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Answer given by Executive Vice-President Dombrovskis
on behalf of the European Commission
(2.12.2020)

In line with the negotiating directives received from the Council in July 2019 for modernising the Energy Charter Treaty (ECT), the Commission tabled an initial text proposal in May 2020, aiming at the reform of investment protection and dispute settlement rules, as well as new provisions on sustainable development and climate change¹. One of the objectives of this reform is to align the ECT with the Paris Agreement and the objectives of the Green Deal.

The negotiations for the modernisation of the ECT are at an early stage. They started in July 2020 and so far only three rounds have taken place, the last having taken place in early November 2020.

The Commission believes that the best possible outcome is to have a reformed ECT. Unilateral withdrawal of the EU and the Member States from an unreformed ECT would trigger the sunset clause, whereby the ECT would continue to apply to existing investments during a 20-year period. This could result in new investor-to-state disputes under the unreformed rules, including in existing investments in fossil fuels. This is why the Commission is strongly committed to pursue the ongoing modernisation negotiations.

The Commission will continue to review regularly the progress of the negotiations. If core EU objectives, including the alignment with the Paris Agreement, are not attained within a reasonable timeframe, the Commission may consider proposing other options, including the withdrawal from the ECT.

¹ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2148>