

Governing Board

Rules on confidentiality, prevention, avoidance and management of conflict of interest of the SESAR 3 Joint Undertaking (SESAR 3 JU)

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1 Introduction

1.1 Purpose

The purpose of this Decision is to define the concepts of conflict of interest and confidentiality and lay down practical arrangements and proportionate measures for avoiding and managing apparent, potential and real conflict of interest within the frame of activities of the SESAR 3 JU.

1.2 Applicability

These rules apply to individuals who are:

- Participants (members and observers, including their respective alternates, including any attendee to the meetings) to the bodies of the SESAR 3 JU (Governing Board, Executive Director, Scientific Committee and States Representative Group);
- Participants (members and observers, including their respective alternates, including any attendee to the meetings) to the other advisory or working groups to be set up by the Governing Board;
- Staff of the SESAR 3 JU including Temporary Agents, Contractual Agents, (Blue Book) trainees;
- Other workforce of the SESAR 3 JU such as atypical trainees, Seconded staff from SESAR JU members, Seconded National Experts, interim staff, contractors working on site, staff of the Programme Management Unit.

1.3 Use of declarations

In order to document individuals' commitment to confidentiality and to avoid potential (or absence of) risk of conflicts of interest, individuals shall complete a declaration. There are different formats depending on the target group and the subject matter of the activities performed by the individual. For this reason, when completing a declaration of interest, the type and nature of the interests should be stated. Declarations must be updated as soon as a new situation arises.

Further guidance on what to declare is provided in point 4 below and templates of Declarations are provided in annexes.

2 Confidentiality

The SESAR 3 JU has the duty to ensure the protection of confidential information, the disclosure of which beyond Union institutions and other Union bodies, offices or agencies could damage the interests of its members or of participants in the own activities .

For this reason, individuals identified in these rules, commit to keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed.

Individuals shall keep confidentiality even after their duties related to the SESAR 3 JU have ceased.

Confidential information includes but is not limited to personal, commercial, sensitive non-classified and classified information.

Confidentiality obligations no longer apply when:

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- a) the disclosing party agrees to release the other party from its confidentiality obligation,
- b) the information becomes publicly available, without breaching any confidentiality obligation, or
- c) the disclosure of the sensitive information is required by EU, international or national law.

In addition, and when limited to non-commercial and non-competitive use, the SESAR 3 JU shall provide the Union institutions and Union bodies, offices or agencies, as well as the authorities of the participating states where applicable, access to all information related to the indirect actions it funds. Such information shall include contributions and results of beneficiaries participating in indirect actions of the joint undertaking, or any other information deemed necessary for developing, implementing, monitoring and evaluating Union or where applicable participating states' policies or programmes.

3 Conflict of interest

A conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

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 3 JU.

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.

Certain activities are at potentially high inherent risk of being affected by conflict of interest and subject to the obligations to keep confidentiality. This may include, among others, deliberations of the Governing Board or any other Body or working group, recruitment and procurement procedures, calls for tenders, call for proposals and advice provided by experts, activities carried out by staff with a budgetary impact.

Depending on whether the individual is a member of the any of the bodies, groups, staff or other workforce of the SESAR 3 JU, different rules apply.

3.1 Governing Board members

The rules related to Conflict of Interest applicable Governing Board Members are set out in Article 12 of the Rules of Procedure of the Governing Board¹. Article 12(1) provides a list of positions that are incompatible with Board Membership. Additionally article 12(2) sets out the following measures:

- a) Upon appointment, the Governing Board Members, permanent observers and other observers to the Governing Board meetings, shall sign the respective models of declaration, templates in annex

¹ Decision GB(D)07-2021 on the adoption of the rules of procedure of the Governing Board

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II to these Rules. The Board Members and permanent observers shall submit a declaration of interests every year.

- b) The Governing Board or the Chairperson may decide to examine and take a decision on specific items of its agenda without the presence of the Board Members and permanent observers whose participation may lead to conflict of interest with regard to a particular agenda item.
- c) A request for application of the preceding paragraph, addressed to the Chairperson may be submitted by any Board Member or permanent observer no later than the day before the meeting and must be justified. The Chairperson shall present such request and the associated justification at the opening of the meeting and the Governing Board will decide upon voting.
- d) During a meeting, any attendee whose participation in the work of the Governing Board leads or may lead to a conflict or potential conflict of interest with regard to a particular agenda item shall without delay inform the Chairperson who shall without delay and before any affected deliberation is taken decide on any specific measure in this respect.
- e) Upon proposal by the Chairperson, the Governing Board may decide to examine such items of the agenda without the presence of the attendee concerned.
- f) Should the Governing Board or the SESAR 3 JU become aware that a conflict of interest was not declared by an attendee, the Governing Board shall decide on the appropriate measures to be taken after hearing the affected attendee.

