



Revised questions on conflict of interest, and independence and impartiality

Note by the secretariat

I. Introduction

A. Mandate

1. At its seventh session, the plenary of the Compliance Committee agreed that the co-chairpersons would revise the questions referred to in paragraph 7 of the report on that meeting (document CC/7/2010/5) and make these questions available for the eighth meeting of the plenary.

B. Scope of the note

2. This note sets out the revised questions prepared by the co-chairpersons.

C. Possible action by the plenary of the Compliance Committee

3. The plenary may wish to consider the following questions and use them to guide their discussions on conflict of interest.

II. Revised questions on conflict of interest, and independence and impartiality

4. The co-chairpersons have revised the questions presented at the seventh meeting of the plenary, taking into account the discussion at that meeting, as follows:

A. Questions on general issues

- (a) Do members and alternate members have any specific comments or questions on the summary of relevant case law or on the new paper concerning committees under other international agreements, taking into account the specific context of the Compliance Committee?
- (b) Bearing in mind rule 4 of the rules of procedure, what do members and alternate members consider the role of the bureau of the Committee should be in the consideration of evidence forwarded to it under rule 4, paragraph 4?
- (c) Is the plenary required to take a decision under rule 4, paragraph 4, after evidence has been submitted to the plenary under that rule? If this is not the case, do members and alternate members consider it opportune to address other questions on general issues?
- (d) Could a member or alternate member be found not to have been under any obligation, under rule 4, paragraph 2, to disclose an interest in a matter under discussion before the Committee which may constitute a conflict of interest or which might be incompatible with the requirement of independence and impartiality expected of a member or alternate member, but still be found to have had the obligation to recuse himself upon



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the presentation by a Party of evidence, under rule 4, paragraph 4, on circumstances which may indicate a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member or alternate member?

- (e) Could the plenary decide to excuse a member or alternate member from consideration of a question of implementation under rule 4, paragraph 4, without determining there is a conflict of interest or incompatibility with the requirements of independence and impartiality?
- (f) Do members and alternate members wish to address the meaning of the phrase ‘material violation of requirements of independence and impartiality’ (rule 4, paragraph 5)?
- (g) What do members and alternate members consider to be the consequences, if any, for the validity of a decision, which has been elaborated and/or adopted with the participation of a member or an alternate member who has a conflict of interest or whose participation is incompatible with the requirements of independence and impartiality?
- (h) Do members and alternate members consider that being a member of a delegation to meetings under the UNFCCC and a member or alternate member of the Compliance Committee necessarily leads to a conflict of interest or incompatibility with the requirements of independence and impartiality? If not, would members and alternate members wish to elaborate on the circumstances under which this could arise?

B. Question on procedures and working arrangements

Do members and alternate members see a need to amend the rules of procedure or introduce any new working arrangements, for example, by reflecting common understandings in the report of the meeting?

C. Questions on the specific issue

- (a) Bearing in mind the answer to the third question above (II A (c)), should the plenary make a decision under rule 4, paragraph 4, regarding Mr. Kuokkanen’s future participation in any matters relating to the questions of implementation concerning Croatia?
- (b) If the previous question is answered affirmatively, should the plenary wait for the outcome of the appeal by Croatia to the CMP before making a decision under rule 4, paragraph 4, regarding Mr. Kuokkanen’s future participation in any matters relating to the questions of implementation concerning Croatia or are members and alternate members ready to take a decision today?
- (c) Pursuant to rule 4, paragraph 4, what are the views of members/alternate members concerning Mr. Kuokkanen’s future participation in the matter relating to the subject of the appeal? Should the Committee excuse Mr. Kuokkanen from consideration of the matter?



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- (d) Does the Committee consider that any further action by the Committee may be required? If the Committee would decide to excuse Mr. Kuokkanen from consideration of the matter, should the Committee consider and clarify whether there has been a material violation of requirements of independence and impartiality?
