Memorandum for Rules of Procedure and Evidence

* [**Explanatory note:** The *Rules of Procedure and Evidence* is an instrument for the application of the *World Legislative Act #20*, the *World Bench for Criminal Cases Statute*, to which the Rules are subordinate in all cases (The *World Bench for Criminal Cases Statute* is mostly and originally from the *Rome Statute of the International Criminal Court*). In elaborating the *Rules of Procedure and Evidence*, care was taken to avoid rephrasing and, to the extent possible, repeating the provisions of Act #20. Direct references to the Statute have been included in the Rules, where appropriate, to emphasize the relationship between the Rules and the Statute, as provided for in article 51, in particular, paragraphs 4 and 5 of the Statute.
In all cases, the *Rules of Procedure and Evidence* should be read in conjunction with and subject to the provisions of the *World Bench for Criminal Cases Statute*.
The *Rules of Procedure and Evidence* of the International Criminal Court version adopted by the Assembly of States Parties differs from the *Rules of Procedure and Evidence* version adopted by the provisional World Parliament in only about 1 page of text (4 pages, when including 3 pages of memorandum context) in about 107 pages of rules, the largest single portion of which is nearly one page added as Chapter 13, providing for jury process, which was not in the original Assembly of States Parties version. The *Rules of Procedure and Evidence* do not affect the procedural rules for any national court or legal system for the purpose of national proceedings.
The *Rules* are subdivided into 226 specific rules, which are not all listed in the memorandum below, but are reflected in the full version.]

A ***memorandum*** in legislative parlance is an excerpted version of a legislative action presented to a deliberative assembly. Memorandum is used when a particular legislative action is too long in its entirety for reprinting and re-reading in the legislative assembly, particularly when there are excerptable portions that are intended for deliberation, and the rest of the action is generally accepted by the assembly.

Rules for Procedure and Evidence was adopted December 2003, in Chennai, Tamil Nadu, India, by the seventh session of the provisional World Parliament, convened in conformance with Article 19 of the *Earth Constitution*.

World Legislative Act #24

Memorandum

Rules of Procedure and Evidence

Whereas the *Rules of Procedure and Evidence*, adopted by the Assembly of States Parties was elaborated and deliberated by professional jurists, who themselves are working for world federation;
Whereas, it is expedient and also proper to recognize the high quality of the work done by the Assembly of States Parties in the elaboration of the *Rules of Procedure and Evidence*; and
Whereas, a responsibility of the World Parliament is to expedite an excellent legislative basis for the rules of procedure and evidence of the World Bench of the Criminal Court;

This seventh session of the provisional World Parliament hereby adopts the House of Peoples version of this Act for *Rules of Procedure and Evidence* of the World Bench of the Criminal Court:
The *Rules of Procedure and Evidence* enacted by the Assembly of States Parties is adopted by the World Parliament, with adjustments to these listed Rules: 1, 2, 3, 5, 6, 8, 9, 10, 12, 14, 21, 30, 104, 176, 205, 212, and 223.
A Section 7., Rule 226, for Jury Process, is added.

The primary purpose of the adjustments to listed rules are to maintain constitutionality in conformance with the *Constitution for the Federation of Earth* (*Earth Constitution*). This will allow the World Bench of the Criminal Court to be properly integrated among the nine primary benches of the World Court System, and also to be properly integrated in terms of legal accountability and finance.
The specific adjustments are adopted within the context of the Assembly of States Parties version of the rules:

Chapter 1 General provisions

Rule 1. Use of terms in the present document:
Article refers to articles of the *Rome Statute*;
Chamber refers to a Chamber of the Court;
Part refers to the Parts of the *Rome Statute*;
Presiding Judge refers to the Presiding Judge of a Chamber;
The *President* refers to the Chief Justice;
Prosecutor refers to the World Attorneys General;
Deputy Prosecutor refers to the Regional World Attorneys General;
The *Regulations* refers to the *Regulations of the Court*;
The *Rules* refers to the *Rules of Procedure and Evidence*.

Rule 2 Authentic texts
The Rules have been adopted in the official languages of the Court established by article 50, paragraph 1 of the World Bench for Criminal Cases Statute. All texts are equally authentic.

