

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Sixty-ninth meeting of the Standing Committee
Geneva (Switzerland), 27 November - 1 December 2017

Strategic matters

POTENTIAL CONFLICTS OF INTEREST
IN THE ANIMALS AND PLANTS COMMITTEES
REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.

Mandate

2. At its 17th meeting (CoP17, Johannesburg, 2016), the Conference of the Parties adopted Decisions 16.9 (Rev. CoP17) and 16.10 (Rev. CoP17) on *Potential conflicts of interest in the Animals and Plants Committees* as follows:

16.09 (Rev. CoP17) Directed to the Secretariat

The Secretariat shall continue to compile examples of conflicts of interest procedures under other relevant agreements and organizations, and shall prepare a report for consideration at the 69th meeting of the Standing Committee.

16.10 (Rev. Cop17) Directed to the Standing Committee

The Standing Committee shall, at its 69th and 70th meeting and on the basis of a review from the Secretariat, assess the functioning of the conflict of interest policy set out in paragraph c) under Regarding representation in the Animals and Plants Committees of Resolution Conf. 11.1 (Rev. CoP17) on Establishment of committees, and make recommendations for refining the definition of conflict of interest, if appropriate, and for a mechanism to deal with such conflicts, having reference to such mechanisms developed in other multilateral environmental agreements or relevant international organizations and bodies, for consideration at the 18th meeting of the Conference of the Parties.

Definition of 'conflict of interest' and mechanisms to deal with it

3. Paragraph 5 c) under *Regarding representation in the Animals and Plants Committees* of Resolution Conf. 11.1 (Rev. CoP17) on *Establishment of committees*, reads as follows:

c) Conflict of interest

A "conflict of interest"¹ refers to any current financial interest which could significantly impair the individual's impartiality, objectivity or independence in carrying out his or her duties as a member of the Committee. A candidate's employment by itself does not automatically constitute a conflict of interest:

¹ *Conflict-of-interest policies in scientific assessment bodies typically make a distinction between "conflict of interest" and "bias", which refers to a point of view or perspective that is strongly held regarding a particular issue or set of issues.*

- i) *Parties proposing candidates as members or alternate members are to request that, together with their names and curricula vitae, each candidate provides a declaration of interest which should be circulated to the Parties of the region concerned at least 120 days before the meeting of the Conference by the Parties at which the representatives will be elected. In that declaration, the candidate should disclose any current financial interest that might call into question his or her impartiality, objectivity or independence in carrying out his or her duties as a member or alternate member of the Committee;*
- ii) *Following an election, the declaration of interest and the curriculum vitae of each member and alternate member shall be made available by the Secretariat to the Chair and the members of the Committee concerned, and to the Chair of the Standing Committee;*
- iii) *Each member shall, at the beginning of each meeting of the Committee, declare any financial interests that he or she considers calls into question his or her impartiality, objectivity or independence regarding any subject on the agenda for that meeting of the Committee. If a member has declared such an interest, he or she may take part in discussions but not in the decision-making regarding the agenda item in question. If the member is the subject of the potential conflict of interest, he or she shall not chair the meeting or sub-meeting for the agenda item in question; and*
- iv) *When taking part in meetings or seminars outside the CITES framework, the members and alternate members should specify that their interventions are not made on behalf of the Committee or of any CITES body, unless specific instructions have been issued by the Committee to that effect.*

4. In addition to the mechanism described above, the Conference of the Parties, at its 16th meeting, also adopted an amendment to Annex 2 of Resolution Conf. 11.1 on *Establishment of the Animals and Plants Committees of the Conference of the Parties*, to add the following text under paragraph 4 a):

RESOLVES that the duties of members elected by the regions of the Animals and Plants Committees and their alternates are as follows:

- a) *each member should, to the best of their abilities, act as impartially as possible and endeavour to base their judgements and opinions upon an objective, scientific assessment of the available evidence.*

Examples of conflict of interest procedures under other relevant agreements and organizations

