



COMMENTARY

New Game-Rules for Nord Stream II

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Introduction

The idea of a European Union united under common energy policies and energy security strategies, seems to be even more far-fetched, after the amendment of the old Gas Directive (Directive 2009/73/EC), concerning common rules for the internal market in natural gas. Following a long period of debates and impasses, characterized by strong disagreements among Western powers, in February 2019, Germany and France finally reached an informal compromise agreement on pipeline rules which unblocked the Nord Stream 2 project, whose main shareholder is Russian state company Gazprom, Europe's leading gas furnisher.

Based on the European Commission's proposal from two years ago, the amendments were adopted in the new Gas Directive (2019/692/EC) on 17 April 2019, the main goal being the application 'of the rules governing the EU's internal gas market to pipelines to and from third countries'¹. More specifically, the new Directive² also changes the energy rules and the legislative framework for gas furnishers by encouraging competition and diversity on the energy market, a transparency policy of prices, and equality of chances for gas companies.

The introduction of the new rules could slow down the development of Nord Stream 2 (NS 2), but it seems unlikely that it will affect its ultimate construction³. Many Central and Eastern European countries have already expressed their objections and worries regarding further implementations of the project. At the end of June 2019, Nord Stream AG announced that they did not receive the approval of the Danish government, following a request made two years ago to finalize the works in the Southern territorial waters of the island of Bornholm. The Danish government rejected the proposal expressing security and environmental concerns. Nonetheless, Nord Stream AG is still waiting an official response on two other requests. Should the answers be positive this time, as the representatives of company hope, the gas route will change and it will pass through the northwest route, respectively southeast of Bornholm's island⁴.

As a matter of fact, the change of the route is a trivial fact in terms of executive works and gas transportation. Nonetheless, the pivotal question is whether Nord Stream 2 is an ordinary project, driven solely by economic interests. Political analysts and journalists from all over the world, brought this to the attention of the EU Commission, hoping that the project will be reviewed as a political initiative and a tool of hybrid warfare, and analysed against the backdrop of current Russia-Ukraine tensions.

Background of the issue

In the process of selling and buying, the lowest prices are generally viewed as godsend by consumers. However, this idea doesn't apply to gas transactions on global export markets where consumers are not necessarily the ones to be better off. Thanks to the quick development of LNG terminals, gas has over

¹ Council of the European Union, European Parliament, *Directive (EU) 2019/692 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas*, Official Journal of the European Union (May 3, 2019), <https://www.europeansources.info/record/directive-eu-2019-692-amending-directive-2009-73-ec-concerning-common-rules-for-the-internal-market-in-natural-gas/>.

² Idem

³ *Nord Stream 2: EU agrees tighter rules for Russian pipeline*, BBC News (February 8, 2019), <https://www.bbc.com/news/world-europe-47170420>. In this direction, see and the article of Frédéric Simon, EU strikes deal on rules to govern Russia's Nord Stream 2 pipeline, EURACTIV.com with Reuters (February 13, 2019), <https://www.euractiv.com/section/energy/news/eu-reaches-deal-on-rules-to-govern-russias-nord-stream-2-pipeline/>. Also, <https://www.youtube.com/watch?v=LfZK2Tukgus>.

⁴ About the notification of withdrawal from the 2017 Territorial Waters Route Application in Denmark, see <https://www.nord-stream2.com/media-info/news-events/nord-stream-2-withdraws-the-2017-territorial-waters-route-application-in-denmark-130/>. Also, see Peter Mühlbauer, *Nord Stream 2 macht Umweg, um rechtzeitig anzukommen*, Heise online, Telepolis (July 1, 2019), <https://www.heise.de/tp/features/Nord-Stream-2-macht-Umweg-um-rechtzeitig-anzukommen-4458085.html>.

the years become “a globally traded commodity and one of the most wanted and sold natural goods”⁵ as the political analyst, Dominik P. Jankowski notices.

This year, European natural gas prices reached the lowest level in a decade according to a Dutch gas indicator⁶, after a flooding of supplies. In 2019, not only has Europe witnessed a growing influx of Russian gas, but the United States started playing a more assertive and competitive role in the global gas market. The United States is trying to establish itself as a viable alternative to the Russian option, a strategic goal however difficult to achieve considering that it currently offers a much more expensive product, and that Russian prices are expected to further decrease following the completion of the NS 2 project.

Despite the price difference, some import countries have changed their preferences in terms of suppliers. After years of engagements, Poland has renounced to Russian gas in favor of the American alternative. Last year, Poland’s state-owned oil and natural gas company PGNiG has concluded long-term contracts with the British company, Centrica LNG, to buy liquefied natural gas (LNG) from the U.S.⁷. And this is not an exception. Instead of importing Russian gas, other countries started building their own pipelines and are looking for other sources of gas, in the attempt to diversify the portfolio of suppliers.

Unlike the inaugural Nord Stream project, the second pipeline has been heavily criticized, with strong concerns voiced by environmental groups such as Nabu and Client Earth⁸. Besides the legal complaints, NS 2 is at risk of becoming the target of sanctions by the US House of Representatives Committee on Foreign Affairs. Democratic Senator Jeanne Shaheen of New Hampshire and Republican Senator Ted Cruz of Texas have endorsed the bill ‘Protecting Europe’s Energy Security Act of 2019’, which envisions sanctions against Western companies involved in the construction of the project⁹.

