Regulatory cooperation and implementation of the third package provisions on gas infrastructure exemptions : The case of TAP

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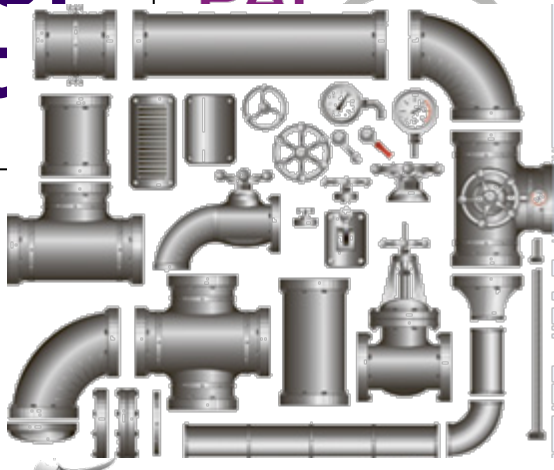
Outline

- Introduction
  - A step back into the big picture : achieving the full functioning internal energy market
    - tools and requirements
- The TAP project specifics & the exemption application
- Evaluating and deciding upon the exemption application : Regulatory Cooperation
- Key aspects of the exemption decision
- A look into the future
- Conclusions

The big idea: Gas flows freely from any location in Europe to any location in Europe, fully competitive, functioning liquid markets and ensuring security of supply

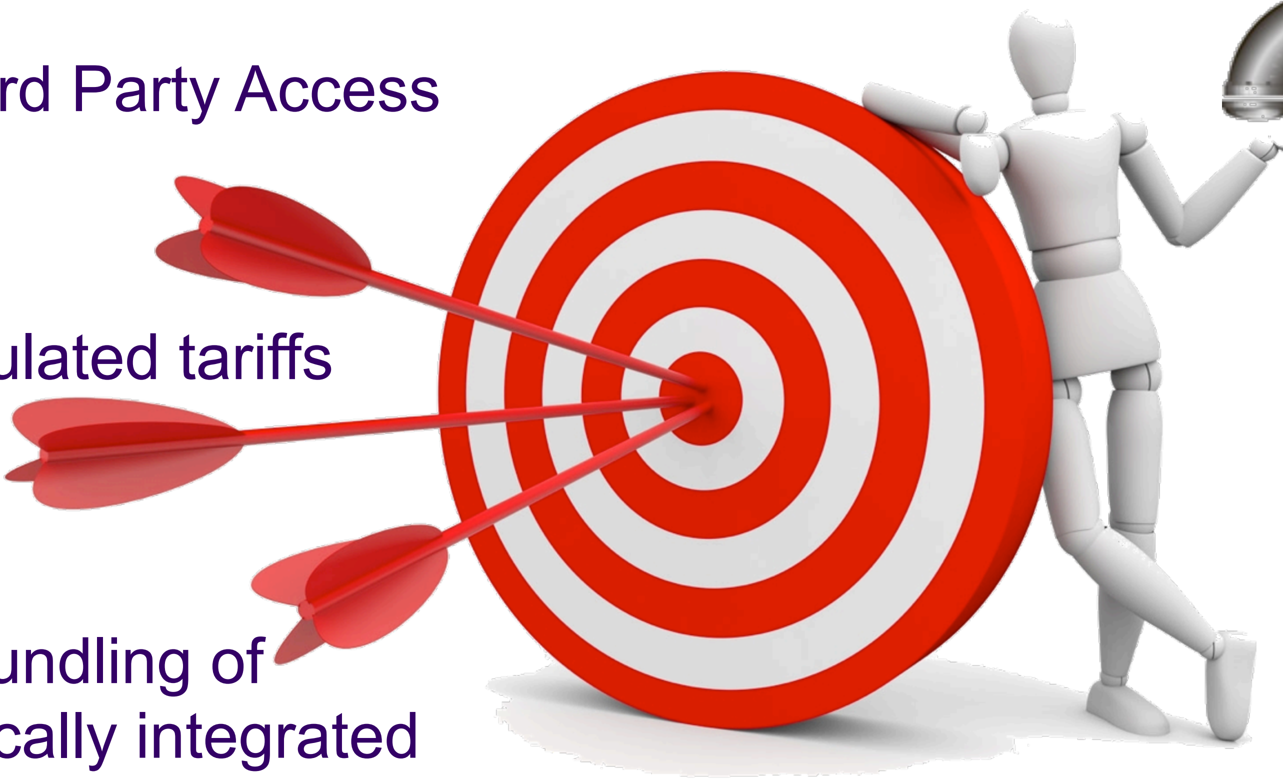
The vision: the completion of the internal energy market



