

CODE ON ETHICS AND INTEGRITY OF DG TRADE STAFF

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This Code does not establish new substantive rules creating obligations other than those enshrined in the Staff Regulations nor does it exonerate staff from a personal responsibility to familiarise themselves with all the rules, to exercise good judgement and to constantly question whether they are in compliance

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Foreword

One of DG TRADE's major assets is our reputation for professionalism and excellence. It is of the utmost importance for all DG TRADE staff to meet the highest ethical standards in the performance of duties in order to safeguard our reputation and credibility *vis-à-vis* Member States and trading partners, the legal and business communities, other stakeholders and the general public.

The goal of the present Code, which constitutes DG TRADE's ethical guide, is to set out and clarify the rules concerning ethics and integrity that derive from the Staff Regulations, the Conditions of Employment of Other Servants of the European Communities, the Commission Decision C(2004) 1597/10 of 28 April 2004 on outside activities, and the Community case-law.¹

The Code also contains specific instructions concerning the execution of the day to day duties for DG TRADE staff, which are meant to help staff respect their obligations.

The Code on Ethics and Integrity touches upon issues that may arise for all staff, including how to handle potential conflicts of interest, rules governing participation in and remuneration from external activities, and contacts with third parties. The importance of the rules relating to insider dealing and relations with former staff and officials on personal leave (CCP) is, of course, obvious. In this respect, the rules concerning negotiations on professional activities after departure on CCP or permanently, are explained and illustrated in order to avoid possible conflicts of interest.

The issues covered by this document touch on aspects of professional conduct which, if improperly dealt with, could seriously affect both the Commission's reputation and/or cause harm to third parties. Moreover, improper handling of these questions could also affect a staff member's individual reputation and career.

This Code applies to all DG TRADE staff (officials, contract agents, temporary agents, Seconded National Experts (SNEs), Trainees). At the request of the Commissioner, this Code is also applicable to all the members of her Cabinet².

This Code supersedes all previous internal instructions on ethics issued by DG TRADE. It does not, however, establish new substantive rules creating obligations other than those enshrined in the Staff Regulations. Moreover, this guide is fully in line with the provisions of the Staff Regulations, the relevant Commission Decisions and case-law and will be regularly updated. DG TRADE Staff cannot

¹ It is recalled that national legislation is also applicable to staff members in case, for instance, of insider dealing which constitutes a criminal offence in most national laws (see section 2.6.2 below).

² It has to be noted that the Appointing Authority could, in that context, be different.

invoke these guidelines as an excuse for not having complied with the Staff Regulations.

It is of paramount importance for all DG Trade staff to comply with the rules on ethics. Implementing these rules is part of an official's responsibilities in discharging their duties: it should come as naturally to all DG TRADE staff as negotiating or implementing the basic TDI regulations. In most cases, dealing correctly with ethics is above all a question of common sense and open communication. A conflict of interest -- for example an official being assigned to a case involving a firm in which s/he has some personal interest -- is not in itself an infringement. It only becomes one if not handled appropriately.

DG TRADE's staff must also be aware that the infringement of the obligations spelled out in the Staff Regulations and implementing provisions can be subject to disciplinary sanctions and, possibly, to personal financial responsibility.

Ethics is a priority issue for all DGs and is essential to the legitimacy of an efficient trade policy. The present document is intended as a reference tool for all staff. Should any questions arise please do not hesitate to contact Directorate A. As it is updated each year, members of staff are invited to contact the Ethical Compliance Officer to signal any gaps or corrections which might be needed.

This Code draws heavily on the comprehensive Ethics Code DG Competition has established for its staff.

Introduction

It is one of DG TRADE's priorities to ensure that staff meets the highest possible professional and ethical standards. Doing so enhances the DG's reputation and credibility vis-à-vis Member States and trading partners, the legal and business communities, other stakeholders and the general public and it is also in keeping with the principles of the Commission's internal control framework.

To reflect the importance which DG TRADE attaches to ensuring that staff uphold the highest standards of integrity and adhere to the ethical Code in a coherent and consistent manner, the Director General has decided to create the function of an **Ethical Compliance Officer** (ECO) for the DG within unit A.1 (Caroline De Graef) to support the work of the Ethics Correspondent (Anders C. Jessen). [A liaison official has been appointed in Directorate H dealing with ethical issues in the context of work on trade defence issues (Claudia De Cesaris – Unit H.6). The main function of the ECO is to monitor the consistent and coherent implementation of ethical rules and to act as a first port of call on the ethical issues covered in the different regulations and associated guides.

A **Steering Committee on Ethics and Information Security** responsible for ethics, security and procedures, has also been created with a view to further developing and implementing a thorough and efficient policy. The Steering Committee will meet on a regular basis in order to monitor the implementation of this Code, discuss major cases with an ethical dimension and possibly up-date the Code. The composition of the Steering Committee and Rules of Procedure will be decided by [add date].

The ethics rules are meant to protect not only the Commission's interests, but also its reputation. They also protect individual staff members and third parties from any malicious allegations or misrepresentations. The Code specifies the obligations contained in the Staff Regulations of Officials of the European Communities, in the Conditions of Employment of Other Servants of the European Communities, in the Commission Decision C(2004) 1597/10 of 28 April 2004 on outside activities and assignments, as well as in other relevant implementing provisions. It has been drafted in consultation with the Directorate General for Personnel and Administration (DG ADMIN), the Secretariat General and the Legal Service and is largely based on DG Competition's comprehensive Ethics Code, taking into account accepted practice in the application and interpretation of the Staff Regulations and other relevant texts, as well as relevant case-law. The Code applies to all DG Trade personnel, as well as to the members of Commissioner Ashton's Cabinet.

There are frequent references in the text to the concept of "**Appointing Authority**"(AA). The Commission delegates authority in personnel matters to the appropriate levels of senior and middle management. These managers are the faces

behind the abstract expression "Appointing Authority". In general terms, the situation is that for procedures concerning gifts, favours and payments, as well as external activities and publications and speeches on professional and EU matters, the Appointing Authority's powers are exercised by the Directorate General. For the other obligations addressed, these powers are exercised by DG ADMIN. The specific arrangements concerning the delegation of the Appointing Authority's powers can be consulted on the IntraComm Web-site³ or guidance can be obtained from the ECO.

