



13 January 2014

## **Statute**

### **of the Administrative Tribunal of the Bank for International Settlements**

#### **Article I**

An Administrative Tribunal of the Bank for International Settlements is hereby established.

#### **Article II**

(1) The Administrative Tribunal shall be competent to hear and determine any dispute in matters of employment relations arising between the Bank and its officials or former officials or persons claiming through them.

(2) Matters of employment relations shall be deemed to include in particular all questions relating to the interpretation or application of contracts between the Bank and its officials concerning their employment, and of the regulations to which the said contracts refer, including the provisions governing the Bank's pension scheme and other welfare arrangements provided by the Bank.

(3) The term "official" shall for the purpose of the present provisions mean any member of the Bank's staff who, in accordance with (i) the Headquarters Agreement concluded between the Swiss Federal Council and the Bank to determine the Bank's legal status in Switzerland or (ii) any other applicable agreement determining the legal status of the Bank and its staff in a specific jurisdiction, is subject to the jurisdiction of the Administrative Tribunal.

(4) "Persons claiming through" officials or former officials shall for the purposes of the present provisions mean persons who by virtue of their relationship with such officials or former officials are entitled to benefits from the Bank or under the Bank's pension scheme and other welfare arrangements provided by the Bank.

(5) The Administrative Tribunal shall, if necessary, decide upon its own competence.

#### **Article III**

(1) The Administrative Tribunal shall be composed of five members appointed by the Board of Directors.

(2) The members of the Administrative Tribunal shall be chosen from among persons who possess the qualifications for appointment to the highest judicial office in their respective countries or who are jurisconsults of recognised competence. They shall be appointed for a period of four years and may be reappointed; they may not remain in office beyond the end of the year in which they reach the age of 75.

(3) Should a vacancy occur before the term of office laid down in paragraph (2) of the present Article has expired, the Board of Directors shall appoint a new member.

(4) The Administrative Tribunal shall convene at the Bank's offices either in plenary session (full Tribunal) or as a panel of three members.



#### **Article IV**

- (1) The Rules of Procedure of the Administrative Tribunal shall be laid down by the full Tribunal in accordance with the present Statute and after consulting the Bank.
- (2) The full Tribunal shall elect a President and a Vice - President from among its members and appoint a Registrar of the Administrative Tribunal. The Registrar must have an address in the city where the headquarters of the Bank are located.
- (3) The Vice -President shall be the alternate of the President of the Administrative Tribunal in all circumstances.
- (4) The Administrative Tribunal (full Tribunal or panel) shall take decisions by a majority vote. In the case of a tie, the presiding judge shall have a casting vote.

#### **Article V**

Subject to the terms of this Statute, the Rules of Procedure of the Administrative Tribunal shall include provisions concerning:

- (a) the institution of proceedings;
- (b) disqualification of members of the Tribunal or their inability to act for any other reason;
- (c) representation of the parties;
- (d) evidence and proof, the Administrative Tribunal having the power, where necessary, to require all appropriate means of proof;
- (e) the conduct of the hearings;
- (f) the duties of the Registrar of the Administrative Tribunal;
- (g) the revision of judgments;
- (h) all other matters relating to the functioning of the Administrative Tribunal.

#### **Article VI**

- (1) Proceedings before the Administrative Tribunal shall be instituted by the filing of an application by the party concerned (official, former official or person claiming through such official or former official) in English or another working language as provided for in the Rules of Procedure of the Tribunal.
- (2) An application shall not be admissible, save in exceptional circumstances at the discretion of the Administrative Tribunal, unless:
  - (a) the applicant has previously submitted a request on the same subject to the General Manager of the Bank and
  - (b) the Bank has, in writing, rejected this request wholly or in part, or
  - (c) the Bank has failed to respond to the said request in writing within 90 days of its having been submitted,
  - (d) the applicant has notified the General Manager in writing, within the time limits laid down in the following Article, of his/her intention to file an application, and finally,
  - (e) the application was filed within the time limits laid down in the following Article.
- (3) A prior request shall not be necessary if the action sought by the applicant through a Grievance Procedure has been rejected, wholly or in part, by a decision which under the Grievance Procedure entitles the applicant to have immediate recourse to the Administrative Tribunal.



