



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

22 March 2016  
Trial Day 387

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

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KHIEU Samphan

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For the Office of the Co-Prosecutors:  
Vincent DE WILDE D'ESTMAEL  
SENG Leang

For Court Management Section:  
UCH Arun

I N D E X

2-TCW-900

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Questioning by Mr. KONG Sam Onn ..... page 97

**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
2-TCW-900	Khmer
Ms. CHET Vanly	Khmer
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUISSSE	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. MAM Rithea	Khmer
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the testimony of 2-TCW-900,

6 via a video link.

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

8 and other individuals to today's proceedings.

9 THE GREFFIER:

10 Good morning, Mr. President. For today's proceedings, all parties

11 to this case are present.

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

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

14 been delivered to the greffier.

15 The witness who is to continue his testimony today, that is,

16 2-TCW-900, via a video link from Oddar Meanchey province, is

17 ready, and the AV Unit personnel informs the Chamber that the

18 link has been set up.

19 Duty counsel Mam Rithea is also ready to assist the witness, and

20 there is no reserve witness today.

21 [09.04.54]

22 MR. PRESIDENT:

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

24 The Chamber has received a waiver from Nuon Chea, dated 22nd

25 March 2016, which states that, due to his health, that is,

1 headache, back pain, he cannot sit or concentrate for long. And  
2 in order to effectively participate in future hearings, he  
3 requests to waive his right to participate in and be present at  
4 22nd March 2016 hearing.

5 Having seen the medical report of Nuon Chea by the duty doctor  
6 for the Accused at ECCC dated 22nd March 2016, which notes that  
7 Nuon Chea has a back pain and feels dizzy and recommends that the  
8 Chamber grant him his request so that he can follow the  
9 proceedings remotely from the holding cell downstairs, based on  
10 the above information and pursuant to Rule 81.5 of the ECCC  
11 Internal Rules, the Chamber grants Nuon Chea his request to  
12 follow today's proceedings remotely from the holding cell  
13 downstairs via an audio-visual means.

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

17 Good morning, Mr. Witness. Are you ready?

18 2-TCW-900:

19 Yes, Mr. President, I am ready.

20 [09.06.39]

21 MR. PRESIDENT:

22 Thank you. The Chamber would like to hand the floor now to the  
23 Lead Co-Lawyers to put questions to the witness.

24 You may proceed.

25 MR. PICH ANG:

1 Good morning, Mr. President. Good morning, Your Honours.

2 I'd like to assign Madam Chet Vanly, the civil party lawyer, to  
3 put questions to the witness and I might supplement some  
4 questions as well.

5 MR. PRESIDENT:

6 Yes, she may proceed.

7 [09.07.21]

8 QUESTIONING BY MS. CHET VANLY:

9 Good morning, Mr. President. Good morning, Your Honours. Good  
10 morning, everyone in and around the courtroom. I'd like to  
11 continue where the Co-Prosecutor left off yesterday.

12 Q. Good morning, Mr. Witness. My name is Chet Vanly. I am a civil  
13 party lawyer.

14 Are you ready to testify, Mr. Witness?

15 2-TCW-900:

16 A. Yes, I am ready.

17 Q. I'd like to return to some of your responses yesterday since  
18 they are not clear to me. My question is the following. After  
19 1975, why were <> two divisions integrated, that is, Division 11  
20 and <> Division <14>, into Division 801?

21 A. When the two divisions, that is, 11 and 14, were integrated,  
22 since at that time we had to participate in the attack of  
23 battlefield 990 and to advance toward liberating Phnom Penh. And  
24 we were stationed at <the northwest of Phnom Penh, especially in>  
25 the <area> of Phnom Praseth. <There weren't enough -->

1 [09.09.40]

2 Q. Mr. Witness, due to my limited time, please respond directly  
3 to my question rather than to make a lengthy description.

4 MR. PRESIDENT:

5 Counsel, how can he respond briefly to your question? You asked  
6 for the reason for the <integration> of the two divisions. Then  
7 the response cannot be in one word.

8 You asked for an explanation from the witness, and he is trying  
9 to give you that response. If you think of the interests of time,  
10 then you need to think of how to formulate your questions by  
11 basing it on important points and to get short, precise  
12 responses.

13 The witness is responding to your questions as to the reason on  
14 the <integration> of the two divisions, and that cannot be  
15 responded in one word.

16 [09.10.58]

17 BY MS. CHET VANNLY:

18 Allow me to continue, Mr. President.

19 Q. And witness, please go on with your explanation.

20 2-TCW-900:

21 A. Can I make a rather lengthy response in the form of a  
22 description so that you can fully understand it?

23 Q. Please try to make it short. Otherwise, you cannot do it. I  
24 move on to my next question.

25 A. Yes, I tried. The <integration> happened because we lacked

1 forces <in> the north<>.

2 Q. Were Divisions 14 and 11 part of the forces in the Special  
3 Zone?

4 A. The Divisions 11 and 14 were under the supervision of the  
5 Special Zone.

6 Q. And under whose supervision?

7 A. I did not know that detail. However, I knew that, <in the  
8 North,> was Chey Thon (phonetic) -- Chey Onn (phonetic), rather.

9 Q. And besides Chey Onn (phonetic), were there anyone else in the  
10 leadership?

11 [09.12.38]

12 A. I did not know.

13 Q. Now I'd like to move on to another question. Did you know that  
14 Sou Saroeun and San had their position in Division 801, or were  
15 they later on transferred elsewhere?

16 A. San later was transferred from 801 to 920. However, Sou  
17 Saroeun remained with Division 801.

18 Q. Can you tell the Chamber <in> which zone the Au Kanseng  
19 Security Centre was <located during the Khmer Rouge regime> and,  
20 currently, which district it was in -- it is in, and when was it  
21 established?

22 [09.13.45]

23 A. I knew that it was to the north of Svay mountain and to the  
24 west of Au Kanseng stream. Currently, I do not know which commune  
25 or district it is located in, although I know that it is in

1 Ratanakiri province.

2 Q. And did you know which sector it was in in the Northeast Zone  
3 at the time?

4 A. I was not that well familiar with how many sectors there were  
5 in the Northeast Zone.

6 Q. And do you know when that security centre was actually  
7 established?

8 A. The security centre was established in around 1977.

9 Q. Besides its name as Au Kanseng, did that security centre have  
10 any other names or alias?

11 A. No.

12 Q. Was that security centre not a prison under the supervision of  
13 Division 801?

14 A. That security centre was under the supervision of Division  
15 801.

16 Q. In that Au Kanseng Security Centre, where did the cadres and  
17 the workers in the centre stay or live?

18 A. Are you referring to the time in that regime?

19 Q. Yes.

20 [09.16.09]

21 A. Workers at the Au Kanseng Security Centre were partly from  
22 Battalion 806 and some were from the handicapped office, while  
23 others were assigned from the sector.

24 Q. Did they actually live within the compound of the security  
25 centre or did they live outside at the time?

1 A. All workers as well as the supervisors and security guards  
2 remained living inside the compound of the security centre.

3 Q. Was there a kitchen and a kitchen hall located within the  
4 compound? If so, where was it located?

5 A. Yes, the centre had a kitchen. It was built next to the  
6 stream.

7 [09.17.38]

8 Q. During meal time, did the cadres and workers and prisoners  
9 actually went -- go to the kitchen hall <or did they stay at the  
10 detention rooms>?

11 A. During meal time, security guards and cadres in the centre had  
12 their meal in the kitchen hall except the detainees who were  
13 shackled. For them, the meal would be brought to the building  
14 where they were detained.

15 Q. Were there pits within the compound of the security centre  
16 and, if so, how many?

17 A. There were -- there was no pit inside the compound of the  
18 centre.

19 Q. Yesterday, you testified before the Chamber that there were  
20 three supervisors, <Chhaom> Se, Tim and you. Can you tell us the  
21 specific roles of the three?

22 A. Among the trio, Se was overall in charge of the centre. As for  
23 me, I was in charge of documents and confessions of the  
24 prisoners. And Tim was in charge of security matters within the  
25 compound.

1 Q. Yesterday, you also testified that there were nine guards. And  
2 besides the nine guards, were there any other workers?

3 A. The nine people I referred to yesterday were those guards  
4 inside the compound. And there were -- there was no other staff  
5 working in the centre.

6 Q. Among the nine guards, were they assigned any specific task or  
7 they all did the tasks jointly?

8 A. Tim was the one who managed the guards, and I did not know the  
9 details of the assignments.

10 [09.21.02]

11 Q. Yesterday, you also testified that the communication between  
12 the centre and Division 801 had to go through 806. It means it  
13 has to pass through Ta Smien. Is that correct?

14 A. Yes, it is.

15 Q. And after the disappearance of Ta Smien, whom your superior  
16 reported to?

17 A. After the disappearance of Ta Smien, the communication between  
18 the Unit 806 was to be made with Ta Koy.

19 Q. And did it have to go through other individual before it  
20 reached Ta Saroeun?

21 A. Yes, there was another person name Mon.

22 [09.22.15]

23 Q. Mon, Smien and Sou Saroeun, did any of them frequently come to  
24 inspect the centre and, if so, who?

25 A. Amongst Koy and Mon, usually these two made frequent trips to

1 the centre. Sou Saroeun never came to the centre.

2 Q. On what matters did they inspect when they visited the centre?

3 A. They came to hold internal meetings, that is, the meetings  
4 between the youth league and the Party representatives. They  
5 would also talk about the situation and the security matters as  
6 well as the living condition.

7 Q. Yesterday, you also testified before this Court about the  
8 living condition of prisoners, about the food <ration>. And I'd  
9 like to ask some more questions on this matter.

10 Prisoners who were brought in to the centre, did you know from  
11 which areas they were brought from?

12 A. Most of the prisoners were brought in were soldiers. Then  
13 there were a small number of people from cooperatives, and some  
14 came -- and some workers from the union, although there were not  
15 many of them.

16 [09.24.24]

17 Q. And those soldiers who were brought in, did you know from  
18 which unit they were -- they were from?

19 A. They were brought in from Regiment 81, 82, 83 and also from  
20 Battalion 803, and some soldiers were brought in from the  
21 so-called special unit.

22 Q. Those soldiers or combatants who were brought in from  
23 battalion or regiment, were they tied, were they blindfolded and  
24 were they transported by vehicle to the security centre?

25 A. Regarding the soldiers who were brought in from division, I

1 only observed that there was only one soldier who was  
2 blindfolded, and there were a handful who were -- whose hands  
3 were tied. As the rest, they were not tied. However, there were a  
4 few armed guards who escorted them on the truck when they were  
5 brought in to the centre.

6 [09.25.57]

7 Q. Do you recall the name of the soldier who was blindfolded?

8 A. Yes, his name was Pheng Phoy.

9 Q. Can you tell the Chamber why it was necessary to have him  
10 blindfolded?

11 A. I did not know the reason for him to be blindfolded. However,  
12 I saw him blindfolded when he was brought to the centre.

13 Q. Can you tell the Chamber what kind of mistake that Pheng Phoy  
14 was allegedly committed?

15 A. Through questioning and based on some accompanied documents,  
16 Pheng Phoy was implicated in the confession of Lay Sarim.

17 Q. And was Lay Sarim also sent to the Au Kanseng Security Centre?

18 A. Lay Sarim was not sent to Au Kanseng Security Centre. However,  
19 I indirectly heard that Lay Sarim was sent to Phnom Penh.

20 Q. Can you tell the Chamber who actually made the decision to  
21 send prisoners to the security centre?

22 [09.28.12]

23 A. When I received prisoners who were brought in to the centre,  
24 actually, I received <them> from the regimental level.

25 Q. And actually, who made that decision to arrest those soldiers?

11

1 A. I did not know in detail as to who made that order for the  
2 arrest <and> the sending of those soldiers to the centre,  
3 although I knew that the decision was made at the upper level.

4 Q. And did you know who were at that upper level?

5 A. I did not know any specific individuals at that upper level.

6 [09.29.18]

7 Q. Did the chief of security <of the> centre have the authority  
8 to make an arrest or to release a prisoner?

9 A. Security centre supervisor did not have any authority to make  
10 an arrest of anyone in his or her respective unit. As for the  
11 release, he also did not have that authority. He <needed> to  
12 <seek> permission from the upper level.

13 Q. And from whom at the upper level that he needed to seek the  
14 authority or the approval?

15 A. I cannot provide the answer to this question. As I have  
16 stated, the report to the upper level was made based on what  
17 happened on the ground, and I did not have the authority to make  
18 such a request to the upper level.

19 Q. You stated that most of the detainees at the centre were  
20 soldiers. And did you know usually what kinds of mistakes or  
21 offences they <had> allegedly made so that they were arrested and  
22 sent from the division?

23 A. As for the offences that they were allegedly made were mostly  
24 that they were accused of stealing food or fruit or corn to eat  
25 without seeking permission, that is, permission from their group

1 or unit chief. And some of them were accused of being lazy to  
2 work.

3 [09.31.33]

4 Q. Yesterday, you also stated that you were a member of the  
5 security centre and that you were in charge of interrogating  
6 prisoners and preparing the documents or the confessions of the  
7 prisoners.

8 Did -- or were you also responsible for making list of prisoners  
9 who were brought in and lists of prisoners who were released or  
10 taken out?

11 A. When prisoners were brought in to the security centre, the  
12 work would be done by the security people, that is, to draw list  
13 of those prisoners' names.

14 Q. Thank you, Mr. Witness. Regarding the list of incoming  
15 prisoners, were prisoners sent into the security centre together  
16 with their confessions?

17 [09.32.45]

18 A. We have never seen any confession <> sent in together with the  
19 prisoners.

20 Q. Thank you, Mr. Witness. I want you to clarify for this Court  
21 once again when you went to work at the Au Kanseng Security  
22 Centre in 1976 or 1977, do you know how many prisoners were there  
23 when you arrived?

24 A. I cannot recall the number of prisoners, but to the best of my  
25 knowledge, there were less than 200 prisoners. I can say there

1 were around more than 100 prisoners.

2 Q. Thank you. You were in charge of the security centre. From  
3 1976 upward, did the number of prisoners increase?

4 A. I went to that security centre in 1977. At the beginning,  
5 there were not many prisoners. One month later, the number  
6 increased and that number was stable.

7 Q. Thank you. When the prisoners were brought in to the centre,  
8 who was in charge of receiving prisoners? Were prisoners walked  
9 by armed guards?

10 A. I never saw guns <being pointed at prisoners> on the truck or  
11 vehicles. As I said, I saw one or two armed guards on the  
12 vehicles<>, and the security guards <at the centre> unloaded the  
13 prisoners out of the vehicles <and brought them into the hall>.

14 [09.35.31]

15 Q. Thank you, Mr. Witness. Were they -- were the prisoners  
16 brought in groups or they were brought in -- in small number?

17 A. Sometimes the prisoners would come in a group of three or  
18 sometimes one prisoner was brought in. The number varied. And not  
19 more than five prisoners were brought in at a time.

20 Q. Thank you. You were a member of the security centre and you  
21 were in charge of compiling the confession when they were  
22 interrogated. Were you in charge of managing prisoners and  
23 controlling prisoners?

24 A. I had no authority to manage prisoners in the centre.

25 [09.36.35]

1 Q. Who was the one that decided to chain the prisoners, to lock  
2 the prisoners in <in a room, and> so on and so forth?

