! "# \$ %

## Introduction

n an a!!ea" su#m\$tted on 25 No%em#e& 2009 to t'e Un\$ted Nat\$ons
 D\$s!ute T&\$#una"( t'e a!!"\$)ant )ontests t'e de)\$s\$on of t'e \*+e)ut\$%e D\$&e)to&(
 Un\$ted Nat\$ons \*n%\$&onment P&og&amme ,-UN\*P./( not to &ene0 '\$s f\$+ed1te&m
 a!!o\$ntment #e2ond 26 Ju"2 2009.

## Facts

2. T'e a!!"\$)ant 30\$ned UN\*P \$n 2000 as De!ut2 D\$&)to&( D11( of t'e t'en D\$%\$s\$on of \*n%\$&onmenta" Con%ent\$ons( at 4 ead5ua&te&s \$n Na\$&o#\$. 4e a"so 0 o&6ed \$n !a&a""e" on e)os2stem management &e"ated \$ssues fo& t'e D\$%\$s\$on of \*n%\$&onmenta" Po"\$)2 m!"ementat\$on ,-D\*P ./.

3. n 2007( t'e a!!"\$)ant 0 as tkansfekked #2 t'e t'en \*+e)ut\$%e D\$ke)tok( UN\*P(fkom '\$s !os\$t\$on \$n Na\$ko#\$ to 8 onn as A)t\$ng \*+e)ut\$%e 9e)ketak2 fok t'e 9e)ketak\$at of t'e Con%ent\$on of : \$gkatok2 9!e)\$es of ; \$"d An\$ma"s ,-C : 9./. T'e a!!"\$)ant )onsented to '\$s tkansfek aftek d\$s)uss\$ons 0\$t' t'e \*+e)ut\$%e D\$ke)tok. Duk\$ng t'ese d\$s)uss\$ons(t'e a!!"\$)ant and t'e \*+e)ut\$%e D\$ke)tok 'e"d a meet\$ng on 15 A!&\$" 2007 of 0'\$)' )onf\$dent\$a" m\$nutes 0eke ta6en. T'ese m\$nutes ke)okded t'e 0\$s' of t'e \*+e)ut\$%e D\$ke)tok to ma6e t'e a!!"\$)ant <ff\$)ek1\$n1C'akge of C : 9. T'e2 state t'at -t'e =\*+e)ut\$%e D\$ke)tok> 0\$"" g\$%e t'kee ok fouk mont's as =<ff\$)ek1\$n1)'akge> ,e+tenda#"e unt\$" =t'e \*+e)ut\$%e D\$ke)tok> ma6es f\$na" se"e)t\$on fok t'e !ost/. Duk\$ng t'e t\$me =t'e a!!"\$)ant> )an demonstkate '\$s a#\$"\$t2 to 'and"e t'e !os\$t\$on ? =t'e a!!"\$)ant> sa\$d t'at 'e 0ou"d g\$%e \$t a tk2 and t'at 'e \$s 'a!!2t'at 'e 0\$"" )u"m\$nate '\$s )akeek \$n C : 9..

7. n 2005( 0 '\$"st set%\$ng as A)t\$ng \*+e)ut\$%e 9e)&eta&2( C : 9(t'e a!!"\$)ant a!!"\$ed fo& t'e !os\$t\$on of \*+e)ut\$%e 9e)&eta&2( C : 9( at t'e D11 "e%e". U!on '\$s se"e)t\$on( 'e 0as gtanted a t0o 2ea&s@ f\$+ed1te&m a!!o\$ntment effe)t\$%e 26 Ju"2 2005. 4\$s "ette& of a!!o\$ntment stated t'at -=a> =f>\$+ed1=t>e&m=a>!!o\$ntment does not )a&2 an2 e+!e)tan)2 of &ene0a" o& of )on%e&s\$on to an2ot'e& t2!e of a!!o\$ntment \$n t'e 9e)&eta&\$at of t'e Un\$ted Nat\$ons. and t'at '\$s a!!ontment 0 as "mted to se%) e 0t' UN\*P. T'e a!!") antes a!!ontment e+!

5. \*ffe)t\$%e 26 Ju"2 200A( t'e a!!"\$)ant 0 as g&anted anot'e& t0o 2ea&s@ f\$+edIte&m a!!o\$ntment. 4\$s "ette& of a!!o\$ntment stated t'at t'e a!!o\$ntment -does not )a&&2 an2 e+!e)tan)2 of &ene0a" o& of )on%e&s\$on to an2 ot'e& t2!e of a!!o\$ntment \$n t'e 9e)&eta&\$at of t'e Un\$ted Nat\$ons. and t'at \$t 0 as "\$m\$ted to se&%\$)e 0\$t' UN\*P.

