OIL AND GAS

Oil and gas sector and russia's economic growth problems
EVGENIY GAVRILENKOV

Page 59





2(433)18



Inside

3 Editorial

IN FIRST PERSON

- 5 Mario Mehren: Gazprom has confirmed its status as one of the guarantors of European energy security
- 14 EU's fourth energy package
 Andrey Konoplyanik
- 24 New records ahead Gazprom Export

HORIZONTALLY

30 Sergey Donskoy:

There are grounds to talk about growing investors' interest in geological exploration



Year of independence of europe

Alexey Grivach

9

- 35 Era of tight reserves

 Daria Surova
- **43** LNG, two liberalizations and one record

Maria Belova

Alexander Bylkin

Yekaterina Kolbikova

DEVELOPMENT **VECTOR**

52 Kirill Molodtsov: Future arctic projects to unite russian energy industry 59 Oil and gas sector and russia's economic growth problems

Evgeniy Gavrilenkov

DIAGONALLY

64 Kirill Dmitriev:

Russian companies can gain access to the promising market of Saudi Arabia and the entire Middle East region

69 Syrian knot Sergey Tikhonov

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EU's fourth energy package

Gazprom in Europe: what to prepare for

ANDREY KONOPLYANIK

Advisor to Director General of 000 Gazprom Export, a professor at the International Oil and Gas Business Department of the Russian State University of Oil and Gas (NIU) named after I.M. Gubkin

Modern architecture of the EU gas market has been formed for over 50 years. It dates back to 1951, when the Treaty of Paris was concluded, which initiated the creation of the first integration association in Western Europe – the European Coal and Steel Community (ECSC). France, Germany, Italy and the Benelux countries put their signatures under it. This laid the foundation for the restoration of machine-building industries in Europe – the main driving force of postwar industrial development. But, most importantly, this integration union accelerated the reconciliation of two recent adversaries in the Second World War – France and Germany – for nothing can reconcile conflicting parties better than joint creative work.

What were the "steps of a long way" in building a single EU gas market and what are the prospects for its further transformation in the face of a changing paradigm of the development of global energy markets and increasing global competition? And, finally, how can all these processes affect the competitive positions of Gazprom in the European market?

The next step on the road to European integration was the Treaty of Rome, signed by the same countries in 1957. It provided for the creation of the European Economic Community (EEC), covering a large number of goods and services. It was also planned to eliminate all barriers to the free movement of people, goods, services and capital.

Liberalization took place in accordance with economic logic, on a "simple-to-complex" basis, starting from less capital-intensive industries. Therefore, the last thing involved was the energy industry – a capital-intensive and, what's more, based on a permanent infrastructure, branch. Only in the late 1990s was the First Energy Package of the EU adopted (in 1996 – for the electric power industry, in 1998 – for gas).

Further development of the gas market regulation system of the expanding European Union took place against the background of several interdependent processes (see graph "Formation of modern architecture").

SINGLE MARKET INGREDIENTS

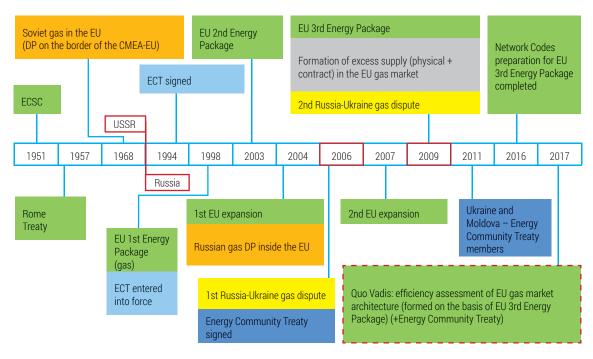
The EU countries have always been highly dependent on the import of energy resources in general and gas in particular. Apparently, this dependence will grow even further. This understanding is unequivocally stated as the position of the Directorate-General for Energy of the European Commission (DG Ener) in its internal documents.

