

**EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)**

**COMPLETION PLAN**

**REVISION 13**

**30 JUNE 2017**

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Annex - Chart of projected timelines for the completion plan including milestones

**Note to the reader:**

The ECCC Completion Plan is revised on a quarterly basis for planning purposes. It contains the best possible estimates for projection of timelines in the remaining cases before the ECCC at the time of revision. A number of factors, including developments in the judicial proceedings may impact these projections. As such the timelines do not reflect statutory requirements on when the different milestones will be reached. The ECCC Completion Plan is prepared and issued by the Office of Administration with input from the judicial offices.

## Summary

The Completion Plan for the Extraordinary Chambers in the Courts of Cambodia (“Extraordinary Chambers”) was initially developed in March 2014 through consultation by the Office of Administration with the judges of the chambers, the co-investigating judges and the co-prosecutors for their respective responsibilities. This is the thirteenth quarterly update of the Completion Plan covering the quarter ending 30 June 2017.

During this quarter, the parties in case 002/02 filed closing briefs and the civil party lead co-lawyers filed their final claim for reparations. The Trial Chamber heard the parties’ closing statements between 13 and 23 June 2017, following which it adjourned to deliberate on its verdict and draft the trial judgement.

During this quarter, the international co-investigating judge concluded the investigation in case 003 for the second time after carrying out additional investigative acts requested by the parties. The co-investigating judges issued jointly a forwarding order requesting the co-prosecutors to file their final submissions in case 004/02 against Ao An. They also jointly notified the conclusion of judicial investigations against Yim Tith in case 004 and the international co-investigating judge reduced the scope of the judicial investigation in relation to him. At the end of June, the co-investigating judges were finalising the reasons for the dispositive closing order dismissing the case against Im Chaem in case 004/01.<sup>1</sup>

The Completion Plan is updated to reflect the status of the judicial proceedings as of 30 June 2017.

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<sup>1</sup> The closing order containing the full reasons was issued on 10 July 2017.

## I. INTRODUCTION

1. The Extraordinary Chambers in the Courts of Cambodia (“Extraordinary Chambers”) began its operations in February 2006, and became fully operational after the adoption of its Internal Rules in June 2007. The mandate of the Extraordinary Chambers is to prosecute “senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979”.<sup>2</sup>
2. This Completion Plan is elaborated by the Extraordinary Chambers in the context of the General Assembly resolution A/RES/68/247B, which *inter alia* mandates the Extraordinary Chambers’ preparation of a completion strategy with a clear road map. The document has been developed by the Extraordinary Chambers through consultation by the Office of Administration with the judges of the Pre-Trial Chamber, the Trial Chamber and the Supreme Court Chamber, with the co-investigating judges, and with the co-prosecutors for their respective responsibilities. The Extraordinary Chambers updates this Completion Plan on a quarterly basis. The current document is the thirteenth revision, and it incorporates adjustments based on the developments in the ongoing judicial proceedings between 1 April and 30 June 2017.
3. The document focuses in particular on the recent developments in the remaining cases before the Extraordinary Chambers and provides information on the status of those cases as well as what steps will have to be completed before the judicial proceedings in respect of the cases reaching legal finality. The co-prosecutors have stated publicly that there will be no further cases after cases 003 and 004.<sup>3</sup> The existing caseload thus represents the totality of the caseload to be addressed by the Extraordinary Chambers.
4. Case 001, against Kaing Guek Eav (alias *Duch*), was the first case tried before the Extraordinary Chambers. On 3 February 2012, the Supreme Court Chamber pronounced its judgement in the appeal against the Trial Chamber judgement which brought the case to a final conclusion. He was sentenced to life imprisonment.
5. The charges in case 002 have been severed into two trials. The Trial Chamber rendered judgement in the first trial, styled by the Extraordinary Chambers as case 002/01, on 7 August 2014, against Nuon Chea and Khieu Samphan. Two further accused in the case, Ieng Sary and Ieng Thirith passed away on 14 March 2013 and 22 August 2015 respectively, and proceedings against them were therefore terminated. The Trial Chamber found Khieu Samphan and Nuon Chea guilty of crimes against humanity committed between 17 April 1975 and December 1977 and sentenced them each to life imprisonment. Both Nuon Chea and Khieu Samphan filed appeals against the trial judgement. In addition, the co-prosecutors filed an appeal limited to seeking declaratory relief on the application of the most extended form of joint criminal enterprise known as JCE III as a mode of liability before the Extraordinary Chambers. The appeal proceedings in the case were concluded on 23 November 2016, with the pronouncement of the Supreme Court Chamber’s judgement, which is final. The Chamber affirmed the sentence of life imprisonment imposed on

