internal Rules 87.3 and 87.4.

12 It is in the interest of ascertaining the truth that the Chamber
13 and parties have access to all of the statements of civil parties
14 and witnesses who will be heard in Case 002/02. The Chamber finds
15 that in order to have a complete and correct review of this
16 witness' evidence, 2-TCW-823 DC-Cam's statement, E3/9069, must be
17 read in together with his Written Record of Interview with the
18 OCIJ, E3/9817, and the corrections contained in the document,
19 E319/23.3.19.1.

20 [09.15.30]

21 The Chamber therefore admits document E3/ -- E319/23.3.19.1 into
22 evidence and assigns it document number E3/9817A.

23 And now the Chamber is hearing 2-TCW-1070.

24 QUESTIONING BY THE PRESIDENT:

25 Q. Good morning, Mr. Witness. Are you ready?

1 MR. NONG NIM:

2 A. Yes, I am ready, Mr. President.

3 Q. What is your name, Mr. Witness?

4 A. My name is Nong Nim.

5 Q. Thank you, Mr. Nong Nim.

6 What is your birth of date?

7 A. I do not recall it.

8 [09.16.40]

9 Q. How old are you this year?

10 A. I am 65 years old this year.

11 Q. And where are you residing?

12 A. <Currently, I live in Roul Ph'aem> village.

13 Q. Again, Mr. Witness, what is your place of birth?

14 A. Roul Ph'aem village, <Doun Tei commune,> Ponhea Kraek

15 district, Tboung Khmum province.

16 Q. And what is your occupation?

17 A. I am a farmer.

18 [09.17.37]

19 Q. What are your parents' names?

20 A. My father is Yuok (phonetic), and my mother is Sao (phonetic).

21 They are all deceased.

22 Q. And what about your wife? What is her name, and how many

23 children do you have?

24 A. My wife's name is <Paen Path> (phonetic). She is deceased. I

25 have six children.

1 Q. Thank you, Mr. Nong Nim.

2 The greffier made the report that, to your best knowledge, you
3 have no relationship, by law or by blood, to any of the two
4 accused, Nuon Chea and Khieu Samphan, and to any of the civil
5 parties admitted in this case. Is the report correct?

6 A. I do not hear you well, Mr. President.

7 Q. Are you related, by law or by blood, to any of the two
8 Accused, Nuon Chea and Khieu Samphan, or to any of the civil
9 parties admitted in this case? Are you related, by blood or by
10 law, to them? The greffier made the report that you have no
11 relationship, by blood or by law, to the two accused.

12 A. I have no relation with -- by blood or by law to any of the
13 two accused.

14 [09.19.08]

15 Q. And have you already taken an oath according to your religion
16 before your appearance?

17 A. I do not hear you well, Mr. President.

18 Q. Did you already take an oath?

19 A. Yes, I did.

20 Q. Mr. Nong Nim, now I am informing you of your rights and
21 obligation as a witness before the Chamber.

22 Your rights: As the witness in the Court proceeding, you may
23 refuse to respond to any question or to make any comment, which
24 may incriminate you, your rights against self-incrimination.

25 Your obligations: Mr. Nong Nim, as a witness before the Chamber,

7

1 you must respond to any questions by the Bench or relevant
2 parties except where your response or comment to those questions
3 may incriminate you as the Chamber has just informed you of your
4 rights as a witness. You must tell the truth that you have known,
5 heard, seen, remembered, experienced or observed directly about
6 an event or occurrence relevant to the questions that the Bench
7 or parties pose to you.

8 [09.20.50]

9 Mr. Nong Nim, now you are assisted by a duty counsel based on
10 your request to the WESU. His name is Moeurn Sovann.

11 And Mr. Nong Nim, can you read the document before you?

12 A. Yes, I could read <a little.>

13 MR. PRESIDENT:

14 In order to expedite the proceedings, I request the duty counsel,
15 Moeurn Sovann, to whisper him in case parties quote any parts
16 from the Written Record of the Interview of this witness so that
17 the witness can understand well to what will be quoted by the
18 parties.

19 The Chamber wishes to inform parties as well that Nong Nim has
20 health issues. He has difficulty in hearing <as well as
21 speaking>, so please put short and simple questions so that the
22 witness can give answers.

23 [09.22.20]

24 Based on the Internal Rule 91bis of the ECCC, the floor is first
25 given to <Nuon Chea> defence counsel to put questions to the

1 witness. The two defence teams will have two sessions to put
2 questions to the witness.

3 And the defence counsel for Mr. Nuon Chea may start first.

4 MR. KOPPE:

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

7 Good morning, Mr. Witness. I'll be asking you some questions this
8 morning. I am the international lawyer for Nuon Chea.

9 [09.22.56]

10 Mr. President, one brief remark before I start. I have prepared
11 my questions for this witness from the English translation of
12 E3/10717. However, it turns out that the English version has two
13 sets of ERN numbers, presumably because there were pages missing.
14 I have prepared from a written copy using old English ERN
15 numbers. I'm just warning you. So my suggestion would be that I
16 -- when I quote in English, I will use the DC-Cam numbering.
17 However, the French and the Khmer ERNs have stayed the same, so
18 that's not a problem.

19 [09.23.48]

20 QUESTIONING BY MR. KOPPE:

21 Q. Mr. Witness, I don't have that much time today, unfortunately,
22 so I will go quickly through your background.

23 Is it correct that between 1970 and 1978 you were in the East
24 Zone working in the defence unit protecting So Phim?

25 MR. NONG NIM:

1 A. I cannot hear you, Mr. President.

2 Q. Mr. Witness, between 1970 and 1979, were you a member of the
3 defence unit of So Phim in the East Zone?

4 A. Yes, that is true.

5 [09.25.15]

6 Q. When did you -- when were you appointed by So Phim to become a
7 member of his defence unit?

8 A. From 1971. I lived with him.

9 Q. Did you live with him and worked for him all the way up until
10 his death on the 3rd of June 1978?

11 A. Yes, until we separated from one another.

12 Q. Is it correct that So Phim was family of you and, if yes, how
13 were you related?

14 A. We were related, but not close cousins.

15 Q. Were you related to So Phim through his younger brother called
16 Ta Dul, Dul, also known as Prak Tith?

17 A. That is correct. Dul was related to me. He was my distant
18 relative.

19 [09.27.21]

20 Q. And was it Ta Dul who brought you together with So Phim? Was
21 he the one who connected you with So Phim?

22 A. Yes, he brought me to <work in that division>. I followed him
23 at the time.

24 Q. You just confirmed that you were a member of the defence unit
25 of So Phim. Were you also his driver, his personal driver?

10

1 A. Yes, I used to be his driver.

2 Q. In your statement to DC-Cam on two separate occasions, you
3 indicated that wherever So Phim went, you went as well, and that
4 you were with him the whole time. Is that correct?

5 A. That is correct.

6 Q. Could you describe your activities as a driver? Where would
7 you go, where would you take So Phim? Can you expand a little bit
8 on your specific duties?

9 A. Sometimes I would go with him to the district office and also
10 to the divisional headquarter.

11 [09.29.16]

12 Q. Would you accompany So Phim to meetings?

13 A. No, but I accompanied him to various locations. <After
14 accompanying him, I never went near him.>

15 Q. I understand. You brought him to meetings at locations, but is
16 it correct that you, yourself, never went inside to be a part of
17 that meeting? You always stayed outside waiting?

18 A. I never went inside; I was <always> standing outside.

19 Q. Let's briefly discuss the defence unit. Is it correct that the
20 defence unit consisted of 12 members and it was led by Chairman
21 Chek (phonetic) and Deputy Chairperson Prak Choeuk? Correct?

22 A. < A head of bodyguards was Seth Cheng> (phonetic) and <>
23 Choeuk (phonetic) was the deputy.

24 Q. Correct. You said Chen (phonetic) and Chek (phonetic) as well.

25 Who was Prak Choeuk, the deputy chairperson? Was he So Phim's

1 brother or cousin?

2 A. They are not relatives. They were not related, but Angkar
3 brought them both to work together. And they worked <at the
4 division or lived> together at the defence <office>.

5 [09.31.54]

6 Q. Is it correct that the defence unit was equipped with, for
7 instance, AK-47s and rocket launchers? In other words, the
8 defence unit was heavily armed? Is that correct?

9 A. Yes. We were all well equipped.

10 Q. Did you regularly take So Phim from the East Zone to Phnom
11 Penh?

12 A. Yes.

13 Q. Do you know who So Phim visited in Phnom Penh?

14 A. He came to meet Pol Pot.

15 Q. Do you know if he met anyone else?

16 A. No, I do not know, but when we arrived in Phnom Penh, he was
17 picked up by another vehicle and left.

18 [09.33.25]

19 Q. Do you know whether So Phim ever met with Vietnamese people,
20 especially whether he met Vietnamese people after the liberation
21 of 17 -- on 17 April '75? Do you know?

22 A. No, I never saw him meeting them.

23 Q. So you never saw So Phim speak to Vietnamese together with an
24 interpreter?

25 A. No, never.

12

1 Q. Just to see if I can refresh your memory, in your DC-Cam
2 statement, E3/10717 on English page 67; French, ERN 01348530; and
3 Khmer, 01340486; you were asked the question -- quote:

4 "Did you ever see him meeting Vietnamese guests and speaking
5 Vietnamese or not?"

6 And then you said -- you answered: "If we went, there was an
7 interpreter. The Vietnamese knew Khmer." End of quote.

8 Do you recall saying that?

9 A. Yes, I saw <> the Vietnamese came into Cambodian territory.

10 <That is true.>

11 Q. But who was it that --

12 [09.36.07]

13 MR. KOUMJIAN:

14 Just a clarification. The original question was meetings with
15 Vietnamese after 1975. The quote that counsel read doesn't seem
16 to indicate what year is being spoken of, so I think it would be
17 helpful because, obviously we know the history that any meetings
18 with Vietnamese, it would be helpful if counsel could try to
19 determine the year that we're talking about.

20 BY MR. KOPPE:

21 Certainly. That's, of course, very important.

22 Q. Mr. Witness, you just confirmed that So Phim spoke with
23 Vietnamese. Do you know when that was that he spoke with
24 Vietnamese people? Was it after the liberation?

25 MR. NONG NIM:

13

1 A. I cannot recall the date, but of course, they met. There were
2 meetings between them, but I cannot recall the date.

3 [09.37.20]

4 Q. And who was it that So Phim met; do you remember?

5 A. I do not understand your question well.

6 Q. Do you know who the Vietnamese were that So Phim met?

7 A. I did not know their names.

8 Q. Do you know where it was that So Phim met Vietnamese?

9 A. They met at Ta Kok (phonetic) mountain.

10 Q. And do you know whether it was shortly before he died or was
11 it a year before he died; was it two years before he died? Can
12 you be a little bit more specific?

13 A. I did not know. I cannot recall everything now because things
14 happened a long time ago.

15 [09.39.21]

16 Q. Was it at a time whether there was a war going on with
17 Vietnam, or was it before that?

18 MR. KOUMJIAN:

19 I would just ask that the question be clarified first.

20 MR. NONG NIM:

21 Before <> Vietnam -- <during the war against Vietnam.>

22 BY MR. KOPPE:

23 Q. So was it then maybe early '77, mid-77? Was it in '76?

24 MR. KOUMJIAN:

25 I object to that question as leading. He said before the war from

14

1 Vietnam. It could, of course, be any time, and the witness has
2 said it was when the Vietnamese were inside the country, so I
3 think he might be asked -- you might ask him to explain what he
4 meant by the Vietnamese being "inside the country".

5 The war with Vietnam, I was going to say, is a bit ambiguous
6 because he may mean the American-Vietnamese war, the
7 French-Vietnamese war.

8 [09.40.33]

9 BY MR. KOPPE:

10 I know the Prosecution doesn't like me going there. I will skip
11 the subject because I have many other subjects to discuss, Mr.
12 President. I'll move on.

13 Q. Briefly speaking, some more about So Phim's family members.

14 We just spoke about Dul, So Phim's younger brother. You said that
15 it was Ta Dul who brought you to Chhloung. Do you know whether
16 Dul was a district chief of Chhloung, C-H-L-O-U-N-G (sic), or was
17 he a district chief of Krouch Chhmar?

18 MR. NONG NIM:

19 A. No, he was not in that position. He was just arriving in the
20 area.

21 [09.41.33]

22 Q. Mr. Witness, do you know someone who was also a member of your
23 defence unit and who testified in this courtroom a week ago,
24 someone that you referred to as Pou Oeng?

25 A. Pou Oeng, the name that you mentioned, I did not know.

15

1 Q. Maybe I'm mispronouncing the name, but on two occasions you
2 mentioned Pou Oeng. One of them is on English page 101; Khmer,
3 01340510; and French, 01348553. Sorry. Khmer, 01340510; and
4 French, 01348553:

5 Question: "What about Pou Oeng?"

6 And you said: "Oeng was defence, too, going with the others."

7 Do you remember now Pou Oeng?

8 A. Yes, but I'm a bit forgetful now. I cannot recall everything.

9 Q. Why are you forgetful, Mr. Witness? You spoke to DC-Cam only
10 one year and a half ago, and you remembered Pou Oeng quite well
11 at the time. What happened in between?

12 A. Please allow me to try to recall it.

13 Yes, there was a person by the name Oeng. I just recall his name
14 now.

15 [09.44.18]

16 Q. And Oeng has testified recently, and he seems to indicate -
17 or, he seems to think that Dul -- Ta Dul was the district chief
18 of Krouch Chhmar. Is that something that you can confirm?

19 A. I did not know about that matter because I was not with him.

20 Q. Very well. I will move on to another family member of So Phim,
21 more specifically, his daughter.

22 Do you remember his daughter, Si (phonetic)?

23 A. Yes, I can recall. And I knew his daughter.

24 Q. And did you know who -- to whom Si was married?

25 A. You asked me about her husband? He's from Battambang province.

16

1 Q. And was his name Cheal? Was he the chief of Sector 5 in the
2 Northwest Zone, and was he also the son of Northwest Zone chief
3 Ros Nhim?

4 A. Yes, that is correct. Her husband's name is Cheal.

5 [09.46.15]

6 Q. Do you know when Si and Cheal got married?

7 A. I cannot recall when it was. I cannot recall it now.

8 Q. That's -- you didn't remember when you were asked at the time
9 as well, but you said that it was after the fall of Phnom Penh;
10 correct?

