

29 April 2009

ENGLISH ONLY

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

**SUBSIDIARY BODY FOR IMPLEMENTATION**

**Thirtieth session**

**Bonn, 1–10 June 2009**

**Item 14 (d) of the provisional agenda**

**Administrative, financial and institutional matters**

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

**Appropriate treaty arrangements relating to privileges  
and immunities for individuals serving on constituted bodies  
established under the Kyoto Protocol**

**Submissions from Parties**

**Addendum**

1. In addition to the two submissions contained in document FCCC/SBI/2009/MISC.5, one further submission was received on 27 April 2009.
2. In accordance with the procedure for miscellaneous documents, this submission is attached and reproduced\* in the language in which it was received and without formal editing.

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**FCCC/SBI/2009/MISC.5/Add.1**

GE.09-60896

SUBMISSION FROM AUSTRALIA

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

The Subsidiary Body for Implementation will consider at its thirtieth session views submitted by Parties on this issue, with a view to elaborating draft treaty arrangements. Australia's preliminary views are outlined below.

Australia shares other Parties' concerns with the limited immunities accessible to persons serving on Kyoto Protocol bodies, particularly immunity from legal action. The threat of legal action can undermine the Protocol's operation by hindering qualified participation and the ability of persons on the constituted bodies to properly discharge their duties. Grounds to warrant conferral of privileges on persons serving on constituted bodies have not been identified to date.

The Protocol should be amended to accommodate provisions that would assert the objective of securing participation by the most qualified persons and the ability of such persons to discharge their official duties in a professional and conscientious manner.

The provisions should confer immunities on persons serving as members and alternates of bodies constituted under the Kyoto Protocol ("constituted bodies"). "Constituted bodies" would mean the Executive Board of the Clean Development Mechanism, the Joint Implementation Supervisory Committee, the Compliance Committee, the Adaptation Fund Board, and Expert Review Teams established under Article 8 of the Protocol. This list may need to be expanded to accommodate new bodies agreed as part of the AWG-KP outcome.

The provisions should confer on persons serving on constituted bodies immunity from suit and from other legal process in respect of acts and things done in serving on the bodies, participating in their work or performing missions for the bodies. The immunity should continue to be accorded notwithstanding that the persons are no longer members or alternate members of the constituted bodies. The provisions should also confer the immunity of the inviolability of the persons' papers and documents.

Furthermore, provisions should confer on the Executive Secretary of the Secretariat to the Protocol the right and the duty to waive the immunity of any person serving on a constituted body in any case where, in his/her opinion, the immunity would impede the course of justice and could be waived without prejudice to the interests of the Protocol.