THE WORLD BANK ADMINISTRATIVE TRIBUNAL

by

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International administrative tribunals are — as are international organizations themselves — a relatively new phenomenon. The League of Nations first attempted to deal with staff grievances by granting officials who had been appointed for five years or more a right to appeal their dismissal to the Council (1). When confronted with the first appeal under this system, however, the Council referred the case — *Monod* — to an *ad hoc* Committee of Jurists for an advisory opinion which it undertook, in advance, to accept (2). It was only on September 26, 1927 that the League of Nations Assembly voted to set up an administrative tribunal (3). From 1929 to 1946, this tribunal held eight sessions and pronounced judgment in 37 cases. In 1946, the League of Nations, upon liquidating itself, transfered the tribunal, to be reconstituted, to the International Labour Organization (4). The reconstituted administrative tribunal exists to this day as the International Labour Organization Administrative Tribunal (5).

* Executive Secretary, World Bank Administrative Tribunal. The views expressed in this article are the personal views of the author and not necessarily those of the World Bank or the Tribunal.

(1) Assembly resolution of December 17, 1920, *Acts of the First Assembly, Plenary Sessions,* 663-664; see also Grunebaum-Ballin, P., De l'utilité d'une juridiction spéciale pour les réglements des litiges intéressant les services de la S.D.N., *Revue de droit international et de législation comparée,* 1921, 671.

(2) *Official Journal,* 1925, 1441-1447.

(3) *Official Journal,* 1928, 751-756. The Tribunal was first established on a trial basis (*Official Journal,* Special Supplement No. 54, 201 and 478) and in 1931 permanently (*Official Journal,* Special Supplement No. 93, 152). The International Institute of Agriculture, predecessor of the FAO, set up an *ad hoc* administrative tribunal on October 17, 1932 which apparently never rendered any decisions. See Bastid, S., *Les fonctionnaires internationaux,* thèse (1931) and Siraud, P., *Le Tribunal administratif de la Société des nations,* thèse (1942).

(4) Resolution of the League Assembly, April 18, 1946, *Official Journal,* Special Supplement No. 194, 281 *et seq.*

(5) Hereinafter : « ILOAT »; *Minutes of the 29th Session of the International Labour Conference,* October 1946, 341-343; *Minutes of the 30th Session of the International Labour Conference,* July 11, 1947, 413. Other international organizations may recognize the juridiction of ILOAT, subject to approval by the Governing Body of the ILO, To date 20 organizations have done so : (in chronological order) WHO, UNESCO, ITU, WMO, FAO, CERN, ICITO-GATT, IAEA,

2. The Preparatory Commission of the United Nations recommended the creation of an administrative tribunal in 1945. The U.S.A. and U.S.S.R. in particular, however, regarded its creation as pointless and an unwarranted interference with the Secretary-General's control over the Secretariat, and the establishment of the Tribunal was delayed until November 24, 1949 (6).

3. The OEEC set up an Appeals Board in 1950, which evolved into the OECD Appeals Board. As in the case of the NATO and Council of Europe Appeals Boards, it is, despite its name, a genuine administrative tribunal. The EEC Court of Justice, through Article 179 of the EEC Treaty and Article 152 of the Euratom treaty, and through an interpretation of Article 43 of the ECSC treaty, has juridiction over disputes between the Communities and their officials. There is an administrative tribunal at the OAS since 1971 and, since 1952, at the Institute for the Unification of Private Law (Unidroit). A Joint Appeals Board was created in 1956 at WEU. Disputes between the ICJ and its staff are, according to its Staff Regulations settled in a manner to be decided by the Court.

4. As is already clear from the above, international administrative tribunals do not form part of an interconnected judiciary system or of a structured judicial order. They have been established as the need arose. Their composition, their statutes and rules of procedure, and the regulations before them differ. Efforts to unify or structure the international administrative judiciary have not yet been successful. They can hardly be. International organizations are creations of sovereign powers, brought to life to respond to specific perceived needs on the international plane. International organization vary too much in their purposes, activities, membership and structure to allow the setting up of a single unified machinery for the settlement of all their staff disputes. It should be stated at the same time that international administrative tribunals are conscious of the existence of other tribunals and have been relatively successful in avoiding disparities in their emerging jurisprudence.

