UNITED NATIONS DISPUTE TRIBUNAL	Case No.:	UNDT/GVA/2014/04
	!"#g$e%& No.:	UNDT/201'/0()
	Da&e:	4 Se*&e$+e, 201'
	O,-g-%a.:	E%g.-s/

Before: !"#ge T/o$as La0e,

Registry: Ge%e1a

Registrar: Re%2 3. Va,gas 3.

LIU

1.

SECRETAR45GENERAL

7. "# &nte(o &'e memo(andum dated 10 ;e.(ua(# 2012/ t*e C*&e / 1$a'e A$$%&'at&ons 1e't&on/ 0 0 1A/ &n o(med t*e Aead o 0 &'e/ 0 0 1A "e&<&ng/ t*at t*e UN=1P>D@- "e&<&ng 0 &'e &nan'a% o$e(at&ons) ou%d .e s*& ted to UNDP C*&na/ to a%%o) t*e "e&<&ng 0 &'e g(eate(&nde$enden'e and %e7&.&%&t# &n &ts) o(,.

8. "# ema&% o 22 Janua(# 201!/ t*e C*&e / 1$a'e A$$%&'at&ons 1e't&on/ 0 0 1A/ &n o(med t*e Aead o 0 &'e/ 0 0 1A "e&<&ng/ and t*e A$$%&'ant t*at s&n'e t*e &nte(o &'e memo(andum o 10 ;e.(ua(# 2012/ .#) *&'* t*e "e&<&ng o$e(at&on *ad .een '*anged &n 201!/ *ad 3'(eated a %ot o 'on us&on &n 8t*e&(9) o(, not on%# &n "e&<&ng .ut a%so &n V&enna t*(oug* 20124/ *e *ad de'&ded to)&t*d(a) sa&d memo(andum. Ae u(t*e(noted t*at t*&s meant t*at t*e "e&<&ng 0 &'e) as go&ng to o$e(ate as &t *ad &n 2011.

9. As su'*/ and a%t*oug* &n&t&a%%# UN=1P>D@- "e&<&ng *ad .een o$e(at&ng unde(UNDP -u%es and P(o'edu(es/ 0 0 1A de'&ded &n Janua(# 201! t*at UN=1P>D@- "e&<&ng o$e(at&ons .e s*& ted .a', to t*e Un&ted Nat&ons 0 &'e at V&enna 2UN0V5/ and t*at &t) o(,s unde(t*e %atte(Cs >?>1 s#stem. At t*e same t&me/ t*e und&ng ag(eement)&t* t*e C*&nese Go:e(nment 'ame to an end and 0 0 1A/ V&enna sta(ted to $e(o(m some o UN=1P>D@- "e&<&ng o$e(at&ona% a't&:&t&esD add&t&ona%%#/ t*e $ost en'um.e(ed .# t*e A$$%&'ant) as do) ng(aded and a <o. o$en&ng o(a Team Ass&stant 21C=45) as ad:e(t&sed to (e %e't t*e de'(eased (es$ons&.&%&t&es.

10. @ma&% 'ommun&'at&ons (om 2012 and 201! .et) een t*e A$$%&'ant and *e(;&(st -e$o(t&ng 0 &'e(23;-045 s*o) some tens&ons .et) een t*emD t*e 'ommun&'at&ons (e e(/ / to t*e A$$%&'antCs ePA1 and to *e(;-0Cs 'on'e(ns a.out a''om$%s*ment o some tas,s .# t*e A$$%&'ant/ as) e%% as to *e('ommun&'at&on)&t* t*e ;-0.>n an ema&% o 20 June 201! to *e(;-0/ t*e A$$%&'ant noted t*at s*e) as ee%&ng un) e%% 3&n :&e) o t*e (e'ent tu(.u%en'es so 8s*e *ad9 to go *ome o((est4.

11. >n *e($(e:&ous ePA1es E&.e. '#'%es 2009=2010 and 2010=2011 E and t*ose o(2011=2012 and 2012=201!)*en t*e A$$%&'ant) as) o(,&ng as P(og(amme Asso'&ate/ G=6/ at UN=1P>D@-/ t*e A$$%&'ant) as (ated 3 (eBuent%# e7'eeds $e(o(man'e e7$e'tat&ons4. T*e %atest ePA1/ name%# t*at o(t*e $e(&od

t*e Gene:a -eg&st(#/) *e(e &t) as (eg&ste(ed unde(Case No. UNDT/GVA/2014/049 and ass&gned to t*e unde(s&gned Judge.