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<sup>2</sup> Agreement between the United Nations and the Royal Government of Cambodia concerning the prosecution under Cambodia law of crimes committed during the period of Democratic Kampuchea.

<sup>3</sup> Statement of Acting International Co-Prosecutor - Filing of two new introductory submissions, 8 September 2009 ([www.eccc.gov.kh/sites/default/files/media/ECCC\\_Act\\_Int\\_Co\\_Prosecutor\\_8\\_Sep\\_2009\\_\(Eng\).pdf](http://www.eccc.gov.kh/sites/default/files/media/ECCC_Act_Int_Co_Prosecutor_8_Sep_2009_(Eng).pdf)); Public statement by the co-prosecutors regarding investigation in case 003, 5 June 2012 ([http://www.eccc.gov.kh/sites/default/files/media/ECCC\\_OCP\\_5\\_June\\_2012\\_En.pdf](http://www.eccc.gov.kh/sites/default/files/media/ECCC_OCP_5_June_2012_En.pdf)); and Statement by the International Co-Prosecutor regarding ECCC caseload, 26 November 2014 (<http://www.eccc.gov.kh/en/articles/statement-international-co-prosecutor-regarding-eccc-caseload>).

both accused.

6. The second trial in this case, styled as case 002/02, focuses on a representative selection of the remaining charges against Nuon Chean and Khieu Samphan. These comprise charges of genocide, war crimes and crimes against humanity on topics including the treatment of the Cham and the Vietnamese, the Tram Kak Cooperatives (including Kraing Ta Chan Security Centre and the treatment of Buddhists), 1st January Dam Worksite, the Kampong Chhnang Airport Construction site, Trapeang Thma Dam worksite, the Au Kanseng, Phnom Kraol and S-21 security centres, internal purges, and the regulation of marriage. Evidentiary hearings commenced on 8 January 2015 and concluded on 11 January 2017. The Chamber sat for 274 hearing days and heard the testimony of 114 witnesses, 63 civil parties and 8 experts. The parties submitted their closing briefs on 2 May 2017 and the civil party lead co-lawyers submitted their final claim for reparations on 30 May 2017. The Trial Chamber heard closing statements between 13 and 23 June 2017. The Chamber is currently deliberating on its verdict and drafting a reasoned judgement which is expected by the end of the second quarter of 2018.
7. On 27 February 2017, the Trial Chamber issued a ruling by which it decided to terminate the proceedings concerning the facts set out in the closing order in case 002 which were not included in case 002/01 or case 002/02. Therefore, the judicial proceedings in case 002 will be completed upon the final adjudication of case 002/02.
8. The international co-investigating judge continued with the investigations in cases 003 and 004, involving allegations against four charged persons.
  - a) On 24 May 2017, the international co-investigating judge concluded the investigation in *case 003* for the second time after additional investigative acts had been carried out at the request of the parties. The closing order is expected during the first quarter of 2018.
  - b) The co-investigating judges are finalising the document containing the full reasons for the dispositive closing order in *case 004/01* issued on 22 February 2017.<sup>4</sup>
  - c) On 19 May 2017, the co-investigating judges issued a forwarding order in *case 004/02* requesting the co-prosecutors to file their final submissions. The co-prosecutors now have to file their submissions within three months. The closing order in this case is expected during the first quarter of 2018.
  - d) On 13 June 2017, the co-investigating judges concluded the investigation in *case 004* against Yim Tith. The international co-investigating judge issued a separate order reducing the scope of the investigation on the same day. The closing order in this case is expected during the first quarter of 2018.
9. In view of progress over the last quarter, this Completion Plan identifies 11 remaining milestones for the cases of which the Extraordinary Chambers are seised. The remaining milestones in case 002 and associated indicative forecasts are:
  - (i) delivery of a trial judgement in case 002/02 (by second quarter of 2018);
  - (ii) deadline for filing any appeals against the trial judgement in case 002/02 (by third quarter of 2018); and
  - (iii) delivery of an appeal judgement in case 002/02, if any (by first quarter of 2020).
10. In cases 003, 004, 004/01 and 004/02 distinct milestones have been identified for the remainder of the judicial investigation phase, and in case of indictments, additional milestones will be identified