The direct and indirect interests to be declared by Governing Board members are listed in the template attached in Annex II of this decision.

These rules are applicable to all attendees to the Governing Board Members and observers, including their alternates.

The secretariat of the Governing Board, under the responsibility of the Chairperson and the Executive Director, shall undertake:

- To monitor regularly declarations² 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; and
- To store the declarations in either paper or electronic format.

If the declarations of the SESAR 3 JU Governing Board attendees cannot be collected on paper because the meeting takes place by audio conference, video conference or other means of communication, the secretariat of the Governing Board will invite attendees to submit the relevant declarations in an electronic format.

Declarations made at meetings and the outcome of discussions related to declarations of interest shall be duly recorded in the minutes of the meeting.

In addition, participants to the Governing Board meetings are subject to the rules of the Code of Conduct.

3.2 Scientific Committee

The rules related to confidentiality and conflict of interest related to Scientific Committee are set

² To be received upon appointment, annually and before each meeting.

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out in Article XX of the rules of procedure of the Scientific Committee³.

The following measures are applicable:

- Members of the Scientific Committee are required to refrain from divulging information acquired through their work in the Scientific Committee. Any such information should not be disseminated, unless authorised by the Executive Director, the Chairperson or unless unequivocally known to be in the public domain.
- Members and observers of the Scientific Committee shall sign a declaration confirming the commitment to keep confidentiality and the absence of conflict of interest prior to their first attendance to Scientific Committee meetings, a template is provided in annex III.
- The declaration confirming the absence of conflict of interest shall be updated before subsequent attendances to Scientific Committee meetings, whenever relevant.
- Members and observers of the Scientific Committee must not seek or act in any way to take undue advantage of, or exercise undue influence on, the implementation of the Scientific Committee activities. Therefore, members and observers of the SESAR 3 JU Scientific Committee should not be involved in any way in the evaluation or selection of proposals for funding under the SESAR 3 JU.
- Members and observers of the Scientific Committee must refrain from participating in the preparation of any proposals for calls launched by the SESAR 3 JU or from taking part in the activities to be co-funded by the Joint Undertaking. This does not prevent the organisation that directly or indirectly employs the person from participating in the preparation of any proposals for calls launched by the SESAR 3 JU or from taking part in the activities to be co-funded by the Joint Undertaking. Should any item on the agenda or any subject discussed in a given meeting of Scientific Committee be of relevance for projects or proposals under the SESAR 3 JU that the organisation to which a member or observer belongs, has submitted or is likely to submit, the member or observer should inform the SESAR 3 JU and the Scientific Committee of the situation at least five calendar days before the meeting. He/she can be requested to abstain from the deliberations and/or leave the discussion of the concerned item/subject.
- Members and observers of the Scientific Committee must inform the SESAR 3 JU of all interests, not explicitly stated above, which could be considered prejudicial to their independence.
- During a meeting any attendee whose participation in the work of the Scientific Committee leads or may lead to a conflict of interest with regard to a particular agenda item shall inform the Chairperson without delay who shall in turn without delay and before any discussion is initiated, decide on any specific measure in this respect in consultation with the Executive Director of the SESAR 3 JU.
- Upon proposal by the Chairperson, the Scientific Committee may decide to examine such an item without the presence of the concerned attendee.
- When a member or observer of the Scientific Committee is in breach of the requirements set out above, he/she will be considered as no longer being in a position to remain a member or observer of the body.
- The decisions and minutes of the meetings of the SESAR 3 JU Scientific Committee shall be subject to the provisions of professional secrecy, as per Article 21 (3) of the Single Basic Act and the confidentiality measures described in these rules.

³ Tbd

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The secretariat of the Scientific Committee, 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.
- To store the declarations in either paper or electronic format

If the declarations of the SESAR 3 JU Scientific Committee Members cannot be collected on paper because the meeting takes place by audio conference, video conference or other means of communication, the Secretariat will invite Scientific Committee Members to submit the relevant declarations in an electronic format.

Declarations made at meetings and the outcome of discussions related to declarations of interest shall be duly recorded in the minutes of the meeting.

3.3 States Representatives Group

When participating as observers to the Governing Board, the rules in section 3.1 above and the Rules of Procedure of the GB apply.

Further specific provisions will be developed upon establishment of the Rules of Procedure referred in Article 20(8) of the SBA.

3.4 Other advisory or working groups

The obligation to abide to the provisions on confidentiality and to declare the risk of any potential conflict of interest apply to the Members and observers of other future advisory or working groups, committees, joint committee or stakeholder to be set up by the Governing Board. For this purpose, the participants to these groups shall make upon their appointment, a declaration of commitment and confidentiality, in accordance with the template in annex VI.