3 A. It was Tim who was responsible for that task.

4 Q. I want to put a question to you in relation to prisoners. Were  
5 prisoners brought in together with their family members, namely,  
6 spouses, parents?

7 A. To my recollection, there was one prisoner that was brought in  
8 together with the family members. They were from cooperative. And  
9 two or three families from unions were brought into the security  
10 centre.

11 Q. When they were in, were they put together or were they put  
12 separately?

13 A. At first, they were placed in different locations. Later on,  
14 they went to work together and they were allowed to stay together  
15 at the last stage of their detention.

16 Q. Thank you. Within the security centre, were refashioning  
17 meetings or re-education meetings held to refashion prisoners?

18 A. There were meetings <every 10 days> to explain the prisoners  
19 <about> the <socialist> revolution<>.

20 Q. Who was in charge of presiding over that -- those meetings?

21 A. It was Se.

22 [09.38.50]

23 Q. Thank you. Yesterday, you told the Court that, within the  
24 security centre, there were different types of prisoners, serious  
25 and minor prisoners. Some were chained, and some were detained in

1 a normal condition. Can you tell the Court whether there were  
2 latrines within the centre?

3 A. No, there were not. There weren't any latrines within the  
4 centre.

5 Q. What about hygiene? Were prisoners allowed to clean  
6 themselves?

7 A. In relation to hygiene or whether or not they cleaned  
8 themselves, those who went out to work, they bathed at the stream  
9 or river. And for those who were detained within the holding  
10 cells, when they wanted to bathe themselves, they would be walked  
11 towards the stream.

12 [09.40.11]

13 Q. What about food? Were they allowed to eat communally or what  
14 kind of food ration were they given to?

15 A. During that regime, the food ration was given in a bowl.

16 Q. How many meals a day were they allowed to eat?

17 A. One in the morning and another one in the evening.

18 Q. Were prisoners given meal within a large bowl or a small bowl,  
19 or just a ladle of food?

20 A. It was a medium-size bowl, not too large and not too small. So  
21 I can say it was a medium-size bowl.

22 Q. In relation to all the prisoners within that security centre,  
23 you stated that there was refashion meetings to lead them to  
24 refashion themselves. Were prisoners released at that security  
25 centre?

16

1 A. Toward the -- toward 1979, some prisoners were allowed to work  
2 with me. They were not locked in the whole thing -- holding  
3 cells. They were instructed to work with me close to the border.

4 Q. I would like to move to another topic in relation to  
5 interrogation. Yesterday, you stated that you were in charge of  
6 interrogation. I want you to tell the Court, before the  
7 interrogation was conducted by you, did you, in advance, examine  
8 the relevant documents in relation to each prisoner?

9 A. <Only> Pheng Phoy had a document <because Nau was holding it  
10 in his hand>. And <other than> that<>, <we interrogated them  
11 because> we wanted to know the reason <why they were> brought  
12 into the security centre.

13 [09.43.00]

14 Q. Thank you. You stated yesterday that, during the  
15 interrogation, you never inflicted torture on the prisoners. What  
16 happened if the prisoners did not confess? What kind of methods  
17 did you use?

18 MR. PRESIDENT:

19 Please reformulate your question. It is the practice and  
20 instruction of the Chamber that hypothetical question is not  
21 allowed.

22 So you can ask about the treatment against the prisoner or the  
23 targeted groups at the time, so please reformulate your question.

24 Such questions are not allowed.

25 [09.43.46]

1 BY MS. CHET VANNLY:

2 Thank you, Mr. President. I will reformulate my question.

3 Q. What kind of methods did you use when you interrogated the  
4 prisoners?

5 MR. PRESIDENT:

6 Please hold on, Mr. Witness.

7 You have the floor first, Mr. Koppe.

8 MR. KOPPE:

9 Thank you, Mr. President. Good morning, Your Honours.

10 I object to this question for a variety of reasons. First of all,  
11 it seems to be repetitive. The subject was covered yesterday by  
12 the Prosecution.

13 Secondly, I think the Chamber allowed the civil parties only  
14 about 30 minutes.

15 But more importantly, I would like to remind the lawyer for the  
16 civil parties that torture or the way prisoners were interrogated  
17 as such is not part of the Closing Order. The Trial Chamber  
18 doesn't need to be informed as to whether torture allegedly  
19 happened at Au Kanseng.

20 I wasn't objecting yesterday because a few general questions,  
21 obviously, are allowed, but now it seems that the civil party  
22 lawyer is going more deeply into the subject, so also, for this  
23 reason, I object to her questions.

24 [09.45.31]

25 MR. PRESIDENT:

1 What do you have to say, Mr. International Deputy Co-Prosecutor?

2 MR. DE WILDE D'ESTMAEL:

3 Thank you. Good morning, Mr. President. Good morning, members of  
4 the Chamber.

5 Regarding an objection that has to do with the scope of the trial  
6 and the Closing Order, even though torture as a crime was not  
7 retained <> by the Co-Investigating Judges <in the Closing  
8 Order,> what happened in the centre, <in particular> such  
9 tortures, could be characterized and considered alongside other  
10 crimes that are covered in the Closing Order: inhumane and  
11 degrading acts, <a form of> enslavement and so on and so forth.  
12 So such questions remain relevant.

13 [09.46.32]

14 MR. PRESIDENT:

15 You almost run out of time, lawyer for civil party. You still  
16 have only one minute, so please put a short question. Do not  
17 elaborate much on your question.

18 Lawyer for civil party said -- told the witness to give short  
19 response but, in fact, the lawyer asked a lengthy question.

20 BY MS. CHET VANNLY:

21 Thank you, Mr. President. I will resume my questioning now.

22 Q. Mr. Witness, I have a question for you. When did you get  
23 married?

24 2-TCW-900:

25 A. I got married in March 1977.

1 Q. So you got married in Khmer Rouge time. Is that correct?

2 A. Yes, that is correct.

3 Q. Did you know your spouse in advance, or was your marriage  
4 organized by Angkar?

5 [09.47.54]

6 A. I proposed her name to Angkar.

7 Q. Could you elaborate about the process of your marriage in  
8 Khmer Rouge time?

9 A. You want me to give a short answer or you want me to expand a  
10 lot about this issue?

11 Q. I want only a short answer from you, Mr. Witness.

12 A. I was called in the evening and told about that. And the  
13 marriage happened at around 10.00 p.m. Four couples were there in  
14 the marriage, and the three couples were quite old people.

15 [09.48.55]

16 MR. PRESIDENT:

17 You are running out of time, lawyer for civil parties. The floor  
18 is now given to the defence team for the Accused, starting first  
19 from the defence team for Nuon Chea, to put questions to this  
20 witness.

21 You have the floor now.

22 QUESTIONING BY MR. KOPPE:

23 Thank you, Mr. President. Good morning, Mr. Witness. I am the  
24 defence lawyer -- International Defence Lawyer for Nuon Chea, and  
25 I will have some questions that I would like to put to you.

20

1 Let me start by asking you a few follow-up questions in relation  
2 to what you said yesterday about the attack on Phnom Penh and the  
3 period before.

4 Yesterday, you said something about commanders in your unit who  
5 were cadres from Hanoi. Did I understand that correctly, and can  
6 you please expand a little bit on this?

7 2-TCW-900:

8 A. Regarding the commander, commanders that were from Hanoi, at  
9 first, I became the member of the unit in Kampong Cham province,  
10 and those commanders were from Hanoi. Later on, they disappeared.  
11 The Unit 39 <> was under the supervision of San. <He led it from  
12 Kampong Thom.> After we <fought on> the battlefield at Prey <Kri>  
13 (phonetic), we were moved to the northwest of Phnom Penh under  
14 the supervision of San. There were no cadres or commanders from  
15 the north to be in charge of that Unit 39.

16 [09.51.22]

17 Q. Yesterday, you also spoke about Operation Chenla. Were, in  
18 your recollection, Vietnamese troops involved in Chenla as well,  
19 or was it only your unit which <was> commanded by cadres from  
20 Hanoi?

21 A. I cannot explain this particular issue. When I became part of  
22 that unit, I saw only Khmer soldiers. And I heard from others  
23 that about the issue.

24 MR. PRESIDENT:

25 Judge Lavergne, you have the floor now.

1 [09.52.27]

2 JUDGE LAVERGNE:

3 Yes. Counsel Koppe, can you be more specific when you put  
4 questions to the witness? When you say "Vietnamese troops", that  
5 is somewhat vague and it would be proper to be more specific.

6 BY MR. KOPPE:

7 Correct. I was intentionally vague just to allow the witness to  
8 expand. He mentioned yesterday Chenla, and I was interested in  
9 what he knows about this. It's not very -- terribly important,  
10 but it seems that the witness doesn't really have a full  
11 knowledge of Chenla, so I will move on.

12 Q. Mr. Witness, I do understand that your unit was involved in  
13 the capture of Phnom Penh.

14 When you were entering or nearing Phnom Penh in April '75, what  
15 was your -- what was the policy of your unit in relation to  
16 captured Lon Nol soldiers, soldiers who had waved the white flag?  
17 Is there anything that you can say to us about this?

18 2-TCW-900:

19 A. I cannot give an explanation about the issue. At the time, I  
20 was assigned to be in charge of radio operation, so I was  
21 actively engaged in my task only, at the time.

22 [09.54.15]

23 Q. Very well, then. I'll move on to the tasks of your division.

24 You said yesterday that you were not involved in the organization  
25 of a big meeting where all divisions attended at the Olympic

1 stadium in 1975. You said yesterday that you were only involved  
2 in radio communication.

3 But do you know, in general terms, what your division did when it  
4 was hosting this big meeting in the Olympic stadium in 1975?

5 A. In hosting that big meeting at Olympic stadium, as a radio  
6 communicator, I do not know details about that big meeting.

7 [09.55.31]

8 Q. Let me ask you one or two questions about that meeting, and  
9 let me read to you an excerpt from a statement from both Chhaom  
10 Se and his wife. But let me ask you first, yesterday, you were  
11 asked questions about Chhaom Se. At the time, did you know his  
12 wife?

13 A. I know very well Chhaom Se's wife.

14 Q. Is her name Peap (phonetic) or Pheap? I'm not quite sure how  
15 to pronounce it well.

16 A. Her name was Pheap. She was a medic.

17 Q. Do you know what her position was, if any, in Division 14?

18 A. I told already that she was a medic in the company.

19 Q. I understand, but do you know whether she had a ranking  
20 position within Division 14?

21 A. I do not know her rank at the time. I only knew that she was a  
22 medic in a company.

23 Q. There's a small thing, like I said before, that I would like  
24 to confront you with, maybe you know something about this. As I  
25 said, she gave a very long interview together with her husband to

1 investigators of DC-Cam. Mr. President, that is document  
2 E319/23.4.1, a document that was admitted by the Chamber, I  
3 believe, eight days ago. I'm not sure whether it already has an  
4 E3 number. It seems so; E3/9734. I'll be quoting from it quite a  
5 bit.

6 [09.58.31]

7 Mr. Witness, on -- and Mr. President, on English ERN, 01079525;  
8 and Khmer, 00932020; Pheap is talking about things that happened  
9 at this meeting in the Olympic stadium. And she says the  
10 following -- she's talking about preparation of food for all the  
11 soldiers -- well, maybe not the soldiers but, rather, the guests.

12 And she says:

13 "After the food was prepared, Bong 05 would check first before  
14 letting guests eat the food.

15 Question: To check if there was any poison?

16 Yes. When we transported the supplies, our forces were in charge.  
17 Checking what came in and out as well as checking the toilets  
18 were also our responsibility."

19 [09.59.43]

20 A little further:

21 "801 was in charge. Each of us almost fainted. We had to prepare  
22 food and tables for Pol Pot, and then we waited until he had  
23 finished a meal. Bong 05 dared not joint the table with Pol Pot.  
24 He came to share a table with us."

25 Do you know anything about fears within Division 801 that maybe

1 soldiers or guests were going to be poisoned?

2 A. I do not know this particular point.

3 Q. No problem, Mr. Witness. Another additional question on  
4 Division 801, just now, this morning, and I believe also in one  
5 of your WRIs, you said that San, the number two of 801, at one  
6 point in time went to Division 920.

7 Do you know anything about connections between Divisions 801 and  
8 920 other than that they were both stationed in the Northeast  
9 Zone?

10 A. It is to my knowledge and recollection regarding the changes  
11 of the senior leadership within <the> divisions.

12 Q. Well, let me ask it differently. Were there other examples of  
13 Division 801 people who went subsequently to become members of  
14 Division 920?

15 A. I do not have any example to give you regarding these changes.  
16 [10.02.22]

17 Q. Is it correct that Ta San or Bong 06 was replaced by someone  
18 who was called Keo Saroeun?

19 A. Please repeat your question.

20 Q. Maybe my pronunciation isn't well. Do you know whether Ta San  
21 or Bong 06 was replaced by someone named Keo Saroeun?

22 A. I did not know as whom he replaced. I only knew that he was  
23 transferred from Division 801 to 920.

24 Q. Have you ever heard of a person called Keo Saroeun?

25 [10.03.40]

1 A. No, that name does not ring a bell.

2 Q. Have you ever heard of a person who was also having a ranking  
3 position within Division 801 called Ung Ren?

4 A. Yes, I know Ung Ren. I used to work with him.

5 Q. What was Ung Ren's position?

6 A. During the northwest <Phnom Penh's> battles, he used to be the  
7 deputy commander of Regiment 82.

8 Q. Thank you. I will get back to Ung Ren shortly. Let me now turn  
9 to my next subject.

10 What is it that you can tell us about the military situation in  
11 the Northeast Zone when it comes to Vietnam? Let me ask you first  
12 general. What can you tell us about Vietnamese incursions into  
13 Cambodia, Mondolkiri and Ratanakiri?

14 What can you say about Vietnam's military position toward  
15 Cambodia, or Democratic Kampuchea, at the time between '75 and  
16 '79? In other words, what can you tell us in general?

17 A. I cannot tell you the details of the event. What I know is  
18 that in -- between 1978 and '79, there were clashes along the  
19 border<>, and that area was the area where Division 801 was  
20 stationed.

21 [10.06.44]

22 Q. And what can you tell us about these clashes? Who started  
23 those clashes? What, exactly, happened? Can you be a little bit  
24 more specific, please?

25 A. Allow me to expand this point a little bit. For example, when

1 I stay at home and a cow actually comes into the area near my  
2 house, I would chase that cow away. <That is just my comparison.>

3 Q. I would, too, I'm sure. I think I know what you mean, Mr.  
4 Witness, but can you clarify just to be sure that everybody  
5 understands what you mean? Who is the cow in your example?

6 A. Frankly speaking, I refer to other nationalities, in  
7 particular, the Vietnamese who carried arms into the territory of  
8 Cambodia. And the questions that we need to ask is: what is the  
9 purpose of carrying <firearms> inside the territory of Kampuchea  
10 since they have their own country? <Here, I just want to clarify  
11 this issue.>

12 [10.08.36]

13 Q. I think I do, Mr. Witness. Let me read a few excerpts from  
14 other people's testimony, again reading an excerpt from Pheap's  
15 testimony to DC-Cam.

16 Mr. President, that is, English ERN, 01079520; and Khmer,  
17 00932017. Pheap and Chhaom Se are asked the following question:  
18 "At the time, we were fighting against the Vietnamese along the  
19 border, weren't we?"

