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WORKING DOCUMENT

From: General Secretariat of the Council
To: Working Party on Energy

Subject: Hydrogen and Gas Regulation: compromise proposal on Article 19

In view of Energy Working Party on 13 July, Delegations will find in the Annex the Presidency compromise proposal on Article 19 of the Hydrogen and Gas Regulation.

Delegations are invited to send written comments to the Presidency ([REDACTED]) and [REDACTED]) with the copy to the Secretariat ([REDACTED]) by **14th July cob.**

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Compromise proposal on art 19: cross-border coordination of gas quality in the natural gas system

1. Background

Commission's proposal on Article 19 of the Gas Regulation introduced a comprehensive mechanism to solve restrictions to gas cross-border flows caused by different technical specifications, with the clear objective of preserving cross-border trade and market integration, involving TSOs, NRAs and ACER.

Council's general approach and EP's mandate are very close in architecture, preserving the basic design of such mechanism and its objective. The main differences are as follows:

- a) In case a restriction in cross border flows is recognised, according to paragraph 6, concerned NRAs shall take a joint coordinated decision for either maintaining or removing such restriction. The decision of maintaining the restriction:
 - EP mandate: is possible for all restrictions due to differences in gas quality.
 - Council: is only possible for restrictions caused by hydrogen blending in the gas network, by introducing paragraph 6a.
- b) Once such restriction is maintained:
 - EP mandate: a revision of the situation shall be carried out every 4 years, carried out by the relevant NRAs (paragraph 6) or ACER (paragraph 10), depending if the decision was taken by the NRAs or ACER respectively.
 - Council: there is no periodic revision envisaged.
- c) The EP mandate proposes in paragraph 11 to harmonise the natural gas quality specifications in EU legislation.

2. Compromise

On the one hand, the compromise text would limit the explicit option of maintaining the restriction only for hydrogen blending, as in the Council general approach in paragraph 6a. The technical reason is that hydrogen is a relatively new carrier for which the know-how is still developing. All the other chemical components are well known by the industry and there is enough expertise to manage possible divergences at technical level without the need to maintain a restriction and impact cross-border flows.

On the other hand, the compromise proposal would introduce a revision of the restriction every 4 years following the EP mandate.

Finally, EP proposal to harmonise the natural gas quality specifications in EU legislation would not be considered due to: a) the difficulty of identifying technical specifications suitable for being codified in the network code, b) the need for flexibility for ensuring interoperability and gas flows in each interconnection points, and c) the impact of common specifications on the swift integration of renewable gases.

The maximum percentage of hydrogen blending in the gas network to trigger the mechanism shall be determined in further discussions. Nevertheless, according to the architecture of the article, TSOs may jointly agree to accept higher blends of hydrogen, as it was possible in both Council general approach and EP mandate.

Delegations will find explanatory notes in every line of the four-columns text.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 19				
282	Article 19 Cross-border coordination on gas quality in the natural gas system	Article 19 Cross-border coordination on gas quality in the natural gas system	Article 19 Cross-border coordination on of gas quality in the natural gas system	Article 19 Cross-border coordination on of gas quality in the natural gas system <i>Note: Council general approach.</i>
Article 19(1), first subparagraph				
283	1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences on interconnection points between Union Member States.	1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences on interconnection points between Union Member States. <u>When cooperating, transmission system operators shall take into account the characteristics of installations of final gas customers.</u>	1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences on at interconnection points between Union Member States.	1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences on at interconnection points between Union Member States. <u>When cooperating, transmission system operators shall take into account the characteristics of installations of final gas customers.</u> <i>Note: Council general approach, integrating EP text which reinforces the protection of installations of final gas customers.</i>
Article 19(1), second subparagraph				
283a			This Article shall not apply to hydrogen blends where the hydrogen content blended into the natural gas system exceeds [2 %] by volume.	This Article shall not apply to hydrogen blends where the hydrogen content blended into the natural gas system exceeds [2 %] by volume. <i>Note: Council general approach.</i>

Article 19(1a)				
283b			<p>1a. Member States shall ensure that diverging technical specifications, including gas quality parameters such as oxygen content, and hydrogen blending in the natural gas system are not used to restrict cross-border gas flows. In addition, Member States shall ensure that hydrogen blends in the natural gas system are within the technical specifications acceptable to customers.</p>	<p><u>1a. Member States shall ensure that diverging technical specifications, including gas quality parameters, such as oxygen content and hydrogen blending in the natural gas system, are not used to restrict cross-border gas flows.</u> In addition, Member States shall ensure that hydrogen blends in the natural gas system are within the technical specifications acceptable to customers.</p> <p><i>Note: Council general approach, integrating first sentence proposed by EP in line 283d.</i></p>
Article 19(1a)				
283c		<p><u>1a. Transmission system operators shall only accept gas flows with a hydrogen content of up to 3% by volume at interconnection points between Member States in the natural gas system, subject to the completion of the procedure described in this Article.</u></p>		<p><i>Note: this paragraph from EP mandate set the scope of the article. Now the percentage is included in second sub-paragraph of paragraph 1 (line 283a) while the general obligation to accept blended gas is included in paragraph 3b (line 285a).</i></p>
		<p><u>1b. Member States shall ensure that diverging technical</u></p>		<p><i>Note: EP mandate now integrated in line 283.</i></p>

