Basic information

2024/0148(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Decision	Procedure completed
EU/Euratom Agreement on the interpretation and application of the Energy Charter Treaty: adoption by the Union **Subject** 3.60 Energy policy 3.60.15 Cooperation and agreements for energy	

Key players

European Parliament

Joint committee responsible	Rapporteur	Appointed
INTA International Trade	CAVAZZINI Anna (Greens /EFA)	12/09/2024
ITRE Industry, Research and Energy	BUDKA Borys (EPP)	12/09/2024
	Shadow rapporteur CASPARY Daniel (EPP) GÁLVEZ Lina (S&D) NICA Dan (S&D) SZYDŁO Beata (ECR) KOLS Rihards (ECR) COTRIM DE FIGUEIREDO João (Renew) VEDRENNE Marie-Pierre (Renew) BLOSS Michael (Greens /EFA) MESURE Marina (The Left) SYPNIEWSKI Marcin (ESN) AUST René (ESN)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union	
European Commission	Commission DG: Energy — Commissioner: JØRGENSEN Dan
European Economic and Social Committee	
European Committee of the Regions	

Key events

Date	Event	Reference	Summary
02/07/2024	Legislative proposal published	COM(2024)0257	Summary
13/11/2024	Committee referral announced in Parliament, 1st reading		
29/01/2025	Vote in committee, 1st reading		
04/02/2025	Committee report tabled for plenary, 1st reading	A10-0009/2025	Summary
18/06/2025	Decision by Parliament, 1st reading	T10-0126/2025	Summary
18/06/2025	Results of vote in Parliament		
08/07/2025	Act adopted by Council after Parliament's 1st reading		
10/09/2025	Final act signed		
19/09/2025	Final act published in Official Journal		

Technical information

Procedure reference	2024/0148(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Rules of Procedure EP 59 Treaty on the Functioning of the European Union TFEU 194-p2
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	CJ49/10/01375

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single				

reading		A10-0009/2025	04/02/2025	Summary
Text adopted by Parliament, 1st reading/single reading		T10-0126/2025	18/06/2025	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00015/2025/LEX	05/09/2025	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2024)0257	02/07/2024	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES3646/2024	04/12/2024	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Other Members

Transparency

Name	Date	Interest representatives
FIOCCHI Pietro	03/10/2024	newcleo

Final act

Decision 2025/1904
OJ OJ L 19.09.2025

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

2024/0148(COD) - 02/07/2024 - Legislative proposal

PURPOSE: to adopt 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.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Energy Charter Treaty (ECT) is a multilateral trade and investment agreement applicable to the energy sector that was signed in 1994 and entered into force in 1998. The European Union is a Contracting Party to the ECT, together with Euratom, 22 EU Member States (as of 19 June 2024), as well as Japan, Switzerland, Turkey and most countries from the Western Balkans and the former USSR, with the exception of Russia and Belarus.

In Republic of Moldova v Komstroy, the CJEU held that Article 26(2)(c) ECT must be interpreted as not being applicable to disputes between a Member State and an investor of another Member State concerning an investment made by the latter in the first Member State. Arbitral tribunals nevertheless continue to accept jurisdiction and to hand down awards in intra-EU proceedings. According to the CJEU, any such arbitral award must be regarded as incompatible with EU law.

The effective implementation of Union law is being undermined by the issuing of such awards in intra-EU arbitration proceedings. There is a risk of conflict between the Treaties and the Energy Charter Treaty as interpreted by some arbitral tribunals which, if confirmed by the courts of a third country, would de facto turn into a legal conflict because arbitration awards violating EU law would circulate in the legal orders of third countries.

According to the case law of the Court, the risk of legal conflict is such as to render an international agreement incompatible with EU law. The adoption of an instrument of international law setting out the common understanding of the signatories on the non-applicability of Article 26 of the Energy Charter Treaty as a basis for intra-EU arbitration proceedings should help to achieve that aim. The Commission has successfully concluded negotiations on the terms of such an agreement.

CONTENT : the Commission proposes that 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, be adopted on behalf of the Union.

The agreement is a reflection of the case law of the CJEU and entirely in line with the established position of the Union as expressed on numerous occasions including in open court in third country jurisdictions.

The recitals to the agreement recount the history and context of the agreement, including in particular the interpretation of Union law as handed down by the CJEU, and acknowledge the fact that the effective implementation of Union law is being undermined by the issuing of awards in intra-EU arbitration proceedings. 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.

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

2024/0148(COD) - 18/06/2025 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 554 votes to 53, with 37 abstentions, a legislative resolution 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 European Parliament adopted its position at first reading, taking over the Commission's proposal.

The text recalled that in its Komstroy judgment of 2 September 2021, the Court of Justice of the European Union (CJEU) held that Article 26(2)(c) of the Energy Charter Treaty must be interpreted as not being applicable to disputes between a Member State and an investor of another Member State concerning an investment made by that investor in the first Member State, i.e. intra-EU disputes.

Despite the Komstroy judgment, arbitral tribunals have continued to accept jurisdiction and to issue awards in intra-EU arbitration proceedings which are purportedly based on Article 26(2), point (c), of the Energy Charter Treaty. According to the CJEU, any such award is incompatible with Union law. There is a risk of a conflict between the Treaties, on the one hand, and the Energy Charter Treaty as interpreted by some arbitral tribunals, on the other, which would, if confirmed by the courts of a third country, become a de facto legal conflict where such awards were circulating in the legal orders of third countries.

According to the case law of the CJEU, the risk of a legal conflict is sufficient to render an international agreement incompatible with Union law. The adoption of an instrument of international law, in the form of an agreement setting out the common understanding of the parties to that agreement on the non-applicability of Article 26 of the Energy Charter Treaty as a basis for intra-EU arbitration proceedings, would help to eliminate that risk.

The single provision of substance of the Agreement sets out the common understanding of the Parties to the Agreement regarding the non-applicability of Article 26(2)(c) of the Energy Charter Treaty (ECT) as a basis for intra-EU arbitration.

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 and will never serve as a legal basis for intra-EU arbitration proceedings.

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.