



## Governing Body

331st Session, Geneva, 26 October–9 November 2017

GB.331/PFA/15

Programme, Financial and Administrative Section  
Personnel Segment

PFA

Date: 25 September 2017  
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### FIFTEENTH ITEM ON THE AGENDA

## Matters relating to the Administrative Tribunal of the ILO

### Recognition of the Tribunal's jurisdiction by other international organizations

#### Purpose of the document

This paper contains a proposal regarding the approval of the recognition of the Tribunal's jurisdiction by the ASEAN+3 Macroeconomic Research Office (AMRO) and provides information about the intention of the World Meteorological Organization (WMO) to discontinue its recognition of the Tribunal's jurisdiction. The Governing Body is invited to approve the recognition of the Tribunal's jurisdiction by AMRO and take note of the intention of the WMO to terminate its membership and confirm that the WMO will no longer be subject to the Tribunal's competence as from the date of the Governing Body decision (see the draft decision in paragraph 18).

**Relevant strategic objective:** None.

**Main relevant outcome/cross-cutting policy driver:** Enabling outcome C: Efficient support services and effective use of ILO resources.

**Policy implications:** None.

**Legal implications:** Changes in the membership of the ILO Administrative Tribunal.

**Financial implications:** None.

**Follow-up action required:** None.

**Author unit:** Office of the Legal Adviser (JUR).

**Related documents:** GB.323/PFA/11/2; GB.325/PFA/9/2; GB.328/PFA/10; GB.329/PFA/11/2.



## Recognition of the Tribunal's jurisdiction by the ASEAN+3 Macroeconomic Research Office

1. Since the Governing Body last approved the recognition of the jurisdiction of the Administrative Tribunal (hereinafter "the Tribunal") of the International Labour Organization by an international organization in March 2017,<sup>1</sup> the Director-General has received a declaration by one more international organization recognizing that jurisdiction.
2. According to article II(5) of the Tribunal's Statute, in order to be eligible for approval, an international organization must either be intergovernmental in character or fulfil the following conditions, set out in the Annex to the Statute:
  - (a) it shall be clearly international in character, having regard to its membership, structure and scope of activity;
  - (b) it shall not be required to apply any national law in its relations with its officials, and shall enjoy immunity from legal process as evidenced by a headquarters agreement concluded with the host country; and
  - (c) it shall be endowed with functions of a permanent nature at the international level and offer, in the opinion of the Governing Body, sufficient guarantees as to its institutional capacity to carry out such functions as well as guarantees of compliance with the Tribunal's judgments.
3. By letter dated 6 September 2017 (see Appendix I), the Director of the ASEAN+3 Macroeconomic Research Office (AMRO) asked the Director-General that the AMRO Executive Committee's decision to recognize the Tribunal's jurisdiction be submitted to the Governing Body for its approval.
4. AMRO was first established on the initiative of the ASEAN+3 member States Finance Ministers' Meeting in 2011 as a company limited by guarantee in Singapore (AMRO Ltd). It was subsequently established as an international intergovernmental organization in 2014. The Agreement establishing the ASEAN+3 Macroeconomic Research Office ("AMRO Agreement") was signed by the governments of Brunei Darussalam, Cambodia, China, Hong Kong Special Administrative Region, Indonesia, Japan, Republic of Korea, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The AMRO Agreement entered into force on 9 February 2016 and has been to date ratified by all but one of the signatories.
5. In accordance with article 2 of the AMRO Agreement, the purpose of AMRO is to contribute to securing the economic and financial stability of the region through conducting regional economic surveillance and supporting the implementation of the regional financial arrangement. The term "regional financial arrangement" means the multilateral liquidity support arrangement under the ASEAN+3 framework to address potential and actual balance-of-payments and short-term liquidity difficulties in the region.
6. Pursuant to article 1 of the AMRO Agreement, AMRO possesses full legal personality and the legal capacity for carrying out its purpose and functions, while under article 17 it has full legal capacity to enter into contracts, acquire and dispose of immovable and movable property and institute legal proceedings.
7. The governance structure of AMRO comprises an Executive Committee, an Advisory Panel and a Director and staff. The Executive Committee, which maintains strategic oversight and

<sup>1</sup> GB.329/PFA/11/2.

sets the policy directions for AMRO, is composed of representatives of AMRO member States. The Advisory Panel, composed of distinguished and respected economists appointed by the Executive Committee, provides timely strategic, technical and professional input to AMRO's macroeconomic assessments and recommendations to the Director. The AMRO Director, appointed by and accountable to the Executive Committee, represents AMRO and conducts the current business of AMRO, including the appointment of staff.

