

Nord Stream 2: construction resumes under pressure from sanctions

Szymon Kardaś, Agata Łoskot-Strachota

On 6 February, Nord Stream 2 AG announced that the Russian barge *Fortuna* had resumed construction of the Nord Stream 2 (NS2) gas pipeline in Denmark's exclusive economic zone. On 7 February, work was temporarily suspended due to bad weather conditions in the Baltic Sea. The pipelaying works had been resumed after the *Fortuna* and its owner were subjected to US sanctions, despite the risk that further restrictions may be applied to it (and its support craft). This proves Russia's unwavering determination to complete the project on its own. The terse statements from Nord Stream 2 AG (which is 100% controlled by Gazprom) seem to have been aimed at minimising risk from US sanctions, which came into force in December 2019. Although it is not yet clear how the participants in the project intend to resolve the problems resulting from the sanctions (such as certifying the pipeline after it is completed, as well as other matters connected with its use), nothing indicates that they have any plans to halt the work.

Despite the US sanctions, hopes that NS2 will be completed have risen, due to the new US administration's openness to improving trans-Atlantic relations (primarily with Germany); its dissociation from some of Donald Trump's moves (during his presidency, sanctions halting the construction of the pipeline were introduced and then tightened); and media reports that talks about possibly lifting the restrictions are likely to start. These hopes have also been fuelled because Joe Biden has not yet adopted a clear position on NS2 or the sanctions aimed at stopping its construction.

Minimal statements from Russia on the resumption of construction

Information on the resumption of work laying the NS2 gas pipeline in Denmark's exclusive economic zone (EEZ) is quite limited and ambiguous. According to a statement from the Danish Energy Agency, its construction in Danish waters should take until mid-May. In turn, according to the data provided by the Danish Maritime Agency on 8 February, Nord Stream 2 AG plans to complete its work in Danish waters by the end of this April. In total, about 120 km of pipeline remains to be laid in Denmark's EEZ, and about 30 km in German waters. It is not clear if or when the other Russian vessel, the *Akademik Chersky*, will join in the process of laying the pipes. According to previous media reports, this Russian ship was to be the main contractor for the rest of the investment (it is currently docked in the German port of Wismar). This makes it hard at present to assess when the construction works might be completed. In addition, public sources have offered different estimates of the pace at which the Russian vessels will lay the pipes: the *Fortuna* may manage from 400 m to 1.5 km a day, while the *Akademik Chersky* may do from 1.5 to 2 km a day. The work may also proceed

more slowly in the deeper waters of the Danish EEZ, and also because of the difficult weather conditions in wintertime.

Nord Stream 2 AG's announcement that construction work has resumed is in line with its current information strategy, which has been applied since the first sanctions against the project were introduced. This is based on making terse, often vague statements that do not always turn out to be fully consistent with what actually happens. In November 2020, the company announced that it would resume work in Germany's EEZ on 5 December, using the *Akademik Chersky*; this finally happened only on 11 December, and it was the *Fortuna* which laid the pipes. At the beginning of this year, meanwhile, it was reported that construction in the Danish EEZ would resume on 15 January; in fact, preparatory work only began on 24 January, and the actual resumption took place two weeks later.

US sanctions against NS2

At the end of Trump's presidency, the United States imposed further sanctions targeting Nord Stream 2. In early January 2021, Congress voted to implement the Protecting Europe's Energy Security Clarification Act (PEESCA), which was part of the US's defence legislation (NDAA) for 2021. PEESCA extends the restrictions introduced a year earlier (the PEESA), which led to the Swiss company Allseas withdrawing from the project, and to the discontinuation of construction work on NS2 in December 2019. The new sanctions will also apply to entities other than shipowners involved in the construction of Russian gas pipelines at depths below 30 metres, including those which insure the vessels and provide the certification services necessary for the facility to begin operation. As a consequence, several companies have withdrawn from cooperation with Nord Stream 2 AG. The media have listed Denmark's Ramboll (engineering services), the German company Bilfinger SE (services related to the operation of gas pipelines, among others), Norway's DNV GL (testing and certification), and the Zurich Insurance Group (insurance services) among these firms. The Russian vessels currently working on laying the missing section in the Danish EEZ are already subject to PEESCA sanctions.

On 19 January, the day before Biden was sworn in, the US State Department announced the imposition of sanctions on the KVT-Rus company, which owns the *Fortuna*, and on the *Fortuna* itself. This was done under section 232 of the Countering America's Adversaries Through Sanctions Act (CAATSA), for knowingly providing goods, services, technology or information for the construction of Russian export pipelines.

Moscow's determination

The resumption of the pipe-laying in Denmark's exclusive economic zone is further confirmation that Russia is not giving up on completing the construction of NS2 on its own. The *Fortuna* has started the preparatory work despite the US sanctions, and the project is continuing even though several of the Western companies essential to its completion have withdrawn, including the insurer and the certification company. Russia's determination is also illustrated by media reports from December 2020 suggesting that Gazprom has bought and modernised another ship in the Canary Islands, the *Oceanic 5000*, in order to complete the investment. The resumption of the work proves that the company must have resolved the problem of how to insure the ships involved in the construction, although the details of how this was done remain unknown.

