



WG GAS

Guidelines of Good Practice on Third Party Access in the Mediterranean region

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1 Scope and Objectives

The Association of the Mediterranean Regulators for Electricity and Gas (MEDREG), set up in 2006 as a working group and in 2007 as a non-profit association, has got among its general objectives “to promote the achievement of a consistent harmonized and investment-friendly regulatory framework aimed at providing the maximum benefits to energy consumers of the Mediterranean region”.

The Ad-Hoc Group on Gas, as stated in MEDREG Action Plan 2012-2014, has planned to study possible recommendations and requirements that could lead to the development of an integrated, competitive, secure and functioning gas market in the Mediterranean region, starting from the assessment of the current status of natural gas and LNG markets and of the sector regulation in the MEDREG countries and its expected evolution.

To achieve this objective of developing an integrated, competitive and secure gas market in the Mediterranean region in the long-run, one of the most important prerequisites is to ensure that all suppliers and consumers have easy-accessible and non-discriminatory access to infrastructures.

As foreseen in MEDREG Action Plan 2012-2014, the Ad-Hoc Group on Gas has two tasks regarding Third Party Access (TPA):

- Study on TPA status in the region and future needs in order to develop an integrated Mediterranean market (2011).
- Carry out a document of Guidelines of Good Practice on Third Party Access (GGP on TPA) in the Mediterranean region (2013).

In December 2011 the General Assembly approved, at its 12th meeting, the report “Status review on Third Party Access in the Mediterranean region” which presents the results of the research regarding the first task.

The main conclusion of this monitoring exercise was that regulated TPA to the infrastructures is linked to the degree of development of the gas market. Many of these obligations are defined for EU countries in the gas Directive EC/73/2009 and the Regulation EC/715/2009. The more developed a gas market is, in terms of penetration of gas consumption, openness and liberalization, the more likely TPA to gas infrastructures is regulated, the rules for access to the infrastructures are published and the national regulatory authority has competencies regarding the approval of these rules.

In the countries that answered the questionnaire, generally and as a conclusion per subject it is possible to remark:

- The status of market opening, the quality of service and the dispute settlement are generally satisfactory.
- Unbundling, TPA to infrastructures, the existence of methodologies for capacity allocation and congestion management, transmission access tariffs, the existence of anti-hording mechanisms and of mechanisms to promote market need some improvement.

Taking into account the conclusions of this monitoring exercise, there is a vast majority of countries (mainly Northern Mediterranean countries) included in the study where the TPA regime to gas infrastructures is regulated. Nevertheless, even if the regulated TPA regime is widely present in the region, the capacity allocation mechanisms (CAM) and congestion management procedures (CMP) are not very developed yet. In many of the countries, the drafting of CAM and CMP rules is under way. In consequence, the regulated TPA has not been translated yet into a significant competition level in some natural gas markets. Furthermore, there are some countries where the natural gas infrastructures are not open to third party access or their gas markets are just emerging markets.

In view of the results obtained, it can be stated that the situation of TPA to infrastructures in the Mediterranean region gas markets can be improved and some measures can be proposed pursuing to this goal, namely the development of Guidelines of Good Practice on Third Party Access in the Mediterranean region.

From the national regulatory authorities perspective the TPA to the infrastructures should be extended as much as possible and the guidelines identified in this document should be followed by the MEDREG countries. The Ad-Hoc Group on Gas also understands that, given the disparity of situations in the region, at the beginning it would be difficult to comply with all of the recommendations as markets are progressively developing.

In consequence, the different TPA requirements have been classified according to three priority levels, depending on the development degree of the natural gas markets concerned:

- Priority 1: Items that all MEDREG countries should comply with, independently from the development degree of their national gas markets.
- Priority 2: Items that all MEDREG countries where there is a TPA regime in place should comply with.
- Priority 3: Items that all MEDREG countries with more developed gas markets, in terms of penetration of gas consumption, openness and liberalization should comply with.

We would like to highlight the fact that these TPA specifications have been set up not only for transmission but also for storage and LNG infrastructures. This is why the operators of all these type of infrastructures are concerned by these guidelines, and they are consequently mentioned in the document.

