

ARBITRATION UNDER THE UNCITRAL RULES

PCA CASE NO. 2010-21 / DUN-BZ II

DUNKELD INTERNATIONAL INVESTMENT LTD (CLAIMANT)

v.

THE GOVERNMENT OF BELIZE (RESPONDENT)

ORDER NO. 3

8 FEBRUARY 2011

CONSIDERING:

- (A) Paragraph 7.1(b) of Order No. 2, which states that: “Respondent [shall] indicate by 21 January 2011 whether or not it wishes to provide a Statement of Defence.”
- (B) That Respondent failed to indicate whether or not it wishes to provide a Statement a Defence in these proceedings;
- (C) The Arbitral Tribunal’s letter of 3 February 2011, (i) noting that Respondent has not indicated whether or not it wishes to provide a Statement of Defence; and (ii) requesting the Parties to comment on Respondent’s failure to indicate whether or not it wishes to provide a Statement of Defence on or before Monday, 7 February 2011;
- (D) Claimant’s letter of 7 February 2011, stating that in light of Respondent’s failure to indicate whether or not it wishes to provide a Statement of Defence, Claimant wishes to proceed in accordance with paragraph 7.1(c) of Order No. 2;
- (E) Paragraph 7.1(c) of Order No. 2, which states that: “Failing any such positive indication by Respondent, a two day hearing for consideration of all aspects of Claimant’s claims shall take place on 14-15 March 2011.”
- (F) That to date Respondent has not commented on its failure to indicate whether or not it wishes to provide a Statement of Defence in these proceedings;

- (G) Paragraphs 7.1(d) and (e) of Order No. 2, which state that: “In the event that Respondent wishes to serve a Statement of Defence referred to in paragraph 7.1b) above [of Order No. 2], the further sequence and timing of the proceedings shall be the following: Respondent’s Statement of Defence to be served by 14 February 2011.”
- (H) Paragraph 4.1 of Order No. 2, which state that: “Pursuant to Article 16(1) of the UNCITRAL Rules, the Tribunal has determined that The Hague, The Netherlands, is the place of this arbitration.”
- (I) Paragraph 10.7 of Order No. 2, which states that: “The hearing shall be held at a locale to be fixed by the Tribunal, in consultation with the Parties, outside the Turks and Caicos Islands and Belize. As provided in Article 16(2) of the UNCITRAL Rules and as contemplated by the Host Country Agreement between the Permanent Court of Arbitration and the Republic of Costa Rica, the Tribunal envisages as locale for the hearing the premises of the Inter-American Court of Human Rights, San Jose, Costa Rica, without prejudice to The Hague being the place of arbitration in the legal sense.”

THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:

1. In accordance with paragraph 7.1(c) of Order No. 2 and failing the submission of a Statement of Defence by Respondent by 14 February 2011, a two day hearing for consideration of all aspects of Claimant’s claims shall take place on 14-15 March 2011.
2. For reasons of cost and time efficiency, the two day hearing referred to in Decision 1 above shall take place in the Peace Palace in The Hague, The Netherlands.

On behalf of the Arbitral Tribunal,



Albert Jan van den Berg,
Presiding Arbitrator