



## **FINAL DETERMINATION**

### **ADDENDUM TO INFORMATION PAPER ON POLICY ON GAS IMPORT CONTROL**

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# **ADDENDUM TO INFORMATION PAPER ON POLICY ON GAS IMPORT CONTROL**

## **Introduction**

1.1 EMA had on 26 December 2006 issued an information paper (“Information Paper”) on the Policy on Gas Import Control (“Policy”) explaining the controls on the importation of Piped Natural Gas (“PNG”) which took effect from 21 Aug 2006. The intent of the Policy is to enable the build-up of demand for Liquefied Natural Gas (“LNG”) by controlling the import of new PNG.

1.2 In Oct 2010, the six power generation companies (“gencos”) - Senoko Energy, PowerSeraya, Tuas Power Generation, SembCorp Cogen, Keppel Merlimau Cogen and Island Power Company - committed to an initial tranche of about 2 Mtpa of LNG. The gencos have also provided feedback that they wish to bring in more PNG for commercial power generation prior to the introduction of LNG. Such PNG could be used for plant commissioning purposes and to improve the cost-efficiency of existing plants.

1.3 EMA had on 4 Jan 2011 consulted the industry on proposed updates to the Policy arising from the feedback. A summary of the comments from industry players and EMA’s response is shown in Appendix 1. This Addendum sets out the updates to the Policy taking into consideration the industry comments, and clarifies the use of PNG under various circumstances.

## **Import and Use of PNG for Commercial Power Generation before Arrival of LNG**

2.1 There are two categories of PNG gas sales agreements – (i) those that were entered into by gas importers before 21 Aug 2006 when the Policy was implemented (“Existing PNG”); and (ii) those that were entered or are going to be entered into by gas importers after 21 Aug 2006 (“New PNG”).

2.2 There are no restrictions on the use of Existing PNG, i.e. such PNG can be used for commercial generation, non-commercial generation and other uses. This includes the use of such PNG in new generation plants that commence operation after the Policy was implemented on 21 Aug 2006.

2.3 Currently, any New PNG approved by EMA can only be used for non-commercial generation and other uses (such as industrial feedstock and embedded generation for own use).

2.4 Taking into consideration that all the gencos have already signed up for LNG, gencos may, with effect from 2 Mar 2011, be allowed to use New PNG for commercial power generation in the interim period before LNG arrives. This will help to increase the available gas-fired generation capacity and enhance competition in the electricity market.

2.5 EMA has received feedback that more certainty is required on the end date until which New PNG for commercial power generation on a **bridging basis** may be considered by EMA. To provide the industry with more certainty, EMA will stipulate the following conditions for the use of New PNG for commercial power generation on a bridging basis:

- The flow of New PNG must commence and terminate before 1 April 2013; and
- The flow of New PNG must not circumvent the spirit and intent of the Policy.

2.6 The estimated Commercial Operation Date (“COD”) of the LNG Terminal is May 2013. In the event that the COD of the LNG Terminal is earlier than the estimated COD, gencos must manage their Take-or-Pay (“TOP”) obligations under their LNG Gas Sales Agreements. Conversely, should it become clear that the COD may be delayed beyond May 2013, EMA is prepared to consider extensions to the use of New PNG for commercial power generation. EMA is monitoring the construction schedule of the LNG terminal very closely, and will endeavour to provide the gencos with any changes to the COD of the LNG Terminal in a timely fashion, so as to enable the gencos to arrange for such extensions.

2.7 EMA has also received feedback that the volume of New PNG used for commercial power generation by each genco on a bridging basis should not be capped to the amount of LNG it has committed to purchase in its Gas Sales Agreement with BG Singapore Gas Marketing Pte Ltd. This restriction was originally highlighted in paragraph 2.5b of the draft Addendum. EMA has considered this feedback carefully, and agrees to remove this restriction as it should not jeopardize LNG off-take. This will also give gencos greater flexibility to use PNG in commercial generation on a bridging basis, thereby increasing available gas-fired generation capacity and enhancing competition in the electricity market.

2.8 Companies that wish to import and use new PNG for commercial power generation under the above conditions will have to seek prior written approval from EMA. EMA would also like to reiterate the comments raised by the Gas Transporter PowerGas Ltd on the capacity constraints in Transmission Network 2. Gencos therefore have to take such capacity limitations into consideration and work out their own downstream gas transportation arrangements before committing themselves to any Gas Sales Agreement.

