UNITED NATIONS DISPUTE TRIBUNAL

Case No. UNDT/GVA/2016/0 0

!"#g\$e% No. UNDT/201'/101

a.

ass,g% \$ e%&I & .e #e),s,o% ,s a+*,&+a+8 a%# #,s)+,\$,%a&o+8 a%# *ase# o%, \$ 6+o6e+ \$ o&, /esI

- .. S,%)e .,s 6os& as C.,ef7 CITS7 UNGSC : as o))"6,e# *8 a%o&.e+ s&aff \$e\$*e+ o% &e\$6o+a+8 ass,g% \$e%&7 .e : as ass,g%e# #"&,es of U 1 O!A s,&e)oo+#,%a&o+ a%# S6e),a- 6+oEe)&s7 :,&.o"& a%8 a66+o/,%g o+)e+&,f8,%g a"&.o+,&8 a%# -,\$,&e# s"6e+/,so+8 f"%)&,o%s. 5 e%)e7 .e : as %o& +eass,g%e# &o a 6os,&,o%;)o++es6o%#,%g &o .,s 6+of,-e?I
- .. 5e #,# %o& +eD"es& &o *e ass,g%e# o% TD2 &o UNI4ILI +a&.e+7 .e
 a))e6&e# &.a& offe+ f+o\$ &.e C 1 SS as a so-"&,o% &.a& :as a))e6&a*-e &o .,\$I
- E. T.e e \$ a,- of 2(O) & o*e+ 2015 f+o \$ & .e C 1 SS & o & .e C.,ef7 5" \$ a% Reso"+) es Off,) e7 ,s e/,#e%) e & .a& .e : as fo+) e# a%# : as %e/e+ as Be# o+ ag+ee# & o a# \$,%, s&+a&,/e -ea/eI
- B. UNDO4 #,# %o& &aBe s&e6s &o a--e/,a&e &.e A66-,)a%&Fs 6+e#,)a\$e%&I +a&.e+7 e/e%: .a& .a# *ee% offe+e# *8 UNDO4 a& &.e *eg,%%,%g7 a%# a))e6&e# *8 &.e A66-,)a%&K%a\$e-8 a TD2 &o UNI4IL o+ a%8 o& .e+ 1 ,##-e Eas&\$,ss,o% K: as -a&e+:,&.#+a:% *8 &.e 1,ss,o% Lea#e+s.,67:,&.o"& a%8 eA6-a%a&,o%I &.,s ,s ,% #,+e)&)o%&+a#,)&,o% &o &.e T+,*"%a-Fs +"-,%g ,% Hassouna UNDT/201C/0(C7 6a+a. 51I
- -. 5e +eD"es&s & a& & e #e),s,o% +e-a&e# &o .,s +e\$o/a- f+o\$ UNDO4 *e /a)a&e# a%# & .a& .,s &e\$6o+a+8 ass,g%\$e%& ,% UNDO4 *e)o%s,#e+e# as)o%&,%"o"s7 & .+o"g. & .e)o%&+a)& #"+a&,o% of .,s ass,g%\$e%& >,.e. "%&,-1 a+). 2016@7 a%# &o)o%s,#e+ .,s s&a8 ,% UNGSC f+o\$ 1 De)e\$*e+ & .+o"g. 1 a+). 2016 as TD2I

\$. 5e)-a,\$s)o\$6e%sa&,o% fo+:

,. A)&"a-e)o%o\$,) -oss eD",/a-e%& &o -os& ea+%,%gs a%# e%&,&-e\$e%&s7
&o *e D"a%&,f,e# ,% %e& sa-a+8 as ,f .e : e+e ,% UNDO4 & .+o"g.o"& 1
1 a+) . 20167 6-"s DSA/1 SA fo+ #a8s s6e%& ,% B+,%#,s,I a##,&,o%a-eA6e%ses ,%)"++e# #"e &o & .e a*+"6& +e\$o/a-f+o\$ & .e 1 ,ss,o% a+ea7 ,%
6a+&,)"-a+ a,+6-a%e &,)Be&s fo+ 6-a%%e# .o-,#a8sI

,,.

\$ a%age \$ e%& e/a-"a&,o%7 .e a-so +efe++e# &o & .e #e),s,o% &o a*+"6&-8 \$ o/e .,\$ o"& of & .e \$,ss,o% a+ea. D"+,%g & .e f,+s& C 1 D ,% A6+,- 20197 & .e A66-,)a%&)o%f,+\$ e# & .a& .e : as)o%&es&,%g & .a& ,%,&,a- #e),s,o%7 : .,) . .a# *ee% "6.e-# af&e+ .,s f,+s& +eD"es& fo+ \$ a%age \$ e%& e/a-"a&,o%.

