



## Convention on Biological Diversity

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### SUBSIDIARY BODY ON IMPLEMENTATION

Second meeting

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Item 15 of the provisional agenda\*

### REVIEW OF THE EFFECTIVENESS OF PROCESSES UNDER THE CONVENTION AND ITS PROTOCOLS

*Note by the Executive Secretary*

1. According to the multi-year programme of work up to 2020 (decision [XI/10](#) and updated by decision [XII/31](#), annex), the Conference of the Parties will address “Review of the effectiveness of processes under the Convention and its Protocols” as one of the strategic issues at its fourteenth meeting. The Subsidiary Body on Implementation (SBI) is expected to review the issue, at its second meeting, with a view to developing a recommendation for the consideration of the Conference of the Parties to the Convention at its fourteenth meeting, the meeting of the Parties to the Cartagena Protocol at its ninth meeting, and the meeting of the Parties to the Nagoya Protocol at its third meeting. The Executive Secretary has prepared the present document in order to facilitate such a review.

2. Reviewing the effectiveness and improving the efficiency of structures and processes under the Convention has been the subject of continued attention by the Conference of the Parties. At its seventh meeting, in 2004, the Conference of the Parties established the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention (decision [VII/30](#), para. 23), with among its functions “to review the impacts and effectiveness of existing processes under the Convention”.<sup>1</sup> The first meeting of the Working Group on Review of Implementation, in 2005, undertook a comprehensive review of processes under the Convention, leading to the adoption of decision [VIII/10](#) on operations of the Convention. Subsequent meetings of the Working Group examined specific aspects of the operations of the Convention. Following the adoption of the Nagoya Protocol in 2010 and its entry into force in 2014,<sup>2</sup> the Conference of the Parties decided at its twelfth meeting to hold meetings of the Convention concurrently with the meetings of the Parties to the two protocols. The Conference of the Parties also established, at its twelfth meeting, the Subsidiary Body on Implementation and adopted, at its thirteenth meeting, its modus operandi.

3. More specifically, the Conference of the Parties at its twelfth meeting, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol at its seventh meeting and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its first meeting decided to review the experience in holding meetings concurrently at the fourteenth and fifteenth meetings of the Conference of the Parties and concurrent meetings of the Protocols (decisions [XII/27](#), [CP-](#)

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\* CBD/SBI/2/1.

<sup>1</sup> Prior to this, the most comprehensive reviews of the operations of the Convention were those undertaken in response to decisions III/22 and IV/16 of the Conference of the Parties by, respectively, the Conference of the Parties at its fourth meeting and the Inter-Sessional Meeting on the Operations of the Convention. These reviews led to significant changes in the operations of the Convention (decisions IV/16 and V/20) and laid the basis for further, more issue-specific reviews and revisions.

<sup>2</sup> The Nagoya Protocol entered into force on 12 October 2014.

7/9 and NP-1/12). At their subsequent meetings in 2016, all three bodies finalized the criteria for this review (decisions XIII/26, CP-8/10 and NP-2/12).

4. Further matters related to processes under the Convention and Protocols will be considered by the Subsidiary Body on Implementation at its second meeting under other agenda items, including: Mechanisms for review of implementation (item 12); national reporting, and assessment and review, under the Convention and its Protocols (item 13); enhancing integration under the Convention and its Protocols (item 14); and allocation of resources and possibilities of engaging the private sector: trust fund for facilitating the participation of Parties in the Convention process (item 17). Also relevant is the preparation for the follow-up to the Strategic Plan for Biodiversity 2011-2020 (item 15).

5. The twenty-fifth anniversary of the entry into force of the Convention will be marked in December 2018. It is an opportune moment to learn from previous experience and to reflect on possible further ways to improve the effectiveness of processes under the Convention and its Protocols to ensure that they are fit for purpose, promoting the transformational changes required to achieve the 2050 Vision for Biodiversity, including through the post-2020 global biodiversity framework.

6. Section I of the present document provides a summary of previous reviews and of the major recent steps taken towards improving the efficiency of structures and processes. Section II and the addendum (CBD/SBI/2/16/Add.1) review the experience of holding concurrent meetings of the Conference of the Parties and meetings of the Protocols. Section III highlights some points with regard to the issue of avoiding and managing conflicts of interest, an issue that has become important in the past few years in the context of improving the effectiveness of the work of technical expert groups. Finally, the document presents, in section IV, some elements of recommendation for consideration by the Subsidiary Body on Implementation at its second meeting.

