The Transit Dimension of EU Energy Security

Russian gas transit across Ukraine, Belarus, and Moldova

KATJA YAFIMAVA

Published by the Oxford University Press for the Oxford Institute for Energy Studies
2011
CONTENTS

List of Tables, Figures and Maps  xii
Acknowledgements  xiv
Preface  xvii

Introduction  1

The Russia-Western CIS Gas Transit Relationship and its Importance for EU Energy Security: the Story That Was Never Told  1
The Role of Natural Gas in the European Energy Balance and the Increasing Importance of the Transit Dimension in the European Pipeline Gas Trade  3
The Origins of Russia-Western CIS Gas Supply and Transit Relations  6
Structure of the Book  9


1.1 Evolution of Security Definitions  12
1.2 Definition of Transit in International Law  18
1.3 Ensuring Gas Security in Traditional and Liberalizing Markets: Traditional and New Long-term Supply Contracts (LTSCs) and Transit Contracts  20
1.4 'The New Geopolitics' of Gas, Return of 'Old' Geopolitics and New Challenges to Gas Transit Security  23

Chapter 2: Theorizing Transit Security: The Eurasian Gas Network, Power Relations, and Network Governance  25

2.1 Applying the GPN Approach to the EU-Russia-Western CIS Gas Supply and Transit Relations  25
Chapter 3: Existing Multilateral and Bilateral Frameworks: The Lack Of Overlapping Membership and its Implications For EU Gas Transit Security

3.1 Multilateral Frameworks
3.2 Bilateral Frameworks
Conclusion

Chapter 4: Gas Supply to Europe: The Role of Non-EU/Non-EEA Suppliers and the Increasing Importance of Transit

4.1 EU Gas Consumption, Import Dependence, Major Suppliers, Diversification
4.2 Transit Incidents Involving Russian Gas: History and EU Responses
4.3 Gazprom's Transit Diversification Pipelines: Nord Stream and South Stream
4.4 An Extension of Gazprom's European LTSCs: Reasons and Consequences
Conclusion
Chapter 5: EU Energy Policy-In-The-Making: Focus on External Transit Security

5.1 EU Energy Policy-Making in Absence of *de jure* Competence: Creeping *de facto* Competence via the Internal Energy Market and Environmental Policy Competence 105

5.2 Treatment of Transit in the EU Energy *Acquis* 112

5.3 EU Energy Policy-making: Partially Overlapping and Competing Competences and Responsibilities of the EU and Member States 133

Conclusion 136

Chapter 6: Russia-Ukraine Gas Relations and Their Role for EU Gas Security: The Search for a Politically Acceptable Commercial Framework 139

Introduction to the Case Studies 139

6.1 The Russia-Ukraine Disengagement: from the Belovezha Accord to the Orange Revolution 140

6.2 The Russia-Ukraine Gas Transit Relationship: the Role of Gazprom, Central Asian Suppliers, and Intermediary Companies 150

6.3 Breakdown of The 'Gas-For-Transit' Link in Russia—Ukraine Gas Relations and the Role of Turkmenistan: Contractual Positions and Legal Difficulties 159

6.4 The January 2006 Russia-Ukraine Gas Crisis and its Aftermath: a Reassessment of Gazprom's Role in Ukraine's Gas Supply 165

6.5 In the Run-up to the January 2009 Crisis: Where Did It All Go Wrong? 168


Conclusion 207
Chapter 7: Russia—Belarus Gas Relations: Balancing Geopolitics and Geo-Economics

7.1 The Russia-Belarus Relationship: Geopolitics and Geo-economics

7.2 The February 2004 Russia-Belarus Gas Crisis: How Significant Is Belarus's Bargaining Power?

7.3 The 2007 Gazprom-Beltransgaz Gas Contract - Work in Progress

Conclusion

Chapter 8: Russia-Moldova Gas Relations: An Unstable Stability

8.1 The Republic of Moldova: One State, Two Territories

8.2 Geopolitics and Geo-economics of Russian-Moldovan Gas Relations: the Key Role of Transdniestria

8.3 Russia-Moldova Gas Relations: Changing Ownership of Moldovagaz and the 'Europeanization' of Gas Prices

Conclusion


9.2 The ECT Dispute Settlement Mechanisms: Investor vs. State (art. 26) and State vs. State (art. 27)

9.3 The ECT Transit Dispute Conciliation Procedure (art. 7.7)

9.4 Transit Party's Obligations under art. 7 'Transit' of the ECT: a Transit Non-interference Clause

9.5 Three Outstanding Issues in the Transit Protocol: Disagreements and their Argumentaire

Conclusion
Conclusion: Towards a 'Transit-free' Geography of Gas Transportation 316

1. Introduction 316
2. The Different Dimensions of Transit Security: Discontinuities Between and Within the Spaces 317
3. Power Assumptions in Transit Relationships 322
4. The Lack of a Common Energy Governance Structure 324
5. The Extension of EU Governance Structure to Western CIS Countries 325
6. The EU Energy *Acquis* in Relation to the ECT/TP 328
7. The Importance of the ECT as Transit Governance Structure 331
8. The Different Approaches to Transit Security: transit avoidance as a 'solution' to transit problems 333
9. The Impact of Russia—Western CIS Gas Transit Relations on the Future of Gas Transit 335

Notes 338

Index 377