



Brussels, 7.7.2023
C(2023) 4720 final

COMMISSION DECISION

of 7.7.2023

**withdrawing the Proposal for a Council Decision on the position to be taken on behalf of
the European Union the 33rd meeting of the Energy Charter Conference COM(2022)
521 final**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) The Energy Charter Treaty ('the Agreement') 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 2019, the Contracting Parties engaged in negotiations to modernise the Agreement 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. The Contracting Parties concluded the negotiations on 24 June 2022. The negotiated outcome was meant to be adopted at the 33rd meeting of the Energy Charter Conference on 22 November 2022.
- (3) On 5 October 2022, the Commission adopted pursuant to Article 218(9) TFEU a Proposal for a Council Decision on the position to be taken on behalf of the European Union in the 33rd meeting of the Energy Charter Conference supporting the Agreement's modernisation (COM(2022) 521 final).
- (4) However, ahead of the meeting of the Energy Charter Conference, at a vote in Coreper on 18 November 2022, the Council was unable to adopt the Commission proposal. As evidenced by subsequent discussions in the Energy Working Party and in the Trade Policy Committee – Services and Investment, the Union is still not and will not be able to adopt, on behalf of the Union, the modernisation of the Energy Charter Treaty.
- (5) In the absence of a Union position, the adoption of the modernised Agreement by the Energy Charter Conference is impossible. The current, unmodernised Agreement continues to apply to the Union, in spite of the fact that is not in line with the Union's investment policy and law, including in particular the principle of autonomy of Union law, and with the Union's energy and climate goals. With no alternative available, the Commission has adopted a proposal for a Council decision on the withdrawal of the Union from the Agreement³.
- (6) The Proposal for Council Decision COM(2022) 521 final has therefore become moot and should be withdrawn,

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.

³ xx

HAS DECIDED AS FOLLOWS:

Sole Article

The Proposal for a Council Decision on the position to be taken on behalf of the European Union in the 33rd meeting of the Energy Charter Conference supporting the Agreement's modernisation COM(2022) 521 final is withdrawn and the text in the Annex to this Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 7.7.2023

For the Commission
Kadri SIMSON
Member of the Commission