

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)

COMPLETION PLAN

REVISION 21

30 June 2019

Summary	2
I. INTRODUCTION.....	3
II. MEASURES THAT MAY ASSIST EXPEDITIOUS COMPLETION.....	5
III. JUDICIAL INVESTIGATIONS COMPLETION PLAN	6
A. Office of the Co-Investigating Judges	6
B. Pre-Trial Chamber	7
IV. TRIALS COMPLETION PLAN	7
A. Case 002/02	8
B. Case 003, case 004/02 and case 004	8
V. APPEALS COMPLETION PLAN	9
A. Case 002/02	9
B. Case 003, case 004/02 and case 004	9
VI. CONCLUSION.....	9

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 twenty-first quarterly update of the Completion Plan covering the quarter ending 30 June 2019.

During this quarter, the co-investigating judges issued two separate closing orders in case 004 against Yim Tith in each judge’s working language, respectively. In June the Pre-Trial Chamber held three days of hearings related to appeals against the co-investigating judges’ separate closing orders in case 004/02 against Ao An.

The Completion Plan is updated to reflect the status of the judicial proceedings as of 30 June 2019.

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
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 twenty-first revision, and it incorporates adjustments based on the developments in the ongoing judicial proceedings between 1 April and 30 June 2019.
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 004.² 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 conclusion. The accused person was sentenced to life imprisonment.
5. The charges in case 002 were severed into two trials. The Trial Chamber rendered judgement in the first trial, styled 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. Appeal proceedings in the case were concluded on 23 November 2016, with the pronouncement of the Supreme Court Chamber’s judgement. The Chamber affirmed the sentence of life imprisonment imposed on both accused.
6. The second trial in this case, styled as case 002/02, focused on a representative selection of the remaining charges against Nuon Chea and Khieu Samphan. These comprised charges of genocide, war crimes and crimes against humanity on topics including the treatment of the Cham and the

¹ Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, 6 June 2003.

² 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_OCP_5_June_2012_En.pdf); and Statement by the International Co-Prosecutor regarding ECCC Caseload, 26 November 2014 (www.eccc.gov.kh/en/articles/statement-international-co-prosecutor-regarding-eccc-caseload).

Vietnamese, the Tram Kak Cooperatives (including Kraing Ta Chan Security Centre and the treatment of Buddhists), 1st January Dam worksite, the Kampong Chhnang Airfield 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. An oral summary of the findings and the disposition of the judgement was delivered on 16 November 2018. The Trial Chamber issued the trial judgement in case 002/02 in all three working languages on 28 March 2019. The Trial Chamber found Khieu Samphan and Nuon Chea guilty of genocide, war crimes and crimes against humanity, and sentenced them each to life imprisonment.³ While the co-prosecutors filed a notice of appeal on 21 June 2019, civil parties and the charged persons are expected to file their respective notices of appeal on 1 July 2019 with submissions on appeal to follow.

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. Judicial investigations in cases 003 and 004 were initiated following introductory submissions filed by the international co-prosecutor in 2009 and subsequent supplementary submissions. Case 004 was 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.
9. On 10 July 2017, the co-investigating judges issued the closing order with reasons for the dismissal of case 004/01 against Im Chaem. The international co-prosecutor filed an appeal against the closing order before the Pre-Trial Chamber. On 29 June 2018, the Pre-Trial Chamber disposed of the appeal on personal jurisdiction concluding the judicial proceedings in the case. The decision of the co-investigating judges that the Extraordinary Chambers has no jurisdiction over Im Chaem stands; ending the judicial proceedings in the case.
10. The progress of cases 003, 004/02 and 004 stands as follows:
 - a) On 28 November 2018, the co-investigating judges issued two separate closing orders in case 003 against Meas Muth in each judge's working language only (Khmer and English, respectively), with translations to follow. The international co-investigating judge indicted Meas Muth for genocide, crimes against humanity, war crimes and domestic offences. The national co-investigating judge dismissed the case for lack of personal jurisdiction. The closing orders were accompanied by decisions on civil party applications. The English translation of the closing order of the national co-investigating judge was notified on 1 February while the Khmer translation of the closing order of the international co-investigating judge was notified on 6 February 2019. Submissions on appeal by the co-lawyers for Meas Muth, the national co-prosecutor and the international co-prosecutor were filed and translated by the end of June 2019. The Pre-Trial Chamber projects its judgement(s) on appeals against the closing orders by the first quarter of 2020.
 - b) On 16 August 2018, the co-investigating judges issued two separate closing orders in case 004/02 against Ao An in each judge's working language only (Khmer and English, respectively), with translations to follow. The international co-investigating judge indicted Ao An for genocide, crimes against humanity and domestic offences. The national co-investigating judge dismissed the case for lack of personal jurisdiction. The closing orders were accompanied by decisions on civil party applications. The Khmer and English translations of the closing orders in this case were notified on 30 October and 5 November 2018, respectively. Submissions on appeal were filed by the co-lawyers of Ao An, the national

