



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/111
Order No.: 201 (NBI/2025)
Date: 22 October 2025
Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

ELZORBA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Wambui Kahama-Bernard, UNEP

Introduction

1. The Applicant is the Executive Secretary of the United Nations Science-Policy-Business Forum on the Environment (“UN-SPBF”), situated within the Industry and Economy Division (“IED”) of the United Nations Environment Programme (“UNEP”). The Applicant is on a permanent appointment at the P-5 level.
2. On 13 October 2025, she filed an application for suspension of action (“SOA”) of what she describes as the “retaliatory decision to reclassify my P-5 post and exclude me from the Comparative Review Process (CRP) under the downsizing policy; and to proceed in bad faith with a flawed CRP process despite multiple objections under paragraph 6’s [of a UNEP Executive Director memorandum dated 30 September 2025] narrowed ‘interchangeability’ scope and an irregular SMG [Staff management Group] composition.”
3. The Respondent filed a reply to the SOA application on 16 October 2025.
4. On 17 October 2025, the Applicant filed a rejoinder to the reply.

Facts

5. On 21 February 2025, the Executive Director, UNEP (“ED/UNEP”) informed UNEP’s Senior Management Team (“SMT”) that UNEP was “proactively implementing temporary measures to address uncertainties in the global financial landscape and their potential impact on [UNEP’s] budget.” These measures entailed:
 - a. All job openings for positions of one year or longer (excluding RB positions) will be advertised as FTA-limited. Please be reminded that UN Secretariat staff members (including UNEP) holding permanent, continuing, or fixed-term appointments applying to positions subject to FTA-limited retain their contractual status while on the positions subject to FTA-limited. The Human Resources Section, Corporate Services Division will promptly provide comprehensive and succinct guidance on the FTA-limited modality and will host hybrid fora to engage with staff and address any questions.

b. All fixed-term appointments, with and without limitation will be renewed for a maximum of one year based on satisfactory performance, subject to further extensions, as we navigate 2025. This approach applies universally, irrespective of staff category, grade, level, or funding source.

c. All new hiring under Regular Budget (RB) posts will be under temporary restrictions, to be reviewed by the Budget Steering Committee with final approval by the Executive Director.

d. Additional information on how to manage specific cases, such as pending job openings that are already in progress and contract extensions, will be communicated shortly.

e. The above temporary measures will be regularly monitored by the Budget Steering Committee, in consultation with the Senior Management Team, to ensure that the organization remains agile and continues to adapt to changing conditions. We will periodically review these temporary measures, assessing their need based on our budgetary forecasts for both current and future years.

f. Further streamlining efforts focused on business process simplification and maximising our substantive and support capabilities will be announced soon.

6. In another memorandum dated 2 April 2025, the ED/UNEP stated that the “rapidly changing global financial landscape and the prospect of reduced donor contributions necessitate a fundamental shift in [UNEP’s] institutional set-up with a more deliberate budget planning, allocation and expenditure management for both staff and non-staff resources.” This meant a shift to a revised budget envelope and the new management modality entails the following:

8. ... (a) Self-review and planning by Division/Offices (Functional Review Phase I): Divisions/Offices to undertake an internal review (cost and operational efficiency) by referencing UNEP’s Functional Review guidance (Phase I) (Annex III), and submit a new cost plan (including (i) staff costs, (ii) operational costs and (iii) core mandates and programme activities costs), along with the requested deliverables as outlined in Annex III.

(b) Budget Steering Committee (BSC) to review Division/Office submissions from an organization-wide perspective and make recommendations to the Executive Director (Functional Review Phase II);

(c) Package submitted for Executive Director review and approval;

(d) CSD [Corporate Services Division] budget team to reflect the Executive Director’s decisions in Umoja;

(e) Divisions/Offices to implement the approved new budget envelope and action plan, with Directors fully accountable for any irregularities or overspending; and

(f) BSC to monitor and review budget implementation performance.

9. The above will feed into a more in-depth and UNEP-wide review to be carried out with the help of an external consultancy (Functional Review Phase III).