Rule 3 Amendments
1. Amendments to the rules that are proposed in accordance with article 51, paragraph 2, shall be forwarded to the President of the Bureau of the Assembly of States Parties and to the World Parliament.
2. The President of the Bureau of the Assembly of States Parties shall ensure that all proposed amendments are translated into the official languages of the Court and are transmitted to the States Parties.

3. The procedure described in sub-rules 1 and 2 shall also apply to the provisional rules referred to in article 51, paragraph 3.

Chapter 2 Composition and Administration of the Court

Section I General provisions relating to the composition and administration of the Court

Rule 5 Solemn undertaking under article 45

1. As provided in article 45, before exercising their functions under the Statute, the following solemn undertakings shall be made:
(a) In the case of a judge: "I solemnly undertake that I will perform my duties and exercise my powers as a judge of the World Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions and the secrecy of deliberations. I am a world citizen of the world government. I affirm and promise to uphold the *Earth Constitution* and to do my best to protect the human rights of all human beings to the best of my ability."
(b) In the case of the Prosecutor, a Deputy Prosecutor, the Registrar and the Deputy Registrar of the Court:
" I solemnly undertake that I will perform my duties and exercise my powers as (title) of the World Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions. I am a world citizen of the world government. I affirm and promise to uphold the *Earth Constitution* and to do my best to protect the human rights of all human beings to the best of my ability."
2. The Registrar shall file the undertaking, signed by the person making it and witnessed by a representative of the Executive Cabinet of the Earth Federation or by the President or a Vice-President of the Bureau of the Assembly of States Parties, to be kept in the records of the Court.

Rule 6 Solemn undertaking by the staff of the Office of the Prosecutor, the Registry, interpreters and translators

1. Upon commencing employment, every staff member of the Office of the Prosecutor and the Registry shall make the following undertaking:
"I solemnly undertake that I will perform my duties and exercise my powers as (title) of the World Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions.
I am a world citizen of the world government. I affirm and promise to uphold the *Earth Constitution*."
The Registrar shall file the undertaking, signed by the person making it and

witnessed, as appropriate, by the Prosecutor, the Deputy Prosecutor, the Registrar or the Deputy Registrar, to be kept in the records of the Court.
2. Before performing any duties, an interpreter or a translator shall make the following undertaking: "I solemnly declare that I will perform my duties faithfully, impartially and with full respect for the duty of confidentiality. I am a world citizen of the world government. I affirm and promise to uphold the *Earth Constitution*."
The Registrar shall file the undertaking, signed by the person making it and witnessed by the President of the Court or his or her representative, to be kept in the records of the Court.

Rule 8 Code of Professional Conduct
1. The Presidency (Presiding Council), on the basis of a proposal made by the Registrar, shall draw up a draft Code of Professional Conduct for counsel, after having consulted the Prosecutor. In the preparation of the proposal, the Registrar shall conduct the consultations in accordance with rule 20, sub-rule 3.
2. The Presiding Council shall then transmit the draft Code to the Assembly of States Parties, for the purpose of review, according to article 112, paragraph 7. The Assembly of States Parties shall transmit the revised draft code to the House of Peoples of the World Parliament for deliberation of amendments and possible adoption by the House of Peoples.

3. The Code shall contain procedures for its amendment.

Section II The Office of the Prosecutor

Rule 9 Operation of the Office of the Prosecutor
In discharging his or her responsibility for the management and administration of the Office of the Prosecutor, the Prosecutor (World Attorneys General) shall put in place regulations to govern the operation of the Office. In preparing or amending these regulations, the Prosecutor shall consult with the Registrar on any matters that may affect the operation of the Registry.

Rule 10 Retention of information and evidence
The Prosecutor (World Attorneys General) is responsible for the retention, storage and security of information and physical evidence obtained in the course of the investigations by his or her Office.

Section III The Registry

Subsection 1. General provisions relating to the Registry

Rule 12 Qualifications and election of the Registrar and the Deputy Registrar.

