



Submission to the secretariat for the Ad hoc Open Ended Working Group on a Science-Policy Panel to contribute further to the sound management of chemicals and waste and to prevent pollution.

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Contents:

IPEN Quick Views on working documents prepared for OEWG 3	2
Comments on procedures for safeguarding commercially sensitive information	6
Comments on the conflicts of interest policy	10

IPEN Quick Views on working documents prepared for OEWG 3

Overall comment

Access to a clean, healthy and sustainable environment, including a safe and healthy working environment, is a universal human right. This includes the right of access to information and requires science-based policies to protect the human rights of individuals and communities exposed to hazardous substances and wastes. In addition, the Rights of the Child states that the dangers and risks of environmental pollution must be taken into account in the right to health. The work of the Science Policy Panel must contribute to upholding the enjoyment of these rights, and should be based on precaution, prevention, the polluter pays principle, and the industries' duty to disclose information.

To be credible and trustworthy, the Panel and its work must be:

- **Inclusive and Participatory:** The Panel must effectively integrate views, information, and data from consumers, stakeholders, and communities impacted by chemicals, waste, and pollution, including groups in especially vulnerable situations, Indigenous Peoples, and workers. Gender, regional, and sectorial balance must be ensured. There must be participation of civil society representatives in all work of the Panel and its subsidiary bodies. Knowledge must be broadly defined to include traditional and Indigenous Knowledge systems, as well as citizen science.
- **Transparent:** Work processes, prioritization of issues, sources of information, and decision-making must be traceable, and documentation must be publicly available and accessible. No information or data submitted to the Panel and its subsidiary bodies, or used by the Panel and its subsidiary bodies, should be treated as confidential, to safeguard the integrity of the Panel and align with other science-policy panels.
- **Free from conflicts of interest:** The development and implementation of a strong conflict-of-interest policy will be crucial to ensure that the Panel provides independent, scientifically sound data, suitable to inform policy work. The policy should take both current and previous engagements into account and apply to all involved experts and participants. The policy must apply to the decision-making body, subsidiary bodies, committees, and other processes. The policy should require disclosure of all real, potential, and apparent conflicts of interest, and the Panel should have procedures to actively prevent conflicts of interest throughout all its work and decision-making processes. All information related to conflicts of interest disclosures should be made publicly available online, including evaluations of conflicts of interest.

OEWG 3/2 Compilation of proposals for establishing a Science-Policy Panel.

Section A. Scope, objective and functions of the panel

Overall, IPEN supports the proposed objective and functions. The function (e) on capacity building is important, for example to provide support and create enabling environment to ensure that outputs from the Panel can be implemented in all countries, particularly developing countries and countries in transition. Function (d) should address the problem that most scientific publications on chemical hazards are not publicly available but only accessible to those who have the financial resources to pay for them.

Section B. Operating principles of the panel

For the text in brackets, the language options should be kept that ensures that the work of the Panel will provide reliable and independent science-based information to protect human and environmental health. This means keeping language around prevention, precaution, and the protection of human rights and communities in vulnerable situations.

It is important to take into account that data on emerging issues may be limited. This means that in order for the Panel to fulfill its aim to “prevent pollution” and its horizon scanning function, the work of the Panel must be based on precaution and prevention.

In operating principle (a), consensus is suggested within brackets. This suggested language should not be included since it would be inappropriate for a Science-Policy Panel. Science and scientific assessments should be driven by evidence and sound methodology rather than the need to achieve unanimous agreement and this suggestion would jeopardize the scientific integrity.

Section C. Institutional arrangements for the panel

Subsection I – IV

IPEN supports the overall set-up of the Panel. Noting the importance of ensuring the integrity of the work of the Panel, the inclusion of a Conflict-of-Interest Committee is strongly supported.

