PERSPECTIVE

GLOBAL AND REGIONAL ORDER

THE U.S., GERMANY, AND NORD STREAM 2

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Russia poses a strategic challenge for both the United States and Germany, having increasingly resorted to the use of force against its neighbors and of so-called »active measures« against Western democracies. In response, the U.S. and Europe have imposed punitive economic sanctions on Moscow.

Germany and the United States differ in their approaches to Russia's energy trade with Europe, giving rise to a potential stumbling block over Nord Stream 2, an undersea natural gas pipeline between Russia and Germany that is now nearly complete.

Threatened U.S. sanctions on entities involved in completion of the pipeline project have provoked strong opposition, even as opinion within Germany and Europe is divided over NS2. Both sides hope for resolution of this impasse with the arrival of a new U.S. administration in 2021.

FRIEDRICH EBERT STIFTUNG

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For over half a century, Europe has imported natural gas from the Soviet Union and the Russian Federation. This relationship of mutual dependency in the energy sphere has remained largely stable, despite tumultuous episodes in political relations between East and West from the Cold War to the present. Some Westerners point to decades of energy interdependence as a model for relations with Russia more broadly, and argue that more such engagement and exchange is needed. Others cite recent cases in which Russia has threatened to shut off the gas, or actually done so, such as in its disputes with Ukraine, as evidence that Russia will abuse its energy leverage and so this leverage should be reduced, not expanded.

In 2015, a consortium of Gazprom and European energy majors announced plans to expand the existing undersea gas pipelines from Russia to Germany with a new project, dubbed Nord Stream 2 (NS2). Though the German government has described it as a purely commercial project, critics insist that its main purpose is to advance the Kremlin's geopolitical interests. Thus, NS2 has become a focal point for the broader Western debate over how to manage difficult relations with Russia.

Pending U.S. sanctions legislation and enforcement actions that would target Europeans connected to the project have provoked acute objections from Germany and other European states, while exacerbating other strains in the transatlantic relationship. With the Biden administration set to take office in Washington in January, and Bundestag elections in Germany that may reshuffle the political deck in 2021, it is worth more closely examining the dispute over NS2 in the context of U.S. and German views of Russia and approaches to one another, as well as the prospects for a way forward. This paper will present each of these topics in turn, offering insights from policymakers involved with the issues on both sides.

U.S. RUSSIA POLICY

Russia poses a strategic challenge for both the United States and Germany. Since Moscow's 2008 war with Georgia, it has increasingly resorted to the use of military force in conflicts with its neighbors. Russia's 2014 assault on Ukraine, seizure of Crimea and incursion into Donbas resulted in a severe break in relations with the West as a whole. The Obama Administration responded with a three-part pressure strategy: reassurance of East European NATO allies closest to Russia by rotating small contingents of U.S., German, British, and other forces eastward; efforts to compel Russia to reverse course through sanctions; and diplomatic isolation to underscore Russia's severe breach of the rules-based international order. For the most part, the strategy had support from U.S. allies in Europe, including Germany.

Yet since that time, Moscow has responded with growing hostility to Western pressure, including an onslaught of so-called »active measures,« such as cyber attacks, information warfare, and even targeted assassinations on European soil. Any hopes that the shared challenge of the COVID-19 pandemic in 2020 would bring an easing of these tensions were dashed with the outbreak of protests and violence in Belarus and full-scale fighting between Armenia and Azerbaijan, as well as the attempted murder of opposition leader Alexei Navalny. Although official Washington and Berlin have no illusions about the array of threats and challenges posed by Russia and have been notably aligned in their policy responses, important differences in emphasis and long-term expectations should not be understated.

The 2018 U.S. National Security Strategy emphasizes »Great Power Competition« among the United States, Russia and China. Russia under Vladimir Putin is seen by the majority of leaders on both sides of the aisle and by most of the national security establishment in Washington as an inveterate foe, with the single notable exception of President Donald Trump, who declared that, »getting along with Russia« is »a good thing, not a bad thing.«[1] Yet the Trump Administration effectively continued a number of Russia policies inherited from the Obama Administration, including support for NATO enlargement, additional U.S. troop deployments in Eastern Europe, training, equipment and financial support for Ukraine and Georgia, and perhaps most importantly, sanctions targeted against long lists of Russian state officials, private citizens, and entities.

