

EU as a Rule-Generator —A Case Study of EU’s Role in the Energy Charter Treaty

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Abstract

This article examines the role of the European Union “as a rule-generator” in the negotiation and conclusion of the Energy Charter Treaty (ECT) by tracing the European Energy Network proposal advanced by Dutch Prime Minister Ruud Lubbers through the Hague Conference to the signing of the Energy Charter Treaty. This article unfolds the complex relationship between EU law and the ECT by looking at intra- and extra-EU BITs and the status of the ECT as both an intra- and extra-EU BIT. By analysing *Eastern Sugar, the Commission v. Austria* and *Electrabel v. Hungary*, this article demonstrates how attitudes have shifted in the relationship between EU law and the ECT.

Key Words: EU as a rule-generator, Energy Charter Treaty, Hague Conference, *Eastern Sugar*, *Electrabel v. Hungary*