

**ENERGY CHARTER
SECRETARIAT**

CCDEC2014

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Brussels, 26 November 2014

Related documents: CC490 Rev2

DECISION OF THE ENERGY CHARTER CONFERENCE

**Subject: Establishment and Terms of Reference for a Working Group on
Procedural Issues**

The Energy Charter Conference at its 25th Meeting held on 26th November 2014 **approved** the establishment of a Working Group on Procedural Issues and its Terms of Reference as specified in Annex to CC 490 Rev. 2 (attached hereto) with the understanding that the group could consider all procedural issues raised, including also the procedure for the appointment of the Deputy Secretary General.

Keywords: ToR, Terms of Reference, Working Group, Procedural Issues

Terms of Reference for the Working Group on Procedural Issues

1. Composition

The Working Group on Procedural Issues consists of representatives of the Contracting Parties/Signatories to the Energy Charter Treaty (ECT) who express their wish to participate in response to the Secretariat's Message 1168/14 of 26 September 2014. The Working Group will remain open to other interested Contracting Parties/Signatories to the ECT. Should further Contracting Parties/Signatories exercise such option, it will be without prejudice to any proposals already agreed by the Working Group to that date.

2. Tasks

The Working Group on Procedural Issues shall:

- a) prepare and propose to the Conference:
 - a revised and updated version of the Rules of Procedure for the Conference (approved in November 1995), including the issue of the voting rights (comprising also a definition of 'persistent arrears' of Art. 36.8 of the ECT),
 - revised and updated Rules of Procedure for the Appointment of the Secretary General and the Deputy Secretary General of the Energy Charter Secretariat. The procedure to be prepared shall further develop the last Draft (SGG 11) produced by the Working Group on the Rules of Procedure for the Appointment of the Secretary-General. The best practices employed in other international fora shall be taken into consideration.
- b) report directly to the 26th Meeting of the Energy Charter Conference on its findings and propose appropriate action in accordance with Rule 13 of the Rules of Procedure for the Energy Charter Conference.

Enclosed: Current Rules of Procedure of the Energy Charter Conference

**RULES OF PROCEDURE OF
THE PROVISIONAL 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. Such 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 Signatory to the Energy Charter Treaty (hereinafter referred to as "Signatory") provided that, within six weeks of the request being communicated in writing to the other Signatories by the Secretariat, it is supported in writing by at least one-third of the 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

Meetings of the Conference and of its subsidiary bodies normally shall be held in Brussels. Exceptionally, the Conference or a subsidiary body may decide to meet elsewhere.

II. AGENDA

Rule 4

- (a) The Secretariat, in agreement with the relevant Chairperson, shall draw up and transmit to all Signatories the proposed agenda for each meeting of the Conference and of the subsidiary bodies.
- (b) In notifying the 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 circulated to them at least 15 days in advance of the meeting.

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. CHARTER SIGNATORIES

Rule 7

- (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 agreement to contribute to the costs of the negotiations.
- (c) Signatories to the European Energy Charter which have not signed the Energy Charter Treaty may otherwise attend meetings of the Conference in the capacity of observers without a right to vote, and be invited by the Conference to attend meetings of subsidiary bodies in the capacity of observers without a vote.

IV. OBSERVERS

Rule 8

- (a) The Conference may invite representatives of states which have not signed the European Energy Charter or intentional 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.
- (b) The Conference or its subsidiary bodies may decide, where appropriate, that particular meetings, or parts of meetings, shall be held without the attendance of observers mentioned in paragraph (a).
- (c) At a meeting attended by an observer, 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 Signatories for the purposes of Rule 4.

V. REPRESENTATIVES

Rule 9

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

VI. SUBSIDIARY BODIES

Rule 10

- (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 11

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

Rule 12

- (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 13

- (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.

VII. OFFICERS

Rule 14

- (a) The Chairperson and Vice-Chairpersons of the Conference and Standing Groups shall be designated each year by the Conference.
- (b) The Chairpersons and Vice-Chairpersons of Working Groups shall as a general rule be designated by the Conference for the duration of those Groups, but may at the discretion of the Conference be designated for fixed terms.
- (c) The Chairperson and Vice-Chairpersons shall be designated, taking into account the principle of equitable geographical distribution among the Signatories.

- (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 Signatories attending the meeting shall elect an interim Chairperson for that meeting or that part of the meeting.
- (e) If a Chairperson can no longer perform the functions of the office, the Signatories which are members of the relevant body shall designate a Vice-Chairperson to perform those functions pending the election of a new Chairperson.

VIII. CONDUCT OF BUSINESS

Rule 15

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 16

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.

IX. VOTING

Rule 17

- (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 Signatories whose representatives are present and voting in the Conference, or in the case of a subsidiary body, by a majority of the 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 agreement cannot be reached by consensus, such recommendations shall have the support of a majority of the Signatories which are members of that body whose representatives are present and voting.
- (c) Each Signatory shall be entitled to one vote.
- (d) A Regional Economic Integration Organisation shall vote in accordance with Article 36(7) of the Energy Charter Treaty.

X. REQUEST FOR DISTRIBUTION OF DOCUMENTS

Rule 18

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

XI. PUBLICITY OF MEETINGS

Rule 19

- (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.

XII. RULES FOR DECISIONS BY CORRESPONDENCE

Rule 20

- (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) The Chairperson of the Conference, upon application by a Signatory for a decision to be taken by correspondence or upon his or her own initiative, shall decide after consultation with Signatories in each case whether the matter warrants the taking of the decision by correspondence.
- (c) In any case where the Chairperson of the Conference decides that a decision should be taken by correspondence, he or she shall instruct the Secretariat to dispatch a letter or telefacsimile to each Signatory containing such information as the Chairperson considers necessary to an informed decision.
- (d) The Chairperson of the Conference shall determine the date and hour by which responses must be received, which shall in no case be earlier than 20 days from the date of transmission by the Chairperson of the letter or telefacsimile referred to in paragraph (c). In exceptional circumstances, the Chairperson may, upon request and at his or her discretion, extend the time limit for receipt of responses. Any Signatory which has not replied in writing within such time limit is regarded as not voting.
- (e) The states or Regional Economic Integration Organisation entitled to participate in decisions by correspondence are those which are Signatories on the date of transmission by the Chairperson of the letter or the telefacsimile referred to in paragraph (c).
- (f) A subsidiary body may adopt rules for decisions of that body to be taken by correspondence.

XIII. REVISION

Rule 21

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