

Implementing The 3rd EU Energy Package: Russia & The EU, Current & Future Challenges

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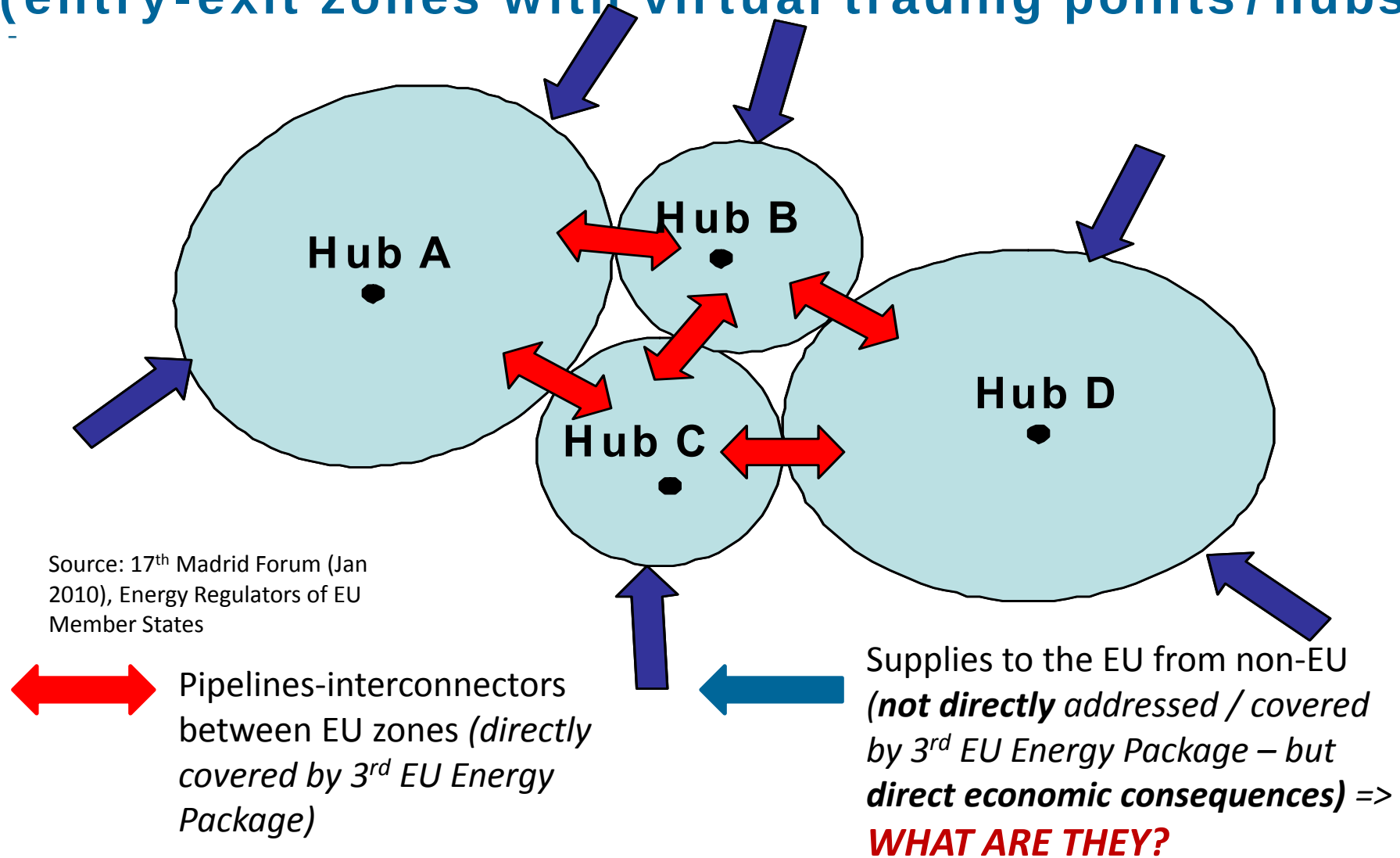
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