



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS
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Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
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1

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

4 The Court is now in session.

5 According to our schedule, today hearing, we're going to hear

6 documents being put before the Chamber by the prosecutors.

7 Without further ado, we would like to hand over to the

8 Co-Prosecutors to present the documents before the Chamber.

9 [09.05.14]

10 MR. ABDULHAK:

11 Thank you, Mr. President. Good morning, Your Honours, counsel,

12 members of the public. As the President just indicated, we will

13 continue our presentation of documents which we consider

14 important for this trial segment, and in particular in relation

15 to the pre-1975 role of Khieu Samphan.

16 And by way of a general road map, perhaps, for today, I might

17 indicate that I will finish in approximately 20 minutes, and then

18 my colleagues will continue with a presentation of documents

19 relating more specifically to Ieng Sary's role in the pre-1975

20 period.

21 I indicated yesterday that I only had more record to present to

22 Your Honours; it is a video file. This is found at E109/2.3. It

23 was proposed as evidence both by us and by the civil party Lead

24 Co-Lawyers. The documentary is approximately 90 minutes long. I

25 will only show five brief segments which are relevant for the

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1 purposes of the present discussion.

2 And by way of background, the documentary was produced by a
3 Swedish - Swedish company. It's directed by David Aronowitsch and
4 Staffan Lindberg. Its summary indicates that it was prepared over
5 a period of 18 months, during which time the authors and the
6 producers followed Khieu Samphan, and that appears in the
7 footage. The latter parts of the footage actually follow Khieu
8 Samphan's arrest and include some footage of the proceedings.

9 [09.07.11]

10 Without further ado, I will now go to the first segment. And just
11 before we play that segment, I'll just indicate two matters:
12 first, interpretation will be provided, so, if all participants
13 simply stay on their channels, interpretation will be provided in
14 the relevant languages, depending on the original language; and,
15 secondly, the footage does include voice-over by the directors,
16 and we're not purporting to present to Your Honours or the public
17 that the Co-Prosecutors necessarily want you to take this
18 voice-over into account. It is simply included because we didn't
19 want to cut segments where there's a continuity of video material
20 and then statements by the Accused himself.

21 So, with that general note, I will go to segment number 1. It is
22 approximately one minute and 50 seconds long. It deals primarily
23 with Khieu Samphan's background as a politician before 1975, and
24 it includes some contemporaneous footage of him in 1974. If we
25 could have segment number 1, please?

3

1 [09.08.27]

2 (Audio-visual presentation)

3 "[Narrator, in English:] The Khmer Rouge was a very secret
4 organization. Their top leader, Pol Pot, was unknown to the
5 world. He wanted to rule in the background and needed a public
6 face, someone the people and the world could trust; Khieu
7 Samphan.

8 "In the Swedish television archives, we find film footage where
9 Khieu Samphan is introduced as the leader of the Khmer Rouge:

10 "(No interpretation)

11 [09.09.48]

12 "Through his reputation and charisma, Khieu Samphan gave the
13 revolution in Cambodia a more human face. But behind his smile,
14 1.7 million died of famine, executions, and torture.

15 "Did Khieu Samphan let himself be entirely controlled by Pol Pot,
16 or was his role more important than he wants to admit to the
17 world?"

18 (End of audio-visual presentation)

19 [09.10.20]

20 MR. ABDULHAK:

21 And that concludes segment number 1.

22 I'll just note that that colour footage was from a visit to Hanoi
23 in 1974, and I dealt yesterday with another document which
24 reported that visit -- or the trip of Khieu Samphan and Ieng Sary
25 in 1974, which, again, according to the case file, included the

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1 countries of China, Vietnam, North Korea, Albania, and a number
2 of African countries.

3 The next segment is a little bit longer; it's three minutes and
4 55 seconds. Again, we didn't cut it because there are a number of
5 parts where Khieu Samphan is speaking about his early life. And
6 there is some voice-over, but we keep the segment as one because,
7 contextually, I think it only makes sense if you view the whole
8 portion.

9 If we could have segment number 2, please?

10 MR. PRESIDENT:

11 You may proceed.

12 [09.11.38]

13 (Audio-visual presentation)

14 "[Interviewer, interpreted from French:] When did you meet the
15 most radical Cambodian students in Paris?

16 "[Mr. Khieu Samphan, interpreted from French:] They met me at the
17 airport. The most radical ones were the ones who came to see me.

18 "[Interviewer, interpreted from French:] Were Pol Pot and Ieng
19 Sary in that group?

20 "[Mr. Khieu Samphan, interpreted from French:] No, Pol Pot had
21 already gone back. I didn't meet him in Paris, but Ieng Sary
22 presided the Marxist meetings. Back in those days, we were
23 comrades, everybody: the Africans, non-Africans, Madagascans,
24 Moroccans, Tunisians; we were all comrades, friends. There was
25 really an atmosphere of international brotherhood, all the

1 comrades of the world together. It was a fight against
2 colonialism. The students wanted independence.

3 "My ambition was to return to Cambodia and do something useful
4 for my country.

5 [09.13.22]

6 "[Narrator, in English:] When Khieu Samphan returns to Cambodia,
7 he has a Ph.D. in Economics. In his thesis, he argued that
8 Cambodia must be self-supporting and free from foreign influence.
9 His ideas became important for the Cambodian communists, but back
10 then, he wanted to change his country with politics in a
11 non-violent way.

12 "Prince Sihanouk rules in Cambodia. Sihanouk unexpectedly chooses
13 Khieu Samphan as one of his ministers, but Khieu Samphan is too
14 radical. When the security service tries to arrest him, he
15 escapes to the communist rebels in the jungle, the Khmer Rouge.

16 "[Mr. Khieu Samphan, interpreted from French:] I left Phnom Penh
17 quite simply to save my life and to put myself under their
18 protection. I saw that they were fighting for the same
19 objectives, more social equality and independence for the
20 country. But for them, this couldn't be obtained without
21 violence.

22 "[Narrator:] In 1970, Sihanouk is overthrown in a coup d'état by
23 General Lon Nol, who is supported by the U.S.

24 "[Mr. Khieu Samphan, interpreted from French:] When did I accept
25 the use of violence to change society? It was when the United

6

1 States of America used Lon Nol to occupy our country, to use our
2 country as a pawn in their strategy in the war against Vietnam.
3 We had to resist."

4 (End of audio-visual presentation)

5 [09.14.29]

6 MR. ABDULHAK:

7 Your Honours, that concludes the second segment.

8 And it just occurs to me it might be helpful if I indicate the
9 starting times of these segments. The second segment starts at 13
10 minutes and 47 seconds -- 13 minutes and 47 seconds. And the
11 first segment, the preceding segment, started at eight minutes
12 and six seconds.

13 The next segment is - starts at 19 minutes and 15 seconds. It is
14 a two-minute-and-45-second segment. It deals with the U.S.
15 bombings of Cambodia and the unification, if you like, of the
16 forces of the then-Prince Norodom Sihanouk and the Khmer Rouge,
17 as well as Khieu Samphan's role in that -- in that process.

18 If we could play segment number 3, now, please?

19 [09.16.26]

20 (Audio-visual presentation)

21 "[Narrator, in English:] The U.S. bombings make the Khmer Rouge
22 more popular. more people join to overthrow the U.S. supported
23 government.

24 "[Mr. Khieu Samphan, interpreted from French:] At that time,
25 there were two forces that mattered: primarily, Prince Sihanouk,

7

1 with his national authority and international authority, but he
2 had no army; and, secondly, the Khmer Rouge forces, the only
3 force that was capable of offering Cambodian resistance inside
4 the country.

5 "But how could you bring the two forces together? You had to find
6 a link to unite them; and that link was me. Why me? I was the
7 only one who was recognized by the Prince, from time to time,
8 because of my integrity. And I was chosen by Pol Pot to unite
9 these two forces.

10 [09.17.52]

11 "[Narrator, in English:] Khieu Samphan convinces Sihanouk to
12 leave his exile and come to meeting in the Cambodian jungle. He
13 succeeds in getting the Prince to support the Khmer Rouge.
14 Sihanouk's support gives the movement legitimacy in Cambodia and
15 abroad. Pol Pot is at the meeting, but in the background, and he
16 does not reveal to Prince Sihanouk who he really is.

17 [09.18.26]

18 "In 1974, Khieu Samphan goes to Beijing where Sihanouk meets him.
19 Khieu Samphan is received as a great leader. He has now fully
20 assumed the role as the top leader of the Khmer Rouge. Pol Pot
21 acts in the background. This play will go on for 25 years, for as
22 long as the Khmer Rouge exist.

23 "[Unidentified speaker, interpreted from Khmer:] United -- has
24 just come our victory and authority for Cambodia and the
25 Cambodian people."

8

1 (End of audio-visual presentation)

2 [09.19.28]

3 MR. ABDULHAK:

4 Thank you. That was the third segment.

5 The next -- the remaining two segments which I will play deal
6 more closely with the relationship between Khieu Samphan and Pol
7 Pot. And we present these two segments because both -- one of the
8 themes which - which we've been discussing yesterday and today is
9 - well, in our submission, is a -- was a close and continuing
10 relationship of men and others -- and women in the leadership of
11 the CPK, including Khieu Samphan.

12 If we could play the fourth segment? I'll just indicate this is
13 at 23 minutes and 25 seconds of the documentary. It is only one
14 minute and eight seconds long. And if we could now play that
15 fourth segment, please?

16 [09.20.20]

17 (Audio-visual presentation)

18 "[Mr. Khieu Samphan, interpreted from French:] I am the link
19 between the Prince and the Khmer Rouge. Pol Pot was a leader who
20 knew well how to analyze the situation. I respected him a lot. I
21 can't spit on Pol Pot's grave to save my own skin. I will say
22 what I saw and what I think. I will say it before the Court. I
23 have to say that Pol Pot was a patriot. He wanted to pull his
24 country out of poverty. He hoped to defeat poverty with his
25 ultra-radical politics, but he failed. Now, it's over."

1 (End of audio-visual presentation)

2 [09.21.32]

3 MR. ABDULHAK:

4 That was the fourth segment.

5 And the fifth and final segment starts at 41 minutes and 28

6 seconds of this documentary. It is two minutes and 57 seconds

7 long and, as I indicated, it continues on this theme of a close

8 relationship between Khieu Samphan and Pol Pot, which, of course,

9 we have submitted goes back well before 1975. If we could play

10 segment number five, please?

11 [09.22.28]

12 (Audio-visual presentation)

13 "[Mr. Khieu Samphan, interpreted from French:] When he came to

14 work in Pailin, he stayed here. I followed him all the time, like

15 a shadow.

16 "[Interviewer, interpreted from French]: What did he say during

17 these meetings?

18 "[Mr. Khieu Samphan, interpreted from French:] He talked about

19 the current political situation and about patriotic awareness in

20 combination with the awareness of the class society, the Party,

21 sacrifice, heroism. He demanded of all the cadres that they live

22 and think like peasants, and I did my best, but I couldn't do it.

23 Then there were the problems with the Marxist contradiction.

24 Everything is still, yet everything changes. The Party is

25 everything (sic). Do you think like that nowadays? Because, in

10

1 principle, you are not supposed to react when something happens,
2 you're not supposed to feel joy or regret. Try and analyze the
3 event coldly, find what is negative, what is positive for the
4 movement, and then try to take the right actions. I can see him
5 all the time in the Cardamom Mountains, here and there. I have
6 his image in my head.

7 "[Interviewer, interpreted from French:] Do you miss Pol Pot?

8 "[Mr. Khieu Samphan, interpreted from French:] Because he was
9 such an exceptional thinker."

10 (End of audio-visual presentation)

11 [09.25.18]

12 MR. ABDULHAK:

13 And I think, the AV booth, that was the last segment which I
14 wanted to show you this morning, Your Honours.

15 And I will take one minute to briefly bring together the factual
16 matters which we submit -- are apparent from the materials we
17 presented yesterday and today.

18 In our submission, these documents show a long standing
19 relationship between Khieu Samphan and other key leaders of the
20 Communist movement. They contradict his claims, in our
21 submission, that he was a minister of defence of nothing, a claim
22 he made at the beginning of this segment. Again, in our
23 submission, and recalling the documents, the public appeals that
24 we quoted from yesterday, the evidence, his contemporaneous
25 knowledge of the situation on the battlefield, of crimes being

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1 committed by Khmer Rouge troops, in fact, in our submission, they
2 indicate his endorsement of that brutality.

3 There was also a reference by Khieu Samphan, in one of the
4 interviews, to his knowledge of meetings prior to the evacuation
5 of Phnom Penh.

6 [09.26.30]

7 The "New York Times" article includes an apparent admission that
8 he participated in the decision to evacuate Phnom Penh, which,
9 again, that article indicates was a collective decision.

10 The materials also, and in particular the 2004 book, contain
11 extensive commentary by Khieu Samphan on the policies of enforced
12 collectivization and use of armed militia to execute enemies. Of
13 course, I'm paraphrasing his words, but they do appear in all of
14 the segments we quoted from yesterday.

15 Lastly, two matters.

16 In this video, we saw Khieu Samphan indicate that he accepted the
17 use of violence to achieve political aims in 1970.

18 And, lastly, the documents which my colleague referred to
19 yesterday indicate that he presided over a congress which reached
20 a resolution to execute the seven traitors, as they were referred
21 to by the leadership of the Khmer Rouge.

22 This concludes our presentation of relevant documents for Mr.
23 Khieu Samphan.

24 And with Your Honours' leave, I will now hand the floor to my
25 colleagues, who will deal with documents relating to Ieng Sary.

12

1 Thank you.

2 [09.28.02]

3 MR. PRESIDENT:

4 Please proceed.

5 MR. CHAN DARARASMEY:

6 Good morning, Mr. President. Good morning, Your Honours. And good
7 morning, everyone. On behalf of the Prosecution, I would like to
8 move to the document relating to Ieng Sary.

9 Now, the Prosecution moves to the third part of its document
10 presentation relating to documents that are particularly relevant
11 in proving facts alleged in the historical background section of
12 the indictment.

13 We submit that this next group of documents will particularly
14 assist in proving Ieng Sary's association with participation in
15 and knowledge of the revolutionary movement in Cambodia prior to
16 and through the formation and activities of the Communist Party
17 of Kampuchea until the 17 of April 1975, when the Party gained
18 control over the entire country.

19 [09.30.03]

20 The documents selected to demonstrate this today are written
21 records of interviews either verbatim or in summary form which
22 Ieng Sary himself has given about his role and participation in
23 the CPK's rise to power from the 1940s until the 17 of April
24 1975.

25 These interviews provide a voice to the Accused, who, in his own

1 words, explains the history and structure of the CPK, his
2 knowledge of its ideological underpinnings and policies, his
3 association in formulating that ideology, his association with
4 its functional organizations and other leaders, plus his active
5 participation in the endorsement and implementation of those
6 policies.

7 A few of Ieng Sary's interviews given in the early 1970s to be
8 presented are all the more compelling as they were made while the
9 armed conflict between the CPK and the Lon Nol was occurring.
10 These interviews and ones made later during the late seventies by
11 Ieng Sary provide candid accounts from the Accused's, untouched
12 by revisionism that can occur later in the face of international
13 criticism of the policies implemented by the CPK and
14 consequential impending criminal prosecution for the crimes
15 committed in the DK period.

16 [09.32.33]

17 Other documents from Ieng Sary's co-accused and other
18 contemporaneous documents made at the time of the CPK's rise to
19 power will also be highlighted as they provide primary probative
20 evidence of his pre-1975 political and administrative activities
21 that aided the CPK's full takeover of Cambodia on the 17 of April
22 1975.

23 As we have submitted before this Chamber, documents produced
24 contemporaneously to the events on trial can be highly probative
25 in proving those events as the details are often comprehensive

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1 and recorded whilst the events are fresh in the authors' memory
2 and, in many cases, not affected by manipulation at a later date,
3 when those events are required to be recounted again for
4 particular purposes such as trial.

5 Your Honours, to provide an overview of the presentation, it will
6 be presented in three segments.

7 First, I will highlight the particular relevance of the Agreed
8 Facts, document provided by Ieng Sary, and then I will guide Your
9 Honours through one of the many interviews given by Ieng Sary
10 relating to the pre-1975 history, structure, policies and
11 activities of the CPK and Ieng Sary's role in them.

12 My colleague, Mr. William Smith, will then highlight other
13 interviews given by Ieng Sary where these many issues are further
14 elaborated on by him.

15 And to finish, we will indicate to Your Honours documents that
16 provide evidence of the extent of Ieng Sary's activities from
17 1970 to 1975, where much of his time was spent in Beijing,
18 representing the Communist Party of Kampuchea and actively
19 seeking support for its goals.

20 [09.35.45]

21 I will now turn to the first document, the document that has been
22 agreed, document number E9/21.3, dated the 25th of March 2011,
23 relevant page in English ERN 0065 - again, E00656964 to
24 E00656981, which is the list of Agreed Facts provided by Ieng
25 Sary in this trial.

