



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

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Trial Day 26

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WITNESSES

THE ACCUSED, KAING GUEK EAV

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List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|-------------------------------------|----------|
| MS. CANIZARES | French |
| JUDGE CARTWRIGHT | English |
| MR. HONG KIMSUON | Khmer |
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| MR. SENG BUNKHEANG | Khmer |
| MR. SMITH | English |
| MS. STUDZINSKY | English |
| THE ACCUSED | Khmer |
| THE PRESIDENT (NIL NONN, Presiding) | Khmer |
| MR. WERNER | French |

1

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

2 (Judges enter courtroom)

3 [09.07.27]

4 MR. PRESIDENT:

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

6 The topic today is about the armed conflict.

7 The security personnel, please take the accused to the dock.

8 Before we proceed, I would like to remind parties to the

9 proceeding that upon the request by the interpreters, who have

10 noticed that they have found difficulties in delivering the

11 service while the speaker speaks fast and especially when the

12 speaker speaks about the reference documents, for example, the

13 ERN numbers, the parties are advised to say the numbers slowly

14 and surely so that the interpreters can catch up with what's

15 being said. The Chamber hopes that the parties will do their

16 best to make sure that we can proceed expeditiously and clearly.

17 Next, we would like to give the floor to Judge Silvia Cartwright

18 to proceed with further questionings to the accused concerning

19 the armed conflict topic.

20 The floor is yours.

21 JUDGE CARTWRIGHT:

22 Thank you, Mr. President.

23 [09.10.24]

24 BY JUDGE CARTWRIGHT:

25 Q.Kaing Guek Eav, yesterday, during a lengthy series of

2

1 questions, you indicated that although you now accept that there
2 was armed conflict between Vietnam and Democratic Kampuchea for
3 the whole of the time period from 17 April 1975 to 6 January
4 1979, that your knowledge of that conflict was limited before the
5 6th of January 1978. Is that correct?

6 A. From the 17th of April 1975 until the 6th of January 1976, I
7 remember that there were Vietnamese people who entered S-21.
8 First, the immigrants, the Vietnamese immigrants who lived in
9 Cambodia for a long time ago because they were violating the
10 administrative matters at that area; and, number two, the
11 Vietnamese civilians who were sent to S-21 and also who were
12 arrested by the Democratic Kampuchea's troops and sent to S-21.
13 Number three, personally, I did not see those prisoners of war
14 with my own eyes. I remember that the Vietnamese soldiers
15 entered S-21 in a very few numbers before the 6th of January
16 1978. This is what I can recollect.

17 The time period can be divided into two, especially when it comes
18 to the prisoners of war and the Vietnamese civilians. First, I
19 made people interrogate them and it was agreed by the superior to
20 interrogate them. I did not report any military report to the
21 superiors, frankly. I made people interrogate those prisoners
22 about their spy missions and I think it was based on the
23 circumstance during the time when I was ordered by the Party to
24 focus on the spy matters, especially what kind of matters being
25 spied on, whether they came in the form of military missions or

3

1 as civilians or in the form of the South Vietnamese soldiers'
2 missions. So we only focussed on understanding the spy matters
3 and who they would like to contact when they entered Cambodia.
4 So this was the matter we focussed before the 6th of January.
5 [09.14.54]
6 I would like to go on. After the 6th of January 1978, we started
7 to focus on the radio broadcasts and we were ordered to do so,
8 and the principle to extract confessions from the prisoners of
9 war, the Vietnamese prisoners of war, so that their confessions
10 could be broadcast on radio was ordered from the superiors.
11 I hope I have answered to your questions, and there are still
12 some surviving documents at S-21 that can be consulted to be more
13 precise.
14 Q.Yes, thank you. Well, turning to those documents, in E68.27,
15 a Khmer/English chart at 00333610 to 00333628, there is an
16 extensive list of Vietnamese prisoners entering S-21. That list
17 comprises all the Vietnamese whether they were classified as
18 ordinary people, spies or soldiers.
19 This analysis puts the total number of Vietnamese who entered
20 S-21 from 17 April -- or from the start of operations of S-21,
21 until the 6th of January 1979 at 345. Do you accept that number?
22 A.Frankly, have not been aware of this list yet, however,
23 through my recollection and my conclusion, I think this number is
24 acceptable. However, I would appreciate if I am given such list
25 so that I am informed.

4

1 [09.18.05]

2 JUDGE CARTWRIGHT:

3 Can I ask if that list can be put on the screen, please? It is a
4 relatively recent addition to the case file. Do you need the ERN
5 numbers again?

6 MR. SMITH:

7 Your Honour, we have that list on the screen.

8 JUDGE CARTWRIGHT:

9 All right. Well, could I ask the AV unit to connect to the
10 Co-Prosecutors' screen, please, so that the accused has the
11 opportunity of looking at that list.

12 BY JUDGE CARTWRIGHT:

13 Q.Now, do you want each of the pages to be put on the screen one
14 after the other?

15 A.Could you please direct the AV to screen to the next page and
16 the rest, please?

17 Q.Thank you.

18 A.Thank you. Could you please show the next page?

19 With Your Honour's leave, could you please direct the AV unit to
20 show the next page? Thank you.

21 JUDGE CARTWRIGHT:

22 Yes, please keep turning the pages as the accused asks, so that
23 he has the opportunity to read them. Thank you.

24 [09.23.01]

25 THE ACCUSED:

5

1 Please show the next page. Thank you. Please go on to the next
2 page. Please show the next page. Thank you. Please show the
3 next one. Show the next page. Next one. Go to the next page,
4 please. Go on to the next page. Go on to the next one. Go on
5 to the next page. Go on to the next one. Go on to the next
6 page. Move on to the next page. Next page. The next page,
7 please. Thank you.

8 BY JUDGE CARTWRIGHT:

9 Q.Do you have any comment to make on that list, particularly the
10 numbers, the total numbers of 345?

11 A.Your Honour, the total number, I believe -- I believe in the
12 total number and accept it, the 345 number in total.

13 Q.Thank you. Now, you will have noticed that relatively few of
14 those Vietnamese were registered as entering before the 31st of
15 December 1977. Is that correct?

16 A.Your Honour, amongst those Vietnamese people, some of them
17 with the names on the list entered the Cambodian territory -- my
18 apology, they arrived at S-21 before the 31st of December 1977.

19 Q.And that ---

20 A.My apology. Before the 31st of December '77; it's not '78.
21 My apology.

22 Q.Thank you. And that of the remainder, a significant number
23 have no exact date of entry recorded. Is that correct?

24 A.Your Honour, on this list there are those who arrived at S-21
25 without the entry date.

6

1 [09.28.17]

2 Q.And the remainder, a significant number, arrived at S-21
3 during 1978. Is that correct?

4 A.That is correct. I did not count the numbers of those but, in
5 fact, there were those who arrived in 1978.

6 Q.Now, did you note also that the description of the people fell
7 into three broad groups: soldiers, spies and Vietnamese. Is that
8 correct?

9 A.That is correct, Your Honour. Thank you.

10 Q.And if we refer to E68.31, which is a Khmer/English chart at
11 00333650 -- perhaps that could be put on the screen as well from
12 the Co-Prosecutors.

13 This chart analyzes the proportions of those three groups at
14 S-21. The first group in the purple colour represents Vietnamese
15 soldiers and is said to be 35 percent of the total; the reddish
16 colour, Vietnamese spies, 42 percent; and the cream colour,
17 Vietnamese, 23 percent.

18 Do you accept that analysis of the total prisoners who entered
19 S-21?

20 A.Thank you, Your Honour. This chart, I do not have any
21 objection to it.

22 [09.31.12]

23 Q.Thank you. Now, you have already indicated that the greater
24 number of Vietnamese soldiers entered S-21 during 1978. Is that
25 correct?

7

1 A.Thank you, Your Honour. That is correct. They entered during
2 1978 and most of those people were Vietnamese soldiers.

3 Q.We have also agreed that they came from the battlefields. Is
4 that correct?

5 A.Your Honour, that is correct. I acknowledge it.

6 Q.And they entered S-21 in their military uniforms. Is that
7 correct?

8 A.Your Honour, I do not deny this, however, I would like to
9 verify that I did not receive them personally. I believed that
10 it happened.

11 Q.But at the time, particularly from the beginning of 1978, you
12 were well aware that increasing numbers of Vietnamese soldiers
13 were entering S-21. Is that correct?

14 A.Your Honour, from the 6th of January, as I recall, the
15 Vietnamese soldiers were entering in increasing numbers to S-21,
16 and that is my recollection of the event. Thank you.

17 JUDGE CARTWRIGHT:

18 The AV unit can return the screen to normal, please.

19 [09.33.27]

20 BY JUDGE CARTWRIGHT:

21 Q.When these Vietnamese soldiers entered S-21, you have already
22 told us that from 1978 you were invited to use them to make radio
23 broadcasts. May I assume that that was for propaganda reasons?

24 A.Your Honour, the Communist Party of Kampuchea truly used the
25 voices of the Vietnamese people and the Vietnamese language for

8

1 propaganda purpose. That's all. Thank you.

2 Q. Did you, therefore, direct that these Vietnamese soldiers be
3 interrogated so that you could get material for radio broadcasts?

4 A. Your Honour, let me talk straight about the point on
5 instructions that I received.

6 The objective is determined from the upper echelon and I, myself,
7 I ordered the interrogators to do what it took in order to
8 receive the objective of the upper echelon, that is, Vietnam
9 invaded Cambodia in order to put Cambodia into the Chinese (sic)
10 federation.

11 Q. And, in fact, did you put in place a particular routine for
12 the interrogation of Vietnamese soldiers?

13 A. Your Honour, yes, that is true. The essence of the
14 confessions of those Vietnamese was sent to Uncle Nuon.
15 Therefore, whatever it is he would adjust it and then he would
16 send it to me and I would make some changes.

17 So the purpose of the propaganda was determined from the upper
18 echelon and I just tried to fulfil those objectives.

19 [09.35.57]

20 Q. So sometimes the confessions were adjusted so that they made
21 better propaganda. Is that right?

22 A. Your Honour, yes, there were some amendments to the
23 confessions.

24 Q. And as an organizational matter, did you have the Vietnamese
25 soldiers placed in a particular part of S-21?

9

1 A.Your Honour, I was not fully aware of the situation and I did
2 not give orders on this organization. That was done by
3 subordinates, so I cannot give you a clear answer. It was done
4 by my subordinates.

5 Q.And did you assign a particular interrogator to question the
6 Vietnamese soldiers?

7 A.Your Honour, frankly speaking, the interrogator for the
8 Vietnamese soldiers was only one, that is Brother Mam Nai. And
9 for the interpreter that I asked him to assign, that is Pha Tha
10 Chann. So he assisted with the interpretation and also assisted
11 Brother Mam Nai in the interrogation.

12 Q.And did interrogation include torture?

13 A.I would like to state that the torture could be done or could
14 not be done. If it was done, probably only in a small number.
15 And the true nature of Brother Mam Nai is that he rarely did
16 torture. So on a daily routine at the interrogation, there were
17 three interrogators; that is Brother Mam Nai, the interrogator,
18 he managed the overall; and Pha Tha Chann was the interpreter and
19 Chao Seng, who was close to Brother Mam Nai, just obey the other
20 two people.

21 So I believe there was very little torture.

22 [9.38.48]

23 Q.Because of the policy applying to S-21, were all of those
24 Vietnamese soldiers ultimately killed?

25 A.Your Honour, no one could escape. All of them were ordered to

10

1 be smashed.

2 Q.And just so I can clarify, you did assess at least some of the
3 confessions of the Vietnamese soldiers, particularly during 1978;
4 did you?

5 A.Thank you. That's correct.

6 Q.Now, I want to turn to the category of spies. Why were these
7 people classified as spies?

8 A.Your Honour, those who were classified as spies, so far as I
9 remember, the superior determined it. I'm not quite sure anyway,
10 but I knew that the upper echelon did determine how people should
11 be classified because there was not any plan to attack in a large
12 scale. There had been some kind of intrusion into Cambodia in
13 just a small scale, so the upper echelon would tell us to
14 classify them as the Vietnamese spies and that's all.

15 [9.40.49]

16 Q.And when those spies entered S-21, did you arrange for their
17 interrogation?

18 A.I would like to confirm that when the spies entered S-21, I
19 ordered them to be interrogated by Brother Mam Nai. No other
20 interrogator was allowed to interrogate them because he was
21 trained to be able to speak the Vietnamese language and then be
22 able to interrogate those Vietnamese people, and he was the only
23 one person who was assigned to fully in charge of the Vietnamese.

24 Q.And do I assume then that you either gave orders to torture or
25 you permitted the interrogators to torture the Vietnamese spies?

11

1 A. In general principle of the CPK, tortures would be used if
2 necessary. So regarding the spies, I think tortures were subject
3 to be inflicted to them, but I can assure that Brother Mam Nai
4 would not use tortures against them.

5 Q. Did you say that you would be sure that Brother Mam Nai would
6 not use torture against them? Was that what you said just then?

7 A. I would like to make it in two separate issues for the
8 clarification.

9 His nature, Brother Mam Nai did not resort to tortures, although
10 he would commit the kind of tortures but through the very minimal
11 scale.

12 [9.43.10]

13 Q. When you were analyzing the confessions of the people
14 classified as spies, were you looking for material that would
15 support the allegation that they were spies?

