



## Meeting of States Parties

Distr.: General  
7 April 2009

Original: English

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### Nineteenth Meeting

New York, 22-26 June 2009

## Conditions of service and compensation for members of the International Tribunal for the Law of the Sea

### Adjustment of the remuneration of members of the International Tribunal for the Law of the Sea

Note by the Tribunal

#### I. Remuneration

##### A. Adjustment of the remuneration of the members of the Tribunal made in line with that of the members of the International Court of Justice

1. The level of remuneration of the members of the International Tribunal for the Law of the Sea was established by the fourth Meeting of States Parties in 1996. In that regard, the Meeting of States Parties decided on the principle of maintaining equivalence with the remuneration levels of judges of the International Court of Justice.<sup>1</sup> The maximum annual remuneration of a member of the Tribunal was fixed at 145,000 United States dollars, based on the comparator, which was the emoluments of a member of the International Court of Justice.

2. The emoluments of members of the Court have been reviewed by the General Assembly periodically since 1976. On 18 December 1998, the Assembly, in its resolution 53/214, set the annual salary of members of the Court at \$160,000, effective 1 January 1999. Subsequently, in May 1999, the ninth Meeting of States Parties approved \$160,000 as the maximum annual remuneration of the members of the Tribunal, effective 1 January 2000.<sup>2</sup>

3. The annual salary of members of the Court was revised to \$170,080 on 13 April 2005 by the General Assembly in its resolution 59/282, effective 1 January 2005. In line with that revision, on 21 June 2005 the fifteenth Meeting of States

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<sup>1</sup> SPLOS/WP.3/Rev.1, para. 17.

<sup>2</sup> SPLOS/44, para. 3.



Parties decided, as an interim measure, to approve an adjustment of the maximum annual remuneration of the members of the Tribunal to the level of the emoluments of the members of the Court, that is, \$170,080, effective 1 January 2005, as well as an adjustment of pensions in payment in accordance with article 7, paragraph 2, of the pension regulations for members of the Tribunal.<sup>3</sup>

4. The fifteenth Meeting of States Parties also decided to apply to the annual allowance and the special allowance of the members of the Tribunal, effective 1 July 2005, the same floor/ceiling mechanism as is applicable to the emoluments of the members of the Court, on the understanding that any adjustment made to the mechanism in respect of the Court would equally apply to the mechanism in respect of the Tribunal.<sup>4</sup>

## **B. New salary system for the members of the International Court of Justice**

5. On 3 April 2008, the General Assembly adopted decision 62/547 concerning the conditions of service and compensation for judges at international courts and tribunals. In that decision, the Assembly set, effective 1 April 2008, the annual net base salary of judges at the Court at \$158,000, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for the Netherlands.<sup>5</sup>

6. In its decision, the General Assembly also established the adjustment mechanism as proposed by the Secretary-General in his report on the conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/62/538), paragraph 77 of which reads as follows:

Should the above proposal be considered [...] the Secretary-General would also propose that **on the occasion of future revisions to the base scale applicable to staff in the Professional and higher categories** that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding readjustment in the post adjustment multipliers, **the annual base salary of the members of the International Court of Justice and the judges and ad litem judges of the Tribunals also be adjusted by the same percentage and at the same time.** [*emphasis added*]

Accordingly, future revisions to the annual base salary of judges at the International Court of Justice will be harmonized with revisions to be made to the base salary scale for staff in the Professional and higher categories. Pursuant to resolution 63/251 of the General Assembly, the base salary scale for staff in the Professional and higher categories was consolidated at 2.33 per cent multiplier points effective 1 January 2009. Consequently, a corresponding increase in the net base salary of judges as of the same date and by the same percentage would apply. Accordingly, the net base salary of judges was adjusted from the previous level of \$158,000 to \$161,681 with effect from 1 January 2009.

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<sup>3</sup> SPLOS/132, para. 1.

<sup>4</sup> SPLOS/133, para. 1.

<sup>5</sup> Paragraph (b) of decision 62/547.

