



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Royaume du Cambodge
Nation Religion Roi

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

ANNEX

Notification of Charges against MEAS Muth

Noting the *Decision to Charge MEAS Muth in Absentia*, filed on 3 March 2015;¹

Noting that the Co-Prosecutors' Second Introductory Submission Regarding the Revolutionary Army of Kampuchea ("Introductory Submission"),² and the Supplementary Submission regarding Crime Sites Relating to Case 003 (Supplementary Submission"),³ allege that **MEAS Muth** is responsible for crimes within the jurisdiction of the ECCC;

Noting that these allegations have been legally characterised by the International Co-Prosecutor as follows:

- **Violations of Articles 500, 501, 503, 504, 505, 506, 507, and 508 of the 1956 Penal Code** (Torture and Homicide);
- **Crimes Against Humanity** (Murder, Extermination, Enslavement, Imprisonment, Torture, Persecution, and Other Inhumane Acts); and
- **Grave Breaches of the Geneva Conventions of 1949** (Wilful Killing, Unlawful Confinement of Civilians, Willfully Depriving a Prisoner of War or Civilian the Rights of Fair and Regular Trial, Inhumane Treatment, Wilfully Causing Great Suffering or Serious Injury to Body or Health, and Torture);

Noting that these offences are set forth in Articles 3 new, 5, and 6, and are punishable under Article 39 of the ECCC Law; and

Noting the disagreement registered on 17 July 2014;⁴

¹ Case File No. 003-D128, *Decision to Charge MEAS Muth in absentia*, 3 March 2015.

² Case File No. 003-D1, *Co-Prosecutors' Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008; Case File No. 003-D1/1, *Acting International Co-Prosecutor's Notice of Filing of the Second Introductory Submission*, 7 September 2009.

³ Case File No. 003-D120, *International Co-Prosecutor's Supplementary Submission Regarding Crime Sites Related to Case 003*, 31 October 2014.

⁴ Written Record of Disagreement, dated 17 July 2014.



I, **Mark B. HARMON**, International Co-Investigating Judge of the Extraordinary Chambers in the Courts of Cambodia, hereby **CHARGE**:

1. **MEAS Muth**, who was born on 10 August 1938 in Po Village, Srae Khnong Commune, Chhuk District in Kampot Province, Cambodia and resides at [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], with crimes under the jurisdiction of the ECCC.
2. **MEAS Muth** was the Secretary of Division 3/Division 164 of the Revolutionary Army of Kampuchea ("RAK"), Commander of the Democratic Kampuchea ("DK") Navy and Secretary of Kampong Som Town within the territory of Cambodia, during the period from 17 April 1975 to 6 January 1979, and a representative of the Military General Staff in Kratie Province at least from 1 October 1978 until 6 January 1979. Over this period, **MEAS Muth** exercised authority and effective control over Kampong Som (including the waters and islands over which the DK claimed sovereignty) and the DK Navy (through Division 3/ Division 164 of the RAK) and all of their constituent and subordinate organs, including the civilians within his area of responsibility.

1956 Penal Code

3. **MEAS Muth** is charged with the crime of homicide in violation of Articles 501 and 506 of the 1956 Penal Code in relation to:
 - a) Killings at Wat Enta Nhien Security Center;
 - b) 'Purges' of those regarded as enemies and traitors in Kampong Som, some of whom were sent to S-21 Security Centre (Phnom Penh);
 - c) 'Purges', in Kratie Province, of Division 117 and Sector 505 cadres who were regarded as enemies or traitors, some of whom were sent to S-21 Security Centre (Phnom Penh); and
 - d) Killings of Vietnamese and Thai civilians (fisherman and refugees) and other foreigners at sea and on the islands over which the DK claimed sovereignty.
4. **MEAS Muth** is also charged with the crime of torture in violation of Article 500 of the 1956 Penal Code, which is defined in and punishable under Article 3 new, 29, and 39 of the ECCC Law, in relation to Wat Enta Nhien Security Center.
5. Violations of the 1956 Penal Code are set forth in Article 3 new and punishable under Article 39 of the ECCC Law.

Crimes against Humanity

6. **MEAS Muth** is charged with crimes against humanity committed as part of a widespread or systematic attack targeting a civilian population.
7. **MEAS Muth** is charged with the crimes against humanity of murder, extermination, enslavement, imprisonment, persecution on political and ethnic grounds of the Vietnamese and former soldiers and government officials of the



Khmer Republic, who were considered traitors or enemies, and other inhumane acts (namely, enforced disappearances and attacks against human dignity resulting from deprivation of adequate food) in relation to:

- a) Wat Enta Nhien Security Center;
- b) 'Purges' of those regarded as enemies and traitors in Kampong Som, some of whom were sent to S-21 Security Centre (Phnom Penh);
- c) 'Purges', in Kratie Province, of Division 117 and Sector 505 cadres who were regarded as enemies or traitors, some of whom were sent to S-21 Security Centre (Phnom Penh); and
- d) Vietnamese and Thai civilians (fisherman and refugees) and other foreigners at sea and on the islands, over which the DK claimed sovereignty.

