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GAS PRICE REOPENERS: THE EUROPEAN EXPERIENCE

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The European market

- Many of today's European GSAs signed decades ago.
- Changes in the European market due to deregulation and the emergence of “hubs” in the last 5-10 years.
- Oil-linked price formulae transitioning to hub-linked?

The Process: (a) the trigger stage

- Trigger letter instigates price review (period of negotiations).
- Two common trigger conditions:
 - “significant” or “substantial” change in economic circumstances; and
 - change in value of gas in buyer’s market.

The Process: (b) the adjustment stage

- Criteria for adjustment can include:
 - Reflection of value of gas in buyer's market.
 - Whether clause accounts for price level in other gas import contracts.
 - The ability to market gas “in any case”.
- Causal relationship with trigger stage?
- Scope of adjustment depends on wording.

Where are we now?

- 2005-2008: few Supplier-driven requests.
- 2009-2010: “first wave” of Buyer requests seeking, largely, Pzero reductions.
- 2011-2014: “second wave” – mixture of Buyers seeking Pzero requests and those demanding structural change.
- 2015: “third wave”? Combination of Buyers seeking further structural reform, and Sellers asking if it’s their time now?

Select issues in gas price arbitrations

- Production of evidence?
 - Discharging the burden of proof where disclosure is restricted.
- The scope for structural change.
- Preclusive effect of awards.
 - *Res judicata* effect?
- Suitability of arbitration overall (but compared to what, and/or can the model itself be improved?).