



Public Consultation on the Guidelines for Good Third Party Access Practice for LNG System Operators (GGPLNG)

Evaluation of Comments

Ref: E08-LNG-06-02

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1 Introduction

The purpose of this paper is to summarize the views ERGEG received in response to the Guidelines for Good Third Party Access Practice for LNG System Operators consultation paper :“Preliminary Guidelines for Good Third Party Access Practice for LNG System Operators (GGPLNG) – An ERGEG Public Consultation Paper”, Ref: E07-LNG-03-06.

GGPLNG main objective is establishing common rules to guarantee transparent, non-discriminatory and appropriately homogeneous TPA to LNG regasification facilities. In this line, GGPLNG comprises general principles in relation to access tariffs, TPA services, capacity allocation mechanism, congestion management procedures, transparency requirements and trading of capacity rights. TPA services are extensively considered: this chapter describes general provisions on roles and responsibilities of LSOs and users, necessary TPA services to be offered in the LNG terminals, cooperation with interconnected system operators, maintenance and disruptions, confidentiality and impartiality and other operational requirements, like scheduling procedures for cargoes unloading or gas quality.

As part of the process to develop the GGPLNG, ERGEG considered the need to submit the draft GGPLNG to a public consultation which was launched on 11th December 2007. A specific questionnaire on the GGPLNG key issues was designed for the procedure, although additional comments on the GGPLNG were also welcomed. Most of the questions were seeking views on the grade of prescriptiveness of the GGPLNG and the level of harmonization desirable in the European LNG terminals. The aim of this step was to collect the opinion of all the agents involved, since they are actively participating in the LNG market and can provide the best insight regarding what provisions the GGPLNG should contain, in order to produce useful Guidelines on LNG, consistent with the current situation of the LNG in Europe.

The ERGEG consultation closed on 23rd January 2008. 19 responses were received from 18 stakeholders, 4 of which were confidential. Table 1 shows the list of non-confidential respondents and their origin. All non-confidential responses have been published on the ERGEG website. It is important to highlight that not everyone answered all the questions included in the consultation paper.

ERGEG would like to thank all the organisations for their valuable contribution. ERGEG is pleased with the level of stakeholder engagement and grateful for the number of responses that have been submitted regarding this consultation. The regulators within ERGEG, feel that this indicates the importance and interest of these guidelines.

After analysis of the comments received, ERGEG has published the final version of the GGPLNG (E08-LNG-06-03) taking these comments into account.

Table 1 – List of respondents

Respondents		Country
Adriatic LNG	Joint venture company (Qatar Terminal Limited, ExxonMobil Italiana Gas, Edison) building and in the future operating a regasification terminal in Italy, in the Adriatic sea	Italy
BG Group	Active in gas exploration and production, LNG, Transmission and distribution and power	UK
Centrica	Owner of supply and gas storage companies	UK
EdP Gás Com.	Gas distribution and supply company	Portugal
EFET	European federation of energy traders	EU
Eni Gas & Power	Gas producer and supplier	Italy
EuroGas	The European Union of the Natural Gas Industry	EU
Gas Natural	Gas distribution and supply company	Spain
GEODE	The association of European independent distribution companies of gas and electricity.	EU
GLE (2 responses)	Gas LNG Europe association	EU
IFIEC	International Federation of Industrial Energy Consumers	EU
National Grid	Electricity and gas transmission and distribution company	UK
Naturgas Energía Group	Energy supply, transmission and distribution group	Spain
Shell Energy Europe BV	Pan-European gas marketing business of Royal Dutch Shell	Holland

2 Consideration of responses

All the respondents welcomed the opportunity to comment on the GGPLNG consultation document and contribute to the further development of the Guidelines, appreciating ERGEG's effort to develop the Guidelines.

LNG is valued as a key factor in terms of security of supply, supply diversification and enhancement of competition. Most of the respondents consider that harmonization of provisions regarding LNG terminals will generate a more reliable framework, improve interoperability, and contribute to market liquidity and to the creation of a competitive European single market. However, the general feeling is the need of not being too prescriptive, establishing provisions which allow flexibility to adapt to technical specificities of each facility and the particular market and regulatory context. Only one stakeholder considers the GGPLNG should be more prescriptive regarding most of the issues covered in the document.

Additionally, the establishment of a right balance between regulation and market has been largely referred. In some cases, it has been mentioned that the market should be free to deliver innovative products/mechanism to meet demand, instead of imposing prescriptive solutions.

Access to downstream networks has been also referred by some agents as more important than access to LNG terminals in enabling competition.

As some of the respondents point out, ERGEG recognises the difficulty to get to a common position on some points referred to in the GGPLNG. Lack of understanding has driven companies to send additional comments to those sent by the association to which they belong. Consequently, ERGEG will search for a great level of agreement before introducing changes in the GGPLNG.

2.1 General comments on the GGPLNG necessity, scope of application, grade of prescriptiveness and possible implementation impacts

Questions in the consultation document:

- ◆ *The GGPLNG aim is to boost effective, appropriately homogeneous and non discriminatory, third party access to European LNG terminals without being detrimental to new investments. How could TPA/harmonisation and investment be conciliated?*
- ◆ *The GGPLNG aims at facilitating harmonisation of services, procedures, conditions... in order to foster interoperability and facilitate access to regulated LNG facilities. To what extent is harmonisation of regulated access procedures convenient/possible? Which areas should be harmonised (i.e. transparency, network code procedures, balancing rules, etc.)? Is the current degree of detail and prescriptiveness of the GGPLNG considered adequate? Is the need for common EU-wide requirements adequately balanced against the need for flexible rules?*

- ◆ *Considering the voluntary character of the GGPLNG it would be interesting to know what transitional effects you think the GGPLNG implementation could cause, and what could the implementation cost be in your particular case. Are you going to get benefits (commercial, decrease of management cost, etc.) with the GGPLNG application?*
- ◆ *The GGPLNG do not apply to terminals exempted under Article 22 of Directive 2003/55/EC. In your view, could there be any value for regulators to use some recommendations in the GGPLNG as an input when adopting individual exemption decisions (for example, as approval requirements when granting a conditional exemption). If yes, please explain why and with regard to which aspects of the GGPLNG (e.g., services definition, transparency obligations, etc.)?*

ERGEG's statement in the consultation document:

The ERGEG consultation document indicated that the GGPLNG concern LNG facilities in accordance with Article 18 of the European Directive 2003/55/EC, which establishes the implementation of a rTPA system to LNG facilities, based on public tariffs whereby at least the tariff methodologies are approved by the regulatory authority prior to their entry into force.

The GGPLNG do not go beyond the Directive 2003/55/EC in creating or restricting TPA rights, and are intended as a possible input from ERGEG for an amendment to Regulation 1775/2005 and its annexes. As recognised in the text, the GGPLNG are not binding Guidelines so LSOs are free to apply them on a voluntarily basis.

Stakeholders' responses to the consultation document:

The majority of responses agreed that investments are fostered by stable and predictable regulatory environments which assure investments recovery and preserve the rights of primary users. Harmonization should focus on general principles and must consider particular markets and technical factors of each facility. Harmonization of investment incentives and development of an investment plan, identifying required LNG terminals, have been also proposed.

Regarding the GGPLNG grade of prescriptiveness, three stakeholders declared that the GGPLNG are of sufficient detail and cover all the relevant subjects. Only one expressed concern that a compulsory GGPLNG, in its current form, could introduce market inflexibility and may be used to develop NRAs' powers. There is almost full agreement amongst respondents that harmonization should be applied when practicable and appropriate, and that a high degree of prescriptiveness may be counter-productive. With this view, stakeholders consider possible/convenient harmonization of certain common operational areas, definitions and procedures. The most frequent areas are transparency, ship approval procedures, terminology used (one stakeholder estimates that clearer definitions should be established) and nomination rules. Common regimes for the release of unused capacity in terms of minimum size of a slot and notice periods, confidentiality, roles and responsibilities, capacity allocation and contracting procedures, ship vetting and arrival, tariff structure, gas quality requirements and short term capacity offer requirements are also referred in some of the responses received.

In general, responses regarding the effects of GGPLNG implementation referred to incremental costs for LSOs, but also benefits, i.e., from a more efficient management. Only two respondents consider not detrimental impact or hard implementation cost. However, no concrete figures are provided. In some cases, cost and benefits assessments are estimated as different for each LSOs/users depending on the business model, regulatory framework and technical features; recommendations on the need to perform carefully assessments are included.

The opinion that the GGPLNG should not apply to the LNG terminals under article 22 of the Directive 2003/55/EC is common among the respondents, six of them, since it may act against investment commitments. Nevertheless, five stakeholders judge that, to some extent, the Guidelines can be used by regulators in assessing future exemption requests and establishing the regulatory regime development for these terminals, although not in a retrospective application. In two cases, application of some minimum requirements to exempted terminals is estimated as useful. Only one stakeholder goes further and expresses that the GGPLNG should be binding not only for all regulated LNG terminals but also for new exempted terminals.

ERGEG's comment on stakeholders' feedback:

ERGEG recognizes that LNG terminals mean significant investments for investors and agrees with undertakings' view that a stable and consistent regulation, taking into account specificities of each LNG terminal and its market environment is needed. Therefore, the current Guidelines provide general common rules that, in general, are welcome, by stakeholders.

ERGEG is encouraged by the responses because many of them support a certain degree of harmonization in LNG terminals, where possible and convenient. ERGEG appreciates that respondents have identified the areas where harmonization is required, and will focus on the aspects that are more able to be harmonized, paying special attention to transparency.

Although some respondents suggested that shippers could benefit from a longer term convergence of regulated and unregulated access regimes, most pointed out that the GGPLNG should only apply to regulated terminals and that exempted ones should remain out of their scope. This principle was reflected in the original version of the GGPLNG and will continue to be reflected in the final version.

2.2 Tariffs for access to the system

Questions in the consultation document:

- ◆ *The GGPLNG establish that tariff structure should be reviewed on a regular basis. Would the GGPLNG fix a minimum and/or maximum frequency for such a review? Which frequency(ies) should be the appropriate?*

ERGEG's statement in the consultation document:

Provisions on tariffs included in the GGPLNG reflect the need of implementing cost-based transparent tariff structures and regimes, which will assure an appropriate return on investment and will be applied in a non-discriminatory manner. The Guidelines include the need of defining charges considering two concepts: part of the price must correspond to the capacity booked (fixed charge for all the capacity contracted) and the other to the effective use of this capacity (commodity charge which will depend of the capacity effectively being used).

Cost associated with gas quality adjustment is also mentioned, to be paid by the LNG users that require this service.

Stakeholders' responses to the consultation document:

Nearly all the responses state that tariffs structures should be stable and reviewed only under concrete circumstances. NRAs are the only organism referred to be appropriate to define the review period. Also, changes in tariffs are recommended to be done in a transparent way: public consultations are proposed. Two stakeholders underlined the importance of avoiding cross-subsidies in tariff design.

Two stakeholders advised on the subjective component of the concept of efficiency and on the difficulties in finding structurally comparable LSOs.

ERGEG's comment on stakeholders' feedback:

Although GGPLNG statements on tariff revision already include the need for a balance between tariff stability and cost reflectivity, ERGEG will take into account stakeholders concerns and will emphasize the requirement for tariff structure stability. Therefore, tariff structure revision would be carried out when necessary, according to market needs, monitored by the NRAs. GGPLNG will also reflect transparency suggestions in the reviewing process.

Due to the different possibilities, in order to make the services reflect real cost, provisions referring to efficiency and comparable structures in the GGPLNG have a general character and try to avoid LSOs imposing tariffs which may be too high, resulting in a barrier for small shippers or new entrants. So, it is important to keep the efficient concept in the GGPLNG.

2.3 Necessary TPA services

Questions in the consultation document:

- ◆ *The GGPLNG assume that there may be benefits for the liquidity of the capacity market and for the system efficiency in offering not bundled and interruptible services in addition to bundled and firm services¹⁷. Do market players agree with this statement? What could be your interest in offering/contracting not bundled services and/or interruptible capacity? What type of services should be offered as no-bundled? What type of services should be offered as interruptible? Should the GGPLNG be more/less prescriptive on these issues?*
- ◆ *The GGPLNG recommend that standard bundled services are defined after market consultation, especially concerning the flexibility included. In line with that, they emphasise the importance of taking into account the LNG facility's technical constraints. Do you agree with this approach? Would a more prescriptive approach regarding the parameters for the definition of standard bundled services and their flexibility be feasible and/or more appropriate?*
- ◆ *According to the proposed GGPLNG, the LSO shall offer on the primary market long-term and short-term services at LNG facilities. Do you consider, from a TPA perspective, that any further guidance can/should be given with regard to a balance between long and short term services?*
- ◆ *Requests have been made during the July pre-consultation with stakeholders for specific standardised regasification contracts (e.g. front month contract) that aim to facilitate the trading of the regasified LNG on natural gas markets. What type of standardised services could be offered by the LSOs? To what extent would these services be compatible with technical constraints (e.g. available storage capacity), the efficient operation of each terminal and innovation in the offering of terminal services? How prescriptive should the GGPLNG be about standardised contracts?*
- ◆ *Considering that harmonised network codes should take into account specificities of each terminal, which issues could be common and under which conditions?*
- ◆ *Electronic communication tools seem to be the most suitable means for the LSOs to exchange information with the terminal users. What type of platform could be needed? What services should be available on it (e.g. secondary market, nominations, etc.)? Should a simplified system based, for example, on fax transmission be envisaged in certain cases and, if so, when?*
- ◆ *Even though several platforms already exist and software could be copied to a certain extent, the development of electronic communication tools represents a certain cost. Do you think the cost/benefit ratio would be acceptable?*

ERGEG's statement in the consultation document:

LSOs applying the GGPLNG must offer on the primary market bundled and unbundled, long term and short term, firm and interruptible services, all of them developed with proper consultation to terminal users and other market participants, supervised by NRAs. Each service shall be described with sufficient detail in order to avoid any misunderstanding.

The GGPLNG considers electronic communication tools as the appropriate mean to provide data to terminal users. On-line screen-based (re-)nominations, short-term capacity booking and transfer of capacity rights among users must be assured. LSOs shall answer to terminal users' applications and make relevant information public in a time frame compatible with the LNG facility users' reasonable commercial needs.

Stakeholders' responses to the consultation document:

There appears to be an overall strong agreement among the respondents that service's design must take into account the characteristics/constraints of the LNG terminal, the business model and the market needs. Several responses point out the need to allow different services types and features evolving according to market demand.

Unbundled components trade is referred to be limited, since the services are intrinsically linked but, in general, interruptible and unbundled services are considered as useful and a way to improve liquidity and efficiency. However, some respondents consider that offering unbundled services must not compromise the terminal integrity, so bundled services should have priority. Only one stakeholder suggests that offering unbundled services, detrimental of bundled ones, might not be always inefficient. There's also one respondent doubting the level of interests in offering unbundled and interruptible services at LNG terminals.

A more precise definition of unbundled services in the GGPLNG is required by three stakeholders, while others defend a non-prescriptive approach to this issue. The offer of unbundled services upon user's request is also mentioned as a possibility. Services proposed as susceptible to unbundling are: unused slots, swaps of components of bundled services between terminal users, additional send-out capacity and temporary storage comprising berthing.

Some stakeholders expressed their agreement with the level of bundled/standard services description in the GGPLNG. In two responses, a previous market consultation is recommended before defining standard services. Issues identified by the two stakeholders to be considered, when defining bundled services are: (i) the characteristics of the downstream network and the market to which the LNG terminal is connected, (ii) the location of the terminal, (iii) gas quality requirements, (iv) national laws and regulations, and (v) contracts that have already been signed in relation to the services offered.

Opinions on offering long term (LT) and short term (ST) services differ. Since ST services help new entrants and enhance the terminal efficient use, some responses state that a balance between ST and LT services in the terminal should be reached (one stakeholder suggests reserving 20% of the total send out capacity to ST contracts), and leave the decision on percentages to the NRAs. However, others respondents recommend a well functioning secondary market as an equivalent alternative to short-term contracts, or ST capacity only available at the end of long term annual capacity contracting procedure. With regard to the GGPLNG, one stakeholder thinks it should be more precise in its description of nature and duration of ST services. On the contrary, others argue that the market should be the one defining if ST services are interesting.

Establishing standard contracts is also a controversial issue. Harmonization of contracts, when possible, and at least for a certain minimum content, i.e. terminology and access rules, is defended by some stakeholders, while others are in favour of submitting contract standardization to consultation with the market. Also, it is suggested that contract standardization in the GGPLNG should leave room for adjustment to market needs. In some case, it is explained that further specifications are the responsibility of NRAs.

Almost every stakeholder agrees that transparency (data type, format, timing, etc.) is the area where harmonization is more appropriate. Other areas, sometimes specifically indicated, are confidentiality, roles and responsibilities, terminology employed in the procedures, coordination of certain operational aspects such as ship approval procedures, communication protocols or nomination rules.

In the same way, a web-based platform is given strong support as the best communication tool. However, other mechanisms have been proposed, i.e. bulletin boards, fax or e-mail, useful, under certain circumstances, i.e., for new market entrants whilst integration with systems took place. The cost of a web-based platform has been judged difficult to evaluate, and stakeholders consider it might differ among LSOs. Some stakeholders pointed out that the GGPLNG should only refer general principles with regard to clarity, format, data accessibility and not be over prescriptive on IT systems.

ERGEG's comment on stakeholders' feedback:

ERGEG appreciates the reminder about the need to take into consideration the terminal features, market environment and regulation applicable when defining TPA services, so this will be considered in the GGPLNG.

There are many different views concerning all the issues contained in this GGPLNG section (bundled and unbundled services, long term and short term services, interruptible services, standard contracts, etc.). However, it is possible to point out a few areas where there appears to be a certain agreement. This occurs in the case of the preference for bundled services instead of unbundled. The GGPLNG already explain that unbundled services can not act detrimentally against the terminal efficient use; nevertheless, a stronger provision will be put in place. However, it won't mean the removal of the LSOs possibility to offer unbundled services, where possible. A second point of respondents convergence is that the most appropriate area for harmonization is transparency, which explains why the GGPLNG are more specific and detailed on this issue.

ERGEG underlines that some points indicated by stakeholders, in particular, the need for market consultation when defining services to define the conditions, and a certain minimum level of harmonization regarding terminology and access rules, are already taken into consideration in the GGPLNG.

It is ERGEG's view that long and short term services, since they are defined by Regulation 1775/2005, would also apply to LNG terminals.

Consequently, with most of the responses, a web-based platform, as well as possible alternative tools, will substitute the current writing on electronic means.

2.4 Other requirements to assure proper TPA services

Questions in the consultation document:

- ◆ *The GGPLNG consider the cooperation between LSOs when putting in place compatible scheduling procedures in order to facilitate capacity trading and interoperability between European terminals. Do you think that such a harmonisation of scheduling procedures is desirable? Would it be necessary and proportionate to introduce some minimum harmonisation of these procedures within the GGPLNG to facilitate capacity trading and interoperability between European terminals? What requirements can be envisaged?*

ERGEG's statement in the consultation document:

Cooperation among LSOs and interconnected system operators is envisaged in the GGPLNG with the aim of ensuring interoperability between systems. The described cooperation is proposed for compatible services (consistent contracts content), compatible operational procedures, maintenance, disruption, as well as coordinated access.

Cooperation among LSOs when putting in place scheduling procedures for cargoes unloading is also required by the GGPLNG, in order to facilitate capacity trading and interoperability between European terminals. Nevertheless, the GGPLNG recognises the need to bear in mind specificities of each terminal and market when performing this function.