- 26. T.e U%, le# Nal, o%s A66ea-s T+, *"%a- .as) o%sla%l-8 .e-# > Massabni 20123 UNAT32 '@l.al:
 - 25. T.e #"&,es of a !"#ge 6+,o+ &o &aB,%g a #e),s,o% ,%)-"#e a#eD"ake ,%&e+6+e&a&,o% a%#)o\$6+e.e%s,o% of &.e a66-,)a&,o%s s"*\$,&&e#*8 &.e 6a+&,es7 : .a&e/e+ &.e,+ %a\$es7 : o+#s7 s&+")&"+e o+)o%&e%&f7 as &.e E"#g\$e%&\$"s&%e)essa+,-8 +efe+ &o &.e s)o6e of &.e 6a+&,esF)o%&e%&,o%s. O&.e+:,se7 &.e #e),s,o%3\$aBe+ : o"-# %o& *e a*-e &o fo--o: &.e)o++e)& 6+o)ess &o a))o\$6-,s. .,s o+ .e+ &asB7\$aB,%g "6 .,s o+ .e+ \$,%# a%# e-a*o+a&,%g o% a E"#g\$e%&\$o&,/a&e#,% +easo%s of fa)&a%# -a: +e-a&e# &o &.e 6a+&,esF s"*\$,ss,o%s.
 - 26. T."s7 &.e a"&.o+,&8 &o +e%#e+ a E"#g\$e%&g,/es &.e !"#ge a%,%.e+e%& 6o:e+ &o ,%#,/,#"a-,Je a%# #ef,%e &.e a#\$,%,s&+a&,/e #e),s,o% ,\$6"g%e# *8 a 6a+&8 a%# ,#e%&,f8 : .a& ,s ,% fa)& *e,%g)o%&es&e# a%# s"*Ee)& &o E"#,),a- +e/,e:7 : .,).)o"-# -ea# &o g+a%&7 o+ %o& &o g+a%&7 &.e +eD"es&e# E"#g\$e%&.
- 29. T.e T+,*"%a- ,s sal,sf,e# l.al l.e A66-,)a%l #,# ,%

2(. L.,-e7 ,%)ase of +eass,g% \$ e%&7 &.e Se)+e&a+83Ge%e+a- #,s6oses of g+ea& #,s)+e&,o%7 s"). ,s %o& "%fe&&e+e#. I% Rees 20123UNAT32667 &.e A66ea-s T+,*"%a-.e-# &.a&:

A% a))e6&e# \$e&.o# fo+ #e&e+\$,%,%g : .e&.e+ &.e +eass,g% \$e%& of a s&aff \$e\$*e+&o a%o&.e+ 6os,&,o% : as 6+o6e+ ,s &o assess : .e&.e+ &.e %e : 6os& : as a& &.e s&aff \$e\$*e+Fs g+a#eI : .e&.e+ &.e +es6o%s,*,-,&,es ,%/o-/e#)o++es6o%#e# &o .,s o+ .e+ -e/e-I : .e&.e+ &.e f"%)&,o%s &o *e 6e+fo+\$e# : e+e)o\$\$e%s"+a&e :,&. &.e s&aff \$e\$*e+Fs)o\$6e&e%)e a%# sB,--sI a%# : .e&.e+ .e o+ s.e .a# s"*s&a%&,a- eA6e+,e%)e ,% &.e f,e-#.

0. Re-e/a%&-87 &.,s T+,*"%a- .e-# &.e fo--o:,%g ,% Hassouna UNDT/201C/0(C >6a+a. 120:

50: e/e+7, % &.e)ase of a slaff \$ e \$ * e+ : .o .as * ee% #e)-a+e# persona non grata a%# &.e .os&)o"%&+8 ,s %o& fo+& .)o\$,%g : ,& .,%fo+\$ a&,o% as &o &.e *as,s fo+ .,s/.e+ eA6"-s,o% o+ &.e +easo%s7 ,f a%87 #o %o& E"s&,f8 a PNG #e),s,o%7 o&.e+)o%s,#e+a&,o%s \$ a8 a66-8. U%#e+ &.ese),+)"\$ ska%)es7 a).a%ge ,% &.e &e+\$ s a%#)o%#,&,o%s of &.e slaff \$ e \$ *e+Fs)o%&+a)& o+ %o%3+e%e : a- ,s %o& a% o6&,o% o6e% &o &.e Se)+e&a+83Ge%e+a-. T.e T+,*"%a- &aBes &.e /,e: &.a& "%#e+ s").),+)"\$ ska%)es ,& ,s &.e #"&8 of &.e O+ga%,Ja&,o% &o &aBe ske6s &o a--e/,a&e &.e 6+e#,)a\$ e%& ,% : .,). &.e skaff \$ e \$ *e+ f,%#s .,\$ se-f/.e+se-f fo--o:,%g .,s/.e+ eA6"-s,o% f+o\$ &.e .os&)o"%&+8.

