

ANNEX 18-B

CODE OF CONDUCT FOR PANELLISTS

Definitions

1. For the purposes of this Annex:

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 or reconvened under Article 18.8;

proceeding means the proceeding of a panel under this Chapter, unless otherwise specified; and

staff means persons under the direction and control of a panellist, other than assistants.

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 interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved. Former panellists shall comply with the obligations established in paragraph 18, paragraph 19 and paragraph 21.

Disclosure Obligations

3. Prior to confirmation of his or her selection as a panellist under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality, or that might give rise to justifiable doubts as to his or her independence or impartiality, in conducting the proceedings. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and 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 by communicating them in writing to the Joint Commission for consideration by the Parties. 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 proceedings.

Performance of Duties by Panellists

5. A panellist shall comply with the relevant provisions of this Chapter. Unless the Parties otherwise agree, a panellist shall also apply Annex 18-A when conducting panel proceedings.
6. On selection, a panellist shall perform his or her duties thoroughly and expeditiously throughout the course of the proceedings with fairness and diligence.
7. A panellist shall not deny other panellists the opportunity to participate in all aspects of the proceedings, except for proceedings carried out pursuant to Article 18.12.5.
8. A panellist shall consider only those issues raised in the proceedings and necessary to rendering a decision and shall not delegate the duty to decide to any other person.
9. A panellist shall take all appropriate steps to ensure that his or her assistant and staff comply with relevant principles in this Annex.
10. A panellist shall not engage in *ex parte* contacts concerning the proceedings.
11. A panellist shall promptly report to the Parties matters concerning actual or potential violations of this Annex by another panellist.

Independence and Impartiality of Panellists

12. A panellist shall be independent and impartial. A panellist shall act in a fair manner and avoid creating an appearance of impropriety or bias.
13. A panellist shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
14. 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.
15. 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 the panellist. A panellist shall endeavour to prevent or discourage others from representing themselves as being in such a position.
16. A panellist shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence his or her conduct or judgement.
17. 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.

Duties in Certain Situations

18. A panellist or former panellist shall avoid actions that may create the appearance that he or she was biased in carrying out his or her duties or would benefit from the decision or report of the panel.

Maintenance of Confidentiality

19. Except for the purposes of the proceedings, a panellist or former panellist shall not at any time disclose or use any non-public information concerning the proceedings or acquired during the proceedings and shall not, in any case, disclose or use any such information to gain personal advantage, advantage for others or to affect adversely the interest of others.

20. A panellist shall not disclose a panel report or parts thereof prior to its publication.

21. A panellist or former panellist shall not at any time disclose to the public the deliberations of a panel or any panellist's view, except as required by legal requirements.