Stakeholders' responses to the consultation document:

Numerous concerns have been raised with regard to downstream access. Some respondents indicate that the most significant barriers to competition, in the internal market for gas arise downstream to the LNG access points. This situation leads one stakeholder to hint at the possibility of making access to the downstream network automatically available when proving regasification capacity to the terminal users. Some companies believe that coordination between LSOs and downstream TSOs should be well established and ruled, specifically with regard to interoperability, scheduling procedures, maintenance programs and annual unloading program notifications requested by LSOs. Coordinated Open Season procedures in order to provide sufficient entry capacities into the transmission networks are also proposed. In this sense, some positive experiences of coordinated open seasons have been shown as examples (i.e. between Fluxys and GRTgaz) improving not only booking capacity procedures but interoperability (balancing), allocation, etc. One respondent links releasing of capacity when unused in the LNG terminal to releasing of the associated pipeline capacity.

On the opposite side, there's one stakeholder pointing out that automatic access to the adjoining transmission system should be granted, once one has obtained regasification and send-out capacity for an LNG terminal. This agent notes that it may not always be the case that there will be matching firm entry capacity available on the TSO side, particularly in regimes where entry rights can be exchanged between entry points. The issue impacts not just LNG but also affects parties either side of storage and interconnector facilities. Contractual links between capacity given by LSOs and the one given by TSOs are required, before simplifying access to both systems.

Harmonization of scheduling procedures, when practicable and while not restricting the use of capacity by primary users, receives strong support by the majority of the respondents, since it improves interoperability of the market. Harmonization of timeframes for issuing the annual and quarterly program notifications, uniform lead times for scheduling and standard units of measure are also quoted. In some responses it is assured that, however, harmonization is only possible for those terminals which share certain factors.

Two stakeholders classify the statement on scheduling cooperation among LSOs as confusing. They estimate that the objective of LNG terminals cooperation on scheduling procedures is promoting capacity trading among terminal users and not among the terminals themselves.

NRAs are encouraged by two stakeholders to examine if scheduling procedures of regulated LNG terminal are reasonable, non-discriminatory and appropriate for their purpose.

ERGEG comment on stakeholders' feedback:

ERGEG has established that GGPLNG apply to regulated LNG terminals and no further obligations beyond the Directive 2003/2005/EC and the Regulation 1775/2005 can be imposed to TSOs. Thus, cooperation among LSOs and TSOs must be supported by bilateral operators' agreements. LSOs should attempt to facilitate this cooperation.

ERGEG would like to point out that "open season" procedures are used to assess market demand and lay the foundations for a subsequent capacity allocation. However, they are not a capacity allocation mechanism themselves.

ERGEG feels encouraged by stakeholder's support of the harmonization of scheduling procedures. The GGPLNG are aware of the technical and operative differences among LNG terminals and envisage the need for close cooperation of LSOs when harmonizing these procedures.

References to capacity trading incentives are related to shippers and not to LNG terminal operators so the GGPLNG will be corrected in this way.

According to Article 25 of the Directive 2003/55/EC, NRAs are, at least, responsible for ensuring non-discrimination, effective competition and the efficient functioning of the market. In consequence, ERGEG does not identify the need to add specific provisions regarding NRAs monitoring scheduling procedures.

2.5 Principles for CAMs and CMPs

Questions in the consultation document:

- ◆ *The GGPLNG propose some concrete solutions in order to implement the very general principles laid down in Regulation 1775/2005 (Articles 5.3. and 5.4). Comments on these issues would be most welcome:*

- *Non discriminatory allocation rules for primary and secondary capacity are necessary to promote competition. The GGPLNG propose market-based solutions and other alternative mechanism as pro-rata or first-come-first-serve procedures. Should a reference to specific subscription procedures be included? Is there any other procedure that the GGPLNG should take into account?*
- *Regarding congestion management, is the development of a secondary capacity market sufficient to optimise the utilisation of the terminal capacity?; and*
- *Should the GGPLNG be more or less prescriptive regarding procedures to manage congestion in the terminals?*
- ◆ *Reference is made to capacity that the holder is no longer able to use. An obvious example is the case of (unbundled) regasification capacity owned by a shipper who has no more gas in storage. What are the other cases where capacity could be categorised as no longer usable? Who must decide when a capacity holder is considered as no longer able to use the capacity?*
- ◆ *Regarding the allocation of capacity, the GGPLNG stipulate that the LSO might allocate the standard bundled LNG services with a priority upon not bundled services in order to maximise the use of the LNG facility. In your view, under what circumstances would it be appropriate to give such a priority to bundled services?*

ERGEG's statement in the consultation document:

In their fifth section, the GGPLNG state common principles on capacity calculation methodologies (CCMs), capacity allocation mechanisms (CAMs) and congestion management procedures (CMPs).

In concordance with the Guidelines, CCAs should be transparent and public and calculated separately for each service described in the Guidelines, always taking into account system integrity and constraints, and security of supply.

The GGPLNG determine that CAMs and CMPs should promote competition and liquid trading of capacity. They will be established considering the whole market circumstances and should be flexible enough to take into account market evolution, once a market consultation has been performed and they have been approved by NRA. Both mechanisms must provide appropriate signals for efficient and maximum use of capacity to foster investment in new infrastructure, and shall not hamper the entry of newcomers.

CAMs, according to the Guidelines, should be non-discriminatory, transparent and preferably based on market solutions, although procedures as pro-rata or first-committed-first-served may be considered. In order to maximise the use of the terminal, the Guidelines allow the LSO allocating standard bundled LNG services with a priority upon not bundled services.

With regard to CAMs to downstream access, and only for system integrity reasons, the Guidelines contemplate the possibility of granting priority rights to terminal users, subject to NRA approval.

Finally, the GGPLNG indicate that CMPs must be described in the terminal code, and encourage the capacity holder to offer the unused capacity on the secondary market at a reasonable price. When a capacity holder is considered no longer able to use it, the LSO shall offer the capacity to the market as firm capacity.

Stakeholders' responses to the consultation document:

The CAMs provisions have been regarded in very different ways by the respondents. Some of the companies consider the GGPLNG sufficiently broad and agree with the CAMs proposed. Others remark that the Guidelines should aim at general principles and recommend removing the specific mechanisms included in the text. There is one stakeholder in favour of more detailed CAMs rules, especially for auctions, arguing the need of avoiding discriminatory behaviours.

Others CAMs proposed to be included in the GGPLNG are open seasons, insofar as they do not favour incumbents and the process is monitored by NRAs and/or the European Agency. Only one stakeholder considers it unnecessary to include OS, others do not specifically comment on this issue.

