

**Draft Rules of Procedure of the ReSPA Governing Board**  
**[incorporating changes decided at SC10]**

**Introductory Comments**

1. This document consists of a draft Resolution of the ReSPA Governing Board adopting its Rules of Procedure, which Rules, in preliminary form, are annexed to the Resolution and form an integral part of it.
2. The text of the draft Rules of Procedure is accompanied by an Explanatory Commentary and by a list of comparable rules of procedure, mainly from organizations in the region. The Commentary and list are designed to assist the Steering Committee in its consideration of the draft Rules but are not part of the Rules of Procedure.
3. It will be for the Steering Committee to decide whether the texts that it approves for submission to the first session of the Governing Board are accompanied by a Commentary and a list of comparable rules to assist the Governing Board in its deliberations.
4. Article 11(3) of the ReSPA Agreement provides that all Resolutions must be adopted by “unanimity of all Members of ReSPA”, except for a Resolution extending the ReSPA Agreement where a Resolution by 2/3 of ReSPA Members is sufficient. Governing Board decisions by Resolutions will account for almost all on-going activities of ReSPA (see Article 15(1) of the ReSPA Agreement). It appears to follow that the Rules of Procedure need to have a number of provisions on formal voting (see Part V of the Rules). In addition, a system of obligatory formal voting may lead to some procedural issues and, consequently, the draft Rules of Procedure have introduced a basic set of procedural motions (see Part IV of the Rules). These may not be frequently needed but, if procedural differences arise during a meeting, it is helpful if rules are in place to resolve such matters.

*Draft of 2 February 2009 incorporating changes decided  
at SC10*

**Draft Resolution of the ReSPA Governing Board**

1. Whereas Article 15(1)(j) of the Agreement Establishing the Regional School of Public Administration (ReSPA) (hereinafter “ReSPA Agreement”) provides that the Governing Board shall “adopt the Rules of Procedure”,
2. Whereas Article 11(2) of the ReSPA Agreement provides that the “Governing Board shall adopt Resolutions for all matters pertaining to its responsibilities as defined in Article 15(1), including Rules of Procedure, Financial Regulations, Staff Regulations and accession of new Members”,
3. Whereas Article 11(3) of the ReSPA Agreement provides that “Resolutions shall be adopted by unanimity of all Members of ReSPA”,
4. Now, therefore, the Governing Board, by Resolution No. --/2009 adopted by unanimous vote of all Members of the Governing Board on [insert date], adopts the Rules of Procedure set out in the Annex to this Resolution, which Annex is an integral part of the Resolution.

**Explanatory commentary**

- a) The ReSPA Agreement requires that the Rules of Procedure of the Governing Board be adopted by Resolution.
- b) This Resolution records compliance with the requirements of the ReSPA Agreement for adoption of Rules of Procedure and provides a formal record to avoid possible procedural challenges to the way in which the Rules were adopted.

**ANNEX**

**Rules of Procedure of the ReSPA Governing Board**

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## ANNEX

**Rules of Procedure of the ReSPA Governing Board****I. Proceedings of the Governing Board****Article 1 Sessions**

1. The Governing Board shall meet at ministerial level once a year and at senior official level four times a year. The ministerial level session shall commence with a session at the senior official level.
2. Each session shall fix dates for the subsequent session or agree on a method to fix such dates.
3. The Governing Board may agree to meet in extraordinary session at other times.
4. The Governing Board may adopt Resolutions and other Decisions by correspondence in accordance with these Rules.
5. The Governing Board shall meet at Danilovgrad, Montenegro unless the Governing Board, by Decision, accepts an invitation to meet elsewhere.

**Explanatory commentary**

- a) Article 1 concerns the functioning of the Governing Board and is a consequence of Articles 16(1), 16(4) and 16(5) of the ReSPA Agreement.
- b) Article 1(1) requires the annual ministerial level session to be immediately preceded by a session at the senior official level. This would enable necessary preparation for a session at the ministerial level and would enable the requirement in Articles 16(4) and 16(5) of the ReSPA Agreement of five sessions per year (one ministerial and four senior official level) to be met by quarterly meetings.
- c) Article 1(2) requires the Governing Board to fix the dates for its next session or to agree on a method to fix or change those dates, *e.g.*, by subsequent email confirmation of tentative dates for the session.
- d) Article 1(3) reflects Article 16(5) of the ReSPA Agreement, which enables the Governing Board to hold an extraordinary session. Article 17(3) sets out the procedures needed for Decisions taken pursuant to these Rules.

- e) It is clear that at times it will be convenient or necessary to adopt a Resolution or other Decision between sessions. Article 1(4) empowers the Governing Board to so do. Article 18(4) deals with voting by correspondence.
- f) The ReSPA Agreement is silent on the place of meeting. Article 1(5) provides that ReSPA shall meet at its Headquarters., unless the Governing Board decides to accept an invitation to meet elsewhere. If this were to result in extra costs to ReSPA, the procedures in Article 22(3) would have to be followed.

