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# **Safeguarding the World's Trust**

## Establishing a Code of Conduct and Disclosure for the Elected Offices of the UN's Intergovernmental Bodies

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## INTRODUCTION: THE NEED FOR STRONGER CONDUCT AND DISCLOSURE SAFEGUARDS

On 6 October 2015, the President of the 68<sup>th</sup> Session of the United Nations General Assembly, the former Antigua and Barbuda diplomat John Ashe, was arrested by U.S. authorities on corruption-related charges.<sup>1</sup> Manhattan Prosecutor Preet Bharara suggested that Ashe, who presided over the General Assembly between September 2013 and September 2014, had “sold himself and the global institution he led” by accepting bribes worth more than \$1.3 million to promote the interests of business executives, including a Chinese developer seeking support for the construction of a UN conference centre in Macau.<sup>2</sup>

The indictment alleges that Ashe became involved in the scheme in 2011, while serving as the Permanent Representative of Antigua and Barbuda to the United Nations.<sup>3</sup> But his involvement allegedly continued after he was elected to be President of the General Assembly (PGA) – and turned the office into a bargaining chip he allegedly used for his own financial gain. While in office, Ashe allegedly received substantial bribes for promotion of the scheme, including formally raising the idea of the Macau-based conference centre with the Secretary-General, and asking him to circulate the idea to the UN membership. \$200,000 was allegedly wired into Ashe’s private bank account in exchange for a foreign trip in 2014 in his official capacity, to discuss the proposed UN conference centre. The allegations also suggest that Ashe insisted that substantial (\$100,000–\$250,000) payments be made, directly to him, in order to pay for the work of the PGA’s office, and received retainers from several businessmen for links to external foundations. Ashe allegedly also received payments of between \$20,000 and \$100,000 while serving as PGA from business executives seeking to promote other commercial interests with the UN system. His family allegedly received first-class plane tickets and an \$850-a-night stay at a hotel in New Orleans. Ashe’s wife also allegedly received \$2,500 a month as a “climate change consultant” at a non-governmental organization set up by one of the alleged conspirators. The complaint alleges Ashe used this and other bribe money to support lavish spending: \$59,000 on hand-tailored suits in Hong Kong in 2013 and 2014, two Rolex watches in 2014 for \$54,000, \$40,000 to lease a new BMW X5, and a membership at a South Carolina country club for \$69,000.<sup>4</sup>

Some might argue that the position of President of the General Assembly, like the elected offices that convene and preside over other UN intergovernmental bodies such as the UN Economic and Social Council and the UN Human Rights Council, is largely ceremonial – so there is little need for concern about abuse of power or influence-peddling. These officials remain in their national posts while they serve in the role, and indeed are often paid by their own governments. They are not UN Secretariat officials. The Ashe case shows, however, that these officials, who have unusually high access to world leaders and officials, and can and do play an important role in promoting schemes, shaping ideas, and brokering political consensus at the UN, may be susceptible to financial inducements – and that they may use their offices, and those offices’ resource needs, as bargaining chips. The absence of bribery safeguards at the UN risks abuse of the office and seriously tarnishing the UN’s public reputation.

Of course, no parliamentary Code of Conduct can cure sheer foolishness. As Skelcher and Snape point out, “compliance with codes of conduct ... encourages a decision-making environment in which fraud and corruption should be less prevalent. But they cannot stop such offences.”<sup>5</sup> In the UK, for example, in July 2015, the Chair of the Committee for Privileges and Conduct, which oversees ethics in that legislative chamber, Lord Sewel, resigned after footage emerged that seemed to show him snorting cocaine with two sex workers, despite his being not only subject to but responsible for oversight of a notionally strong parliamentary Code of Conduct.<sup>6</sup> But that case also shows the importance of such Codes of Conduct and disclosure systems runs beyond mere deterrence: they are also important for defending the integrity of the system once foolishness occurs. At first Lord Sewel sought a mere suspension from his post, but when it became clear that expulsion was likely under the House of Lords’ Code of Conduct, he resigned. At the UN, the Ashe case has made conspicuous the absence of any such disciplinary or oversight arrangements for the elected officers of the UN’s intergovernmental bodies.

In this short Working Paper, we argue for the introduction of a Code of Conduct and Disclosure covering the elected officials of the United Nations’ intergovernmental bodies. First, we explain the current absence of safeguards at the UN, and contrast this situation to that of several other relevant bodies: the African Development Bank and African Union, the European Parliament and European Council, the IMF Executive Board and 27 national parliaments from around the world. Second, drawing on key findings from the academic literature and comparative analysis, we consider what makes such arrangements effective, and propose elements for a Code of Conduct and Disclosure adapted to the UN intergovernmental context. These elements are not intended to be definitive, but rather to provide a starting point for UN Member States and elected officials to initiate a conversation about strengthening safeguards at the UN.

## 1. A CONSPICUOUS ABSENCE OF SAFEGUARDS

Although nothing came of the Macau convention centre proposal, and while Ashe has not held UN office since September 2014, the allegations have highlighted the conspicuous absence of ethical and disclosure safeguards in the UN's intergovernmental organs. Even a cursory examination of the situation, as offered in this Working Paper, suggests that this stands in marked contrast not only to the arrangements now in place for UN employees, but also leading intergovernmental bodies (including in African institutions, at the European Union and in the IMF) and national parliaments.

