



Council of the
European Union

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6511/24

LIMITE

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a COUNCIL DECISION on the withdrawal of the Union from the Energy Charter Treaty <ul style="list-style-type: none">- Agreement in principle- Request for the consent of the European Parliament

1. On 7 July 2023, the Commission submitted a proposal for a Council Decision on the withdrawal of the Union from the Energy Charter Treaty¹. A similar proposal was presented for Euratom (doc.11691/23).
2. The proposal was discussed at the meeting of the Working Party on Energy/Trade Policy Committee (Services and Investment) on 5 September 2023 and 13, 20 February 2024, leading to a revised proposal. The revised document can be seen in doc. 6509/24.

¹ 11692/23

3. This proposal is closely linked with the process for the modernisation of the Energy Charter Treaty. It is recalled that, during an ad-hoc Energy Charter 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 on 22 November 2022. Ahead of this meeting, the Union had not adopted a position on the modernisation of the Treaty. In the absence of a Union position, the Union was unable to vote on the adoption of the modernised Treaty. Considering all the above, the Union and Euratom should withdraw from the Energy Charter Treaty.
4. Several Member States have expressed their support to the proposed amendments to the Treaty and have indicated their intention to remain Contracting Parties to the Treaty, subject to its modernisation. These Member States should therefore be allowed, through a separate Council Decision, to approve or not oppose the modernisation at the Energy Charter Treaty Conference that will adopt the modernization.
5. On 1 March 2024, the Commission proposed a draft Council decision on the position to be taken on behalf of the European Union in the relevant meeting of the Energy Charter Conference not exercising the Union's right to vote and authorising Member States to approve or not to oppose the modernised Energy Charter Treaty. A similar decision was proposed as regards Euratom.
6. The draft Council Decisions on the withdrawal of the Union and Euratom from the Energy Charter Treaty and the draft Council Decisions on the position to be taken on behalf of the European Union and Euratom at the relevant meeting of the Energy Charter Conference not to exercise the Union/Euratom's right to vote and to authorise Member States to approve or not to oppose the modernised Energy Charter Treaty are politically linked, as these are the two limbs of a compromise.

7. With regard, in particular, to the draft Council Decision on the withdrawal of the Union from the Energy Charter Treaty, it is necessary to seek the consent of the European Parliament. The European Parliament needs to have sufficient time for the consent procedure. The draft Council Decision on the withdrawal of the Union from the Energy Charter Treaty should therefore be forwarded to the European Parliament for its consent as soon as possible. This would allow the Union to notify its withdrawal from the Energy Charter Treaty before the vote of the Energy Charter Conference on the modernisation of the Energy Charter Treaty.
8. It is the intention of the Presidency that, before the draft Council Decisions on the withdrawal of the Union and Euratom from the Energy Charter Treaty are presented to the Council for final adoption, subject to the consent of the European Parliament for the Union part, the Council should have in parallel completed the process for the draft Council Decisions on the position to be taken on behalf of the European Union and Euratom in the relevant meeting of the Energy Charter Conference not exercising the Union/Euratom's right to vote and authorising Member States to approve or not to oppose the modernised Energy Charter Treaty, this with a view finally to adopt all draft Council Decisions by the Council on the same date.
9. In light of the above, the Permanent Representatives Committee is invited to:
- confirm the agreement in principle on the text of the draft Council Decision on the withdrawal of the Union from the Energy Charter Treaty as set out in doc. 6509/24,
 - suggest to the Council in part A of the agenda of a forthcoming meeting to decide to forward the draft Council Decision on the withdrawal of the Union from the Energy Charter Treaty, as revised by the legal-linguistic experts, to the European Parliament for its consent.
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