



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS
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Case File N° 002/19-09-2007-ECCC/TC

27 January 2016
Trial Day 364

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
CHEA Sivhoang
Roger PHILLIPS
Niccolo PONS

Lawyers for the Civil Parties:
Marie GUIRAUD
LOR Chunthy
PICH Ang
TY Srinna
VEN Pov

For the Office of the Co-Prosecutors:
Vincent DE WILDE D'ESTMAEL
SONG Chorvoin
SREA Rattanak

For Court Management Section:
UCH Arun

I N D E X

Mr. PRUM Sarat (2-TCW-1009)

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Questioning by Ms. GUISSÉ..... page 77

Ms. IN Yoeung (2-TCW-849)

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Questioning by Mr. SREA Rattanak..... page 97

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
The GREFFIER	Khmer
Ms. GUISSSE	French
Ms. IN Yoeung (2-TCW-849)	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PRUM Sarat (2-TCW-1009)	Khmer
Ms. SONG Chorvoin	Khmer

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the remaining testimony of

6 Prum Sarat and begins hearing testimony of another witness --

7 that is, 2-TCW-849.

8 Ms. Chea Sivhoang, please report the attendance of the Parties

9 and other individuals at today's proceedings.

10 THE GREFFIER:

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

12 are present.

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

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

15 been delivered to the greffier.

16 The witness who is to conclude his testimony today -- that is,

17 Mr. Prum Savat -- Prum Sarat, as well as his counsel, are present

18 in the courtroom.

19 Today, we also have a reserve witness -- that is, 2-TCW-849, who

20 took an oath yesterday.

21 [09.05.09]

22 MR. PRESIDENT

23 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the

24 request by Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea, dated 27

2

1 January 2016, which states that, due to his health, headache and
2 back pain, he cannot sit or concentrate for long. And in order to
3 effectively participate in future hearings, he requests to waive
4 his right to participate in and be present at the 27 January 2016
5 hearing.

6 Having seen the medical report of Nuon Chea by the duty doctor
7 for the Accused at the ECCC, dated 27 January 2016, which notes
8 that Nuon Chea has chronic back pain and occasional dizziness
9 when he sits for long and recommends that the Chamber grant him
10 his request so that he can follow the proceedings remotely from
11 the holding cell downstairs. Based on the above information and
12 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber
13 grants Nuon Chea his request to follow today's proceedings
14 remotely from the holding cell downstairs via audio-visual means.

15 [09.06.28]

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

19 And the Chamber would like to inform the interpreters in the
20 booth when the -- any party of the proceedings use the term
21 "Yuon", interpreter please use the same term, "Yuon", in your
22 interpretation. And if the party refers to Vietnamese, you should
23 also refer to Vietnamese <in order to comply with the documents
24 of the actual case> . Thank you.

25 The floor is now given to the Co-Prosecutor to continue putting

3

1 further questions to the witness.

2 You may proceed.

3 QUESTIONING BY MR. DE WILDE D'ESTMAEL RESUMES:

4 Thank you, Mr. President. Good morning, Your Honours. Good
5 morning, all the parties, and good morning, Mr. Witness.

6 Q. Yesterday, when we left off, we were talking about Khieu
7 Samphan. Can you tell us whether you worked with Khieu Samphan
8 after 1979 in the 1990s and, particularly, up until his surrender
9 in 1998?

10 [09.08.06]

11 MR. PRUM SARAT:

12 A. In 1991, I worked with him.

13 Q. During that period in 1991, were you a direct subordinate of
14 Khieu Samphan?

15 MR. PRESIDENT:

16 Counsel Anta Guisse, you have the floor.

17 MS. GUISSÉ:

18 Yes, Mr. President. I don't know where the Co-Prosecutor is going
19 with this question. I note that this question on 1991 has to do
20 with a date that is out of the temporary scope of the Trial, so I
21 would object to this question.

22 [09.09.12]

23 MR. DE WILDE D'ESTMAEL:

24 Mr. President, this question is very relevant because it is aimed
25 at ascertaining the ties the witness had with Khieu Samphan and

4

1 to assess what he says regarding the Accused.

2 Can I proceed, Mr. President?

3 MR. PRESIDENT:

4 Yes, you can proceed.

5 BY MR. DE WILDE D'ESTMAEL:

6 Q. Witness, my question was whether in 1991 you were the direct
7 subordinate of Khieu Samphan.

8 MR. PRUM SARAT:

9 A. I was part of the security team -- that is, for him. I also
10 worked within the vicinity of the office where he <and uncle Pol
11 Pot> worked.

12 Q. You uttered a <short> sentence <before DC-Cam. It is document
13 E3/9113. I believe it is at> page 101 in English, and ERN is
14 00974254; and in Khmer, it is on page 00926431 to 32; and this is
15 what you stated, and I quote it in English: "<Khieu Samphan> is
16 notoriously known as tricky, but I think he's a nice person." End
17 of quote.

18 What did you mean when you said that Khieu Samphan was
19 <notoriously> known to be tricky?

20 [09.11.32]

21 A. I don't think I used that term.

22 Q. In that case, I will not insist.

23 Yesterday, the Defence used the record of interview of [REDACTED]
24 [REDACTED], which <in French> is spelled as [REDACTED] <and [REDACTED],> [REDACTED].

25 Is it true that you are the person who gave the name and address

5

1 of that person to DC-Cam? <Because> you worked with him in
2 Division 164.

3 A. In fact, we used to be in the same unit. And when DC-Cam staff
4 <of the court (sic)> came to meet me, they ask me about the names
5 and whether I knew where they lived. And indeed, I told them to
6 the best of my knowledge.

7 [09.12.50]

8 Q. Did you continue to be a close friend of [REDACTED] and, if you
9 <saw> him again, did you discuss regularly whenever you met him
10 the events of Democratic Kampuchea?

11 A. [REDACTED] and I were not close friends. To my understanding,
12 close friends means we were actually close and we would die for
13 one another. However, I had not seen him and I had not discussed
14 with him regarding what happened under the regime.

15 MR. PRESIDENT:

16 Counsel Koppe, you have the floor.

17 MR. KOPPE:

18 An observation, Mr. President. Good morning. It seems that the
19 Prosecution is referring to [REDACTED] DC-Cam statement. That's
20 a document that we would desperately like to have, but we don't
21 have it. I don't think there's any English translation yet, so I
22 was wondering whether the Prosecution already has the English
23 translation of this particular DC-Cam statement.

24 [09.14.33]

25 BY MR. DE WILDE D'ESTMAEL:

6

1 No, Mr. President. In the interview with DC-Cam, this witness
2 spontaneously gave the name of that witness, and I believe it is
3 then <that> DC-Cam <and> the Co-Investigating Judges <were able
4 to contact this other individual>.

5 Q. <Witness, yesterday> you talked of another friend, called
6 Chhean, was also <in your unit and came> from the East Zone, and
7 you said he survived <the> time <he> spent at Kampong Chhnang
8 where he was participating in the building of the airport. Do you
9 know whether he committed an error or a fault in order to be sent
10 there?

11 MR. PRUM SARAT:

12 A. I did not know if he made any mistake. However, Chhean worked
13 at a separate location from where I worked since I was
14 <performing my duty> on a vessel<. Therefore,> I did not have any
15 communication with Chhean at the time.

16 [09.16.04]

17 Q. Yesterday, mention was made of the disappearance of the deputy
18 commander of Division 164, <Dim>, and the Defence recalled that
19 he <entered S-21> the 21st of April 1977.

20 Following his disappearance, did you note that soldiers from the
21 East, among the 700 subordinates of <Dim> -- that is, those "in
22 his <network>" as was the term used at the time -- do you know
23 whether some of those, his subordinates, disappeared or were sent
24 for re-education?

25 A. What I knew at the time was that Dim disappeared<. And as for

7

1 the forces who came with> Dim, the deputy division commander<,> I
2 did not know where Angkar sent <them> to.

3 As I stated earlier, <I lost communication because> I was <busy
4 fulfilling my task,> assigned <by the upper echelon to be
5 stationed on a vessel <in order to achieve the set plan>.

6 Q. Very well. But in your regiment, in your battalion, at the end
7 of 1978, before the Vietnamese captured Cambodia, were there
8 still many soldiers who hailed from the East Zone in the 140
9 Regiment?

10 <Or> did you notice that <none were left>?

11 [09.18.06]

12 A. To my recollection, in early 1978, for the remaining forces,
13 they were removed from the ship and they were placed on ashore --
14 that is, at the regimental office or headquarters. And they were
15 assigned to task by the headquarters directly, and I did not know
16 <in-depth about his> tasks.

17 Q. Very well. I would like us now to talk of one of the training
18 sessions conducted by Son Sen as you stated yesterday. And with
19 the leave of the Chamber, I would like to show you a document,
20 E3/847. This is a list of trainees who attended the second
21 <training session> at the headquarters held on the 23rd of
22 November 1976. And we have a number of names, 59 <to be exact,>
23 from Division 164 on that list.

24 Mr. President, can I show the witness this document?

25 [09.19.34]

1 MR. PRESIDENT:

2 Yes, you may proceed.

3 BY MR. DE WILDE D'ESTMAEL:

4 Q. Very well. While the document is being shown to you, there are
5 two numbers that are of interest to me on this list, number 158,
6 and there we read Comrade Kim Nhan, N-H-A-N-N (sic), commander of
7 the regiment, Division 164.

8 Is that the Nhan you mentioned yesterday as being a member of the
9 committee of Division 164?

10 MR. PRUM SARAT:

11 A. Kim Nhan -- rather, yes, that statement is correct. This is
12 the same Kim Nhan that I mentioned in my <statement>.

13 Q. And at number 203, we have the name Prum Sarat. I believe that
14 is your name.

15 <If you> flip over to the next page, <there is a bookmark at>
16 number 203, and it is stated in English and in Khmer that you
17 were company secretary. I believe there's an error in French
18 because it <reads> "battalion secretary".

19 Is that, indeed, you? Are you the person they're referring to
20 here?

21 [09.21.26]

22 A. Yes, that is my name, the <secretary> of a company.

23 Q. This document is dated November 1976. You <had> therefore,
24 already completed your training, your six-month training in
25 August 1976. <You said that yesterday.>

9

1 Why were you still called company chief at the time? Were you not
2 yet captain of boat 1710?

3 A. As part of the practice for the assistants to the office, <he
4 knew me,> I believe that is why I -- my name was <written the way
5 he had always done>.

6 Q. As company chief, were you <also> one of the members of the
7 brigade committee?

8 A. Per my assignment, I was not part of the brigade<>. My
9 function and role was <merely> to supervise a company of 100
10 forces. I had nothing to do with the division membership or
11 committee. And as I stated, I -- my function was at the company
12 level.

13 [09.23.30]

14 Q. I didn't mean to use the word "brigade". I meant to say the
15 battalion committee. <Were you part of the battalion committee?>
16 That is, immediately above the level of your company. I believe
17 it was Battalion 44.

18 A. I was at the level of a company, and that was my role -- that
19 is, to supervise a company. However, I was not a member of the
20 battalion<. I want to make this clear>.

21 Q. Mr. Witness, I am done with that document. <So I believe that
22 it would be more -- >

23 MR. PRESIDENT:

24 Deputy Co-Prosecutor, please hold on.

25 Judge Lavergne, you have the floor.

10

1 [09.24.36]

2 JUDGE LAVERGNE:

3 Yes. Thank you, Mr. President.

4 I just wish to clarify something because I note that the three
5 versions of this document are not identical. It is true that, in
6 French, mention is made of the fact that Comrade Prum Sarat was
7 secretary of the battalion of Division 164. In the Khmer and
8 English versions, there is simply a dash, and we can suppose that
9 dash means that they didn't want to reproduce the term used above
10 -- that is, <the term> "company <secretary>". That is quite
11 ambiguous.

12 BY MR. DE WILDE D'ESTMAEL:

13 Thank you. I would like to move on to something else.

14 Q. You went to Phnom Penh. You attended a training session with
15 Son Sen.

16 Did you attend several training sessions with him, <or did you>
17 attend only one?

18 MR. PRUM SARAT:

19 A. As far as I remember, I attended the study sessions two times
20 led by Son Sen -- that is, one in '75 and the second <time was in
21 the year as indicated in this name list>.

22 [09.26.08]

23 Q. The first was perhaps in November 1976. Did you attend a
24 meeting at which Son Sen talked about the fact that So Phim had
25 been detained, bearing in mind that So Phim disappeared in 1978?

11

1 A. I cannot recall the time clearly, as these matters happened a
2 long time ago.

3 MR. PRESIDENT:

4 Witness, please hold on.

5 And Counsel Anta Guisse, you have the floor.

6 MS. GUISSÉ:

7 Yes, Mr. President.

8 I would like the prosecutor to clarify something because the
9 <French> interpretation of the last question showed that the
10 witness said <that to his knowledge,> he attended training
11 sessions, one in 1975. I didn't hear the date of the second
12 training session, so I don't know where the Co-Prosecutor got the
13 second date. Perhaps he should clarify this point with the
14 witness.

15 [09.27.30]

16 MR. KOPPE:

17 Just an observation in furtherance to what my colleague said, the
18 document with the name of this witness on it is referred to as
19 the second session, so the second general staff study session was
20 on the 25th of November '76, implying there was a first one,
21 indeed, in '75.

22 MR. DE WILDE D'ESTMAEL:

23 Well, Mr. President, that is not accurate. The document makes
24 reference to the first session in October 1976. That is what is
25 on <the case file>.

12

1 The second session is dated November 1976, and there are
2 different persons who participated in that training session.
3 <His> name is <not> on the document titled "First Session". In
4 fact, I'm relying on what the witness said in answer 75 <of his
5 WRI> E319/23.3.54 where he states:

6 "As you know, the number one enemy of Democratic Kampuchea was
7 Vietnam. The enemy number two were the people who were gnawing
8 <at> the country from within. I hear Son Sen talk about this
9 <repression> while I was attending a training session at the
10 headquarters in Phnom Penh. Son Sen announced that So Phim had
11 been arrested."

12 [09.29.00]

13 BY MR. DE WILDE D'ESTMAEL:

14 Q. I believe <that all the parties are aware that> So Phim
15 disappeared in 1978. <So was it in '78 that you attended your
16 second training session in Phnom Penh with Son Sen?

17 MR. PRUM SARAT:

18 A. In fact, my statement at the time was that it was not a study
19 session, but I received information via the general staff to the
20 division, and then the division relayed that information to the
21 lower levels concerning the situation that happened in 1978 in
22 the East Zone about the activities conducted by So Phim. And I
23 received that information through my upper level or chains of
24 command -- that is, the regiment level.

25 [09.30.10]

13

1 Q. <During meetings, did> Son Sen or the cadres of Division 164
2 tell you <not only> that the number one enemy of Democratic
3 Kampuchea was Vietnam, but also that the Vietnamese were the
4 hereditary enemies of the Cambodians? Did you ever hear that
5 expression, "hereditary enemies"?

6 A. To my recollection, the phrase was used, and I heard it since
7 I was a child. I heard my grandfather used that phrase as well.

8 Q. Now, regarding the hereditary enemies, I would like to read
9 out to you what another witness said about this. This was witness
10 2-TCW-1000, and I would like, with the leave of the Chamber, <to>
11 provide to the witness the two first pages of the WRI,
12 E319/23.3.44 so that the witness may possibly identify this
13 person and say if he knows this person and, of course, without
14 speaking out his name, if that is possible.

