#

1. !" a##\$%&at%on su'm%tted '" ema% on 29 De&em'e(2014 and t)(oug) t)e T(%'una%*s e+%%ng #o(ta% on 2, Janua(" 2015-t)e A##\$%&ant- a sta mem'e(o t)e Un%ted Nat%ons .%g) Comm%ss%one(o(/e ugees $01UN \cdot C/23$ - &ontests t)e de&%s%on '" t)e .%g) Comm%ss%one(not to #(omote)e((om t)e P44 to t)e P45 \$e5e\$ du(%ng t)e 201, P(omot%ons 6ess%on.

2. 7t \s noted t)at t)e a&ts and g(ounds o a##ea\s \n (s)5.287729((s)5.287716.4682(P)12.s)5.28772(s)-

10. T)e sk@ 6PP mem 'e(s ga5e t)e A##\$%&ant t)e osso : %ng 1(an=%ngs2 among t)e emase &and%dates o(#(omot%on to t)e P45 %e5e% 66- 69- A5- 1,7- 151 and 154. T)e D . / > &as&u\$ated t)at t)e a(%t)met%& mean o t)e

2,. Du((t = 1)e) ea((t = 1)e) me((t = 1)e) A##(t = 1)e advected t)e su'm(t = 1)emade on 'e)a(t = 1)e of t)e stelle ot)e(a##(t = 1)e advected t)e su'm(t = 1)eCounse(t = 1)e of t)e distance of the stelle of

24. <n 29 Janua(" and 4 +e'(ua(" 2016- t)e / es#ondent and t)e A##\$%&ant-(es#e&t5e"- %\$ed addtonas su'mss%ons- : %t) \$ea5e (om t)e T(%'unas.

25.

;. A&&o(d%ng\$"- t)e A##\$%&ant (e9uestsB

%. / es&%ss%on o t)e &ontested de&%s%on and g(ant o #(omot%on to t)e P45 %e5e%G

%%. 1+%nan&%a\$ &om#ensat%on o(mate(%a\$ damages26 and

%%. Com#ensat%on o(mo(a% damages.

27. T)e / es#ondent*s #(\n&\#a\ &ontent\ons a(e)

a. T)e 6e&(eta("4Gene(a\$)as '(oad d\s&(et\on \n matte(s o #(omot\onG a&c(d\ng\$"- (e5\e: o adm\n\st(at\5e de&\s\ons (ega(d\ng #(omot\ons \n 50\5es an e@am\nat\on o 1013 :)et)e(t)e #(o&edu(e as \$a\d do : n \n t)e
6ta / egu\$at\ons and / u\\$es : as o\\$o : ed6 and 023 :)et)e(t)e sta mem 'e(: as g\\$5en a\(and ade9uate &ons\de(at\on26)

'. T)e /es#ondent)as 1m%n%ma%\$" s)o:n2 t)at t)e A##%%&ant*s &and%da&" o(#(omot%on : as g%5en u%\$ and a%(&ons%de(at%on as t)e s%@ 6PP mem 'e(s se#a(ate\$" (e5%e : ed)e(a&t s)eet- :)%&) %n&\$uded t)e na((at%5e o)e(#e(o(man&e a##(a%sa%s du(%ng t)e %5e "ea(s #(e&ed%ng ,1 De&em 'e(201,- and none o t)em (an=ed t)e A##%%&ant*s &and%da&" among t)e 56 to# ema%e &and%dates :)o ad5an&ed to t)e T)%(d / ound. T)e #(esum#t%on o (egu%a(%t" stands sat%s %ed and %t % e. 6e&ond\$"- t)e A##\$%&ant a%\$ed to demonst(ate an" #(o&edu(a\$ e((o(%n t)e %m#\$ementat%on o t)e P(omot%ons Po\$%&" t)at : ou\$d : a((ant (es&%ss%on o t)e &ontested de&%s%on6 %n #a(t%&u\$a(B

%. T)e P(omot%ons Po%%&" does not (e9u%(e t)at #(omot%ons sess%ons 'e)e%d e5e(" "ea(6

W. T)e . Wg) CommWssWone(Ws not 'ound '" t)e (e&ommendatWons

g. T)e A##\$%&ant : as #(o5%ded : %t) su %&%ent (easons o(t)e &ontested de&%s%on as s)e : as %n o(med t)at)e(o5e(a\$% (an=%ng #\$a&ed)e(outs%de t)e
200 F ma(g%n o t)e num'e(o s%ots a\$%o&ated o(#(omot%on to t)e P45 \$e5e\$- and #(o5%ded : %t) a &o#" o)e(a&t s)eet used '" t)e 6PP mem'e(s o(t)e%((e5%e : o)e(&and%da&". 7n add%t%on- t)e P(omot%ons Po\$%&" d%d not (e9u%(e t)e 6PP to #(e#a(e m%nutes o %ts 6e&ond / ound (e5%e : 6)

). 7n (es#e&t o t)e (emed%es soug)t-t)e /es#ondent su'm%ts t)at e5en %

Overview of the Promotions Policy

29. Un§ess t)e" se(5e on an e@#e(t #ost- t)e UN.C/ sta mem'e(s %n t)e 7nte(nat%ona% P(o ess%ona% &atego(" :)o a(e se(5%ng on %nde %n%te and %@ed4te(m a##o%ntments a(e &on e((ed #e(sona% g(ade %e5e%s. T)e" a##%" o(ass%gnments at t)e%(#e(sona% g(ade %e5e% o(one %e5e% a'o5e. T)ese sta mem'e(s ma" 'e #(omoted to t)e P44- P45 o(D41 %e5e%s %n a&&o(dan&e : %t) t)e #(o&edu(es set o(t) %n t)e P(omot%ons Po%%&".

,0. T)e P(omotions Poill&"- ado#ted on 5 +e'(ua(" 2014- int(odu&ed a 1ne: met)odolog" and #(olecules of t)e #(omotion o 7nte(national P(o essional sta 2 0sek. 13. Pu(suant to t) is Poille" t)e . ig) Commissione(dete(mines eak) "ea(t)e num'e(o a5ailsa'se #(omotion slots at t)e P44- P45 and D41 se5els- u#on (e&ommendation (om t)e JAC 0sek. 4.1.23. . e t)en (e&els5es (e&ommendations of #(omotion '" t)e 6PP- inso a(as #(omotions to t)e P45 se5els a(e &on&e(ned-olios) : ing its (e5ile: o t)e esigit'se &andidates as outsined in t)e Posil&" 0sek. 4.1.13.

,1. T)e P(omotions Posika" esta 'sis)es t)e esigi 'ssit" &("te("a- names" t)at t)e &andidate 1must meet minimum senio("t"4in g(ade (e9uii(ements2 0se&. 5.13- and t)e #(o&edu(es o(t)(ee #otentias (ounds o e5asuation.

,2. To ad5an&e (om t)e +%(st / ound to t)e 6e&ond / ound- a &and%date must sat%s " at \$east t)(ee out o %5e 1H5a\$uat%on C(%te(%a- o(G(een ?%g)ts2- name\$"B \$anguage #(o %&%en&"- num'e(o (otat%ons- se(5%&e %n D- H and/o(U dut" stat%ons- un&t%ona\$ d%5e(s%t"- and #e(o(man&e (e&o(ds 0%.e., a'sen&e o an" ga# %n e4PADs3 0se&. 5.73. A\$te(nat%5e\$"- &and%dates : %t) t: %&e t)e m%n%mum sen%o(%t"4%n4g(ade at t)e%(&u((ent \$e5e\$ ad5an&e automat%&a\$\$" to t)e 6e&ond / ound- (ega(d\$ess o :)et)e(t)e")a5e su %&%ent 1g(een \$%g)ts2 0se&. 5.A.43.

