

DECISION
ADB(D) 10-2008

**Confidentiality, independence and management of conflict of interest of
the bodies of the SESAR Joint Undertaking**

THE ADMINISTRATIVE BOARD OF THE SESAR JOINT UNDERTAKING (SJU)

Having regard to

1. the Statutes annexed to the Council Regulation (EC) No 219/2007 of 27 February 2007, establishing the SESAR Joint Undertaking and, in particular, Articles 5.1 (m), 6, 9.3 and 9.4 thereof
2. the Rules of procedure of the Administrative Board (ADB(RP)1.0 of 15 June 2007) and, in particular, Article 11 thereof,

Whereas

1. The SESAR Joint Undertaking should avoid any conflict of interest in the implementation of its activities.
2. Integrity and high standards of professional conduct by all those involved in the tasks and activities of the SESAR Joint Undertaking are crucial for the independence and reputation of the SESAR Joint Undertaking.
3. It is understood that the members of the Administrative Board should have a professional interest in the work they are involved in; one aspect of integrity is to demonstrate that they act for the good of the Joint Undertaking, notably by pursuing its objectives, upholding the Statutes and protecting the general interests of the Joint Undertaking.
4. In accordance with the aforementioned legal framework, the purpose of this decision is to define the concept of conflict of interest and lay down practical arrangements and proportionate measures for avoiding or managing apparent, potential and real conflict of interest (referred as "conflict of interest" in the rest of the document) of the bodies of the SESAR Joint Undertaking.
5. "Body(ies)" in this decision refers to the Administrative Board as well as any other body, committee, working group created within the SESAR Joint Undertaking.
6. "Participant(s)" in this decision refers to
 - a. all members of the SESAR Joint Undertaking, as defined in Article 1 of the Statutes;
 - b. the representatives of members of the Joint Undertaking bodies and their alternates;
 - c. external experts and consultants and any third parties participating at any title in the Joint Undertaking bodies.
7. The primary responsibility for assessing whether an interest might impede independence or influence judgment and for declaring any possible conflict of interest is placed on the participant concerned.
8. Taking into account the sensitivity of the tasks to be performed and the need to ensure that the principles of impartiality, fairness and transparency are properly applied, in particular, in the allocation of public funding in projects, declarations of interests should

be requested from each participant to the SESAR Joint Undertaking's bodies.

In its ordinary meeting of 1 December 2008, **HAS DECIDED AS FOLLOWS:**

Article 1 - Definition of conflict of interest

1. As a rule, a conflict of interest may occur when a member of the public may reasonably think that an interest could influence or bias the judgement of the participant concerned. Thus, the impartial and objective exercise of functions by a participant may be compromised for certain reasons (such as family or emotional life, political or national affinity, economic interests) which may result in the individual or the organisation in not being able to achieve a result that would be in the best interest of the SESAR Joint Undertaking.
2. The holding of interests does not automatically give rise to a conflict of interest, if the independence and objectivity of decisions are not at risk. A conflict of interest may exist even if no unethical or improper act results from it. A conflict of interest can create an appearance of impropriety that can undermine confidence in the person, profession, or the organisation.
3. However, certain activities are at potentially high inherent risk of being affected by conflict of interest. This may include:
 - Recruitment procedures
 - Procurement procedures
 - Calls for tenders and experts

Article 2 - The management of conflict of interest

1. Participants to the SESAR Joint Undertaking's bodies shall act in the general interest of the SESAR Joint Undertaking.
2. For this purpose, the participants to the SESAR Joint Undertaking's bodies shall make upon their appointment or for the current participants as of the date of entry into force of this decision, a declaration of commitment and confidentiality, in accordance with Annex I.
3. Participants to the SESAR Joint Undertaking's bodies are not allowed to participate in the preparation, evaluation or the awarding procedures of calls for public tender, if they own, represent or have agreements with entities who are potential candidates for calls for public tender.
4. Participants of the SESAR Joint Undertaking shall declare in writing, in accordance with Annex II, before each meeting and in any case at the latest at its beginning, any interest which might be considered prejudicial to their treatment of items on the agenda.
5. In this respect, the Chairperson of the concerned body shall
 - a. in drawing up the draft agenda, ensure that the items on the agenda are described in such a detail to allow the identification of any situation that may raise conflict of interest,
 - b. indicate at the beginning of the meetings, the possible conflict of interest that may arise from the agenda.
6. A participant who has a conflict of interest shall recuse himself or herself from taking part in any reporting, discussions and vote on the issue that may give rise to the conflict and, if necessary, from participating in the meeting, or the relevant part thereof. Furthermore, based on the disclosure mentioned in Article 2.4 above, the concerned body may decide to