#### **I. REVIEW OF PREVIOUS REVIEWS AND SUMMARY OF MEASURES RECENTLY TAKEN TOWARDS IMPROVING THE EFFICIENCY AND EFFECTIVENESS OF PROCESSES AND STRUCTURES**

7. As noted above, the Working Group on Review of Implementation at its first meeting, in 2005, undertook a comprehensive review of processes under the Convention. The documentation prepared for that review<sup>3</sup> was based on the findings of previous reviews by the Conference of the Parties, external reviews, and submissions from Parties. It included an analysis of the impacts and effectiveness of Convention processes based on two key questions: (a) Do the outcomes of the processes demonstrate that these are fulfilling their mandates? and (b) Are the processes contributing to the implementation of the Convention? The analysis concluded that, for the most part, Convention bodies were fulfilling their mandates. It noted, however, that the Conference of the Parties could keep under review the implementation of the Convention in a more systematic and effective manner, while the Subsidiary Body on Scientific, Technical and Technological Advice could strengthen the quality of its advice and give more attention to fulfilling its specific functions. The analysis also concluded that all processes could more effectively contribute to the implementation of the Convention.

8. In the light of this review, the Conference of the Parties, in decision VIII/10 on operations of the Convention, *inter alia*:

(a) Adopted a refined multi-year programme of work of the Conference of the Parties up to 2010 (focusing on strategic issues for evaluating progress or supporting implementation);

(b) Considered the periodicity of its ordinary meetings, deciding to maintain them at every two years until 2010 (this was further considered at the ninth and tenth meetings of the Conference of the Parties, which, in decision XI/10, decided again to maintain the same periodicity);

(c) Considered the format of the ministerial segment, calling for cooperation between the host country, the Secretariat and the Bureau to enhance its contribution to the Conference of the Parties and generate support for, and awareness of, biodiversity and the implementation of the Convention;

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<sup>3</sup> UNEP/CBD/WGRI/1/3 and addenda, and other documents available at <https://www.cbd.int/meetings/wgri-01>

(d) Considered ways to improve the preparation of decisions with a view to keeping the number of new decisions manageable, minimizing overlap and conducting a gap analysis before developing new tools and guidance under the Convention. The Conference of the Parties also requested the development of guidance for the future review and retirement of its decisions but decided to discontinue the process of consolidation of decisions. Subsequently, the process of retirement was also discontinued (see para 12(c) below);

(e) Requested the Executive Secretary, in preparing for meetings of the Conference of the Parties, to keep the number and length of documents to a minimum, and to circulate documents to Parties as early as possible, preferably no later than three months in advance of meetings;

(f) Decided to develop procedures for admission of bodies and agencies (later adopted in decision IX/29);

(g) Called upon developed country Parties to provide financial resources to the voluntary trusts funds for Approved Activities and for facilitating Participation of Parties in the Convention Process and introduced a process of priority-setting for the allocation of financial resources by the Conference of the Parties (this request has been repeated at each meeting);

(h) Called for regional and subregional meetings to support preparation of the Conference of the Parties and implementation of the Convention;

(i) Provided guidance on the responsibilities of National focal points and SBSTTA focal points.

9. The Conference of the Parties also endorsed the consolidated modus operandi of the Subsidiary Body on Scientific, Technical and Technological Advice, inter alia: identifying new and emerging issues as a function of the body in addition to those specified in Article 25; providing guidance on the conduct of scientific and technical assessments, and on the procedures for ad hoc technical expert group meetings, as well as options for facilitating exchange of information and views on the items on the SBSTTA agenda. The modus operandi was further developed in decision IX/29. In decision XI/13, the Conference of the Parties considered further ways and means to improve the effectiveness of SBSTTA and collaboration with the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services in the light of the establishment of that body.

10. Major changes resulted from the adoption by the Conference of the Parties of the Nagoya Protocol and the Strategic Plan for Biodiversity 2011-2020. The former led to steps being taken at subsequent meetings of the Conference of the Parties to integrate the work of the Convention and the Protocols (see below). The latter led to greater integration in the work of the Convention, with more emphasis on common goals and targets as embodied in the plan and less emphasis on individual programmes of work.

11. Some of the major steps taken in the past few years with a view to improving the efficiency and effectiveness of processes and structures are the following:

(a) *The establishment of the Subsidiary Body on Implementation* by decision XII/26 replacing the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention. The terms of reference of the Subsidiary Body on Implementation include reviewing the impacts and effectiveness of existing processes under the Convention and identifying ways and means that increase efficiencies, including an integrated approach to the implementation of the Convention and its Protocols. The Subsidiary Body on Implementation also undertakes tasks referred to it by the Conference of the Parties serving as the meetings of the Parties to the Cartagena and Nagoya Protocols;

(b) *Holding the meetings of the Conference of the Parties to the Convention and the meetings of the Parties to the Protocols concurrently.* This is described in section II below;

(c) *Decision tracking tool.* In decision XII/28, the Conference of the Parties decided to discontinue the practice of the retirement of decisions that had been introduced at its sixth meeting, in 2002. It also decided to replace the exercise with a new approach for the review of decisions or elements

of decisions in a manner that supports implementation and creates a good basis for the preparation and adoption of new decisions. In that regard, an online decision-tracking tool has been developed by the Secretariat. More information on the decision-tracking tool is made available in the note by the Executive Secretary on mechanisms to facilitate review of implementation (CBD/SBI/2/11);