WIPO, EUROCONTROL, UPU, EPO, ESO, CIPEC, EFTA, Inter-Parliamentary Union, European Molecular Biology Laboratory, WTO, CAFRAD and OCTI. See Letourneur, M., Le tribunal administratif de l'Organisation Internationale du Travail, in *Mélanges Waline,* I, 203 (1974); Letourneur, M., La jurisprudence du Tribunal administratif de l'O.I.T., in *Mélanges Couzinet,* 449 (1974); Wolf, F., Le Tribunal Administratif de l,O.I.T., *Etudes et documents du Conseil d'Etat,* 1969, 33; Ballaloud, J., *Le Tribunal Administratif de l'Organisation du Travail et sa jurisprudence* (1967); Wolf, F., Le Tribunal Administratif de l'O.I.T., *R.G.D.I.P.,* 1954, 279. ILOAT may, by virtue of Article II, para. 4 of its Statute, be called upon to act as a panel of arbitrators : see ILOAT Case No. 28, *Waghorn.*

(6) Hereinafter : «UNAT»; *Resolution 351 A (IV) of the General Assembly,* 255th Plenary Meeting. The tribunal has jurisdiction over the UN, including, *inter alia,* UNRWA, UNICEF, UNIDO and UNDP and over ICAO and IMCO. It also hears disputes arising out of the Regulations of the Joint Pension Fund. See Bastid, S., Le Tribunal administratif des Nations Unies, *Etudes et document Conseil d'Etat,* 1969, 15; Bastid S., les tribunaux administratifs internationaux et leur jurisprudence, 92 *Recueil des Cours,* 1957, II, 369; Friedman W., and Fatouros, A.A., The United Nations Administrative Tribunal, XI *International Organization,* 1957; Wriggins, H., and Bock, E.A., *The Status of the United Nations Secretariat : Role of the Administrative Tribunal* (1964).

5. The World Bank Group was, with the IMF and the regional international development banks, one of the last international organizations which did not have at its disposal judicial machinery specifically designed for the settlement of disputes in staff matters. The reasons why it set up, on April 30, 1980, the World Bank Administrative Tribunal, were three-fold (7). First of all, the World Bank Group has grown dramatically during the tenure of President McNamara to over 5,000 staff members. These staff members are subject to administrative decisions concerning a variety of matters involving their duties, careers, salaries, and benefits or pension rights. In an organization of this size, it is not unusual that a staff member may feel that a decision taken might violate rights as derived from his or her terms of appointment or as laid down in World Bank regulations. On the other hand, those who take administrative decisions may in some cases encroach on the rights of a staff member, either by inadvertence or by error of judgment. This can happen even in the best national or business administration and can obviously happen within the World Bank Group as well. There was no provision allowing staff members to seek a judicial review in such cases. The World Bank internal appeals mechanism, the Appeals Committee, did not and does not have the characteristics of judicial proceedings. The Committee's members have been chosen from amongst the staff and their competence is limited to making recommendations to the President or Vice President, Administration, Organization and Personnel, who has the power of final decision. It was felt that this Appeals Committee was no longer sufficient to remove possible sources of discord. A second reason in favor of the establishment of an administrative tribunal stems from the position of the World Bank Group institutions as specialized agencies of the United Nations. All of the UN specialized agencies, except the IMF and the World Bank Group, either had their own tribunal or were linked to either one of the more important existing tribunals, namely UNAT or ILOAT. There seemed to be no adequate justification for the World Bank Group not to have at its disposal similar machinery. A third reason for the establishment of a tribunal was of a more general nature. Wherever administrative power is exercised, there should be the possibility, in case of disputes, of a fair hearing and due process.

6. In this connection, it should be recalled that, unlike most international organizations, the Articles governing the legal status of the World Bank Group explicity subject the World Bank Group institutions, in certain cases, to sue in national courts. The relevant provision in the Articles of Agreement of the IBRD, Art VII, Section 3, which is similar to the corresponding provisions for the Association and the Corporation, reads as follows :

> « Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed

(7) See Resolution 80-104 of the IBRD, Resolution 80-73 of the IDA and Resolution 80-38 of the IFC. The Resolutions were submitted to the Board of Governors for votes without meeting.

securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank. »(8)

Although the World Bank has maintained that national courts have no juridiction in a suit brought by staff members claiming violation of rights arising out of the employment relationship, there is as yet no authoritative pronouncement on this issue in all juridictions. (9) In these circum-

(8) See Article VI, Section 3 of the Articles of Agreement of IFC and Article VIII, Section 3 of the Articles of Agreement of IDA.

