



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

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ជាតិ សាសនា ព្រះមហាក្សត្រ

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Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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Trial Day 20

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
MR. CHAN DARARASMEY	Khmer
MR. KARNAVAS	English
JUDGE LAVERGNE	English
MR. PAUW	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MR. VANTHAN DARA PEOU (TCW-766)	Khmer

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 [09.03.37]

6 Before we proceed, may the international co-counsel for Nuon Chea
7 be on his feet, please?

8 The Chamber would like to inform you that yesterday we heard your
9 request concerning the time allocation for putting questions to
10 the witness from one hour -- one and a half hour to half day.

11 With regard to this, the Chamber would like to reserve our ruling
12 that each counsel still allocated one and a half hour for putting
13 questions to the witness and that counsels are advised to put
14 questions to this witness concerning the distribution of
15 documents and the classification of documents by DC-Cam and other
16 information concerning the relevance of the collection of
17 document.

18 And the Chamber would like to also see, during the course of the
19 questionings, whether more times are needed for each counsel
20 respectively. Then, the Chamber will rule on that -- on that
21 particular circumstance.

22 [09.05.17]

23 Do you understand our ruling on this?

24 MR. PESTMAN:

25 Yes, I do. Thank you, Mr. President.

2

1 MR. PRESIDENT:

2 Good morning, Mr. Dara Peou. Today, the Chamber continues hearing
3 your testimony. You will be asked some more questions by parties.
4 Yesterday, we left off when the International Co-Prosecutor
5 finished with his questions, but the National Co-Prosecutor would
6 like to also put some questions to you concerning the documents
7 at DC-Cam.

8 So we would like now to proceed to the National Co-Prosecutor.

9 QUESTIONING BY MR. CHAN DARARASMEY:

10 Good morning, Mr. President. Good morning, Your Honours. And good
11 morning, everyone in this courtroom.

12 [09.06.55]

13 I am Chan Dararasmey, Deputy Co-Prosecutor on the national side.

14 I would like to put questions to Mr. Peou. And good morning
15 again, Mr. Dara Peou. I have some important questions before me
16 that I wish to put to you.

17 Q. You talked about the "Revolutionary" magazines - "Flag"
18 magazine and "Youth Flag" magazines.

19 What kind of mechanism you use to identify that these documents
20 are relevant to the Khmer Rouge?

21 MR. VANTHAN DARA PEOU:

22 A. With regard to how these documents are determined as to be
23 relevant to the Democratic Kampuchea regime, first, we read these
24 documents very carefully, and we review the essence, the language
25 used on -- in the text, and we also looked at the dates on the

1 documents to identify whether they are speaking about the
2 Democratic Kampuchea or not.

3 [09.08.29]

4 Q. What were the phrases or terms that are very commonly used in
5 the magazines?

6 A. It is a huge volume of documents to read -- to tell you in
7 details, about the "Revolutionary Flag" magazines, but I can give
8 you an example of - of how the enemies were smashed. The
9 borne-within enemies were smashed. The expression has been used
10 time and again in the text.

11 Q. What are the other measures or tactics -- or techniques you
12 used to identify the documents?

13 A. In order to verify the documents, we had to read them very
14 carefully, we have to examine the text, the language used in the
15 text, and also the dates.

16 Q. Does DC-Cam keep any documents relevant to the Royal
17 Government of National Union of Kampuchea?

18 [09.10.25]

19 A. With regard to this, please inform that -- be informed that
20 DC-Cam has its mandate to research and compile documents. These
21 documents are only the relevant documents to the Democratic
22 Kampuchea regime, and, officially, we only collect documents in
23 the period of 1975 to 1979.

24 Q. I would like to proceed to another question, this question
25 concerning bibliographic database and also the database with

4

1 regard to biographic, photographic, and geographic, and other
2 relevant documents concerning the history of the Khmer Rouge.

3 I would like to proceed with the bibliographic database.

4 Could you please explain to us what this expression means?

5 A. At DC-Cam, we have four kinds of documents on the database:

6 first, the bibliographic database; the data concerning the
7 biographies of the former Khmer Rouge combatants and victims. So
8 this bibliographic database is for that purpose.

9 [09.12.21]

10 Q. Do you have any other database apart from this -- or other
11 purpose?

12 A. The main purpose for our bibliographic database is only for
13 storing the biographies of the former Khmer Rouge combatants.

14 And, at DC-Cam, we call it the biographies related documents
15 starting with prefix "I" or "K."

16 Q. Could you please identify at what level people could be
17 classified as combatants?

18 A. We normally do not classify them, we just put the documents
19 altogether into the database.

20 Q. Could you please tell the volume of such data in the database?

21 A. I think you may refer to this question by searching our
22 website.

23 Q. With regard to the more than 1 million documents you
24 mentioned, could you please tell us whether they are relevant to
25 this?

1 A. I think your question is rather broad. Could you please be
2 more specific and be brief and precise?

3 [09.13.56]

4 Q. I would like to know what kind of documents are the key
5 documents that can be classified and input into the bibliographic
6 database. And what would be the headings for these documents?

7 A. As I already indicated, DC-Cam does not do any analysis of any
8 document. We don't classify documents as key documents or major
9 documents. We have classified the documents only based on the --
10 what we have collected, the order of the documents received.

11 And concerning this bibliographic database, we have created the
12 form so that information can be filled in, and this includes
13 several fields. The information is of general nature so that
14 researchers and the public can easily access to. For example,
15 those who would like to find their relatives or their loved one
16 who disappeared or lost during the Democratic Kampuchea.

17 Q. Thank you, Mr. Dara Peou.

18 [09.15.50]

19 What kinds of documents are recorded in the bibliographic
20 database, including books and other magazine, for example, that
21 you have compiled so far?

22 A. I think when it comes to amount of the documents, I find it
23 difficult to give you the exact amount. However, I feel that you
24 can find your answer when you access to our database system of
25 the DC-Cam.

6

1 Regarding the data in the bibliographic database, all documents
2 that are not relevant to -- all documents that are relevant to
3 biography are included in this database.

4 Q. How are documents input into this bibliographic database?

5 A. At DC-Cam, we have our own method in inputting documents or
6 data into the database. We use the term-- We have a manual for
7 inputting such documents, and it is -- the manual is stored at
8 DC-Cam, and people who have compile or input data into the
9 computer database has to follow this manual.

10 [09.17.36]

11 Q. What fields are recorded for each document in that database?

12 For example, title, author, source of document, condition of
13 document, summary of contents, alleged victims, alleged
14 perpetrators, meeting location.

15 A. Indeed, in each database, there is a worksheet form in which a
16 field is identified. In each form, there are more than 100 set
17 fields, and dates, names concerning the persons in the biography
18 can be input, and also the record or history of people who input
19 the database, and also the summary of such contents in the
20 database. These are all available in the database.

21 And I would like to also tell you that, when inputting the
22 documents, we also look into the hard paper documents and we
23 extract information from these hard copies into another hard copy
24 form leaving some margins for filling further information, this
25 information later on be input into the database. So all the

7

1 information input in the database have been available in hard
2 copy as well, at the DC-Cam.

3 Q. Thank you very much.

4 [09.19.47]

5 Who undertakes this work? And are they supervised to ensure
6 accuracy of the data?

7 A. I am the person in charge. I have several other colleagues who
8 help me.

9 And the input of this data into the database goes through steps.
10 For example, first, we look at the actual text and then we see
11 how this text can be filled into the hard paper form, and later
12 on we have to transfer the text on this hard copy into the
13 database and have them verified to see whether the documents on
14 the paper are consistent with the set fields in the database.
15 Other colleagues will also be ready to assist us with verifying
16 whether the wordings, the texts are accurate as opposed to the
17 actual text.

18 [09.21.10]

19 And the next step is for the group to review this database to see
20 whether there is any error in inputting the data, and that
21 adjustment would be made to ensure that accuracy is preserved.

22 Q. You said you're in charge of this. From when have you been in
23 charge of this task?

24 A. I have been working here at the DC-Cam since 1995, and I think
25 that I started performing this task since I first started working

8

1 at the DC-Cam.

2 Q. I would like to proceed to the next subject, which is about
3 biographic database.

4 Turning to this biographic database, what is the purpose of the
5 biographic database?

6 [09.22.26]

7 A. Regarding the creation of this system -- database, regardless
8 of bibliographic or biographic database, the purpose is to
9 facilitate researchers who come to conduct their research at
10 DC-Cam; it is to help them have a user-friendly interface so that
11 information can be retrieved from internet without having asked
12 them to come all the way to the DC-Cam place.

13 [09.23.03]

14 With regard to the bibliographic database, it is important for
15 people who are searching for their lost relatives, friends or
16 loved ones, those who have disappeared during the Democratic
17 Kampuchea regime.

18 The purpose of this is also to help them, to help the relatives,
19 the family members because, after the Khmer Rouge regime, many
20 people have disappeared and relatives have no knowledge of their
21 loved ones, where they could have been. So this database is
22 really important to assist them to locate their relatives.

23 On a daily basis, there are a number of people who coming all the
24 way from various provinces to the DC-Cam to search for their
25 disappeared relatives or members of the family. Although,

1 finally, they learned that they died, but they would know
2 exactly, through the database, when they died or where.

3 [09.24.17]

4 Q. Regarding the biographic database, have you also included the
5 task concerning the biographies of the senior Khmer Rouge
6 leaders, or the secretaries of the districts, or other live
7 review reports by the Khmer Rouge, and whether such documents
8 including the biographies of other Khmer Rouge members and
9 victims or ordinary citizen included?

10 A. To be clear and for the public information, may I refer Mr.
11 Co-Prosecutor to the DC-Cam website? And go to that particular
12 database -- or maybe we can access to that database now, in this
13 courtroom, so that you will see how many fields are created and
14 what are the relevant fields.

15 Q. Thank you. Another question: How many records are contained in
16 the bibliographic database?

17 A. I would like to reiterate my position that with regard to the
18 actual amount of document: Could you please be referred to the
19 database itself?

20 [09.25.58]

21 Q. How do you ensure that the information is accurately recorded?

22 A. I think I have made this clear already with regard to the
23 verification or examination of documents to be input into the
24 database, and how documents are compared and treated, how we deal
25 with them, because there are steps to ensure that the documents

10

1 are accurately recorded.

2 Q. Do you have any information concerning the abuse (sic) of each
3 member into that database?

4 A. With regard to this question, again I may refer Mr.
5 Co-Prosecutor to go to this database system and to learn more
6 about the database. Since it is publicly accessible, we feel that
7 you will make the most of it by logging to it.

8 Q. Indeed, we have been well informed of this, but we would like
9 just to hear from you so that the public can also be -- the Court
10 and the public can be informed.

11 I would not proceed to -- with further questions on this, but I
12 would like to go to another subject if the Chamber allows.

13 [09.27.55]

14 MR. PRESIDENT:

15 Indeed, you may proceed. You have 10 more minutes, but please
16 make the most of your allocated time. In particular, your
17 questions should be more directly linked to the relevant
18 documents that are put before the Chamber, the document that may
19 have evidentiary value. So that it is really the topic for the
20 discussion for the day.

21 MR. CHAN DARARASMEY:

22 (Microphone not activated)

23 MR. PRESIDENT:

24 Could you please activate your mic please?

25 BY MR. CHAN DARARASMEY:

11

1 Q. Could you also please tell the Court about the photograph --
2 photograph database? What is the main purpose of this database?

3 MR. VANTHAN DARA PEOU:

4 A. The photographic database has been established to input
5 photographs. because photographs have been collected after the
6 falls of the Khmer Rouge, we do not really have information on
7 those photos. And the purpose of creating this photographic
8 database is to put those photos into the database, hoping that
9 the public may access to them and recognize any of the photos.
10 And if the users recognize those pictures, they may inform the
11 DC-Cam and feed us with some information relevant to the -
12 rather, the identified photo, so that DC-Cam can input for the
13 information along with the photos identified.

14 [09.29.54]

15 Q. Along with the -- in the photographic database, is there any
16 themes or -- documentary theme included?

17 A. No. In photographic database, there is only photos.

18 Q. Can you tell us to whom these documents at the DC-Cam belong
19 to, legally?

20 A. As we indicated, we obtained these information from several
21 sources, including the governmental sources, private
22 institutions, and NGO's. So, if you would like us to -- me to
23 explain to you in detail concerning these, you may provide us
24 with any specific information or a document, and then we can do
25 that.

12

1 But to be clearer, we also verify the document with the people
2 who provided us with these documents. And as I indicated, for
3 example--

4 Q. Mr. President, I have three more questions to ask Mr. Dara
5 Peou.

6 [09.31.30]

7 First, before you appeared before the Chamber, today, can you
8 tell us whether or not you were informed or you learned that you
9 would be asking certain questions before you testify before this
10 Court? In other words, did you know in advance that certain
11 questions would be asked?

12 A. I received a summon from the Chamber to testify before the
13 Chamber on the documents stored at the DC-Cam.

14 Q. Do you know the list of question or lines of questions to be
15 asked?

16 MR. PRESIDENT:

17 This question is not relevant to the issue of documents, so you
18 do not have to answer this question.

19 [09.32.35]

20 BY MR. CHAN DARARASMEY:

21 Q. Yesterday, you said that DC-Cam had received documents from
22 various sources.

23 Can you inform the Chamber who has provided the most documents to
24 the DC-Cam and who was the principle person who received those
25 documents; you, yourself, or your director?

1 MR. VANTHAN DARA PEOU:

2 A. In compiling the documents, not only the director or myself
3 were responsible for collecting and compiling those documents.
4 There are directors, as well as personnel of the DC-Cam. And
5 documents, whether they be received through the directors, myself
6 or staff, all of those documents will go through me. I will have
7 to look at them and I provide index to them and I give guidance
8 as to how those documents are stored and maintained at the
9 DC-Cam.

10 [09.33.44]

11 Q. Mr. President, I would like to ask my last question.

12 The Office of Co-Prosecutor have received a number of documents
13 as well as videos from the Documentation Center of Cambodia.

14 Can you tell the Chamber: How are those films or videos
15 catalogued? For example, you used "D" as the code number -- "D"
16 was the code number.

17 And how do you code those videos? Because, in paper documents or
18 hard copies documents, you have "D" followed by number. How about
19 documents and videos? Do you have any code numbers? So we would
20 like to know: When you maintained these kinds of documents, how
21 do you code or index those films or videos?

22 A. For videos or films we have received, we create a list of
23 films, which we indicate the titles of the films or videos, the
24 source from where the films or videos are derived. So those films
25 or videos can be easily accessible on the website of the DC-Cam.

14

1 [09.35.20]

2 MR. CHAN DARARASMEY:

3 Mr. President, that is all for me. And I thank you, Mr. Vanthan
4 Dara Peou, for answering my questions.

5 MR. PRESIDENT:

6 Thank you, the representative of the Prosecution.

7 So, now, I would like to hand over to the Lead Co-Lawyers to put
8 question to the witness.

9 And the civil party Lead Co-Lawyers are reminded that you have
10 one hour to put question to the witness.

11 You may now proceed.

12 [09.35.48]

13 MR. PICH ANG:

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

15 I have a few questions myself, then my international colleague,
16 Ms. Élisabeth Simonneau-Fort, will continue putting question to
17 Mr. Vanthan Dara Peou.

18 I try my utmost not to be repetitious to what the Prosecution has
19 already asked, but I am going to dwell on certain details, and I
20 have additional questions as well for the witness.

21 QUESTIONING BY MR. PICH ANG:

22 First, good morning, Mr. Dara Peou.

23 Q. In 1999 -- 1997, the DC-Cam created a program independent from
24 the Cambodian Genocide Program of Yale University.

25 Can you tell us how it is independent from the university after

15

1 it's -- after the joint collaboration ended?

2 MR. VANTHAN DARA PEOU:

3 A. Thank you for the question. Yale University had a genocide
4 project in Cambodia, and this project lasted for two years, from
5 1995 to 1997. And when the -- this project ended, the Director of
6 the DC-Cam continued the program without receiving any funding
7 from that university anymore.

8 Q. So, between 1995 and 1997, you mentioned that DC-Cam was a
9 part of a collaborative project of the Yale University.

10 What was the administrative relation between DC-Cam and Yale
11 University?

12 [09.38.26]

13 A. Can you clarified your question about the time period you
14 mentioned?

15 Q. Well, I would like to know about the duration when you had a
16 joint collaboration between the Documentation Center of Cambodia
17 and the University of Yale. I would like to know whether or not
18 you have a separate administration, or you were actually run by
19 this university.

20 A. From 1995 to 1997, DC-Cam was then an office for the study of
21 the Democratic Kampuchea. It was not yet a non-governmental
22 organization at that time. It was actually a subsidiary office
23 for the study program of Yale University.

