A photograph of a rusted, dark-colored military truck, possibly an armored personnel carrier, parked on the side of a paved road. The truck is heavily weathered and has a small blue flag on its roof. The road is dark asphalt with a white dashed line running down the center. To the right of the road is a field of tall, dry, yellowish-brown grass and some bare trees. The sky is overcast and grey.

CROSSING THE LINE: HOW THE ILLEGAL TRADE WITH OCCUPIED DONBAS UNDERMINES DEFENCE INTEGRITY

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of August 2017. Nevertheless, Transparency International Defence & Security and Transparency International Ukraine cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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ACRONYMS

AFU – Armed Forces of Ukraine

ATC SSU – Antiterrorist Center of the Security Service of Ukraine

ATO – Antiterrorist operation

CADLR – Certain areas of the Donetsk and Luhansk regions

CCU – Criminal Code of Ukraine

CMA – Civil-military administration

CMU – Cabinet of Ministers of Ukraine

CUAO – Code of Ukraine on administrative offenses

GCA – Government Controlled Areas

HA – Humanitarian assistance

HLC – Humanitarian logistics center

JMG – Joint mobile group

MIA – Ministry of internal affairs

MTOT – Ministry of temporarily occupied territories and internally displaced persons

NGCA – Non-Government Controlled Areas

NGU – National Guard of Ukraine

NP – National Police

NSDC – National Security and Defence Council of Ukraine

SBGS – State Border Guard Service of Ukraine

SFS – State Fiscal Service of Ukraine

SSU – Security Service of Ukraine

VRU – Verkhovna Rada of Ukraine (the Parliament of Ukraine)

«DPR» – «Donetsk people`s republic»

«LPR» – «Luhansk people`s republic»

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EXECUTIVE SUMMARY

Context

The Ukrainian Government started its anti-terrorist operation after the start of Russian aggression in Eastern Ukraine in April 2014¹. Militants seized numerous towns in the Donetsk and Luhansk regions, but the Ukrainian defence forces restored, during the Summer 2014 military campaign, the government's control over significant territories, including the city of Mariupol, settlements of the Kramatorsk, and the Sievierodonetsk area. Nevertheless, militants still control approximately 30% of the Donetsk and Luhansk regions, with a population of approximately 2.0-2.3 million people².

The media has covered not only the course of the military campaign, but also the illegal trade of goods with the Non-Government Controlled Areas (NGCA). The scale of the problem was so significant that it was put on the national agenda. This trade was seen to be supporting enemy militants, enabling them to function and thrive. Reports included stories of servicemen in the ATO being bribed and facilitating trade, and the seriousness of the problem was also heightened by accusations that members of the security services, local law-enforcement bodies, local authorities, and some MPs were involved in the trade.

There have been many efforts, both in law and through a physical blockade, to counteract the illegal trade. In the winter of 2014, the first restrictions were put in place; the Government decided to introduce temporary restrictions on the movement of goods to and from the NGCA in Eastern Ukraine, which are defined by legal acts as "Certain areas of the Donetsk and Luhansk regions" (CADLR)³. But the movement of goods to these regions was still taking place, despite active warfare. Despite the attention that the problem received efforts to fight illegal trade were not systemic. They often took the form of individual efforts on the local level, sometimes were conducted using mechanisms outside the normal legal framework, such as burning cars and destroying roads used in the trade, and were unsuccessful in tackling the problem. There were initiatives to block the railways connecting the Government Controlled Areas (GCA) and the NGCA from December 2016 to March 2017 through a physical blockade by activists and ATO veterans, with the support of some members of the Verkhovna Rada⁴. This was not supported by the government and some were arrested. Subsequently, citing the «nationalisation» of industries in the CADLR by militants, the National Security and Defence Council (NSDC) decided to place a temporary ban on the movements of goods across the contact line in March 2017.

