



# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Case No. 2018-1189

**Webster**

**(Applicant)**

**v.**

**Secretary-General of the International Seabed Authority**

**(Respondent)**

**Order No. 328 (2018)**

1. By letter dated 6 October 2017, the Secretary-General of the International Seabed Authority (ISA Secretary-General and ISA, respectively) informed Mr. Andrew Webster that his request for administrative review of the administrative decision to separate him from service was untimely as it had not been filed within two months from the date of Mr. Webster's receipt of the decision, pursuant to ISA Staff Rule 11.1, and that, therefore, there was no basis for the ISA Secretary-General to review his decision.
2. On 7 November 2017, Mr. Webster submitted a Statement of Appeal to the Joint Appeals Board of ISA (JAB) challenging the ISA Secretary-General's decision not to review the administrative decision to separate him from service.
3. The JAB issued its Report on 3 May 2018, deciding that Mr. Webster's appeal was receivable and recommending that the ISA Secretary-General address Mr. Webster's request for administrative review on an urgent basis. By letter dated 16 May 2018, the ISA Secretary-General informed Mr. Webster that he had decided not to follow the JAB's recommendation and to reaffirm his administrative decision to separate him from service.
4. On 6 June 2018, the JAB issued Procedural Order No. 1, by which it determined that the ISA Secretary-General's reply on the substance of the appeal was due on 29 June 2018. The JAB also noted that "while its eventual recommendation on the substance will be

recommendatory, its decision on receivability is final”. According to Mr. Webster, the ISA Secretary-General filed his reply on the merits on 6 July 2018.

5. On 23 July 2018, Mr. Webster filed before the Appeals Tribunal a request for suspension of time to file an appeal against the ISA Secretary-General’s 16 May 2018 decision which reaffirmed his administrative decision to separate Mr. Webster from service. In support of his request, Mr. Webster contends that his appeal before the JAB is still pending and that he is concerned that if he files an appeal before the Appeals Tribunal now, the ISA Secretary-General will request a suspension of the JAB process.

6. Mr. Webster also submits that it is in the interests of efficiency and justice that the JAB first render its decision on the merits of the appeal so that the same panel of Appeals Tribunal judges may deal with both appeals (receivability and merits) at the same time. He requests that the Appeals Tribunal order the suspension of the 15 August 2018 deadline and declare that the time limit to file an appeal from the decision shall be 90 calendar days of the receipt by the appealing party of “the decision of the JAB on the merits”.

7. ISA Staff Rule 11.3(b) provides:

An appeal may be filed by either party within 90 calendar days of the receipt of the decision by the Secretary-General based on the report of a panel of the Joint Appeals Board, or within ninety calendar days of the receipt of the report of a panel of the Joint Appeals Board if the Secretary-General has not made a decision on the report within a period of 14 days after the date on which the report was submitted to him or her. An appeal shall not be receivable by the United Nations Appeals Tribunal unless the deadline has been met or has been waived or suspended by the Appeals Tribunal.

8. The Appeals Tribunal has held that where a first instance body renders separate judgments on receivability and on the merits, an appeal should be filed only after the final judgment has been rendered.<sup>1</sup> In light of the foregoing, the time limit to file an appeal against the ISA Secretary-General’s decision of 16 May 2018 only starts to run from the day Mr. Webster receives the ISA Secretary-General’s decision on the merits, based on the JAB Report, or, if the Secretary-General makes no decision on the report within a

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<sup>1</sup> *Fiala v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-516, paras. 32-33; *Hunt-Matthes v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-444, paras. 21 to 24.

period of 14 days after the date on which the report was submitted to him. There is therefore no need for the Appeals Tribunal to rule on the present motion.

**IT IS HEREBY ORDERED** that Mr. Webster's motion for suspension of time **IS MOOT**.

Original and Authoritative Version: English

Dated this 24<sup>th</sup> day of July 2018  
in Port of Spain, Trinidad & Tobago.

*(Signed)*  
Judge Deborah Thomas-Felix,  
Duty Judge

Entered in the Register on this 25<sup>th</sup> day of  
July 2018 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar