

**ENERGY CHARTER  
SECRETARIAT**

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CCDEC 2022

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Brussels, 25 August 2022

Related documents: CC 754, Message 1994/22
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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Adoption by correspondence - Revision of the Financial Rules and Implementing Instructions**

By document CC 754 dated 3 August 2022, delegations were invited to approve the revised Financial Rules and Implementing Instructions as recommended by the Budget Committee. 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 the proposed decision should notify the Secretariat of its position in writing not later than 25 August 2022.

Having received no objections within the specified time limit, on 25 August 2022, the Energy Charter Conference **approved** the revised Financial Rules and Implementing Instructions with immediate effect (clean version attached, including the Terms of Reference governing the external auditors -approved by the Conference on 21 March 2021, CCDEC2021 06-).

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# **FINANCIAL RULES**

## **PART I SCOPE AND APPLICATION**

### **ARTICLE 1**

- (1) The purpose of these Rules is to establish the financial system and the implementing instructions for the administration of the finances of the Energy Charter Secretariat (hereinafter referred to as the “Secretariat”).
- (2) The financial resources of the Secretariat shall be employed in conformity with principles of economy and sound financial administration.

### **ARTICLE 2**

- (1) The financial year of the Secretariat shall be the period beginning on 1 January and ending on 31 December.
- (2) The Programme of Work for Part I of the Budget shall cover two financial years (hereinafter referred to as a “biennium”). Programmes of Work for Part II of the Budget shall also cover two financial years, unless the Conference decides otherwise.

## **PART II STRUCTURE OF THE BUDGET**

### **ARTICLE 3**

The Budget of the Secretariat (hereinafter referred to as the “Budget”) is the act whereby the Energy Charter Conference (hereinafter referred to as the “Conference”) accords the necessary commitment authority and makes the necessary appropriations for the functioning of the Conference and the Secretariat and the carrying out of their activities, and by which it determines the amount of contributions to be furnished by Signatories to the Energy Charter Treaty (hereinafter referred to as the “Treaty”) and parties which have acceded to that Treaty (hereinafter referred to collectively as the “Signatories”). The Signatories are committed to making contributions in respect of appropriations only.

#### ARTICLE 4

- (1) For the purposes of the present Rules, the term “commitment authority” means the authority conferred upon the Secretary-General to enter into obligations in the name of the Secretariat in the course of the financial year.
- (2) The term “appropriation” means the sum of money which the Conference authorises the Secretary-General to disburse in the course of the financial year in respect of the expenses to which such appropriation relates.

#### ARTICLE 5

- (1) The Secretariat’s “normal resources” take the form of annual contributions payable:
  - (a) in the case of general expenses, by the Signatories according to funding principles as specified in Article 37(3) of the Treaty;
  - (b) in the case of Protocols, by the parties thereto as specified in Article 37(4) of the Treaty.
- (2) Contributions are payable as a single sum at the beginning of each year, but not later than six months from the Secretary-General’s notification of the amount of the Signatories’ contributions in accordance with Article 18 below.
- (3) The Secretary-General may, before the end of each financial year, invite Signatories to make advance payments in respect of their contribution liability for the succeeding year.
- (4) Annual contributions are calculated and assessed in Euro and must be paid in that currency, unless the Secretary-General comes to an agreement with a given country to receive an annual contribution in another currency.
- (5) The Deputy Secretary-General shall, not later than in May and October each year (and at other times if appropriate), present to the Conference up-to-date reports on the recovery of contributions.
- (6) Any party acceding to the Treaty shall be expected to pay a contribution for the year of accession of an amount approved by the Conference on the basis of Article 37 of the Treaty and taking into account the provisions of Articles 41, 45(6) and (7) of the Treaty. Considering the rules for the calculation of the National Contribution of Accessing Countries and their inclusion in the Budget:
  - (a) The date from which an acceding country shall pay its contribution to the Budget of the Energy Charter Secretariat shall be the date of entry into force of the Energy Charter Treaty for that country.
  - (b) The amount of the contribution to be paid for the year of accession shall be calculated pro-rata from the date referred to in paragraph (a) applied to the contribution due if the country would have been a Contracting Party at the

beginning of the financial year, and without impacting the contributions of other Contracting Parties.

- (c) The amount of the contribution of the new Contracting Party, its inclusion and use in the Budget, shall be decided on a case by case basis by the Energy Charter Conference after consideration and recommendation by the Budget Committee.

## **ARTICLE 6**

“Other resources” of the Secretariat include:

- (1) contributions to the cost of negotiations and relevant Working Groups of any signatory to the European Energy Charter or the International Energy Charter, as the case may be, which has not signed the Treaty and which participates in such negotiations (in accordance with rule 7(b) of the Rules of Procedure);
- (2) contributions to supplementary Budgets;
- (3) draw(s) from the General Reserve Fund;
- (4) voluntary contributions and in-kind voluntary contributions from Signatories;
- (5) voluntary contributions and in-kind voluntary contributions from observers to the Conference or from other sources
- (6) subsidies, gifts, participation fees, publication revenues and legacies of any nature;
- (7) miscellaneous income, including without limitation income which has not previously been taken into account, balances recoverable and any adjustments in respect of estimated income previously credited.

## **ARTICLE 7**

The draft Budget shall consist of:

- (1) an explanatory memorandum by the Secretary-General setting out the considerations which have guided the preparation of the Budget, together with a summary table showing the proposed appropriations apportioned by the major items of the Secretariat’s expenditure;
- (2) the decisions relating to the Budget submitted to the Conference, including the Establishment Table and estimated temporary officials of the Secretariat. Officials in the Establishment Table and the estimated temporary officials can be appointed only to positions approved for the year of their appointment.
- (3) a Table drawn up in conformity with a model prepared by the Secretary-General showing:

- (a) for the Budget financed from normal resources:
  - (i) proposed appropriations to be made under each item compared with the corresponding appropriations authorised for the current biennium and the year preceding the start of the biennium and probable and real expenditures to be made for these two periods;
  - (ii) a corresponding statement of income required to finance proposed appropriations;
  - (iii) estimates for commitment authority as referred to in Article 11 below;
- (b) for the Budget financed from other resources:
  - (i) conditional funding from other resources;
  - (ii) proposed appropriations to be made under relevant expenditure Items;
  - (iii) a corresponding statement of the source, amount and use to be made of other resources;
  - (iv) estimates for commitment authority as referred to in Article 11 below;
  - (v) specific arrangements, if any, applicable to the disbursement of voluntary contributions.

