

# NUCLEAR POWER PLANT EXPORTERS' PRINCIPLES OF CONDUCT

## PRINCIPLES AND PROCEDURES GOVERNING THE NUCLEAR POWER PLANT AND NUCLEAR REACTOR EXPORTERS' PRINCIPLES OF CONDUCT

The participants in the Nuclear Power Plant And Nuclear Reactor Exporters' Principles of Conduct (POC) process agree to operate under the following principles and procedures, unless otherwise decided by the participating vendors.

### **1) The Nuclear Power Plant Exporters' Principles of Conduct process**

- a) The POC process is driven by a common recognition of the public policy and global industry benefits inherent to ensuring the safety and security of people and the environment potentially impacted by the nuclear industry.
- b) The backbone of the process has been and remains vendors of civilian nuclear power plants. Yet, the process will expand gradually over time to include or engage other nuclear industrial players with similar interests in exporting nuclear power plants.
- c) Companies which have adopted the Principles of Conduct following the agreed upon procedure will be referred to in this document as "participating vendors".
- d) For the purposes of the Principles of Conduct process a vendor will be defined as an entity currently engaging in, or preparing to engage in, the export of civilian nuclear power plants and nuclear reactors, in the capacity of a design or contracting organization, including subsidiaries or joint ventures of participating vendors that are independently engaging in, or preparing to engage in, the export of nuclear power plants and nuclear reactors in the capacity of a designer or contracting organization.

### **2) Adoption of the Nuclear Power Plant Exporters' Principles of Conduct and participation**

- a) Companies must have adopted the Principles of Conduct in accordance with the agreed upon procedure to be able to partake in the POC decision making process; current participants have all done so.
- b) Participating vendors which have adopted the Principles of Conduct following the agreed upon procedure will partake in participating vendor meetings, to be convened during the review meetings separately from the plenary session.
- c) Adoption of the Nuclear Power Plant Exporters' Principles of Conduct and participation in the POC process are voluntary. However by joining the POC process, the adopting entity commits to adhere to, take all appropriate steps to implement, and make a good faith effort to comply with the Principles

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- d) The Secretariat will inform participating vendors of any request received to adopt the POC and join the POC process, so that participating vendors can consider and agree to this request, bearing in mind the open nature of the process and the collective desire to have all pertinent global players in the domain of nuclear power plant exports represented on an equal footing.
- e) Following such agreement the Secretariat will communicate to the prospective adopter the necessary steps which must be undertaken in order to join the process. These are:
  - i. Prospective adopters will adopt the Principles of Conduct using the standard adoption language without any caveats or modifications. The standard adoption language reads: "On behalf of [company name], I am very pleased to inform you that our company has adopted the Nuclear Power Plant Exporters' Principles of Conduct, as agreed upon in Brussels, Belgium, on 20 May 2011 and subsequently amended. Accordingly, we will take steps to implement these Principles in the course of our business activities";
  - ii. The standard adoption language will be forwarded to the interested entity by the Secretariat;
  - iii. An adoption letter incorporating this language will be signed by the CEO (or comparable executive authority) of the adopting entity and will be sent by the adopting entity to the POC Secretariat;
  - iv. By adopting the Principles of Conduct, the adopting entity commits to:
    - a. implementing the Principles of Conduct in all its business decisions;
    - b. adopting all the POC ground rules without reservations;
    - c. adopting all previous and subsequent formal obligations undertaken by POC vendors without reservations.
- f) Participating vendors may on an *ad hoc* basis choose to invite certain individuals and/or organizations to attend POC meetings as guests. Such guests, if participating vendors have no objections, may include prospective adopters/participants as well as other industrial players or entities which participating vendors wish to engage. Unless agreed to otherwise by participating vendors:
  - i. Guests are welcome to share their thoughts and comments, but cannot partake in decision making.
  - ii. Guests cannot partake in the meeting of participating vendors at the review meetings.
  - iii. Guests are further required to keep confidential the outcomes of the meeting and any decisions taken.

