

Autorità di regolazione per energia, reti e ambiente (ARERA, Italy)  
Enti Rregullator i Energjise (ERE, Albania)  
Ρυθμιστική Αρχή Ενέργειας (RAE, Greece)

*Approval of “Project Proposal  
of TAP, SRG and DESFA for the  
2021 Incremental Capacity Process – October  
2022”*

jointly proposed by TAP, SRG and DESFA  
on the 31<sup>st</sup> of October 2022

Whereas<sup>1</sup>:

On August 29<sup>th</sup> 2011 TAP AG submitted to the Italian Ministry of Economic Development and on August 31<sup>st</sup> 2011 to the Regulatory Authority for Energy of Greece (RAE), an “Exemption Application for Trans Adriatic Pipeline”, as foreseen by Article 36 of the Gas Directive 2009/73/EC. On September 1<sup>st</sup> 2011, TAP AG submitted to the Energy Regulatory Entity (ERE) of Albania an “Exemption Application for Trans Adriatic Pipeline”, in accordance with Article 22 of the Gas Directive 2003/55/EC.

In June 2013 the Italian Ministry, RAE and ERE took the decision on the exemption, adopting the *Final Joint Opinion* (hereafter: “the FJO”), a document jointly written by ARERA, ERE and RAE (hereafter: “the Authorities”) and amended to comply with the Commission Decision [C(2013)2949 final] dated 16<sup>th</sup> of May 2013 and to take note of the Opinion 1/2013 of the Energy Community Secretariat dated 14<sup>th</sup> of May 2013. In November of the same year, the Authorities approved TAP’s Tariff Code<sup>2</sup>.

In the FJO an exemption from the provisions of Articles 9 (Unbundling), 32 (TPA) for the Initial Capacity of 10bcm/y, and 41.6, 41.8, 41.10 (Regulated Tariffs) of the Gas Directive has been granted to TAP AG for a period of 25 years starting from the beginning of the Commercial Operation Date, under several conditions. Among others, according to Article 4.1.7 of the FJO, TAP AG is obliged to perform Market Tests on a regular basis starting no later than the Commercial Operation Date and, subsequently, at least every two years. TAP AG shall perform Market Tests under guidelines approved by the Authorities, with the view to offer to all Interested Parties additional available capacity up to the Total Capacity of 20 bcm/y<sup>3</sup>.

Following Article 4.1.7, TAP AG is obliged to fulfil the binding capacity requests resulting from each market test taking into account the provisions of points 3, 6 and 9 of §4.7 of the FJO. The expansion takes place if it is economically viable, namely if the incremental revenues from capacity resulting from each market test are equal or larger than the efficient incremental costs, quantified according to the TAP AG methodology as laid down in the TAP Tariff Code.

Additional terms to safeguard full compliance to the criteria of Article 36.1 of the Gas Directive were also imposed, among others, the obligation to build additional entry and exit points in Greece and Albania upon request of a third party, as a result of any market test, as long as such construction is technically feasible. The burden of proof to demonstrate that the construction of such additional entry and exit point is not technically feasible rests with TAP AG. If requested by the Authorities, TAP AG is to provide an opinion from an independent third party. All costs related to the construction and

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<sup>1</sup> Hereafter the definitions of the *Final Joint Opinion* and of EU Regulation 2017/459 apply.

<sup>2</sup> TAP’s Tariff Code was amended in 2018.

<sup>3</sup> Following Article 4.1.9, the possibility to further expand capacity beyond the Total Capacity, (i.e. beyond 20 bcm/year), shall be investigated by TAP AG and if economically and technically feasible, it will be undertaken, with a view to fulfil all requests for long-term capacity (long-term means here a duration of more than 15 years).

operation of such entry and exit points will be borne by the third party who made the request, according to the national legislation in place at the time of the request. Costs related to such entry and exit points will not include the investments required for additional capacity of TAP, resulting from §4.1 of the FJO, which will be remunerated through TAP Tariffs.

On March 16<sup>th</sup> 2017, the new EU Regulation 459/2017 “establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013” was adopted. The EU Regulation 2017/459 (hereafter: CAM NC) establishes a Network Code setting up capacity allocation mechanisms in gas transmission systems for both existing and incremental capacity.

On June 11<sup>th</sup> 2021 TAP AG submitted to the Authorities the “*Guidelines for the 2021 Market Test of Trans Adriatic Pipeline Guidelines*” for the incremental capacity process, seeking to align the related provisions of the Final Joint Opinion with EU Regulation 2017/459, in particular by coordinating the expected timeline/deadlines and by strengthening the cooperation with adjacent TSOs.