5. Pursuant to Decision 16.9 (Rev. CoP17), the Secretariat has continued to compile examples of conflict of interest rules and procedures under other relevant agreements and organizations. Building on the first document on the issue (document SC61 Doc. 8), the Secretariat has continued to compile updated and additional examples of procedures for dealing with possible conflicts of interest in document SC66 Doc. 8. A useful example of an overview of the procedures adopted under multilateral agreements may be found in document CC/8/2010/3 of the United Nations Framework Convention on Climate Change (UNFCCC). The document compiles the procedures of, *inter alia*, the Compliance Committee of the Kyoto Protocol and other UNFCCC bodies; the Compliance Committee of the Biosafety Protocol; the Chemical Review Committee (CRC) of the Rotterdam Convention; the Persistent Organic Pollutants Review Committee (POPRC) of the Stockholm Convention; the Technological and Economic Assessment Panel (TEAP) of the Montreal protocol; the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES); the Compliance Committee of the Aarhus Convention; the Compliance Committee of the Basel Convention; the Human Rights Committee of the International Covenant on Civil and Political Rights, and the UN General Assembly.
6. New examples from the Green Climate Fund, the Compliance Committees of the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access and Benefit-Sharing, and the rules of procedure of the Commission on the Limits of the Continental Shelf which contains references to conflict of interest, and from the General Assembly were added to the compilation.
7. From the new compiled information, it appears that of all of the related UNFCCC bodies, the Green Climate Fund (GCF) has perhaps the strongest rules with respect to conflict of interest and procedures for enforcement of those rules. GCF adopted a Policy on ethics and conflicts of interest for the Board of the Green Climate Fund at its ninth meeting (2015) taking into account best practices of relevant units of

international entities, including multilateral development banks in order to promote ethical conduct and maintain the integrity of the heads of accountability units. The policy makes provisions for conflict of interest situations. A conflict of interest is defined in paragraph 14 of the Policy, as follows:

A conflict of interest arises when the personal interests of a Covered Individual interfere in any way with her/his official duty or with the interests of the Fund. A conflict of interest may arise when the Covered Individual takes actions or has interests that make it difficult to perform her/his work objectively and effectively, or when the Covered Individual takes actions that intentionally result in improper benefits for her/himself, Immediate Family Members or other persons or entities. An actual conflict of interest involves a conflict between the official duties of the Covered Individual and her/his personal interests that could improperly influence the performance of those official duties. An apparent conflict of interest arises when it could reasonably be perceived that the Covered Individual's personal interests could improperly influence the performance of her/his official duties even if this is not in fact the case².

8. The GCF policy also contains the following list of prohibited practices
- a) A “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another entity and/or individual;
 - b) A “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, an entity and/or individual to obtain a financial or other benefit, or to avoid an obligation;
 - c) A “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any entity and/or individual or the property of that entity and/or individual to influence improperly the actions of an entity and/or individual;
 - d) A “collusive practice” is an arrangement between two or more entities and/or individuals designed to achieve an improper purpose, including to improperly influence the actions of another entity and/or individual;
 - e) An “obstructive practice” includes deliberately destroying, falsifying, altering, or concealing evidence material to an investigation; making false statements to investigators in order to materially impede an investigation; threatening, harassing, or intimidating any entity and/or individual to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or materially impeding the Fund’s rights of audit or access to information; and
 - f) “Harassment” means unwelcome verbal or physical behaviour that unreasonably interferes with work or creates an intimidating, hostile or offensive work environment;
9. Provisions on conflict of interest have also been adopted in the context of the rules of procedure for meetings of the Compliance Committees of the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access and Benefit-Sharing. The rules of procedure for meetings of the Compliance Committee under the Cartagena Protocol can be found in the annex to decision BS-II/1. Rule 11 provides:

Each member of the Committee shall, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflicts of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member shall bring the issue to the attention of the Committee before consideration of that particular matter. The concerned member shall not participate in the elaboration and adoption of a recommendation of the Committee in relation to that matter.

