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 *$g(Commssone)1. 4ne of t(em %on%e)ned 0t(e t)ansfo)mat$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 "ost0 $n ($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#$s(ed 6$t(an a""#$%at$on dead#$ne of 17 +e"tem7e) 201&. T(e A""#$%ant a""#$ed fo) t(e "os$t$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($%(6as %om"osed of t6o se%t$ons0 t(e P)o%u)ement *F +e%t$on and t(e P)o%u)ement ;$e#d +u""o)t +e%t$on. 4ne of t(e P9& "osts "u7#$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)e9o"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

7.

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

c.

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 P1CS

&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 6as $m")o.ed o) u"(e#d. *e a#so unde)#$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.

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

66. *o6e.e)' and 6$t(out ")eIud$%e to $ts f$nd$ngs t(at $t 6ou#d (a.e 7een sound management to)e"#a%e t(e *ead' P , C+' t(e T)$7una# $s of t(e .$e6 t(at t(e ")esent %ase (as to 7e dstngu$s(ed f)om ***2l34***holy UNDT/2016/101.

67. Un#$<e ***2l34***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 $s a <e! e#ement fo) t(e a"")e%aton of t(e ")esent %ase' s$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)$7una# $s fu)t(e) %on.$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$t(dsdan1' and (e) #a%< of)es"ons$.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$as 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)

$nte).$e6. +(e fu)t(e) e:"#a$ned 6(! t(e d$)e%t manage) of t(e "ost /D$)e%to)' D3++2' as 6e## as t(e t6o te%(n$%a# sen$o) manage)s (ad to)ema$n on t(e Pane#. ;$na##!' s(e $nfo)med t(e A""#$%ant of t(e "oss7#$t! to #$a$se 6$t(t(e -ega# Affa$)s +e%t$on /0-A+12' UN*C5' and to %ons$de) as<$ng fo) t(e attendan%e of one of t(e$) #a6!e)s at t(e $nte).$e6s.

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 hearing****9**** with the ***5****eputy ***#****igh Commissioner

84. 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