



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
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**NOTICE OF PROVISIONAL DISCONTINUANCE REGARDING
FACTS RELATING TO SIX CRIME SITES**

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I. PROCEDURAL HISTORY

1. On 20 January 2017, in my Notice of Intention to Add Modes of Liability by way of Judicial Order and of Provisional Discontinuance (“20 January 2017 Notice”),¹ I informed the parties of my intention not to investigate further facts in relation to the following crime sites in Case 004:
 - Crime Site 8² – Anlong Vil Breng and related execution site
 - Crime Site 14 – Phnom Tra Chek Chet worksite
 - Crime Site 15 – Banteay O Ta Krey execution site
 - Crime Site 23 – Wat Kandal security centre
 - Crime Site 24 – Wat Banteay Neang security centre
 - Crime Site 25 – Wat Thoamayutt security centre
2. In my 20 January 2017 Notice, I invited the parties to make submissions on the envisaged discontinuance of the investigation into these facts.³
3. On 1 February 2017, the International Co-Prosecutor (“ICP”) filed his Response to the International Co-Investigating Judge’s Notice of Intention to Add Modes of Liability by way of Judicial Order and of Provisional Discontinuance (“Response”),⁴ stating that he does not object to the application of Internal Rule 66 *bis* to the six crime sites.⁵
4. In addition, the ICP submits that Internal Rule 66 *bis* should also be used to discontinue the investigation into proving the existence of an armed conflict between the Democratic Kampuchea (“DK”) and the Socialist Republic of Vietnam (“Vietnam”) for the purpose of Grave Breaches of the Geneva Conventions of 1949.⁶

II. DISCUSSION

5. In light of the Response and for the reasons given in my 20 January 2017 Notice,⁷ I indicate my current intention to provisionally discontinue the investigation into the facts relating to the six crime sites referred to in paragraph 1 above.
6. As stated before,⁸ this approach of provisional discontinuance, not explicitly provided for in the Internal Rules, aims at providing maximum clarity and assurance to the parties regarding matters to which they and I will need to assign our finite resources, and at streamlining the investigation in advance of the formal temporal threshold for Internal Rule 66 *bis* and conclusion of the investigation.
7. While taking note of the submissions of the ICP as to the application of Internal Rule 66 *bis* to the facts relating to the armed conflict between the DK and

¹ Case File No. 004-D342, *Notice of Intention to Add Modes of Liability By Way of Judicial Order and of Provisional Discontinuance*, 20 January 2017 (“20 January 2017 Notice”).

² The numbering of crime sites used in this document refers to the numbers used in the following document: Case File No. 004-D281, *Written Record of Initial Appearance*, 9 December 2015.

³ 20 January 2017 Notice, paras 45, 48.

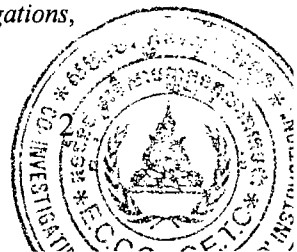
⁴ Case File No. 004-D342/1, *International Co-Prosecutor’s Response to the International Co-Investigating Judge’s Notice of Intention to Add Modes of Liability by way of Judicial Order and of Provisional Discontinuance*, 1 February 2017 (“Response”).

⁵ Response, para. 3.

⁶ Response, para. 4.

⁷ 20 January 2017 Notice, paras 9-44.

⁸ Case File No. 004-D302/3, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 25 August 2016.



Vietnam, I do not believe that the application of Internal Rule 66 *bis* is necessary. I note that the investigation into the relevant facts is very advanced. Furthermore, the facts relating to this armed conflict are also relevant to the charges of deportation as a Crime against Humanity and have already been investigated in this context. Thus, the application of Internal Rule 66 *bis*, the purpose of which is to achieve expeditiousness, is not appropriate.

- 8. Should there be any change in circumstances that would cause me to take a different view, I will notify the parties at the appropriate time.

FOR THE FOREGOING REASONS, I:

- 9. **INFORM** the parties that I will not further investigate facts relating to Crime Sites 8, 14, 15, 23, 24, and 25;
- 10. **INFORM** the parties that I do not intend to apply Internal Rule 66 *bis* in relation to facts relevant to the Grave Breaches Charges; and
- 11. **INFORM** the parties that the decision on the application of Internal Rule 66 *bis* will be taken at the conclusion of the investigation.

Dated 17 March 2017, Phnom Penh



Judge Michael Bohlander

សហចៅក្រមស៊ើបអង្កេតអន្តរជាតិ

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