³ Case File No. 002/19-09-2007/ECCC/TC, Case 002/02 Judgement, 16 November 2018, Public (www.eccc.gov.kh/en/document/court/case-00202-judgement).

co-prosecutor and the international co-prosecutor, in one language only, in the fourth quarter of 2018, with translations filed by 28 January 2019. The Pre-Trial Chamber held three days of hearings on the appeals against the closing orders in June 2019. The Pre-Trial Chamber projects its judgement(s) on appeals against the closing orders by the fourth quarter of 2019.

- c) On 28 June 2019 the co-investigating judges issued two separate closing orders in case 004 against Yim Tith in each judge's working language only (Khmer and English, respectively), with translations to follow. The international co-investigating judge indicted Yim Tith for genocide, crimes against humanity, war crimes and domestic offences. The national co-investigating judge dismissed the case for lack of personal jurisdiction. The closing orders were accompanied by decisions on civil party applications. The closing orders are subject to appeal by the parties in the case.⁴ The Pre-Trial Chamber projects the judgement on any appeal(s) against the closing order by the third quarter of 2020.
11. During the quarter, a milestone was reached with the issuance of separate closing orders in case 004 by the national and international co-investigating judges on 28 June 2019.
 12. In view of progress over the quarter, this Completion Plan identifies five remaining milestones for the cases of which the Extraordinary Chambers are seised. The remaining milestones in case 002 and associated indicative forecasts are:
 - (i) deadline for filing any appeals against the trial judgement in case 002/02 (by third quarter of 2019); and
 - (ii) if appealed, issuance of an appeal judgement in case 002/02 (by second quarter of 2021).
 13. In cases 003, 004/02, and 004 distinct milestones have been identified for the investigation appeals phase, and in the case that indictments are found to stand, additional milestones will be identified for the trial and appellate phases.⁵ The milestones for the remainder of the investigation appeals phase are:
 - (iii) disposal by the Pre-Trial Chamber of 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 2020);
 - (iv) disposal by the Pre-Trial Chamber of appeals against the closing orders in case 004/02, either sending the case for trial or ending the judicial proceedings in the case (by fourth quarter of 2019); and
 - (v) disposal by the Pre-Trial Chamber of any appeals against the closing orders in case 004, either sending the case for trial or ending the judicial proceedings in the case (by third quarter of 2020).

II. MEASURES THAT MAY ASSIST EXPEDITIOUS COMPLETION OF PROCEEDINGS

14. The effective functioning of the Extraordinary Chambers has in the past been hampered by significant and persistent financial insecurity, which resulted in two walkouts of national staff during 2013 as well as unwarranted staff turnover. The General Assembly's approval of subventions for the calendar years 2014 through 2018 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

⁴ Rule 75(1) and (3) of the Internal Rules of the ECCC stipulates 10 and 30 days for notices and submissions on appeals, respectively.

⁵ Given the current state of proceedings, it is premature at this point to forecast specific time points in respect of eventual trial milestones.

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.

15. Following the expression of support from the Royal Government of Cambodia, the General Assembly authorized the Secretary-General on 22 December 2018, as an exceptional measure, to enter commitments in an amount not to exceed \$7.5 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2019. This timely action greatly facilitates the uninterrupted operations of the Extraordinary Chambers for the first seven months of 2019, opening space for continued solicitation of voluntary contributions. In addition, the Royal Government's commitment of direct contribution of \$3.9 million to the national component, to cover, as in 2018, the first six months of national staff costs as well as operational costs arising in 2019 is a key measure facilitating the ongoing operation of the Extraordinary Chambers' national component. In combination, these measures have ensured that the ongoing workload of the Extraordinary Chambers continues to receive sustained attention. Voluntary contributions are currently projected to amount to \$6.3 million for the international component. The national component anticipates a further voluntary contribution from an international donor of \$1 million—This is against the approved budget of \$16.01 million for the international component and \$5.37 million for the national component. Of these projected contributions, the international component has received \$4.8 million as of 30 June 2019. The balance is expected during the year.
16. 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.⁶ 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 authorized 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.⁷ 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.
17. The Office of Administration retained the services of a number of additional linguistic personnel to support the judicial offices, to ensure timely translation and transcription services.