16 A. Your Honour, I did look for them but I did not annotate on
17 those confessions, but there is a memory that I still can refresh
18 that there was a male spy -- a Vietnamese spy who stated that at
19 this month the Vietnamese troop would come to attack which
20 particular province, and at that time there was a small map at
21 S-21 for use. When I report this to Son Sen, he laughed at me.
22 He said if the Vietnamese came to attack those provinces, how
23 could we manage to grow rice anymore. He laughed again.

24 And I stopped paying more attention on that matter because I was
25 afraid of being the person used as a propaganda for -- in favour

12

1 of the enemy. I only reported to the superior concerning the
2 objective or the target which marked as "N" in Vietnamese as
3 translated in English as "day". And before they started the
4 attack, they determined whether it's a minor one, class one or
5 two.

6 So with this determination of the target, then the -- for
7 example, the party would have the idea of when the attack would
8 take place. So with this kind of plus and minus, there were
9 signs for identifying the attacks and I report this to my
10 superior.

11 So that was the last memory I could recall about the male
12 Vietnamese spy, but I think the surviving documents may also help
13 me refresh some more memories.

14 Q.Well, perhaps we can look at one example where you have
15 analyzed a confession and this, in Khmer, is a confession of the
16 Vietnamese prisoner Troeng Yeang Lak, 00240048 to 00240070. And
17 there is a further ERN number, 00284002, where you appear to have
18 annotated Troeng Yang Lakk's confession and summarized the
19 confession.

20 So perhaps we can look at that last ERN number. Do you have it
21 or would you like it put on the screen?

22 A.Thank you, Your Honour. Could you please have it put up on
23 the screen?

24 Q.So this is the English ERN number, 00284002.

25 MR. SMITH:

13

1 Your Honour, would you like the English or the Khmer on the
2 screen?

3 JUDGE CARTWRIGHT:

4 It would pay to have the Khmer, please.

5 MR. SMITH:

6 Your Honour, if I can briefly mention, the document that you
7 referred to, which was 00240048 to 0070.

8 JUDGE CARTWRIGHT:

9 Yes.

10 MR. SMITH:

11 That's a 23-page document.

12 [9.48.19]

13 JUDGE CARTWRIGHT:

14 Yes. I'm more interested in the last one, which is 00284002,
15 which appears to be connected to the original link, the
16 confession, and the English ERN shows a summary with the
17 accused's signature on it and it would pay to have the Khmer
18 version of that, please.

19 MR. SMITH:

20 Your Honour, there is a summary, but now those two annotations or
21 those two reports have been translated in full and we can place
22 the full translation on the screen if you would like.

23 JUDGE CARTWRIGHT:

24 Thank you.

25 MR. SMITH:

14

1 Your Honour, we found the English version. It's on the screen.

2 It will come up in a moment.

3 We also have a full Khmer version of that report, which is the
4 list, the two reports from the accused, and notes from the
5 confessions. If you would like us to hand that to the accused,
6 we can.

7 [9.49.59]

8 JUDGE CARTWRIGHT:

9 I'm interested in the accused's annotation, which I believe is
10 found at 00240049.

11 MR. SMITH:

12 Your Honour, we've got it on the screen. We're just waiting for
13 the AV group to switch.

14 JUDGE CARTWRIGHT:

15 Thank you. If that could be switched to the prosecutors'
16 machinery, please.

17 BY JUDGE CARTWRIGHT:

18 Q.Now, you can see on the screen, in Khmer, a summary with six
19 points.

20 Does this summary relate to the Vietnamese prisoner, Troeng Yang
21 Lakk?

22 A.This summary truly belongs to me. Although I did not sign on
23 that document, it's obviously mine.

24 In the second point, there was three people. First, Troeng Yang
25 Lakk, Ngov Yang Chhun and Le Yang Lak. This is my annotation.

15

1 So with such annotation, that paper would have been sent to the
2 superior already. Thanks.

3 [9.52.08]

4 Q.Thank you. And in your summary, apart from noting that three
5 people arrived on the 29th of -- or were arrested on the 29th of
6 February 1976 and arrived at S-21 on the 5th of April 1976, do
7 you summarize the confession, describe the military situation of
8 the Vietnamese infiltrating 500 metres from the border line, and
9 the arrest of Troeng Yang Lakk by Military Region 25 and the
10 following handover to S-21?

11 A.The summary is about that. The services of the three spies
12 was to spy on the military locations of Cambodia, and they
13 infiltrated about half a kilometre into Cambodian territory.
14 Military of the Region 25 arrest them on the 29 of February 1976
15 and, later on, the security office of Region 25 sent them to S-21
16 on the 5th of April '76.

17 It had been about two months that these people were sent after
18 they had been detained, and only after the Standing Committee
19 decided to have them transferred to S-21 that they could be sent.
20 So then they were sent to S-21 accordingly.

21 So my annotation was made on the 10 of April, the same year.

22 [9.54.27]

23 Q.And if we could move now to ERN number 00240053.

24 Is this a summary prepared by you of a confession by a Viet Cong
25 spy who entered Kampuchea on the 14th of March 1976?

16

1 A.Of course it is my summary.

2 Q.And in that summary, do you say that the so-called spy
3 described the common plan to move border posts 600 metres into
4 Cambodia or to grab rice fields and to instigate the population
5 to look for firewood, catch fish, and make trouble. Is that
6 correct?

7 A.It is true. It is the summary of my writing and I do
8 acknowledge all the content of its summary.

9 Q.And that summary was also made on the 10th of April 1976. Is
10 that correct?

11 A.That's correct, Your Honour.

12 Q.Thank you. The screen can be returned to the normal position,
13 please.

14 After these people who were classified as spies were interrogated
15 and perhaps tortured, were they too all killed?

16 A.The common principle is obvious that everyone who was regarded
17 as enemy had to be smashed. Since they were presumed or regarded
18 as enemies, they definitely were smashed.

19 [9.57.11]

20 Q.I want to turn now to the third category of Vietnamese
21 civilians.

22 Could we see E68.30, which is another chart?

23 It's at 00333645 and it is a Khmer/English chart.

24 MR. SMITH:

25 Your Honours, was that a chart or a list?

17

1 JUDGE CARTWRIGHT:

2 Sorry, a list. I'm sorry, it is a list.

3 MR. SMITH:

4 Thank you. I think we have it on the screen.

5 [09.58.22]

6 JUDGE CARTWRIGHT:

7 One in the same series.

8 MR. SMITH:

9 I believe, Your Honours, we need your authority to switch.

10 JUDGE CARTWRIGHT:

11 Yes, could the AV switch to the Co-Prosecutors' screen?

12 BY JUDGE CARTWRIGHT:

13 Q.Now, looking at that list, can you tell me if those people --

14 if any of those people were arrested from Vietnamese territory?

15 Say you want the page turned if you want that done.

16 A.Thank you. I have read the document.

17 Q.And can you tell me if any of those Vietnamese were arrested

18 from Vietnamese territory?

19 A.One; it is number three, Chao Kosol. He's a Khmer Krom. He

20 hasn't had a position and he was arrested in Vietnam. And number

21 99 (sic), Dach Sore, he was also arrested from Vietnam. And

22 number 11, Do Vanko. Danh Heng, he's a Khmer Krom. He was a

23 Buddhist monk. He also was arrested from Vietnam. And number

24 13, Do Yang Phou. He was arrested from Ba Chuk. That is in

25 Vietnamese territory. And Do Yang Tong was also arrested from Ba

18

1 Chuk. And Oeng Ros Sytuon, he was a tradesperson from Phnom Penh
2 and he was arrested in Vietnam. Lay Lengleng, the wife of Bun
3 Chheang, she was arrested in Vietnam.

4 So there were 6 of those people from these 17 people on the list.
5 That's it; thank you.

6 [10.02.26]

7 Q.Thank you. And when these people were arrested and brought to
8 S-21, were they also interrogated and possibly tortured and
9 killed?

10 A.Your Honour, these people, from what I can recall, they were
11 interrogated and for those who would be able to have their voices
12 broadcast on the radio, they would be interrogated, and the rest
13 would be left alone but, in the end, all would be smashed.

14 Q.Were they also interrogated by the guard you assigned to
15 interrogate Vietnamese?

16 A.Your Honour, the guard had no authority to interrogate any
17 prisoner.

18 Q.I will correct my question. Were they also interrogated by
19 the interrogator assigned by you to question Vietnamese?

20 A.Your Honour, that is true. There was only one person who
21 would interrogate Vietnamese prisoners.

22 [10.04.15]

23 Q.I note that there are both men and women in this list of
24 Vietnamese. What about children? Were Vietnamese children also
25 brought into S-21?

19

1 A.Your Honour, when it comes to the matter of the children, I
2 could not grasp it, but if the children came along with their
3 parents, as a general principle they would also be smashed.

4 Q.And you had a policy of not listing the children brought to
5 S-21. Is that correct?

6 A.Regarding the making of the list, I could not grasp it, but I
7 did not give any instruction on this matter. However, through
8 observation I think it was a practice there.

9 Q.So in the end, we do not know how many Vietnamese children
10 might have been arrested and detained and ultimately killed at
11 S-21?

12 A.Your Honour, there is a lack of information, so we would not
13 be able to estimate it.

14 Q.Thank you. Well, in summary then, you have accepted that over
15 the period from the beginning of operations of S-21 until the 6th
16 of January 1979, 345 Vietnamese in three broad classifications
17 entered S-21, were interrogated, often tortured, and ultimately
18 killed. Is that correct?

19 A.Your Honour, that is correct, however, I would like to make a
20 comment, with your leave.

21 I do not want to use the words "often tortured". I would like to
22 correct it to be that there was torture in the case when it was
23 unavoidable. That's it; thank you.

24 [10.07.07]

25 Q.While you were Chair of S-21, were you aware of the general

20

1 rules about treatment of foreign nationals in the hands of
2 Democratic Kampuchea, or prisoners of war taken from an opposing
3 army and detained?

4 A.Your Honour, could you please state your question again? I
5 could not fully grasp it.

6 Q.Did you know of any rules about the treatment of prisoners of
7 war?

8 A.Your Honour, on this matter I would like to give my response
9 in two parts.

10 The first part is about the principal of treatment on the
11 prisoners of war. I did not study or see any documents on this
12 matter. As I have said earlier, even the declaration of the
13 human rights I only saw it once when I started at my primary
14 school in about 1951. And later on I could not even find a
15 document. So that is number one. I did not see such documents;
16 that is, the international law at the time on the prisoners of
17 war.

18 [10.08.57]

19 On the second part, I would like to confirm that the conflict
20 between Vietnam and Cambodia, as I said earlier, Vietnamese
21 arrested Cambodian people at Sector 25 and the Khmer responded,
22 so also in the same area. So for the orders that was put upon
23 us, we just implemented the orders. It's unavoidable for us to
24 not implement it.

25 So the issue is, I did not understand the law and, two, about the

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1 conflict between Vietnam and Cambodia, it was a counterattack and
2 attack.

3 That is my response.

4 Q.Thank you. You did not know about the law relating to the
5 treatment of prisoners of war, but what about your own common
6 sense or your general knowledge? Were you aware that prisoners
7 of war should be treated with a degree of dignity, respect and
8 concern for their well-being?

9 A.Your Honour, as I told you earlier, sometimes -- what I knew I
10 told you what I knew and what I did not know, I did not know. So
11 I thought constantly about the issues of Vietnam and Cambodia.
12 Cambodian people killed Vietnamese and Vietnamese killed
13 Cambodian people.

14 So I did not think about any other matters regarding the
15 international laws. When they were entered into S-21, we were
16 just implementing the orders that we received. And that was my
17 thought at the time. Thank you.

18 So the mistake was made, but that was what we did during the
19 time.

20 [10.11.11]

21 Q.And so far as those classified as spies or Vietnamese, did
22 you, from your own common sense or general knowledge, know that
23 their treatment at S-21 was completely wrong?

24 A.If we thought about the understanding at the time, I already
25 said it so I did not want to repeat it again. If we talked about

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1 human rights laws, the international laws, it was completely
2 wrong. All those crimes were committed and I do not deny it. I
3 accept it.

4 Q.Thank you.

5 JUDGE CARTWRIGHT:

6 Mr. President, I have no further questions.

7 MR. PRESIDENT:

8 Judges of the Bench, do you have any questions to be put to the
9 accused regarding the current fact?

10 [10.13.30]

11 Judge Lavergne, the floor is yours.

12 BY JUDGE LAVERGNE:

13 Q.Thank you. I would like us to return to the issue of
14 Vietnamese civilians.

15 Perhaps we could return to the normal screen? Could we return to
16 the normal screen, please? Perhaps this list of prisoners could
17 be removed from the screen? Thank you.

18 Now, I would like us to return to the issue of Vietnamese
19 prisoners in the category of civilians because you had three
20 categories; military people, spies, and ordinary people or
21 civilian people. You have stated that a number of them had been
22 arrested in Vietnam.

23 Could you give us some further clarification as to the conditions
24 under which they were arrested? Do you know whether this
25 happened in the wake of military operations, what kind of

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1 operations, and why these people were arrested?

2 A. Your Honour, the conditions of the arrests, how they were
3 arrested by the Democratic Kampuchea soldiers, did they go into
4 the Vietnamese territory to arrest them or did they arrest them
5 during a raid, at that time I could not fully grasp the situation
6 and I did not make any further inquiries.

7 [10.14.54]

8 So this is my response to you.

9 Q. You have stated that all persons sent to S-21 were considered
10 to be enemies. Amongst the persons on the list of civilians,
11 there are a number of people who are termed or who are called
12 monks or Buddhists, and for at least one of the people you have
13 stated that he was a Khmer Krom.
14 My question is as follows. Was he sent to S-21 because he was
15 deemed to be an enemy because he was a monk or because he was
16 Khmer Krom? Was there a particular policy line of CPK in this
17 respect as to judging people on the basis of their being monks or
18 Khmer Krom?

