

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)

COMPLETION PLAN

REVISION 6

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Summary

The Completion Plan for the Extraordinary Chambers in the Courts of Cambodia (“Extraordinary Chambers”) was 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 sixth quarterly update of the Completion Plan covering the quarter ending 30 September 2015.

Over the last quarter, the Supreme Court Chamber commenced initial appeal hearings in case 002/01. One additional milestone projected for 2015 was reached with the filing of responses to the substantive appeals in at least two of the official working languages of the Chamber. Additional evidence requests filed by Nuon Chea have significantly contributed to the overall complexity of the proceedings. With the filing of substantive appeal submissions now complete, the Supreme Court Chamber is now in a position to assess the full scope of the pending appeals, which are significantly more complex than initially anticipated. These factors have necessitated an amendment of the projected timeline for the delivery of the appeal judgement by three months.

In the trial proceedings in case 002/02, the evidentiary hearings have continued with the completion of the second trial topic, namely three specific worksites. The Trial Chamber is now hearing evidence concerning the third trial topic on treatment of the Cham and Vietnamese, encompassing charges of genocide among other crimes. Substantive progress was also made in the judicial investigations in cases 003 and 004.

The narrative part of the Completion Plan is updated to reflect the status of the judicial proceedings as of 30 September 2015.

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”.¹ In a report submitted to the General Assembly of the United Nations in March 2003, the Secretary-General initially indicated that the lifespan of the Extraordinary Chambers would be three years to complete all trials and appeals “once the Prosecutors' Office had commenced operations”.² The timelines have since been revised, and the Secretary-General formally advised the General Assembly in October 2013 that the Extraordinary Chambers’ indicative court schedule “projects judicial activity until 2018, and possibly beyond”.³
2. This Completion Plan is elaborated by the Extraordinary Chambers in the context of the General Assembly’s Resolution A/RES/68/247B, which *inter alia* mandates the Extraordinary Chamber’s preparation of a completion strategy with a clear road-map.⁴ 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 anticipate updating this Completion Plan on a quarterly basis in the future. The current document is the sixth quarterly revision of the Completion Plan, and it incorporates necessary adjustments based on the developments in the ongoing judicial proceedings between 1 July and 30 September 2015.
3. The document focuses in particular on the recent developments in the three remaining cases currently 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 currently before the Extraordinary Chambers reach legal finality. The Co-Prosecutors have stated publicly that there will be no further cases after cases 003 and 004.⁵ The existing caseload thus represents the totality of the caseload to be addressed by the Extraordinary Chambers.
4. The charges in case 002 have been, to date, severed into two trials. The Trial Chamber rendered judgment 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 both found 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

¹ 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.

² Report of the Secretary-General on Khmer Rouge trials, A/57/769, para. 56.

³ Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia, A/68/532, para. 38.

⁴ In the same resolution, the General Assembly has requested “a comprehensive examination of the future financing of the Extraordinary Chambers for 2015 and beyond.” See Resolution A/RES/68/247B adopted by the General Assembly on 9 April 2014: “Special subjects relating to the programme budget for the biennium 2014–2015” B, I, para. 8.

⁵ 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 (www.eccc.gov.kh/sites/default/files/media/ECCC%20OCP%205%20June%202012%20En.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>).

against the trial judgement in case 002/01. 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.