Nevertheless, a large assortment of goods is still moved to the CADLR. The majority are food products and household goods, electronics, medicine, textile goods and drugs. In addition to the movement of goods into the CADLR, there are also goods coming in from the CADLR to the GCA, such as alcohol, bread and cigarettes. Goods from the CADLR have also been transferred to Russia, Belarus and EU countries. Although ATO participants and volunteers interviewed for this research

¹ [Council of Europe Parliamentary Assembly Resolution 2133](#) stated there was "military intervention by Russian forces in eastern Ukraine"

² Mykola Balaban, Olga Volianiuk, Krystyna Dobrovol'ska, Bohdan Balaban, Maxym Maiorov, *Donbass on Fire. Guide on the Conflict Zone*, NGO "Prometheus", 2017, p. 47: <http://bit.ly/2ulyjtH> (Accessed August 2017); Illia Zhehuliov, *Blockade of Donbass. Who helps residents of the East of Ukraine who have nowhere to run: report by Illia Zhehuliov*, meduza, February 11, 2015: <http://bit.ly/2ulazpq> (Accessed August 2017); Humanitarian group of the country, *Overview of humanitarian issues*, November 2016, p.13: <http://bit.ly/2vf71UJ> (Accessed August 2017).

³ In order to indicate the process of goods being transferred to/from the CADLR in this research we use term "movement" since this term is used in corresponding Ukrainian legal acts in the context of goods being brought to the NGCA. There is a more detailed explanation of the definition of the "movement" of goods in the subchapter "[Movement of goods across the contact line](#)", chapter "[ATO zone](#)", part "[Illegal trade](#)".

⁴ Yevhen Rudenko, *Half a year after the Donbas blockade: how do smugglers operate and what do they feed Donetsk with*, Ukrainska Pravda, 14 September 2017: <http://bit.ly/2xndyvc> (Accessed September 2017).

believed the summer of 2015 to be the period with the largest volume of illegal trade with the CADLR, as of August 2017 it is still ongoing⁵.

How the trade occurs

This research identified five ways in which trade is conducted illegally across the contact line:

- through checkpoints on roads, by bribing officials at the checkpoints
- by using Humanitarian Logistics Centres (HLC) to sell wholesale products, untaxed, for movement into the NGCA, rather than for the HLC's intended small scale use.
- through checkpoints on railways, again by bribing officials to gain access
- by avoiding specified transit corridors. In this case, smugglers coordinate with members of the security and armed forces to move goods to the NGCA, avoiding official checkpoints.
- by moving goods through Russia and back to the NGCA. This is done by receiving a permit to transfer goods stating that those goods will go on to a third country, such as Kazakhstan or Georgia; those goods are then re-routed via Russia to the NGCA. This is known as "terminated transit."

The illegal trade is conducted by a range of parties, and almost all major illegal trade occurs with the involvement of Ukrainian servicemen and officials. According to our research, in some instances, Ukrainian servicemen have also cooperated with militants to facilitate the illegal trade. There have been cases in which two units, both separately involved in facilitating illegal trade, work against each other – and even threaten or attack each other militarily. In some units, servicemen aimed at combating illegal trade work side-by-side with those facilitating it. The interest of servicemen in getting involved is clear – the illegal trade is extremely lucrative.

It is not only low-level servicemen, but also security service and defence personnel and public officials are involved in illegal trade. For example, to transfer large lorries full of goods, interviewees said that smugglers would make deals with battalion commanders. In the case of HLCs, they're under the control of local civil-military administrations; there were allegations that senior leadership within the regional administration received kickbacks for enabling the wholesale illegal trade through the HLCs. Though this research did not look at the connections of individuals in the illegal trade, it is worth noting that there was media coverage of groups led by politically-connected businessmen and senior public officials having interests and benefitting from the illegal trade.

The illegal trade has become systemic, with sustained connections between different elements of the system. For example, when battalions are rotated, interviewees stated that battalion commanders are immediately approached by those wanting to sustain the processes of illegal trade and protection set up by the previous leadership. Officers at checkpoints that take bribes normally pay a portion to their commanders, who in turn pay their commanders; in some cases, officers pay to be posted at checkpoints because of the opportunity to collect bribes. Another example is that commanders of different services, for example the border guards and armed services, coordinate efforts to split the "tax" of enabling smugglers to pass jointly-controlled transit areas.

