



INTERNATIONAL SEABED AUTHORITY

JOINT APPEALS BOARD

ISBA/JAB/ APPEAL/ARDITO/2025

Giovanni Ardito (the “Appellant”)

v.

**Secretary-General of the International Seabed Authority
(the “Respondent”)**

Judgment of the Board relating to the Appeal submitted by the Appellant *Appeal Concerning the Withdrawal of the Letter of Appointment*

Introduction

1. The Joint Appeals Board (“JAB/Board”) of the International Seabed Authority (“ISA/Authority”) is seized of an appeal filed by Giovanni Ardito (“the Appellant”) on 4 March 2025 against the decision of the Secretary-General of the ISA (“the Respondent”), dated 2 January 2025, to withdraw a Letter of Appointment (LoA) issued to him on 17 December 2024 by the former Secretary-General (the contested decision).
2. The contested decision withdrew the Appellant’s LoA to the position of Policy and Planning Officer (Capacity Development) at the P-3 level, effective 1 January 2025, on the grounds that “the selection process for this position did not adhere to the established staff selection system and practices”.
3. The appeal seeks the rescission of the purported withdrawal, reinstatement to the post, and appropriate compensation for material and moral damages resulting from the decision and its implementation.



Procedural Background

4. The Appellant joined the ISA on 17 December 2022. He held a Fixed-Term Appointment (“FTA”) as an Associate Policy Officer at the P-2 level in the Executive Office of the Secretary-General (EOSG’) set to expire on 16 December 2023.
5. Effective 17 December 2023, the Appellant’s FTA was renewed until 16 December 2024.
6. On 31 July 2024, the Assembly of ISA approved the budget of ISA for the financial period 2025-2026, by which it established the post of Policy and Planning Officer (Capacity Development).
7. On 2 August 2024, the Assembly of the ISA elected a new Secretary-General (the Respondent) for a four-year term commencing on 1 January 2025 and ending on 31 December 2028.
8. Between 9 and 22 August 2024, the ISA issued a vacancy announcement for the post of Policy and Planning Officer (Capacity Development), P-3, within the Executive Office of the Secretary-General (EOSG), under Job Opening No. 24-PGM-ISA-240730-J-KINGSTON (X).
9. During the transition between administrations, on 11 August 2024, the Secretary-General-elect (the Respondent) requested that all ongoing recruitment and separation actions be temporarily suspended until she assumed office. She emphasized the importance of continuity, due process, and good administrative practice, and recommended extending contracts approaching expiry for six months to ensure organizational stability during preparations for major meetings scheduled for March 2025.
10. On 14 September 2024, the Appellant applied for the newly created post of Policy and Planning Officer at the P-3 level.
11. On 19 November 2024, the Respondent reiterated her concerns in writing, formally requesting that all ongoing recruitment processes be paused immediately, citing budgetary constraints, the leadership transition, and the need to ensure procedural integrity and alignment with the Authority’s strategic priorities.
12. Following an assessment process, ISA informed the Appellant on 28 November 2024 that his application was successful and sought confirmation of his continued interest in the post.



13. On 13 December 2024, the Director of the Office for Administrative Services (“D/OAS”), the Budget and Oversight Officer, the Finance Officer, and the Human Resources Officer issued a Joint Interoffice Memorandum (“IoM”) to the former Secretary-General expressing concerns over ongoing expedited recruitments and unanimously recommending that all pending and ongoing recruitment processes be immediately held in abeyance.
14. Also, on 13 December 2024, the Appellant was granted a short-term renewal of his FTA, which was expiring on 16 December 2024, from 17 to 31 December 2024.
15. On 16 December 2024, D/OAS sent the Appellant a separation IoM from the Associate Policy Officer position effective 31 December 2024.
16. Also, on 16 December 2024, the D/OAS transmitted a Biennial Budget Performance Report to the former Secretary-General, noting that the biennium budget had been fully committed, rendering additional expenditures including recruitment and contractual appointments financially unfeasible.
17. On 17 December 2024, the D/OAS reiterated the concerns set out in the Joint IoM of 13 December 2024, “firmly and unanimously recommending” that all pending and forthcoming recruitments be suspended with immediate effect. Also, as the D/OAS, who had delegated authority to sign offers of appointment, he highlighted both the financial implications of new appointments and the propriety of issuing such letters at the conclusion of the former Secretary-General’s mandate.
18. On the same day, on 17 December 2024, the Appellant received an LoA for the post of Policy and Planning Officer (Capacity Development) on an FTA, commencing on 1 January 2025 and expiring on 31 December 2026.
19. On 18 December 2024, the Appellant accepted and signed the LoA.
20. On 30 December 2024, the Appellant contacted Secretariat officials indicating his intention to assume his new duties on 1 January 2025, notwithstanding the fact that the ISA offices were officially closed until 3 January 2025.
21. On 1 January 2025, the Respondent formally assumed office.



22. By letter dated 2 January 2025, the Respondent withdrew the LoA, citing procedural irregularities in the recruitment process and the need to review staffing commitments in light of the Authority's financial situation.

23. In her *Aide-Memoire*, dated 2 January 2025, the Respondent noted that "While these decisions were procedurally compliant, they failed to account for their broader strategic implications. The rushed timeline for recruitment, coupled with insufficient consultation, has left me with significant concerns regarding the suitability of some appointments and their alignment with ISA's long-term objectives."

24. On 6 January 2025, the Appellant submitted a request for administrative review under Staff Rule 11.2(a)(i), challenging the withdrawal decision as unlawful, arbitrary, and procedurally flawed.

25. By letter dated 5 February 2025, the Respondent rejected the request for administrative review, maintaining that the withdrawal decision was lawful and consistent with the Authority's rules and procedures.

Procedural History

26. On 4 March 2025, the Appellant submitted a Statement of Appeal to the JAB in accordance with Staff Rule 11.2 of the Staff Rules of the ISA, challenging the Respondent's decision of 2 January 2025 to withdraw his LoA.

27. By email of 7 March 2025, having received no acknowledgment of receipt, the Appellant contacted the JAB Secretariat expressing concern that the absence of acknowledgment constituted an unfair administrative practice.

28. Later that same day, the JAB Secretariat responded, indicating that it had not received any email from the Appellant on 4 March 2025 and noting that other appeals submitted during that period had been duly acknowledged. The Appellant was informed that large file submissions may not display correctly in the internal system and was invited to upload the appeal and supporting documentation via a secure shared drive created by the Secretariat to ensure proper receipt.



29. Also on 7 March 2025, the JAB Secretariat informed the Appellant that the Revised Rules of Procedure (“Revised RoP”) of the JAB had entered into effect on 4 March 2025 and indicated that, should he wish to submit his appeal under the Revised RoP, he could do so no later than 7 April 2025 as proposed by the Chair. The Appellant did not resubmit the appeal but confirmed that his original filing of 4 March 2025, together with the materials uploaded to the shared folder, constituted his operative appeal and expressly reserved his right to make additional submission in the future.