15 Mr. President, may I therefore provide to the witness both of
16 these pages?

17 [09.31.50]

18 MR. PRESIDENT:

19 Yes, you can do that.

20 BY MR. DE WILDE D'ESTMAEL:

21 Q. So without speaking out his name, <Witness,> can you tell the
22 Chamber if you know this person within Regiment 140? Does his
23 name ring a bell? If you don't know this person, just simply tell
24 us.

25 MR. PRUM SARAT:

14

1 A. I do not know this person.

2 [09.33.10]

3 Q. Well, I'd like to read out an excerpt of what he said at
4 answers 31 to 33 of this WRI, and the topic that was discussed
5 was the arrest of the Vietnamese. And the question was the
6 following:

7 "As far as you are concerned, was it a good thing to execute all
8 of the people who were arrested, <or not>?"

9 TCW-1000's answer: "I think that it was not a good thing to do
10 <at all> because these people were innocent. They were fleeing
11 the war to save their lives. That's all. However, in the eyes of
12 the Khmer Rouge of the time, the Vietnamese were hereditary
13 enemies, without any distinction."

14 And a little bit further down, answer 32: "Contrary to the Thai,
15 the Vietnamese were more antagonistic. This is why the Khmer
16 Rouge considered the Vietnamese as hereditary enemies and as
17 enemy number one."

18 Question 33: "How is it that you know this?"

19 Answer: "Because the battalion and regiment chiefs studied with
20 the division, and when they returned from studying, they spoke to
21 us about all of this during a training session." End of quote.

22 So did you hear the same thing as this witness regarding the fact
23 that the Vietnamese were all considered hereditary enemies
24 without any distinctions among them?

25 [09.34.44]

15

1 A. From what I heard, this term had something to do with
2 Cambodian tradition, and I, myself, <like other cadres,>
3 understood the situation of the enemies, namely, "Yuon".

4 Q. At the hearing of 16 December 2015, this document E1/369.1,
5 the same witness, at 1.35.54 in the afternoon, specified what
6 follows regarding the content of this training session with the
7 chief of Regiment 140 and with the chief of his battalion, and I
8 quote:

9 "When we learnt about the hereditary enemy, nobody dared question
10 what we were being taught regarding the hereditary enemy. We had
11 to listen to what was taught to us."

12 Question: "What did the teachers tell you, exactly, regarding the
13 Vietnamese hereditary enemies?"

14 The witness' answer: "They told us to kill them, even if they
15 were babies, because they were our hereditary enemy, so we had to
16 kill them. Each battalion, therefore, was in charge of
17 implementing this order." End of quote.

18 Here, again, my question is the following. Did you hear the
19 regiment chief of Regiment 140 or your battalion chief tell you
20 that the Vietnamese had to be killed because they were your
21 hereditary enemies?

22 [09.36.55]

23 A. He used to make that point very clearly. However, as I said, I
24 had no responsibility concerning the tasks which was -- which
25 were described in that document <because I was performing my

1 duties> on the vessel <>.

2 Q. Of course, we are going to get back to this later.

3 Did Son Sen or the cadres of Division 164 ask you to be vigilant
4 when dealing with the possibility of spies coming into Cambodian
5 territory, spies from Vietnam, or Vietnamese soldiers passing as
6 refugees or as fishermen?

7 A. In fact, the situation at the time was that the orders and
8 instructions <were made> over the radio communication to the
9 vessels on <the> sea to be vigilant. It was meant for crew
10 members to be <> responsible for the vessels <and to be vigilant
11 against the enemies>. <The> enemies <became active on the> land
12 border<. Likewise, we had to be highly vigilant at the maritime
13 borders.>

14 [09.38.55]

15 Q. You would listen to Radio Phnom Penh. That's what you told us
16 yesterday. So did you hear any broadcasts dealing with the
17 confessions of Vietnamese prisoners who were captured at sea in
18 Kampong Som in 1978 in particular?

19 A. I forget it already. The study session at the time broadcasted
20 the confession of the Vietnamese, and also the Vietnamese
21 soldiers in particular. <It was also broadcast on the radio.> I
22 cannot recall when that broadcast was made available to all of
23 us. It happened from the period of 1975 to 1978, if I am not
24 mistaken.

25 Q. Well, I would like to illustrate this point, that is to say

17

1 the possible infiltration of spies, by reading out the content of
2 a Radio Phnom Penh broadcast. It's document E3/1249. It's called
3 the "Confessions of a <captured> Vietnamese sailor" and the
4 national radio broadcast on 29 January 1978 <featured a report>
5 regarding <a person named> Vu Dinh Ngo, V-U D-I-N-H N-G-O, who
6 was described as a former ensign of the Thieu-Ky <puppet> navy
7 and who was captured on 3 January 1978.

8 I did not yet put any questions, Mr. President.

9 [09.40.45]

10 MR. PRESIDENT:

11 You have the floor now, counsel.

12 MS. GUISSSE:

13 Yes. Maybe I'm a bit too quick with my objection, but I will
14 still object, saying that I do not know if the Co-Prosecutor
15 intends to use the content of this radio broadcast, but it
16 appears to me that in -- well, with regard to the <Chamber's
17 decision, actually, the> Supreme Court's decision -- of course,
18 I'm not sure that the Trial Chamber has ruled on this, but if
19 we're going to speak about the content of what is called a
20 "confession", there might be a problem with regard to the
21 legality of the use of the content of this document.

22 MR. DE WILDE D'ESTMAEL:

23 If I may answer, Mr. President, I do not intend to use the
24 content to assert its truthfulness but, rather, to demonstrate
25 the use that was made of it, <by the government of that time,>

18

1 for propaganda purposes against Vietnam, so it's only in this way
2 that I intend to read out an excerpt of this radio broadcast.
3 It's not sure, in fact, that this radio broadcast corresponds
4 exactly to what the person might have said or not at S-21.

5 [09.412.00]

6 MS. GUISSÉ:

7 Well, then, I think, there's a misunderstanding on the part of
8 the Co-Prosecutor with regard to the <contents of the> decision
9 of the Supreme Court, because the question is not what use we
10 intend to make of the content of confessions or statements that
11 are <potentially> torture-tainted, but once again, the
12 Co-Prosecutor is telling us that these are confessions of people
13 who apparently were arrested. And under these conditions,
14 regardless of the reason for using this document, the Parties are
15 not allowed to use the contents of such confessions.

16 [09.42.45]

17 This was very, very clear. I understand that the Co-Prosecutor is
18 telling us that he wants to use the document in a noble and more
19 neutral way but, however, the content of anything that is
20 possibly torture-tainted in the case of confessions, whether it
21 be confessions from people who were detained at S-21 or
22 elsewhere, is strictly forbidden.

23 MR. DE WILDE D'ESTMAEL:

24 Well, just before you deliberated, it is the radio stating that
25 these were Vietnamese confessions. It's not the document taken at

19

1 S-21, necessarily. And there are comments made before, before
2 reading out these confessions that, indeed, were broadcast by the
3 radio <and the government,> and <were> not spoken by the person
4 -- by this Vietnamese person who was detained.

5 (Judges deliberate)

6 [09.49.22]

7 MR. PRESIDENT:

8 We understand that the objection of the defence team <of Khieu
9 Samphan> is appropriate. These questions are not allowed to be
10 put to the witness since they have something to do with the
11 content of the confessions. So you have to be very careful
12 regarding the presentation of the content of the confession on
13 the radio broadcast.

14 BY MR. DE WILDE D'ESTMAEL:

15 Q. Witness, you no longer remember the date when these
16 confessions of Vietnamese prisoners <began being> broadcast on
17 the radio.

18 Were the Vietnamese -- <spies, civilians> -- arrested at sea or
19 on the islands, sent to Phnom Penh to S-21 before the beginning
20 of January 1978, that is to say, right after the Vietnamese
21 <withdrew> from Cambodia after having invaded Cambodia at the end
22 of 1977?

23 Were Vietnamese prisoners who had been arrested at sea already
24 being sent to S-21 <before that>?

25 [09.51.04]

1 MR. PRUM SARAT:

2 A. I do not really get the question. Yes, in terms of the
3 <fighting> period <in> 1977 <and retreating in> '78. So could
4 you please repeat it clearly to me again?

5 Q. Yes. Were Vietnamese soldiers, spies, or civilians who had
6 been arrested at sea or on the islands being sent to <Phnom Penh,
7 to> S-21, in 1977, or did this only start in 1978? <That should
8 be clearer.>

9 A. On the issue of -- on the issue of sending the Vietnamese from
10 <the> sea to S-21, this information was learned by me over the
11 radio communication <from the division headquarter>, on that
12 particular day, <it was reported that> Vietnamese <or> "Yvon"
13 were arrested -- had been arrested <in the Southeast which is>
14 between the Tang and Poulo Wai islands<>. And we were instructed
15 to be <highly> vigilant <because we could not know if they
16 planned to fight or not>.

17 [09.52.48]

18 Q. Did you hear from your superiors in Division 164 that
19 Vietnamese spies would put children on the boats in order for
20 people to believe that they were <all> refugees, that is to say,
21 did spies try to hide among refugees, which included, in this
22 case, children?

23 A. I never received such information because it was beyond my
24 responsibility <> that I had to perform.

25 Q. Concretely speaking, <in> the field, how would you implement

21

1 what you were told in <the> Division 164 <battalion and
2 regiments,> and what you were told by the army headquarters,
3 because you were told that the Vietnamese were the hereditary
4 enemies of Cambodia, enemy number one, so were you asked to
5 repress, to purge and to <smash> these enemies?

6 A. In fact, I did not receive such orders. During the time that I
7 was performing the tasks, as I said, I was engaged in the
8 <technical> training and how to <operate> vessels, so I had no
9 obligation to <know> how to deal with <or smash> the Vietnamese.
10 <I did not receive such order.>

11 [09.55.05]

12 Q. However, I would like to read out what you said in your WRI at
13 answer 115. The question that was put to you was the following:
14 "Repressing or cleansing the enemies, was this something that was
15 provided for in the Party's political line?"

16 And you answered: "That's exactly what I just told you. Enemy
17 number one was Vietnamese. Enemy number two were people from the
18 inside."

19 So I believe that, in this question and answer, there's a link
20 between the <repression> and cleansing of the enemies.

21 So were there any concrete measures that were taken -- concrete
22 orders that were issued to the different vessel chiefs who were
23 <docked> around the islands each time a foreign boat would come
24 into Cambodian territorial waters?

25 [09.56.12]

1 MR. PRESIDENT:

2 Please hold on, Mr. Witness.

3 You have the floor now, Counsel Koppe.

4 MR. KOPPE:

5 Thank you, Mr. President.

6 The question is quite confusing, not only in the way it's
7 formulated, but also put in the factual or, rather, legal
8 context.

9 You or this Trial Chamber has ruled in its decision, in its
10 judgment against Duch, that there was an armed conflict between
11 DK and Vietnam between '75 and '79. Whether it was, indeed, '75
12 or maybe, rather, '77, is maybe an issue for debate later.
13 However, right now, this is the situation. There was an armed
14 conflict with Vietnam. The killing, the shooting of Vietnamese
15 combatants is, in itself, a lawful act. If there is war,
16 unfortunately, soldiers shoot at each other. But that, in itself,
17 is a lawful act. I think we can all agree on this.

18 [09.57.24]

19 So by now, asking a very general question as to what happened at
20 sea without making a clear distinction between lawful acts within
21 the armed conflict and potentially unlawful acts -- that is,
22 killing of civilians or the killing of prisoners of war, that is
23 something that should be kept in mind when the Prosecution asks
24 its question.

25 And especially on -- in relation to the events in the territorial

1 sea, it is very important that we make this distinction and the
2 Prosecutor understand that distinction.

3 [09.58.08]

4 BY MR. DE WILDE D'ESTMAEL:

5 Mr. President, first I would like to put a question of general
6 nature regarding instructions that were given vis-à-vis <all>
7 Vietnamese vessels, <without distinction>.

8 Q. Well, Witness, did any Vietnamese vessel coming into Cambodian
9 territorial waters considered as an enemy based on the orders
10 that you had received from your superiors?

11 MR. PRUM SARAT:

12 A. To the best of my recollection, the division issued the orders
13 to me to defend the <maritime boundary> of Kampuchea, and I
14 received the order to prevent any <armed> Vietnamese boats from
15 entering <our boundary> with any kinds of ambition. <In such
16 case, I would carry out my mission.>

17 The orders made mention about the <specific> time <> when I
18 should <>patrol and defend the <maritime boundary. It was the
19 order issued from the division level in the form of the chain of
20 command that we must prepare ourselves for the assignment.>

21 [09.59.56]

22 Q. Yesterday, you spoke about settling the issue of the capture
23 of Thai boats by diplomatic means. Was there any kind of
24 possibility of settling the <fate of Vietnamese crew and
25 passengers> that were arrested at sea by diplomatic means?

1 A. These were the tasks to be performed by the upper level since
2 I did not understand the situation that they had to deal with<, I
3 could not answer it.> This is the true statement from me.

4 Q. Yesterday, you confirmed what you said earlier during the
5 DC-Cam interview, notably, that Vietnamese refugees, following
6 investigations, were released after their boat had been seized or
7 intercepted.

8 I would <like to> say that many witnesses didn't say that the
9 instructions varied depending on the types of Vietnamese, and
10 they particularly didn't talk of the release of fishermen or
11 Vietnamese refugees. <And I will give you an example.> In a
12 record of interview, <it is the same person from earlier,>
13 2-TCW-1000 from the 140 Regiment, <and he> said in <his WRI>
14 E319/23.3.44 in answer to question number 25 as follows, and I
15 quote:

16 [10.02.03]

17 "If we saw ferries or boats in our territorial waters, we would
18 report the presence of the boat by radio communication. Then,
19 that would be reported to the regiment and the regiment would, in
20 turn, report to the division. And then the division would issue
21 orders as to what we had to do with the boats and the people we
22 had arrested. And then the battalion would issue orders to us:
23 execute all the people arrested <at sea> off the shores of
24 Cambodia or <take them to an> island. When we arrested Vietnamese
25 boats, we were sometimes ordered to open fire on the <spot and>

25

1 to return the boats empty to <an> island. <Generally,> if we
2 arrested less than 20 <people>, we had to execute them on the
3 spot. <In general, if> we arrested more than 20 <people>, we had
4 to send them to Ou Chheu Teal. From what I know, all the people
5 who were sent to the land, all had to be executed. Those who were
6 captured and sent to Kampong Som <had to be> killed and buried
7 under durian or coconut trees.

8 I witnessed firsthand two <execution scenes, the first time,>
9 when they <executed> Vietnamese <people> at sea and <then seized
10 their boat>, and <the second time was> when they <executed>
11 Vietnamese refugees <who had been captured,> on Poulo Wai
12 Island."

13 End of quote.

14 <And I will perhaps ask my question before there is an objection,
15 with your leave, Mr. President.>

16 [10.04.01]

17 MS. GUISSÉ:

18 Mr. President, my objection has to do with part of the sentence
19 that was uttered before. If I do not object now, then my
20 objection would be pointless.

