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D.   T"e A##$%&ant 'es#onded on 23 A#'%$ 2012! ma%nta%n%ng t"at t"e #e'fo'man&e a##'a%sa$ and 'e(utta$ #'o&ess - e'e ta%nted (4 %''egu$a'%t%es and! - "%$e %nd%&at%ng t"e names of t"e t"'ee D92 staff mem(e's - "om "e "ad se$e&ted to se'2e on t"e 'e(utta$ #ane$! "e st'essed t"at one of t"em! =s. .! s"ou$d 'e&use "e'se$f %n #a't%&u$a' (e&ause of t"e #os%t%ons s"e "ad ado#ted %n 'e$at%on to ot"e' &ases f%$ed (4 t"e A##$%&ant (efo'e t"e T'%(una$.

C.   n 17 June 2012! t"e A##$%&ant - as %nfo'med t"at! fo$$o- %ng 'efe''a$ of t"e %ssue of 'e#$a&ement of =s. . to t"e ff%&e of 0uman ?esou'&es =anagement %n Ne- Bo'1! %t "ad (een de&%ded to g%2e "%m t"e o#t%on to e%t"e' ag'ee to an e6&e#t%ona$ %n&$us%on %n t"e UN DC $%st of 'e(utta$ #ane$ mem(e's of staff mem(e's f'om ot"e' off%&es! o' to se$e&t %n t"at $%st anot"e' UN DC staff mem(e'! - "ose #'omot%on to g'ade D92 - ou$d (e effe&t%2e f'om 1 August 2012.

10.   T"e A##$%&ant 'es#onded on t"e same da4 t"at "e d%d not a&&e#t t"ese #'o#osa$s.

11.   ;4 an ema%$ of 1C June 2012! t"e C"%ef of t"e 8taff Adm%n%st'at%on Un%t! 0?=8! %nfo'med t"e A##$%&ant t"at t"e a$te'nat%2e #'o#osed on 17 June 'ef$e&ted t"e on$4 t- o #oss%($e o#t%ons and s"e as1ed "%m "o- "e - %s"ed to #'o&eed.

12.   On 27 June 2012, the Applicant sought management evaluation of the decision, communicated to him on 18 June 2012, not to proceed with the rebuttal process in relation to his 2011 performance appraisal.

13.   Also on 27 June, he filed with the Tribunal the application which forms the subject of the present Judgment.

14.   On 29 June 2012, the Applicant sent to the Tribunal the response which he had received on the same day from the Management Evaluation Unit and he asked that it be added to the case file.

15.   By motion dated 2 July 2012, to which an amended version of the application was annexed, the Applicant sought leave to resubmit his application (in view of his submission of 29 June 2012).

16.   As a preliminary matter, the Tribunal grants the Applicant's motion of 2 July 2012 requesting that the amended version of the application replace the original version. However, for filing purposes, the date of filing will remain 27 June 2012.

17.   According to article C of its Rules of Procedure, the Tribunal may determine, on its own initiative, that summary judgment is appropriate. This usually would happen when there is no dispute as to the material facts of the case and judgment is restricted to a matter of law. It may be even more appropriate for issues related to the admissibility of an application (see,   ,   et al. UNDT/2010/01C as confirmed by 2010/UNAT/072F UNDT/2010/02D as confirmed by 2010/UNAT/056). In the present case, the facts are clear and the only issue — whether the contested decision is capable of being appealed — is such a matter of law.

18.   Article 2.1 of the Tribunal's Statute provides that the Tribunal is competent to hear and pass judgment on an application appealing (an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment). Further, both the Appeals Tribunal

and the Dispute Tribunal have endorsed the definition provided by the former UN Administrative Tribunal in Judgment No. 1157 (2003):

> An "administrative decision" is a unilateral decision taken by the Administration in a precise individual case (individual administrative act), which produces direct legal consequences to the legal order. Administrative decisions are therefore characterized by the fact that they are taken by the Administration, they are unilateral and of individual application, and they carry direct legal consequences. (see 2010-UNAT-013 and 2010-UNAT-030; see also UNDT/2009/046 and UNDT/2010/111)

19. Further, in ... the Dispute Tribunal held that to be contestable, a decision must be final as it will only be able to affect an applicant's legal rights once the decision is actually made (see also 2011-UNAT-152).

20. In challenging what the Applicant describes as "the decision not to proceed with the rebuttal process in relation to his 2011 performance appraisal," he actually impugns the alternative offered by the Administration to replace a rebuttal panel member whose recusal had been sought by the Applicant. The Administration's proposed alternative does not in any way qualify as a "final decision". Nor can it be considered as a decision "not to proceed" with the rebuttal process in relation to the Applicant's 2011 performance appraisal.

21. In challenging the Administration's proposed alternative, the Applicant submits that the Administration erred in relying ...

as both first and second reporting officer cannot be reviewed within the context of the assessment of the final decision, that is, the outcome of the staff member's