III. JUDICIAL INVESTIGATIONS COMPLETION PLAN

18. The judicial investigation stage encompasses the jurisdictions of (a) the Office of the Co-Investigating Judges; and (b) the Pre-Trial Chamber at appellate instance.
19. Judicial investigations in cases 003 and 004 were initiated following introductory submissions filed by the international co-prosecutor in 2009 and subsequent supplementary submissions. Case 004 was 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.

A. Office of the Co-Investigating Judges

20. The Co-Investigating Judges completed their investigation in case 004 against Yim Tith by issuing two separate closing orders on 28 June 2019, each in their own working languages, with translations to follow. The national co-investigating judge dismissed the case for lack of personal jurisdiction, while the international co-investigating judge indicted Yim Tith for genocide, crimes against

⁶ Rule 66bis.

⁷ Rule 89quater.

humanity, war crimes and violations of the 1956 Penal Code. Additionally, separate decisions were issued on civil party admissions while a joint order terminated the remainder of investigations in case 004. This marked the end of all investigations by the co-investigating judges.

21. The operations of the Office of the Co-Investigating Judges will end on the date of the statutory deadline for notice of appeal against the closing orders and the ancillary decisions on civil party admissions.⁸ The statutory mandate of the co-investigating judges is completed on the same day as for the mandate of the Pre-Trial Chamber.

B. Pre-Trial Chamber

22. In the second quarter of 2019, the Pre-Trial Chamber was seized of eight appeals; four appeals in case 003 (one regarding civil party admissibility and three concerning the closing orders) and four appeals in case 004/02 (one regarding civil party admissibility and three concerning the closing orders). By the end of the reporting period, the Pre-Trial Chamber had issued two interlocutory decisions in the cases before it and one scheduling order for hearings in case 004/02.
23. During 19 through 21 June 2019, the Pre-Trial Chamber conducted three days of hearings on the appeals against the closing orders in case 004/02. The Chamber issued a report setting out relevant facts and procedural history of case 004/02, as well as the details of the appeals before the Chamber.⁹
24. The Pre-Trial Chamber intends to dispose of appeals against closing orders in cases 003 and 004/02 and potential appeals against closing orders in case 004 within a reasonable time, which, subject to the nature of the submissions and the potential filing of several concomitant appeals, is currently estimated at two quarters from the time the appeals are fully briefed. With respect to any appeals against orders on civil party applications, the Chamber would need approximately one quarter after the decisions on any appeals against closing orders are issued to dispose of all such appeals.
25. For appeals to be fully briefed, all submissions on appeal, responses to those submissions, and replies to those responses must be filed in both Khmer and either English or French. The unprecedented issuance of two separate and contradicting closing orders in cases 003, 004 and 004/02, and the co-investigating judges' recent practice of issuing the respective closing orders in their own working language only extends accordingly the time required for the appeals to be fully briefed.
26. Subject to sufficient staffing of the Pre-Trial Chamber and to the expeditious translation of the parties' submissions and judicial decisions, the current projections are as follows:
 - a) In case 004/02, the appeals against the closing orders were fully briefed by 22 April 2019, . The current projection for the completion of case 004/02 is to have any judgement(s) on appeals against the closing orders issued by the fourth quarter of 2019. The decision on the appeal against the international co-investigating judge's order on admissibility of civil party applications would then be expected by the first quarter of 2020.
 - b) In case 003, the two closing orders and the parties' submissions on appeal were translated into English and Khmer on 28 November 2018 and 14 March 2019, respectively. It is expected that the responses will be filed by the parties in one language by 1 July 2019, with translations to be filed by 22 July 2019 pursuant to the Chamber's instructions. The current projection for the completion of case 003, if all replies are filed and translated by the third quarter of 2019, is to have any judgement(s) on appeals against the closing orders issued by the first quarter of 2020.

⁸ Rule 75(3). The 10 days notice period commence on the date of the notification of the required translations.

⁹ Available at www.eccc.gov.kh/en/document/court/redacted-report-case-and-appeal.

The decision on the appeal against the international co-investigating judge's order on admissibility of civil party applications would then be expected by the second quarter of 2020.

- c) In *case 004*, the projection is to have the judgement on any potential appeal(s) against the separate closing orders, subject to the notification of their translations, and complexity and magnitude of any appeals, by the third quarter of 2020. The decision on any appeal(s) against an order on admissibility of civil party applications would then be expected by the fourth quarter of 2020.

