

ANNEX 20-B
CODE OF CONDUCT

Definitions

1. For the purposes of Chapter 20 (Consultations and Dispute Settlement):

assistant means a person who, under the terms of appointment of a panellist, conducts research or provides support for the panellist;

panellist means a member of a panel established under Article 20.7 (Request for Establishment of Panels);

proceeding, unless otherwise provided, means a panel proceeding under Chapter 20 (Consultations and Dispute Settlement); and

staff, in respect of a panellist, means persons under the direction and control of the panellist, other than an assistant.

Responsibilities to the Process

2. Each panellist shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interest and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved. Former panellists must comply with the obligations in paragraphs 15, 16, 17 and 18.

Disclosure Obligations

3. Prior to confirmation of his or her selection as a panellist under Article 20.8 (Establishment and Reconvening of Panels), a panellist shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a panellist shall make all reasonable efforts to become aware of any such interests, relationships or matters.

4. Once selected, a panellist shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in paragraph 3 and shall disclose them. The obligation to disclose is a continuing duty which requires a panellist to disclose any such interests, relationships or matters that may arise during any stage of the proceeding. A panellist shall disclose such interests, relationships or matters by communicating them in writing to the Joint Committee for consideration by the Parties.

Duties

5. Upon selection, a panellist shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding.
6. A panellist shall carry out all duties fairly and diligently.
7. A panellist shall consider only those issues raised in the proceeding and necessary for rendering a decision and shall not delegate the duty to decide to any other person unless otherwise provided under the Rules of Procedure.
8. A panellist shall take all reasonable steps to ensure that the panellist's staff and assistants comply with this Annex.
9. A panellist shall promptly report to both Parties matters concerning actual or potential violations of this Annex by another panellist.

Independence and Impartiality of Panellists

10. A panellist shall be independent and impartial. A panellist shall act in a fair manner and shall avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.
11. A panellist shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of his or her duties.
12. A panellist shall not use his or her position on the panel to advance any personal or private interests. A panellist shall avoid actions that may create the impression that others are in a special position to influence him or her.
13. A panellist shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence his or her conduct or judgment.
14. A panellist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect his or her impartiality or that might reasonably create an appearance of impropriety or bias.

Obligations of Former Panellists

15. All former panellists must avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the findings, rulings or recommendations of the panel.

Confidentiality

16. A panellist or former panellist shall not at any time disclose or use any confidential or non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of others.

17. A panellist or former panellist shall not disclose a report or parts thereof prior to its publication.

18. A panellist or former panellist shall not at any time disclose the deliberations of a panel, or any panellist's view except as required by law.