Russia

Moncrief Mobilizes for BASF Lawsuit

Texas-based Moncrief Oil International wants to sue German energy firm BASF and its subsidiary Wintershall over their involvement in Gazprom's vast Yuzhno-Russkoye gas field near Tomsk, the company's chairman, Richard Moncrief, said Tuesday.

The bid is a continuation of a legal battle Moncrief is engaged in with Gazprom over a prior agreement that the U.S. firm take a 40 percent interest in the field, which holds an estimated 25 billion cubic meters in gas reserves.

"My understanding is that German companies are very serious about doing business properly. Once they understand the situation, they will bring Gazprom to settle the situation," Moncrief said by telephone Tuesday.

Moncrief on Monday notified BASF and its subsidiary Wintershall of its intention to file suit.

Last month, Gazprom and BASF signed off on a deal under which the German firm will take a 35 percent minus one share stake in the West Siberian field. In return, Gazprom increased its stake in BASF's gas distribution firm, Wingas, from 35 percent to 50 percent minus one share, and also won a stake in a BASF production subsidiary in Libya.

The signing ceremony took place during two days of talks between German Chancellor Angela Merkel and President Vladimir Putin last month.

Moncrief's suit against BASF will be filed shortly, Moncrief said Tuesday.

Moncrief said his company had lost close to $10 million on various expenses related to the field, and estimated the lost potential earnings from the project to be worth $8 billion.

The dispute dates to the late 1990s.

In 1997 and 1998, Moncrief Oil International signed agreements with Gazprom subsidiary Zapsibgazprom to set up a joint venture to develop the Yuzhno-Russkoye field. The negotiations were held with the previous management of Gazprom, which was reshuffled shortly after Putin's election in 2000.

Before the appointment of Gazprom's current CEO, Alexei Miller, in 2001, Gazprom and Moncrief effectively lost control of Yuzhno-Russkoye to Itera, a company that managed over a period of some years to siphon off a number of Gazprom assets. Since 2001, Gazprom has regained control of assets lost under the previous management, but Moncrief Oil has yet to see its 40 percent of the field.

Moncrief said Tuesday that his firm re-established communication with Gazprom with the help of U.S. government officials in 2002. The last meeting between Moncrief and Miller took place in 2004, but then everything went silent again, Moncrief said.

After Gazprom indicated it was looking to work with German companies to develop the field, Moncrief began a legal campaign.

Last year, a U.S. district court in Texas declined to hear Moncrief's case against Gazprom, citing a lack of jurisdiction. Gazprom has always maintained that the agreements specified that any disputes be settled in Russian courts, Gazprom spokesman Sergei Kupriyanov said Tuesday.

Moncrief said his firm was appealing the Texas judge's ruling.

Valeria Korchagina, The Moscow Times
May 17, 2006

Russia, Europe Draw Battle Lines in Their Dispute over Energy

After the discussions at the latest Russia-European Union summit laid bare the growing disagreements between Moscow and the European bloc over how to guarantee "energy security" to the Old Continent's countries, the leaders of the pro-Western GUAM grouping (Georgia, Ukraine, Azerbaijan, Moldova) launched an initiative that appears to be aimed at breaking Russia's monopoly on fuel supplies to Europe. The stage seems to be set for further geo-strategic competition between Russia and the West.

As most analysts predicted, the May 25 meeting between Russian President Vladimir Putin and the top EU officials in the Black Sea resort town of Sochi failed to produce an agreement on energy policies. The energy disputes have hung over the relationship since last January, when a brief disruption in Russian gas supplies to some Western European countries amid a price war with Ukraine sent shock waves across the Continent.

Europeans fear excessive energy reliance on Russia, which supplies one-quarter of Europe's gas. There is an increasing perception within the EU that Moscow is willing to use energy as a political weapon. Meanwhile, Russia is aggressively seeking access to European retail gas markets. Remarkably, Putin stated in Sochi that the EU has to take what he termed "reciprocal steps" if it wants more access to "the holy of holies of our economy" — Russia's energy sector.

