



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

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24 July 2012

Trial Day 83

Before the Judges: NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
YOU Ottara
THOU Mony (Reserve)
Claudia FENZ (Reserve)

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KHIEU Samphan

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List of Speakers:

Language used unless specified otherwise in the transcript

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|-------------------------------------|-----------------|
| MR. ABDULHAK | English |
| JUDGE CARTWRIGHT | English |
| MR. CHANDLER (TCE-11) | English |
| MR. IANUZZI | English |
| MR. KARNAVAS | English |
| MR. KONG SAM ONN | Khmer |
| THE PRESIDENT (NIL NONN, Presiding) | Khmer |
| MR. PAUW | English |
| MR. VERCKEN | French |

1

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 As scheduled, today's proceeding is to hear the testimony of
6 David Chandler, to be questioned by Ieng Sary's defence team as
7 well as Khieu Samphan's defence team.

8 Before I give the floor to Ieng Sary's defence team, the
9 greffier, Mr. Duch Phary, could you report the attendance of the
10 parties and the individuals to the proceeding today?

11 THE GREFFIER:

12 Mr. President, all parties are present except the accused Ieng
13 Sary, who is present in the holding cell downstairs. The accused
14 Ieng Sary, through his defence counsel, requests to waive his
15 direct presence in today's proceeding for the whole day. The
16 letter, however, has been submitted to the greffier.

17 [09.08.18]

18 The reserve witness, TCW-564, will arrive at the ECCC at 10 a.m.
19 this morning.

20 MR. PRESIDENT:

21 Thank you.

22 The Trial Chamber will now rule on the request by Ieng Sary's
23 defence to waive the right of Mr. Ieng Sary of his direct
24 presence and instead to follow it through a remote means in the
25 holding cell downstairs.

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1 The treating doctor, Dr. Hong, who treats him at the detention
2 centre, expresses his opinion that Mr. Ieng Sary is fatigued this
3 morning and he recommends that he should follow the proceeding
4 through a remote means in the holding cell downstairs in order to
5 reduce his movement.

6 The Chamber is of the view that the accused Ieng Sary, who wishes
7 to waive his direct presence and instead to follow it through the
8 holding cell downstairs through audio-visual means and that he
9 could directly communicate with his defence team, the Chamber
10 grants the request of Mr. Ieng Sary to waive his direct presence
11 in the courtroom, and that he is authorized to follow the
12 proceeding through a remote means in the holding cell downstairs
13 for the entire day of proceeding.

14 [09.10.12]

15 AV Unit, you are instructed to link the proceeding to the holding
16 cell downstairs for Mr. Ieng Sary to follow it for the entire
17 day's proceeding.

18 Also, in order to clarify further the matter, and in order to
19 facilitate the questioning by the -- Ieng Sary's defence team,
20 the Chamber will rule regarding this team's request to put a
21 document before the Chamber as in late yesterday afternoon, and
22 I'll give the floor to Judge Cartwright, on behalf of the Bench,
23 to provide our ruling regarding that request.

24 Judge Cartwright, you may proceed.

25 JUDGE CARTWRIGHT:

1 Thank you, President.

2 As requested yesterday, the Ieng Sary defence team has provided
3 the Chamber with a copy of a chart which it wishes to use in
4 putting questions to the expert. The Chamber rules as follows.

5 [09.11.47]

6 The chart was accompanied by an email which, in the view of the
7 Chamber which has had very little time to review this material,
8 has added to the confusion rather than clarified the matter.

9 This underlines the need for parties who wish to refer to
10 documents to have put those documents on their lists many weeks
11 ago. This Court operates on the basis of a case file and on the
12 basis of no surprises. Material to be used in the trial should
13 generally be known to all parties well before the expert or the
14 witness comes to Court.

15 Professor Chandler has been scheduled for many months now and the
16 Chamber and the parties were all well aware of this.

17 Consequently, any document discussion is being held – the parties
18 – rather the Ieng Sary team is attempting to hold a discussion
19 about documents far too late.

20 [09.13.19]

21 Speaking now about the chart itself, it has no formal status
22 before the Court. It lacks relevance, or the material referred to
23 in it lacks relevance, as this expert has said that he is not an
24 expert in demographics. Consequently, any material that might be
25 any substance of any of the documents that might be used in

4

1 questioning the expert which relate to demographic material may
2 be of very little use to the Chamber given his disclaimer of
3 expertise.

4 Finally, in the body of the email that accompanied the chart,
5 there was reference to a request that had been denied. The
6 Chamber should not need to specify that if material has been
7 denied, it cannot be used in any way in questioning the witness.
8 That is the ruling of the Chamber on this, (unintelligible)
9 matter, given the urgency with which the Chamber was forced to
10 deal with this matter, that any of my colleagues wish to clarify
11 or add.

12 MR. PRESIDENT:

13 The floor is now given to Ieng Sary's defence team to continue
14 putting questions to this expert witness. You may proceed.

15 [09.15.18]

16 MR. KARNAVAS:

17 Thank you, Mr. President. Good morning, Your Honours. Good
18 morning to everyone in and around the courtroom. And a very good
19 morning to you, Professor Chandler.

20 But before we go into the questioning, I do need to clarify the
21 record to make sure. The chart is for illustrative purposes. We
22 were not seeking to introduce the chart as evidence; it was
23 merely to guide the process of the questioning. It is a technique
24 that is used throughout the world, including all international
25 tribunals, and therefore, I simply do not understand the Trial

5

1 Chamber's ruling that somehow we're trying to introduce something
2 that is improper.

3 [09.15.55]

4 Second of all, out of the ten documents six are already before,
5 so only four additional ones were -- we were attempting to use.

6 All of -- all documents, might I add, are documents that the
7 gentleman has generated.

8 Thirdly, while the issue -- while the gentleman has indicated
9 that he is not a demographer, the point of the exercise, had I
10 been allowed to do so, although I will attempt to pour some
11 questions in this area, was to show that if we were to look at
12 this evidence or this -- the documents that the gentleman has
13 produced, you will find that he cites no authority, and that is
14 the point.

15 The point is that he is simply--

16 MR. ABDULHAK:

17 Your Honour--

18 [09.16.45]

19 MR. KARNAVAS:

20 I'm entitled to make my record, sir, and you can object all you
21 want. He is making assertions without attribution, and my
22 question is: If he's not a demographer and is not an expert,
23 where does he come up with these figures? That's the thrust of my
24 question.

25 And now I'll be more than happy to hear the objection.

1 MR. PRESIDENT:

2 The Prosecution, you may proceed.

3 MR. ABDULHAK:

4 Well, Your Honours, this is a technique that we see repeatedly in
5 this courtroom and which the Chamber has ruled out of order.

6 There is no right to make a record. The record is the transcript.

7 The final word on this should have been the Trial Chamber's

8 ruling, and counsel should respect that ruling and move on.

9 [09.17.39]

10 MR. KARNAVAS:

11 That may be the case in some instances. However, when we are

12 being publicly chastised for being unprepared, trying to do

13 things that are inappropriate, and where we believe

14 mischaracterize our efforts in trying to help the Trial Chamber

15 get to the truth, we feel it is our duty and it's the public's

16 duty to--

17 MR. PRESIDENT:

18 Counsel, please move on to put questions to this expert. Your

19 request has already been ruled. So the time is now given to you

20 to put questions to the expert, and please comply with all the

21 decisions that have been issued and ruled by the Chamber, in

22 particular - in regards to the documents submitted before the

23 Chamber, and in particular the new document and the procedure of

24 the questions you put or to place the document before the Chamber

25 and other decisions that we ruled regarding these matters.

7

1 [09.18.48]

2 And I'm sure that you will not use this opportunity to make other
3 statements besides putting questions to this expert.

4 QUESTIONING BY MR. KARNAVAS RESUMES:

5 Q. Dr. Chandler, yesterday you indicated that you read a study on
6 demographics by a Patrick Heuveline -- I may mispronounce the
7 name. In looking at that particular document, it would appear
8 that it was published somewhere in 1998. Are we referring to the
9 same study?

10 MR. CHANDLER:

11 A. Yes, there's only one that I'm aware of.

12 Q. Now, prior to 1998, however, you have written on several other
13 occasions, in particular, 1991, '92, '94, and then thereafter,
14 where in your publications you have a variety of death tolls
15 anywhere from 1 million, over 1 million, one in eight, one in
16 seven; at one point in 1999, you go and say 1.5; then, at some
17 latter point, you raised it to 2 million. You also have various
18 estimates of violent deaths ranging from 100,000 all the way to
19 400,000.

20 [09.20.35]

21 And in looking at your earlier publications, and even your latter
22 publications, it would appear, but in particular your early ones,
23 that when you come up with these figures you cite no authority.
24 Yesterday, having told us that you're not a demographer; can you
25 please explain to us how it is that you came up with these

1 figures?

2 And for the Trial Chamber's convenience, the relevance goes to
3 his methodology as a historian, because it calls into question
4 much of his historical work that he's done.

5 So could you please tell us, how did you come up with these
6 figures?

7 A. Thank you. I hope that my -- the variety of these figures,
8 running from over a million in 1990, before I was able to come
9 back to Cambodia, to somewhere between 1.5 and 2 million, the
10 figures I've consistently held since then, these reflect the
11 demographic studies that were available to me when I was writing.
12 I'm sorry I didn't cite those particular studies; they're the
13 same one's I've always used.

14 [09.21.52]

15 Estimates have since come up in various documents that I did not
16 -- many of these sources that you're citing, which I can't see, I
17 can't see what they were and I'm surprised I wasn't allowed to
18 look at this chart at some stage, but you're still referring to
19 it obviously, were journalistic articles that didn't have
20 footnotes. Other things I did cite, Heuveline and also Sliwinski.
21 I hope that my inconsistency with these figures, which I'm not
22 particularly proud of, because these figures -- or nobody knows
23 these figures. If I had an exact figure I would certainly use it.
24 These are all estimates. I hope that this doesn't, as you
25 suggest, call into question my historical work in other places,

1 because I don't think it does at all.

2 [09.22.42]

3 Q. First, let me assure you that I'm not referring to any
4 journalistic opining that you might be making for the press or
5 for public consumption, but rather I'm referring to your
6 scholarly work as a historian, and might I ask, is it a common
7 practice for a historian to make assertions without giving
8 attribution where certain assertions, such as figures of this
9 nature come from? Is that part of the scholarly process of a
10 historian, someone the likes of you who has been coined to be the
11 doyen of Cambodian history?

12 A. (Microphone not activated)

13 MR. PRESIDENT:

14 Please wait till the microphone is on before you must respond to
15 the question.

16 MR. CHANDLER:

17 A. This is probably why I probably should have been more
18 controlled.

19 Okay. Yes, sometimes it is a practice. Otherwise, historical
20 documents would look like the Court order. I could never write a
21 300 page book with 4,000 footnotes. I -- that's a particular form
22 of historical writing that I don't indulge in. Sometimes when
23 things are -- sometimes I should have cited sources probably. I'm
24 claiming only on these figures that they reflect things that I've
25 read, and the sources that I drew them from are ones that I told

1 you about yesterday.

2 [09.24.24]

3 BY MR. KARNAVAS:

4 Q. Now, just a couple more questions on this demographics,
5 because I don't want to belabour the point.

6 If you're a historian and not a demographer, and you're throwing
7 out these figures without us knowing where they come from, and
8 you claim that you have looked at what others have done. You
9 cited one study, which is back in 1998, of an actual demographer.
10 You also cited a gentleman from France who had done an earlier
11 study.

12 What gives you confidence that they -- what they produce was
13 actually accurate and reliable, if you in fact are not a
14 demographer, and from what appears from your testimony, you never
15 consulted with them to see what is the process, what sort of
16 sources they used, etc., etc.?

17 [09.25.27]

18 A. Well, the sources for Mr. Heuveline's study are cited in his
19 article. I wasn't prepared, and I'm never prepared to get in
20 touch with a writer to question his footnotes because I have
21 doubts about his sources. I can't do that with every article I
22 read or I'd never write anything.

23 I was confident that these two books -- I liked the findings of
24 these two books, these two studies, rather, one's an article. I
25 did not find convincing contradictory evidence from other

11

1 published sources, these sources, and I probably should have said
2 more often in things I have written, and I do regret that, the
3 actual figures will never be known.

4 There was a census in 1962 and not another one until 1998.

5 Between then all demographers are operating, and other writers,
6 and many other historians have been -- have wandered into this
7 field besides me, I'll let you say, have been using those two
8 census figures as benchmarks to how to work out what happened
9 between 1970 and 1979. So this is the best I can do, I'm sorry to
10 say - I'm happy to say.

11 [09.26.37]

12 Q. All right. And do you recall whether Mr. Heuveline -- what was
13 the sources that he used? Do you recall offhand?

14 A. No, I do not recall offhand. I would recall, of course, if I
15 saw the article again. I've read it several times in the past,
16 but not recently.

17 Q. And would it surprise you that it was the 1992 election list
18 that was the starting point?

19 A. Not if you're looking at the document. I certainly wouldn't
20 contradict that.

21 Q. Okay, very well.

22 Let's move on to another topic, and we're going to spend probably
23 the majority of our time together on this, which is what you've
24 been telling us here in Court.

25 I don't think I will be going into any documents that are not on

12

1 file or placed before the Court, so I don't think we'll get into
2 trouble there.

3 [09.27.48]

4 I can call up the page, if you think it's necessary, but I'm
5 going -- I want to move as quickly as possible through some of
6 these answers that you've provided.

7 And I'm going to start with the first day, and because we don't
8 have the pages in Khmer in French, they're all over the place, I
9 will give, for the Court's convenience, the English page number
10 and then the time period of where it would be able -- we would be
11 able to find this.

12 At some point, on page 24, this would have been the first day, on
13 the 18th, slightly after time 10.02.11, you were asked about the
14 book "Pol Pot Plans the Future" and you were asked if you could
15 identify the authors of certain documents, and in that -- and you
16 gave us the answer that you could not, other than one particular
17 document, you could not identify who the authors were, and then
18 you said I was -- that you were making a guess at some point when
19 you assigned Pol Pot to one particular document itself.

20 Do you recall that?

21 [09.29.33]

22 A. Yes.

23 Q. All right. And when you say I -- that that was a guess, that's
24 an assumption that you made as an historian?

25 A. Yes.

1 Q. Later on, on page 26, right above time period, 10.05.42, you
2 indicated that you did not know how many exact copies and the
3 numbers of copies of these sorts of documents would have been
4 circulated. And then you say -- you go on to say -- and this is
5 on page 26, lines 13 to 16 -- that it was probably 10 to 15
6 copies of these minutes that would have been produced or prepared
7 at the time.

8 I'm wondering, where did you come up with this figure, 10 to 15
9 copies? Was this another guess on your part, or do you have any
10 hard core knowledge on that?

11 [09.30.36]

12 A. No, this was not guesswork. Some of the documents contained
13 lists of the people to receive copies. The number of people in
14 different documents varies, but sometimes six, seven, eight, ten,
15 in there is a small -- very small group. It is not open -- sorry;
16 it's not an open guess on my part. It's a very limited audience,
17 and often the specific addressees are listed at the end of the
18 document.

19 Q. All right.

20 A. These are the Standing Committee things, particularly, not --
21 we're not talking about the speeches here.

22 Q. All right. Moving on -- and this is more -- mostly for
23 clarification purposes. You were asked again about the
24 authenticity of those documents, and in particular the decision
25 made by the Central Committees, and you said on page 28 -- and

14

1 that would have been right above, I believe, 10.08.41 in time --

2 at some point you say:

3 "I guess [...].

4 "So my guess is that -- my conclusion, rather, is that these are
5 authentic."

6 So, again, I'm not trying to force an answer, but it would appear
7 that you -- when you say, "I guess" or "my conclusion", your
8 conclusion is a guess; is it not?

9 [09.32.09]

10 MR. PRESIDENT:

11 Dr. Chandler, could you please hold on? Wait until we hear from
12 the Co Prosecutor, since he's on his feet.

13 He may proceed first.

14 MR. ABDULHAK:

15 The problem here, Your Honours, is that the expert is being given
16 a couple of words taken out of context out of a much longer
17 statement he made, and if you look at the page, we're just
18 managing to keep up with our learned friend, but if he reads the
19 whole quote it becomes clear that the nature of the professor's
20 conclusion becomes clear. It starts with the words "No, I have no
21 doubts as to its authenticity", and then it -- he continues to
22 explain as to how he came to that conclusion.

23 I think it's unhelpful if words are taken out of context, and a
24 word "guess" appears here and there, can convey a completely
25 different nature of the answer to that which was given.

1 [09.33.03]

2 BY MR. KARNAVAS:

3 Q. I'll be more than happy to read the entire quote, Mr.

4 President. I'm -- I am trying to save some time, and we are

5 before professional judges, but let's go through your answer:

6 "No, I have no doubts as to its authenticity. I don't know where

7 those doubts -- how they could be -- how they could arise or how

8 they could be settled. And one could say that these documents are

9 forged. The evidence, I don't know where that would come from,

10 the documents - [but] they're not forged -- I don't know where

11 that [ever] has come from.

12 "So my guess is that -- my conclusion, rather, is that these are

13 authentic documents that survived more or less by chance."

14 Are you not saying that you "guess" or -- and then you go on to

15 say your "conclusion"? Is not your conclusion a guess? I guess

16 that's what I'm trying to get and I'm trying to get you to

17 clarify this.

18 [09.34.14]

19 MR. CHANDLER:

20 A. I think I clarified my use of the word "guess" by suggesting

21 that it was my conclusion. I don't see where this is leading at

22 all.

23 Q. I'm not quite sure I understood that circular answer of yours.

24 So are you saying when you say that that was your conclusion that

25 your conclusion was a guess, or was that just a matter of speech?

1 And we are in Court, and I apologize if this seems to be amusing
2 to you, but this is how it's done.

3 A. I apologize if I seem -- I'm certainly not amused by some of
4 these things. I want to be more serious; I apologize if I was
5 giving you the wrong impression.

6 But the preceding parts of the document were -- of the statement
7 were showing the basis of my convictions. I did not say my wobbly
8 conviction is or -- jeez, maybe just possibly. I changed the word
9 "guess" as I was talking, as people do when they're talking as I
10 was doing, not writing. I would never say "I guess", I mean -- "I
11 conclude" in a written work. I could see that the word "guess"
12 was too loose to describe what I had said in the previous two
13 minutes. So, it was a conclusion, and I stick by that.

14 Q. Thank you, Dr. Chandler. And perhaps I should explain that the
15 record is what we're left with, and we don't want to be guessing
16 what you meant by something, and that's why I'm taking this
17 opportunity. And I apologize to everyone if it seems obvious to
18 everyone else, but it doesn't seem obvious to me at times.

19 [09.35.57]

20 Later on, on page 30, you were asked a question by Judge
21 Cartwright -- and this would be right below 10.13.51. It says:
22 "The same document requires weekly reporting to the 870, the
23 Party [Central]. [And] it also refers to the plan to produce 3
24 tonnes of rice..." And so on and so forth.

25 And then it goes on - the question goes on: "In your research,

17

1 have you been able to establish whether these policies were
2 pursued during the period with which we are concerned down to the
3 middle or end of 1976?"

4 And if you look at your -- I want to look at your answers now,
5 which would be on the following page, it would be page 31, and it
6 would be right after 10.15.58, you say at some point:

7 "...is basically one that could be entitled -- given the title of
8 the book, "Pol Pot Plans The Future", except of course it's just
9 not Pol Pot, it's the central governing group of people in the
10 country. It was a collective leadership in the country. So the
11 title may be a bit catchy..." And so on and so forth.

12 [09.37.38]

13 And then you go on to say -- this is right after 10.16.49, on
14 line 15: "I've gathered from the Closing Order, which I've been
15 reading, that some of these weekly reports are now -- have become
16 available, are coming into the Central Committee."

17 And, I guess, here's what I'm trying to get at and I'm trying to
18 get you to explain to me. On the one hand you say that this was a
19 collective leadership, and then you seem to be saying that some
20 of these policies that we're discussing, some of the information
21 at least, is coming from the Closing Order itself. Am I reading
22 it right?

23 [09.38.46]

24 A. With respect, I don't think so. I think all I was saying at
25 that point was that the document refers to -- I mean, "Pol Pot

1 Plans the Future" refers to reports are required from the
2 countryside, and I said now we know that these reports came in.
3 That's a footnote. I didn't cite what the report said, and it
4 wouldn't have altered the first part of the statement to which
5 that refers.

6 It -- no, I think it's -- and as for the collective leadership, I
7 think I've made that point many, many times, but I think a book
8 called "The Collective Leadership of Cambodia As Plans to Govern
9 the Country" would be an unsellable book, and this I'm -- that's
10 the way books are written, I'm afraid.

11 Pol Pot is still a fair word to use because he was the chair of
12 the Central Committee, and his decisions governed or overrode any
13 negative opinions that might, I say only say might, have come up
14 from other members.

15 Q. All right. And we're going to get to that, and that -- but I
16 appreciate that explanation.

17 But then when we go down further -- further down, and perhaps I
18 should focus on this part, where you do say: "I've gathered from
19 the Closing Order, which I've been reading, that some of these
20 weekly reports are now -- have become available, are coming into
21 the Central Committee."