### **Comparable Rules of Procedure**

- Articles 7 and 8 of Rules of Procedure of the ReSPA Steering Committee
- Article IV, paragraphs 1, 2 and 3, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 5.5, 5.6, 5.7 and 5.8 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article IV, paragraphs 1, 2 and 3, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Articles 5(1) and 5(3) of the Rules of Procedure of the Sava Commission
- Paragraphs 2, 3, 4, and 16 of the Procedural Aspects and Follow-Up Mechanisms of the South-East European Cooperation Process (SEECF)
- Rules 1 to 8 of UN General Assembly Rules of Procedure

### **Article 2 Provisional Agenda**

1. The Director shall circulate a draft Provisional Agenda to Members and Observers at least 45 days prior to a session of the Governing Board at the ministerial level and at least one month prior to a session at senior official level. Members and Observers may submit additional items to the Director for inclusion in the Provisional Agenda prior to the time that the Director communicates it to the Governing Board in accordance with paragraph 3 of this Article.

2. The Provisional Agenda for an extraordinary session shall be limited to the matters in the Decision convening the extraordinary session.

3. The Director shall submit to the Governing Board the Provisional Agenda and other documents needed for the session at least 30 days prior to a session at the ministerial level and at least 21 days prior to a session at senior official level. The provisional agenda shall include:

- a) All matters due for consideration pursuant to the ReSPA Agreement;
- b) Any matter the inclusion of which has been decided by the Governing Board at a prior session;

- c) Any matter proposed by a Member or an Observer; and
- d) Any item that the Director considers desirable that the Governing Board consider.

4. As soon as the Chair has assumed his/her functions, the Governing Board shall adopt the Agenda for that session. It may add, delete or amend items on the Agenda during the session.

### **Explanatory commentary**

- a) Article 2 ensures that all Members and Observers have adequate notice of items to be discussed during a session and also ensures that they have an opportunity to add items to the draft Provisional Agenda.
- b) Article 2(1) regulates the timing of circulation of a draft Provisional Agenda. A longer period of notice is provided for inclusion of items in the annual session at ministerial level.
- c) Article 2(2) limits the Provisional Agenda for an extraordinary session to the matters set out in the Decision of the Governing Board convening that extraordinary session.
- d) Article 2(3)(a) reflects the fact that the ReSPA Agreement requires that certain matters must be considered periodically by the Governing Board and, as a result, the Director must ensure that these items are on the Provisional Agenda.<sup>1</sup> Article 2(4)(b) implements any prior Resolutions or other Decisions of the Governing Board that an item be considered at a future session. Article 2(4)(c) requires the Director to place on the Provisional Agenda any item proposed by a Member or an Observer. Article 2(4)(d) enables the Director to place an item on the Provisional Agenda that he/she considers the Governing Board should consider.
- e) Article 2(4) makes the first order of business, apart from the annual assumption of duties by the Chair pursuant to Article 16(3) of the ReSPA Agreement, the adoption of the Agenda and permits the Governing Board to add or delete items on the Provisional Agenda, or to amend them.

### **Comparable Rules of Procedure**

- Article 9 of the Rules of Procedure of the Steering Committee
- Article IV, paragraph 4, and Article V, paragraph 5, of the Rules of Procedure of the Ministerial Council of the Energy Community

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<sup>1</sup> For example, Article 7, request(s) for ReSPA membership; Article 8, request(s) for Observer status and renewal thereof pursuant to Article 15(1)(f); Article 9, request(s) for Participant status; Article 15(1)(m) and (n), selection and appointment of Independent Auditor(s); Article 15(1)(3), adoption of annual reports to EU and to ReSPA Members; Article 18(2), annual Programme of Work; Article 18(3), reports requested by Governing Board; Article 19, appointment of Director; Articles 15(1)(h), 18(2), 23 and 25, budget and financial reports; Article 15(1)(o), method and criteria for selection of trainers and experts; Article 26, request(s) for waiver of immunity and request(s) for cooperation with national authorities; Article 29, consideration of proposed amendments to the ReSPA Agreement; Article 30, consideration of extension of ReSPA Agreement.

- Articles 5.9 and 5.10 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article IV, paragraph 4, and Article V, paragraph 7, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Article 4(5)(b) of the Rules of Procedure of the Sava Commission
- Rules 16 to 24 of UN General Assembly Rules of Procedure

### **Article 3 Representation and attendance**

1. Members shall be represented on the Governing Board by one representative from ministries or equivalent responsible for public administration, human resources development or European integration.
2. Members shall designate as their representative at sessions of the Governing Board as follows:
  - a) A minister or equivalent and a substitute at sessions at ministerial level; and
  - b) A senior official as Permanent Representative, and a substitute, at sessions at the senior official level.
3. A representative of a Member may be accompanied to sessions of the Governing Board by up to 3 advisers.
4. Observers may attend sessions of the Governing Board. Observers may participate fully in the work of the Governing Board without the right to vote.
5. A representative of the European Commission shall participate in the Governing Board on an *ex-officio* basis without right to vote.
6. The Director shall participate in the Governing Board on an *ex-officio* basis without right to vote.
7. The Governing Board may invite other States and organizations to attend its meetings and participate in its deliberations without the right to vote.
8. Experts invited by the Governing Board may participate in its sessions.
9. Representative(s) of the Secretariat and of the technical and service employees may attend meetings of the Governing Board and may address the Governing Board on matters relating to conditions of service and staff and employee welfare.