15

1 Of course, I will not re-read these facts, as that was done last
2 week, in Court. However, I would like to briefly highlight to the
3 Chamber the documents' particular relevance and importance in
4 proving the historical background section of the indictment and
5 the pre-1975 section relating to the role of Ieng Sary in the
6 Communist Revolution and the CPK.

7 Ieng Sary's and other Accused's role and activities prior to 1975
8 is a significant issue to be decided in this case in order to
9 assist you in determining the Accused's responsibility for crimes
10 charged in the first trial.

11 [09.37.51]

12 Consequently, I would like to draw your attention to the
13 relevance of these Agreed Facts. Your Honours, through his Agreed
14 Facts, Ieng Sary traced the defining moments in the development
15 of the CPK leading up to 1975.

16 It was at the First Party Congress held on the 30th of September
17 1960 in Phnom Penh that the Khmer People's Revolutionary Party
18 became the Worker's Party of Kampuchea, a crucial moment in the
19 Communist party of Kampuchea history, which Ieng Sary confirms
20 was the real starting point of the Cambodian Communist movement.

21 The Agreed Facts show that Ieng Sary was at the heart of the
22 movement from the very beginning. Already a member of the Central
23 Committee, he was made a full-rights member of the Standing
24 Committee.

25 [09.39.12]

1 MR. PRESIDENT:

2 Mr. Ieng Sary defence counsel is on his feet. You may proceed.

3 MR. KARNAVAS:

4 Good morning, Your Honours, and good morning to everyone in and
5 around the courtroom.

6 For the last 15 minutes, we haven't heard a single document being
7 presented by the gentleman.

8 This is another opening statement. They had an opportunity to
9 give an opening statement; they will have an opportunity to give
10 a closing argument. But as far as I understand, the purpose of
11 the next day or two is not for the Prosecution to get up and make
12 speeches.

13 Now, if he wishes to point to a document, fine. He read what he
14 read last week. I did not object, we agreed to those facts. But
15 now he's simply making speeches. It's a waste of our time.

16 Either they pose documents or he should sit down.

17 [09.40.13]

18 MR. PRESIDENT:

19 The International Co-Prosecutor, you may respond.

20 MR. SMITH:

21 Good morning, Mr. President. Good morning, counsel. Good morning,
22 public.

23 Firstly, in relation to the attitude of the defence counsel, we
24 would submit that telling counsel to sit down in that method is
25 not appropriate behaviour in this courtroom.

17

1 But addressing -- addressing his objection in substance, Your
2 Honours have said yesterday that the Prosecution was able to
3 present documents and explain and highlight the relevance and the
4 critical importance of them in this case.

5 [09.40.54]

6 As Your Honours are aware, the Agreed Facts document was a
7 document that was provided by the Defence to the Prosecution,
8 which was filed to the Court. Last -- my friend is correct, last
9 Thursday, my learned friend read out those agreed facts. However,
10 in terms of reading out the Agreed Facts, that's similar to what
11 was discussed yesterday, reading out any document without stating
12 the relevance of those -- of that document to this case.

13 So we would ask -- and this submission in relation to Agreed
14 Facts would take about another 10 minutes -- we would ask that my
15 national colleague be allowed to explain the relevance of those
16 Agreed Facts to proving aspects in this case. And particularly,
17 we're talking about the forced transfer from Phnom Penh and other
18 towns and cities in 1975. The Facts themselves, Your Honours,
19 does not spell that out. The Prosecution will not be taking up a
20 great length of time to do that, probably 10 minutes or so. Each
21 -- the relevance would be addressed at each step of the way.

22 [09.42.13]

23 But, Your Honours, we feel -- if the purpose of this hearing is
24 to demonstrate to the public the relevance of evidence in brief
25 form, we would like the opportunity to do that because,

18

1 certainly, the documents in relation to Ieng Sary need to be
2 looked at in light of those Agreed Facts.

3 So, if Your Honours permit, we would like to do that for about
4 another five or so minutes, and then move on to the interview
5 which my friend had talked about. We don't intend to dwell. Thank
6 you.

7 MR. PRESIDENT:

8 The defence counsel for Ieng Sary, you may proceed.

9 [09.42.54]

10 MR. KARNAVAS:

11 The Prosecution drafted an Introductory Submission. After that,
12 you had an Investigative Judge or Judges go through the -- and
13 finally we're here. The public is well aware.

14 Last week, they read out the Agreed Facts. They had an
15 opportunity last week to go ahead and make any commentary. For
16 the last 15 minutes, we heard commentary.

17 What the international prosecutor is suggesting is that they make
18 another opening statement or closing argument. This is not the
19 purpose of the hearing.

20 Now, if they wish to present documents and read those documents,
21 we have no objections, but we do object to the Prosecution using
22 these hearings as a form of lobbying their case by making
23 speeches.

24 They can present evidence; that's what a trial is about.

25 Otherwise, we should simply sit down and just listen to the

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1 prosecutor give their closing argument, and you can just
2 deliberate; there's no reason to go forward with any more
3 evidence. They're simply giving speeches. And as I understand it,
4 that's not the purpose of the hearing; not to give speeches. The
5 Agreed Facts speak for themselves.

6 Now, they can present their evidence or, as I suggested, they
7 should move on. Thank you.

8 (Judges deliberate)

9 [09.49.03]

10 MR. PRESIDENT:

11 Thank you for the observation made by the defence counsel for
12 Ieng Sary on the parameter for the presentation of document made
13 by the representative for Prosecution.

14 The Chamber notes that the presentation by the Prosecution is
15 rather broad; it almost amounts to the pleading already.

16 And the Chamber wishes to remind the party that the purpose of
17 today's hearing is to indicate a document that is of significant
18 importance to the public and parties, and it also provides the
19 opportunity for parties to present documents before the Chamber
20 and to ensure a greater measure of public accessibility to the
21 document -- to the documentary aspect of the trial, and it also
22 provide the opportunity to highlight document -- key document
23 considered to be particularly important to the historical
24 background segment of Case 02/01.

25 [09.50.46]

20

1 So this is not the opportunity for party to make any pleading, so
2 the Chamber hopes that the parties understand the purpose of
3 today's hearing.

4 So the Prosecution may now proceed.

5 MR. CHAN DARARASMEY:

6 Thank you, Mr. President.

7 I would like to now proceed to the second document on the Ieng
8 Sary interview by -- with Mr. Dan Burstein. This interview was
9 conducted sometime in April 1978. A key document in this regard
10 is a summarized written record of an interview with Ieng Sary
11 conducted by Mr. Daniel Burstein in April 1978.

12 [09.51.53]

13 The case file is -- the case file number is D366/7.1.4642 (sic),
14 with relevant English ERN S00049321 to S0049328, and Khmer ERN
15 S00728116 to S00728150, and French ERN S00742540 to S00742558.

16 This interview is contained in a book entitled "[Cambodia] Today:
17 An Eyewitness Report from Cambodia", published in 1978 by "Call"
18 pamphlets in Chicago, Illinois of the United States.

19 The introduction states that the book is a report of the very
20 first Americans to visit Democratic Kampuchea since the
21 liberation of the country in April 1975. It states the Americans
22 who made the visit were journalists of the "Call" newspaper led
23 by editor Daniel Burstein. The editor states that they spent a
24 week, in April 1978, travelling more than 700 hundred miles
25 through six Kampuchean provinces as guests of the Communist Party

1 of Kampuchea.

2 As for the particular interview recorded with Ieng Sary, chapter
3 8 of the book provides a first-hand account in three parts by
4 Ieng Sary of: part I, the history of the revolutionary movement
5 in Cambodia that led up to the founding of the Communist Party in
6 1960; part II, the Party's activities from 1960 to the military
7 coup d'état in 1970; and, part III, the Party's activities
8 through the war with government forces until the 17 of April
9 1975.

10 [09.55.13]

11 By way of introduction to the interview, Dan Burstein calls his
12 interview with the Accused as "the high point" of his visit to
13 Cambodia. He characterizes Ieng Sary as "warm and jovial" in
14 manner and notes that he told the history -- the story of the
15 Kampuchea revolution "step-by-step, point-by-point", with the
16 interview stretching on until midnight.

17 Mr. Burstein describes how Ieng Sary had arrived to his current
18 position as Deputy Prime Minister in charge of foreign affairs:

19 "Now 48 years old, Sary was one of the founders of the Communist
20 Party of Kampuchea and had been a guerrilla fighter in the
21 countryside between 1963 and 1970. From 1970 until the victory of
22 the revolution in 1975, he had travelled the world as a special
23 envoy of the united front government, fighting to win support for
24 Kampuchea's liberation war in the international arena."

25 [09.57.07]

1 With your leave, I would like to present the first part.

2 In the first part of the interview, Ieng Sary began with an
3 overview of the fight against the French colonialists in
4 Kampuchea. Mr. Burstein paraphrases Ieng Sary as saying that
5 revolutionary organizations of Kampuchean people waged armed
6 struggle as early as 1947, but that no Marxist-Leninist
7 leadership existed at time -- at the time. Mr. Burstein quotes
8 Ieng Sary, with the relevant English ERN page S00049322: "The
9 main task at this stage was to win our national independence from
10 France."

11 Ieng Sary pointed two contradictions between Kampuchean
12 anti-imperialists and the Vietnamese, saying: "Vietnam trained
13 its cadres at this time in the belief that the three countries of
14 Indochina were really all one country and should have only one
15 Party. We didn't agree."

16 [09.58.58]

17 Burstein summarizes some of Ieng Sary's comments regarding
18 developments in the fight against the French through the 1950s,
19 noting that many leaders "began to study Marxism-Leninism-Mao
20 Tsetung Thought" and that there were an "ideological struggle"
21 regarding the questions of whether to engage in armed struggle to
22 establish a socialist system.

23 Ieng Sary pointed to the betrayal of the revolutionary movement
24 by one of its leaders in 1958 as a turning point, saying --
25 English ERN S00049322, which I would like to quote as follow:

1 "After this betrayal, we knew [...] we had to become more
2 self-reliant, deepen our understanding of Marxism-Leninism-Mao
3 Tsetung Thought and found a communist party of our own to
4 organize and lead the struggle." End quote.

5 [10.00.35]

6 Ieng Sary said the growing number of Communists began "to develop
7 a political program, make a class analysis of Kampuchean
8 society", and organize the Party.

9 He said -- and I quote English ERN S00049322:

10 "The repression was very intense at that time. We had very little
11 experience. We had not money. We went to the Soviet embassy
12 [secretly] in Phnom Penh to ask for a loan of 10,000 riels (about
13 \$160 [U.S.]) to start publishing a newspaper.

14 "But the Soviet ambassador attacked us. He told us we were
15 ultra-'leftist' and that only Sihanouk could lead the revolution.
16 He told us to never come back."

17 Ieng Sary continued -- English ERN S00049323:

18 "We expected to hold the founding congress in 1959. The
19 repression was so severe, however, that this proved impossible.
20 We left our houses every day in the morning not knowing if we
21 would return home alive in the evening.

22 "Finally, in 1960, we were able to gather all the representatives
23 together to found the Party. We met for three days from September
24 28th to the 30th in an abandoned railway building here in Phnom
25 Penh. Our security had to be very tight; no one could come in or

1 go out during the meeting."

2 [10.03.20]

3 Mr. Burstein notes Ieng Sary indicated the Congress succeeded in
4 founding the Party, adopting a constitution, and electing a
5 Central Committee, quoting Ieng Sary to say -- English ERN
6 S00049323:

7 "We had adopted the correct stand on the absolute necessity of
8 the armed struggle, but we still had much ideological work to do
9 on this question. We had to educate the party members that the
10 reform struggles -- for land, democratic rights, better living
11 standards, etc. -- were very important, but that they could not
12 give us power. Only the armed struggle, led by the Party, could
13 put political power in our hands."

14 However, by 1953, the CPK leaders had to leave Phnom Penh due to
15 the political repression and the growing power of the Lon Nol
16 right wing.

17 [10.04.55]

18 Mr. Burstein quotes Ieng Sary regarding the movement of the CPK's
19 leaders -- English ERN S00049323:

20 "We left Phnom Penh and went to the northeast countryside in the
21 province of Rattanakiri."

22 That concludes part I of Mr. Burstein's with Ieng Sary.

23 I would like now to proceed to part II concerning the interviews
24 with Ieng Sary.

25 In the second part of the interview, Burstein states that Ieng

1 Sary indicated that in February 1963 the CPK's Secretary was
2 assassinated and that an emergency Second Congress was held, in
3 which Pol Pot was elected Party Secretary. Quoting Ieng Sary --
4 English ERN S00049323:

5 "After the Second Congress, we began to build up our forces in
6 the countryside slowly and patiently. We did a great deal of
7 education among the cadres about the importance of serving the
8 people, being self-sacrificing and maintaining discipline at all
9 times. This communist education helped carry the Party members
10 through very difficult times later on."

11 [10.07.14]

12 Ieng Sary describes his experiences at that time -- and I quote,
13 English ERN S00049323:

14 "We were living in the forest and had no real food supply. We
15 relied on the local tribesmen, when were -- who were minority
16 nationalities and very tough fighters, to bring us food from the
17 villages. Sometimes they would be captured by the enemy, though,
18 and then we would have no food at all.

19 "We would have to live on bamboo that grew in the forest for a
20 week or more at the time. But we always remained confident. We
21 knew these tribesmen would never betray us. Even under torture
22 they would tell the reactionaries nothing about our bases."

23 English ERN S00049323:

24 We also had a large united front movement, but it took no
25 organization or form. We just spread the ideas of uniting the

1 people to fight for an independent, neutral and non-aligned
2 Kampuchea. With these slogans we could unite with various forces
3 among the petty-bourgeoisie, the intellectuals, the
4 administration officials, and the national capitalists."

5 [10.08.57]

6 Burstein notes that Ieng Sary described the three groups within
7 the Kampuchean ruling class at that time, with Lon Nol on the far
8 right, Sihanouk and others who opposed communism in the centre,
9 and progressive people like Khieu Samphan on the left.

10 Burstein quotes Ieng Sary on how the CPK approached different
11 groups -- English ERN S00049323: "We mobilized both the middle
12 and left sections of the ruling class and built a united front
13 with them against foreign domination. We isolated the real
14 traitors like Lon Nol."

15 Mr. Burstein notes that Ieng Sary stressed that "the CPK believed
16 that the fundamental force in the united front had to be the
17 workers and peasants".

18 Quoting Ieng Sary -- English ERN S00049323 through S00049324:

19 "Although our Party was secret, the people knew that there was a
20 'Khmer Rouge movement'.

21 [10.10.49]

22 "The people knew our Party was fighting for land, democratic
23 rights and a better standard of living. We educated the masses
24 step-by-step about the role of the armed struggle, even though we
25 had not yet established an army."

1 The Party established "clandestine guards", or units of peasants
2 that secretly infiltrated the government's militia. Regarding
3 these units, Ieng Sary is quoted "with a wry smile" -- English
4 ERN S00049324:

5 "When the landlords ordered these militia forces to attack the
6 people, our men would refuse. The clandestine guards played an
7 important role in defending our cadres and leaders and allowing
8 our base areas to develop."

9 Mr. Burstein summarizes Ieng Sary regarding the occurrence of
10 peasant rebellions and the reaction of Lon Nol, describing a 1967
11 peasant rebellion in Samlaut, in the Northwest, where the CPK
12 supported the peasants and led to the massacre of Communist and
13 regressive forces by Lon Nol in reaction.

14 [10.12.51]

15 Regarding these developments, Ieng Sary stated -- I quote English
16 ERN S00049324:

17 "From June of 1967 on, the Party began to lay plans to organize
18 an army. We knew that Lon Nol would eventually try to stage a
19 coup d'état. [And we] had to get prepared for that situation."

20 Mr. Ieng Sary told Mr. Burstein about how the Revolutionary Army
21 battled on January the 17th at Bai Baram, near Battambang,
22 capturing their first weapons. Ieng Sary is quoted regarding the
23 state of the Revolutionary Army -- English ERN S00049323:

24 "On February 25, the Central Committee issued a circular calling
25 for insurrections all over the country. Even though it was a

1 very difficult situation for us with hardly any weapons, no
2 doctors and no medicine, we knew that our line was correct. And
3 so we were able to inspire the people to fight."

4 Mr. Burstein provides that Ieng Sary recognized Sihanouk as a
5 potential ally, and so the CPK and the Revolutionary Army made
6 clear they were fighting the right-wing militaries and not
7 Sihanouk.

8 Ieng Sary describes an attack by Lon Nol's government forces -- I
9 quote, English ERN S00049324:

10 "It was not just 10,000 thousand troops they sent against us, but
11 also armored cars, planes and artillery. Even with all this
12 firepower, they couldn't knock us out. Winning this battle gave
13 us great confidence."

