

**ENERGY CHARTER
SECRETARIAT**

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Related documents: CC 447, CC 458

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Working Group on Rules of Procedure for Appointing the Secretary General

[Following a discussion on the Working Group on Rules of Procedure for Appointing the Secretary General, the Energy Charter Conference at its 23rd Meeting held on 26th/27th November 2012, the Chairman] asked the Conference to note the progress made so far, and for support for the continued deliberations of the Working Group.

There were no comments from any delegation and the Report of the Chairman (CC 447 – Annex) was *deemed to be adopted* by the Conference.

Keywords: Working Group, Secretary General

Annex

Report by Ambassador Selim Kuneralp, Chairman of the Working Group on the Rules of Procedure for Appointment of the Secretary General

The 22nd Meeting of the Conference in Sofia on 29 November 2011 mandated the establishment of the Working Group on the Rules of Procedure for Appointment of the Secretary General.

For the first time, in full compliance with the Rules of Procedure of the Charter Conference (Rule 10(b)), a Working Group was established by inviting members who were interested to participate. The Working Group consists of representatives of 18 members namely; Armenia, Australia, Austria, Belgium, Cyprus, European Union, Italy, Japan, Kazakhstan, Lithuania, Luxembourg, Norway, Poland, Russian Federation, Slovakia, Turkey, Ukraine and Uzbekistan (CC 425 and 426). At the most recent meeting of the Working Group, on 5 November, Albania and Moldova attended as observers.

The Terms of Reference of the Working Group were approved by the Conference by written procedure as notified to the delegations on 7 May 2012 (Message № 991/12).

In the course of 2012 the Group met on four occasions (2 March, 21 May, 8 October and 5 November).

The most important items discussed on the four occasions when the Group met were:

1. Requirements for candidacy
2. Term of office of the Secretary General
3. The role of the Chairman of the Conference in the appointment
4. The participation of delegates in the interviews of the candidates
5. Informal sounding of preferences

At the most recent meeting of the Working Group on 5 November, the deliberations centred on Document SGG 8 dated 23 October which is available to all delegates. This is a draft of the Rules of Procedure for the appointment of the Secretary General, based on the earlier discussions and consultations of the Working Group.

There was a review and discussion on draft Rules 1-6 and on Rules 8 and 9. Certain amendments and refinements to those rules were proposed and agreed. These changes will be reflected in a further revised draft of the Rules of Procedure being prepared by the Secretariat. This revised draft of the Rules of Procedure should lead to further constructive discussions in the Group.

Agreement on Rule 7 which describes the informal sounding of preferences has not yet been reached. The essence of the current draft of Rule 7 is a description of a mechanism to achieve consensus through as detailed a procedure as possible, while at the same time avoiding the issue of official voting.

Previous discussions in the Group have shown that there is a difficulty in reaching a consensus on the “official vote” issue. It was therefore agreed that the Procedure for the Appointment of the Secretary General should be designed around building a political

consensus achieved through an informal sounding in accordance with Article 36(1) of the Treaty. This Article reads: “*The Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Treaty.*” (“*Any other matter*” means any matter other than those requiring unanimity.)

Many delegates supported the procedure as proposed in Rule 7 regarding informal sounding of preferences. There was a clear view that such a rule is not only desirable but is an essential component of any new Rules of Procedure. However there is another proposal which would avoid a detailed description of the informal sounding of preferences in the new Rules. This proposal would leave informal sounding procedure to the discretion of the Chairman of the Conference.

There are also some other issues that need to be clarified. Some of these are of a technical nature while others are of substance. The Working Group has been assigned a complex and important task. The Group has operated in a spirit of impressive cooperation and determination. Much has been achieved by the Working Group in 2012. Some further deliberations should lead to the finalisation of a draft Rules of Procedure which would replace those set out in CC 164. At the last meeting on 5 November there was a consensus that further discussions are desirable and necessary to build on the progress which has already been made.

The Conference is asked to note the progress made to date and for support for the continued deliberations of the Working Group.