



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
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 05-Jun-2012, 11:00
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

30 May 2012

Trial Day 66

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

Trial Chamber Greffiers/Legal Officers:
DUCH Phary
Matteo CRIPPA
SE Kolvuthy

Lawyers for the Accused:
SON Arun
Michiel PESTMAN
Jasper PAUW
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Anta GUISSÉ

For the Office of the Co-Prosecutors:
VENG Huot
Vincent DE WILDE D'ESTMAEL
Dale LYSAK
Tarik ABDULHAK

Lawyers for the Civil Parties:
PICH Ang
Élisabeth SIMONNEAU-FORT
SAM Sokong
LOR Chunthy
HONG Kimsuon
VEN Pov
KIM Mengkhy
TY Srinna
Laure DESFORGES
Barnabé NEKUIE
SIN Soworn

For Court Management Section:
UCH Arun

INDEX

MR. NY KAN (TCW-487)

Questioning by Judge Lavergne	page 3
Questioning by Mr. Son Arun.....	page 7
Questioning by Mr. Pestman	page 25
Questioning by Mr. Ang Udom.....	page 44
Questioning by Mr. Kong Sam Onn.....	page 58
Questioning by Ms. Guissé	page 67

MR. SAR KIMLOMOUTH (TCW-583)

Questioning by the President.....	page 81
Questioning by Mr. Veng Huot.....	page 84

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
MR. DE WILDE D'ESTMAEL	French
MS. GUISSÉ	French
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NY KAN (TCW-487)	Khmer
MR. PESTMAN	English
MR. SAR KIMLOMOUTH (TCW-583)	Khmer
MR. SON ARUN	Khmer
MR. VENG HUOT	Khmer

1

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 During today's session, we're going to hear testimonies of Mr. Ny

6 Kan. Yesterday, the Chamber has already informed parties to the

7 proceeding that questions should now begin from counsels from

8 Nuon Chea.

9 [09.01.26]

10 Before we proceed to other counsels, Judges of the Bench may wish

11 to put a few questions to the witness as well.

12 Mr. Duch Phary, could you report on the health status of Mr. Ieng

13 Sary to the Chamber?

14 THE GREFFIER:

15 Good morning, Mr. President, Your Honours.

16 Mr. Ieng Sary is present in the holding cell. Mr. Ieng Sary has

17 waived his right to be present in the courtroom. His waiver has

18 already been given to the greffier already.

19 Thank you, Mr. President.

20 MR. PRESIDENT:

21 The Chamber has received Mr. Ieng Sary waiver, in which he has

22 requested that he be excused from this courtroom and be permitted

23 to observe the proceedings from his holding cell for the whole

24 day due to his health reason. He cannot remain seated in the

25 courtroom.

2

1 [09.02.59]

2 The Chamber has noted this and that he is permitted to observe
3 the proceedings from -- from his holding cell through the
4 video-link. Mr. Ieng Sary can also assist his counsel - or,
5 rather, provide -- Mr. Ieng Sary can be assisted from his holding
6 cell through such audio-visual link.

7 AV booth officials are now instructed to ensure that the AV --
8 audio-visual equipment are well-connected to the holding cell so
9 that Mr. Ieng Sary can observe the proceedings from there.

10 We now proceed to the testimony session of Mr. -- of the witness,
11 but before we proceed, I would like to ask my fellow Judges to
12 see whether they would wish to put any questions to the witness.
13 Judge Lavergne, you may now proceed.

14 JUDGE LAVERGNE:

15 Good morning. And thank you very much, Mr. President.

16 [09.04.20]

17 Just before addressing a few supplementary questions to the
18 witness, I wish to bring to the attention of all a few
19 clarifications -- clarifications on documents that were brought
20 forward by the Prosecution during the cross-examination of the
21 witness; those documents are telegrams 306 and 307, which carry
22 the numbers D52/12 (sic) as well as D52.13 (sic). These telegrams
23 recount the visit of the Yugoslav delegation to Democratic
24 Kampuchea. Those telegrams are signed by a certain Kan, and I
25 believe that it would be very important for everyone to know that

3

1 those, indeed, are copies of telegrams; therefore, we have an
2 acknowledgement of receipt of those documents. Telegrams 306 and
3 307 were received respectively on the 12th and 15th of March
4 1978.

5 [09.05.39]

6 More importantly, I would emphasize that those telegrams contain
7 lists of the recipients of those said telegrams, and among those
8 recipients, I would name Om -- Om Nuon, Bong Van -- Brother Van
9 -- Bong Vorn -- that is, Brother Vorn -- and it would appear that
10 copies were also transmitted to the office and the archives. I
11 believe that it was crucial for the public as well as for members
12 of this courtroom to be apprised of that.

13 QUESTIONING BY JUDGE LAVERGNE:

14 Q. Now, good morning, Mr. Witness. I do have a few brief
15 questions to put to you. The first relates to the role of Mr.
16 Khieu Samphan.

17 During the course of your work at the Ministry of Foreign
18 Affairs, you were in contact with Mr. Khieu Samphan. Can you
19 please tell us in what circumstances you were in contact with Mr.
20 Khieu Samphan?

21 MR. NY KAN:

22 A. Good morning, Mr. President, Your Honours.

23 [09.07.18]

24 I worked at the Ministry of Foreign Affairs. The structure of
25 work at the ministry was already mentioned in my testimony

4

1 previously. We had to obey people according to the hierarchical
2 orders and the person who was in charge of the ministry was Ta
3 Ieng Sary. At that time, I had no contact with Mr. Khieu Samphan.

4 Q. Mr. Ny, can you testify to this Court that you were the
5 director of protocol -- that you were in charge of protocol and
6 part of your responsibilities was to welcome foreign dignitaries?
7 And of the delegations who travelled here, did any of them meet
8 with Mr. Khieu Samphan? And during those occasions, did you meet
9 and come in contact with Mr. Khieu Samphan?

10 A. The majority of the foreign visitors I received were of the
11 lower-level people including the journalists. I received them
12 occasionally.

13 As far as I know, I had never met Khieu Samphan during such
14 occasion.

15 [09.09.30]

16 Q. Did you have the opportunity to run into Mr. Khieu Samphan in
17 the hallways of the Ministry of Foreign Affairs?

18 A. No, I didn't.

19 Q. Very well. Mr. Witness, could you please tell the Court who
20 was in charge of the Ministry of Foreign Affairs when Mr. Ieng
21 Sary was absent? Who replaced Mr. Ieng Sary on those occasions?

22 A. It was a long time ago; I don't remember everything. However,
23 according to the hierarchy, how people worked, it was Hong who
24 had to replace him when he was absent; and another person would
25 be Mr. Cheam.

5

1 Q. And when you refer to Hong, are you talking about So Hong,
2 alias Saloth Ban?

3 A. I remember the person as Hong or So Hong; I don't know whether
4 he had another name as Mr. Saloth Ban because, normally, during
5 that time, people had some other names.

6 [09.11.43]

7 Q. And did you know that that individual was the brother of Pol
8 Pot?

9 A. At that time, people biographies were not open or exposed to
10 us to know whether he was somewhat related to Pol Pot.

11 Q. Very well. Let us return to an area that seems to be your
12 domain of expertise, not of propaganda, since you have several
13 years of experience in that field.

14 Did you know anyone by the name of Yun Yat?

15 A. I believe Yat must have been the wife of Mr. Son Sen.

16 Q. And what was she in charge of during the time of Democratic
17 Kampuchea?

18 A. The regime of work, at that time, as I already indicated to
19 the Chamber, the work of the upper echelon and of the lower
20 echelon was not connected -- or was separate. So, until today, I
21 have no idea what she could have done.

22 [09.14.10]

23 Q. But who gave you instructions regarding propaganda, sir? From
24 whom did you receive those orders?

25 A. I believe the structure, at that time, was a unique structure

6

1 without proper vertical line. It was the chairperson or the head
2 of the ministry or each respective department would be the ones
3 who rendered the orders or instructions. So to put it simply, I
4 received such orders from the chief of the department.

5 Q. Very well, that brings us to our last question. What did you
6 know about the death of your brother, Son Sen, and Yun Yat? What
7 did you know at the time?

8 A. I learned about this through other people; however, I do not
9 know the cause of their death and who killed them. I'm not sure I
10 understand or I know this. And to make sure we understand this,
11 when the war was nearing the end, I was attached to the south
12 location and my brother's family was attached to the north wing,
13 and they were at the higher level, and I did not know anything
14 about their fate and I heard from people that they're all dead.
15 We had not had any contacts with them before they died and there
16 was no proper channel of communication to me and I just heard
17 from others that they died.

18 [09.17.27]

19 JUDGE LAVERGNE:

20 Mr. President, I have no further questions to ask this witness.

21 Thank you.

22 MR. PRESIDENT:

23 Next, we would like to hand over to counsels for Nuon Chea to put
24 questions to the witness if they would wish to do so. You may now
25 proceed.

1 QUESTIONING BY MR. SON ARUN:

2 Good morning, Mr. President. Good morning, Your Honours, and good
3 morning, Mr. Ny Kan. I am Son Arun, representing Nuon Chea. First
4 of all, I would like to put a few questions to you.

5 [09.18.24]

6 Q. Yesterday and before yesterday, you testified before the
7 Chamber when questions put by the prosecutors and the counsels
8 for the civil party. You indicated that you joined the
9 revolution, for sure, in 1970; is that correct?

10 A. My engagement in the revolution was happening by -- or in
11 1970.

12 Q. Thank you. Before 1970, in your testimonies, you said you had
13 worked, but not in your capacity as a member of the Party; you
14 only worked in the propaganda section; proselytize information in
15 the underground. And, as a teacher, did you know that foreigners
16 already came to settle down in Cambodia or did you know that
17 these foreigners came to cause problem including causing the
18 insecurity in the country in the 1960s?

19 I believe that, as a teacher, you were educated enough to
20 understand this situation. Have you ever heard anything like
21 this?

22 [09.21.05]

23 MR. PRESIDENT:

24 Witness, could you hold on?

25 The Prosecutor, you may now proceed.

1 MR. DE WILDE D'ESTMAEL:

2 Thank you very much, Mr. President. Good morning, Your Honours,
3 ladies and gentlemen. We've just heard a very long question about
4 the presence of foreigners that is rather convoluted.

5 I believe that the question should be reformulated, simplified,
6 so that we can all understand exactly what counsel is trying to
7 ask. Thank you very much.

8 MR. SON ARUN:

9 I would like to respond to the prosecutor. Whether my question is
10 long or short, it depends on the witness who may able -- be able
11 to respond to my question or not.

12 [09.22.05]

13 MR. PRESIDENT:

14 The objection by the Prosecution is not sustained.

15 The Chamber wishes to hear the response of the witness to the
16 question put to him by counsel for Mr. Nuon Chea. Witness is now
17 instructed to respond.

18 MR. NY KAN:

19 I think I may wish to respond to the question. I don't know
20 whether the statement were answers to the question or not.

21 A. When I worked as a school teacher and I was engaged in the
22 propaganda, but I had no knowledge of any foreigners coming to
23 settle in Cambodia as yet.

24 [09.23.13]

25 BY MR. SON ARUN:

1 Q. In 1970, you genuinely joined the revolution. And you said
2 yesterday that you joined the revolution through the appeal by
3 the Front for people to go to the maquis. I would like you to
4 explain to the Court what is your understanding of the maquis
5 forest.

6 MR. NY KAN:

7 A. The explanation of the maquis forest may not be properly done
8 by me because I don't remember the details of this, but I can --
9 I can briefly say that the purpose is to make people unite
10 together to fight the American Imperialists along with the Lon
11 Nol's people; those people who staged the coup d'état to topple
12 down King Norodom Sihanouk so this is what we understood from
13 this.

14 [09.25.04]

15 Q. You said the Front appealed to people to go to the maquis. Who
16 is, actually, the Front as you refer to? Was it an organization
17 or who for sure?

18 A. The Front was the one who gave the instruction and it was the
19 head of state and, so far as I remember, the person who was in
20 charge of the Front was individual Samdech Euv, or the king.

21 Q. So the Front appealed and asked people to go to the maquis
22 forest to fight the American Imperialists. From 1970 through
23 1975, you had worked fully in the Front. This Front was created
24 by whom? By the CPK or by Samdech Euv?

25 A. I don't think I understand this because it was part of the

1 upper echelon task.

2 Q. From 1970 through 1975, the same period, indeed, you had
3 joined as a full member in the resistance movement. At that time,
4 did you believe that all the people who were in the resistance
5 were the supporters of King Norodom Sihanouk or did they belong
6 to other groups?

7 A. I don't think I understand the details of this. However, I
8 noted that, in the Front, I saw people from all walks of life,
9 from every movement, to come and join in this movement. I cannot
10 say exactly which groups they belong because, as a lower-level
11 cadre, I do not think I understand this in detail.

12 [09.28.53]

13 Q. In document D69/16 (sic), on G3 (sic), the question about when
14 Ta Si was arrested, can you please clarify the response to this
15 question?

16 A. I would like to make it clear that I still maintain my
17 statement I gave to the Co-Investigating Judges. I stand by that
18 position that I left and I heard the information concerning the
19 arrest, but I don't remember the exact date of the arrest.

20 Q. In the same document, you said and you responded -- indeed, on
21 the second line, you said that about three months when you had
22 left the West Zone for the Ministry of Foreign Affairs, several
23 problems happened concerning the arrest of people at the West
24 Zone, but you said you didn't know this.

25 [09.30.56]

11

1 And you also indicated that at the Ministry of Foreign Affairs a
2 lot of problems happened concerning the arrest of people in the
3 West, but you did not know that. We just want to know what you
4 mean by you "didn't know it"?

5 A. When I said after I had left, there was information that
6 people had been arrested in the West Zone, I learned from the
7 outside source. However, I did not know where these people
8 arrested could have been sent to. And, so far as I remember, I
9 never mentioned any arrests made at the Ministry of Foreign
10 Affairs because, when I came, I did not know those people and I
11 did not even know whether people could have been arrested or not.
12 I was at the Ministry of Foreign Affairs and I was -- I was
13 tasked immediately with some protocol work. I was assigned to
14 clean the houses and to arrange for receiving visitors.

