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បុគ្គលិកទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé
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E330/2

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

SANN BADA

Kingdom of Cambodia

Nation Religion King

Extraordinary Chambers in the Courts of Cambodia

Royaume du Cambodge

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Nation Religion Roi

សាធារណៈ / Public

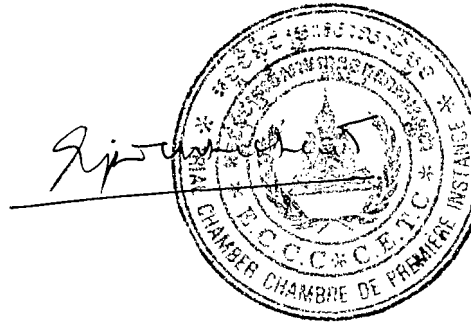
TRIAL CHAMBER

Date: 26 January 2015

**TO: Prosecutor-General of the Paris Appeal Court
President of the Paris Bar Association**

FROM: President NIL Nonn, Trial Chamber

**CC: All Trial Chamber Judges
Trial Chamber Senior Legal Officer
All Parties, Case 002**



SUBJECT: Forwarding of ECCC Trial Chamber decision entitled “Order to Refer Conduct of Counsel for KHIEU Samphan to Appropriate Professional Bodies”

The Extraordinary Chambers in the Courts of Cambodia (“ECCC”) is a court established by the United Nations and the Royal Government of Cambodia to try senior leaders of Democratic Kampuchea and those most responsible for the crimes committed during the Khmer Rouge regime. The Trial Chamber of the ECCC is currently seized of Case 002, involving Mr. KHIEU Samphan, who has been charged with crimes against humanity, grave breaches of the Geneva Convention and genocide. I attach links to the following ECCC framework documents for your reference:

- The Law on the Establishment of the ECCC:
http://www.eccc.gov.kh/sites/default/files/legal-documents/KR_Law_as_amended_27_Oct_2004_Eng.pdf
- ECCC Internal Rules: <http://www.eccc.gov.kh/en/document/legal/internal-rules-rev8>

Mr Arthur VERCKEN and Ms Anta GUISSÉ, both members of the Paris Bar, represent Mr. KHIEU Samphan in Case 002. Case 002 was severed into two separate trials, each addressing different sections of the indictment. The first trial, Case 002/01, has concluded and a judgement was rendered against Mr. KHIEU Samphan and his co-Accused, Mr. NUON Chea, on 7 August 2014. Further information on Case 002 can be found in the following documents:

- Closing Order in Case 002:
<http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/D427Eng.pdf>
- Case 002/01 Trial Judgement: <http://www.eccc.gov.kh/en/document/court/case-00201-judgement>

Trial hearings in Case 002/02 were scheduled to commence on 17 October 2014. On that date, counsel for KHIEU Samphan indicated that they were unwilling to participate in the proceedings in Case 002/02 until they had filed the appeal brief against the Case 002/01 Trial Judgement. Counsel then abandoned the courtroom, following which the Chamber adjourned the proceedings.

Despite efforts made to accommodate the Accused and clear instructions given to his lawyers to attend court, the Chamber has been confronted with a refusal to attend proceedings and a lack of cooperation of the lawyers which forced it to adjourn the proceedings until January 2015. To avoid a repeat of this situation in future, the Chamber appointed one international and one national Court Appointed Standby Counsel for KHIEU Samphan.¹

On 19 December 2014, the Trial Chamber found that counsel for KHIEU Samphan's violations of court orders to attend scheduled hearings amounted to an obstruction of the proceedings requiring the imposition of sanctions, pursuant to ECCC Internal Rule 38.² The consequence of their refusal to attend court hearings is, to date, the loss of 25 trial days over the course of 10 weeks. The Chamber has addressed, and will continue to address, this misconduct under its own Internal Rules, but given that the behaviour of these lawyers in Cambodia may also raise issues with regard to their professional competence and their compliance with ethical duties under the rules applicable to French lawyers, the Chamber has decided to refer this matter to both to the President of the Paris Bar and to the Prosecutor of the Paris Appeal Court, with a view to seising the relevant disciplinary board. For these reasons you will find attached to this letter the Trial Chamber's recent decision on this matter, as well as a list containing information on additional relevant decisions, for your consideration in order to allow you to take any action you deem appropriate. I would therefore appreciate it if you would inform the Trial Chamber in due course of the outcome of this referral of misconduct and of any action taken in consequence of it, through its Senior Legal Officer.

If you have further questions, or require additional information from the Chamber, please address your enquiries to:

Ken Roberts (roberts13@un.org)
Senior Legal Officer, Trial Chamber
Extraordinary Chambers in the Courts of Cambodia
PO Box 71
Phnom Penh
Cambodia

¹ Decision on the Appointment of Court Appointed Standby Counsel For KHIEU Samphan, E321/2, 5 December 2014.

² Order to Refer Conduct of Counsel for KHIEU Samphan to Appropriate Professional Bodies, E330, 19 December 2014, paras 29-31.

LIST OF INFORMATION ON FURTHER RELEVANT ECCC DECISIONS

- Trial Chamber Memorandum entitled “Warning to Counsel for NUON Chea and KHIEU Samphan”, E320, 24 October 2014, accessible at:
<http://www.eccc.gov.kh/en/document/court/trial-chamber-memorandum-entitled-%E2%80%9CWarning-counsel-nuon-chea-and-khieu-samphan%E2%80%9D>
- Trial Chamber Memorandum entitled “Ruling following TMM of 28 October 2014”, E320/1, 31 October 2014, accessible at:
<http://www.eccc.gov.kh/en/document/court/ruling-following-tmm-28-october-2014>
- Decision on the Appointment of Court Appointed Counsel for KHIEU Samphan, E320/2, 21 November 2014, accessible at:
http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/2014-11-21%2015:00/E320_2_EN.PDF
- Decision on the Appointment of Court Appointed Standby Counsel for KHIEU Samphan, E321/2, 5 December 2014, accessible at:
<http://www.eccc.gov.kh/en/document/court/TC-5-December-2014>