



## NINETEENTH ITEM ON THE AGENDA

**Matters relating to the Administrative Tribunal of the ILO****Recognition of the Tribunal's jurisdiction by the Advisory Centre on WTO Law**

1. By a letter dated 19 October 2004 (appended), Mr. Frieder Roessler, the Executive Director of the Advisory Centre on WTO Law ("the Centre"), informed the Director-General that the Centre had decided to recognize the Tribunal's jurisdiction in accordance with article II, paragraph 5, of its Statute.
2. The Centre was established by the Agreement Establishing the Advisory Centre on WTO Law, which entered into force on 15 July 2001. The Centre has currently 36 Members, out of which nine are developed country Members and 27 developing countries and territories. Members of the Centre fund its activities, inter alia, through contributions to a permanent endowment fund established for this purpose. Pursuant to article 16 of the Agreement Establishing the Centre, any Member of the WTO and any State or separate customs territory in the process of acceding to the WTO may become a Member of the Centre by accession on mutually agreed terms and conditions, subject to the approval of the General Assembly, the Centre's highest decision-making body.
3. The mandate of the Centre is to provide legal training, support and advice on WTO law and dispute settlement procedures to least developed countries, developing countries and customs territories, and countries with economies in transition. The Centre was established to address the financial and institutional constraints faced by these countries in the management of complex trade disputes under the WTO legal system.
4. Pursuant to article 10 of the Agreement Establishing the Centre, the Centre has legal personality. It is based in Geneva and, as requested by the Agreement, concluded a host country agreement with Switzerland on 18 October 2001. On the basis of this host country agreement, the Centre enjoys in Switzerland privileges and immunities accorded to other international organizations.
5. The Centre currently has ten staff members. Conditions of service for staff are set out in the Centre's Staff Rules adopted by its General Assembly on 17 July 2001, which would enable 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 Centre must be considered either to be an intergovernmental organization (*organization de caractère interétatique*) or to fulfil certain criteria set out in the annex to the Statute. According to the available information, the Centre 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 Centre 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 Agreement Establishing the Centre itself guarantee stability of financial resources of the Centre.
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 Advisory Centre on WTO Law, with effect from the date of such approval.***

Geneva, 27 October 2004.

*Point for decision:* Paragraph 8.

## Appendix

Frieder ROESSLER  
Executive Director

Mr. Juan Somavia,  
Director-General,  
International Labour Organization,  
4, route des Morillons,  
CH-1211 Geneva 22.

Reference: ACWL 2004/44

Geneva, 19 October 2004

Dear Director-General,

*Declaration in accordance with article II, paragraph 5,  
of the Statute of the ILO Administrative Tribunal*

Paragraph 5 of article II of the Statute of the ILO Administrative Tribunal states that the Tribunal “shall also be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations of any other international organization meeting the standards set out in the annex hereto which has addressed to the Director-General a declaration recognizing, in accordance with its Constitution or internal administrative rules, the jurisdiction of the Tribunal for this purpose, as well as its Rules of Procedure, and which is approved by the Governing Body”. In my capacity as Executive Director of the Advisory Centre on WTO Law (“the Centre”), I hereby declare that the Centre recognizes the jurisdiction of the Administrative Tribunal of the ILO for the purpose set out in paragraph 5 of article II of its Statute.

The Centre fulfils the standards set out in the annex to the Statute of the ILO Administrative Tribunal: It is an intergovernmental organization, established by international treaty, having objectives that respond to the general interest of the international community, and is endowed with functions of a permanent nature. Further, the Centre is not required to apply national law in its relations with staff members.

The Centre was established by the Agreement Establishing the Advisory Centre on WTO Law, which entered into force on 15 July 2001. The mandate of the Centre is to provide legal training, support, and advice on WTO law and dispute settlement procedures to least-developed countries, developing countries and customs territories, and countries with economies in transition. The Centre was established to address the financial and institutional constraints faced by these countries in the management of complex trade disputes under the WTO legal system.

The Centre currently has 36 Members, nine developed country Members, and 27 developing countries and customs territories. Members of the Centre fund its activities, inter alia, through contributions to a permanent endowment fund established for this purpose. Pursuant to article 16 of the Agreement Establishing the Centre, any Member of the WTO and any State or separate customs territory in the process of acceding to the WTO may become a Member of the Centre by accession on mutually agreed terms and conditions, subject to the approval of the General Assembly, the Centre’s highest decision-making body.

In accordance with article 10 of the Agreement Establishing the Centre, the Centre has legal personality. Paragraph 6 of article 3 of this Agreement provides that the Executive Director shall represent the Centre externally. The Centre has concluded a seat agreement with the Swiss Confederation in which the Swiss authorities undertake to accord to the Centre and its staff the status, privileges and immunities that the Swiss Confederation accords to permanent international organizations and their staff.

The Centre currently has a staff complement of ten. Conditions of service for staff are set out in the Centre’s Staff Rules and Staff and Pension Regulations. The Staff rules allow staff members to have recourse to the Administrative Tribunal of the ILO as the final instance in appeals against disciplinary measures. The Centre’s General Assembly approved and adopted these staff rules in Decision 9/2001 of 17 July 2001. By declaring that the Centre recognizes the jurisdiction of the Administrative Tribunal of the ILO, I am therefore responding to an express wish of the Members of the Centre.

I am attaching to this letter the following documents in support of this declaration:

- the Agreement Establishing the Advisory Centre on WTO Law;
- the Centre's Staff Rules and the Centre's Staff and Pension Regulations as adopted by the General Assembly on 17 July 2001; and
- the Seat Agreement between the Centre and the Swiss Confederation.

Thank you in advance for your support. I take this opportunity to assure you, Director-General, of my highest consideration.

Yours sincerely,

Frieder Roessler.