3.5 Staff members and other workforce of the SESAR 3 JU

These rules apply to individuals who are:

- Staff of the SESAR 3 JU including the Executive Director, Temporary Agents, Contractual Agents, (Blue Book) trainees;
- Other workforce of the SESAR 3 JU such as atypical trainees, Seconded staff from SESAR members, Seconded National Experts, interim staff, contractors working on site, staff of the Programme Management Unit.

Staff members and other workforce of the SESAR 3 JU have a primary obligation to disclose at any time the existence of possible conflict of interest that may place the impartiality of the SESAR 3 JU at risk. They shall therefore sign upon their appointment a declaration of interest in accordance with annex IV and an annual declaration of interests in accordance with annex V.

In terms of management of declared interests,

- The declaration upon appointment shall be signed by the SESAR 3 JU staff member prior to the signature of the staff contract by the Executive Director and shall be reviewed and assessed by the Executive Director.

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- The annual staff declarations shall be reviewed and assessed by a panel composed by the SESAR 3 Chief Administration Affairs, an HR Officer and the SESAR 3 Internal Audit Capability. A report with the result of this assessment including a proposal for measures to manage the identified potential conflicts of interests shall be submitted to the SESAR 3 JU Executive Director for his approval. If a follow-up action is decided upon the declared interest, the line manager of the staff concerned needs to be informed and is requested to ensure monitoring of the situation so that mitigating actions can be taken when needed. The SESAR 3 JU Human Resources department will invite staff members to submit the relevant declarations in an electronic format.

Declarations shall be stored by the SESAR 3 JU Human Resources department either paper or electronic format guaranteeing confidentiality.

If, over the course of its duties, a SESAR 3 JU staff member becomes aware that he or she has an interest that may be in conflict with his or her duties, this must be declared immediately to his or her hierarchical superior who will take the appropriate decision.

3.6 Consultants and external experts

Individuals acting in their capacity as consultants and external experts 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 3 JU. Rules on confidentiality, prevention, avoidance and management of conflict of interest are in principle embedded by the contract signed between the consultants /external experts and the SESAR 3 JU. The related documents or declarations shall be stored by the SESAR 3 JU legal department.

If, the clauses embedded in the contract are deemed insufficiently re-assuring as regards confidentiality, prevention, avoidance and management of conflict of interest, the SESAR JU can ask the consultant/expert to sign upon their appointment a declaration of independence, commitment, confidentiality, and conflict of interest in accordance with annex VI. In this case, the declarations shall be stored by the SESAR 3 JU Human Resources department.

4 Guidance on what to declare

NOTE: The specific direct and indirect interests to be declared by Governing Board Members are listed in the template attached in Annex II of this decision.

When filling in the respective declarations, individuals shall consider the following.

Each individual is responsible for the declaration of his or her 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.

The primary responsibility for assessing whether an interest might impede independence or influence judgment and or declaring any possible conflict of interest is placed on the individual concerned. There are 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 3 JU.

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4.1 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 3 JU, 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 EUR 10,000. 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.

4.2 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 3 JU with direct or indirect pecuniary or material benefits, e.g.:

- 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.

4.3 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 3 JU. 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 3 JU'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.

4.4 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 3 JU, 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.).

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- The holding of direct interests of a certain breadth could be incompatible with membership of the bodies of the SESAR 3 JU. 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.

4.5 Procurement

All individuals included in these rules are not allowed to participate in the preparation, evaluation or the awarding procedures of the SESAR 3 JU's calls for public tender, if they own, represent or have agreements with entities who are potential candidates for calls for public tender.

5 Data protection

The SESAR 3 JU is committed to the respect of personal data protection and user privacy in all its activities in strict compliance with Regulation 2018/1725 on data protection^{4 5}, as well as the relevant SESAR 3 JU's policies and best practices on security, confidentiality and data protection.

Processing of personal data is performed only where necessary, by clearly indicating the specific purposes in the relevant data protection records regarding the processing of personal data within the appointment and management of Declaration of the different bodies, working groups and workforce of the SESAR 3 JU. The SESAR 3 JU will provide easily understandable information to data subjects (individuals), by means of specific privacy notices, at the time of collecting their personal data (biographic information, declarations, cv's....) on the way data are being processed.

All records and privacy notices will be available at the SESAR 3JU website.

6 Templates

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ('Regulation (EU) 2018/1725'), [OJ L 295, 21.11.2018, p. 39–98](#).

⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.), [OJ L 295, 21.11.2018, p. 39–98](#).

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Annex I: Declaration of confidentiality and conflict of interest for the attendees⁶ of the SESAR 3 JU Governing Board meetings

Name:

Professional Address:

Phone:

E-mail:

Position:

☐ Chairperson of the Governing Board

☐ Representative/lead delegate/alternate of the Commission

☐ Representative/lead delegate/ alternate of [.....]

