



NINETEENTH ITEM ON THE AGENDA

Other personnel questions**Matters relating to the Administrative Tribunal of the ILO****Recognition of the Tribunal's jurisdiction by the South Centre**

1. By a letter dated 4 October 2007 (see appendix), Mr Yash Tandon, Executive Director of the South Centre, informed the Director-General of the International Labour Office that on the same date the South Centre's Council of Representatives had endorsed the South Centre's new Staff Regulations which recognize the jurisdiction of the Administrative Tribunal of the International Labour Office ("Tribunal") in accordance with Article II, paragraph 5, of the Tribunal's Statute. In his letter, the Executive Director of the South Centre asked that his request for recognition of the Tribunal's jurisdiction be transmitted to the Governing Body of the ILO for its approval.
2. The South Centre was created pursuant to the 1994 *Agreement to establish the South Centre* and it currently has 51 Member States. Its establishment was primarily oriented towards the developing States from the South but its objectives, set out in Article II of the Agreement, include promoting the South's solidarity, consciousness, mutual knowledge and understanding; promoting better mutual understanding and cooperation between the South and the North; and fostering convergent views and approaches of its Members in relation to global economic, political and strategic issues. The South Centre now exercises its mandate by assisting its Member States in formulating certain policy issues and generating ideas and action-oriented proposals for consideration by governments, and by both intergovernmental and non-governmental organizations in the South.
3. The South Centre consists of three principal organs: the Council of Representatives of Member States, the Board made up of a Chairperson and nine members appointed by the Council of Representatives and a Secretariat headed by its Executive Director. The Board is responsible for raising funds to fulfil the South Centre's functions and objectives. Member States are also invited to make voluntary contributions to finance the South Centre and contributions from other sources may also be accepted. There is also a capital fund established for the purpose of generating income to support the activities of the

Centre. The Council of Representatives reviews the financial situation and perspectives of the South Centre at each of its regular sessions.

4. Article XI of the Agreement to establish the South Centre stipulates that it has international legal personality and enjoys the privileges and immunities usually granted to intergovernmental organizations. The South Centre also has the capacity to contract, acquire and dispose of movable and immovable property and to institute legal proceedings. In accordance with Article I of the 1994 *Agreement to establish the South Centre*, its headquarters is in Geneva, Switzerland. Article 5 of the 1997 *Agreement between the Swiss Federal Council and the South Centre to determine the juridical status of the South Centre in Switzerland* stipulates that it shall enjoy immunity of jurisdiction and action unless formally waived by the South Centre or in case of a limited number of other exceptions not relevant to the relationship between the South Centre and its staff members.
5. The South Centre currently has 25 staff members. Their conditions of employment are set forth in the Staff Regulations as adopted by the Council of Representatives on 4 October 2007. Subject to the approval of the ILO Governing Body, the Staff Regulations provide for the possibility of referring applications alleging non-observance of staff members' terms of employment to the Tribunal.
6. In order to be eligible for approval under Article II, paragraph 5, of the Tribunal's Statute, the South Centre must be considered either to be an intergovernmental organization or to fulfil certain criteria set out in the annex to the Statute. According to the available information, the South Centre is indeed an international intergovernmental organization established by an international treaty. Furthermore, the South Centre's objectives pertain to its membership as a whole and its functions are of an ongoing nature. Additionally, as mentioned above, the South Centre is not required to apply any national law in its relations with its officials and enjoys immunity from legal process in its host country. The South Centre also has a capital fund to guarantee the stability of its budgetary resources.
7. The Tribunal's jurisdiction under Article II, paragraph 5, of its Statute already extends to 50 organizations other than the ILO. The recognition of the Tribunal's jurisdiction by other organizations entails no additional costs to the ILO. Each organization contributes, in amounts proportionate to the number of its staff, to the running costs of the Tribunal's secretariat. Furthermore, the Statute requires organizations against which complaints are filed to bear the expenses of sessions and hearings and to pay any award of compensation made by the Tribunal.
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 South Centre, with effect from the date of such approval.***

Geneva, 5 November 2007.

Point for decision: Paragraph 8.

Appendix

Letter addressed to the Director-General of the ILO by the Executive Director of the South Centre on 4 October 2007

Re: Recognition of the jurisdiction of the ILO Administrative Tribunal by the South Centre

Dear Mr Somavia,

I have the honour to request that the Governing Body of the International Labour Organization approve our recognition of the jurisdiction of the ILO Administrative Tribunal with regard to the dispute settlement procedures provided by the South Centre.

The South Centre is an intergovernmental think tank of developing countries established by an Intergovernmental Agreement in July 1995, with its headquarters in Geneva. It has a membership of 51 countries with a mandate to assist in formulating points of view of the South on major policy issues, and to generate ideas and action-oriented proposals for consideration by South governments, intergovernmental and non-governmental organizations of the South and other partners.

The Centre consists of three principal organs: the Council of Representatives of the Member States, the Board made up of a Chairperson and nine members appointed by the Council of Representatives and the Secretariat headed by an Executive Secretary.

Annex VII of the Staff Regulations of the South Centre provides for a dispute settlement and appeals procedure which was further enhanced with appropriate amendments approved by the Council of Representatives in October 2007. The amendments provide for further recourse to the ILO Administrative Tribunal after the exhaustion of internal appeals procedure.

Please find attached copies of the following documents:

- a copy of the Intergovernmental Agreement to establish the South Centre;
- a copy of the South Centre Staff Regulations. Article VI refers to Social Security including health insurance and Provident Fund. Annex VII refers to dispute settlement procedure;
- a copy of the agreement with the Government of Switzerland regarding South Centre's headquarters; and
- a statement on the financing of the South Centre's operations.

It is appreciated that this request can be examined at the next meeting of the Governing Body. I thank you in advance for your assistance in this matter and take this opportunity to assure you of my highest consideration.

Yours sincerely,

(Signed)
Yash Tandon,
Executive Director.