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Sir William Cash MP  
Chair of the European Scrutiny Committee  
European Scrutiny Committee  
House of Commons  
London  
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Our ref:

31 July 2019

**COM (2019) 231 final: Recommendation for a Council Decision authorising the entering into negotiations on the modernisation of the Energy Charter Treaty**

Thank you for your Committee's report of 19 June 2019 granting a scrutiny waiver to be able to support the negotiating mandate to modernise and amend the Energy Charter Treaty in relation to investment provisions in Council.

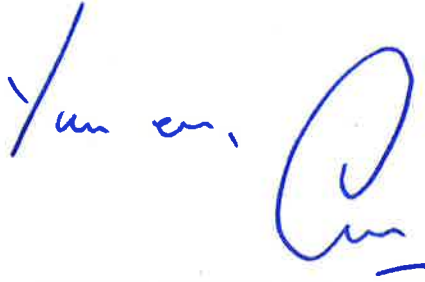
Turning to the three conditions on the basis of which the waiver was granted, I am now able to address each of these points.

First, the relevant Council Decision to adopt the proposed negotiations was passed on 15 July.

Second, as noted, the original draft did not accurately reflect the division of competence between the European Union (EU) and Member States, and the government sought to rectify this with the European Commission. The government is satisfied that the necessary changes have been made and that the position on competence is now reflected accurately. As expected, and referred to in paragraphs 18(iii) of my Explanatory Memoranda of 5 June, the Council Decision will be accompanied by a decision of the Member States authorising the European Commission to negotiate on the modernisation of the Energy Charter Treaty to the extent it falls within Member States competency.

With regard to your third request for the Government to set out its negotiating objectives for ECT Modernisation, as a Contracting Party in its own right, the UK's approach in a no-deal is subject to the ongoing development of our future policy approach. Any new investment protections the UK agrees in future will continue to aim to protect UK investors overseas from discriminatory, arbitrary or unfair treatment, and expropriation without compensation, whilst not undermining the government's right to regulate in the public interest. Until the UK exits the EU, we will continue to support the EU's trade agenda.

I am copying this letter to the Chair of the House of Lords European Union Select Committee and the Chairs of the Committee on Exiting the EU the Foreign Affairs Committee and the International Trade Committee, the clerks of each of the relevant Committees, Les Saunders (DExEU Parliamentary Team) and Edwina Osborne (DIT EU Scrutiny, EU Trade Team).

A handwritten signature in blue ink, appearing to read 'Conor Burns', with a large, stylized initial 'C' and 'B'.

**CONOR BURNS MP**

Minister of State

Department for International Trade