



SPECIAL TRIBUNAL FOR LEBANON

Rules Governing the Detention of Persons Awaiting
Trial or Appeal before the Special Tribunal for Lebanon
or Otherwise Detained on the Authority of
the Special Tribunal for Lebanon
(“Rules of Detention”)

20 March 2009

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TABLE OF CONTENTS

CONTENTS

PREAMBLE

BASIC PROVISIONS

Rule 1	Definitions
Rule 2	Application of the Rules of Detention
Rule 3	Responsibility for the Detention Facility
Rule 4	Inspections
Rule 5	Visit from the President or the Pre-Trial Judge

MANAGEMENT OF DETENTION FACILITY

Rule 6	Role of the Chief of Detention
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RECEPTION

Rule 7	Valid Warrant of Arrest or Order for Transfer and Provisional Detention
Rule 8	Records
Rule 9	Confidentiality of Records
Rule 10	Notification of Counsel and Family
Rule 11	Dangerous Items
Rule 12	Inventory of Personal Possessions
Rule 13	Initial Medical Examination
Rule 14	Interview by the Chief of Detention

ACCOMMODATION

Rule 15	Single Cells
Rule 16	Detainees with Disabilities
Rule 17	Maintenance
Rule 18	Bedding

- Rule 19 Health and Hygiene
Rule 20 Personal Hygiene
Rule 21 Clothing and Personal Belongings
Rule 22 Food

MEDICAL CARE

- Rule 23 Medical Services
Rule 24 Medical Record of a Detainee
Rule 25 Consultations with External Medical Practitioners
Rule 26 Liability of External Medical Practitioners
Rule 27 Specialist Treatment
Rule 28 Death, Serious Illness or Serious Injury

SECURITY AND GOOD ORDER

- Rule 29 Personal Search
Rule 30 Searching of cells
Rule 31 Cell Monitoring for Health, Safety and Security Purposes
Rule 32 Discipline and Control
Rule 33 Disciplinary Offences
Rule 34 Commencement of Disciplinary Procedure
Rule 35 Investigation of an Alleged Breach of Discipline by the Chief of Detention
Rule 36 Investigation of an Alleged Breach of Discipline by the Pre-Trial Judge
Rule 37 Temporary Segregation
Rule 38 Disciplinary Measures of the Chief of Detention
Rule 39 Disciplinary Measures of the Pre-Trial Judge
Rule 40 Prohibition of Imposition of Disciplinary Measures without Due Process

SEGREGATION

- Rule 41 General Principle
Rule 42 Grounds for Segregation
Rule 43 Request for Segregation by Detainee

- Rule 44 Segregation in Communal Areas
Rule 45 Segregation of Male and Female Detainees
Rule 46 Review of Segregation Orders

ISOLATION

- Rule 47 Grounds for Isolation
Rule 48 Visits by Medical Officer
Rule 49 Review of Isolation Orders

INSTRUMENTS OF RESTRAINT AND USE OF FORCE

- Rule 50 Instruments of Restraint
Rule 51 Use of Force
Rule 52 Documentation of Instances of Use Instruments of Restraint and Use of Force

DISTURBANCES

- Rule 53 Requests for Assistance
Rule 54 Suspension of Rules

RIGHTS OF DETAINEES

- Rule 55 Information to Detainees
Rule 56 Language

COMMUNICATIONS AND VISITS

- Rule 57 Communications with Family and Others
Rule 58 Visiting Hours
Rule 59 Visits from Family and Others
Rule 60 Criteria for Granting Permission
Rule 61 Application Forms for Visits
Rule 62 Security Provisions
Rule 63 Communications with and Visits from Media

- Rule 64 Communications with and Visits from Diplomatic and Consular Representatives
- Rule 65 Communications with and Visits from Counsel
- Rule 66 Private Visits
- Rule 67 Supervision of Visits
- Rule 68 Making Telephone Calls
- Rule 69 Monitoring Telephone Calls
- Rule 70 Prohibition or Conditions on Communications and Visits

SPIRITUAL WELFARE

- Rule 71 Religious Beliefs
- Rule 72 Spiritual Advice
- Rule 73 Satisfying Religious Life
- Rule 74 Visits by Spiritual Advisers

WORK PROGRAMME

- Rule 75 Work Programme

RECREATIONAL ACTIVITIES

- Rule 76 Reading and Writing Materials
- Rule 77 Physical Exercise, Sport and Recreational Opportunities

PERSONAL POSSESSIONS OF DETAINEES

- Rule 78 Incoming Items
- Rule 79 Facilities for Preparation of Defence
- Rule 80 Medication, Cigarettes and Alcohol
- Rule 81 Purchases
- Rule 82 Return of Property

COMPLAINTS

- Rule 83 Complaints Procedure

Rule 84 Communications with Inspecting Authorities

TRANSFER AND TRANSPORTATION OF DETAINEES

Rule 85 Transfer Out of the Detention Facility

Rule 86 Public View

Rule 87 Adequate Transportation

AMENDMENTS

Rule 88 Amendments Procedure

ACCESSIBILITY

Rule 89 Provision of Rules to Detainees and Staff

ENTRY INTO FORCE

Rule 90 Date of Entry into Force

PREAMBLE

The Registrar of the Special Tribunal for Lebanon (hereinafter “the Special Tribunal”),

Referring to the Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon annexed to Security Council resolution 1757 (2007) and the Statute attached thereto;

Guided, where appropriate, by the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon;

Recognizing the need for rules governing the administration of the Detention Facility for detainees awaiting trial or appeal before the Special Tribunal or otherwise detained on the authority of the Special Tribunal and to ensure the continued application and protection of their individual rights while in detention;

Mindful of the imperative need to ensure respect for human rights and fundamental freedoms and, in particular, the presumption of innocence;

Mindful of the need to regulate the rights and obligations of detainees at all stages, from reception to release or transfer to another institution for the purposes of enforcement of their sentences, and to provide the basic criteria for the management of the Detention Facility;

Hereby promulgates, following the adoption by the plenary of Judges on 20 March 2009, the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Tribunal for Lebanon or otherwise detained on the Authority of the Special Tribunal for Lebanon (hereinafter “the Rules of Detention”).

BASIC PROVISIONS

Rule 1

Definitions

(A) For the purposes of these Rules of Detention, the following terms shall mean:

Agreement	The Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon annexed to Security Council resolution 1757 (2007);
Chief of Detention	The official of the Special Tribunal appointed by the Registrar as head of the staff of the Detention Facility and responsible for its administration;
Counsel	Any person engaged by or assigned to represent a suspect or an accused;
Defence Office	The office overseen by the Head of the Defence Office and provided for in article 13 of the Statute;
Detainee	Any person detained according to a valid warrant of arrest or order for transfer and provisional detention issued by the Special Tribunal and awaiting trial or appeal before the Special Tribunal or otherwise detained on its authority;
Detention Facility	All premises within the Host prison or the cellular accommodation at the seat of the Tribunal, where an accused or any person otherwise detained under the authority of the Special Tribunal is being detained in accordance with the Rules of Detention and the Rules of Procedure and Evidence;
Duty Counsel	Any person assigned by the Head of the Defence Office to represent a suspect or an accused for the purpose of the initial appearance;

Head of the Defence Office	The Head of the Defence Office of the Special Tribunal appointed pursuant to article 13, paragraph 1, of the Statute;
Host State	The Kingdom of the Netherlands;
Host State Agreement	The Headquarters Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon, signed by representatives of the parties on 21 December 2007;
Host Prison	The penitentiary complex within which the Special Tribunal's Detention Facility is located and which is maintained by the Host State;
Judge	A Judge of the Special Tribunal appointed by the Secretary-General pursuant article 2, paragraph 5 of the Agreement and article 9, paragraph 3, of the Statute;
Medical Officer	The Medical Officer of the Detention Facility appointed by the Registrar;
Officers of the Special Tribunal	Senior staff members and Judges of the Special Tribunal;
President	The President of the Special Tribunal elected in accordance with article 8, paragraph 2, of the Statute;
Pre-Trial Judge	The Pre-Trial Judge provided for in article 2, paragraph 3 of the Agreement and article 8, paragraph 1 of the Statute;
Prosecutor	The Prosecutor appointed pursuant to article 3, paragraph 2, of the Agreement and article 11, paragraph 3, of the Statute;
Registrar	The Registrar appointed pursuant to article 4, paragraph 1, of the

Agreement and article 12, paragraph 3, of the Statute;

Rules of Detention The Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Tribunal for Lebanon or Otherwise Detained on the Authority of the Special Tribunal for Lebanon;

Inspecting Authority The competent external inspection authority engaged to inspect and report on the Detention Facilities of the Special Tribunal for Lebanon;

Rules of Procedure and Evidence The Rules of Procedure and Evidence of the Special Tribunal adopted in accordance with article 28 of the Statute;

Staff The staff of the Detention Facility, employed by the Special Tribunal, including detention officers, to operate its Detention Facility; and

Statute The Statute of the Special Tribunal for Lebanon attached to the Agreement.

