Council of
European
Energy
Regulators

## *"The ERGEG work on storage and LNG"*

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## Session 3 – Investment and security of supply

**EU-US Energy Regulators Roundtable**
**Athens, 6 December 2007**

# Outline of Presentation

- **The ERGEG work on storage**
- **The ERGEG work on LNG**
- **Next steps and looking forward**

# The ERGEG work on storage

## The departure point of ERGEG work on storage:

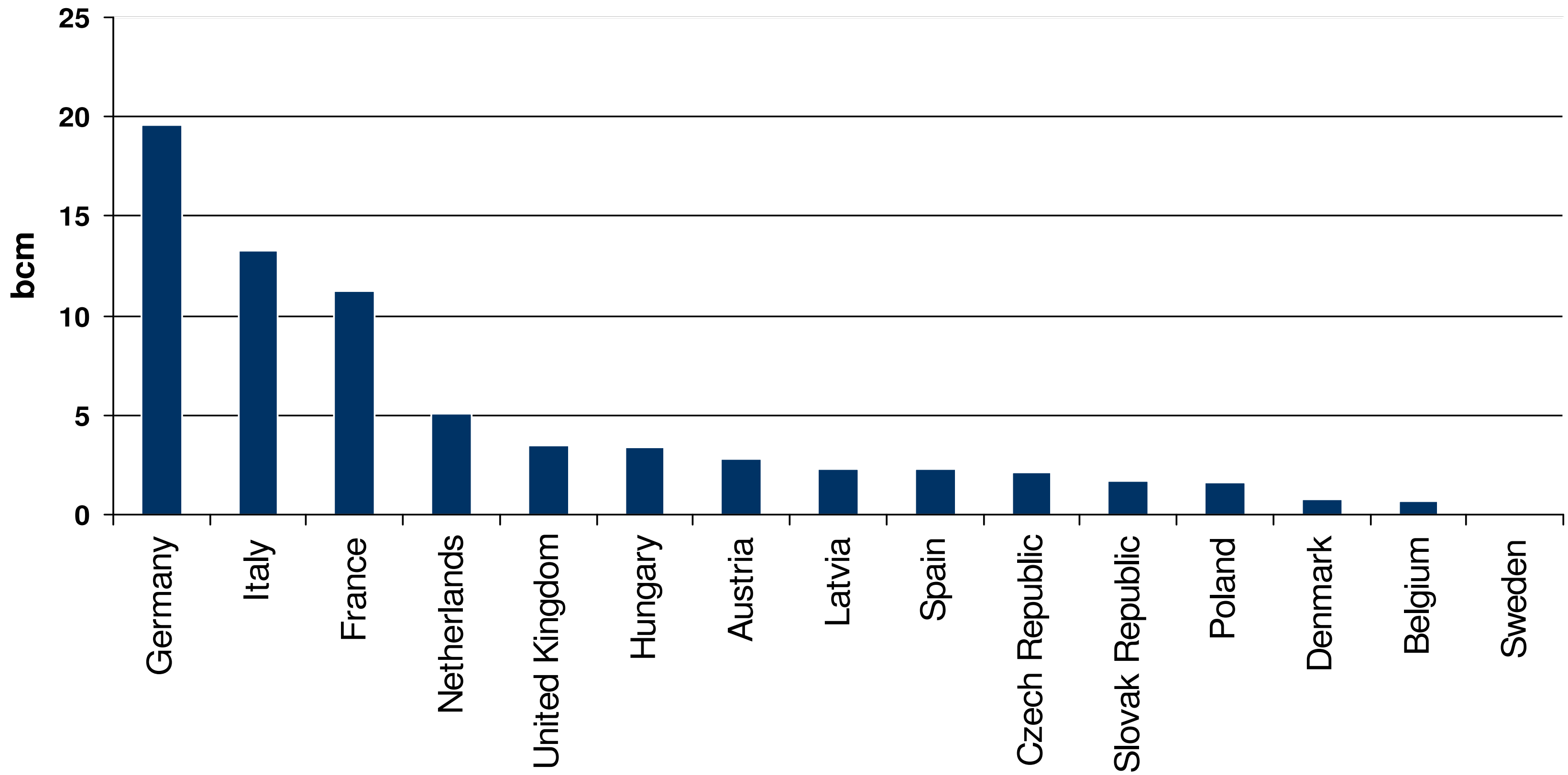
- The 2003/55/EC Gas Directive's provisions of Article 19(1) require, where technically and/or economically necessary, that third party access (TPA) to storage and linepack services is **offered for providing efficient access to the system** for the supply of customers, as well as for the organisation of access to ancillary services. Article 19(1) also establishes that Member States can **choose either negotiated (n) or regulated (r)** third party access or both of these procedures.

