



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 02-Aug-2017, 11:58
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

23 June 2017
Trial Day 508

Before the Judges: NIL Nonn, Presiding
Martin KAROPKIN
Jean-Marc LAVERGNE
THOU Mony
YOU Ottara

The Accused: NUON Chea
KHIEU Samphan

Trial Chamber Greffiers/Legal Officers:
Harshan ATHURELIYA
CHEA Sivhoang
Russell HOPKINS
LIM Suy Hong
Gaia PERGOLO

Lawyers for the Accused:
Doreen CHEN
Victor KOPPE
LIV Sovanna
Anta GUISSSE
KONG Sam Onn

For the Office of the Co-Prosecutors:
Joseph Andrew BOYLE
CHEA Leang
Vincent DE WILDE D'ESTMAEL
Travis FARR
Nicholas KOUMJIAN
Dale LYSAK
William SMITH
SREA Rattanak

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

For Court Management Section:
SOUR Sotheavy

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
The GREFFIER	Khmer
Ms. GUISSSE	French
Mr. KHIEU Samphan	Khmer
Mr. KOPPE	English
The President (NIL Nonn)	Khmer

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the closing statements by
6 parties in Case 002/02, and the floor will be for the defence
7 teams to make the final rebuttal as well as the final statements
8 by the Accused.

9 And first, the floor will be given to the defence team for Nuon
10 Chea.

11 And before we proceed, the Chamber would like to inform the
12 parties that, today, Judge Ya Sokhan, that is, the National
13 Judge, is absent for personal reasons. And after Judges of the
14 Bench deliberated the matter, we decided to appoint Judge Thou
15 Mony, who is the Reserve National Judge, in Judge Ya Sokhan's
16 place. And this decision is based on Internal Rule 79.4 of the
17 ECCC.

18 Ms. Chea Sivhoang, please report the attendance of the parties
19 and other individuals to today's proceedings.

20 [09.03.46]

21 THE GREFFIER:

22 Mr. President, for today's proceedings to hear the closing
23 statements, all parties to this case are present.

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

1 been delivered to the greffier.

2 Thank you, Mr. President.

3 MR. PRESIDENT:

4 Thank you, Ms. Chea Sivhoang.

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

6 The Chamber has received a waiver from Nuon Chea, dated 23rd June
7 2017, which states that, due to his health, that is, headache and
8 back pain, he cannot sit or concentrate for long, and in order to
9 effectively participate in future hearings, he requests to waive
10 his right to be present at the 23rd June 2017 hearing.

11 Having seen the medical report of Nuon Chea by the duty doctor
12 for the Accused at the ECCC, dated 23rd June 2017, which notes
13 that, today, Nuon Chea has a stable condition but he has a
14 constant lower back pain when he sits for long and recommends
15 that the Chamber shall grant him his request so that he can
16 follow the proceedings remotely from the holding cell downstairs.
17 Based on the above information and pursuant to Rule 81.5 of the
18 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
19 follow today's proceedings remotely from the holding cell
20 downstairs via an audio-visual means.

21 [09.05.30]

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

24 That applies for the whole day.

25 And now the Chamber hands the floor to the defence team for Nuon

1 Chea to make a final rebuttal.

2 You have the floor.

3 [09.05.50]

4 MR. KOPPE:

5 Good morning, Mr. President, Your Honours, counsel.

6 This week, we present -- we presented in this courtroom a summary
7 of our 550-page closing brief. This document, with over 4,000
8 footnotes, was presented to the Court on the 2nd of May 2017.

9 Both the closing brief and our oral submissions in the past week
10 were meant, first and foremost, for the Cambodian public,
11 destined for both the older generations of Cambodians who lived
12 in the 1970s as well as for the younger generation born after the
13 period of Democratic Kampuchea.

14 Mr. President, Nuon Chea has emphasized on various occasions that
15 he believes he has a responsibility to the Cambodian people to
16 help them learn the truth about really -- about what really
17 happened before, during and after the regime of Democratic
18 Kampuchea, and the closing brief of the 2nd of May 2017 is the
19 result of that responsibility.

20 Nuon Chea has also said numerous times that the ECCC is a deeply
21 flawed and broken institution. For instance, on the 17th of
22 November 2015, he said in this courtroom, and I quote:

23 "From day one, it was my strong impression that this tribunal was
24 not at all interested in exploring the truth. Instead, it seems
25 to operate as though its mission was simply to endorse the

4

1 instructions of a handful of officials in power and tell a tale
2 approved by the government before the tribunal was established,
3 and I was right." End of quote.

4 [09.08.53]

5 So when we, defence counsel for Nuon Chea, had finished our oral
6 arguments about the existential threat posed by Vietnam to the
7 sovereignty and territorial integrity of Cambodia and had
8 explained what the policy of the CPK really was, it was clear to
9 Nuon Chea that there was nothing more for him to add.

10 There was no longer any need for him to reiterate that the trial
11 against him is nothing but a show trial and that the ECCC is
12 nothing but the product of victor's justice, justice that only
13 serves the interests of the American and Vietnamese aggressors.

14 [09.10.06]

15 So Mr. President, as opposed to October 2013 when Nuon Chea did
16 give a final statement at the end of the proceedings in Case
17 002/01, Nuon felt this time no inclination whatsoever to respond
18 to the rebuttal of the International Co-Prosecutor and his
19 assistant, Mr. Lysak. Nuon Chea felt that our closing brief and
20 our closing submissions speak for themselves.

21 Cambodian history has now finally been rewritten and it is for
22 the Cambodian public to decide if it accepts this new history,
23 yes or no. And it is not to be decided by those who come from a
24 country that killed and massacred so many Cambodians.

25 So Mr. President, that now leaves the question whether I, as Nuon

1 Chea's lawyer, feel the need to respond to the rebuttal of the
2 International Co-Prosecutor. Do I wish to address this ocean of
3 misrepresentation of the evidence and this ocean of historical
4 ignorance, this complete lack of even basic knowledge of the laws
5 of evidence in criminal proceedings?

6 Not really, Mr. President. Not really.

7 There are many reasons why I do not feel the need to engage in
8 the arguments of Mr. Koumjian and Mr. Lysak. But, let me give two
9 reasons.

10 [09.12.41]

11 The first reason is that it has all been said before. It has been
12 said before over and over and over again.

13 When in 2013 these same two gentlemen argued their case on the
14 mass execution of former Lon Nol soldiers and officials at Tuol
15 Po Chrey in April 1975, they literally used the same bombastic
16 Hollywood theatrics as they did yesterday and the day before
17 yesterday. And also then, Mr. President, they were speaking with
18 broken voices and somehow expecting that we would all
19 spontaneously start crying with them in the courtroom. And also
20 back then, there was no rigorous or dispassionate analysis of the
21 evidence, but just a show as if this courtroom is some sort of
22 circus.

