

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

FILING DETAILS

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INTERNATIONAL CO-PROSECUTOR'S DISCLOSURE OF: 1) TWO DC-CAM STATEMENTS; AND, 2) DOCUMENTS FROM CASE FILE 003 RELEVANT TO CASE 002 PURSUANT TO CASE 003-D100/9

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I. DISCLOSURE

1. The International Co-Prosecutor (“the Co-Prosecutor”) hereby discloses statements and related documents, admitted in Case 003 that are relevant to the trial in Case 002 (the “Materials”), as well as two publicly-available DC-Cam statements. All of the Materials are identified in Strictly Confidential **Annex 1**. The two DC-Cam statements are identified in **Annex 2** and are attached as authorities.
2. The Co-Prosecutor sought leave to disclose the Materials included in this disclosure via four requests (collectively, the “Requests”) made to the Co-Investigating Judges on 5 May 2014,¹ 15 December 2014,² 16 March 2015,³ and 22 April 2015.⁴ The International Co-Investigating Judge (ICIJ) granted the disclosure of the Requests in relation to the documents currently being disclosed on 14 May 2015, and additionally permitted the disclosure of two additional documents that he considered inseparable from one of the documents being disclosed by request.⁵ This 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.”⁶ 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.”⁷ 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.⁸

¹ Case 003-**D100** International Co-Prosecutor’s Request to Disclose Case 003 Interviews Relevant to the Case 002/02 Trial, 5 May 2014.

² Case 003-**D100/2** International Co-Prosecutor’s Request to Disclose Case 003 Documents Relevant to the Case 002/02 Trial, 15 December 2014.

³ Case 003-**D100/7** International Co-Prosecutor’s Request to Disclose Case 003 Documents Relevant to the Case 002/02 Trial, 16 March 2015.

⁴ Case 003-**D100/8** International Co-Prosecutor’s Request to Disclose Case 003 Documents Relevant to the Case 002/02 Trial, 22 April 2015.

⁵ Case 003-**D100/9** Decision on the International Co-Prosecutor’s Case 002 Disclosure Requests D100, D100/2, D100/6, D100/7 and D100/8, 14 May 2015.

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

⁷ *Ibid.* at p. 1.

⁸ **E127/7/1** Information concerning Case 003 and Case 004 witness statements that may be relevant to Case 002, 16 August 2013, para. 2.

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.⁹ Therefore, the Co-Prosecutor notifies the Trial Chamber of the statements contained in **Annex 1** on a strictly confidential basis. For consistency, the Co-Prosecutor also notifies the Trial Chamber of the DC-Cam documents in **Annex 2** on a strictly confidential basis.
5. The ICIJ has recently amended the restrictions and modalities applicable to documents disclosed from Case Files 003 and 004 into Case 002.¹⁰ 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^{ter} (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;

⁹ **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012, at p. 1.

¹⁰ 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.

- 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;
 - 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 and DC-Cam statements 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:
- a. The Trial Chamber obtain and admit onto Case File 002 the statements identified in **Annex 1**; and
 - b. The Trial Chamber admit onto Case File 002 the statements from DC-Cam identified in **Annex 2** and attached as authorities.

Respectfully submitted,

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