Why it matters

The illegal trade with the CADLR exists due to two factors:

- The high profitability;
- The high demand for goods in the CADLR, particularly Ukrainian goods.

⁵ According to interviews with local residents, ATO participants, and law enforcement bodies, as well as other authorities who are reporting about particular cases of illegal trade with the CADLR.

One can single out the following negative consequences of the illegal trade with the CADLR:

Negative consequences of illegal trade with the CADLR

Security interests	<ul style="list-style-type: none"> • Increase in the number of persons interested in the illegal trade with the CADLR reduces the number of persons interested in ending the war and, accordingly, contributes to its prolongation; • One of the consequences of the illegal trade is a certain level of cooperation of the individual servicemen with the militants, which undermines the unity of command and affects moral and psychological state of the personnel; • One of the forms of cooperation in some cases may be mutual fire to simulate hostilities and prevent units that oppose the illegal trade to the places where it occurs. One of the consequences of this situation is also provision of unreliable information to the top management about the state of the conflict; • The illegal trade leads to the conflicts for ability to control income between the individual servicemen and representatives of various departments that contribute to the illegal trade with the CADLR; • Similarly, the illegal trade leads to increased tension between the servicemen who contribute to the illegal trade with the CADLR, and the servicemen who oppose it. Some deaths in the ATO zone have been attributed to such a confrontation; • Limitation or lack of effective mechanisms to counteract the illegal trade motivates the units involved in counteracting the illegal trade to use illegal methods to combat this phenomenon, which in turn increases social tension in the region and worsens an image of the Ukrainian defence forces in the eyes of the local population; • The impunity of those who promote the illegal trade radicalizes those who do not support it. In particular, a significant number of the servicemen participated in the blockade of railway communications between the controlled and the uncontrolled territories, which occurred in December 2016 - March 2017, supported these initiatives, as they themselves witnessed the impunity of the participants of the illegal trade with the CADLR; • A serviceman's collaboration with militants in the context of illegal trade can be used for blackmail or even recruitment.
Economic interests	<ul style="list-style-type: none"> • Although more money is invested in the national economy by increasing the number of purchased goods, the illegal trade harms the economic interests of the state by avoiding taxation on income.
Image of Ukraine	<ul style="list-style-type: none"> • The illegal trade contributes to disappointment and mistrust in the control authorities and the Ukrainian system of prosecution; • There are reasons to believe that the militants and the Russian side are recording assistance by Ukrainian servicemen in the illegal trade, which can later be used in the information war; • Deterioration of Ukraine's image in the international arena.

Recommended solutions

There is currently a ban on trade with the CADLR – but the flow of goods across the contact line continues. The need to address the challenge of illegal trade is urgent, as the profitability of the trade creates an incentive for individuals on both sides to perpetuate the conflict.

There are two main long-term solutions proposed for dealing with the problems of illegal trade:

- A full blockade of the CADLR;
- Introducing partial permission for trading with these territories.

A ban and physical blockade have been attempted, but have failed to effectively curb the trade. Administrative restrictions on the movement of goods will always create incentives for illegal trade, increasing demand and prices. Further implementing a blockade on the flow of goods across the contact line is likely to increase the incentives for corruption, creating the risk that illegal traders do not cease trading – just become more organised in how they conduct it.

Legalising some of the trade would enable the Ukrainian state to increase its control over the movement of goods, gain revenue from it, and reduce the CADLR's dependence on Russian and Belarussian products. It would build trust with the residents of the uncontrolled territories. And partial permission for trade would reduce the incentives for individuals to take part in it, and contribute to shrinking the volume of illegal trade.

In the end, the choice for the government comes down to a difficult balance between competing objectives. On the one hand, the profits of illegal trade increase the incentives of many individuals on both sides to perpetuate the conflict, and tackling corruption within the security forces in these regions is vital for maintaining the territorial integrity of Ukraine in the long run. But on the other, relaxing a strong political line on those territories that are under already under militants control can also bring risks, and implementing such a solution will take time, and political and public support.

