



CCSBT-EC/0510/04
Addendum

Headquartering Agreement

Since preparation of the Report from the Secretariat, the Executive Secretary has held discussions with the host government (Australia) concerning the operation of the immunities provisions of the Headquartering Agreement. Under the Headquartering Agreement documents of the Extended Commission are inviolable and are immune from any form of administrative or judicial constraint.

In a current case before the courts in Australia, Commission documents have been tendered as evidence. The documents were the reports of the recent SAG/SC meeting which have not yet been considered by the Extended Commission. The Executive Secretary appeared in the court hearing, claimed privilege for the documents and sought to have them returned. The court decided to proceed with the documents confidentially but still in evidence.

The Executive Secretary advised the host government that this action of the Australian courts represented a breach of its undertakings on the immunity of Extended Commission documents. While generally agreeing with these sentiments the host government suggested that it was a matter for the Extended Commission to pursue in the court. As this course had already been followed and the taking of evidence has now concluded, the Executive Secretary believes there would be no point in pursuing the matter further as suggested.

However, the principle of the immunity of Extended Commission documents remains as an unresolved issue.

The Executive Secretary suggests that he write formally to the Australian Government expressing the Extended Commission's concern at the breach of privilege and seeking the assurances of the Australian Government that they will act to support the privileges of the Extended Commission in the future.

Prepared by the Secretariat