

Rules of Procedure of the Administrative Tribunal of the Bank for International Settlements

Chapter I: General provisions

Article 1

Scope of application

1. These rules (the Rules of Procedure) determine the procedure to be followed before the Administrative Tribunal of the Bank for International Settlements (the Tribunal) provided for by Article 4, paragraph 2 of the Agreement of 10 February 1987 between the Swiss Federal Council and the Bank for International Settlements (the Bank) determining the Bank's legal status in Switzerland (the Headquarters Agreement) and established by the Statute of the Tribunal drawn up by the Board of Directors of the Bank (the Statute of the Tribunal).
2. The Rules of Procedure shall be applicable in the event of any proceedings before the Tribunal between the Bank and its officials or former officials or persons claiming through them with regard to:
 - (a) employment relations;
 - (b) rights and obligations in respect of the Bank's pension scheme and other welfare arrangements provided by the Bank.
3. The Rules of Procedure shall be subject to the provisions of
 - (a) the Headquarters Agreement;
 - (b) the Statute of the Tribunal.

Article 2

Working languages of the Tribunal

1. In plenary (full Tribunal) or panel sessions, each member of the Tribunal shall express himself/herself in one of the working languages of the Tribunal, namely English, French or German.
2. Procedural documents shall be drawn up in the language in which the application instituting proceedings has been drafted, in accordance with Article VI, paragraph 1 of the Statute of the Tribunal.
3. The Registrar may, at the request of a member of the Tribunal or one of the parties, ask any party producing documentary evidence not written in one of the working languages of the Tribunal to provide a translation of such document.

Chapter II: Organisation of the Tribunal

Article 3

Composition of the Tribunal

The Tribunal shall meet in plenary session (full Tribunal) or as a panel of three members.

Article 4

Plenary sessions

1. The Tribunal shall meet in plenary session (full Tribunal) at the Bank's headquarters in order to:
 - (a) establish or amend the Rules of Procedure;
 - (b) elect the President and the Vice-President of the Tribunal;
 - (c) appoint or dismiss the Registrar of the Tribunal;
 - (d) give a decision on any referral by a panel, such referral being necessary in particular in the event of a departure from previous judgments of the Tribunal;
 - (e) approve the annual report drawn up by the President of the Tribunal.
2. A minimum of four members shall constitute a quorum for plenary sessions. If all the members agree, decisions may be taken by written procedure or teleconference.
3. The full Tribunal shall take its decisions by a majority vote. In the event of a tie, the presiding judge of the plenary session shall have a casting vote.

Article 5

President of the Tribunal

1. The President of the Tribunal shall, with the assistance of the Registrar, take care of the day-to-day business of the Tribunal.
2. He/she shall preside over the plenary sessions.
3. He/she shall, in addition, perform the functions entrusted to him/her by the Statute of the Tribunal and the Rules of Procedure.

Article 6

Registrar of the Tribunal

1. Under the authority of the President of the Tribunal, the Registrar of the Tribunal shall provide the secretariat of the Tribunal.
2. He/she shall attend plenary and panel sessions without the right to vote;
3. He/she shall keep the minutes of these meetings.
4. He/she shall perform, in addition, the functions entrusted to him/her by the Rules of Procedure and carry out the tasks which the President assigns to him/her.

Article 7

Disqualification or objection

1. Members of the Tribunal or the Registrar must consider themselves disqualified from hearing a case:
 - (a) in matters in which they themselves, their spouse or any relative in the ascending or descending line are directly concerned;
 - (b) in matters concerning which they have previously been called upon in another capacity, as adviser, representative, expert or witness on behalf of a party;
 - (c) if there exist circumstances such as make them appear biased with respect to one of the parties.

2. Those finding themselves so disqualified shall immediately inform the President of the Tribunal.

3. Parties wishing to object to a member of the Tribunal or to the Registrar shall address a reasoned written statement to the Registrar of the Tribunal; this statement must, to be admissible, be sent within 10 days of the grounds for objection coming to the knowledge of the parties concerned.

4. A decision on disqualification, together with a summary of the reasons on which it is based, shall be taken by written procedure by a panel consisting, unless they are unable to act, of the President of the Tribunal, the Vice-President and the longest-serving of the other members.

Chapter III: Procedure

Article 8

Representation of the parties

1. Each of the parties may at any time be assisted or represented before the Tribunal by a representative of their choice who is authorised to represent parties before a court of law in one of the countries or monetary areas whose central bank is a member of the Bank.

2. The representative shall furnish as evidence of his authority a power of attorney which shall be deposited in the relevant case file.

