



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des Tribunaux cambodgiens

Royaume du Cambodge
Nation Religion Roi

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
Office of the Co-Investigating Judges
Bureau des co-juges d'instruction

Case File No: 003/07-09-2009-ECCC-OCIJ

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Before: **The Co-Investigating Judges**
Date: **3 May 2016**
Language(s): **English [Original]**
Classification: **CONFIDENTIAL**

**NOTICE OF UNSUCCESSFUL ATTEMPT TO OBTAIN
STRICTLY CONFIDENTIAL UNITED NATIONS' ARCHIVE
MATERIALS**

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I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 7 February 2013, 22 February 2013, and 17 July 2014.
2. On 10 November 2015, the Meas Muth Defence (“Defence”) requested the CIJs to obtain and place on the Case File archive material of the negotiations between the United Nations and the Royal Government of Cambodia concerning the establishment of the ECCC and the drafting of the Establishment Law (“Request”).¹ An annex containing a list of potentially relevant materials, some of which were classified as strictly confidential, supplemented the request (“Annex”).²
3. On 1 February 2016, I granted the Request and began undertakings to obtain the strictly confidential materials sought by the Defence.³

II. DISCUSSION

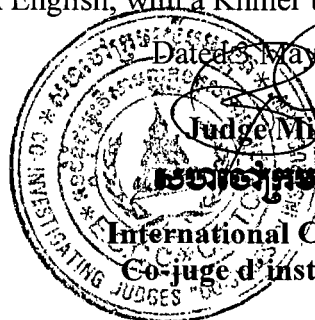
4. On 25 February 2016, I wrote to the United Nations’ Under-Secretary-General for Legal Affairs, requesting access to the strictly confidential archive materials listed in the Annex.
5. On 26 April 2016, the Under-Secretary-General for Legal Affairs informed me that the requested strictly confidential materials could not be disclosed as they are considered to be sensitive documents pursuant to the Secretary General’s Bulletin of 12 February 2007 on Information Sensitivity, Classification and Handling (ST/SGB/2007/6).⁴ The Under-Secretary-General enclosed an attachment and two publicly available documents to his letter,⁵ all of which will be filed as annexes to this decision.
6. Without the United Nations’ authorisation, I am unable to request provision of strictly confidential documents from the United Nations’ Archives. I will, however, take the necessary steps to obtain the non-classified documents listed in the Annex.
7. This notification is filed in English, with a Khmer translation to follow

Dated 16 May 2016, Phnom Penh

Judge Michael Bohlander

លោកជំទាវម៉ាយហ្គេតហ្គេតហ្គេត

**International Co-Investigating Judge
Co-juge d’instruction international**



¹ Case File No. 003-D170, *Meas Muth’s Request to Obtain and Place on the Case File the United Nations and Royal Government of Cambodia Archive Material Concerning the Negotiations to Establish the ECCC*, 10 November 2015.

² Case File No. 003-D170.2, *Annex: Potentially Relevant Folders in the UN Archives*, 10 November 2015.

³ Case File No. 003-D181, *Consolidated Decision on Meas Muth’s Requests on Personal Jurisdiction*, 1 February 2016, paras 31-37.

⁴ Case File No. 003-D181/1.1, *Letter from the United Nations’ Under-Secretary-General for Legal Affairs*, 26 April 2016.

⁵ Case File No. 003-D181/1.2, *General Assembly Resolution on the Situation of Human Rights in Cambodia*, A/RES/52/135, 27 February 1998; Case File No. 003-D181/1.3, *Report of the Secretary-General on the Situation of Human Rights in Cambodia*, A/53/400, 17 September 1998; Case File No. 003-D181/1.4, *Transcripts and news articles attached to the Under-Secretary-General’s Letter*.