



Ref: Gw/c7/16/06/2024

Date: 05/03/2024

HOUSE RESOLUTION:

ANNULMENT OF DISPUTED DP WORLD SERVICES AND TARIFFS ON NATIONAL COMPANIES (i.e. NFMC and Oomaar International)



Having studied:-

The legal nature, effect and authenticity relating to a dispute between DP World and NFMC and the different stages it passed through in the past.

Closely examining

The core essence of submitted NFMC complaint and issues central to the dispute;

Having heard:-

The Ad Hoc committee report and importance of securing further information and facts relating to the conflict and the reports of all appropriate ministries, agencies and institutions relevant to the dispute shedding further light on concerns raised with whom the ad hoc committee met, such as:

1. Somaliland Chamber of Commerce, Industry and Agriculture
2. Minister for finance Development
3. Minister of Employment, Social Affairs, and Family Welfare (who was the General-Manager of Berbera Port at the incidence of the dispute)
4. The Solicitor-General
5. Port and Free Economic Zone BoD, and
6. General-Manager of the Port of Berbera (incumbent)

Assessing:-

How critical it was to closely study the nature and stages the disembarkation/discharge of NFMC bulk cargo went through and the core role(s) which DP World porters had in the process, the House Committee toured the port of Berbera on 23/09/2023 during which it closely inspected the whole offloading and portage operation

Taking into account:-

The operational processes pertinent to the tariffs laid down by Article 12 (under 'currency indemnity') and Article 15.2 of (Part 2 of Articles of Association of the Shareholders'

Agreement of 2018) detailing the stages and processes to be followed once a dispute arose between the two principals of the agreement or which involved a third party (outside the government and the DP World)

Having been satisfactorily convinced:-

By all the pertinent facts gathered relating to the views of the disputing parties

SUBMITTED TO VOTE

The below- noted resolution at the House of Representatives 'at its 18th panel session of its 7th sitting on 03/03/2023 where 63 MPs were present at the conclusion of which 40 MPs approved, 8 abstained and 14 voted against with the presiding Chair not casting his vote, approved:

HOUSE RESOLUTION

1. The House concurs the conclusions and decisions of the various committees the president nominated to look into the dispute between NFMC and DP World Berbera
2. The House Corroborates the surmise that the Geelle porters can only be paid for services rendered on behalf of DP World which is in line with Article 20(3) of the Constitution of the Republic of Somaliland stating 'All employees have a right to payment appropriate to the work they undertake and are free to enter into agreements with their employers on an individual or collective basis. Forced labor is prohibited' which eliminates compensation for services not rendered and on pressuring an employer to pay more than that is due to an employee/worker/service provider
3. The House declares that NFMC is not bound to pay portorage charges since no portorage services has been rendered
4. House resolves that DP World refund/recompensate NFMC the portorage charges it previously levied it and funds that the government compensated NFMC from its own coffer in full
5. Geelle (quay) porters be awarded a compensation commensurate with workload clocked in collecting, packing and loading quayside spillages in accordance with the (DP World) set tariff charges of US\$3.5 per ton
6. Notifies that DP World respect/comply with Article 12 of its agreement with the government relating to tariffs with charges directly corresponding with and covering services rendered/delivered only
7. House emphasizes that DP World comply with the conclusions and decisions of the different government institutions and committees relating to this dispute and that, if it is not satisfied with them, appear before the London Court of International Arbitration where NFMC has filed its complaint as set forth by Article 28(1 and 2) of the Constitution of the Republic of Somaliland which is concurred by Article 15.2 of the (Shareholders') Agreement which obliges DP World to acknowledge and sign the formal notice submitted it by the attorneys of the NFMC which the Solicitor General formally forwarded to DP World within 30 days from delivery at which failure on the part of DP World NFMC will have the right to initiate/file suit a case against DP World in the appropriate/competent national courts.
8. The House supports that DP World is legally obligated to respond to arbitration when a dispute arises in accordance with article 15.2 of the Concession Agreement it entered with the government of Somaliland, and that it cannot unilaterally decline complaints raised against it; and that the concession agreement with Somaliland does not offer an immunity against disputes or calls of attendance in front of the Parliament since DP World possesses a legal personality which endows it the right to file suit against

parties or be sued for transgression in accordance with Article 28 of the Constitution of the Republic of Somaliland

9. Finally, the House advises the House Committee on Justice and Legal Affairs to follow up on the due implementation/execution of the conclusions/decision reached here and to report back to the House in due time

Secretary-General of the House of Representatives
Of the Republic of Somaliland
Abdirizak Saeed Ayaanle

The First Deputy Speaker & Acting Speaker
of the Somaliland House of Representatives

The Rt Hon. Saeed Mire Farah 'Giirre'