24 Q. Was DC-Cam -- or did DC-Cam have autonomy in its
25 administration back then?

16

1 A. Well, I think counsel can -- may imagine that at that time the
2 DC-Cam was not yet a non-governmental organization. It was merely
3 an office for the study program of Yale University.

4 Q. My follow up question: As for the aspect of administration and
5 finance, was it different from 1995 to 1997 and after 1997?

6 [09.40.35]

7 MR. VANTHAN DARA PEOU:

8 Before I answer your question, I would like to draw the attention
9 of the counsel that the purpose of summoning me to testify before
10 the Chamber today is to clarify to the Chamber the issue relating
11 to documents. So I would suggest that the question be asked on
12 the documentations.

13 MR. PICH ANG:

14 Your Honour, since there is an issue in terms of the independence
15 of the DC-Cam, that's why I put this question to the witness. I
16 would like to check whether or not the DC-Cam is independent in
17 its operation and whether or not the work they have done is
18 reliable or not. So we have to ask for the independence of this
19 institution.

20 [09.41.42]

21 MR. PRESIDENT:

22 The questions were asked yesterday, and I think the witness has
23 already answered the question in terms of its affiliation with
24 the Yale University, particularly during the period of 1995 to
25 1997. The witness said that it was a part of the research project

17

1 of Yale University, and it was actually complying with the
2 administration of the Yale University. So I think that this
3 question has already been answered.

4 So counsels are advised to ask other question in accordance with
5 the guidance of the Chamber, which has already been circulated to
6 the parties concerned. So please make good use of the time
7 allocated to each party effectively.

8 [09.43.04]

9 MR. PICH ANG:

10 Thank you very much, Mr. President, for your guidance.

11 BY MR. PICH ANG:

12 Q. Does the DC-Cam consider itself as an investigating
13 institution for crimes that were committed during the Khmer Rouge
14 regime?

15 MR. VANTHAN DARA PEOU:

16 A. No. At the DC-Cam we have never, ever used the word
17 "investigation".

18 Q. Does the DC-Cam intend to collect all information about the
19 Khmer Rouge regime?

20 A. Yes, this is the very mandate of the Documentation Center of
21 Cambodia.

22 Q. There is a question concerning your qualification and
23 education overseas. You said you had been trained at the New
24 South Wales University.

25 Could you elaborate what the content of your study at the

1 University of New South Wales?

2 [09.44.46]

3 A. When I was studying at the New South Wales University, I
4 attended a faculty on compiling documents.

5 Q. You mentioned about compiling documents.

6 What is -- what characterizes the specialization in compiling the
7 documents?

8 [09.45.20]

9 A. We studied the system of recording documents and compiling
10 documents so that it can be easily found and accessible and
11 people who want to conduct research also can access those
12 documents or information easily.

13 Q. You asserted yesterday that DC-Cam has never analyzed any
14 documents. What do you mean by that? Can you enlighten us what
15 you mean by "not analyzing documents" that you have received?

16 A. The fact that we do not analyze documents is that we won't -
17 we won't make any comment, or we won't say that this document is
18 important or less important, or we do not -- make any comments
19 that this particular kind of document implicates this person or
20 that person. So that is what we mean by "not analyzing the
21 document".

22 [09.46.46]

23 Q. In its operation, does the DC-Cam know that there were crimes
24 committed between 1975 and 1979, and then you tried to look for
25 documents that prove the crimes that were committed?

19

1 A. Well, I have already answered to this question. I would like
2 to reserve my right not to answer this question again. I'm sorry.

3 Q. Yesterday, you talk at length about the custody of documents
4 and collection of documents, but there is one point which was not
5 clear enough to me. I was wondering about the regional documents
6 that you said you kept in a safe file cabinet. How do you
7 classify them so that they can be easily found in the documents
8 at the DC-Cam?

9 [09.48.11]

10 A. I think yesterday I made it very clear about the indexing of
11 the documents from the original copies of documents and the copy
12 documents. So we not only index the documents by giving them code
13 numbers, but we also indicate the source of the documents as
14 well, and we even put in bracket, which I actually responded to
15 the prosecutor. I also explained them that, what it means by the
16 code number in the brackets. So it's quite clear when we want to
17 find such document, for example as to where it is located and
18 where the source of the document is.

19 [09.49.01]

20 Q. Thank you for your clarification.

21 My next question, about your methodology in ascertaining the
22 authenticity of documents: Can you enlighten us as to how do you
23 specifically assess the authenticity of the document? Do you have
24 -- do you incorporate any scientific method in ensuring the
25 authenticity? I would like to specifically mention about the

1 scientific methodology.

2 A. When you talk about the scientific methodology, at the DC-Cam,
3 we conduct forensic scientific -- forensic on the types of papers
4 used, but we do not have means to do that.

5 Q. When you conduct the assessment of the authenticity of the
6 document, do you consult with the expert external to the DC-Cam?
7 I mean, do you have any specific design or working procedure to
8 authenticate those documents?

9 A. Whenever there is any uncertainty, we always seek advice from
10 the experts, historians who have been well-versed with the Khmer
11 Rouge regime. And I indicated in my testimony, yesterday, that we
12 had asked Professor David Chandler. For example, yesterday, I
13 said we had received a document which we did not know the source
14 very clearly, so we asked the expert for their expert advice.

15 [09.51.10]

16 Q. So it means that whenever there is any doubt - right? -- you
17 approached the experts. Otherwise, you would do it yourself?

18 A. That's correct.

19 Q. Yesterday, you mentioned two magazines produced during the DK
20 period, the "Revolutionary" magazines and -- the "Revolutionary
21 Youth" magazine and the "Red Flag" or "Revolutionary Flag"
22 magazines. Have you seen those two magazines?

23 [09.52.02]

24 A. At the Documentation Center of Cambodia, we also had the
25 biographies of the individuals or comrades of the Khmer Rouge.

1 Q. How about the magazines?

2 A. Yes, magazines; you are referring to the "Red Flag" or
3 "Revolutionary Flag".

4 Q. Well, I do not have many more questions on my list, but I
5 would like to continue.

6 In the custody of documents, how do you ensure that documents
7 stored at the DC-Cam and they are accessible to the public are
8 not modified in any ways by anyone who may want to tamper with
9 those documents?

10 A. Well, can you clarify your question? I don't quite catch your
11 question.

12 [09.53.21]

13 Q. When the public or any interested individual who comes to
14 access documents at the DC-Cam, how do you ensure that those
15 individuals do not make any alterations or addition to those
16 documents?

17 A. When the researchers or the public at large coming to the
18 DC-Cam, and they are not personnel of the DC-Cam, and they want
19 to conduct study or research on certain documents, we have a
20 specific area for them to conduct research at the DC-Cam. We do
21 not allow those who are not the staff member of the DC-Cam to go
22 and pick the documents from the bookshelf or from the file
23 cabinet themselves, we have staff members who bring those copy
24 for them. And when those public or researcher wants to read
25 documents, they have to read in a confined area.

22

1 And when they return the documents to the staff member of DC-Cam,
2 we check those documents, whether or not they return every copies
3 and they maintain its original thing or not.

4 [09.55.02]

5 And we also notify to the borrower that those documents must not
6 be written on, and the readers or borrower must not take the
7 document out the DC-Cam either. And if they want to request a
8 copy of any document, then the request must go through me, and I
9 have to grant the request if the document is photocopiable, and I
10 can authorize a copy of such document.

11 [09.55.44]

12 Q. You mentioned yesterday that the defence counsel went to
13 DC-Cam and consult documents at the DC-Cam.

14 Can you - can you confirm that the defence counsel has made
15 copies of those documents? Can you tell us as to how many
16 documents has the defence counsel made -- copies of documents?

17 A. Well, I cannot tell you the exact numbers of copies have been
18 made so far, but if you want the exact number I can check with my
19 colleagues. They can provide the exact number upon request.

20 [09.56.38]

21 Q. You said you were the direct supervisor on the copying of
22 documents requested by every faction of the ECCC, including the
23 Defence.

24 Can you ensure that the copies of those documents are from the
25 original copies stored at the DC-Cam?

23

1 A. Each and every document copied by the ECCC, there is a letter
2 indicating the receipt as well as the delivery of the document.
3 So those documents scanned or copied were certified that they
4 were copied from the original.

5 Q. That brings me to the next question: Can you confirm that all
6 the documents stored at the DC-Cam have been authenticated?

7 [09.57.53]

8 A. Yes, all documents at the DC-Cam have been authenticated.

9 MR. PICH ANG:

10 Mr. President, that's all for me. Thank you for the opportunity
11 for putting questions to the witness.

12 MR. PRESIDENT:

13 Yes, the international Lead Co-Lawyer, you may proceed.

14 MS. SIMONNEAU-FORT:

15 Good morning, Mr. President. Good morning, Your Honours. Good
16 morning to everyone. And good morning to you, Mr. Van Peou (sic).
17 I am going to put a few questions to you. Please forgive me if
18 these questions might seem a bit obvious and if the answers also
19 seem more obvious, but sometimes it's necessary to stress what is
20 the most obvious before this Chamber.

21 [09.58.52]

22 QUESTIONING BY MS. SIMONNEAU-FORT:

23 Q. So you explained to us that at the beginning -- at the
24 beginning, DC-Cam's research work was done within a university
25 context.

24

1 So did DC-Cam then continue following this same scientific, and
2 academic, and university approach, once DC-Cam became an
3 independent organization?

4 MR. VANTHAN DARA PEOU:

5 A. When the Documentation Center of Cambodia became independent,
6 we expanded our work, we expanded to the -- to teaching of the
7 history of Democratic Kampuchea to students across Cambodia.

8 Q. Just coming back to this, I am talking about the way you work,
9 the method you use.

10 [09.59.59]

11 Was it as stringent?

12 A. I am not sure to which aspect are you referring to.

13 Q. In fact, I'm referring to the scientific method that you used
14 when you were starting your work in the university, and I'm
15 really asking you if you applied the same scientific approach to
16 your work at this present stage, while, of course, broadening the
17 sphere of your research.

18 A. As I have already emphasized, the DC-Cam is permitted by the
19 Royal Government of Cambodia to conduct research, compile and
20 store documents, and we are allowed to do this work freely, both
21 inside Cambodia and outside. And in the future, the DC-Cam has a
22 plan to build a permanent research institute, and we have already
23 given the new name to this institute: Sleuk Rith Research
24 Institute.

25 [10.01.52]

1 Q. Thank you. Can it be said that DC-Cam's work is a historical
2 research done along scientific lines?

3 A. I think I may not understand the term "scientific work", here.
4 Are you referring this to the compilation of documents I'm doing?

5 Q. I'm talking about the method you use in your work, which you
6 learned at the university.

7 A. Yes, it is correct.

8 Q. When you are doing university type scientific research, there
9 are certain methods that are used for collecting and classifying
10 historical documents.

11 [10.0315]

12 Are these the methodological rules that you apply when you talk
13 about the very precise way in which DC-Cam collects documents,
14 classifies and conserves them?

15 A. It is correct to say that my current work has been based on
16 what I have acquired during my study.

17 Q. Thank you. Along with the methodological rules, in this kind
18 of research, you also have professional ethics and moral rules as
19 well?

20 A. Yes, it is correct. Before we conduct the research at
21 provinces or other locations, we have clear code of ethic so that
22 -- the code of ethic that has to be carried out by staff who
23 conducted such research, so that we are well disciplined and
24 professional.

25 [10.04.46]

1 Q. Thank you. When it comes to interviewing people, we haven't
2 spoken very much about this, but in your university based
3 scientific approach, do you have methodological and ethical rules
4 when it comes to interviewing people?

5 A. With regard to the interviews, we normally have the
6 questionnaires -- set-up questions, indeed, that are reviewed by
7 senior legal advisors of the DC-Cam before we conducted the
8 interview. So these advisors would review them, and
9 questionnaires have also been communicated to the Office of the
10 Co-Investigators of the Chamber as well.

11 Q. Is that a procedure that you learned while you were training?

12 A. We have been trained, and our trainings are focusing on
13 documentation. But interview is another skill.

14 Q. Thank you. Can we say that you are in fact specialized in
15 historical document research?

16 A. Could counsel please repeat the question?

17 Q. Yes, of course: Can we say, sir, that you are specialized in
18 historical document research?

19 [10.07.26]

20 A. Yes, you can. I think I have been working in this field for
21 the last 17 years, so I know I'm good at this.

22 Q. Is DC-Cam still collaborating with foreign universities, apart
23 from Yale, on research work?

24 A. It is correct. DC-Cam is collaborating with -- or working with
25 several other universities: The University of Rutgers, university

1 -- Temple University. I think there are other universities, you
2 name it.

3 Q. As you see it, would you say that DC-Cam is well regarded by
4 foreign universities, researchers, and experts?

5 A. I think I would leave it to the public to evaluate, because I
6 don't want to show off by boasting about myself.

7 Q. Focusing now on research on documents, has your professional
8 experience and your understanding of the history of Democratic
9 Kampuchea given you a sense of the places where the Khmer Rouge
10 held or conserved their documents?

11 A. Yes, it is correct to say that, because, if we look at the
12 situation after the collapse of the Khmer Rouge, everyone was
13 trying their best to live on and people forgot about collecting
14 the documents left over from the Khmer Rouge. The DC-Cam knows
15 that collecting historical documents concerning the Khmer Rouge
16 regime is very significant, and we know where to find them. And
17 with permission by the Royal Government of Cambodia, the DC-Cam
18 can go to any places it wishes to do to collect this information.

19 [10.10.51]

20 Q. In that case, has your collection of the documents
21 corroborated this idea? By which I mean: Does the source of
22 certain documents that you have and which you keep actually tally
23 with the places where the Khmer were assumed to have kept them?

24 A. I wish to just give you an example for this. For example,
25 there is a record of a person who took note regarding a medical

28

1 training. These documents were located at Tuol Sleng. This means
2 that the documents could have been kept by the person who was
3 arrested and sent to Tuol Sleng. This document belongs to that
4 person, and that's why it was located at Tuol Sleng instead of
5 seeing it at the Ministry of Health.

6 [10.12.28]

7 Q. Thank you.

8 Now, a quick series of questions on the use of DC-Cam documents
9 by the parties present here. You told us that you have made
10 documents available to a great many people: experts, researchers,
11 students, and also people from the ECCC, in particular, the
12 Prosecution, the civil parties, and the Defence. You told us that
13 DC-Cam had offered to the parties that they could come to their
14 offices and, for example, that the Defence paid a visit once a
15 week.

16 And when the different parties are making their visits to your
17 offices, does the DC-Cam guide the parties' research in any way,
18 help them to find documents, and offer explanations about them?

19 [10.13.47]

20 A. Sometimes, people who went to our office to conduct research,
21 not necessarily those who are -- were from the Court or the
22 Tribunal, anyone who is there is advised, or guided on how to
23 search for documents at the DC-Cam, because there are different
24 kinds of documents stored at the Center, and each and every
25 visitor needs to be guided to be able to access to those

1 documents. In general, there is a general orientation session for
2 each visitor so that they can find it easy to access to those
3 pieces of information.

4 [10.15.00]

5 Q. Do you, therefore, feel that you have assisted each one of the
6 parties present here in an equitable and balanced way when they
7 needed help?

8 A. DC-Cam has been recognized by the ECCC as an institution that
9 has provided the parties or the Chamber with relevant documents.
10 We have received several emails, thank you emails concerning the
11 documents that have been provided to them with our assistance.

12 Q. Emails from the parties?

13 A. We received letters from the ECCC itself.

14 Q. Has DC-Cam ever been criticized for its method of collecting
15 documents by any of the parties present here?

16 A. Could you please tell us the date, for example, to which your
17 comment is referring to, so that I can be more precise?

18 Q. No, I'm not thinking in terms of dates, I'm asking a general
19 question: Have you ever been criticized by any of these parties
20 to the trial, when it comes to the collection of documents? I
21 haven't any date because I don't know what answer you're going to
22 give to my question.

23 [10.17.37]

24 A. Documents provided to the ECCC through request without which
25 such documents could never been provided.

30

1 Q. Perhaps I'll ask this in a different way. The parties have
2 come to look at documents. Have any of them been critical about
3 the quality of your document research work?

4 A. Are you referring to the parties here, before us, in this
5 courtroom? Is that what I understood?

6 Q. Yes, quite right.

7 [10.18.48]

8 A. As I already indicated, all documents could never be sent or
9 provided to parties without a request, and we always do our best
10 to make sure that the documents are provided to parties in due
11 course and free of charge.

12 Q. I take it, then, that you have not met with dissatisfaction
13 from any particular party; am I right?

14 A. Yes, you are.

15 MS. SIMONNEAU-FORT:

16 Thank you very much. I have no further questions to ask. Thank
17 you.

18 [10.20.07]

19 MR. PRESIDENT:

20 Thank you, Mr. Witness.

21 Since it is now an appropriate time to take adjournment, the
22 Chamber will adjourn for 20 minutes, and we will resume after
23 this.

