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WTO 188
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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. Cion doc.: 9305/19
+ ADD 1

Subject: Recommendation for a Decision authorising the entering into negotiations on the modernisation of the Energy Charter Treaty
- Council Decision
- Decision of the Representatives of the Governments of the Member States that are parties to the Energy Charter Treaty
- Negotiating Directives
Adoption

1. On 14 May 2019, the Commission submitted to the Council a recommendation for a Council Decision authorising the entering into negotiations on the modernisation of the Energy Charter Treaty together with an Annex containing the text of the negotiation directives¹.
2. The proposal was discussed in the Energy Working Party and Trade Policy Committee (Services and Investment) and was revised by both Working Parties. A Decision of the Representatives of the Governments of the Member States that are parties to the Energy Charter Treaty was proposed for the competences of the Member States².

¹ doc. 9305/19 + ADD 1

² doc. 10747/19 LIMITE

3. An agreement on the text of the draft Council Decision and Decision of the Representatives of the Governments of the Member States that are parties to the Energy Charter Treaty was reached following an informal silence procedure within the Energy working party on 26 June 2019.
4. An agreement on the trade related elements of the negotiation directives (namely investment protection, sustainable development and corporate social responsibility (CSR), regional economic integration organisation ('REIO'), pre-investment and transit) was reached within the Trade Policy Committee (Services and Investment) following an informal silence procedure on 28 June 2019. An agreement on energy related elements of the negotiation directives (namely process of the negotiations, nature and scope of the agreement, general principles and objectives, definition of 'Charter', definition of 'economic activity in the energy sector' and deletion of obsolete provisions) was reached within the Energy Working Party following an informal silence procedure on 2nd July 2019.
5. Subject to confirmation by Coreper, the Council is invited:
 - to adopt the Council Decision set out in doc.10745/19 LIMITE and the accompanying negotiating directives set out in doc.10745/19 ADD 1 LIMITE ³;
 - make the negotiating directives public after their adoption, on the understanding that this decision does not constitute a precedent for other negotiating directives, and that any decision to release other negotiating directives shall be taken on a case-by-case basis, balancing the need for transparency and the need for a certain level of confidentiality in order to ensure the effectiveness of the negotiations.

³ Note: The text of the Council Decision (excluding the negotiation directives) and of the Decision of the Member States is currently undergoing lawyer-linguist revision. Moreover, the text of the Council Decision, Decision of the Member States and the negotiation directives is also being translated.

6. Member States that are parties to the Energy Charter Treaty meeting within Coreper are also invited to approve the draft Decision of the Representatives of the Governments of the Member States that are parties to the Energy Charter Treaty and recommend to the Representatives of the Governments of the Member States that are parties to the Energy Charter Treaty meeting within the Council to:
- adopt the Decision of the Representatives of the Governments of the Member States that are parties to the Energy Charter Treaty set out in doc.10747/19 LIMITE³.

The European Parliament will be informed and the Decisions will be transmitted to the EP.
