

**BEFORE THE TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**FILING DETAILS**

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**INTERNATIONAL CO-PROSECUTOR'S DISCLOSURE OF STATEMENTS FROM  
CASE FILE 004 RELEVANT TO 1<sup>ST</sup> SEGMENT OF CASE 002/02 TRIAL**

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## I. DISCLOSURE

1. The International Co-Prosecutor (“the Co-Prosecutor”) hereby discloses four statements admitted in Case 004 which are relevant to the first segment of the trial in Case 002/02. These statements are identified in Strictly Confidential **Annex A**. The Co-Prosecutor refers the Chamber to his filing E319<sup>1</sup> regarding the prior procedural history of the Co-Prosecutors’ disclosure efforts. More recently, on 28 October 2014 the Co-Prosecutor filed an urgent request to disclose additional documents relevant to the first segment of the Case 002/02 trial.<sup>2</sup> On 21 January 2015, the Co-Prosecutors were notified of a decision from the International Co-Investigating Judge (ICIJ) granting them permission to disclose the four documents identified in **Annex A** (“the Decision”).<sup>3</sup>
2. The Trial Chamber has stated that the obligation to disclose relevant material, whether inculpatory or exculpatory, is an obligation that is owed to the Trial Chamber, as well as the Accused, as it is “in the interests of ascertaining the truth that the Trial Chamber has access to these documents.”<sup>4</sup> Moreover, this Chamber has previously held that “Internal Rule 53(4) imposes a continuing obligation on the Co-Prosecutors to disclose to the Trial Chamber any material in its possession that may suggest the innocence or mitigate the guilt of the Accused or affect the reliability of the evidence.”<sup>5</sup> The Trial Chamber has instructed the Co-Prosecutors to first direct their disclosure requests to the Chamber seized of the evidence the Co-Prosecutors seek to disclose, and then petition the Trial Chamber for admission of any documents thereby approved for disclosure.<sup>6</sup>
3. The Trial Chamber has previously ordered that all disclosures from Cases 003 and 004 to Case 002 should be filed and notified to the Trial Chamber provisionally on a strictly confidential basis, and that the Trial Chamber will then make a determination as to whether the documents should be reclassified as confidential.<sup>7</sup> Therefore, the Co-Prosecutor notifies the Trial Chamber of the statements contained in **Annex A** on a

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<sup>1</sup> **E319** International Co-Prosecutor’s Disclosure of Statements from Case File 004, 17 October 2014, paras. 2-4.

<sup>2</sup> Case 004-**D193/5** International Co-Prosecutors’ Urgent Request to Disclose Newly Posted Case 004 Interviews Relevant to 1<sup>st</sup> Segment of Case 002/02 Trial, 28 October 2014.

<sup>3</sup> Case 004-**D193/6** Decision on International Co-Prosecutor’s Urgent Request to Disclose Newly Posted Case 004 Interviews Relevant to 1<sup>st</sup> Segment of Case 002/02 Trial, 3 November 2014. (The delay between the date of the Decision and the date of notification was due to an oversight in the original distribution of the Decision whereby the Co-Prosecutors were not included in the distribution list.)

<sup>4</sup> **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012.

<sup>5</sup> **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012, at p. 1.

<sup>6</sup> **E127/7/1** Information Concerning Case 003 and Case 004 Witness Statements that may be relevant to Case 002, 16 August 2013, para. 2.

<sup>7</sup> **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012, at p. 1.


strictly confidential basis. The ICIJ also authorized the Co-Prosecutors to disclose the Decision solely to the Trial Chamber.<sup>8</sup> The Decision is attached as strictly confidential **Annex B**.

4. By order of the ICIJ, these documents are subject to the same restrictions as those the Co-Prosecutor conveyed in E319 and E319/1.<sup>9</sup> In compliance with these restrictions, the Co-Prosecutor will be making available as soon as possible to the Lead Co-Lawyers, Nuon Chea Defence, and Khieu Samphan Defence one marked and numbered paper copy of the combined statements each.

## II. RELIEF REQUESTED

2. Therefore, the Co-Prosecutor requests that the Trial Chamber obtain and admit into Case File 002 the statements identified in **Annex A**, in compliance with the ICIJ's disclosure authorization attached as **Annex B**.

Respectfully submitted,

Date	Name	Place	Signature
22 January 2015	Nicholas KOUMJIAN Co-Prosecutor	Phnom Penh	

<sup>8</sup> **D193/6** Decision on International Co-Prosecutor's Urgent Request to Disclose Newly Posted Case 004 Interviews Relevant to 1<sup>st</sup> Segment of Case 002/02 Trial, 3 November 2014, para 17.

<sup>9</sup> **E319** International Co-Prosecutor's Disclosure of Statements from Case File 004, 17 October 2014, para. 5; **E319/1** International Co-Prosecutor's Supplemental Submission on Disclosure of Statements from Case File 004, 22 October 2014.