



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

3 February 2016

Trial Day 368

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

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KHIEU Samphan

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SREA Rattanak

For Court Management Section:
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I N D E X

Mr. MEAS Voeun (2-TCW-1008)

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Ms. IN Yoeung (2-TCW-849)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Ms. IN Yoeung (2-TCW-849)	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
Mr. LOR Chunthy	Khmer
Mr. MEAS Voeun (2-TCW-1008)	Khmer
The President (NIL Nonn)	Khmer
Mr. SREA Rattanak	Khmer

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

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear the remaining testimony of Meas

6 Voeun in the morning, and for the afternoon session, we will hear

7 the testimony of In Yoeung, as she could not continue her

8 testimony last week due to health reasons.

9 The Chamber would also like to inform the parties that the

10 hearing of In Yoeung is scheduled for one day. However, today,

11 the morning session is dedicated to Meas Voeun, so the hearing of

12 In Yoeung testimony will continue to tomorrow morning so that we

13 could conclude her testimony.

14 Greffier, please make -- report the attendance of the parties and

15 other individuals at today's proceedings.

16 [09.07.54]

17 THE GREFFIER:

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

19 are present.

20 Mr. Pich Ang, the National Lead Co-Lawyer, is absent for personal

21 reasons.

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

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

24 been delivered to the greffier.

25 The witness who is to conclude his testimony today -- that is,

1 Mr. Meas Voeun, and his duty counsel, are present in the
2 courtroom. And the afternoon witness is Madam In Yoeung.

3 [09.08.38]

4 MR. PRESIDENT:

5 Thank you. The Chamber now decides on the request by Nuon Chea.
6 The Chamber has received a waiver from Nuon Chea, dated 3rd
7 February 2016, which states that, due to his health, headache,
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 participate in and be present at the 3rd February
11 2016 hearing.

12 Having seen the medical report of Nuon Chea by the duty doctor
13 for the Accused at ECCC, dated 3rd February 2016, which notes
14 that Nuon Chea has chronic back pain and the pain becomes severe
15 when he sits for long and recommends that the Chamber grant him
16 his request so that he can follow the proceedings remotely from
17 the holding cell downstairs. Based on the above information and
18 pursuant to Rule 81.5 of ECCC Internal Rules, the Chamber grants
19 Nuon Chea his request to follow today's proceedings remotely from
20 the holding cell downstairs via audio-visual means.

21 [09.09.50]

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

24 This applies to the whole day.

25 The Chamber now hands the floor to the Co-Prosecutors to continue

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1 putting questions to the witness.

2 And the Chamber would like to remind Mr. Meas Voeun that you
3 should listen to the questions carefully and please limit your
4 response to the scope of the question rather than to make lengthy
5 response and that may cause difficulty upon you.

6 And second, the Chamber would also like to remind the Deputy
7 Co-Prosecutor that you should make your questions short and
8 precise and make them simple so that the witness can understand
9 it. And please try to avoid the situation that occurred yesterday
10 afternoon.

11 And the allotted time -- the remaining of the allotted time for
12 the Co-Prosecutors and the Lead Co-Lawyers is one session, plus
13 15 minute. You may proceed.

14 [09.11.28]

15 QUESTIONING BY MR. DE WILDE D'ESTMAEL RESUMES:

16 Thank you. Good morning, Mr. President. Good morning, Your
17 Honours. Good morning, the parties.

18 Q. Mr. Witness, good morning. Yesterday, when we broke up, you
19 were saying that there was a plan of the Kampuchea government
20 aimed at smashing all the "Yuong" who had remained in Cambodia
21 after 1975. You say that after that plan, the "Yuong" did not have
22 the right to live in Cambodia.

23 MR. PRESIDENT:

24 Deputy Co-Prosecutor, please hold on.

25 And defence counsel for Khieu Samphan, you have the floor.

4

1 [09.12.14]

2 MS. GUISSÉ:

3 Yes. Good morning, Mr. President. I, indeed, have an objection.

4 The witness did not say that there was a government plan in

5 existence. I heard of a plan, but the witness did not say

6 "government plan" in the sentence. Furthermore, the witness

7 clearly stated that he didn't know the government policy in that

8 regard, so it is proper for the Co-Prosecutor to rephrase the

9 question.

10 BY MR. DE WILDE D'ESTMAEL:

11 Mr. President, at about 4 p.m. the witness, indeed, said, and he

12 said it in English -- I don't have the French version. He spoke

13 on several occasions of the government of Kampuchea:

14 "I didn't know the details of the policies by the Kampuchean

15 government on the issue of dealing with the 'Yvon' people."

16 I'll, therefore, try to rephrase the question.

17 [09.13.18]

18 Q. Yesterday, witness, you referred to a plan. You also talked

19 about the government of Kampuchea.

20 Where did that plan aimed at smashing all the "Yvon" within the

21 country who had refused to leave in April 1975 -- where was that

22 plan from? Whose plan was it?

23 MR. MEAS VOEUN:

24 A. I had certain knowledge about the policy of the leadership

25 toward "Yvon". We knew that there were conflicts between the

5

1 "Yuon" and the Khmer people since 1970, and from what I could
2 see, there was contradiction between the revolutionary resistance
3 of Kampuchea and the "Yuon" government. And for that reason,
4 there had always been conflicts regarding land grabbing or the
5 incursion by the "Yuon". So we had to defend the country, our
6 territory and sovereignty and not to allow the "Yuon" to invade
7 us -- that is, the external "Yuon" from their country.

8 [09.15.00]

9 Internally, we had to gather all those "Yuon" who had lived in
10 Kampuchea and they should be gathered in one place. And there was
11 no measure or plan to smash them.

12 The plan was to gather them and place them in one place so to
13 isolate them from the external "Yuon", or the "Yuon" outside, as
14 they had plans to attack Kampuchea. And that was the measure that
15 was taken.

16 There was no document or any instruction to -- in relation to the
17 smashing of the internal "Yuon" at all. However, the policy at
18 the time was to counter the attempts to invade Cambodia by the
19 external "Yuon".

20 Q. Mr. Witness, that is not what you stated yesterday at
21 15.58.04. This is what you stated:

22 "Later on, we were instructed that Vietnamese had to be smashed
23 because they did not return to their country." End of quote.

24 And I had put another question to you before that at 15.57.02,
25 and the question was as follows, and I'm quoting in English:

6

1 "Did you hear that there was a plan to eliminate the Vietnamese
2 who were living in Cambodia between '75 and '79?"

3 [09.17.06]

4 And your answer was: "Yes, I heard about that. I heard about the
5 Vietnamese living in Kampuchea. Vietnamese who lived in Cambodia
6 did intend to cause troubles to the Kampuchean people and did not
7 do an honest living." End of quote.

8 MR. PRESIDENT:

9 Witness, please hold on.

10 And Counsel Anta Guisse, you have the floor.

11 [09.17.48]

12 MS. GUISSÉ:

13 Yes. The manner in which the Co-Prosecutor is trying to clarify
14 the matter is not accurate, and I object to this manner of
15 examining the witness.

16 The witness referred to the period from 1970 to 1975, which does
17 not correspond to the period of Democratic Kampuchea. Perhaps
18 this matter should be clarified.

19 In any case, I object to the manner in which the question is
20 asked, as the Co-Prosecutor is using only part of the witness'
21 answer, who was talking about 1970 to 1975.

22 BY MR. DE WILDE D'ESTMAEL:

23 Mr. President, if I may respond.

24 What he said was clear. We have the period from 1970 to 1975 and
25 then we have the second quotation in which the witness refers to

7

1 the later period, which is "that Vietnamese had to be smashed
2 because they did not return to their country". End of quote.

3 So I'll try to put the question to the witness again.

4 [09.19.00]

5 Q. Regarding the instructions you received to the effect that the
6 Vietnamese had to be smashed because they hadn't returned to
7 their country, had those instructions been drawn up in the East
8 Zone or they came from the Centre of the Party in Phnom Penh?

9 MR. MEAS VOEUN:

10 A. I refer to the period of 1970 when there was a fighting going
11 on, so allow me to clarify.

12 I refer to the event that happened between 1970 to 1975, because
13 during these years, fighting was ongoing.

14 As for the "Yvon" who had lived in Kampuchea for a long time, had
15 to be gathered and placed in one location, and that was the
16 activity that I referred to from the period between 1970 to 1975.
17 And I did not know about the plans that happened between 1975 to
18 1979.

19 [09.20.32]

20 Q. And yet the questions that were put to you were clear.

21 The first question that was put to you was as follows: "Did you
22 hear that there was a plan to eliminate the Vietnamese who were
23 living in Cambodia between '75 and '79?"

24 And that is when you said that the Vietnamese -- or that you had
25 received instructions to crush, to smash them. My question is:

8

1 Between 1970 and 1975, were you fighting with Vietnam and had you
2 received instructions to smash the Vietnamese within Kampuchea?

3 MR. PRESIDENT:

4 Witness, please hold on.

5 And Counsel Koppe, you have the floor.

6 [09.21.18]

7 MR. KOPPE:

8 Thank you, Mr. President. Good morning.

9 The questions weren't clear at all yesterday, and I believe
10 rightfully so, Mr. President. That's why you instructed the
11 Prosecution to ask clearer questions.

12 He now clarifies the situation and he referred specifically to
13 the period between '70 and '75, which is in accordance with other
14 evidence given last week in relation to fighting with the
15 Vietcong in 1973, and he is now clearly saying that he doesn't
16 know what the policy was between '75 and '79.

17 So by saying that the Prosecution was asking clear questions
18 yesterday, I sincerely doubt that.

19 [09.22.08]

20 MR. DE WILDE D'ESTMAEL:

21 Mr. President, if I may respond, the questions were very clear.

22 Another quotation by the witness at 16.03.10 seconds is as
23 follows:

24 "I believe the Democratic Kampuchea regime, they -- the
25 Vietnamese -- were not allowed to live in Kampuchea because we

1 learned through our education about the contradiction or
2 conflicts between the 'Yuon' and Lao and Kampuchean people."

3 It was the witness himself talking of the Democratic Kampuchea
4 period. There was no ambiguity in the question that was put to
5 him, so Mr. President may I request your leave to put the
6 questions to the witness since the witness says that now we are
7 talking of the period from 1970 to 1975.

8 Can we ask him whether, between 1970 and 1975, there was a
9 conflict with Vietnam and whether he had received instructions to
10 kill or to smash all Vietnamese living in Cambodia during that
11 period?

12 [09.23.22]

13 MR. PRESIDENT:

14 The objection by the defence team for Nuon Chea is overruled and,
15 witness, please respond to the last question.

16 And the defence teams may clarify this matter with the witness
17 when you last put questions to the witness -- that is, after the
18 floor was taken by the Deputy Co-Prosecutor and the Lead
19 Co-Lawyers.

20 So witness, please respond to the last question.

21 [09.24.04]

22 MR. MEAS VOEUN:

23 A. The important thing is that "Yuon" were not allowed to live in
24 Kampuchea. However, there was no plan to smash them.

25 They had to be gathered up and sent to the upper echelon. That's

10

1 what happened between 1975 to '79 when I was at the border. I did
2 not know what happened at the rear.

3 For my part, when those "Yuon" people were captured, I would send
4 them to the upper level, but there was no plan to smash them.

5 BY MR. DE WILDE D'ESTMAEL:

6 Q. How about the instructions as regards the fact that the "Yuon"
7 did not have the right to live in Cambodia and you had to
8 assemble them and send them to the upper echelon?

9 Who issues those instructions; which echelon? Did they emanate
10 from your immediate superior or from a higher official, an
11 official at a level higher than that of your superior?

12 [09.25.26]

13 MR. MEAS VOEUN:

14 A. I received the orders from Ta Soeung, the divisional
15 commander. And when there was a situation at my end, then I also
16 reported to my divisional commander.

17 Q. Did you ever hear Pol Pot, Nuon Chea, Son Sen, Ta Mok or Khieu
18 Samphan talk about a plan aimed at eliminate the "Yuon" who
19 remained in Democratic Kampuchea between 1976 and 1979?

20 A. No, I did not meet them. They were senior leaders at the
21 higher level, and as for me, the instructions or orders I
22 received was from my divisional secretary or commander.

23 Q. When you received those orders from your superior, where were
24 you? Were you in Koh Kong or already at Preah Vihear?

25 A. I was in Koh Kong.

11

1 [09.27.18]

2 Q. And what measures were taken at Koh Kong to assemble all those
3 Vietnamese from within the country and to send them to the upper
4 echelon?

5 A. As I testified yesterday, when I went to Koh Kong, there was
6 no one there. There were no civilians or the villagers, since
7 they all had been relocated elsewhere. And the "Yuong" who came to
8 Koh Kong area were captured by us and then we sent them to our
9 divisional headquarters.

10 So when, actually, their boats encroached upon our territorial
11 waters -- I refer to both the "Yuong" and the Thai boats -- they
12 would be captured and sent to the divisional headquarters.

13 Q. I was still referring to the "Yuong" living in Cambodia between
14 1975 and 1979. I was not yet talking of "Yuong" refugees coming
15 from the sea.

16 You said the "Yuong" did not have the right to live in Cambodia
17 and that they had to be assembled and sent to the upper echelon.
18 Were those instructions communicated to the zones -- that is, all
19 the zones in Cambodia? Do you know about that?

20 [09.29.08]

21 A. I did not know about the situations at all zones. I only knew
22 about my zone and my division and, for that reason, I could not
23 speak about other divisions or other zones.

24 Q. As of which year did you receive instructions to the effect
25 that you had to assemble the "Yuong" within Cambodia and send them

12

1 to the upper echelon?

2 A. I refer to the period between 1970 to 1975. I was not based
3 inside the country. I was at the outside -- at the outskirts.

4 Q. Witness, it is your testimony that -- so therefore, is it your
5 testimony that between 1970 and 1975 you were stationed in Koh
6 Kong as deputy commander of Division 1 of the Western Zone? Is
7 that what I must understand?

8 A. From -- after 1975, I was stationed in Koh Kong for three
9 years. However, I did not live inside the country. I lived along
10 the border. And I could only attest to the information received
11 by my division. And I did not receive instructions from other
12 leaders or from other sources.

13 At that time, I did not have any means to go anywhere else due to
14 the difficulty in transport, and the only means of my transport
15 is by sea. And what I have testified is all information that I
16 received at the time.

17 [09.31.35]

18 Q. So you have just spoken about the period between 1970/1975,
19 whereas we were clearly speaking about Democratic Kampuchea and
20 about the orders that you had received regarding the "Yuon" who
21 were not allowed to live inside Cambodia.

22 So was it -- was it when you were stationed in Koh Kong that you
23 received these instructions?

24 A. Yes, I was in Koh Kong.

25 [09.32.12]

1 Q. Yesterday, you said that there were many Vietnamese people who
2 had remained after 1975 in the West Zone. And to be clear about
3 this, I will quote what you said at 3.58.04 (sic) in the
4 afternoon yesterday. The question was the following that was put
5 to you, in English:

6 "Were there many Vietnamese who hadn't returned to Vietnam and
7 who had to be smashed? For instance in the East Zone, did you
8 hear of the presence of any Vietnamese who chose to stay in the
9 country?"

10 Your answer: "Yes, there were. When they were allowed to return
11 to their country not every one of them returned. Some of them
12 remained living in Kampuchea or married with Kampuchean people.
13 The majority of them who decided to remain living in Cambodia
14 were living in Kampong Chhnang -- that is, along the riverbanks.
15 And then that's why there were later on clashes between the
16 Vietnamese and the Kampuchean people. And it also happens in the
17 West Zone.

18 And Vietnamese actually continues living in Cambodia even when
19 the Vietnamese attacked Cambodia in 1979." End of quote.

20 [09.34.00]

21 So you said that many Vietnamese people had remained in the West
22 Zone after 1975 and, in particular, people who had married Khmer
23 people. And you also said when you answered a question that was
24 put to you, the very last question, that it was easy to identify
25 the Vietnamese people because of their accents when they spoke

14

1 Khmer or because their neighbours knew that they were of
2 Vietnamese origin.

3 So the first question I have for you is the following. Did the
4 West Zone have to report to the Party Centre regarding the issues
5 of defending the territory in relation to the external as well as
6 the internal enemies?

7 A. The zone made the report to the Centre. I did not know how
8 they put in the report. I only knew what happened within my
9 division. So everything, including the instruction and plans,
10 were received by me from the division, so I did not know how the
11 report was made and submitted to the Centre.

12 [09.35.35]

13 Q. Well, fine. So you, yourself, did you attend meetings at the
14 West Zone level on a regular basis?

15 A. Not on a regular basis. I would attend that meeting once in
16 every six months since the road condition was bad.

17 Q. In the WRI E3/73 at answer 6, you said the following:

18 "Most of the time, I would report by sending telegrams to the
19 division leader within three to four months when meetings were
20 held at the zone level. Then I would travel to attend these
21 meetings." End of quote.

22 So here, you're speaking about every three to four months. You
23 said that every three to four months, you would attend a meeting
24 at the zone level in the West Zone. Can you confirm this?

25 A. Regarding the meeting that I attended, sometimes I did not

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1 come to the meeting and I would inform the one who invited me by
2 the telegram since the road condition was bad, as I said.
3 I would also be invited to the meeting once in every three to
4 four months, and on some other occasions in the -- during the
5 season that the waves were not so high in the sea, and then I
6 would be able to come to the meeting.

7 [09.37.53]

8 Q. Regarding the meetings you attended with the zone secretary
9 and probably with your superior, the head of Division 1 in the
10 West Zone, were defence issues discussed or security issues
11 discussed? Were the enemies from within also discussed as well
12 as questions of agricultural production?

13 So were all of these issues discussed during those meetings?

14 A. The content of the meeting was about, number one, the border
15 of the country and, number two, agricultural production, working
16 in the field and the target of one tonne and two tonnes in
17 respective areas. And number three, the tricks and the plans of
18 the infiltrate -- infiltrated enemies which hindered the
19 development of the country.

20 And so on some other occasion, the content of the meeting would
21 to summarize the yield of the rice production, and we also
22 informed and advised that we should not make any trouble in
23 relation to the border at the West.