15 [09.32.47]

16 Q. My next question is: You told the Co-Investigating Judges that
17 you came to the Ministry of Foreign Affairs; how did you learn
18 about the arrests in the West Zone? How did you know that?

19 A. I learned about that through the grapevines.

20 Q. Thank you. In the same document, document 369/16, question
21 number 9: "...according to the 'Revolutionary Flag' number 8,
22 August 1977; did you know about that 'Revolutionary Flag'?"
23 Did you see that "Revolutionary Flag"?

24 A. I have already answered to that question, but I can answer it
25 again and I don't know if I respond correctly to the question.

12

1 First, I did not see the "Revolutionary Flag" and even the
2 substance that was used in the training session was an excerpt
3 from the "Revolutionary Flag" itself. And "Revolutionary Flag" is
4 an internal document. So that's all I would like to answer to
5 that question.

6 [09.35.02]

7 Q. My question is whether or not you had seen the "Revolutionary
8 Flag" or had you read the "Revolutionary Flag" or you merely saw
9 the excerpt from the "Revolutionary Flag"?

10 A. Back then, the "Revolutionary Flag" document was not widely
11 disseminated, so I did not see; what I only got was the excerpt
12 from this magazine.

13 Q. Thank you. Can you recall some of the substance of the excerpt
14 from that magazine? Can you tell the Court about some of its
15 substance?

16 A. The fundamental substance of this document was that we had to
17 be constantly on the offensive in order to be self-reliant. This
18 is the fundamental essence of this magazine and it was for our
19 execution as well.

20 [09.36.47]

21 The second substance was that, beside the constant offense on
22 producing rice, we have to address the livelihood issue of the
23 people at the base level. This is the second essence of the
24 portion introduced to us.

25 And other secondary substance includes promotion of healthcare

1 for the people and enhance solidarity and unity between the New
2 People and the old ones.

3 This is what I can recall from the substance of the excerpts from
4 that magazine.

5 Q. Thank you for your detailed response to the question.

6 According to your statement with the Office of Co-Prosecutor on
7 the 28 of May 2012, that your report to the zone had to be
8 submitted through the sector and if there is any letter from the
9 -- down from the zone, it must go through the sector, as well--
10 Is this a working procedure?

11 A. The working procedure and communication line is as what you
12 have just described. We have to communicate through hierarchical
13 structure whether it be from bottom up or from the upper
14 authority down to the lower level.

15 [09.39.34]

16 Q. That was the administrative and working procedure of your
17 organization. Do you know that this was a uniform working
18 procedure, or it was unique to each organization or unit?

19 A. The working procedure which I knew was that, it was uniform
20 across the organization.

21 Q. Thank you. Following your participation in the Front -- and
22 you were in charge of propaganda up until 1975 -- during that
23 period, did you see any foreign forces -- particularly the
24 Vietnamese forces, or commonly known as Viet Cong -- who came to
25 assist the Lon Nol soldiers and his American ally?

14

1 [09.41.28]

2 A. I was a propagandist and I was operating within my own
3 framework, so I did not see anything, for example Vietnamese
4 troop or Viet Cong or so. I did not see any of them.

5 Q. Thank you. How about when Phnom Penh was liberated in 1975?
6 Did you notice any Vietnamese troop working with the Front
7 forces?

8 A. Could you please clarify your question?

9 Q. From 1975 onward -- namely after Phnom Penh was liberated on
10 the 17th of April 1975 -- at that time, the Communist Party of
11 Kampuchea seized Phnom Penh. And you were in Phnom Penh. You were
12 stationed somewhere in Oudong. And when Phnom Penh was conquered,
13 then you came into the city.

14 [09.43.45]

15 When you arrived in the city, did you see any foreign forces? Did
16 you notice that there were foreign forces, particularly
17 Vietnamese forces fighting alongside with the Front forces? Or it
18 was the pure Front forces?

19 A. I was with the forces, and I got into the city with them. And
20 when -- on my arrival, I did not see any foreign forces. I only
21 saw the United Front forces.

22 Q. When the forces belonged to the West Zone -- conquered Phnom
23 Penh, you were with the forces that were at the rear. You were
24 not at the Front, if my understanding is correct. And you were
25 targeting to conquer the city.

15

1 But my question is whether or not you heard that any other
2 foreign forces were resisting the forces of the Democratic
3 Kampuchea.

4 A. I only knew one Front. And, according to my personal
5 understanding of the situation at that time, I didn't think that
6 there was any other foreign forces. But it was only one United
7 Front forces who were fighting their way to conquer the city.

8 Q. Thank you.

9 So I would like to move on to the next topic. When you became a
10 member -- a full member of the revolution, you worked with
11 dedication with the Front and you held a moderate position
12 throughout the period from 1975--

13 (No interpretation)

14 [09.47.16]

15 MR. PRESIDENT:

16 The Witness, please hold on.

17 The Counsel, you may repeat your question because there was loss
18 in translation.

19 BY MR. SON ARUN:

20 Q. You became a full member of the revolution since 1970, up
21 until 1975. And then you held a number -- some positions until
22 1979, when Vietnamese troops conquered Phnom Penh. You undertook
23 some responsibility, and those responsibility were somewhat
24 important. And that would allow you to known other leaders as
25 well.

1 [09.48.23]

2 Did you know Mr. Nuon Chea?

3 MR. NY KAN:

4 A. Nuon Chea was among the senior leaders of the regime, and I
5 was a lower-level cadre; and of course I knew him.

6 Q. Were you close to him? Or you merely knew that Nuon Chea was
7 someone who was high up in the hierarchy? Nuon Chea, when you
8 knew him back then -- what was his position in the Party and in
9 the regime?

10 A. Can you please repeat your question? Because I do not quite
11 get your point.

12 Q. My apology, Mr. President. I would like to now repeat my
13 question: Since you became a full member of the Front, from 1970
14 up until 1975, and then you continue until 1979 -- and after --
15 until the Vietnamese troop conquered Phnom Penh, you held a
16 moderately important position; did you know Mr. Nuon Chea
17 clearly?

18 [09.50.47]

19 MR. PRESIDENT:

20 This question is repetitious. This question has already been
21 answered. You should repeat your last question -- the question
22 that the witness is asking for repetition was your last question,
23 not the question being asked.

24 BY MR. SON ARUN:

25 Thank you, Mr. President.

17

1 Q. You said that you knew Nuon Chea in his capacity as the person
2 in the upper authority. But did you know his position, exactly,
3 in the Communist Party of Kampuchea?

4 MR. NY KAN:

5 A. My answer is the same: I did not know the organization
6 structure at the upper level.

7 Q. As far as I know, Mr. Nuon Chea was the president of the
8 People's Assembly, in charge of education and propaganda.

9 [09.52.30]

10 Because his area of responsibility was propaganda and education,
11 so his -- he would be in the same areas of responsibility like
12 yours. So, when Mr. Nuon Chea went down to the base or to the
13 zone in order to conduct propaganda, did you ever join in his
14 propaganda in those zones?

15 A. I will respond to the question based on my recollection.

16 First, on the hierarchical structure, on the paper, that was the
17 structure, but on the operational level, that was not practiced,

18 because I try to answer based on my understanding. The situation

19 at that time was very -- the situation at that time was a bit

20 chaotic, because one war ended and another one erupted. So the

21 line of communication is not based on any precise structure.

22 Secondly, my response to the question will be repeating to what I

23 responded over the last few days: I only attended in the training

24 or propaganda programs when they were conducted in an open ways.

25 And, of course, people at the upper authority rarely went down to

1 the base.

2 Q. Thank you.

3 [09.55.09]

4 You testified that you had attended open meetings. And once in a
5 while, you saw Nuon Chea. Even if you were not close to him
6 personally, what was your impression of him? Was he someone of
7 good model for the citizen, or he was someone who was a crook, or
8 someone who was cruel? Someone who was very harsh? And -- or he
9 was someone of -- a quality of a good leader?

10 A. I will respond to this question based on my understanding.

11 First, my impression was that, he was like an ordinary citizen.

12 Secondly, as for his precise role and responsibility, it was up
13 to the level -- up to the upper level to arrange, so I could not
14 comment on it.

15 [09.57.20]

16 Q. Thank you. From 1975 onwards, when you were transferred from
17 one place to another, was the transfer order made in a written
18 form? Or it was an oral order that you be transferred from one
19 place to another?

20 My question was, basically, on the administrative procedures. Can
21 you please elaborate on that?

22 A. The leadership regime at that time was that the lower levels
23 had to obey orders from the upper levels. So I was asked to
24 assist at the ministry. And the justification for this transfer
25 was always the same. I was told that I could read and write, and

19

1 that I would be of assist in that ministry, and I should not go
2 to the base.

3 Q. I have a follow-up question to this. Within the CPK structure,
4 according to your knowledge and based on what you implemented --
5 now, for example, if you were a head of a department or a
6 minister -- were there any subordinates or deputies who would be
7 in place to assist the persons -- the heads who would be absent?
8 Do you understand my question?

9 [10.00.31]

10 A. I am afraid I don't understand your question; please repeat.

11 Q. For example, in the capacity as a head of -- or, a leader --
12 the secretary of the zone or the minister -- after them, who were
13 they? Were there any deputies to replace the chiefs when they
14 were absent? Or were there only the heads? No other deputy-heads?

15 A. In general, it was the norm that, when a person was
16 transferred -- for example, in my case, I was transferred to the
17 section when I would receive guests and accompany visitors. About
18 three young people were assigned to assist me with my work. But
19 at that time I had no deputy who would be in place to help me.

20 Q. Mr. Son Sen was your brother. When he went to the East -- when
21 there was fighting in the East -- on the 15th August 1977 -- did
22 you know anything -- whether someone would be asked to replaced
23 Son Sen at the ministry when Son Sen was sent to the East?

24 A. As already indicated time and again, the work of my brother
25 was separate from mine; we held different roles and we had

20

1 different responsibilities. So your question -- whether I had any
2 knowledge of the structure in which my brother worked -- my
3 response is very simple: No, I don't.

4 [10.04.05]

5 Q. When -- or, during the course of your propaganda work, you had
6 been working in this section for quite some time.

7 My question is: Before you were engaged in the propaganda
8 section, had you ever been trained in propaganda before?

9 A. If my memory serves me well, during that circumstance, there
10 had not been any proper political training sessions on that. I
11 had to take over this task and learn from the lessons passed down
12 from the other.

13 [10.06.04]

14 For example, in the propaganda, what words and expressions or
15 texts would be included? And we just had to follow what people
16 normally did, and we just learned on the job.

17 Q. Could you respond in a few words what kind of education you --
18 what kind of education was that in your course of propaganda
19 sessions?

20 A. The education and the content of the education back then was
21 -- or depends on the time or the surrounding areas, the
22 environment. For example, if we went to the base, the content of
23 the education would be about the production; about the offensive
24 farm production; about self-reliance and independence.

25 [10.07.51]

21

1 And also we had to include in these education sessions issues
2 concerning health, solidarity, etc. We had to ensure that the
3 solidarity notion was inflicted -- was included in the education
4 or propaganda. And, for example, when it comes to boiling water,
5 what should we do? What kind of firewood could we bring to boil
6 this water? And, if we needed people for the front, the
7 battlefields, then we needed to include the content in which
8 people would be convinced to come forward to assist the groups in
9 the transportation section and to supply foods and other stuff to
10 the people in the front battlefield. And these are part of the
11 content of the education and propaganda sessions.

12 Q. Thank you.

13 I am now referring to a document D91/22, ERN numbers 02044134.
14 With Mr. President's leave, may this document be put up on the
15 screen?

16 MR. PRESIDENT:

17 Could you tell the Court the title of this document?

18 MR. SON ARUN:

19 The title of the document is "The Ministry of Foreign Affairs
20 Alias B1".

21 [10.10.38]

22 MR. PRESIDENT:

23 You may proceed.

24 Court official is now instructed to take the document from
25 counsel and have it presented to the witness for examination and

1 that the document should now be put up on the screen for the
2 Court.

3 BY MR. SON ARUN:

4 Q. Have you ever seen this document, in particular the structure
5 of the organization or structure? You may note your name on the
6 top row, under Ieng Sary -- in box number 4, underneath Ieng
7 Sary's name; then you will see "Ny Kan", your name.

8 MR. NY KAN:

9 A. I think I now see this document and my name.

10 Q. Have you ever seen this structure of the Ministry of Foreign
11 Affairs? Now, I would like to refer mainly to the box in which
12 your name exists. There's another person named Ti Srin alias Mut,
13 and then your name, "Ny Kan, Protocol Department".

14 [10.12.55]

15 Can you read these writings? Although I cannot see it clearly, do
16 you think you can read it clearly? And I think the names appear
17 to have different kind of vowels and consonants; do you recognize
18 such writings? Is this the original genuine document from the
19 outset?

20 A. I think this table, in my plain language, was only introduced
21 to me during the investigation phase. I was presented the
22 document by the Co-Investigating Judges.

23 And, secondly, that name, Ti Srin, or other people here, I don't
24 think I know this person.

25 [10.14.17]

1 And, thirdly, the names during the war or after the war or
2 between 1975 and 1979, I would use my name as Kan, I never used
3 my surname. Because people would like to have their very short
4 name to be easily called and addressed. That's all I can tell
5 you.

6 And, in conclusion, I may say that I only came to know this
7 document when it was presented to me by the Co-Investigating
8 Judges.

9 Q. You said the document was known to you only when you were
10 presented the document before the Co-Investigating Judges. But
11 today, I would like to put to you whether you recognize and
12 acknowledge such structure?

13 A. I wish to reiterate that, with regard to this structure I,
14 time and again, indicate that I was transferred to the protocol
15 section. And it is true; however, I was the implementer. I was
16 not officially pronounced the director of the protocol section
17 and I had to implement, or carry out my tasks for a very short
18 period of time.

19 And, secondly, at that time, I have no idea what kind of
20 arrangement could have been made; whether any other person would
21 be assigned to any particular position or department because
22 there was no proper or official appointment had ever been made.

23 [10.16.51]

24 Q. So, when you worked at the Ministry of Foreign Affairs in the
25 protocol office, you never seen this structure; is it fair to say

24

1 so? And at the time when you were presented the document, it was
2 your first time to see it?

