



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

31 October 2016
Trial Day 473

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 28-Dec-2016, 13:45
CMS/CFO: Sann Rada

Before the Judges: NIL Nonn, Presiding
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I N D E X

Mr. IENG Phan (2-TCW-1046)

Questioning by The President (NIL Nonn) page 3

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Questioning by Mr. KOPPE page 80

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BOYLE	English
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUI SSE	French
Mr. IENG Phan (2-TCW-1046)	Khmer
Mr. KOPPE	English
The President (NIL Nonn)	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0913H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will hear testimony of a witness, 2-TCW-1046.

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

7 and other individuals to today's proceedings.

8 [09.14.11]

9 THE GREFFIER:

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

11 are present.

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

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

14 been delivered to the greffier.

15 The witness who is to testify today, that is, 2-TCW-1046,

16 confirms to his best knowledge that he has no relationship, by

17 blood or by law, to any of the two accused, that is, Nuon Chea

18 and Khieu Samphan, or to any of the civil parties admitted in

19 this case. The witness took an oath this morning before the Iron

20 Club Statute and he has Mr. Mam Rithea as his duty counsel.

21 Thank you.

22 [09.15.05]

23 MR. PRESIDENT:

24 Thank you. And the Chamber now decides on the request by Nuon

25 Chea.

2

1 The Chamber has received a waiver from Nuon Chea, dated 31st
2 October 2016, which states that, due to his health, that is,
3 headache, back pain, he cannot sit or concentrate for long. And
4 in order to effectively participate in future hearings, he
5 requests to waive his right to be present at the 31st October
6 2016 hearing.

7 He advises that his counsel advised him about the consequence of
8 this waiver, that in no way it can be construed as a waiver of
9 his rights to be tried fairly or to challenge evidence presented
10 to or admitted by this Court at any time during this trial.

11 Having seen the medical report of Nuon Chea by the duty doctor
12 for the accused at the ECCC, dated 31st October 2016, which notes
13 that, today, Nuon Chea has a constant lower back pain when he
14 sits for long and recommends that the Chamber shall grant him his
15 request so that he can follow the proceedings remotely from the
16 holding cell downstairs.

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

21 [09.16.46]

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

24 That applies for the whole day.

25 Court officer, please usher the witness and his duty counsel into

1 the courtroom.

2 (Witness enters the courtroom)

3 [09.18.20]

4 QUESTIONING BY THE PRESIDENT

5 Q. Good morning, Mr. Witness. What is your name?

6 MR. IENG PHAN:

7 A. First my respect to Mr. President. And my name is Ieng Phan.

8 Q. Thank you.

9 And when were you born?

10 A. I was born on 28 March 1952.

11 [09.19.00]

12 Q. And where were you born?

13 A. It was at Angk Thaot village, Angk Ta Saom <commune>, Tram Kak
14 <district>, Takeo <province>.

15 Q. And where is your present address, and what is your present
16 occupation?

17 A. Currently, I'm in Beng village, Anlong Vil <commune>, Sangkae
18 <district>, Battambang province. And I am a soldier.

19 Q. What are the names of your parents?

20 A. My father is Ieng Phau, deceased, and my mother is Uong Mitt,
21 deceased.

22 Q. What is your wife's name, and how many children do you have?

23 A. My wife is Tung Orn, and we have five children.

24 [09.20.12]

25 Q. Thank you, Mr. Ieng Phan.

4

1 The greffier made an oral report that, to your best knowledge,
2 you are not related, by blood or by law, to any of the two
3 accused, that is, Nuon Chea and Khieu Samphan, or to any of the
4 civil parties admitted in this case, and that you already took an
5 oath before your appearance. Is the report accurate?

6 A. Yes, it is.

7 Q. Thank you.

8 And the Chamber would like to inform you of our rights and
9 obligations as a witness.

10 Regarding your rights, as a witness, Mr. Ieng Phan, in the
11 proceedings before the Chamber, you may refuse to respond to any
12 question or to make any comment, which may incriminate you. That
13 is your right against self-incrimination.

14 [09.21.09]

15 Regarding your obligations, as a witness in the proceedings
16 before the Chamber, you must respond to any questions by the
17 Bench or relevant parties, except where your response or comments
18 to those questions may incriminate you as the Chamber has just
19 informed you of your right as a witness.

20 You must tell the truth that you have known, heard, seen,
21 remember, experienced or observed directly about an event or
22 occurrence relevant to the questions that the Bench or parties
23 pose to you.

24 And Mr. Witness, have you been interviewed by OCIJ investigators?

25 If so, how many times, when and where, if you can recall them?

5

1 A. I was interviewed once in Battambang, and I was also
2 interviewed here on another occasion.

3 Q. And when was the interview in Battambang conducted, and do you
4 also recall the year, at least, that you appeared before this
5 Chamber?

6 A. I cannot recall clearly about the interview in Battambang. It
7 <was> probably in 2010 or 2011.

8 [09.22.55]

9 Q. So you were interviewed for one time in Battambang province.
10 And did you come to testify before this Chamber, or were you
11 interviewed somewhere within the ECCC compound?

12 A. I testified before this Chamber.

13 Q. And before your appearance, have you read the written record
14 of your interview that took place in Battambang in order to
15 refresh your memory?

16 A. I reviewed the written record, both the questions and the
17 answers.

18 Q. And to your best knowledge and recollection, can you tell the
19 Chamber the Written Record of Interview that you have read is
20 consistent with what you told the investigator in Battambang
21 province which might happen in 2010 or 2011?

22 A. I understand that the answers are correct according to my
23 recollection at the time of the interview.

24 [09.24.18]

25 Q. And the date of the written record shows that it was conducted

6

1 in November 2009.

2 And here, you have the assistance of a duty counsel provided to
3 your request through WESU, that is, Mr. Mam Rithea.

4 And pursuant to Rule 91bis of the ECCC Internal Rules, the
5 Chamber hands the floor first to the Co-Prosecutors to put
6 questions to this witness, and the combined time for the
7 Co-Prosecutors and the Lead Co-Lawyers are three Court sessions.

8 You may proceed.

9 [09.25.12]

10 QUESTIONING BY MR. BOYLE:

11 Thank you very much, Mr. President. Good morning, Your Honours.

12 Good morning, counsel.

13 Q. And good morning, Mr. Witness.

14 As you referenced to the President just now, you have testified
15 before this Court before, and before some other counsel, at least
16 for the Prosecution.

17 My name is Andrew Boyle. I'm going to be asking you some
18 questions on behalf of the Co-Prosecutors this morning. Some of
19 the material will be regarding information that you already
20 provided. I might ask for some clarification on that. And some of
21 it will be new material.

22 To start off just for context, can you tell the Court when you
23 first joined the Khmer Rouge?

24 MR. IENG PHAN:

25 A. I joined the Khmer Rouge movement since 1970.

1 Q. And where were you when you joined?

2 A. I joined it in Ang Ta Saom commune, Tram Kak district, Takeo
3 province.

4 [09.26.50]

5 Q. And can you briefly tell the Court the positions that you held
6 in the Khmer Rouge between when you joined and April 17th, 1975?

7 A. I joined the resistance movement in July 1970. And about one
8 and a half month later, I was promoted from the commune military
9 to the district military. And about a year, I was promoted to the
10 provincial military, that is, of Takeo province. Then I
11 successfully was promoted to become a <vanguard> force of the
12 Southwest Zone army. And I initially was a squad leader, group
13 leader, platoon, deputy chief of company, chief of company,
14 deputy chief of battalion, commander of battalion, deputy
15 commander of regiment and then commander of regiment until the
16 liberation day.

17 So my highest position was commander of a regiment.

18 [09.28.39]

19 Q. Thank you for that.

20 I want to focus -- we will get to the other positions that you
21 held later on. I want to focus just for the moment on the
22 position that you held at the time of the attack on Phnom Penh,
23 17 April 1975.

24 Were you at that time in charge of Special Battalion 203 from the
25 Southwest Zone?

8

1 A. During the attack of Phnom Penh, I was <> Commander of a
2 <special> battalion under Division 2 of the Southwest Zone army.

3 Q. And was the number of that battalion 203?

4 A. It was Special Battalion 203.

5 Q. You just said that at the time of the attack on Phnom Penh
6 that you were the deputy of that battalion; is that correct?

7 A. I was the commander of that special battalion.

8 [09.30.30]

9 Q. Thank you.

10 And when you -- when you participated in the attack on Phnom
11 Penh, did you approach from the Southwest Zone towards Phnom Penh
12 along National Roads 3 and 4?

13 A. The spearhead of our special army was between National Road
14 Number 3 and National Road Number 4, that is, the target was the
15 Pochentong Airport and the area where they stored ammunition <for
16 the airplane>.

17 Q. What brigade were you part of at that time? What brigade was
18 Battalion 203 part of?

19 A. Let me tell the Court that Battalion 203 was the special force
20 under the division. And this battalion was supervised by the
21 division.

22 [09.32.08]

23 Q. I'd like to read to you something you said when you testified
24 here last. This is the transcript E1/193.1 at 09.35.02. Mr.
25 Witness, this is what you said:

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.

1 "In 1974, I became the commander of Battalion 203 in the
2 Southwest Zone under the subordinate of Brigade Number 2." Close
3 quote.

4 Is that correct that Battalion 203 was under Brigade Number 2?

5 A. That is correct.

6 Q. And can you tell the Court who was in charge of Brigade Number
7 2? Who was your superior?

8 A. It was Sam Bit.

9 Q. Can you tell the Court what instructions did Sam Bit give you
10 in preparing to attack Phnom Penh?

11 A. During the attack of Phnom Penh at the time, my special
12 battalion was to attack quickly and retreat quickly. That was the
13 instruction.

14 After we were successful in the attack at a specific target, we
15 would return to our base. <We did not have to be on standby there
16 like infantry.> During the attack in Phnom Penh, the plan was
17 very clear who was in charge of which direction, and I, at the
18 time, was responsible for the Kantouk area where the ammunition
19 <for the airplane> was stored. <And I was successful in the
20 attack.>

21 [09.34.18]

22 Q. And did Sam Bit tell you about the plan to evacuate Phnom
23 Penh?

24 MR. PRESIDENT:

25 Please hold on, Mr. Witness.

10

1 You may now proceed, Koppe.

2 MR. KOPPE:

3 Thank you, Mr. President.

4 All very interesting, but this is part of 002/01, and these same
5 questions have been asked to the witness when he was testifying
6 here. I have no problem with the questions, but they're not
7 relevant any more.

8 [09.34.55]

9 MR. BOYLE:

10 Mr. President, if he has no problem with the question, I propose
11 that I proceed.

12 JUDGE FENZ:

13 It would be interesting to know where it's going.

14 BY MR. BOYLE:

15 Sure. I can get to that with my next question. I was just trying
16 to not ask leading questions, but I'm happy to go directly to
17 that.

18 Q. Mr. Witness, let me ask you, did you receive any instructions
19 about screening for Lon Nol soldiers as one of the primary
20 reasons for evacuating Phnom Penh?

21 [09.35.27]

22 MR. PRESIDENT:

23 Please hold on, Mr. Witness.

24 You may now proceed, Anta Guisse.

25 MS. GUISSÉ:

11

1 Thank you, Mr. President. Good morning to all of you.
2 <It's my turn> now to <object to> the questions put by the
3 Co-Prosecutor. I have a feeling that we're just repeating this
4 witness' testimony regarding the evacuation of Phnom Penh. This
5 has already been dealt with. The reason this witness came back is
6 to specifically speak about the armed conflict with Vietnam, and
7 now we're completely outside of the point. So I object to
8 <having> him speak about topics that were dealt with in the
9 <examination for> first case, <during this segment>.

10 [09.36.15]

11 MR. BOYLE:

12 If I may respond, Mr. President. As with all witnesses, we are
13 allowed to ask questions on any topic in regards Case 002/02. The
14 targeting of former Lon Nol soldiers and officials is part of
15 Case 002/02. This questioning is directly relevant, and I assure
16 counsel that I will be getting to aspects of armed conflict as
17 well. I ask that I be asked (sic) to continue with this line of
18 questioning.

19 MR. KOPPE:

20 If I may respond, we're continuously reprimanded if we ask
21 repetitive questions. The prosecutor is going to be asking
22 repetitive questions because whatever happened to Lon Nol
23 soldiers during the evacuation, whether there was a Lon Nol
24 policy, he answered questions extensively in 2013, so what's the
25 point?

12

1 [09.37.18]

2 MR. PRESIDENT:

3 The objection appears to be reasonable because the hearing in the
4 previous case heard this matter already and all the transcripts
5 from the Case 002/01 were included in this case. Your time is
6 limited, so please focus on the specific facts adjudicated before
7 this Chamber.

8 BY MR. BOYLE:

9 Thank you, Mr. President.

10 Q. Witness, let me move on.

11 After the liberation of Phnom Penh, where was your -- did you
12 remain in control of Special Battalion 203?

13 MR. IENG PHAN:

14 A. During the liberation of Phnom Penh, I was still the commander
15 of Special Battalion 203.

16 [09.38.27]

17 Q. And after Phnom Penh fell to the Khmer Rouge, where was your
18 special battalion located? Where were you assigned to be located
19 in the, let's say, month after the fall of Phnom Penh?

20 A. After the liberation of Phnom Penh, my special force was
21 stationed at Prey Sar village close to Prey Sar prison for a
22 period of three months. We were there to farm.

23 Q. And after that three-month period, where did your special
24 battalion go?

25 A. After we went to Prey Sar village or Phum Prey Sar for three

13

1 months, then <our battalion was> moved to Takeo province.

2 Q. And did you become a member of the Communist Party of
3 Kampuchea at some point after the liberation?

4 A. I became Party's member in 1973 onwards. It was not after the
5 liberation that I became the Party's member. I was a member of
6 the Party from 1973.

7 Q. Thank you for that clarification.

8 You were just talking about being assigned to Takeo. When you
9 first were assigned to Takeo, were you assigned in a town or on a
10 border?

11 A. First, we did not go directly to the border. We were stationed
12 around Takeo town. <The reason> I was removed <was to reorganize
13 the forces.> I was transferred, in fact, from <the> special
14 battalion <> to <be deputy commander of> Regiment 12 <of Brigade
15 2 instead>.

16 [09.41.28]

17 Q. When you were first transferred to Takeo, how many brigades
18 were there in the Southwest Zone army?

19 A. I recall that Brigade Number 2 when I became <deputy>
20 commander of Regiment 12 consisted of four regiments, Regiments
21 11, 12, 13 and 14.

22 Q. And are you able to tell the Court when you became the head of
23 Regiment 12? When were you promoted?

24 A. There was an announcement at the headquarter of the brigade at
25 Phnom Khlaeng (phonetic) on National Road Number 2. When I was

14

1 moved from Phnom Penh, I stopped <at Takeo, and> Phnom Khlaeng
2 (phonetic) <> was <where> an announcement to promote me <was made
3 by the Brigade>.

4 [09.43.05]

5 Q. And can you say what the date of this announcement was, the
6 approximate month and year?

7 A. It was in <early> 1977.

8 Q. Let me read to you what you said in your Written Record of
9 Interview. This is E3/419, answer 1. You say: "During October
10 1976, I became chairman of Regiment 12, still subordinate to
11 Brigade 2."

12 Is that correct that in October of 1976, you became Chairman of
13 Regiment 12?

14 A. The date in the document was correct. My memory does not serve
15 me well. It was in late 1976. That is clear in the document.

16 Q. When were you first posted to the border with Vietnam in
17 Takeo?

18 A. When I was in charge of Regiment 12, in fact, the Regiment 12
19 had been posted at the border already. The soldiers had been
20 there already, and I was sent to that location to supervise those
21 soldiers <>.

22 [09.45.05]

23 Q. And do you know when Regiment 12 was first sent to the border,
24 even though you weren't in charge of it at that time?

25 A. Brigade Number 2 consisted of Regiments 11, 12 and 14. Those

15

1 regiments had already been posted at the border already after the
2 liberation of Phnom Penh. <They were no longer in Phnom Penh.
3 They all went to the Vietnamese border.> They arrived at the
4 border already in 1976 or 1977.

5 Q. Did the military structure of the Southwest Zone change at
6 some point in 1976 and 1977, the brigades and the regiments?

7 A. I provided a document. In the document, it says in <early>
8 1977, the military structure <at the Southwest Zone> was changed
9 <already>. There was no longer Brigade Number 2, but there was
10 Brigade 210, 230, 250 and 270. <> They were all brigades.
11 They became <four> brigades.

