

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

**COMPLETION PLAN**

**REVISION 15**

**31 DECEMBER 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 fifteenth quarterly update of the Completion Plan covering the quarter ending 31 December 2017.

During this quarter, the Trial Chamber continued deliberating on its verdict and drafting the trial judgement.

During this quarter, the co-investigating judges received the final submission from the co-prosecutors in case 003 and the defence response to the co-prosecutors’ final submissions in case 004/02. In case 004, the international co-prosecutor filed an appeal against a decision regarding an additional investigative request which prevents the case from being forwarded to the co-prosecutors for their final submissions. The defence filed an annulment motion.

The Completion Plan is updated to reflect the status of the judicial proceedings as of 31 December 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>1</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 fifteenth revision, and it incorporates adjustments based on the developments in the ongoing judicial proceedings between 1 October and 31 December 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>2</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>1</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>2</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. The civil party lead co-lawyers submitted their final claim for reparations on 30 May 2017 and their supplemental submission on funding issues on 30 November 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 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 investigations in case 003 and 004 stand as follows,
  - a) On 10 July 2017, the co-investigating judges issued the closing order with the full reasons for the dismissal of case 004/01. The closing order is on appeal before the Pre-Trial Chamber.
  - b) On 25 July 2017, the international co-investigating judge forwarded the case file 003 to the Office of the Co-Prosecutors for final submissions. The co-prosecutors filed their final submission on 27 November 2017. The closing order in this case is expected during the third quarter of 2018.
  - c) On 18 and 21 August 2017, the co-investigating judges received the final submissions in case 004/02 of the national and international co-prosecutor, respectively. On 30 October the co-investigating judges received the response by the defence. The closing order in this case is expected during the second quarter of 2018.
  - d) On 5 September 2017, the investigation in case 004 was closed for the second time after dealing with a number of additional requests from the parties. On 25 October 2017, the international co-prosecutor filed an appeal against a decision regarding an additional investigative request in case 004. The case file can be forwarded to the co-prosecutors for their final submissions only once a decision on the appeal has been issued by the Pre-Trial Chamber. The closing order in this case is expected during the fourth quarter of 2018.
9. In view of progress over the last quarter, this Completion Plan identifies 10 remaining milestones for the cases of which the Extraordinary Chambers are seised. The remaining milestones in case 002 and associated indicative forecasts are:
  - (i) issuance 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) if appealed, issuance of an appeal judgement in case 002/02 (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 for the trial and appellate phases.<sup>3</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 judicial proceedings (by third 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 second quarter of 2019);
  - (vi) issuance of closing order in case 004, with a decision either to send the case for trial or to end the judicial proceedings (by fourth 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 2019);
  - (viii) disposal by the Pre-Trial Chamber of the appeals against the closing order in case 004/01, either sending the case for trial or ending the judicial proceedings in the case (by second quarter of 2018);
  - (ix) issuance of closing order in case 004/02, with a decision either to send the case for trial or to end the judicial proceedings (by second quarter 2018); and
  - (x) 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 first quarter of 2019).

## **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 24 December 2017, as an exceptional measure, to enter into commitments in an amount not to exceed \$8 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2018. This timely action greatly facilitates the uninterrupted operations of the Extraordinary Chambers for the first four months of 2018, opening space for continued solicitation of voluntary contributions. In addition, the Royal Government's commitment of direct contribution of \$4.0 million, to cover, as in 2017, the first six months of national staff costs as well as operational costs arising in 2018 is a key measure facilitating the ongoing 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 continues to receive sustained attention. Voluntary contributions are currently projected to

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<sup>3</sup> The closing order 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.

amount to \$9.22 million for the international component and \$0.13 million for the national component, against the approved budget of \$18.93 million for the international component and \$5.79 million for the national component for 2018. Of these, the international side has received \$0.48 million so far and the balances are expected during the year.

13. The General Assembly approved a subvention of \$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. As of 31 December 2017, voluntary contributions of \$9.37 were received, for a total of \$20.37 million available resources. Final expenditures for 2017 are estimated to be within the above level of resources. At the end of 2017, the national component had received a direct support of \$4.15 million from the Royal Government of Cambodia and \$1.73 million in voluntary contributions for a total of \$5.88 million available resources. Final expenditures for 2017 are estimated to be within the above level of resources.
14. The projections of the timelines 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 emerge, there may be need to revise the timelines accordingly.
15. 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>4</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>5</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.
16. With the aim of augmenting the investigative capacity of the Office of the Co-Investigating Judges, nine international legal officers were accredited by the Ministry of Justice to conduct investigative interviews, a task normally falling to the investigators. The international co-investigating judge also benefitted from additional qualified personnel under non-reimbursable loan arrangements and additional interns allocated to the Office. This enhanced capacity accelerated the pace of the investigations. Further, the Office of Administration has 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

17. 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 case 004 remaining as 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.