3 That's why I ask you this question again: Do you recognize or
4 acknowledge such table or structure?

5 MR. PRESIDENT:

6 The question is repetitive, and witness is instructed not to
7 respond.

8 Counsel is advised to proceed to another question.

9 BY MR. SON ARUN:

10 Q. The next question is-- Please look at the writings in that
11 structure. Look at the vowels; look at the consonants and signs,
12 for example, the moonlike signs. According to your knowledge and
13 understanding -- I believe that, during your time, English was
14 not the popular language used -- do you think that this table
15 could have been produced by a Cambodian?

16 [10.18.22]

17 MR. NY KAN:

18 A. I think I -- my understanding is not up to the level to
19 explain this because I have just seen the table and I don't know
20 much about it.

21 Q. Thank you.

22 I have another question and I believe it is my final question.

23 Document D366/7.1.214. This document has already been referred to
24 by the prosecutors when they put questions to you. However, I
25 would wish to put a few more questions on the same document. This

25

1 document is about the request by the journalists.

2 My question is: Were all the requests made by the journalists the
3 same as you indicated in your report to the upper echelon and
4 whether such requests were entertained by the upper echelon as
5 you indicated the request that made by the journalists, the three
6 journalists?

7 [10.20.28]

8 A. I already stated once it was a long time ago. The content of
9 the report, although my name appears on that piece of paper, I do
10 not think I remember them all. But, I can say that, according to
11 my memory, the requests were not entertained.

12 Q. What about the request made by Ms. Becker, the request to meet
13 with Brother First Minister? Was such request entertained and did
14 she meet with the Minister?

15 A. I don't remember this.

16 MR. SON ARUN:

17 I have no further question, Mr. President. Thank you very much,
18 Your Honours. And my colleague would like to proceed from me.

19 [10.21.58]

20 MR. PRESIDENT:

21 Counsel, you may now proceed.

22 QUESTIONING BY MR. PESTMAN:

23 Thank you, Mr. President.

24 Mr. Witness, I am the international lawyer -- or one of the
25 international lawyers for Mr. Nuon Chea and I have some

1 questions. I have three or four topics I would like to cover. I
2 can think - I do think that I can cover the first, maybe even the
3 first two before the interval.

4 Q. Mr. Witness, first of all, I would like to ask some questions
5 about the oath you gave before coming to Court.

6 Do I remember correctly that you told this Court, at the very
7 beginning of your testimony, that you were sworn in, that you
8 gave an oath before coming to Court; is that correct?

9 MR. PRESIDENT:

10 Witness is instructed not to respond to the question because the
11 Chamber has already apprised the parties of this at the outset of
12 the commencements of this hearing concerning this.

13 [10.23.31]

14 BY MR. PESTMAN:

15 Q. Where did you give your oath, Mr. Witness?

16 MR. PRESIDENT:

17 Witness is instructed not to respond to this question.

18 Counsel is now instructed to look at the transcript. He may find
19 the information he needs.

20 Normally, witness is supposed to take an oath before the Iron
21 Genie which is erected to the east of this court.

22 MR. PESTMAN:

23 I understand, Mr. President, that that is a normal procedure; I
24 just want to be sure that the normal procedure was followed with
25 this particular witness.

1 [10.24.32]

2 MR. PRESIDENT:

3 You may proceed with other questions that are not relevant to the
4 one that already put previously.

5 BY MR. PESTMAN:

6 I have some more questions about the oath. I'll continue with
7 those.

8 Q. Mr. Witness, I assume you gave your oath outside, before the
9 Lord of the Iron Staff. Normally, an oath is given in Court--

10 MR. PRESIDENT:

11 The Chamber has already ruled that you are not allowed to put any
12 further questions concerning the oath. The oath procedures have
13 already been made in public.

14 And if you have any problem or you challenge such a procedure,
15 you may make your application in your final statement, after the
16 substantive hearing.

17 MR. PESTMAN:

18 Mr. President, I was not intending to challenge the procedure; I
19 was -- I want to establish what the procedure is; I want to ask
20 this particular witness whether the procedure was followed. And I
21 would like to emphasize that, normally, an oath is given, a
22 witness is sworn in in Court, in the presence of the parties, but
23 nobody's present -- or nobody was present. I--

24 [10.26.08]

25 MR. PRESIDENT:

1 This is not the entire procedures to be applied here in the Court
2 as you understood. If persons who have to have to take an oath
3 and they are the followers of other religions, then they would be
4 allowed to take an oath differently. However, if they are
5 Buddhists, then they are supposed to take an oath according to
6 the text of the oath as encrypted or as prescribed in the
7 Criminal Code of Procedure.

8 [10.26.54]

9 This witness has already taken an oath according to the law of
10 Cambodia and in his capacity as a Buddhist. Except some -- a
11 witness who is a Christian or another religion follower, then he
12 or she would take an oath differently.

13 BY MR. PESTMAN:

14 Thank you, Mr. President. I understand there are various
15 religions in Cambodia. I'll be more specific, then.

16 Q. According to the document which was put on the file, you were
17 sworn in and you said, I presume, the following -- and I quote:

18 "If I answer falsely on any issue, may all the guardian angels,
19 forest guardians, and powerful sacred spirits destroy me, may my
20 material possessions be destroyed, and may I die a miserable and
21 violent death."

22 Do you remember saying those words when you were sworn in?

23 MR. PRESIDENT:

24 The witness is not instructed -- is now instructed not to answer
25 to this question. So, so long as the question is connected to the

1 sworn in of the witness, the witness is instructed not to answer.

2 [10.28.34]

3 MR. PESTMAN:

4 Mr. President, I seriously don't understand why I am not allowed
5 to ask those questions? They appear to be relevant, and I would
6 like to know whether this particular witness gave the oath and
7 whether he pronounced those words, and, most of all, I want to
8 know whether this particular witness believes what he told the
9 Lord of the Iron Staff. I want to know whether this particular
10 witness considers himself to be under oath or under threat of a
11 miserable and violent death if he falsely testifies. I think
12 that's a relevant question.

13 (Judges deliberate)

14 [10.29.16]

15 MR. PRESIDENT:

16 Do you think you have any other substantial questions to be put
17 to the witness? If not, the Chamber would proceed to other
18 counsels.

19 BY MR. PESTMAN:

20 I take -- that is a no to my request whether I'm allowed to ask
21 this question.

22 Q. Mr. Witness, do you think that the Lord of the Iron Staff is a
23 simple--

24 Let me rephrase that. The President of this Court informed--

25 MR. PRESIDENT:

30

1 You're not allowed to put additional questions concerning the
2 swearing of this witness. This is the ruling of the Chamber. And
3 please move on. If you do not have any other substantive
4 questions, then we will proceed to another counsel.

5 [10.30.51]

6 MR. PESTMAN:

7 I certainly have other substantive questions, sir. I just wanted
8 to know whether this witness shares your opinion, Mr. President,
9 that the Lord of the Iron Staff is mere superstition.

10 I think it is better for all of us if we break up now, and I will
11 continue with another topic after the interval.

12 MR. PRESIDENT:

13 You may continue. The decision to adjourn the proceeding or not
14 is up to the Chamber. The parties may simply continue and we will
15 tell whether the Court is adjourned. We have, so far, reminded
16 parties, time and again, that the Chamber has the sole discretion
17 to decide whether or not to adjourn the proceeding at any stage
18 of the time. And this is done in light of the fact that we want
19 this proceeding to be efficient and expeditious.

20 [10.32.26]

21 BY MR. PESTMAN:

22 Your Honour, my client, I can assure you, shares that wish.

23 Q. I'll go to the next topic. Mr. Witness, could you just explain
24 very briefly why you think you were transferred from Sector 32 to
25 the Ministry of Foreign Affairs?

1 MR. PRESIDENT:

2 Witness, please hold on.

3 The International Co-Prosecutor, you may proceed.

4 MR. DE WILDE D'ESTMAEL:

5 Thank you, Mr. President. I didn't really want to intervene here,

6 but the question was put yesterday and again today, manifestly,

7 so it's repetitive.

8 [10.33.29]

9 MR. PRESIDENT:

10 Thank you. The objection by the Prosecution is sustained.

11 The witness need not answer that question.

12 BY MR. PESTMAN:

13 I would have liked to reply before you took a decision, but as a

14 general remark, I would like to emphasize that it's part of a

15 normal cross-examination technique to ask repetitive questions. I

16 can assure you that it happens regularly that people give

17 different answers to the same question. Repetitive questions

18 should be allowed, I would like to emphasize, especially when the

19 answer has not been clear. But I will continue.

20 Q. Mr. Witness, did you--

21 [10.34.21]

22 MR. PRESIDENT:

23 Please move on. Counsel, please move on because we have already

24 ruled upon that issue.

25 BY MR. PESTMAN:

1 Yes. As I noted, you ruled before asking me whether I wanted to
2 reply.

3 Q. Mr. Witness, did you have any women trouble in Sector 32?

4 MR. NY KAN:

5 A. I am an individual who was in charge of the task designated to
6 me. So, at that time, whatever designation I was given, I was
7 happy to handle the job. And given that circumstance, at the
8 time, I did not see that it was too difficult to do the job.

9 Q. Mr. Witness, were you not transferred to the Ministry of
10 Foreign Affairs -- to B-1 -- because you had problems with women,
11 morality issues in Sector 32? Wasn't that the real reason you
12 were transferred to B-1?

13 MR. PRESIDENT:

14 Witness is advised not to respond to this question because it is
15 irrelevant; it was not mentioned in any paragraph indicated in
16 the Closing Order.

17 [10.36.56]

18 MR. PESTMAN:

19 I would submit, Mr. President, that this question is relevant.
20 Whether it was mentioned anywhere or not is irrelevant. We have
21 information that morality issues -- women trouble -- were the
22 real reason for the transfer of this witness to the Ministry of
23 Foreign Affairs. It has been suggested yesterday by the
24 prosecutor, that impending purges--

25 MR. PRESIDENT:

33

1 We have already ruled upon that matter, and you are advised not
2 to continue with that subject matter. And if you do not have any
3 further questions, then we would give the floor to other parties.
4 [10.37.52]

5 MR. PESTMAN:

6 Mr. President, I still have the floor, and I'm not intending to
7 cede it, and I do have other topics I want to discuss with that
8 particular witness.

9 As I was trying to explain, this question is important, and the
10 answer could be important because yesterday it was suggested that
11 impending purges were the reason for the transfer of this client
12 -- of this witness to the Ministry of Foreign--

13 MR. PRESIDENT:

14 The time is now appropriate for the morning adjournment.

15 And the Chamber wishes to remind the parties that parties should
16 make use of good Court time and parties are not allowed to make
17 arbitrary comments on any matters that may not conducive to the
18 proceedings and it may be a waste of the Court time.

19 So we will adjourn for 20 minutes.

20 And court officer is instructed to arrange the place for the
21 witness and his duty counsel.

22 The Court is now adjourned.

23 (Court recesses from 1039H to 1102H)

24 MR. PRESIDENT:

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

1 Counsels for Nuon Chea may now proceed with the questions they
2 would wish to put to the witness.

3 However, before counsel for Nuon Chea proceeds, the Chamber would
4 like to note with regard to counsel for Nuon Chea, Mr. Michael
5 Pestman. This morning, before we broke, he showed signs of
6 stubbornness and he now should be informed that the questions
7 shall be relevant to the facts at issue, and try to refrain from
8 behaving like in this morning's session.

9 [11.03.43]

10 If you have no further questions to put to the witness, you are
11 advised to inform the Chamber so that we proceed to other
12 counsels to put questions in order not to waste the time and so
13 that we can expedite the proceedings. Once again, we will strive
14 to ensure that the proceedings are expeditious, and that parties
15 will be refrained from being on their feet to make any comments
16 that are too long, and that they should not have the floor to do
17 that, because they are here to put questions to the witness, the
18 questions that are relevant to the paragraphs -- the alleged
19 facts in the paragraph, as indicated in the Indictment. And with
20 regard to other relevant facts or other witnesses, the Chamber
21 would wish to inform the parties at a later date. But again, at
22 this moment, the questions shall be in the confinement of the
23 Case File 002/1 only.

24 [11.05.09]

25 Counsel, you may proceed.

1 MR. PESTMAN:

2 Thank you very much for your remarks, Mr. President. First of
3 all, for the record, I would like to note that, before the break,
4 you prevented me from asking questions which were intended to
5 challenge the credibility of this client. That is a clear
6 violation of my client's right to challenge and to test the
7 credibility of evidence presented in Court against him.

8 With regards to your comment about my stubbornness, I take that
9 as a compliment; I don't think that it is necessarily a bad
10 characteristic for a defence lawyer.

11 BY MR. PESTMAN:

12 Q. Having said that, I will continue to my next--

13 MR. PRESIDENT:

14 Indeed, you are not allowed to make any further statement on this
15 and you should now proceed immediately to the substantive
16 questions, the questions that are relevant to the facts.

17 [11.06.22]

18 You have already been advised time and again, and that if you
19 keep moving into the questions that are outside the substantive
20 questions, then the Chamber will take it as a -- we will take it
21 as that you have no further questions, and then the floor will be
22 given to the other counsels to put questions to the witness.

23 BY MR. PESTMAN:

24 Thank you, Mr. President. Just to avoid any misunderstanding, I
25 do have other questions and other topics I would like to cover. I

36

1 will inform the Court as soon as I've finished with my
2 questioning.

3 I would like to show the witness a document which was shown by my
4 colleague this morning. It's the well-known organigram with
5 number D91/22; it's the document showing the structure -- or the
6 alleged structure of the Ministry of Foreign Affairs.

7 [11.07.36]

8 I am asking for permission to put it on the screen and I
9 understand -- and I can see that the witness has a copy of the
10 document.

11 MR. PRESIDENT:

12 You may proceed.

13 BY MR. PESTMAN:

14 Q. First of all, Mr. Witness, there is a red box around the name
15 of Keat Chhon, also called Mut. Is that the person you were
16 referring to yesterday when you discussed the visit of Professor
17 Caldwell and two other foreign journalists -- or two foreign
18 journalists to Phnom Penh? Do you remember mentioning his name?

