

## ANNEX 13B CODE OF CONDUCT FOR PANELLISTS

### Definitions

1. For the purposes of this Annex:
  - (a) **“assistant”** means a person who, under the terms of appointment of a panellist, conducts research or provides support for the panellist;
  - (b) **“panellist”** means a member of a Panel established under Article 13.8 (Establishment of a Panel – Dispute Settlement);
  - (c) **“proceeding”**, unless otherwise specified, means the proceeding of a Panel under Chapter 13 (Dispute Settlement); and
  - (d) **“staff”**, in respect of a panellist, means persons under the direction and control of the panellist, other than assistants.

### Responsibilities to the Process

2. Every 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 are preserved. Former panellists shall comply with the obligations established in paragraphs 17 through 20.

### Disclosure Obligations

3. Prior to confirmation of their selection as a panellist under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect their independence or impartiality, or that might reasonably create an appearance of impropriety or bias in the proceeding. 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 and matters referred to in paragraph 3, and shall disclose them by communicating them in writing to the Joint Committee for consideration by the Parties. The obligation to disclose is a continuing duty, which requires a panellist to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

5. In the event of uncertainty regarding whether an interest, relationship or matter must be disclosed, a candidate or panellist should err in favour of disclosure.

#### **Performance of Duties by Panellists**

6. A panellist shall comply with the provisions of Chapter 13 (Dispute Settlement) and the applicable Rules of Procedure in Annex 13A (Rules of Procedure for the Panel).
7. Upon selection, a panellist shall perform their duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.
8. A panellist shall not deny other panellists the opportunity to participate in all aspects of the proceeding.
9. A panellist shall consider only those issues raised in the proceeding and necessary to rendering a decision and shall not delegate the duty to decide to any other person.
10. A panellist shall take all appropriate steps to ensure that the panellist's assistant and staff are aware of, and comply with, paragraphs 2, 3, 4, 19, 20 and 21.
11. A panellist shall not engage in *ex parte* contacts concerning the proceeding.
12. A panellist shall not communicate matters concerning actual or potential violations of this Annex by another panellist unless the communication is to both Parties or is necessary to ascertain whether that panellist has violated or may violate this Annex.

#### **Independence and Impartiality of Panellists**

13. 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.
14. A panellist shall not be influenced by self-interest, outside pressure, political considerations, public clamour, prior affiliation, loyalty to a Party or fear of criticism.
15. 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 the panellist's duties.
16. A panellist shall not use their 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 make every effort to prevent or discourage others from representing themselves as being in such a position.

17. A panellist shall not allow past or existing financial, business, professional, family, or social relationships or responsibilities to influence the panellist's conduct or judgment.
18. A panellist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the panellist's impartiality or that might reasonably create an appearance of impropriety or bias.

#### **Duties in Certain Situations**

19. A panellist or former panellist shall avoid actions that may create the appearance that the panellist was biased in carrying out the panellist's duties, or would benefit from the decision or report of the Panel.

#### **Maintenance of Confidentiality**

20. A panellist or former panellist shall not at any time disclose or use any 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. A panellist shall not make any public statement regarding the merits of a pending Panel proceeding.
21. A panellist shall not disclose a panel report, or parts thereof, prior to its publication.
22. 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 legal or constitutional requirements.