(B) In the Rules of Detention, the masculine shall include the feminine and the singular the plural, and vice-versa.

(C) Any reference to rules is a reference to the Rules of Detention unless otherwise stated.

Rule 2

Application of the Rules of Detention

(A) The Rules shall be applied in conjunction with the relevant provisions of the Statute, the Rules of Procedure and Evidence and the Host State Agreement.

(B) The Rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(C) The Rules of Detention and any other regulations made hereunder, including any documents

provided to Detainees concerning their rights and obligations, shall be made available to each Detainee in a language that he is able to understand.

Rule 3

Responsibility for Detention Facility

The Special Tribunal shall retain sole responsibility for all aspects of detention pursuant to these Rules. Under the authority of the Registrar, the Chief of Detention shall have sole responsibility for all aspects of the daily management of the Detention Facility, including security and good order, and may make all decisions relating thereto, except where otherwise provided for in the Rules of Detention.

Rule 4

Inspections

- (A) The Council of Judges may, at any time, appoint a Judge or the Registrar of the Special Tribunal for Lebanon to inspect the Detention Facility and to report on the conditions of detention and the administration of the Detention Facility.
- (B) There shall be regular and unannounced visits by the Inspecting Authority appointed by the President. This authority shall be responsible for examining the manner in which the Detainees are being held and treated and ensure compliance with human rights and international humanitarian law as well as other internationally accepted standards.
- (C) The Registrar and the Chief of Detention shall facilitate the work of the Inspecting Authority and shall provide it with all relevant information in their possession.
- (D) Following a visit carried out in accordance with paragraph (B), the Inspecting Authority shall provide a confidential report setting out its findings and recommendations to the President and the Registrar.
- (E) The Registrar, after consulting with the President and, if need be, the Head of the Defence Office, shall take steps to give effect to the recommendations of the Inspecting Authority.

Rule 5

Visit from the President or the Pre-Trial Judge

The President and the Pre-Trial Judge may, at any time, visit the Detention Facility.

MANAGEMENT OF DETENTION FACILITY

Rule 6

Role of the Chief of Detention

- (A) The Chief of Detention shall be responsible for the secure custody of all Detainees, for their safe and humane treatment, for the safeguarding of their rights in accordance with international instruments governing detention and for the maintenance of discipline and good order within the Detention Facility.
- (B) The Chief of Detention shall be responsible for ensuring the safety and security of all persons who enter the Detention Facility, including but not limited to staff of the Special Tribunal, Counsel, and Detainees' visitors.
- (C) The Chief of Detention shall maintain a log recording significant events on a daily basis and shall inform the Registrar of such events where appropriate.

RECEPTION

Rule 7

Valid Warrant of Arrest or Order for Transfer and Provisional Detention

- (A) No person shall be received into or be detained in the Detention Facility without a valid Warrant of Arrest, or Order for Transfer and Provisional Detention, issued by the Pre-Trial Judge or a Chamber of the Special Tribunal.
- (B) The Chief of Detention shall notify the Registrar of the reception of a Detainee immediately after reception. As soon as practicable thereafter, the Registrar shall transmit the notification of

reception to the Head of the Defence Office, the Host State and the Inspecting Authority designated under Rule 4 of the Rules of Detention.

Rule 8
Records

- (A) Upon the reception of a Detainee into the Detention Facility, the Chief of Detention shall obtain the photograph and fingerprints of the Detainee and any other information from him that the Chief of Detention considers necessary to maintain the security and good order of the Detention Facility.
- (B) A complete, secure and current record shall be kept in the Detention Facility concerning each individual Detainee received. Each record shall include:
 - (i) information concerning the identity of the Detainee and his next of kin or any other person to be notified in the event of any serious illness, serious injury or death or other information pursuant to Rule 10(C);
 - (ii) the date of issue of the Indictment, the Warrant of Arrest and/or the Order for Transfer and Provisional Detention, if any;
 - (iii) the date and time of reception;
 - (iv) the name and contact information of his Counsel, if any; and
 - (v) the date, time and reason for all absences from the Detention Facility, whether to appear before the Special Tribunal, for medical or other approved reasons, or on final release or transfer to another institution for the purpose of the enforcement of the sentence.

Rule 9
Confidentiality of Records

All information, including reports and medical records, concerning a detainee shall be treated as confidential and made accessible only to the detainee, his Counsel and persons authorized by the

Registrar. Each detainee shall be informed of this fact by the Chief of Detention upon his reception at the Detention Facility.

Rule 10

Notification of Counsel and Family

- (A) As soon as practicable after reception but no longer than twenty-four hours, each Detainee shall be visited by the Head of the Defence Office or a person designated by him, who shall provide information concerning advice and availability of legal assistance, in accordance with Rule 59 of the Rules of Procedure and Evidence.
- (B) The Detainee is entitled to request that the representative of the Head of the Defence Office or the person designated by him contact the Detainee's family, a legal representative or an appropriate diplomatic or consular representative.
- (C) The Detainee shall be asked to provide the name of two persons or other authority to be notified of special events concerning him. This information will be entered into the Detainee's personal record pursuant to Rule 8 of these Rules and treated with confidentiality pursuant to Rule 9 of these Rules.

Rule 11

Dangerous Items

- (A) On reception at the Detention Facility, the Chief of Detention shall order that a Detainee's person and clothes be searched for items that may constitute a danger to:
 - (i) the security and good order of the Detention Facility; or
 - (ii) the health and safety of the Detainee, any other Detainee or any member of staff of the Detention Facility.
- (B) Any such items which, in the opinion of the Chief of Detention, fall within paragraph (A) shall be removed and notified to the Registrar. The disposal or destruction of such items shall be recorded and will form part of the Detainee's personal record. The Detainee shall be informed, in

writing by the Chief of Detention, of the confiscation or destruction of any article falling within paragraph (A).

Rule 12

Inventory of Personal Possessions

- (A) The Chief of Detention shall take an inventory and record all monies, valuables, clothing and other items belonging to a Detainee, including those items which, under the regulations of the Detention Facility and these Rules, he is not allowed to retain. The inventory thereof shall be signed by the Detainee and by the Chief of Detention.
- (B) All items which the Detainee is not allowed to retain under paragraph (A) shall be placed in safe custody by the staff of the Detention Facility or, at the request and expense of the Detainee, be sent to an address provided by him, subject to the authorisation of the Registrar.

Rule 13

Initial Medical Examination

- (A) Each Detainee shall be examined by the Medical Officer upon his reception into the Detention Facility. If this is not practicable, the medical examination must take place within 24 hours, with a view to establishing any physical or mental illness and/or any indication or evidence of mistreatment. The medical examination shall be conducted without the presence of non-medical personnel except where required by security and good order in exceptional circumstances.
- (B) Should a Detainee be diagnosed as having an infectious or contagious disease, the Medical Officer may take the necessary measures at his disposal for the medical treatment of the Detainee.

Rule 14

Interview by the Chief of Detention

The Chief of Detention shall conduct an arrival interview with each Detainee as soon as practicable following reception into the Detention Facility and shall ensure that any relevant matters to which the Detainee may draw attention are included in the Detainee's record kept by the Detention Facility in accordance with Rule 8 and brought to the attention of the Registrar if necessary.

