



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NBI/2010/045  
Order No.: 047 (NBI/2011)  
Date: 30 May 2011  
Original: English

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**Before:** Judge Vinod Boolell

**Registry:** Nairobi

**Registrar:** Jean-Pelé Fomété

NWUKE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
Steven Dietrich, Nairobi Appeals Unit, ALS/OHRM

## **Introduction**

1. The Applicant filed an application with the Tribunal on 7 February 2010, contesting decisions made by the Economic Commission for Africa (ECA) relating to the filling of the post of Director of the Trade, Finance & Economic Development Division (TFED) and the restructuring of ECA.

2. At a preliminary hearing on 15 June 2010, the Tribunal decided to stay further proceedings pending receipt of:

- a. The report of the Investigation Panel that had been sent to Addis Ababa in early June 2010 to investigate the restructuring of ECA; and
- b. The judgment of the United Nations Appeals Tribunal (“the Appeals Tribunal”) in relation to the Applicant’s appeal of UNDT Judgment No. 2010/17.

3. The Respondent submitted a copy of the Investigation Panel’s report to the Tribunal, on an *ex parte* basis, on 24 September 2010 for its consideration. In Judgment No. 2010-UNAT-099, dated 29 December 2010, the Appeals Tribunal reversed UNDT Judgment No. 2010/17 and remanded UNDT Case No. 044 to the Dispute Tribunal for a trial on the merits.

4. On 10 November 2010, the Applicant submitted an application requesting, *inter alia*, that the Tribunal make the report of the Investigation Panel available to him for purposes of prosecuting his cases<sup>1</sup>.

5. The Tribunal held a case management hearing with the parties on 26 January 2011. The Applicant renewed his request for a copy of the Investigation Panel report.

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<sup>1</sup> Case numbers UNDT/NBI/2009/044; UNDT/NBI/2010/045 and UNDT/NBI/2010/077.

## **Consideration**

6. Pursuant to article 18.2 of the Rules of Procedure of the Tribunal,

“The Tribunal may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings.”

7. After a careful review of the submissions of the parties and the report of the Investigation Panel and its supporting documentation, the Tribunal considers that a copy of the investigation report should be made available to the Applicant for the following reasons:

- a) The relevance of the subject matter of the report to the Tribunal’s proceedings; and
- b) A fair determination of the applications filed by the Applicant dictates that he be able to adequately prepare and present his cases fully before the Tribunal;

8. However, in order to address the concerns of the Respondent, regarding confidentiality of the investigation report, the Respondent will be given the opportunity to redact information deemed sensitive, and not absolutely necessary for the conduct of the Applicant’s case. The Respondent is strongly reminded, however, that any such redaction should not jeopardize the right of the Applicant to fully prosecute the matters he has brought before this Tribunal. Further, this current Order will apply only to the report and not to the supporting documentation.

9. Consequently, in accordance with article 18.2 of the Rules of Procedure of the Tribunal;

**IT IS HEREBY ORDERED THAT:**

10. The Respondent is to review the investigation report and decide whether any redaction is necessary. In the event that the Respondent does not deem redaction to be necessary, he is to provide the Applicant with a non-redacted version of the report of the Investigation Panel by 15 June 2011 and so inform the Tribunal.

11. In the event that the Respondent deems redaction to be necessary, he is to provide the Applicant and the Tribunal with a redacted version of the report of the Investigation Panel no later than 1 July 2011. If it appears to the Tribunal that the redacted version jeopardizes the Applicant's right to properly and fully prosecute his cases, the Tribunal will make further orders on the same issue.

*(Signed)*

Judge Vinod Boolell

Dated this 30<sup>th</sup> day of May 2011

Entered in the Register on this 30<sup>th</sup> day of May 2011

*(Signed)*

Jean-Pelé Fomété, Registrar, Nairobi