19 MR. NY KAN:

20 A. The names I mentioned, I did so because I noted the content of
21 the report I forwarded to the upper echelon in which my name and
22 Mut appeared. At that time, the people who were engaged in
23 escorting various groups of visitors were including Mut as well.
24 And since Kan and Mut were included, I believed that Mut must be
25 His Excellency Keat Chhon. And to make sure we are clear, I also

1 indicated that I know there was another group who also escorted
2 the visitors chaired by Brother Prasith. Prasith was also named
3 Thiounn Prasith. So I just want to make sure that this message
4 was not misquoted.

5 Q. Thank you very much, Mr. Witness. What were Keat Chhon's tasks
6 at the Ministry of Foreign Affairs?

7 [11.11.05]

8 A. I do not understand the real functions or tasks he had, but
9 every now and then I noted that he worked as an interpreter, and
10 also engaged in the group who received visitors. I don't know in
11 which structure he belonged.

12 Q. Thank you. Was one of his tasks not also taking notes of
13 important meetings?

14 A. Are you asking me the question? I don't think I understand it;
15 please repeat it.

16 Q. Mr. Witness, do you know whether Keat Chhon was also tasked
17 with the taking of notes of important meetings?

18 A. I noted in general that people who could speak foreign
19 languages, who could take notes, there were a lot of them, not
20 necessarily Keat Chhon alone. And when it comes to important
21 notes or minutes, I don't think I know this very much, because I
22 was confined to only the area where I do not know much about
23 that.

24 [11.13.54]

25 Q. Thank you. I have highlighted another person in the

1 organogram, which you have in front of you, and that other person
2 is Hor Namhong. And he was, I understand, first ambassador to
3 Cuba, and he was later transferred to, according to the
4 organogram, Office B-32; and B-32 was part of Boeng Trabek camp.
5 Did you know, Mr. Witness, that Hor Namhong was Chairman of the
6 Boeng Trabek camp?

7 [11.14.57]

8 MR. PRESIDENT:

9 Witness, please hold on.

10 Co-Prosecutor, you're now on your feet; you may now proceed.

11 MR. DE WILDE D'ESTMAEL:

12 Thank you, Mr. President. That question is manifestly suggestive.
13 There were three pieces of information that were included in that
14 question: first, the information concerning Mr. Hor Namhong, and
15 the fact that he worked at Boeng Trabek, and that he presided at
16 B-2.

17 I believe that this is a fair amount of information that is
18 wrapped up in one single question. I would suggest to counsel
19 that he proceed step by step so that it's clearly understood by
20 the witness and by all parties.

21 [11.15.54]

22 BY MR. PESTMAN:

23 Q. I will rephrase my question, Your Honour: Mr. Witness, do you
24 know what Hor Namhong's role was at the Boeng Trabek camp?

25 MR. NY KAM:

1 A. First, I don't know Mr. Hor Namhong.

2 Secondly, since I don't know him, I don't know what he did. His
3 role for example, is not knowledgeable to me. So in general, I
4 can say that I don't know him, I don't know what he did.

5 Q. Did you know, Mr. Witness, that towards the end of the CPK
6 period -- 1978, beginning of 1979 -- Hor Namhong was given a
7 villa near Independence Monument to live in?

8 MR. PRESIDENT:

9 Witness is instructed to not to respond to the question because
10 you already indicated that you don't know Mr. Hor Namhong and you
11 know nothing about the functions of Mr. Hor Namhong.

12 [11.17.38]

13 Counsel, you may proceed to another question. And you should not
14 put the same question concerning this individual as witness does
15 not know him.

16 MR. PESTMAN:

17 Mr. President, before I proceed, just a -- I would like to just
18 emphasize that the fact that this client doesn't know who he is
19 doesn't mean that he didn't know where this particular person
20 lived.

21 BY MR. PESTMAN:

22 Q. I will go on to another topic. I would like to show the
23 witness the document numbered D366/7.1.473. I understand he was
24 already given a copy of this particular document and my case
25 manager is putting the document on the screen.

1 (Short pause)

2 [11.19.34]

3 MR. PRESIDENT:

4 Counsel, could you advise the Chamber whether the document has
5 already been requested to be put before the Chamber or not, and
6 whether you have already received permission that the document
7 should be put before the Chamber before you proceed to put
8 questions to the witness.

9 MR. PESTMAN:

10 Thank you, Mr. President. My answer is: I do not know whether
11 this document is on any of the lists submitted by the other
12 parties. But I do know that it is put on the interface before the
13 weekend, and we -- and this particular document is also annexed
14 to the submission we filed, I believe, Monday afternoon.

15 (Judges deliberate)

16 [11.21.08]

17 MR. PRESIDENT:

18 This document is instructed to be removed from the screen for
19 now.

20 And the Chamber would like to ask counsel for - to inform counsel
21 for Nuon Chea that whenever a document is only presented in the
22 interface, it is not significant according to the procedures
23 before the Chamber. The Chamber has already informed the parties
24 concerning the procedures with regard to how the document is
25 being put before the Chamber, both orally and in writing. The

41

1 document concerning this was also submitted to parties on the
2 24th of May 2012.

3 And with regard to the list of documents, party who would like to
4 proceed with their request for this document to be submitted has
5 to follow Internal Rule 87.4 of the Internal Rules as the
6 guidance. And the Chamber also notes that you have not followed
7 the procedural formality as prescribed under Rule 87.4, regarding
8 the document you would wish to be put before the Chamber for this
9 witness.

10 [11.23.04]

11 MR. PESTMAN:

12 Mr. President, I believe you're not well informed. We did file
13 the submission on Monday, which included a request to allow us to
14 use this particular document as well as all the other documents
15 put on the interface. But I am aware that we received an email--
16 Would you like me to continue or would you like to--

17 MR. PRESIDENT:

18 Time and again, counsel still behaves in the same way. If counsel
19 is not happy with this, counsel may file an appeal to the Supreme
20 Court -- or the Supreme Court Chamber.

21 Do you have any other substantive questions to be put to the
22 witness?

23 We already informed you that, if you try to obstruct the
24 proceedings and that you have no further substantive questions,
25 the Chamber will proceed to other counsels to put questions to

1 the witness.

2 [11.24.32]

3 MR. PESTMAN:

4 I have not finished with my questions yet, but I have serious
5 problems understanding your decision.

6 I did file a submission, a request to allow us to use those
7 documents on Monday. As I said, I'm - I'm aware that the senior
8 legal officer returned the request and--

9 MR. PRESIDENT:

10 The Chamber has already ruled upon this. And time again, you are
11 supposed to follow the instruction.

12 And, with regard to the documents, they have to be precisely put
13 before the Chamber in accordance with the procedures in place.

14 And, again, document put on the interface were only part of the
15 documents to be proposed to be put before the Chamber.

16 [11.25.37]

17 In the future, however, if party has failed to request formally
18 according to the procedures before the Chamber before the
19 document is put, then the document is not allowed to be put for
20 the debate now.

21 And, again, the Chamber ruled already; you cannot put questions
22 with reference to the document that we just discussed.

23 MR. PESTMAN:

24 Mr. President, I'm puzzled and I don't want to give up yet. We
25 did file a submission.

1 It's not only -- this document is not only an interface; it's
2 also annexed to--

3 MR. PRESIDENT:

4 The Chamber takes that you have no further questions; your time
5 has run out.

6 We now proceed to counsels for Ieng Sary to put questions to the
7 witness.

8 Counsels for Ieng Sary, you may now proceed.

9 [11.26.45]

10 MR. PESTMAN:

11 Mr. President, I have not finished with my--

12 MR. PRESIDENT:

13 We have already ruled that you have no further floor to put
14 questions to this witness. Your time has already run out, and
15 that the floor is now handed over to counsel for Ieng Sary.

16 You are now allowed to be seated.

17 MR. PESTMAN:

18 (Microphone not activated)

19 MR. PRESIDENT:

20 We made it clear that you are not allowed to use this floor to
21 make any statement or other irrelevant observation. If you
22 attempt to make further lengthy statements, you may do so by
23 following the procedures before the Chamber as in practice.

24 [11.27.58]

25 Counsels for Ieng Sary, you may now proceed.

1 QUESTIONING BY MR. ANG UDOM:

2 Good morning, Mr. President, Your Honours, my learned colleagues,
3 everyone in and around the courtroom. Good morning, Mr. Ny Kan. I
4 am Ang Udom, co-defence counsel for Mr. Ieng Sary. I am here to
5 put a few questions to you.

6 Q. My first question concerns the organizational structure and
7 the document is in your hand. And I believe that my questions are
8 new questions and they are not repetitive.

9 With Mr. President's leave, may this same document be put on the
10 screen?

11 MR. PRESIDENT:

12 You may proceed.

13 Counsel is advised to read out the identification of the document
14 for the purpose of the transcript.

15 [11.29.36]

16 BY MR. ANG UDOM:

17 This document is D9122 -- rather, 91/22.

18 Q. Mr. Ny Kan, according to the transcript of the hearing in
19 which you testified during the last few days and with regard to
20 the work at the Ministry of Foreign Affairs, you indicated that
21 you was placed in a box called protocol box, and that your
22 superior was Mr. Cheam. So this means that you were the
23 subordinate -- or you were subordinate to Mr. Cheam; do you still
24 stand by this statement?

25 MR. NY KAN:

1 A. First, I was -- or, I am an individual who was in charge of a
2 small section of protocol -- receiving visitors. And Mr. Cheam
3 was the head of the department. I was instructed by Mr. Cheam.
4 [11.31.55]

5 Q. Thank you. Based on the transcript of your testimony on the
6 29th, on the Khmer page and line 14 and 15 -- it is not available
7 in French or in English -- and I would like to read it out for
8 you, question and answer.

9 The question goes: "Who was your direct superior at the Ministry
10 of Foreign Affairs?"

11 And you said your direct superior was the director of the
12 department, and who -- and that director was the one who
13 designated him with the task; and Cheam was that direct superior.
14 So my question is: Do you stand by your testimony that Mr. Cheam
15 was your immediate supervisor?

16 A. As I said a bit earlier on, I received instruction directly
17 from Mr. Cheam.

18 Q. You also said in your testimony that you received instruction
19 and order from Mr. Cheam. And you also told the Court that, when
20 you reported to the upper authority, you had to report it to
21 Cheam; do you maintain this statement?

22 A. That was the working procedure back then. Upon my return from
23 accompanying visitors to other places, I had to report it to
24 Cheam. And, again, the outcome of the foreign visitor visit, I
25 had to report to Cheam as well, and Cheam reported to other

1 individuals whom I did not know.

2 [11.34.57]

3 Q. So, if we look at the organizational structure being displayed
4 on the screen before you – so, if you look at this structure, you
5 are at the parallel level with Mr. Cheam. So it suggests that
6 your responsibility, between you and Mr. Cheam, were parallel. Do
7 you think that this structure accurately reflects your
8 responsibility in actuality back then?

9 A. I have repeated in my answer previously, and you may not have
10 followed my answer. I said in my successive answers that I was
11 part of the protocol department and I was transferred to this
12 department for some other reason which I did not know, other than
13 the fact that I could read and write.

14 And then I was placed under immediate supervision of Cheam. And
15 there was no official decisions that my position was parallel to
16 that of Cheam, but in my understanding, my level was not, by any
17 means, equal to that of Cheam.

18 But, according to this diagram -- I don't know what -- whether or
19 not this document was prepared by somebody else, and then my name
20 was at the parallel level with that of Cheam.

21 And I did not accept this document, because my level back then
22 was far lower. I could not even go along with Mr. Cheam to attend
23 other important meetings. I normally stay outside of the meeting
24 room, and I listen to the direction of Mr. Cheam.

25 So, in short, my position was by no means equal to that of Mr.

1 Cheam.

2 [11.37.50]

3 Q. Thank you. So, all in all, are you suggesting that this
4 organizational structure does not accurately reflect your
5 position back then?

6 A. As I said earlier, that I only saw this structure when the
7 Office of Co-Investigating Judges presented it to me. And I
8 repeated in my earlier testimony that, if you wanted to know
9 about my role and responsibility and if there was any question
10 concerning my equivalent position to that of Mr. Cheam, I
11 categorically deny that because it was not accurate.

12 Q. Thank you.

13 So I would now like to move on to the next topic. Now, I would
14 like to base my question on the record of interview -- your
15 record of interview, document D91/22.

16 I would like to seek leave from the Chamber to present this
17 document to the witness and have it put up on the screen.

18 [11.39.52]

19 MR. PRESIDENT:

20 The document is still there on the screen. It is document D91/22.

21 So it's already on the screen.

22 MR. ANG UDOM:

23 Thank you.

24 MR. PRESIDENT:

25 Assistant, please make sure that the document is displayed on the

1 screens.

2 Is it the same document, or different document? What is the
3 identity of this document?

4 BY MR. ANG UDOM:

5 Document D91/22, dated the 13 of December 2007. It is the record
6 of interview of witness. Thank you.

7 Q. Mr. Ny Kan, when you responded to the question by the Office
8 of Co-Investigating Judges on the 13 of December 2007 -- and this
9 record of interview is being displayed on the screen -- at that
10 time, the Office of Co-Investigating Judges asked you as follow
11 -- this is based on the record, this record of interview--

12 [11.42.05]

13 Khmer ERN 00204132; English ERN 007 -- rather, 00204132, that is
14 the Khmer ERN. English, 00702361 to 62; French, ERN 00529342 to
15 43.

16 At that time, the investigator asked you the following question
17 -- I would like to read the question out:

18 "Can you tell us about a number of Khmer diplomats who were
19 removed from the foreign countries to Cambodia, such as diplomat
20 Meak Touch, alias Kem -- an ambassador to Laos -- Mr. Huot
21 Sambath, and Mr. Lorn, alias Nat? Later, they were jailed in
22 S-21, after the removal."

23 And the question was: "Did the leaders at the Ministry of Foreign
24 Affairs learn about this? And who were the leaders?"

25 And, in response to this question, you said: "I worked at the

1 Ministry of Foreign Affairs for a very short time. You have shown
2 me the structure of the Ministry of Foreign Affairs..."

