



## Background paper on the Code of Conduct of the Standing Committee on Finance

### I. Background

1. During its third meeting, one member suggested that the Standing Committee on Finance (SCF) should discuss the necessity of a Code of Conduct.
2. The Committee invited members to submit their inputs on this issue. No such submissions have been received by the secretariat prior to the fourth meeting of SCF.
3. The Committee also requested the secretariat to look at possible examples of other bodies defining their codes of conduct. In response to this request, the secretariat compiled these examples as presented below.
4. Among UNFCCC and Kyoto Protocol bodies, codes of conduct are in place for the Clean Development Mechanism Executive Board (CDM EB), Joint Implementation Supervisory Committee (JISC) and the Adaptation Fund Board (AFB). Similar provisions have also been adopted in the rules of procedure for the Compliance Committee of the Kyoto Protocol and the Board of the Green Climate Fund (GCF).
5. No codes of conduct have been adopted in other UNFCCC bodies such as the Technology Executive Committee, the Adaptation Committee, the Least Developed Countries Expert Group, and the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention.

### II. Examples of Code of Conduct

#### 1. Clean Development Mechanism Executive Board

6. The CDM EB adopted a Code of Conduct for its members at its 47th meeting in 2009 which was subsequently revised in 2012.<sup>1</sup> The Code requires EB members and alternates to:
  - Discharge duties with honesty, integrity and full regard for his/her responsibilities as a Board member;
  - Respect the confidentiality of all confidential information acquired in his/her position as a Board member and not make improper use of or disclose such confidential information to third parties;
  - Observe principles of independence, accuracy, and integrity in dealings with other Board members, the UNFCCC secretariat and CDM stakeholders;
  - Not have any personal or direct financial interest in a matter under consideration;
  - Exercise personal discretion in deciding whether she/he has a real or perceived conflict of interest in relation to any matter under consideration and disclose to the Board any conflicts of interest. Also, take appropriate action which may include remaining silent and/or leaving the room during consideration of a matter for which she/has a conflict of interest; and
  - Maintain the principle of transparency in the preparation and delivery of information to other Board members and CDM stakeholders (Report of EB-69, Annex 1).<sup>2</sup>
7. The Code of Conduct for the CDM EB also defines a conflict of interest as a conflict referring to any current professional, financial or other interest which could: i) significantly impair the individual's objectivity in

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<sup>1</sup> The latest version of the Code of Conduct of CDM EB can be found at [http://cdm.unfccc.int/Reference/Standards/meth/gov\\_stan01.pdf](http://cdm.unfccc.int/Reference/Standards/meth/gov_stan01.pdf)

<sup>2</sup> Some of these obligations had already been defined in 2005 in “Modalities and procedures for a clean development mechanism” contained in Annex I of Decision 3/CMP.1 and “Rules of procedure of the Executive Board of the clean development mechanism” contained in Annex I of Decision 4/CMP.1.



carrying out his or her duties and responsibilities for the Board, or ii) create an unfair advantage for any person or organization (Report of EB-69, Annex 1).

8. Upon assuming their duties, CDM EB members and alternates take a written oath of service witnessed by the Executive Secretary of the UNFCCC or his/her authorized representative (Decision 3/CMP.1, Annex I, paragraph 8(e) and Decision 4/CMP.1, Annex I).<sup>3</sup>

9. At each meeting, the Chair of the CDM EB asks members and alternates present whether any of them have a conflict of interest in relation to issues under consideration (Report of EB-11, paragraph 40).

10. Breach of the conflict of interest or confidentiality provisions can lead to the termination of membership (Decision 3/CMP.1, Annex I, paragraph 10).

## 2. Joint Implementation Supervisory Committee

11. The JISC adopted a publicly available<sup>4</sup> Code of Conduct at its 28th meeting in 2012 (Report of JI-28, Annex 4)<sup>5</sup>. The Code of Conduct contains provisions on: (i) safeguarding against real or perceived conflicts of interest; and (ii) safeguarding confidential information.