24 And during the meeting, those who were responsible for their
25 respective areas, for example, in the West, in the South would

1 make the report respectively.

2 I sometimes made the report about agricultural production, and
3 other units and other divisions would report about their
4 leadership within their respective location.

5 [09.40.14]

6 Q. Well, I have questions to put to you regarding a monthly
7 report that I would like to show to you, which was addressed by
8 Office 401 to the "Beloved Angkar". This is document E3/1094.
9 This is a monthly report from July 1978 from Office 401 to the
10 attention of the Angkar.

11 So Mr. President, may I provide this document to the witness
12 which was already shown to him three years ago here in the
13 courtroom?

14 MR. PRESIDENT:

15 You have the floor, Victor Koppe.

16 [09.41.04]

17 MR. KOPPE:

18 Thank you, Mr. President.

19 Of course, I knew this was coming. I have in front of me, Mr.
20 President, the transcript of 4 October 2012 where exactly this
21 document is being shown and discussed with the witness. Then
22 there's an intervention of Judge Lavergne at 13.53 saying:

23 "Excuse me, Prosecutor. Can you ask the witness whether, as of
24 the date of that report, he was still working at Sector 38?"

25 The Prosecutor says, "I will", and then the witness says, "I was

1 gone already."

2 So we have extensively discussed this. He wasn't there, so trying
3 to do this again is repetitive.

4 [09.41.54]

5 MR. DE WILDE D'ESTMAEL:

6 Mr. President, please allow me to answer.

7 Yesterday, the witness clearly said, once or twice, in fact, and
8 many, many times in his WRIs that he left Koh Kong for Preah
9 Vihear in August 1978. This is what we can read, in particular,
10 in WRI E3/4224 (sic) at answer 19.

11 So now I would like to show this document to the witness because
12 we are dealing now with a new segment. We are in Case 002/02, and
13 we're speaking about the Vietnamese. And based on the answers
14 that he provided to us yesterday a little bit before 4.00 in the
15 afternoon, I think it's perfectly appropriate to put to him
16 further questions with relation to the content of this document.

17 So may I please provide this document to the witness and put
18 questions to him regarding this document?

19 [09.42.54]

20 MR. PRESIDENT:

21 The objection put by the defence team for Mr. Nuon Chea is
22 overruled. The question is allowed to put -- to be put to the
23 witness.

24 BY MR. DE WILDE D'ESTMAEL:

25 Q. Well, so in this report, witness, on page 8 in French, that is

18

1 to say 00593530; Khmer, 00143610; English -- it's on page 7 --
2 00315374. And there is a heading that describes or that speaks
3 about Region 37. And then there is a description of infiltrated
4 enemies.

5 And I wanted to quote something from this report, but I see that
6 the Defence wants to object.

7 MS. GUISSÉ:

8 Yes, Mr. President.

9 Even if this document can be used, proper procedure, well, should
10 -- first should be to know if the witness remembers such a
11 report. Of course he can present him with the content of the
12 report, but first it's important to know if he is aware of the
13 existence of such a report with an essential question before we
14 start discussing the contents.

15 [09.44.30]

16 MR. DE WILDE D'ESTMAEL:

17 I'm not sure, Mr. President, that this is particularly useful.

18 The Defence, yesterday afternoon, put questions all the time
19 without putting any open question and even quoted segments from
20 testimonies without asking any prior open questions. My time is
21 counted, so I'd like to only put questions regarding one specific
22 passage.

23 I think he already answered, in fact, these questions three years
24 ago.

25 MR. PRESIDENT:

1 If one party across the -- across the other side committed an
2 error, so the other party should not repeat the error. So some
3 specific question could be allowed to be put to the witness after
4 the open question, and it is not the practice to ask any specific
5 question first before the open questions.

6 [09.45.44]

7 BY MR. DE WILDE D'ESTMAEL:

8 Q. Witness, I'm going to only put one question to you.

9 So did you ever see this report or have you ever seen this kind
10 of report coming from the West Zone? Were you ever apprised of
11 such a report when you were stationed at Koh Kong and when you
12 attended on an occasional basis meetings at -- in the Western
13 Zone?

14 MR. MEAS VOEUN:

15 A. No, I was not aware of that. There were no reports about what
16 you described in the meetings.

17 And when I was working at the Western Zone, I have never received
18 that report.

19 Q. Well, I will -- I still would like to confront you with this
20 report because, earlier, you told us that, in reality, contrary
21 to what you said yesterday, there was no plan to eliminate all of
22 the Vietnamese, but there were instructions to gather them in one
23 specific place only. And this is what the report states at the
24 ERNs that I just mentioned:

25 [09.47.05]

20

1 "Regarding the purges carried out against the Vietnamese and
2 regarding -- carried out against the CIA agents and carried out
3 against the bad elements, point 1, we have eliminated 100
4 Vietnamese people, old and young, big and small."
5 And in English, to be sure that there is no confusion, "100
6 ethnic 'Yvon', included small and big, adults and children." End
7 of quote.

8 Witness, how can you explain, therefore, that the West Zone would
9 report on the smashing of 100 Vietnamese people, whereas you have
10 just told us that the instructions were only to gather them in
11 one specific place?

12 MR. KOPPE:

13 I object again, Mr. Witness -- Mr. President. Excuse me.
14 It is very disingenuous. We have established in October 2012 that
15 he was gone already, so he doesn't have anything to say about
16 that report. I don't know why the prosecutor is revisiting this
17 again. It is very repetitious. We have dealt with this issue, and
18 this question should not be allowed.

19 [09.48.30]

20 MS. GUISSÉ:

21 And to complete what my colleague has just said, we have just
22 heard from the witness today that, during that period when he was
23 in Koh Kong, he was only able to speak about what was happening
24 in the maritime -- at the maritime border and in his division. So
25 today, confronting him with the report whose content he is

21

1 unaware of regarding elements that he knows about, whereas he
2 said that he did not know what was going on inside the country is
3 useless.

4 So I think that it is pointless to continue putting questions to
5 the witness about a document he cannot provide any clarifications
6 to.

7 [09.49.13]

8 MR. PRESIDENT:

9 The Chamber again overrules the objection by the defence counsel.
10 The Chamber is informed by the party that this witness left Koh
11 Kong in 1978, and after four months from 1978, the regime of
12 Khmer Rouge fell. So the question was meant to ask about the
13 presence of this witness in the Western Zone.

14 Number two, the witness testified clearly about the plan to smash
15 Vietnamese on Mekong River, and that happened -- that testimony
16 was given by the witness yesterday.

17 Co-Prosecutor, you can repeat your question again to the witness.

18 BY MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President.

20 Q. So my question was: Witness, how can you explain that the Zone
21 West would report to the Party Centre about the fact that they
22 had smashed 100 Vietnamese people, people of Vietnamese origin,
23 whereas you have told us this morning that, in reality, the
24 instructions were to gather them only in one single place?

25 [09.50.50]

1 MR. MEAS VOEUN:

2 A. I was not aware of the report you described. If I had known, I
3 would have been able to understand and also I can answer to your
4 question.

5 The zone never sent back the feedbacks to me in response to my
6 reports. Usually, the zone would forward it -- would forward the
7 report up the line. So I did not know about what type -- what was
8 -- what the content was in the report after my report had been
9 submitted to the zone.

10 Q. Well, since I'm discussing this report, there is another
11 passage that I would like to focus on. But before that, I'm going
12 to ask one or two open questions.

13 Do you -- did you know during the DK period because you were in
14 the West Zone that an airport was being built in Kampong Chhnang?

15 A. Yes, I was aware of the construction, but I, myself, did not
16 go to Kampong Chhnang. I heard of the construction taking place
17 and I was aware that there was that kind of construction in the
18 area.

19 [09.52.40]

20 Q. And did this worksite depend directly on the Party Centre or
21 fell under the jurisdiction of the West Zone?

22 A. I have no knowledge of it. I do not know whether that -- those
23 worksites were under the control of the Party Centre or the zone.

24 Q. Did you learn in one way or the other that soldiers had been
25 punished or sent to that worksite in Kampong Chhnang to be

1 re-educated?

2 A. I do not know about that.

3 [09.53.46]

4 Q. And another question regarding the West Zone. On page 1 of the
5 document that I just provided to you, so if you go to the first
6 page, in Khmer -- and maybe -- well, it's page 1 in English, page
7 1 in French, and 1 and 2 in Khmer.

8 In the area of Kampong Chhnang, that -- "Sector Kampong Chhnang",
9 that is the heading. Then I quote: "The activities of the hidden
10 enemy burrowing from within: It's still on the night of 24/7/78
11 while, at 1.30 at night, three enemies were escaping from the
12 airport location, our defence units shot at them and arrested two
13 enemies."

14 And in this same report, there are two other incidents mentioned
15 describing enemies trying to escape from the Kampong Chhnang
16 Airport.

17 So were you aware of these escape attempts from the construction
18 site of Kampong Chhnang Airport?

19 A. I do not know about that.

20 [09.54.58]

21 Q. Now I'd like to turn back to the quotation regarding Vietnam
22 in -- the situation concerning Vietnam. In 1977-1978, did you
23 ever hear people describe Vietnam as "enemy number one of
24 Democratic Kampuchea"?

25 A. I heard of it. I heard of people say about that. And the

24

1 situation at the border encountered clashes.

2 Q. Did you also hear during the DK period that the Vietnamese,
3 whether they be from within or from outside of Cambodia, were
4 hereditary -- the hereditary enemies of the Khmer?

5 A. I heard of it. Everyone heard of it, that they were hereditary
6 enemies.

7 [09.56.22]

8 Q. Since these were hereditary enemies, were the soldiers in
9 Division 1 of the West Zone and those of Division 164 with whom
10 you were working in Koh Kong -- were they obliged to treat all
11 Vietnamese people as enemies regardless of their age, sex or
12 status as civilians or servicemen?

13 A. It was not Division 164. It was Division 1. Division 1 was
14 stationed at Koh Kong.

15 So I observed that soldiers regarded those people as enemies
16 since the fightings were -- was ongoing. So we were -- we
17 considered those people enemies, since there were fightings.

18 Q. And because there were clashes with Vietnam, were the
19 Vietnamese, including the refugees on their boats, considered
20 enemies?

21 [09.58.15]

22 MR. PRESIDENT:

23 Please hold on, Mr. Witness.

24 You have the floor now, Anta Guisse.

25 MS. GUISSÉ:

1 Yes. I object to this question because he is pretending that he
2 doesn't remember that, yesterday, the witness clearly indicated
3 that the refugees were not considered enemies. He said it
4 clearly, and he explained that at length. And he also said that
5 they were in a wartime situation.

6 So I object to the question put by the Co-Prosecutor.

7 [09.58.48]

8 BY MR. DE WILDE D'ESTMAEL:

9 If I remember correctly, Mr. President, he said that, according
10 to his point of view, he did not consider them enemies, but he
11 did not know what would happen to them once they were transferred
12 to Kampong Som, but that's not a problem. Let me proceed
13 otherwise.

14 Q. Now, regarding these hereditary enemies, I would like to read
15 out what Witness 2-TCW-1000 said of Division 164 in his WRI
16 E319/23.3.44. And this is what he said in answers 31 to 33, and I
17 quote -- and we're speaking here about the arrests of Vietnamese
18 on their boats. So the question was the following:

19 "According to you, was it a good thing or not a good thing to
20 execute all of the people who had been arrested?"

21 The witness' answer: "I think that it was not at all a good thing
22 because these people were innocent. They were fleeing war to save
23 their lives. That's all. However, in the eyes of the Khmer Rouge
24 from that period, the Vietnamese were hereditary enemies without
25 any distinction."

1 [10.00.12]

2 Answer 32: "Contrary to the Thai, the Vietnamese had more
3 antagonisms. This is why the Khmer Rouge considered the
4 Vietnamese as enemy number one as well as hereditary enemies."

5 Question 33: "How is it that you know that?"

6 Answer: "Because the battalion and regiment chiefs studied with
7 the division, and when they returned from their studies, they
8 spoke to us about all of this during a training session." End of
9 quote.

10 So what is your reaction, witness, in relation to what this
11 witness is saying regarding the fact that the Vietnamese were the
12 hereditary enemies of the Cambodians and that they were more
13 hated by the Khmer than the Thai?

14 [10.01.12]

15 MR. PRESIDENT:

16 Please wait, Mr. Witness. You have the floor now, Mr. Koppe.

17 MR. KOPPE:

18 Thank you, Mr. President. I object to this question.

19 You might recall that, last week or the week before, the
20 Prosecution was continuously objecting to my line of questioning
21 because I was using selectively evidence. Now the Prosecution is
22 doing the exact same thing because the witness is being read to
23 evidence coming from one soldier, lowest-ranking soldier from
24 Division 164 whereas, at the same time, there's evidence from two
25 company commanders at least within Division 164 who say the

1 opposite thing.

2 So the Prosecution should, like the Defence, be complete when
3 confronting the witness with that evidence.

4 [10.02.12]

5 MR. DE WILDE D'ESTMAEL:

6 I think this objection is completely out of place. Yesterday, we
7 heard the Defence precisely use those two testimonies. We didn't
8 object to that. And for the past 40 minutes, practically all the
9 questions have been asked, have been objected to.

10 May I request your leave to continue, Mr. President?

11 MR. PRESIDENT:

12 The objection by the defence counsel for Nuon Chea is overruled.
13 Witness, please respond to that question. Actually, an open
14 question has been asked, so you can respond despite the
15 interruption by the defence counsel.

16 [10.03.08]

17 BY MR. DE WILDE D'ESTMAEL:

18 Q. My question was: What was your reaction to what the witness
19 said regarding the fact that the Vietnamese felt more antagonism
20 with the Khmer than with the Thai and that they were there for
21 the hereditary enemies of the Cambodians?

22 MR. PRESIDENT:

23 Deputy Co-Prosecutor, please rephrase your question. You cannot
24 put such a question to him. This is an ordinary witness, and he's
25 not an expert witness.

1 What you can do is that you seek reaction from the witness, and I
2 believe you have been in this courtroom for several years. Please
3 adhere to our practice.

4 Please try not to go around the current practice before this
5 Chamber. And you should know the technical limitation in the
6 proceedings before this Chamber.

7 [10.04.25]

8 MR. DE WILDE D'ESTMAEL:

9 Yes, Mr. President. I have, indeed, asked the witness to present
10 to us his reaction in relation to the testimony read by the
11 witness, who referred to the Vietnamese being the hereditary
12 enemy of the Cambodians and that the Vietnamese felt more
13 antagonism with the Khmer than with the Thai.

14 MR. MEAS VOEUN:

15 A. I cannot provide you any comparison between the Thai and the
16 Vietnamese people. If you ask me questions about the Thai people,
17 I can speak about the Thai people, or if you ask me about the
18 Vietnamese people, I can do that, but I cannot do the comparison
19 between these two groups of people.

20 [10.05.35]

21 BY MR. DE WILDE D'ESTMAEL:

22 Q. At the hearing of the 16th of December 2015, document
23 E1/369.1, the same witness, at 13.54 said the following regarding
24 the contents of the training sessions with the head of the
25 Regiment 140, Saroeun, and the head of the battalion regarding

29

1 the hereditary enemies. My question is as follows:

2 "What did they tell you? What did the instructors tell you
3 regarding the Vietnamese as the hereditary enemy?"

4 Answer: "We were instructed to kill them even if they were babies
5 because they were our hereditary enemy, so we had to kill them.
6 Each battalion was, therefore, under the responsibility to
7 execute that order." End of quote.

8 And we're talking of Division 164. What was your reaction to
9 that?

10 [10.07.02]

11 MR. MEAS VOEUN:

12 A. Allow me to speak a little bit about the so-called hereditary
13 enemy.

14 It's been well known that the Khmer and the "Yuong" people had
15 been enemies for a very long time ago, since before I was born.
16 Personally, I have a view about the enemy who is holding gun and
17 firing upon us and, on the other side, there were those "Yuong"
18 -- that is, the ordinary "Yuong" people.

19 In the past, if I considered all the "Yuong" enemy, I would have
20 smashed them at the sea when we captured them. But we -- I did
21 not do that. I sent them to the upper level, and whatever
22 measures the upper level did, that was their authority.

23 Those "Yuong" that we captured, they were not soldiers. They did
24 not bear arms, so they were not considered the enemy, and they
25 were considered ordinary people who tries to find a better place

30

1 to live.

2 [10.08.43]

3 Q. Very well. Let me read out to you, then, what you stated in
4 E319/23.3.32, questions/answer number 8. This is what you said --
5 you stated, and I quote:

6 "Normally, when we approach one boat or another to intercept it,
7 we had to bring our boats closer to the boat in question and our
8 soldiers were ready to jump into sea to get to the boat.

9 Generally, those who were on board the boats jumped into the
10 water and we eliminated the rest of them." End of quote.

11 So you told the Investigating Judges that, on certain occasions,
12 the people on the boats you intercepted, whether they were Thais
13 or Vietnamese, were actually not handed to the headquarters, but
14 eliminated.

15 Can you specify what you meant when you said, "As for the rest of
16 them, we eliminated them"? When you say "you", who are you
17 referring to; Division 10 or Division 64?

18 [10.10.15]

19 MR. PRESIDENT:

20 Witness, please hold on.

21 And defence counsel Anta Guisse, you have the floor.

22 And I heard through the Khmer channel that there was Division 10.

23 In fact, there was none. There was only Division 1.

24 MR. DE WILDE D'ESTMAEL:

25 Yes, I indeed referred to Division 1.

1 MR. PRESIDENT:

2 And defence counsel, you have the floor.

3 [10.10.52]

4 MS. GUISSÉ:

5 Thank you, Mr. President.

6 If we are, indeed, dealing with document E319/23.3.32, it is
7 question/answer number 8. Is that it?

8 In that case, I would object to the manner in which the question
9 is being put to the witness by the Co-Prosecutor because in that
10 answer, the witness, indeed, made the distinction between
11 civilian boats and military boats. And he states in the same
12 answer before approaching one boat or the other, as a general
13 rule, we had to verify whether it was a civilian or -- civilian
14 fishing boat or a military boat.

