

United Nations  Nations Unies

HEADQUARTERS • SIEGE NEW YORK, NY 10017

TEL.: 1 (212) 963.1234 • FAX: 1 (212) 963.4879

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26 April 2016

Dear Judge Bohlander,

I write with regard to your letter of 25 February 2016, in which you request access to a number of documents related to the records of the negotiations between the United Nations and the Royal Government of Cambodia.

I wish to recall that pursuant to Article II of the Convention on the Privileges and Immunities of the United Nations (“the Convention”) of 13 February 1946, “[t]he archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.” Inviolability entails that the documents cannot be disclosed to a third party, copied or used, including in judicial proceedings, without the consent of the United Nations. The inviolability applies to United Nations documents as well as the information contained therein, and also to documents held by the United Nations, which may include third party documents given to it on a confidential basis.

The Secretary-General has sole discretionary authority to authorize the release of United Nations documents. In this regard, requests for access to documents are examined on a case by case basis to assess the sensitivity of the documents. The Secretary-General’s Bulletin of 12 February 2007 on Information sensitivity, classification and handling (ST/SGB/2007/6) provides that the following categories of documents (among others) are deemed “sensitive”:

- (a) Documents created by the United Nations, received from or sent to third parties, under an expectation of confidentiality;
- (b) Documents whose disclosure is likely to endanger the safety or security of any individual, violate his or her rights or invade his or her privacy;
- (c) Documents whose disclosure is likely to endanger the security of Member States or prejudice the security or proper conduct of any operation or activity of the United Nations, including any of its peacekeeping operations;

Judge Michael Bohlander
International Co-Investigating Judge
Extraordinary Chambers in the Courts of Cambodia
Phnom Penh


- (d) Internal inter-office or intra-office documents, including draft documents, if disclosure would undermine the Organization's free and independent decision-making process.

The documents to which you requested access are designated as "Strictly Confidential" and located in the United Nations archives. The Office of Legal Affairs has reviewed the documents and determined that the majority fall into category (d) above and, as such, cannot be disclosed. Therefore, I regret to inform you that the United Nations cannot accede to your request in relation to those documents.

However, a number of documents falling within the scope of your request can be disclosed without restrictions, and copies thereof are enclosed. Enclosed within the files was a draft of the Secretary-General's report on the Situation of human rights in Cambodia, which was published as document A/53/400. While the Organization does not disclose draft documents, a copy of the report as finally published is enclosed. An annotated copy of General Assembly resolution A/RES/52/135 was also contained in the file, and a clean copy thereof is therefore provided to you.

Please do not hesitate to be in touch with the Office of Legal Affairs should you wish to discuss this matter further.

Yours sincerely,



Miguel de Serpa Soares
Under-Secretary-General for Legal Affairs
and United Nations Legal Counsel