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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	CY comments on the Hydrogen and Gas Directive

Delegations will find in the annex the CY comments on the Hydrogen and Gas Directive:

- Definitions of hydrogen storage and hydrogen terminals (Directive. Article 2(6) and 2(8))
- Certification of renewable and low carbon fuels (Directive. Article 8)
- Access to gas and hydrogen infrastructure (Directive. Articles 26 to 33)

CY COMMENTS

Disclaimer: CY reserves the right to make further comments as the discussions progress.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
172	(6) 'hydrogen storage facility' means a facility used for the stocking of hydrogen of a high grade of purity:	(6) 'hydrogen storage facility' means a facility used for the stocking of hydrogen of a high grade of purity <i>or ammonia</i> , <i>including</i> :	(6) 'hydrogen storage facility' means a facility used for the stocking of hydrogen of a high grade of purity:	<u>CY COMMENT 1</u> CY prefers the General Approach (GA). Nevertheless, CY is flexible on the EP Mandate.
Article 2, first paragraph, point (6)(a)				
173	(a) including the part of an hydrogen terminal used for storage but excluding the portion used for production operations, and facilities reserved exclusively for hydrogen network operators in carrying out their functions;	(a) ■ the part of an hydrogen terminal used for storage, excluding the portion used for production operations, and facilities reserved exclusively for hydrogen network operators in carrying out their functions;	(a) including the part of an hydrogen terminal used for storage, but excluding the portion used for production operations, and facilities reserved exclusively for hydrogen network operators in carrying out their functions;	
Article 2, first paragraph, point (6)(b)				
174	(b) including large, in particular underground, hydrogen storage but excluding smaller, easily replicable hydrogen storage installations;	(b) ■ large, in particular underground, hydrogen storage, excluding smaller, easily replicable hydrogen storage installations;	(b) including large, in particular underground, hydrogen storage but excluding smaller, easily replicable hydrogen storage installations;	

174a		<i>(6a) ‘hydrogen storage operator’ means a natural or legal person who carries out the function of storage of hydrogen and is</i>	(6a) ‘hydrogen storage operator’ means a natural or legal person who carries out the function of storage of hydrogen	
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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>responsible for operating a hydrogen storage facility;</i>	and is responsible for operating a hydrogen storage facility;	
Article 2, first paragraph, point (8)				
176	(8) ‘hydrogen terminal’ means an installation used for the transformation of liquid hydrogen or liquid ammonia into gaseous hydrogen for injection into the hydrogen network or the liquefaction of gaseous hydrogen, including ancillary services and temporary storage necessary for the transformation process and subsequent injection into the hydrogen network, but not any part of the hydrogen terminal used for storage;	(8) ‘hydrogen terminal’ means an installation used for the transformation of liquid hydrogen or liquid ammonia into gaseous hydrogen for injection into the hydrogen network or the liquefaction of gaseous hydrogen, including ancillary services and temporary storage necessary for the transformation process and subsequent injection into the hydrogen network, but not any part of the hydrogen terminal used for storage;	(8) ‘hydrogen terminal’ means an installation used for the transformation of liquid hydrogen or liquid ammonia into gaseous hydrogen for injection into the hydrogen network or the natural gas system or the liquefaction of gaseous hydrogen and its onloading , including ancillary services and temporary storage necessary for the transformation process and subsequent injection into the hydrogen network, but not any part of the hydrogen terminal used for storage;	<u>CY COMMENT 2</u> CY prefers the General Approach (GA), nevertheless, retains a flexibility.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
176a		<p><i>(8a) ‘hydrogen terminal operator’ means a natural or legal person who carries out the function of transformation of liquid hydrogen or liquid ammonia into gaseous hydrogen for injection into the hydrogen network or the liquefaction of gaseous hydrogen and is responsible for operating a hydrogen terminal;</i></p>	<p>(8a) ‘hydrogen terminal operator’ means a natural or legal person who carries out the function of offloading and transformation of liquid hydrogen or liquid ammonia into gaseous hydrogen for injection into the hydrogen network or the natural gas system or the liquefaction and onloading of gaseous hydrogen and is responsible for operating a hydrogen terminal;</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 8				
296	Article 8 Certification of renewable and low carbon fuels	Article 8 Certification of renewable <i>fuels and low-carbon</i> fuels	Article 8 Certification of renewable and low carbon fuels	<p><u>CY COMMENT 3</u></p> <p><u>General comment:</u> As the amended RED Directive has been finalized and will be published in the next few days, the relevant references for articles of Directive (EU) 2018/2001 should be amended and considered as articles of the amended RED.</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 8(1)				
297	1. Renewable gases shall be certified in accordance with Articles 29 and 30 of Directive (EU) 2018/2001.	1. Renewable gas shall be certified in accordance with Articles 29, 29a and 30 of Directive (EU) 2018/2001 [amended RED] .	1. For the purposes of certification of renewable gases and low carbon fuels, Member States shall be certified in accordance with Articles 29 and 30 require economic operators to show that the conditions for renewable gases set out in Article 25(2) and 29 of Directive (EU) 2018/2001 are complied with. Compliance with those sustainability and greenhouse gas saving criteria shall be demonstrated in accordance with Article 30 of that Directive.	<u>CY COMMENT 4</u> Article 25(2) of Directive (EU) 2018/2001 is article 29a of the amended RED.
Article 8(2)				
298	2. In order to ensure that the greenhouse gas emissions savings from the use of low carbon fuels and low carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the	2. In order to ensure that the greenhouse gas emissions savings from the use of low-carbon fuels and low-carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the	2. In order to ensure that the greenhouse gas emissions savings from the use of low carbon fuels and low carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30 (1) and (2) of Directive (EU) 2018/2001.	methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30(1) and (2) of Directive (EU) 2018/2001.	methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30 (1) and (2) of Directive (EU) 2018/2001.	
Article 8(3)				
299	3. Member States shall ensure that economic operators submit reliable information regarding the compliance with the 70% greenhouse gas emissions savings threshold set in paragraph 2 and with the greenhouse gas emissions saving methodology referred to in paragraph 5, and that economic operators make available to the relevant Member State, upon request, the data that were used to develop the information. Member States shall require economic operators to put in place an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are accurate,	3. Member States shall ensure that economic operators submit reliable information regarding the compliance with the 70 % greenhouse gas emissions savings threshold set in paragraph 2 and with the greenhouse gas emissions saving methodology referred to in paragraph 5, and that economic operators make available to the relevant Member State, upon request, the data that were used to develop the information. Member States shall require economic operators to put in place an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are accurate,	3. Member States shall ensure that economic operators submit reliable information regarding the compliance with the 70% greenhouse gas emissions savings threshold set in paragraph 2 and with the greenhouse gas emissions saving methodology referred to in paragraph 5, and that economic operators make available to the relevant Member State, upon request, the data that were used to develop the information. Member States shall require economic operators to put in place an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are accurate,	

