



**Compilation of views expressed by the Compliance Committee
on privileges and immunities for individuals serving on
constituted bodies under the Kyoto Protocol**

Note by the secretariat

1. The plenary of the Compliance Committee has been following the discussions on the issue of privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol which took place at the sessions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) and the Subsidiary Body for Implementation.¹
2. The Compliance Committee has also provided its views to the CMP on the importance of extending the protection of any future legal arrangements for privileges and immunities to members and alternate members of the Compliance Committee.²
3. At its twelfth meeting, the plenary discussed the communication from Japan regarding privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol (CC/12/2013/2). In this communication, Japan invited the Compliance Committee to inform it of any specific reasons for and the scope of the privileges and immunities which, in the view of the Committee, its members and alternative members might require.
4. The plenary requested the bureau of the Compliance Committee, with the assistance of the secretariat, to prepare a draft response to be finalized by the Committee through electronic means. Such response should be limited to references to the record of its earlier considerations on the issue of privileges and immunities. Taking into account the on-going negotiations on the issue of privileges and immunities (FCCC/KP/CMP/2012/13, paragraphs 105–109), the plenary agreed that it should make any considerations on the matter available to all Parties on an equal basis.
5. On 2 June 2013, following an electronic consultation on the draft involving members and alternate members of the Compliance Committee, a letter of response to Japan was sent from the co-chairpersons of the plenary of the Committee (see Appendix).
6. At its twelfth meeting, the plenary also agreed to consider further the issue of privileges and immunities at its next meeting with a view to reflecting any outcomes of such consideration in its report to the CMP and requested the secretariat to prepare a compilation of any views on the matter expressed by the plenary at its earlier meetings as reflected in its meeting reports.³ A compilation of the relevant paragraphs from the Committee's annual reports is included in the Annex to the letter referred to in paragraph 5 above.

¹ CC/2/2006/5, paragraph 5; CC/3/2006/7 paragraph 10; CC/4/2007/5, paragraph 11; CC/5/2008/6, paragraph 5; CC/6/2009/4, paragraph 6; CC/8/2010/7, paragraph 5; CC/9/2011/4, paragraph 5; and CC/11/2012/4, paragraph 5.

² FCCC/KP/CMP/2007/6, paragraph 19; FCCC/KP/CMP/2008/5, paragraph 14; FCCC/KP/CMP/2009/17, paragraphs 13–14; FCCC/KP/CMP/2010/6, paragraphs 19–20; FCCC/KP/CMP/2011/5, paragraph 15; and FCCC/KP/CMP/2012/6, paragraph 15.

³ CC/12/2013/3, paragraph 15.



Appendix

**Letter dated 2 June 2013 from the co-chairpersons of the plenary of the
Compliance Committee to Japan in response to Japan's inquiry
concerning privileges and immunities**

With regard to the communication from Japan regarding privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol dated 4 March 2013, the plenary of the Kyoto Protocol Compliance Committee considered the correspondence at its twelfth meeting (Bonn, 22–23 March 2013).

Taking into account the on-going negotiations on the issue of privileges and immunities (FCCC/KP/CMP/2012/13, paragraphs 105–109), the plenary agreed that it should make any considerations on the matter available to all Parties on an equal basis. In this regard, it also agreed to consider further the issue of privileges and immunities at its next meeting with a view to reflecting any outcomes of such consideration in its report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) and requested the secretariat to prepare a compilation of any views on the matter expressed by the plenary at its earlier meetings as reflected in its meeting reports.

The plenary also wished to use this opportunity to draw Japan's attention to its considerations on the issue of privileges and immunities reflected in the reports on its earlier meetings and in its annual reports to the CMP. The references to the relevant paragraphs of such reports are included below.

Beginning with its second meeting, the plenary of the Compliance Committee carefully followed the discussions on the issue of privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol which took place at the sessions of the CMP and the Subsidiary Body for Implementation (see documents CC/2/2006/5, paragraph 5; CC/3/2006/7 paragraph 10; CC/4/2007/5, paragraph 11; CC/5/2008/6, paragraph 5; CC/6/2009/4, paragraph 6; CC/8/2010/7, paragraph 5; CC/9/2011/4, paragraph 5; and CC/11/2012/4, paragraph 5, available on the following page of the UNFCCC website:
http://unfccc.int/kyoto_protocol/compliance/plenary/items/3788.php).

The Compliance Committee also provided its views to the CMP on the importance of extending the protection of any future legal arrangements for privileges and immunities to members and alternate members of the Compliance Committee. In this regard, you may wish to note the information contained in the following annual reports of the Committee to the CMP: FCCC/KP/CMP/2007/6, paragraph 19; FCCC/KP/CMP/2008/5, paragraph 14; FCCC/KP/CMP/2009/17, paragraphs 13–14; FCCC/KP/CMP/2010/6, paragraphs 19–20; FCCC/KP/CMP/2011/5, paragraph 15; and FCCC/KP/CMP/2012/6, paragraph 15. A compilation of the relevant paragraphs from the Committee's annual reports is included in the Annex to this letter for your ease of reference.