The recommendations of this report set out potential options for improving the government's response to illegal trade. Ultimately, NAKO believes that the most effective way of addressing illegal trade is to introduce partial permission for trading with these territories. Recognising the challenge of legalising the trade and its political sensitivity, however, the recommendations are divided into two sections: long-term solutions that aim to eliminate root causes of the illegal trade, and immediate solutions that can be implemented in a relatively short period of time to reduce trade without a full legalisation of trade.

In order to take action against illegal trading quickly, NAKO recommends the following steps:

- Addressing corruption in HLCs, by revising current procedures and communicating those changes to the local population, improving transport between HLCs and roadblocks, and publishing trade statistics to enable monitoring;
- Preventing the illegal movement of goods through 'terminated transit' with improved equipment, steps to improve personnel integrity like training and salary increases, and the implementation of the Convention on Joint Transit Procedure;
- Increasing individual liability and accountability, which would be enabled by the Committee on Legal Policy and Justice of the Verkhovna Rada and the MOJ completing the institution of criminal misdemeanors;
- Increasing the ease with which residents can move across the contact line;
- Improving the capability of the Ukrainian government to fight illegal trade, with training and technical support.

1. INTRODUCTION

The Independent Defence Anti-Corruption Committee (NAKO), a joint initiative of the Transparency International Ukraine and Transparency International Defence & Security, analyzed the illegal trade with the CADLR and elaborated its recommendations which NAKO hopes will contribute to the decreasing corruption on the contact line that enables the illegal movement of goods to the NGCA. The NAKO conducted this research based on 40 interviews with both former and active ATO participants, including representatives of different defence and security agencies – Armed Forces of Ukraine (AFU), State Fiscal Service (SFS), State Border Guard Service of Ukraine (SBGS) and Security Service of Ukraine (SSU) – volunteers, civil activists, NGO and human rights activists, judges and advocates, journalists covering events in Eastern Ukraine, and local residents of the both GCA and NGCA. The NAKO studied the legal framework on the movements of goods to the CADLR, media reports and court decisions in the Single State Register of Court Judgments.

This report aims to answer a number of questions related to illicit trade to CADLR and its aim is to recommend a way to decrease the volumes of illegal trade with the CADLR based on detailed evidence of how the trade is occurring. It does not look at the political arrangements and connections that might enable the trade to occur, but suggests mechanisms and processes for preventing and reducing the trade at a practical level, even if corrupt officials are still in place.

The illegal trade touches not only on corruption, but also on issues of military effectiveness, economic loss, and political and human rights problem. A comprehensive approach to addressing the problem will require the involvement of representatives of different authorities as well as civil society since experience has shown that the authorities either do not have enough resources or do not want to solve this problem. Furthermore, certain individuals conducting state control are directly implicated in illegal trade with the CADLR and receive illegal profit. To most effectively respond to the problem, these individuals should be held accountable.

2. LEGAL FRAMEWORK

This section details the legal acts that, regulate the issue of the movement of goods to/from the CADLR as of August 2017, and the recent history of how they were developed.

2.1 Legal acts regulating the movement of goods to the NGCA

The issue of the movement of goods to the CADLR was not regulated by any specific regulation for the first eight months of the conflict. Starting in 2014, the movement of goods across the contact line has been regulated by three Antiterrorist Centers of the Security Service of Ukraine (ATC SSU) Orders, which replaced each other. «*Temporary Procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions*» adopted by the ATC SSU First Deputy Order (head of the antiterrorist operation on the territory of the Donetsk and Luhansk Oblasts) of 29 December 2014 №144or was the first legal act that, introduced such regulations⁶. The ATC SSU Order №144or was replaced by the The ATC SSU Order of 22 January 2015 №27or⁷, but in six months there was a new legal act adopted, namely the ATC SSU Order of 12 June 2015 № 415or (Figure 1).