ACCOMMODATION

Rule 15

Single Cells

Each Detainee shall be provided with his own cell unless, for exceptional reasons, the Chief of Detention decides otherwise. A decision by the Chief of Detention regarding the sharing of accommodations for a period longer than seven days shall be approved only by the Registrar.

Rule 16

Detainees with Disabilities

The Registrar shall determine and provide suitable accommodation to allow a Detainee with disabilities to attend to his personal needs and to exercise his rights in connection with his trial at the Special Tribunal. Such accommodation shall be of sufficient size to allow the use of mechanical and other aids as necessary.

Rule 17

Maintenance

The staff of the Detention Facility shall ensure that all parts of the Facility are properly maintained and kept clean at all times. Each Detainee shall be required to keep his personal cell unit clean and tidy.

Rule 18

Bedding

Each Detainee shall be provided with a separate bed and appropriate bedding. The bedding shall be kept in good order and changed on a regular basis so as to ensure its cleanliness.

Rule 19

Health and Hygiene

- (A) At all times, the Detention Facility shall meet all requirements of health and hygiene as set out in those international instruments governing detention, with due regard being paid to climatic conditions, minimum floor space, lighting, heating and ventilation.
- (B) Each Detainee shall be permitted access to the sanitary, bathing and shower installations in his cell block as frequently as necessary for general hygiene. In all circumstances, this provision must be made at least once daily.

Rule 20

Personal Hygiene

- (A) Detainees shall be required to keep themselves clean and shall be provided with such toilet items as are necessary for health and cleanliness.
- (B) The Detention Facility shall provide facilities for the proper care and personal hygiene of the Detainees, including for the proper care of hair and beard.

Rule 21

Clothing and Personal Belongings

- (A) Detainees may wear their own clothing if, in the opinion of the Chief of Detention, it is clean and suitable. Any Detainee who cannot afford to buy suitable clothing shall be provided with clothing by the Detention Facility. Such clothing shall be suitable for the climate and shall in no manner be degrading or humiliating.
- (B) All clothing, including underclothing, shall be clean and kept in proper condition and shall be changed and washed as often as necessary for the maintenance of hygiene and in accordance with the regime of the Host Prison.
- (C) A detained person may keep personal items in his possession and for his own use unless, in the opinion of the Chief of Detention, such items constitute either a threat to the security and good order of the Detention Facility, or to the health and safety of detained persons or any staff of the Detention Facility.

- (D) Any items deemed to be such a risk as described by paragraph (C) above shall be treated in accordance with Rule 11.

Rule 22

Food

- (A) At appropriate hours, the Detention Facility shall provide each Detainee with food, which is well prepared and served, and which satisfies in quality and quantity standards of nutrition and takes into account, as far as practicable, the age, health and religious requirements of the Detainee.
- (B) The Detention Facility shall provide access to drinking water for each Detainee whenever he requires it.

MEDICAL CARE

Rule 23

Medical Services

- (A) A designated area within the host prison shall be equipped and furnished appropriately for the provision of medical care and treatment.
- (B) Medical services, including the services of a qualified dentist, shall be available to Detainees. A member of the staff of the Detention Facility capable of providing first-aid shall be available at all times.
- (C) The Medical Officer shall be responsible for the care of the physical and mental health of the Detainees. The Medical Officer shall see all Detainees who are ill on a daily basis, all Detainees who complain of illness and any Detainee to whom his attention is specially directed. The Medical Officer shall perform regular medical examinations of all Detainees.
- (D) The Medical Officer shall make a report in writing to the Chief of Detention whenever he considers that the physical or mental health of a Detainee has been or will be adversely affected by his continued detention or by any conditions of detention.

- (E) The Chief of Detention shall immediately submit any such report to the Registrar, who shall then transmit the report to Counsel, the Prosecutor and the Head of the Defence Office.
- (F) The Medical Officer shall regularly advise the Chief of Detention with respect to the :
 - (i) observance of the Rules of Detention and relevant regulations, including, but not limited to: the quantity, quality, preparation and serving of food;
 - (ii) the hygiene and cleanliness of the Detention Facility and the detainees;
 - (iii) the sanitation, heating, lighting and ventilation of the Detention Facility; and
 - (iv) the suitability and the cleanliness of the detainees' clothing and bedding.

Rule 24

Medical Record of a Detainee

- (A) The Medical Officer shall maintain a medical record for each Detainee. This record will be kept strictly confidential.
- (B) The medical record of a Detainee shall not be consulted by any person other than by the Medical Officer, his or her deputy, any medical staff involved directly in the Detainee's treatment or the medical personnel belonging to the Inspecting Authority, without the express written consent of the detainee concerned.
- (C) The medical record may only be disclosed without the consent of the Detainee where, in the opinion of the Medical Officer, there exists a danger to the health and safety of the Detainee concerned, other Detainees or any staff of the Detention Facility.
- (D) At the request of the Pre-Trial Judge or a Chamber and with the written consent of the Detainee, the Medical Officer shall provide the Registrar with the sealed medical record of the Detainee. The Registrar shall then provide the Pre-Trial Judge or the Chamber with the medical record.

- (E) Where a Detainee refuses to consent to the Pre-Trial Judge or Chamber being provided with his medical record, the Registrar shall inform the Pre-Trial Judge or Chamber accordingly.
- (F) Where, in the judgment of the Medical Officer, the Detainee lacks the capability to make a decision concerning the provision of his medical record to the Pre-Trial Judge or Chamber, he shall inform the Pre-Trial Judge or Chamber thereof. In such cases, the Registrar shall ask the person designated in accordance with Rule 10(C) or, as appropriate, the representative of the Detainee, to take the decision on behalf of the Detainee.

Rule 25

Consultations with External Medical Practitioners

- (A) Detainees may consult with a doctor or dentist of their choosing and at their own expense. All such visits shall be made by prior arrangement with the Chief of Detention as to the time and duration of the visit and shall be subject to the same security controls as are imposed under Rules 61 and 62.
- (B) Any treatment or medication recommended by such doctor or dentist shall be administered solely by the Medical Officer or a person authorised by him. The Medical Officer shall be informed of the outcome of all consultations with external medical practitioners and may, in his sole discretion, refuse to administer any such treatment or medication if he feels that it would not be in the best interests of the Detainee. He will enter the details on the Detainee's medical record.

Rule 26

Liability of External Medical Practitioners

- (A) The external medical practitioner may be responsible in his professional capacity and therefore liable for misconduct in the exercise of his professional duties.
- (B) The external medical practitioner may bear the responsibility in the event of claims by Detainees or by third parties for personal injury, loss, death, loss or damage to property or any act or omission falling within the competence of the external practitioner.
- (C) The Registrar shall require that external medical practitioners are adequately covered by liability

insurance. A copy of such an insurance cover shall be provided to the Registrar before he provides any assistance or treatment.

Rule 27

Specialist Treatment

Detainees who, in the opinion of the Medical Officer, require specialist or in-patient treatment shall receive such treatment, if practicable, within the Detention Facility. If, in the opinion of the Medical Officer, treatment is necessary at a hospital outside of the Detention Facility, this shall be authorised by the Registrar.

Rule 28

Death, Serious Illness or Serious Injury

- (A) The Chief of Detention shall immediately inform the Registrar of the death, serious illness or serious injury of a Detainee. The Registrar shall immediately inform the President, Counsel and the Detainee's next-of-kin or any other person designated by the Detainee under Rule 10 (C) of these Rules.
- (B) In the event of the death of a Detainee, the Registrar shall immediately inform the Host State and arrange for the conduct of an inquest in accordance with its legal requirements.
- (C) The President may order an inquiry into the circumstances surrounding the death, serious illness or serious injury of any Detainee. The President shall appoint the person or authority to conduct such an inquiry.

SECURITY AND GOOD ORDER

Rule 29

Personal Search

- (A) The Chief of Detention may order that a Detainee be searched at such times as he considers necessary for the safety, security and good order of the Detention Facility.