Ten years ago the Oil for Food scandal led to significant strengthening of conduct and disclosure rules in the ranks of the UN Secretariat – but not the intergovernmental bodies.<sup>7</sup> Since 2006, the UN Ethics Office has been mandated to run a staff financial disclosure programme in accordance with the Secretary-General's bulletin on financial disclosure and declaration of interest statements (ST/SGB/2006/6), to guard against conflicts of interest.<sup>8</sup> This applies to all staff at the Director level and above, and all procurement, investment, and ethics officers. Secretary-General Ban Ki-moon has also encouraged – but not required – senior managers to make their financial disclosures and interest statements public, leading by example.<sup>9</sup> Many other UN senior officials have followed suit.<sup>10</sup>

Yet when Ashe's arrest was announced, while the Secretary-General pronounced himself "shocked and deeply troubled" by the allegations, which he said struck at "the heart of the integrity of the United Nations", there was little he could do.<sup>11</sup> Even if Ashe had still been in office, Ban would not have had any recourse over him, since the PGA answers to that intergovernmental body, not to the UN Secretariat. (In fact, the PGA outranks the Secretary-General in terms of diplomatic protocol, when the General Assembly is in session.) Despite the fact that the PGA receives an office budget (of around \$300,000), office space, IT support and security services from the UN, the Secretariat<sup>12</sup> has indicated that it is for "member states ... to handle and manage the office of the presidency."<sup>13</sup>

Still, the Secretary-General has moved to do what he can to get the Secretariat's own house in order. Declaring there can be "no tolerance for corruption at the United Nations," Ban ordered investigations into two foundations caught in the scandal.<sup>14</sup> One of these – the International South-South Steering Committee for Sustainable Development – found itself in the unfortunate situation of not only having Ashe as a member, but another of the figures in the scandal, the former Dominican diplomat Francis Lorenzo, as its Executive Director. Both were immediately suspended by the Foundation. Member States have not yet, however, responded with initiatives of their own. And if such a scandal emerged around a *sitting* President of the General Assembly – or any

other leader of the UN's intergovernmental bodies – there is very little that *could* be done, as things currently stand. As Transparency International's Alejandro Salas put it, the danger is that "you are giving a free pass for an internal lobbyist."<sup>15</sup>

## 2. LESSONS FROM NATIONAL EXPERIENCE

The situation at the UN in fact stands in marked contrast to other analogous bodies elsewhere. We conducted a brief review of parliamentary codes of conduct in 27 countries from all five regional blocs of the UN. This identified four recurring elements of parliamentary codes of ethics and disclosures, which we describe below: 1) Personal and Familial Financial Interests; 2) Gifts and Hospitality; 3) External Employment and Outside Activities; and 4) Compliance and Disciplinary Arrangements. The underlying codes and rules on which this tentative analysis is based are listed in Appendix 1.

### i. Personal and Familial Financial Interests

Relevant codes of conduct commonly include financial disclosure requirements intended to increase transparency and deter officials' misconduct. Some countries extend these requirements to a member's spouse and dependent children. Generally, financial interests are reported to an oversight body such as a Register, Ethics Committee or Supreme Court. Sometimes this information is kept confidential; in other cases it is publicly disclosed.

Many countries set out timelines for disclosure. For example, the South African Parliamentary Code of Conduct states that Members of Parliament must disclose all financial interests within 60 days of the opening of Parliament and again if there is a substantial change in that member's financial interest.<sup>16</sup> In Argentina legislators must submit a financial disclosure statement within 30 working days of taking office and financial reports should be updated annually and again within 30 working days from leaving office.<sup>17</sup> In Australia, the relevant period is 28 days.<sup>18</sup> In India, two months.<sup>19</sup>

A large number of countries also require legislators to disclose the finances of their spouses and children, to prevent evasion of financial disclosure rules through transferring interests to family members. In the United Kingdom, for example, Members of the House of Lords are required to declare all relevant interests either personally, or with or on behalf of their spouse or dependent children, in any public or private company. Relevant interests may be financial (e.g. directorships, remunerated employment, public affairs advice and services to clients, shareholdings, land and property, sponsorship, gifts and hospitality) or non-financial (memberships in public bodies, trusteeships).<sup>20</sup> In the Czech Republic officials are obligated to declare their financial assets as well as those of their spouse. These assets include ownership/material rights to real estate, securities or securities-related rights, and interests in other business corporations.<sup>21</sup>

## ii. Gifts and Hospitality

Legislators and political leaders often receive gifts as signs of respect and admiration. However, gifts and hospitality can easily be construed as compensation for past (or future) political favours, raising conflict of interest concerns and potentially tarnishing an institution's reputation. To protect both legislators and the integrity of the bodies they belong to, countries have developed various disclosure rules and controls. In Germany, Members of the Bundestag must keep a separate account of donations provided for political activities. Gifts that Members receive, either as a guest or in connection with their official mandate, must be notified and surrendered to the President of the Bundestag. Members may keep the gift if they pay a sum equivalent to its value to relevant federal authorities.<sup>22</sup> In Bulgaria, no Member of the National Assembly may receive any gifts equivalent to more than one tenth of his/her base monthly remuneration. Any gifts exceeding such value must be transferred to the National Assembly.<sup>23</sup> In India, a rule stipulates that federal Ministers and their family members are not to accept any gifts from any person with whom they may have official dealings. Symbolic gifts, such as a sword of honour or ceremonial robes, can however be retained.<sup>24</sup>

The acceptance of travel expenses can also be opaque and problematic. For example, receiving transportation or accommodation upgrade not available to the general public can create conflicts of interest when provided free of charge by individuals or entities that do business with the body in question. This has also led to a variety of approaches to deterrence and control. Brazil's Code of Conduct for High-Ranking Federal Government Officials prohibits individuals from accepting gifts, travel, hospitality or any other favours from private individuals.<sup>25</sup> In the British House of Lords, any gift or benefit (including loans, tickets to cultural and sporting events, hospitality, travel and accommodation upgrades) relating substantially to membership of the House of Lords and which is either given free of charge, or provided at a cost below that generally available to members of the public, should be registered, when valued at more than £140, unless the Member gives the gift to charity within a designated period.<sup>26</sup>