### **Explanatory commentary**

- a) Article 3 deals with attendance and representation at sessions of the Governing Board, as established by Articles 8(3) and 14 of the ReSPA Agreement.

- b) Article 3(1) deals with representation of Members, as established by Article 14(1) of the ReSPA Agreement.
- c) Article 3(2) deals with the level of representation of Members at sessions of the Governing Board, as established by Articles 14(2) and 14(3) of the ReSPA Agreement. A Member may, of course, designate its Permanent Representative to be the substitute.
- d) Article 3(3) enables a Representative of a Member to be accompanied by up to 3 advisers because various items on the Agenda may require different expertise.
- e) Article 3(4) provides that Observers may participate fully in the work of the Governing Board without the right to vote, as established by Article 8(3) of the ReSPA Agreement.
- f) Article 3(5) provides that a representative of the European Commission shall participate in the Governing Board on an *ex officio* basis without right to vote, as established by Article 14(4) of the ReSPA Agreement.
- g) Article 3(6) provides that the Director participates in the Governing Board on an *ex officio* basis without right to vote, as established by Article 14(5) of the ReSPA Agreement.
- h) Article 3(7) provides that the Governing Board may invite other States and organizations to attend its meetings and participate in its deliberations without the right to vote, as established by Article 14(6) of the ReSPA Agreement.
- i) Article 3(8) enables the Governing Board to invite experts to participate in its meetings, as established by Article 14(7) of the ReSPA Agreement.
- j) Article 3(9) gives to staff representative(s) the right to address the Governing Board on conditions of service and staff and employee welfare. This option reflects the practice of a number of international organizations, such as the UN, which permits attendance of representatives of the staff to meetings of legislative and policy bodies composed of representatives of UN Members on matters of concern to staff.

### **Comparable Rules of Procedure**

- Article 4 and 5 of the Rules of Procedure of the Steering Committee
- Article II and Article V, paragraphs 6 and 7, of the Rules of Procedure of the Ministerial Council of the Energy Community.
- Article 2.1, 2.2, 5.1, 5.3, 5.4 and 5.11 of the Rules of Procedure of the Regulatory Board of the Energy Community.
- Article V, paragraphs 3, 8 and 9 of the Rules of Procedure of the Permanent High Level Group of the Energy Community.
- Articles 3 and 16 of the Rules of Procedure of the Sava Commission
- Paragraphs 21 – 23 of the Procedural Aspects and Follow-Up Mechanisms of SEECF

- Rules 25 and 26 of UN General Assembly Rules of Procedure

#### **Article 4 Notification of representation**

1. Members shall designate, by writing addressed to the Director, the names of their:
  - a) Representative and substitute to a ministerial session of the Governing Board;
  - b) Permanent Representative and substitute to sessions of the Governing Board
  - c) Advisers to a session of the Governing Board.
2. The European Commission, Observers, and States and organizations invited to attend a session of the Governing Board, shall communicate the name of their representatives to the Director.
3. The Director shall prepare a List of Attendance for each session of the Governing Board.

#### **Explanatory commentary**

- a) Article 4 ensures that it is clear who represents Members, Observers, the European Commission and other entities and persons invited to a session of the Governing Board.
- b) Article 4(1) reflects Articles 14(2) and 14(3) of the ReSPA Agreement and requires Members to designate their representative and substitute to a ministerial session of the Governing Board and their Permanent Representative and substitute to sessions at the senior official level. Such written designation is important because Members have the right to vote and it must be clear which individuals are properly credentialed to vote. The Article also requires Members to designate the names of any advisers who are to accompany the representative.
- c) Article 4(2) requires the European Commission, Observers and other States and entities invited to attend sessions of the Governing Board to designate their representatives.
- d) Article 4(3) requires that the Director prepare a List of Attendance for each session of the Governing Board.

#### **Comparable Rules of Procedure**

- Articles 3.2, 3.3 and 3.4 of the Rules of Procedure of the Steering Committee
- Article V, paragraph 2, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 5.2 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article II of the Rules of Procedure of the Permanent High Level Group of the Energy Community.

- Article 3 of the Rules of Procedure of the Sava Commission
- Rules 27 to 29 of UN General Assembly Rules of Procedure

#### **Article 5 Chair of the Governing Board**

1. The Chair of the Governing Board shall hold office for one year. On expiration of that term, the Chair shall succeed automatically to the Member next to occupy the Chair.
2. Unless otherwise decided by the Member, the person occupying the Chair of a ministerial meeting of the Governing Board shall be the Minister, or substitute, of the Member and, for sessions at the senior official level, the Permanent Representative, or substitute, of the Member. The Member shall designate another person as Chair if these persons are unavailable, either to chair a session or to act as such between sessions of the Governing Board.
3. The Chair shall not vote. The right of the Member to vote shall be exercised by another person from the Member's delegation.

