



DECISION

No. 52, of date April.17.2015

ON

APPLYING THE AMENDMENTS REQUIRED FROM THE EUROPEAN COMMISSION AND ENERGY COMMUNITY SECRETARIAT FOR THE JOINT OPINION OF THE ALBANIAN, ITALIAN AND GREEK REGULATORY AUTHORITIES APPROVED WITH ERE DECISION NO. 135. DATE DECEMBER.24.2014

ERE Board of Commissioners, on its meeting date April.17.2015

Implementing:

- Article 40, Law no. 9946, date June.30.2008. “*On natural gas sector*”, as amended;
- Article 18, point 2 of ERE Practice and Procedure Rules approved with Board of Commissioners Decision No.107, date October.17.2011, as amended;
- Directive 2009/73/EC of the European Parliament and the Council date July.13 .2009 (hereinafter: Directive 73/09);
- Regulation 713/2009/CE of the European Parliament and the Council of date July. 13.2009
- Regulation 715/2009/CE of the European Parliament and the Council date July.13.2009 (hereinafter Regulation 715/09);
- Article 16 of the Ministerial Council Decision D/2011/02/EC of the Energy Community “On implementation of Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) no.714/2009 and Regulation (EC) no. 715/2009 and amending Articles 11 and 59 of the Energy Community Treaty.
- European Commission Decision date May.16.2013, regarding *Exemption of Trans Adriatic Pipeline from the requirements on Third Party Access, Tariff Regulation and Ownership Unbundling laid down in articles 9, 32, 41 (6), 41 (8) and 41 (10) of Directive 2009/73/EC*”.

- Energy Community Secretariat Opinion (no 1/2013) date May.14.2013 “On the exemption of the ‘TAP’ interconnector from certain requirements under Directive 2009/73/EC by the Energy Regulatory Authority of Albania (ERE)”.
- European Commission Decision date March.17.2015 C (2015) 1852, *Prolonging the exemption of the Trans Adriatic Pipeline from certain requirements on Third Party Access, Tariff Regulation and Ownership Unbundling laid down in articles 9, 32, 41(6), and (10) of Directive 2009/73/EC*.
- Energy Community Secretariat Opinion (no 1/2015) date March.17.2015 “On the prolongation of the exemption of the Trans Adriatic Pipeline interconnector from certain requirements under Directive 2009/73/EC by the Albanian Energy Regulatory Authority (ERE)”.
- ERE Board of Commissioners Decision No 27, date March.01.2013, “On approving the conditional exemption of TAP – AG company from the requirements of articles 9, 32, 41 (6), (8) and (10) of Directive 2009/73/EC for Trans Adriatic Pipeline project”;
- ERE Board of Commissioners Decision no. 64, date June.13.2013, “For amending ERE Board of Commissioners Decision, no. 27 date March.01.2013 “For approving the conditional exemption of TAP-AG company from the requirements of articles 9, 32 and 41(6), (8) and (10) Directive 2009/73/EC for Trans Adriatic Pipeline project”, to consider the Energy Community Secretariat Opinion (no 1/2013) and European Commission Decision (C(2013)2949” by approving the document “Final Joint Opinion of the Energy Regulators on TAP AG's Exemption Application Autorita per l'Energia Elettrica e il Gas (Italy), Enti Rregullator i Energjise (Albania) and Regulatory Authority of Greece (Greece)” hereinafter *Final Joint Opinion*;
- Decision No. 127 date November.07.2013 “On approving the tariff methodology (TAP Tariff Code), proposed by TAP AG, according to the obligation defined in the “Final Joint Opinion” within the procedure for exempting TAP pipeline”;
- Decision No. 135, date December.24.2014 ‘On Reviewing and Approving ‘Energy Regulator’s Joint Opinion on TAP AG’s Request for a Prolongation of the Validity Period of the Exemption Decision”.
- The attached letter from the TAP AG company prot no. 329/25 date December.17.2014
- TAP AG request, for exempting TAP Pipeline date September.2.2011, archived at ERE with prot no. 478/2 date October.03.2011.
- Letter send from TAP to ERE prot no.7326/27 date November.11.2014
- Letter send from TAP to ERE prot no.329/24 date November.18.2014

Considering that:

- Article 36 Directive 73/09, has enabled the exemption of new infrastructures for the gas system, Third Party Access (hereinafter: TPA)
- TAP AG company, by the letter of September 2 2011, has submitted the request for a new pipeline project crossing Greece and Albania and continues in Italy (hereinafter: TAP pipeline): as such for the purpose that the exemption request be jointly granted from the national regulatory authorities of the countries involved, said otherwise: Italian (AEEGSI), the Greek (RAE) and Albanian (ERE) authorities;
- In particular, the provided instances included a request for exemption, for a period of 25 years, beginning from the date the pipeline has become operational from:
 - the obligation for Third Party Access (Article 32, Directive 73/09);
 - Regulated tariffs (article 41, point 6, 8 and 10 of Directive 73/09);
 - Ownership obligations sharing (article 9 Directive 73/09);
 - The regulation 715/09 obligations (except of article 19, point 4)
- ERE Board of Commissioners Decision No. 27, date March.01.2013, “On approving the conditional exemption of TAP – AG company from the requirements of articles 9, 32 and 41 (6), (8) and (10) Directive 2009/73/EC for Trans Adriatic Pipeline project” (Joint Opinion) has given the formal exemption from the articles mentioned above in Directive 73/09 and Regulation 715/09.
- ERE with Decision No. 64 date June.13.2013 has adopted the European Commission and Energy Community Secretariat requirements in Section 4 of the Joint Opinion.
- Paragraph 4.10.2 of the Final Joint Opinion provides, in coherence with article 36, point 9 Directive 73/09, that the exemption decision will loose the effect 3 years after its adoption (June.6.2016), in case TAP construction has not yet started, and 6 years (June.6 .2019) from its adoption in case the infrastructure is not in operation, unless the Commission decides that any further delay is due to major obstacles which are beyond the control of the subject to which this exemption is granted.
- The above mentioned deadlines provide the situation of the project at the moment of adopting the Final Joint Opinion and the best possible incentives of the moment, in the view of the presumed date for entry into function of the pipeline, where neither Shah Deniz Consortium nor TAP AG haven’t yet taken the final investment decision;
- In continuation to December 16 2014, SD Consortium has communicated to TAP AG company that the date for the first gas delivery will be on the period between January.1 .2020 and December.31.2020;
- Then, on the letter of date December.17.2014 TAP AG company informed the Authorities that based on the latest notification received from SD Consortium