However, subsidiary bodies that are outside the scope of the mandate of UNEA resolution 5/8, or could delay or limit the outputs of the Panel should not be included. Therefore, the proposed Policy Committee, Socioeconomic Subsidiary body and Prospective Error Analysis Committee are not supported.

In addition, the decision-making body and all subsidiary bodies must be open to participation and contributions from Civil Society, to ensure transparency, credibility and trustworthiness of the work of the Panel and its outputs. This is already established practice in all chemicals and waste related Conventions (Stockholm, Rotterdam, Basel and Minamata) and their subsidiary bodies (the POPs Review Committee, the Chemicals Review Committee, Basel Convention Working Groups, and the Implementation and Compliance Committee).

Subsection V

New, robust independent financing is urgently needed for addressing chemicals, waste and pollution, as a part of the triple planetary crisis. The significant lack of adequate, predictable, and sustainable funding is a key obstacle to moving forward towards sound management of chemicals and waste in developing countries and countries in transition. This includes new and additional resources to finance the work of the SPP.

New funding initiatives should be built on the polluter-pays principle. As noted by the UNEP report on the cost of inaction on the sound management of chemicals, “The emerging data on the economic consequences of harmful chemicals related to negative health, environment, and development planning effects, clearly point to very high effects and associated costs.” These effects and costs are borne by the public, while the profits are enjoyed by the chemicals industry. So far, the dedicated external funding to the integrated approach to financing has been insufficient, and industry involvement in financing the sound management of chemicals has been marginal at best.

The proposed new trust fund will be a suitable way forward, since it is suggested to also accept contributions from the private sector. However, noting concerns around Conflicts of Interest, it



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needs to be guarded by strict transparency measures and ensure that contributions do not influence the work, deliberations and decision-making of the panel in any way.

Subsection VI

It is vital for the credibility of the Panel that stakeholder engagement and any Partnership are transparent and with clear boundaries preventing influence from stakeholders with conflict of interests. Any partnerships must be based on agreed criteria, including measures preventing partnerships with entities that have conflict of interests.

Section D. Evaluation of the operational effectiveness and impact of the panel

Periodical, independent evaluation of the work of the Panel will be very important to verify that it is functioning as intended. Evaluation criteria should include transparency, inclusiveness, conflict of interest, and relevance of outputs. An evaluation can be helpful in identifying obstacles, weaknesses and limiting factors, and propose ways to strengthening the Panel.

Annex 1. Rules of procedure

IPEN notes that these overall contain similar language as in other chemicals and waste frameworks and can be adopted more or less as is, but that there are some instances where there is a lack of clarity that needs to be addressed.

Annex 2. Financial procedures

IPEN supports the draft financial procedures, and notes that both financial and in-kind contributions should also be published on the SPP website to ensure transparency. This would also help show the importance of the engagement by non-governmental organizations, developing countries, and countries in transition, which are often able to provide only in-kind contributions.

Annex 3. Process for determining the work programme, including prioritization

Transparent decision-making and prioritization processes, free from conflicts of interest, will ensure credibility and trust in the work of the Panel. Therefore, provisions on Conflicts of Interest need to be added to Annex 3.

Annex 4. Procedures for the preparation and clearance of panel deliverables

IPEN supports the general outline of the draft procedures in the Annex. However, specific revisions are needed:

- Care must be taken to include conflict-of-interest provisions at all stages, including the review stage. Therefore, paragraph 25 should be deleted. In addition, “industry” should be removed from paragraph 37. Instead, a separate paragraph should describe what specific review process information from industry should undergo.
- All stages of this processes must be transparent, including access to data and sources. Therefore, review comments and the final draft of the deliverable should be made publicly available online. Also, Section E should include the same language as IPBES: the secretariat “should provide access to these materials on request.”
- The processes should be science focused. Therefore, paragraph 28 should be deleted, as well as the word “socioeconomic” in paragraph 29.
- As indicated in paragraph 51.a), similar to Stockholm Convention Article 9.5., information on the health and safety of humans and the environment cannot be regarded as confidential. Also, neither IPBES nor IPCC has procedures for safeguarding commercially sensitive



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information.¹ Therefore, this section should be deleted or significantly edited, to only include a statement that information on the health and safety of humans and the environment cannot be regarded as confidential. See detailed comments below (p.6).