It should be underlined that the Staff Regulations and other relevant texts relating to staff's conduct often leave the AA a margin of discretion as regards their application and implementation. Finally, the **disciplinary system**⁴ (administrative inquiries and disciplinary procedures) applies to any failure by a member or former member of staff to comply with their obligations (including offences under national criminal law) under the Staff Regulations, whether intentionally or through negligence. This can include conduct in private life. In this context, it is important to draw attention to the fact that DG TRADE staff can be held responsible in case of breach of the Staff Regulations and/or other relevant provisions, even if s/he has not benefited from this failure or the failure did not cause damage to the Commission⁵.

As regards the latter, financial responsibility can also be claimed when the Commission has suffered damage as a result of the serious misconduct of an official in the course of, or in connection with, the performance of their duties⁶.

It is the responsibility of DG TRADE management, at all levels, to behave beyond reproach and thus set a good example, to ensure proper guidance and supervision, and to refer cases to the AA and the Investigation and Disciplinary Office of the Commission (IDOC) where necessary.

³ Relevant information from DG ADMIN is available on the Intracomm website:
http://www.cc.cec/pers_admin/ethics/index_en.html

⁴ See Article 86 of the Staff Regulations and Annex IX to the Staff regulations.

⁵ See Joined Cases T-24/98 and T-241/99 E v Commission [2001] ECR II-681, paragraph 76

⁶ See Article 22 of the Staff Regulations.

1. General Obligations

The ethical obligations of DG TRADE staff are laid down in Articles 11-22b of the Staff Regulations which are equally applicable to other agents of the Commission⁷ as well as seconded national experts. In the case of a breach, members of staff are subject to disciplinary sanctions (Article 86 of the Staff Regulations). The internal control standards of the Commission also emphasise that all staff are expected to be aware of and share appropriate ethical and organisational values and to uphold these through their own behaviour and decision-making.

The purpose of this Code is to assist in identifying and resolving ethical issues. To that end the following sections highlight and illustrate the ethical obligations that are particularly relevant to DG TRADE staff. However, this Code cannot exonerate staff from a personal responsibility to familiarise themselves with all the rules, to exercise good judgement and to constantly question whether they are in compliance.

1.1 *Independence, Loyalty and Impartiality in our daily work*

First and foremost, the work of DG TRADE staff should be guided by the general obligations of loyalty, independence and impartiality, as laid down in Article 11 (1) of the Staff Regulations. According to that provision, members of staff are required to act solely with the interests of the Communities in mind, to carry out duties objectively, impartially and in keeping with the duty of loyalty not to seek or take instructions from outside their institutions.

These three duties largely coincide. They mean that staff must act in an independent and objective manner at all times. Conclusions or decisions should be balanced and based on a thorough analysis of the relevant rules and underlying facts.

An example of a situation in which impartiality and independence might be cast into doubt is where, e.g. a colleague is unduly influenced by an outside interested party.

1.2 *Duty to represent the views of the Commission*

If a view adopted at the Commission level differs from an official's personal view or even from the position of DG TRADE, the duty of loyalty requires DG TRADE staff to represent the Commission's view to the best of their ability and to clearly confine themselves to the Commission's position, especially in matters falling within the remit of their responsibilities/files. In other words, once the Commission has decided

⁷ See Conditions of Employment of other Servants of the European Community, Articles 11, 54, 81, 124 for other agents of the Commission. Commission Decision C (2006) 2033 of 1/6/2006 laying down rules on the secondment of national experts to the Commission essentially provides the obligations as discussed in this Guide. For that reason, the following description mentions only the relevant articles of the Staff Regulations.

to follow a line everybody must do their best to defend it, even if personally they do not agree.

1.3 *Duty of dignity - professional and private behaviour*

Article 12 of the Staff Regulations requires DG TRADE staff to refrain from any behaviour that might reflect adversely upon their position. This duty targets the professional and private behaviour of the entire staff of DG TRADE and is broadly defined to cover any acts that are "*sufficiently serious, when judged by general standards of probity, as to reflect badly on the European Public service and/or which bring it into disrepute*".⁸

1.4 *Respect of colleagues and circumspection*

DG TRADE staff is expected to address colleagues and superiors in DG TRADE as well as colleagues in other DGs/institutions with respect and consideration. Even in case of conflict, e.g., with another DG, it is important to remain polite and to uphold the common objective of seeking a constructive solution to the problem.

1.5 *Using Commission resources*

In using Commission resources, such as computer equipment, e-mail and internet access, telephones, mobile phones and fax equipment or the photocopying machine, DG TRADE staff should bear in mind three basic principles: First of all, working hours are to be used for work. Secondly, staff must ensure the proper and efficient use of the resources so as to protect the financial interests of the European Union. Thirdly, using Commission resources for non-professional purposes can adversely affect the reputation of the Commission.

This can be illustrated with the example of the use of communication tools. Computer equipment, e-mail and internet access, telephones, mobile phones and fax equipment have been installed by the Commission for official use. However, this equipment may be used for private purposes as long as it is on a purely occasional basis and does not amount to extensive use of the equipment for private purposes. Further guidelines on what constitutes acceptable use of the Commission's ICT Services have been laid down in Administrative Notice 45-2006.

Specifically regarding the **internet**, the infrastructure that the Commission has to establish in order to provide staff with access to the internet is costly. The more the internet is used the more infrastructure and manpower is needed.

For example, using the Commission internet, e.g., to follow a bidding process on e-bay, is not only a problem of cost. It will also detract attention from work. Finally, the reputation of Commission staff is adversely affected if certain providers trace the Commission as the user.

1.6 Private Life

DG TRADE would, obviously, not interfere with the private life of its staff and its freedom of opinion⁹. Nevertheless, staff should in all contexts, including their private life, be respectful and circumspect. In addition, the duty of dignity requires staff to be particularly vigilant to the respect of national law (in particular criminal law) in all circumstances.

2. Conflict of interest

Dealing appropriately with situations in which there might be a conflict of interest is of the utmost importance in order to ensure the necessary impartiality and safeguard the reputation and credibility of the Commission.