exclude participants from discussions, decisions or tasks or voting where a conflict of interest is likely to occur. They will not have access to information relating to the subjects deemed to constitute conflict of interest.

7. Notwithstanding the above, if participants do not disclose a conflict of interest that might involve them, any other participant may bring to the attention of the body the existence of such a conflict of interest. The Chairperson, in case of any doubt concerning the existence of a conflict of interest, in the treatment of an agenda item, may propose to the body in a duly substantiated manner either:
 - a. to delete the item from the agenda,
 - b. to withhold any information and material on such issues from the participant(s) that may be in a situation of conflict of interest, or
 - c. to take all such other actions necessary to implement this decision.

Article 3 - Confidentiality

Participants to the SESAR Joint Undertaking's bodies shall be subject to the requirements of confidentiality even after their duties have ceased.

Article 4 - The Executive Director, staff and other individuals

1. The Executive Director and the SESAR Joint Undertaking's staff and seconded staff, who occupy a management position or a sensitive position for the nature of their functions, shall sign upon their appointment a declaration of commitment and conflict of interest in accordance with Annex IV and an annual declaration of interests in accordance with Annex V.
2. Individuals acting in their capacity as independent experts or consultants, shall not be bound by any instructions, shall be completely independent in the performance of their duties and shall act in the general interest of the SESAR Joint Undertaking. For this purpose, they shall make upon their appointment, a declaration of independence, commitment, confidentiality, and conflict of interest in accordance with Annex III.

Article 5 - Guidance on the management of conflict of interest

For the purpose of implementing this decision, guidance on the management of conflict of interest is provided in Annex VI.

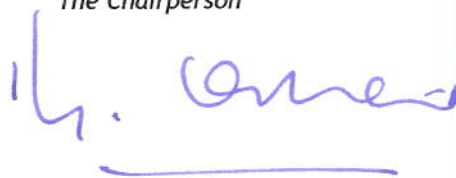
Article 6 - Entry into force

This Decision shall enter into force on the date of its adoption.

Done in Brussels, 1 December 2008

For the Administrative Board

Daniel Calleja Crespo
The Chairperson



ANNEX I

DECLARATION OF COMMITMENT AND CONFIDENTIALITY

I, the undersigned in my
function as member of the of the
SESAR Joint Undertaking, representing.....
.....
.....,

- hereby undertake to act in the performance of my duties in the general interest of the SESAR Joint Undertaking. In particular, I am aware that I am obliged to declare at each meeting of the any interest which might be considered prejudicial to the treatment of items on the agenda.
- hereby declare that I am aware of my obligation to respect confidentiality, even after my duties have ceased, if the information is subject to a request for confidentiality or for reasons of professional secrecy. I shall also respect the confidential nature of the opinions expressed by other members during discussions in meetings or provided in written form.

DONE IN _____ ON _____

SIGNATURE:

ANNEX II

DECLARATION OF CONFLICT OF INTEREST

I, the undersigned in my
function of member of theof the SESAR
Joint Undertaking, representing
.....

hereby declare*:

<input type="checkbox"/>	that I <u>do not have</u> any direct or indirect personal [<i>or corporate interest</i>] in the outcome of the deliberations of the in relation to any matter on the agenda of the th meeting of the SJU
<input type="checkbox"/>	that I <u>do have</u> a direct or indirect personal [<i>or corporate interest</i>] in the outcome of the deliberations of the in relation to the following points of the agenda of the th meeting of the SJU:

DONE IN _____ ON _____

Signed:

* Please tick the applicable option(s) and fill in as appropriate

ANNEX III

**DECLARATION OF INDEPENDENCE, COMMITMENT,
CONFIDENTIALITY AND CONFLICT OF INTEREST**

I, the undersigned _____ in my
function of _____ of the SESAR
Joint Undertaking,

- hereby undertake not to be bound by any instructions and shall be completely independent in the performance of my duties, in the general interest of the SESAR Joint Undertaking.
- hereby undertake to keep the activities and business of the SESAR Joint Undertaking confidential, with particular regard to its working methods, experiments and inventions. The same applies to information I might acquire, directly or indirectly, in the pursuance of my activities on behalf of the SESAR Joint Undertaking. The obligation to confidentiality applies both during and after the term of the appointment, and for whatever reason. At the end of the appointment, I undertake to return to the SESAR Joint Undertaking all documentation that would generally be in my possession and that is in any way related to the activity of the SESAR Joint Undertaking. I shall also respect the confidential nature of the opinions expressed by other members during discussions in meetings or provided in written form.
- hereby undertake to inform the SESAR JOINT UNDERTAKING immediately if I discover any disqualifying or potential conflict of interest with any task that I am assigned to perform. In particular, I declare that my participation in the following tasks could create a conflict of interest (please indicate whether this would be a "disqualifying" or "potential" conflict of interest):

Short title	Title	Area	disqualifying (D) or potential (P)
.....
.....
.....
.....
.....
.....

DONE IN

ON

SIGNATURE:

ANNEX IV

DECLARATION OF COMMITMENT AND CONFLICT OF INTEREST

I, the undersigned in my
function of/staff member of the the SESAR Joint Undertaking,

➤ hereby undertake to act in the performance of my duties in the general
interest of the SESAR Joint Undertaking.

➤ hereby undertake to inform the SESAR Joint Undertaking immediately if I
discover any conflict of interest with any task that I am assigned to perform.

In particular, I am aware that I am obliged to make a declaration of interests
at least on an annual basis and, in any case, as soon as an update is
required for any new situation arising.

DONE IN _____ ON _____

SIGNATURE:

**ANNEX V
ANNUAL DECLARATION OF INTERESTS**

Name:

Position:

Information on direct or indirect interests of relevance to the tasks and activities of the SESAR Joint Undertaking:

1. **Direct interests** (e.g. personal benefits arising from employment, contracted work, directorships, board membership, investments, fees etc.):

2. **Indirect interests**
 - 2.1. Financial benefits (e.g. grants to an institution, or other kind of benefits)

 - 2.2. Benefits deriving from the professional activities of members of your family/household (e.g. spouse or partner and dependent children living in the same household):

 - 2.3. Interests arising from any membership role or affiliation that you have in organisations/bodies/clubs with an interest in the work of the SESAR Joint Undertaking:

3. Any other direct or indirect interests or facts that the undersigned considers pertinent:

Declaration:

I declare on my word of honour that the information provided above is true and complete.

Done at _____ on _____

Signature: _____

ANNEX VI

GUIDANCE ON THE MANAGEMENT OF CONFLICT OF INTEREST

1. Who should declare interests?

- Each individual (participant to bodies, staff member, seconded staff member, independent expert, consultant, etc) is responsible for the declaration of his¹ interests. Interests may also be held by members of his family or household (e.g. spouse or partner and dependent children in the same household). In order to maintain privacy, the names of family/household members do not need to be declared.

2. What to declare?

2.1. What is an interest?

- There are essentially three categories of interests: (a) financial interests, (b) professional interests and (c) intellectual interests. These can be further divided into direct and indirect interests.
- Any interests stemming from prior experience or affiliations of the individual should be declared only insofar as they relate directly to the activities of the individual in the SESAR Joint Undertaking.

2.1.1. Financial Interests

- Financial interests shall include the holding of stocks and shares, equity, bonds, partnership interests in the capital of an organisation related to the activities of the SESAR Joint Undertaking, one of its subsidiaries or a company in the capital of which it has a holding.
- Financial interests need not be disclosed unless they have a market value of greater than 10,000 Euros. Share portfolios need not be disclosed if the management arrangement is in the form of a blind trust or equivalent where the individual has not control whatsoever over its management.