Article 9

Procedural documents

1. All documents for the attention of the Tribunal shall be sent to the Registrar of the Tribunal in six copies (or in such number as may be determined by the Registrar) by registered mail or by any other means of communication allowing for authentication of dispatch that has the approval of the presiding member of the panel.

2. Decisions, orders, judgments and other documents for the attention of the parties to the case shall be sent by the Registrar to each of the parties or their representatives by registered mail or by any other means of communication allowing for authentication of dispatch that has the approval of the presiding member of the panel.

Article 10

Calculation of time limits

1. In the calculation of prescribed time limits the day on which the period in question begins shall not be counted; if the last day falls on a Saturday or Sunday, the time limit expires on the following Monday.

2. Written documents must be sent to the address of the Registrar of the Tribunal no later than on the last day of the relevant period.

Article 11

Extension of time limits

1. The time limits set by the Tribunal may be extended. A reasoned request for an extension must be sent to the address of the Registrar in accordance with the provisions of Article 9 of these Rules of Procedure, before expiry of the time limit in question.

2. An extension of time upon non-compliance with a prescribed time limit or an adjournment for non-appearance shall be granted on condition that the applicant shows reasonable grounds on which

he/she or his/her representative was prevented through no fault of their own from taking action or appearing in time.

3. An application for such extension must be made within 10 days of the date on which the grounds for the delay ceased to exist, and the required action shall take place within the same 10-day period.

Article 12

Institution of proceedings

1. The application instituting proceedings shall not be admissible, save in exceptional circumstances at the discretion of the Tribunal as provided for in Article VI, paragraph (2) of the Statute of the Tribunal, unless it has been filed with the Registrar of the Tribunal within the time limit provided for in Article VII of the Statute.

2. The application shall be clear and complete and contain all relevant particulars, notably:

- (a) the name, address and functions of the applicant and, where applicable, of his/her representative;
- (b) the claims made in the application;
- (c) a statement of the facts of the case;
- (d) full details of the evidence offered for each fact alleged;
- (e) a numbered list of the documents produced and a list of other evidence cited;
- (f) a statement of the legal grounds for the application;
- (g) the signature of the applicant or his/her representative.

The President may grant the applicant a sufficient extension of time to complete or correct an application that does not fulfil the conditions of the present paragraph.

3. A copy of the prior request and, where applicable, of the General Manager's decision shall be appended to the application.

Article 13

Constitution of the panel

1. After receipt of the application, the President of the Tribunal shall determine the composition of the panel and designate the members of the panel who shall serve as presiding member of the panel and as reporting judge.

2. The parties shall be notified of the composition of the panel.

3. The panel may decide to refer the application back to the full Tribunal when a question of general importance arises, in particular when a departure from previous judgments of the Tribunal is envisaged.

Article 14

Admissibility

1. The panel shall by virtue of its office examine the admissibility of the application and of all procedural documents.

2. The panel may, without any hearings, decide by unanimous vote via written procedure not to examine the substance of the application if it is manifestly inadmissible or manifestly amounts to an abuse of process.

3. Summary reasons shall be given for the decision as to inadmissibility or abuse of process.

Article 15

Respondent's answer

Unless the application is deemed inadmissible from the outset, the Registrar shall communicate it to the respondent together with the time limit, which shall not be less than 60 days, set by the presiding member of the panel for the respondent to file a written answer to the application, to submit any counterclaim, and to produce documentary evidence.

Article 16

Third party intervention

1. If the application directly affects the interests of third parties the presiding member of the panel shall ask the Registrar to send the relevant documents to them and set a time limit for them to present their comments and, if applicable, make submissions as intervening parties.
2. The presiding member of the panel shall, if necessary, set a time limit for the parties to adopt a position on the submissions of intervening parties.

Article 17

Exchange of written statements and documents

1. Once the respondent has submitted its answer, the presiding member of the panel shall set a time limit for the applicant to reply.
2. Within the time limit set by the presiding member of the panel, the respondent may in turn submit a rejoinder.
3. If the application, the answer, the reply, the rejoinder, the counterclaim or the intervention of a third party raises complex questions of fact or of law, the presiding member of the panel may, after consulting the other members of the panel, call for a further exchange of written statements and documents.

Article 18

Further procedure

1. After the exchange of written statements and documents, the presiding member of the panel shall consult both the members of the panel and the parties or their representatives on whether to schedule one or more hearings. Such hearings may be organised using a means of communication designated by the presiding member of the panel (for example teleconference).
2. If necessary, the presiding member of the panel shall make an order indicating the date and place of the hearings, the evidence to be heard and the time allowed for oral argument.

