Annex I

Guidance Note for the provision of information by States parties for the ninth intersessional meeting of the Working Group on Prevention from 6 to 7 September 2018

1. The Secretariat has produced this Guidance Note to assist States parties in providing information as to initiatives and practices they have implemented regarding the topics under consideration at the ninth intersessional meeting of the Working Group on Prevention taking place from 6 to 7 of September 2018.

2. The Secretariat wishes to recall paragraph 12 of the report of the Working Group on Prevention on its second intersessional meeting, in which the Group recommended that States parties should be invited to share their experiences of implementing the provisions of the Convention under consideration in advance of each meeting, preferably by using the self-assessment checklist.

3. In furtherance of this, the Secretariat outlines below a selection of issues based on the questions from the self-assessment checklist that States parties may wish to use as a guide when providing information regarding the two topics under consideration. States parties are encouraged to view the information below only as guidance and remain free to provide any information believed to be relevant to the topics under consideration.

I - Information requested from States parties in relation to preventing and managing conflicts of interest (art. 7, para. 4)

1. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(1) National Public Employees

   Regarding the national public employees in regular service, they are obliged to serve the public interest as servants of all citizens and devote their effort in the performance of duties in the National Public Service Act. Also, the act disciplines duties such as prohibiting acts that cause discredit to their government positions or bring dishonor upon the entire government positions. As a concrete measure, we try to cultivate and maintain the sense of ethics of employees in various training and call
attention etc.

In addition, the National Public Service Ethics Act and the National Public Service Ethics Code provide the rules to prevent the acts that may bring about suspicion and distrust from the citizens, such as the contact with the interested parties. According to the rules, the employees are prohibited or restricted from receiving gifts from the interested parties. Also, the Cabinet reports to the National Diet every year regarding the measures concerning the preservation of ethics and the measures taken concerning the maintenance of ethics, and when there is the establishment or revision or abolition of the National Public Service Ethics Code and the rules concerning ethics, the Cabinet will transfer it to the Diet Reporting.

(2) Local public employees

Regarding local public employees in regular service, relevant provisions of the Local Public Service Act (for example the Article 15 and 30) stipulate necessary measures for ensuring compliance with the said provision of the Convention.

(3) Political Parties and Political Organizations

Regarding political organizations, Japan takes necessary measures to ensure compliance with the aforementioned provision of the Convention, by enacting relevant provisions of the Political Funds Control Act, for example Article 12 and 20 of the Act.

Regarding political parties which receive public party subsidiary, Japan takes necessary measures to ensure compliance with the aforementioned provisions of the Convention, by enacting relevant provisions of the Political Party Subsidies Act, for example Article 17 and 31 of the Act.

(4) Judges

Article 20 to 25 of the Code of Criminal Procedure stipulates the disqualification and recusal of a judge, and Article 13 of the Rules of Criminal Procedure stipulates the avoidance of the judge on criminal cases. Article 23 to 26 of the Code of Civil Procedure stipulates the disqualification and challenge of a judge, and Article 12 of the Rules of Civil Procedure stipulates the withdrawal of a judge on civil cases.

(References)
National Public Service Act (full text in English)
(http://www.japaneselawtranslation.go.jp/law/cetain/?printID=&ft=1&re=01&dn=1&co
Information sought may include:
- Description of specific conflict of interest standard(s), indicating if these standards:
  - Are publicized widely;
  - Regulate the outside activities of public officials;
  - Prohibit the holding by public officials of certain types of assets or positions in legal entities that are incompatible with their primary functions, such as an individual sitting on the board of a company;
  - Limit the official actions a public official may take because of a conflict of interest;
  - Apply criminal, administrative or other sanctions where public officials do not comply with applicable conflicts of interest regulations;
- Description of training or advisory services to public officials regarding relevant conflicts of interest regulations;
- Description of public access to information or government processes in which there is a higher risk of conflict of interest between the interests and activities of a public official and the particular type of government process;
- Description of the specific duties and responsibilities of the specialized staff or bodies given responsibility to strengthen transparency and prevent conflicts of interest in government;
- Description of the institutional structure and procedures to oversee the compliance with conflict of interest legislation and apply respective sanctions.
- Description of the measures aimed at preventing conflicts of interest concerning former public officials in private entities, such as:
  - Restrictions, for a reasonable period of time, on the professional activities of former public officials;
  - Restrictions, for a reasonable period of time, on the employment of former public officials by the private sector after resignation or retirement;
2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

N/A

Examples of the types of challenges States parties may face include:
- Challenges in developing the proper legislative or regulatory framework for managing or preventing conflicts of interest;
- Challenges in administering conflict of interest systems;
- Challenges in relation to specific recruitment, selection or training requirements for categories of positions considered especially vulnerable to corruption, including possible early identification of potential conflicts of interest;
- Challenges in providing ethical guidance or advice to public officials; and
- Challenges in communication, and in particular in raising awareness and disseminating information about new standards of conflict of interest or in developing training manuals, courses, curricula or other related material, including online initiatives, used in training programmes for public officials.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

No. Japan does not require technical assistance to implement this provision.