Despite all the positive spin that the summit participants tried to put on the event, they had to concede that, their common interest in easing the dispute over energy supplies and markets notwithstanding, some important differences clearly remained. As European Commission President Josй Manuel Barroso acknowledged, there were still "sensitivities" that needed to be addressed. Some Russian and international analysts even described the "energy dialogue" as "conversations between the deaf and the dumb" that constitute a continuous "tug of war" between Europe (which seeks to secure its interests as an energy consumer) and Russia (which believes its interests as energy supplier are being endangered).

It would appear, however, that the battle lines were drawn well before the European dignitaries met with the Kremlin leader. In the run-up to the Sochi gathering, Brussels repeatedly appealed to Moscow to ratify the 1994 Energy Charter Treaty that would effectively end Gazprom's monopoly over Russia's pipeline system. Naturally, Russia refuses to ratify the Energy Charter as well as the Transit protocol in their current form, fearing that giving the European companies access to its export network would be a huge – and unjustified – concession to its competitors. Moreover, prior to the Russia-EU summit, the Kremlin had tried to make itt perfectly clear to Brussels that Russia would set its own policies and stay the course no matter what.

Moscow's defiant stance was particularly revealing in the wide-ranging interview that Putin's top aide, Igor Shuvalov, gave to Nezavisimaya gazeta on May 23. In his remarks, the Kremlin official was extremely blunt about how the Russian leadership sees the energy relationship with Europe. His main message was as follows: for the foreseeable future, European countries have no other viable alternative energy source but Russian hydrocarbons. Indeed, according some estimates, by 2030, more than 60% of EU gas imports are expected to come from Russia. Shuvalov stated that Russia is ready to supply Europe with oil and gas on a long-term basis, adding that the Kremlin would like to play the leadership role in the relationship. Meanwhile, he continued, Russian energy companies would develop their business overseas. "We will be expanding further, whether our European partners like it or not," he argued.

Shuvalov also blasted the West's reluctance to see Russia as part of the G-8 economic discussion group, calling it a "purely political" decision. Implying that Russia's impact on global economic processes – primarily as the key energy supplier – is very significant, he asked the Western leaders: "Don't you think it is ridiculouus that you sit down and discuss issues of energy security without Russia?"

Needless to say, Shuvalov's swagger did not sound like music to European ears: the Kremlin's tough stance appears to be a sure sign that Russia and the West are growing further apart on the energy issue. Within this context, the attempt by Georgia, Ukraine, Azerbaijan, and Moldova to revitalize the moribund GUAM to counterbalance Russia's energy clout in the region is likely seen as a positive development in Brussels (see EDM, May 25).

At the May 22-23 GUAM summit in Kyiv, the participants gave the regional grouping a new name – the Organization for Democracy and Economic Development (ODED) – and singled out the "energy component" as the main focus of the renewed GUAM's activity. Ukraine's President Viktor Yushchenko was quite explicit about the grouping's goal to challenge Moscow's energy-export dominance. "Azerbaijan has unique oil-producing capabilities, while Ukraine has unique oil transit facilities. Why don't we unite them?" Yushchenko suggested.

It remains to be seen, of course, how effective ODED-GUAM will be. What is certain, however, is the continuation of the Russia-West geopolitical rivalry in the post-Soviet lands. As the Russian special envoy to the EU, Vladimir Chizhov, recently acknowledged, a space does exist between Russia and the EU where both international actors viciously compete.

Eurasia Daily Monitor
May 26, 2006

Kremlin Ponders Meaning of East European Summit

The exceptionally harsh criticism of Russia's behavior by the senior Western representatives at this week's Vilnius summit of Eastern European countries has undoubtedly rattled the Kremlin leadership. But the big question that the Moscow policy elite tries to answer is about the true meaning of its former satellites' gathering: are the United States and Europe prepared to continue seeking accommodation with the increasingly assertive Russia or have they begun implementing a policy of "selective cooperation" and "selective competition"?

On May 4, the Lithuanian capital welcomed leaders from the Baltic, Black Sea, and Caucasus regions, who arrived to take part in a conference titled "Common Vision for a Common Neighborhood." This conference was preceded by an NGO forum at which the pundits and civil-society representatives debated the prospects of democratic transformations of the Eastern European and the South Caucasus states.