Article 11a (1) of the Staff Regulations establishes an obligation for all staff to identify and inform the AA of any situation of conflict of interest that may arise in the performance of duties. Paragraph 1 of this article reads: "*An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.*"

For example, as concerns DG TRADE, a conflict of interest exists where there is a risk that policy recommendations, decisions or trade negotiations might be influenced as a result of the existence of a direct or indirect interest in one of the parties involved.

The decision as to whether a personal interest is of such magnitude as to impair the official's independence and therefore has to be notified, does not rest solely with the staff member. Besides real and potential conflicts of interest, **apparent conflicts of interest are also covered**. An apparent conflict of interest may be defined as a situation where there is a personal interest which might reasonably be thought by others to influence the public official's duties, even if, in reality, there is no undue

⁹ See Art 17a(1) of the Staff Regulations

influence¹⁰. Such situations must be avoided because of the potential for casting doubt on the official's impartiality and integrity and the potential reputational damage for the institution.

Direct or indirect interest may be:

- Family or partnership ties, personal friendships;
- Holding of financial interests (see section 2.3 below);
- Insider dealing
- Political affinities and national influences;
- gifts, favours and donations.

2.1 *The "Declaration rule" as a way of coping with possible conflicts of interest.*

Pursuant to the obligation established by Article 11a of the Staff Regulations, staff **must inform the AA**¹¹ whenever they deal with matters in which they have any personal interest as defined in paragraph 1.

Whenever there is a risk that their independence might be impaired, staff members must complete the relevant **Declaration form** ("DG ADMIN Declaration form") and send it to the AA. This form must be signed by the immediate superior and the Director General, who are required to give their opinion on whether the personal interest of the staff member involved could impair his/her independence.

It is also advisable that staff members take the initiative of informing their hierarchy immediately of any *potential* issue. This early notification will enable the latter to take proportionate measures capable of suppressing/removing the conflict. If, for personal reasons staff members wish to obtain the advice of someone not directly involved, the ECO may be contacted.

DG TRADE requests that staff members complete an 'in house' Declaration form which sets out obligations regarding personal interests (in particular family or financial). This measure aims at increasing awareness amongst staff. The form should be filled in when joining DG TRADE as well as when an official moves internally.

2.2 *Family or partnership ties, personal relationships*

In accordance with Article 11a(1) and (2) of the Staff Regulations, officials should inform the AA about family or other ties that might imply a conflict of interest, see point 2.1 above.

¹⁰ See case T-21/01 *Zavvos v Commission* [2002] ECR p. II-483.

¹¹ The AA in this case is the Director General for Personnel and Administration.

For example, if you are involved in a TDI case, negotiate a bilateral agreement or are in a position to influence the decision-making process through the procedures within DG TRADE, and a member of your family happens to work in a company involved in the case, this fact should be made known immediately.

Since a **spouse's professional activities may also create a conflict of interest**, Article 13 of the Staff Regulations states, inter alia, that "should the nature of the employment prove to be incompatible with that of the official and if the official is unable to give an undertaking that it will cease within a specified period, the appointing authority shall, after consulting the Joint Committee, decide whether the official shall continue in his post or be transferred to another post".

Therefore, if a **staff member's husband/wife/partner is in gainful employment s/he must inform his/her AA¹²** by filling out the appropriate form which contains, *inter alia* a description of their duties and the interests at stake, a detailed description of their husband/wife/partner's work and information on his/her employer. This form has to be signed by his/her superior and the Director General, who are required to give their opinion on whether the professional position of their partner could impair their independence.

For instance, DG TRADE recommends that such a form should be completed systematically if an official's husband/wife/partner works for an undertaking, law firm, economic consultancy or lobby involved in trade policy. This is particularly relevant for, but not limited to, activities involving trade defence matters.

This declaration is without prejudice to the official's obligation to also identify and declare any specific situation of conflict of interests as foreseen in Article 11a.

This obligation also applies to non-married couples who meet the criteria provided in Article 1(2)(c) of Annex VII of the Staff Regulations (couples entitled to household allowance), as such partnerships are treated as marriage pursuant to the second subparagraph of Article 1d(1) of the Staff Regulations.

The AA should also be informed of any changes in the spouse's employment situation if appropriate. This obligation applies whatever the nature, the duration or the importance of the gainful employment of the spouse/partner.

2.3 Holding of financial interests

¹² The appropriate form can be found under:
http://www.cc.cec/pers_admin/cond_empl/ext_activ/spouse_en.html

The AA is the Director-General of Personnel and Administration if you come under a category other than "Administrators and Assistants and equivalent work" and the Director of ADMIN.B if you come under that category.

A possible cause of conflict of interest is the **holding of financial interests**. Article 11a (1) of the Staff Regulations forbids staff from dealing with any matter in which they have a financial interest.

A conflict of interest would arise, for example, if an official were to handle a case or otherwise take part in the decision-making process (including through consultation) involving a company in which they hold securities or otherwise have a financial interest, such as to impair his/her independence.

As regards the acquisition of financial assets from companies that a staff member deals with at work, Article 11a(3) of the Staff Regulations states that: "He [the official] may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties."

The article refers to all kinds of financial interests which can include any form of individual holding in company capital or in collective investment funds (investing in shares, bonds ...) or pension schemes.

Example: Colleagues may have holdings in collective investment funds and therefore ask themselves, whether these can be of such a kind or magnitude as to impair their independence when dealing with certain economic files or cases. This question may arise, for example, if colleagues deal with an antidumping investigation, are engaged in negotiations or handle a legislative proposal which concerns a company in which the investment fund invests.

As the Article only refers to an "interest of such kind or magnitude as might impair his independence in the performance of his duties", there is room for interpretation of what constitutes a substantial interest depending on the policy area concerned and the circumstances of the case.

Example: If an official has only invested €1000 in an investment fund and the company concerned represents only 0, 5% of its portfolio, there is obviously a low likelihood that such a holding might reasonably be seen as influencing any decision. However, if the amounts are significantly higher, or if an official owns direct shares in the relevant company, there might be a risk that his/her independence be impaired. In case of doubt, it is recommended to contact the ECO in unit A.1.

If a risk exists that the official's independence be impaired, he/she shall inform the AA¹³. It is the responsibility of all DG Trade staff to notify such a risk to the AA (see point 2.1 above).