23 [09.14.07]

24 And in 2013, they also showed that same fundamental lack of
25 knowledge and understanding of criminal procedure and evidence

1 law. No idea, no clue, Mr. President, what the words "beyond
2 reasonable doubt" actually mean.

3 And also then, in 2013, they were just presenting you with
4 anecdotal and selective evidence, evidence with low probative
5 value, meanwhile disguising it as examples of some broader
6 pattern of a policy and then somehow think we cannot see right
7 through it. Of course, we can, Mr. President.

8 One would have hoped, one would have hoped that the extremely
9 critical 2015 report of Stanford University and a 2016 appeal
10 judgment would have made these two men change their tune, though
11 it would have served as some sort of wake-up call and that they
12 would have actually read and understand that judgment and that
13 report and, of course, that they would have let sink in its legal
14 consequences.

15 But of course, Mr. President, they haven't changed their tune.
16 They just keep doing, right on through till the very end, what
17 they have always been doing.

18 And when I heard them speak yesterday, I was actually reminded by
19 the wise words of defence counsel, Arthur Vercken, who was once
20 Khieu Samphan's defence lawyer.

21 [09.16.42]

22 And I'm sure, Mr. President, that you remember these words as
23 well because you reprimanded him for it, but it's four years ago,
24 so if you don't remember, let me refresh your memory because this
25 is what he said on 25 October 2013 at 9.54 in the morning during

1 his closing arguments. And I shall read it to you in the English
2 translation, but the original French is, of course, much more
3 eloquent. And this is what he said, and I quote:
4 "So the question I ask is this. In setting up the Prosecution
5 team, did they commit errors? Did they unwittingly hire a gang of
6 tourists who were about to end their holidays in Cambodia,
7 backpackers in a hotel on the riverside and who wanted to extend
8 their stay in Cambodia and who want to make a few dollars by
9 donning their purple robes and offering their service to the
10 tribunal?" End of quote.

11 [09.18.25]

12 Mr. President, the second reason I do not feel to -- the need to
13 engage in the rebuttal arguments of the International
14 Co-Prosecutors is the following.

15 It is my -- it is my strong belief that once the Cambodian public
16 has been granted access to and will have read our 550-page
17 closing brief and has analyzed its more than 4,000 footnotes, it
18 will come to understand and realize many things.

19 It will understand that Mr. Koumjian has not been able to dispute
20 any of our arguments about Vietnam's aggression towards Cambodia
21 or its plans and ambitions to establish an Indochinese federation
22 with the help of CPK collaborators and with the backing of the
23 Soviet Union.

24 I'm convinced that the Cambodian public will understand that our
25 closing brief consists of real history, and not of "fake

1 history", the word that Mr. Koumjian is so keen on using.
2 And Mr. President, the Cambodian public will understand, for
3 instance, that it was completely logical and lawful that someone
4 like Ros Nhim, the secretary of the Northwest Zone, was arrested
5 and detained after three years of meticulous surveillance and
6 investigation.

7 [09.20.38]

8 And the Cambodian public will understand as, in fact, the Supreme
9 Court Chamber has ruled, that it was Ros Nhim and his henchmen
10 who killed those former Lon Nol soldiers and officials at Tuol Po
11 Chrey and then subsequently collaborated with Vietnam to turn
12 Cambodia into a slave state.

13 Collaboration with the enemy in times of war is treason, and
14 punishable by death almost anywhere in the world; certainly in
15 the seventies of the last century, and the Cambodian public will
16 understand that, as it will understand one day soon this year why
17 even the adopted son of Ros Nhim told filmmakers, Thet Sambath
18 and Robert Lemkin, on camera, that his father was rightfully
19 arrested and executed for his treason.

20 Mr. President, by reading our brief, the Cambodian public will
21 also appreciate that Ros Nhim was to Democratic Kampuchea what
22 Osama Bin Laden was to the United States but then 10 times more
23 dangerous. Did former United States President Barack Obama
24 hesitate to have Bin Laden executed or hesitated to execute any
25 of his allies, be it somewhere in Yemen or Pakistan or anywhere

1 in the world? No, he didn't. He just used different and more
2 advanced means like drones.

3 [09.22.58]

4 And does anyone in the West have a problem with Obama's
5 extra-judicial killings? Not many people, I think. And do they
6 care Osama Bin Laden did not get a trial and was never given any
7 due process?

8 Mr. President, once the Cambodian public has read all 550 pages
9 in our closing brief, it will also see that we have spent many
10 pages discussing S-21. It will see, for instance, that we
11 addressed the issue, the important issue, of the very limited
12 credibility and reliability of Duch; that we argue in that brief
13 that he had no knowledge of about 90 per cent of the daily
14 operations of S-21, including matters such as arrests and
15 interrogations of the vast majority of prisoners as well as their
16 ultimate fate, prisoners such as the Vietnamese girl the
17 Prosecutors showed a photo of last week.

18 [09.24.33]

19 And the Cambodian public would also read in the closing brief
20 that we argue how the selection procedure of prisoners at S-21
21 really went and that many people never ended up in what are now
22 the premises of the Tuol Sleng Museum, that they were either
23 released or sent to Prey Sar.

24 And it will also understand what the real reasons are why we
25 believe that Chhum Mey was never a prisoner in S-21.

10

1 And I also think that the Cambodian public will appreciate why we
2 ask in our brief the question where the skulls and bones are of
3 the remaining 12,000 people that were now in addition allegedly
4 executed at Choeung Ek. As we know and as I have said many times
5 during hearings, there are only 5,000 or so confessions, 5,000 or
6 so photos of prisoners and 6,426 skulls found and investigated at
7 Choeung Ek.

8 [09.26.17]

9 And in our brief, we asked the question, "If 18,000 prisoners
10 were killed, where is the forensic evidence of the other 11,000
11 or so?" I believe the Cambodian public understands that we ask
12 that question.

13 And I also believe it will understand that the number of 5,000 or
14 6,000 has a symbolical value, a symbolical value in geopolitical
15 terms.

16 Why? Because it is roughly the same number of people whose names
17 American diplomats from the embassy in Jakarta and Indonesia gave
18 in October 1965 to the government of President Suharto to have
19 summarily executed, names of teachers, trade union activists,
20 intellectuals, etc. I refer to our brief for further details on
21 this matter.

22 And I also now refer to the footnote in our brief how, for
23 instance, Time magazine applauded the death of these teachers,
24 trade union members and intellectuals.

25 Mr. President, today I would also like to take the opportunity to

11

1 refer to document E3/196. That is the speech that Nuon Chea gave
2 in July 1978 to a delegation of the Danish Communist Party that
3 Mr. Koumjian cited yesterday.

4 [09.28.37]

5 In this speech, Nuon Chea spoke at length about the dreadful fate
6 of 500,000 victims, people who were members of the Indonesian
7 Communist Party or merely sympathized with this Party.

8 And in the English translation of that document, Nuon Chea uses
9 the words, and I quote, "the blood-stained experience of the
10 Communist Party of Indonesia." End of quote.