14 However, as Ieng Sary is paraphrased to say -- English ERN
15 S00049324 -- "by the end of 1969, it was becoming obvious that
16 Sihanouk's neutralist stance could not be tolerated much longer
17 by the U.S. imperialists who were seeking to use Cambodia as a
18 base for attack against Vietnam. Lon Nol, on the other hand, was
19 perfectly willing to let the U.S. use Cambodia as a staging area
20 against Vietnam. That Lon Nol would come to power in coup d'état
21 was for the CPK a foregone conclusion."

22 [10.17.10]

23 Mr. Burstein sets the stage for the third part of the interview:

24 "Our interview with Ieng Sary had already lasted well into the
25 evening when he began to talk of the events following the

1 U.S.-instigated coup d'état that put Lon Nol in power on March
2 the 18 1970."

3 He quotes Ieng Sary -- English ERN S00049324 through S00049325:

4 "March the 18th1970 to April the 17th of 1975 was the period of

5 our open war against U.S. aggression and the Lon Nol traitor

6 clique. We relied on our own forces to fight this war, capturing

7 80% of the arms that our guerrilla fighters used. China also gave

8 us great support."

9 Mr. Burstein says that Ieng Sary described "in lively detail"

10 battle after battle fought by the revolutionary army and its

11 growing strength.

12 "He told of how the CPK established revolutionary political power

13 of the workers and peasants in the liberated zones, and how the

14 people rallied to the side of the Party [...]".

15 Ieng Sary is quoted to say -- English ERN S00049325: "We had

16 predicted that the coup d'état would come, and this influenced

17 the thinking of many people."

18 [10.19.49]

19 Ieng Sary identified Sihanouk as one person so influenced as

20 Sihanouk joined the United Front of the CPK in establishing GRUNK

21 in Peking.

22 Ieng Sary continues -- ERN E - S, rather, 00049325:

23 "The people bitterly hated Lon Nol. The broad masses were ready

24 to fight. They rallied to our Party, our Army, and the united

25 front because they saw that we were in the forefront of the

1 struggle against Lon Nol."

2 Ieng Sary noted that as the revolutionary army liberated more
3 territory. The U.S. "intensified its pressure on Kampuchea" --
4 English ERN S00049325:

5 "From January 27th to August 15th 1973, the imperialists
6 mobilized all the forces against us. There was a ceasefire in
7 Vietnam and Laos, so the American bombers were turned against
8 us."

9 In the liberated zones, Ieng Sary described the CPK's
10 establishment of properties -- English ERN S00049325:

11 "The building of the cooperative system in 1973 was a vital
12 strategic question for our revolution. Without the cooperatives,
13 the young men could not have been able to go fight at the front
14 assured that their families would be well cared for. Without the
15 cooperatives, the price of rice would have suffered a terrible
16 inflation and our troops would have had little to eat.

17 [10.22.30]

18 "But thanks to the cooperative system, we were better able to
19 mobilize the whole people to fight guerrilla war, to resist the
20 bombings, to resist Lon Nol's offensives, and liberate more and
21 more territory."

22 Ieng Sary also discussed some problems that arose at that time --
23 English ERN S00049325: "We went hungry ourselves so that our
24 Vietnamese brothers could have our rice, and yet they did not
25 deliver the arms and equipment that were intended for us."

1 Ieng Sary continued: "Our line was to uphold solidarity with
2 Vietnam, while raising political struggle and differences
3 privately."

4 Mr. Burstein paraphrases Ieng Sary regarding the January 1975
5 Mekong River offensive, which "culminated in the liberation of
6 Phnom Penh" on April the 17th 1975.

7 Towards the end of the document, Burstein then quotes Sary on the
8 subject of Phnom Penh's liberation and the next steps in the work
9 of the CPK -- English ERN S00049325:

10 [10.24.38]

11 "With the liberation of the whole country in April 1975 the
12 national democratic revolution was achieved. Our victory was due
13 to a correct analysis of the situation in our own country and
14 confidence in the masses of people, who proved to be the main
15 fighting force."

16 Ieng Sary goes on -- English ERN S00049325999 (sic):

17 "We did not rest for one minute. We immediately set to work to
18 defend the country, and to build and develop the socialist
19 system. We established a dictatorship of the proletariat,
20 collectivized and - rather, the national wealth. We began to
21 cultivate the collectivized spirit."

22 However, Ieng Sary noted that certain problems persisted:

23 "In 1975, we were immediately faced with grave threats to the
24 security of the revolution both in terms of attacks on our
25 borders as well as from within our own ranks. The CIA, the KGB,

1 the Vietnamese and others were all intent on mobilizing their
2 forces for a coup d'état against us."

3 Mr. President, Your Honours, in my conclusion, I have now
4 finished discussing this document and will hand over to my
5 colleague.

6 And these interviews given by Ieng Sary and other documents which
7 will provide more specific proof of relevant facts contained in
8 the historical background section of the indictment and the
9 pre-1975 role of Ieng Sary in this history.

10 [10.27.23]

11 I would like now, indeed -- like to hand over to my colleague,
12 Mr. William Smith, to continue.

13 MR. PRESIDENT:

14 Thank you. Since it is now appropriate time for adjournment, the
15 Chamber will take the adjournment for 20 minutes. The next
16 session will be resumed at 10.50.

17 We note Mr. Ang Udom is on his feet. You may proceed.

18 MR. ANG UDOM:

19 Thank you, Mr. President, Your Honours.

20 Due to health concern of my client -- he has experienced some
21 pain in one of his feet -- he, therefore, asks that he be excused
22 from this courtroom and follow the proceeding from his holding
23 cell. Could the Bench, therefore, allow?

24 [10.28.24]

25 MR. PRESIDENT:

1 We note request made by Ieng Sary through his counsel, asking
2 that he be excused from this courtroom and follow the proceeding
3 from the holding cell due to the fact that he cannot remain
4 seated -- sitting for long. The Chamber grants such a request,
5 and the Chamber allows Ieng Sary to follow proceedings from his
6 holding cell for today's hearing. However, counsels for Ieng Sary
7 are advised to produce the waiver signed by Ieng Sary or given
8 thumbprint by him.

9 AV officers are now instructed to connect the AV -- or
10 audio-visual equipment to the holding cell.

11 And security personnel are now instructed to bring Ieng Sary to
12 the holding cell, where AV equipment is already set up.

13 The Court is adjourned.

14 (Court recesses from 1029H to 1051H)

15 THE GREFFIER:

16 All rise.

17 (Judges enter the courtroom)

18 [10.51.27]

19 MR. PRESIDENT:

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

21 Next, I hand over the floor to the Prosecution to continue
22 presenting the document to the Chamber. You may proceed.

23 MR. SMITH:

24 Thank you, Mr. President. Good - good morning, counsel, and good
25 morning, general public.

1 Your Honours, this morning, I'll continue the presentation that
2 we have, with a particular focus on documents that are relevant
3 to Ieng Sary, but at the same time they are relevant to all of
4 the Accused, as the documents, as you all note, lead to evidence
5 establishing policies prior to 1975 that were consistent with the
6 policies after 1975, as well as the structure of the CPK, as well
7 as the development of the Party and the command structure.

8 [10.52.51]

9 So, as much as the documents that we presented this morning, most
10 of them certainly come from the voice of Ieng Sary, the
11 statements by him. They are of course relevant to all of the
12 Accused.

13 And in terms of presenting material, the documents, particularly
14 the documents we'll present, in relation to Ieng Sary, this
15 morning, there are a number of interviews given by him during the
16 Lon Nol war, during 1970 to 1975, and then during the DK period,
17 and then post-DK period. And what we would say about some of
18 those documents is that, during the period, that information was
19 provided by Mr. Ieng Sary contemporaneous to the events without
20 fear of criminal prosecution. So we would say that there is a
21 certain extra accuracy to that information.

22 [10.53.51]

23 And secondly, in relation to some interviews given later, after
24 Mr. Ieng Sary defected from the Khmer Rouge, we would ask Your
25 Honours to look at those interviews carefully in terms of any

1 parts you may believe have been revised to protect himself. And
2 certainly we will be making submissions -- not now, but at the
3 end of the case -- about what aspects of those interviews we
4 disagree with and the evidence contradicts and what aspects we
5 say would support the allegations in the indictment.

6 [10.54.35]

7 So, perhaps, if I can start -- or perhaps just before that, what
8 I won't do is I won't present the same material that is provided
9 in different interviews by Mr. Ieng Sary again and again.
10 Certainly, for public purposes, that would be not terribly
11 interesting. But by the same token, what we would say to Your
12 Honour about these documents that show consistent positions on
13 policy, structure, development of the Party, and the Accused's
14 role, that it's important that they all be admitted in full
15 because it's that consistency between the documents that
16 increases the authenticity of them and increases the reliability
17 of the - of the facts that they purport to allege.
18 So, if we can move to the first document? And the first document,
19 Your Honours, is in fact a video clip, and the D number is
20 D109/32.2 (sic), English ERN V00172512 to V00172512. It's a video
21 entitled "Pol Pot and the Khmer Rouge". And, Your Honours, this
22 is a clip of Mr. Ieng Sary's visit with Prince Norodom Sihanouk
23 back in March, in 1973, when they came back to Cambodia and met
24 the senior leadership -- the other senior leadership of the Khmer
25 Rouge. And you will see on the video Pol Pot, and you will see on

1 the video Khieu Samphan.

2 [10.56.39]

3 In fact, a short clip was shown earlier, but what it doesn't
4 highlight is Ieng Sary's presence at the headquarters, at that
5 particular location; it's not clear where it is, but it's in
6 Cambodia. And it shows that relationship between what Ieng Sary
7 was doing in Beijing and what the CPK were doing in Cambodia.
8 So I would ask that the video could be played. The timing is at
9 14 minutes 33 to 18 minutes 29, and it's excerpted a little bit
10 so that some, perhaps, redundant and less interesting information
11 is not contained. So I would ask that video clip be played, and
12 then perhaps I'll make two points about that once it's - once
13 it's finished. And if it could be translated as we go?

14 [10.58.18]

15 (Audio-visual presentation)

16 "[Narrator, interpreted from French:] In March 1973, Prince
17 Sihanouk and his wife, Monique, returned to Cambodia to the Khmer
18 Rouge maquis. The objective of this historical return is clear:
19 demonstrating abroad that the resistance against Lon Nol and the
20 Americans does exist.

21 "[Norodom Sihanouk, interpreted from French:] An inhabitant from
22 the city of Stung Treng, a border town, is loaning me a Mercedes,
23 his Mercedes. It's grey and it's well camouflaged by our guerilla
24 fighters. Here, we are resting, halfway. I'm working; I'm
25 speaking about my country with my colleagues: Mr. Ieng Sary,

1 special envoy from the Khmer interior resistance; Khieu Samphan,
2 speaking to me friendly, he is alive; here is Hu Nim and -- the
3 leaders of the People's Army.

4 "[Narrator, interpreted from French:] The names of the true Khmer
5 leaders, such as Pol Pot and Nuon Chea, are never revealed. For
6 the Prince, it's Khieu Samphan, someone who is respected, who
7 leads the resistance. Pol Pot, however, remains aside, which,
8 however, does not prevent him from running the show.

9 [10.59.38]

10 "[Norodom Sihanouk, interpreted from French:] And here, we have
11 been advised by the photographers of the People's Army to take a
12 souvenir picture together.

13 "[Pol Pot, interpreted from Khmer:] This is my nature since my
14 childhood. I have never spoken openly about myself. I talked to a
15 person; Vergès told -- said that he had known me for more than 20
16 years. I did not want to say that I was the leader, although I
17 was asked some questions, asked about my biography, my
18 background. I just responded I tried to work very hard, that's
19 all; I worked as the Secretary of the Party because no one would
20 chose to work as Secretary of the Party, and I decided to help."

21 (End of audio-visual presentation)

22 [11.01.18]

23 MR. SMITH:

24 Thank you, your Honours.

25 Your Honours, just two points I'd like to note in relation to

1 that.

2 It was stated by the Prince - it didn't come out in the
3 translation, but it's the voice of the Prince -- that he and Ieng
4 Sary - or Ieng Sary was a collaborator with the internal
5 resistance, and he was the more permanent link in Beijing between
6 the CPK, and GRUNK, and FUNK.

7 Also, you probably noted the last remark made by Pol Pot, where
8 he said that, looking back, he didn't want the position of Party
9 Secretary.

10 [11.01.57]

11 Your Honour, if I now move to a record of interview done with Mr.
12 Ieng Sary on the 17th of December 1996, now, this was conducted
13 with -- by the historian expert, Dr. Steven Heder. Your Honours
14 will note that this interview was conducted just a few months
15 after Ieng Sary had left the Coalition Government of Democratic
16 Kampuchea and after he received the Royal Decree pardoning him
17 from the 1979 conviction for genocide.

18 [11.02.36]

19 Your Honours, the interview, in this case, provides very
20 significant evidence on a wide range of areas where, perhaps, Mr.
21 Ieng Sary has spoken with more particularity than in the other
22 interviews that are before you. And so we would say this
23 interview is particularly useful to understand the associations
24 that Mr. Ieng Sary had with Pol Pot, Son Sen, Khieu Samphan, and
25 other Party members, as well as important to understand his

1 activities prior to 1963, leaving - leaving to Office 100, and
2 prior to and whilst - and whilst in Beijing.

3 It provides evidence as to the formation of relationships between
4 the Accused, the organizational structure of the CPK, the
5 leadership structure at Offices 100 and 102, when he was assigned
6 secretary for the Northeast and special emissary of the
7 resistance movement in Beijing.

8 It provides evidence of the existence of cooperatives prior to
9 1975 and also it provides evidence as to the CPK policies and
10 strategies.

11 And it particularly provides evidence of Mr. Ieng Sary's
12 knowledge of the evacuation of Phnom Penh about nine months
13 before it occurred.

14 And we'll get to that conversation where Mr. Ieng Sary recounts
15 the discussion he had with Pol Pot in mid-1974, where they
16 discuss the evacuation of the -- of Phnom Penh and the problems
17 that may be entailed in that process.

18 [11.04.36]

19 But perhaps, if we look at the interview in some chronological
20 order, starting with Mr. Ieng Sary's role for recruiting
21 individuals for the Communist revolution ,for the CPK, to assist
22 in forming the Communist Party of Kampuchea, I'd like to refer
23 Your Honours to ERN English 00417629, Khmer 00062490, and French
24 00332709 to 10, where-- And perhaps, if we can put -- if I can
25 ask our case manager to place that document on the screen, where

1 Ieng Sary talks to Steven Heder about his role in gathering up
2 students for the CPK revolution in the early days.

3 [11.05.57]

4 Whilst that is happening, Your Honours, perhaps, what I'll do is
5 I'll read out the excerpts that relate to that issue, and then,
6 as I read different excerpts through the interview, perhaps the
7 case manager will be able to pull the English document up on the
8 screen so at least it can be followed in that sense.

9 So, in relation to-- And I think you can see it on the screen
10 now. Regarding his role in recruiting individuals, Mr. Ieng Sary
11 states:

12 "So then Son Sen came and split me away from Saloth Sar, Pol Pot
13 back in the fifties. Son Sen came back from France in 55 and 56.
14 One year before me.

15 "[Steve Heder]: And when Son Sen returned, they assigned him to
16 assemble forces from the ranks of the intellectuals, is that
17 right? [Right, right.] As I understand it, especially at
18 Pedagogy. And as for you, what did they assign you to do in that
19 era?"

20 He states: "At that time, I was in the Democratic Party."

21 Steve Heder states: "Oh! Liaison?"

22 Ieng Sary states: "That's right, making contacts with the
23 Democratic Party gathering up students; but the important thing
24 was I was with the Democratic Party in order to gather up the
25 distinguished figures of the Democratic Party and bring them into

1 the movement..."

2 [11.07.47]

3 If we next look at Ieng Sary's view at that time, that the CPK
4 needed to be independent from the Vietnamese communists, if we
5 can look at ERN English 00417630 to 31, Khmer 0062491, and French
6 00332711, Steve Heder states:

7 "So in that era they assigned Mey Mann to gather them up? And
8 when he was inactive, they gave them back to you? And...?"

9 Ieng Sary states: "Yes, yes. Then I returned from France. No
10 matter what Son Sen said, I came back to make a contribution with
11 Ta Tou Samouth, Nuon Chea, Pol Pot, and I was in the committee,
12 but the three of them mostly did clandestine work. I did not join
13 in much. I was in charge at the Democratic Party, and Son Sen was
14 in charge of the intellectuals, and I made contacts..."

15 "And Nuon Chea", Steve Heder says, "Nuon Chea was on the worker
16 side?"

17 And Ieng Sary states: "The workers and the popular laborers at
18 Spean Tong. I had made many contacts with Khieu Samphan to look
19 at the 'Conservator' newspaper that was last published in 1960."

20 [11.09.30]

21 So that -- I misquoted that. That obviously didn't relate to the
22 disassociating from the Vietnamese, but still building the Party.
23 If we look at ERN 00417630/31, Khmer 0062491, and French
24 00332711, Ieng Sary comments on the relationship with the
25 Vietnamese.