The U.S. State Department describes sanctions as a necessary answer to Russia's »malign behavior, such as in response to aggressive actions against the United States and our allies and partners.«[2] In view of the miniscule trade relationship between the U.S. and Russia (less than one percent of total U.S. trade in 2019),[3] U.S. sanctions have their greatest impact by blocking non-U.S. firms from dealing with targeted Russian individuals and entities. This »secondary« application of sanctions has been embraced by official Washington as a means of forcing even close allies and partners to choose between maintaining ties with Russia and doing business with the U.S. economy. As Secretary of State Mike Pompeo put it in July 2020, »it's a clear warning to companies [that] aiding and abetting Russia's malign influence projects will not be tolerated. Get out now, or risk the consequences.«[4]

There is strong bipartisan agreement in both chambers of the U.S. Congress on Russia sanctions, buoyed by widespread negative perceptions of Russia in the United States. For many Republicans, Russia remains the adversary it was during the Cold War and even much of the post-Cold War period, and any effort to engage or moderate tensions, such

1 https://www.cnn.com/videos/politics/2018/04/03/trump-russia-get-along-stupid-people-sot-ip.cnn

2 https://www.state.gov/caatsa-crieea-section-232-public-guidance/

3 https://ustr.gov/countries-regions/europe-middle-east/russia-and-eurasia/russia#:~:text=U.S.%2DRussia%20Trade%20Facts&text=The%20U.S.%20goods%20and%20services,goods%20imports%20totaled%20%2422.3%20billion.

4 https://www.washingtonpost.com/business/us-toughens-stance-against-2-russian-gas-pipelines-to-europe/2020/07/15/e932ebcc-c6aa-11ea-a825-8722004e4150_story.html

as the 2009 Obama Administration »Reset,« is seen as misguided. For many Democrats, Russia is an adversary first and foremost because of its interference in U.S. domestic politics, apparently in support of President Trump's 2016 election and to exploit divisions along political, racial, and socioeconomic lines. Overwhelming majorities in both parties also support embattled former Soviet states like Ukraine and Georgia in their ongoing conflicts with Russia. Since the Kremlin has hardly altered its behavior, and Americans are increasingly disconnected from Russia in trade, diplomatic and people-to-people ties, U.S.-Russia relations appear to be caught in a vicious cycle.

GERMAN RUSSIA POLICY

German views of Russia have tracked with those of the rest of Europe and of the United States, especially since 2014. Germany has joined the US in opposing Russia's aggression against Georgia and Ukraine, Berlin itself has been a target of Russian political interference, and in recent years Germans have been especially outraged by murders and attempted murders apparently ordered by the Kremlin on European soil. It was German Chancellor Angela Merkel, in fact, who led the effort within the EU to impose sanctions in the wake of Russia's 2014 invasion of Ukraine and seizure of Crimea, and it is German diplomacy that routinely helps to corral other EU countries into supporting the renewal and extension of those sanctions twice a year.

However, Germany—or at least many Germans—think differently about Russia from the way the U.S. political establishment, or for that matter many of Germany's European neighbors, do. According to Thomas Bagger, foreign policy advisor to German President Frank Walter Steinmeier, Germany's unique history with Russia plays a role in shaping views of Russia in Germany today. For Germany, says Bagger, »an unproductive relationship with Russia is not an option.«[5] Minister of State in the German Foreign Office and leading SPD Bundestag member Niels Annen puts it this way:

> *I believe that there is a sense in Germany for the importance of having something like a good relationship with Russia, or at least a non-hostile relationship with Russia. You would find that deeply enshrined in the older generation. There are not that many left who fought in the Second World War, but also those born after the war, there is a kind of feeling of guilt, but also maybe a feeling of, well, we tried and we failed to defeat Russia, and we were not the only ones, so maybe it is a better idea to have a good relationship or to manage the relationship.*[6]

History is not one dimensional, and Germany's history with Russia and the Soviet Union also gives rise to contemporary dividing lines within Germany where relations with Russia are concerned. Adherents to political parties with strong support in the former East Germany, the Alternative for Germany and the Left Party, are far more inclined to forgive or justify the Kremlin's violations of international norms than are politicians from the current ruling coalition of Christian Democrats and Social Democrats, or the Green Party, which takes a tough line against Russian human rights abuses and aggression in Ukraine.

Even within the current CDU-SPD governing coalition, views on Russia are not uniform. For some Social Democrats, the 1970's »New Eastern Policy« (Neue Ostpolitik or simply Ostpolitik) of Egon Bahr and Willy Brandt is the dominant point of reference for thinking about Russia. While a majority of the party has supported pressure on Russia through sanctions, the champions of a modern Ostpolitik see weaponization of trade through sanctions as a counterproductive violation of the principles of good neighborhood, or perhaps a betrayal of Brandt's legacy. Moreover, German leaders are under constant pressure from the public debate within Germany that is sharply divided over the root causes of the current conflict. In that context, some argue forcefully that, »the West has exploited Russia's weakness, it has betrayed Gorbachev by stationing NATO troops in the former Eastern bloc, and now that serves to justify everything Russia is doing.«[7]

Admiration for Brandt, Bahr and Ostpolitik aside, Germany's center-left leaders are not stuck in the past. Some make a pragmatic, contemporary case for engagement with Russia, one that resonates with realist views on both sides of the Atlantic. As SPD Bundestag speaker on foreign affairs Nils Schmid put it:

> *From a German perspective there is a sort of common neighborhood with Russia. Russia is part of the continent in geographic terms. Surveys say many Russians consider themselves being part of Europe. Within Russia there is still a deep conviction that Russian culture is still a part of Europe, and we should not forget about this, this is a resource we can use in the future. Because of history, culture, economic ties, Russia will always be part of Europe. Any German government will try to reach out to Russia.*[8]

Yet for the majority in the party, even those who were favorably disposed toward engagement with Moscow throughout the post-Cold War period, recent years have led to a sense of deep disappointment, and »a more critical view on what is happening in Russia.«[9] Schmid cautions, »Russian foreign policy has become more destructive and dialogue is needed, but with this Putin government in charge it will be very hard to find compromise on important issues. The value drift between Europe and Russia is accelerating. The official doctrine of the Russian government is more and more anti-Western and opposed to liberal values.