20 Pheap answers: "Yes."

21 Question: "In which year did the war break out?"

22 Pheap: "It was late in 1976. They came in step by step. Their  
23 spies came in first."

24 And then Chhaom Se adds:

25 "They occupied along the border and the river. They wanted to

1 give us this side of the river, not that side. At Ou Tres there  
2 is an island, the one near Ou Ya Dav. They gave us from that area  
3 to this side of the river, from the turn to the -- to Se San  
4 River to here. The two-star general came for a meeting at Ou Ya  
5 Dav."

6 A little further down, Mr. Witness, he's talking about  
7 negotiations using a map from, presumably, 1954, and the  
8 Vietnamese using a map from 1962. Does this somehow refresh your  
9 memory as to things that were happening with Vietnamese troops?

10 [10.10.53]

11 A. Regarding the testimony by Se and Pheap, and what I can say to  
12 that is that that is their own collection -- recollection. And to  
13 my understanding, Se came from the battlefield in national -- in  
14 Road 19, that is, in Ou Ya Dav, and he was part of Regiment 19 at  
15 the time.

16 Q. Let me ask it more specifically.

17 They said the war broke out in late '76. "They came in step by  
18 step, and their spies came in first."

19 Is that correct, what they're saying, or what is your knowledge  
20 about this, if any?

21 [10.11.59]

22 A. The reason Division 801 was reassigned to Ratanakiri, that is,  
23 to the Northeast Zone, is because of the encroachments by <the>  
24 Vietnamese <troops>, in particular in the area of Ou Dambouk  
25 (phonetic).

1 Q. I understand. But it seems that Chhaom Se and his wife are  
2 saying the Vietnamese came in step by step, and first their spies  
3 came in. Is that something that you know as well, or what -- have  
4 you ever heard something like this?

5 A. As I stated, that is his recollection, and I cannot make any  
6 further comment on this.

7 Q. There is a Division 920 soldier, whom you presumably don't  
8 know, but who is -- was giving testimony as well to DC-Cam. And  
9 he is saying that in the northeast region it was the Vietnamese  
10 who started their attacks first. Is that something that you  
11 recall as well?

12 MR. PRESIDENT:

13 Witness, please hold on.

14 And International Deputy Co-Prosecutor, you have the floor.

15 [10.14.05]

16 MR. DE WILDE D'ESTMAEL:

17 Mr. President, it's not a way of putting questions. We do not  
18 have the name of the soldier; we do not have the reference. We do  
19 not have any quote. We have an extremely <general> statement, and  
20 <> the witness <is being incited> to say something, whereas up  
21 until now, he said that he did not know much about this subject.  
22 <And> even though the lawyer <is> trying to push him, he did say  
23 that <they were> the memories of other people.  
24 So first, you should put prior questions before putting a  
25 question that is so vague that allows no -- none of the parties

1 here to verify the sources and the veracity of what the soldier  
2 is saying.

3 So I understand that the counsel wants to speed things up, but  
4 still, he should follow a proper method.

5 [10.14.56]

6 MR. KOPPE:

7 No problem, Mr. President. Maybe I'll just finish this line of  
8 question.

9 But on the other hand, I see it's already almost quarter past  
10 10.00. I can do it after the break, if you like.

11 MR. PRESIDENT:

12 Thank you, Counsel. Let we have a short break and resume at  
13 10.30.

14 And Mr. Witness, we have a short break. You should also rest as  
15 well, and return to wherever you are now at 10.30.

16 2-TCW-900:

17 Yes, thank you, Mr. President.

18 MR. PRESIDENT:

19 The Court is now in recess.

20 (Court recesses from 1015H to 1033H)

21 MR. PRESIDENT:

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

23 Mr. Witness, are you ready?

24 2-TCW-900:

25 Yes, I'm ready, Mr. President.

1 MR. PRESIDENT:

2 Thank you. Now I would like to give the floor to the Defence for  
3 Nuon Chea to continue putting questions to the witness. You may  
4 now proceed.

5 [10.34.18]

6 BY MR. KOPPE:

7 Thank you, Mr. President. And good morning again, Mr. Witness.

8 Q. You might not remember exactly what happened before the break,  
9 but I was asking you a question about who started the fighting  
10 first. But let me withdraw that question and read to you an  
11 excerpt from testimony of a Division 920 combatant.

12 I'll be referring, Mr. President, to document E3/7960, more  
13 particularly, English ERN, 00450295; French, 007389899 (sic); and  
14 Khmer, 00851665 and 66.

15 So Mr. Witness, I'll be reading to you an excerpt from this  
16 witness testimony.

17 For your information, Mr. President, this is the witness about  
18 whom we sent a courtesy copy this morning -- or yesterday.

19 Mr. Witness, he says the following:

20 "In 1977, there were Vietnamese attacks. We hardly knew the  
21 Vietnamese location. They moved."

22 (Short pause)

23 [10.36.22]

24 BY MR. KOPPE:

25 Q. Yes, I found it. I apologize.

31

1 "It was the Vietnamese who started the attacks -- the attack  
2 first." End of quote.

3 Sorry for this, Mr. Witness, but I've read to you an excerpt from  
4 this Division 920 combatant, and he is talking about Vietnamese  
5 attacks and Vietnamese who started those attacks in the northeast  
6 region first. Can you please give a reaction to that?

7 [10.37.09]

8 2-TCW-900:

9 A. The testimony by the combatant from Division 920, based on his  
10 memory. As for me, I was far away from the battlefield, so I had  
11 no idea who fired first.

12 Q. I understand that you, yourself, were not at the battlefield,  
13 but that, of course, wouldn't necessarily prevent you from  
14 knowing what happened.

15 Let me read to you a small excerpt from something that Son Sen  
16 told in a meeting of the Standing Committee of the CPK. Document  
17 E3/221, Mr. President. I'm reading from page, in Khmer, 00000813;  
18 French, 00386178; and English, 00182696.

19 So, this is Son Sen in the meeting of 14 May 1976, saying to  
20 fellow members of the Standing Committee the following, and I  
21 quote:

22 [10.38.47]

23 "Along the border, they keep on coming in non-stop. We did not go  
24 looking to make trouble with them at all. According to  
25 experience, if they come in when we do not chase after them and

1 they do not go, but when we get strict, that's when they go. That  
2 is in Ratanakiri.

3 In Mondolkiri, we do not attack them at all. We respect the  
4 instructions of the Party absolutely and do not let it get  
5 tense." End of quote.

6 Is this something that you can react to, Mr. Witness, Son Sen  
7 speaking to the Standing Committee about Vietnamese border  
8 incursions and Vietnamese military attacks in the northeast  
9 region?

10 A. I only knew that there were attacks at the border within the  
11 Cambodian territory.

12 Q. But were these unilateral attacks -- Vietnam unprovoked  
13 attacks by Vietnam? Was it Vietnam or <the> Vietnamese military  
14 who started this always?

15 MR. PRESIDENT:

16 Mr. Witness, please hold on.

17 The floor is given to the International Co-Prosecutor.

18 [10.41.03]

19 MR. DE WILDE D'ESTMAEL:

20 Thank you, Mr. President. <These> question<s are> very  
21 repetitive. The witness has already said several times that he  
22 didn't know the precise situation. I don't know what the Counsel  
23 is trying to do to -- Counsel is trying to use documents to force  
24 the witness to say things that he doesn't know, Mr. President.  
25 I think this question is repetitive and it should, therefore, not

1 be allowed by this Chamber.

2 [10.41.37]

3 MR. KOPPE:

4 It's not repetitive at all, Mr. President. I acknowledge that the  
5 witness wasn't himself involved in the battlefield, but he might  
6 have heard the same thing from fellow 801 Division members what  
7 Son Sen heard from his position, so --

8 JUDGE FENZ:

9 Perhaps the best thing -- because I had the impression, too, that  
10 he actually said he doesn't know, but perhaps in order to avoid  
11 readings and readings with a witness who says he doesn't know,  
12 perhaps the best thing is to ask him, "We recognize you were not  
13 there, you don't know yourself, did you hear anything about  
14 that?" And perhaps we can then stop reading documents.

15 BY MR. KOPPE:

16 Q. Mr. Witness, did you hear anything about Vietnamese attacks?

17 Let me -- let me be more specific. Did you hear anything about  
18 Vietnamese attacks in the night of 22nd of January 1976?

19 2-TCW-900:

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

21 [10.43.02]

22 Q. For your information, just to be complete, I was referring to  
23 document E3/887, which I will not confront the witness with. That  
24 is dealing with a Vietnamese attack -- a secret Vietnamese attack  
25 in the night.

1 Let me now move on to other issues that Chhaom Se and Pheap  
2 discussed with the investigators of DC-Cam. Mr. Witness, did you  
3 ever hear anything about a rebellion within the CPK?

4 A. No, I do not understand.

5 Q. What is it that you don't understand? You don't understand my  
6 question, or you don't know anything about a rebellion?

7 A. I do not understand the question, especially about the  
8 rebellion that you said.

9 [10.44.40]

10 Q. Well, I'm obliged to ask you general questions first before I  
11 can be more specific. But do you know anything about troops from  
12 Division 920 or troops from Division 801 being involved in an  
13 armed rebellion to topple the DK government, the storage of  
14 weapons, attacks on Radio Phnom Penh, attacks on Pochentong  
15 airport, coup d'état, attempts to poison or to shoot Pol Pot and  
16 Nuon Chea, and all of this with the support of Vietnam? Have you  
17 ever heard anything about this while you were in Division 801?

18 MR. PRESIDENT:

19 Mr. Witness, please hold on.

20 And the International Deputy Co-Prosecutor, you may have the  
21 floor.

22 MR. DE WILDE D'ESTMAEL:

23 Thank you, Mr. President. I have the impression that the Defence,  
24 in putting this question, is taking for granted <> that all the  
25 facts that <> he <> has described, which we consider not well

1 established, <really happened>. So <the question> should be  
2 <formulated> very carefully, in using the conditional, because  
3 these are not established facts. He shouldn't mislead the witness  
4 by giving the impression before this Chamber that these facts  
5 <have been> established, <and that, therefore, how is it possible  
6 that> the witness is not aware of <them>. <If that is the point  
7 of this question,> I <> object<>.

8 [10.46.50]

9 MR. KOPPE:

10 I do not understand this objection at all, to be honest, Mr.  
11 President. I don't think we have established any facts so far.  
12 And if you have, please let me know we have a problem.  
13 We are in the business, Mr. Prosecutor, of establishing facts  
14 here, but I'm quoting from Sem Hoern's testimony before the  
15 Chamber here when I speak about storage of weapons in warehouses,  
16 attacking Phnom Penh airport and the radio station.  
17 But more problematic is I'm happy now to go to the more specific  
18 excerpts from Chhaom Se and Pheap's statement, but then I'm  
19 getting accused of reading documents again, so please let me know  
20 what I should do.

21 [10.47.51]

22 JUDGE FENZ:

23 The way I understood the question, you were trying to figure out  
24 if he has heard of any of those things you mention, so --

25 MR. KOPPE:

1 Exactly.

2 JUDGE FENZ:

3 -- basically to check out where to go and if to go anywhere  
4 further. Is that --

5 MR. KOPPE:

6 That is exactly my intention.

7 JUDGE FENZ:

8 Yes.

9 [10.48.12]

10 BY MR. KOPPE:

11 I presume I'm allowed this question. I'll repeat it, Mr. Witness.

12 Q. I was asking you about a rebellion within the CPK and within  
13 divisions of the revolutionary army.

14 I made it more concrete and asked you whether you have heard  
15 anything about failed attempts to attack Pochentong airport,  
16 Radio Phnom Penh, attempts to stage a coup d'état against Pol  
17 Pot, attempts to either poison or kill Pol Pot and others, any  
18 form of rebellion within CPK or within the revolutionary forces,  
19 all this backed up and supported by Vietnam. Have you ever heard  
20 of anything of this?

21 [10.49.20]

22 2-TCW-900:

23 A. No, I did not know about this.

24 Q. Are you sure, Mr. Witness? Because you were the number 2 or 3  
25 of Au Kanseng Security Centre. You were in charge, I believe, in

1 interrogation of prisoners. Is it your testimony that you do not  
2 know anything about an alleged rebellion or about a factual  
3 rebellion?

4 A. I worked at the security centre, so my knowledge was not broad  
5 about situation <in general>.

6 Q. Well, let me see if I can refresh your memory, and I'm obliged  
7 to now read a few excerpts from Pheap and Chhaom Se's testimony  
8 before DC-Cam.

9 Mr. President, I'm referring again to, E319/23.4.1. It doesn't  
10 have an E3 number yet, as I understand. More particularly, I'm  
11 referring to English ERN, 01079524 and subsequently; and Khmer,  
12 00932019.

13 Pheap is saying the following, Mr. Witness:

14 "Division 14 controlled the royal palace. Other places were also  
15 controlled by Division 14. Pol Pot trusted Ta San very much  
16 because Ta San's division took care of his security and safety.  
17 So Phim actually wanted to destroy Pol Pot from the time of the  
18 victory over Phnom Penh. However, there were Ta San and Ta Roeun.

19 "Those two Ta?"

20 Answer: "Yes. So Phim held a bigger position in the Party."

21 Now, let me -- let me zoom in on this, Mr. Witness. Pheap, Chhaom  
22 Se's wife, is talking about So Phim, the leader of the East Zone,  
23 wanting to destroy Pol Pot from the time of the victor over Phnom  
24 Penh, but she seems to suggest that Ta San and Ta Roeun were  
25 there to assist and help Pol Pot defend this. Does that somehow

1 jog your memory?

2 [10.52.40]

3 MR. PRESIDENT:

4 Mr. Witness, please hold on.

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

6 MR. DE WILDE D'ESTMAEL:

7 Thank you, Mr. President. I think it would be interesting to read  
8 the source of that passage <and the answers given by Pheap>. The  
9 page in English is 01079527.

10 <I don't know if I'm allowed to read it, but> we <> understand  
11 that <this> information was obtained by <Pheap on the basis of a  
12 confession.> And he says,

13 "We interrogated those people we had arrested> and they  
14 confessed."

15 This is an important element to add to this question because<,  
16 here again, one could believe that these people were  
17 eyewitnesses, whereas actually they> only heard this <second-hand  
18 through confessions>.

19 MR. KOPPE:

20 I'm really very unclear as to why the Prosecution keeps on  
21 sabotaging these line of questions.

22 This is something that she volunteers, Chhaom Se agrees with it.

23 There's no mention of confessions in relation to this particular  
24 excerpt. Plus, why should it be only confessions that are the  
25 source of information? There are so many other possible sources

1 in relation to this rebellion.

2 We actually heard a lot of testimony in this Court.

3 So being the testimony from Chhaom Se and his wife talking

4 directly about 801 commanders, I believe, Mr. President, that I'm

5 able -- I should be entitled to confront the witness with this

6 excerpt. And if -- if he can give a reaction -- if he can't, then

7 I'll move on to the next.

8 [10.54.59]

9 JUDGE FENZ:

10 I don't think there was an objection. I heard an observation. You

11 just wanted the record to be clear. I think it is.