## **ARTICLE 8**

The Table specified in Article 7(3) above, together with the Establishment Table, after adoption by the Conference, constitutes the Budget of Income and Expenditure for the biennium and each year of the biennium. It shall be divided into two Parts and each Part into items.

- (1) Part I shall include general expenses that are financed from normal resources and from other resources referred to in Article 6(1) and (3) above, as well as general expenses that are financed from other resources referred to in Article 6(4) to (7) above, provided, in the latter case, that such resources are available for general use.
- (2) Except expenses referred to in paragraph (1) above, Part II shall include all expenditures other than general expenses that are financed from other resources referred to in Article 6(3) to (7) above, including:
  - (a) expenditure which is of interest to one or to a limited number of Signatories;
  - (b) expenditure relating to special sectors of activity not covered by Part I.



**PART III  
PREPARATION AND ADOPTION OF  
THE PROGRAMME OF WORK AND THE BUDGET**

**ARTICLE 9**

The Secretary-General shall prepare the draft Programme of Work over the biennium not later than 6 months before the start of the biennium as well as the initial Budget for the first year of that biennium and the provisional Budget for the second year in conformity with the provisions of these Rules and with the procedures laid down by the Conference.

**ARTICLE 10**

The Secretary-General shall submit the draft Budget for the first year of that biennium and the provisional Budget for the second year to the Budget Committee, after consultation with the Management Committee, not later than two months before the opening of the last scheduled Conference meeting of the biennium, in order to obtain its views. He or she shall then submit the draft Budget and the comments of the Budget Committee to the Conference not later than two weeks before such Conference meeting.

**ARTICLE 11**

- (1) If it is necessary to undertake commitments to be carried out after the end of the financial year, the Conference may accord the necessary commitment authority.
- (2) The commitment authority shall be accompanied by a table indicating, for each commitment, the amount of appropriations foreseen in the Budget for the current and subsequent years.
- (3) Such commitments shall be undertaken in the course of the financial year for which they were authorised.
- (4) Multiannual commitments regarding Establishment Table posts are considered as approved by the Conference once the Conference approves the Establishment table, including the start and duration of the current contracts.

**ARTICLE 12**

Should circumstances so require, the Secretary-General may prepare one or more supplementary Budgets drawn up in the same manner as the draft annual Budget.

### **ARTICLE 13**

- (1) The Conference shall approve the biennial draft programme of work, the draft Budget for the first financial year and the provisional Budget for the second financial year of the biennium before the first day of the first financial year of the biennium after consideration and report by the Budget Committee.
- (2) The provisional Budget for the second financial year of the biennium shall be approved as draft Budget for the second financial year of the biennium before and with effect from 1<sup>st</sup> January of that financial year.

### **ARTICLE 14**

- (1) If it has not been possible to approve the draft Budget before the first day of the financial year:
  - (a) unless the Conference has decided otherwise, the Secretary-General may, having informed the Budget Committee beforehand, undertake and make payments until the Budget is adopted for unavoidable expenditure authorised under each item in the Budget for the preceding year, and collect the corresponding contributions;
  - (b) commitments for other expenditures shall be authorised by the Conference.
- (2) If there is urgent expenditure, for which the necessary appropriations have not been included in the annual Budget, the Secretary-General shall examine whether savings in the budget can cover the extra costs; if this is not the case, the Conference may authorise the Secretary-General to call on Signatories to make advance contributions to cover such expenditure until such time as a supplementary Budget has been prepared and approved.
- (3) Any proposal to adjust the provisional Budget for the subsequent financial year should be issued by the Secretary-General not later than two months before the opening of the last scheduled Conference meeting of the current financial year. Consideration of these adjustments shall follow the same procedure and calendar as applicable to the approval of the Programme of Work and Budget.

## **PART IV ADMINISTRATION OF THE BUDGET**

### **ARTICLE 15**

- (1) Approval of the Budget by the Conference shall empower the Secretary-General, subject to any special conditions established by the Conference:

- (a) to commit and authorise expenditures and to make all payments to be borne by the Secretariat, for the purposes assigned to and within the limits of the appropriations and the commitment authority, as the case may be;
  - (b) to receive the income entered in the Budget;
  - (c) to make short-term money borrowing as necessary to make any unavoidable payments for which there are insufficient funds available, after authorisation by the Budget Committee.
- (2)
- (a) Except as otherwise provided in this paragraph (2), approval of the Conference shall be required prior to the Secretary-General's acceptance of other resources, as defined in Article 6 above.
  - (b) Such other resources which have been accepted shall be the object of an appropriation by the Conference equal to their amount.
  - (c) The Secretary-General is authorised to accept, on the approval of the Budget Committee any such other resources not exceeding Euro 50 000 provided that it is for an activity included in an approved programme of work of the Secretariat and shall inform the Conference in due time. In cases of in-kind contributions, the amount of appropriations shall be considered as equal to the full cost not borne by the Secretariat for an equivalent solution. In cases of voluntary contributions involving co-financing from Budget Part I, the Secretariat shall preliminarily consult with the Budget Committee and seek approval by the Budget Committee and the Conference regardless the size of the contribution.
  - (d)
    - (i) The Secretary-General is authorised to obtain the approval of the Conference for his or her acceptance of a voluntary contribution referred to in Article 6(3) above of up to Euro 50 000 and an appropriation by the Conference equal to its amount, through the written procedure provided for in Rule 19 of the Rules of Procedure as applied to decisions taken under Article 36(2) of the Treaty, which the Secretary-General may employ whenever it would in his or her judgement cause inconvenience to await the next meeting of the Conference for such approval and appropriation.
    - (ii) The Secretary-General shall in initiating this procedure circulate to all Signatories information on the source, amount, purpose and proposed use of any offer of a voluntary contribution together with his or her proposal to accept it.

