

staff mem(e)s (ased on)e\$ommendat#ons made (a !ane" \$om!osed of sen#o) UN*C+ staff mem(e)s@no8n as t'e P)omot#ons Pane" , -Pane" ./ #nsofa) as !)omot#ons to t'e P02 "e3e" a)e \$on\$e)nedk 8 '#\$' fo""o8s t')ee)ounds of e3a"uat#ons of e"#g#("e staff mem(e)s.

6. : n 2 A!)# 2012k UN*C+Ds D#3s#on of *uman +esou)\$es Aanagement , -D*+A. / #nfo)med t'e A!!"#\$ant t'at s'e 8as e"#g#("e to (e \$ons#de)ed fo) !)omot#on to t'e P02 "e3e" du)#ng t'e 2011 P)omot#ons 4ess#on.

7. : n 2 Aa 2012k t'e D*+A #nfo)med t'e A!!"#\$ant t'at s'e 'ad met t'e)e6u#)ements to ad3an\$e f)om t'e =)#st +ound to t'e 4e\$ond +ound of t'e P)omot#ons P)o\$edu)e.

%. =)om 21 Ju" to 25 Ju" 2012k t'e e#g't Pane" mem(e)s gat'e)ed #n Gene3a to \$ondu\$t t'e#) #nd#3#dua" \$om!a)at#3e assessment of t'e \$and#dates 8'o 'ad ad3an\$ed to t'e 4e\$ond +ound. T'e #nd#3#dua")an@#ngs g#3en (ea\$' Pane" mem(e) 8)e)t'en agge)egated (t'e D*+A k and \$onso"#dated "#sts of assessment)an@#ngs 8)e)e \$om!#"edk se!a)ate" k fo) fema'e and ma'e \$and#dates.

>. T'e Pane" mem(e)s ga3e t'e A!!"#\$ant t'e fo""o8#ng -)an@#ngs. among t'e fema'e \$and#dates fo) !)omot#on to t'e P02 "e3e"E 111k 11%k 11>k 121k 125k 125k 111 and 111. T'e D*+A \$a"\$u"ated t'at t'e a)#t'met#\$ mean of t'e e#g't #nd#3#dua")an@#ngs 8as 122.61 and esta("s'ed t'at t'e A!!"#\$ant)e\$e#3ed a \$onso"#dated)an@#ng of 122 out of 1%7 fema'e \$and#dates fo) !)omot#on to t'e P02 "e3e". As 'e) \$onso"#dated \$om!a)at#3e)an@#ng d#d not !"a\$e 'e) among t'e to! 120 fema'e \$and#datesk t'e A!!"#\$antDs \$and#da\$ d#d not ad3an\$e to t'e T'#)d +ound.

10. : n 2 Ju" 2012k name" to8a)ds t'e end of t'e 4e\$ond +ound \$om!a)at#3e assessmentk t'e *#g' Comm#ss#one) announ\$ed t'at 220 s"ots 8ou"d (e a3a#"a("e

11. B memorandum dated 17 : \$to(e) 2012 and d#st)#(uted to a"" t'e UN* C+ staff mem(e)s 3#a ema#" on 20 : \$to(e) 2012k t'e *#g' Comm#ss#one) !u("s'ed t'e "#st of !)omoted staff mem(e)s. T'e A!!"#\$ant 8as not among t'em.

12. B ema#" of 2% : \$to(e) 2012k t'e A!!"#\$ant)e6uested t'e D*+A to !)o3#de 'e) -a"" t'e ne\$essa) do\$umentat#on to su(m#t t'e)eSou)se #n\$"ud#ng do\$umentat#on su(m#tted to and \$ons#de)ed (t'e Pane"..

11. : n 2> : \$to(e) 2012k t'e D*+A !)o3#ded t'e A!!"#\$ant 8#t' a \$o! of 'e) fa\$t s'heet as)e3#e8ed (t'e Pane". T'e D*+A a"so)e#te)ated t'e ste!s of t'e !)omot#ons !)o\$essk as des\$)#(ed #n t'e P)omot#ons Po"#\$ k and stated t'at -t'e 4e\$ond +ound #nd#3#dua" e3a"uat#ons (t'e e#g't FPane"G Aem(e)s H)esu"ted #n an o3e)a"")an@#ng t'at !"a\$ed F'e)G outs#de t'e g)ou! of \$and#dates 8'o !)o\$eeded to t'e T'#)d +ound H F8 '#\$'G \$o))es!onded to 150 I of t'e num(e) of

20. The Applicant filed the application for the review of the Tribunal's decision on 20 August 2015.

21. The respondent submitted its reply on 2 October 2015.

22. From 21 to 26 January 2016 the Tribunal held a hearing on the merits of the instant case. The Tribunal's decision was rendered on 12 February 2016.

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UN* C+ to !ut #n !"a\$e effe\$t#3e& fa#) and t)ans!a)ent !o\$edu)es fo)

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##.

staff mem(e)s a!!o#nted (t'e *#g' Comm#ss#one) u!on nom#nat#on (t'e D*+A and t'e 4taff Coun\$#& 8'o)e"#ed on set \$)#te)#a and 8e)e !)#3#ded 8#t' \$"ea) gu#dan\$eJ

e. 4e\$ond" & t'e A!!"#\$ant fa"#ed to demonst)ate an !)#o\$edu)a" e))o) #n t'e #m!"ementat#on of t'e P)omot#ons Po"#\$ t'at 8ou"d 8a))ant jes\$#ss#on of t'e \$ontested de\$#s#onJ #n !a)t#\$u)a)E

#. T'e Pane" mem(e)sD \$ondu\$t of t'e Som!a)at#3e assessment and)an@#ng (ased on t'e na)at#3e !a)t of t'e e0PADs as)e!)odu\$ed on t'e \$and#datesD fa\$t s'heet& to t'e eC"\$us#on of t'e)at#ngs \$onta#ned #n t'e e0PADs& 8as \$ons#stent 8#t' se\$. 5.>.1 of t'e P)omot#ons Po"#8 (o)-0.960221(6.3252()-1(D)

g. In respect of the remedies sought by the respondent (the "Applicant") in the above-mentioned proceedings, the Tribunal finds that the Applicant's claims are not well-founded in law. The Tribunal notes that the Applicant has not provided any evidence to support its claims. The Tribunal also notes that the Applicant's claims are not well-founded in law.

h. The Tribunal notes that the Applicant's claims are not well-founded in law. The Tribunal notes that the Applicant has not provided any evidence to support its claims. The Tribunal also notes that the Applicant's claims are not well-founded in law.

i. The Tribunal notes that the Applicant's claims are not well-founded in law. The Tribunal notes that the Applicant has not provided any evidence to support its claims. The Tribunal also notes that the Applicant's claims are not well-founded in law.

j. The Tribunal notes that the Applicant's claims are not well-founded in law. The Tribunal notes that the Applicant has not provided any evidence to support its claims. The Tribunal also notes that the Applicant's claims are not well-founded in law.

k. The Tribunal notes that the Applicant's claims are not well-founded in law. The Tribunal notes that the Applicant has not provided any evidence to support its claims. The Tribunal also notes that the Applicant's claims are not well-founded in law.

