



Terms of office of alternate members of the Compliance Committee

Note by the secretariat

I. Introduction

A. Background

1. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) has explicitly specified the length of each term (2 or 4 years) and the maximum number of consecutive terms of office the members can serve on the Compliance Committee (2 terms maximum).¹ In contrast, the CMP did not explicitly specify the length of each term and the maximum number of consecutive terms of office that an alternate member can serve on the Compliance Committee.

B. Possible action by the plenary of the Compliance Committee

2. The Compliance Committee may wish to consider whether the terms of office of alternate members of the Compliance Committee should be understood to be limited to two consecutive terms that would not count towards the term limit of an alternate member who is subsequently elected as a member and to invite the CMP to confirm this understanding.

II. Terms of office of alternate members of Kyoto Protocol bodies

3. The CMP has expressly limited the number of consecutive terms that alternates can serve in two Kyoto Protocol bodies, namely, the CDM Executive Board² and the Adaptation Fund Board.³ This limit ensures replacement of individuals in the climate change process.

4. Both decision 27/CMP.1 for the Compliance Committee and decision 9/CMP.1 for the Joint Implementation Supervisory Committee (JISC) do not contain language on limits on the maximum number of terms for alternate members.⁴ This may give the impression that the CMP may have intended that alternate members could possibly remain in office for an unlimited period and no new alternate member elected, unless:

- (a) The constituency concerned chooses to nominate another individual as alternate member for that constituency;

¹ With regard to the facilitative branch: section IV, paragraph 2, annex to decision 27/CMP.1, Procedures and mechanisms relating to compliance under the Kyoto Protocol; with regard to the enforcement branch: section V, paragraph 2, annex to decision 27/CMP.1.

² Rule 4, paragraph 1(b), Rules of procedure of the Executive Board of the Clean Development Mechanism, Annex I to decision 4/CMP.1, Guidance relating to the clean development mechanism.

³ Paragraph 9, decision 1/CMP.3, Adaptation Fund.

⁴ The JISC has decided to take the approach that the two consecutive term limit for members should also apply to alternate members.



- (b) The individual concerned decides not to be nominated for election for an additional term;
- (c) The CMP decides to elect another individual as alternate member for that constituency.

5. Decision 27/CMP.1 is also silent on whether terms served as an alternate member would count towards the two consecutive term limit for members. In the case of the CDM Executive Board⁵ and the JISC⁶ the relevant CMP decisions expressly indicate, in relation to the two consecutive term limit, that terms as alternate members do not count. Thus, in the case of the CDM Executive Board, the approach has been to treat terms served in these two offices separately, and not to count terms served as an alternate in the two consecutive term limit for members and vice versa.

III. Limiting the terms of alternate members of the Compliance Committee

6. A review of the composition of and requirements for membership of the Compliance Committee shows that in some instances decision 27/CMP.1 makes reference to a member, but does not make a corresponding explicit reference to an alternate member, for example:

- (a) Staggering the term of office for the initial round of elections:

“The [CMP] shall elect five **members** for a term of 2 years and five **members** for a term of four years. Each time thereafter, the [CMP] shall elect five new **members** for a term of four years. **Members** shall not serve for more than two consecutive terms.”⁷

- (b) The competency requirement for the facilitative branch:

“In electing the **members** of the facilitative branch, the [CMP] shall seek to reflect the competences in a balanced manner in the fields referred to in section II, paragraph 6, above.”⁸

- (c) The competency requirement for the enforcement branch:

“In electing the **members** of the enforcement branch, the [CMP] shall be satisfied that the **members** have legal experience.”⁹

⁵ Rule 4, Rules of procedure of the Executive Board of the clean development mechanism.

⁶ Paragraph 6, annex to decision 9/CMP.1, Guidelines for the implementation of Article 6 of the Kyoto Protocol.

⁷ See section IV, paragraph 2, and section V, paragraph 2, annex to decision 27/CMP.1; emphasis supplied.

⁸ See section IV, paragraph 3, annex to decision 27/CMP.1; emphasis supplied.

⁹ See section V, paragraph 3, annex to decision 27/CMP.1; emphasis supplied.



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7. As the CMP elects for each member an alternate member, who serves for the member in his or her absence, it is therefore possible to assume that the same procedure for staggering and the competency requirements for members would also apply to alternate members, even though the CMP decisions did not explicitly refer to “alternate members” for these two requirements. It could also be assumed that although not explicitly stated in decision 27/CMP.1, the limits on the terms of office for members should also apply to alternate members.

IV. Conclusion

8. The term of office of alternate members of the Compliance Committee can be reasonably assumed to be limited to a maximum of two consecutive terms, although not explicitly stated in the relevant decisions of the CMP and rules of procedure of the Compliance Committee, bearing in mind:

- (a) That there are explicit limits on the terms of office of alternate members of the CDM Executive Board and the Adaptation Fund Board;
- (b) That, unless a contrary intention is apparent in the text or context of the procedures and mechanisms or the rules, provisions concerning the members of the Compliance Committee would also apply to alternate members, although these do not always explicitly mention alternate members.

9. In line with the approach with respect to the CDM Executive Board, previous terms served as alternate members would not count towards the two consecutive term limit, should an alternate member subsequently be elected to serve as member.

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