12 MR. KOPPE:

13 Well, I don't think the record is clear because she doesn't say

14 --

15 MR. PRESIDENT:

16 I would like to give the floor to Judge Lavergne.

17 [10.55.18]

18 JUDGE LAVERGNE:

19 Yes. I need to have some clarifications, Mr. Koppe. Apparently,

20 in the interview, <only one> source is mentioned:> confessions

21 that could be from S-21. That is what I understood from what the

22 Co-Prosecutor said.

23 Do we have any mention of other sources, that is, sources other

24 than the confessions, or is it just rumour?

25 MR. KOPPE:

1 Well, Chhaom Se's wife volunteered this information . There was  
2 no specific question as to the sources of her knowledge, so  
3 presuming that this was based on confession doesn't really make  
4 any sense because she wasn't involved in S-21. She wasn't  
5 involved in any security centre.  
6 There's no evidence that she even read one of those confessions.  
7 And if you see the other things that she's saying about the task  
8 of Division 801 in protecting Pol Pot, I believe that the  
9 information might be hers, or the sources of her knowledge might  
10 be others -- other things than confessions.  
11 However, I don't think we ever ask witnesses who are inculpatory  
12 what their sources are, so the moment it is exculpatory, we are,  
13 all of a sudden, very diligent when it comes to finding sources.  
14 So again, Mr. President, I think I should be able to confront  
15 this witness, who is a Division 108 combatant, with Pheap's and  
16 Chhaom Se's statement.

17 (Judges deliberate)

18 [11.00.42]

19 MR. PRESIDENT:

20 I'd like to give the floor to Judge Claudia Fenz.

21 JUDGE FENZ:

22 The Chamber is at the moment, at least not in the short time, not  
23 able to determine whether this part is based on information that  
24 is torture tainted.

25 For this reason, Mr. Prosecutor, could you please be very clear

1 and specify the part of the statement that, in your opinion,  
2 shows that the information is based on torture? We would then ask  
3 the Defence Counsel, for the time being, to move ahead, and after  
4 the break, we'll give a decision on whether you can use this  
5 statement or not.

6 Mr. Prosecutor, please.

7 MR. DE WILDE D'ESTMAEL:

8 Thank you.

9 The excerpt that was read out by the Counsel is two pages before  
10 the excerpt that I read out. In reality, <there> are two pages  
11 that are <focused> on what might have happened against the power  
12 in place and, in particular, the role of <people of> the East  
13 Zone<>. So, <to be thorough,> the question that was put at the  
14 end of this part of the interview -- the question that's put to  
15 Pheap by Boly from DC-Cam, is the following, in English:

16 [11.02.12]

17 "In fact how did you know that the East Zone people were the ones  
18 causing all these events?"

19 And then you have the answer of Pheap:

20 "We interrogated those people we had arrested, and they  
21 confessed."

22 And the conclusion -- well, this concludes this part of the  
23 interview, which <focuses> on the possible implication of East  
24 Zone cadres against the central power. And here is where we speak  
25 about the <defensive> role of the Division 801.

1 So in my eyes, this is based on confessions, at best, that Pheap  
2 <or> her husband might have read, but probably, in reality,  
3 confessions that they heard about only. So the source is very  
4 removed.

5 And on top of this, there is the issue of torture that comes into  
6 play here.

7 [11.03.17]

8 MR. KOPPE:

9 Mr. President, if I may briefly respond.

10 We don't -- we do not know if -- we don't have Pheap here in the  
11 courtroom. However, what is more important, if you actually read  
12 what she is saying, her testimony as to explosions, shooting, the  
13 use of cadres specialized in karate or fighting sports to protect  
14 Pol Pot, that is really something that one cannot read in  
15 confessions.

16 She was stationed in Phnom Penh. At one point in time, 801 had a  
17 very important role. And when you read a little bit further,  
18 English ERN, 01079526; it seems that she is describing the  
19 explosions that I think we can all agree about did actually take  
20 place.

21 Chandler writes extensively about it, explosions that took place  
22 in front of the royal palace, in front of the national museum.

23 So, it seems -- but maybe who were the sources behind the  
24 violence possibly derived from confessions. We do not know. But  
25 it seems there's a lot of extra information that she offers

1 herself, together with her husband, as cadres or ranking cadres  
2 within Division 801.

3 So I believe that it is very unclear as to what her sources are,  
4 maybe confessions. I should be able to confront the witness with  
5 these excerpts and ask his reaction.

6 [11.05.20]

7 JUDGE FENZ:

8 But not for the time being, so please go ahead.

9 MR. KOPPE

10 You would like me to leave the subject completely?

11 JUDGE FENZ:

12 I don't know what questions you have, but as I've mentioned, we  
13 want to have a look into that. We'll rule on it after the break,  
14 so. It's only about the use of this document. We'll rule on that  
15 after the break.

16 [11.05.53]

17 BY MR. KOPPE:

18 Let me -- let me then ask a few additional questions without  
19 going into those specific events and then I'll return to them,  
20 indeed, after the break, Mr. President.

21 Q. Mr. Witness, have you ever heard of a person called Chan  
22 Chakrey?

23 2-TCW-900:

24 A. Yes, I heard of that name, although I have never seen him in  
25 person.

1 Q. And what is it that you have heard of him?

2 A. I heard Nau mentioned his name.

3 Q. I'm not sure if I follow. What did you know about Chakrey and,  
4 more particularly, what do you -- what did you know about his  
5 military skills, about his skills of fighting? What is it that  
6 you knew about Chan Chakrey?

7 A. I did not know that detail.

8 [11.07.43]

9 Q. Let me read a very small excerpt from, again, same statement  
10 of Chhaom Se and his wife, E319/23.4.1, English ERN 01079546,  
11 Khmer I don't have at this point in time, Mr. President,  
12 "Chakrey" -- says Chhaom Se -- "Chakrey was who was a skillful  
13 military strategist, could not be compared with Sou Saroeun.  
14 Regarding fighting, he," -- Chan Chakrey -- "was the best."

15 Question: "Was Chakrey famous in the past?"

16 Chhaom Se answers: "Yes, Chakrey was vicious."

17 "It was said that he was very skillful", is the question. "He  
18 will not be -- he was not defeated on any battlefield."

19 Answer: "Yes." Answer, sorry:

20 "However, when he engaged at Dei Edth battlefield, he suffered  
21 the most. He even sent his wounded troops to the Special Zone to  
22 be taken care of. I also stayed at the hospital there", says  
23 Chhaom Se.

24 Is this something that you know as well, the military skills  
25 described by Chhaom Se in relation to Chan Chakrey?

1 [11.09.28]

2 A. What I want to say in relation to the testimony by Chhaom Se  
3 is that, Se was at the company level, and it seems that he had a  
4 great deal of knowledge than me.

5 Q. Thank you for that answer, Mr. Witness. Let me now, before I  
6 come back after the break to the topic of rebellion, move to Au  
7 Kanseng itself.

8 Yesterday, you spoke briefly about a person named Nau. And if I  
9 understand your testimony correctly, you believe that Nau was  
10 coming from Phnom Penh.

11 What, exactly, made you understand or believe that Nau, when he  
12 came to Au Kanseng, was originally coming from Phnom Penh?

13 A. He told me that he came from Phnom Penh.

14 Q. But did he say that he was working in Phnom Penh, or was he --  
15 in other words, was he stationed in Phnom Penh or was he  
16 originally from Phnom Penh? What, exactly, did you understand at  
17 the time when he said he was from Phnom Penh?

18 [11.11.50]

19 A. It is my understanding that he came from Phnom Penh because,  
20 from his appearance, he looked like someone who came from the  
21 city, that is, from Phnom Penh. And I never saw <anybody who  
22 looked like> him around in the -- amongst those soldiers in the  
23 division.

24 Q. So it's possible that he wasn't actually from any unit  
25 stationed in Phnom Penh, but you just believed from the way he

1 looked that he was from Phnom Penh. Is that correct?

2 A. Yes, that is correct.

3 Q. Now let me go to the structure of Division 801 and Au Kanseng.

4 You gave some testimony as to Units 806, Regiments 81, 82 and 83.

5 Do you know whether there were also units with numbers 809 and

6 810?

7 [11.13.36]

8 A. <I think> 809 belong<ed> to Ta Vanna, and I did not know about

9 810.

10 Q. Let me read to you what a Division 801 combatant says about

11 this, and maybe that jogs your memory. It's E3/5173, English ERN,

12 00272661; and French, 00272667; Khmer, 00189266. This witness

13 says the following:

14 "I was in the re-education school until January '78, when they

15 sent me to re-education school 809. Re-education schools 810 and

16 809 were subordinate to Division 801. Re-education school 810 was

17 for holding serious offenders, and re-education school 809 was

18 for minor offenders who had been re-educated already. At

19 re-education school 809, prisoners had the freedom to move about

20 and speak to one another, and it was better than re-education

21 school 810, but the living and working conditions in both those

22 re-education schools were similar."

23 Can you respond to that, Mr. Witness?

24 A. I cannot respond to that. What you told me is a recollection

25 of his, and I did not have that knowledge.

1 Q. I understand. But you were the number 2 or number 3 of Au  
2 Kanseng, which I believe is 806.

3 Is he -- is he wrong in his recollection, or you do not know  
4 whether there were re-education schools 809 and 8010 -- 810,  
5 excuse me?

6 [11.16.24]

7 A. I did not know whether his recollection is well preserved, but  
8 I did not have that knowledge.

9 Q. Very well. Let me stay on the topic of re-education, Mr.  
10 Witness. Yesterday, you were read an excerpt by the Prosecution  
11 from a document E3/1164. It was about five organizational  
12 measures that were read out to you yesterday.

13 Mr. President, it's English ERN, 00516711; Khmer, 00052327; and  
14 French, 00532754.

15 I'm not going to read them again because, as I said, they were  
16 read out yesterday. What the Prosecution didn't read out was the  
17 next sentence after these organizational measures, and that I  
18 would like to read out to you and then ask your reaction. It  
19 says, and I quote:

20 [11.17.50]

21 "In conclusion, anyone who violated the discipline and repeated  
22 the faults after three to four sessions of education shall be  
23 arrested or removed from the unit."

24 So, Mr. Witness, these measures are talking about arrest or  
25 removal from the unit. However, it seems to be only in relation

1 to the violation of discipline and the repeating of faults after  
2 three to four sessions of education.

3 Can you give a reaction? Is that correct, that before someone was  
4 arrested or removed from the unit, there were first three to four  
5 sessions of education?

6 A. I think that the measures mentioned in the document in  
7 relation to prisoners who were brought to Au Kanseng Security  
8 Centre -- I believe they actually had gone through at least one  
9 or two sessions of re-education before there was a decision that  
10 they had to be arrested.

11 Q. And how did you establish this? Is this something that you  
12 believed or that you knew, that before anyone was sent to your  
13 unit or to your centre, this person was educated two or maybe  
14 three or four times?

15 Was it something that you knew or is it something that you heard  
16 or believed?

17 [11.20.08]

18 MR. PRESIDENT:

19 Witness, please hold on.

20 And International Deputy Co-Prosecutor, you have the floor.

21 MR. DE WILDE D'ESTMAEL:

22 Thank you, Mr. President.

23 In French, we heard the following <translation of the witness's>  
24 answer. He spoke about "one or two re-education sessions". In the  
25 follow-up questions, it becomes <two,> three <or> four

1 re-education sessions. So <I think> we should <keep to> what the  
2 witness said. He spoke only about one or two <> sessions.

3 [11.20.42]

4 BY MR. KOPPE:

5 Q. Mr. Witness, did you know whether people who were sent to you  
6 had first been re-educated either once or twice as you said, or  
7 three or four times as these organizational measures seem to  
8 indicate? Did you know that?

9 2-TCW-900:

10 A. Sometimes I received information from their respective unit  
11 when those people were sent to my -- to the security centre. The  
12 unit would indicate on the documents that these particular  
13 individuals had been re-educated two times. And for the third  
14 session, those individuals did not change, for instance.

15 Q. But these organizational measures and the re-education or the  
16 education of three to four times before they were sent, is that  
17 -- or was that a general practice at the time? Can you say  
18 anything about this?

19 A. I did not know how their respective units implemented those  
20 measures. I was remote from them, and usually, they would send  
21 those people to my location and I was on the receiving end.

22 [11.22.52]

23 Q. Let me now talk about categories of enemies. Have you ever  
24 heard of a division into three categories of enemies and three  
25 different types of treatment in relation to enemies?

1 A. I think I actually responded to this kind of a question  
2 yesterday.

3 Q. Let me be more specific, Mr. Witness. Let me read to you an  
4 excerpt from certain things that Son Sen told division  
5 commanders, including your own division commander. And I will --  
6 afterwards, I will read to you an excerpt from the Revolutionary  
7 Flag which seems to say basically the same thing. Let me then ask  
8 your reaction.

9 [11.24.08]

10 So Son Sen, in E3/13, English ERN, 00940354; Khmer, 00052414; and  
11 French, 00334983; says the following. So this is Son Sen talking  
12 and instructing inter alia your division commander:

13 "Operational methods. (1) Continuous education is imperative. It  
14 is imperative to purge no-good elements absolutely in the sense  
15 of an absolute class struggle. The purge is premised on three  
16 principles.

17 Category 1; the dangerous category, they must be absolutely  
18 purged.

19 Category 2; the ordinary liberal category, they must be educated  
20 again and again in our education schools.

21 And Category 3; the category of those who have merely been  
22 incited by the enemy, merely believing in the enemy incitement.

23 As a first step, they should undergo re-fashioning to get them to  
24 no longer believe the enemy." End of quote.

25 Mr. Witness, I've been a little bit more specific as to those

1 three categories; is this something that you recall; is it  
2 something that sounds familiar to you?

3 A. Due to the passage of time, I cannot recall details of the  
4 documents that you refer to.

5 [11.26.16]

6 Q. Well, I -- I do not believe that you actually would have been  
7 in the position to know this document, but isn't it correct that  
8 you, yourself, read "Revolutionary Flags", revolutionary  
9 magazines, or "Revolutionary Youth" magazines and that you used  
10 those magazines in order to educate the prisoners; is that  
11 correct?

12 A. Regarding the "Revolutionary Flag" magazines or youth  
13 magazines, sometimes I read them and sometimes I did not, and I  
14 cannot recall the contents of what I read.

15 [11.27.14]

16 Q. Well, let -- let me go to "Revolutionary Flag" of September  
17 '77, a special issue, which also divides enemies into three  
18 categories; although, this particular "Revolutionary Flag" seems  
19 to be speaking also about the period before 1975.

20 Let me read it to you. Khmer ERN 006 -- sorry, 00063146; in  
21 French, 00492822; in English, 00486325 (sic). It says:

22 [11.27.58]

23 "We divided our enemies into three groups: First, to win over  
24 those enemies who could be won over in some circumstances;  
25 second, to neutralize those who could be neutralized so they

1 could not carry out actions against us; and third, to isolate the  
2 most vicious in order to attack them. We differentiated our  
3 enemies and in certain circumstances, were able to make use of  
4 their internal contradictions."

5 So again, Mr. Witness, you being an interrogator at Au Kanseng;  
6 you being the number 2 or 3, these three different categories of  
7 enemies, what I've been reading to you; is that something that  
8 you remember, as well? Does that -- is that in accordance with  
9 your own memory?

10 A. When I recorded the confessions of prisoners, I recorded what  
11 prisoners actually spoke.

12 Q. I understand, but the prisoners that you had -- that you were  
13 in control of, were they -- were those prisoners of the first  
14 category or the second category or the third? Let me be more  
15 specific even. The union workers, coming from the rubber  
16 plantation, which category -- which of the three categories did  
17 they belong to?