27. Before the Tribunal, the Applicant has submitted evidence in support of its claims. The Tribunal notes that the Applicant's claims are not well-founded in law. The Tribunal notes that the Applicant has not provided any evidence to support its claims. The Tribunal also notes that the Applicant's claims are not well-founded in law.

Overview of the Promotions Policy

2%. Unless the selection process of the UN* C+ staff members in the "International Professional Category" is based on merit and efficiency, the appointments of the staff members shall be based on merit and efficiency. The appointments of the staff members shall be based on merit and efficiency. The appointments of the staff members shall be based on merit and efficiency.

2>. The Promotions Policy is adopted on 5 June 2012 and entered into force on 1 July 2012. Pursuant to this Policy, the "General Committee" determines each year the number of appointments at the P02, P05 and D01 levels. The "General Committee" determines each year the number of appointments at the P02, P05 and D01 levels. The "General Committee" determines each year the number of appointments at the P02, P05 and D01 levels.

10. The Promotions Policy establishes the "eligibility" criteria for the appointments. The "eligibility" criteria for the appointments. The "eligibility" criteria for the appointments.

11. To advance from the first round to the second round, a candidate must satisfy at least two out of three criteria: (a) "Age" (not more than 60 years of age at the time of application), (b) "Language" (proficiency in the official language of the United Nations), and (c) "Education" (a minimum of a Bachelor's degree or equivalent). The "eligibility" criteria for the appointments.

1>. Ao)e s!e\$#f\$Sa"" & t'e A!!ea"s T)#(una" 'e"d #n

22. *a3#ng)e3#e 8ed t'e 9u)#s!)uden\$e and t'e su(m#ss#ons of t'e !a)t#es t'e T)#(una" #s of t'e 3#e 8 t'at t'e standa)d of)e3#e 8 fo) de\$#s#ons #n t'e \$onteCt of do8ns#7#ng eCe)\$#ses #s su(stant#a"" t'e same as t'at fo) a!!o#ntments and

22. In 3#e8 of t'e fo)ego#ngl t'e T)(una" 8#" eCam#ne 8 'et 'e)E

a.

esta("s'ed se!a)ate "sts of \$and#dates fo) fema"e and ma"e \$and#dates 8 '#\$' #t
su(m#tted to t'e Pane" mem(e)s fo) t'e#) \$om!a)at#3e assessment du)ng t'e
4e\$ond +ound. T'e Pane" mem(e)s 8e)e #nst)u\$ted to)an@ t'e fema"e and ma"e
\$and#dates se!a)ate" ask #n t'e D* +A!s 3#e 8 -one g)ou! does not \$om!ete 8#t'
anot'e)k FandG t'ese a)e se!a)ate eCe)\$#ses..

2>. At t'e 'ea)#ngk t'e *ead of t'e *uman +esou)\$es Po"# \$ and P"ann#ng
4e)3#e\$e eC!"a#ned t'at \$and#dates fo) !)omot#on 8e)e se!a)ated (gende) fom
t'e 4e\$ond +ound on 8a)ds as t'e *#g' Comm#ss#one) 'ad de\$#ded t'at t'e
a3a#"a("e s'ots 8ou"d (e e6ua"" s'a)ed (et8een fema"e and ma"e staff mem(e)s.
5n t' #s)es!e\$tk t'e e3#den\$e s'o 8s t'at t'e *#g' Comm#ss#one)k #ndeedk made t' #s
de\$#s#on (ut on" afte) t'e D* +A 'ad a)ead #nst)u\$ted t'e Pane" mem(e)s to
\$ons#de) \$and#dates se!a)ate" (gende). 5n '#s memo)andum of 2 Ju" 2012 to
t'e Co0C'a#)e)sions of t'e Jo#nt Ad3#so) Comm#ttee k t'e *#g' Comm#ss#one)
announ\$ed t'atE

Pend#ng t'e \$on\$"us#on of t'e \$om!)e'ens#3e)e3#e8 of t'e
UN*C+ Gende) Po"# \$ k F'eG 'afdGk t'e)efo)ek de\$#ded t'at t'e
a3a#"a("e s'ots fo) !)omot#on t' #s 'ea) s'a"" \$ont#nue to (e e6ua""
s'a)ed (et8een fema"e and ma"e staff mem(e)s k 8 '#\$' #s #n "#ne
8#t' !a)ag)a!' 5.10.2 of t'e FP)omot#ons Po"# \$ G.

50. T'e T)#(una" notes t'at t'e P)omot#ons Po"# \$ k 8 '#\$' esta("s'es t'e
met'odo"og fo) a t')ee0)ound e3a"uat#on of \$and#dates and sets out t'e

55. The 'g' Commission's decision to set the number of a3a("e")'s'ots' defined in section 2.1.2 of the P'omotions Po"\$ 8 '\$' '!)o3desE

FT'EG D#s#on of *uman +esou)\$es Anagement ,D* +A/ 8#" su(m#t to t'e Jo#nt Ad3#so) Comm#ttee ,JAC/ at "east 10 8o)@#ng da s !)#o) to t'e)e"e3ant !)#omotions sess#on# #ts)e\$ommendat#ons on t'e num(e) of a3a#"a("e !)#omotion s'ots us#ng)e"e3ant stat#st#\$s on !os#tions and staff#ng# #n\$"ud#ng (ut not "#m#ted to# d#st)#(ut#ons (g)ade "e3e" eC!e\$ted se!)at#on and)e\$)u#tment and t)ends #n #nte)0agen\$ eC\$'anges. T'e num(e) of !)#omotion o! !o)tun#tes#)ef"e\$ted 6uant#tat#3e" as !)#omotion s'ots# 8#" (e de\$ded (t'e *#g' Comm#ss#one)# ta@#ng #nto a\$\$ount t'e ad3#\$e of t'e JAC.

56. A(sent an)efe)en\$e #n t'#\$!)#o3s#on to gende) \$ons#de)at#ons# t'e *#g' Comm#ss#one)Ds d#\$)et#on #s "#m#ted# at t'#\$ stage# to dete)m#n#ng t'e num(e) of a3a#"a("e s'ots fo) !)#omotion at ea\$' "e3e" (ased on t'e UN *C+Ds staff#ng ta("e and staff mo3ements !)#ognost#\$s. A't'oug' t'e *#g' Comm#ss#one) ma 'a3e soug't to a\$'e3e gende) !)# #n sett#ng #n ad3an\$e t'e num(e) of s'ots a3a#"a("e fo) ea\$' gende) gou!# 8 '\$' #s most \$e)ta#n" a \$ommenda("e and "a8fu" o(9e\$t#3e #n "#g't of t'e UN C'a)te) and t'e -Po"\$ on A\$'e3#ng Gende) K6u#t #n UN *C+ staff#ng. ,5: A 01%/2007M=: A 01>/2007/ of % Aa)\$' 2007 , -Gende) Po"\$./ ,see "e/touche UNDT/200>/01># !)#a. 17/# 'e ended u! ma@#ng a !)#edete)m#nat#on of #ssues t'at 'ad to (e add)essed at a "ate) stage# t'at #s# at t'e t#me of a8a)d#ng t'e !)#omotions# afte) t'e e3a"uat#on of t'e \$and#dates 'ad a\$tua"" ta@en !"a\$. *e a"so un"a8fu"" "#m#ted t'e num(e) of !)#omotions s'ots t'at ma 'a3e ot'e)8#se (een a8a)ded to 8omen.