30. On 14 March 2025, the Chair of the JAB invited the parties to engage in conciliation pursuant to Rule 9 of the Revised RoP.

31. On 19 March 2025, the Appellant confirmed his willingness to participate in conciliation, subject to several conditions set out in writing, including the appointment of an independent conciliator jointly selected by the parties, confidentiality safeguards, and a defined timeframe for the process.

32. On 21 March 2025, the Respondent formally declined conciliation, and the matter proceeded to written submissions.

33. On 24 March 2025, the JAB Secretariat notified the Respondent of the appeal and invited submission of a reply by 23 April 2025.

34. On 25 March 2025, the Appellant challenged the deadline, arguing that the time limit should run from the date on which the Respondent first received the appeal. He also raised concerns regarding the confidentiality of correspondence transmitted through the generic internal justice email address.

35. On 28 March 2025, the JAB Secretariat notified the Appellant that his appeal would be heard by the full Board, as it is substantively similar in context and compensation sought for other pending appeals. To ensure consistency and avoid conflicting outcomes, the Chair, pursuant to Rule 28 of the Revised RoP and established international tribunal practices, decided to review them together.

36. On 2 April 2025, the Appellant wrote to the Chair and the Respondent formally objecting to the decision to have his appeal reviewed by the full Joint Appeals Board. He argued that



such a procedure was inconsistent with Staff Rule 11.2(e), which requires the constitution of a three-member panel for each appeal.

37. On 16 April 2025, the Appellant wrote to the Chair asserting that the Respondent had failed to submit a reply within the time limit and therefore was in default. He also noted that the Respondent had not addressed his objections regarding the composition of the Board and the proposed full-Board review. The Appellant accordingly requested that the Board treat his submissions as uncontested and proceed with consideration of his appeal.

38. On 23 April 2025, the Respondent submitted her reply, which was transmitted to the Appellant on 24 April 2025, inviting him to submit comments by 22 May 2025.

39. On 5 May 2025, the Appellant submitted a request for an extension of 10 working days to the deadline for his comments, citing exceptional personal circumstances that had significantly limited his ability to prepare a response.

40. By Order No. 9 (2025), dated 7 May 2025, the Chair granted the request and extended the deadline for the Appellant's comments by ten working days, from 22 May 2025 to 6 June 2025.

41. On 23 May 2025, the Appellant submitted a request for disclosure of correspondence and documents cited or relied upon by the Respondent in her reply, including communications between the former Secretary-General and senior officials concerning recruitment processes. The Appellant argued that disclosure was necessary to ensure equality of arms.

42. The Appellant submitted his comments on the Respondent's reply on 6 June 2025. On the same date, the JAB invited the Respondent to submit any additional comments on the Appellant's comments. The Respondent submitted her comments within the prescribed time limit on 7 July 2025.

43. On 14 and 19 August 2025, the Appellant requested the JAB "to adduce (...) New Evidence to the record" in connection with his statement of appeal submitted on 4 March 2025 in accordance with Staff Rule 11.2 of the ISA.



44. On 15 and 19 August 2025, the Secretary of the JAB transmitted the Appellant's submission to the Respondent, setting a deadline for a reply by 1 and 8 September 2025 respectively.

45. On 20 August 2025, the Appellant raised concerns regarding conflict of interest and requested for disqualification of a member of the Board. He alleged that remarks made by the Board member during a recent ISA Council meeting indicated support for the Respondent on matters related to his appeal, creating an appearance of bias.

46. The Board member responded that these public remarks were made solely in their capacity as Head of Delegation during formal deliberations, related exclusively to the Finance Committee Report of the Authority during the July 2025 session and bore no connection to the Appellant's case. The Board member affirmed their impartiality and emphasized that expressions of support for institutional processes are standard diplomatic practice.

47. By Order No. 15 (2025), dated 21 August 2025, the Chair rejected the Appellant's requests for disqualification of the Board member, finding no evidence of actual or apparent bias, and concluding that the Appellant's allegations were unfounded.

48. The full text of the Order is as follows:

Order No. 15 (2025)

Order on Request for Disqualification of a Board Member

Procedural background

1. On 4 March 2025, the Appellant submitted a Statement of Appeal before the Joint Appeals Board (the "JAB/Board") in accordance with Staff Rule 11.2 of the Staff Rules of the International Seabed Authority (the "ISA/Authority").
2. On 28 March 2025, the JAB Secretariat informed the Appellant that his appeals would be heard by the full Joint Appeals Board.
3. On 2 April 2025, the Appellant submitted a letter to the Chair of the JAB objecting to the decision that his appeal would be reviewed by the full Board. The Appellant contended that Rule 28 of the revised JAB Rules of Procedure (RoP) conflicted with Staff Rule 11.2(e), which requires that each appeal be considered by a three-member panel, and that the involvement of the full Board undermined the integrity of the proceedings. He further submitted that the Secretary-General's reshuffling of the JAB



gave rise to doubts as to impartiality and due process and identified certain members as potentially conflicted.

4. On 20 August 2025, the Appellant submitted a follow up letter to the Chair of the JAB, noting that no response had been provided to his disqualification request of 2 April 2025. He drew attention to remarks made by a [Board member] during the 30th session of the ISA Council on 17 July 2025, in which [they] expressed support for the Secretary-General, and submitted that these remarks could raise concerns regarding impartiality.

5. The Appellant also noted procedural questions arising from the Chair's decision to refer the Appeal to the full Board, observing that the default disqualification procedure under Staff Rule 11.2(e)(iii) and the RoP does not specifically address full Board proceedings. He further submitted that it was unclear which member, under the present circumstances, would be able to consider the disqualification request.

6. The Appellant further indicated that, in an email dated 16 July 2025, the Secretary of the JAB had stated that issues regarding panel composition would be addressed in the judgment. He submitted that, consistent with established practice of the UNDT and UNAT, matters relating to panel composition are generally resolved by order prior to consideration of the merits and requested that his motions concerning the disqualification of certain members, as well as concerns regarding the full Board review, be addressed before adjudication of the Appeal.

7. In response to the [JAB], the [Board member] clarified that the intervention was delivered in [their] capacity as Head of Delegation of [their Country], was part of a broader statement supporting the Chair of the Finance Committee, thanking the Chair of the Committee for the report, and addressing the report's contents. [They] stated that [they] did not focus on appointments or matters related to the appeal and that expressions of support for institutional work are standard in diplomatic proceedings.

8. Pursuant to Rule 26.1 of the Revised RoP, the decision on recusal requests rests with the Chair of the Board. Consistent with jurisprudence, including para. 32 of *Aysha Al-Rifai 2022-UNAT-1240*, such decisions are to be rendered separately and prior to any ruling on the merits.