3rd Party Access

Regulated tariffs

Unbundling of vertically integrated undertakings



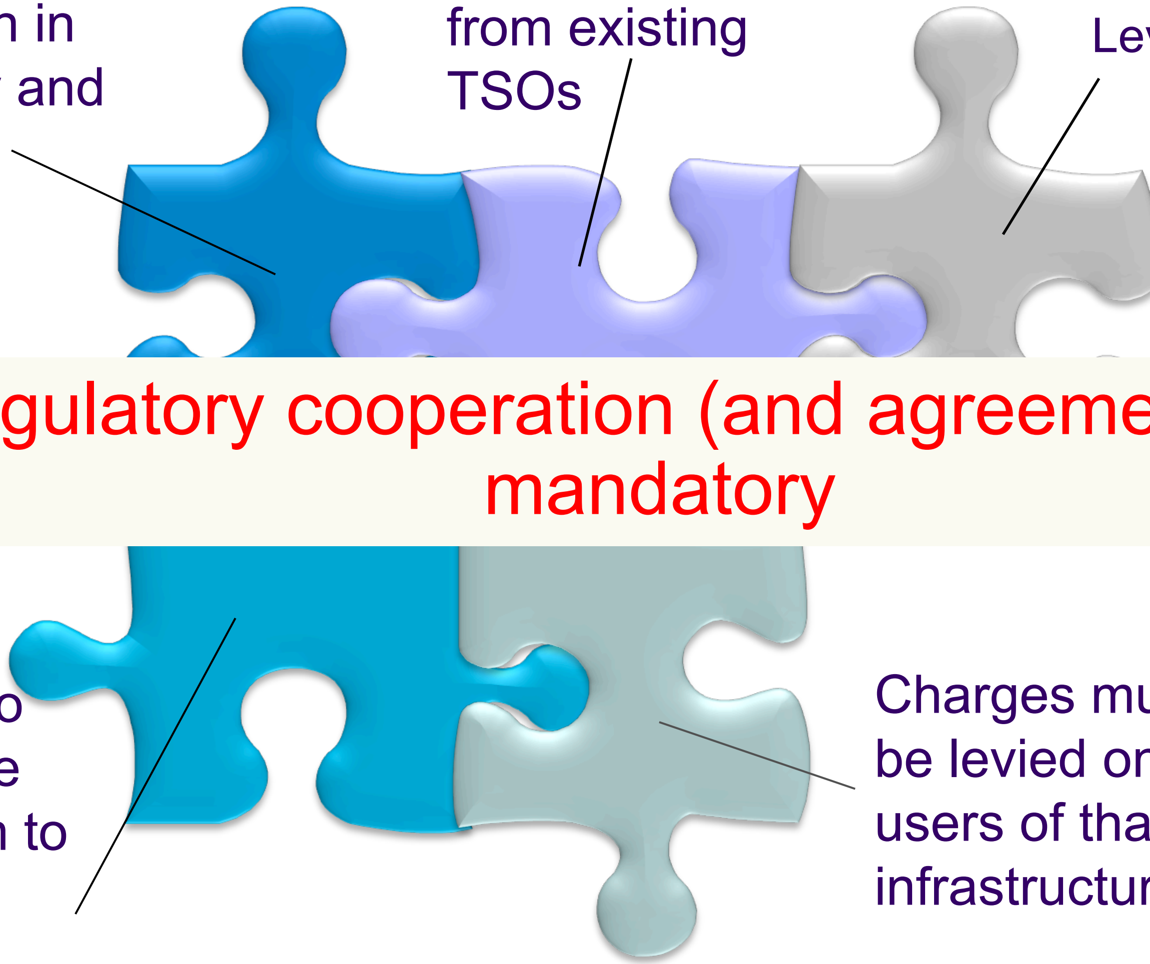
Efficient & harmonised (cross border) regulation

