1. The A !"#ant #ontests h"s non\$se!e#t"on fo% the ost of Ch"ef& 'uss"an T%ans!at"on Un"t () 'TU*+ (P\$4+&, "th the Un"ted Nat"ons - ff"#e at Na"%o." ()UN - N*+& ad/e%t"sed unde% Jo. - en"ng ()J - *+ 11OAN\$UN - N\$11526\$ '\$ NA2 ' - 32.

2.

6. -n 1B A %"! 2011 the a.o/essefesen#ed J- , as ad/esstred , "th 11 June 2011 as the dead!"ne fos a !"#at"ons. The A !"#ant a !"ed on 91 > a7 2011.

B. - n 22 June 2011 & the #and"dates fo% the J - , e%e %e!eased to the Ch"ef & PC : .

The A !"#ant and anothe% #and"date unde%, ent a #om eten#7\$.ased
"nte%/"e, on 5 :e tem.e% 2011& a!though due to te#hn"#a! %o.!ems& the
A !"#antCs "nte%/"e, had to .e %esumed on 2B :e tem.e% 2011.

@. 2n - #to.e% 2011& the ane! su.m"tted a s"gned) 'e o%t of the De a%tmenta! Pane!*& %e#ommend"ng the othe% #and"date D name!7& the 'e/"se% of the 'TU& UN - N&, ho had .een a o"nted as - \$"\$C& T; : D fo% the os"t"on& as the one #and"date , ho)met a!! the #%"te%"a !a"d do , n "n a most sat"sfa#to%7 manne%*. - n!? at an undete%m"ned oste%"o% date , as a)Com a%at"/e Ana!7s"s 'e o%t* f"!!ed "n 2ns "%a& %ef!e#t"ng the d"ffe%ent #om eten#"es and %at"ngs.

10. U on %et"%ement of the then Ch"ef& 'TU& the same 'e/"se%& 'TU&, ho, as a!%ead7 e%fo%m"ng as -\$"C& T;:&.e#ame -\$"C& 'TU& UN - N& f%om 1 No/em.e% 2011 unt"! 20 De#em.e% 2011.

11. 37 memo%andum dated 20 De#em.e% 2011& the :e#%eta%7& Cent%a! 'e/"e, Comm"ttee ()C 'C*+& UN - N& fo%, a%ded to the Ch"ef& DC :& the m"nutes %ef!e#t"ng the d"s#uss"on on the #and"dates fo% the J - at sta<e& %e4uest"ng h"m to %o#eed, "th the se!e#t"on of the #and"date and& su.se4uent!7& to fo%, a%d a , %"tten #onf"%mat"on to the !o#a! human %esou%#es off"#e to %o#ess the adm"n"st%at"/e deta"!s of the se!e#t"on.

12. - n 22 De#em.e% 2011 the Ch"eft DC: t se!e#ted the 'e/"set 'TUD then a#t"ng s"mu!taneous!7 as - \$"\$Ct 'TUt and - \$"\$Ct T; : t UN - ND fo% the ost of Ch"eft 'TUt UN - N.

19. > owe than t, o 7eaws !atew as of the .eg"nn"ng of 2014 2ns "wa #ont"nued to sho, that the ost , as undew #ons"dewat"on. - n 2B Januaw7 2014 the A !"#ant we4uested an u date on the /a#an#7 to the D"we#tow 3us"ness 'eseng"neew"ng Gwou & UmoEa (Un"ted Nat"ons ; 'P PwoEe#t+k , ho fow, awded h"s message to the

22.	Pu%suant	to	- %de%s	Nos.	122	(GVA	/2015+	of	1 1	June	20	15&
1B6	(GVA/2015	5+ (of 21	:e ten	n.e%	2015	and	20@	(G\	/A/201	5 +	of

.. At the t"me of the de#"s"on $\$ the se!e#ted #and"date $\$, as d"s#ha%g"ng the dut"es of th%ee $\$ ostsG

"". - ff"#e%\$"n\$Cha%ge () - \$"\$C*+& 'TU& UN - N& afte% %et"%ement of the fo%me% "n#um.ent "n m"d\$2011 \mathbb{H}

""".

