

# ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL MONETARY FUND

## JUDGMENT No. 2006-4

**Elizabeth A. Baker, Applicant v. International Monetary Fund, Respondent**  
**Gamal Zaki El-Masry, Applicant v. International Monetary Fund, Respondent**  
**Atish Rex Ghosh, Applicant v. International Monetary Fund, Respondent**  
**Meral Karasulu, Applicant v. International Monetary Fund, Respondent**  
**Marco Pani, Applicant v. International Monetary Fund, Respondent**  
**Carlos E. Piñerúa, Applicant v. International Monetary Fund, Respondent**  
**Binta B. Terrier, Applicant v. International Monetary Fund, Respondent**

## **Dismissal of the Applications as Moot**

### Introduction

1. On June 7, 2006, the Administrative Tribunal of the International Monetary Fund, composed of Judge Stephen M. Schwebel, President, and Judges Nisuke Ando and Michel Gentot, Associate Judges, met to adjudge a Motion for Dismissal of the Applications as Moot in the case brought against the International Monetary Fund by seven of its staff members.
2. Applicants, in identical Applications, contest as arbitrary and an abuse of discretion the IMF Executive Board's January 24, 2005 decision expanding the range of discretion that it may exercise in setting the annual compensation of the staff of the Fund.
3. On December 6, 2005, the Administrative Tribunal denied a Motion by the Fund for Summary Dismissal of the Applications, in Baker et al., Applicants v. International Monetary Fund, Respondent (Admissibility of the Applications), IMFAT Judgment No. 2005-3 (December 6, 2005), concluding that the Applications were not "clearly inadmissible" under Rule XII<sup>1</sup> and

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<sup>1</sup> Rule XII provides:

#### *"Summary Dismissal*

1. Pursuant to Article X, Section 2(d) of the Statute, the Tribunal may, on its own initiative or upon a motion by the Fund, decide summarily to dismiss the application if it is clearly inadmissible.
2. The Fund may file such a motion within thirty days of its receipt of the application. The filing of the motion shall suspend the period of time for answering the application until the motion is acted on by the Tribunal.
3. The complete text of any document referred to in the motion shall be attached in accordance with the rules established for the answer in Rule

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rejecting the Fund's contention that Applicants had failed to meet the threshold requirement of Article II, Section 1(a) of the Tribunal's Statute that a staff member may only challenge the legality of an administrative act "adversely affecting" him. With the denial of the Motion for Summary Dismissal, the pleadings resumed on the merits.

4. On April 14, 2006, the IMF Executive Board took another decision in respect of the compensation of the staff of the Fund that differs from the decision of January 24, 2005. On April 17, 2006, Respondent filed the pending Motion for Dismissal of the Applications as Moot.

5. Upon the filing of the Motion for the Dismissal of the Applications as Moot, the pleadings on the merits were suspended. Accordingly, at this stage, the case before the Tribunal is limited to the question of the mootness of the pending Applications.

#### The Procedure

6. Applicants filed their Applications with the Administrative Tribunal on April 25, 2005. The procedure leading up to the first Baker Judgment is detailed therein at paras. 4–6. Following issuance of that decision, the Fund's Answer on the merits was filed on January 23, 2006,<sup>2</sup> followed by Applicants' Reply on March 21, 2006.<sup>3</sup> Following supplementation in accordance

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VIII. The requirements of Rule VIII, Paragraphs 2 and 3, shall apply to the motion. If these requirements have not been met, Rule VII, Paragraph 6 shall apply *mutatis mutandis* to the motion.

4. Upon ascertaining that the motion meets the formal requirements of this Rule, the Registrar shall transmit a copy to the Applicant.

5. The Applicant may file with the Registrar an objection to the motion within thirty days from the date on which the motion is received by him.

6. The complete text of any document referred to in the objection shall be attached in accordance with the rules established for the reply in Rule IX. The requirements of Rule VII, Paragraph 4, shall apply to the objection to the motion.

7. Upon ascertaining that the objection meets the formal requirements of this Rule, the Registrar shall transmit a copy to the Fund.

8. There shall be no further pleadings in respect of a motion for summary dismissal unless the President so requests."

<sup>2</sup> Respondent was accorded forty-five days from notification of the denial of the Motion for Summary Dismissal in which to file its Answer, consistent with Rule XIII, para. 1, as the filing of the Motion had suspended the exchange of pleadings on the merits.