12 [09.4718]

13 Q. In the translation, I heard "late 1977". In your Written
14 Record of Interview, answer 4, you said "late 1976 or early
15 1977". Is that your recollection about when this change in
16 structure took place?

17 A. It was in late 1976 or early 1977. The modification or the
18 change of structure did not take one or two months to be ready,
19 <it took time to do it,> so it was in late 1976 or early 1977.

20 Q. And was Regiment 12 subordinate to Brigade -- to the new
21 Brigade 210 after the change?

22 A. Regiment 12 remained the same, but <Brigade> 2 was changed and
23 became Brigade 210.

24 My regiment from that time onward was under direction or
25 supervision of Brigade 210.

16

1 Q. Were all of -- all four of these new brigades posted along the
2 border in Takeo?

3 A. To my recollection, the four brigades were posted along the
4 border. <I did not know all the details, but> I was well informed
5 of my Regiment 12. <But overall, I knew that all four brigades
6 were posted along the border.>

7 Again, Brigade 270 was posted along Tonle Bassac close to
8 Vietnamese border, and 210 was posted close to <Praek Chik> Vinh
9 Tae (phonetic) near Mott Chrouk (phonetic), <Chau Doc>.

10 As for Brigade 250, it was posted close to Kampot border, Sambok
11 Moan (phonetic) area. All of those brigades were posted along the
12 border. They were not posted in the centre of town. <They were
13 assigned to different locations.>

14 [09.50.26]

15 Q. And can you tell us approximately how many soldiers were there
16 in each of these brigades?

17 A. I do not know how many soldiers there were in one <> brigade.
18 <But> as for Brigade 210, <where I was in charge of Regiment 12,>
19 there were around 1,800 to 2,000 soldiers <at that time>.

20 Q. Do you know why these brigades had been posted along the
21 border with Vietnam?

22 A. I do not know the specific reasons. The duties and obligation
23 of the soldiers were to defend the territory. We were told <by
24 the upper level> to go to specific targets or directions to
25 defend the territory. <We did not know any other reasons behind

17

1 that.>

2 Q. And who were you receiving these instructions from when you
3 were told to go to specific targets to defend the territory?

4 A. The instruction was from the division and I was within the
5 regiment. I was part of the regiment.

6 Every country, <including Vietnam and Cambodia,> had their own
7 soldiers along the border, so we had to deploy our soldiers to
8 the border.

9 [09.52.47]

10 Q. During the period that you were in Takeo, was there fighting
11 with Vietnam?

12 A. In mid-1977, there seems to be a dispute in Takeo <between
13 Vietnam and Cambodia>. The dispute started to happen from that
14 year.

15 Q. And when you talk about disputes, are you talking about armies
16 fighting one another using weapons?

17 A. It means in 1977, Cambodia and Vietnam started to exchange
18 fire because of the territorial integrity.

19 Q. Was Regiment 12 ever posted in an area named Angkor Borei
20 along the Vietnamese border?

21 A. Regiment 12 was not posted at Angkor Borei. Special Battalion
22 203 was first posted at Phnom Borei, <it was posted there later
23 on, but I already left,> and <> Regiment <12> was posted at Phnom
24 Den, <Praek Chik> Vinh Tae (phonetic) location.

25 [09.55.03]

18

1 Q. Was your regiment engaged in combat with Vietnam?

2 A. My regiment <used to engage in> fighting with Vietnamese at
3 Praek Chik Vinh Tae (phonetic) at the border. <We exchanged fire
4 at the border.>

5 The conflict or the disputes started from the small portion of
6 territory.

7 Q. And can you describe the fighting that your engagement engaged
8 with -- engaged in with Vietnam?

9 A. In 1977, the fighting between Kampuchea and Vietnam was not
10 yet intensified. It was sporadic. And it happened on <particular>
11 locations from one location to another location. It did not
12 happen on a constant basis <or on a large scale>.

13 Q. During that time, did the Vietnamese forces enter into
14 Cambodian territory during the fighting?

15 A. To my recollection, in late 1977, the Vietnamese troops were
16 penetrating into Takeo province, very far <way in> from <> the
17 border.

18 [09.57.20]

19 Q. Let me read to you what you said when you last appeared
20 regarding this. This is E1/193.1, transcript at 15.28.11, and
21 this is what you said in describing that conflict -- quote:

22 "In 1977, in Takeo and Kampot provinces, fierce fighting
23 occurred. And by mid-1977, Vietnamese troops already invaded all
24 the way to the vicinity of border of Takeo province, but the
25 Khmer rouge soldiers had to counter back, and there was a

19

1 tug-of-war and we could drive them back all the way to the
2 Vietnamese and Cambodian border, but they came back. So, it was a
3 back and forth fighting; it's like tug-of-war."

4 And then you go on to say: "The attack back and forth sometimes
5 took place for one month or two months, so we drove them back and
6 then they push us back and the situation was similar to that
7 occurred in Svay Rieng." Close quote.

8 You seem to be indicating in your prior testimony that conflicts
9 were beginning, at least in this quote, as early as early 1977.

10 Is that correct?

11 [09.58.42]

12 A. The dispute or conflict started from early 1977, and the
13 fighting was fierce in <mid> 1977. We pushed <them> back, and
14 they pushed us back. And we could only push the Vietnam back to
15 the border, <at Praek Chik Vinh Tae (phonetic),> but for
16 Vietnamese troops, they could be able to push us <almost to Takeo
17 town>.

18 Q. In the quote I just read to you, you're also describing fierce
19 fighting that occurred in Kampot province. Were you also posted
20 at some point in Kampot province?

21 A. I <never reached> Kampot, but we received information from
22 other soldiers that cooperated with my troops <at the border>.
23 <Normally, we would cooperate with each other during the
24 fighting. And their unit gave us the information that there was a
25 combat at Kampot.>

20

1 Q. Were you personally wounded in this fighting that occurred
2 with Vietnam in 1977?

3 A. I was wounded, that is, on my left hand while I was engaged in
4 battle at Praek Chik Vinh Tae (phonetic).

5 [10.00.47]

6 Q. How did that wound occur?

7 A. I was wounded by B40 grenade launcher. <My hand is still
8 crooked now.>

9 Q. And were there many soldiers in your regiment that were
10 wounded during the fighting with Vietnam?

11 A. It is typical, and it is my belief that <Your Honor and all of
12 you here can see that> Vietnam country was larger than us and
13 they had more army and more weapons than us, <our country was
14 smaller, we had less weapons and our weapons were not even
15 modern,> so during each fight with Vietnam, we had more <deaths
16 and more wounded soldiers>.

17 Q. Did those casualties also include deaths?

18 A. Yes, besides the wounded, there were <many> soldiers who died.

19 Q. Are you able to estimate how many members of your regiment
20 were killed during this period of fighting with Vietnam in 1977?

21 A. During the fighting in mid-'77 at Praek Chik Vinh Tae
22 (phonetic), that is, at Phnom Den (phonetic), there was a
23 battalion under our regiment, and in that battalion, 170 soldiers
24 were killed.

25 At the time, they were surrounded and ambushed by Vietnamese

21

1 troops, and they were hit by tanks and aerial bombardment. And
2 these number of soldiers died during the course of fighting for
3 one day and one night. <I did not know about other brigades or
4 regiments, but for> my regiment, <that was the number of death
5 during the large scale of fighting for one day and one night>.

6 [10.03.21]

7 Q. You just mentioned the use of tanks and aerial bombardment. I
8 just want to confirm that Vietnam was using planes to drop bombs
9 on your positions. Is that your testimony?

10 A. At that time, there were not <any> bombs which were dropped by
11 large planes <yet in mid 1977>. However, there were small planes
12 that drop some rocket onto us. And they had plenty of artilleries
13 and tanks.

14 Q. And how about from your side, what sort of armaments were you
15 using to fight the Vietnamese?

16 A. For the Cambodian side, we also did have tanks and
17 artilleries. However, our ammunition was limited.

18 Q. And was your regiment able to kill some Vietnamese soldiers
19 during the fighting?

20 A. I believe that Vietnamese troops were more superior than us
21 and, for that reason, we did not know the extent of casualties or
22 <how many> of their soldiers died. <They did engaged in the
23 fighting, but> we did not have the figure.

24 [10.05.18]

25 Q. When were you in Takeo until? When did you leave Takeo?

1 A. I left Takeo province for Svay Rieng province in mid-1978. The
2 upper echelon required me to leave Takeo province for Svay Rieng
3 province, and the preparation was started in late '77, but I left
4 in mid-'78.

5 Q. Indeed, there is a little bit of a discrepancy. You told the
6 Investigating Judges in answer 5 of your Written Record of
7 Interview that you went to Svay Rieng in mid-1978. However, when
8 you testified before the Court at 10.14.06, you stated that it
9 was early 1978.

10 So I just want to clarify to the best of your recollection, is it
11 your testimony that you went -- although preparations began for
12 you to move in late 1977, you went to Svay Rieng in mid-1978?

13 A. In principle, I had to leave in early 1978, and before I left,
14 there was an arrangement for me to head <> a brigade, <so>
15 soldiers <were selected from all brigades, including Brigade 310,
16 330, 350 and 370 that I mentioned earlier, so one unit from each
17 of> these three <> brigades, <was selected and transferred to my
18 brigade>. So <selected> forces <from> four regiments <created>
19 Brigade <221>. And by the time I could mobilize those forces, it
20 was in mid-'78.

21 [10.07.46]

22 Q. Thank you for that clarification.

23 Was fighting with Vietnam in the Takeo region continuing up until
24 you left for Svay Rieng?

25 A. When I travelled from Takeo to Svay Rieng province and a

1 little bit after the provincial town of Svay Rieng, that is, in
2 Prasout (phonetic) district, <we did not get to step out of our
3 trucks, the Vietnamese started the attack already,> just by the
4 time we arrived, we were welcomed by the gunfight from the
5 Vietnamese side. So by the time we arrived, two trucks of
6 soldiers were lost, that is, the newly force that <were> gathered
7 <for me>. And that happened in Prasout (phonetic) district.

8 Q. I just want to clarify, this attack that you're describing in
9 Prasout (phonetic) district, this is in Svay Rieng, or was this
10 in Takeo before you left?

11 [10.09.15]

12 A. Allow me to clarify it. Prasout (phonetic) district was
13 located in Svay Rieng province. By the time I led my forces to <>
14 Prasout (phonetic) district, we were attacked by the Vietnamese
15 side and our trucks, two trucks, were burned. Then the fighting
16 continued day and night, and then there was successive
17 casualties.

18 I, myself, was also wounded in the fighting in Svay Rieng. I was
19 wounded by shrapnel from a tank fire. I had to be hospitalized
20 <at Phnom Penh> for about three months. Then I had to return to
21 the front, but by that time, Vietnam's large-scale incursion took
22 place.

23 Q. When you left Takeo to move to Svay Rieng, was there still
24 fighting in Takeo with Vietnam?

25 A. In Takeo, the fighting was ongoing, although it was less

24

1 intensified. <They thought it was a normal fighting scale.> And
2 for that reason, the Kampuchean leadership reassigned some more
3 forces <from Takeo> to Svay Rieng.

4 [10.10.37]

5 Q. Were you ever aware of Khmer Rouge forces in Takeo entering
6 into Vietnam to fight within Vietnam's territory?

7 A. I'd like to inform Mr. President and the Judges that it is the
8 strategy of war, <I think you all would understand that as well,>
9 that if Vietnamese entered our territory, we would not be able to
10 sustain the heat. And for that reason, we had to hit them from
11 behind. And the main purpose is not to liberate Kampuchea Krom
12 land, but our intention was that we were able for them to retreat
13 to the barracks to fight against us so that they restricted
14 themselves from our territory.

15 And I believed everywhere <in the world> they used the same art
16 of war, so we had to <fight them back or> attack them from behind
17 in order to contain them.

18 Q. And so your regiment itself engaged in these attacks from
19 behind in order to attempt to get the Vietnamese to leave
20 Cambodian land; is that correct?

21 A. Yes.

22 [10.12.16]

23 MR. BOYLE:

24 Mr. President, I'm mindful of the time. I know we started about
25 15 minutes late. I'm in your hands as to how you would like to

1 proceed.

2 MR. PRESIDENT:

3 You may continue putting further questions. As the President, I
4 will decide as to when we break.

5 BY MR. BOYLE:

6 Thank you, Mr. President.

7 Q. Mr. Witness, are you familiar with the province across from
8 Takeo in Vietnam, Ang Giang province?

9 A. I am familiar only with Chau Doc province that is known also
10 as Chramos Chrouk (phonetic).

11 [10.13.18]

12 Q. Let me read to you a document that we have on the case file.
13 This is E3/1257. It's a Vietnamese news report of Khmer Rouge
14 border encroachments from 18 January 1978. And this is at
15 English, 00008675; French, 00416717; and Khmer, 00224846; and
16 this is what it says -- quote:

17 "At 0500 hours on 11th January, the 12th and 14th Regiments, 2nd
18 Division, of the Cambodian Armed Forces crossed the border and
19 attacked the areas south and northeast of Tinh Bien, An Giang
20 province. They committed many crimes against the local people,
21 killing and wounding 23 civilians, setting fire to 213 homes,
22 burning many tonnes of rice and driving away 30 buffalos and
23 oxen. Our local armed forces counter-attacked and annihilated
24 215, duly punishing the nibblers and crime perpetrators and
25 forcing them to withdraw to the other side of the border.

1 "Afterwards, Cambodian armed forces artillery positions situated
2 deep in Cambodian territory opened fire on these areas." Close
3 quote.

4 Mr. Witness, this news report mentions the 12th Regiment of the
5 Second Division. Was that your regiment?

6 [10.15.31]

7 A. I do not think that our regiment went to attack Vietnamese
8 residents because when we were in fighting with the Vietnam, we
9 could not even cross the Praek Chik Vinh Tae (phonetic), <they
10 had so many soldiers,> so for that reason, I don't know about
11 this report.

12 Q. Mr. Witness, you just told us that at times you would enter
13 into Vietnamese territory to attack Vietnamese soldiers from
14 behind. So that seems to contradict your testimony that you just
15 gave that you didn't go beyond Preaek Chik Vinh area that you
16 were in in Takeo; isn't that correct?

17 A. Allow me to explain it to you. The fighting <was> back and
18 forth, but it would not be possible for us to enter deep into the
19 Vietnamese territory. We could probably pass Praek Chik Vinh Tae
20 (phonetic) or Vinh Tae (phonetic) canal for 100 <or 200> metres
21 and then we had to be retreated because we would be fought back
22 by the Vietnamese side <because Vietnam had a lot of soldiers>.
23 We never reached the residential area on the Vietnamese side. We
24 could probably enter half a kilometre or one kilometre into the
25 Vietnamese territory, that is, at the base of the mountain,

27

1 <Phnom Den (phonetic), passing Praek Chik (phonetic)> and then we
2 would be attacked and we had to retreat. And that's happened to
3 our Regiment 12. <We did enter their territory, but that was as
4 far as we could go. We never reached their villages.>
5 We could not compare our forces to the Vietnamese forces because
6 they were more superior. <They had plenty of artilleries.
7 Whenever we advanced into their territory, they fought back and
8 we retreated.> And when we went into their territory <>, there
9 were casualties and we could not even bring back our dead
10 soldiers.

11 [10.17.39]

12 MR. PRESIDENT:

13 Thank you.

14 Let us have a short break and we resume at 10.30.

15 Court officer, please assist the witness during the break time
16 and invite him as well as his duty counsel back into the
17 courtroom at 10.30.

18 The Court stands in recess.

19 (Court recesses from 1018H to 1034H)

20 MR. PRESIDENT:

21 Please be seated.

22 The Court is now back in session and the Chamber gives the floor
23 to the <International> Deputy Co-Prosecutor to resume the
24 questioning.

25 You may now proceed.

1 BY MR. BOYLE:

2 Thank you, Mr. President.

3 Q. Mr. Witness, just before the break, we were discussing Khmer
4 Rouge attacks into Vietnamese territory and you mentioned that
5 while you weren't familiar with An Giang province, you were
6 familiar with Chau Doc province in Vietnam, which is also close
7 to the Takeo border.

8 I'd like to read you two excerpts regarding Chau Doc province.

9 The first is from a book by an individual named Stephen Morris,
10 who came to testify here not too long ago. That's E3/7338. It is
11 only available in English at 001001765. It's page 98 of the book.