11 A. Yes.

12 Q. Do you recall how many months it was after the fall of Phnom
13 Penh that Si and Cheal got married?

14 A. They just got married. They got married around 1976. They got
15 married in 1976.

16 Q. Is it correct that they got married at a place called Roka
17 Khnaor?

18 A. Yes.

19 [09.48.03]

20 Q. Do you know if the marriage between Si and Cheal was arranged
21 and, if yes, by whom?

22 A. I did not know. I did not know who arranged it. I even did not
23 attend that marriage, so I did not know who the one who was
24 pairing them up.

25 Q. Well, you were asked the same question by DC-Cam, and let me

1 read to you what you said. English page 52; French, ERN 01348519
2 and 20; and Khmer, 01340476:

3 Question: "Did the couple love each other or did their parents
4 arrange their marriage?"

5 You answer: "That was both the parents and they, themselves."

6 Question: "Did they know each other?"

7 "They were friends from before since the period of struggle."

8 And then a bit further down, "Ros Nhim and So Phim knew each
9 other for a long time already."

10 Do you remember saying that?

11 A. I cannot recall it now. It happened long time ago.

12 [09.49.40]

13 Q. Is it correct that you knew Cheal, the son of Ros Nhim, very
14 well?

15 A. Yes, I knew Cheal because he came to visit my place often.

16 Q. How did you know that the marriage was at Roka Khnaor?

17 A. Because <my niece/nephew> saw them together there. <Before,
18 they were not together.> I knew that they got married, but I did
19 not know what date the wedding took place.

20 Q. Could it -- could the marriage have taken place a few months
21 after liberation, in August '75?

22 A. <No,> it <did not> take place in 1975, <that should be in>
23 '76.

24 [09.51.02]

25 Q. Very well. Now, let's talk about the visits between So Phim

1 and Ros Nhim.

2 You talked very extensively about visits from Ros Nhim to the
3 East Zone to visit So Phim, and visits from So Phim to the
4 Northwest Zone. Now, let's start with the latter.

5 Is it correct, Mr. Witness, that So Phim went more often to the
6 Northwest Zone than Ros Nhim came visiting the East Zone?

7 A. The frequency of their visits were of similar frequency. They
8 visited each other.

9 Q. On page 53 of your DC-Cam statement, in English, you said
10 that, "Our side went more often." That's not very important.

11 Let's start with the visits to Battambang.

12 Where did So Phim meet Ros Nhim in Battambang? Where was it?

13 A. Yes, they met in Battambang.

14 Q. And do you remember where it was in Battambang that Sos Phim
15 would meet with Ros Nhim?

16 A. I cannot recall the exact location in the province. What I
17 knew was that they met in Battambang, but I cannot identify the
18 exact location now.

19 [09.53.18]

20 Q. Do you remember whether Ros Nhim's office in Battambang was
21 close to the market?

22 A. Yes.

23 Q. Was the house of Nhim one or two kilometres west of Phsar Leu
24 market, something called Ampil Prahaong?

25 JUDGE FENZ:

1 Counsel, can you, in these cases, if you confront him with
2 specific information like that, tell us where it is from?

3 BY MR. KOPPE:

4 I know, but I'm just so running out of time. Let me -- it's from
5 the testimony of 2-TCW-1036, 21st of September 2016, at about
6 1340H. This is Ros Nhim's bodyguard talking about the office or
7 the house of Ros Nhim. He said it's -- he said at 1340H, it's in
8 Ampil P rahaong, one kilometre west of Phsar Leu market in
9 Battambang.

10 Q. Mr. Witness, Ampil P rahaong, does that mean anything to you?

11 MR. NONG NIM:

12 A. No, I did not know the name of this place.

13 [09.55.02]

14 Q. But was it always that same place that So Phim would visit Ros
15 Nhim, his house and office in Battambang close to the market?

16 A. Yes, they met at the house. They also took a rest at that
17 house.

18 Q. Did you ever see them talk to other people, or did they only
19 speak to them -- to each other?

20 A. Only two of them met and discussed.

21 Q. Do you know what it was that they spoke about?

22 A. I did not know what they were discussing about because I was
23 outside because I just focused on my responsibility, that was
24 guarding. <So, I did not know their works.>

25 [09.56.23]

1 Q. I understand. But just one follow-up question, English page
2 63; Khmer, 01340483; and French, 01348527; you said about these
3 meetings:

4 "I did not know very much about this because I was outside. I did
5 know -- I did not know much what plans he was formulating."

6 What did you mean when you said you didn't know what plans they
7 were formulating?

8 A. I did not know. I went there with him but, as I told you, I
9 was guarding outside the house.

10 Q. I understand.

11 Is it correct that So Pin -- So Phim, while visiting the
12 Northwest Zone, would also visit his son-in-law, Cheal, at the
13 sector office in Svay Sisophon?

14 A. I met his <son and> daughter.

15 Q. My question was, is it correct that when So Phim was visiting
16 the Northwest Zone, he did not only visit Ros Nhim in Battambang,
17 but also Cheal at the Sector 5 office in Svay Sisophon?

18 A. Yes.

19 [09.58.36]

20 Q. In your DC-Cam statement, you describe the physical appearance
21 of Ros Nhim, and let me repeat that for you just to speed up
22 things.

23 Mr. Witness, is it correct that, in your recollection, Nhim was
24 dark, tall, big build, straight hair and about the same age as So
25 Phim?

1 A. Yes. He was dark, tall and big build.

2 Q. Can you say something about the way So Phim and Ros Nhim would
3 greet each other whenever they saw each other? Do you remember
4 whether they were jokingly referring to each other, made jokes
5 when they would meet each other?

6 A. Yes, they chatted with each other. When they saw each other,
7 they shook each other hand and hugged each other<, and they would
8 tease each other.>

9 [10.00.04]

10 Q. And is it your recollection that So Phim would call Ros Nhim
11 jokingly, "A Siam", S-I-A-M, and that Ros Nhim would jokingly
12 call So Phim, "A Yuon"?

13 JUDGE FENZ:

14 Reference, counsel, at least occasionally.

15 MR. NONG NIM:

16 Yes.

17 BY MR. KOPPE:

18 This is from his own statement, page 62; Khmer, ERN 01340483;
19 French, 01348526.

20 Q. Why would they call each other, jokingly, the contemptible
21 Thai and the contemptible Vietnamese? What -- do you know what
22 the reason behind this joke was?

23 MR. NONG NIM:

24 A. They were in good relationship, so they rarely saw each other.
25 And when they met each other, they were jokingly teasing each

1 other. I did not know the meaning behind the words they used.

2 [10.01.36]

3 Q. Is it correct that sometimes when you and the others would
4 visit Ros Nhim in the Northwest Zone that Ros Nhim would take you
5 and others to visit Angkor Wat?

6 A. Yes, that is true. I went to Angkor Wat.

7 Q. And when you were visiting Angkor Wat together with Ros Nhim,
8 did Ros Nhim speak to you or others? Did you have conversations
9 with Ros Nhim?

10 A. They talked to each other. I did not know. I was not engaged
11 in the conversation because I was far from them. I did not dare
12 to go close to them. I did not know what they were talking at the
13 time.

14 [10.02.50]

15 Q. One last question about how you and So Phim and the other
16 members of the defence unit would travel from the East Zone to
17 Battambang.

18 Is it correct that you would not go through Phnom Penh but,
19 rather, take the ferry at Preaek Kdam passing through Soth and
20 then go to Battambang?

21 A. That is correct.

22 Q. One last question about how many visits from So Phim to
23 Battambang.

24 In your DC-Cam statement, page 63, you talked about two times per
25 year. Is that correct, or is it more or less?

1 A. I went there two times. Maybe one time.

2 Q. Well, that would be a bit difficult because you said that you
3 went more often to the Northwest Zone than Ros Nhim would come to
4 the East Zone.

5 Let's talk about visits of Ros Nhim to the East Zone. Can you
6 describe how Ros Nhim came to the East Zone to visit So Phim?

7 A. I did not get your question. I do not know how to answer it
8 because I did not hear it well.

9 [10.05.00]

10 Q. I will repeat. No problem, Mr. Witness.

11 Did -- how did Ros Nhim visit So Phim in the East Zone? How did
12 he get from the Northwest Zone to the East Zone? Do you remember?

13 A. He <took a car> and he would travel by boat on some occasions.

14 Q. And where in the East Zone would So Phim and Ros Nhim meet?

15 A. They met at the riverfront on some occasions, and sometimes <>
16 they met each other at Samraong worksite.

17 Q. Let me see if I can refresh your memory. Is it correct that
18 when Ros Nhim would visit the East Zone, he came by two cars? One
19 of them was a Jeep. He was accompanied by his bodyguards, and he
20 would visit So Phim in Tuol Preab, P-R-E-A-B, and Samraong,
21 S-A-M-R-A-O-N-G? Is that correct?

22 A. That is correct.

23 [10.06.38]

24 Q. And in your DC-Cam statement, that -- you said that these
25 visits would usually take two or three nights. Ros Nhim would

1 stay two or three nights, and that he visited about twice a year.

2 Is that correct?

3 A. Sometimes<,> twice a year and once a year on some, you know,
4 occasions.

5 Q. How many bodyguards accompanied Ros Nhim when he visited So
6 Phim?

7 A. <There were> many bodyguards, maybe <over> 10. They came to
8 that location in two vehicles.

9 Q. The person that we just referred to, Pou Oeng, also said that
10 visits between Ros Nhim and So Phim would take place in the place
11 called Suong, S-u-o-n-g. Is that correct?

12 A. They also went to Suong<, Tuol Preap (phonetic), and Tuol
13 Samraong.>

14 Q. Mr. Witness, you also spoke about other people, high-ranking
15 leaders, visiting the East Zone when you were working for So
16 Phim. You said that you also saw someone called Vorn Vet often.
17 Vorn Vet, is that someone that you remember?

18 A. I heard of his name, but I personally did not see him.

19 [10.09.20]

20 Q. I will get back to Vorn Vet, but are you sure you didn't see
21 Vorn Vet once in a while?

22 A. I used to see him, but I could not recall how he looked like
23 and his face.

24 Q. I understand.

25 Did you ever see Vorn Vet together with Ros Nhim and So Phim at

1 the same time?

2 A. I never saw <them> together.

3 Q. All right. Mr. Witness, I would like to ask you some questions
4 about the military structure in the East Zone.

5 Can you tell us a bit about who was in charge of the various East
6 Zone divisions?

7 Let's start with Division 4. Do you remember who was in charge
8 with Division 4?

9 A. Ta Heng <Samrin> was in charge of <Division 4>.

10 [10.11.06]

11 Q. Did I hear you correctly, that you said Ta Heng Rin, also
12 known as Heng Samrin?

13 A. That is correct. He was in charge of the division.

14 Q. And is it correct that you knew Heng Samrin very well at the
15 time also before 1975?

16 A. <No, I knew> Heng Samrin <before '65>.

17 Q. Well, let's see about that.

18 But is it correct that you knew him well because you both had
19 worked together fighting Lon Nol forces before 1975?

20 A. Correct.

21 Q. Were you together involved in the liberation of Phnom Penh?

22 A. I personally did not go to Phnom Penh. I was at the rear. He
23 went to Phnom Penh.

24 And <I, served as> messenger<,> would carry letters.

25 Q. And you were a courier bringing letters to Heng Samrin when he

1 was attacking Phnom Penh in '75?

2 A. Correct.

3 [10.13.28]

4 Q. And do you know whether Heng Samrin was involved in the
5 evacuation of Phnom Penh in April '75?

6 All right, Mr. Witness. I will repeat the question.

7 Do you know whether Heng Samrin, as one of the leading East Zone
8 Commanders, was involved in the evacuation of Phnom Penh on the
9 17th of April 1975?

10 (Short pause)

11 [10.14.48]

12 MR. KOPPE:

13 It seems the connection is gone, Mr. President.

14 MR. PRESIDENT:

15 What is going on now?

16 And Mr. Witness, can you hear me?

17 There is problem with the internet connection. Since it is now
18 proper time for the break, we will take the break from now until
19 10.30.

20 Court officer together with the greffier, please work with the AV
21 Unit to make sure that the internet comes back. And please,
22 greffier and Court officer, make sure that the witness and the
23 duty counsel are ready for the next session at 10.30.

24 (Court recesses from 1016H to 1031H)

25 MR. PRESIDENT:

27

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

2 Good morning, Mr. Witness. Are you ready <>?

3 MR. NONG NIM:

4 Yes, I'm ready.

5 MR. PRESIDENT:

6 Thank you.

7 Now I give the floor to Counsel Victor Koppe to continue putting
8 question to the witness.

9 [10.32.35]

10 BY MR. KOPPE:

11 Thank you, Mr. President.

12 Q. Yes. Good morning again, Mr. Witness. We were speaking before
13 the break about Ta Rin, Heng Samrin. And my question to you was
14 whether he was one of the commanders involved in evacuation of
15 Phnom Penh on the 17th of April '75.

16 Was he?

17 MR. NONG NIM:

18 A. Yes, he did participate in liberating people from Phnom Penh
19 in 1975.

20 [10.33.25]

21 Q. And is it correct that you, at the time, were a courier and
22 that you brought messages to him, messages presumably from the
23 rear front to the battlefield? Is that correct?

24 A. Yes, that is correct.

25 Q. And who was the commander of Heng Samrin? Who ordered - or,

1 who sent instructions to Ta Rin during the evacuation?

2 A. It was Ta So Phim who was the superior.

3 Q. Do you know whether there was also another military superior
4 to Heng Samrin at the time of the evacuation and also,
5 subsequently, someone who was called Khieu Samnang (phonetic)?

6 A. I <did not know what to say, I did not tell you all the detail
7 before>.

8 [10.35.05]

9 Q. Let me ask it differently. When you talked about Ta Rin in
10 your DC-Cam statement, you said, "I was a courier, and Heng
11 Samrin was on 'the supreme general staff side of things for
12 moving ammunition, supplying ammunition'."

13 That is page 82, Mr. President, French, ERN 01348540; and Khmer,
14 0140497 .

15 Mr. Witness, was Ta Rin or Heng Samrin a member of the supreme
16 general staff responsible for supplying ammunition during the
17 evacuation and also thereafter?

18 Mr. Witness, maybe you didn't hear my question. Was -- let me
19 rephrase it and make it easier.

20 Was Heng Samrin a member of the supreme general staff of the East
21 Zone responsible for supplying ammunition?

22 A. To my knowledge, he was part of the general staff responsible
23 for warehouse.

24 [10.37.23]

25 Q. Thank you for the clarification.

1 And just to make sure, do you know whether the direct chief on
2 the general staff, in other words, the zone military chairman,
3 was someone named Khieu Samnang (phonetic)?

