#### Introduction

1. By a !"#at"on f"!ed on 2\$ De#em%e& 2012' t(e A !"#ant' a ) ega! Affa"&s \*ff"#e& +P,4- at t(e \*ff"#e of t(e D"&e#to&' D"."s"on of /nte&nat"ona! T&ade "n Goods and 0e&."#es and Commod"t"es +1D/TC2-' Un"ted Nat"ons Confe&en#e on T&ade and De.e!o ment +1UNCTAD2-' #ontests t(e de#"s"on not to "n#!ude ("m "n t(e s(o&t!"st of #and"dates "nte&."e3ed fo& a P,4 ost of 0en"o& 5#onom"# Affa"&s \*ff"#e&' UNCTAD' Va#an#y Announ#ement +1VA2-No. 10,5C\*,UNCTAD,14\$46,7,G5N5VA+1t(e #ontested ost2-.

#### Facts

2. \*n 24 No.em%e& 2010' t(e #ontested ost 3 as ad.e&t"sed "n Inspira' and t(e A !"#ant a !"ed fo& "t on 1\$ Janua&y 2011. T(e VA ment"oned t(at t(e ost 3 as !o#ated "n t(e T&ade Negot"at"ons and Comme&#"a! D" !oma#y B&an#(+1TNCDB2-' D/TC' UNCTAD' and !"sted t(e fo!!o3"ng #om eten#"es& 1 &ofess"ona!"sm2' 1#ommun"#at"on2' 1 !ann"ng and o&gan"9"ng2' 1manag"ng e&fo&man#e2 and 1!eade&s(" 2. T(e &e:u"&ed 3 o&; e< e&"en#e #ons"sted "n

1=A>t !east 10 yea&s of &og&ess".e!y &es ons"%!e ost,g&aduate e< e&"en#e at t(e nat"ona!/"nte&nat"ona! !e.e! dea!"ng 3"t( ana!yt"#a! 3 o&; on t&ade and de.e!o ment "ssues and "nte&nat"ona! t&ad"ng system' t&ade o!"#y fo&mu!at"on and "m !ementat"on' t&ade,&e!ated te#(n"#a! #oo e&at"on a#t"."t"es and mon"to&"ng and e.a!uat"on. Demonst&ated #a a#"ty fo& !eade&s(" and &es ons"%"!"ty. 5< e&"en#e of 3 o&; 3"t( go.e&nment off"#"a!s' "n a&t"#u!a& 3"t( t(ose f&om de.e!o "ng #ount&"es' and ot(e& "nte&go.e&nmenta! o&gan"9at"ons2.

6. /n tota!' 6? a !"#at"ons 3e&e su%m"tted %y t(e &es ons"%!e @uman 7esou&#es \*ff"#e& to t(e @"&"ng Aanage& +1@A2-' t(e @ead' TNCDB' D/TC' UNCTADB s"< a !"#ants 3"t(d&e3 t(e"& a !"#at"on du&"ng t(e &e#&u"tment &o#ess.

4. U on assessment %y t(e @A' s"< #and"dates ot(e& t(an t(e A !"#ant 3 e&e "n"t"a!!y s(o&t!"sted and "n."ted fo& a #om eten#y,%ased "nte&."e3. T(e @A (ad dete&m"ned t(at t(e A !"#ant d"d not meet a!! t(e &e:u"&ements of t(e ost' "n a&t"#u!a& 3"t( &es e#t to 3 o&; e< e&"en#e. To Cust"fy (e& de#"s"on' t(e @A 3 &ote "n Inspira&