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## **3) Sharing of information and antitrust policy**

- a) The Principles of Conduct process does not stanch competition within the industry, and will not consider any competitively sensitive information, including pricing, sales, markets, customer distribution, advertising, promotion plans, or research. Likewise, implementation of the Principles of Conduct will not lead to the sharing of any such competitively sensitive information.
- b) The participating vendors will adhere to the interim antitrust policy statement as agreed upon following the meeting in Moscow, December 2011 and subsequently amended by the participating vendors, which has been included in Appendix A of this document; this policy guides all POC-related communication and meetings.
- c) Participating vendors have primary responsibility for ensuring that no competitively sensitive information is inadvertently raised or discussed in individual presentations or other information provided by them individually.
- d) The POC's legal counsel will monitor process communications and documents to further ensure that information deemed competitively sensitive or otherwise antithetical to antitrust principles is not inadvertently raised or discussed.
- e) Prior to substantive discussion at meetings, the POC's legal counsel will reiterate the agreed upon antitrust guidelines to help prevent the sharing of competitively sensitive information; during the meeting legal counsel will ascertain that these guidelines are meticulously adhered to and will monitor discussions to this end.

## **4) Public affairs & information dissemination**

- a) The Nuclear Power Plant Exporters' Principles of Conduct are available to the public and appear on the POC's public website. Revisions, if any, of the Principles of Conduct will be made available to the public in a similar manner.
- b) All other POC process documents are considered private unless the participating vendors approve them for public release.
- c) To inform the public of the outcome of the review meetings, a press release will be released shortly after these meetings, following approval by participating vendors. The Secretariat will further conduct selective outreach, in consultation with the participating vendors, to key reporters and outlets to promote the outcomes of the review meeting.
- d) From time to time the Secretariat may choose to issue press releases in close consultation with the participating vendors to highlight developments in the POC process and/or other issues of importance in which the POC plays a role.

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## 5) Consideration of new principles and amendments

- a) The participating vendors may update the Principles from time to time as warranted.
- b) Revisions to the Principles may be proposed by participating vendors, experts, Carnegie and/or the Secretariat at any time and will be forwarded to the Secretariat for circulation. Upon receipt of such a suggestion, the Secretariat may solicit the assessment of the implications of the proposed revision from the POC's experts and/or renowned experts in the field to which the proposed revision pertains, and/or Carnegie, before disseminating the proposed revision together with such an assessment, to the participating vendors for their consideration.
- c) Barring exceptional circumstances and unless otherwise agreed, participating vendors will consider at review meetings revisions to the Principles which have been suggested to the Secretariat at least 30 days prior to the scheduled first day of the meeting. This would allow the Secretariat sufficient time to consolidate multiple proposals and circulate them at least two weeks in advance of the review meeting among participating vendors. If a suggestion is received after this period, the discussion of such a suggestion may be referred to the next review meeting.
- d) Any participating vendors or the Secretariat may propose documents for consideration by the participating vendors **to be circulated and noted as** useful resources which can guide participating vendors in their implementation of the Principles of Conduct:
  - i. These documents do not form part of participating vendors' obligations as laid out by the POC unless explicitly stated otherwise.
  - ii. The participating vendors may update these documents from time to time as warranted.
- e) Participating vendors will consider and approve individually any amendments to the list of references in the Principles text, even if the pertinent documents cited in the list have subsequently been amended by the issuing organization.

## 6) Implementation

- a) Participating vendors will periodically review internal implementation processes of the POC, and share among themselves appropriate best programs and other pertinent information on practices related to the implementation of the POC.
- b) After every meeting, participating vendors will draft, approve, and circulate a public communiqué summarizing outcomes of the meeting.

