

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. 4

16 FEBRUARY 2011

CONSIDERING:

- (A) Order No. 3, deciding that (i) 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; and (ii) for reasons of cost and time efficiency, the two day hearing referred to in Decision 1 [(i)] above shall take place at the Peace Palace in The Hague, The Netherlands;
- (B) That to date Respondent has not indicated whether or not it wishes to provide a Statement a Defence in these proceedings;
- (C) 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;
- (D) That to date Respondent has not submitted a Statement of Defence in these proceedings;
- (E) All previous correspondence sent by the Arbitral Tribunal in these proceedings to the Parties with proof of receipt by both Parties: the letter of the Arbitral Tribunal of 15 November 2010; the letter of the Arbitral Tribunal of 6 December 2010; the letter of the Arbitral Tribunal of 16 December 2010; the letter of the Arbitral Tribunal of 20 December 2010; Order No. 1 issued by the Arbitral Tribunal on 21

December 2010; Order No. 2 issued by the Arbitral Tribunal on 17 January 2011; the letter of the Tribunal of 3 February 2011; Order No. 3 issued by the Arbitral Tribunal on 8 February 2011;

- (F) Article 28(1), second sentence of the UNCITRAL Rules, stating “If, within the period of time fixed by the arbitral tribunal, the respondent has failed to communicate his statement of defence without showing sufficient cause for such failure, the arbitral tribunal shall order that the proceedings continue”;
- (G) The Arbitral Tribunal’s findings that due to the lack of any communication from Respondent in these proceedings, Respondent has not shown sufficient cause for its failure to communicate its Statement of Defence;

THE ARBITRAL TRIBUNAL HEREBY DECIDES AS FOLLOWS:

1. Pursuant to the provisions of Article 28(1), second sentence of the UNCITRAL Rules, the Tribunal orders that the proceedings shall continue.

On behalf of the Arbitral Tribunal,



Albert Jan van den Berg,
Presiding Arbitrator