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FILE: EAC 03 044 54917 Office: VERMONT SERVICE CENTER Date: **SEP 02 2005**

IN RE: Petitioner: 
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to
Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

In this case, the petitioner seeks classification as an alien with extraordinary ability in government financial management for developing countries. The record shows that at the time of filing, the petitioner was employed as a Technical Assistance (TA) Advisor at the Headquarters Office of the International Monetary Fund (IMF) in Washington, District of Columbia. The petitioner submitted supporting documents including his curriculum vitae and academic credentials, newspaper articles concerning his work in Bahrain in 1981, excerpts of ten IMF reports written or co-authored by the petitioner, evidence relating to his membership in one professional association, documentation of his income, a report purportedly authored by the petitioner for the Ministry of

Finance of India in 1987, and nine support letters written by individuals who have worked with the petitioner. The director found the record did not establish that the petitioner had achieved the requisite sustained acclaim.

On appeal, counsel submits a brief, copies of documents previously submitted and new evidence including printouts from the websites of newspapers that published the articles submitted with the petition, resumes of the authors of some of the support letters previously submitted, a second support letter from the petitioner's supervisor at the IMF, a letter from the World Bank to the IMF concerning a project on which the petitioner purportedly worked, copies of three manuscripts that cite the petitioner's work, excerpts from 14 reports written or co-authored by the petitioner after the petition was filed, a printout from the IMF's website, six additional letters from individuals who have worked with the petitioner, printouts of electronic mail messages concerning the petitioner's invitation to serve on an adhoc working group organized by the World Bank, and additional documents relating to the petitioner's salary.

Much of the evidence submitted on appeal arose after the petition was filed and cannot be considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). The remaining new evidence does not overcome the deficiencies of the petition and the appeal will be dismissed. We address counsel's claims and all of the evidence properly submitted in the following discussion of the regulatory criteria relevant to the petitioner's case.

(ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The petitioner initially claimed to meet this criterion through his associate membership in the Institute of Cost and Works Accountants of India (ICWAI) and his membership in the International Consortium for Government Financial Management (ICGFM). On page 10 of his initial brief, counsel stated that "[m]embership in ICGFM is exclusive and consists of top academics and policy makers in financial management from around the world." The record documents neither the petitioner's ICGFM membership nor the alleged exclusivity of the organization. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner submitted a certificate evidencing his associate membership in ICWAI and a printout from ICWAI's website. The printout indicates that associate ICWAI membership requires only passage of an accounting examination and at least three years of relevant work experience. The record contains no evidence that such professional qualifications constitute outstanding achievements in India. Accordingly, the petitioner does not meet this criterion.

(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The petitioner did not initially claim eligibility under this criterion. On appeal, counsel claims the petitioner satisfies this criterion through newspaper articles about his service for the Indian Government in Bahrain in

1981. The petitioner initially submitted copies of seven newspaper articles, two of which did not identify the source, author or date of the article and four of which were cut off or otherwise illegible. On appeal, the petitioner submits the source and date of two articles previously submitted and a partial copy of an additional article that is cut off after the fourth paragraph. Hence, the record contains only three legible articles that are identified as required by the regulation.

The articles were published between 1981 and 1983 in the *Gulf Daily News* and *Arab News*. The record contains no evidence that *Gulf Daily News* is a nationally or internationally circulated newspaper or a form of other major media. A submitted printout from its website indicates that *Arab News* is an English daily newspaper printed in Saudi Arabia and distributed throughout the Middle East, Europe and the United States. Yet even if *Arab News* is a form of major media, the submitted article does not satisfy this criterion. The article is entitled “Cardamom Exporters Arrive on Study, Sales Promotion Tour” and quotes the petitioner as the “delegation leader Cardamom Board Director.” The record does not show that this work in Bahrain was related to the petitioner’s claimed field of extraordinary ability. Moreover, the submitted articles were published between 19 and 21 years prior to the filing of this petition and they do not demonstrate sustained acclaim. Accordingly, the petitioner does not meet this criterion.

