

# Gas price arbitration

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# Structure of this presentation



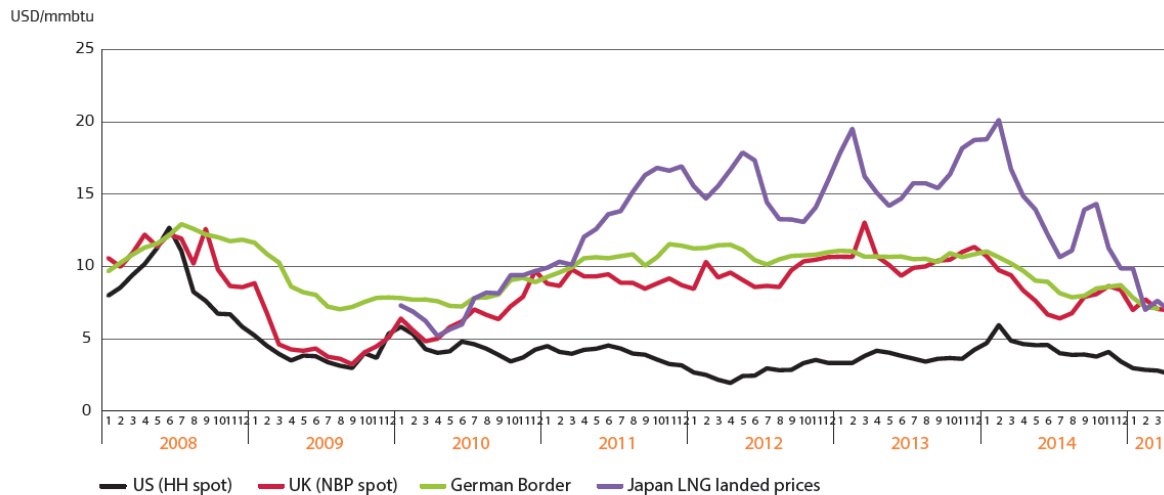
- Why do price disputes occur?

- Recent examples of gas price disputes

- Understanding price review clauses

- Arbitration of price review disputes

# Why do price disputes occur?



Sources: Platts, Thomson Reuters, BAFA

# Recent examples of gas price disputes

**ENDESA CHILE AND BG  
REACH DEAL OVER  
NATURAL GAS PRICES**

**Edison wins Algerian  
long-term natural  
gas contract case**

**Greece asks  
Gazprom to  
lower its prices**

**Eni: agreement  
reached with  
Gazprom for gas  
supply prices for  
2013**

**Gazprom dealt  
pricing blow as  
loses court case to  
RWE**

# Understanding price review clauses

What is the trigger for review?

What happens next?

What if there is no agreement?

Price review arbitration

# What is the trigger for review?

## Trigger events:

- passage of time (e.g. once every four years)
- numerical/mechanistic (e.g. % deviation from market price)
- inappropriate (e.g. the price does not reflect the prevailing market circumstances)

# An example of a trigger

If there is a **significant** and **long term change** in the **energy market** of the buyer

Compared to the **market** at the date of the contract

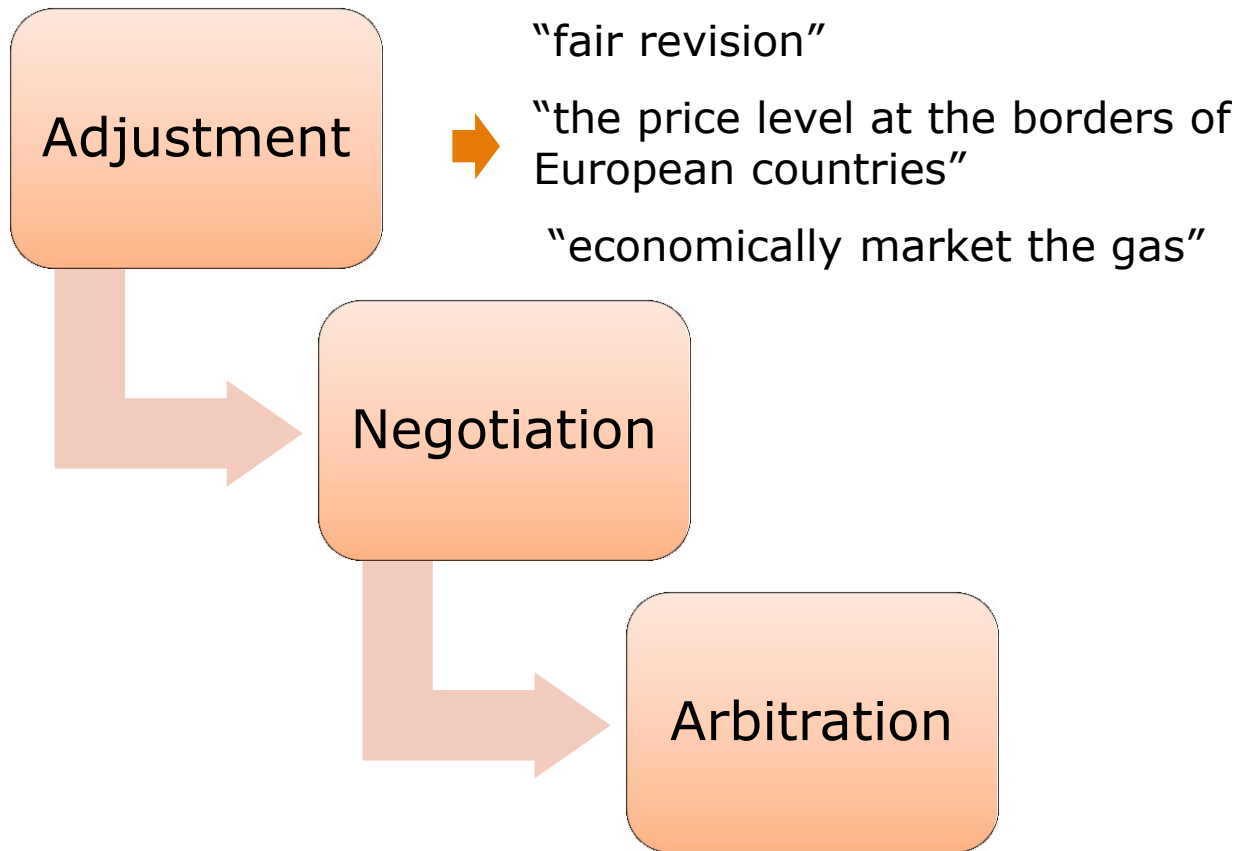
Which is **beyond the control** of either party

And which affects the **value of the gas sold and purchased under the agreement**

Either party may request a price review



# What happens next?



# Gas price arbitration: the role of the Tribunal

## Gas Natural v Atlantic LNG

- “a fair and equitable revision of the abovementioned Contract Price”
- base price component changed and New England market adjuster

## RWE v Gazprom

- oil price indexation > spot price indexation

# Gas price arbitration: managing the risk

Limit Tribunal's discretion in clause

Pendulum arbitration: Tribunal choose between two prices

Only refer question of trigger to Tribunal, and then negotiate

Work with experts to enhance Tribunal's understanding

# Take away points

- Large number of gas price arbitrations since 2008; maybe fewer in future
- Every dispute is different, because it turns on specific contractual wording
- Some tendency by arbitrators to amend pricing formulae significantly
- Important to understand how arbitration process works, and how it can best be managed

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