
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2017/01

"#Sg%e&' No.: UNDT/201 /0 2

Da'e: 21 (a) 201

O*+g+&a,: E&g,+s-

Before: "#\$ge Te*esa B*a.o

Registry: Ge&e.a

Registrar: Re&/ (. Va*gas (.

LA (B

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SECRETAR01GENERAL
O2 T3E UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Ro44+e Le-g-'o&5 OSLA

Counsel for Respondent:

Introduction

1. O& ! No.e%4e* 2017s '-e A77,+6a&'s a fo*%e* s'aff %e%4e* 8+' - '-e U&+e\$ Na'+o&s Ass+s'a&6e 'o '-e 9-%e* Ro#ge T*a, :;UNA 9RT<=5 f+,e\$ a& a77,+6a'+o& 8+' - '-e T*+4#&a, 6o&'es'+&g '-e \$e6+s+o& &o' 'o ;7*o.+\$e -e* 8+'- a& effe6'+.e *e%e\$)< fo, o8+&g '-e \$e6+s+o& 'o g*a&' -e* a 7e*%a&e&' a77o+&'%e&'.

rocedure !efore t'te Tri!unal

2. O& 7 De6e%4e* 2017s '-e Res7o&\$e&' f+,e\$ -+s *e7,) 6-a,,e&g+&g '-e *e6e+.a4+,+') of '-e a77,+6a'+o&.

!. U7o& '-e T*+4#&a,>s *e?#es's '-e A77,+6a&' f+,e\$ o& 26 2e4*#a*) 201 s a\$ \$'+o&a, +&fo*%a'+o& 6o&6e*+&g '-e *e6e+.a4+,+') of '-e a77,+6a'+o& a&\$ -e* 8o*@ as a 6o&s#, 'a&' a' UNA 9RT.

A. O& 1! (a*6- 201 s a base %a&age%e&' \$:s6#ss+o& :;C (D<= 8as 6o&\$#6'e\$ 8+' - '-e 7a*'+67a'+o& of '-e A77,+6a&'s -e* Co#&se, a&\$ Co#&se, fo* '-e Res7o&\$e&'. A' '-e C (Ds '-e 7a*'+es ag*ee\$ 'o a B#\$g%e&' 4e+&g *e&\$e*e\$ o& '-e 7a7e*s's 8+'-o#& a& o*a, -ea*+&g.

C. Af'e* -a.+&g 4ee& g*a&'e\$,ea.e a' '-e C (D 'o f+,e a\$ \$'+o&a, s#4%ss+o&s's '-e A77,+6a&' f+,e\$ o& 22 (a*6- 201 s a\$ \$'+o&a, o4se* .a'+o&s a&\$ '-e Res7o&\$e&' f+,e\$ -+s 6o%%e&'s o& 27 (a*6- 201 .

#acts

6. T-e A77,+6a&' is a fo*%e* Se&+o* Lega, Off+6e* a' '-e PIC ,e.e, 8+'- UNA 9RT. S-e 8o*@e\$ +& UNA 9RT f*o% 1D "a&#a*) 200 'o !0 "#&e 201!.

7. I& 2001s '-e Ca%4o\$a& a#'-o*'+es es'a4,+s-e\$ '-e EE'*ao*\$(+&a*) C-a%4e*s +& '-e Co#*s of Ca%4o\$a :;ECCC<=5 'o *) se*+o#s 6*+%es 6o%%+'e\$ \$#+&g '-e 9-%e* Ro#ge *eg+%e +& 1 7C11 7 . UNA 9RT is a& +&'e*+a'+o&a, 6o%7o&e&' of ECCC's 6*ea'e\$ 'o ass+s' +& '-+s e&\$ea.o#* 7#*s#a&' 'o a& ag*ee%e&' 4e' 8ee& '-e U&+e\$ Na'+o&s a&\$ '-e Go.e*%e&' of Ca%4o\$a's '-a' e&'e*e\$ +&'o fo*6e +& 200C. UNA 9RT 8as es'a4,+s-e\$ as a 'e6-&+6a, ass+s'a&6e 7*oBe6' a\$%+&+s'e*e\$ 4) '-e