<sup>3</sup> On February 15, 2006, Applicants were granted an extension of time for filing of the Reply, pursuant to Rule XXI, para. 2.

with the requirements of Rule IX, para. 5,<sup>4</sup> the Reply was transmitted to Respondent on March 31, 2006.

7. On April 17, 2006, Respondent filed a Motion for Dismissal of the Applications as Moot. The Motion was supplemented on April 18, 2006, in accordance with the requirements of Rule XII, para. 3, and transmitted to Applicants on the following day. Applicants responded on May 25, 2006 with an Objection to the Motion, which was transmitted to the Fund.

8. In accordance with Rule XII, para. 2, upon the filing of the Motion for Dismissal of the Applications as Moot, the exchange of pleadings on the merits was suspended. Accordingly, the instant consideration of the case is confined to the question of the alleged mootness of the Applications.

#### The Factual Background of the Case

9. The factual background of the case preceding the filing of the Applications is set out in the earlier Baker Judgment as follows.

“9. As a result of lengthy consideration by the Joint Fund and Bank Committee of Executive Directors on Compensation, the Fund and the World Bank in 1989 adopted a revised compensation system for their staffs. During 1998-2000, the Fund’s compensation system was extensively reviewed in order to further the staffing objectives and requirements of the Fund and to ensure that the Fund’s salaries remained appropriately related to markets in which it competes for staff. In the light of recommendations from management, the Executive Board annually has decided on the adjustment needed to align the Fund’s salary structure with the comparator markets. In January 2005, when the foregoing systems had been in effect for 16 years, the Executive Board decided to modify the compensation system once again. It is the modification adopted in January 2005 that has given rise to the Applications now before the Tribunal.

10. The Executive Board’s decision was announced to the staff the following day by email message of the Director of Human Resources:

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<sup>4</sup> Rule IX, para. 5 provides:

“If the Applicant seeks costs pursuant to Article XIV, Section 4 of the Statute, the amount and any supporting documentation shall be included.”

‘... After considering a number of options, the Executive Board decided to amend the current salary-setting system....

The amendments approved by the Executive Board have the effect of expanding the circumstances under which management and the Executive Board can exercise discretion in setting this year’s annual salary increase. Executive Directors favoring greater scope for discretion have expressed the concern that in recent years the annual salary increases indicated by the U.S. market have been larger than needed to maintain the international competitiveness of Fund salaries, and that the discretion the Board has exercised in limiting salary increases should be preserved this year.

The change agreed by the Executive Board today makes it possible for judgment on the size of the structural increase to be exercised when the payline for the Fund falls within the 10-20 percent testing range for international competitiveness, as well as when it falls outside the testing range. However, the extent of such discretion within the testing range is constrained—unlike the discretion that has been available outside the range—and must continue to be based on an evaluation of the factors bearing on the international competitiveness of Fund salaries. Moreover, no consideration has yet been given to whether or how such discretion would be exercised in determining the salary increase for this year; those decisions will be taken up by Executive Directors during the annual salary review in March.’

11. Following the Executive Board’s January 24, 2005 decision, the Managing Director announced to the staff of the Fund that two errors had been discovered in the comparator data utilized in the 2004 compensation review. The correction of these errors had the effect of placing the 2004 U.S.-indicated increase within the testing range. As a result, on March 30, 2005, the Executive Board approved a supplementary increase in the Fund’s salary structure of two percentage points, with effect from May 1, 2004.

12. This retroactive adjustment, in turn, placed the Fund's 2004 salary structure two percentage points higher relative to the U.S. comparator, which increased the base for the 2005 market comparison, thereby lowering the amount of increase indicated by the U.S. market for 2005. Accordingly, the structural increase actually called for by the amended compensation system, as approved in the 2005 compensation round, did not differ from the increase that would have been called for under the system existing prior to its January 2005 amendment."

10. The decision contested in the Applications, adopted by the Executive Board on January 24, 2005, is set out below:

#### "STAFF COMPENSATION SYSTEM AMENDMENTS

1. In addition to the circumstances in which such an evaluation is already required, an evaluation of international competitiveness shall also be conducted in all cases where the structural salary increase indicated by the U.S. comparator market would position the Fund's payline 10 percent to 20 percent above the payline indicated by the combined French/German comparator market.