42

1 Firstly, they talk about -- Ieng Sary admits being on the
2 Standing Committee in 1960. He said -- he said:
3 "Yes, yes, [Since 1960], but I attended as, what did they call
4 it, a veteran member; however as for any influence I had in there
5 to contact the Yuon, that was non-existent. Only Ta Tou Samouth,
6 only Nuon Chea and Saloth Sar. But at that very time, Vietnam did
7 not want us to create a Party. That was clear. Ta Khue said that
8 creating such a thing was not good, that it had to be secret... The
9 Communist Party had to be secret. I said that since my nation had
10 one people, we were in solidarity, but it was imperative that the
11 Parties be clearly separate. The darned Vietnamese never trusted
12 me after that. It was the same in France. I just discussed, spoke
13 about the matter on one nation with Tho Lam -- I don't know what
14 he is doing now -- and he discussed circles around it saying..
15 Cambodia did not bear the label of a true nation according to the
16 pre-conditions set by Stalin. That is where -- that is, there
17 were three, but the economic pre-conditions were lacking, so then
18 it was not yet a nation. Therefore, based on this they said the
19 creation of a separate Party was not possible."

20 [11.11.46]

21 If we move then to Ieng Sary's admissions in relation to his
22 activities in the -- at the CPK headquarters -- Central Committee
23 headquarters, at Office 100, with other leaders such as Son Sen,
24 and this is at English ERN 00417620 to 21, Khmer 00062479 to 80,
25 and French 00332701 to 02, and he starts -- Steve Heder states,

1 "At Office 100?" They went to the forest.
2 And Steve Heder said: "To Office 100?"
3 Ieng Sary states: "Yes, in Tay Ninh territory adjacent to the
4 border, but in Vietnamese territory, and all the [guards] were
5 Vietnamese.
6 "[Steve Heder]: "Son Sen's?
7 "[Ieng Sary]: "No!
8 "[Steve Heder]: Office 100's?"
9 Ieng Sary states: "They were Yuon, they belonged to the Yuon
10 Centre. The Southern Yuon Centre [I heard that So Phim was
11 involved with the Americans.] That's right.
12 "[Steve Heder]: [...] But you are saying that when you went into
13 secret in 1963, did all the leadership go into secret, or some of
14 them? As I recall, Pol Pot was at Office 100?"
15 And Ieng Sary states: "I was.
16 "[Steve Heder]: You. And Son Sen?
17 "[Ieng Sary:] Son Sen, Kev Meas, Leng Saran, and later three
18 females joined in 65, my wife, Son Sen's wife, and Sister Khieu
19 Ponnary", as you know, who is the wife of Pol Pot.
20 Then, Steve Heder states: "And that office was in Tay Ninh in
21 Vietnamese territory? And it was surrounded by Yuon military
22 guards, or what?"
23 Ieng Sary states: "Yes, really, all the personal bodyguards were
24 Yuon; but, my personal bodyguards were Khmer Rouge. Oh, no. Not
25 me, my wife's bodyguards were Khmer Rouge. Mine were Yuon."

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1 [11.14.29]

2 We now move to his statement about his activities which -- in
3 relation to the Northeast Zone, when he was, as agreed in the
4 Agreed Facts, made zone secretary and Son Sen was his deputy; and
5 that's at English 00417623, Khmer 00062483, and French 00332704.

6 Steve Heder states:

7 "And you and Son Sen went up to the Northeast along with Ya to
8 set up the committee for the Northeast. You were secretary, Son
9 Sen was deputy secretary, and Ya was the member at that time.?"

10 "[Ieng Sary:] Yes."

11 "And it was then that you and that committee set up conditions
12 and carried out [an] armed war in the Northeast in 1968, is that
13 right?"

14 "[Ieng Sary:] Pol Pot came up in 1968. When he came up, he was
15 still in... he came in 1966 and he... Oh, he came to work with Nuon
16 Chea's group there at 100; in mid 67 he went up, after we had
17 gone ahead."

18 [11.16.02]

19 Now, I'd like to take Your Honours to Ieng Sary's statement about
20 his activities in building relations with China and inducting
21 FUNK and GRUNK members into the CPK in Beijing; and that's at ERN
22 English 00417608 to 09, Khmer 00062464 to 65, and French 00332690
23 to 91.

24 MR. PRESIDENT:

25 International Co-Prosecutor, could you please repeat the last ERN

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1 numbers, since the interpreter may have missed them?

2 MR. SMITH:

3 Thank you, Your Honours. I apologize for that. It's French 0033

4 -- sorry, it's French 00332690 to 91.

5 Now, this question by Steve Heder, probably, Your Honours, you
6 have never seen such a long question by an interviewer. However,
7 it's an important question, and the response is quite important,
8 in that it summarizes what Steve Heder had viewed to be the role
9 of Ieng Sary in Beijing. And as you know, Steve Heder is an
10 expert on Cambodian history and so, obviously, had access to a
11 large amount of information about Ieng Sary before he spoke to
12 him, thus the long question.

13 [11.18.12]

14 Steve Heder states:

15 "Now let me turn -- return to the matter of the Foreign Ministry.

16 And in fact, in order to refer to the Foreign Ministry we must
17 return to the time when you were an emissary to Beijing. As I
18 understand it, in 71 when you went to Beijing, my hypothesis is
19 that the work you were assigned to do, according to my first
20 hypothesis, was similar to your work after 1975, communications
21 with China so that the Cambodian revolution could have a path
22 independent of Vietnam. That's one thing. Secondly, and I'm not
23 speaking in general, doing whatever possible to have an exit that
24 did not depend on Vietnam so that you could have an independent
25 foreign policy, using Beijing as an exit to contact foreign

1 countries. That's one thing. Secondly, because there was the
2 Front then and there was the Royal Government, you, I
3 hypothesize, had the job of gathering up the forces inside the
4 Front, inside the Royal Government, in a word, to control those
5 forces and induct some as Party members in order to control both
6 the Front and the Royal Government, to gather those forces as an
7 internal core, to build those forces into Party members, to be
8 able to control those forces. And as I understand it from looking
9 at the documentation, you had many successes in this second task.
10 Only after researching the documentation was I able to understand
11 and see that among the Front-and Royal Government-level
12 leadership a large number, perhaps half, were inducted as Party
13 members by you. And among them were a number of old friends with
14 whom you had studied with in France or old friends that you had
15 known and worked with in secret in Phnom Penh from 1957 until
16 1963. And I see that later you particularly used them and
17 inducted them as Party members in Beijing to work as cadres and
18 functionaries in the Foreign Ministry? Is that correct?"

19 [11.20.51]

20 Admittedly, a long question, but to - obviously -- Ieng Sary, who
21 had lived in Beijing, certainly a person to be able to answer it.

22 And Ieng Sary stated:

23 "That is really true, for instance Mr. Chuon Prasith, Mr. Hok
24 Sakun, we had known one another in France. They had joined in the
25 group they called, uh, they were the progressives, and some of

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1 them became Party members in Beijing. That's true."

2 [11.21.26]

3 Your Honours, if I can turn to the last point I would like to
4 take out of this interview, bearing in mind, as we've stated,
5 there's a lot of other points that relate to the structure of the
6 Party, and the evolution, and the history, but particularly I'd
7 like to take Your Honours to the point I made at the beginning as
8 to Ieng Sary's statement to Steve Heder that he talked to Pol Pot
9 in 1974, when he came back from Beijing, about the evacuation of
10 Phnom Penh; and the ERN number of that section; the English is
11 00417603 to 4, Khmer 00062457 to 59, and French 00332684/85.

12 Your Honours, this -- this clip, we have as an audio clip -- this
13 interview was tape recorded with Mr. Ieng Sary, and we have an
14 audio clip, and it comes from the file -- the tape which is an
15 interview with Ieng Sary, tape 1, and it's just in Khmer; Khmer
16 ERN TR00423587 to TR004235 -- 3587, the same number. And that's
17 IS 20.6R. And I would ask that, if the case manager could place
18 this excerpt of the conversation on the screen in the Khmer
19 version, and if I can ask the booth if they could play the
20 excerpt of this interview between Ieng Sary and Steve Heder as to
21 their discussions about the evacuation of Phnom Penh in 1974. And
22 hopefully I will not need to read, and the translators -- it's
23 been set up that the translators will be able to translate the
24 conversation as it plays.

25 (Short pause)

1 [11.24.18]

2 I've been told it's coming, Your Honour. It just takes a few
3 moments.

4 (Audio presentation)

5 "[Mr. Steve Heder, interpreted from Khmer:] I'd like to go back
6 to the meeting in September 1975. The reason I'm asking this
7 question is because I noted that something happened at rural
8 areas as people began to be evacuated from cities. Some people in
9 the Southwest Zone had been evacuated to the Northwest Zone. Was
10 this issue discussed in the meeting of September 1978 or was that
11 included in the predetermined plan as in the case of currency
12 issue?

13 [11.25.20]

14 "[Mr. Ieng Sary, interpreted from Khmer:] No, we did not discuss
15 this. The evacuation was part of the already made decision. I was
16 told that the decision to evacuate Phnom Penh was made in late
17 March or early April 1975. It was discussed in the meeting of how
18 to handle people when Phnom Penh is liberated. I raised this
19 issue with Pol Pot in 1974. I asked how Phnom Penh could be
20 managed when it's liberated. Issue concerning the population was
21 also discussed.

22 "[Mr. Steve Heder, interpreted from Khmer:] Excuse me, where did
23 you meet him?

24 "[Mr. Ieng Sary, interpreted from Khmer:] I met him near Phnom
25 Penh. It was after I returned from Peking; after my trip with the

1 King in 1973, and following my trip to Hanoi. The meeting was in
2 1974.

3 "[Mr. Steve Heder, interpreted from Khmer:] Did that happen after
4 you led an economic delegation to Vietnam and Peking?

5 [11.27.00]

6 "[Mr. Ieng Sary, interpreted from Khmer:] Yes, it did. It was
7 after I had returned from those trips. That was also when we
8 discussed how to handle the situation and how to prepare
9 ourselves when Phnom Penh was liberated. It was His Excellency
10 Zhou Enlai who asked us in the first place about how we were
11 supposed to handle the situation after Phnom Penh was liberated.
12 However, I did not give him any certain response as I had to wait
13 until I returned to my country and had this matter discussed
14 first. In the meeting, I asked about how the population could be
15 managed. I didn't ask about how military could be handle. At that
16 time, there were 3 million people living in Phnom Penh, so my
17 concern was how we could manage this population. Pol Pot
18 responded that I needed not worry about this, as he had all the
19 experience to handle the situation. I was reassured to focus my
20 duties abroad. I then said I raised this issue because the
21 Chinese Premier asked me about this. I, therefore, needed to be
22 clear on this. Pol Pot then indicated that the problem was
23 nothing difficult to resolve. He asked me to tell the Chinese
24 counterpart that it should not be their concern, as Cambodia had
25 clear view after they successfully solved the problem in Stung

1 Treng and Kratie. People in Phnom Penh, therefore, had to be
2 evacuated as well. Only after the people had been evacuated their
3 problem would be solved. I asked whether the entire population of
4 Phnom Penh needs to be evacuated. He said it depends on the
5 practical circumstance. However, the term "evacuation" was used
6 in 1974 meeting.

7 [11.29.15]

8 "[Mr. Steve Heder, interpreted from Khmer:] Regarding the
9 evacuation, was it your understanding that it was the permanent
10 evacuation or not? Because some people thought that initially the
11 evacuation was not decided for a permanent one.

12 "[Mr. Ieng Sary, interpreted from Khmer:] Some people were of the
13 view that the evacuation should be temporary; some felt that it
14 should be permanent. This had to be done after analyzing the
15 reactions from both people in Phnom Penh and outside of Phnom
16 Penh and the reaction outside the country, such as from the
17 United States of America. So the evacuation was done while
18 reactions from those sources were being assessed.

19 [11.30.04]

20 "[Mr. Steve Heder, interpreted from Khmer:] So there was no
21 internal disagreement among senior leaders concerning this
22 evacuation plan? Was it decided that the evacuation needed to be
23 done while assessing the reactions from both the imperialists and
24 the people and--

25 "[Mr. Ieng Sary, interpreted from Khmer:] Some new Phnom Penh

1 dwellers had to be evacuated first; in particular those peasants
2 who had their homes in the countryside. People who were outside
3 the cooperatives had to be evacuated first, and I was told that
4 these evacuees would not be returned to their homes, but to the
5 cooperatives. Cooperatives were prepared to receive these
6 newcomers.

7 "[Mr. Steve Heder, interpreted from Khmer:] When the decision was
8 made in 1974, were you in the country?

9 "[Mr. Ieng Sary, interpreted from Khmer:] No, I wasn't -- I was
10 in Peking."

11 [11.31.11]

12 MR. SMITH:

13 Thank you, Your Honours. That -- that's the complete passage in
14 the Steve Heder interview dealing with that topic.

15 What is -- what is interesting, I think, in relation to this
16 topic, Mr. Ieng Sary had actually spoken to someone else about
17 the evacuation of Phnom Penh -- other journalists -- before he
18 spoke to Steve Heder in December 1996. In fact, if we look at --
19 if we look at document IS 20.8, at English ERN 0078611, Khmer
20 0022443-44, and French 0034377 - perhaps, if that can be called
21 up on the screen, that excerpt, but whilst that's happening--
22 Mr. Ieng Sary had an interview with an ABC news crew from
23 Australia, and it was conducted on the 18th of August 1996, which
24 is obviously a number of months before the interview with Steve
25 Heder. And this interview was published in the "Phnom Penh Post"

1 with the following introductory remarks:

2 "Australia's ABC network was among a select group of journalists
3 invited to interview Khmer Rouge breakaway leader Ieng Sary, and
4 his two immediate subordinates, Y Chhean and Sok Pheap, on August
5 the 28th, near Malai. The following is a full translated
6 transcript of the 80-minute conference."

7 [11.33.10]

8 And if we can perhaps go back to the screen where we have this
9 quote from Ieng Sary in relation to the evacuation of Phnom Penh,
10 it's perhaps taken out of context, there, so I actually have to
11 put to Your Honours another paragraph that immediately precedes
12 it, so Your Honours understand the context in which Mr. Ieng Sary
13 made this statement.

14 And the question was put:

15 "You're said to be Mr. -- you were said to be Mr. Pol Pot's
16 right-hand man during the Pol Pot regime, where so many people
17 died from massacre or starvation or something like that. Do you
18 take that kind of responsibility?"

19 Answer:

20 "I am not the right hand of Pol Pot. Obviously, the main
21 right-hand man is Nuon Chea. And there was a committee which
22 considered all questions about security, which comprised four
23 people: Pol Pot, Nuon Chea, Son Sen, and Son Sen's advisor Yun
24 Yat. All decisions were made by the committee of the four. The
25 evacuation of the people from the cities did not involve my

1 participation in [this] decision. Because on the 23rd of April
2 1975, I got off the plane from Peking and I saw the town had
3 already been deserted of its inhabitants. Everything was already
4 decided and it was not worth talking about."

5 And if we can go back to the screen, that's the context in which
6 Mr. Ieng Sary offered this statement to the ABC journalists; and
7 he states:

8 "But frankly speaking, in 1974 I talked with Pol Pot that taking
9 people out of Stung Treng and Kratie was easy because there
10 weren't many people, but evacuating people out of Phnom Penh
11 would not be so easy, everything must be thoroughly arranged
12 because there were millions of people."

13 [11.35.29]

14 The next quote, of course, is not particularly relevant right
15 now, but what I would say, Your Honours, in relation to the
16 relevance, obviously, to this case is that this interview given
17 by Ieng Sary to ABC was quite clear about the discussion with Pol
18 Pot that "everything must be thoroughly arranged because there
19 were millions of people".

20 And then he elaborates further some four months later with
21 Stephen Heder and explains that discussion more in full.

22 [11.36.06]

23 In terms of the relevance, Your Honours, it's very clear that in
24 mid-1974 Ieng Sary and Pol Pot spoke about the evacuation of
25 Phnom Penh and they spoke about the difficulties of doing it, and

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1 there was a discussion about that. The fact that Mr. Ieng Sary
2 may have been in Beijing when any particular decision was made,
3 we would submit, is not -- not of significance, bearing in mind
4 he was aware that this was a likely event if the Khmer Rouge took
5 over Phnom Penh.

6 MR. PRESIDENT:

7 The defence counsel for Ieng Sary may proceed.

8 MR. KARNAVAS:

9 Again, the last comments by Mr. Smith are pure submissions.
10 I don't understand what part of your instructions he does not
11 get. Now, if he wishes to make closing arguments, he can do so. I
12 suggest that he refrain. He's commenting on the evidence. Those
13 are called submissions; they're called submissions in the United
14 States, in Australia, in Europe, in the international tribunals,
15 in the national tribunals.
16 What part does he not get?

