

ANNEX TO ICC/INF/2006/003

**Rules of Procedure of the
Appeals Board
of the International Criminal Court**

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RULES OF PROCEDURE OF THE APPEALS BOARD

SECTION I: GENERAL

Rule 1: Use of terms

For the purpose of these rules of procedure, unless otherwise indicated:

"Administrative decision" shall mean any decision affecting a staff member's term of appointment, including all pertinent regulations and rules.

"Appeal" shall mean a complaint which is being pursued under Chapter XI of the Staff Rules of the International Criminal Court.

"Appellant" shall mean any staff member who has initiated a complaint under the provisions of Chapter XI of the Staff Rules.

"Appeals Board" shall mean the nine-person body consisting of members and alternate members established in accordance with Staff Rule 111.2(b) (ICC/INF/2006/002 dated 18 January 2006).

"Conciliating Officer" shall mean the member or alternate member of the Appeals Board providing assistance, with the consent of the staff member, to the Registrar or the Prosecutor, as appropriate, in resolving the case through conciliation upon request for review of an administrative decision, pursuant to Staff Rule 111.1(c).

"Conciliatory proceedings" shall mean the procedure under Staff Rule 111.1(c) aimed at reaching a conciliatory conclusion with or without the assistance of a Conciliating Officer.

"Counsel" shall mean a staff member or a former staff member assisting or representing the appellant in an appeal under Chapter XI of the Staff Rules, in accordance with Staff Rule 111.1(e).

"Day" shall mean calendar day, unless otherwise indicated.

"ILOAT" shall mean the Administrative Tribunal of the International Labour Organisation.

"Panel" shall mean the three-person body constituted by the Chairperson of the Appeals Board to consider an appeal and shall consist of a chairperson and two other members or alternate members of the Appeals Board.

"Parties" shall mean the appellant and the respondent.

"Representative" shall mean the staff member designated by the Registrar or the Prosecutor, as appropriate, to represent him or her in an appeal.

"Respondent" shall mean the Registrar or the Prosecutor, as appropriate, or his or her representative as defined above.

"Secretary" shall mean the Secretary or his/her alternate appointed by the Registrar, in consultation with the Prosecutor, in accordance with Staff Rule 111.2(d).

"Staff Rules" shall mean the Staff Rules of the International Criminal Court promulgated by the Registrar, in agreement with the Presidency and the Prosecutor, on 20 April 2005 (ICC/AI/2005/003).

SECTION II: REVIEW

Rule 2: Review of the administrative decision

(a) Appeal proceedings may be initiated by a staff member only after the administrative decision has been reviewed by the Registrar or the Prosecutor, as appropriate, in accordance with Staff Rule 111.1(b). A request for review of the administrative decision shall be submitted to the Secretary within thirty days of notification of such decision.

(b) If the Registrar or the Prosecutor, as appropriate, has not responded to a request for review within thirty days after the request for review has been submitted to him or her, the staff member shall have the right to exercise his or her right to appeal.

SECTION III: CONCILIATION

Rule 3: Conciliation initiated under Staff Rule 111.1(c)

(a) In reviewing an administrative decision, the Registrar or the Prosecutor, as appropriate, may with the consent of the staff member concerned, seek the assistance of a Conciliating Officer with a view to reaching a conciliatory conclusion on the matter. The conciliatory proceedings should be completed within thirty days from the date on which the Registrar or the Prosecutor, as appropriate, initiates conciliatory proceedings. This thirty-day period may be extended if there are grounds to believe that conciliation may be achieved by such an extension.

(b) The time-limit in filing an appeal shall be suspended pending the conclusion of the conciliatory proceedings.

(c) If conciliation fails, the Registrar or the Prosecutor, as appropriate, shall notify in writing the staff member concerned.

(d) As conciliation methods or efforts are deemed to be without prejudice, such efforts or the terms considered are inadmissible as evidence and may not be referred to in the course of subsequent appeal proceedings, unless otherwise agreed by the parties in writing.