5. The appeal proceedings in case 002/01 are ongoing, with all appeal submissions having now been filed, as required, in at least two of the official working languages of the Chambers. The Supreme Court Chamber held its first appeal hearings on 2, 3 and 6 July 2015, and further appeal hearings are expected in the last quarter of 2015. The projected timeline for the delivery of the appeal judgment in case 002/02 has been amended with three months due to substantive developments in the appeals proceedings, as further elaborated in chapter V below.
6. The second, current trial in this case, styled as case 002/02, focuses on a representative selection of the remaining charges against the two remaining accused. These include charges of genocide against the Cham and the Vietnamese ethnic groups, forced marriages and rape, treatment of Buddhists, internal purges and alleged crimes against humanity committed at four security centres, three worksites and one group of cooperatives. Evidentiary hearings commenced on 8 January 2015, and, by 30 September 2015, the Trial Chamber had heard a total of 46 witnesses, 31 Civil Parties and one expert. A number of Civil Parties were heard during hearings specifically devoted to the suffering of Civil Parties at Cooperatives and worksites.
7. Cases 003 and 004 remain currently in the phase of judicial investigation. The international Co-Investigating Judge is actively investigating these cases, involving allegations against three charged persons and one suspect. Significant progress continued to be achieved in both cases during the third quarter of 2015. On 7 July 2015, the then international Co-Investigating Judge, Mark Harmon, publicly announced that he had tendered his resignation for personal reasons. On 31 July 2015, Judge Michael Bohlander, previously the reserve international Co-Investigating judge, was appointed by the Royal Government of Cambodia, upon nomination of the Secretary-General of the United Nations, as new international Co-Investigating Judge.
8. The newly appointed international Co-Investigating Judge is currently reviewing the state of the case files, including pending litigation, the remaining anticipated workload and projected completion time lines in cases 003 and 004. This review will continue into the last quarter of 2015, and amendments to the projected timelines resulting from this review will be incorporated in the next revision of the Completion Plan. The existing projection continues to be that a notice of conclusion of the investigations in case 003 could be issued by the fourth quarter of 2015 and a decision, in the form of a closing order, on whether any suspect(s) will be indicted and sent for trial could be issued by third quarter of 2016.
9. In view of progress over the last quarter, this Completion Plan of the Extraordinary Chambers identifies 13 remaining milestones for the three cases with which the Chambers are seized. The remaining milestones in case 002⁶ and associated indicative forecasts continue to be:
 - (i) conclusion of appeal hearings in case 002/01 (by fourth quarter of 2015)
 - (ii) delivery of an appeal judgment in case 002/01 (by second quarter of 2016);
 - (iii) conclusion of substantive hearings in case 002/02 (by third quarter of 2016);
 - (iv) closing statements in case 002/02 (by fourth quarter of 2016);
 - (v) delivery of a trial judgment in case 002/02 (by third quarter of 2017);
 - (vi) deadline for filing any appeals against the trial judgment in case 002/02 (by fourth quarter of 2017); and
 - (vii) delivery of an appeal judgment in case 002/02, if any (by second quarter of 2019).

⁶ In the event that case 002 is further severed as a consequence of the Trial Chamber's decision on the scope of case 002/02 in April 2014, it may be that a case 002/03 will be required.

10. In cases 003 and 004, distinct milestones have been identified for the remainder of the judicial investigation phase, and in case of indictments, additional milestones will be identified for the trial and appellate phases.⁷ The milestones for the remainder of the judicial investigation phase, subject to amendments resulting from the on-going review by the newly-appointed international Co-Investigating Judge, are:
- (viii) notification of conclusion of judicial investigations in case 003 (by fourth quarter of 2015);
 - (ix) notification of conclusion of judicial investigations in case 004 (by fourth quarter of 2015 and/or first quarter of 2016, depending on any severance);
 - (x) issuance of closing order in case 003, with a decision either to send the case for trial or to end the proceedings (by third quarter of 2016);
 - (xi) issuance of closing order(s) in case 004, with a decision either to send the case(s) for trial or to end the proceedings (dependent on whether or not the case will be severed, by first, third or fourth quarter of 2016);
 - (xii) 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 first quarter of 2017 for case 003) ; and
 - (xiii) disposal by the Pre-Trial Chamber of any appeals against the closing order(s) in case 004, either sending the case for trial or ending the judicial proceedings in the case (by second quarter of 2017).

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 a subvention up to US\$15.5 million for the international component of the Extraordinary Chambers was an important measure that stabilized the funding situation for 2014 and enabled concentrated focus on progressing the court's judicial mandate.⁸ On 27 March 2015 the General Assembly in its resolution 69/274 authorized the Secretary-General to enter into commitments up to US \$12.1 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for 2015, which would provide comparable stability over the coming year with the continuous voluntary contributions and supports from donor countries. Recognising a phase of peak workload in the Extraordinary Chambers' work and attendant resource implications, the Group of Interested States also approved a revised budget for 2015, encompassing new resources in a variety of key areas. A very positive aspect has also been increased contributions from the Royal Government of Cambodia, covering the national salaries for the first six months of 2015. In the absence of full funding for the national component, national staff did not receive salaries for the months of August and September, although it is anticipated that funds will be received imminently. However, the current situation has once again impacted upon staff morale, and if not swiftly resolved may result in disruption to the Chambers' activities.
12. The projections of the timelines below are made on the basis that all Chambers and offices are sufficiently staffed, and that the judicial proceedings will not be further disrupted as a result of financial insecurity. Should financial insecurity emerge, there may be need to revise the timelines accordingly.

