

Request for adapted implementation: Ukraine

For decision

For discussion

For information

Recommendation:

The Implementation Committee recommends that the Board accepts the Ukrainian multi-stakeholder group's request for adapted implementation with respect to coverage of extractive industries in the Donetsk and Luhansk oblasts of Ukraine and Crimea.

The application was made because the Government of Ukraine is not able to compel companies and local government agencies in these areas to participate in the EITI process. The government and multi-stakeholder group have committed to ongoing efforts to ensure that EITI Reports are as comprehensive as possible.

REQUEST FOR ADAPTED IMPLEMENTATION: UKRAINE

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1 Recommendation

The Implementation Committee recommends that the Board takes the following decision:

The EITI Board accepts the Ukrainian multi-stakeholder group’s request for adapted implementation with respect to coverage of extractive industries in the Donetsk and Luhansk regions and in Crimea. The request applies to the 2016 and 2017 EITI Reports.

The EITI Standard allows for adapted implementation “where the country faces exceptional circumstances that necessitate deviation from the implementation requirements” ([Requirement 8.1](#)). In taking this decision, the EITI Board notes the ongoing conflict in the region, and that the government is currently not able to compel companies and local government agencies in these regions to participate in the EITI process.

The EITI Board welcomes the commitment from the government and the multi-stakeholder group to continue to engage with companies and government agencies with activities in these regions with a view to ensuring full disclosure of information required by the EITI Standard.

Where comprehensive information is not obtained from these entities, the multi-stakeholder group is expected to include links to other publicly available sources of information.

It is a requirement that there continues to be full unilateral disclosure of any revenues received by the Government of Ukraine from companies and local government agencies in these regions. The 2016 and 2017 EITI Reports should include an assessment of the comprehensiveness of the information, highlighting any gaps in the information available.

2 Background

2.1 Extractive industries in Ukraine

The conflict with Russia in Eastern Ukraine has exhausted the country economically. Ukraine has had to reduce its overall energy consumption and diversify its suppliers. In 2015, the JSC Naftogaz Ukraina ceased buying gas from Russia leading to a greater confrontation and banned imports of Ukrainian goods. In 2017, Ukraine imported gas from 15 European suppliers. Ukraine could develop its own hydrocarbon reserves, such as shale gas deposits, and improve exploitation of its oil and natural gas reserves. However, political and economic instability has deterred investment.

Petroleum production in Ukraine consists of 89% natural gas, 7.9% oil, and 3.1% of gas condensates. The majority of this sub-sector's activities is maintained within three regions; the Dnipro-Donetsk basin, the Carpathian region in western Ukraine, and the Black Sea and Crimea region in the south. Government revenues in 2015 from petroleum companies, which were reconciled in the 2014-15 EITI Report, accounted for 77% of total reconciled revenues. Coal accounted for about 11%, while the metal ores (iron, manganese and titanium) accounted for 12%. The coal industry contributes significantly to the government's budget, although it is heavily reliant on subsidies. This is partly due to the sector employing more than 122 000 people (in 2015), 56 000 of which are employed by state-owned enterprises, making the sector of high importance for the population. Also, there are significant challenges for the sub-sector as about 57% of all mines are located in the Donetsk and Luhansk regions – the regions which are most central in the on-going conflict between Russia and Ukraine.

The energy sector is inefficient and one of the key development challenges for the government. State-owned enterprises' governance remains an outstanding issue. Although government financing of JSC Naftogaz Ukraina has dropped significantly, there are significant delays in unbundling and privatising SOEs. Another challenge is reducing gas imports. Being a major gas-producing nation, Ukraine has started to roll back excessively low gas/heating prices which are beginning to stabilise domestic consumption. Based on the Resource Governance Index by the Natural Resource Governance Institute (NRGI), Ukraine scores a weak 49 out of 100 points and ranks 44th among 89 countries that were assessed¹.