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	reliable and protected against fraud.	reliable and protected against fraud.	reliable and protected against fraud.	
Article 8(4)				
300	4. The obligations laid down in paragraph 2 shall apply regardless of whether low carbon fuels are produced within the Union or are imported. Information about the geographic origin and feedstock type of low carbon fuels or low carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.	4. The obligations laid down in paragraph 2 shall apply regardless of whether low-carbon fuels are produced within the Union or are imported. Information about the geographic origin, recognition that the energy content is derived from non-renewable sources, the level of the GHG emissions reduction achieved and feedstock type of low-carbon fuels or low-carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.	4. The obligations laid down in paragraph 2 shall apply regardless of whether low carbon fuels are produced within the Union or are imported. Information about the geographic origin and feedstock type of low carbon fuels or low carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.	
Article 8(5)				
301	5. By 31 December 2024, the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by specifying the methodology for assessing greenhouse gas	5. By ... [six months after the date of entry into force of this Directive] , the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by	5. By 31 December 2024 Within 12 months of entry into force of this Directive , the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by	<p>CY COMMENT 5</p> <p>Cyprus want to maintain the timeframe of the 12 months as agreed in the General Approach.</p> <p>Cyprus do not agree with the wording proposal of the EP to</p>

				<p><i>“differentiate between fossil fuel comparators in order to distinguish between end-use sectors.”</i></p> <p>In particular, Cyprus considers that the methodology set out in the Annex of “COMMISSION DELEGATED REGULATION (EU) 2023/1184 of 10 February</p>
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement

	<p>emissions savings from low carbon fuels. The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide the capture of which has already received an emission credit under other provisions of law.</p>	<p>specifying the methodology for assessing greenhouse gas emissions savings from <i>low-carbon fuels, except for recycled carbon fuels as defined in Article 2, second subparagraph, point (35) of Directive (EU) 2018/2001 [amended RED]. The GHG emission savings from the use of low-carbon fuels shall be at least 70 % relative to a fossil fuel comparator with a threshold of 94 gCO₂eq/MJ and based on their life-cycle emissions taking into account the methodology used to determine the GHG emissions savings in accordance with Article 25(2) and Article 28(5) of Directive (EU) 2018/2001. To ensure comparable GHG emission savings across sectors, the Commission may, after conducting an impact assessment, differentiate between fossil fuel comparators in order to distinguish between end-use sectors. The methodology shall define clear, credible, science-based and realistic minimum carbon capture rates and upstream methane emissions performance standards that are in line with the relevant</i></p>	<p>specifying the methodology for assessing greenhouse gas emissions savings from low carbon fuels. The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide the capture of which has already received an emission credit under other provisions of law and shall be consistent with the methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels.</p>	<p>2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a minimum threshold for greenhouse gas emissions savings of recycled carbon fuels and by specifying a methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels” <u>can be also applied</u> for assessing greenhouse gas emissions savings from low carbon fuels.</p>
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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><i>provisions referred to in Regulation (EU) .../... of the European Parliament and the Council²⁸⁺ and take into account best available performance standards and industry initiatives which aim to eliminate its methane footprint and how low-carbon fuels shall comply with them.</i> The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide the capture of which has already received an emission credit under other provisions of law.</p> <p><i>28. Regulation (EU) .../... of the European Parliament and of the Council of ... on methane emissions reduction in the energy sector and amending Regulation (EU) 2019/942 (OJ L ...).</i></p> <p><i>+ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS .../... (2021/0423(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.</i></p>	PUBLIC	
301a		<p>5a. The Commission is empowered to adopt delegated acts in accordance with Article</p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		83 to amend this Directive by adapting the threshold referred to in paragraph 5 of this Article for low-carbon fuels produced in installations starting operations from 1 January 2031. The Commission shall avoid the double counting of recycled carbon fuels.		<u>CY COMMENT 6</u> CY disagrees with paragraph 5a. As a matter of principle CY does not support substantial changes in a legislation such as defining “thresholds” or amending deadlines/timeframes to take place via a delegated act.
301b		5b. By ... [six months after the date of entry into force of this Directive], the Commission shall submit a report to the European Parliament and to the Council that evaluates hydrogen leakage, including environmental and climate risks, technical specificities and adequate maximum hydrogen leakage rates. On the basis of that report, the Commission shall, if appropriate, submit a legislative proposal to introduce measures to minimise possible risks of hydrogen leakage, set maximum hydrogen leakage rates and compliance mechanisms. Relevant maximum hydrogen leakage rates shall be included in		<u>CY COMMENT 7</u> CY is not in favor of this proposal. This proposal by the EP gives the possibility to the Commission to place a legislative proposal to introduce measures on the basis of a report. Any future legislative proposal should follow a proper ordinary legislative procedure.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>the methodology referred to in paragraph 5.</i>		
Article 8(6)				
302	6. The Commission may decide that voluntary national or international schemes setting standards for the production of low carbon fuels or low carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5 of this Article.	6. The Commission may decide that voluntary national or international schemes setting standards for the production of low-carbon fuels or low-carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5 of this Article.	6. The Commission may decide that voluntary national or international schemes setting standards for the production of low carbon fuels or low carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5. The Commission shall adopt decisions only if the scheme in question meets adequate standards of reliability, transparency and independent auditing in line with the requirements set out in Regulation (EU) 2022/996 for the certification of renewable fuels of this Article.	
Article 8(7)				
303	7. Where an economic operator provides evidence or data obtained in accordance with a	7. Where an economic operator provides evidence or data obtained in accordance with a	7. Where an economic operator provides evidence or data obtained in accordance with a	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	scheme that has been the subject of a recognition pursuant to paragraph 6, a Member State shall not require the economic operator to provide further evidence of compliance with the criteria for which the scheme has been recognised by the Commission.	scheme that has been the subject of a recognition pursuant to paragraph 6, a Member State shall not require the economic operator to provide further evidence of compliance with the criteria for which the scheme has been recognised by the Commission.	scheme that has been the subject of a recognition pursuant to paragraph 6, a Member State shall not require the economic operator to provide further evidence of compliance with the criteria for which the scheme has been recognised by the Commission.	
Article 8(8)				
304	8. Competent authorities of the Member States shall supervise the operation of certification bodies that are conducting independent auditing under a voluntary scheme. Certification bodies shall submit, upon the request of competent authorities, all relevant information necessary to supervise the auditing, including the exact date, time and location of audits. Where Member States find issues of non-conformity, they shall inform the voluntary scheme without delay.	8. Competent authorities of the Member States shall supervise the operation of certification bodies that are conducting independent auditing under a voluntary scheme. Certification bodies shall submit, upon the request of competent authorities, all relevant information necessary to supervise the auditing, including the exact date, time and location of audits. Where Member States find issues of non-conformity, they shall inform the voluntary scheme without delay.	8. Competent authorities of the Member States shall supervise the operation of certification bodies that are conducting independent auditing under a voluntary scheme. Certification bodies shall submit, upon the request of competent authorities, all relevant information necessary to supervise the auditing, including the exact date, time and location of audits. Where Member States find issues of non-conformity, they shall inform the voluntary scheme without delay.	
Article 8(9)				
305	9. At the request of a Member State, which may be based on the request of an economic operator,	9. At the request of a Member State, which may be based on the request of an economic operator,	9. At the request of a Member State, which may be based on the request of an economic operator,	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (9) and (10) have been met. Within six months of receipt of such a request, the Commission shall decide whether the Member State concerned may:	the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (9) and (10) have been met. Within six months of receipt of such a request, the Commission shall decide whether the Member State concerned may:	the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (9) (10), (11) and (10) (12) , have been met. Within six months of receipt of such a request, the Commission shall decide whether the Member State concerned may:	
Article 8(9), point (a)				
306	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low carbon fuels; or	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low-carbon fuels; or	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low carbon fuels; or	
Article 8(9), point (b)				
