

Guidelines for the 2019 Market Test of Trans Adriatic Pipeline



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1. Introduction

The purpose of these Guidelines for the 2019 Market Test of Trans Adriatic Pipeline (“the Guidelines”) is to define the rules and procedures to be followed in the Market Test process to be conducted by TAP starting in 2019, as well as to inform all Interested Parties, and any other stakeholders thereof. During TAP’s Market Test, all Interested Parties can request incremental capacity in the TAP transportation system (“Capacity Requests”), as well request the construction of new entry and/or exit points and/or the increase of the technical capacity of already existing entry and/or exit points along TAP’s transportation system (“Connection Requests”).

These Guidelines reflect TAP’s specific regulatory regime for the performance of its Market Tests. They seek to align the provisions of the *Final Joint Opinion of the Energy Regulators on TAP AG’s Exemption Application, dated 6 June 2013, granted by the Authorities pursuant to Directive 2009/73/EC* (“FJO”) and of TAP’s Tariff Code¹ with EU Regulation 2017/459 establishing a network code on Capacity Allocation Mechanisms in gas transmission systems (“CAM NC”).

In compliance with Section 4.1.7 FJO, these Guidelines have been approved by the competent National Regulatory Authorities of Italy, Greece and Albania (“Authorities”), namely ARERA, RAE and ERE.

1.1 The requirement to expand capacity

For its Initial Capacity, TAP is exempted from provisions on third party access, regulated tariffs and ownership unbundling subject to the terms of the FJO. The exemption from regulated tariffs and ownership unbundling also applies to TAP’s actually built Expansion Capacity.

According to the FJO, TAP must perform a Market Test at least every two years, starting no later than its Commercial Operation Date (“COD”).

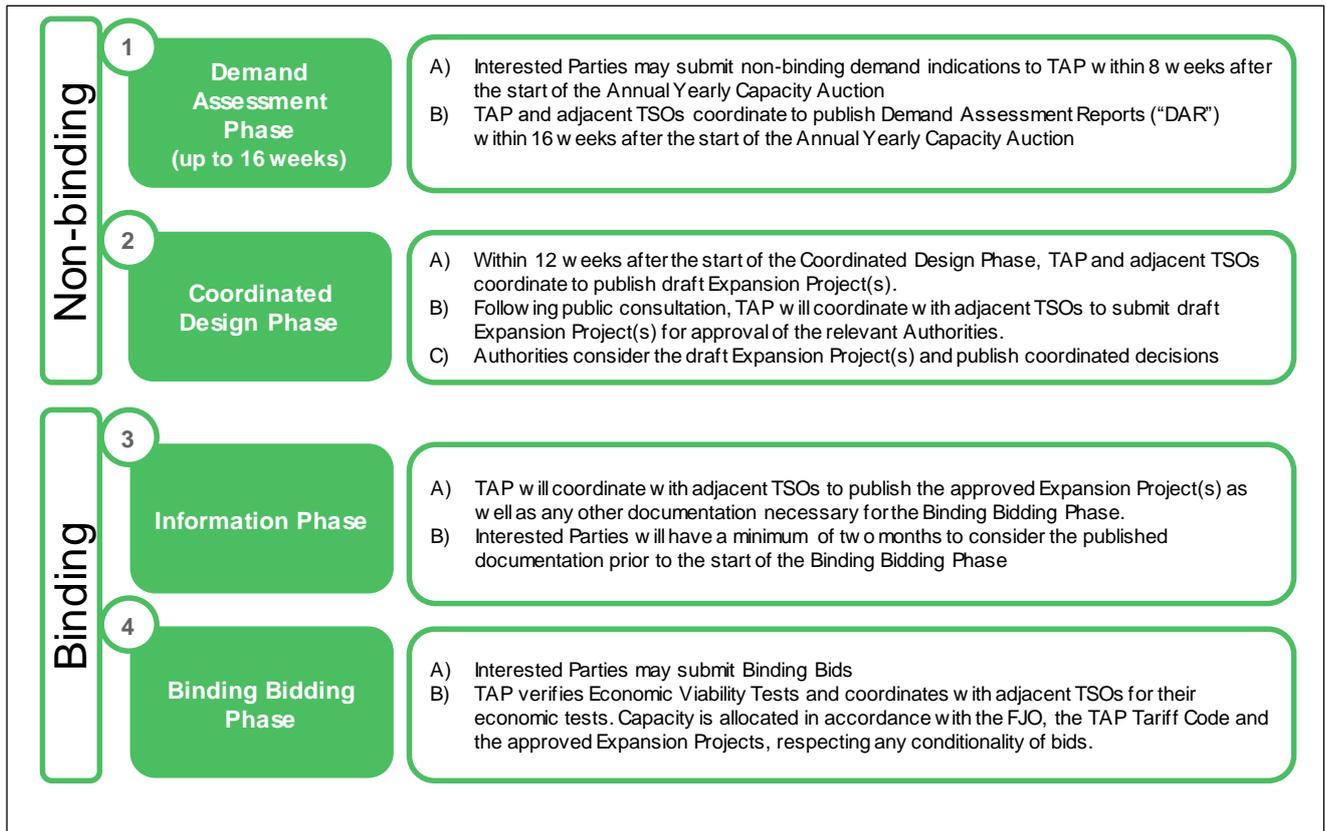
Article 26 CAM NC requires TSOs to launch a coordinated and market-based procedure to assess the need for incremental capacity.