#### **Explanatory commentary**

- a) Article 5 deals with the office of Chair of the Governing Board.
- b) Article 5(1) reflects Article 16(3) of the ReSPA Agreement.
- c) Article 5(2) identifies the occupant of the Chair as the Minister, or substitute, for sessions at the ministerial level and the Permanent Representative, or substitute, of the Member for sessions at the senior official level, unless otherwise decided by the Member. Article 5(2) obligates the Member to designate another person to act as Chair if the persons previously designated under this Article are unable or unavailable to act as Chair during or between sessions of the Governing Board.
- d) Article 5(3) specifies that the Chair shall not vote because the Chair must impartially control the meeting. The right of the Member to vote shall be exercised by another person from the Member's delegation.

#### **Comparable Rules of Procedure**

- Article 6 of the Rules of Procedure of the Steering Committee
- Article III of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 3 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article III of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Articles 4.1 to 4.4 of the Rules of Procedure of the Sava Commission

- Paragraphs 4, 6, 11, 12 and 13 of the Procedural Aspects and Follow-Up Mechanisms of SEECP
- Rule 30 of UN General Assembly Rules of Procedure

## **Article 6    Subsidiary bodies**

The Governing Board may create subsidiary bodies. The Decision establishing a subsidiary body shall set out its mandate.

### **Explanatory commentary**

- a) Article 15(2) of the ReSPA Agreement enables the Governing Board to create “subsidiary bodies with specific mandates”.
- b) Article 6 provides that a subsidiary body can be created by a Decision of the Governing Board because such action is not one of the matters set out in Article 15(1) of the ReSPA Agreement requiring adoption by Resolution.

### **Comparable Rules of Procedure**

- Article IV, paragraph 6, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 7 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article IV, paragraph 6, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Article 10 of the Rules of Procedure of the Sava Commission
- Paragraph 8 of the Procedural Aspects and Follow-Up mechanisms of SEECP
- Rule 161 of UN General Assembly Rules of Procedure

## **Article 7    Requests for waiver of privileges and immunities and cooperation**

1. The Governing Board shall consider on a priority basis requests that:
  - a) It waive any of the privileges and immunities of the Director or a staff member; and
  - b) It cooperate with the authorities of a Member.
2. If the request is made while the Governing Board is in session the Director shall promptly communicate the request, with all relevant papers, to the Governing Board, with a recommendation on how to respond to that request. The Governing Board shall take a Decision as soon as possible.

3. If the request is made while the Governing Board is not in session the Director shall promptly circulate the request, with all relevant papers, to Members with a recommendation on how to respond to that request. Members shall communicate their views on the request within 7 days utilizing email or telephonic means.
4. The Decision of the Governing Board shall be promptly communicated to the authorities concerned.

### **Explanatory commentary**

- a) ReSPA and its staff enjoy privileges and immunities. The Governing Board is responsible to ensure that such privileges and immunities are not abused. Article 26(d) of the ReSPA Agreement requires the Governing Board to consider requests for waiver of privileges and immunities of a member of the Secretariat and to cooperate with the authorities of Members. The way in which this cooperation is to be carried out is specified in the ReSPA Agreement by a cross-reference to Sections 20 and 21 of the Convention on the Privileges and Immunities of the United Nations.<sup>2</sup> However, the Convention envisages that a request for waiver of the privileges and immunities of a UN official will be a matter for the Secretary-General to decide through an administrative decision. Accordingly, the reference to the Convention does not assist in establishing how the Governing Board is to consider such requests on a prompt basis.
- b) Article 7 attempts to fill this procedural gap by establishing a mechanism to ensure that requests by national authorities are promptly considered and decided by the Governing Board.
- c) The Governing Board, composed of all the Members of ReSPA, meets four times a year in senior official level and once a year at ministerial level. A request could be sent to the Governing Board if it was in session or to the Chair, as presiding officer, at any time. Sessions will probably not be of long duration. Moreover, the Chair rotates each year. It would thus appear more convenient to make the Director the focal point for receipt of requests for waiver of privileges and immunities.
- d) Article 7 imposes on the Director the duty to promptly forward any request to the Governing Board if in session, or to all Members if the Governing Board is not in session. The Governing Board would take its decision in accordance with Article 17(2).

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<sup>2</sup> Section 20 of the Convention provides as follows: “Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.”

Section 21 of the Convention provides as follows: “The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.”