24 Court officer is now instructed to take the witness to waiting
25 room and have him return to the courtroom when we resume.

1 Counsel for Ieng Sary.

2 MR. ANG UDOM:

3 May we make a request to the Chamber that Mr. Ieng Sary be
4 excused from this courtroom, and he be allowed to follow the
5 proceeding from the holding cell?

6 [10.21.17]

7 MR. PRESIDENT:

8 Has he waived his right to be present here? Because we need to be
9 clear. We will rule on whether he will be excused or whether he
10 has waived his right to be present, and the request needs to be
11 precise, as counsel have already been advised on this.

12 MR. ANG UDOM:

13 We would like the second option. We would like -- our client
14 would like to participate from a remote -- through remote
15 participation.

16 MR. PRESIDENT:

17 Is it understood that he has waived his right to be present?

18 [10.22.13]

19 MR. ANG UDOM:

20 He has asked that he be excused and -- from this courtroom but
21 participate from the holding cell.

22 MR. PRESIDENT:

23 The Chamber has noted the request by Counsel for Ieng Sary, and
24 that Ieng Sary is now allowed to be excused from this courtroom,
25 but still participate in the proceeding through remote

1 participation from the holding cell.

2 Security personnels are now instructed to take the Accused to the
3 holding cell, where the audiovisual equipment is now instructed
4 to connect so that the Accused can hear and see the actual
5 proceedings in the courtroom through that device.

6 The Court is adjourned.

7 (Court recesses from 1023H to 1042H)

8 MR. PRESIDENT:

9 Please be seated. The Court is in session.

10 [10.43.00]

11 And before we proceed to the defence counsel, we would like to
12 know whether Judges of the Bench would like to put questions to
13 this witness.

14 Judge Lavergne, you may now proceed.

15 JUDGE LAVERGNE:

16 Yes. Thank you, Mr. President. As I said yesterday, I might have
17 further documents to present to the witness, and I would like,
18 therefore, to take advantage of his presence here to put him a
19 certain number of questions regarding telegrams, so that he may
20 provide us, to the best of his knowledge, explanations regarding
21 information contained in these telegrams.

22 [10.43.45]

23 So the first document that I would like to display on the screen
24 is a document indexed IS 21.3, and the ERN in French, 00386260;
25 in English, 00185064 to 00185065; and in Khmer, 00008494 to

1 00008495. So, if the greffier could please display this document,
2 this would be helpful.

3 MR. PRESIDENT:

4 Court officer is now instructed to make sure the document is
5 projected on the screen. Please bring a hard copy to the witness,
6 so that he can see from this hard copy.

7 (Short pause)

8 [10.45.55]

9 QUESTIONING BY JUDGE LAVERGNE RESUMES:

10 Q. So my first question regards the annotations that we may see
11 on the upper right-hand corner of the document.

12 Yesterday, you gave us some explanations, so I would like you to
13 confirm what you said. What can you say regarding these
14 annotations?

15 The first line-- We see "LN" on the first line, or "M" (sic) -- I
16 can't really see clearly -- followed by numbers. Can you tell us
17 what this means, what this corresponds to?

18 MR. VANTHAN DARA PEOU:

19 A. Thank you, Your Honour. In this particular document, to my --
20 to the best of my recollection, it is a document in the Lon Nol
21 dossier, and this document was mistakenly indexed with a letter
22 "N" to begin with the number. Actually, the document should have
23 been with letter "L". That's why you see "N" was crossed out and
24 it was replaced by "L".

25 As for the number in the bracket, which reads "01 'bor-bor-kor'"

1 [01 BBK], it is an indication -- rather, an additional indication
2 which can indicate the location of the original document.

3 [10.47.54]

4 Q. So does this source correspond to the Ministry of Interior?

5 A. That's correct, Your Honour.

6 Q. And does this indication allow us to believe that you also
7 have the original copy of this document among your archives, at
8 DC-Cam?

9 A. Yes, Your Honour.

10 Q. Thank you. So you told us that this document was in the Lon
11 Nol collection.

12 Can you tell us what letter "N" corresponds to? Does "N"
13 correspond to Nuon Chea collection, for example?

14 A. No, it does not mean so. It is only an indication -- or an
15 identification of the documents, according to our classification.

16 Q. Okay. The content of the telegram will be examined later, but
17 what I'd like to know -- what I'd like to understand is the
18 structure of this telegram. It is indicated as telegram number
19 15. What does this mean, exactly? Is it the 15th telegram of that
20 day, or-- Can you give us an idea of what this figure corresponds
21 to?

22 [10.49.55]

23 A. I only know that this telegram is telegram 15, but as for its
24 meaning or what it signifies, I do not know. I do not have any
25 knowledge of that.

1 Q. Again, another indication that I'd like to get clarification
2 on from you is the annotation on the bottom left side of this
3 document.

4 Can you tell us -- or can you read what you see on the bottom
5 left corner of this document?

6 A. Yes, Your Honour, I can read it. It reads: "Copy to: Brother
7 Nuon, Brother Deuan, Brother Yem, and Archives."

8 Q. As far as you know, can you tell us who these names correspond
9 to -- Nuon, Deuan, Yem?

10 A. Through my personal remembering of the various documents I
11 have gone through so far, the telegrams normally is copied to
12 Brother Nuon, Brother Deuan, Brother Yem.

13 [10.51.45]

14 And to the best of my knowledge, the use of the term "Brother" at
15 the beginning of the names, it refers to individuals who is in
16 the upper-authority than the person who sent this telegram. So,
17 through my reading of various document from the DK period,
18 Brother Nuon, in this context, may refer to Nuon Chea.

19 Q. And Deuan? Brother Deuan? And what about Brother Deuan and
20 Brother Yem? Do you have an idea who this may correspond to?

21 A. I am not certain of the other two names.

22 Q. Thank you. As far as you know, the recipients, were they noted
23 down when the telegram was sent, or were they noted down once the
24 telegram was received?

25 A. I only know that this is the document we have received. I do

1 not have any other knowledge.

2 [10.53.30]

3 Q. Thank you.

4 So we're now going to look at another document. This is a
5 document titled "Telegram 54", indexed as D175/6.14, and it is
6 also indexed as IS 21.113. And the French ERN is 00531910; in
7 English, 00296220; and Khmer, 00017037 (sic).

8 So, if the Greffier could please display this document on the
9 screen--

10 (Short pause)

11 [10.55.01]

12 So it might be interesting to present both versions of this
13 document, so then we may be able to understand better what you
14 said yesterday, when you said to us that the original copies of
15 the document did not contain the annotations that you've put on
16 the copies.

17 So what we see here -- or what we saw on the screen seems to be a
18 digitized copy and a colour copy, so it corresponds to a copy
19 that was made following a rogatory letter from the Investigating
20 Judges. But if we display the document IS 21.113-- Would this be
21 possible, please?

22 (Short pause)

23 [10.56.40]

24 So, on this new document, which is the copy -- or the copy of the
25 copy, we indeed see, on the upper right-hand corner, references

1 that were provided by DC-Cam.

2 Can you confirm what I just said? Does this correspond to what
3 you told us yesterday?

4 A. Your Honour, the document presented earlier was the one
5 scanned from the original document. So, in that document, the
6 code number provided by the Documentation Center of Cambodia did
7 not appear on that document, but this letter document you are
8 presenting is the copied document, so we index with a number so
9 that it is easier to find for researchers and those who are
10 interested.

11 So this document, as you see -- there is the code number D02118.

12 And beneath this code number, we put in bracket "15

13 'bor-bor-kor'" [15 BBK], which is the source indication of the

14 document so that it is easier to find whenever there is a request

15 to find such document or to look for its original. It makes - it

16 makes it easy to find the original within the compilation of

17 documents of this category.

18 [10.58.35]

19 Q. So, here again, it is possible to see that the original that

20 you have comes from the archives of the Ministry of the Interior,

21 given the references that are -- appear on the copy.

22 A. To make it even clearer, I think Your Honour should look at

23 the database. The database that is available online can indicate

24 clearly the source of each and every document posted.

25 Q. So let's skip now to annotations that appear on the left-hand

1 side, on top of the document.

2 [10.59.30]

3 First of all, there is a handwritten annotation. Can you tell us
4 -- or can you read this annotation to us?

5 A. Yes, I can read it out. It reads "Uncle Nuon".

6 Q. So, can you say that that annotation was already there when
7 you were given the original of the document? And can you confirm
8 that the annotation was not put on the document subsequent to
9 reception of it by other persons?

10 A. Your Honour, on that document, there is annotation by the
11 DC-Cam, and the only annotation made by DC-Cam is the coding, and
12 other than that any marks on the paper are original marks.

13 Q. Under the "Uncle Nuon" annotation, there's a figure; it seems
14 to be "23".

15 Do you have any idea what that corresponds to?

16 A. This number appears on the original document. It is as it is.
17 It is not really the digit given by DC-Cam.

18 Q. On the top, on the left, if I read the translation, it says
19 "Telegram 54", and it then says: "Radio band: 290". Can you see
20 those lines?

21 As far as you're aware, can you tell us what that reference is
22 to?

23 MR. PESTMAN:

24 Sorry to interrupt. Is it possible to go back to the original
25 colour scan? Because this is difficult for us to read.

1 MR. PRESIDENT:

2 Can legal officer now project the document onto the screen,
3 please?

4 (Short pause)

5 [11.03.21]

6 JUDGE LAVERGNE:

7 It seems to me that the parties might find the copy easier to
8 read. The scanned version isn't exactly legible, but it does seem
9 to me that the copy under IS 21.113 could be easier to read.
10 So if that copy could go onto the screen, I think that would be
11 the best solution.

12 (Short pause)

13 [11.04.55]

14 JUDGE LAVERGNE:

15 I think that's probably the best we can do.

16 BY JUDGE LAVERGNE:

17 Q. So, sir, could you tell us what that reference to "Radio band:
18 290" signifies, please?

19 MR. VANTHAN DARA PEOU:

20 A. Your Honour, having read and noted the document, any document
21 with regard to the telegram would come along with such a text.

22 And I have no idea what "Radio band: 290" means.

23 Q. Turning to the right top part of the document, there is a
24 reference to "170" (sic). On the scanned copy, you can also see a
25 large red stroke. So you're telling us, once again, that those

40

1 annotations were not added by DC-Cam, they were there already
2 when you received the document.

3 And, please, can you tell us what you think they're there for?
4 [11.06.38]

5 A. So far as I recollect, this document was -- is from Tuol Sleng
6 source, and the red stroke is the stroke that appears on the
7 original document. With regard to number 177 on the far
8 right-hand side, staff at Tuol Sleng has registered this document
9 with this coding, because the document was received in files, a
10 big file, and that staff had to register this number to identify
11 the copy that is from the big file.

12 Q. Thank you. Can we go to the last line of the document? And if
13 you are able, could you please read out what you see written
14 there?

15 A. On the last line of the document, it reads: "Copied to: Uncle,
16 Om Nuon, Om Van, Om Vorn, Office, Documents".
17 [11.08.48]

18 Q. Again, here, are you able to identify the people referred to
19 here as Uncle Nuon, Uncle Van and Uncle Vorn, as far as you are
20 able?

21 A. Through my observation and having read several documents, I
22 can say that the term "Uncle" or "Om" used before each name is
23 referring to a person of seniority -- and "Uncle Nuon", here, is
24 referred to Nuon Chea.

25 Q. And, as far as you are aware, can you tell us who the names

41

1 Uncle Van and Uncle Vorn correspond to?

2 A. Om Van or Uncle Van, through my observation and having noted
3 on several other pieces of documents, refer to Ieng Sary alias,
4 and Vorn is referring to Vorn Vet.

5 [11.10.35]

6 Q. Thank you.

7 Let's turn to a different document now. "Telegram 08", document
8 D175/6.13; ERN in French, 00335186 -- 96 to 00335197; in English,
9 00348086 to 003487 (sic); and ERN in Khmer, 00021011.

10 If the greffier would kindly bring this document to the screen,
11 and if the witness could also be given a hard copy--

12 At the top, on the right, there is a figure. It seems to be
13 "175".

14 As in the previous document, is that an annotation that was made
15 by DC-Cam to identify the document in a larger batch?

16 A. This document was scanned from the original document, and for
17 this reason, there is no coding given by the DC-Cam.

18 Q. So that figure 175 that we can see on the top of the document,
19 on the right hand side, was it put there by the staff of DC-Cam
20 or not?

21 [11.13.33]

22 A. This figure 175 is not indeed the original figure on the
23 original page. It is the new number given by staff to identify
24 the number of pages on the larger batch of document.

25 Q. Very well. Let's come back to this document. On the top, on

42

1 the left, there's a handwritten reference.

2 We need to have this document back on the screen.

3 Can you tell us what is written there, up at the top, on the
4 left?

5 A. On the top of the left is the handwriting which reads "Brother
6 Van", and then underlined under the word "Van".

7 [11.15.08]

8 Q. Same question as before, with respect to the figure 21: Is
9 this figure that was there on the original?

10 A. Yes, it is indeed on the original document. The digit come
11 with the original document.

12 Q. I'd like to go to the bottom of the document now.

13 Can you tell us what you can read from those handwritten
14 annotations at the bottom of the document?

15 A. The annotation at the bottom reads:

16 "Received on the 21st of April 1978 at 1515 minutes.

17 "Copied to: Uncle, Uncle Nuon, Uncle Van -- and underlined under
18 the term "Om Van", "Uncle Van" -- Om Vorn, and Document Office."

19 [11.16.40]

20 Q. Once again, can you tell us if those annotations were there on
21 the original that were given to you for the DC-Cam archives?

22 A. Yes, they were, Your Honour. These annotations were on the
23 original documents.

24 JUDGE LAVERGNE:

25 Thank you very much for the information you have given to the

1 Chamber. I have no further questions, Mr. President, for the
2 Witness. Thank you.

3 MR. PRESIDENT:

4 Thank you, Judge Lavergne.

5 Next, we would like to proceed to the defence counsels for
6 putting questions to the witness.

7 We would like to proceed with counsels for Nuon Chea first.

8 [11.18.03]

9 MR. SON ARUN:

10 Mr. President, Your Honours, I have about 10 questions and I may
11 need 20 minutes.

12 QUESTIONING BY MR. SON ARUN:

13 Q. How many documents have been -- or how many documents has
14 DC-Cam provided to the ECCC so far?

15 MR. VANTHAN DARA PEOU:

16 A. We have provided roughly 500,000 pages of documents, and you
17 can find this figure in the letters that we responded to the
18 request made by the Court for document.

19 Q. Before any documents being sent to the ECCC, has DC-Cam
20 conducted or produced any letter authenticating such documents?

21 A. The DC-Cam has signed a memorandum concerning the provision of
22 such document -- rather, the memorandum has been drafted but has
23 not yet been signed between the DC-Cam and the ECCC. And you can
24 also obtain such memorandum if you wish.

25 [11.20.40]

44

1 Q. Do you know that, without signing any memorandum before
2 providing documents to the Court, it is illegal?

3 A. For your information, any documents we send to the ECCC have
4 been done through request made by the ECCC. And for another
5 better example, the Office of Co-Prosecutors has made several
6 requests for documents, and documents had been provided to the
7 Office according to each and every request.

8 [11.21.30]

9 Q. On the 24th of June 2009, document D204/4, you indicated
10 before the Co-Investigating Judges that DC-Cam has received some
11 documents from Samdech Hun Sen, about 48 documents, about 854
12 pages.

13 So where were these documents? And where are they now? Can you
14 please tell the Court on this?

15 [11.22.10]

16 MR. PRESIDENT:

17 International Co-Prosecutor, you may now proceed.

18 MR. ABDULHAK:

19 Thank you, Mr. President. I interrupt, with my apologies, very
20 briefly, just because I believe counsel has referred to the
21 statement of another witness. D204/4 was not a statement given by
22 Mr. Dara Peou. If counsel wishes to refer to other statements,
23 then perhaps relevant excerpts can be shown to the witness
24 without, obviously, disclosing the name of the witness. Thank
25 you.

1 (Judges deliberate)

2 [11.23.45]

3 MR. PRESIDENT:

4 Counsel, can you please clarify this, whether D204/4 is the
5 statement by witness Than Peou Dara, or it belongs to another
6 witness that you're referring to, and that you are putting
7 question to this witness, indeed?

8 MR. SON ARUN:

9 Your Honours, this question has been put because I believe that
10 Mr. Peou Dara is here when he is summoned by the Court. When I
11 refer to the statement, the statement made by Mr. Chhang Youk,
12 and Mr. Peou Dara is representing Mr. Chhang Youk. That's why I
13 would like to proceed to his question. Otherwise, I will move to
14 the next, if it is not allowed by the Chamber.