### C. Proposed change in the salary system for the members of the Tribunal

7. In the light of the aforementioned decision of the General Assembly, the Tribunal proposes that the Meeting of States Parties consider an adjustment to the annual remuneration of the members of the Tribunal to reflect the revision of the emoluments of members of the Court. The Tribunal's proposal also includes a recommendation that the Meeting be invited to make the adjustment effective from 1 January 2009. In this regard, a draft decision on adjustment of the remuneration of members of the Tribunal is contained in annex II.

8. Should the Meeting of States Parties approve, effective 1 January 2009, a revision of the annual net base salary of judges to \$161,681, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which the post adjustment multiplier for Hamburg, Germany, would be applied, the remuneration of judges would be expected to increase by an average of 7.12 per cent compared with that calculated under the floor/ceiling mechanism (see annex I). Accordingly, an additional appropriation of €276,600 would be required to cover the increases in annual and special allowances for members of the Tribunal and compensation for judges ad hoc for the period from January 2009 to December 2010.

9. This sum is to be additional to the appropriations approved in the budget of the Tribunal for the biennium 2009-2010. For this purpose, it is proposed that the Tribunal be authorized to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation in the amount of €276,600 required to implement the new salary system for judges of the Tribunal for the period January 2009 to December 2010. This point is also addressed in the draft decision referred to in paragraph 7 above.

10. Pursuant to the decision of the fourth Meeting of States Parties, the annual remuneration of the judges of the Tribunal consists of three elements: annual allowance, special allowance, and daily subsistence allowance. Under the new system, these three elements would be subject to the following parameters fixed for March 2009 by the United Nations: (1) the post adjustment multiplier applicable to Hamburg; (2) the exchange rate between the United States dollar and the euro; and (3) the daily subsistence allowance applicable for Hamburg. As an illustration, the remuneration of the judges for March 2009, based on those parameters, would be as follows:

(a) Annual allowance: payable monthly and corresponding to one third of the annual remuneration

$$[\$161,681/3/12 (1 + 0.484^6)] \times 0.782^7 = \text{€}5,211.91;$$

(b) Special allowance: payable for each day that a judge is engaged on the business of the Tribunal and up to the limit of one third of the annual remuneration

$$[\$161,681/3/220 (1 + 0.484)] \times 0.782 = \text{€}84.29;$$

<sup>6</sup> Post adjustment multiplier applicable for Hamburg in March 2009.

<sup>7</sup> Exchange rate between the United States dollar and the euro in March 2009.

On the basis of the post adjustment multiplier and the exchange rate for March 2009, the total amount of one third of the annual remuneration would be set at €62,542.92;

(c) Daily subsistence allowance: payable for each day that a judge is present at the seat of the Tribunal during the meetings of the Tribunal

$$€247^8 \times 1.4^9 = €345.8.$$

## II. Pension

### A. Modifications to the pension scheme for the members of the International Court of Justice

11. On 3 April 2008, the General Assembly approved the annual remuneration of members of the International Court of Justice at a base salary of \$158,000 plus post adjustment. In paragraph 20 of his report A/62/538/Add.2, the Secretary-General indicated that it appeared appropriate that the Assembly should take note of that reduction in the annual base salary and its effect on the calculation of pensions, and propose a transitional measure or a method of calculation that would, in its view, be appropriate under such circumstances. In the report, the Secretary-General made several proposals aimed at avoiding a decrease in the pension to be paid to the members of the International Court of Justice.

12. The report of the Secretary-General was considered by the Advisory Committee on Administrative and Budgetary Questions, which transmitted its recommendation to the General Assembly in its report A/63/570.<sup>10</sup> The Assembly examined the conclusions and recommendations of the Advisory Committee in respect of the pension scheme for the members of the International Court of Justice. By its resolution 63/259, the Assembly endorsed the following recommendations:

(a) The pension scheme for the members of the International Court of Justice should remain a defined-benefit scheme;

(b) The pension scheme should remain non-contributory;

(c) The retirement benefit of the members of the International Court of Justice should continue to be based on salaries and should be **50 per cent of the annual net base salary (excluding post adjustment), or \$85,040, whichever amount is higher, by reference to nine years of service** [*emphasis added*];

(d) The level of pension should be determined by reference to years of service rather than a term of office;

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<sup>8</sup> Daily subsistence allowance for Hamburg in March 2009.