2.2 EITI in the Donetsk, Luhansk and the Crimea Peninsula

Ukraine was admitted as an EITI candidate in October 2013. The government has produced two EITI reports covering the fiscal years 2013-2015. As per the MSG's workplan, Ukraine's EITI reporting covers the mining, oil and gas sectors as well as gas transit. In preparing the 2013 EITI Report, there were no obstacles related

¹ <https://resourcegovernance.org/sites/default/files/documents/2017-resource-governance-index.pdf>

to the conflict zone in the East. The military conflict in Donetsk and Luhansk regions started in April 2014² after annexation of the Crimean Peninsula, leading to self-proclamation of people's republics on these territories. The Government of Ukraine has declared both the Donetsk and Luhansk regions as a zone of anti-terrorist operation. Therefore, the MSG applied for adapted implementation to the EITI Board with respect to the coverage of reporting on extractive activities in the Donetsk and Luhansk regions and annexed Crimea for the 2014 and 2015 fiscal years.

Unfortunately, the situation with the conflicted territories of Donetsk and Luhansk regions, where 57% of coal production takes place, has not changed much. Since the conflict started in 2014, coal consumption has dropped leading to decrease in mining activities around the country. According to the 2014-15 EITI Report³, coal mining companies reduced production volumes by 62%. According to the National Institute of Strategic Studies⁴ the coal production in Donetsk and Luhansk regions has dropped from 83,6 billion tons in 2013⁵ to 39,7 billion tons in 2015, which is 57% of total coal extraction. In addition to this, one of the biggest coal producers in Ukraine – the DTEK Group – in March 2017 announced the loss of control over its mining companies, operating in Donetsk and Luhansk regions⁶.

Besides disclosure of revenues, the situation will have implications for meeting EITI provisions related to production and export data, licenses, civil society participation and public debate as the required information related to extractive industries offshore of the Crimea Peninsula are not accessible. The Scoping Study for 2016 EITI Report identified significant obstacles⁷ in gathering information from both regions. The study confirms that in 2016 the uncontrolled parts of Donetsk and Luhansk regions and temporarily occupied territory of Crimea were partially or completely uncontrolled by the Government of Ukraine, and a number of enterprises shut down or suspended their activities. Self-proclaimed local administrations in Donetsk and Luhansk and companies working in the area ignored requests to provide data in accordance with the EITI Standard.

On 22 February 2017, the multi-stakeholder group added the re-submission of an adapted implementation request for the 2016-17 EITI reports to its workplan, anticipating challenges with regards to Donetsk and Luhansk regions. Based on the evidence from the 2016 Scoping Study, completed in December 2017, the multi-stakeholder group decided to submit an adapted implementation request to the EITI Board.

3 Relevant rules and precedents

Requirement 8.1 of the EITI Standard outlines the scope for multi-stakeholder groups (MSGs) to request “adapted implementation” of the EITI Standard:

² <http://www.telegraph.co.uk/news/worldnews/europe/ukraine/10767005/Ukraine-launches-anti-terrorist-operation-in-the-east.html>

³ The 2014-15 EITI Report is available in Ukrainian and English <https://eiti.org/document/20142015-ukraine-eiti-report>

⁴ National Institute for Strategic Studies was established by the Order of the president of Ukraine #127. The institute is mandated by the President of Ukraine and is defined as a basic scientific and study institution for analytical and prognostic support of President's functions. Web page of the Institute: <http://www.niss.gov.ua/presentation.html>

⁵ <https://www.epravda.com.ua/news/2014/01/13/414238/>

⁶ DTEK's statement over the loss of its mining companies <http://dtek.com/en/media-center/press/dtek-zayavlyaet-o-potere-upravleniya-predpriyami-raspolozhennymi-na-vremenno-nekontroliruemoy-territorii-donetskoy-i-luganskoy-oblasti/>

⁷ The 2016 EITI Scoping Study, pp.26-28, available in Ukrainian.

“Should the multi-stakeholder group conclude that it faces exceptional circumstances that necessitate deviation from the implementation requirements, it must seek prior EITI Board approval for adapted implementation. The request must be endorsed by the multi-stakeholder group and reflected in the work plan. The request should explain the rationale for the adapted implementation. The EITI Board will only consider allowing adaptations in exceptional circumstances. In considering such requests, the EITI Board will place a priority on the need for comparable treatment between countries and ensuring that the EITI Principles are upheld, including ensuring that the EITI process is sufficiently inclusive, and that the EITI Report is comprehensive, reliable and will contribute to public debate”

This provision recognises that implementing countries may face a wide range of constitutional and practical challenges in disclosing information about extractive industry activities that are not fully controlled by the implementing state. The provision highlights the need to ensure that “the EITI Principles are upheld, including ensuring that the EITI process is sufficiently inclusive, and that the EITI Report is comprehensive, reliable and will contribute to public debate”.

