



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

23 June 2016
Trial Day 424

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 20-Oct-2016, 14:28
CMS/CFO: Sann Rada

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

Mr. KAING Guek Eav alias Duch (2-TCW-916)

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List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|--------------------------------|----------|
| Judge FENZ | English |
| The GREFFIER | Khmer |
| Ms. GUIRAUD | French |
| Ms. GUISSE | French |
| Mr. KAING Guek Eav (2-TCW-916) | Khmer |
| Mr. KONG Sam Onn | Khmer |
| Mr. KOPPE | English |
| Judge LAVERGNE | French |
| Mr. LYSAK | English |
| The President (NIL Nonn) | Khmer |

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear testimony of witness Kaing

6 Guek Eav alias Duch.

7 Ms. Se Kolvuthy, please report the attendance of the parties and

8 other individuals to today's proceedings.

9 [09.01.17]

10 THE GREFFIER:

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

12 are present. And Pich Ang, the National Lead Co-Lawyer for civil

13 parties, informs the greffier that he will be a little bit late

14 this morning.

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

16 waived his rights to be present in the courtroom. The waiver has

17 been delivered to the greffier.

18 The witness who is to continue his testimony today -- that is,

19 Mr. Kaing Guek Eav alias Duch, is present in the courtroom.

20 We have a reserve civil party today -- that is, 2-TCCP-236.

21 [09.02.07]

22 MR. PRESIDENT:

23 Thank you, Ms. Se Kolvuthy. The Chamber now decides on the

24 request by Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea, dated 23rd June

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1 2016, which states that due to his health -- that is, headache,
2 back pain, he cannot sit or concentrate for long. And in order to
3 effectively participate in future hearings, he requests to waive
4 his right to be present at the 23rd June 2016 hearing.

5 Having seen the medical report of Nuon Chea by the duty doctor
6 for the Accused at the ECCC, dated 23rd June 2016, which notes
7 that Nuon Chea has a chronic back pain and it becomes severe when
8 he sits for long and recommends that the Chamber shall grant him
9 his request so that he can follow the proceedings remotely from
10 the holding cell downstairs.

11 [09.03.14]

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

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

19 The Chamber now hands the floor now to the defence team for Khieu
20 Samphan to continue putting further questions to the witness.

21 [09.03.53]

22 MS. GUISSÉ:

23 Thank you.

24 MR. PRESIDENT:

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

1 MR. LYSAK:

2 Thank you, Mr. President.

3 Before we proceed, the witness yesterday raised some questions
4 about the military court interview. Just two things I want to put
5 on the record: one, I believe the interview he was shown
6 yesterday was described as a 1999 interview. This is E3/530. In
7 fact, the date -- the actual date of that interview is 4 July
8 2002, so about three years into the witness' detention at the
9 military tribunal.

10 [09.04.42]

11 Second, the witness had asked to see his prior military
12 statements. We took a look to compare the form of the interview
13 that was shown to him yesterday to his other military court
14 interviews.

15 There is one noticeable difference I want to bring to the Court's
16 attention. In the interview he was shown yesterday, all you will
17 see is a thumbprint, but in virtually every other interview of
18 him from the military tribunal, in addition to his thumbprint,
19 his name is handwritten underneath the thumbprint.

20 I don't know whether that is of any significance. Only the
21 witness can tell us that. But there is a noticeable difference
22 between the interview that was shown yesterday and his other
23 interviews in which you will always see the witness' name
24 underneath his thumbprint.

25 [09.06.01]

4

1 MS. GUISSÉ:

2 Mr. President, I <would> appreciate <it if> the Prosecutor would
3 allow me to speak first because I <wanted to tell> the Chamber
4 that I erred yesterday in giving the date of the first WRI.
5 As regards the <comments> on the Record of Interview which has to
6 do with <our> arguments <or the response arguments for the
7 witness, but> the Prosecutor <didn't need to make> such a
8 statement <during my questioning, when> I hadn't completed my
9 examination of the witness on his statements. I would like <it to
10 be officially noted that> I object to the manner in which the
11 Co-Prosecutor is trying to give the witness an exit door <to what
12 I find to be contradictory statements.>.

13 In any case, before returning to that point, I would like to
14 finish off a matter I started yesterday regarding the follow-up
15 to the meeting of January 1979, which was referred to yesterday
16 with the witness.

17 [09.07.07]

18 QUESTIONING BY MS. GUISSÉ RESUMES:

19 Q. Mr. Witness, good morning. Before we talk about the statements
20 you gave to the military court, I would like us to look at a
21 statement you gave <before> the Co-Investigating Judges of this
22 Court -- that is, the ECCC, on the 23rd of August 2007.

23 With your leave, Mr. President, I would like to give a hard copy
24 of this statement to the witness. And may I also request that it
25 should be placed on the screen, document E3/452: in Khmer,

5

1 00146558; ERN in French, 00147933; ERN in English, 00147571.

2 MR. PRESIDENT:

3 Yes, you may proceed.

4 [09.08.15]

5 BY MS. GUISSÉ:

6 Q. May I also request that the paragraph of interest to me be
7 placed on the screen?

8 Yesterday, when I put the question to you whether you had issued
9 any instructions following the meeting <you mentioned>, dated the
10 6th of January 1979, <that> you had with Mr. Khieu Samphan. You
11 stated that you did not issue any instructions or specific
12 information except <maybe> to Hor.

13 I remember that is what you stated yesterday. In that statement
14 -- E3/452 -- this is what you stated:

15 "First of all, I said already I thought that Comrade Lin would
16 not dare do anything careless. Second, all those cadres called in
17 to <the meeting by Khieu Samphan> took those instructions to
18 disseminate at their <duty stations>. Thirdly, these instructions
19 were not related to work at S-21. They were related to the
20 military situation. Finally, another reason was that Pol Pot had
21 <stated on the> radio that the 'Yvon' might enter deeply into the
22 conflict, but the situation might be reversed. And he asked all
23 comrades near and far to continue supporting Democratic
24 Kampuchea. Those are the reasons why I was satisfied to
25 disseminate those orders." End of quote.

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

6

1 So my question remains the same as I posed yesterday: did you
2 disseminate any instructions, yes or no? And if you did, what
3 instructions were they?

4 [09.10.39]

5 MR. KAING GUEK EAV:

6 A. Yesterday, I said that the situation was ordinary and I
7 conveyed the message to Hor to manage the staff in the unit. And
8 that <was> the normal practice; that I communicated with Hor
9 regarding ordinary situations.

10 And even when all prisoners had to be smashed, I instructed Hor
11 in the same manner, and the situation was not the same thing as
12 the current practice in the military or in the army <in which the
13 military forces are called to a meeting to get a direct
14 instruction from their commander. But as for the CPK's practice>,
15 usually the chief -- that is, me, conveyed the message to Hor and
16 Hor would manage that with the staff. And that is based on the
17 principle of <leading> collectively and <being> individually
18 <responsible>.

19 And at S-21, we always trusted the instructions from the Party.
20 Of course, we heard gunfire <from> the "Yuon" side, but nobody
21 seemed to panic. And only at 11 o'clock when <Vietnamese> tanks
22 <were> rolling <down> the street in front of my house, <did> I
23 instruct them to stop <eating their> meals, <and to prepare
24 themselves>.

25 So again, actually, I disseminated information or instructions

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1 from the Party to all my staff through my normal practice.

2 [09.12.40]

3 Q. My question was more specific. My question was: what orders
4 did you disseminate after the meeting of the 6 of January 1979
5 you referred to? What particular instructions did you issue?

6 A. I have repeated the same response, and probably this is the
7 third or the fourth time, that I disseminated the content of the
8 instructions from the Party to staffers at S-21 through Hor, and
9 Hor would relate the information to all staff. And the content
10 <remained> the same, that the "Yuon" had entered deeply inside,
11 but Roeun and San were countering their advancement.

12 And <I did not say anything like what is stated in the excerpt
13 given by the Defence Counsel.> The Defence Counsel reminded me of
14 <Pol Pot's speech broadcast on> radio; <actually, I cannot recall
15 it, what I recall is the> instructions of <the Party> conveyed
16 through Brother Hem and that, "the 'Yuon' <had entered deeply
17 inside, but Comrade Roeun and San were countering> their
18 advancement, <and> they <might> not reach Phnom Penh. <So, we
19 should stay focused on our work>." And that was the information I
20 received, and that was the information that I disseminated to the
21 staffers in my unit through our normal practice -- that is,
22 through Hor. And the same information or dissemination was <the>
23 norm in all other units.

24 [09.14.46]

25 Q. And do you know whether Hor disseminated the message? Did he

8

1 report back to you that he had disseminated the information to
2 the rest of the S-21 staff?

3 A. We worked through a chain of command -- that is, from the
4 regiment <level> down to the battalion <level>, and that is the
5 way. And the battalion chiefs would relate the information to all
6 those under the battalion chiefs' management.

7 We did not call everybody to a meeting and disseminate the
8 information, no. That <was> not the way <we did things>.

9 And <because the information was disseminated,> that's why, on
10 the <morning of January 7th>, nobody panicked and only in my
11 capacity as chief of S-21, I raised my hand and issued orders to
12 everyone. And Hor was standing beside me, <I ordered> that
13 everybody stop eating and go to their respective places, prepare
14 their belongings and wait <for> my further orders, and <at the
15 time, I assigned a reconnaissance unit> to look around at Mao
16 Tse-toung Boulevard.

17 So that's the process of channelling the dissemination of
18 information within my unit.

19 [09.16.21]

20 Q. Witness, you have spoken at length on what happened on the 7th
21 of January, but my question was different. My question was that
22 you spoke about the meeting of the 6th of January and you said
23 you asked Hor to disseminate the information.

24 My question to you was whether Hor, on the 6th of January,
25 disseminated that information. Did he tell you that he had

1 disseminated that information? That is my question.

2 A. In practice, when I gave him instructions, he would implement
3 my instruction. And there was no practice that he did not
4 implement <on> my instruction. And usually, after the
5 implementation, the person would come to make a report to me.

6 [09.17.25]

7 Q. Do I understand from your answer that he reported back to you
8 the fact that he <had> disseminated the information?

9 A. Your understanding of the event is your personal
10 understanding, but what happened at S-21 is that every
11 instruction that I issued would be implemented, and in some
12 cases, they would come to report to me about the implementation.
13 But that's not always the case. <And I do not have to talk about
14 that since you do not want to know about it>.

15 Q. And that is why I would like you to answer my question. In
16 this specific case, and not in the other cases -- in this
17 specific case regarding the meeting of the 6th of January 1979,
18 did he tell you that he did pass on the information?

19 A. Mr. President, I have explained repeatedly, the dissemination
20 of information <at S-21 was> through a chain of command. And
21 <secondly>, as I said, every <one> of my instructions had to be
22 implemented. And the evidence showed that nobody panicked when
23 <Vietnamese tanks were> rolling <down> the street <in Phnom
24 Penh>. And I believe that is evidence enough for you, Counsel.

25 [09.19.23]

10

1 Q. I am not sure that I have had an answer to my question. <This
2 is enough evidence of what?>

3 I do understand that you're saying yes, Hor told you that he
4 passed on the information. Are you saying yes, <did he tell you
5 he had disseminated> the information? The answer should be yes or
6 no so that I <am sure I> understand your testimony.

7 A. I have stated clearly that they had to implement my
8 instructions, and I even showed you the evidence of the
9 implementation. And I believe that is clear enough <to> someone
10 who has a brain to think.

11 Q. I would like to say that the length of your answers <and the
12 fact that it isn't clear> is precisely <what is making my brain
13 somewhat perplexed>. <But> I understand you are saying yes to my
14 question, and in that case, I would like you to comment on the
15 passage of Suos Thy's testimony at a hearing on the 28th of July
16 2009, document E3/7466. So it is in your trial, and the time was
17 shortly before 11.07.01 <am>. And this is what Suos Thy stated:

18 [09.21.05]

19 "As regards the arrival of Vietnamese troops in Phnom Penh in
20 1979, well, we were not informed in advance. We did not know
21 where the Vietnamese troops were in <their> attack. We were in
22 total darkness, <unaware>, and that was the situation. And no
23 attempt was made to destroy documents."

24 What is of interest to me is the part in which witness Suos Thy
25 says "we were not informed in advance. We did not know <where

11

1 were> the Vietnamese troops in <their> attack."

2 I <will> put the question to you again. Do you stand by your

3 statement that Hor passed on your orders and the information you

4 had received on the 6th of January 1979?

5 [09.22.06]

6 A. Regarding the statement of Comrade Thy, it is correct in the

7 sense that nobody told him to destroy the documents, nobody told

8 him how far or how deep the "Yuon" had entered because the Party

9 instruction was to <stand your> ground and to continue working

10 <as usual>. So <these were> true <and> separate things.

11 One was to keep working, and <had nothing to do with> destroying

12 documents or destroying the prison. And if I <had known in

13 advance> about that, then I would <have destroyed> the prison.

14 And that is the fact.

15 And Suos Thy's statement is correct. The instruction to Hor to

16 disseminate the Party's instruction is also correct because these

17 are two separate matters because they were not aware of the

18 advancement of the "Yuon" and I told them to <stand your> ground

19 and to continue working because I did not tell them how far the

20 "Yuon" had entered.

21 [09.23.36]

22 Q. I would like us to look at the document we started referring

23 to yesterday, statement E3/530, dated 4th of July 2002, and it is

24 not dated in 1999 as I stated erroneously yesterday.

25 Do you have that document before you, witness? That is the

12

1 document that was given to you yesterday.

2 A. I would like to speak about the discrepancy between the
3 document in my hand and the document that was referred to by the
4 International Deputy Co-Prosecutor, <which has my thumbprint, my
5 signature, and my name on it.> Indeed, there are discrepancies,
6 it means that they are two separate documents, <this is my
7 personal observation> and I do not want to delve into the content
8 of these documents.

9 [09.24.58]

10 However, I'd like to speak about the event. When I <was> first
11 brought to the military tribunal, I was charged with a criminal
12 offence, although I do not recall the exact charge. I was then
13 questioned in 1999, and by around 2002, <I was charged with an
14 additional offence, so that I would not be released>. For that
15 reason, so they charged me with another criminal offence since I
16 had been detained for three years <already and without an
17 additional charge, I would have been released>.

18 For that reason, that was the second set of records of interviews
19 <in 2002>. The military <Court's investigating> judge <Ngin Sam
20 An> was the one who questioned me. And Nou Samedi was the
21 greffier.

22 So the document that was shown to me by the defence counsel
23 yesterday was a single page document -- that is, at <00095691>,
24 <but regarding a full set of> documents <requested by me, it>
25 started with 00095680--.

13

1 [09.26.35]

2 MR. PRESIDENT:

3 Defence counsel, please allow the witness to finish his response
4 regarding this matter first.

5 I believe I have given you enough time on this subject, so in
6 order to clear the matter once and for all, you should allow the
7 witness to complete his response.

8 And Duch, you may continue.

9 [09.27.12]

10 MR. KAING GUEK EAV:

11 A. Allow me to comment. This is a full set of document, and this
12 was given to me <by the defence counsel> based on my request. It
13 started from <00095688> ending with ERN <00095691>. And if you
14 read the document in <full>, the content was about the <result of
15 the> screening process <within the Party,> where it was led by
16 <the Standing Committee - that is> 870. That's why there were
17 mentions of Pol Pot, of Brother Nuon, Son Sen.

18 As for Phim and Mok, it was a separate matter since they were at
19 <the> zone level. That's why I was asked whether I was involved
20 in the screening process, whether there were any instructions
21 from Ieng Sary and Khieu Samphan.

22 Indeed, Ieng Sary, Khieu Samphan or Vorn Vet, I never met them,
23 but I was asked by the Investigating Judge about Ieng Sary and
24 Khieu Samphan. And starting from '75 to '79, I only met Brother
25 Hem for <those> few minutes only.

14

1 And when I left, I came across Ieng Sary when he was travelling
2 in his vehicle towards the east, and I was <> heading off the
3 <Suramarit> Buddhist school to the west direction. And he was
4 staring at me.

5 [09.29.16]

6 And my obligation at the time was to finish off the four
7 individuals from Y-8, so I did not see any of them during the
8 screening process, including <Brother> Vorn, <Mok,> Phim, and I
9 only had contact with Brother Nuon, and Son Sen.

10 And throughout my life, during the regime, I only met Brother Hem
11 for a few minutes, and that did not involve the screening process
12 of the enemy, but it was <specifically> about the advancement of
13 the "Yuon" troops, <and I was told not to panic>.

14 And this document, if read in full, would reflect the point that
15 I just mentioned. However, if you -- if you only picked a line or
16 two, that would be different -- a different matter, <so I would
17 object to it>. And if you only picked one or two <lines to
18 confront me regarding the fact> that <in my statement with the
19 Military Court, I stated>, "I <never> saw them", <but in my
20 statement with Co-investigating Judges of the ECCC, I stated>
21 that, "I met them." That is not a proper context.

22 [09.30.35]

23 MS. GUISSÉ:

24 Mr. President, with your leave, can we display the Khmer ERN page
25 00095691 of this document?

15

1 And this is what I wanted to request earlier when I asked the
2 witness to wait a little bit because I wanted the page to be
3 displayed because the ERN that was given in French was not the
4 right one. So with your leave, Mr. President, can we display this
5 page on the screen?

6 MR. PRESIDENT:

7 The document was shown yesterday and now, yes, you may proceed
8 once again. But this should not be repeated.

9 [09.31.32]

10 BY MS. GUISSÉ:

11 Q. Witness, if I understood your testimony well, and please
12 correct me if I'm wrong, you were speaking about something else
13 when you were speaking about Khieu Samphan and Ieng Sary.

14 My question is: during this 2002 interview, did you tell the
15 Investigating Judges at one point in time anything about this
16 meeting of 6 January 1979 and your meeting with Ieng Sary in a
17 vehicle on that very same day?