### **Clarification of Existing Import Control Policy for Avoidance of Doubt**

3.1 EMA has also received queries from various parties on the possibility of inter-changing between Existing and New PNG. For avoidance of doubt, New PNG that has been approved by EMA cannot be used to substitute Existing PNG. In other words, New PNG cannot be used to relieve Existing PNG used for non-commercial power generation, such that the latter is freed up for use in commercial power generation. EMA deems such arrangements as “Gas Swaps”, which effectively undermine the spirit and intent of the Policy. Such arrangements are hence not allowed.

3.2 There may be instances where a gas importer, in seeking to import New PNG (as approved by EMA), may wish to supply Existing PNG to its off-takers on a short-term basis until the New PNG arrives<sup>1</sup>. EMA is prepared to allow such an interim supply arrangement on a case by case basis. Companies that wish to do so must seek prior written approval from EMA.

3.3 The Information Paper had made clear that the Policy would not apply to Island Power Company's 2 x 400 MW and Keppel Merlimau Cogen's 2 x 250 MW generation capacities. Since then, Keppel Merlimau Cogen's 2 x 250 MW generation capacities have come into operation using imported PNG through a gas sales agreement signed before the Policy came into effect (thus it is considered "Existing PNG"). Island Power Company (IPC) is in the process of developing its plants, and any PNG imported by IPC would thus be considered "New PNG". However, the Policy would not apply to such New PNG imported by IPC, in accordance with the position stipulated in the Information Paper i.e. the New PNG can be used for IPC's 2 x 400 MW generation capacities. For avoidance of doubt, New PNG imported by IPC before the COD of the LNG terminal can be used, if approved by EMA, for non-commercial generation and other users. However, if the New PNG is only scheduled to commence flowing after the COD of the LNG terminal, then the New PNG can only be used by IPC's 2 x 400 MW generation capacities and cannot be on-sold to other users.

### **Import Controls after Arrival of LNG**

4.1 There is no change to the Policy after the arrival of LNG. In other words, once the LNG terminal is in commercial operation, all new gas demand will have to be met either through LNG or Existing PNG. For avoidance of doubt, EMA will not allow New PNG (whether for commercial power generation on a bridging basis or for non-commercial generation and other uses) that is scheduled to commence flowing after the COD of the LNG terminal even if the Gas Sales Agreement is signed before that. EMA will consult the industry and review the Gas Import Control Policy once LNG import reaches 3 Million tonnes per annum ("Mtpa") or in 2018, whichever is earlier.

### **Effective Date**

5.1 The Addendum will take effect from 2 Mar 2011.

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<sup>1</sup> For example, the off-taker may wish to consume PNG even though New PNG has yet to flow. In such an instance, a gas importer may want to supply Existing PNG to such off-taker on a bridging basis until New PNG begins to flow.

**EMA's Response to Industry Feedback**

Company	Comment	EMA's Response
SP PowerGrid Ltd (on behalf of PowerGas)	The capacity of Transmission Network 2 is currently fully contracted. Even if New PNG is available, it is not possible to flow any more gas through Transmission Network 2. In order to create more capacity, physical work will be required. However, such infrastructure works will typically take around two to three years to complete. This will not meet the timeline for the bridging gas. Furthermore there could be cost recovery issues for this "bridging" infrastructure.	Capacity limitations in Transmission Network 2 are known to Gencos. Gencos will have to take such capacity limitations into consideration and work out the downstream gas transportation arrangements before committing themselves to a GSA for bridging gas.
Island Power Company Pte Ltd	The Policy on Gas Import Control, ("Policy"), issued by the EMA on 26 December 2006, specifically exempts Island Power's 2x400MW and Keppel Merlimau's 2x250MW generation capacities from the Policy. IPC would like confirmation that the exemption remains in place.	In accordance with the Information Paper on Policy on Gas Import Control issued by the EMA on 26 December 2006, the Policy does not apply to Island Power Company Pte Ltd (IPC)'s 2x400MW generation capacities as its Electricity Generation Licence was issued prior to the announcement of the Policy. It is also noted that Keppel Merlimau Cogen's 2x250MW power plants which have been in operation since Apr 2007 use PNG imported under the GSA signed before the gas import control policy came into effect on 21 Aug 2006.
	Under the Addendum the EMA makes specific reference to two categories of Gas Sales Agreements ("GSA"). We would request EMA's confirmation that should IPC execute a PNG GSA at a future point in time that this GSA would be treated in the same way as an "Existing PNG" GSA as defined in the Addendum.	The Gas Import Control Policy will not apply to any New PNG that IPC brings in for its 2x400MW power plants.
PowerSeraya Ltd	Can EMA provide more guidelines and information on the approval and submission processes if the policy goes through?	<p>Gas Importers that wish to import New PNG must apply to EMA to have the Schedule A of their Gas Importer Licence amended to include the quantities of such New PNG before the New PNG can commence flowing in accordance with the current licensing framework.</p> <p>Companies that wish to import and use New PNG for commercial power generation on a bridging basis must seek EMA's prior written approval. Before approving the use of such New PNG for commercial power generation, EMA will consider the following:</p>