Regulating the movement of goods in the Donetsk and Luhansk regions is legally challenging. Restrictions on the movement of goods can harm the rights of citizens. This can be done under certain circumstances provided by the Constitution of Ukraine but those restrictions can only be established by law, and not by an act of the Council of Ministers or the Security Services. In line with this, the Law of Ukraine «*On Combating Terrorism*» of 20 March 2003 № 638-IV was amended in July 2015 with a new article, 14-1. This article stipulates that the movement of goods to/from the area of the anti-terrorist operation shall be conducted in accordance with the procedure introduced by the CMU following submission by the SSU. However, the procedure of the movement of goods across the contact line until 1 March 2017 was regulated by Temporary Procedures adopted by the SSU, and



Figure 1: Evolution of legal regulation for movement of goods and individuals through the contact line from 2014 to 2017

not by a legal act of the CMU as intended, which should have introduced a regulation over the movement of goods to the CADLR as stipulated by the law.

The issue of the movement of goods to the CADLR is regulated by the *Procedure for movement of goods to the area or from the area of conducting anti-terrorist operation* adopted by the CMU Resolution of 1 March 2017 № 99⁸ (hereinafter: *the Procedure*). Thus, on 1 March 2017, the

⁶ Mazur M.V., *Administrative responsibility for violation of the Procedure for movement of goods to the area or from the area of conducting anti-terrorist operation*, Legal Bulletin: scient. magazine/edit.board: Predmestnikov O.G and other – Odesa, OSUIA, 2016. - Issue 2 (2), p. 78: <http://bit.ly/2ul7gOT> (Accessed August 2017).

⁷ SFS Press Service, *ATC SSU First Deputy Order of 22.01.2015 №27 or "On Approval of Temporary Procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions"*, SFS web site, 23.01.2015: <http://bit.ly/2vK1iHX> (Accessed August 2017).

⁸ Before that the movement of goods across the contact line was regulated by *the Temporary Procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions* adopted by the ATC SSU First Deputy Order (head of the antiterrorist operation on the territory of the Donetsk and Luhansk Oblasts) of 12 June 2015 № 415or, which is no longer valid.

procedure for the movement of goods to/from the CADLR was for the first time adopted not by an ATC SSU Order but by a CMU Resolution, as stipulated by the law.

CMU Resolution № 99 introduces an organizational framework and legal regime for the movement of goods including humanitarian assistance to/from the area of conducting the anti-terrorist operation (across the contact line or within it) and covers both individuals and business entities (individual entrepreneurs or legal entities).

The Procedure is divided to provisions regulating:

- organizational framework of the movement of goods;
- movement of goods by individuals;
- movement of goods by business entities (both individual entrepreneurs and legal entities);
- movement of goods by the means of railway;
- movement of goods to and from the Humanitarian logistics center (HLC);
- movement of humanitarian assistance to the NGCA.

Although *the Procedure* introduces the possibility of moving goods to and from the CADLR, the President of Ukraine on 15 March 2017 enacted the NSDC Decision⁹ to impose a temporary ban (with certain exceptions¹⁰) on the movements of goods across the contact line within the Donetsk and Luhansk regions. Despite the NSDC Decision, *the Procedure* is still valid and regulates movements of goods of humanitarian nature to the CADLR, as well as the movement of personal belongings of individuals¹¹.

2.2 The movement of goods by individuals

The following rules apply for individuals, according to *the Procedure*:

- goods shall be moved in hand luggage and/or in the escort vehicle;
- goods shall meet the nomenclature and volume (value, weight, number) requirements approved by the MTOT¹². Individuals may move 75 kg per person (total cost maximum 10,000 UAH/370 USD) as of August 2017;
- goods shall be moved only through the checkpoints on specified vehicle corridors.

Individuals have the right to cross the contact line through the checkpoints following:

- receiving a permission from the SSU¹³;
- identity check of government ID.

⁹ NSDC Decision of 15 March 2017 "On urgent additional measures to counter hybrid threats to Ukraine's national security" enacted by President's of Ukraine Decree of 15 March 2017 №62/2017.

¹⁰ Cargos of humanitarian nature are the exceptions stipulated by the clause 2 of the NSDC Decision of 15 March 2017 "On urgent additional measures to counter hybrid threats to Ukraine's national security", enacted by the President's of Ukraine Decree of 15 March 2017 №62/2017.

