



Council of the
European Union

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RECH 504
COTRA 31
COASI 158

'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee
Subject: Negotiation directives for the association of Canada and New Zealand to
Horizon Europe
- Approval of a letter

1. On 22 July 2022, the Chair of the ITRE committee of the European Parliament, on behalf of the majority of ITRE coordinators, sent a letter¹ to the Czech Minister of Education, Youth and Sports and to Commissioner Mariya Gabriel concerning the proposals for Council decisions² authorising the opening of negotiations with Canada and New Zealand on their participation in Union programmes and their association to Horizon Europe and the annexed draft negotiation directives³.

¹ WK 10832/22.

² Doc. 9565/22 and 9566/22.

³ Doc. 9565/22 ADD1 and 9566/22 ADD1.

2. In his letter, the Chair of the ITRE committee of the European Parliament, Mr Christian-Silviu Buşoi, considers that these draft negotiation directives are not in line with the Parliament's statement⁴ made in relation to the adoption of the Horizon Europe Programme, in which the Parliament requested to limit to the strict minimum the Council decisions adopted under Article 218(9) TFEU where they concern the association of third countries as referred to in category (d) of Article 16(1) of the Regulation establishing the Horizon Europe programme⁵ to that programme.
3. According to the letter, the majority of ITRE coordinators would not be able to consent to the draft agreements if they are in line with points 2 and 3 of the draft negotiation directives, which provide that the association to Union programmes and the scope of association would be decided by a body set up by each agreement.
4. It should be recalled that, at its meeting of 13 July 2022, the committee of permanent representatives confirmed that the Commission should be authorised to negotiate the agreements with Canada and New Zealand covering both the conditions for participation of those third countries in any Union programme and the conditions for their participation in Horizon Europe, the latter conditions being included in the form of a Protocol to the main agreements and not being decided by a body set up by the agreements.
5. The committee of permanent representatives is invited to approve the letter in annex, to be sent, on behalf of the Council, to Mr Christian-Silviu Buşoi, Chair of the ITRE committee of the European Parliament.

⁴ Doc. 8141/21.

⁵ OJ L 170/1 of 12.5.2021, p.1.

Brussels,

Mr Christian-Silviu Buşoi
Chair of the ITRE Committee
European Parliament
Rue Wiertz 60
1047 BRUSSELS

Subject: Negotiation directives for the association of Canada and New Zealand to Horizon Europe

Honourable Member,

Thank you for your letter of 22 July 2022 to Minister Balaš concerning the Commission recommendations for Council Decisions authorising the opening of negotiations with Canada and New Zealand for an agreement on the general principles for participation of Canada and New Zealand in Union programmes and on the association of Canada and New Zealand to Horizon Europe - the Framework Programme for Research and Innovation 2021-2027. He asked me to reply on his behalf.

In your letter, you argue that the Parliament indicated that leaving the determination of essential aspects of a third country's association to Horizon Europe to a body set up by an international agreement would not be acceptable.

The Council acknowledges the concerns of the Parliament regarding its involvement in the process of associating third countries to Horizon Europe. In this regard, the Council would like to recall that the Parliament is fully associated in defining the conditions for such associations as a co-legislator when adopting the research framework programme.

I would like to recall that Article 218 TFEU regulates the procedure for negotiating, concluding and implementing agreements between the Union and third countries or international organisations. In this regard, Article 218(9) TFEU lays down a simplified procedure for the purpose, in particular, of deciding on the positions to be adopted on behalf of the Union in the context of its participation in the adoption, within a decision-making body set up by the international agreement concerned, of acts applying or implementing that agreement. This provision excludes the adoption of acts supplementing or amending the institutional framework of the agreement. However, it does not exclude as a matter of principle the determination of essential aspects of the relationship with the third country involved via this simplified procedure.

In this specific case, the Parliament will be asked to consent to the agreements between the Union and Canada and New Zealand on their participation to Union programmes along with the Protocol on their participation in Horizon Europe. Nevertheless, the Council would like to emphasise that it considers that the approach chosen for Canada and New Zealand to negotiate the conditions for participation in Horizon Europe at the same time as the framework agreement is exceptional and such a way to proceed should be subject to a case-by-case assessment in the case of future agreements and should not create any precedent for the future.

More specifically, your letter states that, if the outcome of the negotiations with Canada and New Zealand would be in line with points 2 and 3 of the draft negotiating directives, you would not be able to give consent to the agreement associating these countries to Union programmes, including Horizon Europe. Point 2 of the draft negotiating directives provides that "[t]he agreement should foresee that possible future associations of [Canada/New Zealand] to other Union programmes should take the form of individual protocols to the agreement. Such protocols should be adopted by a body established under the agreement." While insisting that this is fully aligned with the procedure set out in Article 218 TFEU, let me stress that this point concerns other Union programmes, beyond Horizon Europe. Therefore, by objecting, the Parliament is going well beyond the scope of its own statement adopted together with the Horizon Europe Regulation in May 2021. Regarding Point 3, the negotiating directives set out that "[t]he protocol on the participation in Horizon Europe should provide for specific terms and conditions of the participation of [Canada/New Zealand] to Pillar II [...] of Horizon Europe". This implies that the choice between full or partial association in Horizon Europe is decided in the protocol itself, which, as said above, is negotiated simultaneously with the framework agreement and for which the Parliament is being asked to consent.

In conclusion, let me once again stress that the Treaty defines very clearly the procedure for negotiating, concluding and implementing international agreements with third countries or international organisations. The Council will therefore continue ensuring full respect of the procedures set out in Article 218 TFEU. I trust that this letter helps clarifying the concerns raised in your letter and my services and I stand ready to provide any further clarifications needed, at the appropriate level, to ensure your full support to a swift conclusion of these international agreements with important, like-minded and long-standing partners at global level.

Yours faithfully,

J. Zajíček

Deputy Permanent Representative

Czech Presidency of the Council of the European Union

Copy: Ms Mariya Gabriel, Commissioner for Research and Innovation, Education and Youth,
European Commission