Company	Comment	EMA's Response
		<ul style="list-style-type: none"> <li>• The flow of New PNG must commence and terminate before 1 April 2013; and</li> <li>• The flow of New PNG must not circumvent the spirit and intent of the Policy on Gas Import Control.</li> </ul> <p>Upon EMA's written approval, the companies must submit a certified true copy of their Gas Sales Agreement for such New PNG for EMA's verification.</p>
	Are there any indications with regards to the date of implementation? i.e. if the policy goes through, when can the "new" PNG start flowing?	Companies may apply to EMA for PNG import on a bridging basis from 2 Mar 2011. Such New PNG may commence flowing after EMA's written approval and must terminate before 1 April 2013.
	We will also like to clarify para 2.5b - How will this translate to DCQ and MDQ for PNG? Would it be the same DCQ and MDQ as per the LNG GSAs?	Paragraph 2.5b of the Draft Addendum is not included in EMA's Final Determination.
Keppel Gas	Currently a proposed COD of the LNG Terminal is being provided by SLNG. Keppel Gas would like to seek further clarification on the exact proposed date/month.	To provide more certainty in contracting for New PNG on a bridging basis, EMA will set the date that New PNG must stop flowing as 1 April 2013.
Senoko Energy Pte Ltd	<p>Given that the import control policy is now being updated, Senoko requests that the Government's position on coal (and, by extension any other fuels used for commercial generation, and any import of electricity) be incorporated into the Addendum.</p> <p>The original Information Paper contains an exemption for Island Power Company's 2 x 400 MW generation capacities that would allow Island Power to import New PNG for commercial generation purposes. We do not consider it reasonable for this exemption to be "evergreen" and request that EMA reconsider defining an expiry date for such exemption. We also request that, if and when Island Power utilises its current exemption to contract New PNG, such (first) utilisation be (i) the full and final utilisation of the exemption; and (ii) be specific on the use of the New Gas for commercial generation only.</p>	<p>This current consultation is to seek feedback on the use of bridging gas for commercial generation. The underlying intent of the Policy remains unchanged i.e. to allow the build up of LNG demand until the capacity of the 3 Mtpa LNG Terminal is reached. EMA will separately consult the industry on the framework for the import of electricity.</p> <p>The Policy has explicitly provided for the exemption for New PNG to be imported for Island Power Company Pte Ltd's 2x400MW generation capacities. It would not be fair for EMA to now impose additional conditions around this on IPC.</p>