(9) In *Broadbent, et al. v. Organization of American States (OAS), et al.* (No. 78-1465) (D.C. App., Judgment of January 8, 1980), Appelants, seven staff members who were dismissed following a reduction in force, had filed suit claiming reinstatement after the OAS, under the terms of an OAS Administrative Tribunal judgment, had alternatively chosen to pay indemnity to, rather than reinstate, the appellants. In a January 25, 1978 Order, theDistrict Court had held it had jurisdiction, but reversed that holding and dismissed the case on March 28, 1978 (481 F. Supp. 907). Appelants then filed an appeal before the U.S. Court of Appeals for the District of Columbia Circuit to which various international organizations (IBRD, IDB, INTELSAT, and the UN) as well as the United States Government filed briefs as *amici curiae* in support of the OAS position. On January 8, 1980, the U.S. Court of appeals for the District of Columbia Circuit affirmed the lower court's holding and dismissed the suit. The Appeals Court's holding, which is on different grounds from that of the lower court's, centered on the unique nature of the international civil service and the harm which could result if national courts interfere in the personnel matters of international organizations. It noted the two theories of absolute and restrictive immunity for international organizations, but held that regardless of which theory is applicable, the action by the staff members of OAS could not be brought because « the relationship of an international organization with its internal administrative staff is non-commercial, and, absent waiver, activities defining or arising out of that relationship may not be the basis of an action against the organization ».

Specifically in respect of the World Bank Group, the *Novak v. World Bank* case should be noted (No. 79-0641) (Memorandum Order of June 12, 1979, D.C. Cir.). Plaintiff, an employee who was dismissed for unsatisfactory service, alleged that the Bank had discriminated against him on the basis of age (51) and nationality (U.S.), in violation of various U.S. civil rights and equal employment statutes. Plaintiff further asserted that the World Bank favored foreign nationals and young professionals. Plaintiff sought an injunction prohibiting the World Bank from engaging in its discriminatory practices and reinstatement in his former position. The World Bank filed a motion to dismiss the action for lack of jurisdiction and justiciability, in which the Bank claimed that U.S. Courts do not and should not have jurisdiction to grant relief against an intergovernmental organization in suits arising out of the employment relationship. The World Bank also claimed that the Civil Rights Act of 1964 and various equal employment statutes do not apply to intergovernemental organizations and that therefore the complaint failed to state a claim upon which relief can be granted. Members of the Bank's Staff Association filed an *amicus* brief solely on the issue of jurisdiction and justiciability, in which the Association claimed that the Bank's Articles of Agreement waive immunity from suit, except for suits by member states. Furthermore, the Staff Association alleged that employment contracts are not merely internal matters, but are commercial activities involving a bilateral, contractual relationship between the Bank and its employees. The Staff Association claimed that the Court had jurisdiction over the case and if necessary could apply the substantive laws of other states and countries or international law. By memorandum Order handed down on June 12, 1979, Judge Richey of the U.S. District Court for the District of Columbia granted the World Bank's motion to dismiss, on the ground that plaintiff's complaint failed to state a claim. In its decision to dismiss the case, the Court did not rule on the issue of immunity, stating that, « In reaching this result, the Court makes no ruling whatsoever with respect to the scope, or existence, of any immunity claimed by the World Bank ». Plaintiff filed a Notice of Intent to Appeal but

stances, it was suggested that the absence of the World Bank Group's own judicial body to resolve staff disputes might be viewed as a consideration by some national courts asked to assert jurisdiction. Such assertions of jurisdiction by national courts obviously would be highly undesirable as divisive and inconsistent with the international character of the World Bank Group and its staff.

