
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/201 /0!
"\$g%e&' No.: UNDT/2020/1 0

Case No. UNDT/GVA/201 /0!

"#\$g%e&' No. UNDT/2020/1 0

. O& 5 /e)*#a*> 2020. '-e A88,+0a&' f+,e\$

a 0o&so,+\$a'e\$ %o'+o& fo*

#acts

20. T-e A88,+0a&' ?o+e\$ UN6CR +& A#g#s' 1 0 a' '-e P52 ,e(e,. 6e -as se*(e\$
o& (a*-o#s 8os+'o&s \$#*+&g -+s 30 >ea*s @+'- UN6CR. +&0,#\$+&g a' '-e P55 a&\$
D51 ,e(e,. 6e -o,\$s a& +&\$ef+&+'e a88o+&'%e&' @-+0- 0o&'a+&s a s8e0+a, 0o&\$'+o&a,

2E. /*o% 2! No(e%)e* 201A 'o 2! Se8'e%)e* 201E. '-e A88,+0a&' @as o& 0e*'+f:e\$ s+07 ,ea(e.

2 . O& 21 "#&e 201E. '-e A88,+0a&' *e0e+(e\$ a ,e''e* \$a'e\$ 12 "#&e 201E +&fo*%+&g -+% '-a' '-e *#,es go(e*&+&g SIBA s'a'#s -a\$)ee& 0-a&ge\$ s#0- '-a'. f*o% 1 "a&#a*> 201E s'aff %e%)e*s -o,\$+&g a& +&\$ef+&+'e a88o+&'%e&' @o#,\$)e 8,a0e\$ o& s8e0+a, ,ea(e @+'- f#,, 8a> 9:SL = /P;< fo* a %aF+%#% 0#%#,a'+(e 8e*+o\$ of &+&e %o&' -s 91 5 @o*7+&g \$a>s< a&\$. '-e* eaf'e*. o& SL = OP.

30. T-e A88,+0a&' @as f#*'-e* +&fo*%e\$ '-a' as of 1 "a&#a*> 201A -e -a\$)ee& :a\$%+&+s'a'+(e,> 8,a0e\$ o& SL = /P; 8e&\$+&g -+s &eF' ass+g&%e&' 9#&\$e* '-e o,\$ 8o,+0>< a&\$ '-a' +& (+e@ of '-e &e@ 8o,+0>. -+s SL = /P @o#,\$ o&,> :0o&'+&#e fo* a %aF+%#% 0#%#,a'+(e 8e*+o\$ of &+&e %o&' -s s'a*'+&g o& 1 "a&#a*> 201E;.

31. T-e A88,+0a&' @as \$e0,a*e\$ f+' 'o @o*7 +& Se8'e%)e* 201E.)#'-e @as g*a&'e\$ a 2 e\$+0a, Co&s'a+&' o& 3 O0'o)e* 201E. s#0- '-a' -

3D. B> ,e''e* \$a'e\$ 2A 2 a> 201 . '-e A88,+0a&' @as *e%+&\$e\$ '-a' -+s SL = OP
@o#,\$ 0o% %e&0e o& 11 "#&e 201 #&,ess -e @as 'o #&\$e*'a7e a& ass+g&%e&'.
%+ss+o& o* *eB#es' a&&#a, ,ea(e +& '-e %ea&'+%e. 6e @as f#*' -e* +&fo*%e\$ '-a' a&>
a88*o(e\$ a&&#a, ,ea(e. s+07 ,ea(e o* s-o*'5'e*% ass+g&%e&' @o#,\$ 'e%8o*a*+,>
s#s8e&\$ '-e &+&e5%o&' - 8e*+o\$ fo* '-e \$#*a'+o& of '-a' ,ea(e o* ass+g&%e&' a&\$ '-a'
a&> *eg#,a* ass+g&%e&' @+, , *ese' '-e &+&e %o&' -s 8e*+o\$ 'o Ie*o.