(iv) Evidence of the alien’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

On page 9 of his initial brief, counsel claimed the petitioner met this criterion because “[o]ne of his main responsibilities is to review and assess the work of other advisors in the area of budget and treasury management, to participate in internal TA advisory committees, as well as the review of IMF program related documents and research work done by others.” This sentence is repeated verbatim from the letter of the petitioner’s supervisor at the IMF, Jack Diamond, which was submitted with the petition. However, duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself, or in a substantial proportion of positions within that occupation. The record contains no evidence that the petitioner has judged the work of other individuals in his field in a manner significantly outside the general duties of his position and reflective of national or international acclaim. Accordingly, the petitioner does not meet this criterion.

(v) Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

As evidence related to this criterion, the petitioner initially submitted support letters and the newspaper articles discussed above under the third criterion. On appeal, the petitioner submits seven additional recommendation letters. While such letters provide relevant information about an alien’s experience and accomplishments, they cannot by themselves establish the alien’s eligibility under this criterion because they do not demonstrate that the alien’s work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has sustained national or international acclaim.

On appeal, counsel contends that the petitioner’s field is “highly specialized” and that “the circle of experts best able to evaluate [the petitioner’s] work is likewise limited.” Yet counsel does not explain how the allegedly “highly specialized” nature of the petitioner’s field prevents his contributions from being documented

through other forms of evidence apart from recommendation letters. Accordingly, we review the letters as they relate to other evidence of the petitioner's contributions.

Counsel claims the petitioner has made "an outstanding contribution to the development of government financial management in Africa" and "has made significant contributions to the budget and treasury management in India." The record indicates that the petitioner held various positions in the Indian Civil Service from 1969 to 1991. ██████████ Additional Controller General of Accounts within the Ministry of Finance, Government of India, states that he has known the petitioner since 1977. ██████████ states, "During his distinguished career of 22 years (1969-91) with the Indian Administration, [the petitioner] had a meteoric rise and held many important and senior executive positions including Head of Departments." ██████████ cites two of the petitioner's "significant contributions to the budget and treasury management in India." First, the petitioner "fram[ed] an analytical document on a broad overview of the fiscal performance of India; this was the first presentation of its type and received wide appreciation. Since then, this document is being published annually." The record contains an excerpt of a document entitled "Government of India Accounts at a Glance 1985-86," which is dated May 1987 and is attributed to the Ministry of Finance, Department of Expenditure, Controller General of Accounts. ██████████ explains that "government publications in India are typically issued in the name of designated authorities," yet even if this document can be attributed to the petitioner, the record contains no corroborative evidence of the document's allegedly wide appreciation or subsequent annual publication. ██████████ describes the second contribution made by the petitioner in India as a compilation of "the Finance Accounts of Union Government for the year 1988-89 for timely presentation before Parliament." The record contains no corroborative evidence of this work.

██████████ also states that the petitioner was later "appointed as Director, Trade Promotion" and "established a Trade Promotion Centre in Bahrain; his work was widely acknowledged by the press." The newspaper articles regarding the petitioner's work in Bahrain were discussed above under the third criterion. The articles do not indicate that the petitioner's work was related to his claimed area of extraordinary ability. In addition, the articles date between 19 and 21 years prior to the filing of this petition and do not reflect the requisite sustained acclaim.

Professor ██████████ of the ██████████ College of Commerce in India further explains that the petitioner was "selected for the Indian Civil Service through an All India Examination which is considered one of the toughest and most competitive recruitment system [sic] in the world." Professor ██████████ states that "[i]n recognition of his outstanding merit and achievements in his chosen field, [the petitioner] was honored with the Most Distinguished Alumni Award by the College in 1994. In 1996 he was admitted to the membership of the Academic Advisory Council for the Global Business Operations Programme of Delhi University conducted by this college. He made valuable contribution in enhancing the academic profile of this two-year graduate programme in International Business." The record contains no corroborative documentation of these accomplishments or their significance. The evidence submitted thus does not establish that the petitioner's work in India was recognized as making major contributions to his field.

