

1. !" a##\$%&at%on f%\$ed on 11 ' &to(e) 2013\* t+e A##\$%&ant &ontests t+e de&%s%on of t+e , -e&ut%.e ' ff%&e)\* Un%ted Nat%ons , &onom%& Comm%ss%on fo) , u)o#e /0UN, C, 12\* not to )ene 3 +%s f%-ed4te)m a##o%ntment (e"ond 31 5 a" 2013.

2. T+e A##\$%&ant 60%ned t+e UN, C, on 23 7e#tem(e)  $1886^*$  as an , -#e)t at t+e 944 %e.e% funded (" e-t)a4(udgeta)" sou)&es unde) t+e T)ust : und #)o6e&t

6. ! " \$ette) of 5 June 2012\* f)om t+e Ausskan Pe)manent 5 %sskon to t+e Un%ted Natkons %n Gene.a\* t+e UN, C, 3 as %nfo)med a(out t+e %ntent%on of t+e Ausskan : ede)at%on to )e.%se t+e &on&e#t of t+e #)o6e&t to +a.e %t managed (" t+e e-%st%ng staff of t+e 7usta%na(%e, ne)g" D%.%skon /07, D12.

<. (in an emails dated 26 June 2012\* f)om t+e Aussian Pe)manent 5 ission to t+e United Nations in Gene.a to t+e Di)e&to)\* P)og)amme 5 anagement Unit\* ' ffike of t+e , -e&uti.e 7e&)eta)"\* UN, C, \* it 3 as st)essed t+at t+e Aussian 5 ission 3 ousid (e)ead" 0to &ontlinue t+e fundling of an Be-t)a4(udgeta)"C staff mem(e) fo) t+e du)ation #e)iod of an a##)o.ed #)o6e&t 3 it+ t+e unde)standling t+at at t+is moment\* untils t+e #)o6e&t B3 asC )e.ised (" t+e Aussian )es#e&ted minist)ies\* t+e ons" e-#enses t+e Aussian side B3 ousidC (e &o.e)ing B3 asC t+e saia)". Asis ot+e) #)e.iouss" ag)eed a&ti.ities s+ousid (e sto##ed untils fu)t+e) noti&e1. (et 3 as fu)t+e) st)essed t+at 0t+e intention of t+e Aussian side B3 asC not to )esume t+e #)o6e&t afte) 20131.

. !" memo)andum of 26 Ju\$" 2012\* t+e 'ff%&e)4%n4C+a)ge\* , -e&ut%.e 'ff%&e\* UN,C,\* %nfo)med t+e A##\$%&ant t+at %n .%e3 of t+e fa&t t+at t+e dono) no \$onge) su##o)ted t+e fund%ng of t+e #)o6e&t\* t+e UN,C, 3 as no \$onge) %n a #os%t%on to e-tend +%s a##o%ntment (e"ond 30 No.em(e) 2012.

8. 'n 21 7e#tem(e) 2012\* t+e A##\$%&ant f%\$ed a f%)st )eDuest fo) management
e.a\$uat%on\* aga%nst t+e de&%s%on of 26 Ju\$" 2012\* )eDuest%ng t+e 5 anagement
, a\$uat%on Un%t /0 5 , U12 to #ut +%s &ase %n a(e"an&e unt%\$ 15 No.em(e) 2012\* %n
.%e3 of ongo%ng effo)ts to so\$.e t+e matte) am%&a(\$" .%a t+e 'm(udsman.

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30 No.em(e) 2012. Ge t+en noted t+at on 2 No.em(e) 2012\* "ou 3 e)e not%f%ed t+at "ou) &ont)a&t 3 %% (e e-tended unt% 31 5 a" 2013. Hou) ema% of 18 :e()ua)" 2013 &onf%)ms t+%s %nfo)mat%on. T+us\* t+e de&%s%on of 2 No.em(e) 2012 su#e)sedes t+e de&%s%on of 21 7e#tem(e) 2012 /s%&2\* and )ende)s "ou) ent%)e &ase 5, U/<0 412/A moot. T+e)efo)e\* 3 e 3 %% #)o&eed to &\$ose "ou) f%%e\* )e%ated to t+e 21 7e#tem(e) 2012 /s%&2 de&%s%on s%n&e %t

Case No. UNDT/GVA/2013/056 Judgment No. UNDT/2014/115 25. ! " \$ette) of 15 Ju\$" 2013\* t+e U7G fo) 5 anagement %nfo)med t+e A##\$%&ant t+at t+e 7e&)eta)"4Gene)a\$ +ad de&%ded to a&&e#t t+e )e&ommendat%on of t+e 5 , U to u#+o\$d t+e &ontested de&%s%on.

