Case No.:

UNITED NATIONS DISPUTE TRIBUNAL

Introduction

1. ! a""#\$%at\$on f\$#ed on 2& De%em'e(2014) t*e A""#\$%ant) a (et\$(ed staff mem'e(of t*e +nte(nat\$ona# C(\$m\$na# T(\$'una# fo(t*e fo(me(,ugos#a-\$a ./+CT ,01) %ontests t*e Ass\$stant 2e%(eta(!3Gene(a# fo(4uman 5esou(%es 6 anagement ./A2G/7 4 5 6 01 de%\$s\$on of 17 June 2014 den!\$ng *e(a %on-e(s\$on of *e(f\$8ed3te(m a""o\$ntment \$nto a "e(manent a""o\$ntment.

2. ! 9a! of (emed\$es) s*e (e:uests;

mont*s> net 'ase sa#a(! "u(suant to a(t. 20 of t*e $T(\S'una\#>s 5u\#es of P(o\%edu(e<$

- f. Damages fo(mo(a# d\$st(ess and emot\$ona# \$n?u(! o\$%as\$oned '! t*e den\$a# of due "(o\$ess f(om 200\$ to date) \$n t*e amount dete(m\$ned '! t*e T(\$'una# \$on\$om\$tant 9\$t* an! damages a 9a(ded to ot*e(a""#\$%ants \$n a s\$m\$#a("os\$t\$on< and
- g. An! ot*e((e#\$ef t*at t*e T(\$ 'una# deems ?ust and "(o"e(.

Facts

- =. 7 n 25 6 a! 1&&=) t*e 2e%u(\$t! Coun%\$# de%\$ded) '! (eso#ut\$on @27 .1&&=1) to esta'#\$s* +CT,) an ad hoc \$nte(nat\$ona# t(\$'una#) fo(t*e so#e "u("ose of "(ose%ut\$ng "e(sons (es"ons\)'#e fo(se(\$ous -\$o#at\$ons of \$nte(nat\$ona# *uman\$ta(\$an #a 9 %omm\$tted as of 1 Janua(! 1&&1 \$n\$ t*e te((\$to(! of t*e fo(me(, ugos#a-\$a) and (e:uested t*e 2e%(eta(!3Gene(a# to maAe "(a%t\$%a# a((angements fo(t*e effe%t\$-e fun%t\$on\$ng of t*e T(\$'una#.
- 4. ! memo(andum dated 20 6 a ! 1&&4 add(essed to t*e A%t\$ng 5 eg\$st(a(of +CT ,) t*e Unde(32e%(eta(!3Gene(a# ./U2G01 fo(Adm\$n\$st(at\$on and 6 anagement def\$ned t*e a((angements fo(t*e (e%(u\$tment and adm\$n\$st(at\$on of +CT , staff) and de#egated to t*e +CT , 5 eg\$st(a(t*e aut*o(\$t! to a""o\$nt staff u" to t*e D31 #e-e# on 'e*a#f of t*e 2e%(eta(!3Gene(a#.
- 5. +n a%%o(dan%e 9 \$t* t*e te(ms of t*e a'o-e3ment\$oned de#egat\$on of aut*o(t!) staff mem'e(s 9 e(e (e%(u\$ted s"e%\$f\$%a##! fo(se(-\$%e 9 \$t* +CT , . T*e\$(#ette(s of a""o\$ntment "(o-\$ded t*at t*e\$(a""o\$ntments 9 e(e /st(t)%t#! #\$m\$ted to se(-\$%e 9 \$t* B+CT , CO.
- 6. +n No-em'e(1&&5) '! 2e%(eta(!3Gene(a#>s 'u#et\$n 2T/2G /2@0 .2us"ens\$on of t*e g(ant\$ng of "e(manent and "(o'at\$ona(! a""o\$ntments1) t*e <math>2e%(eta(!3Gene(a# announ%ed *\$s de%\$s\$on) effe%t\$-e 1= No-em'e(<math>1&&5) to sus"end t*e g(ant\\$ng of "e(manent a""o\\$ntments to s

7. ! t = 200=1 dated 2@ August 200=) t = 2e u(t ! Coun% # endo(sed <math>t = +CT, %om"#ets = 300=1 and t = 4cT, to taAe a## "osss = 4cT" measu(es to %om"#ete t = 4cT \$100.

