

Case No.:

UNITED NATIONS DISPUTE TRIBUNAL

## **Introduction**

1. On 2 October 2018, the Applicant, a Senior Political Officer at the P-5 level with the Department of Political Affairs in New York, filed an application, contesting ( RC ) pool, following an assessment conducted by a private consulting firm in London appointed by the United Nations Development Group. The Applicant submits that the design of the assessment rendered it opaque and arbitrary, and that his candidacy was not given full and fair consideration, and seeks rescission of the decision, and for him to be considered for inclusion in the RC pool.

2. Together with his application, the Applicant made a request for suspension of proceedings pending informal resolution, stating as follows (reference to footnotes omitted):

Upon filing his , Mr. Shlapachenko has been in discussion with the Administration regarding the amicable resolution of this matter, initially with the presently through the Office of the Ombudsman. Mr. Shlapachenko has requested that this matter be mediated through the Mediation Division of the Office of the Ombudsman.

If this matter is resolved informally, there would be no need for protracted litigation and further expenditure of resources. The suspension of proceedings pending informal resolution is therefore in the interest of all parties.

3. On the same day (2 October 2018), the New York Registry of the Dispute Tribunal transmitted the substantive application with the request for suspension of proceedings to the Respondent, instructing him to file the reply by 1 November 2018. Upon the instructions of the undersigned Judge, the Respondent was also directed to indicate if he consented to mediation through the Mediation Division of the Office of

the request for suspension of proceedings, by 3 October 2018, so that an appropriate Order may follow.

4. On 3 October 2018, Counsel for the Respondent informed the New York mediation through the Mediation Office,

5. On 9 October 2018, by Order No. 196 (NY/2018), the Tribunal directed the Respondent to confirm whether he consents to the continuation of discussions before the UNOMS, or alternatively, whether the parties prefer to conduct *inter partes* discussions and for the parties to file a jointly signed submission indicating whether they agree to attempt any informal resolution, and if so, whether the parties request a suspension of the proceedings. The Tribunal further stated that the deadline for the further order.

6. On 24 October 2018, the parties filed a joint submission stating that, in the absence of the Mediator of UNOMS, who was on Mission to Somalia and Nairobi until the week of 9 November 2018, the parties agreed to attempt informal dispute resolution discussions on an *inter partes* basis and requested the suspension of the 2018. The Respondent further submitted that should the parties agree to pursue informal dispute resolution under the auspices of UNOMS return, the parties would advise the Dispute Tribunal to request a formal referral.

7. On 25 October 2018, by Order No. 208 (NY/2018), the Tribunal suspended the proceedings until 30 November 2018, on which date the parties were to inform been resolved.



12. In the instant case, the Applicant filed a submission stating that he withdraws

claims [t]his is a full, final and entire withdrawal, including on the merits, with no right of reinstatement

13. clear and unequivocal withdrawal of all of his allegations and claims with no right of reinstatement signifies a final and binding resolution with regard to the rights and liabilities of the parties in all respects in his case, requiring no pronouncement on the merits but concluding the current matter before the Tribunal. As the Applicant has withdrawn the application and decided to end the pending litigation, there is no matter remaining for adjudication by the Dispute Tribunal.

14. The Tribunal commends both parties, and their respective counsel, for their good faith efforts in resolving this case amicably *inter partes*. Such efforts should be encouraged as the amicable resolution of cases saves the Organization valuable resources and contributes to a harmonious working environment within the Organization, particularly where there is an ongoing employment relationship.