21 MR. PRESIDENT:

22 Yes, you may proceed, Defence Counsel.

23 MS. GUISSÉ:

24 Yes. Thank you, Mr. President.

25 There's one point which I would like to have clarified. I have no

1 problem with the Co-Prosecutor quoting statements of a witness,
2 but the foundations of the question -- <and I'm sorry to have not
3 stood up earlier> -- that is to say that "numerous witnesses said
4 this or that". <As far as> I know, only one witness has testified
5 on this, <the one that the Co-Prosecutor mentioned>. So I object
6 to the use of the term "several witnesses <had said otherwise".
7 For the time being,> 2-TCW-1000 is the only witness who gave this
8 information before this Chamber, so <just to make sure> this
9 question is properly phrased, <I was compelled to object at this
10 point in time>.

11 [10.05.05]

12 BY MR. DE WILDE D'ESTMAEL:

13 Mr. <President>, I didn't say that it was the witness who
14 appeared before this Chamber. <One is also a> witness <when one
15 makes> a statement before the OCIJ investigators: <they sign,
16 they take an oath>, and so <they are indeed a> witness.

17 So I would like to put my question to the witness<, because this
18 is more than a remark>.

19 Q. The witness whose statement has just been read out said the
20 question was not to know whether Vietnamese refugees would be
21 released or not but, rather, whether they were to be executed,
22 either at sea or on land -- that is, on an island or at Kampong
23 Som.

24 Do you agree with what that witness told the OCIJ investigators?

25 MR. PRUM SARAT:

1 A. The statement made by that witness and the related information
2 in that statement is that I did not know about that information.
3 If I did not know what happened at the time, at present, I still
4 say I do not know about that event or the information as stated
5 in that statement.

6 [10.06.45]

7 Q. In answer to question number 29 of the record of interview,
8 the witness says the following:

9 "The orders were clear on whether they were to be killed on the
10 spot or sent ashore. If those persons captured were Vietnamese
11 soldiers, we had to send them <ashore>. Then they would broadcast
12 their confessions via the national radio before they <executed>
13 them." End of quote.

14 At the very least, do you agree with what this witness says
15 regarding the fate reserved for Vietnamese soldiers captured at
16 sea and whose confessions <were> broadcast on the radio?

17 MS. GUISSÉ:

18 Court's indulgence; I object to the phrasing because <even in
19 French> I have a problem understanding the question.

20 You're asking the witness to agree with what? I don't know how
21 <it was translated, but in French I don't know how> the witness
22 is supposed to show his agreement with what you're saying,
23 <based> on the phrasing that you've given <Co-Prosecutor>.

24 [10.08.02]

25 MR. DE WILDE D'ESTMAEL:

28

1 <Q. Witness, do you agree with what this other witness said,
2 specifically in regards to Vietnamese soldiers, did they have to
3 be> sent ashore, and <were> their confessions subsequently
4 broadcast on the radio? Regarding the fate of Vietnamese
5 soldiers, do you agree with what that witness stated?

6 MR. PRESIDENT:

7 To my recollection, we allowed a process whereby the witness
8 shall react to the statements that you quote in your questioning,
9 and that is the common practice in this Court. And when you ask
10 whether the witness agrees with that statement, this is a leading
11 question and it should not be allowed in this Court.

12 You should ask for the reaction from the witness rather than to
13 ask whether the witness agrees to that statement. And please try
14 to adhere to the current practice before this Chamber.

15 [10.09.30]

16 BY MR. DE WILDE D'ESTMAEL:

17 Q. How would you react, Witness, to what that other witness
18 stated regarding Vietnamese soldiers?

19 MR. PRUM SARAT:

20 A. In response to the statement made by that witness, I can say
21 that that is the account of that individual and, for me, I am not
22 in a position to say whether I knew or concur with the statement
23 made by that witness.

24 [10.10.20]

25 Q. Very well. I'll quote what you said regarding the refugees,

1 inter alia, in your statement before DC-Cam, E3/9113, <page 53 in
2 English>; in Khmer, 00926384; and let me quote in English what
3 you stated at the time:

4 "There were some boats entering our territory. When I went to
5 check, they were Vietnamese boats."

6 Question by Dany: "What did you do?"

7 Sarat: "We arrested them."

8 Dany: "Where were they sent to?"

9 Sarat: "Some of them were refugees, and some were youths in their
10 commando uniforms."

11 A little further: "We arrested and interrogated them. We released
12 the refugees. If they did not answer our questions and tried to
13 hide their identity, we would send them to our security office."
14 End of quote.

15 You go on to specify that you're referring to S-21 in Phnom Penh.
16 How many times did your boat face such situations, situations in
17 which you had to follow orders and arrest and capture Vietnamese
18 boats? How often did you face such a situation?

19 [10.12.20]

20 A. What I said in my interview and the statement that you just
21 quote from that interview is that that is merely the information
22 that I received, and it was not my personal involvement or my
23 encounter <with the Vietnamese ships> during my patrol. I only
24 referred to the information provided by those who were stationing
25 at various islands that, on a particular day or a particular

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1 night, when there was a Vietnamese boat encroaching the
2 Kampuchean territorial waters, the forces on the island would
3 take measure against them either to seize them and send them on
4 shore or a similar action was taken.

5 This is the information I received, <but I never captured any
6 Vietnamese boats,> it is not the action that I, personally,
7 involved in.

8 [10.13.34]

9 MR. PRESIDENT:

10 Thank you.

11 And I'd like to remind the Co-Prosecutors and the Lead Co-Lawyers
12 that you only have <another half> session this morning. We will
13 take a short break now and resume at 10.30.

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

17 The Court is now in recess.

18 (Court recesses from 1014H to 1031H)

19 MR. PRESIDENT:

20 Please be seated.

21 The Chamber now is back in session and the floor is given to the
22 Co-Prosecutor to resume questioning to the witness. You may now
23 proceed.

24 BY MR. DE WILDE D'ESTMAEL:

25 Thank you, Mr. President.

31

1 Q. Earlier, I read out to you an excerpt from your own statement,
2 and it ended as follows in English:

3 "We arrested and interrogated them. We released the refugees. If
4 they did not answer our questions and tried to hide their
5 identity, we would send them to our security office." <End of
6 quote.>

7 Now, regarding the different vessels patrolling around the
8 islands, were there any Vietnamese interpreters that <would allow
9 you to> interrogate people who had been arrested?

10 [10.32.54]

11 MR. PRUM SARAT:

12 A. At each vessel stationed at various islands, there were no
13 interpreters. Some of the vessels did not go out to carry out
14 their mission. Out of the 10 vessels we stationed at two main
15 locations, one was at Ou Chheu Teal and another one at Kaoh Rong
16 Sanloem.

17 Q. If there were no interpreters on the boats, then wasn't it
18 obvious that the Vietnamese who had been arrested would not be
19 able to answer the questions that were put to them? And you said
20 that, in this case, they would be sent to the security office.

21 [10.34.08]

22 A. Based on my statement with the Document Centre of Cambodia
23 that I have already answered earlier that the information I
24 received that there were no interpreters on the vessels because
25 it was not the task of each vessel. It was the task in charge by

1 the division level. So people on the vessels were not aware of
2 those matters.

3 Q. Fine. You said just before the break that you, personally, had
4 not stopped any Vietnamese vessels during the two years <or more>
5 that you were a <boat> captain <>. However, in the excerpt that
6 <> I read out, each time you used the personal pronouns "I" or
7 "we". You said that, "When I went to check, they were Vietnamese
8 ships", for example, "We arrested them. We arrested the crew and
9 interrogated them".

10 So why did you use "I" and "we" if it wasn't you who <arrested
11 them, but colleagues of yours>?

12 [10.35.54]

13 A. Regarding the word "I" and "we" that I gave to the
14 <Documentation Centre of Cambodia> in my interview with Long
15 Dany, I used the word "I", and when I used the word "we", I refer
16 to the soldiers stationed at various locations, so when I refer
17 to "I" in my interview with Long Dany, I refer to myself, but
18 when I use the word "we", I refer to various soldiers based at
19 different locations.

20 Q. Yesterday, I believe I understood that you said that refugees
21 who had been <> intercepted at sea had been released <at sea>.
22 And now you're telling us that there were no interpreters on
23 board and, therefore, it was necessary to send them ashore to
24 interrogate them.

25 So how did you learn, then, that refugees had apparently been

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1 released if it wasn't you who -- <your boat -- you say that you
2 never arrested people; so did your colleagues do it? And you say>
3 the refugees were released?

4 So how did you learn about this?

5 [10.37.50]

6 A. In my statement that I gave during my interview, I spoke based
7 on the information that I received from the regiments and from
8 the radio broadcast. What I told was not my -- was not about my
9 personal responsibility because <> my responsibility was to train
10 how to use the new ships that were delivered from the upper
11 echelon <> to us.

12 Q. Now, regarding these communication issues with the Vietnamese
13 who were <> intercepted by your colleagues, were there Vietnamese
14 people who were arrested who pretended to be deaf and <mute>? And
15 in that case, what would happen to them? Is this comparable to
16 the <same> situation you already described or <was this something
17 else>?

18 A. I do not understand your question. Are you referring to the
19 Vietnamese or are you asking me as a witness?

20 [10.39.42]

21 Q. No, Witness. Among the Vietnamese people who were arrested on
22 the vessels by your colleagues -- and you also talked about what
23 you heard on the radio, so my question was: Were there any
24 Vietnamese who pretended to be deaf and <mute> and, therefore,
25 who would pretend not to understand anything and who also

1 pretended not to be able to speak?

2 A. As I told you earlier, regarding that matter, it is not under
3 my responsibility so I was not aware of it because, as I told
4 you, I had a different responsibility.

5 <In short,> my main responsibility was to maintain and use the
6 vessels to ensure that the vessel is ready for combat when there
7 was an encroachment from the enemy.

8 Q. Fine, but you said that your main task <on board your vessel>
9 was to patrol around the islands; that's what you told us
10 yesterday, and I'm basing myself only on what you said
11 previously.

12 [10.41.20]

13 And I'd like to read out what you said to DC-Cam on pages 53 and
14 54 in English, E3/9113; and Khmer, 00926385. And you answered a
15 question that was put to you by Dany, in English:

16 "We didn't know them. Some of them did not say anything and
17 pretended to be deaf and mad. We did not believe them because mad
18 people could not ride the boats. It was impossible to have two or
19 three mad people on the boats. Finally, we sent them to the
20 security officers to be in charge. We sent them to the division
21 who would send them further."

22 Question: "Were all of them Vietnamese?"

23 Answer: "Yes, they were youth."

24 Question: "Were there many of them?"

25 Answer: "There were many of them."

1 Question by Long Dany: "Did you arrest them every month?"
2 Your answer: "Well, during the two-year period, we caught them
3 almost every month. They came to Kaoh Tang and Kaoh Wai islands."
4 End of quote.

5 Well, in fact, I'm going to correct myself. It wasn't deaf and
6 <mute>; it was deaf and mad, in fact, so can you confirm what you
7 said to DC-Cam in this interview; is that what you, indeed, said
8 to Long Dany?

9 [10.43.19]

10 A. It was my statement to Long Dany, but I would like to clarify
11 that it was an information that I received from the <regiment
12 level or> division level, that -- the information on the
13 activities of the enemies and on <Vietnamese> tricks. So it was
14 simply the information conveyed from the division to me; it was
15 not what I -- what I did.

16 Q. So is it true, according to your statements, that you were
17 essentially <docked> around Kaoh Thmei and Kaoh Seh at night and
18 that you would return to Ou Chheu Teal during the day?

19 A. In fact, I did not go out to base at Kaoh Seh or Kaoh Thmei,
20 but I -- my task was to go out and to cross check the -- the
21 number of vessels and the -- their exact activities there. <So,
22 there would not be confusion among the other ships. I was in
23 charge of two ships namely 177 and 1710.> So in order to identify
24 which ship did what, we put the -- we gave the number to each
25 ship to identify in order to be easy for us to report about their

1 assignments and their activities.

2 [10.45.43]

3 Q. Witness, I don't have much time left, so I asked you if you
4 would work essentially at night; that is to say, would <you>
5 patrol at night around the islands, <not on the islands,> or
6 would you work during the day?

7 And my second question is: As far as you know, were there more
8 arrests of Vietnamese vessels at night or during the day?

9 A. Once a week, I went out on my mission at night time and during
10 my mission, I never encountered the Vietnamese boat in Cambodia's
11 waters because I <thought> they were also aware that our boat was
12 a military patrol boat, so if they entered the waters, then they
13 could face the sinking or the arrest from us. So I think the
14 Vietnamese people <were> well aware of what would happen if they
15 encountered with the military ship like ours. So people who
16 travel frequently on -- in the sea, they were well aware of this
17 matter. <I never encountered them.>

18 [10.47.35]

19 Q. Fine. You <yourself> brought up, in your statements, having
20 seen twice the arrest of Vietnamese refugees in 1977, <on> Kaoh
21 Poulo Wai; in particular, at answer 121 of your WRI before the
22 OCIJ. Yesterday, you only spoke about one of these episodes. You
23 spoke about a Vietnamese person and an Indian person who you saw
24 <imprisoned> on the islands.

25 So can you tell us what you saw during the second incident which

1 involved men, women, and children based on what you said in
2 answer 123 of your WRI? What did you see; how many were there;
3 where did they come from and were they detained?

4 A. Let me clarify. What I gave in the statement came from the
5 information and that information came from the island, sent to
6 the division, and then <the> division sent the instruction to
7 vessels to be vigilant. So that information contained some
8 information like the arrest of <"Yuon" and their boats> at Poulo
9 Wai islands<, Koah Thmei, Kaoh Seh> and other islands, but <> as
10 I told you, it was not my responsibility. <It was the task of the
11 people who were in charge of the maritime boundary.>

12 [10.49.35]

13 Q. But yesterday you told us that you went to Poulo Wai doing
14 your training and I'm going to quote what you said because here
15 the use of the pronoun, "I", seems quite clear to me.

16 Answer 121, so you speak about the capture of the Vietnamese
17 vessels.

18 So the question: "Did Division 164 often carry out such arrests?"

19 Answer: "No, it wouldn't do so that often. I remember having seen
20 this kind of arrest twice, twice from my own eyes, when I was on
21 Poulo Wai island."

22 Question 123: "Can you speak to us about the size of these
23 vessels and about the number of people who were on board?"

24 Answer 123: "I saw that these were Vietnamese refugees; there
25 were men, women, and also children on board."

1 "When did you see all of this?"

2 "I saw this in 1977, but I don't remember <> the exact day or the
3 exact month." "So can you tell us the approximate number of
4 people who <were> arrested on these vessels?"

5 Answer 125: "The first time, they arrested between five to six
6 Vietnamese and there might have been <perhaps> more than that,
7 but I have forgotten." End of quote.

8 So here you're telling us that you saw this with your own eyes;
9 you're using the pronoun "I" everywhere in this statement, so can
10 you explain to us if you saw this with your own eyes or not?

11 [10.51.05]

12 A. When I went to Poulo Wai Chas and Poulo Wai Thmei, I did not
13 witness the arrest, but I witnessed the Vietnamese who were
14 sitting <at the ports>. And when I arrived there, I saw them,
15 yes, and there were five<,> six <or seven> of them and that was
16 what I saw, but I would like to clarify that it was not under my
17 responsibility. During the interview, I was in a situation in
18 which when <Long> Dany asked me any question and then I had to
19 answer and I had to answer based on what I knew.