1.2 The Market Test

The Market Test is an open, transparent and non-discriminatory procedure. The process reflects TAP’s unique and specific regulatory context and incorporates guidance on how TAP will participate in the wider incremental capacity process set out in Chapter V of CAM NC. An overview of its phases is set out in Figure 1 below.

¹ Approved in November 2013 by the Italian, Greek and Albanian National Regulatory Authorities. A subsequent amendment was approved in July 2018.

Figure 1: Overview of the Market Test



The main defined deadlines applicable to the Non-Binding Phase of TAP's 2019 Market Test are the following:

TAP launches the Non-Binding Phase	1 July 2019
Interested Parties submit the Registration and Non-Binding Demand Indication Form	26 August 2019 – 17:00 CET
TAP and Adjacent TSOs publish Demand Assessment Report(s)	21 October 2019
TAP and Adjacent TSOs publish draft Expansion Project(s) for public consultation	14 January 2020

As an outcome of the Market Test, binding requests for Forward Firm Long-Term capacity may, subject to the conditions under the FJO, the TAP Tariff Code and relevant law applicable to TAP, lead to an investment obligation for TAP up to the Total Capacity of the pipeline in line with Section 4.1.8 FJO.

These Guidelines do not address expansion beyond Total Capacity as mentioned by Section 4.1.9 of the FJO. If the situation arises, TAP will enter into separate discussions with the Authorities on the economic and technical feasibility of such future expansion possibilities beyond the Total Capacity and on the related processes and procedures for implementation.

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The Guidelines do accommodate requests for building additional entry and/or exit points in Greece, in accordance with Section 4.7.5 FJO, and requests for increasing the technical capacity of existing and / or building additional entry and / or exit points in Albania, in accordance with Section 4.7.8 FJO. For such Connection Requests to be considered, all costs need to be borne by the party having made the request, according to Sections 4.7.5 and 4.7.8 FJO.

2. Definitions

This chapter contains the definitions and terminology used in these Guidelines. Any capitalised terms used but not defined herein will have the meanings given to them in the Final Joint Opinion or in the TAP Tariff Code.

Adjacent TSO means a TSO that shares an interconnection point with TAP and implements the EU energy legislation, including DESFA, ICGB, Albgaz and Snam Rete Gas.

Authorities means the National Energy Regulatory Authorities of Italy ('ARERA'), Greece ('RAE') and Albania ('ERE').

Binding Bid means a bid submitted by an Interested Party during the Binding Bidding Phase.