8. According to article 13 of the AMRO Agreement, AMRO's office-related expenses are, on a reasonable basis, borne by the Republic of Singapore as host country. All remaining expenses, including but not limited to human resources-related expenses, are borne by its member States in accordance with their contribution in the proportions set out in the Schedule to the AMRO Agreement.
9. The headquarters of AMRO is in Singapore. The Headquarters Agreement between AMRO and the Government of Singapore, concluded on 9 February 2016, specifically provides in its article IV(3) that AMRO has full legal personality and enjoys immunity from every form of legal process except to the extent that it expressly waives its immunity for the purpose of any proceedings or under the terms of any contract. The subsidiary legislation enacted by the Government of Singapore in the form of the International Organisations (Immunities and Privileges) (ASEAN+3 Macroeconomic Research Office) Order 2016 and the Diplomatic and Consular Relations (ASEAN+3 Macroeconomic Research Office) Order 2016 further specify the privileges and immunities conferred upon AMRO on the territory of the host country. Additional information about AMRO may be found at <http://www.amro-asia.org/>.
10. According to the information provided, AMRO employs at present 43 staff members. The number of staff is expected to increase to 49 by the end of 2017. Pursuant to article IV(4) of the Headquarters Agreement and paragraph 5(1)(c) of the International Organisations (Immunities and Privileges) (ASEAN+3 Macroeconomic Research Office) Order 2016, the Director and staff of AMRO enjoy immunity from legal process in respect of all words spoken and written and acts performed by them in their official capacity, except for staff members who are citizens or permanent residents of Singapore. The general conditions and terms of employment and the duties and obligations of AMRO staff are governed by Administrative Orders issued by the Director. Administrative Orders also set out rules and procedures for disciplinary measures and administrative review and further provide that – subject to the approval of the ILO Governing Body – staff members may lodge a complaint with the ILO Administrative Tribunal against a decision taken following administrative review as well as against the imposition of a disciplinary measure.
11. The Tribunal's jurisdiction under article II(5) of its Statute currently extends to 59 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 under the Statute to bear the expenses of sessions and hearings and pay any award of compensation made by the Tribunal. Those organizations also contribute, in amounts proportionate to the number of their staff, to most of the running costs of the Tribunal's registry.

## **Withdrawal of the recognition of the Tribunal's jurisdiction by the World Meteorological Organization**

12. By letter dated 21 July 2017 (see Appendix II), the Secretary-General of the World Meteorological Organization (WMO) informed the Director-General that the WMO had discontinued its recognition of the jurisdiction of the ILO Administrative Tribunal with immediate effect.

13. In his letter, the Secretary-General confirmed that there is at present no outstanding appeal under the procedures foreseen in the WMO Staff Regulations, while there is one complaint (AT 5-4302) currently pending before the Tribunal. In this regard, the Secretary-General reaffirmed the commitment of the WMO to execute promptly and in good faith any Tribunal judgment rendered under such residual jurisdiction, to pay the corresponding session costs and its share of the running costs of the Tribunal for 2017. By communication dated 5 September 2017, the Office was informed that case AT 5-4302 had been in the meantime settled and withdrawn.
14. The WMO recognized the jurisdiction of the Tribunal in 1953<sup>2</sup> and currently employs 320 staff. In the 64 years of Tribunal membership, the WMO has been the subject of 29 judgments rendered by the Tribunal.
15. According to explanations provided by the WMO secretariat, as from the effective date of withdrawal of the WMO from the Tribunal's jurisdiction, the United Nations Appeals Tribunal will be competent to hear complaints on employment disputes filed against the WMO.
16. The Statute of the Tribunal in its article II(5) and the annex sets out the conditions for admission of an international organization but is silent on the conditions of withdrawal and is also silent on the possibility for the Governing Body to withdraw its approval of the recognition. This latter question is currently the subject of consultations among the member organizations and possible amendments to the Statute and the Annex could be prepared in due course.
17. Even though the recognition of the Tribunal's jurisdiction is in essence a unilateral declaration by an international organization which can be unilaterally revoked, a withdrawal from the Tribunal's membership needs to be confirmed by the Governing Body to become effective.

## Draft decision

### 18. *The Governing Body:*

- (a) *approves the recognition of the Tribunal's jurisdiction by the ASEAN+3 Macroeconomic Research Office (AMRO), with effect from the date of such approval;*
- (b) *takes note of the intention of the World Meteorological Organization (WMO) to discontinue its recognition of the jurisdiction of the Administrative Tribunal;*
- (c) *confirms that the WMO will no longer be subject to the competence of the Tribunal with effect from the date of this decision; and*
- (d) *requests the Director-General to follow up with the WMO regarding the payment of any outstanding costs.*

<sup>2</sup> See GB.123/205, para. 101.



## Appendix I



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06 September 2017

**MR. GUY RYDER**  
Director-General  
International Labour Office  
4 route des Morillons  
CH-1211 Genève 22  
Switzerland

Dear Mr. Ryder,

I am writing to request your assistance in bringing the application of ASEAN+3 Macroeconomic Research Office (“AMRO”) to recognize the jurisdiction of the Administrative Tribunal of the International Labour Organization (“ILOAT”) to the attention of the Governing Body of the International Labour Organization.

