TRANSPARENCY INTERNATIONAL
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# CONFLICTS OF INTEREST AND UNDUE INFLUENCE IN CLIMATE ACTION

## Putting a stop to corporate efforts undermining climate policy and decisions

# INTRODUCTION

Public decision-making has long been subject to lobbying from private interests, such as businesses. When combined with conflicts of interest, undue influence, revolving door, regulatory capture and bribery, lobbying poses a major challenge to governance systems around the world.

Policy development concerning climate change is an ongoing major lobbying target of some of the most powerful industries. The extent to which companies have lobbied governments to delay and weaken climate policy is well-documented. A 2017 study by Influence Map found that 35 of 50 of the most influential companies in Europe and North America were actively lobbying to delay or dilute climate policy, including standards and procedures. These include companies in the fossil fuel value chain, energy-intensive companies, electric utilities and automotive manufacturers.

Industry influence over climate policy occurs across multiple sectors and in multiple ways. Under the United Nations Framework Convention on Climate Change (UNFCCC), many governments include industry representatives in their delegations and there are many industry-based accredited observers tracking and participating in the process. The UNFCCC itself has also put in place processes and platforms to engage directly with corporations. For example, the Marrakech Partnership “Race to Zero” initiative highlights pledges and climate action by companies, and the UK’s High-Level Climate Action Champion at COP26, Nigel Topping, has welcomed the involvement of the fossil fuel industry.[1]

This policy brief explores the role of industry in climate policy and the importance of addressing conflicts of interest and undue influence to ensure climate action is taken urgently, efficiently and transparently. It explores developments at the UNFCCC related to conflicts of interest and where perceived conflicts of interest have been identified in the run-up to COP26. The brief puts forward recommendations concerning enhanced accountability and transparency within the UN climate negotiations and mechanisms related to the Paris Agreement and the Marrakech Partnership.

# UNDUE INFLUENCE IN CLIMATE POLICY

A conflict of interest is defined by Transparency International as a situation where an individual or the entity for which they work – whether a government, business, media outlet or civil society organisation – is confronted with choosing between the duties and demands of their position and their own private interests.[2] Undue influence[3] in a policy context is a subtle form of corruption, whereby "opaque or disproportionate" measures are used by certain actors, often powerful elites, to secure a policy outcome to their advantage, or to the advantage of the industry which they represent. An example may be through making contributions to electoral campaigns and expecting favourable decisions in return.

Conflicts of interest and undue influence within international systems are essentially an extension of these factors occurring in national systems – including in processes to address the causes of climate change, such as reducing fossil fuels or deforestation. It is reported[4] that during 2018 and 2019 BP, Chevron, ExxonMobil, Shell and Total spent around US$200 million annually on global lobbying efforts to "control, delay or block" climate policy. The fossil fuel industry is also estimated to have provided more than US$800 million in campaign contributions between 2000 and 2017 to support the election of sympathetic officials in the United States.[5] In Australia, similar political donations increased by 48 per cent in 2018 and 2019, compared to 2017.[6]

Issues of conflict of interest have been raised with regards to the involvement of the Japan International Cooperation Agency (JICA) and Tokyo Electric Power Company (TEPCO) in preparing Bangladesh's 2016 Power System Master Plan.[7] This long-term project is funded by JICA to create and implement an energy and power development plan in Bangladesh has been criticised for failing to place sufficient emphasis on renewables. In Brazil in 2010, the agribusiness industry contributed an estimated R$6.5 million (US$3.6 million) to the electoral campaigns of 11 members of the special committee who voted for a measure that, according to reports, in practice dismantled the Brazilian Forest Code.[8] This equated to around 32.5 per cent of their total campaign expenses. The outcome has been a 58 per cent reduction in areas identified for restoration and an amnesty for 90 per cent of actors practising illegal deforestation activities.[9] In 2018, nearly half of Brazilian parliamentarians received a total of R$58.9 million (US$15.2 million) in official donations from companies and individuals responsible for deforestation.[10] It is reported that since 2000, the large meat and dairy companies driving deforestation have spent more than US$2 billion globally in their anti-climate action lobbying efforts.[11]