⁷ As noted in paragraph 35 below, given the current state of proceedings it is premature at this point to forecast specific time points in respect of eventual trial milestones. In the event that cases 003 and 004 proceeded to trial, the substantive milestones would be those set out in paragraph 12, (iv) through (viii), above, in respect of case 002/02.

⁸ General Assembly resolution 68/247B.

13. The projections for completion of the trial of case 002/02, the appeal of case 002/01 trial judgement and the completion of investigations in cases 003 and 004, presume that all activities are being carried out simultaneously. The defence teams for Nuon Chea and Khieu Samphan, as well as the Civil Party Lead Co-Lawyers will be engaged in both the appeal of case 002/01 and the trial of case 002/02, in parallel. The Co-Prosecutors will be simultaneously engaged in both of these cases, and the investigations and preparation of closing submissions in cases 003 and 004. The Office of the Co-Prosecutors has requested additional resources in the revised 2015 budget to ensure the Office's ability to discharge its duties in the concurrent proceedings in cases 002/01, 002/02, 003 and 004.
14. 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. Similarly, the Trial Chamber may reduce the scope of the 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. These rule amendments, if utilized, may expedite the conclusion of the judicial proceedings. The international Co-Investigating Judge continues to assess whether the new rules can be applied to narrow the scope of investigations in cases 003 and 004.
15. With the aim of augmenting the investigative capacity of the Office of the Co-Investigating Judges, nine international legal officers have been accredited by the Ministry of Justice to conduct investigative interviews, a task normally falling to the investigators. This enhanced capacity to conduct such interviews will accelerate the pace of the investigations. The international Co-Investigating Judge has in addition taken initiatives to augment his human resources with qualified personnel under non-reimbursable loan arrangements and additional interns to enhance judicial production. The investigative capacity was further increased when three new international investigators on secondment joined the Office of the Co-Investigating Judges during the first quarter of 2015. The new international Co-Investigating Judge continues to reach out to Member States and professional organizations with the aim of recruiting additional investigators as gratis personnel.
16. The Office of Administration has during the third quarter of 2015 recruited a number of freelance linguistic staff to support the judicial offices and Chambers, to ensure timely translation services.

III. JUDICIAL INVESTIGATIONS COMPLETION PLAN

17. The timeline for the end of investigation is influenced by various factors such as: the nature and complexity of the case, the number of witnesses to be interviewed, the number of field missions required, the availability of qualified staff and the ability to retain experienced staff, the logistical and practical impediments to conduct the investigation, the number of motions filed by the parties, the length of time required by the Pre-Trial Chamber to issue decisions on interlocutory appeals from the parties and related considerations. With these variables in mind, predictions on future timelines are based on past experience, both within the Extraordinary Chambers and in similar judicial bodies.
18. The Internal Rules prescribe a series of procedural steps that are followed by the Co-Investigating Judges in order to fully complete an investigative process. The Co-Investigating Judges shall investigate the facts set out in an introductory submission or a supplementary submission filed by the Co-Prosecutors. In the conduct of such judicial investigations, the Co-Investigating Judges may take any investigative action conducive to ascertaining the truth. In all cases, they shall conduct their investigation impartially. Parties may request the Co-Investigating Judges to carry out specific investigative actions. A refusal to accommodate such a request can be appealed to the Pre-Trial Chamber. The persons recently charged, as parties to the proceedings, have now been given access to the case files through their lawyers. This will allow them to participate in the investigation by making investigative requests, as well as to challenge orders and decisions made by the Co-Investigating Judges. The defence teams of the three persons charged during the first quarter of 2015 will be given a reasonable amount of time to review the case files, consistent with due process

requirements, and to make requests for investigative action.

