

Introduction

1. *7 a! !#\$6at#on f#\$ed on 2 3e8"ua"7 2012\$ t,e A! !#\$6ant 6ontests t,e de6#s#on to 6ons#de" ,e" #ne#\$g#8\$e fo" t,e gene"#6 .a6an67

A!!\$#6ant's 6onf#"m#ng t,at as a staff mem8e" 6u""ent\$7 se".#ng at t,e P23 \$e.e\$ s,e =as not e\$g#8\$e to a!!\$7 fo" !os#t#ons mo"e t,an one \$e.e\$ a8o.e ,e" g"ade. (,e st"essed t,at :=#t, t,e ,a"mon#Dat#on of t,e 6ond#t#ons of se".#6e and t,e ne= staff se\$e6t#on s7stem\$ t,e o"gan#Dat#ons t,at fa\$\$ =#t,#n t,e \$a"ge" Un#ted Nat#ons fam#\$7 E F G a"e a\$\$ su8#e6t to t,e same "u\$es and "egu\$at#ons go.e"n#ng t,e "e6"u#tment !"o6ess;.

7. *7 ema#\$ dated 2C Ju\$7 2011\$ t,e A!!\$#6ant "eAuested fu"t,e" 6\$a"#f#6at#on f"om t,e '66u!at#ona\$ G"ou! 0 anage")e6"u#tment\$ ' CD(5 3PD/D3(.

I. *7 ema#\$ of 12 (e!tem8e" 2011\$ t,e A!!\$#6ant "eAuested 6\$a"#f#6at#on f"om t,e 0 anagement & .a\$uat#on Un#t 9: 0 &U;< of t,e de6#s#on not to 6ons#de" ,e" e\$g#8\$e fo" t,e P2 !os#t#on. (,e su8seAuent\$7 su8m#tted to 0 &U t,e management e.a\$uat#on fo"m on 1C (e!tem8e" 2011.

?. *7 ema#\$ of 4 No.em8e" 2011\$ 0 &U sent to t,e A!!\$#6ant #ts "es!onse dated 2 No.em8e" 2011\$ assum#ng t,at t,e A!!\$#6ant ,ad su8m#tted ,e" : "eAuest fo" management e.a\$uat#on on 12 (e!tem8e" 2011; and u! ,o\$d#ng t,e de6#s#on to deem ,e" #ne\$g#8\$e fo" t,e a8o.e gene"#6 .a6an67 announ6ement.

10. Afte" t,e se\$e6t#on !"o6ess fo" t,e gene"#6 .a6an67 announ6ement =as 6om!\$eted #n (e!tem8e" 2011\$ a "oste" =as endo"sed and #n t,e fo\$\$o=#ng mont,s se.e"a\$ of t,e "oste"ed 6and#dates =e"e se\$e6ted fo" !osts at t,e P2 \$e.e\$.

11. T,e A!!\$#6ant f#\$ed ,e" a!!\$#6at#on on 2 3e8"ua"7 2012 and #t =as se".ed to t,e)es!ondent fo" a "e!\$7. 'n 2 0a"6, 2012\$ t,e)es!ondent "eAuested an e@tens#on of t#me fo" f#\$ng a "e!\$7\$ =,#6, =as g"anted\$ as 8ot, !a"t#es =e"e ma-#ng effo"ts to f#nd an #fo"ma\$ "eso\$ut#on to t,e 6\$a#m. Afte" #nfo"ma\$ effo"ts fa#\$ed\$ t,e)es!ondent su8m#tted ,s "e!\$7 on 1? 0a"6, 2012.

12. 'n 1C '6to8e" 2012\$ Counse\$ fo" t,e A!!\$#6ant su8m#tted an add#t#ona\$ note to t,e a!!\$#6at#on and 87 o"de" No. C 9GVA/2013< Counse\$ fo" t,e)es!ondent =as #n.#ted to su8m#t 6omments on t,e A!!\$#6antBs add#t#ona\$ note. Counse\$ fo" t,e)es!ondent f#\$ed ,s 6omments on 30 Janua"7 2013.