1. As soon as it is elected, the Presidency (Presiding Council) shall establish a list of candidates who satisfy the criteria laid down in article 43, paragraph 3, and shall transmit the list to the Assembly of States Parties and to the House of Peoples of the World Parliament with a request for any recommendations.
2. Upon receipt of any recommendations from the Assembly of States Parties, the Chief Justice (President) shall, without delay, transmit the list together with the recommendations to the plenary session of the Collegium of World Judges.
3. As provided for in article 43, paragraph 4, the Court, meeting in plenary session, shall, as soon as possible, elect the Registrar by an absolute majority, taking into account any recommendations by the Assembly of States Parties and the House of Peoples of the World Parliament. In the event that no candidate obtains an absolute majority on the first ballot, successive ballots shall be held until one candidate obtains an absolute majority.
4. If the need for a Deputy Registrar arises, the Registrar may make a recommendation to the President to that effect. The President shall convene a plenary session to decide on the matter. If the Court, meeting in plenary session, decides by an absolute majority that a Deputy Registrar is to be elected, the Registrar shall submit a list of candidates to the Court.
5. The Deputy Registrar shall be elected by the Court, meeting in plenary session, in the same manner as the Registrar.

Rule 14 Operation of the Registry

1. In discharging his or her responsibility for the organization and management of the Registry, the Registrar shall put in place regulations to govern the operation of the Registry. In preparing or amending these regulations, the Registrar shall consult with the Prosecutor on any matters which may affect the operation of the Office of the Prosecutor. The Presiding Council (Presidency) may approve or require modifications to the regulations of the Registrar.

Rule 21 Assignment of legal assistance

1. Subject to article 55, paragraph 2 (c), and article 67, paragraph 1 (d), criteria and procedures for assignment of legal assistance shall be established in the Regulations, based on a proposal by the Registrar, following consultations with any independent representative body of counsel or legal associations, as referred to in rule 20, sub-rule 3.
2. The Registrar shall create and maintain a list of counsel who meet the criteria set forth in rule 22 and the Regulations. The person shall freely choose his or her counsel from this list or other counsel who meets the required criteria and is willing to be included in the list.
3. A person may seek from the Presidency (Presiding Council) a review of a

decision to refuse a request for assignment of counsel. The decision of the Presidency shall be final. If a request is refused, a further request may be made by a person to the Registrar, upon showing a change in circumstances.
4. A person choosing to represent himself or herself shall so notify the Registrar in writing at the first opportunity.
5. Where a person claims to have insufficient means to pay for legal assistance and this is subsequently found not to be so, the Chamber dealing with the case at that time may make an order of contribution to recover the cost of providing counsel.

Rule 30 Procedure in the event of a request for disciplinary measures
1. The Presidency (Presiding Council) may take any decision to impose a disciplinary measure in the case of a judge, the Registrar or a Deputy Registrar
2. An absolute majority of the Presidium may take any decision to impose a disciplinary measure in the case of a Prosecutor. The Bureau of the Assembly of States Parties may take this decision if there is no objection from the absolute majority of the Presidium.

3. In the case of a Deputy Prosecutor:
(a) The Prosecutor may take any decision to give a reprimand;
(b) An absolute majority of the Bureau of the Assembly of States Parties, upon the recommendation of the Prosecutor, may take any decision to impose a pecuniary sanction.

4. The giver of reprimands shall record reprimands in writing and transmit a copy of the reprimands to the President of the Bureau of the Assembly of States Parties, and to the Presidium.

Chapter 5 Investigation and prosecution

Section I Decision of the Prosecutor regarding the initiation of an investigation under article 53, paragraphs 1 and 2.

Rule 104 Evaluation of information by the Prosecutor
1. In acting pursuant to article 53, paragraph 1, the Prosecutor shall, in evaluating the information made available to him or her, analyse the seriousness of the information received.
2. For the purposes of sub-rule 1, the Prosecutor may seek additional information from States, organs of the Earth Federation, agencies of the United Nations, intergovernmental and non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the

seat of the Court. The procedure set out in rule 47 shall apply to the receiving of such testimony.