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- c) To facilitate orderly preparation for review meetings, all participating vendors will aim to send written updates on their internal POC implementation processes to the Secretariat no later than 10 days prior to a review meeting;
  - d) Participating vendors' legal counsels hold the primary responsibility for reviewing the respective written implementation updates to ensure no competitively sensitive information is shared. Out of an abundance of caution, participating vendors are also encouraged to allow the Secretariat to forward the written updates it receives from participating vendors ahead of time for the review by POC's legal counsel.
  - e) It is recognized that the credibility of the process benefits from consistency and conformity in the scope of reporting by participating vendors. Issues to be covered in the presentations:
    - i. A general overview of all key POC implementation steps taken to date by the participating vendor; and
    - ii. A special focus on implementation developments that have taken place since the last review meeting. These may include, but are not necessarily limited to:
      - a) Corporate public statements of commitment to the POC;
      - b) Policies and procedures for implementing each Principle;
      - c) Identification of entities within the corporation responsible for implementation;
      - d) Capacity-building or training of personnel on policies and procedures related to POC implementation and internal communication on the POC and its developments;
      - e) External communication and outreach on the POC;
      - f) Examples of modalities of engagement with, and policies regarding suppliers and contractors (including how participating vendors recommend the POC to their suppliers, subcontractors, and other participants as stated in the Preamble of the POC);
      - g) Examples of modalities of engagement with customers;
      - h) Periodic self-assessment to support implementation;
      - i) Internalizing updates of the POC text; and
      - j) Handling of changes of personnel and preserving the internal knowledge on the POC.
  - f) New adopting vendors will be granted a reasonable amount of time to meet these reporting requirements.
  - g) In principle, other participating vendor presentation made at review meeting would be subject to the same procedure.
- 7) Decision rules governing the POC**

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- a) The spirit of the POC process is consensus-based, particularly regarding issues of textual revision and participating vendor budgetary contributions.
- b) If necessary, decisions at review meetings will be taken by a  $\frac{3}{4}$  majority.
- c) Between meetings, the Secretariat will keep participating vendors informed of issues and developments of concern to the POC process; if decisions are necessary on certain issues, the Secretariat may propose and carry out a procedure to move forward, provided that it does not receive any objections by participating vendors to the suggested procedure.

## 8) Review meetings

- a) Participating vendors will meet at least twice a year to review programs related to implementing the Principles of Conduct and other issues related to the Principles of Conduct process.
- b) All participating vendors will make a good-faith effort to attend review meetings. Decisions taken in review meetings will be binding on all participating vendors regardless whether they attended a review meeting or were unable to do so.
- c) The review meeting standing agenda items will include, but may not necessarily be limited to:
  - i. Reporting on internal activities and financial accounting by the Secretariat;
  - ii. Participating vendor's (written) updates on implementation, and sharing and discussing best practices;
  - iii. Briefings on existing and evolving industry best practices;
  - iv. Discussion of implementation issues;
  - v. Reviewing, and as appropriate, modifying the Principles, including updating the references;
  - vi. Reviewing outreach efforts and discussing parameters for future outreach;
  - vii. Deciding on questions of expanding the membership;
  - viii. Additional items as appropriate.
- d) Participants, including participating vendors, the Secretariat and/or the Carnegie Endowment for International Peace, may suggest additional topics to be added to the review meeting agenda on an *ad hoc* basis.
- e) There will be a rotating venue host of the review meeting.
- f) At the meeting participating vendors will provide their own interpretation services as necessary.