@. +n June 2006) '! 2e%(eta(!3Gene(a#)s 'u#et\$n 2T/2G /2006/& .Cons\$de(at\$on fo(%on-e(s\$on to "e(manent a""o\$ntment of staff mem'e(s e#\$g\$'#e to 'e %ons\$de(ed \$n 1&&51) t*e 2e%(eta(!3Gene(a# "a(t\$a##! #\$fted t*e f(eeDe on t*e t*e))) t*e 2e%(eta(!3Gene(a# "a(t\$a##! #\$fted t*e))) t*e 2e%(eta(!3Ge

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12.

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1@. ased on ts (e-9 of +CT, su'mss) of 12 Ju#! and 16 August 2010)

%onso#\$dated) at t*e A""#\$%ants> (e:uest) 9\$t* t*at of ot*e(261 staff mem'e(s %on%e(ned '! ana#ogous de%\$s\$ons).

2@.

d\$d not (e%ommend an! of t*e %and\$dates fo(%on-e(s\$on< t*e (e%o(d s*o9s t*at a#t*oug* 7 4 5 6 *ad \$n\$t\$a##! g\$-en a "os\$t\$-e (e%ommendat\$on %on%e(n\$ng t*(ee +CT , staff mem'e(s ot*e(t*an t*e A""#\$%ant) \$t #ate((e-e(sed \$t 'efo(e t(ansm\$tt\$ng \$t.

- =6. 7n 12 6a(%* 2014) t*e 5es"ondent su'm\$tted to t*e A""ea#s T(\$'una# a mot\$on fo(e8tens\$on of t\$me to e8e%ute \$ts ?udgment>s o(de(to %ons\$de(+CT, staff mem'e(s fo("e(manent a""o\$ntments) a(gu\$ng t*at) due to t*e %om"#e8\$t! of t*e (e-\$e9 and t*e *\$g* -o#ume of staff mem'e(s \$n-o#-ed) \$t 9as not feas\$'#e to %om"#ete su%* %ons\$de(at\$on 'efo(e 1& June 2014. Afte(seeA\$ng and o'ta\$n\$ng fu(t*e(\$nfo(mat\$on on t*e \$m"#ementat\$on ste"s unde(taAen t*us fa() t*e A""ea#s T(\$'una#) '! 7(de(No. 17@ .20141 of 2 A"(\$# 2014) e8tended unt\$# 1& June 2014 t*e 5es"ondent>s dead#\$ne fo(%om"#et\$on of t*e %on-e(s\$on "(o%ess.
- =7. +n 6a! and June 2014) t*e (e#e-ant Ne9 , o(A C5 'od\$es (e-\$e9ed a## t*e f\$#es of t*e A""#\$\ans. T*e C5 Comm\$ttee .staff at t*e P32 to P34 #e-e#s1 (e\angle ommended t*at none of t*e A""#\$\ans. Te g(anted "e(manent a""o\sntments) 9*e(eas t*e C5 oa(d (e\angle ommended t*at n\sne staff mem'e(s at t*e P35 and a'o-e #e-e#) amongst 9*om 9as t*e A""#\$\angle antel o +CT , .
- =@. Afte(t*e C5 'od\$es> (e%ommendat\$on) t*e A2G/7 4 5 6 %ons\$de(ed 9*et*e(o(not to g(ant t*e A""#\$%ant %on-e(s\$on to a "e(manent a""o\$ntment. +n do\$ng so) t*e ent\$(e g(ou" of +CT, staff mem'e(s t*at 9 as (e%ons\$de(ed fo(%on-e(s\$on "u(suant to t*e d\$(e%t\$ons of t*e A""ea#s T(\$'una# 9 as d\$-\$ded \$n s\$8 g(ou"s of staff %ons\$de(ed to 'e \$n s\$m\$#a(s\$tuat\$ons \$n te(ms of em"#o!ment status) to <math>9\$t;
 - a. A""#\$%ants 9*o 9e(e a%t\$-e +CT, staff mem'e(s as at t*e date of t*e %ontested de%\$s\$ons<
 - '. A""#\$%ants 9*o 9e(e a%t\$-e +CT, staff mem'e(s \$n\$ t*e Gene(a# 2e(-\$%e %atego(! as at t*e date of t*e %ontested de%\$s\$ons<
 - %. A""#\$%ants 9*o *ad t(ansfe((ed to 6+CT as at t*e date of t*e %ontested de%\$s\$ons<

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d.