It is recommended that staff members consult DG TRADE management (in particular their Head of Unit and Director). DG TRADE **management** and/or the ECO can assist in assessing whether an official's independence might be impaired and whether the Commission's or DG's reputation might be put at risk.

On the basis of all the information available, and in order to avoid giving the impression that a staff member's independence has been impaired, assigning that staff member to another file may be considered.

For the purpose of raising awareness of this issue, DG TRADE requests that staff members fill-in a specific Declaration form¹⁴ which sets out their obligations regarding, inter alia, financial interests. This form has to be filled in when joining DG TRADE and when an internal move within DG TRADE is made.

2.4 *Insider dealing*

It goes without saying that DG TRADE staff should under no circumstances make a profit or assist others to make a profit from confidential or unpublished information obtained in the performance of their duties.

Insider dealing can be defined as *"the practice of making a profit on the sale or purchase of shares (or derived financial products) selected by using confidential information which has not been made public. When the information is made public, the price of the shares either rises or falls and the 'insider' buys or sells again to realise a profit"*.

Furthermore, inside information is defined in Directive 2003/6/EC of 28 January 2003 on insider dealing and market manipulation (market abuse)¹⁵ as:

*"information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments or to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments."*¹⁶

Unlike conflicts of interest, insider dealing **does not require any influence over recommendations or decisions**. A staff member would be guilty of insider dealing if

¹³ The AA is the Director General for Personnel and Administration.

¹⁴ OJ L 96, 12.4.2003, p. 16–25, as amended by Directive 2008/26/EC of the European Parliament and of the Council of 11 March 2008, OJ L 81, 20.3.2008, p. 42–44

¹⁵ OJ L 96 of 12.4. 2003, p. 16.

¹⁶ Article 1(1) of the Directive. See also the other relevant provisions of the Directive concerned in Annex 2.

s/he were to use, or cause others to use, directly or indirectly, inside information which comes to his/her knowledge within DG TRADE (either in the course of his/her work or by accident) in order to **make a personal profit** (or a profit for their spouse, partner or relatives etc.) through trading in securities of a firm or to encourage third persons to do so.

Insider dealing is a **criminal offence** in most national laws. For instance, the Belgian Act on insider dealing of 4 December 1990, as amended by the Act of 6 April 1995, which transposes Council Directive 89/592/EEC coordinating regulations on insider dealing into national law, is also applicable to Community officials. It applies to actions performed in Belgium or in another country, where those actions relate to securities listed on a stock exchange in Belgium or on a regulated market in another Member State. The Belgian Act lays down penal sanctions for infringements.¹⁷

2.5 *Political affinities and activities and national influences*

Although it is evident and covered by the Staff Regulations that staff should have an impartial and independent position in the execution of duties, they may at times find themselves under pressure from political groups or a national government. It is their duty to inform the hierarchy about such situations and to take the necessary measures to avoid that their independence is threatened or compromised.

If a staff member wishes to stand for public office or has been elected or appointed to public office, they must notify their AA without delay (Article 15 of the Staff Regulations) by filing a specific form (see point 4 below).

2.6 *Gifts, favours and donations*

Article 11 (2) of the Staff Regulations requires Commission staff not to accept gifts, favours or donations from any source outside the institution without obtaining prior permission from the Director General (who acts as appointing authority).

A Quick Guide on gifts and hospitality can be found on Intracom.

As a **general rule**, it is recommended that staff decline all gifts that have more than merely symbolic value (such as diaries, calendars, small desk items, etc), or go beyond the customary diplomatic hospitality.

If a staff member is offered any gifts, favours or donations with a combined **value of more than €50** in any given year, and the staff member wishes to accept it, they must request permission to accept it, by using the appropriate DG TRADE form.

¹⁷ A prison sentence, a fine and a financial penalty representing up to three times the material advantage derived from the offence.

Gifts in kind such as trips, excursions, social events are to be approved by the AA in advance, and will only be authorised if the interest of the Commission can be clearly demonstrated.

In deciding on whether to authorise a gift the Director General will consider the motive behind offering the gift, favour or donation, the possible consequences for the Commission's interests, the number of gifts, favours or hospitality received from the same source together with the total number that the staff member has received during the course of a year. The **Director General may authorise a staff member to accept the gift, favour or donation if its value is less than or equal to € 250**. More expensive gifts may be retained as Commission property, or donated by the Commission to charity.

Before accepting **invitations for lunch, dinner or other events**, DG TRADE officials must carefully consider the context of the invitation, the interest of the Institution and the potential risks that accepting such an invitation might create, including in terms of appearances.

Staff members should request authorization to accept hospitality that is offered by people with whom they have professional contacts, if they exceed a cumulative value of €50 in one year. If it is not possible to consult the hierarchy in advance they should politely decline the invitation. This rule does not apply, of course, to meals or favours offered by the organizers of events that staff members have been instructed to attend as part of their work. Mission orders and/or expense claims must of course include details of any hospitality offered so that appropriate deductions may be made from allowances.

DG TRADE officials must always behave with total transparency vis-à-vis their hierarchy in such matters and should avoid any embarrassing situations where accepting an invitation could be perceived by a reasonable person as impairing their independence or impartiality, and where consequently a reputational risk could arise.

For example, invitations from a foreign mission to the celebration of a national day or occasional working lunches with a foreign trade councillor would in most cases probably be authorised. Expensive restaurants or invitations to inappropriate luxurious or glamorous events should be politely refused as a rule, unless an overriding interest of the service requires the participation and the staff member has obtained the permission from his/her hierarchy in advance.

Typical cases where accepting hospitality may be in the interest of the service (and which may overlap in whole or in part) are:

Situation 1: Missions outside Brussels.

Example: During a mission you are making a presentation at a conference, or you visit a company concerned by one of your cases and you are offered a meal or other facilities (for instance local transport) by the organizers of the event or by the authorities of the country you are visiting

What to do? No separate authorisation is required where the hospitality and/or facilities offered allow speedier or easier accomplishment of the tasks assigned during the mission and/or are part of customary diplomatic behaviour and does not go beyond what is necessary and reasonable.

Transparency should of course always be ensured, i.e. hierarchy should be informed *ex ante* or (if not possible) at least *ex post* in writing. Obviously the general rules on mission orders and/or expense claims including details of any hospitality offered, so that appropriate deductions may be made from allowances, still apply here.