12. According to the Code of Conduct, the JISC recognises two categories of a conflict of interest: (i) conflict between the private interests and the official responsibilities of a person in a position of trust (anything that affects impartiality), and (ii) a benefit or profit derived by a person with access to confidential information through the exploitation of that informational advantage.

13. The Code lists guiding criteria for JISC members to determine whether a real or perceived conflict of interest may exist: pecuniary or property interests, business or contractual affiliations, government affiliation, and non-professional affiliations and interests.

14. Each JISC member shall exercise personal discretion in deciding whether she/he has a conflict of interest in relation to any item under consideration and disclose such a conflict to the JISC. A JISC member also shall leave a meeting during deliberations on such an item and refrain from presenting or discussing with other JISC members that agenda item and any evidence specific to it at any time.

15. The Code of Conduct defines confidential information as all information obtained by JISC members in their capacity as JISC members except what appears in a published JISC report or members' personal opinions about general issues that is not issues related to projects or Accredited Independent Entities.

16. JISC members shall refrain from revealing in any way confidential information to anyone except other JISC members, members of panels if appropriate, secretariat employees, employees of individual JISC members and external consultants to the JISC who are given access to confidential information.

17. In addition, the JI Guidelines state that JISC members, upon assuming their duties, take a written oath of service witnessed by the Executive Secretary of the UNFCCC or his/her authorized representative (FCCC/KP/CMP/2005/8/Add.2, paragraph 10 (e)). The text of the oath is contained in the Rules of Procedure for the JISC.<sup>6</sup>

18. The JISC may suspend and recommend to the COP/MOP the termination of the membership of a particular member, including an alternate member, for cause including, inter alia, breach of the conflict of interest provisions or breach of the confidentiality provisions (FCCC/KP/CMP/2005/8/Add.2, paragraph 11).

## 3. Compliance Committee of the Kyoto Protocol

19. Related provisions on conflict of interest and confidentiality are defined in the Rules of Procedure of the Compliance Committee of the Kyoto Protocol.<sup>7</sup> There is no separate code of conduct in place.

<sup>3</sup> FCCC/KP/CMP/2005/8/Add.1.

<sup>4</sup> Internal guidelines were in place beforehand.

<sup>5</sup> The document can be found at <[https://ji.unfccc.int/Sup\\_Committee/Meetings/028/Reports/Annex4.pdf](https://ji.unfccc.int/Sup_Committee/Meetings/028/Reports/Annex4.pdf)>

<sup>6</sup> The document can be found at <<https://ji.unfccc.int/Ref/Documents/Rules.pdf>>

<sup>7</sup> The document can be found at <[http://unfccc.int/files/kyoto\\_protocol/compliance/background/application/pdf/rules\\_of\\_procedure\\_of\\_the\\_compliance\\_committee\\_of\\_the\\_kp.pdf](http://unfccc.int/files/kyoto_protocol/compliance/background/application/pdf/rules_of_procedure_of_the_compliance_committee_of_the_kp.pdf)>



20. According to the Rules of Procedure, each member of the Committee shall serve in individual capacity and on all issues under consideration act in an independent and impartial manner and avoid real or apparent conflicts of interest (rule 4.1).

21. Each member should also take a written oath of service before assuming his or her services (rule 4.2).

22. Committee members are obliged to disclose conflicts of interest to the Executive Secretary of the UNFCCC. When the Executive Secretary receives such disclosure, he/she notifies the bureau of the Committee which informs the plenary that such a member will refrain from participating in the committee with regard to issues relating to disclosure (rule 4.4).

23. The Rules of Procedure also contain provisions on a procedure in the case when the Executive Secretary of the UNFCCC receives evidence of circumstances indicating a conflict of interest in the Committee and in case of material violation of the requirements of independence and impartiality expected of a member of the Committee (rules 4.4-4.5).