Company	Comment	EMA's Response
	<p>Given that the objective of permitting bridge gas is to increase gas fired generation capacity and enhance competition in the electricity market, Senoko considers section 2.5b is unnecessary and potentially counterproductive.</p>	<p>Agreed, paragraph 2.5b of the Draft Addendum is not included in EMA's Final Determination.</p>
	<p>With respect to any existing gas retail contracts i.e. contracts which are currently in place, and which are currently being supplied from Existing PNG, such supply will have to continue to come from Existing PNG, and such contracts cannot be terminated or amended with the objective of making available Existing PNG for commercial generation after the arrival of LNG. No exceptions have been or will be allowed in this respect.</p> <p>With respect to any gas retail contracts (i.e. gas contracts still to be entered into as of the date of the Consultation Paper) Existing PNG can be used to bridge the time until the arrival of New PNG (as long as such New PNG starts to flow before the arrival of LNG), subject to approval from EMA on a case by case basis.</p> <p>Can EMA clarify what elements will be considered when reviewing the approval of such transactions?</p>	<p>There may be instances where a Gas Importer, in seeking to import New PNG (as approved by EMA), may wish to supply Existing PNG on a bridging basis as the off-taker may wish to consume PNG before the New PNG arrives. EMA is prepared to allow such an interim supply arrangement on a case by case basis. Companies that wish to do so must obtain EMA's prior written approval before entering into such an interim supply arrangement.</p> <p>Before approving an interim supply arrangement, EMA will consider the factors preventing the import of New PNG in time for the off-taker and if the off-taker has a bona fide requirement for such interim supply arrangement.</p>
	<p>Senoko requests that the EMA review whether it may be more optimal to allow imports of New PNG for non-commercial generation purposes to encourage further competition between gas sources in the retail gas market.</p>	<p>With regard to use of New PNG for non-commercial generation, the Policy on Gas Import Control will continue to apply without change to enable the build-up of demand for LNG.</p>

Company	Comment	EMA's Response
ExxonMobil	<p>The Singapore gas market generally does not allow End Users the freedom to on-sell excess gas supplies. Gas importers seek to restrict the use of gas in agreements and prohibit or limit on-sell. We believe EMA must create a market where all End Users can freely trade gas supplies and request EMA to discourage importers to unreasonably prohibit on-sell rights which may obstruct development of a robust gas market.</p> <p>New LNG and PNG agreements should not limit the destination of gas supplies and must freely allow gas re-sell / trading. We view this as a necessary step to create a gas market that promotes competition and allows End Users to better manage their contractual positions.</p> <p>EMA is requiring that importers of New PNG seek EMA's approval to make new arrangements to import PNG into Singapore for commercial power generation. ExxonMobil requests that EMA amend / clarify this requirement by allowing the following:</p> <p>a) EMA provide a "blanket" approval for the on-selling of New PNG that has previously been contracted &amp; approved for import into Singapore between End Users (including between and to Gencos). Such blanket approval:</p> <ol style="list-style-type: none"> <li>i. Is consistent with the proposed addendum's intent to enable flexibility in use of PNG supplies;</li> <li>ii. Provides certainty to End-Users to pursue and execute such transactions;</li> <li>iii. Avoids End-Users seeking EMA's approval for numerous small on-sell transactions.</li> </ol> <p>b) End-Users will notify EMA following completion of on-sell transactions to enable EMA to 'track' where such are being applied.</p>	<p>EMA generally supports the free trading of gas in the market. We would not be able to interfere in the commercial contracts/gas agreements between gas importers and their end users.</p> <p>However, to enforce the Gas Import Control Policy, EMA currently assesses on a case by case basis whether to allow new PNG imports for non-commercial generation and other uses (which includes feedstock and embedded generation for own use). In approving such new PNG imports, EMA will require that such gas shall not be resold or in any other manner transferred, directly or indirectly, to any other party or used for other purposes without the prior written approval of EMA. This is to prevent any circumvention of the Policy on Gas Import Control. Due to the abovementioned reasons, EMA is unable to provide such "blanket" approval.</p> <p>Buyers of LNG do not need EMA's approval to re-sell regasified LNG contracted with BG Singapore Gas Marketing to other off-takers in Singapore. Under today's regulatory framework, End Users can negotiate with Gas Importers to be allowed to on-sell contracted Existing PNG.</p>