20 Q. Witness, I'm not saying that that was your responsibility;
21 that's not at all what I was saying. I was simply asking you to
22 tell us what you saw or what you heard. You said that they were
23 sitting there; were they tied up; were they detained?

24 [10.52.55]

25 A. In fact, I saw the Vietnamese <> eating rice and their hands

1 were not tied up because they could use their hand to eat rice.

2 So at that time, I parked my vessel there so that I could go to
3 the toilets and after that, I left the area.

4 Q. Well, now, let me turn to your estimate of the number of

5 Vietnamese who had been arrested by sailors <on> the islands.

6 That's question 132 in your WRI before the OCIJ and you answered:

7 "As far as I remember, they arrested more than 100 Vietnamese."

8 And I think you're speaking here about the totality of the

9 period.

10 Do you remember having said that and when you say "more than 100

11 <Vietnamese>," does that cover the entire period during which you

12 were a <boat> captain <>? I'm not saying that you, yourself,

13 arrested Vietnamese people; I'm saying: Did you hear about that?

14 [10.54.23]

15 A. In fact, based on the information I received and that

16 information I gave in my <DC-Cam> statements during the interview

17 with Long Dany, so I told Dany that I heard that information and

18 <> <he> recorded my voice and <he> kept that <> document<. In

19 2017(sic), I was interviewed for the second time by a person from

20 the Court. It happened a long time ago.> So the statement that --

21 that I gave to Long Dany that you quoted was really what I did

22 say, but I just want to emphasize that it was just information I

23 heard.

24 Q. We have understood, of course, that part of your testimony and

25 we know that it was only information. <Rest assured, we are

40

1 aware.> This, in fact, <> was testimony before the OCIJ. <I just
2 want to clarify what I read.>

3 Now, regarding this estimate <for arrests>, your estimate of more
4 than 100 Vietnamese people who were arrested; I'd like to know if
5 you know if most of these Vietnamese people had been arrested by
6 ships from the <> navy or if they had been arrested by infantry
7 units that were stationed on the various <Cambodian> islands,
8 <and which also had some of their own vessels>.

9 A. The arrest was carried out by soldiers based in islands and
10 those islands' soldiers; they had their own vessels for patrol
11 <along the range of the islands>, so the arrest was not <the
12 responsibility of> the naval force.

13 [10.57.13]

14 Q. Fine, there is a witness, 2-TCW-823, who was leading the
15 troops on Kaoh Thmei island and he said -- in his WRI
16 E319/23.3.21 at answer 124, he said the following, in English:
17 "Boat units were in charge of capturing Vietnamese fishermen and
18 seizing their boats. My unit, stationed on the island, did not
19 have the capacity to seize those boats. When we encountered them,
20 we would retreat. When we fired, we intended to sink the boats
21 straightaway. We did not capture people at sea." End of quote.

22 So you are saying that the arrests were carried out by the people
23 on the islands and he--

24 MR. PRESIDENT:

25 Counsel Kong Sam Onn, you have the floor.

41

1 [10.58.43]

2 MR. KONG SAM ONN:

3 I do not object this <last> question, but I would like to make an
4 observation related to what the Deputy Co-Prosecutor raised in
5 the wording he used to the witness that he used the words "I
6 witness" or "I saw" that the witness used in his statement to the
7 DC-Cam.

8 I noticed that there was a different translation in the use of
9 the terms in Khmer and in English wasn't. In the Khmer version,
10 the word is "yeung" (phonetic) or "we", but in the English
11 translation is "I" <.Therefore, it could be misunderstood that
12 the witness saw the event with his own eyes. This> is different
13 from what was quoted in the questions by the Deputy
14 Co-Prosecutor.

15 And for example, <Long Dany's question> in document E3/9113, ERN
16 in Khmer is at 00926384; and in English, 00974206; that is<,> the
17 phrase after question number 2, Sarat said, and I quote -- and
18 after that is the question by Dany: "When we saw the boat, we saw
19 the Vietnamese in there, <what happened next>?" And Sarat
20 replies: "We arrested them." So this is just an example to
21 highlight the word used in the Khmer text.

22 However, in the English, the translation is "I", not "we". So it
23 becomes personal in the English translation and this is my
24 observation, Mr. President.

25 [11.01.05]

1 BY MR. DE WILDE D'ESTMAEL:

2 Mr. President, I'm running out of time. I am in the middle of a
3 question -- right in the middle of a question and we have a
4 remark. I'm not saying that that remark is not <relevant>, but to
5 interrupt my examination of the witness, <with a remark> that has
6 nothing to do with that -- I believe the Khieu Samphan defence
7 team will have ample time to revisit that issue during their
8 cross-examination.

9 If the Chamber would allow me, let me rephrase the question for
10 the witness.

11 Q. Witness, you said that people <stationed> on the islands <who>
12 carried out arrests. <We have a> witness, 2-TCW-823, who says
13 that it was, indeed, the <navy> -- the <boat units> that was in
14 charge of capturing Vietnamese fishermen and seizing their boats.
15 We have two contradictory versions.

16 Now, tell me, was it the <navy> that was in charge of capturing
17 boats <and not the> soldiers on the islands, or <was it> both the
18 <navy> and the soldiers on the islands who captured the boats, or
19 <only the soldiers -- there are three possibilities>; what is
20 your <reaction to this>?

21 [11.02.28]

22 MR. PRUM SARAT:

23 A. Allow me to clarify the issue. There were two categories of
24 vessels. There is one group -- that is, the patrol boats
25 stationed at various islands and their duty was to capture any

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1 boat encroaching the territorial <waters>. And, in fact, there
2 were two boats used for that purpose; they were American boats.
3 And, of course, it is the PCS boats. These two boats were tasked
4 to patrol and seize any encroaching boat.

5 And for us, our vessel was larger, so it could not be used for
6 that specific purpose. Our vessel consumed two tons of fuel per
7 hour. For that reason, it was not applicable for such a purpose
8 and such purpose was tasked for those two PCS boats and I do not
9 know whether those people involved with those two boats are
10 alive.

11 [11.04.02]

12 Q. I will look at the figure you gave, that more than a hundred
13 Vietnamese were arrested during the time you spent in Regiment
14 140; <at least,> that is what you told the OCIJ investigators. <I
15 would like to try to be of some assistance; concerning> this
16 figure and <by reading out> what Meas Muth, himself <says to his
17 superiors>. It's document E3/997. It's a <telegram, entitled:
18 "Secret Telephone Communication on the 20th of March <1978">,
19 addressed by <> Muth, <Brigade 164, political section, to the
20 attention of> the very-respected 89. In number 3 of the document,
21 this is what Muth states, <and I quote>:

22 "At Tang island, on March 20, 1978, at 2.30 hours, our 800cc
23 motor-driven boat <went to the southeast of the island, 12
24 kilometres away. We> managed to catch two Vietnamese boats, <on
25 which there were a lot of Vietnamese, about 70 in total. There

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1 were older ones>, male and female, <all were confused. After> we
2 tied them up, <a small raft tilted over>. As a result, two people
3 fell into the water and we were unable to find them. The rest
4 have been brought to the mainland." End of quote.

5 My question is: You said your boat was quite big; what was the
6 horsepower of your boat?

7 [11.06.07]

8 A. I cannot recall the horsepower of my vessel; however, there
9 were five machines and there was one <big> generator. <Amongst>
10 those machines, there were rather four large engines and the fuel
11 reserved was 20 tons for that vessel, but I cannot recall the
12 horsepower capacity of that vessel. What I can recall is that
13 there was -- there were four large engines.

14 MR. PRESIDENT:

15 Deputy Co-Prosecutor, it seems that you run out of time.

16 MR. DE WILDE D'ESTMAEL:

17 Yes, Mr. President, I was going to give the civil parties 10 to
18 15 minutes. So, as you said, I will take 5 to 10 minutes to
19 complete my examination, <as you said at 10 -->.

20 [11.07.35]

21 MR. PRESIDENT:

22 No, your allotted time has concluded and Counsel Koppe, you have
23 the floor.

24 MR. KOPPE:

25 That was exactly my observation, Mr. President. It's concluded

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1 seven minutes ago.

2 MR. DE WILDE D'ESTMAEL:

3 Mr. President, <if I may, in French> we heard your instructions
4 <at 10.10 a.m.> saying that we had to end at 10.30 <a.m., but we
5 still had one session. It was on this basis that I put my
6 questions. But now, if that has changed, I am at a loss, seeing
7 how> I still have some questions to ask <that I haven't yet been
8 able to ask>.

9 MR. PRESIDENT:

10 We actually informed you; you already spent two and a half
11 sessions already and that you only had half a session left. For
12 that reason, you should actually raise your questions to fit the
13 allotted time and for that reason, you're no longer given the
14 floor.

15 And also the Lead Co-Lawyer, please be seated.

16 And I'd like to inquire with the Judges of the Bench if you have
17 questions to put to the witness. And it seems that Judge Lavergne
18 has some questions. You may proceed, Judge.

19 [11.08.55]

20 QUESTIONING BY JUDGE LAVERGNE:

21 Q. Yes, good morning, Witness. I have a few questions for you,
22 first of all, regarding what you said yesterday as concerns
23 relations between Democratic Kampuchea and Vietnam.
24 For a start, I'd like us to talk about the conflicts that may
25 have occurred in Democratic Kampuchea's territorial waters.

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1 Yesterday, you said that, in early 1975, there was a hot
2 battlefield between the Vietnamese troops and Democratic
3 Kampuchea troops.

4 Can you tell us exactly what you were referring to when you said
5 there was a hot battlefield and what happened?

6 [11.09.49]

7 MR. PRUM SARAT:

8 A. When I used the word "hot" in this context, it's that in early
9 1975 -- although I cannot recall it exactly that it could have
10 been in April -- there was a fighting between the forces of
11 Vietnam and of Democratic Kampuchea at the islands. Vietnamese
12 forces arrested 720 DK soldiers and detained them <as prisoners
13 of war> in Kaoh Tral. The negotiation took place in 1977 between
14 DK and the Vietnamese authority and as a result, those detainees
15 or prisoners of war were returned to Kampuchea.

16 Q. Perhaps, I didn't quite understand your testimony. Where
17 <exactly> had those soldiers from Democratic Kampuchea been
18 arrested; were they arrested while they were on Cambodian islands
19 or on Vietnamese islands; in any case, the islands that were in
20 dispute?

21 A. The arrests actually took place on the islands of Poulou Wai
22 Chas and Poulou Wai Thmei which is -- which belongs to Kampuchea
23 -- that is, it was part of the Kampuchean territorial waters.

24 [11.12.01]

25 Q. And to your knowledge, did the Kampuchean troops go to station

1 themselves on the islands in dispute that had previously been
2 occupied by Vietnam?

3 A. To my knowledge, in 1975, the forces of Democratic Kampuchea
4 reached Kaoh Tral; however, the Vietnamese troops did not allow
5 them to enter. For that reason, the DK forces returned from Kaoh
6 Tral.

7 Q. Well, perhaps for me, it is not very clear. Do you know the
8 islands <by their Vietnamese names, notably,> Phu Quoc and Tho
9 Chu,> and to your knowledge, did the Democratic Kampuchea forces
10 take positions on those islands?

11 A. Your Honour, please repeat the names of those islands. To me,
12 it's not that clear <because you mentioned the names of the
13 islands in Vietnamese>.

14 [11.13.36]

15 Q. Phu Quoc island and Tho Chu island or Tho Chau (phonetic).

16 A. To my knowledge, I do not know the names of these islands in
17 Vietnamese language. What I know is Kaoh Tral, Kaoh Tonsay, Kaoh
18 Poulo Wai Chas, Kaoh Poulo Wai Thmei, and Kaoh Krachak Seh. I do
19 not know the names in Vietnamese language for these islands.

20 Q. And as those islands which, according to you, belonged to
21 Cambodians, were there any Vietnamese civilians on them?

22 A. In 1975, those islands, whose names that I mentioned, there
23 were no Vietnamese civilians living there. There were no
24 inhabitants on Poulo Wai Chas and Poulo Wai Thmei islands;
25 however, there were marks that ships or vessels anchored on these

1 islands.

2 The troops got off the vessel and positioned themselves on the
3 islands and the information that I received from them was that
4 there were no Vietnamese inhabitants on these islands.

5 [11.15.39]

6 Q. So if I understand you correctly, Mr. Witness, what you're
7 saying is that it was the Vietnamese armed forces that came and
8 attacked the forces of Democratic Kampuchea and arrested and
9 detained the DK forces. Do you know why the Vietnamese armed
10 forces did that?

11 A. What I knew is that there was a -- an attack, at the time, and
12 the Vietnamese troops deployed several vessels to <surround> the
13 islands to cut off the transportation vessels. For that reason,
14 the DK troops were isolated and cut off from logistics and food
15 supply.

16 Vietnamese deployed ships and <infantry> troops to <push and
17 capture> the island and <> arrested those Khmer Rouge troops.
18 <And those Khmer Rouge troops were taken to Koah Tral.>

19 Q. Since you used the word "attack", so <was> that attack <>
20 initially launched by Khmer troops or by Vietnamese troops?

21 A. The Cambodian troops were on their sovereign island and
22 actually, the attack was instigated by the other party through
23 their troops and vessels<. They came to attack us, the Khmer>. Of
24 course, we did not initiate an attack on their sovereign
25 territorial waters.

1 [11.17.57]

2 Q. And did you take part in the confrontations; were you present
3 or that is something you merely heard someone mention?

4 A. No, I was not present there. I only heard of this information
5 through soldiers who were arrested at Kaoh Tral and when they
6 returned, they spoke about that event.

7 Q. Were you present when the boat, the Mayaguez, was captured?

8 A. No, I was not present when the Mayaguez ship was seized. At
9 that time, I did not have any vessel under my supervision and
10 actually, I was stationed on shore with the division. At that
11 time, the division actually had not yet organized a navy force.

12 [11.19.26]

13 Q. I would also like to revisit what you said yesterday regarding
14 the deportation of Vietnamese to Vietnam.

15 Yesterday, you stated as follows: "I do not recall when the
16 Vietnamese were deported, but I know that there was, indeed, a
17 deportation." And you refer to a deportation that was carried out
18 in 1973 and you said that at the time there had been fighting.
19 You also made mention of a deportation in 1975 and another in
20 1976.

21 Now, I would like us to start by talking about the deportation
22 you said occurred in 1973. What can you tell us regarding that
23 deportation; who had decided that such a deportation would be
24 carried out and do you know how many persons were deported to
25 Vietnam?

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1 A. In 1973, there was a clash between the Vietcong force and the
2 DK force in the area of Kampot and the clash was actually
3 intensified and the clash was between the military forces against
4 the Vietcong military forces and not the Vietnamese civilians.
5 Those Vietcong forces actually took refuge in the territory of
6 Kampuchea and then they clashed with the DK forces.

7 [11.21.34]

8 The Vietnamese troops were stationed <in '73> there per decision
9 by Ta Mok. At that time, I was an ordinary combatant and what I
10 knew was my experience in hand-to-hand combat against the
11 Vietnamese at <Kampong Trach (phonetic), Srae Chea (phonetic),>
12 Rong Veng (phonetic), <> Chhuk (phonetic), <> Phnum Totueng
13 (phonetic) in Chhouk Meas (phonetic) district and here I refer to
14 the combat between the DK military forces against the Vietnamese
15 forces in 1973.