4 A. Yes, I knew this person, Kaev Samnang (phonetic).

5 Q. And what do you remember about Kaev Samnang (phonetic)? Did
6 you know him personally at the time as well?

7 A. Yes, I knew Kaev Samnang (phonetic) clearly because I used to
8 go to his place.

9 [10.38.27]

10 Q. In your statement, you say, indeed, that you know -- that you
11 knew him, that Kaev Samnang (phonetic) was both Division 2
12 commander and member of the supreme general staff.

13 On English, page 80; and Khmer, 01340495; French, 01348539; you
14 said that the supreme general staff of the zone was, at the time,
15 in Prey Veng. Is that correct?

16 A. Yes, that is correct.

17 Q. And did you go to Prey Veng delivering also messages from So
18 Phim to Khieu Samnang (phonetic)?

19 A. Yes, I went there.

20 [10.39.32]

21 Q. Let's talk a bit more about Division 4. Do you know who at the
22 time were the deputy commanders of Division 4?

23 A. No, I did not know.

24 Q. Do the names Kry or Chhoeun mean anything to you? Kry, K-r-y;
25 Chhoeun, C-h-h-o-e-u-n.

1 A. I knew Chhoeun.

2 Q. Did you know Kry?

3 A. No, I did not <know Kry.> I cannot recognize their face. I am
4 forgetful now.

5 MR. PRESIDENT:

6 WESU officer, could you please check with the disturbing noise?

7 MR. MOEURN SOVANN:

8 The disturbing noise came from outside<, Mr. President>.

9 [10.41.10]

10 MR. PRESIDENT:

11 Please tell those people who were outside who were making noise,
12 please tell them to stop.

13 Now you may continue, Counsel.

14 BY MR. KOPPE:

15 Thank you, Mr. President.

16 Q. To speed up things, Mr. Witness, let me read to you a small
17 excerpt from a WRI from another East Zone military person.

18 Mr. President, it's E3/517; English, ERN 00375880; Khmer,
19 00373441; French, 00426348. This witness speaks about Division 4,
20 and he says the following, and I will read slowly:

21 "In Division 4, Reach Phan, deceased, because the Angkar
22 arrested him; Heng Samrin, alive, was the deputy chief; Kry was
23 the member. It is unknown whether he is alive or dead.

24 Approximately more than a year after 17 April, Phan was arrested
25 and Heng Samrin took the replacement as the chief. Kim, it is

31

1 unknown whether he is alive or dead, was the deputy chief. Kry
2 remained as the member, and Chhoeun was the member, died in late
3 '78." End of quote.

4 Mr. Witness, I mentioned some names. The former commander, Phan,
5 is that a name that you recall?

6 [10.43.10]

7 MR. NONG NIM:

8 A. No, I did not know this person.

9 Q. Just to be sure, let me ask my national colleague to pronounce
10 the name.

11 MR. LIV SOVANNA:

12 Mr. President, please allow me to read the name. The name is
13 Reach Phan <and Kry>. Reach Phan <and Kry>.

14 (Short pause)

15 [10.44.36]

16 BY MR. KOPPE:

17 Q. Hello, Mr. Witness. Are you there?

18 MR. NONG NIM:

19 A. Yes, I can hear you, but I do not know the names of the two
20 individuals.

21 Q. That's no problem.

22 Mr. Witness, do you know Heng Samrin's younger brother, who was
23 also a division commander, called Thal?

24 A. No, I'm not familiar with the name Thal. I have never heard of
25 this name. I have never heard nor met this person.

1 Q. Mr. Witness, you spoke about Ta Rin, whom you knew closely
2 even from before 1975. Did you often meet him after 1975 while
3 you were So Phim's driver and bodyguard?

4 A. Yes, I met him.

5 [10.46.12]

6 Q. Would you have conversations with Ta Rin?

7 A. No, I did not <>, but I saw him. <I dared not talk to him.>

8 Q. Mr. Witness, I would like to show you a photo, and after
9 having shown the photo to you, I would like to ask you if you
10 know who this person is.

11 Mr. President, we have arranged with WESU to have a copy of this
12 particular photo with the witness so that he can see it clearly.
13 We can also put it on the screen here. It is a still from the
14 documentary E3/3015R, a still of the footage at 1.53. And with
15 your leave, we will put it on the screen for all parties and
16 hopefully, at the same time, the duty counsel will be in the
17 position to show that particular photo.

18 [10.47.42]

19 MR. PRESIDENT:

20 The Chamber grants your request. And please show the photo on the
21 screen.

22 And Duty Counsel, could you please show the photo to the witness
23 so that the witness can have a look and give his answer?

24 MR. NONG NIM:

25 A. No, I do not know this person. <The photo is not clear>.

1 BY MR. KOPPE:

2 Q. Mr. Witness, let me show 10 seconds of that actual video clip.
3 Maybe after having seen that part of the video who's the same
4 person, you might recognize this person.

5 Mr. President, with your leave, nine seconds from that very same
6 video, E3/3015R, we can put it on the screen and hopefully the
7 duty counsel will guide his client to have a look at the screen
8 when we show this video.

9 MR. PRESIDENT:

10 Yes, you may proceed.

11 [10.49.46]

12 (Audio-Visual presentation - video)

13 (End of Audio-Visual presentation - video)

14 [10.49.52]

15 BY MR. KOPPE:

16 Q. Mr. Witness, were you able to see on your screen the video we
17 just played?

18 MR. NONG NIM:

19 A. Yes, I saw the video, but I do not know the person.

20 Q. That's all right. One last photo before I move on to another
21 subject.

22 Mr. President, I would like to show a photo that we have showed
23 to other witnesses before, E3/3259, English, ERN P00416559.

24 Mr. Witness, please have a look at this photo and see if you
25 recognize anyone.

1 [10.51.06]

2 MR. PRESIDENT:

3 Duty Counsel, could you please show the photo to the witness to
4 have a look?

5 And the AV Unit, please show the photo on the screen.

6 MR. NONG NIM:

7 A. Yes, I know.

8 BY MR. KOPPE:

9 Q. Who are -- do you recognize anyone on this photo?

10 MR. NONG NIM:

11 A. I know one of them.

12 Q. And who is it that you know?

13 A. One of them is Ta So Phim.

14 [10.52.05]

15 Q. And who is that? Who is So Phim? Can you describe where he's
16 standing on the photo?

17 A. He had a scarf around his neck and he has short hair, and he
18 was smiling.

19 Q. And Mr. Witness, do you recognize the person left of him who
20 is also wearing a krama and who is also smiling? Do you know that
21 person?

22 A. <The one who> was wearing the scarf on one side, I did not
23 know <him.>

24 I did not know anyone else except one person.

25 Q. The person that's standing left of So Phim, is that someone

1 who looks like a person you mentioned frequently in your DC-Cam
2 statement, Nuon Chea?

3 A. I cannot see the photo clearly.

4 [10.54.04]

5 Q. That's no problem; Mr. Witness, let me move on to discuss one
6 last person, someone that you also mentioned in your DC-Cam
7 statement, a brother of Ta Rin, Heng Samkai.

8 Do you remember Heng Samkai?

9 A. Yes, I knew Heng Samkai, but he died already.

10 Q. I understand. But before May '78, what was the position of
11 Heng Samkai?

12 A. At that time, he worked as a <head of> messengers.

13 Q. Was he, in fact, the chief of the courier's office in the East
14 Zone?

15 A. Yes.

16 Q. Did you send messages from So Phim to Heng Samkai?

17 A. No.

18 Q. Do you know --

19 THE KHMER INTERPRETER:

20 The message from the witness is not clear to the interpreter.

21 [10.56.04]

22 BY MR. KOPPE:

23 Q. Do you know whether So Phim had frequently contact with Heng
24 Samkai?

25 MR. NONG NIM:

1 A. No, he rarely came. He came only when there was something
2 important to settle. <>

3 Q. Thank you, Mr. Witness. Now let's move to a very important
4 date in the East Zone, events that took place on the 25th of May
5 1978.

6 Do you recall what happened on the 25th of May 1978?

7 A. I do not know.

8 Q. Let me ask it differently.

9 What happened in the two weeks before So Phim died on the 3rd of
10 June '78? Can you tell us?

11 A. There was incidents <of shooting out> . <>There was arrest of
12 people <from different units>, and they were taken away to be
13 killed.

14 [10.58.00]

15 Q. Let me -- Let me ask it you -- ask more concretely, Mr.
16 Witness.

17 In your DC-Cam statement, page 83; French, 01348541; Khmer,
18 01340497; you talked about a coup d'état and, literally, you
19 said, "A Pot made a coup d'état and was killing people." In other
20 words, the contemptible Pol Pot staged a coup d'état and was
21 killing people; do you remember saying that to DC-Cam?

22 A. I am forgetful now. I talked a lot during that time, but I
23 cannot recall everything now.

24 Q. Mr. Witness, you spoke to members of DC-Cam only a year and a
25 half ago, on the 9th of July 2015; you gave many details of all

1 kinds of events at the time. Are you afraid to speak in public or
2 is there something else going on?

3 A. I want to give you all the answers I know, but as I told you,
4 now I cannot recall everything. I'm very forgetful now.

5 [11.00.04]

6 Q. Mr. Witness, you spoke extensively about the clash between
7 forces of Pol Pot, on the one hand, and forces of the East Zone,
8 on the other hand. Specifically, you said that there might have
9 been a coup d'état, apparently, by Pol Pot and that Pol Pot was
10 killing people and arresting people.

11 Can you please tell us what you remember?

12 A. That is what I testified and I, a while ago, did not recall
13 it; that's why I did not give you the answer.

14 JUDGE FENZ:

15 Now, sorry for interrupting, but I remember we had this
16 difficulty with the word "coup d'état" and what it means. May I
17 just interrupt here?

18 Witness, what's your definition of a coup d'état because that's a
19 French word; what does coup d'état mean for you?

20 MR. NONG NIM:

21 A. It meant that Pol Pot arrested civilian people and soldiers to
22 be killed. I, myself, had to flee<. It was a >coup d'état
23 <against the East Zone, to depose So Phim who was accused of
24 being a traitor>.

25 [11.00.57]

1 BY MR. KOPPE:

2 Q. Mr. Witness, not only you; I believe almost everyone from the
3 former East Zone, who was interviewed after the 25th of May '78,
4 spoke about a coup d'état staged either by Pol Pot or by Son Sen.
5 Now, you said, in your statement, that it was Pol Pot who "made a
6 coup d'état"; what did you mean with that when you said that to
7 DC-Cam?

8 MR. NONG NIM:

9 A. I did not know who was the one who staged the coup d'état, but
10 there was no one besides Pol Pot.

11 Q. But wasn't it true that Pol Pot was in power, at the time;
12 that he was the prime minister; he was the secretary of the CPK
13 and the Standing Committee? How did you understand, at the time,
14 that it was Pol Pot who staged a coup; can you explain what you
15 understood at the time?

16 JUDGE FENZ:

17 Has he not just done that, when I asked him, or what additional
18 issue do you want clarified --

19 [11.03.32]

20 MR. KOPPE:

21 Well --

22 JUDGE FENZ:

23 -- because, obviously, the word "coup d'état" is used not
24 necessarily in the way we would understand it, so I asked for a
25 definition and he gave it?

1 MR. KOPPE:

2 As a matter of fact, I disagree with you, Judge Fenz, because
3 that word "coup d'état" is used by everyone; it's used by Heng
4 Samrin; it's used by Chea Sim; it's used by every single person
5 from the East Zone --

6 JUDGE FENZ:

7 And I'm not --

8 MR. KOPPE:

9 -- and they all use the same word and with the other witness, two
10 weeks ago, we verified that it is, indeed, the same Khmer word.

11 [11.03.59]

12 JUDGE FENZ:

13 And I'm not questioning that they are using the word; I'm saying
14 it's, perhaps, not necessarily clear what they mean when they use
15 the word which is why I asked him, "What does it mean?" and he
16 said it means that Pol Pot was killing civilians and soldiers. I
17 stopped there because I thought it's, obviously, your job to go
18 further.

19 BY MR. KOPPE:

20 Q. Let me be very concrete, Mr. Witness; in your DC-Cam
21 statement, you used the word "coup d'état"; that means the
22 grabbing or the taking of power. Now, why did you use that word;
23 why did you say that it was Pol Pot who staged a coup d'état?

24 [11.04.57]

25 MR. NONG NIM:

1 A. I did not know either. <I could not give the answer.>

2 Q. Let me ask it differently. Did you ever hear So Phim say to
3 anyone, either in speeches or during meetings, that he believed
4 it was either Pol Pot or Son Sen who staged a coup d'état?

5 A. <No, Son Sen did not stage a coup d'état.> I heard of the name
6 Pol Pot. People did say about that. <Only> Pol Pot who staged the
7 coup d'état killing people.

8 Q. Mr. Witness, you were So Phim's bodyguard-driver; you just
9 confirmed that So Phim went to visit Pol Pot in Phnom Penh often;
10 why are you saying, now, that you heard of Pol Pot's name? What
11 -- why are you seemingly afraid to speak about this?

12 A. I heard about that. I did not know who Pol Pot was. I heard of
13 the name. <It is not clear, this photo.>

14 [11.06.35]

15 Q. Well, let me move away from that subject and ask you just one
16 or two more questions, Mr. Witness, about So Phim's death. What
17 do you know about So Phim's death?

18 A. I did not know in detail<, I was with his wife and I did not
19 go with him>. <>I was <instructed> to stay at <Tuol Preap
20 (phonetic) worksite>. I was told <that, "You do not have to go
21 now. The day after tomorrow, you need to go with my wife. Now, I
22 have to go ahead and I will wait at Prey Veng." Then, he left.
23 Since then,> we separated from one another <>. As of now, we
24 have never seen each other.

25 Q. What do you mean with that we haven't seen each other?

41

1 A. I never saw him again. I heard about his name and I do not
2 know where he died. I was not with him at the time.

3 [11.08.44]

4 Q. Mr. Witness, what happened after So Phim died on the 3rd of
5 June '78; what did you do?

6 A. <I did not do anything.> I went to see my relatives at my
7 birthplace. <Pol Pot clique sent them to live in> Kampong Thom <,
8 and I went> to seek for my relatives. I did not do anything after
9 that time. I had to spend two or three nights en route before I
10 reached my destination. <I attempted to run into the jungle
11 because I feared of being killed by Pol Pot. I missed them a lot
12 until I lost my appetite, but I> had to flee <for survival>.

13 Q. Mr. Witness, if I were you, I would do the same thing, giving
14 answers like this, but isn't it true that you, in fact, after So
15 Phim's death, with others, created an army of at least 200 and
16 300 persons established to fight back against the Centre forces?