Most respondents prefer the GGPLNG with a non-prescriptive approach to the secondary capacity market, only establishing general principles. Procedures, judged by some responses as advisable to complete secondary capacity market and to enhance capacity use are: capacity auction schemes, interruptible capacity, UIOLI provisions and UIOGPFI¹. There are also two companies which assess that a well-functioning secondary capacity market is enough to optimize LNG terminal capacity use. One stakeholder underlines that UIOLI can be counter-productive and deter investments.

Also regarding the secondary capacity market, some stakeholders make the statement that the GGPLNG should clearly state that the LSO solely acts as a facilitator of this market and that it is the NRA role and responsibility to monitor the functioning of contractual congestion management mechanisms and to impose sanctions. To this concrete comment, they add that references to a reasonable price in the secondary market should be removed, due to the uncertainty of what a reasonable price is and who decides it.

On the GGPLNG degree of detail on the CMPS, again, it seems to be a confrontation among opinions. Some agents are in favour of general principles without detailed definitions of unused/systematically underutilized capacity, since each terminal has its own technical features and is influenced by its market context. Meanwhile, others propose, i.e., including all possible CMPs, clarifications of some concepts like systematic underutilisation or distinction between physical and contractual congestion. NRAs are also recommended to design how CMPs should be implemented.

Most of the respondents consider that the agent that should be in charge of deciding when a capacity holder is considered no longer able to use the capacity is the NRA; case by case studies or considering terminal features and the market environment are occasionally recommended. Two stakeholders propose the technical system manager, another two consider it is a decision for the initial capacity holder. Most of the respondents agree that LSOs are not the appropriate agent to decide, at least unilaterally.

¹ Use it or get paid for it.

Examples of unusable capacity provided by some stakeholders are: bad weather at the port that means no cargo can be docked and unloaded safely, problems on the national transmission system that cause a delay to LNG send-out, which can in turn delay cargoes scheduled to be unloaded in the following days. Some companies question the example described in the Guidelines as unusable capacity, since they think the capacity holder has other options for the capacity (like a secondary slot in a row, buying gas in the storage from another user) to use contracted send out capacity.

There seems to be agreement that, in any case, bundled services should be allocated with priority over unbundled services. Only when the terminal encourages access to new/small operators or when enough capacity is available, should unbundled services be given priority before bundled ones. However, one company states that there are no circumstances whereby a bundled service should be given priority over a not-bundled service insofar as it does not affect the overall efficiency of the terminal.

ERGEG's comment on stakeholders' feedback:

Comments received on ERGEG public consultation process about the CAMs and CMPs principles of the GGPLNG, as well as secondary capacity markets, are very different.

ERGEG considers worthy to keep the obligation for the primary capacity holder to offer the unused capacity "at a reasonable price" when he is not going to use it, since it pursues avoiding abusive prices which discourage secondary holders to use the capacity or they may be used as an entry barrier. The price, of course, could be duly supervised by NRAs, according to responsibilities defined in Article 25 of Directive 2003/55EC, to consider what is reasonable.

ERGEG's opinion is that the definition of systematically underutilised capacity is a responsibility of NRAs, in compliance with Article 25 of the Directive 2003/55/EC, this being the best way to include all the circumstances that have emerged from the responses in the concept: market environment, terminal characteristics and specific temporary conditions. Another alternative would be to define it in these guidelines, but this has been discarded since the measure would probably be over prescriptive.

Taking into consideration stakeholders comments on downstream constraints and cooperation among LSOs and TSOs, it seems more appropriate to move §33 to 4.3.1 section. ERGEG understands comments expressing that a coordinated access to downstream networks connected to the terminal may require some kind of agreement between operators, so that will be considered in the GGPLNG.

As it has been explained before, the GGPLNG will reflect stakeholders preferences on bundled services over unbundled. However, it won't mean the removal of the LSOs opportunity to offer unbundled services, when possible.

2.6 Reallocation of unused capacity & release of systematically under-utilized capacity

Questions in the consultation document:

- ◆ *The GGPLNG tries to assure the optimum utilisation of the terminal and to avoid capacity hoarding by promoting capacity reallocations when appropriate. How can the balance be struck between the promotion of the secondary market of capacity and the protection of primary capacity holder's interests?*
- ◆ *The GGPLNG distinguish between punctually unused capacity and systematically underutilised capacity:*
 - *The definition of unused capacity refers to a deadline by which the capacity holder must nominate its use. This concept is defined in Regulation 1775/2005, art. 2.4. Do market players agree with the definition of unused capacity? Is a more or less detailed definition needed? What conditions/circumstances should be taken into account when assessing whether capacity is effectively used or not?*
 - *Is there a need to distinguish between punctually unused capacity and systematically underutilised capacity as states the current draft of the GGPLNG? Is the proposed split between reallocation of unused capacity and release of underutilised capacity a good approach?*
 - *Is it satisfactory to empower the NRA to evaluate if there has been systematic underutilisation of capacity or should the concept of 'systematic underutilisation' be described more accurately in the GGPLNG, by specifying the criteria to be used?*
- ◆ *Is it necessary to impose detailed congestion management mechanisms as proposed in these GGPLNG, or should the GGPLNG content themselves a set of general principles? Are the solutions proposed in the GGPLNG adaptable to the varying, present and future, situations?*
- ◆ *Setting the right deadline or notice period is considered as a key factor for the congestion management procedures. Comments on this issue would be welcome.*
 - *Should the GGPLNG include more or less detailed/prescriptive provisions on deadline/notice periods regarding unused capacity?*
 - *What circumstances should be taken into account by the LSO/NRA when determining/approving notice periods. Is there a single specific deadline/notice period appropriate for all solutions? If so, what could it be?*
 - *Is the NRA the most appropriate party to define the deadline or notice period? Otherwise, who should be responsible for setting the deadline/notice periods?*
- ◆ *The GGPLNG establish the principles to release underutilised capacity, setting some detailed circumstances where this may happen and assigning responsibilities to NRAs. Should the GGPLNG be more or less prescriptive on this issue? Do the circumstances set out in the GGPLNG cover all present and future circumstances where underutilised capacity should be released? Would a less constraint mechanism be preferable?*

ERGEG's statement in the consultation document:

The Guidelines distinguish two types of circumstances which may require application of CMPs: when unused capacity exists and when systematic underutilization of capacity is taking place.

Unused capacity is referred to contracted capacity that has not been nominated. Reallocation of unused capacity provisions considers allocation of this capacity on the primary market on a short term basis. For a particular unused unloading window, the Guidelines express the need to submit the notice period of the free window to consultation and afterwards to be defined by the NRA. When dealing with standard bundled services, the Guidelines allow the offer of the service components, unbundled, if bundled service is not possible.