These Guidelines of Good Practice on Third Party Access in the Mediterranean region are aimed at (i) clarifying the roles and responsibilities of the main parties dealing with gas infrastructures; (ii) ensuring the application of the principle of non-discrimination, (iii) facilitating cross border trade and customer choice through competition in the markets, and (iv) avoiding distortions to trade. A defined, easy-accessible and non-discriminatory access to the infrastructures shall facilitate the development of a competitive, integrated and secure gas market in the MEDREG region.

Even though the Guidelines of Good Practice on Third Party Access in the Mediterranean region are not legally binding and, consequently no requirement can be made under them that contravene national legislations, MEDREG members are committed to encourage their implementation while respecting their national legal framework.

The progress in implementing the Guidelines of Good Practice on Third Party Access in the Mediterranean region and the compliance with them will be monitored regularly by the MEDREG Ad-Hoc Group on Gas.

2 Guidelines of Good Practice on Third Party Access in the Mediterranean region

According to the aspects addressed in the report “Status review on Third Party Access in the Mediterranean region”, the Guidelines of Good Practice on Third Party Access in the Mediterranean region focus on: market opening, unbundling, TPA to the infrastructures, network code and TPA rules, tariffs, methodologies for capacity allocation and congestion management, balancing, anti-hording mechanisms, quality of service and dispute settlement.

For each aspect are referred, in a very resumed way, the main conclusions of the previous study “Status review on Third Party Access in the Mediterranean region”.

2.1 Market opening

One of the issues that is intimately related with the TPA to infrastructures is the degree of market opening in each country, in order to evaluate, on the one hand, whether all gas consumers are eligible for choosing supplier in their country, and on the other hand, if there is a reasonable number of suppliers operating in the country. In this context, another issue that can be analysed is the existence of mechanisms to promote market opening.

Priority Degree	Guidelines of Good Practice on Third Party Access
1	A timetable for gradual market opening shall be established in all MEDREG countries in order to achieve full market opening, i.e. all gas consumers are eligible for choosing supplier in their country.
2	MEDREG countries shall establish national rules that facilitate the entrance of new suppliers.
2	MEDREG countries shall establish mechanisms to promote market opening, such as gas release auctions, short duration contracts and tariffs.

Note on actual situation: The results of the previous study reveal that in most gas consumer countries that responded the questionnaire, all consumers are eligible to choose their supplier and that there is more than one supplier. They revealed also that for twelve countries (mainly southern Mediterranean) gas market is not yet established. Finally they also reveal that in most gas consumer countries that responded the questionnaire, mechanisms to promote market opening are in place.

2.2 Unbundling

Other important issue is the level of unbundling of each infrastructure analysed: transmission, underground storages and LNG terminals.

Priority Degree	Guidelines of Good Practice on Third Party Access
1	In order to avoid conflicts of interest, the system operators (TSO (Transmission System Operator), LSO (LNG System Operator), SSO (Storage System Operator) and DSO (Distribution System Operator)) shall be sufficiently functionally independent from the supply business of vertically integrated companies.
1	Any system for unbundling shall be effective in removing any conflict of interests between producers, suppliers and system operators (TSO, LSO, SSO and DSO), in order to create incentives for the necessary investments and guarantee the access of new market entrants under a transparent and efficient regulatory regime.
2	The national regulatory authorities shall establish an appropriate regulatory environment, namely for the activities with regulated TPA.
3	The national regulatory authorities shall have to certify the type of unbundling applied to the TSO, a competency that arises for EU countries from the Gas Directive EC/73/2009.

Note on actual situation: The results of the previous study reveal that the level of unbundling in the various countries, in the transmission infrastructures, underground storages and LNG terminals, is diverse. Regarding the national regulatory authorities competencies, the situation is also highly varied.

