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EXECUTIVE SUMMARY

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Nord Stream 2 is an almost-finished natural gas pipeline from Russia to Germany. The Biden administration opposes it and has come under congressional pressure to invoke sanctions to prevent its completion, in large part because the pipeline seems a geopolitical project targeted at Ukraine. The German government, however, regards the pipeline as a "commercial project" and appears committed to its completion, perhaps in the next few months. U.S. sanctions applied on Russian entities to date have failed to stop Nord Stream 2, raising the question of whether the U.S. government would sanction German and other European companies for servicing or certifying the pipeline. Such sanctions would provoke controversy with Germany at a time when both Berlin and the Biden administration seek to rebuild good relations. The two sides have work to do if they wish to avoid Nord Stream 2 becoming a major point of U.S.-German contention.

THE PIPELINE

Nord Stream 2 is actually a pair of natural gas pipelines that, if/when completed, will run some 1,200 kilometers along the bottom of the Baltic Sea from Ust-Luga, Russia to Greifswald, Germany.¹ The two pipelines, collectively referred to as Nord Stream 2, are projected to have the capacity to move 55 billion cubic meters (BCM) of gas per year. Nord Stream 2, now about 95% complete, will run roughly parallel to Nord Stream 1, a similar pair of pipelines built between 2010 and 2012 that also have a combined capacity of 55 BCM of gas per year.²

Nord Stream 2 is being built by a project company in which Gazprom, Russia's parastatal energy giant, holds the largest stake.³ The company has five international finance partners: Uniper and Wintershall (German), Engie (French), OMV (Austrian) and Royal Dutch Shell (Dutch/British). The European Union currently imports about 40% of its natural gas from Russia, or about one-third of its total gas consumption.⁴ Gazprom began discussions with European companies on a direct Russia-Germany gas pipeline in 2001. At that time, it shipped gas to western Europe via pipelines that mainly transited Ukraine, and also Belarus and Poland (the Yamal system). In 2003, Gazprom also began exporting gas through the Blue Stream pipeline under the Black Sea to Turkey. Still, most gas moved via Ukraine. In 2003-2008 (before Nord Stream 1), Gazprom transited 112-122 BCM each year westward through Ukraine's gas transit system.⁵

That changed when Nord Stream 1 came online in 2012.⁶ The new pipeline gave Gazprom flexibility to shift some contractual volumes for European customers away from the Ukrainian route. Under a current contract with Ukraine, brokered with German help, Gazprom is obligated to pay Ukraine

for 40 BCM of pipeline capacity per year through 2024, whether or not it actually ships 40 BCM.⁷ Many analysts expect that, when that contract concludes, Gazprom will cease transiting significant gas volumes via Ukraine, preferring the Nord Stream pipelines.

As of March 2021, Nord Stream 2 needs a short stretch of pipeline to be completed in the Danish and German exclusive economic zones. The Russian ship *Fortuna* has been laying pipe since January; another Russian pipe-laying ship, the *Akademik Cherskiy*, arrived in the area on March 31.⁸

KEY PLAYERS AND VIEWS

Russia. The Russian government and Gazprom intend to complete Nord Stream 2. Gas sales to western Europe have long been a major source of export revenue for Moscow, though gas exports are not nearly as important to the Russian economy as the export of oil. Gazprom had anticipated that Europe's import demand would grow. However, while Gazprom hopes to pick up additional demand as British North Sea and Dutch gas fields are depleted, Europe is moving forward on energy conservation, greenhouse gas reduction, and renewable energy sources. Overall gas demand through 2030 is expected to remain flat, after which it could decline. That will leave Gazprom with more pipeline capacity than needed.⁹

Relations between Moscow and Kyiv are also a major factor behind Nord Stream 2. Indeed, many see the pipeline primarily as a geopolitical project aimed at cutting Ukraine out. Gazprom long sought to gain control over the Ukrainian gas transit system, but Kyiv resisted, in part because that system also moves much of the gas for Ukraine's domestic consumption. Over the past 20 years, Russia has developed the Nord Stream, Blue Stream, and Turk Stream pipelines to bypass Ukraine.