- \$. Do!!o3"ng &e#e" t of t(e #!a&"f"#at"ons' t(e C7B endo&sed t(e &e#ommendat"on &esented to "t' and on 22 June 2012' "ts a &o.a! 3 as su%m"tted to t(e 0e#&eta&y,Gene&a! of UNCTAD' not"ng t(at (e #ou!d &o#eed 3"t( t(e f"na! se!e#t"on' 3 ("#( (e d"d.
- 9. By e,ma"! of 29 June 2012' t(e @ A "nfo&med t(e A !"#ant of t(e de#"s"on to se!e#t anot(e& #and"date fo& t(e #ontested ost. By e,ma"! of 22 Ju!y 2012 and su%se:uent &em"nde& of \$ August 2012' t(e A !"#ant &e:uested feed%a#; f&om t(e @ A on ("s non,se!e#t"on' "n#!ud"ng t(e &eason 3 (y (e (ad not %een "n."ted fo& an "nte&."e3.
- 10. \*n 21 August 2012' a gene&"# e,ma"! 3 as sent to t(e A !"#ant f&om t(e a##ount ("&"ngGde a&tmentHun.o&g' "nfo&m"ng ("m t(at ("s a !"#at"on fo& t(e #ontested ost 1=3 ou!d> not %e #ons"de&ed fu&t(e&2.
- 11. \*n 24 August 2012' t(e A !"#ant &e: uested adm"n"st&at".e &e."e3 of t(e de#"s"on to se!e#t anot(e& #and"date fo& t(e #ontested ost.
- 12. By !ette& of 9 \*#to%e& 2012 f&om t(e Unde&,0e#&eta&y,Gene&a! fo& Aanagement' #ommun"#ated to t(e A !"#ant %y e,ma"! of 11 \*#to%e& 2012' t(e !atte& 3 as "nfo&med t(at t(e #ontested de#"s"on 3 as u (e!d.
- 16. \*n 2\$ De#em%e& 2012' t(e A !"#ant su%m"tted ("s a !"#at"on to t(e T&"%una!. /n ("s su%m"ss"on' (e &e:uested t(e T&"%una! to o&de& t(e 7 es ondent to &o."de do#uments &ega&d"ng t(e se!e#t"on &o#ess.
- 14. \*n 2 Janualty 2016' t(e a !"#at"on 3 as sel.ed on t(e 7 es ondent and on

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assessment t(at on!y ("s ass"gnment 3"t( t(e \*ff"#e of t(e D"&e#to& of D/TC 3 as &e!e. ant 3 as "n#o&&e#t' on t(e #ont&a&y' (e (as 22 yea&s of ost,g&aduate e< e&"en#e on t&ade "ssuesB

- #. @"\lambda"ng Aanage\lambdas (a.e no su\central cett".e d"s#\lambdaet"on "n de#"d"ng 3 (et(e\lambda t(e e< e\lambda"en#e of a !"\text{#ants} 3 (o (a.e assed t(e \lambdae,s\text{seen"ng \lambdao\text{eess}"s sat"sfa\text{sfa\text{#to}\lambday} o\lambda not\text{B} t(ey \text{#an on!y} !a\text{#e a !"\text{#ants} on t(e 1\text{not},su"\text{ta\text{\$\text{!e}\$!"st2}} \text{\text{assed on } } 3o\lambda; e< e\lambda"en\text{"en\text{\$\text{#e}\$} "f" 1as a matte\lambda of o\lambda ce\text{"t" .e fa\text{\$\te
- d. T(e #&"te&"a set "n t(e VA 3e&e a !"ed "n a mo&e !en"ent 3ay to t(e su##essfu! #and"date 3"t( &ega&d to t(e &e!e.an#e of (e& 3o&; e< e&"en#e&

- 20. T(e 7es ondentFs &"n#" a! #ontent"ons a&e8
  - a. T(e se!e#t"on &o#ess 3 as #o&&e#t!y #a&&"ed outB t(e de#"s"on of t(e @ A not to "n."te t(e A !"#ant to an "nte&."e3 3 as !a3fu! and Cust"f"ed on o%Ce#t".e g&ounds& ("s 3 o&; e< e&"en#e does not fu!f"! t(e &e:u"&ements st" u!ated "n t(e VA as (e 1does not (a.e t(e &e:u"&ed 10 yea&s of &og&ess".e!y &es ons"%!e ost,g&aduate e< e&"en#e at t(e nat"ona!/"nte&nat"ona! !e.e! dea!"ng 3"t( ana!yt"#a! 3 o&; on t&ade and de.e!o ment "ssues and "nte&nat"ona! t&ad"ng system' and t&ade o!"#y fo&mu!at"on and "m !ementat"on2B (e (as on!y one yea& and e!e.en mont(s of &e!e.ant e< e&"en#e and ("s a&ea of 3 o&; e< e&"en#e "s 1ma"n!y !a3/"nte&nat"ona! t&ade !a32;
  - %. T(e @A assessed t(e #and"dates "n #onfo&m"ty 3"t( t(e a !"#a%!e &o."s"ons' and 1"n t(e #ase of t(e A !"#ant s(e dete&m"ned t(at ("s a#adem"# and !anguage s;"!!s 3e&e sat"sfa#to&y %ut t(at ("s &e."ous 3o&; e< e&"en#e 3 as on!y a&t"a!!y sat"sfa#to&y2' t(e&efo&e' 1t(e o.e&a!! &at"ng 3 as I a&t"a!!y sat"sfa#to&yF 3("#( !ed to t(e #on#!us"on t(at t(e A !"#ant 3 as not su"ta%!e fo& t(e os"t"on2' and (en#e (e 3 as 1 not "n."ted to a #om eten#y %ased "nte&."e32B su#( an assessment 3 as 3"t("n t(e @AFs %&oad d"s#&et"ona&y o3e&B

