Stepped Process and Timeframes for ADGSM

Minister's Notification
Ideally 1 July
(but no later than 1 October)

Minister issues a notification of intent to make a determination in no less than 30 days

Minister writes to relevant market bodies and agencies (e.g. AEMO, ACCC) requesting advice on the potential for a domestic gas shortfall, and associated analysis.

Minister writes to LNG Projects requesting information on gas production, planned export volumes, etc. LNG Projects are invited to submit their views on the market outlook.

Minister writes to, and consults with other relevant Australian Government Ministers.

Minister writes to any other stakeholders he/she considers appropriate.

At least 30 days but likely up to 60 days

Information gathering

All interested stakeholders submit views and other relevant information.

After receiving submissions, the Minister considers all relevant and available information, before making a determination.

Note:
In deciding whether to determine whether the forthcoming year is a shortfall year, the Minister considers each part of the domestic market. However, if there is a shortfall, then export controls are applied Australia-wide.

The Minister may take a range of factors into account, including:

- the extent to which exports are contributing to a shortfall
- external factors influencing the gas market
- the materiality and price impact of a shortfall
- the ability for exporters to redirect gas to the domestic market
- the availability of an industry-led solution to avoid an identified shortfall.

Assessment and decision

Minister makes a determination as to whether export controls will apply in the following year.

If the Minister determines that a shortfall is not likely, move to Minister's Determination. If the Minister determines that the next year will be a shortfall year, then he/she does not announce his/her determination immediately. Instead…

The Minister determines the **Total Market Security Obligation (TMSO)**.

Note:
The Minister will initially determine a provisional TMSO, and will consult with other relevant ministers before finalising the TMSO.

Concurrently with determining the TMSO, the Minister determines each LNG Project's net market position.

After determining each LNG Project's net market position, the Minister determines each **project's Exporter Market Security Obligation (EMSO)**.

Note:
See attached flow chart for details on how the Minister determines the TMSO, net market positions, EMSOs, and export license volumes.

Minister's Determination
1 September
(but can be extended to 1 November if there is insufficient information)

The Minister issues his/her public decision (with statement of reasons).
If the Minister does not intend to invoke export controls, then the process stops here. If the Minister is invoking export controls for the following year, then…

The Minister writes to LNG Projects advising them of his/her decision, and a provisional Export Permission with reasons for the decision. The Export Permission will be based on the Minister's assessment of each Project's net market position.

Note:
The Minister grants each exporter an
1) **Unlimited Volume (UV)** permission; or an
2) **Allowable Volume (AV)** permission.

An UV permission allows a project to export an unlimited volume of LNG. A UV permission would typically be granted to projects that are net-contributors, and unable to deliver gas at a reasonable price to a market experiencing a shortfall.

An AV permission provides a maximum volume of LNG that a project may export. An AV will be granted to all LNG Projects connected to markets experiencing a shortfall.

Note that all export permissions may have conditions attached to them.

Company Response –final decision
Ideally 30 days
(may be shorter if overall process has been delayed)

Where practical, the Minister advises LNG Projects that they have 30 days to comment on their provisional Export Permission, and any conditions attached to it.

LNG companies will be able to provide the Minister with additional feedback on their provisional Export Permissions.

The Minister assesses any relevant additional information before finalising Export Permissions.

Note:
If it is not practical for the Minister to allow LNG Projects an opportunity to respond (e.g. the Export Permissions needed to be finalised in order to facilitate shipping schedules), then the Minister's preliminary Export Permissions will be final.

Note:
Preliminary and final Export Permissions may have terms and conditions including the following:

- Final Export Permissions will take effect at the start of the domestic shortfall year.
- The Minister may grant an Export Permission for a period extending beyond the domestic shortfall year, if he/she deems it appropriate.
- The Minister may require LNG Exporters to provide regular reporting of their LNG volumes.
- If there is more than one LNG Exporter associated with an LNG Project, LNG Exporters may be required to report cumulatively, on an LNG Project basis.
- If an LNG Exporter does not comply with a condition attached to its Export Permission, the Minister may revoke or vary the permission, or issue a new permission altogether.

Shortfall Year
1 Jan-31 Dec

The ordinary term of an Export Permission will be the duration of the relevant shortfall year.

To manage changes in circumstances during a licence period (company and market) the Minister may:

- **vary** an export permission if requested by an LNG Exporter, and the Minister is satisfied that the variation is reasonable and appropriate
- **vary** or **revoke** an Export Permission if an LNG Exporter has not complied with a condition of the permission.

Similarly, an LNG Exporter may

- **surrender** their Export Permission to the Minister at any time.

This model provides the following features:

- If controls are invoked they will limit exports by LNG Projects only to the maximum extent that they are drawing from the market in net terms.
- It provides the LNG industry, which sets production and cargo levels in advance, with certainty around their licenced volumes for the following year. Once an Export Permission is set, the government cannot reduce it unless conditions are breeched.
- The ADGSM is implemented through Division 6 of the *Customs (Prohibited Exports) Regulations 1958*, in reliance on section 112 of the *Customs Act 1901*.
- The new regulation has a five year sunset (1 January 2023) with a review after two years.
- The ADGSM does not replace COAG-AEMO emergency gas market security measures which will continue to operate in the event of unexpected market security event.
- The Minister may revoke a determination of a domestic shortfall year at any time.