2. The purpose of the evaluation specified in paragraph 1 above is to allow a determination of whether any adjustment to the structural salary increase indicated by the U.S. comparator market is warranted, and the nature and the extent of such adjustment. In conducting this evaluation, factors bearing on the international competitiveness of Fund salaries will be taken into account, including the level of the indicated Fund payline relative to its position within a 10-20 percent margin above the payline indicated by the combined French/German comparator market, recent recruitment and retention experience, and exchange rate and tax developments.

3. In any case where it is deemed appropriate to apply a downward adjustment to the structural increase indicated by the U.S. comparator market that would position the Fund's payline at less than 20 percent above the payline indicated by the combined French/German comparator market, the resulting Fund payline cannot be less than the higher of (a) a level equal to 10 percent above the payline indicated by the combined French/German comparator market, and (b) a level resulting from a percentage structural salary increase at least equal to the percentage increase

in the Washington metropolitan area CPI for the 12-month period ending the preceding January. (EBAP/05/9, Sup. 1, 1/21/05)

Adopted January 24, 2005”

11. Subsequently, on April 14, 2006, the IMF Executive Board took another decision in respect of the staff compensation, which by its express terms “... supersedes all previous decisions concerning the staff compensation system.” The decision adopts paragraphs 4 - 52 of EBAP/06/38 (March 31, 2006), the introductory paragraphs of which provide as follows:

**“II. PRINCIPAL PROVISIONS OF THE REVISED STAFF COMPENSATION SYSTEM**

4. This section sets out the proposed provisions of the revised compensation system. Under the revised system, the annual compensation reviews will be conducted, and the annual adjustments to the salary structure will be made, on the basis of a three-year review cycle: (i) in the first year of each cycle, comparator-based reviews will take into account full comparisons of compensation levels in the designated comparator markets for Grades A9-B2 and A1-A8 and other relevant considerations, including, in the case of Grades A9-B2, the assessment of international competitiveness; and (ii) in the intervening years, the structural adjustments will be based on an index of private and public sector salary increases in the United States. Taking into account each year’s approved adjustment to the salary structure, resources will be allocated annually for individual, performance-related merit increases.

5. Although the new compensation system will include features that are similar to the existing system, some of these features require modification given the fact that they will be operating within a different overall framework. For example, there will be new level comparisons between each Fund grade and the corresponding compensation rate in comparator markets and the possibility of grade-by-grade adjustments; and the evaluation of international competitiveness will take place in the context of a broader comparator market review.

6. It is intended that the provisions set out below would become effective upon their approval by the Executive Board. They would govern the 2006 and subsequent annual compensation reviews.”

The question on which the Tribunal must now pass is whether the controversy brought before it by the pending Applications remains justiciable following this latter decision of April 14, 2006.

### Summary of Parties' Principal Contentions

12. The parties' principal arguments as presented by Respondent in its Motion for Dismissal of the Applications as Moot and Applicants in their Objection to the Motion may be summarized as follows.

#### Respondent's contentions on mootness

1. The Applications have been rendered moot by the adoption of a comprehensive new compensation system by the decision of the Executive Board on April 14, 2006, a decision that expressly "... supersedes all previous decisions concerning the staff compensation system."
2. Applicants' pleadings on the merits demonstrate that the gravamen of their challenge relates to the specific context in which the January 24, 2005 decision was taken.
3. The only relief sought by Applicants, rescission of the January 24, 2005 decision, had been realized before that decision had had a tangible effect on the compensation of Applicants. No other form of remedy would be appropriate, and adjudication of the case would have no legal value.
4. The new Executive Board decision of April 14, 2006 fundamentally revises the compensation system; it does not involve the re-enactment of the same decision without any change in substance.
5. Although the new compensation system contains elements of discretion regarding the extent to which the Executive Board may make downward adjustments that are similar to those introduced in January 2005, these elements will operate in a different context and, as a result, have been modified.
6. Although the element of discretion regarding downward adjustments has been incorporated in the new system, there are clear distinctions between the old and new systems and the manner in which the Executive Board's discretion will operate. Accordingly, the fact that the new system includes a similar—but not identical—feature allowing the exercise of discretion should not be misconstrued as essentially re-enacting the challenged decision.

#### Applicants' contentions on mootness

1. Although the April 14, 2006 decision to amend the compensation system states that the new decision "... supersedes all previous decisions concerning the staff compensation system," the Executive Board continues to reserve to itself the element of discretion that the Applicants have challenged through their Applications.