307	(b) by way of derogation from paragraph 7, require suppliers of the source of low carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and	(b) by way of derogation from paragraph 7, require suppliers of the source of low-carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and	(b) by way of derogation from paragraph 7, require suppliers of the source of low carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the 70% greenhouse gas emissions savings threshold.	the 70% greenhouse gas emissions savings threshold.	the 70% greenhouse gas emissions savings threshold.	
Article 8(10)				
308	10. Member States shall also require the relevant economic operators to enter into the Union database information on the transactions made and the sustainability characteristics of low carbon fuels in line with the requirements established in Article 28 of Directive (EU) 2018/2001.	10. Member States shall require the relevant economic operators to enter into the Union database information on the transactions made and the sustainability characteristics of low-carbon in line with the requirements <i>laid down in Articles 28 and 31a</i> of Directive (EU) 2018/2001 <i>[amended RED]</i> . <i>The interconnected gas system shall be considered to be a single mass balance system. Information about injection and withdrawal shall be provided in the Union database for gaseous fuels. The Union database shall be implemented as soon as possible and in any event by ... [the date of entry into force of this Directive].</i>	10. Member States shall also require the relevant economic operators to enter into the Union database, or national databases that are linked to the Union database , information on the transactions made and the sustainability characteristics of renewable gases and low carbon fuels in line with the requirements for renewable fuels established in [Article 28 of Directive (EU) 2018/2001]. Where guarantees of origin have been issued for the production of a consignment of low carbon gases, these shall be subject to the same rules as those set out in [Article 28 of Directive (EU) 2018/2001] for guarantees of origin issued for the production of renewable gases.	
308a			11. The Commission shall adopt decisions under	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p>paragraph 6 of this Article by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84(3). Such decisions shall be valid for a period of no more than five years.</p>	
Article 26				
465	Article 26	Article 26	Article 26	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Market access for renewable and low carbon gases	Market access for renewable <i>gas and low-carbon gas</i>	Market access for renewable and low carbon gases	
Article 26, first paragraph				
466	Member States shall enable the access of renewable and low carbon gases to the market and infrastructure regardless whether the renewable and low carbon gases production facilities are connected to distribution or transmission networks.	Member States shall enable the access of renewable <i>gas and low-carbon gas</i> to the market and infrastructure regardless whether the renewable <i>gas and low-carbon gas</i> production facilities are connected to distribution or transmission networks, provided that such access is considered to be beneficial in line with the ten-year network development plan referred to in Article 52.	Member States shall enable the access of renewable and low carbon gases to the market and infrastructure regardless whether the renewable and low carbon gases production facilities are connected to distribution or transmission networks.	<u>CY COMMENT 8</u> CY Prefers the GA. Do not agree with the linkage with the TYNDP.
Article 27				
467	Article 27 Third-party access to natural gas distribution and transmission and LNG terminals	Article 27 Third-party access to natural gas distribution and transmission and LNG terminals	Article 27 Third-party access to natural gas distribution and transmission and LNG terminals	
Article 27(1)				
468	1. Member States shall ensure the implementation of a system of third party access to the transmission and distribution	1. Member States shall ensure the implementation of a system of third party access to the transmission and distribution	1. Member States shall ensure the implementation of a system of third party access to the transmission and distribution	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	system, and LNG facilities based on published tariffs, applicable to all customers, including supply undertakings, and applied objectively and without discrimination between system users. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by a regulatory authority referred to in Article 70 and that those tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force. Tariff discounts can be granted only if so provided by Union legislation.	system, and LNG facilities based on published tariffs, applicable to all customers, including supply undertakings, and applied objectively and without discrimination between system users. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by a regulatory authority referred to in Article 70 and that those tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force. █	system, and LNG facilities based on published tariffs, applicable to all customers, including supply undertakings, and applied objectively and without discrimination between system users. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by a regulatory authority referred to in Article 70 and that those tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force. Tariff discounts can may be granted only if so provided by Union legislation.	<u>CY COMMENT 9</u> CY is flexible with regard the deletion of the wording “ <i>Tariff discounts can may be granted only if so provided by Union legislation.</i> ”
468a			2. Transmission system operators shall, if necessary for the purpose of carrying out their functions including in relation to cross-border transmission, have access to the network of other transmission system operators.	
Article 27(2)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
469	2. The provisions of this Directive shall not prevent the conclusion of long-term contracts for renewable and low carbon gases in so far as they comply with Union competition rules and contribute to decarbonisation. No long-term contracts for supply of unabated fossil gas shall be concluded with a duration beyond the end of year 2049.	2. The provisions of this Directive shall not prevent the conclusion of long-term contracts for renewable gas and low-carbon gas in so far as they comply with Union competition rules and contribute to decarbonisation. No long-term contracts for supply of unabated fossil gas shall be concluded with a duration beyond the end of year 2049. <i>The end-date may be revised in order to align with relevant changes in the Union's energy and climate objectives, taking into account the security of supply and without prejudice to long-term contracts that have been concluded.</i>	23. The provisions of this Directive shall not prevent the conclusion of long-term contracts for renewable and low carbon gases in so far as they comply with Union competition rules and contribute to decarbonisation. No long-term contracts for the supply of unabated fossil gas shall be concluded with a duration beyond the end of year 2049 .	<u>CY COMMENT 10</u> CY considers that any amendment with regard the end-date should take place via an ordinary legislative procedure. CY agrees to maintain the General Approach.
Article 27(3)				
470	3. This Article shall also apply to citizen energy communities that manage distribution networks.	3. █	34. This Article shall also apply to citizen energy communities that manage distribution networks.	
Article 28				
471				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 28 Access to upstream natural gas pipeline networks	Article 28 Access to upstream natural gas pipeline networks	Article 28 Access to upstream natural gas pipeline networks	<u>CY COMMENT 11</u> See detailed comments set out in the ANNEX.
Article 28(1)				
472	1. Member States shall take the necessary measures to ensure that natural gas undertakings and eligible customers, wherever they are located, are able to obtain access to upstream pipeline networks, including facilities supplying technical services incidental to such access, in accordance with this Article, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced. The measures shall be notified to the Commission in accordance with the provisions of Article 88.	1. Member States shall take the necessary measures to ensure that natural gas undertakings and eligible customers, wherever they are located, are able to obtain access to upstream pipeline networks, including facilities supplying technical services incidental to such access, in accordance with this Article, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced. The measures shall be notified to the Commission in accordance with the provisions of Article 88.	1. Member States shall take the necessary measures to ensure that natural gas undertakings and eligible customers, wherever they are located, are able to obtain access to upstream pipeline networks, including facilities supplying technical services incidental to such access, in accordance with this Article, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced. The measures shall be notified to the Commission in accordance with the provisions of Article 88.	
Article 28(2)				