19 A. You asked me clearly about the CPK policy line and let me
20 describe it further as follows.
21 The principle of the CPK policy regarding the religion, I
22 reported on this matter already to the Co-Investigating Judges.
23 I think it might be part of the second case file. So if you
24 permit me to talk publicly about it, I can do that.
25 And, secondly, it's about the Kampuchea Krom and the struggle

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1 movement of the Kampuchea Krom and the Communist Party of
2 Kampuchea. I would like to state this matter clearly to Your
3 Honour, however, what I can say regarding this matter is that the
4 Communist Party of Kampuchea regarded these people as spies.
5 So the first issue is about the religion, and a second issue is
6 about the struggle movement of the Kampuchea Krom. Would you
7 like me to elaborate further on these two matters?
8 Your Honour, for the religion, in general for all other
9 religions, Pol Pot opposed all religions as a general principle,
10 however, the operation of the opposition is done cleverly by Pol
11 Pot. For the Buddhist religion, which was respected by the
12 majority of the Cambodian people, Pol Pot said, "The worst thing
13 is the regime of believing in sin".
14 [10.18.58]
15 Let me continue. As for the monks or the novice monks, they were
16 docile because those monks were the children of the peasants.
17 Their daily living depended on the contributions of the peasants.
18 It is the peasants to decide whether the monks would survive,
19 based on the food they provide. Therefore, during the life of
20 the operation that I worked at S-21, they never sent anyone to
21 the office because of their belief in the religion.
22 Separately, immediately after the 17 April, I heard -- I received
23 a confirmed news that the patriarch, Huot At was assassinated,
24 and I concluded that the main important leaders of the religion
25 were assassinated. And as for the monks in Phnom Penh, they were

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1 evacuated to the countryside, and for other children of the
2 peasants, they were disordained. And who did not want to
3 disordain would be considered -- so they would be considered and
4 would be arrested.

5 In the records of the interviews of witnesses that were done by
6 the investigators of the Co-Investigating Judges, I have seen an
7 evidence which is believable, that there was an abbot, Prak Soy;
8 that was the name of the abbot. Prak Soy, that is the name of
9 the abbot. He was refused to disordain and probably, as a
10 result, he was smashed.

11 So, in conclusion, regarding the lines of the CPK policy toward
12 the religion, it was done in that way. So this is about the
13 CPK's policy and political line concerning the Buddhism. Through
14 my observation like this, I do not believe that this monk was
15 arrested because of his practice in Buddhism.

16 [10.24.29]

17 Number two, I would like to also like to tell Your Honours about
18 the behaviour of the CPK toward the resistance movement in
19 Kampuchea Krom.

20 The CPK regarded the Communist Party of Vietnam as a friend in
21 conflict, so I have never seen any evidence to prove that he took
22 side with the Khmer Krom movement to fight the Communist Party of
23 Vietnam. I have not seen any evidence to prove that Pol Pot
24 joined the Khmer Krom's resistance movement to fight the
25 Communist Party of Vietnam. I have the opposing evidence.

26

1 Between 1977, the Khmer Krom resistance movement sent a
2 three-person delegation, but they were a low-level delegation, to
3 negotiate with the Communist Party of Kampuchea to ask for the
4 support of the CPK in order that the CPK support their movement.
5 I made the people prepare the documents to be sent to the
6 superior. Then it was decided by the superiors that they must be
7 smashed.

8 So it was true that I had to smash them according to the order I
9 received, although they had dispute with the Party.

10 What I would like to emphasize now is that Pol Pot did not join
11 the Khmer Krom resistance movement and regard them as friend. He
12 regarded Khmer Krom resistance movement as an enemy because they
13 had affiliation with the U.S. This is a common movement.

14 So this individual who was arrested when he was a monk, I don't
15 know whether he was a spy who appointed someone to spy on
16 Cambodia. I have no idea because there is no other document to
17 support my arguments, and I apologize.

18 [10.29.40]

19 Q.I'm not sure I understood everything you said. There may be
20 translation issues.

21 But what I seem to have understood at the end of your statement
22 is that Pol Pot considered the resistance movement of Khmer Krom
23 to be part of enemies of Democratic Kampuchea because he deemed
24 them to be somehow affiliated with the U.S.A. Is this what you
25 said? Can you confirm that this is what you said?

27

1 A. Your Honour, Pol Pot did think so.

2 Thank you. That's all.

3 JUDGE LAVERGNE:

4 I still have a few questions. I don't know if we should break
5 now or after my questions.

6 MR. PRESIDENT:

7 Judge Lavergne, you may proceed putting further questions before
8 we take an adjournment.

9 [10.31.13]

10 BY JUDGE LAVERGNE:

11 Q. We also spoke yesterday or the day before, I don't remember
12 exactly, about the people who were members of the FULRO, of the
13 United Front for the Liberation of Oppressed Races, and you
14 explained that three of these people had been released from S-21
15 and this was something that was exceptional. Can you, therefore,
16 explain to us why specifically why they were released and what
17 this front represented for the CPK?

18 A. Thank you, Your Honour, for bringing up this matter. Thank
19 you, Your Honour, for raising this question.

20 The FULRO movement was initially established by the French.
21 Later on, I learned that the U.S. also took control of the
22 movement. In 1978, FULRO people appointed their low-level
23 delegation, the two-person delegation so far as I remember, to
24 contact the CPK, and their request was identical to that of the
25 Khmer Krom's movement. And the response from Pol Pot through

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1 Uncle Nuon was the same, that they had to be smashed.
2 A few days or months later, FULRO appointed two more people.
3 These two people arrived at S-21 only to learn that I had been
4 asked by Uncle Nuon to work with him, and then he told me that
5 Angkar said that, "Angkar asked you to spare these two people and
6 that they shall not be beaten". So I made them -- interrogate
7 them and then forwarded the request to him.
8 After having handed the request to him then he allowed the two
9 people to be accompanied to meet the FULRO group where they
10 belonged. These two people included Y Peung Nel, the captain,
11 and another one is Y Phlen. I did not release them yet, the
12 other men came in. And, in principle, when the FULRO people were
13 released the S-21 had to apply the principle and we did not
14 interrogate them.
15 I may even elaborate further that this moment in the plateau of
16 Tai Ngieng -- later on I heard through radio of Khmer Rouge about
17 the Dega FULRO. Vietnamese call Tai Ngieng plateau. The
18 Vietnamese call this area as Tai Ngieng plateau, but the tribal
19 people called this area as Dega. Dega. Dega.
20 Q. Could you please spell out the names when you mention them?
21 A. I have not seen the full words but I can spell as D-E-G-A.
22 So the reason I elaborated this is that Pol Pot and FULRO had
23 contact with one another because he released the two members of
24 the FULRO and Y Banh, Y Bei ran with me after the 7th of January
25 and we departed in Pursat province.

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1 [10.39.06]

2 In conclusion, I would like to sum up the CPK line towards the
3 FULRO people.

4 Pol Pot still regarded the FULRO as the enemy, although after the
5 31st of December 1977 he still regarded the FULRO as the enemy,
6 when the situation became so intense that he regarded the FULRO
7 at this time a friend. His theory was that when he was drowning
8 he did not even think to have a life saving device, just a small
9 bottle could save him. So the enemies had to be smashed. They
10 could be spared only in the names of the prisoners whose life was
11 spared, but still being the prisoners.

12 Number two, when they were regarded as friends they shall be
13 supported, then released. Then they were sent to meet their
14 leader.

15 So this is about the behaviour of the political nature of Pol
16 Pot. So his attitude regarding FULRO had changed like that.
17 That's why later on he regarded the group as friends.

18 That's all. Thank you, Your Honour.

19 Q.Do you agree to consider that the FULRO represented a military
20 force and, if so is the case, do you consider that the FULRO
21 participated in an armed conflict with Vietnam?

22 A.I do not know how to respond to you, Your Honour, but I will
23 report to you my understanding on this matter.

24 [10.42.43]

25 Y Peung Nel which was ordered to release by the superior. He was

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1 a captain.

2 As for the main leader of the FULRO named Y-Bham Enuol, he was a
3 general. They had weapons or not, I did not know. At that time
4 I did not ask. Because when I was ordered to release so I was
5 happy to release in order to complete the objective of the
6 superior.

7 This is my response to you, Your Honour.

8 MR. PRESIDENT:

9 It is time for a break. The Chamber will adjourn for 20 minutes
10 until 11 a.m. when we will resume our hearing again.

11 (Judges exit courtroom)

12 (Court recesses from 1044H to 1108H)

13 (Judges enter courtroom)

14 [11.08.45]

15 MR. PRESIDENT:

16 Please be seated. The Chamber is now back in session, so the
17 proceeding will continue on the armed conflict discussion.

18 Before I hand the floor to Judge Lavergne, I would like to inform
19 the parties and the public that the testimony of Witness KW-09
20 which was scheduled today -- however, based on the rescheduling
21 of the hearing time, the Chamber considers it's not possible to
22 hear the testimony of KW-09 today because the discussion on the
23 current fact takes longer than expected, and this witness
24 testimony will be rescheduled at a later date when it comes to
25 the facts on the operation of S-21 and Choeung Ek, and he will be

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1 called at an appropriate time.
2 Court Officer, you're instructed to inform the witness and expert
3 support unit to facilitate the KW-09 witness to return to his
4 residence. The notification will be informed at a later date for
5 his testimony.

6 I would like now to give the floor to Judge Lavergne to continue
7 his questions to be posed to the accused regarding the armed
8 conflict.

9 BY JUDGE LAVERGNE:

10 Q. Could you recall for us the exact date upon which Son Sen left
11 Phnom Penh, and the date from which you were linked up with Uncle
12 Nuon?

13 A. This is a strange matter, therefore, I remember both the
14 locations and the date that I went to see Uncle Nuon. It was on
15 the 15 August 1977 and it was at the Suramarit Buddhist
16 Institute. It was not on the ground floor but it was at the
17 upper floor.

18 So this is my response. Thank you.

19 [11.12.52]

20 Q. Please don't give us too many details. I just wanted the
21 date.

22 Could you also tell us whether you were aware of the reasons why
23 Son Sen left Phnom Penh, and do you know where he went and what
24 he did at that time?

25 A. Your Honour, first, I was not sure of the direction he went;

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1 either to Meas Mut to organize the forces, however, later on he
2 called Comrade Hor to defend his office. And later on he
3 telephoned to me from Neak Loeung, so it means he was based in
4 Neak Loeung at the time. So that was what I knew.

5 Q.Where is that base located exactly?

6 A.The clear location when he called me was at Neak Loeung. Your
7 Honour, you know that Neak Loeung was on the way, on the National
8 Road Number 1 along the Mekong River.

9 Q.Consequently, could it be said that this is close to the
10 border between Cambodia and Vietnam?

11 A.It was not really close to the Vietnamese-Cambodian border.
12 We have two more provinces before we reach the border. Neak
13 Loeung is located in the Kandal province and we have to cross the
14 Mekong River and then the Prey Veng province, and next we will
15 reach the Vietnamese territory. From what I can estimate, Neak
16 Loeung is not more than 100 kilometres from Phnom Penh. It is
17 less than 100 kilometres from Phnom Penh.

18 [11.16.16]

19 Q.Another question on a different subject now.

20 Reference was made earlier on to interrogations of Vietnamese
21 prisoners. You told us that such interrogation was conducted
22 chiefly by one person, Mam Nai. In the case file, there are a
23 number of confessions which are drafted in French. They are
24 confessions of Vietnamese prisoners.

25 Are you aware of the existence of such confessions in the French

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1 language, and who drafted and wrote such confessions in French?
2 A. Your Honour, the person who could write the French language is
3 a Vietnamese person. He was a lieutenant. He was a government
4 soldier of the south government, South Vietnamese government, and
5 his name is Ho Ding Gnor(phonetic), and he knew French and
6 English and I think it was only him who wrote the French version.

7 Q. There were several confessions but this is not a major
8 problem.

9 JUDGE LAVERGNE:

10 Your Honour, I have no further questions for the accused. Thank
11 you.

12 MR. PRESIDENT:

13 For the next session, the Chamber would give the floor to the
14 parties to put questions regarding the armed conflict.
15 However, before I do that I will remind all the parties that the
16 facts to be put for discussion before us is about armed conflict;
17 that is, the armed conflict between the Democratic Kampuchea and
18 the Republic Socialists of Vietnam during the time that
19 Democratic Kampuchea controlled the country from 17 April '75
20 until the 6th January 1979.

21 [11.19.30]

22 And a second reminder is that it is the Chamber's observation
23 that the timing for the trial has been delayed and extended. In
24 fact, the scheduling for the hearing of the two testimonies of
25 the two witnesses have been delayed due to the time it took for

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1 the discussion on these two facts.

2 So let me remind all the parties that the facts of the armed
3 conflict need to be cleared and differentiated from the operation
4 of S-21 and, in fact, when it comes to the relevancy of the armed
5 conflict and the result of such conflict at S-21, you have to be
6 sure that the Vietnamese prisoners who were at S-21 have been
7 questioned by Judge Cartwright to the accused already. So
8 fundamentally, in general, the accused already responded to this
9 part of the questions and the information is acceptable for us.

10 [11.20.55]

11 For other matters related to the treatment on the facts will be
12 discussed in details regarding the facts on the operations of
13 S-21 and Choeung Ek which will come after the facts on the armed
14 conflict.