(Signed)

(Signed)

Khalid Abulief
Co-chairpersons of the plenary of the Compliance Committee

René Lefebvre



Annex

**Excerpt from the second annual report of the Compliance Committee to the CMP
(FCCC/KP/CMP/2007/6, paragraph 19):**

In accordance with the conclusions of the Subsidiary Body for Implementation (SBI) at its twenty-sixth session relating to privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol,¹ the Committee notes that to date, no concerns or issues relating to the privileges and immunities of the Compliance Committee or individuals serving on the Committee with regard to their official functions have been raised. The Committee is, however, aware that such issues might arise in the future and would therefore welcome an early resolution of the issue of ensuring the necessary privileges and immunities for individuals serving on Kyoto Protocol constituted bodies by the SBI and the CMP.

**Excerpt from the third annual report of the Compliance Committee to the CMP
(FCCC/KP/CMP/2008/5, paragraph 14):**

In accordance with the conclusions of the SBI at its twenty-sixth session relating to privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol,² the plenary notes that to date, no disputes, complaints or claims relating to the Compliance Committee or to individuals serving on the Committee with regard to their official functions have been raised. The plenary is, however, closely monitoring discussions at the sessions of the CMP and the SBI on privileges and immunities for individuals serving on Kyoto Protocol constituted bodies, particularly the discussions on the second review of the Kyoto Protocol pursuant to its Article 9. It observes that experts from whom advice is sought by the facilitative branch or the enforcement branch under section VIII, paragraph 5, of the procedures and mechanisms do not enjoy immunity with regard to the expert advice they provide to the branches.

**Excerpt from the fourth annual report of the Compliance Committee to the CMP
(FCCC/KP/CMP/2009/17, paragraphs 13–14):**

In accordance with the conclusions of the SBI at its twenty-sixth session relating to privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol,³ the plenary notes that in the reporting period, no disputes, complaints or claims relating to the Compliance Committee or to individuals serving on the Committee with regard to their official functions have been raised.

At its sixth meeting, the plenary of the Committee heard a report by the secretariat on the current state of negotiations on legal arrangements for privileges and immunities within the SBI, and the proposals that have been submitted for consideration by the Conference of the Parties and the CMP. The plenary reiterates the importance of concluding as early as possible adequate legal arrangements on privileges and immunities that provide a long-term solution to the issues raised before the CMP and the SBI.

¹ FCCC/SBI/2007/15, paragraphs 163–168.

² FCCC/SBI/2007/15, paragraphs 163–168.

³ FCCC/SBI/2007/15, paragraphs 163–168.



COMPLIANCE COMMITTEE**CC/13/2013/2
3 September 2013****Excerpt from the fifth annual report of the Compliance Committee to the CMP
(FCCC/KP/CMP/2010/6, paragraphs 19–20):**

At its eighth meeting, the plenary of the Compliance Committee heard a report by the secretariat on the current state of negotiations on legal arrangements for privileges and immunities within the Subsidiary Body for Implementation (SBI). Having considered this information, the plenary of the Committee concluded that any future legal arrangements for privileges and immunities should afford protection to members and alternate members of the Compliance Committee. The plenary of the Committee has the firm conviction that the absence of such privileges and immunities would affect the effectiveness of the Committee's operations. For example, travel privileges are necessary to ensure that members and alternate members will not be prevented from attending meetings of the Committee. Furthermore, the attribution of immunity from jurisdiction is necessary to prevent members and alternate members from being sued for their participation in the work of the Committee, for example in the case of alleged conflict of interest. The plenary of the Committee decided to draw the attention of the CMP to its views on this matter.

In accordance with the conclusions of the SBI at its twenty-sixth session relating to privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol, information on the allegation of a conflict of interest with respect to an alternate member of the Compliance Committee is contained in chapter III F.

**Excerpt from the sixth annual report of the Compliance Committee to the CMP
(FCCC/KP/CMP/2011/5, paragraph 15):**

At its ninth meeting, the plenary of the Compliance Committee received an oral report by the secretariat on the current state of negotiations under the Subsidiary Body for Implementation on legal arrangements for privileges and immunities for individuals serving on constituted bodies under the Kyoto Protocol. Having considered the information provided, the Committee reiterated its earlier request that any such future legal arrangements should afford protection to members and alternate members of the Compliance Committee. It noted with concern the lack of progress in the resolution of this matter and emphasized the importance and urgency of conferring privileges and immunities to its members and alternate members.

**Excerpt from the seventh annual report of the Compliance Committee to the CMP
(FCCC/KP/CMP/2012/6, paragraph 15):**

At its eleventh meeting, the plenary noted the oral report by the secretariat on the current state of negotiations under the Subsidiary Body for Implementation (SBI) on legal arrangements for privileges and immunities for individuals serving on constituted bodies under the Kyoto Protocol. The plenary emphasized the importance of conferring privileges and immunities on members and alternate members in order to secure their attendance at meetings, in particular with respect to the timely issuance of long-term multiple-entry visas.
