Coherence in the Law of the Asian Development Bank Administrative Tribunal In Panel and *en banc* process

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Introduction

The Asian Development Bank (ADB or "the Bank") consisting of 67 member states) is a multilateral organisation with its headquarters in Manila, Philippines. It was established by treaty in 1966. The jurisdiction of the Courts of the constituting member states and government agencies do not extend to the Bank and its employees. Accordingly, the Board of Directors of the Bank decided to establish an appeal mechanism for resolving disputes and for the mutual benefit of the staff employees and the Bank. Accordingly, the Administrative Tribunal of the Bank was established by the Board of Directors of the Bank in 1991.

2. When the Administrative Tribunal (AT) for the Asian Development Bank (ADB) was established by the Statute of the ADB AT with effect from 1 April, 1991, there were totally three members, that is the Chairman and two members. The three members heard all the eight cases that came before the Tribunal from the first case decided on 18 December 1992 (**Carl Gene Lindsey vs. ADB,** (ADB AT Reports Vol.1, Decision No.1) till the case of **Sutanu Behuria** vs. **ADB** (ADB AT Reports Vol.1). Decision No.8 decided on 31 March 1995. At that time, when the first eight cases were decided which were all unanimous decisions, the practice adopted by the Tribunal was that only the Chairman signed the Judgement and not the other two members.

However, thereafter from Decision No.9 onwards, (**Nicanor B Isip** vs. **ADB** decided on 8 January 1996) (ADB AT Reports Vol. II), all the members signed the Judgment.

3. The Statute of the ADB AT was amended on 22nd December, 1994 with effect from 1st January 1995, increasing the composition of the Tribunal to five members/Judges. Earlier when the Tribunal consisted of only three members, there was only a Chairman and two members. Since July, 1995 when the composition of the Tribunal was increased to five members, the Tribunal consists of the President, the Vice President and three members/Judges.

4. In several Administrative Tribunals of International Organisations, the number of Judges varies from five to seven Judges, generally it is an odd number of Judges including in ADB AT. It may be pointed out that at the Tribunal of the African Development Bank and the Organisation of American States there seems to be an even number of Judges ,namely six (See **Table A**). The strength of the *en banc* panel which will decide the selected cases will, therefore, depend on the number of members indicated in Annexure A. A panel of three Judges appears to be the norm for hearing the ordinary cases.

Statutory Provisions

5. In the Statute of the Administrative Tribunal of the Asian Development Bank, 1991, Article V paragraph 5 reads as follows:

> " The Tribunal shall form a panel consisting of all of its members when dealing with (1) certain cases which, in the determination of the Tribunal, warrant a hearing by such a panel; and (2) any cases where any party to such a case makes a written request and gives reasons for the request that the case be heard by such a panel, and where such request is agreed to by the Tribunal".

6. As per the provisions of Rule 5A paragraph 1 of the Rules of Procedure of the Asian Development Bank Administrative Tribunal, (ADB AT) 1992 (hereinafter referred to as the Rules of Procedure),

"The Tribunal, during a plenary session, and the President in consultation with the Vice-President, in between sessions, shall determine whether a case warrants consideration by a panel consisting of all its members, or by a panel of three members, and the composition of any panel of three members".

7. Rule 5, paragraph 4 of he Rules of Procedure provides that three members of the Tribunal shall constitute a quorum for plenary sessions.

8. Under paragraph 2 of Rule 5A of the Rules of Procedure, a party may make a written request giving reasons therefor, that the case be heard by a panel consisting of all the members of the Tribunal.

9. Rule 23 of the Rules Procedure provides for the Modification and Supplementation of the Rules by the Tribunal which reads as follows:

"The Tribunal or, when the Tribunal is not in session , the President, with the approval of the members of the Tribunal, may:

(i) in exceptional cases modify the application of these rules.....; and
(ii) deal with any matter not expressly provided for in the present rules.

10. One of the issues this paper examines is , what are the circumstances in which the Tribunal will decide an application by a full panel of all it's members or by a panel of three members ; as well as what reasons have been advanced by a party requesting for consideration by a full panel.

