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Item 15 (e) of the provisional agenda

Administrative, financial and institutional matters

**Privileges and immunities for individuals serving on
constituted bodies established under the Kyoto Protocol**

Views on privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol

Submissions from Parties

1. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, by its decision 9/CMP.2, invited Parties to submit to the secretariat, by 23 February 2007, their views on privileges and immunities for individuals serving on constituted bodies under the Kyoto Protocol.
2. The secretariat has received three such submissions. In accordance with the procedure for miscellaneous documents, these submissions are attached and reproduced* in the language in which they were received and without formal editing.

* These submissions have been electronically imported in order to make them available on electronic systems, including the World Wide Web. The secretariat has made every effort to ensure the correct reproduction of the texts as submitted.

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* This submission is supported by Bosnia and Herzegovina, Croatia, Serbia, and The former Yugoslav Republic of Macedonia.

PAPER NO. 1: BRAZIL

Brazil welcomes the opportunity to present this submission, according to Decision 9/CMP.2 Privileges and immunities for individual serving on constituted bodies established under the Kyoto Protocol.

Brazil strongly supports the negotiation of a legally binding instrument to provide for the immunity from legal process and other privileges and immunities, as appropriate, for individuals serving on constituted bodies of the Kyoto Protocol. Such legally binding instrument should also provide for the procedure regarding the waiver of privileges and immunities as well as the arrangements for the settlement of disputes in cases where immunity is not waived.

As interim arrangements pending the adoption of a legally binding instrument, Brazil favours entrusting the Executive Secretary with the mandate of, inter alia, providing advice and assistance (in accordance with Decision 9/CMP2), and requesting the Secretariat to enter into ad hoc legally binding agreements with individual Parties to provide such privileges and immunities. Such measures shall be regarded, however, as interim arrangements parallel to the adoption of a comprehensive legally binding instrument.

Brazil will introduce text for the consideration of interested Parties in the course of thematic discussions during SB-26 in May.

PAPER NO. 2: GERMANY ON BEHALF OF THE EUROPEAN COMMUNITY AND
ITS MEMBER STATES

This submission is supported by Bosnia and Herzegovina, Serbia, Former Yugoslav Republic of Macedonia and Croatia

Berlin, 27 February 2007

**Subject: Privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol:
Views on privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol**

The European Union welcomes this opportunity to submit views on the issue of Privileges and Immunities for Individuals serving on Constituted Bodies under the Kyoto Protocol.

For the European Union it is of utmost importance to ensure the effective functioning of Kyoto Protocol bodies. For this purpose, members of constituted bodies must be adequately protected from claims before national courts relating to the exercise of their official functions. The European Union has always supported a speedy and effective solution on privileges and immunities. Therefore, we welcome decision 9/CMP.2 (FCCC/KP/CMP/2006/10/Add.1) which *inter alia* "requests the Executive Secretary to provide advice and assistance to any individual serving on a constituted body established under the Kyoto Protocol with regard to any concerns or issues raised in connection with the exercise of his or her official functions." Furthermore, we note that the decision requests the Executive Secretary to take action, including through his good offices, where practicable, to minimize the risks of disputes, complaints and claims against individuals serving on constituted bodies.

Given that the risk of claims against individuals serving on constituted bodies established under the Kyoto Protocol is possibly not great, the EU would like to gain experience with the measures adopted at CMP.2 before assessing the need for new measures on the basis of the reports provided by the Executive Secretary in accordance with paragraph 8 of the above-mentioned decision. Moreover, we consider that future discussions should continue to focus mainly on immunities.

Finally, we believe that any long-term measure that may be necessary should be sought in connection with the wider discussion on the post 2012 arrangements.

PAPER NO. 3: SWITZERLAND

**Privileges and immunities for individuals serving on
constituted bodies established under the Kyoto Protocol**

Kyoto Protocol, AWG 3

1. Switzerland welcomes the opportunity to submit views on privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol.
2. Switzerland thanks the Secretariat for its note on the subject contained in document FCCC/SBI/2006/21 made available to the SBI for its 25th meeting. The document contains a good and comprehensive analysis and summary of the main issues related to the possibility to obtain written agreements from private or national entities seeking to participate in the mechanisms under the Kyoto Protocol
3. Switzerland considers that obtaining such written agreements is, from among the possible solutions discussed, the one that seems best to provide some protection to individuals serving on constituted bodies and expert review teams under the Kyoto Protocol. In fact, this solution could provide some security to individuals possibly affected, with a minimum of resource implications.
4. However, given the uncertainties actually linked to the issue as far as the urgency of the problem (i.e. the possible number of cases), the costs per case and the possible consequences for the individuals is concerned, Switzerland thinks that at this point in time, putting into place a costly and elaborated mechanism may be premature.
5. Therefore, Switzerland thinks that discussion of the issue should be continued, however, priority should be given to the establishment, at this point in time, of a basic mechanism which is lean and flexible and can be put in place without spending large amounts of money.