35. O& 11 "#&e 201 . '-e A88,+0a&' @as 8,a0e\$ o& SL = OP.

3!. O& 12 "#&e 201 . '-e A88,+0a&' *e0e+(e\$ a %e%o* 2 1() 2 6.168(f) 2.5788(o) -0.9651 2.5039 0 T d

). 6e -as a *+g- ' 'o)e g+(e& @o*7 'o \$o +& o*\$e* 'o ea*& -+s sa,a*>J

0. U&+,a'e*a, 8,a0e%e&' of s'aff %e%)e*s o& SL = OP +s o&,> 8oss+),e +&
eF0e8'+o&a, 0ases as 8e* s'aff *#,e 5.39f<. 6o@e(e*. '-e 0o&'es'e\$ \$e0+s+o& @as
&o' \$+s0*e'+o&a*>. +' @as '-e a88,+0a'+o& of a 8*o%#,ga'e\$ *#,e 9RAAI
8a*a. 13 < 'o '-e A88,+0a&'Cs 0+*0#%s'a&0esJ

D2. T-e Res8o&\$e&'Cs 8*+&0+8a, 0o&'e&'!+o&s a*e:

a. T-e 0o&'es'e\$ \$e0+s+o& +s ,a@f#,. T-e 8,a0e%e&' of a s'aff %e%)e* o&
SL = OP +s a 8o@e* (es'e\$ +& '-e Se0*e'a*>5Ge&e*a, a&\$ a#'-o*+se\$)> s'aff
*#,e 5.39f<J

). T-e RAP a&\$ '-e RAAI \$ef+&e eF0e8'+o&a, 0+*0#%s'a&0es +& 'e*%s of
s'aff *#,e 5.39f< as a88,+e\$ +& '-e #&+B#e s+'#a'+o< &5(A 2 375(B8()- 6 6 6 40 2 6 (R) - 4.49918() -5.80

?. Pa*ag*a8-s 133 a&\$ 13D of '-e RAAI \$o &o' o),+ge UN6CR 'o '*a&sfe*
SIBAs s'aff %e%)e*s 'o a(a+,a),e 8os+'o&s +**es8e0'+(e of @-e'-e* '-e> a*e
f#,,> 0o%8e'e&' 'o 8e*fo*% '-e f#&0'+o&s a&\$ +**es8e0'+(e of '-e *e,a'+(e
0o%8e'e&0e of a&> 0o%8e'+'o*sJ a&\$

7.

O& se,e0'+o& a&\$ ass+g&%e&'

5A. A*'+0,e 101.3 of '-e C-a*'e* of '-e U&+'e\$ Na'+o&s 8*o(+\$es '-a' :G'H-e
8a*a%o#&' 0o&s+\$e*a'+o& +& '-e e%8,o>%e&' of '-e s'aff a&\$ +& '-e \$e'e*%+&a'+o& of
'-e 0o&\$'+o&s of se*(+0e s-a,,)e '-e &e0ess+'> of se0#*+&g '-e --g-es' s'a&\$a*\$s of
eff+0+e&0>. 0o%8e'e&0e. a&\$ +&'eg*+'>. D#e *ega*\$ s

Case No. UNDT/GVA/201 /0!

"#\$g%e&' No. UNDT/2020/1 0

Case No. UNDT/GVA/201 /0!

"#\$g%e&' No. UNDT/2020/1 0

!A.

E2. T-e*efo*e. @-+,e 'e*%+&a'+o& +s &o' '-e 0o&'es'e\$ \$e0+s+o& +& '-e 8*ese&' 0ase.
' +s +&\$ee\$ a 8oss+),e o#'0o%e +& '-e ,o&g 'e*% a&\$ s-o#,\$)e 'a7e& +&'o
0o&s+\$e*a'+o& 'o \$e'e*%+&e '-e o),+ga'+o&s of '-e O*ga&+Ia'+o& a&\$ SIBA s'aff
%e%)e*s 8,a0e\$ o& SL = OP @-e& '-e+* 0o&'*a0' 0o&'a+&s '-e #&\$e*a7+&g 0,a#se.

E3. T-e A88ea,s T*+)#&a, +& " 201D73 ea71V)

EE. T-e A88ea,s T*)#&a, s'a'e\$ +& " '-a' '-e :A\$%+&+s'*a'+o& +s)o#&\$ 'o
\$e%o&s'a'e '-a' a,, *easo&a),e effo*'s -a(e)ee& %a\$e 'o 0o&s+\$e* '-e s'aff %e%)e*
0o&0e*&e\$ fo* a(a+,a),e s#+ 'a),e 8os's; a&\$ '-a' :G@H-e*e '-e*e +s \$o#)' '-a' a s'aff
%e%)e* -as)ee& affo*\$e\$ *easo&a),e 0o&s+\$e*a'+o&. +' +s +&0#%)e&' o& '-e
A\$%+&+s'*a'+o& 'o 8*o(e '-a' s#0- 0o&s+\$e*a'+o& @as g+(e& ;.

