

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

**FILING DETAILS**

**Case No:** 002/19-09-2007-ECCC/TC **Party Filing:** International Co-Prosecutor

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**Signature:**

**INTERNATIONAL CO-PROSECUTOR'S DISCLOSURE OF TWO DOCUMENTS  
FROM CASE FILE 004 RELEVANT TO CASE 002 PURSUANT TO CASE 004-  
D193/37**

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Judge Mark B. HARMON

## I. DISCLOSURE

1. The International Co-Prosecutor (“the Co-Prosecutor”) hereby discloses two annexes to a Written Record of Interview of 2-TCW-937 that was previously disclosed to the Trial Chamber and the Parties (the “Materials”). The Materials are identified in Strictly Confidential **Annex 1**.
2. The Co-Prosecutor sought leave to disclose the annexes included in this disclosure via one request (the “Request”) made to the Co-Investigating Judges on 11 August 2015.<sup>1</sup> The International Co-Investigating Judge (ICIJ) granted the Request on 12 August 2015.<sup>2</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>3</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>4</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>5</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>6</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> Case 004-**D193/36** International Co-Prosecutor’s Urgent Request to Disclose Two Case 004 Documents into Case 002, 11 August 2015.

<sup>2</sup> Case 004-**D193/37** Decision on the International Co-Prosecutor’s Urgent Disclosure Request D193/36, 12 August 2015.

<sup>3</sup> **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012.

<sup>4</sup> *Ibid.* p. 1.

<sup>5</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>6</sup> **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012, p. 1.

5. Authorisation to disclose is subject to the restrictions and requirements set out in the Co-Prosecutor's most recent disclosure filing.<sup>7</sup>
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 Materials identified in **Annex 1**.

Respectfully submitted,

Date	Name	Place	Signature
12 August 2015	Nicholas KOUMJIAN Co-Prosecutor	Phnom Penh	

<sup>7</sup> **E319/24** International Co-Prosecutor's Disclosure of Documents from Case File 004 Relevant to Case 002 Pursuant to Case 004-D193/24, 9 June 2015, para. 5.