57. In t'#\$)es!e\$t# t'e T#(una" st)esses t'at t'e P'omotions Po"\$ does not !)#o3#de fo) !)#omotion 6uotas (ased on gende)# as seemed to (e \$ons#de)ed (t'e *#g' Comm#ss#one). +at'e)# #t !)#o3#des fo) a minimum of 50 I of t'e a3a#"a("e s'ots to (e a8a)ded to -su(stant#a"" e6ua"" me)#to)#ous fema"e staff.. *en\$e# t'e num(e) of !)#omotion s'ots t'at a)e to (e a8a)ded to 8omen #s \$"ea)" not "#m#ted to 50 I# and u"t#mate" de!ends on t'e me)#ts of t'e \$and#dates# #n "#ne 8#t' a)t. 101.1 of t'e UN C'a)te)# 8 '\$' '!)o3#des t'at -FtG'e !)#a)amount \$ons#de)at#on #n t'e em!"o ment of t'e staff and #n t'e dete)m#nat#on of t'e \$ond#tions of se)3#\$e s'a"" (e t'e ne\$ess#t of se\$u)#ng t'e '#g'est standa)ds of eff#\$en\$ # \$om!eten\$e# and #nteg)#t .. T'e #ntended \$onse6uen\$e of se\$. 5.10.2 of t'e

Promotions Posts as a result of the failure of #

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62. The same information used for the rating of Somalia's 8 '8' 8e assessed pursuant to the following ss"eE

i. Not of ent	1 & 2
ii. Part of ent	1 & 2 & 5
iii. Part of ent	6 & 7 & %
3. KC's tona of ent	> & 10

65. The ratings 8e to (e a\$om!aned (\$omments f)om t'e staff mem(e)Ds su!e)3#so) and 8 'e) e a!!"#\$a("e f)om mu"t#0)ate)s ,see se\$. 25 & 20 & 50, (/ of t'e PAA4/.

66. At the 'e)ng t'e *ead of t'e *uman +esou)ses Po"\$ and P"annng 4e)3#e test#f#ed t'at t'e eC!)#en\$e 'ad s'o 8n t'at some su!e)3#so)s 8e) mo)e !one to g#3e 'g')an@#ngs t'an ot'e)s \$aus#ng 8 'at 'e)efe))ed to as a -)at#ng #nf"at#on.. *e eC!)essed t'e 3#e8 t'at t'e)at#ngs 8e)e -un)#a("e. and mean#ng"ess #f not su!!o)ted (\$omments. The Adm#n#st)at#on t'e)fo)e \$ons#de)ed t'at on" t'e na))at#3e !a)t of t'e e0PADs s'ou'd (e d#s\$"osed to t'e Pane" mem(e)s fo) t'e#) assessment of \$and#dates du)ng t'e 4e\$ond and T'#)d +ounds & as t'e 8ou'd g#3e a (ette) !\$t#u)e of t'e !e)fo)man\$e and a(#)t#es of an staff mem(e) unde) \$ons#de)at#on.

67. The *ead of t'e *uman +esou)ses Po"\$ and P"annng 4e)3#e fu)t'e) eC!)#aned t'at t'e UN*C+ 8as not sat#sf#ed 8#t' t'e a!!)a#sa" s stem esta("s'ed (t'e PAA4 and)e3#e8ed #t #n 2012 & nota(" to mod#f t'e)at#ng s\$a"e & and to)e6u#)e t'at eC\$e!t#ona")at#ngs (e t'e su(9e\$t of)e3#e8 & #n o)de) to)emo3e t'e a)(#t)a#ness \$onta#ned #n t'e !e3#ous a!!)a#sa" s stem. *e a"so stated t'at t'e P)omot#ons Po"\$ 8as d)afted #n t'e "g't of t'e f

6%. The respondent also submitted documents evidencing that from 2008 to 2011, the respondent was not in compliance with the PAA 4(d) requirements among various managers and officers. He is not

of t' e o ("gat#on unde) se\$. 5.>.1,##/ to \$ons#de) mate)#a" #s d#ffe)ent f)om t' at #n
se\$. 5.>.1,##/. +at' e) t' an)efe))#ng to t' e \$ons#de)at#on of t' e na))at#3e #n (ot' t' e
e0PAD and t' e fa\$t s' eet# se\$. 5.>.1,##/ \$onta#ns a \$"ea) d#st#n\$#on (et 8een t' at
8 '#\$' #s)ef"e\$ted #n t' e PA+/e0PAD !e)fo)man\$e e3a"uat#ons and t' at)ef"e\$ted
#n fa\$t s' eet na))at#3e. T' e 8o)ds - !e)fo)man\$e e3a

ultimate" established at that time as a result of the assessment (

0. Indeed, one staff member's admission of -A's#e3ed. fo) o3e)a"" o(9e\$t#3es #n a -m#ss#on/s'o)t te)m ePAD fo) t'e !e)#od 01/10/2010011/12/2010. 8as)an@ed 2>' . Anot'e) \$and#date 8'o d#d not meet t'e m#n#ma")e6u#)ement of -A's#e3ed. fo) o3e)a"" o(9e\$t#3es and -P)of#\$ent. fo) o3e)a"" \$om!eten\$#es #n a -m#ss#on/s'o)t te)m ePAD fo) t'e !e)#od 01/01/2011010/02/2011. 8as)an@ed 57'. Aost su!)#s#ng" k g#3en t'e fa#t' t'at 'ad (een !"a\$ed #n t'e \$ons#de)at#on of t'e na))at#3e #n t'e fa\$t s'eets (t'e D* + A k ea\$' of t'ese t8o \$and#dates 'ad (een)an@ed num(e) one (a Pane" mem(e).

1. T'e T#(una" \$ons#de)s t'at t'#s 8'o'e !)o\$ess to 3e)#f \$om!"#an\$e of t'e m#n#mum !e)fo)man\$e)e6u#)ements as de3#sed (t'e D* + A k and t'e)esu"ts)ea\$'ed (t'e Pane" mem(e)s k 8as fundamenta"" !)o\$edu)a"" f'a8ed.