7. On 18 August 2025, the ED/UNEP informed the SMT of the outcomes of Phases 1 and 2 of the UNEP Functional Review and endorsed the way forward on implementation of the post actions which the UNEP Budget Steering Committee (“BSC”) recommended, notably:

a. The ED/UNEP approved all proposals on post reassignment, reclassification and redeployment as included in a post action table that the BSC individually confirmed with Divisions/Offices;

b. Conversion of post funding sources from the Environment Fund (“EF”) to either Overhead Trust Account (“OTA”, funded through Programme Support Costs) or to extrabudgetary resources (“XB”);

c. A call for agreed terminations as a managerial decision, subject to availability of funds as a first step to address anticipated position abolitions and to serve as an important mitigation measure; and

d. Anticipation of the need to formally activate the downsizing policy in accordance with section 2 of ST/AI/2023/1 (Downsizing or restructuring resulting in termination of appointments).

8. On 20 August 2025, UNEP introduced a Voluntary Agreed Separation Package for eligible staff to run concurrently with an Early Separation Programme launched by the Department of Management Strategy, Policy and Compliance (“DMSPC”) on 8 August 2025.

9. On 9 September 2025, the ED/UNEP formally established the Staff Management Group (“SMG”) in line with ST/AI/2023/1.

10. On 19 September 2025, the ED/UNEP extended the call for agreed separations from 19 September to 25 September 2025. The ED noted that UNEP's budget constraints are primarily within the EF and OTA core funding. Consequently, this final call for agreed separation is open only to staff in all categories (GS, NPO, and P+) with Permanent, Continuing, or Fixed-Term Appointments (without limitation), whose positions are funded by EF or OTA. The ED also noted that "if the number of approved voluntary separations remains insufficient to close the funding gap, further steps will be required, including the formal activation of the downsizing policy in line with ST/AI/2023/1."

11. On 25 September 2025, the Director, IED informed the Applicant that the Science-Policy-Business Forum Secretariat was being integrated into the IED's programme clusters and thus her current P-5 post would be reclassified in line with this realignment.

We were looking to have a meeting with you to discuss the outcome of the functional review. We wanted you to be aware that in order to reduce fragmentation and increase efficiencies in the face of cuts to the Environment Fund, the functions of the Science Policy Business Forum are being mainstreamed into select high impact sectors under the management of the Industry and Economy Division. **To ensure strategic and functional alignment with the division, and in line with UN80 and the UNEP functional review, that the P5 post that you are sitting on will therefore be reclassified to head the work of one of the high impact sectors, to which you would be encouraged to apply.** This will mean that the SPBF unit would then cease to exist as a separate unit and thus the general service staff post that is within your unit would also similarly be treated. (emphasis added)

12. On 30 September 2025, the ED/UNEP informed staff that UNEP has activated the downsizing policy as governed by ST/AI/2023/1. The SMG's mandate is to advise on the scope of the review and to conduct the comparative review of affected staff in accordance with the criteria set out in ST/AI/2023/1 between 13 and 24 October and provide formal recommendations on staff retention. Only staff members on fixed-term, continuing, or permanent appointments are eligible for this review. Staff members were also informed that:

Based on the recommendation by the SMG, the scope of the Comparative Review Process (CRP) will be limited to positions performing interchangeable functions within the same Division or Office, at the same grade/level, under the same funding source, and, for locally recruited staff, located at the same duty station. This approach is intended to ensure that staff are reviewed fairly alongside peers with similar functions, supporting duty of care and transparency, while enabling consistent, equitable, and efficient decision-making in accordance with policy and organizational requirements.

13. In a 7 October 2025 email to the Director/IED, the Applicant sought clarity on why she has been excluded from the CRP. In response, she was told:

UN80 and the UNEP functional review requires further that a strategic alignment may be necessary to ensure that UN offices are still able to deliver on their mandate despite a cut in core funding. As a result, to enable delivery of the mandate within a new budget situation, some positions needed to be reclassified. Your post is one of the positions that is being reclassified to enable delivery against targets in the new medium-term strategy and programme of work. As the post you are on is not abolished, you are not subject to the downsizing policy, and as a result, not under Comparative Review to be conducted by SMG.

Please note that reclassification is carried out on the post, not on the incumbent. When the job description of a post changes to a significant level, the UN rules and regulations require the institution to reclassify it.

14. On 9 October 2025, the Applicant expressed her concerns about the decision and requested re-consideration. On 11 October 2025, the Administration confirmed that the exclusion was in line with the scope of the SMG as approved by the ED/UNEP on 30 September 2025.

