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Council of the
European Union

Brussels, 28 January 2021
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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
Subject:	Reply to the letter of the Permanent Mission of the Russian Federation to the European Union - request of authorisation to produce Council internal documents in court proceedings before the Supreme Court of the Netherlands

1. In a letter dated 19 January 2021, the Permanent Mission of Russia to the EU requested to the General Secretariat of the Council urgent access, preferably by 20 January 2021, to four Council documents related to the European Union's position on the modernisation of the Energy Charter Treaty for the purpose of use in court proceedings (WK 7448/2019, WK 3937/2020, WK 4251/2020 and WK 8742/1/2020 REV 1).
2. This request falls under Article 6(2) of the Council's rules of procedure which provides that "[t]he Council or Coreper may authorise the production for use in legal proceedings of a copy of or an extract from Council documents which have not already been released to the public in accordance with the provisions on public access to documents".
3. The negotiations on the modernisation of the Energy Charter Treaty are currently on-going and there is a risk that the release of internal documents to any outside party at this point in time impairs the Council's decision-making autonomy.
4. In the light of the above, it is suggested that COREPER approves the letter of reply in the Annex, refusing access for the purposes of court proceedings.

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ANNEX

Draft reply

Brussels, XX YYYY 2021

Permanent Mission of the Russian Federation to the European Union
Boulevard du Régent 31-33
1000 Brussels

By letter of 19 January 2021, the Permanent Mission of the Russian Federation has requested access to several Council documents for the purpose of use in court proceedings before the Supreme Court of the Netherlands. I would like to thank you for this request.

I regret to inform you that the Council is unable to accede to this request, considering that the documents relate to the internal decision-making in the context of the negotiations on the modernisation of the Energy Charter Treaty. These negotiations are currently on-going and release of these documents to any outside party at this point in time would impair the Council's decision-making autonomy.

Yours faithfully,

Pedro Lourtie
Chair of the
Permanent Representatives Committee

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