8. The Articles of Agreement of the World Bank Group institutions are silent about the establishment of an administrative tribunal. They give the President responsibility for the organization, appointment, and dismissal of the staff, subject to the general control of the Executive Directors. (10) The situation before the World Bank Group was in this respect similar to that of the UN. There, the General Assembly established UNAT without the UN Charter having any express provision to that effect. Speaking about UNAT on this point, the International Court of Justice, in an Advisory Opinion, stated « that the power to establish a tribunal, to do justice as between the organization and the staff members, was essential to ensure the efficient working of the Secretariat, and to give effect to the paramount consideration of securing the highest standards of efficiency, competence, and integrity » among the staff, as laid down in the UN Charter. (11) It was deemed, in the case of the World Bank Group, that in exercising the responsibilities and controls granted in the Articles of Agreement, a judicial entity could be involved.

subsequently abandoned the appeal. Novak then started a second lawsuit against the World Bank in the U.S. District Court for the District of Columbia in which he alleged negligence by the World Bank and personal injury arising from the manner in which the World Bank supervised and evaluated the staff member. The District Court dismissed the suit on the grounds that the allegations involved the same transactions covered by the previous suit and held that the dismissal of the first suit acted as a bar to the second, under the principle of *res judicata.* The Court made no ruling as to the Bank's contention that the Bank's Articles and status as an international organization deprive U.S. and other national courts of jurisdiction to grant relief against the Bank in employee suits. Plaintiff then appealed, claiming that, for a number of reasons, the first action could not be considered as *res judicata* purposes. The Bank filed a Motion for Summary Affirmance of the District Court's decision on the second case, preserving its jurisdictional arguments, arguing that the lower court had properly concluded that the second action was barred under principles of *res judicata* by the dismissal of the first action, because (1) both cases arose out of the same set of occurences and involved the same cause of action for purpose of *res judicata*; (2) the dismissal of the prior action for failure to state a claim operated as a judgment on the merits under the Federal Rules of Civil Procedure; and (3) the legal theory of recovery asserted by plaintiff in the present case could and should have been raised in the prior action. In a one sentence decision the Court of Appeals affirmed the lower court's dismissal of the case (D.C. App., April 28, 1980, No. 79-2382).

(10) IBRD Articles of Agreement, Article V, Section 5(b); IFC Articles of Agreement, Article IV, Section 5(b); and IDA Articles of Agreement, Article VI, Section 5(b).

(11) *Effects of Awards of Compensation made by the UN Administrative Tribunal, International Court of Justice Reports,* 1954, 47, 57; the International Court of Justice adopted the same approach towards ILOAT in *Judgments of the Administrative Tribunal of the ILO upon Complaints made against UNESCO, International Court of Justice Reports,* 1956, 77, 97-98. Cf. IBRD Articles of Agreement, Article V, Section 5(d); IFC Articles of Agreement, Article IV, Section 5(d); and IDA Articles of Agreement, Article VI, Section 5(d).

9. The World Bank Group could have decided to join one of the existing international administrative tribunals, notably UNAT. It was decided, however, not to do so. It was deemed that the objectives and nature of the World Bank Group are essentially different from those of other institutions in the UN family. In particular while the institutions of the World Bank Group are specialized agencies in the sense of Article 57 of the UN Charter, they are specialized agencies which carry out their purposes in large part through financial activities rather than through consultation and policy recommendations, as in the case of most of the other specialized agencies. In addition, the sources of funding and the membership in the UN are different from those in the World Bank Group.

10. The Statute of the World Bank Administrative Tribunal drew principally upon the statutes of ILOAT and UNAT, the two most well-known international organizations. In Article I, it becomes clear that the Tribunal has been structured as a joint IBRD-IFC-IDA entity. Although the International Centre for Settlement of Investment Disputes (ICSID) is closely affiliated with the World Bank Group, it would have to act separately from the World Bank Group on joining the Tribunal pursuant to Article XV of the Statute, because of its different legal and administrative structure. For the time being there is no need for such action as all staff assigned to ICSID are staff members of the World Bank Group.

11. The provision laying down the scope of jurisdiction is contained in Article II of the Statute. The wording is largely similar to that of the corresponding provision (Article 2), of the Statute of UNAT. In this connection it may be noted that the legislative history of the corresponding UN provision shows that the intent of such language was to respect the authority of the General Assembly or of the Secretary General to make such alterations and ajustments in the staff rules or regulations as circumstances might require. Thus, when the General Assembly was considering, at its 4th session in 1949, the establishment of UNAT, the United States proposed an addition to Article 2 of the draft Statute whereby « Nothing in this Statute shall be construed in any way as a limitation on the authority of the General Assembly or of the Secretary-General acting on instructions of the General Assembly to alter at any time the rules and regulations of the Organization including, but not limited to, the authority to reduce salaries, allowances and other benefits to which staff members may have been entitled » (12). This amendment was eventually withdrawn, on the ground that on the basis of the debate it appeared that Article 2(1) of the draft Statute was considered « broad enough to give sufficient scope to the General Assembly, and to the Secretary-General acting on its behalf to carry out the necessary functions of the United Nations, in spite of the fact such action might require changes and