- (B) On arrival at the Detention Facility the Chief of Detention shall order that the Detainee's person and clothing be searched for items that may constitute a danger to:
- (i) The maintenance of security and good order of the Detention Facility
 - (ii) The Detainee, any other detained person, any member of staff of the Detention Facility or any visitor to the Detention Facility.
- (C) Where the Chief of Detention has reason to believe that a Detainee is in possession of a dangerous item in accordance with Rule 11(A), and such item may only be discovered by removing the Detainee's clothes, the Chief of Detention may direct that the detained person submit to such a search.
- (D) Where a Detainee is required to remove his clothes, the search shall be conducted in such a way as to ensure that the Detainee is not totally naked at any time and his cultural sensibilities are duly respected.
- (E) A Detainee shall not undress or be required to undress in the sight of another Detainee. If the Detainee is required to undress, then the search will be carried out by two members of staff of the same gender as the Detainee.
- (F) This Rule expressly prohibits the search or examination of a body cavity, other than the requirement that the Detainee open his mouth to permit a visual inspection.
- (G) Where a Detainee refuses to co-operate with a search, the Chief of Detention may authorise the use of minimum force necessary to effect the search. In the event of the use of force, Rule 51 shall apply.

Rule 30
Searching of Cells

- (A) Cells shall be searched regularly as a matter of Detention Facility routine and at a frequency to be decided by the Chief of Detention.

- (B) The Chief of Detention may authorise a special search of a Detainee's cell if he has reason to believe that the cell contains an item which constitutes a threat to health and safety of the Detainee or any other person in the Detention facility or to its good order and security.
- (C) A Detainee shall be present at all times when his cell is being searched.
- (D) If any item is found which constitutes, in the opinion of the Chief of Detention, a danger to the security or good order of the Detention Facility, or the health and safety of the Detainee or any other person, it shall be removed and/or destroyed in accordance with Rule 11(B) of the Rules of Detention.
- (E) The Chief of Detention shall inform the Detainee in writing of any items removed and/or destroyed in accordance with Rule 11(B). A copy of the letter shall be put in the Detainee's file.
- (F) Only persons authorised by the Registrar or the Chief of Detention may have access to the Detainees' cells.

Rule 31

Cell Monitoring for Health, Safety and Security Purposes

- (A) In case of danger to the security and good order of the Detention Facility or danger to the health and safety of a Detainee or any other person, the Chief of Detention may, with the approval of the Registrar and where necessary in consultation with the President, order that a Detainee's cell be monitored by video surveillance equipment for a period not exceeding fourteen days.
- (B) The Registrar may, upon request by the Chief of Detention, renew such video surveillance for periods not exceeding fourteen days each time. Renewals shall be reported to the President, The Prosecutor and the Head of the Defence Office.
- (C) The Detainee shall immediately be provided with a copy of the decision to be monitored by video surveillance, together with the reasons therefore. The Detainee may appeal the decision to the President.

Rule 32
Discipline and Control

Discipline and control shall be maintained by the staff of the Detention Facility with firmness, but with no more restriction than is necessary for the security and good order of the Detention Facility. Detainees may be supervised by Detention staff of either gender, except for the purposes of personal searches as set out in Rule 29(E).

Rule 33
Disciplinary Offences

The following shall constitute disciplinary offences:

- (i) Failure to obey an order or instruction given by a member of the staff of the Detention Facility;
- (ii) Violent behaviour or aggression towards a member of staff of the Detention Facility, another Detainee or any visitor to the Detention Facility;
- (iii) Possession of any prohibited item or substance, as set out in Rule 11(A);
- (iv) Repeated misconduct after a warning has been given pursuant to Rule 38(A)(c);
- (v) Escape or attempted escape from custody;
- (vi) Verbal abuse directed at a member of staff of the Detention Facility, another Detainee or any visitor to the Detention Facility;
- (vii) Intentionally hindering a member of staff of the Detention Facility, or any other person at the Detention Facility for the purpose of working there, in the proper execution of his duties or the performance of his work;
- (viii) Destroying or damaging any part of the Detention Facility or any property thereof, other than his own;

- (ix) Inciting or attempting to incite another Detainee to commit any of the foregoing; and
- (x) Any act prejudicial to the health and safety of other Detainees, detention staff or any visitor, or to the good order and discipline of the Detention Facility.

Rule 34

Commencement of Disciplinary Procedure

- (A) Where a Detainee is suspected of committing any of the offences described in Rule 33 the Chief of Detention shall be informed immediately and shall determine whether or not the Detainee should be charged with the offence.
- (B) Where the Chief of Detention determines that it is necessary to charge a Detainee with a disciplinary offence, this shall be done no later than 48 hours from the time the alleged offence was discovered.
- (C) Where the Chief of Detention has charged a Detainee with an offence, such offence shall immediately be reported to the Registrar, and the time and full details of the offence shall be included in the Detainee's record kept by the Detention Facility in accordance with Rule 8.
- (D) The Chief of Detention shall inform the Detainee concerned that he has been charged with an offence and shall ensure that he understands the charge made against him.
- (E) Depending upon the circumstances of the case and or the seriousness of the alleged offence and in consultation with the Chief of Detention, the Registrar shall decide whether:
 - i) the Chief of Detention shall handle the case; or
 - ii) the matter should fall under the authority of the Pre-Trial Judge.
- (F) Where the Chief of Detention handles the case pursuant to paragraph (E)(i) above, the Detainee shall have the right to appeal the decision of the Chief of Detention to the Pre-Trial Judge. In such circumstances, the Pre-Trial Judge shall conduct a *de novo* hearing.

- (G) Where the Registrar has referred the case directly to the Pre-Trial Judge in accordance with paragraph (E)(ii), the Pre-Trial Judge shall have the discretion either to handle the case or refer it to the Chief of Detention. Where the Pre-Trial Judge refers the matter to the Chief of Detention, the Detainee shall retain the right to appeal the decision of the Chief of Detention to the Pre-Trial Judge.

Where an appeal against a decision taken by the Chief of Detention is lodged in accordance with paragraph (F) or where a case is handled by the Pre-Trial Judge in accordance with paragraph (G), the Pre-Trial Judge shall decide, depending on the circumstances and complexity of the case, whether or not the Detainee should be legally represented.

Rule 35

Investigation of an Alleged Breach of Discipline by the Chief of Detention

- (A) Once the Chief of Detention has decided to charge a Detainee with an offence, and where it has been decided that the Chief of Detention shall handle the matter, the Chief of Detention shall conduct an investigation into that offence.
- (B) The Chief of Detention shall conduct a hearing in order to provide the Detainee with the opportunity to present his defence to the charge. The Chief of Detention shall ensure that the Detainee is informed of the charge and the evidence supporting it at least 24 hours prior to any hearing so as to allow the Detainee sufficient time to prepare his defence or any explanation he may wish to make.
- (C) During the hearing, the Chief of Detention shall ensure that the Detainee is given the opportunity to explain his behaviour, to call witnesses to give evidence on his behalf and to question those who give evidence against him. The Chief of Detention shall ensure that the services of an interpreter are available if necessary.

Rule 36

Investigation of an Alleged Breach of Discipline by the Pre-Trial Judge

- (A) Where a decision of the Chief of Detention has been appealed to the Pre-Trial Judge, or where

the case falls to the authority of the Pre-Trial Judge pursuant to Rule 34 (E)(ii), a *de novo* hearing shall take place as soon as possible.

- (B) The Detainee may appeal the decision of the Pre-Trial Judge to the President.

Rule 37

Temporary Segregation

- (A) At any time following the suspected commission of a disciplinary offence, and where the Chief of Detention believes it to be necessary, the Detainee concerned may be temporarily segregated from other Detainees. The Chief of Detention shall consult the Registrar before taking this course of action.
- (B) Pending completion of an investigation of the alleged offense, the Chief of Detention may vary or revoke such temporary segregation.
- (C) The Chief of Detention shall report any instances of temporary segregation, or variance or revocation thereof, immediately to the Registrar, who shall report it to the President.