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Ca7a6+') De.e,o7%e&' Off+6e :;CDO<=5 De7a*'%e&' of

12. O& !1 "a&#a*) 2012s '-e A77,+6a&' *e6e+.e\$ a ,e'e* f*o% '-e C-+efi 3#%a&

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of '-e+* f+Ee\$!e*% a77o+&'%e&'s 'o 7e*%a&e&' o&es 8e*e #&,a8f#,5 7*+%a*+,)
4eg

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'oo@ #7 a& a6a\$e%+6 7os+'o& 8 -+6- 7a+\$ a77*oE+%a'e,) USD!5000 7e*
%o&' -5 a4o#' o&e '-+*\$ of -e* UN sa,a*)M

6. 3e* \$e6+s+o& 'o ass+s' as a 6o&s#,'a&' 8as 7#*e,) 'o e&s#*e '-a' -e*
+&s+'#'+o&a, %e%o*) 8as s#s'a+&e\$ a' a 6*'+6a, '+%e +& '-e 6ase s-e 8o*@e\$
o& a&\$ 8 -+,e -e* *e7,a6e%e&' \$e.e,o7e\$ a f#,, #&\$e*s'a&\$+&g of '-e 6aseM

\$. 3e* *es+g&a'+o& a&\$ s#4se?#e&' e%7,o)%e&' 8+'- *e\$#6e\$
*e%#&e*a'+o& 8e*e a \$+*e6' *es#,' of '-e fa+,#*e of '-e A\$%+&+s'*a'+o& 'o g*a&'
-e* a 7e*%a&e&' a77o+&'%e&'. T-a' *ef#sa, 8as #&,a8f#,. T-e \$e6+s+o& of
17 (a*6- 2017 6o&f+*%s '-a' s-e s-o#,\$ -a.e 4ee& g*a&'e\$ a 7e*%a&e&'
a77o+&'%e&' o& !1 "a&#a*) 2012M

e. A '+%e,) \$e6+s+o& '-a' '-e A77,+6a&' 8as s#+'a4,e fo* a 7e*%a&e&'
a77o+&'%e&' 8o#,\$ -a.e 7*o.+\$e\$ -e* 8+'- '-e 8o4 se6#*+') *e?#+*e\$ 'o a,,o8
-e* 'o 6o&'+&#e 8o*@+&g +& -e* 7os'M

f. T-e \$e6+s+o& 'o g*a&' \$&

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2 .

!0 "#&e 200 . No'-+&g +&' -a' ,e'e* *e .e*se\$ '-e A77,+6a&'>s *es+g&a'+o& f*o%
se* .+6e o& !0 "#&e 201!5 o* se* .e\$ as a& offe* 'o *e+&s'a'e -e* #&\$e* s'aff
*#,e A.1D. T-e*e +s '-e*efo*e &o 4as:s fo* '-e Res7o&\$e&' 'o e%7,o) '-e
A77,+6a&'5 as s-e *e?#es'sll a&\$

g. T-e A77,+6a&'>s a77o+&'%e&' 8as &o' 'e*%+&a'e\$. Te*%+&a'+o&
+&\$e%&+') +s o&,) 7a)a4,e #&\$e* s'aff *eg#,a'+o& .! 8 -e& a s'aff %e%4e*>s
a77o+&'%e&' -as 4ee& 'e*%+&a'e\$. S-e *es-g&e\$. S'aff *#,e .6:4= eE7*ess,) 7*o.
+\$es '-a' se7a*a'+o& f*o% se* .+6e 4e6a#se of *es+g&a'+o& +s &o'
'e*%+&a'+o&. Te*%+&a'+o& +&\$e%&+') +s '-e*efo*e &o' 7a)a4,e 'o '-e A77,+6a&'.

Consideration

!0. As a 7*e,+%+&a*) +ss#e5 '-e T*+4#&a, 8+, ,+\$e&'f) '-e 6o&'es'e\$ \$e6+s+o& a&\$
a\$\$*ess '-e *e6e+.a4+,+') of '-e a77,+6a'+o&.