(12) A/C.5.*ML.4./Rev. 2, reproduced in G.A.O.R., 4th sess., 5th Committee, Annexes, a.i. 44, 165.*

reductions in the existing benefits granted to the staff » (13). This interpretation was reflected in the Fifth Committee's report to the plenary as follows :

> « (b) That the tribunal would have to respect the authority of the General Assembly to make such alterations and adjustaments in the staff regulations as circumstances might require. It was understood that the tribunal would bear in mind the General Assembly's intent not to allow the creation of any such acquired rights as would frustrate measures which the Assembly considered necessary. It was understood also that the Secretary-General would retain freedom to adjust per diem rates as a result, for example, of currency devaluations or for other valid reasons.
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> « No objection was voiced in the Committee to those interpretations, subject to the representative of Belgium expressing the view that the text of the statute would be authoritative and that it would be for the tribunal to make its own interpretations » (14).

Such interpretation should be considered when studying the similarly worded provision in the Statute of the World Bank Administrative Tribunal.

12. As to Section 3, Article II of the attached Statute, dealing with the group of persons which should have access to the Tribunal, the wording is intended to encompass individuals who receive the various types of appointments currently provided for in the World Bank Personnel Manual Statement No. 2.00, namely regular, fixed term, temporary, part time, secondment, individual consultant, local employee, Executive Director's assistant and trainee. Consultants not holding appointments under such Statement would not be included. Applicants to the staff who would not become staff members would not have access to the Tribunal (15). Widows or widowers asserting the rights of a deceased staff member would have access, as would any beneficiary — but not a creditor of the beneficiary — under the Staff Retirement Plan. In this respect it should be noted that an Executive Director participating in that Plan could appear before the Tribunal.

13. Article IV of the Statute follows, in essence, the corresponding provision of the statute of UNAT is, however, spelled out that the members of the Tribunal « shall be persons of high moral character and must possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence. » *In casu,* this requirement is more than met. The Tribunal is presided by the R.H. Eduardo Jimenez de Arechaga, an Uruguayan citizen and a former President of the International Court of Justice. Vice Presidents are the R.H. Taslim Olawale Elias, a former Nigerian Federal Attorney-General, Minister of Justice and Chief Justice of the Supreme Court, and currently a Vice President of the International Court

(13) *A/C.5/SR. 214, para. 40; see also paras. 25, 37 and 41.*

(14) *A/1127, para 9 reproduced in G.A.O.R., 4th sess., Plenary Session, Annexes, a.i. 44, 167 at 168.*

(15) *Cf. ILOAT Case No. 71, Silenzi de Stagni;* but see UNAT Case No. 96, *Camargo,* in which UNAT rejected the claim of an applicant on the merits. Cf. also *Vandevyvere, Recueil,* 1965, 205 at 214; the Court of Justice of the European Communities is open not only to « officials » or « staff members » but to all « persons mentioned in the present [Staff] Regulations ».

of Justice; and the R.H. Prosper Weil, a French citizen, a professor on the faculty of the Paris law school (Panthéon) and the Director of the Institute for Advanced International Studies there. Judges are the R.H. Ahmad Kamal Abul-Magd, an Egyptian, currently the Constitutional and Legal Advisor to H.H. the Crown Prince and Prime Minister of Kuwait; the R.H. Robert A. Gorman, a U.S. citizen and Associate Dean of the University of Pennsylvania School of Law; the R.H. N. Kumarayya, an Indian citizen and a former Chief Justice of the Andhra Pradesh High Court; and the R.H. Elihu Lauterpacht, who has been a consultant on international law matters to several countries, an arbitrator, and who is a barrister, and a professor at Cambridge University.

14. In a departure from the UNAT and ILOAT statutes, it is expressly provided for that judges shall be nationals of member States of the World Bank. Also, it is for the President of the World Bank to draw up a list of candidates after appropriate consultation with the Executive Directors and representatives of the staff. The Statute, like the statute of UNAT, does not contain a provision dealing with compensation judges (16).