Conflicts of interest also occur when parties to the international climate regime undermine its processes in defence of state-owned companies or multinationals based in their countries. A notable example is the reported efforts by Australia, Japan and Saudi Arabia to weaken recommendations by the Intergovernmental Panel on Climate Change (IPCC) on the rapid transition away from fossil fuels.[12]

Very few international fora address conflicts of interest and undue influence. In response to the aggressive and misleading tactics of the tobacco industry which undermined public health, the World Health Organisation (WHO) Framework Convention on Tobacco Control[13] has put in place safeguards against conflicts of interest. When designating representatives to international WHO conferences, governments are required to provide a declaration of interest. Additionally, parties are forbidden to nominate delegates from the tobacco industry or any entity working to further the interests of the tobacco industry.[14]

# CONFLICTS OF INTEREST IN THE UNFCCC

The issue of conflicts of interest in the UNFCCC has been raised extensively[15] with this body in recent years. Each of the Climate Convention's three financial mechanisms[16] has policies and codes of conduct in place related to conflicts of interest.

In 2016, a process began within the UNFCCC concerning "enhancement, openness, transparency and inclusiveness of non-State actors".[17] The issues of conflicts of interest and undue influence were identified in a submission[18] jointly made by several civil society organisations and raised multiple times during the process. However, there has not yet been any substantive outcome on these issues. While an outcome on conflicts of interest was supported by countries including Ecuador and the Like-Minded Developing Countries,[19] it is reported that the process was blocked by several others, including Australia, New Zealand, Norway, the United States and those in the EU.[20] Interestingly, the EU position was in contradiction to the views of the European Parliament, which passed a resolution in 2019,[21] prior to COP25, recognising the need for the UNFCCC to address the issue of vested and conflicting interests. This called on the European Commission and member states to take the lead in introducing a conflicts of interest policy for the UNFCCC. The EU was able to push ahead with its objection because its position is set by member states, not the directly elected parliament.

Those countries and interests blocking any procedure or policy on conflicts of interest argue that it is necessary for the fossil fuel industry and high-emitting companies to be involved in climate policy, on the basis that they are expected to play an important role in terms of solutions.[22] This view persists, despite these actors spending billions of dollars and carrying out lobbying over many decades to prevent climate action, and the fact that 70 per cent of fossil fuel companies do not have a plan in place consistent with the Paris Agreement.[23] In the lead-up to COP26, it is increasingly apparent that these same companies have a vested interest in an outcome that will launch a new carbon market under Article 6,[24] such as the Markets for Natural Climate Solutions[25] initiative – a collaboration between the International Emissions Trading Association, BHP, BP, Shell, Chevron and Conservation International.

While there has been little headway made with this issue at the UNFCCC related to negotiations, there has been some recent progress internally within the UNFCCC Secretariat. In November 2018, the Bureau of the COP endorsed a code of ethics[26] to apply to all elected and appointed officers,[27] which includes a specific provision related to conflicts of interest. The code requires that "officers are to avoid any conflict of interests as well as situations which might reasonably be perceived as giving rise to a conflict of interest". They are to guarantee the integrity, impartiality and transparency of the climate change conferences. They are also expected to refrain from giving preferential treatment and seeking or obtaining private gain; and must serve in their capacity as a UNFCCC officer, rather than as a representative of a party. These officers are required to deal with issues in a consistent, apolitical and fair manner; and to refrain from taking a preferential, biased or prejudiced approach; or from doing anything that could adversely affect the parties' confidence in the integrity of UNFCCC work.

Compliance with this code of ethics was considered in an audit undertaken in 2019 by the UN Office of Internal Oversight Services (OIOS)[28] to ensure the strength of the Constituted Bodies within the Convention to support implementation of the UNFCCC mandate. The audit identified that the Executive Board of the Clean Development Mechanism, the Joint Implementation Supervisory Committee and the Executive Committee of the Warsaw International Mechanism all have safeguards against potential conflicts of interest. However, the Consultative Group of Experts, the Least Developed Countries Expert Group, the Standing Committee on Finance and the Technology Executive Committee did not.[29] The OIOS made a recommendation for the harmonisation of approaches to prevent conflicts of interest, to ensure consistency with the code of ethics.