Rule 38

Disciplinary Measures of the Chief of Detention

- (A) The Chief of Detention may impose any of the following disciplinary measures, or any combination thereof, as he sees fit:
 - a) Confiscation of a dangerous item;
 - b) Removal or reduction of privileges or use of personal possessions, such as television, radio or books, and use of shopping facilities for a period not exceeding 14 days;
 - c) Oral or written warning;
 - d) Written notice of suspended punishment to come into effect immediately upon further

breach of the Rules within a period of 3 months;

- e) Loss of earnings, if applicable, for 14 days;
 - f) Confinement to an isolation cell;
 - g) Confinement to the Detainee's own cell for a period not exceeding 7 days. This shall mean that the privilege of evening association with others after 17:00 will be curtailed for the designated period.
- (B) Prior to any punishment that may be prejudicial to the physical or mental health of a Detainee, the Medical Officer must first have examined the Detainee and certified, in writing, the physical and mental health of the Detainee to sustain such punishment.
- (C) The Medical Officer shall make daily visits to the Detainees undergoing such punishment and shall advise the Chief of Detention and the Registrar if he considers the termination or alteration of the punishment necessary for the physical or mental health of the Detainee.

Rule 39

Disciplinary Measures of the Pre-Trial Judge

- (A) The Pre-Trial Judge may impose any of the following disciplinary measures, or any combination thereof, as he sees fit:
- a) Confiscation of a dangerous item;
 - b) Removal or reduction of privileges, including visits with family and friends or use of personal possessions, such as television, radio or books and use of shopping facilities for a period not exceeding 28 days;
 - c) Written warning;
 - d) Written notice of suspended punishment to come into effect immediately upon further breach of the Rules within a period of 180 days;

- e) Loss of earnings, if applicable, for up to 90 days;
 - f) Confinement to an isolation cell; and
 - g) Confinement to the Detainee's own cell for up to 28 days. This shall mean that the privilege of evening association with others after 17:00 will be curtailed for the designated period.
- (B) Prior to any punishment that may be prejudicial to the physical or mental health of a Detainee, the Medical Officer must first have examined the Detainee and certified, in writing, the physical and mental health of the Detainee to sustain such punishment.
- (C) The Medical Officer shall make daily visits to the Detainees undergoing such punishment and shall advise the Chief of Detention and the Registrar if he considers the termination or alteration of the punishment necessary for the physical or mental health of the Detainee. Where the Medical Officer considers that termination or alteration of a measure is necessary, the designated judge shall be so informed immediately.

Rule 40

Prohibition of Imposition of Disciplinary Measures without Due Process

No disciplinary measures shall be imposed on a Detainee without due process in accordance with these Rules. No Detainee shall be subjected to a disciplinary measure twice for the same act.

SEGREGATION

Rule 41

General Principle

The Detainee shall not be segregated from the other Detainees except for those reasons set out in Rule 42(A).

Rule 42

Grounds for Segregation

- (A) The Registrar, acting on his own initiative or at the request of the Prosecutor or the Head of the Defence Office, and after seeking advice from the Medical Officer, may order that a Detainee or Detainees be segregated from all or some of the other Detainees for the purpose of:
- (i) preserving security and good order in the Detention Facility;
 - (ii) protecting the Detainee or Detainees in question; or
 - (iii) preventing any prejudice or otherwise undermining the outcome of the proceedings against the Detainee or Detainees or any other proceedings.
- (B) At any time, the Chief of Detention may also order that a Detainee or Detainees be segregated from some or all of the other Detainees for the same purposes as set out in paragraph (A). In such cases, the Chief of Detention shall report the segregation immediately to the Registrar and to the Medical Officer, who shall examine the Detainee or Detainees before or within twenty-four hours of segregation, and confirm in writing that he or they are physically and mentally fit to sustain it.
- (C) The staff of the Detention Facility shall keep a detailed record of all the events concerning a Detainee or Detainees during segregation.
- (D) Segregation shall not be used as a disciplinary measure.

Rule 43

Request for Segregation by Detainee

A Detainee may request of the Chief of Detention that he be segregated from all or some of the other Detainees for his own protection. This request may be granted only if the Medical Officer confirms that such segregation would not be injurious to the mental or physical health of the requesting Detainee.

Rule 44

Segregation in Communal Areas

- (A) The Chief of Detention may organize the use of communal areas of the Detention Facility so as to segregate certain groups of Detainees from others in the interests of the safety of the Detainees and the proper conduct and operation of the Detention Facility.
- (B) If such segregation is put into practice, care shall be taken to ensure that all such groupings are treated on an equal basis, having regard to the number of Detainees in each group.

Rule 45

Segregation of Male and Female Detainees

- (A) Female detainees will be segregated from male detainees in terms of the provision of separate sleeping and washing facilities in another part of the Detention Facility. They will be supervised in this area by female members of the Detention Staff. A male member of Detention Staff shall not be permitted to enter the female accommodation area unless accompanied by a female member of Detention Staff.
- (B) In addition to the provision made in paragraph (A) the Chief of Detention, with the approval of the Registrar, will regulate the regime of the Detention Facility in such a way that ensures the overall confidence, dignity and wellbeing of all Detainees and staff.

Rule 46

Review of Segregation Orders

The Chief of Detention shall review all cases of segregation of Detainees at least once a week and report to the Registrar thereon. The Registrar may vary the nature, basis or conditions of segregation.

ISOLATION

Rule 47

Grounds for Isolation

- (A) The Chief of Detention may order that a Detainee be confined to the isolation unit as a result of

disciplinary proceedings. In such cases, the Chief of Detention shall report the isolation immediately to the Registrar and to the Medical Officer, who shall examine the Detainee before the isolation and confirm, in writing, that he is physically and mentally fit to sustain it. The Registrar shall inform the President.

- (B) The staff of the Detention Facility shall keep a detailed record of all events concerning a Detainee confined to the isolation unit in the Detainee's record established under Rule 8.
- (C) A Detainee confined to an isolation unit shall be entitled to communicate with and receive visits from his Counsel in accordance with Rule 65 of the Rules.

Rule 48

Visits by Medical Officer

- (A) The Medical Officer shall visit Detainees confined to the isolation unit daily and shall advise the Chief of Detention if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.
- (B) A Detainee who has been confined to the isolation unit may at any time request a visit from the Medical Officer, and such visit shall be made as soon as practicable.

Rule 49

Review of Isolation Orders

- (A) No Detainee shall be kept in the isolation unit for more than seven consecutive days without further orders from the Registrar. If further isolation is necessary, the Chief of Detention shall report the matter to the Registrar before the end of the seven-day period, and the Medical Officer shall confirm the physical and mental fitness of the Detainee to continue such isolation for a further seven day period. Each and every extension of the period of confinement to the isolation unit shall be subject to the same procedure.
- (B) The Registrar may order the release of a Detainee from the isolation unit at any time.

INSTRUMENTS OF RESTRAINT AND USE OF FORCE

Rule 50

Instruments of Restraint

- (A) Instruments of restraint, such as handcuffs, shall only be used in the following exceptional circumstances:
- (i) in consultation with the relevant authorities of the Host State, as a precaution against escape and to ensure the safety of the Detainee and the transporting officials of the Host State during transfer between the Detention Facility and any other place or vice versa;
 - (ii) on medical grounds, by direction and under the supervision of the Medical Officer;
 - (iii) to prevent a Detainee from self-injury, injury to other Detainees or any member of the staff of the Detention Facility, or to prevent serious damage to property; or
 - (iv) when the Chief of Detention has reasonable grounds to believe that the restraint is necessary for the security and good order of the Detention Facility, or to preclude escape.
- (B) Instruments of restraint shall never be applied as a punishment.
- (C) For all uses of instruments of restraint referred to in subparagraphs (A) (ii) - (iv), the Chief of Detention shall consult the Medical Officer before or as soon as practicable after using such instruments and shall also report such use to the Registrar.
- (D) Instruments of restraint shall not be applied for any longer than is strictly necessary and shall, in any case, be removed when the Detainee appears before the Pre-Trial Judge or a Chamber, unless otherwise ordered by the Pre-Trial Judge or a Chamber.
- (E) If any instrument of restraint is used under this Rule, the restrained Detainee shall be kept under constant and adequate supervision.