22 [09.40.05]

23 Now, yesterday you told us that you did not have access to the
24 supplementary material that was in the footnotes, other than what
25 was provided to you by the Trial Chamber in preparation for your

1 testimony. You told us that you only read the Closing Order when
2 you came here and you requested to read it. So, if I look at this
3 sentence, are we to conclude that, at least with respect to this
4 part of your answer, it is the Closing Order that is assisting
5 you and not some independent research that you have done, years
6 in advance, having access to archived material, hopefully primary
7 sources?

8 A. The answer has to be certainly, but the point is the point I
9 was making in that -- the point is, it's interesting that some of
10 these documents have come in since, that's all I was saying. I
11 was not saying anything else than that. It might not have been --
12 and I was also taking -- maybe I should question every sentence
13 in the Closing Order. I don't have time to do that. I thought --
14 it seemed absurd to think that this -- that these documents,
15 cited in the back of the book, are invented, so I wasn't able to
16 reach them in time, but I accepted that sentence as an
17 amplification of my statement.

18 [09.41.38]

19 Q. Thank you very much, Professor Chandler, for that answer,
20 because, obviously, that's what we're here for, because we do
21 challenge the Closing Order and we do challenge what is being
22 cited at times, and it's our submission that the Closing Order
23 may contain errors, and that's why I asked whether you had done
24 your due diligence, although we know that you did not have access
25 to the documents and that was not your remit before coming here.

20

1 But suffice it to say, you're relying on the text and you have
2 not checked the documents themselves that support the text to see
3 whether, in fact, what is cited in the Closing Order, drafted by
4 the Prosecution, then afterwards it was confirmed by the
5 Investigative Judges, after they'd done their so-called
6 investigation -- but you did not do your due diligence, did you?

7 MR. PRESIDENT:

8 International Co Prosecutor, you may now proceed.

9 [09.42.45]

10 MR. ABDULHAK:

11 Your Honours, not only is counsel testifying in expressing an
12 opinion about other phases of these proceedings, but he's also
13 asking a question, which the professor has now answered at least
14 twice.

15 MR. KARNAVAS:

16 I'll move on to my next question, Mr. President.

17 MR. PRESIDENT:

18 Counsel is advised to put specific clear questions so that the
19 witness can respond without asking him to make his own statement,
20 but you should rephrase the question indeed.

21 BY MR. KARNAVAS:

22 Thank you, Mr. President.

23 [09.43.48]

24 Q. If we can move on to another segment of your testimony, and
25 this would be on page 36, and the question -- the closest time

1 period is 10.26.07.

2 You were asked -- and it would appear from the question: "Did
3 [Nuon Chea's] -- his specific responsibilities, [that is], mean
4 that he had less knowledge of or influence on the whole of the
5 activities of the Communist Party of Kampuchea..."

6 And then your answer is: "I think he deferred to Pol Pot as the
7 secretary. He certainly -- Pol Pot had the final word most of the
8 time in these decisions -- collective decisions, but from my
9 work, and [...] from material I have been reading just very
10 recently, and the things and materials that have come out in the
11 Closing Order, it seems that he was very much on top and engaged
12 in day-to-day policy matters on all parts of the Cambodian
13 enterprise..."

14 Now, let's look at your answer. You seem to say that Pol Pot had
15 the final word most of the time in these decisions. What do you
16 mean by "most of the time" and what do you mean by "these
17 decisions" as opposed to other sorts of decisions?

18 A. I think I was being prudent to say "most of time" because I
19 have no way of saying "all of the time." So, it was, again, a
20 supposition.

21 [09.45.46]

22 I think there's plenty of evidence about Nuon Chea's activities,
23 many of them he's admitted himself in public documents as being a
24 person who was very much involved with the governing of
25 Democratic Kampuchea and very much the second person in the chain

1 of command, if you like. When I was saying "things that I read
2 recently", I was not necessarily referring to the evidence in the
3 Closing Order that I cited, I should have had the -- I mean the
4 passages. And this is all on the first day, I was getting -- I
5 must say I was getting my sea legs, I don't think my testimony
6 was as good as I might have made it later in terms of clarity for
7 your purposes, I apologize for that. But I was reading -- had I
8 gone to the back of the book and I can do that if you like,
9 because I've got the Order back in my hotel, I could do it
10 tonight -- I think a lot of these statements about his high
11 authority came from open sources rather than from witness
12 statements who watched him doing this because I think that would
13 be rare, but I'd have to verify that.

14 [09.46.46]

15 Q. Okay. Well, Professor Chandler, I'm talking about Pol Pot, I
16 wasn't referring to Nuon Chea. And I understand that that was the
17 question, but I'm focusing on your segment where you say, "Pol
18 Pot had the final word". Because, as we go through your
19 testimony, you talk about collective decision making but you also
20 acknowledged that Pol Pot had the final word and at one point in
21 fact you indicated that he could veto whatever was done.
22 And I guess my question to you is: Is it your testimony that Pol
23 Pot was not first among equals but in fact he was Number One and
24 could do whatever he -- make any decisions he wanted with others
25 who might have been in a particular body would have to go along?

1 A. That's a good question, a complicated question. And the point
2 is I think -- I think I've made this point many times, in
3 collective leadership and particularly in the leadership of other
4 Communist countries, the secretary of the Party has the -- he can
5 have the last word, that's it. No one overrides the secretary of
6 the Communist Party -- the Secretary of the Central Committee, no
7 one overrides him.

8 [09.48.06]

9 The decisions reached -- this has been characteristic of the CPK
10 throughout its life -- are reached following discussions. These
11 Standing Committee meetings -- that we have a very small example
12 -- shows in every case there was discussions first, then a final
13 statement by the Secretary -- in the ones we've got -- and this
14 was obviously the binding statement. So he's first among equals
15 but he's first and he is the person in charge. And in public
16 statements -- including his -- or public documents including his
17 autobiography and other places -- Nuon Chea has admitted this
18 repeatedly, this was the man in charge, Pol Pot of a collective
19 group.

20 Q. And are you trying -- are you suggesting -- and I'm not trying
21 to put words into your mouth, I'm just merely trying to
22 understand your answer -- are you suggesting that in light of Pol
23 Pot's authority and power -- that he did not or could not make
24 decisions on his own and then impose them as the will of the
25 collective?

1 [09.49.18]

2 A. Well, in the absence of those perhaps 300 Standing Committee
3 meetings that we don't have, I can't answer that definitively.

4 But I have never seen any evidence from anybody that he -- but
5 that's not quite true -- long after the purview of this trial, on
6 occasion in the 1990s it seems like Pol Pot sometimes made
7 collective leadership -- just standard, it was -- and so on, made
8 some decisions on his own.

9 During the PK period -- DK period, we have no evidence that this
10 ever happened. There's no evidence that the Standing Committee
11 was not in most cases cohesive. I say "most cases" because some
12 of them were taken away and executed, but certainly there's no
13 evidence that they -- was any public disagreement that he
14 overrode with a singular decision. The atmosphere was collegial,
15 this was a place where I think he was given this authority, but I
16 don't have the evidence that he ever used a one-man authority to
17 override the collective view of all his committee. And I also
18 think also that had that ever happened, some serious events would
19 have happened inside the committee, but that is an assumption.

20 [09.50.34]

21 Q. Well, you're assuming that there were 300 and some meetings,
22 are you not? Do you have the documentary evidence to show that
23 these meetings actually occurred as they were scheduled or
24 planned or projected to occur, or are you just throwing that out
25 there?

1 A. I'm sorry, I'm not throwing anything out there. These
2 documents -- I do not know that the meetings for which we have
3 these documents occurred, how can we know that without having
4 been there in 1975? Okay.

5 Q. Yes, okay--

6 A. Let me finish, please. I'm -- it's my red light. The documents
7 -- there are other documents that suggest -- that say these
8 meetings took place on a weekly basis, we had eight of them.
9 Parlaying it out, you think weekly basis, three years, you'd get
10 some kind of a figure, I've never decided exactly what it was,
11 but it was many, many meetings of the Standing Committee, that's
12 an assumption. There's no -- I think it would be absolutely
13 idiotic to think that eight -- the seven or eight documents that
14 we've inherited for the -- our investigations were the only
15 Standing Committee meetings that ever occurred. There's evidence
16 that there were other Standing Committee meetings for which we
17 don't have reports.

18 [09.51.53]

19 Q. And is it your evidence, sir -- is it your evidence that all
20 members attended -- all members of the Standing Committee
21 attended all Standing Committee meetings? Especially the ones
22 that we don't know about, but we assume based on your answer must
23 have taken place?

24 MR. PRESIDENT:

25 Dr. Chandler, could you please hold on?

1 Co-Prosecutor, you may now proceed.

2 MR. ABDULHAK:

3 Well, the question misrepresents Professor Chandler's earlier
4 evidence. The Professor has not testified -- and I've listen to
5 his evidence carefully -- he has not said that all meetings of
6 the Standing Committee were attended by all the members.

7 The question can be put to him, and he can explain what his
8 findings are, but the question misrepresents his evidence.

9 BY MR. KARNAVAS:

10 That was my question; perhaps it wasn't artfully put.

11 Q. Are you suggesting from your answer that all Standing
12 Committee members were attending all meetings?

13 MR. CHANDLER:

14 A. I wouldn't be - no, that would be -- that would not be a good
15 suggestion.

16 But before, in your question, you made a suggestion that was made
17 in another question I've had in this -- I think: What happened at
18 these meetings we know nothing about? Now, how can I tell you
19 what happened at the meetings we know nothing about? I don't know
20 who was there; I don't know how complete it was.

21 The evidence we have is that the Standing Committee is a small
22 group, I would say probably most of the members or all of the
23 members came to the meetings because that's what they were
24 supposed to do, that was their main job. But saying that all of
25 them attended all of the meetings, I, of course, completely have

1 no reason to say that.

2 [09.53.41]

3 Q. That's what we're trying to get at, Dr. Chandler. We're trying
4 to get as close to what your actual knowledge is and when you are
5 making conclusions, to see what the bases of your conclusions
6 are.

7 Do you know whether all members of the Standing Committee
8 attended all discussions that were tabled before or by Pol Pot?

9 A. I'd have to review those 15 documents. I think sometimes there
10 were some people absent but usually it was the full attendance
11 and could in fact be the full attendance, but I don't have those
12 15 documents in front of me.

13 Q. Aside from those 15 documents -- and I know I'm asking you to
14 provide us information based on evidence that you don't have --
15 but are you prepared to say that Pol Pot insisted or included all
16 members of the Standing Committee on all topics that he was
17 discussing at that higher level?

18 [09.54.59]

19 A. I have no way of saying that and also I'm surprised that
20 you're asking me to give evidence for which I have no evidence. I
21 mean, this is what you've been accusing my historical
22 methodology, you want me to go into my sort of modus operandi
23 which is talking with no evidence or what?

24 Q. No, I just want an answer, sir. I'm trying to make a record.
25 Let me go back to this whole answer where you say -- you try to

1 answer part of it with: "I've been reading just very recently
2 material." What is this material that you've reading very
3 recently?

4 And then you say: "And the things and materials that have come
5 out in the Closing Order." Now, so we have two things, material
6 that you have been reading very recently, hence my questioning
7 about Heder and whether Heder has been communicating with you
8 recently and about providing you information – documents, not
9 necessarily for your testimony, but just out of -- for academic
10 purposes -- so that's one part. And the other part is when you
11 say "the Closing Order". You've told us you've had no material
12 relating to the Closing Order other than what was provided to
13 you.

14 So, again, are you relying on the text of the Closing Order and
15 what is all this material you're talking about, so we can do our
16 due diligence?

17 [09.56.45]

18 A. Yes, I'm sorry; that's a good question. I regret that I wasn't
19 able to bring all my footnotes to the discussion. I didn't know
20 this was the way the discussion was going to proceed, that every
21 sentence I gave in testimony had to be backed up with a footnote.
22 Had these questions been given to me in advance, I would well --
23 had been well able to answer that kind of question. I cannot do
24 that this way, then or now.

25 Q. Not to belabour the point, Dr. Chandler, you were asked to

1 provide a list of the material that you are going to be
2 consulting with, were you not? And in fact, by your own
3 admission, it was 10 days prior to your arrival. And you've
4 indicated to us that since your arrival you have been boning up
5 and studying the material, including the Closing Order. Fair to
6 say, nothing would have prevented you from making that list and
7 complying with the Court's directive; isn't that a fact?

8 [09.57.45]

9 A. Yes, I -- but as my reading went on, I could easily provide
10 such a document to you prior to -- maybe tomorrow by going over
11 the stuff I've been reading in my hotel. That list could be --
12 work I've been doing since I've arrived, absolutely.

13 Q. Now the -- on the same page later on right before 10.28.27,
14 you were asked a question: "From your research, are you able to
15 say whether all major policies passed through the Central or
16 Standing Committees?"

17 And your answer was -- which is on the following page, page 27,
18 right above 10.29.04:

19 "I can't go to claim my own research, I should note here that I
20 haven't done any primary research on DK since the late 1990s, but
21 evidence has come up since then to suggest pretty much a positive
22 answer to your question."

23 [09.58.51]

24 And I guess my question to you, sir, is -- you haven't done any
25 research but then you say that evidence has come up since. Are

30

1 you referring to the Closing Order that you read and the material
2 that is cited -- which you didn't look at -- or are you referring
3 to other academic books that might have been written by other
4 scholars whom you consider knowledgeable in the area, or a
5 combination of both?

6 A. Clearly a combination.

7 Q. All right. And if I were to ask you to produce us with a list
8 of that, you would -- I guess I would get the previous answer?

9 A. If you want a list of all the things I read about DK since
10 1988, I would not be able to provide you that tomorrow. But the
11 things I've read in the last couple weeks that amplified some of
12 my previous readings, yes, I could give you that.

13 [10.00.01]

14 Q. All right. Now on page 38 -- and this was -- this is right
15 above 10.21.02, there's a question, you were asked if you could
16 explain the relation between the Central Committee and the
17 Standing Committee, their status, their interrelationship and in
18 brief the work that was assigned to each of those committees.

19 Your answer was:

20 "I have to say that that's something I have never studied in
21 detail, so I'd rather not make a statement. As long as an overlap
22 between these two bodies -- how they were differentiated is not
23 something I have prepared an answer for today or I would -- I
24 would ready to come back to that if you like, but I'm not ready
25 to give a sensitive answer -- a sensitive answer on that."

1 I'm reading off the unofficial transcript by the way, so I'm sure
2 that your sentences are much more elegant.

3 [10.01.22]

4 Now from your answer, it would seem to me that what you're
5 telling us is that throughout your historical work and what you
6 were focused -- because obviously the history of the period is
7 rather large and complex and multifaceted -- suffice it to say
8 from your answer it would appear that you never studied in any
9 detail -- or great detail -- the interrelationship between the
10 Central Committee and the Standing Committee; hence your
11 reservation to provide an answer to that question. Is that a
12 correct characterization of your answer? And if not, please
13 correct me.

14 A. Yes, it is. And I'd like to say I'm sure my prose was just as
15 garbled as you suggest. This is spoken little by little and I'm
16 not proud of the elegance of some those answers, that's for sure.

17 Q. All right. And so, when you say -- when you say that you were
18 prepared to answer at some other point, can I -- help me out
19 here, you know -- can I assume what you're suggesting here is
20 that you could look it up in other texts or others may have
21 written and perhaps even some other material, and then provide an
22 informed opinion; is that what you're suggesting here?

23 [10.02.56]

24 A. Yes, I'm suggesting I might be able to come to a more informed
25 opinion had that been followed through with a request to do so, I

1 would have it ready today. But it wasn't, so I'm not prepared to
2 do it now.

3 Q. I'm not being critical. But suffice it to say -- suffice it to
4 say, that sort of -- if I may use the phrase -- "on the cuff"
5 review of material to provide a more sensitive answer is not one
6 that you would consider -- or would you? -- scholarly historical
7 work where one would delve into primary sources and do the
8 analyses and then come up with a conclusion or an assumption.

9 A. I'm not sure where the question was in that, but I would say
10 certainly that any work I deduct between two or three days of
11 testimony here with the sources available would be -- would
12 probably not be satisfactory to me as a scholar, but would be the
13 best I could do under the circumstances.

14 Q. Thank you. And that would be by looking at what others may
15 have written and perhaps what might other -- what other
16 information might be available?

17 A. Yes, certainly by other people, because I haven't written
18 about it.

19 [10.04.22]

20 Q. Thank you. If I could have used the analogy -- and forgive me
21 if I press on -- it would be almost like an open book test;
22 basically, we give you the question, you go to the books, you
23 come up with the answer.

24 MR. ABDULHAK:

25 Your Honours, I--

1 MR. PRESIDENT:

2 Mr. Witness, please wait; we hear the objection by the
3 Prosecution first.

4 The Prosecution, you may proceed.

5 MR. ABDULHAK:

6 It's the same way of asking the same -- a different way of asking
7 the same question. It's been asked already about -- at least two
8 or three times.

9 [10.05.10]

10 BY MR. KARNAVAS:

11 I'll move on, Mr. President, I'll move on. So I'll withdraw that
12 question.

13 Q. If we go to page 40 and this would be right below -- or
14 somewhat below 10.54.33, you're asked a question and it goes as
15 follows -- this would be on line 19:

16 "And within that select group, would there have been members of
17 the Central or Standing Committees?" And the answer was: "Well,
18 we think so, but have no direct evidence of that, of course."

19 Now from your answer it would appear that you're taking an
20 educated -- or you're making an educated guess -- or an educated
21 assumption and of course qualifying it, because you don't have
22 the particular evidence to support it?

23 MR. PRESIDENT:

24 Mr. Expert, please wait until we hear the objection by the
25 Prosecution first.

1 Prosecution, you may proceed.

2 [10.06.38]

3 MR. ABDULHAK:

4 I'm just asking for counsel to be a bit more specific. The
5 question starts in the middle of a discussion which in fact deals
6 with the meetings and the four-year plan.

7 So, if counsel can just provide that little bit of introduction
8 for the professor to understand the context in which the
9 composition of the Central or Standing Committee is being
10 discussed.

11 BY MR. KARNAVAS:

12 My apologies; I assumed that the question would have been
13 sufficient given the answer.

14 Q. But with that qualification, can we say that this is about as
15 good as you can do on this particular question, provide us with a
16 guess?

17 [10.07.32]

18 MR. CHANDLER:

19 A. I need to have the phrase "select group" clarified. That's
20 what I was talking about, what select group are you mentioning in
21 this question?

22 Q. Well, that was the question, okay.

23 MR. PRESIDENT:

24 Mr. Professor, please wait, till the red light is on.

25 And, Counsel, you're reminded to provide a clear and precise

1 answer -- question so that the professor can provide the response
2 clearly.

3 And as indicated by the Prosecution, you should raise your
4 question clearly through the Expert because the context of the
5 question is relevant to many parts since he's been testifying so
6 far.

7 BY MR. KARNAVAS:

8 My apologies, Mr. President.

9 [10.08.49]

10 Q. The passage begins on page 39 and you're being referred to
11 what you wrote where you talk about a select group. The title of
12 the document: "Preliminary explanations before reading the plan
13 by the Party Secretary". And you're being read a passage where
14 you say -- and it's in quotes, this is on page 39 starting with
15 line 22 -- quote:

16 "Between 21 and 23 August 1976 at a meeting of the 'Centre' --
17 not otherwise specified, but probably consisting of a select
18 group of CPK members assembled in Phnom Penh -- the 'Party
19 Secretary', Pol Pot, spoke at length about the Party's Four-Year
20 Plan."

21 So the "select group", Professor Chandler, is what you wrote.

22 Now, we fast forward to the following page, line 19, and the
23 question is: "And within that select group, would there have been
24 members of the Central or Standing Committee?"

25 And your answer is: "Well, we think so, but have no direct

1 evidence of that, of course."

2 [10.10.24]

3 Now, you say "we". When you say "we think so", who's the "we"? Is
4 that historians in general, is that the -- just a way you've
5 phrased it at the moment, or is it the co-authors of the text?
6 Because I believe that they're co-editors -- or co-authors, I
7 guess.

8 MR. CHANDLER:

9 A. Well, the last -- the answer to the last part of your question
10 is all three. I mean, I probably shouldn't have said "we", but I
11 think I meant a consensus would suggest to the higher members of
12 the Party, that's probably what it was. I think that they -- none
13 of them were there -- none of these people who was there at this
14 meeting would be inconceivable, since these are people charged
15 with -- actually implementing some of the suggestions being made
16 by the Party Secretary. And it's not a guess or an assumption
17 that the person addressing the meeting was Pol Pot, if that's
18 what they said it was being addressed by the Party Secretary.
19 So thank you for that, I was not quite clear which one of the
20 documents you were referring to and the select group is never
21 defined, so I was not prepared to define it precisely myself.

22 [10.11.34]

23 Q. All right. But earlier when you talk about -- you said
24 "probably" - "probably consisting of a select group". That was
25 part of the text. So the "probably", that's a guess or an

1 assumption made on your part that it won't be just Pol Pot and
2 maybe a few people around him, but there may be some other select
3 group other than a particular committee. I guess -- that's what
4 I'm trying to get at when you say "probably consisting of a
5 select group of CPK members assembled in Phnom Penh." That's a --
6 that's an assumption that you're making because obviously there's
7 an announcement to be made about the four-year plan, so -- am I
8 reading it correctly?