## **ARTICLE 16**

- (1) The Secretary-General may make transfers between items within a particular Part of the Budget. The Budget Committee shall approve these transfers beforehand.
- (2) The Secretary-General may make transfers relating to capital expenditure, only:

- (a) on the approval of the Budget Committee for transfers of amounts less than Euro-250 000;
  - (b) with the approval of the Conference, on the advice of the Budget Committee for transfers of amounts in excess of Euro 250 000.
- (3) The transfers of appropriations mentioned in paragraphs (1) and (2) above shall be summarised in a document submitted to the Budget Committee at the closing of accounts.
- (4) Notwithstanding the provisions of Article 15(1)(a) above, transfers may be made for regularisation purposes in order to adjust the amount of appropriations to actual expenditure recorded at the closing of accounts.

#### **ARTICLE 17**

- (1) Budget appropriations committed but for which no payment has been made by the end of the financial year or by the expiry date of the complementary period, shall be carried over to the following financial year.
- (2) Budget appropriations, in respect of which no commitment has been entered into before the end of the financial year, may, subject to the approval of the Budget Committee, be carried over to the following financial year. Such appropriations shall be paid into the following funds, which shall be established as and when necessary by the Secretary-General:
- (i) the general reserve fund if they are related to general expenses of Part I of the Budget; or
  - (ii) trust funds or a working capital fund if they are related to Part II of the Budget.

#### **ARTICLE 18**

After the Conference approves the Budget for the following financial year, the Secretary-General shall, within two months, notify Signatories of the amount of their contributions calculated as of 1 January each year.

#### **ARTICLE 19**

- (1) The Deputy Secretary-General shall establish a system of internal financial management and budgetary control. The detailed Implementing Instructions shall be submitted to the Budget Committee for approval.
- (2) Officials to whom the responsibility of a budget is entrusted shall ensure due regard to accountability and the principle of segregation of duties in line with Instruction 2. The measures put in place to control the Organisation's expenditures shall provide, in addition to requirements of Instruction 1(d), the reasonable assurance that

- (a) the expenditure relates to, or is useful for, the implementation of the programme of work;
  - (b) the expenditure represents the best value for the organisation;
  - (c) the expenditure envisaged can be carried out in conformity with the Financial Rules, Implementing Instructions or other rules applicable to the organisation;
  - (d) sufficient resources are available to pay for the proposed expenditure; and
  - (e) the supporting documentation required for the expenditure is available and appropriate.
- (3) If the risk of budget over-expenditure is identified, in consultation with the Budget Committee, the Deputy Secretary-General may suspend the use of appropriations or of specific commitments of appropriations for which no legal commitments exist. The Secretariat shall establish a system of budget control to periodically forecast the budget results and unforeseen expenditure for the financial period.

## **ARTICLE 20**

The Secretary-General shall, subject to approval by the Conference, designate one or more independent External Auditors to carry out the annual audit of the Secretariat, the Terms of Reference for which shall also be approved by the Conference. The independent External Auditors shall be appointed for a 4-year period with the possibility of a 2-year extension. The same External Auditors shall not be selected nor appointed during the following 4-year period. The term of service of the External Auditors is renewable every year, unless otherwise specified by the Conference.

## **ARTICLE 21**

- (1) The External Auditors shall submit to the Conference and the Budget Committee a report, together with the statement of assets and liabilities and certified accounts, not later than eight months after the end of the financial year to which they relate.
- (2) The Secretary-General shall make such observations as he or she considers appropriate on the External Auditors' report.

## **ARTICLE 22**

The Deputy Secretary-General shall establish Implementing Instructions governing contracting, invitations to tender and the procurement of equipment, supplies and services.

## **PART V ACCOUNTS**

### **ARTICLE 23**

The accounts and annual financial statements of the Secretariat shall be kept and presented in Euro in accordance with the International Public Sector Accounting Standards (IPSAS).

### **ARTICLE 24**

- (1) An official designated by the Deputy Secretary-General shall be responsible for prescribing and maintaining the necessary accounts and subsidiary records and shall institute systems and procedures which will permit financial reporting on all activities of the Secretariat.
- (2) The official shall keep the accounts of the Secretariat which shall comprise:
  - (a) the Budget accounts, which shall show:
    - (i) income: collection orders issued and receipts collected;
    - (ii) expenditure:
      - commitments undertaken;
      - available appropriations, account being taken of any transfers made and supplementary appropriations authorised;
      - payment authorisations issued;
  - (b) the general accounts, which shall be kept on the double-entry system. They shall show the whole of the income and expenditure, and movements and availability of funds. All payments shall be made on the basis of supporting receipts and related accounting records. Book entries shall be made in accordance with the methods of accounting adopted by the Secretariat;
  - (c) appropriate separate accounts which shall be maintained in respect of all trust funds, reserves, working capital funds and special purpose accounts;
  - (d) a permanent inventory of the movable and immovable property constituting the assets of the Secretariat. Any acquisition of movable or immovable property shall be entered into the permanent inventory. The types of items included in the permanent inventory as well as the conditions for removing from the permanent inventory any property transferred, written off or missing, shall be governed by the Implementing Instructions established with regard to internal financial control.

- (3) At the end of the financial year, the books shall be closed and a detailed statement of assets, liabilities and accounts shall be drawn up, which shall be submitted to the External Auditors not later than four months after the end of the financial year.

## **ARTICLE 25**

- (1) The accounting system shall consist of a general ledger and the relevant sub-ledgers or subsidiary records necessary to maintain detailed records of all assets and liabilities of the Secretariat and its income and expenses.
- (2) Annual Financial Statements summarizing the accounts shall be issued in accordance with stated accounting policies, the International Public Sector Accounting Standards (IPSAS), and procedures contained in the Implementing Instructions and shall comprise the following:
  - (a) a detailed statement of assets, liabilities and accounts, subdivided into relevant categories;
  - (b) an income statement subdivided into income and expense categories;
  - (c) notes to the financial statements disclosing significant accounting policies and disclosure of contingent liabilities, commitments, and other information necessary to report the current financial condition of the Secretariat.
- (3) The annual Financial Statements shall include corresponding figures for the preceding financial year. If a change in an accounting policy is made which has a material effect on the Financial Statements, it is necessary to disclose that a change has been made and to quantify the effect.
- (4) In accordance with IPSAS 1 (in particular 1.25 and 1.26) and IPSAS 24, the annual accounts shall include (i) the financial statements and (ii) the budget implementation report.

