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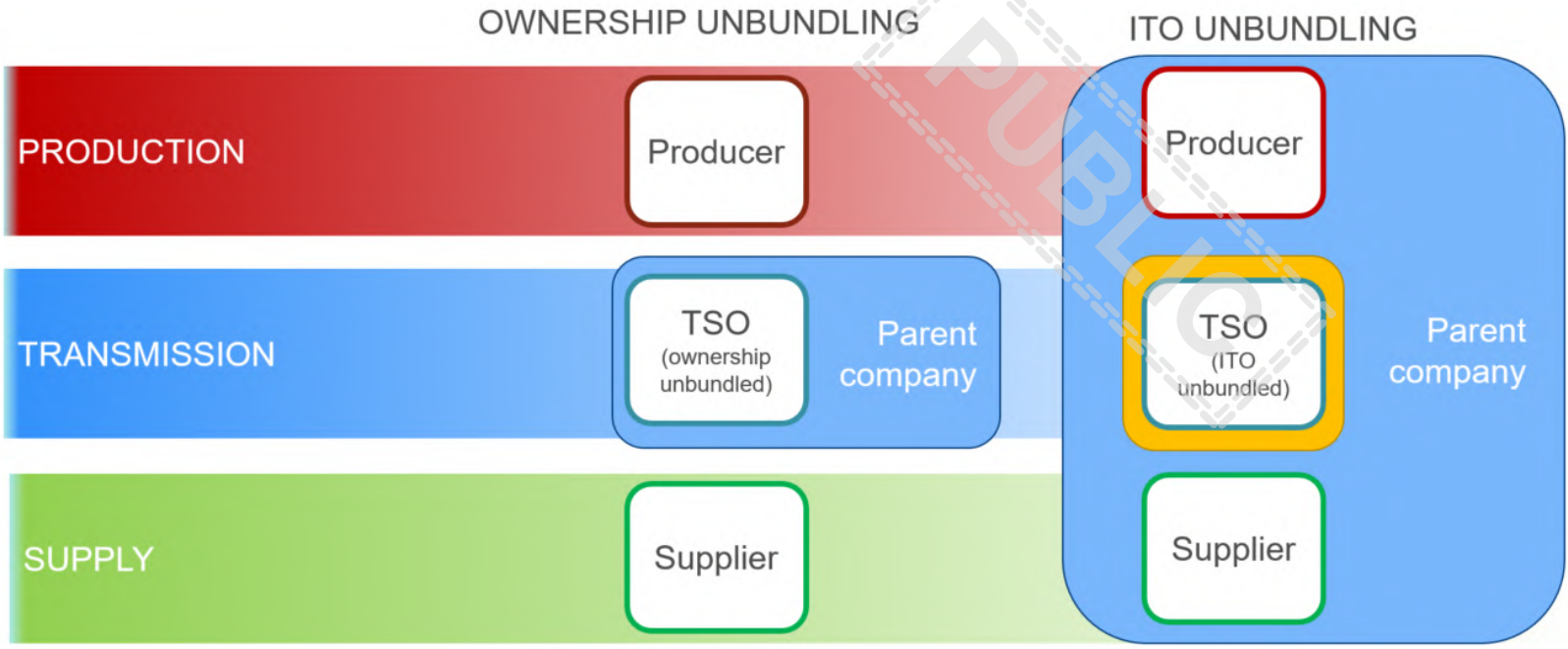
WORKING DOCUMENT

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

In view of the Working Party on Energy on 14 November, delegations will find in the annex the presentation on Vertical unbundling.