12 And this is what he says, Mr. Witness -- quote:

13 "Vietnamese Party state leaders sent a message congratulating
14 their counterparts on the anniversary of their victory, but this
15 goodwill gesture reaped no beneficial consequences for Vietnam.
16 The Khmer Rouge deliberately chose the second anniversary of the
17 Vietnamese Communist conquest of South Vietnam to leave a truly
18 bloody calling card."

19 [10.36.10]

20 "On April 30th 1977, Khmer Rouge units attacked several villages
21 and town in An Giang and Chau Doc provinces of Southern Vietnam,
22 burning houses and killing hundreds of civilians.

23 The Vietnamese leaders were shocked by this unprovoked attack,
24 and could not understand any strategic rationale behind it.

25 Nevertheless, they decided upon military retaliation." Close

1 quote.

2 The second quote regarding Chau Doc is from a book by Ben
3 Kiernan, E3/1593; English, ERN 01150185 to 86; French, 00639136
4 to 37; and Khmer, 00637903 to 04. This is what Ben Kiernan had to
5 say -- quote:

6 [10.37.22]

7 "But the Vietnamese border saw the most serious violence launched
8 from Democratic Kampuchea's Southwest Zone summarizing many press
9 reports, Keesing's Contemporary Archives concluded: 'The
10 situation gravely deteriorated from March 1977 onwards.'

11 According to an official Vietnamese document published on 6th
12 January 1978, the Cambodian forces made raids into the Vietnamese
13 provinces of Kien Giang and An Giang on March 15th to the 18th
14 and 25 to the 28th 1977, along with a sector nearly 100
15 kilometres long from Ha Tienh to Tinh Bien. Strong Cambodian
16 forces launched concerted attacks on Vietnamese army posts and
17 border villages in An Giang between April 13th and May 19th,
18 killing 222 civilians and shelling Chau Doc, the provincial
19 capital, on May 17th. These reports were corroborated by
20 Vietnamese refugees reaching other Asian countries who stated
21 that the civilian population had been evacuated from Ha Tienh on
22 May 16th and from Chau Doc on the following day, after two towns
23 had been shelled." Close quote.

24 [10.38.46]

25 Mr. Witness, do these excerpts describing attacks on a number of

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1 provinces along the border, including the Chau Doc province that
2 you're familiar with, refresh your memory that there were attacks
3 that forces in the Southwest Zone were participating in in mid
4 and late 1977 into Chau Doc province?

5 MR. PRESIDENT:

6 Please hold on, Mr. Witness.

7 You may now proceed, Koppe.

8 MR. KOPPE:

9 Thank you, Mr. President.

10 Very interesting point the Prosecution is raising. Let me object
11 on various grounds, Mr. President.

12 First of all, I noticed that neither of the two International
13 Judges asked the Prosecution what the sources were of,
14 respectively, Morris and Kiernan, a question that we always
15 received.

16 [10.40.02]

17 Having said that, I come to my second point, Morris describes an
18 attack on Vietnamese territory on the 30th of April 1977. Morris
19 doesn't have any source for this. Morris merely repeats what
20 Chanda writes. Chanda merely repeats what Vietnamese propaganda
21 reports stipulate or write in January '78. Kiernan, in this
22 essence, does the same thing.

23 That is problematic, especially, of course, because Chanda hasn't
24 come here to testify as an expert so that he can explain what his
25 sources are. And in addition, of course, to all this and on top

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1 of all this is the fact that these attacks in Vietnamese
2 territory, if they happened at all, if they occurred at all --
3 because there is hardly any corroborating evidence whatsoever, is
4 outside the scope.

5 So, if the Prosecution would be so kind to actually present
6 evidence of this 30th April 1977 attack, I would be much obliged.

7 [10.41.22]

8 MR. BOYLE:

9 Allow me to respond to the testimony presented by counsel on the
10 other side.

11 First of all, as to sources, he, himself, cited the sources that
12 Stephen Morris cites to in his book. And in regards to Kiernan,
13 the source was actually in the quote that I read, that is,
14 Keesing's Contemporary Archives.

15 Counsel is free to quibble with the sources that the expert that
16 he called and who testified -- he requested that be called and
17 who testified relied on, however, that -- this is neither the
18 time nor place for that.

19 In regards to scope, certainly the Armed Conflict is well within
20 the scope of Case 002/02. Paragraph 153 of the Closing Order
21 refers to attacks within the Vietnamese border, and it also
22 relates to a theory being propounded by the Nuon Chea defence
23 regarding unprovoked attacks by Vietnam in Cambodia, so I ask
24 that I be allowed to continue with my questioning.

25 [10.42.35]

1 MR. KOPPE:

2 I think the Prosecution totally missed my point. Can you please
3 present us with actual evidence other than Vietnamese propaganda
4 that this 30th of April attack '77 really happened?

5 MR. BOYLE:

6 Absolutely. The source -- the evidence is on the case file. It is
7 the quote that I just read from the expert that the Nuon Chea
8 defence requested come and testify.

9 MR. KOPPE:

10 I'm sorry; that's the exact same problem that we encounter when
11 we refer to Chanda when he talks about the mid-February plenum
12 meeting of the Central Committee of the Vietnamese Communist
13 Party. We are being rebuffed and asked: "Where does Chanda have
14 his knowledge from? What's Chanda's source?"
15 And now you're just merely referring to Chanda, and apparently
16 the Chamber lets you get away with it.

17 [10.43.40]

18 MR. PRESIDENT:

19 The objection of the defence team, Koppe, is overruled.
20 The question can be asked by the Co-Prosecutor, and the Chamber
21 needs to hear the answer from the witness <in order to make a
22 decision based on all the evidence including this one>.
23 Mr. Witness, please answer the question put by the
24 <International> Deputy Co-Prosecutor, if you recall it.

25 BY MR. IENG PHAN:

1 A. I would like to provide my comments in relation to the report
2 of the Vietnamese troops.

3 It is my understanding that the report is not true. I was there
4 at my base. We did not <have the right to> attack into An Giang.
5 <The Southwest Zone's> force, <particularly my special
6 battalion,> had no rights to attack <that far> into <> the
7 territory of Vietnam. <I do not really understand about the
8 report. You can check it for yourself, but the fact is> we had no
9 rights to attack <that> deep into the territory <>. We could only
10 attack close to our border.

11 [10.45.06]

12 MR. BOYLE:

13 Q. Thank you, Mr. Witness.

14 While you were in Takeo engaged in fighting with the Vietnamese,
15 were you ever informed of any negotiations that were taking
16 place, high-level negotiations between the Cambodian -- the Khmer
17 Rouge government, CPK, and the Vietnamese government?

18 A. I do not have the information on this particular point. It is
19 beyond my knowledge. I can only say what I know. I do not know
20 about the negotiation of the upper echelon.

21 [10.45.50]

22 Q. Let me read to you a document that's on the case file. This is
23 a document -- a Vietnamese press release from their UN mission in
24 New York, E3/5883, from 31st of December 1977; English, ERN
25 00419879; Khmer, 00656204 to 25; and French, 00819087. Sorry; I

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1 believe in the Khmer I gave the wrong number, 65624 to 25. And
2 this is the quote, Mr. Witness:

3 [10.46.40]

4 "On June 7th, 1977, the Central Committee of the Communist Party
5 of Vietnam and the government of the Socialist Republic of
6 Vietnam sent another letter to the Central Committee of the
7 Communist Party of Kampuchea and the government of Democratic
8 Kampuchea proposing that meetings be held as early as possible
9 between high-ranking leaders of the two parties and the two
10 governments so as to solve the border issue between the two
11 countries.

12 "In their letter of reply dated June 18th, 1977, the Central
13 Committee of the Party and the government of Kampuchea considered
14 that such meetings were necessary, but proposed that they be
15 resumed only after 'a period of time until the situation returns
16 to normal, without further border conflicts'. However, it was
17 precisely at the time that Kampuchea increased its military
18 attacks, its encroachments upon Vietnamese territory and its
19 massacre of Vietnamese civilians, sabotaging the peaceful labour
20 of the Vietnamese people in border provinces, particular Kien
21 Giang, An Giang, Dong Thap, Long An and Tay Ninh." Close quote.

22 [10.48.03]

23 This press release is describing attacks that were taking place
24 in and around June of 1977. Are you aware of conflicts on the
25 border in June of 1977?

35

1 A. I have already told the Chamber that from early or mid-1977,
2 there were continuous attacks between Kampuchea and Vietnam. I
3 have already told the Court since the beginning.

4 Q. That is true, Mr. Witness.

5 And does that quote refresh your memory of ever hearing anything
6 about negotiations that were also taking place at the same time
7 as these attacks were taking place?

8 A. I do not know about that, so I cannot say anything.

9 Q. I understand.

10 Did you ever receive any instructions regarding Khmer Rouge cadre
11 entering into Vietnam to capture and bring back Khmer Krom?

12 [10.49.55]

13 A. Let me clarify it. I do not know about the plans to take back
14 Kampuchea Krom. The instruction <from> my superior was to defend
15 our existing territory. I never received any instruction to take
16 back Kampuchea Krom.

17 Q. Perhaps my question was unclear.

18 I'm not talking about taking back the territory of Kampuchea
19 Krom, but people that were Khmer Krom themselves that were within
20 Vietnamese territory. Did you ever receive any instructions about
21 entering Vietnam to bring them back to the territory of
22 Democratic Kampuchea?

23 A. No, never.

24 [10.50.57]

25 Q. Let me cite to you something on the case file -- or quote to

36

1 you, rather. This is, again, Kiernan at E3/1593; English,
2 01150219; French, 00639212; and Khmer, 00637997; and this is what
3 he says, Witness -- quote:

4 "In 1978, DK raiding parties from the Southwest kidnapped
5 thousands of Khmer Krom from their villages inside Vietnam. In a
6 two-week campaign in March 1978, a DK division successfully
7 occupied the Bae Nui district of An Giang." Close quote.

8 Does that refresh your memory regarding, in 1978, Khmer Rouge
9 forces entering to obtain Khmer Krom and bring them back to
10 Democratic Kampuchea?

11 A. I have already told the Court the Kampuchea forces did not go
12 to attack and capture villages of Vietnam. We could not stay in
13 the territory of Vietnam more than one hour <or one hour and a
14 half>. <Whenever we reached a target, we had to retreat
15 immediately because the Vietnamese would fought back at that
16 instance.> We could not go to capture those villages and to take
17 control of their villages.

18 [10.52.43]

19 Q. When you were based in Takeo, how would you receive your
20 orders regarding where and how and when to attack?

21 A. The order to combat was only when Vietnamese penetrated our
22 territory. <We rarely, actually never received the order to
23 advance> into Vietnamese territory. We received the order to
24 counter-attack <> the Vietnamese troop <when they> attacked us.
25 <That was what actually happened at the border.> How many

1 soldiers we had in control at the time? <We rarely could advance
2 into Vietnam> and if we dared to stay long in Vietnamese
3 territory, we would have lost all of our soldiers.

4 Q. My question was moving on to a slightly different topic. I was
5 asking -- presumably you received orders about how and where to
6 attack from Sam Bit. Is that correct? Did you receive orders from
7 Sam Bit about -- military orders from him during your time in
8 Takeo?

9 A. Sam Bit was the commander of the division.

10 Q. And how would he give you those orders? What methods:
11 meetings, telegrams, messengers?

12 A. I understand that the order from the division to all of us at
13 the border was to defend our territory. We were told to organize
14 our forces in order to defend our territory at the border.
15 We received <the order> through meetings and also <through>
16 telegrams.

17 [10.55.22]

18 Q. And did you ever attend meetings where Ta Mok would give
19 presentations or give you any orders in the Southwest Zone?

20 A. As I was the commander of the regiment, I participated in the
21 meetings with Ta Mok and Sam Bit at Takeo province. The specific
22 instruction was to defend our territory. There was no secret on
23 this instruction. And if, for example, I was in charge of certain
24 kilometres of territory, I would need to defend that territory.

25 Q. And when Ta Mok was talking to you or giving you these

1 instructions, did he ever mention Nuon Chea, anything that Nuon
2 Chea had said?

3 A. Ta Mok never conveyed the messages from the upper echelon.

4 Usually, he used his own words to instruct all of us. He was very
5 straightforward in his instructions.

6 I was under his command. He instructed me to defend the
7 territory. Our soldiers never had time to return home. We were
8 there at the border.

9 [10.57.20]

10 Q. Let me read to you something you said when you last testified
11 here. This is at 14.35.25:

12 Question: "Did you ever meet Nuon Chea in person, one-to-one?"

13 Answer: "During the time, I never met him. I never met any of the
14 upper leadership level. I only heard of their names through the
15 instructions of Ta Mok. I never met them until today." Close
16 quote.

17 Is that accurate, and are you referring to these meetings in the
18 Southwest Zone when you said that you heard their names?

19 A. Allow me to inform the Chamber that the Democratic Kampuchea
20 <or also known as> "Khmer Rouge". <During the regime, they used
21 the phrase, "secret> leadership <>". One who was in charge of
22 certain tasks only knew what they were told to do, so <as I was
23 at the lower level, I rarely knew anything about the upper
24 level's tasks. I only knew about the zone, I did not know of
25 anything higher than that. I did not know what the upper level

1 was>.

2 I have heard of the names of the upper echelon, but I, myself,
3 never met them<>.

4 [10.58.59]

5 Q. I'd like to now move to the time period that you were based in
6 Svay Rieng. You told us already that you were sent there in
7 mid-1978 following preparations that lasted from late 1977.

8 When you went to Svay Rieng, did your entire Regiment 12 go with
9 you at the same time?

10 A. I have told the Court earlier that when I organized my
11 soldiers to go to Svay Rieng, I was, at the time, no longer in
12 charge of Regiment 12. And as I told, <the upper level selected
13 each regiment from> Brigades 210, 230, 250 and 270. And then
14 <Brigade> 221 <was created where I was the commander>.

15 My Regiment 12 at the time did not go to Svay Rieng.

16 Q. And this new unit that you were in charge of, how many
17 soldiers were there in all that you brought with you to -- from
18 the Southwest Zone to Svay Rieng?

19 A. There were around 1,800 <soldiers>, and there were four
20 regiments.

21 [11.01.05]

22 Q. Just so I'm clear, are you saying that each regiment had a
23 little over 1,000 soldiers, or in total there was 1,000?

24 A. No, it's not 1,800 soldiers for one regiment. I spoke earlier
25 that one regiment was reassigned from each of the Brigades 210,

1 230, 250 and 270, and the combined forces for the four regiments
2 were 1,800 <soldiers>.

3 Q. I understand. Thank you.

4 I won't ask you to repeat your testimony from when you last
5 appeared. You told us -- you told this Court that you attended a
6 meeting chaired by Ta Mok in late 1977 containing instructions
7 about organizing forces to go to Svay Rieng.

8 I do want to ask you one follow-up question to something that you
9 said at that time. The quote from the transcript, E1/193.1,
10 11.35.04, and this is what you said:

11 [11.02.46]

12 "I attended a meeting at Ta Mok's house with Mr. Sam Bit. The
13 meeting was held in late 1977. At that time, the Khmer Rouge was
14 fighting with the Vietnamese already, so the forces from the
15 Southwest had been sent to Svay Rieng to the east already ahead
16 of me, and the meeting was aimed to organize the troop to send my
17 regiment to the East Zone." Close quote.

18 You seem to be indicating that there were forces from the
19 Southwest Zone that had been sent to Svay Rieng before you were
20 sent there in -- or before this meeting took place in mid --
21 sorry, late 1977. Is that correct, that forces had already been
22 sent to the East Zone?

23 A. In my previous interview in Battambang province, I confirmed
24 that before I went to Svay Rieng, there was already a group of
25 soldiers who were sent there before I went, so my assignment was

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1 the second round. And that happened in late '78.

2 And as I stated in my interview, the previous group was led by
3 Ren from the southwest <zone>.

4 Q. And can you tell us when that group went to the East Zone and
5 how many forces went with Ren at that time?

6 A. I could not grasp the number of forces who went together with
7 Ren <because I did not attend the meeting>. I only knew about the
8 forces that I brought along, that is, the four regiments when I
9 attended meeting with Ta Mok. So I could not say for the forces
10 that Ren brought along with him <because I was not invited to the
11 meeting with them>.

12 [11.05.12]

13 Q. Do you know when they went to the East Zone? When did Ren go
14 to the -- to Svay Rieng?

15 A. He went since early 1977.

16 Q. The unit that you were in charge of when you arrived in Svay
17 Rieng, are you able to tell the Court what the name of that unit
18 was?