2.3 Third Party Access to the infrastructures

Priority Degree	Guidelines of Good Practice on Third Party Access
1	TSO, LSO and SSO shall provide easy and non-discriminatory access to their infrastructure.
1	TSO shall co-operate with other TSO to ensure interoperability between different systems and efficient and non-discriminatory procedures facilitating trade and allowing network users to transport natural gas throughout the MEDREG region.
2	MEDREG countries shall pay particular attention to ensuring objective, transparent

	and non-discriminatory implementation of a system of regulated TPA to the transmission and distribution system, and LNG facilities based on published tariffs, applicable to all eligible customers, including supply undertakings, and applied objectively and without discrimination between system users.
3	For the organisation of access to storage facilities and linepack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, MEDREG countries shall choose either regulated or negotiated access. Those procedures shall operate in accordance with objective, transparent and non-discriminatory criteria.
3	TSO and LSO shall offer unbundled TPA services for access to pipelines and LNG facilities as well as all necessary ancillary services to the extent that such facilities are operated by the TSO. Ancillary services include allocation, blending, quality monitoring, metering and balancing.
3	SSO shall offer unbundled TPA services to storage facilities that are technically and/or economically necessary for providing efficient access to the system for the supply of customers.
2	TSO, LSO and SSO shall offer the same range of services on the same conditions according to the principle of non-discrimination to any eligible third party within the MEDREG region.

Note on actual situation: The results of the previous study reveal that in most countries the TPA to the transmission infrastructures, to the underground storage and to the LNG terminals is regulated.

2.4 Network Code and Third Party Access rules

One of the issues that has also to be referred to is the existence of TPA rules published in an individual document or included in the Network Code and who is the entity responsible for their approval.

Priority Degree	Guidelines of Good Practice on Third Party Access
1	MEDREG countries shall establish TPA rules published in an individual document or included in the Network Code, following proper consultation with network users.
2	The Third Party Access rules shall be approved by the national regulatory authorities.

Note on actual situation: The results of the previous study reveal that while in most countries there are TPA rules or Network Codes, in some countries they do not exist yet, but are under preparation, and that the national regulatory authorities are the competent entity for their approval.

2.5 Tariffs

One of the most important issues regarding TPA are the tariffs, namely the type of tariffs that are in place, who approves them and the criteria used to both design and apply them.

Priority Degree	Guidelines of Good Practice on Third Party Access
2	National regulatory authorities shall be responsible for fixing or approving tariffs, or the methodologies underlying the calculation of these tariffs, on the basis of a proposal by the TSO or LSO, or on the basis of a proposal agreed between those operator(s) and the users of the network.
2	National regulatory authorities shall ensure that transmission and distribution tariffs: <ul style="list-style-type: none"> • fully comply with the principle of non-discrimination, • are transparent, • are cost-reflective, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including appropriate return on investments, • take into account the need for system integrity and its improvement, • take into account the long-term, marginal, avoided network costs from demand-side management measures, • facilitate efficient gas trade and competition, • provide incentives for investment, • avoid cross-subsidies between network users, • maintain or create interoperability for transmission networks, • provide convergence of charging principles and tariff structures between MEDREG countries
2	MEDREG countries shall ensure that those tariffs, or the methodologies underlying their calculation are approved and published prior to their entry into force.

3	Tariffs for network users shall be set separately for every entry point into or exit point out of the transmission system.
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Note on actual situation: The results of the previous study reveal that:

- Mainly, two types of access tariffs for transmission infrastructure coexist in the analysed countries, entry-exit and postage stamp.
- In most countries the national regulatory authorities are the competent entity for the approval of the tariffs.

Regarding the criteria to design the tariffs, each country has its own methodology.

2.6 Methodologies for Capacity Allocation and Congestion Management

Priority Degree	Guidelines of Good Practice on Third Party Access
1	TSO, LSO and SSO shall design capacity services to facilitate trading and reutilisation of capacity.
2	TSO, LSO and SSO shall implement and publish non-discriminatory and transparent capacity allocation mechanisms and when applicable congestion management procedures.
2	Capacity allocation mechanisms and when applicable congestion management procedures shall be approved by the national regulatory authority.
2	<p>The capacity-allocation mechanisms shall:</p> <ul style="list-style-type: none"> • ensure that the maximum capacity at all relevant points is available to market participants, • take into account system integrity and efficient operation, • provide appropriate economic signals for the efficient and maximum use of technical capacity, • facilitate the development of competition and liquid trading of capacity, • neither hamper the entry of new market participants and of companies with a small market share nor create undue barriers to market entry, • foster investment in new infrastructure, • facilitate cross-border exchanges in natural gas.

