Cases No.:

UNITED NATIONS DISPUTE TRIBUNAL

\$%&g ' e() No. UNDT/201 /104

Introduction

1.

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!. O(10 \$\%.+ 2014\%)/e C/-ef\% Co'9e(sa)-o(a(& C.ass-f-:a)-o(Se:)-o(?@CCSAB& 2% 'a(Reso\%,:es Po.-:+ Se,0-:e ?@2RPSAB& Off-:e of 2% 'a(Reso\%,:es *a(age'e() ?@O2R*AB& U(-)e& Na)-o(s\% 9,00-&e\&)/e ,es\%.)s of)/e

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11. O(24 * a,:/ 201" a(& " \$%(e 201"8)/e D-s9%)e T,-7%(a. -ss%e&8 ,es9e:)-0e.+8 S% ' 'a,+ \$%&g 'e()s Mullick, Gurudutta, Jaishankar, Varghese, Berry UNDT/201"/028 a(& Bharati UNDT/201"/04"8 >/e,e7+ -) :o(s-&e,e&)/e 'o)-o(s as -(:o '9.e)e a99.-:a)-o(s a(& fo%(&)/e ' (o) ,e:e-0a7.e ratione materiae %9o(,e.-a(:e o(Tintukasiri et al. UNDT/2014/02!8 (o)-(g)/a))/e &e:-s-o()o f,ee<e)/e eK-s)-(g sa.a,+ s:a.es a(&)o ,e0-e> a..o>a(:es &o>(>a,& &-& (o) :o(s)-)%)e a(a& '-(-s),a)-0e &e:-s-o(fo,)/e 9%,9ose of a,). 2.1?aB of)/e T,-7%(a.Cs S)a)%)e.

12. B+ \$%&g ' e()s Jaishankar 201!5UNAT5!#2 a(& Bharati 201!5UNAT5!##8)/e A99ea.s T,-7%(a. fo%(&)/a))/-s T,-7%(a. /a& @

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1!. I(a()-:-9a)-o(of)/e :o ' 9.eK-)+ of)/e -ss%es)o 7e a&&,esse&8 a(& 7ea,-(g - ('-(&)/a) a.. a99.-:a()s >/ose :ases /a& 7ee(,e ' a(&e& >e,e se.f5,e9,ese()e&8)/e T,-7%(a. -(s),%:)e& -)s Ge(e0a Reg-s),+)o :o()a:))/e Off-:e of S)aff Lega. Ass-s)a(:e ?@OSLAAB a(& ,e=%es))/a) -) ,ea:/o%))o a.. a99.-:a()s)o assess >/e)/e, -) :o%.& 9,o0-&e .ega. ,e9,ese()a)-o(-()/e 9,o:ee&-(gs. OSLA :o(f-, 'e&)/a) -) >o%.&)aEe (e:essa,+ a:)-o(-()/-s ,es9e:).

1F. B+ O,&e, No. 114 ?GVA/201FB of 1F * a+ 201F8)/e T,-7% (a.8 inter alia8 o,&e,e&)/e Res9o(&e())o 'aEe a&&-)-o(a. s%7'-ss-o(s o()/e -ss%e of)/e a99.-:a)-o(sC,e:e-0a7-.-)+ ?see 9a,as. 11)o 1" of)/e O,&e,B. A&&-)-o(a..+8)/e T,-7% (a. ,e=%es)e&)/e A99.-:a()s)o -(fo,'-)-f)/e+ /a& 7ee(s%::essf%. -(,e)a-(-(g OSLA,e9,ese()a)-o(a(&9,o0-&e&)/e'->-)/ a &ea&--(e)o f-.e:o''e()s o()/e fo,)/:o'-(g Res9o(&e()Cs a&&-)-o(a. s%7'-ss-o(.

- 18. O(1 \$%(e 201F8 OSLA :o(f-, 'e&)o)/e T,-7%(a.)/a))/e A99.-:a()s8)oge)/e, >-)/ a(o)/e, !# a99.-:a()s >-)/ -&e()-:a. :ases 9e(&-(g 7efo,e)/e T,-7%(a.8 /a& ,e)a-(e& -)s se,0-:es.
- 1 . T/e Res9o(&e() f-.e& /-s ,es9o(se)o O,&e, No. 114 ?GVA/201FB o(\$%(e 201F.

20.

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e. T/e:o()es)e& &e:-s-o(-s a(a& ' -(-s),a)-0e &e:-s-o(affe:)-(g)/e)e, 's of a99o-()'e() of)/e A99.-:a()sL -) -s (o(5:o'9.-a

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E.