Time Limit for Requests

11. The request for hearing by a full panel has to be made, at the latest by the applicant in the reply filed under Rule 8 of the Rules of Procedure i.e., a little over three months (105 days to be exact) from the date of the application or within forty-five days of the transmission of the answer of the Bank to him by

the Executive Secretary of the Tribunal. Similarly, the Bank has to make the request for a full panel latest, while filing the rejoinder to the reply filed by the applicant, under Rule 9 of the Rules of Procedure.

Full Panel options and possibilities

12. As pointed out earlier , Article V paragraph 5 of the Statute has vested the decision making for a full panel to the Tribunal . The Tribunal can suo moto decide that certain cases be decided by a full panel (*en banc*). Under what circumstances a full panel consisting of all the members should constitute such a panel in a particular case is left totally to the discretion of the Tribunal. The Tribunal in deciding a full panel or a three member Panel may state or explain the reasons for the decision or may remain silent on this point .

13. The Tribunal on a written request from either party for a full panel may take the decision either allowing or denying such a request. However, the party should give reasons in their request for a full panel and this will be taken into account in the decision of the Tribunal. If not agreed to, the Tribunal may explicitly state why the request is being denied or may not explicitly provide their reasons. In such a situation the case will be considered by a three member panel. On the other hand, if the request of the party for a full panel is allowed, the case will be considered accordingly. Here again the reason why the request is allowed may or may not be explicitly mentioned.

14. In some situations, all the members/Judges may not be able to attend the sessions of the Tribunal fully; either because a Judge may recuse during the proceedings or due to other circumstances, for example, illness, travel dislocations etc. In such an exceptional situation, as per Rule 23 of the Rules of Procedure the Tribunal may continue to consider the case with the remaining four Judges. In the ADB AT, with five judges constituting the Tribunal, it has been provided that three Judges are sufficient for the quoram . In fact , for a few cases decided by the Tribunal under Rule 5A paragraph 1 of the Rules of Procedure the *en banc* panel had only four judges. In a situation when a judge

is ill for a long period of time and no new judge could be appointed, then the initial composition for *an en banc* panel had only four judges, as it happened at ADB AT in the years 2010 - 2012. Interestingly in another case, when a vacancy existed in the Tribunal it had postponed consideration of the case requiring an *en banc* panel to deal with that case. Further, it may happen that if a four member panel is considering a case requiring a full panel, and a new member joins in the vacancy, this enlarged Panel could complete the consideration of that case.

15. A few such situations encountered in ADB AT are briefly discussed in the following paragraphs from the decided cases .

Preliminary Measure and Exception

16. The consideration for a full panel of the Tribunal is taken up as one of the preliminary measures by the Tribunal under Rule 5A of the Rules of Proceedure when taking up a case for consideration. However in one case referred to below, the Tribunal initially considered the matter by a panel of three members, which opinioned that the case warranted a full panel.

Suo Moto Consideration

17. As indicated earlier, the Tribunal in the beginning takes a decision whether a case is required to be considered by a three or five member panel. If it is decided that the case warrants to be considered by a full panel without any request from any of the parties, the case will proceed with the full strength of the Tribunal members. Two such cases are presented below mentioned in Serial Nos.6 and 15 of Annexure B . This Annexure presents 30 cases considered by the en banc panels of ADB AT of more than three Judges ,since it's inception in 1991 .

18. In **Jorge O. Amora** Vs. **ADB**, (ADB AT Reports Vol. III, Decision No.24 decided on 6 January 1997) the case was initially considered by a panel of three members of the Tribunal at its seventh session. That panel was of the opinion

that the case warranted consideration by a full panel and the Tribunal so determined, but the reasons for the decision have not been spelt out.

19. The brief facts on which the Applicant had filed the Application on 21 December 1995 before the Tribunal were allegations that (a) the Bank's exercise of its option to retire him at the age of 60 was arbitrary, unjust and inequitable; (b) that the ex-gratia payment offered was unjust; (c) the several Memoranda of Agreements (MOAs) between the Bank and himself should be struck down or disregarded as they had been imposed to preclude him from acquiring security of tenure; and (d) a "quitclaim" he signed when his employment was "regularised" does not stop him from pursuing his claims.