Binding Phase means the general phase of the Market Test which is composed of the Information and Binding Bidding Phases.

Binding Bidding Phase means the final phase of the Market Test whereby Interested Parties can submit Binding Bids to TAP and during which TAP will perform the Economic Viability Test and will proceed to capacity allocation.

Capacity Caps means the pro-competitive measures for the Italian, Greek and Albanian market as set out in points 3, 6 and 9 of section 4.7 of the FJO.

Capacity Request means a binding and/or non-binding request to TAP from an Interested Party to acquire long-term capacity at TAP's entry and/or exit points.

Connection Request means a binding and/or non-binding request to TAP from an Interested Party to build a new entry and/or exit point in Albania or Greece and/or to increase the technical capacity of an already existing entry and/or exit point in Albania, in accordance with Sections 4.7.5 and 4.7.8 FJO.

Coordinated Design Phase means the second phase of this Market Test.

Demand Assessment Phase means the first phase of this Market Test.

Expansion Capacity means capacity in the TAP transportation system made available in addition to Initial Capacity, up to 10 bcm/y, as referenced in the FJO.

Expansion Project means a project to expand TAP's capacity in TAP's existing entry and/or exit points or to establish new entry and/or exit points on TAP transportation system, in accordance with the FJO, the CAM NC and TAP's Tariff Code.

Forward Firm Long-Term capacity means Capacity Products for transportation capacity in the TAP transportation system booked by reference to a separate Entry Point and Exit Point for the forward transportation of natural gas that is made available to Shippers for a period of more than one year and which TAP is not permitted to interrupt except for planned maintenance, capacity restrictions or a force majeure.



Guidelines means this document, approved by the Authorities, that sets out how TAP will perform the Market Test launched in 2019, with a view to offer all Interested Parties Expansion Capacity up to the Total Capacity of the pipeline as per section 4.1.7 of the FJO and to accommodate Connection Requests.²

Initial Capacity means the capacity of 10 bcm/y constructed and made available in the first phase of the TAP transportation system, as referenced in the FJO.

Interested Party means any legal person who is interested in participating in TAP's Market Test.

Market Test means the process through which TAP assesses market demand for Expansion Capacity and Connection Requests, that includes a Non-Binding Phase, in which Interested Parties express and quantify their requests and a Binding Phase in which binding commitments may be entered.

Non-Binding Demand Indication means the Capacity Request and/or Connection Request indicated by the Interested Party through the filling out of the "Registration and Non-Binding Demand Indication Form".

Non-Binding Phase means the general phase of the Market Test which is composed of the Demand Assessment and Coordinated Design Phases.

Participation Fee means the amount to be paid by the Interested Parties for participating in TAP's Market Test.

Total Capacity means the sum of the Initial Capacity and Expansion Capacity, up to a total of 20 bcm/y, as referenced in the FJO.

² For the avoidance of doubt, these Guidelines are distinct from the guidelines for TAP's first market test, jointly approved by the Authorities in April 2012, as referenced in the FJO.

3. Demand Assessment Phase

TAP invites all Interested Parties to participate in a Market Test. TAP will treat all Interested Parties in a transparent and non-discriminatory manner.

To participate in the Demand Assessment Phase, any Interested Party must comply with the provisions of these Guidelines and successfully submit the documents listed as Appendices A-E in Section 7 below, along with any other documentation and information that might be required by TAP. The submission of a Registration and Non-Binding Demand Indication Form (Appendix A) and related documentation by an Interested Party does not give rise to any obligation on an Interested Party to submit a binding offer, nor shall it bind TAP to invest and realise the Expansion Project.

A fee of 10,000 EUR is payable by each Interested Party wishing to participate in the Market Test. The Participation Fee is set out by TAP in accordance with Article 26(11) CAM NC.

The Participation Fee is intended to cover the administrative costs for TAP of performing the Market Test and must be paid together with the submission of the Registration and Non-Binding Demand Indication Form, at the latest within 8 weeks of the opening of the Market Test.