L -a' +s '-e 6o&'es'e\$ \$e6+s+o&N

!1. A*. 2.1:a= of '-e D:s7#'e T*+4#&a,>s S'a'#'e s'a'e

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!D. B) "\$g%e&' UNDT/2016/026 +& 8 -+6- '-e A77,+6a&'>s 6,a+%
8as 6o&s+\$e*e\$ ' -e T*+4#&a, *es6+&\$e\$ '-e 6o&'es'e\$ \$e6+s+o& a&\$ *e%a&\$e\$ '-e
%a''e* 'o '-e ASG/O3R (fo* ;*e'*oa6'+.e +&\$+.+\$#a,+Fe\$ 6o&s+\$e*a'+o& of '-e
G a77,+6a&'s>H s#+'a4+,+') fo* 6o&.e*s+o& of '-e+* a77o+&'%e&'s 'o a

A2. To \$e'e%+&e 8 -e'-e* '-e A77,+6a&' s-o#,\$ 4e 7*o.+\$e\$ 8+'- a&) ;effe6'+.e *e%e\$)< fo,,o8+&g '-e \$e6+s:o& 'o g*a&' -e* a 7e*%a&e&' a77o+&'%e&' a&\$ f so\$ 8-a' *e%e\$) 8o#,\$ 4e a77*o7*+a'e\$ '-e T*+4#&a, f+&\$s +' #sef#, 'o *e6a., '-e se?#e&6e of fa6's.

A1. O& !1 "a&#a*) 2012\$ '-e A77,+6a&' 8as +&fo*%e\$ of '-e \$e6+s:o& &o' 'o g*a&' -e* a 7e*%a&e&' a77o+&'%e&'. O& 11 "#&e 2012\$ '-e A77,+6a&' 6o&'es'e\$ '-s \$e6+s:o& 4efo*e '-e T*+4#&a., 3o8e.e*\$ 4efo*e '-e T*+4#&a, +ss#e\$ a #, +&g o& -e* a77,+6a'+o&\$ s-e se7a*a'e\$ f*o% se*.+6e o& !0 "#&e 201!.

AA. O& 17 (a*6- 2017\$ af'e* *e6o&s+\$e*a'+o&\$ '-e O*ga&+Fa'+o& g*a&'e\$ '-e A77,+6a&' a 7e*%a&e&' a77o+&'%e&' effe6'+.e *e'*oa6'+.e,) 'o !0 "#&e 200 . T-e +%7,e%e&'a'+o& of s#6- \$e6+s:o& +s '-e 6o*e +ss#e +& '-e 7*ese&' 6ase.

AC. To '-s effe6'\$ '-e T*+4#&a, -as 'o 6o&s+\$e* '-e s7e6+f+6 6+*6#%s'a&6es of '-e 6ase\$ +.e.\$ '-e A77,+6a&'>s se7a*a'+o& f*o% se*.+6e\$ '-e a.,ege\$ B04 +&se6#*+') a&\$ '-e a.,ege\$ \$e,a) of '-e A\$%+&s'*a'+o& +& g*a&'+&g -e* a 7e*%a&e&' a77o+&'%e&'.

L -a' 8as '-e %o\$a,+') fo* '-e A77,+6a&'>s se7a*a'+o& f*o% se*.+6eN

A6. T-e e.+&e&6e s-o8s '-a' 4) ,e'e* \$a'e\$!0 (a) 201!\$ '-e A77,+6a&' +&fo*%e\$ '-e A\$%+&s'*a'+o&\$ 5 '-a' s-e ;G8o#,\$H &o' see@ *e&e8a, of G-e*H I f+Ee\$1'e*% 6o&'*a6' 8+'- GUNA9RTH\$ 8-+6- G8as \$#e 'oH eE7+*e o& !0 "#&e 201!<. l& a& e%a+, of '-e sa%e \$a'e\$ '*a&s%+'+&g -e* ,e'e* 'o '-e A\$%+&s'*a'+o&\$ s-e +&\$+6a'e\$ '-a' ;Gs-eH a'a6-Ge\$H G-e*H off+6+a, *es-g&a'+o& f*o% GUNA9RTH\$ effe6'+.e !0 "#&e 201!\$ +& o*\$e* 'o 7e*%+' UNA9RT 'o 6o% %e&6e '-e 7*o6ess of G-e*H se7a*a'+o&<.