Situation 2: I am invited to an event to represent the Commission.

Example: Hospitality may also be an issue when you participate in an event as part of your work to represent the Commission without a formal mission order (e.g. in Brussels).

What to do? Your hierarchy should always be informed in advance about such events and authorise your participation. Where hospitality provided goes beyond common practice you should inform your hierarchy in advance and obtain an authorisation.

Situation 3: Contacts with representatives of Member States or of third countries over meals,

Example: Contacts taking place either in Brussels or abroad, in the context of customary diplomatic activity.

What do to? If a staff member is for example invited to attend a working lunch hosted by another mission the following day s/he should whenever possible inform the hierarchy in advance and obtain an authorisation to attend it by e-mail. If it is impossible to obtain an advance authorisation, for example, because a staff member is being invited spontaneously in the context of an important negotiation session to continue the discussion over lunch/dinner, please follow the following instructions as **overall guidance**:

- please consider the nature of the hospitality and its frequency. Sound judgement must guide a staff member in determining whether there is a risk to his/her impartiality and/or the reputation of the Commission.
- a working lunch / dinner that immediately follows upon a work-related meeting would probably be acceptable, if
 - the lunch/dinner does not take place in a restaurant beyond the normal standard for trade diplomats.
 - lunch with a staff members regular counterparts every so often would be more acceptable than a weekly occurrence.
 - if a staff member has some doubt, s/he should politely decline the invitation or suggest that s/he pays for himself/herself,
 - the staff member should inform his/her hierarchy directly after the lunch in writing and declare the invitation together with its estimated value in writing.

DG ADMIN is currently in the process of preparing a Commission decision with the aim of clarifying the rules on gifts and the guidance provided here will have to be reviewed once the decision has been adopted.

The question for staff in all such situations should be whether accepting the gift could compromise their autonomy, independently of its value. If in doubt staff should discuss it with the hierarchy or directly with the ECO. If this is not possible it is strongly recommended that staff decline diplomatically.

3. Specific guidance concerning missions

Activities such as giving speeches, making presentations or participating in conferences, when carried out in the framework of daily work and/or a mission, are NOT external activities in the sense of Article 12b of the Staff Regulations.

It should be stressed that the authorising officer must assess the appropriateness of a mission with regard to the interest of the service.

At times, it may be unclear whether an invitation to give a speech or to make a presentation outside the Commission should be considered a mission or not. Disseminating information about the Commission's work in the area of trade policy is an important aspect of DG Trade's mission. However, the number of invitations addressed to a single unit or person may be excessive, or the target audience too small or not important enough for the event to be worth sending an official on mission.

Staff should therefore consult with their hierarchy on whether to accept an invitation or not. Several factors will be taken into consideration, mainly: the purpose of the event and the nature of the body organizing it; the interest of the Directorate General and/or the Commission in participating; and the priority the event has in relation to other responsibilities and the unit's or a person's workload¹⁸.

If a member of staff wishes to accept an invitation to participate in a certain event even though the Head of Unit has decided that it should not be considered a mission or part of the normal work, the member of staff may request annual leave. Being on leave, however, does not remove the obligation to request authorisation to engage in an outside activity. Whether on mission or not, the obligations established in Articles 11, 12, 17 and 17a of the Staff Regulations should be remembered in this context.

When going on mission, there is no requirement to ask for an additional authorisation to engage in the foreseen activities which might for example include delivering a speech. Nevertheless, if the text of such speech or presentation made during a mission is to be published, staff members are obliged to inform the AA, see also examples provided under point 4 below.

Article 4 of the Commission Decision¹⁹ specifically **forbids all staff from accepting any payment offered in exchange for work done in the framework of a mission.**

The question of whether reimbursement or direct payment of mission costs by the inviting body can be accepted requires careful examination by the hierarchy, in order to avoid any potential conflict of interest or reputational damage. Should mission costs be reimbursed by the inviting body, such reimbursement must be declared and deducted from mission costs.

If leisure activities are included in the official schedule of the event, they should never exceed the average common practice.

4. External activities and remunerations

A part from the Staff Regulations, rules governing external activities and remuneration are laid down in Commission Decision C(2004) 1597/10 of 28 April 2004 on outside activities and assignments (hereinafter referred to as "the Commission Decision"), and are applicable to officials, temporary and auxiliary agents and seconded national experts (SNE)²⁰ working in DG TRADE.

¹⁸ In that context, DG TRADE has decided that, in principle, no more than two officials from DG TRADE and the Cabinet of the Commissioner, taken together, should speak at any one event (conferences or other external events). Therefore, when you receive invitations to conferences and other events, it is requested that you systematically ask the organisers who else from DG TRADE or the Cabinet has been invited and, if appropriate, to raise the issue with hierarchy (Head of Unit, Director) before giving your acceptance.

¹⁹ Commission Decision C(2004) 1597/10 of 28 April 2004 on outside activities and assignments

The basic principles should be that officials avoid engaging in external activities which might interfere with their performance or create a real or perceived conflict of interest.

Prior authorisation to take on external professional activities is therefore compulsory.

The Commission Decision defines three types of external activities:

- a) **Public office:** any public office, paid or unpaid, filled by election or otherwise.
- b) **Assignment:** the taking on of a defined, time-limited task, for example giving a speech, making a presentation or writing an article.
- c) **Other outside activity:** any activity, paid or unpaid, that is of an occupational character or otherwise goes beyond what can reasonably be considered a leisure activity, such as giving lectures in the framework of university courses, writing a book or working as a consultant.

Other activities foreseen in the Commission Decision and for which permission should normally be granted are charitable work and educational activities²¹.

Each case is to be assessed on its own merits, it is unlikely that approval would be given for assignments or outside activities pursued in a professional or similar capacity (to work as a lawyer, economist, accountant, consultant, etc.), and activities carried out for firms and companies whose objectives are commercial, even if the relationship with that company entails no remuneration or purely nominal remuneration²².

The performance of duties stemming from the tenure of public office is a special case in that there is no obligation to request authorisation. For officials who intend to stand for public office, or have been elected or appointed to public office, Article 15 of the Staff Regulations establishes the obligation to inform the AA, which will decide whether and under what modalities the official may continue to discharge his/her duties.