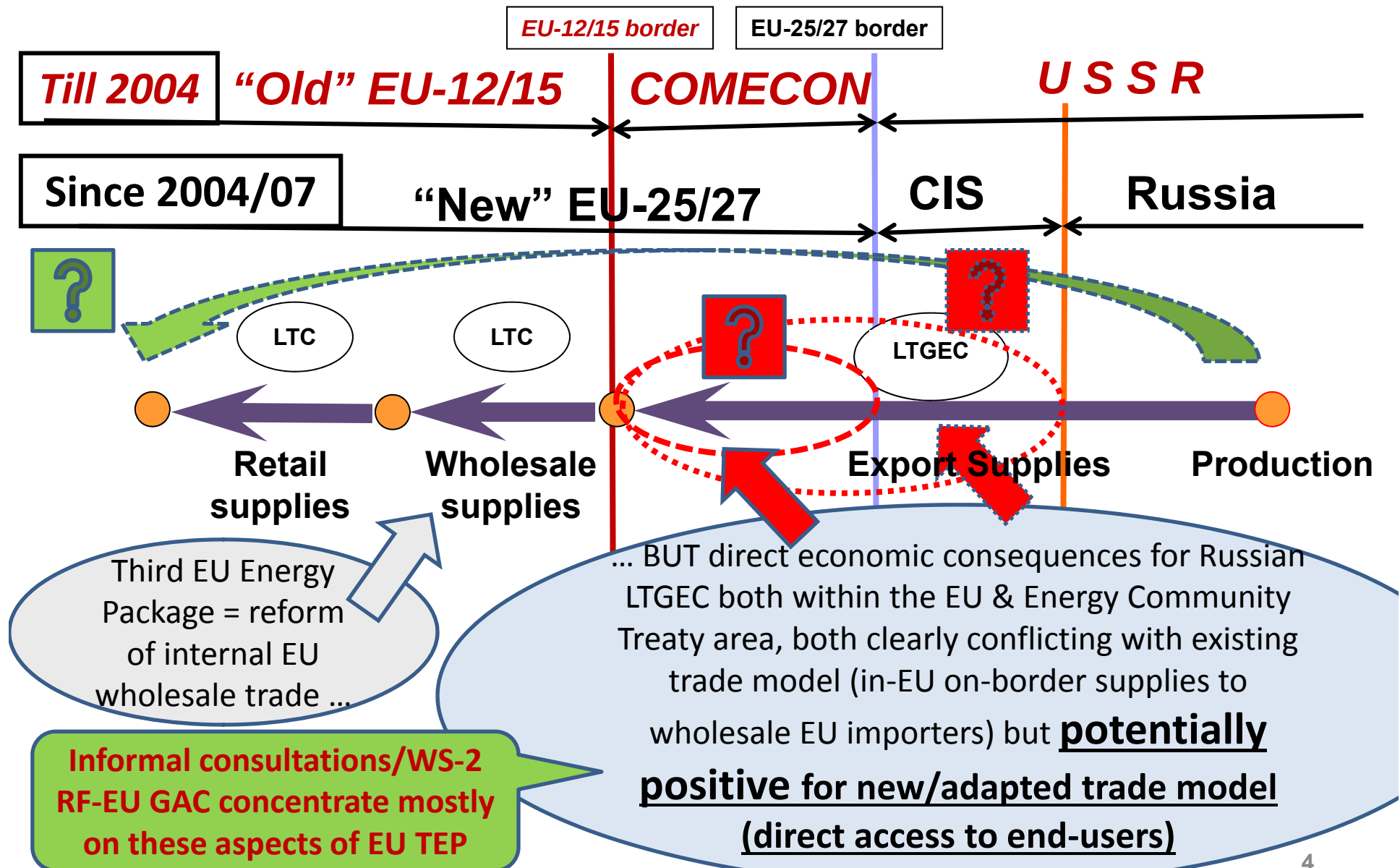
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EU internal gas market architecture according to Third EU Energy Package (entry-exit zones with virtual trading points / hubs)