In 2006 and 2009, Gazprom cut off all gas to Ukraine because of contract disputes, resulting also in the cut-off of transit gas to central and western Europe, in both cases in mid-winter. That increased Gazprom's incentives to develop new pipelines to bypass Ukraine. Kyiv also learned its lesson and in 2015 stopped purchasing gas directly from Russia.¹⁰

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Germany. As is the case in the rest of Europe, 35-40% of the gas that Germany uses comes from Russia. In 2005, President Vladimir Putin and then-Chancellor Gerhard Schröder, who was just about to depart office, agreed on the Nord Stream 1 project. Shortly thereafter, Schröder became head of the shareholders committee for the consortium building Nord Stream 1. He later became head of the board for Nord Stream 2.

Supporters in the Christian Democratic Union and Social Democratic Party, which make up the current governing coalition in Berlin, have long asserted that Nord Stream 2 is a "commercial project." Chancellor Angela Merkel and Foreign Minister Heiko Maas suggested last September that the poisoning of Kremlin opponent Alexei Navalny might mean consequences for Nord Stream 2, but they have not acted to block work.¹¹ One gets the sense that Berlin's enthusiasm for the pipeline has sharply waned, but no one in authority is prepared to halt it. That perhaps in part reflects concern that, were the German government to pull the plug now, when Nord Stream 2 is nearly complete at a sunk cost of some 10 billion euros (\$12 billion), Germany could find itself liable for part or all of that investment.

Supporters have an incentive to finish the pipeline before Germany's national election in September. There is some domestic opposition to the pipeline, and polls suggest the Greens, who strongly oppose Nord Stream 2, will almost certainly be part of the new coalition.¹²

Support for the pipeline in Germany appeared to stiffen during the Trump administration, in part in reaction to President Donald Trump's barely concealed disdain for the country and for Merkel personally. German officials voice frustration that Washington began heavily wielding the sanctions threat only late in the game, when Nord Stream 2 was nearly finished (though Washington had long expressed opposition to the pipeline).

Ukraine. As noted, Ukraine no longer purchases gas directly from Russia. Kyiv made that decision to avoid a situation in which Moscow could blackmail Kyiv with a threat of a gas cut-off. (While Russia has sought to maintain reliable gas supplies to central and western Europe, there are numerous cases over the past 30 years when Moscow threatened or cut off gas to post-Soviet states or the Baltic states for political reasons.)¹³

The Ukrainian pipeline operator nevertheless worries about losing transit gas. Aside from fees, the transit gas allows more efficient operation of the pipeline system, through which Ukraine also moves 30 BCM of gas per year for domestic consumption. Ending the transit gas (and transit fees) would invariably lead to increased gas prices for domestic consumers, a politically sensitive issue in Ukraine. Moreover, some suspect that, once Nord Stream 2 is complete, Gazprom might even try to end transit via Ukraine immediately, perhaps via a "Turkmenistan scenario" (in 2009, when falling gas prices in Europe meant that Gazprom was losing money on gas it had contracted from Turkmenistan to ship to Europe, an explosion destroyed a portion of the Turkmenistan-Russia pipeline, in effect getting Gazprom out of its contract).14

Ukrainians also fear that, once Russia no longer needs to ship transit gas via Ukraine, that will remove a restraining factor on Kremlin behavior, and Moscow will increase pressure on Kyiv. Already this month, with Gazprom's transit contract with Ukraine having three years to run, Russia has made major military movements in occupied Crimea and along the Russian border with eastern Ukraine in an effort apparently aimed, at a minimum, at intimidating Kyiv.¹⁵

Poland and the Baltic states. Poland used to depend substantially on gas from Russia via the Yamal pipeline. For example, in 2016, it imported 10.3 BCM, 74% of its import needs, from Gazprom.¹⁶ Imports from Russia fell to about 60% of total gas imports in 2020, as Poland imported liquified national gas (LNG) through a newly-constructed LNG terminal.¹⁷ Warsaw intends to further reduce its dependence on Gazprom by expanding LNG import capacity and by importing Norwegian gas via a new pipeline.

