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Answer given by Ms Simson
on behalf of the European Commission
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The Commission is fully engaged in the modernisation of the Energy Charter Treaty (ECT) based on the Council's negotiating directives aiming to: update the ECT investment protection provisions in the light of the EU's reformed approach on investment; reflect sustainable development, climate change and clean energy transition goals and contribute to the achievement of the Paris Agreement and reform the investor-to-state dispute settlement mechanism.

Thus, the EU tabled a concrete proposal that includes a clause explicitly recognising each government's right to regulate for public policies such as the protection of health, safety or environment. Tribunals will need to consider this when interpreting the ECT protection standards. The proposal also contains sustainable development provisions including a 'no regression' clause, commitments related to multilateral environmental and labour standards, a low carbon economy, the conduct of environmental impact assessments and dispute settlement provisions. A proposal on the definition of the economic activity in the energy sector is under development.

Governments need to take regulatory action in the energy sector to be able to fulfil their obligations under the Paris Agreement and, if they do so, tribunals will have to respect the will of the Contracting Parties to consider such measures as legitimate public policy.

As regards transparency, EU's text proposal has been made public both by the Commission and the Energy Charter Secretariat. Moreover, following each round of negotiations, the Commission issues a Public Communication summarizing the outcome of the discussions¹.

¹ https://trade.ec.europa.eu/doclib/press/index.cfm?id=2167&utm_source=dlvr.it&utm_medium=facebook