283d		<p><u>specifications, including gas quality parameters, such as oxygen content and hydrogen blending in the natural gas system, are not used to restrict cross-border gas flows.</u></p>		
Article 19(2)				
284	<p>2. Where a restriction to cross-border flow due to gas quality differences cannot be avoided by the concerned transmission system operators in their standard operations, they shall inform the concerned regulatory authorities without delay. The information shall include a description and justified reasoning for any steps already taken by the transmission system operators.</p>	<p>2. Where a restriction to cross-border flow due to gas quality differences cannot be avoided by the concerned transmission system operators in their standard operations, they shall inform the concerned regulatory authorities without delay. The information shall include a description and justified reasoning for any steps already taken by the transmission system operators.</p>	<p>2. Where a restriction to cross-border flowflows due to gas quality differences cannot be avoided by the concerned transmission system operators in their standard operations, they shall inform the concerned regulatory authorities without delay. The information shall include a description and justified reasoning for any steps already taken by the transmission system operators.</p>	<p>2. Where a restriction to cross-border flowflows due to gas quality differences cannot be avoided by the concerned transmission system operators in their standard operations, they shall inform the concerned regulatory authorities without delay. The information shall include a description and justified reasoning for any steps already taken by the transmission system operators.</p> <p><i>Note: Council general approach.</i></p>
Article 19(3)				
285	<p>3. The concerned regulatory authorities shall jointly agree within six months whether to recognise the restriction.</p>	<p>3. The concerned regulatory authorities shall jointly agree within six months whether to recognise the restriction.</p>	<p>3. The concerned regulatory authorities shall jointly agree within six months whether to recognise the restriction.</p>	<p>3. The concerned regulatory authorities shall jointly agree within six months whether to recognise the restriction.</p> <p><i>Note: same text in Council and EP positions.</i></p>
			<p>3a. For restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system and recognized</p>	<p>3b. For restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system and recognized pursuant to paragraph 3 of this Article, <u>transmission system operators shall accept gas flows with a hydrogen</u></p>

285a			<p>pursuant to paragraph 3 of this Article, transmission system operators shall be able to not accept gas flows with hydrogen content at interconnection points before the completion of the procedure described in paragraphs 4 to 10 of this Article.</p>	<p><u>content at interconnection points between Member States in the natural gas system, subject to the completion of the procedure in paragraphs 4 to 10 of this Article.</u></p> <p><i>Note: Council general approach, integrating text from EP mandate coming from line 283c.</i></p>
Article 19(4)				
286	<p>4. Where the concerned regulatory authorities recognise the restriction, they shall request the concerned transmission system operators to perform, within 12 months from the recognition, the following actions in sequence:</p>	<p>4. Where the concerned regulatory authorities <u>concerned</u> recognise the restriction, they shall request the concerned transmission system operators to perform, within 12 months from the recognition, the following actions in sequence:</p>	<p>4. Where the concerned regulatory authorities recognise the restriction, they shall request the concerned transmission system operators to perform, within 12 months from the recognition, the following actions in sequence:</p>	<p>4. Where the concerned regulatory authorities <u>concerned</u> recognise the restriction, they shall request the concerned transmission system operators to perform, within 12 months from the recognition, the following actions in sequence:</p> <p><i>Note: minor linguistic adjustment proposed by EP.</i></p>
Article 19(4), point (a)				
287	<p>(a) cooperate and develop technically feasible options, without changing the gas quality specifications, which may include flow commitments and gas treatment, in order to remove the recognised restriction;</p>	<p>(a) cooperate and develop technically feasible options, without changing the gas quality specifications, which may include flow commitments and gas treatment, in order to remove the recognised restriction <u>taking into account information provided by end customers directly connected to the transmission system operator grid, distribution system operator or any other stakeholder</u></p>	<p>(a) cooperate and develop technically feasible options, without changing the gas quality specifications, which may include flow commitments and gas treatment, in order to remove the recognised restriction;</p>	<p>(a) cooperate and develop technically feasible options, without changing the gas quality specifications, which may include flow commitments and gas treatment, in order to remove the recognised restriction <u>taking into account information provided by end customers directly connected to the natural gas system of the concerned transmission system operator or any other stakeholder that could be affected by that procedure;</u></p>