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- g) If a vendor cannot attend a review meeting, its written updates on its internal POC implementation processes will be shared but not discussed by the other vendors.
  - i. The Secretariat will share the presentation of the absent vendor, following the standard procedure for posting presentations to the project's internal website.
  - ii. Vendors can send any observations or questions they may have regarding this presentation to the Secretariat who will forward these to the respective vendor, in consultation with antitrust counsel and in a generic and anonymous manner.
- h) If guests attend the review meeting, a meeting of core vendors shall be convened before the plenary session and the closing session of the review meeting. Core vendor meetings can also be called throughout the review meeting if deemed necessary. At the core vendor meeting, the participating vendors can discuss issues which have a bearing on the decision making process or are of sole concern to those vendors which have adopted the Principles of Conduct according to the agreed procedure.
- i) During the closing session of each review meeting, the meeting's cumulative decisions will be presented and circulated to the participating vendors, at which point participating vendors may make any necessary changes in plenary. The meeting's decisions will be considered final outcomes as of the conclusion of the meeting.
- j) The Secretariat will, after each review meeting, circulate a Chair summary of the meeting discussions and outcomes.
  - i. The Chair summary serves to establish a record of the meeting discussions and decisions, representing the decisions as presented and affirmed by participating vendors during the meeting's closing session. These decisions shall also be listed in Annex 1 of the summary without any modification.
  - ii. In drafting this summary the Secretariat will ensure all pertinent views expressed by participants during the meeting are faithfully and equally but anonymously represented, basing itself on its own notes, the notes of Carnegie and legal counsel.
  - iii. The Chair summary will be considered final when circulated among participating vendors by the Secretariat. Vendors that nevertheless take issue with the Chair summary may notify the Secretariat of their respective objection within 14 days of the dissemination of the summary. Such requests shall be reviewed by the Secretariat, who will revert back to the vendor(s) filing the objection within 14 days, to inform the vendor whether it intends to make any corresponding changes in the Chair's Summary. If disagreement

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between the vendor(s) and the Secretariat remain over these issues, they will be referred to the next review meeting for adjudication.

## 9) Secretariat

- a) The Principles of Conduct process is served by a Secretariat whose expenses will be fully borne by the participating vendors.
- b) The POC Secretariat will carry out its tasks and expenses in keeping with the parameters agreed upon by the participating vendors.
- c) The POC Secretariat will regularly report to the participating vendors on its activities and expenditures.
- d) The mandate of the Secretariat includes, but is not limited to:
  - i. Routine coordination of activities;
  - ii. Coordinating internal and external communication;
  - iii. Tracking developments pertaining to the Principles;
  - iv. Conducting outreach to potential new members and stakeholders;
  - v. Collecting and internally reporting (during review meetings) on implementation issues;
  - vi. Operating as a depository of information;
  - vii. Coordinating translations of documents, if necessary;
  - viii. Planning review meetings;
  - ix. Reporting during review meetings on its activities and expenditures.
- e) The POC Secretariat is at the moment not a legal entity. The Secretariat will make arrangements as necessary with legal counsel and/or the Carnegie Endowment for International Peace to secure services and engage in transactions necessary to the administration of the process. As coordinator and steward of the POC process, the Secretariat will act for all intents and purposes as an independent organization, aspiring to high standards of professional conduct and integrity, and mindful of all applicable national and international laws.
- f) The mandate of the POC Secretariat shall be reviewed periodically as appropriate.

## 10) Expert advisers

- a) The POC process has greatly benefited from the input of leading experts in the field of nuclear energy, nuclear policy, nuclear safety and security, and corporate social responsibility.
- b) Participating vendors are keen to retain the immense asset that these experts represent to the POC process.

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- c) To this end the participating vendors have agreed to establish a standing roster of experts to advise the POC process moving forward.
- d) The roles and responsibilities of such experts may change from time to time as participating vendors and the Secretariat consider the needs of the POC process.
- e) In carrying out its duties the Secretariat may choose to engage experts on the standing advisory board as well as other experts with competences related to the POC. In doing so, the Secretariat will remain mindful of the interests of the POC process of a whole as well as the specific process ground rules on dissemination of information.

## **11) The Carnegie Endowment for International Peace**

- a) The Carnegie Endowment for International Peace will avail itself to continue providing guidance and support to the POC process and the POC Secretariat, including oversight of the Secretariat's work.