Applicable Legal Framework

9. Rule 26(4) of the JAB RoP defines conflict of interest as “any factor that may impair or reasonably give the appearance of impairing the ability to decide independently and impartially on an appeal.” A member with a conflict shall recuse themselves, failing to do so the Chair may decide on disqualification. This



requirement of impartiality is in accordance with the UNAT rulings to preclude bias and retain the principle of impartiality (See Al-Rifai 2022-UNAT-1240, para. 28).

10. It is a well-established principle that adjudicators must withdraw from a matter where impartiality may reasonably be questioned (*Varnet v. UNESCO*, ILOAT Judgment No. 179; *Finnis* 2014-UNAT-397, para. 22; *Savadogo* 2016-UNAT-642, para. 48). The test is whether “a fair-minded and informed observer, having considered the facts, would conclude that there is a real possibility of bias” (*Masri* 2016-UNAT-626, para. 21).

Analysis

11. The core issue is whether the [Board member’s] expression of “full support” to the Secretary-General, in the context of a Council meeting, would lead a reasonable and informed observer to conclude that there is a real possibility of bias in adjudicating the Appellant’s appeal.

12. It is undisputed that the statement in question was made while the [Board member] was acting as [their Country’s] Head of Delegation, speaking on behalf of [their] government during formal Council deliberations. Such interventions are part of the diplomatic function of national representatives.

13. There is nothing in the applicable framework that prohibits an active diplomat from being appointed in their personal capacity, from serving as a JAB member, provided they can act independently and impartially. The decision to appoint such individuals is a policy matter beyond the JAB’s mandate to review.

14. The Appellant’s allegation of bias is based solely on the cited generic phrase of “full support” and does not point to any conduct by the [Board member] in their role as a JAB member that would indicate personal prejudice or predisposition in this case.

15. In an overturned case, involving a judge who “has erred previously” even in the same case, the UNAT ruled that it was “not alone a ground to disqualify that same judge from deciding other issues in or the remainder of the case” (See *Nigam* 2024-UNAT-1446, para. 19).

16. Furthermore, the [Board member], who was elected by the staff before the recomposition of the Board in 2025, explained that their remarks were part of a longer statement covering procedural and substantive points unrelated to the Appellant’s case and did not address personnel appointments at issue in the appeal.



17. The Chair further notes the Appellant's allegations concerning the [Board member's] participation in a previous case. These claims are unfounded, as the decision on intervention was taken collectively by the panel and not by them individually. The reference to alleged actions in that case pertains to matters outside the scope of the present appeal and does not establish any lack of independence or impartiality. Accordingly, these arguments cannot justify disqualification.

18. The impartiality of all JAB members is presumed unless proven otherwise. On the evidence before the Chair, there is no objective basis to conclude that the Board member's ability to decide the appeal independently and impartially is impaired, or that there is a reasonable appearance of such impairment.

19. Having considered the Appellant's submissions, the [Board member's] clarification, and the applicable legal standards, the Chair finds that the circumstances do not meet the threshold for disqualification under Rule 26(4). The JAB retains its jurisdiction to hear and decide the Appellant's appeal with its current composition.

ORDER

20. For the aforementioned reasons, the Appellant's request for disqualification of a [Board member] is REJECTED; and

21. The Appellant's remaining submissions, including his letter of 2 April 2025, will be addressed in the final judgment in the case of *Giovanni Ardito v. Secretary-General of the ISA*.

Order dated 21st day of August 2025

49. On 1 September 2025, the Respondent submitted a consolidated reply addressing the Appellant's submissions of 14 and 19 August 2025.

50. By Order No. 17 (2025), dated 10 September 2025, the Chair admitted the additional documents submitted by the Appellant into the record, without prejudice to their evidentiary value, and emphasized that no further submissions or evidence would be accepted unless leave was formally requested and granted, in accordance with Rule 18 of the Revised RoP and relevant United Nations Appeals Tribunal ("UNAT") provisions.

51. The full text of the Order is as follows:



Order No. 17 (2025)

Order regarding the submission of additional evidence

1. The present Order concerns the letters dated 14 and 19 August 2025 by which the Appellant requested the Joint Appeals Board (“JAB”) of the International Seabed Authority (“ISA”) “to adduce (...) New Evidence to the record” in connection with his statement of appeal submitted on 4 March 2025 in accordance with Staff Rule 11.2 of the ISA.

2. On 15 and 19 August 2025, the Secretary of the JAB transmitted the Appellant’s first submission to the Respondent, setting a deadline for a reply by 1 and 8 September 2025 respectively.

3. The Respondent submitted a consolidated reply on 1 September 2025, addressing both submissions.

4. The receipt of additional evidence before the JAB is governed by **Rule 18 of the Revised Rules of Procedure of the JAB**, which provides that proceedings shall normally be limited to the statement of appeal and the respondent’s reply, but the Panel may exceptionally accept additional submissions or request further evidence. This provision reads, in relevant part:

(a) In addition to the Statement of Appeal and the respondent's reply thereto, the proceedings before a Panel shall normally be limited under Staff Rule 11.2(h) to "brief statements and rebuttals" which may be made either in writing or orally. The Panel may accept additional written or oral submissions from the parties. The Panel may request the production of additional material and evidence or oral statements. The time-limit for written submissions by either party shall generally be no more than two weeks.

(b) Additional written submissions shall be limited so as to avoid repetition of previously presented information and shall be made in accordance with stipulated time-limits.

5. By analogy, the practice within the United Nations internal justice system confirms that no additional submissions or evidence shall be admitted unless leave is formally requested and granted. In this regard, the following provisions are relevant: (i) **Rule 18 of the Revised JAB Rules of Procedure**, on additional submissions; (ii) **Article 2(5) of the UNAT Statute**, on the admission of additional evidence in exceptional circumstances; (iii) **Article 10 of the UNAT Rules of Procedure**, on the admission of additional documentary evidence in exceptional circumstances; and (iv) **Section II.A.3 of UNAT Practice Direction No. 1**, which



requires exceptional circumstances and the authorization of the Tribunal for motions to file additional pleadings.

6. The JAB is guided by UNAT jurisprudence in ensuring procedural efficiency. In *Mousa*, the UNAT found that the additional documentary evidence presented on appeal was inadmissible as the Appellant had failed to seek leave to present such additional evidence as he was required to pursuant to Article 2(5) of the UNAT Statute (*Mousa* 2021-UNAT-1151, para.30). The purpose of producing evidence is to substantiate facts genuinely at issue between the parties, and the production of additional evidence is only required when a fact is relevant and disputed. The UNAT has consistently held that additional evidence may only be admitted in *exceptional circumstances* and upon prior leave of the Tribunal. (see *Harris UNAT-Order 320 (2018)*, para.8; *Hazem El-Mussader UNAT-Order 442 (2022)*, para.7; *Surendra Bista UNAT-Order 552 (2024)*, para.10; *Abdellaoui 2019-UNAT-929*, para.29; *El-Awar 2019-UNAT-931*, para.27; *Muc UNAT-Order 36 (NY/2021)*, para.4).