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<sup>4</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>5</sup> Rule 89*quater*.

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

18. During the investigations in cases 003 and 004, 269 field missions were carried out and 1,411 witness statements taken. Investigative missions have now ceased in all cases. More than 2,500 civil party applications are being scrutinized in preparation for the decision on admission or rejection.
19. By the end of this quarter, the cases stand as follows:
  - a) In case 003, the co-investigating judges received the final submission by the national co-prosecutor on 14 November 2017, and the final submission of the international co-prosecutor on 27 November 2017. The response from the defence is expected at the beginning of the second quarter and the closing order is expected by the third quarter of 2018.
  - b) In case 004/02, the co-investigating judges received the defence's response to the final submissions of the co-prosecutors on 30 October 2017. The closing order in this case is expected by the second quarter of 2018.
  - c) In case 004, the international co-prosecutor filed an appeal against a decision regarding an additional investigative request, on 25 October 2017. The case file can be forwarded to the co-prosecutors for their final submissions only once a decision on the appeal has been issued by the Pre-Trial Chamber. The closing order in this case is expected by the fourth quarter of 2018.
20. In case 003, the international co-prosecutor filed the final amended submission in English on 27 November 2017, numbering some 950 pages. Upon filing of the Khmer translation, which is expected to take eight weeks to complete, the defence will have 80 days to respond. The defence filing is expected by April 2018 in English, followed by the translation into Khmer. As per the practice and procedure of the Court, any response or appeal period begins only once the Khmer version of a document is notified. It should also be remembered that the national co-investigating judge and his team work mainly with the Khmer versions of any document filed.
21. In case 004/02, the defence's response to the co-prosecutor's final submissions was filed in English on 30 October 2017 and in Khmer on 28 December 2017.
22. The investigation in case 004 was closed for the second time on 5 September 2017 after a number of additional requests from the parties had been dealt with. On 25 October 2017, the international co-prosecutor filed an appeal against a decision on such an additional investigative request. Under Internal Rule 66(4), this appeal prevents the judges from issuing the forwarding order for the final submissions by the co-prosecutors until the Pre-Trial Chamber has decided on the appeal. As a result, it is unlikely that all party submissions will be filed by the third quarter of 2018. The defence filed another annulment motion with the co-investigating judges on 8 November 2017.<sup>6</sup> Similar issues regarding the time needed for translation as in case 003 may arise in case 004.
23. The progress of these cases continues to depend substantially on factors outside the judges' control, in particular on sufficient funding, adequate staffing, timely recruitment for vacant posts and expeditious translations.
24. Almost all staff act in multiple roles across teams or in administrative capacities, either permanently or ad hoc. The limited staffing and its composition make the Office vulnerable to staff shortages and even minor staff turnover, posing a serious risk to ensuring the Office's institutional memory. Key staff leaving – for instance against the background of the overall funding situation,

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<sup>6</sup> On 8 January 2018, the international co-investigating judge forwarded the annulment motion filed by the defence to the Pre-Trial Chamber for it to determine the motion.

the approaching end of the Office's mandate, or career planning – represents another serious risk to the projected timelines. New staff will need time to familiarise themselves with the proceedings and the evidence in order to work effectively on the case, and this will have an unavoidable impact on the progress of the cases.

25. Timely provision of translation services and the availability of experienced legal staff are thus of paramount importance during the drafting phase. This is a predicament shared by all protagonists in the proceedings. The international co-prosecutor has advised the judges that based on his own resource restrictions he will not be able to submit his final submissions in Khmer and English within the three months allotted by the Internal Rules; similar concerns have been voiced by all defence teams with regard to their responses to the co-prosecutors final submission. The co-investigating judges have deemed those concerns legitimate and have accordingly permitted a variation of the submission procedure.
26. Furthermore, the maximum length of final submissions and responses is neither regulated under the Internal Rules nor under the relevant Practice Direction on the Filing of Documents. While the co-investigating judges may in extreme cases exercise their inherent powers to set page limits, these filings are the last substantive arguments presented by the prosecution and the defence before the issuance of the closing order and hence the co-investigating judges are of the view that they are not to be interfered with lightly.
27. Lack of adequate resources will impact on the drafting of the closing orders in all cases. The length and timeliness of the final submissions and responses, as well as the concomitant translation issues mentioned, are a case in point for the potential for extension of timelines.<sup>7</sup>
28. The above-mentioned factors result in the issuance of the closing orders as follows (these timelines cannot and should not be considered as anything more than a fair-weather estimate):
  - a. In *case 003*, by the third quarter of 2018.
  - b. In *case 004*, by the fourth quarter of 2018.
  - c. In *case 004/02*, by the second quarter of 2018.

