UNITED NATIONS D

Introduction

1. O% 1 !"%e 20176 &.e A99-,:a%& a Se%,o+ Coo+#,%a&,o

& .e 9oss,*,-,&@ of ?o,%#e+6 ,f a% a99-,:a&,o% aga,%s&&.e %o%1+e%e8a-8e+e&o *e f,-e#6 a& a%o&.e+:ase \$ a%age\$ e%& #,s:"ss,o% &o *e .e-# o% 30 O:&o*e+ 201'.

- 13. O% 2 a%# 12 O: \(\dagge \cdot \epsilon + 201 ' 6 \dagge \cdot \epsilon \) 9a+\(\dagge \epsilon \epsilon \cdot \epsilon \) 8 e%\(\dagge \epsilon \) 6 \(\dagge \epsilon \) 9a+\(\dagge \epsilon \epsilon \epsilon \) 8 e%\(\dagge \epsilon \) 6 \(\dagge \epsilon \) 9a+\(\dagge \epsilon \epsilon \) 8 e%\(\dagge \epsilon \) 6 \(\dagge \epsilon \) 9a+\(\dagge \ep
- 1A. O% 30 O: &o*e+ 201'6 &.e T+,*"%a-.e-# a se: o%#: ase \$ a%age \$ e%& #,s: "ss,o%6 &o +e),e 8 9+og+ess. S,%:e &.e A99-,:a%&7s +eE"es& fo+ \$ a%age \$ e%& e)a-"a&,o% of &.e #e:,s,o% %o& &o +e%e 8 .,s a99o,%&\$ e%& 8 as s&,-- "%#e+: o%s,#e+a&,o%6 *@ O+#e+ No. 1'1;GVA/201' < of 31 O: &o*e+ 201'6 &.e T+,*"%a-#efe++e#: o%s,#e+a&,o% of a 9oss,*-e ?o,%#e+ &o a f"+&.e+: ase \$ a%age \$ e%& #,s: "ss,o%.
- 1. O% H No)e\$*e+ 201'6 &.e A99-,:a%& f,-e# a##,&,o%a- s"*\$,ss,o%s a%#
 #o:"\$e%&s ,% +es9o%se &o #o:"\$e%&s s"*\$,&&e# o% 2 a%# 12 O:&o*e+ 201'6 as
 #,+e:&e# *@ O+#e+ No. 1'1. O% 1(No)e\$*e+ 201'6 &.e Res9o%#e%& +es9o%#e# &o
 &.e A99-,:a%&7s a##,&,o%a- s"*\$,ss,o%s.
- 1(. O% 20 No)e \$ *e+ : \$a%age \$ e%& #,s: "ss,o% 8 . e+e *@ & . e A99-,: a%& %fo+ \$ e# : "%a- %#

.e .a# f,-e# a% a99-,:a&,o% ga,%s& &.e %o%1+e%e8a- f %s 4TA *efo+e &.e ,s9"&e

T+,*"%a- ,% a,+o*,. 5e so"g.& ?o,%#e+ of &0 2 21(%)-Q+:968 s6649 (71884 376 (fal))435 ..666 8316 (%))90..69 8443947 () 83) - 666 579 Q

a%@ f"+&.e+ #e-a@ ,% :0%s,#e+,%g &.,s :ase s.o"-# *e a)o,#e#. I& 80"-# *e fo+ 66-9.78436(.)9.69849(e)-3

,%a::"+a:,es6 &.e +eso-"&,o% of 8 .,:. 8 o"-# %o& #,s&"+* &.e esse%&,a- fa:&"a- f,%#,%gs a%# +easo%s fo+ &.e ,\$9"g%e# #e:,s,o%s.