SECTION IV: APPEAL PROCEDURE

Rule 4: Appeal of an administrative decision

(a) A staff member who wishes to appeal an administrative decision shall file a statement of appeal with the Secretary.

(b) An appeal may be filed within the following time-limits:

- i. within thirty days after the notification of the decision of review of the Registrar or the Prosecutor, as appropriate; or
- ii. in the absence of a decision of review by the Registrar or the Prosecutor, as appropriate, within thirty days after such decision was due in accordance with the rule 2(b) above; or
- iii. in the event of failed conciliatory proceedings, within thirty days after notification as referred in the rule 3(c) above; or
- iv. within thirty days from the expiration of the time-line(s) as set forth in rule 3(a) above.

(c) The Secretary shall promptly notify the Chairperson of the Appeals Board that an appeal has been filed.

(d) As soon as an appeal is filed with the Secretary, the Chairperson of the Appeals Board shall constitute a Panel to consider the appeal. In doing so he or she shall follow the composition of the Appeals Board as described in Staff Rule 111.2(b) taking into account the availability of individuals, a possible conflict of interest and/or other relevant factors. In case Staff Rule 111.2(l) is applied, the Chairperson shall include in the Panel a member elected by the Staff Representative Body from the Registry or from the Office of the Prosecutor, as appropriate, taking into account the same factors. The composition of the Panel shall not be changed during the appeal, as far as possible.

(e) As soon as a Panel is constituted the Secretary shall notify the parties of the composition of the Panel in writing.

Rule 5: Admissibility

(a) An appeal is receivable only if it complies with the format and the time-limits set forth in Staff Rules and these rules of procedure.

(b) The Panel shall decide, at its own discretion, whether to consider admissibility as a preliminary issue or in conjunction with the whole appeal. In either situation the Panel may request statements, supporting evidence and comments relating specifically to this issue and shall decide, on the basis thereof, if exceptional circumstances justify a waiver of the time-limits or format of the appeal, bearing in mind that the onus of proving exceptional circumstances lies with the appellant.

Rule 6: The statement of appeal

(a) In order to submit a statement of appeal the appellant shall complete and sign the form called "Statement of Appeal" which appears in Appendix A of these rules of procedure. The statement of appeal shall include:

- i. the name and contact details of the appellant and his or her present or former status with the Court;
- ii. the administrative decision being contested and the outcome of the administrative review;
- iii. a clear statement of the relevant facts in chronological order, the relevant arguments for the appeal, as well as any relevant documents supporting the facts or arguments;
- iv. a description of the specific remedy requested;
- v. the name of Counsel representing the appellant, if any.

(b) A statement of appeal shall not exceed ten one-sided double-spaced pages. Upon request of the appellant, the Panel may, in exceptional circumstances, accept longer submissions.

Rule 7: Incomplete statement of appeal

In case of an incomplete statement of appeal, the Secretary shall request the appellant in writing to submit within ten days a full statement of appeal. If the appellant fails

without providing good reasons to submit a full statement of appeal within the set time-line, the appeal shall be deemed to have been abandoned.

Rule 8: The response

(a) The Registrar or the Prosecutor, as appropriate, shall submit a written response within twenty days after the receipt of the appeal. Upon request of the respondent, the Panel may, in exceptional circumstances, extend such deadline.

(b) A response shall not exceed ten one-sided double-spaced pages. Upon request of the Registrar or the Prosecutor, as appropriate the Panel may, in exceptional circumstances, accept longer submissions.

Rule 9: Consideration of the appeal by a Panel

(a) The Panel shall promptly consider the appeal and the respondent's response. It shall not delay the consideration of the appeal in case of absence of such response, or at the expiration of any extension.

(b) The Panel may, on its own initiative or at the request of a party, ask for further written observations. The Panel may also request any necessary information from any party, witness or expert by written interrogatory, in accordance with Staff Rule 111.3(d). The Panel shall have the discretion to decide whether it will seek such material through its Secretary or whether it will request that it be obtained by one of the parties. The Panel may also call a hearing. The Panel shall set a time-limit for the submission of written observations or information.