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2T/2G /200&/10. 2taff mem'e(s n ot*e("a(ts of t*e 7 (gann)) at son *ad 'een %on-e(ted to a "e(manent %ont(a%t 9n)) to "(o-n)) at son *ad 'een %on-e(ted to a "e(manent %ont(a%t 9n)) to "(o-n)) at son *a-n0 !ea(s afte(t*e o(n0)) at son-e(sn0) e8e(%)se. No addn0) at son *addn0) at son *add

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- #. +n an! e-ent) +CT, staff mem'e(s *a-e (e"eated#! s*o9n t*at t*e! "ossess t(ansfe((a'#e sA\$##s of %ons\$de(a'#e 'enef\$t to t*e 7 (gan\$Dat\$on as a 9*o#e. T*e A""#\$%ant) \$n "a(t\$%u#a() '(oug*t *e("(e-\$ous#! a%:u\$(ed t(ansfe((a'#e sA\$##s \$nto +CT,)) and %ont\$nued to de-e#o" t*em du(\$ng *e(#ong se(-\$%e t*e(e. T*e(e \$s no \$nd\$%at\$on t*at 7456 (e-\$e9ed t*e A""#\$%ant>s t(ansfe((a'#e sA\$##s< no ment\$on *as 'een made t*at a#(ead! '! 200&) t*e A""#\$%ant 9 as one of t*e #ongest se(-\$ng staff mem'e(s) t*e #ongest se(-\$ng #ega# off\$%e() "ossess\$ng un\$:ue \$nst\$tut\$ona# Ano 9#edge of t*e fo(mat\$on) "(o%edu(es and "(o%esses of +CT, < t*e \$nfo(mat\$on "(o-\$ded to t*e A2G/7 456 s*ou#d *a-e \$n%#uded deta\$#s on (e#e-ant matte(s su%* as t*e A""#\$%ant>s e8tens\$-e #ega# 'a%Ag(ound) -a(\$ed \$nte(nat\$ona# e8"e(\$en%e and #anguage sA\$##s<
- m. T*e su'?e%t3matte(of ?ud\$%\$a# (e-\$e9 n t*\$s %ase \$s t*e \$m"ugned de%\$s\$on) not t*e 9*o#e (e#ated f\$#e<
- n. T*e matte(d\$d not 'e%ome moot fo##09\$ng t*e A""#\$%ant>s (et\$(ement. K *\$#e t*e 5es"ondent n *s "#ead\$ngs (e#\$ed on *e(

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A""#\$%ant to su'm\$t add\$t\$ona# \$nfo(mat\$on and do%uments %annot 'e (ega(ded as ad-e(se to *e((\$g*t to su'stant\$-e due "(o%ess<

d. T*e A""# $\$ ant (e%e $\$ -ed $\$ nd $\$ - $\$ dua $\$) fu $\$ and fa $\$ ($\$ ons $\$ de(at $\$ on fo($\$ on-e(s $\$ on to a "e(manent a""o $\$ ntment. At t*e end of t*e "(o $\$ ess) t*e

a%%ount t*e (e%ommendat\$ons '! +CT,) 7 4 5 6 and C5 'od\$es fo##o 9 \$ng t*e\$(se"a(ate %ons\$de(at\$on of ea%* A""#\$%ant<