## iii. External Employment and Outside Activities

The issue of outside employment for elected officials is also handled differently in different national contexts, even as most countries we reviewed seek to reduce the risk of conflicts of interest. Some countries anticipate that elected officials will continue to participate in external employment, and instead deter misconduct through conflict of interest rules. In Chile, Parliamentarians are not precluded from outside employment, but should abstain from participating in any decision-making that links to their external activities, might affect a formal decision, compromise their judgment, or give rise to doubts about their impartiality.<sup>27</sup> In Kenya, the rule is simply that a member of the National Assembly shall ensure that the member's non-parliamentary activities

do not interfere with or compromise the member's official duties or bring the National Assembly into disrepute.<sup>28</sup> And in the United Kingdom, the Code of Conduct for Members of the House of Lords states that it is entirely appropriate for a Member of the House to maintain work in any non-parliamentary sphere of activity, for example as chairman or director of a company; as a member or chief executive of a non-departmental public body; as an officer of a trade union; as a doctor or lawyer. It goes so far as to argue that the House is made better for it.<sup>29</sup> Other countries, however, restrict employment in the private sphere to some degree. In Jordan for example, while holding Ministerial office, Ministers may not become a member of the board of directors of any company or take part in any commercial or financial transaction or receive a salary from any company.<sup>30</sup>

## iv. Compliance and disciplinary arrangements

A central question in all legislative and parliamentary bodies is how any code of conduct is enforced. The first question is who has standing to initiate a compliance or disciplinary arrangement, and how such allegations are investigated, once raised. Again, there are a variety of different approaches taken at the national level, involving parliamentary committees, external ombudspersons, or judicial authorities.

In the United States Senate, whenever the Ethics Committee receives a complaint, allegation, or information from any source suggesting that a Senator or staffer may have violated rules within the Committee's jurisdiction, the Committee will initiate a preliminary inquiry.<sup>31</sup> Nicaragua's nascent Parliamentary Code of Ethics outlines that complaints can be submitted by individuals and must contain the identity of the proposer and a clear reason for the complaint. Initially, complaints will be received by the Secretary of the National Assembly, who will forward them to the Disciplinary Committee.<sup>32</sup> In the Republic of Korea, a Special Committee on Ethics within the legislature seeks the opinions of the Ethics Investigation Advisory Committee before deliberating on the discipline of a National Assembly member.<sup>33</sup> And in Poland, the Deputies' Ethics Committee considers the matter and adopts resolutions, which are made public.<sup>34</sup>

Other questions arise, particularly relating to the test for determination of a breach of the rules in question. In some contexts, a breach only arises if someone is caught *in flagrante delicto*.<sup>35</sup> In the United Kingdom, the civil standard of proof is adopted at all stages in the enforcement process. Thus, in order to find against a Member, the allegation is proved on the balance of probabilities.<sup>36</sup>

Sanctions also vary widely, ranging from minor punishment such as a public warning to a serious punishment such as expulsion and criminal proceedings. In France, the Senate can adopt a variety of penalties, including censure with temporary exclusion from the Senate's premises.<sup>37</sup> In Peru, sanctions include a public written reprimand and fines.<sup>38</sup> In Japan, penalties foreseen for violation of the code of

conduct range from admonition to abiding by the Standards of Conduct to resignation.<sup>39</sup> In Kazakhstan, disciplinary actions vary based on the specific rules breached, but punishments range from warnings, to deprivation of wages, to expulsion.<sup>40</sup> In Zambia, sanctions range from administrative actions to criminal prosecution.<sup>41</sup>

### 3. LESSONS FROM OTHER INTERGOVERNMENTAL BODIES

All of this tends to suggest that countries around the world see utility in codes of conduct and disclosure to govern elected legislative and parliamentary officials. Yet some at the UN might argue that this is not very instructive for the UN context, because the elected officials that preside over its intergovernmental bodies are really state agents and diplomats, not elected legislators. This overlooks, however, the fact that many other intergovernmental bodies have adopted such ethics and disclosure arrangements. Here we offer a brief review of such arrangements in three contexts: the European Union, the International Monetary Fund, and in African institutions. These are described below and summarized in Table 1 on pages 6-7; the relevant source documents are listed in Appendix 1.

#### i. European Union

Two European Union bodies have conduct and disclosure arrangements that may be instructive: 1) the EU Parliament – a multinational parliamentary assembly elected from across the EU membership; and 2) the European Council, an intergovernmental body comprised of the Heads of State or government of the member states, together with a European Council President, and the President of the EU Commission. The two bodies act as co-legislators, with specific mandates and supervisory roles.

The Code of Conduct for Members of European Parliament (MEPs) was approved in December 2011.<sup>42</sup> It requires MEPs to submit a declaration of financial interests to the Parliament President by the end of the first session (or within 30 days of taking up office in the course of a parliamentary term). Article 5 of the Code states that MEPs shall refrain from accepting any gifts valued at more than EUR 150, unless in an official capacity – and then they must be handed over to the President.<sup>43</sup> Under Article 8 of the Code, a breach can be referred to an Advisory Committee, made up of five MEPs appointed by the President on the basis of their experience and of political balance between Parliament's political groups. Each of the five Members serves as chairperson for six months, on a rotating basis. The President also nominates one reserve Member for each political group not otherwise represented in the Advisory Committee. The Committee considers alleged breaches and makes recommendations to the President. MEPs found to have committed an infraction of the Code receive a penalty that may consist of (a) a reprimand; (b) forfeiture of daily

subsistence allowance for a period of between two to ten days; (c) temporary suspension from participating in all or some activities of parliament; and (d) removal from one or more of the offices held.<sup>44</sup>