10. The rules of procedure for meetings of the Compliance Committee under the Nagoya Protocol can be found in the annex to decision NP-2/3. Rule 11 provides as follows:
1. *Each member of the Committee and the indigenous peoples and local community observers shall, with respect to any matter that is under consideration by the Committee, avoid conflicts of interest. Where a member or indigenous peoples and local community observer finds himself or herself faced with a conflict of interest, that member or indigenous peoples and local community observer*

² https://www.greenclimate.fund/documents/20182/751020/GCF_B.17_17_-_Policy_on_ethics_and_conflicts_of_interest_for_active_observers_of_the_Green_Climate_Fund.pdf/fd3f5450-84a1-450d-8626-88f72d876797

shall bring the issue to the attention of the Committee before consideration of that particular matter. The member or indigenous peoples and local community observer concerned shall not participate in the deliberations and the taking of decisions by the Committee in relation to that matter.

2. A “conflict of interest” refers to any current interest that could:
 - a) Significantly impair the individual’s objectivity as a Committee member or indigenous peoples and local community observer;
 - b) Create an unfair advantage for any person or organization.
11. Similar compilations of provisions concerning issues surrounding conflict of interest have already been conducted by other bodies, including the Compliance Committee of the Kyoto Protocol³ and the Secretariat of the Basel, Rotterdam and Stockholm Conventions. According to these assessments, it appears that there is much similarity among the existing rules, procedures and policies governing conflicts of interests under relevant agreements and organizations, particularly among technical and scientific bodies constituted under or supporting of multilateral agreements. For instance, “conflict of interest” is defined in a similar and general manner in the documents examined.
12. A majority of bodies specify the capacity in which the members of the bodies undertake their responsibilities, with an emphasis on the importance of maintaining the objectivity of the individual member or expert, as well as the body as a whole. However, some rules and procedures considered have differences regarding the modalities to disclose and communicate the declarations of interest, e.g. to the Secretariats directly by the expert rather than through the government nominating the expert (IPBES, TEAP, IPCC).
13. For the TEAP of the Montreal protocol, the rules and procedures regarding conflict of interest specifically address the relationship between the expert and governments or other stakeholders. In that instance, the rules specify that the expert shall not accept instructions nor function as representative of governments, industries, non-governmental organizations or other organizations, and that the expert shall not be a current representative of a party to the Montreal Protocol (TEAP).

Conflict of interest disclosure forms

14. Some of the bodies have developed their uniform disclosure forms for declarations of interest as a means of promoting a standardized approach to such declarations. For instance, IPBES has made an online form available on its website⁴, and the Stockholm Convention has adopted a form in the Annex to Decision SC-1/8 on Rules of procedure for preventing and dealing with conflicts of interest relating to activities of the Persistent Organic Pollutants Review Committee (see annex 1 to the present document). The Secretariat recommends the development and adoption of a standard disclosure form for declarations of interest as a means of promoting a CITES standardized approach to such declarations.

Other approaches: Oaths and code of ethics

15. In the context of the discussions on the revitalization of the work of the General Assembly of the United Nations (UNGA) and in response to past incidents, it was decided that the President-elect of the General Assembly shall take an **oath of office**, as detailed below, at the moment of handing over the gavel in the final plenary meeting of the preceding session, and that the text of the oath be annexed to the rules of procedure of the Assembly.⁵

Oath of Office

I solemnly declare that I shall truthfully perform my duties and exercise the functions entrusted to me as President of the General Assembly of the United Nations in all loyalty, discretion and conscience, and that I shall discharge these functions and regulate my conduct with the interest of the United Nations only in view and in accordance with the Charter of the United Nations and the code of ethics for the

³ Procedures and practices relating to conflict of interest in bodies constituted under other multilateral environmental agreements and other relevant United Nations bodies, available at: http://unfccc.int/files/kyoto_protocol/compliance/plenary/application/pdf/cc-8-2010-3_coi_in_mea_and_other_relevant_un_bodies.pdf. There is also a corrigendum to this note, which can be found on the following page of the UNFCCC website: http://unfccc.int/kyoto_protocol/compliance/plenary/items/3788.php

⁴ <https://www.ipbes.net/conflict-interest-disclosure-form>

⁵ <http://undocs.org/en/A/RES/70/305>

President of the General Assembly, without seeking or accepting any instruction in regard to the performance of my duties from any Government or other source external to the Organization.

16. The General Assembly also decided that its President shall observe a code of ethics, as detailed in annex 2 to the present document, and further decided that the text of the code of ethics for the President of the Assembly shall be annexed to the rules of procedure of the Assembly.