### Comparable rules

- Sections 20 and 21 of the Convention on the Privileges and immunities of the United Nations
- Sections 22 and 23 of the Convention on the Privileges and immunities of the Specialized Agencies<sup>3</sup>
- Regulation 1.1(f) of the Staff Regulations of the United Nations<sup>4</sup>

## II. Secretariat

### Article 8 Director

1. The Director shall attend all meetings of the Governing Board in an *ex officio* capacity without the right to vote. The Director may make oral as well as written statements to the Governing Board on any matter under consideration and shall keep the Governing Board informed of any matter that may be brought before it for consideration. If unable to attend a meeting or session of the Governing Board, the Director shall designate a member of the ReSPA staff to act as his/her representative.
2. The Director shall ensure that the Governing Board is able to conduct its sessions efficiently.

### Explanatory commentary

- a) Article 8(1) requires the Director to attend all sessions and meetings of the Governing Board in an *ex officio* capacity as provided in Article 14(5) of the ReSPA Agreement. The Article enables the Director to make oral or written statements to the Governing Board, which flows from his/her status as Head of the Secretariat pursuant to Article 19(2) of the ReSPA Agreement.
- b) Article 8(2) requires the Director to ensure that the Governing Board is able to conduct its sessions efficiently. This Article also flows from Article 19(2) of the ReSPA Agreement which

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<sup>3</sup> The text of these Sections is identical in substance to Sections 20 and 21 of the UN Convention. The Specialized Agencies Convention also contains a section that enables a State Party to require the specialized agency to enter into discussions on any abuse by its personnel of the privileges and immunities granted by the Convention (Section 24). Obviously, a Member would always be able to raise such issues in the Governing Board.

<sup>4</sup> UN Staff Regulation 1.1(f) provides as follows: “The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of the Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to the staff members who are covered by them to fail to observe laws and police regulations of the State in which they are located, nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, the staff member shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived in accordance with the relevant instruments.” The draft ReSPA Staff Regulations will have a similar provision to alert ReSPA staff members of their responsibilities to respect the laws of the host State.

makes the Director responsible for “ensuring the regular and efficient functioning of ReSPA according to the Financial Regulations and the Staff Regulations”.

### **Comparable Rules of Procedure**

- Paragraphs 17 to 20 of the Procedural Aspects and Follow-Up Mechanisms of SEECP
- Rules 45 and 46 of UN General Assembly Rules of Procedure

### **Article 9 Duties of the Secretariat**

The Secretariat shall:

- a) Prepare, receive and circulate all documentation required for the sessions of the Governing Board;
- b) Have custody of the documents in the ReSPA archives; and
- c) Generally perform all other work required by the Governing Board or the Director.

### **Explanatory commentary**

- a) Article 9 sets out the obligations of the Secretariat vis-à-vis the Governing Board. It makes the Secretariat responsible for all documentation and for performing all work for the session as required by the Governing Board or the Director. These obligations flow from Article 18 of the ReSPA Agreement.

### **Comparable Rules of Procedure**

- Articles 10, 14 and 16 of the Rules of Procedure of the Steering Committee
- Article IV, paragraph 5; Article V, paragraph 8; and Article VI, paragraph 22, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Articles 9.2, 9.3 and Article 11 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article IV, paragraph 5; Article V, paragraph 10; and Article VII, paragraph 2, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Articles 5(2), 5(3) and Article 9 of the Rules of Procedure of the Sava Commission
- Paragraph 13 of the Procedural Aspects and Follow-Up Mechanisms of SEECP
- Rule 47 of UN General Assembly Rules of Procedure

### **III. Records**

#### **Article 10 Distribution of documents**

1. The Secretariat shall circulate reports it prepares for a session, and reports prepared by Members and Observers and any other documents requested by the Governing Board, at least 30 days prior to a session at the ministerial level and at least 21 days prior to sessions at the senior official level.
2. The Secretariat shall prepare a report of each session of the Governing Board, including Resolutions and other Decisions adopted during that session, for approval of the Governing Board.
3. Unless otherwise decided by the Governing Board, the Secretariat shall circulate to Members, Observers, States and other entities attending a session, the report of the session within 14 days of its approval by the Governing Board, together with the text of all Resolutions and other Decisions adopted by the Governing Board and shall make the report available on the web site of ReSPA.

#### **Explanatory commentary**

- a) Article 10 deals with distribution of documents.
- b) Article 10(1) requires the Secretariat to circulate reports prepared for a session at least 30 days prior to a session at ministerial level and at least 21 days prior to sessions at senior officer level.
- c) Article 10(2) requires the Secretariat to prepare for approval of the Governing Board a draft report of a session, together with drafts of Resolutions adopted by the Governing Board during a session. Resolutions must be adopted by unanimous vote, pursuant to Article 11(3) and, consequently, draft texts must be available during the session for the voting process.
- d) Article 10(3) requires the Secretariat to circulate the report of a session and the texts of all Resolutions and other Decisions adopted by the Governing Board within 14 days of approval by the Governing Board. The Article recognizes that, on occasion, the Governing Board may wish to limit distribution of a document.