E . l& 8*a0'+0a, 'e*%s. as 8e* " . '-e A\$%+&+s'*a'+o& s-o#,\$ \$e%o&s'a'e '-a'
+' -as %a\$e goo\$ fa+'- effo*'s 'o f+&\$ a s#+ 'a),e 8os' fo* '-e affe0'e\$ s'aff %e%)e*
)>:

- a. Co&s+\$e*+&g '-e s'aff %e%)e* 0o&0e*&e\$ fo* a(a+,a),e s#+ 'a),e 8os'sj
-). Ass+g&+&g '-e affe0'e\$ s'aff %e%)e* -o,\$+&g 0o&'&#&+&g o* +&\$ef+&+e

2. T-e*efo*e. as '-e A88ea,s T*)#&a, s'a'e\$. :+f '-e A\$%+&+s'*a'+o& +&fo*%s '-e
affe0'e\$ s'aff %e%)e* '-a' '-e> a*e eF8e0'e\$ 'o a88

E. O& '-e s+\$e of '-e A\$%+&+s'*a'+o&. '-e e(+Se&0e s-o@s '-a' '-e De8#>
D+*e0'o*. D6R2 . UN6CR. offe*e\$ s#88o*' a&\$ a\$(+0e 'o '-e A88,+0a&' 0o&0e*&+&g
--s a88,+0a'+o&s. 6e 8e*so&a,,> e&0o#*age\$ -+% 'o a88,> 'o a,, s#+a),e (a0a&0+es.

105. S+&0e O0'o)e* 2015. '-e A88,+0a&' -as 'a7e& a 'o'a, of 1 3 0e*'+f+e\$ s+07 ,ea(e \$a>s. 6e @as o& 0e*'+f+e\$ s+07 ,ea(e f*o% 2! No(e%)e* 201A 'o 2! Se8'e%)e* 201E. = -+,e '-e T*+)#&a, +s %+&\$f#, '-a' '-e 0e*'+f+e\$ s+07 ,ea(e s-a,, &o' +%8a0' &ega'+(e,> o& '-e s'aff %e%)e*Cs e%8,o>%e&' s'a'#s. +' +s *easo&a),e 'o 0o&s+\$e* '-a' '-s 8e*+o\$ of a)se&0e -as %a\$e+' \$+ff+0#, ' fo* -+% a&\$ '-e O*ga&+Ia'+o& 'o f+&\$ a& a,'e*&a'+(e 8os+'o&.

10!.

fa%+,a*+'> @+' - '-e 8*o'e0'+o& e&(+*o&%e&' a&\$ *s7s 'o)e %+'+ga'e\$;. A& eF'e* &a,
0a&\$+\$a'e @+' - '-e *eB#+'e\$ 8*of+,e @as se,e0'e\$.

11 . l& ,+g-' of '-e a)o(e. '-e T*+)#&a, f+&\$s '-a' '-e A88,+0a&' @as &o' se,e0'e\$
fo* '-e 'e%8o*a*> ass+g&%e&'s +& CoFCs BaIa* a&\$ 4a)#,)e0a#se -e @as &o' fo#&\$
s#+'a),e fo* '-ose ass+g&%e&'s. /#*'-e*%o*e. '-e T*+)#&a, 0o&s+\$e*s '-a' '-e
O*ga&+Ia'+o& f#,f+,e\$ +'s o),+ga'+o&)> 9+< 8*o8os+&g SIBA 0a&\$+\$a'es. +&0,#\$+&g
'-e A88,+0a&'. @+' - '-e *eB#es'+&g o8e*a'+o&s af'e* *e0e+(+&g '-e 'e%8o*a*>
ass+g&%e&' *eB#es'sJ 9++< %a7+&g s#*e '-a' '-e s#+'a),+'> of '-e SIBA 0a&\$+\$a'es
8*o8ose\$ @as assesse\$ fo* '-e 'e%8o*a*> ass+g&%e&'sJ a&\$ 9++< e&s#*+&g '-a'
eF'e* &a, 0a&\$+\$a'es @e*e o&,> 0o&s+\$e*e\$ af'e* '-e *es8e0'+(e %a&age*s -a\$ \$#,>
*e(+e@e\$ a,, '-e SIBA 0a&\$+\$a'es a&\$ assesse\$ '-e% as #&s#+'a),e.

