



Position on Conflicts-of-interest and polluting industry obstruction of climate policy in the UNFCCC Process

April 2020

Climate Action Network (CAN) is the world's largest network of civil society organizations working together to promote government action to address the climate crisis, with more than 1300 members in over 120 countries.

www.climatenetwork.org

Executive Summary:

We must urgently address the climate emergency and bring the world in line with a 1.5-degree Celsius pathway through ambitious and just climate action. However, the undue influence of industries whose profit-making depends on activities that harm the climate, pose a major obstacle in advancing climate ambition. In direct contravention of the mandates of the United Nations Framework Convention on Climate Change (UNFCCC), the fossil fuel, big forestry and agribusiness industries, amongst others, drive the use and expansion of emissions-intensive products. They use their accreditation and access to the UNFCCC processes to distract from the level of ambition needed and advance proposals that instead of bringing us fully in line with the goals and objectives of the Paris Agreement and UNFCCC, protect their profits above all and serve their private interests. They also block progress, fund climate denial, muddy political narratives and question scientific consensus on climate change publicly.

The UNFCCC has yet to address the issue of conflicts of interest in regards to the role of engagement with non-Party stakeholders. It is in the UNFCCC's interest to ensure that strong policies that address and manage the risk for conflicts of interest and draw on best practice is put in place. Agreeing on a process to address these issues is an essential step towards ratcheting up ambition in line with what is necessary to achieve the Convention's objectives.

In light of the above, Climate Action Network (CAN) recommends that the UNFCCC should:

- *Adopt an appropriate definition of 'conflict of interest', and a rigorous conflict of interest framework that:
 - a) *prevents entities with private interests from unduly influencing or undermining national and international climate policy;*
 - b) *strengthens the procedures for admission of observers within the UNFCCC and its instruments; and*
 - c) *draws on established international precedent in a manner that is appropriate for the UNFCCC context.**
- *In the absence of a process to develop policies to address conflicts of interest and to not undermine the objectives of the UNFCCC any further, the UNFCCC should stop inviting industry trade associations and other entities which represent and/or are beholden to the interests of polluting industries to present their views during the UNFCCC negotiation process, workshops or other events.*

Urgent, just action needed now

The scientific community, most prominently the Intergovernmental Panel on Climate Change (IPCC), agrees that current climate action is not in line with the ambitious and just action needed in order to keep global temperature rise to as close to 1.5 degrees as possible, as agreed in the Paris Agreement. The costs of further inaction or inadequate action to lives, livelihoods, biodiversity, and sustainability are unthinkable. Further delays are unacceptable.

Undue influence a primary barrier to progress

It is also well-documented that a primary obstacle to the level of just ambition needed is the undue influence of industries whose profit-making depends on activities that harm the climate, including through the use and expansion of emissions-intensive products. These industries are therefore most responsible for the lion's share of global emissions, most notably the fossil fuel industry.

CAN recognizes that industries that have been documented in opposition of climate action or have business models at cross purposes with the objectives of the United Nations Framework Convention on Climate Change (UNFCCC) include but are not limited to the fossil fuel industry including power utilities, the forestry industry¹ and industrial agribusiness².

The fossil fuel industry and other polluting industries and their trade associations and business-industry groups — whose members such as Exxon and Shell have known about the consequences of burning fossil fuels for decades — use their accreditation and access to UNFCCC processes to distract from the level of needed ambition.

Outside of the UNFCCC, polluting industries like the fossil fuel industry and many of the trade associations that represent them continue to block progress, fund climate denial, muddy political narratives and question scientific consensus on climate change publicly. Inside the UNFCCC, these entities advance proposals that, instead of bringing us fully in line with the goals and objectives of the Paris Agreement and UNFCCC, protect their profits above all, serving their private interests. The result is less ambition and a focus on industry-friendly policies.

Polluting corporations like those listed above, and trade associations or industry groups representing them, are legally, financially, and/or contractually bound to represent their shareholders or members, maximize profits, and promote the continued sale and expansion of their products (e.g.

¹ *The forestry industry has worked consistently within the UNFCCC context to press Parties for loopholes in rules for accounting for emissions that substantially undermine overall ambition. The industry has a strong mandate to secure maximum economic gain from harvesting forests which can run counter to how forests would be utilized for climate mitigation. It therefore works in the UNFCCC space to influence governments in shaping rules that allow forest-harvesting to proceed without apparent carbon penalty. Additionally, industrial agribusiness corporations are regularly given platforms to speak during official agriculture negotiations, often presenting their voluntary initiatives as climate solutions that render regulation unnecessary. Some agribusiness corporations have strong ties to the fossil fuel industries on which they depend to develop synthetic fertilizers, and are strong advocates for oil and fracking.*

² *The agribusiness industry, for example, relies heavily on fossil fuels for production of synthetic nitrogen fertilisers, which are also largely responsible for the Earth's large-scale loss of topsoils. Fertiliser companies such as Yara are active lobbyists for fracking. Meanwhile, the forestry industry is responsible for large-scale loss of the earth's ecosystems.*

fossil fuels, agrochemicals and forestry products). By definition, this means that they have a duty to serve a private interest that is in direct contravention of the public-facing mandates of the UNFCCC, whose primary aim is to “prevent ‘dangerous’ human interference with the climate system”.