18 [11.30.06]

19 A. Workers from the rubber plantation union, if they were to be  
20 categorized, they would be allowed to live outside the building  
21 where detainees were shackled or detained. In fact, when they  
22 initially arrived, they were -- the<> ankles <of these men> were  
23 shackled, but later on, they were not shackled anymore and you  
24 could say that they were not in the serious category, as they  
25 were not shackled, and they were allowed to work outside.

1 Q. And did -- did that apply to all or most of the rubber  
2 plantation union workers; were they all in the least of the three  
3 categories?

4 A. Please repeat your question.

5 [11.31.25]

6 Q. Is it -- is it fair to say that most or maybe all of the  
7 rubber plantation union workers were in the least dangerous of  
8 the three categories and because they were -- they were allowed  
9 to work outside of the premises, they must have belonged to the  
10 third, least-dangerous category; is that correct?

11 A. Yes, that is correct.

12 Q. And what about the Division 801 soldiers who were in Au  
13 Kanseng; were they in that same category, the third and least  
14 dangerous category, or were they maybe in the second category?

15 MR. PRESIDENT:

16 Witness, please hold on and International Deputy Co-Prosecutor,  
17 you have the floor.

18 MR. DE WILDE D'ESTMAEL:

19 The question is leading, Mr. President. <They could also fall  
20 into the first category.> Why exclude the first category?

21 Yesterday, we heard the witness's testimony that some of them  
22 were in the severe-regime category, so we can ask what category  
23 they belonged to, but not necessarily in the second or the third  
24 category.

25 [11.33.13]

1 BY MR. KOPPE:

2 I'm -- I'm happy to reformulate, Mr. President.

3 Q. Mr. Witness, the Division 801 soldiers or combatants, who were  
4 in Au Kanseng, the detention centre, to which category did they  
5 belong; the third like the Au Kanseng -- like the rubber  
6 plantation union workers, the second, or the first; the most  
7 dangerous category?

8 A. Amongst the three categories, the first category is the most  
9 dangerous one.

10 [11.34.12]

11 Q. That I understand, but my question is, is my understanding  
12 that there were also 801 division combatants being detained; were  
13 -- in -- in which of those three categories were they placed?  
14 What kind of category were they; were they the most dangerous  
15 ones or were they belonging to the same category as those rubber  
16 plantation union workers or were they in -- in between or some of  
17 them in one category and others in another category? That's, of  
18 course, also a possibility.

19 A. It is difficult for me to respond to your question because to  
20 me it is rather repetitive.

21 [11.35.21]

22 Q. Well, I don't think that question was asked before, Mr.  
23 Witness.

24 So, again, using the guidelines of the CPK, at the time, you, as  
25 one of the implementers of it -- of -- of these guidelines, are

1 you able to tell us if Division 801 combatants belonged to any of  
2 those three categories; if yes, what was the criterion for you to  
3 decide if it was a category 1 or a category 3 prisoner?

4 A. That depended on the real situation; that is, after one or two  
5 of them had been smashed, they were allowed to work outside to  
6 work in the rice fields or in plantation, although they were  
7 under constant guard. And if they were allowed to work at the  
8 plantation or rice fields while they were being guarded, they  
9 would fall into the third category.

10 [11.37.05]

11 MR. PRESIDENT:

12 Thank you, Counsel. It is now convenient for a short break. We  
13 take a break now and resumed at 1.30 this afternoon.

14 Mr. Witness, we now have a break for lunch and, of course, you  
15 also have a break for lunch and we will resume at 1.30 and that  
16 also applies to the duty counsel. Please return to that room a  
17 bit before 1.30 this afternoon so that we may continue with  
18 hearing your testimony.

19 2-TCW-900:

20 Yes, Mr. President.

21 [11.37.45]

22 MR. PRESIDENT:

23 You may rest then.

24 And security personnel, you are instructed to take Khieu Samphan  
25 to the waiting room downstairs and have him returned to attend

1 the proceeding this afternoon before 1.30.

2 The Court is now in recess.

3 (Court recesses from 1137H to 1333H)

4 MR. PRESIDENT:

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

6 Before the Chamber hands over the floor to the defence team for

7 Mr. Nuon Chea to resume the questioning, the Chamber now issue

8 its oral ruling in relation to the objection before the break

9 time, in relation to the questioning of this witness.

10 The ruling is to ensure that the proceeding, in relation to

11 questioning, goes smoothly. To deal with the issue, the Chamber

12 now hands over the floor to Judge Lavergne.

13 You may now proceed, Judge Lavergne.

14 [13.35.31]

15 JUDGE LAVERGNE:

16 Thank you, Mr. President.

17 This morning, Counsel Koppe referred to the statements of a

18 person called Orn Sopheap. Orn Sopheap had been the subject of an

19 interview by the organization called DC-Cam. <Those> statement<s>

20 had to deal with the existence of a possible plot to <attack> Pol

21 Pot; <an attack> that had <allegedly> been orchestrated by So

22 Phim and other <cadres> from the East Zone.

23 The prosecutor pointed out that the sources of information from

24 Orn Sopheap were confessions of persons arrested and detained at

25 S-21.

1 [13.36.15]

2 Having reviewed the interview of Orn Sopheap, the Chamber notes  
3 that the person <> concerned <had, in fact, declared that she>  
4 was aware <> that people of the East Zone were responsible for  
5 certain events <because> they had been arrested and <> had  
6 confessed; however, the Chamber, at this stage in the trial,  
7 cannot determine with certainty that <> Orn Sopheap<'s  
8 information> or <> her knowledge <is based on> confessions from  
9 S-21. The Chamber can only say that the <origin> of such  
10 information is uncertain and unclear.

11 Having pointed this out, the Chamber authorizes the counsel for  
12 Nuon Chea to ask <the> question<> that they put to the witness  
13 this morning.

14 MR. PRESIDENT:

15 Thank you.

16 Good afternoon, Mr. Witness, are you ready now?

17 2-TCW-900:

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

19 [13.37.34]

20 MR. PRESIDENT:

21 The floor is now handed over to the defence team for Mr. Nuon  
22 Chea to resume the questioning. You may now have the floor.

23 BY MR. KOPPE:

24 Thank you, Mr. President.

25 Before I return to the DC-Cam statement of Pheap, maybe I should

1 finish the -- the subject that I was discussing with the witness  
2 before the lunch break so that the transcript can be read  
3 coherently.

4 Q. Good afternoon, Mr. Witness. You're still there?

5 2-TCW-900:

6 A. I am ready now, Counsel.

7 [13.38.28]

8 Q. Thank you, Mr. Witness.

9 Before the break, we were speaking about the three different  
10 categories of prisoners within Au Kanseng. I have one follow-up  
11 question in this respect. Have you ever heard, at around June  
12 1978, about a guidance or guideline of the Central Committee of  
13 the Communist Party of Kampuchea on the Party's policy toward  
14 misled persons; persons who have been accused of being traitors,  
15 either working for Vietnam or possibly, the CIA/the Americans?  
16 There was a whole new guideline as to how to treat the various  
17 people who were implicated; does that sound familiar to you, a  
18 guidance or a guideline, more particularly, of June 20, 1978?

19 A. I knew -- I was aware of this guideline from Se.

20 Q. And can you tell us what you did after June 20, 1978 to  
21 implement this guideline; what happened in Au Kanseng in relation  
22 to the people who were, at that time, and subsequently, detained?

23 A. From that time onward, the minor prisoners were allowed to go  
24 to work at a far location. As I informed the Chamber yesterday,  
25 they were allowed to go to work the field along Road 19, close to

1 the border.

2 [13.41.13]

3 Q. But do you remember whether there was a -- was an evaluation  
4 of each and every prisoner detained at the moment this -- this  
5 guidance of the Central Committee of the CPK came out? In other  
6 words, did you discuss, with others, each and every prisoner who  
7 was detained at that time?

8 A. I did not happen to talk to those people.

9 Q. But how was this new guideline implemented; the guideline to  
10 be much more lenient toward people who were considered, before  
11 that guideline, as having committed treason? How -- what did you  
12 do to make sure that this guideline was properly implemented in  
13 Au Kanseng?

14 A. In relation to the <the implementation> of the guideline, it  
15 was more lenient; that is to say, food ration had to be provided  
16 to prisoners sufficiently in an appropriate manner, and prisoners  
17 who went to work <in the rice fields> with me at <> Kong  
18 (phonetic) <village near the battlefield> were allowed to eat  
19 whatever they found and we were allowed to eat in a communal  
20 manner.

21 [13.43.18]

22 Q. I will move on. I'm not entirely sure if I fully understand  
23 your answer.

24 Let me now turn to the subject of release of prisoners. You said  
25 that more toward 1979, prisoners were released. But once you

60

1 found out, after interrogating a prisoner, that he had no  
2 connections or that he wasn't involved in any forms of treason,  
3 would these people then be released or would they still be  
4 detained at Au Kanseng?

5 A. For the remainder of the prisoners, they were released to go  
6 to work.

7 Q. Let me read to you an excerpt from Chhaom Se -- Chhaom Se,  
8 E3/407; his answer to question 6, and I just want to make sure  
9 that you're saying what he is saying too or not, then just give a  
10 reaction, please, Mr. Witness.

11 [13.44.59]

12 So he says here, "Sometimes, Ta Saroeun called me to meet with  
13 him. There, he instructed me to examine the people, who had been  
14 implicated, carefully. If, after being examined, we found that  
15 the prisoners had no real connection, we re-educated them and  
16 released them. As for the prisoners, who were found to have a  
17 real connection, we detained them in the cell. I did not recall  
18 who the confessions I had received belonged to."

19 Mr. Witness, Chhaom Se seems to be speaking about people, after  
20 being examined, they were re-educated and then they were  
21 released. Released in, I suppose in a normal understanding of the  
22 word, would be that they were -- that these people would be sent  
23 back to their villages or the co-operatives. What exactly does  
24 the word "release" mean when you use that word?

25 [13.46.29]

1 A. Regarding the release, in that period, they were released to  
2 work within the compound of Au Kanseng Security Centre. The  
3 release was applied to those who -- the prisoners who had minor  
4 offences.

5 Q. Very well. Let me now move on to the subject from before your  
6 lunch break, Mr. Witness, and that is Pheap's statement to  
7 DC-Cam. Just to refresh your memory, let me read again the  
8 excerpt that I had originally put to you. I'm going to read her  
9 statement and then I will ask your reaction.

10 To be clear, Mr. President, this is E319/23.4.1; English, ERN  
11 01079524; and the Khmer, 00932019. So this is what Pheap tells  
12 the DC-Cam investigator.

13 "Division 14 controlled the Royal Palace. Other places were also  
14 controlled by Division 14. Pol Pot trusted Ta San very much  
15 because Ta San's division took care of his security and safety.  
16 So Phim actually wanted to destroy Pol Pot from the time of the  
17 victory over Phnom Penh. However, there were Ta San and Ta  
18 Roeun."

19 Question: "Those two Ta?"

20 Answer: "Yes."

21 [13.48.42]

22 And then Chhaom Se enters the conversation and he says, "So Phim  
23 held a bigger position in the Party." And then his wife says,  
24 "They did not get on well after the victory."

25 Question: "From '75?"

1 "Yes, from 1975."

2 Can you please give a reaction, Mr. Witness, as to this statement  
3 from Pheap and her husband, Chhaom Se?

4 A. I know that Pheap was Chhaom Se's wife. She was a medic in a  
5 company. Regarding her testimony, I think that her testimony is a  
6 be -- is -- is a bit broad. She may have known much more than me  
7 and it is the recollection of what happened in that period. It is  
8 confined to her recollection and story. So I do not know about  
9 what she described.

10 [13.50.22]

11 Q. Very well. Let me see if -- if I -- if I read to you a few  
12 more specific excerpts, maybe that is something that you heard,  
13 at the time, from other division members.

14 She talks -- two pages down, English, ERN 01079526; and Khmer,  
15 00932021; she talks about Pol Pot's bodyguards and Division 801's  
16 role in protecting Pol Pot and delivering the bodyguards.

17 Se says: "His bodyguards. Around him, Pol Pot, there were four or  
18 five of them."

19 Pheap: "His bodyguards and people from our division."

20 Se: "He only went around with the division, he dared not go  
21 outside. He did not trust others."

22 And then the question from DC-Cam: "Was there any signs that  
23 someone wanted to kill him?"

24 And then Se says: "There had been two or three explosions  
25 already, but he was safe. Later on, his messenger was injured.

1 Those people protected him."

2 "When did the explosions happen? Do you remember?"

3 "Near Phnom Penh."

4 [13.51.52]

5 Mr. Witness, here again, Chhaom Se and Pheap, his wife, both  
6 belonging to the same division as you, talked about people,  
7 soldiers, trying to kill Pol Pot and that there had already been  
8 two or three explosions in Phnom Penh injuring a messenger; have  
9 you heard anything about explosions in Phnom Penh, attempts to  
10 assassinate Pol Pot?

11 A. After the liberation of 17 April 1975, I was living and  
12 working in divisional headquarter <801>. I was not there the  
13 whole 12 months. I had to go and perform my tasks in Ratanakiri  
14 province. While I was at the headquarter, I had never heard about  
15 the gunshots or explosion as <Se> described.

16 Q. On that very same page, Chhaom Se talks about shootings and  
17 conflicts being broken out at the Olympic Stadium. He says  
18 literally the following: "Yes. The second and third conflicts  
19 broke out at Olympic Stadium. But bullets were not fired. The  
20 bodyguards were quite protective. That was because of A Phim or  
21 the contemptible Phim."

22 You mentioned earlier this morning, Mr. Witness, that your  
23 division was involved in hosting a big meeting in the Olympic  
24 Stadium. You, yourself, were not active, but have you ever heard  
25 of any violent actions or conflicts or shootings taking place at

1 the Olympic Stadium?

2 [13.54.35]

3 A. As I told the Court earlier, after the liberation, up to the  
4 day that I left Phnom Penh<>, I have never heard any explosions  
5 <in the Olympic Stadium> as told by Se.

6 Q. And then the last example, that's the page -- one English page  
7 further, 01079527; and Khmer, 0093222 (sic); Se presumably moves  
8 in time, one year, going to 1977 and in -- he says the following  
9 and I quote: "The one who was arrested was a skilled shooter. He  
10 could shoot any target he wanted. However, he did not succeed or  
11 success in killing Pol Pot when he stood up to make a declaration  
12 on the existence of the Communist Party of Kampuchea."

13 Pol Pot, the evidence shows, made this statement in September  
14 '77; have you ever heard of any attempt -- failed attempt to kill  
15 Pol Pot when he made a declaration on the existence of the CPK?

16 [13.56.30]

17 A. <During 1977, perhaps in early or> mid-<>1977, <I remember  
18 that> Se moved to live and work in Au Kanseng Security Centre  
19 <around> March <or April> 1977. He moved to Ratanakiri to be in  
20 charge of Au Kanseng Security Centre; how could he learn about  
21 what happened in Phnom Penh? I do not really understand his  
22 account.

23 Q. Well, hopefully, we'll be able to ask him this very question,  
24 at one point in time, Mr. Witness.

25 Let me now move back to Au Kanseng and that's your earlier

1 testimony as to the number of prisoners. You said, today, that  
2 you cannot really recall the exact number; more than hundred,  
3 maybe less than 200.

