

Privileges and Immunities

Compliance Committee Fifth meeting

UNFCCC secretariat

Bonn, Germany
October 2008

UNFCCC



UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

Background

- First raised at CMP 1
- Remains on agendas of CMP and SBI
- An imperative for the independent and effective functioning of KP bodies
- CMP 2: short-term measures adopted
- Effective, legally sound and long-term solution being considered



Possible nature of complaints

- Substantially incorrect decisions
- Conflict of interest
- Breach of confidentiality
- Lack of due process



Mandate of the Compliance Committee

- Facilitative Branch - Advisory & facilitation
- Enforcement Branch – Decision making



P&I enjoyed by the Compliance Committee

- Compliance Committee enjoy P&I in:
 - Germany: UNFCCC Headquarters Agreement;
 - Other countries: Meeting agreement/MoU with Host Government.

1946 Convention on the Privileges and Immunities of the UN

- CMP 1: ES to consult UN SG on possibility of extension to KP bodies.

- UN OLA :
 - No automatic extension;
 - Members of KP bodies not “experts on mission for the United Nations”.



Short-term measures: Decision 9/CMP.2

CMP requested the Executive Secretary to:

- (a) Take action to minimize legal risks;
- (b) Provide advice and assistance;
- (c) Consult Chairs of constituted bodies;
- (d) Contact KP Parties concerned;
- (e) Incur necessary expenses;
- (f) Report to the CMP.



Implementation of Decision 9/CMP.2

Executive Secretary's report to CMP 3

- Improved secretariat support to KP bodies;
- Training for the ERTs;
- Action taken to address letters from legal entities regarding CDM Executive Board activities/decisions.



Implementation of decision 9/CMP.2 – Compliance Committee

- Compliance Committee meetings convened in Bonn.
- Efficient and high-quality secretariat support to the Compliance Committee.
- Complaints: None received concerning the Compliance Committee.

Long-term options – proposal by UN Office of Legal Affairs

- Amend the Kyoto Protocol;
- Adopt a new multilateral agreement;
- Adopt a decision to apply the 1946 UN Convention on P&I *mutatis mutandis*;
- Bilateral agreements between the secretariat and each KP Party.

Long-term options

The CMP has not yet fully considered the long-term options.

- Issues to be addressed:
 - o Scope and content of the P&I to be conferred;
 - o KP bodies covered;
 - o Individuals covered;
 - o Review and dispute settlement procedures.

Status of the negotiations

- Consideration under the Article 9 Review
- SBI 28 recommended that:
 - Appropriate long-term treaty arrangements are needed for P&I;
 - CMP 4 (Poznań) Parties to consider:
 - Additional short-term arrangements;
 - Long-term treaty arrangements;
 - CMP 5 (Copenhagen) Parties conclude treaty arrangement.
- Parties to submit views on treaty arrangements for SBI June 2009.