The record also does not establish that the petitioner's subsequent work at the IMF has made major contributions to his field reflective of the requisite sustained acclaim. ██████████ Director of the Office of Budget and Planning at the IMF, states that the petitioner served as a Budget Advisor to the Government of Jamaica in 1991 and later as a Budget and Treasury Advisor to the Governments of Namibia, Malawi and Uganda. ██████████ explains that "[d]uring these assignments, [the petitioner] demonstrated a rare capacity to combine knowledge about the more advanced financial management information systems, with a keen

appreciation of the pace at which underdeveloped systems could advance. . . . His reputation grew over this period; and the finance ministers of all of these countries have expressed . . . their deep appreciation of his contribution to their development of new systems.” [REDACTED] further explains that due to the petitioner’s “ability to bring about meaningful and lasting reform,” he was later appointed to work at the IMF Headquarters and is now “well known in the field of government financial management; and is highly valued as an expert and as a consultant by other institutions as well as the IMF.” [REDACTED] concludes that the petitioner “has made an outstanding contribution to the development of government financial management in Africa.”

The record contains letters from four government officials praising the petitioner’s work as an IMF advisor. In a letter dated September 19, 1994, [REDACTED] Minister of Finance of Jamaica, expresses his gratitude to the petitioner on behalf of the Jamaican government: “I wish to express our sincere appreciation for the service you rendered and for the fine example you have set for the public officers with whom you came in contact, in terms of proper work ethics and devotion to duty.” The record contains no other documentation of the petitioner’s work in Jamaica or evidence that his work there made a major contribution to his field.

[REDACTED] Minister of Agriculture and Irrigation for the Government of Malawi, states that he worked with the petitioner from 1995 to 1998 when [REDACTED] was Minister of Finance. [REDACTED] explains that with the petitioner’s technical assistance, “the Ministry of Finance made significant progress in strengthening budget management processes with enhanced government capacity for efficient treasury management. [The petitioner] played a critical role in the design of the Medium Term Expenditure Framework (MTEF), which was used as an important tool to rationalize allocation of national resources and restructure expenditure both within and across sectors, in line with our country’s established goals towards poverty reduction.” [REDACTED] notes that the petitioner “made invaluable contributions to improving Malawi’s treasury and fiscal management systems. As a result of his efforts, the composition and quality of public expenditure substantially improved.” In a letter dated June 8, 1998, [REDACTED] who apparently succeeded [REDACTED] as Minister of Finance in Malawi, requests the extension of the petitioner’s contract for one year. [REDACTED] states:

The Government of Malawi is highly appreciative of [REDACTED] assistance and contribution to the budgetary reforms including reviewing and improving the budget process; broadening and deepening of the MTEF; establishing expenditure control systems; and directing of the IFMIS [Integrated Financial Management Information System]. . . . The services of [REDACTED] are considered by the Government of Malawi to be very essential for the continued implementation of fiscal reforms over the next twelve months.

[REDACTED] Senior Public Sector Specialist for the Africa Region at the World Bank, worked with the petitioner in Malawi in 2001 and affirms that the petitioner “help[ed] the Government develop a unique roadmap – which was both simple and straightforward – to navigate the complexities of institutional reforms and IT-based solutions to budgeting problems (such as a Government-wide Integrated Financial Management Information System) in the public sector.”

The record contains only one document to corroborate the petitioner’s work in Malawi. A copy of a manuscript entitled “Integrated Financial Management Information System Core Accounting System” authored by the petitioner. Although the document discusses the petitioner’s work in Malawi, the source and

date of the paper are not identified. The record is also devoid of any evidence that this manuscript has been widely cited by other experts or otherwise recognized as a major contribution to the petitioner's field.

██████████ Governor of the Bank of Uganda, states that the petitioner worked for him as a budget advisor from 1998 to 2000 when ██████████ was Secretary to the Treasury of the Government of Uganda. ██████████ states:

[The petitioner] rendered invaluable services to Uganda. To resolve our problems, he developed a unique Expenditure Control Model supported by a comprehensive Commitment Control System (CCS). The CCS was designed to control budget commitments and expenditure, and to curtail the accumulation of domestic payments arrears. He played a very critical role in the implementation of the CCS and in our efforts to control our domestic debt. With his assistance in 1999, the quantum of fresh payment arrears was reduced by almost 80% compared to the previous financial year. This success is no doubt attributable to [the petitioner's] work. [He] left behind a very credible new system for expenditure management which has demonstrated great benefits for both the line ministries and the Ministry of Finance.

