

Third Session of the Assembly
28-29 October 2019, Seoul

Agenda Item 3.1(b)

DECISION 25-III-19R

**Policy on Ethics and Conflicts of Interest for the
Assembly of AFoCO**

The Assembly of the Asian Forest Cooperation Organization (AFoCO),

Recognizing principles and ethical standards for the Members of the Assembly of AFoCO in connection with, or having a bearing upon, their status and responsibilities in the organization; and

Ensuring that the Representatives when performing their Assembly duties are entrusted with the responsibilities prescribed in, or pursuant to, the Agreement on the Establishment of AFoCO,

Decides to:

1. Adopt the Policy on Ethics and Conflicts of Interest for the Assembly of AFoCO as in the document D-25-1; and
 2. Task the Secretariat to facilitate the necessary follow-up actions, including the amendment/update of related institutional documents such as the rules of procedures of the Assembly.
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Policy on Ethics and Conflicts of Interest for the Assembly of AFoCO

Document No: D-25-1 (Decision 25-III-19R)

I Background

1. This Policy on Ethics and Conflicts of Interest for the Assembly of the Asian Forest Cooperation Organization sets out principles and ethical standards for the Members of the Assembly of AFoCO in connection with, or having a bearing upon, their status and responsibilities in the organization.

II Definitions

2. For this Policy, the following terms shall be defined as below:

- (a) "AFoCO" means the organization established under the Agreement on the Establishment of the Asian Forest Cooperation Organization.
- (b) "Agreement" means the Agreement on the Establishment of the Asian Forest Cooperation Organization.
- (c) "Associated Institution" means:
 - (i) Any entity, agency, organization, corporation, administration or similar institution in which a Representative serves as an officer, director, Stakeholder, trustee, partner or employee or for which the Representative is working as consultant, that receives or may receive directly or indirectly funding from AFoCO or with which AFoCO has, either directly or through an intermediary, an agreement, contract, grant, understanding, arrangement or relationship; or
 - (ii) Any entity, agency, organization, corporation, administration or similar institution with which a Representative is applying for, or negotiating to have, an arrangement concerning employment or consultancy.
- (d) "Assembly" means the Assembly of AFoCO.
- (e) "Dependent" means a Representative's spouse, partner under domestic legislation, child, mother, father, brother or sister or a who is person primarily dependent on such an individual for financial support.
- (f) "Ethics and Audit Committee" means the committee of the Assembly to consider and provide guidance on issues of interest, confidentiality, ethics, financial management, procurement and other audit functions as they relate to the Assembly, particularly pursuant to the relevant policies on Information Disclosure; Anti-Money Laundering and Countering the Financing of Terrorism; and Ethics and Conflicts of Interest for the Assembly of AFoCO and the Executive Director of the Secretariat.
- (g) "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, honorarium or other item having monetary value. These include services as well as gifts of training, transportation, local travel, lodging and meals, whether provided in-

- kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.
- (h) “Observer” means a signatory country which has signed the Agreement but has yet to deposit its instrument of ratification, acceptance or approval; Asian country, or international non-governmental organization granted Observer status by the Assembly in accordance with Article 6 of the Agreement.
 - (i) “Party” means a country which has signed the Agreement and has deposited its instrument of ratification, acceptance, or approval for which the Agreement has entered into force, or a country that has acceded to the Agreement.
 - (j) “Policy” means this policy on ethics and conflicts of interest for the Assembly of the Asian Forest Cooperation Organization.
 - (k) “Prohibited Practices” means any of the following practices:
 - (i) A ‘corrupt practice’ is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another entity and/or individual;
 - (ii) A ‘fraudulent practice’ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, an entity and/or individual to obtain a financial or other benefit, or to avoid an obligation;
 - (iii) A ‘coercive practice’ is impairing or harming, or threatening to impair or harm, directly or indirectly, any entity and/or individual improperly or the property of that entity and/or individual to influence improperly the actions of an entity and/or individual;
 - (iv) A ‘collusive practice’ is an arrangement between two or more entities and/or individuals designed to achieve an improper purpose, including to improperly influence the actions of another entity and/or individual;
 - (v) An ‘obstructive practice’ includes deliberately destroying, falsifying, altering or concealing evidence material to an investigation; making false statements to investigators in order to materially impede an investigation; threatening, harassing or intimidating any entity and/or individual to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or materially impeding AFoCO’s rights of audit or access to information; and
 - (vi) ‘Harassment’ means unwelcome verbal or physical behavior that unreasonably interferes with work or creates an intimidating, hostile or offensive work environment.
 - (l) “Representative” means a senior forestry official nominated by a Party to the Agreement to represent the Party in the Assembly.
 - (m) “Staff Members” mean all staff of the Secretariat of AFoCO, including the Executive Director, as described in Article 9 of the Agreement.
 - (n) “Stakeholder” means a person having a proprietary or economic interest in an entity.