But this also means that the dependence of the EU countries on the sovereign decisions of the gas exporting countries will also be growing. They supply gas to the EU from fields which are developed by them and are mostly vast – for realization of "economies of scale" – and have, therefore, a sovereign right to maximize their monetized resource rent. And this causes concern to the EU institutions.

Liberalization took place in accordance with economic logic, on a "simple-to-complex" basis, starting from less capital-intensive industries

Objective economic logic requires that mechanisms for the EU gas market regulation be formed taking into account justified, investment-related requirements of exporting states, especially, those connected with the EU by a capital-intensive fixed cross-border infrastructure (Russia is the main such exporter). Moreover, the fact that the EU depends on import makes it impossible to build its gas market according to the American model, since in the US the gas market has been evolving on the basis of the country's own – mostly small and

FORMATION OF MODERN ARCHITECTURE AND THE SYSTEM OF REGULATION OF THE EU GAS MARKET: THE STAGES OF A LONG WAY



Source: author

medium-sized – fields, developed by private businesses. And the role of the state has mainly boiled down to fiscal management.

However, the EU seeks to impose its own model on exporting states, the model which is aimed at creating a competitive market. And they are doing it by fostering greater competition of suppliers, in the first place, and, as a result, by taking a course for reducing prices in Europe. This creates a deep conflict of interests between exporters and importers. It can be satisfactorily resolved only by finding a balance of interests of the parties.

In 1968, the USSR / Russia started to supply gas to the EU, later the gas supplies continued to increase. They were based on long-term export contracts (LT-GEC) according to the Groningen model. It should be taken into consideration that if before the enlargement of the European Union (in 2004) the delivery points of Soviet / Russian gas were located on its external border, afterwards they turned out to be located deep inside the EU.

Therefore, if earlier only the change in contract prices influenced the Russian deliveries within the framework of LTEGCs, now part of the Russian gas supply chain was located on the territory of the EU. That is to say that the rules of the European gas market regulation concerning, in particular, the unbundling of the functions of production, purchase and sale and transportation of gas, were now applied to it. In accordance with these rules, the gas supplier could no longer be the operator of the gas transportation system (GTS), through which the supply is carried out.

Also, after 2003, in the EU a general rule was established that required the so-called mandatory third parties access (TPA) to the gas transportation infrastructure. This created the risks of contract non-compliance. Therefore, after the adoption of the Second Energy Package in 2003 and the enlargement of the European Union in 2004, risks for gas exporters to the EU, especially Russian companies, increased substantially,

The EU countries have always been highly dependent on the import of energy resources in general and gas in particular. Apparently, this dependence will grow even further

The system of international mechanisms for regulating energy markets with the participation of the EU, Russia and other countries of the "Greater Energy Europe" was also developing. There is a correlation between the processes of formation of the EU internal legislation and international legal acts with the participation of the EU. The latter include the Energy Charter Treaty (ECT, whose member countries, including EU and

non-EU countries, have drawn up mutually acceptable rules for regulating energy business on the territory of the Treaty) and the Energy Community Treaty (DES, whose member countries are obliged to apply the statutory provisions of the EU energy law to their domestic legislation).

At some stages, this correlation was positive, in other words, it served shared – or at least not conflicting – interests of the contracting parties, including the EU energy importing countries and the energy exporting countries. This happened, for example, between signing the ECT and adopting the First Energy Package of the EU. At some stages the correlation was negative, for example, between signing the ECT and adopting the Second and Third Energy Packages of the EU and the DES (see graph "Instruments of internal liberalization").