2. Applicants' challenge to the January 24, 2005 decision goes directly to the issue of the exercise by the Executive Board of its discretion with regard to amendments to the rules based compensation system that would render that system an "ad hoc" system rather than a "rules-based" one. Therefore, the issue of whether or not that decision should be rescinded is not the only matter to be decided or the sole relief to be granted by the Tribunal.
3. A determination by the Tribunal that the January 24, 2005 decision was invalid would have legal value, as it would set the limits on the Executive Board's discretion to amend arbitrarily the compensation system and prevent the Executive Board from exercising discretion in a manner that is inconsistent with a rules-based compensation system.
4. The discretion of the Board regarding downward adjustments is preserved in the new system and thus the possibility of a re-occurrence of the Executive Board's action could reasonably be expected to be repeated.
5. There exists in the new system the very element of discretion that existed in the old system, the exercise of which could cause the same nature of harm feared by the Applicants – the erosion of their salaries to a level that is undercompetitive. The dispute in the instant case is therefore clearly not devoid of purpose.
6. The Applications should not be dismissed as moot because the case meets the three prong test for review on the basis that the matter is "capable of repetition yet evading review":
  - a. there is a reasonable expectation that the same Applicants could be subjected to the same action again;
  - b. if the issue were to arise again it is likely to evade review because of the time it would take to obtain a decision from the Tribunal; and
  - c. there is a reasonable expectation that the Executive Board could exercise discretion in a similar manner in the future.

## Consideration of the Issues

### Preliminary Issue

13. Applicants raise a preliminary issue as to Respondent's interpretation of Rule XII (Summary Dismissal) to permit a Motion to Dismiss at this juncture in the case. In Applicants' view, the pending Motion "... does not demonstrate good faith and is ... a further dilatory measure that causes them considerable damage." (Applicants' Objection, p. 1.)
14. Rule XII, as Respondent correctly notes in its Motion, was adopted pursuant to Article X, Section 2(d) of the Tribunal's Statute, which provides that the Rules of Procedure shall include a



provision concerning “summary dismissal of applications without disposition on the merits.” As stated in Rule I, para. 2(b), the Rules are subject to the provisions of the Tribunal’s Statute.<sup>5</sup>

15. In the Tribunal’s view, Respondent’s Motion is not baseless, particularly as the intervening Executive Board decision by its terms states that it “... supersedes all previous decisions concerning the staff compensation system.” Accordingly, the Tribunal does not consider that the Motion fails to demonstrate good faith or is otherwise inappropriate.

16. That the April 14, 2006 decision by its terms “supersedes” all previous staff compensation decisions of the Executive Board is, of course, not the end of the matter, for Applicants likewise raise a substantial objection to Respondent’s contention that the Applications are now moot. That issue is considered below.

Did the Executive Board’s April 14, 2006 Decision render Moot the pending Applications?

17. The principal issue for decision by the Administrative Tribunal at the present stage of the proceedings is whether, as Respondent contends, the Executive Board’s April 14, 2006 decision renders moot the pending Applications. Pertinent to resolution of this question is the determination of whether the recent Executive Board decision essentially re-enacts that element of the contested decision of January 24, 2005 by which Applicants contended they were “adversely affected.”

18. In the earlier Baker Judgment, the Administrative Tribunal concluded that Applicants were “adversely affected” for purposes of maintaining their Applications pursuant to Article II, Section 1(a) of the Statute on the ground that the contested decision had “some present effect” on the Applicants’ position (although for the reasons elaborated above it had no financial impact in the 2005 compensation round) and that “[t]hat effect is inherent in the wider discretion that the Executive Board has assumed in respect of salary adjustments which, in the absence of further action by the Executive Board, will be applied in 2006.” (Para. 21.) The dispositive portion of that Judgment is reproduced below:

“19. In the view of the Tribunal, the facts permit the Applicants to surmount this threshold. The Executive Board of the Fund, in January 2005, took a decision that widens the range of discretion that it may exercise in setting staff salaries. Application of that decision in 2005 did not have adverse financial consequences for the compensation of staff members for the reasons explained above. Nevertheless, the decision of the Executive Board was adopted and remains in force. It will be applied in 2006 to affect

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<sup>5</sup> While the further paragraphs of Rule XII contemplate the filing of a Motion for Summary Dismissal before the filing of an Answer on the merits, paragraph 1 of the Rule provides more generally that “... the Tribunal may, on its own initiative or upon a motion by the Fund, decide to dismiss the application if it is clearly inadmissible.”

the compensation of staff members, unless the Executive Board decides otherwise.