²⁰ See Commission decision C(2006)/2033 of 1/06/06 laying down rules on the secondment of national experts to the Commission, as modified by [\[Add link\]](#)

²¹ Articles 5 and 6 of Commission Decision C(2004) 1597/10 of 28 April 2004 define, respectively, voluntary work and educational activities. Voluntary work is work not giving rise to remuneration or the like, charitable or not. Authorisation shall be granted as long as the work is not so onerous as to impair the official's ability to work for the Commission. Educational activities such as teaching shall, in principle, be authorised for up to a year, as long as their duration does not exceed 100 hours per academic year. In exceptional circumstances, where the activity is deemed to be of interest to the institution, they may be extended to academic activities, including research.

²² Commission Decision C(2004) 1597/10 of 28 April 2004, articles 7 and 8, and Administrative notice n° 85-2004 of 29 June 2004.

5. Former officials and officials on CCP

5.1 Officials on CCP

Leave on personal grounds is an administrative status which may be granted to officials at their own request (Article 40 of the Staff Regulations). **Officials on CCP are not former staff**, as they are entitled to reintegration into Commission services. Thus, they are subject to the same obligations as officials in active employment, in particular those established in articles 11, 11a, 12, 13, 15, 16, 17 and 17a of the Staff Regulations. They are also subject to the relevant stipulations of Chapter 2 of the Commission Decision C(2004) 1597/10 of 28 April 2004.

Professional activity is allowed during a CCP, but it must be authorised in advance. Requests to engage in occupational activities, paid or unpaid, made during CCP or in connection with a request to take CCP, shall be submitted through normal hierarchical channels to the Director General for Personnel (DG ADMIN).

The general rule is that the official must supply the AA with all the relevant information needed to make an informed decision regarding the possibility of the requested activity's conflicting with the interests of the institution²³.

The AA may make the permission to engage in occupational activities subject to any conditions which it considers necessary to ensure that officials comply with their obligations. In particular, **it may impose conditions** according to the particular circumstances of a case, taking into account the nature of each policy area.

For example, this may be the case when an official requests CCP to take a job in the private sector working in the field of trade policy (e.g. law firms or consultancy), and may include restrictions concerning work not only on particular files, but also specific companies or enterprises. In certain cases, the exercise of the activity concerned during the CCP can even be refused.

While there may be considerable benefits for DG TRADE officials' being able to gain professional experience outside the Commission by taking CCP staff should be especially **mindful of their obligations vis-à-vis the institution**, and in particular as regards avoiding any situation in which a conflict of interest might emerge.

Such a conflict may emerge not only during CCP but also when staff enter into negotiations in respect of **any professional activity they plan to undertake while on CCP**: it is therefore strongly recommended to discuss any negotiations in which a staff member might engage in this period with their hierarchy or with the ECO in order to avoid any conflict of interest before or during CCP.

²³ For details, see articles 14 to 17 of the Commission Decision C(2004) 1597/10 of 28 April 2004 for the rules applicable to officials on CCP.

It is important to note that where a staff member's circumstances could give rise to any real or apparent conflict of interest, either at the negotiation stage or following submission of a formal request for CCP, the DG reserves the right to adopt, if necessary, internal instructions concerning the execution of the official's day to day duties during the period preceding departure.

Examples of such measures may include restriction of access to information, modification of file or sector assignment or even transfer to another post within the DG if the nature of your proposed activity is considered incompatible with your current position. Each case will be assessed on its own merits and in full compliance with the principle of proportionality.

According to Article 16(3) of the Commission Decision on external activities, the official may not participate in meetings or have contacts of a professional nature with his or her former Directorate General or service for a period of:

- **1 year** where the official occupied a management function in this Directorate General or service;
- **6 months** in all other cases.

Finally, it is also worth remembering that an official under CCP remains bound by his/her statutory duties of integrity and discretion. He/ she shall in particular refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.

5.2. Former officials²⁴

Former officials are all those who have definitively left the service (Article 47 of the Staff Regulations), e.g. following resignation, retirement, dismissal or removal from the post, and those who have been retired in the interests of the service pursuant Article 50 of the Staff Regulations.

Article 16(1) of the Staff Regulations state that former officials: "*continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments*". Article 16(2) further establishes the obligation for any former official intending to engage in an occupational activity, whether gainful or not, within two years of leaving the service, to inform his/her institution. The latter shall decide and

²⁴ This should also apply to former SNEs who have not joined back the public administration and former contractual agents (see Articles 11, 54 and 91 of the Conditions of Employment of other Servants of the European Communities).

notify the former official within thirty days whether the intended occupation could conflict with its legitimate interests²⁵.

Moreover, pursuant to Article 17(1) and (2) of the Staff Regulations, former officials remain under the obligation to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.

Such obligations obviously also apply to former officials who held **management posts** in DG TRADE.

In view of DG Trade's policy area, the situation of former staff members who left DG TRADE and continue their career as lawyers or consultants is of special interest.

a) Two-year period of leaving the service

If a former official decides to engage in a professional activity, within two years of leaving the service s/he must ask for prior authorisation to do so from the AA.

Under Article 16(2) of the Staff Regulations, if the proposed activity is related to work carried out by the official during the last three years of service and could lead to a conflict of interest, the AA may either forbid the former official from undertaking the proposed activity or may impose specific conditions in the light of the particular circumstances of the case. Such conditions could e.g. concern – depending on the grade of the former official and the nature of the former responsibilities - specific cases or specific files.

Such a conflict of interest may emerge even before leaving the Commission, since an official might enter into negotiations and even, under certain circumstances, when an official has the intention of entering into such negotiations with a potential future employer. This situation may require the adoption of internal instructions as regards the official's daily work in DG TRADE.

After leaving the service, an official continues to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits (Article 16(1)) and to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

²⁵ Article 16 of the Staff Regulations states: "(I)f the activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the legitimate interests of the institution, the Appointing Authority may, having regard to the interests of the service, either forbid him (the official) from undertaking it or give its approval subject to any conditions it thinks fit." See also articles 18 to 20 of Commission Decision C(2004) 1597/10 of 28 April 2004.

In any case, during the two year period or after former TRADE officials should not handle, files of which they had knowledge in the course of, or in connection, with the performance of their duties at DG TRADE.

b) After the two-year period of leaving the service

Once the two-year period has expired, the former officials are no longer under an obligation to ask for a prior authorisation to engage in an occupational activity in accordance with Article 16(2) of the Staff Regulations.