Rule 10: Communication of written submissions by the parties

(a) Each written submission shall be presented to the Panel through its Secretary. The parties shall submit an original (where available) with five copies.

(b) Submissions to the Panel shall be in English or French, the working languages of the Court.

(c) A copy of each written submission submitted to the Panel in connection with an appeal shall be communicated by the Secretary, upon receipt, to the other party. If a party or witness refuses to produce a document on the grounds of confidentiality, the Panel may demand its production for the limited purpose of determining whether its relevance overrides its confidentiality, without first transmitting a copy to the other party. Should it be so determined, a copy of such document, or only the relevant parts thereof, may be transmitted to the other party.

Rule 11: The report of the Panel

(a) The Panel shall, by majority vote, adopt and submit a written report to the Registrar or the Prosecutor, as appropriate, as soon as possible after considering the appeal, in accordance with Staff Rule 111.3(f).

(b) The Secretary shall notify the appellant of the date on which the Panel's report was submitted to the Registrar or the Prosecutor, as appropriate.

Rule 12: Suspension of action

Upon receipt of a request for suspension of action of an administrative decision, in accordance with Staff Rule 111.4(b), the Panel shall promptly seek the views of the Registrar or the Prosecutor, as appropriate. The Panel may also request additional information either in writing or orally from the appellant or the Registrar or the Prosecutor, as appropriate.

Rule 13: Abandonment of an appeal

(a) It is the obligation of an appellant who intends to pursue his or her appeal to keep the Panel informed of any change of address or telephone number.

(b) If the Panel makes two successive attempts to communicate with the appellant at the address indicated in the statement of appeal or thereafter communicated in writing to the Secretary and receives no response within a reasonable period of time, or if a communication is returned marked "addressee unknown", the Chairperson of the Panel may deem the appeal to have been abandoned.

(c) Exceptionally, an abandoned appeal may be restored upon provision of good reasons. If the appeal was deemed abandoned for failure by the appellant to submit a full statement of appeal, any such motion to restore a case must be accompanied by the full statement of appeal.

Rule 14: Withdrawal of an appeal

An appellant may withdraw his or her appeal at any time prior to being notified that the Panel has submitted its report to the Registrar or the Prosecutor, as appropriate. Withdrawal of an appeal must be in writing, signed by the appellant and/or his or her Counsel and submitted to the Secretary.

SECTION V: SETTLEMENT

Rule 15: Settlement of an appeal

(a) An appeal may be settled in a binding resolution at any stage in the proceedings prior to notification to the appellant that the Panel has submitted its report to the Registrar or the Prosecutor, as appropriate. A staff member, the Registrar or the Prosecutor, as appropriate, may seek the assistance of a member or an alternative member of the Appeals Board with a view to reaching an amicable settlement.

(b) Once the Panel has begun its consideration of the case, the parties may be granted, if they so request, an adjournment of the proceedings for the purpose of conducting settlement negotiations. If a settlement has not been reached during that period, the Panel will resume its considerations.

(c) If an amicable settlement is reached, the appellant or Counsel shall submit a written statement to the Secretary that the parties have reached an amicable settlement and he/she withdraws the appeal.

(d) As settlement efforts are deemed to be without prejudice, such efforts or the terms considered are inadmissible as evidence and may not be referred to in the course of the Panel's consideration of the appeal, unless otherwise agreed by the parties in writing.

SECTION VI: DISQUALIFICATION

Rule 16: Disqualification of a Panel member

(a) A request for disqualification of a Panel member on his or her own motion or by either party under Staff Rule 111.2(j) shall be made in writing within five days of receipt of notice of the composition of the Panel, and shall state the reason for requesting such disqualification. If, however, either party becomes aware of information which it considers grounds for disqualification of a Panel member, for the first time after the five days have passed, it may then present such a request. The decision on such request shall be made by the Chairperson of the Appeals Board. If the request concerns the Chairperson of the Appeals Board, the decision on such request shall be taken by the first alternate chairperson.