19 A. The unit that I supervised was Intervention Brigade 221.

20 Q. And who was your deputy in that Intervention Brigade 221?

21 A. It was Chheang, my deputy. However, he died since 1979.

22 Q. And when you say Chhean, is that Sokh Chhean?

23 A. There were two deputies: one was Sokh Chhean and the other one
24 was <also> Chhean. Sokh Chhean was also my deputy.

25 [11.07.18]

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1 Q. When you previously testified, and also today, you said that
2 including your intervention brigade, there were five brigades
3 that made up this new division in Svay Rieng.

4 Did the -- did that division itself have a number or a name?

5 A. I do not understand your question.

6 Q. You've told us that you were a head of an intervention
7 brigade, and when you previously testified, you said at 13.41.20

8 -- this is a quote:

9 "During the Democratic Kampuchea regime, there were five brigades
10 which made up a division, and that included an Intervention
11 Brigade."

12 I'm wondering if this division that your intervention brigade was
13 part of, did it have a name or a number when it was in -- when it
14 was based in Svay Rieng?

15 [11.08.50]

16 MR. PRESIDENT:

17 <Where do the five brigades come from?> We speak about
18 Intervention Brigade 221, and there were four or five regiments
19 under that brigade. Those regiments were subordinate to this
20 Intervention Brigade 221, and your question through the
21 interpretation is confusing. Please rephrase it.

22 And Interpreter, please use the proper terminology; otherwise, it
23 is misunderstood by everyone.

24 [11.09.37]

25 BY MR. BOYLE:

1 Thank you, Mr. President. I'm sure it's my fault.

2 Q. Let me try to clarify.

3 Mr. Witness, when you were testifying earlier, you were talking

4 about when your -- you became head of the Intervention Brigade

5 221. You said that there were four other brigades also that

6 formed part of a division in Svay Rieng. You said, quote, at

7 13.39.41:

8 "Later on, it was expanded to four brigades, and in Svay Rieng,

9 there were five brigades which formed a division."

10 What I'm trying to ascertain is: did that division that had these

11 five brigades -- did that division have a number or a name when

12 it was based in Svay Rieng?

13 [11.10.40]

14 MR. IENG PHAN:

15 A. Now I understand your question.

16 And my apology as I did not understand your previous question

17 because it was confusing about the brigades and the regiments.

18 When I arrived in Svay Rieng, there were five brigades, and that

19 was organized upon my arrival at Svay Rieng. And these five

20 brigades formed a division, and that division was commanded by

21 Ren, whom I said that he had been there earlier. Amongst the five

22 brigades, there were Intervention Brigade 221, Brigade 460, <

23 Brigade > 703, <and Brigade> 805.

24 So there were five brigades in total, and that's what I stated in

25 my previous interview.

1 [11.11.42]

2 Q. Okay. You just mentioned the other brigades that formed part
3 of this division. I'm going to ask you some questions regarding
4 who was in charge of those other brigades.

5 But first I'd like to ask you, was -- were there ever any -- in
6 addition to the five brigades that you just mentioned, were there
7 -- was there a separate unit of artillery and tanks attached to
8 your division in Svay Rieng?

9 A. The division was overall in charge by Ren, and there were five
10 brigades under his subordinate, that is, my brigade, 221. Then
11 there were Brigade 460 headed by Phan, who passed away, Brigade
12 703 headed by Dy, who is also dead, and Brigade <885 (sic)> was
13 headed by Phan, who passed away also.

14 [11.13.15]

15 Q. (No microphone)

16 Sorry. I'd like to read to you a quote. It's the OCIJ statement
17 E3/4593. It is a WRI of Chuon Thy, answer A15. He mentions the
18 units that you discussed, and he says at the end -- quote:

19 "Besides artillery and tank units belonged to the Central
20 Committee also joined in with Ren's division." Close quote.

21 Does that refresh your memory? Were there artillery and tank
22 units belonging to the Central Committee also joined in with
23 Ren's division?

24 A. Yes, I know about it, but I haven't yet finished my response.

25 In Svay Rieng, that division also had <one> tank <unit and one>

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1 artillery unit. <>

2 Q. Do you know why they were referred to as belonging to the
3 Central Committee? Why were those artillery and tank units
4 referred to as belonging to the Central Committee?

5 A. I do not understand about the arrangement that they were under
6 the Centre. When I arrived, the artillery and tank units were
7 under the subordination of Ren, who was overall in charge and who
8 dealt with all the issues, including statistics. And that is the
9 limit of my knowledge.

10 I did not know that it was under the supervision of the Centre.

11 [11.15.45]

12 Q. In your Written Record of Interview at answer 5, you go
13 through the names of the people in charge of the various brigades
14 of this division, and then you say, quote:

15 "All five of these brigades made up a Central Division supervised
16 by Ren." Close quote.

17 Why did you refer to it as a "Central Division"?

18 A. I do not know whether a typing mistake was made in the
19 interview. What I know is that in Svay Rieng, there was one
20 division, <there were no more battalion> and underneath <the
21 division>, there were five brigades. And that is what I provided
22 during my interview, and maybe there was a misspelling in the
23 transcript of the record.

24 And I also provided the names of those commanders of those
25 respective brigades. <Please check it again.>

1 [11.17.04]

2 Q. Did you remain in Svay Rieng until the final Vietnamese
3 invasion in late 1978, that is, December 1978?

4 A. I went there in mid-'78, and two months later, I was quite
5 seriously wounded, so I was sent to be hospitalized in Phnom
6 Penh. And when Vietnamese troops made a large scaled incursion, I
7 was still being hospitalized.

8 So when I was in the hospital, I could not grasp a situation
9 along the border <because I was in Phnom Penh>. <When the
10 Vietnamese reached Svay Rieng,> when I was discharged from the
11 hospital, the forces fled and <scattered.> I met them in Prey
12 Veng, and then we retreated to the border area.

13 So during this intensified period, I was not at the border since
14 I was <seriously wounded when I was in Prasout (phonetic)
15 district>.

16 [11.18.22]

17 Q. When you first arrived in Svay Rieng in mid-1978, do you know
18 where the Vietnamese troops were located along the Cambodian
19 border?

20 A. When I went to Svay Rieng and a while ago, I said that once we
21 arrived at Chak village of Prasout (phonetic) district,
22 Vietnamese troops were there and they fired upon us. Three of our
23 trucks caught fire, so they were no longer at the border. They
24 actually entered the Kampuchean territory. And they were in Chak
25 village at Prasout (phonetic) district. And that was much further

1 from the border area.

2 Q. Thank you for that clarification.

3 What was the role of an intervention brigade? What made an
4 intervention brigade different from a regular brigade?

5 A. The role of the intervention brigade, that is, our special
6 role, is not to remain at one location. We had to be flexible and
7 to mobilize our forces upon request from the upper echelon, so we
8 would not remain stationed at one place permanently <like
9 infantry>. <Whenever there was an emergency at a particular
10 locations which would require the assistance of the intervention
11 unit,> we had to be flexible and mobilize based on the request.
12 <That was the responsibility of the intervention brigade.>

13 [11.20.19]

14 Q. So does that mean that you were sent to fight in other areas
15 other than the Prasout (phonetic) area that you already
16 described?

17 A. Yes, that is correct.

18 Q. Can you tell us what some of these other areas were where you
19 engaged in fighting in Svay Rieng?

20 A. If you want me to describe the many battlefields, <there are>
21 too many to describe. And I cannot recall everything.

22 I fought <almost> on a daily basis, or in Khmer word you could
23 say that we were being threatened every day. There was always a
24 threat on a daily basis, and our role as an intervention brigade
25 was to deal with issues at any locations that was hot. <For

1 instance, as I told you earlier, Vietnam reached Prasout
2 (phonetic) district,> and the upper echelon would assign us to
3 attack that area, but by the time we arrived, Vietnamese <were
4 not at> Prasout (phonetic) district, <they already moved pass
5 that, and by the time we arrived, they started attacking us>.

6 [11.21.55]

7 Q. And when you say that the upper echelon would assign you, who
8 were you referring to? Who would assign you?

9 A. The upper echelon here refers to the division, that is, Ren
10 because Ren was overall in charge of those four or five brigades.
11 All orders came from Ren.

12 Q. Where was Ren's office located? Where was he based in Svay
13 Rieng?

14 A. Regarding the battlefield in Svay Rieng, neither Ren nor I had
15 any permanent office because by that time, the fighting was in
16 large scale and Vietnamese engaged in the use of artillery and
17 area bombardment, so there was no fixed office. We were always on
18 a mobile.

19 Let's say we stayed in Svay Rieng. We could not stay in Svay
20 Rieng there due to the artillery shelling. And for that reason,
21 we had to always on mobile.

22 [11.23.27]

23 Q. Did you ever hear of a place called Kraol Kou?

24 A. Yes. I heard about it and I even went to Kraol Kou. Kraol Kou
25 is a bit after Neak Loeang, and in Kraol Kou, there was a

1 logistics office <for providing supplies to soldiers>. However,
2 as I said, for a military headquarter or office, there was no one
3 fixed location since we were constantly on mobile. <During that
4 war, the commanders could not station in a fixed location.> And
5 the area that you referred to is the logistics office.

6 Q. Who was based at the logistics office?

7 A. The commander of division would have deputies, deputies in
8 charge of military, in charge of finance and logistics, and so it
9 could be one of those deputies who was in charge of that
10 logistics office.

11 Q. Was there a telegraph or a telegram machine at the logistics
12 office?

13 A. Yes, it had everything for the purpose of communicating to
14 those logistic units within each brigade <and division> in order
15 to receive materials to provide to the front battlefield.
16 And there was usually a chain of command from the upper level
17 down to the lower level in this regard.

18 [11.25.46]

19 Q. Did you have any meetings with Ren when you were in the East
20 Zone?

21 A. Regarding the relationship between the commander of a division
22 and commanders of brigades, we usually met every three days
23 because we had to know about the various plans, the attack plans,
24 the ammunitions and logistics, amongst other matters.

25 Q. What other matters were discussed other than logistics and

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1 attack plans at these meetings?

2 A. Through my fighting experience in Svay Rieng, because by that
3 time the situation was ripe, so the instructions or the orders
4 were very much around the fighting strategy because by that time,
5 there was no talking about politics or policy.

6 Vietnam was everywhere in Svay Rieng, so we had to try to deploy
7 our strategy to contain them and not to discuss about any policy
8 any more.

9 [11.27.25]

10 Q. Did Ren ever mention anything about East Zone traitors or
11 being -- treason committed by East Zone cadre?

12 A. In theory, yes, he did. He said that there was this traitor or
13 that traitor in the East Zone. However, the main focus would be
14 on the fighting of war strategy and not delve deeply into this
15 treason.

16 Q. Where were these meetings taking place? Were they at the
17 logistics office or were they elsewhere?

18 A. As I stated from the outset, the meetings were also on mobile.
19 Sometimes the meeting was held here or there. Since we would be
20 attacked by Vietnamese area bombardment or shelling from the
21 artillery, so there were many locations that we participated in
22 those meetings. <I cannot recall all of them.>

23 [11.28.55]

24 Q. Did -- were you ever aware that Ren was providing you with
25 information that he received from telegrams in these meetings?

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1 A. As I stated a while ago, in term of relationship between the
2 division commander and brigade commanders, he would reiterated
3 all the war strategies, how we had to contain them and how to
4 retreat. So the content was purely military, and also another
5 important issue <was> food supply, that we <had> to be very
6 careful with our food supply during the Vietnamese attacks.

7 Q. Let me read to you a quote from a Written Record of Interview
8 of Sokh Chhean. This is E3/428; English, 00374950; French,
9 00485476 to 77; in Khmer, 00373485; this is what he said, Mr.
10 Witness -- quote:

11 "I never saw or personally received any telegrams, but I did hear
12 the substance of various telegrams that they announced during
13 meetings. While I was at Svay Rieng, Ren made announcements about
14 the substance of a number of telegrams, for instance,
15 strengthening forces to get ready to counter Vietnam in
16 cooperation with the people and being absolute with Vietnam,
17 meaning there were to be no accommodation or negotiations at all
18 with Vietnam, to consider Vietnam as an enemy." Close quote.

19 Does that refresh your memory that Ren would also discuss similar
20 telegrams in meetings with you?

21 [11.31.27]

22 A. I have stated that there were many instructions, but I cannot
23 recall everything. It happened 20 or 30 years ago. And in
24 relation to Kampuchea-Vietnam relationship, the instructions from
25 the upper echelon was absolute. There would be no compromise. Not

1 at all. <So there were such instructions among the army in
2 general.>

3 Q. And was the upper echelon that you're referring to here, was
4 there an indication from Ren that this was coming from Phnom Penh
5 or the Centre somewhere, or were you not -- did you not know
6 where Ren was getting his information from, or his instructions?

7 A. I was at a lower level, so I did not know, for example,
8 whether the telegram came from the Centre. Everything I knew was
9 from Ren.

10 MR. BOYLE:

11 Mr. President, I can pause here if you wish. I'm happy to
12 continue as well.

13 MR. PRESIDENT:

14 You want to compensate for the time that has lost, and it is also
15 up to the President <> to adjourn the proceeding, so please
16 continue until I say it's the time.

17 [11.33.08]

18 BY MR. BOYLE:

19 Absolutely.

20 Q. Were you ever aware of -- Mr. Witness, were you ever aware of
21 Ren going to Phnom Penh for any meetings and bringing information
22 back from Phnom Penh and conveying that information to you and
23 others in Svay Rieng?

24 MR. IENG PHAN:

25 A. It is typical that Ren was not the most senior, so he had to

1 receive information from the upper level. However, to what level,
2 I did not know. And I only knew about military affairs and, of
3 course, Ren came to Phnom Penh that often since he had to have
4 communication with the Centre or the Centre's army, and I would
5 not know what affairs or what matters that Ren brought along or
6 discussed. <I said earlier that during the Khmer Rouge regime,
7 there was a saying, "minding your own tasks, do not interfere
8 with others' ">. <So> I minded my own business at the brigade
9 level and, as Ren, he would mind his own business at the division
10 level. <So I would not know about their meetings. >

11 [11.34.30]

12 And of course, I knew that he went rather frequently to Phnom
13 Penh, and in particular during the Vietnamese attacks.

14 Q. And you testified when you first arrived here that he would do
15 the following. This is at 10.23.00 -- quote:

16 "And Ren was the commander of the division and, of course, he had
17 the authority to join the meeting with the upper echelon, and I
18 was not allowed to do so. But after the meeting, then he would
19 disseminate the information to the five brigades in a meeting
20 where the brigade commanders and the deputy brigade commanders
21 would attend such meeting." Close quote.

22 And so is that accurate, that he would then disseminate this
23 information when he would return from these meetings in regards
24 to the fighting with Vietnam?

25 A. Yes, that is correct.

1 [11.35.34]

2 Q. Did you ever attend any meetings with Son Sen in Svay Rieng?

3 A. I used to attend a meeting with Son Sen at Kraol Kou. By that
4 time, Son Sen went from Phnom Penh to Kraol Kou to hold a
5 meeting, and that is to discuss the issues of the Vietnamese
6 attacks in Chak village, that is, in Prasout (phonetic) district.

7 Q. And you mentioned earlier that Ren made mention of treasonous
8 activity by East Zone members even though the main subject was
9 the fighting with Vietnam. How about Son Sen; did he ever mention
10 anything in these meetings about treasonous activity by East Zone
11 cadre?

12 A. I stated from the outset that before he opened the meeting, he
13 said a few words to those military commanders that, in the East
14 Zone, there were cadres who were traitors, and that's it. He did
15 not give us lower level people the reasons or the motives behind
16 that. <He just announced that and then we were instructed to do
17 our tasks.> And that was it.

18 [11.37.21]

19 Q. Are you able to say approximately how many times you joined
20 meetings in Svay Rieng where Son Sen was present?

21 A. I was there for a short period of time because I was there in
22 mid-78. And during my first month, I attended a meeting once and,
23 later on, I was wounded so I did not attend any further meeting
24 because by that time, the Vietnamese had attacked. And the one
25 meeting that I attended when he went from Phnom Penh to Kraol

1 Kou.

2 Q. In your Written Record of Interview at answer 8, you state --
3 quote:

4 "I attended meetings with Son Sen in Svay Rieng province many
5 times, especially at Kraol Kou when I was sent to Svay Rieng
6 province. That was the first time I got to know Son Sen. During
7 those meetings, Son Sen spoke about military duties surrounding
8 border defence tactics to counter the Vietnamese soldiers." Close
9 quote.