6. 82 "ette& dated 1A A !&\$" 200B( t'e Ge&man Cede&a" : \$n\$st&2 fo& t'e \*n%\$&onment( Natu&e Conse&%at\$ons and Nu)"ea& 9afet2 e+!&essed to t'e a !!"\$)ant \$ts )on)e&ns a#out t'e fu"f\$"ment of tas6s of t'e C : 9 9e)&eta&\$at( and some staff\$ng and adm\$n\$st&at\$%e matte&s. t &e5uested t'e a !!"\$)ant@s u&gent attent\$on and )o&&e)t\$%e measu&es 0\$t' &ega&d to t'e \$ssues \$nd\$)ated.

A. 82 "ette& dated 2 Ju"2 200B( t'e Ge&man Cede&a" : \$n\$st&2 fo& t'e t\$%e(t)26\*n@\$&onment( Natu&e Co(o t)6( )-250(C)-3.0078A. C6 2.168(2)20( )-T J D-396.840n\$#' U5&(#2)5

6.

11. 82 memokandum dated 1 A!&" 2009(t'e \*+e)ut& D&)to&(UN\*P(fo&ma""2 nfo &med t'e a!!")ant of '& de)& on to &eassgn 'm to t'e !ost of 9!e)a" Ad& on 8&od&e&st2(D\*P (at 4ead5ua \&te&s n Na&o#& effe)t& 15 Ju"2 2009.

12. 82 ema\$" dated 15 : a2 2009 to t'e C'a\$&man of t'e C : 9 9tand\$ng Comm\$ttee( )o!\$ed to t'e \*+e)ut\$%e D\$&e)to&( UN\*P( t'e a!!"\$)ant \$nd\$)ated t'at 'e 0as ne\$t'e& !&e!a&ed to ta6e u! t'e !os\$t\$on of 9!e)\$a" Ad%\$so& on 8\$od\$%e&s\$t2 \$n Na\$&o#\$ no& to s\$gn a ne0 )ont&a)t 0\$t' UN\*P \$n t'at )a!a)\$t2.

13. <n 5 June 2009(t'e a!!"\$)ant su#m\$tted to t'e 9e)&eta&21Gene&a" a &e5uest fo& &e%\$e0 of t'e \*+e)ut\$%e D\$&e)to&@s de)\$s\$on to &eass\$gn '\$m to Na\$&o#\$.</p>

17. 82 "ette& dated 15 June 2009(t'e \*+e)ut\$%e D\$&e)to&(UN \*P( \$nfo&med t'e a!!"\$)ant t'at \$n %\$e0 of t'e "atte&@s de)\$s\$on -not to )ome to Na\$&o#\$ as \$nst&u)ted(? UN \*P =0 as> not \$n a !os\$t\$on to e+tend ='\$s> a!!o\$ntment #e2ond \$ts e+!\$&at\$on..

15. 82 "ette& dated 15 Ju"2 2009 to t'e 9e)&eta&21Gene&a"( t'e a!!"\$)ant &e5uested a management e%a"uat\$on of t'e de)\$s\$on not to e+tend '\$s f\$+ed1te&m a!!o\$ntment. 4e a"so 0\$t'd&e0 '\$s \$n\$t\$a" &e5uest fo& &e%\$e0 dated 5 June 2009 s\$n)e 'e )ons\$de&ed t'at \$t 'ad #e)ome moot #e)ause t'e de)\$s\$on not to &ene0 '\$s f\$+ed1te&m a!!o\$ntment 0 as a )onse5uen)e of '\$s &efusa" to a))e!t a &eass\$gnment to Na\$ko#\$.

16. <n 15 Ju"2 2009( t'e a!!"\$)ant su#m\$tted to t'e T&\$#una" a &e5uest fo& sus!ens\$on of a)t\$on of t'e de)\$s\$on not to &ene0 '\$s a!!o\$ntment #e2ond</li>
26 Ju"2 2009. T'e T&\$#una" &e3e)ted '\$s &e5uest #2 de)\$s\$on dated 22 Ju"2 2009.

1A. < n 25 Ju'' 2 2009(t' e a! !'') ant@s f\$+ed1te&m a!!o\$ntment e+!\$&ed.