		<u>that could be affected by that procedure;</u>		<i>Note: addition proposed by EP and new text to specify which network end customers are connected to.</i>
	Article 19(4), point (b)			
288	(b) jointly carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;	(b) jointly carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;	(b) jointly carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;	(b) jointly carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties; <i>Note: same text in Council and EP positions.</i>
	Article 19(4), point (c)			
289	(c) produce an estimate of the implementation time for each potential option;	(c) produce an estimate of the implementation time for each potential option;	(c) produce an estimate of the implementation time for each potential option;	(c) produce an estimate of the implementation time for each potential option; <i>Note: same text in Council and EP positions.</i>
	Article 19(4), point (d)			
290	(d) conduct a public consultation on identified feasible solutions and take into consideration the results of the consultation;	(d) conduct a public consultation, <u>in particular of affected end customers connected to the transmission network</u> , on identified feasible solutions and take into consideration the results of the consultation;	(d) conduct a public consultation on identified feasible solutions and take into consideration the results of the consultation;	(d) conduct a public consultation, <u>in particular of affected end customers connected to the natural gas system</u> , on identified feasible solutions and take into consideration the results of the consultation; <i>Note: addition proposed by EP and new text to specify what network end customers are connected to.</i>
	Article 19(4), point (e)			

291	(e) submit a joint proposal, based on the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their respective regulatory authorities for approval and to the other competent national authorities of each involved Member State for information.	(e) submit a joint proposal, based on the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their respective regulatory authorities for approval and to the other competent national authorities of each involved Member State for information.	(e) submit a joint proposal, based on the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their respective regulatory authorities for approval and to the other competent national authorities of each involved Member State for information.	(e) submit a joint proposal, based on the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their respective regulatory authorities for approval and to the other competent national authorities of each involved Member State for information. <i>Note: same text in Council and EP positions.</i>
Article 19(5)				
292	5. Where the concerned transmission system operators do not reach an agreement on a solution, each transmission system operator shall inform its regulatory authority without delay.	5. Where the concerned transmission system operators do not reach an agreement on a solution, each transmission system operator shall inform its regulatory authority without delay.	5. Where the concerned transmission system operators do not reach an agreement on a solution, each transmission system operator shall inform its regulatory authority without delay.	5. Where the concerned transmission system operators do not reach an agreement on a solution, each transmission system operator shall inform its regulatory authority without delay. <i>Note: same text in Council and EP positions.</i>
Article 19(6)				
	6. The concerned regulatory authorities shall take a joint coordinated decision for removing the recognised restriction or for stating that no further action should be pursued, taking into account the cost benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months	6. The concerned regulatory authorities <u>concerned</u> shall take a joint coordinated decision for removing the recognised restriction or for stating that no further action should be pursued <u>to remove or maintain the recognised restriction</u> , taking into account the cost benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months as set out in Article 6(10) of	6. The concerned regulatory authorities shall take a joint coordinated decision for removing the recognised restriction or for stating that no further action should be pursued , taking into account the cost benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months	6. The concerned regulatory authorities <u>concerned</u> shall take a joint coordinated decision for removing the recognised restriction or for stating that no further action should be pursued , taking into account the cost benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months as set out in Article 6(10) of Regulation (EU) 2019/942. <i>Note: Council general approach with minor linguistic adjustment. Therefore, by</i>

293	as set out in Article 6(10) of Regulation (EU) 2019/942.	Regulation (EU) 2019/942. <u>Any decision to maintain the recognised restriction shall be reviewed every four years.</u>	as set out in Article 6(10) of Regulation (EU) 2019/942.	<i>introducing of paragraph 6a, this paragraph is only applicable to restrictions not caused by blending of hydrogen.</i>
293a			<p>6a. By way of derogation from paragraph 6, for restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system, the concerned regulatory authorities may jointly state that no further action should be pursued to remove such restrictions. The joint coordinated decision shall be taken within six months as set out in Article 6(10) of Regulation (EU) 2019/942 and shall take into account the cost benefit analysis and the results of the public consultation prepared pursuant paragraph 4 by the concerned transmission system operators.</p>	<p>6a. By way of derogation from paragraph 6, for restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system, the concerned regulatory authorities may jointly state that no further action should be pursued to remove such restrictions. The joint coordinated decision shall be taken within six months as set out in Article 6(10) of Regulation (EU) 2019/942 and shall take into account the cost benefit analysis and the results of the public consultation prepared pursuant to paragraph 4 by the concerned transmission system operators. <u>Any decision to maintain the recognised restriction pursuant to this paragraph shall be reviewed every four years by the concerned regulatory authorities.</u></p> <p><i>Note: Council general approach, integrating revision every 4 years as proposed in the EP mandate in line 293, with minor clarifications.</i></p>
Article 19(7)				
	7. The joint coordinated decision of the concerned regulatory authorities shall include a decision on the	7. The joint coordinated decision of the concerned regulatory authorities shall include a decision on the allocation of the investment	7. The joint coordinated decision of the concerned regulatory authorities referred to in paragraph 6 shall	7. The joint coordinated decision of the concerned regulatory authorities referred to in paragraph 6 shall include a decision on the allocation of the investment costs to