However, this is a case, where although the Tribunal had determined that the case warranted consideration by a panel consisting of all its members, on account of illness, one member could not attend the plenary session and so the case was determined by the remaining four members present at the session.

20. **De Armas et al** Vs **ADB**, (ADB AT Reports Vol. IV, Decision No.39 decided on 5 August 1998) is a case decided by the full Panel. The applicants i.e. thirty-six Filipino professional staff ("the Group") had set out their grievance in a memorandum dated 24 January, 1995 that they were not extended certain employment benefits given to other professional staff of the Bank, relating to equal remuneration for equal work, which included, Educational grants, the Force Majeure Protection Program, Home Leave Travel and Severance Pay. Upon request by the applicants which were in part granted by the Tribunal, and upon the direction of the Tribunal, the Respondent was required, under Rules 6 and 10 of the Rules of Procedure, respectively, to produce more specific information about the benefits in question for the year 1995. This information related principally to: the grant of education benefits to non-Filipino professional staff members (average and total amount, relation to average salary, number of staff members and dependents affected); the grant of home leave benefits to non-Filipino professional staff members (average amount, relation to average salary, number of staff members affected); the grant of severance pay to all separated staff members (average amount and relation to average salary); the nationality

and salary-level of staff members; and the pertinent staff rules and regulations of other international organizations. This information was furnished to the Applicants, and the parties were permitted to comment thereon.

21. Due to the time concerned in the production and transmittal of the above information, the exchange of comments, and in filling two vacancies in the Tribunal, the Tribunal deferred its decision until its next session in January 1998, and thereafter, again until its session in August 1998. On 12 February 1997, the Tribunal also decided that this application should be considered by a panel consisting of all its members and it had deferred its decision to the session in August 1998, so that among other reasons two vacancies in the Tribunal could be filled.

22. The Tribunal had observed that it was "a new issue" which they had to decide in relation to the four benefits in dispute in the Bank. Further, in paragraph 40 of the judgment, the Tribunal has held that it "has been able to determine, independently of the practice of any other organization, whether or not the Bank has acted reasonably in refusing the disputed benefits". In the facts of the case, the Tribunal made no reference to the practice of other organizations. It is relevant to point out, that neither of the parties had made a request for the case to be heard by a full panel. It was a preliminary decision of the Tribunal on 12 February 1997, that the application should be considered by a panel of all its members under Rule 5A paragraph 1 of the Rules of Procedure. The reason for the decision by a full panel was that it was a new issue, which is fully justified.

Request by Applicant -Allowed

23. In another case, **Edward Breckner** Vs **ADB**, (ADB AT Reports Vol. III, Decision No.25 decided on 6 January 1997) the Applicant and his three colleagues requested that their cases be heard by a full panel of the Tribunal. The complaint of the applicant, Edward Breckner, was that he was wrongfully denied the right to early retirement under the Special Separation Program ("SSP"), a voluntary early retirement program which had been notified to the

Bank's staff on 24 October, 1994. Three other applicants, Felipe T.Fajardo, Evelyn M. Go and Ang. Swee Tai had also filed similar applications against the Bank (ADB AT Reports, Vol III, Decision Nos.26, 27 & 28 respectively, decided on 6 January 1997). Despite the Bank's objections, the Tribunal held that "having regard to the novelty and the complexity of the issues involved", the cases warranted consideration by a panel consisting of all its members.

24. In the above four cases, (Serial Nos.7-10 of Annexure B) the Tribunal had determined in terms of Rule 5A of the Rules of Procedure, that the cases warranted consideration by a panel consisting of all its members. However, on account of illness, one member was unable to attend the plenary session of the Tribunal. So in the exercise of its powers under Rule 23 of the Rules of Procedure, which in exceptional cases permits the Tribunal to modify the application of these rules, read with Rule 5, paragraph 4 of the Rules, which provides that three members of the Tribunal shall constitute a quorum for plenary sessions, the Tribunal decided that the four cases should be determined by the four members present at that plenary session. Accordingly the decisions in these four cases were given on 6 January, 1997 by the four members present at the plenary session. The reasons given by the Tribunal for a full panel are clear, mainly on the grounds of novelty and complexity of the issues involved. However, finally it was not a "full panel" of all the five members of the Tribunal but only four judges who decided the matter.