18 Did you speak about that, <that day,> when you were questioned?

19 MR. KAING GUEK EAV:

20 A. If counsel wants to know about this matter, you have to bring
21 the whole file of the military court. Then we <will examine the
22 documents together so that we will know the matter clearly>.

23 <Here you selected only one topic to ask me in relation to> the
24 screening process, <the result of the screening process> and
25 <from whom I got> the instructions <regarding> S-21 < matters>.

16

1 [09.33.03]

2 Q. That's not going to be possible to bring the whole file <on
3 your Case 001 or> the military tribunal <before this Chamber in
4 the time allotted to me>.

5 My question was simple, however. That day, when you were
6 interrogated -- when you were questioned by the Investigating
7 Judge, did you <or did you not> speak about this meeting of 6
8 January 1979 and your meeting with Ieng Sary on that same day?

9 A. Thank you, Mr. President. I would like to respond as follows.
10 The Investigating Judge <only> questioned me about the screening
11 process and also the result after the screening process. And I
12 was asked about which superior <I was under> at the time, so this
13 document reflects the screening process that I discussed back
14 then.

15 The Investigating Judge did not question me about the meeting,
16 and if the question was not put to me in that regards, <so> why
17 <would> I bother answering the question about the meeting? And I
18 can only provide the answer as long as I am given with the whole
19 file of military court's case file, so it's not fair to question
20 me on this particular issue without the whole file.

21 [09.35.00]

22 Q. So when you wrote on the page that we saw on the screen, "With
23 Pol Pot it was the same thing, I just saw him 10 metres away, and
24 regarding Khieu Samphan and Ieng Sary, <as of today, I <have
25 never seen them, not even once>", this was simply connected to

17

1 possible hierarchical relations that you had with people. Is that
2 what you mean?

3 A. Mr. President, the conclusion by the counsel is correct. The
4 -- that was the only one topic that I was questioned by the
5 Investigating Judge back then. The question was about screening
6 process.

7 And I told the Investigating Judge <of the Military Court> that I
8 survived the regime because, one, I did not <make any arbitrary>
9 arrests, and I was not involved in moral offences and, also, I
10 did not take possession of <any> war <booty>.

11 [09.36.34]

12 MR. PRESIDENT:

13 You may proceed now, Co-Prosecutor.

14 MR. LYSAK:

15 Thank you, Mr. President.

16 This may have just been a translation issue, but in the
17 translation of counsel's question into English, she asserted that
18 it was the witness who wrote the interview.

19 Okay. It was translated that way into English, and I don't think
20 we know who wrote this, but I'm not sure that it's correct that
21 the witness wrote the statement himself.

22 [09.37.07]

23 BY MS. GUISSÉ:

24 Indeed. The Co-Prosecutor shouldn't be concerned. I am aware of
25 the fact that it is not the <defendant>, of course, who writes

18

1 his own statements by hand before an Investigating Judge.

2 Q. Now I'd like to move on to another topic, Witness, Pang.

3 Picking up from what we were discussing yesterday, you told us

4 <several times> that when Pang was at S-21, you never spoke to

5 him. Did I understand your testimony properly?

6 MR. KAING GUEK EAV:

7 A. Mr. President -- Mr. President, please direct counsel to put a

8 clearer question <>. What specific matter I did not discuss with

9 Pang? <That's the interpretation from French to Khmer.> And also

10 ask the interpreters to interpret it correctly.

11 [09.38.20]

12 MR. PRESIDENT:

13 Counsel, please put a clearer and <more> specific <question to>

14 the witness. That might lead to confusion. <A partial> question

15 should not be put, you know, <it> should be <in> full.

16 BY MS. GUISSÉ:

17 There must have been a problem in the interpretation because my

18 question was very clear in French. Let me repeat it.

19 Q. Witness, <do you stand by your statement> when Pang was

20 arrested at S-21, you did not see him and you did not put any

21 questions to him and you did not speak to him. Is that correct?

22 MR. KAING GUEK EAV:

23 A. Concerning Pang's arrest, the date of his arrest was clear. He

24 was a prisoner after the arrest. He was <not> in the capacity of

25 a leader <anymore>, so I did not go to see him,<> to pay homage

19

1 to him, <to ask him for any advice> or to make any report <to
2 him>.

3 [09.39.46]

4 Q. With your leave, Mr. President, I would like to provide a
5 Khmer document to the witness. This is document E3/347. Maybe
6 before we display it, I will provide the ERNs right now.

7 One point of clarification, however, you said yesterday that Pang
8 was interrogated by Pon and that he was subjected to the hot
9 method.

10 During his interrogation, <were any tactics used to -- like you
11 described earlier, to> attempt to use the cold method <later on>
12 to <get> him to give information that he might not have provided
13 during his interrogation with Pon?

14 A. Thank you.

15 I have no idea when he was interrogated, particularly in relation
16 to <the> cold or hot methods used by the interrogator at the
17 time. <When I taught them to interrogate, I suggested they not
18 use the hot methods easily>. And sometimes, the chewing method
19 was also used after <both> methods.

20 [09.41.30]

21 Q. Now I would like the document to be provided to the witness,
22 with your leave, Mr. President. That's document E3/347. These are
23 the audio transcripts of the interviews carried out in 1999 in
24 <late> May as well as in July 1999. Unfortunately, we do not have
25 a French copy, so let me provide the Khmer ERN.

20

1 The first page first, 00002494, and then a second page, 00002496.

2 And in English, it is 00002506 for the first page. And with
3 regard to the segment I'd like to focus on, it's the following
4 page, 00002507.

5 With your leave, Mr. President, can we provide this document to
6 the witness and can we, first of all, display the first page on
7 the screen?

8 [09.42.46]

9 MR. PRESIDENT:

10 Yes, please.

11 MS. GUISSÉ:

12 Since there is no French version, I'm going to read out the title
13 of this document in English: "Duch tapes compiled in English by
14 Steve Heder as of July 3, 1999."

15 I'd like to make it clear that when I'm speaking about the
16 interviews of the witness in July 1999, I believe that we are,
17 indeed, speaking about the compilation dating back to July 1999.

18 Now I would like to focus on the segment I am interested in, so
19 that is at ERN in English 00002507. And this -- Mr. President,
20 with your leave, may we display it in Khmer on the screen? And
21 let me repeat the ERN, 00002496.

22 [09.44.22]

23 This is what is written in English, and I quote:

24 "Khieu Samphan: He was a full rights member of the CPK Centre.

25 His administrative role was as the chief of state and also,

21

1 administratively, he was chairman of the Office of the Centre.
2 And according to what was responded by, -- no -- said by Chhim
3 Sam Aok alias Pang -- who told me this after he had fully
4 completed his responses already and I was chatting informally and
5 reminiscing with him, maybe 10 days after -- that in some
6 necessary cases, Khieu Samphan was summoned to participate in
7 meetings about arrests."

8 JUDGE LAVERGNE:

9 Are these confessions? Are these S-21 confessions?

10 <MS. GUISSSE:>

11 <Excuse me?>

12 <JUDGE LAVERGNE:>

13 Are you reading--

14 MS. GUISSSE:

15 I'm reading the transcript, Your Honour, of what appears <in the
16 transcription of -->.

17 [09.45.44]

18 JUDGE LAVERGNE:

19 But <is this> information taken from S-21 confessions? <I'm
20 asking.>

21 MS. GUISSSE:

22 That's the question that I was putting because, indeed, I believe
23 that is the case. But I'd like to remind you that when I objected
24 with regard to this issue when the Co-Prosecutor used a similar
25 excerpt, you told me that you're not sure that these are

1 confessions. And therefore, I'm asking you to question the
2 witness in that regard.

3 So the witness is telling me that he did not interrogate Pang
4 during <Pang's> arrest <at S-21>. Today, I am confronting him
5 with a document. I don't want to speak about the document's
6 content, but simply about this sentence <that interests me>,
7 "<Who told me this after he> had fully completed his responses
8 already", after he had completed his response, because in the
9 English document <we have> there is only one part of this
10 excerpt.

11 We don't have the full translation. And in English, it's very,
12 very clear that this, indeed, is the result of a discussion with
13 Pang once he had finished confessing.

14 [09.46.50]

15 That is the question I wanted to put to the witness. I simply
16 want to know -- and I don't want to start dealing with the
17 content of the confessions. I simply want to know because this is
18 what I was told when I objected to the Co-Prosecutor when he was
19 focusing on the same passage. I was told that I should, in my
20 cross-examination, bring up this issue and see, indeed, if this
21 happened during a confession. But I see that Your Honour is maybe
22 displeased, but we can find this is in the record.

23 This is exactly what you told me when the issue came up with
24 <this passage that> the Co-Prosecutor <confronted the witness
25 with during his own questioning.>

1 BY MS. GUISSÉ:

2 Q. So my question is very simple. Do you stand by the fact that
3 you did not speak to Pang while he was at S-21?

4 MR. KAING GUEK EAV:

5 A. Mr. President, I was brought from Samlaut, Battambang, on the
6 6th of May 1999, and I was in the hands of the military court on
7 18 June 1999, so Steve Heder did not go to interview me at the
8 time, so this is not the interview that I gave to Steve Heder.

9 [09.48.50]

10 Q. Well, maybe to let you know, Witness, Steve Heder does not
11 appear on this document as the person who interviewed you, but as
12 the person who <compiled> the audio <cassette> recordings of this
13 interview with Mr. Peschoux.

14 Do you have any other comments to make following this
15 information?

16 A. I do not really understand about the document before me. This
17 is the re-transcription of the interview that I had with
18 Peschoux.

19 Why don't you bring the original document of the interview that I
20 had with Peschoux? Could you explain me on this particular
21 matter?

22 [09.49.53]

23 Q. The original document <from the interview> I can give to you.
24 We're dealing here with document E3/347, but <these documents
25 are> based on the same audio transcription.

24

1 In any case, must I understand from your answer that you
2 challenge what <is on the audio cassettes, as it was compiled and
3 transcribed> in this document <made by Steve Heder, which>
4 corresponds to the audio <cassettes> of the interview with
5 Christophe Peschoux, as the Co-Prosecutor reminded you <during
6 his interrogation>? Are you challenging <the veracity of the
7 information contained in them>, Witness?

8 A. Mr. President, I do not challenge it. I was interviewed by
9 Christophe Peschoux. At the time, Christophe Peschoux went to see
10 me in his capacity as the Deputy Chief of OHCHR in Cambodia. And
11 Thomas Hammarberg was the Chief back then.

12 The interview, yes, I gave it to him. And the original interview
13 was the one that I gave to Christophe Peschoux, but why <did> you
14 bring the re-transcription made by Steven Heder and put it before
15 me? I do not challenge this document. And I do not want to say
16 anything about the objection or the challenge before the
17 Co-Investigating Judges here at the ECCC.

18 Why don't you -- why didn't you tell me at the beginning that
19 this document was the re-transcription <by> Steve Heder and why
20 don't you bring the original document by Christophe Peschoux?

21 [09.52.35]

22 Q. Well, Mr. President, I'm going to give to the witness,
23 therefore, document E3/347, 00160890<, with the assistance of the
24 Clerk and your permission, Mr. President>.

25 I'm going to ask you, Witness, to please read out the excerpt in

25

1 Khmer to avoid interpretation problems, the passage that is
2 indicated in orange. It is your answer in the original document.

3 A. Mr. President, first of all, I am now speaking about the
4 interview that I gave to Christophe Peschoux. That interview was
5 conducted <at the> Monorom Hotel from 29 April up to 3rd May. And
6 the date is between <the> 4th <and> 6th. <For that reason, I once
7 objected to it.>

8 Back in the investigation stage, You Bunleng and Marcel Lemonde
9 asked me to read the document and inform <the> Judges <of> the
10 points or the parts of the document which I did not agree with. I
11 was confronted by the Co-Investigating Judges back in the past
12 already, and now you can put specific question in relation to the
13 part of this document as you wish.

14 [09.55.10]

15 Q. I asked you to read out the excerpt, but I won't bother you
16 any further with this because apparently you don't wish to do so.
17 I'm going to ask my colleague, therefore, Kong Sam Onn, to read
18 the part of this document in Khmer I would like to concentrate
19 on.

20 MR. KONG SAM ONN:

21 Mr. President, I would like to read the excerpt.

22 "Khieu Samphan was the full member of <the Central Committee of>
23 the CPK <and for administrative functions>, he was the <chief of
24 state> and <also chief of the Central Office.> Based on the
25 confession of Chhim Sam Aok alias Pang, after he wrote the

26

1 confession, I had a chit-chat with him. In some necessary cases,
2 Khieu Samphan was invited to that meeting as well."

3 [09.56.20]

4 BY MS. GUISSÉ:

5 Q. So witness, I am not focusing on the content of a confession.

6 I'm focusing on this question whether in Christophe Peschoux's

7 version or in the <audio compilation done> by Steve Heder, in

8 both cases, it appears that you are saying -- in fact, it does

9 not appear <that way>. It's clearly indicated here, in fact, that
10 you spoke to Pang when he was at S-21 after his arrest.

11 So is this information <true>, yes or no, and can you tell us why

12 you said that you had not spoken to Pang when he was detained at

13 S-21?

14 MR. KAING GUEK EAV:

15 A. Thank you, Counsel.

16 Mr. President, <I> objected <to> or challenged <this point> back

17 in the past. My defence lawyer, François Roux, at the time, made

18 mention <of> the fact that no witness was present together with

19 his <client>. <For that reason, this document was inadmissible>.

20 [09.57.50]

21 <I actually spoke to Pang> before <his arrest. But as for

22 Brother> Touch Phoeun, the Minister of Public Works <during the

23 DK regime, I actually spoke to him> after his interrogation. I

24 asked my staffer to prepare a seat for me so that I could

25 chit-chat with him. He was from Kampong Thom as well, and his

1 house was at Achar Leak (phonetic). <When I studied at Kampong
2 Thom high school, I stayed at Achar Leak (phonetic).
3 After the interrogation, I had a conversation -- <a> casual
4 conversation -- with him. Not with other individuals. I asked him
5 about <Hem's> personality, and he told me that Hem was a close
6 associate of Pol Pot. So Hem would do whatever <he was>
7 instructed by Pol Pot. <Touch Phoeun was also from France>. And
8 then I asked about Brother Son Sen. He replied in fact,
9 initially, <that> Son Sen was part of the Khmer Serei <or> in the
10 reactionary group <or the imperialist group, but later on Ieng
11 Sary asked him to work by his side. That was what I asked him at
12 the time.>.

13 [09.59.24]

14 Q. I apologize. I apologize. I want to be sure that I understood
15 you well.

16 You're telling me that you're speaking about a discussion you had
17 at S-21 with Pang after his detention -- or, rather, during his
18 detention? So it's with Phoeun, not with Pang.

19 I'm sorry, but in the statements of people who were -- the
20 statements of people who were tortured and detained at S-21 are
21 not admissible here, so my question is: do you challenge the fact
22 that the transcriptions of your audio statements with Christophe
23 Peschoux, whether it be in the <Peschoux version> or in Steve
24 Heder's <compilation>, are you challenging the veracity of these
25 documents?

28

1 I'm not asking you about conversations you <may have> had with
2 other people. I'm asking you questions about <these interviews>
3 that <were> re-transcribed.

4 MR. PRESIDENT:

5 Deputy Co-Prosecutor, you have the floor.

6 [10.01.03]

7 MR. LYSAK:

8 Thank you, Mr. President.

9 I just want to observe this is the same question that was just
10 asked. The witness has -- was answering it, had given an answer,
11 and then was cut off by counsel. So I'm not sure why she is
12 asking the same question again after having cut off the witness,
13 who was trying to explain what had happened during the judicial
14 investigation.

15 MS. GUISSSE:

16 Here, the witness was talking of his conversation with Phoeun. He
17 was not talking of his trial.

18 My question is with regard to the conversation he had with
19 Christophe Peschoux before <any> trial and the <subsequent
20 compilations of the audio recordings> of his statement by Steve
21 Heder. My question focuses on that.

22 My question is: do you challenge the authenticity of the
23 re-transcription of the audio version of your statement <as I
24 read them to you>? Do you challenge the veracity of these audio
25 re-transcriptions?

1 Your answer should be yes or no. <You can explain later, but
2 first, do you> challenge the authenticity of this audio
3 re-transcription?

4 [10.02.30]

5 MR. PRESIDENT:

6 Counsel, <are you> asking about the entire content of this
7 document, or are you asking only about the particular excerpt
8 that was read out -- that is, in relation to Khieu Samphan, that
9 there was a casual conversation and that happened 10 days after
10 receiving the confession of Chhim Sam Aok?

11 It is a repetitive issue. Of course, I understand your
12 cross-examination <methodology>, but it seems that the witness
13 has responded to your question. And your question is also not
14 clear, as it could be interpreted as either <referring> to the
15 entire content or to a particular excerpt of the content, and the
16 witness has responded to that effect that he -- the point was
17 raised when he was questioned by the Co-Investigating Judges.

18 [10.03.54]

19 MS. GUISSSE:

20 Yes, but in my examination of this witness, I didn't have that
21 answer.

22 My question is whether you challenge the veracity of this passage
23 I have quoted. If the Chamber is satisfied with your answer, I
24 didn't understand your testimony. <My brain must be somewhat
25 limited, and I must have some problems>, but I didn't understand

30

1 your answer with regard to the <veracity of the> passage I read
2 out to you, Witness.

3 MR. PRESIDENT:

4 Your question seems to mainly focus on the overall content of
5 this document and, later on, you rephrase it to focus on the
6 passage. So that's why I instructed you to ask the questions
7 precisely whether the witness challenged the entire content of
8 this document or whether he challenge only the passage related to
9 Khieu Samphan -- that is, in relation to the confessions of Chhim
10 Sam Aok. And the passage was read out by Kong Sam Onn.

