Introduction

1.

12. T(e *ead' D3++' sent a memo)andum dated 16 June 201& to t(e *\$g(Comm\$ss\$one)' ent\$t#ed 0; o##o6 u" to t(e ;)\$t? >nst\$tute 5e.\$e6 of t(e +u""#! C(a\$n1. >n t(at memo' t(e D\$)e%to)' D3++' noted fou) 0")\$o)\$t! a%t\$ons and de%\$s\$on ma<\$ng "o\$nts fo) %ons\$de)at\$on 7! t(e *\$g(Comm\$ss\$one)1. 4 ne of t(em %on%e)ned 0t(e t)ansfo)mat\$on of ")o%u)ement \$nto a mo)e)o7ust se).\$%e 7!)e%onf\$gu)\$ng t(e se).\$%e \$nto a *F se%t\$on and a ;\$e#d se%t\$on1. To t(at memo)andum' t(e *ead' D3++' anne:ed fu)t(e) e:"#anat\$ons on t(e ")o"osed)est)u%tu)\$ng' \$n%#ud\$ng an o)gan\$g)am on t(e ")o"osed D3++ ne6 st)u%tu)e. T(e *\$g(Comm\$ss\$one) s\$gned t(e memo)andum off on 2& June 201&.

18. T(e *ead' P, C+' t(e A""#\$%ant=s su"e).\$so)' \$nfo)med t(e #atte) du)\$ng a

16. At \$ts 10 Ju#! 201& sess\$on' t(e udget Comm\$ttee a"")o.ed t(e ")o"osed P, C+)est)u%tu)\$ng' \$n%#ud\$ng t(e d\$s%ont\$nuat\$on of t(e "os\$t\$on en%um7e)ed 7! t(e A""#\$%ant' effe%t\$.e 1, a)%(2016. T(e A""#\$%ant 6as \$nfo)med of t(at de%\$s\$on 7! t(e *ead' P, C+' \$n a #ette) dated 24 Ju#! 201&' 6(\$%(t(e A""#\$%ant s\$gned on 27 Ju#! 201&.

17. 4n 28 August 201&' t(e A""#\$%ant f\$#ed a)e@uest fo) management e.a#uat\$on 6\$t(t(e De"ut! *\$g(Comm\$ss\$one) of t(e de%\$s\$on to a7o#\$s((\$s "ost6 \$n (\$s)e@uest' (e a#so as<ed to 7e ")o.\$ded 6\$t(a %o"! of t(e udget Comm\$ttee De%\$s\$on of 10 Ju#! 201&. T(e A""#\$%ant)e%e\$.ed no)es"onse 6\$t()es"e%t to su%()e@uest.

18. T(e A""#\$%ant=s)e@uest fo) management e.a#uat\$on %onta\$ned inter alia)at(e) st)ong statements 6\$t()es"e%t to t(e *ead' P, C+. ;o) \$nstan%e' t(e A""#\$%ant)efe))ed to (\$m as a #\$a)' and t(at (e (ad d\$s"#a!ed 0se)\$ous 7)ea%(of et(\$%s and def\$%\$en%\$es \$n ")ofess\$ona# %ondu%t1' and 0(a)assment1. *e a#so ment\$oned (a.\$ng %ommented on 0a)ange of .e)! se)\$ous ")o%u)ement s(o)t%om\$ngs1 at *ead@ua)te)s' 0\$n 7)ea%(of 7as\$% "u7#\$% ")o%u)ement ")\$n%\$"#es1.

1A. 4n 27 August 201&' t(e .a%an%! announ%ement fo) t(e D91 "ost of *ead' + , -+' 6as "u7#s(ed 6t(an a""#<math>sats on dead#sne of 17 +e"tem7e) 201&. T(e A""#sats on ta""#sot t(e "osts on.