The GGPLNG do not define what has to be evaluated as “systematic underutilisation of capacity”. They just determine some possible mechanism for the release of this capacity, providing that NRAs consider it convenient. Hence, the GGPLNG suggest the possibility of making the original holder loose its capacity rights, partially or completely, for a given period or for the remaining term. In any case, the Guidelines envisage that any method applied must be transparent and non-discriminatory.

Stakeholders’ responses to the consultation document:

As a general comment, some responses classify the principles of the GGPLNG on CMPs as a good approach, supporting them. However, several concerns are mentioned when defining underused and underutilization of capacity and the mechanisms to avoid them.

To ensure optimal utilisation, protection of the contractual rights of primary capacity holders and promotion of competition, a number of respondents recommend avoiding forced release of capacity. Implementation of incentives (i.e. financial ones) for primary holders, not rigid rules or restrictions and the application UIOLI mechanisms (i.e. only applied for single slots) are alternative mechanisms proposed. Others consider that primary holders are protected if they are fairly compensated and agreed with the procedure proposed in the GGPLNG. On the contrary, other companies would like to give priority to secondary market and suggest, i.e., not allowing the primary holder to establish freely the price of the offered capacity, stating that secondary market of capacity does not harass the primary capacity holder’s interest.

While several companies agree with the definition of unused capacity contained in Regulation 1775/2005, others judge it not precise enough to reflect the terminal operation and markets reality, and show the need to be detailed in a clear and flexible way, considering different circumstances and market conditions. One stakeholder advises on the impact of a more prescriptive definition of unused capacity.

In general, regarding the conditions to define capacity as unused, a case by case evaluation is regarded as the more convenient procedure. Considering the capacity unused if it has not been nominated rise both support and resistance. Concerns expressed expose that the non-use of a terminal does not only mean that the primary capacity holder is hoarding capacity. I.e., underutilization of capacity may be motivated by ships diverted to others markets with better prices. In general, it is judged that where the capacity is held by an undertaking with no market power, underutilization of capacity is unlikely to mean “hoarding” in the sense envisaged by competition law. Due to these reasons, some stakeholders advise on the convenience of establishing, in first place, a clear definition of capacity hoarding. In this sense, it is pointed out that the guidelines must build a clear framework and explain the factors to take into consideration when assessing whether unused capacity results in unjustified and anti-competitive capacity hoarding or not. Secondary shippers should be supposed, as well, to release capacity not “used”.

The proposed split between unused and systematically underutilised capacity is welcome by most of the companies responding this question. Nevertheless, some of them show their concern for stripping the primary capacity holder of its capacity rights on a permanent basis. In this line, a clear definition of “capacity hoarding” and “systematic underutilization”, as well as allocation rules/procedures for this capacity is recommended. In some response it is proposed an appropriate compensation for primary capacity holders for all losses associated with the removal of its property rights. One stakeholder defines it as a task of NRAs.

Stakeholders assign definition of “underutilization of capacity” to NRAs, expressing the need of a clear definition, and some even suggest that NRAs should drive all the release process. One company holds the view that GGPLNG should not grant any additional role to NRAs in the definition of the service and its conditions

Almost all respondents’ opinion is that Guidelines must be focus on general principles for CMPs, since it is difficult to address the different circumstances in European markets. The provisions on CMPs can be completed and developed by NRAs.

Views on the notice periods definition, differ. Some responses estimate adequate what the Guidelines contain on this issue and do not require a more prescriptive content. It is advised that notice periods principles in the GGPLNG should be focus on transparency and non-discrimination, in order to avoid barriers for new entrants. Two companies state that the GGPLNG should be more prescriptive regarding the principles and provisions the NRAs should take into account when detailing the notice periods and deadlines. Others responses underline that GGPLNG approach deprives the primary shipper of its contractual rights to use capacity and grants that right to a secondary shipper.

Circumstances referred by respondents to take into account when determining notice periods are: the specific terminal features (terminal location, average shipping time, type of vessels admitted, service defined and their notice periods, gas quality requirements, etc.) and the market context (other terminals in the market, ability of third parties to divert cargoes, shipping routes, characteristics and regulations of the downstream network, the range of geographic sources for LNG that are habitually directed to the terminal, the proportion of cargoes that come from these different sources, etc.). One company thinks that conditions should be consistent with those governing primary holders’ rights.

No stakeholder has pointed out a specific deadline/notice period. Some responses judge as non suitable a “one size fits all” approach.

In general, stakeholders favour NRA to approve deadline/notice periods, and some welcome the provision of a consultation process with stakeholders, in advance. One stakeholder proposes the LSOs to set the appropriate notice periods, under the NRA approval, and other gives the LSOs a preferential consultative role. Only two responses describe this statement like subjective and problematic.

An appropriate level of guidance of the Guidelines on releasing underutilized capacity is remarked by most of the responses. Suggestions on more specific definition of “reasonable price” are also made.

Concerning less limited mechanism to release underutilised capacity, it has been remarked the need of a flexible regulation to foster market evolution. Some specific possibilities mentioned in the responses are: a mechanism whereby the primary holder could regain this capacity when it has successfully arranged for further cargoes to be delivered or releasing underutilised capacity on an interruptible basis with the primary capacity holder retaining its firm rights. Nevertheless, one stakeholder would include in the GGPLG the development of an “LNG capacity release” programme that would reallocate the unused capacity of large players, as well as the reservation of part of the total regasification capacities, around 20%, for the short-term market.

ERGEG’s comment on stakeholders’ feedback:

As with CAMs and CMPs principles and secondary capacity trading opinions, different arguments have been provided when dealing with notice periods and reallocation/reutilization of unused/systematically underutilised capacity. Thus, it is a hard to find common points. Providing incentives, instead of forcing the release by primary holders when no capacity use is occurring, and case by case studies are mentioned as a general concern. They are already considered in the Guidelines.

Regarding the unused capacity and the release of slots not been used by the primary capacity holder, the motivation to put these slots in the market is not necessarily to prevent capacity hoarding, but to promote market liquidity, providing opportunities for other shippers to use these particular opportunities. This does not mean that the primary capacity holder will be detached its capacity, but it is promoting having the unused capacity in the market. For example when a slot is taken away from a capacity holder because he is not going to use it, he still keeps the rest of his contract.

As for the systematically underutilised capacity concept, ERGEG judges suitable a previous definition of capacity hoarding, according to stakeholders comments. However, bearing in mind differences in LNG terminals and market conditions, it may be more suitable for NRAs to determine it, according to responsibilities assigned by Article 25 of the Directive 2003/55/EC.

ERGEG recognises that some of the current GGPLNG provisions on underutilised capacity may be unclear. Therefore, this GGPLNG section will be reorganized and more comprehensible responsibilities will be established.