The President of the European Council, selected by Council members, has since July 2015 also been subject to a specific Code of Conduct. This may be particularly instructive for the UN, because the President of the European Council presides over an intergovernmental body in a manner somewhat similar to the roles played by the President of the UN General Assembly and the President of the UN Economic and Social Council. The Code of Conduct for the President of the European Council requires the President to make public details of financial interests including shareholdings, real estate and other property assets (except purely residential premises), and details of spousal interests and activities.<sup>45</sup> The exchange of gifts is discouraged; however, whenever the “no gift rule” is deemed difficult to apply (e.g. established diplomatic practices, symbolic or commemorative nature) they should have a maximum value of 150 EUR. Gifts valued at more than 150 EUR become the property of the General Secretariat of the Council. The President cannot engage in any professional activity, whether gainful or not, during his/her term but may hold honorary unpaid posts in cultural, artistic or charitable foundations or similar bodies provided they do not compromise his or her availability to carry out their Presidential duties. During the eighteen months after ceasing to hold office, the former President is obliged not to lobby nor advocate with members of EU institutions or their staff for his/her business, client or employer. If the President intends to engage in an occupation during the eighteen months after ceasing to hold office, the matter can be considered by the European Council. The Code does not specify a compliance mechanism, but the President's position is subject to oversight by the full Council.

#### ii. International Monetary Fund

The International Monetary Fund (IMF) is an international organization of 188 countries whose primary purpose is to ensure the stability of the international monetary system. The IMF's day-to-day work is overseen by a 24-member Executive Board, appointed or elected by member countries or by groups of countries, and the Managing Director, who serves as its Chairman. These are full time positions.

The Code of Conduct for the Members of the Executive Board of the IMF was formally adopted on 14 July 2000. It is intended to provide guidance on ethical standards in connection with, or having a bearing on, the members of the Executive Board's status and responsibilities in the Fund. The standards set out also apply to Alternate Executive Directors, and Senior Advisors and Advisors to Executive Directors who perform their functions under the authority of the Executive Director.<sup>46</sup> Executive Directors are required to make a written disclosure to a compliance officer selected by the Executive Board disclosing financial or business

interests of their own or their immediate family members. The Code indicates that Executive Directors should exercise tact and judgment in accepting favours, gifts and entertainment, to avoid the appearance of improper influence on the performance of their official duties. The ordinary courtesies of international business and diplomacy may be accepted, but substantial and unusual gifts, favours and entertainment, as well as loans and other services of significant monetary value, should not be accepted.

The IMF Executive Board has established an Ethics Committee, comprised of five Executive Directors, to consider matters relating to this Code. The Ethics Committee

is entitled to choose an approved External Consultant Firm to assist in its investigation. The Committee requests and supervises the conduct of an investigation by the external consultant firm, in accordance with the Procedures for Ethics Investigations. Upon completion of the investigation into an allegation or complaint of misconduct the firm prepares a written report to the Ethics Committee, which then considers whether further action is warranted. The report will include a summary of the allegations of misconduct; the applicable rules and regulations or standard of conduct; and a description of the evidence concerning whether or not the alleged misconduct occurred, including the weight and sufficiency of such evidence. If a majority of

**Table 1 – Conduct and Disclosure Arrangements in Selected International Organizations**

CONDUCT AND DISCLOSURE REQUIREMENTS			
Organization	Personal and Familial Financial Interests	Gifts and Hospitality	External Employment and Outside Activities
<u>African Development Bank</u>	Written disclosure of any personal or familial business interests.	May not be accepted, with the exception of diplomatic gifts.	Refrain from participating in active politics in home countries or elsewhere.
<u>African Union</u>	Declare assets and income at the beginning, during and at the end of service.	No gifts.	No commercial position incompatible with duties.
<u>European Council</u>	Declare personal and familial financial interests annually.	The exchange of gifts is discouraged with exception to customary gifts with a maximum value of 150 euros.	Prohibited from engaging in any professional activity, whether gainful or not, during his/her term. Unpaid courses, seminars, lectures are permitted.
<u>European Parliament</u>	Members declare financial interests to the President by the end of the first part-session after elections.	Members should refrain from accepting gifts.	Members declare remunerated outside activity (including writing, lecturing or consulting), if total exceeds EUR 5000 per year.
<u>International Monetary Fund Executive Board</u>	Written disclosure of any financial or business interests of their own or immediate family.	Customary diplomatic and business gifts accepted, but nothing substantial.	Executive Directors (ED) should avoid any situation involving a conflict, between personal interests and official duties.

Table 1 – (Continued)

COMPLIANCE ARRANGEMENTS				
Organization	Standing to Initiate Inquiries	Test	Who Decides	Sanctions
<u>African Development Bank</u>	N/A	N/A	Ethics Committee of the Board of Directors.	Issuance of a warning would be the minimal sanction.
<u>African Union</u>	N/A	N/A	N/A	N/A
<u>European Council</u>	N/A	N/A	European Council.	N/A
<u>European Parliament</u>	President may refer the matter to the Advisory Committee.	The Advisory Committee examines circumstances of alleged breach, and makes recommendation to the President on basis of findings.	The Advisory Committee and President.	Penalty may consist of anything from a reprimand to removal from one or more of the offices held.
<u>International Monetary Fund Executive Board</u>	5-Member Ethics Committee, comprised of five Executive Directors, shall be established by the Executive Board.	The Ethics Committee shall write a report to summarize the investigation.	The Ethics Committee.	Warning to ED and/or transmittal of warning to member country(s) that appointed, elected or designated the ED.

the Ethics Committee concludes that misconduct has been committed, the members of the Committee make recommendations to the full Executive Board. Upon receiving the recommendations of the Ethics Committee, the Committee of the Whole shall consider which of the following actions to take: (i) no further action in the matter; (ii) issuance of a warning to the Executive Director; or (iii) issuance of a warning to the Executive Director and transmittal of the warning to the Governor(s) of the member country (or countries) that appointed, elected or designated the Executive Director.