- 1. I% #,6-o\$a)87 & .e &e+\$ persona non grata)o\$es f+o\$ & .e La&,% &e+\$,%o-og8 a%# -,&e+a--8 \$ea%s;6e+so% %o& a66+e),a&e# o+ "%: e-)o\$e 6e+so%?.1
- 2. U%#e+ ,%&e+%a&,o%a- -a:7 ,& .as -o%g *ee% +e)og%,Je# &.a& e/e+8 so/e+e,g% %a&,o% .as &.e +,g.& &o #e&e+\$,%e : .e&.e+ ,& : ,-- +e)e,/e a #,6-o\$a&,) e%/o8 f+o\$ a%o&.e+ %a&,o% o+ ,f .e/s.e : ,-- *e a--o:e# &o s&a8. T.e sa\$e +a&,o%a-e a66-,es mutatis mutandis &o &.e +e-a&,o%s.,6 *e&:ee% &.e UN a%# a .os&)o"%&+8.2
- . T.e-og,)a-)o%seD"e%)e & .ak fo--o:s a persona non grata #e)-a+ak,o%,s & .ak & .e se%#,%g skake \$ "sk +e)a--,ks age%k. T.,s aga,% a66-,es mutatis mutandis &o skaff

¹ See 7 4aB."+8 7 A. 7 Persona Non Grata: The bligation of 9 iplomats to respect the "a#s and Regulations of the Hosting \$tate 7 !o"+%a- of La: 7 Po-,)8 a%# G-o*a-,Ja\,o% 7 V-. 59 7 2019 7 6age. 111 7 6"*-,s.e# o%-,%e,%:::.,,s\text{s.e.o+g.}

See7 o*.), & 6age. 111.
 O*.), & 6age 11C.

\$e\$*e+s : o+B,%g fo+ &.e U%,&e# Na&,o%s ,% a g,/e%)o"%&+8 &.a& #e)-a+es &.e\$
PNG. I%#ee#7 as &.,s T+,*"%a- .e-# ,% Hassouna7 ;,% <a= 6ea)eBee6,%g)o%&eA&7 &.e
O+ga%,Ja&,o%)a% o%-8 o6e+a&e ,% a so/e+e,g% S&a&e

'. I% & .e 6+ese% a) ase7 & .e C 1 SS : as ,%fo+\$e# ,% a \$ee&,%g : ,& . & .e S8+,a% a"& .o+,&,es & .a& & .e A66-,)a% a : as #e)-a+e# PNG a%# %o : +,&&e% eA6-a%a&,o% : as 6+o/,#e# %o+ : as a Note Verbale ,ss"e#. L ,& . +es6e)& & a & .e -a&&e+7 ,& : as)-a+,f,e# #"+,%g & .e C 1 D a%# & .e .ea+,%g o% & .e \$e+,&s & .a& & .e +efe+e%)e & a & .e ;%o&e f+o\$ & .e S8+,a% a"& .o+,&,es? ,% & .e 20 No/e \$*e+ 2015 faA f+o\$ 4PD/D4S >see 6a+a. 12 a*o/e@ : as \$a#e ,% e++o+7 a%# & .a& %o s") . %o&e eA,s&e#.

(. D"+,%g &.e a*o/e3+efe++e# \$ ee&,%g7 &.e C 1 SS a-so asBe# fo+ &.e +easo%s fo+ :.,). &.e A66-,)a% : as #e)-a+e# PNG. I% &.e a*se%)e of a fo+\$a-)o\$6-a,%& a%#

a+ea. 5 e &es&,f,e# & .a& & .e S8+,a% a"& .o+,&,es)-ea+-8)o\$\$ "%,)a&e# &o & .e 1 ,ss,o% & .a& & .e8 : o"-# %o& a"& .o+,Je & .e ,%s&a--a&,o% of & .e &e-e)o\$\$ "%,)a&,o%Fs %e& : o+B +eD",+e# fo+ & .a& +e-o)a&,o% as -o%g as & .e A66-,)a%& s&a8e# ,% & .e 1 ,ss,o%. T .,s : as of g+ea&)o%)e+% &o UNDO47 s,%)e ,& se+,o"s-8 Eeo6a+#,Je# & .e se)"+,&8 of ,&s s&aff \$e\$*e+s.