1B. 82 "ette& dated 25 August 2009( t'e Unde&19e)&eta&21Gene&a" fo& : anagement &e!"\$ed to t'e a!!"\$)ant@s &e5uest fo& management e%a"uat\$on and \$nfo&med '\$m t'at t'e 9e)&eta&21Gene&a" 'ad de)\$ded to u!'o"d t'e )ontested de)\$s\$on. 19. <n 25 No%em#e& 2009(t'e a!!"\$)ant f\$"ed an a!!ea" #efo&e t'e T&\$#una". <n 9 De)em#e& 2009(t'e T&\$#una" &e5uested t'e &es!ondent to su#m\$t '\$s &e!"2 to t'e a!!"\$)at\$on. <n 6 Janua&2 2010()ounse" fo& t'e &es!ondent su#m\$tted '\$s &e!"2. <n 12 : a&)' 2010(t'e a!!"\$)ant su#m\$tted '\$s o#se&%at\$ons. <n 29 A !&\$" 2010(a d\$&e)t\$ons 'ea&\$ng too6 !"a)e.

20. Duting t'e 'eating( t'e fo""o0ing issued 0ete dis)ussedD, 1/ t'e a""eged !tomise of tene0a"E, 2/ t'e )onne)tion #et0een t'e !te%ious ttansfet de)i(G4766(t)3.00781()-20(d)

a. T'e de)\$s\$on to t&ansfe& t'e a!!"\$)ant f&om 8 onn to Na\$&o#\$ and t'e
de)\$s\$on not to &ene0 '\$s a!!o\$ntment 0e&e mot\$%ated #2 !o"\$t\$)a"
)ons\$de&at\$ons( name"2 undue \$nf"uen)e f&om t'e Ge&man Go%e&nment 0'\$)' 'ad &e5uested t'at t'e a!!"\$)ant #e &emo%ed f&om '\$s !ostE

#. 8ot' de)ssons( se.( t'e m!osed tansfeand su#se5uent nonl&ene0a"( 0eke not ta6en sn good fast'. T'e snsta" snstatson to tansfeand o's)' )'anged snto an sm!osed tansfeand oas un"a0fu". T'e de)sson not to ene0 's) onta)t 0 as a ses"ed ds)s!"sna2 san)tson foas fa"ue to a#sde #2 t'e snstau)tson to mose to Nasas an sm!ao!eee+ea)se of ds)etson on t'e !at of t'e <ganFatsonE

). T'e !ost of 9!e)\$a" Ad%\$so& on 8\$od\$%e&s\$t2 0\$t'\$n D\*P \$n Na\$&o#\$ 0as )&eated to !&o%\$de an o!!o&tun\$t2 fo& t'e \*+e)ut\$%e D\$&e)to& to &emo%e t'e a!!"\$)ant f&om 8 onn. T'e \*+e)ut\$%e D\$&e)to& offe&ed t'e !os\$t\$on to t'e a!!"\$)ant em!'as\$F\$ng t'at \$t needed to #e f\$""ed -u&gent"2.. Ne%e&t'e"ess( no !ost of 9!e)\$a" Ad%\$so& at t'e D11 "e%e" 0as a%a\$"a#"e 0'en t'e a!!"\$)ant 0as not\$f\$ed of t'e )om!u"so&2 t&ansfe&. Cu&t'e&mo&e( t'e !ost a%a\$"a#"e \$n Nagent"2.. e. T'e \*+e)ut\$%e D\$&e)to& fa\$"ed to )onsu"t '\$m &ega&d\$ng t'e t&ansfe&.
t Oas a un\$"ate&a" de)\$s\$on O\$t'out mean\$ngfu" )onsu"tat\$on. T'e
\*+e)ut\$%e D\$&e)to& d\$d not ta6e \$nto a))ount t'e a!!"\$)ant@s )on)e&ns(
0 '\$) ' \$n)"uded t'e edu)at\$on of '\$s ado!ted Gen2an1#o&n )'\$"d and t'e
d\$ff\$)u"t\$es 'e 'ad O\$t' t'e Gen2an aut'o&\$t\$es \$n &e"at\$on to a !&o!e&t2 \$n
Na\$&o#\$E

