

2019-UNAT-949, Sheffer

UNAT Held or UNDT Pronouncements

UNAT held that it was not satisfied that the essential elements were present to enable UNAT to exercise its jurisdiction within the meaning of Article 2(10) of the UNAT Statute in regard to the decision of IMO SAB. UNAT held that in this case, even if the SAB issued decision, it was nevertheless only advisory or recommendatory. UNAT noted that the SAB gave advice to the Secretary-General of IMO, who could not be regarded as a neutral part of the process as he is both the employer's representative and the original decision-maker. UNAT held that it was the Secretary-General of IMO, who was not a neutral first instance, who took the final decision. UNAT remanded the matter of the appeal to the IMO SAB under Article 2(10) of the UNAT Statute for reconsideration and decision, noting that the Respondent must comply with its due process obligations.

Decision Contested or Judgment/Order Appealed

The staff member contested the decision of the Secretary-General of IMO not to reclassify his post, a decision taken upon the recommendation of the Classification Committee and the subsequent recommendation from the Staff Appeals Board (SAB).

Legal Principle(s)

UNAT is competent to hear appeals from an international organisation or other entities participating in the common system of conditions of service where a special agreement has been concluded which accepts the jurisdiction of UNAT; however, such a special agreement may only be concluded where the organisation or entity utilises a neutral first instance process that includes a written record and written decision providing reasons, fact and law.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Sheffer

Entity

IMO

Case Number(s)

2019-1246

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Oct 2019

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Appeal

Applicable Law

IMO Staff Regulations and Rules

- Rule 111.1(a)
- Rule 111.1(b)

UNAT Statute

- Article 2.10