N

Case No.: UNDT/GVA/2013/060
Order No.: 165 (GVA/2013)
Date: 25 O to! 6 . 3 3 70a

Intro!u tion

1. &; a77*(at(o) f(*ed o) 1< O to!er 2013: t+e A77*(a)t: a P.= ")ter7reter at t+e U)(ted Nat(o)s Off(e at Ge)e1a (>UNOG?): D(1(s(o) of Co)fere) e 3a)age9e)t (>DC3?): ")ter7retat(o) $er1(e: see@s s-s7e)s(o) of a t(o): 7e)d()g 9a)age9e)t e1a*-at(o): of t+e de (s(o) to se*e t 3r. 4. 6. for t+e

fo-r a)d(dates: () *-d()g t+e A77*(a)t: s- essf-**; 9et t+e reC-(re9e)ts for t+e 7os(t(o) a)d t+at o)e: t+e se*e ted a)d(date: eF eeded t+e reC-(re9e)ts. O) 1= A-g-st 2013 t+e C%& e)dorsed t+e re o99e)dat(o)s () fa1o-r of t+e f(1e a)d(dates.

5. &; 9e9ora)d-9 of 20 A-g-st 2013 addressed to t+e 5-9a) %eso-r es 3a)age9e)t $er1(e (>5%3$?) t+ro-g+ t+e D(re tor of DC3: t+e 5(r()g 3a)ager forBarded t+e)a9es of t+e f(1e a)d(dates a)d 7ro1(ded reaso)s for +(s re o99e)dat(o) to se*e t 3r. 4. 6..

6. O) 2A A-g-st 2013: t+e 5(r()g 3a)agerDs re o99e)dat(o) Bas s-!9(tted to t+e D(re tor.Ge)era* of UNOG !; t+e D(re tor: D(1(s(o) of Ad9()(strat(o).

A. O) 2< A-g-st 2013: t+e D(re tor.Ge)era* se*e ted 3r. 4. 6. for t+e 7os(t(o).

<. &; e.9a(* of 2 $e7te9!er 2013 fro9 t+e 5(r()g 3a)ager a)d ge)erated !; ")s7(ra: t+e A77*(a)t Bas ()for9ed t+at +(s)a9e Bas 7*a ed o) a roster of 7re.a77ro1ed a)d(dates for 7ote)t(a* o)s(derat(o) for f-t-re U)(ted Nat(o)s $e retar(at Go! o7e)()gs B(t+ s(9(*ar f-) t(o)s at t+e sa9e *e1e*. O) t+e sa9e

a*so d(re ted t+e %es7o)de)t)ot to -)derta@e: as fro9 t+e date of ser1(e: a); f-rt+er ste7s regard()g t+e re r-(t9e)t aga()st t+e 7os(t(o) -)t(* t+e deter9()at(o) of t+e s-s7e)s(o) of a t(o).

12. O) 23 O to!er 2013: t+e %es7o)de)t f(*ed +(s re7*;: B(t+ o)e a))eF f(*ed (A))eF 2). O) t+e sa9e da;: t+e A77*(a)t reC-ested *ea1e to f(*e o9 9e)ts o) t+e %es7o)de)tDs s-!9(ss(o): B+(+ Bas ref-sed !; t+e Tr(!-)a* s() e t+e 7ro ess()g of a reC-est for s-s7e)s(o) of a t(o) (s s-!Ge t to 7art(-*ar*; s+ort t(9e *(9(ts d-e t+e -rge)t)at-re of s- + reC-ests.

