

CODE OF CONDUCT FOR PANELLISTS AND MEDIATORS

I. Definitions

1. For the purposes of this Annex, the following definitions apply:
  - (a) "administrative staff" means, in respect of a panellist, individuals under the direction and control of a panellist, other than assistants;
  - (b) "assistant" means an individual who, under the terms of appointment of a panellist, conducts research or provides assistance to that panellist;
  - (c) "candidate" means an individual whose name is on the list of panellists referred to in Article 26.6 (Lists of panellists) and who is under consideration for selection as a panellist under Article 26.5 (Establishment of a panel);
  - (d) "mediator" means an individual who has been selected as mediator in accordance with Part IV (Selection of the mediator) of Annex 26-C (Rules of procedure for mediation); and
  - (e) "panellist" means a member of a panel.

## II. Governing principles

2. In order to preserve the integrity and impartiality of the dispute settlement procedures each candidate and panellist shall:

- (a) get acquainted with this code of conduct;
- (b) be independent and impartial;
- (c) avoid direct or indirect conflicts of interests;
- (d) avoid impropriety and the appearance of impropriety or bias;
- (e) observe high standards of conduct; and
- (f) not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.

### III. Disclosure obligations

3. Prior to the acceptance of his or her appointment as a panellist under Article 26.5 (Establishment of a panel), a candidate requested to serve as a panellist shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceedings. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters, including financial interests, professional interests, or employment or family interests.

4. The disclosure obligation under paragraph 3 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.

5. A candidate or a panellist shall communicate to the Trade Committee for consideration by the Parties any matters concerning actual or potential violations of this code of conduct at the earliest time he or she becomes aware of them.

### IV. Independence and impartiality of panellists

6. 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.

7. 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 him or her.

8. A panellist shall not allow past or existing financial, business, professional, personal, or social relationships or responsibilities to influence his or her conduct or judgement.

9. 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.

#### V. Duties of panellists

10. Upon acceptance of his or her appointment, a panellist shall be available to perform and shall perform his or her duties thoroughly and expeditiously throughout the proceedings, and with fairness and diligence.

11. A panellist shall consider only the issues raised in the proceedings and necessary for a decision and shall not delegate this duty to any other person.

12. A panellist shall not delegate the duty to decide to any other individual.

13. Parts II (Governing principles), III (Disclosure obligations), IV (Independence and impartiality of panellists), paragraph 10 of Part V (Duties of panellists), VI (Obligations of former panellists) and VII (Confidentiality) shall also apply to experts, assistants, and administrative staff.

#### VI. Obligations of former panellists

14. Each former panellist shall avoid actions that may create the appearance that he or she was biased in carrying out the duties or derived advantage from the decision of the panel.

15. Each former panellist shall comply with the obligations in Part VII (Confidentiality).

#### VII. Confidentiality

16. A panellist shall not, at any time, disclose any non-public information concerning the proceedings or acquired during the proceedings for which he or she has been appointed. A panellist shall not, in any case, disclose or use such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

17. A panellist shall not disclose a decision of the panel or parts thereof prior to its publication in accordance with Article 26.23(3) (Reports and decisions of the panel).

18. A panellist shall not, at any time, disclose the deliberations of a panel, or any panellist's view, nor make any public statements on the proceedings for which he or she has been appointed or on the issues in dispute in the proceedings.

#### VIII. Expenses

19. Each panellist shall keep a record and render a final account of the time devoted to the proceedings and of his or her expenses, as well as the time and expenses of his or her assistants and administrative staff.

#### IX. Mediators

20. This code of conduct shall apply to mediators, *mutatis mutandis*.

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