

**ENERGY CHARTER
SECRETARIAT**

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Related documents: CC 464, Mess 1092/13
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Adoption of the Practice of the Energy Charter Conference related to Chairmanship of the Charter Conference

By CC document 464, dated 4 November 2013, delegations were invited to approve the Practice of the Energy Charter Conference related to Chairmanship of the Charter Conference. As specified by Rule 20 of the Rules of Procedure (CC 53 corr. 2) 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 not later than 25 November 2013.

Within the specified time limit, the Secretariat received some minor comments on the Explanatory Note, which were included in an amended version (attached). Having received no objections to the Practice, the Energy Charter Conference on 25 November 2013 **adopted** the following **Practice of the Energy Charter Conference related to Chairmanship of the Charter Conference**:

1. The Chairmanship of the Conference shall be held for a term of one calendar year. Every year, the Conference shall approve a list of future Chairmanships of the Conference covering at least the following three years.
2. As a rule, the Minister in charge of Energy Charter issues of the Contracting Party holding the Chairmanship shall be designated as Chairperson of the Conference. The Contracting Party may also nominate a representative other than the Minister as the Chairperson. In performing the duties, the Chairperson shall act in

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accordance with the Energy Charter Treaty, Protocols, Declarations and Conference decisions. The Chairperson shall be assisted by Vice-Chairpersons.

3. Contracting Parties may nominate themselves for the office of Chairmanship by letter to the Secretariat, indicating their preference for the year when they wish to assume this role. The Secretariat shall immediately make such letter available to all delegations.
4. If for any reason the Chairperson can no longer perform the functions of the office, the Chairmanship shall nominate an official of the relevant government office as replacement. The Conference shall then, without delay, designate the replacement as new Chairperson.
5. Three positions of Vice-Chairpersons shall be reserved for the current, the outgoing and the incoming Chairmanship.
6. The Vice-Chairperson representing the acting Chairmanship shall act as first Vice-Chairperson, while the Vice-Chairpersons representing the outgoing and incoming Chairmanships shall rank second and third respectively. Additional Vice-Chairpersons, if any, shall be ranked in accordance with the date of their first appointment.
7. As part of the change of Chairperson under paragraph 4, the Chairmanship may renominate a Vice-Chairperson for designation by the Conference without delay.

EXPLANATORY NOTE

on the Practice of the Energy Charter Conference related to Chairmanship of the Charter Conference

Questions have been raised by delegations with regard to the combination of ‘Chairmanships’ and ‘Chairpersons and Vice-Chairpersons’. This note aims at explaining the rationale behind this approach.

1. What is the difference between Chairmanship and Chairpersons?

‘Chairmanship’ is a responsibility which governments of Contracting Parties voluntarily assume in relation to the Energy Charter Conference. The concept did not exist before within the Charter. It has been proposed in order to increase the involvement of Contracting Parties and their administrations in the work of the Conference. Chairpersons of the Conference were in the past nominated by member states, but they acted mostly in a personal capacity. Support from their national government was limited. The neutrality which former Chairpersons enjoyed allowed them to make valuable contributions to the work of the Conference. However, governments holding the Chairmanship would have a stronger role in defining the policy agenda of the Conference and in building consensus among the member states. As mentioned in point 3 of the Practice, Contracting Parties may nominate themselves for the office of Chairmanship, since the principle of rotation is on voluntary basis.

‘Chairpersons’, on the other hand, are a category defined by the Rules of Procedure (CC 53 corr. of 28 February 1996). The Rules provide that Chairpersons and Vice-Chairpersons shall be designated each year by the Conference. The proposed new Practice is not intended to change the Rules of Procedure. The Conference should therefore continue to designate Chairpersons and Vice-Chairpersons each year.

While Chairmanship is only open to Contracting Parties, the proposed practice does not exclude *per se* the possibility of having Vice-Chairpersons from non-ratifying signatories to the ECT (additional to the three positions of Vice-Chairpersons reserved for the current, the outgoing and the incoming Chairmanship).

The Practice only covers the annual, ordinary meetings of the Energy Charter Conference (Article 34.1 of the Energy Charter Treaty).

2. What is the rationale behind the combination of Chairmanships and Chairpersons?

Reference has been made to other organisations, where the Presidency or Chairmanship is held by a particular member state for a fixed period of time and where no individuals are

specifically appointed to chair meetings. In these cases, the member state holding the Chairmanship designates a representative to chair a meeting. If a Minister is normally responsible for representing his country at a meeting, he may designate one of his subordinates to replace him.

At first glance, such a system seems clearer and easier than the one suggested by the Secretariat. However, there is a rationale behind the Secretariat's proposal: (1) unless the Rules of Procedure are changed, the designation of Chairpersons and Vice Chairpersons must continue; (2) there are distinct advantages in having high ranking individuals within member state Ministries who are familiar with Energy Charter issues and who are therefore more likely to be effective Chairpersons or Vice Chairpersons (familiarity with the Energy Charter would not be a formal requirement for the role, but it is likely that it would be the expectation of the member states).

3. How would the outgoing, acting and incoming Chairmanships work together?

Only the acting Chairmanship would, as a rule, be actively involved during its Chairmanship year. If deemed necessary, the acting Chairmanship could ask the incoming and/or outgoing Chairmanship to work together on an *ad-hoc* basis: e.g. to formulate policy priorities, provide political guidance, and ensure continuity with regard to the implementation of priorities, under the authority of the Conference. To that end, they could hold meetings, also involving the Secretariat, represent the organisation at Energy Charter Policy Conferences, and be involved in informal meetings such as the 'Friends of the Chair'.

The Vice-Chairpersons could also support the Chairperson in building consensus on the appointment of the Secretary General, with a special coordinating role for the Vice-Chairperson from the country holding the Chairmanship. With the assistance of the Secretary General, they could also help to build consensus on the designation of future Chairmanships. Strong diplomatic involvement is required for consensus building for these decisions.

4. What happens if no country is prepared to hold the Chairmanship in a given year?

In the exceptional situation where no country is prepared to hold the Chairmanship of the Conference, there would still be Vice-Chairpersons to chair the meeting, which could take place in Brussels.

5. Meetings and relationship with the Secretariat

The Chairmanship can host the ordinary meetings of the Charter Conference outside of Brussels. The drafting history of Rule 3 of the Rules of Procedure shows that the expression '[e]xceptionally, the Conference or a subsidiary body may decide to meet

elsewhere' was introduced in order to make it explicit the possibility of having the meetings outside Brussels and not as a limitation.¹

Ordinary meetings of the Charter Conference shall be held once a year, preferably in November or December. The place and date of the following ordinary meeting of the Charter Conference shall be fixed by the Conference at the preceding meeting at the latest.

In carrying out its duties, the Chairmanship of the Conference and the Vice-Chairpersons shall be assisted by the Secretary General and the Secretariat. The Secretary General will ensure regular consultations with the Chairmanship with regard to the political dialogue and negotiations, the preparation of meetings, the co-ordination of the work subsidiary bodies of the Conference, representation of the organization and other Energy Charter activities.

In view of the implementation of this Practice, the Secretariat shall prepare draft decisions on the designation of the Chairmanship and the Vice-Chairpersons of the Conference. Following consultations with Signatories and Contracting Parties, the Secretariat shall circulate those to the Conference for approval no later than 2 months before its next ordinary meeting.

¹ In fact, Rule 3 was taken from the then Rule 4 of the Rules of Procedure of the OECD, which allowed for meetings elsewhere if there was previous approval of the Secretary General.