Key design elements:

- The ADGSM is implemented through Division 6 of the *Customs (Prohibited Exports) Regulations 1958*, in reliance on section 112 of the *Customs Act 1901*.
- The new regulation has a five year sunset (1 January 2023).
- The ADGSM does not replace COAG-AEMO emergency gas market security measures which will continue to operate in the event of unexpected market security event.
- The Minister may revoke a determination of a domestic shortfall year at any time.

The gas supply industry will be able to work with government and the market operator at any stage prior to, or during, this process to find a non-regulatory or commercial solutions to identified potential shortfalls. If satisfied the Minister can elect not to initiate or to terminate the process.

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Calculating TMSO, the EMSOs and Provisional Export Permissions

Step A

Following a notification of intention to determine if the following year is a shortfall year and receiving submissions from stakeholders, the Minister will consider each part of the domestic gas market to determine if a shortfall exists.

The assessment will incorporate advice from market forecasters like AEMO, information from the ACCC, sales gas forecasts from gas producers, production forecasts from major industrial consumers, etc.

The Minister's Determination will be based on his or her assessment of the best available information. The Minister may exercise his or her discretion and judgement in considering the credibility and integrity of any information received.

If the Minister determines that a shortfall is likely, **move to Step B**.
The Minister's Determination for export controls will apply Australia wide (rather than just to the part of the Australian domestic gas market which is identified as being in shortfall). During a domestic shortfall year, all exports of LNG will be prohibited unless exporters hold an Export Permission.

Note:
This assessment will take into account a range factors including:
- the extent to which exports contribute to shortfall
- external factors influencing the market
- the materiality and price impact of a shortfall
- the ability for exporters to redirect gas to the domestic market
- the availability of an industry-led solution to an identified shortfall.

Step B

The Minister then determines a *Total Market Security Obligation* (TMSO). The TMSO is a proportion of the Australian gas market shortfall that the Minister considers may be met by imposing export controls on LNG projects, to incentivise them to increase net gas supply to the domestic consumers.

The Minister will initially determine a provisional TMSO for consultation before finalising.

Concurrently with determining the TMSO, the Minister will determine each LNG Project's projects' *net market position* of either a net-deficit or a net-contributor.

An LNG Project is in net deficit if the LNG Project's total amount of gas used > Own Gas + third party export compatible gas

LNG Project Tenements will be used to determine Own Gas and Export Compatible Third-Party gas (see purple box for definitions).

Note:
This assessment will take into account a range factors including:
- strategic behaviour
- the extent to which non-export factors are driving market outcomes.

Step C

The Minister allocates the TMSO on a pro-rata basis across all LNG Projects in net-deficit. The proportion of the TMSO allocated to a net-deficit LNG Project is that LNG Project's Exporter Market Security Obligation (EMSO).

If there is only one LNG Project in net-deficit, then that Project's EMSO will be equal to the TMSO. LNG Projects will be permitted to meet their EMSO by reducing their export quantities, or making additional gas available to the domestic market.

Where there are no LNG Projects in net-deficit, the Minister will not allocate the TMSO to any LNG Projects.

Note:
When determining the TMSO and each LNG Project's EMSO, the Minister may take into account the past performance of LNG Projects and LNG Exporters.

Step D

The Minister may grant the following provisional Export Permissions for each LNG Project

An **Unlimited Volume *(UV)*** permission is granted to projects assessed as being a net-contributors, and unable to deliver gas at a reasonable price and located in a separate market are allocated a provisional.

An **Allowable Volume (AV)** permission allows a maximum volume of LNG to be exported from a specific project over the market shortfall year. Maximum exports are typically equal to an LNG project's EMSO subtracted from total export quantity.

The Minister may grant an Export Permission subject to conditions, such as reporting of volumes.

Note:
The Minster may vary an Export Permission with consent of LNG Exporter. The Minister may approve a variation if an LNG Project has sources new gas, additional market supply has become available, or the forecast shortfall has not eventuated. The Minister can also revoke an Export Permission if conditions have not been complied with.

Key definitions:

- An LNG Project's **Own Gas** is gas produced from one or more tenements:
  - owned by the LNG Project; or
  - wholly or partly owned by one or more entities of the LNG Project, where:
    - the gas is contracted directly to supply the LNG Project; and
    - the gas was primarily developed for the purpose of the export.
- An LNG Project's **third party export compatible gas** is gas produced from tenements owned by a third party, where:
  - the gas is contracted directly to supply the LNG Project; and
  - either:
    - The gas was primarily developed for the purpose of supplying the export market; or
    - The contract for the supply of gas was entered into for the purpose of supplying the LNG Project, before a final investment decision was made in relation to the LNG Project.
- An LNG Project's **total gas used** is the sum of the gas
  - Proposed to be exported; and
  - Any other gas that is forecast to be consumed or lost in the LNG Project's operations.