19. When the Co-Investigating Judges consider that an investigation has been concluded, they shall notify all the parties. The parties have 15 days to request further investigative actions, unless they waive such period. If the Co-Investigating Judges decide to reject such requests, they shall issue a reasoned order. All the parties may, within 30 days from notice of such order, file appeals to the Pre-Trial Chamber. Once this period has expired, been waived, or the abovementioned appeals heard, the Co-Investigating Judges shall immediately forward the case file to the Co-Prosecutors for their final submission. The Co-Prosecutors shall issue a written, reasoned final submission and return the case file to the Co-Investigating Judges, within 45 days if a charged person is detained, and within 3 months in other cases. Only after all the above mentioned steps have been concluded, the Co-Investigating Judges will issue a Closing Order, either indicting a charged person, sending him or her for trial, or dismissing the case. The Co-Prosecutors can file an appeal against the Closing Order to the Pre-Trial Chamber, whereas Civil Parties can file an appeal only if the Closing Order contains dismissal of charges and only in cases where also the Co-Prosecutors have appealed against such dismissal. The Pre-Trial Chamber has in addition granted the charged person a right to challenge the jurisdictional elements of a Closing Order through an appeal. Appeals against the Closing Order must be filed within 30 days after the notification of the order. The Pre-Trial Chamber may amend or confirm the Closing Order.
20. Judicial investigations in cases 003 and 004 were initiated following an introductory submission filed by the international Co-Prosecutor in September 2009. The Co-Investigating Judges have, in accordance with the Internal Rules of the Extraordinary Chambers, recorded disagreements between the national and international Co-Investigating Judges regarding the investigation of these cases. The two Co-Investigating Judges are therefore pursuing separate approaches in these cases. The international Co-Investigating Judge is actively investigating the commission of alleged crimes at more than 10 different crime scenarios in case 003, and alleged crimes at 55 different crime scenarios in case 004.
21. Given the disparity in the status of the investigation against the three case 004 defendants, the international Co-Investigating Judge continues to consider two options: a) case 004 could be severed, in which case two notices of conclusion of investigation could be issued by the fourth quarter of 2015, and a third by the first quarter of 2016; b) alternatively, case 004 could remain intact, in which case the investigation could conclude by the first quarter of 2016. If case 004 is severed into separate proceedings, it is estimated that the closing orders could be issued by the first quarter, third quarter, and fourth quarter of 2016, respectively. If case 004 is not severed, it is estimated that a decision, in the form of a closing order, on whether any defendant(s) will be indicted and sent for trial, could be issued by fourth quarter of 2016.
22. As noted above, the newly appointed international Co-Investigating Judge is currently reviewing the remaining workload and projected timelines in cases 003 and 004. This review will continue into the last quarter of 2015, and subsequent amendments to the projected timelines will be incorporated in the next revision of the Completion Plan.
23. The best projections that can be given at this point in time, subject to amendments resulting from the on-going review by the international Co-Investigating Judge, are that:
 - (i) investigations into case 003 will conclude by the fourth quarter of 2015;
 - (ii) investigations into case 004, depending on whether or not the case will be severed, will conclude by fourth quarter of 2015 and/or the first quarter of 2016 ;
 - (iii) the closing order in case 003 will be issued by the third quarter of 2016;
 - (iv) the closing order(s) in case 004, depending on whether or not the case will be severed, will be issued by the first, third or fourth quarter of 2016; and
 - (v) any appeals against the closing orders will be decided by the Pre-Trial Chamber by the first quarter of 2017 for case 003 and second quarter of 2017 for case 004.

24. These time projections remain contingent on a number of previously-identified factors such as: no departure of key staff, timely recruitment of new staff to fill vacant posts, timely translation of documents, sufficient interpretation and transcription capacity made available to support field missions and witness interviews, timely resolution of any appeals filed with the Pre-Trial Chamber and full support from the judicial police in serving summonses and executing any arrest warrants.

IV. TRIALS COMPLETION PLAN

25. 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 aging accused, the number of witnesses, Civil Parties and experts called 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.
26. 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 judgment. If the accused is convicted, the Trial Chamber also decides on the appropriate sentence in this judgment. 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