16 Later on, <Ta Mok> said that we should not engage in combat with
17 these people and allow them to be stationed at the border -- that
18 is, at <L'ngiang> (phonetic) mountain in Touk Meas (phonetic)
19 district, but I cannot recall the actual number of those
20 Vietnamese troops.

21 Q. When you say "<he said we should not engage in combat", who>
22 are you referring to; to Ta Mok or to <someone else>?

23 A. When I used the word "they", I do not mean Ta Mok; I
24 <referred> to the Vietnamese troops.

25 [11.23.17]

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1 Q. You were a member of the forces of the Southwest, at the time.

2 Who commanded the Southwest forces; was it Meas Muth or Ta Mok?

3 A. The <joint> commander in charge in the Southwest Zone was Ta
4 Mok since he was the chief of the zone.

5 Q. Now, what did Ta Mok tell you as regards to the situation; did
6 Ta Mok agree that the Vietcong forces remain on Cambodian
7 territory or <did he disagree> with that?

8 A. From what I knew, at the time, was that there was -- it was
9 not clear to me regarding the relationship between the Vietnamese
10 troops and Ta Mok or whether there was any discussion that took
11 place between the Vietnamese troops and Ta Mok; however, my unit
12 engaged in combat with the Vietnamese troops and what I can
13 recall is that Ta Mok met with a military commander on the
14 Vietnamese side and his name is Bai Seung (phonetic) for the
15 negotiation. Later on, there was another representative, Bao Bao
16 (phonetic) who led the negotiation with Ta Mok for the Vietnamese
17 troops to be allowed to stay at <L'ngiang> (phonetic) mountain.
18 [11.25.33]

19 Q. Very well. You talked of a deportation; was there a
20 deportation of civilians in 1973 or were <there> some Vietcong
21 regiments <that left> Cambodian territory?

22 A. What I say is not meant the deportation of the civilians. I
23 refer to the Vietcong troops who took refuge in Kampuchea in
24 various locations and that they acted inappropriately toward the
25 Kampuchean people and also this is compounded by the facts that

1 we clashed with them.

2 We were part of the military unit in Kampot and we clashed with
3 the <Vietcong troops> in the area. And actually the clash lasted
4 for more than a fortnight, then I saw the arrival of Ta Mok at
5 the battlefield. He told us that we stopped fighting them since
6 they agree to take their troops under the supervision of Bai
7 Seung (phonetic) or Bao Bao (phonetic) to settle at Phnum
8 <L'ngiang> (phonetic) and actually Phnum <L'ngiang> (phonetic) or
9 <L'ngiang> (phonetic) mountain was located in Touk Meas
10 (phonetic) district, which is adjacent to the Kampuchean-Vietnam
11 border.

12 [11.27.50]

13 Q. Do you know whether, at any point in time, Vietcong troops
14 totally disappeared from Cambodian territory and if yes, on what
15 date?

16 A. When you talk about the area, it was large in scale
17 geographically and I can only speak about my area that my unit
18 was involved in.

19 I cannot recall the exact date that they disappeared from
20 Kampuchean territory. At the time, I was not in a position to
21 have a greater knowledge regarding the day of their
22 disappearance. What I knew is that there were clashes and that,
23 later on, the Vietcong troops were sent to that designated area
24 that I mentioned earlier.

25 Q. You subsequently talked of two other deportations, one in 1975

1 and another in 1976. What can you tell us as regards those
2 deportations; did they concern civilians and were the orders
3 issued by the upper echelons? How exactly did it happen?

4 A. To my knowledge -- and here I refer only to the information
5 relayed from the upper level -- that is, through the division to
6 the regimental level and to my level -- I do not know actually
7 how many civilians or how many soldiers there were.

8 [11.30.16]

9 Q. Well, how is it that you were able to tell us that there were
10 deportations in '75 and in '76? What do you know about these
11 deportations; did you witness them or did you receive orders
12 regarding them?

13 A. Allow me to clarify it again. That was the information that I
14 received and I personally did not involve in this matter. I only
15 received information that the upper echelon had to return those
16 Vietnamese to Vietnam, but there was no clear indication as to
17 the exact number or the date that they had to be returned.

18 Q. Did you hear about a program that consisted in exchanging
19 people of Vietnamese origin <for> Cambodians from Kampuchea Krom?

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

21 Q. If I understood you well, after April 1975, you arrived in
22 <the> Kampong Som area. You were stationed at <the> Ou Chheu Teal
23 <port> and then on the islands. As far as you know, were there
24 people of Vietnamese origin where you were stationed, and if that
25 was the case, were these people deported?

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1 [11.32.29]

2 A. To my knowledge and from what I can recall, after I left Phnom
3 Penh and arrived in Kampong Som, initially, I was stationed near
4 Kang Keng Airfield<.> After the navy force was organized, I was
5 assigned to be stationed on the island of Kaoh Rong Sanloem.
6 And my personal encounter, at the time, <> I only saw Kampuchean
7 people and not Vietnamese people. Here I refer to the time that I
8 was stationed near Kang Keng Airfield and while I was on Kaoh
9 Rong Sanloem, I did not see any civilian inhabitants. Even the
10 Cambodian fishermen did not remain at the island; they all
11 returned to Kampong Som.

12 [11.33.47]

13 Q. And did you hear anything about the treatment that might have
14 been meted out to the Vietnamese civilians who might have been
15 living in those areas?

16 A. Personally, I did not receive such information. I did not have
17 anything to do with that. I did not know if there were Vietnamese
18 living at any specific location. I was not involved in this, nor
19 did I receive information regarding this matter.

20 JUDGE LAVERGNE:

21 Well, fine, Mr. President. I'll have further questions to put to
22 the witness, but I think it's now time to take the break.

23 [11.34.49]

24 MR. PRESIDENT:

25 Thank you. It is now appropriate for our lunch break. We take a

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1 break now and resume at 1.30 this afternoon.

2 Court officer, please assist the witness at the waiting room
3 reserved for witnesses during the lunch break and invite him, as
4 well as his duty counsel, back into the courtroom at 1.30 this
5 afternoon.

6 Security personnel, you're instructed to take Khieu Samphan to
7 the waiting room downstairs and have him returned to attend the
8 proceedings this afternoon before 1.30.

9 The Court is now in recess.

10 (Court recesses from 1135H to 1332H)

11 MR. PRESIDENT:

12 Please be seated.

13 The Chamber is back in session and <> before the Chamber gives
14 the floor to Judge Lavergne, I would like to ask Mr. Witness Prum
15 Sarat -- I would like to inform Mr. Prum Sarat that there is no
16 duty counsel for you right now because he is busy with his own
17 commitments at other place. <Did you discuss with your duty
18 counsel?>

19 [13.34.24]

20 MR. PRUM SARAT:

21 During the lunch break I had a discussion with my duty counsel.
22 He <agreed> that I can testify on my own without any concern.

23 MR. PRESIDENT:

24 So you mean that for the remaining of the session, you can
25 testify without the presence of your duty counsel; is that

1 correct?

2 MR. PRUM SARAT:

3 Yes, I can testify.

4 MR. PRESIDENT:

5 Thank you. Now, the Chamber gives the floor to Judge Lavergne to
6 put more questions to the witness.

7 [13.35.12]

8 BY JUDGE LAVERGNE:

9 Thank you, Mr. President.

10 Q. Mr. Witness, before the break -- before the lunch break, we
11 were speaking about the fighting in Cambodian territorial waters
12 and I asked you questions related to Phu Quoc and Tho Chu
13 islands, but based on the information that I obtained, it appears
14 that Phu Quoc island has a Khmer name and its Khmer name is Kaoh
15 Tral and Tho Chu island is called, in Khmer, Kaoh Krachak Seh.
16 So are the names Kaoh Tral and Kaoh Krachak Seh -- do they ring a
17 bell in your mind and were those islands part of the hot
18 battlefields between Vietnam and Cambodia?

19 MR. PRUM SARAT:

20 A. Yes, let me answer your question, Your Honour. The situation
21 in 1975 at Kaoh Tral, there were no fighting. As for Kaoh Krachak
22 Seh, which I looked at the map, the name for Kaoh Krachak Seh is
23 Romo Pamzom (phonetic).

24 [13.36.58]

25 I, myself, never been to those islands but I looked at the map

1 and I saw those <> two island were within Cambodia's territorial
2 waters. And I looked at the 1949 maps, which I did not know what
3 country or which company produced that map and <based on my
4 knowledge and skill from naval training,> I saw the longitude
5 that reflected the two islands were within Cambodian territorial
6 waters.

7 Q. Okay. So you are referring to a map dating back to 1949, if I
8 understood you correctly. You are not referring to a map that is
9 current?

10 A. The map I used for my training was the map that was drawn and
11 produced in 1949.

12 Q. Fine. And on that map the islands of Kaoh Tral and Kaoh
13 Krachak Seh were islands that were in Cambodian territorial
14 islands; is that correct? <>

15 A. Based on my knowledge of the drawing on the map and, as far as
16 I remember, Kaoh Tral was on the other side of the drawing of
17 <the map dated 1949> -- if we talk about the north and the south
18 side, on the north side of the boundary was Kaoh Tonsay <which is
19 opposite Kep> and Kaoh Tral was on the south side of the
20 boundary. So I'm not certain whether Kaoh Tral was within
21 Cambodian territorial waters or not, because I myself was not an
22 expert in maps. I only used the map for my training session in
23 driving the vessels <on the high sea>.

24 [13.40.01]

25 Q. Fine. Let me ask you a simpler question even. During your

1 training what were you told? Were you told that these islands
2 belonged to Cambodia or that they belonged to Vietnam?

3 A. When I did the training, my instructor did not mention which
4 islands were within Cambodian territorial waters and which
5 islands belonged to Vietnam. My training was about travelling
6 from Ou Chheu Teal to Poulo Wai Chas, Poulo Wai Thmei or Rong
7 <Touch (phonetic) and Rong Thom islands. The Koah Rong Touch
8 (phonetic) is known as Koah Rong Sanloem.> So the maps that I
9 used or referred to frequently were the maps that covered the
10 four islands I just told you.

11 Q. Witness, you were entrusted with a mission which was to patrol
12 Cambodian territorial waters, and you just are telling us now
13 that you were not told what the limits of these territorial
14 waters were. Were you told that you could go patrol around Kaoh
15 Tral or around Kaoh Krachak Seh?

16 A. My task at that time, I received the task at that time from
17 the <commander of the> division level to patrol at the area <of
18 Kaoh <> Seh and Kaoh Thmei <-- these islands were near Kaoh Tral
19 -- but> not Kaoh Tral.

20 [13.42.20]

21 Q. Fine. Didn't you speak about Kaoh Tral this morning? Didn't
22 you tell me that there had been some fighting on Kaoh Tral? Was
23 there any fighting on Kaoh Tral, <or not>?

24 A. As for Kaoh Tral, as I told you a little bit earlier that
25 there was no fighting in 1975. I did not go there by vessel or by

1 whatever means. I only heard that the Khmer Rouge soldiers went
2 there and they were banned by the Vietnamese and prevented them
3 from returning back to Kaoh Thmei and Kaoh <> Seh.

4 Q. So you heard that Khmer Rouge soldiers that had gone to Kaoh
5 Tral had been captured. Is that what we must understand?

6 A. I did not hear that the Khmer Rouge soldiers at Kaoh Tral were
7 <imprisoned>. As I told the Court before the lunch break, I told
8 the Chamber that the soldiers at Poulo Wai Chas and Poulo Wai
9 Thmei islands were <ambushed and> captured by the Vietnamese <.>
10 They were taken to Kaoh Tral.

11 [13.44.15]

12 Q. Fine. Let's move on to another topic. I would like to question
13 you about the specific orders that you received regarding
14 <Vietnamese> refugees or <> fishermen who were caught in
15 Cambodian territorial waters.

16 Yesterday, at around 10.43 in the morning, Counsel Koppe put a
17 certain number of questions to you with regard to this topic and
18 he asked you questions about the Vietnamese refugees and
19 fishermen who were on board a boat <that penetrated> Cambodian
20 territorial waters. And he asked you what instructions were you
21 given if this happened; what were you supposed to do with such
22 people?

23 And you said, that was your first answer, that your job was first
24 to take care of training at <the port of> Ou Chheu Teal and then
25 it was up to the servicemen who were stationed on the islands to

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1 deal with this problem. You said, "With regard to the fishing
2 boats or any other kind of boat penetrating Cambodian territorial
3 waters, I cannot say anything about this because I was not
4 stationed on the islands, <per say>."

5 So is this what you are saying today? Did you receive orders
6 personally or was this something that was completely outside of
7 your responsibilities?

8 [13.46.20]

9 A. My responsibility was not involved in those matters. I had a
10 different responsibility, different from the responsibilities by
11 those people. So we had different responsibilities.

12 So each unit <was> not involved in the responsibility of other
13 units.

14 Q. <> Can you please repeat, <Witness>?

15 A. Let me give the answer to the Chamber. I did not receive any
16 order to <implement> the things that, Your Honour, has just
17 raised

18 Q. So how can you say that orders had been given to you at the
19 division level and were you aware of the orders given at the
20 division level if you, yourself, did not receive any orders? How
21 can you explain that?

22 A. When the upper echelon gave the order to the division level,
23 and then the division informed soldiers at various locations and
24 soldiers at the specific locations that the situation needed to
25 be vigilant; they needed to be ready to fight, so that was how

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1 the information conveyed from one level to another.

2 [13.49.34]

3 Q. Witness, let me be <very> clear with you. I am putting
4 questions to you related to the orders regarding people who were
5 found at sea and who were either refugees or Vietnamese fishermen
6 and you told me that you received no orders whatsoever in that
7 regard because that was not your responsibility. So how,
8 therefore, can you say that there existed orders at the division
9 level? How did you become aware of this, or if you did not become
10 aware of this, just tell me that.

11 A. Let me clarify that it was the information conveyed from that
12 division to various hierarchy of the units to be informed of the
13 situation. So it was the common practice that I used at that time
14 regarding the order.

15 Q. So did you receive orders regarding <what you were to do> if
16 you discovered refugees <> or fishermen <at sea>? Can you answer
17 that question specifically?

18 A. Yes.

19 [13.51.46]

20 Q. So do you believe that you contradicted yourself? Don't you
21 believe that you said the absolute contrary only two minutes ago?
22 So, therefore, which is the true story? Is it this one or the
23 previous version that you gave us?

24 A. I want to give my response, yes.

25 Q. So yes, therefore you received orders<.> What did they consist

1 of?

2 A. I received orders and the content of the orders were as
3 follows: Divisions were communicated with instructions and orders
4 by radio communications or telegrams which were the forms of
5 communication at the time. And the orders were to instruct all
6 vessels which were on patrol in specific locations to be on
7 vigilance to the maximum. And they had to be prepared in all
8 circumstances after receiving orders through possible
9 consequences within their specific locations they were in charge
10 of.

11 [13.53.45]

12 Q. Mr. Witness, I am sorry to tell you that you did not answer my
13 question. My question regarded the <actions, the> conduct that
14 you had to follow vis-à-vis refugees or fishermen who were found
15 in <> territorial waters. You told me that you had to be
16 vigilant that you had to be ready to fight, but you did not tell
17 me what you had to do with these people.