An adapted implementation request from Iraq was approved by the Board in April 2014⁸, excluding sub-national payments made to the autonomous region controlled by KRG. The São Tomé and Príncipe adapted implementation request on disclosures in the Joint Development Zone⁹ was approved by the Board in February 2016. The Ukrainian case is similar, since the government does not control the regions in question. The Board previously approved a request from Ukraine for adapted implementation in October 2016 pertaining to the 2014-15 EITI reports¹⁰.

4 Overview of Ukraine’s request for adapted implementation

In the adapted implementation request, the multi-stakeholder group requests that the possible lack of comprehensive information on the Donetsk and Luhansk regions and Crimean Peninsula would not be held against Ukraine in Validation. The request argues that the government and the multi-stakeholder group are not able to oblige the self-proclaimed authorities at territories of Donetsk and Luhansk regions and Crimean Peninsula or the companies operating there to submit information for EITI Reports. The request states that the government and multi-stakeholder group will continue their efforts to obtain the data from the conflict zone and include them to the EITI Report.

The timely publication of the 2013 and 2014-15 EITI Reports under exceptionally challenging economic, political and military circumstances and other efforts undertaken by the Government of Ukraine and the multi-stakeholder group to comply with the EITI Standard over the last four years demonstrate significantly positive progress in implementing the EITI.

Under the adapted implementation request pertaining to the 2014-15 EITI Report, Ukraine was asked to (1) continue to engage with companies and government agencies with activities in these regions; (2) ensure

⁸ The adapted implementation request from Iraq was approved through Board Circular 167, which was issued on 1 April 2014. The assessment is available on the internal website ([Implementation Committee paper 23-3](#)).

⁹ The Board approved the adapted implementation request from São Tomé and Príncipe on 32nd Board meeting in Lima, the details on decision are available in the minutes online <https://eiti.org/node/7200>

¹⁰ The Board approved the adapted implementation request from Ukraine on 35th Board meeting in Atana, the details on decision are available in the minutes [online](#)

that the EITI Report include links to other publicly available sources of information where information from the entities in the region was not provided; and (3) ensure full unilateral disclosure of any revenues received by the Government of Ukraine from companies and local government agencies in these regions. With regards to continues engagement with companies in Donetsk and Luhansk regions, the Independent Administrator, Ernst and Young, send out reporting requests to 97 extractive companies under the EITI scope, including those companies operating in the conflict regions. One of the biggest coal producers, the DTEK Group, provided full revenue data on its operations in Donetsk and Luhansk regions in 2014-2015, enabling to cover 93.9% of the government revenues from the coal sub-sector in 2015.

With regards to including links to other publicly available sources of information, the EITI Report refers to the reports and statements of the Ministry of Energy and Coal Industry¹¹, and to the annual reporting, including financial statements, of the DTEK Group¹².

With regards to ensuring full unilateral disclosure of any revenues received by the Government of Ukraine from companies and local government agencies in these regions, the 2014-15 EITI show that the sole collector of tax and non-tax revenues in Ukraine, the State Fiscal Service, has provided full unilateral disclosure of total income, including from non-reporting companies, for each material revenue stream. In addition to this, table 5.12-2 of the 2014-15 EITI Report provides data on tax revenues from extractive industries disaggregated by regions, including Donetsk and Luhansk¹³. In terms of gaps and omissions, the EITI Report could not provide specific comments towards assessing the comprehensiveness of government ownership due to the lack of information regarding the regions which are affected by the EITI Board-approved Adapted implementation request.

5 Assessment of Ukraine’s request for adapted implementation

The Secretariat has assessed Ukraine’s Multi-Stakeholder Group’s request for adapted implementation in accordance with requirement 8.1. Table 1 addresses five aspects or criteria cited in Requirement 8.1 of the EITI Standard.