A7. L -+,e +& -e* a77,+6a'+o&\$ '-e A77,+6a&' 6-a*a6'e*+s

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'-e T*+4#&a,5 +' s'+,, eE+s'e\$. T-e T*+4#&a, '-#s f+&\$s '-a' '-e A77,+6a&' 8as
se7a*a'e\$ f*o% se*.+6e 4) 8a) of -e* *es+g&a'+o&.

Las '-e A77,+6a&' 6o%7e,,e\$ 'o *es+g& 4e6a#se of '-e a.,ege\$ bo4 +&se6#*')N

C!. T-e A77,+6a&' a*g#es '-a' a' '-e '+%e +

C7. T-e T*+4#&a, Soes &o' see a&) *easo& 'o \$e7a*' f*o% '-e a4o.e!easo&+&g.

L -a' +s '-e effe6' of '-e \$e,a) +& g*a&' +&g '-e A77,+6a&' a 7e*%a&e&' a77o+&'%e&'N

CD. T-e A77,+6a&' 6,a+%s '-a' a '+%e,) \$e6+s+o& o& -e* s#+'a4,+') fo* a 7e*%a&e&' a77o+&'%e&' 8o#,\$ -a.e 7*o.+\$e\$ -e* 8+'- '-e Bo4 se6#*+') *e?#+'e\$ 'o a,,o8 -e* 'o 6o&' +&#e 8o*+&g +& -e* 7os'.

C . T-e T*+4#&a, &o'es '-a' '-e A77,+6a&' 8as +&fo*%e\$ of '-e \$e6+s+o& &o' 'o g*a&' -e* a 7e*%a&e&' a77o+&'%e&' o& !1 "a&#a*) 2012. S-e 6o&'es'e\$ '-a' \$e6+s+o& +& '-e fo*%a, s)'e% of a\$%+&s'a'+o& of l#s'+6e s'a*'+&g 8+'- -e* *e?#es' fo* %a&age%e&' e.a,#a'+o& o& !0 (a*6- 2012. 3o8e.e\$ s-e \$+\$ &o' 8a+' fo* '-e l#s'+6a, o#'+6o%e 7*o* 'o -e* *es+g&a'+o& +& "#&e 201!. A*g#a4,)s -a\$ s-e 8a&'e\$ 'o 7*ese*.e -e* *+g- 's' 7e&\$+&g ,'+ga'+o& '-e A77,+6a&' 8o#,\$ -a.e *e%a+&e\$ +& '-e se*.+6e of '-e O*g&a+Fa'+o& #&+', '-e %a'e* 8as \$e'e*%+&e\$. 2#*'-e*%o*es' '-e T*+4#&a, 6a&&o' s7e6#,a'e o& 8-a' 8o#,\$ -a.e -a77e&e\$ +f '-e A77,+6a&' -a\$ 4ee& g*a&'e\$ a 7e*%a&e&' a77o+&'%e&' +& "a&#a*) 2012.

60. L -,e +s #&fo*'#&a'e '-a' + 'oo@ f+.e)ea*s fo* '-e A\$%+&s'a'+o& 'o g*a&' '-e A77,+6a&' a 7e*%a&e&' a77o+&'%e&' 4) *es+g&+&g +& "#&e 201! J '-a' +s 4efo*e a f+&a, \$e6+s+o& o& -e* 6,a+% 8as %a\$e J s-e 7#' -e*se,f +& a s+'#a'+o& +& 8-+6- '-e +%7,e%e&'a'+o& of '-e (a*6- 2017 \$e6+s+o& 'o g*a&' -e* a 7e*%a&e&' a77o+&'%e&' effe6'+.e *e*o'a6'+.e,) 'o !0 "#&e 200 +s 6o%7,eE. 3e* 6ase +s' +& '-s *ega*\$s eE6e7'+o&a,.

