



The KRT Trial Monitor

Prosecutor v Kaing Guek Eav,
alias 'Duch'

Report Issue No. 8:
Week Ending June 14 , 2009

In this week's KRT Trial Monitor...

Duch questioned on the Implementation of CPK Policy at S-21, and the Armed Conflict between Cambodia and Vietnam (pp.2-5); Repetitive and irrelevant questions continue, despite a more assertive Chamber (p.7); Accused is reprimanded for his choice of language (p.8); Court open to the public only 3 days, due to Trial Management Meeting (p.9)

1. SUMMARY

"You cannot use a bucket to hide an elephant."¹

This week, the Chamber and Parties proceeded to question the Accused on "The Implementation of CPK Policy at S-21" and the "Armed Conflict Between Vietnam and Cambodia" – two topic areas directly related to the charges Duch faces in the Closing Order. The Accused Person's testimony on the former has been extensively explored with witnesses during previous weeks, and as such, did not appear to reveal any novel evidence. Consistent with his prior testimony, Duch further maintained that any active role he took to ensure the effective operation of S-21 was motivated by his fear of reprisal from the upper echelons of the command structure.

Duch continued unequivocally to assert that his degree of agency (as it related to the formation and implementation of the policies at S-21) was limited to following both orders from his superiors and the party line. He seemed unwilling to absolve his superiors from responsibility, but continued to express remorse for the crimes committed at S-21, specifically mentioning that he did not blame his subordinates for the torture and killings that occurred. He further maintained that, at the time, he was unaware of any other international law governing the conduct and treatment of prisoners of war. Despite the Accused Person's insistence that he failed to proactively participate in the formative stages of policy implementation at S-21, Duch admitted, in response to questions from the Civil Parties, his personal role in eliciting and annotating prisoner's confessions. He further noted that these were disseminated to rural areas and used as the basis for further arrests and torture. This suggests his influence on the implementation and perpetuation of CPK policy was not confined to S-21.

¹ Duch on Tuesday, June 9, 2009, when explaining to Civil Party Lawyer for Group 4 that any assertion that he had released three prisoners could not be true, because he had no authority to do so without any order from the superiors. He posed the inquiring as to why he would lie about this issue when he already admitted to the crimes at S-21.

As during previous weeks the Accused demonstrated that he had closely studied the evidence on the Case File and utilized it either to bolster his assertions or assess statements made against him in court. This week, he emphasized a number of times that he would not confirm allegations based on “un-clear documentary evidence.” At one point he made vulgar statements attacking the conclusions drawn in Dr. Etcheson’s report. In response the Chamber rebuked him.

An important procedural issue regarding Rule 87 – the Rule pertaining to the admissibility of evidence - was scheduled to be discussed during a closed session trial management meeting on Thursday. It seems likely that the Chamber will discuss with the Parties how best to interpret this rule, in light of recent delays to the proceedings caused by disputes as to how documents should be put into the record.

As for trial management, the sessions generally commenced on time this week. The monitors noted the Trial Chamber’s effort to prevent delays. Proactive steps were taken this week to interrupt repetitive lines of questioning. Unfortunately, despite these measures, some parties continued to pose such questions. However, International Deputy Co-Prosecutor Mr. William Smith took care to explain the intended purpose and scope of questioning before examining the accused. Such exemplary practice, if adopted by other parties, may facilitate clarity during the proceedings.

Finally, it is worth noting that the interpreters this week exhibited close communication with the Chamber. However, they need to be reminded not to edit content when performing their tasks. It is a source of concern that edited interpretation, along with inaccurate translation of documentary evidence, continues to adversely impact both the deliberation of the Chamber as well as the smooth running of the trial in general.

2. LEGAL AND PROCEDURAL ISSUES

A. Abridged Account of the Accused Person’s Testimony

Resuming trial after a one-week recess, proceedings continued this week with the Accused being questioned on the facts relating to the “Implementation of CPK Policy at S-21” and the “Armed Conflict between Cambodia and Vietnam”. In keeping with its *Direction on the Scheduling of the Trial* issued on 20 March 2009, the Chamber has now completed questioning on four of the seven topics on which it has determined to hear evidence.² Hence, despite the fact that over 40 witnesses are still slated to testify, the Chamber has now passed the midpoint of its consideration of the evidence to be heard at trial.³ Monitors urge the Chamber to consider cutting the witness list accordingly, to ensure Duch’s trial is completed in a timely manner.