27. On 4 April 2014, the Trial Chamber issued a severance decision, defining the scope of case 002/02, the second trial against Khieu Samphan and Nuon Chea. The Trial Chamber decided that the following alleged crime sites and factual allegations will form the basis for case 002/02: genocide against the Cham and the Vietnamese (excluding crimes committed by the Revolutionary Army of Kampuchea on Vietnamese territory); forced marriages and rape (nationwide); internal purges; S-21 Security Centre; Kraing Ta Chan Security Centre, Au Kanseng Security Centre and Phnom Kraol Security Centre; 1st January Dam Worksite; Kampong Chhnang Airport Construction site, Trapeang Thma Dam Worksite; Tram Kok Cooperatives; treatment of Buddhists (limited to Tram Kok Cooperatives); and targeting of former Khmer Republic Officials (implementation limited to Tram Kok Cooperatives, 1st January Dam Worksite, S-21 Security Centre and Kraing Ta Chan Security Centre). On 29 July 2014, the Supreme Court Chamber upheld the Trial Chamber's new severance decision.
28. The Trial Chamber held a further Initial Hearing in case 002/02 on 30 July 2014. At the hearing, the Trial Chamber heard the parties' submissions on the sequencing of the trial proceedings further to its severance decision on the scope of case 002/02 and the parties' proposals for witnesses, Civil Parties and experts to be heard at trial. The Chamber also provided an opportunity for the Civil Parties to present a further specification of Civil Party reparation awards.

29. On 17 October 2014, the Trial Chamber heard an opening statement by the national and international Co-Prosecutors. Khieu Samphan and Nuon Chea then took the floor to indicate their unwillingness to participate in the case 002/02 proceedings until the resolution of specific issues, and their instructions to counsel to follow suit. Nuon Chea resumed his participation in case 002/02 on 17 November, whereas the defence of Khieu Samphan continued to boycott the proceedings, forcing the Trial Chamber to postpone the evidentiary proceedings until January 2015.
30. Evidentiary proceedings commenced on 8 January 2015, with the Trial Chamber initially sitting for 3 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 returned to a 4 days per week schedule in February 2015, accelerating the pace of trial. As of 30 September 2015, the Chamber had heard a total of 46 witnesses, 31 Civil Parties and one expert on the Tram Kok Cooperatives, 1st January Dam Worksite, the Kampong Chhnang Airport Construction site, Trapeang Thma Dam worksite as well as the treatment of the Cham. It has also informed the parties of a provisional list of 11 witnesses and Civil Parties to be heard on the treatment of the Vietnamese.
31. It will be possible to fully project the number of hearing days required to complete the trial in case 002/02 only when the overall number of witnesses, civil parties and experts to be called to testify is fixed by the Trial Chamber. A total of 265 testimonies were initially proposed by the parties. An additional 40 testimonies of new witnesses and Civil Parties have been proposed since the beginning of the trial. The current projection as to the case 002/02 timeline is therefore based on the assumption that the second trial will be equally complex and time consuming as the trial in case 002/01, but may vary considerably once this factor is fully determined. Since the resumption of evidentiary hearings in January, there has been no further indication of a renewed boycott. However, it may be necessary for the Chamber to adjust its projected milestones to reflect the loss of three months as a result of the boycott that has already taken place.
32. In terms of factors potentially relevant to the projected length of trial which may arise in the future, a change in the health conditions of the accused creating the need to reduce the number of hearing days per week, and/or the length of each hearing day, would have a direct impact. Appeal proceedings against the judgement in case 002/01, such as hearings or additional briefing, would also have a further impact on the parties' availabilities to attend any concurrently-scheduled substantive hearings in case 002/02. Any such adjustment would also need to take into account issues related to ongoing disclosure from Cases 003 and 004. In the past quarter, the disclosure of several hundred relevant statements from the Case 003 and 004 investigations to the parties in case 002 to date has required the Chamber to adjourn a number of hearings. This disclosure has also led to requests from parties to hear further witnesses. Additional disclosures of statements are forthcoming and depending on their size could necessitate further adjournments. The Trial Chamber has further expressed to the Administration concerns with respect to interpretation and translation and the potential for delay that could result if these concerns are not addressed. The Administration has taken steps to address this issue and continues to oversee the issue on an on-going basis.
33. As a significant portion of the trial remains and disclosure issues are ongoing, the Trial Chamber is not yet well placed to determine the length of any necessary extension to proceedings as a result of the boycott, disclosure of documents and other issues. It should be in a better position to do by the end of this year.

B. Remaining charges/factual allegations in case 002

34. In a decision on 29 July 2014, the Supreme Court Chamber declared the stay of the proceedings in relation to the charges remaining outside the scope of cases 002/01 and 002/02

pending appropriate disposal by the Trial Chamber. The Supreme Court Chamber reiterated that the Trial Chamber has a duty to adjudicate or dispose of the remaining charges in case 002 in accordance with the legal framework, and urged it to do so. To date, the Chamber has not been seized with any request in this regard. The matter remains under consideration.