██████████ of the World Bank met the petitioner in Uganda in 1999 and briefly notes the petitioner's position as a budget advisor to the Ugandan government, but the record contains no other corroborative evidence of the petitioner's work in Uganda.

In his first letter submitted with the petition, ██████████ the petitioner's supervisor and Chief of the Public Expenditure Management Division of the IMF Fiscal Affairs Department (FAD), adds that "[o]ver the years [the petitioner] has become an acknowledged expert in expenditure control strategies and procedures, and the techniques he pioneered . . . are often cited and recommended by the IMF for a number of its program countries." ██████████ notes that the petitioner's IMF reports "attest to the high quality of his work" and that his "extensive knowledge combined with many years of experience has also been recognized by the World Bank which has relied on his expertise, and often requested his services for their work in parallel areas."

The record does not support ██████████'s statements. On appeal, the petitioner submitted excerpts from two manuscripts that cite the petitioner's work or contributions. First, a working paper entitled "How, When and Why Does Poverty Get Budget Priority: Poverty Reduction Strategy and Public Expenditure in Ghana," published by the Overseas Development Institute (ODI) in London in April 2002, includes one IMF report co-authored by the petitioner in its bibliography. Second, an excerpt from a collaborative report of the Asian Development Bank, the IMF and the World Bank, entitled "Lao PDR Public Expenditure Review Country Financial Accountability Assessment," was published in June 2002 and cites the petitioner as a contributor to the report. The petitioner also submitted an excerpt from another IMF report which cites a manuscript co-authored by the petitioner, but we cannot consider this evidence because the citing report is dated 2004, two years after the petition was filed. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. On appeal, the petitioner also submitted copies of electronic mail messages concerning his invitation to serve on an ad hoc working group organized by the World Bank, but the invitation was made after the petition was filed and cannot be considered. Again, the petitioner must establish eligibility at the time of filing. *Id.* The petitioner also submitted a copy of a letter from the World Bank to the IMF requesting the collaboration of IMF FAD staff on a project in Malawi. On page eight of his appellate brief

counsel states that the petitioner “was the FAD Expert selected,” but the submitted letter does not mention the petitioner. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The record contains excerpts of ten IMF reports written by or co-authored by the petitioner. On appeal, the petitioner submitted excerpts from 14 additional IMF reports written or co-authored by him. We cannot consider these reports because they are all dated after the petition was filed. Again, the petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. Of the ten reports submitted with the petition, the record contains evidence that one report has been cited once in the aforementioned ODI working paper.

On appeal, the petitioner submitted a second letter from [REDACTED] and six additional letters. Most of these letters primarily discuss work completed by the petitioner after the petition was filed or are written by individuals who did not meet the petitioner or become familiar with his work until after the petition was filed. Consequently, these letters cannot be considered. The petitioner must establish eligibility at the time of filing.¹ *Id.* The remaining letters affirm the petitioner’s expertise, but do not identify any specific, major contributions that the petitioner has made to his field. [REDACTED] Senior Economist at the Japan Bank for International Cooperation, states that he met the petitioner in 2000. At that time [REDACTED] was working for the World Bank and requested the petitioner’s assessment of fiscal problems faced by sub-Saharan African countries. [REDACTED] states that he “was impressed by the depth of the information [the petitioner] provided and was amazed by his ability to know so much about such a large number of countries at the same time.” Yet [REDACTED] does not identify any specific, major contribution that the petitioner has made to his field in this area and the rest of [REDACTED] letter discusses work done by the petitioner after filing. Similarly, [REDACTED] also of the IMF, praises the petitioner’s skills and expertise, but only discusses specific examples of the petitioner’s work completed after the petition was filed.