#### **Comparable Rules of Procedure**

- Articles 10, 14, 15 and 16 of the Rules of Procedure of the Steering Committee
- Article VI, paragraphs 8 and 9; and Article IX of the Rules of Procedure of the Ministerial Council of the Energy Community.
- Articles 6.3, 10.2, 10.3 and 13.1 of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article VII of the Rules of Procedure of the Permanent High Level Group of the Energy Community.
- Articles 8, 9, 13 and 15 of the Rules of Procedure of the Sava Commission

- Paragraph 6 of the Procedural Aspects and Follow-UP Mechanisms of SEECF
- Rules 47, 58 and 59 of UN General Assembly Rules of Procedure

#### **Article 11      Working language**

1.        The working language of the Governing Board and the Secretariat shall be English.
2.        Documents shall be submitted in the working language of the Governing Board.

#### **Explanatory commentary**

- a) Article 11(1) designates English as the working language of the Governing Board and the Secretariat because the final clause of the ReSPA Agreement specifies that it is drawn up in English.
- b) Article 11(2) requires that documents be submitted in the working language.

#### **Comparable Rules of Procedure**

- Article 13 of the Rules of Procedure of the Steering Committee
- Article 14 of the Rules of Procedure of the Sava Commission
- Rules 51 to 57 of UN General Assembly Rules of Procedure

#### **IV.      Conduct of Business**

#### **Explanatory commentary**

- a) The Articles contained in Part IV of these Rules have no counter-part in the Rules of Procedure of the Steering Committee.
- b) The requirement in Article 11(3) of the ReSPA Agreement that Resolutions be adopted by a formal unanimous vote of all Members entails that the Rules of Procedure of the Governing Board should contain procedural Articles for voting and for dealing with how proposals and amendments are to be voted upon by the Governing Board. It also seemed desirable to include a number of procedural Articles enabling suspension, adjournment and closing the debate because such procedures are commonly associated with proceedings that culminate in a formal vote. However, because of the small size of the Governing Board the procedural Articles have been kept to a minimum and simplified as much as possible.
- c) The procedural motions described in this Part of the Rules of Procedure may only be made by Members. Observers and other States, organizations and persons attending a session of the Governing Board cannot raise points of order or propose procedural motions.

## Article 12 Quorum

The Chair may declare a meeting open and permit the debate to proceed if at least 2/3 of the Members are present.

### Explanatory commentary

- a) Article 12 enables the Chair to open a meeting if at least 2/3 of the Members are present, even though this is not enough to adopt a Resolution under Article 11(3) of the ReSPA Agreement or to adopt other Decisions pursuant to Article 17(2) of these Rules of Procedure.

### Comparable Rules of Procedure

- Article 12 of the Rules of Procedure of the Steering Committee
- Article V, paragraph 3, and Article VI, paragraphs 11 and 15 of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 6(1) of the Rules of Procedure of the Sava Commission
- Rule 67 of UN General Assembly Rules of Procedure

## Article 13 General powers of the Chair

1. In addition to exercising powers conferred upon the Chair elsewhere in these Rules, the Chair shall declare the opening and closing of each meeting of the Governing Board, direct the discussions, ensure observance of these Rules, accord the right to speak, put questions to the vote and announce decisions. The Chair, subject to these Rules, shall have complete control of the proceedings of the Governing Board and the maintenance of order at its meetings. He/she shall rule on points of order. He/she may propose to the Governing Board the closure of the list of speakers, a limitation on the time to be allowed to speakers, the adjournment or closure of the debate and the suspension or adjournment of a meeting.

2. The Chair, in the exercise of his/her functions, remains under the control of the Governing Board.

### Explanatory commentary

- a) Article 13(1) sets out the general powers of the Chair.
- b) Article 13(2) makes clear that the Chair remains under the control of the Governing Board which is, pursuant to Article 13 of the ReSPA Agreement, the “decision-making body of ReSPA”. In other words, the Governing Board can reverse a ruling by the Chair.

**Comparable Rules of Procedure**

- Article 4(5) of the Rules of Procedure of the Sava Commission
- Paragraphs 24 and 25 of the Procedural Aspects and Follow-Up mechanisms of SEECF
- Rules 35 and 36 of UN General Assembly Rules of Procedure

**Article 14 Points of order**

During the discussion of any matter, a Member may rise to a point of order. The point of order shall be immediately decided by the Chair in accordance with these Rules. A Member may appeal against the ruling of the Chair, but may not speak on the substance of the matter under discussion. The appeal shall be immediately put to the vote, and the ruling of the Chair shall stand unless overruled by a majority of the Members.

**Explanatory commentary**

- a) Article 14 enables Members to raise a point of order, which must be immediately decided by the Chair. A Member may appeal the ruling but cannot turn that appeal into a discussion of the substance. The appeal must be put to the vote immediately.

**Comparable Rules of Procedure**

- Rule 71 of UN General Assembly Rules of Procedure

**Article 15 Speeches**

No one may address the Governing Board without having previously obtained the permission of the Chair. The Chair may call a speaker to order if his/her remarks are not relevant to the subject under discussion.