2. =#)st" k #t a!!eas t'at #t 8as not ant#\$#!ated k !)#o) to t'e P)omot#ons 4ess#on k t'at a)e3#e8 of t'e \$and#datesD e0PADs 8as ne\$essa) tok inter alia k 3e)#f #f t'e !e)fo)man\$e standa)d 8as met. T'#s k #n tu)n k)a#ses dou(ts a(out 'o8 t'e D* + A en3#saged unde)ta@#ng t'e assessment of t'e e3a"uat#on \$)#te)#on set fo)t' #n se\$. 5.>.1,/# k 8'#\$' #s \$e)ta#n" one of t'e most dete)m#nat#3e \$)#te)#on of t'e ent#je !)o\$ess.

1. 4e\$ond" k #t seems t'at t'e Pe)fo)man\$e Anagament Asso\$#ate 8'o d#d t'e 3e)#f#\$at#on eCe)\$#se used t'e 8)ong #nd\$ato) (#dent#f #ng t'ose 8'o 'ad an o3e)a"" s\$oje (e"o8 5.1 fo) \$om!eten\$#es and o(9e\$t#3es. 5n t'#s)es!e\$ k t'e PAA4 esta("s'ed a s\$a'e 8'e)e -A's#e3ed. and -P)of#\$ent. \$o))es!onded to a s\$oje of 6 to >, see !a)as. 61 and 62 a(o3e/k 8'#\$' te\$'n#\$a"" means t'at a staff member must 'a3e a s\$oje of at "east 6 to m#n#ma"" meet t'ese standa)ds. 5n tu)n k AnneC 2 to t'e PAA4 ent#t'ed -Ba\$@g)ound and o3e)3#e8 of t'e PAA4 P)o\$ess. !)o3#des #n #ts se\$. 16 t'at -A's#e3ed. and -P)of#\$ent. \$o))es!ond to a)at#ng (et8een 5.1 and %.0 k 8'#\$' a"so seems to (e t'e !os#t#on ad!ted (t'e D* + A k as !e) t'e)oad\$ast sent on 1% Aa 2011 ,see !a)a. 6> a(o3e/. T'e T#(una" \$annot)e\$on\$#e t'ese t8o a!!a)ent" \$ont)ad#sto) !)o3#s#ons of t'e PAA4 and k g#3en t'at #t #s not dete)m#nat#3e of t'e !)esent a!!#\$at#on k 8#" "m#t #tse"f to)e\$ommend#ng t'e Adm#n#st)at#on to "oo@ #nto t'e matte). As a)esu"t k #t #s 8e"

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7. The loss of 1% of female employees to the organization in 2015 was not considered to be a significant loss of human resources. The organization is committed to providing a safe and healthy work environment for all employees. The organization is committed to providing a safe and healthy work environment for all employees. The organization is committed to providing a safe and healthy work environment for all employees.

!e)fo)man\$e.)efe)s d#)e\$t" to t'e PAA 4# n 8 '#\$' t'e (est "e3e" of !e)fo)man\$e 8as)ated as -KC\$e!t#ona"" A\$'#e3ed. o) -KC\$e!t#ona"" P)of#\$#ent.. 5f t'e Pane" mem(e)s 'ad (een !)o3#ded 8#t' t'e e0PADs# t'e \$ou"d 'a3e !oss#(" #dent#f#ed outstand#ng \$and#dates (t'e#))at#ngs# 8#t' t'e ass#stan\$e of t'e \$omments !)o3#ded (t'e su!)e)3#so). A"t'oug' t'e)e ma (e some \$on\$e)ns as to t'e)e"#a(#"t of t'e)at#ngs# t'e ne3e)t'e'ss \$onst#tuted t'e essen\$e of t'e a!)a#sa" s stem at t'e)e"e3ant !e)#od# and !)o3#ded 6uant#tat#3e 3a"ues !oss#(" usefu" to d#st#ngu#s' \$and#dates #n a !oo" of 1%7.

>1. =u)t'e)mo)e# t'e T)#(una" #s of t'e 3#e8 t'at 8 '#e t'e Adm#n#st)at#on ma 'a3e found #t mo)e a!)o!)#ate not to d#s\$"ose t'e \$and#datesD !e)fo)man\$e)at#ngs to t'e Pane" due to t'e so0\$a""ed -)at#ng #nf"at#on.# !)o3#d#ng t'e Pane" on" !a)t of t'e \$and#datesD !e)fo)man\$e a!)a#sa" !e)esented mo)e #m!o)tant #nt)#ns#\$ dange)s.

>2. Unde) t'e PAA 4# staff mem(e)s 8e)e essent#a"" e3a"

Panel members gave them an opportunity of the dates of the former's
reputation.

2. The Tribunal cannot emphasize enough the importance of the Promotions
Policy (which is the subject of the former's appeal) as it is at the
heart of the case in the context of the UN-CDS' entitlement to promotion
due to the fact that the promotion is essential (as per the former's
submission) to the functioning of the organization. The Tribunal is
and Panel has attempted to establish that the decision not to promote
(which is the subject of the appeal) is a violation of the provisions of the
PAA4 and the relevant provisions of the organization's

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s!e\$#f#\$ @no8"edge of t'e :)gan#7at#onDs needs at t'e P02 "e3e" at t'at !a)t#\$u"a)
t#me and 8#t'#n t'e :)gan#7at#on as a 8 'o'e.

106. T'e T#(una" does not 6uest#on t'e a!)o!)#ateness of ta@#ng #nto a\$\$ount
o)gan#7at#ona")e6u#)ements #n t'e g)ant of !)omot#ons. *o8e3e)k #t st)esses t'at
t'e P)omot#ons Po"# \$ sets #n !"a\$e a !)o\$ess 8'e)e(k #n t'e \$onteCt of t'e
UN*C+Ds)an@ #n !e)son s stemk staff mem(e)s a)e a8a)ded \$ond#t#ona"
!)omot#ons !u)e" (ased on me)#tsk and t'en effe\$t#3e" !)omoted 8'en t'e#)
!)of#e \$o))es!onds to a !a)t#\$u"a) need of t'e :)gan#7at#on. T'#s #s e3#den\$ed
f)om t'e fa\$t t'at t'e *#g' Comm#ss#one) #s (ound to set a 6uant#tat#3e num(e) of
!)omot#on s"otsk 8#t'out an)efe)en\$e to s!e\$#f#\$ a)eas of eC!e)t#se)k and f)om t'e
e3a"uat#on \$)#te)#a fo) ea\$' of t'e t')ee)ounds of e3a"uat#onk 8'#\$' so"e")e"ate

that the respondent has established that the respondent is a bona fide member of the organization.

Use of "sona" @no8"edge

10%. The Applicant's issue is that the D* + A Panel mem(e)s to the respondent (sona) @no8"edge of the dates) at the time of the document (e)tem. The respondent's statement that the Panel mem(e)s were deleted to refer to the dates) fast sheet as per se. 5. > .1 of the Promotions Po"#\$.