11 People killed, Mr. President, with the full support of the
12 country that Mr. Koumjian is from, that same country that would
13 start bombing Cambodia to smithereens soon afterwards and kill at
14 least 10 times more people than were allegedly killed at S-21.

15 [09.29.54]

16 And that number of 5,000 is, by the way, also the same number of
17 only one single French detention facility in Algeria in the
18 1950s. That's a prison that Philip Short refers to in his book
19 when he compares the alleged crimes at S-21 to what the French
20 did with the Algerians in their security centres.

21 Does anyone remember who was Minister of Justice in France at the
22 time and responsible for the torture and executions in these
23 camps?

24 Mr. President, I will give a hint. His photo was on the front
25 page of many European newspapers early this week.

12

1 The issue of the numbers and many other issues related to S-21
2 are all things in our brief that Mr. Lysak never responded to,
3 and the Cambodian public will realize that one day.

4 And then yesterday, Mr. Lysak deceived the public that we were
5 somehow afraid to address these issues. Some nerve he has, Mr.
6 President.

7 Let me round up. Nuon Chea couldn't care less if you convict him
8 again to a life sentence. He really doesn't care because,
9 rightfully so, he doesn't take this institution seriously.

10 But Mr. President, he does have one final wish, and his wish is
11 that the ECCC will translate our closing brief, as soon as is
12 reasonably possible into Khmer and that copies of it will be
13 distributed in the same manner as the ECCC has distributed its
14 own judgments.

15 In his opinion, and also in my opinion, that would be the real
16 legacy of this tribunal.

17 Thank you.

18 [09.32.50]

19 MR. PRESIDENT:

20 Mr. Koppe, please reiterate the position of Nuon Chea once again.

21 Does Nuon Chea want to make his final statement?

22 MR. KOPPE:

23 I had hoped that I'd made that clear. No, he doesn't want to come
24 up.

25 MR. PRESIDENT:

13

1 Thank you.

2 I now hand -- I now hand over the floor to the defence team for
3 Mr. Khieu Samphan to make the final rebuttal. You may now
4 proceed.

5 [09.33.34]

6 MS. GUISSÉ:

7 Thank you, Mr. President.

8 Good morning, Mr. President, Your Honours.

9 What deafening silence yesterday on the side of the Prosecution.
10 What deafening silence on the essential elements of law that were
11 raised and in regard to which we received no response. And yet we
12 waited and waited for an answer. I was looking at the clock,
13 expecting a <genuine> response <on fundamental matters>, but we
14 did not receive any response. <Regarding> the <issues related to>
15 the absence of *dolus eventualis* as raised in the Nuremberg
16 trials<,> <nothing>.

17 As regards <the reasons for the prosecutor's <about turn> on the
18 issue of> Joint Criminal Enterprise and the insufficiency of
19 jurisprudence when they tried to find some kind of illegal window
20 dressing regarding the scandal <of the violation of legality> by
21 the Supreme Court Chamber, nothing.

22 On the issues of the Co-Investigating Judges exceeding their
23 jurisdiction, <and on <the Chamber exceeding its jurisdiction>
24 during <trial> proceedings,> still nothing.

25 [09.35.21]

14

1 Mr. President, Your Honours, I know that the civil parties
2 support the Prosecution, but I think the prosecutors are making
3 them bear too much of a burden. It is the Prosecution that should
4 bear the <onus of the proof in terms of fact as well as in terms
5 of law> <>. And unfortunately, it is the civil parties that
6 responded to such <fundamental legal questions.>
7 <It is incredible to see that it was the> civil parties <who>
8 referred to a road map, <when we spoke about other inhumane
9 acts>, <and that we heard> the Prosecution -- and we heard Mr.
10 Koumjian, the International Co-Prosecutor, <follow a binary
11 pattern of reasoning and> explain that yes, forced marriage is
12 something serious as if we <had> said something to the contrary,
13 as if we did not explain that the real issue is <the> principle
14 of legality.
15 <Did this constitute> <> other inhumane acts between 1975 and
16 1979 <?>
17 I also heard the International -- or rather, the National
18 Co-Prosecutor say that we should count ourselves happy to have
19 been given the floor, that you showed proof of patience, that you
20 allowed us to present the arguments of our choice, so we should
21 consider ourselves happy that we were heard, so we should thank
22 you for having respected that fundamental, that elementary
23 <internationally recognized> rule of a fair trial which gives the
24 Defence the freedom to speak.
25 [09.37.20]

15

1 <If this is to be> <>the legacy of this tribunal <so be it.> <>
2 Contrary to what the National Co-Prosecutor <appears to be
3 thinking>, it's not a privilege. This is a fundamental element of
4 <criminal> law, a fundamental element of a fair trial.
5 I also heard <> the National Prosecutor say that the Defence had
6 considerable resources at its disposal.
7 <And yet,> Mr. President, Your Honours, I've seen a large number
8 of International Prosecutors and a large number of National
9 Prosecutors as well who took the floor during the proceedings,
10 whereas we were only two of us on this side, two lawyers
11 defending Khieu Samphan. <So why<,> <given the Prosecution's>
12 resources that are significantly larger than ours> <> did they
13 not take the time to respond to the arguments that <> we
14 expounded on during the hearings?
15 [09.38.36]
16 The Prosecution and the civil parties also tell us that because
17 <we> referred to the problems of the appeal judgment in Case
18 002/01, <the judgments are based on law and > <> they should be
19 respected,<and that> the Defence is <disingenuous.> <Yet> when we
20 give the details of the <law relied upon> and <of> the principles
21 of legality that are violated, when we explain that the decisions
22 of the Supreme Court Chamber pose problems, <are erroneous and>
23 violate the basic principles of a fair trial <,> what answer do we
24 get from the other side?>
25 <>? Nothing. No legal argument.

16

1 Now, yes, Mr. President, Your Honours, yesterday, <you were>
2 presented <with> shocking facts <> once more in order not to talk
3 about the technical aspects of law. That was the word used by the
4 Co-Prosecutor Koumjian when he started his rebuttal.
5 After a few minutes, we, the Khieu Samphan defence, understood
6 that we wouldn't have any answers to the technical issues raised.
7 [09.39.56]
8 Yes, it is true law is complicated. Yes, it is true; it is not
9 simple in a criminal tribunal, particularly during closing
10 arguments to raise complex issues.
11 <Yet,> Mr. President, Your Honours, it is the prosecutors
12 themselves who had written in their closing brief <about the
13 request for <time limits for the closing arguments>. < They said
14 that what was essential was to be able to respond to the adverse
15 party. They didn't do so in their closing arguments. They did not
16 do so <that much> in their rebuttal.
17 So when <, as that> was the last opportunity they had to do so,
18 to respond. And particularly in terms of responses, I heard many
19 responses to issues raised by the Nuon Chea defence, but very
20 little to the arguments raised by the Khieu Samphan defence.
21 And here again, I'm obliged to make a remark contrary to <> the
22 Prosecution's rebuttal yesterday, <> there is no collective
23 defence of the Accused. There are two teams. There are two final
24 briefs that are different, two final briefs with different
25 reasonings, with different legal arguments. So I would have

17

1 appreciated that our arguments, the arguments of the Khieu
2 Samphan team, be addressed instead of being drowned in artificial
3 plurality when we talk about the Defence <by attributing> to us,
4 <at times,> arguments or grounds for our arguments that we did
5 not advance <, neither in writing nor orally>.

