UNDT/GVA/2014/02 Case No.:

!"#g\$e% No.: UNDT/2016/0'(

United Nations Dispute Tribunal Dake: 22 A)*+, 2016

Introduction

1. ! " a##\$%&at%on %\$ed on 22 ' a" 2014(t)e A##\$%&ant(

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1F. , n 7 'a" 2014(t)e A##\$\&ant \\$ed 8e o*e t)e T*\8una\\$ an a##\$\&at\no o* sus#ens\no o a&t\no o t)e de&\\$no to d\\$cont\nue)e* #os\t\no and o t)e \&onse\&ut\.e te*m\nat\no o)e* \nde \n\text{nde \n\text{nte} a##o\ntment.} T)e a##\&at\no 7 as *eg\ste*ed unde* Case No. UNDT/GVA//

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Case No. UNDT/GVA/2014/027

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32. !" ,*de* No. 97 -GVA/20151 o 5 'a" 2015(t)e 2es#ondent 7as o*de*ed to #*o.\de add\t\ona\end{en\&e} 8" 19 'a" 2015(and t)e A##\\and at 7as g\tilde{e}.en a\&ess to a *eda\text{det} de .e*s\one o t)e ex parte

- a. T)e 2es#ondent %e o8se*.at%ons on t)e A##\$%&antHs 1 June 2015 su8m\ss\n 8" 3 Ju\\$" 2015:
- 8. T)e A##\$\\an"(on su\an"(on su\an") o8se*.at\\ons 8" 10 Ju\s" 2015:
- &. T)e #a*thes % 8" 16 Ju\$" 2015 a Io\nt statement o a\(\)ts and \(\)ssues(a Io\nt \(\)sund\(\)e o do\(\)uments(a \)\(\)st o aut)o\(\)t\(\)tes and an" su\(\)ma\(\)ssues(o t)e amendment to a\(\)t. 10.5-81 o t)e T\(\)t\(\)8una\(\)Hs > tatue ado\(\)ted do\(\)tes Gene\(\)a\(\)Ssem8\(\)" on 1F De\(\)em8e\(\) 2015: and
- 39. , n 3 Ju\$" 2015(t)e 2es#ondent %ed) %s o8se*. at %ons as o*de*ed.
- 40. ,n 10 Ju\$" 2015(t)e A##\$\&ant \\$ed)e* &omments on t)e 2es#ondent\B3 Ju\$" 2015 su8m\ss\on.
- 41. ,n 16 Ju\$" 2015(t)e A##\$%&ant %\$ed a su8m\\$s\\$on \n *es\\$onse to t)e

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- 8. Bn de&\d\ng to d\s&ont\nue t)e A##\\ant\lambda ant\lambda ve to)o\d and #\somote t)e)\\g)est standa\ds o et)\\and and #\somote o es\\ondote \lambda \and \d\ondote o es\\ondote \lambda \and \d\ondote o es\\ondote \lambda \and \d\ondote o es\\ondote \ondote \

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e. C\$ass\ \&at\on o #osts and sta $7\t$)\\n t)e !*usse\\$s 2234)as not 8een &ondu&ted a&&o*d\ng to t)e natu*e o t)e dut\\end{array}e

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- %. T)e a\\$u*e to *es#ond to o* add*ess a *eDuest o* management e.a\\$uat\\$on 8e o*e t)e *e\\$e.ant *es#onse #e*\\$od o* su\\$))as e<#\\$ed \\$const\\$tutes a 8*ea\\$) o undamenta\\$*\\$g)ts:</p>
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a&&om#\$\%s))\%s o*)e* tasE(maE\ng u#)\%s o*)e* m\nd and e\\$a\\$o*at\\ng on a Iudgment mot\%.ated \%n *easons o a\&t and \%a\7 *e\\$ated to t)e \#a*t\\est\\ su\\$m\\ss\\ons.

- 3. T)us(t)e aut)o*%t" to *ende* a Iudgment g%.es t)e Judge an %n)e*ent #o7e* to %nd%.%dua\$%Ce and de %ne t)e adm%n%st*at%.e de&%s%on %m#ugned 8" a #a*t" and %dent% " 7)at %s %n a&t 8e%ng &ontested and so(su8Ie&t to Iud%&%a\$ *e.%e7 7)%&) &ou\$d \$ead to g*ant o* not to g*ant t)e *eDuested Iudgment.
- 46. T)e adm\n\st*at\lambda.e de&\s\ons \dakba\)a\\senged \lambda n t)\\s \dakba\se a\text{*e6}
 - a. T)e d\s&ont\nuat\on(e e\&t\s.e 1 June 2014(o t)e #os\t\on t)e $A\#\#\$ &ant en\&um8e*ed -\#os\t\on No. 100111491: and

