

Joint Working Group on Reforms to the ILOAT

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Recommendations to the Joint Negotiating Committee

The Working Group examined the proposals it had previously designated as Category 1, namely those proposals on which there was substantial agreement between the parties, or on which further discussions could be useful. The Working Group agreed to recommend to the JNC that a letter be presented to the President of the Administrative Tribunal at its May 2002 session, *with the expectation that a reply, if any, from the Tribunal would be forthcoming in June 2002, failing which, the WG would reconvene to put forth its own proposals to be considered by the JNC on these issues.* The letter would be drafted by JUR in consultation with the Staff Union Committee and would address the following points referenced in the Working Group's minutes of 28 February 2002:

- Paragraph 1: referring to the Tribunal's adherence to basic principles of justice based on international administrative law and raising the issue of whether such principles could be expressed in a Preamble to the Tribunal's Statute;
- Paragraph 2: requesting clarification by the Tribunal as to its application of the principle of *stare decisis*, namely that where it distinguishes a case before it on the law or the facts, it set forth its reasons for doing so;
- Paragraph 3: requesting its views on whether it should not address in its written opinions all legal issues formally raised in the context of a complaint, insofar as it does not already do so;
- Paragraph 4: requesting its views on whether it should not address the substantive issues raised by a claimant wherever possible, even where it could dismiss a case solely on procedural grounds such as time limits, insofar as it does not already do so;
- Paragraphs 11 to 13: suggesting that the Tribunal might consider adopting in its Rules concerning disclosure an approach similar to that reflected in Rule 17 of the International Monetary Fund Administrative Tribunal; and
- Paragraphs 26 and 32: recommending that the Tribunal consider a more flexible and realistic approach to time limits and, in cases of summary dismissal under article 7(2) of its Rules, seek the complainant's views before so ruling.

With regard to Paragraph 7, the Working Group agreed to recommend to the JNC that it propose that the Statute of the Tribunal be amended to grant the Union standing to bring an action before the Tribunal in its own name where:

- the Union's own legal rights or prerogatives were allegedly being impinged upon, or

- where a regulatory or quasi-regulatory decision affected staff as a whole or a discrete category or categories of staff.

There was no agreement on a third point, namely the issue of the Union's standing to lodge a complaint with the Tribunal on behalf of a person or group of persons wishing to remain anonymous and without first going through the internal grievance procedure.

One further issue, not placed in Category 1, was also raised. The Working Group also agreed to recommend to the JNC that it seek the views of the Tribunal in the letter referred to above, as to the idea of making it obligatory in the Tribunal's Rules to hold oral hearings where both parties specifically so request.