5 Bagger, Thomas, Remarks at Stanford University CISAC, 11/20/20.
6 Author interview with Niels Annen, 10/29/20
7 Annen interview
8 Author interview with Nils Schmid, 10/29/20
9 Annen interview

Even in Germany more people understand.«[10] Instincts towards engagement, interdependence, and a vision of Europe's future that includes Russia are balanced by a difficult reality, and that balance is reflected in German policy today.

Those who have closely followed German policy toward Russia over decades describe the emergence in recent years of a dual track approach, with Berlin seeking to foster cooperation wherever possible, especially in the economic and energy spheres, while underscoring its commitment to the transatlantic alliance, and the impermissibility of Russia's aggressive actions.[11] Notwithstanding Germany's pursuit of this economic interdependence with Russia, including in the energy sphere, Bagger and other senior German officials have asserted that Berlin's policy aims to put the European Union first. While Germany could pursue a »special relationship« with Russia premised on the two sides' economic interdependence and unique history, these officials emphasize their desire to instead shape a common EU policy towards Russia. That policy would have to take into account the perspectives and interests of Germany's East European neighbors, which take a much dimmer view of Putin's Russia.[12]

GERMAN-RUSSIAN GAS TRADE AND NORD STREAM 2

German-Russian gas trade is hardly novel. The Soviet Union began shipping natural gas to Western Europe via pipelines crossing Soviet territory and transiting via Eastern European states in the 1960s. After 1989-91, Russia continued to sell gas via these Soviet-built pipelines, however the states on whose territory the pipelines were located charged transit fees to Gazprom, the Russian state gas monopoly. In some cases, such as with Ukraine and Belarus, the transit states balked at Gazprom's attempts to charge them market prices instead of subsidized rates, or to compel them to surrender control of their pipeline networks to Gazprom. This resulted in long-running disputes over gas payments, transit fees, and siphoning, and the Russians have cut off the flow of gas via Ukraine and Belarus in 2006, 2009 and 2014, raising serious concerns about the reliability of this energy source for Europe.[13]

It was this state of affairs, in addition to the anticipated need for increased capacity, that gave rise to the concept for the Nord Stream pipeline complex, the purpose of which is to pipe gas directly from Russia to Germany, thus bypassing Ukraine, Belarus and other East European transit states. The first two Nord Stream offshore gas pipelines linking Russia directly to Germany (NS1) were completed in 2012, and have operated since then. NS2 includes a planned further two pipelines, from Ust-Luga in Leningrad Oblast to Greifswald in Northeastern Germany. The project was slated to be completed in mid-2020, but has been delayed principally due to current and pending U.S. sanctions. NS2 is owned and will be operated by Nord Stream 2 AG, which is a wholly owned subsidiary of Gazprom.[14]

Berlin officials initially referred to NS2 as a strictly commercial project, though they have more recently acknowledged it has inevitable geopolitical implications, and is therefore controversial not only in Eastern Europe but in Germany itself. Nonetheless, German proponents of the project cite the long history of uninterrupted and consistent gas supply from Russia to Germany, even during the Cold War. Despite the more recent cases in which gas flow has been interrupted, they view the gas trade with Russia as essentially stable. As Schmid explains, »dependency works both ways. In economic terms Russia is more dependent on gas revenues than we depend on gas from Russia, because we could switch to other forms of energy, which is already underway, and with the new LNG terminals being built all over the EU, not only in Germany.«[15]

Following the 2011 Fukushima Daiichi nuclear disaster in Japan, German officials took the decision to pursue their carbon emission reduction goals without relying on nuclear power (from 2022) or coal (from 2038), which makes natural gas the only realistic bridge fuel for the transition period.[16] »We are in a major transformation in Germany,« says Annen. »We are the only industrial country that is phasing out of nuclear and coal at the same time. Our aim is to be independent of fossil fuels and we are making real progress, but we need a reliable source of energy for that intermediate period.«[17] As of now, Germany intends to use only around 18 % of the gas coming in via the Nord Stream pipelines, and aims to be completely on renewables for electricity generation and heat by 2050. This means that NS2 is meant not only to provide Germany with reliable gas supplies in the medium term, but will make Germany a hub for gas distribution to the rest of Europe for the foreseeable future.