Annex 5. Conflict of Interest policy

To ensure that the future panel is viewed as credible and trustworthy and able to provide independent, scientifically sound data, suitable to inform policy work, the development and implementation of a strong Conflict of Interest (COI) policy will be crucial.

It is important to compare best-practices from existing COI approaches intended to ensure scientific integrity and credibility. These should include best practices from other panels working in the science-policy interphase on chemicals, for example POPRC under the Stockholm convention, from other UN Agencies such as WHO, but also from other science-based organizations such as the Endocrine Society.

The COI policy needs to ensure:

1. That the evaluation of potential conflicts of interest accounts for current potential conflicts of interest **and also potential conflicts of interest resulting from recent engagements**. Therefore, “from the past four years” should be retained in paragraph 12 and “current” should be deleted from paragraph 15.
2. **That information on potential conflicts of interest for all participants is made public, including outcomes of COI investigations**, to ensure transparency of work and secure public confidence in, and legitimacy of the work of the panel.
3. That the **scope of the COI policy applies to all involved experts and partnerships** that are engaged in the work of the panel. Therefore, all roles mentioned in Part B, paragraph 7, should be retained, and “partnerships” should be added.
4. That the COI policies **require disclosure of all real, potential and apparent conflicts of interest**. This should be specified in Annex 5 as well as in the draft form.
5. That **procedures for implementation are developed and that identified COI are acted upon** to prevent undue influence on the Panel’s work and functioning rather than merely “identified”

See detailed comments below (p.10).

¹ See UNEP/SPP-CWP/OEWG.1/INF/7

https://wedocs.unep.org/bitstream/handle/20.500.11822/41496/overview_rules_procedures.pdf?sequence=3&isAlloved=y

Comments on procedures for safeguarding commercially sensitive information

Draft text for Annex I, not previously reviewed by the OEWG, can be found in document UNEP/SPP-CWP/OEWG.3/2/Add.4. Section II, subsection G includes a draft procedure for safeguarding commercially sensitive information. We believe that such a procedure is not compatible with the functions of the science-policy panel and are concerned that adopting such a procedure would undermine the purpose, credibility, and transparency of the panel.

In order to provide policy relevant outputs in a credible and transparent manner, it is crucial that there is full transparency about data and sources used to derive the outputs. Without the ability to access the sources used, outputs of the Panel may be questioned.

There are several reasons that procedures to safeguard commercially sensitive information are unsuitable for a science-policy panel, including:

- There is no commonly agreed definition of “commercially sensitive” information, which makes the term vague and subjective.
- Other science-policy panels do not have such procedures (details for other panels can be found in document (UNEP/SPP-CWP/OEWG.1/INF/7)).
- Keeping commercially sensitive information secret would open up the panel to potential conflicts of interest
- It would harm the credibility of the panel, especially since the panel may have to publish outputs without providing the full justification for the content and results
- It would obstruct transparency of decision-making processes, which has been suggested as one of the operating principles of the future panel, as well as data transparency.

See further details and recommendations below.

What is commercially sensitive information?

As noted by Rosenblum and Maples in the publication Contracts Confidential:

“There is no technical definition of commercially sensitive information. [...] Given how open the definition of “commercially sensitive information” can be, a potentially limitless amount of information could fall within it. “ (Rosenblum and Maples 2010).

Do other science policy panels have this?

No. Neither IPBES nor IPCC has procedures to safeguard commercially sensitive information (UNEP/SPP-CWP/OEWG.1/INF/7).

