



Brussels, 5 December 2022
(OR. en)

15493/22

Interinstitutional Files:
2021/0425(COD)
2021/0424(COD)

LIMITE

ENER 646
ENV 1232
CLIMA 638
IND 523
RECH 637
COMPET 975
ECOFIN 1268
CODEC 1887

NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

No. Cion doc.: 15111/1/21 REV 1 + ADD 1 REV 1
15096/1/21 REV 1 + ADD 2 REV 1

Subject: Proposal for a Directive of the European Parliament and of the Council on common rules for the internal markets in renewable and natural gases and in hydrogen
Proposal for a Regulation of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen (recast)
- Guidance for further work

I. INTRODUCTION

1. On 15 December 2021, the Commission submitted proposals for the Directive on common rules for the internal markets in renewable and natural gases and in hydrogen and the Regulation on the internal markets for renewable and natural gases and for hydrogen (Gas Package) as a new EU framework to decarbonise gas markets, promote hydrogen and reduce methane emissions.

II. STATE OF PLAY

1. In July 2022, the Czech Presidency started negotiations on the proposals in the Energy Working Party. Based on the first outcomes of these discussions, Presidency submitted the first revision of both the Regulation and Directive on 9 September 2022.
2. The proposals were further discussed at the TTE (Energy) Council on 25 October 2022 in Luxembourg with the main focus on the development of hydrogen markets, tariff discounts for hydrogen, renewable and low-carbon gases and blending of hydrogen into natural gas system. Ministers provided the Presidency with political guidance and set a direction for further work.
3. Subsequently, the Presidency proposed the second revisions of the Regulation and Directive, set out in documents: 15158/22 and 15155/22 accordingly.
4. Delegations are invited to consider the following main changes made in the REV 2 of the Regulation and Directive:
 - a) In Article 6 of the Regulation, implementation of 100% discount on cross-border tariffs in dedicated hydrogen networks was postponed to 1 January [2036] in accordance with postponing transition phase for hydrogen market design elements.
 - b) In Article 16 of the Regulation, it was differentiated between tariff discounts for renewable and low-carbon gases in the natural system with tariffs being set at [100] % and [75] % respectively. The possibility for the national regulatory authorities to decide not to apply discounts or to set them lower was included, reflecting the concerns of those Member States which have, or expect to have, high share of renewable/low-carbon gases in the energy mix or might have concerns with the potential impact on cross-border flows.
 - c) In Article 20 of the Regulation, the maximum blending level at interconnection points was changed to [2] % to reflect that blending is not a preferred option among Member States with regard to the development of hydrogen infrastructure. The goal of the Regulation is to maintain a harmonized approach at the EU level concerning a gas quality, including oxygen content and blending.

- d) New Article 8a of the Directive is introduced. The article focuses on possibility to use low-carbon hydrogen and low-carbon fuels to meet decarbonisation objectives, where Member States may take into account low-carbon hydrogen and low-carbon fuels to complement the calculation of the relevant targets under the recast Renewable Directive 2018/2001. The provision in the article reflects the letter of several Member States presented during the TTE (Energy) Council.
- e) In Articles 31, 47, 48 and 53 of the Directive, the changes regarding the time frame for development of hydrogen markets were incorporated. The transition phase for hydrogen market design elements is now postponed until the end of [2035] to reflect concerns that the hydrogen market will not be mature enough by 2030 for implementation of regulated third party access and entry-exit system to hydrogen networks and expiration of derogations for existing and geographically confined hydrogen networks. Setting a firm date also increases the predictability for stakeholders in comparison to review mechanism.

III. CONCLUSIONS

After concluding technical discussions under the Czech Presidency at the Working Party level, the Permanent Representatives Committee is invited to examine the latest compromise texts proposed by the Presidency, set out in documents 15158/22 and 15155/22 and provide guidance for further work on the third revision of both texts which will be issued and presented together with a Progress Report in the view of the Energy Council on 19 December 2022.

In this regard, the Permanent Representatives are invited to address in their interventions the following questions:

- 1) What is your reflection on the second revision of both texts as a follow up to the Energy Council in Luxembourg with particular emphasis on the 3 main elements discussed by the Ministers?
- 2) Are there any outstanding issues you would like to raise to provide guidance for further work on these legislative files?