15. As in the case of UNAT, Article IV, para. 1 of the Statute provides for seven judges. At UNAT, however, the Tribunal exercices its judicial functions not in plenary session, but with only three out of seven members of the Tribunal hearing individual cases. It was suggested not to follow the UNAT solution in its entirety on this issue. It is understood that, as a general rule, cases will be heard by the Tribunal in its plenary composition, it being understood also that a quorum of five members would be sufficient for the Tribunal to function in plenary session (17). It was left to the Tribunal to work this matter out further in its Rules of Procedure, which it adopted on September 26, 1980 (18). An organization of the Tribunal along those lines gives sufficient flexibility so as to permit it to act expeditiously. It also made it unnecessary for the Tribunal to have « ordinary sessions » at fixed dates, even if no applications were pending. Therefore the word « ordinary », which is contained in the corresponding provision of the UNAT Statute, has not been inserted in Section I of Article VIII of the Statute (19). As Article VII provides, the Tribunal established in its Rules provisions for presenting applications, including procedures on evidence and the right to counsel (20).

16. The Statute basically follows the UNAT provisions in regard to remedies. The main difference is the ceiling for damages. While the UN statute provides for a ceiling of two years net salary, it was agreed upon to bring this ceiling up to three years of net pay for the purposes of the World

(16) Article 3, paras. 1 and 2 of the UNAT statute.
(17) See Article 3, para 1 of the UNAT statute. Cf. Article III, para 1 of the ILOAT statute; see Article V of the Statute.
(18) See Rule 6.
(19) Cf. Article 4 of the UNAT statute.
(20) See Rules 7-16.

Bank, an institution with a large number of staff members of long years of service. In either case such ceiling could be exceeded in exceptional cases (21).

17. The ILOAT and UNAT statutes provide for a mechanism for obtaining a binding advisory opinion from the International Court of Justice (22). This mechanism has not been retained in the Statute of the World Bank Administrative Tribunal for several reasons. The mechanism itself has been criticized by the International Court of Justice (23). Although the World Bank Group institutions, as specialized agencies of the UN, have access to the International Court of Justice, the World Bank Group has usually established dispute settlement machinery which does not involve the International Court of Justice, such as Article IX of the IBRD's Articles of Agreement or the arbitration provisions in the IBRD and IDA's loan and credit agreements (24). Thirdly, there appears to be no compelling reason to have a stage beyond a properly constituted Tribunal.

17. As in the case of UNAT and ILOAT, the Statute provides in Article XV that other international organizations could agree to submit to the jurisdiction of the Tribunal. (25)

18. UNAT's statute, in its Article 13, provides that it may be amended by the General Assembly. ILOAT's statute, Article XI, provides that it may be amended « by the Conference or such other organ of the Organization as the Conference may determine ». The World Bank Administrative Tribunal's Statute, Article XVI, provides that the Statute may be amended by the Board of Governors of the World Bank.

Washington, D.C.,
December 31, 1980.

Annex :
Statute of the World Bank Administrative Tribunal. (French translation : only the English version is authentic

(21) See Article XII, para. 1 of the Statute, Cf Article 9, para. 1 of the UNAT statute and Article VIII of the ILOAT statute. The latter provision leaves the award of monetary damages, as an alternative to specific performance, and the amount of such monetary damages, up to the decision of ILOAT.

(22) See ILOAT statute, Article XII, and UNAT statute, Article 11.

(23) See *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal, International Court of Justice Reports,* 1973, 177, *et seq.*

(24) See Article VIII of IFC's Articles of Agreement and Article X of IDA's Articles of Agreement; Article X of IBRD's General Conditions Applicable to Loan and Guarantee Agreements dated June 30, 1980 and Article X of IDA's General Conditions Applicable to Development Credit Agreements dated October 27, 1980.

(25) Article 14 of the UNAT statute and Article II, para. 2 of the ILOAT statute.

STATUT DU TRIBUNAL ADMINISTRATIF DE LA BANQUE INTERNATIONALE POUR LA RECONSTRUCTION ET LE DEVELOPPEMENT, DE L'ASSOCIATION INTERNATIONALE DE DEVELOPPEMENT ET DE LA SOCIETE FINANCIERE INTERNATIONALE *

ARTICLE I

Il est crée par le présent Statut un Tribunal de la Banque internationale pour le reconstruction et le développement (ci-aprés dénommée individuellement la « Banque »), de l'Association internationale de développement et de la Société financière internationale (ci-aprés dénommées avec la Banque, collectivement, le « Groupe de la Banque ») qui portera le nom de Tribunal Administratif de la Banque mondiale.