Company	Comment	EMA's Response
	<p>ExxonMobil does not support EMA's proposal to cap the volume of New PNG allowed by each Genco at the committed regasified LNG quantity. ExxonMobil believes EMA should allow Gencos full flexibility to secure supplies to encourage full utilization of Singapore's CCGT capacity to realize the most competitive power prices and enable most efficient start-up of new units. If the addendum permits New PNG use in commercial generation only before the arrival of LNG, then providing the above flexibility will not jeopardize LNG use/off-take, and we believe, could actually increase LNG off-take by supporting ramp-up and utilization of CCGT generation during transition from PNG to LNG.</p>	<p>Paragraph 2.5b of the Draft Addendum is not included in EMA's Final Determination.</p>
	<p>ExxonMobil has both Existing and New PNG supplies which are (or will be) used in our non-commercial generation processes. These supplies are not dedicated to a particular demand and are commingled in our facilities for use in our manufacturing processes. ExxonMobil requests that we be permitted to on-sell any excess quantities of gas not used in our non-commercial generation (including under New PNG agreements) during the period covered by the addendum (i.e. before arrival of LNG). Such flexibility is required considering factors such as: 1) pressure limitations, 2) the lack of interconnection of the Singapore gas system and 3) contractual restrictions regarding use of or on-sell of gas supplies, all of which may limit trading options.</p>	<p>There will be no change to all previous approvals to on-sell excess quantities of PNG. For future on-selling of excess quantities of PNG, EMA is prepared to allow this on a case by case basis.</p>
<p>Sembcorp Cogen Pte Ltd</p>	<p>EMA should not on one hand allow some gencos to use New PNG and on the other hand limit the competitiveness of another by restricting them from interchanging between Existing and New PNG. Existing PNG users are already governed by their EUA, as long as they are not breaching the EUA, EMA should allow such market participants to use New PNG for power generation and to compete equally.</p>	<p>All gencos may be allowed to use New PNG for commercial power generation on a bridging basis i.e. prior to the commercial operation of the LNG Terminal. New PNG cannot be used to relieve Existing PNG used for non-commercial power generation, such that the latter is freed up for use in commercial power generation. Such arrangements are deemed as "Gas Swaps", which effectively undermine the spirit and intent of the Policy on Gas Import Control.</p>
	<p>EMA needs to fix a firm date for the use of the new PNG. 31 Dec 2013 seems ideal as it caters for delay of COD of the LNG Terminal and ends on a calendar year for easy negotiation. Reason being it is difficult to secure a gas contract with a floating expiry</p>	<p>To provide more certainty in contracting for New PNG, EMA will set the date that New PNG on a bridging basis must stop flowing as 1 April 2013.</p>

Company	Comment	EMA's Response
	<p>date.</p> <p>For Para 2.5b, we request for no restriction imposed on the volume of the new PNG, as long as the gencos are not breaching their existing EUA.</p> <p>For Para 2.6, we request for waiver of EMA approval as the gencos are already governed by existing EUA and that all gencos should be given fair and equal access to the New PNG.</p>	<p>Agreed, paragraph 2.5b of the Draft Addendum is not included in EMA's Final Determination.</p> <p>EMA's approval is required to ensure that:</p> <ul style="list-style-type: none"> <li>• The flow of New PNG commences and terminates before 1 April 2013; and</li> <li>• The flow of New PNG does not circumvent the spirit and intent of the Policy on Gas Import Control.</li> </ul>
Shell	<p>Instead of defining the interim period as "before LNG starts", EMA should stipulate an actual calendar date e.g. 1 Jul 2013, which is now regarded as the most likely starting date of the LNG terminal.</p> <p>EMA needs to define a KPI or expectation in the Addendum that relates back to the objective of electricity price improvement.</p>	<p>To provide more certainty in contracting for New PNG, EMA will set the date that New PNG on a bridging basis must stop flowing as 1 April 2013.</p> <p>The intent of the Addendum is to increase the available gas fired generation capacity and enhance competition in the electricity market. There is no target electricity price improvement.</p>
Sembcorp Gas Pte Ltd	<p>SembGas would like to suggest to EMA on the usage of New PNG before and after the COD of the LNG Terminal as follows:</p> <p><b><u>Before COD of LNG Terminal</u></b></p> <p>There should be no restriction on Existing PNG or New PNG usage such as:</p> <ul style="list-style-type: none"> <li>• No cap based on LNG quantities purchased from BG Gas</li> <li>• No restriction to use New PNG for all Existing Customers</li> <li>• No restriction for backfill</li> <li>• No requirement to seek approval for usage on case-by-case basis</li> <li>• No restriction on importation quantities</li> </ul> <p><b><u>After COD of LNG Terminal</u></b></p> <ul style="list-style-type: none"> <li>• No New PNG to be sold to commercial power generation after COD of LNG terminal but New PNG can be sold to New Customers IF they begin consuming gas before COD of LNG</li> </ul>	<p>We accept that there need not be a cap based on LNG purchased from BG. Paragraph 2.5b of the Draft Addendum is not included in EMA's Final Determination.</p> <p>Sembcorp Gas Pte Ltd's other suggestions are not accepted. It is not EMA's intent to undermine the spirit and intent of the Policy on Gas Import Control with the implementation of the Addendum. The Policy on Gas Import Control will continue with the exception that New PNG can be used for commercial power generation on a bridging basis i.e. prior to the commercial operation of the LNG Terminal. Before approving the use of such New PNG for commercial power generation, EMA needs to consider the following:</p> <ul style="list-style-type: none"> <li>• The flow of New PNG must commence and terminate before 1 April 2013; and</li> <li>• The flow of New PNG must not circumvent the spirit and intent of the Policy on Gas Import Control.</li> </ul>

