

# 2020-UNAT-983, Webster

## UNAT Held or UNDT Pronouncements

UNAT held that the ISA JAB decision was correct in its finding that the appeal was receivable and not time-barred. However, UNAT held that the Special Agreement and the resulting Staff Rules did not comply with the UNAT Statute, which required a neutral first instance process, and that, accordingly, UNAT was unable to exercise its jurisdiction as a second level tribunal. UNAT remanded the matter to the JAB to ensure compliance with the jurisdictional requirements of the Special Agreement and Article 2(10) of the UNAT Statute, specifying that the Appellant's appeal should be reconsidered and decided by a neutral first instance process that produces a written decision and record that includes a statement of the relevant facts and law, with written reasons and analysis.

## Decision Contested or Judgment/Order Appealed

ISA decision: Mr Webster contested the decision to separate him from service due to unauthorized absence and leave. ISA Joint Appeals Board (JAB) declined to recommend that the ISA Secretary-General review his decision to separate the individual from service as it found that Mr Webster did not report for duty or take necessary steps over an extended period after the expiration of his sick leave.

## Legal Principle(s)

The UNAT Statute requires that special agreements between the UN and other Organisations which agree to the jurisdiction of UNAT must establish a neutral first instance process and body to decide disputes and that the head of the Organisation whose decision is appealed, cannot constitute that neutral body. UNAT, as a second-level tribunal, cannot conduct its review without a decision from a neutral first instance process and body.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Webster

## Entity

ISA

## Case Number(s)

2019-1282

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Mar 2020

## President Judge

Judge Sandhu

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNAT)

Appeal

Subject matter (*ratione materiae*)

## Applicable Law

Agreements, conventions, treaties (etc.)

- Special Agreement between the UN and the ISA (11 February 2010)

ISA Staff Regulations and Rules

- Rule 11.1
- Rule 11.2(a)
- Rule 11.2(o)

UNAT Statute

- Article 2.10

## Related Judgments and Orders

2019-UNAT-957