

Rosneft's efforts to obtain the right to export gas via Nord Stream 2

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On 27 August this year, the Russian daily *Kommersant* reported that on 13 August, the president of Rosneft, Igor Sechin, sent a letter to the Russian president in which he requested that the largest Russian oil company be granted the right to export gas via the Nord Stream 2 pipeline. According to Sechin, the Russian treasury could stand to gain 60 billion roubles from the mineral extraction tax (MET), 100 billion roubles in revenues from export duties, and 50 billion roubles in profits from corporate income tax and dividends. Moreover, if they agree to Rosneft exporting gas, that could be a remedy for the regulatory problems resulting from some provisions of the EU energy law.

In early September deputy prime minister Aleksandr Novak confirmed that the issue was being studied by the Russian government, and announced that he would submit a special report to President Vladimir Putin who will take the final decisions on the matter. On 21 September, *Kommersant* reported that although there are differences of opinion between the representatives of various ministries, the Russian government essentially supports permitting Rosneft to export 10 bcm of gas annually. The legal basis for this would be an agency agreement concluded between Rosneft and Gazprom.

The reports in *Kommersant* regarding the content of the government's proposal have not yet been officially commented on by representatives of the Russian government or the management of the businesses involved.

Currently, in the light of current Russian law on gas exports, Gazprom is the only Russian entity authorised to export gas through the pipeline network.

Commentary

- Rosneft has lobbied on the issue of demonopolising Russian gas exports through the pipeline system for many years, but so far its attempts have ended in failure. Sechin first made the proposal in June 2014, during a meeting of the presidential commission for the fuel and energy sector. Rosneft asked on a preliminary basis for the law on gas exports to cover supplies to China via the Power of Siberia pipeline. In summer 2015, Rosneft presented a plan for comprehensive reform of the gas sector in a letter sent to the Russian energy ministry. Another element in their proposed programme was the proposal for Russian energy companies to launch test gas deliveries abroad, based on the so-called agency contracts concluded with Gazprom. Ultimately, it was proposed to separate an independent company off from Gazprom which would purchase gas from

Russian gas producers in order to resell it on the European market (relatively alternative introduction of a quota system for gas supplies to Europe). The issue of demonopolising exports via the pipeline system was raised again in December 2016 in a letter to President Vladimir Putin, and once more in 2017, on the occasion of Rosneft and BP agreeing a memorandum to supply up to 20 bcm of gas to the British company.

- On one hand, the current circumstances make Vladimir Putin's consent to Rosneft's request more likely. Firstly, Rosneft's proposal is not intended to introduce systemic legislative changes that would deprive Gazprom of its legally guaranteed export privileges, which the Kremlin may find easier to accept. The idea of Rosneft and Gazprom concluding a special agency agreement which the proposal envisages is a solution similar to schemes used in the past; Gazprom exported gas sold to European customers by Novatek on the basis of an agency agreement. Secondly, this solution if adopted could prove useful from the point of view of neutralising some of the regulatory challenges resulting from the EU energy law.
- On the other hand, however, there are factors that reduce Rosneft's chances of obtaining a favourable settlement. Firstly, Gazprom remains opposed to the idea; it has so far successfully resisted any attempts to limit its privileged position in terms of exporting gas via the pipeline system. Although Rosneft's application does not require any systemic changes, introducing any experimental solutions would run the risk of other Russian energy companies submitting similar applications in the future, which could weaken Gazprom's position in the Russian gas sector. Secondly, Rosneft's limited production capacity is another problem. In 2013, the largest Russian oil company planned to increase its gas production to 100 bcm in 2020. Meanwhile, last year its gas production amounted to just over 62 bcm. It is not clear whether Rosneft's latest announcements that it will raise gas production by 25 bcm in 2021–2, mainly thanks to the Rospan and Kharampur projects, will bear fruit. Third, the Russian strategy for neutralising the regulatory challenges to making full use of NS2 which have arisen from EU law has so far been based primarily on attempts to challenge them legally. This was illustrated by the appeal against the amendment to the gas directive which Russia lodged with the CJEU and the Arbitration Tribunal, and by the attempt to obtain a derogation from selected restrictions by submitting applications to the German regulator. The Russian strategy has thus relied somewhat less on adapting its own practices.
- Regardless of how the question of Rosneft's access to gas exports via the Nord Stream 2 pipeline is ultimately resolved, it is unlikely that the Russian government will decide to make any major systemic changes to the rules for exporting gas via the pipeline system. First, Gazprom continues to serve the Kremlin as an important instrument in the country's foreign and domestic policy. It plays a special role in the latter, as it is used to subsidise unprofitable enterprises and regions, and also serves as an instrument to support strategic infrastructure projects for the Kremlin. Secondly, any changes to the existing system would require the other gas producers to agree to assume various obligations – the burden of which currently rests with Gazprom – in exchange for a reduction in the latter's privileges. This would mean that the other companies would have to take over some of the low-profit or completely unprofitable supplies Gazprom currently provides, or participate in financing the expansion and modernisation of the transmission

infrastructure.