## **12) Financing**

- a) The process is funded by contributions from participating vendors. All participating vendors are required to pay an equal annual contribution to support the management and operation of the POC process and the POC Secretariat.
- b) Subsidiaries or joint ventures of participating vendors that are independently engaging in, or preparing to engage in, the export of civilian nuclear power plants in the capacity of a designer or contracting organization and which participate in the Principles of Conduct, are required to pay half the annual contribution established for adopting vendors. Notwithstanding the above, the subsidiaries or joint ventures, of which turnover of the previous fiscal year is less than US\$10 million, shall be exempted from the obligation of the annual contribution.
- c) Vendor budgetary contributions will be adjusted periodically as necessary at review meetings, subject to the principle that all will pay their fair share toward the process budget if they are to be entitled to shape the process.
- d) At the winter review meeting of each year the Secretariat will provide a complete overview of duly authorized expenses incurred by the POC process and the POC Secretariat during the past fiscal year for participating vendors' consideration; at this meeting, the POC Secretariat will also present the subsequent fiscal year's POC operating firm and final budget for vendors' consideration and approval.
- e) Funds for the POC process will be held and managed by the POC's legal counsel in a non-interest bearing account in the name of the Principles of Conduct.

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## **13) Disclaimer**

This document sets out the principles and procedures governing the POC process. It does not create any rights in, or liability to, any person, public or private and does not confer any rights on any person who is not a participant in the Principles of Conduct process.

**ANNEX 1**  
**ANTITRUST POLICY STATEMENT FOR VENDORS ADOPTING THE**  
**NUCLEAR POWER PLANT EXPORTERS' PRINCIPLES OF CONDUCT**  
**1 FEBRUARY 2013**

Vendors that have adopted the Nuclear Power Plant Exporters' Principles of Conduct note that this initiative is driven by our belief that maintaining common standards of excellence with respect to nuclear power plant exports is not only compatible with good business practices, but strengthens those practices. The Principles are designed to serve the broad public interest, which is beneficial to the interests of the vendors' customers and to the industry as a whole.

This is a voluntary initiative, and each vendor will continue to make independent business decisions about designing its products and interacting with operators and customer states. The vendors are applying these Principles unilaterally, voluntarily, and in the broad public interest, and will act in full compliance with applicable antitrust laws. This process is, and will remain, open to other vendors that wish to adopt the Nuclear Power Plant Exporters' Principles of Conduct.

Counsel will be present throughout all meetings to ensure that there is no discussion of any competitively sensitive information. All discussions will be consistent with the fundamental concept that this is a voluntary exercise, and each vendor must continue to decide independently how to conduct its business affairs. Each vendor, at its discretion, should seek advice from its antitrust counsel in advance of attending meetings. Each vendor should develop internal protocols to ensure that its antitrust counsel reviews any proposed written submission for competitively sensitive information. Discussions will not include any competitively sensitive information, including but not limited to previous, current or future:

- negotiations with industrial customers;
- negotiation strategies;
- new products, techniques, and capabilities the vendors may be developing;
- suppliers that a vendor uses;
- terms of trade, including pricing;
- capacity, production or sales forecasts;
- inventory;
- internal supply or demand forecasts;
- production or export data; and/or
- sales data.

The initiative will not yield any discussions or agreements that would restrain, or could be seen as restraining, competition. Vendors will not air concerns regarding the conduct of other vendors to the group, but rather will raise such concerns directly and confidentially with the Secretariat, and will obtain internal antitrust counsel before doing so. A vendor's concerns about another vendor's conduct should be treated by the Secretariat as competitively sensitive information

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unless antitrust counsel advises otherwise. Interim antitrust guidelines for the handling of concerns by third parties have been included in Annex I of this document.