Rule 51
Use of Force

- (A) The staff of the Detention Facility shall not use force against a Detainee except in cases of:
- (i) self-defence;
 - (ii) attempted escape by the Detainee;
 - (iii) serious threat to the safety of the Detainee or any other person; or
 - (iv) serious threat to the security and good order of the Detention Facility.
- (B) Staff who have recourse to force shall use no more force than is strictly necessary and shall report the incident immediately to the Chief of Detention, who shall provide a report on the matter to the Registrar.
- (C) A Detainee against whom force has been used shall be examined immediately and treated, if necessary, by the Medical Officer. The medical examination shall be conducted in private and in the absence of any non-medical staff insofar as this is consistent with security and good order.
- (D) The results of such examination, including any relevant statement by the Detainee and the Medical Officer's opinion, shall be recorded and provided to:
- (i) the Detainee and his Counsel, in a language understood by them;
 - (ii) the Chief of Detention;
 - (iii) the Registrar;
 - (iv) the President;
 - (v) the Prosecutor; and

- (vi) the Head of the Defence Office.

Rule 52

Documentation of Instances of Use of Instruments of Restraint and Use of Force

All documents and reports regarding the use of instruments of restraint and use of force against a Detainee shall be kept in the Detainee's records.

DISTURBANCES

Rule 53

Requests for Assistance

- (A) If, in the opinion of the Chief of Detention, a situation exists or is developing which threatens the security and good order of the Detention Facility, the Registrar may request the immediate assistance of the authorities of the Host Prison to maintain control within the Detention Facility.
- (B) The Registrar shall report such requests to the President immediately.

Rule 54

Suspension of Rules

- (A) If there is serious danger of disturbances occurring within the Detention Facility, the Chief of Detention may temporarily suspend the operation of all or part of the Rules for a maximum period of seven days.
- (B) Any such suspension shall be reported to the Registrar immediately, who shall report the matter to the President and the Head of the Defence Office.
- (C) Thereupon, the Registrar, acting in consultation with the President and the relevant authorities of the Host Prison, shall review the decision to suspend the Rules and take such action as may be appropriate.

RIGHTS OF DETAINEES

Rule 55

Information to Detainees

Each Detainee shall, on reception or as soon as practicable thereafter, be provided with a copy of the Rules of Detention and the relevant regulations, as well as written information regarding:

- (i) The rights and treatment of Detainees;
- (ii) The Rules of Detention;
- (iii) The Statute;
- (iv) The Rules of Procedure and Evidence;
- (v) House Rules for Detainees;
- (vi) The procedures for seeking information and making complaints; and
- (vii) All other matters necessary to enable him to understand both his rights and obligations and to adapt himself to the routine of the Detention Facility.

Rule 56

Language

- (A) Information provided to Detainees pursuant to Rule 55 shall be provided in the official languages of the Tribunal or, if the Detainee does not speak or understand these, in a language which he does understand.
- (B) If a Detainee does not understand the language of the staff of the Detention Facility, an interpreter shall be made available to enable the Detainee to communicate freely with the staff of the Detention Facility.

COMMUNICATIONS AND VISITS

Rule 57

Communications with Family and Others

- (A) Detainees shall be entitled, under such conditions of supervision and time-restraints as the Chief of Detention deems necessary, to communicate with their families and others by receiving visits at the detention facility at regular intervals in accordance with Rule 59 and by letter or telephone at their own expense.
- (B) All letters and packages shall be inspected in accordance with Rule 78.
- (C) In the case of a Detainee whose indigence has been determined by the Registrar, and who does not possess the means to pay for communications with family and others by letter or telephone, the Registrar may direct that the costs are borne by the Special Tribunal to an extent to be decided by him.
- (D) A Detainee shall be informed immediately of the death, serious injury or serious illness of any near relative.

Rule 58

Visiting Hours

The Registrar shall set daily visiting hours for all visitors, taking into account the demands of the daily schedule of the Tribunal and the Detention Facility, the availability of its facilities and staff.

Rule 59

Visits from Family and Others

- (A) Detainees shall be allowed to receive visits from their families and others at regular intervals under such restrictions and supervision as the Chief of Detention, in consultation with the Registrar, may deem necessary in the interests of the administration of justice or the security and

good order of the Detention Facility.

- (B) Without prejudice to Rules 64, 65, 66 and 67, all visits shall be conducted within the sight and hearing of the staff of the Detention Facility.

Rule 60

Criteria for Granting Permission

- (A) All visitors, other than counsel, diplomatic or consular representatives, representatives of the Inspecting Authority or Officers of the Special Tribunal shall first seek the permission of the Registrar, in writing, to visit a Detainee. The Registrar shall give specific attention to the visits by the family of Detainees, with a view to maintaining relationships.
- (B) Permission for visits other than those by counsel, diplomatic or consular representatives, representatives of the Inspecting Authority and Officers of the Special Tribunal shall normally be granted, unless an order of the Chamber denying permission for the visit has been issued, the Detainee has refused to see the person or the Registrar or the Chief of Detention has reasonable grounds to believe that:
 - (i) A Detainee may be attempting to:
 - (a) Arrange an escape;
 - (b) Interfere with or intimidate a victim or witness;
 - (c) Interfere with the administration of justice; or
 - (d) Otherwise disturb the maintenance of the security and good order of the Detention Facility;
 - (ii) The visit jeopardises public safety or the rights of freedom of any person; or
 - (iii) The purpose of the visit is to obtain information, which may be subsequently reported in the media.
- (C) Should permission to visit be withheld, the Registrar shall advise both the visitor and the Detainee in writing.

- (D) Where permission has been granted by the Registrar, the Chief of Detention shall issue a permit to the visitor.
- (E) If permission for a visit is denied, the Detainee may file a complaint in accordance with the Special Tribunal's complaint procedure as set out in Rule 83.

Rule 61

Application Forms for Visits

- (A) Once the visitor has obtained permission from the Registrar to visit and other than in exceptional circumstances, he shall submit an application in writing in one of the official languages of the Special Tribunal using the approved standard application form, which can be obtained upon written request to the Chief of Detention. Such application shall be submitted no later than 14 calendar days prior to the date of the proposed visit. The applicant shall also provide a recent passport-size photograph attached to the application form.
- (B) Where the application is submitted in a language other than an official language of the Special Tribunal, the Administration Officer of the Detention Facility shall contact the applicant, requesting that they obtain a translation in an official language of the Special Tribunal or request the interpretation and translation service of the Tribunal to translate the application.
- (C) Visits shall be subject to the relevant Host State requirements as set out in Article 35(2) of the Host State Agreement.

Rule 62

Security Provisions

- (A) In order to gain access to the Detention Facility, all visitors shall present an official identification document bearing a photograph.
- (B) All visitors shall comply with the separate requirements of the visiting regime of the Detention Facility. These restrictions may include searches of clothing, personal searches and electronic scanning of possessions on entry to the Detention Facility. Such searches shall not infringe or

violate the dignity of the individual and shall be conducted only in accordance with a published operational order issued by the Chief of Detention and only where it is strictly necessary for the security and good order of the Detention Facility.

- (C) Any person, including Counsel for a Detainee or a diplomatic or consular representative, who refuses to comply with such screening requirements, shall be refused access to the Detention Facility.

Rule 63

Communications with and Visits from Media

- (A) A Detainee who seeks to communicate with or be visited by a representative of the media, or a representative of the media who seeks to communicate with or visit a Detainee, shall make a request for approval by the Registrar.
- (B) The Registrar may prohibit a Detainee from communicating with or being visited by a representative of the media if there are reasonable grounds to believe that such communication or visit or its disclosure to the public or follow-up:
 - (i) could prejudice, interfere with or otherwise undermine the conduct or the outcome of the proceedings against the Detainee or any other proceedings;
 - (ii) could be used by the Detainee to breach an order made by a Judge or a Chamber, or otherwise interfere with the administration of justice or frustrate the mandate of the Special Tribunal; or
 - (iii) could constitute a danger to the health and safety of any person for the purposes of attempting to arrange the escape of the Detainee from the Detention Facility;
 - (iv) could disturb the maintenance of the security and good order in the Detention Facility.