, , ·

 $and\$ or $t)e T)\$ base $dates o(\ t)e T)\$

,5. T)e T)%(d / ound enta%s a &ossekt%5e (e5%e : o t)e 1su'stant%ass" e9uass" me(%to(%ous &and%dates2 '" t)e 6PP- and t)e ma=%ng o %na% (e&ommendat%ons &o((es#ond%ng to t)e num'e(o a5a%sa'se s\$ots 0se&s. 5.10.1 and 5.10.23. T)e e5a\$uat%on %s 'ased on t)e 6e&ond / ound &(%te(%a- and #(o5%des o(t)e need to ensu(e geog(a#))%&a\$ d%st(% 'ut%on as : es% as an" d%s&%#\$%na(" measu(e- do&umented (e#(%mand- %nan&%a\$ m%smanagement o(g(oss neg\$%gen&e du(%ng t)e #ast %5e "ea(s 0se&. 5.10.23. +o(#(omot%ons to t)e P45 \$e5e\$- t)e 6PP ma" (e9uest a : (%tten assessment o an" #a(t%&u\$a(&and%date (om t)e (es#e&t%5e D%(e&to(- o(sta %n . ead9ua(te(s- o((om t)e (es#e&t%5e / e#(esentat%5e- o(sta %n t)e %e\$d 0se&s. 5.10.43.

,6. T)e . \(\mathbf{g}\) Comm\(\ss\)ss\)one(a : a(ds #(omot\)ons- :)\(\mathbf{k}\) a(e & ond\)t\(\sond\)ona\)on t)e sta mem 'e(o' ta\)n\(\sum g a s\)#e\(\mathbf{k}\) & #os\)t\(\sum on at t)e)\(\mathbf{g}\)e(\(\\$e5e\)S. T)\(\sum s & ond\)t\(\sum on a cond\)t\(\sum on a s\)#g\)e(\(\sum e5e\)S. T)\(\sum s & ond\)t\(\sum on a cond\)t\(\sum on a s\)#g\)e(\(\sum e5e\)S. T)\(\sum ond\)S)e(\(\sum e5e\)S)e(\

,7. Pu(suant to se&. 5.10.2- 1CaDt g(ade \$e5e\$s :)e(e gende(#a(\$t")ad not "et 'een a&)\$e5ed- at \$east 50 F o t)e #(omot\$on s\$ots : <math>\$\$\$ 'e a : a(ded to su 'stant\a\\$\" e9ua\\$\" me(\to(\sous ema\se sta 2.

,A. +%na\$\$"- sta mem'e(s ma"- : %t)out #(e;ud%&e to t)e%((%g)t to o(ma\$\$" &ontest t)e non4#(omot%on de&%s%on %n t)e %nte(na\$;ust%&e s"stem- see= (e&ou(se 1on t)e 'as%s t)at some do&umentat%on (e\$at%ng to t)e #e(%od unde((e5%e : t)at ma")a5e)ad an %m#a&t on t)e %na\$ (e&ommendat%on : as not a5a%\$a'\$e at t)e

g%5en a%(and ade9uate &ons%de(at%on2 0 //assi 20114UNAT4110- #a(a. 2,6 see a%so "a#/ri 20124UNAT4200- #a(a. ,56 \$#ungdeII- 20124UNAT4265- #a(a. ,03.

40. > o(e s#e&% %&a\$\$"- t)e A##ea\$s T(%'una\$)e\$d %n Rolland 20114UNAT4122 t)at 0#a(a. 2138

Ass &and dates 'e o(e an nte(5%e: #ane) a5e t)e (%g)t to uss and a% (&ons de(at ion. A &and date &)ass enging t)e den is o #(omotion must #(o5e t)(oug) &sea(and &on5%n& g e5% den &e t)at #(o&edu(e : as 5% ated-t)e mem'e(s o t)e #anes e@)%'% ted '% as- %((e) e5 ant mate(% as : as &ons de(ed o((e) e5 ant mate(% as is gno(ed. T)e(e ma'' e ot)e(g(ounds as : e). 7t : ousd de#end on t)e a& ts o ea &) %'nd 5% duas & ase.

41. 7n Rolland- t)e A##ea\$s T(%'una\$ a\$so d%st%\$\$ed t)e 'u(den o #(oo o(&)a\$\$enges aga%nst #(omot%on de&%s%ons-)o\$d%ng t)at 0#a(a. 263B

T)e(e %s a% : a"s a #(esum#t%on t)at o %&%a% a&ts)a5e 'een (egu%a(%" #e(o(med. T)%s %s &a%sed a #(esum#t%on o (egu%a(%t"% !ut t)%s #(esum#t%on %s a (e'utta'%e one. 7 t)e management %s a'%e to e5en m%n%ma%s" s)o: t)at t)e A##e%sant*s &and%datu(e : as g%5en a u%s and a%(&ons%de(at%on-t)en t)e #(esum#t%on o %a: stands sat%s %ed. T)e(ea te(t)e 'u(den o #(oo s)% ts to t)e A##e%sant :)o must s)o: t)(oug) &%ea(and &on5%n&%ng e5%den&e t)at s)e : as den%ed a a%(&)an&e o #(omot%on.

42. 7n %ts ;udgment

 $co((e\&t\$" a##\$\ed. I)e(e st)e(e st no dou't t)at t)e T(\$'una\$) as no aut)o(\$t" 1to amend an" (egu$at\on o((u\$e o t)e <(gan\$at\on2 0"e!touche 20104UNAT4045- #a(a. 113- a de&\$s\on ma" 'e (esk\nded \$ \$t sta=en #u(suant to a #o\$\&" :)\$) does not &om#\$" :\$t) a)\$g)e(no(m. 7n t)\$s &onte@t- t)e T(\$'una\$ ma" a\$so 1#o\$nt out :)at \$t &ons\de(s to 'e a de \$k\enk"2 \$n a #o\$\&" and 1(e&ommend a (e o(m o((e5\$s\on2 0 "e!touche 20104UNAT4045-#a(a. 116 see a\$so 'guyen-(ropp and Postica UNDT/2015/1103.$

4,. 7n addition- t)e T(1 una\$ notes t)at t)e A##ea\$s T(1 una\$)as (e&a\$\$ed in a num'e(o &ases 1t)e : e\$\$4=no: n #(in&i#\$e o is a : against (et(os#e&ti5e a##\$i&ation o is a : s2 0) unt "atthes 20144UNAT44446 'ogueira 20144UNAT4 4093. T) us- t)e A##\$i&ant*s a(gument in (es#e&t o t)e (et(oa&ti5e a##\$i&ation o t)e P(omotions Po\$i&" a\$so (e9ui(es &onside(ation.

44. 7n 5%e: o t)e o(ego%ng-t)e T(% 'una% : %% e@am%ne :)et)e(8

- a. T)e P(omothons Posha" : as a##shed (et(oa&th5es")
- '. T)e #(o&edu(e as \$a%d do : n %n t)e P(omot%ons Po\$%&" : as o\$\$o : ed6

&. T)e A##\$%&ant : as g%5en a%(and ade9uate &ons%de(at%on o(#(omot%on to t)e P45 %e5e% and

d. T)e A##\$%&ant : as #(o5%ded su %&%ent (easons o(t)e &ontested de&%s%on.

45. T)e A##e\$\$ant*s a(guments (e\$ated to t)e des*gn o t)e P(omot*ons Po\$%&":
**** 'e add(essed unde(t)e t)*(d #(ong o t)e T(* 'una*s (e5*e:.)

* hether the Promotions Policy was applied retroactively

46. T)e A##\$%&ant su'm%ts t)at '" setting e5a\$uatkon &(%te(%a ex post facto- t)e P(omot%ons Po\$%&")as a (et(oa&t%5e e e&t and \$a&=s t)e (e9u%s%te \$e5e\$ o &ons%sten&" and #(ed%&ta'%%t". T)e /es#ondent su'm%ts t)at t)e P(omot%ons Po\$%&" d%d not a##\$" (et(oa&t%5e\$" as %t : as %m#\$emented %n t)e #(omot%ons sess%on t)at o\$%o : ed %ts ado#t%on. +u(t)e(mo(e-)e su'm%ts t)at t)e A##\$%&ant)as no ent%t\$ement to t)e &ont%nu%ng a##\$%&at%on o t)e #(e5%ous #(omot%ons #o\$%&%es.