The Polish government, among the most vociferous critics of Nord Stream 2, undertook this shift out of concern that, to the extent that Gazprom and Russia could reduce or eliminate their need for the Yamal pipeline, Moscow could use the threat of gas cut-offs for political objectives — and not just against Poland, but perhaps against neighboring Belarus.

Prior to 2014, the three Baltic states imported gas only from Russia. Those countries now are moving to change that.¹⁸ Lithuania has had a floating LNG terminal since 2014 and is building a gas pipeline connector to Poland. Estonia now has a gas pipeline to Finland.

Some of the LNG imported by Poland and Lithuania comes from the United States. They have chosen to pay a price premium (LNG is more expensive than piped gas from Russia) in order to reduce their dependence on Gazprom. **European Union.** Following Navalny's arrest in January 2021, the European Parliament voted overwhelmingly to demand a halt to Nord Stream 2's construction.¹⁹ The European Commission has called the pipeline unnecessary for Europe's energy security.²⁰ However, the parliament's resolution was nonbinding, and the commission says that it lacks the authority to stop the pipeline and that only Germany has that power.

The top German regulator Bundesnetzagentur (Federal Network Agency) ruled in May 2020 that Nord Stream 2 must operate in accord with the rules of the EU's "Third Energy Package."²¹ Among other things, those require "unbundling" – the production, transportation, and distribution of gas in the European Union must be separated. That poses a problem for Gazprom, which both produces gas and will control Nord Stream 2.

United States. The Biden administration, like the Obama and Trump administrations and Congress, opposes Nord Stream 2. Congressional legislation over the past two years has broadened the activities subject to sanctions.²² The 2019 Protecting Europe's Energy Security Act sanctioned pipe-laying for Nord Stream 2. The Swiss-owned pipe-laying contractor Allseas immediately halted work, leading to a yearlong hiatus in the pipeline's construction. The Protecting Europe's Energy Security Clarification Act, enacted in January, makes services, including testing, inspection, and certification of the pipeline, subject to sanction. Both acts mandate — not just authorize, but mandate — sanctions, though they give the White House the authority to waive them.

Sanctions on Russian entities have not stopped the pipeline. The question now is whether Washington will sanction German and/or other European companies involved with Nord Stream 2. Doing so would cause a major problem with Berlin, at a time when the Biden administration wishes to revive bilateral relations (as does the German government). It could also cause a fight with the European Union, which opposes the extraterritorial application of U.S. sanctions. But U.S. officials' language hardened in March, and there is a sense that time is growing short.²³

Berlin has reportedly made offers to Washington in a bid to avoid sanctions as Nord Stream 2 is completed.²⁴ One would entail subsidizing the construction of terminals to receive LNG. That would provide Germany a fallback if Russia reduced or cut off gas flows to Europe, but it likely would have little impact on gas imports from Gazprom in normal times, given the price advantage of piped gas. Some in Berlin suggested a cut-off mechanism that would halt gas flows via Nord Stream 2 if Russia unduly pressured Ukraine or grossly violated human rights.²⁵ That is an interesting idea, but would Germany and others in the future be able to agree on what constituted Russian misbehavior that crossed the red line mandating a cut-off?

EXAMINING THE OBJECTIONS

Opponents of Nord Stream 2 offer several objections to the pipeline. First, they assert that it would increase Europe's energy dependency on Russia. Environmental groups in particular worry that Nord Stream 2 could lock in German dependency on gas — use the pipeline because it is there — and slow the country's move to renewable energy sources. However, even if the pipeline's construction was halted, Germany and Europe could, and presumably would, import similar volumes of Russian gas via other existing pipelines.