Parties" ontentions

13. T+e A77*(a)tDs 7r(9ar; o)te)t(o)s 9a; !e s-9 9ar(Ied as fo**oBs:

a. $e t(o) 6.3 of ad9()(strat(1e ()str- t(o) $T/A"/2010/3 ($taff se*e t(o) s;ste9) Bas 1(o*ated () t+e se*e t(o) 7ro ess: s() e t+e se*e ted a)d(date does)ot f-*f(* t+e reC-(re9e)t of 7r(or *atera* 9o1es to !e o)s(dered for 7ro9ot(o) to P.5: B+ereas t+e A77*(a)t doesE

!. A*so: se . 1 (a) of $T/A"/2010/3 Bas)ot res7e ted s() e t+e 7os(t(o) Bas ad1ert(sed o) 16 A7r(* 2013 B+ereas t+e ret(re9e)t of t+e () -9!e)t (s 7*a))ed o) 2< /e!r-ar; 201=: a!o-t 11 9o)t+s.()stead of t+e 7res r(!ed s(F 9o)t+s.a+ead of t+e ret(re9e)tE t+(s g(1()g r(se to s-s7((o) t+at t+e 5(r()g 3a)ager B+o Bas d-e to 9o1e to a)ot+er 7ost B(s+ed to o)d- t t+e se*e t(o) 7ro ess +(9se*f () order to fa1o-r t+e se*e t(o) of a 7art(-*ar a)d(dateE

. T+e se*e t(o) 7ro ess (s 9ar@ed B(t+ (rreg-*ar(t(es:)a9e*; B(t+ regard to t+e (97a t t+at t+e *a)g-age -sed d-r()g t+e ()ter1(eB +ad o) t+e e1a*-at(o)sE

d. Art(*e 101 7ara. 3 of t+e U)(ted Nat(o)s C+arter a)d $taff %eg-*at(o) =.2 Bere 1(o*ated () t+e se*e t(o) 7ro ess: s() e +(s a)d(da ; (s s-7er(or to t+at of t+e se*e ted a)d(dateE

1H. T+e fa ts as 7rese)ted to t+e Tr(!-)a* ()d(ate t+at t+e s- essf-* a)d(date +ad !ee) se*e ted fo**oB()g t+e re o9 9e)dat(o) 9ade o) 20 A-g-st 2013 !; t+e 5(r()g 3a)ager: t+e t+e) Off(er.().C+arge of t+e ")ter7retat(o) $er1(e: DC3. T+e A77*(a)t asserts t+at t+ere Bas)o G-st(f(at(o) for t+e 7os(t(o) at sta@e to !e ad1ert(sed 11 9o)t+s !efore t+e 7*a))ed ret(re9e)t of t+e -rre)t 7ost () -9!e)t () 3ar + 201=: a)d t+at t+(s a)t((7ated ad1ert(se9e)t de9o)strates t+e 5(r()g 3a)agerDs B(**()g)ess to !e () +arge of t+e se*e t(o) 7ro ess () order to re o9 9e)d t+e s- essf-* a)d(date for 7ro9ot(o).

20. $e t(o) 1 (a) of $T/A"/2010/3 def()es a) >a)t((7ated Go! o7e)()g?: for B+(+ a 1a a) ; a))o-) e9e)t +as to !e (ss-ed a)d B+(+ (s s-!Ge t to t+e r-*es go1er)()g se*e t(o) as foresee) !; $T/A"/2010/3: as fo**oBs:

> Go! o7e)()gs re*at()g to 7os(t(o)s eF7e ted to !e o9e a1a(*a!*e as (de)t(f(ed t+ro-g+ Bor@for e 7*a))()g or fore ast()g: for eFa97*e d-e to t+e ret(re9e)t of t+e () -9!e)t B(t+() s(F 9o)t+s or for 9eet()g f-t-re reC-(re9e)ts.

