

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2015

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Brussels, 25 November 2015

Related documents: CC 525, Mess 1260/15
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Approval by Written Procedure of the Amendments to the Procedural Rules of the Conference

By document CC 525, dated 5 November 2015, delegations were invited to approve the amendments to the Procedural Rules of the Energy Charter Conference. As specified by Rule 20 of the Rules of Procedure concerning the adoption of decisions by correspondence, members of the Energy Charter Conference were informed that any delegation that wished to object to this proposal should notify the Secretariat of its position in writing by 25 November 2015.

Having received no objections within the specified time limit, on 25 November 2015 the Conference **approved** the amendments to the Procedural Rules of the Energy Charter Conference. There is an understanding that rule 13.b.c will not enter into force until January 2018. Attached is the current, clean version including the amendments approved by the Conference.

RULES OF PROCEDURE OF THE ENERGY CHARTER CONFERENCE

(Article 34(6) of the Energy Charter Treaty)

I. MEETINGS

Rule 1

- (a) Ordinary meetings of the Conference shall be held at intervals determined by the Conference. The date of each ordinary meeting shall be fixed by the Conference at a previous meeting. Any ordinary meeting may, however, be rescheduled by the Chairperson of the Conference in consultation with the Secretariat if necessary for reasons unforeseen by the Conference. Notice of rescheduling of a meeting shall be given at least 15 days in advance of the date for the rescheduled meeting.
- (b) Extraordinary meetings of the Conference may, as provided in Article 34(2) of the Energy Charter Treaty, be held at such times as are determined by the Conference, or at the written request of any Contracting Party or Signatory to the Energy Charter Treaty (hereinafter referred to as 'Contracting Party' or 'Signatory') provided that, within six weeks of the request being communicated in writing to the other Contracting Parties and Signatories by the Secretariat, it is supported in writing by at least one-third of the Contracting Parties and Signatories. Notice of extraordinary meetings shall be given at least 15 days in advance of the date of the extraordinary meeting.

Rule 2

Meetings of subsidiary bodies shall be held when convened by their Chairperson in accordance with any relevant decisions of the Conference, or when requested in writing by one-third of their members.

Rule 3

- (a) Meetings of the Conference and of its subsidiary bodies normally shall be held in Brussels. However, the Conference or a subsidiary body may decide to meet elsewhere.
- (b) Each year, within two weeks of the annual conference, the Secretariat will produce a schedule of planned and proposed meetings and activities for the following year. Meetings will be confirmed upon the specific invitation, and uploaded on the delegates' website. As a rule, specific invitations should be uploaded one month before the meeting.
- (c) If the meeting room is provided with a videoconference system, the Secretariat may offer the opportunity to participate via teleconference or videoconference.

II. AGENDA

Rule 4

- (a) The Secretariat, in consultation with the relevant Chairperson, shall draw up and transmit to all Contracting Parties and Signatories the proposed agenda for each meeting of the Conference and of the subsidiary bodies.
- (b) In notifying the Contracting Parties and Signatories of the date of a meeting the Secretariat shall communicate to them any available information about the proposed agenda. The proposed agenda together with any available documents for the meeting shall be uploaded on the Energy Charter Secretariat webpage at least 15 days in advance of the meeting.
- (c) As a general rule, each day a document has been uploaded, a dissemination message confirming the upload will be sent to delegates. The deadline mentioned in the previous paragraph refers to the date of the upload, not of the dissemination message.

Rule 5

The first item of business at each meeting shall be the consideration and approval of the agenda.

Rule 6

The Conference or a subsidiary body may amend its agenda or give priority to certain items.

III. OBSERVERS

Rule 7

A. General rules

- (a) States and international organisations which sign the European Energy Charter or the International Energy Charter shall thereby obtain observer status to the Energy Charter Conference. They may be invited by the Conference or its subsidiary bodies, where appropriate, to attend meetings, or part of meetings, of the Conference, or of the subsidiary bodies, as observers without the right to vote.
- (b) The Conference may also invite representatives of international organisations to be represented as observers without a right to vote at meetings, or parts of meetings, of the Conference or of its subsidiary bodies.
- (c) At a meeting, the Chairperson may, at his or her own initiative or upon request, invite an observer to make a statement on a particular issue.