10 You were stating in your Written Record of Interview that you
11 attended many meetings with Son Sen. Does that refresh your
12 memory that you may have attended more than one meeting with Son
13 Sen in Svay Rieng?

14 [11.39.11]

15 A. I am afraid that the transcriber made a mistake of my
16 statement because I only attended the meeting for one time. Then
17 I was wounded and, after I was discharged from the hospital, the
18 Vietnamese troops had entered.

19 Q. Would you, yourself, ever receive telegrams from Ren with
20 instructions on them?

21 A. Regarding the superior commander instructions to the lower
22 commanders, we received instructions through various forms,
23 including via telegrams, also, <through frequent> meetings <with
24 Ren>. Sometimes there were many participants and sometimes there
25 were <only two of us based on the actual situation at the

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1 battlefield at particular moments>. And the telegrams were the
2 constant means of communication.

3 [11.40.37]

4 MR. PRESIDENT:

5 Thank you.

6 It is now time for our lunch break. The Chamber will take a break
7 now and resume at 1.30 this afternoon to continue our
8 proceedings.

9 Court officer, please assist the witness during the lunch break
10 and invite him as well as his duty counsel back into the
11 courtroom at 1.30 this afternoon.

12 Security personnel, you are instructed to take Khieu Samphan to
13 the waiting room downstairs and have him returned to attend the
14 proceedings this afternoon before 1.30.

15 The Court stands in recess.

16 (Court recesses from 1141H to 1330H)

17 MR. PRESIDENT :

18 Please be seated.

19 The Court is now back in session, and the Chamber gives the floor
20 to the Co-Prosecutors to resume the questioning.

21 The time left for the Co-Prosecutor and Co-Lead Lawyer for civil
22 party is only one session.

23 [13.31.08]

24 BY MR. BOYLE:

25 Yes. Thank you, Mr. President.

1 Q. Mr. Witness, I want to return to asking you some questions
2 about your time in Svay Rieng.

3 When you arrived in Svay Rieng in mid-1978, did you see any
4 civilians remaining in any of the areas that you were posted with
5 your unit?

6 MR. IENG PHAN:

7 A. When I went to that front battlefield, there were no people at
8 that location.

9 People were living in the area from Kraol Kou to Neak Loeang.
10 <After Svay Rieng provincial town>, there were no people.

11 Q. Do you know what had happened to the people that had been
12 living in those areas before?

13 A. Upon my arrival, people had been evacuated <to the rear>
14 already because of the intense fighting between the Vietnamese
15 and Kampuchean troops<>.

16 [13.32.52]

17 Q. In that regard, I'd like to read to you a document; this is
18 E3/862; English, ERN 00185207 to 08; Khmer, 00021019; in French,
19 00814597. It's a report for the first week of May 1978 from
20 Sectors 23 and 24 and this is what it says - quote:

21 "In Region 23, the 'Yuon' enemy that invaded our territory
22 beginning from 26 April 1978 has fallen into our trap and we have
23 now surrounded them.

24 "In the battlefield in Region 23, we have destroyed the enemy to
25 defeat completely and destroy tanks.

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1 "We have withdrawn people from four districts to live inside our
2 territory. Those districts are Prasautr district, Chantrea
3 district, Kampong Ro district, and Samraong district."

4 [13.34.11]

5 And then in a little -- a little later on in an area -- section
6 called "People's Livelihood", he -- the document goes on to
7 quote, "Because people in Prasautr, Kampong Ro, Chantrea, and
8 Samraong districts had to move back into the rear bases, they
9 faced shortages of food etc." Close quote.

10 Is this the evacuation that you are talking about, moving people
11 from the four districts that I mentioned into the rear bases?

12 A. I have already told the Chamber that if we had not evacuated
13 people, at that time, people would have <> left <in groups>,
14 since there were heavy shellings and there were fightings at that
15 location.

16 [13.35.18]

17 Q. I'd like to ask you about the heavy shelling and the fighting
18 at that location. You already testified that, indeed, your unit
19 was involved in fighting immediately on your arrival in Svay
20 Rieng and when you previously attended and gave testimony in this
21 Court, you said at 10.24.44 that there were attacks back and
22 forth with the Vietnamese forces and at 15.22.27 that there were
23 large-scale attacks.

24 Is there anything that you can add to that, for the Chamber, to
25 describe what the combat with the Vietnamese forces was like when

1 you were in Svay Rieng?

2 A. the combat, when I was there, was in a tug war situation
3 meaning that we pushed back and forth. <However, we could push
4 them only until Prasout (phonetic) district, not until the
5 border. After we took back the district for two days or so, the
6 Vietnamese would recapture it. So we pushed each other back and
7 forth, but we could not push them back into their own territory.
8 Since I was there, that was the situation, we pushed back and
9 forth until I was wounded.>

10 [13.37.00]

11 Q. And while you were in Svay Rieng, was there fighting on a
12 daily basis?

13 A. The combat occurred on a daily basis. We did not have time to
14 relax. The distance from Prasout (phonetic) to the border was
15 far, <and the front width was very wide for the Vietnamese to
16 invade.> So usually the forces would counter the fighting with
17 different divisions. <Sometimes we did not fight at the front,
18 but at the left or right side.> Again, the combat occurred on a
19 daily basis <until the time> the Vietnamese forces came in large
20 scale.

21 Q. You mentioned earlier that you got injured while you were in
22 Svay Rieng; I believe you said it was from artillery. Can you
23 tell us where you were fighting when you got injured?

24 A. I was engaged in Phum Chak or Chak village. I was injured by
25 the ammunition from the tank. I was hit two times <on that day>,

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1 in fact, I was injured by the ammunition from the tank and <then
2 when I was carried back>, I was injured by the mine explosion,
3 <but I did not die>.

4 Q. Were there many members of your intervention brigade that were
5 either killed or captured or injured by Vietnamese forces?

6 A. In the course of combat, there were a large number of
7 <fatalities> within my unit and many soldiers disappeared. I do
8 not know whether those soldiers had been captured by the
9 Vietnamese; I have never received news from these soldiers from
10 that time onwards.

11 [13.39.49]

12 Q. You mentioned in response to a question of mine, earlier, that
13 there were too many areas for you to name that you were engaged
14 in fighting in Svay Rieng because you moved around. Was one of
15 those areas called Bavet; were you ever engaged in fighting in
16 Bavet?

17 A. I told <you> earlier in fact, the Vietnamese forces had
18 penetrated up to Prasout (phonetic), <> Chak <> already; I,
19 therefore, could not be moved or transferred close to Bavet. <The
20 Vietnamese force already advanced pass Bavet and already reached
21 Prasout (phonetic) district office and Chak district already. So
22 we could not go to Bavet.>

23 Q. Were you engaged in fighting in an area that was known as the
24 Parrot's Beak or Chum Poutea (phonetic)?

25 A. At that Duck's Peak <or Chum Poustea (phonetic)> location,

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1 <only the people who went there before me got to engage in the
2 fighting. When my group arrived,> the Vietnamese had entered
3 beyond that location already. <They passed Chum Poutea (phonetic)
4 already.>

5 Q. Do you recall whether they entered in -- beyond that location
6 in June of 1978?

7 A. It is my understanding that in the course of combat <in Svay
8 Rieng>, which was very large; I mean a large-scale one, Cambodian
9 forces could not be able to push the Vietnamese forces too far
10 from the location where we were in combat. <I did not know about
11 the situation there before I arrived, but when I arrived,> we
12 pushed back and forth, at that time, but we could not push back
13 Vietnamese forces to the border.

14 [13.41.48]

15 Q. Let me read to you a quote from a newspaper article that's on
16 the case file regarding the Parrot's Beak region. This is
17 E3/8234; it's only one page, from 28 June 1978 "Washington Post"
18 and this is what it says, Mr. Witness - quote:

19 "The 'Voice of America' reported today that about 80,000
20 Vietnamese troops have launched a major assault into Cambodia's
21 Parrot Beak Region. 'VOA' quoted US officials in Washington. The
22 news agency said Vietnamese forces wiped out a Cambodian
23 battalion in Tay Ninh province and another in Ben Cau district.
24 It said the 160 Cambodian soldiers were killed in the battles
25 June 20 and 23 in Chau Thanh district." Close 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.

1 Does that refresh your memory about a major incursion by
2 Vietnamese troops in June of 1978?

3 [13.43.43]

4 A. I had not arrived, yet, at that location in June. It is to my
5 understanding the combat <that> occurred between <the Vietnamese
6 and the Cambodian forces, according to my knowledge, at the time
7 was when> Division 703 <was in position and it was stationed at
8 Tay Ninh>. It was because the fighting became intensify that I
9 was transferred from Takeo to Svay Rieng.

10 Q. Do -- did you hear that Division 703 was involved in fighting
11 in Tay Ninh province and Ben Cau district?

12 A. I heard about the fact that Division 703 was engaged in the
13 combat, but that combat happened only at the paved road; it did
14 not reach Tay Ninh. <They were surrounded and> almost all forces
15 were destroyed by the Vietnamese troop, at the time; only a few
16 soldiers left from that combat <to return to Cambodian
17 territory>.

18 [13.45.14]

19 Q. And was it because -- was it your understanding that because
20 Division 703 suffered such losses that that was why you were sent
21 from the Southwest Zone to the East Zone along with the other
22 soldiers?

23 A. It was because of this particular point that I made mention
24 that soldiers were selected from different brigades <in Takeo>
25 and formed <Intervention> Brigade <221> to reinforce the forces

1 at Prasout (phonetic) <and Chak, not at Tay Ninh>. We were sent
2 to that location in order to attack the Vietnamese forces so that
3 the Vietnamese forces at <> Tay Ninh <would> move <to the
4 location that was attacked by us> to reinforce their forces.

5 Q. Were you aware of aerial bombardment, while you were in Svay
6 Rieng, with, you've described, some planes dropping rockets in
7 Takeo; were there planes dropping rockets or bombs -- Vietnamese
8 planes dropping rockets or bombs in Svay Rieng while you were
9 there?

10 A. Vietnamese troops used a lot of planes at Svay Rieng, more
11 than the planes used at Takeo. <At Takeo, they used a plane to
12 fire rocket at us, but> Vietnamese troops used different types of
13 planes and a lot of artilleries at Svay Rieng. There was an
14 intensified fighting before the infantry <came to engage in the
15 fighting>.

16 [13.47.29]

17 Q. Was your intervention unit involved in placing mines or spikes
18 along the border or along your fighting lines with Vietnam?

19 A. Upon our arrival at Svay Rieng, we had no time to focus on
20 laying spikes traps or mines because <it already passed the
21 border line,> it would cause injury or dangers to people who were
22 fleeing that location. We did not focus on laying traps or mines.

23 Q. I -- I'd like to read to you a couple of quotes. This is from
24 an individual who testified just last week, deputy commander of
25 division -- of Brigade 340, Chuon Thy. This is the draft

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1 transcript of 26 October 2016.

2 At 10.55.55, he says, "Spike traps were placed at the border and
3 those spike traps were made out of bamboo wood. We were appraised
4 that we would be trapped also by those spike traps. Those spike
5 traps were only laid at the border." Close quote.

6 Does that refresh your memory regarding members of your division
7 placing spike traps along the border?

8 A. Upon my arrival, I did not think or plan to lay traps or
9 spikes. <I believe there were some spikes and traps laid at the
10 border area before, but when the fighting spread pass the
11 border,> I don't think there were traps or spikes laid at that
12 location. The battlefield was in a large <scale>, so we did not
13 lay any traps or spikes.

14 [13.50.00]

15 Q. I would like to read you one additional document. This is a
16 report for the first week of May 1978 for twin sectors 23 and 24.
17 It's E3/862; English, 00185208; Khmer, 00021020; and French,
18 00814598; and this is what the report says: "We have raised
19 people's motivation to make 1,635,380 spike traps to give to the
20 battlefield." Close quote.

21 Are you saying that you are not aware of any of these over 1
22 million -- almost 1 and -- almost 2 million spike traps being
23 used in the Svay Rieng area?

24 MR. PRESIDENT:

25 Please hold on, Mr. Witness.

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1 Anta Guisse, you now proceed.

2 [13.51.20]

3 MS. GUISSÉ:

4 I would object to the manner in which the question has been
5 asked. If I properly understood the testimony, I understood that
6 more than a million spike traps were used at the time. <Wasn't
7 that number referring to the spikes themselves? Rather than to
8 the traps, the number refers to the spikes>.

9 <I don't know if there was a translation issue, but> I didn't
10 quite understand the manner in which the Co-Prosecutor asked the
11 question. In any case, perhaps he should ask the witness to
12 specify where, precisely <-- we heard that> those spike traps
13 were present <-- and> find out whether the witness went to that
14 location. <Because if we must ask him if> he is aware of the
15 existence of those traps, <he should be able to indicate whether
16 he was at that precise location.> So these are two points in
17 regard to <the way the Co-Prosecutor asked his question>.

18 [13.52.23]

19 BY MR. BOYLE:

20 I'm happy to rephrase. I think I should just clarify for the
21 benefit of the record. The report I read was in regards to the
22 production of the spikes; it doesn't -- the quote I read didn't
23 say where they were placed, so there was regards to the
24 production of the spikes for use in the Sector 23 area,
25 generally, and that's why I was asking the witness. But let me

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1 see if I can rephrase in a way that everyone is happy with.

2 Q. Mr. Witness, this report, in regards to Sector 23, says the
3 following: "We have raised people's motivation to make 1,635,380
4 spike traps to give to the battlefield." Close quote.

5 So this report seems to be indicating that they have made these
6 traps to give to the battlefield in Sector 23. I'd just like to
7 ask if that refreshes your memory about receiving or hearing
8 about spike traps to be used in Sector 23?

9 [13.53.46]

10 MR. IENG PHAN:

11 A. I am not aware of it. As I told <you already>, there were
12 combats upon my arrival. <There were no> spike traps.

13 Q. And were you aware of Khmer Rouge forces using mines, buried
14 bombs, against Vietnamese forces in Sector 23?

15 A. In fact, we, both sides, used mines. In order to win the
16 battle, we needed to use <all the> different tactics or tricks.

17 Q. You described, in your earlier testimony, the tactic of going
18 behind the Vietnamese forces in Takeo; was that a tactic that you
19 were aware was also used in the Svay Rieng area?

20 A. I already told you I went to Svay Rieng and stayed there for a
21 very short time. <I went there> in mid-1988 (sic) <and two month
22 after, I was injured>. I did not use a lot of tactics or tricks
23 <because it was in such a short time>. I was injured and after I
24 got recovered, Vietnam penetrated already beyond <Svay Rieng,
25 they already reached> Neak Loeang <>.

1 MR. PRESIDENT:

2 <Was it> 1988 or 1978, Mr. Witness?

3 MR. IENG PHAN:

4 A. 1978, Mr. President.

5 [13.55.55]

6 BY MR. BOYLE:

7 Q. Thank you for that clarification.

8 Were you aware -- had -- did you hear, at all, about other forces
9 other than your forces that had preceded you, such as Division
10 703, entering into Vietnamese territory to carry out attacks?

11 MR. IENG PHAN:

12 A. Only Division 703 could enter Vietnam's territory through Tay
13 Ninh location. <They did not actually reached Tay Ninh yet, they
14 were still in the forest at the time because from the border area
15 to> Tay Ninh, <it> consisted of forest <mostly, that is according
16 to what people said> and, in fact, Division 703 <did not actually
17 reach Tay Ninh yet, they were counter-attacked by the Vietnamese
18 forces. It was not a normal fighting, it was> a large attack by
19 the Vietnamese and very few came back. <The reason for that
20 because the Vietnamese forces did not only attack at the front,
21 they prepared tanks and fire arms with their forces along the
22 border to intercept the Cambodian forces when they retreated.>
23 Some of their forces were captured by the Vietnamese troops and
24 some died.