The Participation Fee shall be reimbursed to each Interested Party if the Market Test results in the installation of at least one additional compressor unit in TAP, following a successful Economic Viability Test and execution of at least one Gas Transportation Agreement for Forward Firm Long-Term capacity with any user, also in case it is different from the Interested Party who made the request. TAP's incurred administrative costs for the Market Test may then be taken into account for the recalculation of TAP's tariffs in accordance with Clause 3.3.3 (d) of the TAP Tariff Code. Failure to pay the Participation Fee by the Interested Party may result in TAP disregarding any non-binding Capacity Requests or non-binding Connection Requests made by that Interested Party.

Market Test documentation which is deemed non-confidential by TAP will be published on the TAP's website and made available to the public. In case confidential documentation is required to be made available to Interested Parties, access conditions for a data room may be described in the draft project proposal published after the Coordinated Design Phase.

In the Demand Assessment Phase, Interested Parties can submit non-binding Capacity Requests and/or non-binding Connection Requests.

The Demand Assessment Phase commences at least in every odd year immediately after the start of the Annual Yearly Capacity Auction, as specified in Article 11(4) of NC CAM, and closes maximum 16 weeks after the Annual Yearly Capacity Auction in accordance with Article 26 of NC CAM.

To make a submission, an Interested Party must complete the Registration and Non-Binding Demand Indication Form (Appendix A) that must contain at a minimum the following information (conforming to Articles 26(8)-(9) of CAM NC):



- i. the type of request(s):
 - a. non-binding Capacity Request(s) at TAP's already defined entry and/or exit points.
 - b. non-binding Connection Request for building an additional entry and/or exit point in Greece.
 - c. non-binding Connection Request for increasing the technical capacity of an existing and/or building an additional entry and exit point in Albania.³
- ii. the gas year(s) for which a demand for incremental capacity is expressed.
- iii. the amount of capacity demanded and the requested direction.
- iv. information on non-binding demand indications which were or will be submitted to other TSOs, in case such indications are linked to each other.
- v. indication whether the Non-Binding Demand Indication is subject to any condition in relation to points i-iv above.

Interested Parties must submit any Non-Binding Demand Indications no later than 8 weeks after the Annual Yearly Capacity Auction in accordance with Article 26 of CAM NC. It is the responsibility of the Interested Parties to ensure that their non-binding Capacity Requests comply with any applicable Capacity Cap.

For the Authorities to be able to evaluate the compliance of the non-binding Capacity Requests with the Capacity Caps, Interested Parties shall provide to the Authorities the information in the Capacity Cap Forms (Appendix D), as well as any other information that the Authorities might request. It is the responsibility of the Interested Party to obtain a non-objection from the Authorities in respect of their compliance with the Capacity Caps set out in Sections 4.7.3, 4.7.6 and 4.7.9 FJO or as otherwise decided by the Authorities. The Interested Party shall confirm to TAP that it has submitted the information in the Capacity Cap Form (Appendix D) to the relevant Authority by the deadline for submitting the Registration and Non-Binding Demand Indication Form (Appendix A). In addition, the Interested Parties shall confirm to TAP at the latest 2 (two) weeks prior to the end of the Demand Assessment Phase, that the relevant Authorities have deemed them compliant with the Capacity Caps.

Considering that TAP is being extraneous to the Capacity Cap review process conducted by the relevant Authorities and relies on the confirmation received from the Interested Parties, TAP is bound to carry out the Market Test procedure within a certain timing, irrespective of any litigation potentially ongoing regarding the potential denial of the non-objection by the Authorities.

It is the responsibility of the Interested Party who submits the Non-binding Demand Indications to TAP to submit any corresponding non-binding demand indications to relevant Adjacent TSOs. In case of TAP's entry point at Kipoi, it is the responsibility of the Interested Party to initiate any procedures that may be necessary for capacity to be made available at the non-EU side of the interconnection point.