- The introduction of storage access rights stems from the acknowledgement that the lack of **storage access is an important obstacle in achieving a fully operational and competitive internal market**.

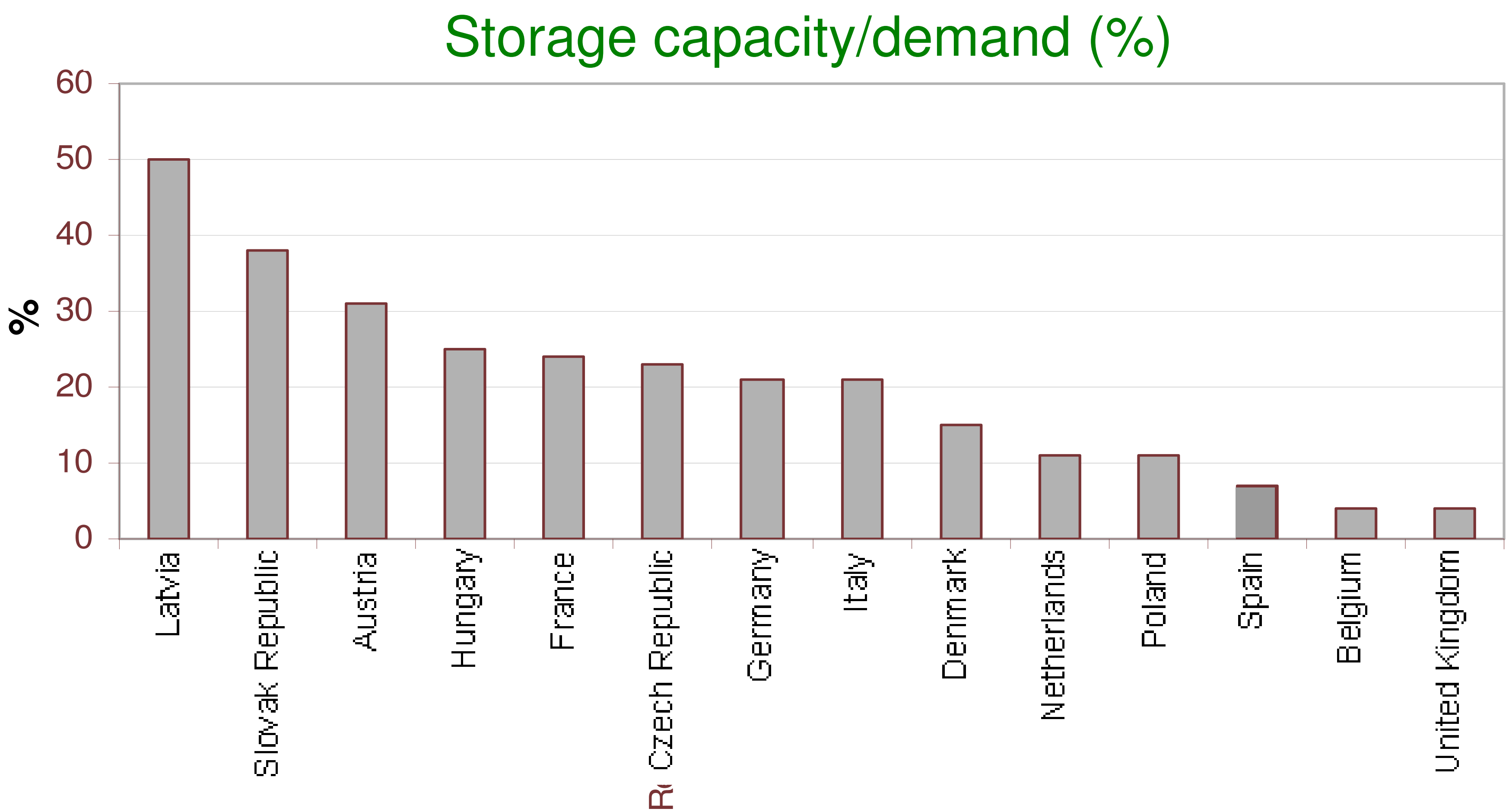
# The ERGEG work on storage

Council of European Energy Regulators

## Underground Storage Capacity in Europe



# The ERGEG work on storage




Source: Underground Gas Storage in the World, Cedigaz, June 2006

# The ERGEG work on storage

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Access to storage, but also to linepack services, plays a crucial role in the development of a competitive European gas market, for the following reasons:

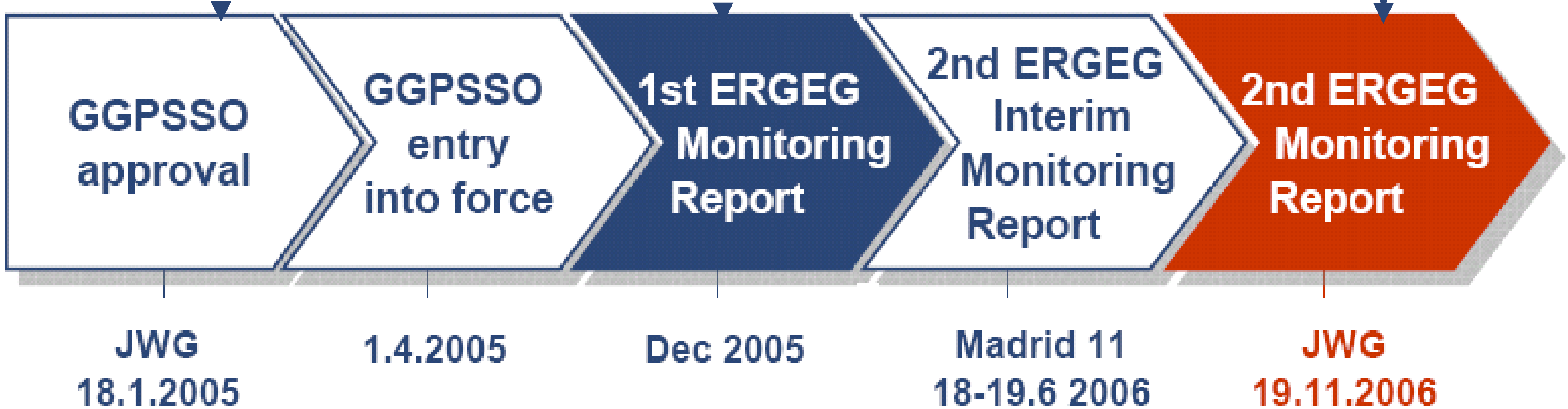
- although situations differ widely, storage and linepack are main tools for **providing flexibility services** in Europe;
- the ability to **adapt supply** to foreseeable variations in **demand** and accommodate fluctuations of demand with supply, is one of the prerequisites for entering and operating in the gas market;
- failure to provide the flexibility services required by the market can adversely **affect** the simultaneous opening of national markets and thus **competition in a single European market**.

Therefore, it is of the utmost importance that Member States apply a common set of principles to choose the most suitable procedure for granting access to storage facilities and linepack, according to local market characteristics and with a view to **fostering competition at EU level**.

# The ERGEG work on storage

## List of works undertaken by ERGEG on Storage:

1. **Recommendations** on implementation of Third Party Access (TRA) to Storage and Linepack
2. **Guidelines** for Good TPA Practice for Storage System Operators (GGPSSO)
3. **1st Monitoring** report of GGPSSO
4. **2nd Monitoring** report of GGPSSO



# The ERGEG work on storage. Recommendations

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## Recommendations on implementation of TPA to Storage and Linepack (Issued Dec'03):

- **Choose between rTPA and nTPA** according to an in-depth analysis of national market conditions for each flexibility service, adopting the best pro-competitive solution.
- **Adopt nTPA only where competition is actually in force** or, in the case of new entrants, in order to assure level playing field conditions or provide incentives to new investments.
- In the case of the choice of nTPA, assume the burden of proof, provide and publish appropriate information.
- Foster all measures suited for the development of spot markets and, according to market demand, new investments aiming at an increased availability of flexibility services.
- Due to the complexity and technical aspects of the issue, involve both **national regulators and competition authorities**.