11 And in fact, the witness responded to the two parts of the
12 questions already, and I believe you should refer to your
13 transcript -- that is, your question. And on the Khmer channel,
14 your question focused on the entire content of the document and,
15 later on, you changed it to the passage that is related to Khieu
16 Samphan only -- that is, after he spoke to Chhim Sam Aok after he
17 received the confession.

18 And I believe more time has been spent on this particular fact
19 already.

20 [10.05.55]

21 BY MS. GUISSÉ:

22 Q. I will once more make my question very specific, <one last
23 time>. The passage of interest to me is the passage in which it
24 is stated in the re-transcription by the witness that he spoke
25 with Pang about Khieu Samphan when he was detained at S-21 after

31

1 his confessions. My question is as follows:

2 This passage drawn from your audio re-transcription, is that
3 something you challenge or not? <That's it, very clearly. Either
4 yes or no.>

5 MR. KAING GUEK EAV:

6 A. I will not respond yes or no to that passage because you
7 referred to matters <concerning> two people -- that is, Pang, and
8 I had spoken to him before he was detained at S-21. And I never
9 spoke about Brother Hem while he was in France.

10 I spoke about Brother Hem when there was a meeting in order to
11 decide whether Si had to be arrested or not. So I will not delve
12 <into> the issue <of> whether I challenge that passage or not.

13 As with Brother Touch Phoeun, <I actually spoke to him> after he
14 was beaten -- and here, you have to be clear. Touch Phoeun alias
15 Phin, not Chhim Sam Aok alias Pang.

16 [10.07.40]

17 MR. PRESIDENT:

18 Witness, you had responded already, but it is unclear. You said
19 that when you were before the Co-Investigating Judges and through
20 your counsels that you were not assisted by <> anyone and that
21 you challenged the relevant the passage. And from what you said,
22 the overall content of that interview is correct -- that is, the
23 initial interview that you made <was> with Christophe Peschoux
24 from <OHCHR in Cambodia>. But the question is that whether you
25 challenge the passage quoted by the defence counsel or not.

1 [10.08.58]

2 Did you also challenge that passage when you were before the
3 Co-Investigating Judges?

4 Do you understand what I <am trying> to get to? So please, focus
5 only on the passage that was read out to you -- that is, you
6 chit-chatted with Pang after he provided his confession and the
7 focus is on the information that you had with Pang through that
8 casual conversation and whether you challenge that passage <or
9 not>.

10 MR. KAING GUEK EAV:

11 A. Mr. President, allow me to clarify it for one more time that
12 from the day of Pang's arrest, I never spoke to him about
13 anything, and <I really challenge> the content of this passage
14 that I spoke with Pang.

15 [10.10.09]

16 MS. GUISSSE:

17 Mr. President, given the length of deliberations this morning, I
18 thought I would have completed my examination by this time, but I
19 crave the Court's indulgence. I will have to need more time after
20 the break to continue and wrap up my examination of the witness.
21 <I apologize in advance to my colleagues, but they should
22 understand that it was not up to me.>

23 MR. PRESIDENT:

24 Thank you, Counsel.

25 It is now convenient for a short break. We'll take a break now

1 and resume at 10.30.

2 Court officer, please assist the witness at the waiting room
3 reserve for witnesses and civil parties, and invite him back into
4 the courtroom at 10.30.

5 The Court is now in recess.

6 (Court recesses from 1010H to 1029H)

7 MR. PRESIDENT:

8 Please be seated.

9 The Court is now back in session and the floor is given to the
10 defence team for Khieu Samphan to resume questioning. You may
11 proceed.

12 MS. GUISSÉ:

13 Thank you, Mr. President.

14 Now I would like to provide to the witness another document from
15 the military tribunal, dated 9 June 1999, document E3/1560. And
16 the ERNs I would like to focus on are Khmer, ERN 00320787;
17 French, 00327329; English, 00327326.

18 With your leave, Mr. President, I would like to provide this
19 document to the witness, and can we please display the page in
20 question on the screen?

21 [10.30.31]

22 MR. PRESIDENT:

23 Yes, please. But could you repeat the ERN number in English?

24 BY MS. GUISSÉ:

25 Yes, in English, 00327326.

34

1 Q. Witness, the question reads as follows:

2 "<Om,> did you ever interrogate the prisoners yourself, and who
3 were these people?"

4 Your answer: "At times, I <talked> with people that had been
5 interrogated such as <the so-called> Touch Phoeun, Chhim Sam Aok
6 alias Pang, Chou Chet alias Si, and Vorn Vet."

7 And then you develop the topics which apparently you discussed at
8 S-21.

9 Before I put my question to you, I do have in mind your previous
10 explanations saying that there was a problem <with the syntax,
11 and the placement of a verb or adjective in> the sentence.

12 My question is, however, do you stand by the fact that the
13 Investigating Judge of the military tribunal, in the presence of
14 your lawyer and despite your signature, distorted your
15 statements? Do you stand by that?

16 [10.32.25]

17 MR. KAING GUEK EAV:

18 A. Mr. President, I would like to read:

19 "Did you, personally, interrogate prisoners? Who were they?"

20 "Sometimes I went to converse with prisoners, the ones who had
21 already been interrogated, such as Touch Phoeun, Chhim Sam Aok
22 alias Pang, Chou Chet alias Si, and Vorn Vet. And the contents of
23 those conversations were that I wanted to know about the lives of
24 Pol Pot, Ieng Sary, Son Sen, Khieu Samphan and Touch Phoeun when
25 they were in France.

35

1 "As for Chhim Sam Aok alias Pang, Chou Chet alias Si, and Vorn
2 Vet, I wanted to know about the internal structure of the Party
3 and history of the Communist Party <> of Kampuchea."

4 And I was engaged in the interrogation of some individual, Koy
5 Thuon and Seat Chhae. The orders were from Son Sen.

6 There were two types of interrogation <>. Concerning Touch
7 Phoeun, after he had been interrogated, after he was relieved
8 from the beating, I went to chit-chat with him.

9 Could I finish my testimony, Counsel?

10 [10.34.16]

11 Q. Witness, you're not answering my question, and my time is
12 running out. Of course I'm willing to let you speak, but my
13 question was specific. I'm not asking you to repeat what you
14 already said.

15 My question was very specific. Do you stand by the fact that the
16 Investigating Judge, in the presence of your lawyer and despite
17 your signature, distorted your statements in this specific
18 passage? That was my question.

19 A. It is written in the record, and the content of the record
20 here may not have been written correctly. That is why I made
21 mention about using the same verb and adverb. And the adverb in
22 that sentence concerns the timeline. In fact, I conversed with
23 Pang before his arrest, and Si -- as for Si, I had a conversation
24 with him afterward, after his interrogation.

25 However, what is written in the document is the summary of all

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1 the facts by the Investigating Judge. For that reason, I informed
2 Judge Lavergne that, usually, <the> same adverb could not be used
3 for four events that <took place>. That is why I want to clarify
4 the issue.

5 And again, this is the summary made by the Investigating Judge
6 back then.

7 [10.36.28]

8 MR. PRESIDENT:

9 That is enough.

10 And you may proceed to another line of questioning. The Chamber
11 will evaluate the evidence during the time that judgment is
12 prepared.

13 MS. GUISSÉ:

14 Mr. President, I am not done with my questions regarding this
15 point, and I would simply -- I'm asking for the application of
16 Rule 85 which governs procedure before this Court and to please
17 allow me to <fully enjoy the rights of the Defence>. <For some
18 time now,> I have the impression that when I'm dealing with
19 certain topics, I'm disturbing. Well, I would like to finish and
20 when the witness does not answer my questions clearly, I'd like
21 to be sure of his answer.

22 [10.37.28]

23 So Mr. President, may I please proceed? It won't take me much
24 time. May I please proceed with this issue because I am not done?
25 I cannot move on to another line of questions if I am not done

1 with the issue which is at the core of the defence of my client.

2 MR. PRESIDENT:

3 I think the witness has already answered the question. You can
4 move on, and perhaps the witness may <> not <give any> different
5 answers than what he has already testified. And you can put
6 further questions.

7 I do not prohibit you from asking further questions.

8 [10.38.20]

9 BY MS. GUISSÉ:

10 Thank you, Mr. President.

11 Q. So what you're telling us, Witness, is since Christophe
12 Peschoux and then, later on, Steve Heder, who re-transcribed the
13 interview -- since you were questioned about Khieu Samphan and
14 Ieng Sary before the military tribunal, <once again> so you're
15 saying that the Investigating Judge here distorted your
16 statements <in the WRI from 09 June 1999. Is that what we are to
17 understand?> There <were multiple instances> of your statements
18 <being distorted, on different topics, or on the same topic,>
19 despite the <fact that you spoke with different people>. Is that
20 what we must understand from what you're telling us?

21 MR. KAING GUEK EAV:

22 A. I am not talking about distortion. The Investigating Judge <of
23 the military court> <summarized> what I answered at the time. The
24 true situation was different, and the event happened at two
25 different timelines.

38

1 I asked -- I had a conversation with Pang before his arrest,
2 <but> Chou Chet alias Si <and Touch Phoeun> conversed with me
3 after <their arrests>. That was the true situation. <As for
4 Brother Vorn, I immediately conversed with him when he was
5 brought in.>

6 However, as I said, the Investigating Judge back then synthesized
7 what I told him. I did not say the Investigating Judge distorted
8 -- distorted my testimony back then.

9 [10.40.14]

10 Q. However, you're saying <it is false,> that you are not able to
11 say <you did not> say that you had a discussion with Pang when
12 you were at S-21. It's the absolute opposite <of what> we see in
13 this document that was issued by the Investigating Judge.
14 So it's not a summary here we're speaking about; it's a
15 distortion. You're saying <clearly> that it is false. You said
16 you did not speak to Pang at S-21.

17 MR. PRESIDENT:

18 <In Khmer, it is not correct,> I believe your summary is not
19 correct <either>. You <mentioned, overall, that Pang never
20 conversed with> the witness <at S-21, did it also include the
21 events> when he was <an assistant to 770 (sic)? This is the fact
22 concerning the events after the interrogation process; that means
23 it happened after Pang's arrest. If you put questions to the
24 witness in this broad manner, his responses will still not be
25 clear. Please reformulate the question properly. Through the

1 Khmer channel, it was interpreted that Pang and Duch never had
2 any conversation at S-21, and that was not the case.>

3 [10.41.53]

4 MS. GUISSÉ:

5 That was, indeed, what I understood. The real issue is that in
6 the answer he provided before the Investigating Judge of the
7 military tribunal, he speaks about prisoners and he mentions the
8 names of these prisoners, so I simply wanted to underscore here
9 that this is not a summary of the discussion, but of another
10 statement than what he's talking about today. And I wanted him to
11 confirm that what we see in this document of June 1999 before the
12 Investigating Judge does not correspond to his testimony and,
13 therefore, it was distorted.

14 MR. PRESIDENT:

15 I want to make a clarification with you, the words that you used,
16 particularly concerning the time after Pang's arrest. So you have
17 to refer to specific timeline about the case of Pang so that we
18 can proceed forward.

19 [10.43.14]

20 BY MS. GUISSÉ:

21 Q. In the excerpt which I just read out and which you read
22 yourself, Witness, conversations with prisoners <are discussed.>
23 That's the point. And your answer deals with prisoners and you
24 mentioned Pang in this list of prisoners.
25 You're telling me that this is a summary and I'm telling you

40

1 that, in this answer such as you <have read yourself>, we
2 understand that you spoke with Pang when he was a prisoner at
3 S-21. So my question is, therefore, <are> these statements as
4 <they were taken by the Co-Investigating Judge from the military
5 tribunal wrong, and therefore a distortion of> what you said?

6 MR. PRESIDENT:

7 You may proceed, International Deputy Co-Prosecutor.

8 [10.44.17]

9 MR. LYSAK:

10 Thank you, Mr. President.

11 I think the objection is -- I mean, this has been asked many
12 times. I think the problem is counsel keeps using the word
13 "distorted", and that is not the witness' word. The witness is
14 saying that there's a mistake in here in the way that the
15 Investigating Judge wrote this down. That's why we keep going
16 back and forth. But it's the word "distorted" that the witness is
17 -- that seems to be the problem here, and I don't know why she
18 keeps using that word when the witness doesn't say that.

19 BY MS. GUISSÉ:

20 Q. Well, it appears that <my colleague is saying that> in Khmer
21 we are not facing this issue, <but we are going to use French
22 vocabulary -> and all of its subtlety. <Is there a mistake in the
23 WRI from the Co-Investigating Judge - the Co-Investigating Judge
24 from the military tribunal?>

25 [10.45.34]

1 MR. KAING GUEK EAV:

2 A. Thank you. Allow me to clarify the point.

3 The same thing is repeated here. There were four different events
4 <that> happened at the time. Now I'm speaking about the cases of
5 Touch Phoeun and Brother Si.

6 Long after they were interrogated, I went to see them, and I did
7 not -- I'm not speaking about the content of my discussion with
8 the two individuals.

9 As for Pang, the <spokesperson of 870, who conveyed messages and
10 instructions to S-21>, I had the conversation with him before
11 <his arrest, but I did not converse with him after his arrest>.

12 And as for Vorn Vet, he arrived in the evening, and <the next
13 morning,> I went to see him and I said -- I expressed my apology
14 toward him. <As for the content of my discussion with him, I
15 already provided the statement to Co-investigating judges of the
16 ECCC. So, there were four different events.>

17 <In> the past, I made a clarification with Judge Lavergne about
18 the four different events, and I <mentioned the> grammatical
19 system concerning the same adverb used.

20 [10.46.52]

21 Q. My <apologies>. So therefore, I conclude that there is an
22 error in this document.

23 Can you tell the Chamber how, despite the principle of secrecy,
24 which you said you stood by and which Pang was subjected to as
25 well -- how was it possible for him to speak freely to you <when

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1 he was working and had to carry out his obligations?> How could
2 he speak to you about the details of his work or about the
3 details of the work of other people when you said at the hearing
4 of 15 June last, that even a friend -- such as Poeun -- could not
5 be apprised of your work? Can you explain how both of you broke
6 this rule of secrecy?

7 A. First I would like to correct one word. Poeun, husband of
8 <Minh (phonetic), son-in-law> of Ieng Sary, <was my close
9 friend>. I had never discussed the Santebal's issue <with him>.
10 <As for Pang, he> came to supervise S-21. Brother Nuon introduced
11 Pang to me, and I was advised to discuss S-21 tasks with Pang. So
12 Pang was introduced by the Party to come and see me, so if I had
13 questions or doubts, I would approach Pang.
14 I am not speaking about other issue, for example, the arrest of
15 Si <and the meeting at 870>.

16 [10.49.08]

17 Q. Regarding Doeun, in fact, do you remember <the date> when he
18 was arrested?

19 A. Mr. President, I do not recall when <Doeun> was arrested, but
20 that happened after the arrest of Koy Thuon.

21 BY MS. GUISSÉ:

22 Q. Now, for the Chambers and the parties, on the Co-Investigating
23 Judges list, document E393/2, we see Sua Vasi alias Doeun, at
24 number 14,596, 14,596 and a priori, he was arrested in February
25 1977. Does this date of February 1977 refresh your memory in any

1 way, Witness?

2 MR. KAING GUEK EAV:

3 A. I suggest you should use the document which is widely accepted
4 by the world, the list which is widely known. I am confident in
5 the list.

6 [10.51.01]

7 Q. Now can we please provide <the witness with> document E3/1625,
8 which is Doeun's confession? And we see a date April 1977. It's
9 at Khmer, ERN 000111292 <(sic)>; English, 00 -- let me give the
10 Khmer ERN again, 000111292 <(sic)>; English, 00759709; and
11 French, 00761023.

12 Can we please provide this document to the witness and display it
13 on the screen.

14 MR. PRESIDENT:

15 Yes, please.

16 BY MS. GUISSÉ:

17 Q. What I would like to focus on this document is the date.

18 So do you remember if Doeun was detained at S-21 in April 1977?

19 Does that refresh your memory, Witness?

20 MR. KAING GUEK EAV:

21 A. Mr. President. So what is your question, Counsel? You can put
22 it now.

23 [10.53.40]

24 Q. Does this document refresh your memory regarding Doeun's
25 arrest and detention at S-21?

1 A. Thank you.

2 The document was shown to me and I was asked about the date. It
3 is beyond my capacity -- my ability to tell you about what
4 happened <a> long time ago, so please, you should use the list
5 that is accepted by the Chamber if you want to know about the
6 date that people were <arrested and> smashed.

7 Q. So I conclude that this document does not refresh your memory.

8 When you were questioned on 13 June last regarding Doeun, you
9 explained that you were aware of his duties regarding logistics
10 and communication because you would go to the ministry on a
11 regular basis. And to make sure that we're clear about this, I
12 would like to provide you with the draft transcript of 13 June
13 2016. This was a little bit after 3.56.51 <pm>.

14 And with your leave, Mr. President, can we please display this
15 document on the screen?

16 MR. PRESIDENT:

17 Yes, please.

18 [10.56.08]

19 BY MS. GUISSÉ:

20 Q. So the question that's put to you by the Co-Prosecutor was,
21 and I quote:

22 "How did you know that Doeun or Sua Vasi were in charge of
23 logistics and of communication?"

24 And your answer was the following: "First, the <state> Ministry
25 of Commerce was a major ministry that was in charge of many

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1 different things. Bong Rith of Son Sen's family and myself had
2 friendly relations. I would go to the ministry on a regular
3 basis, and that's how I learned it." End of quote.

4 Yesterday, when I questioned you with regard to your visits to
5 the ministry, you told us that you did not go there often, but
6 that you had only gone there once. So what is the true story?