15 So to present the situation as if they are dealing with just
16 about any boat is not correct, and that distinction was not made
17 between civilian and military boats. That is not accurate on the
18 part of the Co-Prosecutor.

19 [10.11.52]

20 BY MR. DE WILDE D'ESTMAEL:

21 Indeed, I was wrong in referring to the answer. It's answer
22 number 9.

23 The witness was shown a document and, at the end of answer number
24 9, he said:

25 "Usually, when we approached to capture a boat, we first had to

1 pilot our motorboats alongside that boat. Then our sailors were
2 always on full alert ready to board the fishing boat. In general,
3 the people on the first fishing boat went into the sea and we
4 would smash those who remained on the boat."

5 Q. Witness, can you clarify the circumstances under which people
6 in certain boats jumped into the water and the rest of the people
7 were eliminated by the forces that intercepted the boat?

8 My question to you, first of all, is this. Were these soldiers of
9 Division 1 or Division 164 who were responsible for eliminating
10 the remaining occupants of those boats you referred to?

11 [10.13.10]

12 MR. MEAS VOEUN:

13 A. Allow me to respond to this question based on my knowledge.
14 The Thai fishing boats actually entered our territorial waters to
15 catch fish. Then we would send our patrol team to see whether
16 there was only a single fishing boat or whether the fishing boat
17 were accompanied by warships, and we actually sent a patrol boat
18 to inspect the situation and not a vessel or ship. However, we,
19 the crew on the boat, were armed.

20 Although it was a civilian fishing boat, they had weapons and
21 they fired upon us. And in that instance, we retaliated. We
22 returned fire.

23 Although they were -- that boat was not escorted by a warship,
24 the crew on that boat had weapons, and they fired upon us. So
25 then we navigated our boat alongside their boat, then we boarded

1 their boat. And that's when some of their Thai crew jumped into
2 the water. And they actually were hiding near the motor under the
3 water, and then we actually towed that boat to the port. However,
4 the boat sank before we reach the port.

5 [10.15.16]

6 And there were also some crew who remained on the boat and jumped
7 into the water.

8 So actually, boats -- our boat and the Thai boat sank, and we all
9 fell into the water, so we had to swim to the island. And that's
10 what happened.

11 And I did not know about such a similar event with Division 164.

12 MR. DE WILDE D'ESTMAEL:

13 Mr. President, at this stage, I see that I still have questions
14 to put to the witness. I would like to leave a quarter of an hour
15 to the civil party lawyers. May I request you to grant me 15
16 minutes to complete my examination of this witness regarding this
17 theme, which is very important?

18 It would be unfortunate if this witness were to leave without
19 being examined properly by us in this particular line of
20 questioning, so may I ask you to grant me 15 additional hours
21 (sic), Mr. President?

22 Fifteen additional minutes, Mr. President. I beg your pardon.

23 [10.16.39]

24 MR. PRESIDENT:

25 This morning, the Chamber actually advised you that for the two

34

1 teams, you will have only 15 minutes for the second session this
2 morning, and do you wish to ask for additional time beyond the 15
3 minutes for the second session?

4 MR. DE WILDE D'ESTMAEL:

5 Yes, indeed, Mr. President, an additional 15 minutes, notably
6 because we faced lots of objections this morning and they have
7 slowed down our examination of this witness.

8 MR. PRESIDENT:

9 Yes, your request is granted.

10 We have a short break, and we will resume at 10.30 to continue
11 our proceedings.

12 Court officer, please assist the witness at the waiting room
13 reserved for witnesses during the break time and invite him as
14 well as his duty counsel back into the courtroom at 10.30.

15 The Court is now in recess.

16 (Court recesses from 1017H to 1034H)

17 MR. PRESIDENT:

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

19 And again, the floor is given to the Deputy Co-Prosecutor and the
20 Lead Co-Lawyers for civil parties. You may proceed, Deputy
21 Co-Prosecutor.

22 BY MR. DE WILDE D'ESTMAEL:

23 Thank you very much, Mr. President.

24 Q. You said yesterday that, in the end, there were very few

25 Vietnamese refugee boats that ended up close to Koh Kong. And you

1 said that they probably had swayed and got lost and ended up
2 there.

3 So I would like to confront you with what you said to DC-Cam
4 regarding this matter because you spoke about hundreds of
5 Vietnamese people. And at DC-Cam, E3/8752 on page 26 in English
6 and 28 and 29 in Khmer, you said the following:

7 [10.35.55]

8 "They were only Vietnamese people fleeing by boats and small ship
9 through our passage. There were hundreds of them. They fled to
10 Thailand in order to go to the United States."

11 A little further: "They fled after they were defeated by North
12 Vietnam, so they crossed our sea to travel to Thailand. We
13 arrested them and sent them to Kampong Som. Then they negotiated
14 for their arrests. I did not know where those people were from.

15 Question: "Where were they sent to?"

16 Answer: "The general staff office in Kampong Som. I did not know
17 how they dealt with them." End of quote.

18 You said in this excerpt that there were hundreds of Vietnamese
19 people who were fleeing their country. When you speak about
20 hundreds of people -- so when you speak about hundreds of people,
21 do you mean those who had been arrested near Koh Kong or are you
22 speaking in more generic terms about people who might have been
23 intercepted in other places along the Cambodian coast? So can
24 you be more specific about this?

25 [10.37.49]

1 MR. MEAS VOEUN:

2 A. There were Vietnamese living at the islands. Even Khmer people
3 did not live at those islands.

4 Those Vietnamese people, they fled Vietnam. I don't know whether
5 they fled from Kaoh Trol island or maybe from the mainland, and
6 they actually fled by using smaller boats with smaller horse
7 powers, could be 30 horsepower or 40 horse powers. And on each
8 boat, there could be 10 to 15 people. And my statement referred
9 specifically to these people.

10 Q. Did you ever receive any instructions from your superiors
11 telling you to be wary about the fact that possible spies might
12 be hidden among these refugees?

13 A. No, I did not receive such an order. However, we had to be
14 vigilant and we had to use the strategies within our unit.

15 [10.39.28]

16 Q. Yesterday, you said or suggested that because these were
17 Vietnamese refugees, you did not perceive them as enemies or at
18 least you, yourself, did not perceive them as enemies.

19 So therefore, why was it necessary to arrest them?

20 A. That was the rules and regulations of each sovereign country.
21 Of course, it would not be possible for any foreign elements to
22 walk freely in one sovereign country or to enter its sovereign
23 territorial waters.

24 Q. In the excerpt that I just read out, you spoke about hundreds
25 of Vietnamese refugees and you said that you had arrested them,

1 so do you confirm that it was Division 1 -- the forces of
2 Division 1 that arrested these hundred or so Vietnamese to bring
3 them to Kampong Som?

4 A. Yes, it was Division 1 who captured them and sent them to
5 Kampong Som.

6 [10.40.55]

7 Q. I have a last line of questions. You said that in Koh Kong you
8 had brought 2,700 soldiers with you who were under your
9 leadership and then that figure turned to 1,700 and you also said
10 that the civilian population of the surroundings and along the
11 coast and in the islands had been evacuated inland and you also
12 specified yesterday that you had no women among your troops -- no
13 women under your orders in Koh Kong, so my question is the
14 following: After the five-year war against the Lon Nol army, were
15 many soldiers in your Division 1 single and in age to be married?

16 A. Yes, it was a mixture. There were those who were that and who
17 got married.

18 [10.42.07]

19 Q. And were marriages within Division 1 encouraged by your
20 superiors, whether it be Ta Soeung, Ta Si or Son Sen?

21 A. Yes, he actually organize those marriages if they were about
22 20 years old and actually, he brought some women from his office
23 for those who intended to get married.

24 Q. I will get back to that, but did you hear or did you learn
25 through publications like "Revolutionary Flag", did you learn

1 that the Party wanted to quickly increase Cambodia's population;
2 in particular, because Vietnam was much more populated than
3 Cambodia?

4 A. Yes, I heard about that.

5 Q. And was this drive to have the troops get married have
6 anything to do with this will to increase Cambodia's population?

7 A. Yes, that is correct.

8 [10.44.06]

9 Q. And were you obliged to draw up lists of soldiers in your
10 regiment who wished to get married?

11 A. Yes, we did.

12 Q. You said that there were no women in your region, nor in the
13 ranks of Division 1 and that there were no civilians close by, so
14 how was it then possible to marry the soldiers if there were no
15 women close by? You said earlier that Ta Si had brought in women
16 from his office, so did I understand you correctly?

17 A. It was not from Ta Si's office; it was from the division.
18 Actually, there was one big female unit attached to the division.

19 [10.45.23]

20 Q. And was the number of women in that unit enough for each male
21 soldier in Division 1 to get married or was it necessary for
22 other women coming from elsewhere to come to get married to these
23 soldiers?

24 A. No, there were not enough; however, it was gradually
25 organized.

1 Q. So did the women coming from the outside know the soldiers
2 that they were going to marry?

3 A. I knew some of them.

4 MR. DE WILDE D'ESTMAEL:

5 Thank you. I have no further questions. I'm going to give the
6 rest of my time to the civil parties. Thank you, Mr. President.

7 MR. PRESIDENT:

8 Lead Co-Lawyer, you may proceed.

9 [10.46.56]

10 QUESTIONING BY MR. LOR CHUNTHY:

11 Thank you, Mr. President. Good morning, Your Honours. Good
12 morning everyone in and around the courtroom and good morning,
13 Mr. Witness.

14 My name is Lor Chunthy. I'm a lawyer for civil parties and I'm
15 from the Legal Aid of Cambodia organization.

16 Q. I have some questions to put to you in reference to your
17 personal experience from 1975 to 1979.

18 My first question is the following: You stated that immediately
19 before the fall of Phnom Penh, you actually led your troops to
20 attack Phnom Penh; can you tell the Chamber from which directions
21 that you spearheaded your troops?

22 [10.48.15]

23 A. Allow me to respond to your question in relation to the attack
24 in Phnom Penh in 1975. There was only a division of the Southwest
25 that attacked from the west direction. Actually, we entered

1 through Pochentong, Ou Baek K'am, and Stueng Mean Chey. Here I
2 refer to Division 1.

3 [10.49.08]

4 Q. And when your division advanced to Phnom Penh through these
5 three locations, were you actually stopped advancing in Phnom
6 Penh before you met with other divisions from other directions?

7 A. I received an order from the division secretary that Division
8 1 advanced through the three directions that I have mentioned and
9 I also heard that from the north direction -- that is, there was
10 a troop -- a group that enters through the east and there was
11 also another group entering through the north direction. However,
12 there were several other small spearheads and that the rendezvous
13 point was the headquarters.

14 Q. So when you made a rendezvous with other forces, who actually
15 gave the order for your division to withdraw?

16 A. After we made a rendezvous with other forces, my unit was
17 instructed by Ta Mok to withdraw to the outskirts and that order
18 from Ta Mok was relayed through Ta Soeung, the divisional
19 commander.

20 [10.51.32]

21 Q. Allow me to backtrack a little bit -- that is, when you
22 withdrew the troops from Phnom Penh. You testified that you did
23 not know about the orders for the evacuation of Phnom Penh
24 dwellers. My question to you is: Did you see those people leaving
25 the city and did you ask whether they received any specific

1 instructions to do so?

2 A. After the order for my unit to withdraw, we actually withdrew
3 ourself to be stationed at Ou Baek K'am, then at a point on the
4 National Road Number 3 and Number 4 and we remained in this
5 location for about a week. I said for about a week since I was
6 not really sure of how many days we were.

7 [10.53.00]

8 Then we saw people leaving the city and I asked them the reason
9 for leaving and I -- they told me that they were instructed by
10 Angkar to leave the city; for that reason, they had to go, and
11 that was the only information that I learned from the people. I
12 asked them whether they actually -- they were actually leaving
13 the city voluntarily, but they said no, they were leaving the
14 city per instruction from Angkar.

15 Some of them were walking and while others were driving their
16 cars or on rickshaws or on pushcarts. Then they went and they
17 passed me and we did not stop them at all. That's all I can say
18 about that event.

19 Q. And allow me to backtrack a little bit further: Before your
20 unit actually entered Phnom Penh, was there any order from the
21 upper level to your unit that you had to advance to Phnom Penh?
22 Was there any meeting held where instruction for the advancement
23 to Phnom Penh was announced?

24 [10.54.44]

25 A. Through my limited knowledge by my division, it was likely

1 that my division had held a meeting with other leaders and later
2 on, we were informed by our division for the advancement to Phnom
3 Penh and we determined that the 18th of April was the day that we
4 had to achieve our complete victory in Phnom Penh and that the
5 "Yuon" would not have time to counter our attack.

6 And I received such an order from my division; I, myself, did not
7 attend any meeting with other senior leaders. And the plan was to
8 actually attack and take a full control of Phnom Penh on the 18th
9 but, in reality, we actually took control on the 17 of April.

10 MR. PRESIDENT:

11 Lead Co-Lawyer, in fact, your question may be related to the
12 scope of 002/01 which was already concluded. Here we are having a
13 different scope for the proceedings in Case 002/02 and it may be
14 a waste of time. Only a limited number of questions were allowed
15 in relation to the scope and as you observed, there were several
16 objections from other parties on the other side of the Bench in
17 relation to the questions which are outside the scope of Case
18 002/02.

19 [10.56.52]

20 BY MR. LOR CHUNTHY:

21 Thank you, Mr. President.

22 Q. I'd like now to refer to Document E3/73 and my question to you
23 is: Were you aware of the establishment of a security centre at
24 Prey Nob?

25 MR. MEAS VOEUN:

1 A. I only heard about that, but I, myself, never went to that
2 area. I heard a combatant spoke about it.

3 Q. In reference to that document, you made mention of the two
4 meetings that you attended in Kampong Chhnang; can you tell the
5 Chamber who, from the senior leadership, attended the two
6 meetings and what were the contents of the meetings?

7 A. From my recollection, I never went to Kampong Chhnang
8 province; however, I attended a meeting once at Anlong Veang.

9 [10.58.42]

10 Q. You said you attended a meeting in Anlong Veang and, of
11 course, Anlong Veang was part of Kampong Chhnang. Can you tell
12 us about the meeting -- that meeting; were there any senior
13 leaders who attended that meeting?

14 A. For the meeting at Anlong Veang, there were Ta Si; Ta Soeung
15 -- that is, my divisional commander; and there was Pol Pot, who
16 were the senior leaders in that meeting.

17 Q. In another document -- that is, E3/80, you provided a
18 statement in relation to question/answer 16. You spoke about a
19 congress in the West Zone; can you tell the Chamber a bit more
20 about that congress?

21 A. Yes, there was a West Zone congress. It was held once at the
22 coconut plantation or Chamkar Doung in Khmer.

23 [11.00.45]

24 Q. Did you personally attend that congress; if so, how long did
25 that congress last?

1 A. I attended the congress and it lasted for about a week or a
2 bit more.

3 Q. Can you tell the Chamber the main contents that were discussed
4 during that congress?

5 A. The congress discussed the issues of strengthening the core
6 leadership and the rice production. It also discussed the issue
7 of defending the country.

8 MR. PRESIDENT:

9 You run out of time, Mr. Lawyer for civil parties. Now, the floor
10 is given to the defence team for Mr. Khieu Samphan to put
11 questions to this witness or to the other defence counsel if you
12 want to put question. You have the floor now.

13 [11.02.39]

14 QUESTIONING BY MS. GUISSÉ:

15 Yes, thank you, Mr. President. I will start as we proceeded the
16 last time. If there's any time left and my colleague has some
17 additional questions, I will allow him to do so.

18 Q. Good morning, Mr. Meas Voeun. My name is Anta Guisse. I am
19 International Co-Counsel for Mr. Khieu Samphan and in this
20 capacity, I have a few supplementary questions to put to you.

21 For a start, I am particularly interested in the period during
22 which you worked at Koh Kong -- that is, from 1975 to 1978.

23 Yesterday, on several occasions, you stated that during the three
24 years you spent at Koh Kong, you did not arrest any Vietnamese
25 fishing boats and that the only boats you personally had to deal

1 with were refugee boats; did I properly understand your
2 testimony?

3 MR. PRESIDENT:

4 Please wait, Mr. Witness. You have the floor first, International
5 Co-Prosecutor.

6 [11.04.04]

7 MR. DE WILDE D'ESTMAEL:

8 I am not sure I am following exactly what has been said. It would
9 be simple or simpler to quote the passage and give us the time
10 when the witness said that, bearing in mind that the witness gave
11 other details, including the passage I read out some time ago,
12 regarding several WRIs regarding Vietnamese boats. And I would
13 like to say that about hundreds of Vietnamese were sent to
14 Kampong Som, so if you rephrase your question to avoid leading
15 the witness, that'd be better.

16 BY MS. GUISSÉ:

17 For the time being, I am not yet dealing with the persons who
18 were sent by the witness; I'm talking of the types of boats the
19 witness dealt with. I'm talking of the transcript of yesterday at
20 -- of 2.20 (sic).

21 Q. Witness, did I properly understand your testimony when you
22 said that during your stay in Koh Kong, you personally contacted
23 only refugee boats? If that is correct, say so; if it's not
24 correct, I stand corrected.

25 MR. MEAS VOEUN:

1 A. I have never encountered ships, but boats.

2 [11.05.45]

3 Q. Excuse me, could you please repeat your answer; we did not get
4 any interpretation of that answer?

5 A. You asked me whether I have -- I had encountered the
6 Vietnamese on sea; in fact, at the time, I encountered the
7 motorboats, not the big ships.

8 Q. My question was whether during the three years you spent in
9 that era, you only encountered refugee boats or you also
10 encountered fishing boats.

11 A. You want to know whether those boats belonged to Thai people
12 or Vietnamese people, so if you asked me about the Vietnamese
13 fishing boats, I would give my answers accordingly, but if you
14 want to ask about Thai boats, then I can provide you a different
15 answer.

16 [11.07.13]

17 MR. PRESIDENT:

18 The question is that whether, at the time, you have encountered
19 the fishing boats together with the boats with the Vietnamese
20 refugee on them.

