

**Open-ended Working Group of the Parties to
the Montreal Protocol on Substances that
Deplete the Ozone Layer**
Twenty-fifth meeting
Montreal, 27–30 June 2005
Agenda item 10

Other matters

Non paper submitted by Canada

Guidelines for Technology and Economic Assessment Panel and its Technical Options Committees and Temporary Subsidiary Bodies for disclosure of interest

Introduction

In order to make the most informed recommendations on applications for critical use exemptions, the Methyl Bromide Technical Options Committee (MBTOC) is required, according to decision VIII/19 to establish procedures to ensure that the best possible assessment of scientific evidence is achieved in an independent atmosphere free of either direct or indirect pressures. Thus, to ensure the technical integrity and impartiality of MBTOC work, it is necessary to avoid situations in which financial or other interests might affect the outcome of that work.

The procedures to be established must also be consistent with the code of conduct for TEAP and its TOCs and Temporary subsidiary Bodies (TSBs) adopted as Annex V to the report of the Eighth Meeting of the Parties. Paragraph 5 of the code of conduct requires members of TEAP, TOC and TSB to disclose activities, including business or financial interest in production of ozone-depleting substances, their alternatives, and products containing ozone-depleting substances and alternatives, which might call into question their ability to discharge their duties and responsibilities objectively. Members must also disclose any financing from a company engaged in commercial activities, for their participation in TEAP, TSBs or TOCs.

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It is proposed therefore that each member of TEAP, its TOCs and TSBs be asked to declare any interests that could constitute a real, potential, or apparent conflict of interest, with respect to his or her involvement in the work of TEAP, its TOCs and TSBs.

It is further proposed that the Secretariat verify the categorization of the interest disclosed and, if necessary, place restrictions on the member's participation in the evaluation process. Depending on the degree of the potential for conflict of interest, it may be necessary for the member to completely abstain from the evaluation of a particular application, or alternatively to not act as an advocate for or against the application, but to be available to comment if requested.

Canada proposes that the Parties adopt a decision on conflict of interest relating to members of TEAP, TSBs and TOCs at the next Meeting of the Parties. A draft decision is attached for the consideration of the Parties. Canada looks forward to further discussions or comments. Canada would welcome comments by September 15, 2005 and Canada undertakes to integrate comments received in the document and forward them to the Secretariat for distribution to the Parties prior to the Seventeenth Meeting of the Parties. Comments can be sent to jean-louis.wallace@international.gc.ca or by fax to Jean-Louis Wallace, Foreign Affairs Canada, +1 613 995 9525.

Annex I

Further to decision VIII/19, the Meeting of the Parties decides:

1. That each member of the TEAP, TSBs and TOCs shall sign a declaration of interest form as set out in the annex to the present decision;
2. That, without prejudice to the obligations incumbent upon the individual members of TEAP, TSBs and TOCs as set out in paragraphs 1 and 3, Governments have primary responsibility in ensuring compliance with the present decision and that, to that effect, when considering designating experts for appointment by the Meeting of the Parties, Governments shall exercise due diligence in order to prevent potential or actual situations of conflict of interest;
3. To adopt the following procedure for the implementation of the declaration of interest:

(a) Review process prior to appointment

- (i) When considering designating an expert to TEAP, TSBs and TOCs, the designating Government shall inform the expert that he or she shall be requested by the Secretariat to fill in a declaration of interest form.
- (ii) Prior to the designation of an expert by a Government, or concurrently with the process for that designation, the Secretariat shall request the expert, through the Government, to fill in a declaration of interest form. The declaration of interest form shall be submitted by the designating Government to the Secretariat.
- (iii) Should the Secretariat require further clarification as to the suitability of an expert, the secretariat shall discuss the matter with the prospective expert. Depending on the outcome of these discussions, the Secretariat may refer the matter to the Bureau of the Meeting of the Parties. The Bureau shall review the matter and make a recommendation to the Government concerned.
- (iv) Should a Government be in disagreement with the recommendation by the Bureau of the Meeting of the Parties, the Government may request that the matter be considered by the Meeting of the Parties.