9 A. Yes, I wish to add there though this was a published widely
10 disseminated document so I can't believe it was a speech
11 delivered to half a dozen people. It was explaining what was
12 going to happen supposedly in the next few months in Cambodia to
13 a large group of people, select because it was -- some people
14 weren't asked, but I would imagine, again, sorry for the word,
15 but I don't have the list, that zone and sector people would be
16 brought in here, people with industry and agriculture, those
17 people. The Standing and Central Committee members wouldn't be --
18 I can't believe that they wouldn't be at the meeting behind their
19 leader who was talking.

20 So these are assumptions drawn from things such as the document
21 was not one of the ones discovered in 1979, but was one that was
22 published and available in many copies.

23 [10.13.27]

24 Q. Thank you. Now, if we go on to another question that you're
25 asked -- and this would be on page 41 going into page 42, this is

38

1 right above 10.58.15, and the question is -- and I'm starting on
2 line 23: "My question is: In the context of these meetings, did
3 the word "Angkar" refer only to Pol Pot, or could it have a wider
4 meaning and include other CPK members as well?"

5 And I'll read the most relevant part -- I'll read the entire
6 answer for context purposes and so there's no objections:

7 [10.14.18]

8 "That's an excellent question. It's hard to answer. My first
9 impulse is to think this -- is to think this a document which Pol
10 Pot referred to himself as 'Angkar', but on second thought, it
11 seems to me that the word, in this context, signifies that the
12 decisions was made -- at the meeting were made collectively by
13 the organization itself -- in other words, the people who were at
14 the meeting. That makes more sense to me than having the meeting
15 refer to Pol Pot as the organization, because that just seems
16 like the kind of hieroglyphy that they did not indulge in. But
17 I'd have no direct evidence of that, of course. I'm not -- this
18 is just an assumption on my part."

19 Now, let's go through your answer a little bit.

20 The question was: With respect to Angkar, did it refer to Pol Pot
21 only, or did it also refer to -- did it have a wider meaning? Did
22 the word "Angkar" refer to Pol Pot much as the term "Office 870"
23 also referred to Pol Pot as you'd indicated some time last week?

24 [10.15.55]

25 A. Sorry, I don't have that document in front of me. I would just

1 need one little bit of clarification.

2 Where did the phrase come about Angkar? Who is talking? Was Pol
3 Pot talking or is it in the title of the piece or what? I'm not
4 sure the context in which the phrase "Angkar" appears. I think my
5 answer would depend on knowing a little bit more of the context
6 that it was given to me at the time.

7 Q. Well, if we go further up on page 41, this is a further
8 meeting of the Standing Committee held on the morning of 14 May
9 1976, with a document number E3/2221. It also recorded the
10 attendance of the three Accused and considered a report on the
11 sea borders in an extended summary, and directions was given by
12 Pol Pot with a brief commentary by Ieng Sary.

13 And then you're asked a question whether the term "Angkar" in
14 this document referred only to Pol Pot or to -- did it have a
15 wider meaning. And if I'm mischaracterizing the evidence, I'm
16 sure the Prosecution will alert me, it's not my intention, but,
17 you know, slip-ups do occur.

18 [10.17.23]

19 So, in that context, this was the question, but my question now
20 goes back to you is: Was Pol Pot referred to as Angkar?

21 A. That depends on when and where and by whom. I don't think the
22 people of the inner circle referred to him in that fashion. This
23 was a word that was used to obfuscate the Cambodian population
24 into thinking -- into not knowing who was in charge of the
25 country, the organization.

1 So, conceivably, the collective leadership led by Pol Pot could
2 refer to itself as "the organization" in a private document,
3 whereas I don't think the fellow members were putting Pol Pot on
4 a pedestal by calling him "the organization". I don't think --
5 again, it's assumptions, but that's my view.

6 Q. Right. But, I mean, setting this document aside, I guess this
7 is what -- I'm trying to have a discussion with you on this term
8 because you were asked the question by the Prosecution about
9 Office 870, who worked there I believe was the context of the
10 question. And you gave us an explanation, and at one point in
11 your testimony, you said that Pol Pot was also referred to as
12 "870". And I can't recall whether you said "Office 870" or "870";
13 that was one of his code names.

14 [10.18.57]

15 Now, if I'm mischaracterizing your testimony, I'll be glad to
16 find it for you, but my question is: Was Pol Pot also considered
17 -- depending on the context of course -- as Angkar?

18 A. Yes, again, I don't like to quibble, but I don't think he was
19 considered as Angkar. I think his code name was 870. I think
20 inside the leading apparatus or the head of the machine, as they
21 call it in Cambodian, the "Kbal Masin", they wouldn't refer to
22 Pol Pot as Angkar.

23 But the country -- in the countryside, as I said in another piece
24 of testimony, people were convinced that Angkar was a person of
25 some sort because they couldn't understand that they're being run

1 by a collective leadership. It had never happened in Cambodian
2 history before.

3 So the name did blur there, but I don't think, in the inside --
4 again, we don't have -- I don't have positive proof, but the
5 inner circles, I don't think Ieng Sary, Khieu Samphan, Nuon Chea
6 would ever have referred to Pol Pot, in private or in a document,
7 as "the organization", except insofar, as we said earlier, it was
8 the name of a collective decision with - which had his approval.
9 So, it was a "we are the organization", not him, by himself.

10 [10.20.18]

11 Q. Well, okay. Now, there -- there I want to get your answer. You
12 say they make a collective decision with his approval and you --
13 I take it you're defending your position that it couldn't be a
14 decision made at the top with the others just going along with
15 it, with the imprimatur of the, say, Standing Committee. You're
16 not prepared to go that far?

17 A. No, I don't think so. No, I'm not, you're right. Yes, to your
18 question.

19 Q. Okay. So, in other words, the Standing Committee would have
20 sat around to discuss what would happen with Koy Thuon. They made
21 a decision, and Pol Pot would say: Yes, let's off him; let's
22 torture him and get rid of him. Same thing with Vorn Vet. They
23 would have sat around the - maybe even Vorn Vet present, they
24 would have voted on it, and then Pol Pot would make his decision.
25 That's how -- is that how we are to accept your testimony here

1 today?

2 [10.21.21]

3 A. (Microphone not activated)

4 MR. PRESIDENT:

5 Mr. Expert, please wait.

6 The Prosecution, you may proceed.

7 MR. ABDULHAK:

8 Your Honours, objection is the use of the language.

9 I don't know how it translates into Khmer and French, but the
10 phrase "let's off him" is entirely inappropriate considering that
11 we're dealing with lives lost at S-21.

12 BY MR. KARNAVAS:

13 Q. I'm speaking of Koy Thuon. "Let's smash him", to use the
14 terminology that was purportedly used at the time.

15 [10.21.53]

16 Are you suggesting that the Standing Committee, their members,
17 all of them met, including those who might end up at S-21, to
18 make a decision and then Pol Pot would just make that decision?

19 Is that how we are to understand your testimony, your conclusion,
20 or do you allow for some other possibility where a group within a
21 group may have made certain decisions at times?

22 MR. CHANDLER:

23 A. With respect, you're becoming the kind of historian you're
24 accusing me of being. You're making imaginary forays into
25 meetings we know nothing about, and making assumptions of what

1 was said.

2 I can't follow along that way. There must have been meetings
3 which we don't know about where some decisions might well have
4 fell out the way you're talking. The evidence of these meetings,
5 we don't have it. Through evidence we have suggests that Pol Pot
6 never, I think, jumped ahead of the meeting and said: I don't
7 care what you say, but this is what I'm going to do. He may have
8 done that, we have no idea.

9 [10.23.01]

10 It's an imaginary foray, the kind of things you've me accused me
11 two days. I mean, we can write history together if that's the way
12 you want to do it, but I don't want to write that way.

13 Q. That's my point, Dr. Chandler, that's my point.

14 You're claiming that that's not the way Pol Pot operated but, at
15 the same time in the same sentence, you say: "Well, perhaps it
16 might have occurred that way, we don't have any evidence."

17 So it would appear that unless you have evidence to the contrary,
18 you're just willing to go along with what you're speculating,
19 which is it must have operated this way, it couldn't operate any
20 other way?

21 A. This is where -- right and, of course, there might be an
22 earthquake this afternoon. I mean, "might" is "might". I mean, we
23 don't know when -- if there are things we don't know, I use the
24 word "might".

25 [10.24.06]

1 Q. Let me fast forward, and I'll try to not go through every
2 single instance that I've marked.

3 There's one particular passage that I would like to set up a
4 question and answer that I would like to discuss and that's on
5 page 63 of -- actually, trying to find the time -- it's right
6 above 11.45.20 -- is the question -- And you are asked the
7 question: "Can you explain to us the role of the Party within
8 Democratic Kampuchea?"

9 And then your answer -- and it's a rather lengthy answer, so I
10 will read just only part of it, but I will read in context, and
11 the prosecutor can correct me if I take anything out of context
12 -- you begin by saying: "I wish I could, really."

13 And then, further down on line 12, you say:

14 [10.25.10]

15 "Of course, how -- your question -- how the Party operated, when
16 you start using a phrase like that, you're getting into the real
17 world rather than in the world of these ambit claims of authority
18 made by the Party. I would think any political body has ever been
19 able to act with the kind of absolute, unchallenged, and
20 unquestioned, and unambiguous power that this paragraph we've
21 been talking about mentions."

22 That's what's recorded. And the part -- then you go on to the
23 following page right below 11.46.37 -- this would be page 64,
24 line 2:

25 "But, of course, your question is how did it operate, as soon as

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1 you get into the operations question, you're into the whole real
2 history of DK; that's a phenomenon that's still evolving, that I
3 have no claim to any genuine authority about, but one that, I
4 think, many people in this room have studied with care and are
5 still coming up with new ideas."

6 So, if we could look at this answer a little bit? Because I think
7 it's rather revealing in some ways.

8 [10.26.50]

9 You're asked about how the Party, the role of the Party within
10 DK. You begin by saying you wish you could answer that question.
11 And then there seems to be this de facto versus de jure answer of
12 yours. One is theory but then what happens in practise, well,
13 that's something that you're not prepared or uncertain as far as
14 your ability to answer that question. So why is that?

15 MR. PRESIDENT:

16 Mr. Expert, please wait. We'll hear the objection by the
17 Prosecution first.

18 Prosecution, you may proceed.

19 MR. ABDULHAK:

20 And here again we run into problems with questions asked out of
21 context.

22 And if we may request from hereon in if counsel could either give
23 Professor Chandler hard copies of the entire transcripts so he
24 can read his answers in full or display them on the screen
25 because counsel is selectively jumping through passages of text.

1 [10.28.02]

2 The answer was restricted I think to a discussion of whether or
3 not the statute entirely reflected practise, and it was in that
4 context that the professor was explaining that the document was
5 never going to accept any nuance, that it was an absolute
6 document, and that there might be a difference with practise. If
7 the entire answer had been read, that would have become obvious.
8 I don't think the Court is assisted with this type of disjointed
9 questioning, taking words out of context, and, quite frankly,
10 tending to confuse everyone, including the professor.

11 Just for the record, the three transcripts in English are
12 approximately 450 pages long. There is a huge amount of material
13 and the professor should have the benefit of reading his entire
14 answers in full and from a hard copy or on the screen.

15 MR. KARNAVAS:

16 If I may briefly respond, we can't have it both ways. You can't
17 allow the prosecutor to act in an adversarial fashion on direct
18 examination and then hold the Defence to a civil law tradition
19 where we can only ask open-ended questions in a very limited
20 period of time.

21 [10.29.19]

22 If I'm provided with an extra couple of days I can use that
23 method. I have no objections to giving the gentleman, or any
24 witness for that matter, the entire transcript. I was under the
25 assumption -- and perhaps here's where I need to be corrected --

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1 that we were providing on the screen the text. I thought that was
2 being done by our case manager. But if it is not being done, I
3 truly apologize; that wasn't -- my intent is not to mislead.
4 But put it in the context that the prosecutor just put it -- the
5 question that I'm interested in is this de jure versus de facto
6 aspect of it. And I think my question was within context.
7 So may the witness be allowed to answer the question?

8 (Judges deliberate)

9 [10.30.38]

10 MR. PRESIDENT:

11 We noted that the statement made by the prosecutor was
12 appropriate, and the expert could have read the document put up
13 on the screen by the case file manager.

14 It is true, however, the document appeared to be in -- sometimes
15 Khmer language, French, English, and that was not friendly enough
16 to the expert.

17 May we advise the Chamber to prepare the hard copy of the
18 documents you wish to put to him so that he can fully review the
19 relevant portions of the documents before he could respond to
20 your questions. It is for the purpose of clarity and it is for
21 him to be able to respond to the questions more precisely.

22 Quoting only portion of the text could have misled the witness or
23 the parties involved in the proceedings. We fully understand that
24 we have covered a broad scope of discussion during the last few
25 days and we feel that the expert may not be able to remember all

1 the details without pinpointing to the precise portion with the
2 submission of the relevant portion to him.

3 So parties and counsels are advised to prepare those documents to
4 be presented to the witness when such questions are put.

5 [10.32.56]

6 MR. KARNAVAS:

7 Thank you, Mr. President. I see we're coming up on our break. If
8 we could take the break now, then -- and maybe go until -- all
9 the way until 11 o'clock, that would be an extra five minutes. I
10 think that we would be able to print out a copy -- a hard copy --
11 for the professor so he could have it available.

12 And my apologies if he has not been seeing it on the screen; I
13 assumed that that was being -- that was the case, but if we took
14 our break now I think I could -- we could do that. And in the
15 meantime, I'll go through my prepared examination and also try to
16 streamline it so that there's no repetition.

17 MR. PRESIDENT:

18 Counsel, could you advise the Chamber how much time would you
19 need to put questions to the witness?

20 [10.34.00]

21 MR. KARNAVAS:

22 That's a very good question, Mr. President. Well, we did start 15
23 minutes late today, if I could point that out. I had anticipated
24 going until about -- we did our calculations based on the
25 two-and-a-half days that were allocated; at least one of

1 colleagues did it with some mathematical precision, in fact. And
2 by that calculation, I would have had seven minutes past 12 --
3 that is, seven minutes after lunch. I would be better equipped to
4 answer that question after the break when I go through it. I do
5 think that the rest of the morning for sure. It would be helpful
6 if I had an half-hour into the afternoon session, maximum. I
7 think with that I could manage. I believe I have until 14.35, I
8 was told. We did our math based on calculating, I think, 12 hours
9 and -- I don't know the minutes -- over a three-day period, you
10 know -- two-and-a-half day period, that is.

11 [10.35.27]

12 MR. PRESIDENT:

13 Thank you, Counsel.

14 May we know from counsels for Mr. Khieu Samphan how much time
15 would they need to put questions to the witness?

16 MR. VERCKEN:

17 By the same calculations, Mr. President, which have been
18 mentioned by my learned friend, then we have up until midday
19 tomorrow to perform our questioning of Professor Chandler.
20 Now, I don't know if I can tell you now if we will use all of
21 this time because it depends how the questions and answers
22 progress. Some, of course, may be asked by my colleague who
23 precedes me and I will endeavour to avoid repetitive questions so
24 I can discard some of them as we go along.
25 Technically speaking, however, Mr. President, we have planned in

1 terms of working up to tomorrow at 12 o'clock maximum. Thank you.

2 [10.36.38]

3 MR. PRESIDENT:

4 Thank you, Counsel.

5 The reason the Chamber wished to know the timing, because as the
6 parties and the public have already been apprised of the
7 information, that the Chamber would like to also hear the reserve
8 witness during this week. And to help us better manage the time,
9 we needed to know from counsels concerning the time they needed.
10 And, indeed, if we can complete the testimonies of the Professor
11 Chandler, we may proceed to the reserve witness.

12 However, since it is now appropriate time for the adjournment,
13 the Court will adjourn until 11 a.m.

14 Court officer is now instructed to assist the witness during the
15 adjournment.

16 (Court recesses from 1037H to 1102H)

17 MR. PRESIDENT:

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

19 Before the floor is handed to the defence team for Ieng Sary in
20 order to continue putting questions to the expert, the Chamber
21 would like to make some observations.

22 [11.03.10]

23 First, regarding the without-pause questions by Michael Karnavas
24 to the expert, please be reminded that you should have a pause
25 between a question and answer session. Please try to switch on

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1 and off microphone for your question and answer session.
2 Otherwise, the interpreters could not be able to put everything
3 on the record.

4 And, secondly, if the document in English is delivered to the
5 expert, the case manager or assistant, please try to show the
6 document in the Khmer version on the screen.

7 Counsel for Ieng Sary's team, you may now continue your
8 questioning to this expert.

9 [11.04.31]

10 BY MR. KARNAVAS:

11 Thank you.

12 And just to make sure that everyone is aware of what was handed
13 to Professor Chandler, we have handed him a portion of the
14 transcript, starting with page, I believe, 61, 62, where we had
15 left off. So the time that -- the part that we covered this
16 morning, we did not hand it to him only because we're trying to
17 save time in the printing, although we'll make that portion
18 available to him as well, and he can avail himself to the
19 transcript, and if he feels he needs to clarify a point at some
20 other point today or tomorrow, he can do so.

21 Q. Going back to what we were discussing before the break,
22 Professor Chandler, if I could focus your attention on page --
23 pages 60 -- page 63, you will see right above, time 11.45.20,
24 starting with line 2 of that page, you're asked a question: "Can
25 you also explain to us the role of the Party within Democratic

1 Kampuchea?"

2 Now, you heard the Prosecution's objection. They indicated in
3 what context this question was being put. I believe you have the
4 pages because you've been given the two previous pages. And, of
5 course, the part that I read out started with line 4, the first
6 part of the sentence where you say: "I wish I could, really."

7 And then I picked up lines 12, where you say:

8 "Of course, your question -- how the Party operated, when you
9 start using a phrase like that, you're getting into the real
10 world rather than in the world of these ambit claims of authority
11 made by the Party."

12 And that's what I'm most interested in, the theoretical versus
13 the practical or the actual.

14 [11.07.04]

15 MR. CHANDLER:

16 A. I'm not sure there's a question in there. I'm ready to answer,
17 but -- the lights on. My fault.

18 Q. I wanted to give you the predicate of the question and to make
19 sure that since we're back on from the break, you've adjusted to
20 the proceedings.

21 All right. Now, in light of all of this, do you have an opinion
22 as to whether things happened -- the way things operated from the
23 period of '75 to '79? You had the theoretical on paper, on
24 documents, on the statute and, of course, that may not
25 necessarily reflect what is actually happening on the ground at a

1 variety of levels. And I know it's a general question, but based
2 on your historical research, can you answer that question?

3 [11.08.03]

4 A. Certainly, there's a gap between the ambit claim where -- I
5 was unclear of the context before, which is the page numbers. The
6 ambit claims are being raised by the statutes of the Communist
7 Party and the actual practice, insofar as I've had access to this
8 through documents and interviews, shows that there is often --
9 there were often gaps between what the Party said you could do
10 and what it was able to accomplish -- or what it said it had to
11 do, always did, etc., and was able to accomplish.

12 Q. And then if we go on and continue with your answer on the
13 following page, page 64, where you say:

14 "But, of course, your question, as how did it operate, as soon as
15 you get into that operation -- operations question, you're into
16 the whole real history of DK; that's a phenomenon that's still
17 evolving, that I have no claim to any genuine authority about,
18 but one that, I think, many people in the room have studied with
19 care and are still coming up with new ideas."

20 Now, in light of this answer, I think, if we go back to your
21 previous answer, it would appear that because there are these
22 gaps, not just in a practical versus a theoretical, but also with
23 what we know or the gaps in the actual evidence. Is that why you
24 say that this is a phenomena that's still evolving?

25 [11.09.54]

1 A. Yes, it is.

2 Q. All right. Thank you. Now, I'm going to fast-forward a little
3 bit a few pages to -- first, I'll focus you on page 79. There's a
4 series of answers which, actually, you have to go back to page 76
5 where you're asked a question about Articles 3 and 6 of the
6 document that was being discussed. This would be the Statute,
7 that is. And so in that context, if we just go through -- and
8 I'll give you time to read it, but I just want you to -- to focus
9 you on what I'm interested in and then you can look at it and
10 then give us your opinion. On page 79, right below 13.38.45, you
11 say:

12 "Now, whether this is directly reflected in practice throughout
13 Kampuchea during the DK period, I'm unable to answer that
14 question. I have no idea if this was faithfully followed at every
15 level and all through different years in districts, and so on."
16 Then, further down on line 14, you say: "There's no way to make,
17 I think, a systematic answer to the question."

18 [11.11.35]

19 And then, further down -- even - further down, again -- this
20 would be right below 13.39.48 -- you say:

21 "The ruling group is a small group of collective leadership at
22 the top, and that these run through these line of this." It's
23 very difficult to read this. "As is -- but I say, as it was
24 reflected in practice, I'm not equipped to answer."

25 Now, so it would appear, at least from my reading of your -- and

1 hearing your testimony -- what you're saying here is that, one,
2 you're not sufficiently informed due to lack of evidence, lack of
3 statements from others or primary sources. You cannot give an
4 informed opinion concerning the practice versus the theoretical,
5 at least with respect to the two articles, articles 3 and 6 that
6 were referenced as part of the question?