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<sup>4</sup> The closing order containing the full reasons for the dismissal was issued on 10 July 2017.

for the trial and appellate phases.<sup>5</sup> The milestones for the remainder of the judicial investigation phase are:

- (iv) issuance of closing order in case 003, with a decision either to send the case for trial or to end the proceedings (by first quarter of 2018);
- (v) disposal by the Pre-Trial Chamber of any appeals against the closing order in case 003, either sending the case for trial or ending the judicial proceedings in the case (by third quarter of 2018);
- (vi) issuance of closing order in case 004, with a decision either to send the case for trial or to end the proceedings (by first quarter 2018);
- (vii) disposal by the Pre-Trial Chamber of any appeals against the closing order in case 004, either sending the case for trial or ending the judicial proceedings in the case (by third quarter of 2018);
- (viii) issuance of closing order with full reasons in case 004/01 (third quarter of 2017);<sup>6</sup>
- (ix) disposal by the Pre-Trial Chamber of any appeals against the closing order in case 004/01, either sending the case for trial or ending the judicial proceedings in the case (by fourth quarter of 2017);<sup>7</sup>
- (x) issuance of closing order in case 004/02, with a decision either to send the case for trial or to end the proceedings (by first quarter 2018); and
- (xi) disposal by the Pre-Trial Chamber of any appeals against the closing order in case 004/02, either sending the case for trial or ending the judicial proceedings in the case (by third quarter of 2018).

## **II. MEASURES THAT MAY ASSIST EXPEDITIOUS COMPLETION**

11. The effective functioning of the Extraordinary Chambers has in the past been hampered by significant and persistent financial insecurity, which resulted in two staff walkouts during 2013 as well as unwarranted staff turnover. The General Assembly's approval of subventions for the calendar years 2014 through 2017 for the international component of the Extraordinary Chambers were essential measures that stabilized the funding situation and enabled concentrated focus on progressing the court's judicial mandate. On the national side, cash-flow difficulties led to repeated delays in payment of national staff salaries in the course of the second half of 2015, with attendant impact on staff focus and morale.
12. Following the expression of support from the Royal Government of Cambodia, the General Assembly authorized the Secretary-General on 23 December 2016, as an exceptional measure, to enter into commitments in an amount not to exceed \$11 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2017. This timely action greatly facilitated the uninterrupted operations of the Extraordinary Chambers during the first half of 2017, opening space for continued solicitation of voluntary contributions. In addition, the Royal Government's commitment of direct contributions to again cover, as in 2016, the first six months of national staff costs as well as operational costs arising in 2017 is a key measure facilitating the ongoing

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<sup>5</sup> The closing order, following the conclusion of investigations, will confirm whether there is an indictment or a dismissal of the cases. Given the current state of proceedings, it is premature at this point to forecast specific time points in respect of eventual trial milestones.

<sup>6</sup> The document containing the full reasons for the closing order was issued on 10 July 2017.

<sup>7</sup> The Pre-Trial Chamber had confirmed earlier that the parties may appeal the closing order once the full reasons are notified.

operation of the Extraordinary Chambers' national component. In combination, these measures have ensured that the ongoing phase of peak workload in the Extraordinary Chambers' work continued to receive sustained attention into the first six months of 2017. Moreover, voluntary contributions for 2017 are currently projected to amount to \$10.7 million for the international component and \$1.75 million for the national component. Although fundraising efforts are ongoing and additional funds can be forthcoming, the projected funds are adequate for the judicial work of the Extraordinary Chambers to continue through the year. The projections of the timelines below are made on the basis that all Chambers and offices are adequately staffed, and that the judicial proceedings will not be disrupted as a result of financial insecurity. Should financial insecurity again emerge, there may be need to revise the timelines accordingly.