(b) Review process after appointment

- (i) All appointed experts shall be required to inform the Secretariat of any changes in the information provided in a declaration of interest form previously submitted.
- (ii) In the course of the mandate of an expert, should the Secretariat be of the opinion that a situation of conflict of interest could arise or has arisen, the Secretariat shall discuss the matter with the expert and, where appropriate, with the chair of TEAP and the designating Government. The secretariat, in consultation with the Bureau of the Montreal Protocol, may recommend to the Meeting of the Parties the

temporary suspension of the participation of the expert in some or in all the activities of TEAP, TSBs and its TOCs as appropriate. A decision on the matter shall be taken by the Meeting of the Parties at its following session.

(c) General provisions

- (i) Subject to the provisions of decision VIII/19, the Secretariat to the Montreal Protocol shall take all necessary measures to safeguard the restricted character of the information provided in the declaration of interest forms. To the extent necessary for the implementation of decision VIII/19 and decision XVII/xx, this information may be provided to the Meeting of the Parties and its Bureau and subsidiary bodies, as deemed appropriate,
- (ii) Where the objectivity of a particular meeting has been called into question, the Meeting of the Parties shall define the conditions for the disclosure of all relevant information in addition to that which is provided in paragraph 3 (c)(i) of this decision,
- (iii) The Meeting of the Parties shall consider any issue that is not covered by the present decision,
- (iv) The Meeting of the Parties shall keep under review the implementation of the present decision and, not later than five years after its adoption, it will carry out a comprehensive assessment of its implementation with a view to making such amendments thereto as may be required.

Annex A

Declaration of interest

What is conflict of interest?

Conflict of interest means that the expert or his/her partner, or the entity with which the expert has an employment relationship, has a financial or other interest that could unduly influence the expert's position with respect to the subject matter being considered. An apparent conflict of interest exists when an interest would not necessarily influence the expert but could result in the expert's objectivity being questioned by others. A potential conflict of interest exists with an interest that any reasonable person could be uncertain whether or not it should be reported.

Different types of financial or other interests, whether personal or with the administrative unit with which the expert has an employment relationship, can be envisaged and the following list, which is not exhaustive, is provided for your guidance.

Categories of interest that should be declared:

1. Is employed by an applicant and either holds a position of responsibility, was involved in the application for an exemption or will be associated with the implementation of the use.
2. Provided advice, for commercial gain, to an applicant on the application.
3. Will receive any other direct benefit if the application is approved or declined (e.g. will receive returns on patent rights).
4. A current proprietary interest in a substance, technology or process (e.g. ownership of a patent), to be considered in – or otherwise related to the subject matter of – the meeting or work.
5. A current financial interest, e.g. shares or bonds, in a commercial entity with an interest in the subject matter of the meeting or work (except share holdings through general mutual funds or similar arrangements where the expert has no control over the selection of shares).
6. Participated in the preparation of the application as part of duties for a third party (does not include facilitating the transfer of publicly available information to the applicant).
7. Works for, and advises or receives financial assistance from the Government of the Party forwarding the application and was substantially associated with the processing of the application.
8. Is employed by, or receives financial assistance from the applicant, but has not been associated with the application and does not expect to be affected by any consequences of the decision on the application.
9. An employment, consultancy, directorship, or other position during the past four years, whether or not paid, in any commercial entity which has an interest in the subject matter of the meeting or work, or an ongoing negotiation concerning prospective employment or other association with such commercial entity.