the ost. The ane! d"d not e%fo%m an a##u%ate& #om !ete and o.Ee#t"/e e/a!uat"on of the most "m o%tant #om eten#"esH

h. The su##essfu! #and"date had an unfa"% ad/antage due to the fa#t that
he had a#ted as o - \$"\$C of the #on#e%ned un"t fo% se/en 7ea%s& g"/en
the #ont"nuous hea!th %o.!ems of "ts off"#"a! #h"eff

". Aga"nst the mo."!"t7 %e4u"%ement %o#!a"med .7 Gene%a! Assem.!7 %eso!ut"on 59/221& o/e% the !ast 25 7ea%s& a!! P\$9 and P\$4 %omot"ons fo% 'uss"an t%ans!ato%s , e%e done st%"#t!7 , "th"n the same se%/"#es/un"ts at a!! f"/e dut7 stat"ons , he%e 'uss"an t%ans!at"on se%/"#es/un"ts e="stH

E. The A !"#ant has o/e% 90 7ea%s of %ofess"ona! e= e%"en#e as a 'uss"an t%ans!ato% (24, "th"n the UN s7stem+, "th e=#e!!ent e%fo%man#e %e#o%ds& and has .een %oste%ed fo% %omot"on to the P\$4 !e/e! s"n#e 2001. 80, e/e%& he has no %ea! #han#e of %omot"on. 8e has .een unsu##essfu!!7 a !7"ng fo% /a%"ous Na"%o." !anguage osts fo% some ten 7ea%s. 8e "s a /"#t"m of dut7 stat"on\$.ased d"s#%"m"nat"on. :e%/"ng at ;:CAP& , hose 'uss"an 0anguage Un"t& un!"<e the T%ans!at"on :e%/"#es/Un"ts "n Gene/a& Na"%o."& Ne, Jo%< and V"enna& "s not a%t of the De a%tment fo% Gene%a! Assem.!7 and Confe%en#e >anagement& he "s ha%med .7 the afo%esa"d %a#t"#e of %omot"ng t%ans!ato%s st%"#t!7, "th"n the same se%/"#es/un"ts at a!! dut7 stat"ons. Th"s d"sad/antage !"n<ed to the dut7 stat"on , as noted .7 h"s then su e%/"so% .a#< "n 29 Ae.%ua%7 1@@2#

<. The %omu!gat"on of Adm"n"st%at"/e 2nst%u#t"on :T/A2/2010/9 (:taff se!e#t"on s7stem+ fu%the% d"m"n"shed the A !"#antCs #han#es of a !ate%a! mo/e to anothe% dut7 stat"on& as "ts se#. 2.5 a!!o, s 8 eads of de a%tments/off"#es to t%ansfe% staff mem.e%s at the same !e/e!, "th"n the"% de a%tments o% off"#es& "n#!ud"ng "n a d"ffe%ent !o#at"on&, "thout ad/e%t"s"ng the /a#an#7 o% an7 %e/"e, .7 a #ent%a! %e/"e, .od7. :"n#e then& a!! P\$9 ' uss"an T%ans!ato%s osts, e%e f"!!ed, "thout a #om et"t"/e %o#essH

!. :e#. 2.5 of :T/A2/2010/9& #ou !ed , "th the s7stem\$, "de %a#t"#e of %omot"ng to P\$9 and P\$4 osts staff , "th"n ea#h un"t& e!"m"nated an7 #a%ee%

Case No. UNDT/GVA/2014/064

d. The se!e#ted #and"date !a7ed no %o!e "n the #ondu#t of the se!e#t"on e=e%#"se. The Ch"ef& T; :k a!.e"t tem o%a%"!7 at ; :C

90. 2n the T%".una!Cs /"e, & #ons"de%"ng that the su##essfu! #and"date a!%ead7 d"s#ha%ged the fun#t"ons of the !"t"g"ous ost as - \$"\$C& 'TU& %"o% to h"s se!e#t"onk "t "s fu!!7 !aus". !e to assume that he #ont"nued to head the se#t"on i ri & es e#"a!!7 s"n#e the ema"!s e=#hanged d"d not ment"on h"s fun#t"ona! t"t!e. 2n the a.sen#e of a not"f"#at"on of the de#"s"on D, h"#h the A !"#ant , as ent"t!ed to e= e#tD and s"n#e "n the meant"me& 2ns "%a , %ong!7 %ef!e#ted that the %e#%u"tment %o#ess , as st"!! o en& the A !"#ant had no %e!"a.!e means to <no, that a f"na! se!e#t"on had .een made.