The record indicates that the petitioner has made valuable contributions to the IMF projects on which he has served and is highly regarded by his colleagues and the government officials for whom he worked in Jamaica, Malawi and Uganda. However, the record lacks corroborative evidence that the petitioner’s contributions have made a major impact in his field in a manner consistent with the requisite sustained acclaim. The petitioner submitted evidence that one of his co-authored IMF reports has been cited in one working paper and that he took part in one collaborative report between the IMF, the Asian Development Bank and the World Bank. This minimal recognition of the petitioner’s work in his field is inconsistent with sustained national or international acclaim. Accordingly, he does not meet this criterion.

(vi) Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media.

[REDACTED]’s second letter repeats several portions of the text of his first letter and the only new portions of his second letter discuss accomplishments made by the petitioner after the petition was filed. [REDACTED] and [REDACTED] III, colleagues of the petitioner at the IMF, praise the petitioner’s skills, experience and earlier work for the IMF, but they both state that they did not meet the petitioner or become familiar with his work until they joined the IMF after the petition was filed.

As discussed above under the fifth criterion, the record contains excerpts from ten IMF reports written or co-authored by the petitioner. Many of the submitted excerpts state that the reports are “strictly confidential” and “represent technical advice and recommendations given to the authorities by staff of the International Monetary Fund (IMF) in response to their request for technical assistance.” Hence, the petitioner’s reports were printed by the IMF for internal use. The manuscripts were not published in professional, major trade publications or other major media and consequently do not meet this criterion.

In his second letter, ██████████ states that “[a]ll of these reports . . . are very much comparable to similar works published in academic journals.” ██████████ assessment of the caliber of the petitioner’s work may be accurate, but the record does not establish that his work has been published and hence disseminated to his field in a manner consistent with the requisite sustained acclaim. On appeal, counsel contends that the petitioner’s IMF reports “are the functional equivalent of scholarly articles published in professional journals” and that the IMF’s internal printing of the reports is equivalent to publication in “other major media.” Yet, counsel acknowledges that the IMF reports are confidential. Furthermore, the record does not establish that the petitioner’s position at the IMF prevented him from publishing articles in professional journals or other major media. In fact, the resumes of three of the petitioner’s IMF colleagues submitted on appeal, including that of ██████████ list their scholarly publications in academic journals.

Even if we considered the petitioner’s IMF reports as publications, they would not meet this criterion because the record does not establish that his papers have been extensively cited or otherwise acknowledged by other experts in his field in a manner consistent with sustained acclaim. The record contains evidence of just one citation of one IMF report co-authored by the petitioner. The citing article is captioned, “Working Paper 164 Results of ODI research presented in preliminary form for discussion and critical comment.” This one citation of one of the petitioner’s co-authored reports in another internal working paper does not demonstrate that the petitioner’s manuscripts have been significantly recognized in his field.

The record does not show that the petitioner’s reports have been consistently cited by other experts in his field or published in professional, major trade publications or other major media. Accordingly, the petitioner does not meet this criterion.

(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

To meet this criterion, a petitioner must establish the nature of the alien’s role within the entire organization or establishment and the reputation of the organization or establishment. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of that section independent of the organization itself.

In this case, the petitioner initially claimed to meet this criterion through his various positions with both the Indian Civil Service and the IMF. As discussed above under the fifth criterion, the petitioner worked for various ministries of the Government of India from 1969 to 1991. Yet the record does not corroborate his alleged leading or critical role in any of those former positions. Professor ██████████ notes the petitioner’s “success in all the important assignments that he completed for the Govt. of India,” but does not describe any particular assignment in which the petitioner played a leading or critical role for the Indian government as a whole or for any of the particular ministries in which he served.

██████████ states that “[a]s Controller of Accounts, Delhi Administration, [the] petitioner managed the treasury and supervised the work of thirty Accounts Officers and a large number of Accountants. . . . In 1990, he rose to the position of Joint Controller General of Accounts, Ministry of Finance, which is the third highest level in the department and a part of the top financial management team of the Ministry of Finance.” While the petitioner may have held positions of great responsibility, the record contains no evidence to corroborate ██████████ statements or demonstrate the leading or critical nature of any of the petitioner’s former positions with the Indian Civil Service. Finally, as discussed under the third criterion, the newspaper articles concerning the petitioner’s work for the Indian government in Bahrain indicate that the petitioner held a position unrelated to his current field of purported extraordinary ability. In addition, the articles were published 19 and 21 years prior to filing and are inconsistent with the requisite sustained acclaim.