3 And you said you did not know them. So you did not know the names
4 of the above diplomats.

5 And you continue: "For the arrests and reshuffle of the
6 diplomats, it was decided by the leadership. And the leadership
7 includes the senior leaders, namely the uncles, such as Pol Pot
8 alias Ta Pol, Nuon Chea alias Ta Nuon, Ieng Sary alias Ta Van,
9 and Khieu Samphan."

10 And you said you never met those senior leaders.

11 On this particular portion of the interview, my question is: When
12 the senior cadres attended or convened a meeting to decide on the
13 matter, did you take part in the meeting?

14 [11.46.53]

15 MR. NY KAN:

16 A. Your question is whether or not I had attended meetings with
17 those senior leaders, and it was actually relevant to the
18 previous question I have answered over the past few days. I was a
19 lower-level cadre. So I was not in the authority to attend such
20 meeting, because it was the meeting of the leadership.

21 Q. Thank you. So it is fair to say that you had never attended
22 such meeting. So can you -- is that correct?

23 [11.48.02]

24 MR. PRESIDENT:

25 The witness need not answer this question, because the witness

1 has already answered. The counsel may proceed to the next
2 question.

3 BY MR. ANG UDOM:

4 Thank you.

5 Q. You said you had never attended meetings with the senior
6 leaders. How about the minutes of the meeting or the summary of
7 the minutes of the meeting or any other relevant reports of the
8 meetings? Did you ever receive such reports or minutes? And did
9 you ever read it?

10 MR. NY KAN:

11 A. Obviously, this question is beyond my knowledge. The internal
12 meeting of higher-level cadres -- I had never received a copy,
13 and neither had I read them.

14 Q. (Microphone not activated)

15 [11.49.22]

16 MR. PRESIDENT:

17 Counsel, please make sure that your microphone is activated.

18 BY MR. ANG UDOM:

19 Q. You said you had never read the minutes or reports.

20 So my next question is: Did you ever learn about the content of
21 the meeting from someone else, say, your brother?

22 MR. NY KAN:

23 A. I consider this a good opportunity when you ask me this
24 question.

25 I have mentioned it time and again, over the last few days, that

51

1 there was a principle of utmost or absolute secrecy. Even the
2 close or immediate family members must not share each other the
3 content of the meeting. So, even if I was the brother of Mr. Son
4 Sen and -- our work were completely different, so we did not
5 share any information.

6 [11.50.48]

7 Q. Thank you. Since you never attended meetings with senior
8 leaders and neither did you ever read the reports or minutes of
9 the meetings, and no one else share with you the content of the
10 meetings of the senior leaders, is it correct then to say that it
11 was only your mere speculation that the arrest or the removal of
12 diplomats was the decision of the senior leaders? Is it correct
13 to say that it was your pure speculation of that?

14 MR. PRESIDENT:

15 The witness need not ask (sic) this question because this is a
16 leading question.

17 Counsel is advised to reframe the question so that it is
18 appropriate in accordance with the established procedures before
19 us.

20 BY MR. ANG UDOM:

21 Q. So, based on your earlier testimony, particularly with your
22 recent answer, it was entirely based on your speculation; is that
23 correct?

24 [11.53.00]

25 MR. PRESIDENT:

1 The witness need not answer this question because, again, this
2 question is leading by nature.

3 And the Chamber has already advised the counsel that the question
4 be rephrased; and counsel should refrain from posing a leading
5 question to the witness.

6 BY MR. ANG UDOM:

7 Thank you.

8 Q. So, concerning your statement -- did you base your answer on
9 any other reliable source of information?

10 MR. NY KAN:

11 A. No, I didn't.

12 Q. Thank you.

13 [11.54.29]

14 So your statement with the Office of Co-Investigating Judges back
15 then that the removal, or the arrests of the foreign diplomats
16 was the decision of the leaders -- what was the basis for your
17 assumptions that that was the decisions of the senior leaders?

18 A. I based my answer on the reality -- the reality which was
19 known that it was the internal matters, and those internal
20 matters was decided by the senior leaders. And people at my
21 level, or others who were at a parallel level as mine, could not
22 make any decision. And, in addition, we did not even know what
23 the decision was like.

24 Q. Thank you. So you said that you relied your answer on the
25 reality. Can you please elaborate? Because I do not really

1 understand what you mean by this.

2 MR. PRESIDENT:

3 Counsel, please rephrase your last question because it is likely
4 that the witness does not fully understand your question. What is
5 your question, really?

6 [11.55.04]

7 BY MR. ANG UDOM:

8 Q. I would like to rephrase the question.

9 You said that you based your answer on the reality.

10 So my question is: For those senior leaders, when they made any
11 decision -- for example, the decision to remove or to arrest any
12 diplomats -- so how did they come up with that decision?

13 MR. NY KAN:

14 A. I could only answer to the best of my knowledge, and,
15 particularly, what I saw as an actual practice at the time.
16 They distinguished the operational work and the internal matters.
17 At the operational level, I handled my task as assigned, but when
18 it came to the internal matters, it was the decision of the upper
19 authority. And internal matters as such is a very important
20 decision to be made. When it comes to arresting those people, it
21 -- the decision must come from the leaders.

22 [11.59.15]

23 Q. Thank you. When you -- when I asked you to clarify, when you
24 said that you based on your answer based on what you saw, based
25 on what you saw, based on you noted -- noted the practice at that

1 time, but you also said that you had never attended meetings, and
2 neither had you read any minutes of the meeting or report as
3 such. How did you know about the decision made by the senior
4 leaders concerning the matter?

5 A. Mr. President, I feel I do not understand the question and I
6 feel that the question is somehow repetitive.

7 And, as I indicated, I did not see the documents. I only
8 witnessed what being implemented.

9 The light work was decided within the administration, but when it
10 came to the internal affairs, the decision had to be made from
11 the upper echelon. That's all I could say.

12 [12.01.25]

13 MR. PRESIDENT:

14 Thank you, Witness. And thank you, Counsel.

15 It is now appropriate time for lunch adjournment. The Chamber
16 will adjourn until 1.30 p.m.

17 Court officer is now instructed to ensure that the witness is
18 properly accommodated during this break time and that his duty
19 counsel also should be well assisted and make sure that the
20 witness is returned to the courtroom by 1.30.

21 Counsel for Mr. Nuon Chea, you may now proceed.

22 [12.02.09]

23 MR. SON ARUN:

24 As usual, Mr. Nuon Chea's health condition is not good and he has
25 requested that he be permitted to observe the proceedings from

1 downstairs. He asks that he be excused from the main courtroom.

2 MR. PRESIDENT:

3 Thank you, Counsel. Please be seated.

4 The Chamber has noted the request of Nuon Chea through his
5 counsel. Nuon Chea has requested that he be excused, be -- from
6 this courtroom and be allowed to observe the proceedings from his
7 holding cell. By that, he has waived his rights to be present in
8 the courtroom due to his health. The Chamber therefore grants
9 such request.

10 Mr. Nuon Chea is now allowed to observe the proceedings from his
11 holding cell for the remainder of the day.

12 Counsels for Nuon Chea are advised to produce this waiver signed
13 or given thumbprint by accused person Mr. Nuon Chea.

14 And AV officers are now instructed to ensure that the holding
15 cell is well connected with the video or audio link so that Mr.
16 Nuon Chea can observe the proceedings from his holding cell.

17 Security personnels are instructed to bring Nuon Chea and Mr.

18 Khieu Samphan to the holding cells and have only Mr. Khieu

19 Samphan return to the courtroom in the afternoon session, before
20 1.30 p.m.

21 The Court is adjourned.

22 (Court recesses from 1204H to 1331H)

23 MR. PRESIDENT:

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

25 We would like to now hand over to counsels for Mr. Ieng Sary to

1 proceed with their questions to the witness.

2 You may now proceed, Counsel.

3 [13.32.16]

4 MR. PESTMAN:

5 Mr. President, could I have two minutes of your time?

6 MR. PRESIDENT:

7 No, you're not allowed.

8 Counsel for Ieng Sary, you may now proceed.

9 Counsel for Nuon Chea, if you would like to be heard, you would
10 ask -- be asked to write your application in writing and have it
11 submitted to the Chamber. You are not allowed to have the floor
12 now because the time allocated to you had already been used up,
13 and that if you would wish to address the Chamber, you are asked
14 to make it in writing.

15 [13.33.41]

16 BY MR. ANG UDOM:

17 Good afternoon, Mr. President. Good afternoon, Your Honours and
18 good afternoon, Mr. Witness. Now we shall continue our questions.

19 Q. Before we broke, I referred to your statement in which you
20 indicated -- you referred to the upper level or upper echelon
21 decisions and the arrests of diplomats.

22 My next question will be: What kind of information did you obtain
23 genuinely to believe that the senior leaders attended meetings?
24 What kind of information you obtained to prove this?

25 MR. NY KAN:

1 A. I haven't received any actual information on this.

2 Q. Have you received any actual information concerning the
3 communication between the senior leaders who -- to prove that you
4 know people who attended such meetings?

5 A. My response would be the same. I don't know. I don't know in
6 the framework of the leadership. I have no idea who attended
7 which meeting.

8 [13.36.35]

9 Q. In your statement, you say that you learned about this
10 information based on your job performance. So, in practice, could
11 you tell the Court, in the course of your work, whether you're
12 familiar with any items of the agenda of the meetings?

13 MR. PRESIDENT:

14 Witness, you are not instructed to respond to this question
15 because you indicated clearly that you had no knowledge of the
16 meetings; how could you understand the items of the agenda of
17 that meeting?

18 BY MR. ANG UDOM:

19 Thank you, Mr. President.

20 Q. Did you happen to obtain the direct information concerning any
21 of the meetings where the senior leaders could have made
22 decisions?

23 MR. NY KAN:

24 A. The decisions and the meetings and the procedures in these
25 meetings have already been well testified in my statement

1 previously, and I don't know anything about this because it is
2 the work of the senior leaders.

3 [13.38.50]

4 MR. ANG UDOM:

5 I have no further questions to put to you, Mr. Witness. I thank
6 you, the Chamber, for this, and I would like to wish you all the
7 best. Thank you, Mr. President.

8 MR. PRESIDENT:

9 Thank you.

10 We would like now to proceed to counsels for Mr. Khieu Samphan to
11 put questions.

12 (Short pause)

13 MR. KONG SAM ONN:

14 (No interpretation)

15 [13.39.48]

16 THE INTERPRETER:

17 Counsel mic is activated, but the interpreter cannot hear
18 anything.

19 MR. PRESIDENT:

20 Counsel, you may start your remark again because, previously,
21 your statement was not heard.

22 QUESTIONING BY MR. KONG SAM ONN:

23 Thank you, Mr. President, and good afternoon, Mr. Ny Kan.

24 Q. I am Kong Sam Onn, representing Khieu Samphan. I have a few
25 questions to put to you concerning your testimonies before this

1 Chamber.

2 First of all, may I know whether you have used any other names
3 other than Ny Kan?

4 MR. NY KAN:

5 A. I have three names: Kan, Kin, Sath.

6 [13.41.14]

7 Q. Could you spell Kin and Sath in Khmer to us, please?

8 A. Yes, I can. Kan is spelled K-a-n; Kin, K-i-n; Sath, S-a-t-h.

9 Q. Thank you. Have you used the other names you just indicated
10 before the Chamber more frequently?

11 A. The names I used more frequently were Kan and Kin.

12 Q. What about Sath? Do people know you by the name of Sath?

13 A. Yes, they do, but only a few people know this.

14 Q. Have you ever signed on any official documents with other
15 names other than Kan and Kin?

16 A. No, I haven't used any other names on the paper other than
17 Kan.

18 [13.43.18]

19 Q. You reiterated time again, during the testimonies before this
20 Chamber, concerning the principle of secrecy during the
21 Democratic Kampuchea's regime. Can you confirm what kind of
22 education you were given in order for you to maintain this
23 secrecy?

24 A. Could you repeat the question?

25 Q. Concerning the secrecy, we would like you to tell us what kind

60

1 of study session or education you received to keep such secret.

2 A. We received instructions and education on how to maintain
3 secrecy and we would be instructed to keep the secret. The secret
4 here refers to internal affairs, any issues concerning the work,
5 internal work, and that each level of responsibility had to
6 understand any certain level of secrecy, so people at different
7 level would be expected to understand and to keep the secrecy at
8 each respective level. And we have had several slogans on this,
9 and I do not recollect them well. But I remember the one slogan
10 very well, which is "We only mind our own business", so we know
11 our work and we are not supposed to know somebody's work. And we
12 should not be envisaged to want to know other's business.
13 That's the part of the slogan used at that time and the slogan
14 that I remember very well. And this is part of the instruction we
15 were given.

16 [13.46.23]

17 Having received such instructions, I imparted them to the people
18 who were -- who were concerned during the course of my work
19 according to this hierarchy.

20 Q. Thank you.

21 In case someone failed to maintain the secrecy, what would happen
22 to them?

23 A. There was a procedure called -- in which people would be
24 criticized in the self-criticism sessions. People had to
25 criticize themselves to see whether they could maintain the

1 secrecy very well or not.

2 This -- this is part of the qualification of each individual. And
3 in the session, people would be criticized and refresh -- and
4 advised not to commit the same wrongdoing if they know they -- if
5 they had done so.

6 Q. What about yourself? During the Democratic Kampuchea regime,
7 to what extent had you maintained the secrecy?

8 [13.48.10]

9 A. I just followed instructions. I was self-conscious and I
10 understood that -- I understood what would be the right things,
11 what would be the wrong things. And I had to follow these
12 principles.

13 Q. Thank you. In the course of your work, had you ever abused the
14 principle of confidentiality or secrecy in the regime?

15 A. As I remember, I have never abused these principles.

16 Q. Thank you.

17 I have another question concerning the document presented to you
18 already during the course of the testimony, document D91/21, on
19 page number 3.