# The ERGEG work on storage. GGPSSO

## Guidelines for Good TPA Practice for Storage System Operators (GGPSSO) - Issued Jan'05:

- Addressed to all **Storage System Operators** (SSOs) as well as the storage **users** and relate to the implementation of the Gas Directive.
- Do not go beyond the Gas Directive in creating or restricting TPA rights to any storage facility or part thereof. They are **not legally binding**.
- They intend to give a minimum set of rules required for the organisation of the market for storage capacity. They are forward looking and should be **flexible** enough to account for developments in market arrangements.
- The purpose is to ensure that SSOs provide the services needed by users on a **fair and non-discriminatory basis**.
- It shall be incumbent upon each SSO to **demonstrate** to the relevant National Regulatory Authority (NRA) upon its request that it meets the GGPSSO.
- An overriding principle is that storage systems and processes implemented by the SSOs maintain **secure, reliable and efficient operation** of the storage system (Article 8(1.a) of the Gas Directive).
- Implemented **by 1 April 2005**

# The ERGEG work on storage. GGPSSO

## GGPSSO - Issues covered:

- Roles and responsibilities of Storage System Operators
- Role of storage users
- Necessary TPA services
- Capacity allocation and congestion management mechanisms
- Confidentiality requirements
- Transparency requirements
- Tariff structure and derivation
- Secondary market
- Cooperation with TSOs

# The ERGEG work on storage. Monitoring GGPSSO

## Monitoring of the GGPSSO implementation:

- 1st Monitoring report - Dec. 2005
- 2nd Monitoring report - Nov. 2006

# The ERGEG work on storage. Monitoring GGPSSO

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## 2nd GGPSSO Monitoring results. Market framework:

- **Access regimes differ widely across the EU**
  - In 7 countries (Belgium, CZ, H*, IT, Latvia, PL, ES) tariffs/methodologies are set or approved by the competent NRA or defined in national legislation before their entry into force
  - In (A, CZ, DK, F, NL, Slovakia, Sweden, UK, Germany) tariffs are set by the SSO, however in some of those countries, the NRA is somehow involved in tariff setting/ex post (abuse) control
- **Unbundling not effective in most cases**
  - A large number of SSOs (18 out of 31) are not legally separated from other gas business of the overall company
  - Some SSOs (8) are legally separated, but the incumbent gas supplier owns or has a significant stake in the SSO
- **Most storage facilities are fully booked or have little available capacity**
  - Around 43,5% of monitored storage capacity is fully booked
  - Around 38% has less than 5% of capacity available
- **Access is often limited to a few incumbents**

# The ERGEG work on storage. Monitoring GGPSSO

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## 2nd GGPSSO Monitoring results. Results:

1. **More than 2 years after the entry into force of the 2nd Directive, results indicate that compliance has improved but remains insufficient**
   - Non-compliance not limited to smaller SSOs
2. **Access to flexibility is crucial in terms of competition and security of supply** (no storage access – no retail competition)
3. **Storage is the EU's main flexibility instrument**
   - Lack of flexibility is an entry barrier for new market participants that do not benefit from portfolio effects
4. **Storage is a "de facto" monopoly in most countries**
   - In most countries there is either only one SSO or product not comparable
   - Competition between SSOs is limited
5. **Where storage competition would be possible this is usually hampered by insufficient access to storage.**

# The ERGEG work on storage. Monitoring GGPSSO

## 2nd GGPSSO Monitoring results. Results:

6. Other instruments may not be available to new entrants or may not be equivalent
7. Available capacity is very limited. Capacity is usually booked long-term by incumbents
8. Most SSOs have supply affiliates
9. Confidentiality and thus, non discriminatory treatment cannot be currently guaranteed.

# The ERGEG work on storage. Monitoring GGPSSO

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## 2nd GGPSSO Monitoring results. CONCLUSION 1:

- **Given the fact that**
  - implementation of the voluntary arrangements developed by ERGEG have not been fully complied by to sufficient levels and
  - because of big differences in regulatory powers and regulatory regimes for storage access

  ***ERGEG recommends to the European Commission that legally binding rules for access to gas storage use needs to be introduced***

- **Particular attention should be given to the areas where compliance with the GGPSSO remains weak**
  - ensuring transparency
  - equal treatment
  - addressing congestion management including secondary markets
  - levelling regulatory powers.