## **ARTICLE 26**

The Secretary-General shall designate the bank or banks in which the funds in the custody of the Secretariat shall be deposited.

## **ARTICLE 27**

- (1) The Secretary-General is authorised to carry out cash management operations which are necessary in the interests of the Secretariat and, in particular, to invest on a short-term basis funds not immediately required. For this purpose, he or she may perform any administrative act of disposal and, in particular, may purchase and transfer securities and grant Staff loans.

- (2) The Deputy Secretary-General shall inform the Budget Committee of the investments made and shall take account of any proposals made to him or her on such occasions.

#### **ARTICLE 28**

- (1) Cash disbursements shall normally be avoided, but a petty cash imprest fund for defined purposes may be held by one of the Staff designated by the Secretary-General. Officials to whom such funds are issued shall be personally responsible for them and for their proper use.
- (2) The purposes of cash payments as described in paragraph (1) above shall be described in Instruction 10 b).
- (3) The Budget Committee shall be informed of all cash disbursements made during the financial year.

#### **ARTICLE 29**

The Secretary-General may, on the advice of the Budget Committee, authorise the writing off of any loss of assets up to the amounts and subject to the conditions set forth in the Implementing Instructions established pursuant to Article 19 above. A full statement of all such amounts written off shall be attached as an annex to the annual Financial Statements.

### **PART VI FOREIGN EXCHANGE TRANSACTIONS**

#### **ARTICLE 30**

The Deputy Secretary-General shall arrange for any foreign exchange transactions necessary for the requirements of the Secretariat.

#### **ARTICLE 31**

The Deputy Secretary-General shall report to the Budget Committee every year on the foreign exchange transactions carried out during the preceding year.



**PART VII  
AUDIT OF THE ACCOUNTS**

**ARTICLE 32**

- (1) The External Auditors shall conduct such audits as deemed necessary, in accordance with their Terms of Reference, the present Financial Rules and any Implementing Instructions promulgated in accordance with Article 19 above. The External Auditors shall, in particular, check the accuracy of the books, statement of assets, liabilities, and accounts specified in Article 24 above.
- (2) The External Auditors shall as a part of the annual audit, review the internal control structure of the Secretariat and may make observations, if necessary, with respect to the effectiveness of the financial systems, the accounting procedures, the internal financial controls, and the financial management and administration of the Secretariat.
- (3) The External Auditors shall submit an audit report and certified accounts including the financial statements and the budget implementation report, to the Conference so that they may be available to the Budget Committee not later than eight months after the end of the financial year to which the accounts relate. The Budget Committee shall make to the Conference such observations on the Auditors' report as it may consider appropriate.
- (4) On the basis of this report, the Conference shall discharge the Secretary-General from his or her management and administrative responsibility in respect of the Budget.

**PART VIII  
MISCELLANEOUS PROVISIONS**

**ARTICLE 33**

The Secretary-General shall submit to the Conference for approval, after consideration and report by the Budget Committee, any proposed substantive revisions to the Financial Rules.

**ARTICLE 34**

The Secretary-General shall submit to the Conference, through the Budget Committee, an estimate of the cost involved in the carrying out of all supplementary Budget decisions. No decisions involving additional expenditure shall be deemed to be approved by the Conference until the Conference has approved an estimate of the additional expenditure involved.

### **ARTICLE 35**

There shall be a Budget Committee composed of representatives of all Signatories; its Terms of Reference shall be established by the Conference.

### **ARTICLE 36**

- (1) The Secretary-General may delegate to the Deputy Secretary-General or, if the post falls vacant, to the Head of Unit in charge of Finances such authority as he or she considers necessary for the effective implementation of these Financial Rules.
- (2) In the absence or incapacity of an official expressly authorised to act by the Financial Regulations or Implementing Instructions, or should the post in question be vacant, the following post in the sequence of Secretary-General, Deputy Secretary-General, Head of Unit in charge of Finances, shall be authorised to so act. In addition, should the post in question be vacant, the preceding post in the sequence of Secretary-General, Deputy Secretary-General, Head of Unit in charge of Finances may also confer these functions on another official, in writing, on an interim basis.

### **ARTICLE 37**

The Secretary-General shall issue a statement of assurance of management, representation of performance and compliance to the Conference.

# **IMPLEMENTING INSTRUCTIONS TO THE FINANCIAL RULES**

## **SECTION I BASIC PRINCIPLES**

### **INSTRUCTION 1**

- a) These Instructions lay down the procedures for the financial management, and budgetary control of the operations of the Secretariat as required under Articles 19 to 22 of the Financial Rules.
- b) Any legal instrument committing the Secretariat vis-à-vis third parties and necessarily entailing expenditure, income or loss of income for the Secretariat or necessarily affecting the state of its assets shall be signed by the member of the Staff duly authorised for that purpose:
  - i) by express provision of these Instructions and in accordance with the conditions laid therein; or
  - ii) under some express provision of the Staff Regulations applicable to the various categories of the Staff of the Secretariat; or
  - iii) by special written authorisation from the Secretary-General.
- c) The Head of Unit in charge of Finances shall be responsible for prescribing and maintaining the necessary accounts and subsidiary records and shall institute systems and procedures which will permit the Deputy Secretary-General to report accurately and timely to the Budget Committee on the financing of all activities of the Secretariat so it can ensure that the programme of work is carried out through its approved annual budget and closely monitor its execution and expenditure.
- d) When carrying out the financial function of the Secretariat, the following shall be given due consideration:
  - i) economy, efficiency and effectiveness;
  - ii) the overall interests of the Secretariat; and
  - iii) prior budgetary approval and the availability of funds.

### **INSTRUCTION 2**

- a) The system of internal financial management and budgetary control specified in Article 19 of the Financial Rules shall comprise of financial and budgetary control by the Deputy Secretary-General over expenditure commitments and payments, by reference to supporting receipts and over income and the covering of supplementary budget expenditure.

- b) The operations and financial management of the Secretariat shall be subject to the internal control and review procedures required to ensure compliance with the Rules and Instructions in force.
- c) Verification of compliance with the Rules and Instructions in force shall be performed by individuals independent from those originally responsible for initiating the transactions. The Deputy Secretary-General shall ensure the compliance with these Rules and Instructions for transactions initiated by the Secretary-General or other staff members. The compliance of transactions initiated by the Deputy Secretary-General shall be ensured by the Secretary-General.