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51. Anne< 1(Pa*t 5(o t)e ;*ame 7 o*E #*o.\des o* /Post C) anges0 and inter alia o* t)e o\\$07\ng6

- 53. $5 \, \text{en\&e}(t) \, \text{e.} \, \text{mods t)}$ at t)e e. $\text{Men\&e} \, \text{on *e\&o*d s)}$ of t)at t)e d\s&ont\nuat\no o t)e mods t en\cong en\cong
- 54. T)e T*\\\8una\\\ notes t)at t)e A\\\#\\\\\\&ant\\\)as a\\\\ ant\\\\ notes to 8e \\\\ ass\\\\\\&at\\\\ ant\\\\ ant\\\ ant\\\\ ant\\\\ ant\\\ ant\\\ ant\\\ ant\\\ ant\\\\ ant\\\\ ant\\\ ant\\\ ant\\\\ ant\\\ ant\\\\ ant\\\\ ant\\\ ant\\\
- 56. Ne<t(t)e T*\8una*e&a\\$\st\1 at \text{\texi{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{

e)-3.66523(n)3773(a)-14.325201())-0.992(6(n)3773(a)-14.325201((n)339.**%(26)**)4**8.958(698)72(0,-13d(D)**(**3**59**)**4**D**/R1 60221(&)-3.636())-0.96092(6)-0.9380 TdD()T3(e974347())]TJg772()-27.8221(&)-3.6478(t)-9.78436389.0014(5 d\sad.antag\ng t)e \nd\.\dua\ a##\s\&ant \n a &ase 8e o\e \t. 2eo\gan\s\ng and \est\uku\tu\ng o t)e 7o\E#\sake s)ou\d not 8e used as a me\(\)an\sm o\end{array} gett\ng \end{array} d o an em#\(\)o\end{array} or 7)om management ma" \end{array} ega\(\)d as 8e\ng t\end{array} or 7)ose \(\)ont\nued \(\)#\end{array} esen\(\)e 7 as no \(\)onge\(\) deemed des\(\)\end{array} as 8e\(\)

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- 71. Bt \(\)s \(u^*t) e^* \(noted t \) at \(t \) e \(\)cons\\\\ de^*at\\\\ ons \(e^* e^* e t t o \)\(n t) e \(memo^* and um o \) 23 \(>e# tem 8e^* 2013 \)\(&annot \) 8e \(sa\\\\ d t o \) \(a.e \) 8een \(t) e \(*esu\\\\ t o \) \(o^* \)\\\\ n \ an" \)\(7a" \)\(&conne\\\\ ted to \(t) e \)\(d\\\\\ s\\\\ uss\\\\ so n \(t) e \)\(and \(\) anta\\\\ ns a \)\(deta^* \)\(same da". \)\(T) e \)\(memo^* and um \(\)\\\ s \)\(= \)\(4ages \)\\\ n \\\ equiv \)\(e \)\(e \)\(e \)\(1as \)\(e \)\(e

Termination of the Applicant's indefinite appointment

- 73. 3 %t) *es#e&t to te*m\nat\on o* a8o\\t\on o #ost(sta *u\se 9.6 inter alia #*o.\des t)at6
 - -el 4<&e#t as ot)e*7%se e<#*ess\$" #*o.%ded %n #a*ag*a#) 1 8e\$o7 and sta *u\$e 13.1(% t)e ne&ess%thes o se*.%&e *eDu%*e t)at a##o%ntments o sta mem8e*s 8e te*m%nated as a *esu%t o t)e a8o%%thon o a #ost o* t)e *edu&thon o sta (and su8Ie&t to t)e a.a%\$a8\%%t" o su%ta8\\$e #osts %n 7)\%) t)e% se*.%&es &an 8e e e&t%.e\$" ut\\$%Ced(#*o.%ded t)at due *ega*d s)a\$\$ 8e g%.en %n a\$\$ &ases to *e\$at%.e &om#eten&e(%nteg*%t" and \$engt) o se*.%&e(sta mem8e*s s)a\$\$ 8e *eta%ned %n t)e o\$\$o7%ng o*de* o #*e e*en&e6
 - -\(\frac{1}{2}\) >ta mem8e*s)o\(\frac{1}{2}\) o\(\frac{1}{2}\) mem8e*s)o\(\frac{1}{2}\) d\(\frac{1}{2}\) d\(\frac{1}\) d\(\frac{1}2\) d\(\frac{1}\) d\(\frac{1}2\) d\(\frac{1}2\) d\(\frac{1}2\) d\(\frac{1}2\)

