| Case No.: UNDT/GVA/2016/011 | J !g " e#\$ No.: UNDT/2016/20% | 1& No 'e " (e) 2016 |

 $O)^*g^*\#a+: \qquad \qquad E\#g+^*s\,,$ 

## Introduction

1. By a !"#at"on f"!ed on 20 \$#to%e& 201' ("t) t)e Na"&o%" \*eg"st&y and !ate& t&ansfe&&ed to t)e Gene+a \*eg"st&y, t)e A !"#ant, a -u !y \$ff"#e& .P/01 ("t) t)e Un"ted Nat"ons \$&gan"2at"on -ta%"!"2at"on 3 "ss"on "n t)e Demo#&at"# \*e u%!"# of Congo .43 \$NU-C\$51, #ontests t)e de#"s"on to &o&ate t)e se#ond "nsta!ment of t)e !um /sum o&t"on of )"s ass"gnment g&ant to 6"ns)asa.

## Relevant Facts

2. n 17 De#em%e& 2011, t)e A !"#ant (as &eass"gned f&om t)e Un"ted Nat"ons -u o&t ff"#e fo& t)e Af&"#an Un"on 3 "ss"on "n -oma!"a "n Na"&o%" to t)e Un"ted Nat"ons ff"#e fo& t)e Af&"#an Un"on 3 "ss"on "n t)e Demo#&at"# \*e u%!"# of t)e Congo .43 NU-C51 "n 6"ns)asa, as a -u !y ff"#e& .P/01. U on )"s a&&"+a! "n 6"ns)asa, t)e A !"#ant (as a"d an ass"gnment g&ant t)at "n#!uded a da"!y su%s"sten#e a!!o (an#e .4D-A51 fo& t)"&ty days and a

6. By ema"! of 0 No+em%e& 2010, t)e 3 anage&, C"+"!"an Benef"ts and Pay&o!!
-e&+"#e >"ne, \*eg"ona! -e&+"#e Cent&e ?nte%e .4\*-C?51, "nfo&med t)e A !"#ant
t)at )e d"d not <ua!"fy fo& a se#ond "nsta!ment of )"s ass"gnment g&ant g"+en t)at
)e )ad not #om !eted t)e &e<u"&ed t)&ee/yea& e&"od of se&+"#e at t)e duty stat"on.

8. \$n 12 No+em%e& 2010, t)e A !"#ant )ad a )one #on+e&sat"on ("t) t)e 3 anage&, C"+"!"an Benef"ts and Pay&o!! -e&+"#e >"ne, \*-C?, ()e&e%y )e "nfo&med t)e \*-C? t)at )e (o&@ed fo& 1= days %eyond )"s se#ond ann"+e&sa&y of se&+"#e "n 6"ns)asa. Ao!!o ("ng t)ese d"s#uss"ons, t)e \*-C? g&anted t)e A !"#ant a &o &ata ayment of t)e se#ond "nsta!ment of )"s ass"gnment g&ant "n t)e amount of U-D911,'= as 4one mont) &o/&ated amount5. \$n 21 No+em%e& 2010, t)"s amount (as #&ed"ted to t)e A !"#ant:s %an@ a##ount.

=.

12. By ema"! of 8 Janually 201', t)e 3 anagel, C"+"!"an Benef"ts and Paylo!! -el+"#e >"ne, \*-C?, ad+"sed t)e A !"#ant to 4#onta#t 3 \$NU-C\$; \*, Goma ."n #o y of t)"s message! fol B)"sC fullt)el gu"dan#e on t)"s mattel5.

- 17. By ema"! of t)e same day, t)e A !"#ant (&ote t)e fo!!o ("ng to t)e C)"ef ; uman \*esou&#es \$ff"#e&, 3 \$NU-C\$E
  - 9 & eg&et to not"fy t)at t)"s matte& & ega&d"ng ent"t!ement of  $2^{nd}$  Ass"gnment G&ant "n my & es e#t )as %een go"ng on s"n#e De#Bem%e&C 2017.

V"de you& ema"! dated 70 De#Bem%e&C 2010, you )ad "nd"#ated t)at t)e #ase s)a!! %e &e+"e(ed at t)e \*-C?, s e#"f"#a!!y 3 &. 3 a&t"n \$DDe&&o.; o(e+e&, as e&t)e t&a"! ema"! %e!o(f&om 3 &. 3 a&t"n, )e) as d"&e#ted me aga"n to #onta#t 3 \$NU-C\$; \*, Goma fo&fu&t)e&gu"dan#e on t)e matte&.

3 ay 9 @"nd!y &e<uest you to &o+"de gu"dan#e on t)e su%De#t as ()om s)ou!d 9 a &oa#) "n t)e matte&.

10.

## Parties' submissions

- 2'. T)e A !"#ant:s &"n#" a! #ontent"ons a&eE
  - a. ; "s f" &st &e < uest fo & management e+a!uat" on (as not t"me/% a &&ed as t)e f"na! de#"s" on &ega&d" ng )"s &e < uest fo & fu!!