- T*e fo(m of t*e #ette(%on-e!\sq t*e de\ss\son does not esta'\pi\s* t*at g. t*e A2G/7 4 5 6 fa\$#ed to a""#! t*e (e#e-ant %(\$te(\$a< s*e d\$d %ons\$de(\$f t*e A""#\$%ant *ad t(ansfe((a'#e sA\$##s. 2*e a#so noted t*at s*e d\$d not *a-e aut*o(t! to "#a%e t*e A""#\$%ant \n a "os\t\00000n outs\0000de +CT, /6+CT. T*e A""#\$%ant \$s not ent\$t#ed to a not\$f\$%at\$on \$n a "a(t\$%u#a(fo(m o(#engt*. T*e 9o(d\(\)ng of t\(\)e de\(\)s\(\)son \(\)#ette(s \quad 9 as not t\(\)e same) 'ut 9 as ada"ted to \(\)s\(\)8 d\$ffe(ent g(ou"s of staff \$n %om"a(a'#e s\$tuat\$ons. +f t*e #ette(s *a-e s\$m\$#a(\$t\$es) t*\$s \$s 'e%ause) g\$-en t*e #a(ge num'e(of %on%e(ned staff and t*e monumenta# tasA t*at t*e 7(gan\$Dat\$on *ad to %om"#ete 9\$t*\$n a t\$g*t dead#\$ne) \$t 9as not (ea#\$st\$% to d(aft a %om"#ete#! d\$ffe(ent #ette(fo(ea%* A""#\$%ant. T*e #anguage and #e-e# of deta\$# *as to 'e e8am\$ned \$n #\$g*t of t*e t\$mef(ame of t*e e8e(\%se. J8"e\ft\$ng ot*e(9\\$se 9 ou\#d amount to sett\\$ng t*e 7(gan\$Dat\$on fo(fa\$\#u(e) 9*\$\%* \%annot *a-e 'een t*e \\$ntent\$on of t*e A""ea#s T(\$'una#. T*e "assage stat\$ng t*at t*e A""#\$%ant /ma! *a-e t(ansfe(a'#e sA\$##s0 ma! *a-e %(eated some %onfus\$on as \$t m\$q*t 'e (ead as (*eto(\$%a#< \$n fa%t) \$t \$ntends to state t*at t(ansfe((a '#e sA\$##s 9e(e %ons\$de(ed) and t*\s \s s*\o 9 n \sn t*\e (e\so(d of t*\e C5 'od\s<
- *. At t*e t\$me of t*e %ontested de%\$s\$on) t*e A""#\$%ant *ad se"a(ated f(om t*e +CT, u"on ea(#! (et\$(ement. A%%o(d\$ng#!) s*e 9as not su\$ta'#e fo(%on-e(s\$on. T*e(e 9as no %ont\$nu\$ng need fo(t*e A""#\$%ant>s se(-\$%es as s*e *ad (et\$(ed and) as su%*) t*e(e 9as no e8"e%tat\$on of o"en3ended em"#o!ment fo(*e(9\$t* t*e 7 (gan\$Dat\$on<
- \$. T*e "u("ose of "e(manent a""o\$ntments \$s to ass\$st t*e 7(gan\$Dat\$on \$n ma\$nta\$n\$ng "(og(amme %ont\$nu\$t! \$n %o(e fun%t\$ons. e\$ng su'?e%t to t*e 7(gan\$Dat\$on>s %ont\$nu\$ng needs) "e(manent %ont(a%ts a(e meant fo(staff mem'e(s "e(fo(m\$ng fun%t\$ons t*at a(e %o(e to \$ts mandate. T*e +nte(nat\$ona# C\$-\$# 2e(-\$%e Comm\$ss\$on ./+C2C01*as*e#d t*at a "e(manent a""o\$ntment s*ou#d not 'e g(anted <math>/9*e(e t*e mandate \$s f\$n\$te and t*e(e \$s no e8"e%tat\$on of o"en3ended em"#o!ment0. T*e "u("ose of "e(manent a""o\$ntment a""o\$ntmen

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a""ontments) as a(tu=ated '! t*e Gene(a# Assem'#! and +C2C) 9 ou#d not *a-e 'een se(-ed '! g(antn= t*e A""#\$%ant a "e(manent a""on=ntment a "e(manent a""o

?.

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"(o'at $\$ ona(! to "e(manent %ont(a%t< an e8%e"t $\$ ona# e8tens $\$ on of *e(

s. A 9 a(d of mo(a# damages $\$ on#! "oss\"#e \\$f esta'#\\$s*ed t*at t*e A""#\\$\anta\" suffe(ed damages) $9*\$ s*e *as not demonst(ated.

Consideration

Preliminary matter

4@.

a. +CT, staff mem'e(s a(e ent\$t#ed to fu## and fa\$(%ons\$de(at\$on of t*e\$(suitability fo(%on-e(s\$on to "e(manent a""o\$ntment ."a(a. =& and at "age 22 :uot\$ng "a(as. 66 and 67 of Judgment Malmström et al. 201=3UNAT3=571<

