



Case No. UNDT/NBI/2015/112

Order No. 365 (NBI/2015)



13. The identical wording of arts. 13 and 14 contain one critical difference, and that is the stage at which the application for suspension of action is filed. The test for an application under both articles is identical.

14. The current Application must therefore be adjudicated against the stipulated cumulative test.

15. To grant an application for suspension of action, the Tribunal must be satisfied that there is a serious question to be tried on the merits and that damages would not adequately compensate the Applicant in the event that his or her application succeeds at trial. The application would therefore normally fail where a court finds that the payment of damages would be an adequate remedy for the harm suffered.

16. Additionally, a suspension of action application will only succeed where the Applicant is able to establish a *prima facie* case on a claim of right, or where he can show that *prima facie*, the case he has made out is one which the opposing party would be called upon to answer and that it is just, convenient and urgent for the Tribunal to intervene and, without which intervention, the Respondent's action or decision would irreparably alter the *status quo*.

17. In the present case, the court is seized with an Application, pursuant to art. 2.1 (c) of the Statute, for which the Applicant has not filed a request for management evaluation.

18. The Tribunal will now turn to consider the Application before it based on the Parties' submissions.

#### *Receivability*

19. The Respondent challenges the receivability of the Application on the ground that the Court has no jurisdiction to adjudicate this matter as the Applicant has not sought management evaluation.

20. The Applicant submits that applications filed to enforce a settlement agreement pursuant to art. 2.1 (c) and art. 8. 2 of the Statute, read together with