20 With Mr. President's leave, I would like the document to be put
21 up on the screen, please.

22 [13.50.14]

23 MR. PRESIDENT:

24 You may proceed.

25 BY MR. KONG SAM ONN:

1 This document is under ERN in Khmer, 00204129; French ERN
2 00529340; in English, 00223626.

3 Q. Mr. Witness, do you see the document now?

4 (Short pause)

5 [13.51.45]

6 Could you read Khmer text?

7 If you can read the text from the screen, please do so for us. If
8 not, I may present the hard copy of the document to you so that
9 you can read from them.

10 A. I can, indeed, read from the screen.

11 Q. I would like to refer to--

12 (Short pause)

13 [13.54.28]

14 My apologies, Mr. President. My computer was not connected to the
15 system to be able for me to read the portion of the text. I now
16 obtained the text and I would like to refer to the portion on the
17 bottom of the page.

18 The final question -- the final paragraph, indeed, you can see
19 the fourth line, which starts with "NK". I would like to read
20 from the text as follows. You said:

21 "I know Ieng Sary clearly. As for Khieu Samphan, Ieng Thirith and
22 Nuon Chea, I know them too, because they were the upper echelon."

23 Could you explain to us, what are you referring to when you said

24 "upper echelon"?

25 MR. NY KAN:

1 A. I may wish to explain this as follows. "Upper echelon" is the
2 spoken language. In the spoken language, we at one point say
3 "upper echelon"; at another -- on another occasion, we say
4 they're "upper level". So they refer to the leaders, senior
5 leaders.

6 [13.56.26]

7 Q. Thank you. What was the relationship between the upper echelon
8 to your work, your position? Or was there no communication at
9 all?

10 A. The upper echelon or level that I stated in my interview is
11 referring to the general upper level of leadership. There are
12 other upper level people as well in each section, but it depends
13 on the languages they use.

14 For me, I refer "upper echelon" to the supreme upper echelon.

15 Q. So is it fair to say that this upper echelon had nothing to do
16 with the supervision of your unit? Is that correct?

17 A. I may wish to emphasize -- perhaps I didn't make myself clear.
18 Upper echelon here referred to those individuals whose name
19 appeared in my statement.

20 Q. Thank you. Do you know Mr. Khieu Samphan personally during the
21 Democratic Kampuchea regime and -- rather, did you know him
22 personally during the regime and also at a later date?

23 A. I never known him personally. I know him in my -- in the
24 capacity as he was the leader who attended a ceremony or an event
25 where I also went to. But we had -- we have had not been very

1 close.

2 [13.59.16]

3 Q. Had you ever received any instructions or orders from Mr.
4 Khieu Samphan during the Democratic Kampuchea?

5 A. No, I hadn't received any direct orders from him because our
6 tasks were different. I worked in the framework of the ministry,
7 so I would receive orders or instructions from the ministry only.

8 Q. I would like to ask you for a clarification on the record of
9 interview of the Office of Co-Investigating Judges, document
10 D91/22 on page 2, ERN in Khmer 00204132.

11 I would like to seek leave from the Chamber to have this document
12 put up on the screen.

13 MR. PRESIDENT:

14 Assistant, please make sure that the document is put up on the
15 screen.

16 [14.01.45]

17 BY MR. KONG SAM ONN:

18 Q. Mr. Ny Kan, can you look at the screen, the line which we have
19 underlined?

20 MR. NY KAN:

21 A. (No interpretation)

22 Q. On this particular portion of the interview, counsel for Ieng
23 Sary ask relevant question on this portion. So I would like to
24 ask you for a clarification on this part. Can you read out to the
25 Court this portion of the interview?

1 A. I would like to read it out, and if I did not read out exactly
2 the portion you expected, I apologize.

3 "The removal of the diplomats was decided by the upper echelon,
4 and upper echelon consists of Pol Pot, alias Ta Pol, Nuon Chea
5 alias Ta Nuon, Ieng Sary, alias Ta Van and Khieu Samphan. I never
6 met those leaders."

7 [14.03.38]

8 Q. Thank you. Actually, I also wanted you to read a sentence
9 preceding that portion which includes the arrest of those
10 diplomats, but you did not have to read it out again because I
11 have already mentioned it.

12 On this particular point, it concerns the decision of the upper
13 echelon. According to your previous testimony, you said you did
14 not take part in the decision, and neither did you receive any
15 reports or instruction by the upper echelon. This was according
16 to your statement earlier to the question put by counsel for Ieng
17 Sary.

18 So my question is: What was the basis for your answer that the
19 decision was made by those who were in the upper echelon?

20 A. The basis upon which you insist that I present is that, it was
21 based on the common practice. First, concerning the arrests of
22 diplomats of the Ministry of Foreign Affairs, allow me to put it
23 into picture.

24 [14.06.04]

25 When I first arrived in the Ministry of Foreign Affairs, the

1 organizational structure was there already and I was an
2 individual who was transferred and attached to a department.
3 Probably, I was on the, you know, suspension from work and I was
4 simply placed in that position because the structure already
5 existed and operational.

6 Secondly, when I arrived in MFA, I did not know those individuals
7 diplomats who were arrested. And it was only when the Office of
8 Co-Investigating Judges ask me, then I said I did not know about
9 the decision. And simply because I did not know, I could not
10 simply say I know -- I know it.

11 And I testified earlier on this morning that the decision at the
12 political level was considered internal matters of the Party and
13 it was the decision of the leader. And I did not even know the
14 date of the meetings. And if you dwell on the subject matter or
15 even the items of the agendas of that meeting, I did not even
16 know.

17 And if you ask me for the basis for my answer, I simply say that
18 I could provide that answer based on the common practice.

19 [14.08.06]

20 Q. So, to sum up what you have just said, the -- based on your
21 general understanding of the circumstance of the times, the
22 decision must have been made by those who were in the upper
23 echelon; is that correct to say so?

24 A. Yes. That was according to -- it was according to my knowledge
25 it was so.

67

1 Q. You described a few members of those who were in the
2 leadership. Did you know that these leaders were together, or you
3 did not know their working arrangement at all?

4 A. No, I didn't know.

5 Q. Thank you. So I take it that your statement to the Office of
6 Co-Investigating Judges, in the document I just mentioned, was
7 your mere speculation; is that correct?

8 MR. PRESIDENT:

9 The International Co-Prosecutor, you may proceed.

10 MR. DE WILDE D'ESTMAEL:

11 Mr. President, we seem to be facing the same scenario as earlier
12 on. The national counsel for Ieng Sary had asked the same
13 question earlier and received the same answer. I believe that
14 counsel has just asked a suggestive and leading question.

15 MR. PRESIDENT:

16 Thank you.

17 [14.11.00]

18 The objection by the Prosecution is sustained.

19 The witness need not to answer the last question posed by the
20 defence counsel, because it is leading.

21 MR. KONG SAM ONN:

22 Thank you, Mr. President. That is all for me.

23 MR. PRESIDENT:

24 The International Counsel for Khieu Samphan, you may proceed.

25 QUESTIONING BY MS. GUISSÉ:

1 Thank you very much, Mr. President. Mr. President, good
2 afternoon. Your Honours, all members of this courtroom, Mr.
3 Witness. Good afternoon. My name is Anta Guissé. I am one of the
4 International Co-Lawyers representing Mr. Khieu Samphan, and it
5 is in that capacity that I will be putting this afternoon's final
6 questions to you.

7 [14.12.14]

8 Allow me to remind you that we are being simultaneously
9 interpreted. If there's any difficulty in understanding my
10 questions, please do not hesitate in asking me to clarify or to
11 repeat.

12 Q. To begin, let us go back in time. What was the profession or
13 trade of your parents?

14 MR. NY KAN:

15 A. My parents' occupation was farmer. They did farming for the
16 living.

17 Q. And, Mr. Witness, would you say that your parents owned their
18 land? Or were they modest farmers of modest means?

19 A. My parents were the middle-class peasants. We had two pairs of
20 cattle, and we had -- we owned a few farmlands ourselves. But I
21 cannot recall them all.

22 Q. You stated that, at the age of 15, you left to continue your
23 studies in Phnom Penh. So did you live with your parents up until
24 the age of 15? Is this what I am to understand?

25 A. After I left my parents, I came to live with my brother, my

1 elder brother by the name of Ny Chhum. He was also a teacher,
2 back then.

3 [14.15.18]

4 Q. You testified that you were a teacher in Siem Reap. Who did
5 you teach? Where did you teach? How old were the children?

6 MR. PRESIDENT:

7 Witness need not answer the question because this question is not
8 relevant.

9 MS. GUISSÉ:

10 Mr. President, with all due respect, the question is relevant. In
11 the case of this cross-examination, I'm not able to ask direct
12 questions. I must establish a foundation in order to focus in on
13 the topic that is of interest to me.

14 [14.16.22]

15 Therefore, I ask leave from your Chamber to ask that question.

16 MR. PRESIDENT:

17 The Chamber has already ruled on that issue; you may move on.

18 And please refrain from asking irrelevant questions or repetitive
19 questions or questions that elicit assumption or conclusion, or
20 subjective assumption of the witness.

21 BY MS. GUISSÉ:

22 Very well, Mr. President. I shall move on to the next subject of
23 my cross-examination.

24 Q. Now, during the time that you were part of the peasant class
25 in Siem Reap and before you officially joined the revolution in

1 1970, did you witness any bombardments in the region?

2 MR. NY KAN:

3 A. Immediately after the coup d'état, the bombardment did not
4 occur in the countryside. But when the war broke out and it was
5 widespread, then there was aerial bombardments. And, of course,
6 the bombardments were from somewhere around Kampong Thom province
7 all the way to Siem Reap. And, normally, the bombardment targeted
8 bridges.

9 [14.18.52]

10 Q. And, Mr. Ny Kan, in your work disseminating propaganda and in
11 the course of your discussion with groups and the masses, were
12 the bombardments used as a reason to incite people to join the
13 popular movements?

14 A. It was my personal witness -- the bombardments that killed
15 people, destroying people's property. This ignited the masses to
16 join the movement -- the popular movement.

17 Q. In your testimony, you stated that one of your duties in your
18 propaganda work was to act as an advisor on farming issues, and
19 to talk about unity within the country, to talk about
20 self-sufficiency and to talk about improving life conditions --
21 living conditions.

22 [14.20.41]

23 My first question to you is this: Based on your experience, how
24 was this discourse welcomed by the people?

25 A. Could you please repeat your questions? I didn't quite catch

1 it.

2 Q. I beg your pardon, Mr. Witness. I'll simplify my question.

3 Now, in your testimony before this Court, you indicated that you
4 carried out propaganda work with the masses. And that, over the
5 course of your work spreading propaganda, you dealt with several
6 issues, including agricultural techniques. You also said that you
7 raised awareness among the people with respect to the country's
8 unity, with respect to self-sufficiency. And you also spoke, in
9 general terms, about the improvement of living conditions.

10 [14.22.12]

11 So my first question for you is this: Based on your own
12 experience, how were those teachings and how was this discourse
13 received by the people that these teachings were destined to?

14 A. First, I would like to highlight that I did not say about
15 national unity. I did not say that in my testimony earlier. But I
16 did say that we had to uphold the self-sufficiency.

17 Secondly, the propaganda we spread to the people at that time was
18 to encourage people to cultivate rice, to plant potatoes and
19 other secondary vegetation. And that was to improve production.
20 However, the yield was not sufficient. Because the place where we
21 spread propaganda was that -- people had to cultivate rice and
22 crops in order to feed themselves, and in addition to that they
23 had to provide supply to support soldiers in the battlefields, as
24 well.

25 Q. On several occasions, particularly in response to the

1 questions put to you by the civil party lawyers -- that harvests
2 and yields were insufficient.

3 [14.24.28]

4 Can you please tell this Chamber why they were such poor
5 harvests? Particularly in the region that you are -- that you
6 were familiar with.

7 A. The harvest yield -- to put in -- the harvest yield was not
8 actually calculated or sum up. So it was based on the actual
9 harvest, but there was no specific figure attached to it. But
10 what I saw at that time was that the harvest was not sufficient
11 to feed the people at that place.

12 Q. My question was a bit more specific. I wanted to know whether
13 there was such poor harvest because of the low fertility of the
14 land, or for any other reasons.

15 A. Poor harvest was resulted from, of course, the condition of
16 land. Because, in certain part of the -- arable land were less
17 fertile, and the other part of the arable land lacks of water
18 supply.

19 [14.26.44]

20 And, in addition, people did not have agricultural techniques.
21 For example, farmers did not have knowledge how to make their
22 land fertile and how to administer fertilizer to the field. And,
23 in addition to that, there was a big disproportionate division of
24 harvest. On the one hand, they had to feed themselves. On the
25 other hand, they had to supply to the soldiers. That's why it was

1 the basis of my answer to the question earlier; that I witnessed
2 that the harvest was not sufficient to feed the people there.

3 Q. In those circumstances, would it be correct to say that the
4 situation was made all the worse because we were in a state of
5 war?

6 A. I can add that it was partly related to the state of war, as
7 well, because we had to have supply for those who went into war.

8 Q. Mr. Witness, I will now move on to a different point.

9 [14.28.52]

10 You stated that, during the period of 1970 to 1975, you were in
11 the Maquis. You also stated that you were led to travel
12 frequently, for security reasons.

13 My question to you is this: How did these frequent travelling
14 reinforce security?

15 A. The term "security" I referred to here is rather broad, and I
16 perhaps talked about it too briefly in a narrow sense.

17 "Security", at that time, was referring to the bombardments of --
18 the aerial bombardments. And also it related to the people who
19 could perceive to be spies. So people had to be very careful and
20 not to remain in one place for long. Otherwise, they would be
21 bombed. And I think, for that reason, "security" here is
22 referring to how we move places to avoid being attacked or spied
23 on.

24 Q. Answering a question by the International Co-Prosecutor
25 yesterday -- or, perhaps earlier -- you said -- you referred to

1 the aerial bombardments. And the Co-Prosecutor said that, in
2 1973, there were no further bombings by the U.S.

3 [14.31.31]

4 So my question is: Do you know if the Lon Nol troops had their
5 own air force?

6 A. The opponents in the fightings were the Lon Nol troops and --
7 only two sides, the Lon Nol and the front troops. Lon Nol was
8 backed by Americans, so there must have been bombers. There must
9 be planes to support the Lon Nol people with bombs to be dropped.
10 And I don't know the exact detail of this -- or any particular
11 unit they belonged to.