IPBES procedure on the use of literature in the reports of the platform states that the secretariat should provide access to sources which are not publicly available on request (IPBES/3/18):

*"The Platform secretariat will store sources that are not publicly available. The secretariat should archive the location where material available in electronic format only may be accessed and a soft copy of such material. **It should provide access to these materials on request.**" (emphasis added).*

What consequences would procedures to safeguard commercially sensitive information have under a Science-Policy Panel on chemicals, waste and to prevent pollution?

Today over 350 000 different chemicals and chemical mixtures are used ([Persson et al. 2022](#)), but the knowledge gaps on these chemicals are vast. Only an estimated 1% of these chemicals have been adequately assessed for safety ([Brander 2022](#)). Still, more than 2000 new chemicals, of which we know even less, enter the market every year ([Brander 2022](#)) and production is expected to continue to increase ([IEA 2018](#)). In the EU It is estimated that there is only “empirical data on persistence available for 0.2%, bioconcentration data for 1% and aquatic toxicity for 11% of chemicals registered in the EU (11, 12) and there is a similar message from the US (9).”([Johnson et al. 2020](#))

The protection of business interests has been a driving force for the consequences we are seeing today, as noted by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes:

“Excessive and unjustified claims of confidentiality have kept information about the risks of hazardous substances secret...” ([A/HRC/30/40](#))

Moreover, it has been shown in multiple studies (e.g., [Oreskes and Conway 2011](#); [Salojee and Dagli 2000](#); [Moodie 2017](#)) how industry has systematically suppressed information and hidden behind trade secrets and confidential business information. Recent research notes the growing evidence that “...the economic power of corporations, particularly that of large transnationals, has led to the defeat, delay and weakening of public health policies around the world.” Further, a published review of Conflict of Interest (COI) in scientific research related to regulation and litigation showed that industry manipulates research through funding, research design, data falsification or fabrication, data analysis and interpretation, and suppression of results. It also showed that conflicts of interest damage the public trust in research ([Resnik 2007](#)).

If a Science-Policy Panel on chemicals, waste and the prevention of pollution is governed by procedures to protect commercially sensitive information, it would introduce conflicts of interest, undermine credibility, and erode transparency.

It would create a system where industry can submit information but label it as commercially sensitive information, which means the experts can draw conclusions from it but in a completely non-transparent manner. This would introduce a new avenue for industry to employ methods that have been well documented in other contexts, such as attacking legitimate science, for example through exaggerating uncertainty and manufacturing doubt and using information in misleading ways.

These and many other underhanded industry strategies have been well documented (e.g., [Oreskes and Conway 2011](#); [Salojee and Dagli 2000](#); [Moodie 2017](#)) and can only be prevented with transparency in work and decision-making processes and through the adoption and implementation of robust COI policies.

In the mandate in [resolution 5/8](#), under paragraph 6 c), it states that that the OEWG should take into account the need to ensure that the panel “Has procedures that seek to ensure that the work of the



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panel is transparent and impartial and that it can produce reports and assessments that are credible and scientifically robust.”

If industry is allowed to submit what they label as commercially sensitive data, which cannot, contrary to publicly available data, be scrutinized or assessed by independent scientists, the industry data would be under significantly lower demands than data that is publicly available and/or published in peer-reviewed journals. This lack of transparency would undermine the credibility of the future panel and its outputs.

Does the mandate in Resolution 5/8 require the development of these procedures?

No, this is not one of the items specified in paragraph 4 and 5 of the resolution as proposals to be developed. The text of the resolution states that

“6. Further decides that the ad hoc open ended working group should take into account the need to ensure that the panel “

“f) has the ability to address potential conflicts of interest and safeguard commercially sensitive information. “

It is up to the OEWG how they take the need to “safeguard commercially sensitive information” into account, it does not need to be through the recommendation of a procedure. It is important to see this in the context of the full text of the resolution:

For example, the preamble of the mandate calls for "improving the availability of scientific information" to enhance pollution prevention and the sound management of chemicals and waste. But procedures to safeguard commercially sensitive information would decrease the availability of scientific information.