- C5. T. e e/,#e%)e g,/e% *8 &. e C 1 SS : as .,g.-8)+e#,*-e a%#)0%f,+\$ e# %0& 0%-8 &.a& &.e A66-,)a%& .a# *ee% #e)-a+e# PNG7 *"& a-so &.a& "%#e+ &.e 6a+&,)"-a+),+)"\$ \$&a%)es7 e/e% &.e &e\$60+a+8 \$&a8 of &.e A66-,)a%& ,% &.e 1 ,ss,0% a+ea : as %0& a% 06&,0% a%#)a"se# se+,0"s se)"+,&8 &.+ea&s &0 &.e 0/e+a-- 06e+a&,0%s of UNDO4 a%# ,&s \$&aff7 *e)a"se ,& 6+e/e%&e# &.e 1 ,ss,0% f+o\$ eD",66,%g ,&s %e: 5 ea#D"a+&e+s a%# &."s Eeo6a+#,Je# ,&s +e-o)a&,0%. T. e+efo+e7 &.e T+,*"%a- f,%#s &.a& &.e D"es&,0% of .o: &.e s,&"a&,0% of o&.e+ PNG \$&aff \$e\$*e+s .a# *ee% .a%#-e# ,s ,++e-e/a%&.
- C6. 1 o+eo/e+7 *ase# o% & .e e/,#e%)e g,/e% *8 & .e C 1 SS7 & .e T+,*"%a- ,s sa&,sf,e# & .a& .e \$a#e goo# fa,& .effo+&s & o 6e+s"a#e & .e S8+,a% a"& .o+,&,es & o) .a%ge & .e,+ /,e:7 "%fo+&"%a&e-8:,&.o"& s"))ess.
- C9. T.e A66-,)a%& a-so s&+esses &.a& "60% .,s &+a%sfe+ *a)B &o UNGSC7 .e &e \$60+a+,-8 .a# &o 6e+fo+\$ f"%)&,o%s as U 1 O!A Coo+#,%a&o+7 a 6os& a%# f"%)&,o%s &.a& : e+e &: o -e/e-s *e-o : .,s 6e+so%a- g+a#e. L .,-e &.e Res6o%#e%&)o%)e#e# &.a& &.e -e/e- a%# f"%)&,o%s of &.a& 6os& : e+e *e-o : &.e A66-,)a%&Fs 6e+so%a- g+a#e7 .e s&+esse# &.a& .e)o%&,%"e# &o *e 6a,# sa-a+8 a%# e%&,&-e \$e%&s a& &.e P35 -e/e-. T.e Res6o%#e%& a-so e \$6.as,Je# &.a& &.e A#\$,%,s&+a&,o% .a# -ooBe# ,%&o o&.e+ o6&,o%s &o f,%# a s",&a*-e 6os& a& &.e A66-,)a%&Fs -e/e- a& a #,ffe+e%& 1,ss,o%7 *"& &.a& %o s"). 6os& : as a/a,-a*-e.
- C'. 1,%#f"- of &.e E"+,s6+"#e%)e of &.e A66ea-s T+,*"%a-,% Rees7 &.e T+,*"%a-%okes &.a& &.e s,&"a&,o%, &.s)ase : as 6e)"-,a+ s,%)e a D",)B so-"&,o% .a# &o *e fo"%# fo+ &.e A66-,)a%& : .o7 fo+ &.e +easo%s o"&-,%e# a*o/e)o"-# %o -o%ge+ s&a8 ,% S8+,a. S,%)e .,s 6a+e%& 6os& a& UNGSC : as &e \$ 6o+a+,-8 o))"6,e#7 &.e O+ga%,Ja&,o% &e \$ 6o+a+,-8 6-a)e# .,\$ aga,%s& a%o&.e+ 6os,&,o% a-*e,& :,&. f"%)&,o%s a& a -o : e+-e/e-*"& :,&. sa-a+8 a%# e%&,&-e \$ e%&s 6a,# a& &.e A66-,)a%&Fs g+a#e >P35@.