15 [11.24.54]

16 MR. PRESIDENT:

17 Since your question refers to a statement by another witness-- It
18 is not appropriate to put questions to the witness whose
19 statement has nothing to do with the statement of another
20 witness. So, you may proceed to another question. Such question
21 is not allowed.

22 [11.25.28]

23 BY MR. SON ARUN:

24 Thank you, Mr. President.

25 Q. You indicated before the Co-Investigating Judges that all

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1 confessions at Tuol Sleng -- those confessions were gathered when
2 they were scattered at Tuol Sleng, including 831 confessions
3 obtained from Son Sen's house.

4 MR. PRESIDENT:

5 International Co-Prosecutor, you may proceed.

6 [11.26.32]

7 MR. ABDULHAK:

8 Again, Mr. President, I think this may relate to the statement of
9 another witness.

10 The only statement that we're aware of that this witness has
11 given is contained in D77/6, and that document, D77/6, does not
12 contain a reference to these 831 confessions.

13 I think that reference is contained in the same document that was
14 being discussed previously, D204/4, which is a statement by
15 another witness, not this witness.

16 MR. SON ARUN:

17 My apologies, I think I have mistaken this document for another
18 document that I meant to put to the witness.

19 BY MR. SON ARUN:

20 Q. Now, I would like to proceed to another question.

21 I may seek your clarification. This morning, you indicated that
22 the "Revolutionary Flag" magazines-

23 Could you tell the court what are the "Revolutionary" magazines -
24 "Flag" like, its form, and its appearance, etc.

25 [11.27.59]

1 MR. VANTHAN DARA PEOU:

2 A. According to my knowledge, my -- having seen the magazines
3 with my own eyes, the "Revolutionary Flag" magazines were
4 produced in the form of booklets, and the magazine had covers,
5 they had covers bearing the red flag.

6 Q. Could you please add further on this?

7 A. I think I only heard that you're asking about the size, as
8 well, of the magazine. We have never measured the thickness of
9 the magazine.

10 [11.28.56]

11 Q. Have you read the magazines?

12 A. Yes, I have, some.

13 Q. Were the "Revolutionary Flag" magazines handwritten or typed?

14 A. The magazines -- the "Red Flag" magazines that I have read --
15 were typed, not handwritten. However, the fonts appear on the
16 magazines were not the same kind of font produced by any
17 typewriter.

18 Q. You said that there were five flags on the cover of the book -
19 magazine.

20 A. When I saw the flags being shown to me, there were five,
21 indeed.

22 Q. Could you tell us what would be the original colour of the
23 flags?

24 A. Red, indeed.

25 Q. Red? According to Nuon Chea's recollection -- he is here with

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1 us -- he said -- and he also emphasized before the Court and to
2 the prosecutors that the "Revolutionary Flags" magazine were
3 handwritten; he wrote them, and Pol Pot also wrote them, and
4 later on people would copy -- the trusted person would reproduce
5 this handwriting text by way of traditional methods of printing.
6 So can you tell the Court whether the magazines you saw and the
7 text of the magazine, of the original, are different? Or, if
8 possible, Nuon Chea can confirm this.

9 [11.31.37]

10 MR. PRESIDENT:

11 The Chamber does not allow Nuon Chea to interact in this setting
12 of question, but of course Chamber allows you to put question to
13 the witness.

14 As we already learned that the "Revolutionary Flag" magazines
15 classified into two stages. And you, perhaps, have referred to
16 the "Flags" that published in the first phase, when handwritten
17 were part of the text -- appear on the text, and later on the
18 "Flags" could have been reproduced when printing method was
19 introduced.

20 And we also learned that there were a lack of people who had the
21 skill in printing the materials. So we learned already about this
22 fact.

23 And that before us, now, the issue is about the questions
24 concerning the documents, and Chamber -- the Chamber and parties
25 will look at the documents presented before the Chamber

1 objectively.

2 [11.33.13]

3 BY MR. SON ARUN:

4 Thank you, Mr. President.

5 We would like to skip questioning on the "Revolutionary Flag".

6 Q. Now it brings me to the next question: Mr. Dara, can you tell
7 us, the defence for Nuon Chea, to-- Tell us, how do you verify
8 your authenticity of documents you have provided to the
9 Extraordinary Chambers in the Courts of Cambodia? If you can do
10 it, that will clear the doubts for Mr. Nuon Chea, if you have any
11 ways of verification of the authenticity.

12 MR. VANTHAN DARA PEOU:

13 A. I suggest that you make a request to the Documentation Center
14 of Cambodia. And whenever you want to make such request for any
15 particular kind of document, you can indicate so to the DC-Cam.

16 [11.34.53]

17 Q. You said this morning you have received documents from various
18 sources. But you also indicated that you have received document
19 from personal donations.

20 What categories of document do you receive from individual
21 person?

22 A. I would like to inform the Chamber and the defence counsel
23 that there are staff members at the DC-Cam who have received
24 documents from various sources, including individuals donation,
25 but those documents will eventually go through me to-

1 But as for individual donation of documents, we have received
2 documentary papers, films as well.

3 Q. Upon receiving documents from personal archive, have you ever
4 inquire as to where the person receive those document? And did
5 you inquire him or her about the content of the document?

6 [11.36.17]

7 A. Upon receiving documents, we try to ensure the authenticity of
8 the document, as what you mentioned in your question.

9 Q. Can you clarify it again, relating to the films or videos you
10 received from personal donation or from any other sources? Do you
11 receive the black and white photos, or colour photos?

12 A. Generally, we have received photos in black and white.

13 Q. I think you may have answered this question, but I apologize -
14 I apologize if I repeat this question. You receive the films. I
15 would like to know whether or not it is a colour film or a black
16 and white film.

17 A. Well, I wish to clarify on this particular issue. The films or
18 videos we -- documentary we have received are classified into
19 two: one is the documentary film produced by the Democratic
20 Kampuchea government themselves, and the second category of
21 documentaries are the ones for use after the fall of Khmer Rouge
22 regime.

23 [11.38.03]

24 Q. Why do you use the "History of Democratic Kampuchea" books to
25 teach school children across Cambodia? Do you think that that is

1 a good account of the truth of the Democratic Kampuchea? Because
2 now we are at trial, and we do not know exactly the truth, and we
3 do not have any idea whether or not the senior leaders of the
4 Democratic Kampuchea were the perpetrators of the crimes as you
5 indicated in the books.

6 Aren't you afraid that you are -- teach the wrong story to the
7 Cambodian school children?

8 A. Well, once again, I would like to urge the defence teams --
9 consider the summoned by the Chamber for me to appear and testify
10 before the Chamber. And of course I am appearing to testify
11 before this Chamber about the documents kept at the Documentation
12 Center of Cambodia.

13 [11.39.40]

14 Q. When you and your colleagues go out collecting information and
15 documents from various places, whether it be in Phnom Penh or
16 outside Phnom Penh, you think that those documents are
17 contemporaneous documents of the DK period.

18 How certain are you when you ascertain that those documents are
19 contemporaneous documents of the DK period and -- or document
20 produced afterwards?

21 [11.40.48]

22 A. Before we confirmed that a document was a contemporaneous
23 document of the DK or the document produced after the DK period,
24 we examine closely on the document we received. For example, we
25 look into the contents of the document, the words used in the

1 document, as well as the date on that document so that we can
2 confirm whether or not those document was actually
3 contemporaneous document from the DK period.

4 I may give you an example here. For example, a document produced
5 after 1979, then we could immediately know that those documents
6 was not -- were not produced contemporaneously with the DK
7 period.

8 [11.41.45]

9 Q. I would like to seek your clarification. Upon receiving those
10 documents, I don't know as to how many percent do you believe
11 that those documents are the contemporaneous document from the DK
12 period.

13 So I want to know if you may suspect that those documents may be
14 fabricated by other agencies or institution in order to implicate
15 the Democratic Kampuchea government.

16 A. Please, could you please simplify your question? Because I
17 want your question to be asked as precise as possible so that I
18 can respond to it clearly.

19 [11.42.40]

20 Q. Sorry about that. I would like to rephrase my question: When
21 the DK-Cam goes out to gather document, you have found various
22 kinds of documents.

23 How do you presume that those documents were contemporaneous
24 document from the DK period? Have you conducted a study of those
25 documents? Don't you suspect that certain documents were

1 fabricated or made up by individuals or agency to implicate the
2 leaders of the Democratic Kampuchea?

3 A. Yesterday, I mentioned one document that we believe that it
4 was not the contemporaneous document of the DK period. That
5 document was about the kidnapping of the foreigners at Phnom Voar
6 Mountain.

7 [11.43.43]

8 Q. You answered the question posed by the Prosecution on the 23rd
9 of January, and you also said that there are different kinds of
10 documents at the Tuol Sleng.

11 And how do you know that there are different kinds of documents?

12 A. Well, we know the different kinds of documents by going out
13 and see all of those documents. Then we can categorize them into
14 different kinds. For example, the document concerning
15 "Revolutionary Flags" are different from those documents of the
16 confession nature.

17 Q. You mentioned that there are so many different kinds of
18 documents stored at the DC-Cam. To my knowledge, through my
19 research and experience, a Communist country is a countries bound
20 by discipline and rules. At S-21, they constitute a small group
21 of people. They only mind their own business, so certain things
22 might not be made known to the center. This is according to my
23 research and my knowledge.

24 [11.45.22]

25 So why can the DC-Cam have documents, for example, of minutes of

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1 the Central Committee meeting or Standing Committee meeting? Have
2 you ever wondered that, why you can have access to such document,
3 as a centre?

4 A. Can you please be specific on your question? What do you
5 really want to know? Do you ask me to confirm what you have
6 already believed, or--

7 MR. PRESIDENT:

8 Counsel, please make sure that you phrase your question simply
9 and specifically, making sure that it is relevant to the subject
10 matter of our hearing today. And please rephrase your question to
11 make it simpler to understand.

12 And, once again, the Chamber reminds the counsel that you should
13 not base on your personal experience to ask the question; you
14 should base on the documents available in the case file, and the
15 question should be put to that effect.

16 [11.46.59]

17 MR. SON ARUN:

18 Thank you, President, for the advice.

19 BY MR. SON ARUN:

20 Q. This morning, either the prosecutor or the civil party lawyer
21 -- there was a question whether or not you have the document from
22 GRUNK or FUNK, and you said that the mandate of the DC-Cam was to
23 gather information concerning the Democratic Kampuchea period,
24 from 1975 to 1979. And GRUNK was established in 1970, and it
25 continue to exist, based on my memory, until 1976, probably, it

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1 ended by March 1976. So it means that, from 1970 to March 1976,
2 it was -- GRUNK were still inexistent. So it means that the
3 documents you collected, for example, from 1975 to March 1976
4 were also document from GRUNK, because you said that the
5 documents you gathered from 1975 to 1979 were documents from the
6 DK period. So I think it was not totally true, because, in one
7 year period, from 1975 to 1976, it was also in GRUNK period as
8 well.

9 [11.49.05]

10 MR. PRESIDENT:

11 Counsel, I think the Chamber has already advised that you should
12 not explain anything to the witness; you should put question
13 directly to the witness so that witness can answer your questions
14 directly.

15 Again, the counsel should focus on the subject matter of the
16 discussion today.

17 And, once again, we also advise the counsel that the question
18 shall be brief and concise. And make sure that your question is
19 succinct and easy to answer, and be straight forward to the
20 point, so that the witness can assess whether or not he is
21 knowledgeable to answer the question or he cannot answer the
22 question.

23 [11.50.05]

24 MR. SON ARUN:

25 Once again, thank you Mr. President. But, just now, I think my

1 question was asked by the Prosecution earlier this morning. I
2 only follow up with the question asked by the Prosecution.

3 BY MR. SON ARUN:

4 Q. I would like to know the time period from 1975 to 1976. I do
5 not know whether or not you have received documents or
6 contemporaneous document from the GRUNK period.

7 MR. VANTHAN DARA PEOU:

8 A. Well, I think, if the counsel ask me a precise question, I
9 think it will be useful and beneficial to your client as well.
10 And for your question, I think I have already answered the
11 question yesterday and today, this morning, as well. The mandate
12 of the Documentation Center of Cambodia is to collect information
13 relating to the Democratic Kampuchea government and regime.

14 [11.51.28]

15 Q. I am still not clear of your answer. You said you collect
16 information concerning the Democratic Kampuchea government. So to
17 -- which year are you referring to? Do you know when the
18 Democratic Kampuchea government was established and when it
19 ended?

20 A. Well, I think -- the Defence is probably clear with that, and
21 the Chamber also has its specific temporal jurisdiction as well.
22 I think you should confine to that period.

23 Q. Now, I move to the next question. Have you ever heard of a
24 "Black Book" - "Black Paper", rather? And I think that these
25 "Black Paper" type of document are in the possession of the

1 Documentation Center of Cambodia.

2 A. Well, these "Black Papers" are the documents produced by the
3 DC-Cam. It is not the contemporaneous documents produced at the
4 DK period.

5 Q. In "The Black Paper", at the back -- cover page, at the back,
6 it was actually sent from the writer, overseas, and I -- there
7 was a contact address over there, and I tried to reach out to
8 this person who provided or wrote this document, but there is no
9 response.

10 [11.53.23]

11 MR. PRESIDENT:

12 The prosecutor is on his feet. Is there an issue you want to
13 raise?

14 MR. ABDULHAK:

15 Thank you, Mr. President, very briefly. If counsel could refer to
16 a document number-- There is a document called "Black Paper" that
17 we are aware of, which is, I think, an evidential item, and it
18 relates to the DK period. And just looking here on our screen, I
19 think this is D135.1. If counsel could clarify whether he's
20 referring to this document, D135.1, which, I think-- It appears
21 to be a publication by the Government of Democratic Kampuchea. Or
22 is it another document that he is referring to?

23 MR. PRESIDENT:

24 Can counsel Son Arun identify the identity of the document you
25 mentioned? Because it has been confusing; you raise generally

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1 about the documents. So, once again, please indicate clearly the
2 identity of the document and, if possible, have it projected on
3 the screen, before parties and witness, so that they can see it
4 before answering to your question.

5 [11.54.52]

6 MR. SON ARUN:

7 Thank you, Mr. President. "The Black Paper" I mentioned just now
8 was the one referred to by the Prosecution just now. There was
9 only one "Black Paper".

10 [11.55.08]

11 MR. PRESIDENT:

12 I think it's quite confusing. Just now, the Co-Prosecutor said
13 this kind of document was prepared contemporaneously during the
14 DK period, but as you see, the witness said that this document
15 was produced by the DC-Cam. So, once again, you see there is
16 confusion, here, as to which document you are referring to,
17 because "Black Paper" may -- means different things to different
18 people.

19 So you should indicate very clearly as to which document you are
20 referring to.

21 And this document might be an important document which is subject
22 to examination before the Chamber. In Case 001, there was also a
23 hearing on "The Black Paper" as well. That's why it is worth
24 indicating the identity of the document.

25 So, please, give the number of the document so that we can

1 continue questioning the witness.

2 [11.56.17]

3 MR. SON ARUN:

4 Thank you, once again, Mr. President.

5 To my knowledge, in ZyLAB, there is only one document of this
6 type, "The Black Paper", in ZyLAB and I would refer specifically
7 to this one particular document.

8 And I would like to ask the witness as to its provenance of this
9 document, because, when it is shown to my client, Mr. Nuon Chea,
10 they said -- he said that this document did exist during the
11 Democratic Kampuchea period, but he wanted to check the original
12 of this paper.

13 So we would like to ask the people who placed this document in
14 ZyLAB-- They did not respond. So I would like to ask the officer
15 from DC-Cam whether or not they have the original of this "Black
16 Paper", document D135/1 - D135.1, rather.

17 MR. PRESIDENT:

18 Court officer is now instructed to project on screen document
19 D135.1.

20 (Short pause)

21 [11.58.35]

22 Is the document available in Khmer as well?

23 Court officer is now instructed to project on screen document
24 E3/23.

25 (Short pause)

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1 [12.00.20]

2 Court officer, can you advise us whether the document can be
3 projected up -- put up on the screen so that counsel -- so that
4 witness can see the document before further questions can be put?
5 Counsel, could you please look at the title of the front page of
6 the book, and then proceed to the code on the document to see
7 whether this is the document you are referring to when putting
8 question to the witness.

9 [12.01.20]

10 BY MR. SON ARUN:

11 Q. I cannot exactly say that it is the document I'm referring to,
12 because I have obtained difference reference, but the document is
13 indeed a "Black Paper" that has already been placed in the ZyLAB.
14 This "Black Paper"-- I have only one very simple question
15 concerning this "Black Paper" document: I would just like to know
16 whether the original copy of "The Black Paper" is at DC-Cam or
17 not. That's simple and short.