7. The JAB recalls that pursuant to Rule 18(2) of the Revised JAB ROP, “Additional written submissions shall be limited so as to avoid repetition of previously presented information and shall be made in accordance with stipulated time-limits.”

8. From the two submissions filed by the Appellant together with their annexes, the JAB notes that the Appellant essentially maintains that the Respondent has, throughout these proceedings, made submissions and allegations aimed at justifying the withdrawal of his letter of appointment, in order to preserve another post within the Secretariat.

9. The documents submitted by the Appellant are therefore admitted to the record as additional material. However, the present Order does not contain any finding on their evidentiary value, which remains for the JAB to assess in its final judgment.

10. For the sake of procedural clarity, it is emphasized that no further additional submissions or evidence will be accepted unless a prior request is made and leave is expressly granted by the Chair, in accordance with the applicable rules and practice.

Order

11. **IT IS HEREBY ORDERED** that

a) The documents submitted by the Appellant shall form part of the record without prejudice to the JAB’s assessment of their relevance or probative value at the stage of the final Judgment.

b) As the Respondent has already filed her reply, no further additional evidence or submissions shall be admitted from either Party unless leave is formally requested from and granted by the Chair.



c) This practice is in line with Rule 18 of the JAB Revised Rules of Procedure, Article 2(5) of the UNAT Statute, Article 10 of the UNAT Rules of Procedure, and Section II.A.3 of UNAT Practice Direction No. 1.

12. This Order is issued to ensure compliance with the governing rules, maintain procedural efficiency and to preserve the integrity of the proceedings.

Order dated this 10th day of September 2025

Summary of the Appeal

52. The Appellant challenges the administrative decision dated 2 January 2025, by which the Respondent withdrew his LoA issued on 17 December 2024 for the Policy and Planning Officer (Capacity Development) at the P-3 level. He contends that the contested decision was unlawful, as it purported to terminate a mutually binding contract with an employee against the principle of *pacta sunt servanda*.

53. He submits that the contested decision is contrary to the letter and the spirit of the 1982 United Nations Convention on the Law of the Sea, the ISA Staff Regulations and Rules, and irreconcilable with United Nations Dispute Tribunal (“UNDT”) and UNAT jurisprudence.

54. The Appellant also claims that the Respondent “identified a non-existent technique (“withdrawal”) as the means by which the separation from service was intended to be effectuated”.

55. The Appellant submits that following his acceptance and countersignature dated 18 December 2024 of the LoA, a valid contract of employment came into effect on 1 January 2025. He maintains that the LoA and subsequent communications from the ISA constituted the terms of his appointment, and that his acceptance was unconditional and in full compliance with all pre-recruitment requirements.

56. Additionally, the Appellant also claims that the contested decision was taken in breach of due process and caused both material and moral harm.

Relief Requested

57. The Appellant seeks the following remedies:



- (a) Rescission of the contested decision and his reinstatement as a staff member of the Authority;
- (b) In the alternative, compensation in lieu of rescission in the amount of USD217,000 as compensation for lost remuneration;
- (c) Compensation for moral damages in the amount of USD50,000;
- (d) 30 days of daily subsistence allowance at the applicable rate for Kingston, Jamaica;
- (e) Reimbursement of the expenditures related to the duty assessment for his diplomatic vehicle in the amount of JMD497,431.81; and
- (f) Legal costs to be determined at the end of the proceedings.

Summary of the Respondent's Reply

58. The Respondent submits that the appeal is not receivable *ratione personae*, as the Appellant was no longer a staff member of the Authority following his separation on 31 December 2024, and that the purported LoA of 17 December 2024 was issued *ultra vires* by the former Secretary-General, rendering it void *ab initio*.

59. The Respondent contends that the Appellant therefore lacked standing to challenge the decision before the JAB, as no valid employment relationship or “quasi-contract” was ever formed. The Appellant neither entered duty nor fulfilled pre-appointment conditions such as reference checks or medical clearance.

60. The Respondent submits that the contested decision was lawful. The “Secretary-General, in her capacity as Chief Administrative Officer of the ISA, acted appropriately and within her authority to rectify legal errors, by withdrawing the Appointment Letter that was unlawfully issued to the Appellant.”

61. The Respondent asserts that “The Secretary-General exercised her discretion in a manner commensurate, individually and cumulatively, with the JAB Decision and her duty to rectify (...) unlawful actions.”

62. Finally, the Respondent maintains that the Appellant has not demonstrated an error, nor that he is entitled to the relief sought.



Applicant's Comments on the Respondent's Reply

63. In his comments on the Respondent's reply on 6 June 2025, the Appellant reiterates that the "majority of the arguments made by the Secretary-General in support of the Purported Withdrawal rest on an alleged divergence of views with the former Secretary-General." He outlines that, although "it is true that in August 2024 she (the Respondent) was elected Secretary-General of the Authority, her tenure only started, as per related Assembly decision, on 1 January 2025. As a consequence, between August and December 2024 she was not the chief administrative officer of the organization and could not take any decision or action capable of legally binding the Authority."

Respondent Further Comments

64. In her additional comments on the Appellant's comments on 7 July 2025, "the Respondent maintains that the Appeal should be unequivocally rejected due to lack of standing. The Appellant is neither a current nor a former staff member linked to the disputed P-3 Policy and Planning Officer post, which renders the claim inadmissible *ratione personae*. Furthermore, (...) the Respondent maintains that the decision in question is not only lawful but also prudent. The Secretary-General, in her capacity as Chief Administrative Officer of the ISA, has rightly exercised her authority to rectify a legal oversight by rescinding the improperly issued Appointment Letter to the Appellant."

Considerations of JAB

Preliminary Matter: Disqualification of the Full Board

65. By letter dated 28 March 2025, the JAB Secretariat informed the Appellant that his appeal would be heard by the full Board. The letter explained that, upon preliminary review, the appeal raised issues substantively similar to other appeals currently pending before the JAB, particularly regarding the context and nature of the compensation sought. In order to ensure consistency in decision-making and to avoid potential conflicting outcomes, the Chair of the JAB, acting in accordance with Rule 28 of the Revised RoP of the JAB and established practices of other international tribunals, determined that the appeal should be considered by the full Board.



66. On 2 April 2025, the Appellant objected to the full-Board referral and sought the disqualification of the Board's members. He argued that under Staff Rule 11.2(e)(i), each appeal must be adjudicated by a three-member panel (a Chair, a member appointed by the Secretary-General and a member elected by the staff) and that the full-Board referral was therefore procedurally irregular. He also challenged the legitimacy of the January 2025 reshuffle of Board members and alleged conflicts of interest affecting certain members.