10>. The evidence shows that the Panel mem(e)s were (the ten De!ut D)e\$to) of D* + A UN* C+ to inform the) an@ng 8#t' t'e#) !e)sona" @no8"edge of the dates. The Ta"@ng Po#nts used for the te"e\$onfe)en\$e 8#t' t'e Panel" mem(e)s #n3#ted t'em to -F"Go@ fo) !)oof 8'e)e a3a#a("e ,fast s'eets\$ assignment)e\$ods and !e)fo)man\$e)e\$ods/ and as@ fo) !)oof 8'e)e ou ma @no8 of facts that are not (one out of the document. ; ou ma need t'#\$ fo) +ound 1.. The C'hef of Assignments and Promotions 8'o !a)t#\$!ated #n t'e d)afing of these Ta"@ng Po#nts\$ eC!"a#ned #n 'e) test#mon t'at #f Panel" mem(e)s @ne8 #nfo)mat#on a(out staff mem(e)s as a)esu"t of 'a3#ng 8o)@ed 8#t' t'em o) su!e)3#sed t'em\$ t'e 8'e)e en\$ou)aged to #n6u#)e 8#

111. The Promotions Policy states that at section 5.2 and 5.3, the Panel members must (a) conduct an assessment of the candidates on the basis of their resumes and CVs. In turn, section 2.7 states that the Panel's award must be based on the

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> \$and#dates num(e) 61& 12 \$and#dates num(e) 70& 22 \$and#dates num(e) %2&
15 \$and#dates num(e) 105& 25 \$and#dates num(e) 11%& 1 \$and#date num(e) 11>&
22 \$and#dates num(e) 121 and 20 \$and#dates num(e) 1

122.

addition of the earnings of each Sand#date and deducting the total (earnings that deducted that (s#C. The#s entered that a number of Sand#dates)e#3ed a Sonso#dated)an#ng 'g'e) t'an 1%7t 8 '\$' #s an #m!oss#(##t g#3en t'at t'e) 8e) 1%7 Sand#dates. The#t t'e Pane" mem(e)s 8e) as#ed to s#gn t'e Sonso#dated)an#ng ta("ek 8 '\$' t'e a!!a)ent" d#d 8t'out an fut'e) 6est#on#ng.

122. The T#(una" #s dee!" Son\$)ned 8#t' t'e met'odolog used (t'e Pane" mem(e)s to)an@ t'e Sand#dates# and t'e e))os t'e \$omm#tted #n t's !)oSess# 8 '\$')ema#ned undete\$ted (t'e D* + A. At t'e outset# t'e s#temat# \$)ou!#ng of Sand#dates (a"" Pane" mem(e)s a!!eas to (e #nd#\$at#3e of d#ff#\$u"t#es #n d#ffe)ent#at#ng Sand#dates (ased on t'e \$)te)#a set fo)t' #n t'e P)omot#ons Po"# \$ and 8#t' t'e #nfo)mat#on !)o3#ded to t'em# an #ssue 8 '\$' t'e T#(una" 8#" mo)e fu"" add)ess (e"o8. 5t ma 8e"" (e t'at a "a)ge num(e) of Sand#dates 8e)ek #ndeed# -und#st#ngu#s'a ("e. and t'at an attem!t to)an@ t'em one afte) t'e ot'e)k as en3#saged #n t'e P)omot#ons Po"# \$ k 8as not !oss#("ek es!e\$a"" g#3en t'e "a)ge num(e) of Sand#dates and t'e "#m#ted s\$ole of e3a"uat#on \$)te)#a on t'e 4eSond +ound.

125. The a(o3e (e#ng sa#d# t'e T#(una")e\$a""s t'at t'e P)omot#ons Po"# \$!)o3#des fo) a -\$om!a)at#3e assessment and)an#ng. of t'e Sand#dates. The !"a#n

ne\$essa) to get !)ofess#ona" ad3#Se g#3en t'e !otent#a" #m!a\$t of t'e !)o!osed met'odo"og on t'e \$and#datesD o3e)a"")an@#ng.

126. T'e T)#(una" \$annot (ut 8onde) 'o8 and 8' se3en of t'e e#g't Pane" mem(e)s ended u! g)ou!#ng a"most a"" \$and#dates 8#t'#n a g)ou! of 10 o) t'e)ea(out. L as #t ag)eed u!onP 5f notk 8'at 8e)e t'e \$)#te)#a used to d#3#de t'e \$and#dates #nto su\$' g)ou!sP T'e)e #s a d#ffe)en\$e (et8een ass#gn#ng t'e same)an@#ng to t8o o) mo)e \$and#dates 8'o a)e -und#st#ngu#s'a("e.k as suggested (t'e D*+A& and engag#ng #n a g)ou!#ng eCe)\$#se. T'e)an@#ng !)o\$ess t'at most of t'e Pane" mem(e)s unde)too@ suggests t'at t'e a!!"#ed add#t#ona" \$)#te)#a o) a d#ffe)ent met'odo"og & 8'#\$')ema#n un@no8n and uneC!'a#ned& t'e)e("ead#ng to a "a\$@ of t)ans!a)en\$ of t'e)an@#ng !)o\$ess. L '#e #t #s a)gua(" not eC\$"uded t'at Pane" mem(e)s Sou"d)an@ one o) mo)e \$and#date t'e same 8#t'out 3#o"at#ng t'e s!#)#t of t'e P)omot#ons Po"#\$ & su\$' met'odo"og Sou"d not (e)asona(" #nt)odu\$ed 8#t'out an adm#n#st)at#3e #ssuan\$e t'at def#nes #ts !a)amete)s& and afte) due \$ons#de)at#on of #ts !otent#a" stat#st#\$a" #m!a\$t on t'e \$onso"#dated)an@#ng of \$and#dates.

127. K6ua"" 8o))#some #s t'e fa\$t t'at t'e D*+A de3e"o!ed t'e \$onso"#dated "#st of \$and#dates 8'o ad3an\$ed to t'e T'#)d +ound (ased on t'e num(e)s !)o3#ded (t'e Pane" mem(e)s& 8'#\$' d#s!"a ed& on t'e#) fa\$e& ("atant e))o)s& and #tse"f \$omm#tted e))o)s #n us#ng t'e 8)ong d#3#d#ng fa\$to). Amongst ot'e)s& t'e s stemat#\$ g)ou!#ng of \$and#dates (se3en Pane" mem(e)s s'ou'd 'a3e)easona(" \$aused \$on\$e)n as to t'e !)o\$edu)es ado!ted& as s'ou'd 'a3e t'e #m!oss#("e)an@ of 1>1 g#3en (one Pane" mem(e).

12%. Aost s#gn#f#\$ant" & t'e D*+A s'ou'd 'a3e (een a'e)ted to a !oss#("e a)(#t)a eCe)\$#se #n t'e fa\$e of)an@#ngs att)#(uted (a!"'a(et#\$a" o)de). T'ese s'ou'd)easona(" 'a3e \$aused some \$on\$e)n to t'e D*+A and "ead to fut'e) en6u#)es. 5n t'is)es!e& t'e T)#(una" notes t'at se\$. 6 of t'e P)omot#ons Po"#\$!)o3#des t'at -\$om!"#an\$e 8#t' t'is !o"#\$ 8#" (e mon#to)ed (t'e D#)e\$to) of D*+A& as a!!)o!)#ate.. Aost su!)#s#ng" & t'e e3#den\$e (efo)e t'e T)#(una" d#s\$"oses t'at no one f)om t'e D*+A made an)e3#e8 of t'e \$onso"#dated ta("e.