The EU seeks to impose its own model on exporting states, the model which is aimed at creating a competitive market. By fostering greater competition of suppliers, in the first place

Evolutionary processes in international gas markets have had their impact on Europe. Thus, in 2009 the excess demand was replaced by an excess supply. This was the result of changes on both the demand side (the consequences of the economic crisis of 2007-2008, the effect of long-term policies aimed at improving energy efficiency), and on the supply side (the domino effect of the US shale revolution). Excess supply (both physical and contractual) dramatically increased the effectiveness of liberalization activities in the EU gas market. They were implemented on the basis of the provisions of the Third Energy Package, which entered into force in the same 2009.

Liberalization trends in the EU gas market were largely accelerated by the Russian-Ukrainian transit crises of 2006 and 2009, which led to temporary interruptions in gas supply from Russia to the EU via Ukraine due to unauthorized withdrawals from the transit pipeline. This was reflected in the more radical – and, in part, discriminatory – nature of the EU gas regulatory system in relation to external suppliers, notably, from Russia.

All these intertwining processes led to the formation of today's system of regulation of the EU gas market. Its effectiveness was to be assessed within the framework of the Quo Vadis project (see One-Sided, Oil and Gas Vertical #15-16/2017).

THIRD ENERGY PACKAGE

In September 2009, the Third Energy Package was adopted. It came into force in March 2011. In accord-

ance with it, a new architecture of the single internal EU gas market was formed, built on the principle of a set of market zones (see graph "Organization of a single internal gas market").

These market zones are created in the form of "pools", communicating with each other through pipelines-interconnectors. Transportation tariffs are calculated on the basis of the entry-exit system. Access to gas transportation system (GTS) capacities at the zone borders should be offered to shippers in the form of "related products", that is, as an entry-exit package at each point of the zone boundary crossing. Inside the zones, the gas transportation system operator is responsible for the transportation of gas. This is a radical departure from the previously used methodology of distance tariffs for transportation within interrelated markets.

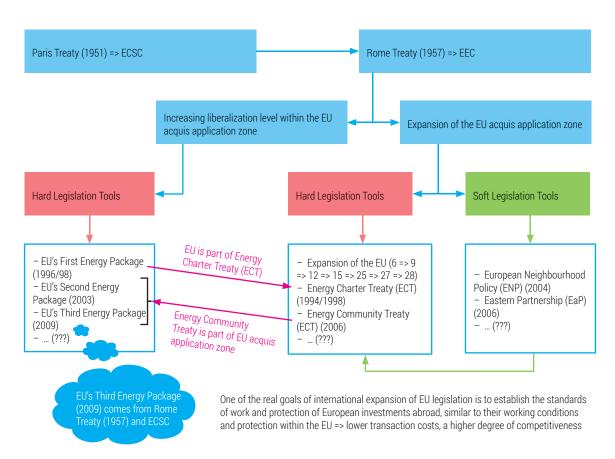
Gas sales under all new contracts should be carried out on virtual trading floors (hubs) within each zone. And it is not necessary that zones coincide with the geographical boundaries of individual EU countries.

This is no less radical departure from the principle that had been in effect since the 1960s. Previously, gas sales were carried out at custody transfer points at the border of a country. At the same time, prices were set within the framework of fixed-term contracts on the basis of various modifications of the so-called Groningen formula and depended on the cost of substituting energy resources of the end user.

The Third Energy Package created new risks and uncertainties for the traditional investment model for the development of gas resources and its long-term supply. But it also opened up new opportunities for exporters. For example – the possibility of deliveries directly to end users, bypassing wholesale dealers.

Thus, there were risks of a transition period from one model of the functioning of the gas market to another. The EU countries, of course, have the sovereign right to choose such a model. But it is important that this choice is carried out taking into account the interests of states that are interdependent with the EU within the technological infrastructure of gas supply.

INSTRUMENTS FOR INTERNAL LIBERALIZATION AND INTERNATIONAL EXPANSION OF THE EU IN THE ENERGY SECTOR



Source: author

CODES AND TARGET MODEL

In 2010, the process of preparing by-laws to the Third Energy Package – Network Codes (NC) began. This process lasted until early 2017 (see "Third Energy Package"). It was a complex, lengthy, multi-stage bureaucratic procedure involving all major players in the European gas market, both from regulators and from the gas business.