(d) *Administrative and budgetary matters.* Following the agreement to hold concurrent meetings, and upon the request from the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, the Conference of the Parties decided to merge the voluntary trust funds used to facilitate participation of eligible Parties in meetings related to the Convention and Cartagena Protocol, and also to use this merged fund for meetings related to the Nagoya Protocols.<sup>4</sup> It also decided to merge the Trust Funds for additional voluntary contributions in support of approved activities of the Convention and the Cartagena and Nagoya Protocols with a view to promote integrated approach for implementation within the Secretariat by allowing the use of resources for projects targeted at more than one instrument, and requested the Trustee, the United Nations Environment Programme to name the merged Trust Fund (BE) as “Special Voluntary Trust Fund for Contributions in Support of Additional Approved Activities of the Convention and its Protocols”.<sup>5</sup> With a view to enhancing the efficiency of the Secretariat, the Conference of the Parties, in its decision XI/31, paragraph 25, requested the Executive Secretary to undertake an in-depth functional review of the Secretariat. The final report of the functional review was submitted to the Conference of the Parties at its thirteenth meeting, held in Cancun, Mexico, in December 2016. In its decision XIII/32, the Conference of the Parties took note of the outcome of the functional review and welcomed the new structure, “which should lead to further synergies and efficiencies” (para. 4).

12. Issues related to the effectiveness of processes under the Convention and Protocols beyond those considered by the Subsidiary Body at its second meeting under other agenda item (see para. 4 above), that may require further consideration include:

(a) Further work to optimize the organization of work and decision-making of the three bodies meeting concurrently (see also section II below);

(b) Ensuring the scientific integrity of the work of SBSTTA and related expert bodies (see also section III below) and enhancing the work of SBSTTA in the light of the establishment of the Intergovernmental Science-Policy Platform on Biodiversity Ecosystem Services (IPBES).

## **II. REVIEW OF EFFECTIVENESS OF THE UNITED NATIONS BIODIVERSITY CONFERENCE 2016, INCLUDING THE EXPERIENCE OF HOLDING CONCURRENTLY THE CONFERENCE OF THE PARTIES AND THE MEETINGS OF THE PARTIES OF THE PROTOCOLS**

13. Following the entry into force of the Nagoya Protocol, the second half of the twelfth meeting of the Conference of the Parties to the Convention was held in October 2014 in Pyeongchang, Republic of Korea, concurrently with the first meeting of the Parties to the Nagoya Protocol. Further, the Conference of the Parties decided, at its twelfth meeting, to hold its future ordinary meetings within a two-week period concurrently with the meetings of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol as well as the meeting of the Parties to the Nagoya Protocols (decision XII/27). The arrangement was agreed to by the governing bodies of the two Protocols (decisions BS-VII/9 and NP-I/12). Accordingly, the thirteenth meeting of the Conference of the Parties, the eighth meeting of the Parties to the Cartagena Protocol and the second meeting of the Parties to the Nagoya Protocol were held concurrently in December 2016 in Cancun, Mexico. The Government of Mexico, as host country of these meetings, decided to hold the high-level segment prior to these meetings, rather than in the second week of the Conference of the Parties, which had been the case previously. The meetings of the three

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<sup>4</sup> Decision XII/32, para. 24.

<sup>5</sup> Decision XIII/32, para. 22.

bodies, together with the high-level segment, were known informally as “the United Nations Biodiversity Conference, Cancun, Mexico, 2016”.

14. The objective of holding the meetings of the Convention and the Protocols concurrently was to strengthen the implementation of the Convention and the Protocols, gain greater integration among them and improve cost-effectiveness. The Conference of the Parties to the Convention and the governing bodies of the Cartagena and Nagoya Protocols agreed (decisions XIII/26, CP-VIII/10 and NP-2/12, respectively) to review the experience gained in holding their meetings concurrently and identified criteria for the review.

15. The Executive Secretary was requested to prepare a preliminary review of the experience in convening concurrent meetings, using the agreed criteria, for consideration by the Subsidiary Body on Implementation at its second meeting. The review is available in an addendum CBD/SBI/2/16/Add.1, supplemented by two information notes (CBD/SBI/2/INF/1 and CBD/SBI/2/INF/2).

16. Based on the information in CBD/SBI/2/16/Add.1 and CBD/SBI/2/INF/1, elements of a draft recommendation are provided in section IV.

17. In addition to reviewing the experience of holding the meetings of the three governing bodies concurrently, CBD/SBI/2/INF/2, provides other information on the views of participants in the meetings, concerning the format of the high-level segment, side events and parallel events, and some logistical matters. The main points from this review are summarized in the following paragraphs.

