



**UNITED
NATIONS**



**Framework Convention
on Climate Change**

Distr.
LIMITED

FCCC/SBI/2010/L.9
8 June 2010

Original: ENGLISH

SUBSIDIARY BODY FOR IMPLEMENTATION

Thirty-second session

Bonn, 31 May to 9 June 2010

Agenda item 17 (c)

Administrative, financial and institutional matters

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

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established under the Kyoto Protocol**

Draft conclusions proposed by the Chair

1. The Subsidiary Body for Implementation (SBI) noted that the exchange of views by Parties on this issue had, in conjunction with additional information provided by the secretariat and the Office of Legal Affairs of the United Nations, further enhanced the understanding of the Parties.
2. The SBI also noted the progress made in developing the draft treaty arrangements contained in the annex.
3. The SBI agreed to continue its consideration of this issue at its thirty-third session on the basis of the text contained in the annex, with a view to concluding these arrangements as soon as possible.

Annex

[ENGLISH ONLY]

Privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol**Draft treaty arrangements developed by the Contact Group**

1. Individuals serving on constituted bodies and other entities [established under the Kyoto Protocol] [established under the United Nations Framework Convention on Climate Change and its related legal instruments] listed in [annex] [appendix] [x] shall be accorded such [privileges and] immunities as are necessary for the independent exercise of their official functions. They shall, while exercising their official functions, including the time spent on journeys in connection with their official functions, be accorded:
 - (a) [Immunity from personal arrest or detention;
 - (b) [Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import and export of which is prohibited by law or controlled by the quarantine regulations of the Party concerned; inspection in such a case shall be conducted in the presence of the individual concerned;]
 - b bis. [The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys;]
 - (c) Immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of the performance of their official functions. This immunity from legal process shall continue to be accorded to the individuals referred to in this paragraph notwithstanding that they have ceased to exercise their official functions;
 - (d) Inviolability for all papers and documents;
 - (e) [For the purpose of their communication with the constituted bodies and other entities listed in [annex] [appendix] [x] and with the secretariat, the right to use codes and to receive and send papers and documents in whatever form and materials relating to their official functions by courier or in sealed bags or electronic means;]
 - (f) [The same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;]
 - (g) [[Streamlined processing of visa applications for] [Applications for visas by] the individuals referred to in this paragraph, when accompanied by a document from the secretariat confirming that they are travelling on the business of the constituted bodies and other entities listed in [annex] [appendix] [x], [shall be dealt with as speedily as possible [and granted free of charge]].]

2. [Individuals invited by the constituted bodies and other entities [established under the Kyoto Protocol] [established under the United Nations Framework Convention on Climate Change and its related legal instruments] listed in [appendix] [annex] [x] to provide expert advice at meetings of these constituted bodies and other entities [established under the Kyoto Protocol] [established under the United Nations Framework Convention on Climate Change and its related legal instruments] listed in [appendix] [annex] [x] shall, during the period of their service to the relevant constituted body or other entity, including the time spent on journeys in connection with their service, be accorded the [privileges and] immunities referred to in subparagraph[s] [x] of paragraph 1 above.]
3. The individuals referred to in paragraph [1] above are those individuals elected, selected or appointed to serve on the constituted bodies and other entities [established under the Kyoto Protocol] [established under the United Nations Framework Convention on Climate Change and its related legal instruments] listed in [appendix] [annex] [x].
4. [Privileges and] immunities are granted to the individuals referred to in paragraphs [1] [and [2]] above for the independent exercise of their official functions [and the effective implementation of [the Kyoto Protocol] [this agreement] [the United Nations Framework Convention on Climate Change and its related legal instruments]] and not for the personal benefit of the individuals themselves. The [Executive Secretary of the secretariat [in consultation with xxx]] shall have the right and the duty to waive the immunity of any individual referred to in paragraphs [1] [and [2]] above in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the [operation and implementation of [the Kyoto Protocol] [this agreement]] [operation and implementation of the United Nations Framework Convention on Climate Change and its related legal instruments].
5. [The list contained in [appendix] [annex] [x] may be revised [through a decision of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.]
- 5 bis. [The list contained in [appendix] [annex] [x] may be revised in accordance with the following procedure:¹
 - (a) Any Party may propose amendments to [appendix] [annex] [x];
 - (b) Amendments to [annex] [appendix] [x] shall be adopted at an ordinary session of the [supreme body of the agreement]. The text of any proposed amendment to [annex] [appendix] [x] shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendment to [annex] [appendix] [x] to the Parties and signatories to the Convention and, for information, to the Depositary;
 - (c) The Parties shall make every effort to reach agreement on any proposed amendment to [annex] [appendix] [x] by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment to [annex] [appendix] [x] shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment to [annex] [appendix] [x] shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance;

¹ This paragraph shall be revisited in the light of the overall discussions of the amendment procedures.

- (d) An amendment to [annex] [appendix] [x] that has been adopted in accordance with paragraph 5 bis (b) and (c) above shall enter into force for all Parties to this [agreement] six months after the date of the communication by the Depositary to such Parties of the adoption of the amendment to the [annex] [appendix] [x], except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the amendment to [annex] [appendix] [x]. The amendment to [annex] [appendix] [x] shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary;
- (e) If the adoption of an amendment to [annex] [appendix] [x] involves an amendment to this [agreement], that amendment to [annex] [appendix] [x] shall not enter into force until such time as the amendment to this [agreement] enters into force;
- (f) [Annex] [Appendix] [x] to this [agreement] shall form an integral part thereof and, unless otherwise expressly provided, a reference to this [agreement] constitutes at the same time a reference to [annex] [appendix] [x].]

[APPENDIX] [ANNEX] [x]

1. Executive Board of the clean development mechanism.
2. [Compliance Committee.]
3. Joint Implementation Supervisory Committee.
4. [Adaptation Fund Board.]
5. Expert review teams established under Article 8 of this Protocol.
6. [Committees, panels or groups established by the entities listed in 1–4 above.]

[And other relevant constituted bodies and entities agreed through the post-2012 process]