- e. T(e se!e#ted #and"date meets a!! t(e &e:u"&ements set fo&t( "n t(e VA fo& t(e #ontested ost and 3 as t(e 1on!y su"ta%!e #and"date fo& t(e os"t"on2B t(e &"n#" !e of 1e:ua! t&eatment2 a !"es on!y 1"n #om a&a%!e s"tuat"ons' 3 ("#( (a.e not %een demonst&ated o& su%stant"ated %y t(e A !"#ant2' as t(e su##essfu! #and"dateFs e< e&"en#e "s 1not #om a&a%!e2 to ("sB fu&t(e&mo&e' 1t(e &"n#" !e of e:ua! t&eatment may not %e &e!"ed on fo& t(e u& ose of &e:uest"ng e:ua!!y "na &o &"ate o& "!!ega! t&eatment2B
- f. T(e C7B 1d"d not &e:uest fu&t(e&s e#"f"# #!a&"f"#at"ons 3"t( &ega&d to t(e A !"#antFs #ase %ut 3 as sat"sf"ed t(at ("s #and"datu&e (ad %een e.a!uated on t(e %as"s of t(e &e,a &o.ed e.a!uat"on #&"te&"a and t(at t(e a !"#a%!e &o#edu&e (ad %een fo!!o3ed2B
- g. T(e a !"#at"on s(ou!d %e &eCe#ted "n "ts ent"&ety.

### Consideration

## Scope of the application

21. At t(e outset' t(e T&"\u00fcuna! notes t(at "n ("s &e:uest fo& management e.a!uat"on of 24 August 2012' t(e A !"\u00e4nnt "nd"\u00e4ated t(at (e \u00e4(a!!\u00e4nged t(e de\u00e4"s"\u00fcun not se!\u00e4\u00e4 anot(\u00e4\u00e4 \u00e4and"\u00e4ate fo\u00e4 t(e \u00e4\u00e4nt\u00e4\u00e4 fo\u00e4 t(e \u00e4n\u00e4\u00e4\u00e4 anot(\u00e4\u00e4 \u00e4anot(\u00e4\u00e4 anot(\u00e4\u00e4 anot(\u00e4 anot(\u00e4\u00e4 anot(\u00e4 anot(

- 22. T(e T&"%una! &e#a!!s 3 (at t(e A ea!s T&"%una! (e!d "n Massabni 2012,UNAT,26\$8
  - 2. T(e dut"es of a Judge &"o& to ta;"ng a de#"s"on "n#!ude t(e ade:uate "nte& &etat"on and #om &e(ens"on of t(e a !"#at"ons su%m"tted %y t(e a&t"es' 3 (ate.e& t(e"& names' 3 o&ds' st&u#tu&e o& #ontent t(ey ass"gn to t(em' as t(e Cudgment must ne#essa&"!y &efe& to t(e s#o e of t(e a&t"esF #ontent"ons. \*t(e&3"se' t(e de#"s"on, ma;e& 3 ou!d not %e a%!e to fo!!o3 t(e #o&&e#t &o#ess to a##om !"s( ("s o& (e& tas;' ma;"ng u ("s o& (e& m"nd and e!a%o&at"ng on a Cudgment mot".ated "n &easons of fa#t and !a3 &e!ated to t(e a&t"esF su%m"ss"ons.
  - 6. T(us' t(e aut(o\%"ty to \%ende\% a \Cudgment g".es t(e Judge an "n(e\%ent o3e\% to "nd"."dua!"9e and def"ne t(e adm"n"st\%at".e de#"s"on "m ugned \%y a a\%ty and "dent"fy 3 (at "s "n fa#t \%e"ng #ontested and so' su\%Ce#t to \Cud"#"a! \%e."e3 3 ("#( #ou!d !ead to g\%ant o\% not to g\%ant t(e \%e:uested \Cudgment.
- 26. Based on t(e a%o.e' t(e T&"%una! #ons"de&s t(at t(e de#"s"on #(a!!enged %y t(e A !"#ant "s t(e de#"s"on not to se!e#t ("m fo& t(e #ontested ost' #ommun"#ated to ("m %y e,ma"!s of 29 June 2012 and 21 August 2012' 3 ("#( "s tantamount "n ("s #ase to t(e de#"s"on not to "n#!ude ("m "n t(e s(o&t!"st of #and"dates 3 (o 3 e&e fu&t(e& #ons"de&ed fo& a #om eten#y,%ased "nte&."e3. /ndeed' t(e fa#t t(at (e 3 as not fu&t(e& #ons"de&ed #onst"tutes a f"na! de#"s"on on ("s #and"da#y' and t(e s#o e of t(e Cud"#"a! &e."e3 "s &est&"#ted to t(e :uest"on of 3 (et(e& o& not (e 3 as &"g(tfu!!y e<#!uded f&om t(e se!e#t"on &o#ess at t(at stage.