Third EU Energy Package affects Russia-EU Gas supply chain: how to materialize potential benefits



Third EU Energy Package in gas

Announced Sept.2007, entered into force 03.09.2009, was to be transposed into national laws by 03.03.2011; 19 MS has transposed as of Jan.2012

3rd EU Gas Directive 73/EC/09 (on common rules in gas)

Regulation 713/2009
(ACER)

Regulation 715/2009 (access to natural gas networks)

EU Gas Target Model

Framework Guidelines

Network Codes

1

12

12

GTM preparation was initiated at the first round of informal Russia-EU expert consultations (Jan'2010)

Work in progress – to be finished by end-2014

Proposal on the “hybrid” EU gas market model under GTM (for joint discussion & consideration within RF-EU Consultations / WS-2 GAC)

➤ Long-term supplies (firm contracts, main / basic demand load):

More flexible LTGEC (re off-taking of contractual volumes & pricing formulas & price review rules)

+ long-term access to transportation capacity for full duration & volume of LTGEC (open seasons)

+ modified pricing formulas linking gas to its replacement fuels (indexation not only to petroleum products => coal, RES, spot, etc.)

➤ Short-term supplies (interruptible contracts, additional / semi-peak & peak demand load):

Spot contracts (delivery & trading)

+ exchange pricing (futures, gas indexes, forward curves)

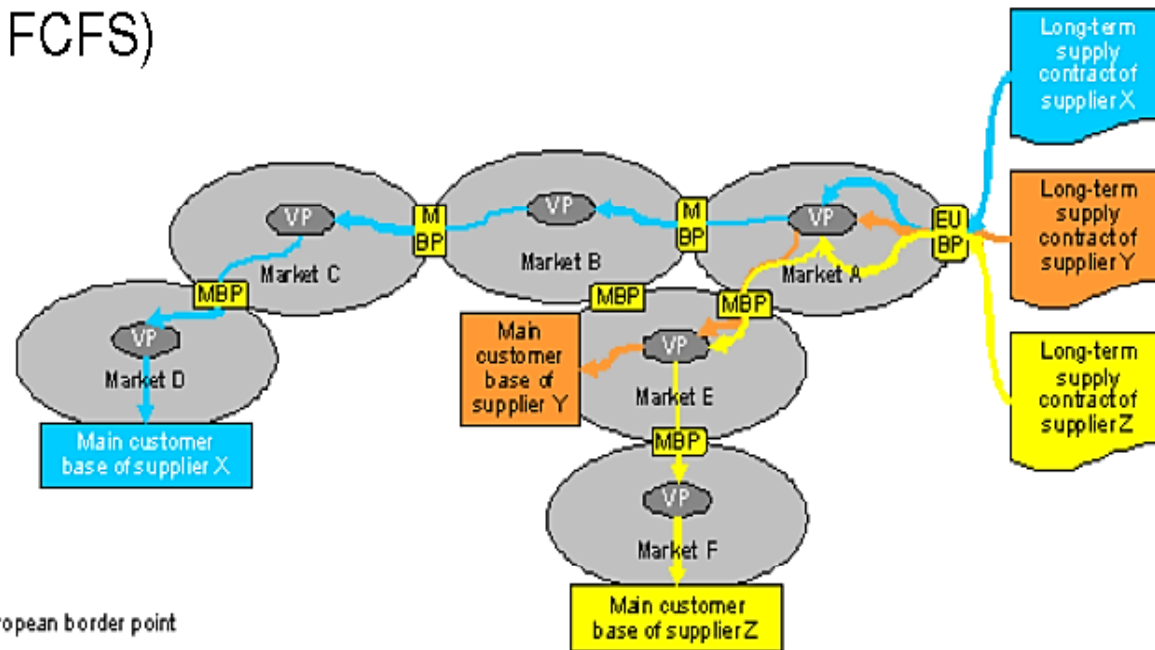
Initially GTM did not consider risks & uncertainties for this market segment => these questions have been added on a step-by-step basis in result of RF-EU informal expert Consultations

Initial drafts of GTM covered only this segment of gas market, long-term long-distant supplies and related risks & uncertainties stayed beyond consideration of justified concerns of market participants

Long Distance Capacity bookings in the EU Regulatory Framework (appeared in GTM in result of Consultations)

- Introduction of Entry-Exit System in all countries
- Auctions as standard allocation (instead of, e.g. FCFS)

Whether
Auctions
are the
best
effective
systemic
solution?