67. The Board observes that requests for disqualification constitute preliminary matters and must be addressed before consideration of the merits. In assessing such requests, the Board applies the principles of impartiality and independence, taking into account both actual bias and the appearance of bias, while balancing the interest of efficient administration of justice.

68. The Board notes that, in the present case, the appeal is being considered by the full composition of the Board. This approach reflects both the significance of the issues under review and the Board's concern to ensure collective responsibility in its determinations.

69. With respect to the procedural objection concerning Staff Rule 11.2(e) and the constitution of the Board, the Board notes that, while Staff Rule 11.2(e)(i) provides that appeals are ordinarily to be heard by a three-member Panel, this Rule must be read together with Staff Rule 11.1(e), which authorizes the Board to establish its own rules of procedure. Pursuant to this authority, Rule 28 of the Revised RoP expressly provides that, when the Chair, or any two members sitting on a particular Panel, consider that the appeal so warrants, the case shall be heard by the full Board. This framework is consistent with the Staff Rules, which do not preclude the hearing of cases by the full Board.

70. With respect to the allegation of a conflict of interest arising from the reshuffling of Board members in January 2025, the Board observes that no objective evidence on the record demonstrates that any member appointed after that date has a direct personal or financial interest in the outcome of this appeal. While the Appellant raises concerns regarding the legality of the appointment of these members, the Board is satisfied that these concerns do not, on their own, disqualify the members from participating in the appeal.

71. With respect to the Appellant's objections to individual members, the Board finds no evidence on the record demonstrating that any member appointed before/after January 2025



has a personal or financial interest in the outcome of this appeal or is otherwise disqualified. Allegations based solely on prior institutional roles, prior advocacy or generalized concern about a reshuffle are insufficient. Disqualification requires more than speculative doubts; it requires objective grounds of bias or conflict of interest.

72. Having reviewed the Appellant's grounds, and in the absence of any credible indication of actual or reasonably apprehended bias, the Board rejects the request for disqualification of the members of the Board and confirms that the Board is properly constituted to hear this appeal.

Preliminary Matter: Full Board Composition Justification

73. The Board recalls that, in the present case, the judgment was deliberated upon and adopted by the full composition of the Joint Appeals Board. This approach reflects both the significance of the issues under review and the Board's concern for ensuring collective responsibility in its determinations.

74. In the present circumstances, the pending appeals share significant similarities, both in their factual context and in the nature of the remedies sought. Referring these cases to the full Board avoids the risk of divergent conclusions by different Panels and promotes consistency, coherence, and procedural efficiency. Moreover, the practice of referring complex or precedent-setting cases to a full bench is well established in other international administrative tribunals, reinforcing the legitimacy of this approach. Accordingly, the referral of the Appellant's case to the full Board was justified and fully in line with the applicable Staff Rules and the Revised RoP.

Preliminary Matter: Deadline for the Respondent's Reply

75. By letter of 25 March 2025, the Appellant contested the Chair's decision that the Respondent's reply was due by 23 April 2025, arguing that, under Staff Rule 11.2(g), the one-month period began on 7 March 2025, when the JAB Secretariat first downloaded his appeal and made it accessible to the Respondent via a shared folder. He therefore maintained that the Respondent should be entitled to submit a response within one month from 7 March 2025.

76. The Board notes that on 7 March 2025, following receipt of the Appellant's 4 March filing, the JAB Secretariat informed him that the Rules of Procedure had been revised with



effect from 4 March 2025 and that, should he wish, he was afforded until 7 April 2025 to supplement his appeal in accordance with the Revised RoP. The Appellant did not file a resubmission; rather, he expressly reserved his right to supplement his appeal as appropriate.

77. The Board further observes that, by correspondence dated 13 March 2025, the JAB Secretariat requested the Appellant to verify that all components of his submission including his statement of appeal, evidence, and annexes were correctly uploaded to the dedicated shared folder accessible to the parties and the Secretariat, and invited him to advise if any material was missing or required supplementation before the 7 April 2025 deadline. These steps were taken to ensure completeness and accuracy of the case record.

78. On the same day, on 13 March 2025, the Appellant confirmed that the files contained in the shared folder were complete. On 14 March 2025, the Chair invited the parties to consider conciliation in accordance with Staff Rule 11.2(b) and Rule 9 of the Revised RoP. The parties were granted five working days, until 21 March 2025, to state their positions. The Appellant expressed conditional willingness to participate; the Respondent declined. The conciliation phase therefore concluded on 21 March 2025.

79. On the next working day, 24 March 2025, following the closure of the conciliation window, the JAB Secretariat formally notified the Respondent of the operative appeal and invited her to file a reply within one month, in accordance with Staff Rule 11.2(g). This resulted in a reply deadline of 23 April 2025, which was correctly calculated from the date of formal notification, not from any earlier technical access to documents.

80. The Board recalls that under Staff Rule 11.2(g), the one-month period for the Respondent's reply is initiated by formal transmission of the appeal, not by incidental or preliminary access to materials. Since formal notification occurred on 24 March 2025, the Respondent's reply due on 23 April 2025 was timely. The Appellant's objection concerning the deadline is therefore rejected.

Preliminary Matter: Requests for Disclosure of correspondence

81. On 23 May 2025, the Appellant wrote to the Respondent requesting disclosure of additional correspondence referenced or implied in the Respondent's reply to his appeal dated 23 April 2025. He sought access to any further written exchanges between the Respondent, the



former Secretary-General, and senior Secretariat officials concerning ongoing recruitment processes between August 2024 and 2 January 2025, asserting that such disclosure was necessary to ensure equality of arms and to allow him to respond fully to the reply.

82. The Board notes that the Respondent has provided comprehensive submissions and annexes supporting the contested decision. The Appellant has had the opportunity to comment on all materials relied upon, and there is no indication that any undisclosed document would materially affect the legal or factual issues under review.

83. In accordance with established principles of procedural fairness and proportionality, the Board finds that additional disclosure is not warranted in this case, as the Appellant has already had full access to the materials necessary to contest the decision effectively.

84. Accordingly, the Board denies the Appellant's requests for additional disclosure.

Issues for Determination

85. The JAB is called upon to determine the following issues:

- (a) The receivability of the appeal.
- (b) Whether the Respondent's decision of 2 January 2025 withdrawing the LoA was lawful and properly reasoned, in accordance with the Staff Regulations and Rules of the Authority;
- (c) Whether the contested decision respected the Appellant's rights to due process and legitimate expectation; and
- (d) Whether the Appellant is entitled to any of the remedies sought, including rescission, reinstatement, or compensation for material and moral damages.