47.

#(omotion du(ing t)e 201, P(omotions 6ession-:)it)e A##ii&ant ado#ted- and t)at e9uaii" im#a&ted on t)e &onside(ation o)e(&andiida&" o(#(omotion.

A 'sen&e o a #(omotions session in 2012

51. T)e A##\$%&ant ta=es %ssue : %t) t)e a&t t)at no #(omot%ons sess%on : as)e%d %n 2012- so t)e 201, P(omot%ons 6ess%on &o5e(ed t : o "ea(s- %n &ont(a5ent%on : %t) se&. 4.1.1 o t)e P(omot%ons Po\$%&". T)e / es#ondent su 'm%ts t)at %t %s not (e9u%(ed to)o%d a #(omot%ons sess%on e5e(" "ea(- and t)at n

t)e 'aan&e o t)e a5a%a'se sots 'e a%o&ated to ma&e sta mem'e(s2. T)e memo(andum s)o:s t)at t)e . &g) Comm&s&one(too= &nto a&&ount t)&s (e&ommendat&on 'ut de&&ded ot)e(: &e. 7nstead-)e e&&ted to add(ess t)e #(o'&em o gende(&ne9u&t" &n UN . C/ sta &ng t)(oug) ot)e(means- name $\&" "" \nst(u\&t\&ng t)e D . / > to (e5\&e: t)e UN . C/ gende(<math>\&o\&\&"$ and &ts means to a&)&e5e gende(ta(gets. . e t)en de&&ded t)at #end&ng (e5&e: o t)&s #o&&"- 1t)e a5a&a'&e s&ots o(#(omotion t))&"ea(s)a&s &ontinue to 'e e9ua&"s)a(ed 'et:een ema&e and ma&e sta mem'e(s- :)& is &n &ne s

Po\$%&" %dent% %ed %n Rodriguez-Viquez, :)%&) d%(e&t\$" %m#a&ted on t)e &ons%de(at%on o t)e &and%da&" o a\$\$ &and%dates o

Com#os%t%on o t)e 6PP

71. T)e A##\$%&ant su'm%ts t)at t)e 6PP : as not ega on the source of the second of

72. 6e&. 4., o t)e P(omotions Poil&" #(05/des t)atB

T)e tenu(e o o %&e o t)e Panes s)as 'e o(one P(omothons and one / e&ou(se 6esshon add(essing t)e same "ea(. > em 'e(s o ent)e(Panes s)as not se(5e mo(e t)an t)(ee &onse&uth5e te(ms.

7,. 7t offso:s (om t) %s #(o5%s%on t) at 6PP mem 'e(s : e(e not on $\$ affso: ed 'ut o' %ged to se(5e o(a :) of #(omot%ons sess%on- name)" o(t) e 6e&ond and T)%(d / ound as : e% as t) e (e&ou(se sess%on.

74. 7n tu(n-t)e(e %s no e5%den&e on (e&o(d t)at 6PP mem'e(s)a5e se(5ed %n t)e t:o #(e5%ous e@e(&%ses &ondu&ted unde(o\$d #(omot%ons #o\$%&%ses. 7n an" e5entt)e%(tenu(e unde(t)e ne : Po\$%&" &ommen&ed %n 2014- so an" #(%o(a##o%ntment unde(#(e5%ous #(omot%ons #o\$%&%ses : ou\$d)a5e no %m#a&t on %ts \$%m%t #u(suant to su&) #o\$%&".

Con \$%&t o %nte(est

75. T)e A##\$%&ant a(gues t)at some 6PP mem 'e(s : e(e %n a #os%t%on o &on \$%&t o %nte(est as t)e" #a(t%&%#ated %n t)e assessment o t)e%(su#e(5%sees* &and%da&" o(#(omot%on. 6)e u(t)e(asse(ts t)at t)e De#ut" . %g) Comm%ss%one(*s dua\$ un&t%ons as ad5%se(to t)e . %g) Comm%ss%on %n t)e a : a(d o #(omot%ons and as (es#ons% '\$e o %&e(o(management e5a%uat%ons #\$a&ed)%m a\$so %n a #os%t%on o &on \$%&t o %nte(est. T)e /es#ondent a(gues t)at t)e A##\$%&ant)as addu&ed no e5%den&e %n su##o(t o)e(%(st a(gument- and t)at)e(se&ond a(gument %s)"#ot)et%&a\$.

A2. . o: e5e(- in t)e instant &ase- t)e T(i 'una inds no e5iden&e o a &on iikt o inte(est t)at &ouid)a5e tainted t)e &ontested de&ision. As dis&ussed a 'o5e- an" #otential &on iikt o iinte(est : ouid a(ise :)en t)e De#ut" . iig) Commissione(iis sei8ed o a (e9uest o(management e5aluation o a de&ision den iing #(omotionand : ouid not a e&t t)e . iig) Commissione(*s de&ision on #(omotions as su&)-:)iik) iis t)e de&ision unde((e5ie : 3 . 66653() - . 66653(5)9 . ng5e14 . 3252(m)10 . 5728(e . 666533955(u)-0 . 94

90.

Case No. UNDT/GVA/2015/076

o(e@t(eme (atkings2- t)e(e'" #uttking %n #\$a&e a (e5%e: me&)an%sm to a5o%d un;ust% %ed)%g) (an=%ngs. I)e(eas &omments : e(e a\$so #a(t o t)e e5a\$uat%on-t)e" : e(e meant to su##o(t/&om#\$ement t)e s&o(e g%5en. No gu%dan&e : as #(o5%ded o(t)e na((at%5e #a(t o t)e a##(a%sa\$. As t)e . ead o t)e . uman

P(omotions Posite" : as to 'e a##sited in &on;un&tion : it) a ne : a##(aisas #osite"-t)en t(ansitionas measu(es s)ousd) a5e 'een o(eseen and im#semented.

10A. ?ast\$"- t)e T(\\'una\\ notes : \\t) su(#(\\se t)at t)e 6PP mem'e(s : e(e #(esented- o(t)e\\(\\string gnatu(e- : \\t) a &o#" o t)e &onso\\\datadated \\string t o &and\\dates unde((e5\\\earset: du(\\ng t)e 6e&ond / ound. T)\\\s : as #(e#a(ed '" t)e D. / > and &onta\\\ns t)e o\\\omega: ing &e(t\\ \\&at\\omega: at\\omega: o t)e (e : \\t) &on \\((m t)at 7 af 5e (e5\\\earset: ed t)e a &t s)eets and #e(o(man&e a##(a\\\sas\\ss o t)e sta mem'e(s &onta\\\ned \\nd t)e & 1)e a'o5e (an=\\\ng - :)\\&) (e \\\earset ts m" &om#a(at\\\5e assessment o t)em \\\nd n \\\nd t)e : \\t) #a(ag(a#) 5.9.1 o t)e CP(omot\\omega po\\\&"D2. 7ne@#\\\\&a'\\"- t)e 6PP mem'e(s a\\\ss \\\ss \\\nd t) = T(\\'una\\\\ss \\\ss \\\nd t) = m(o5\\\datad t)e e4PADs. T)e T(\\'una\\\\\\ss \\\\nd t) = P(omot\\omega po\\\\&".

