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From:	Presidency
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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'

Delegations will find attached a revised Presidency proposal for 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', in view of the discussion by the Working Party on Competitiveness and Growth (Industry) at its meeting on 4 October 2024.

Changes compared to document 13337/24 are indicated in **bold underlined** for additions and ~~strikethrough~~ for deletions.

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 in the EU and** the use of renewable hydrogen ~~is an~~**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 EU¹, the REPowerEU Plan², the Renewable Energy Directive (RED III)³, the ReFuelEU Aviation Regulation⁴, the FuelEU Maritime Regulation⁵, the Net-Zero Industry Act⁶ and the Gas Package⁷;
4. RECALLS that the Council and the European Parliament have agreed on 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 complete the existing legal framework in particular with the obligation under Article 9 of the Gas Directive;**

¹ Commission communication 'A hydrogen strategy for a climate-neutral Europe' (document 9390/20).

² Commission communication 'REPowerEU Plan' (document 9787/22).

³ 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.

⁴ 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).

⁵ 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.

⁶ 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.

⁷ 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 ~~without altering~~ **a view to preserving and strengthening** the competitive situation of key EU industries, obtain reliable reporting on national funding data under the Governance Regulation, 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 aligning~~ **taking into account Member States' national energy and climate plans when considering** the aspirational targets set at EU level for the production and import of hydrogen ~~with Member States' national energy and climate plans~~;
7. EMPHASISES that, alongside the production capacity for ~~renewable~~ hydrogen, **supplemented with imports**, the necessary interconnected European network to facilitate cross-border hydrogen transportation and storage should also be developed ~~so that hydrogen can be transported from~~ **to link producers to and buyers, and that appropriate infrastructure planning should take into account both realistic technological progress and the risk of underutilisation**;
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 the actions it proposed in response to these recommendations~~ **with coherent actions, while ensuring the right balance between the competitive edge of the European industry and investors' security.**