15 So all the parties who will pose the questions to the accused
16 need to be mindful and concentrate on the precise questions
17 related only to the armed conflict and not go into the details of
18 the operation of S-21. Although it might be relevant to the
19 Vietnamese people who were sent to S-21, we can discuss the
20 details on this matter when it comes to the following facts.

21 I would like now to give the floor to the Co-Prosecutor if he has
22 any questions to be put regarding the facts to the accused.

23 MR. SENG BUNKHEANG

24 Thank you, Mr. President.

25 QUESTIONING BY THE CO-PROSECUTORS

35

1 BY MR. SENG BUNKHEANG:

2 Q.Mr. Kaing Geuk Eav, yesterday you said that the conflict
3 between Cambodia and Vietnam was a chronological and very bitter
4 war. Was it a policy of the CPK then?

5 A.Yes, it is true. It was a political line that we understand
6 it is true.

7 Q.Were you aware about the fighting between the two armies?

8 A.I knew that for sure it was a war. It was after the 6th of
9 January. That was the date, I know.

10 Q.Did you know that the Vietnamese soldiers invaded Cambodia?

11 A.The Vietnamese troops invaded Cambodia. It was actually a
12 war. It was after 6th January, 1978.

13 Q.What was your view in relation to the invasion by the
14 Vietnamese troops at that time?

15 A.I said to Judge Cartwright of the Trial Chamber that between
16 Cambodia and Vietnam it was a kind of fighting back-and-forth.
17 They fought against us and then they we fought against them. I
18 thought like that at the time.

19 Q.Do you have a feeling that you hate those Vietnamese troops?

20 A.This matter, it was my feeling then, however, the matter that
21 I can recall and I remember all the times, it's a problem that we
22 were in a quarrel. We fight them and they fight against us.

23 [11.24.48]

24 When we listened to the testimony by Nayan Chanda, it was the
25 chronic matters. If it was the Indochina political line, the

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1 mastery line of Pol Pot, it will die in Cambodia. As I informed
2 to you, it was chronic dispute and it is a fierce quarrel, but it
3 was in the case 002.

4 [11.25.25]

5 After 1954, Le Duan was also -- he considered himself as the
6 father of Indochina, and then Pol Pot himself would like to have
7 the party so that he can have the same level as the Vietnamese
8 party and equivalent to the Laos party and equivalent to the
9 Marxist-Leninist party in the world. That was my understanding
10 and I hate that situation.

11 There were no particulars. I only know that they kill Cambodians
12 and we also can kill the Vietnamese.

13 Q.You said that Pol Pot wished to have the Communist Party of
14 Kampuchea to have the equivalent level as other parties. Was
15 there any statement by Pol Pot in relation to this matter?

16 A.The statement, it is the practice of Leninists in the world.
17 They never made any statement. They kept it as confidential.

18 Q.Because I see that one statement of Pol Pot on the 17th of
19 January 1978, extract from the speech of Pol Pot who was the
20 Secretary of the Communist Party of Kampuchea, and he mentioned
21 about -- he said that they commented in a rude and cruel -- and
22 invaded, and it is believed to be the father of Indochina and the
23 big brother of Indochina. And they declare themselves to the
24 public that the small people in Indochina still respect them and
25 under their orders.

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1 And the documents ERN in Khmer, 00224837 to 00224852, and in
2 English ERN 0008671 to 0008678, on the second page of the Khmer
3 language.

4 Did you know about this statement?"

5 A. Mr. Prosecutor, I responded to your question. I remember to
6 the story of happened before the 31st of December 1978. So I
7 heard or I read -- at least I heard on the radio.

8 Thank you that you make this question to me.

9 [11.29.25]

10 Q.During the control of the DK did you know about the armed
11 conflict between DK and Vietnam? So how many phase and stage of
12 that conflict did you know of that? Could you raise only the
13 main point of the conflicts?

14 A.Mr. Prosecutor, as I mentioned again and again before Judge
15 Cartwright, that there were only two phases. The first one is
16 from the 17 April 1975 until the 6 of January 1978, so I very
17 interested in that date during that period. So we can use the
18 term in Khmer, tug-of-war conflicts. So it is kind of fighting
19 each other.

20 But when we look into the story in itself, the Cambodians sneak
21 into Vietnam to conduct espionage and then they send their agent
22 to Cambodia, but there is an arrest back-and-forth. And they
23 came into Cambodia and they take any information or spy against
24 us and they -- another case that they want to remove the boundary
25 posts and so on.

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1 So I would like to tell you that I forget some information, but
2 the politics it's the most leading issues. And they want to take
3 us as part of the Indochina Federation. It was a conflict
4 between Pol Pot and Le Duan. This is the core of the matter.
5 I'm not referring to the secretary of the Vietnamese Communist
6 Party. It was a very tough quarrel between Pol Pot and Le Duan.
7 So they want to get the Cambodia as one of the Federation of
8 Indochina and Pol Pot wanted to be independent. So I did not
9 follow the small conflict in the lower stage. So it is the truth
10 that the document I annotated on, the document that Judge
11 Cartwright show me.

12 [11.32.11]

13 Q. Did you know about the plan of using the force to move the
14 Vietnamese out of Cambodia because in a document -- the "Black
15 Paper" produced by the Democratic Kampuchea, pages 64, 65 -- said
16 that the Communist Party of Kampuchea request that the Vietnamese
17 to move out before 1975, and all of them should be moved out in
18 June 1975, and it also mentioned that it's only a small number of
19 Vietnamese left Cambodia. And in that case, the Communist Party
20 of Kampuchea send its troop to force those Vietnamese out of
21 Cambodia.

22 Did you know about that facts?

23 A. Mr. Prosecutor, I do not know that. As I told you, I told the
24 hearing yesterday, I saw that black book until 1983. So about
25 the conflict about the force, on the -- forcing out the people of

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1 Vietnamese, I have no idea.

2 Q. Based on your indication that you attended the meeting with
3 the senior leaders, did they raise anything about the armed
4 conflicts of the Democratic Kampuchea with the neighbouring
5 countries?

6 A. Mr. Prosecutor, I never attended such a meeting. And the
7 superior asked me to work and they need to recommend -- instruct
8 me to do the work at S-21; I need to use this work to do the
9 work.

10 And the study session, yes, I did. They are talking mostly about
11 the conflict between Le Duan and Pol Pot about the mastery
12 political line. This in the study session. Regarding the
13 matter, they asked me to do the work in S-21, so they instructed
14 me to do the right work and this is the wrong works.

15 [11.35.00]

16 Q. Yesterday, you said that you attended in session in which Pol
17 Pot was the presenter and you said that Pol Pot mentioned about
18 the Democratic Kampuchea troop victory over the Vietnamese troop.
19 Is it true you said that?

20 A. Thank you, Mr. Prosecutor. As I call it, as the meeting to
21 appreciate the victory of the army in the 6th of January, it was
22 me alone attending that meeting with them.

23 Q. When you heard about the conflict, did you take this
24 information to disseminate among your subordinates and staff?

25 A. What I heard from the Secretary of the Party to me, I am the

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1 member of the S-21 Committee. I took that message and send to
2 the subordinate and S-21. It is like a rule that I have to
3 follow.

4 Q.Was there any senior leader went to conduct any training or
5 study session at S-21?

6 A.Mr. Prosecutor, you asked me that whether or not the senior
7 leader went to conduct training session. I think that you refer
8 to a member of the Standing Committee. Yes, there was only one,
9 Mr. Son Sen, who went there on the 24th of April 1977.

10 [11.37.23]

11 Q.Did you know why and what was the topics of the study session?

12 A.Mr. Prosecutor, Son Sen went there. It's not really teaching
13 but in fact he chaired the annual meeting of S-21 to learn the
14 opinion or the views of the subordinate regarding my leadership.
15 It was an annual congress of S-21. It's not a normal political
16 training session.

17 Q.As you said, Son Sen had no program to teach other than what
18 you said. Is it correct?

19 A.Mr. Prosecutor, it was a normal annual meeting. It was next
20 to Borey Keila. It's in the building like the boat roof, and the
21 21st of April 1977 he went to S-21 to chair the general meeting
22 of the S-21 committee.

23 [11.38.54]

24 Q.Yesterday you said that the Communist Party of Kampuchea
25 maintained and continued -- maintain that conflict as

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1 confidential. Did you know what was the purpose of this regime
2 for not disclose that conflict to the public?

3 A.I analyze and I conclude, it is my assumption to you, I assume
4 that the conflict between the two Marxist-Leninist parties, they
5 have to struggle and solve in secret. But I can say it's the
6 political class and military, they kept that as confidential.
7 But after the war broke then they issued statements. I believe
8 that it is the practice of the two Marxist-Leninist parties in
9 the neighbouring country.

10 Q.You said that Son Sen went to stay at Neak Loeung. Did you
11 know what was the purpose for him to stay at Neak Loeung?

12 A.I did not know. I did not really know. It was related to the
13 military matters.

14 Let me add to that. My superior left Phnom Penh to stay outside.
15 Normally I knew that he stayed at Neak Loeung but the S-21
16 documents and the confessions which were sent to Uncle Nuon, I
17 saw the notation of him until the 11th of November '77, so he
18 still led the work at S 21. This is based on the surviving
19 documents at S-21. So I did not know how he managed his work.

20 [11.41.28]

21 Q.Yesterday you said occasionally Son Sen would telephone you,
22 and during the time that he telephoned to you what was the
23 objective of his telephoning? Did he tell you about any conflict
24 with Vietnam during the time that he called you?

25 A.Mr. Co-Prosecutor, my superior rang me and asked me

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1 importantly on the follow-up of the work at S-21. When my
2 superior met me he asked me about the work and to give
3 instruction on the work. Regarding the matters at the
4 battlefield or the political matters, that would be presented for
5 the annual session. So the meeting in such a way is to follow up
6 on my work and to give instructions on my work.

7 Regarding the Vietnam and Cambodia conflict or the conflict with
8 any other countries such as (inaudible) would be presented during
9 the annual session -- study session.

10 Q.Were you aware that the Vietnamese soldiers who were captured
11 at the battlefield -- where were they sent?

12 A.I did not know. This is my frank answer. I didn't know how
13 many people were smashed at the battlefield or how many were sent
14 to me, and some might be sent to other locations. I was not
15 sure.

16 Q.The Vietnamese soldiers who were sent to S-21, what were their
17 conditions?

18 A.I did not see them personally.

19 [11.43.39]

20 Q.Yesterday you told Judge Cartwright that your staff used to go
21 and transport the Vietnamese prisoners on two occasions to Svay
22 Rieng and to Kampong Cham. Those who went needed to receive your
23 order and also with a travel permit. At that time whom did you
24 order to transport the Vietnamese soldiers who were captured?

25 A.Mr. Co-Prosecutor, on this matter I reported already to Judge

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1 Cartwright. Let me further add to that. However, it is the same
2 wording. The special travel permits on the two special occasions
3 were for travelling out of S-21 and they were only on two
4 occasions, and the directions to transport the Vietnamese
5 soldiers, I was not sure whether it's on Road Number 7 or Road
6 Number 1. I was not clear on that. But there were two special
7 travel permits used, and for the remaining we only waited to
8 receive those soldiers from Comrade Lin.

9 Q.My question is whom did you order to go and transport those
10 people?

11 A.Once I received such order I would order Comrade Huy to
12 implement it, and I never ordered directly to them. I only
13 ordered Comrade Huy to order his subordinates, so I only made
14 indirect order.

15 Q.So it means you did not participate with Hor?

16 A.Hor did not go. My order was indirect, so Hor might appoint
17 or order Huy to go. Hor never dared to leave his place.

18 Q.Who authorized this special travel permit?

19 A.For the special travel permit I did not want to talk about the
20 origin of the travel permit, but initially the travel permit was
21 assigned to me, and when the operation was finished I handed it
22 back to Son Sen personally. But for the second time it was a bit
23 difficult. They organized, and almost it's time for the
24 departure; then I went to receive this special travel permit at
25 the Preah Monivong before the 7-Up factory.

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1 When I returned I telephoned immediately and asked Comrade Pon,
2 the messenger, to receive the special travel permit back. So we
3 dared not to keep the special travel permit longer at the S-21
4 because there is one provision for this special travel permit.
5 It meant search was not allowed for the vehicle bearing the
6 special permit.

7 [11.47.21]

8 Q.Can you recall, on the two occasions that your staff went out
9 to transport the Vietnamese soldiers, how many of them were
10 transported back to S-21?

11 A.Mr. Co-Prosecutor, we did not go and make any arrest. We went
12 to receive them and they were already arrested, as I already
13 informed Judge Cartwright yesterday, and I was not sure which
14 direction we went to transport them, either to the border area or
15 to Battambang, so I did not know where we used the special travel
16 permit to go to. So I am not clear and probably it can be
17 clarified when Comrade Huy comes to testify.

18 Q.So you are not sure on the number of prisoners that you
19 received?

20 A.For such detail I cannot remember.

21 [11.48.31]

22 Q.Do you know why the special travel permit was stopped; for
23 what reason?

24 A.I was not sure of the reasons but I can conclude that the
25 special travel permits have a lot of authority because the

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1 vehicles bearing it were not allowed to search. So they did not
2 trust the S-21 to hold the permit longer.

3 Q.At that time did you request to your superior for the issuance
4 of the special travel permit?

5 A.I cannot recall it.

6 Q.Can you recall which sections or units who sent the Vietnamese
7 soldiers to S-21?

8 A.It was Comrade Lin's group from the 870 Unit.

9 Q.In general, did you know how many days did they send the
10 Vietnamese prisoners to S-21 after the 6th of January '78?