7 [10.57.122]

8 MR. KAING GUEK EAV:

9 A. Now, let's <clarify> the issue. I went to the ministry only
10 once concerning the important task. Pang asked me to accompany
11 him to the ministry, <but before that,> I <once in a while>
12 visited the ministry as well since we were old friends and we
13 used to be in the same detention in the past. But I was
14 instructed by the <upper echelon> to go to the ministry to deal
15 with the important issue once.

16 I once went to the ministry to deal with <the> important issue.
17 <I am thinking about when I started to know where Brother Rith's
18 new house was, of course I did go there,> but compared to the
19 visits to Hok's house, I went to Hok's house more frequently.

20 <Concerning Sua Vasi alias Doeun's case, Brother Rith made
21 mention about that, Tin Kimhong (phonetic)> alias Mi (phonetic),
22 also made mention <of> that. Hok also <mentioned> it. So <those
23 individuals> discussed the duties and also the mind of Sua Vasi.

24 [10.58.58]

25 Q. You said that your visit with Pang took place as soon as he

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1 took on supervisory duties at S-21, that is to say, after 15
2 August '77 when Son Sen left. And as I showed you in the --
3 Doeun's confession, it appears that he was already detained at
4 S-21 when you carried out that visit.

5 So how can you tell us that you're speaking about Doeun and his
6 duties whereas he was already detained at S-21?

7 A. I had learned about Doeun on a continuous basis. I knew about
8 the -- I knew Doeun since October 1967. Then we parted <ways>.

9 So I was informed about Doeun before he was in detention at S-21.
10 Pang also <told me about> Doeun's case <>. <Doeun was arrested in
11 February '77.>

12 <I had learned about Doeun's case from> Chhay Kim Huor alias Hok,
13 Brother Rith <>, Chhay Kim Huor alias Hok, Comrade <Rith , Tin
14 Kimhong (phonetic)> alias Mi (phonetic), they <were> in the
15 revolution. They used to engage in the revolution together, so
16 they discussed Doeun before he was in detention.

17 [11.01.23]

18 Q. One last point I would like us to talk about is the <word you
19 used for the first time at this hearing> in June 2016, you
20 referred to another committee apart from the Standing Committee,
21 <that you described as a> Permanent Committee. You referred to
22 <it as> "kanak pracham kar" (phonetic) <in Khmer>. You used that
23 term.

24 Can you explain to the Chamber why whereas you had been examined
25 <at length> since '99, it was only in June 2016 that you referred

1 to that new committee?

2 A. After I provided my testimony to the Chamber, I made it clear
3 about the Standing Committee of the Party Centre, and <that>
4 there were seven members, two of <whom> were not based in Phnom
5 Penh.

6 As for the Politburo of the Party <Centre>, the two were removed,
7 but one was added. And then there were Brother Pol, Nuon, Van,
8 Vorn, Brother Khieu and Brother Hem. Of course, Brother Khieu
9 means Son Sen. And they were based in Phnom Penh. They were also
10 known as the <Politburo of the> Party Centre <although Cambodian
11 people have never used this word>.

12 When I was under the supervision of Son Sen, they used the word
13 the "kanak pracham kar" (phonetic) or the Permanent Committee or
14 870 Committee, which was used rather more frequently.

15 And I can delve into more detail if you want to know, but I want
16 to talk about Brother Si, who scolded these Permanent Committee
17 members as the <Contemptible> Phnom Penh group. <According to
18 Chey Suon's confession, he called these members the intellectual
19 group.>

20 [11.04.08]

21 Q. Excuse me, Witness. My question was why since 1999, when you
22 started being examined, it was the first time that you used the
23 term "kanak pracham kar" (phonetic) only in June 2016?

24 THE INTERPRETER FRENCH-ENGLISH:

25 So the term is "pracham kar" (phonetic) in Khmer, corrects the

1 interpreter.

2 MR. KAING GUEK EAV:

3 I spoke about the Standing Committee of the Party Centre, and
4 that was based on the Party statute. That's the highest authority
5 of the Party based on the National Congress. And in between
6 <each> National Congress, the responsibility was at the Centre.
7 <According to the documents I had read before, it was the
8 responsibility of the Standing Committee.> But the new statute,
9 it was the responsibility of the Centre.

10 So the authority was vested fully with the Centre, and that
11 encompassed the Standing Committee, the Permanent Committee as
12 well. These were the two main bodies -- that is, the Standing
13 Committee and the Permanent Committee or 870 Committee.

14 [11.05.55]

15 BY MS. GUISSÉ:

16 Q. So the reality, Witness -- and that <may be> the reason why
17 you have difficulty explaining why you <only now> gave this name
18 for the first time. The reality is what you told the Chamber --
19 that is, the fact that you were far from the Centre and you did
20 not know how the Standing Committee functioned, nor did you know
21 how the Politburo of the CPK functioned, and it was following
22 <your> different <and varied> readings of your interpretations of
23 documents <in your case file>, <that> today, you are inventing
24 this new <concept> called "pracham kar" (phonetic) committee. Is
25 that not the truth, Witness?

1 MR. KAING GUEK EAV:

2 A. Your conclusion is partly correct. The correct part is that I
3 was not part of the upper echelon leadership of the CPK.
4 However, my knowledge from 1975 to 1979 was reflecting in the
5 facts because Son Sen used to speak about the Permanent
6 Committee. Son Sen also mentioned the 870 Committee, and it was
7 also written in the Party documents, <particularly> document
8 dated 30 March 1976, about the weekly report to 870. And usually,
9 Son Sen <preferred> to use the word "870" instead.

10 [11.07.47]

11 Brother Mok and Phim did not attend that meeting, to my
12 knowledge, and I did not want to talk about the scolding by Chey
13 and Si, but I heard about the word "kanak pracham kar" (phonetic)
14 -- that is, Permanent Committee, or 870, or the scolding of those
15 labelled as the intellectual group.

16 I heard it during the regime. My knowledge was obtained during
17 the regime, and what I say is based on the knowledge back then.

18 Q. And yet, in your answer, you rely on the transcript of the
19 30th of March 1976, <which you yourself said you only> saw for
20 the first time in 2007. Isn't that the case?

21 MR. PRESIDENT:

22 Defence counsel, please rephrase your question. I think there is
23 confusion in terms of the document <number> that you <are
24 referring> to and the date of that document.

25 [11.09.18]

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1 BY MS. GUISSÉ:

2 Q. Is it correct, Witness, that the <directive> of the 30th of
3 March 1976, on which you base part of your answer, is a document
4 that you only saw for the first time in 2007?

5 MR. KAING GUEK EAV:

6 A. My previous response is clear, and if you are a person with a
7 conscience, you should know it well. I <have heard of the word>
8 "870" for a long time, and <I have said the evidence did exist in
9 the Party documents, particularly in the> document dated 30 March
10 1976. My response is clear enough, and if you have <any reason>,
11 you are a person with a brain, then you should understand it
12 well.

13 [11.10.32]

14 MS. GUISSÉ:

15 Mr. President, I have concluded my examination and the Chamber
16 will weigh the evidence.

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 And now I'd like to return the floor to the defence team for Nuon
20 Chea to put further questions to this witness.

21 QUESTIONING BY MR. KOPPE RESUMES:

22 Thank you, Mr. President, and good morning, Your Honours. Good
23 morning, counsel.

24 Q. And good morning, Mr. Duch, Mr. Witness.

25 [11.11.14]

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1 Two days ago, we were speaking about what you had described as
2 the great leap victory over So Phim in 1978, So Phim, secretary
3 of another -- or a second Communist Party in Democratic
4 Kampuchea. You called that Party on the 21st of June 2016 at
5 16.03, and I quote, "The People's Revolutionary Party of
6 Kampuchea".

7 But in your presentation 18 June '78 to S-21 cadres -- that is,
8 E3/834; English, 00184498; Khmer, 00077476; no French; you
9 referred to it as the "Workers' Party of Kampuchea" that So Phim
10 and Ros Nhim had been leading. Is that the accurate name,
11 "Workers' Party of Kampuchea"?

12 MR. KAING GUEK EAV:

13 A. First allow me to speak about the document because in that
14 document the word "great leap forward" does not exist and of
15 course, you do not mention the <phrase> "great leap forward".
16 My political view <at the time> was, as I stated, that if we
17 defeated Phim, it was like we defeated <Lon Nol.> This is my
18 brief response.

19 And please, repeat your last part of the question since I cannot
20 remember it.

21 [11.13.33]

22 Q. Well, let me -- let me show you a document, Mr. Witness. Mr.
23 President, that is E3/7327; English, ERN 00015679; Khmer, only,
24 01113795.

25 Mr. Witness, this is originally an English document that we do

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1 not have the Khmer original of; it belongs to--

2 MR. PRESIDENT:

3 Counsel Koppe, please repeat the ERN number once again.

4 MR. KOPPE:

5 01113795.

6 So it's a Peoples' Revolutionary Tribunal document. We don't have
7 the original Khmer version, but I will give you the Khmer
8 translation of this document and I would like you to have a look
9 at this.

10 (Short pause)

11 [11.15.13]

12 BY MR. KOPPE:

13 Q. Mr. Witness, this document seems to be a press release of DK
14 on the 3rd of June 1978. It says on the top:

15 "Greetings to our Party's victories in the leadership of the
16 CIA's Kampuchean Workers' Party on June 3rd 1978.

17 "Top men of the Kampuchean Workers' Party: 1) Phim; 2) Nhim; 3)
18 Keo Meas; 4) Ya; 6) Koy Thuon;" and it goes on till 14 and then
19 there's another four persons as well.

20 Do you remember that a press release was issued in relation to
21 the victory of -- on the Kampuchean Workers' Party? Mr. Witness,
22 do you remember a press release being issued or not?

23 MR. KAING GUEK EAV:

24 A. You asked me to read a document -- that is, the Peoples'
25 Revolutionary Tribunal, but you asked me whether a press release

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1 was issued by CPK instead. It is rather difficult for me to
2 respond. So what do you want me to say; please be specific?

3 [11.17.32]

4 Q. What I want to know is whether you knew if, on the 3rd of June
5 1978, a press release was issued on the victory of the Kampuchean
6 Workers' Party.

7 MR. PRESIDENT:

8 International Deputy Co-Prosecutor, you have the floor.

9 MR. LYSAK:

10 Yes, thank you, Mr. President. I simply ask counsel -- if counsel
11 could repeat the E3 number for this document because I'm not
12 finding -- finding the references from his ERNS.

13 MR. KOPPE:

14 It's a one -- it's a one-page document; E3/7327. It says S000 --
15 S00015679; that might be the problem. But you -- the Trial
16 Chamber has admitted it; it's E3/7327.

17 (Short pause)

18 [11.19.02]

19 MR. KAING GUEK EAV:

20 A. This document belongs to the Peoples' Revolutionary Tribunal
21 issued by the Peoples' Republic of Kampuchea in August 1979. So
22 the person who originated this document was <part of> the
23 Peoples' Revolutionary Tribunal and for that reason, I am not in
24 a position to know <whether> the press release <was issued the
25 CPK or not; I do not know about that.>.

1 BY MR. KOPPE:

2 Q. That's not a problem, but I'll just stick to the name that you
3 used on the 21st of June 2016, the Peoples' Revolutionary Party
4 of Kampuchea.

5 You said that was led by So Phim and Ros Nim. Do you know whether
6 military people were also part of that party, specifically I'd be
7 referring to Division 310 Commander Oeun, East Zone Division
8 Commander Chan Chakrey, Heng Samrin, and for instance Chhouk
9 (phonetic); do you know whether these four people were also
10 considered to be members of that opposing party?

11 [11.20.51]

12 MR. KAING GUEK EAV:

13 A. Your question actually confuses me; however, allow me to
14 <talk> about what happened on the ground in my capacity as chief
15 of S-21. Confessions of prisoners who were detained at S-21
16 implicated many people, <for instance,> Chakrey <implicated>
17 Chhouk (phonetic), <Chey Suon> and Oeun; <they> had been
18 arrested. Also they implicated Rin, but Rin was not arrested and
19 he's still alive. He is now the president of the National
20 Assembly.

21 Q. Let me move away from that because of time, Mr. Witness.
22 Two days ago we also spoke about a meeting of the Central
23 Committee of the Vietnamese Communist Party in which, according
24 to an academic and also according to Chanda, the person you know,
25 a decision was made to start an internal uprising within the DK

1 and if that wouldn't work, Vietnam would invade.

2 Let me ask you something very specific about this. You might
3 recall that I had read to you, at one point, minutes of a meeting
4 of secretaries and deputy secretaries of divisions and that was a
5 meeting on the 9th of October 1976 where Son Sen spoke.

6 Mr. President, that was E3/13.

7 And I read to you a part from English, ERN 00940343; Khmer,
8 00052406; and French, 00334976.

9 Son Sen was talking to people like Oeun, Soeung (phonetic), and
10 other division commanders and speaking about the key plan of the
11 Vietnamese, the East, and the Soviet Union behind them and he
12 also referred to a Czechoslovakia kind of style.

13 [11.23.42]

14 Now having said that, you had conversations with Son Sen; did Son
15 Sen ever mention to you his fear that Vietnam, together with
16 collaborating forces in DK, would attack DK in a style comparable
17 to what the Soviet Union did in 1968 with an Eastern European
18 country called Czechoslovakia?

19 A. <My defence counsel already asked me why my name was not on
20 the> document that was shown to me. I said that it was military
21 meetings on technical aspects <and military telecommunication>,
22 and I did not have anything to do with it, so that is clear about
23 that document. And the question is whether Son Sen ever gave <a>
24 lecture about the <Vietnamese technique, the so-called
25 Czechoslovakia style>; no, <he did not>. He did not speak in

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1 detail about the techniques or strategy employed by the
2 Vietnamese troops against Kampuchea, but S-21 <investigated the
3 situation in its capacity as an> anti-spy unit. <> "Yuon" <were
4 considered the most serious case for espionage, not "Thai". As
5 for Americans>, we had to <continue to purge them a little bit
6 more>.

7 [11.25.56]

8 Pol Pot <generally gave instructions within the Party about> the
9 strategy employed by the "Yuon" side, that they tried to persuade
10 Pol Pot to surrender to them and in fact, that was the <strategy>
11 of Le Duan and if they could not do that to Pol Pot then they
12 <would> engage in a coup d'état and if that was still not
13 successful then they would bring an army in to attack. <Son Sen
14 also instructed me about that.>

15 And <those were> the general instructions by Pol Pot and for that
16 reason, I concur with the excerpt by Nayan Chanda. And Nayan
17 Chanda quoted a passage from Pham Van Dong and which was
18 consistent with what Pol Pot said so that matter is clear for
19 all. <So people around the world acknowledged it, and that was
20 the strategy of the Vietnamese, of Le Duan.>

21 [11.27.03]

22 Q. Just for the record, I didn't say -- maybe that went wrong in
23 the translation -- Yugoslavia, but I said Czechoslovakia. But
24 maybe it will be more helpful if I would read something to you;
25 maybe that would somehow jog your memory.

1 Mr. President, with your leave, I would like to read an excerpt
2 from E3/2376; it's an excerpt from Nayan Chanda's book; English,
3 ERN 00192401; French, 00237080; and Khmer, 00191551.

4 Mr. Witness, it's the first document in the green binder and
5 maybe this will somehow jog your recollection. So Chanda is
6 writing about the month just before that February plenum meeting
7 of the Vietnamese Communist Party and he says the following:
8 "In late January 1978, General <Grigoriyevich> Pavlovskiy,
9 commander-in-chief of the Soviet ground forces, arrived in
10 neighbouring Laos in his special Aeroflot jetliner for a
11 'friendly visit'. Vietnamese minister of defence General Vo
12 Nguyen Giap flew to Vieng Say in Northern Laos for an
13 unpublicized meeting with the Soviet general to review the
14 Cambodian situation. Pavlovskiy advice, a Vietnamese official
15 told me years later, was: 'Do a Czechoslovakia.' The Chinese were
16 powerless to come to the aid of their Khmer friends, the general
17 argued, so the Vietnamese should simply drive their armoured
18 columns to Phnom Penh and remove Pol Pot from power the way the
19 Soviet army removed Alexander Dubcek in Prague in 1968. Giap
20 balked at the suggestion. The Vietnamese, he reportedly said,
21 would solve the problem 'in their own appropriate way'." End of
22 quote.

23 Now, again, you had many contacts with Son Sen; did Son Sen ever
24 mention to you that the fear was that Vietnam would do a
25 Czechoslovakia-style attack on Democratic Kampuchea?

1 [11.30.25]

2 A. I never received any information about the imminent attack by
3 Vietnam into Kampuchea <-- Vo Nguyen Giap attacked Kampuchea
4 using the> Czechoslovakia style, <I did not know about it>.
5 And regarding <the arrival of the minister of Foreign Affairs
6 for> the Soviet <Union in Laos, and his having a secret meeting>
7 with the General Vo Nguyen Giap, I had no knowledge of that;
8 however, later on, <> I read the document, dated 15 May 1976,
9 when Pol Pot gave instructions. <> Phan Hien (phonetic) said
10 Cambodia troops attacked them in their territory, and Pol Pot
11 said the most important thing was for the Cambodian side not to
12 allow the people from the inside to open the way for the enemy to
13 attack. And he spoke briefly about Czechoslovakia, that
14 Czechoslovakia was in the cage of the Soviet Union. <I cannot
15 recall whether it was Czechoslovakia or Yugoslavia, but it does
16 exist in the document.>

17 And I was not well aware of the international situation at the
18 time.

19 [11.32.04]

20 Q. Thank you, Mr. Witness. Before I move on from 1978 to alleged
21 or contemplated coup d'états in 1977, let me, for the record --
22 and also in response to earlier questions from the Bench -- Mr.
23 President, refer the Chamber and the parties to E3/2376; English,
24 ERN 00192419; Khmer, 00191572; and French, 00237095; Chanda
25 referring also to a mid-February 1978 Politburo meeting

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1 discussing the way forward.