20. >n t(e UN * C5 +e"tem7e) 201& %om"end\$um' t6o P9& "osts 6e)e "u7#\$s(ed \$n t(e ne6#! %a##ed P)o%u)ement +e).\$%e /0P+12' 6(\$%(6as %om"osed of t6o se%t\$onsD t(e P)o%u)ement * F +e%t\$on and t(e P)o%u)ement ;\$e#d +u""o)t +e%t\$on. 4 ne of t(e P9& "osts "u7#\$s(ed \$n +e"tem7e) 201& 6as t(at of C(\$ef of +e%t\$on /P)o%u)ement ;\$e#d +u""o)t2' 6(e)eas t(e ot(e) 6as t(at of C(\$ef of +e%t\$on /P)o%u)ement * F2. T(e A""#\$%ant d\$d not a""#! to e\$t(e) of t(ese "os\$t\$ons.

21. 4n 11 No.em7e) 201&' t(e D91 "ost of *ead' +, -+' 6as)e90"ened fo) a""#\$%at\$ons 6\$t(a ne6 dead#\$ne fo) a""#\$%at\$on set fo) 17 No.em7e) 201&.

22. ! ema\$# of 2 De%em7e) 201& f)om a +en\$o) 5esou)%e

8&. 4n 4 , a)%(2016' t(e A" "#\$%ant 6as \$nfo)med a7out (

status as an \$nte)nat\$ona# %\$.\$# se).ant. H (en an a%tua# o) "oss\$7#e %onf#\$%t of \$nte)est does a)\$se' t(e %onf#\$%t s(a## 7e d\$s%#osed 7!

/he #ead0 P 1 CS

&8. T(e T)\$7una# (as to assess on t(e 7as\$s of t(e a.a\$#a7#e e.\$den%e 6(et(e) an o7Ie%t\$.e o7se).e) 6ou#d (a.e %on%#uded t(at t(e *ead' P, C+' as t(e A""#\$%ant=s d\$)e%t #\$ne manage)' (ad an a%tua# o) "e)%e\$.ed %onf#\$%t of \$nte)est and 7\$as aga\$nst t(e A""#\$%ant.

&4. T(e T)\$7una#)e\$te)ates t(at t(e A""#\$%ant=s su7Ie%t\$.e fea) of 7\$as 7! t(e
*ead' P , C+' %annot' \$n \$tse#f' 7e suff\$%\$ent to su""o)t a f\$nd\$ng t(at a %onf#\$%t of
\$nte)est')e@u\$)\$ng t(e)e%usa# of (\$s su"e).\$so) f)om t(e Pane#' e:\$sted. At t(e

on t(e g)ounds t(at (e (ad not)e.\$e6ed t(em afte) t(e! (ad 7een unde))e.\$e6 7! t(e +en\$o) +u""#! 4ff\$%e).

&8. *o6e.e)' at t(e (ea)§ng' t(e *ead' P, C+' adm§tted t(at (e (ad ")ofess§ona# d§sag)eements 6\$t(t(e A""#\$%ant' 7ut a#so %#a)\$f\$ed t(at t(e %(ange \$n t(e)e"o)t\$ng #\$nes 6as suggested to \$m")o.e t(e 6o)<f#o6 and mot\$.at\$on of t(e team' \$n "a)t\$%u#a) of t(e +en\$o) +u""#! 4ff\$%e)' 6 (o (ad 7een a%t\$ng as 4>C ")\$o) to t(e A""#\$%ant=s a))\$.a#' (ad s(o6n a .e)! good 6o)< "e)fo)man%e and' as a P94' 6as a7#e to assume some manage)\$a# fun%t\$ons.

&A. >n (\$s e.\$den\$e' t(e *ead' P, C+' a#so e: "#a\$ned t(at t(e A""#\$\$ant (ad some 0\$ommun\$at\$on ")o7#ems1 6\$t((\$s team' as)ef#e\$ted \$n t(e m\$d9"o\$nt)e.\$e6 of t(e A""#\$\$ant=s ePad' and t(at (e' as a manage)' t)\$ed to so#.e t(ose \$ssues 6(\$#e' at t(e same t\$me' ensu)\$ng t(at t(e ")odu\$t\$.\$t! of t(e team 6 as \$m")o.ed o) u"(e#d. *e a#so unde)#\$ned t(at des"\$te t(ose ")ofess\$ona# d\$sag)eements' (e ne.e) fe#t 7\$ased aga\$nst t(e A""#\$\$ant and)e\$ogn\$sed (\$s %om"eten%e' ded\$at\$on and ")ofess\$ona#\$sm. Conse@uent#!' on 26 , a)%(201&' (e "e)fo)med t(e A""#\$\$ant=s annua# e9"ad and e.a#uated (\$s "e)fo)man%e as 0su%essfu##! meetB\$ngC e: "e%tat\$ons1.

60. T(e T)\$7una# f\$nds t(at t(e a7o.e matte)s %onst\$tute me)e ")ofess\$ona# d\$sag)eements' and ma!7e "e)fo)man%e \$ssues' 6(\$%(\$n and of t(emse#.es %annot #ead to a)easona7#e %on%#us\$on of a%tua# o) "e)%e\$.ed 7\$as on 7e(a#f of t(e *ead' P, C+' aga\$nst t(e A""#\$%ant.

T(e A""#\$%ant=s %om"#a\$nt fo) (a)assment

61. T(e T) $\$ notes t(at on 8 De $\$ em7e) 2014' t(e A""#\$%ant f\$#ed a (a)assment %om"#a\$nt aga\$nst t(e * ead' P , C+' 6\$t(t(e > G4' %o"\$ed to t(e 3t(\$%s 4ff\$%e. U"on t(e T) $\$ nu#=s \$n@u\$)! at t(e (ea)\$ng' t(e A""#\$%ant %onf\$)med t(at soon t(e)eafte)' (e as<ed t(e > G4 to "ut t(e %om"#a\$nt on (o#d 7e%ause (e t(oug(t t(at t(e matte)s 6ou#d 7e)eso#.ed t()oug(manage)\$a# a%t\$ons. *e a#so adm\$tted t(at (e d\$d not' at an! "o\$nt \$n t\$me')e@uest t(e > G4 to ta<e t(e matte) u" aga\$n' and t(at t(e %om"#a\$nt 6as su7se@uent#! 0o.e)ta<en 7! e.ents1' name#! t(e)est)u%tu)\$ng and t(e d\$s%ont\$nuat\$on of (\$s "ost. T(e * ead' P , C+' %onf\$)med on

(ad)e@uested)e%usa#' \$t 6ou#d (a.e 7een "oss\$7#eLa#7e\$t not \$dea#Lto on#!)e"#a%e t(e *ead' P, C+.

66. *o6e.e' and 6st(out ")eIuds to sts fsndsngs t(at st 6ou#d (a.e 7een sound management to)e"#a%e t(e *ead' P, C+' t(e T)\$7una# so f t(e .se6 t(at t(e ")esent %ase (as to 7e dsstsnguss(ed f)om 2I34 holy UNDT/2016/101.

67. Un#\$<e 2134 holy' \$n t(e %ase at (and' t(e A""#\$%ant)efused to unde)go t(e \$nte).\$e6. Unde) t(e %\$)%umstan%es of t(e ")esent %ase' t(e T)\$7una# %ons\$de)s t(at to assess 6(et(e) t(e A""#\$%ant 6as g\$.en fu## and fa\$) %ons\$de)at\$on' \$t 6ou#d (a.e 7een essent\$a# fo) (\$m to unde)ta<e t(e \$nte).\$e6. >ndeed' t(\$s \$s a <e! e#ement fo) t(e a"")e%\$at\$on of t(e ")esent %ase' s\$n%e t(e A""#\$%ant=s)efusa# to

a)efe)ee 6 (en a" "#!\$ng fo) t(\$s "os\$t\$on. As su%(' t(e T)\$7una# notes t(at des"\$te t(e\$) d\$ffe)ent ")ofess\$ona# .\$e6s 6\$t()es"e%t to t(e management and "a)t\$%u#a)#! t(e)est)u%tu)\$ng of P , C+' su%(d\$sag)eement does not seem to (a.e affe%ted t(e A" "#\$%ant=s ")os"e%ts of de.e#o"\$ng a %a)ee) \$n t(e Un\$ted Nat\$ons' su""o)ted 7! t(e *ead' P , C+=s "os\$t\$.e)e%ommendat\$ons.