17 A. That is true. <That time, there were some remnants of troops.>

18 Q. So please tell us about the creation of East Zone forces
19 fighting back the Centre forces; what can you tell us about that?
20 How many members were there; with whom did you fight; can you
21 please tell?

22 A. I was not engaged in the fighting since I had already left
23 that location because I could not stay there. I had already left.
24 I had to flee from time to time and then I was arrested.

25 [11.10.59]

1 Q. Mr. Witness, let me read to you what you said to DC-Cam -- see
2 if I can refresh your memory -- E3/10717; English, ERN 01354213
3 (sic); French, 01348551; and Khmer, 01340508.

4 Question: "What sort of army was created?"

5 And then you answer: "It was created in order to fend them off."

6 Question: "Do you know how big an army was created at that time?"

7 Answer: "We created it."

8 Question: "How many divisions were you able to create? From where
9 were the weapons and military equipment to be had?"

10 Answer: "A division was not possible. We got 200 to 300 persons."

11 Question: "Was it Ta So Phim who created the army?"

12 "No, not him; it was the defence unit there."

13 "The defence unit created it?"

14 "Yes."

15 "Who led in its creation?"

16 "Cheng."

17 Mr. Witness, do you recall saying that to DC-Cam?

18 [11.12.40]

19 <MR. NONG NIM:>

20 <That is incorrect.>

21 THE KHMER INTERPRETER:

22 The interpreter could not hear what the witness said.

23 BY MR. KOPPE:

24 Q. Mr. Witness, I just read back to you something you said to

25 DC-Cam about your division unit creating an army of 200 to 300

1 people to fight back against Pol Pot's forces; do you recall
2 saying that to DC-Cam?

3 MR. NONG NIM:

4 A. I did talk about that. They were from different units to
5 defence -- defend the people, so that people would not be taken
6 away and killed. We created that force in order to defend our
7 people to avoid the killings. <Seeing the scene of shooting,> I
8 was so scared, at the time, and I was fleeing to see my relatives
9 <living at distant districts>.

10 [11.14.03]

11 Q. Mr. Witness, weren't you, in fact, with the defence forces
12 fighting together with a battalion called 09?

13 A. Yes, I was with that battalion, but I was not directly
14 involved in that.

15 Q. In your DC Cam statement, Mr. Witness, you speak about armed
16 clashes between your group and Battalion 09 and you said, at page
17 94; Khmer, ERN 01340504; and French, 10 -- sorry, 01348548; that
18 the fighting took place at "Wat Vihear Totuem pagoda." I hope I
19 pronounce it well.

20 Do you remember saying to DC-Cam that fighting took place close
21 to Suong, S-U-O-N-G, at Wat Vihear Totuem pagoda?

22 A. I did say about that. Yes, there was an actual fighting, <I
23 did not lie. They captured even people of mobile units and placed
24 them at Wat Vihear Totuem pagoda. When their children> joined the
25 fighting<, they were taken out. Staff at the first kitchen hall

1 left. So people began> fleeing.

2 [11.16.12]

3 Q. Mr. Witness, is it correct that Battalion 09 played a very
4 important role in the -- in the armed clashes between East Zone
5 forces and the Centre forces and if yes, is it correct that it
6 was Mao Phok, who was the commander of Division 09?

7 A. I did not know who Mao Phok was.

8 Q. Mr. Witness, you speak about Mao Phok in your DC-Cam
9 statement. This is what you said at that same page I just
10 referred to, page 94:

11 "To whom did the 09s belong?"

12 And then you answer: "To us Easterners".

13 Question: "Ta's side?"

14 Answer: "Ta Phok's side."

15 [11.17.13]

16 Question: "Ta Mao Phok's side?"

17 "Yes."

18 "Were the 09 side and Ta So Phim the same?"

19 "They were together, as one."

20 And then you go on to speak about Ta Phok -- Mao Phok.

21 Mr. Witness, does that refresh your memory?

22 A. Yes, it was an individual by the name Mao Phok, he was part of
23 09.

24 Q. What did Ta Mao Phok do after 1979; do you know?

25 A. He did nothing< besides fighting>.

1 [11.18.12]

2 Q. Do you know whether he was arrested in 1990 -- in 1982 by the
3 Vietnamese?

4 A. I did not know about that. I did not know if he was arrested.
5 I did not run into the forest.

6 MR. KOPPE:

7 All right, that's fine, Mr. President.

8 I have -- I have only -- we have only 10 more minutes left; I
9 see, on the clock. I do have many more questions for this
10 witness, but I'm afraid I have to stop. Thank you.

11 MR. PRESIDENT:

12 Judge Lavergne, you take the floor now.

13 [11.19.14]

14 JUDGE LAVERGNE:

15 Thank you, Mr. President.

16 I have a request for clarification for Mr. Koppe. It appears
17 that, this morning, during his examination of this witness, <he
18 made> reference to Cheal, Ros Nhim's son, as the secretary of
19 Sector 5. Counsel Koppe, it would appear that you said this;
20 could you <share> the references <that helped you reach the
21 conclusion that he was indeed the secretary of Sector 5?>.

22 I also noted some indications, <particularly in> the list of
23 witnesses of the Co-Investigating Judges, document E3/10604. I
24 noted that Nhim Chhnang alias Cheal, that is number 1032 on the
25 list, entered on the 14th of June 1978, was assistant of Sector

46

1 5, but I didn't see any indications that show that he was the
2 secretary. If you have any document in that regard, that would be
3 of interest to us.

4 MR. KOPPE:

5 Yes, not here with me at the moment. I believe that the witness,
6 himself, in his DC-Cam statement, indicates that Cheal, also
7 known as Chhnang, was the Sector 5 chairman. I believe Toat
8 refers to Cheal's position as sector of -- Sector 5 chairman, not
9 initially; I believe, but at a later stage because he was first
10 deputy.

11 I'm happy to provide the relevant documents and E3 numbers, if
12 you allow me, after the lunch break.

13 [11.21.13]

14 JUDGE LAVERGNE:

15 Of course, that will be very relevant.

16 MR. PRESIDENT:

17 Thank you. The Chamber now gives the floor to the Co-Prosecutor
18 to put questions to the witness. You may now proceed.

19 QUESTIONING BY MR. KOUMJIAN:

20 Good morning, Mr. Witness. I'd like to begin by asking you some
21 questions about visits to the East Zone by Party leaders.

22 Q. Is it correct that you've told us that Pol Pot would come to
23 visit the East Zone?

24 I believe he didn't hear. Let me rephrase the question.

25 Do you recall Pol Pot visiting the East Zone?

1 [11.22.27]

2 MR. NONG NIM:

3 A. I do not recall well. I am forgetful in fact. I will tell the
4 Court what I can remember and know.

5 Q. Okay, thank you. I understand that. Let me see if I can help
6 your memory at all.

7 I want to read to you, a little bit, what you said to DC-Cam when
8 you spoke to them and this is at English, 01355814; in Khmer,
9 it's 01340522; and in French, 01348565.

10 During an interview, the DC-Cam person, Long Dany, asked you:

11 "Did the top leaders like Pol Pot, Nuon Chea, and others come to
12 meet Ta So Phim in the East Zone or not?" and you said, "They
13 came quite often".

14 Long Dany asked you, "Who came often?" and you said, "Nuon Chea".

15 Do you recall -- first of all, let me stick with Pol Pot; do you
16 recall Pol Pot, the Party leader, visiting the East Zone after
17 the 1975 defeat of the Lon Nol army?

18 A. <Pol Pot would come> and he would return on the same day.

19 [11.24.52]

20 Q. Thank you. And what about Nuon Chea; do you recall him
21 visiting?

22 A. I heard of his name. I, myself, did not see him.

23 Q. Same page, you said that Nuon Chea came to Samraong; he also
24 came to Suong, to Samraong and -- and then you said, "He worked
25 at Suong, Samraong, and Tuol Preah (phonetic)"; does that refresh

1 your recollection at all?

2 A. I do not really recall that and sometimes, I can recall what
3 happened; on some other occasion, I cannot recall it.

4 [11.26.05]

5 Q. Okay, well, let me switch topics, then, for now. Excuse me,
6 one more -- one more person I want to ask you about.

7 You also told DC-Cam that you saw Ieng Sary and Khieu Samphan; do
8 you remember seeing Ieng Sary and Khieu Samphan? And the
9 reference, excuse me, is English, 01355816; French, 01348567;
10 Khmer, 01340524. Do you recall saying, sir, that one could say
11 you saw those like Pol Pot, Khieu Samphan, and Ieng Sary come
12 there frequently? "How often did they come"; that was the
13 question to you. And you said, "Sometimes, two or three times per
14 year."

15 Do you recall seeing Khieu Samphan or Ieng Sary from the East
16 Zone?

17 A. I saw them, for a brief moment, on some particular days. They
18 came to the East.

19 [11.27.35]

20 Q. When these top leaders would come to the East, how did So Phim
21 treat them?

22 A. They held hands and they hugged each other at the time, and
23 asked how they were.

24 Q. I see, thank you.

25 And would these top leaders come with whole armies or a few

1 bodyguards; about how many people did they bring with them; how
2 many armed security?

3 A. <Not many, there were> 4 or 5; sometimes 10, it depended.

4 Q. Thank you. Now, I want to talk to you about the arrests of
5 people in the East Zone. Do you recall when those arrests began,
6 when you first became aware that East Zone people were being
7 arrested?

8 A. I cannot recall it. I cannot remember it. I cannot recall
9 when, exactly, it happened.

10 Q. Do you recall when it was that So Phim started to become
11 concerned that these arrests -- about these arrests?

12 A. I did not understand his mind at the time; I did not know. He
13 was calmed at the time.

14 [11.30.05]

15 Q. I ask you because you said this during your interview in
16 ?2015? -- and Your Honours, this is from English, 01355783;
17 French, 01348545; and Khmer, 01340501; you said that only after
18 the last wave of -- well, first I'll give you the question:
19 You were asked by Long Dany: "What about the constant stream of
20 many arrests that were being made in the sectors and the army;
21 surely, he would have known that he also would be arrested?".
22 And you answered: "Only after that last wave of arrests did it
23 dawn on him, did he realize he would be arrested."
24 Do you recall that, sir, first of all, that there were waves of
25 arrests -- different waves of arrests in the East Zone?

1 A. <There were stages of arresting people; they did not arrest
2 people continuously.>

3 [11.31.33]

4 THE KHMER INTERPRETER:

5 The interpreter did not understand and hear the message clearly
6 from the witness.

7 BY MR. KOUMJIAN:

8 Q. Sir, could you repeat your answer; we did not hear?

9 MR. NONG NIM:

10 A. Could you please repeat your question, <My ear get strained,>
11 I did not get it well?

12 Q. Well, let me move on to another question. Do you ever recall
13 So Phim saying that he was concerned about these arrests; that
14 these were loyal people, not traitors who were being arrested?

15 A. I did not know. I could not read his mind. He was quiet at the
16 time. He was in normal situation.

17 [11.32.55]

18 Q. Do you recall So Phim being hospitalized in Phnom Penh in
19 early 1978?

20 A. Yes, he was hospitalized.

21 Q. And was he staying in Phnom Penh being treated?

22 A. Yes, he was.

23 Q. Can you tell us if you -- what you know about his illness; did
24 you ever see or hear what the problem was?

25 A. He had the skin disease on his head and he got high blood

1 pressure. He had rashes on the whole body on his skin<, injection
2 and> medicines <were not effective>.

3 Q. Do you recall that during the time that he was in Phnom Penh,
4 in the hospital, East Zone cadres were being arrested back in the
5 East Zone?

6 A. I did not know <about such arrests>.

7 [11.34.36]

8 Q. Thank you. Let me just read something from E3/1593 -- that's
9 Kiernan -- at 01150203 in English, in French at 00639172, and in
10 Khmer at 00637947.

11 He wrote that Phim's March-April illness and his absence from the
12 East proved crucial as his suspicions were justified. "He came
13 home, not fully recovered, to find his zone administration under
14 withering Centre attack. By 19 April, no fewer than 409 East Zone
15 cadres were being held in Tuol Sleng. The largest number from any
16 other zone was 48 from the Northwest. The 28 new prisoners who
17 entered Tuol Sleng on 20 April were all from the East."

18 So sir, this writer was talking about East Zoners being arrested
19 and taken to Phnom Penh in April 1978; did you witness that or
20 learn anything about East Zoners being taken by the Centre under
21 arrest to Phnom Penh?

22 A. I was not aware of it, but I heard about the disappearance of
23 the leadership of the zone, but I did not know when they were
24 arrested <and loaded on trucks> and where they were taken to.
25 <But> all people in the leadership position had disappeared.

1 [11.36.30]

2 Q. And did you learn why they were being arrested?

3 A. I did not know. I did not know the reasons.

4 Q. I'd like to read to you something from the same author on the
5 same page where he talks about a meeting that So Phim was at in
6 Ponhea Kraek district office in Ph'aem village in March 1978.
7 The author quotes this woman as saying: "I was serving the food
8 for the leading cadre there, but I went in close and heard what
9 was being said. Phim told them that the situation had now changed
10 considerably and the comrades should all take an interest. He
11 reminded the regional and district cadre of this standpoint
12 because regional, district, and military cadres were being taken
13 away, one after another, everywhere. When he noticed this, he
14 said that those arrested were loyal servants of the people; his
15 friends -- not traitors. He told everyone to watch out, to be
16 careful."

17 Do you recall whether So Phim, in these early arrests, was
18 cooperating with the Centre or was he concerned; did you ever see
19 him express any opinion about these arrests?

20 A. I was not aware of it. I was not aware of it. As I told you
21 earlier that my responsibility was driving for him and guarding
22 him, nothing else. <For the internal matters, I did not know.>

23 [11.38.30]

24 Q. Okay, thank you. I'm going to move on to a new topic. Unless
25 Your Honour tells me to stop, I will continue.

1 So the new topic I want to talk about --

2 MR. KOPPE:

3 I'm just standing to provide the answer to the question of Judge
4 Lavergne, Mr. President.

5 It was, indeed, Toat who said this. Toat was the adopted son of
6 Ros Nhim and a high-ranking member of the Northwest Zone military
7 staff. In E3/9610 at question and answer 28, he said that Ta
8 Hoeng was the chief of Sector 5. Chhnang alias Cheal, and Pauch
9 were his deputies.

10 Asked the same question, on the 6th of July 2015, when he was
11 testifying before the Supreme Court Chamber; F1/3.1, he said at
12 9.39 that Cheal might, perhaps, be the chief of Sector 5.

13 [11.40.01]

14 MR. PRESIDENT:

15 I would like to clarify in Khmer language regarding the name
16 "Toat"; it's Toat Teut (phonetic).

17 Thank you, Mr. Witness. Your testimony has not yet concluded yet.
18 It is now convenient time for break and you can have a break from
19 now and please come back to your testimony place to continue your
20 testimony.

