EU/Euratom Agreement on the interpretation and application of the Energy Charter Treaty: adoption by the Union

2024/0148(COD) - 04/02/2025 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade and the Committee on Industry, Research and Energy have jointly adopted the report by Anna CAVAZZINI (Greens/EFA, DE) and Borys BUDKA (EPP, PL) on the proposal for a decision of the European Parliament and of the Council on the adoption by the Union of the Agreement on the interpretation and application of the Energy Charter Treaty between the European Union, the European Atomic Energy Community and their Member States.

The committees responsible recommended that the European Parliament adopt its position at first reading by taking over the Commission's proposal.

The single provision of substance sets out the **common understanding of the parties** to the agreement in relation to the inapplicability of Article 26(2)(c) ECT intra-EU and the consequent absence of any legal basis for intra-EU arbitration proceedings as expressed in the inter se agreement.

Under the Agreement, the Contracting Parties reaffirm, for the sake of clarity, their common understanding on the interpretation and application of the Energy Charter Treaty, according to which Article 26 of that Treaty cannot serve as a basis for arbitration proceedings, and that the sunset clause does not apply.

The common understanding is based on the following elements of Union law:

- the interpretation of the Court of Justice of the European Union that Article 26 of the Energy Charter Treaty does not apply, and should never have applied, as a basis for intra-EU arbitration proceedings; and

- the primacy of European Union law, recalled in Declaration No 17 annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, as the rule of international law governing conflicts of standards in the mutual relations of Member States, from which it follows that, in any event, Article 26 of the Energy Charter Treaty does not apply and cannot apply as a basis for intra-EU arbitration procedures.