The EU approach to safeguard investments : Exemption conditions

Contribute to competition in gas supply and enhance security of supply;

Separation from existing TSOs

Level of risk

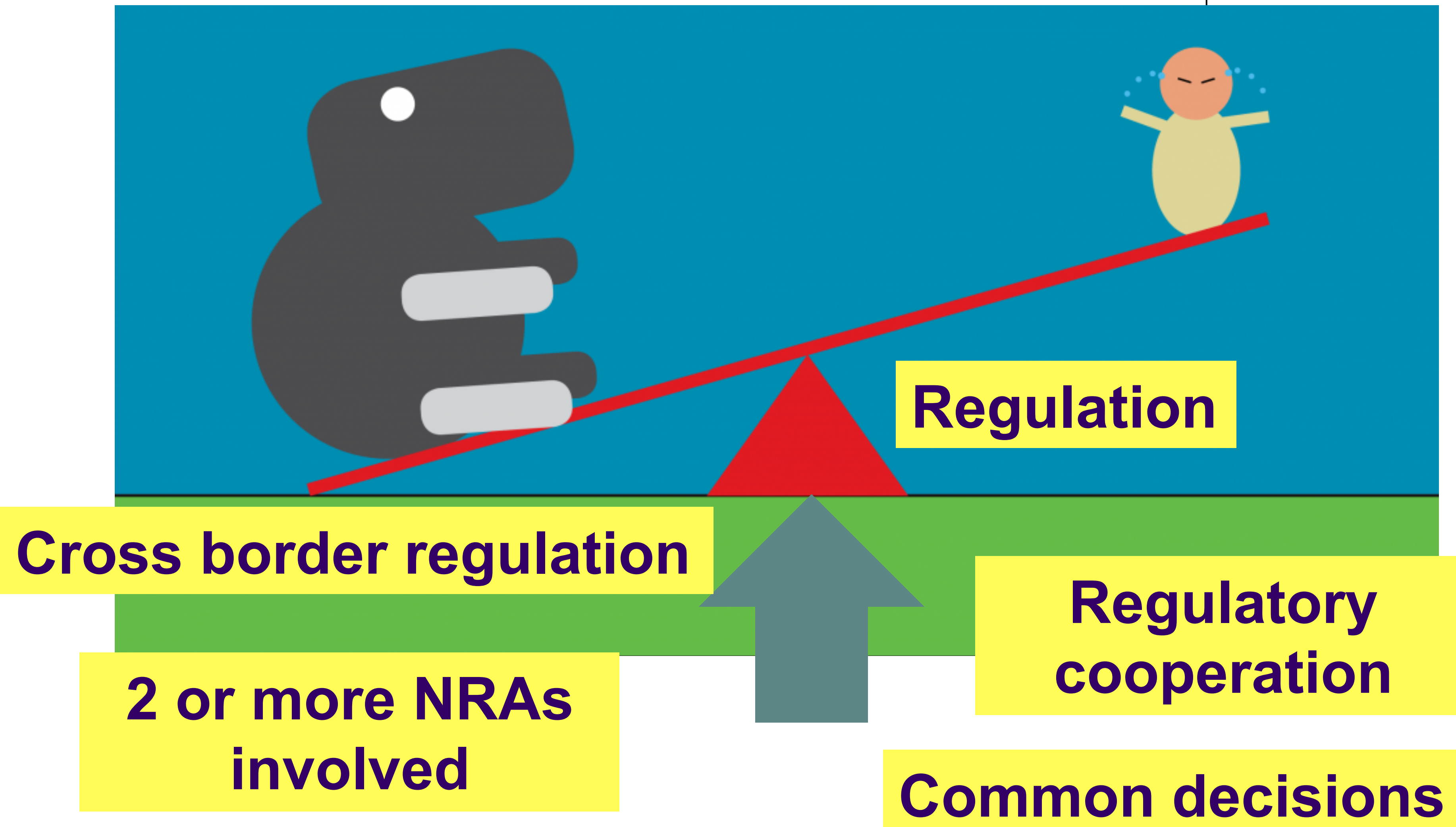


Regulatory cooperation (and agreement) is mandatory

Not detrimental to competition in the regulated system to which the infrastructure is connected.