21 And the Chamber, also, would like to invite Mr. Moeurn Sovann,
22 the duty counsel, to come back.

23 Mr. Witness, can you hear me?

24 MR. NONG NIM:

25 A. Yes.

1 [11.40.50]

2 MR. PRESIDENT:

3 You can have a break now and we see each other again at 1.30.

4 The Chamber would like to inform parties that <2-TCW-971> that

5 the Chamber heard the testimony on <9 December 2016>, at that

6 time, there was interruption because of internet problems. The

7 Chamber planned to continue hearing the testimony of that witness

8 via video link from Ourdor Meanchey province on Thursday, <15

9 December 2016>.

10 And before the lunch break, the Chamber would like to issue the

11 oral ruling on Internal Rules 87.4 request of 2-TCE-1062. The

12 Chamber refers to the oral submissions made on 7 December 2016 in

13 relation to the Co-Prosecutor's request to admit three documents

14 <into evidence> pursuant to Internal Rule 87.4, which they submit

15 are relevant to the upcoming testimony of 2-TCE-1062.

16 No objections were raised by any party.

17 The Chamber finds that the first two documents; namely, a report

18 and chart relating to the preserved remains of victims at Choeung

19 Ek were prepared by 2-TCE-1062 and closely relate to his expected

20 testimony and should, therefore, be admitted pursuant to Internal

21 Rule 87.4.

22 [11.42.50]

23 The third document is an interview of a witness, who has already

24 testified in this case, and thus, in accordance with the practice

25 of the Chamber, should also be admitted <into evidence> as a

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1 prior statement of that witness to allow for a complete
2 assessment of their testimony.

3 The Chamber accordingly grants the Co-Prosecutor's request and
4 assigns the following document numbers: E3/10765 to Document 1,
5 E3/10766 to Document 2, and E3/10767 to Document 3. This
6 constitutes the Chamber's official response to this request.

7 It is now convenient time for break. The Chamber will take a
8 break from now until 1.30 p.m.

9 Security personnel are instructed to bring Khieu Samphan to the
10 waiting room downstairs and bring him back into the courtroom
11 before 1.30 p.m.

12 The Court is now in recess.

13 (Court recesses from 1144H to 1331H)

14 MR. PRESIDENT:

15 Please be seated.

16 The Court is back in session and before I give the floor to the
17 Co-Prosecutor to continue putting question to the witness, the
18 Chamber would like to hear opinions from Counsel Victor Koppe
19 related to a document obtaining from Professor Heynowski.

20 The Chamber heard the submissions and observation from parties on
21 the 9th of December <2016> and you said on that day that you had
22 no time to have a look, thoroughly, at the document yet and,
23 therefore, the Chamber would like to hear your observation or
24 submission today regarding that document.

25 [13.32.43]

1 MR. KOPPE:

2 Yes, Mr. President, I had a look -- I was able to have a look on
3 Friday; surprised by the pristine state; I have to say, of that
4 document. It's, clearly, highly relevant for the case file and I
5 have no objection to a Rule 87 request pertaining -- it having --
6 having it admitted into evidence.

7 MR. PRESIDENT:

8 Thank you. Now, I give the floor to the Co-Prosecutor to continue
9 putting questions to the witness.

10 Mr. Witness, are you ready?

11 MR. NONG NIM:

12 Yes, I am.

13 MR. PRESIDENT:

14 Thank you. Now, the floor is given to the International
15 Co-Prosecutor.

16 [13.33.37]

17 BY MR. KOUMJIAN:

18 Q. Good afternoon, Mr. Witness.

19 Sir, in your interview, last year, with DC-Cam, you talked about
20 So Phim going to Phnom Penh; his last trip, before his death, to
21 Phnom Penh. Do you recall, now, what he said before he went about
22 why he was going to Phnom Penh?

23 MR. NONG NIM:

24 A. <I do not remember.> He <was curious and> wanted to know or
25 find out about the arrests and killings. He wanted to go and find

1 out. I did not know anything else beyond that <because I did not
2 go with him. Some relatives at my district reported this.>

3 [13.34.45]

4 Q. Okay, thank you. Let me read some of what you said, last year,
5 to DC-Cam and tell me if it refreshes your recollection.

6 You told them, last year, that So Phim said -- excuse me, I'm
7 reading from ERN in Khmer, 01340501; in French, 01348544; and in
8 English, 01355782. You said, at that time, that So Phim said, "I
9 have done nothing wrong and I will go straight to the place where
10 I can get right to the bottom of this". You said, he said he was
11 going to "A Pot's location, but he did not reach it".

12 And then Long Dany asked you, "He said he had done nothing
13 wrong?" and you said, "Nothing, at all, wrong".

14 Does that refresh your recollection; do you recall So Phim saying
15 he was going to Phnom Penh because he had done nothing wrong?

16 A. I do not know how to give my answer to your question because I
17 -- my knowledge was limited and this -- and, furthermore, I am
18 also forgetful.

19 [13.36.49]

20 Q. Okay, my colleague suggests I read it again; perhaps, it
21 didn't come across well in Khmer.

22 Mr. Witness, what you told DC-Cam last year is that, So Phim said
23 he was going to -- straight to the place to get to the bottom of
24 this because he had done nothing wrong. Do you remember So Phim
25 saying something like that; that he wanted to get to the bottom

1 of what was happening and he had done nothing wrong?

2 A. I do not know how to give the answer to you. I'm also
3 forgetful.

4 Q. Well, you should just give the answer you're -- to the best of
5 your knowledge, the truth.

6 Do you remember what So Phim said; can you help us, at all, with
7 anything else he said about why he was going to see Pol Pot when
8 Pol Pot was arresting East Zone cadre?

9 A. I do not know. I truly don't know. If I know, I will tell you
10 that I know, but here, I truly don't know.

11 [13.38.40]

12 Q. Okay, thank you.

13 So Mr. Witness, do you know when Pol Pot went -- excuse me, when
14 So Phim went to see Pol Pot, on that occasion, did he bring two
15 divisions with him, one division; did he just bring a few
16 bodyguards? Did he go there with lots of forces or did he go
17 there with just a few people?

18 A. <When he left, he> did not bring any soldiers with him. He
19 brought along with him only <about 10> members of the defence
20 unit.

21 Q. And can you remind us about how many members of the defence
22 unit were there at that time?

23 A. About 10 of them.

24 Q. Now, you were not with Pol Pot -- excuse me, I'm going to try
25 that again. You were not with So Phim and you don't know what

1 happened, exactly, on his trip to Phnom Penh; is that correct?

2 A. I do not know how to answer your question and my memory also
3 does not serve me well.

4 [13.40.45]

5 Q. Is it correct that So Phim, to your knowledge, at the time of
6 these arrests, he didn't go into the forest; he didn't run to
7 another country; he went to Phnom Penh to see Pol Pot and the
8 leadership; is that true?

9 A. Yes, that is correct. He went to meet the people in the
10 leadership position in order to find out the truth.

11 Q. Okay, thank you. I want to ask your reaction to something
12 someone else said and see if you see any similarities with So
13 Phim. This is the adopted son of Ros Nhim, Toat Thoeun.

14 In E3/10665; in Khmer at 01168480 and in English at 01156823, he
15 was being interviewed by a person who had spent many years and
16 many hours with Nuon Chea; a man named Thet Sambath, who did a
17 film about Nuon Chea, and Thet Sambath's the person who said he
18 became very close to Nuon Chea, like family.

19 [13.42.33]

20 So Thet Sambath asked this person, the adopted son of Ros Nhim,
21 he asked him the following question:

22 "An opinion blamed your father or So Phim or others for the
23 massacre saying that, because they joined the plot to fight
24 against Pol Pot, so it caused rifts in the internal movement; how
25 do you think about that opinion?"

1 And Toat Thoeun answered: "From my understanding, if he had the
2 obvious idea to oppose Pol Pot, he would not have stayed until he
3 was killed."

4 Mr. Witness, what about So Phim; do you think he could have -- if
5 he was plotting against the Centre when the arrests started,
6 could he have escaped?

7 MR. KOPPE:

8 I would even have problems following this question; it's
9 incredibly long; the witness doesn't know who Toat is; there's
10 all kinds of others sentences which are irrelevant for the
11 question about Thet Sambath. But in addition to all of this, he's
12 asking for speculation; "What would So Phim have done?" He cannot
13 possibly answer this question.

14 [13.43.52]

15 MR. KOUMJIAN:

16 Well, Your Honour, I believe Counsel has read from the same
17 interview with the 1069. I believe he's read from the -- that
18 witness today. The question, I -- we can find out if the witness
19 understands it, but actually, I have a basis for believing he can
20 because he's made a similar comment in his own statement to
21 DC-Cam last year.

22 So may I ask the question and if the witness does not understand,
23 I'll try to simplify it, but I think he -- he's probably
24 forgotten it by now?

25 JUDGE FENZ:

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1 The thing -- the whole thing was a bit convoluted; that's the
2 feeling I had too, but perhaps, repeating the last question might
3 help.

4 [13.44.42]

5 BY MR. KOUMJIAN:

6 Q. Let me see if I can do it this way; Mr. Witness, do you
7 recall, in your interview with DC-Cam, you said the following --
8 I have to find it; just one moment.

9 I'm reading now from the witness' interview with DC-Cam at
10 01355783 in English; 01348545 in French; and in Khmer, it's at
11 01340501. Sir, you said that he had gone -- So Phim had gone to
12 Phnom Penh.

13 Long Dany asked you: "He was not getting ready preparing to
14 escape?"

15 And you answered: "He was unwilling to escape, but if he had
16 wanted to evade, he would have been able to, but he was unwilling
17 to escape." And then you repeated: "He said he had done nothing
18 wrong."

19 So Mr. Witness, is that -- can you explain to us what you mean
20 when you say that So Phim could have escaped, but he was
21 unwilling to do so?

22 A. <What is it you want to say? I can't really see. I can't
23 really say.>

24 [13.47.00]

25 MR. PRESIDENT:

1 Mr. Moeurn Sovann, could you please take note the question and if
2 the witness cannot get the question clearly and then you can
3 explain the question to the witness? So in this way, we can
4 smooth the process to help the witness understand the question.

5 Co-Prosecutor, could you please repeat your last question?

6 BY MR. KOUMJIAN:

7 Q. Mr. Witness, I'd just like you to explain a bit what you said
8 last year. Talking about So Phim going to Phnom Penh, you said,
9 "He was unwilling to escape, but if he had wanted to evade, he
10 would have been able to, but he was unwilling to escape." Can you
11 explain that?

12 MR. NONG NIM:

13 A. During that time, if he had chosen to flee he could have done
14 that but he was an honest person. <He was loyal to Pol Pot.> He
15 <said, he just wanted to see Pol Pot and to find out what had
16 gone wrong.>

17 [13.49.03]

18 Q. Thank you. You talked about people from the East Zone being
19 arrested and killed. Just from your own knowledge, can you tell
20 us about some of the people that you know were arrested and
21 killed?

22 A. Yes, there were some of my members. They were all arrested
23 <and> loaded on trucks <heading to the west, but> I did not know
24 where they were taken to. I witnessed the incident with my own
25 eyes and this particular incident I witnessed it, so I told you

1 what I really saw.

2 Q. Thank you. So this incident, can you explain where it
3 happened, first of all?

4 A. It happened at many places. It happened at the worksite and at
5 various departments and offices. It happened at many different
6 places.

7 Q. Did you ever see these people who were arrested alive again?

8 A. No, they had all gone and never returned.

9 [13.50.50]

10 Q. Mr. Witness, I'm just curious. Have you ever visited the
11 museum at Tuol Sleng, the S-21 site in Phnom Penh since the fall
12 of the Khmer Rouge? Have you ever gone there and looked at the
13 photographs?

14 A. No, I have never been there and I don't know where it's even
15 located. I only heard about its name but I have never went there.

16 Q. What happened to your own family? Did your own family survive
17 okay?

18 A. My own family were all fine, but <> members of other families
19 <> had problems. Some <lost the whole family members>.

20 Q. Did you lose any relatives?

21 (Short pause)

22 [13.52.48]

23 BY MR. KOUMJIAN:

24 Perhaps my question wasn't translated.

25 Q. You said your own family was fine. Did you lose any more

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1 distant relatives outside of your immediate family?

2 MR. NONG NIM:

3 A. No. No, there were none regarding my distant relatives.

4 Q. Sir, do you know what happened after So Phim went to Phnom
5 Penh to his wife and children? Do you have any information about
6 their fate?

7 A. I <did not witness with my own eyes the case of Ta So Phim's
8 family, I> only heard <> the information <about> his family
9 members <who died at different districts>. <>I only heard about
10 it.

11 MR. KOUMJIAN:

12 Thank you, Mr. President. I don't have further questions.

13 MR. PRESIDENT:

14 The Chamber gives the floor to the Lead Co-Lawyer for civil
15 party.

16 [13.54.34]

17 QUESTIONING BY MR. PICH ANG:

18 Good afternoon, Mr. President. I do not have many questions to
19 put. I only have a few questions to put to the witness.

20 Q. Mr. Witness, good afternoon. Can you hear me?

21 MR. NONG NIM:

22 A. Yes.

23 Q. I would like to ask you a few questions whether you had
24 accompanied So Phim to meetings in Phnom Penh between 1975 and
25 '79.

1 A. Yes, I went there once. I simply dropped him off and I stayed
2 at my office in the city<. And then there was a car coming to
3 pick him up>.

4 Q. Regarding your escort of him to Phnom Penh, whether you
5 accompanied him to the city often?

6 A. Yes, often.

7 [13.55.40]

8 Q. Can you tell us how many times that you went with him between
9 mid-1975 to mid-1978?

10 A. No, I cannot recall how many times.

11 Q. Can you tell us how many times a year that he went to meetings
12 in Phnom Penh?

13 A. Sometimes he went once every four months or five months. It
14 depended. On some occasions that he went to Phnom Penh, I did not
15 go with him but other members accompanied him. <At that time,
16 there were only two drivers.> If I was there I would escort him
17 but if not, <the> other <driver> would escort him.

18 Q. Did you know whom he met during meetings in the city, whether
19 he met Pol Pot or Nuon Chea or others?

20 A. Regarding the matter of meetings, I did not know. I did not
21 know who met him. I only knew that he went to Phnom Penh and that
22 was it. I did not know where the meeting took place and whom he
23 met.

24 [13.57.25]

25 Q. What about after he finished the meetings in Phnom Penh and he

1 had to return to the East Zone? Did he organize meetings at the
2 zone levels?