## **SECTION II EXPENDITURE COMMITMENTS**

### **INSTRUCTION 3**

- a) Expenditure may be made out of budgetary appropriations only after a previously authorised commitment.
- b) All requests to enter into commitments over Euro 1 500 shall be submitted to the Secretary-General, or upon delegation to the Deputy Secretary-General for approval.
- c) Representation expenses over Euro 500 are subject to approval by the Secretary-General.
- d) Except for representation expenses under Euro 500 all commitment and payment requests of less than Euro 1 500 shall be submitted to the Head of Unit in charge of Finances for approval.
- e) The Deputy Secretary-General is responsible for the budgetary control, accounting and reporting of all commitments.

### **INSTRUCTION 4**

- a) All requests to enter into commitments, accompanied by the appropriate supporting receipts and explanations, shall be submitted to the Deputy Secretary-General who shall ensure that the expenditure proposed is in accordance with the purposes specified in the Budget and other financial provisions adopted by the Conference, Budget Committee or by the Secretary-General, and that appropriations are available under the relevant heading of the Budget to cover the expenditure envisaged.
- b) Requests to enter into commitments under Euro 1 500, accompanied by the appropriate supporting receipts and explanations, can be submitted to the Head of the Unit requesting the commitment who shall ensure that the expenditure proposed is in

accordance with the purposes specified in the Budget and other financial provisions adopted by the Conference, Budget Committee or by the Secretary-General, and that appropriations are available under the relevant Budget item to cover the expenditure envisaged. The Head of the Unit shall report the commitment and all supporting documents to the Deputy Secretary-General in due time.

- c) The Deputy Secretary-General shall record the expenditure which will result from the commitment requests.

### **SECTION III PAYMENTS FROM APPROPRIATIONS**

#### **INSTRUCTION 5**

- a) Before approving payment against a budgetary appropriation, the Deputy Secretary-General or the Head of Unit in charge of Finances shall check the request for payment against the corresponding commitments to ensure:
  - i) that the invoicing corresponds with the purchase order, contract or agreement;
  - ii) that it has been duly certified that the goods have been received or the service rendered.

All the supporting receipts for payments shall be forwarded to the Deputy Secretary-General and to the Head of Unit in charge of Finances.

- b) Notwithstanding the provisions of paragraph a) above, purchases of goods or services not exceeding Euro 1 000 may be made by purchase order without prior commitment. Such purchase of goods or services without prior commitment shall be related to the implementation of the programme or work or task related to the daily work of the Secretariat. A copy of all purchase orders shall be forwarded to the Head of Unit in charge of Finances.

### **SECTION IV CONTROL OF INCOME AND EXPENDITURE**

#### **INSTRUCTION 6**

In the case of income, the Secretary-General shall ensure that the Secretariat's rights are safeguarded and that contributions, income and all resources are received. Collection orders shall be issued in respect of budgetary income and recorded in the accounts.

## **INSTRUCTION 7**

The following funds may be set up in the accounts of the Secretariat:

- a) general reserve fund for general expenses consisting of annual budget surpluses from Items of Part I of the Budget;
- b) trust fund, constituted as a reserve for the Signatory concerned, if need be;
- c) working capital fund for other than general expenses consisting of surpluses established annually at the final closure of programmes of Part II of the Budget.

## **INSTRUCTION 8**

- a) The Conference on advice of the Budget Committee shall determine the amount and the use of reserve and working capital funds pursuant to proposals from the Secretary-General.
- b) The Secretary-General may use up to 10% of the total amount of the General Reserve Fund at 31 December of the preceding financial year after submission of the certified accounts by the External Auditors in a financial sustainable manner. The chair of the Budget Committee shall be provided with the justification of use of that amount. The Secretary-General shall report to the Budget Committee of the use made from the General Reserve Fund including justification. The General Reserve Fund is supplementary to Budget Part I.
- c) Trust funds may be used only with the prior agreement of the Contracting Party or Signatory concerned.
- d) Income from the general reserve fund and trust funds shall be paid into these funds annually.

## **INSTRUCTION 9**

The Secretary-General authorises payments in respect of eventual supplementary budget expenditure and shall ensure that they are made within the limits of the corresponding amounts of income available, and after receipt of the appropriate supporting receipts from the unit requesting the expenditure.

## **SECTION V PAYMENT ORDERS**

### **INSTRUCTION 10**

- a) As a general rule, payments in respect of budgetary or supplementary budget expenditure shall be made by direct transfer, standing order or credit card. All payment orders shall be signed by two officials authorised to do so by the Secretary-General. Payment orders, the amount of which exceeds Euro 1 500 shall be submitted to the Secretary-General for approval prior to signature. An official holding a credit card is responsible for obtaining and archiving approvals following the same procedure as for other payments in accordance with the above described procedure.
- b) In exceptional cases, payments in cash are authorised, but limited to the payment of allowances or reimbursement of costs to individuals who do not own a bank account in the Eurozone and whose payments to foreign accounts would prove inefficient. This is, in particular, the case of the financial assistance to invited experts as described in Instruction ~~29~~31 b) and c) below, as well as the payment of allowances and travel expenses to secondees, fellows and interns visiting the Secretariat for a short period.

## **SECTION VI ACCOUNTING, CONTROL AND FINANCIAL REPORTING**

### **INSTRUCTION 11**

The-Head of Unit in charge of Finances shall, in line with Article 25:

- a) keep the budget accounts of expenditure and income referred to in Article 24(2)(a) of the Financial Rules;
- b) keep the general accounts specified in Article 24(2)(b) and separate accounts specified in Article 24 (2)(c) of the Financial Rules;
- c) keep the accounts of the terminal allowance, if this function is not contracted out;
- d) draw up, at the end of the financial year, the detailed statement of financial position and accounts specified in Article 24(3) of the Financial Rules;
- e) Prepare annual financial statements that include corresponding figures for the preceding financial year. If a change in an accounting policy is made which has a material effect on the financial statements, it is necessary to disclose that a change has been made and to quantify the effect; and

- f) be responsible for inventories of movable and immovable property and record the value of such acquisitions and removals taking into account annual depreciation charges.

