

United States Senate

WASHINGTON, DC 20510

August 5, 2020

Harm Sievers, Managing Director of Mukran Port
Fährhafen Sassnitz GmbH
Im Fährhafen 20
18546 Sassnitz / Neu Mukran
Germany

Fridjof Ostenberg, Legal Director of Mukran Port
Fährhafen Sassnitz GmbH
Im Fährhafen 20
18546 Sassnitz / Neu Mukran
Germany

Dear Messrs. Sievers and Ostenberg:

Fährhafen Sassnitz GmbH operates Mukran Port, which is knowingly providing significant goods, services, and support for the Nord Stream 2 project, including by provisioning vessels for the project. Mukran Port stores Nord Stream 2 pipes and provisions the Russian-flagged vessels Fortuna (IMO: 8674156, MMSI: 273395690) and Akademik Cherskiy (IMO: 8770261, MMSI: 273399760), after officials from the Russian Federation publicly and repeatedly indicated they intend to use one or both of these vessels to complete the Nord Stream 2 project.

This letter serves as formal legal notice that these goods, services, support, and provisioning risk exposing Fährhafen Sassnitz GmbH and Mukran Port, as well as your board members, corporate officers, shareholders, and employees, to crushing legal and economic sanctions, which our government will be mandated to impose. These sanctions include potentially fatal measures that will cut off Fährhafen Sassnitz GmbH from the United States commercially and financially. The only responsible course of action is for Fährhafen Sassnitz GmbH to exercise contractual options that it has available to cease these activities.

There is a broad array of U.S. sanctions and guidance targeting the Nord Stream 2 project, reflecting years of bipartisan, bicameral, and interbranch efforts and constituting a whole-of-government consensus that the pipeline must be stopped.

On December 20, President Trump signed into law the National Defense Authorization Act (NDAA) for Fiscal Year 2020. Title LXXV of the bill, the Protecting Europe's Energy Security Act of 2019 (PEESA), requires that the President impose broad sanctions on foreign persons or companies involved in providing vessels for the installation of deep-sea pipeline for the Nord Stream 2 project. The sanctions are mandatory and there is no discretion in imposing them.

United States Senate

WASHINGTON, DC 20510

On July 15, Secretary of State Pompeo announced that the U.S. considers support for the construction of Nord Stream 2 to be sanctionable pursuant to Section 232 of the Countering America's Adversaries Through Sanctions Act (CAATSA), which authorizes sanctions on persons or companies that provide "goods, services,... or support" "for the construction of Russian energy export pipelines," which is ultimately owned by Gazprom. In testimony to the Senate Foreign Relations Committee later that month, Sec. Pompeo confirmed that the "reason that we made that change in that language" regarding CAATSA was because the United States is "fully intent [on] sanctioning those that violate the provisions that are there, both in CAATSA and otherwise," which prohibit involvement in the Nord Stream 2 project.

On July 23, the U.S. Senate passed its version of the NDAA for Fiscal Year 2021. The bill clarifies and expands PEESA by requiring sanctions against persons or companies that engage in any pipe-laying activities for the construction of Nord Stream 2, that facilitate providing vessels for such activities, or that provide insurance or certain services for those vessels. As with the prohibitions described in the FY20 NDAA, the sanctions are mandatory and there is no discretion in imposing them.

Your provisioning of the Fortuna or Akademik Cherskiy will certainly have become sanctionable the instant that either vessel dips a pipe into the water to construct the Nord Stream 2 pipeline, or engages in any pipe-laying activity relevant to the project, but your exposure extends to any activities related to goods, services, or support of the pipeline. The law requires that "the President shall" issue the designations.

The board members, corporate officers, and shareholders of Fährhafen Sassnitz GmbH will be prohibited from entering the United States, and any property or interests in property they have within our jurisdiction will be frozen. Any property or interests in property that Fährhafen Sassnitz GmbH has within United States jurisdiction will also be frozen, as will any future property that comes into our jurisdiction, including any transactions that pass through our financial system. In fact, all American persons and companies will be forbidden from engaging in any transactions with any of those persons or with Fährhafen Sassnitz GmbH, including exporting goods through Mukran Port or importing goods from Mukran Port, or insuring ships that conduct such activities. Fährhafen Sassnitz GmbH and its board members, corporate officers, shareholders, and employees will be cut off from the United States.

These sanctions are not just mandatory but immediate. Under some scenarios, the law contemplates good faith wind-down periods when ongoing sanctionable activities were ceased immediately after the passage of sanctions. However, in your case, against the backdrop of multiple Congressional statutes and guidance from our government, and of Russian declarations that they intend to use the Fortuna or Akademik Cherskiy to finish construction of Nord Stream 2, it is difficult to envision any good faith exemptions.

United States Senate

WASHINGTON, DC 20510

The U.S. government knows that the Nord Stream 2 pipeline is near completion and considers it a grave threat to European energy security and American national security. Investments in and support of the pipeline moreover introduce risks to the hygiene of the U.S. financial system and reputational risks to all companies involved in related transactions, including any American companies. The administration and Congress, and both parties, are united in their commitment to ensure that the pipeline remains uncompleted and those threats are never realized.

The Russian Federation has expressed its willingness to tolerate sanctions on its ships and companies to complete the Nord Stream 2 pipeline. Russian officials assess that the economic and geopolitical windfalls from the pipeline are worth the cost. They also believe that sovereign immunity and raw economic power insulate them from potential legal liability.

The calculations that Fährhafen Sassnitz GmbH must make are different. If you continue providing goods, services, and support for the Nord Stream 2 project, including by provisioning the Fortuna and Akademik Cherskiy, you would destroy the future financial viability of your company. In the meantime, you would devastate your shareholders' value and surely face billions of dollars in shareholder derivative suits for your breach of fiduciary duty.

We urge you to take immediate action to prevent these scenarios.



Ted Cruz
United States Senator



Tom Cotton
United States Senator



Ron Johnson
United States Senator