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%. 9f yes, d"d )e f"!e )"s #!a"m ("t) t)e T&"%una! ("t)"n 90 days of &e#e" t of t)e management e+a!uat"onI

- 70. Pu&suant to staff &u!e 11.2 and a&t. =.1.""1.#1 of t)e T&"%una!:s -tatute, fo& an
- a !"#at"on to %e &e#e"+a%!e, t)e a !"#ant must f"

and \*-C?, t)e !atte& de#"ded to ay t)e A !"#ant a &o&ated amount of t)e se#ond "nsta!ment of )"s ass"gnment g&ant, and a"d "t "nto t)e A !"#ant:s %an@ a##ount on 21 No+em%e& 2010. A##o&d"ng to an ema"! of 2 Janua&y 201' f&om t)e 3 anage&, C"+"!"an Benef"ts and Pay&o!! -e&+"#e >"ne, \*-C?, t)e A !"#ant su%m"tted a ayment &e<uest fo&m and s"gned a 4 (&"tten unde&ta@"ng5 to &e#e"+e t)e &o&ated ayment. T)at %e"ng sa"d, t)e do#uments do not #!ea&!y esta%!"s) t)at t)e &o&ated ayment (as made fo!!o ("ng an ag&eement %et (een t)e A !"#ant and \*-C?, o& t)at t)e A !"#ant (as eF !"#"t!y "nfo&med t)at )e (ou!d &e#e"+e a &o&ated ayment &"o& to su#) ayment %e"ng made. 9n any e+ent, t)e&e #an %e no dou%t t)at t)e A !"#ant (as made a (a&e of t)e de#"s"on to deny )"s #!a"m fo& full ayment of t)e se#ond "nsta!ment of )"s ass"gnment g&ant ()en )e &e#e"+ed a &o&ated ayment on 21 No+em%e& 2010. T)e A !"#ant )ad 60 days f&om 21 No+em%e& 2010 to &e<uest management e+a!uat"on. ; e fa"!ed to do so.

76. T)e ema"! of 12 Ae%&ua&y 201' f&om t)e; uman \*esou&#es -e&+"#e of 3 \$NU-C\$ (as me&e!y a &e"te&at"on of t)e o&"g"na! de#"s"on deny"ng t)e A !"#ant:s &e<uest to %e a"d t)e fu!! amount of t)e se#ond "nsta!ment of )"s ass"gnment. T)e !ong stand"ng Du&"s &uden#e of t)e A ea!s T&"%una! "s t)at t)e &e"te&at"on of an o&"g"na! adm"n"st&at"+e de#"s"on does not &eset t)e #!o#@ ("t) &es e#t to statuto&y t"me!"m"ts, ()"#) sta&ted to &un f&om t)e date of t)e o&"g"na! de#"s"on .Sethia 2010/UNAT/089, Aliko 201'/UNAT/'79, Kazazi 201'/UNAT/'181.

78. 9t fo!!o (st)att)e a !"#at"on "s not &e#e"+a%!e ratione materiae .Egglesfield 2010/UNAT/0021 and t)att)e T&"%una! does not )a+e Du&"sd"#t"on to #ons"de&t)e &es e#t"+e #ontent"ons of t)e a&t"es on t)e me&"ts of t)e #ase.

7=. T)e a !"#at"on "s a!so not &e#e"+a%!e ratione temporis. T)e 3 ?U &es onded to t)e A !"#ant:s f"&st &e<uest fo& management e+a!uat"on on 21 Ju!y 201', and t)e A !"#ant f"!ed )"s a !"#at"on on 20 \$#to%e& 201', t)at "s one day afte& t)e eF "&y of t)e 90/day dead!"ne set fo&t) "n a&t. =.1.dl."l.al of t)e T&"%una!:s -tatute. 9n an ema"! of 27 Ju!y 201', t)e A !"#ant #!ea&!y a#@no (!edged t)at t)e t"me !"m"t to f"!e an a !"#at"on %efo&e t)e T&"%una! sta&ted to &un f&om 21 Ju!y 201'. T)e T&"%una! does not deem a &o &"ate "n t)e "nstant #ase to #ons"de& t)e

A !"#ant:s &e<uest to (a"+e t)e t"me !"m"t fo& su%m"tt"ng )"s a !"#at"on as t)e

a !"#at"on "s, "n any e+ent, "&&e#e"+a%!e ratione materiae.

## Conclusion

79. 9n +"e ( of t)e folego"ng, t)e T&"%una! D?C9D? -E

T)e a !"#at"on "s &eDe#ted.

.Signed1  $\label{eq:signed1} \mbox{Judge $*o$ ( an Do ( n"ng Dated t )"s $1=$^{t)}$ day of No+em%e& 2016} $$$ 

?nte&ed "n t)e \*eg"ste& on t)"s  $1=^{t)}$  day of No+em%e& 2016 .Signed1

\*enJ 3. Valgas 3., \*eg"stlal, Gene+a