7 [11.13.01]

8 A. Is there a question there? I didn't hear it.

9 MR. PRESIDENT:

10 Mr. Expert, please wait.

11 The Prosecution, you may proceed.

12 MR. ABDULHAK:

13 And the professor pointed to the very problem that I was on my
14 feet to point out. We're prepared to tolerate a degree of
15 semi-leading questions, and that's why we're not objecting all
16 the time. We understand counsel needs to put a proposition to the
17 witness and ask him if that proposition is true or not and, to
18 that extent, we wouldn't object, but what is happening is that
19 counsel is effectively testifying, giving a series of factual
20 assertions and simply asking the expert to agree with him or not,
21 and that technique is allowed in some systems but is not allowed
22 in this Court.

23 [11.13.50]

24 BY MR. KARNAVAS:

25 Well, if I may briefly respond, I don't want to debate the point.

1 I'm using the gentleman's words, the witness' words, and I'm
2 trying to get the witness to clarify certain points. I'll
3 rephrase.

4 Q. When you say, "Now, whether this is directly reflected in
5 practice throughout Kampuchea during the DK period, I'm unable to
6 answer that question. I have no idea if this was faithfully
7 followed at every level and all through different years and
8 districts, and so on", first and foremost, do you stand by that
9 statement that you made?

10 [11.14.33]

11 MR. CHANDLER:

12 A. Yes, I do, and I can't imagine someone would have an idea
13 about what went on in every district, in every moment, in every
14 year of the regime.

15 Q. Yes.

16 A. I was being asked to give an extremely systematic oral
17 response to a very important and interesting question, one that I
18 have thought about, where I wasn't really prepared to write pages
19 of documented history in oral form at that point. So that's why I
20 don't mean to have seemed evasive. I don't -- but the story of
21 the gaps between theory and practice in Cambodian history at this
22 time -- in the history of Cambodia at this time, rather, are well
23 documented and very interesting.

24 [11.15.18]

25 Q. Thank you.

1 There's no need to be defensive; I merely want you to amplify on
2 some of these -- some of these questions. I can assure you, I'm
3 hardly being aggressive with you, sir.

4 Now, from your answer, however, when you say "during every level
5 and through different years" that part, it would appear that
6 you're saying that perhaps things were evolving within that
7 period. Is that a correct interpretation that what might have
8 happened in 1975, for instance, that perhaps this might be
9 slightly different or radically different in '76, '77, '78,
10 hence, because of the broad nature of the question, you could not
11 give a pithy and cogent answer?

12 [11.16.16]

13 A. I'm sorry if I seem defensive, but it seems to be the kind of
14 response when asked certain questions. But I don't mean to seem
15 defensive or aggressive, or whatever.

16 But let me just say that I have said repeatedly, in this Court
17 and in things I've written, that there was an evolution in the
18 behavior of the regime and evolution of events inside the regime.
19 We've discussed several stages, '75 to April '76; changes in the
20 -- people who were being purged, the entrance of Vietnam as a
21 serious actor on the scene; to put it very euphemistically, the
22 changes of focus from one set of enemies to another. Certainly, I
23 meant that there was an evolution from period to period.

24 Q. Thank you. And the purpose is for us to get clarification. And
25 I take it that given that answer, that would apply at all levels,

1 from bottom to top, top to bottom -- the answer that you just
2 gave us, that is?

3 [11.17.27]

4 A. I've no way of saying that from all levels. I would not assert
5 that. I would just say there has been -- there was a -- there's
6 been a noticed evolution. Some people probably behaved the same
7 way straight on through. I can't assert that all levels of --
8 make that kind of statement.

9 Q. All right. Well, I'm not speaking about persons. I'm speaking
10 also about institutions or groups or committees; that's what I'm
11 speaking of as well. Was it an evolving process where things
12 changed, where what might have been envisaged or -- or expected
13 of in 1975 took some detours and radical changes, perhaps, in
14 '76, '77, '78, '79?

15 A. I think that I'll rely on my previous answer; the question
16 seems to be the same. Yes, there were.

17 Q. Thank you. I'm pausing because we -- we should pause.

18 Now, if I can focus your attention on -- on page 92 and I'm going
19 to jump into the middle of -- of a question. If you look at page
20 91, you'll see that you're being asked to -- the question begins
21 on line 13 of page 91. Right below 14.06.40, you're asked about
22 Article 23, the task of the Central Committee and the thrust of
23 the question comes in the following page, on page 92, where on
24 line 3, you're asked:

25 "Can you give the idea as to whether or not, in the real

1 practice, the implementation was the same as what was written in
2 this article? And if there was a distinction between the real
3 practice and what is written here, then please describe?"

4 [11.19.42]

5 That was the question posed to you. Line 8, page 92, you begin by
6 saying:

7 "Yes. I don't think I'm really equipped to answer that question.
8 It's a good question, but it is not something that I've studied
9 in detail. Again, I would suspect that most of these rules were
10 followed. This was not -- I mean, at the organizational level, I
11 think, as the Closing Order has suggested and the documents I've
12 been -- just recently familiarizing myself with.
13 Organizationally, the place ran, in the eyes of those that were
14 organizing it, fairly well."

15 So let's look at your answer. You begin by telling us -- and
16 correct me if you're wrong -- that you're not equipped to answer
17 the question whether, in reality, in actuality, Article 23 was
18 implemented as it was written and envisaged in the Statue. Would
19 that be a fair characterization of your answer? Please wait,
20 Professor.

21 [11.21.12]

22 A. Yes, I think so.

23 Q. Okay. You then go on to qualify, somewhat, your answer, and
24 this is the part -- and I'm not being critical, but I just -- I
25 do need to cover this, and it's not your fault, but you say: "...I

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1 think, as the Closing Order has suggested and the documents I've
2 been -- just recently familiarized myself with."

3 Let me ask you: Here, Professor Chandler, are you aware that the
4 Closing Order is similar to what we would consider in the
5 Anglo-Saxon system -- one in which I'm sure you're familiar with
6 -- as the indictment? Are you aware of that? And if you're not,
7 that's fine.

8 A. Again, the pause is -- I'd say yes, but the pause was a light
9 situation.

10 [11.22.09]

11 Q. All right. So, when you say that, "I think, as the Closing
12 Order has suggested", it would appear that at least with this
13 particular portion of your answer, you're relying on what you
14 read in the Closing Order in addition to what -- what else -- and
15 we'll get to that part but, in part, you are relying on the
16 Closing Order itself?

17 A. Yes, to an extent--

18 Q. And--

19 A. --in that portion -- in that portion of my response.

20 Q. Yes, yes, and that's what -- thank you and that's why I'm
21 trying to be very careful.

22 [11.22.50]

23 Now, when you say "in the documents I have just recently
24 familiarized myself with", and then you say "organizationally",
25 and so on and so forth, well, again -- and I apologize if I seem

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1 to be insistent or -- yes, I would say the word "insistent" is
2 probably the correct -- in knowing, what exactly do you mean by
3 "the documents just recently familiarize myself with"? Are these
4 documents such as, for instance, "Seven Candidates for
5 Prosecution", written by your friend and colleague, Heder, many
6 years ago? Is that one of the documents that you're referring to
7 or are we speaking about new, primary documents -- primary
8 sources which you were unaware of, but have recently come to --
9 that -- that have come to your attention; perhaps, the ones that
10 were provided to you by the Trial Chamber?

11 A. Both -- both of those. The documents provided by the Trial
12 Chamber, including the Closing Order, gave me some of my -- an
13 inkling that this might have been what happened, but if you
14 follow toward the end of the same page, you'll see that I closed
15 off by saying I really didn't want to deal with the question;
16 perhaps, for the very reasons you are suggesting that my
17 documentary, primary-source work was not up to -- up to par from
18 my own -- by my own standards so -- but yes, I mean, these were
19 conclusions I reached. I think from the time I stopped writing
20 books about Democratic Kampuchea until now, a great deal has come
21 to our attention about the organization of power in Cambodia and
22 how that power operated and I had to quickly re-familiarize
23 myself with some of that material rather than just with things I
24 had written myself.

25 [11.24.51]

1 Q. Okay, thank you.

2 Now, if we could go to page 95 and 96, this would be on 95,
3 14.17.23; it's line 25. It's just a point of clarification that I
4 need, to the answer that you gave on -- on page 96 because it's
5 unclear whether -- it says here "Microphone not activated", and
6 so we seem to have an incomplete answer or maybe a complete
7 answer, and I want to give you the opportunity to tell us what is
8 the answer to the question, which is: "Did you find any evidence
9 concerning the separate roles of the Standing Committee? And if
10 there were, what were the responsibilities or roles?"

11 And at least what we have here is: "--I've done primary research
12 in."

13 [11.25.54]

14 My recollection is slightly different. I want to give you an
15 opportunity to, at least for the record, tell us whether you
16 have, in fact, done primary research in this or whether your
17 answer was different. And I know it's kind of tough going back.

18 A. The answer contains the phrase, I think -- as I recall my
19 testimony, I think I said: "I'm not really prepared to answer
20 that because this is not a subject that I've done primary
21 research in." So that's -- that's what I prepared.

22 Q. Oh, okay. All right. Thank you. Thank you. I just wanted to
23 clarify the record itself because, months from now or maybe even
24 years, we're going to be relying on this testimony and we do need
25 -- we won't be able to contact you to give us clarification on

1 those matters. We appreciate that.

2 [11.26.44]

3 Now, if I could focus your attention to another part of your
4 testimony and, here, we're going to fast forward to page 109.

5 This again is the 18th of July. And you were provided -- you were
6 asked to look at a portion or passage from your book, "Voices
7 from S-21". If you look at line 17 there, you'll see -- and then
8 you're -- there's a quote starting at line 25 and that would be
9 right above 15.19.02 time wise and it says -- the passage is very
10 brief, Professor, it simply states -- quote:

11 "No document linking either Pol Pot or Ieng Sary directly with
12 orders to eliminate people at S-21 has ever been discovered,
13 although the lines of authority linking S-21 with the Party
14 Centre, ('mochhim pak') have been established beyond doubt." End
15 of quote.

16 [11.28.10]

17 That was the quote from your text.

18 Now, if we go on to the next page, which would be page 111, right
19 above -- or right below, I should say, 15.21.40, at line 12, you
20 say -- this is part of the -- your -- it's a continuation of your
21 answer - well, there was a question between that, but, still, I
22 think it's in context, and you're going to correct me if I'm
23 wrong -- it says:

24 "I want to make a correction to that passage, however. As we know
25 from the Duch trial, Duch himself was not in touch with all these

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1 people. He was in touch only with Son Sen and, occasionally, he
2 testified, with Nuon Chea. So his -- his connections with these
3 other people, with the Centre, have not been defined, and when I
4 wrote the book, I -- that -- that's mistaken. I shouldn't have
5 said that he -- he knew about the Party Centre. He knew that Son
6 Sen and Nuon Chea were on the Party Centre, but it said, "I
7 reported to the Party Centre" in one of his interviews or
8 whatever but, in fact, as we learned from the testimony, he just
9 saw one or, at most, two people."

10 Now, it's -- at least from this passage, it seems that having
11 listened or read Duch's testimony, you were prepared, in this
12 instance, to acknowledge the need to correct the record from what
13 you had written; would that be fair way of putting it?

14 [11.30.37]

15 MR. PRESIDENT:

16 Witness, could you please hold on?

17 Co-Prosecutor, you may now proceed.

18 MR. ABDULHAK:

19 Again, a problem with the skipping of passages, Your Honours, and
20 it's helpful now that at least the expert has a hard copy.

21 The correction, as I understood it on the day, in fact, referred
22 to another passage which counsel has just skipped. That other
23 passage was dealing with the reporting lines from S-21 to the
24 Party Centre, so that was the correction and the professor should
25 not be misled into thinking that he was correcting some other

1 part of his prior writings.

2 BY MR. KARNAVAS:

3 Q. I appreciate the clarification. I thought it was self-evident.

4 The gentleman has the text, but that's the thrust of my question

5 that he got it wrong in his book about the reporting process and

6 now that he's heard Duch's testimony, he's correcting himself. Is

7 that the case, Professor Chandler?

8 [11.31.45]

9 MR. CHANDLER:

10 A. I think not. His connection with the Party Centre was via Son

11 Sen. Son Sen was on the Party Centre; that was the connection.

12 The correction I -- was with the word itself, "Party Centre",

13 perhaps implying: As a whole -- he was not in touch with the

14 Party Centre as a whole. He was in touch with Son Sen. He was not

15 only relying on his evidence at the Court that I say so, but on

16 hundreds of documents that are addressed from Duch directly to

17 Son Sen. We know that these documents went up to Son Sen. We have

18 some of Son Sen's documents that passed them on or are reported

19 alleged to have passed them on to other people. So the--

20 Q. (Inaudible)

21 A. Let me finish, please. The line "with the Party Centre," maybe

22 that phrasing's wrong; the line with a member -- with a crucial

23 member of the Party Centre -- Son Sen was often said to be number

24 3 in the regime. So, if Duch said "I was in touch with the Party

25 Centre", I'm sure that's what he meant. He did not mean ever that

1 he was in touch with all of them and I am absolutely certain that
2 he never was.

3 [11.32.45]

4 Q. Well, that's the clarification I wanted and, again, there's no
5 need to be combative, Professor. I don't see the problem. That's
6 exactly what I was trying to -- perhaps in artfully, to clarify.
7 So, when you say "Party Centre", you're saying, at least from the
8 evidence that you've seen, it's Son Sen who is a critical member
9 and that's -- that's as far as you're prepared to go. But you're
10 not willing to say that, in all instances, he reported to the
11 entire Centre whatever that Centre may have been.

12 A. Well, again, we're -- we're walking off into undocumented
13 areas. We don't know what -- what Son Sen did with the documents
14 that were sent to him. We don't know what he -- we don't have the
15 discussions at Party meetings where these document might -- might
16 have been raised so we don't know the fate of these documents so
17 I think the -- all I meant by the correction was perhaps to just
18 slightly modify the wording "connection with the Party Centre",
19 is still -- the connection with the Party Centre is -- is proof
20 -- this is proof, this is the connection with Son Sen; he was a
21 crucial member of it.

22 [11.34.04]

23 I may be seeming like I'm carping or something. I don't mean to
24 be combative, but I find the questions just a little bit
25 repetitive and trying to make me say something that -- different

1 from what I said here, which I'm concurring with.

2 Q. For the record, let me just clarify what--

3 MR. PRESIDENT:

4 Counsel, please be reminded that you should observe some pause
5 significant enough for interpreters to render your questions
6 significantly. We have already advised you to deactivate your mic
7 after you have put your questions and then reactivate it before
8 you proceed with a few more questions. By doing so, you can
9 indeed observe some pauses.

10 BY MR. KARNAVAS:

11 Thank you, Mr. President.

12 [11.35.09]

13 Q. Frankly, I was just -- wanted to commend you for clarifying
14 the point, but you seem to be rather aggressive and defensive.

15 MR. ABDULHAK:

16 Your Honours--

17 MR. KARNAVAS:

18 That's how -- that's how it appears.

19 MR. PRESIDENT:

20 I would like to hand over to Judge Cartwright.

21 JUDGE CARTWRIGHT:

22 Mr. Karnavas, the manner in which you are putting the questions
23 appears, to put it mildly, assertive on occasions, and that will
24 inevitably elicit a strong response. You are well aware of that.
25 So please don't accuse any witness or this expert of aggression.

1 Thank you.

2 [11.36.14]

3 BY MR. KARNAVAS:

4 Q. Now, if we could look at -- just to -- since you clarified the
5 point on Duch -- again, we wish to thank you for that, for your
6 frankness and your willingness to correct yourself there on the
7 record and expand on it today -- if we could look at what you
8 testified before on 6 August 2009 -- I hope this is not too
9 aggressive or combative of me to point out something else that
10 you said in Court which actually dovetails, in part, of what
11 you're telling us today, and again, it's simply for the record --
12 I'm referring to D288/4.59.1. This is from the transcript from
13 Duch, trial day 55, 6 August 2009. On line 20 of this page --
14 this transcript, line 20, page 58, you -- the question was: "Are
15 you saying there that S-21 was clearly on the senior leaders'
16 agenda, but it wasn't as high on the agenda in terms of other
17 aspects of what was occurring in the country at the time?"

18 [11.37.43]

19 If you don't have a hard copy, we could provide you with that.

20 Okay, thank you.

21 Your answer is:

22 "Yes, I'd say generally, I mean, certainly the top leaders were
23 very interested in the confessions of top cadre like Koy Thuon
24 and Vorn Vet and some of these people who were coming through the
25 net in '76 and '77. And I think these confessions -- I'm just

1 guessing, we don't have the paper trail -- that some of these
2 confessions were read not only by Son Sen, who read a lot of
3 them, but also by people higher up."

4 And this was -- I wanted to share with -- share this answer with
5 you because it seems, at least, when we put your Duch testimony
6 and this testimony, we get a complete -- a complete answer to the
7 questions that were being posed; is that a fair way of putting
8 it?

9 [11.39.02]

10 MR. CHANDLER:

11 A. Yes.

12 Q. Thank you.

13 If we could go on to the next page, which is 119, and it's right
14 -- right below time 15.40.00, and this is a point of
15 clarification again -- there's a question and it says: "I hate to
16 ask one more question when I said that was the last question."

17 And then you -- it goes on:

18 "...when you say 'chairman of 870', given that you had indicated
19 earlier, in your view, 870, I think you said, was a -- like an
20 address or a code, a reference to a number of things, including
21 the -- I think you said 'Party Centre' - and correct me if I'm
22 wrong. When you say "chairman of 870", could you describe what -
23 functionally, what that role was, as you understand it?"

24 That was the question that was posed to you. I trust you have the
25 passage.

1 [11.40.33]

2 Your answer was:

3 "The way I've come to understand this better, I must admit, is
4 through the Closing Order. This is not stuff that I was
5 concentrating on before. But it seems to me [...] 870 was a code
6 name, actually, for Pol Pot..." And then you go on.

7 So, at least in this particular passage, your answer would appear
8 to be that your understanding of what 870 meant, among other
9 things, was Pol Pot. And that comes from your reading or the
10 clarification comes from reading the Closing Order; is that
11 correct?

12 A. Not quite. And I see why you're curious, and I'm not
13 complaining.

14 [11.41.34]

15 Sorry, this is a very -- this is not a good answer and not very
16 clearly -- clearly spoken, and I apologize for that, but I had
17 certainly known and I have testified on this point several times
18 with no reference to the Closing Order that 870 was a code name
19 for Pol Pot. This is well-known throughout my research, and I've
20 written about it.

21 What I hadn't known and which was not drawn to my attention -- it
22 was -- it was also well-known from other document drawing my
23 attention by the Closing Order alone -- was that 870 -- I knew
24 about the Office of 870. I knew such a thing existed through my
25 work with documents of S-21. What that office did, I had not

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1 worked on and I didn't know what it was. I came to some
2 information in the Closing Order about the Office of 870, how
3 this was a kind of a mailing address and so on. That was
4 interesting. It didn't seem to be very incriminating of anybody.
5 It was just a amplification of a crucial office in the
6 administration of DK, but one which we didn't know much about.

7 Q. All right. Thank you.

8 Now, we're going to switch over to the next day, 19 July 2012. I
9 don't know if that -- that has been provided to you. It has not
10 -- if -- we do have a copy for you and we apologize to -- if the
11 copy of the-

12 MR. PRESIDENT:

13 Court officer is now instructed to bring the documents from
14 counsel to the witness for examination.

15 [11.43.14]

16 Witness should also be offered some ample time to review the
17 documents before responding.

18 BY MR. KARNAVAS:

19 Q. Yes, Mr. President. This is the transcript of his testimony
20 from 19 July, and as we did with the previous transcript, we'll
21 do the same with this one, although I don't think that we have
22 that many passages and, hopefully, we might be able to end this
23 series of exercise by lunch.

24 If I could focus your attention to page 30, we'll start there.

25 That's where the question begins, but I'll need to have you look

1 at several other pages. But page 30, if you could look at and
2 that's right above time 10.00.34 and you're being asked primarily
3 to look at and focus on -- on the years 1966 and '67. And then
4 there's a long question that goes on and on and on, and on the
5 next page -- page 31, line 17 -- it says: "Could you tell us -
6 again, briefly -- why you considered that by this stage, the
7 Party's tactics -- that the leadership had decided that the
8 Party's tactics had to be changed?"

9 [11.44.58]

10 Of course, you begin by saying "I think" on page 31. Then, if we
11 go to page 32, you say -- you say on line 4 "I felt, I think",
12 and line 7, "I think" also "felt", and then, when you get to line
13 14, you say:

14 "...we don't know exactly what they were doing, but, obviously,
15 what seems to me what they were doing was -- were planning
16 policies for when they were -- they would seize power, rather
17 than hiding from Sihanouk's policies or things that they had been
18 doing before. This is a period of policy-making, a period of
19 consolidation, and a period of -- also, they were gaining
20 strength."

21 Now, I want you to look at your entire question-answer, but
22 that's the part that I wanted to focus your attention on because
23 my question will be in relation to that. So, when you -- after
24 you've looked at it -- as the President has reminded us, you
25 should have ample time to look at the passage. When you've done

1 that, please let me know and then I can pose my next question.