### iii. African institutions

At least two prominent African organizations have also developed relevant ethics and disclosure arrangements.

The Board of Directors of the African Development Bank adopted a *Code of Conduct for Executive Directors of the African Development Bank and the African Development Fund* in April 2001.<sup>47</sup> The Code applies to all Executive Directors, their Alternates, Advisors and Assistants. Those to whom it applies are obliged to disclose business interests of their own, and of their spouses, which may give rise to a conflict of interest. They are required to exercise good judgment when accepting favours or gifts to avoid the appearance of improper influence on the performance of their official duties. The ordinary courtesies of international business and diplomacy may be accepted, but substantial and unusual gifts, favours and entertainment, and other services of significant monetary value, are not to be accepted. The Ethics Committee of the Board of Directors has general responsi-

bility for determining all questions relating to the Code and for enforcing the standards. The Committee reviews any alleged violation of the Code and a majority of the Ethics Committee's members can make recommendations to the Board of Directors who make the final disciplinary decision.

In January 2011, the African Union adopted an *African Charter on Values and Principles of Public Service and Administration*, which aims to provide a policy framework for Africa's public service administrations and a source of inspiration for developing, strengthening or updating national codes of conduct with respect to transparency, professionalism and ethical standards. Chapter III of the Charter contains a Code of Conduct which makes clear that public servants, elected officials and others should declare their assets and income at the beginning, during and at the end of their service as prescribed in national laws and regulations, and that they should not solicit, accept, or receive directly or indirectly any payment, gift, donation, or reward in kind or cash, for services rendered. 19 countries have signed the Charter, and three have ratified it. While the Charter pertains to domestic contexts, rather than applying to the AU's intergovernmental bodies themselves, it may be instructive as an indication of the expectations of African Member States in relation to the behaviour of elected state officials.<sup>48</sup>

#### 4. A CODE OF CONDUCT AND DISCLOSURE FOR THE ELECTED OFFICES OF THE UN'S INTERGOVERNMENTAL BODIES

The current President of the UN General Assembly, H.E. Mr Mogens Lykketoft, has signalled his intent to make Good Governance a "priority" of his service in the position.<sup>49</sup> Given this is the case, he may wish to consider leading an effort to establish a Code of Conduct and Disclosure for the elected officials of the UN's intergovernmental bodies – the General Assembly itself and the Human Rights Council, but also perhaps the Economic and Social Council and the Peacebuilding Commission. Such a move is not politically inconceivable at the United Nations: a rigorous 2010 study found that more than two thirds of all countries have parliamentary disclosure arrangements – and that the presence of such rules correlates to a reduction in public corruption.<sup>50</sup> The widespread nature of such systems suggests a general acceptance of their utility. The Inter-Parliamentary Union has also provided guidance on such systems.<sup>51</sup>

If the UN did move to put an effective arrangement in place, what might it involve? In this section we offer some preliminary ideas for an effective UN code of conduct and disclosure governing the elected offices of UN intergovernmental bodies. These are offered simply as starting points for discussion by Member States. Comparative analysis of different national arrangements suggests the basic features of an effective and credible system relate to: object and scope; which forms of conduct are governed; and compli-

ance arrangements.<sup>52</sup> In this section, we consider how such elements might be developed in the UN intergovernmental context. In Appendix 2, we offer some draft language for addressing these concerns in the UN context.

##### i. Object and Scope

Effective conduct and disclosure arrangements appear to contain a clear statement of the basic conduct and expected behaviour of elected office-holders. The Inter-Parliamentary Union states that the central feature of all such arrangements is the need for office-holders to conduct themselves in a way that makes a clear "distinction between the public interest and private or personal ones."<sup>53</sup> The scope of application of the rules must also be clear – in particular, whether it applies only to the elected official herself, or also to her advisers and family-members. An effective system for the UN context would need to:

- state clearly the basic object and purpose of the code;
- clarify which offices, in which bodies, are subject to the code. We propose:
  - the elected President or Chairperson of the body, where this is a personal office (and thus not apply to the Presidency of the Security Council);
  - Vice-Presidents;
  - other elected offices within the intergovernmental bodies (i.e. not including the Secretary-General);
  - the office, bureau, advisers to and assistants of those elected officials;
- clarify how the rules apply once an individual has left office;
- clarify definitions of other parties affected by the code, for example where disclosure is required of the interests or conduct of "family members".

In Appendix 2 we offer some draft language, based on relevant provisions in the national, intergovernmental and other codes canvassed in this policy brief.

##### ii. Which forms of conduct are governed?

Effective conduct and disclosure arrangements detail the requirements necessary to fulfil the code in a variety of areas and activities, which could give rise to perceptions of conflict of interest. Broadly, these rules fall into four areas:

- **Conduct in the workplace.** Modern codes of conduct lay out clear expectations about office-holders behaviour in the workplace, including in relation to sexual harassment, discrimination, favouritism, and also misuse of official premises and property.
- **Conflicts of interest, financial interests and activities.** Some codes take a general approach, requiring

disclosure of financial interests generally. Other codes specify the types of interest, or value, which trigger disclosure requirements. These tend to include shareholdings, property interests, directorships, consultancies, sponsorships and retainers, and any other financial holdings. Such disclosures may not necessarily need to be made public, but must be available for inspection by rule enforcers.

- **Gifts and hospitality, including travel.** Some codes take a general stance discouraging the acceptance of gifts and hospitality, but most codes dealing with diplomatic officials tend to reflect an acceptance that small gifts are customary. In those circumstances, codes tend to set a monetary value, over which any gift must be surrendered to the organization. Codes also take different approaches to disclosure of hospitality, entertainment, travel and other expense support, especially from commercial and non-governmental sources, but the recent scandal around John Ashe suggests that strong disclosure rules are required to prevent abuse of UN elected offices through these channels.

