

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 The primary working language of the Tribunal shall be English. However if the applicant is not fluent or comfortable in English or in other appropriate circumstances, French or German shall be the applicable working language. In plenary (full Tribunal) or panel sessions attended by the parties, each member of the Tribunal shall express himself/herself in the applicable working language of the Tribunal as determined above.
- 2 Procedural documents shall be drawn up in the applicable working language.
- 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 the applicable working language 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;
 - (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 to give rise to the appearance of bias 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 its 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 Additionally and alternatively, the applicant may also be assisted or represented before the Tribunal by a member or a former member of the staff and the Bank by an inhouse counsel or other officials.
- 3 The representative shall furnish evidence of his authority 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, a Sunday, or another official holiday at the seat of the bank or at the place of residence of any other party, the time limit expires on the following working day.
- 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.

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, as concise as possible, 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) details of the evidence that is put forward in support of each fact that is alleged; the details, which may take the form of documentary evidence, witness statements or expert reports should be sufficient to set out the nature of the party's case, without being unnecessarily lengthy. In particular, the party should take account of the need to limit the evidence to relevant matters and the importance of resolving the case as expeditiously as possible;
 - (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 short but 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 contemplated.

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 forward 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, witness evidence and/or expert report, as described in Article 12, paragraph 2(d), of these Rules of Procedure.

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 further written submission 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

Exceptional oral hearings

- 1 As a general rule, cases will be decided without oral hearings, and the panel will render a judgment based upon the written submissions of the parties and evidence. However, oral hearings may take place if the panel considers them necessary ex officio or if one of the parties so requests no later than two weeks after the exchange of written submissions and if the panel so decides after consulting the other party.
- 2 Oral hearings may be organised using a means of communication designated by the presiding member of the panel (for example, by means of teleconference).
- 3 Article 21 of these Rules of Procedure sets out further rules which apply to hearings.

Article 19

Written evidence

- 1 In accordance with Article 12, paragraph 2(d), Article 14 and Article 18 of these Rules, witness statements and expert reports may be submitted to the Tribunal in writing.
- 2 The statement of a witness of fact must contain the following declaration: "I solemnly declare upon my honour and conscience that I will state the truth, the whole truth and nothing but the truth."
- 3 The statement of an expert witness must contain a declaration that he/she provides the evidence completely impartially and independently.
- 4 The panel may at any time call for the production by a party of further documents or other evidence.
- 5 In addition, a party may apply to the presiding member of the panel for an order seeking the production of documents or other evidence by the other party, subject to the condition that the requested documents or evidence are specified, relevant, and the production of these is not, unduly burdensome on the requested party in the particular circumstances of the case. The presiding member of the panel may grant or decline to grant the order sought, in his/her discretion.

- 6 It is for the panel to decide upon the weight to be attached to the evidence. The panel may exclude evidence which it considers irrelevant or lacking in probative value.
- 7 With the approval of the presiding member of the panel, each party or witness may express themselves in a language other than the applicable working language of the Tribunal, as provided for in Article 2, paragraph 1 of these Rules of Procedure.

Article 19a

Legal privilege

- 1 The panel shall, at the request of a party or on its own motion, exclude from evidence or production any document, statement, oral testimony or inspection on the ground of legal privilege in accordance with the present provision.
- 2 In considering issues of the legal privilege, the panel will take into account:
 - (a) any need to protect the confidentiality of a document created or statement or oral communication made in connection with and for the purpose of providing or obtaining legal advice;
 - (b) any need to protect the confidentiality of a document created or statement or oral communication made in connection with and for the purpose of settlement negotiations;
 - (c) the expectations of the parties and their advisors at the time the legal privilege is said to have arisen;
 - (d) any possible waiver of the legal privilege by virtue of consent, earlier disclosure, affirmative use of the document, statement, oral communication or advice contained therein, or otherwise; and
 - (e) the need to maintain fairness and equality as between the parties.
- 3 The legal privilege set forth under paragraph 1 and 2 of this article applies also to a member or former member of the staff representing the applicant and in-house counsels of the Bank.

Article 20

Settlement proposal

Either at his/her own initiative or at the request of one party, the presiding member of the panel shall take such steps, if any as he/she thinks fit, to facilitate a settlement of the dispute. If the presiding member of the panel considers it appropriate to take such steps, he/she should take such steps as early as possible in the proceedings.

Article 21

Oral Hearings

- 1 In cases in which there are to be oral hearings, the presiding member of the panel shall make an order indicating the date and place of the hearings, and the time allowed for the evidence (if any) and oral argument.
- 2 The presiding member of the panel shall chair the hearings. Any procedural issues which arise in relation to oral hearings shall be decided by the presiding member of the panel, after consulting with the other members of the panel. The Registrar shall keep the minutes of the proceedings for the panel.

- 3 The presiding member of the panel shall decide whether oral evidence will be heard at the hearing from the parties, witnesses and/or experts, or whether the hearing will consist solely of oral submissions from the representatives of the parties. The parties may make submissions in writing to the presiding member of the panel, in advance of the hearing, as to whether evidence should be heard from the parties, witnesses and/or experts and, if so, from whom.
- 4 In cases in which there is oral evidence, the parties, their witnesses, and the experts shall be examined by the panel. The parties may put questions to the witnesses (including, if called, the other party) and experts, under the supervision of the presiding member of the panel.
- 5 Before giving evidence, each witness (including a party who is also a witness) shall be asked to make the declaration set out at Article 19, paragraph 2, of these Rules.
- 6 Before giving evidence, each expert shall be asked to make the declaration set out at Art 19, paragraph 3, of these Rules.
- 7 At oral hearings, it is for the panel to decide upon the weight to be attached to the evidence. The panel may exclude evidence which it considers irrelevant or lacking in probative value.
- 8 At oral hearings, both parties shall be invited to state their case. In cases in which there has been oral evidence, this shall take place after the evidence has been heard.
- 9 With the approval of the presiding member of the panel each party or witness may express themselves in a language other than the applicable working language of the Tribunal as provided for in Article 2, paragraph 1 of these Rules of Procedure.
- 10 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 exchange of written submissions is completed, or, where applicable, oral 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 or 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.
- 5 The whole judgment or excerpts of it shall be published as an anonymized version on the homepage of the Tribunal.

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 the full Tribunal that it be set aside
 - (i) if the provisions of the Rules of Procedure concerning the composition of the full Tribunal or of a panel have not been observed; or
 - (ii) 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
 - (iii) if the panel has failed to provide due process taking into account Article 14 of the International Covenant on Civil and Political Rights; or
 - (b) within 90 days of discovering grounds for revision request to the panel 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 full Tribunal or 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 17 November 2023. These Rules of Procedure in their original English, French, and German versions come into force on 1 January 2024.

The Registrar of the Tribunal

The President of the Tribunal

Ramon Mabillard

Jean-Marc Rapp