2 (Short pause)

3 A. Go ahead. Please go ahead.

4 [11.46.44]

5 Q. All right. Thank you. I guess my -- my question would be --
6 well, we've known from your testimony that you weren't there. I
7 mean, that's pretty obvious. But here you seem to be making a
8 rather categorical answer that it's obvious that this was a
9 planning of policy, period, as opposed to doing something else.
10 What gives you confidence that they were planning policies for
11 the future because unless I'm mistaken in that they were merely
12 planning policies, as opposed to policies of the future and how
13 they would conduct their business later on?

14 MR. PRESIDENT:

15 Dr. Chandler, could you please hold on? Wait until we hear from
16 the Co-Prosecutor who is on his feet.

17 [11.47.50]

18 You may proceed.

19 MR. ABDULHAK:

20 Again, a slight but, I think, potentially important
21 mischaracterization of the words used by the expert. What he, in
22 fact, said was: "Obviously, what seems to be what they were doing
23 was planning policies."

24 So I think the question should be asked with the -- with the
25 correct phrase, not suggesting that the professor was saying that

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1 it was -- that he obviously knew what they were doing, but rather
2 that it seemed to him that this was the case.

3 MR. KARNAVAS:

4 I appreciate the clarification, Mr. President. What confuses me
5 and what I'm worried that may confuse members of the -- of the
6 Bench is when the answer goes on where he says, "this is a period
7 of policy-making, a period of consolidation" and "also, they were
8 gaining strength".

9 There, it seemed to be a rather declarative statement; he's
10 declaring that "this indeed", so -- whereas before he says "it
11 seems". Now -- and that's why I'm giving the gentleman an
12 opportunity to clarify the point because, before that, I pointed
13 out where he says "I think" and "I felt".

14 So, to put it -- if I can rephrase the question: Is it just a
15 mere assumption on your part that this is a policy-planning
16 period, among other things?

17 [11.49.31]

18 MR. CHANDLER:

19 A. Of course, to an extent, it is that. I think in going back to
20 the things I wrote about that period in those two books, this is
21 a period following Pol Pot's secret visit to China and Vietnam; a
22 period when he was -- decided to change the name of the Party to
23 the Communist Party of Kampuchea putting it -- verbally, it was
24 very important in Communist parties -- on the same level as the
25 Chinese Party and the head of the Vietnamese Party which remained

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1 the Vietnamese Workers' Party. It was a policy decision we know
2 was made in 1967 for example. The move to Rattanakiri from the
3 Eastern Zone, where they'd been before, along the Vietnamese
4 border, removed the Party leadership from what must have been -
5 sorry, close proximity to Vietnamese troops. Since this was a
6 Vietnamese military base, Office-100, they were freer to act.

7 [11.50.25]

8 It seems to me, there is a reference -- I have a reference to the
9 Indonesia events. I can't track it down. I think -- I have a
10 feeling it was in one of the documents I read from -- from S-21,
11 not a confession, but I can't verify that. I know they were
12 distressed by that. This was a -- a major blow to a neighbouring,
13 but basically unknown and very major Communist party; a party the
14 most severe blow -- military blow that any Communist party
15 suffered in this -- in this period. If they were studying
16 international affairs, at all, they would be -- have studied this
17 -- a time for caution and also a time to hunker down and to
18 decide on policy. Certainly, the opening of armed struggle in
19 February 1968 was obviously a decision made. Before that, it's a
20 policy decision. These were -- I mean, there's some assumptions,
21 but I think you said something like bold or complete or
22 something. I don't think that would apply.

23 [11.51.24]

24 Q. All right. Well, I used neither one; I said "categorical".

25 A. Okay, sorry.

1 Q. That was the phrase that I used, but I appreciate and I
2 welcome the clarification that you have given us, Dr. Chandler,
3 on what you meant by policy in this context because the term
4 "policy", in the Court, has many other different contexts and I
5 wanted to make sure that at least with respect to this particular
6 answer which deals with the period of '60 -- '67 and -- or '66
7 and '67 that that's what you meant by policy and you gave us
8 these examples. And -- and thank you very much.

9 Now, if -- I have a couple more and I think we can pretty much
10 wrap it up, this part of your testimony. If I could get you to
11 look at page 86 -- and that would be right above 13.40.45, and
12 again -- I mean, I know we talked about it and it may seem
13 repetitious, but I do have to cover this, and I do apologize for
14 taxing your patience.

15 [11.52.53]

16 But if we look at line 21 -- you may want to look at the -- a
17 little bit above first, but, I mean, I'll look -- I'll read what
18 I think is necessary, and then you look at what -- before and
19 after, for contextual purposes, and I'm sure we'll be corrected
20 by our colleagues on the Prosecution side. The question is:

21 "Briefly, [...] -- because we're discussing here a speech
22 attributed by you to Pol Pot -- could you tell us if you have
23 been able to conclude which body or whether it was -- an
24 individual or a group of people that issued the plan?"

25 And the answer is: "I'd have to recheck the texts, what I said at

1 the time. It certainly wasn't a document originating from Pol Pot
2 personally. It emerged from the Party leadership." I'm on page
3 87.

4 "I think it was a composite draft. There was -- some writers have
5 suggested that parts were written by Khieu Samphan, but I'm not
6 saying that. It was written by -- it was collectively written,
7 certainly, collectively approved, coming out of the collective
8 leadership, and it was -- again, you never get a single signature
9 on any DK documents, but only the leader can explain, and only
10 the leader had the final word. So it comes out of this collective
11 mentality, of collective leadership, which must be centred at
12 some point in the Central Committee, but we don't have that
13 specific information."

14 [11.54.51]

15 Now, in light of that answer, Professor Chandler, and in light of
16 some of the qualifications that you've made thus far, what gives
17 you the confidence that this was a collectively drafted document;
18 a composite of drafts that was collectively drafted. And I
19 assume, when you say "collectively", that you're talking about,
20 at very high levels, people would have chimed in and put in their
21 respective portions.

22 [11.55.44]

23 A. Well, if it was -- that's a good question. I, of course, don't
24 know that Pol Pot didn't sit down and write the whole thing
25 himself. I think the operations of DK suggest very strongly --

1 sorry, suggest that this is not how things operated. You did not
2 sit down and write orders that went out unsigned, "Oh, that's Pol
3 Pot talking; that's fine".

4 This was -- he couldn't have put this thing together. He had --
5 he asked for certain expertise, obviously, that were brought
6 together in different points. There's a mistake, really, in the
7 question.

8 This part of the plan was never issued. It never was exposed. It
9 never came out. The discussion before approving the plan by the
10 Party secretary, which, of course, is Pol Pot -- not just
11 attributed. That's him. They attribute it to him. That's the best
12 I can do. Never was released.

13 So, it was a document that emanated -- it didn't emanate from --
14 I mean, it had to emanate from the Party secretary. I guess
15 that's an assumption. You're quite right.

16 [11.56.44]

17 Q. All right.

18 Now, at some other point -- and I'm going to cover this in sort
19 of an abbreviated fashion. If we fast forward to page 104, this
20 is where a document is brought to your attention and you discuss
21 it briefly. This is a foreign broadcast information service. It's
22 E3/273, and you're asked to give an opinion on it.

23 And later on, on page 106, you say that you have doubts about
24 whether the document reflects reality. You could find that on
25 lines 19 to 21 on page 106. And if I could paraphrase the gist of

1 your testimony on that, and you're going to correct me if I'm
2 wrong, you had indicated that these were -- this is for external
3 usage, that the information was going abroad, and therefore, such
4 information because they knew it was being listened upon at times
5 might have been or would have been marred with misinformation or
6 disinformation.

7 A. I -- this was the public face of Democratic Kampuchea, and
8 they knew that these broadcasts were being in some -- they might
9 not have known how systematically they were being monitored, but
10 they certainly knew that there were people overseas whom they
11 didn't trust who were listening to these broadcasts.

12 [11.58.36]

13 Q. And do you know whether the Party did that internally as well?
14 For instance, where they would have a meeting, where supposedly
15 -- a Congress or a Central Committee meeting where supposedly
16 things were to be decided when, in fact, things might have been
17 decided in advance and it was merely a charade and maybe no
18 meeting had taken place at all, but merely a document generated
19 to suggest that the Central Committee decided this or the
20 Standing Committee decided that.

21 A. Yes, I could certainly concur with that and cite you back to
22 the evidence of the public reports on the election, with 98 per
23 cent of the population participating which is -- even if the
24 election had taken place the way they said it was, this is
25 absurd. No electorate like that has ever happened, no. On paper.

1 They happen on paper.

2 MR. KARNAVAS:

3 Thank you, Professor Chandler.

4 Mr. President, I see it's 12.00, and I've concluded this portion
5 of my examination. I'm told by my colleagues that I have until
6 2.35. I don't think I will need the entire time, but I will try
7 to be as efficient as possible to ensure that we stay within the
8 guided period collectively, that is, of two and a half days that
9 we were provided.

10 [12.00.22]

11 MR. PRESIDENT:

12 Thank you, Counsel.

13 Dr. Chandler, you may now proceed.

14 MR. CHANDLER:

15 Just a question to the Court, just curiosity -- and Mr. Karnavas
16 can answer this. The testimony from 2 o'clock onwards, will that
17 also draw on the transcripts, in which I'll case it down to my
18 break with me? If not, I'll leave it here.

19 [12.00.48]

20 MR. KARNAVAS:

21 I want you to enjoy your lunch, Dr. -- Professor Chandler. I've
22 finished this portion. We won't be going back into the
23 transcript, and I appreciate the question. And my apologies if
24 some of my questioning was rather pointed.

25 MR. PRESIDENT:

1 Thank you.

2 Counsel for Mr. Khieu Samphan, you may now proceed.

3 MR. VERCKEN:

4 Thank you, Mr. President, for also answering Mr. Chandler's
5 question because it also concerns us. It is possible that Khieu
6 Samphan's team may have to revisit some of those issues with him,
7 some of what he has stated before this Chamber, and so it will be
8 useful for him to take along these documents with him for lunch
9 and look at them because we will be revisiting some of those
10 issues in our cross-examination.

11 [12.02.02]

12 MR. PRESIDENT:

13 Since it is now appropriate time for lunch adjournment, the
14 Chamber will adjourn until 1.30 p.m.

15 Court officer is now instructed to assist Dr. Chandler during the
16 lunch adjournment and have him return to the courtroom by 1.30.

17 Counsel for Mr. Noun Chea, you may now proceed.

18 MR. PAUW:

19 Thank you, Mr. President. Our client, Nuon Chea, would like to
20 follow this afternoon's proceedings from his holding cell. He is
21 suffering from a headache and back pain, and has trouble
22 concentrating. And he informed us that he was suffering from low
23 blood pressure earlier this morning. For those reasons, Nuon Chea
24 would like to be permitted to spend the afternoon in his holding
25 cell, and we have prepared the waiver.

1 [12.03.21]

2 MR. PRESIDENT:

3 The Chamber notes the request made by counsel for Nuon Chea on
4 behalf of Nuon Chea asking the Chamber to grant permission for
5 Nuon Chea to observe the proceedings from his holding cell for
6 the remainder of the day due to the fact that he has some health
7 concern. Counsel has already made it clear that the waiver would
8 be produced immediately.

9 The Chamber therefore grants the request. Mr. Nuon Chea can now
10 observe the proceedings from his holding cell through the
11 audio-visual means. Counsel for Mr. Nuon Chea is now instructed
12 to submit the waiver signed or thumbprint -- given thumbprint by
13 Mr. Nuon Chea.

14 And AV booth officers are now instructed to ensure that the AV
15 equipments are well connected to the holding cell so that Mr.
16 Nuon Chea can observe the proceedings from there.

17 Security personnels are now instructed to bring Mr. Nuon Chea and
18 Khieu Samphan to the holding cells and return Mr. Khieu Samphan
19 to the courtroom when the next session resumes at 1.30 p.m.

20 The Court is adjourned.

21 (Court recesses from 1205H to 1331H)

22 MR. PRESIDENT:

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

24 The floor is now given to the defence team -- to Ieng Sary's
25 defence team to continue. Please proceed.

1 BY MR. KARNAVAS:

2 Thank you, Mr. President. And good afternoon, Mr. President, Your
3 Honours. And good afternoon to everyone in and around the
4 courtroom. And a very good afternoon to you, sir.

5 Q. Professor Chandler, I just have a few topics -- very short --
6 and they're not in any particular order. I'm just going to --
7 just need to clarify a few matters.

8 So the first one deals with the -- the black book which you have
9 written about in your text, "Brother Number One". It's E3/17.
10 That's the document number. And I'm going to be referring in
11 particular to page 71 of your book, "Brother Number One". This is
12 the 1999 edition, page 71. And it's 00392985. And I believe the
13 Khmer is 00821734 to 36, somewhere in that vicinity.

14 [13.34.16]

15 I'm going to read a line from it and then I'm going to ask a
16 couple of questions.

17 You say -- first of all, let me -- before I ask any questions,
18 you're familiar with the black book that I'm referring to, the
19 "Livre noir"?

20 MR. CHANDLER:

21 A. Yes, I am.

22 Q. Okay. And here, on page 71, you say: "The 'Livre noir' is a
23 melange of truth, reconstructed history, and wishful thinking."
24 And that's the one sentence that I want to focus on a little bit.
25 And it seems -- it would seem that this is a conclusion that

1 you've drawn based on your historical analysis of much of what
2 the Khmer Rouge, especially the leadership, has produced. But
3 it's in particular with this black book. When looking at it, you
4 see it as a "melange of truth, reconstructed history, and wishful
5 thinking".

6 [13.36.10]

7 A. Oh, I'm sorry. Was there a question there?

8 Q. Yes.

9 A. I was reading the text myself. I'm -- there -- I missed the
10 question. It's my fault.

11 Q. All right. Okay. All right. It's your interpretation, at least
12 from -- based on your -- as a historian based on what you -- you
13 know of the events and what you have read in the past, when you
14 read this book, the black book, you concluded that it was based
15 partly on truth, partly reconstruction of history, revisionism,
16 as some would call it, and part wishful thinking. That's your
17 interpretation of the text itself, right, of the contents of it?

18 A. Yes, it is. This sentence, of course, is in relation -- comes
19 at the part of my discussion of the text that deals with the
20 '66-'67 period, but I do say that is true of the entire book as
21 well.

22 [13.37.04]

23 Q. And would you say that you could attribute -- you could say
24 the same thing about many of the other things that were produced
25 by the Khmer Rouge leadership, for instance, such as the

1 "Revolutionary Flag"? If one were to look at them, that or other
2 documents, that one finds that -- that there's a melange of
3 truth, reconstructive history and wishful thinking in many of
4 these documents.

5 Would that be a pattern or something that they engaged in?

6 A. Certainly. But I think the difference with the "Livre noir"
7 and "Tung Padevat", the "Revolutarionary Flags", is this is a
8 "book of history" -- in quotation marks -- intended for the
9 outside world, so it's an even stronger example of this than --
10 and looking at that phrase itself, I think every one of us in the
11 room can realize that every day we spend of our own lives is a
12 melange of truth, reconstructive history and wishful thinking.
13 This is how people behave.

14 But this document is not a reliable piece of historical text. I
15 did mean to say that, and it does resemble other Communist
16 documents in that sense. But it was aimed at a larger audience,
17 and so it was aimed at giving a history of, again, in quotations,
18 please, a history of Vietnamese-Khmer relations that I think
19 would definitely fit this sentence that I've written.

20 [13.38.37]

21 Q. Right. And I appreciate that. But also, if I could -- if we
22 could talk in more general terms also with respect to documents
23 that were produced for internal consumptions. Has it been your
24 understanding of sifting through primary and secondary sources
25 that the -- they did engage in rewriting history. A good example

1 would be, for instance, as to when the Party was founded and some
2 of the events that might have preceded the fall of Phnom Penh in
3 April '75, either glorifying, you know, their actions and their
4 accomplishments or diminishing the participation of others, just
5 to give you some examples.

6 [13.39.48]

7 A. Yes, I agree entirely with that assessment of yours just now.

8 Q. Okay, thank you.

9 If we could go on to another -- something slightly different,
10 another topic. Again, this is from "Brother Number One".

11 We've had some discussions yesterday. We talked about what had
12 been going on with the bombings and we talked a little bit about
13 your testimony as far as people joining the Khmer Rouge. But here
14 I want to focus you on the introduction to your book. And again,
15 this is E3/17, and in particular this one part on page 76. And
16 I'll read the part and then I'll ask you a question. You say:

17 "Over the next four years Ieng Sary and other high-ranking
18 members of the Party lived and worked among these people. Over
19 the years, the people of Rattanakiri, Kratie, and Mondulkiri had
20 grown increasingly hostile to the Phnom Penh government as roads,
21 rubber plantations, settlers, and foresters advanced into their
22 hands. 'They hated all the Khmer', a Party member later
23 recalled."

24 Now, just that part I want to focus on a little bit and ask you
25 if you could -- first let me say, would you still -- do you still

1 stand by what you wrote here?

2 [13.41.43]

3 A. Yes, I do.

4 Q. All right. And from reading this, it would appear that in
5 addition to what might have been happening with the bombings, and
6 I understand you qualified it that in '73 we really see the sort
7 of indiscriminate bombing, in many ways, by the U.S. But before
8 that there were some bombing in certain areas. But we see that
9 there are a host of other reasons that you've identified that at
10 least the people in these areas -- that's all right. That's all
11 right. I'll let you get yourself settled again. I didn't think I
12 could have that effect on you, Professor.

13 But it seems that here you're saying that there's a host of some
14 other reasons as well that at least the people in those areas
15 would feel some animosity towards the Phnom Penh government, as
16 you put it, such as rubber plantation, the building of roads. In
17 other words, it seems that their way of livelihood or their way
18 of living was being impacted in a negative way, at least the way
19 they saw it. Would that be true?

20 [13.43.11]

21 A. Absolutely.

22 Q. And would this be one reason, in addition to maybe other
23 reasons, that perhaps some of these people might have joined the
24 revolution or at least were receptive to what they were hearing
25 from those who were attempting to lead this revolution to --

1 against the government of Phnom Penh?

2 MR. PRESIDENT:

3 Mr. Expert, please wait. We hear the objection raised by the
4 Prosecution first.

5 MR. ABDULHAK:

6 Your Honours, if I was to ask the question in these terms, my
7 learned friend would be on his feet, and he knows full well this
8 is not a proper question. It requires the professor to opine as
9 to the state of mind of third parties, and it's therefore
10 inadmissible.

11 [13.44.18]

12 BY MR. KARNAVAS:

13 Q. If I may, Your Honour, use a technique used by the Prosecution
14 -- based on your historical research, are you in a position to
15 give us an opinion whether these reasons that you've identified
16 in your book would be a cause for the people living in those
17 areas to be receptive or to be -- to be angry at the Phnom Penh
18 government? And if you're not able to answer the question, by no
19 means speculate.

20 MR. CHANDLER:

21 A. No, I think it's a good question. We have quite a bit of
22 evidence that many of these tribal people did join the Party at
23 this time -- or joined the movement, maybe not members of the
24 Party.

25 Q. Thank you.

1 If we could move on to another topic -- and this is the topic of
2 biographies. And I know I said I wasn't going to go into -- go
3 into the transcript, and I don't intend to, but just merely -- in
4 the event you wish to look at it so you know what areas I'm
5 referring to -- but on 20th July 2012, you were asked a series of
6 questions -- or there was an exchange concerning the use of
7 biographies. And we see that on page 15 to 16 -- and that would
8 be on or about -- the timer there is slightly before 09.35.07.
9 And again, there's an exchange on page 118 and 119--

10 MR. PRESIDENT:

11 Counsel, could you repeat the last statement? Because it is not
12 -- it was not rendered properly. Please be more precise on the
13 date and time.

14 BY MR. KARNAVAS:

15 Yes. Thank you, Mr. President.

16 [13.46.40]

17 Q. Okay, there are two exchanges on 20th of July. The first one
18 is on page 15 and 16 in the English version, and the timer would
19 be somewhere around 09.35.07. And the second exchange is on page
20 118 and 119, and the timer there would be 15.08.09.

21 I'm not interested in going into, necessarily, what you said. I
22 just wanted to point that out, in the event you were interested.
23 What I am -- what I do wish to share with you is your answer on 6
24 August 2009. And if we look at -- and we should have a hard copy
25 or should we -- we should have it on the screen. I don't know

1 which one.

2 [13.47.50]

3 It's D288/4.59.1. This is a transcript from the Duch Trial, and
4 the Khmer version -- the Khmer ERN number is 00361492. The
5 English is 00361370, and the French is 00361619. And this is on
6 page 32, and it goes on to page 33. Starting on line 15, you're
7 asked a question -- and I believe this was the questioning by
8 Judge Cartwright: "Would I be correct in inferring that
9 biographies of ordinary cadres at S-21 became a source for -- of
10 information for the regime to identify its enemies? Or was there
11 some less sinister purpose?"

12 And your answer at Duch to this question was;

13 "No, I think the -- I don't think there's any sinister purpose in
14 making or requesting members of the staff of S-21 to prepare
15 biographies. This was just something that Party people and
16 military people had to do from time to time. I think - no, I
17 would say this was not the purpose. It was just a practice that
18 was universal. The people didn't mind -- or maybe they did, but
19 it was a required activity, and so I think it was just one of the
20 normal features of life at the prison. And probably at other
21 offices throughout the country, except that these -- the
22 difference that these other autobiographical documents have not
23 survived, whereas those connected with S-21 have survived.'"