### **Article VII**

- (1) The application referred to in Article VI above must be filed with the Registrar of the Administrative Tribunal within 90 days of:
  - (a) receipt by the applicant of the communication referred to in paragraph (2)(b) Article VI above, or
  - (b) the end of the period referred to in paragraph (2) (c) Article VI above, or
  - (c) receipt by the applicant of a decision which under the Grievance Procedure entitles the applicant to have immediate recourse to the Administrative Tribunal.
- (2) The prior notification to the General Manager referred to in paragraph (2) (d), Article VI above must specify the subject matter and be sent to the Bank within 30 days of the events mentioned under paragraph (1) (a), (b) and (c) of the present Article.

### **Article VIII**

- (1) Cases shall be decided by a panel of the Administrative Tribunal.
- (2) As soon as an application has been submitted to him/her, the President of the Administrative Tribunal shall designate the members of the Tribunal who shall form the panel which is to judge the case.
- (3) As a general rule, cases will be decided on the basis of written procedures, and the Tribunal will render a judgment based upon the written submissions and written evidence of the parties. Oral hearings will only take place if the Tribunal so decides as provided for in the Rules of Procedure of the Tribunal. The proceedings of the Administrative Tribunal shall not be public.

### **Article IX**

- (1) The Administrative Tribunal shall apply the regulations established by the Bank and the contracts concluded between the Bank and its officials, and shall satisfy itself, if necessary, that such regulations and contracts are in conformity with general principles of law.
- (2) In the absence of applicable rules, the Administrative Tribunal shall base its judgments on general principles of the law of the international civil service and, in case of doubt, on general principles of Swiss law, whereby it is understood that neither judgments delivered by other administrative tribunals of the international civil service nor those of national courts shall be binding upon the Tribunal.
- (3) In all cases, the Tribunal shall take into account the customs and practices of the Bank.

### **Article X**

- (1) If the Administrative Tribunal finds that the application is well founded it may quash the decision contested and, if necessary, grant an appropriate remedy.
- (2) The Administrative Tribunal cannot substitute its decision for the discretionary power of the Bank in matters of appointments.
- (3) The filing of an application shall not have a suspensory effect.
- (4) The President of the Tribunal may make interim orders.



#### **Article XI**

- (1) Each judgment of the Administrative Tribunal shall state the reasons on which it is based.
- (2) Judgments of the Administrative Tribunal shall be final and without appeal.

#### **Article XII**

- (1) If, after a judgment has been delivered by the Administrative Tribunal, new facts come to the knowledge of a party to the case which, had they been known at the time of the deliberations, might have had a decisive influence on the said judgment, the party concerned may request revision of the judgment within 90 days of the new facts coming to his knowledge.
- (2) The Administrative Tribunal may interpret or rectify any judgment whose terms appear obscure or incomplete or which contains a typographical, clerical or arithmetical error.

#### **Article XIII**

- (1) The original copy of each judgment shall be filed in the archives of the Bank. A copy attested by the President of the Administrative Tribunal shall be delivered to the parties concerned.
- (2) The Administrative Tribunal shall publish, in coordination with the Bank, all or part of its judgments to the extent that it considers such publication necessary, without prejudice to the parties' right of privacy. Upon reasoned request, copies of unpublished judgments may subsequently be made available to persons with a legitimate interest by the Registrar, after consulting the Bank, and safeguarding the interests of the parties concerned.

#### **Article XIV**

- (1) The costs of the Administrative Tribunal incurred in connection with the performance of its functions shall be borne by the Bank.
- (2) The panel may, if it rules in the applicant's favour, award costs to be borne by the Bank as indemnity for all or part of the expenses incurred by the applicant. Under exceptional circumstances, the panel may award costs even though it did not rule in the applicant's favour.

#### **Article XV**

The President of the Administrative Tribunal shall periodically provide the Chairman of the Board of Directors of the Bank with a report on the cases which have come before the Administrative Tribunal.

#### **Article XVI**

- (1) This Statute may be amended by the Board of Directors of the Bank after consulting the Administrative Tribunal.
- (2) The present revised version of the Statute shall enter into force on the day of its adoption by the Board of Directors of the Bank.