2 And also a very interesting document, E3/540, which are East
3 German reports from the East German Minister of Foreign Affairs.

4 That is English only; I have the German, but I will read the
5 English, 01246939, in which it says, and I quote:

6 "Confidential reports state that the Socialist Republic of
7 Vietnam side is striving for a solution of the kind that would
8 enable the remaining patriotic forces of Kampuchea to seize the
9 initiative and arrest power from Pol Pot and his followers. Of
10 the current group of five in Phnom Penh, Politburo member Nuon
11 Chea, alone, has yet to compromise himself directly vis-à-vis the
12 Socialist Republic of Vietnam."

13 Having said that, I'm looking at the clock, Mr. President, maybe
14 this is a good moment to stop.

15 [11.34.08]

16 JUDGE FENZ:

17 Just for the record, the date for the last document you quoted?

18 MR. KOPPE:

19 The document is from; I'll be more precise, Council of Ministers
20 of the German Democratic Republic, 20 January 1978. It is
21 addressed to a member of the Politburo and secretary of the
22 Central Committee of the Socialist Unity Party of Germany and the
23 report is from someone called Klaus-Dieter Pflaum and that
24 particular remark, you can read in the original German, 00537671.

25 MR. PRESIDENT:

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1 Judge Lavergne, you have the floor.

2 [11.35.18]

3 JUDGE LAVERGNE:

4 Yes, Counsel Koppe, I didn't have the time to read this passage
5 because it's difficult, of course, to read and follow the
6 proceedings at the same time, but can you tell us if Nayan Chanda
7 is providing us with a <concrete> reference regarding the
8 meetings that he is describing in his book?

9 MR. KOPPE:

10 As a matter of fact, he does, but these are articles in the "Far
11 Economic Eastern Review" (sic) which are not yet on the case
12 file. But when he refers to the mid-February -- mid-February
13 <plenum> meeting, I believe it is a source, a human source that
14 he has spoken to who was presumably present at that Central
15 Committee meeting and presumably he spoke to this source
16 somewhere in the summer of '78.

17 [11.36.25]

18 JUDGE LAVERGNE:

19 Where did you obtain this information? I would like to know where
20 this information comes from.

21 [11.36.34]

22 MR. KOPPE:

23 You mean the "Far Economic Eastern Review" (sic) articles? They
24 are not on the case file yet, but I read them.

25 JUDGE LAVERGNE:

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1 <No, Counsel.> <You just> told us that Nayan Chanda <certainly>
2 obtained information following a discussion he had with someone,
3 so where did you get that information <from> or is this <simply
4 speculation> on your part?

5 MR. KOPPE:

6 Well, the thing is I -- I -- I'm not able to use that -- that
7 article yet because it's not on the case file.

8 JUDGE FENZ:

9 That question is more technical; is it a footnote, an endnote
10 that makes you think this is the source?

11 [11.37.16]

12 MR. KOPPE:

13 There -- there are no notes in that particular article and in his
14 own book that was used as the basis for his cross-examination in
15 Case 001, he only refers to the Politburo meeting also without
16 naming the actual source. But as we all know, Vietnam's not very
17 keen on giving minutes of Standing Committee meetings, so we have
18 to do it with those two academics.

19 But that's, of course, the reason why I added this East German
20 document together with the Russian general -- the Soviet Union
21 general.

22 (Short pause)

23 [11.38.23]

24 MR. PRESIDENT:

25 Thank you. It is now appropriate for a lunch break. We <shall>

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1 take a break now and resume at 1.30 to continue our proceedings.
2 Security personnel, you are instructed to take Khieu Samphan as
3 well as the witness to separate waiting rooms downstairs and have
4 Khieu Samphan back into the courtroom before 1.30. As for the
5 witness, have him returned to the courtroom at 1.30.

6 The Court is now in recess.

7 (Court recesses from 1138H to 1331H)

8 MR. PRESIDENT:

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

10 The floor is now given to the defence team for Nuon Chea to
11 resume the questioning. You may proceed.

12 [13.32.29]

13 MR. KOPPE:

14 Thank you, Mr. President. Good afternoon, Your Honours, counsel,
15 Mr. Witness.

16 Mr. President, before I start, let me follow up a bit on the
17 questions raised just before the break, questions as to the
18 sources of Chanda and Duiker. It is actually -- there is actually
19 a source used by Chanda in his book, E3/2376, in relation to the
20 quote on Czechoslovakia. There's a footnote on page 437, English
21 ERN only, 00192622; it's footnote 49. It's in relation to the
22 February '78 plenum. It says, "Author's interview (January 1981)
23 with a well-placed Vietnamese official, who, 'for the sake of
24 history,' provided me with many of the details about Vietnamese
25 preparation for military intervention in Cambodia. For obvious

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1 reasons, he wants to remain unnamed." So that's a -- one answer,
2 one follow-up issue.

3 [13.34.09]

4 I've also talked about articles from Chanda's hand in the "Far
5 Eastern Economic Review"; articles that speak about So Phim. They
6 are actually on the shared-materials drive, so if you would like
7 to have a closer look at these articles, you can find them on
8 number ERN shared-materials drive S00014053. That's an article
9 from 15 December 1978. There is one on S00014450; it's an article
10 February 23, 1979. And there is an article August 11, 1978; that
11 is 0 -- S00011805; three articles mentioning Sovanna alias So
12 Phim.

13 We will be filing because it's an issue and Rule 87 request to
14 have them added to the case file. Having said that, Mr.
15 President, let me now move on to my questions again.

16 Mr. Witness, it seems that you do not know very much about what
17 happened in 1978. Maybe you do know something about the events of
18 early 1977. Let me start by giving you a document that is from
19 your hand and then I will ask you a question about this.

20 [13.36.22]

21 With your leave, Mr. President, I would like to show the witness
22 document E3/1197; Khmer, ERN 00002267; English, 00506641; French
23 ERN will follow shortly.

24 MR. PRESIDENT:

25 Yes, you may proceed.

1 BY MR. KOPPE:

2 Q. Please have a look at paragraph 3 of this document and maybe
3 we can put it on the screen, as well, with your leave, Mr.
4 President.

5 (Short pause)

6 [13.37.51]

7 BY MR. KOPPE:

8 Yes, there it is.

9 Q. Mr. Witness, in paragraph 3, you speak about the involvement
10 of Brother Oeun and Comrade Voeung from Division 310. You say
11 that now this problem has been fixed. "We deleted and retyped the
12 information."

13 Do you remember this document and what was it exactly that was
14 happening with Oeun?

15 The French ERN is, by the way, 00498636.

16 MR. PRESIDENT:

17 You may proceed, International Deputy Co-Prosecutor.

18 MR. LYSAK:

19 I just wanted to note, Mr. President, that the paragraph in
20 question is discussing a confession that was reported to Angkar,
21 so my same comments as before that the witness should be reminded
22 that in answering the question, he shouldn't be providing
23 information that may have come from S-21 confessions.

24 [13.39.14]

25 BY MR. KOPPE:

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1 Q. Mr. Witness, do you remember this document?

2 MR. KAING GUEK EAV:

3 A. When I submitted the report up the line, I usually put my
4 signature, Duch, and usually it was not typed. <I am suspicious
5 because this is a typed document and it does not contain my
6 signature.>

7 Q. Do you remember when Oeun was arrested?

8 A. Concerning the date of arrest, I cannot recall all the dates
9 of the arrests in relation to over 10,000 prisoners at S-21, so I
10 cannot recall the date of Oeun's arrest.

11 Q. Let me help you a bit. About two months later, 18 February
12 1977; would that be correct?

13 A. Let me make my reservation that I -- I do not want to give any
14 explanation on the date. I am confused.

15 [13.41.07]

16 Q. The document that I read earlier to you, the minutes of the
17 meeting of secretaries and -- and deputy secretaries of
18 divisions, E3/13; a meeting during which Son Sen spoke about
19 Czechoslovakia, Oeun, the division commander, was also present.
20 So four months before Oeun's arrest, Son Sen was addressing the
21 issue of external and internal enemies with Oeun present. Would
22 it be fair to say that in October 9 and presumably also, 23
23 December '76, there was no suspicion against Oeun or is that not
24 -- not correct?

25 A. Mr. President, <I can answer> this question. <When an

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1 individual> was called into a meeting, it <did> not mean that
2 Angkar did not yet suspect the individual concerned. Everyone who
3 was arrested was suspected by Angkar <for a> long time <already>
4 and they were under surveillance concerning their continuous
5 activities.

6 [13.42.58]

7 So in relation to the meeting <when> Oeun was there without my
8 <being> present, I cannot recall the date and I <also> do not
9 recall who implicated Oeun at the initial stage. Usually, the one
10 who was suspected by Angkar was not <informed> by Angkar and as
11 for the enemies who implicated <Brother Vorn,> Chhouk, Chan
12 Chakrey<>, they did not know. Those people did not know that
13 Angkar suspected their activities. <So it does not mean anyone
14 who was present at the meeting had not yet been suspected by
15 Angkar.>

16 Q. Let me put it differently, Mr. Witness. Apparently, 9 October
17 '76, there was no suspicion against Oeun; 18 February '77, he's
18 arrested. What happened in between those four months; what
19 happened between 9 October '76 and 18 February '77?

20 A. Many things had happened and the decision to arrest him was
21 made by the Party; it was not me who made the decision. Oeun was
22 implicated by many people already and after he <had been> under
23 surveillance for quite a long time, he was arrested.

24 [13.45.00]

25 Q. Mr. Witness, I realize that according to your own testimony,

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1 you are a mid-level cadre who doesn't know very much, but at
2 least you should be able to tell us what was the reason that Oeun
3 was arrested? What happened in those four months that led to his
4 arrest; what events; what facts?

5 A. I am not certain about that since that happened a long time
6 ago. I could only speak of the issues <I knew about>;
7 particularly, in relation to the prisoners who were implicated
8 and <in> the case of Oeun, who was implicated; who implicated
9 him, I do not know and I <also> do not know what happened to him
10 in that four-month period. <I cannot recall who> implicated
11 him<or> what happened to him.

12 And Oeun was under surveillance for quite a long period of time
13 and I do not know <why,> either. 870 was following <Oeun's>
14 activities <on its own> and I do not know about that either<, nor
15 do I know much about> the things which happened outside of S-21<,
16 either>. As far as you are concerned, the events happened 40
17 years ago.

18 [13.47.04]

19 Q. Well, your answer confirms, indeed, Mr. Witness, that you do
20 not -- do not know very much, but let me see if I can help you.
21 As you know, I'm not allowed to use any confessions with you, not
22 even Koy Thuon's confession. I'm not allowed to use Pon's
23 notebook or Tuy's notebook with you. I'm not even allowed to use
24 the content of the minutes of the meeting where Son Sen and Oeun
25 were present.

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1 However, we have all kinds of other evidence that I will be soon
2 confronting you with, but before I do that, do you know whether
3 Oeun, together with Koy Thuon, Chan Chakrey, Hun Sen, and others
4 was involved in a rebellion; an attempt to stage a coup d'état
5 which involved attacks, military attacks, on Pochentong Airport
6 and Radio Phnom Penh?

7 JUDGE FENZ:

8 And your answer should not draw on your knowledge from
9 confessions if any.

10 [13.48.30]

11 BY MR. KOPPE:

12 That's a very good addition, Judge Fenz.

13 MR. KAING GUEK EAV:

14 A. Thank you. You mentioned names, one of which was Hun Sen; is
15 there the name Hun Sen in the document you quoted?

16 Q. Yes, so my -- my question is: Outside of your knowledge of
17 interrogations at S-21, do you know anything about plans for a
18 coup d'état, plans to stage a rebellion, plans which originated
19 from Koy Thuon, Oeun, Division Commander of 310, Chan Chakrey,
20 Hun Sen, the present prime minister, and others?

21 [13.49.44]

22 A. First of all, I would like to explain the names <you>
23 mentioned. <I knew most> of the names, and they were detained at
24 S-21 and at the time, I did not hear the name Hun Sen<. I heard>
25 this name, Hun Sen, after 7 January. And in relation to the

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1 attempt to stage a coup d'état <in> which Hun Sen <and others
2 were> involved, I have no knowledge of it. Although I was in
3 charge of the <Oeun's particular> case, <I cannot recall Oeun's>
4 plan <>, <I recall the case of> Koy Thuon, and concerning Koy
5 Thuon, I was not allowed to mention his confession here, and <I
6 did not read> whatever was written by Koy Thuon, and even if I
7 had read the confession, I would not have understood the meaning
8 within the confession <because those matters were far beyond my
9 knowledge>. I would only send the confession or confessions up
10 the line.

11 Again, I, in the past period, never <knew or> heard <of> the name
12 "Hun Sen" and I have no knowledge of the attempt to stage a coup
13 d'état. I have no idea about the arrest of Oeun supposedly
14 because of the attempt to stage a coup d'état; I have no idea
15 about it.

16 Q. Does that mean you also have no idea about simultaneous
17 military attacks on Pochentong Airport and Radio Phnom Penh?
18 [13.52.00]

19 MR. PRESIDENT:

20 Please hold on, Mr. Witness. You may proceed, Co-Prosecutor.

21 MR. LYSAK:

22 Just clarification: Is he asking whether they were actually
23 attacked or is he asking whether he knows of whether there were
24 plans to attack Pochentong and the radio?

25 BY MR. KOPPE:

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1 Q. It's all about plans -- plans, so it -- it didn't actually
2 happen, Mr. Witness, just to be sure, but plans to stage a coup
3 d'état accompanied by attacks, planned attacks, military attacks,
4 on Pochentong Airport and Radio Phnom Penh. Is there anything
5 that you've heard about; does that somehow sound familiar? And
6 please don't draw your answer from confessions as that's not
7 allowed, as you know, but try to see if you can remember anything
8 about conversations with Son Sen or any other discussion of
9 results of investigation outside of S-21.

10 [13.53.23]

11 MR. KAING GUEK EAV:

12 A. I do not know about the plan and Son Sen and I did not discuss
13 the plan either. This is my true testimony concerning Oeun,
14 Khuon, what confession they had made, and the reason <for>
15 <Khuon's and Oeun's> arrests, again and again, <I did not know
16 about that>.

17 Oeun was under surveillance, and the same happened to Khuon <and
18 others,> a long time ago, and then there were confessions
19 implicating those people after which the two individuals were
20 arrested. I do not know, as I said, about the persons who
21 implicated Oeun.

22 Q. Well, Mr. Witness, I've prepared for you a binder; it's right
23 in front of you, the green binder.

24 Let me say the following in order to introduce this binder and
25 the evidence to you. We have assembled, so far, statements, WRIs,

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1 testimony from about 10 former combatants of Division 310 and all
2 of them speak about plans for a coup d'état and military attacks
3 early 1977. The plans were thwarted because of discovery.

4 [13.55.28]

5 Let me -- because I'm not allowed as -- as you know to read
6 confessions to you, let me guide you through that binder and let
7 me see if I can somehow jog your memory, Mr. Witness.

8 Let me start with Document 4 in your binder. Mr. President, that
9 is E3/509; it is a WRI from a Division 310 combatant; English,
10 ERN 00282217; Khmer, 00270159; French, 00285597-98.

11 Did you find it, Mr. Witness, so that you can read along? It's
12 Document 4, number 4 in your binder, and the Khmer page for you
13 is 00270159.

14 MR. PRESIDENT:

15 Court officer, please assist the witness in finding the specific
16 page of document to expedite the proceedings.

17 MR. KOPPE:

18 Mr. President, if it's convenient, with your leave, I will put
19 the page on the screen, as well, so that everyone can read along.

20 MS. GUIRAUD:

21 Excuse me, what is the English ERN?

22 [13.57.22]

23 BY MR. KOPPE:

24 00282217.

25 Q. Let me start reading, Mr. Witness.

1 "In 1977, I went to work the rice fields at Boeng Krayap. One
2 day, I was called to a meeting at Wat Phnom where Ta Yim, the
3 battalion chairman, made an announcement to the combatants of
4 Battalion 306 regarding plans to carry out a coup d'état -- a
5 coup. He said that at 3 a.m., we would open fire and attack and
6 take the radio station near Wat Phnom in order to make an
7 announcement. That night suddenly Ta Ouen, Ta Si Nuon; the former
8 Battalion 306 Com along with Oeun, who was at the Ministry of
9 Commerce at the time; Ta Banh, Regimental Chairman; and Ta Yim,
10 Battalion Chairman; were called by the upper echelon of the
11 organization to a meeting and then disappeared."

12 [13.58.47]

13 A little bit further, a question: "Do you believe that there was
14 actually a coup plan?"

15 Answer: "Yes, it was true. Approximately 300 combatants had
16 attended a meeting at 4 p.m. and listened to Ta Yim make an
17 announcement on the plan, and after that the weapons were
18 readied."

19 Were you able to follow it, Mr. Witness?

20 (Short pause)

21 [13.59.53]

22 MR. KOPPE:

23 I see you're reading, so let me move to the next document. That
24 is in your binder, Document 2.

25 Mr. President, E3/7535; it's a DC-Cam statement of another

1 combatant in Division 310. He's also known as 2-TCW-1029;
2 English, ERN 00324168; Khmer, 00087817; French, 00324206.
3 He talks about Oeun: "At that time, he was linked to the 'Yuon'
4 who want to uprising in Phnom Penh. Did he plan any plot on that?
5 He planned an attack plot; unfortunately, when that plot was
6 compromised, we were transferred to farm paddy for a while."

7 Question: "Can you elaborate on Ta Oeun's plan -- plot?"

8 Answer: "First, he called us for a secret meeting and instructed
9 us that he planned to attack Phnom Penh. He told to deliberate
10 and take control of Phnom Penh."