- (d) The Secretariat shall notify the observers of the dates of meetings or parts of meeting of the Conference or of its subsidiary bodies which they may attend and shall provide them with the agenda and other documents thereof as if the observers were Contracting Parties or Signatories for the purposes of Rule 4.

B. Specific rules regarding signatories of the European Energy Charter

- (a) Any signatory to the European Energy Charter which has not signed the Energy Charter Treaty may participate in the negotiations referred to in Articles 10(4) and 33 of the Energy Charter Treaty.
- (b) Signatories to the European Energy Charter which have not signed the Energy Charter Treaty are admitted to such negotiations upon notification to the Secretariat of their intention to participate and their decision to contribute to the costs of the negotiations.

IV. REPRESENTATIVES

Rule 8

The names of representatives of Contracting Parties, Signatories and observers attending meetings of the Conference and of its subsidiary bodies shall be communicated to the Secretariat.

V. SUBSIDIARY BODIES

Rule 9

- (a) The Conference may, as provided in Article 34(5) of the Energy Charter Treaty, establish such subsidiary bodies as it considers appropriate for the performance of its duties. Such subsidiary bodies shall be either 'Standing Groups' established to deal with issues of a regular nature or 'Working Groups' established to carry out negotiations or other work of a temporary nature.
- (b) The Conference shall determine the terms of reference for and the membership of subsidiary bodies.

Rule 10

The Conference or subsidiary bodies may set up temporary sub-groups to assist them in their work.

Rule 11

- (a) A subsidiary body shall address such issues as it is instructed to do by the Conference.

- (b) A subsidiary body may decide to address any matter related to the issues within its competence.
- (c) The Conference may decide that the work undertaken by a subsidiary body should not be carried further.

Rule 12

- (a) A subsidiary body shall through its Chairperson report to the Conference.
- (b) Recommendations submitted by the Chairperson of a subsidiary body to the Conference shall call attention to differences in the views of Signatories.
- (c) A sub-group shall through its Chairperson report to the body which set it up, which shall give it the necessary guidance for carrying out its work.

VI. OFFICERS

Rule 13

A. Conference

- (a) The Chairmanship of the Conference shall be held for a term of one calendar year. Each year, the Conference shall approve a list of future Chairmanships of the Conference covering at least the following three years and on the basis of equitable geographical rotation.
- (b) As a rule, the minister in charge of Energy Charter issues of the Contracting Party holding the Chairmanship shall be designated as Chairperson of the Conference. The Contracting Party holding the Chairmanship may also nominate a representative other than the minister as the Chairperson. In performing such duties, the Chairperson shall act in accordance with the Energy Charter Treaty, Protocols, Declarations and Conference decisions. The Chairperson shall be assisted by Vice-Chairpersons.
- (c) Contracting Parties may nominate themselves for the office of Chairmanship by letter to the Secretariat, indicating their preference for the year they wish to assume this role. The Secretariat shall immediately make such letter available to all delegations.
- (d) If for any reason the Chairperson can no longer perform the functions of the office, the Chairmanship shall nominate an official of the relevant government office as replacement. The Conference shall then, without delay, designate the replacement as new Chairperson.

- (e) Three positions of Vice-Chairpersons shall be reserved for the current, the outgoing and the incoming Chairmanships. The Vice-Chairperson representing the acting Chairmanship shall act as first Vice-Chairperson, while the Vice-Chairpersons representing the outgoing and incoming Chairmanships shall rank second and third respectively. Additional Vice-Chairpersons, if any, shall be ranked taking into account the date of their first appointment.
- (f) As part of the change of Chairperson under paragraph (d), the Chairmanship may re-nominate a Vice-Chairperson for designation by the Conference without delay.