UKRAINE GAS TRANSIT

A major part of the controversy over NS2 has to do with the East European countries which the pipeline bypasses, Ukraine especially. Poles, Slovaks, and others express concerns as well, since NS2 could, in theory, transform them from transit states to end recipients of Russian gas overnight, thus reducing their leverage and possibly increasing prices. For Ukrainians, the concern is even more acute, and is not only about losing gas transit revenues, but about losing what Kyiv considers to be a vital weapon in its conflict with Moscow. According to Ukrainian energy expert Andri-

10 Schmid interview

11 https://carnegieendowment.org/2020/09/24/russia-and-europe-stuck-on-autopilot-pub-82773

12 Bagger remarks, 11/10/20

13 https://www.wilsoncenter.org/blog-post/new-era-gas-wars-between-ukraine-and-russia

14 https://www.shipownersclub.com/ig-circular-nord-stream-2-and-turkstream-update-on-new-u-s-sanctions/

15 Schmid interview

16 https://carnegieendowment.org/2020/09/24/russia-and-europe-stuck-on-autopilot-pub-82773

17 Annen interview

an Prokip, »if these two lines are ever put into operation, Ukraine's role transiting gas to Europe will be vastly diminished and the country would stand to lose an important tool in its multidimensional conflict with Russia.«[18] Former Chair of the Ukrainian Rada (Parliament) Committee on Foreign Affairs Hanna Hopko puts it even more urgently: »NS2 has to be considered as an existential threat, not just for Ukraine, also for NATO countries.«[19]

German leaders recognize the concerns of East European EU and NATO members, and Europe as a whole regularly expresses solidarity with Ukraine, which continues to fight a nearly six-year-old war with Russian-backed separatists in Donbas. Ukraine has called on the international community, and Germany in particular, to support its struggle by imposing punitive sanctions on Russia. Yet Ukrainian officials, as well as many in Washington and in Eastern Europe, see NS2 as a betrayal of that support. As one senior Congressional aide in Washington put it, NS2 »only increases the amount of influence Russia can have within Europe. It weakens the ability of Ukraine to collect those rents on gas that goes through its territory and takes it out of the picture.«[20] Secretary of State Mike Pompeo captured the crux of this bipartisan view when he argued that NS2 is »aiding and abetting Russia's malign influence projects.«[21]

But German officials who support NS2 see no conflict between the pipeline and Germany's support for Ukraine. According to Annen, »energy policy is really also a question of national interest and national sovereignty, so we expect from our partners to respect that we are taking our own sovereign decisions about energy [but] it does not mean that we are not listening to the concerns of our close neighbors.«[22] Another senior official in Berlin says pointedly, »we actually care about Ukraine and their security interests, and want to make sure that the whole security and energy architecture is one that works.«[23] These officials point to critical benefits German diplomatic and financial support has gained for Ukraine. »Under German leadership,« Annen continues,

> *The energy market in Europe changed. We have reverse flow options today, so the understandable fear of Ukraine being left out there in the cold is addressed…We also made it clear to the Russians that there is no support for NS2 from the German government without a Russia-Ukraine gas transit agreement. We brokered that deal, and it is not even recognized in the US narrative.*[24]

These same German officials express frustration with Ukraine's position as well. They resent Kyiv's demand that Western partners impose sanctions and pressure on Russia, while Ukrainians continue the corruption-prone gas trade with Russia themselves. Although Ukraine no longer purchases Russian gas directly (thanks to reverse flows from Poland, Slovakia and Hungary), it is in fact still consuming Russian gas, and depends significantly on billions of dollars in transit revenue.[25] Schmid puts it this way: »The future of Ukraine cannot depend on the transit of Russian gas … I understand there is an interest in that, but in the longer term the Ukrainian economy cannot depend on transiting natural gas.«[26] Another senior German official hints at challenges Ukraine is facing beside NS2, in particular persistent corruption: »Ukrainians are asking for IMF [loans] and in this process IMF officials regularly report delays concerning the implementation of key reform measures. This is part of the game as well.«[27]

U.S. SANCTIONS ON NS2

Ukraine's message has been well received in Washington, where not only the executive branch, but the U.S. Congress has provided consistent, bipartisan support for sanctions on Russia, including a raft of measures targeting NS2. Support is especially strong in the U.S. Senate's Foreign Relations and Armed Services Committees, according to senior staff who have worked on sanctions legislation.[28] Appealing directly to her American counterparts, former Rada member Hopko says: »Your support by imposing sanctions could be an investment in the security of the whole European continent. Our Western partners must be made to understand that Russia continues to pose the greatest threat, in fact an existential threat to international stability and our shared democratic values.«[29]

The U.S. State Department concurs. In October 2020, State issued a clarification of current NS2 sanctions intended to warn German and other European companies off any involvement in the project. »Russia uses its energy export pipelines to create national and regional dependencies on Russian energy supplies, leveraging these dependencies to expand its political, economic, and military influence, weaken European security, and undermine U.S. national security and foreign policy interests,« says the State Department guidance, »these pipelines also reduce European energy diversification, and hence weaken European energy security.«[30] As

18 https://www.wilsoncenter.org/blog-post/new-era-gas-wars-between-ukraine-and-russia