UNFCCC must follow best practice and clear precedent

The UNFCCC has yet to address the issue of conflicts of interest in regards to the role of engagement with non-Party stakeholders. Thus, there are no adequate procedures to safeguard against the potential for conflicts of interest of non-Party stakeholders (including observers) to undermine the objectives of the UNFCCC.

For example, the requirements for becoming an official observer to the UNFCCC are that an organization is legally registered as a non-profit organization, and that it works on matters related to climate change. Unfortunately, accredited organizations currently include those that directly or indirectly represent the interests of polluting corporations such as Exxon Mobil, Chevron, Shell, and BP, as well as other polluting corporations from the industry’s most responsible for the majority of global-emissions.

There exist useful precedents from across the world and different disciplines and sectors from which to draw inspiration and best practices. These include but are in no way limited to the World Health Organization’s (WHO) Framework for Engagement of Non-state Actors (FENSA), the World Health Organization Framework Convention on Tobacco Control (FCTC), the Organisation for Economic Co-operation and Development (OECD), and UNICEF.

CAN recognizes that it is in the interests of the UNFCCC to ensure strong policies that seek to address and manage the risk for conflicts of interest, and that applying best practice in this area is an essential step towards ratcheting up ambition in line with what is necessary to achieve the UNFCCC’s objectives.

Recommendations

The welcome participation of entities representing business interests that continue to fuel climate change introduces a serious institutional conflict of interest, by way of inviting some of the entities most responsible for, and that continue to exacerbate, climate change to unduly influence the policy development processes that aim to address it. If we are to address climate change to the scale required, we must ensure the political space for ambitious and just solutions to take hold is available without obstruction.

1. Adopt a definition of a “conflict of interest” that recognizes that the integrity and objectives of an individual or institution can become fundamentally compromised when they engage with non-party stakeholders whose financial/vested/private interests (or the interests of those they represent) place the individual or institution in an irreconcilable conflict with the public mandate they are beholden to serve.
2. Adopt a rigorous conflict of interest policy framework that draws from the established international precedents and:
 - a. Adopts rigorous procedures for engagement with non-Party stakeholders by preventing entities that either have, or represent those that have, financial interests requiring them to emit large quantities of greenhouse gases or drive deforestation in

order to continue to maximize profit (and therefore have material objectives that are fundamentally in conflict with the ultimate objective of the Convention) from unduly influencing or undermining national and international climate policy.

- i. Non-Party stakeholders referred to in para 1) shall not have access to or influence over norm-and standard-setting activities of the UNFCCC, as carried out by its Parties, or its Secretariat.
 - ii. Parties and the Secretariat shall avoid inviting funding from business interests, especially polluting business interests, into the UNFCCC because of the inherent dangers of interacting with such interests, especially in regards to policy making and the acquisition of resources. This includes public-private partnerships, sponsorship, human resource capacity such as staff secondments and consulting contracts, etc.
- b. Strengthens the procedures for admission of observers in accordance with para 1 and 2.
- i. This includes due diligence in screening for such things as public disclosure of industry affiliations, industry funding, etc.
 - ii. The access of trade associations and other entities which represent and/or are beholden to the interests of polluting industry must be restricted or excluded from participation in the UNFCCC and its instruments. Such entities include but are not limited to industry trade associations, front groups, and private philanthropies that represent said industries.
- c. Draws from established global precedents, including other UN institutions, with regard to regulating conflicts of interest, and creates a UNFCCC-specific framework for engagement.
- i. This framework should differentiate between the different kinds of non-Party stakeholders according to whether they work in the public interest, or work to advance private interests because they have a legal or contractual duty to maximize profits for shareholders.
 - ii. It should also differentiate between the different types of engagement acceptable with each set of actors, taking into account these different public or private interests and the inherent diverging interests implied by the latter.

In the absence of a process to develop conflicts of interest of non-Party stakeholder policies (including observers) and to not undermine the objectives of the UNFCCC any further the UNFCCC should stop inviting trade associations and other entities which represent and/or are beholden to the interests of polluting industry to present their views during the UNFCCC negotiation process, workshops or other events.