L -a' +s a& ;effe6'+.e *e%e\$)< +& '-e A77,+6a&'>s s+'#a'+o&N

61. T-e A77,+6a&' 6,a+%s '-a' 8-e& '-e A\$%+&s'a'+o& fa+,s 'o fo,,o8 +s o8& *#,'es' + ' +s o4,+ge\$ 'o 7*o.+\$e a& effe6'+.e *e%e\$). S-e a*g#es '-a' s#6- *e%e\$) 8o#,\$ 4e '-a' s-e 4e g*a&'e\$ e%7,o)%e&' aga+&s' '-e 7e*%a&e&' a77o+&'%e&' offe*e\$ 'o -e* o& 17 (a*6- 2017. l& '-s *ega*\$s s-e a*g#es '-a' s+&6e s-e a66e7'e\$ '-e 7e*%a&e&' a77o+&'%e&' s-e 8as +& a 6o&'*a6'#a, *e,a'+o&s-+7 8+'- '-e O*g&a+Fa'+o& a&\$ '-a' +f '-e A\$%+&s'a'+o& \$+\$ &o' 6o&s+\$e* '-a' s#6- *e,a'+o&s-+7 eE+s'e\$ + ' %ea&' '-a' '-e a77o+&'%e&' -a\$ 4ee& 'e*%+&a'e\$ 4) '-e A\$%+&s'a'+o& a&\$s' -e*efo*es' '-a' a& +&\$e%+&') %#s' 4e 7a+\$.

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%e%4e* 6o&6e*&e\$ fo* a.a+,a4,e a&\$ s#+'a4,e 7os's. 3 o8e.e*5 +' +s a,so &o'e\$ '-a'
'-e s'aff %e%4e*s affe6'e\$ 4) a& a4o,+s-%e&' of 7os' a*e &o' e&'+',e\$ 'o 4e

A6. Base\$ o& '-ese 6o&s+\$e*a'+o&s) 8e f+&\$ e**o&eo#s '-e UNDT>s -o,\$+&g '-a' s'aff %e%4e*s a*e e&'+',e\$ 'o 4e *e'a+&e\$ 8+'-o#' -a.+&g 'o a77,) fo* .a6a&' Bo4 o7e&+&g:s= s+&6e s#6- a s'e7 *e7*ese&'s '-e 4eg+&&+&g of a&) 6o%7e'+'+.e se,e6'+o& 7*o6ess 4ase\$ o& '-e s'aff %e%4e*s> *e,a'+.e 6o%7e'e&6e) +&'eg*+')) ,e&g'- +& se* .+6e a&\$ 8 -e*e *e?#+*e\$) &a'+o&a,+') a&\$ ge&\$e*.

A7. O&6e '-e a77,+6a'+o& 7*o6ess +s 6o%7,e'e\$) -o8e.e\$) '-e A\$%+&+s'*a'+o& +s *e?#+*e\$ 4) S'aff R#,e .6:e= a&\$:f= a&\$ '-e Co%7a*a'+.e Re.+e8 Po,+6) 'o 6o&s+\$e* '-e 6o&'+&#+&g o* +&\$ef+&+e a77o+&'%e&' -o,\$e*

. T-+s *e?#+*es \$e'e*%+&+&g '-e s#+a4,+') of '-e s'aff %e%4e* fo* '-e 7os') 6o&s+\$e*+&g '-e s'aff

%e&'+o&e\$ '+' +& '-e +&'+a, offe*5 '-+s 8as &o' \$o&e. T-e A\$%+&+s'a'+o& o&,) +&\$+6a'e\$ '-a' +f '-e A77,+6a&' 8+s-e\$ 'o 4e '*a&sfe**e\$ 'o a 7os'+o& +& '-e Se6*e'a*a'5 '+' 8o#,\$ 4e &e6essa*) fo* -e* ;'o a77,) '-*o#g- a *eg#,a* se,e6'+o& 7*o6ess a&\$ 4e se,e6'e\$ fo,,o8+&g a se,e6'+o& eEe*6+se a77*o.e\$ 4) a Ce&'*a, Re.+e8 Bo\$)<. T-e*e +s &o %e&'+o& of a s+%,a* 6o&\$'+o& 'o 4e a77o+&'e\$ +& UNA9RT.

