

This document contains an EU proposal for an Annex on Code of conduct for Panellists and mediators to the Dispute Settlement Chapter in the Trade Part of a possible modernised EU-Chile Association Agreement. It has been tabled for discussion with Chile. The actual text in the final agreement will be a result of negotiations between the EU and Chile. The EU reserves the right to make subsequent modifications to this proposal.

EU-Chile Free Trade Agreement

EU TEXTUAL PROPOSAL

DISPUTE SETTLEMENT CHAPTER

ANNEX XX

**CODE OF CONDUCT
FOR PANELLISTS AND MEDIATORS**

I. Definitions

1. In this Code of Conduct:
 - (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 an 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 X.6 (Lists of Panellists) of Chapter [X] (Dispute Settlement) and who is under consideration for selection as a panellist under Article X.5 (Establishment of a Panel) of Chapter [X] (Dispute Settlement);
 - (d) "mediator" means an individual who has been selected as mediator in accordance with Article X.28 (Selection of a Mediator) of Chapter [X] (Dispute Settlement);
 - (e) "panellist" means a member of a panel.

II. Governing Principles

3. In order to preserve the integrity and impartiality of the dispute settlement mechanism 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;
 - (f) observe high standards of conduct; and
 - (e) not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.
4. 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.
5. 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.
6. 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.

7. 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.

III. Disclosure obligations

8. Prior to the acceptance of his or her appointment as a panellist under Article X.5 (Establishment of a Panel) of Chapter [X] (Dispute Settlement), 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.
9. The disclosure obligation under paragraph 8 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.
10. A candidate or a panellist shall communicate to the [institutional body to be defined] 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. Duties of Panellists

11. 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.
12. 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.
13. A panellist shall take all appropriate steps to ensure that his or her assistants and administrative staff are aware of, and comply with, the obligations incurred by panellists under Parts II, III, IV and VI of this Code of Conduct.

V. 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 VI of this Code of Conduct.

VI. 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 Chapter [X] (Dispute Settlement).
18. A panellist shall not, at any time, disclose the deliberations of a panel, or any panellist's view, nor make any statements on the proceedings for which he or she has been appointed or on the issues in dispute in the proceedings.

VII. 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.

VIII. Mediators

20. This Code of Conduct shall apply to mediators, *mutatis mutandis*.