3	Capacity-allocation mechanisms shall be market-based. Solutions such as pro-rata mechanisms or 'first-come first- served' may be considered if they provide equivalent safeguards for non-discriminatory and competitive access.
3	Appropriate congestion management procedures shall be used in each country depending on each specificity, namely surrender of capacity, oversubscription and buy-back and Use It or Lose It procedures.
3	National regulatory authorities and TSO shall endeavour to harmonise (and at least make compatible) capacity allocation mechanisms and congestion management procedures in order to facilitate trade between MEDREG countries.

Note on actual situation: The results of the previous study reveal that regarding the methodologies for capacity allocation and congestion management, each country has its own methodology.

2.7 Balancing

Priority Degree	Guidelines of Good Practice on Third Party Access
2	National regulatory authorities shall be responsible for fixing or approving prior to their entry into force, at least the methodologies used to calculate or establish the terms and conditions regarding the provision for balancing services.
2	<p>Balancing rules shall:</p> <ul style="list-style-type: none"> • be designed in a fair, non-discriminatory and transparent manner, • be based on objective market based criteria, • ensure effective market access for all market players, including new entrants, • reflect genuine system and market needs taking into account the resources available to the TSO and to network users, • avoid cross-subsidisation between system users, • ensure compatibility of balancing regimes in MEDREG countries, in order to facilitate cross-border gas trade.
2	National regulatory authorities and TSO shall endeavour to harmonise (and at least make compatible) balancing regimes and streamline structures and levels of balancing charges in order to facilitate trade between MEDREG countries.

3	The development of balancing rules and any subsequent changes shall be subject to appropriate consultation with market participants and decisions should be supported by objective criteria and analysis.
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2.8 Anti-hoarding mechanisms

One of the issues that is also important, in what regards TPA analysis, is the existence of anti-hoarding mechanisms.

Priority Degree	Guidelines of Good Practice on Third Party Access
2	MEDREG countries shall establish anti-hoarding mechanisms, such as overbooking and Use It or Lose It and sell of interruptible capacity.
3	The establishment of gas-release programmes is one of the possible measures that can be used to promote effective competition and ensure the proper functioning of the market.

Note on actual situation: The results of the previous study reveal that in most gas consumer countries that responded the questionnaire, anti-hoarding mechanisms are in place.

2.9 Quality of service

Another issue that can be analysed is the quality of service, namely if quality rules or Codes exist and who is the competent entity for quality of service.

Priority Degree	Guidelines of Good Practice on Third Party Access
1	MEDREG countries shall establish quality rules or Code.
2	The national regulatory authorities shall be the competent entities for ensuring quality of service.

Note on actual situation: The results of the previous study reveal that all the countries that answered the questionnaire have quality rules or Code and the national regulatory authorities are the competent entity for ensuring quality of service.

2.10 Dispute settlement

The last issue to be analysed is the dispute settlement, namely its existence and the competent entities.

Priority Degree	Guidelines of Good Practice on Third Party Access
1	MEDREG countries shall guaranty greater consumer protection by the availability of effective means of dispute settlement for all consumers.
1	MEDREG countries should introduce speedy and effective complaint handling procedures.
2	National regulatory authorities shall be the competent entities for dispute settlement.

Note on actual situation: The results of the previous study reveal that all the countries that answered the questionnaire have dispute settlement and the national regulatory authority is the competent entity for dispute settlement.

3 Way forward

From the national regulatory authorities perspective the TPA to the infrastructures shall be extended as much as possible and the guidelines identified in this document shall be followed by the MEDREG countries. A first step for the implementation of the Guidelines of Good Practice on Third Party Access in the Mediterranean region shall be made during 2014.

The progress in implementing the Guidelines of Good Practice on Third Party Access in the Mediterranean region and compliance with them will be monitored regularly by the MEDREG Ad-Hoc Group on Gas. The first monitoring of compliance with the GGP on TPA shall be done in 2015.