109. 7n 5%e: o t)e o(egoing-t)e T(%'una% indst)att)e e@&&usion o t)e e4PADs (om t)e 6PP mem'e(s* &om#a(at%5e assessment o t)e &and%dates du(%ng t)e 6e&ond /ound &onst%tutes anot)e(undamenta% #(o&edu(a% e((o(in t)e %m#%ementation o t)e P(omot%ons Po%%&". T)e e@&&us%on o t)e &and%dates* nume(% (at%ngs-:)%) : e(e &ent(a% to t)e a##(a%sa% s"stem (om 2009 to 201,de#(%5ed t)e 6PP o essent%a% %n o(mat%on o(t)e%(&ons%de(at%on o t)e #e(o(man&e- manage(%a% a&)%e5ements and &eade(s)%# 9ua%%t%es &(%te(%a unde(se&. 5.9.1 o t)e P(omot%ons Po%%&". 7t a%so #(e5ented t)em (om #e(sona%\$" assessing :)et)e(t)e m%n%mum #e(o(man&e standa(d set o(t) %n se&. 5.9.10%3 : as met- as t)e" : e(e (e9u%(ed to do. Aga%n- %t a##ea(s t)at t)e D. / > soug)t to a##\$" t)e P(omot%ons Po%%&" %n t)e : a" %t t)oug)t %t : as %ntended to 'e and- as su&)- %t &ont(a5ened %ts a&tua% #%a%n : o(d%ng.

Hsta ' \$%s) ment o an add%t%ona% e5a\$uat%on & (%te(%on

110. A\$t)oug) not s#e&% %&a\$\$" (a%sed '" t)e A##\$%&ant- t)e T((una))as %dent% %ed anot)e(#(o&edu(a\$ e((o(%n t)e %m#\$ementat%on o t)e P(omot%ons Po\$%&"- :)%) &ons%sted %n t)e D. /> ad5%s%ng t)e 6PP mem'e(s to ta=e %nto a&&ount t)e su%ta'%%t" o t)e &and%dates o(a##o%ntment %n #os%t%ons at a)%g)e(\$e5e\$.

111. 7t)as 'een esta'\$%s)ed t)at du(%ng a '(%e %ng sess%on '" 5%deo &on e(en&e : %t) t)e 6PP a'out t)e 6e&ond and T)%(d /ounds* e5aut on #(o&ess- t)e De#ut" D%(e&to(o t)e D. /> ad5%sed t)e 6PP mem'e(s as o\$%o:s- as (e&o(ded %n a do&ument ent%t\$ed 1Ta\$=%ng Po%nts2 #(odu&ed '" t)e /es#ondentB

At e5e(" stage- (e e('a&= to :)at "ou a(e downg J (e&ommendwng t) ose :)o)a5e a #(o5en a' $\$ to &ont($\$ ute at a) g)e(e5e o (es#ons*' $\$ n e e&t t)e 1/at ona20 t)e #os $\$ "da(a. ,3. T)e ones "ou (e&ommend s)ousd 'e eas $\$ "\$a&e4a'se Cs $\$ "da(a. ,3. T)e ones "ou (e&ommend s)ousd 'e eas $\$ "\$a&e4a'se Cs $\$ D at t)e) g)e(e5e. As= "ou(se 5e "ou 0as a sen (manage(3 : ousd-'ased on t)e do&umentation and (om :)at "ou =no: - g = 0 \) m/)e(a #os to n u eas to mathematical on t)e #(e5 \ are to the at the set $\$ at the negative- o ten &($\$ the down on the to the time of the time of the set of the

112. T)e .ead o t)e .uman /esou(&es Po\$%&" and P\$anning 6e(5%&e-UN.C/test% %ed t)at t)%s e@&e(#t o t)e notes used to '(%e t)e 6PP (e \$e&ts so mu&))%s %dea t)at)e ma" :e\$\$)a5e :(%tten %t. As t)e des%gne(o t)e P(omot%ons Po\$%&"-)e e@#\$a%ned t)at t)e ne : Po\$%&" soug)t to de#a(t (om t)e mat)emat%&a\$ e@e(&%se &ondu&ted unde(t)e #(e5%ous one- and s)% t to :a(ds a su';e&t%5e (e5%e : '" t)e most sen%o(manage(s- :)o a(e %n a #os%t%on to assess :)et)e(&and%dates &ou\$d u\$t%mate\$" 'e #\$a&ed %n #os%t%ons at a)%g)e(\$e5e\$. .e %m#(essed u#on t)e su';e&t%5e &)a(a&te(o t)e 6e&ond / ound e5a\$uat%on- and on t)e a&t t)at t)e 6PP mem 'e(s :e(e e@#e&ted to &ons%de(% t)e &and%dates :e(e su%ta'\$e o(#\$a&ement at a)%g)e(#ost 1%n \$%g)t o t)e%(\$% e and #e(sona\$ e@#e(%en&e2.

11,. 7t %s not ent%(e§" &§ea(to t)e T(%'una§)o: t)e 6PP mem'e(s (e&e%5ed t)e ad5%&e o(%nst(u&t%on as t)e /es#ondent d%d not &a§§ an" as : %tnesses to #(o5%de e@#§anat%on. T)e test%mon%es o t)ose sta mem'e(s (om t)e D. / > :)o #a(t%&%#ated %n t)e '(%e %ng and t)e P(omot%ons 6ess%on suggest t)at t)e 6PP mem'e(s d%d not (akse an" #a(t%&u§a(&on&e(n o(o##os%t%on %n t))*s (es#e&t. I)at %s &e(ta%n-)o: e5e(- %s t)at t)e D. / > &on5e"ed a &§ea(and &ons%stent message to t)e 6PP mem'e(s t)at t)e" s)ou§d &ons%de(t)%s a&to(%n t)e%(&om#a(at%5e assessment o t)e &and%dates- %n&§ud%ng %n t)e 6e&ond / ound.

114. T)e T(% una% (e&a%s t)at t)e t)(ee e5a%uat%on %(%te(%a o(t)e 6e%ond / ound a(e %sea(%" set out %n se&. 5.9.1 o t)e P(omot%ons Po%&" - and a(e %m%ted to an assessment o t)e &and%dates* #e(o(man&e- manage(%a% 9ua%t%es and e@em#%a(" %eade(s))# 9ua%t%es. T)ese &(%te(%a a% (e e(to t)e me(%ts o t)e &and%dates. T)e(e %s no (e e(en&e to &ons%de(at%ons (e%at%ng to su%t '%%t" o(#%a&ement %n a s#e&% % #ost %n t)e 6e&ond / ound. / at)e(- t)e P(omot%ons Po%&" %s 'u%t %n su&) a : a" t)at t)%s #%a&ement a&to(#%a"s a (o%e at a %ate(stage o t)e #(o&ess. 7n t)%s (es#e&t-se&. 5.12.1 #(o%desB

P(omothon to t)e P44 se5es and a'o5e : ss 'e su';e&t to t)e sta mem'e(o'takning a #ositikon at t)ese se5es. 6ta mem'e(s : ss 'e &onside(ed o(#ositikons at t)e)ig)e(g(ade se5es in t)e &om#endium osso : ing t)e announ&ement o t)e (ese5ant #(omothons session (esusts- :)isst (es#e&ting ass ot)e(esigi 'isst 'sonditions.

115. 6e&s. 5.12.2 to 5.12.6 t) en go on to set t) e e &t15e date o #(omot115e defend11e on :)et)e(t)e sta mem'e(: as a1e as 11e by)11e defend11e of the set of

1,0. +o(e@am#\$e- a %(st 6PP mem'e(ga5e %dent%&a\$ (an=%ngs to a num'e(o &and%dates on se5e(a\$ o&&as%ons- 'ut : %t)out ta=%ng %t %nto a&&ount :)en att(% 'ut%ng t)e ne@t (an=. .e (an=ed 1A &and%dates num'e(1 and t)e ne@t ones : e(e (an=ed num'e(s 10- 11- 12- 14 and 15- %nstead o 19- 20- 21- 22 and 2,

%nstan&e '" g%5%ng t)e #(%5%Sege o t)e 'est (an=%ng to 1A &and%dates- %s d% e(ent (om t)at o an 6PP mem'e((an=%ng &and%dates %nd%5%dua\$\$" and &onse&ut%5e\$".