Table 1 – Assessment of the Ukrainian request for adapted implementation

Criteria	Secretariat’s Assessment
1. The request must be endorsed by the multi-stakeholder group and reflected in the workplan.	<p>The request is from the MSG, signed by deputy Chair Olena Pavlenko. The International Secretariat has confirmed that the MSG has approved the draft request and is expected to formally endorse the final request on 18 January.</p> <p>After the MSG received the scoping study and the 2016 inception Report in December 2017, the application was prepared by the national secretariat and shared with the MSG members for comments and approval.</p> <p>Ukraine’s 2017 work plan makes a specific reference to seeking</p>

¹¹ http://mpe.kmu.gov.ua/minugol/control/publish/article?art_id=244964062

¹² http://dtek.com/investors_and_partners/reports/

¹³ 2014-15 EITI Report, p. 114-115 <https://eiti.org/document/20142015-ukraine-eiti-report>

	adapted implementation. The workplan is currently being updated.
2. Must seek prior EITI Board approval.	The application has been made in advance of Ukraine’s 2016 EITI Report based on evidence from the scoping study undertaken to inform the coverage of the 2016 EITI Report.
3. The request should “explain the rationale for the adapted implementation”, and the “exceptional circumstances that necessitate deviation from the implementation requirements”.	The request provides an account of the challenges and efforts associated with complying with the Standard regarding the conflict zone. The rationale behind the request is clear vis-à-vis the practical barriers in obtaining information from regions and entities that are not under the authority of the Government of Ukraine.
4. The need for comparable treatment between countries.	As noted above, previous adapted implementation requests from Iraq, Sao Tome and Ukraine have been granted and provide relevant precedents.
5. Ensuring that the EITI Principles are upheld, including ensuring that the EITI process is sufficiently inclusive, and that the EITI Report is comprehensive, reliable and will contribute to public debate.	The Secretariat’s view is that the proposed approach is pragmatic and in line with the EITI Principles. The government and multi-stakeholder group have committed to ongoing efforts to ensure comprehensive reporting.

6 Conclusion

The Secretariat’s assessment is that the request sufficiently demonstrates the exceptional circumstances in Ukraine.

The Secretariat therefore recommends that the Board approves the adapted implementation request for the EITI Reports covering years 2016 and 2017, after which the situation should be reviewed and a new request for adapted implementation submitted if necessary.

The Secretariat recommends that the Board’s decision specifies that the multi-stakeholder group continues to undertake efforts to ensure the disclosure of any revenues received by the Government of Ukraine or any contextual information available from the Donetsk and Luhansk regions according to the EITI Standard.

Annex A – Request for adapted implementation (English)

To Mr Fredrik Reinfeldt, Chair of the EITI International Board

Request for adapted implementation

Dear Mr Reinfeldt,

Please allow me to address you on behalf of the EITI Ukraine multi-stakeholder group (MSG) on a subject which is of utmost importance for the EITI implementation in Ukraine.

As you know, Ukraine joined the EITI in 2009 and became a candidate country in 2013. After the Revolution of Dignity, the Ukrainian Government confirmed its readiness to the EITI implementation and despite the Annexation of Crimea by Russia and the hostilities in Donbas, the country made considerable progress in the EITI implementation. In particular,

- Two EITI reports have been published covering the coal and metal ore mining sectors as well as oil and gas extraction and transportation in 2013-2015; the scope of reports has been considerably broadened.
- The legal framework for the EITI implementation in Ukraine has been established by adopting the Law of Ukraine No. 521-VIII "On the amendments to certain legislative acts of Ukraine with regard to ensuring the extractive industries transparency" dated 16 June 2015, and the Decree of the Cabinet of Ministers of Ukraine No. 1039 "On the approval of the Procedure to ensure the extractive industries transparency" dated 2 December 2015. The joint efforts of the public and the key parties in the extractive industry resulted in the development and registration of the Draft Law of Ukraine "On ensuring the extractive industry transparency" in the Verkhovna Rada (Supreme Council) of Ukraine.
- Ukraine became the first country with a functioning open register of beneficial owners <https://usr.minjust.gov.ua/ua/freesearch>, which was made possible due to the adoption of the relevant legal framework. Moreover, the Ministry of Justice of Ukraine has recently established a working group on the implementation of the mechanism to verify information about the beneficial owner ("controller"); the working group was joined by Oleksiy Orlovsky, member of Ukraine's MSG and the International EITI Board.
- During 2015-2017, over 100 actions devoted to EITI have been carried out in Ukraine, with a significant regional focus.

