



Mr Dmytro Razumkov  
Head of Verkhovna Rada of Ukraine  
5, Hrushevskogo Street  
Kyiv-8, 01008, Ukraine

22 June 2021

Dear Mr Razumkov,

**Subject: Draft Law “On amendments to Tax Code and some other laws of Ukraine to balance budget inflows” (registration No. 5600, dated 02.06.2021)**

We refer to the draft law “On amendments to Tax Code and some other laws of Ukraine to balance budget inflows”, which is now submitted to the Parliament (registration No. 5600, dated 02.06.2021). These amendments include, inter alia, a proposal to remove the current exemption from the excise tax on sales of electricity generated by renewable energy sources.

The signatories to this letter are the European Bank for Reconstruction and Development (“EBRD”), the Black Sea Trade and Development Bank (“BSTDB”), the Netherlands Development Finance Company (“FMO”), and the Société de Promotion et de Participation pour la Coopération économique S.A. (“Proparco”) - financial institutions that are actively involved in financing of renewable energy projects in Ukraine, as well as the Energy Community Secretariat (“EnCS”) – the international institution which mediated the dispute between renewable energy producers and the Government of Ukraine in 2020. We would like to bring this matter to your attention because the proposed introduction of excise tax from 1 July 2021 regardless of its rate will violate the stabilization clause regulating the offtake arrangements with renewable energy producers under the Law 810 effected on 1 August 2020.

This Law introduced amendments to Article 9-4 of the Law of Ukraine “On Alternative Energy Sources,” stipulating that “The State guarantees that, for business entities for which the “green tariff” has been or will be set in accordance with part three of this article, for the entire duration of the “green tariff”, Ukrainian law will apply as in force on the effective date of the Law of Ukraine *On Amendments to Certain Laws of Ukraine as regards the Improvement of Terms of Support to the Production of Electricity from Alternative Energy Sources...*”

This law reduced green tariff level for solar and wind producers and we note that foreign investors have already initiated at least one major international arbitration claim against Ukraine for retroactively changing its commitments to renewable energy producers guaranteed by the law, and that any further one-sided legislative changes to impose or increase taxes will likely expose Ukraine to additional monetary claims for compensation.

We further recall that the Government of Ukraine, by signature of the Memorandum of Understanding with two associations of renewable energy producers under the auspices of the Energy Community Secretariat in June 2020 committed that “The State Authorities of Ukraine undertake within their competence to take all necessary measures to prevent the adoption by the relevant state bodies of Ukraine of laws and other statutory instruments worsening conditions of economic activities of RES Producers, in particular, through introduction of additional taxes, fees, fines, FiT reduction, etc.”

In the course of last year, the energy sector in Ukraine has been in a state of turmoil, with continuing crisis of payments resulting in constant accumulation of outstanding debt to renewable energy producers amounting to UAH 17.8 billion as of 30 April 2021. The introduction of the excise tax on renewable energy producers will further destabilize the power sector and harm Ukraine’s investment attractiveness and reputation.

Ukraine's low carbon transition requires a long-term roadmap to replace over time conventional generating capacity, addressing also the implications of ENTSO-E integration and the investments required in storage, flexible backup capacity and networks. There is no one simple solution and it has to be a combination of different measures and we offered the Government of Ukraine to join the forces with International Financial Institutions and key stakeholders to design such roadmap.

In view of the above and the critical role of renewables for energy security and energy independence of Ukraine and its ability to reach climate targets such as Ukraine’s commitment under the Paris Climate Agreement (as included in Ukraine’s Nationally Determined Contribution) and to achieve carbon neutrality by 2060, we urge you to take this into account while considering this initiative by the Parliament of Ukraine.

Yours sincerely,



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Eastern Europe and the Caucasus  
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Dirk Buschle  
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CC: Mr Denys Shmyhal, Prime Minister of Ukraine  
Mr Herman Halushchenko, Minister of Energy of Ukraine  
Mr Sergii Marchenko, Minister of Finance of Ukraine