

# 2019-UNAT-958, Dispert & Ho

## UNAT Held or UNDT Pronouncements

UNAT considered the Appellants' consolidated appeals against the rejection of their requests to be upgraded to a higher level. UNAT held that it was not satisfied that the essential elements were present to enable the IMO SAB to take a decision within the meaning of Article 2(10) of the UNAT Statute. UNAT held that, even if the SAB issuance was a decision, it was nevertheless only advisory or recommendatory. UNAT noted that SAB gave advice to the Secretary-General of IMO, who could not be regarded as a neutral part of the process as he was 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 to the SAB for decision.

## Decision Contested or Judgment/Order Appealed

The individuals requested their posts to be upgraded to a higher level. The Secretary-General of the International Maritime Organisation (IMO) rejected their requests upon advice from the IMO's Classification Committee and the IMO's internal appeals process (the Staff Appeals Board (SAB)), which both recommended that the posts stayed at their current grades.

## Legal Principle(s)

UNAT is competent to hear appeals from an international organization 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 organization or entity utilizes 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

Dispert & Ho

## Entity

IMO

## Case Number(s)

2019-1256

2019-1257

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

25 Oct 2019

## President Judge

Judge Neven

## 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