D2. I& *e,a'+o& 'o '-e ,e.e, of '-e 7os'+o&s fo* 8 -+6- '-e A77,+6a&' s-o#,\$ 4e 6o&s+\$e*e\$5 '-e T*+4#&a, f+&\$s '-a' '-e A77,+6a&' s-o#,\$ 4e 6o&s+\$e*e\$ &o' o&,) fo* s#+a4,e 7os'+o&s a' -e* g*a\$e ,e.e, 4#' a,so fo* ,o8e* g*a\$e a.a+,a4,e 7os'+o&s +& UNA9RT fo* 8 -+6- s-e %a) eE7*ess -e* +&'e*es' 4) 8a) of a77,+6a'+o& '-e*e'o. T-+s *easo+&g +s +& ,+&e 8+'- '-e A77ea,s T*+4#&a,>s f+&\$+&gs +& 201DIUNATIDA75 8 -+6- 7*o.+\$es '-a':

C7. 3o8e.e*5 8+'- '-e eE6e7'+o& of sa+\$ %a&\$a'o*) *e?#+*e%e&'s es'a4,+s-e\$ 4) S'aff R#,e .6:e= a&\$:f= a&\$ '-e B#*+s7*#Se&6e of '-e A77ea,s T*+4#&a,5 +e. '-a' ;s#+a4,e 7os's< 4e a.a+,a4,e 8+'-+& '-e+* 7a*e&' o*ga&Fa'+o& a' '-e* \$#') s'a'+o& a&\$ 4e,o&g +& '-e sa%e 6a'ego*) 'o '-a' e&6#%4e*e\$ 4) '-e *e\$#&\$a&' s'aff %e%4e*5 &o'-+&g +& '-e ,a&g#age of S'aff R#,e .6:e= a&\$:f= +&\$+6a'es '-a' '-e :*+g-' a&\$ a' '-e sa%e '+%e= o4,+ga'+o& of '-e A\$%+&+s'a'+o& 'o 6o&s+\$e* '-e *e\$#&\$a&' s'aff %e%4e* fo* s#+a4,e 7os's5 .a6a&' o* ,+@e,) 'o 4e .a6a&' +& '-e f#'#*e5 +s ,+%+'e\$ 'o '-e s'aff %e%4e*>s g*a\$e ,e.e., O& '-e 6o&'*a*)5 4) a77,) +&g '-e ge&e*a, 7*+&6+7,e of +&'e*7*e'a'+o& 5 +e. 8-e*e '-e ,a8 \$oes &o' \$+s'+&g#s-5 &e+'-e* s-o#,\$ 8e \$+s'+&g#s-5 '-e A\$%+&+s'a'+o& +s #&\$e* a& o4,+ga'+o& 'o %a@e 7*o7e*5 *easo&a4,e a&\$ goo\$ fa+'- effo*'s 'o f+&\$ a& a,'e*&a'+.e 7os' fo* '-e \$+s7,a6e\$ s'aff %e%4e* a' -+s o* -e* g*a\$e ,e.e, o* e.e& a' a ,o8e* g*a\$e5 +f5 +& '-e ,a'e* 6ase5 '-e s'aff %e%4e* 6o&6e*&e\$ -as eE7*esse\$ a& +&'e*es'.

D! T-e a4o.e 4e+&g sa+\$5 '+' *e%a+&s '-a' '-e T*+4#&a, -as &o 7o8e* 'o o*\$e* '-e A\$%+&+s'a'+o& 'o a#'o%a'+6a,,) g+e '-e A77,+6a&'

Is '-e A77,+6a&' e&'+'e\$ 'o 'e*%+&a'+o& +&\$e%&+')N

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