2.1.2. Professional Interests

- Professional interests shall include those performed in the last five years for, or on behalf of organisations related to the activities of the SESAR Joint Undertaking with direct or indirect pecuniary or material benefits, e.g.:

¹ "His" shall include "his/her" throughout this decision.

- Permanent or temporary employment or work contracted out through consultancy or otherwise;
- Participation in internal decision-making bodies (e.g. directorships, board membership, executive or non executive directorship, etc.);
- Grants for travel, study or research, fellowships or sponsorships.

2.1.3. Intellectual Interests

- During the preceding five years, interests of non-pecuniary or material benefit to the individual, arising from professional activities or affiliation with national or international organisations or bodies with tasks mirroring those of the SESAR Joint Undertaking. Intellectual interests also include participation in public interest groups, professional/scientific societies, communication media, clubs or organisations which have an agenda or an interest or involvement in the SESAR Joint Undertaking's work.
- Examples of intellectual interests include the participation of the individual in scientific projects and the (co)authorship of scientific documents or literature. As explained already intellectual interest is often a prerequisite for the scientific excellence of the work and is not necessarily considered an undesirable bias as long as the interest is known to all individuals involved in the activity. The various interests of individuals in a group (e.g., a panel) once put together may well result in a balanced interest of the group as a whole.

2.2. What are direct and indirect interests?

- Interests can be direct or indirect depending on their likely or potential impact on the individual's behaviour at a given point in time.
 - Direct interests: Interests of personal benefit to the individual at the time of the declaration that are likely to influence or give the appearance of influencing his behaviour (e.g. direct employment with an organisation related to the activities of the SESAR Joint Undertaking, financial interests of a certain magnitude, etc.)
 - Indirect interests: Other interests that may have some influence over the individual's behaviour and therefore have to be declared and neutralised (e.g. indirect financial benefits, benefits deriving from the professional activities of members of the individual's family/household, etc).
- The holding of direct interests of a certain breadth could be incompatible with membership of the bodies of the SESAR Joint Undertaking. The holding of indirect interests is not prohibited but should be scrutinised so that precautions can be taken in order to ensure impartiality of decision making.

3. WHEN TO DECLARE?

3.1. *Initial declaration*

- Upon nomination or appointment, each participant to a body of the SESAR Joint Undertaking as well as staff members, seconded staff members and the other individuals referred to in Article 4.2 shall make the specific declarations mentioned in this decision.

3.2. *Role of the Chairperson*

- The Chairperson should be substituted for a given meeting if items on the agenda could lead to a conflict of interest. The decision should be taken by the body.

3.3. *Spontaneous declarations*

- If during a meeting, a member becomes aware that he has an interest that may be in conflict with an agenda point, then this must be declared immediately to the Chairperson who will notify to the other members to take the appropriate decision. This could include, for example, where a member is asked to approve the award of a contract to an organisation with which he is employed or otherwise affiliated or is becoming aware of having privileged access to an information.

3.4. *Updates*

- Declarations of interest must be updated as soon as an update is required for any new situation arising.

4. OPERATIONAL ASPECTS

4.1. *Tasks of the SESAR Joint Undertaking's Secretariat*

- The secretariat of the bodies of the SESAR Joint Undertaking, under the responsibility of the Chairperson and the Executive Director, shall undertake:
 - To monitor regularly declarations and preliminary appraisal of compatibility of interests declared with the tasks of the individuals concerned;
 - To initiate and facilitate handling of issues in close liaison with the meeting Chairperson.
- Declarations made at meetings and the outcome of discussions related to declarations of interest shall be duly recorded in the minutes of the meeting.

4.2. *Obligations of Individuals*

- Individuals have a primary obligation to disclose at any time the existence of possible conflict of interest that may place the impartiality of the SESAR Joint Undertaking at risk. Individuals should state, in particular, the type and nature of interests.

4.3. *Meeting proceedings*

- Individuals have the primary responsibility for spontaneously declaring any conflict of interest at all times.
- Chairpersons should at each meeting request whether interests with specific items on the agenda exist. The outcome should be recorded in minutes of meetings by the secretariat together with statements on interests declared.
- On the basis of the type and nature of interests noted, the Chairperson, in consultation with the secretariat, could consider the necessary options to make this decision effective.