DTA "e\$d g'ade D92 and t"at! a&&o'd%ng to se&t%on 15 of adm%n%st'at%2e %nst'u&t%on 8T/A@/2010/5)Pe'fo'man&e = anagement and De2e\$o#ment 84stem,! t"e 'e(utta\$ #ane\$ mem(e's "ad to (e eAua\$ %n g'ade o' "%g"e' t"an t"e 'e#o't%ng off%&e' - "ose e2a\$uat%on - as (e%ng 'e(utted. 0e fu't"e' noted t"at t"e'e - as on\$4 one %nd%2%dua\$ on t"e UN DC \$%st of 'e(utta\$ #ane\$ mem(e's - "ose g'ade - as D92 and none at a "%g"e' \$e2e\$! and "e e6#\$a%ned t"at gu%dan&e - as (e%ng soug"t f'om t"e Un%ted Nat%ons 8e&'eta'%at 0eadAua'te's %n Ne - Bo'1 as to "o- to #'o&eed.

7. >u't"e' &o''es#onden&e ensued and! unde' &o2e' of an ema%s of 1C A#'%s 2012! t"e A##\$%&ant 'e&e%2ed a ne - \$%st of 'e(utta\$ #ane\$ mem(e's! and "e - as as1ed to se\$e&t mem(e's fo' t"e 'e(utta\$ #ane\$ - "%&" - as to 'e2%e - "%s 2011 #e'fo'man&e a##'a%sa\$.

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 0 uman ?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%s 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. n 27 June 2012! t"e A##\$%&ant soug"t management e2a\$uat%on of t"e de&%s%on! *&ommun%&ated to ."%m on 1C/ June 2012+ not to #'o&eed - %t" t"e 'e(utta\$ #'o&ess %n 'e\$at%on to "%s 2011 #e'fo'man&e a##'a%sa\$.

13. A\$so on 27 June! "e fised - it" t"e T'i(unas t"e a##siseation - "ise" fo'ms t"e su(3e&t of t"e #'esent Judgment.

1<. n 2D June 2012! t"e A##\$\$&ant sent to t"e T'\$(una\$ t"e 'es#onse - "\$&" "e "ad 'e&e\$2ed on t"e same da4 f'om t"e = anagement E2a\$uat\$on Un\$t and "e as1ed t"at \$t (e added to t"e &ase f\$\$e.

15. ; 4 motion dated 2 Juii 2012! to - "ik" an amended 2e'sion of t"e a##\$%&ation - as anne6ed! t"e A##\$%&ant soug"t \$ea2e to 'esu(mit "is a##\$%&ation *. %/n 2%e - of "is su(mission of 2D June 2012+.

16. As a #'e\$\m\\na'4 matte'! t"e T'\\(una\\ g'ants t"e A##\\\\angle ant5s mot\\on of 2 Ju\\\4 2012 'eAuest\\\ng t"at t"e amended 2e's\\on of t"e a##\\\\\\\angle at\\on 'e#\\\\angle a\\\ete t"e o'\\g\\\na\\ 2e's\\on. 0o-e2e'! fo' f\\\\\\ng #u'#oses! t"e date of f\\\\\\ng \\ng - \\\\\s\\\ 'ema\\\n 27 June 2012.

17. A&&o'd\ing to a't\ikkse C of its ?u\set of P'o&edu'e! t"e T'\(una\set ma4 dete'm\ine! on its o-n init\at\2e! t"at summa'4 3udgment is a##'o#'\ate. T"\s usua\\$4 - ou\string "a##en - "en t"e'e is no d\is#ute as to t"e mate'\a\string fa&ts of t"e &ase and 3udgment is 'est'\ikkted to a matte' of a - 0 the mate (e e2en mo'e a##'o#'\ate fo' issues 'e\string to t"e adm\ss\(\is\\t4 of an a##\string is a atte' of \set is conf\) a conf\'med (4 20109UNAT9072F UNDT/2010/01C as &onf\'med (4 20109UNAT9056,. In t"e #'esent &ase! t"e fa&ts a'e &\set and t"e on\\$4 \ssue G - "et"e' t"e &ontested de&\s\ot on is &a#a(\set of (e\ing a##ea\set G is suk" a matte' of \set a -.