The UNFCCC also provides a handbook for hosting UN Climate Change conferences, which is intended to provide information on hosting a COP, including on matters related to best practices in protocol and external relations, through to observers and conference logistics.[30] The handbook makes no reference to conflicts of interest or adherence to any code of conduct to prevent undue influence on the preparation, running or outcome of a COP.

## PERCEIVED CONFLICTS OF INTEREST AND THE COP26 PRESIDENCY

The failure of the UNFCCC to adequately address the issues of conflicts of interests and undue influence within the negotiation process has been a challenge faced by the UK's COP26 presidency. The UK has faced several allegations of perceived conflicts of interest and undue influence:

1. In March 2021, it was reported[31] that UN Climate Finance Envoy Mark Carney has a conflict of interest in relation to the management of fossil fuel (oil and coal) infrastructure assets through his company Brookfield. Further concerns related to conflicts of interest have been raised regarding Mr Carney's role[32] in the Taskforce on Scaling Voluntary Carbon Markets, in which a subsidiary company of Brookfield – Hartree Partners – is directly participating. This is of particular concern given the priority of the UK COP presidency to achieve an outcome on Article 6 of the Paris Agreement related to carbon trading.

2. In October 2020, it was reported[33] that the Boston Consulting Group (BCG), which provides advice to at least 19 of the world's top 25 oil companies, is a member of the Marrakech Partnership[34] and has been contracted for more than £1 million (US$1.4 million) by the UK government's COP26 Unit to provide strategy implementation, strengthening the project management function and supporting the COP26 Climate Champions' workstream.[35] It was reported that BCG was so keen to work at COP26, that it was willing to do so for free.[36] Senior personnel within the UK Cabinet Office COP Unit have expressed concerns that this relationship creates a conflict of interest – allegations rejected by BCG and the COP presidency.

3. In October 2020 it was reported[37] that UK government ministers and COP26 officials held a series of private meetings with representatives of BP, Equinor and Shell. Documents have been identified which reportedly show that BP[38] made an offer to introduce UK officials to government officials in other countries to discuss the climate crisis, and that Norwegian oil and gas firm Equinor emailed the Department for Business, Energy and Industrial Strategy asking how much it would need to pay to be "visible" at COP26. The documents show that at a meeting in Houston, Texas, a UK government minister was lobbied by these companies to ensure enhanced recognition of natural gas as an essential transition fuel.[39] At the same time, BCG is also lobbying for gas as a transition fuel,[40] despite its high emissions and recognition by the International Energy Agency that the gas industry is currently not aligned with the Paris Agreement.[41]

# ENHANCING ACCOUNTABILITY IN THE UNFCCC

The subject of conflicts of interest in policymaking is new to neither national nor international policy processes. However, policies on this matter have been approached inconsistently within the UNFCCC system, as identified by the OIOS audit. While enhanced measures related to the Constituted Bodies of the Convention are being taken internally, there continues to be an ongoing lack of governance related to access and undue influence by industries well known for deliberately causing delay in climate policy.

The Paris Agreement[42] puts in place an "enhanced transparency framework" intended to build mutual trust and confidence and to promote effective implementation. The substance of this new framework remains under negotiation, with agreements expected at COP26. The latest negotiation document[43] – produced at COP25 in Madrid – includes a provision for countries to report on private-sector climate finance to the UNFCCC. Enhancing transparency in reporting on finance should also include private-sector finance allocations made to lobbying and other influencing efforts to delay or slow climate action at both national and international levels.

The summary report[44] of the submissions concerning enhancement, openness, transparency and inclusiveness of non-State actors in 2017 identifies that non-state actors are essential for ensuring transparency, strengthening accountability and keeping the global community fully focused on the issue of climate change. The report identifies that the enhanced transparency framework is one area where the role of non-state actors is of importance, including through the Global Stocktake (GST) of progress on implementation of the Paris Agreement, the first of which is expected to take place in 2023. The role of the private sector in contributing to climate action is expected to be a key component of the GST, including related to fossil fuel industry practices that must stop if emissions targets are to be met.[45] Reporting on the extent to which ongoing private-sector finance is being allocated to influencing efforts to delay and prevent climate action will be central to the first GST and should be facilitated through the formal reporting channels.

