

# CHAPTER IV: REGULATION

## CURRENT STATE AND PROPECTS OF LNG IN THE UNECE REGION

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*Regulation, deregulation, competition and various combinations of them are not good or bad in the abstract...to make the right choice requires that we carefully balance the advantages and disadvantages of different institutional arrangements in light of the characteristics of the products and firms to which these institutions will apply.*

**Paul Joskow**, professor of economics, MIT



# Chapter IV outline

1. Regulatory evolution and trends.
2. Strategic issues affecting regulation in importing countries.
3. Authorisations & licences.
4. Unbundling requirements.
5. Access to LNG regasification terminals in Europe.
6. Access to LNG regasification terminals in America.
7. SWOT analysis.



# 1. Regulatory evolution and trends

Detailed review of LNG regulation at a European level, in the USA, and in Japan, 3 areas where different regulatory models have been adopted.

LNG regasification terminals:

part of the downstream? → essential infrastructures which must be regulated just like the transmission business

part of the upstream? → no regulation should be imposed on them.



# 1. Regulatory evolution and trends

## EUROPE

First Gas Directive (1998): rTPA / nTPA.

Second Gas Directive (2003): rTPA / exemptions

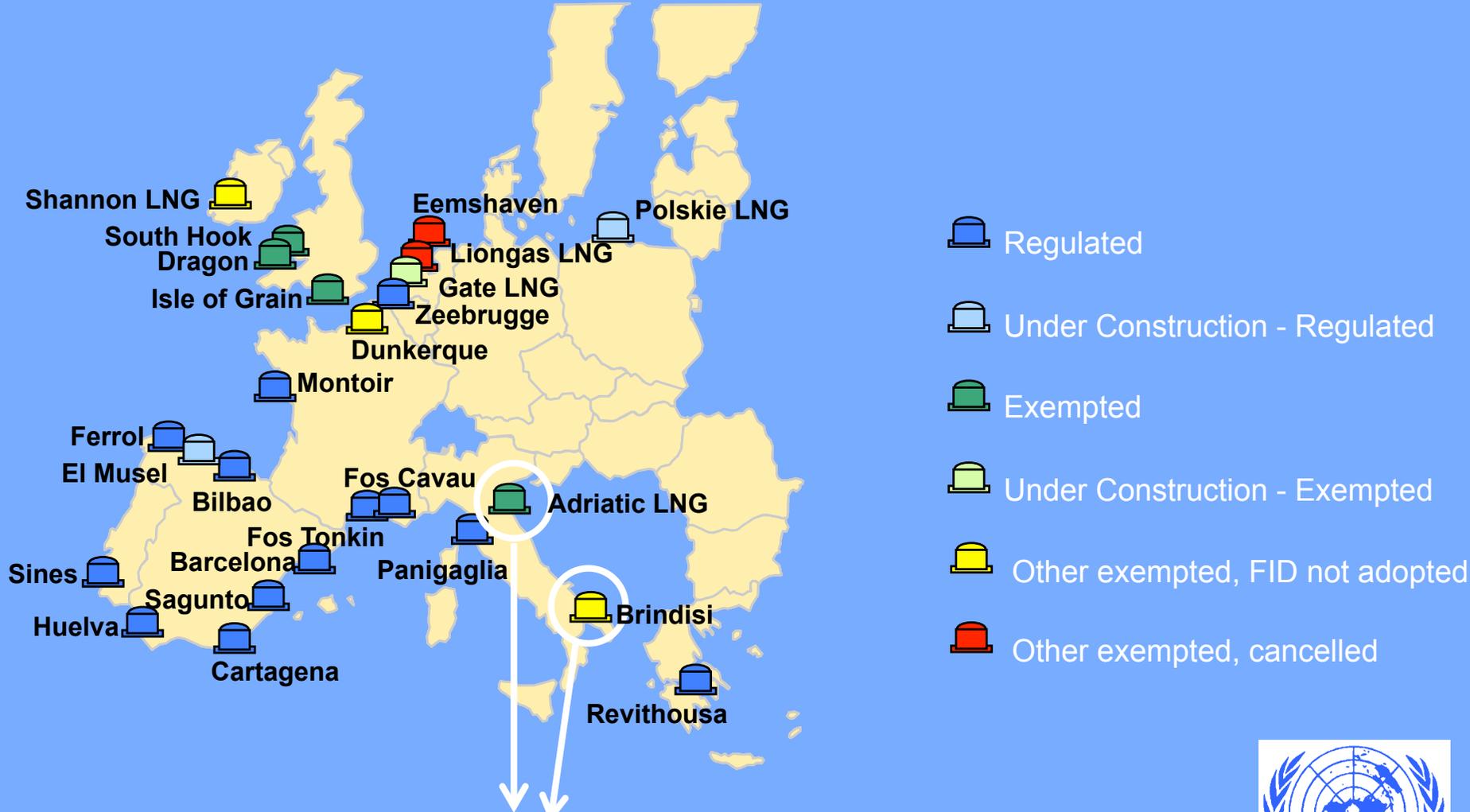
Third Package (2009): new Regulation also applicable to LNG!