473	2. The access referred to in paragraph 1 shall be provided in a manner determined by the Member State in accordance with the relevant legal instruments. Member States shall apply the	2. The access referred to in paragraph 1 shall be provided in a manner determined by the Member State in accordance with the relevant legal instruments. Member States shall apply the	2. The access referred to in paragraph 1 shall be provided in a manner determined by the Member State in accordance with the relevant legal instruments. Member States shall apply the	
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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	objectives of fair and open access, achieving a competitive market in natural gas and avoiding any abuse of a dominant position, taking into account security and regularity of supplies, capacity which is or can reasonably be made available, and environmental protection. The following needs may be taken into account:	objectives of fair and open access, achieving a competitive market in natural gas and avoiding any abuse of a dominant position, taking into account security and regularity of supplies, capacity which is or can reasonably be made available, and environmental protection. The following needs may be taken into account:	objectives of fair and open access, achieving a competitive market in natural gas and avoiding any abuse of a dominant position, taking into account security and regularity of supplies, capacity which is or can reasonably be made available, and environmental protection. The following needs may be taken into account:	
Article 28(2), point (a)				
474	(a) the need to refuse access where there is an incompatibility of technical specifications which cannot reasonably be overcome;	(a) the need to refuse access where there is an incompatibility of technical specifications which cannot reasonably be overcome;	(a) the need to refuse access where there is an incompatibility of technical specifications which cannot reasonably be overcome;	
Article 28(2), point (b)				
475	(b) the need to avoid difficulties which cannot reasonably be overcome and could prejudice the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability;	(b) the need to avoid difficulties which cannot reasonably be overcome and could prejudice the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability;	(b) the need to avoid difficulties which cannot reasonably be overcome and could prejudice the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability;	
Article 28(2), point (c)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
476	(c) the need to respect the duly substantiated reasonable needs of the owner or operator of the upstream pipeline network for the transport and processing of gas and the interests of all other users of the upstream pipeline network or relevant processing or handling facilities who may be affected; and	(c) the need to respect the duly substantiated reasonable needs of the owner or operator of the upstream pipeline network for the transport and processing of gas and the interests of all other users of the upstream pipeline network or relevant processing or handling facilities who may be affected; and	(c) the need to respect the duly substantiated reasonable needs of the owner or operator of the upstream pipeline network for the transport and processing of gas and the interests of all other users of the upstream pipeline network or relevant processing or handling facilities who may be affected; and	
Article 28(2), point (d)				
477	(d) the need to apply their laws and administrative procedures, in conformity with Union law, for the grant of authorisation for production or upstream development.	(d) the need to apply their laws and administrative procedures, in conformity with Union law, for the grant of authorisation for production or upstream development.	(d) the need to apply their laws and administrative procedures, in conformity with Union law, for the grant of authorisation for production or upstream development.	
Article 28(3)				
478	3. Member States shall ensure that they have in place dispute-settlement arrangements, including an authority independent of the parties with access to all relevant information, to enable disputes relating to access to upstream pipeline networks to be settled	3. Member States shall ensure that they have in place dispute-settlement arrangements, including an authority independent of the parties with access to all relevant information, to enable disputes relating to access to upstream pipeline networks to be settled	3. Member States shall ensure that they have in place dispute-settlement arrangements, including an authority independent of the parties with access to all relevant information, to enable disputes relating to access to upstream pipeline networks to be settled	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	expeditiously, taking into account the criteria in paragraph 2 and the number of parties which may be involved in negotiating access to such networks.	expeditiously, taking into account the criteria in paragraph 2 and the number of parties which may be involved in negotiating access to such networks.	expeditiously, taking into account the criteria in paragraph 2 and the number of parties which may be involved in negotiating access to such networks.	
Article 28(4)				
479	<p>4. In the event of cross-border disputes, the dispute-settlement arrangements for the Member State having jurisdiction over the upstream pipeline network which refuses access shall be applied. Where, in cross-border disputes, more than one Member State covers the network concerned, the Member States concerned shall consult each other with a view to ensuring that the provisions of this Directive are applied consistently. Where the upstream pipeline network originates from a third country and connects to at least one Member State, the Member States concerned shall consult each other and the Member State where the first entry point to the Member States' network is located shall consult the third country concerned where the upstream pipeline network originates, with a view to</p>	<p>4. In the event of cross-border disputes, the dispute-settlement arrangements for the Member State having jurisdiction over the upstream pipeline network which refuses access shall be applied. Where, in cross-border disputes, more than one Member State covers the network concerned, the Member States concerned shall consult each other with a view to ensuring that the provisions of this Directive are applied consistently. Where the upstream pipeline network originates from a third country and connects to at least one Member State, the Member States concerned shall consult each other and the Member State where the first entry point to the Member States' network is located shall consult the third country concerned where the upstream pipeline network originates, with a view to</p>	<p>4. In the event of cross-border disputes, the dispute-settlement arrangements for the Member State having jurisdiction over the upstream pipeline network which refuses access shall be applied. Where, in cross-border disputes, more than one Member State covers the network concerned, the Member States concerned shall consult each other with a view to ensuring that the provisions of this Directive are applied consistently. Where the upstream pipeline network originates from a third country and connects to at least one Member State, the Member States concerned shall consult each other and the Member State where the first entry point to the Member States' network is located shall consult the third country concerned where the upstream pipeline network originates, with a view to</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	ensuring, as regards the network concerned, that this Directive is applied consistently in the territory of the Member States.	ensuring, as regards the network concerned, that this Directive is applied consistently in the territory of the Member States.	ensuring, as regards the network concerned, that this Directive is applied consistently in the territory of the Member States.	
Article 29				
480	Article 29 Access to storage of natural gas	Article 29 Access to storage of natural gas	Article 29 Access to storage of natural gas	
Article 29(1), first subparagraph				
481	1. For the organisation of access to storage facilities and linepack when technically or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. Those procedures shall operate in accordance with objective, transparent and non-discriminatory criteria.	1. For the organisation of access to storage facilities and linepack when technically or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. Those procedures shall operate in accordance with objective, transparent and non-discriminatory criteria.	1. For the organisation of access to storage facilities and linepack when technically or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. Those procedures shall operate in accordance with objective, transparent and non-discriminatory criteria.	
Article 29(1), second subparagraph				
482				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	When choosing the procedure for access to storage under this Article, Member States shall take into account the results of the common and national risk assessments carried out under Article 7 of Regulation (EU) 2017/1938.	When choosing the procedure for access to storage under this Article, Member States shall take into account the results of the common and national risk assessments carried out under Article 7 of Regulation (EU) 2017/1938.	When choosing the procedure for access to storage under this Article, Member States shall take into account the results of the common and national risk assessments carried out under Article 7 of Regulation (EU) 2017/1938.	
Article 29(1), third subparagraph				
483	The regulatory authorities shall define and publish criteria according to which the access regime applicable to storage facilities and linepack may be determined. They shall make public, or oblige storage and transmission system operators to make public, which storage facilities, or which parts of those storage facilities, and which linepack is offered under the different procedures referred to in paragraphs 3 and 4.	The regulatory authorities shall define and publish criteria according to which the access regime applicable to storage facilities and linepack may be determined. They shall make public, or oblige storage and transmission system operators to make public, which storage facilities, or which parts of those storage facilities, and which linepack is offered under the different procedures referred to in paragraphs 3 and 4.	The regulatory authorities shall define and publish criteria according to which the access regime applicable to storage facilities and linepack may be determined. They shall make public, or oblige storage and transmission system operators to make public, which storage facilities, or which parts of those storage facilities, and which linepack is offered under the different procedures referred to in paragraphs 3 and 4.	
Article 29(2)				
484	2. Paragraph 1 shall not apply to ancillary services and temporary storage that are related to LNG facilities and are necessary for the	2. Paragraph 1 shall not apply to ancillary services and temporary storage that are related to LNG facilities and are necessary for the	2. Paragraph 1 shall not apply to ancillary services and temporary storage that are related to LNG facilities and are necessary for the	