13. In January 2015, the Plenary of the Extraordinary Chambers adopted amendments to the court's Internal Rules that permit a reduction of the scope of judicial investigation, so long as the reduced scope of the investigation is representative of the charges and alleged criminal responsibility of the suspect.<sup>8</sup> The international co-investigating judge reduced the scope of the judicial investigations in relation to Meas Muth in case 003, Ao An in case 004/02 and Yim Tith in case 004 pursuant to this provision. Similarly, the Trial Chamber is authorised to reduce the scope of a trial by excluding certain facts set out in the indictment, as long as the remaining facts subject to trial are representative of the scope of the indictment.<sup>9</sup> On this basis, the Trial Chamber terminated the proceedings concerning the facts set out in the closing order in case 002 which were not included in case 002/01 or case 002/02. Therefore, the final adjudication of case 002/02 will bring to a conclusion the proceedings in case 002.
14. With the aim of augmenting the investigative capacity of the Office of the Co-Investigating Judges, nine international legal officers were initially accredited by the Ministry of Justice to conduct investigative interviews, a task normally falling to the investigators. This enhanced capacity to conduct such interviews has accelerated the pace of the investigations. The international co-investigating judge has in addition benefitted from additional qualified personnel under non-reimbursable loan arrangements and additional interns enhancing the judicial production. The international co-investigating judge continues to reach out to Member States and professional organizations with the aim of recruiting additional gratis personnel. Further, the Office of Administration has retained the services of a number of additional linguistic staff to support the judicial offices, to ensure timely translation and transcription services.

### III. JUDICIAL INVESTIGATIONS COMPLETION PLAN

15. Judicial investigations in cases 003 and 004 were initiated following introductory submissions filed by the international co-prosecutor in 2009, and following supplementary submissions. Case 004 was subsequently severed into three case files: case 004/01 regarding Im Chaem; case 004/02 related to Ao An; and with case 004 remaining the case against Yim Tith. The investigation stage encompasses the jurisdictions of (a) the Office of the Co-Investigating Judges; and (b) of the Pre-Trial Chamber at appellate instance.

#### *A. Office of the Co-Investigating Judges*

16. Since the investigations in cases 003 and 004 began, a total of 269 field missions have been carried out and some 1,413 witness statements taken. In 2017 alone, a total of 17 field missions were

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<sup>8</sup> Rule 66*bis*, allows the co-investigating judges to exclude certain facts from the investigation as long as the remaining facts are sufficiently representative of the scope of the introductory or supplementary submissions. The decision to use Rule 66*bis* is required by law to be made at the closure notice stage.

<sup>9</sup> Rule 89*quarter*.

carried out and 57 witness statements taken. An excess of 2,500 civil party applications are currently being scrutinized in preparation for the decision on admission or rejection.