17 [11.37.39]

18 MR. SMITH:

19 There's nothing not to get. Your Honours have stated yesterday
20 that documents could be put forward and the relevancy made clear
21 to the Judges. And we're talking about the relevancy to the
22 issues in this case.

23 As my colleague said yesterday, we could sit here and just read
24 documents and not point to the relevance.

25 Your Honours, we've taken your instructions. These are not

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1 closing arguments, we completely agree, but at least the idea of
2 this hearing is so that the Prosecution can provide some guide to
3 the -- to the Trial Chamber as to how we believe this evidence
4 relates to the case.

5 In any event, we haven't been speaking at length in terms of
6 comment. You've allowed comment on these issues.

7 And that's all that needs to be said, Your Honours. And I'm happy
8 to move on to another document. I think enough has been said on
9 the relevance of that particular -- that particular conversation.

10 [11.38.53]

11 MR. PRESIDENT:

12 Yes, you may proceed.

13 MR. SMITH:

14 If we now can move to another document, and this is document
15 D56/Doc.447, and it's at English ERN 900115958 -- it seems a bit
16 long, but -- Khmer 00717062, and French 00723786. And in fact the
17 English is 00115958.

18 Your Honours, this is another statement given by Ieng Sary in
19 1996, on the 9th of September 1996, and it's published by the BBC
20 Monitoring Service; it's a summary of the World Broadcast on the
21 12th of September 1996.

22 And if I can ask that this document be placed on the screen? And
23 the report is entitled "Breakaway Khmer Rouge Leader Ieng Sary
24 Says 'I Was Not a Part of the Decision Making'".

25 Although there are comments in this statement that the

1 Prosecution would be -- are disputing in this case, there are two
2 points that are significant for Your Honours to take into account
3 in relation to the policies of the CPK from its inception in
4 1960, and also the policy, or practice, or the certainly the goal
5 of indiscriminate massacring of people that are associated with
6 Vietnam. That's the reason for these -- for this document in this
7 case.

8 [11.41.13]

9 And perhaps I would like to put this in context by reading it.
10 And perhaps, if we can call it up on the screen, it will be
11 easier for others to follow.

12 And Ieng Sary states:

13 "Today, I would like to warmly welcome all of you, ladies [and]
14 gentlemen and friends who are present at this historic press
15 conference at our base. I particularly welcome all of you, ladies
16 and gentlemen of the Cambodian press, who have come to this area
17 for the first time. I wish you a safe stay during your work
18 today.

19 "One: First of all, I would like to stress that my disagreement
20 with the group of Saloth Sar, alias Pol Pot, began back on the
21 very day the party was formed -- that is, in 1960. Born to a
22 landowner's family, Pol Pot's attitude was heavily influenced by
23 feudalism during the years he had led the national liberation
24 movement, and particularly during his rule from 1975 to 1978 as
25 the Party's most important figure.

1 [11.42.35]

2 As a matter of fact, it was Pol Pot who destroyed everything. He
3 determined all the party's policies and decided all its
4 strategies and tactics. The others in the leadership only did
5 what he ordered them to [do]. Pol Pot could not tolerate any
6 views other than his own, let alone opposing views. The first [...]
7 disagreement between Pol Pot and me took place in 1960. At that
8 time, we had to interpret the Moscow joint declaration of various
9 Communist parties concerning the implementation of national
10 democracy. Pol Pot gave no consideration to the democratic
11 aspects thereby laying great emphasis on class struggle. As for
12 me, I emphasized the term 'Indochinese', which had a great
13 significance and was aimed at rallying all national forces.

14 [11.43.42]

15 Born in 1925 to a peasant family, I always advocated a moderate
16 line and was inclined to listen to other people's views. But
17 [...] listened to my views. My love for democracy gradually took
18 root when I led the Khmer Students Union in France. [The]
19 attitude was strengthened little by little thanks to the various
20 work contacts I had with intellectual and international circles.
21 During the 1970-75 war period, I disagreed with the idea of
22 indiscriminately massacring the Hanoi-trained Cambodians who were
23 accused by the Pol Pot group of being Vietnamese agents.
24 Concerning the plan to evacuate people forcibly from the cities,
25 I was not part of the decision-making."

1 And then he states he got off the plane from Beijing and the town
2 was empty.

3 "Following liberation on the 17th of April [...], in my capacity as
4 [...] deputy prime minister in charge of foreign affairs, I spent
5 most of my time [...] abroad. Therefore, I did not take part in any
6 important decision-making. In fact, the [...] most important figure
7 -- the second most -- in the party hierarchy, known as Brother
8 Number Two and Pol Pot's right-hand man, was not me but Nuon
9 Chea, who together with Son Sen and Son Sen's wife Yun Yat, alias
10 At, carried out all the decisions made by Pol Pot, such as
11 arresting, incarcerating, torturing and killing anyone who
12 expressed opposing views, or destroying anyone disliked, such as
13 the intellectuals."

14 [11.45.40]

15 I wanted to read that statement out in full to put in -- those
16 statements in relation to the view of Ieng Sary that, when the
17 Party first created a statute, or developed its party lines, it
18 was on the basis of class struggle, not just political struggle.
19 And in light of that, we can also - also see that this is
20 different, this position is different, of course, to his other
21 interviews, particularly done-- When you look at them, in 1972
22 and during the regime period, there's been no word of
23 disagreement with Pol Pot. And when you look at those interviews,
24 we ask Your Honours that in terms of attitude and approach by Mr.
25 Ieng Sary towards Pol Pot, it was quite different. However, now,

1 the 9th of September 1996, after the defection from the Khmer
2 Rouge, we would submit the attitude is changed.

3 But I think the importance of the point is that it's an admission
4 by Mr. Ieng Sary that the Party was operating on a line of a
5 class revolution rather than just a purely political one, and
6 that is significant, Your Honours, in relation to what happens
7 during the Democratic Kampuchea period.

8 [11.47.20]

9 And the next -- the other main point where this is relevant, and
10 particularly because it's a statement from Ieng Sary, not one
11 where he's being bullied into answering any questions, it's a
12 statement from him that the idea of massacring indiscriminately,
13 Hanoi-trained Cambodians during 1970 to '75, he disagreed with
14 that. So it's clear, prior to 1975, there was a policy, a policy
15 in the Party to kill people related to the Vietnamese, and they
16 were viewed as enemies. That's before the 17th of April, when the
17 Party took control of the country. We would submit that that type
18 of admission wouldn't be made if, in fact, it wasn't true.

19 The other -- perhaps the third point from his statement is the
20 aspect that there was no -- he talks about there was no
21 democratic process, the CPK and Pol Pot was not interested in a
22 democratic process. Certainly, in terms of decision making,
23 that's quite at odds with what Nuon Chea has said, that at that
24 first meeting, that first meeting of the Party in 1960, that
25 three day meeting, everyone agreed the party lines. As far as the

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1 dictatorial non-democratic approach of Pol Pot, you may ask
2 yourselves: perhaps that may have been the approach of the Party
3 but not Pol Pot.

4 [11.49.25]

5 Your Honours, I'd now like to move to the next document, and it's
6 at D313/1.249. And this is a -- this is a cable, a diplomatic
7 cable from the United States and it was sent from the U.S.
8 Embassy in Phnom Penh to the U.S. Secretary of State in
9 Washington D.C. as part of regular series of briefings
10 categorized Khmer report and political summaries. Now, the
11 document is dated 4th of March 1975, and it summarizes the
12 political developments in relation to Cambodia that week.

13 If I can take Your Honours to -- there's two points I would like
14 to raise in relation to this document, and the first is the fact
15 that, when we look at the document, you'll see that Ieng Sary, it
16 appears on the document, delivered the resolution or the
17 declaration to kill the seven Lon Nol traitors to the - to the
18 North Vietnamese Government, after that statement was made --
19 we'll look at that in a moment.

20 [11.50.58]

21 And the other -- the other aspect that I think is important is
22 that, as of the 4th of March 1975, Mr. Ieng Sary was engaging in
23 active support with the Chinese, which in fact he's admitted to -
24 he admits that to Stephen Heder in his interview, but active
25 support with the Chinese in relation to economic and military

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1 support for the CPK's fight.

2 So, perhaps, if we – if we move to the -- that document, if we go
3 to 00413052 to 53, English; in Khmer, 00740868; in French,
4 00751930 to 31. And I would ask if that – if that could be placed
5 on the screen by the case manager so that Your Honours can see
6 the nature of the cable and the detail in relation to these
7 points.

8 [11.52.20]

9 And perhaps, whilst that is happening, I will – I will start
10 reading at point 13. It states:

11 "In-country leader Ieng Sary headed for China February the 28th,
12 after staying in North Vietnam since the Tet Chinese -- since
13 Tet. Chinese Vice-Premier, Chi Teng-Kuei dined him on March
14 the 1st and promised 'powerful backing' for the Khmer people. The
15 next day, Ieng Sary led a delegation of GRUNK luminaries in talks
16 with Chi Teng-Kuei and Chinese Trade, Military, Logistics,
17 Foreign Affairs and Foreign Economic Relations officials. Sary
18 then sat in on Sihanouk's afternoon reception [with] the
19 Congolese Prime Minister on March 2nd.

20 "Comment: The list of Chinese officials appears to have been
21 released to show heightened possibilities for Chinese aid. Ieng
22 Sary's present trip made for presage announcement of an aid
23 agreement that may have been negotiated during [...] 1974, when he
24 led a GRUNK/FUNK economic delegation to Hanoi and Peking."

25 [11.53.42]

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1 And then it states:

2 "Pham Van Dong took the opportunity of a visit by the GRUNK
3 Ambassador - that's Mr. Ieng Sary - who gave him a copy of a
4 resolution passed by the Second Cambodian National Congress." And
5 it says "See below".

6 And if we go below to paragraph 15, we can see, certainly on a
7 reasonable interpretation, what that Resolution was, what was the
8 resolution he delivered. And it states:

9 "In-country clandestine radio reports that on February the 24th
10 to 25th Khieu Samphan chaired the Second Cambodian National
11 Congress in 'liberated territory' (the first took place in July
12 19-21st 1973). The GRUNK in-country cabinet attended, as did 273
13 representatives of front 'associations' and the army. They
14 declared that 'it is absolutely necessary to kill...' the seven
15 'traitors' Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In
16 Tam, Long Boret, and Sosthène Fernandez, [and] other politicians
17 and high personalities. However, [they] may join FUNK if they
18 stop cooperating with the six -- seven now."

19 [11.55.20]

20 I ask - I would ask that Your Honours look at this document. And
21 I think it's clear that that's the resolution that was delivered
22 to the North Vietnamese on that day. And certainly, in terms of
23 knowing what the policy was in relation to Lon Nol leaders, it
24 was obviously very clear in Mr. Ieng Sary's mind of what that
25 was.

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1 Your Honours, I probably have another 15 or 20 minutes and I'll
2 be starting on a new document now, so I would ask, perhaps, as
3 it's 11.55, we may not -- I may not finish the document, or I can
4 keep going. So, it's in Your Honours' hands.

5 (Judges deliberate)

6 [11.56.45]

7 MR. PRESIDENT:

8 It is now appropriate time to take lunch adjournment. The Chamber
9 will adjourn from now until 1.30 p.m.

10 Counsel for Nuon Chea, you may proceed.

11 MR. PESTMAN:

12 It probably won't surprise you that I would like to ask for my
13 client to follow the remainder of the proceedings downstairs,
14 from the holding cell.

15 I have all the paperwork ready to hand over to the greffier.

16 MR. PRESIDENT:

17 Having - having heard the request by Nuon Chea through his
18 defence counsel to follow the proceeding remotely, through
19 audio-visual means, in the holding cell, downstairs, the Chamber
20 grants leave for the request submitted by Nuon Chea defence
21 counsel not to be present directly in the hearing, but instead
22 follow the proceeding from the holding cell, downstairs, through
23 audio-visual means.

24 However, the Chamber advise the counsel to submit to the Chamber
25 the letter of waiver with the thumbprint or signature of the

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1 accused Nuon Chea.

2 And the audio-visual equipment technicians are instructed to link
3 the audio-visual means for the accused Nuon Chea so that he can
4 follow the proceeding from the holding cell.

5 [11.58.53]

6 The security guards are now instructed to bring the Accused to
7 the holding cell, downstairs, and this afternoon they bring them
8 - bring the accused Khieu Samphan back to the courtroom before
9 1.30.

10 The Court is now adjourned.

11 (Court recesses from 1159H to 1334H)

12 MR. PRESIDENT:

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

14 During this afternoon's session and at the commencement, indeed,
15 of this afternoon session, the floor will be handed over to the
16 prosecutors.

17 However, before that, we would like to ask the prosecutors to
18 advise the Court how much time they would need to put documents
19 before the Chamber, documents concerning the historical
20 background of the DK.

21 MR. SMITH:

22 Good afternoon, Your Honours. Good afternoon, counsel and general
23 public.

24 One hour, Your Honours, by the end of the next session.

25 And I think the plan was that the civil party Co-Lawyers would

1 commence at 3 o'clock, when we come back from the break, if
2 that's suitable to you.

3 MR. PRESIDENT:

4 Thank you for the indication.

5 So we would like now to indeed hand over to Co-Prosecutor to
6 proceed with the documents. Thank you.

7 MR. SMITH:

8 Thank you, Your Honours.

9 This afternoon, I will present three more documents, and all
10 three are interviews of Mr. Ieng Sary. One is in 1978, and the
11 other two were given in 1972, during the Lon Nol war. And after
12 that, my learned colleague will present some documents in
13 relation to Nuon Chea specifically to finish the presentation.

14 [13.36.46]

15 Your Honours, if we can look at document D108/28.306; this is a
16 document of notes from a visit to Democratic Kampuchea, in
17 September 1978, by a delegation of the Norwegian Marxist Party.

18 And the introduction note reads as follows:

19 "A translation of notes made by Pal Steigan, who visited
20 Democratic Kampuchea, for about a week, around September 20,
21 1978. Mr. Steigan represented the Norwegian Marxist Party and
22 Ieng Sary represented the CPDK."

23 [13.37.33]

24 Your Honour, this document demonstrates Ieng Sary's active
25 involvement in the foundation and development of the Party's

1 structure and policy and also his ability to speak on behalf of
2 the CPK, on behalf of FUNK on the issues occurring in Cambodia at
3 that time.

4 The first point he touches upon-- Well, there's a number of
5 points in it, but particularly he relates the history of the
6 Party between 1954 and 1960 in some specific detail. It's at
7 English ERN S00011553, Khmer 00333344, and French 00757898. And
8 he states:

9 "We had experience in patriotic struggle and class struggle in
10 the period 1954–1960. Even if there were no Party, there was an
11 ideology. Comrades came from Thailand and France. We did not
12 accept any foreign advice or advisors. As to Tou Samouth, the
13 Vietnamese wanted to propagate through him, but he also had a
14 national and democratic position. Meetings of the two sides were
15 possible after--" And the date's hard to read.

16 [13.39.14]

17 "And since there were relations between the two sides, the
18 Vietnamese could not insert themselves. This is the historical
19 period when we organized our Party without their influence. This
20 is the period where we readied the statutes of the Party and the
21 enemy suppression was very hard. This is the period where we [...]
22 distinguished between real revolutionaries and revolutionaries
23 who wanted to be dependent on outsiders. This is the period when
24 the political line and the Party statutes, the Party's strategic
25 and tactical line was established, without foreign advice or

1 advisors. It came from our classes and our use of
2 Marxism-Leninism based on the situation here."

3 [13.40.06]

4 The next point of interest is Ieng Sary's statement on the
5 building of revolutionary bases in the countryside, and this is
6 from -- he's referring to 1963 to 1967, and it's at English
7 00011548 to 9, Khmer 00333339, and French 00757894 to 95. And he
8 states:

9 "In March of 1963, most of the SK cadres were on the countryside,
10 and among them, Pol Pot. It wasn't the usual countryside, [it
11 was] the forest.

12 "[We] went to Rattanakiri province in the Northeast. From 1963 to
13 1967, we lived in the forests and had contact with several
14 villages.

15 "At the time, the Party played a leading role, but indirectly. We
16 established the line through couriers. We ourselves didn't go
17 down to the villages. Three things were important for the Party.

18 "Increase the people's movements for democracy and living
19 conditions. The people, themselves, rose to the struggle for
20 better living conditions. But in this struggle we led our
21 demonstrations and strikes. We used revolutionary violence. When
22 the police and the troops came to oppress the demonstrations, the
23 people used knives and sticks to fight the police of the enemy.

24 "Through this struggle, we built up an attitude for revolutionary
25 violence and armed struggle. We believed in this movement. And we

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1 could start such a movement throughout the whole country, as well
2 as in the villages.

3 [13.42.11]

4 "b) [we] attempt to build revolutionary bases. We built
5 especially in the Northeast province of Rattanakiri, that were
6 far from the enemy. But also in Kampong Cham, the western
7 mountains, [and] Battambang.

