

GAS SUPPLY (AMENDMENT) ACT 2016 AND THE TPA SYSTEM

GAS SUPPLY (AMENDMENT) ACT 2016

(AKTA BEKALAN GAS (PINDAAN) 2016)

- Gazetted on 9 September 2016 and came into force on 16 January 2017
- Amends the Gas Supply Act 1993 (“GSA 1993”)
- Contains two types/categories of amendments:
 - Amendments specifically to implement the Third Party Access (TPA) system
 - Other amendments
- Main objectives:

Entry of New Players

Level Playing Field → Healthy Competition

Benefits to Consumers

- competitive prices
- quality services
- enhanced sustainability of supply

TWO TYPES OF AMENDMENTS

TPA

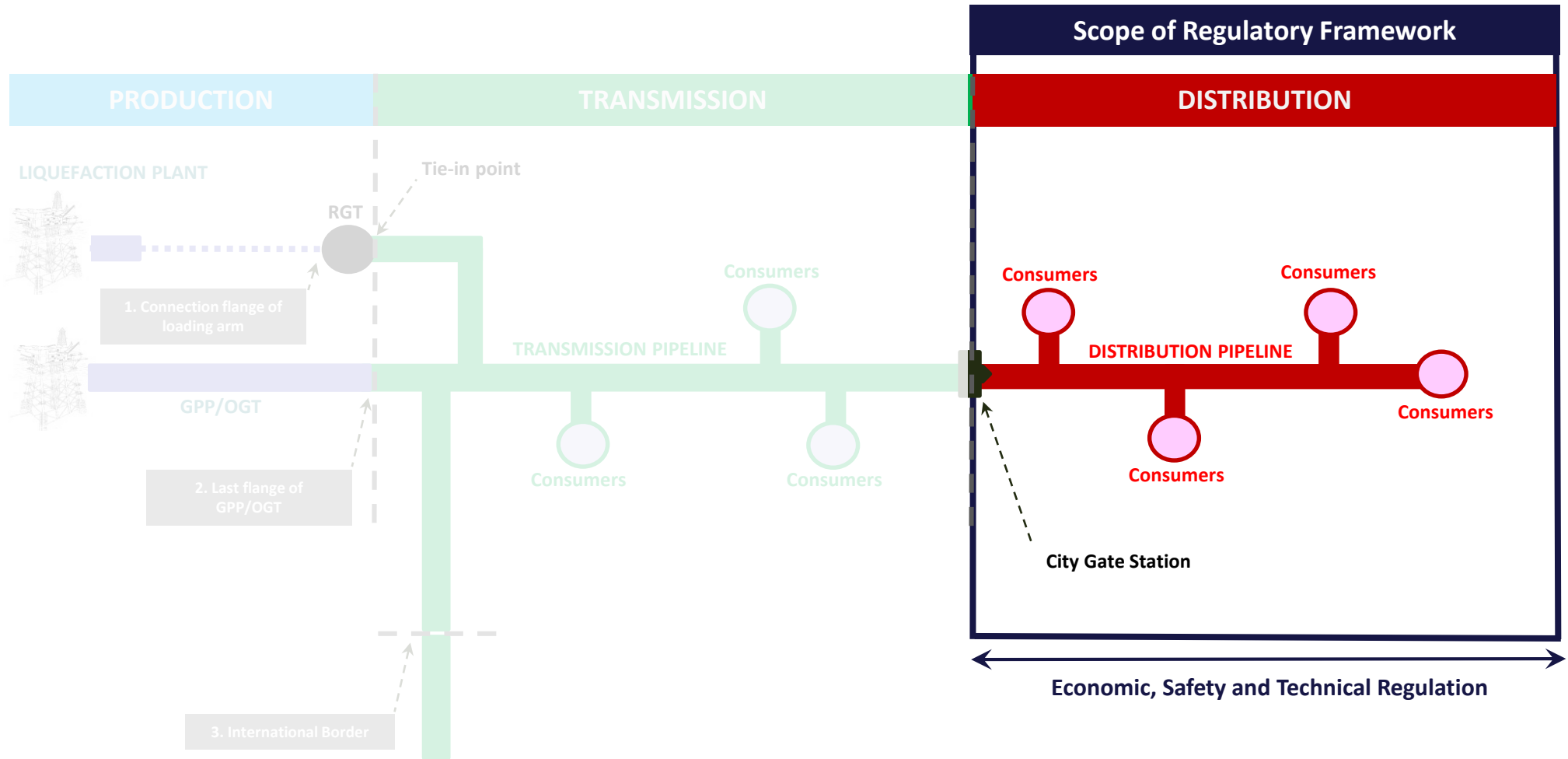
- Enlargement of scope of GSA 1993 and functions/duties of ST
- Addition of definitions
- Licensed Activities
- Tariff
- Competition in the Malaysian gas market
- Power to issue codes, guidelines, directions