²As has been already discussed in previous reports, the Chamber determined prior to the start of trial that it would hear evidence on a “topic by topic” basis, and determined seven topics under which witnesses would be called to testify: (i) Issues relating to M-13; (ii) Establishment of S-21 and Takmao Prison; (iii) Implementation of CPK Policy at S-21; (iv) Armed Conflict; (v) Functioning of S-21 including Choeng Ek; (vi) Establishment of S-24; and (vii) Issues relating to the Character of the Accused. To date, the Chamber has completed its hearing of testimony on topics (i) – (iv). See *Prosecutor v Kaing Guek Eav alias “Duch”* (Case No.001/18-07-2007/ECCC/TC “Direction on Trial” (20 March 2009) at paragraph 9.

³Initial estimates of the number of witnesses on the witness list (a confidential document) were considered to be around 53 witnesses. To date, the Chamber has heard [six] witnesses.

Questioning regarding the implementation of CPK policy this week was largely aimed at establishing the culpability of the accused, as well as verifying certain facts detailed by expert witness Craig Etcheson. In particular, the Co-Prosecutors sought to establish that Duch was independently willing to participate in the implementation of CPK policies, and was not simply following orders (as he continues to maintain). Deputy International Co-Prosecutor, William Smith, specifically focused on the methods used to disseminate CPK policies at S-21. Civil Party Lawyer for Group 1, Alain Werner, tried to verify the facts of Dr. Craig Etcheson's earlier testimony with the Accused; an inquiry that only seemed to agitate him. In an attempt to counter this, Duch's National Defense Counsel Kar Savuth focused his inquiry on assessing the validity of Etcheson's expert witness report.

The Chamber and Parties' questions pertaining to the "Armed Conflict between Vietnam and Cambodia" explored the Accused's knowledge of the existence of this conflict and its intrinsic link to the policy of Vietnamese extermination.

The following is the abridged account of the Accused Person's testimony:

Training at S-21. The Accused confirmed that he had constructed a building near his residence to serve as a training center for S-21 interrogators. He insisted, however, that location of the center (which was close to his house) arose out of practicality; namely to ensure he was readily available to answer calls from his superior on his home telephone. He further elaborated that, other than to hold annual meetings, the center's use was restricted to these training sessions, and that he was solely responsible for training S-21 interrogators. He clarified that, except in cases where units attended the S-21 annual meetings, he had never trained units or staff external to S-21.

Training Methodology. The Accused explained that he employed a system of training interrogators that he called "fast attack, fast success." This involved training the interrogators to undertake certain techniques in the morning and having them implement these techniques at S-21 later that day. He termed this a "circle of operation and theory," presumably referring to the fact that this method allowed for the continuous reinforcement of "lessons learned" from the training sessions through their practical implementation.

The Accused confirmed that the training regimen was aimed at transforming "innocent" people into individuals capable of conducting interrogations and thus enabling them to implement the CPK killing policy. He stated that this transformation was brought to fruition by teaching the interrogators to regard prisoners as enemies.

Implementation of Self-Criticism in S-21 Committee. Duch confirmed his earlier account that he did not strictly adhere to the requirement of regular self-criticism. Duch stated that both he and other S-21 cadre, namely Ho and Huy only provided each other with "advice or opinions" on a case-by-case basis. This bolsters the argument alluded to by the National Co-Prosecutor that Duch was able to circumvent certain requirements of the CPK policy, given self-criticism was a requirement in the CPK Statute.

The Policy of Smashing Prisoners' Children. In response to the National Co-Prosecutor's inquiries the Accused confirmed that the general policy towards children of prisoners brought to S-21 was that they were also apprehended and killed. Duch

asserted that, because his subordinates carried out these acts, he was unaware as to the particulars relating to the detention and the interrogation of children. The Accused then also corroborated his previous testimony regarding his attempts to raise prisoners' children. According to him, his attempts had failed partly because children had "emotional needs." Duch further recounted his conversation with his superior, Son Sen, and quoted him as saying, "let this be your lesson... [raising children] is hard, and they can take revenge."

