

---

# ***Regulating the TAP pipeline***

## ***Benefits for the SEE and EU gas markets***



**Michael Thomadakis**  
Member of the Board  
Regulatory Authority of Energy  
Greece

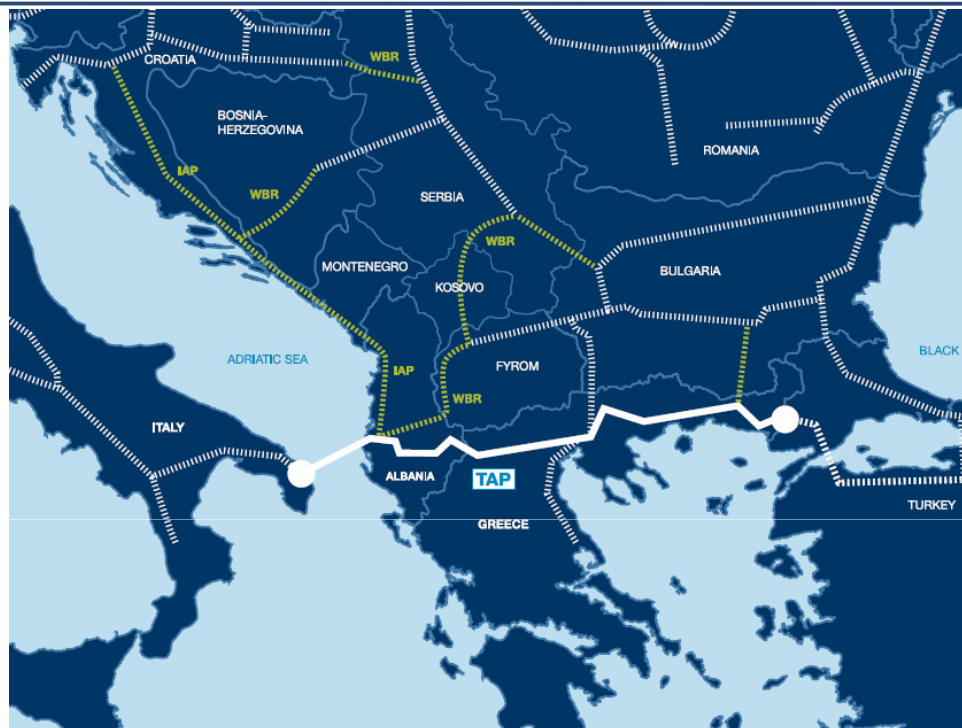


**Shkëlqim Bozgo**  
Commissioner  
Energy Regulatory Entity  
Albania



**Vincenzo Cioffo**  
Autorità per l'Energia Elettrica e il  
Gas / Italy

## The TAP business case (as initially presented)...



- 10 bcm of Caspian (Azeri) gas to Italy
- Potential supply of gas to the region
- Expandable to 20 BCM
- Possibility for reverse flow

## ...In the “vicious circle” of the SEE gas markets:

---

- Small national markets hardly able to support additional or new investments
- Strongly dependent on a dominant (single) supplier
- Poorly interconnected (if at all!). Small room for synergies
- With very limited access to third party supplies and routes
- With very poorly developed –non harmonized- market rules
- With substantial differences in import prices and –some times- heavily subsidized retail prices!
- No real trade between the countries and no competition!
- However, willing to support the diversification of gas supplies and the development of their immature gas markets and increase the links between them (all joined the “3<sup>rd</sup> package”)
- “desperately” looking for help from regional projects

## What a challenge!

---

- How to accommodate the TAP-business case and –in the same time- achieve as many benefits for the regional gas market as possible
- What conditions to impose if it were to grant to TAP and exemption?

