

**ENERGY CHARTER  
SECRETARIAT**

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Brussels, 28 November 2008

Related documents: CC 360 Rev. 1, CC 366, CC 368
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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject:      **Quinquennial Energy Charter Review under Article 34(7) of the Energy Charter Treaty****

[The Energy Charter Conference at its 19<sup>th</sup> Meeting held on 28 November 2008 approved the 2009 Energy Charter Review Terms of Reference as proposed in CC 360 (REV. 1) (*Annex*), and unanimously appointed Prof. Sergio Garribba of Italy as the Special Representative for the Review, as proposed by the Italian delegation in document CC 366.]

Keywords:      Energy Charter Review, ToR, Terms of Reference, Sergio Garriba, Special Representative

**Terms of Reference for the Review under Article 34(7) ECT  
to be conducted in 2009**

as approved by the Energy Charter Conference  
at its 19th Meeting on 28th November 2008

1. At its 19<sup>th</sup> meeting in Athens, the Energy Charter Conference decided to conduct a Review as provided for in Article 34(7) ECT in 2009. These Terms of Reference define roles, procedures and objectives of a process leading to the approval of conclusions on the Review under Article 34(7) ECT by the Conference at its 20<sup>th</sup> meeting.
2. Subject of the Review are the functions provided for in the Treaty, notably in Article 34(3), which shall be considered in light of the extent to which the provisions and Protocols have been implemented. Areas of priority for the Member States, namely, investment, trade, transit, energy efficiency and dispute resolution, shall be looked at in particular.
3. The Conference will appoint a Special Representative to coordinate and to lead the 2009 Review. During 2009, he/she will ensure consultations among the Contracting Parties and Signatories of the Treaty, the subsidiary bodies of the Conference, the Energy Charter Secretariat, the Industry Advisory Panel and other bodies, persons, organisations or Non-signatories as appropriate. The involvement of Contracting Parties and Signatories of the Treaty will be considered a priority.
4. The Special Representative will prepare a Report on the outcome of consultations, which will be discussed as appropriate with the Member States. Based on this discussion, the Special Representative will prepare draft Conclusions, which will be forwarded to the Conference for approval.
5. The Special Representative will report on his work to the 20<sup>th</sup> meeting of the Charter Conference, where the conclusions on the Review under Article 34(7) ECT shall be discussed and approved.
6. The Review shall consider, *inter alia*:
  - The functions provided for in the Treaty and its associated instruments and the extent to which their provisions have been implemented;
  - The general functioning of the Energy Charter process, including its effectiveness and efficiency in meeting its objectives, notably the Purpose of the Treaty (Article 2 ECT) and the Objectives of the Energy Charter of 1991;
  - The functioning, structures and organisation of the Energy Charter Conference, Groups and Committees and of the Energy Charter Secretariat, and in addition for the Secretariat, its staffing and financial aspects;
  - Possible ways in which the Charter process could be made more effective or efficient, including specifically with respect to implementation and observance of its provisions; with appropriate consideration of the costs and benefits of possible actions;
  - The balance between the role of the Energy Charter in implementation and monitoring on the one hand and its role as a policy forum on the other;

- The situation with respect to ratification of the ECT and related instruments by existing Signatories;
- The relations with Non-signatories and a policy with regard to the accession of new Members to the ECT;
- New challenges in the energy sector, taking into consideration the report of the Ad Hoc Strategy Group to the Conference in 2008;
- The relations and cooperation with other relevant international organisations and *fora*, and the areas where the Energy Charter can provide most added value, in view of enhancing synergies and avoiding unnecessary duplication.

7. The Energy Charter Secretariat shall fully support and assist the carrying out of the Review. Notably, it will support the Special Representative for the Review, the Chairman of the Conference, and subsidiary bodies of the Conference in their work related to the Review.