# The ERGEG work on storage. Monitoring GGPSSO

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## 2nd GGPSSO Monitoring results. CONCLUSION 2:

- **As happened for transmission, the voluntary guidelines developed by ERGEG should form the basis for any bindings commitments**
  - However, since ERGEG's monitoring exercise showed that in certain areas there was a scope for improving requirements, it may be necessary to go further than the obligations currently provided in the GGPSSO, in order to ensure equal and fair access to storage

**Binding arrangements should however not reassess the choice between negotiated and regulated access**

# Outline of Presentation

- The ERGEG work on storage
- **The ERGEG work on LNG**
- Next steps and looking forward

## ERGEG work on LNG

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The departure point of ERGEG work on storage:

- 2nd Gas Directive contains several provisions on LNG:
  - **Regulated access to LNG infrastructures**
    - ✓ **non-discriminatory** rules for access and **tariffs approved** by regulators
  - TPA derogation possibility exists: major new or upgraded infrastructure **can be exempted from the rTPA rules**
    - ✓ granting the **exemption:** not detrimental to competition (art. 22)
  - **Accounting** unbundling for LNG operators

- ERGEG to ensure there is no barrier for LNG, to help achieve a competitive gas market.

# ERGEG work on LNG

- ERGEG has analysed the following issues:

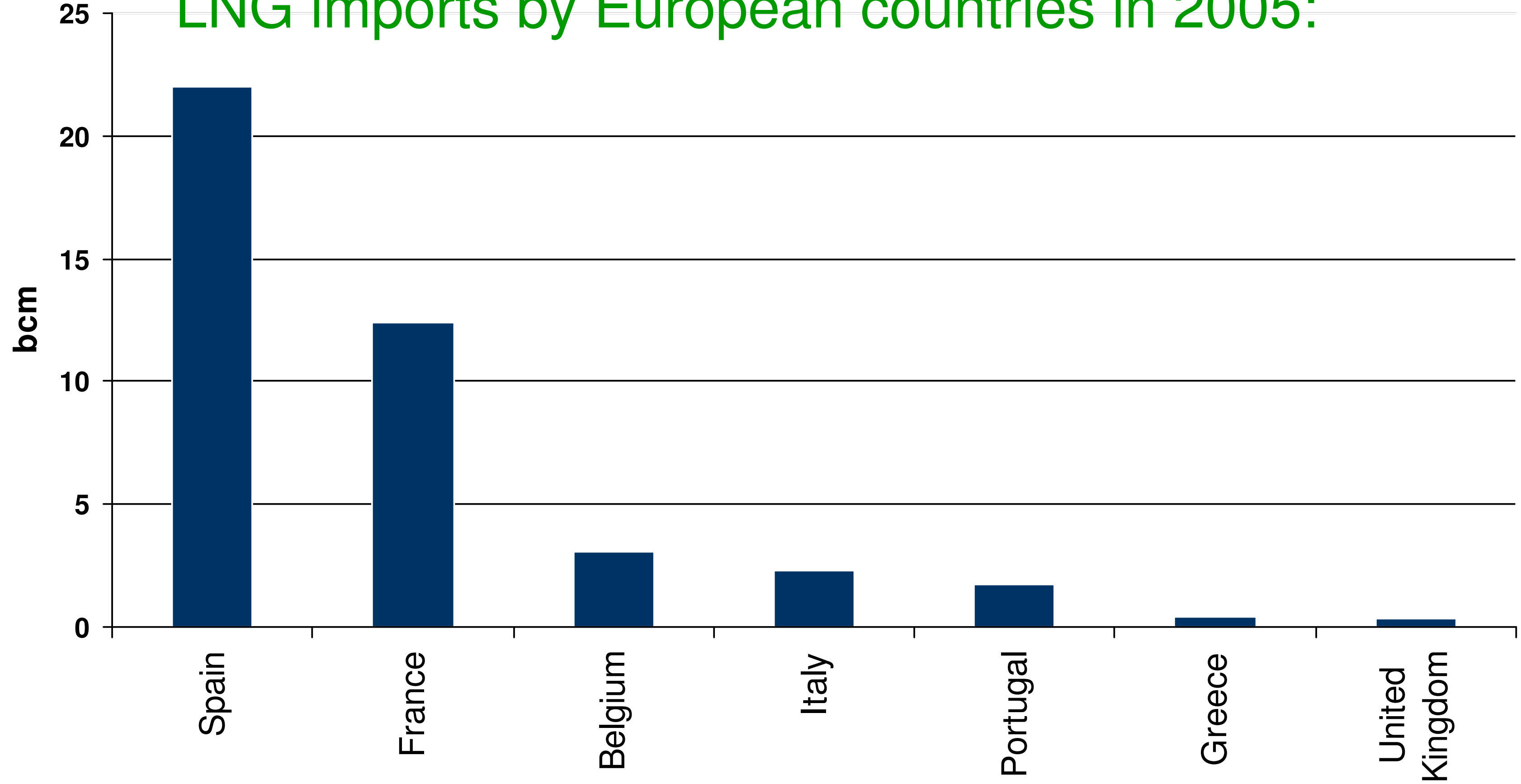
  - ✓ Role that LNG can adopt in achieving a European internal market in natural gas.
  - ✓ Current state of the art: regulatory arrangements and operational rules, TPA models, tariff/remuneration systems, arguments set forth to grant exemptions or to promote rTPA. (NERA report)
  - ✓ Room for improvement? Need for harmonization?