18. Overall, with regard to the high-level segment, the involvement of different sectors and ministers was felt to have promoted the consideration of mainstreaming and promoted dialogue. However, a number of respondents noted that it would have been more effective if there had been further opportunities for discussion. With regard to the timing of the high-level segment, respondents generally felt that having the segment before the official start of the concurrent meetings was effective. However, some respondents noted that this also led to the disadvantage that many high-level participants were not available to help address contentious issues at the end of the meetings. Regarding the timing of future high-level segments, while the majority of respondents indicated that they considered that these should continue to be held before the official start of the meetings, respondents were more divided in their views. Several respondents pointed out that the timing of the high-level segment should be based on the goal of the high-level segment and the issues being discussed, and that it should therefore be decided on a case-by-case basis.

19. With regard to side events, parallel events and the CEPA fair, respondents felt that the topics these addressed were relevant. However, a number of respondents felt that there were perhaps too many events. Further, a number of respondents indicated that they did not attend such events owing to the limited time they had available. It was also noted that the events were important for ensuring that different perspectives and viewpoints could be shared.

20. With regard to logistical matters, the transportation arrangements and the distribution of documents were generally viewed as positive by survey respondents.

### **III. AVOIDING AND MANAGING CONFLICTS OF INTEREST TO ENHANCE THE EFFECTIVENESS OF EXPERT GROUPS**

#### **A. The use of expert advice and the need for objectivity and independence**

21. The use of expert groups to offer advice and recommendation is a common practice in the processes under the Convention on Biological Diversity. The Conference of the Parties to the Convention and the Conference of the Parties serving as the meeting of the Parties to the Cartagena and Nagoya Protocols establish, from time to time, expert groups to advance their work that involve existing or emerging scientific, technical and technological issues. According to its *modus operandi*, the Subsidiary Body on Scientific, Technical and Technological Advice may also establish *ad hoc* technical expert groups within a mandate provided by the Conference of the Parties. These technical expert groups submit their work to the Subsidiary Body on Scientific, Technical and Technological Advice. According to the

modus operandi of the Subsidiary Body on Implementation, upon a decision by the Conference of the Parties, regionally balanced ad hoc expert groups may also be established to help prepare for the work of the Subsidiary Body on Implementation. These expert groups conduct their work through online discussion forums or in-person meetings.

22. According to its modus operandi, the Subsidiary Body on Scientific, Technical and Technological Advice is required “to ensure that assessments are carried out in an objective and authoritative manner”.<sup>6</sup> This requirement also applies to ad hoc technical expert groups. Ensuring objectivity in the work of an expert group depends, to a large extent, on how much each participant or expert is free from any direct or indirect conflict of interest.

23. A conflict of interest arises when the expert’s personal interests improperly influence the performance of the expert’s duties and responsibilities, thereby compromising the expert’s independence and objectivity in contributing to the work of the expert group. It is a conflict between the duty to be objective on the one hand, and the personal interests involved, on the other. A number of organizations and treaties with expert groups, committees or advisory panels have policies on conflict of interest. The review of these policies shows that there are widely shared common elements in the definitions of conflict of interest and in the ways or measures adopted to manage or avoid conflicts of interest. One such shared element is the requirement to disclose interests by completing a declaration of conflict of interest form prior to participating in the work of an expert group or a committee in an individual capacity.

24. Some expert groups are entrusted work by the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Protocols, or the Subsidiary Body on Scientific, Technical and Technological Advice to assess the same subject matters but from a range of perspectives. (examples of these types of arrangements are the ad hoc technical expert group on synthetic biology, and the ad hoc technical expert group on digital sequence information). It is particularly important in dealing with such sensitive issues that potential conflicts of interest be avoided or managed.

## **B. Experience in managing conflict of interest under the Convention and its Protocols**

25. In accordance with decision [BS-I/4](#) of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety, the Secretariat administers a roster of experts on biosafety. Although the use of the roster over the years has been very limited, there are guidelines detailing the mandate, the conditions to accessing the roster, membership requirements, and the obligations of individual experts on the roster.<sup>7</sup> Each roster member is required to complete a conflict of interest declaration prior to undertaking any assignment. If the member has any personal, institutional or other professional interests or arrangements that would create a conflict of interest or that could reasonably be perceived as creating a conflict, the member has the obligations to declare that and to decline any assignment that raises any real or perceived conflict of interest. If legitimate concerns remain after further investigation based on the declaration, the guidelines advise to err on the side of caution in the determination of the question whether a conflict exists, consistent with maintaining the highest level of credibility of the roster process. Any expert identified through the roster and chosen to carry out an assignment is expected “to comply with all applicable professional standards in an objective and neutral way, and to exhibit a high degree of professional conduct”.<sup>8</sup>

26. The Compliance Procedures and Mechanisms on Compliance under the Cartagena Protocol and the Cooperative Procedures and Institutional Mechanisms to Promote Compliance and to Address Cases of Non-Compliance under Nagoya Protocol require members (including indigenous people and local community observer, in the case of the Committee under the Nagoya Protocol) of the respective Compliance Committees to have recognized competence and to serve objectively and in a personal capacity.<sup>9</sup> In view of these requirements, the respective rules of procedure for meetings of the compliance

<sup>6</sup> Conference of the Parties decision VIII/10, paragraph 15.

<sup>7</sup> Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, decision BS-I/4, annex I.