11 A.It was irregular. It depends on the activities at the
12 battlefield.

13 Q.How frequently was it?

14 A.We might say -- anyway I cannot recall it. It could be in a
15 week's time or in a fortnight, or the shortest is in five days.

16 [11.50.38]

17 Q.Can you recall when there was a transfer of the Vietnamese
18 soldiers in large numbers, the prisoners of war?

19 A.I cannot recall. Probably we can use the list as evidence.
20 If you give me the evidence, probably I can add up which months
21 that we received those prisoners of war.

22 Q.You said you taught the method of interrogation to your
23 interrogators for the Vietnamese prisoners. How did you learn
24 the method of such interrogation, or from whom?

25 A.The person whom I assigned to interrogate the Vietnamese

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1 prisoners was the person since -- I assigned since the
2 establishment of S-21. That was Brother Mam Nai. There was no
3 special training, just sent the prisoners to him to interrogate,
4 but he was taught the Vietnamese language with Patyan (phonetic).

5 Q. Did you instruct your investigator to write the Vietnamese
6 language and to tape the voice for radio broadcasting or to use
7 during various other meetings?

8 A. I did instruct the interrogator, based on the instructions
9 from the superior.

10 Q. You said you selected Mam Nai to interrogate Vietnamese
11 prisoners. What was the reason for such a selection?

12 A. First, his understanding is high, so his literature background
13 is high. He got a certificate in his study, so it was better to
14 use him than any other people.

15 [11.53.02]

16 Q. Yesterday you also told Judge Cartwright that at S-21 there
17 were filmings. What was the filmings for? Is it for the
18 degrading purpose or to put more burden or guilt on the
19 Vietnamese prisoners? And who ordered such filming?

20 A. Mr. Co-Prosecutor, the degrading or the promotion, it's hard
21 for me to say, but let me describe how the filming was done.
22 When the Vietnamese soldiers arrived in uniform at the gate they
23 took off their cap and postured in a salute gesture, and to pay
24 respect to the Communist Party of Kampuchea and to present their
25 name, their rank, and that they invaded the Cambodian territory.

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1 This is how the filming was done at the location near my house,
2 near Street 95.

3 That was the filming done, and the film-maker was Comrade Theng
4 alias Pool, the nephew of Pol Pot who went to study filming in
5 China. And the person who took Comrade Theng to do the filming
6 was Comrade Pang. So only when Comrade Pang bring him, then S-21
7 will accept; otherwise S-21 would not accept it. Although he was
8 Theng with the company of Pang he would not be allowed to do the
9 filming at S-21.

10 [11.54.57]

11 So some scenes were filmed at my house at Street 95 and then the
12 filming also took place near the bushes near the Mao Zhedong
13 Boulevard and near the Mohamon Trey Street, to show that the
14 Vietnamese soldiers raise their hands to defeat.

15 Q. Who ordered such filming? Can you tell us?

16 A. It was Uncle Nuon but it was not his direct order. He must
17 have received the order from Brother Pol.

18 Q. In the D65 document you acknowledged that there were
19 confessions of Vietnamese female prisoners who were broadcast on
20 the radio. What were the roles of the female prisoners and what
21 were the confessions of those female prisoners about; can you
22 recall?

23 A. It was a Khmer prisoner who went to live in Vietnam and who
24 can speak Vietnamese language. She was also implicated in
25 espionage activity. So the filming, the taping, was first to

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1 show that in Vietnam there was no food to eat, there was
2 starvation, and the people there could sing about being in
3 hunger. That's what I can recall because it was quite strange to
4 me that there was about a song in the confession.

5 Q.Were you aware that in general the confessions you received
6 from the Vietnamese prisoners, were they all real?

7 A.The confessions for the broadcasting -- to be broadcasted on
8 the radio were the ones that we amended, that we checked, that we
9 wanted them to be broadcasted.

10 Q.Was it true?

11 A.It was what we wanted, based on our objective.

12 [11.57.14]

13 Q.So that means they were forced to confess to the way that you
14 wanted?

15 A.If we wanted them to say that the Vietnamese soldiers were
16 starved and did not have any food to eat, they had to say that in
17 their confession.

18 Q.In Nayan Chanda's book at page 287 in the Khmer language it
19 was written that on the 10 of May 1978 the Phnom Penh radio
20 broadcasted a strange message appealing to kill the Vietnamese
21 people and the eradication inside the DK military rank. What was
22 done was only the statistics. Each combatant in our rank had to
23 kill Vietnamese -- had to kill 30 Vietnamese people. Were you
24 aware of that?

25 A.Did each combatant have to kill 30 Vietnamese combatants?

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1 Q. One combatant had to kill 30 Vietnamese combatants. That was a
2 quote from Nayan Chanda's book and this message was broadcasted
3 by the Phnom Penh radio on the 10th of May '76. Did you listen
4 to that broadcast or were you aware of that information?

5 [11.59.09]

6 A. I did not or I rarely listen to the radio. However, from my
7 recollection, I was not sure whether this source was from the
8 study session or not, that each combatant -- if each combatant
9 can kill 30 Vietnamese combatants it is a great success.

10 MR. SENG BUNKHEANG:

11 Mr. President, if you look at the time I think it's now time for
12 the break and I still have some more questions. Maybe it might
13 take 10 minutes. Would you permit me to continue or we need to
14 adjourn?

15 MR. PRESIDENT:

16 Judge Cartwright, the floor is yours.

17 JUDGE CARTWRIGHT:

18 Thank you, Mr. President.

19 [12.00.05]

20 I just want to emphasize what the President said earlier about
21 the need to confine the questions to those that are relevant to
22 this topic. And I would like to say that I believe that many of
23 the questions that have been asked just now have already been the
24 subject of examination and that the accused has already answered
25 them. So could I add my voice to the President's in asking that

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1 we confine the questions, please, so that there is no repetition
2 or irrelevancy? Thank you.

3 MR. PRESIDENT:

4 Now it is time for adjournment. The Chamber will adjourn for
5 lunch break and we will resume at 1.30 this afternoon.
6 Security Officer, take the accused back to the waiting room and
7 bring him back before 1.30 p.m. this afternoon. All the parties
8 are reminded to return at the appropriate time.

9 (Judges exit courtroom)

10 (Court recesses from 1201H to 1342H)

11 (Judges enter courtroom)

12 MR. PRESIDENT:

13 Please be seated. The Chamber is now back in session.

14 I will give the floor now to the lawyer Alain Werner.

15 [13.42.57]

16 MR. WERNER:

17 Thank you, Your Honour.

18 Your Honours, very briefly, I have a request. You announced that
19 for tomorrow there would be a Court management meeting and we
20 have no agenda, still no agenda. If you wish us to be ready for
21 this -- and some of us have teams scattered around the world and
22 we need to liaise with them. We would very much appreciate
23 having an agenda as quickly as possible. Thank you.

24 MR. PRESIDENT:

25 Thank you, Alain Werner, for your observation.

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1 I informed the parties and the audience last time that I would
2 notify the agenda for tomorrow's trial management meeting.
3 However, as you all know, we are all very busy with the trial
4 proceedings. However, the Chamber had a discussion and we
5 prepared the agenda already.
6 After our final discussion during the break this afternoon we
7 will make our final agenda and it will be notified to all
8 concerned parties probably by the end of today's proceeding. We
9 will try our best to provide the agenda so that all the parties
10 can participate and be ready for the discussion.
11 First, that is to have the documents ready for the discussion in
12 order to expedite the proceedings so that the Chamber can also
13 fulfil other urgent tasks that we need to hold a meeting to
14 discuss and make decisions.
15 Next, I would give the floor to the Co-Prosecutor to continue the
16 questions to be put to the accused regarding the armed conflict,
17 the facts being put before the Chamber.
18 If you have further questions, the floor is yours.
19 MR. SENG BUNKHEANG:
20 Thank you, Mr. President.
21 BY MR. SENG BUNKHEANG:
22 Q.First, I would like to inform the accused that please answer
23 to the point and don't try to beat about the bush which takes and
24 wastes time and it might be confusing.
25 The question is: during the time you were the Chairman of S-21,

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1 you said you were not aware that the acts were illegal
2 considering the international law, and that you just did
3 following the orders. So can you tell us when were you aware
4 that those acts were the illegal acts?

5 A.I became aware of those acts when I saw in the introductory
6 submission; that's when I officially became aware of it. So that
7 was the time that I became aware of the acts.

8 [13.46.58]

9 MR. SENG BUNKHEANG:

10 Mr. President, I do not have any further questions. I would like
11 now to give the floor to my international Co-Prosecutor to put
12 more questions.

13 MR. PRESIDENT:

14 The international Co-Prosecutor, the floor is yours.

15 MR. SMITH:

16 Thank you, Mr. President. Good afternoon, Your Honours, counsel
17 and the accused.

18 Your Honours, I just have a few questions for the accused. I
19 would suggest it would take about 20 minutes, just to clarify a
20 couple of points that are a bit unclear to me over the last
21 day-and-a-half's testimony.

22 [13.47.42]

23 BY MR. SMITH:

24 Q.Mr. Kaing Guek Eav, I'd like to ask you a few questions about
25 the differentiation of categorizing a prisoner at S-21 as a

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1 civilian, a spy or a combatant.

2 As you know, the revised prisoner list, which everyone has
3 received, is based on the documentation that was obtained at S-21
4 and, as Judge Cartwright said today, it breaks down into, in
5 terms of Vietnamese, three basic categories of spy, civilian and
6 combatant.

7 First, Your Honours, I would ask that document reference number
8 -- it's a statement you made to the Co-Investigating Judges in
9 the investigation, and the ERN is 00177587; Khmer 00177580; and
10 French 00177595 -- be placed on the screen. And, Your Honours --
11 well, firstly I'd ask that the monitor be turned to the
12 prosecution desk.

13 MR. PRESIDENT:

14 The audiovisual officer, can you link the screen to the computer
15 of the Co-Prosecutor?

16 MR. SMITH:

17 Thank you, Your Honours, and I've just been -- the document
18 number is D65.

19 Your Honours, I would ask, Mr. President, that the Greffier read
20 out the area that's highlighted in red to the accused.

21 [13.49.50]

22 MR. PRESIDENT:

23 (No interpretation)

24 THE GREFFIER:

25 "And finally, after the 17th of April 1975, most Vietnamese

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1 living in Cambodia were smashed and, therefore, there were a few
2 numbers of Vietnamese remaining. However, I would like to
3 confirm that I saw in the old list of names in S-21 the
4 Vietnamese, some of them were remaining in Cambodia. The
5 Vietnamese civilians and soldiers received the same treatment.
6 They were interrogated and later sent for execution."

7 MR. SMITH:

8 Thank you.

9 BY MR. SMITH:

10 Q.Mr. Kaing Guek Eav, would you agree with me if I said that it
11 really didn't matter whether any Vietnamese who was a prisoner at
12 S-21 was a combatant, a spy or a civilian; they were going to be
13 killed on the very basis that they were Vietnamese or of
14 Vietnamese origin? Would you agree with that in light of the
15 statement you made to the Investigative Judges?

16 A.In general, I state to the hearing from the beginning that
17 those who were sent to S 21 were considered as enemies to be
18 smashed and, therefore, among those victims there must be
19 Vietnamese civilians, soldiers and spies. So there is no other
20 choice but to smash. If I fail to do that, it will be my
21 mistake.

22 And if I can talk about the Vietnamese minority immigrant, some
23 of them -- there were a few that left until the 17th of April
24 1975, as I described earlier.

25 [13.52.28]

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1 Q.Thank you. And you stated to the Co-Investigating Judges that
2 they would be -- is it fair to say that it was a matter of policy
3 that they were being killed because they were Vietnamese? It was
4 a matter of policy, regardless of the role they played in
5 Democratic Kampuchea?

6 A.It was not only the execution to the Vietnamese. Anyone --
7 Chinese, Khmer, Cambodian people -- anyone who was sent to S-21
8 shall be killed. This is the general policy of the CPK. Yes,
9 among them there were Vietnamese victims.

10 Q.Thank you. And the information that you got as the Chairman
11 of S-21 as to whether or not Vietnamese were spies or alleged
12 spies, that primarily came from the confessions, the
13 interrogations. Is that correct?

14 A.I am a bit difficult because I don't understand well your
15 question, but I'll try to answer based on my knowledge and my
16 recollection.

17 The Vietnamese who were immigrants who lived in Cambodia were
18 sent to S-21 not on the ground that they were Vietnamese, because
19 they committed some offence and then they were sent. As for the
20 Vietnamese who came from Vietnam in any form, they were arrested
21 and sent to S-21 in the name of spies. That's all my addition.

22 Q.And when you say "in the name of spies", how did you learn
23 that? Was it from the information that the prisoner gave
24 themselves? Was that the primary source or was it from other
25 information?

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1 A.It was later on the confession. There were no information but
2 the real truth is that anyone who came from Vietnam into
3 Cambodia, a civilian or combatant, those were considered as
4 spies.

5 So let me indicate to you, the Vietnamese immigrants in Cambodia
6 for a long time, when they were arrested and sent to S-21,
7 because they acted against the authority. As for the Vietnamese
8 who went into Cambodia after the 17th of April were considered as
9 spies; no matter it was a wrong accusation or another matter,
10 they were sent to S-21.