That is why the process of working on the NCs continued for a long seven-odd years. Over this time, six legally binding codes were prepared and adopted (at first it had been planned that there would be 12 of them). They concern the following areas:

- congestion management;
- ◆ access to the existing and new facilities of the GTS;
- ♦ balancing the GTS;
- ♦ the possibility of joint operation of the GTS and the interaction of their operators (rules for the exchange of information)
- ★ tariffs:
- integrity and transparency of wholesale markets.

The preparation of new NCs is not envisaged by the current plans of the European Commission. That is to say that the Third Energy Package is now finalized.

The formulation of NCs was conducted within the framework of the discussion on the parameters of the Gas Target Model (GTM). Two editions were adopted, in 2011 and 2014 respectively. Although the GTM is not a legally binding document, it provides the vision of what a single liberalised EU gas market should be, as seen

by participants of this discussion. The GTM paper says that the following conditions need to be met for such a market to be present: a certain level of trade in terms of total volume of gas traded compared to the volume of gas consumed (i.e. a churn rate of 8), at least three sources of gas supply for each market zone, etc.

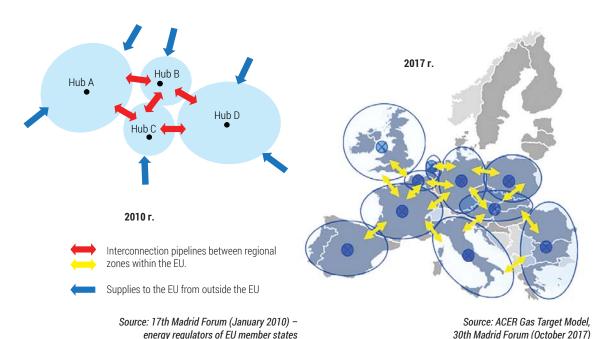
There is a correlation between the processes of formation of the EU internal legislation and international legal acts

INTERNATIONAL EXPANSION

At all stages of the formation of the EU energy legislation, its purposeful expansion took place internationally. The attempts to impose it on the legislation of the neighboring states never stopped.

Until the late 1980s and the early 1990s, the USSR and the EU were separated by the Iron Curtain. Therefore, gas supplies were made to the "watershed line", where the ownership rights changed. Each counterparty could only ensure proper promotion of the goods within their jurisdiction, i.e. on their side of the Curtain. When this curtain collapsed, first, the prerequisites for interpenetration of commodity and capital flows beyond the countries' jurisdictions were created. Second-

ORGANIZATION OF THE EU'S INTERNAL GAS MARKET IN ACCORDANCE WITH THE THIRD ENERGY PACKAGE



ly, the number of sovereign participants in foreign trade on the territory of Eurasia sharply increased. Thus, an opportunity for the formation of multilateral – in addition to existing bilateral – mechanisms of protection and promotion of trade and investment, primarily in the energy sector, opened up.

Western countries were interested in protecting their foreign investments, in the first place. In other words, they were keen to create normal operating conditions for their own investors working in the countries of the former socialist camp, whereas former socialist countries were eager to adopt the new Western legislation. There were two ways for that. The first one was to borrow and incorporate the legislation into the national legal system. The second was to form general rules of the game for the countries of the West and the East by developing multilateral international legal instruments.