18 [12.02.12]

19 MR. VANTHAN DARA PEOU:

20 A. I think-- I'm trying to understand your question. And before
21 we proceeded to this "Black Book", you were mentioning about the
22 historic -- book of "History of Democratic Kampuchea", which has
23 the same black cover, and I was thinking of that book. That's why
24 my response was also misleading.
25 Are you now referring to any particular document, the black cover

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1 book on history of Democratic Kampuchea produced by the DC-Cam or
2 this "Black Paper"?

3 Q. Mr. Dara, I am referring to the document that has already been
4 confirmed by the prosecutor. It's document D135.1. It's "The
5 Black Paper".

6 [12.03.46]

7 Q. And my question, again, it is not about the book on history of
8 Democratic Kampuchea that have already been used in schools.

9 MR. PRESIDENT:

10 I think it is now time appropriate for adjournment.

11 And we note that there has been confusion in the question put to
12 the witness, and also the witness has mistaken for the "Black
13 Book", because he learned that there is only one "Black Book"
14 produced by DC-Cam, the text book. But then there are now two
15 documents already, the one book which is the "Black Book", here
16 referring to by counsel, is more about this "Black Paper", and
17 that whether the document has been stored at DC-Cam.

18 [12.04.50]

19 The electronic version of the "Black Book" is indeed available on
20 ZyLAB, at the ECCC. The question is whether the original copy of
21 "The Black Paper" is also stored at the DC-Cam. Is that what
22 you're asking the witness?

23 MR. SON ARUN:

24 Thank you, Mr. President. I could have been that precise so that
25 there could not be any misleading.

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1 And that's all from me. I believe that my colleagues will have
2 further questions on this.

3 MR. PRESIDENT:

4 Mr. Dara Peou, can you answer to this question or should you wish
5 to look at the document and have it verified to avoid confusion?
6 Because you did respond to the question which is really very
7 different from what the question being asked.

8 MR. VANTHAN DARA PEOU:

9 Indeed, Mr. President, it would be good if I have some time to
10 read the document.

11 And I would like to also emphasize that I, perhaps, was not
12 misleading, because I did say very clearly that the "History of
13 Democratic Kampuchea" text book was produced at DC-Cam -- by
14 DC-Cam.

15 [12.06.11]

16 MR. PRESIDENT:

17 Counsel Son Arun, we note that your response -- your question has
18 not been answered.

19 And that you are asked to provide the witness with this "Black
20 Paper" so that he can verify and respond to your question. And we
21 treat that as the last question, indeed.

22 MR. SON ARUN:

23 Thank you, Mr. President. I will present this document to witness
24 when we resume. Thank you.

25 [12.06.54]

1 MR. PRESIDENT:

2 Since now it is the appropriate time for the adjournment, the
3 Court is adjourned for lunch. The session will be resumed by
4 1.30.

5 Court officer is now instructed to assist the witness during
6 lunch break and have him return to the courtroom before 1.30.

7 Security personnels are now instructed to take the Accused to the
8 holding cells and have them return to the courtroom before 1.30.

9 (Court recesses from 1207H to 1331H)

10 MR. PRESIDENT:

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

12 [13.32.10]

13 This morning, before lunch adjournment, we told national counsel
14 for Nuon Chea to prepare the document "The Black Paper", and to
15 advise the Court on the identification of the document and have
16 it shown on the screen so that other parties may be -- may
17 access, and that with that he can put his last question.

18 The Chamber would like to inform the parties that document -- at
19 the outset, the document was classified as D135.1, later on
20 classified as E3/23. Parties may refer to document on paragraph
21 E159 for this reference.

22 So, National Counsel for Nuon Chea, you may now proceed.

23 MR. SON ARUN:

24 First of all, thank you, Mr. President. Before we proceed to this
25 context, may we ask that my client be excused from this courtroom

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1 and that he observe the proceeding from the holding cell? The
2 request has already made in writing to the Chamber already.

3 [13.34.04]

4 MR. PRESIDENT:

5 Has he waived his right to participate in this proceeding? Or
6 else could you please make it clear, in particular, with regard
7 to your position?

8 And the Chamber would like to hear clearly whether it is a
9 gesture of -- expression of waiver or -- I mean, waive the right
10 to be -- to participate in the proceeding or be excused?

11 MR. SON ARUN:

12 Mr. President and Your Honours, my client has waived his right to
13 remain in this courtroom, but be excused and observe the
14 proceeding from the holding cell.

15 MR. PRESIDENT:

16 The Chamber has noted the request, and the request is granted.

17 Mr. Nuon Chea is allowed to observe the proceedings from the
18 holding cell, through remote participation. He can do so through
19 the audiovisual equipment that linked to the holding cell from
20 this courtroom.

21 And the signed waiver shall be produced immediately. The waiver
22 shall be signed by the accused person.

23 [13.35.38]

24 The AV officials are now instructed to connect the audiovisual
25 equipment to the holding cell so that Nuon Chea can observe the

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1 proceeding from that cell.

2 MR. SON ARUN:

3 Thank you, Mr. President.

4 BY MR. SON ARUN:

5 Q. I would like to conclude by putting these last question. The

6 final question I put to the witness is about "The Black Paper."

7 Having checked the English version, we learned that the title of

8 which is "Black Paper", although in Khmer it is "Black Book". But

9 this document is D135.1, and it has been reclassified to E3/23.

10 With your permission, I would like this document to be put up on

11 the screen, please.

12 MR. PRESIDENT:

13 The Chamber allows to put up this document on the screen.

14 (Short pause)

15 [13.37.14]

16 Is the Khmer version of the document available?

17 MR. SON ARUN:

18 So far as I know, this document has already been translated and

19 put on ZyLAB. In Khmer, it also reads "Black Paper" as the

20 literal translation from "The Black Paper" in English.

21 BY MR. SON ARUN:

22 Q. And this document-- I may put this question to witness: Is

23 this document from DC-Cam?

24 MR. VANTHAN DARA PEOU:

25 A. This document is at DC-Cam.

1 Q. Is it the original version or the copied version?

2 [13.37.58]

3 A. With regard to the original version, I would like to tell
4 counsel that any original version of the document would never
5 have the prefix "D" on the page of the document, on the far right
6 -- top right of each document.

7 Q. On this document, there is no coding from DC-Cam rather than
8 the coding given by the prosecutors.

9 May I ask another question? When this document obtained by
10 DC-Cam, was it in Khmer or in English, originally?

11 A. The original "Black Paper" was in English.

12 [13.39.00]

13 Q. Thank you.

14 MR. SON ARUN:

15 I think I have no further questions to put to witness concerning
16 this "Black Paper." I thank you, Mr. President.

17 My colleague would like to proceed with further questions.

18 MR. PRESIDENT:

19 International Co-Counsel for Nuon Chea, you may now proceed.

20 MR. PAUW:

21 Thank you, Mr. President. Before I commence my questioning, I
22 have a point I would like to raise with Your Trial Chamber, and I
23 hope this time will not be deducted from the time allotted to the
24 Nuon Chea defence team. But I would like to receive some
25 directions from Your Trial Chamber as to whether we can actually

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1 use the statements that were made by this other witness that was
2 briefly referred to this morning in hearing this witness.

3 [13.39.47]

4 It's the Nuon Chea's defence team's position that the only
5 detailed information we have about DC-Cam's functioning comes
6 from these six statements of the witness that exist on the case
7 file. I assume you know which witness I'm referring to. And if we
8 want to verify this information in part, or if we want to build
9 on it to better understand DC-Cam's functioning and its
10 procedures, we need to be able to do so, we need to be able to
11 refer to these statements that are already on the case file. And
12 it would be somewhat surreal -- is our position -- if we need to
13 pretend that these things have not been said and that the parties
14 do not know what has been said.

15 And we also think that, considering the special position of this
16 witness, I submit that no harm would be done by mentioning him by
17 name and by discussing his remarks here, in open court.

18 So, before I commence my questioning, I would like to receive
19 some directions from Your Trial Chamber as to whether we can use
20 his name and refer to his remarks in a detailed fashion. Thank
21 you.

22 (Judges deliberate)

23 [13.44.05]

24 MR. PRESIDENT:

25 International Co-Counsel, could -- the Chamber would like to seek

1 your clarification.

2 The position in which you said you would like to refer to the
3 statements of other witnesses, the statements that have already
4 been placed in the case file, can you please advise the Court who
5 these witnesses are, giving the pseudonyms, the code number, for
6 example. Only after you provide the Court with the pseudonyms of
7 the witnesses-- We cannot proceed further on this. And we also
8 will consider the request.

9 The statements by the Director of DC-Cam are relevant when this
10 witness is called to give testimony before this Chamber. And,
11 indeed, the Director has already been provided testimonies before
12 this Chamber, so his statements cannot be referred to at this
13 time. Only when he is summoned again and -- that you will be
14 allowed to do so.

15 [13.46.03]

16 Now, with regard to other six statements-- You said six
17 statement; now, I can subtract one statement from a witness that
18 I've mentioned; there could be five more. So could you please
19 advise us who they are, but with their pseudonyms only?

20 MR. PAUW:

21 Thank you, Mr. President. I apologize if I have not been clear,
22 but I'm actually referring to just one witness that has given a
23 total of six statements that exist on case file. I could refer to
24 him by his pseudonym, but -- I'm looking at my case manager to
25 see if we can quickly trace that -- but I would submit that the

1 identity of this particular witness is clear to everyone in this
2 courtroom, at this moment.

3 (Judges deliberate)

4 [13.48.23]

5 MR. PRESIDENT:

6 The Chamber does not allow Counsel to refer to statements made by
7 other witnesses during this time. Such statements can only be
8 referred to when the actual witness is present before this
9 Chamber.

10 So please be informed and be focused, on the allocated time, to
11 put these questions to the witness.

12 Counsel has already been notified concerning the topic being
13 discussed in this Chamber, in particular, the documents kept,
14 collected or gathered by the DC-Cam. We are now processing the
15 information -- we are now discussing information on documents
16 concerning Case File 002/1.

17 MR. PAUW:

18 Q. Thank you, Mr. President, for this clarification. And I know
19 that Your Trial Chamber does not appreciate if your explanations
20 are met with another question, but -- maybe it's a translation
21 issue -- but I understand your comments, Mr. President, earlier,
22 to mean that the statements by the Director of DC-Cam, which we
23 all know is a Mr. Youk Chhang, are relevant to these procedures.
24 And I am now somewhat torn as to whether I can actually speak
25 about statements made by Mr. Youk Chhang or not.

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1 [13.50.11]

2 Also, I've been informed by my team that this particular witness
3 actually does not have a pseudonym assigned to him, as far as we
4 are aware, so I cannot refer to him -- by him -- to him by
5 pseudonym. Thank you.

6 (Judges deliberate)

7 [13.51.19]

8 MR. PRESIDENT:

9 We would like to hand over to Judge Lavergne to make things a bit
10 clearer if the translation or interpretation has not been that
11 satisfying.

12 JUDGE LAVERGNE:

13 Yes. First of all, let me clarify - or, well, we would like to
14 seek clarification from Nuon Chea's defence, first of all.

15 Do you wish, still, to hear witness Chhang, Youk Chhang? Because,
16 if such is the case, then it would be appropriate to use this
17 witness's statement to formulate the questions you have in mind.

18 So this is general practice when you are going to question
19 witnesses: if you know if you're going to question a witness,
20 it's appropriate to use a statement and then to ask him questions
21 directly.

22 [13.52.29]

23 So can you clarify for the Chamber if you wish to question
24 witness Youk Chhang?

25 MR. PAUW:

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1 Thank you, Judge Lavergne, for this question. Yes, the Nuon
2 Chea's position would still be that we want to hear Mr. Youk
3 Chhang as a witness, but I would submit that his statements on
4 the case file should still be available to us to question other
5 witnesses. In our position, that is -- one of the most essential
6 part of Defence work is putting statements by one witness to
7 another witness to see what this witness has to say, whether it
8 can be corroborated or disproved.

9 [13.53.15]

10 So we would still like to put Mr. Youk Chhang's statements to
11 this witness as well. Thank you.

12 (Judges deliberate)

13 [13.53.54]

14 JUDGE LAVERGNE

15 Well, in this case, I believe that we have been relatively clear,
16 and the Chamber still believes that it is not appropriate to
17 refer to statements of a witness who is going to be heard later.
18 So, therefore, we will not accept your request.

19 MR. PAUW:

20 Thank you, Judge Lavergne. Yes, it is very clear. We will, of
21 course, abide by this ruling.

22 It will also shorten my questioning of the witness considerably,
23 but I would still have many more questions than time allows me. I
24 will start straightaway. What is the time that I have left to
25 actually ask questions?

1 (Judges deliberate)

2 [13.54.55]

3 MR. PRESIDENT:

4 Counsel for Nuon Chea, you have one hour left.

5 QUESTIONING BY MR. PAUW:

6 Thank you, Mr. President. Mr. Dara Peou, welcome. Thank you for
7 coming here today.

8 Q. I've listened to your statements today and yesterday and I
9 have follow-up questions.

10 And my first follow-up question relates to the purposes and goals
11 of DC-Cam. And you have said several things about these purposes
12 and goals in the last two days, and I name a few: I have heard
13 you mention compiling information about the Democratic Kampuchea
14 era, educating the world as to what happened in this periods;
15 you've also stated that reconciliation, creating tolerance, and
16 the avoidance of vengeance were goals of DC-Cam.

17 [13.56.02]

18 And I would like to ask: Does DC-Cam have any other goals, any
19 other purpose that you have not yet stated?

20 MR. VANTHAN DARA PEOU:

21 A. With regard to reconciliation and tolerance, we refer to a
22 project in which people have been educated on the story of the
23 Democratic Kampuchea.

24 Q. Thank you. Still, the question would remain: Can you provide
25 us here, today, with any other purposes that DC-Cam might have,

1 any other goals of your work?

2 A. I have already stated these very clearly, already.

3 Q. Thank you. Has DC-Cam ever stated a desire to have Nuon Chea
4 prosecuted?

5 A. I am here to testify with regard to documentation; your
6 question is about other topic which is not the subject for my
7 presence here, I'm afraid.

8 Q. I respectfully submit that this is not for you to decide, but
9 for the Trial Chamber. The approach DC-Cam has taken to
10 collecting documents is clearly relevant in this Court session,
11 so I invite you to answer this question, which is clearly
12 directly relevant to the way DC-Cam has collected documents
13 and/or evidence.

14 So has DC-Cam ever stated a desire to have Nuon Chea prosecuted?

15 (Judges deliberate)

16 [13.59.20]

17 MR. PRESIDENT:

18 Counsel, this question can be rejected by the witness, or witness
19 can exercise his right to not respond to the question, because
20 there is no other questions allowed to put to the witness to ask
21 for his conclusion, or assumption, or his personal thinking of
22 the case.

23 MR. PAUW:

24 Mr. President, I hope you'll allow me. I am asking the witness
25 about a position that has been taken by an organization of which

1 he is a representative.

2 And, when assessing the authenticity, and reliability, and
3 probative value of evidence that stems from such a private
4 organization, it simply matters whether such an organization is
5 truly a neutral historical research organization or whether it
6 has a certain specific agenda.

7 [14.00.34]

8 And, if one of the stated goals is to have certain individuals
9 prosecuted, evidence that comes from such an organization must be
10 considered with much more caution than if it stems from a
11 perfectly neutral organization. And there would be, certainly,
12 concerns as to bias with regard to the collection of certain
13 evidence and with this decision not to search for certain
14 evidence which might be exculpatory, if an organization turns out
15 to be not a neutral as it states.

16 And the Defence, accordingly, has an interest in establishing
17 whether such bias exists, either as an officially stated goal or
18 more subtly reflected in statements, publications, and actual
19 practices.

20 [14.01.18]

21 And, once again, this witness is a representative of this
22 organization, he is here as a representative of DC-Cam, so these
23 questions are relevant.

24 So I would again--

25 MR. PRESIDENT:

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1 This matter has already been ruled. The witness does not have to
2 answer this question, because the question directs the witness to
3 respond to the conclusion made by the counsel, and this is
4 against the role of the witness.

5 [14.02.05]

6 If counsel does not have any further questions, the Chamber will
7 hand over the floor to the other group.

8 MR. PAUW:

9 Thank you, Mr. President. I will move on, and I would like to
10 refer to a publication by the Documentation Center of Cambodia.