Charges must be levied on users of that infrastructure

Regulating new infrastructure: IEM principles vs investment risk



The TAP business case

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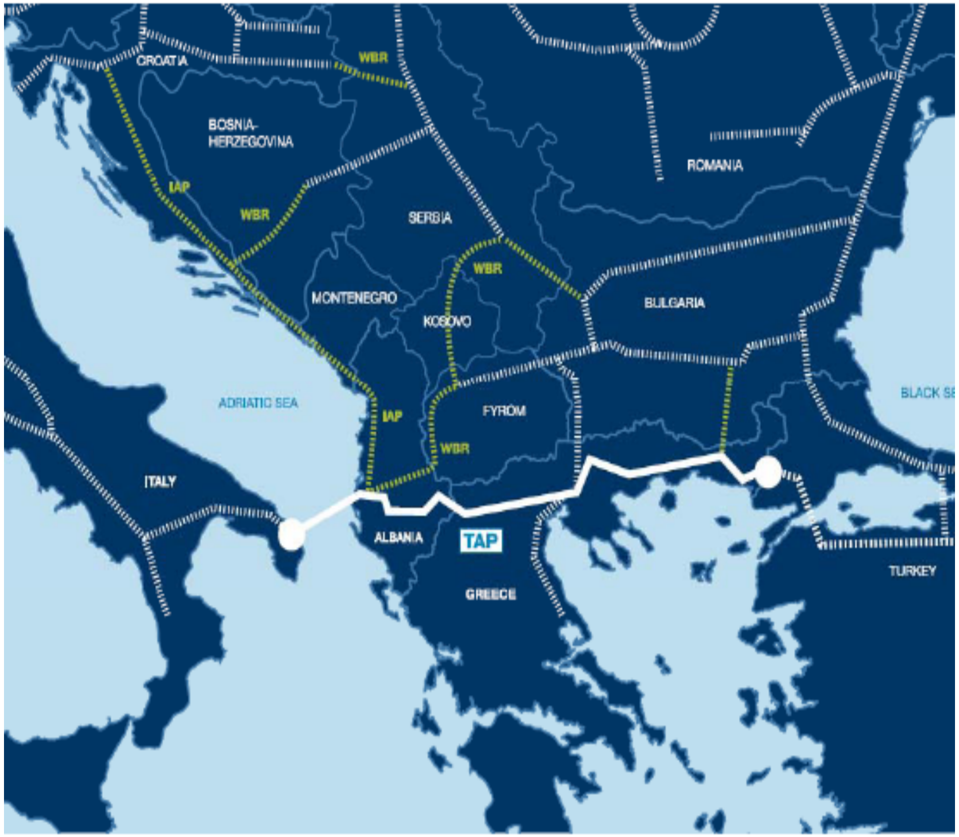

- 10 bcm of Caspian (Azeri gas) to Italy, expandable to 20 bcm
- Potential supply of gas to the region
- Possibility for reverse flow
- Part of 5 projects – SDII, SCP, TANAP, TAP, SNAM RETE Gas
- The project as a whole crosses 6 nations – 4,000 km
- Just TAP, three counties:
  - 2 EU member states, one EC Contracting Party, 870 km,

The TAP AG Application for exemption

1. From the requirement of TPA & regulated tariffs, for the Initial Capacity of 10 bcm/year
2. From regulated tariffs, for the Expansion Capacity in Phase II (10 bcm/year)
3. From regulated tariffs for Reverse Flow
4. From the unbundling provisions of the Third Gas Directive
5. From the provisions of the Gas Regulation

For 25 years from the Commercial Operation Date – no later than 1 2019

The challenge

- How to accommodate the TAP-business case and – in the same time achieve as many benefits for the regional gas market as possible?
- **Pioneering case**
  - The first of its kind under the Third Package
  - The first between two MS's (Italy and Greece) and one Contracting Party of the Energy Community.
- The exemption decision issued in June 2013 is a result of the continuous, often daily, excellent cooperation between the Italian, Albanian and Greek energy regulators.