Cases of conflict of interest

17. The current CITES conflict of interest policy is being applied diligently and there have been no conflict of interest either reported or alleged.

Recommendations

18. The Standing Committee is invited to assess the information provided and to request the relevant intersessional working group, most likely the one on Rules of Procedure, to conduct the following work:
 - a) assess the functioning of the conflict of interest policy set out in paragraph 5 c) under *Regarding representation in the Animals and Plants Committees* of Resolution Conf. 11.1 (Rev. CoP17);
 - b) make recommendations for refining the definition of conflict of interest, if appropriate, and for a mechanism to deal with such conflicts, referring to such mechanisms developed in other multilateral agreements or relevant international organizations and bodies; and
 - c) submit its findings and recommendations for consideration at the 70th meeting of the Standing Committee.
19. The Standing Committee is further invited to review at its 70th meeting the findings and recommendations of the intersessional working group on this matter and make recommendations for consideration at the 18th meeting of the Conference of the Parties, including appropriate revisions to the Rules of Procedure and Resolution Conf. 11.1 (Rev. CoP17).
20. The Standing Committee may wish to request the Secretariat to develop and submit to its 70th meeting a standard disclosure form for declarations of interest as a means of promoting a standardized approach to such declarations.

Annex to decision SC-1/8 on Rules of procedure for preventing and dealing with conflicts of interest relating to activities of the Persistent Organic Pollutants Review Committee

Declaration of interests

Measures need to be taken to ensure that the best possible assessment of scientific evidence is achieved in an independent atmosphere free of either direct or indirect pressures. Thus, to ensure the technical integrity and impartiality of the work of the Persistent Organic Pollutants Review Committee, it is necessary to avoid situations in which financial or other interests might affect the outcome of that work.

Each expert is therefore asked to declare any interests that could constitute a real, potential or apparent conflict of interest with respect to his or her involvement in the meeting or work, between, on the one hand, commercial entities and the participant personally, and, on the other hand, commercial entities and the administrative unit with which the participant has an employment relationship. In this context “commercial entity” refers to any company, association (e.g., trade association), organization or any other entity whatsoever, with commercial interests.

1. What is a conflict of interest?

“Conflict of interest” means that the expert or his or her partner, or the administrative unit with which the expert has an employment relationship, has a financial or other interest that could unduly influence the expert’s position with respect to the subject matter being considered. An apparent conflict of interest exists when an interest would not necessarily influence the expert but could result in the expert’s objectivity being questioned by others. A potential conflict of interest exists with respect to any interest which any reasonable person could be uncertain as to whether or not it should be reported.

Different types of financial or other interests, whether personal or with the administrative unit with which the expert has an employment relationship, can be envisaged and the following list, which is not exhaustive, is provided for your guidance. For example, the following types of situations should be declared:

- (a) A current proprietary interest in a substance, technology or process (e.g., ownership of a patent), to be considered in – or otherwise related to the subject matter of – the meeting or work;
- (b) A current financial interest, e.g., shares or bonds, in a commercial entity with an interest in the subject matter of the meeting or work (except shareholdings through general mutual funds or similar arrangements where the expert has no control over the selection of shares);
- (c) An employment, consultancy, directorship, or other position held during the past four years, whether or not paid, in any commercial entity which has an interest in the subject matter of the meeting or work, or an ongoing negotiation concerning prospective employment or other association with such commercial entity;
- (d) Performance of any paid work or research during the past four years commissioned by a commercial entity with interests in the subject matter of the meetings or work;
- (e) Payment or other support covering a period within the past four years, or an expectation of support for the future, from a commercial entity with an interest in the subject matter of the meetings or work, even if it does not convey any benefit to the expert personally but which benefits his or her position or administrative unit, e.g., a grant or fellowship or other payment, e.g., for such purposes as the financing of a post or consultancy.

With respect to the above, a commercial interest in a competing substance, technology or process, or an interest in or association with, work for or support by a commercial entity having a direct competitive interest must similarly be disclosed.

