

CAP044 - Legal Issues

1. At the meeting of the Governance Standing Group held on 13 December 2002, Members requested a note on the impact on the legal position of Panel Alternates should CAP044 or any of the alternative approaches (full or partial election, nomination or co-option) considered at the meeting be implemented in due course.
2. CAP044 seeks to amend Annex 8A.4 of the CUSC to extend the election arrangements currently in place to cater for "Resigning Panel Members" to include "Resigning Alternate Members" which would also become a new defined term under the CUSC.
3. Paragraph 8.11 of the CUSC provides for indemnification by CUSC Parties (except for travel and accommodation costs) of Panel Members, the Panel Secretary and each member of a Working Group or Standing Group. Paragraph 8.6.5 provides for the rights of Panel Alternates. Most significantly Paragraph 8.6.5 (a) (iii) extends the indemnification cover in Paragraph 8.11 to the alternate, where he has been so appointed by the Panel Member.
4. The protection afforded to Alternate Members by Paragraph 8.11 of the CUSC is wholly dependent on their being appointed by a Panel Member to act as their Alternate. CAP044 will not change this position as it merely extends the existing election arrangements for Panel Members to Alternates (as contained in Paragraph 8.6.5) - it has no impact on Paragraphs 8.6.2, 8.6.5 or 8.11. Similarly, it would not be expected that any alternative to CAP044 would change the position on legal protection, although this would depend on the scope of any such alternative amendment and the legal drafting. The existing arrangements already make clear that Panel Alternates are indemnified when acting as a Panel Alternate following appointment by a Panel Member.

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