20. In the view of the Tribunal, the widening of the Fund's discretion to adjust the compensation of staff members of the Fund permits the Applications to cross the threshold of admissibility. That threshold is not steep, because, by the terms of Rule XII of the Rules of Procedure, an application may be summarily dismissed only 'if it is clearly inadmissible.' As has been established by the Administrative Tribunal of the ILO, an international civil servant need not await the realization of the institution's adverse decision to seek a remedy in respect of it; an application is receivable in such circumstances to challenge a regulatory decision affecting the individual's rights if the organization's rules allow such a direct challenge. As the Fund's Motion for Summary Dismissal recalls, the Executive Board, in considering the draft of the Tribunal's Statute, considered in particular the Ayoub (No. 2) case, in which the ILOAT ruled on the Applicants' challenge to an amendment to pension regulations before the application of the decision in the individual cases, as it was already certain that the Applicants would be adversely affected if the amendment stood, although they might not retire for many years. (Ayoub (No. 2), ILOAT Judgment No. 986 (1989).) Similarly, the ILO Administrative Tribunal in the case of Aelvoet (No. 6) and others, ILOAT Judgment No. 1712 (1998), Consideration 10, held :

'As the Tribunal has said before, there may be a cause of action even if there is no present injury: time may go by before the impugned decision causes actual injury. The necessary, yet sufficient, condition of a cause of action is a reasonable presumption that the decision will bring injury. The decision must have some present effect on the complainant's position.'

21. In the view of the Tribunal, in respect of the Applications before it, there is 'some present effect.' That effect is inherent in the wider discretion that the Executive Board has assumed in respect of salary adjustments which, in the absence of further action by the Executive Board, will be applied in 2006.

22. This conclusion is supported by the Report of the Executive Board on the Statute of the Tribunal which explained the utility of

affording staff the right directly to challenge regulatory decisions of the Fund:

‘Regulatory decisions could be challenged by adversely affected staff within three months of their announcement or effective date. It is considered useful to permit the direct review of regulatory decisions within this limited time period. As a result, the question of legality, and any related issues (such as interpretation or application) could hopefully be firmly resolved before there had been considerable reliance on, or implementation of, the contested decision.’

(Report of the Executive Board, p. 25.) The foregoing passage thus looks to resolution of a question of the legality of regulatory decisions ‘... before there has been considerable reliance on, or implementation of, the contested decision.’”

19. One question now before the Tribunal is whether the “adverse affect” identified by the Tribunal in the earlier Baker Judgment, i.e. the widening of the Executive Board’s discretion that might result in a downward adjustment in staff compensation, is retained by the newly adopted decision of the Executive Board. Respondent maintains that although the new compensation system contains elements of discretion regarding the extent to which the Executive Board may make downward adjustments that are “similar to” those introduced in January 2005, these elements will operate in a different context and, as a result, have been modified:

“Although the element of discretion regarding downward adjustments has been incorporated in the new system, there are clear distinctions between the old and new systems and the manner in which the Executive Board’s discretion will operate.... Thus, the fact that the new system includes a similar—but not identical – feature allowing the exercise of discretion should not be misconstrued as essentially reenacting the challenged decision.”

(Respondent’s Motion, pp. 6-7.)

20. Applicants, for their part, maintain that their challenge to the January 24, 2005 decision goes directly to the issue of the exercise by the Executive Board of its discretion with regard to amendment to the “rules-based” compensation system and that the issue of whether or not the decision should be rescinded is not the only matter to be decided or the only relief to be granted:

“A determination by the Tribunal that the January 2005 decision was invalid would have legal value as it would set the limits of the Board’s discretion in again arbitrarily amending the compensation system and prevent the Board from exercising discretion in a

manner that is inconsistent with a rules based compensation system.”

(Applicants’ Objection, p. 4.)

21. The Tribunal accepts the contention of Applicants that both the January 2005 and April 2006 decisions of the Executive Board contain and sustain provisions that afford the Fund a wider discretion in respect of salary adjustments of the staff.