☐ Representative/lead delegate/ alternate of [.....]

☐ Other (please specify):

I hereby undertake to act in the performance of my duties in the general interest of the Single European Sky ATM Research 3 Joint Undertaking.

At each meeting of the Governing Board or before any decision is taken by written procedure, I shall declare any interest which might be considered to influence or bias my judgment and therefore be prejudicial to the way an item on the agenda is handled.

I undertake to ensure the confidentiality of sensitive information whose disclosure could damage the interests or the reputation of the , the Members of the or of the participants in the activities of the Single European Sky ATM Research 3 JU

I shall not disclose sensitive information learnt during the activities of the even after my duties have ended.

I abide to the provision of the Code of Conduct of GD(D)04-2021.

Done at

Place:

Date:

⁶ Governing Board Members and observers, including their alternates

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Name and Signature

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Annex II: Annual Declaration⁷ of interests for the participants⁸ to the SESAR 3 JU Governing Board

Name:

Professional Address:

Phone:

E-mail:

Position:

☐ Chairperson of the Governing Board

☐ Representative/lead delegate/alternate of the Commission

☐ Representative/lead delegate/ alternate of [.....]

☐ Representative/lead delegate/ alternate of [.....]

☐ Other (please specify):

do hereby declare on my honour that, to the best of my knowledge, the only direct or indirect interests I have in the [.....] sector[s] [are][is] those listed below:

1 Past activities:

[posts held over the last 5 years in foundations or similar bodies, educational institutions, companies or other organisations (the nature of the post and the name of those bodies should also be indicated); other membership/affiliation or professional activities held over the last 3 years, including services, liberal professions, consulting activities, and relevant public statements.]

2. Current activities:

[posts held in foundations or similar bodies, educational institutions, companies or other organisations (the nature of the post and the name of those bodies should also be indicated); other membership/affiliations or professional activities, including services, liberal profession, consulting activities, and relevant public statements.]

3. Current Financial Interests

[Above a minimum threshold of EUR 10,000, any direct financial interests, (managerial stakes in companies, including ownerships of patents or any other relevant intellectual property rights), or assets (shares and/or securities held in companies) or grants or other funding which might create a conflict of interests in the performance of their duties, with an indication of their number and value, as well as the name of the company/provider of the grant/funding.]

[No Interest Declared]/ [Interest.....]

4. Any other relevant interests.

[No Interest Declared]/ [Interest.....]

5. Family Member Interest

⁷ This declaration has to be signed annually and upon appointment.

⁸ Governing Board Members and observers, including their alternates.

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[Spouse's/partner's/dependent family members' current activity and financial interests that might entail a risk of conflict of interest.]

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Annex III: Confidentiality and declaration concerning the absence of conflict of interest of the SESAR 3 Scientific Committee Members and observers

The undersigned..... [Name],

..... [Function or Title].

Accepts to participate

- ☐ as a Member of the Single European Sky ATM Research 3 Joint Undertaking Scientific Committee and hereby, undertakes during and after the course of his/her mandate:
 - ☐ as observer to the meeting on[date] of the Single European Sky ATM Research 3 Joint Undertaking Scientific Committee and hereby, undertakes during and after the course of the meeting.
1. To commit him/herself to strict confidentiality with regards to any and all oral or written information pertaining to the work of the Scientific Committee;
 2. To declare promptly any conflict of interest that may arise from his/her participation in the Scientific Committee I will therefore not participate in any discussion on the item, and leave the meeting accordingly in case of conflict of interest.

I understand that the obligations of non-disclosure set forth above shall not extend to information, which are or became publicly known or available through no fault of my own.

Made in....., in two original copies, on

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Signed

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Annex IV: Declaration of commitment and conflict of interest (appointment of the Executive Director, staff members and other workforce of the SESAR 3 JU)

I, the undersigned _____ on my word of honour and
in full cognisance of GB(D)03-2021 annexed hereto,
in my function of _____ /staff member of the SESAR 3 JU,

hereby undertake to act in the performance of my duties in the general interest of the SESAR 3 JU.

hereby undertake to inform the SESAR 3 JU 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 _____

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Signature: _____

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Done in: _____ on _____

Signature: _____

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Annex VI: Declaration of independence, commitment, confidentiality and conflict of interest (appointment of external experts or consultants)

I, the undersigned _____ on my word of honour and in full cognisance of GB(D)03-2021 annexed hereto, in my function of _____
of the SESAR 3 JU,

- 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 3 JU.
- hereby undertake to keep the activities and business of the SESAR 3 JU 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 3 JU. 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 3 JU all documentation that would generally be in my possession and that is in any way related to the activity of the SESAR 3 JU. 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 3 JU 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):

Title	Area	disqualifying (D) or potential (P)

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Done in: _____ on _____

Signature: _____