The Marrakech Partnership Race to Zero is also an area of concern, as there is little information available as to how the companies involved will meet the "net zero" pledges or how they are to be tracked and evaluated. This lack of clarity opens the potential for this UNFCCC platform to be subject to greenwashing.

# CONCLUSIONS AND RECOMMENDATIONS

Conflicts of interest and undue influence in policymaking produce unfair outcomes and undermine the policy formulation process. There is a history of such conduct by fossil fuel companies and other industries that cause climate change and are resisting the need to adapt and evolve. Despite this, the UNFCCC still does not have any system to stop industry representatives from being part of country delegations, or to prevent such industries from unduly influencing the process. On the contrary, the UNFCCC is putting in place measures to further welcome these industries and entrench them within the system.

The following recommendations aim at preventing vested interests from undermining action against the climate crisis:

The UK COP26 presidency should:

+ Initiate a process at COP26 that invites public submissions from parties and stakeholders specifically on the subject of conflicts of interest and undue influence over climate policy.
+ Hold a second in-session workshop concerning the enhancement, openness, transparency and inclusiveness of non-state actors at COP27.

The UNFCCC should:

+ Establish definitions of “conflict of interest” and “undue influence” to ensure adequate controls on party delegations and engagement in negotiations on implementing the UNFCCC, its Kyoto Protocol and the Paris Agreement.
+ Put in place a system whereby national governments designating representatives to any UNFCCC meeting are required to provide their representatives’ declarations of financial, professional and other interests. Declarations of interests should be recorded and publicly available in machine-readable formats.
+ Prohibit the nomination of delegates, including government representatives, who have held financial, professional or other interests in industries and companies known to have provided direct and indirect funding and support to undermining climate action.[46]
+ Ensure all conflicts of interest policies for Constituted Bodies as recommended by the UN OIOS audit are developed through an open, transparent, consultative and participatory public process.
+ Review the handbook on hosting a COP to include a specific section on conflicts of interest of COP presidencies.

The enhanced transparency framework should require mandatory reporting on the following to be included in a public register:

+ A declaration, by government representatives, of private-sector efforts to lobby or influence national governments to delay and weaken climate policy – for example, through meetings, documents, gifts or hospitality.
+ Disclosure by countries of funding provided to national political parties and candidates from companies known to undermine climate action.[47]
+ Public declarations of interest by participants in UNFCCC meetings, including government representatives with financial, professional or other interests in fossil fuel and other companies known to cause a significant contribution to climate change.

The Global Stocktake should secure inputs – including from CSOs – on:

+ Levels of private-sector finance used for lobbying and influencing governments at national, regional and international levels to undermine climate policy.[48]
+ Non-financial efforts to lobby or influence governments at national, regional and international levels – for example, through meetings, documents, gifts or hospitality.

The Marrakech Partnership should enhance and improve its tracking and reporting system to put in place:

+ A registry and strict rules concerning climate lobbying for corporate members – for example, disclosure of meetings, expenditure and influence on climate policy.
+ A transparent system of disclosure, accountability, and monitoring and evaluation of the pledges made. This should be based on credible, science-based data and information available concerning environmental and social governance, risk and financial disclosure, including through the Taskforce on Climate-Related Financial Disclosures.
+ A mechanism to identify and ban members found to be negatively influencing climate policy.

