Brussels, 12 of April 2021

Dear Executive Committee of MAC,

Following the InterAC meeting on 18 January and the Commission letter to ACs on 18 March on the issue of *chairs/working group chairs*, here are several comments on this letter.

First, the AC system is based on participation of representative organisations.
The Member State of residence is asked to confirm that the organization applying for membership is eligible. Once this is confirmed the AC GA approves the application, unless there are relevant objections. One of the problems encountered in this procedure is the possible lack of clarity on the status of an organization: the 60% (industry) or 40% (NGOs). We believe the Commission has not come up with a satisfactory set of rules on this matter yet.

A member of an AC is therefore not an individual but an organization. It is this organization that then designates one or more individuals to represent it. There are no rules on the status of these individuals; not on nationality, not on country of residence, not on who their employer is or any other matter. If organisations feel these individuals do not satisfactorily represent their interests, they can nominate someone else.

ACs elect *chairs/working group chairs* according to their statutes, and again there are no criteria or qualifications for their status in those statutes.

What happened in the InterAC meeting on 18 January should not have happened, as all participants were designated by their ACs and well known to colleagues in other ACs and the Commission.

The Commission then sent invitations to all these participants to join the web meeting and this was transparent for all. There was therefore no new situation, and it can be seen as totally inappropriate for a chair of an AC to question the presence of a delegate of another AC. This is not the competence of an AC chair. If there were concerns or questions these should have been voiced before the meeting. And if the Commission had an opinion about UK participants, it should have given directions in advance.

It was only because the delegate himself decided a discussion on his presence was not appropriate or useful and voluntarily left the meeting, that escalation during the meeting was avoided.

Although we can understand Brexit has left many people with frustration, the emotions about a UK person in the room do not fit in our international working environment. If we look closer to the

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different possible situations it becomes evident things are not that simple. This requires a broader approach than just the relation with the UK.

In this case he UK person represents an EU organization that has chosen to continue the cooperation with the UK member organization given the numerous trade and sustainability issues relevant to both UK and EU operators.

The UK member organisation in question represents a number of companies which manufacture and employ people in several different Member States, under well known European brand names. We also believe it is wrong to make nationality, or the country where their employer may be registered, a criterion to serve as an office holder in an Advisory Council, whatever interests that person may represent. It is also the case that some individuals hold dual nationality – and that some may work as self-employed consultants rather than for a specific legal entity.

There are many possible situations where individuals from third countries represent EU organisations. There are also many possible situations where individuals active as chairs could be employed by organisations or companies financed or owned by UK or other third country organisations or companies. For this reason, if there is to be a discussion, it should include all these possible situations that could potentially be seen as problematic if the same line of thinking were to be followed.

Focusing only on one third country and strongly advising ACs not to elect individuals with this nationality can be considered as discrimination. AIPCE CEP believes the Commission has taken a wrong approach on this.

The Commission is correct when it states that it is up to the ACs to decide whom they elect as chairs and working group chairs. This legal system however also implies that it is up to the members of the ACs to decide whom they nominate. By de facto excluding the nomination of certain individuals the Commission's statement cannot be considered as respecting the sovereignty of the ACs and the members of the ACs.

AIPCE CEP does not consider restriction of information or working against the interest of the EU as valid reasons. ACs are public bodies where all information is transparent and available.
ACs do not negotiate with third countries or any other body. If a chair would not serve the interest of the EU then its EU organization would never allow that individual to represent them.

AIPCE CEP does not agree with the restrictive approach taken by the Commission as put forward in the letter. AIPCE CEP respects the mandate given to the ACs to elect their chairs. It is only up to the AC to decide upon the election of chairs of the Working Groups, and this should be unconditional, unless there are legal rules that prohibit that.

AIPCE CEP invites the Commission to come up with legal rules on the background of *chairs/working group chairs* in ACs taking into account all possible third country connections AC members and AC chairs could have.

If the Commission does not find this appropriate, it should leave the nomination of chairs to the ACs and accept that these individuals are the representatives of the ACs.

Kind regards,

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