The cooperation in detail

The team

6-10 members from all three NRAs depending on issue

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The regulators act as one

The working procedure

Similar to CEER and Medreg WGs/TFs

One common working document

The team communicates via email/teleconferencing

The document is agreed at WG level

All formal correspondence regarding the exemption application is agreed among the three regulators and identical

The approval procedure

The regulators decide jointly on the same day (±2-3 days)

Each NRA issues one decision approving a single document.

The document approved is the same for all and is attached as an Annex to the National Decision

The Annex is written in a common language (English) so that there is no room for translation/ interpretation.

The exemption decision process

The Joint Opinion of the 3 regulators was finalised in WG level by the end Feb

The Joint Opinion was approved by the Boards of the three authorities (and MSE for Italy) by the 15th March

The Italian and Greek Decisions were transmitted to the European Commission

The Albanian decision was transmitted to the Energy Community Secretariat

The Energy Community issued an opinion on the JO on 14th May

The European Commission decided on 16th May

The TAP WG of the three authorities modified the Joint Opinion by June 6th

The boards of the three authorities (and the MSE for Italy) approved Final Joint Opinion by mid June

Key aspects of the exemption decision

10 bcma + 10 bcma

- The Initial Capacity of 10 bcma
  - Is allocated to the shareholders of TAP,
  - To be used to bring gas volumes from the gas fields in the territory of the Republic of Azerbaijan and supplied under the relevant Shah Deniz Gas Sales Agreement to Italy (Greece and Albania)
  - Is exempted from TPA access and tariff regulation for a period of 25 years
- BUT The decision ensures that all buyers of SD gas will have capacity in TAP (not only TAP's shareholders)
  - The Shareholders of TAP AG obliged to undertake all appropriate legal actions to transfer, in part or as a whole, as the case may be, the capacity rights and obligations allocated to them under point 2 above, to SD gas buyers (or their nominated shippers),

Scheduling the allocation of capacity over 10 bcma and short term products

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From 10 to 20 bcma and over

3 months after FID, TAP is obliged to perform the first Booking phase and build the capacity requested. The capacity will be allocated to all those who participated in the Expression of Interest (EoI) of the market test

From 10 to 20 bcma and over

Starting no later than the Commercial Operations Date and subsequently at least every two years. TAP is obliged to perform other Market Tests on a regular basis . TAP builds new capacity subject to economic test and third party assessment (in case of negative test)