Nevertheless, it should be remembered that former officials continue to be bound by the ongoing duty to behave with integrity and discretion as regards the acceptance of certain appointments and to refrain from any unauthorised disclosure of non accessible information received in the line of duty (Article 16(1) and 17 of the Staff Regulations).

Consequently, should they infringe the obligations above mentioned, in the performance of their new duties, be it five or ten years after leaving the service, they may be sanctioned for such failures.

In this context, former officials should be particularly aware of their duty to behave with integrity and discretion as concerns files of which they had knowledge in the course of, or in connection, with the performance of their duties at DG TRADE.

c) Distance rule

Since a person assisting a party in a meeting, a hearing or an inspection could influence its outcome by virtue of their previous responsibilities within the DG, the approval of the occupational activity within two years of leaving the service may, on a case by case basis, be subject to conditions on distance. These may include the condition that the former official does not participate in meetings or have contacts of a professional nature with their former Directorate or service for a certain period.

In addition and to the extent possible, DG TRADE requests its current staff to inform their superior immediately of any potential participation in a meeting with former members of management (unless it is obvious that the person concerned left DG TRADE such a long time ago that there is no longer any risk²⁶). This will allow the hierarchy to assess whether a risk exists that the staff member might find themselves in a sensitive situation requiring the adoption of appropriate and proportionate measures as regards the organisation of the meeting.

²⁶ Apart from the application of the distance rule *stricto sensu*, it has to be kept in mind that former officials should not, at any time, be involved in cases of which they had knowledge in the course of, or in connection, with the performance of their duties at DG TRADE (see section a) "the two-year period of leaving the service", last paragraph below).

DG TRADE notes that similar rules on professional knowledge (see point 6 below) and distance apply to staff returning to DG TRADE after having gone on CCP. In this case, a staff member may feel impeded from dealing with a particular file in DG TRADE because of the duty not to use knowledge gained in a previous position. If a member of staff finds themselves in such a situation, they should approach their (immediate) superior and request to be assigned to a different file.

6. Professional knowledge, expressions of views outside the Commission and contacts with third parties

6.1 General principles: professional secrecy and loyalty vs. freedom of expression

Article 17a(2) of the Staff Regulations creates an obligation for officials to inform the AA of their intention to publish or have published any matter dealing with the work of the Communities. Before publishing any matter dealing with the work of the Communities, staff members are obliged to inform the AA (see section 1.5 above on external activities). The mere fact of issuing a publication concerned with the work of the Communities, without first notifying the AA, constitutes an infringement of Article 17a of the Staff Regulations.

Also, in that context, an official on CCP does not lose his/her status as an official during the period of leave and therefore remains subject to the obligations incumbent upon every official.

In addition, Article 17 of the Staff Regulations establishes the obligation for officials to refrain from “any **unauthorised disclosure of information received in the line of duty**, unless that information has already been made public or is accessible to the public.”

In view of the serious consequences that a breach of Article 17 could carry for the Commission's reputation, cases of unauthorised disclosure of information not yet made public concerning any aspect of DG Trade's work, whether intentional or not, will be investigated and may, ultimately, lead to **disciplinary action and/or financial claims for serious neglect, in application of the relevant procedures**.

On the other hand, officials enjoy a right to freedom of expression as enshrined in Article 17a of the Staff Regulations: “*an official has the right to freedom of expression, with due respect to the principles of loyalty and impartiality*”.

This right, however, should be understood together with the obligations laid down in Articles 11 and 12 of the Staff Regulations. These establish, respectively, that staff members have a “*duty of loyalty to the Communities*” and must also refrain from “*any action or behaviour that might reflect adversely upon (their) position*”.

In other words, an official may publicly express his/her personal opinions, while avoiding demeaning or offensive statements that impugn the honour of the persons or institutions against whom they were made.

The obligation of loyalty nevertheless imposes circumspection: officials should avoid creating confusion when making public statements, they should avoid discussing cases or matters which are still pending a formal position, and they should also defend the Commission's position whenever the final view adopted by the Commission in a file falling within his/her remit differs from his/her personal view.

When expressing views in public, especially if they are critical of the Commission's official view, members of staff should make it absolutely clear that these are personal opinions and do not necessarily reflect the views of the Commission and/or DG TRADE.

Whether in public or in private, staff should not disclose any information they have come across in the performance of their duties unless they have received authorisation to do so and/or are sure that such information is already publicly available. Staff should of course also refrain from disclosing, whether intentionally or not, any confidential information received in the line of duty, whether it concerns business secrets of a company or details of the internal decision-making processes of the Commission. Staff should refer to the special DG TRADE rules on the treatment of sensitive information²⁷ and the Commission rules on treatment of EU classified information²⁸.

As already mentioned, under exceptional circumstances (presumption of the existence of illegal activity, including fraud or corruption, detrimental to the interests of the Communities or serious failure to comply with the obligations of officials), staff are permitted, pursuant to Article 22b of the Staff Regulations to raise concerns with external bodies without fear of adverse consequences. This provision on whistle-blowing must be understood as an exception to the general principle of professional discretion that all staff must respect. Articles 22a and 22b of the Staff Regulations establish the ways of dealing with cases of suspected irregularities.

6.2 *Contacts with third parties*

As part of their day-to-day work, DG TRADE officials are in permanent contact with third parties (MS, third country representatives, business, NGOs, media etc.). These contacts require professionalism and discretion and are subject to special rules.

²⁷ Add link

²⁸ Add link

As a general rule, staff should always inform the hierarchy prior to attending such meetings. And should also let the hierarchy know of the results of such meetings subsequently.

Meetings with private parties (e.g. business, NGO) should normally take place in the Commission buildings and ideally involve another colleague from the Commission.

As far as contacts with media are concerned, please consult the special rules on Intracom.²⁹

In the case of contacts with interest groups, staff should always consult DG ADMIN's Register³⁰ as a source of reference and be cautious with groups not registered. Nevertheless, it should be stressed that there is no ban on meetings with unregistered interest representatives.

As a general rule, DG TRADE staff should refuse any invitations to meetings from interest representatives or third parties which could put the institution in a delicate situation.