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

29. In 2017, the Pre-Trial Chamber issued 22 judgements on 15 appeals and seven applications for annulment, as well as eight related interlocutory decisions. Four of these judgements were issued since the last revision of the Completion Plan, all within one to three months after the Pre-Trial Chamber was seised. The Chamber has thus increased its activity in comparison with 2015 and 2016, when it issued, respectively, 15 and 19 judgements.
30. The Pre-Trial Chamber held on 11 and 12 December 2017 its first collegial hearing, pursuant to Internal Rules 77(3), 77(5) and 77(6), to hear the oral submissions of the parties on the appeal against the closing order in case 004/01.

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<sup>7</sup> The drafting time for the closing order was around three months from the filing of the final submission in the rather compact case 001 and about eight months after the final submission in case 002, which was similar to case 004 in complexity. However, in case 004/01, which is larger than case 001 but less complex than case 004, the drafting of the reasons for the dispositive part of the closing order of 22 February 2017 took almost five months from that date alone but had also been ongoing before then. Case 004/02 is more complex than case 004/01 but somewhat less than case 004.



31. By the end of the reporting period, the Pre-Trial Chamber was seised of five appeals and annulment motions, one having been filed since the last revision of the Completion Plan:
  - a. In *case 003*, one annulment motion.
  - b. In *case 004*, one appeal and one annulment motion.
  - c. In *case 004/01*, one appeal against the substance of the closing order and one appeal related to its classification.
  
32. The Pre-Trial Chamber stays committed to dispose of any potential appeals against closing orders in cases 003 and 004 within a reasonable time which, subject to the nature of the submissions, staffing and translation constraints, is currently estimated at six months from the time the appeal is “fully briefed” – i.e. when all parties have exercised their right to file written submissions. In case 004/01, for instance, the filing of all written submissions on appeal had been completed on 14 November 2017 and had thus taken four months from the issuance of the reasons of the closing order. The current projections are therefore as follows:
  - a. In *case 003*, the judgement by the Pre-Trial Chamber on any appeal against the closing order is projected by the second quarter of 2019;
  - b. In *case 004*, the judgement by the Pre-Trial Chamber on any appeal against the closing order is projected by the third quarter of 2019;
  - c. In *case 004/01*, the judgements on the two appeals are projected by the second quarter of 2018; and
  - d. In *case 004/02*, the judgement by the Pre-Trial Chamber on any appeal against the closing order is projected by the first quarter of 2019.
  
33. The projections for any potential appeals against closing orders in cases 003, 004/02 and 004 are based on the Office of the Co-Investigating Judges’ timelines and depend on the closing orders being issued with full reasoning as estimated.
  
34. All projections are also dependent on the time necessary to have the appeals fully briefed, on the available staffing of the Pre-Trial Chamber and on the timely translation of the parties’ submissions and judgements in the three languages of the Court.
  
35. In the event that appeals against orders of the Office of Co-Investigating Judges on civil party applications are filed, the Pre-Trial Chamber would need an approximate time of three months, after the judgements on any appeals against closing orders are issued, to dispose of such appeals.

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

36. 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.
  
37. 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*

38. 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.
39. 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 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.
40. 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 twelfth revision 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.
41. 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, the first quarter of 2017 and again in the final quarter of 2017, judgement drafting preparations were negatively impacted by staff turnover in the Chamber. The Chamber is experiencing the systemic lengthiness inherent in the UN recruitment process. These may impact the Chamber's ability to issue the judgement in French in line with the projections made by the completion plan. More staff turnover may be expected in view of the uncertain financial situation of the court, the associated short-term contracts and the imminent completion of the case 002/02 trial judgement, which has increasingly motivated staff to look for more secure and longer-term employment.
42. 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 could 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 final French translation of this decision, earlier expected by the end of July 2017, is currently envisaged for the end of 2017.<sup>8</sup> Regarding trial transcripts, 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. While the Nuon Chea defence requested that all transcripts were finalised prior to 31 March 2017 in order that closing briefs could reflect accurate information, the transcript finalisation process was completed by 30 June 2017 for English and by 24 July 2017 for Khmer and French transcripts.