Chapter 11 International cooperation and judicial assistance

Section I Requests for cooperation under article 87

Rule 176 Organs of the Court responsible for the transmission and receipt of any communications relating to international cooperation and judicial assistance

1. Upon and subsequent to the establishment of the Court, the Registrar shall obtain from the Presidium of the Earth Federation any communication made by States pursuant to article 87, paragraphs 1 (a) and 2.
2. The Registrar shall transmit the requests for cooperation made by the Chambers and shall receive the responses, information and documents from requested States. The Office of the Prosecutor shall transmit the requests for cooperation made by the Prosecutor and shall receive the responses, information and documents from requested States.
3. The Registrar is the recipient of any communication from States concerning subsequent changes in the designation of the national channels charged with receiving requests for cooperation, as well as of any change in the language in which requests for cooperation should be made, and shall, upon request, make such information available to States Parties as may be appropriate.
4. The provisions of sub-rule 2 are applicable mutatis mutandis where the Court requests information, documents or other forms of cooperation and assistance from an intergovernmental organization.
5. The Registrar shall transmit any communications referred to in sub-rules 1 and 3 and rule 177, sub-rule 2, as appropriate, to the Presidency or the Office of the Prosecutor, or both.
Rule 205 Declination of designation in a particular case Where a State in a particular case declines the designation by the Presidency (Presiding Council), the Presidency may designate another State, or a World Federal District.

Rule 212 Information on location of the person for enforcement of fines, forfeitures or reparation measures

For the purpose of enforcement of fines and forfeiture measures and of reparation measures ordered by the Court, the Presidency (Presiding Council) may, at any time or at least 30 days before the scheduled completion of the sentence served by the sentenced person, direct the State of enforcement to transmit to it the relevant information
concerning the intention of that State to authorize the person to remain in its territory or the location where it intends to transfer the person.

Rule 223 Criteria for review concerning reduction of sentence
In reviewing the question of reduction of sentence pursuant to article 110, paragraphs 3 and 5, the judges of the Appeals Chamber (Appellate Bench) shall take into account the criteria listed in article 110, paragraph 4 (a) and (b), and the following criteria:

(a) The conduct of the sentenced person while in detention, which shows a genuine dissociation from his or her crime;
(b) The prospect of the resocialization and successful resettlement of the sentenced person;
(c) Whether the early release of the sentenced person would give rise to significant social instability;
(d) Any significant action taken by the sentenced person for the benefit of the victims as well as any impact on the victims and their families as a result of the early release;
(e) Individual circumstances of the sentenced person, including a worsening state of physical or mental health or advanced age.

Section VII

Rule 227. Jury Process
The provisional World Parliament nominates a Jury Development Commission, to begin with four members, but to extend to 10 members of the World Parliament, to elaborate propositions for the Criminal Bench to be tempered by the benefit of regulated jury process. The Jury Development Commission shall elaborate rules to integrate a well regulated and just world jury system within the context of the Earth Federation and the *Rules of Procedure and Evidence*. The World Jury Commission shall report back to the World Parliament with a bill proposal for adjustment of the *Rules of Procedure and Evidence* to accommodate jury process. The adoption of the jury process provisions shall require only the simple majority approval of the World Parliament.
The provisional World Parliament directs that the jury process at world federal level is under the jurisdiction of the World Ombudsmus, and that the funding of the jury process is separate from the budget of the World Attorneys General Office and from the budget of the Benches of the World Judiciary, except in those matters regarding facilities management and the integration of the various primary branches of the world government. The Assembly of States Parties and the World Bench of the Criminal Court are specifically exempted from covering the costs of the jury process, except regarding facilities management (reasonable accommodation costs for juror participation and sequesters, which the World Treasury shall reimburse). The Assembly of States Parties and the World Bench

are exempted from costs for juror selection and juror compensation, which costs are part of the budget of the World Ombudsmus.

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Rules for Procedure and Evidence adopted December 2003, in Chennai, Tamil Nadu, India, by the seventh session of the provisional World Parliament, convened in conformance with Article 19 of the *Earth Constitution*.

The above text is the adopted memorandum of the legislative action by the provisional World Parliament.

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For the full text of the remainder of this world legislation, in its Assembly of State Parties version, go to the International Criminal Court website.

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