3 A. I did not know much about this because I did not grasp the
4 situation well.

5 Q. Did you ever see, for example, the accused Nuon Chea went to
6 the East Zone to meet So Phim?

7 A. Yes, I saw him. He went there.

8 Q. Can you tell us how many times that Nuon Chea went to meet So
9 Phim and on what occasion and what year he went there?

10 A. I did not recall what years he went there but I saw him going
11 to visit that zone quite often, but I do not know when those
12 visits took place. I saw him coming to <that> zone.

13 [13.59.25]

14 Q. Can you tell us whether Nuon Chea went to visit So Phim soon
15 after the liberation of Phnom Penh on 17 April 1975 or the visit
16 of Nuon Chea to the zone before So Phim's suicide?

17 A. He went to visit the zone after Phnom Penh was liberated.
18 Before that, I did not see him going there.

19 Q. Can you clarify how many times did you see and meet Nuon Chea?

20 A. I saw him on many occasions, four or five times. He went there
21 four or five times.

22 Q. During the five visits, four or five visits that you saw him,
23 did he go alone or did anyone accompany him?

24 A. He was with his guards.

25 Q. What did he do there? Were meetings held?

1 A. I had no idea why he was there. I was guarding outside. I did
2 not know what was going on inside. I did not know <the content
3 of> discussion.

4 Q. You were standing guard outside. Did you witness that Nuon
5 Chea and So Phim met each other or did you see them among the
6 crowd?

7 A. <In some occasions, there were only two of them, and other
8 occasions, there were many people>.

9 [14.01.06]

10 Q. Who participated in that meeting when you said there were many
11 people there? <Can you elaborate who they were?>

12 A. I do not know who they were. I did not really know them. I
13 knew very few of them, two or three only.

14 Q. For those you knew, who were they? Were they <Base People,>
15 the secretaries of the districts<, soldiers,> or were they
16 cadres?

17 A. I cannot hear your question clearly. I do not know how to
18 answer it.

19 Q. A while ago, you mentioned that there was a meeting when there
20 were many people attended that meeting and among them there was
21 also Nuon Chea. You also said that you knew a few of them. Now,
22 can you tell the Chamber who they were and what were their
23 positions at the east?

24 A. They came from Phnom Penh to attend the meeting with Nuon
25 Chea. I did not know them. They were not from the east. I did not

1 know what the plan was and why they held the meeting.

2 [14.04.15]

3 Q. Can you make a clarification for the Court when you saw Nuon
4 Chea and So Phim; who was higher in rank?

5 A. I did not know. I did not know how high they were and who was
6 higher in rank. I could not give you the exact answer. I cannot
7 really say whether or not Nuon Chea was higher or the other -- or
8 the opposite.

9 Q. This is my last question. I would like to know about the
10 character of So Phim. Did he obey his superiors <>?

11 A. Yes, he obeyed his superiors. That's why he came to <meet
12 them>.

13 MR. PRESIDENT:

14 Koppe, you may now proceed.

15 [14.05.42]

16 MR. KOPPE:

17 Same objection as always, Mr. President: Who are So Phim's
18 superiors? I would like to know too.

19 BY MR. PICH ANG:

20 Q. Mr. Witness, I would like to reformulate my question to make
21 it clearer.

22 Since you recognized So Phim, did So Phim comply with the
23 decisions of the Centre <or Standing Committee or the decision of
24 the Party? Was he a person of adherence to the decision issued by
25 such bodies>?

1 MR. NONG NIM:

2 A. I cannot give you my answer.

3 MR. PICH ANG:

4 Thank you.

5 I am done with my questioning, Mr. President. I conclude my
6 questioning now.

7 MR. PRESIDENT:

8 And the floor is now given to the defence team for Mr. Khieu
9 Samphan to put questions to the witness. You may now proceed.

10 MS. GUISSSE:

11 Mr. President, we don't have any questions for this witness. I
12 mean the team for Khieu Samphan.

13 [14.07.33]

14 MR. PRESIDENT:

15 The Chamber is grateful to you, Mr. Witness, Nong Nim. The
16 hearing of your testimony has now come to a conclusion. Your
17 testimony will contribute to the ascertainment of the truth. You
18 may now be excused. I wish you good health, good luck and
19 prosperity.

20 The Chamber wishes to express our thanks as well to Moeurn
21 Sovann, the duty counsel. <You may now be excused.> And the
22 Chamber is also grateful to the WESU staff and the concerned
23 units which assist the proceedings.

24 And now, the Chamber will hear 2-TCW-823.

25 But first, it is now time for a break. The Chamber will take a

1 break from now until 2.30.

2 The Court is now in recess.

3 (Court recesses from 1408H to 1431H)

4 MR. PRESIDENT:

5 Please be seated.

6 The Chamber is now back in session and we'll hear the testimony

7 of witness 2-TCW-823 related to the roles and positions of the

8 accused. And related to 2-TCW-823, the Chamber notes that this

9 witness was interviewed in an ongoing investigation in another

10 case. However, the International Investigating Judge placed this

11 witness in Group A among the three groups in his memorandum.

12 Please refer to document E319/35 and request that, for the

13 purpose of maintaining confidentiality in the investigating,

14 pseudonyms shall be used for this witness. The Chamber deems this

15 limited measure is legally appropriate in this case.

16 These instructions shall take into account the balance between

17 the need for public hearings and integrity of the investigation.

18 The Chamber reminds the parties that they should adhere strictly

19 to its instruction in document E319/7 for the use of these

20 documents that have been disclosed from other cases.

21 And WESU provided the duty counsel, Mr. Chan Sambo, as duty

22 counsel for the witness.

23 Court officers, please facilitate the witness together with the

24 duty counsel into the courtroom.

25 (The witness enters courtroom)

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1 [14.36.11]

2 MR. PRESIDENT:

3 Good afternoon, Mr. Witness.

4 In the proceeding before the Chamber, based on the request by the
5 International Co-Investigating Judge, we will address you only by
6 your pseudonym and your pseudonym is 2-TCW-823 and, generally,
7 parties will address you only as "Witness". Therefore, please be
8 informed that the Chamber, as well as the parties, will not be
9 allowed to address you by your name.

10 And the Chamber would like to inform parties and the public that
11 this witness <has a vision problem>. Therefore, the Chamber
12 assigned the duty counsel to assist the witness.

13 And now the Chamber would like you to identify your identity in
14 document <E3/9698>, document in Khmer, <01034017>; and English,
15 01040433 <and there is no French version>. Please have a look at
16 the information highlighted in orange.

17 Court officers, please show the document to the duty counsel and
18 the duty counsel assists him in whispering the information to
19 him.

20 (Short pause)

21 [14.39.08]

22 QUESTIONING BY THE PRESIDENT:

23 Q. Please hold on, Mr. Witness.

24 Mr. Witness, you simply tell us whether the information whispered
25 to you by the duty counsel is correct or not. If there is any

1 part which is incorrect, please tell us or your duty counsel so
2 that we can rectify the errors. And if the information are
3 correct, please tell us that they are correct.

4 So please tell us whether the information whispered to you by the
5 duty counsel in document <E3/9698, at Khmer ERN 01034017,>
6 whether the information is correct or not.

7 2-TCW-823:

8 A. Yes, it's correct. I have four children and one adopted
9 daughter.

10 Q. That's all right. The information you confirm is enough.

11 Mr. Witness, based on the reports by the greffier that to your
12 best of your knowledge whether you are related by blood or by law
13 to the two accused that are Nuon Chea and Khieu Samphan and other
14 individuals accepted as civil party in this case?

15 A. No.

16 [14.41.06]

17 Q. Have you already taken an oath before you appear in this
18 courtroom?

19 A. Yes, I have already taken an oath.

20 Q. Thank you. Now, the Chamber would like to inform you of your
21 rights and obligations as a witness.

22 Your rights: As a witness in the proceedings before the Chamber,
23 you may refuse to respond to any question or to make any comment,
24 which may incriminate you. That is your right against
25 self-incrimination.

1 Your obligations: As a witness in the proceedings before the
2 Chamber, you must respond to any questions by the Bench or
3 relevant parties, except where your response or comment to those
4 questions may incriminate you as the Chamber has just informed
5 you.

6 You must tell the truth that you have known, heard, seen,
7 remembered, experienced or observed directly about any event or
8 occurrence relevant to the questions that the Bench or parties
9 pose to you.

10 [14.42.13]

11 Mr. Witness, have you ever provided an interview or interviews
12 with investigators from the Office of the Co-Investigating Judges
13 and, if so, how many times those interviews took place and where?

14 A. The interview took place at my home.

15 Q. How many times you were interviewed?

16 A. One time.

17 Q. Thank you. Before you come to testify here, have you already
18 been read by any individual about the interview you provided at
19 your home in order to refresh your memory?

20 A. Yes, there were readings.

21 Q. So you have listened to the reading of your statements; is
22 that correct?

23 A. Yes.

24 Q. Based to your knowledge, can you tell us whether the
25 statements that were read to you are consistent with what you

1 provided in the interview at your home <with investigators>?

2 A. Yes.

3 [14.44.03]

4 MR. PRESIDENT:

5 Thank you.

6 Pursuant to <Internal> Rule 91bis, the Chamber provides the floor
7 to the Co-Prosecutor to put questions to this <witness before
8 other parties>.

9 The Co-Prosecutor together with the Lead Co-Lawyers for civil
10 parties have two sessions.

11 QUESTIONING BY MR. BOYLE:

12 Thank you, Mr. President.

13 Good afternoon, Your Honours. Good afternoon, counsel.

14 Q. Good afternoon, Mr. Witness. My name is Andrew Boyle. I am
15 going to be asking you some questions today on behalf of the
16 Co-Prosecutors.

17 I'd first like you to tell us when it was that you joined the
18 Khmer Rouge, when you joined the revolution.

19 2-TCW-823:

20 A. I joined the revolution in 1970. That was during the year of
21 the coup.

22 [14.45.07]

23 Q. What forces did you become part of at that time when you first
24 joined?

25 A. Initially, I joined at the village level. I saw many villagers

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1 joined the military after
2 Samdech Sihanouk was overthrown in a coup. Both male and female
3 villagers joined the revolution and mostly it <looked> like fun.
4 So I also decided to join.

5 Q. And did you join the sector-level forces in Kampot at some
6 section -- some point in time?

7 A. Yes, I joined.

8 [14.46.15]

9 MR. PRESIDENT:

10 In order to simplify the process, the duty counsel, the Chamber
11 encourages you to simply touch him in order to give him a signal
12 that it's time to give the answer. <So, that your voice would not
13 be recorded.> So Mr. Witness, please wait until your duty counsel
14 touches you as a signal for you to give the answer.

15 BY MR. BOYLE:

16 Q. When was it that you joined the sector-level forces in Kampot?

17 2-TCW-823:

18 A. I joined in 1970.

19 Q. And then were you transferred to the Southwest Zone forces at
20 some point and, if so, when?

21 A. I was transferred to the Southwest. I cannot recall when I was
22 transferred but I participated in fighting against Phnom Penh
23 government. I cannot recall the month it was and I even cannot
24 recall the year.

25 Q. Did you -- were you transferred to the Southwest Zone forces

1 prior to Phnom Penh being overthrown by the Khmer Rouge?

2 A. I came to Phnom Penh and after Phnom Penh collapsed, I was
3 sent back to Kampong Som.

4 [14.48.48]

5 Q. Is it correct that you became part of Division 3 when you were
6 transferred to the Southwest Zone forces?

7 A. Yes.

8 Q. You just mentioned that after Phnom Penh was liberated you
9 were sent back to Kampong Som. Did you actually enter Phnom Penh
10 after it was liberated?

11 A. I participated in liberating Phnom Penh and after the city was
12 liberated, I was sent back to Kampong Som.

13 [14.50.00]

14 Q. And how long did you stay in Phnom Penh before you were sent
15 to Kampong Som after Phnom Penh was liberated?

16 A. I was with Division 3. I cannot recall how long I was in the
17 city. I was there probably for half the month or even less than
18 that.

19 Q. And when you were transferred back to Kampong Som, were you
20 transferred along with the rest of Division 3?

21 A. Yes.

22 Q. And at some point after Division 3 was transferred back to
23 Kampong Som, was it united with other forces and turned into a
24 new division called Division 164?

25 A. No, it was not integrated. Yes, there was integration of a

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1 unit from the East Zone. It was one regiment.

2 [14.52.00]

3 Q. And at that time was Division 3 -- was the unit that Division
4 3 was part of, was it named Division 164?

5 A. Yes.

6 Q. What position did you first assume when you were transferred
7 to Kampong Som from Phnom Penh?

8 A. I was part of the battalion.

9 Q. Can you tell us which battalion you were part of?

10 A. It was Battalion 560.

11 Q. Is it correct that Battalion 560 was part of Regiment 63 in
12 Division 164?

13 A. Yes.

14 Q. And were you the commander of that battalion?

15 A. I was the commander of Battalion 560.

16 [14.53.58]

17 Q. As the commander of that battalion, what were you assigned to
18 do when you first arrived in Kampong Som after leaving Phnom
19 Penh?

20 A. My battalion was based at Koh Seh and Koh Thmei.

21 Q. Just to refresh your memory, Mr. Witness, in your DC-Cam
22 statement you mentioned that you were based on those islands. You
23 first say, however, E3/9069; English, ERN 00969927; and Khmer,
24 00926305 --

25 MR. PRESIDENT:

1 Could you please read the ERN number slowly and, if possible,
2 please read them twice so that the interpreters can follow your
3 reading?

4 [14.55.15]

5 BY MR. BOYLE:

6 Certainly, Mr. President. It is English, ERN 00969927. That's
7 00969927 and Khmer, 00926305 -- 00926305.

8 Q. Mr. Witness, this is what you said -- quote:

9 "I stayed at Kang Keng. After a day or two, I went to stay on an
10 island and remained staying there."

11 Question: "What were you asked to do during the period you stayed
12 at Kang Keng?"

13 Answer: "I reorganized the forces and made them ready for
14 travelling to the island." Close quote.

15 Does that refresh your memory that, prior to being deployed to
16 those islands, you spent a couple of days organizing the forces
17 in Kang Keng?

18 2-TCW-823:

19 A. Yes. I reorganized my force and it took a few days before we
20 departed for the islands.

21 [14.56.35]

22 Q. Can you tell the Court what that organization or that
23 preparation for deploying to the islands consisted of?

24 A. Regarding the organization of forces to the islands, we
25 organized guns, ammunition, food supplies like rice and also the

1 engine boats in order to transport the force.