B. Standing/Working Groups

- (a) The Chairpersons and Vice-Chairpersons of the Working/Standing Groups shall be designated each year by the Conference. As a general rule, no person can be Chair or Vice-Chair of the same Working/Standing Group for more than three consecutive years unless there is no other volunteer.
- (b) The Chairpersons and Vice-Chairpersons of the Standing/Working Groups shall be designated on a volunteer basis, taking into account the principle of equitable geographical distribution among the Contracting Parties and Signatories.
- (c) If there is no volunteer or if the Conference is not able to take a decision, the Chairmanship of the Conference shall act as interim Chair until a volunteer is confirmed by the Conference.
- (d) If a Chairperson is absent from any meeting or part thereof, a Vice-Chairperson shall perform the functions of the Chairperson. If a Vice-Chairperson is not present, the Contracting Parties and Signatories attending the meeting shall elect an interim Chairperson for that meeting or that part of the meeting.
- (e) If necessary, any interim Chairperson should remain in office until the next meeting of the relevant group.

VII. CONDUCT OF BUSINESS

Rule 14

In addition to exercising the powers conferred upon him or her elsewhere in these Rules, the relevant Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, shall ensure the observance of these Rules, and shall accord the right to speak, put questions to the vote, and announce decisions. The relevant Chairperson also may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

Rule 15

During the discussion of any matter in the Conference or in a subsidiary body a member thereof may raise a point of order. In this case the relevant Chairperson shall immediately state his or her ruling. If the ruling is challenged by a member, the Chairperson shall forthwith submit his or her ruling for decision by the body in which the matter is under discussion, and it shall stand unless overruled.

VIII. VOTING

Rule 16

- (a) Decisions on strictly procedural matters not provided for in the Energy Charter Treaty shall, except as otherwise provided in these Rules, be taken by a majority of the Contracting Parties and Signatories whose representatives are present and voting in the Conference, or in the case of a subsidiary body, by a majority of the Contracting Parties and Signatories which are members of that body whose representatives are present and voting.
- (b) Every effort shall be made to reach consensus on recommendations to the Conference by subsidiary bodies. If a decision cannot be reached by consensus, such recommendations shall be decided by a three-fourths majority of the Contracting Parties and Signatories which are members of that body whose representatives are present and voting.
- (c) Each Contracting Party and Signatory (when applicable) shall be entitled to one vote provided that is not in arrears in the payment of its financial contributions to the budget of the Energy Charter Secretariat in the amount which equals or exceeds the amount of the contributions due from them for the preceding two full years.
- (d) A Regional Economic Integration Organisation shall vote in line with Article 36(7) of the Energy Charter Treaty, taking into account if any of its member states has lost its voting rights due to persistent arrears.

IX. REQUEST FOR DISTRIBUTION OF DOCUMENTS

Rule 17

For the information of the Conference, Contracting Parties and Signatories may request the distribution of messages and documents. Such documents shall be distributed as soon as possible to representatives of all Contracting Parties, Signatories and observers as appropriate.

X. PUBLICITY OF MEETINGS

Rule 18

- (a) Meetings of the Conference and of its subsidiary bodies shall not be public, unless the Conference or the relevant subsidiary body decides otherwise.
- (b) After a meeting has been held, the Chairperson of the Conference may issue a communiqué to the press.

XI. RULES FOR DECISIONS BY CORRESPONDENCE

Rule 19

- (a) Decisions of the Conference provided for in Article 36(2) and (4) of the Energy Charter Treaty may, in the intervals between the meetings of the Conference, be taken by correspondence.
- (b) Where the Chairperson of the Conference, upon request by a Contracting Party or a Signatory or upon his/her own initiative, decides that a decision should be taken by correspondence, he or she shall instruct the Secretariat to upload a message on the Energy Charter Secretariat webpage, containing such information as the Chairperson considers necessary to an informed decision.
- (c) The Chairperson of the Conference shall determine the date and hour by which any opposition must be received, which shall in no case be earlier than 20 days from the date of upload of the message referred to in paragraph (b). In exceptional circumstances, the Chairperson may, upon request and at his or her discretion, extend the time limit. Subject to no objections being received within the time limit, the Conference decision will be considered as approved with immediate effect and a confirmation message will be uploaded.
- (d) The states or Regional Economic Integration Organisation entitled to participate in decisions by correspondence are those which are Contracting Parties or Signatories on the date of upload of the message referred to in paragraph (b).
- (e) A subsidiary body may adopt rules for decisions of that body to be taken by correspondence.
- (f) For information purposes, a dissemination message will be sent to delegates each time a Conference decision by correspondence is initiated.

