



# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

---

Case No. 2024-1941

**Margaret Mary Fogarty**

**(Appellant)**

**v.**

**Secretary-General**

**of the International Maritime Organization**

**(Respondent)**

**Order No.585 (2024)**

1. On 8 July 2024, the Staff Appeals Board of the International Maritime Organization (Staff Appeals Board or SAB and IMO, respectively) issued Decision No. SAB/2024/3 (impugned Decision) in which it dismissed Ms. Margaret Mary Fogarty's appeal contesting the decision not to reimburse legal fees incurred in relation to her previous case before the SAB in which she prevailed in contesting the composition of the Advisory Board on Compensation Claims (ABCC). The SAB decided that the appeal was not receivable as the administrative decision in relation to which costs had been incurred was rescinded and reimbursement of legal fees did not affect the terms and conditions of Ms. Fogarty's employment contract.
2. On 4 August 2024, Ms. Fogarty filed an appeal of the impugned Decision with the United Nations Appeals Tribunal (UNAT), to which the Secretary-General of IMO filed an answer on 2 October 2024.
3. On 6 October 2024, Ms. Fogarty filed a "Motion for Finding Irreceivability of Portions of the Answer" (Motion). Ms. Fogarty submits that parts of the Secretary-General's answer brief are not receivable as they provide additional information and/or evidence that was not part of the formal record before the SAB.

4. In particular, Ms. Fogarty contends that paragraphs 7(a), 7(b) and 29 of the Secretary-General's answer brief are not receivable as they cite a UNAT Order and a treaty in the United Nations Treaty Series, which had not been cited in the formal record of the SAB. She further considers not receivable paragraph 9 (which purports that her representative has no legal qualifications); paragraph 13 (which refers to a SAB decision dated 8 July 2024); paragraph 33 (in which the Secretary-General contends that the Organization at no point violated the principle of good faith); and paragraph 34 (in which the Secretary-General requests a finding that Ms. Fogarty manifestly abused the appeals process). Ms. Fogarty says that the Secretary-General could file a motion seeking leave to submit additional evidence and that she would not oppose such motion provided she be given an opportunity to comment on such additional evidence.

5. On 16 October 2024, the Secretary-General filed a response opposing the Motion. The Secretary-General submits that none of the information and submissions he provided on appeal constitute additional evidence. Rather, the contested paragraphs do not relate to the facts that were considered before the SAB but to the conduct of the SAB. Other paragraphs merely rebut the arguments made by Ms. Fogarty in her appeal brief.

6. The Secretary-General also notes that the Motion is not only a motion to find portions of his answer brief not receivable, but also a motion to file comments to the answer brief, which are only permitted in exceptional circumstances. Ms. Fogarty has not demonstrated the existence of exceptional circumstances which would justify the filing of comments to the Secretary-General's answer. Therefore, the Secretary-General objects to this indirect request for leave to file additional pleadings and respectfully requests the UNAT to order that the additional pleadings in paragraph 8 of the Motion shall not be included in the case file.

7. I have carefully reviewed the pleadings in this case and find no merit to the Motion. Contrary to what Ms. Fogarty suggests, the Secretary-General's answer does not purport to submit additional evidence pursuant to Article 2(5) of the UNAT Statute. Rather, the paragraphs in question directly respond to Ms. Fogarty's arguments on appeal and/or put forward a separate request for costs for abuse of process in this appeal in accordance with Article 9(2) of the UNAT Statute.

**IT IS HEREBY ORDERED** that Ms. Fogarty's Motion is **DENIED**.

Original and Authoritative Version: English

Decision dated this 14<sup>th</sup> day of November 2024  
in Beijing, China.

*(Signed)*  
Judge Gao Xiaoli,  
President

Order published and entered in the Register on this  
14<sup>th</sup> day of November 2024 in New York, United States.

*(Signed)*  
Juliet E. Johnson,  
Registrar