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Brussels, 25 November 2018

Related documents: CC 629, Mess 1448/18, Mess 1460/18

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Adoption by correspondence – Proposal concerning the conduct of the next Review under Article 34 (7) of the Energy Charter Treaty

By CC 629 dated 5 November 2018, the Conference was invited to approve the attached proposal concerning the conduct of the next Review under Article 34(7) of the Energy Charter Treaty and the list of Contracting Parties to serve as coordinators.

As specified by Rule 19(b) 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 decision should notify the Secretariat of its position in writing by 25 November 2018.

Having received no objections within the specified time limit, on 25 November 2018, the Conference **approved**, with immediate effect, the amended proposal concerning the conduct of the next Review under Article 34(7) of the ECT and the list of Contracting Parties to serve as coordinators.

Keywords: Energy Charter Treaty, Review, Article 34 (7), Terms of Reference, Proposal, Procedures and Timetable, European Union, Japan, Kazakhstan

Proposal concerning the conduct of the next Review under Article 34 (7) of the ECT

The Charter Conference approved the following proposal concerning the conduct of the next Review envisaged under Article 34 (7) of the Energy Charter Treaty:

Procedures and Timetable:

- J The Secretariat shall be invited to send out during the first quarter of 2019 a questionnaire to Contracting Parties and Signatories requesting their views on a number of issues central to the Review process (as outlined in the terms of reference below). The questionnaire will be prepared by the Secretariat in close cooperation with the Contracting Parties acting as coordinators of the Review (Japan, Kazakhstan and the European Union).
- J Delegations will be asked to respond to this questionnaire by no later than the end of June 2019. In parallel, the Secretariat may consult with Observers, relevant international organisations and the Industry Advisory Panel to solicit their views on the issues raised in the questionnaire.
- J Based on the responses received, the Secretariat will prepare a preliminary draft report on the Review and, after approval of the Contracting Parties acting as coordinators of the Review, will circulate it to Contracting Parties and Signatories by no later than the end of August 2019.
- J During the autumn of 2019, the Strategy Group will discuss the preliminary draft report on the Review in more detail.
- J Based on the outcome of this discussion, the Secretariat together with the Contracting Parties acting as coordinators of the Review will prepare a final version of the report as well as draft Conclusions of the Review for submission for approval by the delegates before the 30th Meeting of the Energy Charter Conference. The Energy Charter Conference will be invited to take note of the report and to approve the Conclusions.
- J The Contracting Parties acting as coordinators of the Review will decide how to organise among them. They shall make every effort to reach agreement by consensus on any matter to be decided by them (e.g. approval of the questionnaire, the preliminary report and the final version of the report).

Terms of Reference:

-) It is understood that the review should aim to assess the following main issues:
1. The potential modernisation of the Energy Charter Treaty based on the list of topics identified.
 2. Assessment of the CONEXO policy, the potential for and direction of a further geographical enlargement of the Energy Charter Treaty, as well as the role and status of the Observers to the Energy Charter Conference.
 3. To reconsider as requested in the Conclusions of the 2014 Review the possibility to move to a binding tariff standstill regime consistent with developments taking place in the WTO.
 4. Assessment of the concept, scope, geographical coverage, budget, human resources, timeline and methodology of the Energy Investment Risk Assessment (EIRA).
 5. Structure of the Programme of Work and Budget, including an assessment of the implications of voluntary contributions.
 6. Assessment of the mandate and the activities of the Knowledge Centre.
 7. The ILO Administrative Tribunal judgements against the 2015 Energy Charter Conference deliberations and the decisions taken by the Secretary General in 2015 and 2016 that resulted in compensation awards leading to budgetary implications.
 8. The functioning of the Energy Charter Conference (including the practice of its Chairmanship) and its subsidiary bodies, as well as the relationship of the International Energy Charter with other international organisations and the business community.
 9. Mid-term review of the performance of the Secretary-General and implementation of his Vision-Plan 2017-2021 based on the criteria in the Secretary-General's letter of 11 May 2016.
 10. To consider the second edition of the Investment Facilitation Toolbox, in the context of the activities of the Investment Promotion Centre.
-) The Review process should aim to develop specific conclusions with regard to the above points, which the Energy Charter Conference will be invited to approve in 2019.

List of Contracting Parties participating as coordinators in Art. 34(7) Review

Japan, European Union and Kazakhstan