25. In the case of **De Armas** *et al* (supra), it will be relevant to observe that there were thirty six applicants . In the other case **Edward Breckner** with the connected three applications (supra) there were four cases filed separately , but taken up together by the Tribunal . These cases were considered by the *en banc* panel for reasons of novelty and complexity of the issues involved .

26. However, in the cases of **Jorge D Amora** (Supra) and **Edward Breckner** (Supra) and the three connected cases, although the Tribunal had determined that the cases warranted consideration by a panel consisting of all its members, i.e. *en banc*, on account of the illness of one member who was unable to attend

the plenary session of the Tribunal, the Tribunal decided that the cases should be determined by the four members present at the plenary session.

27. In **Patricia Alexander** Vs **ADB** (ADB AT Reports Vol. IV, Decision No.40 Decided on 5 August 1998) the Applicant commenced her service as Economist with the Bank in November 1992 on a fixed term appointment for three years. Her appointment was extended by a 12 month period till November 1996 but was not renewed thereafter. The Applicant was aggrieved by the non-renewal of her appointment. Her claim was that the decision not to renew her appointment was based on performance evaluation which she claimed were characterized by procedural unfairness and failure to observe due process and by errors of fact and other flaws, including gender-based discrimination.

28. The Applicant asked that the case be decided by a Panel consisting of all the members of the "Tribunal, because of its detailed, fact-intensive nature and because of issues which are being presented before the Tribunal for the first time".

29. In an Order dated 6 April 1998, the Tribunal decided, as a preliminary matter, that this application should be considered by a panel consisting of all its members, that is five members. However, the President of the Tribunal excused himself from the proceedings, and did not take part in this decision. So this case has been decided *en banc* but by the four remaining members only.

30. Similarly, the applicant in the case decided on 8 September, 2011 (**Srinivasan Kalyanaraman** Vs. **ADB** (Decision No.96 not yet reported) had requested for *en banc* consideration by the Tribunal which was allowed. However, here again one member was unable to attend the plenary session of the Tribunal and so under Rule 23, read with Rule 5 (4) of the Rules of Procedure, it was decided that the remaining four members present at the session will decide the matter. The Tribunal has not given any specific reasons for *en banc* consideration but has only stated that "in the circumstances of the case, it grants the request of the Applicant" .

31 . The applicant S . Kalyanaraman, had joined the Bank in May 1978 and was a participant of the Staff Retirement Plan (SRP). He had retired in June, 1995. His claim to the Pension Unit was for restoration of his full pension when he completed the 15-year period after retiring in June 2010. The Respondent Bank had raised the issue of the Tribunal to deal with the claim. This point was dealt with on 8 September 2011, that the application is admissible with further directions to the parties to complete the pleadings on the merits of the claim. Pursuant to Decision No.96, the subsequent Decision No.98 in this case decided on 8 February 2012 was also rendered *en banc* by the four members present as a full panel of the Tribunal.

The applicant requested for "review" of the Tribunal's Decision No.98. In the meantime, the term of office of the member who was ill for a long time had ended. So also the term of office of another member, who was one of the four members of the panel. Two new members had been appointed in those vacancies. Accordingly the "revision" application was considered in Plenary session by the full Panel of five members in Decision No.100, decided on 31 January 2013.

Request by Applicant --Denied

32. The brief facts in one case, **Eulogio Cahutay Vs ADB**, (ADB AT Reports Vol. VIII, Decision No.90, decided on 23 January 2009) were that after investigation, the applicant was issued a charge memorandum for unauthorized withdrawal of PHP 10,000.00 from the account of another employee of the Bank in the Metro bank ATM located in the Bank premises. Later, the applicant had admitted his misconduct ; for the serious misconduct, he was dismissed from the Bank's service. The applicant had requested that a full panel be constituted to hear his application. He stated that his case should "be heard and ventilated as widely as possible to preclude any doubt in his mind that his case will be decided with the object of discovering the truth and ensuring that truth and justice shall prevail". In the circumstances of the case, the Tribunal took up the issue as a

preliminary issue. It denied the request of the applicant and decided the case by a three member panel. The Tribunal, however, has not given any reason for doing so.