13. A ,ea"#ng =as ,e\$d on 1 0a"6, 2013\$ at =, #6, Counse\$ fo" t,e A!!\$#6ant =as !"esent\$ =, #e t,e A!!\$#6ant !a"t#6#!ated .#a !,one and Counse\$ fo" t,e)es!ondent .#a .#deo6onfe"en6e.

!arties" su# \$issions

14. T,e A!!\$#6antBs !"#n6#!a\$ 6ontent#ons a"e:

a. (#n6e t,e !"#n6#!\$e of !"#o"#t7 6ons#de"at#on of #nte"na\$ 6and#dates =as

and to staff members of the UN3CCC's. In the case of the above, the above is seen as a result of the "national" under section 190 of (T/A/2010/3)

d. The fact that the same was found in the case of a lost at the P2. The fact that a subsequent investigation of the same situation, the case that section C.1 does not allow to be

e. The Applicant's request for the "establishment of the decision to conduct", the "establishment of the "establishment of the general" . The applicant's announcement and to be "established" for the "establishment of the general" as well as for the loss of the applicant to be "established" and the "establishment" of the applicant's interests of CCP' at the P2. The fact that

1. The respondent's "national" contentions are:

a. (The Applicant's "national" for a lost in the 3PD/D3 (T/A/2010/3) is a result of the "national" under section C.1. UN3CCC is a part of the United Nations common system and, the UN3CCC, as its own staff investigation of the same situation, the fact that the respondent's "national" for the applicant's interests of CCP' at the P2. The fact that the UN3CCC and cannot go to the respondent's "national"

d. (e6t#on C.1 ,as to 8e "ead #n 6on#un6t#on =#t, se6. 19o< and as su6, a!!\$#es to t,ose staff mem8e's of t,e funds and !"og"ammes =,o a"e g"anted #nte"na\$ status unde" se6. 19o<5 as #s t,e 6ase of t,e A!!\$#6antJ

e. *7 .#"tue of se6. 19o<5 t,e A!!\$#6ant ga#ns t,e ad.antage to 8e g#.en #nte"na\$ status fo" !osts one \$e.e\$ a8o.e ,e" 6u""ent g"ade5 =,#6, d#d #n fa6t ,a!!en =,en s,e a!!\$#ed fo" a P24 "oste" and =as adm#tted to t,e P24 "oste"J

f. T,e fa6t t,at s,e too- t,e ="#tten test d#d not 6ause ,e" an7 mo"a\$ #n#u"7. %f t,e A!!\$#6ant ,ad #nd#6ated on ,e" P4P t,e g"ade s,e ,e\$d at t,e t#me of ,e" a!!\$#6at#on to t,e .a6an67 announ6ement5 #.e. P235 s,e =ou\$d ,a.e 8een s6"eened out and =ou\$d not ,a.e 8een #n.#ted to t,e ="#tten assessmentJ

g. T,e #u"s!"uden6e #s 6\$ea" #n t,at a=a"ds fo" 6om!ensat#on ma7 on\$7 8e made #n 6ase of !"oof of a6tua\$,a"m5 and t,at 6\$a#ms of mo"a\$ #n#u"7 and emot#ona\$ d#st!ess must 8e su!!o"ted 87 suff#6#ent e.#den6e. (#n6e t,e A!!\$#6ant d#d not !"o.#de an7 e.#den6e of su6, ,a"m5 ,e" 6\$a#ms s,ou\$d 8e d#sm#ssedJ

,. Cont"a"7 to =,at #s a\$8854 () -80 . 1938(,) - 0 .2n6m,8854 () -80 . 0 . .58854 (o)2.58

"es6#nded and s,e 8e g"anted 6om!ensat#on fo" menta\$ d#st"ess and t,e \$oss of 6,an6e to 8e "oste"ed and t,e"eafte" 8e se\$e6ted fo" .a6ant !osts of CCP ' at t,e P2 \$e.e\$.