<sup>8</sup> Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol decision BS-I/4, annex I, G, section 6.

<sup>9</sup> See decision BS-I/7, annex, section II, paragraph 3, and decision NP-I/4, annex, section II, paragraph 4.

committees under the two Protocols include rules on conflict of interest. Accordingly, rule 11 of the respective procedure requires each member to avoid direct or indirect conflicts of interest with respect to any matter under consideration by the Committee, and, where a member is faced with such a situation, to bring the issue to the attention of the Committee before consideration of that particular matter. The member concerned shall not participate in the elaboration and adoption of a recommendation of the Committee in relation to that matter.

### **C. Experience in managing conflict of interest in other conventions and international organizations**

27. Also in the context of other multilateral environmental agreements, procedures and practices have been developed to avoid conflict of interest. For example, further to Resolution Conf. 11.1 (Rev. CoP17) of the Conference of the Parties, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is in the process of assessing the functioning of the conflict of interest policy regarding representation in the Animals and Plants Committees. The Standing Committee is expected to make recommendations on the basis of a review by the Secretariat<sup>10</sup> for refining the definition of conflict of interest, if appropriate, and for a mechanism to deal with such conflicts, taking into account the experience of other multilateral environmental agreements or relevant international organizations and bodies, in putting in place such mechanisms. The recommendation is expected to be considered by the Conference of the Parties to CITES at its eighteenth meeting.

28. Each member and invited expert of the Persistent Organic Chemicals Review Committee under the Stockholm Convention,<sup>11</sup> and the Chemical Review Committee under the Rotterdam Convention<sup>12</sup> is required to complete a declaration of conflicts of interest prior to participating in the work of the respective Committee. The stated purpose of this requirement is to ensure the technical integrity of the work of the respective Committees and to avoid situations in which financial or other interests might affect the outcome of the Committee's work.

29. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) has "Conflict of interest policy and implementation procedures". The policy and the procedures were adopted by the Plenary in its decision IPBES-3/3, annex II. As specified in the policy, the overall purpose is "to protect the legitimacy, integrity and credibility of the Platform and its deliverables as well as confidence in its activities and in individuals who are directly involved in the preparation of its reports and other deliverables".<sup>13</sup> According to the implementing procedures,<sup>14</sup> an individual will be requested to complete a conflict of interest form before being appointed as a task force or expert group member, report co-chair, coordinating lead author, lead author or review editor. The completed form will then be submitted by the Secretariat to the Committee on Conflicts of Interest for evaluation and determination whether the individual might be affected by a potential conflict of interest that cannot be resolved. If the Committee determines that the individual has a conflict of interest that cannot be resolved, the individual will not be eligible to participate in the preparation of the deliverable. The IPBES secretariat should also be informed of any changes in the individual's situation that may arise after the appointment.

30. There are a number of other organizations or entities that have guidelines or policies on conflicts of interest. For example, the World Health Organization (WHO) has comprehensive guidelines on conflicts of interest that apply to its experts who are requested or invited to provide independent advice that enables WHO to take a decision or to provide sound recommendations to Member States or other stakeholders.<sup>15</sup> The Food and Agriculture Organization of the United Nations (FAO) requires its experts to complete a form on declaration of conflict of interest. The Green Climate Fund has rules that require

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<sup>10</sup> <https://cites.org/sites/default/files/eng/cop/16/doc/E-CoP16-11.pdf> and <https://cites.org/sites/default/files/eng/com/sc/66/E-SC66-08.pdf>

<sup>11</sup> <http://www.pops.int/Procedures/Declarationofconflictsofinterest/tabid/3471/Default.aspx>

<sup>12</sup> <http://www.pic.int/Procedures/DeclarationofConflictsOfInterest/tabid/3467/language/en-US/Default.aspx>

<sup>13</sup> <https://www.ipbes.net/conflict-interest-policy-implementation-procedures>

<sup>14</sup> [https://www.ipbes.net/system/tdf/downloads/Conflict\\_of\\_interest\\_policy.pdf?file=1&type=node&id=15252&force=](https://www.ipbes.net/system/tdf/downloads/Conflict_of_interest_policy.pdf?file=1&type=node&id=15252&force=)

<sup>15</sup> [http://www.who.int/medicines/news/2017/Guidelines\\_for\\_Declaration\\_of\\_Interests\\_WHO\\_Experts\\_51b2CRD.pdf](http://www.who.int/medicines/news/2017/Guidelines_for_Declaration_of_Interests_WHO_Experts_51b2CRD.pdf)



Board members and alternate members to disclose any conflict of interest they may have in relation to any items on the agenda, and to “recuse themselves from participating in any decision regarding a project and/or involving an entity with respect to which they have a conflict of interest as defined in the standards on ethics and conflict of interest”. Active observers who participate in Board meetings are also required to “disclose any conflict of interest they may have in relation to any items on the agenda and recuse themselves from participating in the proceedings of that item”.<sup>16</sup>

