



Council of the
European Union

Brussels, 8 July 2024
(OR. en)

11311/24
ADD 1
LIMITE
PV CONS 33
ENV 671
CLIMA 251

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Environment)
17 June 2024

Any other business

10. (c) **Terms and conditions (T&C) of the 2024 Innovation Fund Auction for RFNBO hydrogen production (second round of auction H2)** 11103/24
Information from the Polish, Czech and Hungarian delegations

The Council took note of the information provided by Poland, Czechia and Hungary, as well as the intervention from other delegations.

- (d) **Work programme of the incoming Presidency**
Information from Hungary

The Council took note of the information provided by Hungary.

Statements to the non-legislative "A" items set out in doc. 10903/24**Ad "A" item 1:****Council Decision on the conclusion of the Agreement between the European Union and Canada on the participation of Canada in Union programmes***Agreement in principle**Request for the consent of the European Parliament***STATEMENT BY THE COMMISSION**

“The Commission considers that the Court of Justice has clarified in its judgment of 9 April 2024 in case C-551/21 that ensuring the signing of international agreements outside the area of the CFSP is a prerogative of the Commission in accordance with the Treaties. It is therefore not for the Council to lay down provisions as to the signing by the Commission of international agreements outside the area of the CFSP.”

Ad "A" item 2:**Council Decision on the signing and provisional application of the Agreement between the European Union and Canada on the participation of Canada in Union programmes***Adoption***STATEMENT BY THE COMMISSION**

“The Commission considers that the Court of Justice has clarified in its judgment of 9 April 2024 in case C-551/21 that ensuring the signing of international agreements outside the area of the CFSP is a prerogative of the Commission in accordance with the Treaties. It is therefore not for the Council to lay down provisions as to the signing by the Commission of international agreements outside the area of the CFSP.”

Ad "A" item 7:**Enlargement countries in the Commission Rule of Law Report – possible handling in the Council***Approval***STATEMENT BY AUSTRIA**

“Austria confirms its agreement on the present note. However, it regrets the inclusion of the last sentence of paragraph 9 of the present note (“Moreover, such invitation is strictly related to the area of the rule of law and will not be replicated in other areas or Council configurations.”). Austria would like to emphasise its understanding that also the latter part of the sentence refers exclusively to the area of rule of law. In this context Austria would like to recall the importance of the concept of gradual integration as most recently confirmed by the Council in paragraph 14 of its conclusions on Enlargement as approved by the Council on 12 December 2023 and wishes to reaffirm that its agreement to the present note does in no way signal any change in our general position regarding gradual integration.”

Ad "A" item 13:

Agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

STATEMENT BY THE COMMISSION

“In light of the judgment of the Court of Justice of 9 April 2024 in case C-551/21, Commission v. Council (“Gabon judgement”), as a matter of primary law, it is for the Commission to express the Union’s consent to be bound by the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (“BBNJ Agreement”). Therefore, Article 4 of the Council Decision on the conclusion of the BBNJ Agreement, which empowers the President of the Council to designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval, is not in accordance with the Treaties as interpreted by the Court.

However, given that the Council had transmitted the draft decision in the present file to the Parliament for consent prior to the Court giving judgment to ensure its timely adoption before the end of the ninth parliamentary term, the Commission will not stand in the way of its adoption by qualified majority. In this regard, the Commission welcomes the Council’s assurances that, in line with Gabon judgement, the Commission will be designated to express the consent of the Union to be bound by the BBNJ Agreement. The Commission underlines the importance to ensure that all future Council Decisions on the conclusion of international agreements, for which the Council had not yet sought the consent of Parliament on the date of the judgment, are fully compliant with the above-mentioned judgment of the Court of Justice.”