Receivability

17. T,e A!!\$#6ant =as f#"st #nfo"med 87 t,e %nte".#e= Pane\$ on 7 Ju\$7 2011 t,at s,e =as #ne\$#g#8\$e to a!!\$7 fo" a P2 !os#t#on. U!on t,e A!!\$#6antBs "eAuest\$ t,e '66u!at#ona\$ G"ou! 0 anage"5)e6"u#tment\$ ' CD(5 3PD/D3(su8seAuent\$7 6onf#"med 87 ema#\$ of 13 Ju\$7 2011 t,at #n .#e= of ,e" !e"sona\$ g"ade at t,e P23 \$e.e\$ s,e =as 6ons#de"ed #ne\$#g#8\$e unde" (T/A%/2010/3 to a!!\$7 fo" a P2 !os#t#on. T,e A!!\$#6ant sent messages to 0&U on 12 and 1C (e!tem8e" 2011.

1I. %f one =e"e to 6on6\$ude t,at t,e C02da7 t#me2\$m#t to "eAuest management e.a\$uat#on unde" staff "u\$e 11.2 96< ,ad stat"ted to "un as f"om 7 Ju\$7 2011\$ #t =ou\$d ,a.e e@!#"ed 8 #t

d#"e6t \$ega\$ 6onseAuen6es. 9see Schook 20102UNAT20135 Tabari
20102UNAT2030J and Hamad 2012 L UNAT L 2C?<

21. T,e T"#8una\$ notes t,at #t #s not an essent#a\$ e\$ement of an adm#n#st"at# .e de6#s#on t,at #t 8e not#f#ed #n ="#t#ng. %n 6ont"ast to fo"me" staff "u\$e 111.2 9a< a66o"d#ng to =,#6, t,e \$ette" "eAuest#ng adm#n#st"at# .e "e.#e= ,ad to 8e sent =#t,#n t=omont,s f"om t,e date t,e staff mem8e" : "e6e#.ed not#f#6at#on of t,e de6#s#on #n ="#t#ng;5 6u""ent staff "u\$e 11.296<5 =,#6, =as a\$"ead7 #n fo"6e at t,e mate"#a\$ t#me5 does not enta#\$ su6, a "eAu#"ement. %ndeed5 6u""ent staff "u\$e 11.2 96< "eads t,at t,e "eAuest fo" management e.a\$uat#on must 8e sent =#t,#n s#@7 da7s f"om t,e date t,e staff mem8e" : "e6e#.ed not#f#6at#on of t,e adm#n#st"at# .e de6#s#on to 8e 6ontested;. T,e"efo"e5 fo" t,e 6ase at ,and #t #s #""e\$e.ant t,at on 7 Ju\$7 2011 t,e A!#\$6ant ,ad 8een #nfo"med a8out ,e" #ne\$#g#8#5#t7 87 t,e %nte" .#e= Pane\$ on\$7 o"a\$575 o.e" t,e te\$e! ,one.

22. T,#s T"#8una\$ fu"t,e" ,e\$d #n Elasoud UNDT/2010/111 t,at fo" a de6#s#on to 8e 6ontesta8\$e5 #t must 8e f#na\$5 s#n6e #t =#\$5 on\$7 8e a8\$e to affe6t an a! !#\$6antBs \$ega\$ "#g,ts on6e #t =as a6tua\$57 made.

