WHEREAS Australia is a signatory to the European Energy Charter, adopted at The Hague on 17 December 1991; and

WHEREAS Australia may, pursuant to Article 38, sign the Energy Charter Treaty, done at Lisbon on the seventeenth day of December, one thousand nine hundred and ninety-four; and

WHEREAS Australia may, pursuant to Article 14, sign the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects, done at Lisbon on the seventeenth day of December, one thousand nine hundred and ninety-four:

NOW THEREFORE THESE PRESENTS CERTIFY that IAN KENNETH FORSYTH has been duly named, constituted and appointed by the Government of Australia as its plenipotentiary and representative having full power and authority to sign the said Treaty and Protocol, subject to ratification, for and on behalf of Australia.

THE GOVERNMENT OF AUSTRALIA, for and on behalf of Australia, hereby DECLARES, pursuant to paragraph (2)(a) of Article 45 of the Energy Charter Treaty, that it does not accept provisional application.

THE GOVERNMENT OF AUSTRALIA further DECLARES, for and on behalf of Australia, in relation to the Energy Charter Treaty that:

Australia notes that the provisions of Articles 5 and 10(11) of the Energy Charter Treaty do not diminish its rights and obligations under the General Agreement on Tariffs and Trade (GATT), including as elaborated in the Agreement on Trade-Related Investment Measures annexed to the Marrakesh Agreement establishing the World Trade Organization, done at Marrakesh on 15 April 1994, particularly with respect to the list of exceptions in Article 5(3) of the Treaty, which it considers incomplete.

Australia further notes that it would not be appropriate for dispute settlement bodies established under the Treaty to give interpretations of GATT Articles III

and XI in the context of disputes between GATT Contracting Parties or between an investor of a GATT Contracting Party and another GATT Contracting Party. It considers that, with respect to the application of Article 10(11) of the Treaty between an investor and a GATT Contracting Party, the only issue that can be considered under Article 26 of the Treaty is the issue of the awards of arbitration in the event that a GATT Panel or the World Trade Organization Dispute Settlement Body first establishes that a trade-related investment measure maintained by the Contracting Party is inconsistent with its obligations under the GATT or the Agreement on Trade-Related Investment Measures.

IN WITNESS WHEREOF, I, GARETH JOHN EVANS, Minister for Foreign Affairs, have hereunto set my hand and affixed my seal.

DONE at Canberra this sixth day of December, One thousand nine hundred and ninety-four.

Minister for Foreign Affairs of Australia