19 https://www.facebook.com/events/679420579286408/?active_tab=discussion

20 Author interview with senior congressional aide (1) involved in drafting legislation, 11/5/20 (Anonymity requested)

21 https://www.washingtonpost.com/politics/correction-united-states-europe-story/2020/07/16/1eb97142-c784-11ea-a825-8722004e4150_story.html

22 Annen interview

23 Author interview with senior German official, 11/3/20 (Anonymity requested)

24 Annen interview

25 https://www.rferl.org/a/long-russia-ukraine-reach-five-year-gas-transit-deal/30353000.html

26 Schmid interview

27 Senior German official interview

28 https://www.aicgs.org/2020/10/nord-stream-2-berlin-washington-mutual-intransigence-shows-transatlantic-divide-on-russia/#_ednref1

29 https://www.facebook.com/events/679420579286408/?active_tab=discussion

30 https://oilprice.com/Latest-Energy-News/World-News/US-Broadens-Sanctions-On-Russia-Led-Nord-Stream-2-Pipeline.html

another senior aide on Capitol Hill explains it, NS2 sanctions are not about punishing Germany for pursuing the project, but rather about hurting Russia and helping Ukraine. »Part of the idea of trying to stop NS2 was to maintain that $3B of gas transit fees that Ukraine gets from Russia and help them stay on their feet, and the consensus is that was successful.«[31]

There are two principal bases for NS2 sanctions in current U.S. law. In 2017, Congress passed and President Trump signed the Countering America's Adversaries Through Sanctions Act (CAATSA), Section 232 of which allows the State and Treasury Departments to target investments or other transactions related to the construction of Russian energy export pipelines.[32] On July 15, 2020, State announced that it will use these authorities to target both NS2 and TurkStream (a pipeline carrying Russian gas to Turkey via the Black Sea). Specialists in maritime pipe-laying explain that targeted transactions do not have to be directly with the Russian Federation, rather providing any type of vessel used in connection with NS2 or TurkStream, or providing services to such vessels, could expose involved individuals and companies of any nationality to sanctions. »As such,« cautions a leading maritime insurance organization, »those owning or operating vessels that are used in connection with NS2 or TurkStream or those providing services to such vessels should consider whether their activities might trigger an application of Section 232's sanction provisions.«[33]

In December 2019, Congress added another layer of sanctions pressure on NS2, the Protecting Europe's Energy Security Act (PEESA).[34] PEESA was aimed explicitly at stopping NS2, which by that time was 94 % complete, by authorizing sanctions to block foreign assets subject to U.S. jurisdiction, and deny visas and entry into the U.S. of foreign corporate officers and principal shareholders.[35] Russian officials claimed that the Gazprom-owned vessel Akademik Cherskiy could finish the rest of the pipeline on its own, but so far no additional work has been completed. This may be because of the threat of additional U.S. sanctions, including the pending Protecting Europe's Energy Security Clarification Act (PEESCA) of 2020, set to pass as part of the 2021 National Defense Authorization Act in late 2020.[36] The new language would explicitly prevent European companies from dealing with the Russian vessel in any capacity, expanding sanctions beyond owners of pipe-laying ships, to include underwriting services or insurance for such ships, installation of welding equipment, and testing or inspection services.[37] In effect, the goal of the U.S. sanctions is to force a zero-sum choice between doing business with any entity linked to NS2, and doing business with the United States.

Congressional aides involved in drafting the current sanctions describe them as a »deterrent strategy to prevent bad things from happening,« though they acknowledge it can be »hard to prove a negative« by citing any particular change in Russian behavior.[38] One oft-cited example is the Russian-Ukrainian gas transit deal negotiated in late 2019, effectively in the shadow of PEESA, which had passed about a week before the deal was announced. Congress also argues that the U.S. has a »legitimate interest in Germany's energy security and diversification, given U.S. military bases there.«[39] With strong bipartisan support from Democrats and Republicans, including President Trump and his allies and the incoming Biden Administration, Washington apparently aims to maintain the sanctions pressure indefinitely.

GERMANY AND EUROPE'S RESPONSE

German leaders may be far from united in support of NS2, but a more united front has begun to emerge in the face of the apparent threats of additional sanctions from Washington that would target European firms, individuals, and in some cases even municipal entities. For Germans, as indeed for other Europeans, it is a matter of defending Europe's economic sovereignty from what is seen as American bullying. As former U.S. diplomat Wayne Merry writes, »the pending new sanctions on [NS2] aimed at German firms and individuals rather than at Russian equivalents tend to aggravate a German sense of victimization by Washington.«[40] Schmid calls the threatened sanctions a »massive encroachment on our sovereignty,« and notes that many EU embassies joined Germany in lobbying against the pending sanctions in Washington: »We might not be on the same page with regard to NS2, but it is not permissible that the US Congress tries to define what our energy policy should be. Out of 27, 23 or 24 embassies joined the common EU statement on that.«[41]