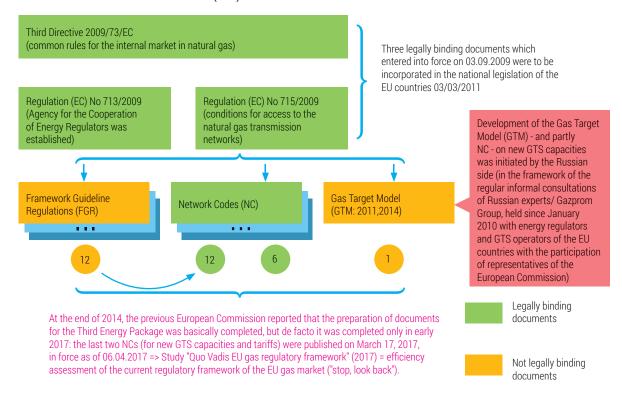
It is clear that the views of importing consumers and exporting producers differed significantly. For the former, uninterrupted supplies at the lowest price were important. For the latter, return on investment in long-term capital-intensive production and supply projects, and hence predictability of effective demand for energy resources, was the necessary requirement. That meant that the minimum long-term price had to be at a level

not lower than the price of self-financing. And taking into account the depletion of non-renewable energy resources, the exporting state has the right (protected by international legal documents) to receive maximum monetized resource rent.

To ensure plentiful and uninterrupted supplies, diversify their sources and routes, the EU seeks to create more comfortable and competitive conditions for European business operations outside the European Union. Therefore, one of the actual goals of international expansion of EU legislation is to introduce standards of work and protection of European investments abroad. This leads to lower transaction costs and increased competitiveness of European companies.

As the domestic gas markets of the EU member countries are liberalized, the EU is trying to extend its rules of the game to an even wider area outside the European Union. This is happening both through the increase in the level of liberalization in the zone of application of EU legislation, and through the expansion of this zone. In the latter case it is happening through the tools of so-called soft and hard legislation. In particular, more liberal principles and mechanisms are being included in international legal treaties involving the EU (see graph "Instruments of internal liberalization").

THE THIRD ENERGY PACKAGE OF THE EU (GAS) AND ITS FURTHER DEVELOPMENT



Source: author

At the initial stage of building the general rules of the game for the East and West (in the 1990s), being confident in the competitive advantages of their companies in the markets of the receiving states, the Western states professed the liberal principles of the Washington Consensus. Relations with the countries of the East were built according to the principle: "natural resources in exchange for investment in the development of those resources."

Liberalization trends in the EU gas market were largely accelerated by the Russian-Ukrainian transit crises of 2006 and 2009

Now the companies of the receiving countries of the East have developed and become stronger. And now we are talking, first of all, about their access to the markets of Western countries. Therefore, clear signs of a departure from the liberal models of the Washington Consensus are beginning to appear. The focus now is not on building open, non-discriminatory markets, but on a protectionist model of regulation based on individual preferences and / or discrimination of individual players, protecting their own domestic markets and closing them off from undesirable participants.

It is this metamorphosis that, in my opinion, is taking place in the EU gas sector in relation to external suppliers, notably, to Russia. Europe is standing at a crossroads: will the course to consistent liberalization of energy legislation be pursued or will there be a sharp turn towards protectionism and unilateral preferences?

An additional factor stimulating such a "reverse realignment" may be the relative reduction in demand for fossil fuels due to a change in the paradigm of the development of the world energy industry from the expectation of a "peak supply" to a "peak demand."

FLOW TEST

For each phenomenon you can find its "litmus test". In my opinion, the evolution of the intentions of the European Commission in relation to the Nord Stream-2 project (NS-2) provides such a test for Europe. The struggle for its regulation is a new stage in the policy of exporting European legislation. This time it is based on the desire to liberalize the Russian gas market according to the European model in order to obtain lower import prices.

The latest EC's actions concerning NS-2 are closely connected with modernization of the Third Gas Directive. In particular, in the document the notion "pipeline-interconnector" and related articles were edited. The purpose of these manipulations is understandable: they aim at complicating – if not impeding – the construc-

tion of the gas pipeline and at the same time seek to introduce in Russia the statutory provisions of European legislation that are beneficial to importers, but not beneficial to the state which is the owner of resources, because they lead to a reduction in its monetized resource rent. The mechanism for achieving the last goal is as follows: to bring two Russian state companies — Gazprom and Rosneft into confrontation. They are already known to be acting as adversaries on a number of key issues.