#### **D. Proposed procedure for avoiding and managing conflicts of interests in expert groups**

31. The advance and the growing complexity of research and development in bio-sciences has increased the need for Parties to the Convention and the Protocols to seek more expert advice to address emerging scientific, technical and technological issues. Tapping the inputs of the most experienced and knowledgeable experts or scientists has become very important in order to ensure the adoption of science-based and well-informed decisions by Parties. This situation has, at the same time, increased the stakes, concerns and controversies over ethical issues and questions regarding conflicts of interest.<sup>17</sup>

32. It is therefore necessary to consider formalizing procedures for avoiding and managing conflicts of interest to ensure the scientific and technical integrity of the work of technical expert groups that are established under the Convention and the Protocols. Each expert nominated to be a member of an expert group that functions online, in-person or both should be required to declare any interests that the expert might have that could constitute a real or potential conflict with respect to the expert’s responsibility as a member of the expert group.

33. The proposed procedures along with a conflict of interest declaration form are presented as an annex to the present document for the consideration of the Subsidiary Body on Implementation at its second meeting.

#### **IV. SUGGESTED ELEMENTS OF A RECOMMENDATION**

34. The Subsidiary Body on Implementation may wish to adopt a recommendation along the following lines:

##### *The Subsidiary Body on Implementation*

*Requests* the Bureau and the Executive Secretary, when finalizing the proposed organization of work for the fourteenth meeting of the Conference of the Parties to the Convention, the ninth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, to take into account the present recommendation and the information contained in the note by the Executive Secretary on the review of experience in holding concurrent meetings of the Conference of the Parties to the Convention and the meetings of the Parties to the Protocols<sup>18</sup> and associated information notes,<sup>19</sup>

35. The Subsidiary Body on Implementation may also wish to recommend that the Conference of the Parties to the Convention, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, adopt, respectively, a decision along the following lines:

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<sup>16</sup> GCF/B.01-13/12, Decisions of the Third Meeting of the Board, Annex IX: Additional rules of procedure relating to confidentiality and conflict of interest, [https://www.greenclimate.fund/documents/20182/24931/GCF\\_B.01-13\\_12\\_-\\_Decisions\\_of\\_the\\_Board\\_-\\_Third\\_Meeting\\_of\\_the\\_Board\\_13-15\\_March\\_2013.pdf/05f6e4ae-3c80-455c-90c7-4b5750c234a4](https://www.greenclimate.fund/documents/20182/24931/GCF_B.01-13_12_-_Decisions_of_the_Board_-_Third_Meeting_of_the_Board_13-15_March_2013.pdf/05f6e4ae-3c80-455c-90c7-4b5750c234a4)

<sup>17</sup> See, for example, the editorial by *Nature* (vol. 552, 7 December 2017) regarding claims that gene-drive researchers and funders were working with a public relations company to unduly influence the work of the CBD online forum on synthetic biology and the Ad Hoc Technical Expert Group on Synthetic Biology, available at <https://www.nature.com/articles/d41586-017-08214-4>. In addition, a consortium of non-governmental organizations wrote a letter to the Executive Secretary asking for measures to address conflicts of interest.

<sup>18</sup> CBD/SBI/2/16/Add.1.

<sup>19</sup> CBD/SBI/2/INF/1 and INF/2.



*The Conference of the Parties,*

*The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,*

*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing,*

**A. Review of experience in holding concurrently meetings of the Conference of the Parties to the Convention, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol**

Recalling decisions [XII/27](#), [CP-7/9](#) and [NP-1/12](#), [XIII/26](#), [XIII/33](#), [CP-8/10](#) and [NP-2/12](#),

*Having reviewed* the experience in holding concurrently meetings of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, using the criteria determined in decisions XIII/26, CP-VIII/10 and NP-2/12, respectively, and *taking into account* the views of Parties, observers and participants at the thirteenth meeting of the Conference of the Parties to the Convention, the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, and the synthesis and analysis provided by the Secretariat in the note by the Executive Secretary on the review of experience in holding concurrent meetings of the Conference of the Parties to the Convention and the meetings of the Parties to the Protocols<sup>20</sup> and associated information notes,<sup>21</sup>

*Recognizing* that a further review will be undertaken at the fifteenth meeting of the Conference of the Parties to the Convention, the tenth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,

1. *Notes with satisfaction* that the concurrent meetings have allowed for increased integration among the Convention and its Protocols, and improved consultations, coordination and synergies among the respective national focal points;

2. *Notes* that most of the criteria were considered as being met or partially met, and that further improvements in the functioning of the concurrent meetings are desirable, in particular to improve the outcomes and effectiveness of the meetings of the Protocols;

3. *Reiterates* the importance of ensuring the full and effective participation of representatives of developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition, in the concurrent meetings, and *highlights*, in this respect, the importance, in particular, of ensuring adequate participation of representatives in meetings of the Protocols;

4. *Requests* the Bureau and the Executive Secretary, when finalizing the proposed organization of work for the fifteenth meeting of the Conference of the Parties to the Convention, the tenth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, to take into account the present decision and the information contained in the note by the Executive Secretary<sup>20</sup> and associated information notes;<sup>21</sup>

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<sup>20</sup> CBD/SBI/2/16/Add.1.