11 [13.56.03]

12 Q.I suppose that's my point. Did you ever verify whether the
13 information that was given was correct?

14 A.This story, I don't know what to say in Khmer. In French it's
15 called "routine". It was so familiar to me when I became M-13.
16 Anyone who was sent to the place, it was called a spy. No matter
17 it was wrong or right, M-13 had to interrogate and smash. So the
18 Vietnamese people from Vietnam into Cambodia, it was considered
19 the spy and no matter it was wrong or right.

20 MR SMITH:

21 Thank you. So if you can answer yes or no, you didn't confirm
22 the accuracy of the information that you were given. Do you
23 agree?

24 MR. PRESIDENT:

25 The AV system please remove the screen to the normal screen.

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1 THE ACCUSED:

2 I would like to indicate that there are some things right, some
3 things wrong for those who were accused of being spy. Yes,
4 that's what I can say.

5 BY MR. SMITH:

6 Q.Thank you. And certainly with the information you were
7 getting from the prisoners -- the Vietnamese prisoners -- in
8 their confessions, you certainly didn't believe the truth in
9 everything that was said. Do you agree?

10 A.I don't believe it completely.

11 [13.58.24]

12 Q.So on the basis of that, would you agree with me that many of
13 those Vietnamese that were at S-21 could be -- people categorized
14 as Vietnamese spies could well have been Vietnamese civilians.
15 Would you agree with that?

16 A.Those who were accused of being a Vietnamese spy, no matter a
17 civilian or a force combatant, a few number of them may be the
18 innocent civilian people who came to do business in Cambodia. It
19 is a small number of them.

20 Q.And you wouldn't have known because you didn't check. Is that
21 correct?

22 A.Usually I examined not everything, not in detail for the
23 Vietnamese confession because there were many confessions by the
24 Cambodian victims.

25 Q.Thank you.

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1 I'm going to move to another topic. And, Your Honours, it will
2 be very brief, this topic. It relates to the 15 of August 1977
3 and it relates to when you state that Nuon Chea told you that Son
4 Sen was going to the battlefield.

5 And, Your Honour, I would ask that the AV unit switch their
6 monitors to the prosecution and I would ask that document -- I
7 think it's D65, ERN 00147522 in the English; the Khmer, 00146492
8 and in the French, 00147896 be placed on the screen, or at least
9 the Khmer version.

10 And, Your Honour, I would also ask that the particular quote that
11 the accused stated to the Co-Investigating Judges be read by the
12 Greffier. It appears in a red box.

13 And, Your Honours, I apologize. Your Honours, I'm corrected;
14 it's D11, not 65.

15 [14.01.24]

16 MR. PRESIDENT:

17 The AV official please connect the AV system to the monitor of
18 the prosecutor.

19 The Greffier, Se Kolvuthy, please read the portion in the red box
20 in the documents.

21 THE GREFFIER:

22 "Son Sen left because there was a war with Vietnam and he was
23 sent to the battlefield."

24 The Co-Prosecutor said that there were two or three questions.

25 Number one: "When Son Sen ordered to go to the battlefield, when

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1 was it?"

2 The charged person: "As far as I remember, in 1977 Nuon Chea
3 called me from S-21 to see him on the 15 of August 1977 to
4 receive assignment at Suramarit Buddhist High School. There were
5 only me and him. It was my first meeting with him. As far as I
6 remember, Comrade Khieu went to the battlefield and I was in
7 charge in place of him and there were two youths to help you to
8 work, Comrade Pang and Lin. You know them already. When Son Sen
9 went to manage Pang and Lin were also at S-21 already."

10 [14.06.17]

11 MR. SMITH:

12 Thank you.

13 Your Honours, the reason why I mentioned this document was
14 because in the English it reads, "Son Sen departed because the
15 war with Vietnam was very strong," and that drew my attention to
16 it. I assume that the word "the war that was very strong" was
17 not placed in the Khmer, or maybe it wasn't said.

18 BY MR. SMITH:

19 Q. But, in any event, Mr. Kaing Guek Eav, you said in that
20 statement to the Co-Investigating Judges that Son Sen was sent to
21 the battlefield because of the war. That was your understanding
22 in August 1977, wasn't it; he was going to assist in the war
23 effort?

24 A. These are my understandings at that time.

25 Q. Thank you. It's just that in your testimony it was a little

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1 unclear about the main purpose of Son Sen leaving. But if that's
2 your understanding at the time, thank you.

3 I would now like to ask you very briefly about the film that was
4 made at S-21, when the Vietnamese soldiers were brought in or
5 gathered to make confessions on a documentary or a film. And my
6 first question is: that film, was that taken in your presence?
7 Were you there? Did you see it?

8 MR. PRESIDENT:

9 The AV official, please disconnect the screen from the
10 Co-Prosecutors' screen and move to a normal screen.
11 Please, the floor is yours, Judge Lavergne.

12 JUDGE LAVERGNE:

13 Mr. Smith, I believe that you're referring to sequences from a
14 film that the prosecutors intended to include in the case at the
15 start and that was the object of a request on the part of the
16 defence. So in fact what are we exactly talking about here? Is
17 it a film that was shot by the Vietnamese authorities when they
18 came into Phnom Penh or is it the film that is the object of a
19 request from the defence upon which the Chamber has not yet made
20 a decision, or were you speaking about another film? I'm not
21 quite clear about this.

22 [14.06.52]

23 MR. SMITH:

24 Thank you, Your Honour. Sorry for being confusing. I'm
25 referring to the film that Judge Cartwright referred to this

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1 morning where Vietnamese prisoners, during the period that they
2 were detained or when they were first arrested, were used for
3 propaganda purposes.

4 MR. PRESIDENT:

5 Please, Judge Cartwright, the floor is yours.

6 JUDGE CARTWRIGHT:

7 Thank you, Mr. President. Just to clarify, I did not intend any
8 reference to a film this morning. I was referring to radio
9 broadcasts. So we are still unclear which film it is.

10 Thank you.

11 [14.07.31]

12 MR. SMITH:

13 Perhaps to clarify, Your Honours, if we can ask that the
14 statement that the accused gave to the Co-Investigating Judges be
15 placed on the Court monitor and the ERN number -- it's Document
16 65, D65, ERN number English 00177587, French 00177595, and Khmer
17 00177580.

18 Your Honour, I'd ask that the monitor be switched to the
19 prosecution so the passage can be read out by the Greffier.

20 Judge Lavergne has a question.

21 BY JUDGE LAVERGNE:

22 Q.Maybe to make things a bit simpler, can the accused tell us if
23 a film involving Vietnamese prisoners was shot at S-21 for
24 propaganda; for reasons of propaganda?

25 Did you understand the question? Was a film shot at S-21

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1 involving Vietnamese prisoners of war and a film that was shot
2 for reasons of propaganda, for propaganda ends? Was such a film
3 shot at S-21?

4 A.Thank you, Your Honours. And it's my apology. I think that
5 you posed the question to the Co-Prosecutor and I'm sorry for
6 that.

7 [14.09.52]

8 Now I would like to indicate to Your Honours, frankly and
9 respectfully, there was one film which -- took by Comrade Theng,
10 the nephew of Pol Pot, at S-21 and such filming was conducted in
11 two places; one place next to my house, as I told the hearing
12 this morning -- in my house. It was in my house.

13 And the second thing it was in between Monivong Boulevard next to
14 -- I'm sorry -- next to Mao Zhedong Boulevard. This is the place
15 they were pushed around and talking about the Vietnamese
16 soldiers' surrender, raising their hand to surrender.

17 And for the film that was taken at S-21, the soldiers were the
18 Vietnamese soldiers selecting from S-21. It is true. In order
19 to -- a tool for propaganda.

20 BY MR. SMITH:

21 Q.Thank you. And when you say in your house, your house was
22 your office; is that correct?

23 A.Mr. Co-Prosecutor, let me respond to your question in two
24 parts first. About the time when Son Sen left, as you have said
25 earlier, let me just add to that. The second part is about the

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1 filming. When Uncle Nuon called me to meet him he told me it's
2 the need of the battlefield that Comrade Khieu has to go to the
3 battlefield and that he came to replace. And I didn't know what
4 happened but the surviving documents at S-21 I still saw the
5 signatures of my superior after the 15th of August; that is,
6 until the 11th of November '77 I still saw his signature and my
7 communication with him on the phone was still ongoing for some
8 quite some time. So let me just verify that Uncle Nuon told me
9 that Comrade Khieu went to the battlefield due to the
10 requirements.

11 And secondly, with regards to the matter that I reported already
12 to Your Honours, it was done at my house which was also my office
13 at Street Number 95. So my house was actually adjacent to the
14 Monivong Boulevard.

15 Q.Thank you. And the time that this film was shot, was it taken
16 before Son Sen had gone to the battlefield or afterwards?

17 A.Mr. Co-Prosecutor, can you assist me with that? There was a
18 meeting in Jakarta. There was an international conference in
19 Jakarta by the heads of state, and Pol Pot asked S-21 to film the
20 Vietnamese prisoners of war, and a photo 18 times 20 and another
21 set of filming for the meetings in Jakarta. So the filming was
22 in response to the requirements for the meeting in Jakarta and
23 probably you can't find out the exact date for that.

24 [14.14.30]

25 Q.So you can't tell us whether it was 1976, 1977 or 1978; is

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1 that correct?

2 A.Thank you. Oh, just for the year, yes, I can tell you it's in
3 1978.

4 Q.Thank you very much.

5 MR. SMITH:

6 Your Honours, I would now ask that the audiovisual unit play a
7 short video clip. It's D69-V00172621. It's at 12 minutes and 28
8 seconds and 12 minutes to 50 seconds.

9 Your Honour, obviously it's quite a short clip and I would ask
10 that the clip be played twice and I would also ask the accused if
11 you can look at the clip very closely, particularly the
12 surroundings in the video clip.

13 MR. PRESIDENT:

14 The Audiovisual Officer, can you arrange the films to be shown as
15 requested by the Co-Prosecutor?

16 (Video recording played)

17 UNIDENTIFIED SPEAKER (VIA VIDEO RECORDING):

18 "POW Tran Van Theung (phonetic) revealed the plans of the
19 Communist Party of Vietnam was to set up puppet regimes at all
20 levels in Kampuchea. From these confessions it's evident that
21 the Vietnamese aimed at forcing Kampuchea to join an Indochina
22 federation dominated by Vietnam."

23 [14.17.17]

24 MR. SMITH:

25 Thank you. I hope the translation came through in all three

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1 languages.

2 BY MR. SMITH:

3 Q.Mr. Kaing Guek Eav, is the video clip or the film that you
4 just referred to earlier; the one shot in your office? If you
5 need it played again to verify it, we can do that.

6 A.I would not demand the film to be shown again. Is there any
7 Khmer translation of the voice on the film?

8 MR. SMITH:

9 Your Honours, I had Khmer translation coming through on my
10 earphones. The booths were all given the transcript. Obviously
11 it was very short. If the accused didn't receive that, or Khmer
12 speakers didn't receive that, I would ask that the Khmer booth
13 simply read out that very short transcript.

14 THE ACCUSED:

15 I would like to have the Khmer translation because what I heard
16 was only the Vietnamese and the English language.

17 MR. PRESIDENT:

18 Do you have the Khmer translation of that text, because the
19 Chamber could hear only the Vietnamese and English languages?

20 MR. SMITH:

21 Your Honours, the transcript, the English transcript was given to
22 the French booth and the Khmer booth and the English booth
23 earlier today for the purpose of reading out the voice-over, and
24 I would just ask that if that could be read out, because they
25 should have it. If they haven't got it, it can be got to them

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1 very quickly.

2 THE INTERPRETER:

3 "POW Tran Van Theung (phonetic) revealed the plans of the
4 Communist Party of Vietnam was to set up a puppet regime."

5 MR. PRESIDENT:

6 Can you also give us any reference number of the Khmer
7 translation, if you have it?

8 [14.20.30]

9 MR. SMITH:

10 Your Honour, there is no reference number for the Khmer
11 translation. It's just the video. I do have a copy of the text.
12 It's about five lines. I could either read it out -- I could
13 read it out or I could give it to the Greffier to read out and
14 then it would be translated through the normal course.

15 MR. PRESIDENT:

16 The text that you have what is it, where it's from?

17 MR. SMITH:

18 Your Honour, it's the English of the video clip, word for word.

19 [14.21.25]

20 MR. PRESIDENT:

21 The Greffier, can you take the document from the Co-Prosecutor?

22 JUDGE LAVERGNE:

23 I think what's the most important is maybe to know if the
24 interpreters are able to translate what is being said by this
25 voice-over. So can the booths tell us whether or not they are

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1 able to provide us with the translation?

2 MR. SMITH:

3 Your Honour, I was aiming for this to be very smooth this
4 afternoon, and that's why we provided that document to the booths
5 earlier this morning. In any event, it's probably not so
6 important, the words; it's the actual video clip itself showing
7 the office, but bear in mind the accused would like to hear the
8 voice-over. I'm happy to read it out or however it can be done.

9 JUDGE LAVERGNE:

10 I believe that the easiest thing would be for you to read it and
11 then it will be translated.

12 MR. SMITH:

13 I'll add something to this. That was my only copy, so I would
14 ask that I have that back so I can read it, Your Honours.

15 JUDGE LAVERGNE:

16 I believe that we could remove what's on the screen because it is
17 no longer of much use.

18 [14.23.54]

19 MR. SMITH:

20 Thank you, Mr. President.

21 BY MR. SMITH:

22 Q.Mr. Kaing Guek Eav, I'll just read out briefly the transcript
23 that was the voice-over on that video clip you just saw. It
24 states: "POW Tran Van Theung (phonetic) revealed the plans of
25 the Communist Party of Vietnam was to set up puppet regimes at

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1 all levels in Kampuchea. From these confessions it's evident
2 that the Vietnamese aimed at forcing Kampuchea to in join an
3 Indochina federation dominated by -- "

4 And that's where the English finished on the video.

5 My question to you: is that video clip a clip of what you had
6 just talked about earlier; the Vietnamese prisoners being forced
7 to confess in your office at S-21?