Article 19

Examination of evidence

1. The parties (if ordered to appear), witnesses and experts shall be examined by the panel. The parties may put questions to the witnesses and experts, under the supervision of the presiding member of the panel.
2. Before giving evidence, each witness shall be asked to make the following declaration: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."
3. Before delivering his/her report, each expert shall be asked to declare that he/she will speak completely independently and impartially.

4. The panel may exclude evidence which it considers irrelevant or lacking in probative value. It may limit oral testimony where it considers that the documents produced suffice to establish the facts.
5. The panel may at any time call for the production of documents or other evidence.
6. The panel may decide upon the weight to be attached to the evidence.

Article 20

Settlement proposal

The presiding member of the panel may at any time submit to the parties a suggestion for settlement of the dispute.

Article 21

Hearings

1. The presiding member of the panel shall direct the hearings. The Registrar shall keep the minutes of the proceedings for the panel.
2. Each of the parties, as well as each member of the panel, may request the assistance of an interpreter provided by the Bank.
3. When it deems it necessary, the panel may itself recall the parties or certain witnesses for further examination; it may also admit fresh evidence.
4. Both parties shall then be invited to state their case. With the approval of the presiding member of the panel each party may express itself in a language other than a working language of the Tribunal as provided for in Article 2, paragraph 1 of the current Rules of Procedure.
5. In exceptional circumstances the presiding member of the panel may authorise the parties simultaneously to submit written submissions after the conclusion of the hearing.

Article 22

Deliberation

1. Once the hearings have been concluded, the reporting judge shall draw up a written report for the members of the panel in the form of a draft reasoned judgment.
2. The panel shall deliberate and vote in secret.
3. The panel shall take decisions by an absolute majority of its members on each of the orders made and, if need be, on the main grounds for the judgment. In case of a tie the presiding judge has a casting vote.

Chapter IV: Judgment

Article 23

Powers of examination and decision-making

1. The Tribunal shall not be bound by the reasons put forward by the parties.
2. It shall decide upon its own competence and pass judgment on the merits, quashing modifying, where appropriate, the decision contested.
3. It may deliver judgments on part of the claim or interim judgments.

Article 24

Delivery of the judgment

1. The reporting judge or the Registrar shall draw up the full text of the judgment, including the composition of the panel, the statement of the facts, the claims put forward by the parties, and the legal grounds for and the terms of the judgment.
2. This text shall be circulated to the members of the panel for approval.
3. A copy of the final text of the judgment, signed by the presiding member of the panel and the Registrar, shall be delivered to each of the parties and, where relevant, to others in accordance with Article XIII paragraph 2 of the Statute.
4. The original of the judgment and the case file shall be placed in the archives of the Bank.

Article 25

Decisions

1. Judgments of the Tribunal shall be final and without appeal.
2. They shall be enforceable as from the time they are notified to the parties.
3. They shall be subject to the provisions regarding revision or interpretation of judgments.

Article 26

Request to set aside or revise the judgment

1. Either party may:
 - (a) within 30 days of receiving the considered judgment, request that it be set aside if the provisions of the Rules of Procedure concerning the composition of the full Tribunal or of a panel have not been observed, or if the panel has wrongfully granted one of the parties either more or something other than such party had asked for, or less than the opposing party had acknowledged was due to the first party; or
 - (b) within 90 days of discovering grounds for revision request that the judgment be revised, such grounds being new facts which come to the knowledge of the party concerned after the delivery of the judgment by the Tribunal and which, had they been known at the time of the hearings, might have had a decisive influence on the content of the judgment.
2. To be admissible, the request shall state the grounds for setting aside or reviewing the judgment, and in the latter case the amendments to be made to it.
3. The panel shall pass judgment on the request by written procedure, in principle without any hearings, but after an exchange of written submissions; should the request be admitted, it shall pass judgment on the merits following the usual procedure. It may take into account the need for finality in litigation.

Article 27

Request to rectify or interpret the judgment

1. Either party may, within 30 days of receiving the judgment, request that it be rectified or interpreted if the terms of the judgment are obscure, incomplete or ambiguous; if the terms of the judgment are internally inconsistent; or if the judgment contains obvious typographical or mathematical errors, after giving the parties the opportunity to make representations, the Tribunal may of its own motion rectify any judgment which contains such an error.
2. To be admissible, the request shall state the grounds for rectifying or interpreting the judgment, and specify the amendments to be made to it.

3. The panel may pass judgment on the request by written procedure after an exchange of written submissions, without any hearing. Should the request be admitted, the panel shall pass judgment on the merits following the usual procedure.

Chapter V: Entry into force

Article 28

Entry into force

Adopted by the full Tribunal on 2 December 2003. These Rules of Procedure in their original English and French versions entered into force on that date.

The Registrar of the Tribunal
Felix Heusler

The President of the Tribunal
Jacques-Michel Grossen