21. "t fo**oBs fro9 t+at teFt t+at t+e Ad9()(strat(o) (s a-t+or(Ied to 7-!*(s+ a 1a a) ; a))o-) e9e)t for a 7os(t(o) o) B+(+ t+e () -9!e)t (s d-e to ret(re o)*; B+e) sa(d ret(re9e)t (s 7*a))ed to +a77e) B(t+() *ess t+a) s(F 9o)t+s. #1e) (f t+e Tr(!-)a* ad9(ts t+at so9e eF e7t(o)s o-*d !e 9ade to t+at r-*e () t+e ()terest of t+e Orga)(Iat(o): () t+e ()sta)t ase t+e %es7o)de)t d(d)ot g(1e a); reaso) for start()g t+e se*e t(o) 7ro ed-re 11 9o)t+s a+ead of t+e ret(re9e)t of t+e 7ost () -9!e)t: a)d se*e t()g t+e s- essf-* a)d(date a*read; se1e) 9o)t+s !efore

$er1(e a)d eased +(s f-) t(o)s () t+(s regard o) 23 A-g-st 2013: to orga)(Ie t+e se*e t(o) 7ro ed-re B+(*e +e Bas st(** ser1()g () t+ose f-) t(o)s () order to ()f*-e) e t+e f()a* +o(e of t+e s- essf-* a)d(date.

23. T+e Tr(!-)a* (s +e) e of t+e 1(eB t+at t+e de (s(o) to se*e t 3r. 4. 6. a77ears to !e -)*aBf-* for t+e reaso) eF7osed a!o1e. "t (s t+erefore)ot)e essar; for t+e Tr(!-)a* to de (de -7o) t+e ot+er (rreg-*ar(t(es () t+e se*e t(o) 7ro ess t+at Bere ra(sed !; t+e A77*(a)t.

2=. ") 1(eB of t+e fa t t+at t+e se*e ted a)d(date +ad !ee) ()for9ed of +(s se*e t(o) () $e7te9!er 2013: a)d t+at +e Bas to*d t+at a Perso))e* A t(o) Bo-*d !e (ss-ed >() d-e t(9e? to (97*e9e)t +(s 7ro9ot(o): t+e Tr(!-)a* o)s(ders t+at t+e o)d(t(o) of -rge) ; (s f-*f(**ed.

25. T+e %es7o)de)tDs o)te)t(o) t+at t+ere (s)o -rge) ; to de (de o) a s-s7e)s(o) of a t(o) () t+(s 9atter s() e t+e re7*; of t+e 3a)age9e)t #1a*-at(o) U)(t Bo-*d !e (ss-ed !efore t+e date of (97*e9e)tat(o) of t+e o)tested de (s(o) (s B(t+o-t 9er(t. O)e of t+e goa*s of t+e s-s7e)s(o) of a t(o) 7ro ed-re (s to a**oB t+e ,-dge: !; s-s7e)d()g t+e (97*e9e)tat(o) of a de (s(o): to draB t+e atte)t(o) of t+e Ad9()(strat(o) o) 7oss(!*e (rreg-*ar(t(es (de)t(f(ed () a ase: () order for t+e Ad9()(strat(o) to ta@e s- + (rreg-*ar(t(es ()to a o-)t !efore t+e (ss-a) e of t+e re7*; to t+e 9a)age9e)t e1a*-at(o) reC-est.

26. T+e A77*(a)t eF7*a()ed t+at t+e (97*e9e)tat(o) of t+e o)tested de (s(o) Bo-*d a-se +(9 9ora* da9age a)d Bo-*d +a1e a) (97a t o) +(s areer 7ros7e ts.

2A. ") t+e Tr(!-)a*Ds 1(eB: +ar9 to 7rofess(o)a* re7-tat(o) a)d areer 7ros7e ts 9a; o)st(t-te (rre7ara!*e da9age. ") t+e 7rese)t ase: (t o)s(ders t+at t+e A77*(a)t Bo-*d s-ffer (rre7ara!*e da9age to +(s areer 7ros7e ts s+o-*d t+e o)tested de (s(o) !e (97*e9e)ted. A s-!seC-e)t 9o)etar; o97e)sat(o): (f a);: Bo-*d)ot o97e)sate a** +(s da9age () t+(s regard.

2<.