12D. T-e T*)#&a, 0o&s+\$e*s '-a' '-e #se of '-e @o*\$:%a>; +&\$+0a'es '-a' ass+g&%e&' of s'aff +& SIBA s'a'#s *e%a&s a 8oss+) ,+'> a' '-e \$+s0*e'+o& of '-e O*ga&+Ia'+o&. As s#0-. +' 0a&&o')e +&'e*8*e'e\$ as a 0o%8#,so*> a0'+o& +%8ose\$ o& '-e D+*e0'o*. D6R2 o* '-e 6+g- Co% %ss+o&e*.

125.

Case No. UNDT/GVA/201 /0!

"#\$g%e&' No. UNDT/2020/1 0

131.

13A. T-e T*+)#&a, f+&\$s '-a' +' @as &o' 8oss+),e 'o es'a),+s- a 0,ea* 0o&&e0'+o&)e'@ee& '-e A88,+0a&'Cs ,a07 of s#00ess +& -+s a88,+0a'+o&s a&\$ '-e a,,ege\$ #&\$#e +&'e*fe*e&0e of -+s fo*%e* s#8e*(+so* +& -+s 0a*ee* 8*og*ess+o&.

(

13E. /o* '-e a)o(e5%e&'o&e\$ *easo&s. '-e T*+)#&a, f+&\$s '-e \$e0+s+o& 'o 8,a0e '-e A88,+0a&' o& SL = OP ,a@f#,,.

13 . 6o@e(e*. '-e T*+)#&a, +s 0o&0e*&e\$ @+' - '-e ,a07 of '+%e ,+%+' +& '-e UN6CR ,ega, f*a%e@o*7 fo* '-e 8,a0e%e&' of SIBA s'aff %e%)e*s o& SL = OP. O& '-+s

1D2. 6a(+&g fo#&\$ '-a' '-e \$e0+s+o& 'o 8,a0e '-e A88,+0a&' o& SL = OP +s ,a@f#,. '-e T*+)#&a, @+,, &o' assess '-e %e*+'s of -+s 0,a+% +& *e,a'+o& 'o *e%e\$+es. I' o&,> &o'es '-a'.)> (+*'#e of '-e +&'e*+% o*\$e*. '-e 0o&'es'e\$ \$e0+s+o& -as)ee& s#s8e&\$e\$ #&'+, '-e 0o%8,e'+o& of '-e 8*ese&' 8*o0ee\$+&gs.

Conclusion

1D3. I& (+e@ of '-e fo*ego+&g. '-e T*+)#&a, \$e0+\$es)> %a'o*+'> @+'- "\$\$ge B#ffa \$+sse&'&g 'o *e'e0' '-e a88,+0a'+o&.

1DD. "\$\$ge B#ffa a88e&\$s a \$+sse&'&g o8+&+o&.

9) < "\$\$ge Te*esa B*(o

9) < "\$\$ge "oe,,e A\$\$a

Da'e\$ '-+s !'- \$a> of No(e%)e* 2020

E&'e*e\$ +& '-e Reg+s'e* o& '-+s !'- \$a> of No(e%)e* 2020

9) <

Re&1 2. Va*gas 2.. Reg:s'*a*. Ge&e(a

DI&&ENTING ' INI ' N)> "\$g%e / *a&0es0o B#ffa

1. = -,e l ag*ee @+' - '-e %a'o*+'> ?#\$g%e&' 9: '-e ?#\$g%e&';< @+' - *ega*\$ 'o '-e *e,e(a&' fa0's. '-e a88,+0a),e ,ega, f*a%e@o*7. '-e s0o8e of '-e ?#\$+0+a, *(+e@ 9+& 8a*'+0#,a*. 8a*as. DE a&\$ 50< a&\$ '-e ,ega, B#es'+o&s 'o)e a\$\$*esse\$ fo* '-e a\$?#\$+0a'+o& of '-e 0ase 9+& 8a*'+0#,a*. 8a*a. D5<. l \$+sse&' o& '-e o#'0o%e of '-e 0ase fo* '-e fo,,o@+&g *easo&s.

2. As %> fe,,o@ 0o,,eag#es -a(e eF8*esse\$ +& '-e ?#\$g%e&'. '-e ,eg+'+%a0> of '-e 0o&'es'e\$ \$e0+s+o& +s 0o&&e0'e\$ 'o '-e A\$%+&s'*a'+o& 8*o(+&g '-e o)?e0'+(e a)se&0e of a(a+,a),e s#+'a),e 8os+'+o&s a&\$ 'e%8o*a*> ass+g&%e&'s '-a' 0o#,\$ -a(e

eF0e8'+o&a,+> +%8,+es '-a' '-e RAP %#s')e +&'e*8*e'e\$ *es'+0'+(e,> @-e&e(e* +'s
8*o(+s+o&s 0o#,\$)e 0o&'*a*> 'o '-e effe0'+(e&ess of '-e @o*7+&g 8e*fo*%a&0e.