8. Crimes against humanity are set forth in Article 5 and punishable under Article 39 of the ECCC Law.

Grave Breaches of the Geneva Conventions

9. **MEAS Muth** is charged with the commission of grave breaches of the Geneva Conventions of 12 August 1949 within the context of a state of two international armed conflicts: (i) between the DK and Vietnam (after 2 July 1976, the Socialist Republic of Vietnam) the Socialist Republic of Vietnam during all or part of the period between 17 April 1975 and 6 January 1979, and (ii) between the DK and Thailand during all or part of the period between 17 April 1975 and 31 July 1978.

10. **MEAS Muth** is charged with the crimes of unlawful confinement of civilians, wilfully depriving a prisoner of war or civilian the rights of fair and regular trial, wilful killing, and unlawful deportation or transfer, wilfully causing great suffering or serious injury to body or health, and torture, in relation to:

- a) 'Purges' of those regarded as enemies and traitors in Kampong Som, some of whom were sent to S-21 Security Centre (Phnom Penh);
- b) 'Purges', in Kratie Province, of Division 117 and Sector 505 cadres who were regarded as enemies or traitors, some of whom were sent to S-21 Security Centre (Phnom Penh); and
- c) Vietnamese and Thai civilians (fisherman and refugees) and other foreigners at sea and on the islands, over which the DK claimed sovereignty.

11. Grave breaches of the Geneva Conventions are set forth in Article 6 and punishable under Article 39 of the ECCC Law.

Modes of Liability

12. **MEAS Muth** is charged with the crimes listed in paragraphs 3 to 5 through commission (via co-perpetration), planning, instigating, ordering, and otherwise aiding and abetting the crimes with which he is charged.



13. **MEAS Muth** is charged with the crimes listed in paragraphs 6 to 11 through committing (via his participation in a joint criminal enterprise), planning, instigating, ordering, and otherwise aiding and abetting the crimes with which he is charged.
14. The joint criminal enterprise stated above existed from at least 17 April 1975 to at least 6 January 1979 and its participants included, but were not limited to, members of the Standing Committee; members of the Central Committee; zone and autonomous sector secretaries; the heads of the Party Centre military divisions; RAK General Staff; and other Communist Party of Kampuchea (“CPK”) cadres, who shared the common purpose of implementing, through the commission of crimes under ECCC jurisdiction, the following CPK policies:
 - a. the repeated movement of the population from towns and cities to rural areas, as well as from one rural area to another;
 - b. the establishment and operation of cooperatives and worksites;
 - c. the reeducation of ‘bad elements’ and killing of ‘enemies’ both inside and outside the CPK ranks; and
 - d. the targeting of specific groups, in particular Vietnamese and former officials of the Khmer Republic, including both the civil servants and former military personnel and their families; and
 - e. the regulation of marriage.
15. The purpose of the CPK policies was to implement rapid socialist revolution in Cambodia through a “great leap forward” and to defend the CPK against internal and external enemies, by whatever means necessary.
16. **MEAS Muth** is also charged with the crimes listed in paragraphs 3 to 11 through superior responsibility. As a superior exercising effective control over his subordinates, **MEAS Muth** knew or had reason to know that his subordinates were about to commit the acts with which he is charged, or **MEAS Muth** knew or had reason to know that his subordinates had committed the acts for which he is charged and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.
17. These modes of liability are set forth in Article 29 of the ECCC Law.


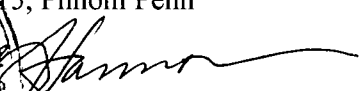
Further Notifications

18. Pursuant to Internal Rules 11, 21, and 22 and the applicable administrative regulations, **MEAS Muth** has the right to be represented by counsel of his own choosing. In this regard, I note that **MEAS Muth** is currently represented by Mr. ANG Udom, National Co-Lawyer, and Mr. Michael G. KARNAVAS, International Co-Lawyer.⁵
19. Pursuant to Internal Rule 21(1)(d), **MEAS Muth** has the right to remain silent during the course of the investigation.

⁵ Case File No. 003-D56/19/38, *Decision on Meas Muth Appeal Against the International Co-Investigating Judge’s Decision Rejecting the Appointment of Ang Udom and Michael Karnavas as his Co-Lawyers*, 17 July 2014.



20. Pursuant to Internal Rule 58(6), **MEAS Muth** has the right to request the Co-Investigating Judges to interview him at all times during the ongoing judicial investigation. Should **MEAS Muth** choose to be interviewed, pursuant to Internal Rule 58, he will have the right to consult with his Co-Lawyers prior to the interview and to have his lawyers present, unless he waives that right.
21. Pursuant to Internal Rule 55(10) and Internal Rule 58(6), at all times during the investigation, **MEAS Muth** has the right to request the Co-Investigating Judges to make such orders or undertake such investigative action as he considers useful for the conduct of the investigation.
22. The Co-Investigating Judges may, before the end of the investigation, decide to charge **MEAS Muth** with additional crimes based on allegations in the Introductory Submission and the 2014 Supplementary Submission, should they become satisfied that there is clear and consistent evidence that he may be responsible for such crimes.


 Dated 3 March 2015, Phnom Penh

 Judge Mark B. Harmon
 លោកជំទាវម៉ាក ហាម៉ុង
 International Co-Investigating Judge
 Co-juge d'instruction international