11 I'm talking about DC-Cam's strategic plan for 2009 and 2011.

12 And I ask the court officer's permission to show this on the
13 screen.

14 This is freely available on the internet; it's in the public
15 domain. It's a publication by DC-Cam.

16 So can we show that on the screen?

17 MR. PRESIDENT:

18 This is permitted.

19 MR. PAUW:

20 Thank you. And I have to lean down a little bit to read what is
21 said here. I will quote. It says:

22 "Between 2009 and 2011, the [DC-Cam] will continue pursuing its
23 long-standing mission of promoting memory, justice, and
24 reconciliation. We will compile further evidence of genocide and
25 crimes against humanity and educate Cambodians on the historical

1 facts regarding the Khmer Rouge regime."

2 [14.03.31]

3 BY MR. PAUW:

4 So my question to you would be: Can you confirm that, as is
5 suggested in the document, that compiling evidence of genocide is
6 one of the goals of DC-Cam?

7 MR. VANTHAN DARA PEOU:

8 A. As I read this document, it is not in the case file, which
9 needs to be examined and which is not stated in the summon I
10 received. I will now wait for the instructions from the Chamber.

11 [14.04.32]

12 MR. PAUW:

13 May I respond to this, Mr. President?

14 MR. PRESIDENT:

15 Mr. Co-Prosecutor, you may proceed.

16 MR. ABDULHAK:

17 Mr. President, just very briefly, insofar as the witness was
18 asked a number of questions by Your Honours and by other -- by
19 the Prosecution and, I believe, the civil parties, in relation to
20 the mandate and work of DC-Cam, we wouldn't object to questions
21 with respect to the overall mission of DC-Cam; we would strongly
22 disagree with our friend that, because DC-Cam focuses on certain
23 activities, that that makes the documents that they provide, in
24 an objective manner, unreliable. But we wouldn't otherwise object
25 to the witness being asked more generally about the mission of

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1 DC-Cam and whether or not that mission, in any way, impacts the
2 way in which they conduct their work. Thank you.

3 (Judges deliberate)

4 [14.06.40]

5 MR. PRESIDENT:

6 Can witness examine the document as projected on the screen? And
7 can you answer the question asked by the lawyer?

8 MR. VANTHAN DARA PEOU:

9 A. Thank you, Mr. President. This document is a poster published
10 by DC-Cam.

11 BY MR. PAUW:

12 Q. Thank you. I was aware of this, but the question was: Can you
13 confirm that compiling evidence of genocide is one of the goals
14 of DC-Cam, as is stated on this poster?

15 MR. VANTHAN DARA PEOU:

16 A. From my understanding and from my 17 years of work, the goals
17 of DC-Cam is to compile documents related to Democratic Kampuchea
18 regime in order to promote memory and for the benefit of history
19 of Democratic Kampuchea regime.

20 [14.08.08]

21 Q. Thank you. Would one of the goals also be to promote
22 prosecutions of certain individuals, such as Nuon Chea? And would
23 compiling evidence be one of the sub-activities, considering that
24 goal?

25 A. At DC-Cam, we never use the word "evidence". That is, DC-Cam

1 collects information and documents, and again DC-Cam does not
2 analyse the documents; it is up to those who use the documents to
3 analyze them.

4 Q. Thank you, Mr. Dara. I note, for the record, that the word
5 "evidence" actually is used on this poster.

6 But I will move on to a new question, and that is related to the
7 Accountability Project.

8 [14.09.10]

9 Can you explain your own personal involvement in the DC-Cam
10 Accountability Project?

11 A. Yes, it is correct.

12 Q. And what are your activities for this project? Can you
13 elaborate a little bit?

14 A. Thank you. Within this project, I partake in interviews on the
15 basis of documents we have at the Center. That is, documents
16 concerning biographies.

17 Q. Thank you. And can you tell us a little bit about the purpose
18 of the Promoting Accountability Project?

19 A. The purpose of this project is, primarily, to interview
20 people, and to collect information concerning Democratic
21 Kampuchea regime, and to learn about the experiences that those
22 people lived through the regime.

23 Q. And when you actually collect that information, what use do
24 you have for that information? What do you intend to do with it,
25 once you collect it?

1 [14.10.56]

2 A. The purpose is to provide access to the public. That is the
3 purpose for compiling this information by the DC-Cam.

4 Q. Would there be any other purpose to the collection of this
5 evidence -- or the collection of this information, excuse me?

6 A. It will depend on the one who would use the information.

7 Q. Well, can you tell me some of the possible uses that would be
8 made of the information, according to your plan -- according to
9 DC-Cam's plan, with this information?

10 A. There are a lot of books that are published on the basis of
11 the information collected.

12 Q. Are there any other uses that you can think of or that DC-Cam
13 has considered?

14 A. As I know and as I remember, there are a lot of usage -- uses
15 for the information, but I may not be able to specify those uses.

16 Q. Would one of those uses be to provide evidence or to provide
17 information to, for example, the ECCC, which is then used to
18 prosecute Nuon Chea?

19 [14.12.50]

20 A. As I have worked on this personally, this is -- has been
21 requested by the Chamber from the ECCC.

22 Q. I'm not sure I understand your answer, but I understand the
23 ECCC has requested documents from DC-Cam.

24 One of my questions -- or my question would be: Has DC-Cam
25 collected this information also with the purpose to hand it over

1 to the ECCC?

2 A. I have said from the beginning, already, that the documents at
3 DC-Cam are accessible by the public. So, whenever the public make
4 any request to the Center, we will provide the document to them
5 accordingly. Practically speaking, we have received requests from
6 the ECCC, and so we provided those documents to the Chambers.

7 Q. Thank you for that answer. And I would like to, maybe, clarify
8 this topic. I would like to show you another document that's on
9 your website, on DC-Cam's website; it is the Promoting
10 Accountability fact-sheet, I would call it. It's a two-page
11 document that I ask permission to the President to show on the
12 screen. It's an overview of what this project is -- or at least
13 that's what it seems.

14 MR. PRESIDENT:

15 Your request is granted.

16 BY MR. PAUW:

17 Mr. Dara, if I look at paragraph 2 -- I will read this out, just
18 to be clear:

19 "The project is directly relevant to the cases against senior
20 surviving Khmer Rouge leaders at the ECCC. It provides a way to
21 illuminate chains of command, reporting practices, and other
22 institutional features of the DK regime that can help - that can
23 help -- to hold leaders accountable for atrocities committed in
24 the field.[And] the ECCC has already drawn extensively on our
25 findings to that end."

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1 [14.15.27]

2 If I read this, it seems to me and seems to the Nuon Chea defence
3 team that one of the goals of this Promoting Accountability
4 Project is to hold DK leaders, including my client, accountable
5 for atrocities committed in the field.

6 Would it be, therefore, correct to say that one of the goals of
7 DC-Cam is to do research in order to hold DK leaders accountable
8 for atrocities committed in the field?

9 MR. VANTHAN DARA PEOU:

10 A. In relation to Promoting Accountability, which is the name of
11 this project, I personally went to the field to interview people
12 in order to collect information, and the information obtained
13 will be used by the general public or by the ECCC upon their
14 requests.

15 Q. But, again, I would understand that to mean that you actually
16 look actively for evidence implicating the DK leaders, including
17 Nuon Chea, in crimes that were committed in the field.

18 I understand this information has other purposes, but is -- isn't
19 one of DC-Cam's purposes to provide evidence that implicates Nuon
20 Chea?

21 [14.17.14]

22 A. We have provided documents to all parties who wish to use
23 these documents. We have opened the access broadly to everybody
24 for use.

25 Q. Okay. That does not really answer my question, but I will move

1 on, considering the time.

2 The questionnaire that DC-Cam provides to researchers in the
3 fields, we've talked about it several times in the past two days.
4 Can you tell me a little bit about this questionnaire that DC-Cam
5 gives to its researchers?

6 A. If you could show me the questionnaire, I will answer your
7 questions one by one.

8 Q. I'm willing to do that, but-- No, let me - let me actually
9 just do that.

10 I ask the President permission to show the questionnaire that is
11 on the case file. It is document number D155.4, and ERN 00291445.
12 It's only in English, as far as we have established. There's no
13 Khmer or French version on the case file.

14 [14.18.42]

15 And this is the front page of the questionnaire. Do you - do you
16 recognize this questionnaire?

17 A. I recognized it.

18 Q. Can you tell us how this questionnaire is used by DC-Cam?

19 A. From what I can see from the screen, it's only the front page;
20 I do not see the questionnaire yet.

21 Q. I can hand you a hard copy if that's easier for you.

22 (Short pause)

23 [14.19.55]

24 So my question would remain: Can you explain to us what use
25 DC-Cam makes of this questionnaire?

1 A. The use of various questions contained in this questionnaire,
2 for the purpose of the interview, is to collect information
3 related to Democratic Kampuchea regime as well as the information
4 related to the interviewees' experiences as they went through the
5 regime.

6 Q. And the title seems to be clear. You call it the "Guide for
7 Historical Interviews"; is that correct?

8 A. In this document, the information that we would receive will
9 depend on the interviewees.

10 Q. But this is the document that you give to your researchers
11 when they go out in the field to conduct interviews; is that
12 correct?

13 A. It is correct.

14 Q. When looking at this document, I was puzzled by some parts of
15 the way this document has been laid out and some of the
16 subsections, and I would like to scroll through some of these
17 subsections if we -- if my case manager can follow me.

18 [14.21.46]

19 On the first page, we find the subheading "Homicide". On the
20 second page, we find the subsection "Torture" -- if that -- we
21 can find it on the second page. There, you see "Torture". On the
22 third page, there will be the subsection "Religious Persecution".
23 On the fourth page, we will have the subsection "Destruction of
24 Cultural Property". On the fifth page, we will have "Genocide --
25 Prevention of Births" subheading. On the sixth page, we have

1 "Genocide -- Conditions of Life". On the seventh page, we have
2 "Genocide -- Forced Transfer of Children". On the eighth page, we
3 have "Crimes Against Humanity -- Enslavement". On the ninth page,
4 "Crimes Against Humanity -- Deportation". The tenth page, "Crimes
5 Against Humanity -- Imprisonment" and, at the bottom of the page,
6 "Crimes Against Humanity -- Rape".

7 [14.22.56]

8 And I can actually stop going through the documents, if my case
9 manager -- he can stop clicking, but I'll just quickly mention
10 the other ones: "Crimes Against Humanity - Political or Racial
11 Prosecution", "War Crimes -- Taking of Civilian Hostages", "War
12 Crimes -- Forcing Prisoners of War to Fight", "War Crimes --
13 Denying Trials to Prisoners of War or Civilians", "War Crimes"
14 heading, "Wanton Destruction of Property".

15 [14.23.24]

16 These are the headings for the DC-Cam "Guide for Historical
17 Overview". And I put it to you that, if I read this document,
18 this document does not strike me as a guide for historical
19 interviews or for a neutral approach to information that may be
20 out there, it strikes me as a blueprint for a later prosecution
21 of certain individuals.

22 It seems to this - to the Nuon Chea defence team that DC-Cam is
23 trying to provide building blocks for a later trial in the form
24 of inculpatory statements. It seems much less a tool for
25 comprehensive and neutral historical research.

1 If I provide you with this overview and I read these headings out
2 to you, would you agree with this assessment by the Defence?

3 A. For what you have just raised, for us, as the interviewers, we
4 could only ask about each point only when the interviewees
5 allowed us to ask about those points.

6 Q. Thank you, Mr. Dara, but I was more talking about the set-up
7 of the documents, the construction of the documents.

8 [14.25.11]

9 This does, again, not seem to be a neutral historical interview;
10 it seems directly related to an anticipated prosecution of the
11 DK-era leaders.

12 I also will show you, if my case manager can follow this, on page
13 19 of the same document-- It's actually an intrinsic part of this
14 historical DC-Cam guide. It's a layout. If I can get it on the
15 screen? You may want to call it an annex, but it's headed -- or
16 the title states "Crimes Covered by the Draft Khmer Rouge
17 Statute". And it lists all the crimes that this Court can
18 prosecute, in its draft phase, I must add.

19 Do you understand that the Nuon Chea defence team, again, would
20 think, upon reading this document, that DC-Cam has been trying to
21 provide building blocks in the form of inculpatory statements to
22 the Prosecution, in this case?

23 A. In collecting documents and information, as Mr. Lawyer may
24 recall, upon the purpose of DC-Cam, we intend to provide that
25 information and those documents to people who are interested in

1 finding justice for those who lived through the Democratic
2 Kampuchea regime. That is, the information does not serve only
3 the purpose of the history, but also for those who wish to find
4 justice for the survivors of the regime.

5 [14.27.22]

6 Q. Thank you for that answer.

7 I will leave this topic for the moment. I may come back to it
8 later, but I have to somewhat shuffle through my questions,
9 considering the length of time that I have left.

10 I would also like to ask you some questions about your personal
11 knowledge of the early stages of this trial.

12 Were you ever present at meetings between DC-Cam representatives
13 and OCP representatives?

14 A. I worked on this matter when I received requests for documents
15 and when -- I may be approached if there is any question
16 concerning the list of document, and I may be also approached by
17 the Office of the Co-Prosecutor.

18 Q. Let me ask a more specific question: Before DC-Cam handed any
19 document over to the OCP, to your knowledge, were there meetings
20 between the OCP and DC-Cam, personal meetings, where people were
21 in the same room?

22 [14.29.19]

23 A. Could you please clarify your question? When you talk about
24 institutions meeting, what meeting are you referring to? May I
25 request that you clarify your question and make it clear and

1 short? Thank you.

2 Q. I apologize, Mr. Dara. I'll make it clear and short.

3 As far as you know, before any documents were transferred between
4 DC-Cam and OCP, have there ever been meetings between
5 representatives of, on one side, the OCP -- Office of the
6 Co-Prosecutor -- and DC-Cam on the other side?

7 A. Through my recollection, the Center assigned me as a focal
8 person for communication with the ECCC with regard to the
9 delivery of documents. Sometimes, we had meetings, the meetings
10 where students, or researchers, or visitors are allowed to meet
11 within DC-Cam for discussion on the relevant documents.

12 [14.31.02]

13 Q. It may be an issue with translation, but this still did not
14 answer my question.

15 As far as you are aware, have there been meetings between OCP
16 representatives and DC-Cam representatives before DC-Cam
17 transferred documents to the OCP?

18 A. To be precise, before documents were provided to the Office of
19 Co-Prosecutors, normally, such a request would be entertained
20 through the list of documents provided to the DC-Cam. And the
21 list for the request of documents from DC-Cam is also available
22 at the Court, at the ECCC--

23 MR. PRESIDENT:

24 The Co-Prosecutor, we noted you were on your feet a moment ago.

25 You may proceed.

1 [14.32.11]

2 MR. ABDULHAK:

3 Mr. President, given that my learned friend is dealing with a
4 very long period of time, I think it would assist everyone if he
5 makes his questions more specific. Is it a question in relation
6 to the preparation of the introductory submission, or is it a
7 question in relation to a subsequent filing?

8 And, of course, there are a number of filings in the case file.
9 Dates can be given where filings were submitted by the OCP,
10 indicating that documents were received from DC-Cam.

11 [14.32.37]

12 I think the question is not fair to the witness. It's very hard
13 for him to comment when we're discussing proceedings that have
14 lasted for some five years.

15 MR. PAUW:

16 I thank Mr. Prosecutor for this intervention. You're right; it's
17 indeed hard to clarify what period we are talking about.

18 BY MR. PAUW:

19 I-- And I'm looking at my colleague on the other side; can you
20 provide the date for the very first transfer of documents between
21 DC-Cam and the OCP?

22 MR. ABDULHAK:

23 Mr. President, we--

24 (Judges deliberate)

25 [14.33.34]

1 MR. PRESIDENT:

2 The objection by the Co-Prosecutor is not sustained.

3 It is the method of questioning by the questioning by the
4 counsel, and counsel is asking to see the relationship, or the
5 communication between the ECCC and the DC-Cam. And whether the
6 document should be presented now, it is not really the role of
7 the prosecutor to do that. It is indeed the role of the Chamber
8 to intervene.

9 [14.34.23]

10 So the -- Counsel, you may proceed.

11 And witness is also advised to respond exactly to the question
12 being asked. The question was: Was there any meeting between the
13 representative of DC-Cam and representatives from the Office of
14 Co-Prosecutor? You just say yes or no. And, if yes, how many
15 times?

16 I think that would be the very appropriate response to the
17 question already. You just say no if you don't know.

18 MR. PRESIDENT:

19 Counsel, you may now proceed.

20 And I think you're running out of time. And, please, make the
21 most of your time left, and use the time efficiently and wisely,
22 because when it runs out you cannot really protest that your time
23 has not been wisely used and you ask for further time added.

24 MR. PAUW:

25 Mr. President, thank you. It may have been lost in translation,

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1 but I didn't hear the answer by the witness to the question that
2 you, yourself, put before him.