21 MR. MEAS VOEUN:

22 In fact, I never saw the fishing boats, but the boats loaded --
23 loading the Vietnamese refugees.

24 BY MS. GUISSÉ:

25 Q. A while ago, the Co-Prosecutor referred to your interview with

1 DC-Cam dealing precisely with that encounter with refugee boats.
2 I would like you to tell the Chamber whether you do remember
3 whether after you handed the people to the headquarters and you
4 said that was the procedure, do you know whether there were any
5 negotiations with a view to liberating those refugees?

6 MR. MEAS VOEUN:

7 A. Regarding the refugees I had sent to the headquarter in
8 Kampong Som, I did send them to the headquarter but, afterward, I
9 did know what happened to those people and what steps were taken.

10 [11.08.54]

11 Q. In DC-Cam document E3/8752; ERN in English, 00849511; ERN in
12 Khmer, 00733340; and I'll quote in English in order to refresh
13 your memory. This is the first answer you gave:

14 "After they were defeated by North Vietnam, so they crossed our
15 sea to travel to Thailand. We arrested them and sent them to
16 Kampong Som. Then they negotiated for their arrest. I did not
17 know where those people were from."

18 Question: "Where were they sent to?"

19 Answer: "The general staff office."

20 Question: "Where was the general staff office?"

21 Answer: "The general staff office was in Kampong Som. I did not
22 know how they dealt with them; we just sent them up. It was up to
23 them to negotiate and release them. I did not know foreign
24 affairs and how they negotiated." End of quote.

25 [11.10.36]

1 So my question to you, in light of what you told DC-Cam, is as
2 follows: Without knowing the precise details of what happened at
3 the headquarters, did you hear of any negotiations that were
4 conducted when people were arrested at sea?

5 A. I did not receive any news regarding the issue.

6 Q. You stated that you -- during the three years you spent at Koh
7 Kong, you personally received orders from Ta Soeung and
8 sometimes, when he wasn't there, you received telegrams from Son
9 Sen; did I properly understand your testimony?

10 A. Yes, that is correct.

11 Q. Do you know whether during Ta Soeung's absence, he happened to
12 go to attend meetings in Phnom Penh?

13 A. He did not tell me if he had gone -- he had to go to Phnom
14 Penh. He only advised me that if in the -- in his absence, my
15 report should be submitted to the headquarter.

16 [11.12.35]

17 Q. You stated that when you arrested boats of refugees on the
18 seas, you would send them to the headquarters; who had issued the
19 orders to you to send those refugees to the headquarters to the
20 upper echelon?

21 A. He gave me instructions before that happened and he -- the
22 instruction was to send those people to Kampong Som, so what I
23 did was in accordance with his instructions.

24 Q. Yes, my question was: Who issued those instructions to you;
25 was it Ta Soeung?

1 A. Ta Soeun (phonetic).

2 Q. I'm sorry about the pronunciation, but we agree that it was
3 the commander of your division who issued that order to you?

4 A. That is true.

5 [11.14.00]

6 Q. Did he tell you whether that order came from Son Sen?

7 A. He did not tell me that the order had come from Son Sen; what
8 I received was to -- the order that I received was to send them
9 to Kampong Som.

10 Q. In answer to a question put to you by the Co-Prosecutor --
11 that is, the International Co-Prosecutor, you stated that you did
12 not attend any meetings in Phnom Penh before you left Koh Kong.
13 You stated that you did not know whether Ta Soeung had gone to
14 Phnom Penh during that period.

15 That notwithstanding, did you hear of any congress held in Phnom
16 Penh in 1977 during which Son Sen issued instructions regarding
17 the treatment of refugees in territorial waters? Did you hear of
18 any such meeting?

19 A. I never heard of it.

20 [11.15.33]

21 Q. I put this question to you because we have on record a
22 document from a person whose name I cannot give you. The document
23 is E319/23.3.12 which contains answer number 75 in this WRI and
24 that person says the following -- that person was company
25 commander in Division 164 and this is what that person states:

1 "In late-1977, I attended a congress in Phnom Penh to assess the
2 results of work done by Division 164. On that occasion, I heard
3 Meas Muth present a report on Vietnamese boats that had violated
4 Cambodian territorial waters. Son Sen said that if those
5 Vietnamese were refugees heading for Thailand, we should not
6 arrest them, but allow them to continue their journey." End of
7 quote.

8 My question to you is as follows: Does this refresh your memory
9 as regards things you may have heard from Ta Soeung since you
10 didn't talk about meeting, but from persons you contacted in
11 Division 164?

12 A. I did not hear of that new.

13 [11.17.40]

14 Q. In any case, do you confirm that you never received from Ta
15 Soeung an order to kill the refugees you came across at sea?

16 MR. PRESIDENT:

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

19 MR. DE WILDE D'ESTMAEL:

20 Thank you, Mr. President. I object to this question because I do
21 not understand the foundation for this question. You are asking
22 the witness to confirm something, whereas a while ago I read an
23 extract in which it was precisely stated that certain persons had
24 to be eliminated on the boats, so I have a -- some difficulty
25 understanding the foundation for this witness -- the foundation

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1 of this question because I believe your question is designed to
2 lead the witness. so may I ask you to confirm the foundation for
3 the question?

4 [11.18.47]

5 BY MS. GUISSÉ:

6 The foundation is what I gave a while ago when I asked the
7 witness to confirm that whenever there were refugees to be sent
8 to the upper echelon, was it rhetoric because he said that the
9 refugees might had to be sent to the upper echelon.

10 I think I can ask the witness to confirm that Ta Soeung did not
11 issue any orders that refugees captured at sea be executed. I can
12 rephrase the question if it poses a problem, Mr. President.

13 Q. Witness, did you ever receive orders from Ta Soeung asking you
14 to execute Vietnamese refugees you came across at sea?

15 MR. MEAS VOEUN:

16 A. He did not give an order to me to kill those people. The order
17 was that if Vietnamese people were arrested, I should make the
18 report to him, after which he would forward the report up the
19 line based on the hierarchical order.

20 [11.20.10]

21 Q. Another question: Did you, yourself, issue any orders to the
22 1,700 soldiers under your orders to execute Vietnamese that you
23 may have or they may have come across in Cambodia's territorial
24 waters?

25 A. No, I did not give an order that way. The order was after they

1 were arrested, they should be sent to a specific location.

2 Q. I put this question to you because, as you stated a while ago
3 or as the Co-Prosecutor stated a while ago, there was a witness
4 who was a simple soldier and that witness stated that he had
5 received from his superior the order to kill all or any
6 Vietnamese persons they found on boats, at least two persons in
7 question. Did you hear Ta Soeung or any other official of the
8 army who was assigned to the zone to which you were -- in which
9 you were working say anything of the sort.

10 MR. PRESIDENT:

11 Please wait, Mr. Witness. You have the floor now, Co-Prosecutor.

12 [11.21.52]

13 MR. DE WILDE D'ESTMAEL:

14 Thank you, Mr. President. I think this question should include
15 the fact that this witness worked in Division 164 and not in
16 Division Number 1; that should be clear. He should understand
17 that clearly to avoid any mix-up.

18 BY MS. GUISSÉ:

19 No problems with that.

20 Q. You have heard this clarification that we're dealing with
21 Division 164, so my question to you is as follows: Did you ever
22 hear your officials or any other officials of Division 1 or any
23 divisions of -- any members of Division 164 with whom you
24 exchanged information, did you ever hear that any such order was
25 issued that Vietnamese civilians be shot at when they were in

1 boats with a crew of less than 20?

2 MR. MEAS VOEUN:

3 A. I have never heard of such an order and I was not aware of
4 such order.

5 [11.23.04]

6 Q. As part of the radio communications you did during your
7 patrols on boats, did you exchange radio communications with
8 Division 164?

9 A. I testified before the Chamber already that Division 164 was
10 also stationed at Koh Kong, so we needed not to use radio to
11 exchange the communication, but we could communicate directly or
12 personally.

13 We worked together. We had to cooperate with one another, but as
14 for the orders who killed the refugees, we have never received
15 such an order.

16 Q. When you state that you didn't read radio -- need radio
17 communications to communicate with Division 164, does it mean
18 that you communicated on a one-on-one basis with members of 164
19 Division when you were on boats or when you were on land; can you
20 specify when you communicated when you were not using radio
21 communications?

22 [11.24.54]

23 A. I told -- I have told the Court already that the boats belong
24 to Division 164 would be stationed at the harbour together with
25 my boats, so those who were at sea had to be responsible for the

1 defending of the country or their specific location and the same
2 for those who were on land. And Division 64 (sic) would
3 communicate the messages to the headquarter in Kampong Som, but
4 while we were working together on the island, we could
5 communicate on one -- one-on-one.

6 Q. My question is as follows: During your exchanges with members
7 of Division 164, did you hear of an order that they may have
8 received to execute civilians on territorial waters, an order
9 that may have been different from the orders you, yourself,
10 received?

11 A. I made the point clearly already that I have never heard of
12 such an order as regards the shooting deaths the refugee on
13 boats. There was no such incident happening and there was no such
14 an order.

15 [11.26.47]

16 Q. During the period from 1975 to 1978, when you were in Koh
17 Kong, I understood from your answer this morning that you are
18 only aware of what happened on the maritime border and in
19 territorial waters. In light of what you said this morning, do
20 you confirm that you do not know what happened in -- within the
21 country?

22 MR. DE WILDE D'ESTMAEL:

23 (No translation)

24 MR. PRESIDENT:

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

1 Co-Prosecutor.

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. I do not think the Defence can draw
4 this conclusion because the witness, himself, said that he
5 attended meetings in the West Zone every three -- four months and
6 that a number of subjects were dealt with and he even said that
7 the subjects dealt with included the internal enemy, so he
8 shouldn't -- she shouldn't limit the witness to the maritime
9 zone.

10 [11.28.00]

11 BY MS. GUISSÉ:

12 Let me rephrase my question to -- so that what I say ties in with
13 what the witness said this morning.

14 Q. Witness, your questions -- with regard to a report you are not
15 aware of, you stated that as regards the treatment of Vietnamese,
16 you could only talk about what had happened where you were
17 assigned -- that is, Koh Kong.

18 As part of the meetings you attended, did you hear any other
19 information regarding the treatment of Vietnamese?

20 MR. MEAS VOEUN:

21 A. No, I have never heard of any other news. I received only the
22 instructions and news as regards working the field and the
23 management of the tasks within our responsibility.

24 Q. As part of your testimony yesterday, you referred to the
25 situation of your aunt and you said that she was married to a

1 Vietnamese and she and her husband were arrested.

2 My first question to you is as follows: When did you hear about
3 that; was that while you were in Koh Kong or after the fall of
4 the regime?

5 A. After I had left Koh Kong and arrived in Preah Vihear, at that
6 time, I passed -- I travel past my village, so I learned about
7 the news. Perhaps it was in 1978.

8 [11.30.12]

9 Q. And what was your village and do you know who was the village
10 chief, the district chief, and the commune chief back then; do
11 you remember or do you know?

12 A. I could not remember all the names and I do not know all the
13 names of the leaders either. I only know some of the chiefs in
14 sectors 31 and 32, not all of them, particular their names, were
15 made known to me.

16 Q. Do you remember, regardless of the level, the name of a cadre
17 in the village in which you say that your aunt and her husband
18 were arrested; do you remember regardless of the level, of
19 course? I know all of these dates back quite a while, but do you
20 remember the name of anyone who held any kind of position back
21 then in your village?

22 A. I know the names of the village, not the village chief names
23 -- village chief's name. My aunt's name was Kun (phonetic). She
24 is deceased.

25 [11.31.55]

1 Q. And when you went there in 1978, was she still in charge of
2 the village?

3 A. I did not know, at the time, where the village chief had been
4 reassigned or transferred to. At that time, I was on a vehicle
5 travelling past my village and on the way, I learned of the news.

6 Q. So must I understand that you were not able to obtain all of
7 the information on the circumstances of the arrest of your aunt
8 and of her husband?

9 A. What I know is that she was arrested and died later on. Her
10 husband returned to Hanoi and the wife had been arrested and I
11 cannot tell you who made the arrest.

12 Q. So must I understand that her husband returned to Vietnam --
13 went back to Hanoi?

14 A. Correct, her husband went back to Vietnam.

15 Q. And do you know when, exactly, he returned to Vietnam; that is
16 to say, when you went to the village, had they already -- had
17 they told you that he had already gone back to Vietnam or was it
18 later on that he returned to Vietnam?

19 [11.34.07]

20 A. The husband had returned to Vietnam in 1970 during the time
21 that the Vietnamese troop were -- came to join forces to get the
22 country out of the war. I heard that she had a child and that her
23 husband had returned to Vietnam. During the time, Vietnamese
24 people were invited to return to their home country; it happened
25 in 1970s. That's what -- that is the information that I had

1 learned.

2 Q. Fine. So, her husband went back to Vietnam in 1970 and you say
3 -- this will be my last question, Mr. President, because I know
4 that we have gone beyond the allotted time -- so your aunt, you
5 said, was arrested between '75 and '79; is that correct -- or
6 before 1978 because you said that you learned of her arrest in
7 1978, so she was arrested between 1975 and 1978; is that correct?

8 A. It was in late-1970, '71 or '72. It was after 1970 that I had
9 learned of the news, so I cannot tell you for sure.

10 [11.36.16]

11 Q. Fine. So, in order to make sure that everything is clear, when
12 you speak about the arrest of your aunt, this was in the period
13 before the capture of Phnom Penh; is that correct?

14 A. It was after the fall of Phnom Penh; perhaps, it was after the
15 fall of Phnom Penh that she disappeared. It was after the fall of
16 Phnom Penh.

17 MS. GUISSÉ:

18 Mr. President, I am done, also given the time, with my questions.

19 [11.37.11]

20 MR. PRESIDENT:

21 The Chamber thanks you, Mr. Meas Voeun. Thank you for coming here
22 as a witness. Your testimonies will contribute to the truth in
23 the case. You may now be excused. You may return to your
24 residence or to any places you wish to go. I wish you all the
25 best.

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1 Court officers -- Court officer, please work with the WESU to
2 send the witness, Meas Voeun, back to his resident or to any
3 places he wishes to go.

4 I thank you, as well, Madam Sok Socheata, the duty counsel. You
5 may also be excused.

6 The Chamber will start to hear the testimony of witness In
7 Yoeung.

8 It is now appropriate time for the lunch break. The Chamber will
9 resume at 1.30 in the afternoon.

10 Security personnel are instructed to bring Mr. Khieu Samphan to
11 the waiting room downstairs and please have him returned into the
12 courtroom before 1.30 in the afternoon.

13 The Court is now in recess.

14 (Court recesses from 1138 to 1332H)

15 MR. PRESIDENT:

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

17 This afternoon the Chamber will hear the testimony of In Yoeung.

18 Based on the request of this witness, the Chamber assigned Chhay
19 Marideth, TPO staff, to accompany the witness due to the witness'
20 health reasons and because she -- the witness is a bit frightened
21 through the proceedings.

22 So now the floor is given to the Co-Prosecutor to put questions.

23 [13.34.00]

24 QUESTIONING BY MR. SREA RATTANAK:

25 Good afternoon, Mr. President, Your Honours.

1 Q. And good afternoon, Madam Witness. I asked you some questions
2 already in the previous hearing and I have some further
3 questions. I want to know your age. How old are you this year?

4 MS. IN YOEUING:

5 A. I am 56 years old this year.

6 Q. To my recollection, you told the Court in the previous
7 hearings that you are 60 years old. So again, could you clarify
8 again your age to the Court? How old are you this year?

9 A. I am 55 years old, not 60 or, rather, 56. I may have confused
10 my age.

11 Q. So I am now not so clear in relation to your age. So can you
12 tell the Court which year you were born?

13 A. I cannot recall it, particularly the year of my birth since my
14 mum did not tell me about that.

15 [13.36.30]

16 Q. So let me put the question in a different way. Can you recall
17 the event of 17 April 1975?

18 A. No, I cannot recall it.

19 Q. As it is widely known by the masses about the fall of Phnom
20 Penh, do you recall when Phnom Penh fell?

21 A. Phnom Penh fell in 1975.

22 Q. So now I want to ask you about the events of that year, 1975.
23 So how old were you in 1975?

24 A. I do not know, Mr. Co-Prosecutor. I did not pay my attention
25 to my age in that year.

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1 Q. You were assigned to work in different locations. So can you
2 tell the Court, were you assigned to be part of the youth unit or
3 children unit?

4 A. I was in the mobile unit since I was a full-fledged.

5 [13.38.45]

6 Q. So can you give an estimate to the Court so whether you were
7 10 years old, 20 years old or how old were you that year?

8 A. I was around 10 years old. I was about -- I was over 10 years
9 old, rather.

10 THE INTERPRETER:

11 Correction from the interpreter.

12 MS. IN YOEUING:

13 A. I was around 15 years old.

14 BY MR. SREA RATTANAK:

15 Q. So now I am asking you about the period of 1975 when Phnom
16 Penh fell and the period was also the start of the Democratic
17 Kampuchea. Can you tell the Court whether there were Vietnamese
18 living in your village and commune?

19 MS. IN YOEUING:

20 A. No.

21 [13.40.25]

22 Q. You stated that there were no Vietnamese in your village and
23 commune. So my next question is: Did you ever see Vietnamese
24 living in other villages and communes after the fall of Phnom
25 Penh?

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1 A. No, no Vietnamese after the fall of Phnom Penh.

2 Q. What about the period before the fall of Phnom Penh? Did you
3 ever see Vietnamese living in communes and in other places that
4 you used to reside in?

5 A. There were no Vietnamese in the villages and communes but I
6 saw them living close to the border when I was in the mobile
7 unit.

8 Q. So where was the base of the worksite which your mobile unit
9 was assigned to work?

10 A. I was working in Doung location near Vietnamese border. Mobile
11 units, members of mobile units were afraid of the Vietnamese
12 although we were living in different country.

13 [13.42.20]

14 Q. You stated that you saw Vietnamese people. So is it correct to
15 say that those Vietnamese people were living in their country on
16 the other side of the border; is that correct?

