

Hier die E-Mail von Jack Sharples vom Oxford Institute for Energy Studies in England zu Gaslieferungen aus Russland in die EU:

The nature of long-term gas supply contracts

Firstly, it is important to understand the nature of long-term gas supply contracts. Every contract will contain the following elements:

- A defined end date: These long-term gas supply contracts are often long, with the shortest contracts being around 5 years and the longest being up to 30 or even 35 years. Over the past decade, the trend has been for these contracts to become shorter (perhaps 5-15 years)
- An agreed volume: The 'base' volume is referred to as the Annual Contractual Quantity (ACQ). In addition, the buyer has some flexibility, meaning that they do not have to be the full ACQ volume every year, and if they need more gas, they can request a small amount more than the ACQ. The ability of the customer to take less than the ACQ is defined by the 'take-or-pay' clause in the contract.
- Take-or-Pay clause: This clause sets the minimum percentage of the ACQ that the buyer must take every year. 10-15 years ago, this percentage was probably 75-85% of the ACQ. In recent years, renegotiations and new contracts have brought this down to perhaps 60-80%. If the buyer takes less than (for example) 70% of the ACQ, they must either pay for gas they didn't take, or pay a financial penalty
- Pricing formula: Historically, long-term gas supply contracts with Gazprom had prices that were calculated based on oil prices. Over the past decade, these contracts have been revised, and the prices are predominantly indexed to prices on European gas trading hubs

It is the usual practice that a company, which buys gas under a long-term gas supply contract, can tell the supplier (in this case, Gazprom), how much gas they wish to receive the following day. This is called their 'daily offtake nomination'. This daily offtake nomination can be different every day, within **an** agreed set of upper and lower limits. At the end of each month, the supplier will calculate how much gas the buyer received, and the price of that gas in accordance with the contractual pricing formula. The supplier will then send a bill to the buyer, which must be paid within approximately two weeks.

It is important to note that these contracts are commercially secret, and we (as analysts) never get to see them. We know about some of the elements by talking to people in the industry, but we never get precise details. Sometimes, some of these details are published by the companies themselves, in press releases. The companies more often publish the size of their ACQ (measured in billion cubic metres), and sometimes reveal the year in which the contract will expire, but they never reveal their pricing formula.

Contracts between German companies and Gazprom

Secondly, we can recap which German companies had contracts with Gazprom before the Russian invasion of Ukraine. In 2012, the Congressional Research Service in the United States published a report that contained their calculations of when the long-term gas supply contracts for Russian pipeline gas supply to Europe (by Gazprom) will expire. They calculated that all five long-term contracts for Russian pipeline gas supply to Germany will expire between 2031 and 2035.¹

¹ <https://www.everycrsreport.com/reports/R42405.html> (see the graph in Figure 5)

Uniper: In March 2022, Uniper mentioned in a press release that they have 200 Terawatt Hours (approximately 18.5 billion cubic metres per year) of long-term contract supply from Gazprom.²

On their website, Gazprom Export state that their supply to Uniper is governed by four contracts, which all expire in 2035. If we assume that the 'take-or-pay' level is 60-80%, then as long as the contract is valid and active, Uniper is obliged to take (or at least pay for) approximately 11.1-14.8 billion cubic metres per year.³

(Please note that the Gazprom Export website is not accessible in Europe without the use of a Virtual Private Network (VPN).

RWE: RWE has a contract with Gazprom that will expire in 2023. The volume to be delivered is reported to be 15 TWh (1.4 bcm) to be delivered in 2022 and 2023 combined, of which 11 TWh delivered by December 2022 and 4 TWh was left for delivery in 2023.⁴

Shell Energy Europe: Shell Energy Europe has a contract with Gazprom for 1.2 billion cubic metres per year (ACQ) until 2031.⁵

Wintershall: Wintershall had joint venture trading subsidiaries, which it used to co-own with Gazprom. These were called Wingas, WIEH, and WIEE. In 2015, Gazprom became the sole owner of these subsidiaries, and they acted to import Russian gas into Germany for re-sale to other companies. Wingas, WIEH, and WIEE therefore became direct subsidiaries of Gazprom Germania, which was itself a subsidiary of Gazprom Export, which is a subsidiary of Gazprom.