In an unmistakable sign that the gathering has the West's full blessing, both U.S. Vice President Dick Cheney and European Union foreign policy chief Javier Solana attended the event. Furthermore, as most observers hold, Cheney, who is widely seen as one of the most powerful figures within the Bush administration, clearly set the tone of the debate when he flatly accused Russia of backsliding on democracy and urged it to stop using energy supplies to "blackmail" its neighbors. Solana also addressed the conference and, like Cheney, referred to the existence of diplomatic tensions between Brussels and Moscow.

At the core of the discussions in Vilnius was the critical issue of whether the time has come to re-evaluate the West's relations with Russia and possibly opt for a more competitive policy. The bulk of the forum's speakers appeared to suggest that the goal of building cooperation with Russia on the basis of common values cannot be achieved as the Kremlin leaders and their Western counterparts espouse quite different political philosophies. But this conclusion would necessarily imply that, as there is dearth of shared values, the Russia-West relationship can only be interest-based. At first blush, such foundation looks much more pragmatic; but it also proves rather tricky as the interests of international actors may or may not coincide. Remarkably, in the crucial issues involving Russia and the other former Soviet republics – such as democratization of Europe's East and solution of the "frozen conflicts" – the interests of Moscow and the West seem to be increasingly diverging. Furthermore, these interests appear to be inseparable from the political values that the two sides tend to profess.

All this indicates that, even within the paradigm of the interest-based relationship, the space for cooperation between Russia and the Western countries is shrinking and the potential for competition is on the rise. In this context, Cheney's tough remarks are likely not the isolated pronouncements by the famously independent-minded member of the Bush team known for a hard line on Russia, but rather a coordinated policy of the U.S. administration. Symptomatically, speaking on May 1 in Washington at the National Conference of Editorial Writers, Secretary of State Condoleezza Rice called on the Russians to recognize that Washington has "legitimate interests and relationships with countries that are in their neighborhood even if those countries were once part of the Soviet Union."

Russian pundits appear to be divided in their assessment of the "message" sent by the United States to the Kremlin rulers. Some political strategists suggest that Washington is still playing rhetorical games and not prepared so far for an open confrontation with Moscow. On balance, they say, the larger strategic issues like the war on terror and non-proliferation dictate the need for cooperation and ultimately outweigh existing tensions and mutual irritation.

Seen in this light, Cheney's demarche, Kremlin-connected analysts argue, was pursuing a three-fold "tactical" goal. First, by castigating Russian President Vladimir Putin's foreign and domestic policies, Washington has demonstrated that the Bush administration, contrary to the allegations of its internal and external critics, is not soft on Moscow. Second, America likely grabbed the opportunity to flex its muscles a bit and serve the Kremlin notice that it would be well advised to limit its geopolitical ambitions driven by the windfall fuel revenues. And finally, Washington has likely sought to prop its East European and ex-Soviet "clientele" whose pro-American stance and visceral "Russophobia" need to be occasionally stimulated. But overall, these analysts say, the United States still tends to find accommodation with Russia.Other Russian political thinkers are less optimistic. The East European forum will likely further poison the political atmosphere in the run-up to the G-8 summit in St. Petersburg. As Western confidence in Russia melts, Moscow will be hard pressed to pursue its planned agenda. At the same time, U.S. and EU pressure are bound to prompt a more aggressive Kremlin reaction. Thus, the growing confrontation results in the perpetuation of a vicious cycle that prevents the mutually beneficial interaction between Russia and the Western world.

Igor Torbakov, Eurasia Daily Monitor
May 4, 2006

Kazakhstan, Russia to Expand Capacity of Russian Gas Refinery

ALMATY, Kazakhstan (AP) – Kazakhstan and Russia have agreed to jointly expand the capacity of a Russian natural gas refinery to allow it to process gas from the giant Kazakh field Karachaganak, the Kazakh president said.

Nursultan Nazarbayev and Russian counterpart Vladimir Putin agreed on the deal over the weekend during meetings at the Russian Black sea resort of Sochi. Under the deal, each country would own 50 per cent of the Orenburg refinery's new unit.

"If we were to build our own gas refinery, it would cost us $1.5 billion-$2 billion US, and the processing of gas would be twice as much at the Orenburg refinery," Nazarbayev was quoted as saying by his press office on Monday.