Scope of the Board's Mandate and Inherent Power to Award Compensation

86. Before turning to the main issues under consideration, the Board recalls that its consideration of appeals is undertaken pursuant to Staff Rule 11.1(e) and the Revised RoP of the JAB, effective March 2025. Under this framework, the Board plays a key role in ensuring the fair and consistent application of the Staff Regulations and Rules of the Authority and in providing an impartial mechanism for the settlement of employment-related disputes.



87. Rule 32 of the Revised RoP provides that the Board “shall consider and decide the appeal.” The use of the term “decide” reflects the Board’s conclusive authority to determine matters properly before it and, where appropriate, to pronounce upon remedies in accordance with applicable rules and principles of international administrative law.

88. Accordingly, the Board affirms that, in the exercise of its adjudicative functions, it retains an inherent power to award compensation where necessary to achieve justice and give full effect to its determinations. This authority flows naturally from the Board’s mandate to ensure effective redress, protect legitimate expectations, and uphold the principles of good administration, even where such powers are not explicitly enumerated in the Revised RoP.

89. However, the Board notes that, as the Staff Rules and the Revised RoP do not expressly confer the power to award monetary compensation, such authority must be exercised with limitations and in accordance with the standards developed by international administrative tribunals. In line with UNAT and UNDT jurisprudence any award of compensation must be justified by a proven breach of the staff member’s rights. The Board therefore does not exercise unlimited power but acts within the limits of reasonableness, proportionality, and established legal standards.

90. In exercising this remedial power, the Board is guided by the principle of proportionality, ensuring that any compensation granted corresponds to the extent of harm established, while also reflecting the overall financial and organizational context of the Authority. In the present case, the Board has taken note of the Authority’s transitional staffing and budgetary circumstances, as evidenced in the joint IoM of 13 December 2024 and the Biennial Budget Performance Report of 16 December 2024 (Respondent’s reply, Annex X), when assessing the appropriate quantum of compensation.

91. The Board will now proceed to apply this framework to the issues raised by the parties, including receivability, legality, due process, legitimate expectation, and remedy.

Receivability of the appeal

92. In determining the receivability of the present appeal, the Board must be satisfied that the Appellant has standing to bring the matter before it (*Fakhouri* 2025-UNAT-1577, para. 465). Under Staff Rule 11.2(a), only staff members may initiate an appeal; however, consistent



with established jurisprudence of the UNAT, this right extends to individuals whose contractual or administrative relationship with the Organization gives rise to a direct legal interest in the contested decision. In *di Giacomo* 2012-UNAT-249, para. 20, the UNAT “has recognized that access to the new system of administration of justice could be extended to a person who is not formally a staff member but who could legitimately be entitled to rights similar to those of a staff member.” (See also *Gabaldon* 2011-UNAT-120, para 29-30).

93. The Appellant previously served the Authority until 31 December 2024. On 17 December 2024, an LoA for the post of Policy and Planning Officer (Capacity Development) was issued to him, which he duly accepted and countersigned on 18 December 2024. The contested decision withdrawing this LoA was subsequently issued on 2 January 2025.

94. The full text of the contested decision refers to “procedural irregularities” in the recruitment, “fiscal responsibility,” and “efficiency” as the reasons for withdrawing the LoA that had been issued and accepted. It is as follows:

Dear Appellant,

I am writing to you regarding the letter of appointment with effective date of 1 January 2025 for the position of Policy and Planning Officer (Capacity Development) P3 which was issued to you by the former Secretary-General.

Upon a thorough review of our recruitment processes, it has come to our attention that the selection process for this position did not adhere to the established staff selection system and practices. Furthermore, in alignment with our ongoing commitment to fiscal responsibility and efficiency, as well as ISA's human resource objectives for 2025, we must carefully assess our staffing commitments in light of the current financial situation.

In light of these considerations, I regret to inform you that we are unable to proceed with the completion of the onboarding procedures for this position. As such, the letter of appointment previously issued to you by the former Secretary-General is hereby withdrawn.

Please rest assured that this decision is based solely on organizational and financial considerations and in no way reflects upon your qualifications or suitability for the role. Additionally, should the position be re-advertised in the future, you will automatically be shortlisted without the need to reapply.

We sincerely appreciate your interest in the ISA and encourage you to consider applying for other opportunities with us.



Should you have any comments or concerns, please do not hesitate to contact our Human Resources Office within 10 calendar days.

I sincerely regret any inconvenience this decision may cause and greatly appreciate your understanding.

Yours sincerely,

(signed)

Secretary-General

INTERNATIONAL SEABED AUTHORITY

95. The Respondent contends that, because the Appellant's appointment had expired prior to the date of the contested decision and he had not yet entered into service under the new LoA, he was not a staff member at the material time and therefore lacks standing *ratione personae*.

96. The Board recalls that the scope of receivability under Staff Rule 11.2 must be interpreted in light of the purpose of the internal justice mechanism, namely, to safeguard the rights of individuals whose contractual or administrative relationship with the Organization is directly affected by an administrative decision. The UNAT has consistently held that an individual who has accepted a duly signed offer of appointment possesses a sufficient legal interest to challenge its subsequent withdrawal (See *Gabaldon* 2011-UNAT-120, para.28).

97. Applying those principles, the Board finds that the Appellant, by virtue of his acceptance of the LoA on 18 December 2024, had established a legally cognizable relationship with the Authority. The withdrawal of that LoA directly affected his prospective employment rights and therefore constitutes an administrative decision within the meaning of Staff Rule 11.2.

98. Accordingly, the Board concludes that the appeal is receivable *ratione personae* and *ratione materiae*.

Merits of the Appeal

Distinction between Legal Validity and Policy Convenience

99. The first issue concerns whether the Respondent's decision constituted an unlawful rescission of a valid appointment or a lawful withdrawal justified by organizational necessity and fiscal prudence.



100. The Appellant maintains that the decision was based on policy considerations rather than legality and therefore lacked a lawful foundation. He points out that the Respondent's own *Aide-Mémoire* of 2 January 2025 described the recruitments made under her predecessor as "procedurally compliant," indicating that no rule had been violated.

101. The Respondent, by contrast, submits that the withdrawal was a lawful administrative act, taken under Staff Regulation 4.5, which grants the Secretary-General full discretion over staff appointments and their withdrawal, especially when organizational needs or financial conditions so require.

102. The JAB recalls that it is "not conducting a merit-based review, but a judicial review. Judicial review is more concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision-maker's decision." (*Sanwidi* 2010-UNAT-084, para. 42).

103. A decision may be annulled if it is unlawful, procedurally defective, or manifestly unreasonable, but not merely because a different policy might have been preferable.

104. This limitation has been repeatedly affirmed in international jurisprudence. *Andronov* United Nations Administrative Tribunal Judgment No. 1157 (2003) held that judicial review is confined to the legality, not the advisability, of administrative decisions; *Sanwidi* 2010-UNAT-084, para. 42 emphasized that tribunals must not substitute their judgment for that of the administration unless there is illegality, procedural irregularity, or manifest unreasonableness. *Wasserstrom* UNAT-2011-107) confirmed that tribunals cannot review the "merits" or "wisdom" of managerial decisions; *Webster* UNAT-2020-983) reiterated that the ISA's JAB is limited to assessing legality and procedural regularity.