17. By the end of this reporting period, the cases stand as follows:
  - a. In case 004/01, the co-investigating judges are finalising the document containing the reasons for the closing order of 22 February 2017.<sup>10</sup>
  - b. In case 004/02, both co-investigating judges forwarded the case file to the Office of the Co-Prosecutors on 19 May 2017 for their final submissions.
  - c. In case 003, the international co-investigating judge concluded the investigation for the second time on 24 May 2017 after additional investigative acts had been carried out at the request of the parties.
  - d. The investigation in case 004 was closed by both co-investigating judges on 13 June 2017; the international co-investigating judge issued an order under Rule 66*bis* on the same day, which in effect halved the original number of alleged crime sites.
18. With all investigations now closed, investigative work is expected to reduce sharply, depending on the extent of any remaining investigative requests in case 004. Work will shift mainly to dealing with any outstanding procedural motions and preparing for the drafting of the closing orders across all open cases, once final submissions have been filed.
19. Progress still depends on factors outside the judges' control, such as, for example, sufficient funding and timely recruitment for vacant posts, expeditious translations as well as sufficient interpretation and transcription capacity. For an extended time now, the Office has been augmented by a large number of interns, on average 1 to 2 on the national and 11 to 13 on the international side at any given time. Almost all staff act in multiple roles across teams or in administrative capacities, either permanently or ad hoc.
20. The limited staffing and its composition make the Office vulnerable to staff shortages and even minor staff turnover, which pose a serious risk to the task of ensuring the Office's institutional memory as well as its ability to absorb workload coming from parties' filings and decisions by the Pre-Trial Chamber. Disclosure-related requests from the Trial Chamber have now ceased.<sup>11</sup>
21. Investigative requests by parties can cause substantial efforts. Rejections of such requests can be appealed to the Pre-Trial Chamber. The time until and the outcome of these decisions can have a significant impact on the shape and duration of the investigations. The same applies to annulment motions transmitted to the Pre-Trial Chamber. These factors have overall the most serious impact on the timelines; since the closing order heals all procedural defects in the investigation, the parties must raise any relevant issue before that stage or risk being excluded with any argument not so raised at trial. Depending on the complexity of the request, it may take three months or more from the filing of the request to a first draft decision of the co-investigating judges alone.
22. When an investigation is concluded, the parties are notified and may request further investigative action. If such a request is rejected, they may within 30 days appeal to the Pre-Trial Chamber. Only once the period for those appeals has expired, been waived, or the appeals been heard, may the case file be sent to the co-prosecutors for their final submission(s). Since none of the charged persons are in detention, the time for these submissions is three months, upon which the defence is given adequate time to respond.

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<sup>10</sup> This document was issued on 10 July 2017.

<sup>11</sup> Additional work was undertaken in relation to the request filed by the Trial Chamber on 3 March 2017 to lift redactions and the use of pseudonyms in case 002/02. This involved checking hundreds of documents disclosed into case 002/02 from the investigation of cases 003 and 004.

23. Following this, the co-investigating judges draft the closing order, which may be either a – full or partial – indictment or dismissal.<sup>12</sup> The drafting time was around three months in the rather compact case 001 and about eight months in case 002, which is similar to case 004 in complexity. Timely provision of translation services and the continued availability of experienced legal staff will have a particular impact during the drafting phase. Key staff leaving, for instance against the background of the overall funding situation; the approaching end of the Office’s mandate; or career planning, represents another serious risk to the projected timelines.<sup>13</sup>
24. A total of 15 requests, annulment motions or notices of appeal across all cases have been filed with the co-investigating judges and are awaiting a decision: four requests, six notices of appeal and five annulment motions.<sup>14</sup> Nine of those were filed after the last revision of the Completion Plan.
25. These factors, especially the added requests, motions and notices of appeal since the last revision and the uncertainty regarding the number and complexity of future requests, motions and notices of appeal, and in case 003 the staff turnover, are likely to exert a new knock-on effect. It is too early to put numbers on the extensions and hence the timelines remain for the time being the same as in the last revision of the Completion Plan; however, it should be emphasised that the likelihood of a further extension of at least three months, especially in cases 003 and 004, is very high. The timelines still cannot and should not be considered as anything more than a fair-weather estimate.
  - a. In *case 003*, the closing order is projected at best by the first quarter of 2018.
  - b. In *case 004*, the closing order is projected at best by the first quarter of 2018.
  - c. In *case 004/01*, the co-investigating judges are currently finalising the reasons for the closing order, to be announced by the third quarter of 2017.<sup>15</sup>
  - d. In *case 004/02*, the closing order is projected at best by the first quarter of 2018.

***B. Pre-Trial Chamber***

26. The Pre-Trial Chamber issued final decisions on all the six matters that were pending at the beginning of the quarter. While there are no statutory deadlines within which the Pre-Trial Chamber is required to dispose of appeals, the Chamber has streamlined its process to dispose these within an average of three months. Five of these decisions were issued within one to three months. The Pre-Trial Chamber stands by its objective to reduce the time for disposal of each matter.
27. By the end of the reporting period, the Pre-Trial Chamber was seized of seven appeals and annulment motions, broken down as follows:<sup>16</sup>
  - a. In *case 003*, one appeal.
  - b. In *case 004/02*, two appeals.
  - c. In *case 004*, four annulment motions.