Yes, this is
a given
legal
reality to
be dealt
with by
any actor
at the EU
market,
but ...

Long Term Capacity bookings in the EU Regulatory Framework (appeared in GTM in result of Consultations)

- FG CAM reserves (at least) 10% for short-term, i.e. 90% can be booked on long-term Basis

Fine, though worsen pipeline ROR / economics / financing

Fine, validates LTGEC

- Capacity can be booked and structured for 15 years in advance (cf. ENTSOG NC)

Fine, prevents contractual mismatch

10% <1yr

90% up to 15yrs

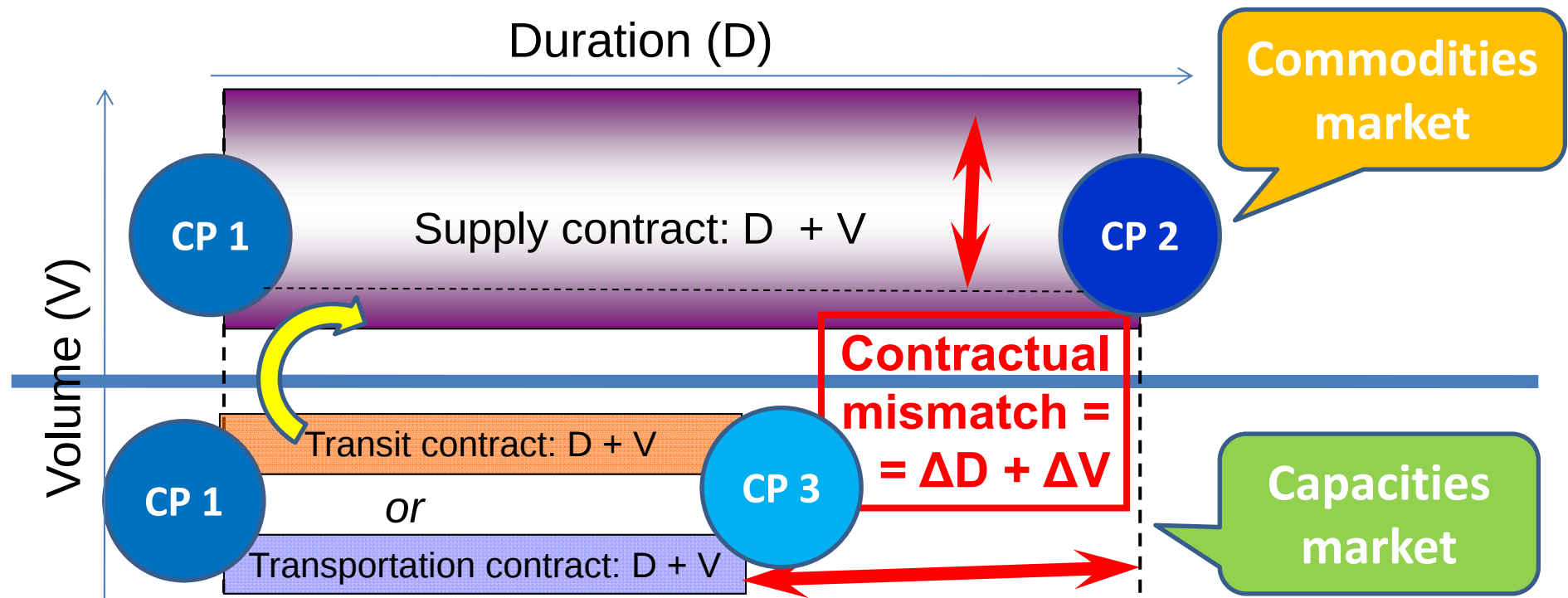
- Inclusion of “incremental capacity”? [FG CAM: Coherence]

