

Joint Advisory Appeals Board (JAAB)
to the
Joint Negotiating Committee (JNC)

ACTIVITY REPORT FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2007

This activity report covers the period from 1 January to 31 December 2007. It was studied by all the members of the Board prior to its finalization and transmission to the Joint Negotiating Committee. The report comprises three sections and three annexes:

1. General overview
2. Number of cases and processing time
3. The Board's membership and functioning

Annex I: The Board's membership

Annex II: Processing time

Annex III: The Board's working methods

1. General overview

At a meeting on 20 June 2007, the chairpersons of the Board and the Committee agreed that the Board's founding documents did not sufficiently explain the procedures to be followed. At the Committee's request, the Board therefore continued to discuss its working methods, as recommended in 2006 by the consultant responsible for evaluating the Board's work. The chairpersons of the Board prepared a draft version of these methods, which were submitted for the approval of the whole Board. The purpose of these working methods is to ensure the consistency of the various panels' work, to provide more guidance for new chairpersons and members, and to make the Board's procedures more transparent. They are annexed to this report¹.

The Board's chairpersons also proposed that:

- 1) a plenary meeting of the Board (namely a meeting between the chairpersons and all the members) should be convened at least once a year, or more frequently if necessary;
- 2) chairpersons' meetings should be held more frequently; and
- 3) at each meeting, one of the chairpersons should be assigned the role of coordinating chairperson, which he or she should exercise until the next meeting.

No plenary meetings were held in 2007. The first plenary meeting took place on 20 February 2008 (the agenda included this report and the Board's draft working methods).

The chairpersons met on six occasions during the course of the year. The first coordinating chairperson was appointed at the chairpersons' meeting in November 2007.

¹ Annex III.

In addition to these internal Board meetings, an informal meeting was held between the chairpersons of the Board and of the Committee, and a formal meeting also took place between the Chairpersons and members of the Board and the chairpersons of the Committee.

Although the majority of cases examined in 2007 did not pose any serious problems, some did give rise to noteworthy difficulties:

- 1) The Board acknowledges that a panel cannot replace other technical bodies (principle of limited power of review). It does, however, have a duty to ensure that the body in question has correctly implemented the rules and followed the relevant procedures, and that its conclusions or decisions are not manifestly wrong or unfair. The difficulties encountered were the result of inadequate reports from established technical bodies, including a failure to indicate the procedures followed and/or criteria applied. The Board notes that these shortcomings not only make the panel's work difficult, but frequently contribute to an official's decision to file an appeal.
- 2) The panels continue to receive a variety of responses to their requests for confidential documents. The Board notes that its work is as confidential as that of bodies such as the Reports Board, the Assessment Centre or the Independent Review Group and may be carried out *in camera* if necessary. The Board is of the opinion that a panel cannot fulfil its mandate without access to all the information it deems necessary in order to weigh up the merits of the allegations referred to it.
- 3) Other matters (for example, the issue of the Board's competence with regard to compensation), are currently being - or will be - discussed by the Board.

2. Number of cases examined in 2007, processing time and patterns observed

Since the Board was set up, the annual number of grievances filed has remained more or less constant.

In 2007, 25 grievances were filed with the Board. In addition to this figure, 14 of the grievances filed in 2006 were still pending on 1 January 2007, together with six older cases which had been suspended. As far as the latter were concerned, two were resumed during the course of the year, two were withdrawn and two remained suspended.

Two grievances filed in 2007 were suspended, one by mutual agreement of the parties and the second by the Board which decided to defer any recommendation, pending the delivery of a judgment by the ILO Administrative Tribunal, since the issues raised in both cases were closely related. Seven cases were withdrawn.

As far as patterns were concerned a significant number of grievances related to the non-renewal of contracts and contractual status. One grievance concerning job grading was filed and then withdrawn, while another which had been suspended in 2005 was resumed. Furthermore, the number of grievances relating to the permanent grading procedure grew.

The number and types of cases examined:

• Article 13.3.2 of the Staff Regulations	17 (see details below)
• Circular No. 6/639 (job grading procedure)	5
• 2001 Collective agreement (on a procedure for job grading)	2
• Annex I to the Staff Regulations (recruitment procedure)	1

The grievances filed under article 13.3.2 of the Staff Regulations, concerned the following subjects:

Non-renewal of contract	8
Personal promotion	2
Harassment	2
Redefinition of contract	1
Special allowance (Article 3.7 of the Staff Regulations)	1
Unfair treatment	1
Special increments (Article 6.6.4 of the Staff Regulations)	1
Repatriation grant (Article 11.15 of the Staff Regulations)	1

Two grievances suspended in 2005 were resumed (one had been filed under article 13.3.2 and related to contractual status; the second related to circular No. 6/639).

Two grievances were suspended (one relating to circular No. 6/639 and the second filed under article 13.3.2, relating to the non-payment of a repatriation grant (Article 11.15 of the Staff Regulations)).

Seven grievances were withdrawn:

- two grievances relating to the collective agreement of 2001 on baseline classification and grading;
- three grievances submitted under article 13.3.2 (one relating to the non-renewal of contract, the second to contractual status and the third to a refusal to grant a special increment beyond the maximum of the salary scale (article 6.6.4 of the Staff Regulations)); and
- two grievances relating to circular No. 6/639.

The data contained in Annex II indicate that the cases were examined within three months of receipt of the final written submissions, as stipulated in Annex IV to the Staff Regulations. Annex II also shows that, in many cases, the panels managed to complete their work after only two meetings, whereas in 2006 an average of three meetings was necessary. It should be noted that, although the Board has always been able respect the three-month deadline which it is given, the overall duration of cases may be very lengthy for reasons beyond the Board's control (for example, repeated requests for further submissions, requests to extend deadlines and the Board's need to request further information).

During the course of 2007, 21 recommendations² were submitted to the Director-General. As of 31 December 2007, 12 cases were still before the Board and four others had been suspended.

Of a total of 44 recommendations issued by the Board:

- 30 recommended that the grievance should be dismissed;
- seven recommended that the grievance should be dismissed in part; and
- seven recommended that the impugned decision should be set aside.

In the decisions issued by the Director-General with regard to 41 of these recommendations:

- 36 of the recommendations were accepted;
- three were accepted in part; and
- two were rejected.

A total of eight complaints were filed with the Administrative Tribunal of the ILO. The Tribunal delivered a judgment on two cases. Both grievances were dismissed, in line with the Board's recommendations.

3) **The Board's membership and functioning**

The initial activity reports stressed the operational difficulties resulting from an insufficient number of members appointed to sit on the panels. These difficulties have almost disappeared.

During 2007, Ms Hông-Trang Perret-Nguyen was appointed chairperson, and four new Board members were also appointed. The term of office of one of the three chairpersons appointed in 2005 ended at the end of 2007 and those of two other chairpersons were extended for a period of three years as from 1 January 2008. Two members nominated by the Administration resigned from the Board owing to an increase in their workload. A list of the members and chairpersons who served in 2007 is to be found in Annex I.

The Board would like to thank its technical secretary, Ms Sigrid Arlen, and its administrative secretary, Ms Marie-Pierre Ducret, for their dedicated and competent service throughout the year. It is thanks to their efficient and good-humoured support that the Board has been able to fulfil its mandate to serve the ILO and its employees.

Warwick Jones
Chairperson

Alfred Pankert
Chairperson

Hông-Trang Perret Nguyen
Chairperson

Gabriele Stoikov
Chairperson

Geneva, 3 March 2008.

² Since cases Nos. 37 and 38 were joined because they raised interconnected questions of fact and of law, a single report was issued on both.