17. "# 0(de(s No. 121 2GVA/20155 o 16 June 2015/ No. 1!5 2GVA/20155 o 29 June 2015 and No. 151 2GVA/20155 o 14 August 2015/ t*e T(&.una% as,ed t*e $a(t&es to $(o:&de add&t&ona% &n o(mat&on/ and to &

$(e:&ous $(a't&'e esta.%%s*ed .# t*e A$$%%'ant)o(,ed mu'* .ette(t*an t*e 'e(t& &'at&on .# *eadBua(te(s/ .ut V&enna (e used to o%%o) *e(ad:&'eD

d. 1*e *ad not (e'e&:ed an#)a(n&ng o(t*e s*o(t'om&ngs (e%at&ng to >?>1 t*at)e(e u%t&mate%# (e %e'ted &n *e(2012=201! ePA1D at a meet&ng)&t* *e(;-0 on 2! ?a# 201! to d&s'uss *e(ePA1/ *e &n o(med *e(t*at *e)ou%d $ut a negat&:e 'omment &n *e(ePA1D s*e t*&n,s t*at .# t*at ePA1/ s*e)as .%amed/ &n)(&t&ng/ o(a%% t*e d& &'u%t&es &n o$e(at&onsD as a 'onseBuen'e/ s*e e%% s&',D

e.

*. T*e Adm&n&st(at&on d&s$oses o .(oad d&s'(et&on &n de'&d&ng on &ts st(u'tu(e and on *o) &t 'ondu'ts &ts o$e(at&onsD &n t*e a.sen'e o a(.&t(a(&ness o(ot*e(&%%ega% 'ons&de(at&ons o(t*e :&o%at&on o $(o'edu(a% (u%es/ su'* e7e('&se o d&s'(et&on &s not su.<e't to <ud&'&a% 'ont(o%D

&. T*e on%# 3'(&t&'a%4 'omment &n *e(2012=1! ePA1)as a need o(u(t*e(t(a&n&ng &n > ? >1D t*e A$$%&'ant (e e(en'e to 3un a&(t(eatment4 &s not su$$o(ted .# an# e:&den'e/ and s*e ne:e($u(sued (e%e:ant (ed(ess $(o'edu(esD t*e on%# a:a&%a.%e e:&den'e (e%ates to d&sag(eements o:e( )o(,&ng $(o'esses/ and &t &s t*e $(e(ogat&:e o t*e 0(gan&Gat&on to de'&de *o) &t)ants to 'ondu't &ts o$e(at&onsD

<. T*e a$$%&'at&on s*ou%d .e (e<e'ted &n &ts ent&(et#.

20. A%t*oug* not su.m&tted .# t*e -es$ondent/ t*e T(&.una% &s .ound to &(st (a&se/ on &ts o)n mot&on/ t*e &ssue o t*e (e'e%:a.&%&t# o t*e a$$%&'at&on 2' . UNDT/2011/005D UNDT/2011/0065.

21. 1ta (u%e 11.2 2 ? anagement @:a%uat&on5 $(o:&desF

> 2a5 A sta mem.e( )&s*&ng to o(ma%%# 'ontest an adm&n&st(at&:e de'&s&on a%%eg&ng non=om$%&an'e)&t* *&s o(*e('ont(a't o em$%o#ment o(te(ms o a$$o&ntment/ &n'%ud&ng a%% $e(t&nent (egu%at&ons and (u%es $u(suant to sta (egu%at&on 11.1 2a5/ s*a%%/ as a &(st ste$/ su.m&t to t*e 1e'(eta(#=Gene(a% &n)(t&ng a (eBuest o(a management e:a%uat&on o t*e adm&n&st(at&:e de'&s&on.
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> I
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> 2'5 A (eBuest o(a management e:a%uat&on s*a%% not .e (e'e&:a.%e .# t*e 1e'(eta(#=Gene(a% un%ess &t &s sent)&t*&n 60 'a%enda(da#s (om t*e date on)*&'* t*e sta mem.e((e'e&:ed not& &'at&on o t*e adm&n&st(at&:e de'&s&on to .e 'ontested. T*&s dead%&ne ma# .e e7tended .# t*e 1e'(eta(#=Gene(a% $end&ng e o(ts o(&n o(ma% (eso%ut&on 'ondu'ted .# t*e 0 &'e o t*e 0m.udsman/ unde('ond&t&ons s$e'& &ed .# t*e 1e'(eta(#=Gene(a%.

22. T*e A$$ea%s T(&.una% *as 'ons&stent%# *e%d t*at t&me %&m&ts *a:e to .e o.se(:ed and en o('ed st(&'t%# 2 2015=UNAT=557/ 2015=UNAT=495D 2014=UNAT=4705 and t*at a&%u(e to &%e a t&me%# (eBuest o(management e:a%uat&on %eads to t*e a$$%&'at&on .e&ng &((e'e&:a.%e/ 2' . 2014=UNAT=402D 2015=UNAT=5575.

2!. T*e T(&.una% u(t*e((e'a%%s t*e A$$ea%s T(&.una%Cs (u%&ng t*at 3sta mem.e(s *a:e to ensu(e t*at t*e# a(e a)a(e o 1ta -egu%at&ons and -u%es and t*e a$$%&'a.%e $(o'edu(es &n t*e 'onte7t o t*e adm&n&st(at&on o <ust&'e &n t*e Un&ted Nat&onsC &nte(na% <ust&'e s#stem and t*at &gno(an'e o t*e %a) &s no e7'use o(m&ss&ng dead%&nes4 2 2015=UNAT=546/ 2015=UNAT=5215.