25 [13.57.22]

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1 Q. I'd like to read to you a statement that's on the case file.
2 This is the OCIJ statement, E3/376, of Lay Ean; English, 00278690
3 to 91; Khmer, 00270173 to 74; and French, 00486094; and this is
4 what he says, Mr. Witness - quote:
5 "About seven months before 7 January 1979, I was ordered to
6 organize former combatants into groups for fighting the
7 Vietnamese. All chiefs of the group, the regiment, and the
8 division were all the Southwest Zone cadre. We went to fight
9 along the road to Kraek in Kampong Cham and went through
10 Vietnamese 427 into Tay Ninh province. My group was the raiders
11 of about 200 combatants, Sorn, the regiment chief; Nhor was the
12 chief of Brigade 207 and Ta Pin was the chief of division. My
13 group entered about 15 to 20 kilometres beyond the border. Our
14 fighting went on not less than three months and we received the
15 order from Ta Sorn to destroy and burn up everything and he did
16 not say anything about war disciplines. During our fighting in
17 Vietnam, my group and I threw the grenades, burned the houses and
18 military hospital." Close quote.
19 Does that refresh your memory regarding hearing about incursions
20 into Tay Ninh province that went up to 15 to 20 kilometres beyond
21 the border?
22 A. I am not aware of this particular fact. Upon my arrival, the
23 Vietnamese troops had <entered> beyond the location where I was
24 there. <I could not grasp the situation there before I arrived.>
25 [13.59.43]

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.

1 Q. I'd like to ask you about a specific report by the Vietnamese
2 News Agency in October of 1978, which mentions your special
3 intervention brigade and also Brigade 340. This is a 12 October
4 1978 "VNA" report, E3/1608; English, 000113 -- I'm sorry; I'll
5 start over again -- 00013179 to 80; Khmer, 00810114 to 15; and
6 French, 00793493 to 94; and here is what it says, Mr. Witness -
7 quote:

8 "On 1 October, Pol Pot-Ieng Sary troops of the 221st Division
9 launched a large-scale attack in an attempt to occupy the
10 enclaves along the Vietnamese defence perimeter in western Ben
11 Cau, Tay Ninh province. One Kampuchean regiment sustained heavy
12 losses. More than 100 troops were killed on the spot; a number of
13 others were captured together with a large quantity of weapons.
14 On the same day, the Vietnamese Armed Forces wiped out a
15 Kampuchean battalion of the 340th Division 3 kilometres from
16 western Ben Cau to the Southeast, killed, captured almost 250
17 assailants and seized 78 weapons." Close quote.

18 [14.01.24]

19 Mr. Witness, I guess I should, first, ask you: Were you with the
20 221st Brigade in October or were you already in the hospital in
21 Phnom Penh at that time?

22 A. I was in the hospital.

23 Q. Despite being in the hospital, did you ever hear about your
24 intervention brigade being involved in a cross-border attack in
25 Tay Ninh province in October of 1978?

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1 A. Yes, I was aware of that. I knew that one battalion was
2 reassigned to assist Brigade 703 and I did not know whether they
3 entered Tay Ninh; I only knew that a battalion was reassigned
4 <from my force> to assist Brigade 703 in Tay Ninh area because I
5 knew that soldiers were retreated to the back. <But I did not
6 know how they advanced into that area.>

7 [14.03.08]

8 Q. Did you capture any Vietnamese soldiers while you were
9 involved in combat?

10 A. Our unit never captured anyone.

11 Q. Were you aware of other brigades in your division or other
12 Khmer Rouge soldiers capturing Vietnamese soldiers, at times,
13 during combat?

14 A. To my knowledge, they did not <capture any Vietnamese
15 soldiers> in Svay Rieng area because we, ourself, were in a
16 difficult position <so we could not capture them>.

17 [14.04.07]

18 Q. I'd like to read to you from a document. This is a DK
19 publication; it's titled "Accounts of Vietnam's Aggression
20 against Democratic Kampuchea," E3/8403 at English, 00749682;
21 Khmer, 00744492; French, 00419636; and this is what it says -
22 quote:

23 "Recently, on 24 July 1978, Vietnam, once again, suffered another
24 crushing defeat when it took the desperate move to send its
25 troops to attack Kampuchea at Bavet in Svay Rieng province. Our

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1 Revolutionary Army of Kampuchea took on the enemy ferociously and
2 swiftly annihilated an entire battalion of the Vietnamese army of
3 aggression, the 5th Battalion of the 7th Brigade. All of the men
4 and officers of the 7th Company of this battalion were killed;
5 there was only one survivor, Sergeant Major Nguyen Van Que
6 survived, who was captured by our army that day."

7 [14.05.20]

8 Mr. Witness, the 31st of July 1978, following that, E3/75 at
9 English, 00168931, DK Radio broadcast a confession from this same
10 Vietnamese soldier; does that refresh your memory that, indeed,
11 on occasion, Vietnamese soldiers were captured and that they were
12 then sent to Phnom Penh?

13 MR. PRESIDENT:

14 Witness, please hold on and Counsel Koppe, you have the floor.

15 [14.06.03]

16 MR. KOPPE:

17 Yes, I have an objection, Mr. President, in respect of the first
18 document that was read to the witness. I'm not quite sure if I
19 understood it correctly, but I believe the Prosecution introduced
20 it as a DK document. I'm not quite sure if that is accurate. It
21 is September 1978 document from a French organization in
22 Chantilly and it's called "Comité des patriots du Kampuchéa
23 démocratique en France." So, I'm not quite sure if that is an
24 official document from the DK government.

25 BY MR. BOYLE:

1 It's fine; I'm happy to withdraw that description of it at the
2 beginning.

3 Q. Mr. Witness, does that refresh your memory that, at times,
4 Vietnamese soldiers were captured in Democratic Kampuchea and
5 that they were then sent to Phnom Penh?

6 A. I have repeatedly said that I was wounded, at that time, so I
7 did not keep myself up with the progress at the battlefronts. I
8 tried to recover myself.

9 [14.07. 38]

10 Q. When you were engaged in fighting in Svay Rieng, did you make
11 reports or send telegrams regarding how fighting was proceeding
12 that you would send to your superiors?

13 A. It is typical in term of the commander and deputy or
14 relationship between the upper level to the lower level. There
15 was a reporting regime which took place daily about <the
16 activities, the forces,> the food supplies and the ammunition.

17 Q. Would you also describe how battles had gone in these reports;
18 would you say where you had engaged in combat, etc.?

19 A. <Regarding the attack plan, if we were to say that attacking
20 is a life and death matter, then> if we talk about the attack
21 plan, then the tactics and the strategies had to be very
22 detailed. It's not <only> about carrying a gun to the battlefield
23 and shoot the gun. We had to coordinate amongst ourselves and
24 whether we could <follow the plan, whether we could> retain them
25 and for what reason and if we could not, why we could not. These

1 are parts of the war strategies and <it is a long story to talk
2 about the plan. But I can say that>, indeed, there <were reports>
3 between the upper and lower levels.

4 [14.09.35]

5 Q. I'd like to read to you a broadcast from October of 1978. This
6 is E3/294 from DK Radio; English, 00170239; there's no Khmer or
7 French, and this is what it says - quote:

8 "Recently, the Vietnamese enemies, again, sent their armed forces
9 to openly intrude into our Kampuchean territory in the Svay Rieng
10 border areas, but they were, again, shamefully defeated following
11 our facts and figures recorded from 16 through 30 September 1978.
12 Our Revolutionary Armed Forces killed 422 and captured a large
13 number of Vietnamese troopers, seized 11 B40s, 6 B41s, 3 M79s,
14 128 M72s, 3 60 mm mortars, a DK82, 3 DK75s, 5 12.8 mm guns, 7
15 M60s, 8 M30s, etc., etc., etc."

16 Is this the type of detail that you would put into your reports,
17 when you would engage in combat, would you explain the types of
18 ammunitions that you had been able to capture in detail?

19 A. I have explained from the outset there were five brigades,
20 <not just my brigade> and for me, my brigade was an intervention
21 brigade. Usually, when there was an emergency, then our troops or
22 our brigade would intervene.

23 As for the reports from other brigades, they would report to the
24 upper level directly, so I did not know the contents of those
25 reports <because I was just a brigade commander who would engage

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1 in the fighting when there was an emergency>. And the report you
2 made mention about the casualties or about the number of dead
3 soldiers to the upper level, that is beyond my knowledge.

4 [14.12.05]

5 Q. Had you -- did you return to Svay Rieng after you were in the
6 hospital in Phnom Penh before December 1978 or any time before
7 the Vietnamese finally invaded in late December 1978?

8 A. No, I did not reach Svay Rieng. I met the troops in Prey Veng
9 because all had withdrawn from Svay Rieng to Prey Veng, then we
10 left Prey Veng to Tang Kouk (phonetic) crossing Tonle Sap River
11 or lake. <And we did not go back to Svay Rieng.>

12 Q. And what was the date that you reunited with your troops?

13 A. I went there probably on the 1st of January <1979> or it could
14 be possible that it was on the 5th of January, because we arrived
15 <at Road Number 5,> at Sala Lekh Pram on the 12th <in 1979> and
16 it took us 12 days to walk from Prey Veng and I walked along with
17 my soldiers. And, by that time, there was no forces in Svay
18 Rieng, <we retreated> since Vietnam had occupied Phnom Penh, so
19 we walked across <Tonle Mekong and> Tonle Sap and we reached
20 Sala Lekh Pram, <Road Number 5>.

21 [14.14.10]

22 Q. Thank you. When you previously testified, you provided a fair
23 amount of testimony about the process of providing biographies
24 when you were in the Khmer Rouge armed forces. You described
25 being -- writing the biography and having individuals investigate

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1 your details at your village level and then monitoring and you
2 also talked about individuals in your unit being taken away when
3 it was discovered that -- that they had connections to former Lon
4 Nol officials. I won't read all of this because it was in the
5 prior testimony. Just for general reference, you can find it at
6 the transcripts at 11.13.54 and 11.17.40.

7 I'd like to ask -- I'd like to get a little bit of clarification
8 on two things that you said, so I would like to read to you,
9 first, a quote from your prior testimony in that regard. This is
10 at E1/193.1, 10.00.56 and this is what you said, Mr. Witness:
11 "In the common practice in the Khmer Rouge military army, in
12 particular, around 1976 and '77, there was a process of
13 screening, as I stated in my interview. Those people who had
14 their relatives who were high-ranking or former high-ranking
15 officials, they would be removed and sent to the rear to raise
16 chickens, to raise pigs, or to break rocks or to plant cotton,
17 etc., and that was the fact. However, amongst the army, there
18 were only a few cases; for instance, in my unit, there were only
19 two or three cases and if I recall correctly, nothing happened to
20 them and that's what happened." Close quote.

21 I'd like to ask: How did you learn about what happened to these
22 individuals from your unit that were called away because they had
23 connections to former high-ranking officials?

24 [14.17.12]

25 A. I do not deny that and I support it. In my unit, people who

1 were affiliated with high-ranking former officials of the Lon Nol
2 regime were reassigned to raise poultry or to plant vegetables.
3 They were not taken away and killed, but they were reassigned
4 from the military unit to raise poultry or to plant vegetables
5 and that happened in my brigade.

6 Q. And my question was: How did you know that when they were
7 reassigned, they went to raise posts -- poultry or vegetables or
8 break rocks as you've said? How did you know that information;
9 were you told that or did you see them doing that?

10 A. In the army, there were investigators; though I did not know
11 where they came from, but their investigation seemed to be
12 concrete and for that reason, those people were reassigned.
13 <Otherwise, they would not reassigned people randomly.> They
14 conducted a thorough investigation before those people were
15 <re>assigned and they would notified about the reassignment <to
16 respective commanders>; for example, on a particular day, this
17 person <would> be reassigned here or there <on which date> and
18 there were only a few cases that happened in my brigade.

19 Q. So do I understand correctly that it was the investigators
20 that told you that they had been reassigned, that that is the
21 source of your knowledge regarding these people from your unit?

22 A. Yes, that is the case.

23 [14.19.24]

24 Q. And did you ever see any of these people return to your unit
25 or to other forces in the area after they had been reassigned?

1 A. Regarding the investigation and the reassignment, it happened
2 in 1976, <early 1977,> and when the Vietnamese attacked us, then
3 they all were reassigned to be soldiers. <Their pasts were kept
4 aside.> And that did happen in my unit, they were all allowed to
5 return to the army by the upper echelon. So their positions were
6 reinstated, so that we would have forces to counter the
7 Vietnamese attack.

8 Q. One final question I would like to ask you about something you
9 said when you testified before; I'll just read it to you. This is
10 at 10.07.10 and this is what you said, Mr. Witness:

11 "In general, in the military forces, of course, people would talk
12 from one to another about the screening, about the removal of
13 this person or that person; however, there was no official
14 instruction for the commanders to proceed with this policy of
15 something. Like us or like myself, I was not instructed to do so
16 and, for instance, even in my unit, if people were to remove, I
17 was not informed. There would be instructions from the upper
18 echelon and those people would have removed."

19 [14.21.15]

20 Question: "Do you know who came to remove the people from your
21 battalion and where they were from?"

22 Answer: "They either came from the divisional level or from the
23 zone level and when they arrived, they would say they would like
24 to invite this person or that person as they were required by the
25 upper level and, of course, I did not have anything to say in

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1 that and everybody was scared. I, myself, was scared; in
2 particular, during the period from 1976 to 1978. Regardless of
3 your position as an ordinary combatant or a commander, everybody
4 was scared and that's the real situation at the time." Close
5 quote.

6 Is that correct that you were scared at that time?

7 A. That is correct.

8 [14.22.12]

9 Q. Can you tell the Court what it was that you were scared of in
10 that '76-'78 period and that you say that everyone was scared of?

11 A. Importantly, we were scared that we were accused of having
12 affiliation or tendency with the former Lon Nol regime. Frankly
13 speaking, I also had my uncles who were former Lon Nol soldiers,
14 <> a policeman and some of them also were medics. For that
15 reason, I was afraid; although, I was a commander. However, I did
16 not show anyone that I was afraid. I only kept it to myself.

17 Q. And what exactly were you afraid might happen if they
18 discovered that some of your relatives were former Lon Nol
19 officials or soldiers?

20 A. It is my understanding that I was afraid, at the time;
21 however, I also understood that only high-ranking Lon Nol
22 soldiers or those who were connected to them were removed, but my
23 relatives and uncles; they were low-level soldiers, so if that is
24 the case, then I would be safe. For those with high-ranking
25 officials, then it's a real concern for them. <But I was still

1 worried.>

2 [14.24.12]

3 Q. And what was the concern for the people that had relationships
4 with high-ranking Lon Nol officials?

5 A. They were concerned. As I said, they were reassigned but they
6 were not killed and they were reassigned to raise poultry, <and
7 when their living conditions were okay, their concern started to
8 fade.> The only thing is that they were not allowed to carry
9 <fire> arms.

10 Q. I just want to understand. Your testimony is that they were
11 scared and you were scared and everyone was scared because they
12 might be assigned to raise poultry; is that correct?

13 A. What I meant is that we were concerned if our relatives were
14 former Lon Nol soldiers; however, allow me to stress that Lon Nol
15 soldiers here refer to high-ranking officials. Then those who
16 were connected to those high-ranking officials would be
17 reassigned, but for those who had their relatives who were
18 low-ranking soldiers, they would not be reassigned.

19 [14.25.38]

20 MR. BOYLE:

21 Mr. President, I don't believe I have any more questions.

22 Thank you, Mr. Witness.

23 And the civil parties have informed me that they don't have any
24 other questions either.

25 MR. PRESIDENT:

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1 Thank you. I now hand the floor to the defence teams; first, to
2 the defence team of Nuon Chea to put the questions to the
3 witness. You may proceed.

4 QUESTIONING BY MR. KOPPE:

5 Thank you, Mr. President.

6 Good afternoon, Mr. Witness. I'll be asking you some questions on
7 behalf of my client, Nuon Chea.

8 Q. And let me start, if I may, with some general questions about
9 you. First, another question: Do you know a person named Chhouk
10 Rin?

11 MR. IENG PHAN:

12 A. Did you mean Chhouk Rin from Kampot?

13 [14.26.28]

14 Q. I believe so, yes, who was also a member of Division 703.

15 A. No, Chhouk Rin was not from 703. <Chhouk Rin was from Kampot.>

16 Chhouk Rin was actually from 405. He was not in 703.

17 Q. You're probably right. He, himself, said that he was inserted
18 into Division 703, but that's not important; you know him. Let me
19 tell you why I ask you -- I asked you whether you know him. He
20 said something about you and I would like to ask confirmation
21 from you.

22 Mr. President, E3/361; that's Chhouk Rin's WRI; English, ERN

23 00766452; French, 00268884; and Khmer, 00194466.

24 This is what he says about you, "Ieng Phan, who is still alive
25 now and has the rank of brigadier general, one star, in Military

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1 Region 5 in Battambang."