OTHERS

- Enforcement powers, offences and investigations
- Obligations of licensees
- Power to resolve disputes, audit, obtain information and documents
- Enhancement of penalties
- Transitional and savings

TPA AMENDMENTS

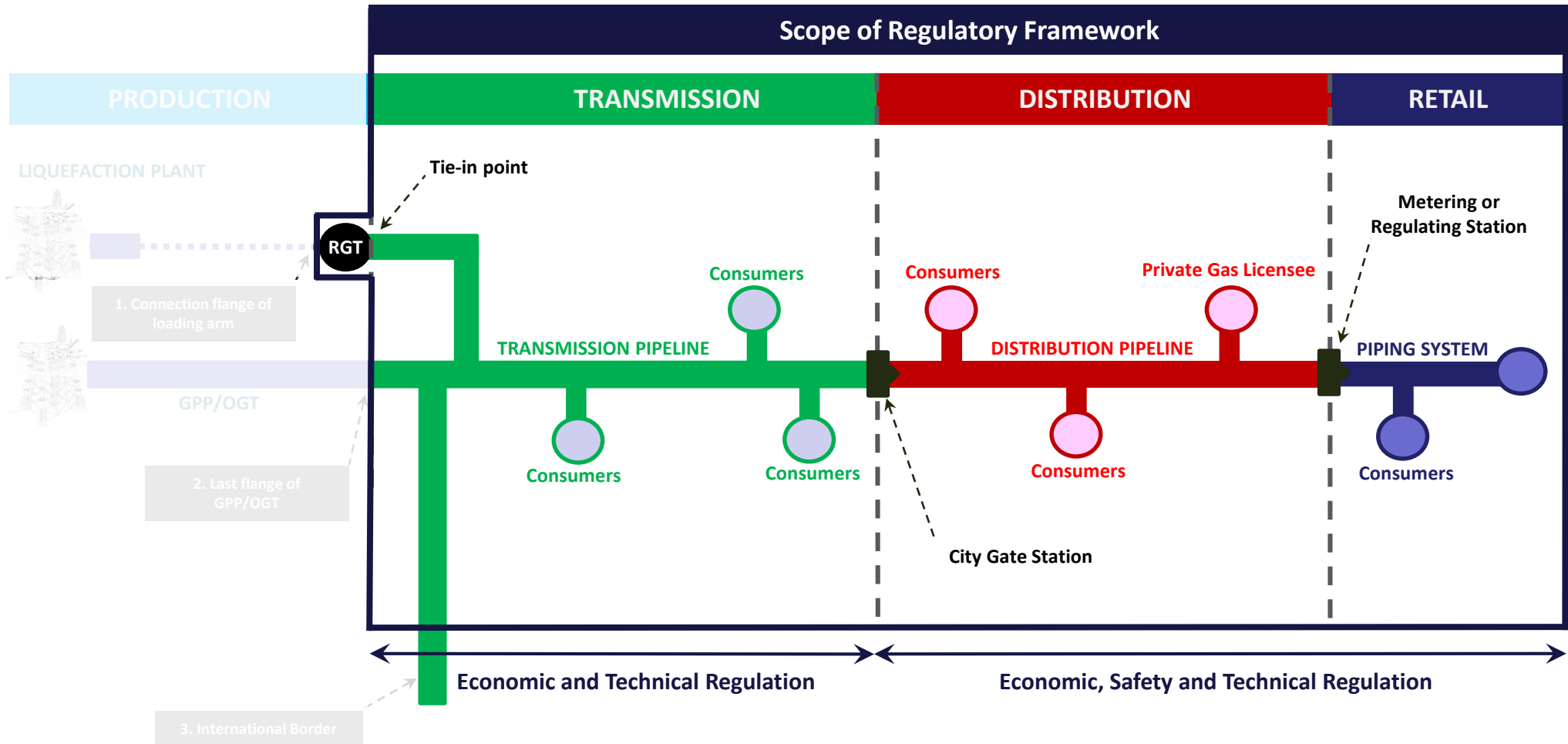
SCOPE OF GAS SUPPLY ACT 1993 BEFORE 16 JANUARY 2017