11 Further down, English, ERN 00324172; Khmer, 00087822; French,
12 00324210; It was not -- according to the question -- "According
13 to their preparation, did you think that his force could defeat
14 Pol Pot?"

15 Answer: "It was not that easy, I guess. If we could not defeat
16 Pol Pot, we would appeal to Vietnam and call for force at the
17 East under Chakrey to help."

18 A little bit further: "Sure, I guess, first they planned to
19 attack from inside; when the plot was compromised, they planned
20 to call for help from the 'Yuon'." End of quote.

21 If you go now to Document 3, Mr. Witness, E3/7540, this is
22 another North Zone combatant from Company Division 1. It's a
23 female known as 2-TCW-1030; English, ERN--

24 [14.02.48]

25 MR. PRESIDENT:

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1 International Lead Co-Lawyer, you have the floor.

2 MS. GUIRAUD:

3 Thank you, Mr. President. I am sorry to interrupt my colleague.

4 To understand properly what my colleague is doing, he is going to

5 read a series of 10 excerpts of <hearings> and then he will put

6 questions to the witness? I thought he was going to put questions

7 on each <passage. Just> so that we <are able to> follow him

8 properly.

9 MR. KOPPE:

10 I am not going to read the evidence of all 10 combatants. I don't

11 have the time for this. I see that the witness is reading, so I

12 will combine a few extracts which have all the elements and then,

13 at the request of the civil party lawyers, I have no problem in

14 going into each aspect itself. I'll have --

15 [14.03.50]

16 MR. PRESIDENT:

17 The witness is reading one document and you start reading other

18 excerpts. How could he follow you because -- I am lost too. He is

19 focusing on one particular document and you keep reading other

20 excerpts from other documents. Please clarify it because I am

21 lost with your strategy.

22 MR. KOPPE:

23 Okay.

24 MR. PRESIDENT:

25 And I noticed that witness Kaing Guek Eav wants to speak. You may

1 proceed, Witness.

2 [14.04.44]

3 MR. KAING GUEK EAV:

4 Thank you, Mr. President.

5 In fact, I am trying to follow what was read by the counsel but I
6 got lost. So please be slow and make sure which specific document
7 you <are referring> to. I tried to keep up with you on the three
8 or four documents but I got lost in all of the tracks.

9 BY MR. KOPPE:

10 Yes, it's because I don't have so much time. I try to be a little
11 faster but that doesn't work.

12 Q. So let me go back to the first document then, Document 4, Mr.
13 Witness. There we have a Division 310 combatant speaking about
14 plans to carry out a coup in 1977 and an attack on the radio
15 station. So let's stick with this statement, first.

16 It also refers to Ta Oeun who is instrumental in this coup.

17 Having read along with me on that first document E3/509, does
18 that somehow jog your memory?

19 [14.06.17]

20 MR. KAING GUEK EAV:

21 A. Allow me to read it to make it more precise:

22 "In 1977 I went to work at the rice fields in Boeng Prayap. One
23 day I was called to a meeting at Wat Phnom <chaired by> Ta Yim, a
24 battalion commander. He made announcements to Battalion 306 about
25 the plan for a coup d'état and that we should start at 3 o'clock

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1 in the morning and that we should get hold of the radio station
2 <near> Wat Phnom <in order to make an announcement. But the
3 content was not mentioned>.

4 That night Ta Oeun, Si Nuon, <a> former battalion chief, <along
5 with Oeun>, who was at the time at the Ministry of Commerce, and
6 Ban, <a> regimental commander; <Yim>, <a> battalion commander,
7 were called to a meeting by the upper echelon and disappeared.

8 "And by 4 a.m., we did not receive any more information and we
9 disbanded and I returned to Boeng Prayap."

10 [14.07.37]

11 "A few days later, someone from the Southwest, Pin, replaced Oeun
12 and then during a meeting, a tape was played <saying> that Oeun
13 <and> Si Nuon were in the traitorous network and had been
14 arrested <by Angkar,> and <at the time, I heard the voice of Si
15 Nuon stating> that they planned a coup d'état and they were in
16 the traitorous network of <the> CIA and KGB. I did not hear the
17 voice of Oeun or Koy Thuon. Upon hearing the voice of Si Nuon --"

18 MR. PRESIDENT:

19 Witness, please read only the highlighted portion of the passage
20 and please observe the microphone before you speak.

21 MR. KAING GUEK EAV:

22 "We started <to weep because> we supported the coup d'état,
23 <because> we were not taken care <of> by Angkar in particular
24 <regarding the matter of> of insufficient food."

25 [14.08.48]

1 BY MR. KOPPE:

2 Q. Thank you very much, Mr. Witness, for reading it again. Maybe
3 that is even easier if you just read it out loud. Then I don't
4 have to do it.

5 Is this something that refreshes your memory?

6 MR. KAING GUEK EAV:

7 A. Regarding the passage that I just read out, it sounds a bit
8 strange. Si Nuon had been arrested before Oeun. This is according
9 to my recollection.

10 As for <Yim> (phonetic), that name does not ring a bell. And I
11 did not hear of this plan to attack at all while I was at S-21.

12 Regarding the plans to get hold of the radio station near Wat
13 Phnom, I was not aware of such <a> plan.

14 I believe this statement is rather imaginative. It is surreal.

15 The content is so surreal. For such a matter mentioned <> in the
16 passage, <that> was not sufficient grounds to arrest the
17 concerned individuals.

18 [14.10.15]

19 Q. Well, luckily for us we have another nine Division 310
20 combatants who say the same thing.

21 Let me do it differently and ask you to read the next document,
22 at least the highlighted excerpts, Mr. Witness, because that is
23 how it seems you need to have it presented. Please go to Document
24 5.

25 And meanwhile, Mr. President, that is E3/7516. That is someone

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1 the Chamber knows well because he appeared in this Chamber on the
2 22nd of June 2015 and on some other days as well.

3 Mr. Witness, Binder Document 5, this is a commander in Division
4 310 called Sem Hoeurn. Maybe you can read the orange parts and
5 then -- out loud. Why not?

6 MR. PRESIDENT:

7 Witness, please <hold on>.

8 And Counsel, bear in mind that you need to provide the parties
9 and the Chamber with ERN numbers for a proper transcript.

10 [14.11.52]

11 BY MR. KOPPE:

12 Yes, of course. He will be reading first from 00876495 in
13 English; Khmer, 00020576; French, 00892645. Then he will continue
14 a few pages afterwards. This is going to take a while but I
15 suppose it's the only way to make the witness talk.

16 Q. So Mr. Witness, can you start reading Sem Hoeurn's testimony?

17 MR. PRESIDENT:

18 Witness, please observe the microphone.

19 MR. KAING GUEK EAV:

20 A. Counsel, please specify the Khmer ERN so that I can follow it.

21 I am here with document E3/7516 but please specify the ERN number
22 of that page.

23 MR. KOPPE:

24 Mr. Witness, the only thing that you have to do is read what is
25 in orange. Don't worry about the ERNs. I will do that.

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1 [14.13.22]

2 MR. PRESIDENT:

3 Court officer, please assist the witness <with> the <ERN number
4 ending with 0576>.

5 MR. KAING GUEK EAV:

6 A. "Hoeurn <was the person> who went to build <the> airfield in
7 Kampong Chhnang and who was implicated due to political
8 <tendencies>. He was sent there <and detained>. He was asked to
9 transport weapons to Pochentong at the location of Pes Khieu
10 (phonetic) in order <> to attack and capture the Pochentong
11 Airport, the artillery <warehouse and tanks>, and another
12 regiment would capture the radio station. However, the plan was
13 leaked. Then the two chiefs were arrested."

14 And here it is unclear to me: "This person and that person from
15 the rice fields, otherwise the attack would happen in 1976."

16 [14.15.10]

17 The person who provided this statement was not sure of the plan
18 <himself>.

19 <To my recollection,> this person, Hoeurn, was not a cadre in
20 Division 310. I know Oeun whose native name was Sbavv Him
21 (phonetic), and I even <knew> <Comrade Voeung,> deputy commander,
22 who was imprisoned with me. His name was Chim Chhor (phonetic)
23 and later on he was promoted to deputy commander of a division.
24 But this name, Hoeurn, does not ring a bell to me at all. <I
25 could not know every individual in every division>.

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1 As for the plan, it seems that it <was> not a real or workable
2 plan at all.

3 BY MR. KOPPE:

4 Q. Sem Hourn is someone who is alive and, as I said, appeared
5 here in this courtroom. If you can move in that same number 5 a
6 few pages ahead and you will end up in the transcripts of his
7 testimony, Mr. Witness. His testimony on the 22nd of June 2015 at
8 15.34 where it's orange, and he says: "I transported weapons to
9 Kampong Chhnang and one month later the information was leaked
10 out and Oeun was arrested."

11 So if you see that transcript at 15.34?

12 (Short pause)

13 [14.17.11]

14 BY MR. KOPPE:

15 Q. Did you see it, "I transported the weapons to Kampong Chhnang
16 and one month later the information was leaked out and Oeun was
17 arrested?" Do you see it?

18 And a little bit further that same minute: "There were different
19 types of weapons such as M-79, AK rifles and Peking (phonetic)."

20 And if you move a little bit further at 15.40 in the afternoon,
21 he says -- it's highlighted in orange: "The plan to capture
22 Pochentong Airport was in mid-'77 and there was a plan to seize
23 and capture Pochentong Airport in mid-'77."

24 Do you see that?

25 And that same minute, question: "So it was a combined attack of

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1 Division 310 with East Zone divisions?"

2 Answer: "Yes. It was the combined plan and the East Zone would
3 engage in the attack in its own zone and the North Zone would be
4 responsible for its own."

5 Do you see that, Mr. Witness?

6 [14.18.30]

7 Go a little further, 23rd of June just before 09.11, question:

8 "But was it also the intention to overthrow the government of
9 Democratic Kampuchea; in other words, to stage a coup d'état?"

10 Answer: "That was the ultimate aim -- that is, to conduct a coup
11 d'état."

12 Do you see it?

13 (Short pause)

14 [14.19.55]

15 MR. PRESIDENT:

16 Counsel, you need to be slow and to specify the relevant ERN
17 number so that the witness can follow. That is also for the
18 parties and the Chamber to follow. Otherwise, only you and the
19 witness can follow your point, not the parties, nor the Chamber.

20 [14.20.17]

21 BY MR. KOPPE:

22 Well, that's not entirely correct. I was reading from a
23 transcript, Mr. President. That was evidence that you heard
24 yourself and I was referring to the same transcript but at
25 different times. But the witness should be following it easily

1 because it's all written in orange or highlighted in orange. So I
2 don't think there is a problem in following.

3 Q. But, Mr. Witness, here is someone in the Trial Chamber
4 appearing as a witness, Sem Hoern, who confirms there was a
5 military coup or a plan for a coup d'état with military attacks.
6 Can you react to that, please, and does it somehow refresh your
7 memory?

8 [14.21.26]

9 MR. KAING GUEK EAV:

10 A. Counsel, what the President has just said that is what I
11 wanted to ask the Chamber as well. When you refer to <any page>,
12 please refer to the ERN number of that particular page, <at least
13 the last three or four digits of the ERN number>, because when I
14 start focusing on this particular segment, then you move on to
15 another page and I am lost.

16 MR. PRESIDENT:

17 Counsel, you allow -- or in fact you asked the witness to read
18 the passage and while the witness was reading it, you moved on to
19 another passage and he gets lost. <It is not convenient for him
20 to do so, and he needs to examine the matters clearly while
21 reading.>

22 MR. KOPPE:

23 We are in a peculiar situation that this witness insists in
24 reading along and we are in a situation that I have limited time
25 and he repeats whatever you are saying. But there aren't any

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1 ERNs. So I think it's much faster if I read it and then I will
2 ask him whether he can give his comments. It's a little bit
3 bizarre situation that the witness decides what the order is.

4 [14.22.47]

5 MR. PRESIDENT:

6 The way you proceed may even delay your time. I understand that
7 you provided a highlighted passage for <him>, but then you need
8 to provide a proper ERN, or better still, you may read out the
9 excerpt of the passage.

10 BY MR. KOPPE:

11 The average outsider would think that we just started this trial.

12 Q. But forget about Sem Hoern, Mr. Witness. There are too many
13 excerpts. Let's move to another excerpt. There is only one. Go to
14 excerpt 8. That is document E3/7583. It's a DC-Cam statement of a
15 company commander of Division 310; English, ERN 00876559; French,
16 00407996.

17 Mr. Witness, this is the second excerpt in your Document 8. It's
18 E3/7583. It's a person named Hoern. Did you see it? Let me read
19 it to you. I will read very slowly so that you can read along. He
20 talks about that same meeting with Oeun. He says--

21 [14.24.31]

22 MR. PRESIDENT:

23 Counsel, please provide the Khmer ERN number.

24 BY MR. KOPPE:

25 It's <00053869> is Khmer; French, 00407996; English, <00876559>.

1 Q. Do you see it, Mr. Witness?

2 "It was a treasonous meeting because they were going to stage a
3 rebellion. It was a CIA meeting. At that time they were planning
4 to attack Pol Pot garrison but they failed because Ta Oeun who
5 was in the same clique with Hun Sen, was arrested."

6 Do you see that quote?

7 <MR. KAING GUEK EAV:>

8 <A. I have found it>.

9 Q. Are you with me?

10 [14.26.10]

11 A. Thank you, Counsel. This time, yes, I am with you. So it's a
12 good practice that you provide the relevant ERN number. Do you
13 want me to read this passage or do you prefer to read it?

14 MR. PRESIDENT:

15 Counsel, please read the passage.

16 And witness, you need just to follow his reading just to make
17 sure that his reading is consistent with the passage before you
18 which is in the Khmer language.

19 [14.26.44]

20 BY MR. KOPPE:

21 I just read it but I am happy to read it again. "It was a
22 treasonous meeting because they were going to stage a rebellion.
23 It was a CIA meeting. At that time they were planning to attack
24 Pol Pot garrison but they failed because Ta Oeun who was in the
25 same clique with Hun Sen, was arrested."

1 Q. Does that jog your memory, Mr. Witness?

2 MR. KAING GUEK EAV:

3 A. Thank you, Counsel. I know Comrade Oeun. But as for Hun Sen, I
4 was in the dark.

5 Q. So nothing still comes up in your memory, nothing; coup
6 d'état, military attacks, rebellion meetings, nothing?

7 A. Allow me to be frank with you. These statements are just
8 surreal and they do not seem to be a concrete plan <for a coup
9 d'état> at all. I do not believe these statements, not at all.

10 [14.28.42]

11 Q. Well, like I said we have assembled evidence from 10 Division
12 310 combatants. Some were interviewed by DC-Cam. Two appeared
13 here. The investigators interviewed one of them. So the evidence
14 is real.

15 But let me finish. Otherwise we will take forever with one last
16 quote. And read along with me, Mr. Witness.

17 Please go to number 3 in your binder, E3/7540; Khmer, 00055077;
18 English, 00337712; French, 00364274.

19 Do you see the passage, Mr. Witness? Read along with me.

20 Question: "It would have erupted?"

21 "Yes, it erupted in '76 but I cannot recall the month. I have
22 forgotten the month. In late '76 we were going to erupt but it
23 was exposed. The two North Zone divisions were readied from Wat
24 Phnom northward. The East Zone in charge to the south was ready
25 to fight but it was exposed and Khuon, the chairman of the North

1 Zone was arrested."

2 Here is a female Division 3 -- Division 1 North Zone combatant
3 who speaks about the involvement of Koy Thuon, Khuon, the
4 chairman of the North Zone.

5 Does that ring a bell?

6 [14.31.06]

7 MR. PRESIDENT:

8 Witness, please listen to the passage read out by the defence
9 counsel and you just need to compare it to the document before
10 you and you need then to respond to his question whether you are
11 aware of the situation. And that is the strategy used by the
12 defence counsel and you need to respond even if you know it, even
13 if you don't know it, just say so.

14 MR. KAING GUEK EAV:

15 A. Thank you. In relation to the previous text -- that is, with
16 ERN ending 070, I could follow you. And let me refer to <the>
17 page ending with 078. Do you want me to read <it> or do you
18 prefer to read by yourself?

19 BY MR. KOPPE:

20 Q. Mr. Witness, don't circumvent. Don't -- just answer the
21 question. If you don't know it's fine as well.

22 MR. KAING GUEK EAV:

23 A. No, I do not circumvent anything.

24 [14.32.43]

25 MR. PRESIDENT:

1 Witness, please respond to the question. This is the strategy
2 used by the defence counsel and you need to respond <whether> you
3 know it or not.

4 The document is <being> shown to you in order to provide you
5 <with> background to the relevant information in the question,
6 and you need to respond. As a witness you have to respond whether
7 you have known, have heard, seen, or experienced the event.

8 And if not, please simply say so. Then the counsel can move on.

9 And please observe the microphone.

10 [14.33.34]

11 MR. KAING GUEK EAV:

12 A. Thank you. Although I did not read the document in full, I can
13 say that I do not know about the plan. I still stand by that
14 statement. And allow me to say it once more that the plan was
15 surreal.

16 BY MR. KOPPE:

17 Q. So all those Division 310 combatants, all those 10 people who
18 are still alive today, they've all made up the story of their
19 involvement in a rebellion and coup d'état?

20 MR. PRESIDENT:

21 You may proceed, International Deputy Co-Prosecutor.

22 [14.34.24]

23 MR. LYSAK:

24 Mr. President, he is entitled to read these to see if it
25 refreshes the witness' memory. He is not entitled to engage in an

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1 argument about who is -- the credibility of these witnesses. You
2 know if he really wants -- if it was really appropriate which it
3 is not, the witness would need to examine the details. So to ask
4 him to comment on credibility is inappropriate.