Short Term

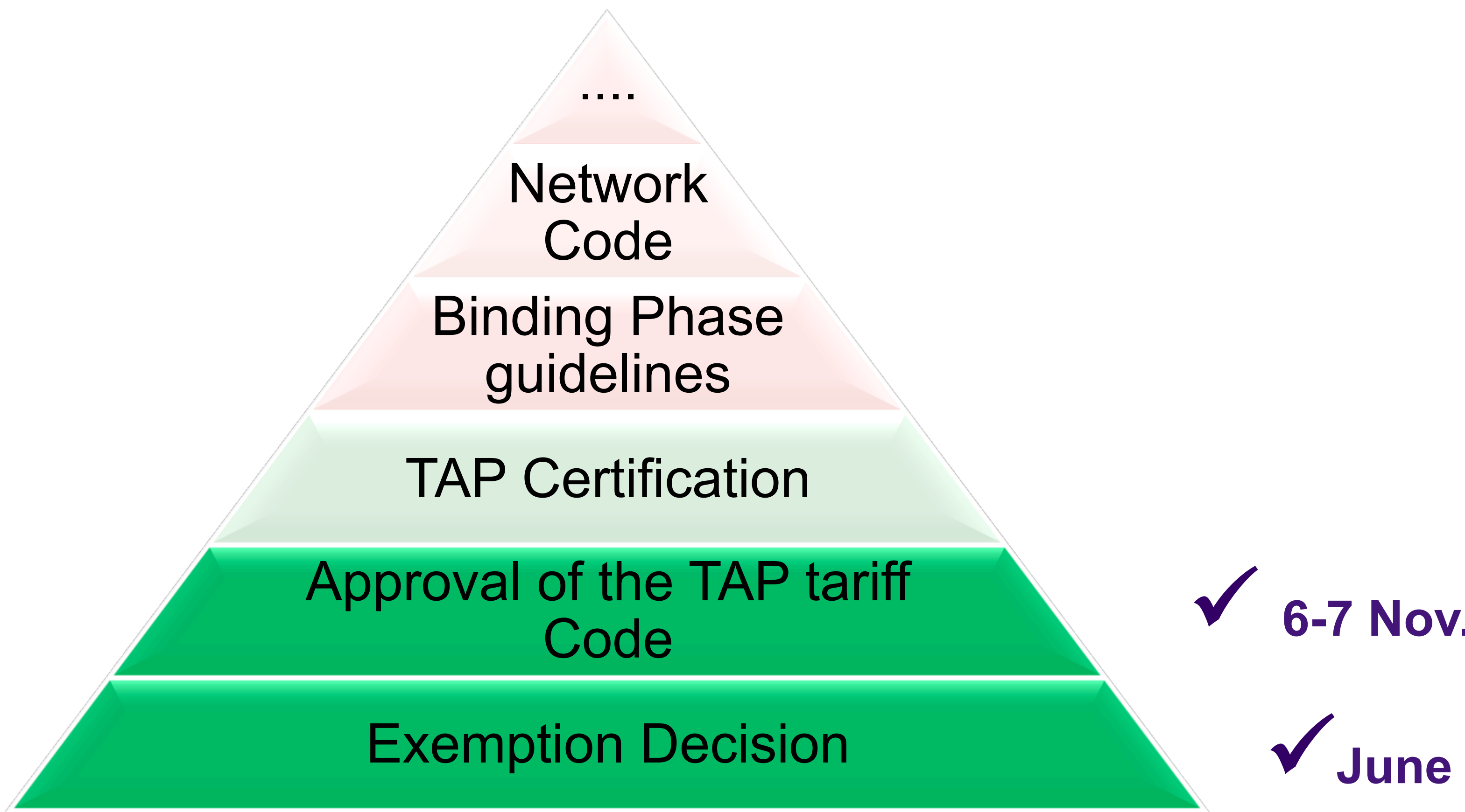
Throughout the 25 year exemption period, TAP to makes available to the market products of up to one year duration and of a volume that, cumulatively, at least amounts to 5% of the Initial Capacity, and 10% of the actually built Expansion Capacity

Other key aspects of the exemption decision

- Provides for a TAP Tariff Code, efficient costs, transparency, non discrimination and NRA's shall monitor implementation on the Tariff Code
- Virtual reverse flow (Italy -> eastwards, min 5bcma) will be fully regulated and offered to the market at a Tariff equal to 5% of the forward flow
- At least 5 bcm/y is provided for physical reverse flows
- TAP, prior to allocating capacity has to implement functional unbundling
- Obligation to issue the Network Code (NRA's to approve)
- Pro-competitive measures and capacity caps for dominant players
- Additional entry and exit points will be built at any time;
  - Three (2 Greece and 1 in Albania) will operate from Commercial Operations Date

Cooperation in the future

- The exemption decision provides for this cooperation to continue. The three energy regulators are to decide jointly on any aspect stemming from the decision



TAP project milestones

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TAP Resolution to Construct (RtC)

Mid Nov. 2013

Shah Deniz Final Investment Decision (FID)

Mid Dec 2013

Construction to start

end 2014/early 2015

Ready to receive first gas from Shah Deniz

2019

Conclusions

- Regulatory cooperation is both a necessity and a very useful tool towards the implementation of large cross border infrastructure projects
- It is indeed possible to strike a balance between securing the business case of a new infrastructure and in parallel exploiting the benefits of this infrastructure for the region.
  - The TAP Exemption Decision defines a clear procedure for reserving capacity of at least 10 bcma for up to 25 years, such capacity can be used to transport gas from new sources of gas from the offshore fields in the East Mediterranean to Greece, Italy and beyond.

Thank you for your attention !

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