- '. T*e %on-e(s\$on e8e(%\$se 9 as (emanded fo(retroacti!e %ons\$de(at\$on of t*e su\$ta'\$#\$t! of t*e A""#\$%ant ."a(a. =&1<
- %. Ja%* %and\$date to 'e (e-\$e9ed fo(a "e(manent a""o\$ntment 9as #a9fu##! ent\$t#ed to an indi!idual and %ons\$de(ed assessment) o(to \$nd\$-\$dua# fu## and fa\$(%ons\$de(at\$on .at "age 22 :uot\$ng "a(as. 66 and 67 of Judgment Malmström et al. 201=3UNAT3=571) and \$n do\$ng so) /e-e(! (easona'#e %ons\$de(at\$on0 *ad to 'e g\$-en to +CT, staff mem'e(s demonst(at\$ng t*e proficiencies" competencies and transferrable skills (ende(\$ng t*em su\$ta'#e fo(%a(ee("os\$t\$ons 9\$t*\$n t*e 7(gan\$Dat\$on .at "age 2= :uot\$ng "a(a. 72 of Judgment Malmström et al. 201=3UNAT3 =571< and
- d. /T*e A2G/7 4 5 6 9 as not ent\$t#ed to (e#! so#e#! on t*e f\$n\$te mandate of t*e +CT, H B4e($\mathbb C$ d\$s%(et\$on 9 as fette(ed '! *e((e#\$an%e) to t*e e8%#us\$on of a## ot*e((e#e-ant fa%to(s) on t*e +CT, >s f\$n\$te mandate0 .at "age 22 : uot\$ng "a(a 24

one) made '! t*e A2G/7 4 5 6 \$n June 2014. T*\$s s"e%\$f\$% de%\$s\$on \$s t*us t*e su'?e%t of t*e T(\$'una#>s s%(ut\$n!) not*\$ng mo(e and not*\$ng #ess.

&ubstanti!e legality of the decision

2t(u%tu(e of t*e de%\$s\$on

57.

- a. Com"#et\$on of f\$-e !ea(s of %ont\$nuous se(-\$%e on f\$8ed3te(m a""o\$ntments. +n fa%t) unde(t*\$s \$tem) t*e #ette(of t*e A2G/7 4.5.6 a#so add(esses 9*et*e(t*\$s (e:u\$(ement 9 as met at t*e t\$me t*e A""#\$%ant 9 as unde(t*e age of <math>5=<
- '. Demonst(at\son of t*e *\sq*est standa(ds of eff\s\\end{ens}!) \som\"eten\end{ens} and \sq(\text{t! esta '\pi\s*ed \n t*e C*a(te(<
- %. Demonst(at on '! : ua f s wat ons) "e(fo(man e and wond of su a s te a snte(nat ona f section) "e(fo(man e and wond of su a snte(nat ona f section) "e(fo(man e and wond of su a snte) "e(fo(man e and wond of snte) "e(f
- d. Dete(m $\$ nat $\$ on t*at t*e g(ant $\$ ng of a "e(manent a""o $\$ ntment $\$ s $\$ n a $\$ o(dan $\$ e 9 $\$ t* t*e $\$ nte(ests of t*e 7 (gan $\$ Dat $\$ on.
- 61. +n sum) % (\$te(\$on .a1 a'o-e en%om"asses t*e t9o eligibility %ond\$t\$ons s"e%\$f\$ed \$n se%. 1 of 2T/2G /200&/10 G\$.e.) f\$-e !ea(s of %ont\$nu\$ng se(-\$%e on f\$8ed\$te(m a""o\$ntments (ea%*ed 'efo(e t*e age of 5=G 9*e(eas t*e #ast t*(ee %o((es"ond to d\$ffe(ent %om"onents of t*e suitability test as set fo(t* \$n se%. 2 of t*e same 'u##et\$n.
- 62. 20 st(u%tu(ed) t*e #ent

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(et(os"e%t\$-e#! \$s not suff\$%\$ent to meet t*e (e:u\$(ement of (et(oa%t\$-e consideration. ased on t*\$s #anguage) t*e T(\$'una# \$s not sat\$sf\$ed t*at t*e (e3 %ons\$de(at\$on e8e(%\$se oug*t to \$n%#ude ne9 %\$(%umstan%es t*at 9e(e on#! Ano9n 9*en t*e ne9 de%\$s\$on 9as (ea%*ed) \$.e.) m\$d3June 2014) and not 'e #\$m\$ted to t*ose Ano9n at t*e t\$me of t*e \$n\$t\$a# %on-e(s\$on e8e(%\$se.