 $co((e\&t\on. T)\s sta mem'e(-:) o d\d not ad5an\&e to t)e T)\(d / ound- s)ou\d)a5e- #u(suant to t)e D. / >*s suggested a##(oa\&).$

1,6. T)e $\frac{1}{5}$ unde(too= t) $\frac{1}{5}$ $\frac{1}{6}$ = 1 a solution to a solution the second term of term

#os%t%on to assess t)e %m#a&t o t)e nume(ous e((o(s and du'%ous met)odo%og" ado#ted '" some 6PP mem'e(s on t)e A##%%ant*s &)an&es o(#(omot%on.

1,9. 7n 5%e: o t)e o(ego%ng-t)e T(%'una% &on&%udes t)at t)e a : a(d o t)e same (an=%ng to mo(e t)an one &and%date- u#on suggest%on (om t)e D. / >-)ad no 'as%s %n t)e P(omot%ons Po%%&" and &onst%tutes a #(o&edu(a% e((o(%n %ts %m#%ementat%on. 6u%) met)odo%og" &ou%d not 'e (easona'\$" %nt(odu&ed : %t)out an adm%n%st(at%5e %ssuan&e- and a te(due &ons%de(a

:)et)e()e o(s)e : ou\$d (an= among t)e \$ess me(to(tous. T)e T(tous tous t)at t)e 5a(tous a(e sub) as to (atse se(tous &on&e(n)

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159. 7n t)e T(% 'una\$*s 5%e :- t)e (atkings &ontakined %n e4PADs : e(e not on\$" e@#\$%&%t\$" (e9u%(ed '" t)e Po\$%&"- 'ut a\$so &(u&%a\$ to g%5e t)e 6PP mem 'e(s some &om#a(at%5e measu(es. T)e &omments #(o5%ded '" t)e su#e(5%so(s do not #(o5%de enoug) %n o(mat%on to &onst%tute t)e 'as%s o t)e en5%saged &om#a(at%5e e@e(&%se and- %n an" e5ent- : e(e not des%gned o(%ntended to #(o5%de %t.

160. 7n 5%e : o t)e o(ego%ng-t)e T(% 'una% %nds t)at t)e /es#ondent a%%ed to demonst(ate- e5en m%n%ma%%"-t)at t)e A##%%&ant : as u%%" and a%(%" &ons%de(ed o(#(omot%on. T)e &onso%dated ta'%e o (an=%ngs d%s#%a"s s%gn% %&ant d%5e(gen&es %n t)e (an=%ngs g%5en to t)e same &and%date '" d% e(ent 6PP mem'e(s- :)%&) &annot 'e s%m#%" e@#%a%ned '" (e e(en&e to t)e a&t t)at t)%s (e5%e : e@e(&%se enta%%ed an e%ement o su';e&t%5%t". Not on%" d%d t)e /es#ondent a%% to #(o5%de an" sat%s a&to(" e@#%anat%on o(t)ese d%5e(gen&es- 'ut)e a%so a%%ed to demonst(ate t)at t)e A##%%&ant*s &and%da&" o(#(omot%on : as- %ndeed- #(o#e(%" &om#a(ed :%t) t)at o t)e 160 ot)e(ema%e &and%dates '" t)e s%@ 6PP mem'e(s 'ased on t)e esta'%%s)ed e5a%uat%on &(%te(%a.

161. G9.7604(m)-0.0858734(e)-3.66653(m.28 T f D6.85312 0 T d D()-8.07991972 090.7446(e)-3.13046(s

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t)at s)e : as not (an=ed : %t)%n t)e to# 56 &and%dates :)o ad5an&ed to t)e T)%(d / ound.

171. 6e&. 5.11.1 o t)e P(omotions Poilik "#(o5%des t)at 10mD%nutes : %% 'e =e#t o as meet%ngs- (e&o(d%ng de% 'e(at%ons and %n&o(#o(at%ng &omments o(mass" su'm%tted. T)e m%nutes : %% summa(%8e &on&sus%ons (ea&)ed2. 6e&. 5.11.2 u(t)e(#(o5%des t)at 10mD%nutes s)as 'e s)a(ed %n d(a t : %t) as mem 'e(s o t)e (ese5ant Panes :)o attended t)e session o(&ons%de(at%on. T)e > %nutes s)as 'e &sea(ed%nas%8ed and s%gned '" t)e Co4C)a%(#e(sons and t)e 6e&(eta(" and sent to t)e .%g) Comm%ss%one(2. 7n tu(n-se&. 4.2.5 #(o5%desB

T)e D%(e&to(o D. /> : %%\$ des%gnate an H@4< %&%o to #(o5%de te&)n%&a\$ ad5%&e and gu%dan&e on (u\$es- (egu\$at%ons- #o5%&%es- and met)odo\$og" to ea&) Pane\$. A (e#(esentat%5e o t)e ?ega\$ A a%(s $6e(5\%\&e\ 0?A63\ ma"\ 'e\ n5\%ted$ to an" #(omot%ons sess%on %n o(de(to #(o5%de \$ega\$ ad5%&e to t)e (e\$e5ant Pane\$. T)e ad5%&e o t)e H@4< %&%o and ?A6 (e#(esentat%5e s)a\$\$ 'e (e&o(ded %n t)e >%nutes.

172. T)e T(%'una\$ ag(ees : %t) t)e / es#ondent t)at t)e P(omotions Po\$%&" does not s#e&% %&a\$\$" en5%sage t)at t)e 6PP mem'e(s : %\$\$)o\$d a meeting o(t)e%(6e&ond /ound (e5%e:- :)%&) enta%s an %nd%5%dua\$ assessment '" t)e 6PP mem'e(s o t)e &and%dates. .o:e5e(- t)e e5%den&e s)o:s t)at t)e D. / > &on5ened t)e 6PP mem'e(s to gat)e(%n Gene5a to ma=e su&) assessment- and most %m#o(tant\$"- se%sed t)%s o##o(tun%t" to g%5e t)em %nst(u&t%ons o(suggest%ons as to t)e moda%%t%es o t)e%((e5%e:. No m%nutes : e(e ta=en o sa%d meet%ng. ?%=e: %se- t)e D. / > #(o5%ded ad5%&e to t)e 6PP #(%o(to %ts gat)e(%ng %n Gene5at)(oug) 5%deo&on e(en&e and ema%s- as deta%sed a'o5e. T)ese : e(e not o(ma\$\$" (e&o(ded %n m%nutes e%t)e(- 'ut t)e" a(e- to some e@tent- (e \$e&ted %n t)e ema%ss t)emse\$5es and a do&ument ent%t\$ed 1Ta\$=%ng Po%nts2.

D. /> : as de5\s\ng t)e met)odo\sog" o(t)e $\mbox{m}\mbox{m}\mbox{sementat}\son o t)e P(omot\son sementat\son o t)e P(omot\son sementat\son o t)e P(omot\son sementat\son o t)e P(omot\son sementat\son sementat\so$

174. I)et)e(t)ese m%nutes)ad to 'e s)a(ed : %t) t)e sta mem 'e(s %s anot)e(d%s#uta' %e %ssue- as se&. 5.11.2 so %e %'' en 5% sages t)e d%s & sou(e o t)e m%nutes to t)e . %g) Comm%ss%one(. A 'sent an '' su &) m%nutes- t)e %ssue %s) "#ot)et % & a so t)e T(% 'una %: %% (e (a%n (om ma=%ng an '' assessment.))))