# ENDNOTES

[1] https://www.climatechangenews.com/2020/11/09/uk-climate-champion-oil-majors-can-join-race-zero-align-1-5c/

[2] https://www.transparency.org/en/corruptionary/conflict-of-interests

[3] https://knowledgehub.transparency.org/guide/topic-guide-on-undue-influence/5191

[4] https://influencemap.org/report/Corporate-Climate-Policy-Footpint-2019-the-50-Most-Influential-7d09a06d9c4e602a3d2f5c1ae13301b8; https://www.forbes.com/sites/niallmccarthy/2019/03/25/oil-and-gas-giants-spend-millions-lobbying-to-block-climate-change-policies-infographic/?sh=27c9f9267c4f

[5] https://yaleclimateconnections.org/2020/01/fossil-fuel-political-giving-outdistances-renewables-13-to-one/ see also: https://www.opensecrets.org/?__cf_chl_captcha_tk__=pmd_CeZt2sD0IpJBg2bgSzj.E6nDx3Bg0zMJWDzxfc.wE7g-1632974880-0-gqNtZGzNAuWjcnBszQil

[6] https://www.marketforces.org.au/politicaldonations2020/

[7] https://nocoaljapan.org/tepco-must-be-dropped-from-consideration-as-consultant-for-review-of-the-power-system-master-plan-of-bangladesh/

[8] http://www.ihu.unisinos.br/noticias/42065-deputados-que-aprovaram-novo-codigo-florestal-receberam-doacao-de-empresas-desmatadoras--

[9] https://revistas.ufpr.br/guaju/article/view/56294 and https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjsy8O2q9nyAhXDIbkGHf6NAY4QFnoECAUQAQ&url=https%3A%2F%2Frevistas.ufpr.br%2Fguaju%2Farticle%2Fdownload%2F49758%2F29786&usg=AOvVaw0SFkhP6vupi1Pch4lx6zj1

[10] https://reporterbrasil.org.br/2018/01/maioria-dos-deputados-recebeu-doacao-de-desmatadores-como-isso-reflete-na-sua-atuacao/

[11] https://insideclimatenews.org/news/02042021/meat-dairy-lobby-climate-action/

[12] https://unearthed.greenpeace.org/2021/10/21/leaked-climate-lobbying-ipcc-glasgow/

[13] Article 5.3 of the Framework Convention on Tobacco Control (FCTC) states that: “In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”. https://www.who.int/fctc/cop/doi/en/

[14] The guidelines to the implementation of Art 5.3 of the FCTC are premised on four principles: (1) there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests; (2) Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent; (3) Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent; (4) because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses.

[15] http://kickbigpollutersout.org/resources/

[16] The three financial mechanisms are the Adaptation Fund, the Global Environment Facility and the Green Climate Fund.

[17] Arrangements for Intergovernmental Meetings. p.28. https://unfccc.int/sites/default/files/resource/docs/2016/sbi/eng/08.pdf

[18] The joint submission from Corporate Accountability International, Third World Network, Asian Peoples Movement on Debt and Development, Friends of the Earth (England, Wales and Northern Ireland), IBON International, Environmental Rights Action/Friends of the Earth-Nigeria, Asia Pacific Forum on Women, Law and Development, SustainUS, Corporate Europe

Observatory, and Women in Europe for a Common Future. https://unfccc.int/files/parties_and_observers/application/pdf/855final.pdf

[19] Like-Minded Developing Countries submission for the in-session workshop on opportunities to further enhance the effective engagement of non-party stakeholders at UNFCCC SBI-46. https://www4.unfccc.int/sites/SubmissionsStaging/Documents/713_273_131376975019191317-LMDC%20Submission%20on%20Non-State%20Actors%20participation%20in%20climate%20change%20-%20for%20SBI%2046%20-%20May%202017.pdf

[20] More than 300 CSOs signed a letter requesting that these countries cease blocking progress on conflicts of interest at the UNFCCC and expressing the urgency of a strong climate policy. https://www.corporateaccountability.org/resources/eu-usa-australia-new-zealand-norway-stop-blocking-a-conflict-of-interest-policy-at-the-unfccc-kick-big-polluters-out/

[21] European Parliament resolution of 28 November 2019 on the 2019 UN Climate Change Conference in Madrid, Spain (COP 25) (2019/2712(RSP)). https://www.europarl.europa.eu/doceo/document/TA-9-2019-0079_EN.html

[22] For example, see the statement made in 2017 by Australia's then-Ambassador for the Environment: https://insideclimatenews.org/news/19052017/paris-climate-talks-fossil-fuel-influence-conflict-interest/