91. 8 en#ek no date ea%!"e% than 1B A %"! 2014 has to .e #ons"de%ed as the date , hen the A _!"#ant #ame to <no , a.out h"s non\$se!e#t"on andk #ount"ng f%om th"s datek he %es e#ted a!! statuto%7 t"me !"m"ts.

Soohiu

92. 2t "s , e!!\$<no, n that unde akt. 2.1(a+ of "ts : tatute the Tk".una! "s #om etent to ke/"e, e=#!us"/e!7 adm"n"stkat"/e de#"s"ons affe#t"ng the #on#ekned staff mem.ekCs tekms of em !o7ment. The mate al s#o e of a g"/en #ase "s def"ned .7 the s e#"f"# de#"s"on ok de#"s"ons that an a !"#ant #hose to a ea!. 2n th"s #ase su#h de#"s"on "s the A !"#antCs non\$se!e#t"on fok the ost of Ch"efk 'TUk UN - Nk ad/ekt"sed undek the J- kefeken#ed "n aka. 1 a.o/e.

99. A##o%d"ng!7& the A !"#antCs su.m"ss"ons %ega%d"ng othe% %e#%u"tments a%e not su.Ee#t to Eud"#"a! s#%ut"n7 "n these %o#eed"ngs. The T%".una! unde%stands that the A !"#ant ut them fo%, a%d o or i u & to %o/"de some #onte=t and .a#<g%ound&.ut, "shes to unde%!"ne that "t #annot and, "!! not e=am"ne them.

94. : "m"!a%!7% the T%". una! "s not the %o e% "nst3.66653(%)2.5788(")0.879.1872 0 T d D(469849(e) - 14

), "th the ass"stan#e of the e=e#ut"/e o% !o#a! human %esou%#es off"#e*. An ema"! e=#hange, "th the %e#%u"te%s sho, that the Ch"ef& T; :& a %o/ed the #%eat"on of the J-. ? hen "t, as t"me& u%suant to se#. B.2 of the "nst%u#t"on& to %e!ease the %e\$s#%eened #and"da#"es to the 8"%"ng > anage%& the Ch"ef& PC: & too< o/e% as the %"ma%7 8"%"ng > anage%. 2ns "%a sho, s the Ch"ef& PC: & as the %"ma%7 %es ons".!e among the !"st of)%e#%u"te%s* fo% the se!e#t"on %o#ess &, ho "s <no, n to usua!!7 .e the 8"%"ng > anage%& a!though "t "s "m oss".!e to <no, , "th an7 #e%ta"nt7, hen th"s #hange, as "nt%odu#ed "n the s7stem.

40. ? h"!e : T/A2/2010/9 does not #ate% fo% a sha%ed e=e%#"se of the 8 "%"ng > anage%Cs autho%"t7% "t does not fo%."d "t and the > anua! %o/"des fo% the e="sten#e of a mu!t" !e 8 "%"ng Team%, "th a %"ma%7 8 "%"ng > anage% as the ma"n off"#e% %es ons". !e fo% the %o#edu%e.

41. 2n sum i "f the #ho"#es made "n ass"gn"ng and d"s#ha%g"ng the 8"%"ng > anage%Cs fun#t"ons m"ght seem e#u!"a% the7 do not %e/ea! an7 f!a, "n the %o#edu%e. The %e#o%d "nd"#ates that e"the% the Ch"ef T; : i o% the Ch"ef PC: i fu!f"!!ed the dut"es fa!!"ng , "th"n the 8"%"ng > anage%Cs %em"ti sa/e fo% the t%ansm"tta! of a %e#ommendat"on to the Ch"efi DC: i fo% f"na! de#"s"on (see a%as. B4 to B6 .e!o, +.