6@. 2u%* an $\nte("(etat\$on 9ou\#d de-o\$d of an! mean\$ng t*e te(m /(et(oa\%t\$-e0) t*at t*e A""ea\#s T(<math>\$$ ' una# %ons%\$ous#! and "u("osefu##! %*ose to use. +n add\$t\$on) Judgment Ademagic et al. 201=3UNAT3=5& states t*at t*e ent\$t#ement to (e%e\$-e a "(o"e(su\$ta' \\$#\\$t! dete(m\$nat\$on fo((et(oa\%t\\$-e \%on-e(s\\$on) /a""\\$\esp e: ua\##! to an! #\\$\\$\\$gant staff mem'e(s 9*o 9e(e "a(t of t*e o(\$g\\$na# \%on-e(s\\$on e8e(\%\\$se at \\$ssue) 'ut *a-e s\\$n\%e #eft t*e se(-\%e of +CT, 0< t*\\$s fu(t

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71. +t fo##o9s t*at) \$nasmu%* as t*e (e3%ons\$de(at\$on e8e(%\$se tooA \$nto a%%ount) \$nstead) t*e fa%ts as of t*e date of t*e e-entua# de%\$s\$on .t*at \$s) m\$d3June 2014l) t*e Adm\$n\$st(at\$on fa\$#ed to %om"#! 9\$t* t*e A""ea#s T(\$'una#>s d\$(e%t\$on to %a((!out a retroacti!e %ons\$de(at\$on of t*e A""#\$%ant>s su\$ta '\$#\$t! fo(%on-e(s\$on.

72. T*e .@ 539 9(t)8.39 4(a)-14.32 5 7 7 03-0.9 58 93284 88 52 4 6-20(%-02-23645)30 496(d)2213(e)935 8388 22524

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+CT,) to a dfe(ent ent t! on t*e 'as s of t*e a'o-e3(efe(en%ed "(o-ss)on f t*e)("osts 9e(e to 'e a'o#s*ed.")

@2. +n an! e-ent) "a(a. 10 of t*e Gu\$de#\$nes "(o-\$des;

 $K*e(e t*e a""o$ntment of a staff mem'e($s #$m$ted to a "a(t$\u00ff\u00e4\u00ff\u00e4)u#a(de"a(tment/off$\u00e4\u00e4e) t*e staff mem'e(ma! 'e g(anted a "e(manent a""o$ntment s$m$\u00e4a(\u00e4!! #$m$ted to t*at de"a(tment/off$\u00e4e. +f t*e staff mem'e($s su'se:uent\u00e4! (e\u00e4(u$ted unde(esta'#$s*ed "(o\u00e4ed(es $n\u00e4#ud$ng (e-$e9'! a \u00e4ent(a\u00e4 (e-$e9'od! fo("os$t$ons e\u00e4se9*e(e $n t*e Un$ted Nat$ons 2e\u00e4(eta(\u00e4at) t*e #\u00e4m$\u00e4tatson $s (emo-ed.$

- @=. G\$-en t*e use of t*e 9o(d /ma!0) \$t \$s t*e T(\$'una*>s -\$e9 t*at t*\$s "(o-\$s\$on a##o9s) 'ut does not o'#\$ge) t*e Adm\$n\$st(at\$on G 9*en %on-e(t\$ng a f\$8ed3te(m a""o\$ntment #\$m\$ted to a %e(ta\$n off\$%e/de"a(tment G to t(ansfe(su%* %ont(a%tua# #\$m\$tat\$on to t*e .ne9#! g(anted! "e(manent a""o\$ntment. Ne\$t*e(t*e Gu\$de#\$nes no(ot*e(a""#\$%a'#e (u#es "(o*\$'\\$t t*e g(ant\\$ng of a non3#\\$m\\$ted "e(manent %ont(a%t u"on %on-e(s\\$on of a #\\$m\\$ted f\\$8ed3te(m a""o\\$ntment. +t fo##o9s t*at "a(a. 10 of t*e Gu\\$de#\\$nes %annot 'e \\$nte("(eted as to mean t*at fo(a staff mem'e(9*o "(e-\\$ous#! *e#d a #\\$m\\$ted f\\$8ed3te(m a""o\\$ntment t*e on#! "oss\\$'\\$#\$t! to (e\\$e\\$-e a "e(manent a""o\\$ntment \\$s t*at t*e #atte('e su'\?e\\$t to t*e same #\\$m\\$tat\\$on. +f \\$t 9e(e mandato(! to e: ua#!! #\\$m\\$t t*e "e(manent a""o\\$ntment to sa\\$d de"a(tment/off\\$ke u"on \%on-e(s\\$on) t*e Gu\\$de#\\$nes 9ou#d and s*ou#d *a-e e8"#\\$\\$t*! stated same.
- @4. 4 en%e) a#t*oug* t*e A""#\$%ant>s f\$8ed3te(m a""o\$ntment 9 as #\$m\$ted to +CT,) t*e A2G/7 4 5 6 %ou#d *a-e e#e%ted to g(ant *e(a "e(manent %ont(a%t not #\$m\$ted to se(-\$%e 9\$t* +CT,/6+CT) and 9 ou#d *a-e t*en 'een f(ee to (eass\$gn *e(9\$t*out an! \$m"ed\$ment.
- @5. T*e #\$m\$tat\$on of se(-\$%e to +CT, /6+CT 9 as t*e(efo(e \$n%o((e%t#! asse(ted to 'e an o'sta%#e to t*e A""#\$%ant>s (eass\$gnment and) u#t\$mate#!) to t*e %on-e(s\$on of *e(a""o\$ntment to "e(manent.