A second criticism is that Europe's energy purchases from Gazprom, a Russian majority state-owned company, go to fund an aggressive Kremlin that is conducting a conflict against Ukraine, supports brutal regimes in Syria and Belarus, and abuses human rights at home, among other things. When advanced by American critics, however, that claim is largely dismissed by pipeline supporters, who point out the significant increase in U.S. oil imports from Russia in recent years.²⁶

The third objection concerns the possibility that Moscow could use the threat of a gas cut-off to blackmail Ukraine or Poland. That concern remains, though both countries have reduced their exposure to the threat. (While Ukraine buys no gas directly from Russia, the transit gas in its pipelines is important for the system's efficient operation.) The fourth objection also concerns Ukraine. Many critics regard Nord Stream 2 not as a commercial venture to bring energy to Europe but as a geopolitical project targeting Kyiv. Nord Stream 2 would cut transit revenues to Kyiv and cause an increase in domestic gas prices in Ukraine. The end of Gazprom dependency on the Ukrainian pipelines would remove a restraining factor on Russia's already aggressive behavior toward Ukraine.

POSSIBLE OUTCOMES

A variety of outcomes are possible:

The pipeline is completed. Construction of the remaining portion of Nord Stream 2 is completed, with the U.S. government not sanctioning German or European companies. While this possibility is not to be excluded, Washington's harsher tone suggests it might well go forward with such sanctions.

Germany halts construction. A decision by Berlin to halt Nord Stream 2's construction would be welcomed by pipeline opponents in Europe and the United States. However, that seems unlikely. Germany could find itself liable for the pipeline's costs. German government support, however unenthusiastically, continues, as does support in the German business community.

The prospect of the Greens in the future governing coalition also provides an incentive for the current German government to finish the pipeline in the next several months.

Note that a halt could well happen if the pipeline is not completed by September. That would leave its fate in the hands of the new governing coalition in Berlin, which almost certainly will include the anti-Nord Stream 2 Greens. How hard the Greens would fight against the pipeline will be determined in part by the strength of the party's left wing and the priority the party gives in coalition-forming negotiations to stopping the pipeline compared to other issues. The prospect of the Greens in the future governing coalition also provides an incentive for the current German government to finish the pipeline in the next several months.

Moratorium. Some suggest that when Nord Stream 2 is nearly complete (down to a few meters) or finished, Germany could call a moratorium. That would allow time, before gas begins to flow, to address the concerns of pipeline opponents. It is unclear whether that would suffice to hold off U.S. sanctions. Opponents would worry that, if no resolution of their concerns were achieved, Germany and Gazprom might just go ahead and begin flowing gas.

U.S. sanctions German and other European companies. This would be a major step, which might or might not suffice to prevent Nord Stream 2's completion (among other things, the ministerpresident of Mecklenburg-Western Pomerania, the state where Nord Stream 2 will come ashore, has created a foundation that might act as a middleman to protect companies from sanctions). Sanctions could alienate parts of the normally pro-American Christian Democratic Union. If handled badly, such sanctions could derail President Joe Biden's desire to restore a strong relationship with Berlin and provoke pushback from the European Union. If this led to a major trans-Atlantic fight, it could even undermine U.S.-EU cooperation on maintaining existing sanctions on Russia due to its aggression against Ukraine.

Washington and Berlin work out a settlement. A settlement would likely require that the German government come up with some "deliverable(s)" that the White House could use to justify to Congress not applying additional sanctions. Since Kyiv has the most to lose if Nord Stream 2 goes online, possible solutions might include persuading Gazprom to extend its contract to transit gas via Ukraine (with a mechanism that would guarantee Gazprom abide by the contract) or other steps to bolster Ukraine's ability to withstand Russian pressure. Other offsets might be possible, such as assisting Ukraine to reform its energy markets.²⁷

GERMAN AND U.S. POLICY CHOICES

Which of the above outcomes results will depend largely on policy choices taken in Berlin and, to a lesser but still important extent, in Washington. Moscow will find itself a bystander, unless it comes to finding a compromise.