## Did we manage?

- Only time will tell!
- However, we adopted a decision which:
  - Fully respects the TAP-business case (and the SDC one)
  - Fully respects the 3<sup>rd</sup> package (EC adopted the decision)
  - Accommodates the (existing and future) needs of Gr-Al-It
  - Allows the third parties in the EOI to book capacity immediately
  - Allows regional participants to book capacity every 2 years **to all directions** through TAP (full scalability up to 20 bcma)

## In particular

---

- The **initial** 10 bcma of TAP will be used to bring SDII gas volumes to Italy (Greece and Albania); All buyers of SDII gas will have capacity in TAP
  - The **additional** 10 bcma will be –potentially- allocated to all those who participated in the EOI of the market test, through the Binding Phase (within 2013)
  - What is left, will be offered to the market, every two years
  - Virtual reverse flow (min 5bcma) will be fully regulated and offered to the market at a Tariff equal to 5% of the forward flow
  - Additional entry and exit points will be built at any time; Three (2 in Greece and 1 in Albania) will operate immediately
  - A **common** regulatory framework is designed for TAP from all entries to all exits, including a Tariff Code and a Network Code
-

## Benefits for the SEE and the EU

---

- Immediate inflow of Azeri gas from the East to the West
- Immediate inflow of “Italian-African-EU” gas from the West to the East
- Potential for future gas inflows and outflows from various sources to various destinations
- Continuous possibility for gas trade, both for long and short term products (more than 10% of the capacity in the long run)
- Full compatibility with the future “hub-to-hub” Gas Target Model
- Provides all elements for breaking the “vicious circle” in the SEE gas market and contribute to its deepening, expansion and integration to the Internal Energy Market of the EU

---

# The Exemption “Package”

# TAP AG Application for Exemption

---

Submitted to the Authorities of Albania, Greece and Italy on August 2011. TAP-AG requested the following Exemptions:

- 1. For the Initial Capacity of 10 bcm/year:**
  - (a) from the requirement of TPA
  - (b) from **regulated tariffs**
- 2. For the Expansion Capacity in Phase II (10 bcm/year):**
  - (a) from **regulated tariffs**
- 3. From regulated tariffs for Reverse Flow**
- 4. From the unbundling provisions of the Third Gas Directive**
- 5. From the provisions of Gas Regulation**

Validity: **25 years** from the Commercial Operation Date



## Legal Basis

---

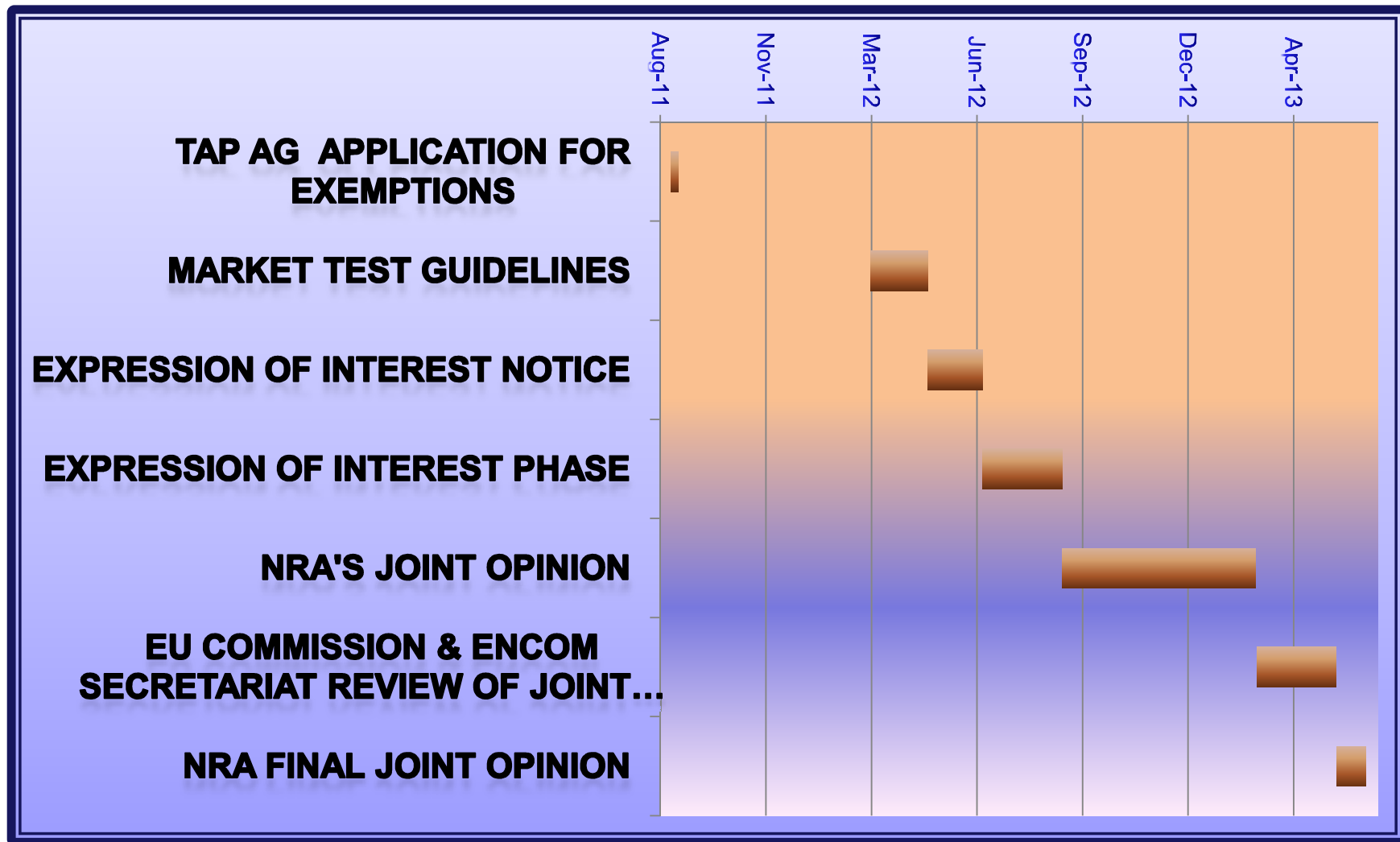
- **Italy and Greece -> Member States;**
    - Directive 2009/73/EC and Regulation 715/2009/(EC)
  - **Albania ->Contracting Party of the Energy Community;**
    - Directive 2003/55/EC and Regulation 1775/2005
- but;* Energy Community Treaty aim; Adoption of *Acqui Communautaire* in Energy by all Contracting Parties!
- Decision of En Com Council of Ministers Oct. 6, 2011;  
Directive 2009/73/EC and Regulation 715/2009 to be implemented by Contracting Parties by Jan. 1<sup>st</sup> 2015.

