

**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

Filed to: Trial Chamber **Original Language:** English

Date of document: 29 September 2015



CLASSIFICATION

Classification of the document suggested by the filing party: PUBLIC with Four STRICTLY CONFIDENTIAL Annexes

Classification by the Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:

**INTERNATIONAL CO-PROSECUTOR'S DISCLOSURE OF DOCUMENTS FROM
CASE FILE 004 RELEVANT TO CASE 002 PURSUANT TO CASE 004-D193/43 AND
CASE 004-D193/44**

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I. DISCLOSURE

1. The International Co-Prosecutor (“the Co-Prosecutor”) hereby discloses eleven Written Records of Interview 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**. As identified in the Annex, the Co-Prosecutor has also made a preliminary determination with regard to which documents he might seek admission for pursuant to Rule 87(3) and (4). However, this determination is not final and might be subject to change.
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 17 September¹ and 25 September 2015.² The International Co-Investigating Judge (ICIJ) granted the Requests on 28³ and 29 September 2015.⁴ These decisions were distributed to the Trial Chamber on their issuance. Two documents included in the Requests have been approved for disclosure only in redacted form. One of these documents is attached in Khmer and English as Strictly Confidential **Annexes 2 and 3**. The other document is attached in Khmer as Strictly Confidential **Annex 4** and the English translation shall be provided as soon as it becomes available.
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.”⁵ 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.”⁶ The Trial Chamber has instructed the Co-Prosecutors to first direct their disclosure requests to the Chamber

¹ Case 004-**D193/40** International Co-Prosecutor’s Urgent Request to Disclose Case 004 Written Records of Interview Relevant to the Cham into Case 002, 17 September 2015.

² Case 004-**D193/42** International Co-Prosecutor’s September 2015 Request to Disclose Case 004 Documents into Case 002, 25 September 2015.

³ Case 004-**D193/43** Decision on the International Co-Prosecutor’s Disclosure Request D193/40, 28 September 2015.

⁴ Case 004-**D193/44** Decision on the International Co-Prosecutor’s Disclosure Request D193/42, 29 September 2015.

⁵ **E127/4** Trial Chamber Memorandum “Disclosure of witness statements for witnesses who may testify in Case 002”, 24 January 2012 (“Trial Chamber Memorandum on Disclosure”).

⁶ *Ibid.* p. 1.


seised of the evidence the Co-Prosecutors seek to disclose, and then petition the Trial Chamber for admission of any documents thereby approved for disclosure.⁷

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.⁸ Therefore, the Co-Prosecutor notifies the Trial Chamber of the statements contained in **Annex 1** on a strictly confidential basis.
5. Authorisation to disclose is subject to the restrictions and requirements set out in the Co-Prosecutor's previous disclosure filings.⁹
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 place onto Case File 002 the statements identified in **Annex 1**.

Respectfully submitted,

Date	Name	Place	Signature
29 September 2015	Nicholas KOUMJIAN Co-Prosecutor	Phnom Penh	

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

⁸ Trial Chamber Memorandum on Disclosure, p. 1.

⁹ See, e.g., **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.