Duch's response to Craig Etcheson's testimony. The Accused was seemingly agitated on Monday when questioned by International Civil Party Lawyer for Group 1, Alain Werner, about Etcheson's expert testimony. During his line of questioning, Werner sought to revisit the issues of S-21's uniqueness when compared to other security offices in Cambodia during the period of Democratic Kampuchea. Duch pointed out that he was not aware of any documents describing the torture techniques implemented at other Security Offices and thus questioned the validity of Etcheson's statement that the torture techniques at S-21 were worse than those of similar facilities. With regard to the evidence of implementing torture methods, the Accused asserted disbelief both that the breasts' of women prisoners were burned and that some prisoners were exposed to poisonous insects. Duch asserted that these facts were fabricated either by Mr. Etcheson or Mr. Etcheson's sources.

Knowledge of Armed Conflict and War Crimes. Pursuant to the Defence's submission on judicially agreed or not disputed facts, issued at the start of trial, Duch has acknowledged that he was aware of the existence of an armed conflict between Democratic Kampuchea and Vietnam from December 31, 1977 onwards.⁴ However, in order to determine the extent to which the accused held the requisite *mens rea* for war crimes committed in 1975-76 (for which he is charged in the Closing Order), Judge Cartwright spent a lengthy amount of time this week attempting to confirm whether Duch was aware of facts pertinent to the armed conflict prior to this date.⁵ This approach is consistent with that adopted at the International Criminal Tribunal for the Former Yugoslavia: at that tribunal, the prosecution's obligation to prove "intent" for war crimes has been held to encompass the Accused Person's knowledge of the facts pertinent to the international character of the armed conflict. This aspect of the *mens rea* requirement does not require that the perpetrator is able to legally characterize the facts known to him at the time; however, the perpetrator must be aware of the armed conflict and its international nature.⁶

The Accused maintained that although he was aware of the long-standing enmity between the Communist Party of Kampuchea and the Vietnamese Communist Party, he was not aware of an armed conflict *per se*, aside from distant rumors. The Accused further explained that, although he does not dispute a December 31 start date for the

⁴See Closing Order, paragraph 17.

⁵According to the Closing Order, Duch is charged with (i) the unlawful confinement of civilians; (ii) wilfully depriving persons of a right to a fair trial; (iii) wilfully causing great suffering; (iv) torture and inhumane treatment; and (v) wilful killing, each a Grave Breach of the Geneva Conventions, as committed between April 1975 and 6 January 1979. (See paragraphs 144 – 151 of the Closing Order). The Closing Order is somewhat vague as to when these acts occurred.

⁶*Prosecutor v Naletelic, aka "Tuta", & Martinovic, aka "Stela"*, Judgement, Case No.IT-98-34-A, Appeals Chamber, 3 May 2006, paras. 116, 119. Source: International Criminal Law Services and Open Society Justice Initiative (Second Edition) *International Criminal Law Training Materials for the Extraordinary Chambers in the Courts of Cambodia* (February 2009), at page 186.

war, he only became fully aware of the armed conflict after January 6, 1978, when Pol Pot held a meeting to celebrate the “Great Victory” against Vietnam. However, he did appear to acknowledge some of the factual circumstances pertinent to the armed conflict when questioned by Judge Cartwright.

Upon inquiry by the Chamber as to whether the Accused had either received formal training in torture techniques or known about international law regulating the treatment of prisoners of war, Duch stated that he did not know of any such law or rules, and simply followed his superior’s orders. At a latter point he explained that he only became aware that his acts constituted international crimes after being indicted by the ECCC.

Vietnamese Detainees at S-21. On Wednesday, Duch accepted the validity of a list of Vietnamese prisoners at S-21 presented by the International Co-Prosecutor. The list showed the Vietnamese as the largest foreign population at S-21, totalling 345 individuals, not including children. The accused asserted that these Vietnamese prisoners were broadly categorized into three distinct groups: soldiers, spies, and civilians. The Accused testified that Vietnamese prisoners sporadically arrived before 6 January 1978, and that thereafter the number of Vietnamese civilians steadily increased. While he explained that he did not think all Vietnamese prisoners of war were sent to S-21, he claimed he had no knowledge as to where else they were sent or how they were treated.