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<sup>12</sup> While the co-investigating judges cannot quantify the impact on the projected timelines, they wish to flag up, out of an abundance of caution, the added potential for additional time required in the hypothetical case that they were to issue separate closing orders after a disagreement.

<sup>13</sup> By the middle of August, two legal officers of the team of the international co-investigating judge will have left. They are working on case 003 and their departure will have a serious impact on the progress of the case towards a closing order, the degree of which will very much depend on the speed and quality of available replacements.

<sup>14</sup> The co-investigating judges’ statistics are accurate as of 10 July 2017; numbers may have changed by the time of the publication of the Completion Plan. Under Internal Rules 75(2) and 76(3) the Greffier of the Office of the Co-Investigating Judges registers all notices of appeal and annulment motions, as these are filed with them.

<sup>15</sup> The closing order with full reasons was issued on 10 July 2017.

<sup>16</sup> These are included in the statistics of requests, annulment motions and notices of appeal referred to in para. 24.



28. In *case 004/01* the Pre-Trial Chamber confirmed in February to the parties that they may exercise their right to appeal after the full reasoning of the closing order is duly notified.<sup>17</sup>
29. The Chamber stays committed to dispose of any appeal against any closing order in a reasonable time which, subject to the nature of the submissions and available staffing, is currently estimated at six months.<sup>18</sup>

#### **IV. TRIALS COMPLETION PLAN**

30. The timeline for the completion of trials is influenced by various factors such as the nature and complexity of the case, the health of the ageing accused, the number of witnesses, civil parties and experts called, their availability and the length of their testimonies, the logistical and practical impediments to the conduct of proceedings, the number of motions filed by the parties and other administrative considerations, including accuracy of interpretation and timely translation of documents. With these variables in mind, predictions on future timelines are based on past experience, both within the Extraordinary Chambers and in similar judicial bodies.
31. One or more trial management meetings are usually held before the commencement of a trial. The trial hearings commence with an initial hearing. At this hearing, the Trial Chamber considers the lists of potential witnesses and experts submitted by the parties and preliminary objections raised by the parties, and the civil parties give an initial specification on the reparation awards they are seeking. The substantive hearing commences with opening statements from the co-prosecutors and the accused, before the Trial Chamber starts the questioning of the accused, civil parties and witnesses and hears evidence presentation. The onus is on the co-prosecutors to prove the guilt of the accused. In order to convict the accused, the Chamber must be convinced of the guilt of the accused beyond reasonable doubt. After examining all the evidence, the Chamber hears closing statements from the parties before it retires to deliberate on a judgement. If the accused is convicted, the Trial Chamber also decides on the appropriate sentence in this judgement. It is on the basis of the above procedural steps that the different milestones for each of the trials have been identified.

##### ***A. Case 002/02***

32. Evidentiary proceedings commenced on 8 January 2015, with the Trial Chamber initially sitting for three days per week. Medical assessments of the accused in January 2015 indicated that a four-day per week schedule was appropriate with a slightly shorter morning session. The Chamber therefore commenced on a four days per week schedule in February 2015, accelerating the pace of trial. Evidentiary hearings concluded on 11 January 2017 after a total of 274 hearing days. In total, the Trial Chamber heard the testimony of 114 witnesses, 63 civil parties and 8 experts on the Tram Kak Cooperatives (including Kraing Ta Chan Security Centre and the treatment of Buddhists), 1st January Dam Worksite, the Kampong Chhnang Airport Construction site, Trapeang Thma Dam worksite, the treatment of the Cham and the Vietnamese, the Au Kanseng, Phnom Kraol and S-21 security centres and internal purges, the regulation of marriage, nature of the armed conflict and, finally, the roles of the accused.
33. In preparation for the close of proceedings, the Chamber held a Trial Management Meeting in December 2016 to hear submissions with respect to closing briefs and statements, among other issues. Noting the main issues raised by the parties, in particular the extraordinary length and

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<sup>17</sup> The parties were notified of the closing order with full reasons on 10 July 2017.