105. The distinction between revocation of lawful acts for reasons of convenience, producing *ex nunc* effects, and annulment of unlawful acts for reasons of legality, producing *ex tunc* effects, is also fundamental. Once an appointment has been notified and accepted, it creates legitimate expectations protected under the principle of legal certainty. The administration's power to revoke such an act is therefore restricted and must be justified by an overriding public interest, with appropriate compensation where individual reliance has occurred.



106. The Board accepts that fiscal responsibility and budgetary control fall squarely within the Respondent’s managerial discretion and constitute legitimate grounds for revisiting pending appointments. A decision motivated by fiscal necessity and organizational realignment is, in principle, reasonable and lawful, provided it is not arbitrary or tainted by improper motive.

107. The fact that the Respondent decided to withdraw the LoA due to, *inter alia*, “procedural irregularities”, but later acknowledged the recruitment to have been “procedurally compliant” does not, in itself, render the decision unlawful. The apparent inconsistency between deciding on withdrawal and acknowledging procedural compliance is explained by the distinct basis of the decision: it was not the legality of the recruitment process that motivated the action, but the financial and structural implications of proceeding with the appointment. Accordingly, this inconsistency is inconsequential to the legal outcome.

Failure to Heed Internal Advice

108. The Board notes that the Joint IoM dated 13 December 2024, issued by the Director of OAS, the Human Resources Officer, the Finance Officer and the Budget and Oversight Officer, requesting the former Secretary-General to halt all ongoing and pending recruitments, citing procedural deficiencies and financial risk was not considered by the former Secretary-General.

109. The IoM reads as follows:

INTEROFFICE MEMORANDUM

TO: [Former Secretary-General]

From: As signed

Date: 13 December 2024

SUBJECT: Concerns over the recruitments

1. Meetings were called by the Director of the Office for Administrative Services on 11, 12 and 13 December, to include relevant heads of units on 12 December 2024, to discuss the Administrative, Human Resources, financial and budgetary implications of the ongoing recruitments for the year 2024 & 2025.
2. We (participants of the meeting as signed to this Memo) note with serious concern over the decision of the Secretary-General to expedite the recruitment of 10 positions



(20 per cent of the Organization's workforce, and 30 per cent of international professional staff) within the remaining weeks of 2024. The approach taken raises significant issues for the Organization, including deviations from established recruitment process and practices, potential compromises in the quality of recruitment outcomes, and undue pressure placed on the Human Resources Officer and other supporting staff, who have been working excessively, including all weekends and nights from October 2024, under immense stress to meet unrealistic deadlines.

3. It is recalled that the Assembly authorized transfers within sections, subsections, and programmes up to 15%. Based on the most recent budget projections, the maximum transfer from sections 3 and 4 is US\$97K. However, this transfer does not reduce the overall over-expenditure on section 1 (General Administrative Fund), even with the potential savings in the overall budget and reversal from the ISA Cost Recovery fund. Importantly, the Assembly did not authorize using balances from the Enterprise budget to cover ISA account over-expenditures. Auditors may comment on and potentially qualify their opinion regarding these transfers.

4. Sending Letters of Offer in 2024 raises concerns under IPSAS, particularly IPSAS 19 (Provisions) and IPSAS 1 (Financial Statements). Under accrual accounting principles, liabilities and expenses must be recognized in the period they are incurred. Issuing such letters in 2024 might be considered as commitments for the same year. The current level of expenditure of the 2023- 2024 budget does not give space for additional commitment in the budgetary process, leading to improper forward recognition of obligations. This could result in financial misstatements and undermine transparency and accountability.

5. As per Financial Regulation 3.10, the Secretary-General may enter commitments for future periods only in special circumstances. Positions approved for 2025 do not fall under such provisions. Therefore, Letters of Offer for employment in 2025 should not be issued in 2024. Auditors may also comment on this issue and potentially qualify their opinion if liabilities for future periods are improperly recognized. Finally, the finance budget and IPSAS is to be taken into account as transparent and pure technical from administrative perspective.

6. While without any intention of undermining the authority of the current Secretary-General until 31 December 2024, we have to keep in mind and highlight the importance of equally respecting and not undermining the authority of the incoming Secretary-General from 1 January 2025, including her prerogative to re-structure the



Secretariat in accordance with her strategic priorities. This aligns with the precedent set when you undertook a similar restructuring upon assuming office in 2017. Proceeding with significant recruitments in less than one month prior to the incoming Secretary-General assumes her role from 1 January 2025, risks pre-empting her discretion and creating avoidable legal, operational, and financial complications and eventually undermining her authority to implement the mandate of the Organization within the approved budget.

7. Given these serious and careful discussions and considerations, keeping in mind the best interest of the Organization, we unanimously and firmly recommend the Secretary-General hold, from 13 December 2024, all pending and ongoing recruitment processes, as well as any associated travel and ticketing arrangements. This prudent measure ensures that the incoming Secretary-General can review the ongoing recruitments and determine the best course of action in line with her vision for the Organization.

8. In conclusion, this internal memorandum is presented strictly from a technical and professional perspective by the senior officers of the Office for Administrative Services. We strongly believe the recommendation above is made to safeguard the Organization's financial and operational integrity, ensure compliance with established rules and regulations, and support the incoming Secretary-General to fulfil the mandate of the Organization and set her strategic directions.

9. It is important to emphasize that this memorandum is not intended as an act of insubordination but rather as a constructive and prudent measure in the best interest of the Organization. We trust that the recommendation above will be understood in the professional and technical spirit in which they are presented, and we respectfully expect that no retaliation or misinterpretation will arise from this submission.

110. The former Secretary-General's email dated 17 December 2024 to the Chief of Staff and Head of the Strategic Planning Unit directing that "all letters of appointment for selected staff" be finalized that same day, including one as extrabudgetary demonstrates that the LoA was issued notwithstanding legitimate internal objections.

111. Moreover, the JAB observes that the LoA issued to the Appellant was set to take effect on 1 January 2025, a public holiday in Jamaica when the ISA was closed. This timing significantly undermines any assertion of a vested contractual entitlement or reliance interest.



Overriding Delegated Authority

112. The record indicates that on 17 December 2024, the former Secretary-General took the step of issuing the LoA notwithstanding the delegated authority of the Director of OAS to this effect. This suggests that the standard administrative clearance process was not followed in full. The Board views this as an element that reflected a departure from ordinary administrative practice, which affected the manner in which the LoA was issued.