- 3)en t)e sulta8\se #osts a.al\sa8\se a\text{*e su8Ie&t to t)e #\sin&\ss*\se o geog\text{*a} \dist\subseteq \dintit\subseteq \dist\subseteq \dist\subseteq \dist\subseteq \dist\subseteq \dist\subseteq \
- 74. T)e Com#a*at%.e 2e.%e7 Po\$%&" /#*o.%des #*%n&\#\$es and #*o&edu*es o* t)e &om#a*at%.e *e.%e7 to 8e o\$\$o7ed %n &ases o ant%&\#ated te*m\nat\%on o* a8o\$\%t\%on o #osts A #u*suant to >ta 2u\\$es 9.6-el and 1 \%n t)e Gene*a\\$ >e*.\%e and Nat\%ona\\$, \%e* &atego*\%es0(\ and states t)at /?s@ta mem8e*s 7)ose #osts a*e d\\$cont\%nued 7\\$\\$ not automat\%a\\$\" 8e se#a*ated0.
- 75. ; \(\text{\sigma}\) (\(\text{\sigma}\) n \(\text{\sigma}\) t \(\text{\sigma}\) (\(\text{\sigma}\) + \(\text{\sigma}\) (\(\text{\sigma}\) (\(\text{\sigma}\) + \(\text{\sigma}\) (\(\text{\sigma}\) (\(\text{\sigma}\) + \(\text{\sigma}\) (\(\text{\sigma}\) (\(\text{\sigma}\) (\(\text{\sigma}\) + \(\text{\sigma}\) (\(\text{\sigma}\) (\(\text{\sigma}\) (\(\text{\sigma}\) + \(\text{\sigma}\) (\(\text{\sigma}\)
 - 4. P*\no* to unde*taE\ng a &\com#a*at\n.e *e.\ne7(t)e &\con\ne*ned o \nke s)ou\not d.e*\n' t)at t)e*e a*e no sta mem8e*s on tem#o*a*" a##o\ntments o* a \nkerned functions to t)ose o t)e d\nkerned functions to t)ose o t)e d\nkerned function functions to t)ose o t)e d\nkerned function functin
 - 5. A &om#a*at%.e *e.%e7 #*o&ess %s t)e means 8" 7)%&) sta mem8e*s en&um8e*%ng #os%t%ons 7)%&) a*e to 8e a8o\$%s)ed(and 7)o)o\$d %nde %n%te o* %<ed=te*m a##o%ntments not e<#%%ng on o* 8e o*e t)e e e&t%.e date o t)e a8o\$%t%on o t)e *e\$e.ant #os%t%on(7%\$\$ 8e mat&)ed aga%nst su%ta8\$e #osts a&&o*d%ng to a set o &*%te*%a *e\$at%ng to t)e sta mem8e*sH su%ta8%%t" o* su&) #osts. T)e /su%ta8\$e #osts0 a*e %nte*#*eted(o* t)e #u*#ose o t)e &om#a*at%.e *e.%e7(as #osts at t)e sta mem8e*Hs dut" stat%on and at t)e sta mem8e*Hs g*ade \$e.e\$ and 7%t)%n t)e same un&t%ona\$ g*ou# as #e* t)e(o)-0.96022#9.e.

- 76. ;*om t)e a8o.e(%t %s &\$ea* t)at %n t)e &onte<t o an e<e*&\$se to a8o\$%s) a #ost(t)e %ntent and #u*#ose o #a*ag*a#) 4 %s t)at t)e Adm\n\st*at\son \\$ooEs o* a\\$te*nat\\$.e em#\\$o"ment o* \\$ts sta a e\\$ted \\$n a s\\$tuat\\$on o a8o\\$\\$t\\$on o #osts.
- 7F. T)e 2es#ondent noted t)at t)e G=6 TA 7as &)a*ged against a G=6 #osition(7)%&) 7as t)*ee g*ades \$0.7e* t)an t)at o t)e A##\$%&ant and #e* o*ming t)e

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- FF. GN.en t)e a8o.e %nd%ngs(%t %s not ne&essa*" to #*o&eed to u*t)e* e<am\ne t)e a##\%at\no o #a*ag*a#) 5 o t)e Com#a*at\ne 2e.\ne7 Po\%\&"(as #a*ag*a#) 4 o#e*ates as a #*e&ond\nt\no 8e o*e t)e unde*taE\ng o t)e &om#a*at\ne e.\ne7 #*o&ess #*o.\ned o* \n #a*ag*a#) 5.

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