

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2016

24 StR

Brussels, 1 November 2016

Related documents: CC 559, Mess 1300 Rev 2

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: *Adoption by correspondence – De-restriction of some documents of the travaux préparatoires and new policy on access to the travaux préparatoires*

By document CC 559 dated 29 June 2016, the Conference was invited (i) to confirm the new policy on access to the *travaux préparatoires*, (ii) to de-restrict some documents of the *travaux préparatoires* and (iii) to allow the publication online of some documents of the *travaux préparatoires*. As specified by Rule 19 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 the proposal should notify the Secretariat of its position in writing not later than 18 July 2016. At the request of two Contracting Parties received before the expiration of the original time limit, the Chairperson of the Conference, at his discretion, as specified in Rule 19 (c) of the Rules of Procedure, extended twice the time limit for receipt of responses, first to 1 October 2016 and finally to 31 October 2016.

No objections were received within the final time limit. Therefore, on 1 November 2016, the Conference

- **Confirmed** the new policy on access to the *travaux préparatoires* of the European Energy Charter, the Energy Charter Treaty, its related Protocols (1991-1994), and the Trade Amendment (1994-1998) as set out in Annex I;
- **De-restricted** and **allowed** the publication online of the documents listed in Annex II, together with an article-by-article analysis of the successive drafts of the ECT; the publication online should take place in December 2016;
- **De-restricted** the official documents issued by the (Provisional) Conference and the (Provisional) Secretariat in relation to the negotiations of the European Energy Charter, the Energy Charter Treaty, its related protocols (1991-1994) and the Trade Amendment (1994-1998).

Keywords: De-restriction, publication, travaux préparatoires, policy, access

ANNEX I

New policy on access to the *travaux préparatoires*

a. In relation to documentary *travaux préparatoires*:

The documentary *travaux préparatoires* are composed of:

- Drafts of the European Energy Charter, the Energy Charter Treaty, its Protocol provisions (1991-1994), and the Trade Amendment (1994-1998), including comments by negotiating parties;
- Position papers issued by negotiating parties, private and public companies and other international organisations;
- Correspondence between members of the Secretariat, members of the Working Groups and delegations;
- Reports of the Legal Sub-Group; and
- Meeting invitations, agendas and other administrative documents

These documents fall within three categories:

- i. Documents which do not identifiably express the views of specific countries, organisations or individuals;
- ii. Documents which identifiably express the views of specific countries, organisations or individuals but that do not contain any express restriction to their dissemination;
- iii. Documents expressly containing a confidentiality/restriction stamp on them.

All enquirers may consult all of the documentary *travaux préparatoires* referred to above, and to take copies of documents belonging to categories (i) and (ii);

Documents belonging to category (iii) cannot be reproduced unless their issuer has made them accessible to the public or grants specific consent in writing for its reproduction.

Any requests for exceptions to the above policy should be made in writing to the Secretary General of the Secretariat, who will request the confirmation of the country, individual or organization concerned.

b. In relation to audio *travaux préparatoires*: All enquirers may listen to the audio *travaux préparatoires* at the Secretariat's office, but no enquirers may make recordings or copies of any of the audio *travaux préparatoires*.

List of documents to be available on the public website

The documents **in red** are already publicly available at the Energy Charter website.

1. Draft Treaty, Basic Protocol to the European Energy Charter, 20 August 1991.
2. BP 2, Basic Protocol, 12 September 1991.
3. BA 4, Basic Agreement, 31 October 1991.
4. BA 6, Basic Agreement, 21 January 1992.
5. BA 12, Basic Agreement, 9 April 1992.
6. BA 13, Basic Agreement, 19 June 1992.
7. BA 14, Basic Agreement, 24 June 1992.
8. BA-15, Basic Agreement, 12 August 1992.
9. BA-18, Trade and transit related Articles, 18 September 1992.
10. BA-22, Basic Agreement, 21 October 1992.
11. BA-26, Basic Agreement, 25 November 1992.
12. BA-31, Basic Agreement, 21 December 1992.
13. BA-35, Basic Agreement, 9 February 1993.
14. BA-37, Basic Agreement, 1 March 1993.
15. CONF 50, Draft Energy Charter Treaty (Basic Agreement) – Compromise text, 15 March 1993.
16. CONF 56, Draft ECT – Second version, 1 May 1993.
17. CONF 60, Draft ECT – third version, 1 June 1993.
18. CONF 64, Draft ECT – fourth version, 7 July 1993.
19. CONF 72, Draft ECT – fifth version, 11 October 1993.
20. CONF 82, Draft ECT – sixth version, 20 December 1993.
21. CONF 96, Draft ECT – seventh version, 17 March 1994.
22. CONF 98, Draft ECT – Chairman`s Compromise Text, 22 April 1994.
23. Interim Text – Final Act of the Conference on the ECT, 20 June 1994.
24. Interim Text – Final Act of the Conference on the ECT, 25 June 1994.
25. CONF 104, Note from the Conference Chairman – Adoption of the ECT, 14 September 1994.
26. **Final Act of the European Energy Charter Conference, 17 December 1994.**
27. **The Energy Charter Treaty, 17 December 1994.**
28. CONF 115, Summary of the Sixteenth Plenary Session of the Energy Charter Conference - Adoption of the Energy Charter Treaty, 6 January 1995.
29. T 31, Consolidated draft text for a tariff standstill, 21 June 1996.
30. **Protocol of Correction to the Energy Charter Treaty, 2 August 1996.**
31. T 36, Tariff Standstill; Draft Chairman`s compromise proposal, 30 October 1996.
32. CC 96, Agenda item 4 – Working Group II (Draft Trade Amendment), 17 October 1997.
33. CC 100, Trade Amendment, 14 November 1997.
34. CC 107, Trade Amendment and Inclusion of Energy-Related Equipment, 3 December 1997.
35. CC 113, Texts for Adoption, 4 March 1998.
36. **Final Act of the International Conference and Decision by the Energy Charter Conference in Respect of the Amendment to the Trade-Related Provisions of the ECT, 24 April 1998.**
37. **CCDEC 2013 (17), Conference decision on Technical changes to Annexes EM I, NI and EQ I, 6 Dec. 2013**