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111. 4'e 8as una("e to !)o3#de an fu)t'e) eC!"anat#on du)#ng 'e) test#mon
(efo)e t'e T)#(una".

112. T'e !)o("em 8#t' t'#s \$o))e\$#on eCe)\$#se #s t'at #t assumes t'at t'e
met'odo"og fo))an@#ng -und#st#ngu#s'a("e. \$and#dates suggested (t'e D* + A

* whether the applicant was given fair and adequate consideration for promotion

A)(#t)a !)o\$ess

112. T'e A!!"#\$ant a)gues t'at t'e 8 'o"e !)o\$ess 8as a)(#t)a duei inter aliai to t'e "a\$@ of o(9e\$t#3e e3a"uat#on \$)#te)#a and t'e s\$a"e of t'e tas@ t'e Pane"

116. At the time that the ... 8a)ds some ... out 8#t' s#gn#f#sane
out"#e)s. => #nstan\$ek one \$and# ... 8as)an@ed (e"o8 ... (se3en Pane"
mem(e)s\$ (ut num(e) 121 (t'e e ... Pane" mem(e). ... t'e) \$and# ... 8as

11. In order to fulfil the same functions of the staff members of

defined. That (e)ng sa#d# t'e T#(una" 8 '#\$' 'as (no8 eCam#ned t'e 4e\$ond +ound)e3#e8 unde)ta@en (t'e 4en#o) P)omot#ons Pane" ,see# e.g.# Rodriguez-Viquez fo) ma"e \$and#dates fo) !)omot#on to t'e P05 "e3e"J Spannuth Verma UNDT/2016/021 fo) fema"e \$and#dates fo) !)omot#on to t'e P05 "e3e"/& and# 8#t' t's \$ase# t'at (t'e Pane" #s '#g' " \$on\$e)ned t'at #t ma (e s#m!" #m!oss#("e# #n !)a\$#Se# to fa#)" and ade#uate" \$om!a)e and)an@ t'e P01 \$and#dates aga#nst t'ese \$)te)#a# g#3en t'e num(e) of \$and#dates and t'e #fo)mat#on a3a#a("e.

126.

12>. T'e Pane" mem(e)s 8e)e a"so en\$ou)aged to -annotate an o(se)3at#ons t'at '#g'#"g't t'e me)#ts of t'e staff mem(e) on t'e tem!"ate !)o3#ded to fa\$#"#tate t'e)an@#ng. as -FtG'ese o(se)3at#ons ma !)o3e usefu" fo) futu)e)efe)en\$ek e#t'e) 8'en dete)m#n#ng t'e f#na" #nd#3#dua")an@#ng of staff mem(e)s o) du)#ng t'e 1^d)ound)e3#e8.. Aost su!)#s#ng" & t'e Pane" mem(e)s 8e)e a"so ad3#sed& (ased on t'e "essons "ea)ned f)om t'e 4en#o) P)omot#ons 4ess#on& to -FdGe\$#de on \$)#te)#a (efe)e sta)t#ng t'e)e3#e8.. T'e Pane" mem(e)s& 8'o 8e)e #n#t#a"" a""o\$ated t')ee da s fo) t'e#) o3e)a"")e3#e8 !"us an addt#ona" one #f needed& a!lea) to 'a3e \$om!"eted t'e#))e3#e8 8#t'#n f#3e12.397(8 8(s)-5.37099()- 80.419\$6523(3099()- 80.4)0.40204.874347(n).

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16>. 5n O!dei#n 20120UNAT0201& t'e A!!ea"s T#(una" st)essed t'e o("#gat#on fo) t'e Adm#n#st)at#on to !)o3#de)easons fo) #ts de\$#s#on 8 'en a)e6uest #s made -as !a)t of a fo)ma")e3#e8 !)o\$ess.& as -a fa#"u)e (t'e Adm#n#st)at#on to)es!ond 8ou"d se)#ous" 'am!e) o) !e\$"ude t'e staff mem(e)& t'e Aanagement K3a"uat#on Un#t& and t'e T#(una"s f)om)e3#e8#ng adm#n#st)at#3e de\$#s#ons affe\$t#ng t'e \$ont)a\$tua")#g' ts of staff mem(e)s.. *o8e3e)& t'e A!!ea"s T#(una" d#d not \$eate an #nde!endent& !os#t#3e o("#gat#on fo) t'e Adm#n#st)at#on to d#s\$"ose)easons fo) #ts de\$#s#on (efo)je'and un'ess ot'e) 8#se s!e\$#f#s#" !o3#ded fo) #n adm#n#st)at#3e #ssuan\$es. Aost \$e)ta#n" & t'e A!!"#\$ant 8as u"t#mate" not !e3ented f)om mean#ngfu"" \$'a""eng#ng t'e \$ontested de\$#s#on.

170.

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172. The Tribunal finds that the respondent has not demonstrated that the impugned decision is manifestly unreasonable.

171. The Tribunal notes that the Applicant has argued that the respondent's decision is manifestly unreasonable because the respondent failed to take into account the relevant provisions of the 2011 Pension Contributions Act and the 2012 Pension Contributions Regulations. The Tribunal considers that the respondent's decision is not manifestly unreasonable because the respondent acted reasonably in applying the provisions of the 2011 Pension Contributions Act and the 2012 Pension Contributions Regulations. The Tribunal also notes that the respondent's decision is not manifestly unreasonable because the respondent acted reasonably in applying the provisions of the 2011 Pension Contributions Act and the 2012 Pension Contributions Regulations.

Remedies

172. The Tribunal orders that the respondent pay the Applicant the sum of \$10,500 with interest from the date of the decision to the date of payment.

Costs of the Respondent

175. The Tribunal orders that the respondent pay the Applicant the sum of \$10,500 with interest from the date of the decision to the date of payment. The Tribunal also orders that the respondent pay the Applicant the sum of \$10,500 with interest from the date of the decision to the date of payment.

176. The A!!"#Sant 8as e"#g#("e fo) \$ons#de)at#on fo) !)omot#onk and met t'e)e6u#)ement a""o8#ng 'e) to ad3an\$e f)om t'e =#)st to t'e 4e\$ond +ound of e3a"uat#ons. As t'e 4e\$ond and T'#)d +ound #n3o"3ed a \$om!a)at#3e assessment of t'e \$and#datesk)at 'e) t'an e"#m#nato) \$)#te)#ak t'e A!!"#Sant 'ad a \$'an\$e to (e u"t#mate" !)omoted. T'e a\$tua" !)o(a(#t of (e#ng !)omoted de!ended ent#)e" on 'o8 s'e 8ou"d 'a3e \$om!a)ed 8#t' t'e ot'e) \$and#dates #n t'e \$ou)se of t'e 4e\$ond and T'#)d e3a"uat#on)ounds.