6 [09.41.58]

7 At the beginning of my rejoinder, Mr. President, I wanted to make
8 this very clear so that you can understand our frustration as
9 defence team for Mr. Khieu Samphan. <So you> would also
10 understand that, in the coming minutes, I will respond to what
11 concerns us specifically.

12 I'm also thinking of <the> remark made yesterday by the Deputy
13 Co-Prosecutor, Dale Lysak, who explained that "I believe your
14 work has been facilitated by what you've heard during these
15 closing arguments."

16 I do not know whether your work has been facilitated in any way
17 because, as they did in their closing brief, <the> closing
18 arguments are always a magma of facts. No explanations are
19 provided in terms of the legal characterization <of> the facts.

20 It's up to you to sort that out.

21 [09.42.42]

22 The same is true of the law. It becomes something <> almost
23 secondary. And the proof of this, Mr. President, Your Honours, is
24 that yesterday <once more>, Co-Prosecutor Koumjian talked of
25 <children murdered> in Sihanoukville. When did they mention that

1 in <> Case 002/02?
2 It's out of the scope. They are <> talking <a little> of the law,
3 but they are distorting our position.
4 For instance, Co-Prosecutor Koumjian told us that the Defence did
5 not challenge their logic on the fact that in the legal
6 definition of genocide, the destruction of a group <> is not
7 limited to physical or biological destruction. And they said
8 <that to you> yesterday somewhat before 14.48.<>.
9 That is false. That is proof that either he did not read our
10 brief or he did not understand it. And I refer you to our brief
11 in which we clearly explained that, yes, in genocide, there must
12 be a destruction of a group, and it can only be physical and
13 biological. <Period.> And why? Because it transpires from the
14 1948 Convention on Genocide and it is only <through> the work of
15 that Convention that you can interpret the definition of genocide
16 because <that was the law at the <time> of the facts> <>and not a
17 definition that is stretched to include cultural genocide, which
18 corresponds to work that, was done well <afterwards> by
19 researchers.
20 [09.45.06]
21 Another example, let us talk about Phnom Kraol. Here again, Mr.
22 President, Your Honours, the Prosecution is asking you to do the
23 work that they should have done themselves, and they tell you
24 confidently that yes, it is true, in Phnom Kraol, the evidence
25 was perhaps weak. Perhaps Sun Vuth was not in any of the

1 buildings described in the Closing Order. <So then why are we
2 talking about it?>
3 You are told that it's up to you to assess the evidence <>. <But
4 the elementary rules tell us that it> is up to the Prosecution to
5 provide the evidence that <they> consider that has been
6 established beyond reasonable doubt, <proved> beyond reasonable
7 doubt.

8 And here, what we experienced yesterday was an extraordinary
9 moment. The legal characterization <> by the Prosecutor <is so>
10 very vague <that the prosecutors remember certain facts that we,
11 just like you, I suppose, learnt that with regard to Phnom Kraol,
12 they maybe were not submitting that the crime of extermination
13 took place.

14 [09.46.23]

15 <And> yet in <paragraphs> <884 to <888> of <their> closing brief,
16 it's clearly explained.

17 Now, let us talk of procedure; if there is a doubt, if <we are>
18 not sure and if the evidence is weak <or> insufficient, if <> the
19 charges are not sufficient, your duty is to acquit the Accused.
20 That is <the rule of law>.

21 Yesterday, I heard the Deputy Prosecutor Lysak explain that they
22 were responding to us as an aside, in <an aside> lasting eight
23 minutes

24 Mr. President, Your Honours, they tell us that we ignored a
25 rudimentary <distinction between> the facts <related> to> the

1 charges <levelled against> the Accused<> <and admissible evidence
2 for other purposes>. And they said that they are confident that
3 you would sort things out.

4 [09.47.40]

5 Yes, the Prosecution has confidence. They have confidence but the
6 real elementary rule, and I'll state it <again>, is <that>
7 evidence on the facts in regards to which the Accused are not
8 charged <> is <under no circumstances relevant>. You cannot use
9 facts that are not relevant to establish the commission of a
10 crime for which the Accused is charged.

11 <So yes>, I know that since the investigation, we are talking of
12 facts for the sake of history, but <please don't> tell us that
13 they can use those facts to establish the commission of a crime
14 when <the evidence is not sufficient>.

15 <We see once again a distortion of our submissions regarding the
16 example of> Krang Ta Chan. <Let's be clear about this.> <What
17 the> Khieu Samphan defence <is telling> you was that you were not
18 properly seized of facts relating to torture at Krang Ta Chan.
19 That is what the Khieu Samphan defence told you. And you will
20 find that in our closing brief.

21 Yesterday, the same Deputy Co-Prosecutor explained that <, yes,
22 they quoted Im Chaem in their final brief but they really didn't
23 need to do so because it wasn't to> establish the conduct of the
24 Accused.

25 [09.48.18]

1 And yet, Mr. President, read paragraph 1,114 of the closing brief
2 and there you will find that <they> are <typically> speaking of
3 Mr. Khieu Samphan <regarding> facts that he denies. <We are told
4 that he> doesn't deny <having gone> to Trapeang Thma.
5 And the last sentence in paragraph 1,114 reads as follows, and I
6 will read it in English:
7 "Khieu Samphan personally observed the workers carrying out their
8 tasks and urged them to keep working hard." End of quote.
9 If these are not elements relating to the acts and conduct of the
10 Accused, I don't know what they are. And that is what I reminded
11 you of yesterday. <When it is impossible to confront a witness
12 speaking about the supposed conduct of the Accused he contests,
13 we need to be clear.> <> <But in any case the question is not
14 about knowing whether Khieu Samphan is objecting or not<;>> <the>
15 Co-Prosecutors could not use <Im Chaem's statement to that end.
16 So don't tell us that they did not mention that, > <> it's there
17 in black and white. <It> should not have been part of the
18 Prosecution's closing brief at all.
19 Mr. President, Your Honours, <anything goes in order> to say that
20 Mr. Khieu Samphan knew everything in regard to everything and
21 everywhere. <A bit like when> they presented in the closing
22 arguments, <a> year 2000 video <- so again elements that are way
23 posterior to the facts -> in which Khieu Samphan <, surrounded by
24 books,> refers to the arrest of Chan Chakrey, and the Prosecution
25 says that is the evidence we have <that he knew>.