Much indicates, then, that the report contained in the recent Gazprom's Eurobond prospectus about the possibility of a complete suspension of the project (earlier documents of this type only referred to a risk of sanctions in general) and the publicity this received in the media is primarily a way of putting pressure on Russia's Western partners, in particular Germany. Russia probably wants to persuade Berlin to take more active steps to get at least some of the sanctions lifted or limited in this way, especially as Moscow sees the recent change of government in Washington as an opportunity to ease them. In addition, the Kremlin has systematically criticised the US restrictions already in force, as well as its threatens to introduce new ones.

The Biden administration on NS2

The US has not yet reacted to the resumption of construction work on NS2 in Denmark's EEZ. Specifically, it is not known when or how the sanctions contained in the defence budget (NDAA) will be imposed on the *Fortuna* and the other craft accompanying it, which have been operating since 6 February. The new US administration has also not commented on what it plans to do in relation to the gas pipeline and the application of the sanctions. The terse statements offered so far by Secretary of State Antony Blinken and a White House spokeswoman suggest that Biden is still critically disposed towards the project.

The media has regularly raised the topic of the gas pipeline; for example, during the State Department press briefing of 3 February, questions were raised about Nord Stream 2 in the context of the imprisonment of Aleksei Navalny. The State Department spokesman confirmed that the US continued to see NS2 and the second branch of TurkStream as tools to increase Russia's leverage over the US's allies and partners, which as such may weaken trans-Atlantic security. The US intends to continue working with its allies in order to guarantee Europe reliable and diversified energy sources. Reference was made to Biden's statement (from before he took office as president) that NS2 is a "bad deal" because it divides Europe, exposes Ukraine and Central Europe to Russian manipulation, and contradicts the EU's stated energy security goals. When asked if the current administration was still seeking to block the completion of the project, the State Department spokesman reiterated that NS2 was a bad deal; he said he thinks it can be said that the administration would monitor any actions taken to complete or certify the pipeline, and, if such were carried out, the US government would be decisive about imposing sanctions. At the same time, he stressed that these measures remained only one of several important instruments, and that the US would work closely with its allies and partners to increase European energy security.

In tandem with the Biden administration's failure to adopt an unequivocal position on NS2, there are signs that it is ready to improve relations with Germany, and potentially also to change its approach to the pipeline. On 26 January, Washington announced a review of the restrictions introduced by Congress to target the project, as contained in the US NDAA for 2021. It should be remembered that the NDAA, including sanctions against the pipeline, has been in force since the beginning of this year, and any changes to their application would have to be agreed between the president and Congress, which clearly favours continued sanctions on NS2. There are also media reports (*Handelsblatt*, 1 February 2021) suggesting the US is ready to discuss a compromise on the NS2 issue with Germany, possibly even including a suspension of sanctions if a package deal can be agreed concerning the future of Russian gas transit via Ukraine, *inter alia*.

What next?

It is not easy to predict how events concerning Nord Stream 2 will develop, both due to the scarcity of available information (neither Russia nor the US have revealed the details of what they plan to do), and the complexity of the project at its current stage of implementation. It is unclear how Russia intends to resolve the problems arising from US sanctions if they are maintained. In particular, it is not known which companies would be ready to provide certification services to the gas pipeline when its construction is completed, or the other services necessary to operate the pipeline.

At the same time, there are no indications that Germany and Russia – the main beneficiaries of the project – intend at this stage to withdraw from completing it. Russia may be assuming that, if it fails to limit the sanctions through diplomatic negotiations between Berlin and Washington, an attempt will be made to resolve some of the NS2's problems with the use of the Mecklenburg-Vorpommern Foundation for Climate and Environmental Protection. This entity was established specifically in order to circumvent the PEESCA restrictions (for more, see [Germany: attempt to circumvent sanctions on Nord Stream 2](#)).

It is also not known what steps the Biden administration is planning to take against NS2. Part of this is because the pipeline issue has become an element of US domestic policy, as well as Washington's relations with Germany and Russia. Any new decision Biden takes regarding NS2 and the sanctions on it will be censored by Congress, which is unequivocally opposed to the project. It is also unclear what types of changes to the sanctions are formally possible. The president has the option of limiting the CAATSA restrictions, and those sanctions are largely discretionary. However, the PEESCA restrictions as contained in the 2021 defence budget are mandatory, and if the president intends to introduce exceptions to their application, this will require consultation with Congress, most of whose members support sanctioning NS2. Finally, talks between Washington and Berlin are most likely being held behind the scenes; these will concern a possible compromise on NS2, and their outcome will undoubtedly influence what position the new US administration will eventually adopt towards the project.