

**ANNEX 12-B  
CODE OF CONDUCT**

*Definitions*

1. For the purposes of this Annex:

**adviser** means a person retained by a Party to advise or assist that Party in connection with the Arbitral Tribunal proceeding;

**Arbitral Tribunal** means an Arbitral Tribunal established under Article 12.10;

**arbitrator** means a member of an Arbitral Tribunal established under Article 12.10;

**assistant** means a person who, under the terms of appointment of an arbitrator, conducts research or provides other professional or administrative support to any arbitrator;

**candidate** means:

- (a) a person whose name appears in the list established pursuant to Article 12.8; or
- (b) a person who is under consideration for appointment as an arbitrator, conciliator, mediator, or expert;

**Chapter** means Chapter 12;

**expert** means a person or group that provides information, technical advice or expert opinion to an Arbitral Tribunal pursuant to rules 28 through 35 of Annex 12-A;

**family members** means:

- (a) the spouse of the arbitrator or candidate;
- (b) the following relatives of the arbitrator or candidate: parents, grandparents, great grandparents, children, grandchildren great grandchildren, brothers, sisters, nephews, nieces, uncles, aunts, first cousins, great uncles and great aunts or the spouse of such persons; and
- (c) the following relatives of the spouse of the arbitrator or candidate: parents, grandparents, brothers, sisters, children and grandchildren;

**proceedings** means an Arbitral Tribunal proceeding;

**staff** means persons under the direction and control of the arbitrator, or of the Arbitral Tribunal, other than assistants.

*Responsibilities of Arbitrators*

2. An arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of dispute settlement under this Agreement are preserved. A former arbitrator shall observe the duties established in this Annex, *mutatis mutandis*.

#### *Disclosure Obligations*

3. Prior to confirmation of his or her appointment as an arbitrator under this Agreement, a candidate 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 proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters. The candidate shall disclose such interests, relationships and matters by completing and providing the Undertaking Form attached to this Annex to the Joint Committee for consideration by the Parties.

4. Pursuant to the obligation provided in paragraph 3, candidates shall disclose, *inter alia*, the following interests, relationships and matters:

- (a) any direct or indirect financial, business, property, professional or personal interest, past or existing, of the candidate:
  - (i) in the proceeding or in its outcome; and
  - (ii) in an administrative, arbitral or court proceeding or another tribunal or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
- (b) any direct or indirect financial, business, property, professional or personal interest, past or existing, of the candidate's employer, partner, business associate or family member:
  - (i) in the proceeding or in its outcome; and
  - (ii) in an administrative, arbitral or court proceeding or another tribunal or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
- (c) any past or existing financial, business, professional, family or social relationship with a person or entity that has an interest in the proceeding, or the Party's counsel, representative or adviser, or any such relationship involving a candidate's employer, partner, business associate or family member; and
- (d) public advocacy, including statements of personal opinion, or legal or other representation concerning an issue in dispute in the proceeding or involving the same type of goods, services, investments, or government procurement.

5. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in paragraphs 3 and 4 and shall disclose them by communicating them in writing to the Joint Committee for consideration by the Parties. The obligation to disclose is a continuing duty, which requires an arbitrator to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

6. This Annex does not determine whether or under what circumstances the Parties will disqualify a candidate or an arbitrator from being appointed to or serving as a member of an arbitral tribunal, on the basis of disclosures made.

#### *Performance of Duties by Arbitrators*

7. In addition to this Annex, an arbitrator shall comply with the provisions of this Chapter and Annex 12-A.

8. Upon selection, an arbitrator shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

9. An arbitrator shall consider only those issues raised in the proceeding and necessary to rendering an award or a decision and shall not delegate any of his or her duties to any other person.

10. An arbitrator shall take all appropriate steps to ensure that his or her assistants and staff are aware of, and comply with this Annex, *mutatis mutandis*.

11. An arbitrator shall not engage in *ex parte* communications concerning the proceeding.

12. An arbitrator shall not communicate matters concerning actual or potential violations of this Annex unless the communication is to both Parties or is necessary to ascertain from a third party whether that arbitrator has violated or may violate this Annex.

#### *Independence and Impartiality of Arbitrators*

13. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.

14. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamor, loyalty to a Party or fear of criticism.

15. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that might in any way interfere, or appear to interfere, with the proper performance of the arbitrator's duties.

16. An arbitrator shall not use his or her involvement in the proceeding to advance any personal or private interests. An arbitrator shall avoid conduct that may create the impression that others are in a special position to influence him or her.

17. An arbitrator shall not allow past or existing financial, business, professional, family or social relationships to influence his or her conduct or judgment.

18. An arbitrator shall avoid entering into any relationship, including a financial, business, professional or personal relationship, that is likely to affect his or her impartiality or that might reasonably create an appearance of impropriety or bias.

19. An arbitrator shall exercise his or her position without accepting or seeking instructions from any international, governmental or non-governmental organization or any private source, and shall not have been involved in any previous stage of the dispute assigned to him or her, unless otherwise agreed by the Parties.

20. An arbitrator or former arbitrator shall avoid actions that may create the appearance that he or she was biased in carrying out his or her duties or would benefit from the award or decision of the Arbitral Tribunal.

#### *Maintenance of Confidentiality*

21. An arbitrator or former arbitrator shall not at any time disclose or use information not in the public domain concerning the proceedings or acquired during the proceedings, including the Arbitral Tribunal's deliberations or any arbitrator's view, except for the purposes of the proceedings or except as required by law. In case such disclosure is required by law the arbitrator shall provide sufficient advance notice to the Parties and the disclosure shall not be broader than necessary to satisfy the legitimate purpose of the disclosure. In any case, an arbitrator shall not disclose or use any such information not in the public domain to gain personal advantage or advantage for others or to affect adversely the interest of others.

22. An arbitrator or former arbitrator shall not disclose Arbitral Tribunal awards or decisions or parts thereof prior to their publication in accordance with Article 12.13.10.

#### *Mediators, Conciliators, Assistants, Experts and Staff*

23. The provisions included in this Annex as applying to arbitrators shall apply, *mutatis mutandis*, to mediators, conciliators, assistants and experts.

24. The provisions included in paragraphs 11, 21 and 22 of this Annex shall apply to staff.

**ISRAEL-COLOMBIA FREE TRADE AGREEMENT**

**UNDERTAKING**

**IN THE MATTER OF PROCEEDING (TITLE)**

I have read the Code of Conduct for Dispute Settlement Proceedings under the Israel-Colombia Free Trade Agreement (the “Code of Conduct), and I undertake all the obligations specified in the Code of Conduct.

To the best of my knowledge there is no reason why I should not accept appointment as an arbitrator/mediator/conciliator/assistant/expert in this proceeding.

According to paragraphs 3 and 4 of the Code of Conduct, the following matters could potentially be considered to affect my independence or impartiality, or might create an appearance of impropriety or an apprehension of bias in the proceeding:

[Set out the details of any interests covered by paragraphs 3 and 4 of the Code of Conduct]

I recognize that, once appointed, I have a continuing duty to uphold all obligations specified in the Code of Conduct including to make all reasonable efforts to become aware of any interest, relationship, or matter referred to in the Code of Conduct that may arise during any stage of the proceeding. I will disclose in writing any relevant interest, relationship, or matter to the Joint the Committee as soon as I become aware of it.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_