III Purpose and Scope

3. The purpose of this Policy is to ensure that the Representatives are entrusted with the responsibilities prescribed in, or pursuant to, the Agreement on the Establishment of AFoCO.
4. When performing their Assembly duties in the service of AFoCO, the personal and professional conduct of a Representative must comply with the ethical standards and procedures set out herein in addition to any domestic legal requirements exclusively as they apply to this Policy.

IV Basic Standard of Conduct

5. Representatives shall carry out their responsibilities and activities of AFoCO as prescribed in the Agreement and the Rules of Procedure of the Assembly to the best of their ability and judgment and shall maintain the highest standards of integrity and ethics in their personal and professional conduct, and shall observe principles of good governance.
6. Representatives shall, upon their appointment and at the start of each new term of office, implement the Conduct of Impartiality and Confidentiality (**Annex-1**).
7. Representatives shall observe the laws of each jurisdiction in which they are present pursuant to their official duties and responsibilities, associated with AFoCO, so as not to be perceived as abusing the privileges and immunities conferred by AFoCO upon them. This provision does not abrogate or waive any privileges and immunities which they may enjoy.
8. Representatives shall, in their interactions with others, act with tolerance, sensitivity and respect for cultural differences. Any form of discrimination based on any ground, such as gender, race, color, national, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be against this Policy.
9. Representatives shall abide by the following standards of conduct:
 - (a) Representatives must not act in any manner that will undermine public confidence and trust in AFoCO's governance. In particular, Representatives will refrain from engaging in Prohibited Practices;
 - (b) Representatives must not encourage anyone to take any actions listed in paragraph (a) above; and,
 - (c) Representatives must disassociate from, and report to the Ethics and Audit Committee, any suspected misconduct by any other Representative.

V Non-compliance with the Policy

10. Alleged breaches of a provision of this Policy by a Member of the Assembly, other Representatives or their immediate family members, shall be referred by the Ethics and Audit

Committee pursuant to the procedures set out in **Annex-2**. If the subject of the allegation involves a member of the Ethics and Audit Committee, then such member shall recuse him/herself from the deliberations of the Ethics and Audit Committee. If it involves the Chair of the Ethics and Audit Committee, the other members shall elect another chair to facilitate the deliberations.

11. The Ethics and Audit Committee may take the following action upon formally determining the breach of a provision of this Policy as appropriate after due inquiry:

- (a) Formal warning to the Representative concerned;
- (b) An instruction to the Representative concerned to remedy the breach; and/or
- (c) A recommendation to the Assembly to address the breach, in which case all relevant information will be provided to the Assembly.

12. In addition, the Ethics and Audit Committee may consider reporting the breach to the government the Representative belongs to.

13. The procedures for handling allegations of a breach of the Policy may be amended by the Assembly, upon recommendation of the Ethics and Audit Committee.

VI Conflicts of Interest

14. A conflict of interest arises when a Representative has an interest, which may include but is not limited to a financial interest that could, or reasonably could be deemed to improperly influence the performance of his or her official duties or responsibilities as a Representative.

15. If an appearance of a conflict of interest arises, or if there is doubt whether a conflict, actual, apparent or perceived, exists, the Representative concerned shall promptly refer the matter in writing to the Chair of the Ethics and Audit Committee for guidance.

16. Representatives shall submit to the Ethics and Audit Committee a list of their functions and roles outside AFoCO that would have relevance or potential relevance to the activities of AFoCO and shall update such a list if and when required to reflect amendments.

17. The Ethics and Audit Committee shall not make this list publicly available, unless it needs to be disclosed to the Assembly, the Executive Director, and the relevant government with regard to a specific case in the context of procedures when a conflict of interest arises.

6.1 Procedure When a Conflict of Interest Arises

18. Actual or potential conflicts of interest or the reasonable appearance thereof shall be immediately disclosed in writing to the Ethics and Audit Committee.

19. The Ethics and Audit Committee shall promptly review these disclosures or any alleged conflicts of interest communicated to it and determine whether an actual or potential conflict of interest exists and, if so, whether to issue a waiver defining the extent to which such

a Representative may participate in any discussion of the issue that has given rise to the conflict.

20. When it is determined by the Ethics and Audit Committee that an actual or potential conflict of interest exists, the Representative shall not participate in the matter. With respect to the Assembly, the Representative shall not speak on the matter, unless a waiver has been granted by the Ethics and Audit Committee. The waiver may be designed to allow for any level of participation that the Ethics and Audit Committee establishes.

21. If the determination affects a Representative, such an individual may appeal the determination by the Ethics and Audit Committee to the Assembly.