33. There was a request by the applicant, Lilibeth G. Abat in **Lilibeth G. Abat** Vs **ADB**, (ADB AT Reports Vol. VIII, Decision . No.78, Decided on 7 March 2007) that

> "she wants her case to be heard and ventilated as widely as possible to preclude any doubt in her mind that her case will be decided with the object of discovering the truth and ensuring that truth and justice shall prevail." The Respondent replied that there was no reason for a full panel to be constituted in this case, and requested the Tribunal to reject the applicant's request.

34 . The brief facts of the case were that the applicant had alleged that the Bank had abused its discretion in summarily dismissing her from service. Disciplinary action had been initiated against the applicant in accordance with Administrative Order (A O) 2.04, para 9.2 (a). She was charged with fraud and serious misconduct by submitting false and inflated medical bills for reimbursement from the Bank.

35 . The Tribunal rejected the applicant's request to constitute a full panel in the present case. It was observed that the burden is on the applicant to demonstrate the need for an *en banc* proceeding. Following the decision in Taina Toivanen case, (**Taina Toivanen** Vs. **ADB**, ADB AT Reports Vol. V, Decision No.51, Decided on 21 September 2000) the Tribunal was of the opinion that "there are no circumstances of sufficient novelty, complexity, or difficulty which made it necessary or desirable" that the case be considered by a panel consisting of all its members. The applicant had argued (see Para 56 (a) of the Reports) that the case be considered by a Panel consisting of all the members of the Tribunal "due to its serious nature and complexity; the multitude of violations... ' the severity of the outcome and damage caused by the contested decisions; the importance of the Tribunal's decision in the application of the Staff

Performance Management System; and due to the importance of the issues which are being presented before the Tribunal ... ". The Tribunal observed that the applicant's pleadings, exhibits and submissions were voluminous, and indeed, unnecessarily so, but the issues involved in the case were relatively straightforward: whether the decision not to renew her appointment and the antecedent decision making process were flawed. It was further observed by the Tribunal that the principle applicable to performance evaluation and renewal of appointments, which are issues raised here, have been clarified by the Tribunal in a number of decisions, commencing with the first decision of the Tribunal in **Lindsey** (Decision No.1 supra). In the circumstances, the Tribunal rejected the applicant's request for consideration of the case by all the members of the Tribunal.

36. As a whole, the Tribunal has made it clear that even though the applicant may claim that the issue(s) involves novelty, complexity ad difficulty, if they had already been settled , the request for a full panel of members cannot be granted. Submitting unnecessary and voluminous documentation in a simple case cannot also change the outcome of a decision of the Tribunal in a case.

Request by Respondent-- Denied

37 . In **Naoka Yamagishi** Vs **ADB**, (ADB AT Reports Vol.VI, Decision No. 65, decided on 28 July 2004) the request that the Tribunal decide this case in plenary rather than by a panel was made by the respondent Bank. The Tribunal rejected the request as "unnecessary". This case appears to be the only case among the 103 cases decided so far where the respondent Bank has made such a request, rather than the applicant.

38 .This was a case where the applicant had contended that the decision not to confirm her appointment after a one-year probationary period was a violation of contract and terms of employment. She had further claimed that her non-confirmation can be traced to acts of intimidation and sexual harassment on the part of her immediate supervisor. The decision in the case was rendered by a

panel of three members of the Tribunal, perhaps because the issues raised in this case were neither "novel" or "complex" or "difficult "

Application for Revision / Clarification / Connected cases

39. It is also relevant to note that when a case filed before the Tribunal has been heard *en banc* by the judges, then it is not necessary for the applicant to request again that the application for revision may also be heard by a full panel. That position is assumed automatically, as seen from S. **Kalyanaraman's** case (supra), **Hua Du vs ADB** (Decision No. 101, decided on 31 January 2013 and her revision application , Decision No.102 decided on 31 July 2013). (not yet reported)

40. The Applicant Hua Du, had requested that the case may be decided *en banc* "since the issues involved and the conduct of the ADB are so 'unprecedented in the annals of ADB' ". The Tribunal had agreed that the case (Decision No.101) should be considered *en banc* but no particular reason has been given. Decision No.102 is on the revision application filed by the same applicant after her application was dismissed in Decision No. 101.