**Explanatory Commentary**

- a) The ReSPA Agreement empowers Observers and others invited to meetings of the Governing Board to speak. Article 15 ensures that discussion in the Governing Board is orderly and under the control of the Chair.

**Comparable Rules of Procedure**

- Rule 68 of UN General Assembly Rules of Procedure

**Article 16 Adjournment or closure of debate or meeting**

1. During the discussion of any matter, a Member may move the adjournment or closure of the debate on the item under discussion. Permission to speak on the adjournment of the debate shall be accorded only to a Member opposing the motion, after which the motion shall be immediately put to the vote.
2. During the discussion of any matter, a Member may move the suspension or the adjournment of the meeting. Such a motion shall be immediately decided.

**Explanatory commentary**

- a) Article 16(1) enables a Member to move adjournment or closure of the debate on an item on the agenda for a definite period. The Article could also be used to support a motion to adjourn a matter *sine die*, which would, in effect, end the discussion for that session (a so-called “no action” motion). The Article enables one Member to speak against the motion, which is then decided by the Governing Board. If the motion to close the debate is carried the Governing Board proceeds to take a decision on the substance of the matter under discussion.
- b) Article 16(2) enables a Member to move suspension or adjournment of a meeting, which is immediately decided. Suspension of the meeting is for the period requested, after which the meeting resumes. Adjournment of the meeting means that the meeting ends and the Governing Board resumes at the next scheduled meeting. The Article provides a mechanism to enable private discussions to be held before proceeding to formal decision making on a substantive matter.

**Comparable Rules of Procedure**

- Rules 74, 75 and 76 of UN General Assembly Rules of Procedure

**V. Conduct of voting****Article 17 Voting**

1. Each Member shall have one vote.
2. Resolutions shall be adopted by unanimity of all Members of ReSPA, except a Resolution deciding on the extension of the ReSPA Agreement, which shall require agreement of 2/3 of all Members of ReSPA.
3. The Governing Board shall strive to take other Decisions, including Decisions under these Rules, by consensus. If the Governing Board cannot achieve consensus the Decision shall be taken by agreement of all Members of ReSPA.

### **Explanatory Commentary**

- a) Article 17 is a consequence of rules on voting established by the ReSPA Agreement.
- b) Article 17(1) is a consequence of Articles 11 and 14(1) of the ReSPA Agreement.
- c) Article 17(2) sets out the voting requirements for adoption of Resolutions, as established by Articles 11(2), 11(3) and 30(2) of the ReSPA Agreement.
- d) Article 17(3) implements Article 12 of the ReSPA Agreement, which provides that other Decisions can be taken in accordance with the Rules of Procedure of the Governing Board. Article 11(3) of the Rules of Procedure of the Steering Committee provides that the Steering Committee shall strive for consensus. This approach has been incorporated into Article 17(3). However, failing consensus the Article provides that other Decisions must be taken by agreement of all Members of ReSPA.

### **Comparable Rules of Procedure**

- Article 11 of the Rules of Procedure of the Steering Committee
- Article V, paragraphs 4, 5, and 6 and Article VI, paragraphs 12 to 14 of the Rules of Procedure of the Ministerial Council of the Energy Community
- Articles 4.2, 4.4, 4.5, 4.6, 4.7, 4.9 and 4.10 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article VI, paragraphs 6 to 8, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Articles 6(2) and 6(8) of the Rules of Procedure of the Sava Commission
- Paragraph 14 of the Procedural Aspects and Follow-Up mechanisms of SEECF
- Rules 82, 85 and 86 of UN General Assembly Rules of Procedure

### **Article 18 Method of voting**

1. The Governing Board shall normally vote by a show of hands.
2. A Member may request a recorded roll-call vote. The roll-call vote shall be taken in the English alphabetical order of the names of Members, beginning with the name of the Member drawn by lot.
3. A Member may vote by proxy or email.
4. The Governing Board may adopt Resolutions and other Decisions between sessions by written procedure. The Chair shall decide whether a matter warrants a decision between sessions of the Governing Board and, if so, whether and under what circumstances provision should be made to permit amendments to the proposed Resolution or Decision. If the Chair decides to seek a vote by written

procedure he/she shall instruct the Director to submit the proposed Resolution or Decision to all Members fixing a time for return of votes. The Chair and the Director shall jointly verify votes cast by correspondence or electronic means and the Chair shall inform Members of the result.

### **Explanatory Commentary**

- a) Article 18 specifies the method of voting.
- b) Article 18(1) provides that normally a vote is by a show of hands. The report of the Governing Board would record that a Resolution or other Decision was adopted or rejected, setting out the votes for, against and any abstention, but without specifying the names of Members who voted or abstained.
- c) Article 18(2) enables a Member to ensure that there is a record of actual votes by requesting a formal roll-call vote, which result is recorded in the report of the Governing Board.
- d) Article 18(3) empowers the Governing Board to vote by proxy or email.
- e) Article 18(4) sets out procedures to enable the Governing Board to vote by correspondence between sessions. The viability of this procedure, and any necessary amendments to it, will have to be assessed in the light of experience.