8 "The definition of a base, as it was then: 1. The people
9 understand the revolution and hate the enemy, in other words, a
10 good mass base; 2. People in [the] region could feed themselves
11 and were independent as to distribution. Rice, corn, cotton, for
12 example. In Rattanakiri, it was only salt that we were forced to
13 buy. There had to be secret militia, military organizing; and, d)
14 people working in the official sectors of the ruling class: deal
15 legally with the enemy, but certainly--" And it appears that it's
16 "sympathized with us".

17 [13.43.10]

18 The third point I would like to direct Your Honours in relation
19 to this document is Ieng Sary's statement on his knowledge of the
20 guerrilla tactics of the Revolutionary Army from 1968 onwards.

21 This is at ERN S00011551, Khmer 00333340, and French 00757896.

22 And he states:

23 "The enemy had the following forces: They sent 10,000 soldiers to
24 the Northeast. There were 30,000 soldiers in the whole army. We
25 had 100 men for troops. But because of the leadership of the

1 Party, we could defend ourselves. The struggle grew. In March
2 1968, the armed struggle began in 17 of the 19 provinces in
3 Kampuchea.

4 "How did we defend ourselves in the North? With guerrilla war. We
5 cut the roads with felled trees. We laid out traps along the
6 roads and on the ground. We weren't afraid of bombing planes. The
7 most important were the foot-soldiers. We let them come in deep
8 and surrounded them, cut the road on which they came. In the
9 space of three months, the struggle began in 17 provinces. There
10 were 34 communes in Rattanakiri. 32 were liberated in March. We
11 killed or disabled 2,000, of whom 200 were killed, the largest
12 amount through traps. [And] we used poison that went into the
13 blood. "With the help of this struggle, we were putting things
14 right. We were, in other words, ready when the coup d'état took
15 place. That is the cause (and effect) during the period 1970-75
16 that the leadership of the CP -- presumably CPK -- carried out
17 the liberation war. With the help of the Party, the army and the
18 united front, we won state power. And we were on the way to an
19 independent economy. A year after the coup d'état (January 1971),
20 we had the Third Party Congress. During [the] congress, we
21 reached full unity on the political line for the struggle."
22 [13.45.57]

23 It's -- that article, Your Honours, is quite a detailed article,
24 and it gives another level of understanding of the policies and
25 the structure from Ieng Sary.

1 I now turn to the second document, and this is D312.2.8, and this
2 is an interview with Ieng Sary which was published in the "Le
3 Monde" newspaper on 15 January 1972, and it's entitled "Interview
4 with a Cambodian Revolutionary", with the following preamble:

5 "In Peking, our special correspondent, Claude Julien, recently
6 met with Mr. Ieng Sary, one of the 'historical leaders' of the
7 Cambodian revolution. He, who soon will return to the
8 underground, reveals here for the first time to a foreign
9 journalist his views on the evolution of [the] country."

10 This is January '72.

11 [13.47.00]

12 This document, Your Honours, is highly relevant in relation to
13 providing a contemporaneous account by the Accused of the
14 political, military, and historical situation, status of the
15 resistance movement in Cambodia as of that time.

16 If I can take Your Honours to a few particular points, and
17 firstly in relation to his statements on the role of the National
18 United Front of Kampuchea, FUNK, and that's English ERN 0003965,
19 Khmer 00744041, and French 00722246, he states:

20 "Finally, the specific trait dominant in our war is the current
21 epoch -- in the current epoch is the solid union in the bosom of
22 FUNK of all of the nation's patriotic forces. Never has a united
23 national front assembled such broad forces, from a former king,
24 the country's legal chief of state, animated by a great
25 patriotism and by a resolute determination to win, to the most

1 disinherited peasant, not to mention the members of the royal
2 family, the national bourgeoisie, the petty bourgeoisie, the
3 workers, the intellectuals, the monks, etc. This front and its
4 government represent the legality, the legitimacy and the
5 continuity of the state. The unity between the interior party and
6 the exterior party of FUNK is solid."

7 [13.48.55]

8 He comments, in this article, on the role of the Royal Government
9 of the National Union, GRUNK, at ERN 0003965, Khmer 00744042 to
10 43, and French 00722246, where he states:

11 "The Royal Government of National Union is the only legal and
12 legitimate government of Cambodia. With Samdech Penn Nouth as
13 premier and Khieu Samphan as vice-premier, it is the outgrowth of
14 the broad and solid union of all social classes and strata. It is
15 recognized by twenty-eight countries which have broken with Phnom
16 Penh and given valuable aid and firm support to our people."

17 The next point he raises is the necessity for rural bases - rural
18 bases to support the Communist movement, and that's at English
19 ERN 0003964 (sic), Khmer 00744039, and French 007224 -- 2246,
20 sorry. And he states:

21 "These principal bases of support can only be built in the
22 countryside, in the bosom of the people and under their
23 protection. The factor determining victory is man, the people,
24 politically aware of the struggle [that] they must [lend]. These
25 years of struggle have also taught us the necessity of knowing

1 how to apply in a creative way on all fronts of the armed, the
2 political, and the diplomatic struggle, the principals of always
3 preserving our independence, of counting primarily on our own
4 strength and of being our masters."

5 [13.51.10]

6 He further provides more understanding of the administrative,
7 political, and military structures in the area under the control
8 of the revolutionary forces. I refer to English 00003963, Khmer
9 00744036, and French 00722245, where he states:

10 "In the vast liberated zone, we have applied the FUNK program. It
11 rests on the principal by which 'the people are the source of all
12 power'. At all administrative levels, from the hamlets, the
13 villages, the districts, the provinces, committees are
14 functioning as the state apparatus.

15 "Each committee is composed of three, five or seven members
16 according to the importance of its echelon. Each member is
17 assigned one or more specific duties: political, military,
18 security, economic, cultural, and social affairs, etc. The
19 committee members are democratically elected by representatives
20 of all classes of the population and must have the following
21 qualifications: be devoted to the cause of FUNK and struggle
22 firmly against the American imperialist [aggression] and their
23 servants; be honest and have exemplary moral character; be
24 entirely devoted to the people and the common interest, and be
25 loved by the people.

1 "Each task is simplified to the maximum at each echelon. The
2 number of functionaries is kept low to assure a disciplined
3 political force among the people and to attain their full help in
4 the resistance. Our cadres go into the villages to live with the
5 people and direct the task of political, cultural, and military
6 education. They take part in production without receiving any pay
7 and [they] live frugally."

8 [13.53.22]

9 The next point is in relation to his knowledge of the
10 organization of the revolutionary forces, and that's at 00003964,
11 English, Khmer 00744039, and French 00722246. He states:

12 "Thus, our popular armed forces have rapidly organized and
13 developed themselves on all these levels and are composed of
14 three principal forces: guerrilla units, the regional forces, and
15 the regular forces, all placed under the command of a national
16 military committee and its staff. At the level of each military
17 region, there is a military committee and a regional staff."

18 And the last point I'd like to bring to Your Honours' attention
19 on in this document is in relation to Party policy regarding
20 enemies to the revolution, and that's of January '72.

21 The question is: "Do you--" This is from the interviewer: "Do you
22 think there are, in the administration and army of Phnom Penh,
23 forces or people with whom you would be able to cooperate in the
24 future? Who do you exclude specifically from your national
25 union?"

1 [13.54.48]

2 Answer: "FUNK brings together all the social classes and strata,
3 all the professional or religious organizations, all the key
4 patriotic people and the members of the royal family, both in the
5 country and abroad. None are excluded from the ranks except the
6 traitors Lon Nol, Sirik Matak, Son Ngoc Thanh, and their clique
7 in the service of imperialism, those who have compromised
8 themselves in the coup d'état and who do not want to make amends
9 for their crime.

10 "The broad union realized in the bosom of FUNK demonstrates that
11 there is no - there is not and cannot be any third force
12 whatsoever between us, on the one hand, and the traitors and
13 their master, aggressive American imperialism, on the other."

14 [13.55.48]

15 Now, Your Honours, if I move to the last document -- and this
16 document is a record of an interview with Mr. Ieng Sary again on
17 the 31 January 1972, and it's document number D366/7.1.632. And
18 it was published in the "Vietnam Courier" on that date, and it's
19 entitled "Cambodia 1972 -- Interview with Mr. Ieng Sary, FUNK and
20 GRUNK, Inland Branch Special Envoy".

21 And if I take you straight to some particular points, he
22 elaborates on the FUNK program again at S0003047, Khmer
23 S00721515, and French 00420910. And he states -- and this
24 translation's quite small, but:

25 "It is to secure that peace that all our people are more than

1 ever resolved to fight valiantly on [...] the military,
2 political, and diplomatic fronts to realize [the] FUNK political
3 program of ousting the US imperialist aggressors and their Saigon
4 and Bangkok henchmen and sweeping away the Phnom Penh traitors in
5 order to recover sovereignty and territorial integrity and [hold]
6 an independent, peaceful, neutral, democratic and prosperous
7 Cambodia. To this end, our people are determined to surmount all
8 difficulties and make every sacrifice even though US imperialism
9 opposes on us a protracted war. They are fighting and will fight
10 unflinchingly and uncompromisingly against the Phnom Penh clique
11 of traitors, for the only way to national salvation and to a
12 lasting peace is the FUNK. All hope or attempt of the Americans
13 and their quislings to dictate to our people any compromise
14 solution under whatever form it may be, chiefly a solution of
15 partition, will only be a bitter delusion and a premium to the
16 Yankees and their agents to [rapidly] - it's hard to read -- and
17 drag on their criminal war."

18 [13.58.42]

19 Your Honours, this document, in fact, doesn't have a translation,
20 but this interview was reproduced in the FUNK paper called
21 "Cambodia 1972" by Ieng Sary, and it's that reproduction that, in
22 fact, has been -- has been translated.

23 If I now turn to a second point from this article and it's -- he
24 provides more information as to his knowledge of combat
25 operations in Cambodia at the time, and he states:

1 "But all these criminal schemes have met with dramatic failure.
2 In the flush of their past victories, our people and armed
3 forces, in the last rainy season, inflicted stinging reverses on
4 the enemy in Operation 'Chenla II'. The Rum Luong battle has gone
5 down in our history as one of our biggest military feats. Then
6 our people's liberation armed forces unremittingly hammered at
7 the enemy positions everywhere, chiefly in the periphery of Phnom
8 Penh."

9 [14.00.02]

10 He explains further to the interviewer the tactical methods used
11 by the -- by the revolutionary forces, and that's at ERN
12 S00023046, Khmer S00721508, and French 00420902 to 3. And he
13 states:

14 "Our Cambodian National Liberation People's Armed Forces have
15 been built and developed very rapidly in every respect: [in
16 number], in strength, [quality], spirit, combat efficiency and
17 technique. The three categories of arms -- guerrillas, regional
18 troops and regular army -- are placed under the supreme command
19 of a National Military Committee assisted by a staff. The
20 regional troops are now organized in battalion size and the
21 regular army in regimental size. They are equipped with arms of
22 all kinds and have mainly a very high political awareness and a
23 firm resolve to drive all the US imperialist aggressors and their
24 henchmen out of Cambodia and wipe out all the Phnom Penh clique
25 of quislings headed by Lon Nol, Sirik Matak and Son Ngoc Thanh.

1 All the army men live in the midst of the people, in close touch
2 with them, like them and serve them heart and soul.

3 [14.01.40]

4 "Their tactical methods are based on incessant guerrilla
5 operations mounted by skilful, light, mobile and discreet
6 guerrilla units to scatter the enemy forces and harass them;
7 leaving them no time to replenish their force and to make use of
8 their physical and moral resiliency. Lightning and devastating
9 raids have been sprung by [the] CNLPAF [forces] special commandos
10 eager to win on enemy manpower and war materials."

11 The Pochentong Airbase destruction is a vivid example of this
12 spirit.

13 "In all of these coups, the decisive factor of success, as our
14 experience has shown, is man; the decisive weapon is his high
15 political consciousness which makes it possible for him to get a
16 clear picture of the real nature of the enemy and his fortes and
17 foibles."

18 [14.02.49]

19 The last three points, Your Honour-- And the next one is in
20 relation to the CPK and FUNK cooperative policy in existence at
21 the time of 1972, and the English ERN S00023046, Khmer 00721509,
22 and French 00420904, where he states:

23 "To bring to fruition that agrarian policy in conformity with the
24 FUNK political program, we are carrying out: intensive agitation
25 work among the peasants -- rich and poor -- in order to drive

1 home to them that policy for -- that policy for strict
2 implementation; those who eagerly apply it are staunch fighters
3 in our war for national salvation; the organization of all the
4 peasants who approve the agrarian reform into a patriotic
5 peasants' association.

6 "We have encouraged the establishment of producers' cooperatives
7 and consumers' cooperatives to eliminate middlemen. In
8 agricultural production, the mutual aid movement has been largely
9 expanded among the peasants. In each FUNK committee at all
10 administrative level, a responsible cadre is appointed to see to
11 the development of production whose main objective is to cater
12 for our resistance war. Parallel to political education and the
13 mutual aid movement, the peasants have been endeavouring to
14 improve two rice crops per year. In anticipation of a prolonged
15 war, we attach great importance to subsidiary crops and the
16 rearing of pigs and poultry."

17 [14.04.44]

18 He also comments on the education policy in the liberated areas,
19 and that's at English ERN S00023046, Khmer S00721511, and French
20 00420905 and -- to 06.

21 MR. PRESIDENT:

22 Could the prosecutor repeat the ERNs for the translation
23 purposes?

24 MR. SMITH:

25 Thank you, Your Honour. I apologize for that. English ERN

1 S00023046, Khmer S00721511, and French 00420905 to 06. And he
2 states in relation to its education policy:

3 "Throughout the liberated zone, education is entirely free of
4 charge. Everywhere literacy classes have been functioning. Of
5 course the enemy raids impede the education of children a great
6 deal. The US imperialist aggressors, their Saigon quislings and
7 the Lon Nol-Sirik Matak-Son Ngoc Thanh clique are traitors are
8 most barbarous. They erase everything with bombs: schools,
9 colleges, hospitals, and pagodas... And despite all this, we have
10 been able to readjust education to the war conditions, an
11 education based on political economy, medical and military
12 sciences. We also see to the cultural and artistic instruction.
13 It is given entirely in Khmer. Freed from all harmful outside
14 influence, it closes links -- it closely links theory to practice
15 in the particular conditions of the country. It is squared with
16 the specific national requirements at the present time."

17 [14.07.02]

18 And the last point, he relates the policies in relation to health
19 care and medicine, and that's at -- in the liberated areas, and
20 that's at English S00023047, Khmer S00721511, and French 00420906
21 to 07.

22 And the question is put to him: "Can you -- can your medical
23 organization meet the needs of the war and the population?"

24 And he states:

25 "Generally speaking, our medical organization satisfies the

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1 requirements of the war and the population. The medicines used
2 are made from simple ingredients and have proved [efficient] in
3 traditional therapeutics. We train male nurses and midwives, most
4 of [them] are poor country people and even illiterate. [The
5 training] lasts three years -- 3 months of theory and 9 months of
6 practice [...] a year. The medical staff counts many women. In
7 addition to the medical set-up of the CNLPAF, there are two
8 [male] nurses in each hamlet, a medical committee in each
9 village, a physician in [each] district and one or several
10 hospitals in [each] province."

11 [14.08.32]

12 Your Honours, that finishes the documents that were particularly
13 relevant in relation to Mr. Ieng Sary, the main reason being, of
14 course, is that he was the author of most of these documents. And
15 we certainly won't be making submissions, but all we would like
16 to say -- all I would like to say is that these documents are
17 relevant to showing his activity in the CPK regime from its
18 inception right up until 1975; it's evidence of his close
19 collaboration with the main members of the leadership of the CPK
20 from the fifties right through to 1975 and his fervent activity
21 throughout all of that period to be a part of the CPK revolution.

22 [14.09.35]

23 Thank you. And I'll hand it over to my national colleague, who
24 will present some documents in relation to Nuon Chea. Thank you.

25 MR. PRESIDENT:

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1 Thank you.

2 I note that the defence counsel for Ieng Sary is on his feet. You
3 may proceed, Counsel.

4 MR. ANG UDOM:

5 My respects to Mr. President. My respects to Your Honours. Good
6 afternoon, everyone in and out of the courtroom.

7 I am seeking your leave, Your Honours, to draw your attention to
8 the commentary of the prosecutors on the documents this morning,
9 especially the document about the interview between Mr. Steve
10 Heder and Mr. Ieng Sary, document 20.2 (sic), we have observed
11 that the translation of the document is inaccurate, which does
12 not reflect the actual speech of Mr. Ieng Sary. The mistake is
13 grave.

14 [14.11.16]

15 We would like to refer to document IS 20.6; ERN in English
16 00417608 through 09, the Khmer ERN 00062465, and I would like to
17 quote and to draw your attention to the incorrect translation
18 which is very damaging. I would like to quote some of the speech
19 for your consideration, Your Honours, and also the translation of
20 that portion.