3 [14.35.58]

4 Could we hear the repeated answer?

5 MR. PRESIDENT:

6 Counsel, you may rephrase or repeat your question. Witness
7 perhaps forgets what question was put.

8 Witness is now advised listen to the question carefully and be
9 ready to respond.

10 BY MR. PAUW:

11 Q. Mr. Dara, the question remains: was there any meeting between
12 the OCP -- between OCP representatives and DC-Cam representatives
13 before any documents were handed over by DC-Cam to the OCP?

14 MR. VANTHAN DARA PEOU:

15 A. Thank you, Counsel. With regard to the meeting, if you asked
16 whether I, myself, had ever met with representatives of the
17 Co-Prosecutors, the answer is no.

18 Q. Mr. Dara, thank you for this answer, but it was not the answer
19 to my questions.

20 [14.37.23]

21 I look at the clock, though, and I have to move on. I would
22 suggest that it's not the questioning by the Nuon Chea defence
23 team that is the problem, but the answers given by the witness,
24 which are just not on point. This may be a translation issue, but
25 I just note it for the record.

1 The following question -- and I will put it as simply as
2 possible: Did DC-Cam ever suggest certain lists of documents or
3 certain categories of documents to the OCP, which the OCP could
4 use for the prosecution of Nuon Chea, as far as you know?

5 A. I would like to emphasize on this: every piece of document
6 DC-Cam provided to the Office of Co-Prosecutors was done so
7 through a request.

8 [14.38.33]

9 For example, the list of documents would be noted down on the
10 request, and there would be proper signatures before the
11 documents be delivered.

12 Q. Again, this was not an answer to my question. I note this, and
13 I look at the clock, and I simply have to move on; I cannot put
14 all relevant questions to this witness, as he doesn't answer even
15 the most straightforward questions, not even with an "I don't
16 know". It just leaves many questions unanswered. And again, I
17 just have to continue.

18 You have stated, both yesterday and today, that you -- when
19 documents come in, you organize them and you organize them as to
20 when they come in; is that correct? A simple yes or no answer
21 will do.

22 A. There are huge -- or there's a volume -- volumeness of
23 documents, and I think it's difficult to say exactly when the
24 documents were first put into the entry. You may try to do so
25 through the database of the DC-Cam, and you will learn more

1 precise information than this.

2 [14.40.21]

3 Q. Thank you, but we're here today. And I would like to ask you:

4 Is it correct that you organize documents both by the date they

5 come in and by the source that provided you with the documents?

6 A. Yes, it is correct.

7 Q. Do you ever organize your files or copies of your files based

8 on certain individuals and, to be more specific, based on --

9 relating to Mr. Nuon Chea?

10 A. In general, all copied documents -- documents that have been

11 copied -- have to be reviewed, and there are documents with

12 titles. And on some documents, we noted "Uncle Nuon" and "Uncle

13 Van" names on them.

14 Q. Thank you. And would you, at DC-Cam, have, for example, a file

15 that is called "Nuon Chea file", which would contain relevant

16 documents relating to Nuon Chea all assembled in one place?

17 [14.41.05]

18 A. These documents have been compiled and classified into

19 different categories. For example, documents that are relevant to

20 biographies or the D category, which is the mixed documents.

21 Q. And would one of the categories be the category "Nuon Chea"?

22 A. On some documents, there are Om Nuon's name, and these names

23 do not appear on other documents, so far as I remember.

24 [14.43.09]

25 Q. This doesn't answer to my question. Is there a specific

1 category of documents at DC-Cam -- it may be a physical file or
2 it may be a file on the computer system, but would there be a
3 file called "Nuon Chea file", with documents relating
4 specifically to Nuon Chea?

5 A. To be precise, I think it would be better if counsel can refer
6 to any particular file or document and then show it to me so that
7 I can explain.

8 Q. I think that's problem. I cannot, and I do not work at DC-Cam,
9 and you do. And I'm asking you whether such a file exists, and
10 maybe, then, you could tell me which documents it contains.

11 A. I already indicated that, when documents come, we read,
12 examine, and have them classified into different categories we
13 already determined. In some -- on some documents, we know that
14 "Om Nuon" are there, and on some documents, we don't see these
15 names. We also noted that, on some telegrams text, it said "copy
16 to Om Nuon", and on some telegrams, not all.

17 Q. This does not answer my question, but I will move on.

18 [14.45.13]

19 I have to move on to DC-Cam procedure. I see I have little time
20 left, and I will have to avoid mentioning statements made by Youk
21 Chhang, so I have to rephrase some of these questions.

22 But you have stated that, when documents come in at DC-Cam, they
23 are inspected, and that makes sense. But do you personally
24 inspect every single document that comes into DC-Cam?

25 A. It is correct to say that we examine all documents received

1 from various sources. The reason to do so is to ensure that
2 documents are classified according to its respective category and
3 that the numbering are well put on documents.

4 [14.46.29]

5 Q. I'll ask the question once more: When documents come in at
6 DC-Cam, do you, personally, Mr. Dara Peou, inspect every single
7 document that comes in?

8 A. As a person who compiles the document and register the
9 document, indeed, yes.

10 Q. And since when have you seen every single document that comes
11 into DC-Cam? Is that since the start of DC-Cam?

12 A. Could you please be more specific? Are you referring to every
13 piece of document at DC-Cam or any specific ones?

14 Q. I was referring to any piece of document that comes into
15 DC-Cam.

16 A. Through interpreting, I heard that you are asking whether
17 there is any document input or entered DC-Cam. Is that what I
18 understood?

19 Q. I'm not too sure if you understand my question. I will
20 rephrase the question and make it more simple: Since you came to
21 work at DC-Cam, in -- it was '95, I believe, did you personally
22 inspect every document that came into DC-Cam, that was brought to
23 DC-Cam?

24 A. Thank you for the clarification. Indeed, I understand it well.
25 As I already indicated, we have received documents, and we have

1 members in the documentary team who store the documents. And I
2 also am in charge of inspecting every document to ensure that
3 each and every document has proper numbering and accurate.

4 [14.49.27]

5 Q. That is a clear answer. And when a document comes in -- you've
6 already described some of the things you do and you've already
7 described that there is a database in which you enter information
8 -- is part of the information a list of custodians that have been
9 in possession of those documents since it was created?

10 A. Yes, there is a list of documents that have been classified
11 into different categories, as I indicated.

12 Q. I think there might be a translation issue. I will repeat the
13 question: Do you make a list of people that have been in
14 possession of this document in the periods before DC-Cam received
15 this document?

16 A. Yes, we -- we do have this list.

17 Q. So, for every documents that is at DC-Cam, you have a list of
18 people that have been in possession of this document before
19 DC-Cam obtained it?

20 [14.51.25]

21 A. I'm afraid the question has not been very clear, so could you
22 please rephrase it?

23 Q. Am I correct, in hearing your answer, that for every document
24 that is at DC-Cam, you actually have information as to who has
25 been the custodian of those documents before DC-Cam obtained it?

1 A. At DC-Cam, you can obtain this information because staff
2 members who are in charge of documentation have their contract
3 and mandate to input data into -- documents into the entry.

4 Q. Do you have information for every document as to when it was
5 found, right after the DK era, right after 1997?

6 A. I think, through interpretation, your question is not clear to
7 me. Could you please repeat it?

8 [14.53.21]

9 Q. For every document that is at DC-Cam, do you have information
10 stored that will tell somebody that comes to DC-Cam to research
11 where this document was found, when it was found, and by whom it
12 was found, after the fall of the Khmer Rouge regime?

13 A. On the list, I may call it "list of documents" as it is
14 accessible on our website, you may go to each document and you
15 can identify the source of document, the date of entry. And I
16 think this website can give you further detail on this.

17 Q. Thank you, Mr. Dara. I actually have been on the website of
18 DC-Cam, and it does not provide me any information as to the
19 chain of custody, earlier custodians of documents, and where and
20 when these documents were found.

21 [14.54.38]

22 I look at the clock, and time is running out. I must say I have
23 many more questions, but before I am asked to sit down by the
24 President, I want to make a few general points relating to this
25 witness.

1 I think that certain questions were asked yesterday by your Trial
2 Chamber and by the Prosecution that were not answered or not
3 clearly answered by the witness. This may be an issue of
4 translation, but either way, we are interested in those answers
5 and we incorporate those questions by reference. We cannot repeat
6 them here because time does not permit, but we would like to
7 eventually find an answer to these questions.

8 [14.55.28]

9 Also, the questions that I've not been able to ask today because
10 they rely on Mr. Youk Chhang's statements to the Court, it is
11 clear that the Nuon Chea team reserves the right to ask these
12 questions, to pose these questions to Mr. Youk Chhang, and I
13 think a lot remains unclear as to the chain of custody,
14 authenticity, and reliability of these documents, and the way
15 DC-Cam operates. And I think that these further questions need to
16 be addressed by Mr. Youk Chhang, who is, as we have stated
17 before, the best person to answer -- to provide answers to these
18 questions.

19 The last point that I wanted to make is -- it was the questions
20 that I was putting before the witness relating to lists,
21 clarifying chains of custody, providing us with names of
22 custodians. We already knew that this would not be possible
23 during this questioning of the witness, but it would be a request
24 of the Nuon Chea defence team to have DC-Cam provide a list of
25 documents that have been provided to the OCP and the OCIJ, with a

1 list of -- per document, the custodians before DC-Cam obtained
2 these documents, where they were found, by whom they were found,
3 and when they were found.

4 And also-- I guess I will -- I will limit my request to this
5 point.

6 [14.57.22]

7 I do not want to be accused of ceding the floor, so I will
8 continue my questioning, even though I realize that I'm -- I'm
9 now at an hour of questioning. So I will continue my questioning
10 until your Chamber tells me otherwise. I'm looking at--

11 [14.57.51]

12 MR. PRESIDENT:

13 Indeed, you are running out of time, and it is appropriate time
14 to take adjournment.

15 We will take 20-minute break, and the session will resume at 20
16 past three.

17 Counsel for Ieng Sary will proceed when we resume.

18 (Court recesses from 1458H to 1520H)

19 MR. PRESIDENT:

20 Please be seated.

21 I note that the International Co-Prosecutor is on his feet. You
22 may proceed.

23 [15.21.28]

24 MR. ABDULHAK:

25 Thank you, Mr. President. I'm very -- very much mindful that we

1 have the witness in court.

2 I noted, just prior to us taking the break, counsel for Nuon Chea
3 effectively made an application for a chain of custody to be
4 provided for all of the documents which were supplied by DC-Cam.

5 The Office of the Co-Prosecutors opposes that application and
6 would like to be heard when time permits.

7 We don't think we need more than two or three minutes, at the
8 most, to set out a brief reply. And I understand that counsel for
9 the defence are keen to continue with the examination, so we will
10 do so if and when Your Honours consider it appropriate. Thank
11 you.

12 MR. PRESIDENT:

13 You may proceed.

14 [15.22.28]

15 MR. ABDULHAK:

16 Thank you very much, Mr. President. I will be very brief.

17 The application effectively seems to proceed on the -- on the
18 basis of an assumption that there is an obligation to provide a
19 full chain of custody for every evidential item that's proffered
20 in court. This, of course, is not the state of the law, either
21 before this tribunal or, more broadly, at the international
22 level.

23 I will refer very briefly to a relevant case law in the two
24 minutes that I will use.

25 Your Honours, of course, indicated in the Judgement in Case 001,

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1 at paragraphs 41 and 42, that evidence must only satisfy certain
2 conditions of relevance and probative value. And you then --
3 earlier, also commented that all that was required was minimum
4 standards of relevance and reliability.

5 And this was in Your Honours' Decisions E43/4, which was a 26th
6 of May 2009 Decision, and E176, the 28th of October 2009
7 Decision.

8 Your Honours focused fairly and squarely on the minimum
9 requirements of relevance and reliability. At no point did Your
10 Honours indicate that a chain of custody or an examination of
11 authenticity of originals or otherwise was required.

12 [15.23.46]

13 Of course, Your Honours are in good company on this point, and
14 your decisions are consistent with those of the international
15 tribunals. I'll refer to only a couple.

16 In the Hadzihasanovic Case -- and this is Case Number IT-01-47, a
17 decision of the 2nd of August 2004 -- the Trial Chamber of the
18 ICTY held that for a document to be admitted as evidence only
19 prima facie proof of its reliability was sufficient.

20 In an earlier judgement at the ICTY, in the Case of Tadic -- and
21 this was IT-94-1-10 -- another Trial Chamber commented that a
22 strict approach to evidence, which was being proposed by the
23 Defence in that case, was not appropriate for an international
24 tribunal that is presided over by professional judges. And that
25 was at paragraph 17.

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1 Similar reasoning in the Case of Delalic, a 1998 decision 19th of
2 January 1998, Case Number IT-96-21-T, at paragraph 20.

3 All of these Chambers are making it clear that what is required
4 are prima facie relevance and reliability. Any issues as to
5 authenticity ultimately go to weight.

6 On that particular point, Blaskic, a case, again, before the
7 ICTY, Case Number IT-95-14, a 30th of January 1998 decision, at
8 paragraph 10.

9 [15.25.24]

10 And lastly, before I conclude, again an ICTY Chamber, dealing
11 with issues of chain of custody, specifically, in the Case of
12 Oric -- this is Case Number IT-03-68-T -- a decision of the 30th
13 - rather, a Judgement rendered on the 30th of June 2006, where
14 the Chamber simply indicates that "gaps in the chain of custody
15 are not fatal", provided the evidence as a whole can be
16 demonstrated to be "what it purports to be". And this is at
17 paragraphs 27 and 28.

18 [15.26.01]

19 In summary, Your Honours, we oppose the application by Nuon
20 Chea's team. Our submission is evidence, as it stands on the case
21 file, offers sufficient indicia of relevance and reliability for
22 it to be admitted.

23 Beyond that point, of course, it is for Your Honours to determine
24 what weight can be attached to any individual item, and certainly
25 there is no requirement, under international law or the law of

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1 this tribunal, for authenticity or chains of custody to be
2 established.

3 And I thank Your Honours.

4 MR. PRESIDENT:

5 Counsel for Nuon Chea, you may proceed.

6 MR. PAUW:

7 Thank you. Thank you, Mr. President. I'll be even briefer than my
8 colleague, at Prosecution.

9 I think we discussed the legal issue surrounding this -- this
10 question, last week, and I think the positions of both sides are
11 very clear, so I'm not going to repeat that. I think our
12 submission should be seen much more in the practical light of the
13 witness statements that were delivered by this witness yesterday
14 and today.

15 [15.27.15]

16 The witness -- the questioning of the witness was intended to
17 clarify the chain of custody of certain documents and to shed
18 light on the authenticity and reliability of documents that come
19 from DC-Cam. And it's the position of the Defence that this
20 clarity has not been provided in the slightest, and therefore the
21 Defence cannot verify whether the documents that come from DC-Cam
22 satisfy these minimum requirements of authenticity and
23 reliability.

24 Again, as we have stated last week, hearing Youk Chhang might
25 remedy this black hole, in our knowledge. It may also not do so,

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1 but we only know this after hearing Youk Chhang. But for now,
2 what we have found out, that as far as the Defence is concerned,
3 we are still absolutely unclear as to the provenance and the
4 chain of custody of large chunks of documents. And this could
5 have been clarified by the witness yesterday and today, but in
6 Nuon Chea's position -- it's our position that this has not
7 happened. And it's for that reason that we've asked the witness
8 to see if -- or we've asked the Trial Chamber to order the
9 witness to provide these lists of chains of custody of the
10 documents that are at DC-Cam.

11 [15.28.41]

12 Whether DC-Cam can do so or not-- Maybe it's just all in their
13 files, and they just have to search for these items in the
14 computer. I have tried to establish, during the questioning of
15 the witness, but I have failed. Maybe Your Honours will have more
16 luck if you question the witness. I simply -- the Nuon Chea
17 defence team simply does not know if DC-Cam possesses this
18 information with regards to the chain of custody, earlier
19 custodians, where these documents were found, by whom, etc.
20 Again, Nuon Chea team and I think my colleagues in the Defence
21 are totally unclear on this issue, and it's for that reason that
22 we would request such lists to be provided by DC-Cam. That is the
23 Defence position. Thank you.

24 [15.29.33]

25 MR. PRESIDENT:

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1 Thank you. Next, the Chamber would like to hand over to counsel
2 for Ieng Sary to put questions to this witness. The floor is now
3 yours.

4 MR. KARNAVAS:

5 Good afternoon, Mr. President. Good afternoon, Your Honours. And
6 good afternoon to everyone in and around the courtroom.

7 First, let me just briefly say that, under international
8 practice, as is normally is the case in other tribunals, such
9 matters are handled outside the presence of a witness. And I do
10 take exception -- I didn't stand up, I didn't want to interrupt,
11 I didn't want to be discourteous, but I think this puts me in a
12 tactical disadvantage with a witness of this nature.