12 Q. Thank you. Let's switch to another line of questioning. You
13 have mentioned, over the last three days, the different positions
14 that you held: first, during the revolution, and then
15 subsequently within Democratic Kampuchea. If I understood
16 correctly, you started by being a teacher. And then you were in
17 propaganda for several years and you ended up working in the
18 Ministry of Foreign Affairs in the protocol service; is that a
19 correct summary of the different positions you have held?

20 [14.33.46]

21 A. I may wish to remind you that I finished junior high school
22 and I started working as primary school teacher. I was not a
23 lecturer or professor. And, at the primary school, I taught
24 pupils or young students. And I, perhaps, cannot respond to the
25 second question of yours, because it's long, but I have already

1 made it clear concerning my positions I held during the time. I
2 was a propagandist. I was much-needed at that time, and normally,
3 as a teacher, he or she would be able to speak convincingly, so
4 that people could listen to him or her. And I had remained a
5 propagandist all along. And later on I did end up being a person
6 attached to the protocol service.

7 Q. Thank you, Mr. Ny Kan, for that information. Can it,
8 therefore, be said that, apart from those posts, you didn't hold
9 any other positions within Democratic Kampuchea?

10 A. I was appointed in the propaganda and education section, and
11 as I indicated I was much needed in that section. They needed
12 people who were capable of doing the propaganda service.

13 [14.36.26]

14 And this doesn't mean that I had to do the propaganda service all
15 across the country. I was confined to the section that I was much
16 needed for.

17 Q. Yes. I understood that, Mr. Witness, but my question was
18 whether you would confirm that, apart from the position you
19 described, you've never held any other position within Democratic
20 Kampuchea.

21 A. I think my response will be the same. I held the same position
22 on the education committee and when I was transferred to the
23 Ministry of Foreign Affairs I had been assigned to the new
24 position in the protocol service section.

25 MS. GUISSÉ:

76

1 Mr. President, it's 20 to 3.

2 [14.37.58]

3 I don't have much more questions to ask, and I want to know if
4 you've authorized me to go beyond the standard time for breaking
5 to continue with my cross-examination?

6 MR. PRESIDENT:

7 Counsel, could you advise the Chamber how much time would you
8 need to put questions to this witness?

9 MS. GUISSÉ:

10 Five minutes, Mr. President.

11 MR. PRESIDENT:

12 Then you may proceed until you are finished putting your
13 questions.

14 BY MS. GUISSÉ:

15 Thank you.

16 Q. Mr. Witness, the reason why I asked you spell out the
17 different posts you had held was to be absolutely sure that you
18 have never held a position within a communications service within
19 Democratic Kampuchea.

20 [14.39.07]

21 Now, is it correct to say that you never worked in a
22 communications service in Democratic Kampuchea?

23 MR. PRESIDENT:

24 International Co-Prosecutor, you may now proceed.

25 MR. DE WILDE D'ESTMAEL:

1 Thank you, Mr. President. I don't believe that this is a very
2 clear question. What does the Defence mean by a "communication
3 service"?

4 [14.39.42]

5 The witness tells us that he worked in propaganda and education
6 for a few years, which certainly has a communications aspect to
7 it.

8 So, perhaps, Mr. President, the question could be reworded so
9 that we might gain a little bit more understanding about what is
10 meant to mean.

11 BY MS. GUISSÉ:

12 No problems, Mr. President. I shall certainly reword that.

13 Q. Mr. Witness, have you ever worked in a service responsible for
14 sending telegrams?

15 [14.40.30]

16 MR. NY KAN:

17 A. At that time, different sector would communicate with one
18 another through telegrams, but it was not part of my duty. I had
19 to only communicate with people concerned through letters.

20 Letters would only be written when they were necessary and my
21 handwriting of the notes would then be typed. And I have no idea
22 of what they did with the typing, because it was part of people
23 who had the expertise in dealing with the typing of the letters.

24 Q. Mr. Witness, is it, therefore, true to say that you don't know
25 how telegrams were either sent or received in Office 870?

1 MR. PRESIDENT:

2 International Co-Prosecutor, you may now proceed.

3 And witness is instructed to hold on.

4 [14.42.02]

5 MR. DE WILDE D'ESTMAEL:

6 Mr. President, we are going from a rather general question about
7 telegrams, we're not sure if it was in the West Zone. From the
8 answer we got, I think it may have been the West Zone. Perhaps it
9 concerns the Ministry of Foreign Affairs, I don't really know.

10 And now we have a question that refers to a telegram that we were
11 talking about yesterday which concerns the Ministry of Foreign
12 Affairs and refers to Office 870.

13 I think that, between the two questions, we might need several
14 intermediary ones before we get to precise questions about Office
15 870, or at least to make it obvious to the witness what period
16 we're talking about when we refer to sending telegrams from
17 sector to sector. I'm a little bit lost among all of these
18 questions to know exactly what and where we're talking about.

19 Thank you, Mr. President.

20 [14.43.07]

21 BY MS. GUISSÉ:

22 I shall clarify my question.

23 Q. Mr. Witness, do you know how telegrams were sent when you were
24 working in the West Zone?

25 MR. NY KAN:

1 A. So far as I remember, the people who were authorized to deal
2 with the telegrams were those at the zone level, not at the
3 sector or district, let alone communes' level. The short letters
4 would be sent instead of the telegrams. And whatever the zone
5 would deal with the telegrams, it was up to them.

6 Q. I understand from that response that you don't know how
7 telegrams were sent; am I correct?

8 [14.44.49]

9 A. Yes, it is correct to say so. My statement already reflects
10 this response. The lower level people would write letters and the
11 letters would then be sent to upper level, and another upper
12 level would handle them respectively.

13 Q. And, just to be precise, one last point: Do you know how
14 telegrams were sent when you were working in the Ministry of
15 Foreign Affairs?

16 A. The question you put to me concerns the geography and the
17 geographic location and the practical work condition at the
18 ministry. Normally, telegrams would only be sent to people of
19 long distance. If people had to communicate in the close
20 proximity, for example in a closer location, then they would not
21 use telegrams.

22 Q. And my last question, to be absolutely precise on this: Among
23 your duties within the Ministry of Foreign Affairs, was there
24 also the duty of sending telegrams?

25 A. No, I had nothing to do with this.

1 [14.47.04]

2 MS. GUISSÉ:

3 Thank you for those answers, Mr. Witness, and your patience as
4 well.

5 I have no further questions, Mr. President.

6 MR. PRESIDENT:

7 Thank you, Counsel.

8 Ms. Se Kolvuthy, you are now instructed to advise the Chamber
9 concerning the reserve witness. The Chamber wishes to hear
10 whether he or she is present.

11 THE GREFFIER:

12 Mr. President, witness TCW-583 is ready to be called and witness
13 has already confirmed that the witness has no relationship with
14 any parties to the proceedings or to the accused persons.

15 And the oath has already been observed by the witness before the
16 Iron Lord Staff.

17 [14.48.29]

18 MR. PRESIDENT:

19 Thank you, Ms. Se Kolvuthy.

20 And thank you, Mr. Witness, Mr. Ny Kan. Indeed, we appreciate
21 your time. You have been responding to several questions put to
22 you during the last few days and your testimony sessions have
23 already come to an end.

24 The Chamber has no further questions to put to you, you are now
25 dismissed. You may now feel free to be returned to your

1 residence.

2 And court officer is now instructed to assist the witness with
3 his travel. And the Chamber wishes the witness a safe trip home.
4 The Chamber would like to inform the public – rather, the parties
5 to the proceeding that, after the break, the Chamber is going to
6 hear the testimonies of TCW-583. The floor will be handed over
7 firstly to the Prosecution before we proceed to other parties.
8 The Chamber will adjourn for 20 minutes. The next session will be
9 resumed by 10 past 3.

10 (Court recesses from 1450H to 1510H)

11 MR. PRESIDENT:

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

13 Court officer is now instructed to call witness TCW-583 into the
14 courtroom.

15 (Witness enters courtroom)

16 MR. PRESIDENT:

17 Court Officer, could you please move the console a little bit
18 further to the left or the right so that witness may see the red
19 light when the mic is activated?

20 QUESTIONING BY THE PRESIDENT:

21 Good afternoon, Mr. Witness. Today, you are here before us to
22 give testimonies, and before we proceed to the session, the
23 Chamber would like to give some instructions to you concerning
24 how you respond to questions. And at the Court, here, as you may
25 be familiar, we use three languages: English, Khmer, and French.

1 Your statement will always be rendered into another or two other
2 languages, so, when you address any question, you are supposed to
3 pause a little bit in order for the interpreters to render your
4 statement fully.

5 [15.14.11]

6 The Chamber has already worked with the technicians and that you
7 are not supposed to press any button; you only need to respond to
8 the question when you see the red light is on the mic. So please
9 be mindful that -- do not respond to any questions yet if you
10 haven't seen the red light.

11 Before we proceed to the substantive questions, the Chamber would
12 like to ask a few questions concerning your background.

13 Q. What is your name?

14 MR. SAR KIMLOMOUTH:

15 A. Good afternoon, Mr. President, and Your Honours.

16 My name is Sar Kimlomouth.

17 Should I also proceed to my birthday? I was born in 1931 in Chhuk
18 district, Kampot province.

19 Q. Thank you. Do you use any other names other than Sar
20 Kimlomouth, in particular during the revolution time, between
21 1970 to 1975 and 1979?

22 A. I also have another name. They called me Mey.

23 Q. Thank you.

24 Where do you live?

25 A. I live at house number 42 at Phsar Daeum Kor, Tuol Kork.

1 [15.16.32]

2 Q. What is your father's name?

3 A. He is Roth Sarkim.

4 Q. What is your mother's name?

5 A. She is Nhok Sakun.

6 Q. What is your wife's name?

7 A. She is Uk Samal.

8 Q. How many children do you have?

9 A. I have four children.

10 Q. Thank you.

11 Mr. Sar Kimlomouth, according to the report -- the greffier of
12 the Trial Chamber, you are not related to any parties to the
13 proceedings including the civil parties and the three accused
14 persons in this case; is the report correct?

15 A. Yes, it is, Your Honours.

16 [15.17.53]

17 Q. The greffier has already indicated that you have -- you have
18 taken an oath within this Court; the oath you took on the 21st of
19 May 2012; is that true?

20 A. Yes, it is.

21 Q. Thank you.

22 Now, the Chamber would like to inform you your rights and duties
23 before this Chamber. As a witness before this Chamber, you can
24 refuse to respond to any questions that are self-incriminating;
25 you have the right not to incriminate yourself.

84

1 And at the same time, the Chamber would like to also inform you
2 of your obligation. As a witness, you shall respond to all
3 questions put by the parties except responding to the questions
4 that are believed to be self-incriminating. As a witness, you
5 shall only talk about the truth, nothing but the truth. You shall
6 tell the Court, based on your experience, what you have
7 witnessed, what you saw.

8 [15.19.46]

9 Do you understand this?

10 A. Yes, I do.

11 MR. PRESIDENT:

12 Thank you.

13 Next, the Chamber would like to hand over to the prosecutors to
14 put questions to the witness before other parties.

15 QUESTIONING BY MR. VENG HUOT:

16 Q. Thank you, Mr. President. Good afternoon, Your Honours, and my
17 learned colleagues, and parties to the proceeding. Good
18 afternoon, Mr. Witness, and people in the public gallery.

19 I may introduce myself. I am Veng Huot from the Office of
20 Co-Prosecutor.

21 Did you hear me?

22 MR. SAR KIMLOMOUTH:

23 A. Yes, I do.

24 [15.21.13]

25 Q. I have a few questions to put to you. The first question

1 concerns the local structure of the CPK and the process how
2 people were inducted into the Party.

3 How did you come to know the Khmer Rouge movement -- rather, when
4 did you come to know the Khmer Rouge movement?

5 A. I don't remember the exact date, but it is sometime during the
6 Sangkum Reastr Niyum regime.

7 Q. How were you introduced into the Khmer Rouge movement?

8 A. I was introduced to the movement through my friends. We would
9 gather in some meetings before we joined the movement.

10 Q. Were you introduced into the movement in the public or were
11 you told this information secretly?

12 A. I were -- I was told about this secretly.

13 [15.23.55]

14 Q. When you were introduced secretly into the movement, had you
15 ever been called to the meeting?

16 A. My apologies, Mr. President. Indeed, we had some meetings with
17 our acquaintance and meeting could be convened.

18 Q. Where were the meetings convened?

19 A. I remember that the meetings were held at somebody's home. It
20 -- It would be rotated and I don't remember the date or the year
21 of that meetings -- those meetings.

22 Q. Who introduced you into the revolution?

23 A. I don't remember the people's name but, again, the -- there
24 were meetings and people in the meeting would convince us to join
25 the movement. I don't remember the detail of the names of those

1 people.

2 [15.25.34]

3 Q. Were you ever told the reason to join the revolution?

4 A. I was told that there was problem in -- in the society and
5 that people were needed to help improve the society to eradicate
6 corruption for example.

7 Q. During your early time, when you joined the revolution, were
8 you ever advised or asked to prepare your biography?

9 A. No, I was not.

10 Q. I may go back a little bit. When you said you attended
11 meetings, were the self-criticism sessions already convened back
12 then?

13 A. At the beginning, I think there were no such self-criticism
14 sessions. I'm not quite sure, but such criticism session was not
15 in existence yet.

16 [15.27.32]

17 Q. I would move closer to this. In the situation when you joined
18 the revolution, at the beginning, what contribution had you made
19 to the revolution?

20 A. First, I did not contribute much to the revolution.

21 Q. Could you tell the Court until which year that you began to
22 contribute financially to the movement of the revolution?

23 A. In 1950s, when I had some work to do at various places, for
24 example, at the train station and at the bank, I could manage to
25 contribute some money to the movement.

1 Q. When did you start working at the bank?

2 A. It was in 1993 or 1994 in the -- before that, I worked at the
3 train station and I also had worked as a professor before I
4 became the train station worker or staffer.

