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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	HU comments on the Gas package (REV 5)

Delegations will find in the annex the HU comments on the Gas package (REV 5).

Gas package – Regulation and Directive REV5 – HU comments

Regulation

Recital new 70.a)

We do not support the new Preamble paragraph as a red line. Given the geographical location of Hungary and the fact that our gas imports also pass through the territory of several other Member States, and given the share of Russian gas in domestic imports, the proposed provision poses a fundamental risk to the maintenance of security of supply. Under the provision, BG, AT, SK, HR may at any time legally block Russian gas transmitted to HU.

We ask PRES to delete new Recital 70a.

Text proposal:

~~"In order to mitigate the impact of such events, both in the current context and for the future, Member States should exceptionally be able to take proportionate measures to limit temporarily up-front bidding for capacity by any single network user at entry points and at LNG terminals for deliveries from the Russian Federation and Belarus..."~~

Definition of Article 2 (30)

We ask the Presidency to clarify that TSO and DSO systems are not obliged to be regulated as a common entry-exit system under the definition, but that this is a possible market organisation method in addition to the others. If the Presidency does not confirm this interpretation, we maintain our previously submitted text proposal.

Text proposal:

'entry-exit system' means ~~the aggregation of all transmission and distribution systems or all hydrogen networks to which one specific balancing regime applies an access model for natural gas transmission~~ **and distribution systems where system users book capacity rights independently on entry- and exit points. Subject to the decision of the national regulatory authorities, entry-exit systems may include distribution systems or parts of such a system.**

Article 3(d)

We thank the Presidency for ensuring physical gas trading at border crossing points, which is very important for the functioning of the domestic system and for security of supply. Please keep the amendment in the text.

Article 5 new para 6 and Article 7 new para 7

We do not support the new paragraphs and request their deletion as red lines. The proposed provision is a unilateral measure by the Member State concerned and, apart from overriding existing gas transit contracts, it is also contrary to the functioning principles of the single internal market. It jeopardises security of supply in Hungary.

Text proposal:

Article 5 new para 6

6. Paragraphs 1 to 5 shall be without prejudice to the possibility for Member States to take proportionate measures to temporarily limit, for a fixed term, up-front bidding for capacity by any single network user at entry points from the Russian Federation or Belarus, where this is necessary to protect their essential security interests and those of the Union, and provided that such measures:

- i. do not unduly disrupt the proper functioning of the internal gas market,
- ii. respect for the principle of energy solidarity,
- iii. are taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.

Before deciding on a measure referred in the first subparagraph, the Member State concerned shall consult the Commission and, in so far as they are likely to be affected by the measure, other Member States, the Energy Community Contracting Parties, third countries that are Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland. The relevant Member States shall take the utmost account of the situation in those Member States and third countries and any concerns raised in that respect by those Member States, third countries or the Commission.

Article 7 new para 7

7. Paragraphs 1-6 shall be without prejudice to the possibility for Member States to take proportionate measures to temporarily limit, for a fixed term, up-front bidding for capacity by any single network user at entry points from the Russian Federation or Belarus, where this is necessary to protect their essential security interests and those of the Union, and provided that such measures:

- i. do not unduly disrupt the proper functioning of the internal gas market,
- ii. respect for the principle of energy solidarity,
- iii. are taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.

~~Before deciding on a measure referred in the first subparagraph, the Member State concerned shall consult the Commission and, in so far as they are likely to be affected by the measure, other Member States, the Energy Community Contracting Parties, third countries that are Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland. The relevant Member States shall take the utmost account of the situation in those Member States and third countries and any concerns raised in that respect by those Member States, third countries or the Commission.~~

Article 19(1)

Clarification from the Presidency on the proposed amendment is requested.

If the proposed amendment implies that cooperation is not required for hydrogen mixing above 2% because it is possible to refuse to take gas at the border crossing, we consider it acceptable.

If it means that mixing above 2% can be freely injected at the border points without control, we disagree on technical safety and consumer protection grounds.

Article 60

Can the Presidency/Commission explain why ex ante control is necessary compared to the quasi ex post control currently in force?

Directive

Article 5. 2.

We support the Presidency's compromise proposal in para 2 which also allows price determination. Please keep the text.

Article 12.

We propose to add an annual quantitative review at Member State level in view of significantly increasing or decreasing consumption.

Text proposal:

„with an expected yearly consumption of below 100 000 kWh, **subject to annual review**....

Article 20.

Thank the Presidency for excluding consumption for non-heating purposes, as an additional exception, It is proposed to treat buildings where individual measurement is not technically feasible separately.

Text proposal:

... or technically not feasible.

Article. 27. para 2, Article 72. para 1. s)

We maintain our position that Member States' decarbonisation trajectories cannot be influenced by such rules. In our view, the provision as it stands infringes the right to freely determine the energy mix.

Text proposal:

Article. 27. para 2

„ Member States shall make best endeavours that no long-term contracts for the supply of unabated fossil gas **shall be are** concluded with a duration beyond the end of year 2049 ...

Article 72.1. s)

(s) respecting contractual freedom with regard to ~~interruptible supply contracts as well as~~
~~with regard to~~ long-term contracts provided that they are compatible with ~~Community~~
~~Union~~ ~~law~~ and consistent with ~~Community~~ ~~Union~~ policies ⇒ and provided
they contribute to decarbonisation objectives. **Member States shall make best endeavours**
that no long-term contracts for supply of unabated fossil gas **shall be are** concluded with a
duration beyond the end of year 2049 ⇐ ;

Article 62.

We maintain our position, strict separation of hydrogen distributors is not justified, and the current rules applicable to gas distributors should also apply to hydrogen distributors. We support the German initiative in this regard.

New Article. 80(a)

We ask for clarification why these two Member States have derogation and under what conditions can further member state be added to the list. Hungary would also apply an exception to legal separation until 2030.