Schmid and others in Germany are especially outraged at what they perceive to be a hypocritical approach from the United States. Current and former U.S. officials insist that sanctions aiming to block NS2 are as much about encouraging Europe to diversify its energy sources as about killing a project that would benefit Moscow.[42] Yet the message has been muddled by strong pressure from U.S. officials, such as

31 Author interview with senior congressional aide (2) involved in drafting legislation, 11/6/20 (Anonymity requested)

32 https://www.shipownersclub.com/ig-circular-nord-stream-2-and-turkstream-update-on-new-u-s-sanctions/

33 https://www.shipownersclub.com/ig-circular-nord-stream-2-and-turkstream-update-on-new-u-s-sanctions/

34 https://www.congress.gov/bill/116th-congress/house-bill/3206

35 https://www.shipownersclub.com/ig-circular-nord-stream-2-and-turkstream-update-on-new-u-s-sanctions/

36 https://www.argusmedia.com/en/news/2161720-us-to-enact-nord-stream-2-sanctions-by-yearend?backToResults=true

37 https://www.congress.gov/bill/116th-congress/senate-bill/3897

38 Congressional aide (1) interview

39 Congressional aide (2) interview

40 https://nationalinterest.org/feature/how-resist-russia%E2%80%99s-crude-oil-crusade-and-navigate-nord-stream-2-nuances-168364

41 Schmid interview

42 Congressional aide interviews (1) and (2); https://industryeurope.com/pompeo-urges-europe-to-diversify-energy-supply-away-from-russia/

former U.S. Ambassador to Berlin Ric Grenell, for Germany to dump NS2 and Russian gas and instead buy U.S. LNG.[43] At the same time, the Germans fume, U.S. refineries have been importing record volumes of Russian crude oil. According to the United States Energy Information Administration, the U.S. imported sixty-eight million barrels of Russian crude in the first half of 2020, making it »number one among Russia's foreign oil users.«[44]

The expanded NS2 secondary sanctions threat to some extent even unites the two political camps in Germany—those who are for and against the pipeline—around a matter of principle.[45] The first camp insists that maintaining economic ties with Russia is still the best hope of influencing its behavior, and like Bagger, point to the two countries' unique shared history. As Annen puts it, »the biggest difference between us and American lawmakers is that we have that joint history, and it's not going to go away, but also the political and economic dimension of the relationship is more developed. Even in the darkest days of the Cold War, we had an energy relationship. The Russians never violated their obligations.«[46]

The second camp might be prepared to jettison the pipeline, but they resent what they consider a misplaced focus on NS2 as the only measure of toughness on Russia, and an approach from Washington that, while overlooking U.S. imports of Russian crude oil, seems not to acknowledge all that Germany has done to support Ukraine. As Schmid argues, »if you want to support Ukraine, let's bring in our political, energy and other clout to support Ukraine. If it's about punishing Russia, then why does the US increase oil imports from Russia?«[47] According to Roderich Kiesewetter, a member of the Bundestag's Committee on Foreign Affairs from the CDU and a self-proclaimed critic of NS2, »It's not very fair from the U.S. to come with secondary sanctions, whereas the United States are importing Russian resources, financing even more of the Russian budget than the European Union does…We have to be really cautious with this because it will really affect the close U.S.-German friendship.«[48]

So far, the disagreement amounts mostly to ruffled political feathers and sensational headlines about how the project is delayed, since, as German leaders admit, even the threat of U.S. sanctions is enough to block German companies from moving forward with work on NS2. »There is not that much that we can do in the short term,« says Annen. »The U.S. is exercising power via the dollar.«[49] But in the longer term, this risks »poisoning the transatlantic atmosphere,« he warns. »This way of bullying is something you can only do for so long, and then it will backfire,« says another senior German official, »None of the allies will accept being bullied and treated that way for a long time.«[50] As Washington seeks to shape German and European energy policy via secondary sanctions, it may also encourage Europeans to think more seriously about their own economic sovereignty—ironically, that is a topic very much on the minds of those Europeans already concerned with economic coercion from Russia and China.

A recent study commissioned by the German Foreign Ministry and conducted by the European Council on Foreign Relations (ECFR) describes the risks to European sovereignty of »great power« economic coercion from Russia, China, and the United States. »Both China and the United States,« the report says, »are merging geo-economics with geopolitics,« and it cautions that, »Europeans are likely to increasingly face extraterritorial sanctions … that distort the European market and global competition.«[51] In response, the report advises the EU to take actions ranging from defensive (»create a European collective defense instrument … to respond to a violation of sovereignty under international law« and »set up a European Resilience Fund to give greater support to businesses and European solidarity«) to coercive and punitive (»impose personal sanctions on third-country persons, such as travel bans and asset freezes.«)

IS THERE A WAY FORWARD?