7. Reporting improprieties and dealing with allegations of wrongdoing

Pursuant Article 22a of the Staff Regulations, staff are obliged to report to their superior or the Director General, or if considered useful the Secretary General or OLAF, any information received in connection with the performance of duties which gives rise to the assumption of possible **illegal activities detrimental to the interests of the Communities**, or of **conduct relating to the discharge of professional duties** which may constitute a serious failure to comply with the obligations incumbent on officials of the Communities. Article 22b of the Staff Regulations establishes the ways of dealing with cases of suspected irregularities.

Any official who, in the course of or in connection with the performance of their duties, becomes aware of any information, whatever its source, having a bearing on any of the staff of DG TRADE, which may be detrimental to the interests of the Communities, shall without delay inform their immediate superior, the Director General, the ECO or the Secretary-General of the Commission, or the European Anti-Fraud Office (OLAF).

²⁹ http://www.trade.cec.eu.int/intra/intradoclib/intradoclib_1141.05.pdf

³⁰ http://ec.europa.eu/civil_society/index_en.htm

Example: This rule covers various possible situations, not only financial irregularities, for example the alleged leaking by an official of sensitive information, or a request made by any national (Member State or other) judicial or investigative body, or any information made public in the press or otherwise, or any information encountered internally, to the extent that it could have a direct bearing on staff of the DG by hinting at alleged improprieties)

The effective application of the whistle blowing rules and the protection of whistleblowers are set out in a specific Communication SEC(2004) 151/2³¹.

ANNEX 1 Relevant legislation on ethics

LEGISLATION

- Staff Regulations (see in particular Title II: Rights and Obligations of Officials).
http://www.cc.cec/statut/index_en.htm
- Conditions of Employment of Other Servants of the European Communities.
http://www.cc.cec/statut/_en/ind_raa.htm
- Commission Decision C(2004) 1597/10 of 28 April 2004 on external activities.
<http://raphael/intranet/general/index.cfm?action=view&subaction=page&page=10469>
- Links to the relevant forms to request authorisation for external activities, publications and remunerations:
<http://raphael/intranet/general/index.cfm?action=view&subaction=page&page=20127>
- Links to information and relevant form to inform the AA of spouse's/partner's employment situation:
http://www.cc.cec/pers_admin/cond_empl/ext_activ/index_en.html
-
- Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)
http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_096/l_09620030412en00160025.pdf
- Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data
<http://www.cc.cec/dataprotectionofficer/index.cfm?TargetURL=D%5FLegal%5FFramework>
- Regulation (EC) 1049/2001 concerning public access to documents
http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_145/l_14520010531en00430048.pdf

ANNEX 2

Relevant provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (OJ L 96/16 of 12 April 2003)

Article 1

For the purposes of this Directive:

1. 'Inside information' shall mean information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments or to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments.

In relation to derivatives on commodities, 'inside information' shall mean information of a precise nature which has not been made public, relating, directly or indirectly, to one or more such derivatives and which users of markets on which such derivatives are traded would expect to receive in accordance with accepted market practices on those markets.

For persons charged with the execution of orders concerning financial instruments, 'inside information' shall also mean information conveyed by a client and related to the client's pending orders, which is of a precise nature, which relates directly or indirectly to one or more issuers of financial instruments or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments.

2. 'Market manipulation' shall mean:

a transactions or orders to trade:

— which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments, or

— which secure, by a person, or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level, unless the person who entered into the transactions or issued the orders to trade establishes that his reasons for so doing are legitimate and that these transactions or orders to trade conform to accepted market practices on the regulated market concerned;

b transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance;

(c) dissemination of information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading. In respect of journalists when they act in their professional capacity such dissemination of information is to be assessed, without prejudice to Article 11, taking into account the rules governing their profession, unless those persons derive, directly or indirectly, an advantage or

profits from the dissemination of the information in question. In particular, the following instances are derived from the core definition given in points a, b and (c) above:

— conduct by a person, or persons acting in collaboration, to secure a dominant position over the supply of or demand for a financial instrument which has the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions,

— the buying or selling of financial instruments at the close of the market with the effect of misleading investors acting on the basis of closing prices,

— taking advantage of occasional or regular access to the traditional or electronic media by voicing an opinion about a financial instrument (or indirectly about its issuer) while having previously taken positions on that financial instrument and profiting subsequently from the impact of the opinions voiced on the price of that instrument, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way. The definitions of market manipulation shall be adapted so as to ensure that new patterns of activity that in practice constitute market manipulation can be included.

3. 'Financial instrument' shall mean:

— transferable securities as defined in Council Directive 93/ 22/EEC of 10 May 1993 on investment services in the securities field (1),
— units in collective investment undertakings,
— money-market instruments,
— financial-futures contracts, including equivalent cashsettled instruments,
— forward interest-rate agreements,
— interest-rate, currency and equity swaps,
— options to acquire or dispose of any instrument falling into these categories, including equivalent cash-settled instruments. This category includes in particular options on currency and on interest rates,
— derivatives on commodities,
— any other instrument admitted to trading on a regulated market in a Member State or for which a request for admission to trading on such a market has been made.

4. 'Regulated market' shall mean a market as defined by Article 1(13) of Directive 93/22/EEC.

5. 'Accepted market practices' shall mean practices that are reasonably expected in one or more financial markets and are accepted by the competent authority in accordance with guidelines adopted by the Commission in accordance with the procedure laid down in Article 17(2).

6. 'Person' shall mean any natural or legal person. [...]

Article 2

1. Member States shall prohibit any person referred to in the second subparagraph who possesses inside information from using that information by acquiring or disposing of, or by trying to acquire or dispose of, for his own account or for the account of a third party, either directly or indirectly, financial instruments to which that information relates.

The first subparagraph shall apply to any person who possesses

that information:

a by virtue of his membership of the administrative, management or supervisory bodies of the issuer; or

b by virtue of his holding in the capital of the issuer; or

(c) by virtue of his having access to the information through the exercise of his employment, profession or duties; or

(d) by virtue of his criminal activities.

2. Where the person referred to in paragraph 1 is a legal person, the prohibition laid down in that paragraph shall also apply to the natural persons who take part in the decision to carry out the transaction for the account of the legal person concerned. [...]