26. T+e A##\$%&ant f%\$ed t+e #)esent a##\$%&at%on on 11 ' &to(e) 2013 and t+e

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d. (in an" e.ent\* t+e Ausskan go.e)nment +ad ag)eed to fund t+e #ost (et3een 2011 and 2013J t+us\* t+e A##\$%&ant +ad a \$eg%t%mate e-#e&tat%on t+at +%s &ont)a&t (e)ene3ed and +%s sa\$a)" (e #a%d unt%\$ t+e end of 2013J t+e Dono)=s 3%t+d)a3a\$ of funds 3 as t+e)efo)e not a \$eg%t%mate )eason not to e-tend t+e A##\$%&ant=s &ont)a&t (e"ond 31 5 a" 2013J

e. T+e De#ut", -e&ut%.e 7e&)eta)"\* UN, C, \* +ad assu)ed +%m t+at %f +e 3e)e to f%nd a\$te)nat%.e fund%ng\* t+e #)o6e&t 3ou\$d &ont%nue and +%s &ont)a&t 3ou\$d (e e-tendedJ t+e Go.e)nment of t+e Net+e)\$ands +ad ag)eed to &ont%nue fund%ng t+e #)o6e&t afte) 31 5 a" 2013\* (ut UN, C, fa%\$ed to #)o.%de %t 3%t+ t+e )eDuested adm%n%st)at%.e gu%dan&e on +o3 to %m#\$ement t+e &oo#e)at%onJ +en&e\* no su&+ funds &ou\$d (e d%s(u)sed (" t+e Dut&+ go.e)nmentJ

f. T+e memo of 10 5 a" 2013\* (" 3+%+ UN,C, )eDuested UN 'G\* >A 5 7\* to a##)o.e t+e e-tens%on of +%s a##o%ntment\* &)eated a %eg%t%mate e-#e&tan&" t+at t+e #)e.%ous #atte)n of &ont)a&t )ene3a%s 3ou%d aga%n (e a##)o.ed\* as %t +ad (een t+e &ase o.e) t+e %ast 15 "ea)sJ

g. T+e , -e&ut%.e 7e&)eta)"\* UN,C,\* +ad .e)(a\$\$" a##)o.ed t+at t+e A##\$%&ant (e \$ate)a\$\$" mo.ed to one of t+e t+)ee P45 #os%t%ons a.a%\$a(\$e 3%t+%n 7, DJ one of t+ese #osts +ad (een .a&ant s%n&e 1 Janua)" 2013 and 3 as e-t)a4(udgeta)"\* as su&+ not fa\$\$%ng unde) t+e )est)%&t%ons #)o.%ded fo) %n o.ene (een)e%na\$ &onst%tutes a .%o\$at%on of %ts dut" to use %ts (est effo)ts to t)" to f%nd t+e A##\$%&ant anot+e) #ostJ +e 3 as not #)o.%ded 3%t+ a #)o#e) e-#\$anat%on 3+" su&+ an e-&e#t%on 3 as not soug+tJ

6. An "3a"s\* unde) t+e te)ms of t+e Cont)osse)=s memo)andum of 15 5 a)&+ 2012\* as t+e +osde) of a :TA\* +e &ousd +a.e (een tem#o)a)ss"

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f. T+e A##\$%&ant on\$" se&u)ed a \$ette) #\$edg%ng funds f)om t+e Dut&+ go.e)nment\* not a &as+ &ont)%(ut%on needed as #e) 7T/A%/2 5 /%V2 and 7T/7G !/1 \* #a)a. 40\* to a\$%o3 UN,C, to a\$%ot fund%ng fo) and to e-tend t+e A##\$%&ant=s &ont)a&tJ t+e A##\$%&ant 3 as .e)(a\$%" to\$d t+at UN,C, +ad to )e&e%.e a &as+ &ont)%(ut%on e &e5()-(()-1.44944(a)-145.-3.81876(sa7960221525.44944(e)-3

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32. 5 indfus of t+e a(o.e 6u)/is#)uden&e\* and (efo)e anas''s ing in4de#t+ t+e &+a in of & ommuni&ation (et 3 een t+e A##\$ikant and t+e 5, U\* t+e T) (unas) e&ass t+at t+e A##\$ikant sent a fillst )eDuest fo) management e.asuation on 21 7e#tem(e) 2012\* of t+e de&ision of 26 Jus'' 2012 not to e-tend +is a##ointment (e"ond 30 No.em(e) 2012\* 3+ik+ I u#on +is )eDuest I 5, U #ut in a(e"an&e. 'n 15 No.em(e) 2012\* +e )eDuested 5, U to inko)#o)ate t+e de&ision of 2 No.em(e) 2012 not to )ene3 +is a##ointment afte) 31 5 a" 2013 into +is #endling 5, U )eDuest. T+e)eafte)\* and afte) +e +ad )e&ei.ed se.e)as & communi&ations f)om 5, U /&f. +e)e (eso32\* t+e A##\$ikant su(mitted anot+e) )eDuest fo) management e.asuation on 31 5 a" 2013. U#on )e&ei#t of t+e 5, U )es#onse of 15 Jus''' 2013 to +is sat )eDuest fo) management e.asuation\* t+e A##\$ikant fised t+e #)esent a##\$ikation on 11 ' &to(e) 2013.