**ERE decision to adopt 3<sup>d</sup> package for the joint review of TAP AG Application for Exemptions !**

**Implementation of 3<sup>d</sup> package in the natural gas sector constitutes now an imperative priority for Albania!**

---

# NRA's Joint Process of Reviewing TAP Application



# The Market Test

---

- 19 Companies participated
  - 10 bcma for transportation of gas to be supplied under the SDC purchase and sales agreements to Italy (main destination market for TAP)
  - 14 bcma for gas from “non-specified” sources
  - 9,5 bcma for reverse flow to Greece and 1,4 to Albania
  - Low interest for short term products (less than 2 bcma)
  - 2 representatives of future transportation and supply schemes expressed interest for future use of the TAP route
  - The 2<sup>nd</sup> (binding) phase of the market test will pursue within the following three months
-

# JOINT OPINION !

---

## Content:

**Part 1: The Project, facts and figures**

**Part 2: Authorities' Analysis**

**Part 3: Article36.1 Criteria Assessment**

**Part 4: Authorities' Final Joint Opinion**

**(after amendment to reflect Commission Decision and  
Energy Community Secretariat Opinion)**

# Part 1: The Project, facts and figures

<b>1</b>	<b>The Project, facts and figures</b>	<b>1</b>
1.1	<i>The Project</i> .....	1
1.1.1	Origin of gas.....	1
1.1.2	Location of the infrastructure.....	2
1.1.3	Entry and Exit points.....	2
1.1.4	Capacity.....	3
1.1.5	Physical reverse flow.....	3
1.1.6	Timing.....	3
1.2	<i>Players involved in the Project</i> .....	3
1.2.1	TAP AG and its shareholders.....	3
1.2.2	Shah Deniz Consortium.....	4
1.3	<i>TAP AG's Exemption Application</i> .....	4
1.3.1	The requested exemptions.....	4
1.3.2	Products offered.....	5
1.3.3	TAP AG's financial model.....	5
1.3.4	Costs.....	7
1.3.5	Scenarios.....	8
1.3.6	Tariffs.....	9
1.3.7	Unbundling.....	11
1.4	<i>The Market Test</i> .....	11
1.4.1	The designed process.....	11
1.4.2	General principles of capacity allocation and management.....	12
1.4.3	Participation in the Expression of Interest phase.....	12
1.4.4	Object of the Expression of Interest.....	13
1.4.5	Market Test outcomes.....	14
1.4.5.1	Participants.....	14
1.4.5.2	Products requested and related quantities.....	15
1.4.6	TAP AG commitment to release capacity to Shah Deniz II buyers.....	20
1.4.7	Additional information on Turkish infrastructures.....	21