The preparation of Ukraine's third EITI Report is currently under way, and in particular the gathering of required information has been started. As in the previous year, the fighting against illegal armed groups as well as active hostilities is still taking place in some parts of Luhansk and Donetsk oblasts, which hinders the functioning of enterprises or has already determined their destruction. Therefore, access to a considerable part of the enterprises situated on Ukraine's temporarily uncontrolled territory in the Anti-Terrorist Operation (ATO) zone is difficult and there's a lack of information on their activities, which does not allow to cover them fully according to the scope required by the Standard.

Last year, the MSG informed the Board in a letter about the exceptional conditions which had arisen in the Eastern Ukraine, provided detailed data regarding the number of enterprises

(including the coal industry) which remained in the aforementioned territories (attached hereto), and addressed the Board with a request for adapted implementation of the EITI Standard for the second and third reports according to the Requirement 8.1. of the EITI Standard. The Board approved the submitted request during its meeting in Astana and gave permission to apply adapted implementation with regard to the reports covering 2014 and 2015.

Unfortunately, the situation has deteriorated in the last year. For example, the company "DTEK", which had accounted for about 70% of the overall coal production in Ukraine, lost its assets. More information on the issue can be found by accessing the following links: <http://nct.dtek.com/> and <http://nct.dtek.com/media-center/dtek-zayavlyaet-o-potere-upravleniya-predpriyatiyami-raspolozhennymi-na-vremenno-nekontroliruemoy-territorii-donetskoy-i-luganskoy-oblasti/>. In addition, the Security Service of Ukraine strongly recommends refraining from any contacts with enterprises located on Ukraine's temporarily uncontrolled territories.

The facts mentioned make it impossible to obtain any information from the enterprises located in the Anti-Terrorist Operation (ATO) zone, which significantly affects the preparation of a part of the third EITI Report. The conclusions mentioned above have also been confirmed by the results of the technical and economical evaluation prepared by the independent administrator company ("Ernst and Young Audit Services" LLC), the corresponding document is attached hereto.

It should be noted that it is also impossible to obtain data from the enterprises located in Crimea, annexed by Russia. Most of these enterprises operate in the field of gas and oil extraction at sea.

We hereby apply for the Board's approval of the adapted implementation for EITI Reports covering the years 2016 and 2017 and also request to take into consideration the situation in Donetsk and Luhansk oblasts when evaluating compliance with the EITI Standard, in particular, during the process of Validation.

Therefore, summarising the aforementioned information and according to the decision taken by the MSG, we ask to consider the adapted implementation with regard to the Requirement 8.1. of the EITI Standard. We hope that the EITI Board will approve our request considering the current situation in the country. At the same time, we would like to assure you that we will keep taking all the steps aimed at obtaining data from the ATO zone and incorporating them in Ukraine's EITI Report to ensure that it is comprehensive and complies with the EITI requirements.

Yours faithfully,
MSG Deputy Head
O. Pavlenko

Annex B – Extract from the 2016 Scoping Study

3.4. Disclosure of information by business entities from the Anti-Terrorist Operation (ATO) zone and from the provisionally occupied territory

We expect considerable difficulties in obtaining the information from extractive industry enterprises, which are located or carried out their activities in the ATO zone and on the provisionally occupied territory, as well as from national and local government bodies, state owned and municipal enterprises, institutions and organisations, which were located in the ATO zone and on the provisionally occupied territory, with regard to payments made by such companies.

