

OPCW

Ninth Session 29 November – 2 December 2004 C-9/DEC.16 2 December 2004 Original: ENGLISH

DECISION

AMENDMENTS TO THE OPERATING PROCEDURES OF THE CONFIDENTIALITY COMMISSION

The Conference of the States Parties,

Recalling its decision approving the operating procedures of the Commission for the Settlement of Disputes Related to Confidentiality (hereinafter "the Confidentiality Commission") (C-III/DEC.10 and Corr.1, both dated 20 November 1998);

Recalling also Rule 47 of those operating procedures, which states that decisions on proposals for amendments shall be treated as decisions on matters of substance, and that proposals agreed to shall be recommended to the Conference of the States Parties (hereinafter "the Conference") for adoption; and

Bearing in mind the recommendation in the report of the Sixth Meeting of the Confidentiality Commission that the Conference adopt the amendments proposed in that report (subparagraphs 6.1(a) to (d) of CC-6/2 dated 2 November 2004);

Hereby:

Approves the amendments to the operating procedures of the Confidentiality Commission annexed hereto.

Annex:

Amendments to the Operating Procedures of the Confidentiality Commission

Annex

AMENDMENTS TO THE OPERATING PROCEDURES OF THE CONFIDENTIALITY COMMISSION

Previous Text	Explanation	New Text
Rule 1 – Application of Operating Procedures	"Relating" should be "Related".	Rule 1 – Application of Operating Procedures
These Operating Procedures of the		These Operating Procedures of the Confidentiality
Confidentiality Commission are a set of rules		Commission are a set of rules governing the
governing the proceedings of the Commission		proceedings of the Commission for the Settlement
for the Settlement of Disputes Relating to		of Disputes Related to Confidentiality (hereinafter
Confidentiality (hereinafter referred to as the		"the Confidentiality Commission")
"Confidentiality Commission")		
Rule 3 – Term of Office	This change will make clear exactly	Rule 3 – Term of Office
After expiration of the terms of appointment of	when a member's term of appointment	After expiration of the terms of appointment of the
the members of the first Confidentiality	shall begin and end.	members of the first Confidentiality Commission
Commission in accordance with the		in accordance with the Confidentiality Policy
Confidentiality Policy Rules, the members of the		Rules, the members of the Confidentiality
Confidentiality Commission shall be appointed		Commission shall be appointed by the Conference
by the Conference every two years at its regular		every two years at its regular annual session.
annual session. They shall serve on the		Members shall take up their appointment for a
Confidentiality Commission until the		period of two years starting from 1 January in the
appointment of their successors by the		year immediately following the session of the
Conference. A person who has completed three		Conference at which they were appointed. A
consecutive terms as a member of the		person who has completed three consecutive terms
Confidentiality Commission shall not be eligible		as a member of the Confidentiality Commission
for immediate re-appointment."		shall not be eligible for immediate reappointment.

Rule 10 – Disclosure	It is recommended that, in the interest	Rule 11 – Disclosure
Each member of the Confidentiality Commission	of a more logical sequence, the present	Each member of the Confidentiality Commission
shall, as soon as he or she is informed of a	Rule 11 be placed immediately before	shall, as soon as he or she is informed of a dispute,
dispute, disclose to the Chair any circumstances	the present Rule 10, and that both	disclose to the Chair any circumstances likely to
likely to give rise to justifiable doubts as to his	Rules be renumbered accordingly.	give rise to justifiable doubts as to his or her
or her impartiality or independence in regard to		impartiality or independence in regard to the case.
the case. The Chair shall inform all members of		The Chair shall inform all members of the
the Confidentiality Commission of any such		Confidentiality Commission of any such
disclosure and, if the Confidentiality		disclosure and, if the Confidentiality Commission
Commission considers it appropriate, such a		considers it appropriate, such a member shall
member shall either refrain from specific		either refrain from specific activities relating to
activities relating to the case or from any		the case or from any participation in the
participation in the consideration of the case. If		consideration of the case. If the Chair has an
the Chair has an apparent conflict of interest, he		apparent conflict of interest, he or she shall entrust
or she shall entrust to one of the Vice-Chairs the		to one of the Vice-Chairs the functions which are
functions which are affected by such conflict.		affected by such conflict.
Rule 11 – Provision of information to the	Please refer to the explanation given	Rule 10 – Provision of information to the Chair
Chair	above regarding the reordering of	A party to a dispute under consideration by the
A party to a dispute under consideration by the	paragraphs. The other minor change	Confidentiality Commission which is aware of
Confidentiality Commission which is aware of	is purely formal.	circumstances believed to give rise to justifiable
circumstances believed to give rise to justifiable		doubts as to the impartiality or independence of a
doubts as to the impartiality or independence of		member of the Confidentiality Commission may
a member of the Confidentiality Commission		bring such circumstances to the attention of the
may give notice of such circumstances to the		Chair. If the conflict of interest involves the
attention of the Chair. If the conflict of interest		Chair, a Vice-Chair shall be entrusted with the
involves the Chair, a Vice-Chair shall be		Chair's functions as provided for under Rule 11.
entrusted with the Chair's functions as provided		
for under Rule 10.		

C-9/DEC.16 Annex page 4

Rule 46 – Interim measures to protect	The proposed change involves	Rule 46 – Provisional measures to protect
evidence at an inspection site	substituting "provisional" for	evidence at an inspection site
A party to a dispute before the Confidentiality	"interim", in the interest of the legal	A party to a dispute before the Confidentiality
Commission may request it to order interim	soundness of the Rule.	Commission may request it to order provisional
measures to protect evidence at an inspection		measures to protect evidence at an inspection site
site or elsewhere. The Confidentiality		or elsewhere. The Confidentiality Commission
Commission shall, in consultation with the		shall, in consultation with the parties, order such
parties, order such interim measures as it		provisional measures as it considers necessary to
considers necessary to protect evidence relevant		protect evidence relevant to a dispute pending
to a dispute pending before it. The		before it. The Confidentiality Commission shall
Confidentiality Commission shall request the		request the Director-General to take such
Director-General to take such interim measures		provisional measures as it considers necessary.
as it considers necessary.		

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