

The Cruz Bill is Designed to Undermine the Unity of our Allies, not Punish Russia:

- This bill is not a genuine effort to counter further Russian aggression or protect Ukraine. If passed, the legislation would only serve to undermine unity amongst our European allies at a crucial moment when we need to present a unified front in response to Russian threats against Ukraine. The Administration is working with Congress and European partners on a package of sanctions that maximizes the potential costs to Russia if they further invade Ukraine which this legislation does not do.
- At this moment, it is critical to ensure maximum Transatlantic unity in addressing the potential Russian threat to Ukraine. Russia would interpret any daylight in our positions stemming from sanctions on NS2 AG as an opportunity to exploit a fissure in the transatlantic relationship.

NS2 Sanctions are Credible leverage over Russia:

- The threat of stopping the NS2 pipeline is a credible piece of leverage that Germany holds over Russia at this time. We know that getting gas flowing through the pipeline is a priority for Putin.
- If sanctions are imposed right now, and Russia views these sanctions as a sunk cost, then the loss of NS2 would be one less consideration in its calculus.
- The deterrent potential of sanctions/shutting down the pipeline would be lost.

The Administration's approach of working with the new German government on NS2 rather than sanctioning them now is more effective and is showing results:

- The Administration is focused on working with Germany to implement the July 21 Joint Statement of the United States and Germany on Support for Ukraine, Energy Security, and Our Climate Goals which includes clear commitments to act if Russia attempts to use energy as a weapon or commit further aggressive acts against Ukraine.
- Our ability to issue a waiver of sanctions helps facilitate continued engagement with Germany on the full implementation of these commitments, which Germany is making good progress towards meeting.
- We have a window of opportunity with the newly-elected German government; sanctioning them now is exactly the wrong approach at the wrong time and will split Transatlantic unity precisely when we need to work in lockstep with the Germans and other European allies on Russia/Ukraine. We are already hearing positive, helpful statements from the new government, including after German Foreign Minister Baerbock's January 5 meeting with Secretary Blinken. Baerbock reiterated her own public statements as well as those made by Chancellor Scholz and other senior German officials that Germany would uphold its commitments as outlined in the July 2021 Joint Declaration, to include implementation the necessary measures should Russia use energy as a weapon or continue its aggressive acts in Ukraine.

Embassy Berlin also notes that Germany is making progress on implementing its Joint Statement commitments:

- The German government is engaged in discussions with Moscow, led by Special Envoy Graf Waldersee, to extend the Ukrainian transit agreement following its 2024 expiration, though a commercial contract is not expected until 2023 or 2024.

- Germany has finalized the structure of a Green Fund to support Ukraine's energy transition in collaboration with German development bank KfW, and is discussing with German, Ukrainian, and U.S. companies about potential projects for the Fund. Germany has earmarked €150 million in three-year funding (2022-2024) for the Green Fund.
- Germany appointed a special expert, Stanislaw Tillich, who is currently leading two legacy coal transformation projects in western and eastern Ukraine, per the July 2021 Joint Statement pledge to support, through \$70 million of funding, energy transition projects in Ukraine.
- The German government is exploring possible green energy projects it could support under the Three Seas Initiative. The U.S. Embassy in Berlin facilitated a November 10 virtual exchange between Germany and experts in Washington on how Germany can invest in energy-related 3SI projects that also align with its Energiewend (energy transition) goals.

Statements and points from the new German Government on NS2:

- (DEC 13) **Foreign Minister Annalena Baerbock** said in an interview with *ZDF-TV's heute-journal* that NS2 currently could not be allowed to operate. "We talked about this during the coalition negotiations and therefore enshrined in the coalition agreement that European energy law applies to energy projects," she said, adding: "And that means that, as things stand, this pipeline cannot be certified as it is, precisely because it does not meet the requirements of European energy law and safety issues are still up in the air."
- (DEC 15) *Handelsblatt* interviewed **Greens parliamentary group chair Katharina Dröge** on the conflict with Russia and the pandemic situation. "If Russia continues to violate Ukraine's territorial integrity, there must be consequences," Dröge

told *Handelsblatt*, adding that if Russia continues to act against Ukraine, the EU will have to consider responding with tough economic sanctions. If nothing else works, Dröge said, they will discuss excluding Russia from the SWIFT financial network. Further economic consequences would involve Nord Stream 2, she said, “especially as an agreement between Germany and the USA provides for precisely this.” Dröge also pointed out that Nord Stream 2 does not currently meet the requirements of European law.

- (DEC 19) In an interview with *Frankfurter Allgemeine Zeitung*, **Vice Chancellor/Minister for Economic Affairs and Climate Action Robert Habeck** (Greens) said December 19 Russia would face “severe consequences” for any new violation of Ukraine’s territorial integrity. Habeck warned “nothing can be excluded,” including halting the Nord Stream 2 (NS2) pipeline, which he called a “geopolitical mistake.” Habeck also emphasized Germany’s federal network regulator will determine NS2’s eligibility for certification based on European law. **Comment:** Habeck’s statements came after Chancellor Olaf Scholz’s (SPD) comments describing NS2 as a private-sector project in Brussels December 16. While Greens and SPD messaging on NS2 has differed along party lines, all senior German government officials have warned of severe consequences should Russia invade Ukraine and reiterated the regulator’s independence in the pipeline certification process. **End Comment.**

Finally, This Bill Makes Europe Vulnerable to Russian Energy Exploitation in Middle of Winter:

- When Germany’s energy regulator announced on November 16 that it had temporarily suspended certification of NS2, Europe’s natural gas benchmark price rose 17%. This happened after European gas prices had already roughly doubled between August and

October. Sanctions on NS2 AG would spike prices yet again, allowing Russia to benefit from higher prices while the project is further delayed. This would make Europeans vulnerable to Russian energy exploitation and lead to a shortage in the midst of winter.