17 A. It is correct. We are living in our own country and they are
18 living in the other side of the border working. We could not
19 cross into Vietnam and they could not also cross into Cambodia
20 either.

21 Q. You have just told the Court that you saw Vietnamese on the
22 other side of the border -- that is, in their country. My
23 question about Vietnamese is to ask you whether or not there were
24 Vietnamese living within the territory of Cambodia. So please
25 limit your response to my question. So now let me reformulate my

1 question.

2 Did you ever see Vietnamese living and working in the location
3 where you were assigned to work after the fall of Phnom Penh?

4 A. I never saw Vietnamese people.

5 [13.44.28]

6 Q. To refresh your memory, I am now quoting your statement that
7 you gave to the DC-Cam in 2005, document E3/7525; ERN in Khmer,
8 00089629; French, 00903085; 008850 (sic) and 15, that is the
9 English ERN.

10 You were asked by the interviewer how many Vietnamese were taken
11 away and your answer is: "I do not know. I was living in my own
12 village and I was transferred from Kampong Trach to live in that
13 location.

14 The next question: "So you were transferred from Kampong Trach,
15 weren't you?"

16 And your answer is: "Yes, I was transferred from Kampong Trach."

17 And then you were asked: "How many Vietnamese were taken away?"

18 And you stated that: "Four families -- a few Vietnamese families,
19 four families for Vietnamese were seen by you."

20 [13.46.40]

21 A. I cannot recall it, Mr. Co-Prosecutor since it happened a long
22 time ago.

23 Q. So now I want to ask you a location. Do you know Prey Chhor?

24 A. Yes, I know that location, Prey Chhor.

25 Q. Where was Prey Chhor?

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1 A. Prey Chhor was situated to the west of Phum Srah (phonetic).

2 Q. What commune and district was Prey Chhor situated?

3 A. Prey Chhor was in Chrey Commune to the west of Srah
4 (phonetic).

5 Q. What about this district? What district was Prey Chhor in?

6 A. Prey Chhor was located to the west of Srah (phonetic). It was
7 in Chrey commune.

8 [13.48.39]

9 Q. So it compares to the location where you worked and lived. So
10 how far was it from the place where you worked to that location?

11 A. It was about five kilometres away from each other.

12 Q. I am not quite clear, Madam Witness. I am now referring to the
13 village you were residing in before 1975. So how far was it from
14 your residence before the fall of Phnom Penh and Prey Chhor?

15 A. It was about five kilometres away from my house.

16 Q. So now can you tell the Court once again whether Prey Chhor
17 was in the same village, commune, district and province as you
18 lived?

19 A. Prey Chhor was in Chrey commune, Kampong Trach -- in Chrey
20 commune. And as for my house, it was in Trach.

21 [13.50.35]

22 Q. Was it in the same Romeas Haek district, Svay Rieng province,
23 or was it in a different province?

24 A. It was in Chrey commune, the same Svay Rieng province. So it
25 was in the same province, Svay Rieng.

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1 Q. So if one makes mention about Prey Chhor -- so do you know --
2 does Prey Chhor has anything to do with the Vietnamese people?

3 A. No, I cannot recall what happened. I know that there was a
4 location named Prey Chhor. But I do not know whether that
5 location had anything to do with the Vietnamese traditionally.

6 Q. To refresh your memory, I am now quoting your statement in the
7 same document, E3/7525; ERN in Khmer, 00089590--

8 THE INTERPRETER:

9 Mr. President, please asked the Co-Prosecutor to repeat the ERN
10 again.

11 BY MR. SREA RATTANAK:

12 Q. You were asked by an interviewer about the Vietnamese
13 families, whether there were Vietnamese families living in your
14 location.

15 [13.52.31]

16 MR. PRESIDENT:

17 You have the floor now, Counsel for Mr. Khieu Samphan.

18 MS. GUISSSE:

19 Yes, Mr. President. I don't know if there is a problem with the
20 French translation but we didn't get the ERN. So could you please
21 repeat the ERN, Co-Prosecutor?

22 [13.53.12]

23 BY MR. SREA PATTANAK:

24 French ERN is 00903083.

25 Q. Now, let me quote. You answered: "There were no Vietnamese

1 living in the area. Although there were, they had been taken to
2 Prey Chhor. If they were Vietnamese those Vietnamese were sent to
3 Prey Chhor."

4 Does this refresh your memory, Madam Witness? What happened to
5 the Vietnamese living In Prey Chhor?

6 MS. IN YOEUING:

7 A. I cannot recall it, Mr. Co-Prosecutor, since it happened a
8 long time ago. My memory does not serve me well. They disappeared
9 after going to Prey Chhor.

10 Q. You have stated that they had gone and they disappeared after
11 they went to that location. So who you are referring to?

12 MR. PRESIDENT:

13 Please wait, Madam Witness. You have the floor now, Koppe.

14 [13.54.49]

15 MR. KOPPE:

16 Thank you, Mr. President. Just for our clarity, the document of
17 the DC-Cam statement that the Prosecution is referring to is an
18 interview with someone else. It's not the interview of the person
19 called In Yoeung. Presumably, she is the neighbour that is
20 introduced at the very end of that interview because it says, "In
21 Yoeung". But considering her answers in relation to what this In
22 Yoeung has or the neighbour In Yoeung has testified to, I am not
23 100 per cent sure whether we are in fact dealing with the same
24 person. I don't know if In Yoeung is a very common name in that
25 area but I think it might be worthwhile going into it considering

1 the completely different answers as compared to that last part of
2 this particular interview.

3 [13.56.00]

4 MR. DE WILDE D'ESTMAEL:

5 I'm not sure that there is really an ambiguity here insofar that,
6 indeed, this neighbour here who speaks during the interview given
7 by the DC-Cam people with the surname Chan Kea, this neighbour is
8 identified towards the end of the interview as being In Yoeung.
9 At the hearing, at the last hearing, the question was put to her
10 about her husband's name and she said Chan Kea. So this is in
11 reality the person who was being interviewed by DC-Cam, so I
12 think that should be sufficiently clear to solve all
13 misunderstandings. But later on I will get back to the content of
14 the statements that do not match.

15 MR. PRESIDENT:

16 Can the Co-Prosecutors clarify the issue once again? This is your
17 assumption that the neighbour in the document is the witness or
18 is there any other written record of the interview of the witness
19 since there are no questions seeking clarification on the issue
20 yet?

21 [13.57.41]

22 MR. SREA RATTANAK

23 Mr. President, based on document E3/7525, there is a neighbour in
24 the document and the interviewee is Chan Kea. But to the end of
25 the interview on page 46 in Khmer; and French, 00903087; English,

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1 00495016; and there was -- there is the name In Yoeung and the
2 interviewee in the previous pages is Chan Kea. And to my
3 recollection, I recall that the witness said her husband's name
4 is Chan Kea.

5 So to my understanding is that there were two people during --
6 two interviewees during the interview and at the beginning the
7 interviewer did not realize that the woman was the wife to the
8 first interviewee. That is why I used this document to examine
9 the witness before the Chamber.

10 [13.59.15]

11 MR. PRESIDENT:

12 I want to make it clear in relation to the individual who is now
13 testifying before the Chamber. So how is she related to Chan Kea
14 and what was the involvement of this witness in that interview?
15 So now the Defence is confused of the document that you used to
16 examine this witness. So Co-Prosecutor, please make it clear so
17 that everyone, including the public, can understand why the
18 document you are using is related to this witness.

19 BY MR. SREA RATTANAK:

20 Thank you, Mr. President.

21 Q. Madam Witness, do you recall you were interviewed in 2005?

22 MS. IN YOEUING:

23 A. No, I was never interviewed in 2005. It was my husband who was
24 interviewed. So this is wrong to conclude that I was the one who
25 was interviewed. In fact, my husband wants to come to the Court

1 but I do not know how come I was the one who was summoned by the
2 Court.

3 [14.00.54]

4 Q. So was it your husband who was interviewed?

5 A. Yes, he was. My husband actually really wants to be here and I
6 actually asked about that. I said that it was not proper for me
7 to testify; it should be my husband.

8 Q. Did you actually say something during your husband's
9 interview?

10 A. Yes, I said something and, in fact, there was an old man who
11 was there and who actually spoke more than I spoke.

12 Q. So besides the old man, was there any other female neighbour
13 who participated in the interview?

14 A. No, there was the old man and myself.

15 Q. So allow me to clarify. During the interview you refer to the
16 old man, your husband and yourself; right?

17 A. Yes.

18 [14.02.20]

19 Q. And besides you there was no other woman who was there during
20 the interview; is that correct?

21 A. I forget half of what happened. As it happened a long time
22 ago, I cannot recall it that well.

23 Q. I would like to confirm with you that, besides you during the
24 interview, there was no other woman who was there; am I correct?

25 A. There were some other children, male and female children who

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1 were there during the interview. There were quite a few older
2 children and some younger children and I, myself, was there with
3 my "ta", my husband.

4 MR. SREA RATTANAK:

5 Mr. President, we rely on your wisdom based on her statement
6 whether it is her who was there during the interview of this
7 person, Chan Kea.

8 [14.04.14]

9 MR. PRESIDENT:

10 It is your time to seek clarification to make sure that this is
11 the right witness who is to testify and, of course, you have been
12 in this legal business for quite some time and you should know
13 that it would be very strange to call a neighbour to testify
14 rather than the person who was interviewed. And based on the
15 principle, the documents will be used only for the interviewee
16 and not somebody who actually eavesdrops or who was there.
17 And whether you should proceed with this or not this is your
18 methodology.

19 And I noticed that the defence team is on his feet. You may
20 proceed, Kong Sam Onn.

21 [14.05.11]

22 MR. KONG SOM ONN:

23 Thank you, Mr. President. I would like to make some observations
24 based on what the witness just stated.

25 In document E3/7525, there is a mentioning of a neighbour and in

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1 this document the neighbour is not just her. From what she said
2 there was an older man and there were also some other children
3 who actually might have spoken during the interview, although
4 towards the end of the document there is a mention of name "In
5 Yoeung", it does not necessarily mean all the statements by a
6 neighbour is her statement. This is a rather confusing statement
7 so we rely on your wisdom to clarify this matter.

8 MR. PRESIDENT:

9 The Prosecution, you may continue but then you should be clear
10 whether she is the person who knows about the content of this
11 interview in particular in relation to the event concerning the
12 Vietnamese under the DK period. And if you request for someone to
13 testify without knowing the event, that would be out of the
14 question.

15 [14.06.59]

16 MR. DE WILDE D'ESTMAEL:

17 Yes, indeed, Mr. President. It is up to the Chamber to deal with
18 this issue. The questions have been asked. They have been
19 clarified. The old person in question is indeed the person's
20 husband. There were no other women present. She also said she
21 took part in that interview. That is what I have understood.
22 Under these conditions, we would consider that the neighbour
23 dealt with in this interview is present -- is the person here
24 present. So we can ask questions regarding what that woman told
25 DC-Cam, Mr. President.

1 MR. PRESIDENT:

2 Counsel Koppe, you have the floor.

3 [14.07.55]

4 MR. KOPPE:

5 A small observation. Mr. President, of course I have no objection
6 at all if the Prosecution continues asking questions, but if it's
7 unclear whether she actually said that, then of course the
8 Prosecution cannot say, "Well, you said this" or confront her
9 with what she might have possibly said. She is very clear. She
10 doesn't know anything about the Vietnamese. She doesn't know
11 anything about Vietnamese outside her village. So it's very risky
12 to confront her with this because I don't -- I sincerely believe
13 it wasn't her who actually said those things in that statement.

14 [14.08.38]

15 MR. PRESIDENT:

16 The Co-Prosecutor, you may resume your questioning. However, you
17 need to clarify the matter clearly and that the witnesses that
18 you propose should be related to the scope of the proceedings in
19 this case. And if there is a mistake in calling her to testify
20 then you should clarify this matter now so that we can move onto
21 the next witness.

22 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

23 Thank you, Mr. President. I will try to clarify once more the
24 matter with the witness.

25 Q. To be very certain, madam, when your husband Chan Kea was

1 interviewed, did you also speak during that interview with the
2 investigator Ysa Osman? Did you answer some of the questions
3 asked in addition to your husband? Did you give any details and
4 information to the person who came to conduct the interview?

5 MS. IN YOEUING:

6 A. I cannot recall whether I spoke during the interview.

7 Q. Madam Witness, towards the end of the interview do you
8 remember that Osman, that is the person who came to interview
9 your husband, asked you to give your name?

10 A. I was asked.

11 [14.10.46]

12 Q. Mr. President, I will try again with more specific questions
13 to see whether we can elicit from this witness answers.

14 Let me start from the beginning. You stated that you were
15 assigned to a mobile unit and you were aged about 15 in 1975. Can
16 you tell us whether during that period there were mobile units
17 for adolescents and other mobile units for young adults? I would
18 like us to make a distinction between the two.

19 A. The youth was assigned to a group, the children were assigned
20 to another group and the female was assigned to yet a separate
21 group.

22 Q. And at what age could members of the mobile unit join a mobile
23 unit? Do you remember that age? I'm not talking of the children's
24 mobile unit but the mobile unit for adolescents.

25 A. The youth mobile unit aged from 15 and above.

1 [14.12.44]

2 Q. Do you recall telling that person who came to interview your
3 husband the following: For the parties to follow it is on page 15
4 in French, 15 in English and it is the statement E3/7525 and in
5 Khmer it is page 00089601.

6 Do you recall having said that, "Members of the mobile unit were
7 aged 12 and above?"

8 A. For those who were 12 years old, we were given a carrying
9 basket and a hoe to actually carry us to build a road. And for
10 the younger children they were assigned to carry earth to build
11 dyke.

12 Q. Very well. Is it correct to say that once people were married
13 they no longer worked in the mobile unit?

14 A. For those who were members of the mobile unit, after they got
15 married they would be sent to live in the cooperatives.

16 [14.14.15]

17 Q. Were working conditions and living conditions in the mobile
18 units harder than in normal units of cooperatives?

19 A. The nature of work in the mobile unit was harsher than the
20 conditions at the cooperative. The food at the cooperative was
21 better than the food for the mobile unit as at the mobile unit we
22 did not have enough food to eat. Usually, we only ate part of the
23 banana stalk and trunk.

24 Q. And still on this matter, given the fact that in the
25 cooperative unit living conditions and working conditions were

1 better, were there any youngsters who volunteered to get married
2 in order to move from the mobile units to the cooperative units
3 where living and working conditions were better?

4 A. The youths who were from the cooperatives and married those in
5 the cooperatives. Yes, there were few instances. Sometimes there
6 was a marriage ceremony for two or three couples.

7 [14.16.00]

8 Q. In order to be sure that I properly understood what you are
9 saying and that we can identify who was a neighbour who was with
10 your husband, I'll quote a passage from what this neighbour said;
11 E/7257; English page 26; and in Khmer -- I'll give the ERN in
12 French because the page number doesn't exist. It is 00903069; in
13 English, 00884999; and in Khmer 00089612 to 613; and this is what
14 the neighbour who took part in the interview said -- and I quote:
15 "People wanted to get married because after their marriage they
16 moved from the mobile unit to the cooperative. That explains why
17 there were many divorces."

18 Question: "Were there any cases of persons forced to get married
19 together whereas they didn't want to get married?"

20 And the answer -- the neighbour answered: "No." And later on the
21 neighbour states that: "People wanted to get married because they
22 wanted to return to the cooperatives. In the cooperatives, the
23 work was lighter. For instance, they transported bags of rice, so
24 people wanted to get married in order to be transferred again
25 into the cooperative." End of quote.

1 Do you recall saying that during the interview Mr. Osman had with
2 your husband, Chan Kea, and DC-Cam?

3 A. Yes, that's what I answered.

4 [14.18.24]

5 Q. Mr. President, after asking these first questions I think it
6 is quite clear that it's the first person who participated in the
7 interview. I will now ask questions regarding the treatment of
8 Vietnamese.

9 Madam Witness, in your mobile unit you stated that you worked at
10 different locations. Were there any people of Vietnamese origin,
11 young girls of Vietnamese origin in that mobile unit or daughters
12 of mixed couples -- that is, Vietnamese and Cambodian couples
13 working in that mobile unit?

14 A. There were Khmer soldiers who were members of the mobile unit
15 and they lived in the village. But I did not see any Vietnamese
16 soldiers.

17 Q. I think there is a mix-up somewhere. I wasn't talking about
18 soldiers. I quite simply meant other young girls, age 15 and
19 above, approximately your age who worked with you. Within that
20 group, I'm talking about civilians, not soldiers. Do you have any
21 persons of Vietnamese origin or of mixed origin, for instance
22 whose father was Khmer and the mother Vietnamese?

23 A. No, there was none.

24 [14.20.10]

25 Q. I will try again to quote what you appear to have said to

1 DC-Cam, document E3/57525 (sic) regarding Vietnamese families
2 transferred from Kampong Trach. The French page is 00903085; in
3 English, page 00885014 to 15; and in Khmer, it would be three
4 pages, 00089628 up to 38.

5 THE INTREPRETER:

6 Correction by the interpreter; the document is E3/7525.

7 BY MR. DE WILDE D'ESTMAEL:

8 Q. The question asked by the DC-Cam interviewer is as follows --
9 I have the French version. There may have been translation
10 problems. Let me read the French version.

11 Question: "Do you remember the number of Vietnamese residents in
12 the village?"

13 The neighbour answered as follows: "No, I cannot tell you that.
14 All I remember is that there were Vietnamese from Kampong Trach
15 who were arrested in my village."

16 Question by Osman: "Were they transferred from Kampong Trach?"

17 And the neighbour and I believe it's you, yourself, answered by
18 saying: "Yes, they were transferred from Trampong Trach."

19 And I skipped a passage: "I do not remember the number of
20 Vietnamese families who were transferred to my village. I would
21 say that approximately four families were transferred into my
22 village, Trakeab Kdam village. After being transferred into my
23 village, they were arrested and taken away. At the time a
24 Vietnamese woman cried bitterly because she was taken away from
25 her husband who also cried hard."

1 And further down, the neighbour specifies that they were arrested
2 approximately one month after they had been transferred into that
3 village.