2 Q. And how many soldiers were in your battalion?

3 A. There were 300 of them.

4 Q. And were all 300 of them deployed to either Koh Seh or Koh
5 Thmei?

6 A. Yes.

7 Q. And as for yourself, did you stay on one or the other of the
8 islands or did you move between them?

9 A. Most of the time I was based at Koh Seh because Koh Seh was
10 adjacent to Koh Tral.

11 Q. Does that mean that you would also occasionally go over to Koh
12 Thmei to carry out your obligations in regards to being the
13 commander of the troops there as well?

14 A. Yes.

15 [14.58.56]

16 Q. And was your battalion stationed on those islands until either
17 the end of 1978 or early 1979?

18 A. I cannot recall the month. We remained there until 1978-79,
19 but I cannot recall it very well. I am a bit forgetful now.

20 Q. That's no problem, Mr. Witness.

21 Can you tell the Court why was your battalion deployed to those
22 islands? What was the purpose of your battalion being there?

23 A. <As it is our island, our primary> purpose was to protect <it.
24 So, troops must be deployed along> the frontier <>.

25 Q. And were there any other purposes beyond that?

1 A. <In reality, we did not have> specific purpose to invade other
2 countries but we had to protect our <island, our> territory at
3 the time. <It means that> we intended to protect our territory
4 and frontier. If they had come to attack and invade us, we had to
5 counterattack and defend our territory.

6 [15.01.30]

7 Q. And can you tell us what type of weapons and equipment did you
8 have in order to protect those islands?

9 A. We had artillery: 37mm artillery and also 22mm artillery, and
10 also the 75mm artillery. In addition to that, we had one 106mm
11 artillery; 12.7mm; and pistols, as well as combat boats.

12 Q. And how many combat boats did you have?

13 A. There was one 400 CC combat boat and <two> 22 horsepower, <one
14 37>, and <there were 12.7mm machine gun and DK-82 in the boats>.

15 Q. And I believe you've mentioned already that these islands were
16 very close to Koh Tral, which was occupied by Vietnamese forces
17 at the time; is that correct?

18 A. Koh Seh and Koh Thmei, in fact there were no Vietnamese on the
19 Koh Seh and Koh Thmei. They were stationed at Koh Tral. They
20 could not approach Koh Seh, but these islands were close to one
21 another.

22 Q. And could you see the Vietnamese forces on Koh Tral? Were they
23 close enough that you would be able to see them when you were on
24 Koh Seh?

25 A. We could see them from some points.

1 [15.05.00]

2 Q. And did your troops ever engage in fighting with the
3 Vietnamese troops while you were based on those islands?

4 A. That is true.

5 Q. Did this fighting take place on the islands or at sea or both?

6 A. <Yes, the fighting took place at sea.> Generally speaking, the
7 Vietnamese came <in> with <the form of> their fishing boats but
8 those boats were <equipped> with weapons. They came as close <as>
9 to Koh <Ream> (phonetic) and Koh <Sampoch (phonetic); furthered
10 from Koh Seh, close to the mainland>. So the attack was
11 <inevitable>. Usually, the Vietnamese forces attacked us first
12 and we had to counterattack. Some soldiers were injured and
13 <some> died.

14 [15.06.30]

15 Q. Did -- you just mentioned fishing boats with weapons on them.
16 Did Vietnamese military boats ever enter what you considered to
17 be Cambodian waters?

18 A. The large ships or the warships did not come into our water,
19 but <several> boats <equipped with weapons> crossed into our
20 maritime frontiers and there was fighting <at the rear of the
21 island>.

22 Q. And would your boats ever cross what you considered to be the
23 maritime frontier and enter into what you understood to be
24 Vietnamese waters?

25 MR. PRESIDENT:

1 You may now proceed, Koppe.

2 MR. KOPPE:

3 Yes, Mr. President. I'm not sure if it's an observation or an
4 objection. Let's make it an objection.

5 The questions so far are always relating to the witness as to
6 what he considered to be the maritime borders. I'm not sure that
7 would be relevant for a Division 164 Battalion commander. Maritime
8 boundaries are not subject to personal opinions or whatever this
9 particular witness perceived the boundaries to be. I think the
10 question would be more appropriate what was considered by the
11 naval authorities to be the boundaries or what was considered by
12 the DK government to be the proper boundaries. If you would
13 compare it, I will not be asked what the boundaries are of my
14 country. These are in itself, objectively, to be measured
15 standards.

16 So, I think, this particular question in this way cannot be asked
17 to this witness.

18 [15.09.24]

19 MR. BOYLE:

20 I will just respond briefly, Mr. President.

21 At the time, the basis for my putting the questions as such is
22 that, at the time, there was actually a fair amount of dispute
23 between Vietnam and the Democratic Kampuchean government about
24 where the relevant boundaries should be drawn. It's possible that
25 his -- that the witness' belief as to where those maritime

1 boundaries were drawn differed even from whether the government
2 of Democratic Kampuchea believes that they were drawn. So, as a
3 fact witness, I am merely asking him to explain his perspective
4 about when various forces would cross what he considered to be
5 the line of demarcation between the Vietnamese and Cambodian
6 waters.

7 [15.10.31]

8 MR. KOPPE:

9 But just if I briefly may respond, to give an example, we are not
10 asking the witness what he considers to be the capital of
11 Cambodia. That is Phnom Penh, and we objectively said.

12 The dispute can also be objectively described whatever the
13 personal views of this witness was in respect of the boundaries
14 of Koh Tral or whether Koh Tral was Vietnamese or, rather, what I
15 think most Cambodians still think are Cambodian, that should be
16 the issue and not whatever his personal belief is.

17 [15.11.03]

18 JUDGE FENZ:

19 I think we are getting into pleading now. The Prosecution has
20 made it clear that it is asking for the personal opinion of the
21 witness. If you think other opinions are important or if you want
22 to question it, do it when it's your turn. I don't see a problem
23 with the question. It's clear what it is.

24 BY MR. BOYLE:

25 Thank you, Judge Fenz.

1 Q. I believe I had just asked you, Mr. Witness, whether your
2 troops ever crossed what you consider to be the maritime border
3 between Cambodian and Vietnamese waters and entered into
4 Vietnamese territory by boat.

5 2-TCW-823:

6 A. No.

7 [15.12.18]

8 Q. Mr. Witness, I would like to read to you something you said in
9 your DC-Cam statement. This is E3/9069; English, ERN 00969934 to
10 35, that's 00969934 to 35; and Khmer, 00926311 to 12, 00926311 to
11 12. Mr. Witness, this is what you said - quote:

12 Question: "How did you fight? Did you shell each other?"

13 "Sometimes shelling did not reach the island, so we fought by
14 sea. We used our 37 or 60-type boats."

15 Question: "Does it mean that you went on your boat and they came
16 by their boat and you fought each other?"

17 "Yes. Sometimes we encountered and fought them. We were guarding
18 the islands. If they came and breached our perimeter, we would
19 fight them. Likewise, if we breached their perimeter, they would
20 attack us. We attacked them only when they came deep inside our
21 perimeter."

22 [15.13.44]

23 Then you are asked: "When you clashed with Vietnamese, who
24 started first?"

25 Answer: "When they encroached on our territory, we attacked them

1 first. If we encroached on their territory, they would shell us
2 with their 105 millimetre cannon from the island." Close quote.

3 Mr. Witness, does that refresh your memory that, on occasion, you
4 also encroached on what you considered to be Vietnamese territory
5 or your troops did?

6 A. Regarding entering the maritime boundary of Vietnam, we never
7 invaded their boundary. At Koh Seh and Koh Thmei, the <maritime>
8 boundary was divided equally to Vietnam and Cambodia. <I forgot
9 the distance.> We would drive our boats within our boundary, not
10 crossing into other boundaries. And the Vietnamese troops would
11 also do the same.

12 But sometimes the problems caused by the fishing boats,
13 Vietnamese fishing boats mounted with weapons, they came deep
14 into our water. They fired at us and we had to shell them back.
15 When we went <a little> closer to <the> boundary, sometimes we
16 would be attacked by those boats <from Koh Tral>.

17 [15.15.35]

18 Q. When you were first deployed to those islands, how well did
19 you know where the relevant maritime boundary was?

20 A. When I was posted there on Koh Seh, <because at Koh Tral,>
21 there were <Vietnamese troops.> <Troops were deployed at Koh Seh
22 since the time I was there,> that is, to protect our boundary and
23 we never crossed to the other side of Koh Tral boundary since we
24 knew that Vietnam's forces were already there. Back then, we had
25 no intention to seize back the island.

1 Q. I'd like to read to you from another quote from your DC-Cam
2 statement. This is E3/9069; English, ERN 00969934 to 35; and
3 Khmer, 00926311 to 12.

4 You are asked: "What was the law of the sea like at the time?"
5 And you answer: "No, there was no law of the sea at the time. It
6 was so recent and we determined the known perimeter by
7 ourselves." Close quote.

8 Is that correct what you told DC-Cam?

9 A. Regarding the actual boundary on the sea, in fact we based it
10 on the map <as upper echelon instructed us to base at that
11 island>. So we depended on the map, that is what we knew. We had
12 no expertise on how to demark (sic) the boundary.

13 [15.18.10]

14 Q. And where did you obtain --

15 A. Rather, to demarcate the boundary.

16 Q. And where did you obtain this map from that you were relying
17 on?

18 A. We obtained the map from the divisional headquarters. We were
19 given by them.

20 Q. During the years that you were based on those islands, did you
21 frequently fight with Vietnamese forces?

22 A. It happened once in a while.

23 Q. Did your forces ever capture any Vietnamese persons either on
24 land or at sea when you were there?

25 A. My unit never arrested and captured the Vietnamese <because

1 we> were posted close to the mainland. The Vietnamese who were
2 evacuated< by boats> to the foreign countries<,> never used these
3 routes <because it is already close to the mainland>. Their
4 routes <could be on the high sea, they could not take routes
5 approaching to Koh Seh and Koh Thmei because these routes lead to
6 Cambodia. So these people never came to our islands.>.

7 [15.20.15]

8 Q. Did you ever learn about or hear about other units of Regiment
9 63 capturing Vietnamese persons near the islands?

10 A. Regarding the arrests of Vietnamese citizens, to my knowledge,
11 nothing -- did not happen.

12 Q. I'd like to see if I can refresh your memory. This is the
13 written record of interview E3/9675. This is another member of
14 Division 164, answer 6 -- quote:

15 "Regiment 63 under Ta Nhan operated on Koh Seh, Koh Antay and Koh
16 Kyang. They did not have warships, but had motorboats for
17 transportation purposes. Those soldiers captured anyone who
18 entered Kampuchean territorial waters within their areas of
19 operation. When military on the islands captured those people
20 they sent them to the mainland and they always brought the
21 captured ashore at the Ou Chheu Theal port where I worked." Close
22 quote.

23 Mr. Witness, does that refresh your memory of hearing about
24 Vietnamese being captured on the islands and sent to the mainland
25 at Ou Chheu Theal port?

1 [15.22.05]

2 A. My island, in fact -- on my island, in fact, we never captured
3 anyone but there were <casualties from both sides. There was no
4 such capturing. I do not understand how someone provided that
5 accounts>.

6 Before I was posted at the location, in fact, there was another
7 unit there and they left after being there for three or four
8 days. I, myself, <and my unit> never captured any boats but we
9 did fire at each other.

10 Q. At the time that -- at the time that Division 3 became part of
11 Division 164, do you recall if your Battalion 568 , whether it
12 also was changed to a different number?

13 A. Yes.

14 Q. Can you tell the Court the name of your new battalion number?

15 A. First, the Battalion 565 - from <Sector 35> and that was
16 integrated with another battalion. Later on, a new code was
17 assigned, <560>.

18 [15.24.15]

19 Q. Do you recall whether Battalion 560, which you commanded, came
20 to be named Battalion 633, at some point?

21 A. No.

22 Q. How many battalions were there in Regiment 63?

23 A. There were three battalions.

24 Q. Do you remember the names of the heads of those other two
25 battalions that were in Regiment 63 with you?

1 A. I can recall their names. Vet was the head of Battalion 530
2 and as for 540, it was Sary (phonetic), and I was in charge of
3 560. Some heads were sent to the navy.

4 Q.I believe I heard you say that Vet was the commander of
5 Battalion 530. Is that Oeng Vet?

6 A. I cannot recall his surname. His name is not Voet (phonetic),
7 <his name was> Vet.

8 Q. Was Vet removed at some point, do you recall?

9 A. I simply knew that later on Vet was removed or he may have
10 been reassigned to another location <which I did not know>. That
11 is all I know.

12 [15.27.28]

13 Q. Do you recall when that occurred?

14 A. I have no idea. I was posted on my island. We were far apart.
15 Later on, I heard that he was reassigned to work in another unit.
16 I did not recall when that happened.

17 Q. Mr. Witness, we have in our case file a list of prisoners from
18 the S-21 prison in Phnom Penh. This is E3/10604. Entry number
19 2368 is Kung Kien alias Oeng Vet, secretary of Battalion 631,
20 Division 164, entered S-21 April 1977.

21 Does that refresh your memory that it was sometime around April
22 1977 that he was removed from one of the other battalions in
23 Regiment 63?

24 A. I did not have the information as to the years when that
25 happened when he was removed from his battalion. I did not know

1 where he went afterwards.

2 [15.29.20]

3 Q. During the time that you were posted on the islands, would you
4 ever attend any meetings in Kampong Som, that is, would you ever
5 travel to the mainland to attend any meetings?

6 A. Yes, I came to attend a meeting or meetings at the divisional
7 headquarters.

8 Q. Approximately, how often would you attend such meetings?

9 A. I could not tell you how often it was. Sometimes I would come
10 once a month and on some special circumstances, which were very
11 necessary when the situation was chaotic on the island, I did not
12 have time to come and attend the meeting.

13 Q. When you did attend these meetings, who would speak at these
14 meetings?

15 A. Ta Mut, and when Ta Mut was absent, Brother Dim.

16 Q. And is it correct that the Mut that you mention was the
17 secretary of Division 164 and Brother Dim was his deputy; is that
18 correct?

19 A. Correct.

20 Q. Did Son Sen ever attend these meetings?

21 A. I never attended meetings <> when Son Sen was present <and> I
22 never met him.

23 [15.31.55]

24 Q. Did you ever see him in Kampong Som?

25 A. Never.

1 Q. Try to refresh your memory. From your DC-Cam statement
2 E3/9069; English, 00969957 to 58; Khmer, 00926338; Mr. Witness,
3 you're asked:

4 "Did Son Sen come to Kampong Som?"