#### 4. Board of the Adaptation Fund

24. Related provisions on conflict of interest and confidentiality were first defined in the Rules of Procedure of the AFB.<sup>8</sup> Subsequently, the AFB Ethics and Finance Committee developed a Code of Conduct for the AFB which was adopted by the Board in 2010 and revised in 2013 (Report of AFB-20 AFB/B-20/7, Annex III).<sup>9</sup>

25. According to the Code of Conduct, AFB members and alternates should perform their duties with honesty and integrity, and observe the principles of independence, accuracy and integrity in their dealings with other AFB members and alternates, the secretariat, the trustee and other stakeholders (Code of Conduct, paragraphs I.1-I.2).

26. According to the Rules of Procedure, AFB members and alternates have a duty not to disclose confidential and/or proprietary information obtained from AF project participants, unless this is required by national law. This duty remains in force after a member's term expires (Rules of Procedure, paragraph 27).

27. Upon assuming service, each member takes an oath of service witnessed by the Chair of the AFB. The oath of the AFB Chair is witnessed by Vice-Chair of the AFB (Rules of Procedure, paragraph 28).

28. At each meeting, members and alternates must declare any conflict of interest, actual or perceived, they may have in relation to items under consideration (Rules of Procedure, paragraph 29, and Code of Conduct). The Code of Conduct further specifies the cases constituting a potential conflict of interest (Code of Conduct, paragraph I.3).

29. AFB members and alternates shall be absent during deliberations on matters for which they have actual or perceived conflict of interest (Code of Conduct, paragraph I.5).

30. AFB members and alternates shall exercise personal discretion in deciding whether they have a conflict of interest and may seek advice from the AFB Chair or Vice-Chair. Cases of actual or perceived conflict of interest may be raised with the AFB Chair. Any final decision on this rests with the Board (Code of Conduct, paragraphs I.6 and II).

#### 5. Board of the Green Climate Fund

31. Provisions on a conflict of interest are contained in Annex X to the Rules of Procedure adopted in February 2013 (GCF/B.01-13/02/Rev.01).<sup>10</sup>

32. According to Annex X of the Rules of Procedure, Board members and alternates are required to adhere to a Board's policy on ethics and conflict of interest, which is yet to be developed by the Board (GCF/B.01-13/02/Rev.01, paragraph 1).

<sup>8</sup> The document can be found at <[https://www.adaptation-fund.org/sites/default/files/Rules%20of%20procedure%20of%20the%20Adaptation%20Fund%20Board\\_0.pdf](https://www.adaptation-fund.org/sites/default/files/Rules%20of%20procedure%20of%20the%20Adaptation%20Fund%20Board_0.pdf)>

<sup>9</sup> The document can be found at <[https://www.adaptation-fund.org/sites/default/files/CODE%20OF%20CONDUCT\\_0.pdf](https://www.adaptation-fund.org/sites/default/files/CODE%20OF%20CONDUCT_0.pdf)>

<sup>10</sup> The document can be found at <[http://www.gcfund.net/fileadmin/00\\_customer/documents/pdf/B\\_01-13\\_02\\_Rev.01Additional\\_RoP\\_12March\\_19.00\\_hrs\\_REV.pdf](http://www.gcfund.net/fileadmin/00_customer/documents/pdf/B_01-13_02_Rev.01Additional_RoP_12March_19.00_hrs_REV.pdf)>



33. At each meeting, Board members and alternates should disclose any conflict of interest in relation to items under consideration (paragraph 2).
34. Board members and alternates should recuse themselves from participating in decision-making on issues relating to a project and/or entity with respect to which they have a conflict of interest, as defined in a Board's policy on ethics and conflict of interest to be developed (paragraph 3).
35. Active observers<sup>11</sup> should also disclose any conflict of interest in relation to items under consideration and recuse themselves from participating in related proceedings (paragraph 4).
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<sup>11</sup> Active observers at the GCF Board include: two civil society representatives, one each from developing and developed countries, and two private sector representatives, one each from developing and developed countries. Active observers may, upon invitation by GCF Board Co-Chairs, participate in proceedings.