42. The A ea!s T%".una! %u!ed "n o 2011\$UNAT\$122 that off"#"a! a#ts a%e %esumed to ha/e .een %egu!a%!7 e%fo%medH a##o%d"ng!7k "n a %e#%u"tment %o#edu%ek "f the management "s a.!e to e/en m"n"ma!!7 sho, that the staff mem.e%Cs #and"datu%e, as g"/en a fu!! and fa"% #ons"de%at"onk the .u%den of %oof sh"fts to the #and"datek , ho must .e a.!e to sho, th%ough #!ea% and #on/"n#"ng e/"den#e that she o% he , as den"ed a fa"% #han#e. The T%".una! #ons"de%s that the do#uments made a/a"!a.!e to "t sat"sf7 th"s m"n"ma! sho, "ng.

49. The T%".una! also %e#alls the ,ell\$<no, n %"n#" le that an7 a l"#ant alleg"ng that "m %o e% mot"/es ha/e ta"nted a #e%ta"n de#"s"on .ea%s the .u%den of %o/"ng "t (seek e.g.k i 2014\$UNAT\$494+. The A !"#ant em has"ses that kas

"". 'e!e/ant o##u at"ona! e= e%"en#e/em !o7ment fo% the %e/"ous f"/e 7ea%s "s des"%a . !e.

41. 2n iko 2015\$UNAT\$5401 the A ea!s T%".una! aff"%med the ho!d"ngs "n iko UNDT/2014/042 that6

The Adm"n"st%at"on d"s oses of #ons"de%a.!e d"s#%et"on "n dete%m"n"ng , ho "s an)e= e%t* fo% the u% ose of 5UN - P: 'e#%u"tment L 2nst%u#t"ons and P%o#edu%es& se#t"on 14.B.9(.+("+(2+6 and #ons"de%s that "t #an !eg"t"mate!7 .e a%gued that "n /"e, of the s"m"!a%"t7 of the management fun#t"ons of the D"%e#to% 2A2G& and those of the d"s uted ost& the D"%e#to% 2A2G&, as an e= e%t unde% the K %u!e. > o%eo/e% and ma7.e mo%e "m o%tant!7& the T%". una! f"nds that the%e #an .e no dou.t that the P%og%amme > anage% K though he , as s"tt"ng on the Pane! as a)#!"ent %e %esentat"/e* L .e7ond , hat , as %e4u"%ed .7 the a !"#a.!e %u!es L a!so fu!f"!!ed the #%"te%"a of a te#hn"#a! e= e%t. K 2ndeed& K he #e%ta"n!7 had "n\$de th <no, !edge , "th %es e#t to the s<"!!s and e= e%t"se %e4u"%ed fo% the d"s uted ost. Th"s "s su o%ted .7 the fa#t that "t , as "n fa#t h"m& togethe% , "th the D"%e#to%k : ? - C& , ho ma%<ed the , %"tten test , h"#h 5>%. A!"<0

4@. 2n i hi UNDT/2015/021& th's T%". una! deemed that an e= e%t s"tt"ng "n a ane! set u to %e#%u"t the sen"o% head of a med"#a! un"t& d"d not ne#essa%"!7 need to .e a do#to%H an e= e%t on management #ou!d .e #ons"de%ed as a su. Ee#t matte% e= e%t fo% th's ost& as "t %e4u"%ed manage%"a! s<"!!s.

50. 3 ased on this guidan#ek the T%".una! #onside%s that "t , as not mandato%7 that the ane! "n#!ude a 'uss"an t%ans!ato% and o% %e/"se%. This , ou!d .e an e=t%eme!7 na%%o, unde%stand"ng of the doma"n(s+ of e=e%t"se that ma7 .e %e!e/ant fo% a #e%ta"n ostH the te%ms of se#. 1(#+ of :T/A2/2010/9 !ea/e %oom fo% a , "de% "nte% %etat"on.

51. 3e7ond that the Ch"eft T; :t , as #e%ta"n!7 a su.Ee#t matte% e= e%t as he , as h"gh!7 e= e%"en#ed "n the f"e!d of t%ans!at"on and %e/"s"on. As to the othe% t, o mem.e%st "t "s o.se%/ed that the7 , e%e sen"o% staff manage%s , hose %es e#t"/e dut"es !ed them to .e "n #onstant "nte%a#t"ont at !east as #!"entst , "th the t%ans!at"on un"ts. Ao!!o, "ng the standa%d out!"ned "n ikok "t "s not un%easona.!e to #on#!ude that at !east one of 6523() - 91.0791(o)9.69979(f) - 8.0786() - 3 dn

