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Nord Stream 2 Is Far From a Done Deal

The U.S.-German agreement on the controversial gas pipeline is full of vague formulations and lacks concrete implementation mechanisms.

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On July 21, the U.S. and Germany signed an agreement to allow the completion of the controversial Nord Stream 2 gas pipeline.

The joint statement features a broad package of measures aimed at mitigating Ukraine's security concerns and energy vulnerabilities while supporting the country on its way to decarbonization. The announced agreement is still far from a done deal. To become a grand bargain, it is still contingent on Ukraine's consent. Despite all the assurances, commitments and support for Ukraine, Kiev is not buying them, as the agreement lacks binding security and economic obligations.

The U.S.-Germany agreement represents a shift from the purely economic narrative on Nord Stream 2 to a broader framework which marries security concerns, economic compensations

and climate goals.

However, the agreement did not manage to reconcile the divide between the U.S. and Germany's security perceptions, while failing to engage with Ukraine properly. As a result, it is full of vague formulations and lacks concrete implementation mechanisms.

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To mitigate Russia's coercive use of energy and further aggressive acts against Ukraine, both the U.S. and Germany are ready to resort to new sanctions. Germany has pledged "to take action at the national level and press for effective measures at the European level, including sanctions, to limit Russian export capabilities to Europe in the energy sector."

The willingness to impose new sanctions on Russia's strategically important energy sector would definitely be a step up for the EU.

Since 2014, the status quo has not changed and there has been little appetite for new restrictive measures.

Sanctions would also not be limited to the Russian gas sector and could extend to other economically relevant sectors.

This is an important addition as Russia's use of geo-economic tools is often asymmetrical.

The U.S. could also impose new sanctions or rescind the already-in-place waivers on Nord Stream 2 AG and its CEO Matthias Warnig.

The text of the agreement leaves, however, plenty of questions unanswered: Did the U.S. and Germany manage to agree on what constitutes Russia's use of energy as a weapon?

The disagreements on this subject can be traced to the Siberian pipeline crisis in the 1980s, when the U.S. and Germany failed to fundamentally agree on what constitutes energy dependency. Failing to draw lessons from the past would be a mistake. Leaving this question unanswered is consequential for the allies as to when to initiate the sanctions simultaneously.

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Security concerns

In the agreement, sanctions remain the main instrument to tackle Ukraine's security concerns.

Kiev has been seeking stronger security guarantees to mitigate the threats posed by Nord Stream 2, but to no avail.

Linking Nord Stream 2 to hard security issues such as the de-occupation of Ukrainian territories by Russia, discussing energy in the Normandy format or the delivery of weapons

has been an unsuccessful negotiating tactic.

By raising the stakes high, Kiev has caught itself in the realpolitik scenario with little agency left to exercise.

While sanctions can be an effective deterrent, their impact is limited if not properly embedded into a broader Russia strategy.

But there has been no change in Germany's Russia policy, still deeply rooted in Ostpolitik. So it's doubtful Russia will be deterred from violating the gas-transit contract by the threat of new sanctions alone.

Moreover, with Merkel leaving her post in September, expanding economic sanctions will prove to be problematic. Will the new German chancellor be as effective and committed to forging sanctions coalitions on the EU level as Merkel has been since 2014?

The only additional security measure, on top of sanctions, is Germany's commitment to increasing the capacity for reverse flows of gas to Ukraine, with the aim of shielding Ukraine completely from potential future attempts by Russia to cut gas supplies to the country. As it stands, the commitment is non-binding and depends on the energy market situation.

Other security mechanisms, such as the so-called snap-back mechanism or the moratorium on the pipeline, are no longer discussed. In fact, German officials rejected a U.S. demand to include the snapback option, arguing that such state interference could be subject to a legal challenge.

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Ukraine has been sceptical about the snapback option from the very beginning and does not believe that Berlin would be willing to cut off gas supplies via Nord Stream 2 if Russia violates the gas-transit agreement.

Gas-transit as a common denominator

Extending the current gas-transit agreement beyond 2024 seems to be the common denominator Washington, Berlin and Kiev agree on.

In their joint statement, the U.S. and Germany emphasized the importance of Ukraine as a gas-transit country after 2024.

The main burden on delivering this measure will be on Germany. Berlin said it was committed "to utilize all available leverage to facilitate an extension of up to 10 years."

Germany will appoint a special envoy to support the negotiations which would begin no later than Sept. 1.

In fact, Merkel discussed the prolongation of the gas-transit contract with Putin on the same day the agreement was announced.

However, the main questions concern the duration of the contract, the volumes and the tariffs. With Merkel leaving office in September, the window of opportunity for negotiating the extension is closing.

Does Merkel have enough time to convince Putin to prolong gas transit via Ukraine, when the primary goal of Nord Stream 2 is to diversify away from its neighbor?

For Ukraine, the extension of the contract is a necessary condition that addresses short-term vulnerabilities, but the lack of specificities triggers further insecurities and mistrust in Kiev.

Long-term challenges of decarbonization

Finally, to address Ukraine's long-term challenges, the agreement aims to bolster Kiev's decarbonization goals.

Through the Climate and Energy Partnership, the U.S. and Germany will support Ukraine's energy transition, energy efficiency and energy security.

Washington and Berlin pledged to establish a Green Fund, with expected $1 billion worth of investments. Germany will provide an initial contribution of at least $175 million to the fund, and appoint a special envoy with dedicated funding of $70 million. Germany pledged to support bilateral energy projects with Ukraine, especially in the field of renewables, hydrogen and the coal phase-out. The U.S. will provide assistance to Ukraine in market integration, regulatory reform, and renewables development. If Washington and Berlin properly deliver on their financial commitments, Ukraine could emerge much better prepared for energy transition than other emerging countries.

In the long term, pivoting away from its toxic energy dependency on Russia will help Ukraine to transform its energy system and strengthen its economy and national security. Kiev is, however, reluctant to accept the U.S. and Germany's support in decarbonization plans as a mitigation against the Nord Stream 2 threats.

Using football terminology, Ukraine's foreign minister said the game isn't over yet, but has gone into overtime. The negotiations will continue and depend on whether the US and Germany can accommodate Ukraine's perception of the pipeline as a security threat and what issues Ukraine will be willing to compromise on for such a highly sensitive issue.

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