## Part 2: Authorities' Analysis

<b>2 Authorities' Analysis</b>	<b>22</b>
2.1 <i>Market Test Results</i>	22
2.1.1 Rationale behind the Market Test design	22
2.1.2 Results evaluation	23
2.2 Overview of natural gas markets in the relevant geographic areas	25
2.2.1 Italy	25
2.2.1.1 Natural gas supply infrastructures and gas demand	25
2.2.1.2 Regulatory framework	27
2.2.1.3 Market concentration	28
2.2.1.4 Contribution of TAP project to the Italian market	29
2.2.2 Greece	30
2.2.2.1 Natural gas supply infrastructures and gas demand	30
2.2.2.2 Regulatory framework	31
2.2.2.3 Market concentration	32
2.2.2.4 Contribution of TAP project to the Greek market	33
2.2.3 Albania	36
2.2.3.1 Natural gas supply infrastructures and gas demand	36
2.2.3.2 Regulatory framework	37
2.2.3.3 Potential of future market concentration	38
2.2.3.4 Contribution of TAP project to the Albanian market	39
2.2.4 Southern-East Europe	40
2.2.4.1 Current situation of natural gas supply infrastructure in Southern-East Europe	40
2.2.4.2 Regulatory framework	40
2.2.4.3 Contribution of TAP project to the Southern-East Europe market	41
2.3 Building of Expansion Capacity	42
2.4 Tariffs	43
2.5 Unbundling	43

## **Part 3: Article36.1 Criteria Assessment**

---

<b>3</b>	<b>Article 36.1 Criteria Assessment</b>	<b>45</b>
3.1	Eligibility of the request.....	45
3.2	Competition and Security of supply.....	45
3.2.1	Competition.....	46
3.2.2	Security of Supply .....	48
3.3	Level of risk .....	50
3.4	Separation from existing TSO's.....	51
3.5	Charges .....	52
3.6	The exemption must not be detrimental to competition or the effective functioning of the internal market .....	52

## **Part 4: Authorities' Final Joint Opinion**

---

**Reflects the EU Commission Decision and Secretariat of the Energy Community on NRA' Joint Opinion.**

<b>4</b>	<b>Authorities' Final Joint Opinion</b>	<b>54</b>
4.1	Initial Capacity, forward flow: Exemption from the requirement of Article 32 of the Gas Directive (TPA) .....	54
4.2	Initial Capacity, forward flow: Exemption from the requirements of Article 41.6, 41.8 and 41.10 of the Gas Directive (regulated tariffs) .....	57
4.3	Expansion Capacity forward flow: Exemption from the requirements of Article 41.6, 41.8 and 41.10 of the Gas Directive (regulated tariffs) .....	57
4.4	Reverse Flow: Exemption from the requirements of Article 41.6, 41.8 and 41.10 of the Gas Directive (regulated tariffs) .....	58
4.5	Exemption from requirement of Article 9 of the Gas Directive (Unbundling) ...	58
4.6	Exemption from the provisions of Gas Regulation (with exception of Article 19.4) .....	60
4.7	Additional Terms to safeguard full compliance to the criteria of Article 36.1 ...	60
4.8	Governance .....	64
4.9	Violation of the provisions of the present decision .....	64



## Initial Capacity: TPA regime (1):

---

Granted; Exemption from TPA from the Entry point in Greece to the Exit Point in Italy for the Initial Capacity of 10 bcma

Duration: 25 years starting from COD.

Subject to the following conditions:

1. *Gas will only be from Azerbaijan*
2. *Initial Allocation to TAP AG shareholders, but **very strict obligation** on them to transfer such capacity to all buyers entering into GSAs with Shah Deniz Consortium*
3. *Obligation to perform the **first Booking phase** and to **build the capacity reserved** under this within six months from the COD*

## Initial Capacity: TPA regime (2):

---

4. *Participation in the first Booking phase (EoI + TSO's)*
5. *Obligation to perform subsequent market tests (every 2 years)*
6. *Obligation to build Expansion Capacity (independent economic viability tests)*
7. *Possibility to further expand capacity (beyond 20 BCM)*
8. *Obligation to offer short-term products:*
  - *5% of the Initial Capacity, and*
  - *10% of the actually built Expansion Capacity;*

