

# The OPEC Fund for International Development

ANNEX I to Decision No. 10 (CLXXIX)

## Statute of the OPEC Fund Administrative Tribunal

**Content:** Establishes the OPEC Fund Administrative Tribunal (OFAT) and sets forth its mandate and powers

**Applicable to:** The OPEC Fund

**Sponsor:** GCLSD

**Cleared by and date:**

Director-General  
January 27, 2022

**Approved by and date:**

Governing Board  
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**Next Review:** 2 years from the approval date or as needed

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## STATUTE OF THE OPEC FUND ADMINISTRATIVE TRIBUNAL

### ARTICLE I: ESTABLISHMENT

1.1 There is hereby established a tribunal for the OPEC Fund for International Development ("OPEC Fund") pursuant to Section 17.5(b) of the HR Policies Framework, to be known as the OPEC Fund Administrative Tribunal ("Tribunal" or "OFAT").

1.2 The Tribunal shall be a judicial body that functions independently of OPEC Fund Management. Its independence shall be guaranteed and respected by the OPEC Fund at all times.

1.3 This *Statute of the OPEC Fund Administrative Tribunal* ("Statute") sets forth the mandate, competence and status of the Tribunal and shall apply in conjunction with the *Rules of the OPEC Fund Administrative Tribunal* ("Rules").

### ARTICLE II: DEFINITIONS

2.1 As used in this Statute or the Rules:

Appellant	means a current or former Employee submitting a Statement of Appeal to the Tribunal.
Appeal	means an appeal by an Employee or former Employee against a Final Administrative Decision submitted to the Tribunal in accordance with the procedures set forth in the Rules.
Appeal Documents	means all documents filed with the Tribunal in respect of an Appeal.
Appeal Panel	means a panel of three members of the Tribunal (including a chair) appointed by the President of the Tribunal to hear a case, pursuant to Rule 11.1 of the Rules.
Employee	means any person employed by the OPEC Fund under a Fixed-Term,



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	Permanent, Open-ended or any other type of employment, as applicable.
Final Administrative Decision	means a final decision by the OPEC Fund following the report submitted by the Staff Appeals Committee (SAC) in accordance with the SAC Rules.
Host Country	means the Republic of Austria.
HR Rules	means the OPEC Fund HR Rules and Procedures.
Judge	means a member of the Tribunal appointed by the Governing Board on the recommendation of the Director-General after consultation with the Selection Committee.
Mediation	means the process set out in Schedule 1 of the OPEC Fund Disciplinary Measures and Dispute Resolution Procedures.
Pleading	means a formal written statement of a party's claims, or defenses to another party's claims, submitted to a court or tribunal. It could be in the form of a statement of claim, counterclaim, response, rejoinder, etc.
President	means the President of the Tribunal, elected further to Article 4.8 of the Statute.
Report	means the written report of the Staff Appeals Committee delivered in accordance with the SAC Rules.
Respondent	means the OPEC Fund for International Development ("OPEC Fund").
Response	means the document submitted by OPEC Fund in response to a Statement of Appeal.



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Rules	means the Rules of the OPEC Fund Administrative Tribunal, as may be amended from time to time.
Secretary	means the person appointed by the Director-General of OPEC Fund in accordance with Article 4.9 of this Statute.
Selection Committee	means, the committee, chaired by the OPEC Fund General Counsel and comprising of the HR Director and Director of Operational Risk, responsible for the selection of candidates as Judges of the Tribunal.
Statement of Appeal	means the document submitted by an Appellant to initiate an Appeal.
Terms and Conditions of Employment	include all regulations and rules identified in Article VII of this Statute.
Tribunal	means the OPEC Fund Administrative Tribunal of five members established under this Statute or, as the context may require, the Appeal Panel appointed by the President of the Tribunal to hear an Appeal.

## ARTICLE III: COMPETENCE

3.1 The Tribunal shall have competence to consider and to uphold or reject, in whole or in part, any Appeal initiated further to Article VI of this Statute.

3.2 Any question as to the competence of the Tribunal to hear a particular Appeal shall also be decided by the Tribunal on the basis of the relevant provisions of the Rules.

## ARTICLE IV: COMPOSITION OF THE TRIBUNAL

4.1 The Tribunal shall consist of five Judges, four of whom shall be nationals of different Member Countries of OPEC Fund and preferably one national of the Host Country. The Tribunal shall have a minimum of one female member and no two members of the Tribunal shall be from the same country.



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4.2 The Judges shall be persons of high moral character and possess the qualifications required for appointment to high judicial office or be lawyers or arbitrators who are experts in employment relations in international organizations, international civil service or the administration of international organizations. They shall have the relevant track record and experience.