Policy of Vietnamese Extermination. It is unclear from the Closing Order whether Duch is charged specifically with the extermination of Vietnamese nationals. However, the accused is charged with extermination as a crime against humanity – a charge that clearly includes the Vietnamese people “smashed” at S-21. Duch denied any knowledge relating to a widespread policy of Vietnamese extermination this week, but did concede that S-21 detainees of Vietnamese descent had been targeted because of their national/ethnic identity. Still, he further maintained his stance that the Vietnamese detainees categorized as civilians and spies were sent to S-21 and smashed not necessarily because of their ethnicity, but rather because of their espionage activities and other mistakes. He insisted this policy equally applied to Khmer people. He viewed the relations between DK and Vietnam as a constant “tug of war” due to a difference in political views between Pol Pot’s notions of “independence mastery” and the Vietnamese Communist Party’s desire to create an “Indochina Federation.”⁷

Confession of Vietnamese Detainees at S-21. According to the Accused, Mom Nai was the only person assigned to interrogate Vietnamese prisoners at S-21 because he knew Vietnamese. Duch affirmed that Vietnamese prisoner’s confessions, especially those by soldiers, were used as propaganda tools, but only after 6 January 1978. Their pictures and oral confessions were disseminated by radio broadcast and films. Duch admitted the confessions were occasionally altered in accordance with his superior’s orders, and that prisoners would be coerced to read the altered versions. Duch asserted that these broadcasted confessions functioned as propaganda in order to show the public, both in domestic and international circles, that the Vietnamese had aggressive designs to include Cambodia as a puppet government under a Vietnamese dominated Indochina Federation.

B. Issues Raised or Observed During Trial

⁷ See KRT Report Number 7

Accused Person Represented by new International Defence Counsel; Rights Upheld Less Proactively. Duch's usual International Defense Counsel, Francois Roux, was absent from proceedings this week, and the Accused was represented by Ms. Marie-Paule Carnizares instead.⁸ Although the Ms Carnizares appeared undoubtedly a competent defense counsel, the vigor with which the Accused Person's rights were upheld appeared to be noticeably affected by the substitution, with Ms. Carnizares taking a more passive approach than her counterpart. For instance, counsel did not object to the Prosecution questioning Duch about a document extracted from the file of Case 002,⁹ despite her realization that this document did not form part of her client's case.

3. VICTIM PARTICIPATION AND WITNESS PROTECTION AND SUPPORT

Civil Party Attendance There was a slight increase in the number of civil parties attending the trial this week, with either 5 or 6 civil parties attending the proceedings on any given day. The civil parties in question are from Groups 2 and 4.

Civil Parties Allowed to Attend Trial Management Meeting. The Chamber announced on Monday that it would allow Civil Parties to attend the trial management meeting scheduled for a closed session on Thursday. The Chamber's President explained that their presence was optional; this was most likely in response to Lawyer from Group 2 Ms. Silke Studzinsky's assertion last week that the Civil Parties should not be barred from attending the trial management meetings, because their interests may be adversely impacted.

Witness Protection in Presentation of Evidence. The Chamber also displayed a commendable awareness towards the need for witness protection this week. The instance occurred when International Defense Counsel Ms. Carnizares requested the right to adduce video excerpts of the Accused's reconstruction visit to S-21 on 27 February 2008. Judge Cartwright expressed concern that the video may contain footage of witnesses and thus may reveal their identities (intended to be concealed by pseudonyms). Defense Counsel acknowledged that there was indeed a risk that witness and civil party identities would be prematurely revealed. The Chamber provided the option for the Defense to present the evidence *in camera* or postpone presenting it to the Chamber until a later date. The Defense chose the latter.

Witnesses are Excused When Delay Identified. Last week the KRT report noted that at times witnesses had to wait for prolonged periods of time during the proceedings where he or she did not have to testify. It is noteworthy that on Tuesday and Wednesday the Court excused witnesses as soon as it became apparent there would not be time to hear their testimony.¹⁰

⁸ Francois Roux excused himself in the last week before the break, stating that he would be absent throughout this week because of his obligations in the Special Court for Lebanon in The Hague

⁹ On Monday, the Deputy National Co-Prosecutor Tan Senarong introduced a document he referred to as a list of 26 Khmers who were deported from Thailand and transported to S21 through the security office M-16. It was subsequently found that the list was an attachment to a letter from Amnesty International which was evidence from case 002's case file. The Deputy National Co Prosecutor also failed to provide an answer justifying the relevance of this document to the topic at hand. Despite that, the Chamber allowed Senarong to continue his questioning based on the respective document.