Nazarbayev also said that he and Turkish Prime Minister Tayyip Erdogan agreed to build an oil refinery on the Turkey's Black Sea coast in connection with plans to increase the capacity of pipeline carrying oil from Kazakh oil fields to the Russian port of Novorossiisk.

Kazakhstan is working with Russia to more than double the capacity of the 1,510-kilometre Novorossiisk pipeline to 60 million metric tons a year. The pipeline is the main route for exporting oil from Kazakhstan's giant Tengiz oil field.

"We will transport our oil from Novorossiisk to Turkey, process it there and then sell," Nazarbayev said.

The Central Asian country is expected to become one of the world's top oil exporters in coming years, aiming to more than double its production to three million barrels a day by 2015.

Also Monday, a Russian business newspaper reported that Russia agreed to pay nearly triple the amount it currently does for Kazakh natural gas and plans to partly offset the hike by raising the cost of gas it sells to Ukraine.

Kommersant cited unnamed sources close to the negotiations as saying that Moscow agreed to pay $140 US per 1,000 cubic metres of Kazakh gas compared to the $50 US price it paid previously.

The deal comes as competition for Kazkhstan's energy resources intensifies.

U.S. Vice-President Dick Cheney paid a high-profile visit earlier this month to lobby for American energy interests. EU Energy Commissioner Andris Piebalgs also travelled to the Kazakh capital, Astana, to discuss the possibility of a European-bound gas pipeline that could skirt Russia.

Pravda
May 22, 2006

Model Concession Agreement

On 27 May 2006 the Government issued Resolution No. 319 "On Adoption of a Model Concession Agreement in Respect of Automobile Roads and Engineering Transport Facilities Including Bridges, Overhead Roads, Tunnels, Parking Lots, Automobile Checkpoints and Points of Collection of Fees from Owners of Commercial Vehicles"

Pursuant to Federal Law No. 115-FZ "On Concession Agreements" of 21 July 2005 (see our update for 25-31 July 2005), under a concession agreement an investor ("concessionaire") must commit to create and/or reconstruct, at its own expense, certain immovable property whose title is or will be vested in the Russian Federation, subject of the Federation or municipality ("grantor"). After the creation or reconstruction of the relevant property, the grantor must agree to grant the concessionaire the right to possess and use this property for the period established in the concession agreement.

The Resolution now approves a model concession agreement with respect to automobile roads and associated infrastructure.

The Resolution will come into force on 16 June 2006.

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New Water Code

On 3 June 2006 the Present signed Federal Law No. 74-FZ approving the Water Code of the Russian Federation and Federal Law No. 73-FZ "On Enactment of the Water Code of the Russian Federation"

Among other provisions, the new Water Code:

! explicitly delimitates the authority between the Russian Federation, subjects of the Federation and municipalities in the area of management and protection of bodies of water;

! establishes the procedure for granting the right to use bodies of water either based on water use contracts or state authorities' decisions to grant the right to water use;

! establishes federal ownership over all natural and certain artificial bodies of water;

! limits the possibility of establishing private ownership of bodies of water;

! explicitly defines the legal framework and parameters of water protection zones; and

! contains substantial regulation concerning the management and protection of bodies of water.

The Law bringing the new Code into force sets forth a number of transitional provisions and amendments to certain existing legislation in this respect, in particular, the Civil Code, the Land Code, the Tax Code, the Code on Administrative Offences, the Law "On Registration of Rights to Immovable Property," the Law "On Delimitation of State Ownership to Land," and the Law "On the Change of the Type of Land Category."

Furthermore, the Federation Council adopted a Resolution which envisages certain fundamental amendments to the new (not yet in force) Water Code. These amendments concern the following issues:

! restrictions on the establishment of private ownership of bodies of water used for domestic and drinking purposes;

! restrictions on the establishment of private ownership of bodies of water which are currently under municipal ownership, and restricting the possibility of private ownership to bodies of water without established ownership; and

! the prohibition of a transfer of the right to use bodies of water from one water user to another.

These amendments will be adopted before the new Water Code enters into force. In this respect, a working group of the Federation Council was assigned to work on the proposals of its committees and commissions in order to prepare amendments to the new Water Code.

The Water Code will enter into force on 1 January 2007.