### Legality of the contested decision

24. @a."ng def"ned t(e s#o e of t(e &esent a !"#at"on' t(e T&"%una! tu&ns to t(e A !"#antFs ma"n a&gument' 3 ("#( "s t(at (e 3 as e&&oneous!y e<#!uded f&om t(e s(o&t!"st of #and"dates #on.o;ed fo& an "nte&."e3 %y t(e @ A. T(e A !"#ant !"

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#om a&at".e ana!ys"s &e o&t 3 as &e a&ed "n Inspira do#ument"ng t(e assessment of a!! "nte&."e3ees. T(e &e#ommendat"on of t(e su##essfu! #and"date fo& se!e#t"on 3 as fo&3 a&ded to t(e C7B' 3 ("#( endo&sed "t afte& &e#e" t of fu&t(e& #!a&"f"#at"ons and afte& an add"t"ona! "nte&na! ma!e #and"date (ad %een "nte&."e3ed.

- 60. As &ega&ds t(e a!!egat"on &a"sed %y t(e A !"#ant t(at ("s 3 o&; e< e&"en#e 3 as "n fa#t meet"ng t(e &e:u"&ements s e#"f"ed "n t(e VA and t(at (e 3 as 3 &ong!y e<#!uded f&om t(e s(o&t!"st' t(e T&"%una! &e#a!!s t(at se#. E.4 of 0T/A//2010/6' : uoted "n fu!! a%o.e' e< &ess!y "nst&u#ts t(e @ A to 1 &e a&e a s(o&t!"st of t(ose =&e!eased a !"#ants> 3 (o a ea& most :ua!"f"ed fo& t(e Co% o en"ng %ased on a &e."e3 of  $t(e^{-1}a)$  do#umentat"on2 +em (as"s added-. /n  $t(e^{-1}a)$  same .e"n'  $t(e^{-1}a)$ /nst&u#t"ona! Aanua! fo& t(e @"&"ng Aanage& on t(e Otaff Oe!e#t"on Oystem +Inspira- +1t(e @"&"ng Aanage&Fs Aanua!2- ment"ons "n "ts C(a te& 9 t(at t(e @ A "n."tes t(e 1most &om"s"ng #and"dates2 fo& a #om eten#y,%ased "nte&."e3 and/o& an assessment e<e&#"se. /t fo!!o3s f&om t(ese &o."s"ons t(at t(e @ A (as %&oad d"s#let"onally o3el to e<ell#"se a le!"m"nally e.a!uat"on of t(e a !"#ants "n oldel to esta%!"s( t(e s(o&t!"st of #and"dates to %e "n."ted fo& fu&t(e& assessmentB "ndeed" su#( a !"st' e& def"n"t"on' does not (a.e to "n#!ude a!! &e.s#&eened #and"dates %ut on!y t(e most :ua!"f"ed ol lom"s"ng ones. /n oldel to assess 3 ("#( a !"#ants fa!! "nto t(at #atego&y' t(e @ A must e<e&#"se ("s o& (e& Cudgment and t(e T&"%una! 3"!! not eas"!y "nte&fe&e 3"t( t(e %&oad d"s#&et"on of t(e Adm"n"st&at"on "n t(ese mattels and susst tute to cudgement folt (at of the #om etent de#"s"on, ma; ell.
- 61. Aokeo.ek' t(e T&"%una! notes t(at "n t(e "nstant #ase' t(e 3ok; e< e&"en#e &e:u"&ed fo& t(e #ontested ost as !"sted "n t(e VA 3as des#&"%ed "n &at(e& %&oad te&m66(d)-90(")-2.16797(nu")-2.16797(s)-0.839844(")-2.16797(ons)-0.839844-2.16797(n)

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# Conclusion

64. /n ."e3 of t(e fo&ego"ng' t(e T&"%una! D5C/D508

T(e a !"#at"on "s d"sm"ssed "n "ts ent"&ety.

+Signed-

Judge T(omas)a;e&

Dated t("s  $16^{t}$  day of Aa&#( 2014

5nte  $\ell$  ed "n t(e 7 eg" ste  $\ell$  on t("s 16  $^{t(}$  day of Aa  $\ell$  (2014

+Signed-

7enK A. Valgas A. '7eg"stlal 'Gene.a