¹⁰ KW-08 was scheduled to testify on Tuesday afternoon, and was present at the Court that day. However, the hearing of his testimony was postponed due to the slow progress in the proceedings. The same also

Repetitive and Irrelevant Questions and Answers Curtailed. The Civil Party Lawyers exhibited visible restraint during the questioning of the Accused this week, adhering to previous estimates of the time required to question the Accused. Still, however, repetitious questioning continued as some Civil Party Lawyers sought clarification of certain aspects of Duch's earlier testimony that they found unclear.¹¹ Irrelevant questions straying from the topics set out in the Closing Order also became a concern, although the President of the Chamber acknowledged that in certain instances, distinguishing between relevant and irrelevant questions was difficult given the subject matter was interrelated.¹² Given that much of the repetition came from the National Civil Party Lawyers, it raises the question as to whether or not this was caused, either in part or in whole, by translation and/or interpretation problems.

On Tuesday, during the questioning by the International Defense, Silke Studzinsky, the Civil Party Lawyer of Group 2, objected to certain statements made by the Accused on the grounds that they fell outside the predetermined topic's scope. Ms. Studzinsky argued that the Accused Person's lengthy statement on his suffering, remorse, and declarations that he would accept responsibility for his crimes was irrelevant to the "Implementation of CPK Policy at S-21." The Chamber overruled this objection but did not clarify the grounds for their decision.

4. TRIAL MANAGEMENT

Judicial Management. This week, the Chamber continued to remind the Parties to keep their questions within the pre-determined scope of the topics being discussed and to avoid repetitive and unclear questions. Commendably, the Chamber not only issued these reminders, but also made an active effort to stop irrelevant and repetitive lines of questioning. On a number of occasions this week the Chamber both mandated that some questions and evidence be presented at a latter point in the trial and also put a stop to questions it deemed repetitive. It also instructed the Accused to refrain from answering questions he deemed were irrelevant or repetitive, seemingly giving the Accused the authority to exercise discretion when confronted by the Parties.¹³

Interpretation Concerns. It became apparent during proceedings that interpreters were self-editing parties' statements without being instructed to do so. This was most noticeably the case when Duch used harsh words to comment on Craig Etcheson's testimony (see court behaviour below). While perhaps well-meaning, the interpreters should be discouraged from doing so, given the significance of accuracy in legal

occurred with KW-09 who was scheduled to testify on Wednesday. Both would be testifying during the proceedings for the topic "The Operation of S21 and Cheung Ek".

¹¹ Examples of these aspects include the subject-matter of the Accused's training sessions and the organization of the CPK.

¹² Silke Studzinsky posed to the Accused to the predetermined topic, namely the implementation of CPK Policy and the dehumanizing treatment at S-21. President Nil Non asserted that perhaps her questions would be more appropriate for a later point in the trial. The Lawyer for Civil Party Group 2 explained that her questions were aimed at shedding light on the Implementation of CPK's policy towards enemies at S21

¹³ For example, on Wednesday, when opening the floor to questions from the Parties concerning the armed conflict issue, President Nil Non specifically recognized the possibility that questions concerning the treatment of Vietnamese prisoners-of-war at S21 might be prematurely asked at this stage, and thus cautioned the Parties against raising such questions. Another example was on Wednesday, when the Chamber interrupted questions by the National Co-Prosecutor and the Lawyer for Civil Party Group 4, Hong Kim Suon because it saw them as irrelevant or repetitive.

proceedings. It is perhaps important to remind them that the ethical and professional obligation of interpreters is to translate word for word precisely what the witness or accused person says, regardless of its content.

In a display of continued cooperation between the Chamber and the interpreters, the Chamber prefaced each session this week with reminders to the parties to speak clearly and slowly.

Mindful of the possibility that important facts may be lost in translation, Judges Cartwright and Lavergne were careful to summarize what they understood to be the Accused's testimony and obtain the Accused's clear confirmation of those facts before proceeding. This is a good practice that the Parties may wish to consider utilising.

Translation Issues: On Monday it was found that there was a translation discrepancy in the CPK Statute; a fundamentally important document for the proceeding. Article 2(f) of the Statute in English states that self-criticism meetings should take place every day. However, the Accused stated that the Khmer version only stipulated that it should be held regularly. This again raised concerns about the validity of the translations used by the Chamber in its deliberation.

Courtroom Etiquette. During the questioning of the Accused by Alain Werner, the Lawyer for Civil Party Group 1, as it related to Dr. Craig Etcheson's testimony, the Accused Person's responses were increasingly patronising. This went on until the Accused referred to Dr. Etcheson as a "crazy author" who wrote inaccurately about the policy implemented at S-21. The President of the Chamber immediately rebuked the Accused and ordered him to control his language.