24 [13.50.20]

25 Have you been able to follow me as I read along?

1 MR. CHANDLER:

2 A. Yes. I'm just amazed at the technology, frankly. But yes, I
3 have.

4 Q. I am too. It wasn't like that when I first started.

5 Do you stand by this answer that you gave in Duch -- and let me
6 just say, in conjunction to what you told us in this courtroom as
7 well -- to the questions posed to you on the 20th?

8 A. I hope these statements coincided, because I certainly agree
9 with this statement of '09. If they don't coincide, this
10 statement seems to me an accurate statement.

11 Q. Alright. And so another focus -- the thrust of the questioning
12 in Duch was S-21, but it seems, from what you're saying is --
13 based on your research -- that this was an ongoing practice at
14 other places or other institutions or offices, and nothing
15 sinister, in and of itself -- the writing of the biography was
16 nothing sinister in and of itself.

17 [13.51.42]

18 That's what you seem to be saying. Have I summarized your
19 position fairly and succinctly?

20 A. Yes. But, certainly -- it was a nice summary, but the people
21 outside, the Party people, New People, and the 17th People -- I
22 think perhaps the ones the civil party lawyers were referring to
23 -- did feel these questions were intrusive and sinister, because
24 they've never been asked to do them before.

25 They didn't know what use was going to be put to these facts that

1 they were setting down. And I think in some cases, certainly New
2 People -- the Party was going to use that information to see what
3 they could do. Inside the Party, it's just to make you a better
4 Party person. That's not the same thing.

5 Q. Right. Alright. Thank you.

6 [13.52.30]

7 Now, if I can also -- today, I believe you mentioned -- I think
8 it was today, the days are sort of merging -- but today you
9 indicated that it was your opinion that Son Sen was Number Three.
10 Not that I am quarrelling with that, but as I recall, this
11 morning, you had indicated, during the one exchange that we had,
12 that he was known -- or some reputed him to be -- Number Three;
13 is that correct? Do you stand by that?

14 A. Yes, the way it's worded, I do. Yes.

15 Q. Thank you. Now, in the Duch Trial, on 6 August 2009 -- and
16 this is the Khmer 00361534, English 00361436, and French 00361689
17 -- you indicated, on -- this would be page 98 of the transcript,
18 line 15:

19 [13.54.04]

20 "I think, in the Southwest, Ta Mok had more autonomy than the
21 leaders of the other zones. He was a very powerful person --
22 number 3, as you say, in the hierarchy -- and was not going to
23 take orders from anyone except Pol Pot."

24 And then you go on. So, here -- I know you -- it's slightly
25 different that what you're saying here today, but suffice it to

1 say -- would you stand by your positions today and on Duch, that
2 Ta Mok and Son Sen are sort of neck-to-neck, number 3 - or number
3 3 and number 4, either in that order or the reverse order?

4 A. Yes, there is contradictory evidence that would make it sound
5 the way you put it. Exactly.

6 Q. Thank you. And then my last -- the last question. Or the last
7 topic, I should say, because I don't want to -- lawyers do have a
8 habit of saying that's the last question and then asking a bunch
9 of other questions. But the last question. I've come across some
10 of your -- a particular piece of writing where you seemed to
11 indicate -- and this is in connection to a question that was
12 raised yesterday by the Nuon Chea team -- where you seem to
13 indicated the -- that the -- at least, in the 1980s -- I'm not
14 going to refer to a document, I'm just going to give the thrust
15 of what you seem to be saying, and then ask you whether you agree
16 or disagree.

17 [13.55.59]

18 That in the 1980s, the PRK helped to channel or to construct a
19 narrative of collective memories that more or less suited their
20 own political -- it was politically useful for them -- for the
21 present and for the past. And then you seem to be going on to say
22 that sometimes these collective memories become the dominant
23 narrative, in a sense, realities.

24 Now, without asking whether this is what you wrote, if you could
25 -- if you're in a position today to recall or to tell us whether

1 that is, in fact, how you view things from a historian's point of
2 view?

3 A. Two things. The first answer is yes, I certainly wrote that,
4 and I concur with what I said. I do question, however, maybe, not
5 -- it's not my role as a witness to do this, but I'm wondering if
6 post-1979 materials are to be discussed in detail or not.

7 [13.59.29]

8 I wrote that. I admit that I wrote that. It's fine. But I'm not
9 ready to go on and say; oh, that's fine, let's keep talking about
10 '79 and '80 -- whatever. I don't want to do that unless I'm
11 directed to do so.

12 A. Well, based on that, let me ask one or two more questions.

13 What I'm interested is when you say -- when you talk about
14 collective memories that are consistent, sort of, with a
15 political agenda. The reason I'm asking this is that some may
16 either create documents or assist in the -- witnesses -- not that
17 I'm saying that that's happened today, but in the past -- has a
18 narrative been created whereby, perhaps, it might affect people's
19 memory to adequately recount the events as they occurred at the
20 time, because the memories have been tainted with?

21 And I'm -- based on -- this is based on what you're saying. And
22 if I'm misstating it or mischaracterizing it or misunderstanding
23 it, please correct me. But that's the only thing I'm trying to
24 do.

25 MR. PRESIDENT:

1 Mr. Witness, please wait until the Chamber hears the objection
2 raised by the Prosecution and decide on it.

3 [13.58.56]

4 The Prosecution, you may proceed.

5 MR. ABDULHAK:

6 Well, Your Honours, we've heard objections from the Defence on
7 the basis that the professor is not especially qualified to opine
8 on the impact on events -- events might have on populations in
9 terms of psychology. And we would simply place the same objection
10 to this question. It requires the professor to enter into an area
11 that, as far as we know, he hasn't studied: the impact of
12 narratives, post-79, on people's psychological states and their
13 preparedness to testify truthfully or otherwise.

14 MR. KARNAVAS:

15 Mr. President, while I would generally -- I underscore, generally
16 -- agree with the gentleman, Professor Chandler has indicated
17 that he did, in fact, write that, and maintains his position. I'm
18 merely asking for a clarification. If he's unable to answer the
19 question without engaging in a host of speculative aspects of his
20 -- of what he wrote, that's fine.

21 If he's able to answer the question, I certainly think it's
22 within the Trial Chamber's interest to hear, because the whole
23 point of this Trial is to get a proper and accurate narrative.

24 (Judges deliberate)

25 [14.00.59]

1 MR. PRESIDENT:

2 The objection and ground for the objection raised by the
3 Prosecution is valid. Therefore, we do not consider the reply by
4 the counsel for Ieng Sary.

5 MR. KARNAVAS:

6 Professor--

7 MR. CHANDLER:

8 (Microphone not activated)

9 MR. KARNAVAS:

10 The objection was sustained. You need not answer the question.

11 MR. CHANDLER:

12 (Microphone not activated)

13 [14.02.13]

14 MR. KARNAVAS:

15 Professor Chandler, on behalf of Mr. Ieng Sary, Mr. Ang Udom and
16 I would like to thank you for coming here to give your evidence.
17 We wish you the best of luck and safe travels. Thank you very
18 much, and thank you, Your Honours, for the time extended to us to
19 examine Professor Chandler.

20 MR. PRESIDENT:

21 Mr. Expert, yes, you may speak.

22 MR. CHANDLER:

23 It's a very brief reply. I'm grateful for that last sentence, and
24 it has indeed been a very interesting experience for me to
25 undergo these very skilfully placed confessions -- questions. And

1 I wish you the same luck you wished me. Thank you very much.

2 [14.03.02]

3 MR. PRESIDENT:

4 The floor is now given to the defence team for Khieu Samphan to
5 pose question to the expert, David Chandler.

6 QUESTIONING BY MR. KONG SAM ONN:

7 Thank you, Mr. President. Good afternoon, Your Honours. Good
8 afternoon, everyone in and around the courtroom. Good afternoon,
9 Professor David Chandler. I have some questions to put to you,
10 and I hope that you will cooperate with me in responding to this
11 questions. If you're unsure of the question or cannot hear them
12 clearly, please say so.

13 Let me ask you: Are you listening in Khmer or in English now?

14 MR. CHANDLER:

15 A. I'm listening in English, but actually because I don't
16 remember how to operate all these buttons. But I can understand
17 most of the Khmer when I hear it over top of the -- but, yes,
18 English is the answer to the question.

19 Q. Thank you.

20 [14.04.30]

21 Due to the use of interpretation system, there could be some gaps
22 between the Khmer and the English languages. It seems there's a
23 delay -- and there needs to be a delay between a question and
24 answer session, so please be patient with me.

25 My first question is the following: Based on your research,

1 commencing from the Democratic Kampuchea period -- did you
2 conduct your research solo or as a group, or as a team?

3 A. Sometimes, I was working with other people, but almost all the
4 time I was working by myself, and sometimes with an interpreter.
5 But not, as they say, a research team from a university or
6 something like that.

7 Q. Thank you.

8 [14.05.50]

9 When you work by yourself, did you spend much time by yourself
10 into your research?

11 A. I'm not sure I follow the question. I mean, I wrote things up
12 by myself. What -- I'm not sure what the question -- I didn't
13 understand it clearly. Could you rephrase it, maybe? I'm sorry.

14 Q. I'll rephrase my question. You just stated to the Bench that
15 you conducted your research mainly by yourself, and sometimes as
16 a group, and sometimes with an interpreter. My second and
17 follow-up question is that, during the course of your research
18 that you did by yourself, did you spend much time doing research
19 by yourself, or you work most of the time with a group or with an
20 interpreter?

21 A. Oh, most of the -- I'm sorry. Well, most of the time by
22 myself. It -- one set of interviews that I used was in -- Khao I
23 Dang in 1984, and for the first day or so I used an interpreter.
24 But then I found that my Khmer came back to the extent that
25 although the interpreter would accompany me -- my questions and

1 so on would all be -- I didn't use him after that.

2 In French research, I never used an interpreter, but sometime --
3 I've not interviewed people speaking Vietnamese or Thai, so
4 mostly -- in some Khmer situations I used the interpreter and
5 some I did not. I guess that's what you'd want to know.

6 Q. Thank you.

7 [14.08.06]

8 When you went to interview Cambodian people without the accompany
9 of an interpreter, did you face any challenges during such
10 interviews?

11 A. Yes, certainly. I think, actually, face-to-face interviews
12 with Khmer -- I was usually in the presence of someone who could
13 help me, although sometimes I would often put the questions in
14 Khmer and get the replies. But there'd be someone nearby who
15 could help me. I was never absolutely alone. Or, no, I would say
16 very seldom completely along with someone whose interviews I
17 later used for my work, because I -- because of just the kinds of
18 problems you can imagine might have arisen.

19 Q. Thank you.

20 [14.09.08]

21 Let me confirm that, based on your statement, the language for
22 your communication in your research is rather limited; is that
23 correct?

24 A. Well, certainly my communication -- my interviews in Cambodian
25 are somewhat limited, yes, but I have a -- I feel I've got a

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1 pretty good comprehension of Khmer and use it with quite a bit of
2 confidence -- or did, at least, in the eighties and nineties,
3 when I was doing this research.

4 But certainly the limitations -- French isn't my native language
5 either, and I feel the limitations there, but I don't ever use an
6 interpreter when I interview people in French.

7 Q. Thank you. I would like to put some questions during the use
8 of the interpreter in the conduct of your research.

9 When you were interviewing a person, was the interview conducted
10 in a confidential manner, or there were other peoples in the
11 surrounding areas during such conduct of the interview?

12 A. Well, that entirely depends on the context. Some of the
13 interviews were conducted in private, and others were conducted
14 in rooms where other people were listening. It depended on the
15 nature of material I was looking for, the kind of questions I was
16 asking was not -- were not really very embarrassing in any cases.

17 [14.10.54]

18 So, yes, sometimes there were other people there, and sometimes
19 there weren't.

20 Q. Did you ever face a situation that -- suppose you are
21 interviewing a person by the name of A, but then a person by the
22 name of B replies on behalf of A?

23 A. I can't specifically remember such a thing. I -- no, it was
24 not the -- I see what you are saying. If you'd ask a question,
25 and then someone else in the room would say; oh, the real answer

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1 is such and such.

2 [14.11.43]

3 I don't remember I did team interviews like that. I'm not sure
4 that -- that if I did. It might have happened, but I can't
5 remember a specific case. Certainly, I should add -- certainly,
6 my -- the people I interviewed never came along with spokespeople
7 who were speaking for them and were directing my questions or
8 were saying; my friend won't answer that question because -- it
9 was not a legal situation in that sense. Be -- someone else in
10 the room would not be a spokesperson guiding the conversation
11 from the point of view of the other person. I was never in that
12 situation.

13 Q. Thank you. In relation to the time, can you tell the Bench
14 what time you usually conducted your interview? I mean, the time
15 of the day. From what time to what time, and during which year,
16 mostly, that you conducted those interviews, as they were later
17 used as the sources for your books, which are placed in the case
18 file?

19 A. Thank you. I would say I began conducting interviews --
20 specifically conducting with my work -- in 1985. The interviews
21 in Khao I Dang in 1984 were not connected with work I was doing.
22 It was connected with the UNHCR program I was employed to work
23 with.

24 [14.13.19]

25 '85, '86 -- from '85 to, I guess, '92 or 3, interviews were

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1 conducted in Australia, France, United States, Canada, Cambodia,
2 and Thailand. Time of day, of course, varied enormously. I never
3 conducted interviews in Cambodia between 11 in the morning and 3
4 in the afternoon, for example, but -- and I've never conducted
5 interviews late at night, that I recall.

6 They were during working hours. Always with the consent of the
7 person I was talking to. These interviews, as I said before, were
8 in English, French, or Khmer, depending on the preferred language
9 of the person I was speaking to. So I did interview several
10 Cambodians in France and Canada in French, and some Cambodians in
11 Australia in English. Or, I should say, Australia and the United
12 States in English.

13 Q. If you can provide the Bench with a percentage, did you mostly
14 interview with the honorary people, or with mainly the refugees?

15 A. I'm sorry; could you reword the first part of your question?

16 [14.14.59]

17 Did I only interview with the -- what people or with refugees? I
18 missed a word there. Did you mean with the -- or with refugees.
19 You were trying to get a percentage of those. I missed what the
20 first category was.

21 Q. Thank you. My question is: Those people that you interviewed,
22 were they mainly refugees or Cambodian people who were living in
23 Cambodia?

24 A. Well, they had to be mainly refugees up to 1990, because that
25 was the first time I came back to Cambodia to do research. In the

1 1990s, many of my interviews were conducted here, but the
2 overwhelming majority would still be among refugees, I think, of
3 the -- if you go from '85 to '95, most of them were with refugees
4 or -- well, the people in Khao I Dang weren't exactly refugees,
5 but -- yes, people outside of Cambodia, certainly.

6 Q. Thank you. Did you put those people that you interviewed into
7 different categories, for example, those who pro-Democratic
8 Kampuchea and those who opposed the Democratic Kampuchea regime?

9 A. Not before I spoke to them.

10 [14.16.34]

11 I could -- from the time the interview went on, I could figure
12 out which positions they took. I talked to some -- I must admit,
13 few -- people who were strong supporters of the Khmer Rouge,
14 particularly since I didn't get in here until 1990. But some
15 people had some balanced views. I did not reject that information
16 they gave me.

17 In other words, I was not seeking some sort of prosecuting
18 evidence. I was seeking information as best I could. I listened
19 to everything I could find.

20 Q. Thank you. What measures did you have in place in order to
21 obtain a neutral information from those people whom you interview
22 in order to avoid any political bias or tendency?

23 A. Well, that was a very difficult task. I don't think you could
24 talk to survivors of the Khmer Rouge regime and get a completely
25 balanced, impartial, and neutral view. They were -- people who

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1 had a neutral view of the DK seemed to me -- well, let me say,
2 I've never found a person who had a neutral view of Democratic
3 Kampuchea.

4 [14.18.00]

5 I found some who had approved of the regime. Their testimony is
6 very interesting. I found other who disapproved, their testimony
7 was also interesting.

8 Q. Thank you. I now touch upon another new subject in relation to
9 my client, Mr. Khieu Samphan. Did you know my client, Mr. Khieu
10 Samphan before?

11 A. No, I had never met him or spoken with him. But I should add,
12 I certainly knew him by reputation throughout his career. And I
13 followed his career with interest, but personally I've had no
14 contact with him.

15 Q. Thank you. When did you start hearing about him or his name or
16 his popularity?

17 A. Well, they're synonymous in the period that I was in Cambodia,
18 in 1960 to '62; my first time here. He was well known as a very
19 -- a person with extreme and rather bewildering integrity. He's
20 admired by people who admired integrity. He was, I think --
21 again, I'm sorry, one of the things -- I think Sihanouk was a
22 little bit frightened of him because of that very quality.

23 [14.19.42]

24 This was person -- his reputation was such that he was not
25 buyable. He couldn't be bought. This was a reputation that was --

1 among the crony circle of Sihanouk's era was very rare indeed. So
2 I had heard of him in a positive framework. Of course, I have to
3 add I was working for the American embassy, and we were
4 interested also that he was a person of pronounced left-wing
5 views. That was -- known as -- that was fine also. That was a
6 piece of information.

7 But what was around, what one could pick up about him from
8 Cambodians I spoke to -- by and large, a good deal of -- how
9 should we say -- admiration. I left in '62, so that was the last
10 time I was in town with -- when he was there.

11 Q. Thank you.

12 [14.20.36]

13 You just stated that Sihanouk was rather concerned about the
14 capability and the competence of Khieu Samphan. Can you cooperate
15 further on this point? Why was his presence a concern for
16 Sihanouk? I would appreciate if you could clarify this matter a
17 bit further. Thank you.

18 Q. Well, he was just -- I tried to say it before. I'm not saying
19 that -- your following question is very good, but he was just the
20 kind of person that Sihanouk didn't know how to deal with. He had
21 no experience with people that he couldn't dominate, manipulate,
22 influence, purchase, rent -- all these kinds of words you might
23 use about his political style with associates. And he submitted,
24 in his own writings, that one of the reasons he place Hun Sen in
25 office in the department of commerce was to see if he could join

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1 the team, as it were. And Khieu Samphan's performance as a
2 sub-cabinet minister was not marked by the slightest corruption.
3 So this is the kind of thing, I think -- what concerned Sihanouk
4 was that this was a person not only that he didn't like -- there
5 were many, many people he didn't like -- but someone who was able
6 to operate on a different set of moral guideline from his
7 associates.

8 Q. Thank you. Through the Khmer channel, I heard the name Hun
9 Sen. Did you use the word "Hun Sen" in your response to my
10 question then?

11 A. Certainly not. I don't know how it got it got under the
12 channel. I was speaking entirely of Sihanouk and of this early
13 period. Also, the sixties. I'm not mentioning Hun Sen at all.
14 Note that I mentioned Hu Nim, or Hou Youn, whose names might
15 sound a little bit like "Hun Sen" to a translator, but those
16 names have not yet come into discussion either.

17 Q. Thank you. I am still unclear on this issue, and I believe the
18 Bench is not clear as well as to the reason why Sihanouk was so
19 concerned of Mr. Khieu Samphan. Is it because of his honesty or
20 of his work qualification or competency? Can you clarify the
21 matter a little bit further, please?

22 A. It wasn't because of his competence. Sihanouk recognized that
23 Khieu Samphan was a very competent and well-trained person with a
24 -- sort of with an interest and ability in, certainly, the
25 economic sphere.

1 [14.24.19]

2 What he didn't like was the fact that, although Sihanouk's -- I
3 mean, although Khieu Samphan dedicated his thesis to Sihanouk, as
4 I think almost all Cambodian PhD students did at the period --
5 that this was a person he couldn't reach to influence and
6 dominate.

7 Q. Thank you. During the course of your study and research, can
8 you tell the Bench a bit clearer -- at the time that Khieu
9 Samphan fled into the forest during the announcement of the
10 traitors -- can you collaborate a little bit further regarding
11 the time that Khieu Samphan fled into the forest?

12 A. I've gone -- I mean, I should have brought my book with me,
13 but I've gone into quite a bit of detail in this issue in "The
14 Tragedy of Cambodian History". This is a period when there's a
15 good deal of uneasiness or conflict in Cambodia, as we've
16 mentioned before, the Samlaut rebellion, the kind of Maoist
17 orientation of the local Chinese population, for which Hu Nim was
18 being blamed. Khieu Samphan was there as a -- he was back in the
19 National Assembly.

20 The National Assembly '66 was the one, I think, I mentioned,
21 where none of the candidates had been handpicked by Sihanouk. As
22 a matter of fact, had he had the choice, he probably by then
23 would not have chosen these leftist candidates again, but they
24 ran and Khieu Samphan returned with an increased majority, as I
25 recall.

1 [14.26.22]

2 Sihanouk was starting to think that his enemies might be
3 different from the sort of standardize American target with which
4 he was familiar. That, rather like the CPK -- though I'm making
5 no comparisons there -- he began to see that enemies inside the
6 country might actually be opposed to him. In fact, he's correct,
7 I think. We know now from Khieu Samphan's autobiographies and so
8 on, these people were opposed to him, and they were working if
9 not to overthrow, certainly not to support his continuing rule
10 over Cambodia.

11 So he was getting nervous, and when Sihanouk got nervous he got
12 aggressive. And I think my impression -- I have this confirmed
13 from Khieu Samphan's autobiography, which I have to revisit -- I
14 get the feeling that Khieu Samphan felt that this threat might go
15 further than words. It might take a physical form. And I think he
16 may well have been correct in thinking that, because Sihanouk had
17 already ordered severe punishments on people. So that was the
18 reason he fled -- or left Phnom Penh. I don't want to use fled,
19 but I'd just say left Phnom Penh.