Provisionally occupied territory regime:

- In accordance with the Law of Ukraine "On ensuring the rights and freedoms of the citizens and the legal regime on the provisionally occupied territory of Ukraine", the territory of the Autonomous Republic of Crimea (hereinafter referred to as "Crimea") and the city of Sevastopol have been a provisionally occupied territory since 20 February 2014.
- In accordance with the Law of Ukraine "On the establishment of the free economic zone "Crimea" and on the specifics of carrying out business activities on the provisionally occupied territory of Ukraine" (hereinafter referred to as the "FEZ Law"), the free economic zone "Crimea" is established for a period of 10 years on the territory of Crimea, and the city of Sevastopol (hereinafter referred to as the "FEZ "Crimea").
- On the territory of the FEZ "Crimea", a special legal regime of business activities is in effect for individuals and legal entities, including a special application procedure of regulatory, tax and customs statutory provisions of Ukraine.
- In accordance with Article 5 of the FEZ Law, the national taxes and duties, as well as the duty for obligatory state pension insurance are not imposed on the territory of the FEZ "Crimea". Local taxes and duties may be imposed on the territory of the FEZ "Crimea".
- In accordance with Article 12 of the FEZ Law, the persons (individuals and legal entities), which were registered with supervisory bodies or were located (or based) on the territory of Crimea or the city of Sevastopol as at the beginning of the provisional occupation, are exempt from the obligation to submit to the supervisory bodies any declarations (except customs declarations), reporting and other documents relating to the calculation and payment of taxes and duties during the period of the provisional occupation and after its termination.
- The tax registration of persons located (or based) and registered with supervisory bodies on the territory of the Autonomous Republic of Crimea or the city of Sevastopol as at 31 May 2014 is regarded as cancelled from 1 June 2014. This tax registration may be renewed, in particular, after evacuation of the person to the other territory of Ukraine.
- Individuals and legal entities (separate subdivisions) having their tax address (location) on the territory of the FEZ "Crimea" are treated as non-residents for tax purposes.

ATO regime:

- In accordance with the Decree of the President "On the decision of the National Security and Defence Council of Ukraine dated 13 April 2014 'On immediate actions to address the terrorist threat and preserve the territorial integrity of Ukraine'", the Anti-Terrorist Operation ("ATO") has been carried out since April 2014 on some territories of Donetsk and Luhansk oblasts.
- It should be noted that in 2016, the enterprises from the ATO zone were not generally exempt from reporting, as well as calculation and payment of taxes and duties. Certain benefits have only been introduced with regard to the unified social contribution (paragraph 9-3, section 8 of the Law of Ukraine "On collection and accounting of the obligatory state social insurance") and rental charges for the use of public / municipal property as well as land fees in the ATO zone (articles 6 and 7 of the ATO Law).
- However, the taxpayers had the right (but were not obliged) to be re-registered in any other oblast of Ukraine or the city of Kyiv according to the procedure outlined in article 4 of Ukraine's ATO Law.

In 2016, the ATO territories and the provisionally occupied territory were partly or fully uncontrolled by the Ukrainian government, and a number of enterprises suspended or stopped their activities.

With reference to the above facts, it is very likely that the extractive enterprises located in the ATO zone:

- a) Could have stopped their activities without giving notice to the Ukrainian government bodies;
- b) Could be uninvolved in business activities in 2016 due to the ATO;
- c) Could have failed to submit their reporting / could have submitted their reporting with delays (which may have resulted in incompleteness and/or unreliability of such data) and could have failed to pay taxes to the budget of Ukraine;
- d) Could have lost access to a part of or all their financial/operational/tax data and documents for the year 2016;
- e) Could have changed their location without giving notice to the Ukrainian governmental bodies.

In addition, the possibility to contact those enterprises, which haven't been re-registered to the controlled territory of Ukraine, is very limited, and this may make it impossible to carry out procedures outlined in the Standard with regard to such enterprises.

The national and local government bodies as well as the state owned and municipal enterprises and institutions, which were re-located from the ATO zone, may also have problems regarding the technical possibility of providing information needed for carrying out the reconciliation check (e.g. if the information was lost or destroyed due to the ATO).

Therefore, we suggest considering the possibility to partly exclude the extractive industry enterprises with their major facilities located in the ATO zone from the scope of the analysis for the year 2016.

