

BEYOND SANCTIONS: A Proactive Strategy for Nord Stream 2

Alan Riley, Senior Fellow, Atlantic Council, Washington DC

The European Union and the United States should co-operate to develop a credible proactive energy security strategy to permanently disarm Gazprom's commercial and political influence across Central and Eastern Europe. The prospect of the completion of Nord Stream 2 provides a moment for the EU and the US to reassess their approach to Russian pipeline strategies, and to consider instead developing their own proactive plan.

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It is unlikely now that the US will be able to stop the construction of Nord Stream 2. This is despite a battery of sanctions having been laid down against the pipeline. With two Russian owned ships completing the last 150km of the route it is difficult to see how the construction of the pipeline will be halted. However, the final construction of the pipeline will not halt the controversy. That will probably shift to the application of EU energy law to the pipeline, with cases heading to the European Court of Justice in Luxembourg to challenge its operation. Amidst all of this controversy, there is a compelling argument for stepping back and looking at the approach the EU and the US has taken to European energy security. Throughout the entire Nord Stream 2 saga the approach of the Western powers has been largely reactive. This has also been true in relation to the entire pipeline strategy deployed by Moscow over the last two decades (Nord Stream 1, South Stream, and Turk Stream 2). The argument here is that the US and the EU should seek to develop a more integrated proactive energy security strategy which aims to permanently disarm Gazprom's commercial and political influence across Central and Eastern Europe. It is possible to develop a strategy which delivers alternative sources of energy supply, both gas and renewables, that does effectively undermine Gazprom's and thereby the Kremlin's power across Central and Eastern Europe.

Nord Stream 2 was proposed by Russian President Vladimir Putin in June 2015 at the St. Petersburg International Economic Forum. The project moved very quickly following the initial announcement, despite the objections of governments across Central and Eastern Europe, and in Ukraine. Eight EU heads of government from the region protested against the project culminating in a letter encouraging European action against the pipeline sent to then Commission President Jean-Claude Juncker in March 2016. Sub-

sequently, the EU legislated to formally extend the application of the Gas Directive 2009 to all import pipelines, hence applying EU energy law in full to Nord Stream 2. The European Parliament in increasing numbers opposed the pipeline in four separate resolutions, the last one occurring on 29th April 2021 when 569 to 67 MEPs opposed the completion of this infrastructure.

Nevertheless, it was US action via sanctions, imposed by virtue of Section 7503 of the National Defence Authorisation Act 2020 in December 2019, which brought the construction of the pipeline to a juddering halt. At that stage approximately 200km of the pipe remained to be constructed. As most of the Western technical partners left the project – including the Swiss firm All Seas which had deployed its highly sophisticated pipelaying ship *Pioneering Spirit*, Nord Stream 2's owner Gazprom was therefore left with a major problem of an uncompleted undersea gas pipeline. However, over the last year it has slowly put together the technical firms that would enable it to resume construction. The Russian owned *Akademik Cherskiy* and *Fortuna* have begun to once again lay pipelines, albeit much more slowly than the *Pioneering Spirit* has done. Probably, by the end of the summer the pipeline will be completed. In January 2021, the US adopted further sanctions under Section 1242 of the National Defence Authorisation Act 2021, which while causing Nord Stream 2 some difficulties do not appear to have stopped the construction process. It is even possible that the US Department of State could seek to impose further sanctions, this time under broader sanctions powers contained in Section 232 of the Countering America's Adversaries Through Sanctions Act (CAATSA). However, the question at this stage is whether any further sanctions can actually stop the construction of the pipeline even if it is proceeding much more slowly than before.

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Nevertheless, the completion of the pipeline will not end the controversy over the project. The focus will just shift from the imposition of sanctions against the construction to the application of EU energy law. For instance, under Article 11 of the Gas Directive 2009, where there is a non-EU owner there must be an assessment that it won't pose a supply security risk as energy provider to a certain Member State (in this case Germany) or to the Union as a whole. The difficulty for Gazprom is the long legacy of supply cuts and threats of cuts that it has subjected EU Member States to over the last two decades. Given the evidence that EU Member States from Central and Eastern Europe can furnish before the European Commission and EU courts, that assessment may well be problematic. At the very least, there is likely to be a long legal battle in the EU courts over the Article 11 assessment.

Such a legal battle may further delay the operation of the pipeline and may, ultimately, lead to significant restrictions being placed on its activity. However, stepping back for a moment from the controversy over sanctions and the application of EU law to the pipeline, there is a question for

both Brussels and Washington as to why the Western approach has been so reactive. It is true that the European Union has supported an extensive market integration programme over the last decade to interconnect the Central and East European gas market with Western Europe. However, it is far from complete and there is still a significant lack of alternative sources of gas available throughout the region. At no point in the two decades of pipeline politics with Moscow – through Nord Stream 1, South Stream, Nord Stream 2 and Turk Stream 2, has the West ever developed a credible and comprehensive energy security strategy to thoroughly disarm Gazprom’s commercial and political influence across the region.

Yet, such a strategy is now clearly possible. The growth in liquid natural gas (LNG) trade over the last decade has made it feasible to obtain LNG as an alternative to Russian pipeline gas. It would be possible to expand the number of LNG terminals in the Baltic ports for instance to provide access to alternative sources of supplies. Poland is in the process of bringing online the Baltic Pipeline with 10bcm capacity sourced from Norway. The capacity of this pipeline route could also be expanded. The *Three Seas Initiative*, which has already attracted US funding commitments, proposes a new North-South gas pipeline connecting the Baltic Sea ports with the Adriatic and Aegean Seas. This would also make it easier to bring alternative gas sources across the region. In addition, it would be possible with more interconnections to strengthen the integrity and access to gas sources within the EU and between the EU and Ukraine. Such measures would collectively reduce Gazprom’s market power and political leverage across the region.

That leverage could be further reinforced by enhancing the regional power systems. Neither the Baltic States nor Ukraine are synchronised with the EU power grids. Regional power grids could be upgraded so they could take greater renewable loads and more renewables could be rolled out across the region. This would not only strengthen the means of combatting climate change but it would also bring significant energy security advantages reducing the need for Russian gas.

It could be argued that no new investment should be deployed to support fossil fuels even if it is for natural gas which is the least CO₂ emitting fossil fuel. However, this overlooks the fact that if the current infrastructure and gas supply sources is left as it is, it will keep Gazprom in a dominant position in the region. Worse still if other sources of power such as coal and nuclear are closed down and renewables are rolled out, because of the dependence of renewables on gas as a balancing fuel, the overall impact of a ‘no new gas investment’ policy would be to further strengthen Gazprom’s reach across the region. Such a policy may in fact force Central and Eastern European states to keep their coal fired power stations in operation on grounds of national security.

The prospect of the completion of Nord Stream 2 provides a moment for the EU and the US to reassess their approach to Russian pipeline strategies, and to consider instead developing their own proactive plan. Funded and supported by the US and the EU such a strategy could ensure alternative gas sources were available while rolling out renewables within an integrated electricity market which would significantly reduce Gazprom’s economic and political leverage across the region, with or without Nord Stream 2.