2.7 Transparency requirements

Questions in the consultation document:

- ◆ *The GGPLNG try to summarise the most important operational and commercial information to be published by the LSOs. What other types of information should the LSOs provide to the market to improve the transparency and the efficiency of the market?*
- ◆ *In your view, are there other points regarding transparency that should be addressed in the GGPLNG?*

ERGEG's statement in the consultation document:

The Guidelines consider two different approaches on transparency requirements. First of all, they state general principles on the format of published data: clear and consistent format in user-friendly platform timely updated.

On a second approach, the Guidelines determine specific operational and commercial information to be made public.

- Operational information to be public will be: terminal code, contracted and available capacities for the services provided daily updated, evolution of contracted capacity, short-term available capacity and/or spot services, historical maximum and minimum monthly capacity utilisation rates and annual average flows at all relevant points, appropriate instruments to make bookings on short-term basis, maps indicating the location of its LNG facility, a description of its infrastructures and the connecting points of the LNG facility with downstream infrastructure.
- Commercial information to be public will be: tariffs and tariff methodologies for each service offered, tariff methodology, rules and the charges applicable to penalties from terminal users and compensation payments from the LSO to terminal users, if applicable, user-friendly instruments for calculating charges for a specific service, and standard service contracts and other relevant documents.

It is remarkable that, according to the GGPLNG, the terminal users shall not be charged for information requests and transactions associated with their contracts according to standard rules and procedures.

Stakeholders' responses to the consultation document:

All the respondents welcome the GGPLNG transparency provisions and assess them as appropriate.

Most of the stakeholders indicate that transparency section of the GGPLNG should be focused on harmonizing two aspects. First, the GGPLNG must include provisions on the range of information to be published. Second, GGPLNG should establish rules and publication formats.

Additional to what was exposed in the Guidelines, some responses propose to include updating periods, like i.e., daily updating of publication of existing, contracted and available capacities, publication of tariff levels and structures, obligation of Excel or cvs formats for numerical data, operational and maintenance plans, possible restrictions, compatible tanks, free slots, aggregated quantities to be unloaded, terminal effective load factor and aggregated LNG stock levels. It is also suggested by some companies removing the publication of tariff methodologies obligations. These companies argue that the definition of tariff methodologies is usually a NRA task, so its publication will have no positive impact, and may put competition among LNG terminals at risk.

Regarding other points to be included in this section of the GGPLNG, most of the responses draw the attention to the importance of avoiding revealing sensible information; some advise also including in the GGPLNG some requirement on the issue proposing publication of aggregated information. One Stakeholder mentions the possibility of having published information monitored by NRAs. Other topics referred to by some stakeholders that might be included are: current and historic gas quality specifications at each facility and the main provisions of the connection agreement in place between the LSO and the interconnected TSO concerning gas quality and nomination procedures and maintenance arrangements in the network code. Four companies think that, as long as regulation allows it, documents should also be available in English.

Finally, some LSOs underline that, in any case, transparency involves costs which will have to be recovered by LSOs from terminal users, so they propose removing paragraph 45.

ERGEG's comment on stakeholders' feedback:

Most of the stakeholders' recommendations on information to be made public are already included in the Guidelines. Nevertheless, provisions on operational information will be completed with the existing and future increases of capacities, updated maintenance programs and LSOs and TSOs agreements. As recommended, the GGPLNG will point out, as well, the need of using, when possible, suitable formats which will facilitate terminal users to work with the data provided.

ERGEG considers necessary the publication of an English version of all the information/documents, insofar as national regulation permits it.

ERGEG takes into consideration concerns expressed regarding sensitive information and considers that the provision to protect confidential data is also depicted in section 4.3.3 of the Guidelines, where NRAs are appointed to define arrangements on this issue that must be put in place by LSOs.

2.8 Trading of capacity rights

Questions in the consultation document:

- ◆ *Opinions have been expressed that in some markets, organised trading of capacity rights might not be necessary, or that the benefits this trading provide to LNG terminal users could be reached by other means. Is an organised secondary capacity market in the terminal useless, useful or necessary? Should the GGPLNG recommend the creation of a secondary market for capacity or should this be left to each LSO or NRA's appraisal?*
- ◆ *Considering a need for a secondary capacity market in the terminal, what features would be needed for an efficient functioning of this market? Comments on this issue would be welcome, i.e.:*
 - *How crucial is contracts' standardisation for the development of secondary market?*
 - *Should contracted capacity that has not been nominated be offered on the secondary market by the LSO if the capacity owner does not do it?;*

- *What is your interest in the offer/demand of not bundled capacities on the secondary market (e.g., berthing capacity, storage capacity etc.)? Have you encountered obstacles regarding this that would justify developing more specific rules about the trading of not bundled LNG services in the GGPLNG?*

ERGEG's statement in the consultation document:

GGPLNG require LSOs to treat equally the capacity acquired on the secondary market and the primary one, when compatible with available services on the primary market, and to provide cost-reflective services to facilitate secondary capacity trading and selling or swapping of LNG in storage among terminal users.

Stakeholders' responses to the consultation document:

The majority of respondents answering this question give an important role to the secondary capacity market, when guaranteeing maximum use of the facility and increasing efficiency. Four companies consider there's no interest for an organized secondary capacity market, since others instruments like DES² transactions are the means to access secondary capacity. Another alternative to organized secondary markets mentioned by respondents was bilateral trading.

Overall, stakeholders prefer the GGPLNG to establish a general framework for the secondary capacity market. Meanwhile one stakeholder favours the creation of the secondary market by the GGPLNG, others suggest the decision needs to be left to the market and/or the NRAs.

Standard contracts for each terminal are supported by numerous respondents answering this question. Only two stakeholders advise standard contracts are not crucial.

Three possibilities are highlighted in the responses referring non-nominated capacity selling in the secondary market by LSOs. Some companies consider that LSOs should not unilaterally decide to sell capacity on the secondary market before the nomination deadline has passed. One stakeholder's view is that capacity may be marketed by the LSO in accordance with the capacity owner and their commitments and only one respondent is in favour of allowing LSOs selling this capacity without the primary holder participation.

Unbundled services in the secondary capacity market are judged in some responses to be interesting insofar as terminal utilisation and system integrity is not affected. Other companies estimate that the need for these services will emerge from the market, or that the decision must be left to LSOs and NRAs. Two stakeholders doubt its interest.

² Delivered Ex Ship

Additionally to the questions of this public consultation on this area, one response highlights that several bulletin boards, already in place, are free of charge and that some transactions like selling or swapping LNG are completed “Over the counter” and executed by means of nominations (similar to the exchange of gas at a border between different users). Consequently, it proposes removing the obligation for LSOs to providing cost reflective services to facilitate these two services, since they are being offered free, and therefore they are not cost-reflective.