Annex C – DTEK’s statement on loss of control over its mines in the East

DTEK Zakhidenerho : 15/03 DTEK DTEK says that it has lost control over its companies located in the temporarily uncontrolled territory of Donetsk and Luhansk regions

03/16/2017 | 10:33am EST

Directors of the following DTEK’s companies: DTEK Mine Komsomolets Donbasa Private Joint-Stock Company (PrJSC), Mospino Coal-Preparing Enterprise LLC, DTEK Energougol ENE PrJSC, DTEK Skhidenergo LLC (stand-alone subdivision Zuyivska Thermal Power Plant), Public Joint-Stock Company (PJSC) "DTEK Donetskoblenergo", Tehrempostavka LLC, DTEK Sverdlovanthracite LLC, DTEK Rovenkyanthracite LLC, Elektronaladka LLC, DTEK Power Grid LLC and DTEK Service LLC, which are located in the temporarily uncontrolled territories of Donetsk and Luhansk regions, have been notified about the necessity to re-register the companies in the so-called Donetsk People’s Republic (DPR) and Luhansk People’s Republic (LPR) and take the inventory of their property.

From this moment, DTEK does not control the operation of the above mentioned companies. DTEK considers the demand to re-register its companies unacceptable and any form of pressure won’t force DTEK to change the jurisdiction of its assets.

"This recent development has been caused by the political conflict in Donbas region as a result of which the Ukrainian citizens, Ukrainian businesses and the entire national economy has been taken and continues to be held hostage," says [Maxim Timchenko](#), DTEK’s Chief Executive Officer. "The companies in the non-controlled territory constitute an integral part of the unified Ukrainian economic infrastructure. The disruption of the production chain would make their further operation impossible as Donbas mines do not have any other market to sale their coal, and any activities not within the Ukrainian legal framework would entail serious legal implications for all the buyers of the companies’ products and their suppliers of equipment and materials. This virtually means the termination of the companies’ activities, which would negatively affect the Ukrainians on the both sides of the contact line. Ultimately, this would dramatically decrease their income level and trigger the unemployment growth."

Over the three years of the armed conflict, DTEK’s companies have been operating in strict compliance with the Ukrainian legislation. In the last year alone, DTEK’s companies operating in Donetsk and Luhansk regions and registered in Ukraine paid over UAH 2 billion in taxes to the Ukrainian national budget. Ukrainian TPPs operated without any interruptions, which enabled to balance the energy system. 36,000 employees regularly received their salaries and social benefits.

"We have been fighting for retaining these companies in Ukraine's economic infrastructure for three years, but cannot ensure their sustainable operations any more. DTEK will try to do everything in its power not to leave our employees in need and will offer to them to be transferred and find employment with our other companies. I hope that the international judicial system and the primacy of the rule of law will allow DTEK to regain its control. Then, we will be able to resume the full-fledged operations," says Maxim Timchenko.

With regard to the loss of control over the above companies, DTEK has applied to the Ukrainian law enforcement bodies, the State Fiscal Service, tax bodies and governmental funds. To protect its interests under Ukrainian and international laws, DTEK has engaged legal firms.

Reference

DTEK ENERGY is an operational company in charge of coal production, electricity generation and distribution activities within energy holding company DTEK. Acting Chief Executive Officer of DTEK Energy is [Dmitriy Sakharuk](#).

The assets portfolio of DTEK in coal production, thermal generation and distribution sectors includes 31 mines and 13 coal processing plants; ten thermal power plants and two combined heat and power plants with 18 GW of total installed capacity; and six electricity distribution companies, which provide services to over 4.4 million customers.

DTEK is a strategic holding company that manages three operational sub-holding companies with the assets in the coal production, thermal energy generation and distribution as well as alternative energy and gas production. DTEK employs 118 thousand people. It is part of the financial and industrial group System Capital Management (SCM). The shareholder of the group is Rinat Akhmetov. Maxim Timchenko is the Chief Executive Officer of DTEK.

In 2015, DTEK's companies generated 38.3 bln kWh, including 634 mln kWh generated by the wind farm, transmitted 45.1 bln kWh of electricity, and produced 28.7 mln tonnes of coal and 1.3 bln cubic meters of natural gas.

DTEK implements social partnership projects in all the towns and cities where it has operations. For more details, visit <http://spp-dtek.com.ua>

DTEK Zakhidenergo PJSC published this content on 15 March 2017 and is solely responsible for the information contained herein.

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