1 [09.51.19]
2 <I am simply telling you that this is the proof Short <read
3 out>.> I can give you the reference <>; <Philip Short,> document
4 E3/9, the ERN in French 00639925. That is the reference
5 corresponding to the video that was screened <for you> <>.
6 They also quoted Duch's statements saying Duch also referred to a
7 meeting, forgetting to tell you that Duch explained that it was
8 during a cordial discussion with an S-21 prisoner.
9 The Co-Prosecutors <do not feel> concerned by the law. They
10 almost did not respond to our arguments.
11 Was that a posture<?> <Showing> contempt for the arguments of the
12 Defence? That could be the case but I am not <even> sure, Mr.
13 President and Your Honours.
14 I particularly think that, yes, there is some kind of contempt
15 but the contempt of the basic rules of procedure <which we learn,
16 however, as of the beginning of our law studies. One does not
17 talk of facts just like that, in absolute terms, in a criminal
18 trial. One talks about charged facts and facts to which we must
19 give a legal characterisation.>
20 [09.52.56]
21 Now, are the Co-Prosecutors so unpreoccupied with the law? <Or
22 does their silence in relation to some of our arguments simply
23 mean that they have no answer?> <> That is an admission that
24 <maybe we are right.> <>.
25 Yesterday I heard the Prosecution criticize our colleagues of the

1 Nuon Chea <defence, speaking about more than blatant hypocrisy;
2 they said> that they were burying their heads in the sand. But
3 perhaps there is a parallel here, <in any case with regard to the
4 absence of any responses to the issues of law that were raised.
5 [09.53.46]
6 Mr. President, I would now like to respond to the arguments
7 raised by the civil parties in the person of the civil parties
8 Lead Co-Lawyer, Marie Guiraud.
9 The civil parties, as I said earlier, were the only party that
10 <deigned to> shed light on the issues, the legal issues that
11 <were> raised. Because what is relevant in a legal debate <if it
12 is not> to have the positions of the different parties <in order>
13 to help you make a ruling <?>
14 <A> first remark has to do with the issue of jurisdiction and
15 what I heard the civil parties say.
16 My colleague, Marie Guiraud, yesterday at about 13.<35> said you
17 are seized of facts, all the facts and nothing but the facts
18 contained in the Closing Order. Yes and no, not all the facts in
19 the Closing Order.
20 You recall, Mr. President, Your Honours, that I started my
21 closing arguments on Tuesday by reminding you of the quotation of
22 a book by Marcel Lemonde who explained that in the Closing Order
23 <there> were facts that were not absolutely indispensable.
24 And by the way, I find <now> the explanation of my colleague's
25 <mis>understanding yesterday <with regard to the issue of rape

24

1 because> the Co-Investigating Judges talked about facts that
2 ultimately were not placed among the charges.

3 [09.55.39]

4 In any case, what is clear is that you are seized of all the
5 facts only insofar as those facts are <criminally> characterized
6 by the Co-Investigating Judges. That should be <in> the Closing
7 Order. All facts that are mentioned for the sake of history are
8 not facts you are seized of if they do not have a criminal
9 characterization in light of the decision of the Co-Investigating
10 Judges and <it is> this different analysis that we have with
11 <regard to> the civil parties <that explains> why <there is> this
12 divergence as regards <> the exact extent of the jurisdiction
13 that my colleague <raised yesterday at 13.43.>.

14 [09.56.32]

15 On the issue of the <treatment of the> Vietnamese, <in
16 particular,> the civil parties are of the view that paragraph 803
17 <is also concerned,> <that> the <> facts in Kratie are in the
18 scope and insofar as they are not characterized criminally,
19 <that> they are not part <of the scope for genocide; only> Svay
20 Rieng and Prey Veng <are>.

21 By the way, I mentioned an application by the Prosecution in
22 which they had the same position even though they forgot <that>
23 subsequently. The same applies to the scope of the trial as
24 regards to Tram Kak.

25 [09.57.15]

1 <A> first point, which is nevertheless important -- and <it is
2 important to commend honesty when it occurs in the courtroom. And
3 I noted that> when <> my colleague referred to Tram Kak, she,
4 indeed, talked of the eight communes in Tram Kak referred to in
5 the Closing Order <which shows that> we have the same
6 understanding of the extent of that jurisdiction.
7 However, and this is where we differ, the question is not to say
8 or to be able to say that Khieu Samphan is charged with all the
9 facts that occurred in Tram Kak <that are> referred to, but
10 <with> all facts that subsequently received criminal
11 characterization.
12 However, and this is important, nothing in the facts <> referring
13 to Tram Kak, talk about Angk Roka. And that is true.
14 [09.58.16]
15 Angk Roka <> <appeared> for the first time, and it is a decision
16 of the Chamber following an objection by the Defence. They said
17 it is part of the scope because it is in Tram Kak and that is an
18 error, Mr. President, Your Honours. It is an error and we hope
19 that you <will> repair it in your deliberations.
20 If we are dealing with facts that were not referred to and <>
21 criminally characterized by the Co-Investigating Judges, the
22 Chamber has no jurisdiction to rule on them or to determine them.
23 Another point on Tram Kak, I heard that the civil parties are of
24 the view that some of the facts that occurred in Tram Kak <>
25 correspond <more> to the characterization of murder as

1 extermination. That is the analysis you will find in our closing
2 brief.

3 [09.59.18]

4 However, there is another point where we differ, and we go
5 further <in that regard>, is that given the drafting of the
6 Closing Order, you are seized at Tram Kak only of deaths due to
7 hunger. However, these deaths were never the result of a direct
8 intent to kill and if you had to re-characterize you are going to
9 have to consider also this issue. Because if you change from
10 extermination, <you are recharacterizing,> that means that there
11 is a new element that you are introducing here.

12 And the prosecutors regarding Tram Kak, and this is something in
13 fact I even had forgotten to mention during my closing statement,
14 well, now regarding the murder (sic) of extermination we have
15 nothing from the Prosecution, neither in their final brief, nor
16 in their statements. They said nothing about the crime of
17 extermination at Tram Kak.

18 So, therefore, I conclude that they come up with the same
19 analysis as the Defence and<> you will consider that in your
20 deliberations.