[23]https://www.transitionpathwayinitiative.org/publications/61.pdf?type=Publication

[24] In December 2018 it was reported that Shell Oil's Chief Climate Change Adviser, David Hone, said "We have had a process running for four years for the need of carbon unit trading to be part of the Paris Agreement. We can take some credit for the fact that Article 6 [of the Paris Agreement] is even there at all." https://theintercept.com/2018/12/08/shell-oil-executive-boasts-that-his-company-influenced-the-paris-agreement/

[25] https://ncs.ieta.org/

[26] UNFCCC Code of Ethics for elected and appointed officers under the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement Endorsed by the Bureau of the Conference of the Parties. https://unfccc.int/sites/default/files/resource/Code%20of%20Ethics%20for%20elected%20and%20appointed%20officers.pdf

[27] Presiding officers of the climate change process include: The President of the Conference of the Parties (COP), the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA); the chairs of the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA); the chairs of other ad hoc subsidiary bodies; the chairs of contact groups; and the chairs (or facilitators) of informal consultations, consultations conducted by the presidency, and other smaller group settings. UNFCCC Guide for Presiding Officers, as revised September 2017. https://unfccc.int/sites/default/files/20170919_guideforpresidingofficers_final.pdf

[28] Audit of support and services provided to the constituted bodies at the United Nations Framework Convention on Climate Change. Controls over support and services provided to the constituted bodies need to be strengthened. https://oios.un.org/audit-reports

[29] https://unfccc.int/sites/default/files/resource/BN10_SCF22_Oath%20of%20Service.pdf

[30] https://unfccc.int/sites/default/files/resource/How-to-COP_2020.pdf

[31] https://www.independent.co.uk/climate-change/opinion/mark-carney-un-climate-finance-envoy-b1822336.html

[32] https://www.bloomberg.com/news/features/2021-06-02/carbon-offsets-new-100-billion-market-faces-disputes-over-trading-rules

[33] https://www.channel4.com/news/consultancy-firm-who-advise-fossil-fuel-industry-hired-to-consult-on-uns-cop26

[34] https://climateaction.unfccc.int/views/stakeholder-details.html?id=18219

[35] https://www.bcg.com/press/25march2021-bcg-announces-expansion-global-climate-sustainability-center-cop26-partnership

[36] https://www.channel4.com/news/consultancy-firm-who-advise-fossil-fuel-industry-hired-to-consult-on-uns-cop26

[37] https://www.theguardian.com/environment/2020/oct/01/uk-held-private-talks-with-fossil-fuel-firms-about-glasgow-cop26

[38] https://unearthed.greenpeace.org/2020/05/25/cop26-minister-bp-key-stakeholder-climate-conference/

[39] https://unearthed.greenpeace.org/2021/07/07/oil-gas-transition-climate-cop-lobby/ and https://www.youtube.com/watch?v=IBYFEUJRmvY

[40] https://www.bcg.com/en-gb/industries/energy/oil-gas/strategies-for-natural-gas-lng

[41] https://www.iea.org/news/natural-gas-demand-growth-set-to-slow-in-coming-years-but-strong-policy-actions-still-needed-to-bring-it-on-track-for-net-zero-emissions

[42] Article 13 (1) of the Paris Agreement. https://unfccc.int/sites/default/files/english_paris_agreement.pdf

[43] https://unfccc.int/sites/default/files/resource/IN.SBSTA2021.i14c.2.pdf

[44] https://unfccc.int/sites/default/files/resource/docs/2017/sbi/eng/inf03.pdf

[45] https://unfccc.int/sites/default/files/resource/CAN%20Statement%20GST%20SB%20Chairs%20Non-Paper.pdf

[46] "Undermining climate action" should be defined to include direct or indirect actions by companies which seek to prevent, slow or delay climate action, including through laws, policies or regulations. This should include companies which provide services such as consulting, public relations and financial management, and which advise or undertake such actions, and individuals or companies which provide or receive funding, including through donations related to the above.

[47] Ibid

[48] Ibid

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