



## Introduction

1. By application filed on 7 February 2012, the Applicant requests the Tribunal to suspend the implementation, pending management evaluation, of the decision whereby the Income Tax Unit, United Nations Secretariat, billed him USD52,596 for the tax year 2007 and required him to use his foreign income tax credits in filing his US tax return for 2011.

## Facts

2. The Applicant is a national of the United States of

Income Tax Unit in 2007, 2008, 2009 and 2010 requiring the use of his wife's foreign income tax credit to offset his US tax liability for those years.

7. On the same day, he filed the present application for suspension of action. Following the Tribunal's directions, the Respondent transmitted his reply on 13 February 2012.

#### Parties' contentions

8. The Applicant's contentions may be summarized as follows:

##### Prima facie unlawfulness

a. In 2007 the Organization has forced the Applicant to use his wife's foreign income tax credit to offset his US tax liability, in violation of the



b. In view of the above, the Applicant did not submit his request for management evaluation within the statutory time limit. The application is therefore time-barred;

c. Whilst the Applicant claims that he “contested this conclusion and entered into lengthy informal discussions with people from the ICTY Financial Section and personnel from the UN Income Tax Unit in New York”, the Tribunal has made clear that informal resolution may result in the extension of the deadlines for filing an application with the Tribunal



16. Article 2.2 of the Tribunal's Statute provides:

The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

17. Under the circumstances described in paragraph 15, it cannot be said that there is any particular urgency in suspending the first contested decision. Consequently, at least one of the three cumulative conditions required by article 2.2 of the Statute to grant suspension of action is not met in the present case.

18. As to the second decision, the application is not receivable either. Indeed, it is related to the Applicant's next tax statement, i.e., that for tax year 2011. The latter hence concerns a future dispute on the use of foreign tax credits. In this regard, it is not incumbent on the Tribunal to pronounce itself on forthcoming disputes. In any case, this decision has not been challenged in the Applicant's request for management evaluation.

19. In light of the foregoing, the Tribunal cannot but conclude that the present application is irreceivable ,M-cKYMReBh,K-KpHh,q-KKFh,HY-HqRcvMRhBhv-qHvcc,ReBBhv-qY7q,qR,

Entered in the Register on this 14<sup>th</sup> day of February 2012

(Signed)

Anne Coutin, Officer-in-Charge, Geneva Registry