21 [10.00.34]

22 Another point, quickly speaking about enslavement, maybe I wasn't
23 clear during my statements. When I was explaining with regard to
24 the two components forming enslavement, I spoke about what was
25 indicated in the Closing Order, that is to say, that in order for

1 there to be enslavement, it was necessary that two components be
2 met. First, ownership; second, forced labour.
3 No other fact than those described with regard to this
4 characterization <by the Co-Investigating Judges> <> should be
5 considered by your Chamber. That's what I was explaining.
6 Another point that my colleague from the civil parties raised,
7 and I believe this was with regard to torture at Kang Ta Chan,
8 where we said that there was nothing in the introductory
9 submission <of the prosecutors> <> bringing up this issue, and my
10 colleague said -- this was on 21 June a little bit before 1.52 in
11 the afternoon, and I quote:
12 "In the introductory submission you have the introductory
13 submission and then you have annexes. And when the Co-Prosecutors
14 seized the Co-Investigating Judge, they seized the
15 Co-Investigating Judge with the introductory submission and with
16 its annexes."
17 That is the position of the civil parties.
18 [10.02.08]
19 But to support this position there is no source, no legal text to
20 support this.
21 And in our final brief, we detailed the rules governing the scope
22 of a trial <basing ourselves on> Cambodian law <,> the Internal
23 Rules <,> French law <and> the jurisprudence of French courts and
24 in order to contradict the assertion of my colleague, all that is
25 necessary is to read Rule 53 of the Internal Rules, which brings

1 up the introductory submission. There it is clearly stated that
2 the introductory submission contains the following information
3 and only this <,otherwise it is void:> a presentation of the
4 facts <, the legal characterization <retained,> the indication of
5 the text that define and that punish the offences, etc., etc.
6 <And we tell you that otherwise it is void.>
7 [10.03.13]
8 <>. We're not telling you that <all that is necessary is that>
9 there should be only one mention of a fact in the annex. We are
10 just saying a summary <presentation> of the facts. If in this
11 summary presentation of the facts there is no mention of the
12 facts that you want to bring up later on before you in the
13 Chamber, this represents a violation of Rule 53.
14 The same thing, Rule 55 of the Internal Rules also says it
15 clearly.
16 The Co-Investigating Judges are required to investigate only the
17 facts <set out> in the introductory submission or in the
18 supplementary submissions, <set out in the introductory or
19 supplementary submission.>. So it's very clear only the
20 submission <> seizes the Co-Investigating Judges. There is no
21 mention of an annex here.

22 [10.04.12]

23 And by the way, in this case the introductory submission, D3,
24 does not say anything else in its paragraph 122 since this is
25 what is said in paragraph 122 <>: <t>he Co-Prosecutors therefore

1 decided to open a judicial investigation against Nuon Chea, Ieng
2 Sary, Khieu Sampan, Ieng Thirith and Kaing Guek Eav, Duch,
3 <regarding> the facts specified in paragraphs 37 to 72 in
4 relation to the following proposed charges, and then the charges
5 are listed <regarding> facts proposed in paragraphs 37 to 72.

6 So you will check this in these paragraphs. In this introductory
7 submission, you will see that there is no mention of torture at
8 Krang Ta Chan.

9 Now, finally I would like to turn to -- Your Honours, Mr.
10 President -- well, maybe, Mr. President, <since> this is an
11 important point <maybe> we can take the break now and maybe I can
12 develop my argumentation with regard to this, the last issue,
13 later in one go?

14 [10.05.41]

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 It is now an appropriate time for our short break. We'll take a
18 break now and resume at 25 past 10.00 to continue our
19 proceedings.

20 The Court is now in recess.

21 (Court recesses from 1006H to 1024H)

22 MR. PRESIDENT:

23 Please be seated.

24 The Court is now back in session and the Chamber returns the
25 floor to Anta Guisse to resume the final rebuttal.

1 [10.25.26]

2 MS. GUISSÉ:

3 Thank you, Mr. President.

4 I will conclude my rebuttal to the civil parties by finishing
5 where my colleague Marie Guiraud started, which is the context in
6 which we <noted> violations of the extent of the scope of the
7 jurisdiction.

8 So my colleague Marie Guiraud <reminded us of> three points and I
9 will treat them in turn.

10 The first point she says to us that Khieu Samphan did not appeal
11 when he was charged, that's true, but is the absence of an appeal
12 to being charged mean that <we uphold> future excesses of
13 Investigating Judges in their Closing Order?

14 Does this mean that we have accepted this irregularity for
15 Closing Orders to come? No, absolutely not.

16 [10.26.26]

17 The second point, the defence of Khieu Samphan did not appeal the
18 Closing Order on these issues of the scope, this is true. But the
19 Khieu Samphan team could not do it and what I argued on Tuesday
20 was just this, reminding you <of> Internal Rule 74.3, Internal
21 Rule 74.3 which envisages appeals before the Pre-Trial Chamber
22 only if they refer to problems of the ECCC's jurisdiction <in
23 terms of legality.>

24 And around 10.24 on Tuesday, the 20th of June, <I also indicated
25 that> the Pre-Trial Chamber did confirm the limited scope of this

1 possibility of appeal in its Decision <D427/3/15>.

2 And just so that this <is>very clear, I will be quoting paragraph
3 63 of this decision where the Pre-Trial Chamber says the
4 following:

5 <>Finally, in respect of challenges alleging defect in the form
6 of the indictment are not admissible at the Pre-Trial stage.<>
7 [10.27.55]

8 So I am sure <you will apprise yourselves of the totality of the
9 reasoning of the>Pre-Trial Chamber <but it> has always said <> it
10 is not possible to appeal other than on the grounds of legality.

11 That's why I also argued on Tuesday that there is a problem when
12 you reason your decision, E306/5 saying that we should have
13 contested at the investigation stage. We were not able to do so,
14 and it's also a problem when you say that the Closing Order--
15 (Short pause)

16 [10.28.47]

17 MS. GUISSÉ:

18 -- <cured previous> defects but it cannot <cure> its own defects.
19 <I recalled the jurisprudence of the French Court of Last Resort.
20 It cures previous defects but it does not cure its own and this
21 is logical.>

22 And so this is the problem of the <Internal Rules>. There is no
23 precise exact rule for this particular situation and it's for
24 that reason that you need to take the decision because otherwise
25 it's a denial of justice.

1 This <would mean> that neither at the level of the Pre-Trial
2 Chamber nor before you did the Accused have the opportunity to
3 raise this type of problem. It's a denial of justice, which
4 cannot occur in a fair trial.

5 [10.29.17]

6 And the third point, my colleague indicated that effectively we
7 were copied on Ieng Sary's submissions, but <contrary to what she
8 said, these were not preliminary objections in the sense of
9 Internal Rule 89. And here I refer you to your decision E122,
10 paragraph 2 where> you made a clear distinction between a
11 submission that was -- that was submitted after preliminary
12 objections and the preliminary objections themselves.

13 So we're talking about the denial of justice here. If the
14 situation, as it exists <> now is maintained, you'll see those
15 reasons are completely viable, so we're asking you to look <in
16 particular> at the issue of deportation, <but also at all of the
17 other issues we raised for the same reason.>

18 [10.30.20]

19 So there you have it, Mr. President, Your Honours. The comments
20 that I <wished> to make in the defence of Mr. Khieu Samphan in
21 responding to the rebuttal of the Co-Prosecutors, insofar as they
22 made a rebuttal, and <of> the civil parties.

23 [10.30.43]

24 And, in conclusion, Mr. President, Your Honours, I would like to
25 remind you of what I have been trying to say since my colleague

1 and I first took the floor in defence of Mr. Khieu Samphan, <>:
2 the law must be applied with full impartiality without any
3 opportunistic manipulation, with dispassionate rigour regardless
4 of who the Accused are, regardless of the crimes. So now, it is
5 up to you to decide what <> the legal legacy of the ECCC will be.

6 [10.31.34]

7 MR. PRESIDENT:

8 Thank you.

9 May I check if Mr. Khieu Samphan would like to make his final
10 statement? In this case, please bring Khieu Samphan to the dock.

11 (Short pause)

12 [10.33.28]

13 MR. PRESIDENT:

14 Please lower the microphone.

15 I'd like now to give the floor to Mr. Khieu Samphan to make his
16 final statement before the Chamber.

17 MR. KHIEU SAMPHAN:

18 Good morning, Mr. President, Your Honours and everyone in and
19 around the courtroom, respected venerable monks who are currently
20 residing in various pagodas throughout the country, as well as
21 respected compatriots.

22 [10.34.54]

23 First of all, I would like to thank you, Mr. President, for
24 giving me the floor. This is an opportunity for me to answer the
25 questions posed by civil parties in this case.

1 I know that they really suffered. I also heard when they spoke to
2 me, sometimes referring to me as a murderer. How could it be
3 otherwise, since this Court's inception, it has done everything
4 in order to let you, the civil parties, to refer to me as someone
5 who has the responsibility for all the sufferings? That is the
6 sufferings inflicted upon the victims by the Khmer Rouge.

7 [10.37.19]

8 But the term "murderer", I categorically reject it. For that
9 reason, I want to answer the questions that were put to me during
10 the hearings. I will do this in the strictest measure of my
11 knowledge at the time of the facts. I will not say more about
12 things that I did not know because so far everything I have said
13 in my attempt to understand the tragic events of my country is
14 held against me in order to conclude my responsibility.

15 Many questions raised focused on the living and working
16 conditions under Democratic Kampuchea. I heard during the
17 hearings that life was hard in cooperatives. I do not doubt it,
18 however, those who consider themselves in senior positions
19 believed that they had the right to accuse and have the right to
20 punish other people.

21 [10.40.44]

22 We should <consider> where the country was when the resistant
23 Khmers took power and the urgency of the situation of rebuilding
24 the economy. Our country was emerging from an unprecedented
25 crisis. All areas in our countryside had been pounded by American

1 bombs. In addition, we had been abandoned by those who claimed to
2 be our friends -- that is, the Vietnamese communists who, in
3 reality, simply wanted to subjugate us in an Indochinese
4 communist federation.

5 At that time, our people were living in fear and hunger and never
6 forget the suffering of the Cambodian people at the very moment
7 when the resistant Khmers took power. Who can deny this?

8 Moreover, unlike other countries, Cambodia was not an
9 industrialized country and some people forget it today. At the
10 time, there was no gear or factory for equipment production.

11 [10.44.44]

12 At the end of the war, we had to rebuild economy urgently and the
13 famine was very serious in 1975, and the danger became more acute
14 in <1978> when drought threatened to destroy our main crops and,
15 at the same, the conflict with Vietnam intensified.

16 And in order to rebuild and defend our country, the only force we
17 had was the strength of people. The wish of the Communist Party
18 of Kampuchea at the time was not to subject the population to
19 slavery for the sole benefit of Mr. Pol Pot. However, that is
20 exactly the fable told by the Co-Prosecutors. That is wrong.

21 [10.47.14]

22 The Communist Party of Kampuchea leadership hoped to gradually
23 improve the living and working conditions of the people. The
24 leaders of the Communist Party of Kampuchea hoped to transform
25 our country into a modern, agricultural country that would

1 gradually develop industries and that is for the people, that is
2 people would have abundance of food to eat and to live better and
3 better. And that is the truth.

4 [10.48.43]

5 Civil parties also asked me why they were forced to live in
6 cooperatives. Again, the answer lies in the immediate need to
7 solve the problem of hunger. And, my compatriots, please think
8 carefully, how could one envisage ploughing, transplanting and
9 working the paddy fields individually under the strains of the
10 Lon Nol aircraft and under the B-52 bombs?

11 In order to cope with this, cooperatives were instituted in order
12 to fight together for the production of paddy no matter what and
13 to ration production so that everyone could survive and our
14 soldiers at the front battlefields could be fed.

15 Then after the liberation in 1975, as I said, the problem of
16 hunger became even more acutely. Cooperatives had therefore been
17 expanded throughout the country in order to work together by
18 collecting and organizing forces to build the irrigation system
19 to the paddy fields in order to achieve the best output and be
20 able to feed everyone. Is this something criminal? Of course,
21 not.

22 Many other questions were put to me concerning the regulation of
23 marriage, discrimination between the New People and the Base
24 People, the fate of the minorities and the practice of religions
25 under Democratic Kampuchea.

1 [10.52.56]

2 I did not know about these issues during the Democratic Kampuchea
3 regime and I discovered much more about these topics only after
4 the fall of the Democratic Kampuchea regime and in these
5 hearings.

6 It is therefore impossible for me to explain the reasons for all
7 the sufferings. If I had been able to talk about this or that
8 topic after the fall of the regime, it is only because I have
9 done my research on various documents concerning the fate of our
10 country. That is after 1979 and that's all.

11 [10.54.38]

12 And, finally, questions were asked about the reasons for the
13 extermination of my own people. The communist people of Kampuchea
14 leaders did not exterminate our people. What was the interest in
15 so doing? The manipulation of Vietnam saying that it was
16 self-genocide is, in fact, a Vietnamese propaganda. You can see
17 moreover how Vietnam has profited by this manipulation. It will
18 perhaps soon reap the fruits of its expansionist ambition.

19 At present, Vietnam is already exploiting the land, sea, and
20 rivers of Cambodia and that is with the blessing of the current
21 Cambodian leaders. However, in addition, Vietnam may also come to
22 the unexpected outcome of my condemnation for the genocide of its
23 nationals under the Democratic Kampuchea regime.

24 [10.57.31]

25 If this is so, despite all the factual reality, you will have

1 agreed with the Cambodian Judges that Vietnam invaded our country
2 because of the fact that it never made the truth about its
3 action, and Vietnam never have cooperation with this tribunal
4 and, finally, it has invented the unacceptable idea of the
5 Cambodian genocide.

6 And if this happens, we will all observe the shameful and tragic
7 irony that in which Vietnam will ask those -- that is those
8 leaders who allowed it to take the reins of our country; namely,
9 the big brother and the only gang of the three of the CPP to
10 present an official apology on behalf of Cambodia for the
11 genocide of the Vietnamese.

12 [11.00.29]

13 I'm almost done, but before that I want to bow to the memory of
14 all the innocent victims, but also to all those who perished by
15 believing in a better ideal of the brighter future and who died
16 during the five-year war under the American bombardments and the
17 conflict with the Vietnamese invaders. Their memory will never be
18 honoured by any international tribunal.

