



Maroš ŠEFČOVIČ
Vice-President of the European Commission

Miguel ARIAS CAÑETE
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Dear Minister Lilleholt, Dear Minister Baylan

Thank you for your letter of 25 January 2017, in which you request the European Commission to provide an assessment of the implications of EU legislation for the Nord Stream 2 project as well as of the objectives of the Energy Union.

The Commission has stated publicly on several occasions that the Nord Stream 2 project is not in line with the policy objectives of the Energy Union as it will not give access to a new supply source, it could allow a single supplier to further strengthen its position on the European Union gas market and it could lead to a concentration of supply routes. In this context, the Commission will also continue supporting the transit of Russian gas through Ukraine.

The Commission is committed to the European Union-agreed Energy Union objectives, including energy security. In this context, the priority is to create a well-diversified and competitive gas market. Our diversification strategy develops around three key areas, the implementation of the Southern Gas Corridor, the development of a liquid gas hub in the Mediterranean and through promoting access to Liquefied Natural Gas and gas storage for which the Commission adopted a strategy in February 2016.

In this context, our strong regional cooperation is delivering concrete results: the key gas infrastructures in the Baltic Region are being implemented where by now the gas markets are no longer isolated and new supplies are accessible. To this end the Commission has financially supported the construction of the Gas Interconnector Poland-Lithuania and the Balticconnector between Finland and Estonia. The Commission has also approved the State aid for the Klaipeda Liquefied Natural Gas terminal in Lithuania and is actively facilitating the establishment of a new northern corridor linking Norway to Poland through Denmark.

In Central and South East Europe (CESEC), the Commission is helping to abolish all regulatory and market barriers preventing the free flow of gas in the region and is supporting the construction of crucial North-South gas infrastructures, as well as the construction of the Liquefied Natural Gas terminal on the island of Krk in Croatia.

In the light of these developments and with the existing well-functioning import infrastructures, the Commission sees no need for new infrastructure of the magnitude of Nord Stream 2.

As guardian of the Treaties, the Commission will closely follow Member States procedures and is ready to support Member States in the correct application of EU rules, notably in the field of environment, public procurement, competition law, including State aid.

As regards the specific application of EU energy law, it is clear that the Internal Gas Market Directive, the Gas Regulation and related Guidelines and Network Codes are fully applicable to any on-shore infrastructure. As to the off-shore pipeline, it cannot be built or operated exclusively under the law of a third country or in a legal void. While it is the responsibility and competence of the Member States to authorise or certify individual pipeline projects, it is our view that a specific legal regime would need to be established for the offshore section, and that such specific legal regime should include some fundamental principles stemming from EU energy law. Such principles include appropriate transparency in pipeline operation, non-discrimination in tariff-setting, an appropriate level of third party access and a degree of separation between activities of supply and transmission. The application of those principles would not only contribute to the functioning of the market and to security of supply, but also provide the necessary investment security.

In this context, the Commission has initiated a dialogue with the German authorities, including with the German regulator Bundesnetzagentur. In a recent exchange of letters, the German Regulator recognised that EU internal energy market rules are fully applicable to on-shore pipeline systems in Germany and that the Nord Stream 2 project cannot be built in a legal void, in particular that environmental and planning rules have to be observed.

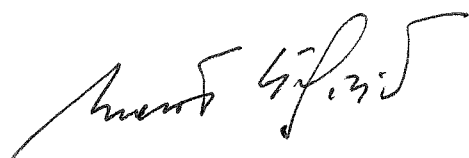
The Commission welcomes the availability of the German authorities to continue discussions in this sense.

This dialogue can be an occasion for the Federal Ministry of Economic Affairs and Energy to provide further information on this project, to the Commission as well as to the Member States that have shown interest in it such as the Danish and Swedish authorities.

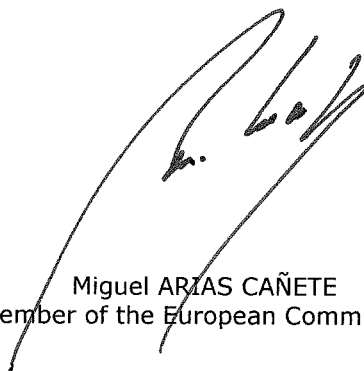
In addition, the Commission will seek a negotiating mandate from the Council for an agreement with the Russian Federation as regards the above-mentioned key principles.

We hope that the above clarifications are helpful and we remain, of course, available for further discussions.

Yours sincerely,



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