As a consequence, Germany’s Uniper and BASF’s Wintershall units, Anglo-Dutch firm Shell, Austria’s OMV and France’s Engie would be all exposed to the measures encompassed in the bill, including the prohibition on transactions relating to vessels engaged in the pipeline’s construction, asset freeze and travel bans on foreign persons facilitating constructions and export bans on related goods or technology, among other things. This will position the United States against Russia and create a fracture between Western and Eastern European countries.

Nord Stream 2: part of hybrid warfare strategy?

While the divide between the West and the East is nothing new, an added point of contention that further exacerbates this gap is the current energy question, brought by the NS 2 project. There are fears that Ukraine might find itself more isolated and thus more exposed to Russia’s clout and meddling, as a consequence of Germany and France’s informal agreement that paved the way for the implementation of Nord Stream 2. Will Ukraine maintain its position as a transitory country? Is Nord Stream 2 part of

⁵ Dominik P. Jankowski, *Transatlantic energy security: beyond Nord Stream 2*, Foreign Policy Blogs (July 2nd, 2019),

<https://foreignpolicyblogs.com/2019/07/02/transatlantic-energy-security-beyond-nord-stream-2/>.

⁶ Katherine Dunn, ‘Race to the Bottom:’ *The U.S.-Russia Gas War Has Sent Prices Plummeting in Europe*, FORTUNE.com (July 2, 2019),

<https://fortune.com/2019/07/02/us-russia-gas-prices/>.

⁷ Jo Harper, *Berlin eyes options as US gas export drive takes on Russia’s Gazprom*, Deutsche Welle (May 24, 2018), <https://www.dw.com/en/berlin-eyes-options-as-us-gas-export-drive-takes-on-russias-gazprom/a-43905931>.

⁸ *Nord Stream 2: German environmentalists sue to halt construction of controversial gas pipeline*, Deutsche Welle (July 3, 2018),

<https://www.dw.com/en/nord-stream-2-german-environmentalists-sue-to-halt-construction-of-controversial-gas-pipeline/a-44507377>.

⁹ Michael O’Kane, *US House Foreign Affairs Committee endorses Nord Stream 2 sanctions*, EU Sanctions (July 1st, 2019),

<https://www.europeansanctions.com/2019/07/us-house-foreign-affairs-committee-endorses-nord-stream-2-sanctions/>. Also, see Ivan Dikov, *Germany’s Nord Stream 2 Pipeline with Russia ‘Terrible Mistake’, Bipartisan Consensus in US Has It*, European views (June 24, 2019),

<https://www.european-views.com/2019/06/germanys-nord-stream-2-pipeline-with-russia-terrible-mistake-bipartisan-consensus-in-us-has-it/>.

Russia's hybrid warfare strategy? Some political analysts believe so. At the end of this year, the Ukraine-Russia agreement on the transit of Russian gas expires, without guarantees that in the future Ukraine will transport Russian gas to Europe through its transit system. In that regard, if Ukraine loses its privileges as a transitory country, despite Angela Merkel's statements, its state's economy will be hugely affected.

According to the Kyiv Post, if the twin Nord Stream pipelines bypass Ukraine's overland, after the change of their route through Denmark's exclusive economic zone, this will cost the country "up to \$3 billion in transit fees or 2 percent of the gross domestic product"¹⁰. Among all the Eastern European countries, Ukraine seems to be the most vulnerable. This vulnerability is in turn emphasized by current security concerns, all the more in light of the Russian-Ukrainian conflict in the proximity of the Kerch strait.

The Nord Stream 2 project raises several economic and security questions and can also represent an impediment for the development of the Three Seas Initiative project. As a result, the energy driven axis Brussels-Berlin-Washington will suffer a setback and a new axis is likely to emerge, linking Moscow to Berlin and running through the Western European countries that support the NS 2 project. It doesn't come as a surprise that some journalists compared this informal agreement to the Molotov-Ribbentrop Pact. With that in mind, the pending question is whether there will be two coexistent energy driven axis or only one.¹¹

Conclusion

Without any doubt, Nord Stream 2 is one of the most controversial projects supported by the European Union. The initiative has simultaneously raised legal, environmental and energy security concerns but more importantly a debate over Russia's potential increase in influence over Western European countries involved in the project. Similarly, to a puzzle where the completion leads to of a huge energy empire, Nord Stream 2 was the missing piece that will now complete the envisioned twin pipelines project, thus joining its sister corridor, the Blue Stream, which passes via Turkey.

¹⁰ Vyacheslav Hnatyuk, *Nord Stream 2 will try to build around Danish territory*, Kyiv Post (June 29, 2019), <https://www.kyivpost.com/world/nord-stream-2-will-try-to-build-around-danish-territory.html>.

¹¹ Dimitar Lilkov and Roland Freudenstein, *European Energy Security IN FOCUS: The Case against Nord Stream 2*, Wilfried Martens Centre for European Studies (April 2018), <https://www.martenscentre.eu/publications/european-energy-security-focus-case-against-nord-stream-2>.

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