41. In Decision No 86, (**Anjum Ibrahim** vs **ADB** (ADB AT Reports Vol. VIII decided on 15 August 2008) the Tribunal had considered applicant's case by a full panel consisting of five judges. In Decision No.86 - A, the applicant had asked for a clarification of the earlier judgment. The necessary clarification was also provided by the same panel of five judges on 27 October 2008 ..

42. In Decision No.86 - B, the same applicant, Anjum Ibrahim, raised another connected issue in the new application. This was also considered by the full panel of five judges in the decision dated on 19 August 2009 .

Concluding Remarks

43. The ADB AT has decided 103 cases so far since it's inception in 1991. The latest decision No.103 was decided on 12 February 2014 at the 35th Session. Out of these, the first eight cases were decided by the then existing all the three members. In a way, these eight cases are *en banc* cases since there were only three members at that time . However they are excluded here in the analysis and the resulting observations .

44. Out of the remaining 95 cases decided later, when the strength of the Tribunal has increased to five members, 65 cases were decided by panels of three Judges only. This number roughly represents two thirds of the total number of cases decided. This will include cases, where a party would have requested for a full panel, and the Tribunal had denied that request. Thus in all 30 cases were decided by a panel of more than three judges. These are the *en banc* cases decided by the Tribunal representing about one third of the total number of cases considered.

45. Of the *30 en banc* decisions, only 9 cases were the result emanating from the request of the parties. This is about 10% of the cases considered by the Tribunal as a whole. It is noted that in all these nine cases requested for *en banc* panel consideration, they were made by the applicants; only in one case the Bank had requested for a full panel which was rejected. The remaining 21 cases were decided suo moto by the Tribunal, for consideration by the full panel.

46. From the analysis of the relevant cases of the ADB AT it may be observed that either the applicant or the respondent can request for an *en banc* consideration of the case. This issue is then generally taken up as a preliminary measure by the Tribunal. The Tribunal is likely to grant the request of the party for an *en banc* decision where the issues raised are considered as novel, complex or difficult . The burden of proof in such cases is on the applicant who makes the request.

47 . When there are several applicants in a case or where similar applications raising the same or similar reliefs have been raised by a number of applicants, it is likely that the Tribunal will consider these cases *en banc* . Such a decision is likely to arise suo moto by the decision of the Tribunal or on an application from an applicant . Apart from the reasons that the cases raise an issue of "novelty " or one of "complexity " perhaps one could also say that issues that affect a number of similarly placed staff , therefore warrants consideration by the full panel of the Tribunal .

48 . It is noted that only in one case out of the 30 *en banc* cases of the Tribunal , the case was considered by a three member panel (not a preliminary issue) and shifted midway to a full panel for a decision .

49. Under the provisions of Rule 23, read with paragraph 4 of Rule 5 of the Rules of Procedure, although the Tribunal had determined that the matter raised in a case warrants an *en banc* panel of all five judges, if one Judge had recused or is unable to participate in the plenary session, the remaining four Judges would constitute the *en banc* panel .

50. When there is no request from either party for an *en banc* panel, the ADB AT has the complete discretion to decide whether a case before it is to be considered by a panel of only three judges or by a panel all the five judges. This discretion would obviously be exercised in a judicious manner. While there is no explicit obligation to give reasons for such an exercise of discretion, it may appear that giving reasons would be desirable for clarity.

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Annexure A : Number of Judges in Some International Administrative Tribunals

Sl.No.	Name of the organisation / Tribunal	Number of Judges
1.	Asian Development Bank Administrative Tribunal (ADB AT)	5
2.	Administrative Tribunal of EBRD, (EBRD AT)	5
3.	International Monetary Fund Administrative Tribunal (IMF AT)	5
4.	African Development Bank /Administrative Tribunal (AF. DB AT)	6
5.	Administrative Tribunal of Organisation of American States (OAS AT)	6
6.	Civil Service Tribunal, European Union	7
7.	International Labour Organisation, Administrative Tribunal (ILO AT)	7
8.	Inter American Development Bank Administrative Tribunal	7
9.	UN Administrative Tribunal (UN AT)	7
10.	UN Appeals Tribunal	7
11.	World Bank Administrative Tribunal (WB AT)	7