### **Comparable Rules of Procedure**

- Article VI, paragraphs 23 – 27, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 4.11 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article VI, paragraphs 9 to 13, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Article 7 of the Rules of Procedure of the Sava Commission
- Rule 87 of UN General Assembly Rules of Procedure

### **Article 19 Conduct during voting**

After the Chair has announced the beginning of voting, no Member shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The Chair may permit Members to explain their votes, either before or after the voting.

### **Explanatory Commentary**

- a) Article 19 ensures that the voting period is protected and is uninterrupted, except for a point of order. The Article also permits Members to explain their votes. This may be an important right,

particularly if a Member has voted against a Resolution and wishes to explain its action for the record.

### **Comparable Rules of Procedure**

- Article 6(7) of the Rules of Procedure of the Sava Commission
- Rule 88 of UN General Assembly Rules of Procedure

### **Article 20 Division of proposals and amendments**

A Member may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to one Member in favour and one Member against. If the motion for division is carried, those parts of the proposal or amendment that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

### **Explanatory Commentary**

- a) Article 20 enables division of a proposal or amendment. The Article may be useful on account of the requirement of unanimous voting because it would enable part of a proposed Resolution to be dealt with separately, permitting the Governing Board to separate from a Resolution that part which a Member considers objectionable.

### **Comparable Rules**

- Articles 6(5) and 6(6) of the Rules of Procedure of the Sava Commission
- Rule 89 of UN General Assembly Rules of Procedure

### **Article 21 Voting on proposals and amendments**

1. If two or more proposals relate to the same question, the Governing Board, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Governing Board may, after each vote on a proposal, decide whether to vote on the next proposal.

2. When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Governing Board shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A

motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

### **Explanatory Commentary**

- a) Article 21 regulates the way in which a series of proposals and amendments are voted upon.
- b) Article 21(1) deals with proposals. It provides that the Governing Board votes on proposals in the order presented.
- c) Article 21(2) provides guidance on the way in which a series of amendments are to be voted upon. It provides that an amendment furthest away from the proposal is voted on first because there is little point in considering a minor amendment if there is an amendment that radically changes the entire proposal, making the minor amendment moot.

### **Comparable Rules of Procedure**

- Articles 6(3) and 6(4) of the Rules of Procedure of the Sava Commission
- Rules 90 and 91 of UN General Assembly Rules of Procedure

## **VI. Miscellaneous**

### **Article 22 Regulations for financial and personnel administration**

1. The Governing Board shall establish Financial Regulations for the financial administration of ReSPA.
2. The Governing Board shall establish Staff Regulations governing the Secretariat of ReSPA and its technical and service employees.
3. No Resolution, or other Decision, involving expenditure shall be recommended for approval by the Governing Board unless it is accompanied by an estimate of expenditures prepared by the Director.

### **Explanatory Commentary**

- a) Articles 22(1) and 22(2) reflect Articles 15(1)(h) and (k) of the ReSPA Agreement by requiring the Governing Board to adopt Financial Regulations and Staff Regulations.
- b) Article 22(3) ensures that no Resolution, or other Decision, is taken by the Governing Board without full awareness of the impact of such action on the budget of ReSPA.

**Comparable Rules of Procedure**

- Rules 50, 152 and 153 of UN General Assembly Rules of Procedure

**VII Final provisions****Article 23 Amendments**

1. Any Member of the Governing Board may propose amendments to the Rules of Procedure.
2. The Rules of Procedure may be amended by Resolution of the Governing Board on the basis of the proposed amendment.

**Explanatory Commentary**

- a) Article 23(1) enables any Member to propose an amendment or amendments to the Rules of Procedure.
- b) Article 23(2) provides that the Governing Board may amend the Rules on the basis of the proposed amendment. Article 15(1)(j) requires adoption of Rules of Procedure by Resolution and Article 11 of the ReSPA Agreement requires that Resolution must be adopted by unanimous vote of all Members. It follows that an amendment of the Rules must be by Resolution adopted by unanimous vote.

**Comparable Rules of Procedure**

- Article X, paragraph 6, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 13.3 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article VIII, paragraph 4, of the Rules of Procedure of the Permanent High Level Group of the Energy Community
- Article 17 of the Rules of Procedure of the Sava Commission
- Rule 163 of UN General Assembly Rules of Procedure

**Article 24 Entry into force**

The Rules of Procedure enter into force when adopted by Resolution of the Governing Board.

**Explanatory Commentary**

- a) Article 24 sets out the date of entry into force of the Rules of Procedure.

**Comparable Rules of Procedure**

- Article X, last paragraph, of the Rules of Procedure of the Ministerial Council of the Energy Community
- Article 14.1 of the Rules of Procedure of the Regulatory Board of the Energy Community
- Article VIII, paragraphs 4 and 5, of the Rules of Procedure of the Permanent High Level Group of the Energy Community