XII. RULES FOR APPOINTMENT OF SECRETARY-GENERAL

Rule 20.1: Scope of Application

- (a) These Rules shall apply only to the procedure for appointment of the Secretary-General of the Energy Charter Secretariat. These Rules shall not define or interpret any term or provision in the Energy Charter Treaty, any Annex or Protocol thereto, or the Rules of Procedure of the Energy Charter Conference.
- (b) These Rules shall replace the Procedures to Be Followed in Appointing the Secretary-General of the Energy Charter Secretariat (CC 164 Annex 1). These rules enter into force as of 1 January 2017.
- (c) The selection process under these Rules, including the informal sounding of preferences set out in Rule 7, shall be deemed part of the 'effort to reach agreement by consensus' required by Article 36(1) of the Energy Charter Treaty.

Rule 20.2: Start of Procedure

- (a) The Energy Charter Conference shall be invited to decide on the basis of the applicable rules, on whether or not to re-appoint the serving Secretary-General for a second mandate at least twelve months before the expiration of his or her contract.
- (b) Irrespective of the decision under paragraph (a) above, Contracting Parties may propose candidates for the post of Secretary-General more than twelve months before the expiration of the contract of the serving Secretary-General.
- (c) In the case of a decision by the Energy Charter Conference not to re-appoint the serving Secretary-General, or in cases where the serving Secretary-General indicates to the Conference Chair in writing that he or she is not ready to accept a second mandate, the procedure outlined in these Rules shall be applied.
- (d) The serving Secretary-General may reapply for the position of Secretary-General only once, for the term set out in Rule 20.10.

Rule 20.3: Candidacy

- (a) Within one month of the date of the decision by the Energy Charter Conference not to reappoint the serving Secretary-General, or of the date on which the Conference Chair receives a written indication from the serving Secretary-General that he or she is not ready to accept a second mandate, or in case one or more Contracting Parties have proposed another candidate(s) as allowed in Rule 20.2.b, all Contracting Parties and Signatories shall be informed, via a letter to Ministers from the Conference Chair, of the timetable for nominating candidates, or additional candidates, for the post of Secretary-General and the procedure to be

followed. This letter shall be sent at least ten months prior to the date of the Energy Charter Conference's meeting where the appointment is expected to take place and indicate a deadline for the nomination.

- (b) Desirable qualifications include broad experience in international affairs, as well as in leadership and organisational management, in government, international organisations and/or industry.
- (c) Each nomination shall be accompanied by the candidate's curriculum vitae and a mission statement of the candidate.
- (d) The deadline for submission of candidatures shall be at least nine months prior to the date of the Energy Charter Conference's meeting where the appointment is expected to take place.

Rule 20.4: Nationality of Candidates

- (a) Only Contracting Parties which are not in arrears in the payment of their financial contributions to the budget of the Energy Charter Secretariat in the amount which equals or exceeds the amount of the contributions due from them for the preceding two full years, shall have the right to nominate a candidate for the post of Secretary-General, provided that any candidate shall have the nationality of one of the Contracting Parties.
- (b) Any candidate shall not necessarily be a national of the Contracting Party which proposes their candidacy.

Rule 20.5: Interview

- (a) All eligible candidates shall be interviewed by the Contracting Parties and Signatories. Such interview shall be chaired by the Conference Chairmanship and shall be open to all Contracting Parties and Signatories who wish to attend. If one of the candidates has the nationality of the Chairmanship, the Vice-Chairpersons representing the outgoing and incoming Chairmanships shall chair the interview in that order. In the event that there are also candidates of the nationality of the outgoing and incoming Chairmanships, the delegates attending the interview shall elect two representatives of Contracting Parties present to chair the interview. All candidacies shall be reviewed on an equal and non-discriminatory basis.
- (b) The interview of candidates shall be completed no later than six months prior to the date of the Energy Charter Conference's meeting where the appointment is expected to take place.

Rule 20.6: Procedure in case there is only one candidate

The Conference Chair shall submit the name of the single candidate to the Energy Charter Conference. The Conference Chair shall invite the Energy Charter Conference to appoint such candidate, by consensus, as the Secretary-General.