## Initial Capacity, Tariffs:

---

**Granted:** Exemption from the requirements of Article 41.6, 41.8 and 41.10 of the Gas Directive (regulated tariffs)

**Duration:** 25 years from COD.

**Subject to:** the following conditions:

1. *TAP Tariff Code to be approved by NRA's (within 3 months)*
    - *Uniform Tariff for all forward flow products*
    - *Efficient costs, transparency, non discrimination*
    - *Pricing for different products and entry-exit points*
    - *Tariff will be reduced as capacity expands*
    - *NRA's shall monitor implementation of the Tariff Code*
  2. *Balancing services' charges, when applicable, will be objective, transparent, cost reflective and non-discriminatory and will be published.*
-

## Expansion Capacity forward flow:

---

Granted: Exemption ONLY from regulated tariffs

Duration: 25 years.

Subject to: the following conditions:

1. *capacity products will be offered through **auctions**, as a result of a Market Test,*
2. *for each product offered, the **reserve price** of the auction will be set equal to Uniform TAP Tariff (same for Initial and Expansion Capacity),*
3. *Premiums will be allocated back to the consumers*

# Reverse Flow

---

**Request Rejected:** The requested Exemption from the requirements of Article 41.6, 41.8 and 41.10 of the Gas Directive (regulated tariffs) rejected due to its expected negative effect on competition.

**Reverse flow will be regulated,** with the following additional restrictions:

1. *Reverse Flow capacity products will be offered through **auctions***
2. *Reverse Flow Tariffs not higher than **5% of the respective forward flow product.***
3. *At least **5 bcm/y capacity** is provided **for physical reverse flows** for emergency operations;*
4. *At least **5 bcm/y capacity** is provided for reverse flows **for commercial operations***

# Exemption from requirement of Article 9 of the Gas Directive (Unbundling)

---

**Granted:** Exemption from the provisions of Article 9.1 of the Gas Directive.

**Duration:** 25 years from COD

**Subject to** the following conditions:

1. *TAP AG, prior to allocating capacity as a result of the first Booking Phase (i.e. within the next three months) has to implement **functional unbundling**.*
2. *Prior to its COD, TAP will be following the **ITO model**, adjusted with the view to accommodate the specificities of the exemption decision*
3. *Full **certification** in accordance with Article 10 or 11 of the Gas Directive*

# Exemption from the provisions of Gas Regulation

---

Article 30 of the Gas Regulation, provides that it can be possible to grant the requested exemption to fully exempted infrastructure.

*But:* As TAP is not fully exempted then exemption from all provisions not justified,

*However;* full implementation of Regulation might have negative impact on TAP

*Therefore;* TAP AG will have to comply with the provisions of Gas Regulation, as long as they are not in conflict with the provisions of the exemption decision!

# Additional Terms to safeguard full compliance to the criteria of Article 36.1 ..... (1)

---

## 1. *Obligation to issue the **Network Code** (NRA's to approve)*

- i. Detailed procedures for normal operations;*
- ii. All procedures necessary for the secondary trading, including a so-called “electronic-bulletin board”;*
- iii. Congestion Management Procedures and use-it-or-lose-it arrangements;*
- iv. Procedures for the publication of data regarding the operation and the availability of capacity to all users of the pipeline;*
- v. The Network Code will be in full compliance with all provisions of the EU-Network Codes** (existing and anticipated) which do not hamper the implementation of the Exemption Decision



# Additional Terms to safeguard full compliance to the criteria of Article 36.1 .....(2)

---

## 2. *Pro-competitive measures for the **Italian market***

- *It. ensures an ex-ante check in case of changes in relevant rights.*
- *Importers to obtain the Ministry's prior authorization.*
- *Confirmation required in case variations of conditions vs. Exempt.*

## 3. *Capacity caps for dominant players in **Italy***

- i. Undertaking with market share 40% or larger not allowed to reserve more than 50% of the exit capacity .*
- ii. In case two/more undertakings holding together market share of at least 80% and each one having more than 20%, AEEG will have the right to impose a capacity cap on undertakings on the TAP exit point.*
- iii. Derogations can be made by AEEG in case of capacity underutilization*

