



NINETEENTH ITEM ON THE AGENDA

Matters relating to the Administrative Tribunal of the ILO

Recognition of the Tribunal's jurisdiction by the African, Caribbean and Pacific Group of States (ACP Group)

1. By a letter dated 25 October 2004 (appended), Mr. Jean-Robert Goulongana, the Secretary-General of the ACP Group, informed the Director-General that the ACP Group had decided to recognize the Tribunal's jurisdiction in accordance with article II, paragraph 5, of its Statute.
2. The ACP Group is an international organization established by the Georgetown Agreement of 6 June 1975. The revised version of the Agreement entered into force on 28 November 2003. The ACP Group has at present 79 member States from Africa, the Caribbean and the Pacific. Its bodies are the Summit of Heads of State and Government, the Council of Ministers, the Committee of Ambassadors and the Secretariat. The Council of Ministers adopts the budget and determines the level of financial contribution due by each of the member States.
3. The objectives of the ACP Group are, inter alia, to ensure the realization of the objectives of the ACP-EC Partnership Agreement, in particular the eradication of poverty, sustainable development and the smooth and gradual integration of ACP States into the world economy; to promote and strengthen unity and solidarity among the ACP States, as well as understanding between ACP peoples; to consolidate, strengthen and maintain peace and stability as a precondition for improving the well-being of ACP peoples in a democratic and free environment; to contribute to the development of greater and closer economic, political, social and cultural relations among developing countries and, to that end, cooperation between the ACP States mainly in the fields of trade, science and technology, industry, transport and communications, education, training and research, information and communication, the environment, demography and human resources; to promote and reinforce intra-ACP regional integration so as to enable ACP States to increase their competitiveness and to meet the challenges of globalization; to strengthen the political identity of the ACP Group to enable it to act as a coherent political force in international bodies and to ensure that due regard is accorded its specific interests, etc.

4. Pursuant to article 1 of the Georgetown Agreement, the ACP Group has legal personality and its Secretariat is located in Brussels, Belgium. The Headquarters Agreement concluded between the ACP Group and Belgium on 26 April 1993 provides for the same level of privileges and immunities as accorded to other international organizations.
5. The ACP Secretariat currently has 94 staff members. Conditions of service for staff are set out in the Staff Regulations that were modified as a result of a process of reform initiated in 2000 and approved by the Council of Ministers. Title IX of the Staff Regulations allows staff members to have recourse to the Administrative Tribunal of the ILO as the final instance in appeals against disciplinary measures.
6. In order to be eligible for approval under article II, paragraph 5, of the Tribunal's Statute, the ACP Group must be considered either to be an intergovernmental organization (*organisation de caractère interétatique*) or to fulfil certain criteria set out in the annex to the Statute. According to the available information, the ACP Group is an international intergovernmental organization, established by an international treaty, having objectives that respond to the general interest of the international community as a whole and is endowed with functions of a permanent nature. In addition, the ACP Group is not required to apply any national law in its relations with its officials and enjoys immunity from legal process in the host country. Financial contributions of members that are provided for in the Georgetown Agreement itself guarantee stability of financial resources of the ACP Group.
7. The Tribunal's jurisdiction under article II, paragraph 5, of its Statute already extends to 43 organizations other than the ILO. The recognition of the Tribunal's jurisdiction by other organizations entails no additional cost to the ILO, since the organizations against which complaints are filed are required by the Statute to bear the expenses of sessions and hearings and to pay any award of compensation made by the Tribunal. Those organizations also contribute, in amounts proportionate to the number of their staff, to much of the running costs of the Tribunal's secretariat.
8. ***In light of the above, the Committee may wish to recommend that the Governing Body approve the recognition of the Tribunal's jurisdiction by the ACP Group, with effect from the date of such approval.***

Geneva, 1 November 2004.

Point for decision: Paragraph 8.

Appendix

Ref.: 4/4/15(Vol.1)/NJB/mgf

Brussels, 25 October 2004

H.E. Mr. Juan Somavia
Director-General of the
International Labour Organization
4, Route des Morillons
CH-1211 Geneva 22
Switzerland

Your Excellency,

In my capacity as Secretary General of the Secretariat of the African, Caribbean and Pacific Group of States (the ACP Group) I hereby submit our request to be included among the list of international organizations that recognize the jurisdiction of the International Labour Organization Administrative Tribunal (ILOAT).

This request arises out of a process of reform and restructuring within the ACP Group that was initiated in 2000, whereby the organizational structure of the Secretariat was amended, as well as the constituent instrument – the Georgetown Agreement – and the Staff Regulations. Specifically, the request is within the context of Title IX of the Staff Regulations on discipline, which now provides for a staff member to have recourse to the ILOAT, in compliance with the exhaustion of local remedies rule.

By way of information, the ACP Group is an international organization established by the Georgetown Agreement of 6 June 1975, which is an intergovernmental agreement concluded among the various member States, now 79 in number. Of particular importance to this request is article 1 of the Georgetown Agreement, on the ACP Group, which states as follows: “The ACP Group shall have legal personality. It shall have the capacity to contract, acquire and dispose of movable and immovable property and to institute legal proceedings.”

This provision is also included in article 1 of the Headquarters Agreement that was signed by the ACP Group and the Kingdom of Belgium on 26 April 1993, and which entered into force in June 2000.

The Georgetown Agreement sets out, inter alia, the objectives of the ACP Group as well as its various organs, *viz.* the Summit of Heads of State and Government, the Council of Ministers and the Committee of Ambassadors. It also provides for a Secretariat headed by a Secretary General, of which the staff is 94 in number, including those at the ACP Geneva office.

I trust that on the basis of this written communication, supported by the documents annexed hereto, the meeting of the ILO Governing Body from 4 to 19 November would be in a position to favourably consider this request. Nevertheless, my staff and I remain at your disposal to clarify any aspects of this request, in the period preceding the November meeting.

Please accept, Your Excellency, the assurances of my highest consideration.

(Signed) Jean-Robert GOULONGANA,
Secretary General.