18 A. Concerning the question put by Your Honour, let me break it
19 into two parts:

20 <First, it> is about the implementation of instructions. I
21 received instructions to be engaged in the training of driving or
22 piloting vessels.

23 <Second>, I was instructed and ordered to be prepared whenever
24 there were Vietnamese boats trespassing into Cambodian
25 territorial <waters> of Kampuchea.

1 [13.55.27]

2 Regarding <second part>, I never received such orders and
3 instructions. The instructions that I received was to an extent
4 that the soldiers who were on the vessels needed to perform their
5 assigned tasks. And they had to be ready to attack the enemies
6 who trespassed into territorial sea of Kampuchea.

7 So it was not an obligation for me to go and capture the boats
8 which trespassed into the territorial <waters> of Kampuchea, as I
9 said. I received instruction on certain matters. I am now telling
10 the truth from my heart.

11 [13.56.33]

12 Q. Fine. I don't know if I will be able to obtain more
13 information from you. It doesn't seem <straightforward>. But I
14 would like to confront you with a document which is document
15 E3/227. This is a meeting of the Standing Committee dated 2
16 November 1975. And among the attendees there was Comrade Pol,
17 Comrade Nuon, Comrade Khieu, Comrade Van, Comrade Vorn, Comrade
18 Doeun, Comrade Hem and Comrade Yem. And the agenda of this
19 meeting <> concerns the situation <> at the sea border <in
20 particular,> as well as <other> issues.

21 <> The following is said: "Regarding the situation of the
22 islands, the Vietnamese carried out operations on Seh island and
23 shot at Kaoh Thmei island and at the same time they deployed
24 their soldiers on the small islands."

25 So do you remember these incidents, Witness?

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1 A. From my thinking, <there was attacks and counter-attacks with
2 the use of> heavy <artillery at Koah Seh, Koah Thmei and> Kaoh
3 Tral<. The Vietnamese> patrol vessels <were always encroaching
4 and attacking the> Cambodian vessels<. As I recall, it> happened
5 on many occasions. I cannot inform, Your Honour, of how many
6 times such incidents took place in that particular <two> year.
7 The territorial <waters> of Kampuchea <had been trespassed many
8 times> by Vietnamese troops and also we were under attack by
9 <heavy <artillery>.

10 [13.59.15]

11 Q. In this <same meeting> report we can find once again similar
12 information. This is at point three, "Miscellaneous Issues"
13 sub-paragraph (b) which is titled <> "The Matter of Boats." And
14 the following is said: "We recommend that you report properly on
15 the boats, regardless of the problems. Report on all aspects.
16 <Crew> and cargo: propose to send everything."

17 In English maybe the version is a bit different, "propose <clear
18 report on boats.> If there are any problems, propose them all.
19 Crew and belonging, propose sending them all."

20 So does this ring a bell? Does that correspond to orders you may
21 have received regarding people who were found at sea?

22 A. I want to testify before the Chamber that <it was an order in
23 the technical term, that is, to provide training and to maintain
24 the vessels. It was a correct> instruction that I received during
25 the training sessions.

1 Q. And so are these instructions in line with what I have just
2 read out to you?

3 A. Yes, they are in line with what you described.

4 [14.01.52]

5 Q. Very well. And do you admit that this is something that is new
6 in your statement?

7 A. I admit that it has something to do with the techniques and
8 strategies and at the time I received such instruction to be
9 complied with on the vessels.

10 As an example I raised earlier, if we needed to repair a machine,
11 the machine did not work well or there was disruption regarding
12 the machine operation, there was a clear reporting system. We
13 needed to send the report to the division, after which there was
14 a decision to me and I, after that time, was able to ask my
15 subordinates to repair the machine based on proper technical
16 skills unless there was a decision from divisional level.

17 [14.03.37]

18 Q. Mr. Witness, let me interrupt you, because as regards <>
19 equipment <repairs>, that is of no consequence to me. It doesn't
20 have anything to do with the question I've put to you.

21 I have confronted you with precise instructions and the
22 instructions were that you should send <back> the members of the
23 crew, and <their cargo,> that you should send all of them <back>.
24 Did you receive those instructions; yes or no?

25 A. On the issue of sending crew members and equipment<>, at the

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1 time, in accordance with the implementation of technical skills,
2 <I> did not receive such orders as you described. At first, after
3 listening to the question it appears that the question wanted to
4 ask about the technical skills, but then after listening clearly
5 to the question, it was the mistakes by crew members who were on
6 vessels to implement such instructions.

7 But I want to make it clear that there was no -- there were no
8 such cases happening on my vessels.

9 [14.05.35]

10 Q. Very well. I do not know what you are saying clearly, Mr.
11 Witness, but I will move onto another line of questioning. I
12 would like us to talk <briefly> about the training session or,
13 rather, the training sessions you attended at the military
14 headquarters and which were chaired by Son Sen. I have noted that
15 in document E3/1143 that that session was titled, "The
16 Revolutionary Concept". Does that ring a bell? Was it a matter of
17 <learning how to conceive> your activities as revolutionary
18 activities?

19 A. From the experience of training sessions that I went through
20 I, myself, was doing my utmost to refashion myself to be in line
21 with the socialist <> and the communist <revolutionary stance> --
22 communism was to bear in mind in one individual and we were to be
23 responsible for our tasks assigned. And we needed to be prepared
24 and to refashion ourselves to be in line in specific situations.
25 And I, myself, was trying to have good discipline in myself. For

1 instance, to live properly in the society; to comply with the
2 <ethical principles of living> and to perform the tasks as
3 assigned. And this task was to be performed inevitably by those
4 who were assigned <in order to refashion oneself>.

5 [14.08.30]

6 Q. Before that training in November 1976 which you attended,
7 there was -- and Counsel Koppe referred to that yesterday -- a
8 meeting<, and we have the minutes of that meeting>. And that was
9 a meeting of secretaries and deputy secretaries of divisions and
10 <independent> regiments, and <the pertinent document is> document
11 E/13 (sic).

12 During that meeting, Son Sen referred to a number of political
13 lines that had to be followed. And he spoke particularly of
14 conflicts that had to be managed. This is what he stated, in
15 particular:

16 "We must <continue to> control conflicts in Cambodia's current
17 society<,> because the conflicts between us and the <exploiting
18 classes> are more heightened than before, in the sense that they
19 have more power <than us, we have the power (sic)>." The
20 translation into French is very bad<.>

21 He also says the following: "We must control external conflicts
22 vis-à-vis <the> American imperialists. We are already aware of
23 that. With Vietnam, the conflicts are <> increasingly more
24 intense."

25 Then there is a discrepancy between the French and the English.

1 In French it is said that, "previously <they> were <an enemy with
2 whom we had conflicts>, but now they <have become a real enemy.">
3 In English, this is what he said, "<Before, we said that they
4 were> friends with whom we had contradictions". But now <they
5 are> "a true enemy". "Previously we didn't know their plans
6 clearly but now we know that <Vietnam> created a party of
7 traitors to attack our Party. In future, they <do so again, they>
8 will not <stop>."

9 [14.11.01]

10 Now, did you yourself hear this political discourse to the effect
11 that there was a change in policy vis-à-vis the Vietnamese that
12 they were no longer the friends of Cambodia <at all,> but they
13 were now the true enemy and that they <had created> a party of
14 traitors to fight against Democratic Kampuchea?

15 A. In fact, under the guidelines and policy at the time, the
16 upper level educated us on the issue of policy and guidelines to
17 distinguish enemies and friends internally and from the outside.
18 For this reason, I raised two points in the interview I gave to
19 Long Dany. I can recall them. The first enemy was "Yuon" and the
20 second one was within the ranks, those who were considered the
21 traitors. They are the points I made mention in the interview
22 provided to Long Dany<, from the DC-Cam> and later on, the audio
23 recording was <transcribed> and put into documents. <Those
24 documents were also given to me to read. > This is my true
25 statement, Your Honour.

1 [14.13.13]

2 Q. I will continue reading out this document to you and I will
3 also ask you to react to what I read and it is still Son Sen
4 speaking, and this is what it says. "If we had left the
5 population, if we hadn't evacuated the people from the <city> we
6 <surely would> not be at peace, as is the case today. If we
7 hadn't <been absolute, if we hadn't> created the cooperatives, if
8 we hadn't been absolute in creating socialism, we wouldn't have
9 won. We would not be <at> peace. If we hadn't created the
10 cooperatives, the Vietnamese would <still attack> us." End of
11 quote.

12 Does that remind you of anything you may have heard during the
13 political training sessions?

14 MR. PRESIDENT:

15 You have the floor now, Counsel Anta Guisse.

16 [14.14.21)

17 MS. GUISSSE:

18 Yes, Mr. President. May I request Judge Lavergne to kindly remind
19 us of the ERNs that he is using <so we can follow him better>?

20 BY JUDGE LAVERGNE:

21 I am sorry. I had forgotten to do so. In French the ERN is as
22 follows, <00334977 to 78>; in Khmer, 00052407 to 408; and in
23 English, 00940345 to 46.

24 Q. Witness, do you remember my question or you would rather I ask
25 it again?

1 A. Could Your Honour repeat the question so that I am clear on it
2 and then I can provide my answer?

3 [14.15.48]

4 Q. Very well. I was reading out to you the minutes of a meeting
5 which was attended by Son Sen who was the chairperson of the
6 meeting and other commanders of divisions, including Meas Muth.

7 And this is what Son Sen said:

8 "If we had left the people and had not evacuated them from the
9 cities, we would <certainly> not have the peace we enjoy today.

10 If we had not been absolute <, if we had not created the>

11 cooperative and <had we not> been absolute <when forging>

12 socialism, we would not be victorious, <we would not> live in

13 peace. If we had not <created the> cooperative, the <Vietnamese>

14 would still <be> attacking us <today>." End of quote.

15 Does this kind of statement ring a bell to you as regards what
16 you may have heard during the training sessions?

17 A. Your Honours, when I attended the study sessions, I indeed
18 received guidelines and I cannot guarantee that I am able to
19 recollect all those guidelines I received on those days. After
20 listening to your reading, Your Honour, it is a refresh to my
21 memory that there were principles, guidelines for all of us to
22 adhere to in order to ensure the victory and also to build our
23 country in accordance with the socialism wanted by the Democratic
24 Kampuchea and it was the lines that we had to follow. For me, it
25 is a refresh of memory from your reading, Your Honour.

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1 [14.18.33]

2 Q. So if it does refresh your memory it does reflect something
3 you certainly did hear. Is that what I should take from your
4 testimony?

5 A. The fact is that, during the three years that I went through,
6 it was my experience but the real situation was that I was
7 disengaged in the work of cooperatives <because I served as> a
8 soldier. So I was not engaged in the formation of <> cooperatives
9 <> or <unions>.

10 I was assigned to be in charge of a <newly established> naval
11 unit. So I had, at the time, to perform my duties and tasks to my
12 best ability and I had to be -- I had to focus mainly on my
13 assigned tasks.

14 [14.20.27]

15 Q. Towards the end of that meeting we have what could be
16 considered as conclusions which include advice regarding the
17 methods that had to be applied in order to <achieve>
18 revolutionary lines of action, and this is what is stated -- and
19 I quote: "It is imperative to <continually educate,> and we
20 should purge bad elements at all costs as part of the class
21 struggle, absolutely."

22 The ERN in French is as follows, 00334982 to 83; in English,
23 00940354 to 55; in Khmer, 00052413 to 414.

24 Mr. Witness, did you hear any instructions consisting in having
25 to "purge bad elements at all costs in view of the class

1 struggle, absolutely"?

2 A. To the best of my recollection I, myself, was to clean what
3 within myself in terms of mental situations and I had to ask the
4 question to myself whether I was satisfied with the <Socialist>
5 Revolution and I was stable enough.

6 Concerning the guidelines and advice to my subordinates <in the
7 meetings>, I also instructed and advised them to clean up enemies
8 within ourselves. We have to be clear on our own. We have to be
9 happy to perform our tasks. So first of all, they had to cleanse
10 what within them.

11 [14.23.27]

12 Q. Mr. Witness, I understand that you <would have to cleanse
13 yourself> -- but <here> it was a question of purging the bad
14 elements and, <a bit later on we see that> one of the means
15 adopted for implementing that policy was to collect biographies:
16 "In all units we must reorganize <> and we must <> master all
17 biographies."

18 Mr. Witness, were you <responsible for> collecting the
19 biographies of your subordinates?

20 A .Regarding the biography, biography was <collected and> all
21 combatants had to give and verify <their> biographies <on a
22 monthly basis> within the framework of common plans. So we had to
23 declare solemnly our background, <our village> whether we were
24 <from a> rich or poor <family>. <That's my short answer.> So
25 biographies were for the collection of information of one's

1 <milieu and> where they were from. Biographies were actually
2 collected during the time of my leadership.

3 [14.25.40]

4 Q. Mr. Witness, what was a good biography and what was a bad
5 biography?

6 A. A good biography is a biography of one soldier with the
7 following qualifications. <Number> one is that soldier was
8 engaged in the battlefields on a frequent basis and they have the
9 competence to <smash> the enemies on the battlefields.
10 Number two, it was about the living <milieu> of a combatant cadre
11 or a soldier. So the number two was to find out the origin of
12 that person whether they were former <farmers, workers,
13 intellectuals, professors,> monks, students or what their origins
14 were. <The origin of the person must be clearly written.> That
15 was the purpose of collecting biographies and after a biography
16 had been formulated they would be sent to the upper level for
17 examination. And <the result> depended on what one stated in his
18 or her biography for the upper level to decide.

19 [14.28.00]

20 Q. Witness, <according to you,> was <the> mere mention of the
21 fact that you had been a soldier from the eastern forces a good
22 element in a biography or an element that could have posed
23 problems <>?

24 A. To the best of my recollection, there were issues of bad
25 biographies and good biographies. It was my understanding at the

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1 time that there was a <chaotic> movement in the East led by So
2 Phim and the biographies were collected during the time of the
3 movement. So it was my understanding that biographies had to be
4 collected so that it was clear to <know who> was linked or not
5 linked to the movement, for instance the movement of So Phim.

6 [14.29.47]

7 Q. So, Witness, let me put the question to you again. If someone
8 said that he came from the Eastern forces, was this considered as
9 being linked to the So Phim forces and, therefore, was this
10 considered to form a bad biography?

11 A. To the best of my recollection, Your Honours, bad or good
12 biographies did not <only> depend on <the link> to the movement
13 <>. There were other qualifications whether they were competent
14 in combat and they were able to perform the tasks as assigned.
15 And also it had something to do about the <the class, the milieu
16 and family names> of those people. <For example, not> all
17 <people> in the East were linked to the movement. And it was my
18 responsibility at the time to include <all the qualifications> in
19 <my own biography and> the biographies of other combatants.>

20 [14.31.30]

21 Q. Witness, you said earlier that all of the people who had come
22 from the Eastern forces had been taken off the boats and been
23 sent ashore. So what do you conclude from this? Why were they
24 sent ashore?

25 A. To my recollection, the army was actually divided into two --

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1 that is, one for Unit 140, and I was tasked to take charge of a
2 vessel. As for the other cadres and combatants, they were tasked
3 to <work> in the rice fields and the plantations -- that is, for
4 our own food supply.

