



Council of the
European Union

Brussels, 4 March 2024
(OR. en)

6509/24

Interinstitutional File:
2023/0273(NLE)

LIMITE

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the withdrawal of the Union from the Energy
Charter Treaty

COUNCIL DECISION (EU) 2024/...

of ...

on the withdrawal of the Union from the Energy Charter Treaty

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 194(2) and 207(4), first subparagraph, in conjunction with Article 218(6), second subparagraph, point (a)(v), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹⁺,

¹ OJ C, ..., ELI: ... / Consent of ... (not yet published in the Official Journal).

⁺ OJ: please complete the footnote above after the consent is given.

Whereas:

- (1) The Energy Charter Treaty (the ‘ECT’) was concluded by the Union by Council and Commission Decision 98/181/EC, ECSC, Euratom¹, and entered into force on 16 April 1998.
- (2) In the absence of any substantial update of the ECT since the 1990s, the ECT became increasingly outdated.
- (3) In 2019, the Contracting Parties to the ECT (the ‘Contracting Parties’) engaged in negotiations aimed at modernising the ECT in order to bring it into alignment with the principles of the Paris Agreement², the requirements of sustainable development and the fight against climate change, as well as with modern standards of investment protection.
- (4) During an ad-hoc Conference on 24 June 2022, the Contracting Parties reached an agreement in principle on the modernised text, thus concluding the negotiations, without prejudice to the final assessment by the Contracting Parties. The negotiated outcome was meant to be adopted at the 33rd meeting of the Energy Charter Conference (the ‘Conference’) on 22 November 2022.

¹ Council and Commission Decision 98/181/EC, ECSC, Euratom of 23 September 1997 on the conclusion, by the European Communities, of the Energy Charter Treaty and the Energy Charter Protocol on energy efficiency and related environmental aspects (OJ L 69, 9.3.1998, p. 1).

² OJ L 282, 19.10.2016, p. 4.

- (5) Ahead of the meeting of the Conference, the Union has not adopted a position on the modernisation of the ECT.
- (6) In the absence of a Union position, the Union is unable to vote on the adoption of the modernised ECT at the Conference.
- (7) Considering all the above, the Union should withdraw from the ECT.
- (8) Several Member States have expressed their support for the proposed amendments to the ECT and have indicated their intention to remain Contracting Parties, subject to its modernisation. Those Member States should therefore be allowed, through a separate Council decision, to approve or not oppose the modernisation of the ECT at the Conference that will adopt that modernisation.
- (9) Pursuant to Article 47(1) of the ECT, a Contracting Party can give written notification of its withdrawal from the ECT to the Depository of the ECT, namely the Portuguese Republic. Pursuant to Article 47(2) of the ECT, such a withdrawal takes effect upon the expiry of one year after the date of the receipt of the notification by the Depository.
- (10) The Union should withdraw from the ECT,

HAS ADOPTED THIS DECISION:

Article 1

The Union shall withdraw from the Energy Charter Treaty ('the ECT').

Article 2

The President of the Council shall, on behalf of the Union, give written notification in accordance with Article 47(1) of the ECT, of the withdrawal of the Union from the ECT.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President