¹¹ It is to be mentioned that the terms «humanitarian assistance» and «cargos of humanitarian nature» are not the same. Humanitarian assistance is regulated by the Law of Ukraine «On humanitarian assistance» of 22 October 1999 № 1192-XIV. There is no legal term «cargos of humanitarian nature» and it is unclear who shall determine whether the cargo has "humanitarian nature" as well as what are the criterion and the corresponding procedure.

¹² The list is introduced by the MTOT Order «On adoption of the list and volumes of goods allowed for movement to/from the humanitarian logistic centers and across the contact line» of 24 March 2017 № 39.

¹³ Movement of individuals across the contact line and particularly issuing of corresponding permits is regulated by the «Temporary Procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions» adopted by the ATC SSU First Deputy Order (head of the antiterrorist operation on the territory of the Donetsk and Luhansk Oblasts) of 14 April 2017 №222or.

2.3 The movement of goods by business entities

Business entities¹⁴ may move goods to/from the CADLR by rail as well as to HLC (details about HLC are provided in the sections on the «[Movement of goods to HLC](#)» and «[Illegal trade through HLC](#)») by vehicles. The following sections cover:

- movement of goods to/from the CADLR;
- movement of coal products to/from the CADLR;
- movement of goods by rail;
- movement of goods to HLC;
- movement of HA to the CADLR.

Business entities must be included in the *List of entities with permission to move goods* in order to move goods to/from the CADLR. In order to do that, the company must submit an application to the State Fiscal Service (SFS). The application template, relevant documents and recipients' emails are published on the SFS web site.

The SFS considers applications for a maximum of 10 days and files a motion to the Coordination center,¹⁵ an ATO operational headquarters unit of the Armed Forces, to include business entities to the list. The Coordination center makes a decision (also within a maximum of 10 days) and the list is published on the SFS website.

Reasons for the rejection of application may include:

- a particular good is prohibited for movement;
- there is information that a particular good may be used for terrorist activities or committing other crimes, or if its owner or recipient is associated with a militant group, or if payment for delivered goods may be used for terrorist financing;
- the recipient or supplier of goods violated budget, tax or customs regulations;
- the SFS is unable to identify the location of the recipient or supplier of goods;
- the business has submitted unreliable information about itself or its goods.

Goods shall be moved to/from the CADLR only by rail, except for goods moving to the HLC. Business entities are prohibited to move goods except for:

- food products as a part of humanitarian cargos¹⁶;
- medicine as a part of humanitarian cargos¹⁷;
- metallurgical, mining processing, coal-mining and energy-generating industries' goods and products, critical infrastructure objects according to the list¹⁸.

2.3.1 Movement of coal products to/from the CADLR

Coal products comprise one of the largest volumes of trade, and are vital for the Ukrainian energy sector. Coal products to/from the CADLR are allowed to be moved across the contact line only by rail, through the checkpoints on the rail transit corridors. First, the Ministry of Energy and Coal Mining of Ukraine submits information on including energy-generating companies to *the List of business entities receiving coal products* to the Coordination center (the list is to be published on the

¹⁴ Business entities – individual entrepreneurs and legal entities.

¹⁵ Full term is Coordination center on the legal regime and economic activities issues on the territories bordering with security zone along the contact line – an ATO operational headquarters unit which issues permits to individuals as well as includes business entities to the corresponding lists.

¹⁶ As defined by the [Law of Ukraine «On safety and quality of food products»](#) of 23 December 1997 № 771/97-BP.

¹⁷ As defined by the [Law of Ukraine «On medicine»](#) of 4 April 1996 № 123/96-BP.

¹⁸ MTOT and Ministry of economic development and trade Order «*On adoption of the list of goods and products allowed for movement to and from the temporary uncontrolled territories in the area of the antiterrorist operation*» of 13 March 2017 № 34/357.

SFS website). After a contract for coal supply with supplier (producers, processors) is concluded, the energy companies submit information to the Coordination center which considers it for 5 days.