### **INSTRUCTION 12**

The Deputy Secretary-General shall take all necessary action to preserve the assets of the Secretariat; to that end, he or she shall be responsible for:

- a) the short-term investments of funds referred to in Article 27 of the Financial Rules;
- b) any foreign exchange transactions referred to in Article 30 of the Financial Rules;
- c) the preparation of the periodic reports to the Budget Committee on the short-term investments of funds and the annual report on the foreign exchange transactions carried out in the preceding year as required under Articles 27 and 31 of the Financial Rules.

### **INSTRUCTION 13**

The Deputy Secretary-General shall:

- a) be in charge of designing the internal control procedures and their eventual revisions, if necessary, as well as monitoring their implementation and reporting to the Budget Committee;
- b) verify compliance of financial transactions initiated by the Secretary-General and Heads of Units with the Financial Rules and Implementing Instructions in force;
- c) exercise financial and budgetary control and financial reporting on all commitments to the Budget Committee;
- d) suspend the use of appropriations or of specific commitments for which no legal commitments exists in case of risk of budget over-expenditure.

### **INSTRUCTION 14**

- a) The internal control procedures, to encompass sound financial management (effectiveness, efficiency and economy of operations), reliability of reporting, safeguarding of assets and information, prevention, detection and follow-up of irregularities and adequate management of risks relating to legality, regularity and technicality of the underlying transactions, based on best international practices, have to be approved by the Budget/Management Committee.
- b) Such internal control procedures shall be reviewed annually.
- c) Reporting shall be done regularly to the Budget Committee and to the Management Committee at its request.



- d) The internal control procedures in place must be sufficient to ensure that:
  - i) transactions are supported by appropriate documentation;
  - ii) recorded transactions are valid;
  - iii) transactions are properly authorised;
  - iv) existing transactions are recorded;
  - v) transactions are properly valued;
  - vi) transactions are recorded at the proper time;
  - vii) transactions are properly posted in subsidiary records and correctly summarised.
  
- e) Depending on the nature of the asset or record, one or more of the following elements, if practicable, shall be employed:
  - i) adequate storing facilities, such as fireproof safes or safe deposit vaults, to store important assets, records, EDP material, and documents;
  - ii) dual custody of negotiable instruments; and
  - iii) sufficient insurance coverage.
  
- f) An effective system of risk management shall be established to identify and address internal and external risks to the Organisation, on an ongoing basis throughout the year, and bring them to the attention of the Budget Committee and to the Management Committee at its request in a timely manner. The reports shall be consistent with the presentation of the Budget. The reports shall, *inter alia*, compare the budget results to the approved Budget and shall include information on the use of the budget appropriations, the financing of appropriations, and a summary of transfers of appropriations. The final budget result report for a financial period shall also present a table outlining all income offsetting expenditure in the budget accounts, comparative analyses with prior year expenditure, a summary of all carry-forwards of appropriations, as well as a table regarding voluntary contributions and grants. The Budget Committee shall review reporting requirements periodically or upon a proposal from the Secretary-General.
  
- g) Financial reporting shall be presented periodically to the Budget Committee in line with the relevant Financial Rules and Implementing Instructions. The reports shall contain:
  - i) Financial statements and notes disclosing significant accounting policies and disclosure of contingent liabilities, commitments, and other information necessary to report the current financial condition of the Secretariat in line with Article 25(2)(c) and Instruction 3;
  - ii) Information on the short-term investments of funds in line with Article 27;
  - iii) Information on foreign exchange transactions carried out during the preceding year in line with Article 31;
  - iv) The use made of the General Reserve Fund and its justification in line with Instruction 8;

- v) Detailed statement of assets and liabilities and accounts specified in Article 24(3) and Instruction 11d).
- h) The Deputy Secretary-General shall be in charge of reporting on internal control, budgetary and financial matters and shall be responsible for ensuring that accounting and financial records, including financial statements, are kept for ten years and supporting receipts for income or expenditure for five years after approval of accounts by the Conference.

## **SECTION VII ORDERS AND CONTRACTS**

### **INSTRUCTION 15**

- a) For purchase of goods (including equipment, furniture and supplies) ~~or~~ and services (including works, installation, maintenance and insurance) of an amount over Euro 6 000 but not exceeding Euro 25 000 shall be subject of a formal contract.
- b) The Budget Committee should be informed of the purchase of goods and services exceeding Euro 6 000 threshold.
- c) For the purchase of goods (including equipment, furniture and supplies) and services (including works, installation, maintenance and insurance) of an amount over Euro 25 000 but not exceeding Euro 130 000 at least three suppliers have to submit price quotations in writing.
- d) For the purchase of goods and services amounting to over Euro 130 000 shall be subject to an invitation to tender with at least three invited suppliers or contractors.
- e) Invitations to tender shall show, in addition to the proposed quantities and specifications of goods and services, the terms of delivery or performance and the closing date for lodging tenders. In all cases, suppliers or contractors shall be asked to state their prices, delivery or performance dates, and the time during which their offers remain open.
- f) The closing date for lodging tenders under paragraph b) above shall be determined so as to enable suppliers or contractors located in distant Signatory countries to tender. The Deputy Secretary-General shall inform Signatories of international invitations to tender.
- g) Invitations to tender shall be drafted in identical terms for all bidders. Any further information or particulars given to one bidder shall be communicated in writing to all bidders.
- h) The confidentiality of tenders shall be observed.

- i) Tenders shall be opened under the responsibility of the Deputy Secretary-General, assisted by one colleague.
- j) All suppliers or contractors who have tendered shall be informed of the results of their tenders.
- k) The amounts referred to in paragraphs a) and b) of this Instruction shall be reviewed annually by the Secretary-General having regard to changes in the number and average size of contracts entered into by the Secretariat and to the evolution of the cost of goods and services. Any subsequent proposed revisions will be subject to approval by the Budget Committee.