10. Performance of any paid work or research during the past four years commissioned by a commercial entity with interests in the subject matter of the meetings or work.
11. Works for or receives financial assistance from a commercial enterprise promoting an alternative to the specific proposed use but is not associated with the promotion or introduction of that alternative.
12. Is engaged in research directly related to the specific proposed critical use (on either the proposed use or an alternative) that is funded by parties with an interest in the application. This does not include minor payments or in-kind assistance.
13. Payment or other support covering a period within the past four years, or an expectation of support for the future, from a commercial entity with an interest in the subject matter of the meetings or work, even if it does not convey any benefit to the expert personally but which benefits his/her position or administrative unit, e.g. a grant or fellowship or other payment, e.g. for the purpose of financing a post or consultancy.
14. Works for or receives financial assistance from a commercial enterprise promoting an alternative to the specific proposed use and would be directly associated with the promotion and introduction of that alternative.
15. Works for an interest that could possibly be harmed by a decision to grant a essential or critical use exemption.
16. Works for or receives financial assistance from the Government of the Party forwarding the application (but is otherwise not associated with the application).
17. Provides advice to their Government on what position the Government should take in international negotiations.
18. Is engaged in research directly related to the specific proposed use (on either the proposed use or an alternative) that is funded by parties independent from the application.
19. Is or has been engaged in research developing or assessing potential alternatives for the proposed use, but which is not a candidate alternative for the specific proposed use at the time of evaluation.
20. With respect to the above interests, a commercial interest in a competing substance, technology or process, or an interest in or association with, work for or support by a commercial entity having a direct competitive interest must similarly be disclosed.

Proposed action to be taken in the event of a declared interest:

- For points 1 to 6 proposed action would be A (takes no role)
For points 7 to 15 proposed action would be B (takes no role unless asked)
For points 16 to 20 proposed action would be C (fully participates)

Information for the potential member on how to complete the declaration of interest form

How to complete this declaration form

Please complete this declaration form and submit it to your Government for transmission to the Secretariat. Any financial or other interests that could constitute a real, potential or apparent conflict of interest should be declared: first, with respect to yourself or partner; and second, with respect to any entity with which you have an employment relationship. Only the name of the entity and the nature of the interest is required to be disclosed, no amounts need to be specified (though they may be, if you consider this information to be relevant to assessing the interest). With respect to points 4 and 5 in the list above, the interest should only be declared if it is current. With respect to points 9, 10 and 13, any interest during the past four years should be declared. With respect to point 10, the interest ceases when a financial post or fellowship is no longer occupied or when support for an activity ceases.

Assessment and outcome

The information submitted by you will be used to assess whether the declared interests constitute an appreciable real, potential, or apparent conflict of interest in accordance with the provisions of decision VIII/19 and decision XVII/xx.

Information disclosed on this form shall reside within the Secretariat and shall be made available to the Meeting of the Parties, its Bureau and subsidiary bodies, as deemed appropriate.

Declaration of interest to be completed by potential members

Declaration

Have you or your partner any financial or other interests in the subject matter of the meeting or work in which you will be involved, which may be considered as constituting a real, potential or apparent conflict of interest? Yes/No

If yes, please give details below (type of interest, e.g. patent, shares, employment, association, payment; name of commercial entity; whether the interests belong to you, your partner, or unit; current interest, or the year it ceased).

Have you or your partner any interests in developing or advising national delegations in the positions that they should take in international negotiations in the subject matter or work in which you will be involved, which may be considered or constituting a real, potential or apparent conflict of interest? Yes/No

If yes, please give details below.

Do you have, or have you had during the past four years, an employment or other professional relationship with any entity directly involved in the production, manufacture, distribution or sale of substances or directly representing the interests of any such entity? Yes/No

If yes, please give details below (type of interest, e.g. patent, shares, employment, association, payment; name of commercial entity; whether the interests belong to you, your partner, or unit; current interest, or the year it ceased).

Is there anything else that could affect your objectivity or independence in the meeting or work, or the perception by others of your objectivity and independence?

I hereby declare that the disclosed information is correct and that no other situation of real, potential, or apparent conflict of interest is known to me. I undertake to inform you of any changes in these circumstances, including if any issue arise during the meeting or work itself.

Name; date; signature.

I hereby declare that I shall regulate my conduct in accordance with the provisions of paragraphs 3 and 4 of decision VIII/19 regarding the code of conduct by members of the Technology and Economic Assessment Panel.

Name; and signature.