5 Q. Fine. What, according to you does, "It is necessary to purge
6 the bad elements at all costs" mean <within the context> of class
7 struggle? What does "purging at all costs" mean? What would
8 happen to the people who were purged?

9 A. Again, to my recollection for the class struggle and that the
10 <hidden enemies> had to be purged at all costs, is that until an
11 individual who refused to implement the instruction and, of
12 course, this is as stated in the statement, the person was
13 accused of being an embedded individual and if that is the case
14 the person would have to be removed and sent to the divisional
15 headquarters for re-education. And <it was> applicable to each
16 unit.

17 This does not mean that any ordinary combatants could be removed
18 and sent to the re-education centre under the division
19 headquarters at anyone's discretion. No, that's not what
20 happened, and this is based on my personal experience and
21 leadership.

22 [14.35.07]

23 Q. And the people from the Eastern forces were part of the navy.
24 According to you, where were they sent? Were they sent to be
25 re-educated or were they sent elsewhere?

1 A. What I understand is that when that individual was removed
2 from his respective unit and where he was sent to was the
3 responsibility of the division. I did not know the means of how
4 this was processed, of how that person was re-educated or was
5 assigned another task.

6 Q. Fine. I will have a last question for you. During your
7 training sessions at Phnom Penh, at headquarters, did you ever
8 have the opportunity of meeting someone by the name of Nat, that
9 is to say a person by the name of In Lorn alias Nat? Did you ever
10 meet this person?

11 [14.36.48]

12 A. I attended a study session in the Olympic Stadium <in Phnom
13 Penh> and while I was there I saw Ta Nat who came to replace Son
14 Sen. I did not meet him but I saw him there. He was at the podium
15 and I was with the rest of the trainees. I saw him and I knew his
16 face but we never spoke. And I could not tell you about his
17 character or his spirit of revolution. I could describe his
18 physical features; for example, <how tall he was, and> he had a
19 <fair> complexion<. That individual was Nat>.

20 Q. And do you know if there is a link between S-21 and Ta Nat?

21 A. No, I don't. I was not tasked to involve in this matter and
22 it's beyond my function anyway.

23 Q. Did you ever meet someone by the name of Kaing Guek Eav alias
24 Duch?

25 A. No, I did not meet with Kaing Guek Eav alias Duch. However, I

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1 heard of that name.

2 Q. And what did you hear about that name?

3 A.I heard of the name of Kaing Guek Eav alias Duch when the Trial
4 Chamber actually tried Case 001.

5 [14.38.15]

6 JUDGE LAVERGNE:

7 Fine. I have no further questions to put to the witness, Mr.
8 President.

9 MR. PRESIDENT:

10 Thank you. It is now appropriate for a short break. We will take
11 a break now and resume at 3 o'clock.

12 Court officer, please assist the witness at the waiting room
13 reserved for witnesses during the break time and invite him back
14 into the courtroom at 3 o'clock.

15 The Court is now in recess.

16 (Court recesses from 1439H to 1501H)

17 MR. PRESIDENT:

18 Please be seated.

19 The Court is back in session and I'd like to hand the floor now
20 to the defence team for Khieu Samphan to put questions to this
21 witness. You may proceed, counsel.

22 [15.02.12]

23 QUESTIONING BY MS. GUISSÉ:

24 Thank you, Mr. President.

25 Q. Good afternoon, witness. My name is Anta Guisse. I am

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1 International Co-Counsel for Mr. Khieu Samphan and it is in this
2 capacity that I will put some additional questions to you. Let me
3 point out, <knowing full well> that you have been in the witness
4 dock for quite some time now, <that> I am the last person to put
5 questions to you.

6 I'd like us to start by looking at documents that Judge Lavergne
7 elicited some reactions from you on here. He used a record of
8 interview of meeting of the Standing Committee of the 2nd of
9 November 1975 and it is E3/227. He read out to you a passage of
10 what was said <regarding the boats>. May I have you confirm
11 something for me? I understood from your testimony that you
12 <joined> the <navy> only <as of> 1976. Did I properly understand
13 your testimony?

14 MR. PRUM SARAT:

15 A. Yes, that is correct.

16 [15.03.40]

17 Q. To be more specific and this is what transpired from your
18 interview with the Co-Investigating Judges, and it is document
19 E319/23.3.54 and it is in answer to questions 20 to 22. You said
20 you were transferred to <the navy, to> Division 164 in June 1976.
21 And also, answering a question put to you by the International
22 Co-Prosecutor, I understood that you completed your training, and
23 if I am wrong please correct me, that was in August 1976. Did I
24 properly understand your testimony?

25 A. Allow me to respond to your question, Counsel. When Long Dany

1 interviewed me I gave him an estimate of the year; that is around
2 June 1976. And from the question that you put to me, I tried to
3 recall the event again that is on the organization of the navy at
4 the time. I may change my statement a bit. It should be around
5 August because in June that was the month of my <preparation for>
6 departure to the area.

7 [15.05.55]

8 Q. Very well. So you went to that place in August 1976. I
9 understood from your testimony that your training lasted six
10 months. Am I correct in thinking so? In which case <it means you
11 completed> your training in late 1976. Does that reflect what you
12 can remember?

13 A. Yes, that is correct. The first training for the four ships
14 actually lasted for six months. At that time <four> vessels were
15 given to us by our Chinese comrades and then the training was
16 conducted <for six months> with Chinese trainers who came along
17 with the vessels so that we would know how to use and to <train
18 others>.

19 [15.07.08]

20 Q. So if I understand you correctly, it was <not before> late
21 1976, that you were able to <command> a boat, and it was <not
22 until> late 1976, that you were able to receive orders regarding
23 the <operation> of your boat. Is that what I should understand
24 from your testimony?

25 A. In late 1976, I was not yet appointed as captain of the ship.

1 The <captain was in charge of> four ships, vessels, 101, 102, 103
2 and 104. The numeric designation was for the purpose of
3 identifying the vessels. And I was attached Vessel 102 and the
4 chief <> was Horn (phonetic), however Horn (phonetic) passed
5 away.

6 Q. My question therefore in light of the minutes of the Standing
7 Committee of 2 November 1975, is as follows: Do we agree that
8 insofar as you only took your duties as commander of the boat
9 only after <late>1976, <you did not have any information on
10 anything regarding the navy or boats? Is that correct based on
11 what you've just told me?>

12 A. The fact is in late 1976, there was no incident involving the
13 navy, and only in late '77 or early '78, there was internal <>
14 conflict within the leadership of the division, namely, Doem
15 (phonetic) and Meas Muth. I was aware of this internal <>
16 conflict at the time.

17 The thing is that they disagreed during the meeting whereby the
18 Standing Committee of the division attended, and I learned of
19 this information through Saroeun, head of the regiment who told
20 me about it.

21 [15.10.15]

22 Q. Thank you for your answer, but I think my question was
23 probably not clear to you; it was different.
24 My question was this: Before 1976, <before you> captained a boat,
25 is it correct to say that you had no relationship <and> no

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1 <knowledge> regarding <operating boats> or the <navy?>

2 A. Yes, I did not know about anything about the navy because at
3 that time I was still part of Division 164 and I was stationed at
4 the Kang Keng airfield. <I did not have any ship. However,>
5 at that time, <there were> the ships or boats which were the war
6 spoils from the Lon Nol regime. I saw <the Division using> those
7 boats.

8 Q. I would like us to look at the second document on which Judge
9 Lavergne had you give comments, document E3/13. That document is
10 the record of the meeting of the secretaries and deputy
11 secretaries of <the> independent regiment.

12 [15.12.01]

13 My first question is to ask you <to> confirm whether you were
14 never a secretary<, deputy secretary, or a member> of an
15 independent regiment?

16 A. In fact, I was not part of the independent regimental
17 committee. I was subordinated to the regimental level and I was
18 the secretary of a company<, not the secretary of the regiment>.

19 Q. This is a question by a lay person and I crave your indulgence
20 for that.

21 Do we agree that the battalion commander is higher than the
22 commander of a company?

23 A. Regarding the chain of command and the structure of the DK
24 army, it was that the army was divided into squad, group,
25 platoon, company, battalion, regiment, division and then zone.

1 And, in fact, the sector itself had its own sector army, namely,
2 <Kampong Speu,> Kampot, Takeo, Kampong Cham. That is how the
3 military structure was organized <nationwide>.

4 [15.13.52]

5 Q. Witness, I know you have a lot of information on the army but,
6 unfortunately, I'm running out of time. I'm trying to put very
7 specific questions to you, and may I ask you to answer my
8 questions as concisely as possible.

9 My question is aimed at having you clarify this point that the
10 commander of a battalion is of a higher level than the commander
11 of a company. Is that correct?

12 A. The commander of a battalion, of course, is superior <to> the
13 commander of the company because the company is subordinate to
14 the battalion.

15 Q. I say so because in document E3/13, first page, ERN in French,
16 00334972; in Khmer, the ERN is 00052403; in English, 00940337; in
17 paragraph 2 titled <"Study Sessions"> and it is indicated therein
18 that there was going to be education and the following is stated.
19 "We have to choose elements, (1), who are politically clean; and
20 (2), who are capable of comprehending the context. <We select
21 battalion commanders and higher-ups." End of quote.>

22 [15.15.45]

23 So my question to you is whether you know about training sessions
24 that were only for people whose rank was that of battalion
25 commander and above. So let me be <clearer> in my questions.

1 Do you know whether your superiors <from the battalion and up>
2 attended training sessions <in which you did not participate>?

3 A. Regarding the meetings, the meetings were held at different
4 levels. I did not have any rights to attend any meetings held at
5 the battalion level nor at the regimental or divisional level
6 unless I was invited to attend such a meeting when necessary.

7 Q. And returning to the issue of training, this time around you
8 were invited to attend a training session when you were a member
9 of Division 164.

10 May I know whether you attended any training sessions during
11 which you received instructions to kill civilians, including
12 babies, as part of the conflict with Vietnam?

13 [15.17.57]

14 A. To my <best> recollection, I am pretty sure that at the time
15 there were no such principles, and through the meetings that I
16 attended I did not receive any instruction or order to kill
17 infants or to kill Vietnamese civilians.

18 The purpose at the time was for the soldiers to prepare
19 themselves for any possible clashes along the border.

20 <I did not know> the details of the strategies of the combat or
21 the clashes along the border <because> I was not involved <with
22 them>.

23 [15.19.10]

24 Q. And in an answer to a question put to you by the
25 Co-Prosecutor, you said you recalled attending two training

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1 sessions in Phnom Penh attended by Son Sen. <We have a document
2 on the case file, which was shown to you, indicating> that you
3 had attended a training session in November 1976.

4 And in your answer, you also stated -- you appeared to remember
5 having attended a training session in 1975.

6 I would like you to clarify this point because in the record of
7 your interview with Co-Investigating Judges, document
8 E319/23.3.54, in answer to the question 78, you were asked the
9 question:

10 Question: Under the Democratic Kampuchea regime, did you go to
11 Phnom Penh?"

12 And your answer was: "I went to Phnom Penh in 1977 to attend a
13 training session conducted by Son Sen at the military
14 headquarters."

15 [15.20.30]

16 My question to you is as follows. Try to remember as best you
17 can.

18 Did you attend another training session after that of November
19 1976? And was that training session in 1977?

20 If yes, <> would those be the only two training sessions you
21 attended or there were other training sessions <> you attended
22 before or after those training sessions?

23 A. As far as I remember, I attended study sessions two times with
24 Son Sen. That's how I can recall that I attended the two study
25 sessions.

1 In one study session Son Sen was the instructor; that was the
2 first one. And for the second study session, I could say that it
3 happened in 1977 because each year the general staff invited the
4 level of the company up -- that is, company, battalion, regiment
5 and divisions -- to attend such a yearly study session so that we
6 could be instilled with the policies so that we could understand
7 about the lines and the <goals and direction> -- how to build the
8 army and how to have the military or stature and organization.
9 That was the speech made by Son Sen, the opening speech made by
10 Son Sen, for that political study session.

11 [15.22.45]

12 Q. I would like us to revisit document E3/13 that Judge Lavergne
13 asked you to comment on. He quoted a sentence. The ERN is
14 00334983 in French; the ERN in English, 00940355; and the ERN in
15 Khmer is 0052413; and it continues, I believe, on the next page.
16 The sentence that was read out to you was the following:
17 "We must purge the bad elements at all costs in terms of the
18 class struggle<, absolutely>."
19 <I'll first read what follows and then> I'll <> put a question to
20 you on this subject. So <"we must purge the bad elements" and
21 then> there are three categories of bad elements cited.
22 "The first category is the <destructive> category; they must be
23 absolutely purged.
24 "Second category, the ordinary liberal category; they must be
25 re-educated <little by little> in our re-education schools.

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1 "Third category; the category of those who have <just recently>
2 been incited by the enemy, <who just started to believe> in the
3 <others'> incitement. As a first step, they should undergo
4 <re-education> to get them to no longer <trust> the enemy." End
5 of quote.

6 [15.24.25]

7 A while ago, you stated that as part of your duties and
8 responsibilities, <perhaps> first of all as <> company commander
9 and then <as a boat captain in the navy>. You <were responsible
10 for purging> yourself and <inciting> your subordinates <to purge>
11 themselves <as well>.

12 My question to you is as follows: As part of your assignments,
13 did you know of any members of your crew who were sent for
14 <re-education because they> were considered as <belonging> to the
15 second and third categories I have just read out to you?

16 A. At my naval ship, after I was appointed as the captain of the
17 ship, no crew member of my ship was removed who fit any of the
18 three categories that you just described.

19 This kind of action was to be done amongst the <circle of> cadres
20 who were responsible for the technical aspects of each individual
21 crew member.

22 [15.26.22]

23 Q. Another point I'd like to discuss with you is as follows:
24 When you underwent training -- I forgot to mention this point
25 earlier, that's why I'm backtracking a little -- you said that

1 you underwent training at Ou Chheu Teal and you said that your
2 instructor was Chinese.

3 Do you remember whether at the time, while the training session
4 was going on, ordinary boats were authorized to moor at the port
5 at Ou Chheu Teal?

6 A. Besides the military vessels, other vessels could dock only
7 with the permission.

8 As for the training, all combatants or navy or cadres here to
9 engage in the technical training to offer the vessels, the
10 vessels that arrived at Ou Chheu Teal, rather boats that arrived
11 at Ou Chheu Teal port, were those under the instructions from the
12 regimental level or divisional level. Without such authorization,
13 those boats or vessels could not dock at the port.

14 [15.28.10]

15 Q. In document E319/23.3.12, in answer to question 66, <a
16 witness> says something <similar>. He says that: "<I must also
17 specify that the> port at Ou Chheu Teal was used for the
18 training of <Khmer Rouge seamen> by <> Chinese <experts,> and
19 <so> ordinary boats were not authorized to moor at it," and he
20 says that "the port that was at Ream was an international port
21 and <so> it was accessible to all ordinary ships." End of quote.
22 Does this jog your memory? You have pointed out that <> an
23 exceptional authorization <could be issued> allowing boats to
24 moor at the Ou Chheu Teal port. <To your recollection,> was the
25 port at Ream a port to which ordinary boats had access?

1 A. There was also a port at Ream, however, it was an old military
2 port from the Lon Nol regime and it was used prior to 1975 <and
3 in 1975>. The port was still used for the military as well as the
4 civilians, namely, the fishing people who went to fish at sea and
5 <could> return through that port.