On June 28<sup>th</sup> 2021 (ARERA Deliberation 273/2021/R/gas), on June 29<sup>th</sup> 2021 (ERE’s Decision No.151), on July 1<sup>st</sup> 2021 (RAE’s Decision 517/2021) respectively, ARERA, ERE and RAE approved the Guidelines.

The main points of the Guidelines relevant for the present decision are:

1. the incremental capacity process is split into two phases, a *non-binding phase* (that includes the demand assessment and the design of expansion) and a *binding phase* (that includes an information period and a binding bidding phase);
2. the above-mentioned phases shall include all steps described in CAM NC to allow participants to submit binding bids for capacity allocation;
3. the procedure is open to all Interested Parties, namely any legal person who is interested in submitting non-binding and binding capacity demand indications to TAP AG and to participate in TAP’s Market Test in a transparent and non-discriminatory manner;
4. during the Market Test, all Interested Parties can request expansion of the entry and/or of the exit capacity on the TAP Transportation System, as well the construction of new entry and/or exit points along TAP’s transportation system;
5. Interested Parties must submit to the Authorities a declaration to ensure that their non-binding demand indication complies with any applicable Capacity Caps; they have also to confirm to TAP AG, at least two weeks prior to the end of Assessment Phase that the Authorities have deemed the request compliant with capacity caps.
6. the binding phase is sketched in the proposed Guidelines because its detailed rules will depend on the demands received during the non-binding phase and will be subject to further approval by Authorities.

On 5<sup>th</sup> July 2021, TAP AG, launched the non-binding phase of the Incremental Capacity Process on the Trans Adriatic Pipeline, in coordination with Snam Rete Gas (SRG) and

DESFA. The three TSOs received non-binding demand indications and produced a joint Demand Assessment Report (DAR), published on the 25<sup>th</sup> of October 2021, concluding that there was sufficient indicative demand to initiate an Incremental Capacity Project.

In January 2022, SRG, DESFA and TAP AG in accordance with the provisions set out in article 27 (3) of CAM NC, jointly launched a public consultation on the identified draft Project Proposal written with the purpose to meet, to the extent possible, the received indicative non-binding demand requests.

On 31<sup>st</sup> October 2022, TAP AG, SRG and DESFA submitted for approval to the Authorities a joint Project Proposal, in accordance with the provisions set in article 28 of the CAM NC.

According to CAM (Article 28.2), the NRAs should publish coordinated decisions on the project proposal, considering the views of the other national regulatory authorities involved.

Therefore, the present joint decision is taken without prejudice for the NRAs involved to supplement it with further decisions falling within their competence, namely all aspects related to TAP connection with their respective national systems.

Whereas:

The incremental capacity project concerns 7 (seven) Interconnection Points (IPs) along the route of the TAP: Kipoi (TR-GR), Komotini (GR), Nea Mesimvria (GR), Kucove (AL), Relievi Roskovec (AL), Fier (AL), and Melendugno (IT).

In particular, the Incremental Capacity Project comprises the following:

- a. Incremental capacity on TAP side offered as a bundled capacity product with the already existing and available capacity on SRG side (at the IP of Melendugno exit TAP and entry SRG);
- b. Incremental capacity offered jointly by TAP and DESFA at the IP of Nea Mesimvria as a bundled capacity product exit DESFA and entry TAP;
- c. Incremental capacity offered jointly by TAP and DESFA at the IP of Nea Mesimvria as a bundled capacity product exit TAP and entry DESFA;
- d. Incremental capacity offered by TAP at the IP Kipoi as unbundled entry capacity.
- e. Incremental capacity offered by TAP at the IP Komotini as unbundled exit capacity;
- f. Incremental capacity offers by TAP at prospective Kucove exit point as unbundled exit capacity;
- g. Incremental capacity offer by TAP at prospective Fier exit point as unbundled exit capacity;
- h. Incremental capacity offer by TAP at prospective Fier entry point as unbundled entry capacity;
- i. Incremental capacity offered by TAP as unbundled exit capacity at the prospective relevant Exit points of Relievi Roskovec.