ERGEG’s comment on stakeholders’ feedback:

According to most of the responses, ERGEG estimates that it is important to promote secondary capacity trading, since existing liquid LNG markets provides gas outside the boundaries of the national gas systems, but not the facilities’ capacity to access European gas markets.

ERGEG will state that, in case of LSOs charge provided services to support secondary capacity trading, they need to be cost-reflective. Actually, systems in place are being offered without charge, as remarked by one stakeholder.

2.9 Additional points raised in the responses

Stakeholders’ additional comments on the consultation document:

Two companies consider it important to emphasize that, nowadays, and until the approval of an amendment of Regulation 1775/2005, this Regulation does not apply to LNG terminals. In consequence, they argue that the terms listed in section 2 of the Guidelines, “Definitions”, should be revised, in particular, the definition of standard bundled services, ship vetting and terminal users, removing the concept of potential customers from this last one.

With reference to the roles and responsibilities of LSOs and users, in the Guidelines there are recommendations not to over prescribe the LSOs obligations and to add responsibilities for users not mentioned yet, i.e., respecting terminal procedures or obtaining customary port approvals.

When determining LNG terminal available capacity, two stakeholders warn that the list of constraints contained in the GGPLNG is not exhaustive, and recommend to take into account all the parts of the LNG chain, from the production facilities to the downstream network.

Some respondents question the introduction in the Guidelines of the code of conduct of the independent compliance officer to guarantee non-discrimination and confidentiality. They explain that these concepts are neither referred in the Directive 2003/55/EC nor Regulation 1775/2005, so it would introduce unnecessary complexity and represent an additional administrative and financial burden. With the role of an independent compliance officer, the Guidelines are doubling duties that usually are carried out by NRAs or auditing bodies.

Finally, one agent remarks that in some Member States, LNG tariffs do not reflect costs and there are cross-subsidies between different activities (transmission and regasification), which distort the market. The agent estimates that this situation should be addressed as a first step, in order to give the right signals to the market.

ERGEG comment on stakeholders' feedback:

ERGEG highlights that, although current Regulation 1775/2005 applies to transmission systems, definitions for common gas market concepts, i.e., nomination, renomination, secondary market, system integrity, etc. are applicable, by analogy, to LNG terminals and that adapting them to LNG terminals is necessary, but should be relatively straightforward. Specific LNG terminal concepts in the GGPLNG, like those pointed out by the undertaking, will be reviewed.

ERGEG appreciates comments on the Compliance Officers and understands that this provision might overlap with duties assigned to NRAs, since it is the NRAs responsibility to ensure non-discrimination and effective competition. However, it is considered worth having a code of conduct which describes procedures that LSOs employees must follow in their contacts with terminal users.

With regard to tariffs, as showed before, according to Article 25 of the Directive 2003/55/EC, it is the NRAs responsibility to assure the efficient functioning of the market. The Guidelines, as explained in previous sections, establish general principles and common rules when determining LNG terminal tariff structures and regimes. These principles already take into account the importance of avoiding cross-subsidies which can provide the wrong signals to the market.

3 Conclusions

ERGEG is encouraged by the number of responses received to this consultation. ERGEG considers the responses to be supportive of the overall GGPLNG.

However, and according to stakeholders comments, the GGPLNG will be changed as following:

General comments

- GGPLNG will focus on the aspects identified by stakeholders that can be appropriately harmonized, paying special attention to transparency.
- GGPLNG will be applied to regulated LNG terminals; exempted terminals will be outside their scope.
- Specific definitions referred to by stakeholders in the GGPLNG will be reviewed by ERGEG, when considered appropriate, for adequate adjustment.

Tariffs

- GGPLNG will emphasize the requirement of tariff structure stability and reflect transparency suggestions in the reviewing process.
- GGPLNG provisions referring to efficiency and comparable tariff structures will remain, since they have a general character, trying to avoid LSOs imposing abusive tariffs, which may result in a barrier against small shippers or new entrants.

Necessary TPA services

- GGPLNG will consider the need to take into consideration the terminal features, market environment and regulation applicable, when defining TPA services.
- GGPLNG will reflect stakeholder preferences for bundled services, although LSOs offering of unbundled services will remain as a possibility.
- GGPLNG will mirror ERGEG's view that definitions of long and short term services and interruptible services should be stated by NRAs, in compliance with their responsibilities established by Article 25 of the Directive 2003/55/EC.
- GGPLNG will point out a web-based platform of communication among LSOs and terminal users, as well as alternative tools.

Other requirements to assure proper TPA services

- The Compliance Officers role included in the GGPLNG will be removed, since this provision may overlap with duties of NRAs, but references to a code of conduct, which shall describe procedures that LSOs employees must follow, will remain.
- References to capacity trading incentives will be corrected to indicate they are related to shippers and not to LNG terminal operators.

Principles for CAM and CMP

- GGPLNG will maintain the obligation for primary capacity holders to offer the unused capacity “at a reasonable price” when he is not going to use it, since this measure tries to avoid abusive prices and will be always monitored by the NRAs in compliance with their responsibilities defined in the Directive 2003/55/EC.
- GGPLNG will reflect ERGEG’s view that the definition of systematically underutilised capacity should be stated by NRAs, in compliance with their responsibilities established by Article 25 of the Directive 2003/55/EC.
- GGPLNG will move §33 to 4.3.1. Cooperation with interconnected system operators section and it will consider the need of a previous agreement between operators for providing coordinated access to downstream networks.
- As indicated before, GGPLNG will reflect stakeholder preferences on bundled services over unbundled.

Reallocation of unused capacity and release of systematically underutilised capacity

- GGPLNG will take into account general comments on the importance of providing incentives for primary holders to release capacity, instead of forcing this release. Also, case by case studies could be considered.
- GGPLNG will reflect ERGEG’s view that definition of capacity hoarding should be stated by NRAs, in compliance with their responsibilities established by Article 25 of the Directive 2003/55/EC.
- GGPLNG section on procedures to release underutilised capacity will be reorganized; more comprehensible responsibilities will be established.

Transparency section

- GGPLNG provisions on operational information will be completed with existing and future increases of capacities, updated maintenance programs and LSOs and TSOs agreements.
- GGPLNG will include the need of using, when possible, suitable formats which will facilitate terminal users to work with the data provided.
- GGPLNG will establish the obligation to publish English versions of all the information/documents.

Trading of capacity rights section

- GGPLNG provision on cost-reflective services to promote secondary capacity trading will remain, since it does not prevent this service from being free of charge.