5 [15.29.29]

6 Q. What position did you hold at the bank?

7 A. At the beginning, after some -- like, six months of training,
8 I was appointed the head of the branch of the bank in
9 Sihanoukville. Later on, I was sent to be trained in France for a
10 few months at a bank in France. When I returned, I worked as the
11 head of the credit unit, the unit where loan could be offered to
12 people.

13 Q. When you became the head of credit unit, who was your
14 immediate supervisor?

15 A. Immediately above me was Mr. Chau Sau; he was sent from the
16 National Bank of Cambodia.

17 Q. When you were working as the head of credit unit, were you
18 authorized to allocate loans to other individuals?

19 A. Credit unit was a task to analyze the supporting documents and
20 application for loan and then we refer to the supervisor to
21 approve. We -- I did not have the approval authority as to what
22 loan could be made to others. We simply forward the proposal to
23 the upper authority.

24 [15.32.06]

25 Q. You said that you had contributed some fund to the Khmer Rouge

1 resistant forces and I would like to know whether or not you had
2 contributed to any individuals who may eventually supported the
3 underground forces at that time? Did you know anyone who was from
4 the Khmer Rouge forces that you have facilitated the loan or
5 financing for -- for them?

6 A. No, there was none of them.

7 Q. Thank you--

8 MR. PRESIDENT:

9 National Co-Prosecutor should be more focused when you put the
10 question, making sure that the question is relevant to the
11 alleged facts in the relevant portion of the Closing Order. If
12 the question deviates from the alleged facts in the Closing
13 Order, it may not be conducive and -- to the proceeding.

14 [15.33.31]

15 Of course, at this stage of the proceedings, the historical
16 background of the Khmer Rouge and Democratic Kampuchea was useful
17 -- the period that happened before 17 April 1975 -- because it
18 concern with the historical background of the Communist Party of
19 Kampuchea. And the most relevant facts under the jurisdiction of
20 the ECCC was the temporal jurisdiction of the ECCC from the 17 of
21 April 1975 to the 6 of January 1979 and this was clearly
22 indicated in the Severance Order.

23 And we are now dealing with Case 002/01 and we have already set
24 the parameters for the discussion of those relevant facts. So
25 please be advised that the questions should be more focused and

1 relevant to the alleged facts in the Closing Order. Otherwise, we
2 will intervene and interrupt the testimony of the witness and we,
3 from time to time, will instruct the witness not to answer to the
4 question in order to ensure that we are making the most use of
5 the Court time.

6 [15.35.33]

7 MR. VENG HUOT:

8 (Microphone not activated)

9 MR. PRESIDENT:

10 Prosecutor, please activate your mic.

11 BY MR. VENG HUOT:

12 Q. Now, I would like to focus on the administrative aspect. Did
13 you ever hear about liberated zones?

14 MR. SAR KIMLOMOUTH:

15 A. Yes, I did.

16 Q. What was the administrative structure like in the -- in those
17 liberated zones?

18 MR. PRESIDENT:

19 Court officer is now instructed to arrange the microphone before
20 the witness. Make sure that the microphone is put right in front
21 of him. However, the console itself should be turned aside so
22 that he can see the red light before he answer the question.

23 [15.36.54]

24 Co-Prosecutor may continue now.

25 BY MR. VENG HUOT:

1 Q. Concerning the means of communication in the Khmer Rouge
2 resistant forces, you said that there was an underground
3 communication line, so did they -- what -- what form of
4 communication did they mobilize? Did they use messenger, for
5 example?

6 MR. SAR KIMLOMOUTH:

7 A. I find it a bit difficult to answer to this question. I do not
8 know whether or not you wanted to ask me about the -- the
9 resistant forces' communication line or you were asking me about
10 my communication line back in my office. When you talk about
11 underground forces, was -- was it concerned with the period with
12 which I worked at the bank?

13 Q. I would like to ask about the Khmer Rouge resistant forces
14 because I would like to know whether or not, at that time, the
15 Khmer Rouge had messenger who routinely communicated with you?

16 A. No, the system of messenger did not exist yet at that time.

17 [15.38.49]

18 Q. Now, I turn to the roles of the Khmer Rouge leaders. Did you
19 know the name -- did you know Khieu Samphan, Pol Pot, Ieng Sary,
20 and Nuon Chea and their revolutionary names?

21 A. I knew them, but I cannot confirm that what I heard was
22 correct because there was an introduction by others, at that
23 time, but there was no formal introduction as to what formal name
24 Khieu Samphan bore, at that time. And, in addition, in that
25 movement, I was not within the leadership rank, so my task was at

1 the lower level. The other important task was handled by those
2 who were in the upper structure. But the names of those three
3 individuals were heard. But later on, even in the international
4 arena, their names were also mentioned. I, once again, cannot
5 confirm that that was correct.

6 Q. So how did you hear about their names?

7 A. There was nothing specific about what I heard about their
8 names.

9 [15.40.35]

10 Q. Leaders Pol Pot, Khieu Samphan, Ieng Sary, and Nuon Chea, when
11 they held meetings in 1975, did you ever attend meeting with
12 them?

13 A. No, I never attended any meeting with them.

14 Q. Now, I would like to move on to the administrative issue and
15 logistic affairs. Did you ever hear the word "office" before
16 1975?

17 A. No, I never heard of it.

18 Q. Did you ever hear about a code number -- a secret code number,
19 870?

20 A. No, I never heard of it.

21 Q. How about Office 71?

22 A. I did not hear about it either.

23 Q. Now I move on to the general policy of the Democratic
24 Kampuchea before 1975. Did you ever hear the word "absolute
25 revolutionary"?

1 [15.42.22]

2 A. No, I never heard of it.

3 Q. How about the word "3 tonnes"? Did you hear about it?

4 A. I heard this word "3 tonnes" but it was when the Khmer Rouge
5 came to power.

6 Q. So what was it referred to when they said "3 tonnes"?

7 A. "Three tonnes" is referred to the production year. We had to
8 accomplish 3 tonnes per hectare.

9 Q. Thank you.

10 Did you know Van Rith before 1975?

11 A. Yes, I did.

12 Q. What sort of activities did Van Rith do with the Lon Nol
13 administration?

14 A. During Lon Nol regime, he was a banker; he worked in one of
15 the state-owned bank. But before the Khmer Rouge came to power,
16 he left; he took refuge in the forest.

17 [15.44.44]

18 Q. Did you know the reason why he left?

19 A. I did not know the reason back then. But later on I learned
20 that, at that time, Lon Nol officers wanted him, but I did not
21 know the detailed reason. But after that I did not see him
22 anymore.

23 Q. I stay on this topic on general policy. They mentioned the
24 enemy of the revolution, who were those enemies referred to? Were
25 they the Lon Nol officers and administrators?

1 A. I could not provide a clear cut answer to that because at that
2 time they only mentioned Lon Nol, Lon Nol, but I don't know what
3 they specifically referred to. I don't know whether or not they
4 targeted individuals or they referred to, for example, Lon Nol
5 soldiers or individuals working in the administration of Lon Nol.

6 Q. Lon Nol officers were against the Khmer Rouge forces; is that
7 correct?

8 [15.46.26]

9 A. It's a bit challenging, answering that question.

10 Of course, I think it's -- they were against the Khmer Rouge
11 forces because they were fighting against each other. So they
12 must have some contradiction, but as for the detail or the depth
13 of the matters, I cannot speculate.

14 Q. So, by contradicting against the other party, do you mean that
15 they considered the enemy of the revolution? Is that correct?

16 A. I cannot really define the term clearly. But when the Khmer
17 Rouge came to power, those who were against the regime were
18 considered the enemies of the revolution. So Lon Nol soldiers and
19 officers were being considered enemies because they were against
20 the regime.

21 Q. So, back then, those who were considered dissidents, were they
22 confined to Lon Nol soldiers or any other groups?

23 [15.48.09]

24 A. I cannot explain on that issue.

25 Q. How about the "exploiting power authority"? Did you ever hear

1 of the term?

2 A. Yes, I did.

3 Q. During the Democratic Kampuchea period, "exploiting
4 authority", what was it like?

5 A. "Exploiting power" referred to the predecessor regime which
6 exploited the people.

7 Q. You said it referred to the previous regime; did they refer to
8 the civil servant in the Lon Nol administration? Can you
9 elaborate on it?

10 A. I cannot explain it clearly, because the leaders had their own
11 political perception and I did not know what their political line
12 or perception was.

13 Q. I have another question on this subject matter: Did you ever
14 hear the words "contemptible traitor"?

15 [15.50.29]

16 A. Yes, I did.

17 Q. The so-called "contemptible traitor", did they refer to any
18 particular group of people?

19 A. I cannot answer that question.

20 Q. You said just now that you have heard of the word
21 "contemptible traitors"; how did you learn about these words?

22 A. I cannot recollect, because the event took place over 30 years
23 ago. I cannot recall who said what exactly at that time.

24 Q. I stay on this topic again. Had you -- did you ever hear about
25 "outside the rank" and "inside the rank"?

1 A. I never heard of it before.

2 Q. Thank you.

3 So, now, I move on to the next topic on educational policy on the
4 Party ideology. When you first joined the Communist Party of
5 Kampuchea, were you indoctrinated? If so, what did they
6 indoctrinate you?

7 [15.52.46]

8 A. They, at that time, indoctrinated the Marx-Lenin ideology.

9 Q. Did they provide you any materials, hard-copy materials for
10 you to read and comprehend it? Or did they simply give a talk
11 about that subject matter?

12 A. It was an oral presentation or lecture; we never received
13 hard-copy materials.

14 Q. Who was the trainer?

15 A. I cannot recall his name.

16 Q. In relation to education, did you ever hear about the
17 "Revolutionary Flag" or the "Revolutionary Youth" magazines?

18 A. No, I never heard of them.

19 Q. I would like to ask you one more question about the
20 fundamental rights of the citizen.

21 [15.54.35]

22 Did you ever hear the word "elimination of private property and
23 ownership"? Were you ever trained or introduce any policy of
24 eliminating private ownership?

25 A. No, I never heard of it.

1 Q. How about another word, the word which says "we did not
2 agitate the private ownership"?

3 A. Before 1975, I did not hear about that term. But after 1975, I
4 did hear it.

5 Q. Can you explain the words "individual ownership"? Can you
6 explain what it was referred to? Was it referred to "private
7 ownership" such as the ownership of cattle, television sets,
8 bicycles also?

9 A. Yes. Yes, you are correct. "Private ownership" referred to
10 those items, the items that belonged to individual persons.

11 Q. Concerning this same topic of fundamental rights of citizen,
12 did Angkar instruct that people set aside their own properties
13 and put it in a collective use?

14 [15.56.52]

15 A. There was no -- such a formal instruction. But in practice, we
16 did see that farmers who had their own properties, for example
17 cattle, buffalos, then they would give it to the collectives in
18 order to use it as common properties.

19 Q. When you first joined the revolution, did you receive any
20 instruction that you must be honest to the people, you must not
21 steal, not even a single chili from the people?

22 A. At first, I did not hear such instruction, because at that
23 time we were considered intellectuals. So they never bothered to
24 advise or instruct us on small minor issue like chili and stuff
25 like that. But later on, I heard about such instruction. But once

1 again, I was among the intellectuals so there was no such
2 instruction or advice.

3 Q. Did you hear about the children brigade?

4 [15.58.43]

5 A. I, indeed, used to hear about that and these units exist.

6 Q. What were these children asked to do?

7 A. I can only talk in my capacity that I was engaged in the
8 cooperative I worked in, a group of children would be put to
9 work. But I don't know whether it happened elsewhere.

10 Q. I would like to seek your clarification. The mobile -- the
11 children mobile units were meant to put children to work; is that
12 correct?

13 A. I think that's the actual meaning of it, but everyone had to
14 work. But the children would be put together separately from the
15 adults. Young kids would be allowed to come and stay with their
16 parents at night, but during the day time they had to go to work
17 all together.

18 Q. My next question is about the military and the fundamental
19 rights of the people. Have you ever heard that the soldier ever
20 got injured or wounded?

21 [16.00.42]

22 A. With regard to the army, I do not think I have anything to do
23 with this and I have no knowledge about it. But I can say that
24 the armies engaged in fighting, and in such fighting, I believe,
25 there could have been some injured people.

1 Q. Do you know anything about the marriage arrangements, for
2 example when women were made to marry the injured soldiers?

3 A. No, I do not know anything about this.

4 Q. What about the marriage during the Khmer Rouge regime? Can you
5 tell us what you witnessed about the marriage?

6 A. Apart from the small cooperative I was in, I would not be able
7 to tell you about others.

8 Q. I would like now to proceed to another question concerning
9 religion.

10 MR. PRESIDENT:

11 Mr. Co-Prosecutor, you may pause now because it is now
12 appropriate time for today's adjournment.

13 [16.02.25]

14 The Chamber will adjourn, and the next session will be resumed
15 tomorrow, at 9 a.m.

16 Parties and the public should be informed that the Chamber
17 continues hearing the testimonies of Mr. Sar Kimlomouth, the
18 questions continue to be put by the prosecutor.

19 Mr. Sar Kimlomouth, we have just began to hear your testimonies,
20 and they are not yet finished, so you are invited to come to the
21 Court again at 9 a.m. to give further testimonies. And duty
22 counsel for Mr. Sar Kimlomouth is also invited to come to the
23 courtroom tomorrow to assist him during the course of his
24 testimony.

25 Court officer is now instructed to coordinate with the WESU Unit

1 to ensure that Mr. Sar Kimlomouth can be returned to his place
2 and that he can be returned to the courtroom by 9 a.m. tomorrow
3 for testimonies.

4 [16.03.45]

5 Security personnel are now instructed to bring all the three
6 accused persons to the detention facility and have them returned
7 to the courtroom before 9 a.m. In the case of Mr. Ieng Sary, if
8 he still shows his clear position that he would like to be
9 excused from the courtroom and ask that he'd be allowed to
10 observe the proceedings from his holding cell through his waiver
11 in writing before the commencement of tomorrow's session, the
12 Chamber will allow him to only be brought to his holding cell,
13 where the AV audio equipment are linked so that he can observe
14 proceedings from the cell.

15 The Court is adjourned.

16 (Court adjourns at 1604H)

17

18

19

20

21

22

23

24

25