Alternative: Draft proposal on EU-coordinated Open Season procedure as integral instrument of systemic (existing + incremental) capacity development

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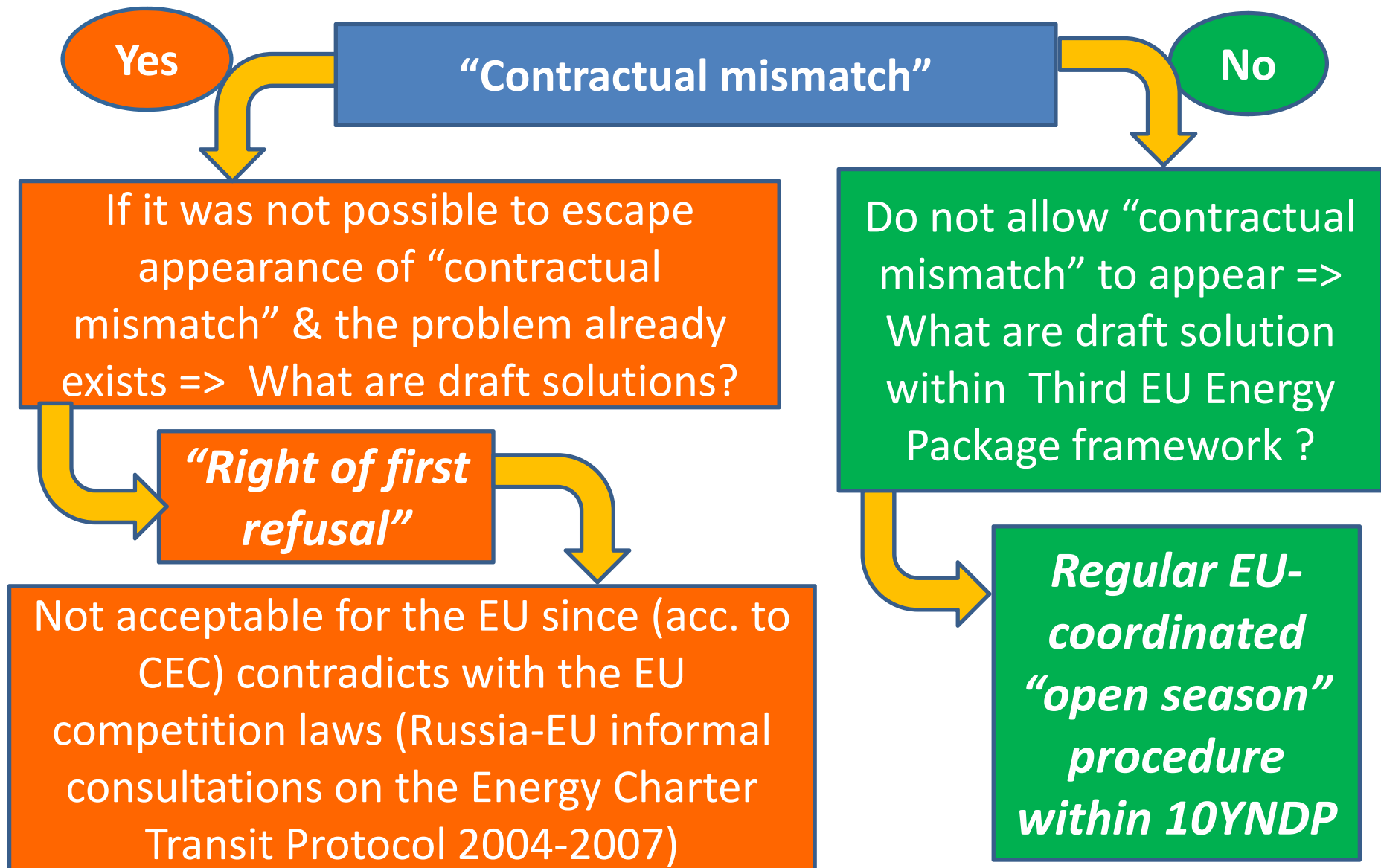
Contractual Mismatch Problem: major risk for contract parties in unbundled gas market