175. Tu(n\ng to t)e a\sequence a\su(e to $\#(05\$ \de (easons o(t)e de\s\s\non-t)e T(\s'una\sequence (eas\s\structure t)at as $\#a(t \circ a \$ dom $\#a(at\$ \structure assessment-t)e de\s\s\non-t)e de\s\s\non-t)e T(\s'una\sequence (eas\s\structure t)at as $\#a(t \circ a \$ dom $\#a(at\$ \structure assessment-t)e de\s\s\non-t)e de\s\s\non-t)e T(\s'una\sequence (eas\s\structure t)at as $\#a(t \circ a \$ dom $\#a(at\$ \structure assessment-t)e de\s\s\non-t)e de\s\s\non-t)e T(\s'una\sequence (eas\s\structure t)at as $\#a(t \circ a \$ dom $\#a(at\$ \structure assessment-t)e de\s\s\non-t)e de\s\s\non-t)e de\s\s\non-t)e to # (omote a sta mem'e(automat\s\alpha\alpha\s\structure t)at)e o(s)e : as not (an=ed among t)e to # amote d' (as\structure t)''' as not (an=ed among t)e to # \structure and \structure t)''' as ta mem'e(. As t)e P(omot\nons Po\s\s\structure t) de\s\structure to t)e \structure to t)

176.

177. T)e T(%'una\$ notes : %t) &on&e(n t)at &ont(a(" to ot)e(&and%dates :)o : e(e %n o(med o t)e%((an=%ngs t)(oug) t)e De#ut" . %g) Comm%ss%one(*s (es#onse to t)e%((e9uests o(management e5a\$uat%on- at t)e \$atest- t)e A##\$%&ant*s (e9uest o(management e5a\$uat%on (ema%ned unans : e(ed and)e((an=%ngs : e(e not d%5u\$ged to)e(- des#%te)e(e@#(ess and (e#eated (e9uests. T)%s d% e(en&e %n t(eatment-:)%&) (ema%ns une@#\$a%ned- %s %n '(ea&) o t)e Adm%n%st(at%on*s dut" to a&t a%(\$"-;ust\$" and t(ans#a(ent\$" %n dea\$%ng : %t) %ts sta mem 'e(s 0 hmed 20114UNAT4 15,- #a(a. 453.

179. T)e T($\$ 'una $\$ o'se(5es t)at t)e Adm $\$ t(at $\$ on $\$ s a&= o &ons $\$ sten&" $\$ n d $\$ s&sos $\$ ng t)e (an= $\$ ngs- &ou# $\$ ed : $\$ t) t)e o#a&t" $\$ n t)e #(o&edu(es o $\$ s $\$ o: ed '" t)e D. /> and t)e 6PP- ma")a5e &aused t)e A## $\$ s&ant not to u $\$ " unde(stand t)e de&s $\$ on (ea&)ed and t)e o5e(a $\$ #(o&ess. To as $\$ e5 $\$ ate t) $\$ s #(o' $\$ em- t)e T($\$ 'unast(ong $\$ " en&ou(ages t)e Adm $\$ n $\$ st(at $\$ on to ado#t &sea(and t(ans#a(ent #(o&edu(es o(t)e $\$ m# $\$ smentation o t)e P(omotions Po $\$ s&".

, onclusion in respect of the legality of the decision

'. T)e D . / > se#a(at%ng t)e &and%dates '" gende(o(t)e 6e&ond / ound e5a%uat%on0

&. T)e D./> allowing to #(o5%de t)e 6PP mem'e(s : %t) t)e e4PADs (atkngs6

d. T)e 6PP mem'e(s not assessing &om#\$han&e : \$t) t)e mhnhmum
#e(o(man&e t)(es)o\$d unde(se&. 5.9.10%3 o t)e P(omothons Po\$h&"G

e. T)e D. /> ad5%s%ng t)e 6PP mem 'e(s to ta=e %nto a&&ount- du(%ng t)e%(6e&ond /ound (e5%e :- t)e &and%dates* su%ta '%%%t" o(#%a&ement %n a&tua% #os%t%ons at t)e P45 %e5e%G

. T)e D. /> ad5%s%ng t)e 6PP mem'e(s to ta=e %nto a&&ount t)e%(#e(sona% =no : %edge o t)e &and%dates6

g. T)e D. /> $\$ nt(odu& $\$ a (an= $\$ met)odo $\$ g" :) $\$ #e(m $\$ ted t)e a $\$ a $\$ o t)e same (an= to mo(e t)an one & and & date- : $\$ out an a dm $\$ adm $\$ ssuan & and an & a & a & b and $\$ and $\$ dates & $\$ ssuan & a & a & a & b and $\$ and $\$ dates & $\$ and $\$ dated (an= $\$ ng $\$

). T)e skgnk kant e((o(s kn t)e (an=kngs #(o5kded '" t)e 6PP mem 'e(s- &ou#sed : kt) a sak= o dkskgenke '" D. /> kn t)e &onsoskdatkon o data- #uts knto 9uestkon t)e (eska 'kskt" o t)e (an=kngsG

%. T)e e@t(eme d%5e(gen&es %n t)e (an=%ngs #(o5%ded '" t)e 5a(%ous 6PP mem 'e(s to t)e same &and%dates- o(:)%&) no sat%s a&to(" ans : e() as 'een #(o5%ded- and :)%&) ma" suggest t)at t)e e((o(s %dent% %ed a'o5e &on&(ete\$" %m#a&ted on t)e (esu\$ts- o(t)at t)e &om#a(at%5e and (an=%ng e@e(&%se : as s%m#\$" %m#oss%'\$e to a&&om#\$%s) g%5en t)e \$a(ge num 'e(o &and%dates- t)e %n o(mat%on #(o5%ded to t)e 6PP mem 'e(s- :)%&) &ons%sted on\$" o t)e &and%dates* a&t s)eet- and t)e s)o(t t%me o(&ondu&t%ng t)e%((e5%e : 6 and

;. T)e allsu(e to ta=e mlnutes o 6PP meetlings #(lio(to- o(du(ling- t)e 6e&ond / ound e5asuation and to (e&o(d ad5ikes #(o5ikded ' " t)e D . / >.

1A1. 7n (t) = 0 (ego(fing-t) = T((t) una) (finds t) at t) = &ontested de (t) is un(t) = t = 0 (t) at t) = t = 0 (t) = t = 0 (t) at t) = t = 0 (t) = 0 (t) at t) = 0 (t) at t) = 0 (t) = 0 (t) at t) = 0 (t) at t) = 0 (t) = 0 (t) at t) = 0 (t) at t) = 0 (t) = 0

1A2. T)e T(%'una% notes t)at t)e A##\$%&ant : as e\$%g%'\$e o(&ons%de(at%on o(#(omot%on %n t)e 2014 P(omot%ons 6ess%on- :)%&) %t unde(stands %s %n %ts %na% stage- and :%\$% &ont%nue to 'e e\$%g%'\$e %n utu(e sess%ons unt%\$ #(omoted. !" &ondu&t%ng an e@tens%5e (e5%e : o t)e 201, P(omot%ons H@e(&%se- add(ess%ng ea&) and e5e(" #(o&edu(a\$ %((egu\$a(%t" (a%sed '" t)e A##\$%&ant- and %n \$%ne : %t) t)e A##ea%s T(% 'una\$*s ;udgment %n "e/touche 0see #a(a. 42 a'o5e3- t)e T(% 'una\$) o#es to)a5e #(o5%ded some gu%dan&e as to)o : t)e P(omot%ons Po%%&" oug)t to)a5e 'een %m#\$emented %n %ts &u((ent o(mu\$at%on- s)ou%d t)e UN . C/ de&%de to &ont%nue to use %t %n utu(e #(omot%ons e@e(&%ses.

1A,. 7n add%t%on to %ns%st%ng on t)e ne&ess%t" o %m#%ement%ng t)e Po%%&" as ado#ted- t)e T(% 'una% (e&ommends to t)e Adm%n%st(at%on to 1(e o(m2 su&) '" su##%ement%ng t)e Po%%&" : %t) an adm%n.