294	allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, as well as their inclusion in tariffs, taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States.	costs to be borne by each transmission system operator for implementing the agreed solution, as well as their inclusion in tariffs, taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States.	include a decision on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, as well as their inclusion in tariffs the allowed or target revenue of transmission system operators , taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States and its consequences for tariffs.	be borne by each transmission system operator for implementing the agreed solution, as well as their inclusion in tariffs the allowed or target revenue of transmission system operators , taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States and its consequences for tariffs <i>Note: Council text.</i>
Article 19(8)				
295	8. ACER may make recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7.	8. ACER may make recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7.	8. ACER may make recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7.	8. ACER may make recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7. <i>Note: same text in Council and EP.</i>
Article 19(9)				
296	9. Where the concerned regulatory authorities cannot reach an agreement as referred to in paragraph 3, ACER shall decide on the restriction, following the process set out in Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction it shall request the concerned transmission system operators to perform, within 12 months,	9. Where the concerned regulatory authorities cannot reach an agreement as referred to in paragraph 3, ACER shall decide on the restriction, following the process set out in Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction it shall request the concerned transmission system operators to perform, within 12 months, the	9. Where the concerned regulatory authorities cannot reach an agreement as referred to in paragraph 3, ACER shall decide on the restriction, following the process set out in Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction it shall request the concerned transmission system operators to perform, within 12 months,	9. Where the concerned regulatory authorities cannot reach an agreement as referred to in paragraph 3, ACER shall decide on the restriction, following the process set out in Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction it shall request the concerned transmission system operators to perform, within 12 months, the actions referred to in paragraph 4 points (a) to (e) in sequence.

	the actions referred to in paragraph 4 points (a) to (e) in sequence.	actions referred to in paragraph 4 points (a) to (e) in sequence.	the actions referred to in paragraph 4 points (a) to (e) in sequence.	<i>Note: same text in Council and EP.</i>
Article 19(10)				
297	10. Where the relevant regulatory authorities cannot take a joint coordinated decisions as referred to in paragraphs 6 and 7, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, following the process set out in Article 6(10) of Regulation (EU) 2019/942.	10. Where the relevant regulatory authorities <u>concerned</u> cannot take a joint coordinated decisions as referred to in paragraphs 6 and 7, ACER shall decide on the solution to remove <u>or maintain</u> the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, following the process set out in Article 6(10) of Regulation (EU) 2019/942. <u>Any decision to maintain the recognised restriction shall be reviewed every four years.</u>	10. Where the relevant regulatory authorities cannot take a joint coordinated decisions decision as referred to in paragraphs 6, 6a and 7, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution or for stating that no further action should be pursued pursuant to paragraph 6a of this Article , following the process set out in Article 6(10) of Regulation (EU) 2019/942.	10. Where the relevant regulatory authorities <u>concerned</u> cannot take a joint coordinated decisions as referred to in paragraphs 6 and 7, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution or stating that no further action should be pursued pursuant to paragraph 6a of this Article following the process set out in Article 6(10) of Regulation (EU) 2019/942. <u>Any decision to maintain the recognised restriction pursuant to this paragraph shall be reviewed every four years by ACER.</u> <i>Note: Council general approach, integrating revision every 4 years as proposed in the EP mandate, with minor clarifications. It mirrors the revision in line 293a.</i>
Article 19(11)				
	11. Further details required to implement elements of this Article, including details on the cost benefit analysis, shall be set in a network code established on the basis of Article 53 of this Regulation.	11. Further details required to implement elements of this Article, including details on the cost benefit analysis <u>and on a common binding natural gas quality specification for cross-border natural gas</u>	11. Further details required to implement elements of this Article, including details on the cost benefit analysis, shall be set in a network code established on the basis of	11. Further details required to implement elements of this Article, including details on the cost benefit analysis, shall be set in a network code established on the basis of Article 53 53(1) of this Regulation.

interconnectors, shall be set in a network code established on the basis of Article 53 ~~of this Regulation~~.

Article ~~53~~53(1) of this Regulation.

Note: Council general approach with a minor legal adjustment. There are different considerations advising not including EP proposal, aimed to harmonise the natural gas quality specifications in EU legislation. The arguments could in brief be summarized in 1) the difficulty of identifying technical specifications suitable for being codified in the network code, 2) the need for flexibility for ensuring interoperability and gas flows in each interconnection points, and 3) the impact of common specifications on the swift integration of renewable gases.