Company	Comment	EMA's Response
	<p>terminal. This includes additional PNG made available to Singapore to be consumed by these same New Customers as long as they have begun consuming gas before COD of LNG terminal.</p> <ul style="list-style-type: none"> <li>New Customers who begin consuming gas after COD of LNG terminal, or New Customers who renew their contracts after COD of LNG terminal, can have the option to purchase New PNG only IF they have an offtake of less than 5 bbtud.</li> </ul> <p><b><u>Date of COD of LNG Terminal</u></b> As the date of COD of LNG Terminal is not firm, we would like to request for EMA to consider either:</p> <ul style="list-style-type: none"> <li>For Commercial Power Generation customers to continue using New PNG up to 30 Jun 2013 or COD of LNG Terminal, whichever is later, OR</li> <li>To provide at least 3 months advance notice on the firm date of the COD of the LNG Terminal.</li> </ul> <p>This will assist a smooth transition from PNG to LNG for both the commercial power generation customers as well as the gas importers of PNG and to prevent any incurrence of take-or-pay penalty by both the commercial power generation customers and the gas importers of PNG.</p>	<p>New PNG cannot be used to relieve Existing PNG used for non-commercial power generation, such that the latter is freed up for use in commercial power generation. Such arrangements are deemed as "Gas Swaps", which effectively undermine the spirit and intent of the Policy on Gas Import Control.</p> <p>There is no change in policy after the arrival of LNG.</p> <p>To provide more certainty in contracting for New PNG, EMA will set the date that New PNG on a bridging basis must stop flowing as 1 April 2013.</p>
BG Singapore Gas Marketing Pte Ltd	<p>EMA intends to relax the gas import control policy for commercial power generators from now until the Commencement Date of the regasification terminal, and as such, commercial power generators will be able to sign (and EMA will approve) new pipeline gas sales agreements. However, any such new GSA cannot be for a volume of gas greater than what the particular commercial power generator has contracted with BGSGM for, and such GSA must terminate by the regasification terminal Commencement Date. After the regasification terminal Commencement Date, no commercial power generator will be able to contract for new pipeline gas (until the gas import control policy is revoked in its entirety).</p> <p>Industrial users were not subject to a blanket prohibition on new pipeline natural gas sales up until Commencement Date of the</p>	<p>Paragraph 2.5b of the Draft Addendum is not included in EMA's Final Determination.</p> <p>To provide more certainty in contracting for New PNG, EMA will set the date that New PNG must stop flowing as 1 April 2013.</p> <p>After the COD of the LNG Terminal, the PNG import controls would apply to all new gas demand arising thereafter. The Government will consult industry and review the PNG import control policy when LNG import reaches 3 Mtpa or in 2018, whichever is earlier.</p> <p>It is correct that the Addendum does not change the position for PNG used for non-commercial power generation and other uses.</p>

Company	Comment	EMA's Response
	<p>regasification terminal under the old policy, but did require EMA approval. As such, under this modification, the position for industrial users has not changed, that is, they can contract for new pipeline gas (with a term extending beyond the regasification terminal Commencement Date), however, they still require EMA's approval. We also understand that EMA would exercise its discretion to ensure that industrial users are not permitted to frustrate the intent of the gas import control policy.</p>	
	<p>We would like to clarify that the exact date by which any new pipeline GSA signed by a commercial power generator in this bridging period must terminate. At present, the draft addendum refers to "the commercial operation date of the LNG terminal" (4.1) – we propose that this should be the Commencement Date, as defined in the TUA.</p>	<p>To provide more certainty in contracting for New PNG, EMA will set the date that New PNG on a bridging basis must stop flowing as 1 April 2013.</p>