On 4 April 2022, Gazprom withdrew its participation in Gazprom Germania, and the German government assumed temporary control over the company. Because Gazprom no longer controls Gazprom Germania and its subsidiaries (Wingas, WIEH, and WIEE) it seems that Gazprom is no longer providing gas to these trading companies. To ensure that the consumers who were buying gas from Gazprom Germania and its subsidiaries would still get their supplies, the German government took control of Gazprom Germania and renamed it SEFE (Secure Energy for Europe), with formal nationalisation of the company announced on 14 November 2022.^{6 7}

VNG: VNG had a supply contract with WIEH for approximately 65 Terawatt Hours (6 billion cubic metres) per year. In October 2022, VNG and SEFE reached an out-of-court settlement on payment of costs for replacement gas that was not delivered by WIEH in 2022 and also agreed to terminate their long-term supply contract in 2023.⁸

Therefore, it now appears that only Uniper and Shell Energy Europe have contracts with Gazprom that expire later than the end of 2023. The contracts with RWE and VNG will expire at the end of 2023, and Gazprom is no longer providing gas to SEFE (Wingas, WIEH, or WIEE).

De facto contract suspension in 2022

Following the Russian invasion of Ukraine, European sanctions froze Russia's access to foreign currency assets. In response, the Russian government passed a decree demanding that the holders of long-term gas supply contracts must pay for those supplies in Russian rubles, rather than in euros or dollars, as previously. Shell Energy Europe refused to pay in rubles, and Gazprom suspended supplies to them on 1 June 2022. Other German companies agreed to pay in rubles, and continued receiving supplies.⁹

² <https://www.uniper.energy/news/update-on-unipers-russian-activities-and-way-forward>

³ <https://gazpromexport.ru/en/partners/germany/>

⁴ <https://www.nasdaq.com/articles/rwe-initiates-arbitration-proceedings-against-gazprom>

⁵ <https://www.bloomberg.com/news/articles/2022-04-01/shell-can-t-use-gazprom-s-ruble-payment-method-due-to-sanctions>

⁶ <https://www.reuters.com/business/energy/german-regulator-takes-over-gazprom-germania-ensure-energy-supply-2022-04-04/>

⁷ <https://www.reuters.com/business/energy/germany-nationalises-gas-importer-sefe-formerly-gazprom-germania-2022-11-14/>

⁸ <https://www.vng.de/en/newsroom/2022-10-10-natural-gas-supply-contract-vng-and-wieh-reach-out-court-settlement>

⁹

<https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/natural-gas/053122-gazprom-cuts-off-more-european-customers-on-refusal-to-pay-for-russian-gas-in-rubles>

Russian pipeline gas was delivered to Germany via two routes: The Yamal-Europe pipeline (which runs from Russia to Germany via Belarus and Poland) and the Nord Stream pipeline.

In Poland, the Yamal-Europe pipeline is owned by EuRoPolGaz, whose shareholders are PKN Orlen (48%), Gazprom (48%), and Gas-Trading S.A. (4%).¹⁰

The flow of gas to Germany via the Yamal-Europe pipeline began to decline from 28 September 2021, and reached zero on 21 December 2022. From 25 February 2022 a partial flow resumed, but fell to zero again on 4 April 2022.¹¹

Furthermore, following the Russian invasion of Ukraine, the Polish government placed sanctions on Gazprom, which prevented the payment of dividends from EuRoPolGaz to Gazprom. In response, the Russian government placed sanctions on EuRoPolGaz, which prevent Gazprom from using the pipeline. In November 2022, the Polish Ministry of Development and Technology announced that Poland would take Gazprom's shareholding in EuRoPolGaz under temporary, compulsory administration.¹²

On 10 October 2023, the Orlen CEO announced that – subject to approval by the Polish Ministry of Development and Technology – Orlen would take over Gazprom's shares in EuRoPolGaz, following a ruling by the Polish Office of Competition and Consumer Protection (UOKiK) that allowed them to do so.¹³

During the summer of 2022, Gazprom reduced the capacity of the Nord Stream pipeline by taking turbines offline for maintenance at the Portovaya compressor station in Russia, at the entry point of the Nord Stream pipeline. The flow of gas via Nord Stream declined from the beginning of June to late August **2022**. **At the** end of August, Gazprom announced an oil leak at Portovaya, and announced that the compressor station (and, therefore, Nord Stream) would be closed 'indefinitely'. Several weeks later, explosions damaged Nord Stream 1 and Nord Stream 2. Both pipelines now remain closed for the foreseeable future.

As a result of these events, there is no physical capacity for Gazprom to deliver gas directly to Germany. It could perhaps increase the flow of gas to Europe via Ukraine, but it has chosen not to do so.

Consequently, even those German companies that agreed to pay in rubles had their supply from Gazprom suspended.