<sup>9</sup> Pursuant to section 3, Rates for high-level officials, of United Nations administrative instruction ST/AI/1998/3 as amended by ST/AI/2003/9, which provides that "United Nations officials other than staff members who are at a rank equivalent to Assistant Secretary-General or above shall be paid daily subsistence allowance at the rate promulgated by the International Civil Service Commission, plus 40 per cent", judges are entitled to 140 per cent of the daily subsistence allowance fixed by the United Nations.

<sup>10</sup> See resolution 63/259, part I, para. 3.

(e) A member of the International Court of Justice who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month of service beyond nine years, **up to a maximum pension of two thirds of annual net base salary (excluding post adjustment)** [*emphasis added*];

(f) The retirement age should remain at 60 years of age;

(g) The actuarial reduction factor, at a rate of 0.5 per cent per month, should continue to be applied in the case of early retirement prior to age 60;

(h) The level of the retirement benefit should be adjusted on the occasion of increases in the annual net base salary of the members of the International Court of Justice;

(i) Pensions in payment should also be adjusted on the occasion of increases in the annual net base salary of the members of the International Court of Justice.

## B. Pension scheme for the members of the Tribunal

13. As is the case with the pension for the members of the International Court of Justice, the pension for the judges of the Tribunal is also linked to their annual salary, as provided for in article 1, paragraph 2, of the Pension Scheme Regulations for members of the Tribunal.<sup>11</sup>

14. The amount of the annual pension for a member of the Tribunal who has served for nine or more years is one half of the annual salary.<sup>12</sup> “Annual salary” is defined as follows: **the total remuneration**, exclusive of any other allowance, fixed by the Meeting of States Parties and received by the member until he/she ceased to hold office, **averaged in each case over the whole period of service**<sup>13</sup> [*emphasis added*]. On the other hand, a member who has served for less than nine years receives that proportion of the annual pension which the number of months of his/her actual service bears to 108.<sup>14</sup>

15. As was decided by the fourth Meeting of States Parties, the annual remuneration of judges other than the President consists of three elements (see SPLOS/8 and SPLOS/WP.3/Rev.1): (a) an annual allowance; (b) a special allowance; and (c) a subsistence allowance (see para. 10 above). The sum of these three elements constitutes the total remuneration received by a member of the Tribunal and corresponds to his/her annual salary defined in article 5 of the Pension Scheme Regulations for the purpose of calculating the amount of his/her pension.

16. Under the new salary system, the annual (pensionable)<sup>15</sup> remuneration would be reduced from \$170,080 to \$161,681. Accordingly, under the Pension Scheme Regulations, the monthly pensionable annual allowance for judges of the Tribunal will be decreased from \$4,724 to \$4,491, and their daily pensionable special allowance from \$258 to \$244.97. The new system, however, would not have an impact on the amount of remuneration paid in the form of daily subsistence

<sup>11</sup> See SPLOS/47.

<sup>12</sup> Pension Scheme Regulations, article 1, para. 2(a).

<sup>13</sup> Ibid, article 5.

<sup>14</sup> Ibid, article 1, para. 2(b).

<sup>15</sup> Remuneration without the application of the post adjustment multiplier.

allowance. Accordingly, the actual amount of the daily subsistence allowance paid to judges would continue to be used as the pensionable allowance.

17. In the case of the International Court of Justice, it was decided that the pensionable remuneration would continue to be based upon the previous level of remuneration, fixed at \$170,080 (see para. 12 above) in order to avoid any decrease in pension for its sitting members as well as for the current pensions in payment. It is proposed that the same approach be followed with respect to pensionable remuneration for the members of the Tribunal. This means that the components of the pensionable remuneration will consist of the following elements:

- $\$170,080/3/12 = \text{US\$ } 4,724.44$ : monthly pensionable annual allowance
- $\$170,080/3/220 = \text{US\$ } 257.70$ : daily pensionable special allowance
- Actual amount of daily subsistence allowance.