Another example is Paragraph 1, which clarifies which details that are to be further specified

“Decides that a science-policy panel should be established to contribute further to the sound management of chemicals and waste and prevent pollution, with details to be further specified according to the provisions in paragraphs 4 and 5 of the present resolution; “

Procedures to safeguard are not included in these provisions, but instead they are written in 6, which, as seen above, notes that the OEWG should take this into account. Contrary to paragraphs 4 and 5, there is no specified instruction to further specify any details on this.

The draft procedure should also be seen in the context of the text that is being negotiated at OEWG, including the objective which states:

“[The objective of the Panel is to strengthen the science-policy interface to contribute to the sound management of chemicals and waste and to prevent pollution for the protection of human health and the environment, with the following functions:] “

Procedures to safeguard commercially sensitive interests would not be in line with the objective of protecting human health and the environment. It would also go against the proposed function of capacity building since it would limit information-sharing.

Recommendations

Based on the resolution the OEWG need to “take into account the need to ensure that the panel [...] 6. f “has the ability to address potential conflict of interest and safeguard commercially sensitive information”. There is no requirement to develop procedures, only to take this into account.

For the conflict-of-interest procedure, the OEWG has discussed the need for conflict-of-interest policies and found that they are common practice under similar panels and would be needed under a future Science-Policy Panel on chemicals, waste and the prevention of pollution.

The OEWG has not yet discussed the need for procedures to safeguard commercially sensitive information, but earlier INF docs (source) have shown that this type of procedure does not exist under similar panels. Given that this procedure would undermine the purpose, transparency, COI policy, and the credibility of the panel, and given that information on the health and safety of humans and the environment cannot be regarded as confidential, it is therefore recommended that:

- The OEWG should delete the draft procedure and replace it with the statement that information on the health and safety of humans and the environment cannot be considered confidential and that other science-policy panels do not have such procedures, wherefore such a procedure should not be adopted under this Science-Policy Panel.

Comments on the conflicts of interest policy

Why are strong Conflict of Interest Policies important for the Science Policy Panel?

The success of the Science Policy Panel (SPP) will be dependent on its ability to effectively deliver on its Functions and meet its Objective to contribute further to the sound management of chemicals and waste and prevent pollution. This will be impossible if there is Conflict of Interest (COI), or even the perception of Conflict of Interest, in the work of the Science Policy Panel (SPP), including members of its subsidiary bodies.

Evidence of corporate capture, industry withholding information, and other means of influencing policies aimed at protecting human health and the environment is mounting both through investigative journalism and scientific studies.

Recent [research](#) has shown that there is growing evidence that the economic power of corporations “has lead to the defeat, delay and weakening of public health policies around the world” (Mialon et al 2020). Also, a [review](#) of Conflict of Interest (COI) in scientific research related to regulation and litigation showed that companies (or others) can manipulate research through funding, research design, data falsification or fabrication, data analysis and interpretation and suppression of results. It also showed that COI damage the public trust in research (Resnik 2007).

Therefore, to ensure that the future panel is viewed as credible and trustworthy and able to provide independent, scientifically sound data, suitable to inform policy work, the development of strong COI policies will be crucial.

How can strong Conflict of Interest Policies be ensured?

Research on COI policies have developed a lot over the past decades, and new COI policies must be based on up-to-date knowledge and experience of best practices and not rely on outdated business as usual or convenience.

It is important to compare best-practices from existing COI approaches intended to ensure scientific integrity and credibility. These could include best practices from other panels working in the science-policy interphase on chemicals, for example POPRC under the Stockholm convention, from other UN Agencies such as WHO, but also from other science-based organizations such as the [Endocrine Society](#).