↓

**Guidelines for Good Practice on LNG terminal services**

# ERGEG work on LNG

LNG imports by European countries in 2005:

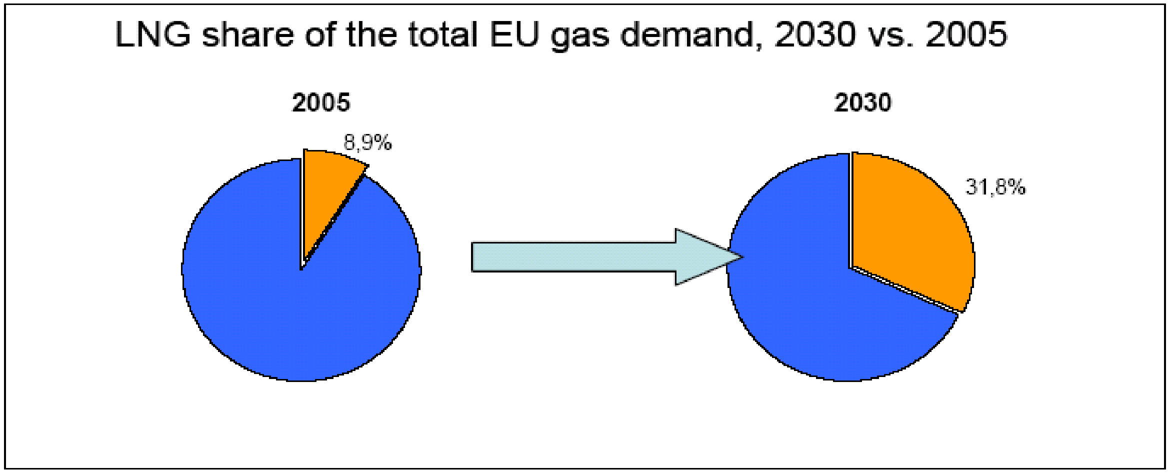



Source: EUROGAS

# ERGEG work on LNG

- LNG imports will rise significantly.

According to IEA projections, LNG deliveries are expected to reach **240 bcm by 2030**, representing a **six-fold increase** compared to 2005.




Source: DGCOM Energy Sector Inquiry, January 2007

- LNG supplies are important for both **security of supply** and **competition (two of the challenges of the Energy Policy for Europe)**

The potential of LNG supplies **to reduce concentration** on downstream markets still needs to be realized. (DGCOMP)

# The ERGEG work on LNG

**List of works undertaken by ERGEG on LNG**:

1. Report on “Third party access to LNG terminals” (report of a private consultant, NERA, for ERGEG)
2. Advice to the European Commission on the access regime to New LNG facilities
3. Draft Guidelines for Good TPA Practice for LNG System Operators (GGPLNG)

# The ERGEG work on LNG. NERA's report

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**Report on Third party access to LNG terminals (Issued Nov'06)**:

- **CONTENTS:**
  - Analysis of existing regimes of LNG terminals in Europe
  - Recommendations to improve existing measures
  - Need for harmonization
- **CONCLUSIONS**

In order to promote **competition and flexibility** in the use of LNG plants we would expect that as the different gas markets open and become more liquid, operational and regulatory **rules would tend to converge**. A first progress towards establishing **common guidelines** in key areas would help reduce uncertainty about future evolution of regulatory arrangements and would allow a level playing field for capacity trading and investment.