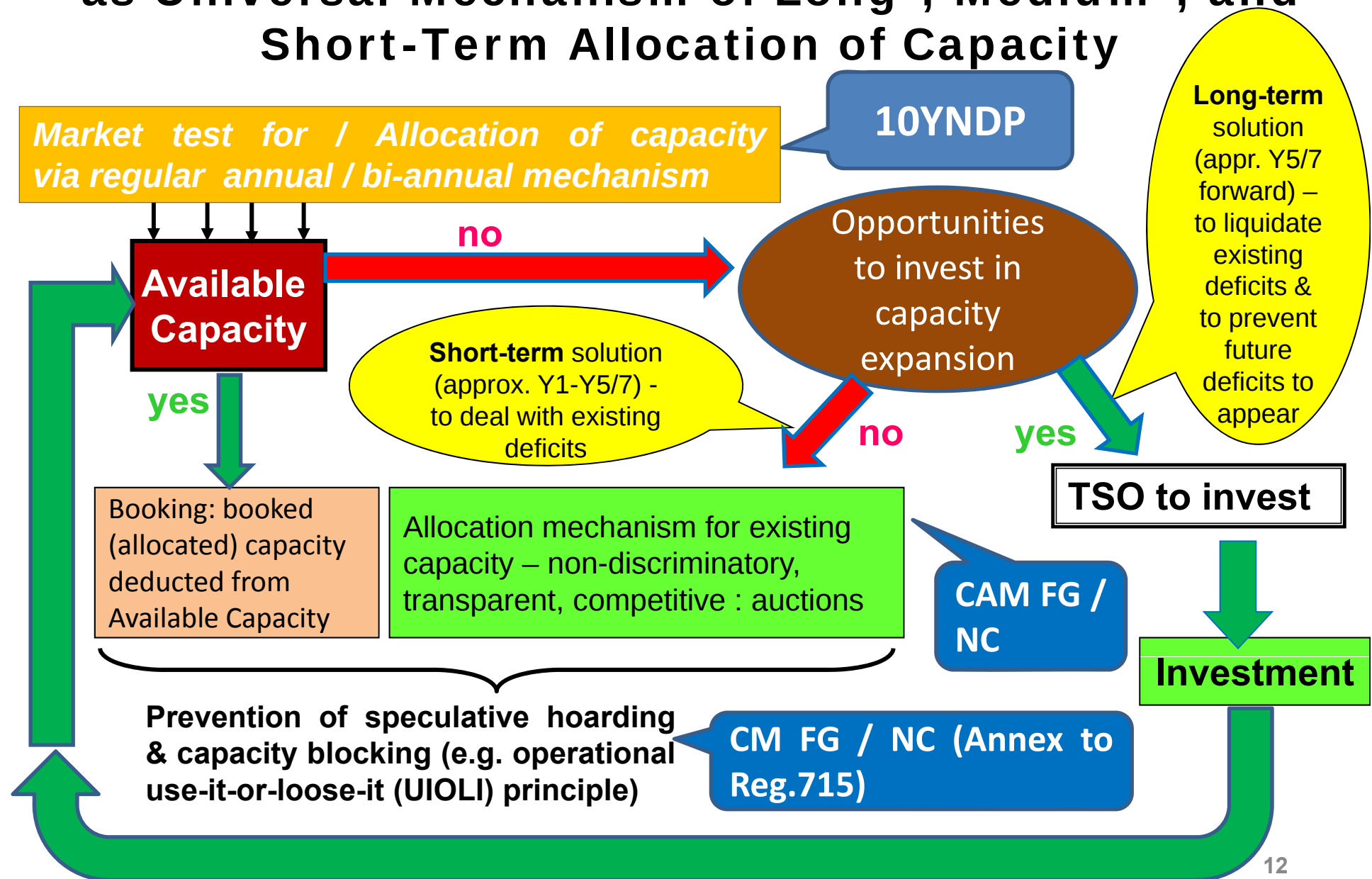
Contractual mismatch: between duration/volumes (D/V) of long term supply/delivery contract (LTGEC; CP1-CP2) and transit/ transportation contract (CP1-CP3); the latter is integral part to fulfill the delivery contract => risk non-renewal transit/ transportation contract => risk non-fulfillment supply/delivery contract.