During the second session of the open-ended working group (OEWG2) members discussed different approaches to the COI policies and the secretariat was tasked to further develop the proposed draft form. In the further development of the draft form, as well as finalizing the OEWG recommendations these things need to be ensured:

The COI policy needs to ensure:

1. That the evaluation of potential conflicts of interest accounts for current potential conflicts of interest **and also potential conflicts of interest resulting from recent engagements.**



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Therefore, “from the past four years” should be retained in paragraph 12 and “current” should be deleted from paragraph 15.

2. **That information on potential conflicts of interest for all participants is made public, including outcomes of COI investigations,** to ensure transparency of work and secure public confidence in, and legitimacy of the work of the panel.
3. That the **scope of the COI policy applies to all involved experts and partnerships** that are engaged in the work of the panel. Therefore, all roles mentioned in Part B, paragraph 7, should be retained, and “partnerships” should be added.
4. That the COI policies **require disclosure of all real, potential and apparent conflicts of interest.** This should be specified in Annex 5 as well as in the draft form.

Furthermore, it is important that the panel not only be informed about potential conflicts of interests but that it has means to implement the policy to prevent conflicts of interest throughout all its work and decision making processes.

Lastly, we note that research on COI policies have developed a lot over the past decades. It would therefore be suitable to develop the COI policies with the intention of improving existing COI policies under for example POPRC, IPBES and IPCC, through 1) taking into account lessons learnt under those workstreams and 2) reflecting on recent research on COI, to ensure that the adopted COI policies are fit for purpose.

How can these be integrated into the current Proposals for the establishment of a science-policy panel?

1. Potential conflicts of interest resulting from previous engagements

COI policies should apply also to potential conflict of interest from the past four years since they could affect the credibility of the experts unless reported and evaluated.

The current draft text reads

“A “conflict of interest” refers to a[ny current, or previous](del) professional, financial or other interest [from the past four years](del) which could:”

The POPs review committee (POPRC) under the Stockholm convention has four years as a cut-off and can be used as a best practice example.

2. Publicly available information on potential conflicts of interest

Making information on potential conflicts of interest publicly available is common practice and should be seen as best practice. Also, public disclosure practices will increase the credibility and transparency of the panel. The future panel should therefore adopt approaches that include public disclosure of potential COIs of the involved experts, partners and others involved in the work of the panel as well as the outcomes of the evaluation of potential conflicts of interest.

Scientific experts are used to publicly reporting their potential conflicts of interest since it increases their credibility. High-impact scientific journals, such as [Science](#) and [Nature](#) require that authors, editors and reviewers report potential conflicts of interest and that COIs of authors are made public together with the published article.

Similarly, under review committees such as the POPRC, all the [CVs](#) of the members are published online.

3. Scope of the conflicts of interest policy

It is important that the COI policy applies to all experts and leadership involved in the panel, as well as any partnerships that the panel may enter. This would be similar to how it works when publishing in high impact scientific journals, which often require both authors, editors and reviewers to disclose potential conflict of interest.

The current draft text states that:

“This policy applies to [the senior leadership of the Panel, [namely,]](del) members of the Bureau of the Panel, [committees] and any subsidiary bodies contributing to the development of deliverables, [to experts contributing to the activities of the Panel such as](del) authors with responsibility for report content (including report co-chairs, coordinating lead authors and lead authors), [and review editors](del); and to professional non-United Nations staff supporting the Panel’s work”

The COI policy should apply to all persons mentioned in the paragraph.

4. Disclosure of potential conflicts of interest.

All real, potential and apparent conflicts of interest must be disclosed and the text within the brackets should be deleted.

The current text draft includes bracketed text related to what information should be disclosed. “Financial interests need to be disclosed [only if they are significant and relevant](del) .”

The SPP should follow the model of other COI policies, such as for POPRC, where experts are required to disclose both real, potential and apparent conflict of interest (SC-1/8).

“Each expert is therefore asked to declare any interests that could constitute a real, potential or apparent conflict of interest”

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