### **INSTRUCTION 16**

- a) In the following cases, derogations from the tender or price quotation procedure as described under Instruction 15 above shall be possible:
  - i) by special written decision of the Secretary-General on the grounds of urgency or other practical considerations of the Secretariat justify an exception;
  - ii) by decision of the Contracts Committee when the procedure under Instruction 15 above cannot be followed because of the special nature of the supplies or services concerned; or
  - iii) when it is in the best interest of the Secretariat to place an order or conclude a contract within a period which by reason of overriding urgency or unforeseeable circumstances is too short to enable an invitation to tender to be put out or for several suppliers or contractors to be consulted.
- b) In such cases an order shall be placed or a contract entered into directly.
- c) Requests for derogation shall be submitted, together with the necessary supporting documents, to the Contracts Committee.

### **INSTRUCTION 17**

- a) Unless strong reasons exist to the contrary, purchase orders shall be placed, or contracts entered into, with the supplier or contractor who has submitted the most advantageous offer. If an offer other than the lowest offer is selected, the choice shall be subject to particular justification, supported by the appropriate documentation.
- b) The Budget Committee shall be kept informed by the Secretary-General of cases where there was a derogation from the tender procedures or where an offer other than the most advantageous was selected.

## **INSTRUCTION 18**

Goods or services for an amount not exceeding Euro 6 000 may be procured by simple purchase order. Procurement above this amount shall be the subject of a formal contract.

## **INSTRUCTION 19**

- a) The Contracts Committee shall, prior to any decision by the competent authority, examine:
- i) the draft of any contract or other legal instruments referred to in Instruction 1 when the sums involved exceed Euro 25 000 and any supplementary clauses to such contracts; however, the Committee may, where the Secretary-General so requests, exempt ex officio from such examination the first two renewals, after the first year, on the same terms, including financial terms, of a contract;
  - ii) the draft of any clause supplementary to an order or a contract involving expenditure of up to Euro 25 000 where such supplementary clauses have the effect of bringing the overall maximum amount of the contract to more than Euro 25 000;
  - iii) the draft of any repeat orders or contracts which will bring the total sum of expenditure for the same type of goods or services amount to more than Euro 25 000 in the course of the financial year;
  - iv) derogations from the provisions of Instruction 15 above, in the cases referred to in Instructions 16 and 17 above.
- b) The provisions of this Instruction shall not apply to the appointment of members of the Staff of the Secretariat nor to seconded experts, fellows and interns.

## **INSTRUCTION 20**

The Contracts Committee shall consist of:

- the Secretary-General or in his or her absence, the Deputy Secretary-General, as the Chairman;
- the Deputy Secretary-General; and
- the General Counsel.

The Secretary-General shall nominate an official of the Secretariat to be the Secretary to the Contracts Committee. The Secretary to the Contracts Committee is not member of the Contracts Committee. In case of absence of a member, a senior official should be nominated by the Chairman.

## **INSTRUCTION 21**

- a) The Contracts Committee shall be convened by the Chairman; its proceedings shall be valid if three members are present, the Chairman being present.
- b) Papers shall be submitted to the Committee at least three working days before the appointed date of the meeting.
- c) After considering offers by suppliers, draft specifications, orders or contracts, having satisfied itself that the expenditure commitment relating to the order or contract proposed has been approved in accordance with the provisions of Instruction 4 above, the Committee shall give its opinion, by the majority of those members present.
- d) Minutes shall be kept of meetings, setting forth minority opinions whenever pertinent.
- e) All relevant extracts from the Minutes of the meetings shall be included in the file relating to each item of business considered, which file shall be kept by the Secretary to the Committee.
- f) The Committee may give its opinion under a written procedure. The provisions set out in the foregoing paragraphs shall apply mutatis mutandis. However, the Chairman of the Committee may decide, on grounds of urgency, that the opinion of the Committee shall be deemed favourable, unless objections have been raised within two working days after reception of the papers to be considered by the members of the Committee.

## **INSTRUCTION 22**

- a) Orders, contracts and other legal instruments committing the Secretariat for an amount of up to Euro 20 000 shall be signed by the Deputy Secretary-General.
- b) Contracts and other legal instruments committing the Secretariat for an amount over Euro 20 000 shall be signed by the Secretary-General or, in his or her absence, by the Deputy Secretary-General. The Deputy Secretary-General shall verify compliance of the commitment with the Financial Rules and Implementing Instructions in force.
- c) The provisions of this Instruction shall not apply to the appointment of members of the Staff of the Secretariat.

**SECTION VIII**  
**ASSETS, TRANSFER OF PROPERTY AND LOSSES**

**INSTRUCTION 23**

- a) All assets of a value per unit of Euro 200 or more shall be included in the permanent inventory of the movable and immovable property constituting the assets of the Secretariat.
- b) All assets of an acquisition value per unit of Euro 500 or more shall be capitalised. These assets shall be further depreciated over their estimated useful lives:
- Furniture & fixtures            10 years
  - IT equipment                    4 years
  - Leasehold improvements        over the remaining lease term
  - Transport equipment            6 years
  - Other                              4 years
- c) The Budget Committee shall be informed of the inventory list once a year.

**INSTRUCTION 24**

Based on proper justification that furniture, equipment and other assets of the inventory of the Secretariat proposed for disposal are of no use to the Secretariat, or disposal is in the best interest of the Secretariat, the Secretary-General may approve, in consultation with the Deputy Secretary-General, arrangements for the sale under the best terms of the goods. If the market value of the goods is higher than the book value, the former shall be considered as the best terms to the Secretariat.

**INSTRUCTION 25**

- a) The Secretary-General may authorise the writing off up to Euro 2 500 annually of any loss of assets or irrevocable book debts.
- b) Above these amounts, the writing off shall be subject to the favourable opinion of the Budget Committee.

**INSTRUCTION 26**

The Deputy Secretary-General shall be responsible for drawing up a statement of losses of assets which are written off as provided for in Article 29 of the Financial Rules. This statement is submitted annually to the Budget Committee with the Annual Accounts.

**SECTION IX  
REPRESENTATION EXPENSES**

**INSTRUCTION 27**

The allocation of total appropriations for representation expenses of the Secretariat shall be made each year in the Budget of the Secretariat.

