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WK 12480/2023 INIT

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	IT comments on the compromise proposals on Hydrogen transmission and distribution networks – new definitions and articles 47-48 and Network planning – article 51

Delegations will find in the annex the IT comments on the compromise proposals on Hydrogen transmission and distribution networks - new definitions and articles 47-48 and Network planning - article 51.

IT written comments on:

**Compromise proposals on Hydrogen transmission and distribution networks – new definitions and articles 47-48 and Network planning – article 51
- WK 12232/23 –**

Hydrogen & Gas package

- Debrief of the trilogue (Regulation)
 - Preparation of further work with the EP
- Doc. WK 12232/23 (to be distributed)*

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- **Doc. WK 12232/23 – ANNEX I - Hydrogen transmission and distribution networks – new definitions and articles 47 and 48 in the Directive**

New definitions

We appreciate the effort done by Presidency for reaching a compromise; with regard to “**Hydrogen transmission and distribution networks**” we agree with the amendments that better define the and differentiate the two networks. Therefore, we support the **compromise proposal of WK 12232/2023 INIT –ANNEX I** with the following amendments, **highlighted in green**, that in our view further improve the distinction between transport and distribution networks:

*‘hydrogen distribution network’ means a network of pipelines for the **local or regional** transport of hydrogen of a high grade of purity, which primarily serve the purpose of supplying directly connected **domestic** customers, and do not include hydrogen interconnectors or infrastructure projects of common interest, and are not directly connected to hydrogen storage, unless the network in question was a gas distribution system on [entry into force of this Directive] and has been partially or fully repurposed for the transport of hydrogen, to hydrogen terminals or to two or more hydrogen interconnectors.*

Existing hydrogen networks (article 47) and geographically confined networks (article 48)

Art 47 of Directive - Existing hydrogen networks

With reference to the art. 47 par. 1 on the existing hydrogen networks, we appreciate the inclusion of art. 42; we do not agree the derogation from articles 63 and 64 on horizontal and accounting unbundling and we prefer to delete them.

We also suggest maintaining the deadline for derogation at the latest on 31.12.2030 or subject to NRA’s decision, modifying art. 47. 2 lett. d).

We therefore accept the **compromise proposal of WK 12232/2023 INIT –ANNEX I** with the following amendments, **highlighted in green**:

Article 47 - Existing hydrogen networks

1. Member States may ~~decide~~**provide for regulatory authorities** to grant a derogation from the requirements of **one or more of** Articles 31, **42**, 62, **63, 64** and **65** ~~and 64~~ of this Directive,

and Articles 6 and 47 of [recast Gas Regulation as proposed in COM(2021) xxx **804**] to hydrogen networks that belonged to a vertically integrated undertaking on [date of entry into force]. The derogation shall be limited in scope to the network capacity in operation on [date of entry into force].

2. The derogation shall ~~be limited in time and shall expire:~~
 - (a) where the vertically integrated undertaking submits a request to the regulatory authority to end the derogation and such request is approved by the regulatory authority;
 - (b) where the hydrogen network benefitting from the derogation is connected to another hydrogen network;
 - (c) where the hydrogen network benefitting from the derogation or its capacity is expanded by **more than [5%] in terms of length or capacity compared to [date of entry into force of this Directive]; or**
 - (d) **at the latest on 31 December 2030 or** where the regulatory authority concludes by decision that the continued application of the derogation would carry the risk of impeding competition or adversely affecting the **efficient** deployment of hydrogen infrastructure or the development of the hydrogen market in the Member State or the Union.

Article 48 of Directive - Geographically confined hydrogen networks

With reference to the art. 48 on geographically confined networks, we do not agree with the proposed derogation from the art. 42 on the vertical functional/legal unbundling of the DSOs of H2 which, on the other hand, should maintain at least a functional/legal separation from the other companies belonging to the vertically integrated group.

We also suggest maintaining the deadline for derogation at the latest on 31.12.2030 or subject to NRA's decision and modifying par. 2.

We therefore accept the **compromise proposal of WK 12232/2023 INIT –ANNEX I** with the following amendments, **highlighted in green**:

Art. 48 - Geographically confined hydrogen networks

1. Member States may provide for regulatory authorities to grant a derogation from Articles 62 **and 65 or Article 42**, for hydrogen networks which transport hydrogen from one entry point to a limited number of exit points within a geographically confined **area. For the duration of the derogation, such network shall fulfil all of the following conditions;**
~~industrial or commercial area.~~

[...]

2. The **derogations under paragraph 1 shall apply at least until 31 December 2030. As from 1 January 2031, the national regulatory authority shall adopt a decision to withdraw the derogation pursuant to paragraph 1** ~~shall apply at least until 31 December 2030. As from 1 January 2031, the derogation shall expire when one~~ **if it concludes that the continued application of the derogation would carry the risk of impeding competition or adversely affecting the efficient deployment of hydrogen infrastructure or the development of the hydrogen market in the Member State or the Union, or where any of the conditions below is listed under paragraph 1 is no longer fulfilled.**

Member States shall take the necessary measures to ensure that access requests **of hydrogen producers as well as connection requests of industrial customers** are notified to the regulatory authority **and treated pursuant to article 38.**

- **Doc. WK 12232/23 – ANNEX II - Network planning – new proposal of article 51 in the Directive**

Art. 51 Network planning – new proposal

In general, we agree with the compromise proposal of art. 51, in fact we welcome greater cooperation between the gas/H2 sectors in infrastructure planning. In detail of the wording, however, we ask for few amendments.

We therefore accept the **compromise proposal of WK 12232/2023 INIT –ANNEX II** with the following amendments, **highlighted in green**:

- Art. 51. 2 b): we support GA; in fact, the compromise proposal introduces critical requirements in the context of ten-year planning. In particular, TSOs would be required to identify, within the TYNDP, "demand-side" solution not requiring new infrastructure interventions:

(b) contain all the investments already decided and identify new investments **~~and demand-side solutions not requiring new infrastructure investments~~** which have to be executed in the next three years;

- Art. 51. 2 e): the requirement of the submission of scenarios to the competent national authority and the European Scientific Advisory Board on Climate Change seems to be burdensome; it should be replaced by a consultation of the competent national authority that could suggest to modify the scenarios .