Therefore, while only Uniper and Shell Energy Europe have contracts that are still valid from 2024 onwards, they are not obliged to adhere to the 'take or pay' clauses in their contracts, because Gazprom is not providing them with any gas. For Shell Energy Europe, this is because they will not pay in rubles. But even if they did change their minds and agree to pay in rubles, like Uniper, they will not receive any gas from Gazprom because Gazprom cannot deliver pipeline gas to Germany via Nord Stream or the Yamal-Europe pipeline, and it refuses to deliver more gas to Europe via Ukraine.

For these reasons, Gazprom is not supplying gas to German companies, and those German companies are not bound by the 'take-or-pay' obligations in their contracts.

Your questions

On the basis of the explanatory notes above, I would answer your questions as follows:

¹⁰ <https://www.europolgaz.com.pl/en/company/authorities-of-the-company>

¹¹

<https://transparency.entsog.eu/#/points/data?from=2019-01-01&points=pl-tso-0001itp-00096exit%2Cde-tso-0001itp-00096ent>

¹² <https://www.gov.pl/web/rozwój-technologia/ustanowienie-zarzadu-przymusowego-w-spolce-pao-gazprom>

¹³ <https://www.reuters.com/business/energy/orlen-says-it-is-taking-over-polish-section-yamal-pipeline-2023-10-10/>

Is it true that Germany does not have to pay for gas that was not delivered according to the contracts you saw? Frontal wrote under its Video on 28. August 2022: „Germany would only have had to pay if Gazprom had supplied the gas but Germany had not purchased it.” Is this correct? How does Russia argue in this case?

It is true that German companies do not have to pay for gas that was not delivered by Gazprom. The German companies would only have had to pay if Gazprom had made the gas available, and the German companies had themselves chosen not to take and pay for it, in accordance with the 'take or pay' clauses in their contracts.

There are currently several commercial arbitration cases between Gazprom and European companies (not only from Germany). The European companies argue that because Gazprom unilaterally changed the contracts (by demanding payment in rubles), this is the equivalent of Gazprom unilaterally ending the contracts. Likewise, because of the situation with Nord Stream and the Yamal-Europe contract, Gazprom did not physically deliver gas to northern Europe from summer 2022. In both cases, the European companies had to purchase additional gas from elsewhere at short notice (and at very high prices), to replace the 'lost' Russian gas. So, these companies are seeking compensation from Gazprom.

We found at least one article that claimed (without naming a source) that nowhere would be written how much Russia needed to deliver.

It is true that contractual volumes are often secret, and even if the contractual volumes (that is, that ACQs) are published, the take or pay level is usually secret. So, it is not easy to know how much gas Gazprom should supply, unless either Gazprom or the European buyer decides to publish this information.

When did the situation change? Since when are German companies no longer obliged (if so) to pay for Russian gas?

The situation changed in the period between April and October 2022, for three reasons.

Firstly, when Gazprom demanded payment in rubles and some European buyers refused. Commercial arbitration cases are currently assessing whether Gazprom is allowed to make that change to the contract without permission from the buyer. For now, the European buyers who refused to pay in rubles do not consider the contracts to be currently valid. In Germany, this concerns Shell Energy Europe, which had its supply from Gazprom suspended on 1 June 2022.

Secondly, the Polish and Russian sanctions that led to the cessation of Russian gas flows via the Yamal-Europe pipeline on 4 April 2022 and the closure of the Nord Stream pipeline on 31 August 2022 (and Gazprom's subsequent refusal to increase gas supplies to Europe via Ukraine to offset this loss) mean that Gazprom has not been physically supplying gas to European companies that were willing to pay in rubles. In Germany, this concerns Uniper and RWE, who both launched arbitration cases against Gazprom.

Thirdly, since Gazprom gave up control over Gazprom Germania and its trading subsidiaries on 4 April 2022, it stopped supplying gas to those subsidiaries. In the case of VNG, this meant that in October 2022 it agreed to terminate its contract to receive Russian gas via WIEH.

Overall conclusions

Since I gave my interview to ZDF in April 2022, the situation has changed dramatically. The Russian demand for payment in rubles, the cessation of flows via the Nord Stream and Yamal-Europe pipelines, the lack of additional Russian gas supplies via Ukraine, and Gazprom giving up control over (and gas supplies to) Gazprom Germania and its European-based trading subsidiaries, have meant that the long-term contracts for the supply of Russian pipeline gas to Germany by Gazprom have either been terminated or suspended. The arbitration cases to decide whether compensation should be paid will take a long time to be decided. So, for now, we can only conclude that these contracts for Russian gas supply to Germany are not active, and that Germany companies are not obliged to pay for gas that they are not receiving from Gazprom.

I hope these notes help to precisely explain the current situation.

With best regards,

Jack Sharples
Senior Research Fellow, Oxford Institute for Energy Studies