6.2 Future Employment

22. When negotiating for, or entering into an arrangement concerning prospective employment outside AFoCO for themselves or for Dependents, Representatives shall not allow such circumstances to influence the performance of their duties.

23. Representatives shall not apply for or accept any employment, including as a consultant, by an implementing entity or intermediary applying, or reasonably likely to apply, unless disclosed to the Ethics and Audit Committee. The Ethics and Audit Committee will assess whether an actual or potential conflict of interest exists in these circumstances and, if so, decide on the remedy to address such conflict.

VII Transparency and Disclosure of Information

24. Representatives explicitly acknowledge that they may have access to information regarding AFoCO according to AFoCO's information disclosure policies and agree that at all times they shall respect the confidentiality of such information and shall not use such information for the purpose of furthering their personal interest or the personal interest of any other person or entity for whom or which such information is not intended. They shall comply with the information disclosure policies of AFoCO.

25. If deemed necessary by the Ethics and Audit Committee, Representatives may provide information related to their respective home country that they receive to their governments in the course of their official duties. The provisions of this paragraph shall continue to apply to Representatives after their service as a Representative has ended.

26. Representatives shall consult the Ethics and Audit Committee if they have doubts as to whether certain information is deemed confidential. The determination of the Ethics and Audit Committee is final.

27. If a Representative believes that confidential information may have been improperly disclosed, he/she shall promptly inform the Ethics and Audit Committee, which shall promptly advise the Executive Director.

VIII Gifts and Entertainment

28. All Representatives and their Dependents are prohibited from accepting gifts under circumstances where it could reasonably be construed that the gift is motivated by the position of the Representative in relation to AFoCO and interests that could be substantially affected by AFoCO, except when such gifts are allowable under the provisions referred to in paragraph 30 below.

29. All Members of the Assembly and their immediate family members are prohibited from giving gifts where it could reasonably be construed that the gift is intended to affect the policies or practices of AFoCO or any of the programs it funds.

30. A Representative may accept unsolicited gifts on behalf of AFoCO when refusal to do so would embarrass the gift provider or AFoCO or otherwise not be in the interest of AFoCO, such as when a refusal to accept would be considered as impolite business etiquette. Except when impractical (such as in the case of meals), gifts accepted on behalf of AFoCO will be turned over to the Secretariat and handled under procedures as defined in AFoCO's procurement policy.

31. A Representative may accept unsolicited gifts from one source or provide gifts to one person or entity if the gifts have an aggregate value of US\$ 50 or less, provided that the aggregate value of individual gifts received from or provided to any one person does not exceed US\$ 100 in a calendar year. All such gifts should be reported to the Ethics and Audit Committee.

IX Employment by the Secretariat

32. Any Representative and Dependent shall not be eligible for employment by the Secretariat, including as a consultant, until one and a half years following the last date of service of the Representative in the relevant position.

33. The Assembly may waive this provision upon recommendation from the Ethics and Audit Committee. A request for such a waiver must be submitted by the individual concerned to the Ethics and Audit Committee before he/she applies for employment by the Secretariat.

34. The Secretariat shall not take action on or accept an application for employment from such an individual unless a waiver has been granted by the Assembly.

X Involvement in Procurement and Human Resources Matters

35. Representatives shall not attempt to exert any undue influence with respect to the appointment, compensation, and termination of individual employees of AFoCO or persons associated with AFoCO, including consultants. This provision should not be construed to prevent a Representative from endorsing an appointment.

36. Representatives shall not attempt to exert any undue influence with respect to:

- (a) The investigation and resolution of any dispute or allegations dealt with in accordance with the applicable policies and procedures of AFoCO, including matters that may arise from a procurement or human resources involving AFoCO; and
- (b) Staff Members of the Secretariat performing their duties, in particular in relation to procurement decisions and awarding contracts, human resources decisions, and the proposal approval process.

37. The provision contained in paragraph 35 above does not affect the mandate of the Assembly in respect of the appointment of the Executive Director, the head of the Secretariat referred to in the Agreement and the heads of all accountability units.

XI Amendment to the Policy

38. The provisions of this Policy may be supplemented or amended upon proposal by the Executive Director in consultation with the Ethics and Audit Committee and subsequent approval by the Assembly.

XII Report and Review

39. The Assembly and the Ethics and Audit Committee shall keep this Policy under regular review to ensure that the highest ethical standards are applied to Representatives or Focal Officers.

37. The Ethics and Audit Committee shall ensure to report on the status of implementation and the progress of this Policy to the Assembly every three (3) years after the adoption of this Policy.

XIII Effective Date of Application

40. This Policy shall come into effect upon adoption by the Assembly, and shall remain in effect until amended or superseded by the Assembly.

