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PROCEDURE FOR AVOIDING OR MANAGING CONFLICTS OF INTEREST IN EXPERT GROUPS: VIEWS SUBMITTED BY PARTIES AND OBSERVERS

Note by the Executive Secretary

I. BACKGROUND

1. The Subsidiary Body on Implementation, at its second meeting, considered a proposal prepared by the Executive Secretary concerning a procedure for avoiding or managing conflicts of interest in expert groups and prepared a draft decision for the Conference of the Parties (SBI recommendation [2/15](#), part B). In recommendation 2/15, the Subsidiary Body on Implementation requested the Executive Secretary to invite Parties, other Governments and relevant international organizations to submit their views on the proposed procedure for avoiding or managing conflicts of interest in expert groups no later than 15 August 2018. The Executive Secretary was also requested to revise, as necessary, the procedure on the basis of the views received, and to submit it for consideration by the Conference of the Parties at its fourteenth meeting, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol at its ninth meeting, and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its third meeting.

2. By 30 August 2018, comments had been received from Australia, Canada, the European Union, New Zealand, Switzerland, the United States of America, Corporate Europe Observatory, CropLife International, EcoNexus, Friends of the Earth Australia, Friends of the Earth International, Friends of the Earth US, the Heinrich Böll Foundation, the International Chamber of Commerce, the J. Craig Venter Institute, and the Public Research and Regulation Initiative.¹ A summary of the comments received is presented below, and in line with recommendation 2/15 of the Subsidiary Body on Implementation a revised procedure for avoiding or managing conflicts of interest is contained in document CBD/COP/14/2 for the consideration of the Parties.

II. SUMMARY OF COMMENTS ON THE PROCEDURE FOR AVOIDING OR MANAGING CONFLICTS OF INTEREST IN EXPERT GROUPS

3. Most of the submissions received noted the importance of sound scientific and technical advice for the operations of the Convention and its Protocols and welcomed the process of establishing a procedure for addressing potential conflicts of interest. Several of the submissions noted the need for a definition of conflicts of interest and pointed to the definition used by the Intergovernmental Science-

* CBD/COP/14/1.

¹ All of the submissions received are accessible from <https://www.cbd.int/sbstta22-sbi2/coi.shtml>.

Policy Platform on Biodiversity and Ecosystem Services as a possible model to emulate. Other submissions noted that the definitions used by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Intergovernmental Panel on Climate Change, and the World Health Organization as well as the standard used by the United Nations Ethics Office may also be relevant. The need to distinguish between a conflict of interest and a personal bias in the procedure was also noted. It was also felt by some that the determination of a conflict of interest should be based on whether the expert is supporting the objectives of the Convention and its Protocols and/or the public interest.

4. In addition to clarifying the definition of a conflict of interest, several submissions noted the need to avoid ambiguous or subjective language in the proposed conflict of interest procedure, and/or to provide concrete examples to illustrate abstract concepts. The need for clarity, definitions and/or examples was suggested for the terms “significant and insignificant conflict of interest”, “unfair advantage”, “indirect benefit”, “indirect conflict of interest” and “non-financial interests”, among others.

5. Several submissions suggested that the focus of the conflict of interest procedure should be on managing conflict as opposed to avoiding it. It was observed that having a group with the necessary technical and scientific expertise that was free of conflicts of interest would not be possible or practical in all circumstances and therefore the procedure should focus on managing conflict. However, others felt the opposite and suggested that if it was not possible to form an expert group with the required expertise that is free from conflicts of interests the group should not be established.

6. Several submissions indicated that the Bureau of the Conference of the Parties or the Bureau of the Subsidiary Body on Scientific, Technical and Technological Advice should play a greater role in implementing the conflict of interest procedure while some felt that the procedure should be overseen by an independent body. It was noted in several submissions that more clarity was needed on what occurred once a potential conflict of interest had been identified, what happened if an expert did not declare a conflict of interest, and what the role of the Bureau of the Conference of the Parties should be in these situations. It was also felt by some that if a conflict of interest was identified, the expert concerned should be informed and have the possibility of providing further information regarding the potential conflict and to address any possible concerns.

7. More generally, the need for conflict of interest procedures for other types of bodies or groups, including online forums and the Convention’s subsidiary bodies, was also noted in some of the submissions received. The need to keep the implementation of the conflict of interest procedure under review in order to make any needed modifications in the future was also noted. It was also felt by some that more information on past (perceived) conflicts of interest under the Convention and its Protocols should be made available.

III. CONCLUSION

8. In light of the above comments, the proposed conflict of interest procedure considered by the second meeting of the Subsidiary Body on Implementation has been revised. The revisions have primarily focused on:

(a) Providing a clearer definition of what constitutes a conflict of interest, and addressing terms suggested as being ambiguous or subjective;

(b) Balancing the need to avoid conflicts of interest and the need to manage them;

(c) Providing more clarity on the role of the Bureaus of the Conference of the Parties and the Subsidiary Body on Scientific, Technical and Technological Advice in implementing the proposed conflict of interest procedure.

9. The revised version of the proposed procedure for avoiding or managing conflicts of interest in expert groups is contained in document CBD/COP/14/2 under item 15.