4 [14.22.42]

5 Do you recall telling DC-Cam that there were four families of
6 Vietnamese origin transferred from Kampong Trach to your village
7 and who were subsequently arrested?

8 A. No, I forget it all. I cannot recall that.

9 Q. On that occasion -- that is, during the interview, you
10 mentioned the name of one of your aunts. You talked of a woman,
11 an aunt called Ming Mgan, M-I-N-G and Mgan, M-G-A-N. Is that
12 person a member of your family?

13 A. No, I did not have any relatives by the name of Ming Mgan.

14 MR. KOPPE:

15 That's it, Mr. President. It's obviously not her. I think we
16 should end it unless there are general questions. But there is no
17 point in referring to this document because it wasn't -- clearly
18 it wasn't her. And we should also not forget this is a DC-Cam
19 interview, the neighbour isn't properly identified. We don't have
20 any proper proceedings in place as to whether this interview was
21 done in a proper legal manner. I think we should end it right
22 now.

23 [14.24.36]

24 MS. GUISSÉ:

25 Yes, Mr. President, the Co-Prosecutor should give a legal basis

1 and I refer the Chamber to Rule 83 of the Internal Rules which
2 provides that the Co-Prosecutor and other parties may examine a
3 witness whose statement is -- only persons whose statements are
4 deemed useful for the manifestation of the truth. And this being
5 the case, Mr. President, we find that the answers given by the
6 witness so far will not lead to the manifestation of the truth,
7 based on the statements that the Co-Prosecutor is using.

8 [14.25.32]

9 MR. DE WILDE D'ESTMAEL:

10 Mr. President, I have asked a number of questions that have
11 nothing to do with this subject, precisely to establish the fact
12 that this is the person in question. The answers given are in
13 line with what we find in this DC-Cam interview record. The
14 exception of the subject of the Vietnamese, the witness hasn't
15 confirmed this so far, but I must point out that the records of
16 the interview of DC-Cam are transcribed and it is quite clear
17 that this woman is a person who was interviewed. So I would like
18 to continue putting some questions to the witness regarding
19 members of her family to know specifically whether she has an
20 aunt of Chinese or Vietnamese origin in her family. Thank you.

21 MR. PRESIDENT:

22 What about the Lead Co-Lawyers for civil parties? Do you wish to
23 make your observation whether we should continue hearing the
24 testimony of the witness or we have to release her?

25 [14.26.45]

1 MS GUIRAUD:

2 Thank you, Mr. President. I, for one, have a document which I
3 would like to use and it is not the DC-Cam interview we have been
4 referring to since the beginning of this afternoon. It is E3/7816
5 and it is the record of interview of a person from the same
6 village as that of the witness. And I would like to show the
7 witness the statements of that person who saw or witnessed
8 certain events in 1977. And it is the document we are talking of
9 today. It is E3/7816.

10 And I am not in a position to say whether the witness will say
11 anything regarding that testimony but I would like her to react
12 to this, and I will also put some questions to her on forced
13 marriages because this is part of the information we find in the
14 DC-Cam documents of the interview. And this lady has just
15 confirmed that in response to questions put by the Co-Prosecutor.
16 So we, for our part, have some questions to put to the witness,
17 Mr. President.

18 (Judges deliberate)

19 [14.29.28]

20 MR. PRESIDENT:

21 The Chamber decides to hear testimony of this witness. However,
22 the Co-Prosecutors and the Lead Co-Lawyers for civil parties
23 should not rely on that DC-Cam interview which took place in 2005
24 because there is no clear status of her involvement in that
25 interview. And you should not put questions to her in relation to

1 her general knowledge.

2 On the scope of the facts in Case of 002/02, you might put some
3 questions to her in order to make sure whether that will
4 contribute to ascertaining the truth in this case.

5 You may continue, Co-Prosecutor.

6 BY MR. DE WILDE D'ESTMAEL:

7 Thank you, Mr. President. I won't use up too much time.

8 Q.I still would like to ask you in generic terms if between 1975
9 and 1979 when the DK forces were occupying your region, if you
10 heard anything about the fate that was meted out to people of
11 Vietnamese origin who were living in that area or to people who
12 came from mixed families, that is to say Khmer/Vietnamese
13 families. Did you learn anything about what happened to them?

14 [14.31.33]

15 MS. IN YOEUUNG:

16 A. No, I did not know anything about that.

17 MR. DE WILDE D'ESTMAEL:

18 Mr. President, we have no further questions. I believe that the
19 civil parties might have a few questions to put to this witness
20 and might want to confront this witness with other testimonies
21 from the same village in which names are mentioned, so the
22 witness may react to that.

23 Thank you, Mr. President.

24 MR. PRESIDENT:

25 Now, civil party lawyers can proceed.

1 [14.32.14]

2 QUESTIONING BY MS. GUIRAUD:

3 Thank you, Mr. President. Good afternoon to all of you.

4 Q. Good afternoon, witness. My name is Marie Guiraud. I represent
5 the collective of civil parties in this case and I have a few
6 very brief questions to put to you.

7 I want to know if you knew a so-named Prum Yan who lives in your
8 village in Chheu Phleung. Does this name ring a bell?

9 And for the interpreters the name is P-R-U-M and then Y-A-N, Prum
10 Yan. Does that ring a bell?

11 MS. IN YOEUING:

12 A. I know this individual very clearly. That person walked past
13 my house almost every day and that person said he or she wanted
14 to come to this Court to testify before the Chamber and that
15 person, Ta (phonetic) said that -- suggested that I should not
16 come to testify before the Chamber. Instead, he wants to come to
17 the Court.

18 [14.33.41]

19 Q. Thank you. Did you know a man in your commune by the name of
20 Tep? Does the name Tep ring a bell? This is a gentleman living in
21 your commune and who apparently married or who was married with a
22 woman who was half-Vietnamese. Does that ring a bell?

23 A. I do not know this person. I really do not know this person. I
24 know clearly and very well Prum Yan, not the individual that you
25 last described.

1 Q. Thank you. I'm going to now quote what Prum Yan said regarding
2 this gentleman Tep and his wife. I'm going to therefore read out
3 a segment here, the first question of Prum Yan's WRI document
4 E3/7816. So it's the first question in both languages because
5 this document only exists in English and in Khmer.

6 And Prum Yan, whom you know, therefore says -- and I am going to
7 give you a free French translation -- that in 1977 he saw a lady,
8 a woman of--

9 [14.345.20]

10 MR. PRESIDENT:

11 If you want to refer to any documents, please identify clearly
12 your number in three languages.

13 You have the floor now, Counsel for Mr. Khieu Samphan.

14 MS. GUISSSE:

15 I apologize for interrupting my colleague, but the document does
16 exist in French so therefore we can avoid here a free
17 translation. I can show her my copy, but in French the ERN of the
18 page in question is 00339874, if we are speaking indeed about
19 document E3/7816. So, maybe with the assistance of the court
20 officer, a French copy could be given to the civil party lawyer.
21 It might be easier to proceed this way.

22 [14.36.13]

23 MS. GUIRAUD:

24 I would like to thank my colleague and, therefore, I would like
25 to say that it's the first question in all three languages. This

1 is why I didn't give the ERN but the ERN must be 00277273 in
2 Khmer -- 23 in Khmer; 00292838, in English; and therefore,
3 00339874, in French. And it is therefore Prum Yan who is being
4 interviewed and who indicates that: "In 1977, I saw a mixed race
5 Vietnamese woman. I have forgotten her name -- whose husband was
6 named Tep. He died three years ago. As well, with her child and
7 who was arrested and taken away by the district soldiers. Three
8 unknown district soldiers pointed a gun at her in the vicinity of
9 Khla Lout, Kampong Trach commune, Romeas Haek district, Svay
10 Rieng province, to force her to walk in the direction of the
11 Romeas Haek district office which was located in Prey Damloung
12 village, Kampong Trach commune, Romeas Haek district, Svay Rieng
13 province. I did not know what happened to the other Vietnamese
14 families."

15 [14.37.53]

16 BY MS. GUIRAUD:

17 Q. So I wanted to read out this excerpt to you, witness, in order
18 to know if the event described by Prum Yan in which Tep's name
19 appears rings a bell to you or if this is of absolutely no
20 significance to you.

21 MS. IN YOUEUNG:

22 A. I heard about it. That person was half-blooded Chinese and was
23 arrested and killed afterwards; the wife of Kiem Soun (phonetic).
24 She was half-blooded Chinese and married a Cambodian man. Prum
25 Yan did make mention about the point and I only said what he told

1 me.

2 Q. You are speaking today about a person who was mixed blood,
3 Chinese and Khmer. So my question, however, was based on someone
4 who was mixed blood, Vietnamese and Khmer and who apparently
5 married a person by the name of Tep, who was Khmer. So is this
6 story familiar to you?

7 [14.39.31]

8 A. Not mixed blood Vietnamese. But as I said, she was
9 half-blooded Chinese and later on she married a Cambodian man.
10 And the killing did happen and the statement was based on that
11 incident.

12 Q. And this mixed-blooded person, this Chinese-Khmer person, did
13 this person have a child back then who was brought to the
14 district office at the same time as she by district soldiers? Is
15 this something that you know?

16 A. That person was not taken to the district office but to Prey
17 Chhor. I did not know why that person was brought to Prey Chhor
18 and I did not know too what happened to this person.

19 Q. Is this an event that you witnessed personally back then or is
20 this something that you just heard about in particular through
21 Prum Yan?

22 A. Prum Yan told me about that. He came to my house and told that
23 counsel, the one who recorded the statement during the interview.

24 [14.41.25]

25 Q. And is it Prum Yan who told you that this person was

1 half-blooded Chinese and Khmer or is this something that you knew
2 before you spoke to Prum Yan?

3 A. He came to my house and discussed about a mixed race
4 Vietnamese child. He made mention that account at my house.

5 Q. Just in order to make sure that I understood your answer
6 properly, so therefore he apparently spoke about two people, a
7 mixed-blooded woman, Chinese-Khmer who was brought to Prey Chhor
8 and a Vietnamese child. So did I understand well what you are
9 telling us now?

10 A. The mother had been taken away first and the child was taken
11 later on after the child was kept with the father.

12 [14.42.55]

13 Q. And you remember today that Prum Yan told you that this child
14 was Vietnamese; am I right, or did I not understand you well?

15 A. He said the child was a mixed race child and Prom Yan came to
16 my house to tell the story to the lawyers and because he
17 witnessed the incident he told the story to those who were
18 present at my house.

19 Q. Just to make sure that I am clear about this, if I understood
20 you well, Prum Yan was questioned about these facts in your
21 house. So did I understand your testimony properly?

22 A. When my husband was interviewed, Prum Yan was also at my house
23 during the interview.

24 MS. GUIRAUD:

25 I will stop here, Mr. President, regarding this event and I will

1 have a few short follow-up questions on what the witness
2 described to the International Co-Prosecutor; that is to say
3 marriages during the DK regime. This will take me about 10
4 minutes, Mr. President. So I don't know if I should put my
5 questions right now or if I should do so after the break.

6 [14.44.50]

7 MR. PRESIDENT:

8 Very well. So now we take a short break first. But before we take
9 the short break, the Chamber has already sent an email to parties
10 regarding the hearing to hear the request and motion of the
11 defence team, Nuon Chea. The defence team for Mr. Nuon Chea
12 requested to admit some documents into Case 002/02 so that those
13 documents can be used in the examination of an expert 2-TCE-95
14 next week. And the Chamber is scheduled to hear the submission
15 from the defence team for Nuon Chea tomorrow at the end of this
16 testimony of this witness.

17 So now, the Chamber would like to ask parties whether or not
18 parties can submit and make oral responses to the request by Nuon
19 Chea. Since the request was filed only in English, perhaps the
20 hearing of responses and submission may continue after the end of
21 this testimony of the witness. So now I would like to hear the
22 idea and opinion from Co-Prosecutor.

23 [14.46.43]

24 Now, it is the plan of the Chamber to hear the two motions of the
25 defence team for Mr. Nuon Chea to admit into evidence some

1 documents into Case 002/02 and those documents are to be used in
2 the examination of an expert 2-TCE-95 scheduled to testify next
3 week.

4 And I believe and guess that the testimony of this witness may
5 conclude -- may be concluded very soon. So I would like to know
6 whether parties can be ready to submit their responses and also
7 the requests concerning what I have just told, this afternoon.

8 MR. DE WILDE D'ESTMAEL:

9 Thank you, Mr. President. We indeed received these requests
10 yesterday. Normally, we were going to speak tomorrow, but since
11 we have a break right now I am going to ask my colleague who was
12 supposed to speak about this, to come this afternoon so that we
13 may discuss it at the end of the witness' testimony. Thank you.

14 [14.48.05]

15 MS. GUIRAUD:

16 Thank you, Mr. President. We have prepared ourselves to make
17 short observations tomorrow morning but of course we will comply
18 with what is organized and we will take advantage of the break to
19 prepare, so it's possible for us.

20 MR. PRESIDENT:

21 Very good then; it is now time for a short break. The Chamber
22 will take a short break from now until 3 p.m.
23 Court officer, please assist the witness in the waiting room
24 during the break time and please invite him to come back together
25 with the TPO staff into the courtroom at 3.00.

1 The Court is now in recess.

2 (Court recesses from 1448H to 1508H)

3 MR. PRESIDENT:

4 Please be seated.

5 The Chamber is now back in session and the floor is given to the

6 Lead Co-Lawyer for civil party to resume questioning to the

7 witness. You may now proceed.

8 [15.09.34]

9 BY MS. GIRAUD:

10 Thank you, Mr. President.

11 Q. Madam Witness, did you get married during the Democratic

12 Kampuchea regime? In simpler terms, did you get married between

13 1975 and 1979?

14 MS. IN YOEUING:

15 A. I got married in late 1977. As I said, I got married in late

16 1977.

17 Q. Thank you. Were you a member of the mobile unit you referred

18 to a while ago when you got married?

19 A. After I got married I was sent to the cooperative. I no longer

20 lived in the mobile unit.

21 [15.10.52]

22 Q. Regarding your living conditions and the food you received,

23 was that better when you were transferred to the cooperative?

24 A. At the cooperative, I received more food than when I was at

25 the mobile unit.

1 Q. Did you know your husband before the day of your marriage?

2 A. I knew my husband when I was at the mobile unit. My husband
3 was in the fishing unit.

4 Q. Do you remember number of couples who got married on that day
5 in 1977? Were you the only couple married or there were other
6 couples during the marriage ceremony?

7 A. There were many couples who were organized to get married in
8 late 1977.

9 There were also couples organized to get married at the beginning
10 of 1977. As for me, I was arranged to get married in late 1977.

11 [15.12.45]

12 Q. You appear to remember the date of your marriage in late 1977
13 with precision. Can you tell the Chamber how you felt on the day
14 of your marriage? In what state of mind were you during that
15 ceremony?

16 A. When Angkar organized our marriage, I did not know my husband
17 clearly, but because Angkar encourage us to get married so I
18 followed the order.

19 Q. Could you have refused that order by Angkar to get married?

20 A. I could not refuse the order. I needed to abide by the order
21 to get married although I may love or may not love my husband.

22 [15.14.02]

23 Q. Were there any persons in your mobile unit who refused to get
24 married?

25 A. No one refused to get married. Everyone followed the order

1 when Angkar instructed them to get married. And there were many
2 couples arranged to get married and then they were sent to
3 cooperatives.

4 Q. And what were you afraid of at the time if you decided not to
5 get married?

6 A. I did not dare to refuse because I felt a threat that I would
7 be taken to Svay Tontuem because they said that those who dare to
8 refuse would be taken to Svay Tontuem.

9 Q. And can you explain to the Chamber what Svay Tontuem means?

10 A. I did not know that place well. I only heard people say that
11 if any couples who refuse to get married, they would be taken to
12 Svay Tontuem. So when I heard this, I needed to follow the
13 instruction from Angkar to get married.

14 [15.15.55]

15 Q. And during that period, did you know what happened to couples
16 who refused to get married and were taken to Svay Tontuem?

17 A. Those who refused to get married, they were taken to be
18 re-educated at the commune office. And if they still refused to
19 get married and then they would be taken to Svay Tontuem.

20 Q. Who presided over the marriage ceremony; do you recall that?

21 A. I did not know that person. I only knew that that person
22 worked at the commune office. That person did not tell us his or
23 her name. I only knew that that person worked at the commune
24 office and I did not know either what position that person held.

25 Q. Did you spend your wedding night -- that is, the first night

1 after your marriage, with your husband?

2 A. After the marriage, we did not sleep together. We went away
3 separately. He went to his parents' house and I went to my
4 parents' house. We did not spend the night together.

5 [15.18.05]

6 Q. Was there any obligation to consummate the marriage? Is that
7 something you heard either from the Khmer Rouge cadres or from
8 your mobile group leader -- mobile team leader?

9 A. Yes, they told us that we needed to consummate the marriage.
10 If we refuse to consummate the marriage, we would be taken to the
11 commune office to make sure that we would consummate there.

12 Q. Did you receive any explanations why you had to get married
13 and why you absolutely had to consummate the marriage?

14 A. They said that they wanted us to fulfill our marriage
15 obligation before we were sent away to the west. So we needed to
16 follow that instruction because if we refused to follow the
17 instruction we would be killed, despite that doing so means that
18 we would lose our honour.

19 [15.19.40]

20 Q. Did you have any children with the husband you got married to
21 in December 1977?

22 A. It was a long time before we started to have children, so when
23 I was sent to the west I was three months pregnant.
24 I did not reach the assigned location, I only arrive at Tu Ang
25 (phonetic). At Tu Ang (phonetic), at Boeng Kien Toung (phonetic).

1 I was ill at that time and I was sent back.

2 When I arrived at that place, I told people that I went to
3 urinate and my husband also told the people that he also need to
4 go to urinate. So instead of releasing myself, I went back.

5 Q. Did you have the child you've just referred to before the end
6 of the Democratic Kampuchea regime -- that is, before the arrival
7 of the Vietnamese in 1979?

8 A. I was three months pregnant, so I thought that I would not go
9 there because it was a faraway place. I needed to return.
10 Whatever happen I still thought that I needed to return.