15. On 12 October 2025, the Applicant requested management evaluation. She described the administrative decision to be evaluated as:

The decision to reclassify my P-5 post and exclude me from the Comparative Review Process (CRP) under the 30 September 2025 downsizing exercise; and to proceed with the CRP under paragraph 6's narrowed 'interchangeability' scope and an irregular SMG composition.

1. Arbitrary and retaliatory reclassification of my P5 permanent position / CRP exclusion: 25 Sept 2025 reclassification/integration

of SPBF; 7 Oct 2025 notice that, because the post is “reclassified,” Applicant is not under CRP.

2. CRP/SMG implementation: Application of ED memo para. 6 to exclude cross-divisional roles and conduct CRP 13–24 Oct 2025 under an SMG with unresolved conflicts/appearance-of-bias.

3. Any consequential steps leading to abolition/termination or recruitment against the “reclassified” post.

4. Retaliation under protected activity.

Parties’ submissions

16. The Applicant’s principal contentions are:

a. The communications of 25 September and 7 October 2025 constitute final administrative decisions which immediately altered the Applicant’s legal position by reclassifying her continuing P-5 post and excluding her from the CRP under the ED/UNEP’s memorandum of 30 September 2025.

b. The reclassification of her post days before the CRP window was used as a device to evade comparative review, violating staff rule 9.6(e) and paras. 5 – 7 of ST/AI/2023/1.

c. According to the document metadata, SMG minutes of 9 October 2025 were created on 15 October 2025, after litigation commenced, undermining their authenticity.

d. The SMG minutes of 10 September 2025 record no reasoning, merely an agreement to restrict interchangeability to same Division/Office, grade and funding source. The Respondent produces no analysis or justification. This breach creates unequal treatment contrary to staff regulations 1.2(c) and (f).

e. Paragraph 6 of the ED/UNEP’s 30 September 2025 memorandum introduces a restriction absent from governing policy. The narrowing is inconsistent with the equal-treatment principles which require that comparative exercises must be organization-wide and cannot be limited by internal funding lines.

f. Documentary evidence shows that the SMG and relevant senior managers include individuals directly implicated in the very governance and private-sector engagement processes she had challenged since 2023. This raises a serious appearance of bias and institutional capture, contrary to the independence required by staff regulation 1.2(m) and the United Nations Appeals Tribunal jurisprudence. The Administration's refusal to implement the requested recusal protocol and record-hold aggravates the defect.

g. The timing of the reclassification, exclusion, and denial of information during certified medical leave directly followed her protected disclosures to auditors and her retaliation complaint. Under para. 1(b) of ST/SGB/2017/2/Rev.1 (Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations), detrimental actions taken soon after protected activity give rise to a presumption of retaliation.

h. Credible external letters from scientists, civil-society coalitions and academic experts explicitly warn UNEP of corporate capture of global environmental processes and cite the Applicant's Forum as a bulwark against such capture. The Respondent's complete silence on these red-flag reports amounts to acquiescence in a conflict of interest and to failure to safeguard institutional integrity, both contrary to the duty of care.

i. The decision-maker relied on erroneous facts (that the post is not abolished) and applied a defective policy. No objective business case or comparative data justify the reclassification. The exercise of discretion was arbitrary and for an ulterior motive, contrary to staff rule 11.2(a).

j. The Respondent has ignored unlawful conduct by UNEP management including: interference with the Joint Medical Service during her certified medical leave; manipulation of records and manipulation of key SMG documents such as the 9 October 2025 minutes which were created on 15 October 2025 after the Applicant filed her application.

k. The application is urgent because the CRP is ongoing from 13 to 24 October 2025. If the CRP proceeds under the contested framework, she will be permanently excluded from consideration under the protection availed to staff under the United Nations downsizing policy.

l. The flawed CRP process will directly determine her unfair exclusion; there is no alternative remedy. It is also based on a faulty premise that compromises organizational rights and integrity.

m. Implementation of the CRP will cause irreparable harm: permanent loss of her permanent-appointment security and retention rights; loss of accrued service credit that would make her eligible for a full pension upon completion of 25 years of service in 2026, thereby stripping her permanently of a vested retirement right; severe reputational injury and professional displacement that monetary compensation cannot repair; and policy capture of the United Nations Platform.