Remedies

1A4. T)e T((una) s)a(una) kons(de(t)e (emed)(es soug)t '" t)e A##(una) s)a(una) kons(de(t))e (emed)(es soug)t '" t)e A##(una) kons(de(una) kons(de(una))) de(una) kons(de(una))) de(una)) de(una)) de(una) kons(de(una))) de(una)) de(u

/es&%ss%on o t)e &ontested de&%s%on

1A5. 7t %s sett§ed ;u(%s#(uden&e t)at %n (es#e&t o t)e UN.C/*s #(omotNons sessNons-t)e T(%'una§ &an on§" (es&Nnd t)e de&NsNon not to g(ant a #(omotNon % t)e #(o&edu(a§ %((egu§a(%tNes un&o5e(ed)ad de#(%5ed t)e a##\$%&ant o a sNgnN %&ant &)an&e o(#(omotNon 0see Vangelova 20114UNAT41726 &ofill 20114UNAT41746 - ualeh 20114UNAT41753. T)e T(%'una§ s)aS\$ t)e(e o(e &onsNde(:)et)e(t)e A##\$%&ant : ouSd)a5e)ad a sNgnN %&ant &)an&e o 'eNng #(omoted % t)e e((o(s %nd%ated a'o5e)ad not 'een &omm%tted.

1A6. T)e A##\$%&ant : as e\$%g%'\$e o(&ons%de(at%on o(#(omot%on- and met t)e (e9u%(ement a\$%o: %ng)e(to ad5an&e (om t)e +%(st to t)e 6e&ond /ound o e5a%uat%ons. As t)e 6e&ond and T)%(d /ound %n5o%5ed a &om#a(at%5e assessment o t)e &and%dates- (at)e(t)an e%m%nato(" &(%te(%a- t)e A##\$%&ant)ad a &)an&e to 'e u\$t%mate\$" #(omoted. T)e a&tua\$ #(o'a' %%t" o 'e%ng #(omoted de#ended ent%(e\$" on)o: s)e : ou\$d &om#a(e : %t) t)e ot)e(&and%dates %n t)e &ou(se o t)e 6e&ond and T)%(d e5a%uat%on (ounds.

1A7. 7n t)%s (es#e&t- t)e &(eat%on o t: o se#a(ate #oo%s o &and%dates- ma%e and ema%e- &(eates a %(st d% %&u%t" %n assess%ng t)e A##%%&ant*s u%t%mate &)an&es o(#(omot%on. !e&ause ema%e &and%dates 0tota%%ng 1613 and ma%e &and%dates 0tota%%ng 1703 : e(e ne5e(&om#a(ed aga%nst ea&) ot)e(- %t %s d% %&u%t to assess)o: t)e A##%%&ant : ou%d)a5e #e(o(med %n a : %de(#oo% o ,,1 &and%dates-:)e(e on%" 112 : e(e to ad5an&e to t)e T)%(d / ound- and 56 : e(e u%t%mate%" to 'e se%e&ted.

1AA. T)e /es#ondent*s suggest%on t)at t)e A##%&ant :ou\$d not)a5e 'een see&ted g%5en t)at s)e :as (an=ed 129^{t)} out o 161 %s #u(e\$"n\$2e&u\$at%5e- as t)e

191. T)e e((o(s %n t)e %m#\$ementation o t)e P(omotions Po\$%&" a(e so sign) %&ant t)at t)ei(%m#a&t on t)e A##\$%&ant*s &)an&e o(#(omotion &annot 'e measu(ed. > ost &e(tain\$"-t)e A##\$%&ant)ad a (ea\$ &)an&e o(#(omotion.

192. T)e(e o(e- t)e T($\$ 'una (es&nds t)e de&son.

6#e&% %& #e(o(man&e

19,. T)e A##\$%&ant (e9uests to 'e g(anted #(omot%on to t)e P45 %e5e%. 6)e a\$so (e9uests t)e T(% 'una% to (e5%e: t)e P(omot%ons Po%%&" and esta '\$%s) an adm%n%st(at%5e %nst(u&t%on.

194. T)e T(%'una% (e%te(ates t)at t)e &ontested de&%s%on %s d%s&(et%ona(" %n natu(eand t)at %t %s not %ts (o%e to e@e(&%se t)e d%s&(et%ona(" aut)o(%t" 5ested on t)e 6PP and t)e .%g) Comm%ss%one('" su'st%tut%ng %ts o:n assessment o(t)at o t)e &om#etent o %&%a% 0see Sanwidi 20104UNAT40A46 //assi 20114UNAT41103. 7t %s #a(t o t)e &on&e#t o d%s&(et%on t)at %ts e@e(&%se ma" %a: u%s" (esu%t %n de&%s%ons t)at a(e d% e(ent (om t)ose t)e T(%'una% m%g)t)a5e #(e e((ed. T)e(e o(e- :)e(e t)e ;ud%&%a% (e5%e: &on&e(ns t)e e@e(&%se o d%s&(et%on- t)e T(%'una% &an o(de(s#e&% %& #e(o(man&e- su&) as %t)as 'een (e9uested %n t)e #(esent &ase- so%e%" %n t)e (a(e)"#ot)es%s :)e(e t)e (esu%t o t)e e@e(&%se o d%s&(et%on &an 'e na((o:ed do:n %n su&) a : a" as to on%")a5e one %ega%%" &o((e&t out&ome 0see demagic et al% UNDT/2015/1153. T)%s %s not t)e &ase %n t)e a##\$%&at%on at)and.

195. T)e T(% una%) as &on&uded t)at t)e 6PP)ad not a%(% and ade9uate% $\&ons\&de(ed t)e A##\%\&ant*s &and\&da\&" o(#(omotion to t)e P45 &e5e\% :)en &om#a(\ng)e(: <math>\t)$ t)e ot)e(&and&dates. T)e . $\g)$ Commissione(- :)o \s t)e &om#etent de& $\sion4ma=e(-)$ as not (e&e%5ed a #(o#e(and mean $\ng u\%$ (e&ommendation o(ma= \ng) is de&sion as to :)et)e(o(not to a : a(d one o t)e 56 a5a $\sion4ma=$ o(#(omotion to t)e P45 $\sion4ma=$ o(t)e 56 a5a $\sion4ma=$ o(#(omotion to t)e P45 $\sion4ma=$ o(t)e $\sion4ma=$ o(t)e (sion4ma= o(t)e $\sion4ma=$ o(t)e (sion4ma= o(t)e

200. 7n s%m%%a(&ases %n5o%5%ng (es&%ss%on o de&%s%ons den "%ng #(omot%ons unde(UN . C / #(e5%ous #(omot%ons #o%%&%es- t)e T(% 'una% set t)e amount o a%te(nat%5e #a"ment to (es&%ss%on to C . +A-000 0see

205. 7n #(e5%ous &ases &on&e(n%ng t)e UN . C / #(omot%ons sess%ons- t)e T(% 'una% (e;e&ted (e9uests o(mate(%a% damages on t)e 'as%s t)at %ts o(de(to (es&%nd t)e de&%s%on and to a : a(d &om#ensat%on %n %keu o (es&%ss%on &o5e(ed a% mate(%a% damages t)at an a##%%ant ma")a5e %n&u((ed. T)e T(% 'una% (easoned t)at % t)e / es#ondent &)ose to rescind t)e &ontested de&%s%on and to ta=e a ne : de&%s%on on an a##%%ant*s #(omot%on- t)e a##%%ant : ou%d 'e a'%e to &%a%m #(omot%on (et(oa&t%5e%" % #(omoted- o(to &)a%enge t)e ne : de&%s%on on #(omot%on % not #(omoted. Conse9uent%"-t)e(e : ou%d not)a5e 'een a mate(%a% damage. 7n tu(n- % t)e / es#ondent &)ose to #a" &om#ensat%on- t)e sum a : a(ded must 'e &ons%de(ed as &om#ensat%on o(%oss o sa%a(" due to t)e den%a% o #(omot%on 0see /soneva UNDT/2010/17A6 " ututa UNDT/2009/0446 ndersson UNDT/2012/0913.