4.3 No Judge shall be a current or former:

- (a) Employee or Director-General;
- (b) member of the Ministerial Council;
- (c) member of the Governing Board; or
- (d) consultant working for OPEC Fund.

4.4 The Judges shall be appointed by the Governing Board on the recommendation of the Director-General after consultation with the Selection Committee.

4.5 Each Judge shall serve for a term of five years and may be re-appointed once for another term of five years. A Judge may only be removed from office by the Governing Board based on a recommendation of the Director-General, in consultation with the Selection Committee and with unanimous vote of all other Judges.

4.6 If any Judge resigns, or is unable or unsuitable to act further to a unanimous vote of other Judges, the Governing Board may – based on the recommendation of the Director-General given after consultation with the Selection Committee – appoint a replacement Judge, who shall serve for the remainder of the predecessor's term.

4.7 The Judges shall enjoy the same immunities and privileges that apply to Senior Management of the OPEC Fund solely as it relates to the discharge of their functions within the framework of this Statute and the Rules.

4.8 The Tribunal shall elect its President and Vice-President from among the Judges. The President and Vice-President of the Tribunal shall serve for a term of five years and may be re-appointed once for the same duration. If the President of the Tribunal is unable to act or resigns during the course of the term, the Vice-President shall serve for the remainder of the term. If the President of the Tribunal and/or the Vice-President is/are unable to act or resign(s) during the course of the term(s), the Judges shall promptly (and without waiting for the appointment of replacement Judges) elect a new President and a new Vice President of the Tribunal who shall serve for the remainder of the predecessor's term.

4.9 The OPEC Fund shall appoint a Secretary with legal expertise for the Tribunal to act for an initial period of one year. Subsequent appointments or



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renewal shall be made by the OPEC Fund upon recommendation of the President of the Tribunal. The Secretary shall be under the authority of and report directly to the Tribunal, and shall enjoy all protections relevant to the independent discharge of his/her functions.

## ARTICLE V: FUNCTIONING OF THE TRIBUNAL

### 5.1 Administration of the Tribunal

The Secretary, under the direction of the President of the Tribunal, shall make the administrative arrangements necessary for the functioning of the Tribunal, including facilitating the issuance of any practice directions necessary to prepare any matter for consideration by the Tribunal.

### 5.2 Administrative Cost of the Tribunal

OPEC Fund shall pay the administrative costs of operating the Tribunal and the remuneration of the Judges and the Secretary.

### 5.3 Obligation to Act Independently and Impartially

The Judges shall act independently and impartially in the exercise of their duties and shall not receive any instructions from the OPEC Fund or any source. Each Judge shall sign a statement to that effect upon appointment.

## ARTICLE VI: APPEALS TO THE TRIBUNAL

6.1 An Employee or former Employee may submit an Appeal within the applicable timelines against a Final Administrative Decision directly to the Tribunal after having exhausted all internal channels for review under the OPEC Fund's Dispute Resolution Procedures set out in the HR Rules.

## ARTICLE VII: APPLICABLE LAW

7.1 In considering an Appeal, the Appeal Panel shall take into consideration and shall base its decision on the provisions of the relevant contract of employment, the internal law of OPEC Fund and, where applicable, the generally recognized principles of international administrative law. For purposes of this Statute and the Rules, the internal law of OPEC Fund is to be determined by reference to the following sources, in order of precedence:

- (a) The Agreement Establishing the OPEC Fund for International Development, as may be amended;

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- (b) The decisions of the Ministerial Council and of the Governing Board relating to Employees and employment matters;
- (c) The Headquarters Agreement, as may be amended;
- (d) The HR Policies Framework and the HR Rules;
- (e) OPEC Fund's Administrative Instructions and Directives; and
- (f) OPEC Fund's administrative practice, to the extent this practice is not inconsistent with the foregoing sources.

## ARTICLE VIII: RULES OF THE TRIBUNAL

8.1 Subject to the provisions of this Statute, the Tribunal shall function in accordance with Rules approved by the Governing Board (as may be delegated to the Tribunal), which shall cover, *inter alia*:

- (a) election of the President and Vice President;
- (b) submission of Appeals and the applicable procedure;
- (c) constitution of the Appeal Panel;
- (d) conduct of the Appeal;
- (e) decisions of the Tribunal/Appeal Panel; and
- (f) other matters relating to the functioning of the Tribunal.

8.2 The Tribunal may issue practice directions related to Pleadings and hearings.

## ARTICLE IX: PROCEEDINGS

9.1 In the ordinary course, the Appeal Panel shall decide Appeals on the basis of the Appeal Documents, which shall include the Statement of Appeal, Response, and any other Pleadings and evidence submitted to the Tribunal.