24. At t*e same t&me/)&t* (es$e't to t*e Buest&on o)*et*e(an A$$%&'ant &%ed a (eBuest o(management e:a%uat&on)&t* t*e 'om$etent aut*o(&t#/ t*e D&s$ute T(&.una% st(essed &n UNDT/2011/052 t*atF

> H*&%e t*e A$$%&'ant &s ent&t%ed to a(gue t*at t*e Adm&n&st(at&on s*ou%d not .e e7'ess&:e%# o(ma%%st&' and &ns&st t*at e:e(# (eBuest o((e:&e) must)&t*out a&% .e add(essed to t*e 1e'(eta(#=Gene(a% &n o(de(to .e t(eated as su'*/ t*e (eBuest must/ on t*e ot*e(*and/ .e su &'&ent%# '%ea(o(&ts (e'&$&ent to see t*at &t &s &n a't a (eBuest

and $(o'edu(es t*at a(e unam.&guous and su.<e't to $u.%&' announ'ement. T*e do'uments $(o:&ded .# t*e -es$ondent to s*o) t*at t*e aut*o(&t# o((eBuests o(management e:a%uat&on *as .een de%egated to t*e UNDP Adm&n&st(ato(a(e a(too gene(a%)&t* (es$e't to t*e aut*o(&t# o t*e UNDP Adm&n&st(ato(&n t*e adm&n&st(at&on o t*e (egu%at&ons and (u%es o UNDP sta mem.e(s/ and do not ment&on t*e &nte(na% <ust&'e s#stem. ?o(eo:e(/ t*e on%# (e%e:ant do'ument/ &. e. t*e &nte(o &'e memo(andum on t*e de%egat&on o aut*o(&t#/ *as not .een $u.%&s*ed.

!2. >n 'ont(ast/ t*e T(&.una% notes t*at)&t*&n t*e Un&ted Nat&ons A&g*

!5. A non=(ene) a% de'&s&on 'an .e '*a%%enged &n 'ase t*e Adm&n&st(at&on does not a't a&(%#/ <ust%# o(t(ans$a(ent%# o(& t*e de'&s&on &s mot&:ated .# .&as/ $(e<ud&'e o(&m$(o$e(mot&:e aga&nst t*e sta mem.e(D t*e %atte(*as t*e .u(den o $(o:&ng t*at su'* a'to(s $%a#ed a (o%e &n t*e adm&n&st(at&:e de'&s&on 2' . 2015=UNAT=500/ (e e((&ng to 2011=UNAT=15!D **&** ' 2012=UNAT=201D 2010=UNAT=0215.

!6. T*e A$$ea%s T(&.una% *as 'ons&stent%# *e%d t*at an &nte(nat&ona% o(gan&Gat&on *as t*e $o) e(to (est(u'tu(e some o(a%% o &ts de$a(tments o(un&ts/) *&'* &n'%udes t*e a.o%&t&on o $osts/ t*e '(eat&on o ne) $osts and t*e (ede$%o#ment o sta 2**(** 2014=UNAT=471D **)** 2012=UNAT=2!65.

!7. ;u(t*e(/ t*e A$$ea%s T(&.una% 'on &(med t*at) *e(e t*e Adm&n&st(at&on $(o:&des a (eason o(t*e non=(ene) a% o a &7ed=te(m a$$o&ntment/ t*at (eason must .e su$$o(ted .# t*e a'ts 2* 2011=UNAT=1155.

!8. >n t*e $(esent 'ase/ t*e (eason o(t*e non=(ene) a% o t*e A$$%&'antCs a$$o&ntment) as t*e (est(u'tu(&ng o t*e 001A "e&<&ng 0 &'e %ead&ng to t*e a.o%&t&on o t*e A$$%&'antCs $ost/ unded t*(oug* 'ont(&.ut&ons (om t*e C*&nese Go:e(nment. T*e A$$%&'ant/) *&%e e710.7446(u) - 0.98176(n) - 02( )] TJD - 230.722 - 3166653(n) -

40. As su'*/ t*e T(&.una% &s sat&s &ed t*at t*e A$$%&'ant©s G=6 $ost/ unded t*(oug* go:e(nment 'ont(&.ut&ons/ d&d no %onge(e7&st as at 1 August 201!/ t*at &s/ t*e da# a te(t*e e7$&(at&on o t*e A$$%&'ant©s a$$o&ntment. T*e(e o(e/ t*e (eason $(o:&ded o(t*e non=e7tens&on o t*e A$$%&'ant©s a$$o&ntment &s su$$o(ted .# t*e e:&den'e.

41. ;&na%%#/ t*e T(&.una% notes t*at t*e A$$%&'ant d&d not $(o:&de an# e:&den'e)&t* (es$e't to t*e a%%egat&ons t*at t*e de'&s&on)as &%%=mot&:ated/ $a(t&'u%a(%# t*at &t)as .ased on &ssues)&t* *e($e(o(man'e o(ot*e( )&se (e%ated to *e(ePA1. T*e 'omments &n t*e A$$%&'ant©s ePA1 2012=201! E o( )*&'* s*e (e'e&:ed a (at&ng o 3 (eBuent%# e7'eeds $e(o(man'e e7$e'tat&ons4 E)&t* (es$e't to t(a&n&ng needs