

Sanctions on Russia's Energy Sector: Shale Gas 'Fracking' Will Invade Europe?

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Fracking will be “good for our country,” was a statement made by British Prime Minister David Cameron at a recent Nuclear Security Summit in The Hague according to the UK based news agency The Guardian. Cameron believes that the fracking industry will have the public's support since reliance on Russia's energy sources will be halted if sanctions are imposed due to the political crisis in the Ukraine. The Obama administration is also proposing a joint US-EU trade deal with its European partners that would reduce Europe's dependence on Russia's energy resources. The Guardian reported Cameron's statement regarding shale gas fracking in Europe:

The prime minister said that once wells are up and running later this year, there would be more public enthusiasm, and exploiting shale gas reserves could help Europe wean itself off reliance on exports from Russia” and that “The Ukraine crisis has increased the urgency of European efforts to find alternative sources of energy to reduce the leverage Russia's oil and gas supplies give it across the continent

Has the Ukraine crisis opened the doors for shale gas fracking in Europe? The United States and the European Union are currently negotiating an agreement since July of 2013. In a recent report titled ‘No Fracking Way: How the EU-US trade agreement risks expanding fracking’ by Friends of the Earth Europe, Corporate Europe Observatory and the Transnational Institute among others stated what the Transatlantic Trade and Investment Partnership (TTIP) is capable of in terms of the rights of corporations involved in the fracking industry:

The TTIP deal threatens to give more rights to companies through a clause called an ‘investor-state dispute settlement’ (ISDS). If included in  the deal, this would enable corporations to claim damages in secret courts or ‘arbitration panels’ if they deem their profits are adversely affected by changes in a regulation or policy. This threatens democratically agreed laws designed to protect communities and the environment. Companies which claim their investments (including expectations of future profits) are affected by a change in government policies could have the right to seek compensation through private international tribunals. US companies (or any company with a subsidiary in the US) investing in Europe could use these far-reaching investor rights to seek compensation for future bans or other regulation on fracking. These tribunals are not part of the normal judicial system, but are specifically set up for investment cases. Arbitrators have a strong bias towards investors – and no specialised knowledge about our climate or fracking. Companies are already using existing investment agreements to claim damages from governments, with taxpayers picking up the tab. Investor-state dispute settlement is becoming increasingly controversial as mining and energy firms use it to challenge public policies. For example, the Swedish energy giant Vattenfall is

seeking more than €3.7 billion from Germany in compensation after the country voted to phase out nuclear power; Pacific Rim, a Canadian-based mining company is demanding US\$315 million in compensation from El Salvador after the government refused permission for a potentially devastating gold mining project⁴; and Lone Pine Resources is suing Canada for Cdn\$250 million over a fracking moratorium in the Canadian province of Quebec

“Claim damages in Secret courts” should be worrisome for communities all across Europe who is in opposition to fracking on their lands. The European Commission’s fact sheet ‘Investment Protection and Investor-to-State Dispute Settlement in EU agreements’ describes one of the provisions within the agreements:

In addition, in EU trade agreements the key investment protection standards are drafted in a detailed and precise manner, in particular making clear that the States’ right to regulate is preserved.

In this context clarifications to two key provisions are made:

Firstly, ‘indirect expropriation’ is one of the most controversial provisions in the investment protection system. Indirect expropriation is when government measures, while not directly taking property away, have the effect of doing so (e.g. the removal of a license required to operate a factory). This provision has been used by some investors to challenge public authorities’ bans for health reasons of chemical products or the introduction of new stricter environmental legislation.

Future EU agreements will provide a detailed set of provisions giving guidance to arbitrators on how to decide whether or not a government measure constitutes indirect expropriation, thus aiming at preventing abuse of the system.

In particular, when the state is protecting the public interest in a non-discriminatory way, the right of the state to regulate should prevail over the economic impact of those measures on the investor. These much needed clarifications will make sure that companies cannot be compensated just because their profits have been reduced through the effects of regulations enacted for a public policy objective. The Commission has negotiated provisions with Canada and Singapore which makes this clear, and the language will also be included in future agreements

If the European Union and the United States finalize the TTIP agreement then the anti-fracking opposition will grow through a grassroots movement. With Austerity measures being met with protests and violence throughout Europe, fracking would sure add fuel to the fire in an already tense situation. This past week the “March of Dignity” in Spain took place ending in violent clashes between the police and protesters. In the UK, anti-fracking protesters are growing despite PM David Cameron’s recent statement when he said that “*I think something positive should come out of [the situation in Ukraine] for Europe which is to take a long hard look at its energy resilience, and its energy independence. And I hope it will lead to some really useful work being done*” he continued “*Britain is not reliant on Russian gas to any extent, it’s just a few percentage points of our gas intake. But the variety around Europe is very, very wide. Some countries are almost 100% reliant on Russian gas so I think it is something of a wake-up call and I think action will be taken.*” New energy sanctions imposed on Russia will affect the European Union economically, environmentally and

politically as the realization of the fracking technology breeds grassroots awareness in Europe's already fragile state.

European leaders are not interested in democracy for the Ukrainian people or in their own countries economic woes; it is interested in profits that would generate jobs and growth. The UK based 'The Independent' reported in 2012 what Lord Browne, a former BP chief executive, who is a director of the shale gas "fracking" company Cuadrilla said regarding shale gas fracking "We could potentially double the reserves of gas in the UK, we could add 50,000 jobs maybe, and probably even reduce the price of gas." In an article released by www.ecowatch.com in 2013, disagrees with the shale gas fracking industry's assessment on job creation. "Industry supporters have exaggerated the jobs impact in order to minimize or avoid altogether taxation, regulation and even careful examination of shale drilling" said Frank Mauro, executive director of the Fiscal Policy Institute in New York" according to the article:

Shale drilling has created jobs, particularly in Pennsylvania and West Virginia, and cushioned some drilling-intensive areas in those states from the worst effects of the Great Recession and the weak recovery. As this report documents, however, the number of shale jobs created is far below industry claims and remains a small share of overall employment

Fracking will be at the expense of local communities throughout Europe that would eventually lead to violent demonstrations against their governments who are interested in corporate profits over the people and the environment. Sanctions on the resource rich Russian Federation will backfire on the citizens of the European Union most of all. The US-EU plan to surround Russia with American and NATO bases over the crisis in the Ukraine is not the only intended goal. It also supports the idea to force the European community to accept shale gas fracking as an alternative right under their feet without depending on Russia's natural resources. How convenient!

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