<sup>21</sup> CBD/SBI/2/INF/1 and INF/2.

**B. Procedure for avoiding or managing conflicts of interest in expert groups**

*The Conference of the Parties,*

*The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,*

*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing,*

*Recognizing* the critical importance of taking decisions on the basis of the best available expert advice,

*Recognizing also* the need to avoid conflicts of interest by members of expert groups established from time to time to review scientific and technical issues and to develop recommendations,

1. *Approves* the procedure for avoiding or managing conflicts of interest contained in the annex to the present decision;

2. *Requests* the Executive Secretary to ensure the implementation of the conflict of interest management procedure with respect to the work of technical expert groups, in consultation with the Bureau of the Subsidiary Body on Scientific, Technical and Technological Advice or the Conference of the Parties, as appropriate.

*Annex***PROCEDURE FOR AVOIDING OR MANAGING CONFLICTS OF INTEREST****1. Purpose and scope**

- 1.1 The purpose of this procedure is to contribute to ensuring the scientific integrity of the work of expert groups, such as ad hoc technical expert groups, and to allow the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation, as appropriate, to develop their conclusions and recommendations on the best available and unbiased advice received from these expert groups, and/or to provide the Conference of the Parties to the Convention and the Conference of the Parties serving as the meetings of the Parties to the Cartagena Protocol and the Nagoya Protocol with credible, evidence-based and balanced information for taking decisions.
- 1.2 This procedure apply to experts nominated by Parties, other Governments, and any body or agency, whether governmental or non-governmental, to serve as an expert member of an ad hoc technical expert group or other technical expert group. It does not apply to representatives of Parties or observers in intergovernmental meetings or in meetings of other bodies constituted with members representing Parties or observers.

**2. Requirements**

- 2.1 In order to participate in the work of an expert group, online and/or in person, each expert shall act solely in their personal capacity, regardless of any other governmental, industry, organizational or academic affiliation. Each expert is expected to comply with the highest professional standards in an objective and neutral way, and to exhibit a high degree of professional conduct. Each expert is expected to avoid, as far as possible, situations, financial or otherwise, that might affect the objectivity and independence of the contribution that the expert makes and thus affect the outcome of the work of the expert group.
- 2.2 Each expert nominated by a Party, a non-Party Government, or any body or agency, whether governmental or non-governmental, to serve as a member of an expert group, in addition to completing a nomination form,<sup>22</sup> will complete and sign a conflict of interest disclosure form as set out in the appendix below prior to the selection of members of the expert group concerned.
- 2.3 Unless otherwise decided, the requirement to disclose interests shall apply to every nominee and each expert group established by the Conference of the Parties to the Convention, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety, and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing, or by a subsidiary body.
- 2.4 When an expert already serving in an expert group is faced with a direct or indirect conflict of interest due to changed circumstances that affect the expert's independent contribution to the work of the expert group, the expert shall immediately inform the Secretariat of the situation.

**3. Disclosure form**

- 3.1 The conflict of interest disclosure form set out in the appendix below shall be used in connection with the designation and review of the status of nominees of members to an expert group.
- 3.2 The form will be made available in all six official languages of the United Nations.

**4. Implementation**

- 4.1 Nominations for membership to an expert group shall be accompanied by a conflict of interest disclosure form duly completed and signed by each nominee.

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<sup>22</sup> The nomination form is based upon the form required for the roster of experts under the Cartagena Protocol on Biosafety (decision [BS-I/4](#), annex I, appendix).

- 4.2 Upon receipt of nominations along with duly completed conflict of interest disclosure form, the Secretariat will review the information provided to determine whether an interest has been declared and, if so, whether it is significant (i.e. if the declared interest is related to the subject or work of the expert group concerned and may affect, or be reasonably perceived to affect, the expert's objective and independent judgment), or insignificant (i.e. if the declared interest is unrelated or tangentially related to the subject or work of the expert group concerned or is nominal in amount or inconsequential in importance or expired and is unlikely to affect, or be reasonably perceived to affect, the expert's objective and independent judgment). If the declaration raises potential concerns, the Secretariat may seek further information from the expert, directly, or through the Party or observer concerned.
- 4.3 The Secretariat should, in consultation with the Bureau, determine the nominees to be selected and invited to serve as members of the expert group concerned on the basis of: (a) the terms of reference of the expert group; (b) the criteria that may be set out in the notification for nominations; and (c) the review of information received through the conflict of interest disclosure form. As far as is possible, expert groups should be constituted so as to avoid conflicts of interest.
- 4.4 In situations wherein it is impossible or impractical to constitute an expert group with the full range of expertise required for it to carry out its mandate effectively without including individual experts who are otherwise qualified but may have a potential conflict of interest, the Secretariat, in consultation with the Bureau, may include such experts in the group provided that: (a) there is a balance of such potential interests; (b) the experts agree to make information concerning the potential conflict of interest publicly available; and (c) the experts agree to endeavour to contribute to the work of the group with objectivity, and to recuse herself/himself where this is not possible or in doubt.
- 4.4 If the situation of an expert changes during the mandate of the expert group and the Secretariat is so informed, as specified in paragraph 2.4 above, or when the Secretariat observes a conflict of interest situation from the actions of an expert, the Secretariat will, in consultation with the chairperson of the expert group, bring the case to the attention of the relevant Bureau for its guidance.