8 A.Mr. President, let me give my observation to this film.

9 In general, it is acceptable, however, the confession at the time
10 I don't think they were allowed to say that much. They would
11 stand up and salute and give their name, their age, when they
12 joined the army and their ranks, and that they were sent to fight
13 and their hand was still up there in the salute gesture. If they
14 spoke for long, then it means they would use the tape from the
15 confession. It is not the actual pure filming produced by the
16 S-21.

17 So this is my observation of the film.

18 [14.26.11]

19 Q.Thank you. So just to be clear, are you saying that film
20 wasn't taken in your office, it was another one?

21 A.Thank you for your clarification.

22 My workplace is at street number 95, and where Brother Mam Nai
23 interrogated the Vietnamese prisoners were to the west. So the
24 Vietnamese prisoner interrogation place was at a different
25 location and the tape for radio broadcast was at another

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1 location, and the filming was shot with the hand raised in the
2 salute gesture.

3 So that was in general the view that I can accept it.

4 Q.All right. But do you recognize your office? Was that your
5 office or not?

6 A.I could not remember the tile on the floor, but the background
7 where the Vietnamese soldier salute it was a symbol of the
8 Democratic Kampuchea and the image was unclear. However, let me
9 accept that this is my workplace because I cannot remember the
10 colour of the floor. I briefly saw the symbol of the DK on the
11 background and the uniform is also white but it was in a similar
12 form. But I think the confession is too long. It's not the one
13 that was made before me.

14 [14.27.58]

15 Q.Thank you. Just perhaps a last couple of questions and it's
16 just in relation to your memory.

17 Would it be fair to say that it's been difficult for you to
18 remember a number of aspects of your knowledge of the armed
19 conflict in Court today because of the years that have passed?

20 A.It's partly correct. And the other part is that I knew very
21 little about it, as I have said earlier and in front of Your
22 Honours. I knew very little.

23 MR. SMITH:

24 Thank you, Your Honours. I have no further questions.

25 MR. PRESIDENT:

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1 Next, we would like to give the floor to the civil party lawyers,
2 starting from civil party lawyers group 4 first.

3 The floor is yours.

4 MR. HONG KIMSUON:

5 Thank you, Mr. President, Your Honours and the Court.

6 I have very few questions concerning the armed conflict. Today,

7 I have heard that Mr. Kaing Guek Eav, alias Duch, mentioning

8 about the release of the hostages or the resistance movement of

9 FULRO, and he said that if time allowed then he would describe

10 further concerning those people.

11 QUESTIONING BY CIVIL PARTY COUNSEL

12 BY MR. HONG KIMSUON:

13 Q. So my question is, did the S-21 only release the FULRO people,
14 no other people?

15 So you say that the Vietnamese soldiers or the Vietnamese spies

16 were arrested and sent to S-21. I may ask you, for example,

17 during the conflicts, whether it is a small or a big conflict

18 between Cambodia and Vietnam? And after the 17 of April 1975,

19 did you know or had you heard anything about those conflicts

20 across the border between Cambodia and Vietnam?

21 A. I would like to state that this morning we have seen the

22 documents that 25 people were sent from S'Ang.

23 [14.31.26]

24 MR. PRESIDENT:

25 The accused should not respond to this question since you already

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1 answered, so the lawyer is advised to ask another question.

2 MR. HONG KIMSUON:

3 Thank you, Mr. President.

4 I'm asking here whether he knows for sure about the declaration
5 of the war started back then regarding the transferring of the
6 prisoners of war or spies that we are now discussing.

7 Just now, the Co-Prosecutor put questions concerning Son Sen, who
8 left for the battlefield, and that we also saw the video footage.

9 [14.32.41]

10 So my question is, have you ever stated before the military
11 court? I would like to now refer to document with ER number
12 00320808, Document E52/4.41. At that time, Mr. Kar Savuth was in
13 attendance. It was the interview dated on the 5th of June 2002.
14 With your leave, I would like Your Honour to instruct the
15 Greffier to read the page as I mentioned with ERN 00320808 in
16 Khmer. I don't think I have the French or English version of the
17 document.

18 I would like Mr. Kaing Guek Eav to also respond to my question
19 regarding this point.

20 I would like to start from letter --

21 MR. PRESIDENT:

22 The lawyer, could you please be precise? From which part of the
23 page would you like the Greffier to read out?

24 MR. HONG KIMSUON:

25 Your Honour, the President, actually here there is no page

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1 reference but there is an ERN number in Khmer with ERN00320808
2 and Document E52/4.41.

3 MR. PRESIDENT:

4 So you would like the whole part, starting with response, to be
5 read out entirely. Is that correct?

6 MR. HONG KIMSUON:

7 Mr. President, if we're counting from the last row to the top, it
8 is on line number 9 downwards, so I would like not to read it
9 myself. I would like the President to instruct the Greffier to
10 read it out so that it can be heard publicly.

11 [14.35.52]

12 MR. PRESIDENT:

13 Ms. Se Kolvuthy, have you located the document and ready to read
14 it out as requested?

15 THE GREFFIER:

16 "For me, I am in charge to sign, not to interrogate any prisoner,
17 and to prepare documents of the prisoners so that it could be
18 sent to the higher level for livelihood meeting. I have been
19 very busy reading my own prisoners. When the cadres were
20 arrested I became the Secretary of the Northeast Zone. So Nuon
21 Chea was the secretary and I was with Son Sen. I received orders
22 in two ways. First, I received orders through telephone. Number
23 two, he was calling me to work with him, and later on I worked
24 with Nuon Chea. He never phoned me to work with him once after
25 two or three days. I would like to also point out that when Nat

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1 was a chairman the person named Chhim Sam-Aok, alias Tang, and

2 Comrade Lin --"

3 MR. HONG KIMSUON:

4 I think that's enough.

5 [14.38.11]

6 BY MR. HONG KIMSUON:

7 Q. Could Mr. Kaing Guek Eav clarify to the Court concerning the
8 departure of Son Sen to the battlefield? And in the document you
9 said you were very close with him. So regarding the statement --
10 the passage actually read out by the Greffier, what do you mean
11 by way of having been close with Son Sen, although when he went
12 to the battlefield?

13 A. I think the reading of the passage is rather uneasy. I would
14 like Mr. Kimsuon to read it instead of the Greffier. I think I
15 have not yet located the document.

16 MR. HONG KIMSUON:

17 Mr. President, could you please arrange the document to be
18 delivered to the accused and I will read out this. I am now
19 reading the passage according to the request made by the accused.
20 Page number 2, it reads:

21 "For me, I am in charge of managing the prisoners to be
22 interrogated and prepare documents for the prisoners and make
23 sure they were sent to the higher level during the livelihood
24 meetings in conducting the training session. However, I had been
25 busy reading my own prisoners' confessions. When all the cadres

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1 had been arrested I became the Secretary of the Northeast Zone.
2 At that time the chief of S 21 was Nuon Chea himself. I was with
3 Son Sen. I received the order in two ways. First I got the
4 phone calls. Number two, he called me to work with him directly.
5 And later on I worked with Nuon Chea."

6 I would like to end now.

7 [14.41.17]

8 THE ACCUSED:

9 Which part would you like me to clarify?

10 BY MR. HONG KIMSUON:

11 Q.What I have read has connection to what you stated about this
12 situation during the war between Democratic Kampuchea and Vietnam
13 when Son Sen left for the battlefield. I don't know when the
14 document is dated but it stated about when you worked with Son
15 Sen or lived with Son Sen, and that you said after all cadres
16 were arrested you became the Secretary of the Northeast Zone.

17 A.I think this document derives too far from the truth. How
18 could I become the Secretary of the Northeast Zone? Uncle Nuon
19 of course was the Secretary of Northeast, and Brother Vy was the
20 deputy secretary. I think the recording -- part of the wordings
21 might have missed out, because Uncle Nuon became the Secretary of
22 the Northeast Zone when Ya was arrested.

23 And number two, I think it is not strange that I worked with Son
24 Sen and received orders, and I was under his control and directed
25 by him, assigned any work by him almost every evening through the

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1 telephone communication from him. And I also worked with him
2 when he wanted to work -- with him personally.
3 But for Uncle Nuon, he did not call me but he asked Comrade Pon
4 to contact me. So this is the truth, and Son Sen went to the
5 battlefield, which was very needed at the battlefield that he had
6 to go. I probably made it less clear when I said that there
7 would have been severe wars. That's why Son Sen left. But on
8 the 11 in 1977 ---

9 [14.43.52]

10 Q.What I'm talking about here is more about to work closely with
11 Son Sen. Did you -- do I understand you correctly that you
12 worked closely with Son Sen at that time?

13 A.I never lived with my superior in his home. To say that I
14 worked directly with him here means that I was under his direct
15 control and supervision according to Article 8 of the Statute of
16 the CPK.

17 Q.Thank you. The next question.

18 You said you truly were aware of the event in 1978, on the 6th of
19 January 1978. My question is: you mentioned about the conflicts
20 in the document of Mr. Nayan Chanda. Did you know that after
21 Vietnam liberated South Vietnam -- I mean two weeks after the
22 liberation of South Vietnam the Khmer Rouge troops captured or
23 went to Koh Tral; Phu Quoc in Vietnamese. And you also mentioned
24 about the capture of the Mayaguez ship. So do you know more
25 about this?

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1 A.I'm sorry, Mr. Kimsuon, I have no idea about it because I was
2 not at work. I was waiting for some information from my
3 superior. That's why the communication was lost at that time.

4 [14.45.55]

5 Q.Thank you. I would like to go back a little bit to the
6 resistance movement, when you mentioned about the release of the
7 prisoners of war who were sent and -- arrested and sent to S-21.
8 I'm not quite sure; you said that Pol Pot never used his rights
9 to release anyone sent to S-21 but this morning you said -- you
10 mentioned about the release of FULRO whom Pol Pot believed were
11 friends.

12 So did Pol Pot exercise his right to release the foreigners, or
13 what?

14 A.Thank you, Mr. Hong Kimsuon for seeking clarification. Now,
15 we have to understand about the CPK policy and line, because the
16 political line of the CPK is that enemy had to be smashed,
17 regardless of prisoners of war, intellectuals, whoever it was.

18 When anyone was regarded as enemy then he would be smashed. So
19 he could not exercise this right to release any enemy.

20 So in Khmer, as you know, the expression that when we are
21 drowning, so when anyone who was regarded as an enemy previously,
22 he turned to treat them as friends. So it is in time that the
23 FULRO people were later on regarded as friends. So when they
24 were regarded as enemies they would not have been released; only
25 when they became friends.

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1 [14.48.00]

2 Q.Thank you. I have another question and this question is
3 related to the question put to you by the Co-Prosecutor. You
4 said you had just learned about the human rights law or
5 conventions when you were called or interviewed by the
6 Co-Investigating Judges.

7 I would like to also know, when you attended study sessions, or
8 in the session in which presentations were presented at the
9 Standing Committee, for example, and that there had been the
10 sessions about the signatures or the signing on the law,
11 international laws, human rights laws with other international
12 communities, were you aware of those signatures?

13 A.I would like to confirm that I never attended any session at
14 the Standing Committee level. However, the person who came to
15 present Party documents to us was people from the Standing
16 Committee. He was Son Sen, of course. I never attended such
17 session as Sou Met or Brother Mut.

18 I studied among with my comrades, the medium-level comrades under
19 Son Sen's -- I mean session chaired by Son Sen. Don't promote my
20 status to be the Standing Committee.

21 And material introduced was not part of the foreign-owned
22 documents because it would be viewed as the capitalist or
23 imperialist kind of documents. You can refer to other Document
24 0078056.

25 So there have been -- there are 396 pages concerning the laws

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1 presented to us by the CPK. There was no mentioning about any
2 signatures on the international rights because Pol Pot regarded
3 those laws as the capitalist laws.

4 [14.50.39]

5 Q.Thank you. My question now relates, as raised by the
6 Co-Prosecutor, the invasion by the Vietnamese soldiers in a large
7 scale the second time.

8 As for you yourself, that you have reported to the Chamber about
9 the indirect order to your staff or your subordinates to
10 transport the prisoners of war, who were the Vietnamese soldiers,
11 my question is when you received those prisoners and the list of
12 the prisoners, including the Indians, the Laotian nationals, what
13 -- were they involved in any conflicts or in any armed conflict
14 when they were sent?

15 A.Mr. President, on this matter it is outside the armed conflict
16 between Cambodia and Vietnam.

17 Q.Thank you. You told the Chamber previously regarding the
18 conflict between Pol Pot and Le Duan, and my question to you is
19 -- let me first state that this is about fighting back and forth,
20 to simply put it that way. So what you knew about the conflict,
21 did it happen after the 17 April or did it happen a long time
22 ago? As you talked about the event in 1973, so the armed
23 conflict, although it does not fall within the jurisdiction of
24 1975, was the conflict interrelated; that is, did it happen
25 before the 17 April '75 or it falls within this period until the

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1 6 of January '79, the jurisdiction?