We suggest, in our 'Elements' in Appendix 2, the creation of a Public Register, administered by the UN Ethics Office, covering the receipt of gifts, hospitality, and travel support, for elected office-holders. We also suggest a ban on receiving gifts from commercial sources while in office, and on family-members receiving travel support to accompany office-holders on official travel.

- **Outside activities.** Parliamentary codes often struggle with the question of how to regulate office-holders' dual roles as representatives of their constituencies (and parties), and holders of mandates within the parliamentary context. They often seek to limit external commercial activities during the term of office, while leaving room for official, political and governmental activities.

Ashe's alleged receipt of retainers for his links to external foundations, and his alleged insistence that substantial (\$100,000-\$250,000) payments be made, directly to him, in order to pay for the work of the PGA's office, suggests that significant attention and clarification is needed in this area, to prevent the auctioning of access to and influence over UN offices.

In our draft 'Elements' in Appendix 2, we suggest that office-holders be permitted to continue their governmental and political roles, while in office, as is customary. Following European Council rules, we also suggest that purely "honorary", unpaid external roles also be permitted. Other activities, including any commercial activities during the period of holding Office, should be addressed through the conflict of interests disclosure requirements treated above.

### iii. Compliance and disciplinary mechanisms

There is evidence to suggest that codes with clearer rules and compliance mechanisms attached are more effective.<sup>54</sup> There are a variety of compliance models to choose from, ranging from independent external ombudspersons and regulatory commissions, to parliamentary commissioners and registrars, to parliamentary conduct committees. Broadly, they fall into three types: 1) an external body charged with monitoring compliance and even enforcing it; 2) a committee or other subsidiary organ of the parliamentary body; 3) enforcement by the full parliamentary body. Some systems combine these different models.<sup>55</sup>

In the UN context, it seems unlikely that Member States would turn over disciplinary decisions to an external body. However, the involvement of an independent, credible actor in the investigation of alleged complaints is essential for both the actual and perceived integrity of the process. Accordingly, in our draft 'Elements' in Appendix 2, we propose the following process for the handling of allegations of breaches of the Code:

- Step 1. Allegations of breaches of the Code may be filed initially, and confidentially, with the UN Ethics Office, which then screens them to weed out frivolous claims. It may also initiate its own inquiries on the basis of information that comes to its attention.
- Step 2. Where the UN Ethics Office finds there is, on the face of the information available to it, a reasonable possibility that a breach has occurred, the matter is referred to a new UN Conduct and Disclosure Committee. This Committee is made up of five Permanent Representatives, elected by the UN General Assembly, one from each regional grouping.
- Step 3. The Conduct and Disclosure Committee is then obliged to refer the matter for investigation, either back to the UN Ethics Office, or to an independent investigator it can appoint for the purpose.
- Step 4. The Ethics Office or the independent investigator shall examine the allegations. Member States commit, in adopting the Code, to cooperate with these investigations. The Office-holder shall be afforded an opportunity to present her or his case.
- Step 5. The Ethics Office or independent investigator confidentially reports its findings to the Conduct and Disclosure Committee.
- Step 6. The Conduct and Disclosure Committee can then choose to: 1) dismiss the allegations; 2) request further information; or 3) identify specific breaches of the Code that have been substantiated. In either case, it must issue a public statement summarizing

the allegations, explaining how they were investigated, and explaining the Committee's findings.

Step 7. In the event that the Conduct and Disclosure Committee finds that there is a breach of the Code, it can then recommend that: 1) no further action be taken; 2) the most senior Office-holder in the body in question (such as the President of the General Assembly, or the President of ECOSOC) issue a written Warning to the Office-holder in question; or 3) the matter be referred to the full plenary of the intergovernmental body in question for disciplinary action (particularly where it is the conduct of the most senior office-holder in the body that is in question).

Step 8. Any evidence of criminal conduct will automatically be referred by the Conduct and Disclosure Committee, with the assistance of the UN Ethics Office, to relevant public authorities for further action.

These draft elements are not intended to be definitive, but rather to encourage a discussion amongst Member States and their elected officers on the need for such safeguards. While they remain absent, the world's trust remains open to abuse.

**APPENDIX 1****Selected national and intergovernmental codes of conduct and disclosure****Algeria**

- Algeria's Constitution of 1989, Reinstated in 1996, with Amendments through 2008

**African Development Bank**

- The Code of Conduct for the Executive Directors of the African Development Bank and the African Development Fund

**African Union**

- African Charter on Values and Principles of Public Service and Administration

**Argentina**

- Constitution of the Argentine Nation
- Ley de Etica de la Funcion Publica

**Australia**

- Statement of Ministerial Standards
- Annotated Standing Orders of the Australian Senate
- House of Representatives Standing Order

**Brazil**

- Código de Ética e Decoro Parlamentar da Câmara dos Deputados
- The Code of Conduct for High-Ranking Federal Government Officials
- Constitution of the Federative Republic of Brazil

**Bulgaria**

- Rules of Organisation and Procedure of the National Assembly
- The Constitution of Bulgaria

**Burundi**

- Burundi's Constitution of 2005

**Chile**

- Código de Conductas Parlamentarias

**Czech Republic**

- Constitution of the Czech Republic
- Rules of Procedure of the Chamber of Deputies
- Act of Law No. 159/2006 Coll., on Conflict of Interests

**Estonia**

- Constitution of the Republic of Estonia
- Law on the Application of the Constitution

**European Council**

- Code of Conduct for the President of the European Council

**European Parliament**

- Code of Conduct for Members of the European Parliament with respect to Financial Interests and Conflicts of Interest
- Rules of Procedure