22. At the same time, the January 24, 2005 decision of the Executive Board that is the object of Applicants’ challenge has been superseded by virtue of the adoption of a comprehensive new system of compensation approved by the Executive Board on April 14, 2006. Accordingly, the holding of this Tribunal that the January 2005 decision could have effects in 2006 no longer obtains. The contested decision no longer has any “present effect.” *See Baker*, para. 21. “[T]he only relief sought in the Applications—rescission of the January 2005 decision—has essentially already occurred...” (in the words of the Fund’s Motion for Dismissal of the Applications as Moot at page 2). The Tribunal cannot quash a decision that has already been rescinded. Moreover, Applicants challenged “the particular set of circumstances” in which the January 2005 decision was taken—circumstances which no longer obtain. The Tribunal sees no point in addressing the question of whether the Executive Board had the authority to amend the rules at the time that it did and in the terms that it did when, at a subsequent time, and in different terms, the Executive Board once again revised the governing rules on staff compensation. Insofar as the April 2006 scheme maintains elements of discretion regarding the extent to which the Executive Board may make downward adjustments in staff compensation, Applicants and other staff members retain their right to bring fresh Applications challenging that scheme.

23. It should be added that, were the Tribunal to deny the Motion to Dismiss, only a single further pleading would be filed on the merits of the Applicants’ case, that of the Respondent’s Rejoinder. The views of Applicants on the April 14, 2006 compensation system would not have been put before the Tribunal, which would be confined to adjudicating elements of a superseded compensation scheme. In the Tribunal’s view, the interests of staff as well as management would be better served if the Tribunal were to be required to consider not a superseded scheme but the 2006 system actually in force. That the Tribunal is prepared to do as expeditiously as its Rules permit.

24. Applicants argue that, if the issue of the discretion of the Executive Board in respect of compensation adjustments were to arise again, that issue is “likely to evade review because of the time it would take to obtain a decision from the Tribunal.” That argument is not persuasive. The issue of Executive Board discretion in this sphere is not evanescent and the Board’s adoption of different systems of compensation adjustments is infrequent. There is no plausible reason to conclude that, because of acceptance of Respondent’s Motion to Dismiss, Applicants will not have their day in court should they choose to seek it.

25. The Tribunal accordingly has reached the following conclusions. First, it is clear from the pleadings of the Fund that the January 2005 decision has been superseded. Second, it follows

that the compensation system that was thus adopted is no longer in force and therefore could not be invalidated by any decision of this Tribunal. Third, insofar as the April 2006 compensation scheme retains discretionary elements of the January 2005 system to which Applicants object, those elements as they now have been re-fashioned and in the context of the new compensation scheme, may best be contested in distinct proceedings. Fourth, if the Motion is not denied and proceedings on the merits were to resume, the only pleading that would remain would be the Fund's Rejoinder, which would not be an attractive procedural posture to engage the current issues. Fifth, the Tribunal sees no merit in the contention of Applicants that, if the Fund's Motion is granted, the Fund will be able to evade review of the April 2006 scheme. Applicants or others similarly situated, as the Fund recognizes in its pleadings, retain the right to bring a case in this Tribunal in respect of the April 2006 decision and in particular with respect to the discretionary element found both in the January 2005 and April 2006 renderings.

### Costs

The provision of the Statute, Article XIV, Section 4,

“If the Tribunal concludes that an application is well-founded in whole or in part, it may order that the reasonable costs incurred by the applicant in the case, including the cost of applicant's counsel, be totally or partially borne by the Fund, taking into account the nature and complexity of the case, the nature and quality of the work performed, and the amount of the fees in relation to prevailing rates”,

does not contemplate an award of costs in the absence of a decision on the merits of an Application. However, Applicants did prevail in respect of the denial of the Fund's earlier Motion for Summary Dismissal. Baker et al., Applicants v. International Monetary Fund, Respondent, IMFAT Judgment No. 2005-3 (December 6, 2005). Accordingly, and in view of the exceptional character of the case which is of importance to the staff as a whole, costs are awarded to Applicants insofar as they relate to the earlier phase of the proceedings, i.e. for the fees incurred in preparing their Objection to that earlier Motion, in the sum of \$4,200.

Decision

FOR THESE REASONS

The Administrative Tribunal of the International Monetary Fund unanimously decides that:

1. The Motion for Dismissal of the Applications as Moot is granted.
2. The Fund shall pay Applicants the reasonable costs of their legal representation incurred in the preparation of their successful Objection to the Fund's earlier Motion for Summary Dismissal in the sum of \$4,200.

Stephen M. Schwebel, President

Nisuke Ando, Associate Judge

Michel Gentot, Associate Judge

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Stephen M. Schwebel, President

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Celia Goldman, Registrar

Washington, D.C.  
June 7, 2006