17. The Respondent's submissions on receivability are:

a. The application is not receivable because the measures challenged by the Applicant, namely, (a) the proposal to reclassify her P-5 post, and (b) her exclusion from the CRP, do not constitute final administrative decisions within the meaning of art. 2(1)(a) of the UNDT Statute.

b. A staff member may only challenge a decision resulting from restructuring once that decision has been made, such as termination of appointment.

c. Preparatory or interlocutory steps, including proposals, reviews, or assessments that may or may not result in a final decision, are not independently appealable.

d. The reclassification of the Applicant's post is part of a broader structural realignment of the IED, initiated through the UNEP-wide functional review. It does not itself abolish the Applicant's position, alter her

grade, or terminate her appointment. Rather, it is an administrative step subject to further consideration and possible amendment as mitigation measures continue to be implemented.

e. The Applicant's exclusion from the CRP does not amount to a final administrative decision. The CRP is a procedural mechanism within the downsizing policy that informs management recommendations; it does not, by itself, produce final legal effects. A final decision will only arise once UNEP determines whether the Applicant will be retained, reassigned, or separated.

f. The Applicant's request is premature and not properly before the UNDT. The Applicant's own submissions confirm that no such determination(s) has been made. She remains on active service and continues to hold her permanent P-5 appointment. The CRP is ongoing from 13 to 24 October 2025, and its results have not yet been communicated.

18. On the merits, the Respondent submits:

a. The 25 September 2025 communication expressly describes a proposal within an ongoing functional realignment. The email notes that the UN-SPBF Secretariat would be integrated into broader IED programme clusters, that the Applicant's post would be "reclassified," and that she would be "encouraged to apply" for the resulting position.

b. The correspondence contains no decision to abolish the post, no change in grade, and no notice of separation. A proposal to reclassify or relocate a post, even when communicated to the affected staff member, is a preparatory act that cannot constitute an administrative decision for purposes of judicial review. Accordingly, it is therefore not an administrative decision and cannot be suspended.

c. The communication to the Applicant on 7 October 2025 excluding her from the CRP because her post had been reclassified under the functional review merely clarified the application of the CRP scope criteria in her

specific case as approved by the Executive Director on 30 September 2025. Until the CRP concludes and UNEP takes a final decision on retention, reassignment, or separation, there is no act capable of suspension.

d. Contrary to the Applicant's submission that limiting the CRP to posts within the same Division/Office and funding source is *ultra vires* and inconsistent with ST/AI/2023/1, the scope limitation applied by UNEP is consistent with the governing policy under section 4.1 which explicitly authorizes the Head of Entity to determine the scope of comparative review by "Division, Office, or Unit, grade/level, funding source, and duty station."

e. The Applicant's allegation that these measures were adopted in bad faith or to evade comparative review is wholly speculative. There is no evidence of improper motive, procedural breach, or violation of the regulatory framework. The record shows that UNEP undertook successive mitigation measures, communicated transparently with staff, and acted consistently with the applicable procedures.

f. Under the Administrative Instruction on the classification of posts, the classification process involves a technical evaluation of the functions of a post based on its job content, duties, and responsibilities. It is an internal administrative step requiring validation and approval before any decision can be implemented. Until that process is completed and approved, no change can occur to the Applicant's appointment, grade, or entitlements.

g. Urgency cannot arise in the absence of a final administrative decision. Apprehension or anxiety about what may occur later in a restructuring exercise is insufficient to establish the immediacy required by art. 2(2) of the UNDT Statute. The proposal to reclassify a post within an ongoing functional review does not have legal effect and cannot be the subject of urgent suspension.

h. The Applicant's claim of urgency is premised on her apprehension that the proposed reclassification of her post and her exclusion from the CRP will soon result in her separation from service or loss of grade. These concerns,

however, are entirely speculative. The record shows no decision to abolish her post, to reclassify it downward, or to terminate her appointment.

i. The Applicant's exclusion from the CRP similarly does not generate urgency. The CRP is an advisory, time-bound mechanism established under ST/AI/2023/1, and its results are not self-executing. Any future management decisions arising from it would still be subject to review and appeal through established channels, including management evaluation.

j. Classification exercises "concern the post, not the incumbent," and do not of themselves alter the contractual status or entitlements of the staff member. Until a classification decision is finalized and implemented, no legal consequence or harm can arise. The Applicant's assertions of reputational damage, career disruption, and loss of retention rights are entirely speculative. They presuppose that the functional review will lead to her separation or downgrading, outcomes that have neither been proposed in writing nor approved.

k. Even if the reclassification process were eventually to result in a change to her post, the Applicant would retain access to effective administrative and judicial remedies, including management evaluation, internal reclassification review and a substantive UNDT application. Any financial or professional consequences could be fully compensated if unlawfulness were later established.

l. The Applicant has provided no evidence of any imminent or irreversible detriment to her employment, health, or professional standing.

