

**Question for written answer P-5079/2010
to the Commission**

Rule 117

Sławomir Witold Nitras (PPE)

Subject: Deterioration in the conditions of access to the port of Szczecin-Świnoujście as a result of the decision on the route of the Nord Stream gas pipeline

On 28 December 2009 the German Federal Office for Shipping and Hydrography (*Bundesamt für Seeschifffahrt und Hydrographie* - BSH) in Hamburg approved an application from Nord Stream AG, based in Switzerland, to build and operate two parallel high-pressure gas pipelines in the German continental shelf area of the Baltic Sea. Despite applications having been submitted for the gas pipeline to be buried in the seabed, the BSH decided against it being buried at the disputed location. This could lead in future to transit restrictions for the port of Szczecin-Świnoujście as large-draft ships would no longer have access.

In accordance with the established case-law of the ECJ, and taking into account the fundamental role of the free movement of goods under the Community system, particularly as regards the proper functioning of the internal market, Member States are required to guarantee the free movement of goods in their territory by adopting the necessary and appropriate measures to prevent any obstacles whatsoever. That obligation applies irrespective of whether the actions concerned affect the import, export or transit of goods (see the judgment of the ECJ of 12 June 2003 in case C-112/00 Eugene Schmidberger). In light of the above:

1. Does the Commission consider that the decision taken by the German public authority could constitute a violation of the free movement of goods insofar as it worsens the potential conditions of transit to the port of Szczecin-Świnoujście?
2. Might the related restriction on the possibility to engage in service activities through the port of Szczecin-Świnoujście constitute a restriction on the freedom to provide services?
3. Are the rules prohibiting restrictions on these freedoms directly applicable and are the Member States' authorities required to apply them automatically?