Focus on effective unbundling, transparency, and effective access (CAM/CMP, UIOLI, secondary markets,...)

In Europe nowadays both regimes coexist, sometimes even applied to the same physical terminal.



# 1. Regulatory evolution and trends



Partially exempted!  
80% exempted / 20% rTPA



# 1. Regulatory evolution and trends

## USA

Terminals had traditionally been subject to open access obligations.

In 2002 the Hackberry decision changed the landscape.

Later codified in the Energy Policy Act in 2005.

All terminals built in the last decade are, thus, exempted from open access obligations. However, three historical terminals remain subject to open access obligations.



# 1. Regulatory evolution and trends



Open access



Open access not required



Open access not required  
under energy policy act  
2005



# 1. Regulatory evolution and trends

## JAPAN

TPA subject to negotiation between the parties concerned. Guidelines to ensure the fairness of transactions → jointly published by the METI and the JFTC in August 2004.

Guidelines state that it is desirable that LNG terminals create manuals for negotiations about TPA, and that they make sufficient information disclosure with regard to the capacity of LNG terminals, the current status of capacity utilisation and plans for future utilisation.

As of March 2007, since 12<sup>th</sup> August 2004, 14 companies had already published basic information and guidelines for a total of 23 terminals (out of 27 LNG terminals in Japan in 2007) → but no TPA in practice!



## 2. Strategic issues affecting regulation in importing countries

LNG bring benefits in terms of security of supply, flexibility and competition, among others, that are frequently taken into account by authorities when designing regulations. LNG has also some drawbacks or disadvantages vs piped gas that cannot be ignored.

- Security of Supply / Diversification of Supply.
- Flexibility of Supply.
- Liquidity
- Effect on prices
- Competition

*References to other sections of the study*



# 3. Authorisations & licences

Regulation not only regards aspects like access to infrastructures or the determination of allowed revenues, but also the conditions to build them.

Time-consuming procedures and negotiation in order to obtain the necessary authorizations with different government levels and agencies (in particular, in an increasingly environmental-sensitive world). A wrongly-designed regulation on authorisations may neutralize the positive effects of a good regulation in other areas.

Section 3 → Snapshot of authorisations and licence requisites in different regions, in particular in USA and Spain, where LNG terminals are based on fundamentally different regulatory models, but these regulation have not been an obstacle for the successful development of several projects.



# 4. Unbundling requirements

Unbundling requirements over LNG regasification operators are present in some regulatory regimes. These requisites, aimed at ensuring effective independence of LNG operators, are naturally related to the regulatory access model.

In general:

- no requirements where LNG regas is considered part of the upstream → no TPA
- different requirements where LNG regas is considered part of the downstream: from accounting/legal unbundling to ownership unbundling → TPA



# 4. Unbundling requirements

## Company profile of players in the EU

Vertical integration vs. ownership unbundling.



# 5 & 6 Access to LNG terminals

## EUROPE & NORTH AMERICA

- ...
- Charges and penalties for imbalance, cancellation and other, including Ship-or-Pay and minimum payment obligations.
- Financial Guarantees.
- Secondary market.
- Limitation in vessel size.
- Force Majeure.
- Ship Approval Procedure at LNG terminal..
- Standard contracts.
- TPA tariffs.
- Capacity booking procedures.
- Effective access.



# 5 & 6 Access to LNG terminals

## EUROPE & NORTH AMERICA

- Access rules.
- Services offered.
- Capacity allocation procedures.
- Long term/short term capacity offering requirements.
- Contracts duration.
- Programming / Nomination procedures.
- Congestion management procedures.
- UIOLI.
- Method for calculating usable, available and unused capacities.
- Send-out requirements.
- Balancing regime/ Management of LNG stock levels.
- Own consumption record and gas in kind.
- ...



# 7 SWOT analysis

SWOT analysis of regulated and non-regulated regimes.

As cited at the beginning of this presentation, regulation, competition, or various combinations of them are not good or bad *per se*, and the decision made by regulators needs to take into account many variables.

These analysis aim at summarising when one or the other regime is likely to be more suited to a particular market.

Preliminary findings – results under discussion



**THANK YOU FOR YOUR  
ATTENTION**

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