



Council of the
European Union

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"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 1)/Council
Subject: International Energy Charter (the Hague, 20-21 May 2015)
- Declaration by the Commission on behalf of the European Union on the applicability of the part of the International Energy Charter devoted to dispute settlement mechanisms
= Approval of the statement by the Council

Delegations will find attached a revised version of the Council statement on the above, to be included in the Council minutes.¹ This revised version contains corrections of technical nature, following the International Energy Charter conference, held at the Hague on 20-21 May 2015.

¹ Draft Commission declaration circulated in doc. 8917/15.

COUNCIL STATEMENT - INTERNATIONAL ENERGY CHARTER

The Council notes that the Commission made a declaration, on behalf of the European Union, relating to Title II, Heading 4 of the International Energy Charter at the international conference in the Hague on 20-21 May 2015, where that Charter was adopted and signed.

The Commission did not present the Council in good time with a draft of the declaration it intended to make on behalf of the European Union.

The Council recalls that Article 13(2) TEU requires each institution to act within the limits of the powers conferred on it in the Treaties. Article 16(1) TEU requires the Council to carry out policy-making and coordinating functions as laid down in the Treaties. The Commission cannot autonomously ensure the external representation of the European Union on the basis of Article 17(1) TEU alone without respecting the policy-making role of the Council concerning the content of instruments containing policy commitments on behalf of the Union. The external representation of the Union and the determination of the policy content of positions to be adopted on behalf of the Union are two separate functions. The determination of the Union's position regarding policy questions dealt with in the International Energy Charter forms part of the Council's policy-making functions.

The Council recalls that it established the position of the European Union and EURATOM on the adoption and the signature of the International Energy Charter (doc. 8416/15) at its 3386th meeting on 11 May 2015.

Any declaration on behalf of the European Union in connection with the adoption and signature of the International Energy Charter should also be determined by the Council, in accordance with the Treaties.

The Council recalls that competence with regard to investment under the Charter is shared between the Union and its Member States. Any declaration on behalf of the Union must be limited to matters for which the Union is competent.

With regard to any declaration that falls partly within the competence of the European Union, and partly within that of its Member States, it is essential to ensure close cooperation between the Member States and the Union institutions.

This Statement is without prejudice to the special nature of the EU internal legal order, which establishes the relations between the European Union and its Member States and between the Member States.