5 MR. KOPPE:

6 Well, the reason I am taking so long with this peculiar witness
7 is that I was hoping by actually reading the excerpts to him that
8 would somehow make him give evidence but apparently it doesn't.
9 But I am still entitled to ask the question whether he believes
10 that all these 10 combatants who give a lot of details about
11 these 1977 plans are simply not telling the truth or whether the
12 witness simply doesn't know.

13 JUDGE FENZ:

14 He has already told you he thinks it's not the truth. If the
15 question -- if your question effectively is, why they are not
16 telling the truth; you are asking him to speculate.

17 So, as you said, he has said one thing. You have confronted him
18 with many, many other statements. As to why these people made
19 other statements will be up for us to figure it out.

20 [14.36.12]

21 BY MR. KOPPE:

22 Q. Let me try it differently.

23 Mr. Witness, I put it to you that you as a mid-level cadre had
24 really no idea what was going on in DK; is that true?

25 MR. KAING GUEK EAV:

1 A. Mr. President, Your Honours, each and every individual has <a>
2 different understanding and limited understanding, and my
3 understanding is based on the confessions <of prisoners> at S-21
4 and instructions from the Party.

5 And concerning the interviews of the <> combatants from Division
6 310, I have no idea. If I said I do not know, you would put a
7 follow-up question, <"Why do you not know?>. <And if you ask me
8 that,> you <are pressing> me on that matter.

9 I told you already that the plan was surreal, an imaginative one
10 and I already <said> that the plan was surreal, <and why didn't
11 counsel believe it?> And if the plan was true, then follow-up
12 questions <would be> appropriate since I am here to testify in
13 relation to the particular matter.

14 [14.37.53]

15 Q. Let me move away from Division 310 coup d'état plans and go to
16 another region, the Northwest Zone. We have also assembled all
17 kinds of evidence coming from the Northwest Zone. But let me--

18 MR. PRESIDENT:

19 It is now the appropriate time for the break. The Chamber will
20 take the short break from now until 3 p.m.

21 Court officer, please assist the witness in the waiting room
22 during the break time and please invite him back into the
23 courtroom at 3 p.m.

24 The Court is now in recess.

25 (Court recesses from 1438H to 1458H)

1 MR. PRESIDENT:

2 Please be seated.

3 The Court is now back in session and I would like to hand the
4 floor again to the defence counsel for Nuon Chea to put further
5 questions to the witness.

6 BY MR. KOPPE:

7 Q. Yes, Mr. Witness. Let's see if you can sabotage this one as
8 well.

9 I would like you to go to number 13 in your binder.

10 [15.00.07]

11 MR. PRESIDENT:

12 International Deputy Co-Prosecutor, you have the floor.

13 MR. LYSAK:

14 Yes, Mr. President.

15 I just object to this continual commentary from counsel attacking
16 the witness. He should ask his questions; let the witness answer
17 and respond rather than providing commentary continuously on the
18 witness' testimony.

19 [15.00.3]

20 BY MR. KOPPE:

21 I withdraw, Mr. President.

22 Q. Mr. Witness, like I said--

23 MR. PRESIDENT:

24 Yes, that is correct. And Defence Counsel, please prepare your
25 questions appropriately and please also behave appropriately in

1 the courtroom and you should stick to the practices before the
2 Chamber.

3 MR. KOPPE:

4 Well, sabotaging with your assistance, if I might add, Mr.
5 President.

6 JUDGE FENZ:

7 Counsel, just stop it. It doesn't get any better.

8 [15.0.06]

9 BY MR. KOPPE:

10 No, I won't stop it. It's a travesty here. It's incredible.

11 Q. But Mr. Witness, let me indeed move on. Let me see if you know
12 something about events in the Northwest Zone.

13 E3/4202; that is Document 13 in your binder; English, ERN
14 00757531; Khmer, 00858339; and French, 00849435; it's an excerpt
15 from the book of Thet Sambath and relates the testimony of a
16 cadre called In Thoeun from Pursat.

17 Mr. Witness, did you see -- did you find this quote, number 13?

18 MR. KAING GUEK EAV:

19 A. Yes, I see it.

20 [15.02.27]

21 Q. Now, I will read it slowly and please read along with me. Can
22 you do that for me? Here we go: "Surviving Khmer Rouge cadre said
23 there was indeed a plot to overthrow Pol Pot, Nuon Chea, and the
24 rest of the leadership. In Thoeun of Pursat province said there
25 was a plan in 1976 to stage a coup that would be led by the

1 Northwest and Eastern Zones. He said the cadre in those areas
2 frequently had meetings in Sdao commune. The plan called for the
3 Northwest Zone cadre to capture Battambang province, followed by
4 Pursat province, Kampong Chhnang province and then Phnom Penh. At
5 the same time, the Eastern Zone would attack from the areas east
6 of the capital. 'Everyone knew about the plot to overthrow Pol
7 Pot's leadership', In Thoeun said."

8 So Mr. Witness, were you able to follow?

9 A. Yes, I followed you. And I listened to the passage. And I also
10 followed it on the document before me.

11 Q. Does that somehow jog your memory?

12 A. I swore before this Chamber to tell the truth, and the truth
13 that I would like to say now is that I never heard of this plan
14 before.

15 [15.05.00]

16 Q. So you knew nothing about preparations for rebellion or coup
17 d'état coming from the Northwest Zone; is that correct?

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

19 Q. Let me read another excerpt from that same book with all kinds
20 of other details in it. Maybe that will jog your memory. It's
21 again still E3/4202 and still number 13 but the second quote.

22 English, ERN 00757532; Khmer, 00858342; French, 00849437. This is
23 the testimony of someone called Chan Savuth and the excerpt goes
24 as follows: "Chan Savuth, head of the hospital in his region in
25 Battambang, said in an interview that in one of the meetings he

1 attended in Sdao to overthrow Pol Pot, Ros Nhim said secrecy was
2 mandatory because anyone who was found to be part of the plot
3 would surely be killed. Savuth said that, after receiving
4 instructions from Ros Nhim, he ordered 70 of his men to transfer
5 medicine and medical equipment to store at his division
6 headquarters. Asked by his men the reason for the move, he lied
7 and said they were preparing to make war with Thailand.
8 Rice was also kept in rice mills and gasoline was hidden
9 throughout Battambang and Banteay Meanchey province. They planned
10 to destroy bridges across the Sangke River in Battambang to
11 control the west side where they had stored equipment, food and
12 other materials. This plan was very big and important and if we
13 won things would be good again."

14 [15.07.26]

15 A little down, following, actually: "We were encouraged because
16 some Centre members from Phnom Penh like Vorn Vet supported this
17 plot and we had So Phim in the Eastern Zone. Ros Nhim instructed
18 Chiel Chhoeun, a division commander to contact Thai communists
19 who would store rice and dry fish and weapons for them until they
20 staged their attack. They transported the goods to Thailand at
21 night. I was very sorry our plan was not successful, Chiel
22 Chhoeun said in an interview. When I was detained in a
23 re-education camp I wished that we had attacked first. I would
24 have rather died in battle implementing this plan than stay in
25 the camp." End of quote.

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1 Mr. Witness, are the details in relation to plans from the
2 Northwest Zone contemplating a coup d'état and attacks, does that
3 somehow jog your memory?

4 [15.08.50]

5 A. What I would like to say is that I did not know anything at
6 all about this plan.

7 Q. Let me then finalize this subject. We are asking you two
8 remaining questions on Prime Minister Hun Sen's involvement. Do
9 you know when it was he left for Vietnam?

10 A. I am still studying the background of Hun Sen and as I stated
11 earlier I heard Hun Sen's name after 7 January 1979<, and> he was
12 Minister of Foreign Affairs at the time.

13 Q. Well, let me help you. He defected to Vietnam June '77 right
14 after the arrests of 310 combatants.

15 Did you know that Hun Sen went back from Vietnam in December '77
16 in tanks, Vietnamese tanks together with other revolutionaries
17 who had defected? Did you know that? More specifically he sat in
18 a Vietnamese tank on the 22nd of December 1977. Have you ever
19 heard that?

20 [15.11.05]

21 MR. PRESIDENT:

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

23 MR. LYSAK:

24 Thank you, Mr. President. I simply ask that if counsel is going
25 to confront the witness with some evidence that he could cite

1 that evidence for the Court so we could look at it ourselves.

2 MR. KOPPE:

3 I thought I first have to ask an open question.

4 MR. PRESIDENT:

5 The witness clearly states that he heard Hun Sen's name after 7
6 January 1979. Then you made mention of a fact that happened
7 before he came to know Hun Sen's name and you asked about Hun
8 Sen's activity prior to 1979 -- that is, before he came to know
9 Hun Sen's name. So please state your intention as to why you put
10 the fact before this witness came to know about Hun Sen's name.

11 [15.12.43]

12 MR. KOPPE:

13 Well, it wasn't only Hun Sen who was in the tank. But let me
14 assist the Prosecution, Mr. President by reading the evidence to
15 the parties. I am referring to Ben Kiernan's book, E3/1593;
16 English, ERN 01150194; Khmer, 00637921; French, 00639154-55. So
17 this is describing the situation in 1977:

18 "As fighting continued over the next several months, Hanoi
19 prepared for a major incursion in December that would involve
20 30,000 to 60,000 troops with air, armour and artillery support.
21 Nil Sa'unn, who was working in the fields near Pauk's
22 headquarters at Kandol Chrum, recalls how the <offensive> began.
23 'On 22 December two Vietnamese tanks drove into Kandol Chrum
24 township in an attempt to contact So Phim. Then they turned back
25 towards the border.'

1 "Inside the <tanks>, it appears, were several Khmer
2 revolutionaries who had previously fled to Vietnam, Hun Sen, Hem
3 H-E-M Samin S-A-M-I-N and eight others accompanied the Vietnamese
4 forces from missions across different sections of the border."

5 End of quote.

6 So Mr. Witness, let me move away from Hun Sen but let me ask you
7 the question in general. Are you aware of combatants such as Hem
8 Samin, Hun Sen who had fled -- who had left for Vietnam in '77
9 returning in December with Vietnamese forces?

10 So I am not talking about December '78. I am talking about
11 December '77.

12 [15.15.05]

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

14 Q. Now, my final point on this and then I will move on. I am
15 referring to the interview that not Hem Samin but Heng Samrin
16 gave to Ben Kiernan, E3/1568; English, ERN 00651889; Khmer,
17 00713962; French, 00743361.

18 And you have it in your binder, Mr. Witness. It's 11, number 11.

19 (Short pause)

20 [15.16.46]

21 BY MR. KOPPE:

22 Q. So it's two quotes, but let me move on directly to the second
23 orange quote, and he says that: "In 1976-77" - quote -- "we had a
24 struggle but a secret one. But at that time it was tight and
25 cramped, there was no opportunity to rise up and struggle. Even

1 Ta Phim had to struggle. He used to say: 'We will have further
2 bloodshed.' But there was no opportunity. The opportunity for us
3 to struggle came when they saw us change to some extent, so they
4 made a coup first in order to unclear us."

5 So Mr. Witness, have you ever heard of what Heng Samrin calls a
6 secret struggle in '76-'77?

7 MR. KAING GUEK EAV:

8 A. No, I <do> not <know>.

9 Q. Have you ever heard that the CPK in fact <consisted> not of
10 one faction but of, rather, three factions?

11 A. In relation to the confessions at S-21,<> if I use the content
12 of the confessions, I believe it violates the principle here.
13 <This matter was mentioned in the confessions at S-21.>

14 [15.18.46]

15 MR. PRESIDENT:

16 You cannot use the content of those confessions. You should
17 respond based on your personal knowledge and experience that you
18 obtained during the regime.

19 And the Chamber reminds all parties and the witness not to refer
20 to content of confessions obtained at S-21 or at any other
21 security centres. Even an excerpt of a passage quoted from the
22 confessions is prohibited.

23 BY MR. KOPPE:

24 Q. So then let me move to an excerpt from a witness, someone who
25 was interviewed by the International Co-Investigating Judge. That

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1 is in your binder number 9. That's document E3/9579. It's a
2 written record of interview of 3 September 2013.

3 And in question and answer 13, this cadre was a transport and
4 cooperative worker: "According to my observations, the Khmer
5 Rouge was apparently composed of three or four groups. The first
6 group was the Viet Minh, the second group was the nationalistic
7 Khmer Rouge, the third was the Sihanouk Khmer Rouge, and the
8 fourth group was the Khmer Rouge from China, including Pol Pot."
9 End of quote.

10 So outside of your knowledge there are some confessions. Is that
11 something that this transport cooperative worker seems to know;
12 is it something that you knew too?

13 [15.21.02]

14 MR. KAING GUEK EAV:

15 A. Before 1954 <the> Khmer <Rouge> was divided into four Issarak
16 groups. One was Son Ngoc Thanh. Then Son Ngoc Minh and a third
17 was the Dap Chhuon. Rather, there were only three groups.
18 Later on, after <the> 20 July Geneva <Conference>, they were all
19 dissolved. <But Son Ngoc Thanh did not agree with that, and then
20 he went to Dang Rek>, and later on <his group> was brought by the
21 Americans to South Vietnam. And I <wrote an essay, and I gave it
22 to the Chamber.> And that is based on the historical events and
23 not <based> on any confession.
24 But I do not know about <any of the cooperatives> that you just
25 referred to.

1 [15.22.03]

2 Q. So you cannot confirm this evidence of this relatively low
3 cadre, the transport and cooperative worker? You cannot confirm
4 that?

5 A. No, I do not know about that.

6 Q. Well, let me then turn to knowledge of the highest organ
7 within the Chinese Communist Party, the Standing Committee of the
8 Communist Party of China and within this even higher, the
9 Military Commission.

10 Have a look, Mr. Witness, at Document 14 in your binder. It's a
11 report of the Chief of the Military Commission within the
12 Politburo of the Central Committee, so the number 2 or 3 of
13 China.

14 And he was addressing his fellow members in the Standing
15 Committee on 16 January 1979 or maybe a bit before. He talks also
16 about the CPK--

17 MR. PRESIDENT:

18 Counsel, could you provide the reasons for the relevancy of your
19 question in relation to the facts that happened in China to our
20 current proceedings?

21 [15.24.03]

22 MR. KOPPE:

23 Well, Geng Biao, the Chief of the Military Commission, is
24 reporting about the situation in Cambodia, in Democratic
25 Kampuchea. It is right after the Vietnamese invasion and he talks

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1 about the Vietnamese invasion and then in E3/7325; English, ERN
2 01001622; Khmer only, 01063797; he said:

3 "Three main factions were formed at that time, the first faction
4 composed of Cambodian workers and peasants and under the direct
5 control of Pol Pot and Khieu Samphan was the majority and the
6 main force of the liberation army.

7 "The second faction consisted of the Royal forces, faithful to
8 Sihanouk and old patriotic officers and men from Lon Nol's troops
9 who turned against Lon Nol and joined the liberation war. Members
10 of this faction were not many, but all of them were well-trained
11 allies of the Communist Party and sympathizers of the
12 revolutionary cause.

13 "The third faction was the well-equipped, pro-Vietnam group
14 consisting of quite a few members."

15 [15.25.32]

16 BY MR. KOPPE:

17 Q. Mr. Witness, China in January '79 seems to know about the
18 existence of three main factions within the CPK. A very
19 low-ranking transport and cooperative worker seems to talk about
20 three factions.

21 Why is it that you do not know anything about this?

22 MR. PRESIDENT:

23 International Deputy Co-Prosecutor, you have the floor.

24 MR. LYSAK:

25 Again, counsel is entitled try to refresh his memory, he's not

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1 entitled to argue with the witness to assert that these other
2 sources are credible and therefore the witness doesn't know
3 anything if he hasn't heard this.

4 It's simply inappropriate. I won't comment further because I know
5 you don't want to hear submissions from me.

6 [15.26.34]

7 BY MR. KOPPE:

8 Q. I will rephrase the question, Mr. Witness.

9 Does this refresh your memory, the view of the Chinese Standing
10 Committee, the Standing Committee of the Chinese Communist Party?
11 Does it somehow jog your memory?

12 MR. KAING GUEK EAV:

13 A. Allow me to speak from my recollection of <Geng Biao.> Pol Pot
14 arrived in China on 30 September '77 and I saw a movie of his
15 visit to China. <Geng Biao represented Hua Guofeng to give> a
16 welcoming card to Pol Pot from the Communist Party of China, but
17 I did not know anything about the opinion of <Geng Biao or>
18 whether that opinion was consistent with the situation on the
19 ground. <Say whatever you want, but I would only speak of the
20 things that> I knew <and> I only had certain knowledge regarding
21 what happened <in the country>.

22 [15.28.00]

23 Q. Fine, Mr. Witness. Let me read some excerpts from your own
24 statements.

25 MR. KOPPE:

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1 With your leave, Mr. President, I will -- I would like to give
2 excerpts from Duch's own testimony so that he can read along.

3 MR. PRESIDENT:

4 Yes, you may proceed.

5 [15.28.54]

6 BY MR. KOPPE:

7 Q. I will start with E3/359; English, ERN 00434345; Khmer,
8 00408232; French, 00408247. It is Document 4 in your binder.

9 Mr. Witness, these are your responses to additional questions
10 from the Investigating Judge. Let me read to you what -- the
11 highlighted excerpt. It says:

12 "Anything involving Vietnam had to be noted. I remember that I
13 reported that Son Sen had observed the attitude of Koy Thuon
14 toward the Vietnamese delegations that came to visit the
15 liberated zone prior to '75." End of quote.

16 Do you remember writing this, Mr. Witness?

17 MR. KAING GUEK EAV:

18 A. That is the opinion raised by Son Sen so that I could
19 understand <the> relationship between Koy Thuon and <the>
20 Vietnamese cadres. At that time, Vietnam <had> not <defeated> the
21 American yet.