33. In .%e3 of t+e a(o.e t%me%ne and 6u)%s#)uden&e of t+e A##ea\$s T)%(una\$\* t+e T)%(una\$ f%)st +as to assess 3+et+e) t+e de&%s%on of 28 5 a" 2013 &onst%tuted a ne 3\* se#a)ate adm%n%st)at%.e de&%s%on su(6e&t to %nde#endent )e.%e3 o) 3+et+e) %t &onst%tuted a me)e &onf%)mat%on of t+e ea)%e) de&%s%on of 2 No.em(e) 2012.

34. T+e T)\*(una\$ notes t+at t+e memo)andum of 2 No.em(e) 2012\* not%f\*ed to t+e A##\$%&ant on 13 No.em(e) 2012\* uneDu%.o&a\$\$" and 3 %t+out an" &ond%t\*ona\$%t" %nfo)med t+e \$atte) t+at +\*s :TA 3 as not go%ng to (e) ene3ed (e"ond 31 5 a" 2013\* s%n&e +\*s #)o6e&t #ost 3 as to e-#%)e at t+at date. @t e-#\$%&\*t\$" )eadsF OB#C\$ease a&&e#t t+%s \$ette) as an ad.an&e not%&e of end%ng of "ou) f%-ed4te)m a##o%ntment 3 %t+ UN, C, on 31 5 a" 2013.1

 e-tend t+e A##\$\$&ant=s a##o%ntment (e"ond 31 5 a" 2013 3 as ta?en on t+e (as%s of ne3 fa&ts.

36. 'n t+e ot+e) +and\* t+e de&%% on of 28 5 a" 2013 does not %n&% ude an" ne3 e%ements )ega)d%ng t+e &)u&%a% &ontent of t+e de&%% on of 2 No.em(e) 2012\* %.e. t+at t+e A##%% ant=s &ont)a&t 3 ou%d not (e) ene 3 ed (e"ond 31 5 a" 2013. Ne%t+e) does %t %n&% ude ne3 g)ounds fo) t+%s de&%% on\* %.e. t+at t+e fund%ng of t+e #)o6e&t I and\* +en&e\* of +%s #ost I +ad &ome to an end. :%na%\$"\* t+e fa%u)e to )eDuest t+e U7G\* D 5 \* to ma?e an e-&e#t%on a%so 3 %ng t+at t+e A##%% ant (e &+a)ged aga%nst a )egu%a) (udget #ost\* does not amount to an adm%n%st)at%.e de&%% on s%n&e %t &an on%" (e &ons%de)ed as one ste# 3 +%&+ &ou%d +a.e %ed to an adm%n%st)at%.e de&%% on\* (ut not as an adm%n%st)at%.e de&%% on %n %tse%f /&f. " 20114UNAT41522. T+e)efo)e\* t+e de&%% on of 28 5 a" 2013 &onst%tutes a me)e &onf%)mat%on of t+e o)%g%na% de&%% on f2 No.em(e) 2012\* and does not )eset t+e &\$o&? fo) a##ea%ng t+e non4)ene 3 a% de&%% on t+e A##%% ant 3 ants to &ontest.

3<. @t fo\$\$03s t+at t+e date of not%f%&at%on of t+e de&%s%on of 2 No 003()-69.7604a .203(.)4.850e55(e)6.84125(.)-5.80816()250] TJD-236.854 -19.56(2)-0.96-3.81876()-144.373(d133.225(# t+e end of t+e A##\$%&ant=s a##o%ntment f)om 30 No.em(e) 2012 to 31 5 a" 2013\*

41. T+e T)%(una% &ons%de)s t+at unde) t+e &%)&umstan&es of t+e &ase at +and and %n \$%g+t of t+e a(o.e4)efe)en&ed 6u)%s#)uden&e of t+e A##ea%s T)%(una% %n '20134UNAT4331\* t+e A##\$%&ant &ou%d %n good fa%t+ &on&&ude t+at no fu)t+e) a&t%on 3 as to (e ta?en (" +%m 3%t+ )es#e&t to t+e 2 No.em(e) 2012 de&%s%on (ut t+at +e &ou%d )eDuest a ne 3 )e.%e3 %f +e )e&e%.ed a 0futu)e1 non4)ene 3 a% de&%s%on.

46. : %na\$\$"\* %n . %e3 of t+e natu)e of t+e A##\$%&ant=s &ont)a&t and status\* t+e T)%(una\$ notes t+at t+e Adm%n%st)at%on d%d not +a.e an o(\$%gat%on to #\$a&e t+e A##\$%&ant %n anot+e) de#a)tment o) to ot+e)3%se se&u)e +%s &ont%nued em#\$o"ment.

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Adm%n%st)at%on a&ted ot+e)3%+% 46(d)81876(t960221(s)-5.-5.8081(n)-0.95892(a)-3.818761(a)-3.8174