Considerations

Receivability

19. The Respondent challenges the receivability of the application on the grounds that: the measures challenged by the Applicant, namely, (a) the proposal to reclassify her P-5 post, and (b) her exclusion from the CRP, do not constitute final

administrative decisions within the meaning of art. 2(1)(a) of the UNDT Statute. The Respondent also cites UNDT Case No. UNDT/NBI/2025/096 (sic) as authority for the submission that, “[a] proposal to reclassify or relocate a post, even when communicated to the affected staff member, is a preparatory act that cannot constitute an administrative decision for purposes of judicial review.”

20. The burden of identifying the contested decision lies primarily with an applicant, who must: (i) identify the administrative decision he or she wishes to contest; and (ii) demonstrate that the contested decision is in non-compliance with the terms of his or her appointment. The Tribunal, however, has an inherent power to individualize and define the administrative decision impugned by a party and identify what is in fact being contested and subject to judicial review, which could lead to grant, or not to grant, the requested judgment. *Polino Malish Abbas* 2024 - UNAT-1479, paras. 44 and 45.

21. Unlike in the present case, in *Hall* Order No. 162 (NBI/2025) issued in Case No. UNDT/NBI/2025/096, the reclassification exercise had already taken place and the Tribunal found the application for suspension of action was not receivable because the applicant had failed to comply with the threshold issue of filing an appeal pursuant to ST/AI/1998/9 (System for the classification of posts), as amended. (Paragraph 27). In that case the Tribunal also held that “proposals only become decisions when they are adopted or approved by the appropriate authority.” (Paragraph 21).

22. In the present case, as per the 18 August 2025 memorandum, the ED/UNEP “approved all proposals on post reassignment, reclassification and redeployment as included in a post action table that the BSC individually confirmed with Divisions/Offices”. The subsequent communications to the Applicant on 25 September and 7 October 2025 confirmed that the appropriate authority (ED/UNEP) had approved the reclassification proposal thus transforming it from a proposal to a decision.

23. However, a decision having continuous legal effect is only deemed to have been implemented when it has been implemented in its entirety. *See, for example,*

Samarasinha Order No. 9 (GVA/2024), para 12. Because the reclassification exercise has not been fully implemented, the Tribunal will be competent to adjudicate on any consequential steps leading up to the final decision when the reclassification exercise is done, but such steps must produce real, not speculative effect(s) on the terms and conditions of the Applicant's appointment.

24. In this case, the reclassification decision has in turn resulted in the Applicant's exclusion from the CRP which she would have been subjected to if her post was abolished, as per the email of 7 October 2025. This is the receivable part of the Applicant's claim. The Tribunal is competent to adjudicate whether this reclassification decision was unlawfully made to exclude her from the CRP.

25. The Applicant's claims regarding the composition of the SMG, the implementation of the CRP and any speculative claims regarding the future abolition/termination or recruitment against the reclassified post are not receivable.

- a. Because she is currently not subject to the CRP, the Applicant lacks *locus standi* in relation to her claims regarding the SMG composition.
- b. There has been no official or veiled abolition/termination of her reclassified post.
- c. Because the reclassification exercise is yet to take place and the decision on the classification level is itself also first subject to the procedure for appeal set out in section 6 of ST/AI/1998/9, any speculative claims regarding the future abolition/termination or recruitment against the reclassified post are not receivable.

Merits

26. Under art. 2.2 of the Tribunal's Statute and art. 13.1 of the Rules of Procedure, the Tribunal may suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision: 1) appears *prima facie* to be unlawful; 2) in case of particular urgency; and 3) where

its implementation would cause irreparable damage. All three criteria must be cumulatively met.