³ An overview of the location of TAP's block valve stations, entry and/or exit points as well as current and planned compressor stations is provided in the supporting document 'TAP Overall Map for the 2019 Market Test'.

If an Interested Party submits a Registration and Non-Binding Demand Indication Form (Appendix A), TAP will respond in writing to that Interested Party in accordance with Article 26(10) of CAM NC. When applicable and on a case by case basis, each written response may be based on TAP's coordination with the Adjacent TSO who operates the corresponding entry-exit system border to the TAP transportation system. In case of Connection Requests, the response will include a requirement for commitments from the Interested Party to cover the costs incurred by TAP in investigating such points.⁴ Such commitments would need to be formalised between the Interested Party and TAP before TAP commences any work related to the requests in the Coordinated Design Phase.

At the end of the Demand Assessment Phase, TAP, in association with Adjacent TSOs, will publish joint demand assessment reports (DAR). These will evaluate the prospective demand for expansion of the TAP pipeline and the prospective demand for expansion at its interconnection points with the transmission systems of Adjacent TSOs. The reports will build on the template developed by ENTSOG and reflect Articles 26(12) and 26(13) of the CAM NC. In addition, the reports will also include requests for new or expanded entry and/or exit points.

No later than 16 weeks after the start of the Annual Yearly Capacity Auction in accordance with Article 26(10) of CAM NC, TAP, in collaboration with Adjacent TSOs, will publish the DAR in English on its website.

If the DAR concludes to initiate an Expansion Project the Market Test proceeds to the Coordinated Design Phase.

If the DAR concludes not to initiate an Expansion Project, the Market Test ends, without prejudice to the prerogatives the Authorities may have to challenge this conclusion.

⁴ Note that the FJO only obliges TAP to facilitate entry and/or exit points and not any other downstream infrastructure or spur lines, etc...

4. Coordinated Design Phase

In the Coordinated Design Phase, TAP will work in association with Adjacent TSOs at the respective interconnection points to design the Expansion Project(s). TAP will work with Adjacent TSOs to the extent that cooperation does not conflict with the FJO, the TAP Tariff Code or any other regulatory instrument that implements the FJO. In all circumstances, TAP retains the options and discretion afforded in the FJO.

The Coordinated Design Phase commences the day after the publication of a DAR that concludes to initiate an Expansion Project.

TAP and the Adjacent TSOs will conduct technical studies to design the Expansion Project(s) and comprise the result in project proposal(s). TAP foresees expansion up to the Total Capacity as set out in the Appendix 'Technical Description of the TAP Transportation System', available on TAP website.

TAP retains its right to request fees for the performance of technical studies necessitated by the non-binding Capacity Requests. Such fees may be comprised in the project proposal and would be reimbursed under the same conditions as the Participation Fees.

No later than 12 weeks after the beginning of the Coordinated Design Phase, TAP will in coordination with Adjacent TSOs publish and publicly consult on the design of the proposed Expansion Project(s) comprised in the project proposal(s). The public consultation will last for a minimum of one month and no longer than two months.

The unique regulatory context of TAP necessitates that any project proposal(s) must contain certain provisions to be consistent with the FJO. The public consultation will cover information in accordance with Article 27(3) of CAM NC. This will include the rules that will govern the Binding Phase, including any alternative allocation mechanism in the sense of Article 30 of CAM NC. Such alternative allocation mechanism can be foreseen to be necessary in order to allow compliance with the rules laid down in Clause 3 of the TAP Tariff Code. It will also include an auction mechanism as mentioned by Clause 3.3.1 (e) of the TAP Tariff Code.

Following the consultation, TAP and the Adjacent TSOs will finalise the design of the proposed Expansion Project(s) and submit the project proposal(s) for the approval of the relevant Authorities. According to Article 28(2) CAM NC, within 6 months of the receipt of the complete project proposal(s) by the last of the relevant Authorities, they should publish coordinated decisions on the project proposal(s). The project proposals involving only Connection Requests may be treated individually according to a separate timeline, as such requests are not subject to an economic test, but only to a technical feasibility test. According to Sections 4.7.5 and 4.7.8 FJO, costs for such requests will be borne by the requesting third party, according to the national legislation in place at the time of the request.