IV. TRIALS COMPLETION PLAN

A. Case 002/02

- 27. 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-day 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 Airfield 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. Closing statements took place between 13 and 23 June 2017. Following this, the Chamber adjourned to deliberate and prepare a trial judgement in this case.
- 28. On 16 November 2018, the Trial Chamber orally pronounced the verdict in case 002/02 along with a summary of its findings, and announced that a fully-reasoned, written judgement would follow. The Chamber notified the trial judgement in all three working languages on 28 March 2019. The Chamber found Nuon Chea and Khieu Samphan guilty of crimes against humanity, grave breaches of the Geneva Conventions and genocide of the Vietnamese ethnic, national and racial group. The Chamber additionally convicted Nuon Chea of genocide of the Cham ethnic and religious group under the doctrine of superior responsibility. Both Nuon Chea and Khieu Samphan were sentenced to terms of life imprisonment. The Chamber took into consideration the life sentences imposed on Nuon Chea and Khieu Samphan in case 002/01 and merged the sentences in cases 002/01 and 002/02 into a single term of life imprisonment.
- 29. The Trial Chamber remains seized of the case file until notices of appeal have been filed by the parties before the Chamber. The Supreme Court Chamber has ordered that notices of appeal be filed by 1 July 2019. Once filed, the Trial Chamber shall forward the case file to the Supreme Court Chamber in accordance with the Internal Rules.
- 30. The accused persons' fitness to continue to participate in the trial was evaluated at the end of January 2018 and they were both found to be fit to stand trial. The medical reports noted, however, several medical conditions suffered by the accused persons and recommended that their cognitive functions continue to be evaluated on a quarterly basis. While it is seized of the case file, the Trial Chamber continues to monitor the health conditions of the accused persons in case 002 (including Abbreviated Mental Tests) and implement recommendations by treating physicians.

B. Case 003, case 004/02 and case 004

- 31. Judicial investigations in cases 003 and 004 were initiated following introductory submissions filed by the international co-prosecutor in 2009. Case 004 was subsequently severed into three case files

of which two remain active: case 004/02 related to Ao An; and case 004 related to Yim Tith.

32. Until final decisions are made on whether all or any of case 003, case 004/02, 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(s).

V. APPEALS COMPLETION PLAN

A. Case 002/02

33. The Supreme Court Chamber projects that the length of time and resources required for appeals by any of the parties against the Trial Chamber judgement in case 002/02 will, without any other information, be of the same scale as that for case 002/01. Having extended the period of filing notices of appeal by two months, and presuming that appeal briefs are filed within statutory timeframes, the Chamber anticipates that it will be in a position to commence deliberations from the fourth quarter of 2019 once translations of the appeals have been provided. On this basis, the Chamber projects that an appeals judgement would be delivered in the second quarter of 2021.

B. Case 003, case 004/02 and case 004

34. Should case 003, 004/02, case 004 proceed to trial, immediate appeals as well as appeals against eventual judgements of the Trial Chamber may 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

35. A milestone was reached during the quarter with the filing of separate closing orders in case 004 by the national and international co-investigating judges in their respective working languages.
36. For 2019, it is expected that one milestone will be reached in case 002/02 with: (i) the deadline for any appeals against the trial judgement. One additional milestone will be reached with: (ii) the disposal of appeals against the closing orders in case 004/02 against Ao An with a decision of the Pre-Trial Chamber either to send the case for trial or to terminate the proceedings.
37. For 2020, two milestones are expected with: (iii) the disposal of appeals against the closing orders in case 003 against Meas Muth with a decision of the Pre-Trial Chamber to either send the case for trial or terminate the proceedings; and (iv) the disposal of any appeals against the closing order in case 004 with a decision of the Pre-Trial Chamber either to send the case for trial or to terminate the proceedings.
38. For 2021, one milestone is expected with (v) the issuance of an appeal judgement in case 002/02 by the Supreme Court Chamber.
39. If all or any of case 003, case 004 and case 004/02 are sent for trial, in whole or in part, timelines in these cases will then be projected.
40. The various projected milestones are reflected in a chart attached to this plan.

Chart of projected timelines, including milestones

Completion Plan, revision 21 - 30 June 2019

Case	2017				2018				2019				2020				2021			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Case 002/02	Trial phase												Appeals phase							
	(a)				(b)				(c)	(d)				(e)						
(a) Closing statements																				
(b) Trial judgement - summary and disposition																				
(c) Trial judgement - reasoned, in three languages																				
(d) Deadline for appeals against trial judgement																				
(e) Appeal judgement																				
Case 003 Meas Muth	Investigation phase								(f)	(g)	Appeals against the closing orders				(h)					
Case 004/02 Ao An	Investigation phase								(f)	(g)	Appeals against the closing orders				(h)					
Case 004 Yim Tith	Investigation phase								(f)	(g)	Appeal(s) against the closing order				(h)					

(f) Separate closing orders in one language only

(g) Separate closing orders in both English and Khmer

(h) Pre-Trial Chamber decision(s) on appeals against closings orders