177. 5n t'#s)es!e\$tk t'e \$)eat#on of t8o se!a)ate !oo"s of \$and#datesk ma'e and fema"ek \$)eates a f#)st d#ff#\$u"t #n assess#ng t'e A!!"#SantDs u"t#mate \$'an\$e fo) !)omot#on. Be\$ause fema"e \$and#dates ,tota""#ng 1%7/ and ma'e \$and#dates ,tota""#ng 212/ 8e)e ne3e) \$om!a)ed aga#nst ea\$' ot'e)k #t #s d#ff#\$u"t to assess 'o8 t'e A!!"#Sant 8ou"d 'a3e !e)fo)med #n a 8#de) !oo" of 221 \$and#datesk 8'e)e on" 220 8e)e to ad3an\$e to t'e T'#)d +oundk and 15% 8e)e u"t#mate" to (e se"e\$ted.

17%. T'e +es!ondentDs suggest#on t'at t'e A!!"#Sant 8ou"d not 'a3e (een se"e\$ted g#3en t'at s'e 8as)an@ed 122^t out of 1%7 #s !u)e" s!e\$u"at#3ek as t'e \$and#dates a)e not g#3en a s\$o)e (ut a)an@. Ao)eo3e)k (e\$ause of t'e 8#de d#3e)gen\$e of o!#n#on among t'e Pane" mem(e)s #n t'e#) assessment of \$and#datesk t'e)an@ngs t'at t'e A!!"#Sant)e\$e#3ed #n a !oo" of 1%7 fema"e \$and#dates does not !)ed#\$ate t'e one s'e 8ou"d 'a3e)e\$e#3ed #n a "a)ge) !oo" of 221 \$and#datesk no) t'e one s'e 8ou"d 'a3e)e\$e#3ed #f 'e) \$and#da\$ 'ad (een \$o""e\$tk3e")e3#e8ed (t'e Pane" mem(e)s 8#t' #n a !oo" of 220 \$and#dates #n t'e T'#)d +ound.

17>. Aost #m!o)tant" k t'e T)#(una" #s of t'e 3#e8 t'at t'e A!!"#SantDs \$onso"#dated)an@ng as esta("s#ed (t'e D*+A k as 8e"" as t'e #nd#3#dua")an@ngs !)o3#ded (t'e Pane" mem(e)s k a)e so un)e#a("e t'at t'e \$annot se)3e as a (as#s fo) \$ons#de)at#on of t'e A!!"#SantDs \$'an\$e fo) !)omot#on. *o8 8ou"d t'e A!!"#Sant 'a3e (een \$om!a)ed aga#nst t'e ot'e) \$and#dates #f t'e Pane" mem(e)s 'ad (een !)o3#ded 8#t' 'e) e0PADsk and #f t'e 'ad not (een to)d to ta@e #nto \$ons#de)at#on #nfo)mat#on t'e ma @no8 a(out \$e)ta#n \$and#dates and t'e#) su#ta(#t#t fo) !"a\$ement #n P02 !os#t#onsP L 'at 8ou"d 'e) o3e)a"")an@ng

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1%2. T'e T)(una" 'as \$on\$"uded t'at t'e Pane" 'ad not fa#)" and ade6uate" \$ons#de)ed t'e A!!"#\$antDs \$and#da\$ fo) !)omot#on to t'e P02 "e3e" 8'en \$om!a)#ng 'e) 8#t' t'e ot'e) \$and#dates. T'e *#g' Comm#ss#one)k 8'o #s t'e \$om!etent de#\$s#on0ma@e)k 'as not)e\$e#3ed a !)o!e) and mean#ngfu")e\$ommendat#on fo) ma@#ng 's de#\$s#on as to 8 'et'e) o) not to a8a)d one of t'e 15% a3a#"a("e s'ots fo) !)omot#on to t'e P02 "e3e" to t'e A!!"#\$ant. Unt#" t's eCe)\$#se 'as (een !)o!e)" !e)fo)medk #ts out\$ome)ema#ns o!en fo) t'e A!!"#\$ant. 5f t'e T)(una" 8e) to g)ant t'e A!!"#\$ant a !)omot#onk #t 8ou'd (e tantamount to !)e9udg#ng t'e out\$ome of t'e \$om!a)at#3e assessment of a"" e"#g#("e \$and#dates en3#saged #n t'e P)omot#ons Po"#\$ k and su(st#tut#ng #ts assessment fo) t'at of t'e Pane" and t'e *#g' Comm#ss#one)k somet'ing t'at t'e T)(una" #s ne#t'e) a""o8ed no) #n a !os#t#on to do.

1%5. As to t'e A!!"#\$antDs a"te)nat#3e)e6uest fo) 's \$and#da\$ to (e)emanded fo) fut'e) \$ons#de)at#on 8#t' st)#\$t gu#dan\$ek t'e T)(una" notes t'at #t fo""o8s f)om #ts de#\$s#on to)es\$nd t'e \$ontested de#\$s#on t'at t'e A!!"#\$antDs \$and#da\$ fo) !)omot#on s'ou'd (e eCam#ned ane8 and \$om!a)ed agan#st t'at of t'e ot'e) \$and#datesk t'us enta#"#ng to \$ondu\$t t'e 2011 P)omot#ons 4ess#on ane8 f)om t'e 4e\$ond +ound on 8a)ds.

1%6. *o8e3e)k t'e T)(una")e#te)ates t'at #t does not '

A"te)nat#3e \$om !ensat#on

1%%. A)t. 10.5,a/ of t'e T)#(una"Ds 4tatute !)o3#des t'a

1>2. Among the same "next the A! !ea's T)(una")e\$ent" a8a)ded U4D10:000 fo) "oss of \$'an\$e of !)omot#on as \$om!ensat#on #n "eu of)es\$#ss#on# #n a \$ase 8'e)e #t found t'at t'e !a)t#\$u)a \$)#\$umstan\$es)ende)ed t'e assessment mo)e \$om!"#\$ated t'an usua". T'e T)(una" \$on\$"uded t'at #t - 'ad to assess t'e matte) #n t'e)ound and a))#3e at a f#gu)e t'at F8asG deemed (F#tG to (e fa#) and e6u#ta("e# 'a3#ng)ega)d to t'e num(e) of #m!onde)a("es. , (iedermayr 20150UNAT0601/.

1>1. Cons#de)#ng t'e eCt)eme d#ff#\$u"t#es #n as\$e)ta#n#ng t'e A! !"#santDs \$'an\$es fo) !)omot#on# t'e fa\$t t'at s'e 8as e"#g#("e aga#n fo) !)omot#on #n t'e 2012 sess#on# and t'e !e3#ous dete)m#nat#ons of t'e A! !ea's T)(una" as 8e"" as of t's

1>6. L 'e)eas t'e T)#(una"Ds 'o"d#ng t'at !a ment of t'e amount a8a)ded fo)
\$om!ensat#on #n "#eu of)es\$#ss#on a!"#es to t'e !.)esent \$asek #ts f#nd#ng t'at
)es\$#ss#on ma enta#")et)oa\$t#3e g)ant of !.)omot#on and \$om!ensate an "oss of

Ao)a" damages

1>>. ?ast" & t'e A!!"#\$ant as@ed \$om!ensat#on fo) mo)a" #n9u) #n t'e amount of one mont' net (ase sa"a) fo) g)a3e ()ea\$'es of staff)#g'ts and emot#ona" d#st)ess.