19 Thank you.

20 MR. PRESIDENT:

21 Security personnel, please take Mr. Khieu Samphan back to his
22 seat.

23 (Short pause)

24 [11.03.02]

25 MR. PRESIDENT:

1 The proceedings to hear the closing statements by parties in Case
2 002/02 -- in Case 002 has now concluded.

3 After the evidentiary hearing and hearing to hear the closing
4 statements by parties in Case 002/02, on behalf of the Trial
5 Chamber in the <Extraordinary Chambers in the> Courts of
6 Cambodia, I would like to inform the parties and the general
7 public as follows:

8 The Trial Chamber of the ECCC conducted its proceedings,
9 evidentiary proceedings in Case 002/02 with its second segment in
10 Case 002 where there are two accused, Nuon Chea and Khieu
11 Samphan, who have been charged for crimes against humanity,
12 genocide, and grave breaches of Geneva Convention 1949 committed
13 on the territory of Cambodia <during the Democratic Kampuchea
14 between> 17 April 1975 <and> 6 January 1979.

15 [11.04.29]

16 The Chamber started its evidentiary proceedings in this case on 8
17 January 2015 and concluded on 11 January 2017. And the closing
18 statements hearings commenced on 13 and concluded on 23 June
19 2017.

20 So far, the hearings in Case 002/02 lasted for 283 days. During
21 its proceedings, the Chamber heard evidence concerning Tram Kak
22 cooperative, including Krang Ta Chan Security Centre and
23 persecution against Buddhists, 1st January Dam, Kampong Chhnang
24 Airport worksite, Trapeang Thma dam worksite, the treatment of
25 the Chams and Vietnamese, Au Kanseng Security Centre, Phnom Kraol

1 Security Centre, S-21 Security Centre and internal purges, the
2 regulation on marriage and armed conflict. And, lastly, the Role
3 of the Accused.

4 Starting on the first day of the evidentiary hearing up to the
5 closing statement proceedings in Case 002/02, there are <180>
6 people who testified before this Chamber, including <114>
7 witnesses, 63 civil parties, and 8 experts.

8 During the evidentiary proceedings in Case 002/02, parties made
9 <over> 310 submissions and, as a result, the Chamber issued 295
10 written decisions excluding oral submissions and oral decisions
11 during the hearings.

12 [11.06.35]

13 Evidentiary materials, including press release, magazines,
14 minutes of meetings, telegrams, national and international
15 experts' books, maps showing the location of crimes and photos
16 which were made during Democratic Kampuchea, the Written Record
17 of Interviews and civil parties transcripts from Case 001,
18 002/01, as well as written records of the accused, interviews and
19 various other statements by witnesses and some individuals
20 conducted by other institutions besides the ECCC were also
21 requested by parties to be submitted as evidence in Case 002/02.
22 And, as a result, about 10,500 documents were accepted as -- were
23 admitted as evidence by the Chamber in Case 002/02 totalling
24 about 156,063 pages in the three official languages and in other
25 languages.

1 [11.07.55]

2 At this time, the proceedings on the merit <> in Case 002/02 have
3 concluded and before I conclude the hearings of the closing
4 statements, the Trial Chamber would like thank Excellences,
5 ladies and gentlemen and everyone including the parties to the
6 case, witnesses, civil parties and experts who testified so far.
7 At the same time, the Chamber would like to thank also the
8 leadership, the staff, the Office of the Administration of ECCC
9 and various other units under the administration who lent their
10 support to the proceedings.

11 The Chamber would like to thanks specifically to the translators
12 and particularly to the interpreters in the booth, court
13 officers, AV Unit personnel, Victim <Support> Unit, Witness and
14 Expert Support Unit, as well as the VSS, the detention officials
15 and personnel, the public section, the security and safety
16 sections, the general service sections and other sections on both
17 sides, national and international.

18 [11.09.27]

19 Likewise, the Chamber would like to thank all officials and staff
20 from various institutions and the Royal Government of Cambodia,
21 including the general security sections, the fire department, the
22 medical staffs and other relevant sections.

23 [11.09.45]

24 And, lastly, I would like to thank staff and officials from
25 various institutions, including TPO and DC-Cam, as they have

1 contributed to the proceedings in Case 002/02 conducted by the
2 Trial Chamber both in their physical and spiritual support from
3 the beginning until the conclusion.

4 And the Trial Chamber would like to declare the closure of the
5 proceedings, evidentiary proceedings, in Case 002/02, and we
6 would also like to inform the parties and the general public that
7 from now on the Chamber will begin its new task, that is to
8 deliberate and to issue the judgement in Case 002/02.

9 In relation to the date for the pronouncement of the judgement,
10 the Chamber has not yet determined an exact date that is due to
11 the sheer scope of this case, which is broad and complex. And the
12 judgement has to be prepared in three official languages, namely,
13 Khmer, English and French, which are the official languages of
14 the ECCC.

15 [11.11.13]

16 The Chamber will notify the date of the announcement of the
17 judgement to parties and the public in an appropriate time before
18 its actual announcement.

19 The Chamber also recalls that on 27 February 2017, the Chamber
20 issued a decision pursuant to Rule 89bis (3) of the <ECCC's
21 Internal Rules>, to conclude its proceedings in relation to all
22 the facts stipulated in the Closing Order in Case 002 and which
23 were not included in Case 002/01 or 002/02, that is document
24 E439/5 (sic).

25 Those facts include Srae Ambel worksite, Prey Sar worksite, Sang

1 Security Centre, Koh Khyang Security Centre, Prey Damrei <Srot>
2 Security Centre, Wat Kirirum Security Centre, North Zone Security
3 Centre, Wat Tlork Security Centre, Kok Kduoch Security Centre,
4 killing site in District 12 in the West Zone, Tuol Po Chrey, and
5 the Chamber notices <that> part of these facts have been
6 adjudicated in Case 002/01 as well as the killing site at Steung
7 Tauch (phonetic), and the evacuation of people from the East Zone
8 - the third phase; and the treatment of Buddhists throughout the
9 country and the treatment of the Cham people at Krouch Chhmar
10 Security Centre and the treatment -- and the crime committed by
11 the Khmer Rouge army in Vietnam.

12 Despite all this evidence concerning all these facts which were
13 excluded might be used as a reference in relation to the facts in
14 Case 002/02 and, based on this decision, Case 002/02 is the last
15 segment in Case 002.

16 Security personnel, you are instructed to take Khieu Samphan and
17 Nuon Chea back to the detention facility. And please be informed
18 that counsels, that is the defence team <for Khieu Samphan>, are
19 allowed to communicate their client. Please facilitate this
20 process, in particular today, before he would be sent back to the
21 ECCC detention facility.

22 The Court is now adjourned.

23 (Court adjourns at 1114H)

24

25