2.3.2 Exceptions

Goods can be moved across the contact line disregarding the limitations set out by the *Procedure* only in extraordinary circumstances following a Coordination center decision approved by the head of the ATO. This is intended to be for cases where there is danger to human life or health, human welfare, and disaster recovery efforts¹⁹. In this case the Coordination center informs MTOT, SFS and other corresponding central executive bodies on the decision and the reasons it was taken, and representatives from SFS conduct checks to ensure that the goods and vehicle match declared data.

2.3.3 Movement of goods by rail

The movement of goods through rail transit corridors across the contact line is allowed only if owners, suppliers and recipients are put to the corresponding lists. The table below provides a procedure for movement of goods to and from the CADLR:

Heads of railway stations after rail transport arrives	
<i>from the CADLR</i>	<i>to the CADLR</i>
submit wagon list in order to check goods and make corresponding notes.	submit rail waybill; two copies of wagon list; contracts or other documents specifying supplier if any.

2.3.4 Movement of goods to HLC

HLC were envisaged to be trading platforms (markets) for small wholesale and retail sales, which are stationed in the GCA, beyond the checkpoints²⁰. Sellers may enter HLC and sell their goods and the CADLR local residents may buy these goods and get certain services in HLC, as well as receiving humanitarian and charitable assistance, without crossing checkpoints and thus without requiring permission from the SSU to cross the contact line (Figure 2).

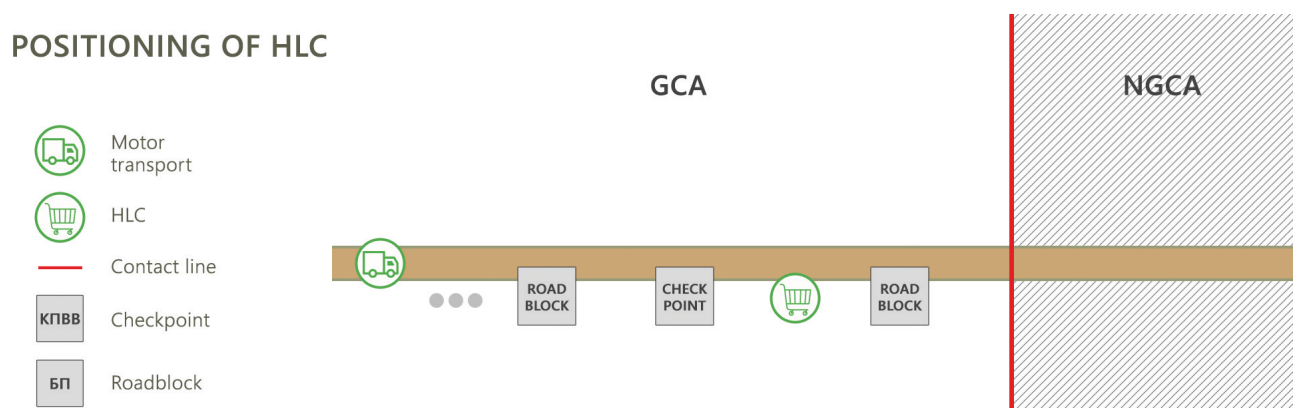


Figure 2: Positioning of humanitarian logistics centers (HLCs) on the contact line

¹⁹ According to the clause 22 of *the Procedure* it is about circumstances related to danger to human life and health, damage to human welfare and disaster recovery which make it impossible to comply with the requirements of *the Procedure*.

²⁰ Wholesale means sale of goods for their subsequent sale to business entities. Retail means sale of goods directly to end consumers for their personal non-commercial use. There is no legal definition of “small wholesale” trade in Ukrainian legislation and it remains unclear what shall this mean.

HLC locations are defined by the head of the ATO. Trade procedures, trade services and regulations of services provision are defined by the regional civil-military administrations, which are also responsible for all kinds of supply for the HLC.

The list of goods that can be transferred to or from the HLC are the same as for individuals crossing the checkpoints²¹. Only business entities registered in Ukraine (except for the temporarily occupied territories) are allowed to transfer goods to the HLC. Representatives of the SFS conduct control over the goods transferred to or from the HLC.

