
TRIBUNAL
DU CONTENTIEUX ADMINISTRATIF
DES NATIONS UNIES

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Français
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Greffé : Nairobi

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Sqwu-Sget²vcktg i²p²tcng « nc iguvkqp fgu tguuqwtegu jwocckpgu, ocku gpeqtg

ocpswg « icipgt uwt ng rncp fg nc t²owp²tcvkqp eqpukf²t²g cwz hkpu fg nc rgpukqp. Sgu rtgucvkqpu fg tgvckvg uqpv « ecnewngt uwt nc dcug fg ugu vtqku fgtpk³tgu cpp²gu fg ugtxkeg. Enng c rtku uc tgvckvg ng 31 lcpkgt 2015, eøguy-«-fktg cxcpv swg uc rtqo qvkqp pg rkwuug rtqfwktg uqp rngkp ghgv uwt ng pkxgcw fg uc rgpukqp.

33. Lc tgs^wtcpvg uqwkqpv swg, ocnit² ng xgtugogpv fg nøkpfgopkv² fg hqpevkqpu, rqt nc r²tkqfg qÁ gmg²vckv t²owp²t²g « nc encuug P-5 cnqtu swøgnng qeewrckv wp rquvg fg pkxgcw D-1, ngu eqvkucvkqpu fg tgvckvg rtkugu gp eqpukf²tcvkqp uqpv kph²tkgwtgu « eg swøgnngu cwtckqpv fÁ²vtg, gp xkqncvkqp fw rtkpekrq fg nø²icnk² fg t²owp²tcvkqp rqt wp vtexckn fg xcngwt²icng, eg swk c f²engpej² nøqdnkicvkqp fg nøAf okpkvutcvkqp fg tgo²fkg « nc ukvwcvkqp.

- -

rt²ugpv²g ret nc tgs²tcpvg gp xwg fg nōqdv²gvkqp fōwpg f²ekukqp fkuet²vkppcktg gp uc hcxgwt; ng Ttkdwpn pōc rcu rqt t^{1/2}ng, eqo og nōc fkv ng Ttkdwpn fōcrrgn fcpu nōchhcktg¹⁷, fg uwdvkvwt uc rtqrtg f²ekukqp « egng fg nōqticpg f²ekfgwt. Cqo og nōc lwi² ng Ttkdwpn fōcrrgn fcpu nōchhcktg¹⁸, nc swgukqp fg ucxqt uōkn gzkuv² fg ekteqpuvcp²egu lwvkhkcpv wpg f²tqicvkqp cw R³ingogpv fw rgtuqppgn fgxtckv 'vtg gzcokp²g cw ecu ret ecu.

e. Lc ugng swgukqp swk ug rqug cw Ttkdwpn guv egng fg ucxqt uk ng rquxqt fkuet²vkppcktg gp ecwug c^{2v2} gzte² fg ocpk³tg t²iwk³tg, tcvkppgng gv eqphqt og « nc rtq²fwtg crrnkedng gv uk uqp gztekeg pōg²gv gvce² fōcwepg hqt og fōcdwu fg rquxqt, vgn swg nc xkqncvkqp fw rtkpe²rg fg nc dppg hqk fcpu ngu t²rrqt²vx cxge ngu hqpevkppcktg, fg rctvk rtku, fōctdkvtcktg qw fg swgswg cwvtg xkeg; gp fōcwvtg vgtogu, egng fg ucxqt uk eg rquxqt c^{2v2} gzte² eqttgevg ogpv.