4 Let me confront you with what Chhaom Se told the investigators of  
5 the Co-Investigating Judge, E3/405, question and answer A8. He  
6 talked about approximately 50 to 70 prisoners in early-'77 and  
7 throughout '77 and he says that by 1978, the number of prisoners  
8 had increased to more than hundred.

9 Would you be in -- would you be in a position to say whether his  
10 estimate between 50 and 100 would be an accurate estimate?

11 [13.58.55]

12 A. It is my understanding that the testimony of Chhaom Se is  
13 another account. He had overall supervision at the centre. I was  
14 simply a member of the centre; therefore, I do not know the exact  
15 number of prisoners in the centre. I was simply a member and  
16 tasked with taking notes of the confession.

17 Q. I understand, Mr. Witness, but you were the number 2 or number  
18 3 in the hierarchy of people in charge of that security centre;  
19 presumably, you were working there every day -- you were working  
20 there every day. Is his estimate about right or is it, maybe, too  
21 little or is it too many; can you give us some estimate of your  
22 own?

23 A. I told estimated figure already to the Court. Compared my  
24 estimate to that of Se, the number appears not much different  
25 from one another.

1 Q. Now, yesterday, you said that your recollection about maybe 10  
2 people, who were detained in '77 and '78, might have died from  
3 either malaria or dysentery; do you recall who these people were?  
4 Can you remember anyone from these 10 people that might have died  
5 because of malaria or dysentery?

6 [14.01.50]

7 A. I cannot recall the name. I cannot recall those names. What I  
8 can recall is that they were from unions. I'm sorry; I cannot  
9 recall their names.

10 Q. How were you able to establish that the people you said, who  
11 -- that died from malaria, died because they were infected with  
12 malaria at your security centre? Would it have been possible --  
13 let's talk about the example of the rubber plantation union  
14 workers -- that they had already malaria while working -- while  
15 having worked at those rubber plantations?

16 A. Malaria was a common disease in Ratanakiri province. I,  
17 myself, was contracted to malaria and if the treatment was not  
18 proper, then, the patient would die.

19 [14.03.20]

20 Q. But you, as the number 2 or 3, were responsible for the proper  
21 treatment of someone who got sick from malaria; is that correct?

22 A. Tim was the deputy to Se and he was in charge of the security  
23 at Au Kanseng Security Centre, so he -- he and Se knew more about  
24 <> the health of the detainees. I simply <took> notes of the  
25 confessions or responses of the prisoners.

1 Q. Let me try it differently, Mr. Witness. You said yourself --  
2 you said that you, yourself, had malaria. When -- when were you  
3 infected with malaria; was that before 1975?

4 A. I had malaria after I arrived in Ratanakiri province. <> I had  
5 diarrhoea <also>.

6 Q. And what did you do to treat yourself from malaria and the  
7 diarrhoea; what was the medicine that the medic gave you in order  
8 to recuperate?

9 A. Before I left Phnom Penh for Ratanakiri province, I received  
10 information through the dissemination division that Ratanakiri  
11 was infested with malaria. <When the soldiers arrived in Phnom  
12 Penh, we> tried to obtain some medicine. <Particularly> in the  
13 preparation for <our> trip to Ratanakiri province, <we> had some  
14 quinine and chloroquine with <us>. And actually, there were some  
15 people who had knowledge in medicine at the headquarters.

16 [14.06.30]

17 Q. Let me ask it more <broadly>. You said Ratanakiri was infested  
18 with malaria. If one of the security guards within Au Kanseng or  
19 any member of Division 801 was struck and got sick from malaria,  
20 what kind of treatment would this person get?

21 A. The person would be treated by a medic who was there at the  
22 security centre.

23 Q. Was that the same medic that also treated the prisoners when  
24 they got sick from malaria?

25 A. Yes. The person who was competent in the medical treatment

1 provided the treatment to both the workers and the detainees.

2 Q. And did this medic also give the same treatment to prisoners  
3 as to security guards when either one of them got sick from  
4 dysentery?

5 [14.08.09]

6 A. When a prisoner got sick the medic would give medicine to that  
7 detainee. The medicine was homemade by the division. However, we  
8 also had some modern medicine provided to us by Battalion 806.

9 Q. But is it fair to say that whenever a prisoner got sick either  
10 from malaria or from dysentery, he or she would get the same  
11 treatment as a member of the security guards or any member, for  
12 that matter, of Division 801?

13 A. Yes, that is correct.

14 Q. You said Ratanakiri was infested with malaria. Did a lot of  
15 people within Division 801 or anybody, any cadre who was  
16 stationed in Ratanakiri, was there a large number that died of  
17 malaria because of being untreated? Did that happen to Division  
18 801 soldiers as well?

19 A. Soldiers in all the regiments who were stationed as assigned,  
20 namely Regiment 81, 82 or 83, many of them had malaria during  
21 1976 and '77, so they had to be treated at <the division>  
22 hospital in Ban Lung and a large number of them actually died  
23 from malaria.

24 [14.10.46]

25 Q. So would it be fair to say that people dying from malaria in

1 the prison had nothing to do with the prison situation as such  
2 but just with the fact that Ratanakiri was infested with malaria?

3 A. Yes.

4 Q. And would you agree with me that the same applies to dysentery  
5 caused by drinking unclean water?

6 A. As for dysentery, the cause of dysentery was the virus or  
7 parasites in the unboiled water, and that was a cause of the  
8 sickness of dysentery <and typhoid fever>.

9 Q. I understand that. That's what you testified to this morning.  
10 But is it correct that Division 801 soldiers also sometimes died  
11 because of dysentery?

12 A. The most challenging disease facing soldiers in late '76 and  
13 <early> '77 was the infestation of malaria and many soldiers had  
14 that.

15 [14.12.50]

16 Q. Let me move on because of the time, Mr. Witness. Is it correct  
17 that at one point in time prisoners escaped from Au Kanseng?

18 A. Yes, that is correct. That is what I stated yesterday. One  
19 prisoner<, Mao,> escaped from Au Kanseng Security Centre. He ran  
20 to <Thuoy> (phonetic) village <> and was arrested by those  
21 villagers and he was brought into the centre.

22 Q. That is indeed the example that you gave, but is it correct  
23 that a multiple amount of prisoners escaped, so more than one  
24 prisoner escaped, or was it only this one example?

25 A. To my recollection, there was this example that a prisoner,

1 Mao, escaped and there was another event that a prisoner also  
2 escaped but I cannot recall the name. Also, one of the Jarai  
3 prisoners escaped. However, he was recaptured.

4 [14.14.35]

5 Q. Thank you. An additional question to the prisoners or the  
6 people who were allowed to work outside to plant vegetables and  
7 potatoes, etc., the people that were working outside, were they  
8 allowed also to eat the vegetables and the potatoes that they  
9 planted and that they took care of?

10 A. In fact, the potatoes and the vegetables that they grew were  
11 meant to be used at the kitchen in the Au Kanseng Security  
12 Centre.

13 Q. Did most food come from the vegetables and potatoes that the  
14 prisoners grew?

15 A. The rice was given to us from the division. We also have MSG  
16 and fermented fish. We also <had> vegetables and potatoes. And in  
17 fact, the rice given to us was not sufficient so we had to mix  
18 the potatoes with rice. We consumed those vegetables and the  
19 potatoes that they grew.

20 Q. And those potatoes and vegetables, etc. that was grown on the  
21 compound of Au Kanseng, was that enough to feed everyone, enough  
22 to feed not only the guards but also the prisoners?

23 A. As for the vegetables, sometimes we <> delivered <them> to the  
24 division and sometimes to the soldiers at the battlefields.

25 [14.17.27]

71

1 Q. So is it then fair for me to say that within Au Kanseng, both  
2 prisoners and security personnel had enough to eat?

3 MR. PRESIDENT:

4 Witness, please hold on.

5 And International Deputy Co-Prosecutor, you have the floor.

6 MR. DE WILDE D'ESTMAEL:

7 Thank you. This is a question that has been posed in a rather  
8 vague and <general> way. I'm not sure that the foundation was  
9 established to put that question which resembles a conclusion <>  
10 because, first of all, there were different kinds of prisoners  
11 with different regimes. Some were subjected to <severe regime>;  
12 some were subjected to <light regime>. It is not <said> that the  
13 prisoners who were subjected to severe treatment were eating the  
14 same thing as the prisoners subjected to <light> treatment.  
15 So you should maybe put <more> question<s, in particular>  
16 regarding the quantity that was offered or the physical  
17 appearance of the prisoners in order to conclude whether or not  
18 they had enough to eat. There was a lot of testimony about this.  
19 People speak about skeletal appearance, so maybe you should make  
20 the witness provide more details about the physical appearance of  
21 the prisoners before drawing the conclusion of whether or not  
22 they had enough to eat.

23 [14.19.00]

24 MR. KOPPE:

25 I am not sure how to react to this, to this objection, Mr.

1 President. It's my cross. It's my examination and I think I am  
2 entitled to ask the witness the question because he was in charge  
3 of Au Kanseng. And the question is very simple: In his  
4 recollection, did both prisoners and security personnel, in his  
5 recollection, have enough to eat?

6 MR. PRESIDENT:

7 However, it is my view that the nature of your last question is  
8 leading and you do not give the witness an option to respond. So  
9 please reformulate your question so that a leading type is not  
10 used.

11 [14.20.04]

12 BY MR. KOPPE:

13 I will reformulate it into two options, Mr. President, if that's  
14 all right with you.

15 Q. Mr. Witness, in your recollection, did prisoners and security  
16 personnel have enough to eat or they didn't have enough eat?

17 2-TCW-900

18 A. Prisoners and guards had the same food rations, maybe a little  
19 bit less or more. Basically, it's the same.

20 Q. Just to be sure, did your guards ever complain to you that  
21 they didn't have enough food?

22 A. Guards never protested for the lack of food.

23 Q. And if the guards had more or less the same food as the  
24 prisoners, is it then correct if I say the prisoners had enough  
25 to eat as well?

1 A. Except those prisoners who were seriously ill, that they could  
2 not eat.

3 [14.22.00]

4 Q. Of course I understand that; it's difficult to eat when you  
5 are very sick.

6 Let me move on, Mr. Witness, to one small issue. There was a  
7 witness who came to testify here; actually two witnesses who came  
8 to testify and who were at one point in time detained at Au  
9 Kanseng. And they talked about a story of a gallbladder hanging  
10 in the kitchen presumably to scare people. Have you ever heard of  
11 such a thing in your prison?

12 A. I <have never known> anything about that.

13 Q. More specifically there was a security guard, Nhok, hanging in  
14 the kitchen something that might have been a human gallbladder,  
15 trying to scare prisoners by saying that he was in the habit of  
16 eating human gallbladders. Is that a story that you ever heard; a  
17 story that might have taken place in your prison?

18 [14.23.50]

19 A. At Au Kanseng Security Centre, that is during late 1978 or  
20 early 1979, Tin, a prisoner from the union, with a few others,  
21 <set> traps to catch <> wild boar<s that> came to the potato  
22 plantation to eat and destroy those potatoes and usually they  
23 would catch <some wild animals and so on>.

24 That's all I know of, but I did not know anything about human  
25 gallbladders.

1 Q. Thank you, Mr. Witness. I will move onto the next subject.  
2 Yesterday, you were asked a question about prisoners doing  
3 certain jobs to assist the security guards. I'm not quite sure  
4 whether your answer was very clear to me, but do you know whether  
5 prisoners were ever used to guard certain areas, to stand guard  
6 and, as such, replacing the security guards in their functions?

7 A. They could assist during the night shift -- that is, they  
8 would assist those guards whose turn it was at night. However,  
9 there were only a few of them who assisted the guards in their  
10 night shifts.

11 [14.26.15]

12 Q. And do you remember who they were, which prisoners were  
13 assisting the guards at night?

14 A. There were Tin<>, Thun (phonetic), and Siek (phonetic). Siek  
15 (phonetic) was a former medic from the division.

16 Q. Thank you, Mr. Witness. Now, let me move onto what I believe  
17 will be my last subject and that is the fate of hundred or so  
18 Jarai.

19 Yesterday you were asked questions by the Prosecution in relation  
20 to the Jarai at around 15.38 in the afternoon. You said, and I  
21 quote literally, "So I assume that perhaps the ethnic Jarai had  
22 been killed at that location", meaning the jackfruit location. So  
23 are you saying, "So I assume that perhaps the ethnic Jarai had  
24 been killed at that location"?

25 Is that indeed what you said yesterday and is that indeed what

1 you intended to say?

2 A. My testimony yesterday was the truth about what happened to  
3 the Jarai people.

4 [14.28.48]

5 Q. Let me try it differently, Mr. Witness.

6 Were you, yourself, involved in the actual killing of those Jarai  
7 people? Did you, with a weapon or any other means, physically  
8 kill or were involved in the physical act of killing of those  
9 Jarai?

10 MR. MAM RITHEA:

11 Mr. President, may I?

12 MR. PRESIDENT:

13 Yes, you may proceed.

14 MR. MAM RITHEA:

15 This question is to incriminate my client so my client cannot  
16 respond to that.

17 MR. PRESIDENT:

18 Duty counsel, please consult with your client to get his  
19 instructions. It is not you who decides that your client does not  
20 need to respond. You are there to consult with him and to take  
21 his instructions. <If he decides to respond, he can do so. If he  
22 refuses to respond, he will tell the Chamber that he will  
23 exercise his right not to respond to this question.>

24 Please consult with him and inform the Chamber the decision by  
25 the witness.

1 [14.30.26]

2 MR. MAM RITHEA:

3 Thank you, Mr. President.

4 2-TCW-900:

5 A. I never personally <committed> any act of killing any human  
6 being.

7 BY MR. KOPPE:

8 Q. Did you, with your own eyes, see the actual physical killing  
9 of the Jarai in front of you? Did you see people killing the  
10 Jarai in front of you or close by to you so that you could  
11 physically witness it?

12 2-TCW-900:

13 A. No, I did not.

14 [14.31.30]

15 Q. Did you order anyone to physically kill those Jarai? Did you  
16 give a military order or any order to have those Jarai killed?

17 MR. PRESIDENT:

18 Witness, please hold on.

19 And International Deputy Co-Prosecutor, you have the floor.

20 MR. DE WILDE D'ESTMAEL:

21 Thank you, Mr. President. This is a repetitive question.

22 Yesterday, the witness said that he had a meeting with Sou  
23 Saroeun during which Sou Saroeun said to Se and to the witness  
24 that they had to take measures, and that "taking measures" meant  
25 to smash the Jarai. And in the extract I have read out which was

1 confirmed by the witness, it was stated that when they returned  
2 to Au Kanseng, orders were issued that the Jarai be <indeed>  
3 killed. That is why I think this question is repetitive.

4 [14.32.45]

5 MR. KOPPE:

6 It's not at all repetitive, Mr. President. He indeed talked about  
7 presumably a meeting where it was discussed that the Jarai should  
8 be dealt with, but that of course still needs to be implemented  
9 if that was indeed discussed.

10 So my question was not related to that possible conversation that  
11 the witness might have had, but the actual physical order, either  
12 verbal or in a written form, to the people who actually  
13 presumably killed those Jarai. There is a difference between  
14 those two. So my question is not repetitive.