arties# su! \$ issions

- 1H. T.e A99-,:a%&7s 9+,%:,9a-:o%&e%&,o%s a+e:
 - a. T.e &80 \$e\$0+a%#a s&+,99e# .,\$ of .,s #e-ega&,0% of a"&.o+,&@ a%# \$os& of .,s f"%:&,0%s. T.e fa,-"+e &0 9+o),#e a ?"s&,f,:a&,0% fo+ #e9+,),%g .,\$ of .,s #"&,es ,%#,:a&e &.a& &.e #e:,s,0%s 8e+e ,\$9+o9e+-@ \$o&,)a&e# a%# +e&a-,a&o+@I
 - *. I% 9a+&,: "-a+6 & e +easo% of & e \$ a%age \$ e%& +e),e 8 a99ea+s & o *e a : o) e+ fo+ +e&a-,a&,%g aga,%s& .,\$ fo+ .,s eB9+esse# #,sag+ee\$ e%& 8,&. a:&,o%s of se%,o+ \$ a%age\$ e%&I
 - :. T.e &, \$,%g of &.e \$e\$o+a%#a ,s e),#e%:e &.a& &.e@ 8e+e a,\$e# a& 9+e)e%&,%g &.e A99-,:a%& f+o\$:o%)e@,%g .,s #,sse%&,%g),e8s &o s&aDe.o-#e+s a%# s&aff \$e\$*e+sI
 - #. T.e \$a%age\$e%&7s,\$9+o9e+\$o&,)e,se),#e%:e# *@ &.e "%-a8f"-a%#,--eg,&,\$a&e+eE"es&&oa::ess&.e A99-,:a%&7s e\$a,-s,% 4e*+"a+@ 2017I
 - e. T.e A99-,:a%&7s &+a%sfe+ &o a%o&.e+ 9os&,% Na,+o*, o% No)e \$ *e+ 2017 8,&.o"& a%@?o* #es:+,9&,o% o+ &e+ \$ s of +efe+e%:e a%# &.e s"*seE"e%& a*o-,&,o% of &.e sa,# 9os& #"e &o -,\$,&e# f"%#,%g6 a%# &.e %o%1+e%e8a- of .,s a99o,%& \$ e%& a+e f"+&.e+ e),#e%:e of ,\$ 9+o9e+ \$ o&,)es a%# +e&a-,a&,o%I
 - f. T.e A99-,:a%& #e%,es .a),%g eB:ee#e# .,s a"&.o+,&@. If .e .a# #o%e so &.,s 8o"-# *e a 9e+fo+\$a%:e,ss"e &.a& 8o"-# %ee# &o *e a##+esse# "%#e+ &.e 9+o9e+ f+a\$e8o+D a%# %o& &.+o"g. a #e9+,)a&,o% of f"%:&,o%sI
 - g. T.e A99-,:a%& ,s de facto #e9+,)e# of a%@ \$ea%,%gf"- 8o+D6 as .e :a%%o&:o%&a:&9a+&,es6 .,+e s&aff6 &+a)e- a%# \$9e%# \$o%e@I

.. I% a%@ e)e%&6 &.e :0%&es&e# \$ eas"+es 8 e+e #,s9+o9o+&,o%a&e &o a:.,e)e &.e 9"+9ose &.e@ 9"+9o+&e#-@ so"g.& &o a:.,e)e6 &.a&,s &o \$ a,%&a,% &.e status quoI

- ,. Co%seE"e%&-@6 &.e A99-,:a%& asDs &.e T+,*"%a- &o:
 - ,. 4,%# &.a& &.e :0%&es&e# \$e\$0+a%#a a+e +e&a-,a&0+@ a%# "%-a8f"-I
 a%#
 - ,,. A 8a+# .,\$:0\$9e%sa&,0% ,% &.e a\$0"%& of s,B \$0%&.s7 %e& *ase sa-a+@.
- 20. T.e Res9o%#e%&7s 9+,%:,9a-:o%&e%&,o%s a+e:
 - a. T.e: 0%&es&e##e:,s,0%s a+e a 9+o9e+ eBe+:,se of \$a%age+,a-#,s:+e&,0% g,)e% &.a& &.e A99-,:a%&:0%s,s&e%&-@ fa,-e# &o fo--o8,%s&+":&,0%s f+o\$ se%,o+

2A. If ,& ,s #e&e+\$,%e# &.a& &.e :o%&es&e# #e:,s,o%s 8e+e ,%#ee# a#\$,%,s&+a&,)e \$eas"+es &aDe% ,% &.e eBe+:,se of \$a%age+,a-#,s:+e

#e)e-o9\$e%& 9a+&%e+s &o \$a,%&a,% 9o-,&,:a- a%# f,%a%:,a- s"99o+& &o G 2 OPA Se:+e&a+,a&I +e9+ese%&,%g UN15a*,&a& a%# G 2 OPA ,% ,%&e+%a&,o%a-6 +eg,o%a- a%# %a&,o%a- fo+a a%# 8,&. %a&,o%a-6 +eg,o%a- a%# -o:a- go)e+%\$e%&a- *o#,esI a%# :o%&+,*"&,%g &o &.e,\$9-e\$e%&a&,o% of UN15a*,&a& 8 o+D 9+og+a\$\$e,% U+*a% Bas,: Se+),:es.

