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Prosecutors file final Case 002 submission **James O'Toole** **August 17, 2010**

Prosecutors at the Khmer Rouge tribunal have filed their final submission for the court's second case, paving the way for the indictment and trial of four senior regime figures currently in custody.

The prosecutors requested that the four suspects – former Khmer Rouge Brother No 2 Nuon Chea, head of state Khieu Samphan, foreign minister Ieng Sary and minister of social action Ieng Thirith – be tried for an array of charges for which they have been investigated since 2007, including genocide and crimes against humanity.

“The Co-Prosecutors believe that the evidence collected in the judicial investigation demonstrates that the Charged Persons committed these crimes through a joint criminal enterprise, the purpose of which was to enforce a political revolution in Cambodia and systematically destroy any opposition,” the court said in a statement yesterday.

Anne Heindel, a legal adviser for the Documentation Centre of Cambodia, said joint criminal enterprise, a form of liability in which suspects may be convicted for offences committed as part of a common plan, would be key to the prosecution's strategy.

“They certainly are making that the centrepiece of what they plan to allege, that [the suspects] acted together and they all agreed, so they're going to try to link them all to each other,” Heindel said.

Although former Tuol Sleng prison chief Kaing Guek Eav was also a subject of the Case 002 investigation, prosecutors asked yesterday that the case against him be dismissed.

The Khmer Rouge jailer, better known as Duch, was convicted last month of crimes against humanity and grave breaches of the Geneva Conventions in the tribunal's first case.

“The Co-Prosecutors believe that the removal of Duch from Case 002 would assist in securing

the fair and expeditious trial of Nuon Chea, Ieng Sary, Khieu Samphan and Ieng Thirith, whose criminal responsibility ... is yet to be determined,” the court’s statement said.

Heindel said Duch would likely be brought in as a witness when the case goes to trial.

With the filing of the final submission, the court’s co-investigating judges are now set to issue the “closing order”, at which time final decisions on indictments and on the admissibility of the almost 4,000 people who have applied to participate in Case 002 as civil parties will be made.

The judges have said they expect to release the closing order in September, prior to the September 19 deadline by which Nuon Chea will have served three years in pretrial detention. Defendants held without indictment for more than three years are required to be released on bail under court rules.

United Nations court spokesman Lars Olsen said there are “no timelines in the rules” for the time lag between indictments and the start of trial proceedings, though appeals to the closing order must be handled within four months.

Substantive hearings in the Duch trial began roughly eight months after the closing order, so if the court hews to a similar time frame in Case 002, hearings would open around May.

The process could be expedited, however, by the fact that the court’s Pre-Trial Chamber now sits full-time in Phnom Penh and may dispense with appeals more quickly.

ADDITIONAL REPORTING BY CHEANG SOKHA