15 MR. PRESIDENT:

16 Mr. Witness, please respond to the question if you wish to do so.  
17 In case you exercise your right not to respond because of the  
18 nature of the question which may incriminate you that you  
19 committed the crime, you have the right to say so. So it depends  
20 on you to answer or not. You have the duty counsel with you over  
21 there and please consult with your duty counsel whether or not  
22 you want to answer the question, <because you have answered two  
23 questions already>.

24 [14.34.25]

25 2-TCW-900:

1 Could counsel repeat the question once again? I do not really get  
2 it.

3 BY MR. KOPPE:

4 Q. No problem, Mr. Witness.

5 The evidence seems to suggest that the Jarai who were detained at  
6 Au Kanseng were possibly killed. You didn't do the actual  
7 killing. You didn't witness the killing. However, presumably the  
8 people who did kill received orders or instructions.

9 My question to you is: Were you the one who ordered the killing  
10 of those Jarai?

11 <A. How?>

12 <MR. MAM RITHEA:

13 If you don't understand the question, you can ask counsel to  
14 repeat it. If you can respond to the question, please do so; If  
15 not, you can exercise your right not to respond. Mr. President  
16 has said that already. Please look ahead and try to listen to the  
17 question -- >

18 (Short pause)

19 [14.36.05]

20 MR. PRESIDENT:

21 So what is your decision, Mr. Witness? Do you want to give your  
22 answer to the question that whether or not you gave an order to  
23 the security guards to bring ethnic Jarai to be killed? That is  
24 the question. The "order" in the question is that <you received  
25 the order from the upper echelon, and then> you directly ordered

1 <the perpetrator/s> to bring those Jarai to be killed<; did you  
2 give the order?> So this is an incriminating question against  
3 you, so you may decide to answer to the question.

4 You once answered a question which incriminated you a while ago.  
5 So now I am telling you as the President of the Chamber that this  
6 question is incriminating you -- may incriminate you in <>  
7 executing <> the actions during the Democratic Kampuchea,  
8 particularly during the time that you were working at Au Kanseng  
9 Security Centre.

10 Do you understand that, Mr. Witness? If you understand my  
11 explanation, you can decide to answer or not. So I have explained  
12 to you already about this question.

13 [14.37.47]

14 2-TCW-900:

15 A. I do not respond to the question, Mr. President.

16 BY MR. KOPPE:

17 Q. Let me read to you, Mr. Witness, something that -- maybe duty  
18 counsel should not advise his client when the microphone is on.

19 MR. PRESIDENT:

20 You have been working as a duty counsel so far, so you should  
21 have understood your role as a duty counsel. And the consultation  
22 should be done in confidential manner and then the decision can  
23 be made by the witness whether or not he wants to answer the  
24 question.

25 When you consult -- when the witness consults with you, you

1 should turn off the microphone. The confidentiality is that you  
2 two should discuss among yourselves, not to allow the public to  
3 be informed of your discussions. So be informed of that, duty  
4 counsel.

5 You may now resume your questioning, Counsel Koppe.

6 [14.39.52]

7 BY MR. KOPPE:

8 Thank you, Mr. President.

9 Q. Mr. Witness, Chhaom Se has talked to investigators of the  
10 Investigating Judges about the Jarai and I would like to read to  
11 you a few excerpts from his WRI.

12 Mr. President, more particularly E3/9459, questions and answers  
13 24, 26, 27.

14 Let me start with question and answer 24. So Chhaom Se is saying  
15 the following, Mr. Witness:

16 "At the time the Jarai people came from Vietnam and they were  
17 taken to be killed in Ban Lung. At the time, soldiers came and  
18 borrowed my place in Ban Lung to kill those people."

19 [14.41.04]

20 "26: Yes. The Jarai people were coming from Vietnam, and then  
21 soldiers stationed along the ready borderline of Division 801,  
22 Regiment 81, arrested and brought them here."

23 Question: "Who killed the Jarai people?"

24 Answer: "The military who had brought the Jarai people there were  
25 the killers; it was not the sector's military."

1 And in his testimony in 002/01 -- that is, E1/177.1 at around  
2 09.53, he says that, "The capture of the hundred Jarai was the  
3 sole discretion of Ta Sou Saroeun."

4 Mr. Witness, Chhaom Se might be shedding some light on who was  
5 responsible for the alleged killing of the Jarai. Could you give  
6 a reaction to his testimony? Were the Jarai killed by the  
7 soldiers who had brought them in earlier or was it -- or were the  
8 killers other people?

9 2-TCW-900:

10 A. Regarding the killings of Jarai people, that task was  
11 performed by Tim, the deputy of Se.

12 [14.43.18]

13 Q. So are you saying that Chhaom Se is not telling the truth  
14 then? Or what are you saying? Is Chhaom Se's testimony incorrect?

15 A. I can only tell what I have known. I cannot tell anything  
16 beyond my knowledge.

17 Q. I agree, Mr. Witness. But I am trying to establish whether  
18 Chhaom Se is shifting the responsibility away to soldiers from  
19 Division 801 who had arrested the Jarai or whether he himself  
20 through his deputy was somehow involved in the order of the  
21 killing.

22 A. <During that period,> we performed our tasks based on our  
23 assigned duties.

24 Q. Yes? Question mark--

25 Is there anything you would like to add, Mr. Witness? Are you

1 saying that Chhaom Se was involved in the ordering of the  
2 killing, or is he right and was it rather the military who had  
3 brought the Jarai people in, who were involved?  
4 A.I <do> not implicate anyone<>. <I just want to inform you that>  
5 at Au Kanseng Security Centre, we performed our duty as assigned.  
6 So we had different tasks to do.

7 [14.45.55]

8 MR. PRESIDENT:

9 Thank you, Mr. Witness.

10 It is now break time. The Chamber will take a short break from  
11 now until five past 3.00

12 And Mr. Witness, please be present at the place where you are  
13 sitting now before five past 3.00.

14 So we will resume at five past 3.00.

15 The Court is now in recess.

16 (Court recesses from 1446H to 1507H)

17 MR. PRESIDENT:

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

19 Good afternoon, Mr. Witness. Are you ready?

20 2-TCW-900:

21 A. Yes, I'm ready, Mr. President.

22 MR. PRESIDENT:

23 Thank you.

24 Now, I would like to hand the floor to the defence counsel and I  
25 would like to know that both defence counsels have discussed

1 about the use of time.

2 [15.09.00]

3 MR. KOPPE:

4 I'm actually done with my questions, Mr. President, so we rest.

5 MR. PRESIDENT:

6 Thank you. Now, I would like to give the floor to the defence

7 counsel for Mr. Khieu Samphan to put questions to the witness.

8 You may now proceed.

9 [15.09.23]

10 QUESTIONING BY MS. GUISSÉ:

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

12 Q. Good afternoon, Witness. My name is Anta Guisse and I am the

13 Co-International Counsel of Mr. Khieu Samphan, and it is in this

14 capacity that I am going to put to you a few complementary

15 questions. Can you hear me well?

16 2-TCW-900:

17 A. Yes, I hear clearly.

18 [15.09.50]

19 Q. So my questions will be essentially focused on the Au Kanseng

20 Security Centre.

21 And as a first point of clarification, I would like you to

22 specify or to clarify a point. You said that when people were

23 taken to the security centre, sometimes they came with a letter

24 specifying the reason they were arrested.

25 And my question is therefore the following: Did these letters

1 concern civilians as well as servicemen, or did these letters  
2 only <> concern soldiers?

3 A. It concerned both the soldiers and people who were sent from  
4 unions.

5 [15.11.05]

6 Q. Now, regarding the soldiers, I understood that you said there  
7 were two different <> forms of treatment. You had first soldiers  
8 who were considered dangerous and who were placed-- and who were  
9 tied up, and other soldiers were brought to the security centre  
10 for lighter offences and they were not tied up. So did I  
11 understand your statement properly, your testimony properly?

12 A. Yes, that is correct.

13 Q. I also understood that the people undergoing harsher  
14 treatments were locked up in a room. However, the people who were  
15 there for smaller offences could move about freely in the  
16 security centre. So did I understand your testimony properly?

17 A. Yes, that is correct.

18 [15.12.20]

19 Q. Now, I would like to get back to the guards who were working  
20 when you were at the security centre. You spoke about a certain  
21 number of people, and I believe you <said> there were nine  
22 guards. <You> don't remember all of their names but do you  
23 remember, however, if they were people who came from the ethnic  
24 minorities among these guards? Do you remember that?

25 (Technical problem)

1 [15.13.27]

2 BY MS. GUISSÉ:

3 Q. Witness, can you hear me?

4 MS. GUISSÉ:

5 Mr. President, I don't know if there is a technical issue here

6 but --

7 (Technical problem)

8 [15.14.16]

9 MR. PRESIDENT:

10 I would like to inform the Chamber that there is internet

11 connection issue at the other end. <Please wait for a while.>

12 (Technical problem)

13 [15.15.22]

14 MR. PRESIDENT:

15 Now, it's normal again.

16 Mr. Witness, can you hear my voice clearly?

17 2-TCW-900:

18 A. Not clearly.

19 MR. PRESIDENT:

20 That is fine. I think we can continue the proceeding.

21 And I would like to hand the floor to the defence counsel for

22 Khieu Samphan.

23 [15.15.50]

24 BY MS. GUISSÉ:

25 Q. Witness -- witness, the question that I was putting to you

1 when we were interrupted was if you remember if among the nine  
2 guards you spoke about who were working at the security centre,  
3 if some of them were from <> ethnic minorities?

4 2-TCW-900:

5 A. There was one who was an ethnic minority.

6 Q. Can you give -- can you tell us his name if you remember, and  
7 can you tell us from which ethnic minority this person originated  
8 from?

9 A. The person's name is <Chang>. I do not <recall> which ethnic  
10 minority group the person belonged to.

11 [15.16.55]

12 Q. Now, let me see if I can refresh your memory in another way.

13 When you were interviewed by the Co-Investigating Judges on 3

14 November 2009, <> you were recorded and we partially transcribed

15 this audio recording. It's document D232/51R and the segment that

16 I would like to focus on is between one minute -- or one hour,

17 rather, 27 minutes and 36 seconds, and one hour, 28 minutes and

18 24 seconds. And you speak about the people, about the guards who

19 were working at the security centre. And at one point in time you

20 speak about two people and you say the following: "Two other

21 people again who were Cham originally, they were living in Boeng

22 Kanseng, at Unit 6, as the others." End of quote.

23 So, when you were questioned in 2009, maybe your memory was

24 clearer, and you were speaking about two people, two guards who

25 were Cham. So does this refresh your memory in any way?

1 A. I cannot recall that.

2 Q. And the person you remember or which you say you remember and  
3 who was an ethnic minority, even if you don't remember if that  
4 person was Cham or not, did this -- was this person already  
5 working at the centre when you arrived there or did this person  
6 arrive after you?

7 A. <Chang> worked <with Ta Chheng> in the Unit 806 for a long  
8 time.

9 [15.19.43]

10 Q. And can you be more specific about that? So was he already  
11 there when you arrived at Au Kanseng or did he arrive after you?

12 A. Talking about that point, my memory does not serve me well.

13 Q. So I will not belabour the point.

14 Now, I also would like to speak to you about the organization  
15 chart of the division<s that> you described before this Chamber.  
16 And I would like to know if you remember one of Sou Saroeun's  
17 deputies by the name of Ta Leu. I apologize for my pronunciation  
18 but in French it's spelled out L-E-U. So do you remember Ta Leu?

19 A. Yes, I remember there was a person named Ta Leu. He was the  
20 deputy of Ta Saroeun <in Division 801>.

21 Q. Did you remember if he was from one of the ethnic minorities?

22 A. He was an ethnic minority.

23 Q. Do you know which one?

24 A. I do not know which ethnic minority he belonged to. There were  
25 many different ethnic minorities living in Ratanakiri province.

1 [15.22.05]

2 Q. Let me try to see if I can refresh your memory. In the DC-Cam  
3 interview which Chhaom Se and his wife gave and we referred to  
4 several excerpts of this document today, it's document  
5 E319/23.4.1; Khmer, ERN 00931998; English, ERN 01079493; and  
6 there is no French ERN. Chhaom Se says that Ta Leu was Jarai. So  
7 does this refresh your memory or not?

8 A. Ta Leu came to work in Division 801 but I did not dare <> ask  
9 him about his <ethnicity>.

10 Q. That's not a problem.

11 Another point that I would like to discuss with you, and it's  
12 still connected to the guards which I was talking about with you,  
13 in your capacity as number two or number three at Au Kanseng, are  
14 we right in saying that it is you who managed or who supervised  
15 the guards or that the guards were under your authority?

16 [15.24.18]

17 A. I never said that I supervised the guards. I was only in  
18 charge of taking notes of the confessions from the prisoners.  
19 <Tim, the deputy chief, was in charge of security in the daytime  
20 and night time.>

21 Q. When a guard would commit an offence or did not obey the  
22 orders, did you ever punish this guard?

23 A. I had no authority to punish guards who committed offences  
24 <because it was not my job>.

25 Q. Well, I would like to ask for some clarification from you. In

1 your statement, E3/406 at answer 4, you speak about an offence  
2 that Ta Ouy committed at one point in time -- in French A-U-Y  
3 (sic). He was a guard, and you say -- I will read it out to you  
4 what you said in your statement:

5 "Before, Ta Ouy, who was a guard who came from Unit 806, once  
6 committed an act of immoral conduct with one of the female  
7 detainees. Then he was <removed and> transferred to <> Ta  
8 Vanna<'s centre>." End of quote.

9 So my question is the following: Do you remember the offence that  
10 Ta Ouy committed and who <removed him> and who punished him  
11 following that offence?

12 A. Ta Ouy committed an act of immoral conduct in Au Kanseng  
13 Security Centre and the decision to transfer him to other places  
14 were from the Battalion 806.

15 [15.27.04]

16 Q. And do you know who took that decision in Battalion 806?

17 A. After Ta Smien was removed <from the unit>, Ta Koy and Mon  
18 <were> in charge of the <unit>.

19 Q. So must I understand from your answer that it was Ta Mon and  
20 Ta Koy who took the decision to <remove> Ta Ouy?

21 A. Yes, you are right.

22 Q. During your testimony, I don't remember exactly at what time,  
23 you spoke -- or in any case you were asked questions about a  
24 so-named Ung Ren, and you said that you had worked with him.

25 So my question is: While you were working at the Au Kanseng

1 centre, did you ever see Ung Ren?

2 And in case my pronunciation is a bit faulty, I'm speaking about  
3 Ung Ren, U-N-G R-E-N<>.

4 [15.28.50]

5 A. I used to work with Ung Ren during the <Northwest Phnom Penh>  
6 battlefield<>. <At the time, he was a battalion commander> and  
7 later on he became the <> commander <of Regiment 82, and he then  
8 worked in the division>. And when I was transferred to work at Au  
9 Kanseng Security Centre, I did not meet him because he was based  
10 in Phnom Penh.

11 Q. Do you know whether he had any ties with Ta Saroeun?

12 A. Initially, he was <the commander of> Regiment 82 and then he  
13 was transferred to work in Division 801. And then he was  
14 transferred to work at the headquarters in Phnom Penh.

15 Q. Excuse me, who are you referring to, Ung Ren or Ta Saroeun  
16 when you talk of "he"?

17 A. I refer to Ung Ren.

18 [15.30.35]

19 Q. So let me rephrase my question.

20 Did you at any point in time, during your stay at Au Kanseng,  
21 hear that there had been an intervention to liberate prisoners  
22 who had been imprisoned for minor offences? Do you recall whether  
23 a number of persons were liberated following some kind of  
24 intervention?