- 2H. 4+o\$ 22 / a+: . 20126 & .e A99-,:a%& 8 o+De# "%#e+ & .e #,+e:& s"9e+),s,o% of / +. Be+& D,9 . oo+%6 Se%,o+ A#),se+ & o & .e EBe: "&,)e D,+e:&o+6 UN15 a*,&a&.
- 30. B@ \$e\$o+a%#a #a&e# 1(De:e\$*e+ 201A6 &.e EBe:"&,)e D,+e:&o+6 UN15a*,&a&6 #e-ega&e# a"&.o+,&@ &o &.e A99-,:a%& &o +e:+",&:o%s"-&a%&s a%#,%#,),#"a-:o%&+a:&o+s6 &o s,g% &e\$9-a&e ag+ee\$e%&s a%# -ega-,%s&+"\$e%&s a%# &o "%#e+&aDe 9+o:"+e\$e%&;=#e-ega&,o%s of a"&.o+,&@><.
- 31. O% 22 / a@ 201 6 fo--o 8,%g / +. D,9.oo+%7s +e&,+e\$e%6 G 2 OPA 8 as +e-o:a&e#,% &.e U+*a% Bas,: Se+),:es B+a%:. as 9a+& of S"*19+og+a\$\$e A of &.e S&+a&eg,: P-a% 201A1201H a%# &.e A99-,:a%& +e9o+&e# &o &.e S"*19+og+a\$\$e Coo+#,%a&o+6 / +. A%#+e DC,D"s.
- 32. B@ &.e : o%&es&e# #e:,s,o%s6 &.e #e-ega&,o%s of a"&.o+,&@ \$e%&,o%e#,% 9a+a. 30 8e+e 8,&.#+a 8% fo+ a%,%#ef,%,&e 9e+,o# a%# &.e A99-,:a%& 8as a-so,%s&+":&e# %o& &o e%gage 8,&. \$e \$*e+ s&a&es6 UN age%:,es6 &.e S&ee+,%g Co \$ \$,&ee a%# &.e 8,#e+ \$e \$*e+s.,9 of G 2 OPA6 \$e#,a6 o&.e+ go)e+% \$e%&s6 o+ o&.e+ 9a+&%e+s o% a%@ &o9,: 8,&o"&&e 9+,o+ a99+o)a- of &.e D,+e:&o+6 P+og+a \$ \$e D,),s,o%.

33.

3A. I& a-so a99ea+s & .a& & .e A99-,:a%& eBe+:,se# .,s f"%:&,o%s of 5 ea# of G 2 OPA Se:+e&a+,a& a%# P+og+a \$ \$ e / a%age+ s,%:e 200' a%# & .a& .e +e:e,)e# a #e-ega&,o%

e s"?e:&&o 9+,o+ a99+o)a-6 .a# &.e effe:& of s,g%,f,:a%&-@:"+&a,-,%g &.e A99-,:a%&7s \$a+g,% of \$a%oe")+e a%# a"&.o+,&@.

3'. T.a& sa,#6 ,& :a%%o& +easo%a*-@ *e :o%:-"#e# &.a& &.e A99-,:a%& 8as effe:&,)e-@ #e9+,)e# of a s,g%,f,:a%& 9a+& of .,s f"%:&,o%s. 5e :o"-# s&,-- 9e+fo+\$ &.e \$6 *"& .e 8as s"*?e:& &o a \$":. &,g.&e+ -e)e- of s:+"&,%@ f+o\$.,s s"9e+),so+s. A::o+#,%g-@6 &.e T+,*"%a- ,s of &.e),e 8 &.a& &.e :o%&es&e# #e:,s,o%s a+e 9+o9e+-@:.a+a:&e+,Ce# as a#\$,%,s&+a&,)e \$eas"+es &aDe% ,% &.e eBe+:,se of \$a%age+,a-#,s:+e&,o%.

Did the contested decisions constitute a lawful exercise of managerial discretion?

3H. T.e e),#e%:e s.o8s &.a& &.e A99-,:a%& 8as ,%)o-)e# ,% a %"\$*e+ of s,g%,f,:a%& a:&,o%s :o%:e+%,%g &.e s&+":&"+e a%# &.e f"&"+e of G 2 OPA 8,&.o"&:o%s"-&a&,o% 8,&..,s \$a%age\$e%&.

A0. UNI 5 a*, &a& .a# +easo%a*-e g+o"%#s &o *e-,e)e & .a& *e&8 ee% No)e\$ *e+ a%#
De:e\$ *e+ 201(6 & .e A99-,:a%& % a+

AH. T.e A99-,:a%& #oes %o& #e%@.a),%g &aDe% &.e a:&,o%s &.a&-e# &o &.e :o%&es&e#
#e:,s,o%s. 2,&.o"& a#\$,&&,%g &.e\$6 &.e A99-,:a%& 9+o),#e# #,ffe+e%& a%#

Case No. UNDT/GVA/2017/03

!"#g\$e% No. UNDT/201'/11(

Case No. UNDT/GVA/2017/03

!"#g\$e% No. UNDT/201'/11(