<sup>18</sup> In the event that appeals against orders of the Office of Co-Investigating Judges on civil party applications are filed, the Chamber would also need an approximate time of about three months to dispose of all such appeals once decisions on any appeals against closing orders are issued.

complexity of the case, the Chamber subsequently established the deadline for the filing of the parties' final trial briefs on 24 April 2017 and the start of closing statements on 5 June 2017. The Chamber later granted the parties a one-week extension of time to file closing briefs in view of the ongoing revision of transcripts of hearings by the Transcription Unit, which had created difficulties for the parties in relying upon the court record in the closing briefs. Closing statements were accordingly rescheduled and took place between 13 and 23 June 2017. Following this, the Chamber adjourned to deliberate and prepare a trial judgement in this case.

34. The original projection of time required to issue a judgement in case 002/02 was made prior to the beginning of the trial based on the experience in case 002/01, without yet knowing how many witnesses, civil parties and experts would be heard. This projection was revised in the previous version of the Completion Plan taking into account the fact that twice as many witnesses, civil parties and experts were heard in case 002/02 as in case 002/01, creating a significantly larger evidentiary base for consideration and analysis during deliberations and the judgement drafting process.
35. The Trial Chamber's ability to meet the current timeline for the judgement in this case will depend in the first instance on it and other support units remaining fully staffed. During the course of 2016 and into the first quarter of 2017, judgement drafting preparations were negatively impacted by staff shortages in the Chamber. Staff turnover may be expected to continue during 2017 in view of the volatile financial situation of the court, which has increasingly motivated staff to look for more secure and longer-term employment.
36. The Trial Chamber has previously expressed to the Office of Administration concerns regarding the timely delivery of final translations, which could potentially extend the time needed to issue a judgement. In a December 2016 Trial Management Meeting, the defence raised two additional factors which will impact the length of the trial judgement preparations, namely the ongoing review of transcripts of the hearings and the delivery of the French translation of the Supreme Court Chamber appeal judgement in case 002/01. The Chamber notes that accurate transcripts of proceedings are the basic foundation for judgement preparation, as well as for the preparation of the parties' closing briefs. The Nuon Chea defence requested that all transcripts be finalised prior to 31 March 2017 in order that closing briefs may reflect accurate information. However, the Office of Administration informed the Chamber that the transcript finalisation process would be completed by the end of April for transcripts deemed priority by the requisitioners and by 31 July 2017 for other transcripts.
37. On the basis of this timeline, in April 2017, the co-prosecutors sought a fifteen-day extension for the filing of closing briefs and a reduction in the length of closing statements to complete the trial as previously scheduled. This was largely agreed by the Khieu Samphan defence. The civil party lead co-lawyers sought a more significant extension, requesting that the closing brief deadline be extended until 9 June 2017, and that the closing statements be heard sometime thereafter, on the basis of information that the correction of all transcripts containing civil party testimony would be completed on 31 May 2017. The Nuon Chea Defence requested that the deadline for closing briefs and the schedule for closing statements be maintained, but that the parties be granted an opportunity to file corrections to their closing briefs when the transcripts of proceedings are completely finalised.
38. The Chamber ruled that a one-week extension for the filing of closing briefs was appropriate, fixing the deadline for 2 May 2017 with a corresponding rescheduling of the start of closing statements to 13 June 2017. The Chamber also granted the Nuon Chea defence request to file amendments to the parties' closing briefs following the finalisation of the transcripts of proceedings, which are currently expected to be completed by 31 July 2017. The time taken to finalise the transcripts of hearings has complicated the judgement drafting process by creating uncertainty as to the accuracy of the present trial record. If the parties significantly alter the arguments in their amended briefs based upon the substantive corrections to the transcripts, this

will add another step to the Chamber's evaluation of evidence. The Chamber is not in a position at this time to determine what impact this may have on the timing of the delivery of the case 002/02 judgement. The situation should be clearer by the fourth quarter of 2017.

39. The Chamber further notes that during closing statements the Nuon Chea defence highlighted the translation of their closing brief into Khmer sufficiently in advance of the delivery of judgement as a potential fair trial issue in this case. This demonstrates the importance of maintaining adequate staffing for translation for the Chamber to keep to its deadlines.
40. The Trial Chamber continues to monitor the health conditions of the accused on an ongoing basis. The accused's fitness to continue to participate in the trial was evaluated at the end of July 2016 and they were both found to be fit to stand trial. The medical reports noted, however, several medical conditions suffered by the accused and recommended that their cognitive functions be evaluated on a quarterly basis.
41. In view of the above factors, the Chamber maintains its present estimate for the delivery of the judgement by the second quarter of 2018.

