

Ukraine's Gas Co. Threatens Arbitration Against Russia

By **Caroline Simson**

Law360, New York (February 18, 2016, 7:12 PM ET) -- Ukraine's national oil and gas company has formally notified Russia that it intends to take its dispute over the alleged unlawful seizure of its investments in Crimea to arbitration unless a settlement is reached, the company said Thursday.

The National Joint Stock Co. Naftogaz of Ukraine said it has provided the Russian Federation with formal written notification of an investment dispute under a bilateral investment treaty between the two countries following Russia's 2014 annexation of Crimea.

"In accordance with the terms of the treaty, Naftogaz has requested consultations and negotiations with representatives of the Russian Federation in an effort to reach resolution of the dispute," the company said. "If the dispute cannot be settled, Naftogaz intends to submit the dispute to arbitration."

Naftogaz is one of Ukraine's largest companies, and is engaged in the full cycle of operations in gas and oil field exploration and development, production and exploratory drilling, gas and oil transport and storage, and supply of natural gas and liquefied petroleum gas to consumers.

In 2014, Naftogaz told the International Organizing Committee of the World Mining Congress that Ukraine lost 15 oil and gas fields, three promising oil and gas deposits, an underground storage facility, over 1,200 kilometers of main gas pipelines, 43 gas distribution stations, 29 watercrafts, four floating drilling rigs — two of which are modern, high-technology units — as well as many other production facilities as a result of Crimea's occupation.

Ukraine also lost an opportunity to explore deposits with about 50 billion cubic meters of gas, 3.5 million tons of oil and 1 million tons of gas condensate, the company said. As a result of Russian occupation, works on further exploration and commissioning of potentially productive deposits with the total resources of 260 billion cubic meters of gas and 160 million tons of oil were suspended.

Representatives for Russia did not immediately respond to a request for comment on Thursday.

Russia is facing numerous other claims from Ukrainian businesses over its annexation of Crimea. Earlier this month, the Arbitration Institute of the Stockholm Chamber of Commerce agreed to evaluate claims lodged by Ukraine PrivatBank, the country's largest commercial bank, over an alleged \$1 billion in losses.

That news came several weeks after the law firm Hughes Hubbard & Reed LLP disclosed that it had initiated five arbitration proceedings against Russia, with claims ranging from approximately \$20 million

to \$1 billion on behalf of Ukrainian businesses including PrivatBank, a real estate investment company, several petrol stations and a private airport.

Those proceedings were filed at various times in the first half of 2015 in the Permanent Court of Arbitration in The Hague.

But disputes between the two countries have not been one-sided. On Wednesday, Russia's finance ministry announced that it had filed a lawsuit in the U.K. to recover amounts owed under Ukraine's \$3 billion Eurobond held by Russia. Russia is demanding that Ukraine repay the \$3 billion, plus a \$75 million December coupon that went unpaid with interest, in addition to court costs.

Russia said the suit was filed after "numerous futile attempts" to get Ukraine to restructure the debt and to acknowledge that the bond is an official credit that must be afforded preferable treatment.

Naftogaz is represented by David Pinsky, Marney Cheek, Jeremy Wilson, and Erin Thomas of Covington & Burling LLP.

Attorney information for Russia was not immediately available on Thursday.

--Additional reporting by Vidya Kauri. Editing by Catherine Sum.

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