Gazprom is a monopoly exporter of pipeline gas, which serves the purposes of maximizing resource rent of the Russian Federation. Rosneft also possesses gas resources and aspires to become its exporter – in the foreign markets payment discipline and prices are higher. Therefore, Rosneft is dreaming to split Gazprom in order to gain access to the export pipe and form the Russian gas market according to the American or European model (by isolating transportation from other types of gas business). Plus, the company has an agreement with BP on gas marketing, whereas their agency agreement with Gazprom Export didn't work.

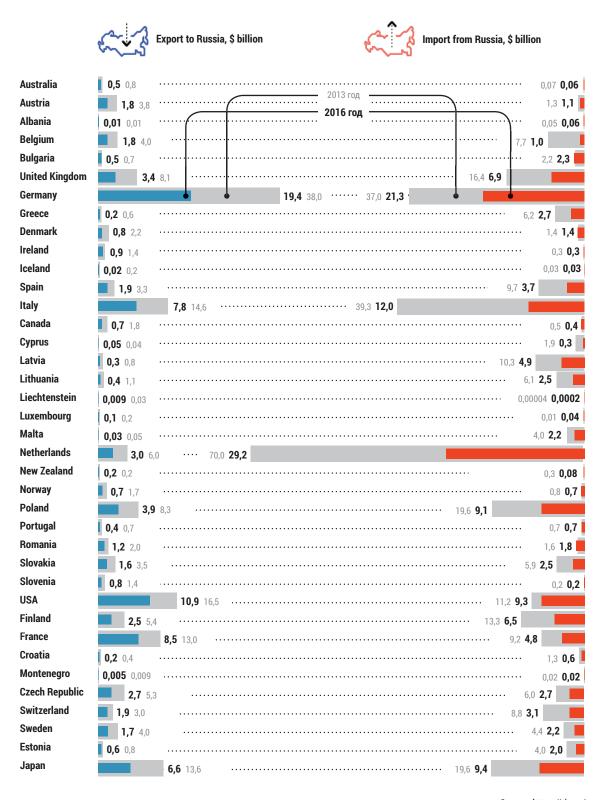
The decision to extend the principle of mandatory TPA (Third Party Access) to Nord Stream-2, bringing the pipeline, along its entire length, under the EU legislation, should serve the hidden agenda of the European Commission to liberalize the Russian gas market, since such a measure creates competition between different Russian gas suppliers. In addition, it is forcing two Russian state companies to fight, which solves the political task of the Western authorities to weaken "Putin's regime" by inflicting damage on "Putin's friends". The conflict between the two state-owned companies should weaken them, and price reduction as a result of competition can lead to a decrease in the incomes of "Putin's regime" (in Western terminology). Plus, the BP business will expand (although, due to Brexit, the UK is already outside the EU).

The Third Energy Package created new risks and uncertainties for the traditional investment model for the development of gas resources and its long-term supply.

The logic of the export of European legislation is reflected in other strategic documents of the EU too. Thus, the abovementioned project Quo Vadis offers a set of model scenarios that lead to direct economic and administrative discrimination of the Russian gas supplies and to creation of artificial competitive advantages for LNG (primarily American) in Europe.

In the EU's understanding, "cooperation" is adoption of the statutory provisions of the importing country (aimed at minimizing the price of the supplied energy

WHAT WESTERN COUNTRIES SUFFERED MOST FROM ANTI-RUSSIAN SANCTIONS



Source: https://ria.ru/

resource) by the exporting state (which has the right to receive maximum monetized resource rent). Elaboration of interaction standards between the parties on the basis of the balance of their interests is out of the question in this situation. This approach de facto means refusal to cooperate.