23. 3o" t,e "easons out\$#ned 8e\$o=5 t,e T"#8una\$ f#nds t,at t,e de6#s#on 87 t,e %nte" .#e= Pane\$ to 6ons#de" t,e A! !#\$6ant #ne\$#g#8\$e5 =,#6, \$ed t,e Pane\$ to te"m#nate t,e #nte" .#e=5 does not sat#sf7 t,e "eAu#"ements of an adm#n#st"at# .e de6#s#on as def#ned a8o.e5 !a"t#6u\$a"\$7 #n t,at #t d#d not ! "odu6e d#"e6t \$ega\$ 6onseAuen6es and d#d not affe6t t,e A! !#\$6antBs \$ega\$ "#g,ts.

24. T,e dete"m#nat#on of =,et,e" a 6and#date #s e\$#g#8\$e unde" t,e "eAu#"ements of se6. C of (T/A%/2010/3 6\$ea"\$7 fa\$55 on t,e "e\$e .ant 4uman) esou"6es ' ff#6e o" 3#5ed Pe"sonne\$ D# .#s#on of t,e De!a"tment of 3#e\$d su! !o"t5 =,#6,5 a66o"d#ng to se6. 7 of (T/A%/2010/35 #s #n 6,a"ge of ! "e2s6"een#ng 6and#dates on t,e 8as#s of t,e #nfo"mat#on ! "o.#ded #n t,e a! !#\$6at#on. T,e Manual for the Recruiter on the Staff Selection System 9%ns!#"a< 2012 9:t,t,e 0 anua\$;<5 ,#g,#g,ts t,e "es!ons#8#5#t7 of t,e)e6"u#te" to ensu"e t,at #nd#.#dua\$ a! !#\$6ants a"e e\$#g#8\$e o" not fo" a !a"t#6u\$a" ho8 o!en#ng5 unde" ea6, e\$#g#8#5#t7 "u\$e. As su6,5 t,e)e6"u#te" ,as t,e aut,o"#t7 to f#nd 6and#dates #ne\$#g#8\$e =,en 6om!\$an6e #ssues a"e found5 at an7 stage of t,e ! "o6ess. A66o"d#ng to t,e 0 anua\$5 :t,e "o\$e of t,e)e6"u#te" #s 6om! "#sed of t,e

functions of the "entire" area of the land, the "land" on 87 E ' 4) 0 G5 & @e6ut#.e ' ff#6es
9& ' < and \$o6a\$ 4uman) esou"6es ' ff#6es;. T,e"efo"e5 #t #s 6\$ea"\$7 esta8\$s,ed
= ,o ,as t,e aut,o"#t7 and dut7 to assess t,e e\$g#8#t7 of a 6and#date =#t,#n t,e
' "gan#Dat#on.

Section 10 of the Constitution, as to be read together with Allen UNDT/2010/005 and Rockcliffe UNDT/2012/121.

3. In the case at hand, and the contested decision is to, are found to be A!

CCP' as t,e7 8e6ame a.a#\$a8\$e. T,e"efo"e5 t,e T"#8una\$ em!,as#ses t,at 87
f#nd#ng t,e A!#\$6ant #ne\$#g#8\$e5 afte" s,e ,ad su66essfu\$\$7 !assed t,e ="#tten test5
and den7#ng ,e" t,e !oss#8#t7 to !ass t,e #nte".#e=5 t,e A!#\$6ant \$ost a 6,an6e
of 8e#ng se\$e6ted to 8e !ut on t,e "oste" and u\$t#mate\$7 to 8e se\$e6ted fo" a P2
!os#t#on. T,e A!#\$6ant a\$\$o \$ost a 6,an6e to 6ons#de"a8\$7 #m!"o.e ,e" status

6. The agreement mentioned in paragraph 10 of the Judgment is not binding on the Parties from the date of the Judgment because it was not a condition of the said agreement. An additional fee was added to the U(Parties)ate CO days following the date of the Judgment because

d. As a result, the said fee is dismissed.

9Si#ned<

Judge Thomas A. E.

Dated this 2nd day of April 2013

&nted in the)eg#ste" on this 2nd day of April 2013

9Si#ned<

)en/ 0. Vargas 0.5)eg#st" a" Gene. a