

# Naftogaz experience in Arbitration

13 September, 2019

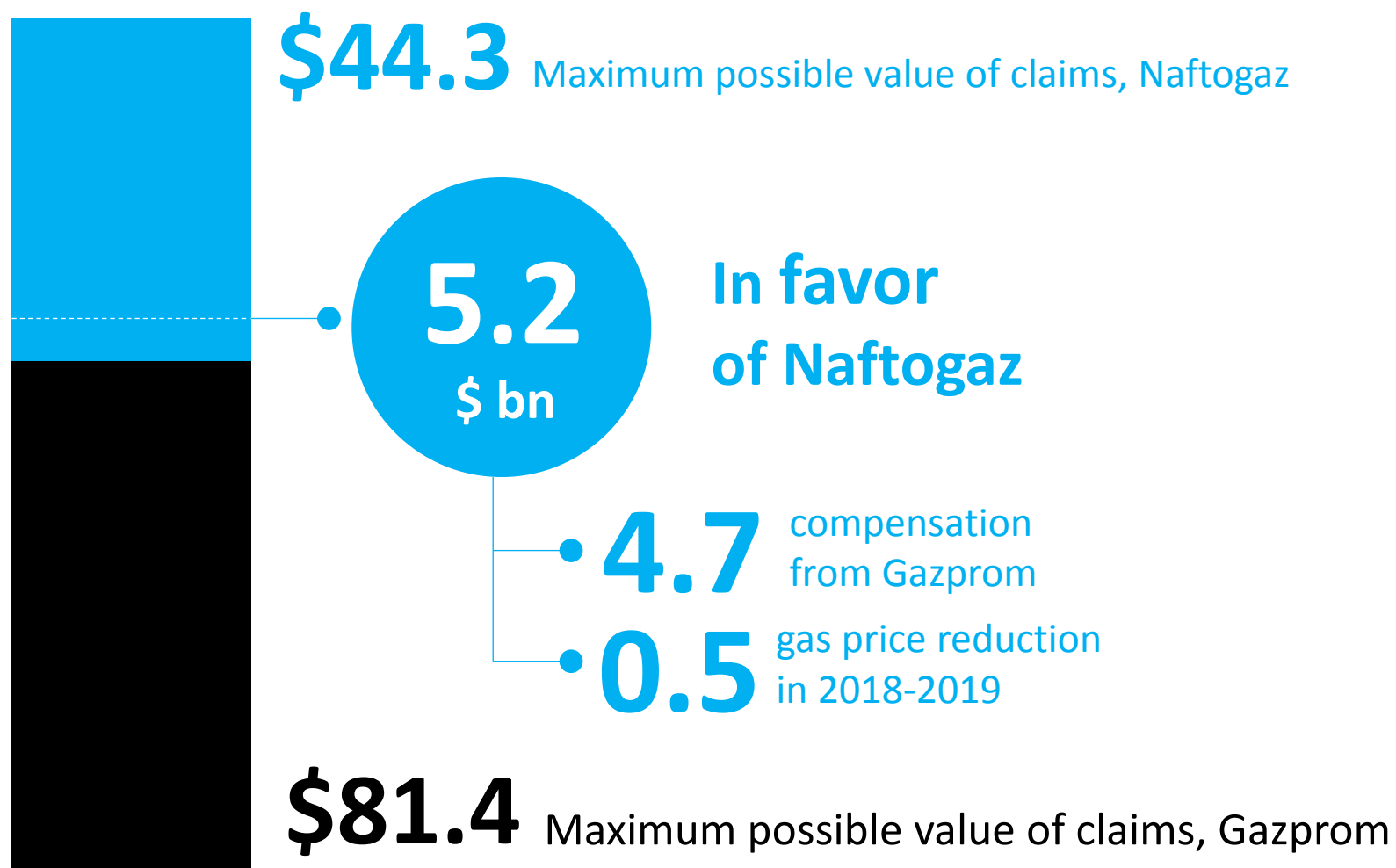


# Winning the biggest ever commercial arbitration



\* The amount includes all actual pecuniary claims by Gazprom under the take-or-pay clause in 2012-2016; the effect of applying the take-or-pay clause in 2017-2019; the effect of applying the initial contract gas price in April 2017-2019 instead of the price revised by the tribunal; and the payment for volumes delivered in the first half of 2014 but not paid upon the offtake, according to the evaluation as of the date of the final award in the transit case rendered on 28 February 2018.

# Arbitration summary: Naftogaz wins





# Arbitration update

- At present, Gazprom owes Naftogaz nearly **\$2.9 bn**
- Naftogaz enforces the award in the Netherlands, England, Switzerland and several other jurisdictions
- In spring 2018, Gazprom initiated a new arbitration
- Naftogaz followed with a claim to revise transit tariff; Gazprom blocks utilization of the system by other potential users
- Claims of Naftogaz in the ongoing arbitration: **\$11-14 bn**



# Monetary value of Naftogaz's claims in new arbitration against Gazprom is estimated at up to 14.8 USD bn

- The existing transit contract allows the parties to request a revision of the tariff in case of significant changes in the European gas market and if the tariff does not correspond to the level of tariffs in Europe. Based on these triggers, in particular the changes in the rules for setting transit tariffs, Naftogaz submitted a tariff revision request to Gazprom in March 2018, triggering negotiations pursuant to the contract.
- Gazprom has not been constructive in the negotiations, compelling Naftogaz to refer the matter to arbitration according to the contract.
- On 20 April 2018 Gazprom filed a Request for Arbitration requesting revision or, alternatively, setting aside of the specific provisions of the Gas Transit and Gas Sales Contracts because of alleged imbalance between the parties' obligations following previous arbitrations. Naftogaz rejected Gazprom's claims and raised its counterclaims.

## Estimated maximum monetary value of Naftogaz's claims, USD mln

Tariff revision claim	14 400
'Under-delivery' claim in respect of transit volumes in Q1'2019	200
Damages from Gazprom's breach of delivery obligations under the Sales Contract	~200
Damages related to Gazprom's failure to maintain transit flows within the allowed limits	32
<b>Total</b>	<b>14 832</b>

The difference between estimated cost-reflective tariff and factual tariff paid by Gazprom under the Transit Contract, for the period from March 13, 2018 until December 31, 2019

The difference between contractual and factual transit volumes for the period from January 1, 2018 until March 13, 2018, multiplies by the factual tariff paid by Gazprom under the Transit Contract (adjusted for fuel gas savings)

The difference between the factual price of gas imported by Naftogaz in 2018-2019 and revised price under the Sales Contract with Gazprom, equal to price on European gas hub (based on revised contractual volumes of the Sales Contract).