CURRENT UNBUNDLING CONFIGURATIONS IN NATURAL GAS SYSTEMS

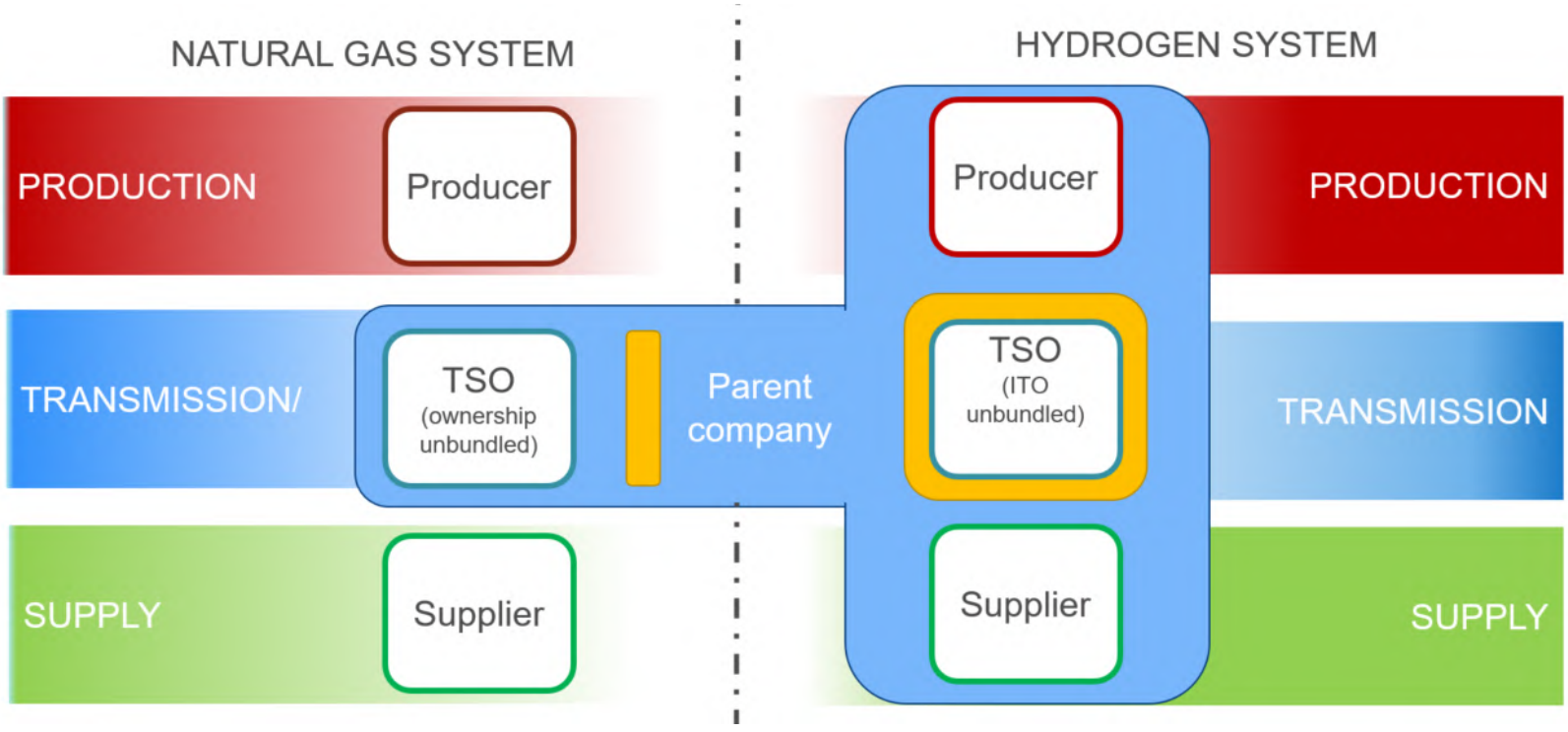


Legend

: Legal entity

: ITO safeguards ("Chinese walls")

POSSIBLE CONFIGURATION PROPOSED BY COUNCIL GENERAL APPROACH



By amending Article 62(4) of the Gas Directive, the General Approach permits the permanent use of the vertically integrated Independent Transmission Operator ("ITO") unbundling model for hydrogen. According to the proposed formulation, an Ownership Unbundled ("OU") gas TSO will be able to belong to the same group as a hydrogen network operator unbundled under the ITO model.

To ensure compatibility with existing unbundling rules for gas and to provide legal certainty regarding the practical implementation of the General Approach, additional specifications are necessary. The specifications proposed by the Presidency clarify that in cases where an OU gas TSO and a hydrogen ITO find themselves within the same group:

- The OU gas TSO shall be subject to equivalent safeguards as the hydrogen ITO to ensure unbundling of all energy grid operations from energy production and supply activities;
- An undertaking belonging to the same group may only engage in hydrogen production or supply, but not in the production or supply of natural gas or electricity.
- It shall be prohibited to inject the hydrogen produced within the group or purchased by an entity belonging to the same group into the gas network of the OU gas TSO, since it would not be compatible with the OU model for gas.