



Brussels, 18 October 2024
(OR. en)

14481/24

FIN 905
COMPET 1019
IND 477
ENER 504
CLIMA 357

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	14259/24
Subject:	Draft Council conclusions on the European Court of Auditors' Special Report No 11/2024: 'The EU's industrial policy on renewable hydrogen - Legal framework has been mostly adopted - time for a reality check' - <i>Approval</i>

1. On 17 July 2024, the European Court of Auditors published Special Report No 11/2024 entitled 'The EU's industrial policy on renewable hydrogen - Legal framework has been mostly adopted - time for a reality check'.
2. Pursuant to the rules laid down in the Council conclusions on improving the examination of Special Reports drawn up by the Court of Auditors¹, the Permanent Representatives Committee, at its meeting on 4 September 2024, instructed the Working Party on Competitiveness and Growth (Industry) to examine the Special Report in accordance with the rules laid down in the above-mentioned conclusions².

¹ Doc. 7515/00 + COR 1.

² Doc. 12427/24.

3. The Working Party on Competitiveness and Growth (Industry) examined the European Court of Auditors' Special Report No 11/2024 at its meeting on 10 September 2024.
4. On 16 September 2024, the Presidency presented a proposal for draft Council conclusions on the European Court of Auditors' Special Report No 11/2024³. The Working Party on Competitiveness and Growth (Industry) discussed the draft conclusions at its meeting on 19 September 2024.
5. Based on the discussion at the Working Party meeting on 19 September 2024 and comments received in writing, the Presidency prepared a revised proposal for draft Council conclusions on the European Court of Auditors' Special Report No 11/2024⁴. The Working Party on Competitiveness and Growth (Industry) discussed the revised draft conclusions at its meeting on 4 October 2024.
6. On the basis of the discussion at the Working Party meeting on 4 October 2024 and further comments received in writing, the Presidency prepared a second revised proposal for draft Council conclusions on the European Court of Auditors' Special Report No 11/2024⁵. The Presidency invited delegations to provide any possible comments on this revised wording by 11 October 2024.
7. No delegation expressed an objection to the text proposed by the Presidency, as set out in the ANNEX to this note.
8. The Permanent Representatives Committee is therefore invited to:
 - confirm the agreement reached at the level of the Working Party on the text of the draft conclusions as set out in the ANNEX;
 - recommend these conclusions to the Council for approval as an “A” item.

³ Doc. 13337/24.

⁴ Doc. 13970/24.

⁵ Doc. 14259/24.

DRAFT COUNCIL CONCLUSIONS
on the European Court of Auditors' Special Report No 11/2024:

**‘The EU’s industrial policy on renewable hydrogen –
Legal framework has been mostly adopted – time for a reality check’**

THE COUNCIL OF THE EUROPEAN UNION,

CONSIDERING the European Union’s commitment to becoming climate neutral by 2050 and
RECOGNISING that the production and use of renewable hydrogen are important steps for
decarbonising the Union’s industries and for reducing dependencies,

1. WELCOMES the European Court of Auditors’ Special Report No 11/2024 entitled ‘The EU’s industrial policy on renewable hydrogen - Legal framework has been mostly adopted - time for a reality check’;
2. TAKES NOTE of the focus of the Special Report on assessing how effective the Commission has been in creating the right conditions for the emerging renewable and low-carbon hydrogen markets, given the significant implications of this transition for the future of key EU industries, whether the EU adopted the necessary legal acts to support the nascent market for renewable and low-carbon hydrogen effectively and in a timely manner, and whether the Commission appropriately coordinated market creation between its own services, with Member States and with industry; NOTES that the Special Report also evaluates the EU’s funding programmes to allow the hydrogen value chain to develop in a rapidly evolving landscape;

3. HIGHLIGHTS that the Special Report of the European Court of Auditors is based on an assessment of a wide range of policy communications and measures including, in particular, the Hydrogen Strategy of the EU⁶, the REPowerEU Plan⁷, the Renewable Energy Directive (RED III)⁸, the ReFuelEU Aviation Regulation⁹, the FuelEU Maritime Regulation¹⁰, the Net-Zero Industry Act¹¹ and the Gas Package¹²;
4. RECALLS that the Council and the European Parliament have adopted important legislative acts, in particular the Gas and Hydrogen Package and the Net-Zero Industry Act, in order to support the EU's energy and climate objectives and to strengthen the competitiveness of the EU's strategic net-zero industry, and that those legislative acts will additionally contribute to the emergence of the European hydrogen ecosystem; NOTES the need to implement the existing legal framework in particular with the obligation under Article 9 of the Gas Directive;

⁶ Commission communication 'A hydrogen strategy for a climate-neutral Europe' (document 9390/20).

⁷ Commission communication 'REPowerEU Plan' (document 9787/22).

⁸ Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652.

⁹ Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation).

¹⁰ Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC.

¹¹ Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724.

¹² Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (recast), and Regulation (EU) 2024/1789 of the European Parliament and of the Council of 13 June 2024 on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (recast).

5. TAKES NOTE of the observations, conclusions and recommendations of the Special Report, namely to find the strategic way forward towards decarbonisation and the development of a hydrogen value chain towards 2030 and beyond with a view to preserving and strengthening the competitive situation of key EU industries, obtain reliable reporting on national funding data under the Governance Regulation¹³, assess the appropriateness of EU funding arrangements for industries, monitor permitting processes in Member States with respect to the transposition deadlines, and take on support and coordinated actions with and for the hydrogen industry;
6. UNDERLINES the importance of better taking into account Member States' national energy and climate plans when considering the aspirational targets at EU level for the production and import of hydrogen;
7. EMPHASISES that, alongside the production capacity for hydrogen, supplemented with imports, the necessary interconnected European network to facilitate cross-border hydrogen transportation and storage should also be developed to link producers and buyers, and that appropriate infrastructure planning should be taken into account;
8. INVITES the Commission to take into account the recommendations of the European Court of Auditors' Special Report No 11/2024 and to follow up on these recommendations with coherent actions, while ensuring the right balance between the competitive edge of the European industry and investors' security.

¹³ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council.