The process of working on the NCs continued for a long seven-odd years. Over this time, six legally binding codes were prepared and adopted

TWO EUROPEAN CAMPS

The successive waves of liberalization and protectionism reflect the changing alignment of forces in the global competitive struggle. As the evidence from practice shows: the stronger the competition, the more pronounced is the tendency towards protectionism as an instrument for defending national interests. If, for some reason, competition weakens, the trend towards liberalism starts to grow, because national economic agents need less protection.

The EU turned out to be, in my opinion, a hostage and a possible victim of such changes. This is reflected in the upcoming – planned, but not necessarily predetermined – changes in the gas market in Europe. They are orchestrated, in my opinion, by the United States, while the actual doers are the new EU member states, or the former members of the CMEA. The main victim is the old EU members and the EU itself as a single consolidated structure. Its split deprives Europe of a number of competitive advantages.

Internal contradictions in the EU have grown over time. The point of no return, in my opinion, was passed after the expansion in 2004-2007. Then, the Union adopted 12 new members, but could not effectively "digest" the acquisition, provide painless assimilation and incorporation into the EU with the preservation of homogeneity of the community. This was reflected in the energy sector, notably, in the gas industry, since in the "new" EU countries, due to objective historical reasons, the level of gas transportation infrastructure saturation is much lower than in the "old" ones. Hence — a lesser predisposition to the formation of competitive national markets.

Thus, according to the estimates of Ekaterina Orlova from the Institute of Energy and Finance, in 2012 the GTS infrastructure saturation level of the countries of Central and South-Eastern Europe corresponded to the figure that North-West Europe's states had in the 1970s and the beginning of the 1980s. But it is the degree of branching of this infrastructure that provides technical and economic prerequisites for formation of competitive and liquid markets, because suppliers and custom-

ers have the opportunity to choose their counterparties.

Therefore, for all the rhetoric about the "single internal gas market of the EU", there are two levels of its development. And the "two-speed Europe" policy proposed by some European leaders is based on understanding of this harsh reality. In fact, the European Union has already split up into two economic camps, different in terms of global competitiveness. More precisely, it has never been able to become a single whole.

POISON PILL

In my opinion, Ukraine became the "poison pill" which exacerbated the objectively predetermined split between the "new" and "old" EU countries. The doctor who prescribed this "pill" was the United States. The "refugee crisis" that delivered an extra blow on Europe was also actually provoked by America, for it arose as a result of numerous color revolutions in the Middle East and North Africa – where from, among other things, energy supplies go to Europe.

The US sanctions against Russia in connection with Ukraine were aimed, first, at driving a wedge between Kiev and Moscow, and then, at involving the European Union in this matter. By doing this, America managed to make Russia and the EU – its main trading partner – fall out. At the same time, the internal contradictions of the EU itself – between "old" and "new" members – were extensively utilized.

The "old" European Union is trying to pursue an independent policy: least of all is it interested in confrontation with Russia. Countries that have been the backbone of European integration since the 1950s are suffering the greatest losses from the sanctions they imposed (see "Western countries most affected by the introduction of anti-Russian sanctions").

At all stages of the formation of the EU energy legislation, its purposeful expansion took place internationally

And the "new" members of the European Union quickly became disappointed with the "secondary" role assigned to them in fact. They did not reap the windfall of financial assistance from Brussels. Their GTS infrastructure did not experience a boom. On the contrary, there was a slowdown in its development. Therefore, in Central and South-Eastern Europe, unlike the North-West, there was no decline in gas prices.

In the conditions of high oil prices (until 2014) and due to the lack of alternative supplies, the Eastern European countries had to pay a higher contract price for imported gas than the spot price for gas paid by the "old" EU members. This only aggravated the differences between the "two Europes".