AMRO is an international organization established by the Agreement Establishing ASEAN+3 Macroeconomic Research Office (“AMRO Agreement”) which was signed by the ASEAN+3 members (Brunei, Cambodia, China, Hong Kong, China, Japan, Korea, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam) in 10 October 2014 in Washington, D.C.. This treaty took effect on 9 February 2016 upon its ratification by at least eight signatories. A copy of the AMRO Agreement is attached as **Annex 1**. AMRO is the regional macroeconomic surveillance unit of the ASEAN+3 members and is headquartered in Singapore.

In 2011, AMRO was initially established as a company limited by guarantee in Singapore (“AMRO Ltd”). At that time, the members agreed to subsequently constitute the surveillance unit as an international organization with international legal personality to take over the role of AMRO Ltd so that it can function effectively as an independent surveillance unit in the region.

The purpose of AMRO is to contribute to securing the economic and financial stability of the region through conducting regional economic surveillance and

supporting the implementation of the multilateral liquidity support arrangement under the ASEAN+3 framework to address potential and actual balance-of-payments and short-term liquidity difficulties in the region.

To fulfil its purpose, AMRO's functions to:

- (a) monitor, assess and report to members on their macroeconomic status and financial soundness;
- (b) identify for members macroeconomic and financial risks and vulnerabilities in the region and assist them, if requested, in the timely formulation of policy recommendations to mitigate such risks;
- (c) support members in the implementation of the regional financial arrangement; and
- (d) conduct such other activities necessary for achieving the purpose of AMRO as may be determined by the Executive Committee.

To enable AMRO to effectively exercise its purpose and functions, it is accorded in the territory of each member certain privileges and immunities, which include, among others, immunity from every form of legal process except to the extent that it expressly waives its immunity for the purpose of any proceedings or under the terms of any contract.

The Headquarters Agreement between the Government of Singapore and AMRO Relating to the Host Country Support ("HQA") also took effect on 09 February 2016. A certified copy of the selected provisions of the HQA is submitted for confidentiality reasons and attached as **Annex 2**. Under the HQA, AMRO enjoys immunity from every form of legal process and its Director and staff enjoy such privileges and immunities as required for the proper discharge of AMRO's mandate. Accordingly, AMRO is not required to apply national law in its relations with its staff members.

The Executive Committee maintains strategic oversight of, and sets the policy directions for AMRO. Each member is represented on the Executive Committee, and for this purpose, two Deputies – one finance deputy from its government with responsibility for finance and one central bank deputy from its central bank or its equivalent – may be appointed. The exception would be Hong Kong, China, whereby only one Deputy may be appointed.

On 09 February 2016, the Executive Committee authorized the transfer of all the assets, operations and staff of AMRO Ltd to AMRO as an international organization. As of today, there are forty-three (43) staff members of AMRO (excluding the Director). Within this year, the number of staff members is expected to increase to forty-nine (49).

On 09 February 2016, the Executive Committee also issued a decision to recognize and accept the jurisdiction of the ILOAT over complaints alleging non-observance or contravention, in substance or in form, of the contract of employment or terms of appointment of staff members of AMRO and that any compensation awarded by the ILOAT shall be chargeable to the budget of AMRO. A copy of the decision is attached as **Annex 3**.

I would appreciate your assistance in transmitting AMRO's declaration to recognize the jurisdiction of the ILOAT to the Governing Body for its review and approval. I remain at your disposal should you need any further information, and avail myself of this opportunity to give you the assurance of my highest consideration.

Very truly yours,

  
**DR. CHANG JUNHONG**  
Director

## Appendix II

WEATHER CLIMATE WATER  
TEMPS CLIMAT EAU



### WMO OMM

World Meteorological Organization  
Organisation météorologique mondiale  
Organización Meteorológica Mundial  
Всемирная метеорологическая организация  
المنظمة العالمية للأرصاد الجوية  
世界气象组织

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Our ref.: 0011/2017/LC/CONF-ILOAT

Mr Guy Ryder  
Director-General  
International Labour Office  
Route des Morillons 4  
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21 July 2017

Subject: Withdrawal of the recognition of the Tribunal's jurisdiction by the World Meteorological Organization.

Dear Mr Ryder,

I write to inform you that the World Meteorological Organization (WMO) has discontinued its recognition of the jurisdiction of the Administrative Tribunal of the International Labour Organization with immediate effect.

As regards the adjudication of complaints filed prior to the effective date of the cessation of recognition of the Tribunal's jurisdiction, the WMO confirms that there is at present no outstanding complaint under the procedures foreseen in WMO Regulations and Rules, save for the complaint concerning the WMO currently pending before the Tribunal in case AT5-4302 (Rusinga). The WMO reaffirms its commitment to execute promptly and in good faith any Tribunal judgement rendered under such residual jurisdiction, to pay the corresponding session costs as well as the minimum annual share of the running costs of the Tribunal for 2017.

Yours sincerely,

  
(P. Taalas)  
Secretary-General