2. How to complete this declaration

Please complete this declaration and submit it to your Government for transmission to the Secretariat. Any financial or other interests that could constitute a real, potential or apparent conflict of interest should be declared: first, with respect to yourself or partner; and, second, with respect to any administrative unit with which you have an employment relationship. Only the name of the commercial

entity and the nature of the interest is required to be disclosed and no amounts need to be specified (although they may be, if you consider this information to be relevant to assessing the interest). With respect to points (a) and (b) in section 1 above, the interest should only be declared if it is current. With respect to points (c), (d) and (e), any interest during the past four years should be declared. If the interest is no longer current, please state the year when it ceased. With respect to point (e), the interest ceases when a financed post or fellowship is no longer occupied, or when support for an activity ceases.

3. Assessment and outcome

The information submitted by you will be used to assess whether the declared interests constitute an appreciable real, potential or apparent conflict of interest in accordance with the provisions of decision SC-1/8 of the Conference of the Parties of the Stockholm Convention.

Information disclosed on this declaration shall reside within the Secretariat and shall be made available to the Conference of the Parties, its Bureau and subsidiary bodies, as deemed appropriate.

4. Declaration

Have you or your partner any financial or other interest in the subject matter of the meeting or work in which you will be involved, which may be considered as constituting a real, potential or apparent conflict of interest?

Yes: No: If yes, please give details in the box below.

Do you have, or have you had during the past four years, an employment or other professional relationship with any entity directly involved in the production, manufacture, distribution or sale of chemicals or pesticides or directly representing the interests of any such entity?

Yes: No: If yes, please give details in the box below.

1. Type of interest, e.g. patent, shares, employment, association, payment (including details on any compound, work, etc.)	2. Name of commercial entity	3. Belongs to you, partner or unit?	4. Current interest? (or year ceased)

Is there anything else that could affect your objectivity or independence in the meeting or work, or the perception by others of your objectivity and independence?

I hereby declare that the disclosed information is correct and that no other situation of real, potential or apparent conflict of interest is known to me. I undertake to inform you of any change in these circumstances, including if an issue arises during the meeting or work itself.

Signature

Date

Name

Government

I hereby declare that I shall regulate my conduct in accordance with the provisions of paragraphs 3 and 4 of decision SC-1/8 of the Conference of the Parties of the Stockholm Convention.

Signature

Name

Code of ethics for the President of the General Assembly

1. The President of the General Assembly in performing his or her duties and responsibilities as an elected official, fully in line with the Charter of the United Nations and the rules of procedure of the General Assembly, shall at all times from the date of election observe the highest standards of ethical conduct.
2. The President shall perform his or her duties and responsibilities in an impartial and equitable manner and in full honesty and good faith.
3. The President shall avoid any action that might result in or create the appearance of:
 - (a) The use of the office of the Presidency or resources attached thereto for private gain;
 - (b) Giving unwarranted preferential treatment to any State, organization or person;
 - (c) Impeding the work of the Organization, or taking a preferential, biased or prejudged approach;
 - (d) Affecting adversely the confidence of Member States in the integrity of the work of the Organization.
4. The President shall engage with Member States in a consultative and cooperative manner, while at the same time refraining from receiving or accepting instructions from any individual or governmental or non-governmental organization or group whatsoever.
5. The President shall avoid any situation involving a conflict between his or her own personal or private interest and the interests of the Presidency or the United Nations.
6. The President shall ensure the greatest possible transparency in the utilization of property, premises, services and resources made available for the discharge of the functions of the office and ensure that they are used only for the official business of the Presidency and not for other purposes.
7. The President shall ensure the greatest possible transparency in any external activities, and any commercial dealings, to protect against conflict of interest. Holding of any commercial office during his or her term in office is not compatible with the post of the President.
8. In the event that the President considers that a conflict of interest may arise, he or she shall recuse himself or herself from handling the matter and, in accordance with the rules of procedure of the General Assembly, appoint an Acting President in relation to that matter or meeting.
9. In the fulfilment of his or her mandate, the President is accountable to the General Assembly.
10. Any reference to the President in the present code shall also include members of his or her office while in the exercise of their functions as members of the Office of the President of the General Assembly.
11. Nothing in this code shall preclude the President or members of his or her Office from being seconded from their Government or from retaining the privileges, immunities and diplomatic status granted by a Member State.