20 Q. Thank you. You stated that Khieu Samphan was fearful and left.
21 What was the sign indicating that he was fearful, that he had to
22 leave, that is, to leave Phnom Penh and to reside in the forest?

23 A. The evidence comes to me from his autobiographical writings.
24 I'd have to see those to see if I'm wrong in assuming that kind
25 of -- that that thought didn't come out of his own -- his own

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1 words when he wrote about why he left Phnom Penh and so on.

2 He didn't say: "I left Phnom Penh because I was very happy there
3 and wanted to go live in the country for a while". No, no, he
4 fled. And I think he admitted -- I'd have to see the text, but
5 I'm pretty sure he admitted that he was fearful of what might
6 happen to him.

7 [14.28.46]

8 And also, although this was not stated in the autobiography,
9 clearly fearful that this whole campaign of Sihanouk's might
10 start reaching out further and further into the leftist
11 opposition and endanger the existence of the CPK, of which Khieu
12 Samphan was a member -- secret member.

13 Q. Thank you. You just said that Khieu Samphan was a secret
14 member of Communist Party of Kampuchea -- that is, Communist
15 Party of Kampuchea; is that correct?

16 A. Yes.

17 Q. I beg your pardon, could you please respond again so that the
18 interpretation system can pick your response up?

19 [14.29.57]

20 I heard that you replied yes, but it did not go through the
21 interpretation system.

22 A. (Microphone not activated) - make it easy for him; the answer
23 is one word: yes. I've not had that luck sometimes in my
24 testimony, I admit.

25 Q. Do you have any piece of evidence to support your idea that

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1 Mr. Khieu Samphan was a member of the CPK?

2 A. Not in front of me, today, but I could certainly come back
3 with it tomorrow. I know it's in my hotel room, and it's not in
4 the Closing Order either. So I could come back tomorrow with
5 specific reference. But I think this is a well-known fact. I
6 don't think he's ever publicly denied that he's had this
7 membership. But I'm -- that's speculation. I think this is
8 well-known in all -- it's been an accepted fact for a long time,
9 and I'd like to see any evidence that directly contradicts that.
10 But, I say, from my source -- I'd have to come back tomorrow.

11 Q. So you indicated that tomorrow you could explain further,
12 based on the document you could read today; is that what I
13 understood from your statement?

14 A. Yes. And I would just add, I'm only suggesting he was a member
15 of the Party. I know he was not a member of the Standing
16 Committee, apparently, until 1971, so I'm not saying that. Member
17 of the Party -- and if I turn out to be misinformed, I'll be able
18 to tell you that tomorrow, but I'm almost certain this was the
19 case.

20 Q. Thank you.

21 [14.32.19]

22 Could you also tell us from which period of time when Khieu
23 Samphan, as you indicated, became member of the CPK?

24 A. I'll have to do that tomorrow also. I would have to do that
25 tomorrow also. If I don't have the information, I can't give you

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1 the date as well.

2 Q. Thank you. I have another special question. Have you ever
3 studied Khieu Samphan biography uniquely, or you only studied the
4 biography as -- in general, as others.

5 A. Well, his is an -- a printed autobiography in book form, and I
6 certainly read that book carefully, so I think I can say I have
7 studied him with interest. I have not studied him as a
8 biographical subject, as I've studied Pol Pot, but I've studied
9 his own writings about his life with great interest, and the
10 writings of other people about his life with great interest.

11 Q. Thank you.

12 [14.34.05]

13 So you studied the biography with great interest because Khieu
14 Samphan was the leader after 1979, or during the time when he
15 fled or left for the jungle?

16 A. No, I studied -- I probably didn't myself clear of the first
17 -- on the other, earlier question. I'm sorry. I studied it with
18 great interest because it was a unique document, in the sense
19 that it was an autobiography of a high-ranking figure in the DK
20 regime and also in the left opposition to Sihanouk. Character was
21 well-known to -- probably more well-known to many Cambodians than
22 any other person defended at the Trial.

23 [14.34.59]

24 I read it because it was a -- well, I read it primarily because
25 it was available, and that's why I read it with interest, with no

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1 special interest in any single period but rather to see how he
2 treated the whole trajectory of his life.

3 Q. Thank you. The reason I asked this question because I have
4 some follow-up questions concerning Mr. Khieu Samphan's
5 membership in the CPK.

6 [14.35.41]

7 Could you also tell us when exactly Mr. Khieu Samphan joined the
8 CPK?

9 A. You've asked me that before and I said I cannot do that today
10 -- I said about five minutes ago, if you look at your file, I
11 cannot tell you exactly; I might be able to tell you tomorrow. I
12 said that already.

13 Q. Thank you. Indeed, the previous question was about his
14 membership, the secret membership, but since you indicated that
15 he was also a secret member, then he could have been also an open
16 member. So the next question that I just put to you was about his
17 membership. Would you also be able to tell me now or just wait
18 until tomorrow that you can answer to both?

19 A. Well, that, I can answer at any time. There were no open
20 members of the CPK. All the memberships were secret from anybody
21 but the fellow members. If you were a member, you were a secret
22 member; there was no open member. And I will answer the question
23 about being a member, which is to say a secret member, when I -
24 when and if I get that information from what I've got in my room.

25 [14.37.13]

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1 I'm sorry; I don't mean to seem in any way uncooperative, but I
2 think that's been made clear through other testimony that this
3 was not a party operating in the open at any time after 19 -- it
4 never operated in the open until -- really until 1977. So "secret
5 member" is a member; same, same.

6 Q. I would like to also ask you a few questions concerning Mr.
7 Khieu Samphan's roles in the CPK. Do you think you could tell us
8 something about this if questions posed to you?

9 A. I hope so. I hope I can help you; yes, I do.

10 Q. Thank you. Do you know when Mr. Khieu Samphan were the
11 candidate member of the Standing Committee, or Central Committee
12 rather?

13 A. Yes, 1971.

14 Q. When did he become the full-right member?

15 A. Guess you just -- break for me thirty seconds, this was one
16 thing I was asked before. I looked it up and I found it and then
17 I was not asked the following day, so let's see what I put in my
18 notebook.

19 [14.39.20]

20 Just a second; my writing is just terrible; no, hold on; just a
21 second.

22 Okay, it was in -- he became a candidate member of the Central
23 Committee in 1971 and the source I used there, that was from the
24 Closing Order, but it was an open -- apparently open document.
25 The written record of interview with Khieu Samphan, that's

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1 footnote number 4435, paragraph 1130 of the Closing Order. So
2 that was in Khieu Samphan's own words, in other words, when he
3 became a member.

4 He became a full-right member in July 1976, that's the same text
5 of Khieu Samphan.

6 Q. Apologies. Dr. Chandler, could you please speak slower?

7 Because the Khmer rendition was not good enough for -- to listen.

8 MR. PRESIDENT:

9 (No interpretation)

10 [14.40.58]

11 MR. KONG SAM ONN:

12 Mr. President, we would like Dr. Chandler to repeat his statement
13 -- the current statement.

14 MR. PRESIDENT:

15 Dr. Chandler, indeed, you should repeat your last response
16 because it was made rather fast and it was not properly rendered.

17 MR. CHANDLER:

18 A. I think I may have been overexcited by actually being able to
19 cite a fully footnoted source, which I haven't been able to do in
20 the previous testimony. I was asked to look this up and I did.

21 [14.41.31]

22 He became a candidate member of the Central Committee in 1971,
23 and the information I got from item -- from footnote 4435 of the
24 Closing Order, which -- yes, which refers -- coming from
25 paragraph 1130 of the Closing Order, referred to a statement -- a

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1 written statement by Khieu Samphan, interview -- of interview
2 with the Trial -- I think, I don't know -- with the trial -- it's
3 a trial document, so it's his own words, so to the date of his
4 becoming a full-rights member in 1976, the same text drawing
5 there on footnote 4639.

6 So these are his own statements, so, I mean, we can -- I think we
7 can go ahead this way, but it seems not entirely fruitful, but
8 that's - I shouldn't -- I'm not in a position to say that.

9 MR. PRESIDENT:

10 Thank you, Counsel. And thank you, Dr. Chandler.

11 [14.42.35]

12 Since it is now appropriate time for adjournment, the Chamber
13 will adjourn until 3 o'clock. Court officer is now instructed to
14 assist Dr. Chandler during the adjournment and have him returned
15 to the courtroom at 3 o'clock.

16 The Court is adjourned.

17 (Court recesses from 1443H to 1501H)

18 MR. PRESIDENT:

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

20 I notice the defence counsel is on his feet. What is the subject
21 matter that you'd like to raise? Please provide the Chamber with
22 the brief subject matter that you intend to raise so that we can
23 decide whether we allow you to speak.

24 [15.02.21]

25 MR. IANUZZI:

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1 Thank you, Your Honour. Good morning -- good afternoon, everyone.
2 Very briefly, I'd like to make a request to admit a new document,
3 or actually to seek some clarification from the Chamber on a new
4 document. I'm in possession -- we're in possession of a new
5 document, new in any sense of a word, it's an article that was
6 published yesterday. It contains some information that we feel is
7 relevant to our case, specifically, it contains some information
8 we would like to put to Professor Chandler, if that's possible,
9 while he's still with us. I'm seeking your guidance now on the
10 question of whether or not I could be permitted to make a very
11 brief, two minute oral application, given the time constraints
12 that are placed on us.

13 [15.03.08]

14 If I could make that application very quickly, I could circulate
15 a copy of the document to all the parties, they could review it
16 over the night, over the evening, they could make any responses
17 first thing in the morning, and then Your Honours could rule on
18 whether or not we could be allowed to address Professor Chandler
19 on this very new -- brand new document which, as I said, was
20 published yesterday. It's an 11-page document; I don't think
21 anyone would be prejudiced by having a look at it tonight and
22 making some submissions tomorrow morning.

23 I would make the application in two minutes, strictly pursuant to
24 Rule 87.4 and your directions on that rule. That's my request.

25 MR. PRESIDENT:

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1 The new document is it part of the case file or is it part of the
2 documents in the list proposed to be submitted before the
3 Chamber? Can you identify the source of the document that you
4 intend to put in your request?

5 MR. IANUZZI:

6 Certainly, Your Honour. It is a brand new document, brand new in
7 the sense that it's an article that was published yesterday in
8 the "New York Review of Books", a very well-known journal which I
9 think most people in this courtroom are familiar with. It's a new
10 document. It didn't exist 24 hours ago.

11 (Judges deliberate)

12 [15.06.50]

13 MR. PRESIDENT:

14 I will give the floor now to Judge Cartwright to respond to the
15 request by the international defence counsel for Nuon Chea.

16 JUDGE CARTWRIGHT:

17 Thank you, President. The application must be made in writing
18 pursuant to Rule 87.4, and at least one of the reasons for that
19 is that the article concerned is in one language only and it
20 would be impossible to make any decision until any such lengthy
21 document has been translated at least into Khmer so that the
22 entire Chamber can discuss it and reach a decision. Thank you.

23 [15.07.39]

24 MR. IANUZZI:

25 Thank you, Judge Cartwright, for that ruling. If I may just say,

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1 the reason I made the application now is that we could do it
2 orally. The very brief comments I would make would be translated
3 into Khmer for the benefit of everyone--

4 MR. PRESIDENT:

5 The Chamber has already ruled on the matter. Later Judge
6 Cartwright add a little bit further, and of course you are not
7 allowed to make such a response to the ruling by the Chamber, and
8 I need to administer the proceeding in this courtroom.

9 Of course, you are attempting to make your stance, and we, as the
10 Judges of the Bench, are trying hard to administer the effective
11 proceeding in this courtroom.

12 MR. IANUZZI:

13 Thank you. I do appreciate that, and I hope it didn't escape
14 anyone's notice. I was trying to be very reasonable.

15 If the request, as it relates to Professor Chandler--

16 [15.08.42]

17 MR. PRESIDENT:

18 You are not allowed.

19 The floor is again given to the defence team for Khieu Samphan to
20 continue posing questions to the expert. You may proceed.

21 BY MR. KONG SAM ONN:

22 Thank you, Mr. President. Once again, good afternoon, Professor.

23 Q. Before the recess, we discussed the issue of becoming a member
24 of the CPK of Mr. Khieu Samphan, and you confirmed that he became
25 a full-right member in 1976, and he actually became a candidate

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1 member in 1971. You also stated that you read the Closing Order
2 of the Co Investigating Judges, which is a Court document stating
3 the dates that you just mentioned.

4 [15.10.19]

5 My question to you, again, is that, prior to the issuance of the
6 Closing Order or prior to you reading the Closing Order, were you
7 aware of the dates of becoming a member of the CPK by Khieu
8 Samphan, either the candidate membership or the full-right
9 membership?

10 MR. CHANDLER:

11 A. With respect, I'd like to correct your interpretation of my
12 response. Khieu Samphan did not become a candidate member of the
13 CPK in 1971. He became a candidate member of the Central
14 Committee of the CPK in 1971. He became a full-rights member of
15 that same Central Committee in 1976.

16 It's inconceivable that a non member of the Communist Party could
17 be named as a candidate member of the Central Committee, so he
18 must have joined the CPK at least 24 hours before that
19 appointment.

20 [15.11.24]

21 Now, I will -- I don't mean to be rude here, but I will look up
22 the date when he joined the CPK. Your statement that that was
23 what I said is not what I said. It refers to the Central
24 Committee, not to his membership in the Party, which is still a
25 date that's at issue between us -- I mean, not between us, I

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1 don't know it, but I'm trying to help you to give you that date.
2 The dates I gave you were Central Committee dates, not CPK dates,
3 and that's how they appear in the Closing Order.
4 So please don't do that to me, because I don't like to give
5 testimony in that way.

6 Q. Thank you. Let me ask you again what I heard through the
7 interpretation is that Khieu Samphan became a member of the
8 Standing Committee of the centre of the CPK. Is that your
9 statement or is it he was the member of the Central Committee?

10 [15.12.37]

11 A. No, I'm sorry, if that was a statement in the translation, I
12 was -- certainly he was a Standing Committee-- What I said is
13 what I was reading from notes, which I have to locate again. So
14 my apologies. The Standing Committee, of course, is part of the
15 Central Committee, so if you're a member one you're a member --
16 if you're a member of the Standing Committee, you're also a
17 member of the Central Committee. The other way doesn't work.
18 Members of the Central Committee are not necessarily members of
19 the Standing Committee. Very few members are members of the
20 Standing Committee.

21 Q. Thank you very much. I cannot hear clearly through the
22 interpretation. Could you please try to slow down a little bit
23 more?

24 What you just said is that if a person is a member of the
25 Standing Committee, that person is automatically a member of the

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1 Central Committee, but it is not another way around; is that what
2 you just stated?

3 A. Yes, it is.

4 Q. Thank you. I would like you to clarify the date of which you
5 knew that Khieu Samphan was a member of the Central Committee or
6 a candidate member of the Central Committee. When did you learn
7 of that membership?

8 [15.14.52]

9 A. I can't answer that at this time. What I was told to do is to
10 find out that date. I went and used the materials available in my
11 hotel. I had known it before, but I've been not able to cite a
12 source. I was not able to answer the request.

13 I'd like to see if -- I don't remember because I read his
14 autobiography. I'd like to see if Mr. Khieu Samphan mentions this
15 in his autobiography. If he does, he mentioned it in his opening
16 statement. He may also have mentioned it in his autobiography. If
17 he did, that's where I read it, because I read that book with
18 care a few years ago. If it's not in that autobiography, then I'd
19 have to look where else I might have heard the information.

20 Q. Thank you. Based on your statement and that you made before
21 the recess -- that is, after having read the Closing Order you
22 received -- I'd like to repeatedly ask you the same questions on
23 the date of Mr. Khieu Samphan becoming a member of -- a candidate
24 member or a member of the Central Committee. Is it after your
25 reading of the Closing Order or it became -- or you were aware of

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1 this fact or this assertion prior to you reading the Closing
2 Order?

3 [15.16.52]

4 MR. PRESIDENT:

5 Mr. Expert, please wait. We'll hear the objection raised by the
6 Prosecution first.

7 MR. ABDULHAK:

8 The question has been asked and already answered by the
9 professor, who indicated that he had known that information
10 before.

11 MR. KONG SAM ONN:

12 However, I did not hear it in the Khmer channel. And since the
13 professor is here, he can just reiterate the point. It is not a
14 long statement, just a brief statement.

15 [15.17.41]

16 MR. CHANDLER:

17 A. Okay, I apologize. It must have been -- I think, I gather from
18 the proceedings that these translations from English into Khmer
19 are being very skilfully done and I'm sorry that I am too much of
20 a rush occasionally to give them a chance to do a good job, but
21 I'm very grateful for the job they seem to be doing.

22 But one of the sources that I brought with me, printed four years
23 ago, was Solomon Kane, "Dictionnaire des Khmer Rouge", a book in
24 French called "Dictionary of the Khmer Rouge". In the
25 biographical entry to that, generally, he gives these same dates.

1 Now, he doesn't footnote it, so therefore, I didn't cite this
2 source, but that's a book that's been in my possession for four
3 years and I wrote the preface to it. So that's an indication that
4 this information was available to me in some form before I read
5 the Closing Order.

6 [15.18.36]

7 What I wanted to do in response to the question that was
8 originally posed by the Prosecution was to give a precisely
9 referenced thing for you, and since it was -- came from an open
10 statement I figured it was a footnote in the Closing Order that I
11 could cite with confidence, if it was a statement made openly to
12 the Court by Khieu Samphan about these dates, and the controversy
13 -- I'm sorry, but the controversy eludes, but maybe there is more
14 of it than I can see.

15 Q. Thank you. You said that you read the article about his own
16 biography. Can I conclude that you did not study in detail
17 regarding the history or the biography of Mr. Khieu Samphan; is
18 that correct?

19 A. With respect, and referring to my previous testimony, that is
20 incorrect. I told you at least three times that I have read with
21 great care his autobiographical book, which I found of a great
22 historical interest. The book -- I did not bring his
23 autobiography with me to Phnom Penh. In my collection, my small
24 private collection of books I brought -- I included the book,
25 it's gotten very well reviewed, "Dictionnaire des Khmer Rouge",

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1 it's got entries on all sorts of subjects, just to refresh my
2 memory if something came up that I didn't have other sources to
3 cite.

4 [15.20.13]

5 I had -- this was not the only source I used for Khieu Samphan's
6 biography. I said many times I've read his own autobiography with
7 care and with considerable respect. It's a very interesting
8 document, and your question seems to imply that I just sort of
9 floated it in the air and read an entry in another book. That's
10 not true, and I've said beforehand it is not true.

11 So this -- I would probably be more productive than this, frankly
12 as a witness, than just repeating what I've said to you before.

13 Q. I could not really hear you clearly regarding your long
14 response to my question. I just want a brief and precise response
15 whether you studied the biography of Mr. Khieu Samphan in detail
16 or not, because you write very detailed regarding the book
17 entitled "Pol Pot, Brother Number One". Is it the same case?

18 [15.21.23]

19 A. No, I never studied Khieu Samphan's biography with the same
20 attention that I gave to a three-year writing book project of Pol
21 Pot, but I did not want to give the impression that I'd never
22 studied that biography at length and with interest, and I would
23 -- I have said several times one of the main sources of my
24 information was his own autobiography and also the introduction
25 to the translation of his very interesting PhD thesis, which I

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1 was familiar with since the 1970s. It's been a source of interest
2 to me for a long time, but not of course a source of the same
3 prolonged research as my book length study of Pol Pot.

4 Q. Thank you. Let me now focus on the structure of Democratic
5 Kampuchea. Can you tell the Bench regarding the structure, if you
6 can, then I can put more questions to you regarding this topic?

7 A. I think I'd prefer to wait for your questions, because I've
8 discussed in detail in my previous testimony many of the issues
9 involved here. If I were to give a response about the structure
10 of Democratic Kampuchea, starting from I don't which point to
11 what point and taking what point of view, it would be incoherent
12 and would probably take 45 minutes, which we don't have left. So
13 I would like to have -- I'd be happy to receive your specific
14 questions, if possible.

15 [15.23.20]

16 Q. Thank you. My question to you is the following: What was the
17 highest organization or leadership within the Democratic
18 Kampuchea?

19 A. That's an excellent question. The highest office in Democratic
20 Kampuchea was the Chairman of the State -- was the Chairmanship
21 of the State Presidium, a position held by Mr. Khieu Samphan. As
22 we have learned, I hope through the last few days, or I hope you
23 knew already, really, but as I've testified over the last few
24 days, the top position was not equivalent to any -- to the person
25 who -- to the person or people who exercised power in Democratic

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1 Kampuchea. It was a -- the position existed. We know absolutely
2 nothing about what the duties that came with it, but it was, at
3 least in public, at least this position appears in public
4 documents, such as the constitution, radio broadcasts over FBIS,
5 that this position is the highest in the land and it was the one
6 occupied by your client.

7 [15.24.54]

8 Q. You said you based your statement on the constitution. Can you
9 enlighten us, which part of the constitution which enshrined the
10 highest status of the President of the State Presidium as the
11 highest office in land?