2 Is that -- well, you said that in 2008 -- we're eight years
3 further -- are you still -- are you a brigadier general, one
4 star, and are you still having that position?

5 A. No, now, I'm a major general; it means two stars, and I'm a
6 deputy commander of Region 5.

7 [14.29.40]

8 Q. And can you tell us when you became a major general in the
9 Cambodian army?

10 A. Please repeat your question.

11 Q. Well, let me ask it completely differently. Is it correct that
12 sometime in 1997, you, together with Meas Muth, were reintegrated
13 into the Cambodian Royal Army?

14 A. That is correct.

15 Q. And when you and your -- and your forces, I presume, were
16 reintegrated into the Cambodian Royal Armed Forces, did you then
17 become a general -- a one-star general or a two-star general?

18 A. I joined with the government. <Initially,> I was appointed by
19 the King as a brigadier general. From that time onward, I have
20 performed my duties and then I was promoted to a major general.

21 [14.31.42]

22 Q. And do you know if something similar happened to Meas Muth or
23 did different things happen with Meas Muth when he integrated,
24 together with you, in -- into the Royal Armed Force -- Royal
25 Cambodia Armed Forces?

1 A. Brother Meas Muth rank was the major general and he is advisor
2 to the Ministry of the Defence.

3 Q. Last question in this regard, Mr. Witness: When you
4 reintegrated into the Cambodian army, were you told that you
5 would not be prosecuted for anything that happened during DK?

6 A. I was informed that there will be no prosecutions against me.

7 Q. Thank you for that clarification, Mr. Witness.

8 My following question is about your deputy commander, Sokh
9 Chhean. He also gave testimony to the investigators of this
10 Court. Do you know whether he is still alive today?

11 A. He is alive nowadays.

12 [14.33.50]

13 Q. And is he also a member now of the Cambodian Armed Forces?

14 A. He is currently a <deputy> of the <general> staff of the
15 infantry and his rank is major general.

16 Q. He, as I said, gave testimony to investigators, that is, E --
17 document E3/428; English, ERN 00374949; Khmer, 00373484; French,
18 00485476. This is what he said and let me read his answer -- let
19 me read the question and answer to you.

20 "What situation did you see happen regarding the East Zone
21 cadres, both military and civilian, when you arrived in mid-'78?"

22 This is what he says: "When I reached Svay Rieng province, I did
23 not see any people living there, not a single one. I only saw the
24 troops from the southwest and the troops already there in the
25 east, like Division 885, for example. As for the Prasout

1 (phonetic) area, Vietnamese troops had already occupied it and it
2 was a hot battlefield. When I arrived there, I heard news from
3 among the troops that the East Zone troops of So Phim had
4 committed treason and had joined forces with the Vietnamese army.
5 Ren announced at a meeting 'So Phim and a number of East Zone
6 forces have joined with the Vietnamese to attack and overthrow
7 the Khmer Rouge'."End of quote.

8 Mr. Witness, this testimony from your deputy commander, Sokh
9 Chhean, is that correct?

10 A. Some points are correct.

11 [14.36.46]

12 Q. Could you tell the Chamber which points are correct?

13 A. I told the Court, earlier, that when Ren convened a meeting,
14 he spoke about the East Zone, who were traitors and who were not.
15 I could not tell you the detail of the speech he made, but he did
16 speak about the <content that Chhean did mention>.

17 Q. Thank you for the clarification, but what I'm particularly
18 interested in is when he says that what he had heard about So
19 Phim is that he heard news from among the troops; is that
20 something that your troops knew or how was that information
21 relayed to the troops about So Phim?

22 A. In Svay Rieng province and within the old division of So Phim
23 from the East Zone, for example, Division 805 you mentioned, that
24 division was based in the east. That news was mentioned by
25 people; people spoke about that from one another. <I do not

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1 regard it as an official statement so I did not pay much
2 attention about it.> I heard about it from the division, which
3 was based in the east.

4 [14.39.00]

5 Q. But he also said that So Phim had joined forces with the
6 Vietnamese army; are you in a position to say what he might have
7 meant, him being your deputy commander? So Phim had joined forces
8 with the Vietnamese army; when did he do that; how did he do
9 that; do you know this?

10 A. I am not sure on this particular point. I have nothing to tell
11 you about the sources. I am not sure about that.

12 [14.39.58]

13 MR. PRESIDENT:

14 Thank you, Counsel, and thank you, Witness, <> and the Court is
15 now take a short break <until 3 p.m.>

16 And Court officer, please assist the witness in the waiting room
17 during the break time and please invite him back together with
18 the duty counsel into the courtroom at 3 p.m.

19 The Court is now in recess.

20 (Court recesses from 1440H to 1501H)

21 MR. PRESIDENT:

22 Please be seated.

23 The Court is now back in session and I hand the floor to the
24 defence counsel for Nuon Chea to continue putting further
25 questions to the witness.

1 BY MR. KOPPE:

2 Thank you, Mr. President.

3 Good afternoon, again, Mr. Witness. Before the break, we were
4 speaking about So Phim and the fact that he, according to your
5 deputy commander, worked together with Vietnamese forces.

6 Q. I realize it's -- it's a long time ago, but could I ask you to
7 go back into your memory and as to of what acts So Phim's treason
8 consisted of, if you know?

9 MR. IENG PHAN:

10 A. I am not aware of any.

11 [15.02.47]

12 Q. Let me read to you what Chhouk Rin told investigators, E3/362;
13 English, ERN 00268898; Khmer 00212 -- sorry, 10213, so it's
14 00210213; and French, 00268906. This is what Chhouk Rin says:
15 "According to my experience, for example, the people in the
16 Eastern Zone, such as So Phim, were the hidden enemy. Although,
17 he belonged to the CPK, he had relationship with Vietnam. The
18 other people in the Eastern Zone were Heng Samrin, Chea Sim, and
19 Hun Sen. If they had not run, they would have been arrested." End
20 of quote.

21 Does this somehow refresh your memory?

22 [15.04.11]

23 A. My understanding is that I have no grasp about the issue of
24 the situation as who was a traitor and who was not and maybe
25 Chhouk Rin learned about this from someone else.

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1 Q. It might be an issue of memory, but I'm a bit surprised
2 hearing your answer because already in August 1978 -- so that is
3 one or two months after you had arrived in Svay Rieng -- the
4 Western press was already reporting that So Phim was leading
5 anti-Pol Pot resistance in Cambodia. So if the Western press
6 already knew this in August '78, why is it that you didn't know
7 this?

8 A. I did not follow that news at the time since I was busy with
9 the troops and I did not understand about this outside news.

10 [15.05.37]

11 Q. For the record, Mr. President, I was referring to Chanda, E3/
12 2376; English, ERN 00192626; Khmer, 00191793; no French of this
13 particular page. Let me read what he says:

14 "On the basis of information provided by Hanoi to a third-world
15 diplomat, I had reported in the 'Far Eastern Economic Review',
16 August 11th, 1978 that So Phim was leading anti-Pol Pot
17 resistance in Cambodia." End of quote.

18 One final question in relation to the same subject, but then
19 about some other people: Have you ever heard of another eastern
20 -- East Zone commander named Chan Chakrey?

21 A. Yes, I heard of his name, but I did not know him in person. I
22 heard of So Phim and I heard of Chan Chakrey, but I never met any
23 of them.

24 Q. I understand. What did you hear; what did you know about Chan
25 Chakrey?

1 A. I simply heard of his name, that is, Chan Chakrey, <I do not
2 know what he looks like> and I did not know of his background.

3 Q. Do you know whether he was involved in overthrowing the DK
4 regime?

5 A. No, I did not. As I said, I only heard of his name and I did
6 not know about any of his plan.

7 [15.08.03]

8 Q. Just for completeness sake, let me read to you what Chhouk Rin
9 has said to investigators of the OCIJ, E3/361; English, ERN
10 00766455; Khmer, 00194470; and French, 00268887:

11 "In 1976, Divisions 280 and 290, under the command of Chan
12 Chakrey, tried to overthrow Pol Pot, but were unsuccessful and
13 Chan Chakrey was arrested by Pol Pot's forces, Division 703."

14 Is this -- does this somehow jog your memory what Chhouk Rin says
15 about Chan Chakrey?

16 A. I still do not understand the issue. <I do not know where he
17 got this information from.> I did not grasp the situation and I
18 did not know about such plan.

19 Q. No problem, Mr. Witness. One additional question in this
20 respect: Why is it that Chhouk Rin knows this and you don't;
21 whereas, you held a higher position, militarily speaking?

22 A. Although my position was senior, I did not travel much. It
23 seems that he travelled a lot and regarding the issue, I did not
24 receive any instruction from the upper level. If I did, I would
25 say so and I did not know how Chhouk Rin was aware of the issue.

1 <For me, I do not know about it.>

2 [15.10.26]

3 Q. One of my first questions about Chhouk Rin was whether you
4 knew him and you said yes. When you were in Svay Rieng in
5 mid-1978, what was Chhouk Rin's position in the hierarchy; do you
6 know that?

7 A. Chhouk Rin did not go to Svay Rieng. He was at Voar mountain
8 or Phnom Voar, that is, in Kampot, and he was commander of a
9 regiment under Division or Brigade 405 under Sam Bit. <It was
10 formed after the arrival of the Vietnamese.> He never came to
11 Svay Rieng and I did not know as from whom he received such
12 information.

13 Q. Was Chhouk Rin present at a meeting that you attended at Ta
14 Mok's house in Takeo in 1977 -- mid-1977?

15 A. I cannot grasp the situation. Chhouk Rin was commander of a
16 regiment and, at the time, the invitees were only at divisional
17 level, so I could not say whether he actually attended that
18 meeting or not.

19 [15.12.40]

20 Q. Just following up what you said about Chhouk Rin, whether he
21 went to Svay Rieng, yes or no, E3/361; English, ERN 00766451;
22 Khmer, 00194466; and French, 00268883; he says -- and I quote:
23 "In 1977, I was sent to Svay Rieng province and was inserted into
24 Division 703 subordinate to the general staff of the Centre and
25 rose to be commander of Regiment 402. Division 703 was stationed

1 in Svay Rieng province and Regiment 401 defended Phnom Penh at
2 the Boeng Trabek School."

3 Is it possible that Chhouk Rin was in Svay Rieng not in '78, but
4 in '77?

5 A. I am still not sure about Chhouk Rin <as to where he got the
6 information from> and I am wondering how he could be in Svay
7 Rieng with 703 in the East Zone. I'm not sure, at all, about it
8 or whether we are talking about the same Chhouk Rin because
9 Chhouk Rin that I talk about, he's the one who was in Kampot or
10 maybe <it was another Chhouk Rin and> he was promoted and I did
11 not grasp the situation. And as I said, I only know a Chhouk Rin
12 who was at Phnom Voar in Kampot province. And Chhouk Rin, in your
13 question, I am not sure about that person, whether we are talking
14 about the same individual.

15 [15.14.52]

16 Q. The Chhouk Rin that you know, is he serving some prison
17 sentence, right now, somewhere?

18 MR. PRESIDENT:

19 (No interpretation)

20 [15.15.16]

21 MR. IENG PHAN:

22 A. Chhouk Rin <from Phnom Voar> that I know, was actually invited
23 by this Tribunal, as well, and I think he's still being detained
24 in prison and that is the Chhouk Rin that I know and I am not
25 familiar with the Chhouk Rin that you mentioned in your question.

1 BY MR. KOPPE:

2 Q. We're talking about the same Chhouk Rin, without a doubt, Mr.
3 Witness. Let me move on to the following subject. In your
4 testimony before this Chamber in May 2013 -- 20 May 2013, you
5 were asked questions about combat with Lon Nol troops before
6 April '75, and on a few occasions, one of them being 11.09 in the
7 morning of 20 May 2013, you speak about a universal, prisoner of
8 war rule that had to be applied once Lon Nol soldiers were
9 captured by your forces.

10 This universal prisoner of war rule that you spoke about then, is
11 that something that, if you know, was also applicable after 1975
12 in regard to Vietnamese soldiers who had been captured?

13 [15.17.21]

14 MR. IENG PHAN:

15 A. Regarding the law during the wartime, we do adhere to the
16 rules on the prisoners of war. <Although we based in the forests,
17 we were advised about it.> During the time we fought with the Lon
18 Nol soldiers, we captured some of them, but we did not kill them
19 and there was a re-education centre where they were sent to and
20 that was at the rear and I did not know about that.

21 As for the Vietnamese, other brigades actually captured some
22 Vietnamese soldiers and they were sent to the re-education centre
23 and later on, thanks to the win-win policy, some of them were
24 sent to Thailand via Samlaut. Met (phonetic) was in charge of
25 this affair and they were sent through Thailand. They were not

1 killed.

2 [15.18.29]

3 Q. But that universal prisoner of -- excuse me, universal,
4 prisoner of war rule that you spoke about in relation to the
5 capture of Lon Nol soldiers, was that the same kind of universal
6 rule that your troops applied or were supposed to apply once
7 Vietnamese soldiers would be captured?

8 A. Yes, the same. There were no physical mistreatment.

9 Q. Thank you, Mr. Witness. Today and also in your WRI, you said
10 that you or your unit never captured a single Vietnamese soldier;
11 other units might have. In E3/419, question and answer 7, you
12 said that many of your soldiers were killed and captured by
13 Vietnamese troops; do you know what happened once Vietnamese
14 troops had captured DK soldiers? What would happen to DK soldiers
15 once they were captured by the Vietnamese forces?

16 [15.20.27]

17 A. I do not know about the Vietnamese policy toward those people
18 because when soldiers were captured by the Vietnamese; in
19 particular, those soldiers in my unit, they disappeared and never
20 returned. <For those who died, I saw that they were dead. But as
21 for those who disappeared, they never returned.> And I did not
22 know whether they were under the captivity of the Vietnamese or
23 they died elsewhere and, as I said, I do not know about the
24 Vietnamese policy.

25 Q. How did you know that certain soldiers -- DK soldiers were

1 captured by the Vietnamese Armed Forces; how did you come to
2 learn that?

3 A. I learned it through Vietnamese people and also Cambodian
4 troops listened on the radio of their communication and learned
5 that Vietnamese troops captured a certain number of Cambodian
6 soldiers and that is the information we learned over radio
7 <system> while we were <fighting> at the border. <They announced
8 it directly.>

9 [15.21.49]

10 Q. And how do you know that these particular soldiers who had
11 been captured by Vietnamese troops never returned?

12 A. Because concretely, I do not see them <return> until today.

13 Q. Do you know whether they were systematically executed by
14 Vietnamese troops?

15 A. I do not know whether they were executed or not. The only fact
16 is that I do not see them return. I don't see them return.

17 Q. Just let me read -- I have done that before, but I would like
18 to do it again, Mr. Witness, what an expert of this Court wrote
19 in his book, E3/9; English, ERN 00396585. I do have the Khmer ERN
20 and French ERN, but I will provide it, with your permission,
21 shortly, Mr. President. This is what he said in his book. So just
22 to be sure that I mention it, it's English ERN 00396585, page 377
23 of his book, and this is what he says:

24 [15.23.46]

25 "In mid-December 1977, 50,000 Vietnamese troops, backed by armour

1 and artillery, poured across the border along a front stretching
2 more than 100 miles, from the Parrots Beak in Svay Rieng to Snuol
3 in the north. In the first week, they met little resistance and
4 penetrated about 12 miles into Cambodian territory. Khmer Rouge
5 soldiers who fell into their hands were systematically killed."
6 End of quote.

7 Is this something that you can confirm, DK soldiers who fell into
8 Vietnamese hands in December '77 were systematically executed?

9 A. Talking about Svay Rieng, as I responded to previous
10 questions, I arrived by mid-1978 and
11 the event took place in late '77, and for that reason I cannot
12 grasp the situation. There were several brigades over there, and
13 I do not grasp how the situation was unfolded.

14 [15.25.44]

15 Q. No problem, Mr. Witness.

16 When you were stationed in Svay Rieng in mid-1978 and when you
17 were engaged in almost constant battle with Vietnamese troops,
18 did you also engage in fighting or combat with not Vietnamese
19 troops but Khmer insurgents coming formerly -- coming from the
20 former East Zone? In other words, did you only encounter
21 Vietnamese troops or did you also encounter Khmer insurgents that
22 were assisting Vietnamese troops?

23 A. Upon my arrival, I mostly saw Vietnamese troops and we were
24 fighting back and forth. How could I identify the distinction
25 between Vietnamese troops or Khmer insurgents, because they were

1 wearing the same uniforms and hats? So I assumed they were all
2 Vietnamese.