Rule 20.7: Informal Sounding of Preferences

- (a) When more than one candidate have been nominated, the Conference Chairmanship shall hold an informal sounding and invite the Energy Charter Conference to appoint, by consensus, as the Secretary-General, the single preferred candidate identified through such informal sounding consensus.
- (b) If an informal sounding is held, it shall be governed by the Conference Chair and past practice. Appendix I will collect those past practices to be considered by the Conference Chair.
- (c) Participation in the informal sounding is limited to those Contracting Parties and Signatories that are not in arrears in the payment of their financial contributions to the budget of the Energy Charter Secretariat in the amount which equals or exceeds the amount of the contributions due from them for the preceding two full years.

Rule 20.8: Appointment by the Energy Charter Conference

- (a) The submission of the candidate's name to the Energy Charter Conference shall be completed as a rule no later than three months prior to the expiry of the contract of the serving Secretary-General.
- (b) In line with Articles 34(3)(n), 35(2) and 36(1) of the Energy Charter Treaty, the Energy Charter Conference shall take the final decision on the appointment of the Secretary-General.
- (c) The term of initial appointment shall be no longer than five years.

Rule 20.9: Lack of Appointment of the Secretary-General

In the event that the procedure set out in these Rules does not lead to the appointment of the Secretary-General on the date of the Energy Charter Conference's meeting where the appointment was expected to take place, the Conference Chair may propose to the Energy Charter Conference either: (1) the designation of, as a rule, the Deputy Secretary-General as Acting Secretary-General; or (2), in case the post of the Deputy-Secretary General is vacant, the prolongation of the appointment of the serving Secretary-General.

Rule 20.10: Reappointment by the Energy Charter Conference

- (a) In case the Energy Charter Conference decides to reappoint the incumbent Secretary-General, it shall also decide on the term of reappointment.
- (b) The term of reappointment shall not be longer than five years.

Rule 20.11: Early Departure of the Serving Secretary-General

- (a) In cases where the serving Secretary-General tenders his or her resignation before the expiry of his or her existing contract, or in the case of a decision by the Energy Charter Conference to terminate the serving Secretary-General's appointment, or in any other case not foreseen in the above which entail the departure of the serving Secretary-General before the expiry of his or her existing contract, the Conference Chair shall inform all Contracting Parties and Signatories as soon as possible, via a letter to Ministers, of the measures that he or she proposes to take in order to ensure a timely replacement of the Secretary-General. In the meantime, the serving Deputy-Secretary General will serve as acting Secretary-General. In the case where the post of the Deputy-Secretary General is vacant, the Chairmanship of the Conference in consultation with the Contracting Parties and Signatories will designate, within 14 actual days from the departure of the serving Secretary-General, an acting Secretary-General to be selected from the existing staff of the Energy Charter Secretariat for a temporary period until a new Secretary-General is appointed.
- (b) The measures set out in paragraph (a) for the timely replacement of the Secretary-General shall be based on the procedures outlined in these Rules.

XIII. REVISION

Rule 21

The Conference may decide at any time to revise these Rules or any part of them.

APPENDIX I - Past Practice regarding informal sounding

- (i) An informal sounding is held by correspondence and preferences are kept confidential.
- (ii) The name of the candidate supported by three quarters of the Present and Participating Contracting Parties and Signatories is submitted to the Energy Charter Conference in accordance with Rule 20.6. The Conference Chairman invites the Energy Charter Conference to appoint such candidate, by consensus, as the Secretary-General.
- (iii) In the event that, after the first round of informal sounding, no candidate has achieved a three-quarter majority, the informal sounding proceeds to the second round.
- (iv) The second round is conducted between the two best-placed candidates of the first round
- (v) The name of the better-placed candidate at the second round is submitted to the Energy Charter Conference in accordance with Rule 20.6. The Conference Chairman invites the Energy Charter Conference to appoint such candidate, by consensus, as the Secretary-General.
- (vi) In the event that the second round of informal sounding indicates the same level of support for the two candidates, the Conference Chairman will call for reflection by the Contracting Parties and Signatories, and may hold a discussion session. Thereafter, additional round(s) of informal sounding are conducted between the same two candidates in order to establish the single candidate to be recommended to the Energy Charter Conference in accordance with Rule 20.6.