



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

**PRE-TRIAL CHAMBER
INTEROFFICE MEMORANDUM**

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 11-Aug-2022, 09:22
CMS/CFO: Sann Rada

TO: Judges of the Supreme Court Chamber
A:

Date: 11 August 2022

FROM: Judges of the Pre-Trial Chamber

DE:

DE:

SUBJECT: Response to the Supreme Court Chamber’s “Review of Confidential and Strictly Confidential Documents on Case File 002”

OBJET:

1. The Pre-Trial Chamber notes that on 2 August 2022, the Supreme Court Chamber issued its “Review of Confidential and Strictly Confidential Documents on Case File 002”,¹ inviting the Chambers of this Court, the Office of the Co-Investigating Judges and the Parties, as well as Defence Support Section, Victims Support Section, Witnesses and Experts Support Unit, Court Management Section, and the Office of Administration, to submit their observations on (i) the proposed guidelines for reclassification; and (ii) the continuing confidentiality of the judicial investigation in Case 002.²
2. The Pre-Trial Chamber notes that on 15 September 2010, the Office of the Co-Investigating Judges, by the issuance of their Closing Order,³ concluded the investigation in Case 002, and that on 13 January 2011, the Pre-Trial Chamber

¹ Supreme Court Chamber Interoffice Memorandum, Review of Confidential and Strictly Confidential Documents on Case File 002, 2 August 2022, F71/1/1 (“Supreme Court Chamber’s Invitation (F71/1/1)”).

² Supreme Court Chamber’s Invitation (F71/1/1), para. 5.

³ Closing Order, 15 September 2010, D427.



confirmed the Closing Order, with some amendments, in its decisions on appeals against the Closing Order.⁴

3. The Pre-Trial Chamber recalls its 5 May 2021 Interoffice Memorandum addressed to the Supreme Court Chamber, “Confidential and Public Redacted Documents in Case File 002 Proposed for Reclassification to Public”,⁵ in which the Chamber, upon a careful review, identified and proposed reclassification as public of 97 confidential decisions and 54 confidential orders of the Pre-Trial Chamber; 136 confidential decisions and 251 confidential orders of the Co-Investigating Judges; 17 public redacted decisions of the Pre-Trial Chamber; and 1 public redacted decision and 7 public redacted orders of the Co-Investigating Judges in Case File 002, as set out in the Annex to the Memorandum.⁶
4. The Pre-Trial Chamber maintains its view that the current confidential or public redacted classification of these documents is no longer appropriate at this stage of the proceedings, and reiterates its proposal of reclassification as public, pursuant to Articles 9.1 and 12.2 of the Practice Direction on the Classification and Management of Case-Related Information, with the exception that the names and personal information of witnesses under protective measures, or whose requests for protective measures are pending, should remain confidential.⁷

⁴ Decision on IENG Thirith and NUON Chea’s Appeal against the Closing Order, 13 January 2013, D427/2/12; Decision on KHIEU Samphân’s Appeal against the Closing Order, 13 January 2013, D427/2/14; Decision on IENG Sary’s Appeal against the Closing Order, 13 January 2013, D427/2/26.

⁵ Pre-Trial Chamber Interoffice Memorandum, Confidential and Public Redacted Documents in Case File 002 Proposed for Reclassification to Public, 5 May 2021, F67 (“Pre-Trial Chamber Proposal for Reclassification (F67)”).

⁶ Pre-Trial Chamber Proposal for Reclassification (F67), paras 1, 3; Annex to Confidential and Public Redacted Documents in Case File 002 Proposed for Reclassification to Public, 5 May 2021, F67.1.

⁷ See Case 004/1 (PTC49), Decision on the International Co-Prosecutor’s Appeal on Decision on Redaction or, Alternatively, Request for Reclassification of the Closing Order (Reasons), 8 June 2018, D309/2/1/7; Case 004/1 (PTC54), Decision on IM Chaem’s Request for Reclassification of Her Response to the International Co-Prosecutor’s Final Submission, 8 June 2018, D304/6/4.