21 Mr. Steve Heder mentioned that: "Now I would like to go back to
22 the Ministry of Foreign Affairs. And as a matter of fact, in
23 order to make reference to the Ministry of Foreign Affairs, we
24 need to talk about your mission back to Beijing. If I understand,
25 in 1971, when you went to Beijing, here I'm making a conclusion

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1 that the appointment for your work was the same as that after
2 1975."

3 And I'm reading the last portion: "And I find that after -- or
4 later on, you -- or especially those who joined the Beijing's
5 Party, you brought them in to be cadres and work at the Ministry
6 of Foreign Affairs."

7 [14.13.43]

8 At the answer portion, I am of the view that the translation is
9 inaccurate. Mr. Ieng Sary answered: "In fact, actually, it --
10 such as Mr. Thiounn Prasith--" But in English -- I know a little
11 English, that is really true -- it does not reflect the
12 translation of the Khmer text. If the English is -- it is really
13 true, it means that Mr. Ieng Sary accepts that.

14 But in Khmer language, Mr. Ieng Sary said: "In fact, actually, so
15 it is not really like that." He is -- he is not accepting that.
16 So this is what it means in Khmer language. So this is one of the
17 examples.

18 In order to correct the translation, as the defence counsel for
19 Mr. Ieng Sary, I request the Chamber that the entire document be
20 translated again so that it is correct, so that it is acceptable
21 for everyone. Thank you, Your Honours.

22 (Judges deliberate)

23 [14.16.45]

24 MR. PRESIDENT:

25 The Prosecution, what do you think about the document as objected

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1 by counsel for Ieng Sary regarding the translation? Could you
2 explain or shed light on this issue?

3 There may be mismatch between the original text and the
4 translation text because the original is in Khmer language and it
5 is actually the transcript from an oral interview, and here we
6 are writing the spoken language -- that is, the transcript of the
7 oral interview -- and so there may be repetitions of some words.
8 For example, the person may repeat the time, for example in 1960
9 or in 1970, again and again.

10 So, as the one -- as the owner of the document or the one who
11 placed the document into the case file, what is your opinion
12 concerning the objection or the concern raised by the defence
13 counsel?

14 [14.18.23]

15 MR. SMITH:

16 Thank you, Your Honour. I'd love to have the language skills to
17 provide a precise answer on that, and obviously my learned
18 friend's language skills are far greater than on this side of the
19 Bench.

20 But I would say that it is an important interview and that is an
21 important answer, of course, so I would say it's worthwhile to
22 resubmit at least that answer to the -- to the Translation
23 Section and have them review that against the tape, and then just
24 file a revised version of that answer.

25 And I would say, in relation to other parts of the document that,

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1 because it is on tape, our learned friends can listen -- it is an
2 important interview, they can listen to that tape, and if they
3 find that there's a -- there's an issue or a problem with a
4 particular part, I think they should raise that, and of course
5 we'd have that reviewed.

6 But I would say, at this stage, in terms of resources, I think a
7 review of that answer, that page would be appropriate because
8 it's important for it to be clear.

9 [14.19.34]

10 MR. PRESIDENT:

11 Thank you.

12 Defence Counsel for Mr. Ieng Sary, you may proceed.

13 MR. ANG UDOM:

14 Thank you, Mr. President. In fact, what we raised here is not a
15 minor mistake; if you change the meaning, the meaning will be
16 changed completely: the positive meaning can be -- can become
17 negative, so this is a serious mistake. In the English language,
18 it is very sure that that is very true, but it does not mean so
19 in Khmer language. In Khmer, it only means: in fact, actually, he
20 was about to talk about something else.

21 So we still hold our position that this document be translated so
22 that it is accurate. When it comes to the technical terms and the
23 important content of the document, we, again, request that the
24 entire document be translated. Thank you.

25 (Judges deliberate)

1 [14.23.01]

2 MR. PRESIDENT:

3 Upon the Judges consultation, the Chamber is of the view that
4 such problems do exist when it comes to translation of various
5 documents. However, these problems are not too serious and we
6 cannot treat these issues accordingly.

7 The defence counsel for Ieng Sary is instructed to submit their
8 request and provide precise information as to what the mistakes
9 are and to provide all formalities in that request so that the
10 Chamber can consider your request.

11 [14.24.15]

12 The floor is now handed over to the Prosecution to continue their
13 presentation.

14 MR. SENG BUNKHEANG:

15 Thank you, Mr. President. I will present a number of important --
16 important documents before the Chamber, and these documents can
17 also assist the Chamber in order to determine the accuracy of
18 information described by the accused Nuon Chea concerning the
19 historical background.

20 In relation to what the Accused has previously answered before
21 the Court, we have observed that, sometimes, the accused Nuon
22 Chea provided information or answers which are important and
23 useful for the Chamber.

24 [14.25.17]

25 In many other cases, however, we have observed that Mr. Nuon Chea

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1 did not provide accurate information or he attempted to hide
2 information concerning the evolution of the political lines of
3 the Party before 1975.

4 Next, if I may display a document on the screen so that the
5 Chamber can examine--

6 MR. PRESIDENT:

7 I note counsel for Nuon Chea's on his feet. You may proceed,
8 Counsel.

9 MR. IANUZZI:

10 Thank you, Your Honour. Very briefly, perhaps we can refrain
11 today from characterizing the nature of the evidence given today.

12 I don't think that's what we're here for today.

13 I did hear counsel refer to Nuon Chea's testimony as being
14 inaccurate, or not correct, or something like that.

15 I think perhaps that's going beyond the scope of today's
16 exercise.

17 (Judges deliberate)

18 [14.27.02]

19 MR. PRESIDENT:

20 The objection by the international defence counsel for Mr. Nuon
21 Chea is sustained.

22 The Prosecution is advised to refrain from analyzing or
23 evaluating documents which lead to conclusions or submissions,
24 because the forum today is to -- is for you to present documents.

25 You may now proceed, Prosecution.

1 MR. SENG BUNKHEANG:

2 Thank you, Mr. President. I now continue.

3 If it pleases the Court, I would like to put up the document on
4 the screen for your consideration, Your Honours.

5 [14.28.08]

6 The first document is document D20 or E3/40 - rather, 54, which
7 is the written record of the initial appearance of Nuon Chea
8 before the Co-Investigating Judges on the 19th of September 2007,
9 the initial appearance of Mr. Nuon Chea before the Court. And I'm
10 referring to ERN in Khmer, first, 00148743; and the ERN number,
11 00148817; the French ERN number, ERN 00148920. And I would like
12 to refer to that portion:

13 [14.29.26]

14 "In 1950, I joined the resistant sincerely in order to liberate
15 the nation form the French. I gave up my studies and government
16 employment because the country was occupied by the French
17 colonists. In 1954, as I remember, the Geneva Agreement required
18 all foreign forces to withdraw from Kampuchea, and that the Khmer
19 resistant groups split up and came back to live in society.
20 Following this decision, I decided to return and live in society.
21 The coup that overthrew Prince Sihanouk in 1970 destroyed
22 Kampuchean neutrality. I went back to join the resistance again."
23 This answer is very important when it comes to the testimony of
24 the - rather, it's very important that he reflects his answer
25 before the Co-Investigating Judges back in 2007. At that time,

1 Mr. Nuon Chea explained to the Co-Investigating Judges about the
2 history of the CPK and the history of the Khmer Rouge. However,
3 he did not provide a lot of information concerning his
4 background, his struggle background between 1954 and 1970.

5 [14.31.20]

6 In the first appearance, Nuon Chea told the Court that he has
7 withdrawn from the resistance movement and was willing to be
8 repatriated into the society in the -- from 1954. Not until March
9 1970, when Samdech Sihanouk was toppled by a coup d'état, did he
10 go to join the resistance movement again.

11 Documents in his statement before the Chamber from -- that from
12 1954 to 1970, Nuon Chea was an essential Party's founder, along
13 with Pol Pot, and they were among the two important people for
14 the revolutionary movement that established Party line, the line
15 which was adopted in the Party Congress -- First Party Congress
16 in 1960. However, Nuon Chea, before the Chamber, indicated that
17 -- back then that he was the activist for the revolution from
18 1954 to 1970.

19 [14.33.02]

20 The prosecutor would like to also present another important
21 document, which is IS 20.28 or E3/3, which is the interview with
22 Nuon Chea conducted by Khem Ngun in May 1998.

23 In this document, the Accused explained the historical background
24 of the resistance movement of the CPK. This document also
25 included accounts and information that Nuon Chea may have

1 forgotten. Some of the points in this document IS 20.28 contained
2 detailed information other than the statement he made before the
3 Chamber recently. In that statement, Nuon Chea, before the
4 Chamber, indeed denied that he was the Party's secretary for
5 Phnom Penh from 1958 to 1960.

6 MR. PRESIDENT:

7 Counsel for Nuon Chea, you may proceed.

8 MR. IANUZZI:

9 Thank you, Your Honour. I'm just having a bit of a hard time
10 following.

11 I understood that we were going to be presenting specific
12 documents and then having a look at those documents, seeing those
13 documents on the screen, and then that they would be read out --
14 they would be read out. It really sounds now like we're - we're
15 getting into substantive pleading.

16 [14.34.52]

17 And I'm -- we -- I want to make it very clear, we do not object,
18 we do not object at all to introductory remarks as to why
19 particular documents are relevant, as to where they go, things
20 like that, but I'm -- I'm really having a hard time following
21 what's - what's happening at the moment.

22 What documents are we talking about? Which portions are we
23 talking about? It really sounds like a closing submission to me.

24 And again, let me reiterate, I have no objection to introductory
25 submissions as to why documents are relevant, placing them in the

1 proper context; that is perfectly acceptable.

2 (Judges deliberate)

3 [14.38.36]

4 MR. PRESIDENT:

5 Counsel for Nuon Chea's objection was appropriate, so National

6 Co-Prosecutor is now instructed to focus their -- his

7 presentation on the subject matter as guided by the Chamber.

8 The prosecutor is supposed to explain the importance of the

9 documents being put before the Chamber. With regard to the

10 statements made before this Chamber, the prosecutor is allowed to

11 compare the two versions, in particular the versions that have

12 already been made before the Chamber and the version that were

13 made recently by the accused person.

14 However, counsel - rather, the Co-Prosecutor is not allowed to

15 make his own pleading or conclusion with regard to the documents,

16 because, if the prosecutor keeps doing so, counsel for the

17 Accused -- or the Chamber also notes that such move could be

18 treated as an intent to make a submission.

19 So the Chamber wishes to hear only the importance and how the

20 documents are relevant to the -- to be put before the Chamber.

21 MR. SENG BUNKHEANG:

22 Thank you, Mr. President. I was trying to compare documents and

23 its importance and relevance only.

24 I would like now to proceed to another document, IS 20.28 under

25 ERN Khmer 00078188, English ERN 00184658, French ERN 00596181, in

1 which Mr. Nuon Chea states as the following:

2 [14.41.47]

3 "In late 1955, the first round of elections was over. Then I was
4 given the position of the Party Secretary in Phnom Penh. The
5 members were Saloth Sar, Mey Mann, and one guy called Khmao --
6 the father-in-law of Ieng Sary's daughter, married to a girl from
7 America). Chan Samorn set up the Phnom Penh city Party
8 Committee."

9 In the same document, under ERN in Khmer, 00078197 through
10 00078198, ERN in English 00184669, French ERN 00596191 through
11 92, Mr. Nuon Chea indicated as follows:

12 "--Pol Pot went to Rattanakiri in late 1966. He went to set up
13 the office there, we were apart. The Centre there led only
14 Mondolkiri, Rattanakiri, everything else was -- that other side
15 was mine and Ta Mok was mine -- Ta Mok's, rather, but at that
16 time it had already been divided in two. Ta Mok had the
17 Southwest, Ma Mang had Kampong Chhang and So Phim the East, but
18 under my leadership, including the city, the whole works."

19 With regard to this document, I would like to also refer to
20 another portion under ERN Khmer 00078198, ERN number 00184669,
21 French ERN 00596192. This document is under IS 20.8. I would like
22 to quote this statement as follows:

23 [14.45.06]

24 "--my group, me, Ma Mang, Ta Mok, So Phim, Koe, Vorn Vet, met in
25 Phnom Penh at Vorn Vet's house and decided that we had to combine

1 arms with politics. In late '67, this was decided, not to be all
2 at the same time, though, but whenever the possibility of
3 combining armed demonstrations with politics could be done first,
4 we should do it. At that time we had no contact with Rattanakiri,
5 we had no equipment at all, there was none, no radio
6 communications, only going by foot, walking one month, going one
7 month, coming one month, and that was not easy, it was not at
8 all."

9 Mr. Nuon Chea, at the same time, also discussed about the start
10 of the armed attack by the Party of Democratic Kampuchea in Bay
11 Damran, Battambang. And this document is referred to the
12 statement from a meeting, and the decision he already discussed.
13 [14.46.51]

14 Nuon Chea said he took part in the meeting to decide to start the
15 armed struggle and that the full name of a person named Koe, as
16 indicated, was Kong Sophal, who also attended the Party Congress
17 in 1963.

18 Now, I would like to proceed to another document, IS 20.28, an
19 interview with Nuon Chea and Khem Ngun, ERN in Khmer 00078190,
20 ERN in English 00184660, French ERN 00596183. Mr. Nuon Chea
21 indicates that Mr. Ieng Sary joined with Pol Pot and him in the
22 Phnom Penh committee after 1955.

23 With regard to another point under ERN in Khmer 00078196, English
24 ERN 00184668, French ERN 00596190, document IS 20.28, Mr. Nuon
25 Chea elaborated that he let Ieng Sary out of Phnom Penh in 1963,

1 after the public announcement by the government led by Samdech
2 Sihanouk concerning the leftist people.

3 [14.49.37]

4 Another document, under ERN Khmer 00078199, English ERN 00184671,
5 French ERN 00596193 through 94 of the same document; Mr. Nuon
6 Chea stated about how he took Pol Pot's wife, and Ieng Sary's
7 wife, and Son Sen's wife, of course, to Office 100 -- I quote:
8 "There was a support base, Ieng Sary and Son Sen were there --
9 Ieng Sary, Son Sen, they had all gone there. Oh, now I want to
10 say a little something. Their wives left, you know, left in 1965,
11 Yun Yat, the bitch Phim (phonetic) - or, rather, Phea, Yeay Yim,
12 they left in 1965, because in 1963 their husbands left. I took
13 them out, put them in cars, to the border."

14 I would like now to refer to another document. Mr. Nuon Chea
15 indicated -- or responded to the question by people who asked him
16 a question concerning Mr. Hem whether Mr. Hem, or Khieu Samphan,
17 joined the revolution or joined the Centre already, but he
18 responded that Khieu Samphan did not attend the Centre Committee
19 but he had already been member of the Party back then. That's
20 document IS 20.28. And he said that he had no other relation with
21 Khieu Samphan or other intellectuals.

22 I would like to now move to the next item, which is IS 20.38,
23 Khmer ERN 00078198, English 00184670, and French 00596192.

24 [14.52.49]

25 Mr. Nuon Chea indicated that we already "removed some, removed

1 Comrade Hem, removed Hou Youn, removed Hu Nim starting in 1967".
2 And the last document is document IS 20.33 or E3/23, an interview
3 of Nuon Chea with a Japanese journalist.

4 [14.53.27]

5 As indicated in previous documents, Mr. Nuon Chea indicated in
6 the interview concerning the relationship and the roles of Mr.
7 Ieng Sary and Khieu Samphan before April 1975. For example, under
8 ERN in Khmer 00000897, English ERN 00329508, French ERN 00363869.
9 He also gave interview with Khem Ngun in 1998. He -- Nuon Chea
10 indicated about Ieng Sary and how he joined the Party committee
11 of Phnom Penh with Pol Pot to rebuild the Party in late 1950s.
12 And there is another document, document under ERN in Khmer
13 00000900, English ERN 00329511; French, 0063872. Responding to
14 the Japanese journalist concerning the question whether Khieu
15 Samphan holds any power or was he just the state -- the head of
16 state, Nuon Chea indicated that Khieu Samphan held some power; it
17 was not true that he held no power.

18 Mr. President, that's all the documents that we wish to put
19 before this Chamber.

20 I would like now to conclude my flow, and then my colleague may
21 continue.

22 MR. PRESIDENT:

23 Can the Co-Prosecutor indicate to the Chamber how much time they
24 need to put the documents?

25 [14.56.11]

1 MR. LYSAK:

2 Thank you. Good afternoon, Mr. President.

3 I do not have very much to present, partly because we've had a
4 lot of time to present documents directly to Nuon Chea and I also
5 had Thursday afternoon. But I have probably about 10, possibly,
6 to 15 minutes, no more than that.

7 MR. PRESIDENT:

8 Thank you for the indication.

9 However, since it is now an appropriate time for our adjournment,
10 we will adjourn for 20 minutes. The next session will be resumed
11 by 3.15.