Annexure B – List of *en banc* cases of ADB AT

Sl. No.	Decision No.	Reference	ADB AT reports	Remarks**
1.	12.	Narayanaswamy Viswanathan Vs. ADB	Vol. II	Suo moto 5 Judges
2.	13.	Ivan L. Zimonyl Vs. ADB	Vol. II	Suo moto 5 Judges
3.	15.	Mohandas K Samuel (No.2) Vs. ADB	Vol. II	Suo moto 5 Judges
4.	16.	Duleep Singh Vs. ADB	Vol. II	Suo moto 5 Judges
5.	18.	Ferdinand P.Mesch and Robert Y.Siy Vs. ADB	Vol. II	Suo moto 5 Judges
6.	24.	Jorge O. Amora Vs. ADB	Vol. III	Suo moto 4 Judges
7.	25.	Edward Breckner Vs. ADB	Vol. III	Applicant 4 Judges
8.	26.	Felipe T. Fajardo Vs. ADB	Vol. III	Applicant 4 Judges
9.	27.	Evelyn M. Go Vs. ADB	Vol. III	Applicant 4 Judges
10.	28.	Ang Swee Tai Vs. ADB	Vol. III	Applicant 4 Judges
11.	29.	Alex K Knudsen Vs. ADB	Vol. III	Applicant 4 Judges
12.	33.	Narayanaswamy Viswanathan (No.2) Vs. ADB	Vol. III	Revision 4 Judges
13.	35.	Ferdinand P.Mesch and Robert Siy Vs. ADB	Vol. III	Suo moto 5 Judges
14.	37.	Mohandas K Samuel (No.3) Vs. ADB	Vol. III	Revision 5 Judges
15.	39.	De Armas et al Vs ADB	Vol. IV	Suo moto 5 Judges
16.	40.	Patricia Alexander Vs. ADB	Vol. IV	Applicant 4 Judges
17.	45.	De Armas et al (No.2) Vs. ADB	Vol. V	Revision 5 Judges
18.	56.	Perfecto T Canlas et al Vs. ADB	Vol. VI	Suo moto 5 Judges
19.	57.	A. Maurice de Alwis Vs. ADB	Vol. VI	Suo moto 5 Judges
20.	74.	Ms. X Vs. ADB	Vol. VII	Suo moto 5 Judges

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Annexure B – List of *en banc* cases of ADB AT(cont'd)

Sl. No.	Decision No.	Reference	ADB AT reports	Remarks**
21.	82.	Eisuke Suzuki et al Vs. ADB	Vol. VIII	Suo moto 5 Judges
22.	86	Anjum Ibrahim Vs. ADB	Vol. VIII	Suo moto 5 Judges
	86 A	Anjum Ibrahim Vs. ADB	Vol. VIII	Clarification 5 Judges
	86 B	Anjum Ibrahim Vs. ADB	Vol. VIII	connected 5 Judges
23.	87.	Ms. A Vs. ADB	Vol. VIII	Suo moto 5 Judges
24.	89.	M . Zeki Kiy Vs. ADB	Vol. VIII	Suo moto 5 Judges
25.	96.	Srinivasan Kalyanaraman Vs. ADB	not yet reported	Applicant 4 Judges
26.	97.	Mr. B Vs. ADB	not yet reported	Suo moto 4 Judges
27.	98.	Srinivasan Kalyanaraman (No.2) Vs. ADB	not yet reported	Connected 4 Judges
28.	100.	Srinivasan Kalyanaraman (No.3) Vs. ADB	not yet reported	Revision 5 Judges
29.	101.	Hua Du Vs. ADB	not yet reported	Applicant 5 Judges
30.	102.	Hua Du (No.2) Vs. ADB	not yet reported	Revision 5 Judges

** Note : i) Indicates whether en banc panel was constituted suo moto or on a request by a party .

ii) indicates whether en banc panel was for a revision ,clarification or to deal with connected matter; and

iii) actual number of Judges in the en banc panel