1D. A't%&%e 2.1 of t"e T'%(una%5s 8tatute #'o2%des t"at t"e T'%(una% %s &om#etent to "ea' and #ass 3udgment on an a##\$%&at%on a##ea%%ng *an adm%n%st'at%2e de&%s%on t"at %s a%seged to (e %n non9&om#\$%an&e - %t" t"e te'ms of a##o%ntment o' t"e &ont'a&t of em#%o4ment+. >u't"e'! (ot" t"e A##ea%s T'%(una%

and t"e D\s#ute T'\s(una\s"a2e endo'sed t"e def\s\s\son #'o2\sded (4 t"e fo'me' UN Adm\s\st'at\s2e T'\s(una\s\sn Judgment No. 1157!)2003,H

.A/n *adm%n%st'at%2e de&%s%on+ %s a un%\$ate'a\$ de&%s%on ta1en (4 t"e Adm%n%st'at%on %n a #'e&%se %nd%2%dua\$ &ase)%nd%2%dua\$ adm%n%st'at%2e a&t,! - "%&" #'odu&es d%'e&t \$ega\$ &onseAuen&es to t"e \$ega\$ o'de' I Adm%n%st'at%2e de&%s%ons a'e t"e'efo'e &"a'a&te'%Jed (4 t"e fa&t t"at t"e4 a'e ta1en (4 t"e Adm%n%st'at%on! t"e4 a'e un%\$ate'a\$ and of %nd%2%dua\$ a##\$%&at%on! and t"e4 &a''4 d%'e&t \$ega\$ &onseAuen&es.)see 20109UNAT9013 and 20109UNAT9030F see a\$so UNDT/200C/0D6 and UNDT/2010/111,

1C. >u't"e'! %n ! t"e D%s#ute T'%(una\$ "e\$d t"at to (e &ontesta(\$e! a de&%s%on must (e f%na\$ as %t - %\$\$ on\$4 (e a(\$e to affe&t an a##\$%&ant5s \$ega\$ '%g"ts on&e t"e de&%s%on %s a&tua\$\$4 made)see a\$so 20119UNAT9152,.

20. In & assenging - "at t"e A##sixant des&'i(es as *t"e de&ision not to #'o&eed - it" t"e 'e(uttas+ #'o&ess in 'esation to "is 2011 #e'fo'man&e a##'aisas! "e a&tuass4 im#ugns t"e aste'natize offe'ed (4 t"e Admiinist'ation to 'e#sa&e a 'e(uttas #anes mem(e' - "ose 'e&usas "ad (een soug"t (4 t"e A##sixant. T"e Admiinist'ation5s #'o#osed aste'natize does not in an4 - a4 Auasiif4 as a *fiinas de&ision+. No' & an it (e & onside'ed as a de&ision *not to #'o&eed+ - it" t"e 'e(uttas #'o&ess in 'esation to t"e A##sixant5s 2011 #e'fo'man&e a##'aisas.

21. @n &"a\$\$eng%ng t"e Adm%n%st'at%on5s #'o#osed a\$te'nat%2e! t"e A##\$%&ant su(m%ts t"at t"e Adm%n%st'at%on e''ed %n 'e\$4%h@) A#1J50(')3.00781(e)3.84766(\$) - 22.168(4)206 as (ot" f%'st and se&ond 'e#o't%ng off%&e' &an on\$4 (e 'e2%e - ed - %t"%n t"e &onte6t of t"e assessment of t"e f%na\$ de&%s%on! t"at %s! t"e out&ome of t"e staff mem(e'5s #e'fo'man&e a##'a%sa\$. @n t"%s &ase! t"e 'e(utta\$ #'o&ess 'ega'd%ng t"e A##\$%&ant5s 2011 #e'fo'man&e a##'a%sa\$ %s ongo%ng and "%s a##\$%&at%on %s t"e'efo'e #'ematu'e.

2<. @n 2%e - of t"e fo'ego%ng! t"e T'%(una% DEC@DE8#

T"e A##\$%&at%on %s 'e3e&ted.

), KKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKK

Judge T"omas 7a1e'

Dated t"%s 3^{'d} da4 of Ju\$4 2012

Ente'ed %n t"e ?eg%ste' on t"%s 3^{'d} da4 of Ju%4 2012

)

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KKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKK

?enL =. Va'gas =.! ?eg\st'a'! Gene2a