Although the IMF has a distinguished reputation, the record does not establish that the department in which the petitioner works, the FAD, has a similarly distinguished reputation independent of the IMF at large. In addition, the record fails to document the leading or critical nature of the petitioner’s position at the IMF. As evidence of the petitioner’s allegedly leading or critical role, counsel on appeal cites only the petitioner’s recommendation letters and his invitation to serve on an ad hoc working group organized by the World Bank. As discussed under the fifth criterion, many of the recommendation letters discuss work done by the petitioner after the petition was filed or were written by individuals who did not become familiar with the work of the petitioner until after the petition was filed. The petitioner’s invitation from the World Bank also occurred after the petition was filed. Accordingly, this evidence cannot be considered. The petitioner must establish eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49.

The recommendation letters submitted with the petition praise the petitioner’s skills, knowledge and expertise and describe his valuable work on various IMF projects. Yet none of the letters indicate that the petitioner occupies a leading or critical role for the IMF as a whole or for the FAD in particular. On appeal, the petitioner submitted a printout from the IMF’s website that states that in fiscal year 2004, the IMF provided 367 technical assistants to member countries. In his second letter, ██████████ describes the petitioner as having “very unique skills and extensive experience in a highly specialized area. This has proved invaluable for the work of this department.” The record does not corroborate ██████████ description. The majority of the petitioner’s IMF reports are co-authored (with ██████████ and other individuals) and the record does not demonstrate how the petitioner’s role substantively differs from that of any of the other 367 TAs employed by IMF. Hence, the record does not establish that the petitioner holds a leading or critical role for the IMF that is consistent with the requisite sustained acclaim. Accordingly, he does not meet this criterion.

(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner submitted a letter from the IMF listing his annual earnings from 1998 to 2001. His highest salary, \$236,298.38, was earned in 1999, four years before the petition was filed. In 2001, the petitioner’s salary was \$146,919.36. The petitioner also submitted an advertisement published in 2002 in *The Economist* for “Budget Policy and Treasury Advisors” with the U.S. Department of Treasury. The advertisement lists the salary range for these positions as between \$85,000 and \$130,000. Yet, the required qualifications for this position are well below that of the petitioner. The advertisement states that a “Master’s degree . . . is preferred” and that prior overseas experience and foreign language proficiency are “distinct advantages.” The petitioner has a Masters Degree, was certified as an accountant in India, speaks several Indian languages in addition to English and has

worked in other countries for over a decade. Moreover, counsel did not explain how, and the record does not document that, the IMF pay scale is comparable to that of the U.S. government.

On appeal, the petitioner submits evidence that his current gross income is \$228,570. We cannot consider this evidence because it arose after the petition was filed. The petitioner must establish eligibility at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. On appeal, counsel also cites 13 announcements for jobs allegedly comparable to the petitioner's position. This evidence is not probative. Ten of these positions require only a bachelor's degree and twelve of the jobs require substantially less experience than that acquired by the petitioner. Twelve of the jobs also describe work that, while nominally related to "finance" and "budgets," is substantively different from that done by the petitioner for the IMF. The only job that might be comparable to the petitioner's position is a financial specialist for the U.S. Department of Treasury at the 14 and 15 General Schedule (GS) level with a salary range of \$85,210 to \$130,305. Yet again, counsel does not explain and the record does not document that the U.S. government GS pay scale is comparable to that of the IMF. Moreover, the record contains no evidence, for example, that the petitioner's salary is significantly higher than individuals similarly employed by the World Bank, the United Nations or other international organizations. Hence, the petitioner submitted no evidence that his salary at the time of filing was significantly higher than that of other individuals similarly employed in his field or comparable to such experts at the very top of his field. Accordingly, he does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The evidence in this case indicates that the petitioner has made valuable contributions to the field of budget policy and treasury management for developing countries as a TA advisor for the IMF. However, the record does not establish that at the time of filing the petitioner had achieved sustained national or international acclaim placing him at the very top of his field. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A).

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.