



Council of the  
European Union

Brussels, 14 November 2022  
(OR. en)

14399/22

---

**Interinstitutional File:**  
**2022/0324(NLE)**

---

ENER 565  
ATO 86  
POLCOM 153  
FDI 20

## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

---

Subject: COUNCIL DECISION on the position to be taken on behalf of the  
European Union at the 33rd meeting of the Energy Charter Conference

---

**COUNCIL DECISION (EU) 2022/...**

**of ...**

**on the position to be taken on behalf of the European Union at the 33rd meeting  
of the Energy Charter Conference**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular  
Article 194(2) and Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Energy Charter Treaty ('the Agreement') was concluded on behalf of the Union by Council and Commission Decision 98/181/EC, ECSC, Euratom<sup>1</sup> and entered into force on 16 April 1998.
- (2) In the absence of any substantial update of the Agreement since the 1990s, the Agreement has become increasingly outdated. It has been accordingly proposed to amend the Agreement with a view to aligning it with the principles of the Paris Agreement under the United Nations Framework Convention on Climate Change adopted on 12 December 2015, with the requirements of sustainable development and with the fight against climate change, as well as with modern standards of investment protection and investor-to-State dispute settlement.
- (3) Pursuant to the Agreement, the Energy Charter Conference adopts texts of amendments to the Agreement and approves modifications of, and technical changes to, the Annexes to the Agreement ('the proposed acts').

---

<sup>1</sup> 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).

- (4) The Energy Charter Conference, during its 33rd meeting on 22 November 2022, is to: (i) adopt the proposed amendments to the Agreement (CC 760); (ii) approve the proposed modifications and technical changes to the Annexes to the Agreement (CC 761); (iii) approve the proposed technical changes to Understandings, Declarations and Decisions (CC 762); and (iv) approve the decision regarding the entry into force and provisional application of amendments to the Agreement and modifications and technical changes to its Annexes (CC 763). It would thereby be concluding the negotiations conducted with a view to modernising the Agreement.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Energy Charter Conference as regards matters falling within Union competence, as the proposed acts will have legal effects.
- (6) The position to be adopted on behalf of the Union pursuant to this Decision is without prejudice to the subsequent decision to be adopted on behalf of the Union on the provisional application and conclusion of the proposed amendments to the Agreement (CC 760) pursuant to Article 218(5) and (6) of the Treaty on the Functioning of the European Union.

- (7) The proposed acts will be adopted by the Energy Charter Conference if no Contracting Party to the Agreement objects. The position of the Union should therefore be not to raise objections, so as to allow for the adoption of the proposed acts by the Energy Charter Conference,

HAS ADOPTED THIS DECISION:

### *Article 1*

The position to be taken on the Union's behalf, as regards matters falling within Union competence, at the 33rd meeting of the Energy Charter Conference shall be to participate in the vote and to raise no objection to:

- (a) the adoption by the Energy Charter Conference of the proposed amendments to the Agreement (CC 760);
- (b) the approval of the proposed modifications and technical changes to the Annexes to the Agreement (CC 761);
- (c) the approval of the proposed technical changes to Understandings, Declarations and Decisions (CC 762); and
- (d) the approval of the decision regarding the entry into force and provisional application of amendments to the Agreement and modifications and technical changes to its Annexes (CC 763).

*Article 2*

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

Done at ...,

*For the Council*

*The President*

---