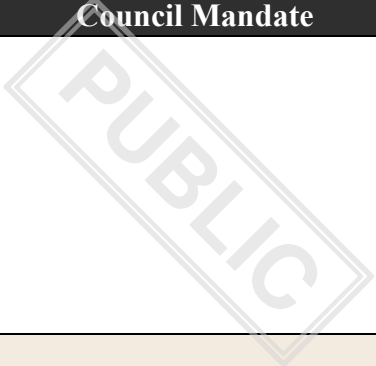
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	re-gasification process and subsequent delivery to the transmission system.	re-gasification process and subsequent delivery to the transmission system.	re-gasification process and subsequent delivery to the transmission system.	
Article 29(3), first subparagraph				
485	3. In the case of negotiated access,, the regulatory authorities shall take the necessary measures for undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to storage facilities and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The parties shall be obliged to negotiate access to storage, linepack and other ancillary services in good faith.	3. In the case of negotiated access,, the regulatory authorities shall take the necessary measures for undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to storage facilities and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The parties shall be obliged to negotiate access to storage, linepack and other ancillary services in good faith.	3. In the case of negotiated access,, the regulatory authorities shall take the necessary measures for undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to storage facilities and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The parties shall be obliged to negotiate access to storage, linepack and other ancillary services in good faith.	
Article 29(3), second subparagraph				
486	Contracts for access to storage, linepack and other ancillary services shall be negotiated with the relevant storage system operator. The regulatory	Contracts for access to storage, linepack and other ancillary services shall be negotiated with the relevant storage system operator. The regulatory	Contracts for access to storage, linepack and other ancillary services shall be negotiated with the relevant storage system operator. The regulatory	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	authorities shall require storage system operators and natural gas undertakings to publish their main commercial conditions for the use of storage, linepack and other ancillary services on an annual basis.	authorities shall require storage system operators and natural gas undertakings to publish their main commercial conditions for the use of storage, linepack and other ancillary services on an annual basis.	authorities shall require storage system operators and natural gas undertakings to publish their main commercial conditions for the use of storage, linepack and other ancillary services on an annual basis.	
Article 29(3), third subparagraph				
487	When developing those conditions, storage operators shall consult system users.	When developing those conditions, storage operators shall consult system users.	When developing those conditions, storage operators shall consult system users.	
Article 29(4)				
488	4. In the case of regulated access, the regulatory authorities shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, linepack and other ancillary services, on the basis of published tariffs or other terms and obligations for use of that storage and linepack, when technically or economically necessary for providing efficient access to the system, as well as for the organisation of access to	4. In the case of regulated access, the regulatory authorities shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, linepack and other ancillary services, on the basis of published tariffs or other terms and obligations for use of that storage and linepack, when technically or economically necessary for providing efficient access to the system, as well as for the organisation of access to	4. In the case of regulated access, the regulatory authorities shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, linepack and other ancillary services, on the basis of published tariffs or other terms and obligations for use of that storage and linepack, when technically or economically necessary for providing efficient access to the system, as well as for the organisation of access to	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	other ancillary services. The regulatory authorities shall consult system users when developing those tariffs or the methodologies for those tariffs. The right of access for eligible customers may be given by enabling them to enter into supply contracts with competing undertakings other than the owner or operator of the system or a related undertaking.	other ancillary services. The regulatory authorities shall consult system users when developing those tariffs or the methodologies for those tariffs. The right of access for eligible customers may be given by enabling them to enter into supply contracts with competing undertakings other than the owner or operator of the system or a related undertaking.	other ancillary services. The regulatory authorities shall consult system users when developing those tariffs or the methodologies for those tariffs. The right of access for eligible customers may be given by enabling them to enter into supply contracts with competing undertakings other than the owner or operator of the system or a related undertaking.	
Article 30				
489	Article 30 Direct lines for natural gas	Article 30 Direct lines for natural gas	Article 30 Direct lines for natural gas	
Article 30(1)				
490	1. Member States shall take the necessary measures to enable:	1. Member States shall take the necessary measures to enable:	1. Member States shall take the necessary measures to enable:	
Article 30(1), point (a)				
491	(a) undertakings established within their territory to supply the eligible customers through a direct line; and	(a) undertakings established within their territory to supply the eligible customers through a direct line; and	(a) undertakings established within their territory to supply the eligible customers through a direct line; and	
Article 30(1), point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
492	(b) any such customer within their territory to be supplied through a direct line by natural gas undertakings.	(b) any such customer within their territory to be supplied through a direct line by natural gas undertakings.	(b) any such customer within their territory to be supplied through a direct line by natural gas undertakings.	
Article 30(2)				
493	2. In circumstances where an authorisation for example, licence, permission, concession, consent or approval is required for the construction or operation of direct lines, the Member States or any competent authority they designate shall lay down the criteria for the grant of authorisations for the construction or operation of such lines in their territory. Those criteria shall be objective, transparent and non-discriminatory.	2. In circumstances where an authorisation for example, licence, permission, concession, consent or approval is required for the construction or operation of direct lines, the Member States or any competent authority they designate shall lay down the criteria for the grant of authorisations for the construction or operation of such lines in their territory. Those criteria shall be objective, transparent and non-discriminatory.	2. In circumstances where an authorisation for example, licence, permission, concession, consent or approval is required for the construction or operation of direct lines, the Member States or any competent authority they designate shall lay down the criteria for the grant of authorisations for the construction or operation of such lines in their territory. Those criteria shall be objective, transparent and non-discriminatory.	
Article 30(3)				
494	3. Member States may issue an authorisation to construct a direct line subject either to the refusal of system access on the basis of Article 34 or to the opening of a dispute-settlement procedure under Article 73.	3. Member States may issue an authorisation to construct a direct line subject either to the refusal of system access on the basis of Article 34 or to the opening of a dispute-settlement procedure under Article 73.	3. Member States may issue an authorisation to construct a direct line subject either to the refusal of system access on the basis of Article 34 or to the opening of a dispute-settlement procedure under Article 73.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Section II				
495	Section II Access to hydrogen infrastructure	Section II Access to hydrogen infrastructure	Section II Access to hydrogen infrastructure	
Article 31				
496	Article 31 Third-party access to hydrogen networks	Article 31 Third-party access to hydrogen networks	Article 31 Third-party access to hydrogen networks	
Article 31(1)				