Legend:

■ Source of gas

SCOPE OF GAS SUPPLY ACT 1993 FROM 16 JANUARY 2017



**DEFINITION OF
THIRD PARTY
ACCESS**

“A third party (i.e. other than the owner of a gas facility) accessing and utilizing the capacity of a gas facility for the purposes of delivering gas to consumers.”

Gas facilities:

- Regasification terminals
- Transmission pipelines
- Distribution pipelines



**LICENSED ACTIVITIES
UNDER THIRD
PARTY ACCESS
REGIME**

REGASIFICATION
e.g. RGT Sg
Udang Sdn Bhd

TRANSPORTATION
e.g. PGB, PCG

DISTRIBUTION**
e.g. GMB, SEC

**IMPORT INTO
REGASIFICATION
TERMINAL**
e.g. PLL Sdn Bhd

SHIPPING
e.g.
PETRONAS,
GMB

USE OF GAS*
e.g.
restaurants,
hospitals,
factories

RETAIL*/**
e.g.
shopping
complexes

* Private Gas Licensee under previous Gas Supply Act 1993

** Gas Utility Licensee under previous Gas Supply Act 1993



COMPETITION

INFRINGEMENTS (PROHIBITIONS)

- ❑ Anti-competitive agreements/conduct (S28C)
 - Fixing purchase/selling prices
 - Limiting or controlling production, market outlets/access, technical developments or investments in the gas industry
 - Sharing of market or sources of gas supply
 - Bid-rigging

- ❑ Abuse of dominant position (S28G)
 - Imposing unfair purchase/selling price or trading condition
 - Limiting/controlling production, market access, technical developments or investments in the gas industry
 - Applying different conditions to equivalent transactions
 - Making conclusion of agreements conditional upon acceptance of unrelated obligations

SECTION 28C EXEMPTIONS

- ❑ Types of exemptions
 - Individual
 - Block

- ❑ Basis of exemption
 - Significant identifiable technological, efficiency or social benefits
 - Benefits could not reasonably have been provided without the agreement having the effect of preventing, restricting or distorting competition
 - Detrimental effect on competition is proportionate to the benefits provided
 - The agreement does not allow complete elimination of competition in respect of substantial part of licensed activities

PENALTIES

- Business/licensee : max 10% of worldwide turnover
 - Others : max RM500k

OTHER AMENDMENTS

- Obligations of licensees
 - Submit 5-year rolling business plan (regasification, transportation, distribution only)
 - Implement standard of performance and service (regasification, transportation, distribution and retail only)
 - Maintain separate accounts for separate activities (all licensees)
- Power to resolve disputes
 - Disputes between licensees, and between licensees and consumers, except competition matters
- Power to audit
 - Licensees, institutions, manufacturers, importers, gas contractors, other persons
- Power to obtain information and documents
- Enhancement of penalties
 - General penalty for offences : from RM50k to RM100k
- Transitional and savings
 - Existing players carrying out licensed activities before 15 Jan 2017 to submit licence application within 12 months
 - Registrations, acts, orders, directions, authorizations, approvals or decisions to continue in force and applicable until revoked or amended.



THANK YOU