t98892(") - 9.78874

56. The > anua! ado ted "n a##o%dan#e, "th th"s %o/"s"on & %eads "n "ts %e!e/ant a%t (se#t"on @.6+G

5B. 80, e/e%k the A ea!s T%". una! %u!ed "n rio i 2015\$UNAT\$4@6 that the > anua! does not ha/e !ega! fo%#ek %e#a!!"ng that)5%6u!esk o!"#"es o% %o#edu%es "ntended fo% gene%a! a !"#at"on ma7 on!7 .e esta.!"shed .7 du!7 %omu!gated :e#%eta%7\$Gene%a!Cs .u!!et"ns and adm"n"st%at"/e "ssuan#es.* 2t u%sued6

At most the >anua! "n th"s a ea! \sqrt{des} gu"dan#e* on the)%es ons"."!"t"es* of the 8"%"ng >anage% as en/"saged .7 :e#t"on 2.6 of :T/A2/2010/9# "t does not u% o%t to /est a staff mem.e%, "th an ent"t!ement to .e a %"sed "n ad/an#e of an "nte%/"e, of the names of the ane! mem.e%s.

51. Not, "thstand"ng th"s f"nd"ngt the A ea!s T%".una! #on#!uded thatt "n the s e#"f"# #"%#umstan#es of the #aset the fa"!u%e to "nfo%m the #on#e%ned staff mem.e% of the ane!Cs #om os"t"on had "m %o e%!7 de %"/ed he% of the oss"."!"t7 to #ontest "t. 2n that #aset the A !"#ant had f"!ed an a !"#at"on #ha!!eng"ng a %e/"ous se!e#t"on %o#ess , "th the same h"%"ng manage%t , h"#h the D"s ute T%".una! had de#"ded "n he% fa/ou% a fe , da7s .efo%e the s#hedu!ed "nte%/"e , . 2n /"e , of "tt she had , %"tten to the Adm"n"st%at"on #on/e7"ng he% #on#e%ns on the !a#< of "m a%t"a!"t7 of the ane!t thus #!ea%!7 sho, "ng the "m o%tan#e she atta#hed to "ts #om os"t"on.

5@. No s"m"!a% #"%#umstan#es , e%e %esent "n the "nstant #ase. 3 ased on the rio i Eu%"s %uden#ek the om"ss"on to "nfo%m the A !"#ant of the assesso%sC names "n ad/an#e of h"s "nte%/"e, d"d not .%ea#h an7 of the A !"#antCs %"ghts.

Pane!Cs assessment

60. The A !"#ant ta<es "ssue, "th the assessment of the #and"dates #ondu#ted .7 the ane!. 8 e 4uest"ons the ane!Cs a."!"t7 to ade4uate!7 a %e#"ate the"% #om eten#"esk as , e!! as "ts o. Ee#t"/"t7 and "m a%t"a!"t7.

61. 2t must .e %e#a!!ed that "t "s not the %o!e of the T%" .una! to su .st"tute "ts o , n assessment of the #and"dates fo% that of the ane! (i 2011\$UNAT\$110+.

62. The "ssue of the ane! mem.e%sC e= e%t"se has a!%ead7 .een d"s#ussed (see a%as. 4B to 52 a.o/e+. G"/en "ts f"nd"ngs "n th"s %es e#t& the T%".una! deems unfounded the #!a"m that the ane! mem.e%s !a#<ed the <no, !edge and s<"!!s to %o e%!7 e/a!uate the #and"datesC #om eten#"es.

69. Tu%n"ng to the ane!Cs "m a%t"a!"t7& the T%".una! has had the o o%tun"t7 to

the f"%st one , e%e6 P%ofess"ona!"sm& 0eade%sh" and Team , o%<& Commun"#at"on& Comm"tment to Cont"nuous 0ea%n"ng& Cha%ge.a#< and A##ounta."!"t7 and Com ute% and - the% :<"!!s& , he%eas "n the se#ond the7 , e%e P!ann"ng and - %gan"I"ng& Team , o%<& P%ofess"ona!"sm& Judgment/De#"s"on\$ma<"ng. : e#ond& the s#a!e of notat"on #hanged& us"ng Au!!7 Com etent& Com etent& 0ea%n"ng and Aa"% "n the f"%st& as o osed to)su##essfu!!7 meets %e4u"%ements* and) a%t"a!!7 meets %e4u"%ements* "n the se#ond.