2 A.The Party -- the theory of the Marxism-Leninism is that it
3 distincts between the peace and war. During the peace time
4 Cambodia and Vietnam had a conflict. As I already said, it
5 started from 1954. Le Duan still boasted himself as the father
6 of the Indochina and his plan as the father of the Indochina
7 raised this political conflict and it kept continuing. And I
8 believed within the political conflict between these two
9 individuals with two separate parties with their own soldiers,
10 then they would try to defeat one another. It's unavoidable. If
11 they couldn't be defeated with one kick then probably just one
12 hit would defeat another one.

13 So I can say this, two Communist parties did not have the same
14 goals, and the conflicts arose politically from these two. So
15 the previous conflict was a political conflict which encapsulated
16 all the events. And after the 6 January the war became more
17 apparent, and that it means they cannot negotiate because of the
18 intensification of the war. So I did not pay much attention to
19 that. I just tried very hard to accomplish my work.

20 [14.53.36]

21 So on one side we talked about the view. On the other side we
22 talk about the daily operation because every few days or one week
23 I was asked to be followed on the work progress at my office.

24 MR. PRESIDENT:

25 The Chamber will adjourn for half an hour as we have certain

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1 issues to be discussed regarding the scheduling of the hearing.

2 We will resume at twenty past three.

3 (Judges exit courtroom)

4 (Court recesses from 1455H to 1534]

5 (Judges enter courtroom)

6 MR. PRESIDENT:

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

8 [15.34.47]

9 Before we give the floor to the civil party lawyer group 4, Mr.

10 Hong Kimsuon, the Trial Chamber would like to inform to the

11 parties concerning the agenda for Trial Management Meeting

12 tomorrow on the 11th of June, 2009 starting from 9 a.m. here at

13 the courtroom. The following items are the agenda.

14 Number one, estimated duration of the trial proceedings starting

15 from the time we meet during the management -- Trial Management

16 Meeting until December 2009.

17 [15.35.55]

18 Number two, the problems over availability of lawyers for the

19 parties, and staff and administration issues.

20 Number three, the sitting hours.

21 Number four, trial recesses. Trial recesses, including the

22 public holiday that the Trial Chamber will not be sitting, or

23 during the plenary session that the Trial Chamber may not be

24 sitting.

25 Number five, guidelines on the implementation of Rule 87.3 and

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1 87. 6 as requested by the Trial Chamber for the amendment.
2 Number six, allocation of time for presentations by civil
3 parties, that the Chamber has decided according to the parties
4 who are to present their statements before the Chamber.
5 Number seven, any other matters as needed. So item number seven
6 will be reserved for other matters that may arise apart from the
7 six set items.
8 And the purpose of the Trial Management Meeting is to make sure
9 that we can proceed more expeditiously in the proceedings as much
10 as we can. And in order to be clear, I would like to give the
11 floor to Judge Silvia Cartwright to emphasize further on the
12 items of the agenda in English because during the discussion the
13 time was short, so she may wish to also emphasize for the English
14 version.
15 The floor is yours.
16 [15.38.51]
17 JUDGE CARTWRIGHT:
18 Thank you, Mr. President.
19 I think that the English was reasonably clear, but I will just go
20 back over the topics on the agenda and perhaps mention one
21 matter, that for information of the parties, there will be a
22 swearing-in at nine o'clock tomorrow morning and then the Trial
23 Management Meeting will convene. But it will be a very short
24 swearing-in of an investigator. So please be here at nine a.m.
25 and ready to proceed with the Trial Management Meeting.

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1 So the list of topics for the Trial Management Meeting are as
2 follows.
3 The estimated duration of the trial proceedings. Secondly,
4 discussion of any problems over availability of lawyers for the
5 parties, and discussion with the administration over staff and
6 administration issues. Thirdly, sitting days. Four, trial
7 recesses. Five, guidelines on the implementation of Rule 83.3
8 and Rule 87.6. This is a reference to a proposal for an
9 amendment that has been put by the Trial Chamber and we will need
10 to expand on this tomorrow. Six, allocation of time for
11 presentations by civil parties. And, seven, any other matters
12 that lawyers for the parties may wish to raise.

13 I hope that's now clear in English and in Khmer.

14 Thank you, Mr. President.

15 [15.41.13]

16 MR. PRESIDENT:

17 Judge Lavergne, if you take the floor.

18 JUDGE LAVERGNE:

19 Just one clarification concerning point three of the agenda which
20 in French was translated as the schedule, the hour schedule. In
21 fact, we're speaking about the days when the Chamber will
22 convene, not just about the hours.

23 MR. PRESIDENT:

24 Mr. Co-Prosecutor, you take the floor.

25 MR. SMITH:

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1 Thank you, Mr. President. Mr. President, if possible, would the
2 proposed amendment to Rule 87 be able to be provided through the
3 Greffiers to the parties and before we leave today or at the end
4 of the day? The reason why I say that is that it might help us
5 align our ideas with the direction that the Trial Chamber is
6 heading, so that we can offer something as effective as possible
7 tomorrow.

8 MR. PRESIDENT:

9 The floor is yours, Mrs. Cartwright.

10 JUDGE CARTWRIGHT:

11 Yes, thank you, Mr. President.

12 There is the addition of one phrase to Rule 87.3. The new phrase
13 is, "or appropriately identified in court". So you will see in
14 the second-last sentence of the main part of three that currently
15 evidence from the case file is considered put before the Chamber:
16 "...if its content has been summarized or read out in Court."

17 The proposal by the Trial Chamber is that the last part of the
18 sentence will read:

19 "...if its content has been summarized, read out, or
20 appropriately identified in Court."

21 That is the only change to 87.3.

22 There is also a proposal for an amendment which would become
23 87.6, a new provision. This reads:

24 "Where the Co-Prosecutors and the accused agree that alleged
25 facts contained in the indictment are not contested, the Chamber

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1 may consider such facts as proven."

2 Do you need that repeated?

3 MR. SMITH:

4 No, thank you, Your Honour. That's --

5 (Microphone not activated)

6 [15.45.00]

7 JUDGE CARTWRIGHT:

8 I need to stress that this is a proposal. It is not yet an

9 amended rule.

10 MR. PRESIDENT:

11 Mr. Alain Werner, we note your presence. The floor is yours.

12 MR. WERNER (Speaking in English):

13 Thank you, Mr. President.

14 Could I request, just for us to understand clearly, one

15 clarification under point 6. My understanding in English is

16 allocation of time by presentation by civil parties. Are we

17 talking about the fact that our civil parties -- some of our

18 civil parties are going to testify in Court or the fact that the

19 lawyers are asking questions?

20 [15.45.49]

21 JUDGE CARTWRIGHT:

22 Number 6 in the agenda relates to the first; that is the time

23 allocated for civil parties personally to make their

24 presentations.

25 MR. WERNER (Speaking in English):

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1 I'm grateful for this clarification.

2 MR. PRESIDENT:

3 The next proceeding is about the questionings again to the
4 accused. So Mr. Hong Kimsuon, you can now proceed with the
5 questions to the accused. So how much time do you think you
6 would need to put further questions to the accused?

7 MR. HONG KIMSUON:

8 Thank you, Mr. President.

9 I have only one last question and I would like the accused to
10 briefly respond to my question, so if he doesn't know, he just
11 say "no" or "yes".

12 BY MR. HONG KIMSUON:

13 Q.The question is: when it comes to the document of Mr. Nayan
14 Chanda -- and I would like to pinpoint one passage stated on page
15 241 in Khmer, in document D91/1. Here the ERN reference number
16 is 00191546. My question here is related to the armed conflict.
17 On that page it is about the relationship that led to the
18 conflict between Vietnam and Cambodia, and Soviet and China were
19 also involved. I don't know whether it is accurate that the
20 Khmer translation of Nayan Chanda is that true of the contents.
21 Do you know that Vietnam broadcast in 1978, accusing China of
22 using Cambodia for the -- to cause the conflict with Vietnam?
23 A.Mr. Kimsuon, could you please state it clearly which date you
24 refer to?

25 [15.48.57]

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1 Q.It is on the 21st of February 1978 and it was broadcast on
2 Hanoi Radio.

3 A.Mr. President, actually I did not listen to that radio
4 broadcast. The war was already open, so any accusations on radio
5 broadcast was common because of when the war broke up.

6 MR. HONG KIMSUON:

7 Thank you, Mr. President. I have no further questions at the
8 moment.

9 MR. PRESIDENT:

10 I would like now to give the floor to civil party lawyers, group
11 3. The floor is yours.

12 MS. RABESANDRATANA:

13 Mr. President, Your Honours, given the scope, the very complete
14 scope that we have now about the armed conflict, and given also
15 the fact that the victims' rights are not being jeopardized by
16 the answers that were provided, and given the fact that group
17 number 3 does not want to prolong the debate uselessly, we will
18 not put any questions to the accused on this topic of the
19 conflict.

20 MR. PRESIDENT:

21 Thank you, Mrs. Lawyer.

22 I would like now to give the floor to civil party lawyers, group
23 2, if they would wish to put questions to the accused. The floor
24 is yours.

25 [15.51.00]

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1 MS. STUDZINSKY:

2 Thank you, Mr. President.

3 The same for our group. We have no questions which are related
4 directly to the armed conflict and other questions which could be
5 asked on functioning or other items.

6 Thank you.

7 MR. PRESIDENT:

8 Thank you, Mrs. Studzinsky.

9 Next we would like to give the floor to the civil party lawyers
10 for group number 1.

11 MR. WERNER:

12 We have no questions, Mr. President.

13 Thank you.

14 MR. PRESIDENT:

15 Thank you, Mr. Alain Werner.

16 Next, I would like to give the floor to the defence counsel, if
17 you would wish to put questions to the accused.

18 MR. KAR SAVUTH:

19 Thank you, Mr. President.

20 The defence counsel notes that Mrs. Cartwright already asked
21 questions, significantly that we believe that we have no further
22 questions to put to the accused, rather than repetitious
23 questions. So we are not making any questions.

24 [15.52.44]

25 MR. PRESIDENT:

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1 What about the defence counsel, the international co-lawyer?

2 The floor is yours.

3 MS. CANIZARES:

4 Thank you, Mr. President.

5 The defence has no further questions to put to the accused on

6 this particular point.

7 MR. PRESIDENT:

8 Is there any Judges of the Bench who would wish to put further

9 questions to the accused?

10 Without further questions, I would like to have some questions to

11 the accused.

12 QUESTIONING BY THE BENCH

13 BY MR. PRESIDENT:

14 Q.You said Pol Pot used the 6th of January 1976 as the

15 anniversary for the victory over the Vietnamese Army. Did you

16 say so?

17 A.Mr. President, of course I have mentioned about it and it is

18 true.

19 [15.54.26]

20 Q.Can you tell the Court what was the reason behind the use of

21 that date for the anniversary of the victory over the Vietnamese

22 troops?

23 A.Mr. President, before the 6th of January Vietnamese troops

24 invaded deep inside into Cambodia's territory and the Khmer Rouge

25 Army drove them back, and that's why on the 6th of January there

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1 was a big rally to commemorate the victory.

2 Q.Are you aware of the invasion of the Khmer Rouge troops into
3 the Vietnamese territory?

4 A.There has no actual document to support such statement so I am
5 not in the position to make any further comments regarding that
6 matter.

7 [15.55.52]

8 Q.Have you ever received any information concerning that matter?

9 Because we observed that when we talk about the armed conflict
10 between Cambodia and Vietnam, and number two, you said that there
11 were some kind of counterattack. So in Khmer it can be
12 understood that when you -- with your expression that
13 "counterattack" it means someone fought and then someone fought
14 back.

15 So through my observation it is that when Vietnamese people were
16 arrested -- and the three categories of the Vietnamese people who
17 were arrested and sent to S-21, which included some people who
18 were arrested in Vietnamese territory, that's why the term
19 "conflict" attracts us because it's what we call the
20 counterattack.

21 A.Thank you, Mr. President. Among the 17 people in the list
22 this morning I know that five of them I acknowledged that were
23 arrested from Vietnamese territory.

24 However, regarding the operation, military operation of the Khmer
25 Rouge troops into the Vietnamese territory, I think I don't think

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1 I have obtained any information. Although I attended a session
2 with Pol Pot in 1978 that to protect our land is to attack An Luk
3 and Luk Minh. So that's why I said that there was a
4 counterattack. And I did not know how far the Vietnamese troops
5 intruded into Cambodian territory.

6 Q.Thank you.

7 [15.57.57]

8 MR. PRESIDENT:

9 Since the hearing on the topic concerning the armed conflict
10 comes to an end and although we have not heard the two witnesses,
11 according to the delay in the discussion, we have already
12 informed the public and the parties that those two witnesses will
13 be summoned again in the fact concerning the operation of S-21
14 and Choeung Ek at appropriate time and the Chamber will notify
15 the parties about this.

16 The Chamber would also like to inform to the parties to the
17 proceedings that today's hearing is adjourned and the session
18 will be resumed on the 15 of June 2009.

19 The next fact at issue will be the operation of S-21 and
20 including Choeung Ek. So please be informed.

21 For tomorrow's session there will be a Trial Management Meeting
22 because there has been several issues that we need to discuss in
23 details of how we can manage the future proceedings and what
24 would be the best solution to expedite the proceedings.

25 So we would like to pronounce that today's hearing is adjourned.

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1 And parties to the proceedings are invited to attend tomorrow's
2 Trial Management Meeting as scheduled.

3 The public is not advised to come because tomorrow it is not the
4 public session for the public. It is more about technical
5 mechanisms for the trial to proceed expeditiously and it is not
6 necessary that the public invited. So please be informed.

7 The security personnel, please take the accused back to the
8 detention facility and bring him in tomorrow.

9 (Judges exit courtroom)

10 (Court adjourns at 1601H)

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