**France**

- Parliamentary Codes of Conduct in Europe
- Law no. 88-127 on Financial Transparency in Political Life

**Germany**

- Rules of Procedure of the German Bundestag and Rules of Procedure of the Mediation Committee

**Hungary**

- Constitution of Hungary
- The Standing Orders of the Parliament of the Republic of Hungary
- Members of Parliament

**India**

- Code of Conduct for Ministers

**International Monetary Fund**

- Code of Conduct for the Members of the Executive Board of the International Monetary Fund

**Japan**

- Diet Law
- Deliberative Council on Political Ethics

**Jordan**

- The Constitution of the Hashemite Kingdom of Jordan

**Kazakhstan**

- The Constitution of Kazakhstan
- The Regulations of the Parliament of the Republic of Kazakhstan

**Kenya**

- The Code of Conduct and Ethics for Members of the National Assembly

**Republic of Korea**

- The National Assembly Act

**Nicaragua**

- Código de Ética Parlamentaria

**Pakistan**

- The Constitution of the Islamic Republic of Pakistan
- The Representation of the People Act, 1976

**Peru**

- Código de Ética Parlamentaria

**Poland**

- [Code of Deputies' Ethics](#)
- [Dz. U. 1996 No. 73 item 350 Act on Exercising the Mandate of Deputy and Senator](#)

**South Africa**

- [Code of Conduct – Parliament of South Africa](#)

**United Kingdom**

- [Code of Conduct for Members of the House of Lords](#)

**United States**

- [Specific Disclosure Requirements](#)
- [Highlights of the House Ethics Rules](#)
- [Summary of Activities 113th Congress](#)
- [Financial Disclosure Overview](#)
- [The Senate Code of Official Conduct](#)

**Zambia**

- [The Parliamentary and Ministerial Code of Conduct Act](#)

**APPENDIX 2****Draft Elements for a Code of Conduct and Disclosure for the Elected Officials of Intergovernmental Bodies of the United Nations**

*This draft language has been developed based upon the following documents:*

- IMF, "Code of Conduct for the Members of the Executive Board of the International Monetary Fund", available from <https://www.imf.org/external/hrd/edscod.htm>
- European Council, "Code of Conduct for the President of the European Council", available from <http://www.consilium.europa.eu/en/european-council/president/role/>
- Ethics Office, "Working Together Putting Ethics to Work," *United Nations Office of Human Resource Management*, available from [http://www.un.org/en/ethics/pdf/WorkinTogetherGuide\\_en.pdf](http://www.un.org/en/ethics/pdf/WorkinTogetherGuide_en.pdf)
- United Nations, "Secretary-General's bulletin on financial disclosure and declaration of interest statements", UN Doc. ST/SGB/2006/6, 10 April 2006.

**Objective**

1. This Code of Conduct and Disclosure ("Code") is intended to ensure that office-holders in the intergovernmental bodies of the United Nations system discharge their duties to the highest standards of personal and professional conduct.

**Scope of Application**

2. This Code applies to all those holding elected, personal office within intergovernmental bodies within the United Nations system ("Office-holders"), including:

- the President and Vice-Presidents of the General Assembly;
- the President and Vice-Presidents of the Economic and Social Council;
- the President and Vice-Presidents of the Human Rights Council;
- the Chairperson of the Peacebuilding Commission;
- [...]

3. The provisions of this Code relating to conduct after leaving office, and relating to disciplinary arrangements, continue to apply to all Office-holders, even after they have left office.
4. Office-holders shall also apply the Code, to the extent possible, to the conduct of any official advisor, assistant or staff-member serving the office-holder in an official capacity, whether remunerated or not.
5. Where this Code refers to "family-members", this shall be interpreted to include the Office-holder's spouse, dependent children, [parents,] [siblings,] [and any member of their household].
6. Office-holders may seek confidential advice from the UN Ethics Office or the UN Conduct and Discipline Committee on the application of the Code.

**Basic Standard of Conduct**

7. Office-holders should observe the highest standards of ethical conduct.
8. In the performance of their duties, Office-holders are expected to carry out their mandate to the best of their ability and judgment, and to maintain the highest standards of integrity. They shall at all times maintain a clear and observable distinction between the interests of their office and their own private, personal interests.
9. Retaliation against any effort to consider potential breaches of this Code is itself a breach of this Code.

**Conduct in the Workplace**

10. Office-holders should treat their colleagues and staff with courtesy and respect, and without sexual harassment, discrimination, physical or verbal abuse.
11. Office-holders should not allow personal relationships or considerations, including bias or favouritism, to influence the performance of their official duties and they should avoid situations that create a conflict of interest.

12. Office-holders should ensure that the property, premises and services afforded them in their official capacity are used only for the official business of their mandate, and not for other purposes.

#### Conflicts of Interest

13. Office-holders should avoid any situation involving a conflict, or the appearance of a conflict, between their personal interests and the performance of their official duties. They shall avoid any action which might result in or create the appearance of:
- using their office for private gain;
  - giving unwarranted preferential treatment to any organization or person;
  - impeding the work of the Organization; or
  - affecting adversely the confidence of Member States or the peoples of the United Nations in the integrity of the work of the Organization.
14. When making public statements or speaking to the media Office-holders should make clear whether they are speaking in their own name or in their official capacity.
15. Officeholders shall not use information obtained in the discharge of their official duties, which is not otherwise available to the public, for the purpose of furthering their personal interests or the personal interests of any other person or entity.
16. In the event that a conflict of interest arises, Office-holders shall promptly inform the Chair of the Conduct and Disclosure Committee established by this Code, and withdraw from participation in decision-making connected with the matter. In the event of such a recusal, the responsibilities of the Office-holder shall pass to another person in accordance with the rules of procedure of the intergovernmental body in question.