Accordingly, as in the case of the Court, it is proposed that the retirement benefit of the members of the Tribunal should be 50 per cent of the annual salary (excluding post adjustment), or 50 per cent of the annual salary based on the level of remuneration decided by the fifteenth Meeting of States Parties in June 2005, whichever amount is higher.

18. As decided in the case of the International Court of Justice, with regard to the retirement benefit payable for service beyond nine years, it is also proposed that a member of the Tribunal who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month of service beyond nine years, up to a maximum pension of two thirds of the annual net base salary, excluding post adjustment.

19. As regards the current pension in payment, based on the maximum annual remuneration of \$170,080, it is proposed that the current system continue to apply until such time as the amount of maximum remuneration (\$170,080) is overtaken by a newly revised maximum annual remuneration.

## Annex I

### Changes in salary under the new system

#### I. For judges at the International Court of Justice

1. As shown in table 1 below, during the period from January to March 2009, judges at the International Court of Justice received, on average, an additional €1,098 per month, which represents a 7.54 per cent increase compared with the monthly salary they received under the previous floor/ceiling mechanism applicable until March 2008.

Table 1

<i>Month</i>	<i>Base salary in United States dollars</i>	<i>Post adjustment multiplier (The Hague)</i>	<i>Salary in United States dollars</i>	<i>Exchange rate</i>	<i>Salary in euros (A)</i>	<i>Salary in euros with application of floor/ceiling mechanism (B)</i>	<i>A-B</i>
January 2009	13 473.42	53.5	20 681.70	0.756	15 635.37	14 558.85	1 076.52
February 2009	13 473.42	52.4	20 533.49	0.762	15 646.52	14 558.85	1 087.67
March 2009	13 473.42	48.9	20 061.92	0.782	15 688.42	14 558.85	1 129.57

#### II. For judges and the President of the Tribunal

2. As shown in tables 2 and 3 below, from January to March 2009, judges of the Tribunal would have received an average of €345.36 per month more and the President an average of €1,036.06 per month more, which represents a 7.12 per cent increase compared with the monthly salary under the current system with the application of the floor/ceiling mechanism as fixed in SPLOS/132 and SPLOS/133.

Table 2  
Judges

<i>Month</i>	<i>Base salary in United States dollars</i>	<i>Post adjustment multiplier (Hamburg)</i>	<i>Salary in United States dollars</i>	<i>Exchange rate</i>	<i>Salary in euros (A)</i>	<i>Salary in euros with application of floor/ceiling mechanism (B)</i>	<i>A-B</i>
January 2009	4 491.14	52.8	6 862.46	0.756	5 188.02	4 852.94	335.08
February 2009	4 491.14	51.8	6 817.55	0.762	5 194.97	4 852.94	342.03
March 2009	4 491.14	48.4	6 664.85	0.782	5 211.91	4 852.94	358.97

**Table 3**  
**President**

<i>Month</i>	<i>Base salary in United States dollars</i>	<i>Post adjustment multiplier (Hamburg)</i>	<i>Salary in United States dollars</i>	<i>Exchange rate</i>	<i>Salary in euros (A)</i>	<i>Salary in euros with application of floor/ceiling mechanism (B)</i>	<i>A-B</i>
January 2009	13 473.42	52.8	20 587.39	0.756	15 564.07	14 558.85	1 005.22
February 2009	13 473.42	51.8	20 452.65	0.762	15 584.92	14 558.85	1 026.07
March 2009	13 473.42	48.4	19 994.56	0.782	15 635.75	14 558.85	1 076.90

### III. Special allowance under the new system

3. Under the new system, the special allowance for each day that judges are engaged on the business of the Tribunal would have been increased by an average of €18.83 per day from January 2009 to March 2009, as shown in table 4 below. This also represents an average increase of 7.12 per cent in the special allowance. This will be applied to the amount of special allowance from the 2009-2010 budget as approved by the Meeting of States Parties (SPLOS/180).