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&0. Aga\$nst t*\$s 'a%Ag(ound) t*e T(\$'una# tends to a%%e"t t*e Adm\$n\$st(at\$on>s "os\$t\$on t*at t*e f\$n\$te mandate of +CT,) as $9e^{\#}$ as of 6+CT) \$s a fa%to(t*at %an 'e -a#\$d#! %ons\$de(ed \$n de%\$d\$ng on t*e %on-e(s\$on of t*e A""#\$%ant>s a""o\$ntment to "e(manent. 4o9e-e() a#t*oug* \$t \$s a%%e"ta'#e to g\$-e ade:uate

*emedies

&4. A(t. 10.5 of sts 2 tatute de#sts ease t*e T(sts una#sts "o 9 e(s (ega(dsts ega(dsts ega(d of (emedsts) "(o-sts)"(o-

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101. T*e T($\$ 'una# *as %on%#uded) "(e%\$se#!) t*at t*e A2G/7 4 5 6 *ad at no "o\$nt

6 ate(\$a# damages

106. 5 ega(d\$ng t*e A""#\$%ant>s (e:uest fo(%om"ensat\$on e:ua# to t*e te(m\$nat\$on \$ndemn\$t\$es a""#\$%a'#e to "e(manent a""o\$ntment) and an! ot*e(/'enef\$ts 9*\$%*9ou#d *a-e a%%(ued to *e(*ad t*e "e(manent a""o\$ntment 'een effe%t\$-e as at t*e end of *e(se(-\$%e0) t*e T(\$'una# \$s not "(e"a(ed to a9a(d t*em essent\$a##! fo(t*e same (easons fo(9*\$%* \$t den\$ed s"e%\$f\$% "e(fo(man%e. +ndeed) su%* an a9a(d 9ou#d amount to "(e?udg\$ng t*at t*e A""#\$%ant 9ou#d *a-e *ad *e(a""o\$ntment %on-e(ted to "e(manent) a matte(9*\$%*) as noted a'o-e) (ema\$ns o"en and *as 'een (emanded fo(%ons\$de(at\$on.

107. No a 9 a(d \$s to 'e made e\$t*e(fo(#oss of %a(ee(ad-an%ement "oss\$'\$#\$t\$es \$n t*e "e(\$od f(om June 200& to =1 De%em'e(2011. T*e t!"e of %ont(a%t *e#d '! a g\$-en staff mem'e(\$s :u\$te a d\$st\$n%t :uest\$on f(om t*e "(omot\$ons and ?o' mo-es t*at *e o(s*e \$s a'#e to o'ta\$n. T*e(e \$s *en%e no %ausa# #\$nA 'et9een an! a'sen%e of %a(ee(ad-an%ement of t*e A""#\$%ant \$n *e(#ast !ea(and a *a#f \$n se(-\$%e and t*e %ontested de%\$s\$on. Mast 'ut not #east) t*e(e %ou#d not 'e an! su%* #\$nA) as t*e

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112. Eo(t*e (easons out#\$ned a'o-e) \$t fo##o9s t*at t*e (e%ent amendment to

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 $\noindent $ \noindent $ \noi$

Jnte(ed $\$ t*e 5eg\\$ste(on t*\\$s 17^{t*} da! of De\\$em'e(2015 .&igned1

 $5\,\text{enN}~6$. Va(gas 6 .) $5\,\text{eg}$ st(a() Gene-a