



## Antitrust: Commission opens investigation into restrictions to the free flow of gas sold by Qatar Petroleum in Europe

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Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Energy should flow freely within Europe, regardless of where it comes from. We have opened an investigation to look at whether there are problematic territorial restriction clauses in gas supply contracts with Qatar Petroleum. Such clauses may harm competition and prevent consumers from enjoying the benefits of an integrated European energy market."*

Qatar Petroleum is the largest exporter of LNG globally and to Europe, controlling several companies that produce and export LNG to Europe. The Commission will further investigate whether Qatar Petroleum's long-term agreements (typically 20 or 25 years) for the supply of LNG into the EEA contain direct and/or indirect territorial restrictions.

In particular, certain clauses contained in these agreements appear to, directly or indirectly, restrict the EEA importers' freedom to sell the LNG in alternative destinations within the EEA. For example, some contractual clauses prevent any diversion of cargoes to another destination or restrict the territories to which diversion can take place or the volumes that can be diverted. As a result, these clauses may unduly limit the free flow of LNG sold by Qatar Petroleum in the EEA, segmenting the EU's internal gas market.

If proven, such practices may breach EU antitrust rules, specifically on anticompetitive agreements between companies ([Article 101](#) of the Treaty on the Functioning of the European Union (TFEU)) and/or on the abuse of a dominant market position ([Article 102](#) TFEU) and Article 53 and/or 54 of the Agreement on the EEA.

The Commission will now carry out its in-depth investigation as a matter of priority. An opening by the Commission of a formal investigation does not prejudice its outcome.

### Background

Qatar Petroleum is the largest supplier of LNG in Europe, accounting for around 40% of the EU's overall LNG imports and significantly higher import shares in certain Member States.

The EU courts and previous Commission precedents have already applied the principle that contracts that restrict the territory into which the buyers can sell products have as their object the restriction of competition within the meaning of Article 101 TFEU. In the gas sector, these principles were established, *inter alia*, in the Commission's decisions in [GDF/ENI](#) and [GDF/ENEL](#).

Most recently, in the [Gazprom](#) case, the Commission investigated, under Article 102 TFEU, territorial restrictions in the gas sector in the form of export bans and destination clauses. The Commission established binding commitments on Gazprom that aim at enabling the free flow of gas at competitive prices in the Central and Eastern European gas markets.

The investigation into Qatar Petroleum's LNG supply agreements complements the Commission's [efforts](#) to remove territorial restrictions in the EU, contributing to the development of a fully-integrated EU energy market.

The Commission has also recently published the [Follow-up Study on LNG and Storage Strategy](#), commissioned in December 2016, which identifies, among other issues, destination clauses in LNG contracts as a significant barrier to liquidity and competitiveness of the gas sector.

## Procedural background

Article 101 TFEU prohibits anticompetitive agreements and concerted practices and [Article 102 TFEU](#) prohibits the abuse of a dominant market position which may affect trade between Member States. The implementation of these provisions is defined in the EU Antitrust Regulation (Council Regulation No 1/2003), which can also be applied by national competition authorities.

Article 11(6) of the Antitrust Regulation provides that the initiation of proceedings by the Commission relieves the competition authorities of the Member States of their competence to also apply EU competition rules to the practices concerned. Article 16(1) of that Regulation provides that national courts must avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated.

There is no legal deadline for bringing an antitrust investigation to an end. The duration of an investigation depends on a number of factors, including the complexity of the case, the cooperation of the undertakings with the Commission and the exercise of the rights of defence.

More information on the investigation will be available on the Commission's [competition website](#), in the public [case register](#) under the case number [AT.40416](#).

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