#### Declaration of interest statements

17. Within 60 days of election or appointment to their office, Office-holders shall make a full declaration of interest statement to the United Nations Financial Disclosure Programme of the United Nations Ethics Office. This disclosure will be made [public][available for confidential inspection by the Code of Conduct and Disclosure], and contain the following information as relates to the Office-holder [and their family-members]:
- any financial or other interest in, or association with, any entity with which the Office-holder anticipates or should reasonably anticipate he or she may be required to have official dealings on behalf of the Organization (other than their government), or any entity that has a commercial interest in the work of the United Nations or a common area of activity with the United Nations. This shall include shareholdings,

property interests and any other financial holdings, consultancies, retainers, sponsorships, and directorships, of companies, foundations, educational institutions or other bodies;

- any leadership or policymaking role of the Office-holder in any non-United Nations entity (including membership on any corporate board or party political organization);
  - current or past involvement of the Office-holder in any other activity which could have an impact on the objectivity and independence of the Office-holder in the specific performance of the office;
  - any relatives employed in the United Nations system.
18. During the term of his/her office, Office-holders will update their declarations [annually][within 60 days of any substantive change].

#### Gifts, hospitality and travel

19. The UN Ethics Office shall establish a Public Register of Office-holders' gifts, hospitality and travel support. To ensure compliance with these provisions, the UN Ethics Office shall collect quarterly declarations from each affected Office-holder, to update the Register.
20. Office-holders may not accept gifts or awards from commercial or non-governmental sources while in office.
21. Office-holders are discouraged from accepting gifts from governmental sources while in office. When gifts are exchanged for diplomatic purposes, gifts given and received should be of a purely commemorative or symbolic nature and should not be valued at more than USD 100. When any gift is received of a value of USD 100 or more, it shall be declared in the Public Register and surrendered to the Organization through the Office of Protocol.
22. Office-holders may accept official hospitality such as meals as necessary for the performance of their official duties. All such hospitality beyond the usual diplomatic courtesies must be declared in the Public Register.
23. Office-holders shall not accept any form of personal payment for writing articles, delivering speeches or taking part in conferences. Should any such payment be made, it will be declared immediately in the Public Register, and donated in full to the United Nations Organization.
24. While in office, Office-holders may accept support for their own travel (including accommodation) to conduct official business. Any such travel must be organized on a basis that would, if the Office-holder were a UN official, comply with relevant UN travel rules and guidelines. To determine if that is the case, the most senior Office-holder in any intergovernmental body should travel on the same terms as an Under-Secretary

General of the United Nations; secondary Office-holders (such as Vice-Presidents) should travel on the same terms as [...]. All such travel support shall be declared in the Public Register.

25. [Office-holders shall not accept travel support for family-members to accompany them on official travel.]

#### Outside activities

26. Office-holders may continue to serve as government officials and in any party political or trade union office they hold, during their term of office within a UN intergovernmental body. To protect against any possible conflict of interest, all such posts will be disclosed in the Public Register.
27. Office-holders may hold honorary, unpaid posts in cultural, artistic or charitable foundations, educational institutions, or similar bodies. To protect against any possible conflict of interest, all such honorary posts will be disclosed in the Public Register.
28. If Office-holders engage in any outside commercial activity while serving in office, those activities are subject to the provisions of this Code, including the conflict of interest provisions above.

#### Conduct after leaving office

29. After leaving office, Office-holders will continue to maintain the highest standards of personal and professional conduct. During the two years after leaving office, Office-holders will not lobby nor advocate with members of UN institutions or their staff on any business not associated with an official governmental, party political or trade union role.
30. Office-holders will continue to be subject to the disclosure requirements of this Code for two years after they leave office.

#### Compliance and discipline arrangements

31. The UN Ethics Office shall receive all allegations of a breach of the Code on a confidential basis. It may also, on the basis of information that comes to its notice, initiate its own inquiries.
32. Where the UN Ethics Office finds that there is, on the face of the information available to it, a reasonable possibility that a breach of the Code has occurred, it shall present all relevant information to the UN Conduct and Disclosure Committee.
33. The UN Conduct and Disclosure Committee shall consist of five Permanent Representatives of Member States of the United Nations, elected by the UN General Assembly with due regard to geographic distribution.

34. Upon receipt of information indicating a possible breach of the Code, the Conduct and Disclosure Committee may either request the UN Ethics Office investigate the matter or, alternately, appoint an independent investigator for that purpose.

35. The UN Ethics Office or independent investigator shall examine the information available, and collect such additional information as necessary, to determine whether a breach of the Code has occurred.
36. Member States commit, in adopting this Code, to cooperate with these investigations and to maintain the confidentiality of these investigations.
37. In the course of the investigation, the Office-holder shall be afforded an opportunity to respond to the allegations and to present her or his case.
38. Upon conclusion of the investigation, the Ethics Office or independent investigator shall confidentially report its findings to the Conduct and Disclosure Committee.

39. The Conduct and Disclosure Committee shall consider the report and: 1) dismiss the allegations; 2) request further information; or 3) identify specific breaches of the Code that have been substantiated. Once a determination has been made to either dismiss the allegations or identify specific breaches, the Conduct and Disclosure Committee shall issue a public statement summarizing the allegations, explaining how they were investigated, and explaining the Committee's findings. This statement, together with any relevant confidential information, shall be communicated to the President or chairperson of the relevant intergovernmental body.
40. In the event that the Conduct and Disclosure Committee finds that there has been a breach of the Code, it can then recommend that: 1) no further action be taken; 2) the most senior Office-holder in the body in question issue a written Warning to the Office-holder in question; or 3) the matter be referred to the full intergovernmental body in question for disciplinary action.

41. Any evidence of criminal conduct will automatically be referred by the Conduct and Disclosure Committee, with the assistance of the UN Ethics Office, to relevant public authorities for further action.

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