Rule 64

Communications with and Visits from Diplomatic and Consular Representatives

- (A) Detainees shall be allowed to communicate with and receive visits from the diplomatic and consular representative of the State(s) of which they are a national.
- (B) Detainees who are nationals of States without diplomatic or consular representation in the Host State and refugees and stateless persons shall be allowed to communicate with the diplomatic representative of the State which takes charge of their interests or the national or international authority whose task is to serve the interest of such persons.

Rule 65

Communications with and Visits from Counsel

- (A) Each Detainee shall be entitled to receive visits from his Lead Counsel or Co-Counsel accompanied by persons assisting counsel and to communicate fully and without restraint by letter or telephone with his Lead Counsel or Co-Counsel, with the assistance of an interpreter where necessary. All such communications shall be privileged, unless otherwise ordered by the Pre-Trial Judge or a Chamber.
- (B) Lead Counsel may request the Head of the Defence Office to permit one additional member of his Defence team to conduct such visits in (A) without the presence of Lead Counsel or Co-counsel. This person shall be the Legal Officer of the Case Core Team, as defined in the Legal aid Policy of the tribunal and who is assigned in accordance with Article 22 of the Directive on the Assignment of Defence Counsel. In such cases, the Lead Counsel accepts full responsibility for all aspects of the visit by a defence team member.
- (C) Each Detainee shall bear the expense of all such communication and visits unless he is declared indigent, in which case the Special Tribunal shall pay for such expenses.
- (D) The Registrar shall issue Lead Counsel, Co-Counsel and persons assisting counsel with a permit for regular visits as soon as they have been appointed. Where Lead Counsel has not yet been appointed, upon written request by a Detainee, the Registrar may issue a permit for a specific period of time prior to the hearing for confirmation of charges.
- (E) All visits shall be made by prior arrangement with the Chief of Detention as to the time and duration of the visit and shall be subject to the same security controls set out in Rule 62. The

Chief of Detention shall not refuse a request for such a visit without reasonable grounds.

- (F) Visits from Lead Counsel or Co-Counsel and persons assisting counsel shall be conducted within the sight but not within the hearing of the staff of the Detention Facility.

Rule 66

Private Visits

A place within the Detention Facility may be made available for the Detainee to meet with his spouse or partner. The responsibility lies with the Detainee to provide identification details of his partner or spouse and proof of his marital state or stable relationship. After having spent three months in the Detention Facility, a Detainee shall be granted private visits on request subject to the requirements of Rule 62.

Rule 67

Supervision of Visits

- (A) All visits with family and friends or those visits with the media approved by the Registrar pursuant to Rule 63 shall be conducted within the sight and hearing of the staff of the detention facility. Visits with counsel and diplomatic and consular representatives, or with officers of the Special Tribunal will be conducted within the sight and not the hearing of detention staff.
- (B) Private visits falling under Rule 66 and the visits of representatives of the Inspecting Authority will not be supervised (out of the sight and the hearing).
- (C) Where a member of staff supervising a visit believes that these Rules or other regulations regarding detention matters are being breached in any way, he may terminate the visit, relocate the visitor and the Detainee to separate and secure areas and immediately report the matter to the Chief of Detention.
- (D) The Chief of Detention shall decide whether or not to confirm the decision taken by the staff member. In the event that the decision of the staff member is confirmed by the Chief of Detention, he shall immediately report the matter to the Registrar.

Rule 68
Making Telephone Calls

- (A) Telephone calls may be made by a Detainee between the hours of 9 a.m. and 5 p.m. (The Hague time), subject to the reasonable demands of the Tribunal and of the schedule of the Detention Facility and any financial limits established by the Registrar in accordance with Rule 57(C).
- (B) The Chief of Detention may permit Detainees to receive incoming calls under exceptional circumstances.
- (C) In exceptional circumstances, the Chief of Detention may permit Detainees to make calls outside the hours set out in paragraph (A).
- (D) A Detainee shall not be allowed to possess a mobile phone.

Rule 69
Monitoring Telephone Calls

- (A) All telephone conversations of Detainees, with the exception of those with counsel, diplomatic or consular representatives, representatives of the Inspecting Authority or Officers of the Special Tribunal, shall be passively monitored.
- (B) Passive monitoring entails the digital recording of telephone calls without simultaneous listening. These recordings may be listened to subsequently in accordance with the provisions of Rule 70.
- (C) Detainees shall be informed of the practice of monitoring of telephone calls under this Rule.
- (D) Recordings of telephone conversations shall be erased after the completion of proceedings.

Rule 70
Prohibition or Conditions on Communications and Visits

- (A) The Registrar, acting on his own initiative or at the request of the Pre-Trial Judge, a Chamber, the

Prosecutor or the Head of the Defence Office may prohibit, regulate or set conditions for communications, including the active monitoring of telephone calls, and may prohibit, regulate or set conditions for visits between a Detainee and any other person if there are reasonable grounds for believing that such communications and visits are:

- (i) for the purposes of attempting to arrange the escape of any Detainee from the Detention Facility; or
 - (ii) could prejudice or otherwise undermine the outcome of the proceedings against any Detainee or any other proceedings;
 - (iii) could constitute a danger to the health and safety of any person;
 - (iv) could be used by any Detainee to breach an order made by the Pre-Trial Judge or a Chamber, or otherwise interfere with the administration of justice or frustrate the mandate of the Special Tribunal; or
 - (v) could disturb the maintenance of security and good order in the Detention Facility.
- (B) The Registrar may make arrangements for any communications to or by any or all Detainees to be actively monitored if the Registrar considers that it is necessary in accordance with paragraph (A) and is proportionate to what is sought to be achieved.
- (C) The order of the Registrar shall have effect for six months, unless the Registrar believes that such arrangements are no longer necessary or proportionate to what is sought to be achieved, in the latter case they shall be terminated immediately. The order for interception may be extended for a further six months if the Registrar considers that the arrangements are still necessary on the basis of the criteria set out in paragraph (A) and proportionate to what is sought to be achieved.
- (D) The Registrar shall not retain any intercepted material for a period longer than 3 months from the date on which it was intercepted, unless the Registrar is satisfied that continued retention is necessary in accordance with the criteria set out in paragraph (A) and is proportionate to what is sought to be achieved by continued retention. Where such material is retained for longer than three months, the Registrar shall review its continued retention at three monthly intervals

thereafter.

- (E) In case of emergency, the Pre-Trial Judge, a Chamber or the Prosecutor may make a request under paragraph (A) through the Registrar, to the Chief of Detention to prohibit, regulate or set conditions for communications, including active monitoring of telephone calls, and to prohibit, regulate or set conditions for visits between a Detainee and any other person. In such a case, the Judge, the Chamber or the Prosecutor shall immediately inform the Registrar of the request, together with the reasons for this request.
- (F) The Detainee shall be informed in writing of any decision under paragraphs (A), (B), (C), (D) or (E), together with the reasons for this action within twenty-four hours of such decision.
- (G) A Detainee may, at any time, request the President to review a decision made by the Registrar pursuant to this Rule.

SPIRITUAL WELFARE

Rule 71

Religious Beliefs

Subject to the security and good order of the Detention Facility, a Detainee shall be entitled to observe the religious beliefs and the moral precepts of the group to which the Detainee belongs, and to observe them in appropriate forms of worship.

Rule 72

Spiritual Advice

Each Detainee shall be entitled to indicate, on arrival at the Detention Facility or thereafter, whether he wishes to establish contact with a minister or spiritual adviser.

Rule 73

Satisfying Religious Life

As far as practicable and subject to the security and good order of the Detention Facility, each Detainee shall be allowed to satisfy the needs of his religious, spiritual and moral life by attending services or meetings held in the Detention Facility, if any, and having in his possession the books of religious observance and instruction of his denomination.

Rule 74

Visits by Spiritual Advisers

A qualified representative of the religion or beliefs held by any Detainee and who is authorized by the host prison shall be allowed to visit the Detainee at his request. The representative will be engaged through the service provision of the Host Prison authority. Such representative shall be permitted to hold services and activities within the Detention Facility and to pay pastoral visits as requested to any Detainee of his religion, subject to the same considerations of the security and good order of the Detention Facility as apply to other visits. If a Detainee objects to the visit of any religious representative, his attitude shall be fully respected.