ARTICLE II

1. Le Tribunal est compétent pour connaître de toute requête d'un agent du Groupe de la Banque invoquant l'inobservation de son contrat d'engagement ou de ses conditions d'emploi. Les mots « contrat d'engagement » et « conditions d'emploi » comprennent toutes dispositions pertinentes des règles et règlements en vigueur au moment de l'inobservation invoquée, y compris les dispositions du régime des pensions du personnel.

2. Aucune requête n'est recevable, sauf si le Tribunal en décide autrement en raison de circonstances exceptionnelles, à moins :

i) que le requérant ait épuisé toutes les autres voies de recours ouvertes aux agents du Groupe de la Banque, sauf si le requérant et l'institution défenderesse sont convenus que la requête serait présentée directement au Tribunal; et

ii) que la requête soit introduite dans les 90 jours à compter de la dernière des dates suivantes :

a) la date à laquelle s'est produit le fait motivant la requête;

b) la date à laquelle il est reçu notification, après que le requérant a épuisé toutes les autres voies de recours ouvertes aux agents du Groupe de la Banque, que la réparation demandée ou recommandée ne sera pas accordée; ou

c) la date qui marque le dernier des 30 jours suivant la réception de la notification que la réparation demandée ou recommandée sera accordée, si ladite réparation n'a pas été effectivement accordée dans lesdits 30 jours.

3. Aux fins d'application du présent Statut :

le terme « agent » désigne tout agent actuel ou ancien du personnel du Groupe de la Banque, toute personne qui est justifiée à se prévaloir d'un droit d'un agent en qualité de représentant personnel ou en raison du décès

dudit agent, et toute personne pouvant prétendre, parce qu'elle a été désignée ou pour toute autre raison, à un versement en vertu d'une disposition du régime des pensions du personnel.

ARTICLE III

En cas de contestation touchant sa compétence, le Tribunal décide.

ARTICLE IV

1. Le Tribunal se compose de sept membres, tous ressortissants d'Etats membres de la Banque, mais de nationalité différente. Les membres du Tribunal sont des personnes jouissant de la plus haute considération morale, et qui réunissent les conditions requises pour l'exercice de hautes fonctions judiciaires ou qui sont des jurisconsultes possédant une compétence notoire.

2. Les membres du Tribunal sont désignés par les Administrateurs de la Banque sur une liste de candidats établis par le Président de la Banque après des consultations appropriées.

3. Les membres du Tribunal sont désignés pour une période de trois ans et leur mandat est renouvelable. Il est entendu toutefois que parmi les sept premiers membres, trois sont désignés pour deux ans seulement. Les noms de ces membres sont choisis par tirage au sort par le Président de la Banque immédiatement après qu'il a été procédé à la première désignation.

4. Un membre désigné en remplacement d'un membre dont le mandat n'est pas expiré ne l'est que pour le reste du mandat de son prédécesseur.

5. Les membres du Tribunal restent en fonction jusqu'à ce qu'ils soient remplacés.

ARTICLE V

1. Un quorum de cinq membres suffit à constituer le Tribunal.

2. Le Tribunal peut, toutefois, constituer à tout moment un groupe composé d'au moins trois de ses membres pour examiner une affaire déterminée ou un catégorie déterminée d'affaires. Les décisions dudit groupe sont réputées prises par le Tribunal.

ARTICLE VI

1. Le Tribunal élit parmi ses membres un Président et deux Vice-Présidents.

2. Le Président de la Banque prend les mesures administratives nécessaires au fonctionnement du Tribunal, et désigne notamment un Secrétaire exécutif qui, dans l'exercice de ses fonctions, ne relève que du Tribunal.

3. Les dépenses du Tribunal sont à la charge du Groupe de la Banque.

ARTICLE VII

1. Sous réserve des dispositions du présent Statut, le Tribunal arrête son règlement.

2. Le règlement contiendra des dispositions concernant :

a) l'élection du Président et des Vice-Présidents;
b) la composition des groupes mentionnés à l'Article V ci-dessus;
c) les règles à suivre pour l'introduction des requêtes et le déroulement de la procédure;
d) l'intervention de personnes auxquelles le Tribunal est ouvert en vertu du paragraphe 3 de l'Article II et dont les droits sont susceptibles d'être affectés par le jugement à intervenir;
e) l'audition, à titre d'information, de personnes qui ont accès au Tribunal en vertu du paragraphe 3 de l'Article II: et
f) toutes autres questions relatives au fonctionnement du Tribunal.