25 A. On <this> particular issue, I do not recall <whether there

1 were instructions to release> the prisoners with light  
2 offences<>. I may have forgotten this issue.

3 Q. Perhaps I should refresh your memory. I do not have the exact  
4 date but, in any case, Ung Ren testified before this Chamber in  
5 the first trial. That was on 10 January 2013, and the record is  
6 E1/158.1 between 15.41 and shortly after 15.46.

7 He refers to his intervention vis-à-vis the commander of the  
8 division in -- who was in charge of Au Kanseng in order to have  
9 some persons who had committed minor offences released and he  
10 said that ultimately those persons were freed. Does that refresh  
11 your memory or not?

12 [15.32.50]

13 MR. PRESIDENT:

14 Please hold on, Mr. Witness.

15 You may have the floor now, International Deputy Co-Prosecutor.

16 MR. DE WILDE D'ESTMAEL:

17 Thank you, Mr. President. The question is not very clear,  
18 particularly the passages that have been cited from Ung Ren's  
19 testimony.

20 I do not think I heard <any> mention of the Au Kanseng Security  
21 Centre<; yet we know, and the witness <> said <it>, that in the  
22 Northeast there was <at least one> other security centre, <which  
23 he mentioned yesterday.> There <were undoubtedly> other security  
24 centres that may not have <reported to> 801.

25 Perhaps counsel should <reformulate> the question <in a more

1 precise manner so that it's clear> whether Ung Ren referred to a  
2 specific security centre in the Northeast Zone.

3 [15.33.51]

4 BY MS. GUISSÉ:

5 Q. I will therefore <quote> the passage directly, sometime after  
6 <15.41.59>. This is what he stated:

7 "Four or five days later" -- and this is Ung Ren speaking - "Four  
8 or five days later, people came to meet me and to talk to me  
9 about their children. I put some questions to them and they told  
10 me that their children had been arrested and sent to the Au  
11 Kanseng Security Centre. And that is how I heard about the  
12 existence of that centre."

13 And, subsequently, he refers to his intervention vis-à-vis the  
14 commander of the division and he said that the children of those  
15 persons were released and that <these> persons came back to thank  
16 him.

17 I believe I've answered the Co-Prosecutor's question. Can I now  
18 ask you again, Witness, whether this is something that refreshes  
19 your memory or not?

20 [15.35.02]

21 2-TCW-900:

22 A. I am not aware that Ung Ren intervened <with> the commanders  
23 of the divisions and <> made <> proposals or suggestions to those  
24 commanders. I do not really know about the question you have just  
25 asked me.

1 Q. That doesn't pose any problem. As you said a while ago, there  
2 are <> things you may not <have been aware of>, so there is no  
3 problem with this.

4 I would like to put another question to you on Nau. You talked of  
5 the presence of Nau at the Au Kanseng Security Centre at a point  
6 in time and you said that you were present during some  
7 interrogations he conducted. You also stated that he <told you  
8 he> came from Phnom Penh.

9 My first question to you is this: Was Nau a soldier?

10 A. Through the dialogue that I had with him during the break  
11 time, he described about his background and activities so far,  
12 and he said that he was -- he used to be a soldier.

13 Q. Do you recall for how long he stayed at Au Kanseng?

14 A. At Au Kanseng Security Centre -- in fact, he was working in  
15 that location for three or four months. He arrived in rainy  
16 season and he returned to his previous location later that year.

17 [15.37.50]

18 Q. And did he not tell you, <if he came from a unit, which unit  
19 it was,> in the course of the exchanges you had with him, if I am  
20 relying on your testimony?

21 A. Through the exchange, he stated that he once worked in the  
22 interrogation unit in Phnom Penh. At the time, it was known as  
23 Tuol Svay Prey, I mean that location.

24 Q. Could you please repeat the name of the place? And is that a  
25 name he gave you when you had the exchange with him <at that

1 time>, or you heard about that name subsequently?

2 A. I learnt about the name, Tuol <Sleng>, later on. However,  
3 through the dialogue exchange, he made mention about the location  
4 which was to the west of <the Chinese Embassy> and it was in a  
5 school; <when I was a child, I lived around there>. And at the  
6 time, I asked him whether the location was known as Tuol Svay  
7 Prey, he replied he did not know. He <knew> that <the> location  
8 consisted of school buildings. <And then it was called Tuol Sleng  
9 and subsequently it was S-21, but I learnt about it later on>.

10 Let me say that I did not dare to dip into his business deeply at  
11 the time.

12 [15.40.15]

13 Q. And did he tell you spontaneously ? since <I understood that>  
14 you didn't put many questions to him ? who his immediate superior  
15 was?

16 A. He only said that he was within Division 12 and his superior  
17 was Nat.

18 Q. Thank you for this clarification.

19 In your statement, E3/406, in answer number 3, you talked of two  
20 persons -- or one person who <encoded> the telegrams of Ta Sou  
21 Saroeun, a person by the name of Sambath. You also referred to  
22 his wife called Soeun, who was in charge of typing telegrams.  
23 Do you know whether Sambath and Soeun worked with Ta Saroeun for  
24 a long time, and whether they <followed> him in the various  
25 <transfers or> phases of his career?

1 A. Sambath was in charge of radio system since the time that Ta  
2 Saroeun was in charge of Division 11, and <his wife was selected  
3 from a women unit, Unit 04; at the time, she> was the messenger  
4 of <the commander of> Battalion 804. <They said that name>,  
5 Soeun.

6 [15.42.50]

7 Q. When you talk of Soeun, do you mean Sambath's wife?

8 A. That is correct. Soeun was the wife of Sambath.

9 Q. And did those two persons work for Ta Saroeun at least up to  
10 the end of the Democratic Kampuchea regime, to the best of your  
11 recollection?

12 A. I left Division 801 in 1977. To my recollection, they worked  
13 in that headquarter of the division together the entire time of  
14 that regime.

15 Q. Last point of clarification on Au Kanseng. Do you recall  
16 whether Chhaom Se held meetings with prisoners at the security  
17 centre? And if yes, how often?

18 A. It happened <once> every 10 days<; Chhaom Se always> educated  
19 prisoners at Au Kanseng Security Centre.

20 [15.45.05]

21 Q. Do you recall what types of meetings they were?

22 A. The <main> purpose of the meetings was to build up <the>  
23 socialist revolution and agricultural production, and it also --  
24 the meetings also discussed the love <of the> Party and the  
25 loyalty towards the Party.

1 Q. I would like to read out to you what Chhaom Se said regarding  
2 the contents of the meetings and you'll tell me whether that  
3 tallies with what you remember.

4 And it is document E3/3984 in answer number 6. And this is the  
5 question put to Chhaom Se:

6 "Did you have the opportunity to lead prisoners in a working  
7 session?"

8 And the answer he gave was as follows:

9 "I held a meeting with prisoners every two weeks. The purpose of  
10 the meetings was to acquaint them with the situation in the  
11 country and to discuss education as part of daily life in my  
12 centre. The meeting was also aimed at educating the people in  
13 order that they should correct the old errors they made at the  
14 base and in respect of which the others reported back to <their  
15 units>." End of quote.

16 Question: Does what Chhaom Se say here correspond to what you can  
17 remember?

18 [15.47.22]

19 A. I think Se may have recalled what you said since he worked at  
20 that place, and also he disseminated the content of the meetings  
21 and about -- he may have known about his <own> opinions and he  
22 may have recalled what happened at the time.

23 Q. How about you yourself, did you attend those meetings?

24 A. I attended on some occasion, but I did not on other occasions.

25 MS. GUISSÉ:

1 I am done, Mr. President. I will now give the floor to my  
2 colleague, Kong Sam Onn.

3 MR. PRESIDENT:

4 Thank you. You have the floor now, Lawyer Kong Sam Onn.

5 [15.48.38]

6 QUESTIONING BY KONG SAM ONN:

7 Thank you, Mr. President. Good afternoon, the Chamber.

8 Good afternoon, Mr. Witness, I am the national lawyer for Khieu  
9 Samphan. I have a few questions to put to you.

10 Q. First, I want to know about the merging of Division 11 and 14.

11 You <testified> about the merging of the two divisions <during  
12 your two-day testimony>. So later on, after the combination of  
13 the two divisions, what name was <> used?

14 2-TCW-900:

15 A. After the combination, those division was -- the names were  
16 changed to Division <14>.

17 Q. Thank you. After the liberation of 17 April and based on your  
18 testimony, a rally was held and a new division was established,  
19 Division 801. Later on, you became <a> member of that Division  
20 801, and that Division 801 was dispatched to the Northeast.

21 This morning, you also stated that the reason for the dispatch  
22 <was> because of the clashes at the Vietnamese border.

23 My question is as follows: How did you learn about the clashes at  
24 the border between Cambodia and Vietnam? Did you learn from the  
25 commanders in the meetings, or how could you be informed of such

1 clashes? Could you tell that to the Court?

2 [15.50.35]

3 A. Before we moved from Phnom Penh to Ratanakiri province,  
4 Brother San, the deputy chief of the division, convened a meeting  
5 and we were informed that we had to pack up our stuff <because  
6 our division had> to go and be stationed <at the border> in  
7 Ratanakiri province. He, at the time, did not mention about the  
8 clashes between Cambodia and Vietnam at the border in detail. We  
9 were only told that we had to pack up our belongings, and <he  
10 also mentioned the members who had to> go <with him>.

11 Q. Thank you. Can you clarify the point for the Court? Why was  
12 Division 801 selected; why not the other division?

13 A. It was -- the selection was made by the general staff or the  
14 top -- that is, the general-in-chief.

15 [15.51.57]

16 Q. Thank you. You described about the background and experience  
17 of Ta Saroeun, the commander of a division. Can you tell the  
18 Court <if>, because of his experience in the Northeast, that's  
19 why he was dispatched to that area?

20 A. I cannot say anything about his experience and qualification  
21 <and so on>, I only <noticed> that the Division 801 was the first  
22 to take over Phnom Penh during the fighting, through>  
23 Pochentong<'s entrance>.

24 Q. Thank you. Upon your arrival <at Mondolkiri --> at Ratanakiri  
25 province, particularly after you were based at Au Kanseng, can

1 you tell the Court about the incursions <of the Vietnamese  
2 troops> and clashes at <the> Cambodian <> border? What  
3 significance did you notice at the time?

4 A. Upon my first arrival, the <regiments> in different locations  
5 made <> reports about the line at the border and they also made  
6 <> reports in relation to the situation at the border, that  
7 people were moving around, crossing from one location to another.

8 [15.54.09]

9 Q. My question has something to do with the military clashes. Did  
10 you <notice or> hear <of> any clashes between military?

11 A. Clashes between militaries at the border, I noticed that  
12 shootings happened and clashes <> did occur at the border.

13 Q. Thank you. In relation to your duties and tasks, you once  
14 stated that you brought a letter from Au Kanseng to Phnom Penh.  
15 How many times did you visit Phnom Penh after you had been  
16 transferred to the Northeast?

17 A. Regarding the letter brought from Au Kanseng to Phnom Penh,  
18 this is not true. At the time, <I had not moved to Au Kanseng  
19 Security Centre yet,> I was based at the divisional headquarter  
20 and <Ta Saroeun> asked <me> to go with Man (phonetic) and another  
21 individual, whom I forgot his name. Three of us <went there>. I  
22 did not bring the letter <from Au Kanseng, but I brought it> from  
23 Veun Sai<. We travelled by motorbike/s>.

24 [15.55.50]

25 Q. After you left Phnom Penh for the Northeast, how many times

100

1 did you come to Phnom Penh <before> the liberation<>?

2 A. I visited Phnom Penh only once after that time, when I brought  
3 the letter from Veun Sai to the headquarter in Phnom Penh.

4 Q. Did you ever attend the training sessions organized by general  
5 staff or your division?

6 A. I never attended any training sessions in Phnom Penh, but in  
7 Veun Sai.

8 Q. Thank you. In relation to your own tasks, which units and  
9 divisions did you have relations <with> when you worked at Au  
10 Kanseng?

11 A. <At Au Kanseng Security Centre,> Se was the one who  
12 communicated with other units, not me. I was instructed to stay  
13 at my location and work.

14 MR. KONG SAM ONN:

15 Thank you, Mr. Witness.

16 Mr. President, I am done now.

17 [15.57.50]

18 MR. PRESIDENT:

19 The Chamber sent an email via Senior Legal Officer to parties  
20 about the wish of the Chamber to hear the request of Nuon Chea to  
21 hear <an additional> witness<> in relation to Phnom Kraol. And  
22 the request is to admit a written record of that witness as well  
23 -- the written record of the interview as well. So, I would like  
24 to seek opinions from parties whether or not we can proceed with  
25 the submission of the request and responses now.

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1 MR. DE WILDE D'ESTMAEL:

2 Thank you, Mr. President. The email we received mentioned that  
3 these proceedings would be tomorrow morning, so I did not inform  
4 my colleagues.

5 I could respond very quickly, but if <you would rather that I>  
6 respond in an enlightened manner, <it would undoubtedly be better  
7 to keep to the original plan which was, unless I'm mistaken,>  
8 tomorrow morning at the start of tomorrow's hearings.

9 I may be wrong, but that is my position<>.

10 [15.59.28]

11 MS. GUISSÉ:

12 Yes, Mr. President, indeed, we received the same email stating  
13 that this will happen tomorrow morning, so it's true that we're  
14 kind of caught off-guard.

15 We don't have the <application> before our eyes, so it might be a  
16 bit difficult for us to have a productive conversation here.

17 [15.59.50]

18 MR. PRESIDENT:

19 Thank you, then.

20 I am grateful to you, Mr. Witness, 2-TCW-900. The hearing of your  
21 testimony as a witness has now come to an end. Your testimony  
22 will contribute to the ascertainment of the truth.

23 You are not required any longer before the Chamber. You may  
24 return to any destination or to anywhere you wish to go. I wish  
25 you good luck, good health, and prosperity in your life.

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1 I am grateful to you as well, the duty counsel, Mr. Mam Rithea.

2 My special thanks to Nhem Samnang, staff from WESU, who have  
3 helped coordinate and assisted the hearing of this witness's  
4 testimony. You may also be excused.

5 Mr. Witness, do you have anything to address the Chamber?

6 2-TCW-900:

7 A. No, Mr. President.

8 [16.00.51]

9 MR. PRESIDENT:

10 You now can rest.

11 Now, it is time for the adjournment. The hearing will be resumed  
12 tomorrow, Wednesday, 23 March 2016.

13 Tomorrow, in the morning -- first thing in the morning -- the  
14 Chamber will hear submissions, oral submission, in relation to  
15 request by Nuon Chea defence team to hear an additional witness  
16 and to admit the written record of the interview of that witness  
17 in relation to Phnom Kraol Security Centre.

18 And after hearing the submission and responses, the Chamber will  
19 continue to hear the testimony of Ysa Osman, the expert witness.

20 Security personnel are instructed to bring the two accused, Nuon  
21 Chea and Khieu Samphan, back to ECCC's detention facility and  
22 have them returned into the courtroom tomorrow before 9 a.m.

23 The Court is now adjourned.

24 (Court adjourns at 1602H)

25