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If the Authorities approve the project proposal(s), the Market Test will proceed to the Binding Phase.⁵

If the Authorities do not approve the project proposal(s), the Market Test ends.

⁵ This approval step is without prejudice to the options and discretion afforded to TAP by the FJO and the TAP Tariff Code.

5. Binding Phase

Overall, the Binding Phase provides Interested Parties with the opportunity to make binding Capacity Requests at TAP's entry and/or exit points and also to make binding commitments for Connection Requests.

The Binding Phase consists of the Information Phase and the Binding Bidding Phase.

The Information Phase starts when TAP, in coordination with the Adjacent TSOs, publishes the outcome of the Coordinated Design Phase including the rules governing the Binding Bidding Phase, previously approved by the Authorities, and any further documentation necessary for the Interested Parties to participate in the Binding Bidding Phase. These are to be made available by TAP at least 2 (two) months ahead of the opening of the Binding Bidding Phase.

In the Binding Bidding Phase, Interested Parties may submit binding Capacity Requests and/or binding Connection Requests.

In the case of binding Capacity Requests, TAP and adjacent TSOs would conduct relevant economic tests and, if successful after taking into account any admissible conditionality that may have been stated in binding bids, may allocate capacity to successful bidders and then may proceed to initiate required works to make the requested capacity available.

In the case of binding Connection Requests, TAP will assess the viability of the request from a technical perspective and will proceed following satisfactory commitments related to the coverage of costs in accordance with Articles 4.7.5 and 4.7.8 of the FJO.



6. Disclaimer

No rights, other than those explicitly stated, may be derived from the contents of these Guidelines, the appendices or the supporting documentation.

TAP has taken all reasonable endeavours to ensure that the information in these Guidelines, the appendices, and supporting documentation is correct at the time of publication. TAP assumes no liability in contract or in tort or breach of statutory duty or otherwise for or in respect of any loss or damage howsoever arising in respect of or in connection with the contents of this publication, its appendices and supporting documentation.

7. Appendices

This chapter sets out the list of appendices that accompany this Guideline and the list of supporting information and documentation available on TAP website.

Attached to these Guidelines are the following forms that relate to TAP's Market Test:

- Appendix A: Registration and Non-Binding Demand Indication Form.
- Appendix B: Affidavit on accuracy of information provided by the Interested Party.
- Appendix C: Confidentiality Agreement.
- Appendix D: Capacity Caps Form.
- Appendix E: Declaration of No Objection from the Authorities.

Supporting Documentation

TAP website will include all relevant current information and documentation for participating in the Market Test, including but not limited to the following:

- Technical Description of the TAP Transportation System for the 2019 Market Test.
- TAP Overall Map for the 2019 Market Test.
- TAP Capacity Overview for the 2019 Market Test.
- Draft Gas Transportation Agreement⁶, consisting of:
 - o Draft Transportation Confirmation.
 - o Draft General Terms and Conditions.
 - o Draft TAP Network Code.⁷

⁶ The documents constituting the draft Gas Transportation Agreement are made available for convenience and information only, and are in the same version as published on TAP's corporate website on 7 August 2018 for the purposes of the public consultation of the TAP Network Code. The TAP Network Code in particular is currently undergoing revision following the public consultation, and is subject to approval from the Authorities. Final documents will be made available for the Binding Phase.

Errore. L'origine riferimento non è stata trovata.



- TAP Tariff Code.
- Final Joint Opinion.
- Regulatory Compliance Programme.

All documents available on TAP's website will be in English.

TAP reserves the right to update the supporting documents above at all times. Should any such update take place during the Non-Binding Phase, TAP will notify Authorities and all Interested Parties in a timely manner.