497	1. Member States shall ensure the implementation of a system of regulated third party access to hydrogen networks based on published tariffs and applied objectively and without discrimination between any hydrogen network users.	1. Member States shall ensure the implementation of a system of regulated third party access to hydrogen networks based on published tariffs and applied objectively and without discrimination between any hydrogen network users. <i>In the event that there is less capacity than potential users, network operators shall, in cooperation with both relevant regulatory authorities and potential users, give priority access to users who can demonstrate the highest potential of greenhouse gas abatement per tonne of</i>	1. Member States shall ensure the implementation of a system of regulated third party access to hydrogen networks based on published tariffs and applied objectively and without discrimination between any hydrogen network users.	<u>CY COMMENT 12</u> CY can show flexibility towards EP proposal however, technically we see that it is difficult to apply this provision.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>consumed hydrogen and where no other, more energy and cost efficient, options are available. This paragraph shall not apply to cases in which access to the hydrogen network has already been granted.</i>		
Article 31(2)				
498	2. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by a regulatory authority referred to in Article 70 and that those tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force.	2. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by a regulatory authority referred to in Article 70 and that those tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force.	2. Member States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by a regulatory authority referred to in Article 70 and that those tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force.	
Article 31(3)				
499	3. Hydrogen network operators shall, where necessary for the purpose of carrying out their functions, including in relation to cross-border network transport of hydrogen, have access to the	3. Hydrogen network operators shall, where necessary for the purpose of carrying out their functions, including in relation to cross-border network transport of hydrogen, have access to the	3. Hydrogen network operators shall, where necessary for the purpose of carrying out their functions, including in relation to cross-border network transport of hydrogen, have access to the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	network of other hydrogen network operators.	network of other hydrogen network operators.	network of other hydrogen network operators.	
Article 31(4)				
500	4. Until 31 December 2030, a Member State may decide not to apply paragraph 1. In such case, the Member State shall ensure the implementation of a system of negotiated third party access to hydrogen networks in accordance with objective, transparent and non-discriminatory criteria. The regulatory authorities shall take the necessary measures for hydrogen network users to be able to negotiate access to hydrogen networks. The parties shall be obliged to negotiate access to hydrogen networks in good faith.	4. Until 31 December 2030, a Member State may decide not to apply paragraph 1. In such case, the Member State shall ensure the implementation of a system of negotiated third party access to hydrogen networks in accordance with objective, transparent and non-discriminatory criteria. The regulatory authorities shall take the necessary measures for hydrogen network users to be able to negotiate access to hydrogen networks. The parties shall be obliged to negotiate access to hydrogen networks in good faith.	4. Until 31 December 2030 [2035] , a Member State may decide not to apply paragraph 1. In such case, the Member State shall ensure the implementation of a system of negotiated third party access to hydrogen networks in accordance with objective, transparent and non-discriminatory criteria. The regulatory authorities shall take the necessary measures for hydrogen network users to be able to negotiate access to hydrogen networks. and to ensure that the parties shall be are obliged to negotiate access to hydrogen networks in good faith.	
Article 31(5)				
501	5. Where negotiated access is used, regulatory authorities shall provide guidance to hydrogen network users on how negotiated tariffs will be affected when	5. Where negotiated access is used, regulatory authorities shall provide guidance to hydrogen network users on how negotiated tariffs will be affected when	5. Where negotiated access as referred to in paragraph 4 is used, regulatory authorities shall provide guidance to hydrogen network users on how negotiated tariffs will be affected when	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	regulated third party access is introduced.	regulated third party access is introduced.	regulated third party access is introduced.	
Article 32				
502	Article 32 Third-party access to hydrogen terminals	Article 32 Third-party access to hydrogen terminals	Article 32 Third-party access to hydrogen terminals	<u>CY COMMENT 13</u> CY supports to maintain the General Approach.
Article 32(1)				
503	1. Member States shall ensure the implementation of a system of third party access to hydrogen terminals based on negotiated access in an objective, transparent and non-discriminatory manner, whereby the regulatory authorities shall take the necessary measures for hydrogen terminal users to be able to negotiate access to such terminals. The parties shall be obliged to negotiate access in good faith.	1. Member States shall ensure the implementation of a system of third party access to hydrogen terminals based on negotiated access in an objective, transparent and non-discriminatory manner, whereby the regulatory authorities shall take the necessary measures for hydrogen terminal users to be able to negotiate access to such terminals. The parties shall be obliged to negotiate access in good faith.	1. Member States shall ensure the implementation of a system of third party access to hydrogen terminals based on negotiated access in an objective, transparent and non-discriminatory manner, whereby the regulatory authorities shall take the necessary measures for hydrogen terminal users to be able to negotiate access to such terminals. The parties shall be obliged to negotiate access in good faith. Member States may also decide to apply a regulated third party access to hydrogen terminals.	
Article 32(2)				
504				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2. Regulatory authorities shall monitor conditions for third party access to hydrogen terminals and their impact on hydrogen markets and, where necessary in order to safeguard competition, take measures to improve access in line with the criteria set out in paragraph 1.	2. Regulatory authorities shall monitor conditions for third party access to hydrogen terminals and their impact on hydrogen markets and, where necessary in order to safeguard competition, take measures to improve access in line with the criteria set out in paragraph 1.	2. Regulatory authorities shall monitor conditions for third party access to hydrogen terminals and their impact on hydrogen markets and, where necessary in order to safeguard competition, take measures to improve access in line with the criteria set out in paragraph 1.	
Article 33				
505	Article 33 Access to hydrogen storage	Article 33 Access to hydrogen storage	Article 33 Access to hydrogen storage	<u>CY COMMENT 14</u> CY supports to maintain the General Approach.
Article 33, first paragraph				
506	Member States shall ensure the implementation of a system of regulated third party access to hydrogen storage, and line pack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, based on published tariffs and applied objectively and without discrimination between any hydrogen system users. Member States shall ensure that	Member States shall ensure the implementation of a system of regulated third party access to hydrogen storage, and line pack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, based on published tariffs and applied objectively and without discrimination between any hydrogen system users. Member States shall ensure that	1. Member States shall ensure the implementation of a system of regulated third party access to hydrogen storage, and line pack and , when technically and/or and economically necessary for providing efficient access to the system for the supply of customers, access to line pack , as well as for the organisation of access to ancillary services, based on published tariffs and applied objectively and without discrimination between any hydrogen system users. Member	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by the regulatory authority.	those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with Article 72 by the regulatory authority.	States shall ensure that those tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force negotiated access in an objective, transparent and non-discriminatory manner, or a system of regulated third party access in accordance with Article 72 by the regulatory authority-paragraph 2.	
506a			2. As from 1 January 2036, Member States shall ensure the implementation of a system of regulated third party access to hydrogen storage, and when technically or economically necessary for providing efficient access to the system for the supply of customers, of access to line pack, as well as for the organisation of access to ancillary services, based on published tariffs and applied objectively and without discrimination between any hydrogen system users. Member States shall ensure that those tariffs, or the methodologies underlying their	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			calculation, are approved prior to their entry into force in accordance with Article 72 by the regulatory authority.	

