



2024/3086

11.12.2024

**COUNCIL DECISION (EU) 2024/3086**

**of 2 December 2024**

**on the position to be taken on behalf of the European Union in 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(s) 194(2) and 207, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Energy Charter Treaty ('ECT') and its Protocol on Energy Efficiency and Related Environmental Aspects ('PEEREA') were concluded by the European Communities by means of Council and Commission Decision 98/181/EC, ECSC, Euratom <sup>(1)</sup> and entered into force on 16 April 1998.
- (2) Article 49 of the ECT and Article 21 of PEEREA designated the Government of the Portuguese Republic as the depositary of the ECT and PEEREA. On 1 February 2024, the Portuguese Republic notified its intention to withdraw from the ECT and PEEREA. In this regard, the Government of the Portuguese Republic will cease performing its function as depositary. The withdrawal of the Portuguese Republic from the ECT and PEEREA will take effect on 2 February 2025.
- (3) An amendment to Article 49 of the ECT and Article 21 of PEEREA is necessary to designate a new depositary of the ECT and PEEREA. The Contracting Parties to the ECT ('Contracting Parties') agreed in negotiations to add such an amendment to the modernised text of the ECT, in order to designate the Energy Charter Secretariat (the 'Secretariat') as a new depositary. The Contracting Parties have also agreed to amend PEEREA similarly. The Contracting Parties have further agreed to propose for approval by the Energy Charter Conference a new understanding with respect to Article 49 of the ECT and Article 21 of PEEREA on the roles of the Secretariat as depositary. Furthermore, given that not all Contracting Parties will apply the modernised ECT provisionally after its adoption, the Contracting Parties agreed to propose for approval by the Energy Charter Conference two decisions, which will designate the Secretariat as interim depositary from 2 February 2025, pending the entry into force of amendments to the ECT and PEEREA.
- (4) Pursuant to Article 34 of the ECT, the Energy Charter Conference adopts texts of amendments to the ECT. Pursuant to Article 12 of PEEREA, the Energy Charter Conference adopts texts of amendments to PEEREA.
- (5) The Energy Charter Conference is to adopt the proposed acts at its meeting of 3 December 2024 with respect to the ECT and by correspondence, launched on 6 November 2024 with a deadline on 30 January 2025, with respect to PEEREA. The acts to be adopted by the Energy Charter Conference will be binding on the Union.
- (6) It is appropriate for the Union not to exercise its vote at the Energy Charter Conference voting on the proposed amendments to the ECT and PEEREA, as well as on the proposed understandings and decisions. It is also appropriate to establish the position to be taken by the Member States that are Contracting Parties, acting jointly, for matters falling within the Union's competence. That position is without prejudice to the division of competences between the Union and the Member States. That position complements the position laid down in Council Decision (EU) 2024/1644 <sup>(2)</sup>.

<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, ELI: <http://data.europa.eu/eli/dec/1998/181/oj>).

<sup>(2)</sup> Council Decision (EU) 2024/1644 of 30 May 2024 on the position to be taken on behalf of the European Union in the Energy Charter Conference, (OJ L, 2024/1644, 6.6.2024, ELI: <http://data.europa.eu/eli/dec/2024/1644/oj>).

- (7) The Member States that are Contracting Parties, that are present at the Energy Charter Conference or that vote by correspondence, should take a position which does not prevent the adoption or approval of the proposed amendments, understandings and decisions,

HAS ADOPTED THIS DECISION:

*Article 1*

1. In accordance with Article 36(7) of the Energy Charter Treaty ('ECT'), the Union shall not exercise its right to vote in the Energy Charter Conference voting on the proposed amendments to and understandings with respect to Article 49 ECT and Article 21 of the ECT Protocol on energy efficiency and related environmental aspects ('PEEREA') and on the decisions on the designation of a depositary under Article 49 ECT and Article 21 PEEREA, attached to this Decision.
2. The Member States that are Contracting Parties to the ECT shall, acting jointly, exercise their vote at the Energy Charter Conference on 3 December 2024, where they are present, or by correspondence, as the case may be, so as:
  - (a) not to prevent the adoption by the Energy Charter Conference of the proposed amendment to Article 49 ECT (CC 760 REV2), attached to this Decision;
  - (b) not to prevent the approval of the understanding with respect to Article 49 ECT on the roles of the Energy Charter Secretariat (CC 762 REV2), attached to this Decision;
  - (c) not to prevent the approval of a decision on the designation of the Energy Charter Secretariat as depositary under Article 49 ECT with effect from 2 February 2025 (CC 814), attached to this Decision; and
  - (d) not to prevent the adoption by correspondence of the proposed amendment to Article 21 PEEREA and the approval of the associated understanding with respect to Article 21 PEEREA and of the decision on the designation of the Energy Charter Secretariat as depositary under Article 21 PEEREA with effect from 2 February 2025 (CC 823), attached to this Decision.