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:o(0e,s-o(s/e > as 9.a:e& a))/e >,o(g g,a&e. Pedicelli &-& (o) -(0o.0e a @:/a..e(ge)o)/e e(a:)' e()/s:a.e -)se.fA.

Consideration

- 2!. T/e -ss%e of a(a99.-:a)-o(Cs ,e:e-0a7-.-)+ -s a 'a))e, of .a>)/a) 'a+ 7e assesse& e0e(-f (o) ,a-se& 7+)/e 9a,)-es ?see Gehr 201#5UNAT5#1#8 #hristensen 201#5 UNAT5##"B. 6%,)/e, 'o,e8 -(#hristensen)/e A99ea.s T,-7%(a. /e.&)/a)@)/e $\mathbb{H}D$ -s9%)e T,-7%(a.I -s :o '9e)e())o ,e0-e> -)s o>(:o '9e)e(:e o, \mathbb{D} ,-s&-:)-o(-(a::o,&a(:e>-)/ A,)-:.e 2?!B of -)s S)a)%)eA >/e(&e)e, '-(-(g)/e ,e:e-0a7-.-)+ of a(a99.-:a)-o(.
- 2F. T/e,efo,e% a.)/o%g/)/e Res9o(&e() o(.+ ,a-se&)/e -ss%e of ,e:e-0a7-.-)+ ratione materiae%)/e T,-7%(a. >-.. a.so eKa '-(e)/e -ss%e of ,e:e-0a7-.-)+ ratione tem\$oris.

%ecei&ability ratione tem\$oris

28. I(-)s O,&e,s No. 124 ?GVA/201!B a(& No. 12 ?GVA/201!B 70)/ of

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#!. P%,s%a())o s)aff ,%.e 11.2?7B8)/e,e a,e o(.+)>o s-)%a)-o(s >/e,e)/e ,e=%-,e'e())o ,e=%es) 'a(age'e() e0a.%a)-o(&oes (o) a99.+: &-s:-9.-(a,+ :ases a(& &e:-s-o(s)aEe(9%,s%a())o a&0-:e o7)a-(e& f,o')e:/(-:a. 70&-es as

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* EU -(o(e o,)>o :ases &oes (o) :o(s)-)%)e a :o(s-s)e() a(& :o/e,e()

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- 4F. T/e T,-7%(a. %(&e,s)a(&s)/a) -) -s)/e Se:,e)a,+5Ge(e,a.Cs eK:.%s-0e 9,e,oga)-0e)o .eg-s.a)e a(&)o &ef-(e > /a) @)e: /(-:a. 7o&-esA a,e% as /e ,e:e().+ &-&%)/,o%g/)/e U(&e,5Se:,e)a,+ Ge(e,a. fo, *a(age 'e()% -(ST/AI/2018/F.
- 48. T/e A99ea.s T,-7%(a. /a&)/e sa'e 0-e> -(-)s \$%&g'e() Gehr UNAT5201454F \$ >/e,e -) /e.&)/a):
 - 2". T/e,e >as (o e0-&e(:e 7efo,e)/e D-s9%)e T,-7%(a. ?(o, 7efo,e)/-s T,-7%(a.B)/a))/e Se:,e)a,+5Ge(e,a. /a& 'a&e a &e)e, '-(a)-o(9%,s%a())o S)aff R%.e 11.2?7B &es-g(a)-(g ,e7%))a. 9a(e.s as @)e:/(-:a. 7o&-esA.
 - 2!. I()/e a7se(:e of s%:/ &es-g(a)-o(a(& /a0-(g ,ega,&)o)/e s9e:-f-: 9,00-s-o(s of S)aff R%.e 11.2?7B a(&)/e o0e,a,:/-(g ' 9o,) of S)aff R%.e 11.2?aB ?es9e:-a..+ >/e(,ea&)oge)/e, >-)/ A,)-:.e 8?1B?:B of)/e D-s9%)e T,-7%(a. S)a)%)eB\$)/e A99ea.s T,-7%(a. f-(&s

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#2. As fo, a.. eK:e9)-o(s%)/ese s-)%a)-o(s '%s) 7e -()e,9,e)e& ,es),-:)-0e.+. T/e 9,00-s-o(s 'a+ (o) 7e -()e,9,e)e& 7,oa&.+ s%:/ as)o :o(:.%&e% fo, eKa '9.e%)/a) a(+)e:/(-:a. 7o&+:o%.& 7e e=%a)e&)o a @)e:/(-:a. 7o&H+I% as &e)e, '-(e& 7+)/e Se:,e)a,+5Ge(e,a.A

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"!. Base& o()/e a7o0e%)/e T,-7%(a. f-Base o(o oe