f. Hqto ku nc fkurqvkqp i²p²teng cwvtkucpv ngu f²tqicvkqp cw R³ingogpv fw rgtuqppgn, tkgp fcpu ngu t³ingu gv t³ingogpvu fg nōOticpkucvkqp t²ikuucpv nōg o rnk fg hqpevkppcktg pg rgtogv fg fppgt wp ghgv t²vtqcevh « wpg rtqo²vkqp. Lg vgzvg t²ikuucpv nc pqokpvkqp fw rgtuqppgn guv nōkpvtwevkqp cfokpvtcvkxg [ST/AI/2010/3](#) (S{uv³og fg u²ngevkqp fw rgtuqppgn}), swk fkurqg cw rctciterjg 2 fg nc ugevkqp 10 swg nc f²ekukqp hkpcng rtgpf ghgv cw oqogpv qÁ gng guv eqo owpksw²g « nōkp²tguu². Lqtuswōgng gorqtvg rtqo²vkqp fg egwk-ek « wpg encuug uwr²tkwtg, egvg rtqo²vkqp rtgpf ghgv ng rtgokt lwt fw o²ku uwxcpv nc fcvg « ncswgng gng guv rtkug, uquw t²ugt²xg swg ng rquv uqkv fkurqpkdng gv swg ngu hqpevkqp swk uō{ cvcejgpv uqgpv fōwp rnuw jcwv pkxgcv.

g. M'og uk vqvwgu ngu eqpfvkqp fg nc fkurqvkqp 12.3 d) rgtogvcpv fg f²tqigt cw R³ingogpv fw rgtuqppgn uqpv tgorng, nc swgukqp rqu²g tguv egng fg nōgzgkeg fw rquxqt fkuet²vkppcktg ret ng Sget²vcktg i²p²tcn : ng hqpevkppcktg pōc cwewp ftqkv fōgzkigt wpg f²tqicvkqp gp xgtv fg egvg fkurqvkqp.

h. Lc fgocpfg fg f²tqicvkqp cw R³ingogpv fw rgtuqppgn rt²ugpv²g ret nc tgs²tcpvg c^{2v2} gzcokp²g ret nc Squw-Sget²vcktg i²p²teng « nc igukqp fg tguuqwt²egu jwocp²gu, eqo og ng terrngng egng-ek fcpu uc ngvtg fw 27 h²xtkgt 2014. Ep rctkewngt, ngu fkurqvkqp fg t³ingu gv t³ingogpvu fg nc Cckuug eqo owpg fg rgpukqp fw rgtuqppgn fg Ncvkqp Upk²gu qpv^{2v2} gzcokp²gu gv kn crrgtv swōgng pōcwvtkugpv rcu ngu eqvkucvkqp cxge ghgv t²vtqcevh. Ep qwtg, crt³u eqpuwncvkqp, nc Cckuug c kpfksw² swōwpg vgng rtqo²vkqp cxge ghgv t²vtqcevh gpvtc,pgtckv fg htcku cewctkgnu gv fg kpv²t'vu.

i. Dcpu nōgzgkeg fg uqp rquxqt fkuet²vkppcktg, nc Squw-

Sgnqp nc fkurqvkqkq 3.10 fw R³ingogpv fw rgtuqppgn, ngu hqpevkqppcktgu rgwxgpn, f0wpg ocpk³tg i²p²tcng, vtg vgpwu f0gzgtegt fgu hqpevkqpu fg pkxgcw uwr²tkgwt, o'og ucpu t²owp²tcvkqpw uwr²ogpvcctg, gv eg p0guy swg fcpu fgu ekteqpuvcegu gzegrvkqppgnngu sw0knu rgwxgpn tgegxt, 0 « eqorvgt fw swcvtk³og oqku qA kn[u] gztteg[pu] ngu hqpevkqpu rnuw ²ngx²gu i, wpg kpfgo²pkv² fg hqpevkqpu swk p0gpvtg rcu fcpu ng ecnewn fg nc t²owp²tcvkqpw eqpukf²t²g cwz hkpu fg nc rgpukqpw. M. Enok c{cpv vqwej² wpg vgnng kpfgo²pkv² « eqorvgt fw tgencuugogpv fg uqp rquvg, kn c f²1« qdvgnw wpg 0 t²owp²tcvkqpw i uwr²tkgwt « egng sw0gpxkucig i²p²tcngogpv nc fkurqvkqkq 3.10 d) fw R³ingogpv fw rgtuqppgn. Ep qwvtg, n0cvtkdvwkqpw f0wp ghgv t²vtqcevk « nc rtqo²vkqpw fg M. Enok cwtckv gw ng o'og ghgv swg ng xgtugogpv f0wpg kpfgo²pkv² fg hqpevkqpu gpvtcpv fcpu ng ecnewn fg nc t²owp²tcvkqpw eqpukf²t²g cwz hkpu fg nc rgpukqpw, eg swg pg rgtogv rcu nc fkurqvkqkq 3.10 d) fw R³ingogpv fw rgtuqppgn.

