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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	AT comments on the Methane Regulation (WK 13798/23, 13800/23 and 13799/23)

Delegations will find in the annex the AT comments on the Methane Regulation (WK 13798/23, 13800/23 and 13799/23).

Methane Regulation
Austrian Comments on Doc. 13798/23, 13800/23 and WK 13799/23 as follow-up to EWP of 30/10/2023

AT thanks the ES PCY for the efforts to proceed with this file and to reach a political agreement before COP 28 if possible. AT strongly supports the ambitions of the EU for a timely introduction of effective measures to counter and reduce methane emissions in the energy sector. In particular, AT supports a strong external dimension of the methane regime.

AT reserves its right for further comments in the course of negotiations and also refers to previous AT statements on the topics concerned.

On WK 13798/23 Standards (Art 29a):

1. AT supports the efforts of the PCY to improve structure and precision in the text and supports a common approach. However, compared to Rec 27, AT notes the focus on European standardisation organisations and would thus like to ask whether and how the aspect of international standards was taken into account in this new Art 29a?
2. The now missing respective links to the other articles would be interesting in order to provide more clarity because it seems that delegated acts shall only be foreseen in case standardisation requests are unsuccessful due to different reasons mentioned in para 3. This handling of standardisation requests shall not lead to unnecessary delays – a timely, clear, compatible and implementable solution for any such standards should be found and it should be clear what can be used provisionally until then.
3. Duplication or inconsistencies with other legal acts (ETS, the effort sharing and the Industrial Emissions Directive), but also with recognized and proven international practices and standards (such as common reporting tables under UNFCCC or also industry practices under OGMP 2.0) should be avoided.
4. A summary would be appreciated on the following questions: Which standards are to be developed by which bodies, by when; and what can be used provisionally until such standards are available? Which empowerments for implementing or delegated acts shall be given to the COM altogether?

On WK 13800/23 Leak detection and repair (Article 14 and Annex I):

1. In general, on Art 14 LDAR and related parts (such as Art 2 or Annex 1), AT prefers a risk-based approach. The frequencies for different components of assets would thus depend on certain technical criteria (such as status, type of asset, pressure level, material, age, etc.). AT therefore appreciates that this requirement of taking into account the different risk-profiles of components that was part of the Council mandate is maintained by the PCY in the new suggested potential compromises.

2. On the tables and exact values which then follow in Art 14 and Annex I, AT wishes to restate that verifiable and independent information on the feasibility and

practicalities of different test routines is essential in order to arrive at the most effective methane regime possible. Such comprehensive information seems to have been lacking in the negotiations so far. The goal must be an ambitious, efficient and effective regime to counter methane emissions, which is why this regime must also be technically and practically feasible (e. g. concerning the availability of service providers).

3. On Art 14 (2) second subparagraph lit (c) in combination with Annex I part 1 (3), AT notes that now not only components of *distribution*, but *also transmission* networks are covered. What was the rationale behind this change and what would be its practical implications?

4. On Art 14 (2aa), AT appreciates the PCY's efforts to further improve the text because it bears the risk of different approaches within the EU as well as of an undesired incentive effect for operators. However, an essential question still remains unanswered, which is why AT is still critical of this paragraph: How is it ensured that the underlying components are determined uniformly throughout the EU (the basis for the percentage calculation: "less than 1 % of all their components and subcomponents")? Moreover, what does "total methane volumes processed or extracted *in that period"* refer to - one year or the five preceding years?

5. On Annex I, AT notes that in Annex I part 1 table 1, *pipelines* are mentioned, but that also under Annex I part 1 table 3, transmission and distribution pipelines should be subsumed – how would these two provisions relate to each other in practice?
   AT would like to know why also *valve stations* are mentioned in Annex I part 1 table 3, whereas otherwise only different materials are referred to?
   As said previously, the new provision describing a *"two step approach"* for components of distribution (and now also transmission) is unclear for AT: "*Surveys may be carried out using a two-step approach: first from distance and in case a leak is detected with a second detection as close as possible to the source."* How would this provision work in comparison to the procedures (especially methods and detection limits) to be applied according to Art 14? This new provision carries the risk of even impeding the provisions of Art 14 and it might lead to different practices across the EU. On top, it would only make sense if the detection limits of both distant and close measurement devices were the same. This thus has to be reconsidered.