41. Representatives already in office at the time this Policy comes into effect shall acknowledge their Declaration of Impartiality and Confidentiality promptly upon the effective date of this Policy in accordance with paragraph 40 above as the case may be.

42. Amendments to this Policy and any amendments thereto shall come into effect in accordance with paragraph 38 above.

Annex-1: Conduct of Impartiality and Confidentiality of Representatives to the Assembly of the Asian Forest Cooperation Organization¹

Name:

Position:

Country:

I solemnly declare that I will perform my duties and responsibilities as a Representative to the Assembly of the Asian Forest Cooperation Organization honorably, faithfully and conscientiously.

I solemnly declare and promise that I shall have no personal financial interest in any matters with which I am involved in performing my duties of the Assembly or for the Asian Forest Cooperation Organization.

I solemnly declare that I accept and will be bound by the Policy on Ethics and Conflicts of Interest for the Assembly of the Asian Forest Cooperation Organization.

I explicitly acknowledge that I may have access to information regarding the Organization and its operations that is deemed confidential according to the Organization's information disclosure policies and agree that at all times, I shall respect the confidentiality of such information and shall not use such information for the purpose of furthering my personal interest or the personal interest of any other person or entity for whom or which such information is not intended. I shall comply with the information disclosure policies of the Organization. However, I may provide confidential information of the Organization that I receive to the government of my home country in the course of my official duties for my home country. The provisions of this paragraph shall continue to apply after my service as a Representative to the Assembly of the Asian Forest Cooperation Organization has ended.

I shall disclose to the Ethics and Audit Committee any interest in any matter under consideration by the Assembly which may constitute a conflict or potential conflict of interest or which might be incompatible with the requirements of integrity and transparency in my role as a Representative to the Assembly of the Asian Forest Cooperation Organization and I shall refrain from participating in the work of the Assembly in relation to such a matter, unless a waiver has been granted by the Ethics and Audit Committee or the Assembly, as the case may be.

¹ This document will be sent to a Representative when the Representative receives their appointment letter from the Secretariat.

Annex-2. Procedures for Handling Allegations of Misconduct

1. Allegations of misconduct and/or breach of the Policy on Ethics and Conflicts of Interest for the Assembly of the Asian Forest Cooperation Organization made by another official of AFoCO, or by any individual or entity against a Representative to the Assembly, other Representatives, or their immediate family members, shall be submitted confidentially in writing to the Chair of the Ethics and Audit Committee who shall bring any such allegation to the attention of the Ethics and Audit Committee for its consideration in accordance with the procedures to be determined for such a case.
2. If the subject of the allegation involves a member of the Ethics and Audit Committee, then such a member shall recuse him/herself from the deliberations of the Ethics and Audit Committee. If it involves the Chair of the Ethics and Audit Committee, the other members shall elect another chair to facilitate the deliberations.
3. The Representative concerned shall not be presumed to have engaged in the alleged misconduct until such time as the Ethics and Audit Committee determines that there is sufficient evidence to establish on a balance of probabilities that the alleged misconduct did occur.
4. The Ethics and Audit Committee shall review the allegations and determine whether they are credible and whether they are appropriate for taking action by the Ethics and Audit Committee. If the allegations do not appear credible, the Ethics and Audit Committee may decide to take no further action. If the allegations appear credible and appropriate for taking action by the Ethics and Audit Committee, it shall take such action promptly.
5. The Ethics and Audit Committee may take, as appropriate, the following action:
 - (a) A formal warning to the Representative concerned;
 - (b) An instruction to the Representative concerned to remedy the breach;
 - (c) A recommendation to the Assembly to address the breach, in which case all relevant information will be provided to the Assembly; and/or,
 - (d) An additional reporting of the breach to the government to which the Representative to the Assembly belongs, if deemed necessary.
6. A recommendation by the Ethics and Audit Committee to the Assembly may include, but is not limited to, a recommendation to reverse a funding decision or to censure a Representative. If the subject of the allegation involves a Representative, then such Representative shall recuse him/herself from the deliberations of the Assembly. If it involves the President of the Assembly, the Vice President of the Assembly shall assume the functions of President in accordance with the Rules of Procedure of the Assembly.
7. The Assembly shall take a final decision based on the findings and recommendations of the Ethics and Audit Committee.

8. Each Representative to the Assembly, if alleged to have committed misconduct, shall be provided with timely notice of the allegation and all relevant documentation; and the opportunity to present his or her views regarding the allegations to the Ethics and Audit Committee before it makes its determination and to the Assembly before it takes any decisions, as set forth in these procedures.

9. The Ethics and Audit Committee may permit the individual who is alleged to have committed misconduct to be accompanied by an advisor from within or outside of AFoCO.

10. A Representative may appeal to the Assembly against any action taken by the Ethics and Audit Committee against him/her.