**INSTRUCTION 28**

- a) Officials to whom an authorisation is given by the Secretary - General and including the Secretary-General herself/himself, may be repaid the cost of official representation (including gifts, taxis, parking fees) in the limits indicated below:
- i) for lunch/dinner in their own homes:
    - Euro 15 per person, including the host and hostess, for receptions;
    - Euro 45 per person, including the host and hostess, for lunches and dinners;
  - ii) for lunch/dinner in outside places:
    - Euro 18 per person, including the host and hostess, for receptions;
    - Euro 65 per person, including the host and hostess, for lunches and dinners.

The Secretary-General's representation costs shall be approved by the Deputy Secretary-General.

- b) The amounts fixed above shall be updated every year by decision of the Secretary-General, on the basis of a local consumer price index.
- c) The maximum amount for gifts per official should be limited to Euro 50 for officials and Euro 150 for the Secretary-General and the Deputy Secretary-General.

**INSTRUCTION 29**

- a) Repayment claims shall be sent to the Deputy Secretary-General, accompanied by supporting receipts and the list of the guests.
- b) No repayment shall be made in respect of the representation solely of members of the Secretariat, except in special cases previously authorised by the Secretary-General for administrative reasons.

**INSTRUCTION 30**

The Deputy Secretary-General shall periodically submit to the Secretary-General a detailed account of the state of the appropriation for representation expenses.

**SECTION X  
PARTICIPATION IN CONFERENCES, SEMINARS,  
MEETINGS OR OTHER EVENTS**

**INSTRUCTION 31**

- a) Experts or other participants shall be designated either by the Secretary-General or by Signatories at the request of the Secretary-General to attend conferences, seminars, meetings or other events related to the Charter activities.
- b) The fees, travel expenses and daily subsistence of experts and other participants designated by the Secretary-General shall be paid by the Secretariat. As a general rule, fees, travel expenses and daily allowances of experts or other participants designated by the Signatories will be paid by the parties which designated them.
- c) Financial assistance for travel and subsistence expenses for attendance at meetings of maximum one invited expert per transition country shall be based on the procedures established by the Secretary-General in consultations with the Budget Committee.
- d) The financial assistance may be provided to experts:
  - i) from least developed countries, other low income countries, and lower middle income countries and territories of the latest OECD's "Development Assistance Committee (DAC) list of Official Development Assistance (ODA)"<sup>1</sup> recipients
  - ii) from observer countries in the context of the policy on CONEXO and as an option at the discretion of the Secretary-General upon the confirmation of the availability of resources by the Head of Unit in charge of Finances.
- e) The financial assistance cannot be provided to experts from countries with arrears of contributions in accordance with Article 36 of the Energy Charter Treaty.

**INSTRUCTION 32**

Any document or other material collected or produced in connection with such activities shall be freely available to the Secretariat.

**INSTRUCTION 33**

Expenditure on assistance from consultants and organisations could, if so decided, include the payment of fees and expenses for Chairmen who were not government officials.

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<sup>1</sup> Latest version available at  
<https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/daclist.htm>



**SECTION XI  
MISCELLANEOUS PROVISIONS**

**INSTRUCTION 34**

The present Implementing Instructions shall take effect as of 25 August 2022 and shall cancel all contrary provisions in force prior to that date.

# **TERMS OF REFERENCE GOVERNING THE EXTERNAL AUDITORS**

## **ARTICLE 1**

The External Auditors (hereinafter called the Auditor(s)) shall perform such financial Audit of the financial statements of the Secretariat based on the International Public Sector Accounting Standards (IPSAS), comprised of the balance sheet, the statement of income and expenditure and the notes in order to issue an opinion on the financial statements of the Secretariat.

In addition to the financial Audit, the Auditor(s) shall report on the compliance of the Secretariat's financial management and administration with the Financial Rules and Implementing Instructions of the Secretariat.

## **ARTICLE 2**

The Auditor(s) shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Secretariat and may proceed to such detailed examination and verification as required.

## **ARTICLE 3**

The Auditor(s) shall have free access at all convenient times to all books and records and other documentation, and staff of the Secretariat which are, in the opinion of the Auditor(s), necessary for the performance of the Audit. The Auditor(s) shall respect the privileged and confidential nature of any classified information, and shall not make use of such information, except in direct connection with the performance of the Audit.

## **ARTICLE 4**

The Auditor(s) shall verify the annual financial transactions of the Secretariat as regards income, expenditures, receipts and disbursement and shall perform such audits as they deem necessary to certify that:

- (1) The financial statements give a true and fair view of the Energy Charter Secretariat's net equity and financial position as at 31 December 20xx, and of its Income and Expenditure for the year then ended, prepared in accordance with the Financial Rules and their Implementing Instructions, International Public Sector Accounting Standards (IPSAS) and with the Accounting Policies which are described in Note 2 to the financial statements of the Energy Charter Secretariat.
- (2) The financial management and administration of the Secretariat has been carried out on a sound, economical and efficient basis, i.e. in compliance with the Financial

Rules and Implementing Instructions of the Secretariat based on reasonable assurance standard.

#### **ARTICLE 5**

The Report of the Auditor(s) should comply with the International Standards on Auditing (ISA) (for (1) above) and the International Standards on Assurance Engagements (ISAE) (for (2) above).

#### **ARTICLE 6**

The Auditor(s) shall be completely independent of the Secretariat and solely responsible for the Audit.

#### **ARTICLE 7**

The Secretary-General shall give the Auditor(s) such assistance and furnish them with such facilities as they may need for the proper discharge of their duties.

#### **ARTICLE 8**

- (1) Each year the Auditor(s) shall prepare an audit report in compliance with the abovementioned standards. They can also report any observations and recommendations as they deem necessary on the economy and efficiency of financial procedures, the accounting system and internal control, including review of the internal structure of the Secretariat in a separate letter of recommendations as annex to the Report
- (2) Such observations that, in the professional judgement of the Auditor(s), need not be brought to the attention of the Conference shall be attached as an addendum for consideration by the Budget Committee.

#### **ARTICLE 9**

The audit report shall be submitted to the Budget Committee not later than eight months after the financial period to which the accounts refer. The draft report shall be transmitted to the Secretary-General beforehand, so that opportunity is given to furnish within 30 days such explanations and justifications as may be required.

#### **ARTICLE 10**

The Budget Committee shall transmit the audit report to the Conference, together with the explanations of the Secretary-General and, if necessary, with its own observations.