6. As said before: AT supports the comment of the PCY that "a common approach will be required for all the requirements/standards indicated in different provisions of the Regulation", mentioned e. g. in Art 14(1) and also Art 12. AT would thus very much appreciate a clarification and summary on some questions on the way to such a clear "common approach": What is the relation between provisions of Art 12 on monitoring and reporting (MRV) and Art 14 on leak detection and repair (LDAR)? Which data, gathered via which technologies and methods, according to which standards, feeds into which MRV cycles according to Art 12 and/or LDAR cycles according to Art 14? How can these measures be distinguished from each other?

7. As said before: On Art 14 (3), AT refers to a previous comment that generally, there should always be concentration rates (ppm) stated together with leakage rates (g/h) for all types of LDAR surveys. This seems to be the case now in Art 14 (3) a and b. However, why was a range in the compromise text only indicated for the values in ppm and not in g/h? AT notes that reference is made in the text to "compliance with the manufacturer specifications", whereas a reference to the necessary correct handling of measurement devices is missing. Moreover, it would also seem appropriate to define conversion factors between concentration (ppm) and leakage rates (g/h) in the Regulation. AT continues to be interested to learn more about the conversion factors on the basis of which the figures included in the text have been calculated. Moreover, in this context also the question arose whether the threshold of 17g/h is based on the detection limit of OGI-cameras, and if so, whether these detection limits would also work for OGI-cameras in other than laboratory circumstances? Moreover, the use of different recognised technical solutions should be possible. AT would be interested in an assessment of whether the addition to how surveys should be carried out in the proposal for Article 14(3) (line 229) could reduce the scope for technical solutions and developments.

8. As said before: On Art 14(4), first subparagraph, is the AT understanding correct that now every leak detected must be repaired as there are no more repair thresholds stated in this paragraph and that other aspects (such as environmental net benefit) are not taken into account?

On WK 13799/23 Imports/external dimension:

1. AT welcomes the fact that a concrete timetable is set out in the phases envisaged in the documents.
   According to AT's understanding, phase 1 is primarily dedicated to data collection, while phases 2 and 3 are intended to include also more extensive binding measures for imports/importers, namely the Importer MRV Equivalence Obligation (Phase 2) and the Upstream Methane Intensity Performance Obligation (Phase 3) in particular. AT supports the Commission's approach that such binding measures must be based on solid and robust data.

2. AT notes that in contrast to the COM's non-paper last week (WK 13535/23), it is now foreseen in the MRV equivalence obligation (Art 27a) that importers shall demonstrate to the competent authority of the Member State "in which they are established" whether the supply contracts […] apply equivalent monitoring, reporting and verification measures [...] – and not to the competent authority "where the fossil energy enters the EU market". However, the methane intensity performance obligation (Art 27b) afterwards then speaks of the competent authorities of the Member State "where the oil, gas or coal is first placed in the Union market". AT thus questions why the COM and PCY diverged from the market entry-approach?

3. Moreover, concerning super emitter events, AT would like to know how these are defined and AT supports the idea that the envisaged database includes worldwide data for all such events.

4. In addition, concerning the methodology to be developed for calculating methane intensity, will pipeline gas and liquefied natural gas be treated differently?

5. What remained open in the first paper of last week, is the question of how to proceed against possible breaches of obligations and how to guarantee the security of energy supply. However, AT would like to know why the subject of security of supply is not reflected in the articles presented for today?

6. Moreover, the work concerning the "You collect we buy" approach mentioned in the first paper seems to be missing in today's paper – where was this taken into account?

7. Moreover, please could the PCY confirm the further timetable up to the next trilogue - there will be Energy Working Parties still on 7 and 9 November and Coreper on 10 November, for the possibly last trilogue on 15 November. AT would also appreciate information on the focus of discussions of these meetings and when which papers will be distributed.

Additional comment on Art 6 (3) (inspections) in Doc. WK 13053/23:

In principle, an inspection of all installations once a year is aimed at. Following a risk assessment, the inspection interval for low-risk plants could also be longer. We suggest that for installations that have undergone a risk assessment and where only a low risk has been identified, the inspection interval could be extended to 30 months, while for other installations the inspection interval should be done in much smaller intervals (EP position).