Common guidelines to promote the key reference variables (promotion of competition, efficient use of infrastructures, provision of security of supply and flexibility, non-discrimination, and promotion of investments) could be set on the basis of the recommendations made in the report.

# The ERGEG work on LNG. Advice to EC new tech.

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**Advice to the European Commission on the access regime to New LNG facilities (Issued Apr'07) :**

- European Commission requested ERGEG to provide advice on the applicability of the Gas Directive to some new LNG technologies, including:
  - Offshore gravity based structures (GBS)
    - As the location of the terminal is not a criterion in the Gas Directive, the GBS entirely meets the definition of LNG facility as described in the Gas Directive.
  - Platform based import terminals
    - If the platform based import terminal contains the same features as a GBS, and provides the same services, it entirely meets the definition of LNG facility
    - If the platform is not able to provide the regasification services, it should then not be considered an LNG facility but an entry-point to the interconnected system
  - Floating storage regasification units (FSRU)
    - It meets the definition of LNG facility described in article 2(11) of the Gas Directive and must be regarded as a small floating LNG terminal
  - Regasification vessels (RV)
    - A vessel moving all over the world does not fit with the concept of terminal. An RV is not part of the system and can not be called an LNG facility
    - The connecting infrastructure must be considered as part of the transmission system.

# The ERGEG work on LNG. GGPLNG

## Guidelines for Good TPA Practice for LNG System Operators (GGPLNG) (Ongoing) :

- In Europe, several access regimes have been adopted: the rTPA and different modalities of exemptions, all of them lawful systems addressed to promote investment on infrastructures and competition in gas markets.
- The GGPLNG concern TPA to LNG facilities in accordance with Article 18 of the Gas Directive which establishes a regulated TPA regime to LNG facilities based on published tariffs.
- The GGPLNG do not go beyond the Gas Directive in creating or restricting TPA rights. They are not legally binding.
- The GGPLNG are intended as possible input from ERGEG for an amendment of Regulation 1775/2005 and its annexes.
- The Guidelines are intended to apply to LNG facilities insofar as they are subject to the Regulation 1775/2005.
- The Regulators consider that they also could possibly serve as an input for them when receiving an application for exemption or to monitor the effective implementation of the conditions set when granting an exemption to LNG facilities.

# The ERGEG work on LNG. GGPLNG

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## GGPLNG - Issues covered:

- Tariffs for access to the system
- TPA services:
  - Roles and responsibilities
  - Necessary TPA services
  - Other requirements
- Capacity allocation and congestion management mechanisms
  - Capacity Calculation
  - Principles underlying Capacity Allocation mechanisms and congestion management procedures
  - Congestion Management
- Transparency Requirements
- Trading of capacity rights

# The ERGEG work on LNG. GGPLNG

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## ***Subsequent ERGEG work on LNG:***

- GGPLNG final approval after:
  - Informal consultation of relevant stakeholders: GLE, Eurogas, EFET,etc. *(already done)*
  - Approval by the Gas Focus Group and ERGEG *(foreseen for the next month)*
  - Public Consultation Process *(after ERGEG approval)*
  - Final version of the GGPLNG, including the result of the Public Consultation Process.
- Monitoring of the GGPLNG implementation ?
- They could serve as an input from ERGEG for an amendment of Regulation 1775/2005 and its annexes

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- **Next steps and looking forward**

# Next steps and looking forward

## Third EC Energy package - Proposal of new rules of access to storage and LNG facilities:

- Based on Guidelines for Good Practice agreed in Madrid (storage) and drawn up by ERGEG (LNG)
  - Minimum TPA requirements
  - Congestion management
  - Transparency
  - Secondary markets
- More clarity on storage offered to the market
  - Legal and functional unbundling
  - Define (Member States) and monitor (NRA) 'when technically and/or economically necessary to gain access to the system...'

## Next steps and looking forward

**ERGEG will actively contribute during the 3rd EC energy package development process:**

**STORAGE**

- ***Guidelines will serve as an ERGEG input to the European Commission to be considered within the 3rd Energy legislative package***

**LNG**

- ***GGPLNG to be approved during the following months, taking into account the views of the relevant stakeholders***
- ***Possible GGPLNG compliance monitoring***
- ***Guidelines will serve as an ERGEG input to the European Commission to be considered within the 3rd Energy legislative package***

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