Moreover, vendors will not bring about or attempt to bring about an agreement with other vendors regarding elements of competition such as price, products, market allocation, terms of trade, particular customers or categories of customers or production or supply. Vendors and the Secretariat will not develop any common interpretation of the Nuclear Power Plant Exporters' Principles of Conduct except in writing under the guidance of the Nuclear Power Plant Exporters' Principles of Conduct's antitrust counsel. Annex II of this document includes interim antitrust guidelines for the discussion of scenarios that relate to the provisions of the Nuclear Power Plant Exporters' Principles of Conduct.

The Secretariat will continue to develop protocols to ensure that it does not inadvertently share commercially sensitive information.

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## ANNEX II ANTITRUST GUIDELINES FOR THE HANDLING OF CONCERNS

1. If a concern (by either a vendor or 3<sup>rd</sup> party) is brought to the attention of the Secretariat:
  - i. The Secretariat assesses whether the concern is prima facie within the scope of the POC.
  - ii. The Secretariat will inform the third party that it will forward its concern to the relevant vendor.
  - iii. If the concern is not relevant to the POC, it will communicate as much to the third party.
2. If the Secretariat finds that the concern is irrelevant to the POC:
  - i. The Secretariat consults antitrust counsel regarding how to communicate to the involved vendor receipt of the complaint.
  - ii. In accordance with the advice of antitrust counsel, the Secretariat forwards the concern to the relevant responding vendor.
  - iii. The Secretariat does NOT follow up with the relevant responding vendor on the concern.
3. If the Secretariat finds that the concern is potentially relevant to the POC:
  - i. The Secretariat consults with antitrust counsel regarding how to communicate the concern to the relevant responding vendor.
  - ii. In accordance with the advice of antitrust counsel, the Secretariat forwards the concern to the relevant responding vendor.
  - iii. The vendor informs the Secretariat within 45 days of receipt of the concern of the steps it has taken/plans to take to address the concern.
  - iv. After consulting with and in accordance with the advice of AT counsel, the Secretariat relays the response to the concerned party. This procedure shall always be followed if the concerned party is another vendor.
  - v. However, if a 3<sup>rd</sup> party (and not another vendor) raised the concern and if the vendor prefers, then after consulting with and in accordance with the advice of its AT counsel, the vendor may correspond directly with the concerned party (with copy to the Secretariat) provided that the responding vendor provides the Secretariat with a statement that it has consulted with counsel and the responding vendor's response is consistent with the advice of such counsel.
  - vi. The Secretariat will keep record of all its communications on such matters
4. If the relevant vendor does not respond within 45 days, or the response does not address the concern, then the Secretariat will:

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- i. Ask the relevant vendor to develop and provide an early answer that is responsive to the concern.
5. If the relevant vendor again does not provide an answer that is responsive to the concern, then the Secretariat will:
  - i. Consult with antitrust counsel regarding whether and how to inform the other vendors of the responding vendor's lack of response to this concern.
6. At review meetings the Secretariat will inform vendors of queries received in a general, generic and anonymous manner.
7. In addition the Secretariat will raise with all vendors general concerns about the application of the POC that are brought to its attention.

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## ANNEX III

### ANTITRUST GUIDELINES FOR THE DISCUSSION OF SCENARIOS

1. Legal counsel will review the meeting agenda before its finalization;
2. Legal counsel should always be present during discussions;
3. Prior to the discussion of hypotheticals, scenarios, or best practices, the Secretariat or legal counsel should remind vendors that such discussions should focus on developing best practices, and do not create mandatory steps that vendors must take to implement the PoC;
4. Discussions of hypotheticals, scenarios or best practices should be carried out in the plenary;
5. Discussion of hypotheticals, scenarios or best practices should not involve Vendors verbally making a decision as to how a situation should be addressed;
6. The Secretariat and the Carnegie Endowment for International Peace should not indicate what they consider to be the correct interpretation of the POC;
7. It is assumed that meeting participants speak in a personal capacity; and
8. The agenda should be updated to reflect the unplanned discussions of hypotheticals or scenarios.