(b) Notwithstanding paragraph (a) above, a Panel member shall be disqualified if he or she has a pending appeal before a Panel. He or she shall again be eligible to participate on a Panel after the Registrar or the Prosecutor, as appropriate, has issued a decision in his or her appeal, or, if the appeal has been settled.

(c) A member, an alternate member, the Secretary shall not serve as Counsel in cases before a Panel.

SECTION VII: RESPONSIBILITIES

Rule 17: Responsibilities of the Chairperson of the Appeals Board

(a) In addition to the responsibilities set forth in other provisions of these rules of procedure, the Chairperson of the Appeals Board shall be responsible for the following:

- i. chairing Appeals Board meetings;
- ii. ensuring the maximum dispatch of cases;
- iii. designating Conciliating Officers, if and when requested by the parties.

(b) If the Chairperson deems it necessary, he or she may call a meeting of the Appeals Board, to consider any relevant issues.

Rule 18: Responsibilities of the chairperson of the Panel

In addition to the responsibilities set forth in other provisions of these rules of procedure, the chairperson of the Panel shall be responsible for the following:

- i. chairing Panel meetings and hearings;
- ii. supervising and implementing time-limits described;
- iii. deciding that an appeal has been abandoned.

Rule 19: Responsibilities of the Secretary

(a) The Secretary shall convene meetings of and coordinate all matters related to the Appeals Board and a Panel.

(b) The Secretary shall take minutes of all meetings and hearings of the Appeals Board or a Panel.

SECTION VIII. FINAL CLAUSES

Rule 20: Meetings of the Appeals Board

(a) The Chairperson shall call twice-yearly plenary meetings for the purpose of considering any matter of concern to the Appeals Board.

(b) An ad hoc plenary meeting may be convened by the Chairperson when, in his or her opinion, it is necessary to immediately deal with a matter of concern to the Appeals Board. An ad hoc plenary meeting may also be called by petition of one third of the total membership of the Appeals Board.

(c) Decisions, other than amendments to these rules of procedure, shall be taken by a majority vote of those members and alternate members of the Appeals Board present and voting at any meeting at which there is a quorum of five members or alternate members.

Rule 21: Interpretation

The Appeals Board and a Panel shall, to the extent required, interpret these rules of procedure.

Rule 22: Amendments

These rules of procedure may be amended by a two-thirds majority vote cast by a quorum of seven members or alternate members of the Appeals Board.

Adopted by the Appeals Board on 27 February 2006.



Appendix A

Statement of Appeal against an administrative decision

This submission may not exceed ten one-sided double spaced pages (not including attachments);

Name of Appellant (family name first): _____

Mailing Address: _____

Index number: _____ *E-mail:* _____

Telephone No. Office: _____ *Telephone No. Private:* _____ *Fax* _____

Type of Appointment: _____ *Functional Title:* _____

Organ/Division/Section: _____

Specify the administrative decision you are contesting? (please attach a copy): _____

Date of administrative decision: _____

Have you requested an administrative review by the Registrar or the Prosecutor, as appropriate, of the decision you are appealing? If no, stop here. You must, as a first step, submit a request for administrative review to the Registrar or the Prosecutor, as appropriate, in accordance with Staff Rule 111.1(c). If YES, on what date? _____

What was the outcome of the administrative review? _____

What remedy or remedies do you seek? _____

Do you have Counsel who is a current or former staff member, in accordance with Staff Rule 111.1(e)?

YES ____ NO ____ If YES, name and contact information of Counsel: _____

IMPORTANT: *Please state the relevant facts in chronological order and the relevant arguments for the appeal on (a) separate page(s). This explanation may not exceed ten one-sided, double-spaced pages typed in standard sized type face. Please attach supporting material as well as a copy of the request for administrative review and decision issued by the Registrar or the Prosecutor, as appropriate. Please number each attachment and include an index of attachments.*

Signature: _____ *Date:* _____