C. Case 003 and case 004

35. Until decisions are made on whether case 003 and/or case 004 are sent for trial, it is not possible to make a projection on the required time to complete these trial(s). An assessment of the time required would depend on the number of defendants, as well as the number and legal and factual complexity of the charges and crime sites included in the indictment.

V. **APPEALS COMPLETION PLAN**

36. In order to provide estimates of the length of appeal proceedings, the following three principal phases of an appeal have to be distinguished. The first phase is the time needed for the filing of all required submissions by the parties. In accordance with the Internal Rules, a party must file a notice of appeal within 30 days after the pronouncement of the Trial Chamber judgment. Where a party appeals, other parties have an additional 15 days to file their own notice(s) of appeal. The Internal Rules prescribe that each party must file its appeal brief within 60 days of their respective notice of appeal. Parties have 10 days to file their own response(s) to other parties' appeal brief(s), however the Chamber has in the past granted modest additional time for submission of such responses. During this time, the Supreme Court Chamber will research the relevant legal and factual issues in preparation for the hearing of the appeal(s), which marks the second phase. Subject to certain conditions, parties also have the right to request the hearing of additional evidence on appeal, which may require the Supreme Court Chamber to schedule evidentiary hearings. The appeal hearing, where the parties make their substantive submissions orally before the Chamber, can be ordered once all filings by the parties have been submitted and reviewed by the Supreme Court Chamber and any requests for additional evidence have been determined. The third phase follows the hearing and consists of the deliberations, preparation and issuance of an appeals judgment.

A. Case 002/01

37. Upon a request from the defence teams, in light of the size and complexity of the case and the Trial Judgment, the Supreme Court Chamber extended the deadline for the filing of the defence teams' notices of appeal against the case 002/01 trial judgment as well as the deadline and page limits for the filing of the appeal briefs, which were permitted to be filed initially in French or English only, with translations in the Khmer language to follow.
38. The defence teams of Nuon Chea and Khieu Samphan filed their notices of appeals on 29 September 2014 and their appeal briefs on 29 December 2014, advancing 223 and 148 grounds of appeal respectively, covering almost the entirety of the findings of the case 002/01 trial judgment), as well as several Trial Chamber decisions which were not open to interlocutory appeal until the delivery of the judgment on the merits. In addition, the Co-Prosecutors on 29 September 2014 filed a notice of appeal, limited to seeking declaratory relief from the Supreme Court Chamber regarding the applicability of the most extended form of joint criminal enterprise known as "JCE III" before the Extraordinary Chambers. The corresponding appeal brief were filed by the Co-Prosecutors on 28 November 2014.
39. The Khmer translations of responses from the Co-Prosecutors and Civil Party Lead Co-Lawyers to the defence appeal briefs were finalized in August and July 2015, respectively.. The hearings on the substance of the appeal could not be scheduled until all briefs and

responses were available in both Khmer and English or French. As such, another factor significantly affecting the course of appeal proceedings has proved to lie in the availability of the translation of appellate submissions, in particular from English to Khmer.