70. , o)eo.e)' t(e *ead' P, C+' a#so st)essed t(at t(e A""#\$%ant 6as su\$ta7#e fo) t(e ne6#! %)eated P9& "osts' and' (ad (e a""#\$ed fo) an! of t(em' (e 6ou#d (a.e (ad good %(an%es fo) 7e\$ng se#e%ted. T(e fa%t t(at t(e *ead' P, C+' ")o.\$ded t(ese "os\$t\$.e)e%ommendat\$ons' and 6as as

78. As t(s T)7una# found n Iudgment

78. Ne.e)t(e#ess' t(e D\$)e%to)' D3++' a#so st)essed t(at' f)om a manage)\$a#
"o\$nt of .\$e6' s(e su""o)ted t(e)est)u%tu)\$ng ")o%ess \$n t(e %onte:t of t(e ;)\$t?
5e"o)t' as)ef#e%ted \$n t(e memo)andum of 16 June 201&' to t(e *\$g(Comm\$ss\$one)' UN*C5.

7A. T(e T) $\$ Tuna# $\$ s fu)t(e) $\$ on. $\$ n%ed t(at t(e A""#\$%ant=s)efe)en%e to t(e D\$)e%to)' D3++' (a. $\$ ng g)eeted ($\$ m 06 $\$ t(d $\$ sda $\$ n1' and (e) #a%< of)es"ons $\$.eness to some of t(e ema#s (e sent a)e not suff $\$ ent e $\$ t(e) to meet t(e test of 7 $\$ s unde) Finniss.

80. ;o) t(e) easons out#\$ned a7o.e' \$t \$s t(e T)\$7una#=s .\$e6 t(at t(e fa%ts %on%e)n\$ng t(e \$n.o#.ement of t(e D\$)e%to)' D3++' \$n t(e) est)u%tu)\$ng ")o%ess do not a##o6 an!)easona7#e %on%#us\$on to esta7#\$s(t(e e:\$sten%e of an a%tua# o)

88. T(e T)\$7una# \$s sat\$sf\$ed 6\$t(t(e)easons t(at t(e Adm\$n\$st)at\$on ga.e to t(e A" "#\$%ant fo) \$ts de%\$s\$on not to)e "#a%e t()ee Pane# mem7e)s. ;u)t(e)' \$t f\$nds t(at suggest\$ng to t(e A" "#\$%ant to %onta%t - A+ 6as)easona7#e' and ")o.\$ded t(e A" "#\$%ant 6\$t(a ")o%edu)a# safegua)d \$n %ase (e 6\$s(ed to %ontest t(e se#e%t\$on ")o%ess afte) unde)go\$ng t(e \$nte).\$e6. T(e A" "#\$%ant d\$d not "u)sue t(at suggest\$on' 7ut 6\$##\$ng#! de%\$ded not to go to t(e \$nte).\$e6.

78 ral hearing9 with the 5 eputy #igh Commissioner

Anot(e) a)gument)a\$sed 7! t(e A" "#\$%ant %on%e)ns t(e #a%< of)es"onse to
(\$s)e@uest fo) an 0o)a# (ea)\$ng1 6\$t(t(e De"ut! *\$g(Comm\$ss\$one)' UN *C5.
A#t(oug(' \$n t(e T)\$7una#=s .\$e6' \$t 6ou#d (a.e 7een a good management ")a%t\$se

T)\$7una# f\$nds t(at t(e ")esum"t\$on of)egu#a)\$t! of t(e de%\$s\$on not to se#e%t t(e A""#\$%ant ")e.a\$#s. T(e fa%t t(e A""#\$%ant)efused