6 [15.30.11]

7 Q. I understood from your testimony that you, given the size of
8 your boat, your <responsibilities did not include intercepting>
9 small boats, but that through the radio broadcasts that you would
10 hear on your boat, you had access to some information and
11 therefore on that basis you answered Dany's questions from
12 DC-Cam.

13 So did I understand your testimony properly, that is to say that
14 you obtained information through the radio that you were able to
15 listen to?

16 A. Yes, that is correct. There was a radio communication from the
17 <onshore> headquarters <or from an island> to the ships. They use
18 radio communications and telegrams. Because of the long distance,
19 these were means of communications that they used.

20 Q. Do you remember, either by intercepting the radio broadcasts
21 or by obtaining information from other soldiers who were not part
22 of your vessel, do you remember hearing that there was, between
23 '76 and '79, that is to say, when you were in the navy -- <> did
24 you ever become aware of <> seizures of weapons on Vietnamese
25 vessels? <> That is to say that <> armed vessels were

1 intercepted?

2 [15.32.31]

3 A. In reference to the statement from that document -- although I
4 cannot recall it -- can I clarify with you whether this is the
5 statement that is transcribed from the audio record of my
6 interview with Long Dany from DC-Cam, or are you referring to
7 another document? Please specify the source of that document.

8 Q. Well, I'm putting to you a general question, then afterwards I
9 will provide you with the source <from another witness,>
10 depending on your answer <>.

11 So I'm asking you in general terms, if you remember weapons being
12 seized on <the> boats? <To the best of your recollection, if not,
13 I will attempt to jog your memory.>

14 A. To my recollection, I did not hear such information. Of
15 course, such information was never delivered to my vessel.

16 MR. PRESIDENT:

17 Deputy Co-Prosecutor, you have the floor.

18 MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President.

20 Well, I note that the three sessions given to the Defence have
21 already expired a few minutes <ago>. This is out of a concern for
22 <fairness, we have had three sessions,> Nuon Chea's counsel used
23 two-and-a-half sessions, and Khieu Samphan <defence team> was
24 left with half-an-hour, and the half-an-hour has expired, <Mr.
25 President>.

1 [15.34.43]

2 MS. GUISSÉ:

3 The Co-Prosecutor's calculation is not exact. We calculated this
4 <session> carefully with my colleague from the Nuon Chea team,
5 and one session is <approximately> 70 minutes and last time I was
6 very firm about this, so my colleague used 30 minutes, so I have
7 at least five minutes left for my examination. So let me
8 continue.

9 To finish <up,> Witness.

10 [15.35.16]

11 BY MS. GUISSÉ:

12 Q. You tell me that you do not remember if weapons had been
13 seized. <This is a statement from a witness, and> this is
14 document E319/23.3.21, and I will quote this in English. And it's
15 at question and answer 21 of this statement. "The <Vietnamese>
16 motor boats which entered our territorial waters were harmed with
17 B-40 rockets and so on." End of quote.

18 Another witness, and this is TCW-1000, also spoke about
19 <exchanging> gunfire with certain Vietnamese vessels and about
20 weapons that were <supposedly> found on some of these vessels.
21 So do these statements somehow refresh your memory or not at all
22 regarding the fact that weapons <may have been> found on these
23 vessels or regarding the fact that there <may have been an
24 exchange of> gunfire <during this period>?

25 MR. PRUM SARAT:

1 A. In between 1975 to '76 and '77, there were clashes at sea. As
2 for the new vessel under my supervision, our vessel was not
3 engaged in such clashes.

4 [15.37.20]

5 The statement that you provided in your questioning concerning an
6 account of a witness -- and I can say that that is his personal
7 account. However, for my personal account, I was not aware of
8 that.

9 I can only testify to the extent of what I know, that I
10 personally experienced, and if I do not know I would say so.
11 And regarding this statement, I was not aware of it as my task
12 was not involved in that matter.

13 Q. The last point I would like to talk to you about is the
14 following:

15 You, <yourself were given> training within the army, and we heard
16 before this Chamber witnesses who were speaking about the
17 presence of militiamen or soldiers within the cooperatives. So do
18 you know if the training of these people who were working in the
19 cooperatives <was> similar to the training that was given within
20 the army? <Do you know?>

21 A. As for the work by the cooperatives or by the militia, I could
22 not grasp it as I was far from them. I did not know how they
23 organized their works.

24 As I stated earlier, from 1970 to 1975, I was not at the base, I
25 was < a soldier and only> involved in some major battlefields and

1 <therefore,> I could not tell you about the details of any small
2 clashes or any <skirmishes>.

3 [15.39.52]

4 Q. And this will be my last question. In your DC-Cam document
5 E3/9113, English, ERN 00974249; Khmer, 00926425; regarding the
6 same question, you're here a little bit more specific and you say
7 -- in English I will quote:

8 "Back then, the soldiers were trained by the military
9 commander-in-chief while the local villagers were trained
10 locally. So the soldiers were not aware of the local villagers'
11 training." End of quote.

12 Does that correspond to your memories, that is to say that the
13 fact that the soldiers who were posted in the villages were
14 trained locally?

15 A. In fact, for the bases at the cooperative, I did not know how
16 they ran it. I was with the army and I was far from the
17 cooperatives; so I did not know how they managed their
18 cooperatives or how the administrative structure was organized.
19 I was part of the regular army and usually I was at the front, so
20 I would not know about the organization or the administration at
21 the rear battlefield.

22 [15.42.00]

23 MR. PRESIDENT:

24 The time expires, Counsel.

25 And Mr. Prum Sarat, <the hearing of your testimony as a witness

1 has come to an end. The Chamber is grateful of your time, and
2 your testimony may contribute to the ascertainment of the truth
3 in this case. And you may be excused from the courtroom so you
4 can return to your residence or wherever you wish to return to
5 and the Chamber wishes you all the very best.

6 Court officer, in collaboration with WESU, please make
7 arrangements for transportation for the witness to return to his
8 place.

9 And next, the Chamber will hear testimony of another witness --
10 that is, 2-TCW-849 and, Court officer, please usher the witness
11 into the courtroom.

12 (Witness exits courtroom)

13 (Witness enters courtroom)

14 [15.44.34]

15 QUESTIONING BY MR. PRESIDENT:

16 Q. Good afternoon, Madam Witness. What is your name?

17 MS. IN YOEUNG:

18 A. In Yoeung.

19 Q. Thank you, Madam In Yoeung.

20 When were you born? Can you tell the Chamber?

21 Madam Witness, please wait until the tip of your microphone is
22 red. Can you tell the Chamber when were you born?

23 A. I could not recall it, I have forgotten.

24 Q. How old are you?

25 A. I am 65 years old.

1 Q. Thank you. Madam Witness, where were you born, which district,
2 province, commune that you were born?

3 A. I was born in Kampong Trach commune, Kampong Trach commune.
4 [15.45.55]

5 Q. What district and what province is it in?

6 A. Kampong Trach district (sic), Svay Rieng province.

7 Q. Can you specify again what district in which Kampong Trach
8 commune is located in?

9 A. In Chheu Phleung village.

10 Q. What about the district; what is the name of the district?

11 A. Romeas Haek district.

12 Q. Thank you, Madam Witness.

13 What about your current address? Where do you live? Can you tell
14 us about your current village, commune and district and province?

15 A. My current address is in Chheu Phleung Village.

16 [15.47.10]

17 Q. So it means your current address and your birthplace are the
18 same. Is that correct? <>

19 A. Yes, that is correct.

20 Q. So where do you live right now?

21 A. I live in Chheu Phleung village. Yes, I emphasize, I live in
22 Chheu Phleung village.

23 Q. What are the names of your parents?

24 A. My mother's name is Keo Ut (phonetic). My father's name is In
25 Sun (phonetic).

1 Q. Thank you. What about your husband's name and how many
2 children do you have?

3 A. I have four children.

4 [15.48.41]

5 Q. Thank you. Madam Witness, the greffier made an oral report
6 that to the best of your knowledge<, you> are not related
7 <neither by blood nor by law> to the two Accused, that is Nuon
8 Chea and Khieu Samphan <and any individuals of the civil parties
9 admitted in this case >. Is that report correct?

10 A. I could not get your question.

11 Q. The report is that you are not related<, by blood or by law,
12 to> the two Accused, that is Nuon Chea and Khieu Samphan, and to
13 any <individuals> of the civil parties admitted in this case. Is
14 that correct?

15 A. No, I have no relationship with them.

16 Q. Thank you. Have you already taken an oath before the Iron Club
17 Statue before you come into this courtroom?

18 A. Yes, I have already taken an oath.

19 [15.50.10]

20 Q. Now, we would like to inform you of your rights and
21 obligations as a witness before the Chamber.

22 Madam Witness, as a witness in the proceeding in the Chamber, you
23 may refuse to respond to any question or to make any comment
24 which may incriminate you. There is a right against
25 self-incrimination. This means that you may refuse to provide

1 your response or make any comment that could lead you to being
2 prosecuted.

3 Your Obligations. As a witness in the proceedings before the
4 Chamber, you must respond to any questions by the Bench or
5 relevant parties, except where your response or comment to those
6 questions may incriminate you.

7 As the Chamber has just informed you of your rights as a witness,
8 you must tell the truth that you have known, heard, seen,
9 remembered, experienced or observed directly about an event or
10 occurrence relevant to the questions that the Bench or Parties
11 pose to you.

12 Madam In Yoeung, have you ever given interviews to investigators
13 from the OCIJ of the ECCC?

14 A. No, I have never been interviewed.

15 [15.51.50]

16 Q. I mean that have you ever been interviewed by the
17 investigators from the ECCC, whether at a specific location or
18 you were brought in to be interviewed here at the ECCC?

19 A. No, I have never been invited to this Court, but I was
20 interviewed at my house.

21 Q. Do you remember what the name of the interviewer who
22 interviewed you at your house, and when did the interview take
23 place?

24 A. It was last year. It was about a month ago -- last year at my
25 house.

1 Q. When the investigator interviewed you, how long did it take
2 for that interview?

3 A. It took a long time. It was about half an hour.

4 MR. PRESIDENT:

5 Pursuant to Rule 91bis of the ECCC, the Chamber gives the floor
6 to the Co-Prosecutors to put questions first before any other
7 Parties, and the combined time for the Co-Prosecutors and Lead
8 Co-Lawyer for civil parties are two <court> sessions.

9 You may now proceed.

10 [15.54.22]

11 QUESTIONING BY MR. SREA RATTANAK:

12 Thank you, Mr. President, and good afternoon, Parties in this
13 Chamber. And good afternoon, Madam Witness. My name is Srea
14 Rattanak. I am the National Deputy Co-Prosecutor.

15 Madam Witness, I would like to put some questions to you.

16 Q. My first question is what is your husband's name?

17 MS. IN YOEUING:

18 A. My husband's name is Chan Kea.

19 Q. Between 1970 and 1975, where did you live?

20 A. I lived in Trakeab Kdam village after I was transferred from
21 Chheu Phleung village.

22 [15.55.38]

23 Q. Could you explain to me more clearly about Trakeab Kdam
24 village and Chheu Phleung village? Does it mean that you were
25 born in Chheu Phleung village and then you were transferred to

1 Trakeab Kdam village or what? Could you please explain to me on
2 this?

3 A. I was -- my whole family was transferred to Trakeab Kdam
4 village.

5 Q. So in what commune that Trakeab Kdam village was located?

6 A. Trakeab Kdam village is also in Kampong Trach commune.

7 Q. Is it far from Chheu Phleung village?

8 A. It is about two kilometres away from each other.

9 Q. What about between 1975 and 1979, where did you live?

10 A. Let me think. I was separated from my parents and I lived in
11 the mobile unit, but I could not remember well.

12 [15.57.37]

13 Q. Madam Witness, please listen to my question again. I will ask
14 you a short question.

15 Between 1975 -- I mean from 17 April 1975 onward, where did you
16 live?

17 A. I was separated from my parents <when> I was with the mobile
18 unit.

19 Q. So where was your mobile unit based?

20 A. My mobile unit was sent to the far location in Prasoutr. <It
21 was at the front line.>

22 Q. You talked about Ro (phonetic) Prasoutr, so where was Ro
23 (phonetic) Prasoutr located? I mean the commune or the district
24 where that place located.

25 A. That place was quiet. It was in Chantrea district but I forget

1 the name of the commune that Ro (phonetic) Prasoutr was located
2 in.

3 Q. What did you do at that place?

4 A. I was there to dig ditches and build embankments.

5 Q. Beside that place, were you relocated to any other place
6 during the period of three years?

7 A. I was relocated to Kampong Trach.

8 [16.00.15]

9 Q. Are you referring to Kampong Trach commune that you used to
10 live in? What was the village?

11 A. In Chheu Phleung village. We were relocated to Kampong Trach
12 office, so everyone in my mobile unit was relocated to Kampong
13 Trach.

14 Q. What was the name of the commune, that area that you
15 transferred to?

16 A. It's also Kampong Trach commune, and we spent a long time
17 there before we were relocated to another place.

18 Q. You said that it lasted a long time, so <how> many months was
19 it? And I want to ask you a question now. When you were relocated
20 to Kampong Trach commune, what year or month was it?

21 A. It was in 1975 because <> there were collective marriages
22 organized for us at that time. <The people who were in love could
23 propose the marriages. Then the weddings were organized. There
24 were 20 or 30 couples.>

25 [16.02.01]

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1 Q. When you said that it was in 1975, I seem not to understand it
2 well. So, Madam Witness, please listen to my question carefully.
3 When you were separated from your parents to Ro Prasaut, what
4 year was it?

5 A. It was in 1973 that I was separated from my parents. I lived
6 there for two years and then in 1975 I was relocated and then
7 members of our mobile unit were arranged to get married.

8 Q. So you mean that from 1975 onward, were you relocated to any
9 other place?

10 A. After the collective marriage, <a few months later,> we were
11 relocated to the west.

12 Q. When you say that you were sent to the west, what do you mean?
13 I mean, the village or the commune?

14 MR. PRESIDENT:

15 <Madam Witness, please observe the microphone.>

16 MS. IN YOEUING:

17 A. I cannot recall it well. In 1975 --<we were not yet sent to
18 the west, we were sent to nearby locations.>

19 THE INTERPRETER:

20 Could the witness be directed to put the microphone closer for
21 the interpreter to hear her sound clearly?

22 [16.04.00]

23 MR. PRESIDENT:

24 It is now a convenient time for the adjournment. The Chamber will
25 resume its hearing tomorrow, 28 January <2016>, at 9 a.m. to hear

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1 witness Madam In Yoeung and reserve witness 2-TCW-1007.

2 Thank you, Madam In Yoeung, the hearing of your testimony as a

3 witness has not come to an end yet. You are therefore invited to

4 come and testify once again tomorrow at 9 a.m.

5 Court Officer with the WESU unit, please send Madam In Yoeung to

6 the place where she is staying at the moment and invite her back

7 into the courtroom tomorrow at 9 a.m.

8 Security personnel are instructed to bring Mr. Khieu Samphan and

9 Nuon Chea back to the detention facility and have them returned

10 tomorrow morning before 9 a.m.

11 The Court is now adjourned.

12 (Court adjourns at 1605H)

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