Core issue: guarantee of access to/creation of adequate transportation capacity for volume/duration of long term contracts

Contractual mismatch: from “Right of First Refusal” to EU-coordinated “Open Seasons”



Draft proposal for EU-Coordinated “Open Seasons” as Universal Mechanism of Long-, Medium-, and Short-Term Allocation of Capacity



What provisions of the Third Energy Package are supportive for EU-wide coordinated “Open Seasons”

- Directive 2009/73/EC

- Regulation (EC) 715/2009

- Art. 13.1(a), 13.2, 13.4
- Art. 14
- Art. 17 (e,f,g)
- Art. 22
- Art. 35.2
- Art. 36.6,
- Art. 41.1(g)
- Art. 42.2(a)
- Art. 52.1(d)



“TSOs must build infrastructure to satisfy all economically reasonable and technically feasible capacity demand.”

- Art. 4
- Art. 8.3(b)
- Art. 12.1, 12.2
- Art. 16.2(a), 16.5
- Art. 18.1, 18.3

PLUS: GGPOS-2007

- Esp. Sect. 4.1 - 4.2 (esp. if “sponsor” = TSO)

(See also: “Memorandum on TSOs Obligations to Invest in Capacity” prepared by the Russian side of WS-2 for GAC 25.04.2012 meeting)¹³

Proposed coordinated OS within 10YNDP: what benefits for pipe industry?

- Coordinated OS within 10YNDP = regular test for market demand for transportation capacity within the EU (interconnectors, etc.) & from outside the EU
- Long-term vision of market demand for pipes & related equipment (different types, quantities, etc.) => capacity & investment planning, investment risk decrease
- Regular advanced update of this demand through 10YNDP

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Third EU Energy Package (TEP) as a door-opener for Energy Charter Treaty revival?

- TEP: not a homogenous EU gas market, but a combination of (10-20?) regional zones, but...
- Informal RF-EU consultations (2004-2007) on Energy Charter draft Transit Protocol: “REIO clause” as the only left “stumbling block” - all other issues were settled then on a technical level:
 - ECT: 2 issues in article 7 “Transit” (new “Understandings” in draft TP),
 - TP: 3 open issues (transit tariffs, contractual mismatch, “REIO clause”)
- “REIO clause” based on assumption of a single internal EU gas market - this is not the case anymore after TEP is in place => “REIO clause” is not a barrier anymore (TEP abolished “REIO clause”) => all former substantive objections (justified concerns) of Russia against ECT/TP are technically settled
- To find a goodwill to restart finalization of ECT/TP (based on recent RF accession to WTO), to add positive elements to RF-EU agenda

ECT / TP: Possible line of action

- Renewal of multilateral consultations (& negotiations afterwards) on new Energy Charter Protocol (based on former draft Transit Protocol) :
 - Not “Transit Protocol” (term “Transit” is not used anymore within EU) but maybe “Protocol on long-term long-distant energy supplies via fixed infrastructure” (say, “Transportation Protocol”, the title is not important but the substance),
 - Key issue/risk is the same for “transit (through the chain of states)” and/or for “long-distant long-term large-scale transportation through the chain of zones” => this is “contractual mismatch” (contractual/physical deficit of transportation capacity) => EU-coordinated “Open Season” within 10YNDP can settle this issue => international law instrument more reliable than domestic law (EU *acquis communautaire* is domestic law for the EU),
 - Finalization of updated (former Transit) Protocol => Russia can sign new Protocol & ratify it with ECT only simultaneously (two other options are not workable) when all other ECT CPs will sign/ratify new Protocol

**Thank you for your
attention**

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