

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

**FILING DETAILS**

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**INTERNATIONAL CO-PROSECUTOR'S DISCLOSURE OF DOCUMENTS FROM  
CASE FILE 004 RELEVANT TO CASE 002 PURSUANT TO CASE 004-D193/24**

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**Filed by:**

**Co-Prosecutors**  
Nicholas  
KOUMJIAN

**Copied To:**  
CHEA Leang

**Distributed to:**

**Trial Chamber**  
Judge NIL Nonn, President  
Judge Jean-Marc LAVERGNE  
Judge YA Sokhan  
Judge Claudia FENZ  
Judge YOU Ottara

**Civil Party Lead Co-Lawyers**  
PICH Ang  
Marie GUIRAUD

**Copied to:**

**Accused**  
NUON Chea  
KHIEU Samphan

**Lawyers for the Defence**  
SON Arun  
Victor KOPPE  
KONG Sam Onn  
Arthur VERCKEN  
Anta GUISSÉ

**Standby Counsel**  
TOUCH Voleak  
Calvin SAUNDERS

**Co-Investigating Judges**  
Judge YOU Bunleng  
Judge Mark B. HARMON

## I. DISCLOSURE

1. The International Co-Prosecutor (“the Co-Prosecutor”) hereby discloses statements and related documents, admitted in Case 004 that are relevant to the trial in Case 002 (the “Materials”). All of the Materials are identified in Strictly Confidential **Annex 1**.
2. The Co-Prosecutor sought leave to disclose the Materials included in this disclosure via two requests (collectively, the “Requests”) made to the Co-Investigating Judges on 15 December 2014<sup>1</sup> and 21 April 2015.<sup>2</sup> The International Co-Investigating Judge (ICIJ) granted the disclosure of the Requests in relation to the documents currently being disclosed on 2 June 2015.<sup>3</sup> That decision was distributed to the Trial Chamber on its issuance.
3. 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>
4. 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 1** on a strictly confidential basis.

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<sup>1</sup> **D193/7** International Co-Prosecutor’s Request to Disclose Case 004 Interviews Relevant to the Case 002/02 Trial and Case 002/01 Appeal, 15 December 2014.

<sup>2</sup> **D193/23** International Co-Prosecutor’s Request to Disclose Case 004 Statements Relevant to Case 002, 21 April 2015.

<sup>3</sup> **D193/24** Decision on the International Co-Prosecutor’s Case 002 Disclosure Requests D193, D193/7 and D193/23, 18 May 2015.

<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> *Ibid.* 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.

5. The ICIJ has recently amended the restrictions and modalities applicable to documents disclosed from Case Files 003 and 004 into Case 002.<sup>8</sup> Authorisation to disclose is now subject to the following requirements:
- a. That all the Materials be treated as confidential;
  - b. That the Materials be electronically converted to any format that permits an indelible watermark as sub-script on each page of every document individualised for each receiving party;
  - c. That the Materials be provided to the Defence Counsel of both the Accused, Standby Counsel for Khieu Samphan, and Civil Party Lead Co-Lawyers through watermarked and individualised electronic copies;
  - d. That the OCP shall only provide disclosure in a manner that each party can only access electronic copies with their individualised watermark;
  - e. That the Defence Counsel, Standby Counsel and Civil Party Lead Co-Lawyers shall disclose the material provided pursuant to this decision only to those members of their teams that are officially retained under Internal Rule 22(5) and 12<sup>ter</sup> (4), respectively, along with their officially assigned interns;
  - f. That the Defence Counsel, Standby Counsel and Civil Party Lead Co-Lawyers are not authorised to print, reproduce, photo-copy, scan, or otherwise make duplicate copies of the originals provided to them other than for the internal use of the material by those members of their respective teams who are instructed or authorised to have access to confidential material;
  - g. That the Defence Counsel, Standby Counsel, and Civil Party Lead Co-Lawyers shall maintain a written record, in a manner that can be reviewed, of the copies that they print, reproduce, photo-copy, scan, or otherwise duplicate for their internal use;
  - h. That in the event that the material provided pursuant to this decision is admitted as evidence in Case 002/02, it shall be treated as confidential;
  - i. That no material provided pursuant to this decision shall be disseminated to the public, in any format or via any form of media whatsoever;

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<sup>8</sup> Case 004-D193/19 Order Varying Decisions D193/4, D193/6, D193/8, D193/10, D193/11, D193/13, D193/15, and D193/16 on International Co-Prosecutor's Requests to Disclose Materials in Case 002/02, 13 March 2015.

- j. That should any member of the Parties or the Trial Chamber in Case 002/02 learn of an unauthorised copy of the material provided pursuant to this decision, he/she shall immediately take all measures to secure and return the copy to the CIJs; and
- k. Should any member of the Parties or the Trial Chamber in Case 002/02 learn of a breach of these conditions and restrictions, he/she shall report such breach to the CIJs.
6. In compliance with these restrictions, the Co-Prosecutor will be making the Materials available electronically to the Lead Co-Lawyers, Nuon Chea Defence, Khieu Samphan Defence, and Standby Counsel for Khieu Samphan through shared folders as soon as possible.

## II. RELIEF REQUESTED

7. Therefore, the Co-Prosecutor requests that the Trial Chamber obtain and admit onto Case File 002 the statements identified in **Annex 1**.

Respectfully submitted,

Date	Name	Place	Signature
09 June 2015	Nicholas KOUMJIAN Co-Prosecutor	Phnom Penh	