On the TAP section, the Incremental Capacity Project:

1. can be achieved by installing additional compressor units, no modifications are required to the pipeline;
2. foresees four possible expansion levels at entry Kipoi (minimum, limited, partial and full), leading to a total technical capacity respectively of: 39.8 MSm<sup>3</sup>/d (387 GWh/day), 45.3 MSm<sup>3</sup>/d (440 GWh/day), 52.7 MSm<sup>3</sup>/d (512 GWh/day), 62.6 MSm<sup>3</sup>/d (608 GWh/day);
3. sets capacity at the TAP IPs, consistent with the four expansion levels at entry Kipoi and the already available capacity, on SRG side and expansion projects of DESFA;
4. set the offer levels in kWh/d at all entry and exit points consistent with the abovementioned technical capacity and taking into:
  - a. account a GCV value of 9,71 kWh/Sm<sup>3</sup> and
  - b. the need to set aside 10% of the expansion capacity for short term bookings.

To increase the possibility that the economics for the Incremental Capacity Project are passed in accordance with the provisions of art. 30 (1) of CAM NC and considering TAP's specific regulatory framework as well as the findings of the non-binding demand indications, SRG, TAP AG and DESFA propose a number of measures:

1. the application of an Alternative Allocation Mechanism ("AAM") with an extended capacity booking horizon of 20 years after the start of the operational use, as all conditions set in Article 30 (2) of CAM are met;
2. the requirement of a minimum commitment for duration of at least 3 consecutive years, as documented to the Authorities by TAP AG, SRG and DESFA;
3. the possible performance of two rounds of binding phases: a first one in January 2023 and a second one, if needed on the basis of the results of the first binding phase, during 2023;
4. the requirement for participants to submit a reduced bid bond (during the bidding phase) and the full amount in a second phase, to secure the coverage of investments made by TAP before the COD;
5. the mitigation of TAP users' risks by selling an option associated with the capacity booking to extend its duration before the Commercial Operation Date (COD) of the expansion, as described in Section E of the joint Project Proposal. Initially, an extension is allowed to a date up until 14 November 2045. In case of a new market test for expansion, if another participant requests capacity that is currently reserved for the extension option, in order to prioritise further expansions, TAP can notify the relevant participant that the latest end date for the extension is curtailed to an earlier date that allows TAP to allocate the requested capacity to the other participant. This option is offered only on TAP's side of the capacity. It is shippers' responsibility to book the capacity needed to exercise the extension option in the adjacent TSO's system and to bundle it with TAP's capacity within a reasonable time, otherwise the extension option is dropped also on TAP's side.

6. the possibility for TAP to propose to the user that part of the capacity be made available in advance of the date contained in the offer. This measure avoids the first delivery of gas takes place only once the entire demand for capacity has been met.

In accordance with the provisions of article 30 (3) of the CAM NC, TAP AG, DESFA and SRG intend to allow interested parties to submit binding bids on the following basis as all conditions for AAM are met:

- commitment at one IP linking commitments at other IP(s);
- commitments across a number of different standard yearly capacity products;
- commitments conditional on the allocation of a minimum amount of capacity.

In the light of the characteristics of the Incremental Capacity Project, the proposed AAM intends to prioritize bids depending on their booking durations, in accordance with article 30 (4) of the CAM NC.

The TSOs propose the following timeline:

- 14<sup>th</sup> November – 13<sup>rd</sup> January 2023: information phase
- 16<sup>th</sup> January – 15<sup>th</sup> February 2023: binding bidding phase 1

during 2023: binding bidding phase 2

The first gas through the expansion capacity is expected to be delivered in the time period from Q4 2025 to Q4 2027, depending on the offer level and the delivery point.

The economic test is carried out separately by each TSO at their side of the relevant IP and incremental capacity project shall be initiated if the economic test has a positive outcome on both sides of TAP interconnection points for at least one offer level.

For TAP, the economic test considers the net present value of the cost estimates and hypothetical incremental revenues, applying TAP target IRR as the discount factor, according to Annex I of TAP Tariff Code.

Whereas:

- the project proposal is in line with the principles stated in the Final Joint Opinion, the approved Guidelines, the CAM NC and does not introduce undue barriers to the foreseen process for building incremental capacity;
- the project has been developed in cooperation with adjacent TSOs, with the aim of ensuring a coordinated development of the network;
- all the information listed in Article 28 of CAM NC are included in the project proposal;
- the conditions set out in Article 30 (2) of CAM NC for the potential application of an AAM are achieved, considering that the project involves more than two entry-exit systems, bids are requested along several interconnection points and bids with a duration of more than 1 year are requested;

- the economic parameters proposed by TAP AG are in line with the TAP Tariff Code
- the other economic parameters are verified by the competent authority in each country and are in line with the respective tariffication systems

the Authorities jointly

- approve the “*Project Proposal of TAP, SRG and DESFA for the 2021 Incremental Capacity Process – October 2022*” jointly proposed by TAP AG, SRG and DESFA and attached as ANNEX B.