12 (Court recesses from 1457H to 1519H)

13 THE GREFFIER:

14 All rise.

15 [15.20.21]

16 MR. PRESIDENT:

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

18 Next, the Chamber hands over to the Prosecution to continue their
19 presentation of documents before the Chamber in the context of
20 the historical background of Democratic Kampuchea. You may now
21 proceed, Prosecutor.

22 MR. LYSAK:

23 Thank you, Mr. President. I will be fairly brief this afternoon,
24 before we turn the floor over to the civil party lawyers.

25 Before I get to the -- a number of photographs that I would

1 present, I would just observe, in response to some of the
2 objections that have been made, that the reason that we presented
3 the excerpts from IS 20.28 and IS 20.33, which were previous
4 interviews of Nuon Chea, were exactly as -- for the reason that
5 that was allowed by your comments, Mr. President, which is that
6 in each of those cases, when the Court reviews the record, you
7 will see that the statements that were made by Nuon Chea back in
8 these interviews are different than what he has told this
9 Chamber.

10 [15.22.10]

11 So it is -- it is somewhat hard for us to present that without
12 contrasting the testimony given in Court to that which Nuon Chea
13 -- the statements he made back then.

14 But in each case, the reason for the importance of those
15 particular excerpts is because they show a different description
16 by Nuon Chea of either his role and responsibilities, but also a
17 much more detailed account of the role of Ieng Sary and Khieu
18 Samphan, who seem to have become ghosts in Nuon Chea's testimony
19 before this Chamber. And therefore we wanted to point out to the
20 Chamber the references and discussion. That -- that is the only
21 reason -- that was the reason for the importance of those
22 particular excerpts.

23 Now, the document that I would like to turn to is document
24 D366/7.1.415. This is a collection of a number of photographs,
25 quite a few photographs. I'm simply going to focus on four of

1 them this afternoon, four photographs that appear to come --
2 include the same group of people from the same event.

3 And I would first refer the Court to what is page 20 of this
4 document, or ERN 00442745, and I would ask to show that page on
5 to the screen. And I would note that, as we're going to be
6 presenting photographs, the photographs -- we will just be
7 referring to the year and page that actually contains the
8 photograph.

9 [15.24.09]

10 This is a picture of a group of leaders. And you will see that,
11 in this document, the photos are somewhat blurry. For that
12 reason, I will also reference the Court to more clear copies of
13 these photographs that are part of the case file, and some of
14 them are actually already before the Chamber.

15 In this case of this photograph, this same photograph is before
16 the Chamber as E3/136, which is case file number D313/1.2.237.

17 And I'd like to show that on the screen because the photograph is
18 a little easier to see in the -- in that version of the document.

19 And, as you can see, this is a photograph of a -- the
20 significance of this photograph is that it is one of a group of
21 four photographs of top leaders of the Party. Starting from the
22 left side, there's Ta Mok; there's Koy Thuon; next to him is Nuon
23 Chea; there's Vorn Vet; in the middle, the person is Ney Sarann,
24 alias Ya, who was the Secretary of the Northeast Zone later on;
25 there's Son Sen, in the glasses towards the right; and at the

1 very far right, standing, is Pol Pot; and sitting, third in, with
2 the krama around his neck, is So Phim.

3 [15.26.13]

4 Another photograph from the same location and what appears to be
5 the same day can be found on -- in document D366/7.1.415, which
6 is at page 112, or ERN 00442837. And if I may first show the
7 portion of that document, or the version of that document that is
8 contained in document D366/7.1.415?

9 Again, the reason this doc version is useful is because there's
10 some additional information that appears as to where these
11 photographs came from.

12 Once again, there is a more clear version of this document, that
13 is already before the Chamber, that I would like to reference,
14 which is document D313/1.2.236, which is before the Chamber as
15 E3/137. And if we may show that on the screen now?

16 [15.27.49]

17 Again, this document includes some of the same people who were in
18 the group photo shown, only, here, we see a podium at which Pol
19 Pot is speaking and a number of the other leaders are seated on
20 the stage. Towards the right of Pol Pot, or the right of -- of
21 this picture, it appears that Mr. Nuon Chea and Ta Mok are
22 seated, and over to the other side, at least one of the people
23 appears to be So Phim.

24 [15.28.28]

25 The third photograph from this collection appears at page 19, ERN

1 00442744. And once again, if I may first show the version of the
2 document that comes from D366/7.1.415? And Your Honours will see
3 that this is a larger group photo from the same event, in which a
4 number of the participants have been identified. Once again,
5 there is a version – a clear version of this photograph in the
6 case file, which is document D313/1.2.235, if I may show that.
7 Now, this particular photograph, I will also point out to the
8 Chamber, is also contained in Philip Short's book, "Pol Pot --
9 The History of a Nightmare", which is before the Chamber as E3/9.
10 You will find this photograph at – and the photograph that appear
11 across from page 129 of the book, which is ERN page 00396328. And
12 the photograph is identified by Philip Short as a photo of –
13 quote -- "the CPK's Third Congress held in the jungle near the
14 Chinit River in 1971".
15 And if we could go back to the photo for a short period, a number
16 of the same leaders are in this larger group photo, and
17 including-- If we can zoom in a little bit into the top row
18 towards the right, one can see Khieu Samphan in the background,
19 two persons over from Koy Thuon.
20 [15.31.01]
21 In addition, as in the page 19 of – indicated in the list of
22 people that I presented, in addition to Khieu Samphan, Hou Youn
23 and Hu Nim were also present, as well as the other leaders that
24 we've previously seen: Pol Pot, Koy Thuon, So Phim, and others.
25 Now, in this particular version of the photograph, it is somewhat

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1 cut off on the very right edge, and so one cannot see Mr. Nuon
2 Chea in this photograph. But if we turn to the last photograph
3 from this group, which is found on page 21 of D366/7.1.415, and
4 it is at ERN 00442746-- Once again, I will first show the page
5 that appears in the larger document -- and again, this photo -- a
6 clear version of this photo may be found in document
7 D313/1.2.234. And in this version of the photograph, you can see,
8 by comparing it to the last one, it is the same group of people;
9 Khieu Samphan is in the same location. But if we scroll towards
10 the right side of this photograph, you will be able to see Nuon
11 Chea standing at the very far right, with the krama around his
12 neck.

13 [15.33.10]

14 So we present these three series of photographs as they've been
15 identified by Philip Short as coming from the 1971 Party
16 Congress. They are obviously significant because they show the
17 leaders and persons who were present.

18 Now, instead -- because some of the Accused also are not here, in
19 particular Nuon Chea-- When we were examining Nuon Chea, we
20 showed on the screen two of these documents, and I was told by my
21 colleagues that it was somewhat harder to see the documents on
22 the screen, something I've observed myself, so we've printed out
23 four copies of these photographs that I've just presented. And I
24 would simply ask that the Chamber - that they be submitted to the
25 Nuon Chea defence, and I would request that, if Nuon Chea can

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1 identify any of the people, that he do so, simply by marking onto
2 the photographs. If he wishes to -- instead, to comment in Court,
3 that's also his option. But rather than present an opportunity
4 for comments now, I would suggest it's more productive that we
5 give to the counsel for the Accused a copy of the photographs so
6 that, if his client wishes to identify or comment on the
7 photographs, they may. And I have the four photographs in a
8 folder, here.

9 [15.34.47]

10 So, if I - what I am requesting, Mr. President, is to -- through
11 the Court, to present these photographs to Nuon Chea's counsel so
12 that at his opportunity he can have a chance, if he wishes, to
13 identify the people and submit it back to the Chamber.

14 [15.35.12]

15 MR. PRESIDENT:

16 You are allowed to do that.

17 Court officers are now instructed to bring the documents and
18 deliver them to the Nuon Chea counsels.

19 MR. IANUZZI:

20 Thank you, Your Honour. I'll just note for the record that I have
21 received these documents, and we'll get back to you in due
22 course.

23 MR. LYSAK:

24 And I would just add, Mr. President, that Khieu Samphan - Khieu
25 Samphan's counsel has indicated that he would not comment, but if

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1 he wishes to have copies of these photographs, I'm happy to
2 provide them to Khieu Samphan's counsel as well. Just simply ask
3 that he let me know, and I will provide them to him in case he
4 wishes to comment on the photographs, as well.

5 That is the end of the documents that we have to present today.
6 Again, we've been fairly brief with Nuon Chea because I covered a
7 fair number of the documents either in our examination of him and
8 also in the Thursday afternoon session, and a lot of the policy
9 related documents were also presented by our colleagues on Monday
10 morning.

11 So we would end our presentations there and turn the floor to the
12 civil party lawyers.

13 [15.36.45]

14 MR. PRESIDENT:

15 Thank you.

16 Counsel for Khieu Samphan, you may now proceed.

17 MR. KONG SAM ONN:

18 Thank you, Mr. President. Good afternoon, Your Honours.

19 To respond to the Co-Prosecutor concerning the photos, may I
20 suggest that, if you have the photos available, please have them
21 copied and make them available to us. Then, we will consider how
22 to deal with them at a later date, or in due course.

23 The International Co-Prosecutor just stated that Khieu Samphan's
24 position is that he would not wish to respond to any questions at
25 this moment. However, I would like to state that during the last

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1 few days, during the course of putting documents before the
2 Chamber, the Co-Prosecutors were making some submissions, and
3 counsel for Khieu Samphan strongly objects such pleadings.

4 [15.38.26]

5 Secondly, I wish to also register my observations and objections
6 concerning the attempt of the civil party Co-Lawyers to put
7 documents before the Chamber, because a few minutes before the
8 break, perhaps at about 2 o'clock - no, 2.51 p.m., the document
9 was informed to us, and we noted that, in that list by the civil
10 party lawyers, a number of civil parties' names appear, and these
11 civil parties had never been admitted yet before this Chamber,
12 and we don't know whether their names have already been included
13 in the case file before the Chamber or not.

14 [15.39.38]

15 Unfortunately, the document is available into only one language,
16 and we are afraid that such attempts should not be allowed
17 because the document shall be available in other languages of the
18 Court as well before it is considered put before the Chamber, and
19 that all the names of civil parties who are not included in the
20 case file shall not appear in the list. They shall be removed, as
21 requested.

22 MR. PRESIDENT:

23 Thank you, Counsel. We note your objection.

24 Counsel for the civil party, you may now proceed.

25 [15.40.25]

1 MS. SIMONNEAU-FORT:

2 Thank you very much, Mr. President.

3 We've submitted our list and circulated it among the parties, and
4 that includes civil party applications. These are not new
5 documents; they are ones that have already been submitted back in
6 April to the Chamber. All of those civil parties have been
7 accepted by the Co-Investigating Judges and the Pre-Trial
8 Chamber, so the admissibility is no longer up for questioning.
9 That's the first point.

10 [15.41.08]

11 Second, if there is to be a debate on these civil party filings,
12 I would like to develop some arguments on the subject of
13 translation; that's the first point that came up today.

14 I'd like to recall what the Chamber said at the hearing on the
15 30th of January, since we had a small initial debate on the
16 subject then. And the Chamber said that we couldn't use these
17 documents if we did not have them in at least two languages.

18 And then, on the 31st of January, the Chamber drafted a
19 memorandum to recall that documents should be submitted in three
20 languages, but also saying that, when it was not possible to
21 produce them in three languages, we could be authorized to submit
22 them in one single language if we could demonstrate that the
23 workload of the Translation Unit here had made it impossible to
24 do the translation.

25 And I'd like to state that we have made requests for translation

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1 of these applications, which are mostly in Khmer -- some are in
2 French, and some are in English. Ones in English and French have
3 been translated into Khmer, so they are already in two languages.
4 For the ones in Khmer, we have made the requests to ITU for
5 translations of all of these papers, either translations for Case
6 02/01 or, otherwise, solely those that we wished to use tomorrow,
7 when we present the documents. And we have been told that we can
8 have the translations that we need in two languages for most at
9 least, but perhaps not till 9 o'clock tomorrow morning, perhaps
10 tomorrow afternoon, though I do note that we are 45 minutes short
11 on the time allocated to us today.

12 [15.43.16]

13 So, if the Chamber wishes me to elaborate on this subject, I am
14 happy to do so, and on the utility of these first declarations
15 and civil party filings.

16 And also, bearing in mind that the facts that, in terms of
17 international jurisprudence, you don't have civil parties, and so
18 we are in a rather new situation here. What we want to do,
19 therefore, is something that is encapsulated within the
20 particular situation of these Extraordinary Chambers.

21 It is very important to bear in mind that we are talking about
22 civil parties; we are talking about victims, the importance of
23 whom has been sufficiently acknowledged by the Pre-Trial Chamber
24 and the Co-Investigating Judges. And the ones that we want to put
25 forward here only relate to the historical context, and the point

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1 is to provide additional facts which, as we see it, are of
2 particular importance. Thank you very much.

3 [15.44.20]

4 MR. PRESIDENT:

5 Thank you.

6 Counsel for Khieu Samphan, you may proceed.

7 MR. KONG SAM ONN:

8 Thank you, Mr. President. I would like to emphasize that in the
9 least there are names of witnesses and civil parties.

10 And on top of that, when civil party lawyers would like to quote
11 accounts of the civil parties or witnesses who are not subject to
12 be summoned before this Chamber, these people or their accounts
13 are not relevant.

14 The purpose of presenting these documents before this Chamber at
15 this moment is about the documents that parties feel that they
16 can be shown to the party and the public and treated as
17 information. It is not considered yet as evidence. So the Chamber
18 is not bound to treat all the documents put before this Chamber
19 now as evidence.

20 So I can submit that any list of documents that contain witnesses
21 or civil parties are not relevant to the case should be allowed
22 (sic) before this Chamber.

23 [15.46.17]

24 MR. PRESIDENT:

25 Thank you.

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1 The court officer is now instructed to bring the file of photos
2 already compiled by the prosecutor to counsel for Khieu Samphan.
3 I agreed because counsel indicated that he would like to have
4 access to the materials if made available to them by the
5 Co-Prosecutor.

6 (Judges deliberate)

7 [15.50.46]

8 With regard to the objection by Khieu Samphan's counsel
9 concerning the documents put before the Chamber by the Lead
10 Co-Lawyers for the Civil Party, the Chamber will consider this in
11 due course.

12 However, it is now appropriate time for adjournment.

13 But, to be more precise, we would like to ask counsel for Khieu
14 Samphan concerning the photographs that counsel agreed to have
15 them. Can you advise the Court whether Khieu Samphan would wish
16 to make any comments after reviewing the photos? And if so, how
17 much time would he need to--

18 Counsel for Khieu Samphan.

19 [15.51.56]

20 MR. KONG SAM ONN:

21 Thank you, Mr. President. I am afraid that we are not able to
22 indicate to the Chamber how much time we need, because we haven't
23 received the photographs, and he has not examined them yet.

24 MR. PRESIDENT:

25 I think the Co-Prosecutor already indicated their great

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1 intention, that if you wish to have them, then they will make
2 them available very soon.

3 So can the Chamber be advised from the Co-Prosecutor whether it
4 is fair to say that?

5 MR. LYSAK:

6 Yes, absolutely. If counsel wishes to come down to our end of the
7 hall 15 minutes after we are finished today, I'll be happy to
8 give them copies at that time.

9 [15.52.56]

10 MR. PRESIDENT:

11 So the Chamber notes that counsel may not be able to indicate the
12 time because counsel has not yet accessed the photographs.
13 And again, it is now appropriate time for today's adjournment.
14 Counsel for Nuon Chea, you may proceed.

15 MR. IANUZZI:

16 Thank you, Your Honour. Very briefly, just in terms of scheduling
17 for tomorrow, I understand that we are scheduled to make our
18 remarks in the afternoon, assuming the civil party lawyers finish
19 in the morning.

20 Will we stand by that schedule or would we be expected to begin
21 immediately?

22 (Judges deliberate)

23 [15.54.01]

24 MR. PRESIDENT:

25 As the common schedule indicates, it is the case that this is how

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1 we see the proceedings will be undertaken.

2 However, due to our experience, sometimes we may lag behind a bit
3 of what has been scheduled, or sometimes we may move a little bit
4 faster.

5 And indeed, after Lead Co-Lawyers have put their documents, it
6 will be time for counsel for Nuon Chea to proceed with their
7 putting up documents. The Chamber will not be able to definitely
8 say that Nuon Chea's team will begin immediately in the next
9 session. It is subject to the floor given over to the Lead
10 Co-Lawyers for the civil party first.

11 MR. IANUZZI:

12 Thank you, Your Honour. We are always ready for plan B. Thank
13 you.

14 [15.55.24]

15 MR. PRESIDENT:

16 It is now the appropriate time for today's adjournment.

17 The Court is now adjourned.

18 The next session will be resumed at 9 a.m., tomorrow, Wednesday.

19 Security personnels are now instructed to bring all the three
20 accused persons to the detention facility and have them returned
21 to the courtroom before 9 a.m., tomorrow.

22 (Court adjourns at 1556H)

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