12 A. I'd have to have the -- I'm sorry. I'd have to have the text
13 of the conversation -- constitution up on the screen, but I know
14 that's -- I'm pretty sure that's how this position is designated
15 as the highest personal position. I think the highest position is
16 with something, we had this discussion the other day, with the
17 National Congress, but I think the highest personal position is
18 the State Presidium, but with the text not in front of me I'm not
19 going to swear -- I know it's in the constitution, but I don't
20 know the phrasing. I can't know the phrasing.

21 Q. Thank you. Let me put aside these questions; I will return to
22 it a bit later. Now, my question is in regards to the
23 institutions of Democratic Kampuchea, namely the Communist Party
24 of Kampuchea and the Democratic Kampuchea Government.

25 [15.26.31]

1 A. Yes, I didn't hear a question yet.

2 Q. Based on your research, what is your assertion that which
3 institution has more power than the other one?

4 A. Thank you. Well, certainly from my previous testimony and from
5 a wide number of published sources, it's clear to me that the
6 Communist Party of Democratic Kampuchea had more power than the
7 institutions mentioned in the constitution. Now, the Party and
8 the government, once the government is functioning, it's run by
9 Party members, so Party business is government business.

10 But the government, as stated in the constitution, which somehow
11 suggests that there is some separation of powers, is, I think,
12 partly to satisfy foreign curiosity that Cambodia was not a
13 totalitarian state, DK was not in other words, I think the
14 separation of powers was implied.

15 [15.27.38]

16 There never was such a separation of powers, but if you were to
17 put the offices of the government, as stated in the constitution,
18 and the Communist Party of Kampuchea has never stated anywhere
19 except perhaps in its statutes, side by side, there's no question
20 that the Communist Party was the more -- was the only one with
21 any access to power. There were no alternate sources of power in
22 Cambodia in the DK period.

23 Q. Thank you. So you just stated that the Communist Party of
24 Kampuchea is the one who had the power the most.

25 The question is the following: How the CPK utilize their power or

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1 through which medium or institutions that the CPK use its power?

2 [15.28.44]

3 A. I think we've been over this before, but it's a very good

4 question. I think it exercised its power through the--

5 The Standing Committee of the -- the Standing Committee of

6 Central Committee was the ultimate source of power, but it --

7 orders were transmitted and suggestions coming up through the

8 pyramidal structure that I mentioned. The activities of the CPK -

9 no, the activities of the government and the CPK, which the CPK

10 dominated, were performed by various offices that were formed;

11 some of them are mentioned in the constitution, some of them not.

12 This is why you have writing sometimes suggesting that people

13 were actually ministers of this or ministers of that. Ieng Sary,

14 for example, was not the Minister of Foreign Affairs, he was vice

15 - he was vice-prime minister of Cambodia in charge of or with an

16 interest in foreign affairs; I forget the thing.

17 [15.29.40]

18 So it doesn't look like a government that is easy to - or, no,

19 no. It isn't a government that's easy to slot into the kinds of

20 governments we have in other countries. A lot of the operations

21 are secret. Some of them are ambiguous, some are overlapping,

22 some are contradictory. We've had this with what does -- what

23 does 870 mean? It means about eight things all at once. So too

24 the government is -- there's a lot of overlapping powers,

25 overlapping jurisdictions that makes it very hard to understand.

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1 Q. Thank you very much. With Mr. President's leave, I would like
2 a document that has already been shown time and again, document
3 E3/12, the decision of the Central Committee regarding a number
4 of matters. Could this document be put up on the screen, please?

5 [15.30.52]

6 MR. PRESIDENT:

7 You may proceed.

8 Have you had the hard copy available for Dr. Chandler to review?

9 MR. KONG SAM ONN:

10 Yes, we do. If Dr. Chandler wishes to obtain the copy of the
11 document, the hard copy, we can bring one to him.

12 MR. CHANDLER:

13 That would be easier. I'm looking at the Khmer on the screen,
14 which is helpful, but I just want to make sure my answers are
15 clear by the hard copy in English if possible.

16 MR. PRESIDENT:

17 Court officer is now instructed to bring the hard copy of the
18 document in English version to the witness.

19 [15.32.00]

20 BY MR. KONG SAM ONN:

21 Thank you. Mr. President, I would like document under ERN
22 00003142 in Khmer and English ERN 0018284 -- rather 14 to be put
23 up on the screen, please. French ERN 00224367.

24 I would like Professor Chandler to look at point number two in
25 the document.

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1 Q. Please, if you have anything to say on this you may proceed.
2 Indeed, after you have read the document I would like to proceed
3 with my questions.

4 The questions are as follows: According to your experience, what
5 is your impression concerning the content of this document?

6 [15.34.08]

7 MR. CHANDLER:

8 A. Thanks. I was raising my hand because you mentioned item 2 in
9 there, but 25 item 2 is in the paper, so I was waiting, but then
10 you didn't say that, so that's fine, you asked another question.
11 I think -- I again, I've covered this before, and it's in the
12 transcript, I presume, when we -- when Ben Kiernan, and I, and
13 Chanthou Boua edited that collection of documents, the reason we
14 put this one first in the book was because it was, I thought the
15 most - we, all three of us felt the most revealing. It's an
16 extremely important document in which the leadership of the
17 country is talking to itself about itself, and this is a kind of
18 a dialogue or multi-log that we had very, very few examples of in
19 our archive, and that's the importance of it.

20 I think what is said here is certainly given for the limitations
21 of the limits put on the number of people who were there, pretty
22 much what occurred at this meeting. This is what was said, this
23 is what was decided. Certainly, Pol Pot, the chairman, would have
24 read these minutes and if there was anything the matter with
25 them, from his point of view, he would have sent them back.

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1 So I think it was a very important, and from the Party's point of
2 view, a very accurate and -- accurate document -- from our point
3 of view, a very revealing one.

4 [15.35.46]

5 Q. Thank you. For the record, I would like to read point number
6 2. Indeed, I read out the ERN number to you. Perhaps you may have
7 missed it, but my apologies for that.

8 On this point, it states that the Comrade Secretary managed some
9 time - was reserved time, a few days monthly, to meet foreign
10 countries. And this is in point number 3 on page 814 of the
11 document, which is page 6. So I'm sure you're aware of this name,
12 Comrade Secretary, which refers to Pol Pot.

13 My question is: Had he -- or did he have more power in the Party
14 than in the government, or what is your point -- position on
15 this?

16 A. Again, this is something I have testified to, and I think
17 maybe my answers are getting fuzzier with time, but there is no
18 real difference between what he did for the government. He didn't
19 wake up and say today I'm working with the government and in the
20 afternoon I'm working for the Party. The two things were just
21 indissoluble.

22 [15.37.40]

23 He was not -- his work for the -- I think he felt his work for
24 the Party that was not necessarily to be shared with people
25 outside the Party was more important than his work for the

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1 government, such as meeting foreign visitors or whatever. Those
2 were open things that he did openly, which I would, again this is
3 a suggestion, but just knowing the way this man worked pretty
4 much, would have been a lot less important.

5 So -- but, yes, I mean, he says reserve time a few days monthly
6 to meet foreign countries. I'm not sure if "countries" is the
7 right translation there, but he certainly never did that. I mean,
8 he never did spend that time, so it looks to me like the second
9 sentence is what operates. He spent all his time working for the
10 Party and government, which are the same thing.

11 [15.38.43]

12 Q. Thank you. May I refer you to the document under ERN 0003141
13 in Khmer; in English, 00182813, and also another page, which is
14 the same -- the next page in English, 814; and in French,
15 00224366? I, indeed, said that I would come back to the point on
16 the State Presidium, and now I would like to put the question on
17 this.

18 Have you already found the relevant portion I mentioned yet?

19 A. Yes, thank you, I have.

20 Q. Thank you. I would like now to ask you the question as
21 follows: Are you familiar with the names of the person in the
22 State -- the Presidium of State or State Presidium, starting from
23 Comrade Hem, First Deputy Chairman Penn Nouth, Second Deputy
24 Chairman Comrade Nhim? Are you familiar of these names?

25 [15.40.36]

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1 A. Certainly, the first two names are Khieu Samphan and Penn
2 Nouth, who noticeably does not have the word "comrade" in front
3 of his name, former prime minister under Sihanouk. The last man,
4 Mr. Nhim, I would have to check sources to see if I knew exactly
5 who that was. I don't right at this minute know who Comrade Nhim
6 was, but with the name -- with the word "comrade" in front of his
7 name he was a member of the CPK.

8 Q. Thank you. Did you notice why Penn Nouth didn't have the code
9 name "comrade" before, like the others?

10 A. Did you mean -- I'm sorry. Do you mean did I notice this
11 before today or had I known it for a long time or I first
12 discovered it today? I'm missing the exact point of your
13 question.

14 Q. Indeed, I was asking why, for example, now, you see the
15 document, why the term "comrade" is not seen placed before Penn
16 Nouth as it was before other names under the State Presidium?

17 A. I think the answer is obvious. This is a holdover from the
18 Sihanouk regime, and he was the only man in that document who
19 doesn't -- who was not a comrade, and he was not a comrade
20 because he was an outsider. Sihanouk was not a "somcheak" either
21 -- "somchet" -- I'm sorry, "somchet".

22 [15.42.51]

23 And I think they're making that point this decisively in this
24 private document. They weren't going to honour him with any
25 honorary comradeship; they're just talking about him as basically

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1 a kind of a other kind of person, not one of them.

2 Q. Thank you. Do you know if any of them were members of the
3 Standing Committee?

4 A. Let me just be a second. Well -- I'm sorry. Yes, Khieu Samphan
5 certainly was. You know, these three people, Penn Nouth had no
6 access to the Communist Party whatsoever. Comrade Nhim, I would
7 have to check that pseudo name. It's not one that springs up
8 right away, but I might be able to come with that tomorrow,
9 knowing who he is. So I'm -- I couldn't answer about the third
10 person, whether he was or was not. Khieu Samphan certainly was;
11 Penn Nouth certainly was not.

12 [15.44.11]

13 And I think it's of interest that nothing at all is said about
14 the Presidium in this secret document. There are no guidance to
15 how it should behave. They just move right on to other subjects.
16 I think that's significant. Almost as if there is no significance
17 to this position. No power attached to the position, is what I
18 was saying before, but that's just his -- an amputation, so I
19 don't want to go too far with that.

20 Q. Thank you. I think I may need clarification. Through
21 interpretation I heard about the membership of the Party, but my
22 question was about the member of the Standing Committee. Were you
23 referring to the membership of the Standing Committee or the
24 Party in particular?

25 A. Gosh, I -- sorry. I know I was -- I know your question was

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1 Standing Committee, and that was -- this is my response. Again, I
2 better slow down because the translator might be missing these
3 points, but certainly it's known on the record -- I'm not
4 conceding anything -- Comrade Khieu Samphan was indeed a member
5 of the Standing Committee. Penn Nouth was not a member of
6 anything. The third person, I would have to look up to see what
7 that revolutionary name stands for. I may have evidence for that
8 in my room. I don't have it in my head. Sorry if there was that
9 misinterpretation on the -- and it's my fault -- to the
10 translators, I apologize again.

11 [15.45.59]

12 Q. Thank you. I may have another question concerning the roles or
13 the function of the State Presidium. Do you think you are able to
14 respond to a few questions concerning the function, the
15 organization, the structure of the State Presidium? Do you think
16 you can do that?

17 A. I can answer to the extent that I know nothing about those
18 subjects and I would challenge you to say if anybody else does
19 either, not you personally, but I don't think this body has ever
20 had any history. And if it has, I would be very interested in
21 hearing about it, but I would not be able to answer your
22 question, in other words. I'm sorry.

23 Q. Thank you. My sincere apologies; indeed, through French
24 channel, we heard that Dr. Chandler stated that Khieu Samphan was
25 the member of the Standing Committee. However, when I asked for

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1 clarification, he said that, no, Khieu Samphan was not the member
2 of the Standing Committee. That's what I heard through the
3 rendition. If Professor would like to clarify on this, he may do
4 so now.

5 [15.48.24]

6 A. Was that on my last response? I can only listen to one channel
7 at a time. I'm sorry, I wish I could hear all three, but I never
8 said that he was not. I mean, I said that Penn Nouth was not, and
9 the third person, I don't know -- I'm not sure who he was, so I'm
10 in no position to say whether or not he, Nhim, was on the
11 Standing Committee. I cannot say that. That's what I think I
12 said, and I hope it came through in French and Khmer, but if it
13 didn't, maybe we're in trouble, because that's what I said.

14 [15.49.06]

15 Q. Apologies again. Please clarify this for us. You said that
16 Khieu Samphan was the member of the Standing Committee; is that
17 correct?

18 A. Yes.

19 Q. Do you think you can support your argument with documents to
20 prove that he was a member of the Standing Committee?

21 A. Well, look, this is a little embarrassing for me, and I'm
22 sorry for it. I've gone back to my original notes. I think if the
23 original question was the membership in the Central Committee --
24 and we've been wandering all over the map with other memberships
25 -- I hope, if I was led into this Standing Committee thing, it's

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1 because it's a quarter to four. You haven't led me in with any
2 bad intentions, but I don't want to be -- the record I have here
3 "candid member of Central Committee" and these two different
4 dates that I gave before. Those are the documents that I can back
5 up. Standing Committee, I can't, and so I won't -- I'm just not
6 going to do that because I can't do it. It's been Central
7 Committee all along, and if I misstated, that should be picked up
8 in the record and corrected because the second statement -- I
9 mean, my current statement that he was a candidate member of the
10 Central Committee, that's what I copied out of footnote 4435 in
11 the Standing Order -- or the reference that footnote refers to.
12 So my apologies.

13 [15.51.01]

14 Q. Thank you. Could you also tell the Court, concerning the
15 fashion of the Standing Committee and the Central Committee, what
16 were the differences in these two institutions' operations?

17 A. Again, 10 to 4 -- we might go back to this tomorrow -- 10 to 4
18 is a bit late for that and I think I've given these points before
19 in earlier testimony. I'm not trying to be evasive. The
20 difference between the two of them, primarily, is one was very
21 small and one was quite large, and all members of the Standing
22 Committee were also members of the Central Committee.

23 As I said before -- I think it was one of your earlier questions
24 -- the reverse was not true. In other words, obviously, members
25 of the Central Committee, only those few served on both bodies.

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1 The Central Committee, I think, numbered about 20 people. I can't
2 quite -- these -- membership is public knowledge. These people
3 were -- people on the Central Committee were high-ranking Party
4 members who had a serious reputation of loyalty. I think,
5 however, we know through history that many of those people were
6 -- or several of those people -- I guess more than three -- were
7 later arrested and killed. But yes, the Central Committee was the
8 -- perhaps the body that, directly under the Standing Committee,
9 served it with information and suggestions and received commands
10 and suggestions which were not -- they had no -- they had nothing
11 further to say. Once they had received these suggestions or
12 commands, whatever form they took, from the Standing Committee,
13 as far as we know -- we weren't in these things -- this is the
14 way I understand it from other countries particularly -- that was
15 final. The Central Committee couldn't stand up and say, "Oh no,
16 we don't want to do it that way; we want to do it our way." That
17 was not the way it worked.

18 [15.53.17]

19 But they were very trusted people who were probably privy to
20 most, if not all, of the Standing Committee decisions. You find
21 the Standing Committee minutes, a handful of them that have
22 survived, there's no distribution to anybody outside the Standing
23 Committee.

24 When you get to some of the other DK documents that have
25 survived, you see fairly wide distribution. So, in other words,

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1 some of that fairly wide distribution would have gone out of the
2 Standing Committee among members of the Central and possibly even
3 further, down to the zones, military commanders and so forth. But
4 just those two, one was small and in charge. The second was also
5 in charge, but a big unit, and it's subject to the Standing
6 Committee.

7 [15.54.08]

8 Again -- I think, again -- this, I'd have to go back on this.
9 This is not something I've studied in detail. If I'm wrong, I'm
10 sorry, but it seems to me that important Central Committee
11 meetings would include the members of the Standing Committee at
12 the meeting. So it's not like they had a chance to talk in a free
13 and easy manner and then go up to Pol Pot and the others and
14 behave differently. I think the Standing Committee was there,
15 listening to what was being said by a wider group, trying, I
16 think, honestly, to pick up information that was not available to
17 them.

18 [15.54.42]

19 Q. Thank you. I heard in your testimony that the Standing
20 Committee comprised of 20 people. Are you referring to the
21 Standing Committee or the Central Committee?

22 A. When you say you heard my testimony, you mean just now?
23 Because in which case we're having some genuine translation
24 problems. Twenty members was Standing Committee only. Seven or
25 eight members is -- or no, 20 members is Central Committee only.

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1 Standing Committee is smaller, seven or eight. No, I didn't say
2 that.

3 [15.55.39]

4 MR. PRESIDENT:

5 Thank you. Since it is perhaps the problem in translation,
6 interpreters are advised to be very careful with the terms. The
7 "Standing Committee" and the "Central Committee", the two terms
8 have to be wisely used in order not to mislead parties to the
9 proceeding. And indeed, when Dr. Chandler responds, the terms
10 should be very carefully rendered for him because the rendition
11 in Khmer indicates that there has been some confusion already in
12 the interpretation when it comes to the Standing Committee and
13 the Central Committee. The two terms are used interchangeably,
14 for example, when at one point Khieu Samphan was rendered as a
15 member of the Standing Committee and on another occasion he was
16 the member of the Central Committee.

17 So we -- also, indeed, in the criminal procedures, we do not
18 allow parties to put the same question again. Repetitive
19 questions are not allowed because we are afraid that the
20 questions that are put time and again in the same manner may
21 confuse the parties to the proceeding or may get some different
22 or contradictory statements. That's why parties are reminded to
23 be very careful.

24 And we should also remind Dr. Chandler to be rather slow when
25 responding to questions. We hope we can reduce some

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1 misunderstanding and, indeed, this has some impact on the
2 transcript itself if it continues to happen.

3 Counsel for Khieu Samphan, you may proceed with two more
4 questions before we adjourn for the day.

5 [15.58.11]

6 BY MR. KONG SAM ONN:

7 Thank you, Mr. President. I have very few questions about the
8 American bombardments.

9 Q. You had been asked by counsel for Mr. Ieng Sary on this, but I
10 would like to know or we would like to know -- the bombs dropped
11 on Cambodian soil during those days. Do you know how much bombs
12 were dropped on Cambodian soil back then?

13 MR. CHANDLER:

14 A. I don't have the precise number, but it was hundreds of
15 thousands of tonnes. I'm not trying to diminish the number. The
16 first findings, about 1979, the estimates were more than had ever
17 been dropped on Japan. In more recent times we discussed this in
18 another question that was put to me about the bombings, how this
19 figure has gone way up, much higher. I mentioned in my response
20 to that question that my problem with those much higher figures
21 was not that they might not be reliable, but they appeared in an
22 un-refereed, unscholarly journal. It worried me that the people
23 had chosen to publish these figures in that way, and I waited for
24 something coming from a more -- not more reliable but just more
25 referenced source, and none came. But it seems to be quite

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1 possible -- and I'm not backing away from this -- that many more
2 thousands of tonnes of bombs were dropped on Cambodia and the
3 damage would have been as much greater as one might imagine.

4 [15.59.56]

5 So, yes -- I mean, I don't have the exact number of tonnes. I
6 know it was hundreds of thousands of tonnes, which is a lot of
7 bombs, more than on Japan. Not more, however, than were dropped
8 on Vietnam. More on Japan was the figure that was used to show
9 how shocking this was, but over 10 or 15 years, the Americans
10 have dropped more tonnage on Vietnam, and the question of
11 demoralizing the population of the Vietnamese with these bombings
12 was never brought up by the Vietnamese. So it's just an
13 interesting contrast. They never said: Well, you drove us all
14 into the -- whatever. Well, that's -- you can skip all that,
15 that's extra. I'm sorry. It was a very -- it was a horrible
16 incident - I think I said "a horrible series of events". Hundreds
17 of thousands of tonnes.

18 [16.00.50]

19 MR. PRESIDENT:

20 Thank you, Counsel. And thank you very much, Mr. Expert.
21 The time is now appropriate for the adjournment for today's
22 proceeding. The Court will now adjourn and resume tomorrow
23 morning -- that is, Wednesday, the 25th of July 2012 --
24 commencing from 9 a.m., and we will continue to hear the
25 testimony of Professor David Chandler questioned by Khieu

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1 Samphan's defence.

2 Professor David Chandler, the hearing of your testimony has not
3 yet concluded, and we require to hear your testimony again
4 tomorrow, and it might take up one whole morning session.

5 [16.01.43]

6 Court Officer, could you assist the expert in cooperation with
7 WESU for his returning to his place of residence and have him
8 return to the courtroom tomorrow morning, at 9 a.m.?

9 Security guards, you're instructed to take the three Accused back
10 to the detention facility and have them back in the courtroom
11 tomorrow morning, before 9 a.m.

12 As for Mr. Ieng Sary, if he shows his clear stance regarding his
13 direct presence in the courtroom with the letter of waiver
14 through his defence counsel prior to the commencement of the
15 hearing, then you need to liaise that information with the
16 greffier and have him brought to the holding cell downstairs with
17 the facility of audio-visual means for him to follow the
18 proceeding, and we will decide on his request accordingly prior
19 to the commencement of the hearing of the expert.

20 The Court is now adjourned.

21 (Court adjourns at 1603H)

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