**Table 4**

<i>Month</i>	<i>Base salary in United States dollars</i>	<i>Post adjustment multiplier (Hamburg)</i>	<i>Salary in United States dollars</i>	<i>Exchange rate</i>	<i>Salary in euros (A)</i>	<i>Salary in euros with application of floor/ceiling mechanism (B)</i>	<i>A-B</i>
January 2009	244.97	52.8	347.31	0.756	282.98	264.71	18.27
February 2009	244.97	51.8	371.86	0.762	283.36	264.71	18.65
March 2009	244.97	48.4	363.54	0.782	284.29	264.71	19.58

### IV. Requirement for the implementation of the new salary system

4. As shown above, it is expected that under the new salary system, judges' allowances will be increased by an average of 7.12 per cent. That would lead to the requirement of an additional appropriation in the amount of €276,600 for the period from 1 January 2009 to 31 December 2010. For that purpose, it is proposed that the Tribunal be authorized to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation in the amount of €276,600 required to implement the new salary system for judges of the Tribunal for the period from January 2009 to December 2010.

## Annex II

### **Draft decision on adjustment of the remuneration of members of the International Tribunal for the Law of the Sea and their pension**

*The Meeting of States Parties,*

*Considering* that, in respect of the level of remuneration of the members of the International Tribunal for the Law of the Sea (“the Tribunal”), the fourth Meeting of States Parties decided to maintain equivalence with the remuneration levels of members of the International Court of Justice,

*Considering also* that the General Assembly, in its decision 62/547 of 3 April 2008, decided to set, effective 1 April 2008, the annual net base salary of the members of the International Court of Justice at 158,000 United States dollars, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for the Netherlands, as appropriate, taking into account the adjustment mechanism as proposed by the Secretary-General in paragraph 77 of his report A/62/538,

*Considering further* that, as provided for in paragraph 77 of the report of the Secretary-General A/62/538, the net base salary for judges of the International Court of Justice was further revised to \$161,681 effective 1 January 2009 in line with the consolidation of 2.33 per cent multiplier points in the base salary scale for staff in the Professional and higher categories,

*Considering* that in paragraph 77 of the Secretary-General’s report A/62/538, the Secretary-General proposed that “on the occasion of future revisions to the base scale applicable to staff in the Professional and higher categories that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding readjustment in the post adjustment multipliers, the annual base salary of the members of the International Court of Justice ...” also be adjusted by the same percentage and at the same time,

*Considering also* that the General Assembly, in its resolution 63/259 of 24 December 2008, endorsed, in respect of the pension for the members of the International Court of Justice, the conclusions and recommendations of the Advisory Committee on Administrative and Budgetary Questions contained in the Committee’s report A/63/570,

1. *Decides* to set, effective 1 January 2009, the annual net base salary of the members of the Tribunal at \$161,681, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for Hamburg, as appropriate, taking into account the adjustment mechanism as proposed by the Secretary-General of the United Nations in paragraph 77 of his report A/62/538;

2. *Also decides* that on the occasion of future revisions to the base scale applicable to staff of the United Nations in the Professional and higher categories that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding readjustment in the post adjustment multipliers, the annual base salary of the members of the Tribunal also be adjusted by the same percentage and at the same time;

3. *Authorizes* the Tribunal to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation in the amount of €276,600 required to implement the new salary system for the members of the Tribunal referred to in paragraph 1 above for the period January 2009 to December 2010;

4. *Decides* that the retirement benefit of the members of the International Tribunal shall continue to be based on 50 per cent of the annual salary (excluding post adjustment) as defined in the Pension Scheme Regulations for the members of the Tribunal, or 50 per cent of the annual salary based on the level of remuneration decided by the fifteenth Meeting of States Parties in June 2005, whichever amount is higher, by reference to nine years of service;

5. *Also decides* that a member of the International Tribunal for the Law of the Sea who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month beyond nine years, up to a maximum pension of two thirds of the annual net base salary, excluding post adjustment;

6. *Further decides* that the current pension in payment which has been determined on the basis of the maximum annual remuneration of \$170,080 will continue to be based upon this amount;

7. *Requests* the International Tribunal for the Law of the Sea to make the necessary revisions to article 1, paragraph 2, of the Pension Scheme Regulations for members of the International Tribunal for the Law of the Sea;

8. *Requests* the Registrar to report to the Meeting of States Parties on action taken pursuant to the above decisions.

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