- **Legislative assistance:** Please describe the type of assistance

- **Institution-building:** Please describe the type of assistance

- **Policymaking:** Please describe the type of assistance
- **Capacity-building**: Please describe the type of assistance

- **Research/data-gathering and analysis**: Please describe the type of assistance

- **Facilitation of international cooperation with other countries**: Please describe the type of assistance

- **Others**: Please specify

States parties are also encouraged to provide a description of any such assistance already being provided, including donor information.

**II - Information requested from States parties in relation to asset and interest disclosure (art. 8, para. 5)**

1. Please describe (cite and summarize) the measures your country has taken, if any, (or is planning to take, together with the related envisaged time frame) to ensure full compliance with article 8 (5) of the Convention, and in particular to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(1) **National Public Employees**
The National Public Service Act, Article 103 stipulates the exclusion of the national
public employees in regular service from private enterprises, and Article 104 stipulates the restriction of the national public employees in regular service on participation in other undertaking or business.

In addition, the National Public Service Ethics Act obliges officials at the rank of deputy-director or higher at the headquarters to report gifts etc., exceeding 5,000 yen per instance from the business operator etc., The Act also obliges to share dealings pertaining and income pertaining to officials at the rank of deputy director-general or higher at the headquarters etc., to the chief of each ministry or agency.

(2) Local Public Employees

Regarding local public employees in regular service, relevant provisions of the Local Public Service Act (for example the Article 38) and the bylaws of each local government stipulate necessary measures for ensuring compliance with the said provision of the Convention.

(3) Judges

Article 52 of the Court Act stipulates the prohibition of commercial business, etc by a judge.

(References)
National Public Service Ethics Act (full text in English)
(http://www.japaneselawtranslation.go.jp/law/detail/?id=104&vm=04&re=01&new=1)

National Public Service Ethics Code (full text in English)
(http://www.japaneselawtranslation.go.jp/law/detail/?id=2952&vm=04&re=01&new=1)

Information sought may include:
- Description of the objectives of the declaration system applicable to public officials (prevention of conflict of interest, illicit enrichment, or both [dual system]).
- Where such a declaration system is in place, you may wish to provide information on the following:
  - Types (categories) of public officials required to make declarations and approximate total number of persons submitting declarations;
  - Information that must be declared (assets, outside activities and employments,
positions in companies, other associations, gifts and other benefits, liabilities, etc.);
- Frequency of declarations required;
- How declarations are submitted (in paper format, electronically, in person) and the entities to which they are submitted;
- Availability of tools and advisory services that officials can use in order to comply with their disclosure-related obligations (guidelines for filling out forms, resources for learning about conflict of interest issues, resources for receiving tailored advice on specific conflict of interest situations, etc.);
- Whether information is declared on assets of public officials’ family members or members of public officials’ households and under which circumstances such information is provided;
- What mechanisms are in place for ensuring compliance with the obligation to disclose;
- Whether there is public access to any of this information;

- Any mechanism in place to carry out the verification/monitoring of the content of declarations; including information on the verification mechanism, such as:
  - How many disclosures are verified (all, a certain percentage, etc.);
  - What triggers verification (complaints, routine verification/ex-officio, notifications from other institutions, random selection, etc.);
  - What processes are involved in the verification/review process (checks for internal consistency, cross-checks with external databases, comparisons across years, identification of potential conflicts of interest, etc.);
  - What information can be accessed during the verification/review process (from public officials or public and private sector entities);
  - What happens once irregularities are identified (potential conflicts of interest, unjustified variations of wealth, inaccurate information, etc.);

- Whether and to what extent the content of disclosures (in summary form or all information disclosed) or names of persons submitting declarations are made available to the public and other public sector entities and, moreover, how the information is made available (upon individual request, on-line, etc.);
- Number of trained staff dedicated to collection, compliance, providing advisory services to officials, making disclosures publicly available, verification, sending referrals to other entities; what types of sanctions are available in the declaration system
(for non-submission, actual conflict of interest, false statement, illicit enrichment, etc.).

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

N/A

Examples of the types of challenges States parties may face include:
- Challenges related to developing and adoption of the legal framework of the assets and interest disclosure system;
- Challenges related to the functioning of the asset and interest disclosure system and in particular:
  - Challenges related to submission of the declarations;
  - Challenges related to verification of the declarations;
  - Challenges related to the follow up and to imposing sanctions;
  - Challenges related to the transparency of the regime; and
  - Challenges related to resources limitations, lack of capacity, etc.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

No. Japan does not require technical assistance to implement this provision.

- **Legislative assistance:** Please describe the type of assistance
- **Institution-building:** Please describe the type of assistance
- **Policymaking:** Please describe the type of assistance
- **Capacity-building:** Please describe the type of assistance
- **Research/data-gathering and analysis:** Please describe the type of assistance
- **Facilitation of international cooperation with other countries:** Please describe the type of assistance
- **Others:** Please specify

States parties are also encouraged to provide a description of any such assistance already being provided,
including donor information.