***B. Case 003 and case 004***

42. Until decisions are made on whether case 003 and/or case 004 are sent for trial, it is premature to make a projection on the required time to complete these trials. An assessment of the time required would depend on the number of defendants and legal and factual complexity of the charges included in the indictment.

**V. APPEALS COMPLETION PLAN**

***A. Case 002/02***

43. The Supreme Court Chamber projects at this time that the appeal(s), if filed, against the judgement of the Trial Chamber in case 002/02 will be at least as time and resource intensive as the appeal in case 002/01. Until the Trial Chamber judgement in case 002/02 is rendered, it is possible for parties to file immediate appeals against decisions of the Trial Chamber in that case, which must be decided within the statutory three-month deadline, extended to four months in exceptional circumstances.

***B. Case 003 and case 004***

44. Should case 003 and/or 004 proceed to trial, immediate appeals as well as appeals against eventual judgements of the Trial Chamber are likely to arise. Nevertheless, given that it is currently not known which cases, if any, will proceed to trial and on which charges, it is premature to provide any estimate for time required to dispose of any appeal arising therefrom.

**VI. CONCLUSION**

45. During the *second quarter of 2017*, two milestones were reached with (i) the conclusion of closing statements in case 002/02 and (ii) the notification of the conclusion of the investigation in case 004 against Yim Tith.
46. For the remainder of *2017*, two milestones are expected to be reached in case 004/01 against

Im Chaem, namely: (i) issuance of the closing order with full reasons;<sup>19</sup> and (ii) disposal of any appeals against this closing order, with a decision of the Pre-Trial Chamber either to send this case for trial or to terminate the proceedings.

47. For 2018, it is expected that two milestones will be reached in case 002/02: (i) the delivery of the trial judgement; and (ii) the deadline for any appeals against the trial judgement. In respect of cases 003, 004/02 and 004, six milestones are expected: (i) issuance of a closing order in case 003 against Meas Muth, with a decision of the co-investigating judges either to send the case for trial or to terminate the proceedings; (ii) issuance of the closing order in case 004/02 against Ao An, with a decision of the co-investigating judges either to send the case for trial or to terminate the proceedings; (iii) issuance of the closing order in case 004 against Yim Tith, with a decision of the co-investigating judges either to send the case for trial or to terminate the proceedings; and disposal of any appeals against those closing orders in (iv) case 003 in respect of Meas Muth; (v) case 004/02 in respect of Ao An and (vi) case 004 in respect of Yim Tith, with a decision of the Pre-Trial Chamber either to send these cases for trial or to terminate the proceedings.
48. For 2020, it is expected that one milestone will be reached, namely (i) delivery of an appeal judgement in case 002/02.
49. In the event that any of case 003 and case 004 are sent for trial, in whole or in part, timelines in these cases will then be projected.
50. The various projected milestones are reflected in a chart attached to this plan.

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<sup>19</sup> The document containing the full reasons for the closing order was issued on 10 July 2017.

Case	2017				2018				2019				2020			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Case 002/02	Trial phase (a)				(b)				Appeal(s) phase (c)				(d)			
(a) Closing statements																
(b) Trial judgement																
(c) Deadline for appeals against trial judgement																
(d) Appeal judgement																
Case 003 Meas Mueth					(e)				Appeal(s) against Closing Order (f)							
Case 004/01 Im Chaem									(g)				Appeal(s) against Closing Order (f)			
Case 004/02 Ao An					(e)				Appeal(s) against Closing Order (f)							
Case 004 Yim Tith					(h)				Appeal(s) against Closing Order (f)							

(e) Closing order in case 003, 004, 004/02

(f) Pre-Trial Chamber decision on closing order in case 003, 004, 004/01, 004/02

(g) Full reasons for closing order in case 004/01 issued on 10 July 2017

(h) Notification of conclusion of investigation in case 004