22 One day there was a Vietnamese delegation and <one> head <of the
23 delegation> was part of the front, <and another one was part of
24 the Party>. Son Sen made an observation <on> the relationship
25 between Koy Thuon and the delegations and that they were so close

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1 to one another. And he made mention <of> that to me. And that was
2 his instruction to Duch -- that is, to me.

3 [15.31.07]

4 Q. And do you know whether after '75 Koy Thuon had -- what kind
5 of relation did Koy Thuon have after 1975 with Vietnam?

6 A. No, I did not know anything further; however, I know that Koy
7 Thuon was in trouble with women and with how he spent his life.

8 Q. Do you know who Mao Say is, M-A-O S-A-Y?

9 A. Mao Say was a person working in the Sihanouk regime. He was
10 older than the late King and at the time he was working close to
11 the King <and the Queen>.

12 Q. Did Koy Thuon have a relation with this person?

13 A. No document proves about that. <I did not learn any>
14 information from a document.

15 [15.32.46]

16 Q. Okay. I will be reading now a few excerpts and I'm just going
17 to ask you whether this is correct, yes or no, just like I did
18 with your testimony about Hor.

19 So, Mr. Witness, please go to Excerpt Number 5 in -- no, no, not
20 the green binder, the new -- so that's the new folder that I gave
21 you. Yes, that's it. Please pick out Number 5.

22 Mr. President, that is E3/429; English, ERN 00403926; Khmer,
23 00403914; French, 00403938.

24 You say: "Once again, I would say there was not a clearly
25 established policy" -- you're talking about the Vietnamese - "and

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1 they were only arrested if they committed errors. In fact, one
2 must recall that there were practically no more Vietnamese in
3 Cambodia."

4 Did you say that, Mr. Witness, is that correct?

5 A. In relation to <the> Vietnamese in Cambodia, I spoke about
6 that the previous day. After the 17 April, there were very few
7 Vietnamese in Cambodia and, later on, no Vietnamese <were> in the
8 country.

9 However, there was a Vietnamese woman, the mother of my friend,
10 <she worked at a brick workshop>, and the son of that woman <was
11 a mathematics teacher and progressive person like me. He> fled
12 into the forest <before me> and, later on, got the malaria and he
13 died <in Aoral. I had seen that woman, but later on she
14 disappeared. That was what happened to the Vietnamese after 17
15 April. Prior to that date, under> the Sihanouk regime<, it was
16 different>.

17 [15.35.50]

18 Q. But just to be sure. What I just read to you back from your
19 own evidence that is correct; isn't it?

20 A. There is no timeline in the statement you quoted, that's why I
21 made mention about it.

22 I would say there was not a clearly established policy and that
23 they were only arrested if they committed errors.

24 What is the timeline? Nothing was mentioned about the timeline,
25 that's why I explained it to you a while ago. <After 17 April,

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1 there were very few Vietnamese in Cambodia, and I saw one
2 Vietnamese>.

3 Q. Okay. Let me move onto the next quote from your testimony.

4 That's Number 6, Mr. Witness.

5 Mr. President, E3/429; English, 00403925; Khmer, 00403913;

6 French, 00403937: "From the moment I was appointed head of S-21,

7 I never noticed any arrests of a member of the Cham group."

8 Correct?

9 [15.37.20]

10 THE INTERPRETER KHMER-ENGLISH:

11 The Interpreter did not hear the first part of the testimony.

12 MR. KAING GUEK EAV:

13 A. (Unintelligible) and no-one <was> arrested <because> they were

14 Cham and sent to S-21. <Yesterday, I was put a question with

15 regards to a> Cham <person, his name was Sim Mel alias Man,> he

16 was engaged in the revolution and <he made a mistake>, later on,

17 he was arrested at the field, <the> rice field, and sent to Phnom

18 Penh, then smashed.

19 No, there was no policy to exterminate <the> Cham people, <but>

20 if a Cham committed a mistake, he or she would be arrested. And

21 that <was> the case of <Sim Mel> alias Man.

22 BY MR. KOPPE:

23 Q. Let me move to quote number -- for you, Number 7. E3/429;

24 English, ERN 00403920; Khmer, 00403909; French, 00403932; Number

25 7, Mr. Witness: "I would like to reiterate that I never saw a

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1 clear decision indicating that Lon Nol soldiers were to be
2 killed." End of quote.

3 Correct?

4 [15.38.57]

5 MR. PRESIDENT:

6 Please hold on and observe the microphone, Duch.

7 MR. KAING GUEK EAV:

8 Now, I would like to read again. I would like to read the Khmer
9 version.

10 "First of all, I would like to <clarify> that I never saw a clear
11 decision saying that all Lon Nol soldiers were to be killed".

12 [15.39.27]

13 BY MR. KOPPE:

14 Q. Following up on this, please go to Quote 8, Mr. Witness. That
15 is E3/10586, 10586; English, ERN 00326765; Khmer, 00320751 to 52;
16 French, 00326770: "In S-21--

17 MR. PRESIDENT:

18 Please wait. You have the floor now, International Deputy
19 Co-Prosecutor.

20 MR. LYSAK:

21 I'm sorry, could you simply repeat the E3 number; it came by a
22 little fast.

23 BY MR. KOPPE:

24 E3/10586.

25 Q. And the quote reads: "In S-21, there was no single general of

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1 Lon Nol. There was not a single minister of Lon Nol. There was
2 not a single singer or royal member who arrived in S-21. A number
3 of military officials and government official officers of Lon Nol
4 were smashed in Phnom Penh in the rural areas."

5 But it's the first part, "there was no single general of Lon Nol.
6 There was not a single minister of Lon Nol. Not a single singer
7 or royal member."

8 Is that a correct quote, Mr. Witness?

9 [15.41.06]

10 MR. KAING GUEK EAV:

11 A. I have not found yet the specific page with the ERN you
12 mentioned. Could you repeat ERN in Khmer once again?

13 Q. It's -- for you, it's Number 8 and the Khmer ERN is 00320751.

14 So your Quote Number 8.

15 A. Could you read it again?

16 Q. "There was no single general of Lon Nol. There was not a
17 single minister of Lon Nol. There was not a single singer or
18 royal member who arrived in S-21."

19 Correct?

20 A. "At S-21, there was <not a> single general of Lon Nol. There
21 was not a single minister of Lon Nol. There was not a single
22 singer or royal <family> member who came to S-21." That is
23 correct.

24 [15.42.32]

25 Q. Thank you. Let me move on to the ninth quote, E3/5789, Number

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1 9, Mr. Witness. English, ERN 00414333; Khmer, 00410171 till 172;
2 don't seem to have the French.

3 In this quote, you say: "I was not aware of any forced
4 marriages." Correct?

5 And then the next page: "I never saw any document from the Party
6 on this matter. Once again, I saw no evidence that a countrywide
7 policy was being applied in that regard." Correct?

8 A. No forced marriage; that is what I have known.

9 Q. French ERN 00413957 till 8.

10 So, Mr. Witness, summarizing--

11 A. I have not found it yet, Counsel, the sentence you quoted.

12 [15.44.25]

13 Q. It's on Number 9, your Excerpt Number 9. Khmer 00410171 till
14 72; I'll read it again:

15 "I was not aware of any forced marriages. Personally, I never saw
16 any document from the Party on this matter. Once again, I saw no
17 evidence that a countrywide policy was being applied in that
18 regard." End of quote.

19 A. That was -- these are my statements I gave to the
20 Co-Investigating Judges back then.

21 Q. So when I summarize, you are unaware of a policy to target
22 Vietnamese citizens; you're unaware of a policy to target Lon Nol
23 soldiers; you're unaware of a policy to target or exterminate the
24 Cham; you're unaware of any policy in relation to forced
25 marriage. Correct?

1 MR. LYSAK:

2 Yes, Mr. President, my objection to the question is counsel's
3 misstating the excerpt he read relating to Lon Nol. The Lon Nol
4 excerpt says he had -- didn't see any document. In the next
5 sentence he says the Lon Nol soldiers were systematically
6 eliminated. He was saying he didn't see any document or order;
7 that's all he was saying.

8 [15.46.27]

9 MR. KOPPE:

10 He literally says: "I would like to reiterate that I never saw a
11 clear decision indicating that Lon Nol soldiers were to be
12 killed."

13 MR. LYSAK:

14 And the next sentence says what?

15 MR. KOPPE:

16 Yes, that's about implementation. That is what the Prosecution is
17 arguing, but my question is about policy, about documents, about
18 decisions.

19 BY MR. KOPPE:

20 Q. Is my summary correct? No policy or decision to kill Lon Nol
21 soldiers because they were Lon Nol soldiers? No decision or
22 policy to kill Vietnamese because they were Vietnamese? No
23 decision or policy to kill Cham because they were Cham? And no
24 decision or policy to force people to marry; correct?

25 [15.47.20]

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1 MR. KAING GUEK EAV:

2 A. Correct. There were no documents stating the Party lines at
3 the time, mentioning these. <I did not see such documents at the
4 time.>

5 Q. Thank you, Mr. Witness. Let me move on to another subject,
6 completely unrelated.

7 It is Number 10. It is a quote from you. It's E3/9362; English,
8 ERN 00791990; Khmer, 00787946; French, 00792707; it's something I
9 think you wrote, Mr.--

10 MR. PRESIDENT:

11 Again, please repeat the identification number of the document
12 together with the ERN number in three languages. The interpreter
13 did not follow.

14 [15.48.37]

15 MR. KOPPE:

16 For the interpreters, its Document 10, E3/9362; English,
17 00791990; Khmer, 00787946; French, 00792707.

18 BY MR. KOPPE:

19 Q. You're talking about the history, what happened in the
20 sixties, and you refer -- you say the following. You refer to a
21 coup d'etat in Indonesia. You said: "The war in Vietnam was
22 escalating. The coup d'etat in Indonesia was killing people."
23 Can you explain what you meant with the words: "The coup d'etat
24 in Indonesia was killing people"?

25 MR. KAING GUEK EAV:

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1 A. Let me inform the Court that I have written about the <lessons
2 learned> or experiences of the previous generations. That was the
3 <essay> that I wrote. The situation erupted in Indonesia that
4 happened perhaps in 1966. Let me summarize it.

5 [15.50.23]

6 At the time, Suharto destroyed the <Indonesia's Nasakom
7 organization> and all Aidit, <the communist party of Indonesia's>
8 members were smashed. <Aidit held the parliamentary presidency
9 (sic) in Indonesia>. Sukarno was arrested and <Subandrio> was
10 arrested and sentenced. I wrote these matters in my <essay>.

11 <The> Khmer Rouge at the time learned about the situation in
12 Indonesia and <the> Khmer Rouge thought <if there were a> coup
13 d'etat, the Americans would interfere in Cambodia and that
14 situation <might> happen in Cambodia as well.

15 I did not mention how many Indonesians died during that
16 particular situation.

17 Yes, I did mention the matter that happened in Indonesia among
18 <the> Khmer Rouge.

19 Q. Well, about 500,000 to a million were executed within a year
20 by Indonesia together -- or with the help of the Americans.

21 [15.51.46]

22 But why I'm asking this question, you mentioned already part of
23 what I would like to hear, is that what happened in 1965 in
24 Indonesia had a profound effect on the CPK and, more
25 particularly, on the so-called Principle of Secrecy.

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1 Do you know whether the events in '65 were the basis or the
2 source for the Principle of Secrecy that you refer to so many
3 times, also yesterday? Do you know whether these two, in your
4 recollection, are somehow connected? They're what Alexander
5 Hinton calls political genocide in '65 on the one hand and the
6 Principle of Secrecy that you applied at S-21 on the other hand.
7 A. This is a confusing question. First, I would like to make a
8 correction in relation to the figure of Indonesians <who> died in
9 1965. To my recollection, two million Indonesians died <during
10 that> period, and recently I heard <through a radio broadcast>
11 that 500,000 of Indonesians died instead.
12 <Concerning> the coup d'etat in Indonesia, <and> what communists
13 in Kampuchea <were> thinking at the time, <I know about this
14 matter, and I would like to inform the Chamber and Cambodian
15 people about that>.
16 The coup d'etat in Indonesia was engaged by <the> Americans to
17 topple <the Nasakom organization of Suharto (sic), Aidit and
18 Suraket Islam>. <The> Khmer Rouge <learned about the situation,
19 and> at the time <the others and I> were thinking that the
20 situation <could> happen in Cambodia.
21 [15.54.03]
22 Q. I understand, but the Principle of Secrecy that you applied at
23 S-21, do you know whether that same principle also functioned
24 since the start of the revolution in 1968? In other words, do you
25 know from your own experience or recollection whether '65

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1 Indonesia was the -- one of the main sources or reasons for the
2 Principle of Secrecy?

3 A. The situation <that> happened in Indonesia had <an> impact on
4 <how> communists <in Cambodia were> thinking at the time. They
5 were thinking that the Americans would come to engage in
6 Cambodia. And <there was> secrecy <because> if the information
7 <were> leaked, we would die.

8 So in <1970>, there were four principles in relation to secrecy:
9 do not know, do not say, do not hear, and do not see. So the way
10 the Nasakom, <the Communist Party of Indonesia, was> working and
11 the way <the Communist Party of Kampuchea was> working <were>
12 different from one another.

13 [15.55.31]

14 Q. Let's move to a next subject, Quote 11. Mr. Witness, we're now
15 moving to S-21 again. E3/5748; English, ERN 00153568; Khmer,
16 00153460; French, 00153446; there's a question from the
17 Investigating Judge. He says: "How was the departure of detained
18 persons organized in practice when they were taken to Cheung Ek
19 to be executed?"

20 Answer: "I have no idea. I was never present. Him Huy and the
21 other members of the special unit could provide you with this
22 type of explanation."

23 Correct?

24 A. That is my answer.

25 [15.56.45]

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1 Q. Thank you, Mr. Witness. Please move to Quote 12, E3/1578;

2 English, ERN 00194549; Khmer, 00178024; French, 00178036.

3 Quote 12: "I am not in position to tell you whether people were
4 transferred directly from Prey Sar to Cheung Ek."

5 Correct?

6 A. This, I have to explain one particular matter on this issue.

7 I answered the question put by the Co-Investigating Judges at the
8 time.

9 Q. Let me move to Quote 13, E3/1578; English, 00194552; Khmer,
10 00178027; French, 00178040.

11 <This is> your answer, Mr. Witness, about the alleged killing of
12 children, 160 children to be precise. You said: "I read this
13 document again. This document demonstrates clearly that 17
14 persons were transferred from Prey Sar to Choeung Ek at that
15 time. This fact seems to be established. I was not personally
16 aware of it."

17 Correct? You weren't aware of that fact at the time?

18 A. I have not found the passage you read. Which ERN number you
19 are referring to?

20 [15.59.11]

21 Q. It's your Excerpt Number 13, 1-3.

22 A. Which line?

23 Q. It's underlined in green. You're talking about this document
24 on 160 children.

25 My question is: you were not personally aware of that. Correct?

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1 A. I would like to read the statement that I gave last time, "I
2 would like to go back to what I said this morning regarding the
3 persons who were transferred directly from Prey Sar to Choeung Ek
4 for execution.

5 I read document with ERN number 00006728 again which demonstrates
6 clearly that 17 persons were transferred from Prey Sar to Choeung
7 Ek at the time, thus this fact seems to be established, <but> I
8 was not personally aware of it." This document says 17 persons,
9 not 160 children.

10 [16.00.45]

11 MR. KOPPE:

12 It is still too complicated.

13 Mr. President, in light of the time, we have calculated that
14 because of your questions Monday morning which took from 9
15 o'clock till 9.45, the Defence is entitled to 45 minutes. I
16 should be able, if the witness is cooperating, to finish my
17 questions in 45 minutes on Monday morning. So my request is to be
18 able to fully use the time allotted to the Defence.

19 MR. PRESIDENT:

20 Do any other parties have any observation on the request for
21 additional time, the request made by the Nuon Chea defence team?
22 Do you have any observation on the additional time requested by
23 Nuon Chea defence team?

24 MR. KOPPE:

25 Just for the record, it's not additional time, it's the time for

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1 us to arrive exactly at the four days that the Prosecution had,
2 four days and one hour and-a-half. So with the 45 minutes on
3 Monday, we are exactly equal with Prosecution.

4 [16.02.26]

5 MS. GUISSÉ:

6 I would like to inform the Chamber that -- indeed, I wish to
7 inform the Chamber that it tallies with the calculations I
8 indicated yesterday when I took the floor and said that we would
9 add the 45 minutes that the Chamber had used at the beginning of
10 my colleague's examination.

11 MR. LYSÄK:

12 Thank you, Mr. President. I haven't added the numbers up myself,
13 but I trust counsel can do that correctly and leave it to you to
14 decide how best we handle the additional 45 minutes.

15 (Judges deliberate)

16 [16.04.02]

17 MR. PRESIDENT:

18 Thank you for the observations by the parties. Of course, the
19 Chamber used 45 minutes last <Monday>, so the hearing concerning
20 <the> testimony of Kaing Guek Eav alias Duch will continue into
21 Monday for 45 minutes.

22 It is now time for the adjournment, and the Chamber will resume
23 its hearing on Monday, 27 June 2016.

24 And on Monday, the Chamber will continue hearing the testimony of
25 Kaing Guek Eav alias Duch and then proceed to hear <the testimony

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1 of civil party> 2-TCW-236 (sic). Please be informed and please be
2 on time.

3 I'm grateful to you, Mr. Kaing Guek Eav. The hearing of your
4 testimony has not come to an end and you are therefore invited to
5 come and testify once again next Monday, and it will not last
6 long. The hearing perhaps will last only 45 minutes or a little
7 bit more than that.

8 Security personnel are instructed to bring the two accused and
9 the witness back to the ECCC's detention facility and have them
10 returned into the courtroom on Monday before 9 a.m. and at 9 a.m.
11 respectively.

12 The Court is now adjourned.

13 (Court adjourns at 1605H)

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