32. Lg tghwu f0cvtkdwt wp ghgv t²vtqcevk 0 cwz hkpu fg nc rgpukqpw i p0guy rcu eqpvtctg cw rtk p cw . tg

Iwfkecktg uwt ngu f²ekukqpu fw Ttkdwpn fw eqpvpgvkgwz cf okpkuvtevkx, swk fqkv tgeqppc, vtg gv turgvgt uc lwtkurtwfgpeg, gv uø{ eqphqt ogt¹⁹.

45. Ep nøgur³eg, ngu eqpenwukqpu fw Ttkdwpn uqpv ngu uwkxcpvgu :

c. Lc Sqwu-Sget²vcktg i²p²teng « nc iguvkqp fgu tguuqwtegu jwockpgu ²vckv hqpf²g « kpxqswgt, rqtwt tghwugt fg fppgt « nc rtqoqvkkp wp ghgv t²vtqcevkh, ngu rtqdn³ogu ocv²tkgnu gv ngu f²rgpugu uwrn²ogpvtktgu swg rctgkng oguwtg cwtckv gpvtc, p²u, ngu eqvkucvkkp fg tgvtkvg pøc{cpv rcu ²v² rc{²gu gp eqpu²swgpeg.

d. Lg tglv fg nc fgocpfg fg t²vtqcevkkv² rt²ugpv²g ret nc tgs²tcpvg pø²vckv rcu ktt²iwnkgt gp tkuqp fg nc fwt²g fw rtqeguuwu fg u²ngevkqp, ²vcpv fpp² swg nc u²ngevkqp rqtvckv uwt wpg rtqoqvkkp « wp rquvg fg encuug D-1, rqtwt ngswgn nøgzco gp fg ecpfkfcvwtgu gzkigckv ng rnwu itcpf uqk.

e. Lg tghw føceeqtfgt « wpg rtqoqvkkp wp ghgv t²vtqcevkh cwz hkpu fg nc rgpukqp pøguv rcu eqpvtktg cw rtkpekrv fg nø²icnk² fg t²owp²tcvkkp rqtwt wp vtexckn fg xcngw²icng. Cg rtkpekrv pg ukiphkg rcu swg ng hqpevkppctg swk gzgteg fgu hqpevkqpu cvcej²gu « wp rquvg uwr²tkgt c ftqkv cw o´og vtckv ogpv gv « nc o´og rgpukqp swg ng hqpevkppctg fg tcvpi uwr²tkgt gzgt±cpv fgu hqpevkqpu kfgpvksv wu qw ukoknctgu. Lgu fkurqukvkqpu 3.10 c) gv d) fw R³ingogpv fw rgtuqppgn, swk rt²xqkpv ng xgtugogpv føwpg kpfgo²pkv² fg hqpevkqpu pøgpvtcpv rcu fcpu ng ecnawn fg nc t²owp²tcvkkp eqpukf²t²g cwz hkpu fg nc rgpukqp kpectpvpv, gp vqvwg t²iwnctkv², ng rtkpekrv fg nø²icnk² fg t²owp²tcvkkp rqtwt wp vtexckn fg xcngw²icng.

f. Lg tglv fg nc fgocpfg fg t²vtqcevkkv² ²vcpv hqpf² gp ftqkv, nc f²ekukqp cf okpkuvtevkxg gp swgukqp guv eqphkt o²g.

Dispositif

46. Lc tgs²v´vg guv tglv²g fcpu uqp kp²i tcnk².

Aipkv|mc Knppqykgemc-Mknctv, Iwig

Akpuk Iwi² ng 13 Iwkngv 2017

Eptgikuv² cw itghhg ng 13 Iwkngv 2017

Adgpc Kycm{g-Bgtmq, itghhk³tg, Nektqdk

¹⁹ Pctcitrjg 24.