!. l& ,+g-' of '-e e(+Se&0e 0o,,e0'e\$ a&\$ '-e o)se*(a'+o&s of '-e a%+0#s 0#*+ae. l
a% a,so a@a*e '-a' '-e 201A %o\$+f+0a'+o& 'o '-e 8o,+0> @as a+%e\$ 8*e0+se,> a'
+&0*eam+&g '-e 8o@e*s of %a&age*s +& '-e ass+g&%e&' of a(a+,a),e
8os+'+o&s/ass+g&%e&'sJ '-e T*+)#&a, N of 0o#*se N 0a&&o

11. I agree @+' - '-e %a?o*+'> '-a' s#+'a)+,+'> fo* a(a+,a),e 8os+'o&s/ass+g&%e&'s
+%8,+es as a 0o&seB#e&0e '-e *+g-' of '-e SIBA s'aff 'o)e 8*efe**e\$ o#'+\$e of a
0o%8e'+'+(e 8*o0e\$#*ej '-s %ea&s '-a' UN6CRcs %a&age*s.)efo*e *e0*#+'&g o'-e*
0a&\$+'a'es. -a(e 'o assess '-e SIBA s'aff %e%)e*sC s7+,,s a&\$ 0o%8e'e&0+es.
eF8e*+e&0e. ge&\$e* a&\$ &a'+o&a,+>. so '-a' +f '-e *eB#+*e%e&'s a*e %e' 9so '-a' +' +s
ass#*e\$ '-a' '-e O*ga&+Ia'+o& %ee's '-e -+g-es' s'a&\$a*\$s of 0o%8e'e&0> a&\$
eff+0+e&0> *eB#+*e\$)> '-e UN C-a*'e*< 8*+o*+'> %#s')e g+(e& 'o a SIBA s'aff. +&
\$e'+*%e&' of o'-e*s @-ose ,+&7 @+' - '-e A\$%+&S*a'+o& +s &o' of '-e sa%e &a'#*e.

Case No. UNDT/GVA/201 /0!

"#\$g%e&' No. UNDT/2020/1 0

21.

2!. I' fo,,o@s '-a' UN6CR -as &o' %e' +'s)#*\$e& of 8*oof a&\$ '-a' '-e ?#*+s8*#\$e&'+a, 0o&\$+'o&s fo* 0o&s+\$e*a'+o& of '-e A88,+0a&' o& a &o&50o%8e'++(e)as+s -a(e &o')ee& *es8e0'e\$. Co&seB#e&',>. '-e &o&5se,e0'+o& of '-e A88,+0a&'. &o'@+'-s'a&\$+&g '-e a(a+,a)+,+> of 8os+'o&s/ass+g&%e&'s s#+'a),e fo* -+%. s#88o*'s a f+&\$+&g of #&,a@f#,&ess of '-e \$e0+s+o& 'o 8,a0e -+% o& SL = OP.

2A. D+ffe*e&',> f*o% '-e o8+&o& of '-e %a'o*+'> 9eF8*esse\$ +& 8a*ag*a8- A of '-e ?#\$g%e&'<. I 0o&s+\$e* +' 0o%8,e'e,> +**e,e(a&'. o& '-e o&e -a&\$ '-a' '-e o#'0o%e of '-e s8e0+f+0 *e0*#+'%e&' o* se,e0'+o& 8*o0e\$#*es @as &o' 0o&'es'e\$)> '-e A88,+0a&'.)e0a#se -e &e(e* 0,a+%e\$ 'o)e '-e)es' o* '-a' '-e 8*o0e\$#*es @e*e f,a@e\$.)# '-e ?#s' 0o%8,a+&e\$ a)o#' '-e &o&5ass+g&%e&' of '-e 8os's/TAs o& a &o&50o%8e'++(e)as+s.

2E.

&o' fo#&\$e\$ a' a,.. as +& '-ese 8*o0e\$#*es 9@-e*e TAs a*e &o' a\$(e*'+se\$< +' +s
+&0#%)e&' o&,> o& UN6CR 'o offe* SIBA s'aff a&> a(a+,a),e TA.

31. /+&a,,>. I \$o &o' f+&\$ &e0essa*> 'o a&s@e* '-e B#es'+o& +f '-e a88,+0a&' @as 9o*