200. B)eso"ut#on 6>/201& ado!ted on 1% De\$em(e) 2012 and !u("s'ed on 21 Janua) 2015& t'e Gene)a" Assem(" amended a)t. 10.5 of t'e T)#(una"Ds 4tatute to)ead as fo""o8sE

As !a)t of #ts 9udgement& t'e D#s!ute T)#(una" ma only o)de) one o) (ot' of t'e fo""o8#ngE

,a/ +es\$#ss#on of t'e \$ontested adm#n#st)at#3e de\$s#on o) s!e\$f#\$!e)fo)man\$e& !)o3#ded t'at& 8'e)e t'e \$ontested adm#n#st)at#3e de\$s#on \$on\$e)ns a!!o#nt

the respondent did not attend the *g' Comm#ss#one)Ds o#g#na" de#s#on
#nsofa) as t'e A!!"#\$ant #s \$on\$e)ned. *o8e3e)k #n 'e) a!!"#\$at#onk t'e A!!"#\$ant
stated t'at t'e \$ontested de#s#on 8as t'e -FdGe#s#on not to !)omote F'e)G to t'e
P02 "e3e" du)ng t'e 2011 P)omot#ons +e3#e8 afte) e\$ou)se)e6uest. of 8 '#\$' s'e
8as not#f#ed on 1 Aa)\$' 2015.

201. T'e T)(una" a\$@no8"edges t'at t'e !a)t#\$u"a) me\$'an#sm set fo)t' #n t'e
P)omot#ons Po"#\$ k 8 '#\$' a""o8s fo) (ot')e\$ou)se and adm#n#st)at#3e)e3#e8 of
de#s#ons on !)omot#onk ma \$)eate some \$onfus#on 8 'en #t \$omes to #dent#f #ng
t'e \$ontested de#s#on #n t'e \$onteCt of t'e :)gan#7at#onDs #nte)na" 9ust#Se s stem.
5n t' #s)es!e\$tk se\$. 5.11.1 of t'e P)omot#ons Po"#\$!)o3#desE

4taff mem(e)s 'a3e a)g't to fu"" and fa#) \$ons#de)at#on fo)
!)omot#on. +e\$ou)se ma (e soug't on t'e (as#s t'at some
do\$umentat#on)e"at#ng to t'e !e)#od unde))e3#e8 t'at ma 'a3e
'ad an #m!a\$t on t'e f#na")e\$ommendat#on 8as not a3a#"a("e at t'e
t#me of t'e)e3#e8. +e\$ou)se #s not an a!!ea" as !e) t'e 4taff
+egu"at#ons and +u'esJ #t #s o!t#ona" and 8#t'out !e9ud#Se to a
staff mem(e)Ds)g't to fo)ma"" \$ontest t'e non!)omot#on
de#s#on #n t'e \$onteCt of t'e 5nte)na" Just#Se 4 stem.

202. 5t fo""o8s f)om t' #s !)o3#s#on t'at 8 'en a staff mem(e) see@s)e\$ou)se) t'e
*#g' Comm#ss#one)Ds de#s#on on ' #s o) 'e) !)omot#o

205. K3en #f a fundamenta" ()ea\$' of t'e A!!"#SantDs !)o\$edu)a" o) su(stant#3e)#g'ts 'ad o\$\$u))ed ea)"#e) t'e A!!"#SantDs mo)a" damage# #f an & d#d not \$) sta""#se unt#" t'e de\$#s#on on 'e) \$and#da\$ fo) !)omot#on 'ad (e\$ome f#na". An)#g't to \$om!ensat#on \$ou"d not a\$\$ue (efo)e t'at t#me. As (ot' t'e \$ontested de\$#s#on and t'e a!!"#Sat#on 8e)e #ssued and f#"ed afte) t'e ent) #nto fo)\$e of t'e amendment to t'e T#(una"Ds 4tatute) t'e) #s no dou(t t'at t'e A!!"#SantDs)e#uest fo) mo)a" damages must (e dete)m#ned !u)suant to a)t. 10.5 of

20%. The Tribunal understands from the Applicant's submissions that the respondent should be held responsible from the fact that a staff member has sustained a fundamental breach of his or her substantial or due diligence obligations. The Tribunal has found that the respondent is ultimately responsible for the respondent's actions.

212. The Tribunal stresses that the requirement to adduce evidence of motivation

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271J *ouse of ?o)ds *ilson and others v/ Secretary for /rade and Industry
F2001G UB * ? 20 F2001G 1 L ?+ 215 !e) ?o)d Ka)"sfe)) J Cou)t of Cassat#on
,=)an\$/e/ C 'am()e \$3#"e No. 10010221 > DeSem(e) 2010/. T'ust a!" #ng t'e
amended 3e)s#on of a)t. 10.5 of t'e 4tatute to !)oSeed#ngs #nt)odu\$ed t'e)eafte)
does not 'a3e a)et)oa\$t#3e effe\$t.

217. T'e A!"#\$antDs \$"a#m fo) mo)a" damages must t'e)efo)e (e)e9e\$ted.

21%. 5n 3#e8 of t'e fo)ego#ng t'e T)#(una" DKC5DK4E

a. T'e \$ontested de\$s#on den #ng t'e A!"#\$ant a !)omot#on to t'e P02
"e3e" #s 'e)e()es\$#ndedJ

(. 4'ou"d t'e +es!ondent e'e\$t to !a f#nan\$a" Som!ensat#on #nstead of
effe\$t#3e")es\$#nd#ng t'e de\$s#onk 'e s'a"" !a t'e A!"#\$ant C * =6:000J

\$. T'e afo)ement#oned Som!ensat#on #n "#eu of)es\$#ss#on s'a"" (ea)
#nte)est at t'e Un#ted 4tates !)me)ate 8#t' effe\$t f)om t'e date t'#s
Judgment (e\$omes eCe\$uta("e unt#" !a ment of sa#d Som!ensat#on. An
add#t#ona" f#3e !e) \$ent s'a"" (e a!"#\$ed to t'e Un#ted 4tates !)me)ate 60
da s f)om t'e date t'#s Judgment (e\$omes eCe\$uta("eJ and

d. A"" ot'e) \$"a#ms a)e)e9e\$ted.

,Signed/

Judge +o 8an Do 8n#ng

Dated t'#s 6^t da of Aa 2016

Knte)ed #n t'e +eg#ste) on t'#s 6^t da of Aa 2016

,Signed/

+en< A. Va)gas A.k +eg#st)a)k Gene3a