27. In *Maryam H. Wathanafa* 2023-UNAT-1389, para. 46, the United Nations Appeals Tribunal held:

In the first prong of the test for suspension of action, the UNDT reviews the contested decision to verify its lawfulness. The judicial review in this context is however different from the review conducted by the Tribunal on the merits of an application contesting the administrative decision. The UNDT Statute provides for a *prima facie* unlawfulness. This means that the intensity of review conducted by the UNDT is limited. The Tribunal examines whether the contested decision appears, after a summary review, to be unlawful. It is a matter of having serious doubts as to the lawfulness of the decision rather than an exhaustively established unlawfulness. This type of cursory judicial review is fundamental to the effectiveness of the process of suspension of action that is intended to respect the urgency of the situation. A full judicial review would require the Tribunal to spend more time and would contradict the spirit of urgency in which the process of suspension of action occurs.

28. The issue in this case is whether the decision to exclude the Applicant from the ongoing CRP as a result of the reclassification decision should be suspended pending management evaluation.

29. The Respondent submits that the scope of limiting the CRP to posts within the same Division/Office and funding source applied by the ED/UNEP “is consistent with the governing policy under section 4.1 [of ST/AI/2023/1] which explicitly authorizes the Head of Entity to determine the scope of comparative review by Division, Office, or Unit, grade/level, funding source, and duty station.” Section 4.1 provides:

If the termination of appointments is anticipated as a result of downsizing or restructuring, notwithstanding the application of any mitigation measures, the Staff- Management Group shall carry out a comparative review as set forth below. The Staff Management Group will make recommendations on the scope of the comparative review to the head of entity, who may limit the scope based on one or more relevant criteria, including organizational units, job family, category, level or duty station in the case of locally recruited staff. All staff on fixed-term, continuing or permanent appointments who encumber posts falling within the scope decided upon by the head

of entity after his or her consideration of the recommendation of the Staff-Management Group shall be included in the comparative review.

30. According to the principle of plain meaning for statutory interpretation, when the language used in the respective disposition is plain, common and comprehensible, the text of the rule must be interpreted upon its own reading, without further investigation. *Alan George Blythe* 2023-UNAT-1404, para. 54.

31. The plain meaning of section 4.1 of ST/AI/2023/1 is that a comparative review is justified only in a situation where the termination of appointments is anticipated as a result of downsizing or restructuring, notwithstanding the application of any mitigation measures. Section 3.2 of ST/AI/2023/1 provides that

Mitigating measures, include, but are not limited to:

(a) Non-renewal of temporary appointments, except for those relating to essential functions that cannot be carried out by existing staff members on fixed-term, continuing or permanent appointments;

(b) Non-renewal of fixed-term appointments of staff members who have not been recruited in accordance with established procedures under staff rules 4.15 and 4.16 and who, as a result, hold an appointment with service limitation. This measure shall not be used to separate, by non-renewal, staff members who, at the time of their appointment, did not require selection through a central review body in accordance with the staff selection system in place.

32. Whilst section 3.2 of ST/AI/2023/1 does not limit the types of mitigation measures the Administration may apply to those listed at sections 3.2(a) and (b), it is instructive that the situations envisaged apply to temporary appointments or fixed-term appointments respectively and not to permanent appointments. A reclassification decision, which is what has happened in this case, is not contemplated as a mitigation measure during a “downsizing or restructuring resulting in termination of appointments”. A staff member whose post has been reclassified is not subject to the CRP as required by section 4.1 of ST/AI/2023/1.

33. The Tribunal should not interfere with an organizational restructuring exercise unless there is evidence that the discretion was exercised unreasonably, unlawfully or without due process. In this regard there is always a presumption that

effective official acts have been regularly performed. The presumption of regularity is, however, rebuttable. *See, for example, Mihai Nastase 2023-UNAT-1367* para. 35. In this case, the Administration's reclassification decision is justified by the need to ensure strategic and functional alignment with the division, and in line with the UN80 Initiative and the UNEP functional review.

34. The Tribunal, in view of the foregoing, finds that the decision to exclude the Applicant from the ongoing comparative review process (CRP) because of the reclassification decision, is not *prima facie* unlawful. Having failed to satisfy the first prong of the test for suspension of action, the application must fail.

Conclusion

35. The application for suspension of action pending management evaluation is DISMISSED.

(Signed)

Judge Sean Wallace

Dated this 22nd day of October 2025

Entered in the Register on this 22nd day of October 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi