



Council of the
European Union

Brussels, 24 March 2022
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COUNCIL OF THE EUROPEAN UNION

(Employment, Social Policy, Health and Consumer Affairs)

14 March 2022

Statements to the non-legislative "A" items set out in doc. 6927/22

Ad "A" item 5:

Council Decision on the position to be taken on behalf of the European Union in the International Centre for Settlement of Investment Disputes (ICSID)
Adoption

STATEMENT BY THE COMMISSION

“The Commission notes that according to Opinion 2/15 of Court of Justice of the European Union, foreign non-direct investment and investment dispute settlement fall within a competence shared between the Union and its Member States. The Commission notes that the revised Council Decision has deleted this part of the references to Opinion 2/15 from Recital 3 of the Decision. The Commission wishes to remind that the Court of Justice has explicitly expressed this position in paragraph 293, in paragraph 305, as well as in the operative part of Opinion 2/15. The Commission therefore considers that the revised recital 3 of the Council Decision does not accurately reflect the substance of the Opinion of the Court as regards the delimitation of competences in the field of investment dispute settlement.”