As a result, not having received the expected financial flows from Brussels, the "new" EU countries began to contact Washington directly to obtain the money. For this, a serious reason had to be presented. And it was easily found, because there was a breeding ground for it on both sides of the Atlantic. "The genetic memory" of the military confrontation with the USSR had not yet disappeared in the United States. At the same time, the world elites, after the well-known Munich speech of V.Putin, realized that the USA was gradually losing the role of the leader of the unipolar world they were carefully building and the return to the multi-polar world was inevitable. Therefore, Washington is interested in deterring Moscow, by methods of military confrontation, in particular, including strengthening its military presence along the fringe of the Russian Federation.

NATO's expansion to the East was in full accord with the unmet expectations of the former CMEA member countries where anti-Russian sentiments still run high and there are social strata that appeal to the dramatic events of our common history and give them a subjective anti-Russian interpretation. It has become financially profitable to play the political game of the "threat from the East" in the energy sector, in particular, representing Gazprom as the "Kremlin's energy weapon", which sets high "political" prices for the former CMEA members.

As the domestic gas markets of the EU member countries are liberalized, the EU is trying to extend its rules of the game to an even wider area outside the European Union.

Therefore, when the "new" EU countries began to seek protection "from the threat from the East" in Washington, the energy industry fitted well in the spectrum of these "threats". The argument was the prices for Russian gas which were understandably higher than in Western Europe. And it did not matter that in reality responsibility for this rested not with Moscow and Gazprom, but with the EU itself, which had underfunded the development of alternative gas infrastructure.

At the same time, the transit crises of 2006 and 2009 were regularly mentioned. Everywhere in the West it was alleged that those incidents purportedly provide evidence against Russia as an unreliable supplier. At the same time, the negative role played by Ukraine which was engaged in unauthorized gas withdrawals from the transit pipeline was ignored.

The effect of all these events that lead to a split (or rather prevent from further consolidation) within the EU has been recently exacerbated by such "black swans" as Brexit, the Catalan referendum, etc. This clearly does

not contribute to strengthening global competitiveness of the European Union.

THE EU SPLIT AND GLOBAL COMPETITION

Protectionism is a policy designed to support domestic businesses and restrain the "aliens". It hampers creation of non-discriminatory conditions and open markets, where the most effective, but not necessarily the insider, wins in competition.

In my opinion, it is the erosion of EU competitiveness that is the true goal of US actions aimed at supporting the current political regime in Ukraine, which is hostile to Russia. I think that is exactly why the United States of America is trying to involve the EU in the joint anti-Russian policy, sometimes even without coordinating the new "joint" sanction initiatives with Brussels.

The motto of any American administration has always been America First. The current administration has added Global Energy Dominance to the list of goals. In particular, the aim is to squeeze the Russian pipeline gas out of the zone of its historical dominance in the east of the EU. To do this, they utilize the European energy regulators and create additional economic and administrative barriers on the way to Europe (see the Quo Vadis project).

Meanwhile, global competition has now become tougher than 10-15 years ago. Apart from the oncedominant triad: the US – Western Europe – Japan, other states – countries of Southeast Asia, BRICS members (primarily China and India) and others – have now firmly established themselves on the world stage in the sphere of advanced technologies. In the conditions of toughened competition, there are two ways (which are not mutually exclusive and can coexist) to hold onto advanced positions. The first is to run faster than competitors. The second is to put some broken glass in the competitor's sneakers. In other words, eliminate the "weak link" in order to occupy its competitive niche.

In my opinion, it is precisely what is happening now the EU has become this "weak link" as a result of all the metamorphoses described above, intrinsic and extrinsic. Entangling the EU in the US policy aimed at retaining Ukraine's transit to Europe after 2019 and hindering the construction of gas pipelines bypassing Ukraine reflect the desire of the United States to make Russian gas supplies to the EU more expensive. This clears the way for American coal and LNG, which are more expensive for deliveries to the EU than Russian gas. In other words, Europe is becoming a market for more expensive and impure American energy resources. The increase in the energy component will make the products of the manufacturing industries of the EU member countries more expensive, and therefore less competitive in the global market. "Nothing personal, it's iust business". 🐼