Although the issue has recently come to a head thanks to pending U.S. sanctions legislation and expanded prospects for enforcement, Washington's staunch bipartisan opposition to NS2 is not new. The Obama Administration generally opposed projects aimed at increasing direct Russian gas exports or trans-shipments to Europe, for many of the same economic and security reasons cited by Congressional leaders and the Trump Administration over the past year, including the perceived costs and risks to Ukraine. President-elect Biden was regularly briefed during the Obama Administration on the issue, since Biden had responsibility at that time for U.S. policy on Ukraine and related foreign policy issues.[52] During the 2020 presidential campaign, Biden issued a statement confirming his view of NS2 as a »fundamentally bad deal,« and reiterating his aim to »strengthen Europe's energy independence.«[53] Thus any hopes of a radical departure from the current U.S. policy trends by the incoming Biden Administration may be misplaced.[54]

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43 https://www.washingtonpost.com/world/2019/01/14/us-ambassador-berlin-warns-germans-over-russian-gas-pipeline-triggering-applause-elsewhere/

44 https://nationalinterest.org/feature/how-resist-russia%E2%80%99s-crude-oil-crusade-and-navigate-nord-stream-2-nuances-168364

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46 Annen interview

47 Schmid interview

48 Author interview with Roderich Kiesewetter, 11/23/20

49 Annen interview

50 Senior German official interview

51 https://www.ecfr.eu/publications/summary/defending_europe_economic_sovereignty_new_ways_to_resist_economic_coercion

52 Author interview with former senior US State Department energy official, 11/6/20 (Anonymity requested)

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54 Congressional aide (2) interview

Nor is continuity of support for NS2 assured on the German side. With Bundestag elections forthcoming in 2021, key players supporting NS2 in the current governing coalition in Berlin, including Chancellor Merkel herself, will likely have left power.[55] Moreover, the COVID-19 pandemic has substantially changed Germany and Europe's energy outlook, in ways that may persist even beyond the public health emergency itself. In Europe, as in the United States, major companies are already signaling permanent transitions to increased remote work, with attendant scaling back of physical office buildings and other commercial spaces that are expensive to heat, light and administer.

As recently as 2018, Europe consumed 500 Billion cubic meters (Bcm) of gas, and predictions were for that number to rise to 550 Bcm by 2030. Production within Europe (mostly by Norway, the UK and the Netherlands) was 248 Bcm in 2018, and was expected to fall to 147 Bcm by 2030.[56] These figures underpinned the argument for NS2 as a means of expanding Russian gas transit capacity, and assuring Europe's gas supply for the next decade and beyond. Europe's future energy consumption after the COVID-19 pandemic is hard to predict, but it will certainly be lower than previously forecast. Even before the pandemic in 2019 global gas prices had dropped considerably, and in the first half of 2020, Russian gas exports to Europe dropped by 18.4 Bcm, while U.S. LNG imports increased around 10 Bcm.[57]

At present, without NS2 in operation, Russia has the capacity to export around 240Bcm of gas to Europe annually. With NS2, that number would rise to nearly 300Bcm. But because Russia currently only supplies Europe with 175Bcm of gas per year, the increased capacity may not be necessary, especially if overall European energy use continues to decline.[58] This data is encouraging to those who believe a compromise might be found to effectively freeze NS2, or perhaps to complete the pipeline but leave it dormant for a significant period of time, and instead continue the bulk of Russian gas transit via Ukraine and other existing pipelines. »It would be better to complete this project and then to decide case by case whether we really need the Russian gas,« says the CDU's Kiesewetter, »We have an oversupply for Germany, and we could set some conditions regarding Russian behavior, as regards the Minsk agreements, or on Libya, or [poisoned opposition leader Alexey] Navalny, whether we buy this Russian gas.«[59] Some in Washington further suggest that if NS2 is completed, sanctions should be developed and defined in advance that would kick in automatically if Gazprom were to renege on its transit agreement with Ukraine.[60]

Another dimension of possible compromise would be to take a little from each column, so to speak. The question official Washington asks is, »what is Germany willing to do to contribute to Ukraine's energy security and independence? What additional contributions can Germany make in very concrete terms?«[61] What could Germany do, one former U.S. official asks, to »build European energy solidarity« in the face of potential Russian pressure, which would shift the discussion from a »damaging discussion of sanctions« to a »productive discussion of energy security«?[62]

In addition to supporting continued gas transit via Ukraine, and thus supporting Gazprom's annual transit payments to Ukraine under the terms of a deal negotiated with German support, Germany has been supportive of reverse-flow options for gas pipelines among European states, allowing Ukraine to consume Russian gas without buying it directly from Russia.[63] To address diversification concerns, Minister of Energy Peter Altmeier (CDU) and Minister of Finance Olaf Scholz (SPD) both suggested spending up to 1B euros to build one or two LNG terminals in Germany, and a proposed project in the North Sea port of Wilhelmshaven had received initial approval. The Economy Ministry said that Germany welcomed the LNG projects »to further diversify the gas infrastructure in Germany.«[64] However, German environmental groups have raised objections to the proposal and commercial backers have recently expressed concern about low gas prices not justifying the investment.[65]