6B. 2n .oth %e o%tsk the A !"#ant , as found not suff"#"ent!7 st%ong at one #om eten#7k .ut "n the f"%st one "t , as Commun"#at"onk , h"!st "n the se#ond "t , as P!ann"ng and - %gan"I"ngk , h"#h , as not e/en ment"oned "n the f"%st %e o%t. The %at"ngs d"d not <ee an7 !og"#a! e4u"/a!en#7H fo% e=am !ek the t, o se a%ate %at"ngs of)#om etent* and)fu!!7 #om etent* "n the f"%st %e o%t , e%e)t%ans!ated* "n the se#ond %e o%t to one %at"ngk ".e.k)su##essfu!!7 meets %e4u"%ements*. A!sok the %e#ommendat"on of the e/entua!!7 se!e#ted #and"date , as su.t!7 nuan#edk go"ng f%om asse%t"ng that he , as)the most #om etent #and"date and the one , ho o met a!! the #%"te%"a !a"d do, n "n a most sat"sfa#to%7 manne%* to)the most #om etent #and"date and the %% a !a"d do, n "n a most sat"sfa#to%7 manne%* (em has"s added+.

61. 8a/"ng sought add"t"ona! "nfo%mat"on f%om the 'es ondent on th"s a%t"#u!a% o"nt& the T%".una!, as ad/"sed that the) 'e o%t of the De a%tmenta! Pane!*, as ema"!ed to the C 'C&, h"!e the ane!Cs #on#!us"ons, e%e !ate% ente%ed "nto the %es e#t"/e modu!e fo% 2ns "%a& %o!!ed out "n 2011& and %e/"e, ed .7 the C 'C "n the s7stem. No deta"!s, e%e %o/"ded as to e=a#t!7, ho f"!!ed the 2ns "%a modu!e to %odu#e the se#ond %e o%t& and , hen.

6@. 2t stands the selent that the e/aluat on of the assessment anel one of the #ownewstones of the selent on workess , as su stant all mod field .et, een "ts ado t on .7 all the anel mem.ews D authent ated .7 the we ext // s signatu es D and "ts shout of .7 the mod et ant C ' C.

B0. 2t "s s e#u!at"/e to as#e%ta"n to , hat e=tent th"s a!te%at"on %eEud"#ed the A !"#ant. The T%".una! , "!! #onf"ne "tse!f to f"nd"ng that the #and"datesC e/a!uat"on , as d"sto%ted to a non\$neg!"g".!e deg%ee& a a%ent!7& "n an attem t to

B6. The T^{*}, una! #on#edes that s"n#e on!7 the se!e#ted

%es ons"."!"t7 to ensu%e "ts good fun#t"on"ng o% a!!"ate to "ts sho%t#om"ngs .7 #om !7"ng , "th "ts not"f"#at"on dut7 th%ough othe% means. 2t "s a , e!!\$esta.!"shed %"n#" !e of !a, that no one #an .e a!!o, ed to "n/o<e h"s o, n tu% "tude D o u i ur ro ri ur i u i (& ko UNDT/2014/040& oi

#. The A !"#ant sha!! a!so .e a"d mo%a! damages "n the amount of $U:D9\&000{\tt H}$

d. The afo%ement"oned #om ensat"on sha!! .ea% "nte%est at the Un"ted : tates %"me %ate , "th effe#t f%om the date th"s Judgment .e#omes e=e#uta.!e unt"! a7ment of sa"d #om ensat"ons. An add"t"ona! f"/e e% #ent sha!! .e a !"ed to the Un"ted : tates %"me %ate 60 da7s f%om the date th"s Judgment .e#omes e=e#uta.!e# and

e. A!! othe% #!a"ms a%e %eEe#ted.

(Si + Judge Thomas 0a < e% Dated th"s 4th da7 of > a7 2016

; nte%ed "n the 'eg"ste% on th"s 4th da7 of > a7 2016 (Si + 'enN >. Va%gas >.& 'eg"st%a% Gene/a