43. On the basis of this timeline, and in response to parties' requests, the Chamber granted a one-week extension for the filing of closing briefs and rescheduled the start of closing statements to 13 June 2017. The judgement drafting process has been complicated by uncertainty as to the accuracy of the present trial record and the corresponding time taken to finalise the transcripts of hearings. As a result of this situation, the Chamber granted the Nuon Chea defence request for parties to file amendments to their closing briefs following the finalisation of the transcripts of proceedings. Revised closing briefs were submitted by the 30 September 2017 deadline. The Chamber continues to evaluate the effect that amendments based upon the substantive corrections to the transcripts may have on the Chamber's evaluation of evidence. While this does not yet appear to have any impact on the timing of the issuance of the case 002/02 judgement, the evaluation process remains ongoing in the context of deliberations.
44. 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 issuance 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. The Chamber received the Khmer translation of the text portions of each closing brief in mid-September, and the footnote portions in December.
45. 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. Such medical evaluation is planned for the first quarter of 2018.
46. In view of the above factors, the Chamber continues to aim for issuance of the judgement by the second quarter of 2018. However, it notes that that issues including ECCC financing, Chamber staffing and the translation of the judgement into Khmer and French may yet necessitate an extension until the third quarter of 2018.

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

47. 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***

48. 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

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<sup>8</sup> The French translation was notified to the parties on 9 January 2018.

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***

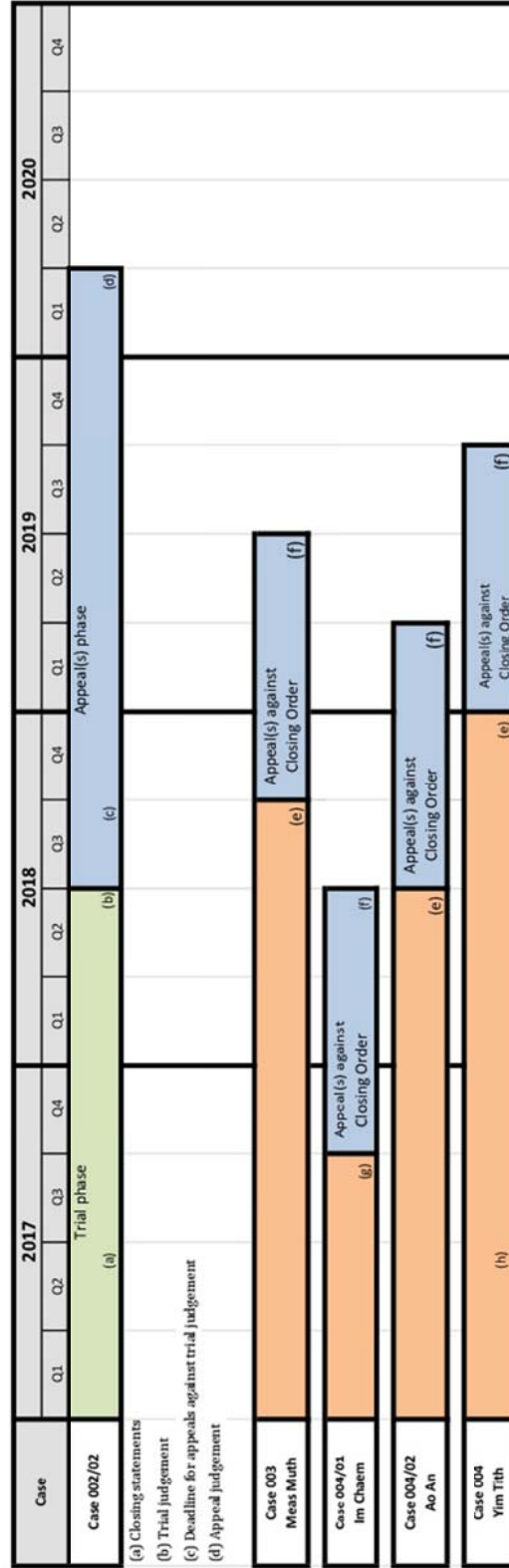
49. Should case 003 and/or 004 proceed to trial, immediate appeals as well as appeals against eventual judgements of the Trial Chamber may arise. Nevertheless, given that it is currently not known which cases, if any, will proceed to trial and on which charges, it is premature to provide any estimate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

**VI. CONCLUSION**

50. For 2018, it is expected that two milestones will be reached in case 002/02: (i) the issuance of the trial judgement; and (ii) the deadline for any appeals against the trial judgement. In respect of cases 003, 004/01, 004/02 and 004, four 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 appeals against the closing orders in (iv) case 004/01 in respect of Im Chaem, with a decision of the Pre-Trial Chamber either to send the case for trial or to terminate the proceedings.
51. For 2019, it is expected that three milestones will be reached, disposal of any appeals against the closing orders in (i) case 004/02 in respect of Ao An, (ii) case 003 in respect of Meas Muth and (iii) 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.
52. For 2020, it is expected that one milestone will be reached, namely (i) issuance of an appeal judgement in case 002/02.
53. 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.
54. The various projected milestones are reflected in a chart attached to this plan.

## Chart of projected timelines, including milestones

Completion Plan, revision 15 - 31 December 2017



(a) Closing statements

(b) Trial judgement

(c) Deadline for appeals against trial judgement

(d) Appeal judgement

(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