WORK PROGRAMME

Rule 75

Work Programme

- (A) The Chief of Detention, as far as is practicable, shall institute a work programme to be performed by Detainees either in the individual cells or in the communal areas of the Detention Facility.
- (B) A Detainee shall not be required to work. However, should the Detainee choose to work he shall be offered the opportunity to enroll in such a work programme.
- (C) A Detainee who chooses to work shall be paid for his work at rates to be established by the Chief of Detention, in consultation with the Registrar, and may use part or all of his earnings to purchase items for his own use from the approved shopping lists of the Host Prison shop. The balance of any monies earned shall be held in his account in accordance with Rule 81.

RECREATIONAL ACTIVITIES

Rule 76

Reading and Writing Materials

- (A) Detainees shall be allowed to procure at their own expense books, newspapers, reading and writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the Detention Facility.
- (B) So far as is practicable, the Chief of Detention shall establish and administer a Detention Facility library in the communal area. He shall ensure that all Detainees have access to the library of the Host Prison.
- (C) Detainees shall be allowed to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, by radio or television transmissions, by lectures or by any similar means as authorized or controlled by the Chief of Detention.
- (D) Detainees shall not be permitted access to the Internet.

Rule 77

Physical Exercise, Sport and Recreational Opportunities

- (A) Each Detainee shall be allowed at least one hour of walking or other suitable exercise in the open air daily, weather, staffing and security considerations permitting.
- (B) Opportunities for physical education, sport and other recreational activities shall be offered to Detainees in so far as resources, staffing and security considerations permit.
- (C) Special arrangements shall be made, under medical direction, for remedial or therapeutic treatment for any Detainee who is unable to participate in the regular programme.

PERSONAL POSSESSIONS OF DETAINEES

Rule 78
Incoming Items

- (A) Any item or letter received from outside the Detention Facility, including any item brought by any visitor to a Detainee, shall be subject to security controls of the Detention Facility.
- (B) The Chief of Detention may refuse to receive any item intended for the Detainee's use if that item that may constitute a danger:
 - (i) to the security and good order of the Detention Facility;
 - (ii) to the health and safety of the Detainee, any other detainee, or any member of the staff of the Detention Facility; or
 - (iii) of attempted escape by a Detainee from the Detention Facility.
- (C) Any item received for a Detainee from outside the Detention Facility, which in the view of the Chief of Detention constitutes a threat as described in paragraph (B) above shall be removed or destroyed as provided for under Rule 11 of the Rules of Detention. The Chief of Detention shall inform the Registrar and the Detainee accordingly.
- (D) The Detainees and their visitors, specifically the families of the Detainees, shall be provided with information about the nature and type of items prohibited.

Rule 79
Facilities for Preparation of Defence

- (A) The Registrar, in consultation with the Chief of Detention and the Head of the Defence Office, will ensure that detainees have adequate and reasonable facilities to participate in the preparation of the case for the defence, which for example includes being able to receive:
 - (i) materials disclosed to him pursuant to the Rules of Procedure and Evidence;
 - (ii) privileged documents from his counsel; and

- (iii) the testimony of witnesses and evidence presented at trial.

- (B) Without prejudice to the provision of adequate facilities, the Chief of Detention may prohibit the receipt of electronic data carriers, including but not limited to CD-ROMS, DVD's, floppy disks, memory cards, Universal Serial Bus (USB) Devices and portable hard drives.

Rule 80

Medication, Cigarettes and Alcohol

- (A) The possession and use of any medication by a Detainee shall be subject to the control and supervision of the Medical Officer, who will notify the Chief of Detention of the presence and legitimacy of such medicines.

- (B) Detainees may possess cigarettes, subject to restrictions on the quantity provided for in the relevant Detention Facility regulations. The Detainee may smoke cigarettes at such times and places as the Chief of Detention permits.

- (C) The possession or consumption of alcohol by Detainees shall not be permitted.

Rule 81

Purchases

- (A) Each Detainee shall be authorized to purchase items from the lists provided by the shop operated by the Host Prison.

- (B) An account shall be created for each Detainee and the cost of purchase of items from the shop shall be deducted therefrom.

- (C) Detainees shall have the right to purchase such items within seven days of reception in the Detention Facility and at least once a week thereafter.

Rule 82
Return of Property

Upon release of the Detainee from the Detention Facility, or transfer to another institution for the purposes of enforcement of sentence or detention, all items and money retained within the Detention Facility shall be returned to the Detainee or handed over to the representatives of the institution to which the Detainee is transferred. The Detainee shall sign a receipt for the items and money returned to him.

COMPLAINTS

Rule 83
Complaints Procedure

- (A) Each Detainee or his counsel may make a complaint to the Chief of Detention or his representative at any time in his own language.
- (B) A log of all complaints made shall be kept by the Chief of Detention and shall include the following information:
 - (i) The name of the Detainee;
 - (ii) The complaint reference number;
 - (iii) The date and time the complaint was received;
 - (iv) The nature of the complaint; and
 - (v) The details and reasons for the decision taken and the date on which it took effect.
- (C) The Chief of Detention shall investigate and deal with a complaint without undue delay. Where this is not possible he shall deal with the complaint within 7 days of its receipt unless there are circumstances which justify a longer investigation period. In such circumstances the Chief of Detention will inform the Registrar of the details.

- (D) If not satisfied with the response from the Chief of Detention, the Detainee shall have the right to make a written complaint, without censorship, to the Registrar.
- (E) Each complaint shall be dealt with promptly by the Registrar and replied to without undue delay. Where this is not possible he shall deal with the complaint within 7 days of its receipt unless there are circumstances which justify a longer investigation period.
- (F) If the Detainee is not satisfied with the response from the Registrar, he may further appeal to the President within 7 days from the notification of the response.

Rule 84

Communications with Inspecting Authorities

Each Detainee shall have the right to communicate freely and in full confidentiality with the Inspecting Authority designated under Rule 4 of the Rules of Detention. During inspections, such communications shall be out of the sight and the hearing of the staff of the Detention Facility.

TRANSFER AND TRANSPORT OF DETAINEES

Rule 85

Transfer Out of the Detention Facility

Arrangements for the transfer of a Detainee for the purpose of appearing before the Tribunal, or to another place such as an alternative detention facility or a medical facility, shall be the responsibility of the Chief of Detention under Rule 3 of the Rules, following the issue and service of a Notice of Hearing, an instruction by the Registrar or an order of the Pre-Trial Judge or a Chamber. Transport of the Detainee shall be carried out by the relevant authorities of the Host State. The safe custody of the Detainee during transfer between the Detention Facility and any of the above-mentioned facilities shall be the responsibility of the Host State.

Rule 86

Public View

In consultation with the relevant authorities of the Host State, the Chief of Detention shall endeavor to

ensure that, when Detainees are being transferred to or from the Detention Facility, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, injury, curiosity and publicity in any form.

Rule 87

Adequate Transportation

The Chief of Detention, in consultation with the relevant authorities of the Host State, shall ensure that Detainees are transported in vehicles or other means of transport with adequate ventilation and light and in such a way as shall not subject them to unnecessary physical hardship or indignity.

AMENDMENTS

Rule 88

Amendments Procedure

- (A) Proposals for the amendment of the Rules may be made by a Judge, the Prosecutor, the Head of the Defence Office or the Registrar and may be adopted by the Registrar in consultation with the President of the Special Tribunal.
- (B) An amendment shall enter into force immediately unless provided for otherwise.
- (C) Any amendments shall not apply retroactively.

ACCESSIBILITY

Rule 89

Provision of Rules to Detainees and Staff

The Rules and regulations listed in Rule 55 shall be provided to all Detainees in a language which is understood by them in accordance with Rule 56 and to the staff of the Detention Facility.

ENTRY INTO FORCE

Rule 90

Date of Entry into Force

The Rules shall enter into force on 20 March 2009

