

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2019

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Brussels, 6 November 2019

Related documents: CC 653, Mess 1609/19
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Adoption by Correspondence – Modernisation of the Energy Charter Treaty: Mandate, Procedural Issues and Timeline for Negotiations

By document CC 653, dated 18 October 2019, delegations were invited to approve the draft decision, procedural issues and timeline for negotiations for modernisation of the ECT.

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 this proposal should notify the Secretariat of its position in writing by 6 November 2019.

Having received no objections within the specified time limit, on 6 November 2019, the Conference:

- *establishes and mandates the Modernisation Group to start negotiations on the modernisation of the Energy Charter Treaty, with a view to conclude negotiations expeditiously. The negotiations will take into account the identified list of topics (CCDEC2018 18) and suggested policy options (CCDEC2019 08) and will follow the attached procedure and timeline (including any subsequent amendment by the Modernisation Group).*
- *invites the Modernisation Group to report to the next meeting of the Conference on progress made in fulfilling the negotiations mandate.*
- *requests the Secretariat to provide its effective support throughout the ECT modernisation process subject to the available resource allocations.*

Procedural issues and timeline for negotiations

Support from the Secretariat and deadline for distribution of documents

- a) *The Energy Charter Secretariat will provide support during the negotiation meetings. All correspondence or communications in relation to the negotiation meetings should be addressed to the Secretariat at modernisation@encharter.org and Chair and Vice-Chair of the Modernisation Group.*

- b) *The Secretariat will distribute new negotiation drafts at least one week after the respective negotiation session reflecting positions taken by the delegations and any possible progress made during the round. Delegations are invited to send to the Secretariat and Chair and Vice-Chair of the Modernisation Group any comments, messages or additions they wish to put forward on the negotiation drafts at least 15 days before the next meeting. The Secretariat will distribute amongst all delegations these comments as messages as soon as they are received and any new negotiation drafts (with track changes) compiling all the comments received within the deadline, at least 10 days in advance of the meeting. Any comments received less than 15 days before or at the next meeting will be distributed as a message but not included in the new negotiation draft for that meeting.*

- c) *The Secretariat will only distribute negotiation drafts that have been previously confirmed by the Chair and Vice-Chair of the negotiations.*

Conduct of the negotiation meetings

- d) *The Chair and Vice-Chairs of the Modernisation Group will Chair the negotiation meetings.*
A steering group should be established to support the work of the Chair and the Vice-chair to chair and conduct the negotiation rounds. This group shall be composed of all interested delegations, the Chair and Vice-Chair of the Modernisation Group and the Secretariat. It shall meet informally (by any possible form, including teleconference or videoconference if available) at regular intervals to prepare the upcoming negotiation rounds and, for the sake of transparency, will debrief the Modernisation Group. For greater certainty, no decisions can be taken in this steering group.

- e) *The aim of the negotiation meetings is to reach the highest possible degree of convergence among the participants on the negotiation drafts starting from the identified list of topics (CCDEC2018 18) and suggested policy options (CCDEC2019 08).*

- f) *Following normal diplomatic practice, negotiations are based on goodwill and mutual recognition of differences. Therefore, any decision to be taken during the negotiation meetings, including procedural issues, should be based on consensus of those present. Consensus is understood as the absence of objections of those present. If consensus cannot be reached, Rule 16 of the Procedural Rules of the Conference applies to decisions taken by the Modernisation Group.*
- g) *Whilst the final authentic texts are expected to be in several languages (English, French, German, Russian and Spanish), a more pragmatic and flexible approach is likely to be necessary for the discussions leading to the final text. For that reason, negotiation meetings will take place (and negotiation drafts will be provided) in both English and Russian.*
- h) *The Legal Advisory Committee may be invited to provide its opinion on particular issues or parts of the negotiation drafts.*

Representation at the negotiation meetings

- i) *Delegations are asked to limit their representation to the negotiation meetings to what is strictly necessary. At least 10 working days before the date of a meeting, each delegation should register directly on the delegate's website the name, position and contact email of their participants at such meeting. Delegations are responsible for ensuring visa, as well as travel, insurance and accommodation arrangements.*
- j) *As a rule, negotiation meetings will be open only to the Contracting Parties.*

Signatories of the ECT contributing to the budget of the ECT may be admitted to these negotiation meetings upon notification to the Secretariat of an official confirmation that a process of ratification of the ECT is ongoing at their domestic level or intended.

In case the Contracting Parties and, where relevant, ECT signatories decide to negotiate Protocols or Declarations within the meaning of Article 33.2 of the ECT, any signatory to the 1991 European Energy Charter which has not signed the ECT may participate in the negotiations of such Protocols and Declarations. They 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.

Records of the negotiation meetings

- k) *As a rule, negotiation meetings will be audio recorded. One week after each meeting, the Secretariat will distribute a brief, factual Summary Record prepared in consultation with the Chair and Vice-Chair for approval at the following meeting. The Summary Record of negotiation meetings should identify the delegations making interventions.*

l) After conclusion of the negotiations, the summary records, audio recordings, negotiation drafts and other materials related to the negotiations will form part of the travaux préparatoires in accordance with the Manual on Data Protection.

Restriction of documents

m) Negotiation drafts, as well as comments and messages sent by delegates will be considered as restricted. After approval by consensus, a short summary on negotiations round will be made public without identifying the Delegations which made interventions.

Provisional timetable

n) It is expected that discussions will take place, without prejudice, on the 25 topics for Modernisation, which have been agreed among the members. Meetings are confirmed only after a specific invitation has been sent out.¹

4 days negotiations every 3 months
12 December 2019 (Albania)
Beginning/mid April 2020
Beginning/mid July 2020
Beginning/mid October 2020
December 2020: <i>the Conference should take stock of the progress made</i>

¹ This is an illustrative example of dates, with the sole purpose of showing a possible sequence for the meetings.