40. In addition to the substantive filings on appeal, the projections are based on the fact that the defence for Nuon Chea has extensively exercised procedural rights available to him and filed six separate motions for additional evidence on appeal since the delivery of the case 002/01 trial judgment. These motions, the last of which was filed on 11 September 2015, largely result from ongoing evidentiary disclosures that have been made in cases 003 and 004 and from the ongoing hearing of evidence in case 002/02 before the Trial Chamber. Further motions for additional evidence may still be filed, which may have an impact on the timeline for the disposal of the appeals. As a result of the requests for additional evidence the Supreme Court Chamber has decided *inter alia* to launch a limited additional investigation, as well to call three witnesses on appeal. The hearings in relation to these three witnesses were held from 2 to 6 July 2015.
41. Particular note must be taken of the Supreme Court Chamber's unique circumstance of having to address with several decisions, mainly procedural, taken during trial proceedings that can only be appealed after the issuance of the trial judgment. This is unlike the situation at the International Criminal Court (ICC) or at the *ad hoc* tribunals, where the possibility exists to seek interlocutory appeal of such decisions, that is, while the trial is underway, so as to deal with contentious issues as they manifest. According to the ECCC Internal Rule 104(4), however, appellate jurisdiction during trial proceedings is very limited. Consequently, following an analysis of the appeal briefs in Case 002, it has become evident that the Supreme Court Chamber now has to devote an estimated 50% of its time to scrutinize issues that, at the ICC or *ad hoc* tribunals, could have been resolved earlier.
42. Taking into account these factors and the experiences of other internationalized and international courts and tribunals with cases of comparable size and complexity, the best estimate that can therefore be presently provided is that the appeal process may be concluded, at the earliest, by the end of the second quarter of 2016. The revision of the time line for the conclusion of the appeal process by three months has become necessary for a variety of reasons: first, the additional evidence requests that have been filed have significantly contributed to making the proceedings more complex, leading *inter alia* to an additional investigation by the Supreme Court Chamber, which is not yet concluded, and to evidentiary hearings. It must also be underlined that the sixth additional evidence request, which was filed in mid-September 2015, is particularly voluminous and raises a variety of intricate legal and factual issues. In this regard, it is recalled that when addressing issues of additional evidence at the appellate level, the factual findings of the Trial Chamber have to be scrutinised in light of both the additional evidence and all the evidence the Trial Chamber relied upon for the factual findings in question. Second, with the filing of the substantive appeal submissions now complete, the Supreme Court Chamber is now in a position to assess the full breadth of the pending appeals, which prove to be significantly more complex than initially anticipated. It should also be noted, moreover, that the parties' upcoming oral submissions may have an impact on this assessment. Third, and as previously reported, the Supreme Court Chamber has in the past faced challenges as regards the translation of documents. While this factor has had an impact on the overall time line, it is hoped that the recent arrangements regarding translations for the Supreme Court Chamber will avoid any further challenges in this regard.
43. As to the further steps, the next months will involve the review of all filings, disposal of all pending requests for additional evidence, followed by the preparation and holding of appeal hearings which are envisaged to take place before the end of the year 2015. The Supreme Court Chamber will thereafter complete its deliberations and prepare and issue its appeal judgment in case 002/01.