Attendance by the Parties. The International Co-Prosecution was represented by Mr. William Smith. Mr. Francois Roux was replaced this week by Ms. Marie-Paule Carnizares. On Wednesday, Deputy Co-Prosecutor Mr. Seng Bunkheang took the place of Mr. Tan Senarong.

Audience Attendance. The public gallery was fairly well attended on Monday, reaching 100 persons from different provinces, including a Cham community who had travelled some distance to attend. There were approximately 30 people from the Mesang district, Prey Veng province, 40 people from Chhlong district, Kratie province and also some people in attendance from Chraing Chames commune, Rusey Keo district, Phnom Penh. Although it was anticipated that the same sized group would attend Tuesday's proceedings, there were significantly less people in the gallery. On Wednesday, 40 persons from two communes in the second district of Phnom Penh were present. The visits of these locals were financed by DC-Cam. Additionally, DC-Cam provided for the attendance of approximately 10 American students.

Technical Problems. Cell-phone interference in the interpretation booth was a problem at some points during the proceedings. It is worth reminding the interpreters and operators of the interpretation devices to refrain from bringing mobile phones near the equipment. Furthermore, some of the headsets distributed to the audience continued to be faulty.

Scheduling. It should be noted that the proceedings this week began punctually compared with many previous weeks of the trial thus far. However, ongoing delays in the

scheduling of witnesses continue to be a concern. The Chamber noted this when excusing witnesses KW-08 and KW-09 from testifying. It cited “lengthier than anticipated discussions on the two topics of evidence” this week as the cause of this delay.

This week there were only three days of public hearing, as Thursday was allocated for an *in camera* Trial Management Meeting. The Chamber released the agenda for this Trial Management Session on Wednesday afternoon, namely:

- 1) The estimated duration of the trial proceedings until *December 2009*;
- 2) Discussion of problems over availability of the Parties’ lawyers, as well as staff and administration issues;
- 3) The sitting days and hours of proceedings;
- 4) Trial recesses;
- 5) Guidelines on the implementation of Rule 87(3) and 87(6) in light of the Trial Chamber’s proposal to amend these Rules;¹⁴
- 6) The allocation of time for the Civil Parties to personally make their presentations; and
- 7) Any other issues which may be risen for the Chamber’s consideration.

The fact that the Chamber acknowledged during proceedings that the trial may continue until December, while predicted by the monitors, may be some cause for alarm, given many of the Parties have not anticipated the trial proceedings to take this long. The Chamber should make every effort to reduce its witness list, to ensure the timely completion of Duch’s trial.

Time Management:

DAY/ DATE:	START:	MORN. BREAK:	LUNCH:	AFT. BREAK:	RECESS:	TOTAL HOURS IN SESSION
MON. 08/06/09	09.15AM	10.30 – 11.00AM	12.05 – 13.35PM	14.50 – 15.15PM	16.25PM	4 HOURS 35 MN
TUE. 09/06/09	09.10AM	10.45 – 11.05AM	12.06 – 13.45PM	15.00 – 15.25PM	16.15PM	4 HOURS 41MN
WED. 10/06/09	09.10AM	10.50 – 11.10AM	12.00 – 13.35PM	14.50 – 15.20PM	16.00PM	4 HOURS 25 MN
THURS. 11/06/09	-	-	-	-	-	-
AVERAGE NO. OF HOURS IN SESSION :					4 HRS 33 MINS	
TOTAL NO. OF HOURS THIS WEEK :					13 HRS, 41 MINS	
TOTAL NO. OF HOURS, DAYS, AND WEEKS AT TRIAL:					112 HOURS AND 22MINS OVER 26 TRIAL DAYS OVER 7 WEEKS	

¹⁴ The Chamber intends to propose the addition of the italicized phrase to Rule 87.3 on putting the evidence before the Chamber: “3. ... Evidence from the case file is considered put before the Chamber if its content has been summarised or read out in Court *or as appropriately identified by the Court...*” and to add as a new point 6 to rule 87: “Where the Co Prosecutors and the Accused agree that the alleged facts contained in the indictment are not contested, the Chamber may consider such facts as proven”. Presumably this proposal is in response to the issues identified in the previous weeks as preventing expeditious trials, namely the continued disputes on the manner to adduce documentary evidence and the prolonged exploration of facts in the Closing Order that the Accused is not contesting.



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