5 Answer: "He did."

6 Question: "Did you see him?"

7 Answer: "I saw him."

8 Question: "Do you recognize his face?"

9 Answer: "I do." Close quote.

10 Do you recall saying that when you spoke with the DC-Cam
11 organization?

12 [15.33.00]

13 A. When I said that I used to see him, it was when I saw him at
14 Phnom Penh.

15 Regarding the <divisional> meetings when he attended with Ta Mut
16 and Ta Dim, I never saw him there. I may have mistakenly answered
17 the question about <meeting him but it was in Phnom Penh>.

18 Q. And can you elaborate on what events you saw him at in Phnom
19 Penh?

20 A. I came to Phnom Penh to attend a study session at the Olympic
21 Stadium. It was at the location when I saw his face. He was
22 sitting and working at his desk at the military headquarters.

23 Q. Okay. We'll come in just a moment to those study sessions. I'd
24 first like to go back to the meetings that Ta Mut and Dim would
25 share in Kampong Som and can you tell the Court what was

1 discussed at those meetings?

2 A. The content of the meeting <at Kampong Som> included <first,>
3 the protection of <the border> and the defence of the country and
4 also protection <of maritime boundary and the protection> of the
5 islands <>. <Second, they talked about> politics, <good>
6 education <for the units or the respects of discipline, and about
7 diet,> hygiene; economy were also discussed and we were informed
8 and advised how to protect ourselves from being bitten by
9 mosquitos.

10 [15.35.36]

11 Q. Just a few moments ago, you mentioned a training session that
12 you attended in Phnom Penh. Do you recall when that training
13 session took place?

14 A. When I saw him in Phnom Penh; that was after Phnom Penh was
15 liberated. It was probably in 1976. It was that year that I came
16 to Phnom Penh.

17 Q. And how long did you stay in Phnom Penh when you came to the
18 training session?

19 A. I stayed in Phnom Penh for about three or four days.

20 Q. What did you do during those three or four days? What did the
21 training session consist of?

22 [15.37.10]

23 A. In the study session, it <was> about the <national> defence
24 and the construction of the country. And the most important issue
25 was about the defence of the country. Troops deployed at

1 frontiers, borderline areas, including land and maritime borders,
2 had to focus on that. And issues about economy and the supply of
3 food to the frontline soldiers <and civilians>. Those included
4 rice.

5 So these were the topics or issues introduced during the study
6 session.

7 Q. And who spoke at these study sessions? Who was giving -- who
8 was teaching these study sessions?

9 A. This Phnom Penh study session was conducted in 1976 and it was
10 Pol Pot who spoke.

11 Q. You mentioned that you saw Son Sen at this meeting as well.

12 Did he speak?

13 A. No, he didn't.

14 Q. Did Pol Pot speak for the whole three or four days or did
15 anyone else speak as well?

16 A. Only Pol Pot. For other individuals like Son Sen, they were on
17 the side.

18 Q. Did you ever see Khieu Samphan when you were in Kampong Som?

19 A. I did not see Khieu Samphan clearly in Kampong Som but when I
20 was there he came by a vehicle and people who worked there said
21 that the vehicle belonged to Khieu Samphan. But I did not see his
22 face. It was just the assumption from seeing the vehicle.

23 [15.40.41]

24 Q. Were you transferred in late 1978 to work in Phnom Penh at
25 some point?

1 A. Yes, I was transferred to Phnom Penh.

2 Q. And do you recall when you were transferred to Phnom Penh,
3 what month in 1978?

4 A. I cannot recall the date. At that time, I came for a short
5 while. I was in the city for about 10 days or less than that.

6 <The Vietnamese already came in our country.>

7 Q. Were you in Phnom Penh until the Vietnamese entered or very
8 shortly before that?

9 A. I was in the city until the Vietnamese came and then I left.

10 [15.42.10]

11 Q. In your DC-Cam -- a correction that you made to your DC-Cam
12 statement -- your original DC-Cam statement was E3/9069. You made
13 a correction. I believe the E3 number that was given this morning
14 is E3/9870A and this is English, ERN 01313342; Khmer, 01033988;
15 and French, 01308961.

16 You said that you came to Phnom Penh by late December. Does that
17 sound accurate that you were in Phnom Penh December at some point
18 and remained there for perhaps less than a month before the
19 Vietnamese arrived?

20 A. No, it was less than one month when the Vietnamese arrived but
21 I cannot recall the month when I came to the city. And I stayed
22 in the city for roughly less than 10 days and then the Vietnamese
23 came in.

24 I <was about to> organize the labour force to be evicted out of
25 the city. I did not know very well about factories' location at

1 that time. When I arrived in the city I was confused about the
2 direction and locations.

3 [15.44.20]

4 Q. You touched upon what I just wanted to ask you about. You
5 mentioned organizing the labour force to be evacuated. Can you
6 explain a bit more?

7 What was the reason that you were transferred from Kampong Som to
8 Phnom Penh? What was your function supposed to be there in Phnom
9 Penh?

10 A. At that time, the Vietnamese were advancing towards Phnom
11 Penh. So I was tasked to control the industry place in order to
12 organize the labour force at various factories, in order to tell
13 them in case the Vietnamese arrived, they would have to flee in
14 the direction of the west towards Battambang <and Pursat and so
15 on>.

16 Q. In your DC-Cam statement E3/9069; English, ERN 00969949;
17 Khmer, 00926328; you said the following -- quote: "I was simply
18 appointed. At that time, the situation in Phnom Penh was rather
19 unstable so workers had to be managed not to rebel." Close quote.
20 Did you tell that to DC-Cam and, if so, can you explain what you
21 meant about why workers had to be managed not to rebel?

22 [15.46.17]

23 A. Regarding that matter, <>the first preparation was about the
24 advancement of the Vietnamese troops towards Phnom Penh and the
25 second preparation was <to quench> the rebellion <>in Phnom Penh.

1 At that time, I did not bring along with me my soldiers. I,
2 myself, came to Phnom Penh.

3 Q. And were you informed or told why it was believed the workers
4 would rebel?

5 A. Regarding the workers' rebellion, in fact they did not mention
6 that but when we observed the situation, it was unstable. So I
7 had to stabilize the workers' force and when <the> time <came>,
8 they had to be evacuated according to different directions that
9 we planned for them to flee.

10 But regarding whether there was a rebellion taking place or not,
11 I did not know. It was simply a policy that -- that were taken as
12 a precaution because we had a policy to make sure that we unified
13 the force. In fact, I did not even have the opportunity to
14 educate them. <I only planned to implement it, but then> the
15 Vietnamese arrived in the city, <and I fled>.

16 [15.48.50]

17 Q. And did you encounter Khieu Samphan while you were in Phnom
18 Penh?

19 A. Yes, I met him.

20 Q. Where did you meet him?

21 A. I do not recall where I met him because I rarely came to Phnom
22 Penh since my childhood. I met him in Phnom Penh, and <he>
23 focused on the preparation of force according to <what I
24 mentioned before, that we planned to deploy our forces in
25 particular locations> because now the Vietnamese troops were

1 approaching<; and if something happened, we should flee>.

2 Q. Was he the one giving you the instructions -- your
3 instructions about how to carry out your work?

4 A. Yes, it was Khieu Samphan.

5 Q. Were there other people present when you met with him, or did
6 you meet with him one on one?

7 A. During the time I met him, there was another person by the
8 name Chhum who was already there and met with Khieu Samphan, but
9 I <left for work and I> never saw him again.

10 [15.50.50]

11 Q. How many times did you meet with Khieu Samphan in the period
12 that you were in Phnom Penh?

13 A. Only one time.

14 Q. And can you tell us anything further about what he instructed
15 at the time that you met him?

16 A. As I told you earlier that Khieu Samphan told me to prepare
17 our forces to be evacuated to the forest that if Vietnamese came
18 in and then we would have forces to struggle against them in the
19 forest. <So we evacuated our forces to Battambang or Pursat and
20 so on>.

21 MR. BOYLE:

22 Thank you very much, Mr. Witness.

23 Mr. President, I have no further questions.

24 MR. PRESIDENT:

25 Thank you.

1 The floor is now given to the Lead Co-Lawyer for civil party.

2 [15.52.18]

3 QUESTIONING BY MR. PICH ANG:

4 Thank you, Mr. President. And good afternoon, Your Honours and
5 parties.

6 Q. And good afternoon, Mr. Witness. My name is Pich Ang, the Lead
7 Co-Lawyer for civil party. I have one point that I would like to
8 ask you that is related to the issues of your marriage.

9 Can you tell us what year it was that you got married?

10 2-TCW-823:

11 A. In 1976.

12 Q. When you got married, did you know your wife before your
13 wedding?

14 A. Yes, I knew her before my wedding.

15 Q. What about your wife? Did she know you before the wedding? Did
16 she ever see you before the wedding?

17 A. Yes, she saw me.

18 [15.54.02]

19 Q. How long it was that you agreed with each other before your
20 wedding was arranged?

21 A. It was a short time.

22 Q. Can you tell us how short it was, for how many days or how
23 many weeks that you agreed with each other that you would get
24 married and then your marriage took place?

25 A. In fact, I saw my wife long time ago, but I made some request

1 through the regiment and the regiment chiefs agreed, and then
2 <the> wedding took place.

3 Q. When you said about agreement from the regiment, whether the
4 agreement came from the chief of the regiment or from the
5 individual person?

6 A. From the individual person.

7 [15.55.38]

8 Q. Did both of you love each other before your wedding?

9 A. Before our marriage, we did not have any love relationship. We
10 simply asked each other whether we agreed to marry each other,
11 but we had no love relationship.

12 Q. How many couples were arranged to marry on the same day with
13 you?

14 A. There were many, around 30 couples or even more than that.
15 There were probably 40 couples. I cannot recall the exact number
16 of couples.

17 Q. What about the background of other couples? Were they also
18 soldiers or cadres, or what else?

19 A. They were soldiers and cadres and youths.

20 Q. Were there any couples who were disabled soldiers?

21 A. Yes, there were <a few of them. In my wedding, there were two
22 or three disabled people. However, they were not handicap in
23 leg.>

24 [15.58.05]

25 Q. Concerning those who were arranged to marry with the disabled

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1 <persons> like you, whether their respective superiors <or unit
2 chiefs said something in relation to marriage in order to>
3 encourage <> disabled <persons>, <was there such a statement made
4 to the female side>?

5 A. I did not know. There was a disabled soldier from a regiment
6 and his wife was from a battalion. All of them died already.

7 Q. Who presided over the wedding and whether there was any
8 instruction given to the couples on the wedding day?

9 A. Yes, there were. The respective chiefs presided over the
10 wedding ceremony; for example, at the division level, there were
11 Ta Mut and Dim, or sometime, people from the regiment level.

12 Q. Did they talk or speak about something, if you can recall
13 those words?

14 A. They encouraged us to build our life and <build our
15 solidarity, and simply gave us good wish>.

16 Q. Did they talk about the fact that you should try to produce
17 children? <What was the importance of producing more children?
18 Did they raise this topic?>

19 A. During my wedding day, they did not mention that, but <the
20 upper echelon's direction was to increase and organise forces
21 such as producing children>.

22 [16.01.00]

23 Q. So <by what you last> mentioned that the upper level had a
24 policy to increase the force, that means through increasing
25 children; <where did you get this information from?>

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1 A. Yes, <the information was from> the upper echelon down to the
2 local level<, that our country was small, with less population
3 but our land was big, so> we had to increase our force in order
4 to defend our country, that only when we had enough force that we
5 can defend our country.

6 MR. PRESIDENT:

7 Counsel, do you still have many questions?

8 MR. PICH ANG:

9 Mr. President, I still have only a few more questions to put.

10 MR. PRESIDENT:

11 Please, hold on because we need to change the disc.

12 (Short pause)

13 [16.02.28]

14 MR. PRESIDENT:

15 The Lead Co-Lawyer for civil party, please continue with your
16 questions.

17 BY MR. PICH ANG:

18 Q. Now, allow me to repeat my question because what you answered,
19 perhaps, was not yet translated into French and my international
20 colleague has not heard the answer yet.

21 You talked about the upper echelon; what did the upper echelon
22 talk or speak about regarding the policy of marriage; <> why the
23 marriage needed to be arranged?

24 2-TCW-823:

25 A. The upper echelon arranged the marriage, but I did not know

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1 about the details. It was contradicted to the tradition. I don't
2 know whether the wedding was organized according to foreign
3 culture <or not, I had no idea about it>, but it was <rather
4 abnormal. This is my idea>.

5 [16.03.46]

6 Q. A while ago, you mentioned that the wedding was an initiative
7 or idea from the upper echelon, whose purpose was to increase the
8 force to defend the country; so can you tell us whether what you
9 have mentioned was really written down in any documents or were
10 mentioned in any meetings that you attended?

11 A. The information I received from my superiors. We received the
12 information down the chain of command; from <Pol Pot> down to the
13 division level and then down to the other levels.

14 Q. Did you ever know or participate in other marriages that were
15 arranged and those marriages similar to yours?

16 A. I did not grab it.

17 MR. PICH ANG:

18 Mr. Witness, I concluded my question and thank you, Mr.
19 President.

20 MR. PRESIDENT:

21 The floor is given to Counsel Victor Koppe. Please turn on your
22 mic.

23 [16.05.32]

24 MR. KOPPE:

25 Yes. A brief question about the scheduling; is it foreseeable

1 that the -- the expert who is planned for Wednesday might
2 actually already come tomorrow because that is something that we
3 really need to know?

4 MR. PRESIDENT:

5 Thank you. The Chamber has not informed you because the Chamber
6 has just received the information. The expert can come to testify
7 tomorrow, so tomorrow after we conclude the testimony -- hearing
8 the testimony of this witness, we will continue to hear the
9 testimony of the expert, 2-TCE-1062.

10 It is now convenient time for the adjournment. The Chamber will
11 resume its hearing tomorrow, Tuesday, 13 December 2016 at 9 a.m.,
12 and we conclude the hearing of the testimony of 2-TCW- 823 and we
13 will hear the testimony of expert 2-TCE-1062.

14 [16.06.57]

15 Thank you, Mr. Witness. The hearing of your testimony as a
16 witness has not yet concluded; you are, therefore, invited to
17 come back tomorrow.

18 The Chamber also would like to thank Mr. Chan Sambo, the duty
19 counsel, for spending your time here and we would like to invite
20 you to come back again tomorrow.

21 Court Officer, in collaboration with WESU, please make necessary
22 transport arrangement to send him to his accommodation and please
23 bring him back to testify tomorrow.

24 Security personnel are instructed to bring Khieu Samphan and Nuon
25 Chea back to the detention facility and have them returned to the

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1 courtroom tomorrow morning before 9 a.m.

2 The Court is now adjourned.

3 (Court adjourns at 1607H)

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