13 In the future, the better course would be to alert the legal
14 officer that a matter wishes -- that a party wishes to bring a
15 matter to the attention of the Court outside of the presence of
16 the witness. That's how it's handled, as opposed to taking 15, 20
17 minutes of a legal argument, in front of a lawyer who's here to
18 answer questions, who is not answering the questions.

19 [15.30.41]

20 And before I start my questioning, Your Honour, I would
21 respectfully request that the witness be refreshed of his memory
22 that he's under oath and that he's here to provide answers
23 forthrightly.

24 It is our position, Your Honour, Mr. President, that the witness
25 is confabulating, is being less than honest.

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1 So we would respectfully request that he be informed that he's
2 still under oath and is required to answer the questions
3 truthfully and fully.

4 MR. PRESIDENT:

5 The Chamber does not follow what requested by counsel, for the
6 fact that this witness has already taken an oath.

7 Counsel may proceed with the questions, based on their own
8 approach and relevant to the subject at issue. And counsel have
9 one and a half hour to proceed with the questions.

10 [15.32.30]

11 QUESTIONING BY MR. KARNAVAS:

12 Q. Mr. President, let me begin by re-asking a simple question
13 posed to you.

14 The question was whether, at DC-Cam, there is a particular file
15 on the accused Nuon Chea. Could you please answer this question
16 with a "yes", a "no", a "maybe" or "I don't know".

17 MR. VANTHAN DARA PEOU:

18 A. We have documents that are compiled. These documents have been
19 classified into their respective categories. That is the only
20 response that I can make.

21 [15.33.21]

22 Q. If I understand your answer correctly, there is no file which
23 says "Nuon Chea", "Ieng Sary", "Khieu Samphan"; that is your
24 answer? There's absolutely no file as such at DC-Cam?

25 A. That is correct.

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1 Q. Now, let's talk a little bit about your background.

2 As I understand it, you were 23 years old when you began working
3 at DC-Cam; is that correct?

4 A. I started work at DC-Cam in 1995. In 1995, I was--

5 Q. I didn't - I didn't hear the answer. How old were you when you
6 started?

7 I mean, just work the math: the date that you were born, 1995;
8 how many years went by?

9 A. I was trying to calculate the date, I -- how old I was back
10 then. Now, it is 2012, and I am 40 years old now, so you can make
11 this calculation and see how old I was back then, in 1995.

12 Indeed, I worked at DC-Cam in 1995.

13 [15.35.20]

14 Q. Okay. Let me get it straight, then. I'll do the math for you.
15 You're 40 years old now, you worked 17 years. If we deduct 17
16 from 40 we come up with what figure? 23? Is my math correct?

17 A. I think -- with your help, I think it is of great assistance,
18 and, indeed, it is correct.

19 Q. All right. Now, you indicated yesterday that you went to Notre
20 Dame, I believe -- Notre Dame University, in the United States,
21 where you obtained an LLM; is that correct?

22 A. Yes, I did attend school in that university in the United
23 States.

24 Q. Did you get a Master's Degree?

25 [15.36.32]

1 A. Yes, I get a Master's Degree.

2 Q. And did you go to Notre Dame because you received a
3 scholarship, for instance a Fulbright scholarship? Would that be
4 one of the ways you got there?

5 A. I was there on scholarship offered to me by the Human Rights
6 Department of that university.

7 Q. All right. And I take it the classes were in English, and not
8 Khmer.

9 A. Yes, it is correct.

10 Q. So it would be fair to say you understand English as well as
11 speak it, and read it, and write it?

12 A. Yes, it is.

13 Q. As so, when the questions were being posed to you by my
14 colleague of -- for Nuon Chea, you understood his questions in
15 English when there were being posed to you; did you not?

16 A. When listening to questions, I listen to Khmer channel because
17 Khmer is my mother tongue and I feel more confident to listen to
18 Khmer than to the English, which is a foreign language.

19 [15.38.04]

20 Q. Are you suggesting that you didn't hear the questions at all
21 in English?

22 A. I could overhear the English questions, but I think Khmer
23 channel already overwritten that voice.

24 Q. All right. Now, before coming here today, did you meet with
25 the lawyers for DC-Cam to prepare you for your examination here,

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1 in court?

2 A. At DC-Cam, there is no lawyer.

3 Q. There's no legal advisor?

4 A. So far, we have no legal officers at DC-Cam, and I have never
5 met them -- or any.

6 [15.39.04]

7 Q. There's no foreign lawyer there, working at DC-Cam, at the
8 moment, who usually is often quoted in the "Cambodia Daily" or
9 the "Phnom Penh Post?"

10 A. The term "lawyer" could be anyone like you, like anyone else
11 who is representing their clients in this courtroom.

12 Q. Did you -- did you consult with anybody from DC-Cam to prepare
13 your testimony yesterday and today? "Yes", "no", "maybe", "I
14 can't remember"?

15 A. No, I have never consulted with anyone.

16 Q. And did you consult any -- or review any documents to prepare
17 yourself to testify yesterday and today?

18 A. No.

19 Q. Did you follow the proceedings last week that we -- that were
20 open to the public, concerning the admissibility of evidence?

21 A. No, I was on my way to a province.

22 [15.40.34]

23 Q. All right. And so I take it, also, you had no conversations
24 with your -- with a Director of DC-Cam concerning what happened
25 here, last week, and your testimony here this week. And I only

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1 mention this because he was in the press commenting about what
2 took place last week.

3 A. Could you please refer to any news article mentioning that?

4 Q. Sir – sir, did you have a conversation with a director
5 concerning your testimony here today or yesterday? "Yes", "no",
6 "maybe", "I can't remember"?

7 A. No.

8 Q. All right. Now, earlier today, you were asked about whether
9 anybody from the Office of the Prosecution came to DC-Cam and
10 whether they consulted with DC-Cam, and I believe you indicated
11 "no"; did I hear you correctly?

12 [15.41.52]

13 A. I already stated that representative from Co-Prosecutors did
14 not meet me in person to discuss anything.

15 Q. Okay. Now I noticed that one of the legal advisors, or
16 academic -- academic and legal advisors, one or the other, is
17 someone by the name of Steve Heder; is that correct?

18 He's one of the advisors for DC-Cam?

19 A. Yes, it is correct. His name appears on the list of the
20 advisors.

21 Q. Well, I know he's on the list, but you would agree with me
22 that he is an advisor. Otherwise, the list makes no sense;
23 correct?

24 A. Yes, it is correct.

25 Q. Now, I take it you know that, at one point in time, Steve

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1 Heder worked for the Office of the Prosecution in preparing the
2 introductory submission for 002.

3 Were you meeting or have you -- did you have any meetings with
4 Mr. Heder during that period when he worked for the Office of the
5 Prosecution?

6 [15.43.23]

7 A. I met Mr. Steve Heder when he came to DC-Cam to scan some
8 documents.

9 Q. And he would have been -- he would have been a representative,
10 at the time, of the Office of the Prosecution.

11 A. It is correct, because he showed to us the Order of the
12 Co-Investigating Judges.

13 Q. All right. And-- Well, that was my next question. At some
14 point, he switched from the Office of the Prosecution to work for
15 the Co-Investigative Judges. Were you aware of that, that first
16 he was working for the Prosecution, drafting the introductory
17 submission, then working for the Co-Investigating Judges to
18 investigate what he had drafted? Were you aware of that?

19 [15.44.24]

20 A. Yes.

21 Q. And when he was working for the Office of the Co-Prosecutors,
22 did you meet with him, at that point in time, as a
23 representative?

24 A. No.

25 Q. All right. And since -- since he left -- well, let me

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1 rephrase. I just want to make sure I'm very clear. So, the entire
2 time that Steve Heder worked for the Office of the
3 Co-Investigative Judges, am I correct in understanding that your
4 answer is that you never met him in that capacity, as a
5 representative of the Office of the Co-Investigative Judges? You
6 never met him; is that correct?

7 A. Could you please repeat the question? Are you referring to the
8 time when he worked for the OCIJ or the OCP?

9 Q. The OCIJ.

10 A. As indicated, I met him -- met Steve Heder when he came to
11 scan documents at DC-Cam.

12 Q. And when he came to scan documents at DC-Cam, did you, by any
13 chance, have any conversations with him?

14 [15.46.08]

15 A. I provided with some -- I provided him with some documents so
16 that -- of course, according to the request -- for him to have
17 them scanned.

18 Q. All right, but I take it you didn't have a conversation with
19 him or a discussion with him pertaining to what was in the
20 documents, the substance of them.

21 A. No discussion. I only gave the documents to him, and he
22 scanned the documents.

23 Q. All right. Now, going back to your background very briefly
24 before I go into some of the other substantive areas of my
25 questioning, you're not a historian by training; correct?

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1 [15.47.06]

2 A. Yes, it is.

3 Q. All right. And would you consider yourself an analyst?

4 A. I have read a number of documents and have thought of those
5 documents.

6 Q. And concerning your educational background, as I understand,
7 it's in law; is that correct?

8 A. Yes, it is.

9 Q. Can you please describe to us the specific training that you
10 have received that would be relevant in you analyzing a document
11 in determining that the document is indeed authentic?

12 [15.48.05]

13 A. With regard to any training on analyzing document, I say none.

14 Q. All right. Now, I noticed over the last day and a half that
15 you've indicated that DC-Cam, and in particular you, have not
16 analyzed documents; is that correct?

17 A. Yes, it is.

18 Q. Now, in order for us to have this dialogue, if you could
19 please explain to us: What do you mean by "analyze"? What's your
20 version of "analyze"? What do you mean by that?

21 A. Personally, I think only after documents have been analyzed
22 whether they are exculpatory or inculpatory, that is called
23 "analyzed" by definition.

24 Q. And I take it what you're telling us is that you don't do
25 that, you don't read a document to see whether a particular

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1 document is incriminating, inculpatory, as you noted?

2 [15.49.39]

3 A. Our reading of the document is only to identify whether they
4 are original documents, whether they're copied documents, whether
5 they're documents that are relevant to the Democratic Kampuchea
6 or the Khmer Rouge regime.

7 Q. All right. Now, I'm not talking about everybody else, I just
8 want to focus on you.

9 So, in reading the document, of course you would agree that some
10 analysis would have to be done to determine whether the document
11 fit within the temporal jurisdiction of the -- of the DC-Cam
12 mandate; correct?

13 A. It is an assessment to fit the documents within the -- that
14 jurisdiction.

15 Q. All right. So I now notice that you use a different word,
16 "assessment". So am I -- if I'm to understand you correctly,
17 "assessment" is different from "analysis", in your way of
18 thinking; correct?

19 [15.51.04]

20 A. I think, yes.

21 Q. All right. Now, I notice that DC-Cam publishes articles,
22 newsletters, and in fact, as I understand it, you, yourself, have
23 also published; is that correct?

24 A. I am also the author of "The Search for the Truth" of the
25 DC-Cam.

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1 Q. You've authored articles; correct?

2 A. Yes, it is.

3 Q. And the articles that you've authored have been based, in
4 part, on documents that you've read; correct?

5 A. Some articles are written based on my understanding.

6 Q. All right. When you say "understanding" is that -- does that
7 mean that you read the article, you try to -- you read the
8 document, you try to figure out what's in the documents, and
9 then, from there, you draw a conclusion, and afterwards you put
10 it on paper? Is that what you're telling us?

11 [15.52.39]

12 A. This is how the articles have been written, and this is its
13 form as well.

14 Q. All right. Well, let me just probe a little bit. Are you
15 relying on secondary sources, that is what others have commented
16 on the documents -- historians, analysts, and what have you -- or
17 do you go to the original documents, analyze those, synthesize
18 what's in it, maybe even look at secondary sources, and then,
19 from there, draft your article?

20 A. This question is rather broad, and you have not referred to
21 any particular articles of mine. It would be better if any
22 particular article would be referred to.

23 Q. What part of the question you didn't understand so I can
24 reframe the question? Because I was talking about your method,
25 your approach, as opposed to a particular article. So what part

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1 of the question you did not understand, that you would want me to
2 repeat for you?

3 [15.54.07]

4 A. Normally, in writing an article, we base on some approaches, a
5 methodology in writing the article, and only if such article is
6 referred to then I can shed light on how it is written.

7 Q. All right. Very well. Now, you indicated -- and correct me if
8 I'm wrong, I don't want to put words in your mouth, but you
9 indicated -- I believe it was yesterday -- that all documents at
10 DC-Cam are authentic. I might get it wrong, so I want you to tell
11 us: Is it your position that all documents at DC-Cam are
12 authentic? Was that your testimony?

13 A. Yes.

14 Q. All right. Now, was that an assessment -- notice I use your
15 word, was that an "assessment" -- that you made or an analysis
16 that others have made? Which of the two?

17 A. It is an assessment to see whether the documents are
18 authentic. This part of the approach that we picked.

19 Q. Right. Now, you say "we". When you say "we", that's -- is that
20 the collective "we" of DC-Cam or is that you with somebody else?
21 Who's the "we"?

22 [15.55.55]

23 A. In compiling documents, there are other group of people who
24 join as a group to work on them.

25 Q. All right, but you're under oath -- you're under oath -- and

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1 you were posed the question, and you gave us this answer. So is
2 it fair to say that you, as a witness under oath, are here
3 telling us that all the documents are authentic, based on your
4 knowledge?

5 A. Yes, it is true, based on my knowledge.

6 Q. Now, could you please shed with us a little bit the
7 methodology that you, yourself, used -- perhaps with others -- in
8 determining that a particular document is authentic?

9 [15.57.01]

10 A. Documents are collected from the National Archive, for
11 example. I have read those documents, and finally I have
12 requested that the documents be copied from the National Archive
13 so that they can be transferred to DC-Cam.

14 Q. All right. Let me go back and rephrase my question.

15 I'm not asking you where you received them unless -- unless part
16 of your answer is that, if it came from the archive, the National
17 Archive, that, in and of itself, makes the document authentic; is
18 that your answer?

19 A. I think that was only an example of how authenticity was
20 conducted on any pieces of document we obtained. And we -- I,
21 personally, went to the National Archive to collect the
22 documents.

23 Q. All right. Well, before we talk about what you did -- and I
24 see we're running close to 4 o'clock, I'll ask my last question,
25 Your Honour, and then we'll pick it up tomorrow -- can you please

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1 describe to us what exactly the National Archive did to ensure
2 that the documents that they collected, and stored, and
3 preserved, and catalogued were authentic?

4 [15.58.57]

5 A. The National Archive is the place where national documents are
6 stored, and it is guided by the sub-decree by the Government, and
7 it is an expert institution.

8 Q. One last-- This deserves a follow-up, Mr. President. I'm not
9 asking whether it was founded by national decree; I understand
10 the concept of a national archive. What I'm asking you
11 specifically, if you know -- and if you don't, just say "I don't
12 know": What efforts -- what efforts, if any, did you or DC-Cam
13 make to see what were the criteria used by the National Archive
14 in determining authenticity of documents of this period that it
15 preserved?

16 A. I already often said that, with regard to the authenticity of
17 the documents, we normally asked persons who -- who kept the
18 documents how they were obtained in the first place.

19 [16.00.26]

20 Q. Sir, we're talking about the National Archive. I'm not talking
21 about persons. We'll get to that. So work with me. I'm just
22 talking about the National Archive.

23 Did you or anyone else at DC-Cam ever pose the question: What
24 criteria, if any, did they use in determining that a document was
25 authentic? It's either, "yes, we asked, and this is what they

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1 told us" or "no, we didn't ask" or "maybe, I don't know". It's
2 one of the three; pick one.

3 A. I stated that we asked this information concerning the
4 authenticity of the documents. This question was put to people
5 who keep the documents at the National Archive.

6 MR. KARNAVAS:

7 Your Honour, Mr. President, I believe we can pick it up tomorrow.
8 I'll be asking more specific questions concerning this particular
9 answer. Perhaps, he will provide us the details of what he
10 learned.

11 But thank you very much. I see it's 4 o'clock.

12 [16.01.41]

13 MR. PRESIDENT:

14 Thank you, Counsel. And thank you, Witness.

15 Mr. Dara Peou, we have noted that you would be here to give
16 testimonies during a period of two days. However, due to this
17 actual circumstance, we do need you for the whole morning
18 tomorrow, so please bear with us for another morning session.

19 And it is now appropriate time for adjournment. The Court will
20 adjourn.

21 Tomorrow's session will be resumed by 9 o'clock. Public and
22 parties to the proceeding, please be informed.

23 Security personnels are now instructed to bring the three accused
24 persons to the detention facility and have them return to the
25 courtroom before 9 a.m.

1 The Court is adjourned.
2 (Court adjourns at 1602H)
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