*Article 2*

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

Done at Brussels, 2 December 2024.

*For the Council*  
*The President*  
NAGY M.

## ANNEX

1. Proposed amendment to Article 49 ECT, included in the proposed amendments to the Energy Charter Treaty (document CC 760 REV2), as submitted to the Energy Charter Conference on 3 September 2024

‘Article 49

**Depositary**

The ~~Government of the Portuguese Republic~~ Secretariat shall be the Depositary of this Treaty <sup>(1)</sup>.’

2. Proposed new understanding with respect to Article 49 on the roles of the Energy Charter Secretariat, included in the proposed changes to Understandings, Declarations and Decision (document CC 762 REV2), as submitted to the Energy Charter Conference on 3 September 2024

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|                                                                 |                                                                           |
|-----------------------------------------------------------------|---------------------------------------------------------------------------|
| Understanding 16 with respect to Article 49 in the original ECT | Understanding 18 with respect to Article 49 in the ECT as amended in 1998 |
|-----------------------------------------------------------------|---------------------------------------------------------------------------|

The “Secretariat” in Article 49 shall mean a “Secretariat” defined in Article 35. For the avoidance of doubt, all references to the “Depositary” in this Treaty shall mean the “Secretariat” defined in Article 35 in the capacity of the Depositary.

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3. Proposed Decision of the Energy Charter Conference on the Designation of the Energy Charter Secretariat as a Depositary under Article 49 of the Energy Charter Treaty (document CC 814), as submitted to the Energy Charter Conference on 3 September 2024

‘35<sup>th</sup> Meeting of the Energy Charter Conference

3 December 2024

DESIGNATION OF THE ENERGY CHARTER SECRETARIAT AS A DEPOSITARY UNDER ARTICLE 49 OF  
THE ENERGY CHARTER TREATY

The Contracting Parties to the Energy Charter Treaty (ECT)

Taking note of the withdrawal of the Portuguese Republic as a Contracting Party to the ECT effective on 2 February 2025,

Having regard to the notification of the Portuguese Republic of 7 March 2024 that the Government of the Portuguese Republic shall no longer perform the functions of the Depositary under Article 49 of the ECT after its withdrawal takes effect,

Recalling the amendment to Article 49 designating the Energy Charter Secretariat (Secretariat) as the Depositary of the ECT adopted by the 35th Energy Charter Conference [CC 814],

Have agreed as follows:

1. Pending the entry into force of the amendments to the ECT adopted on 3 December 2024 for any Contracting Party, the Secretariat shall carry out the functions of the Depositary of the ECT on an interim basis for each such Contracting Party as of 2 February 2025.
2. The Secretariat shall take all necessary measures to ensure the transition of the Depositary functions from the Government of the Portuguese Republic and assume these functions on an interim basis pursuant to subparagraph (a) on 2 February 2025.’.
4. Proposed amendments to Article 21 PEEREA (document CC 823), as submitted to the Energy Charter Conference on 6 November 2024

<sup>(1)</sup> Proposed new wording is underlined and the text suggested to be deleted is shown in ~~strike through~~.

‘AMENDMENTS TO THE ENERGY CHARTER PROTOCOL ON ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS

The Contracting Parties to the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects,

Taking note of the withdrawal of the Portuguese Republic as a Contracting Party to the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects effective on 2 February 2025,

Having regard to the notification of the Portuguese Republic of 7 March 2024 that the Government of the Portuguese Republic shall no longer perform the functions of the Depositary under Article 49 of the Energy Charter Treaty after its withdrawal takes effect,

have agreed as follows:

*Article 1*

**Amendments**

The Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects, as contained in Annex 3 to the Final Act of the European Energy Charter Conference, shall be amended as follows:

1. Article 21 of the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects shall be amended as follows: replace “The Government of the Portuguese Republic” with “The Secretariat”.
2. Article 22 of the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects shall be amended as follows: delete “Italian,”.

*Article 2*

**Understandings**

The Contracting Parties to the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects adopt the following understanding with respect to Article 21:

“The ‘Secretariat’ in Article 21 of this Protocol shall mean the Secretariat established under Article 35 of the Energy Charter Treaty. For the avoidance of doubt, all references to the ‘Depositary’ in this Protocol shall mean the Secretariat established under Article 35 of the Energy Charter Treaty in the capacity of the Depositary of this Protocol.”.

*Article 3*

**Interim Provisions**

1. Pending the entry into force of the amendments to the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects adopted on 30 January 2025 for any Contracting Party, the Secretariat shall carry out the functions of the Depositary of the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects on an interim basis for each such Contracting Party as of 2 February 2025.
2. The Secretariat shall take all necessary measures to ensure the transition of the Depositary functions from the Government of the Portuguese Republic and assume these functions on an interim basis pursuant to paragraph (1) on 2 February 2025.’.