206. I)e(eas t)e T(%'una§*s)o§d%ng t)at #a"ment o t)e amount a : a(ded o(&om#ensat%on %n \$%eu o (es&%ss%on a##\$%es to t)e #(esent &ase- %ts %nd%ng t)at (es&%ss%on ma" enta%§ (et(oa&t%5e g(ant o #(omot%on and &om#ensate an" \$oss o sa\$a(" &annot 'e a##\$%ed mutatis mutandis.

207. Unde(t) e &u((ent P(omothons Posh&"-t) e A##sh&ant*s #(omothon-e5en h ht &ousd t)eo(eth&ass" 'e a : a(ded (et(oa&th5e\$"- : ousd not 'e e e&th5e (om t)e thme o t)e . hg) Commhsshone(*s hnkthas de&hshon on #(omothons-t)at hs 20 <&to'e(2014- 'ut ons" as o :)en t)e A##sh&ant hs a##ohnted to a #ost at t)e)hg)e(e5e 0se&s. 5.12.1 and 5.12.,3. 7n t)hs (es#e&t-t)e T(h'unas notes t)at ast)oug) t)e A##sh&ant asseges t)at)e(#(omothon : ousd 'e e e&th5e hmmedhates'' hn)e(&ase- 'e&ause s)e : as : ht)hn t: o "ea(s o (eth(ement-t))hs : as not t)e &ase at t)e (ese5ant thme-names'' on 20 <&to'e(2014.

20A. 7ndeed- on 20 <&to'e(2014- t)e A##\$%&ant : as 5A "ea(s o\$d- name\$" ou("ea(s a : a" (om (et%(ement as)e(no(ma\$ (et%(ement age %s 62 due to t)e a&t t)at s)e ente(ed t)e se(5%&e o t)e Un%ted Nat%ons- and sa\$a(". T)e T(% 'una\$ must t)e(e o(e e@am%ne % t)%s #oss% '\$e \$oss o sa\$a("- %n &ase t)e / es#ondent does not e\$e&t to #a" &om#ensat%on %n \$%eu o (es&%ss%on-;ust% %es t)at %t a : a(ds t)e A##\$%&ant mate(%a\$ damages.

210. As (e&assed a'o5e- e5en % t)e A##ssant)ad 'een g(anted #(omotson on 20 <&to'e(2014- t)ss #(omotson : ousd not)a5e 'een e e&ts5e untss s)e : as a##osnted to a P45 \$e5e\$ #osstson. 7n t)e meantsme- s)e : ousd)a5e &ontsnued to (e&es5e)e(sasa(" at t)e P44 \$e5e\$. T)e(e o(e- an" \$oss o sasa(" : ousd de#end not on\$" on :)et)e(t)e A##ssant : as sndeed #(omoted- 'ut asso on :)en s)e : ousd)a5e 'een a##osnted to a P45 #osstson)ad s)e 'een #(omoted. T)e e5sden&e s)o : s t)at t)e A##ssant)ad not 'een a##osnted to a P45 #osstson as o t)e date o t)e)ea(sng. I)et)e(- and % so :)en- s)e : ousd)a5e 'een a##osnted at t)at \$e5e\$)ad s)e 'een #(omoted on 20 <&to'e(2014 and &onssde(ed %n t)e ne@t 5a&an&ses & &om#endsum %s s#e&u\$ats5e.

211. Cons%de(%ng t)at %t %s un&e(ta%n t)at t)e A##%%&ant : ou\$d)a5e 'een g(anted #(omot%on-t)at %t %s a\$so un&e(ta%n t)at s)e : ou\$d a%ot 'eed a##o%nted&ed5

21,. 7n sariotis- :)%&) : as %ssued on 2A > a(&) 201,- t)e A##ea $T(\ una$ de%neated t)e D%s#ute T(% una%*s ;u(%sd%&t%on to a : a(d mo(a% damages %n t)e o%so : %ng te(msB

,6. To %n5o=e %ts ;u(%sd%&t%on to a : a(d mo(a\$ damages- t)e UNDT must %n t)e %(st %nstan&e %dent% " t)e mo(a\$ %n;u(" susta%ned '" t)e em#\$o"ee. T)%s %dent% %&at%on &an ne5e('e an e@a&t s&%en&e and su&) %dent% %&at%on : %\$\$ ne&essa(%\$" de#end on t)e a&ts o ea&) &ase. I)at &an 'e stated- '" : a" o gene(a\$ #(%n&%#\$e- %s t)at damages o(a mo(a\$ %n;u(" ma" a(%seB

0'3 Com#ensat%on

219. +o(t)e (easons out\$%ned a' o5e- %t o\$%o : s t)at t)e (e&ent amendment to a(t. 10.5 o t)e T(%' una*s 6tatute %s not a##\$%&a' \$e to t)e %nstant &ase. A&&o(d%ng\$"- t)e sariotis ;u(%s#(uden&e ma" 'e (e\$%ed u#on %n sett%ng t)e a##(o#(%ate &om#ensat%on %n t)e #(esent &ases.

220. T)e T((una) %nds t)at %t &an 'e %n e((ed (om t)e nume(ous-s%gn) %&ant #(o&edu(a) '(ea&)es %n t)e %m#%ementation o t)e P(omotions Po%&"- :)%) %m#a%(ed t)e A##%%ant*s (%g)t to 'e a%(" and ade9uate" &ons%de(ed o(#(omotion- &ou#%ed : %t) a %a&= o t(ans#a(en&" o t)e #(o&ess and t)e une9ua% t(eatment o)e((e9uest o(%n o(mation &on&e(n%ng t)e (easons o(t)e &ontested de&%%on- t)at t)e A##%%ant)as su e(ed 1 (ust(ation2- 1den%g(ation2 and 1emotiona% d%st(ess2- as s)e &%a/ms.

221. T)e(e o(e- t)e T($\$ 'una $\$ nds t)at t)e A## $\$ ant*s &am o(mo(a $\$ n;u(" s su % $\$ su 'stant%ated and deems %t a $\$ and a##(o#($\$ ate to a : a(d)e($\$ om#ensat $\$ n t)e amount o C . +,-000.

222. 7n 5%e: o t)e o(ego%ng-t)e T(% 'una% DHC7DH68

a. T)e &ontested de&\s\on den"\ng t)e A##\s\&ant a #(omot\on to t)e P45
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6)ou\$d t)e / es#ondent e\$e&t to #a" \$nan&\$a\$ &om#ensat\$on \$nstead o
 e e&t\$5e\$" (es&\$nd\$ng t)e de&\$s\$on-)e s)a\$\$ #a" t)e A##\$\$&ant C . +6-0006

&. T)e A##\$%&ant s)a\$\$ a\$so 'e #a%d mo(a\$ damages %n t)e amount o C . +,-000G

d. T)e a o(ement%oned &om#ensat%ons s)a% 'ea(%nte(est at t)e Un%ted 6tates #(%me (ate : %t) e e&t (om t)e date t)%s Judgment 'e&omes e@e&uta'\$e unt%\$ #a"ment o sa%d &om#ensat%on. An add%t%ona\$ %5e #e(&ent s)a\$\$ 'e a##\$%ed to t)e Un%ted 6tates #(%me (ate 60 da"s (om t)e date t)%s Judgment 'e&omes e@e&uta'\$e6 and

e. A\$\$ ot)e(&\$a\$ms a(e (e;e&ted.

0Signed3 Judge / o : an Do : n%ng Dated t)%s ,^{(d} da" o >a" 2016

Hnte(ed %n t)e / eg%ste(on t)%s ,^{(d} da" o >a" 2016 0Signed3 / en0 >. Va(gas >.- / eg%st(a(- Gene5a