ANNEX

Arguments to be presented to the Presidency to secure a derogation through Article 80 "Derogations for natural gas system", from Article 28 "Access to upstream natural gas pipeline networks" of the Proposal for a DIRECTIVE of the Natural Gas Package under discussion.

DIRECTIVE 2009/73/EC

1. According to **Article 49** "Emergent and isolated markets" of the DIRECTIVE 2009/73/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning common rules for the internal market in natural gas, Cyprus, as an **isolated** and/or **emergent market**, may apply **nominal derogations** from certain Articles of the mentioned Directive informing accordingly the European Commission.
2. As an **isolated market**, Cyprus may derogate from Articles 4, 9, 37 and/or 38 and as an **emergent market** Cyprus may **derogate** from Articles 4 and 9, Article 13(1) and (3), Articles 14 and 24, Article 25(5), Articles 26, 31 and 32, Article 37(1) and/or Article 38. These derogations allow Cyprus to develop its internal natural gas market, as all other Member States have done in the past.

PROPOSAL - DIRECTIVE (RECAST)

3. **Article 80** "Derogations for natural gas system", of the **Proposal** for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal markets in renewable and natural gases and in hydrogen (recast), allows derogations from certain Articles that can be granted to Member States under certain circumstances referred below. Member States which:
 - **Article 80(1)**: «Member States which are **not directly connected** to the interconnected system of any other Member State may **derogate** from **Articles 3, 7, 30, 54 or 27 (1)**. Any such derogation shall expire from the moment when the first interconnector to the Member State is completed. Any such derogation shall be notified to the Commission. »
 - **Article 80(2)**: «Member States may apply to the Commission for **derogations** from applying **Articles 3, 7, 54 or 27** to outermost regions within the meaning of Article 349 TFEU or to other **geographically isolated areas**. Any such derogation shall expire from the moment a connection from the region or area to a Member State with an interconnected system is completed. »
 - **Article 80(5a)**: «Member States that receive the **first commercial supply** of their first long-term natural gas supply contract after the entry into force of this Directive may **derogate** from **Articles 3(1) to (4), 4(1), 7, 27(1), 30, 35(1) to (5), 39, 40(6), 42, 54, 55 and 69**. Any such derogation shall be notified to the Commission.»

Current Status of Cyprus NG market

4. The **LNG Import Terminal** is under construction and is expected to be in operation H1 2024. Natural gas will be introduced in the internal market through this infrastructure and thus the market will opt as an **emergent market**, as defined in the current Directive.
5. Cyprus is also in the process of **developing of its natural gas resources** from its EEZ as well to develop cooperations with neighboring countries for the development of offshore pipelines. The recent offshore discoveries of natural gas resources within Cyprus EEZ, have introduced new potential options for the import of natural gas in Cyprus. Hence all options are being considered with regards to the introduction of natural gas to the country, including the option of natural gas imports through the development of upstream pipelines transporting gas from our own resources as well as from neighboring regional offshore fields. As there are recent developments, this issue was not addressed in the DIRECTIVE 2009/73/EC and is imperative to be addressed now. ■

Article 28

6. As per **Article 28** “Access to upstream natural gas pipeline networks”, of the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal markets in renewable and natural gases and in hydrogen (recast):

***Article 28(1):** “Member States shall take the necessary measures to ensure that natural gas undertakings and eligible customers, wherever they are located, **are able to obtain access to upstream pipeline networks**, including facilities supplying technical services incidental to such access, in accordance with this Article, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced.”*

***Article 28(2):** “The access referred to in paragraph 1 shall be provided in a manner determined by the Member State in accordance with the relevant legal instruments. Member States shall apply the objectives of fair and open access, **achieving a competitive market in natural gas** and avoiding any abuse of a dominant position, taking into account security and regularity of supplies, capacity which is or can reasonably be made available, and environmental protection.”*

- i. The provisions of **Article 28(2)** “Access to upstream natural gas pipeline networks” for “**achieving a competitive market in natural gas**” as mentioned in the second paragraph of the Article, seems to be contradictory to the nature of emergent markets where there is a sole supplier of natural gas in the market as defined in the current Directive. Enabling access to a natural gas undertaking on the upstream pipeline entails the possibility, to give the opportunity to the dominant power producer in the electricity market not to be supplied with natural gas by the sole natural gas supplier.
- ii. Cyprus must have the option to import natural gas via LNG imports as well as via upstream natural gas pipelines. Article 80 provides the option for derogations only for the option of LNG imports and not for the option of natural gas imports via upstream pipelines. Hence this prevents the country to maintain an emergent market status if option to import natural gas via upstream pipeline is decided.
- iii. Taking into account the current market prices of LNG vs NG (NG prices lower than LNG prices), Cyprus must have the option to have an emergent market, irrespective of which option of imports is chosen. Hence there should not be a restriction regarding the way that natural gas is imported, without compromising the emergent market status.
- iv. As per article 80 of the Proposal for a DIRECTIVE (recast), Cyprus may derogate from **Article 3 which allows for a «Competitive, consumer-centred, flexible and non-discriminatory markets for gases**. Yet Cyprus is not given the option to derogate from the provisions of Article 28 “Access to upstream natural gas pipeline networks” which aims to **achieve a competitive market in natural gas**. Since the option to derogate from Article 3 is provided, the option to derogate from Ar. 28 should also be provided.
- v. Derogation from **Article 28 “Access to upstream natural gas pipeline networks”** must be granted to Cyprus for exactly the same reasoning as it will be granted for **Article 27 «Third-party access to natural gas distribution and transmission and LNG terminals»** of the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal markets in renewable and natural gases and in hydrogen (recast).
- vi. Not giving the option to Cyprus to derogate from Article 28 “Access to upstream natural gas pipeline networks” constitutes **discrimination** against Cyprus, compared to other Member States, since the necessary timeframe for developing the internal market will not be provided to Cyprus as it was provided to all other.

PROPOSAL – REGULATION (RECAST)

7. According to **Article 60 (1) “New natural gas and hydrogen infrastructure”** of the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the internal markets for renewable and natural gases and for hydrogen (recast):

*“Major new natural gas infrastructure, that is to say **interconnectors**, LNG and storage facilities, may, **upon request**, be exempted, for a defined period of time, from the provisions of this Regulation as well as from **Articles, 28, 27 (1), 29, 54 and Article 72(7), (9) and 73(1) of [recast Gas Directive].**”*

“The following conditions apply:

- (a) the investment **enhances competition** in gas supply or hydrogen supply and enhance security of supply;*
- (b) the investment contributes to decarbonisation;*
- (c) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;*
- (d) the infrastructure is owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;*
- (e) charges are levied on users of that infrastructure; and*
- (f) **the exemption is not detrimental to competition** in the relevant markets which are likely to be affected by the investment, to the effective functioning of the internal market in gas, to the efficient functioning of the regulated systems concerned, to decarbonisation or to security of supply in the Union.”*

Securing a derogation from Article 28 through Article 60 (1), is **not possible** since Cyprus cannot meet the above conditions as an **emergent market**.

8. **Allowing the option for derogation from Article 28** “Access to upstream natural gas pipeline networks” through Article 80 of the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal markets in renewable and natural gases and in hydrogen (recast), is critical to the development of the emergent market of Cyprus, **thus an amendment on Article 80 (5a) is proposed below where article 28 (1) is included in the articles that CY may derogate.**

9. CY proposal – Article 80 (5a) of DIRECTIVE (RECAST)

5a. Member States that receive the first commercial supply of their first long-term natural gas supply contract after the entry into force of this Directive may derogate from Articles 3(1) to (4), 4(1), 7, 27(1), **28(1)**, 30, 35(1) to (5), 39, 40(6), 42, 54, 55 and 69. Any such derogation shall be notified to the Commission.