# Additional Terms to safeguard full compliance to the criteria of Article 36.1 ..... (3)

---

## 4. Connection with **Greek system**

- *In cooperation with DESFA, TAP AG will implement and put in operation from the commercial operation date of TAP, **one or more connections** with the existing Greek National Transmission System (ESFA)*
- **Costs** to be borne by the regulated tariffs of ESFA

## 5. Obligation to build additional entry and exit points in **Greece**

- *TAP will construct additional entry and exit points in the territory of Greece, as long as such construction is **technically feasible**.*
- **Costs** to be borne by the third party
- *Capacity caps for dominant players in **Greece***

## 6. Capacity caps for dominant players in **Greece**

- *Similar to the ones for Italy*

## 4.7 Additional Terms to safeguard full compliance to the criteria of Article 36.1 ..... (4)

---

### 7. *Obligation to build exit points in **Albania***

- *TAP AG will construct and operate from its COD, **at least one exit point** in the territory of Albania*
- *Additional entry and exit points in Albania to be constructed no later than 2 months following the closing date of a market test. Opinion from **an independent third party** in case TAP AG seeks to demonstrate that the construction of additional entry and exit points is not technically feasible*

### 8. *Obligation to expand existing and/or build additional entry and exit points in **Albania***

- **Costs** to be borne by the interested parties.

## 4.7 Additional Terms to safeguard full compliance to the criteria of Article 36.1 ..... (5)

---

### 9. Capacity caps for **dominant players in Albania**

- i. *No gas supplier may hold more than 80% of the transportation capacity of the TAP exit points in Albania for the initial period of 10 years.*
- ii. *TAP AG will inform ERE in good time of any request of a third party, as referred to in points 7 and 8 above, so that ERE can express its preliminary or final opposition.*
- iii. *Where due to lack of interest by other parties, derogations from caps associated with volume and capacity releases*
- iv. *undertakings belonging to the same group of companies shall be considered together*
- v. *Shippers on the TAP pipeline shall not sell more than 50% of the total amount of gas supplied through the exit point(s) in Albania to one undertaking buying gas for the markets in Albania, for the first five years however derogations in special cases.*

## 4.7 Additional Terms to safeguard full compliance to the criteria of Article 36.1 ... (6)

---

### *10. Auctions revenues*

- *Any extra revenue beyond the reserve price, from the auction procedures as for §4.3 and §4.4 is transferred by TAP AG to a special fund to be at the disposal of Authorities to be redistributed to final customers.*

### *11. Changing in TAP shareholding*

- *TAP AG must notify such change to each of the relevant national authorities concerned which must then assess control of concentrations (relevant EU Regulations)*

## 4.8 Governance

---

### 1. *Regulatory Cooperation*

- *Authorities shall endeavor all efforts to act jointly!*

### 2. *Dispute settlement*

- *Authorities shall issue a joint decision on the settlement of disputes in relation to this joint decision which may arise during the operation of TAP.*

## 4.9 Violation of the provisions of the present decision

*Infringements may result in a penalties*

*Serious violations can lead to withdrawal of Exemptions.*

# Commercial Operation Date and Effect of the Joint Opinion

---

- *Commercial Date of Operation: TAP shall be put into operation no later than 1 January 2019.*
- *Lost of its J-O effect; 3 years from its adoption unless for reasons beyond control*

## ***Full Text of the Decision in:***

### **RAE website:**

**[http://www.rae.gr/site/file/categories\\_new/about\\_rae/actions/decision/2013/2013\\_A0269?p=files&i=0](http://www.rae.gr/site/file/categories_new/about_rae/actions/decision/2013/2013_A0269?p=files&i=0)**

### **ERE website:**

**<http://ere.gov.al/mat.php?lang=1&idm=490&idr=189>**

**AEEG will also publish very soon.**

## Contacts:

---

**Thank you for your attention!**

**Michael Thomadakis**

Regulatory Authority of Energy  
Greece

Email: [mthom@rae.gr](mailto:mthom@rae.gr)

**Shkëlqim Bozgo**

Energy Regulatory Entity  
Albania

Email: [shbozgo@ere.gov.al](mailto:shbozgo@ere.gov.al)

**Vincenzo Cioffo**

Autorità per l'Energia Elettrica e il Gas  
Italy

Email: [vcioffo@autorita.energia.it](mailto:vcioffo@autorita.energia.it)