11 [15.21.50]

12 Q. And when you say that you needed to return, do you mean that
13 you returned to your native village, or what exactly do you mean?
14 Where did you return to?

15 A. When I made my journey back, I ran across the forest, and when
16 it's night-time I did not dare to go to sleep at -- in the
17 village I spent the night in the forest.

18 And then the next day I arrived at my old cooperative, and people
19 at the cooperative told me that because I was assigned to go
20 somewhere else so they had no food ration for me. So my mother
21 shares her food ration with me. So, later on, the Vietnamese
22 arrived and we were liberated.

23 [15.23.10]

24 Q. Thank you, Madam Witness. I have just one question left.
25 Do you remember precisely the ceremony? Did you utter a

1 declaration or an oath during that marriage ceremony and, if yes,
2 what did you say in that oath?

3 A. I said that I made the commitment to take my husband and live
4 with my husband for my whole life. That was my -- what I said
5 during my commitment at that time.

6 MS. GUIRAUD:

7 Thank you, Madam Witness, for answering my questions.

8 I have completed my examination of the witness, Mr. President.

9 MR. PRESIDENT:

10 Thank you.

11 Now the floor is given to the defence counsel for Mr. Nuon Chea
12 to put questions to the witness. You may now proceed, Counsel.

13 [15.24.28]

14 MR. KOPPE:

15 Thank you, Mr. President.

16 QUESTIONING BY MR. KOPPE:

17 Q. Good afternoon, Madam Witness. Just a very few questions for
18 you. Just a follow-up question in relation to your marriage.

19 Are you still married to the same man that you married in 1977?

20 MS. IN YOEUING:

21 A. Yes, we still live together until now. We did not get
22 divorced. He's still my husband until now.

23 Q. You might have answered that question already, but how many
24 children did you subsequently have with your husband?

25 A. I have four children.

1 [15.25.35]

2 Q. Thank you, Madam Witness. Now following up question from the
3 Civil Party Lead Co-Lawyer,
4 you said that Prum Yan was interviewed in your house. Did I
5 understand that correctly?

6 A. Yes, as I said earlier, that Prum Yan he told me that if I
7 come to the Court to testify the Court, I would not give detailed
8 information, but if he comes to the Court he would give a very
9 detailed information to the Chamber.

10 Q. And when he was interviewed in your house, was it then that
11 you heard the story of Tep?

12 A. Tep is Yan relative. I do not have any relative whose name is
13 Tep. I think Tep is Ta Jan's relative.

14 [15.27.15]

15 Q. Let me ask it differently.

16 Earlier this afternoon, you were asked questions about the mixed
17 Chinese-Khmer woman, a story told by Prum Yan. Did you hear that
18 story from Prum Yan there and then in your house or was it
19 something that you heard -- had heard before?

20 MR. PRESIDENT:

21 Madam Witness, please hold on.

22 The floor is given to International Deputy Co-Prosecutor.

23 MR. DE WILDE D'ESTMAEL:

24 Yes, Mr. President, it appears that there is a suggestion from
25 the Defence that that woman since she was interviewed in her

1 home, she was assisted. That is not an established fact, and I
2 don't think that is the case. So that suggestion shouldn't be
3 made.

4 We have the statements of a half-caste person who was Vietnamese
5 and the lady talked of a Chinese and said was Chinese, so we are
6 not talking of the same person.

7 [15.28.48]

8 MR. KOPPE:

9 Maybe the prosecutor wasn't listening, but I thought I heard her
10 say at a question from the civil parties lawyer that Prum Yan was
11 testifying in her house. That's what I heard and that's why I was
12 asking the question. So I think that's what she said and I'm
13 following up on that, Mr. President.

14 MR. PRESIDENT:

15 The objection by the International Deputy Co-Prosecutor is
16 overruled.

17 So, Madam Witness, you may answer this question if you can.

18 MS. IN YOEUING:

19 Prum Yan said about this regarding the mixed-blood woman because
20 Prum Yan was the one who knew about this. For me, I did not know
21 about this at all. It was Prum Yan who talks about this
22 mixed-blood Chinese woman.

23 [15.30.10]

24 BY MR. KOPPE:

25 Q. And was it the first time you ever heard the story when he was

1 interviewed in your house?

2 MS. IN YOEUING:

3 A. He was present at the interview and he said something like
4 that. And he said that -- he talked everything based on his
5 knowledge.

6 Q. I understand that, but do you remember whether that was the
7 first time you heard Prum Yun tell this story; was it the first
8 time you heard about this story?

9 A. I cannot recall whether it's first time or second time.

10 Q. One last question on this subject. When he was interviewed in
11 your house, was he interviewed by only one Khmer person or was he
12 interviewed by a Khmer person together with a "barang", a Western
13 person?

14 [15.31.54]

15 A. I cannot recall who were the interviewers, how many
16 interviewers participated in the interview at that time. I could
17 recall only what Ta Yan said, but I could not recall whether
18 there was also a foreign interviewer.

19 Q. That's not a problem, Madam Witness. One last question as to
20 what Ta Yan might have said to the interviewer.

21 Do you recall him saying something about the Khmer Sar, or the
22 White Khmer, led by Sophal, the secretary of Romeas Haek
23 district? Do you remember him speaking about that, that the
24 villagers had joined the Khmer Sar and that the Khmer Sar was led
25 by Sophal, the secretary of Romeas Haek district?

1 A. Yes, I heard Ta Yan said so, but I did not remember the date
2 when he said like that. I only remember that he did say something
3 like that.

4 Q. And was that the first time you heard the story of Sophal and
5 the Khmer Sar or was that something that you had known already
6 before he gave that interview?

7 A. I only knew about this so-called White Khmer only after I
8 heard from what Ta Yan told me.

9 [15.34.22]

10 Q. And then my last question, Madam Witness.

11 MR. KOPPE:

12 Mr. President, I would like to refer to document E3/1132, more
13 particularly to English, ERN 00548772; French, 00807139; and
14 Khmer, 00160076.

15 [15.35.13]

16 BY MR. KOPPE:

17 Q. Madam Witness, I'm going to ask you a question on a document
18 that you have no knowledge about. But it refers to an incident in
19 the night of 24 December 1976. I will read it to you and maybe
20 somehow it could jog your memory. It says the following.

21 "24 December 1976: In Sector 23, at night, a platoon of
22 Vietnamese soldiers entered and waited to launch an attack
23 against our army near Doung Chas pagoda in Doung commune. Sary,
24 one of our combatants, was shot dead. He was the platoon chief of
25 Romeas Haek district."

1 My question, Madam Witness, have you ever heard of such an
2 incident in your district in end of 1976?

3 MR. DE WILDE D'ESTMAEL:

4 Mr. President, this is an issue of method. I don't know why it
5 was necessary to read out an excerpt of another document instead
6 of putting an open question regarding this. I don't understand
7 this method that, apparently, he seeks to influence the witness.
8 Several times we've heard objections from the other side of the
9 Bar regarding this, so I think the Defence should stick by the
10 procedures that are allowed before this Chamber and not come with
11 testimonies from the outside that have nothing to do with this
12 witness's personal story and then abruptly put a question to her
13 regarding that.

14 [15.37.07]

15 BY MR. KOPPE:

16 No problem, Mr. President, I will rephrase.

17 Q. Madam Witness, have you ever heard of Vietnamese soldiers
18 entering the district, end of December 1976, making an attack? Do
19 you recall anything about Vietnamese attacks in your district?

20 MS. IN YOEUUNG:

21 A. I have no knowledge of it. I never heard of it.

22 Q. Have you ever seen or heard Vietnamese troops launching
23 attacks? Have you ever heard Vietnamese artillery fire, for
24 instance, close to where you were working or in your village?

25 A. It did happen. The artillery shelling was launched to the east

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1 of the place -- of our worksite; it did not happen right on our
2 worksite.

3 Yes, there was artillery firing into the neighbouring location
4 close to the place where we worked.

5 [15.38.48]

6 Q. And was this Vietnamese artillery fire? And if yes, did it
7 happen often?

8 A. It did not happen very often. It happened once in a month or
9 once in every two months.

10 MR. KOPPE:

11 I thank you very much, Madam Witness. Thank you, Mr. President.

12 MR. PRESIDENT:

13 The floor is now given to the defence team for Mr. Khieu Samphan.

14 You can proceed now.

15 [15.39.36]

16 QUESTIONING BY MS. GUISSÉ:

17 Thank you, Mr. President. Good afternoon, witness. I have two
18 very short clarification questions for you.

19 Q. First of all, my name is Anta Guisse. I am the International
20 Co-Counsel for Mr. Khieu Samphan.

21 Earlier, when you were answering a question that was put to you
22 by the Co-Prosecutor, you indicated that in your mobile unit
23 there were young people who would volunteer to get married in
24 order to then go live in the cooperatives where the living
25 conditions were better.

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1 So did I understand your testimony properly?

2 A. That is correct. The situation in mobile units were worse than
3 that in the cooperatives. The tasks engaged by the mobile units
4 were considered the hot battlefield and those who were in the
5 mobile units had very little porridge to eat. Sometime we would
6 go to work and we had no sufficient food to eat.

7 [15.41.02]

8 Q. My question -- my following question is you said that you got
9 married at the end of 1977 with your current husband and that he
10 was working in the fishing unit. So my question is the following:
11 Did you volunteer for this marriage with the objective of leaving
12 the mobile unit?

13 A. I volunteered and I decided to get married so that I would be
14 sent to be working in the cooperative since the situation there
15 was better and, as I said, although I did not love the one that I
16 was to get married at the time, I decided to accept the marriage.

17 [15.42.02]

18 MS. GUISSÉ:

19 I have no further questions, Mr. President.

20 MR. PRESIDENT:

21 Thank you. The hearing of the testimony of In Yoeung has now come
22 to an end.

23 Thank you, Madam In Yoeung, for coming as a witness to testify
24 before the Chamber. Your testimony will contribute to the truth.

25 You may now be excused. You may return to your residence or to

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1 any places you wish to go. I wish you good luck, good health and
2 prosperity.

3 Thank you as well, Madam Chhay Marideth, TPO staff. You may also
4 be excused.

5 Court officer, please work with WESU to send Madam In Yoeung back
6 to her residence or to any places she wishes to go.

7 You can now leave the courtroom, Madam Witness.

8 (Short pause)

9 (Witness exits the courtroom)

10 [15.43.12]

11 MR. PRESIDENT:

12 The Chamber is now hearing the request on 87.4 motion of the
13 defence counsel for Mr. Nuon Chea, requesting to admit some
14 documents to be used in the examination 2-TCE-95.

15 Also, on 2 February 2016, the Nuon Chea defence has circulated a
16 courtesy copy of a second Rule 87.4 motion, including 14
17 additional documents it intend to put to 2-TCE-95, who is
18 scheduled to testify next week; E367/4.

19 By email, Nuon Chea defence has notified the Chamber that it has
20 been able -- it has been unable to translate this motion into
21 Khmer and requests that the Trial Chamber accepts this filing in
22 English only.

23 [15.44.33]

24 The legal officer has sent an email to the requestor that the
25 defence team can submit the motion in English first followed by

1 the Khmer version later on.

2 Now, the Chamber is hearing the responses of party and since the
3 hearing of In Yoeung is concluded early before the schedule and
4 since party is informed that they were ready to submit their
5 responses to the motion, TC hereby decides to hear the responses
6 now.

7 Now, the Chamber gives the floor to the Co-Prosecutors to give
8 the responses to the two requests -- or motions submitted by the
9 defence Nuon Chea.

10 But first, I want to give the floor to the defence team for Mr.
11 Nuon Chea so you can proceed with your request orally, and please
12 provide the reasons why you wanted the Chamber to admit those
13 documents.

14 [15.46.04]

15 MR. KOPPE:

16 Considering the time I think, Mr. President, it might be useful
17 to now refer to the content of the two motions.

18 The only reason that I was rising is to clarify that one document
19 has already been admitted by the Trial Chamber -- that is,
20 document in the public -- the attachment, Document 20, Attachment
21 8. It's a public document -- that is, Philip Short's "Phnom Penh
22 Post" article, "Devil's Advocate".

23 And if I'm saying this correctly, it already has an E -- not only
24 an E3 number but another number, E367/4.1.8. So assuming that I
25 am correct in that, that document is already admitted, we

1 withdraw the request for that particular document. So that is
2 just my clarification on that motion.

3 [15.47.10]

4 JUDGE FENZ:

5 Can I just suggest, Counsel, since this is a public hearing, that
6 you at least give few words -- not too long -- explain why this
7 is coming so late.

8 MR. KOPPE:

9 Yes, there are various reasons why we're filing this request now.
10 It is true that certain documents were already available even
11 before the opening of the Trial. Other documents aren't. It is
12 only definite that this expert is testifying since a week or so
13 when permission was granted by the United Nations for him to
14 testify.

15 It is correct that we could have filed this request earlier, but
16 because of resources we weren't able to do it until now. I
17 realize and admit it's short notice, but we believe it's still in
18 time.

19 In addition to this, we have filed another request in relation to
20 a document to be admitted. It was in fact a request for
21 reconsideration and the Trial Chamber hasn't ruled on that, so
22 filing a motion earlier doesn't necessarily lead to an earlier
23 decision.

24 [15.48.35]

25 However, it is in the light of all the recent testimony,

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1 especially on the Khmer Sar, and -- that we are filing this now.
2 It's late, admitted, but not belated, and I think there are
3 reasons enough to have these documents admitted because there are
4 quite some questions as to the independence and impartiality of
5 this particular expert. And so I think the request -- or the two
6 motions -- are admissible.

7 MR. PRESIDENT:

8 Thank you. Now the Chamber gives the floor to the Co-Prosecutors
9 to make oral responses.

10 [15.49.27]

11 MR. KOUMJIAN:

12 Thank you, Mr. President, and Your Honours.

13 First, let me explain that I am at a disadvantage in that I
14 haven't been able to read the documents in their entirety, which
15 we received today. I have them printed here in this notebook,
16 double-sided, so I would estimate there are approximately 200
17 pages, some of it quite dense and small print.

18 But I think I've skimmed at least all documents and I'm prepared
19 to make a comment, I believe, on each. And it perhaps would make
20 sense, in my view, to go through them one-by-one.

21 [15.50.09]

22 So starting with E367/41 -- 4.1.1, I'll go through those
23 attachments. The first one is an interview with the witness, the
24 expert witness, and this and a couple of the other documents that
25 contain statements of the witness we would not object to and we

1 could see, obviously, their relevance and it could help the Trial
2 Chamber in the search for the truth to have those admitted. We
3 don't object.

4 [15.50.42]

5 Attachment 2 is the vacancy notice which we find irrelevant.

6 Attachment 3 is a document with the lists of witnesses that the
7 expert witness has participated in interviews with as of a
8 certain date with OCIJ. And I understand from the motion that
9 this has been authorized for release by OCIJ.

10 However, I would say that, it would depend on how this document
11 is used. I want to make it clear that we do not feel that the
12 Chamber is calling the witness to have an investigator or a
13 person who participated in interviews for any judicial body, come
14 and simply relate a content of interviews. He's here to offer his
15 expert opinion.

16 There could be circumstances where the Defence may explore
17 whether his expert opinion is influenced by work he's done for
18 OCIJ and interviews he has, but I want to make it clear that I'm
19 not going to have the witness simply relate what other people
20 told him from OCI -- during his employment with OCIJ. I don't
21 think that would be proper and that's not the purpose I
22 understand the Chamber is calling the witness.

23 [15.52.02]

24 For Attachment 4, is again a document authored by the witness, so
25 we think it's proper to include that and it'll be helpful to the

1 Trial Chamber.

2 Then we come with a -- to a series of documents, starting here
3 with this next attachment, which I guess must be Number 5 if I
4 have it in order, "The Cambodian Genocide to Date Moves to
5 Trial", where the Defence has attached various individuals'
6 opinions about whether the events of Democratic Kampuchea
7 constituted a genocide of the Cham.

8 Some of these are by people who are not even lawyers. None of
9 them are people who quote any jurisprudence on genocide or even
10 quote, in proper context, the entire definition of genocide --
11 the intent, certain specific acts done with the intent to destroy
12 in whole or in part, a national, racial, religious or ethnic
13 group in whole or in part as such.

14 [15.53.15]

15 So, of course, the Defence is free to copy these arguments. They,
16 of course, will submit to the Court on what the elements of
17 genocide are and whether the evidence in this case fits that
18 definition.

19 And we will answer that. We're confident that the evidence shows
20 there was -- it meets the international jurisprudence of the
21 definition of genocide; that there was an intent to kill the Cham
22 as such, to destroy that group as such within Cambodia.

23 And it's not proper to simply have other people's opinions,
24 whether it's Kiernan, Hinton, saying they think it was genocide
25 or victory or the Cham saying they think it wasn't, this is a

1 matter for Your Honours to determine as it is a legal question.
2 Moreover, none of those experts -- none of those experts have
3 knowledge of the evidence that has been developed in this Court,
4 in this Trial, including in the past month. So I object to that
5 document.

6 [15.54.27]

7 The next document is from the "Bulletin of Concerned Asian
8 Scholars" and it's by Kiernan. I recognize that this contains
9 much factual matter about the history of the Cham, about his
10 research, about what happened in various districts. It's factual
11 and we think it could be relevant so we do not have an objection
12 to that.

13 Similarly, the next document is Vickery's, "Comments on
14 Population Figures". We do see the issue of how many individuals
15 were killed or the percentage who were killed as relevant. The
16 international jurisprudence makes it clear that genocide is not
17 simply a matter of the quantity killed or percentage killed; it's
18 a matter of the intent. However, those are clearly factors that
19 could be relevant in determining the intent, so we don't object
20 to the documents that go to the various debates about how -- the
21 population of Cham before and after the Democratic Kampuchea
22 period.

23 [15.55.34]

24 They could be helpful to Your Honours in the search for the
25 truth, even though this Michael Vickery is clearly the most

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1 pro-Defence author on this issue. We don't object to it; he's a
2 -- I think Your Honours are certainly -- could have some value in
3 it considering his opinion.