The ideal outcome for the current German government (and the Kremlin) is that Nord Stream 2 is completed without the U.S. government imposing additional sanctions. That outcome, however, is opposed by the United States, Ukraine, Poland, the Baltic states, other EU member states, and the European Commission, for whom the ideal outcome is that Berlin simply halt the project. That opposition, however, has not yet effected a change in the German position.

If both Berlin and Washington pursue their ideal outcomes, they may end up with a much worse outcome for both: the pipeline completed despite U.S. sanctions on German and European companies and a major rift between Washington and Berlin. It could get more damaging if the European Union or a significant number of EU member states, despite the European Parliament and European Commission's opposition to Nord Stream 2, were to unite behind Germany in opposition to the extraterritorial application of U.S. sanctions. Washington would then have contentious issues with both Berlin and Brussels. If handled really badly, the dispute could lead to an unraveling of the existing EU sanctions that have been applied against Russia since it seized Crimea and fueled the conflict in Donbas. Moscow would be delighted, while Ukraine would be left with nothing. (The Germans are not unsympathetic to the Ukrainian position; for example, they helped broker the current Gazprom transit contract with Kyiv.)

While Washington and other pipeline opponents might cheer, many of these same negative consequences could well result if U.S. sanctions succeeded in blocking the pipeline's completion. That would certainly be a better outcome for Ukraine. While Moscow would regret the setback to Nord Stream 2, it would revel in the likely resulting acrimony between Berlin and Washington. The German and U.S. governments both wish to revive their bilateral relationship after four years of the Trump administration. Their bilateral agenda is much broader than Nord Stream 2. Both understand the importance of cooperation in the face of a hostile Russia, and the Germans recognize that the United States anchored in NATO remains key to European security. Washington appreciates the central role that Berlin plays within the European Union, particularly after Britain's departure, and wants German support on other issues, such as dealing with the challenges posed by a rising China.

Merkel and her government face pressure from the business community, and backing down now could prove embarrassing, particularly as many have come to see the question as a test of German sovereignty.

Both governments hopefully understand that the other has to deal with strong domestic political pressures on Nord Stream 2. The Biden administration faces major — and bipartisan pressure from Congress to stop the pipeline. If it is to waive congressionally-mandated sanctions, it would be very useful politically if it could point to some tangible benefit for Ukraine as a reason not to apply sanctions. In Germany, Merkel and her government face pressure from the business community, and backing down now could prove embarrassing, particularly as many have come to see the question as a test of German sovereignty.

This suggests that Berlin and Washington should try to find a solution that would allow completion of the pipeline without new U.S. sanctions on German or other European companies. That solution could well turn on finding an appropriately-sized benefit for Ukraine, which has the most to lose if Nord Stream 2 is finished. Possibilities could include the following or some combination: getting Gazprom to extend its current contract for gas transit through Ukraine; persuading European consumers of Russian gas to specify the Russia-Ukraine border as the point where they would take possession of some of the gas, which would keep some gas flowing through Ukraine and make the consumers, not Gazprom, responsible for transit fees; committing serious resources to helping reform what remains one of Europe's most inefficient economies in terms of energy usage per unit of gross domestic product; and assisting, including with subsidies, the development of solar and wind energy power sources in Ukraine. There likely are other measures that would benefit Kyiv and could be used by the Biden administration as justification for not going forward with additional sanctions against Nord Stream 2.

Fairly or unfairly, the burden for finding that solution will likely fall on Berlin, as will the burden of securing any concession from Moscow, should that be part of a compromise that would benefit Ukraine. The United States should be prepared to involve itself along with Germany and the European Union in other projects that would help Ukraine offset the loss of transit gas if the pipeline is completed.

The German and U.S. governments have incentives to reach a settlement that would avoid a rift over Nord Stream 2. A revived U.S.-German relationship is in the interests of both countries. But time is growing short. The question is whether Berlin and Washington can now muster the necessary creativity and flexibility.

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