9.2 In exceptional cases, the Appeal Panel may hold oral hearings virtually to hear arguments of the parties or to re-hear the evidence.





## ARTICLE X: DECISIONS

10.1 The Appeal Panel shall take all its decisions by a majority. In the event of an equality of votes, the chair shall have the casting vote. The deliberations of the Appeal Panel shall be confidential and its decisions shall be final and binding.

10.2 The Appeal Panel's decision shall be incorporated into a written judgment which shall state the reasons for the decision, the remedies, if any, awarded to a successful Appellant and, where applicable, the Appeal Panel's decision on costs. Dissenting and concurring opinions, as well as clarifications, shall be set out in the judgment.

10.3 At any time during the Appeal, the Appeal Panel may summarily dismiss the Appeal if it concludes that the Appeal is frivolous or vexatious. The Appeal Panel's decision shall be incorporated into a written judgment, which shall state the reasons for the decision.

10.4 Certified copies of each judgment shall be provided to the parties and the Tribunal shall maintain the original in its archives.

## ARTICLE XI: AWARDS

11.1 If the Appeal Panel concludes that the Appeal is well founded, it may grant, in whole or in part, the remedies sought in the Appeal, including the measures to be taken by the Respondent to rectify the Final Administrative Decision appealed against and the adverse effects of that decision on the Appellant.

11.2 The measures may include payment of a sum of money not exceeding two times the Appellant's current (or if the employment has been terminated, then final) annual basic salary that the Appeal Panel finds is due to the Appellant and/or actions such as a pay increase, promotion, transfer or reinstatement of employment.

11.3 When awarding a remedial measure other than the payment of money, the Appeal Panel shall also fix an amount to be paid by the Respondent as compensation should the Respondent decide not to implement the measure on the basis that it is not in the OPEC Fund's best interest. The amount fixed by the Appeal Panel shall not exceed two times the current (or if the employment has terminated, the final) annual basic salary of the Appellant. The Appeal Panel may also award cost against the Respondent, as elaborated in the Rules.





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11.4 The Tribunal may make observations to the Director-General with the objective of strengthening OPEC Fund's internal processes and lessons learned.

## ARTICLE XII: REVIEW

12.1 A party to a case in which a judgment has been delivered may, in the event of the discovery of a fact which by its nature might have had a decisive influence on the judgment of the Appeal Panel and which at the time the judgment was delivered was unknown both to the Appeal Panel and to that party, request the Appeal Panel, within a period of ninety (90) days after the judgment was delivered, to revise the judgment.

12.2 The request shall contain the information necessary to show that the requirements set forth in Article 12.1 have been complied with. It shall be accompanied by supporting documents.

## ARTICLE XIII: RECORDS

13.1 The Secretary shall maintain the original text of each judgment as well as all records of each case in the Tribunal's archives.

## ARTICLE XIV: ANNUAL REPORT

14.1 The Tribunal shall report annually to the Governing Board on its activities.

## ARTICLE XV: COOPERATION

15.1 The OPEC Fund may make agreements with any other international organization for the submission of appeals of their employees to the Tribunal. Each such agreement shall provide that the organization concerned shall be bound by the judgments of the Tribunal and be responsible for the payment of any awards made by the Tribunal in respect of the appeal. The agreement shall also include, *inter alia*, provisions concerning the organization's participation in the administrative arrangements for the functioning of the Tribunal and sharing of the Tribunal's expenses.



## ARTICLE XVI: ENTRY INTO FORCE

16.1 This Statute shall become effective as of the approval date (“Effective Date”).

16.2 Notwithstanding anything in this Statute to the contrary, the Tribunal shall be competent to hear any Appeal concerning a Final Administrative Decision made after the Effective Date of the Statute but before the Administrative Tribunal Effective Date (as defined in the Rules), provided that the Appeal is filed within ninety (90) days after the Administrative Tribunal Effective Date. Where an Appellant appeals to the Tribunal following receipt of a Final Administrative Decision but the Judges have not yet been appointed, the Appeal shall be automatically stayed until the Administrative Tribunal Effective Date.

## ARTICLE XVII: AMENDMENT

17.1 The Tribunal or the Director-General may, from time to time, and in consultation with each other, propose amendments to any provision of this Statute.

17.2 Amendments to this Statute shall be approved by the Governing Board.

17.3 Amendments to this Statute shall not be retroactive but shall take effect only upon approval. Such amendments shall not apply to any Appeal pending before the Tribunal on the date of its approval.