ARTICLE VIII

1. Le Tribunal se réunit aux dates fixées par son règlement.

2. Le Tribunal tient ses sessions au siège de la Banque, à moins qu'il n'estime devoir se réunir ailleurs pour pouvoir procéder efficacement à l'examen d'une requête.

ARTICLE IX

Le Tribunal décide dans chaque cas si une procédure orale est justifiée. La procédure orale sera publique à moins que le Tribunal ne décide que des circonstances exceptionnelles exigent qu'elle se déroule à huis clos.

ARTICLE X

1. Le Tribunal décide à la majorité des membres présents.
2. En cas de partage des voix, la voix du Président ou du membre faisant fonction de Président est prépondérante.

ARTICLE XI

1. Les jugements du Tribunal sont définitifs et sans appel.

2. Chaque jugement est motivé.

ARTICLE XII

1. S'il reconnaît le bien-fondé de la requête, le Tribunal ordonne l'annulation de la décision contestée, ou l'exécution de l'obligation invoquée. En même temps, le Tribunal fixe le montant de l'indemnité qui sera versée au requérant pour le préjudice subi si, dans un délai de 30 jours à compter de la notification du jugement, le Président de l'institution défenderesse décide, dans l'intérêt de ladite institution, de verser une indemnité au requérant, sans

qu'une nouvelle procédure soit nécessaire; toutefois, cette indemnité ne peut être supérieure au montant net du du traitement du requérant pour une période de trois ans. Cependant, le Tribunal peut, dans des cas exceptionnels, lorsqu'il juge qu'il y a lieu de le faire, ordonner le versement d'une indemnité plus élevée. En pareil cas, le Tribunal expose le motif spécifique de sa décision.

2. Si le Tribunal estime que la procédure prescrite par les règles de l'institution défenderesse n'a pas été suivie, il peut, à la demande du Président de ladite institution et avant de statuer au fond, ordonner le renvoi de l'affaire pour que la procédure requise soit suivie ou reprise.

3. Lorsqu'il y a lieu à indemnité, le montant fixé par le Tribunal est versé par l'institution défenderesse.

4. L'introduction d'une requête n'a pas pour effet de suspendre l'exécution de la décision contestée.

ARTICLE XIII

1. Une partie à une affaire dans laquelle un jugement a été rendu peut, en cas de découverte d'un fait qui, par sa nature, aurait pu exercer une influence décisive sur le jugement du Tribunal et qui, à l'époque du prononcé du jugement, était inconnu du Tribunal et de ladite partie, demander au Tribunal la révision du dit jugement dans un délai de six mois à partir de la découverte du fait.

2. La demande de révision contient les renseignements nécessaires établissant que les conditions énoncées au paragraphe 1 du présent Article sont remplies. Elle est accompagnée de l'original ou d'une copie de toutes les pièces justificatives.

ARTICLE XIV

L'original de chaque jugement est déposé aux archives de la Banque. Il est remis une expédition du jugement à chacune des parties. Il en est également remis copie, sur demande, à tout intéressé.

ARTICLE XV

La Banque peut convenir avec toute autre organisation internationale que les agents de ladite organisation pourront former des recours devant le Tribunal. Pareil accord prévoira expressément que l'organisation intéressée sera liée par les décisions du Tribunal et qu'elle sera chargée du paiement de toute indemnité allouée à un de ses agents par le Tribunal; l'accord contiendra aussi, notamment, des dispositions relatives à la participation de l'organisation aux arrangements administratifs visant le fonctionnement du Tribunal et à sa contribution aux dépenses du Tribunal.

ARTICLE XVI

Le présent Statut peut être amendé par le Conseil des Gouverneurs de la Banque.

ARTICLE XVII

Nonobstant les dispositions du paragraphe 2 de l'Article II du présent Statut, le Tribunal est compétent pour connaître de toute requête motivée par des faits antérieurs au 1er janvier 1979, à condition, toutefois, que ladite requête soit introduite dans les 90 jours suivant l'entrée en vigueur du présent Statut.