### *Appendix*<sup>23</sup>

#### **CONFLICT OF INTEREST DISCLOSURE FORM**

Please sign and date the last page of this form and return it to the Executive Secretary of the Convention on Biological Diversity. Kindly retain a copy for your records.

**Note:** You have been nominated and provisionally identified to serve as an expert in the [name or description of the expert group] because of your professional standing and expertise. As outlined in the procedure for avoiding or managing conflicts of interest (decision.....), you are expected to avoid situations that might affect your objective judgment and independence in making a contribution to the work of the Expert Group. Disclosure of certain matters is therefore necessary to ensure that the work of the Expert Group is not compromised by conflicts of interest. We are reliant on your professionalism, common sense and honesty in filling out this form.

You are required to disclose interests that are significant and relevant and relate or have the appearance of relating to your role in the Expert Group that could:

- (a) Significantly impair your objectivity in carrying out your duties and responsibilities as a member of the Expert Group;

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<sup>23</sup> This Form is adapted from the Conflict of Interest Policy and Implementation Procedures that have been adopted by the Plenary of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services in its decision IPBES -3/3 and contained in annex II to that decision.

[https://www.ipbes.net/system/tdf/downloads/Conflict\\_of\\_interest\\_policy.pdf?file=1&type=node&id=15252&force=](https://www.ipbes.net/system/tdf/downloads/Conflict_of_interest_policy.pdf?file=1&type=node&id=15252&force=)

(b) Create an unfair advantage for you or any person or organization and which could result in you securing a direct and material gain from a specific outcome in the work of the Expert Group.

For the purposes of this requirement, circumstances that could lead a reasonable person to question your objectivity, or whether an unfair advantage has been created, constitute a potential conflict of interest and should be disclosed on this form. Disclosure of an interest on this form does not automatically mean that a conflict exists or that you will be unable to participate in the work of the Expert Group. If you are in any doubt about whether an interest should be disclosed, you are encouraged to disclose such interest.

The contents of this form will remain confidential to the Secretariat unless otherwise agreed by the expert completing the form.

### **Conflict of Interest Disclosure Form**

(Confidential after completed, unless otherwise agreed by the person completing the form)

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_

CURRENT EMPLOYER: \_\_\_\_\_

NOMINATED BY: \_\_\_\_\_

1. Are you involved in any significant and relevant professional activities that might be considered as constituting a conflict of interest?

\_\_\_ Yes \_\_\_ No (if yes, please give details below)

Please list significant and relevant professional and other non-financial interests that relate or may have the appearance of relating to your duties in the Expert Group and could be interpreted as:

- (i) Significantly impairing your objectivity in carrying out your duties and responsibilities in the Expert Group;
- (ii) Creating an unfair advantage for you or any person or organization. This might include, but is not limited to, membership on the boards of advocacy groups.

2. Do you have any significant and relevant financial interests in the subject matter of the work in which you will be involved that might be considered as constituting a conflict of interest?

\_\_\_ Yes \_\_\_ No (if yes, please give details below)

Please list significant and relevant financial interests that relate or may have the appearance of relating to your duties for the Secretariat and could be interpreted as:

- (i) Significantly impairing your objectivity in carrying out your duties and responsibilities in the Expert Group;
- (ii) Creating an unfair advantage for you or any person or organization. These may include employment relationships, consulting relationships, financial investments, intellectual property interests and commercial interests and sources of private-sector research support.

3. Is there any other interest that could affect your objectivity or independence in the work in which you will be involved?

\_\_\_ Yes \_\_\_ No (if yes, please give details below)

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Further details (if you answered “yes” to any of the questions 1–3 above):

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I hereby declare to the best of my knowledge that the information disclosed herein is complete and correct. I undertake to inform the Secretariat immediately of any change in my circumstances during the course of the work assigned to me.

I understand that information about my interests will be held by the Secretariat for a period of five years after the end of the activity to which I contributed, after which the information will be destroyed. Subject to the requirement to notify the existence of a conflict of interest to the Secretariat under section 2 of the procedure for avoiding or managing conflicts of interest, I understand that this form will be considered confidential and will be reviewed in accordance with the procedure specified in section 4 of the Guidelines on Conflict of Interest.

I hereby declare that I will comply with the procedure for avoiding or managing conflicts of interest contained in the annex to decision [to be completed]

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Signature

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Date

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