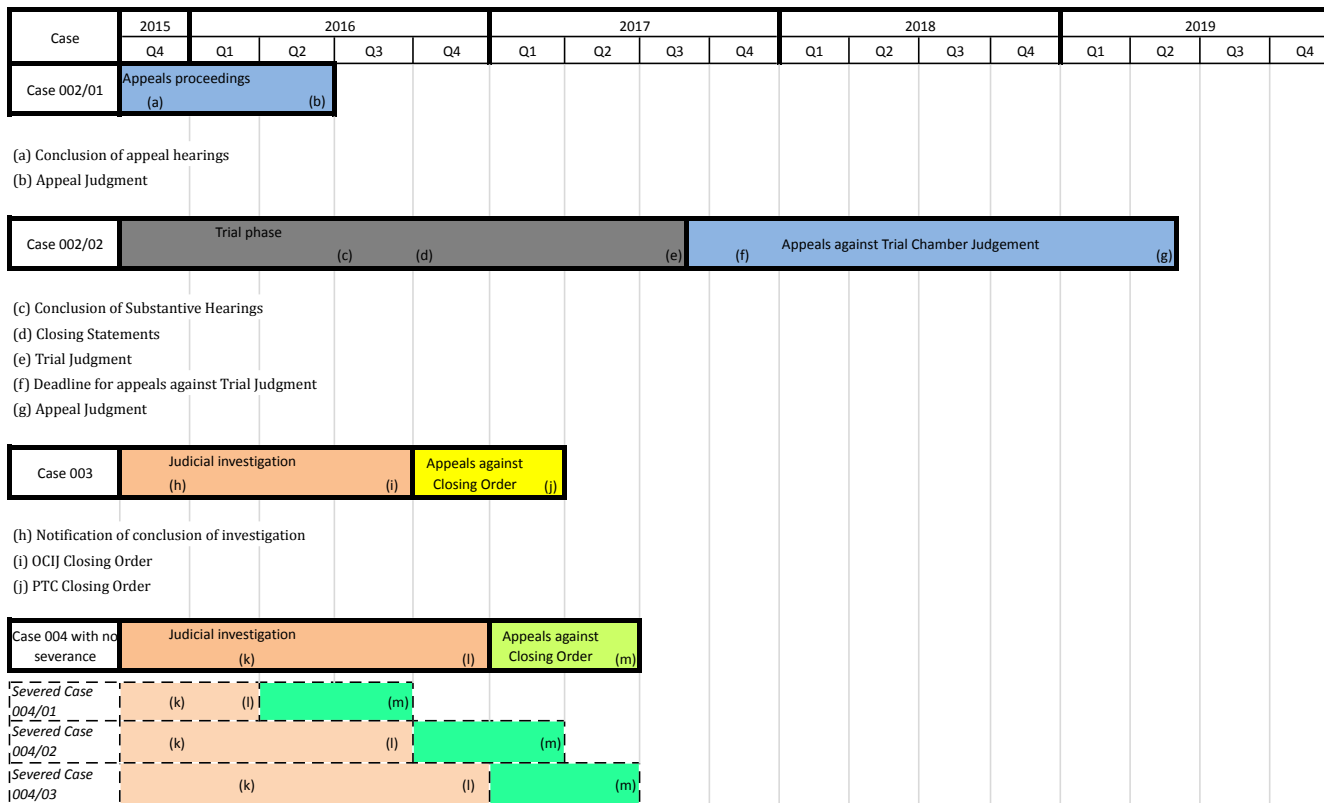
B. Case 002/02

44. For case 002/02, based on the Trial Chamber's current projection that the second trial will likely be equally complex and time consuming as the first trial, the Supreme Court Chamber similarly projects at this time that the appeal(s) against the eventual judgment of the Trial Chamber in case 002/02 will be as complex and time-consuming as the appeal in case 002/01 and factors such as requests for extensions of time to file submissions or motions proposing additional evidence, may have a prolonging effect on the duration of the appeal proceedings. Any such dimensions will need to be factored into planning after appeals have been filed.
45. Furthermore, possible immediate appeals against decisions of the Trial Chamber in case 002/02 must be decided within a statutory 3-month deadline. Extrapolating from experience in case 002/01, where on average one immediate appeal per month was filed, numerous immediate appeals are expected to arise from the trial proceedings in case 002/02 as well. This may stretch resources of the Supreme Court Chamber and affect the timeline for delivery of the appeal judgment in case 002/01.

VI. CONCLUSION

46. For 2015, appellate proceedings in case 002/01 and trial proceedings in case 002/02 will continue concurrently throughout the year. For case 002/01, it is expected that one further milestone will be reached, namely conclusion of appeal hearings. It is expected that one milestone will be reached in respect of cases 003 and 004, namely notification of conclusion of the judicial investigation in case 003. Furthermore, should case 004 be severed, it is expected that notification of conclusion of investigation in two of the three severed cases may also be issued by the end of 2015.
47. For 2016, it is expected that that three milestones will be reached in cases 002/01 and 002/02: (i) the delivery of an appeal judgment in case 002/01; (ii) the conclusion of substantive/evidentiary hearings in case 002/02; and (iii) delivery of closing statements in case 002/02. For cases 003 and 004, it is expected that three milestones will be reached: (i) issuance of closing order in case 003 with a decision of the Co-Investigating Judges either to send the case for trial or to terminate the proceedings; (ii) notification of conclusion of the judicial investigation in case 004; and (iii) issuance of closing order(s) in case 004 with a decision of the Co-Investigating Judges either to send the case(s) for trial or to terminate the proceedings.
48. For 2017, it is expected that two milestones will be reached in case 002/02, namely; (i) the delivery of a trial judgment in case 002/02; and (iii) the deadline for filing appeals against the trial judgment in case 002/02. In cases 003 and 004, it is expected that two further milestones will be reached: (i) disposal of any appeals against the closing order in case 003; and (ii) disposal of any appeals against the closing order(s) in case 004, with a decision of the Pre-Trial Chamber either to send these cases for trial or to terminate the proceedings. In the event that either or both cases are sent for trial, in whole or in part, projections of trial timelines in these cases can then be assessed.
49. During 2018 the Supreme Court Chamber will, in case of appeal against the trial judgment in case 002/02, be fully occupied with appeal hearings and deliberations.
50. For 2019, it is expected that one milestone will be reached, namely delivery of an appeal judgment in case 002/02.
51. These various projected milestones are reflected in a chart attached to this plan.

Chart of projected timelines, including milestones



(k) Notification of conclusion of investigation. The timing will depended on whether or not the case will be severed.
 (l) OCIJ Closing Order. The timing will depended on whether or not the case will be severed.
 (m) PTC Closing Order