4 The next document is "Devil's Advocate: There should be no Khmer
5 Rouge trial". I understand the Defence to say it's already on the
6 record. If it isn't, we would object for the reasons I previously
7 stated; that it's an author giving his opinion about genocide
8 who, in fact, is not a lawyer and doesn't have access to the
9 facts of this case, and that is a legal question.

10 [15.56.16]

11 The next document, again, we would object to for the same reasons
12 and that's someone on the other side of the debate -- no, excuse
13 me, I believe it's on the same side of the debate -- but why did
14 they kill. Again, someone giving their opinion as to what the
15 elements of genocide are and whether it occurred against the Cham
16 in Democratic Kampuchea.

17 The Defence is happy -- is free, of course, to copy those and
18 make those arguments to the Chamber, and we will show why they
19 are wrong when we get to the final brief and final argument.

20 The same thing with the next point. Evidence of intent lacking.
21 It's about the definition of genocide. Also, the next document,
22 genocide definition.

23 We object to those.

24 [15.57.00]

25 The next document is from Kiernan again on the demographics and

1 how he calculates the figures.

2 We, again, think that the numbers killed could be relevant so
3 should be admitted.

4 The next document is a newspaper article -- or a magazine article
5 by Stephanie Giry, "The Genocide That Wasn't". Again, it is
6 expressing a view on the legal issue of genocide that is up to
7 Your Honours and should not be admitted. Defence are free to
8 present her arguments in their own words during the final
9 submissions.

10 The next article contains a lot of statements from the expected
11 witness, so we think it would be relevant -- could be relevant
12 and we don't object to it.

13 [15.57.54]

14 The next article, "The Cham's Long Wait Nearly Over", quotes one
15 of our prosecutors quite a bit, and actually though we don't see
16 anything in it of relevance it certainly doesn't hurt us, but
17 there's nothing relevant in our view and especially considering
18 the timing of the motion, should not be admitted.

19 The next two documents are in Khmer only, so I did not read them
20 I believe. This is on the next motion.

21 And I believe that these are confessions. We would object. We
22 believe -- Your Honours, I'm sure they have read the Supreme
23 Court's ruling on the use of torture evidence.

24 Just to reiterate our position before and after that decision.

25 First, our position is anyone interviewed in S-21 was the victim

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1 of torture. All of those interviews would have taken place under
2 conditions of torture which is defined as "Severe physical or
3 mental suffering" and anyone going to that institution shackled,
4 the diet that they were given, hearing the tortures that were
5 going on or being aware of the likelihood of death would
6 certainly have suffered severe mental harm.

7 [15.59.26]

8 Our position is they can only be admitted when not offered to
9 prove the truth of the matter confessed and we don't believe
10 these are offered for that purpose, although the Defence hasn't
11 been specific about why they were offered.

12 The next document, "The Long History of the Tragedy of the Cham
13 -- The Long Tragedy of Cham History", document number 3. We don't
14 have an objection to it, although I don't think there's anything
15 unique in that document. It refers to factual matters about the
16 Cham history.

17 The next document, "Cambodia's Khmer Serei Movement". Your
18 Honour, I think this is interesting. It's a matter where, I
19 think, a lot of people, including in this Trial, have
20 misrepresented what the Khmer Serei were, and there could be some
21 value to Your Honours' reading this history.

22 However, I don't see any relevance to the Cham as the Cham are
23 not mentioned, nor do I think -- and in the evidence is there any
24 -- that I'm aware of and I can think of now -- evidence of Cham
25 involvement in Khmer Serei. There certainly were Khmer Krom were

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1 heavily involved in Khmer Serei and not the Cham. So we don't
2 find that that document is relevant to the witness.

3 [16.00.45]

4 Document 5, again, we see no relevance to the issue of the Cham
5 or the witness. There's several documents that are coming up now
6 that relate to General Les Kosem, if I'm pronouncing his name
7 correct, and I think this is well-known and there's already much
8 on the record about who he was. And he was a Cham general in the
9 Long Nol army. I don't think that's in dispute, and I don't see
10 anything in these documents that is relevant to the issues in
11 this Trial, and especially considering the late date that they
12 were offered.

13 So Document 5, also Document 6 which I think the Defence
14 indicates is important because it shows the close US/Lon Nol
15 cooperation. I don't think there's any doubt that that is -- we
16 all know that the US cooperated closely with Lon Nol. I don't
17 think there's anything of value added by admitting that document
18 for this witness.

19 [16.01.51]

20 Document 7, again, we'd object for similar reasons. There's
21 nothing about the Cham. I take it back, there may be one document
22 I haven't yet had an opportunity to read, but I don't see
23 anything looking at it quickly about the Cham.

24 Document 8 is a cable about US interactions with Lon Nol. Again,
25 we don't see any relevance to the issues in this case about the

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1 DK period and the Cham and relevance to this witness.

2 Document 9, the same. I think some of these documents, these last
3 documents are about attempts to receive support, to seek support
4 from Muslim countries for the Lon Nol government.

5 We don't think that's relevant to any issues in the case.

6 So Document 10 we'd object to.

7 Document 11 we'd object to, and Document 12.

8 Document 13 is basically about forces -- Khmer Serei I believe --
9 that were planning to move against Prince Sihanouk when he was in
10 power. We don't think that that's relevant to the issues that
11 will be covered by the expert witness.

12 [16.03.53]

13 Document 14, although it contains some factual matters, there's
14 really nothing new. We don't believe it is necessary or
15 particularly relevant for the witness.

16 And I may be missing the last document. Is there one more?

17 Document 15?

18 I think that's all. I think I've covered all the documents.

19 MR. PRESIDENT:

20 The floor is now given to the Lead Co-Lawyers for civil parties
21 to make oral responses to the motions of the defence team for Mr.
22 Nuon Chea.

23 You may now proceed.

24 [16.04.10]

25 MS. GUIRAUD:

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1 Thank you, Mr. President.

2 Except for the confessions, we now know that it is
3 well-established that the Chamber has to reject them and we'll
4 rely on the discretion of the Chamber.

5 We don't have any particular objections to the rest of the
6 documents which are the subject of two 87.4 motions filed by the
7 Nuon Chea defence team.

8 MR. PRESIDENT:

9 You have the floor now, Judge Lavergne.

10 JUDGE LAVERGNE:

11 Yes, perhaps we need some clarifications from Counsel Koppe.
12 Can you please specify exactly why you are requesting that S-21
13 confessions be ruled admissible?

14 [16.06.05]

15 MR. KOPPE:

16 First of all, Judge Lavergne, there are many, many confessions
17 admitted to the case file. I don't know how many, but hundreds of
18 S-21 confessions are part of the case file. So the request to
19 have confessions in this particular case of Cham people admitted
20 is not an unusual request.

21 We filed this motion in relation to these confessions because the
22 expert is basing quite a substantial part of his books on his
23 analysis, evaluation of those S-21 confessions of Cham rebellion
24 leaders.

25 Obviously, it's clear that the Trial Chamber has ruled on various

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1 occasions that we are not allowed to use any of those documents
2 in questioning him, but confessions as such are part of the case
3 file and I believe that these confessions therefore should also
4 be on the case file because they're relevant.

5 [16.07.15]

6 JUDGE LAVERGNE:

7 Yet if I understand you correctly, you do not intend to use the
8 contents of those confessions to put questions to the expert. Do
9 you intend to use the contents of those confessions to put
10 questions to the expert?

11 MR. KOPPE:

12 You're very clear that I'm not allowed to do that, but it doesn't
13 mean that I shouldn't be able -- or the Defence shouldn't be able
14 to know what's in those confessions.

15 They're now only in Khmer. We know that in his book, the expert
16 used extensively the content of these confessions, so to be on a
17 -- at par with the knowledge of the expert, we believe it's
18 important that these confessions, like so many other confessions,
19 are part of the case file.

20 [16.08.13]

21 Again, we will not use the documents to ask him specific
22 questions as to what a particular Cham prisoner in S-21 said, but
23 we believe that we should have access to these confessions. They
24 should be translated and it should be considered, like I said, as
25 the many other confessions that are on the case file.

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1 MR. KOUMJIAN:

2 Your Honour, as to the two documents that are in Khmer, I think
3 it might be useful to know if the Defence has submitted a request
4 for translation and when they did so.

5 Apparently, there's both a DC-Cam interview that the witness
6 conducted and a confession. I was wrong. It's not two
7 confessions. So I think it would be helpful to know how long ago
8 the Defence requested translations and if they have an indication
9 of when the translation would be ready.

10 [16.09.12]

11 MR. KOPPE:

12 We have not requested a translation yet.

13 JUDGE LAVERGNE:

14 Same question applies to documents that are available only in
15 English.

16 MR. KOPPE:

17 No, Judge Lavergne, we haven't done so, but obviously as soon as
18 they are admitted, a translation will follow, but the documents
19 are available only in one language, most of them.

20 MR. PRESIDENT:

21 (No interpretation)

22 [16.10.10]

23 MR. KOPPE:

24 If I may respond very briefly to the submissions of the
25 Prosecution--

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1 MR. PRESIDENT:

2 The defence team for Mr. Khieu Samphan has not yet made the oral
3 responses before you can make the reply. Please wait.

4 MS. GUISSÉ:

5 Thank you, Mr. President. I thought we had been forgotten. I'll
6 be very brief.

7 And I would like to say that we've taken cognizance of all the
8 documents. I cannot say that we've taken cognizance of all the
9 documents before we speak today, but I'm mindful of the fact that
10 we are dealing with a Defence motion and we believe that those
11 documents are relevant to the defence of their client.

12 [16.11.15]

13 And since these documents are meant to be used for examining Mr.
14 Osman, the expert appearing before this Chamber, it is important
15 to enlighten the Chamber on the work of that expert and we
16 therefore are of the view that any materials that can make his
17 testimony in-depth and shed light on the proceedings and to
18 provide for some objectivity, these are things that we often do
19 not have.

20 So, in any case, if these documents are useful to the defence of
21 Nuon Chea as regards their defence, we cannot object to the
22 admission of those documents.

23 In any case, we will rely on the discretion of the Chamber.

24 [16.12.12]

25 MR. KOPPE:

1 Thank you, Mr. President. Three brief remarks in relation to the
2 submissions of the Prosecution.

3 We understand that the expert cannot be questioned as to the
4 legal definition of "genocide".

5 You might recall that I believe, at one point in time, Expert
6 Philip Short offered evidence as to whether genocide had taken
7 place and I believe -- if my recollection is correct -- that it
8 was Judge Cartwright who said, we will have none of that.

9 However, you have chosen only this particular person as expert,
10 and he is maybe -- except for Kiernan -- the only person or
11 scholar or author who says that a genocide has, in fact, taken
12 place. He has taken that position. He is quite clear about that.

13 [16.13.06]

14 The only way for the Defence to put the debate back a bit in
15 balance is to have opinions added from other scholars, such as
16 Vickery, but also the Court's expert, Chandler and Short, who
17 both say that they are of the opinion that no genocide of the
18 Cham took place.

19 Of course, I am mindful of not having a debate next week about
20 that definition, but just to allow the Defence to balance this
21 discussion a bit, we have submitted that these documents are
22 relevant and should be added to the case file.

23 [16.13.56]

24 Then a remark on the relevance of the Les Kosem, the general.
25 Obviously, whatever he did in Lon Nol army is not why we are

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1 seeking his -- these documents in relation to him.

2 You might recall on several occasions I confronted witnesses with
3 testimony from Ouk Bunchhoeun, who referred to the Cham rebellion
4 in '75, and in that context spoke about a group of Cham wanting
5 to create their own state and referred to an organization called
6 FULRO.

7 These documents that we would like to admit suggest that there is
8 a connection between this general, Les Kosem, and the
9 establishment of FULRO.

10 I'm sure the expert is well aware of this person, who he is, and
11 also what his role is, so I think it only adds to the debate to
12 have these documents added.

13 [16.15.03]

14 Last remark, and that is a remark maybe more in question form.

15 It's correct that we've added one or two documents in relation to
16 the position of the expert here at the ECCC. However, there is no
17 denying that he's not only an author of books and someone who is
18 knowledgeable about the Cham people and their fate. However, he
19 is also heavily involved in the investigation, especially in the
20 investigation in the other cases.

21 [16.15.44]

22 So what the Defence, for instance, is wondering is whether the
23 Chamber will allow the Defence leeway in asking -- in having
24 asked -- asking questions to the expert as to how he has
25 conducted certain interviews in Case 004.

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1 More specifically, I will not go into details, the Chamber might
2 have noticed that there is a substantial discrepancy in what one
3 witness said in her WRIs last week or two weeks ago in closed
4 session and as what she said here in Court. And we believe it
5 will be very helpful to find out exactly what this expert in his
6 capacity as investigator can say in relation to those interviews.

7 [16.16.33]

8 And how did he ask his questions? Was he suggestive in leading
9 this witness? I believe that is something that we should be able
10 to explore. That's why we have added that job description and the
11 other witnesses that he has interviewed. He plays a key role in
12 Case 004. He has played a key role as investigator in Case 002.
13 So I believe we should be able to explore that route and try to
14 establish whether he is, in fact, the impartial, independent
15 scholar that he claims he is, and that he brought that same
16 impartiality to the investigation in our case and in Case 004.

17 MR. KOUMJIAN:

18 Mr. President, a few remarks in response to what counsel just
19 said.

20 First of all, the witness is being called as an expert in the
21 Cham segment, and I think it is important that the Chamber make
22 it clear that this is not a witness as to OCIJ procedures.

23 Certainly the fact that the witness is employed by OCIJ is
24 something the Defence is -- is certainly entitled to bring out
25 and it's a factor Your Honours should consider into -- in

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1 evaluating his opinion. That's a valid point for the Defence to
2 make about whether his opinions are neutral or in any way
3 affected by other factors.

4 [16.18.23]

5 But as to the procedures of OCIJ or what happened in other
6 interviews -- and I think the example counsel just gave are
7 interviews he wasn't present at, if I'm not mistaken -- are
8 absolutely a waste of -- completely off the topic of the Cham
9 segment that we are dealing with.

10 Furthermore, just to correct one thing on the Lee (phonetic) --
11 General Les Kosem, counsel said there's evidence in this case
12 that Ouk Bunchhoeun said that there's evidence that the Cham were
13 planning to create their own state.

14 Your Honours recall that evidence was rejected by the Chamber
15 because it was clear that the passage counsel was reading came
16 from what Ouk Bunchhoeun said were what people said in their
17 confessions. So these are confession evidence that, again, is not
18 -- has been rejected by the Chamber and is not part of the record
19 in this case.

20 [16.19.22]

21 As for the various opinions about genocide, other experts about
22 whether or not the events of Democratic Kampuchea hit the legal
23 definition of genocide, absolutely we agree with counsel that no
24 expert should make that -- offer that legal opinion and we will
25 not -- certainly not be asking this expert, TCE-95, his opinion

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1 about whether or not it was genocide.

2 It's different -- counsel certainly is entitled to bring out
3 different understandings of the facts of what happened. So, for
4 example, that's why we say we do not object to Vickery's -- the
5 article by Michael Vickery about what -- how he calculates the
6 numbers of Cham that perished during the Democratic Kampuchea
7 period. Experts -- or authors' opinions about facts are different
8 than their opinions about legal definitions.

9 [16.20.24]

10 So consistent with what counsel said, we will not be asking this
11 witness for his opinion about the legal definition of genocide
12 and whether the facts of this case meet that and, given that,
13 there's no reason for the Defence then to have to balance it,
14 something we're not putting forward, by putting the legal opinion
15 of people who are not lawyers, not international lawyers, and
16 don't know the evidence that's been developed in the ECCC,
17 particularly in recent months.

18 MR. PRESIDENT:

19 You have the floor now, Co-Lawyer for civil parties.

20 MS. GUIRAUD:

21 Thank you, Mr. President. I have a brief remark.

22 It appears to me that the question as to whether the expert will
23 testify regarding what happens in Case 004 has been -- has
24 already been settled because it is part of the letter by the
25 Co-International investigator -- the International Judge, I beg

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1 your pardon, and in that letter it is clearly indicated that Ysa
2 Osman will not testify in regard to what happens in Case 004. And
3 I believe this question is completely irrelevant insofar as it
4 has already been resolved.

5 [16.21.56]

6 MR. KOUMJIAN:

7 I apologize. I was worried about whether something was public or
8 not, but I don't think it's a concern. I apologize for the
9 interruption.

10 MR. PRESIDENT:

11 So I want to know whether any other parties would like to make
12 any other observation or responses.

13 MR. KOPPE:

14 One very, very, very brief remark in reply to the Prosecution on
15 the FULRO and Ouk Bunchhoeun.

16 It is true that you ruled on that particular part of the
17 statement -- or the interview that he gave, however, he referred
18 to events that happened in 1975 so he was clearly not speaking
19 about confessions of S-21 because S-21 didn't exist at the time.
20 He referred, if at all, to confessions probably to Krouch Chhmar
21 security centre. We have not established -- the Trial Chamber has
22 not established whether people were, in fact, tortured there.

23 So I don't think it is correct to say that whatever Ouk
24 Bunchhoeun has said about FULRO is out of the debate.

25 [16.23.20]

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1 MR. KOUMJIAN:

2 I'll just point out that S-21 confessions deal with matters that
3 happened in 1975.

4 MR. PRESIDENT:

5 The discussion on the motions of the defence team for Mr. Nuon
6 Chea has now come to an end.

7 The Chamber is grateful to all parties for addressing the Chamber
8 and for submitting responses and replies.

9 The Chamber will use all the arguments for the basis of the
10 decision which will be issued in due course so that those
11 documents can be used in the examination of 2-TCE-95.

12 [16.24.19]

13 The hearing is now come to an adjournment, and it will resume on
14 Monday, 8 February 2016. On that day, the Chamber will hear
15 2-TCE-95. Please be informed and on time.

16 Security personnel are instructed to bring Mr. Khieu Samphan and
17 Nuon Chea back to the ECCC detention facility and have them
18 returned into the courtroom on Monday, 8 February 2016, before 9
19 a.m.

20 The Court is now adjourned.

21 (Court adjourns at 1625H)

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23

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