(December 16) the second period provided from the funneling mechanism to deliver gas will be from January.1.2020 until December.31.2020;

- The proposed terms would have allowed the unification of the date for beginning the pipeline operation with the following gas transport contracts, according to the information given by SD Consortium that it is not possible that the first gas delivery to be before January 2020;
- ERE with Decision No.135, date December.24.2014 has approved the request to prolong the validity period for the exemption decision, together with AEEGSI and RAE, the document "Energy Regulators Joint Opinion on TAP AG's request for a prolongation of the validity period of the exemption decision" (hereinafter: Prolongation Joint Opinion) for which the Electricity Community Secretariat has been notified.
- *Prolongation Joint Opinion* postponed until the end of 2020 the time in which the pipeline will enter into operation to allow the validity period approach for the exemption decision with the period provided for the first gas delivery (until 2020), and in coherence with the defined time periods, postponed until on 2018 the last date on which the infrastructure construction should begin.
- On March.17.2015, the European Commission based on article 36, paragraph 9 of Directive 73/09 approved the decision on the request for a prolongation of the validity period to exempt TAP AG, in which it agrees with the Authorities to prolong the deadline in which the pipeline should become operational until the end of December 31 2020, but does not agree with the need to prolong the deadline for beginning the works to construct the infrastructure (which therefore requires to be on May.16.2016, as required from the beginning in the Final Joint Opinion);
- On March 17 2015, the Energy Community Secretariat on its Opinion sent to ERE has reached the same conclusions with European Commission Decision of date March 17 2015 (as above).
- As specified in the Commissions decision and at the Secretariat's Opinion, the delays from the date decided for beginning the pipeline operation are due to major obstacles beyond TAP AG control (mainly delays in investments during the upstream supply of the project) but that justify the application date; although, on the other hand, it is estimated that a prolongation of the deadline for beginning the construction of the pipeline is not justifiable, because, such an extension will allow the pipeline to become operational until on 2020 (due to the time needed to make the infrastructure construction in five years, as declared on the recent communications with TAP AG);

- The Commission has made a modification on article 11 of May.16.2013 decision, that continues until on December 31 2020, the period when the infrastructure shall become operational and leaves unchanged the expiry date May.16.2016 on which the construction works for the pipeline should begin. The same modification is made even by the Secretariat on its Opinion sent to ERE on May.14.2013.

Considering all of the above mentioned:

The Prolongation Joint Opinion should be modified for adopting with the decision taken from the European Commission on the basis of article 36 paragraph 9 Directive 73/09, and also to be adopted with the Energy Community Secretariat Opinion 1/2015 which is sent to ERE.

For all of the above mentioned the Board of Commissioners

Decided:

1. To approve the amendment in document “Energy Regulator’s *Joint Opinion on TAP AG’s* Request for a Prolongation of the Validity Period of the Exemption Decision” in conformity with the decision adopted from the European Commission and the Energy Community Secretariat Opinion under article 36, point 9 of Directive 73/09. Attached you will find the amended document
2. To inform the Energy Community Secretariat, Ministry of Energy and Industry, Energy Regulator Authorities of Italy (AEEGSI) and Greece (RAE) and also TAP AG company, for taking this Decision.
3. This decision enters immediately into force and is immediately published in the Official Gazette and on ERE’s website (www.ere.gov.al).

Date, April.17.2015

ERE CHAIRMAN

Petrit AHMETI



REPUBLIC OF ALBANIA
ENERGY REGULATOR AUTHORITY
Board of Commissioners



ERE's Board of Commissioners Vote for,

DECISION

No. 52, Date 17.04.2015

ON

APPLYING THE AMENDMENTS REQUIRED FROM THE EUROPEAN COMMISSION AND ENERGY COMMUNITY SECRETARIAT FOR THE JOINT OPINION OF THE ALBANIAN, ITALIAN AND GREEK REGULATORY AUTHORITIES APPROVED WITH ERE DECISION NO. 135. DATE DECEMBER.24.2014.

Board Members

	Pro-s	Con-s
Petrit Ahmeti	_____	_____
Adriatik Bego	_____	_____
Entela Shehaj	_____	_____
Abaz Aliko	_____	_____
Maksim Shuli	_____	_____