3 Q. That makes sense. Thank you for that answer.

4 Mr. Witness, were you aware of secret camps in South Vietnam,
5 just over the border, just across the border, secret camps where
6 Khmer forces were trained to start a guerilla war? Was your unit
7 aware of such secret camps in South Vietnam?

8 A. I do not know about that because this information is
9 confidential.

10 [15.28.06]

11 Q. You mean that at the time, you didn't know because these were
12 secret camps? Is that what you're saying?

13 A. That is correct.

14 Q. Is it something that you heard maybe later, maybe after 1979?
15 Is there anything that you learned about Cambodian troops
16 stationed in secret camps in South Vietnam that -- assisting
17 Vietnamese troops that you were fighting?

18 A. For me, I learned of that information after 1979. I learned it
19 only after Vietnamese troops had entered Phnom Penh. Then I
20 learned that there were Khmer who were assisting them.

21 Q. And what is it that you learned about this? What is it that
22 you can tell us?

23 A. What I knew is that amongst the Vietnamese troops, there were
24 Khmer soldiers who were trained in Vietnam and who fled from the
25 East Zone. I learned more concretely after the reintegration.

1 Some of those who were first or second star generals spoke about
2 their training in Vietnam, and that's how I learned about it
3 clearly. And prior to that, I was not really sure at all about
4 that event.

5 [15.30.30]

6 Q. And did they tell you when they went to Vietnam to train in
7 those camps, was that already before you went to Svay Rieng in
8 mid-'78 or was it thereafter? Did they give you any details as in
9 terms of time?

10 A. Some of them told me that they had left since <early> of 1978
11 and some of them went in <mid 1978, but most of them went in>
12 late '77, early '78 and they are still military commanders at
13 present.

14 Q. Indeed they are. Thank you, Mr. Witness.

15 Do you recall, when you were stationed in Svay Rieng in mid-'78,
16 whether you heard broadcasts over the radio in Khmer coming from
17 former Khmer Rouge or former East Zone commanders calling for an
18 uprising?

19 A. I did not follow the radio broadcast. Why I said so? Since I
20 was very busy arranging my forces to defend the country, <I was
21 busy preparing the ammunition,> so I did not follow the radio
22 broadcast, frankly speaking.

23 [15.32.42]

24 Q. I understand, but did you hear about it? More particularly,
25 did voices of (unintelligible) Khmer cadres come over the radio

1 who were believed to be dead and called for an uprising? Is that
2 something that you may have been told, or not listened to it
3 yourself, but you were informed as a commander about this?

4 A. I heard about it, but I was not interested so much in it. I
5 was so focusing on the penetration by the Vietnamese troops. <As
6 regard to the Khmer rebel movements, I did not pay much attention
7 to it.>

8 Q. Let me read to you something that another expert of this Court
9 wrote in his book, Nayan Chanda, E3/2376, English ERN 00192440 --
10 MR. PRESIDENT:

11 Please wait. There is issue with the interpretation system. I did
12 not hear the Khmer interpretation. Please resume, Koppe, and
13 repeat what you have just said.

14 [15.34.24]

15 BY MR. KOPPE:

16 Q. Yes, I wanted to read to you a small excerpt from a book from
17 the Court's expert, Nayan Chanda, E3/2376; English, ERN 00192440;
18 French, 00237111; Khmer, 00191597; and this is what he writes
19 about events that happened in early September. I'm not sure if
20 you were still around, but let me nevertheless read it for you.

21 He says:

22 "In early September, the Vietnamese launched another tank-led
23 operation inside Cambodia. The objective this time was to contact
24 Heng Samrin and his followers hiding in the forest and escort
25 them back to Vietnam. With the arrival of Heng Samrin, Chea Sim

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1 and other Khmer Rouge survivors, the future government of a
2 pro-Vietnamese Cambodia was assembled." End of quote.

3 Does that somehow jog your memory of Vietnamese forces trying to
4 get in contact with Heng Samrin's forces who were hiding in the
5 forest and trying to escort them back to Vietnam?

6 MR. IENG PHAN:

7 A. I could not grasp the situation at the time. I do not really
8 understand it.

9 [15.36.23]

10 Q. No problem. Let me move on to another subject, Mr. Witness.

11 Were you aware in 1978 and earlier, and I suppose also
12 afterwards, about the existence of an air construction -- an
13 airfield construction site in Kampong Chhnang?

14 A. I know, I am aware of it. I did not go there myself. I was
15 advised that there was the construction of an airfield in Kampong
16 Chhnang.

17 Q. And do you know who was working there, who was -- which forces
18 were engaged in the construction of Kampong Chhnang airfield?

19 A. I do not know about that. I do not know where forces were
20 collected from to build that airfield.

21 [15.37.50]

22 Q. Let me again refer you to what Chhouk Rin told investigators,
23 E3/361; English, ERN 00766453; Khmer, 00194468; French, 00268885:
24 Question: "What did you do to the East Zone cadres?"

25 Answer: "The Centre sent me and others to the East Zone to arrest

1 all cadres in all nine brigades and send them to the airfield
2 construction project. The commanders were sent to Phnom Penh and
3 the subordinate soldiers were sent to construct the airfield in
4 Kampong Chhnang province."

5 Is that something that you heard, that cadres or combatants from
6 the East Zone military were sent to work at the Kampong Chhnang
7 airfield in large numbers?

8 A. I do not know about that. I do not know about the internal
9 affairs.

10 [15.39.27]

11 Q. No problem. Then another question, Mr. Witness, following up a
12 question that the Prosecution had today when he was referring to
13 Vietnamese reports about an alleged DK attack on Vietnam on the
14 30th of April 1977. Just to remind you, 30 April is for the
15 Vietnamese Communists the same date as 17 April was for the CPK.
16 That was the day that Saigon was liberated, 30 April 1975.
17 Are you aware of any armed attack by DK forces on that very
18 particular day, 30 April 1977, exactly two years after Saigon had
19 been liberated?

20 A. As I told the Court this morning, the fighting between
21 Kampuchea and Vietnam in 1977 happened in sporadic way, this and
22 there. The conflict or the fighting was the result of dispute
23 about the fishing location and also the territory claimed by both
24 sides. <Regarding the Vietnamese attack in a large scale <on the
25 30th>, they did entered our territory, but the Cambodian forces

1 only counter-attacked little by little. So actually,> there was
2 <no large>-scale attacks during the time <like published in the
3 news>. In 1977, as I said, the fighting or combat was really in
4 small scale.

5 [15.41.45]

6 Q. I understand, but my particular question was about a massive
7 attack causing many casualties allegedly in Vietnamese territory
8 on the 30th of April '77. Does that somehow ring a bell, a
9 massive DK invasion on that special day for Vietnam?

10 A. I do not know whether this information is true or not since
11 Vietnam made such reports. There was no intensified fighting in
12 1977 and the Kampuchean forces did not go deep into Vietnamese
13 territory <in the actual situation>. I was in Chau Doc <in 1977>.
14 <> At the time, <there was no> invasion by Kampuchean troops deep
15 into Vietnamese territory. <We were fighting back and forth at
16 the border area.>

17 [15.43.12]

18 Q. Are you able to speak in general terms about what the policy
19 was of the Revolutionary Army of Kampuchea in respect of Vietnam?

20 What was it that commanders like Son Sen or Ta Mok told their
21 commanders what to do in respect of Vietnamese encroachments on
22 DK territory? Do you know what the general line of policy was?

23 A. Allow me to clarify this point. The instruction of the upper
24 echelon to the soldiers in general was that Kampuchea was <a>
25 small <country>. Kampuchea had a small number of soldiers and

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1 small population compared to Vietnam, which had larger forces and
2 large population <and more weapons>, and the instruction was also
3 that Kampuchea had just been liberated. How could Kampuchea wage
4 the war against Vietnam? The instruction <from the upper level>,
5 again, was that <>, <as> we were a small country, <we had less
6 number of people, and our country had just been liberated, so we
7 could not retain them,> and this was advised to the soldiers.

8 [14.45.05]

9 Q. Do you recall what it was that Son Sen or Ta Mok told their
10 commanders? What was it that they instructed? Do you remember
11 their words? Do you remember what they said?

12 A. I told you already; I, myself, never met Son Sen <during the
13 regime>, but I met Ta Mok. Ta Mok advised me that we had a small
14 number of soldiers and small population compared to Vietnam,
15 which had larger forces and larger population and <more>
16 equipment. <We had to be patient.> We were instructed to make
17 communication with one another in order to make the situation
18 better. <That was his instruction and at the division level, the
19 instruction was the same. In the actual situation, we had to be
20 very patient.>

21 Q. Let me read to you what a commander of the former West Zone
22 told investigators. He quotes almost literal words from Ta Mok,
23 and I would like to read them to you.

24 Mr. President, this is the testimony Meas Voeun, E3/8752;

25 English, ERN 00849511; French, 01309292-293; Khmer, 00733339. So

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1 this is what Ta Mok said, according to Meas Voeun. Let me quote:

2 [15.47.20]

3 "At the borders, he gave instructions on enemies from outside. He
4 said that 'We must defend our territory and we must be patient.

5 Do not fight back when they fire off a few shots. Do not fight
6 back. Remain calm. If they fire off a few shots and we fire back,
7 it means we will create a very big problem.'" End of quote.

8 Do you remember Ta Mok saying similar words during meetings where
9 you were present?

10 A. I told you that Ta Mok told us to be patient since we were a
11 small country <with small number of population>. So the
12 instruction was similar to that given to Voeun.

13 Q. Thank you. Just to make sure that there's no misunderstanding,
14 let me read to you what the highest military commander said in
15 1976. You just said that you never met Son Sen, but I will read
16 to you what Son Sen told Division 920 during a plenary meeting,
17 E3/799; English, ERN 00184781; 00323916 in French; and Khmer,
18 00083160. So this is Son Sen instructing Division 920 on the 7th
19 of September 1976:

20 "Toward Vietnam, we take the following stances:

21 "1. We won't be the ones who make trouble.

22 "2. But we must defend our territory absolutely and absolutely
23 not let anyone either take it or violate it.

24 3. If Vietnam invades, we will ask them to withdraw, and if they
25 do not withdraw, we will attack. Our direction is to fight both

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.

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1 politically and militarily." End of quote.

2 These words from Son Sen to another division -- did these words
3 reflect the standing policy of the Revolutionary Army of
4 Kampuchea in respect of Vietnam?

5 A. Regarding these words, it was the policy of Kampuchea at the
6 time.

7 [15.51.00]

8 Q. I have cited words from Ta Mok and Son Sen. And your direct
9 commander was Ren. Did Ren -- when he was addressing the
10 divisions and brigades, was he using the same words and was he
11 giving the same kind of instruction and orders as Son Sen and Ta
12 Mok?

13 A. Ren made that statement <regarding the political aspects> in
14 the scope of general facts. If the upper echelon mentioned <100>
15 points, he would only convey <10> points. And <as regard to>
16 militarily <affairs regarding the management of the forces, the
17 strategies>, he talked a lot, but as for the politics, he did not
18 speak much. <That is according to my experience when I attended
19 meetings.> Usually he made very short speeches in meetings.

20 Q. I understand, but did he implement these orders from Son Sen
21 and Ta Mok to his commanders? In other words, "Don't provoke;
22 don't attack; be patient; be calm," etc.?

23 A. That was within the scope of his statement. He did not
24 elaborate much. <He said a few words about the political aspects
25 and that was it.> He said "Do not provoke; do not fight them. We

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1 defend our country, and if they did not listen to us, just fight
2 back." That's what he said at the time.

3 [15.53.34]

4 Q. Thank you for that clarification, Mr. Witness.

5 One final point in relation to that very same subject: What we
6 have been discussing now is the military chain of command, Son
7 Sen, Ta Mok on the top ordering their commanders, ultimately
8 ordering you. Now, of course, there were not only military people
9 in DK within the Revolutionary Armed Forces of Kampuchea, but
10 there were also cadres, civilians, young cadres.

11 Are you aware of magazines called "Revolutionary Flag" or
12 "Revolutionary Youth"?

13 A. Back then it was called the Flag of the Party. Those who could
14 refashion themselves, who could make themselves better, they
15 would receive the Party's Flag. <The same thing applied to the
16 base areas.> Villages which did not do any bad to the villagers
17 and did good work would receive Party's Flag.

18 [15.55.07]

19 Q. Let me read to you an excerpt from a "Revolutionary Youth"
20 publication, August 1975, E3/749; English, ERN 00532686; Khmer,
21 00399114; French, 00593942. So this is what the "Revolutionary
22 Youth" magazine instructs its young cadres in August '75. Let me
23 read it to you:

24 "Along the borders, it is imperative to be vigilant and not do
25 anything to cause trouble with the foreign neighbouring people.

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1 However, it is also imperative to absolutely defend and counter
2 and not allow them to violate or insult our nation and our
3 people." End of quote.

4 Mr. Witness, you yourself were a CPK cadre. Was this something
5 that was also -- was this something that was instructed to the
6 civilian cadres, including the youth from the CPK?

7 [15.56.46]

8 A. I received such instructions <and I tried> to implement <it>.
9 I, myself, received the "Revolutionary Flag" at the time. Since I
10 implemented good work, I was given a Flag by the upper echelon.

11 Q. Thank you for that clarification, but my question was this
12 instruction to CPK cadres, young CPK cadres about not to cause
13 any trouble with foreign neighbouring people, being Vietnam and
14 Thailand, was that a standing order and a standing instruction to
15 civilians within the CPK as well?

16 A. There was such instruction. It was a general instruction.

17 [15.57.59]

18 Q. And my last question before we break, Mr. President, following
19 up questions from the Prosecution earlier today, the Prosecution
20 read to you excerpts from broadcasts from Vietnamese radio and,
21 in essence, the Vietnamese are accusing Democratic Kampuchea of
22 aggression, are accusing Revolutionary Armed Forces of Kampuchea
23 of unlawful incursions, encroachments, etc. Can you give a
24 reaction to this accusation of Vietnam?

25 A. Let me clarify this point. Generally, there was a broadcast

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1 report and the feuding parties usually did not report good on one
2 another. Normally, usually, <DK> reported <that the Vietnamese
3 invaded Cambodia> and vice versa. At the time, as I said,
4 Kampuchea was a small country. We did not have ability to invade
5 Vietnam. It was my personal opinion and it is still my opinion
6 <although others would tell me differently>. I am part of the
7 military. <I know about the forces.> I know how to use weapons.
8 And at the time, there was the report accusing one another that
9 each of us was invading the other and the other was invading us.
10 So the world could observe the situation and could <check who
11 invaded whom and> who lost the land or territory. <That was the
12 issue.>

13 [16.00.13]

14 Q. You were there at the time. You were a soldier at the time. Do
15 you agree with me that the Vietnamese accusations of aggression
16 by Democratic Kampuchea are false, unjustified?

17 A. I do not dare to say so, whether they are false because we
18 have different opinions and political views. I cannot say if they
19 are true or false. The radio broadcasts <from both sides> usually
20 accused one another that Vietnam or Kampuchea committed
21 aggression against one another. So this is still <an issue> for
22 <your> consideration.

23 [16.01.34]

24 MR. PRESIDENT:

25 Thank you. Thank you, counsel and Mr. Witness.

106

1 Today, it is now time for the adjournment and the Chamber will
2 resume its hearing tomorrow, on Tuesday, 1st November 2016 at 9
3 a.m. The Chamber will continue to hear the testimony of <the
4 witness> Ieng Phan to its conclusion and will proceed to hearing
5 the testimony of <the witness>2-TCW-1065.

6 Thank you, Mr. Ieng Phan. The hearing of your testimony <as a
7 witness> has not come to a conclusion yet. You are; therefore,
8 invited to come here again tomorrow perhaps for only <in the
9 morning> session <or less>.

10 Mam Rithea, the duty counsel, the Chamber is grateful to you as
11 well. Thank you for coming here to assist the witness. You are
12 invited also to come here once again tomorrow.

13 Court officer, please assist the witness and work with WESU to
14 send the witness back to his residence or the place where he is
15 staying at the moment and invite him back into the courtroom
16 tomorrow.

17 Security personnel are instructed to bring two accused, Nuon Chea
18 and Khieu Samphan, back to the detention facility and have them
19 returned into the courtroom before 9 a.m. tomorrow.

20 The court is now adjourned.

21 (Court adjourns at 1602H)

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