

Approval of the Baltic Pipe pipeline in the Baltic Sea, the North Sea and Danish internal waters and Nord Stream 2 on the Danish Continental Shelf

1. Baltic Pipe

The Danish Minister for Climate, Energy and Supply has on 28 October 2019 granted a permit for the Baltic Pipe natural gas pipeline in the territorial sea and on the continental shelf. The permit for the Baltic Sea part of the project is granted to Gaz-System S.A, the Polish transmission system operator.

The permit to Gaz-System appears to be the first energy project that has been subject to the “new” approval processes that were inserted into the Danish Continental Shelf Act in 2017 and which require the Danish Ministry of Foreign Affairs to recommend or reject approval of a specific cross-border project for foreign, security and/or defence policy reasons.

The establishment activities for the pipeline are expected to commence early 2020 and shall be completed by 2022. The subsea pipeline is a 36” diameter pipeline, and the project’s full capacity is 10bn m³ natural gas per year.

According to the Danish Energy Agency, Baltic Pipe is expected to contribute to a transition in Poland from coal to natural gas. The project is also expected to increase the security of supply for natural gas in Denmark as direct access to the Norwegian upstream pipeline, Europipe II, to the Danish gas system is established.

The establishment permits set a large number of conditions regarding development and operation (in the permit to Gaz-System these number more than 30). However, the vast bulk of the conditions must be considered standard government practice, including entering into crossing agreements with the owners of other cables and pipelines in the trajectory of Baltic Pipe.

Gaz-System and its Danish project partner Energinet have carried out a number of studies in the North Sea, Lillebælt and the Baltic Sea. Several route alternatives have been investigated. The route, which is granted permission, goes outside any Natura 2000 areas. The Danish Energy Agency states that the project can be established and operated without unacceptable impacts on the environment and safety.

The Minister for Climate, Energy and Supply has obtained a recommendation from the Minister for Foreign Affairs on the Baltic Pipe project in connection with the application compatible with the interests of foreign, security and defence policy of the Kingdom of Denmark, cf. section 3 a, subsection 2 of the Continental Shelf Act.

Already on 12 October 2018, the Minister of Foreign Affairs submitted the recommendation to the Minister of Climate, Energy and Supply, stating that the project is compatible with Denmark's interests.

2. Nord Stream 2

The Danish Energy Agency has on 30 October granted the company Nord Stream 2 AG permission to establish part of the Nord Stream 2 natural gas pipelines on the Danish continental shelf southeast of Bornholm in the Baltic Sea.

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The approval follows a lengthy application and approval process and substantial political and diplomatic activity between the Danish government and the applicant as well as on the part of Denmark's allies and neighboring countries.

The permit is granted pursuant to Section 4, subsection 1 in the Danish Continental Shelf Act and is based on Denmark's obligations under the UN Convention on the Law of the Sea.

Under international law, Denmark is obliged to allow the construction and laying of transit pipelines on certain conditions.

The establishment permits set a large number of conditions regarding development and operation (as for Gaz-System and the Baltic Pipe project, the permit to Nord Stream 2 AG contains more than 30 conditions). However, the vast bulk of the conditions must be considered standard government practice, including entering into crossing agreements with the owners of other cables and pipelines in the trajectory of the two Nord Stream 2 pipelines.

A quick comparison of the two permits – Baltic Pipe and Nord Stream 2 – indicates no major differences in the conditions other than those following from the different routes of the pipelines and the nature of the two projects (one entering Danish territorial waters and the other “only” on the Continental Shelf, and one of the projects consisting of two parallel pipelines). Also there are differences due to the fact that Nord Stream 2 AG submitted several alternative applications.

The establishment activities for the pipelines on the Danish Continental Shelf are expected to commence early 2020 and shall the project be completed by the second half of 2022. The project consists of two subsea pipelines each at 48” and with a full capacity of 55 bn m³ natural gas per year.

On April 15, 2019, Nord Stream 2 AG applied for two route alternatives on the continental shelf southeast of Bornholm at lengths of 147 km and 164 km respectively on the Danish shelf.

The Danish Energy Agency states that it has found that the southeastern route on the continental shelf is preferable to the northwestern route. This is mainly due to an assessment of the impact on shipping and Natura 2000 areas. Among the two southeastern route alternatives proposed by the company, the Danish Energy Agency has approved the short route, because the risk and the impact from the environmental and safety perspective are the least.

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For questions or comments to this newsletter or energy and offshore in general, please contact Bo Sandroos on +45 4088 5422 or bos@wsko.dk.

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