Whichever resolution the sides pursue, it is clear that more dialogue and a more positive tone in U.S. relations with Germany and Europe will be welcomed. As Annen puts it, »We should have a conversation with our American partners about how we should look at the developments in Russia. That discussion is not taking place right now.« Current and former U.S. officials agree. »Let's have a comprehensive holistic conversation about energy in Europe,« and »a broader conversation with Europe about what our joint approach to Russia is going to be.«[66] What is most needed, one former official says, is »a willingness to exchange views.«[67]

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55 Bagger remarks, 11/10/20

56 https://www.washingtonpost.com/world/2019/01/14/us-ambassador-berlin-warns-germans-over-russian-gas-pipeline-triggering-applause-elsewhere/

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66 Congressional aide (1) interview

67 Former State Energy official interview

Though some German leaders are optimistic for more coordination and cooperation with Biden in the White House, believing that, »a more traditional [U.S.] administration will respect us,« they still expect »a tough stance on Russia and there will be a continuing debate on NS2.«[68] »I don't believe you will find many people in Berlin expecting a fundamental shift,« says Annen. »There are reasons to expect a partner more willing to engage in dialogue, but with the mood in Congress among leading Democrats, this topic as a divisive issue in the transatlantic relationship is unlikely go away.«[69] U.S. officials and experts share this concern, and none can point to a precise compromise formula that will bridge the considerable gap on NS2 in the short term.[70]

Moreover, just as the pandemic's impact on energy use was unexpected, no one can foresee the political future. That is what makes the issue so sensitive, and so important, not only for managing challenges related to Russia and Ukraine, but for signaling the future of U.S.-German partnership and transatlantic relations writ large. »Maybe you have a change under a Biden Administration,« muses Annen, »but who can guarantee in four years' time that we will not have an administration elected that comes back to this? We have to hedge for the future.«[71] And it is hedging through pressure, on both sides, that risks undermining long-term trust. On this, a senior German official echoed sentiments expressed by his U.S. counterparts: »If you use it against your allies too often, then something is destroyed or damaged on a permanent basis.«[72]

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68 Schmid interview
69 Annen interview
70 Former State Energy official interview
71 Annen interview
72 Senior German official interview

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Matthew Rojansky is Director of the Kennan Institute at the Woodrow Wilson Center in Washington, D.C. An expert on U.S. relations with the states of the former Soviet Union, especially Russia, Ukraine, Belarus and Moldova, he has advised governments, intergovernmental organizations, and major private actors on conflict resolution and efforts to enhance shared security throughout the Euro-Atlantic and Eurasian region. He served previously as Deputy Director of the Russia and Eurasia Program at the Carnegie Endowment for International Peace, where he founded Carnegie's Ukraine Program and created a track-two task force to promote resolution of the Moldova-Transnistria conflict. Prior to that, Rojansky served as executive director of the Partnership for a Secure America (PSA), a bipartisan national security and foreign policy group co-founded by former congressman Lee Hamilton (D-IN) and former senator Warren Rudman (R-NH), and as a Judicial Clerk for the U.S. Court of Appeals for the Armed Forces. He is an adjunct professor at Johns Hopkins SAIS, and serves as U.S. Executive Secretary for the Dartmouth Conference, a track-two U.S.-Russian conflict resolution initiative begun in 1960.

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THE U.S., GERMANY, AND NORD STREAM 2

Germany has imported Soviet and Russian natural gas for over half a century, despite tensions during and since the Cold War. Advocates of the Nord Stream 2 pipeline argue that deeper energy interdependence is part of the recipe for effectively engaging Russia and preventing future conflict. They view the project as one part of a European energy strategy, including gas transit via Ukraine, increased imports of liquefied natural gas (LNG), and much more reliance on renewable energy sources. Some also object to U.S. pressure over NS2 as a violation of European sovereignty, and warn that in the long term, Washington's policies could damage transatlantic unity and force Europe to develop its own tools of economic coercion.

Opponents consider NS2 a purely geopolitical Kremlin project, aimed at cutting Ukraine out of Europe's energy map, and increasing Russian leverage over Germany and the rest of Europe. Leaders from both parties in Washington share this concern, and have threatened to impose sanctions on German and any other European firms that assist in completing the pipeline. U.S. officials have described NS2 as »aiding and abetting Russia's malign influence projects,« while Ukrainians call it an »existential threat« to democracy. Authors of current and pending sanctions legislation acknowledge that sanctions are intended to force a zero-sum choice, between participating in the project or doing business with the United States.

Although there is strong bipartisan support for NS2 sanctions in Washington, there are also hopes that the arrival of the Biden-Harris Administration in 2021 will make a mutually beneficial solution possible. While President Biden is likely to reemphasize strong U.S. ties with traditional European allies, especially Germany, he has called NS2 a »fundamentally bad deal« and is not likely to abandon his opposition. Meanwhile, concerns linger in Germany about whether U.S. elections in 2024 and beyond could bring less conciliatory policies. Both sides agree that continued support for Ukraine and investments in energy diversification for Europe as a whole are desirable, but the impasse over completing the pipeline itself remains in the shadow of sanctions.

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