

ПРЕМ'ЄР-МІНІСТР
УКРАЇНИ



PRIME MINISTER
OF UKRAINE

June 2015
Kyiv

Dear Presidents!

I am writing to you today to express my support for the European Energy Union initiative and praise the positive steps you have taken to improve Europe's, including Ukraine's, energy security.

The events of the last few years have demonstrated the crucial importance of building a unified energy union market, in order to ensure that European citizens and businesses have access to competitive, secured and sustainable sources of energy. Ukraine, as a member of the Energy Community, is fully committed to working with the EU to achieve this goal.

The Ukrainian Government is implementing long overdue and much needed reforms to bring our energy sector in line with European regulations and principles, increase transparency, eliminate corruption and integrate Ukraine with the EU energy market.

Over the course of the last year, we have come a long way: we have removed all gas international intermediaries - historically a source of massive corruption; we have substantially increased household gas tariffs in agreement with the IMF; and we have transitioned away from dependence on Russia by successfully diversifying Ukraine's supply of gas. In the first quarter of 2015, thanks to reverse flow, 62% of Ukraine gas imports came from the EU and only 38% from Russia.

Ukraine has proved to be a reliable transit partner between Russia and the EU, even when Russia blocked all gas delivery to our domestic market. As part of our commitment to transparency, all our gas transit and storage data are now publicly available in real time on the internet (<https://transparency.entsog.eu> and <http://transparency.gie.eu>). Further essential reforms are in progress, including the unbundling of Naftogaz, and we are very thankful to the European Union for its guidance and support to enhance our energy sector.

**His Excellency
Mr. Donald TUSK
President of the
European Council**

Brussels

**His Excellency
Mr. Jean-Claude
JUNKER
President of the
European Commission**

Brussels

**His Excellency
Mr. Martin SCHULZ
President of the
European Parliament**

Strasbourg

However, one major obstacle remains to be lifted to complete the full integration of Ukraine to the EU energy market: the bottleneck at the Uzhgorod/Veľké Kapušany gas interconnector point between Slovakia and Ukraine. Eustream, the transmission system operator (TSO) of the Slovak gas transmission system (GTS), has declined to enter into an interconnection agreement with Ukrtransgaz, the TSO of the Ukrainian GTS, because it claims that Gazprom Export holds exclusive rights under a legacy agreement regulating the utilization of the interconnection point. Under this agreement, Gazprom Export is given the exclusive right to control the pipelines between the Uzhgorod and Veľké Kapušany gas metering stations on the Ukrainian/Slovak border. Gazprom Export has also refused to submit shipper code pairs to Ukrtransgaz.

As a result, Ukrainian and European energy companies are not able to use this gas interconnector which has a total capacity of more than 90 bcm per year for flows in both directions.

The attached legal study demonstrates that this legacy contract between Eustream and Gazprom Export is in direct violation of EU law and Energy Community Treaty, and so is Gazprom Export's refusal to provide Ukrtransgaz with shipping code pairs.

This situation proves the European Commission's view in its recent Statement of Objections to Gazprom dated 22 April 2015 that "*Gazprom is putting in place artificial barriers to trade between certain EU countries, preventing gas flows and competition across national borders.*"

This practice restricts trade between EU Member States in violation of Article 101 of the Treaty on the Functioning of the European Union (TFEU) and the refusal to permit the utilization of the unused capacity constitutes an abuse of dominant position under Article 102 of the TFEU. There is an effect on trade between EU Member States, as it prevents Naftogaz from supplying gas from the EU on to Romania and Bulgaria. Denial of access to pipelines and markets by a dominant company is a well-established form of abuse of dominance.

Full Slovak reverse flow would allow Ukraine to end its dependency on Gazprom and eventually import all of its gas from the EU. This would ease tension and reduce the risk of gas supply disruption for Ukraine and the EU.

Unrestricted gas flows in both directions between Ukraine and Slovakia would also allow European energy companies to use Ukrainian natural gas storage capacity, the largest on the continent and situated next to Slovakia, Hungary and Poland. This would increase EU gas competitiveness - as cheap gas can be stored in summer and released in winter - and further improve EU energy security.

In addition, gas could then transit Ukraine from Slovakia to Romania, Poland and Hungary. This would improve energy security in Central and South Eastern Europe, which is the area of Europe most exposed to gas shortages.

Last but not least, EU energy companies would benefit from the Slovak reverse flow by being able to freely sell gas to Ukraine, Romania, Bulgaria, Serbia, Greece, Turkey, Poland and Hungary. Today, Gazpromexport's illegal blockage of the Slovak interconnector prevents these European companies from operating in a free and fair market.

Thanks to unprecedented internal reforms and the integration of Ukraine to the European gas market, my country can at last play a positive and constructive role and be a part of a solution to further improve EU energy security and competitiveness. This however requires that the Slovak interconnector is no longer an obstacle to the creation of an integrated, unified and fluid European gas market and that Gazprom Export's operations on the EU territory fully respect the Third Energy Package and European competition law.

For the first time in its history and thanks to your leadership, Mr. Presidents, the European Union is about to build an Energy Union for the benefit of all its citizens. This initiative is of strategic importance not only for the EU but also for Ukraine, the Balkans and the entire European continent. Be assured that the Ukrainian Government will do everything possible to support it and make it successful.

Yours sincerely,



Arseniy YATSENYUK