113. As a result, the usual administrative chain of authority does not appear to have been fully observed, leading to the issuance of letters of appointments that would not otherwise have proceeded through the regular clearance process. This, in the Board's assessment, may indicate that the LoA was issued in a way that extended beyond established administrative discretion, thereby raising questions regarding its validity.

Transitional Context and Managerial Discretion

114. The Board notes that the decision occurred in the context of a leadership transition, during which the Respondent sought to assess staffing commitments against the Authority's budgetary situation and strategic direction. Transitional phases of leadership naturally involve policy adjustments, and such review is not inherently unlawful when exercised transparently and in the interest of the organization.

115. As the UNAT observed in *Sanwidi* 2010-UNAT-084, para. 42, managerial discretion must be afforded deference unless there is evidence of illegality, procedural irregularity, or manifest unreasonableness. The exercise of discretion in this case was grounded in and documented in the IoM of 13 December 2024 and financial constraints (as evidenced by the biennial budget performance report of 16 December 2024 reporting a shortfall of USD460,000) and the legitimate need to re-evaluate staffing levels.

116. The Board therefore finds that the Respondent's decision was reasonable, proportionate, and made in good faith. There is no evidence that the decision was motivated by bias, arbitrariness, or ulterior purpose.



Binding Nature of the Letter of Appointment

117. ISA Staff Rule 4.1 provides that “the letter of appointment granted to every staff member contains expressly or by reference all the terms and conditions of employment.” Under Staff Regulation 4.5, the Secretary-General holds the authority to appoint staff, but this authority must be exercised consistently with the rules and principles governing administrative acts.

118. The Appellant argues that the LoA, once signed and accepted, created a binding administrative relationship, protected by *pacta sunt servanda*. The Respondent contends that the LoA was an unperfected offer, pending final clearances, and could thus be withdrawn before the Appellant entered service.

119. The jurisprudence of international administrative tribunals supports the Appellant’s position. The issuance and mutual acceptance of a duly signed LoA established an inchoate yet binding legal commitment (*Badawi* 2012-UNAT-261, para. 28; *El-Khatib* 2010-UNAT-029, para. 16; *Sprauten* 2011-UNAT-111, para. 23; *Gabaldon* 2011-UNAT-120, para. 22; *Jarallah* 2022-UNAT-1296, para. 44). However, this does not deprive the administration of its right to withdraw the offer before service begins, when legitimate organizational reasons exist.

120. Accordingly, the Board finds that the Respondent’s withdrawal was not a termination but a revocation before entry into service, an act permissible under the principles of administrative international law. Such withdrawal produces only prospective (*ex nunc*) effects, provided it is based on lawful grounds and does not retroactively annul rights already vested.

Reasoning and Due Process

121. While the Respondent has discretion to cancel recruitment for legitimate organizational reasons, such discretion is not unfettered. International jurisprudence (*Sanwidi* 2010-UNAT-084, para. 40; *Benchebbak* 2014-UNAT-438, para. 19; *Balan* 2014-UNAT-462, para. 25; *Cobarrubias* 2015-UNAT-510, para. 19; *Karseboom* 2015-UNAT-601, para. 43; *Kule Kongba* 2018-UNAT-849, para. 27) requires that such decisions be based on objective, verifiable grounds and comply with principles of good faith and proportionality.

122. In this regard, the Board notes that, while the decision was lawfully taken, the reasoning provided in the withdrawal letter was brief and couched in general terms. References to “fiscal



responsibility” and “efficiency” reflect legitimate organizational concerns but do not specify the financial data or administrative findings underpinning the decision.

123. Although this lack of specificity amounts to a deficiency of reasoning, it does not invalidate the decision. It is well settled that “[m]anagerial decisions should be sustained provided that they are free from invidious or improper motivations and are based upon the exercise of reason and proper judgment” (*El-Awar* 2019-UNAT-931, para. 34).

124. In the context of a managerial reassessment undertaken in good faith and supported by contemporaneous documentary evidence as mentioned above, the requirement of reasonableness is satisfied.

125. The Appellant was duly informed of the decision and afforded the opportunity to seek administrative review. The process therefore complied, in substance, with due process requirements, even if the reasoning could have been more explicit.

Legitimate Expectation and Remedy

126. The Appellant, having received and accepted a duly signed LoA, developed a legitimate expectation that he would assume his post. The subsequent withdrawal, though lawful, undeniably caused disappointment and some degree of disruption. International jurisprudence recognizes that legitimate expectations created in good faith warrant protection through appropriate and proportionate reparation when they are frustrated (*Wang* 2011-UNAT-140, para. 66; *Jarallah* 2022-UNAT-1296, para. 51).

127. However, compensation must correspond to the extent of actual harm. The Appellant did not commence service, receive salary, or make irreversible financial commitments. Consequently, the Board cannot grant the two years’ salary claimed, as this would effectively equate to reinstatement and nullify a valid discretionary act.

128. Nevertheless, the Board accepts that the Appellant experienced material inconvenience and loss of professional opportunity arising from reliance on the appointment. Such harm, though limited, merits recognition. In line with established jurisprudence (*Wu* 2010-UNAT-042; *Messan* 2017-UNAT-802), the Board finds that compensation equivalent to three months net base salary at the P-3 level constitutes fair and adequate redress.



129. In light of the foregoing, the Board finds that while the Respondent's decision to withdraw the Appellant's LoA was a reasonable exercise of managerial discretion, grounded in fiscal responsibility and organizational necessity, it nonetheless gave rise to legitimate expectations on the part of the Appellant, who had accepted an offer of employment in good faith. The decision's lawfulness and proportionality do not extinguish the duty of the Administration to act consistently with the principles of good faith and legal certainty.

130. The Appellant's reliance on the appointment, although not culminating in service, justifies an award of limited compensation for the material inconvenience suffered, but not for reinstatement or damages equivalent to the full term of the contract sought. Such remedy strikes a fair balance between the Authority's right to manage its staffing in a time of fiscal restraint and the individual's right to the protection of legitimate expectations.

JUDGMENT

131. The Joint Appeals Board **DECIDES** that,

- a. The Appeal is receivable and granted in part.
- b. The Respondent shall pay the Appellant compensation equivalent to three months net base salary at the P-3 level, as material compensation of the withdrawal of the LoA.
- c. Payment shall be made within 60 days of notification of this decision, failing which interest shall accrue at the United Nation's applicable rate until payment is effected.

132. All other claims are rejected.

Dated 13 January 2026

Judge Martha Halfeld Furtado de Mendonça Schmidt

Chair, Joint Appeals Board



Georgina Guillén Grillo
Member, Joint Appeals Board

Jiefang Huang
Member, Joint Appeals Board

Johnny Ibrahim
Member, Joint Appeals Board

Abena Kwakye-Berko
Member, Joint Appeals Board

Courtney Maxwell
Member, Joint Appeals Board

Helmut Tuerk
Member, Joint Appeals Board