

Competition: Commission secures changes to gas supply contracts between E.ON Ruhrgas and Gazprom

In the light of improvements made to gas supply contracts between German gas company Ruhrgas and Russian gas producer Gazprom to remove clauses that infringed EC Treaty rules on restrictive business practices (Article 81), the European Commission has closed its investigation. Ruhrgas will no longer be contractually prevented from reselling outside Germany the gas it buys from Gazprom. Gazprom will no longer be bound by a “most favoured customer” provision with Ruhrgas.

Competition Commissioner Neelie Kroes commented “Competitive energy prices are crucial to the economic well being of Europe, and the competition rules have an important role to play in ensuring that all European customers benefit from a competitive market. Developments in Germany are crucial for fostering gas-to-gas competition and this case removes one barrier to Ruhrgas’ entry into neighbouring countries. The Commission will now focus its attention on the gas import contracts from Algeria and more particularly the LNG contracts”.

Ruhrgas and Gazprom agreed to delete the territorial sales restrictions from the contracts under investigation. This is one more step towards creating a competitive and integrated European gas market as Ruhrgas, part of E.ON Group of companies, is one of Gazprom’s most important customers.

Moreover, Germany is a huge gas market, well connected to a large number of other Member States. In all of these markets, gas-to-gas competition (i.e. not only competition between gas from different geographic sources but also competition between wholesalers who buy gas from the same geographical source) has yet to develop effectively. Germany is also an important transit country for both Norwegian and Russian gas to neighbouring countries.

Ruhrgas and Gazprom have also deleted “most favoured customer” clauses from their agreements that obliged Gazprom to offer similar conditions to Ruhrgas as it would have offered to Ruhrgas’s competitors in Germany.

The Commission has been investigating territorial restriction clauses (re-export prohibitions) and mechanisms having similar effects in supply contracts between Russian company Gazprom, Algerian company Sonatrach and a number of their respective European customers since 2001. These practices prevent wholesalers from reselling the gas into neighbouring territories or, in the case of liquefied natural gas (LNG), into terminals located in a different Member State. This constitutes a severe restriction of competition because such wholesaling or arbitraging could significantly contribute to the creation of a more integrated European gas market, fostering both competition and security of supply.

The closure of the Ruhrgas case follows the closure of similar competition cases concerning Italian company ENI (see [IP/03/1345](#)) and Austrian company OMV (see [IP/05/195](#)), and means that all Commission cases opened in 2001 into export restrictions on Russian gas have now been closed. The investigations opened in 2001 continue as concerns imports by Italian and Spanish operators of Algerian gas.