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Construction

On 11 May 2006 the Government issued Resolution No. 282 "On Provision of Reports by Developers on Activity Involving the Attraction of Monetary Funds from Participants in a Shared Construction"

The Resolution provides that the developers attracting funds from participants in a shared construction must report their activities to the Federal Service for Financial Markets.

White & Case LLP

Special Economic Zones

On 3 June 2006 the President signed Federal Law No. 76-FZ amending the Federal Law "On Special Economic Zones"

Following the entry into force in August 2005 of the Law "On Special Economic Zones in the Russian Federation", the amendments set forth the procedure for establishing and closing special economic zones in tourist recreation areas. They set out the status of the residents of special economic zones in tourist recreation areas and define the main terms and conditions of the agreement to be concluded between the resident of the area and the local administration.

The amendments also revise the requirements regarding the location of the other two types of zones envisaged by Law: (i) industrial and production zones and (ii) technological and innovation zones; and amend the powers and authorities of the local administrations of special economic zones.

The Law will enter into force on 8 July 2006.

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Differentiated Mining Tax for East Siberian Oil Fields to Take Effect in 2007 – Deputy Minister

The Economic Development and Trade Ministry expects the amendments to the Tax Code on taxation vacations for new East Siberian fields and a differentiated mining tax rate for depleted fields will be signed before the end of July and the law will be in force in 2007, Deputy Minister Kirill Androsov told a Labor Relation Commission on June 20.

Even with the oil price at $52 per barrel, the development of new East Siberian fields such as Talakanskoe, Verknechonskoe and Vankorskoye would make no economic sense, he said. The benefits make their development cost-effective at a level of 12% to 15%, Androsov said.

The ministry expects that with the construction of the East Siberia – Pacific Ocean oil pipeline the tax benefit will result in active development of the region and by the end of 2015 the increase of the East Siberian oil output will amount to about 50 million tons a year, he said

The differentiation of the mining tax for depleted fields by 2010 will increase teh oil output by 5 million to 8 million tons a year, Androsov said. The operation of small and medium oil companies that are expected to account for that increase will become cost-effective, he said.

The mining tax accounts for about 8% of the gasoline retail price, Androsov said. “For this reason the mining tax becoming independent of the world prices will not reduce the price in the domestic market,” Androsov said.

What is expected to be most effective are steps aimed at improving the efficiency of oil production, transportation and processing, he said.

The State Duma early in June passed in a first reading amendments to the Tax Code setting the mining tax at a zero rate for new oil fields once the total yield in areas that are completely in or overlap with the East Siberian Oil and Gas Province, or within Yakutia, Irkutsk Region or Krasnoyarsk territory totals 25 million tons. The field must be under development for 10 years for a license to prospect for and mine mineral resources and 15 years for doing geological surveying and mining mineral resources.

The procedure in which a mining tax reducing factor will be applied to fields depleted by over 80% is consistent with the increase of cost in developing such fields.

INTERFAX Business Law Review,
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Currency Restrictions Lifted Ahead of Schedule

The RF Central Bank (the “CBR”) recently has announced that the requirement to hold special transaction accounts and non-interest reserves for certain transactions will be lifted on July 1, 2006, as opposed to the original deadline of January 1, 2007.

The restrictions were introduced by the CBR in accordance with RF Law No. 173-FZ “On Currency Regulation and Currency Control”, dated December 10, 2003 (the “Currency Control Law”), which regulates convertible currency transactions between residents and non-residents. In accordance with the restrictions, borrowers must use a “special account” for, e.g., loans with a pay-back period of three years or less, and are required to deposit 1% of the amount of such loans in an interest-free account with a Russian bank before the loan can be disbursed.

The announcement came on May 30, 2006, just less than three weeks after RF President Vladimir Putin proposed the initiative in his annual address before the Federal Assembly. This is yet another positive step forward in encouraging financing in the RF and moving towards full convertibility of the Russian ruble. It also follows the decision by the CBR on March 29, 2006, which became effective in May, to eliminate the mandatory conversion of hard currency proceeds into rubles. Previously, companies were required to convert 10% of their export proceeds into rubles. Over the last few years, the requirement had dropped from 50% of such proceeds.

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