f. A follmell 4 onolal 2 Am#assadol 0'o )o""a#olated 0st' C:9 shfollmed t'e a!!"s)ant t'at a follmell )o""eague of t'e Gelman Cedela" Gowellnment 'ad lewea"ed to 'sm t'at dulling a meetsing sn Nowem#ell 200B( a 4 ead of De!altment sasd t'at t'e a!!"s)ant 0 ou"d letulin to Naslo#s to ta6e anot'ell !ost. T'ss 4 ead of De!altment 'ad 'e"d a meetsing 0st' t'e \*+e)utswe Dsle)tol sn Naslo#s on 22 August 200B. 4 en)e( t'e a!!"s)ant dedu)ed t'at t'e \*+e)utswe Dsle)tol 'ad snfollmed t'e Gelman Cedela" Gowellnment t'at 'e 0 ou"d #e tlansfelled to Naslo#s at "east t'lee mont's #efole 'e 0 as fsligt snfollmed of t'e !otentsa" leasssgnmentE

g. 4\\$s &efusa" to #e t\ansfekted to Na\\alpha\operatormal{s} d\\$d not enta\\$" t'at t'e \*+e)ut\%e D\\expressione 0 as no "ongek \&e5u\\expressione to )ons\\alpha\& fa\\\alpha\\"2 t'e \&ene0a" of '\\$s a!!o\\alpha\textrm{ntment}. 4e 'ad a \&easona\#"e e+!e)tat\\alpha\operatormal{s} of \\expressione 0 as not a\#o\\\sigma\\sigma\\sigma\\sigma\\sigma\\sigma\\sigma\\expressione 0 a\\expressione 0 a\\\expressione 0 a\\\expressione 0 a\\\expressione 0 a\\expressione 0 a\\\expressione 0 a\\expressione 0 a\\\expressione 0 a\\\exp

'. 4e 'ad an e+!e)tan)2 of &ene0a" #ased on t'e m\$nutes of t'e meet\$ng 'e"d on 15 A!\$ 2007 #et0een '\$mse"f and t'e t'en \*+e)ut\$ D\$e)to&. T'ese m\$nutes demonst&ate t'at 0'e&eas t'e \$n\$t\$a" !e&sod as A)t\$ng \*+e)ut\$e 9e)&eta&2 0ou"d ena#"e '\$m to !&o%e '\$s -a#\$"\$t2. to 'and"e t'e !os\$t\$on( 'e 0ou"d t'en #e a#"e to -)u"m\$nate '\$s )a&ee& \$n C : 9.. Cu&t'e&mo&e( t'e t'en De!ut2 \*+e)ut\$%e D\$e)to& )onf\$med t'at t'\$s 0as t'e unde&stand\$ng \$n an ema\$" dated 1A August 2009. t 0as a

t'at t'e a!!"\$)ant #e t&ansfe&&ed o& t'at '\$s f\$+edite&m a!!o\$ntment not #e &eneOed( and e%en \$f \$t d\$d( t'e&e \$s not'\$ng to suggest t'e \*+e)ut\$%e D\$&e)to& 0ou"d 'a%e a)ted on \$tE

g. T'e \*+e)ut\$%e D\$&e)to& ga%e su\$ta#"e and fa& )ons\$de&at\$on to t'e a!!"\$)ant fo& &ene0a" of '\$s )ont&a)t 0\$t' UN\*P. 4e offe&ed '\$m anot'e& !os\$t\$on at t'e same "e%e"( 0 '\$)' 0ou"d 'a%e a""o0ed '\$m to !u&sue '\$s )a&ee& 0\$t' UN\*P #e2ond t'e e+!\$&2 date of '\$s f\$+ed1te&m a!!o\$ntmentE

Cont&a&2 to 0 'at \$s a""eged #2 t'e a !!"\$)ant(t'e !os\$t\$on of 9 !e)\$a"
Ad%\$so& 0as )&eated due to o&gan\$Fat\$ona" needs &e"ated to
t'e u!)om\$ng nte&nat\$ona" Hea& of 8\$od\$%e&2.16797(t)-2.16797(\$)-2.16"797('\$)-2.()-10(0a)

a!!o\$ntments. T'e a!!"\$)ant a))e!ted t'\$s !&a)t\$)e #2 s\$gn\$ng t'e a!!o\$ntment "ette&s \$n 2005 and 200A. f t'e&e 'ad e%e& #een !&om\$ses of &ene0a" \$n 2007 o& 2005(t'e2 0ou"d not 'a%e 'ad an2 \$m!a)t on 21 August 200A 0 'en t'e a!!"\$)ant s\$gned '\$s "ast f\$+ed1te&m a!!o\$ntment.

35. 9e)ond( \$t )annot #e stated t'at t'e de)\$s\$on of non1&ene0a" 0as #ased on