Logistics and other supplies for the HLC, as well as security, is the responsibility of the regional civil-military administrations; as of August 2017 there are two regional civil-military administrations – Donetsk and Luhansk – but the only two HLCs are located in the Donetsk region.

2.3.5 Movement of humanitarian assistance to the CADLR

The movement of goods across the contact line is prohibited by the NSDC decision²² with an exception for humanitarian cargos. It is also worth noting that movement of humanitarian goods across the contact line is one of the clauses of the Minsk agreements²³.

The movement of humanitarian assistance (HA) to the CADLR is conducted through specified vehicle and rail transit corridors in the following manner:

<i>International humanitarian organizations</i>	<i>Other humanitarian organizations</i>
Movement of HA cargos is conducted as priority due to simplified control procedure.	Movement of HA cargo is conducted after the Ministry of social policy of Ukraine checks the documents submitted by the recipient recognizing the cargo as HA.
The list of such organizations is approved by the Ministry of social policy of Ukraine ²⁴ .	Humanitarian organizations or HA recipients' representatives submit the list of goods recognized as HA (based on corresponding Ministry of social policy of Ukraine Order) to SFS officials in order to get permission to cross the contact line

Humanitarian cargo must be delivered to humanitarian platforms²⁵. The donor shall inform the Joint civil-military cooperation center²⁶ on the planned route at least two days before shipment, which shall be approved and may be amended. The Joint civil-military cooperation center informs ATO leadership about the planned route. HA cargo may be inspected on the checkpoints. The regional civil-military administrations are responsible for supporting the humanitarian platform's activities.

²¹ MTOT Order «On adoption of the list and volumes of goods allowed for movement to/from the humanitarian logistic centers and across the contact line» of 24 March 2017 № 39.

²² NSDC Decision of 15 March 2017 "On urgent additional measures to counter hybrid threats to Ukraine's national security" enacted by President's of Ukraine Decree of 15 March 2017 №62/2017.

²³ Namely clause 7 of the *Package of Measures for the Implementation of the Minsk Agreements* of 12 February 2015.

²⁴ Ministry of social policy web site, *The list of international humanitarian organizations for which a simplified procedure for crossing the contact line will be provided for the delivery of humanitarian goods to epy territories where the state authorities temporarily do not exercise or do not fully exercise their powers*, 3 September 2016: <http://bit.ly/2woWx3j> (Accessed August 2017).

²⁵ Humanitarian platforms - the territory around conducting ATO on which goods control, recognized in accordance with the established procedure as the humanitarian assistance is. List of such platforms is set by MTOT.

²⁶ The Joint civil-military cooperation center is a group of the Armed Forces of Ukraine or other defence and security forces representatives created for joint actions coordination which shall react to the threat of humanitarian crises, contribute to public security in the ATO and mobilize additional resources for local residents', AFU and other defence and security forces' needs. The Joint civil-military cooperation centers activities are coordinated by the ATO head.

3. ILLEGAL TRADE TO THE CADLR

According to the CMU Resolution No. 99 only three categories of goods may be moved to/from the CADLR: food and medicine as part of humanitarian cargos and products of metallurgical, coal mining and other industries, as well as personal belongings of the individuals. However, according to the decision of the NSDC, only cargos of humanitarian nature and personal belongings of individuals may be moved.

In order to understand the illegal movement of goods to the CADLR, it is necessary to understand the ATO zone and the contact line, what the movement of goods is legal and which is not, and what is mainly moved to the CADLR, in what volumes and for what prices.

3.1 ATO zone and contact line

The territory where the antiterrorist operation was or is being conducted is called the ATO zone. According to the Order of the SSU²⁷, since April 7, 2014, the Donetsk and Luhansk regions²⁸ are the ATO zone.

In the ATO zone three types of territories can be identified:

- territory under control of the Government of Ukraine (or GCA);
- certain areas of the Donetsk and Luhansk regions (CADLR or NGCA);
- the contact line and so-called "Gray zone".

Exact data are not available on the number of permanent residents in the CADLR, but according to various estimates this figure is about 2–2,3 million people²⁹.

As of August 2017, the area of the temporarily occupied territories in the East of Ukraine is about 15 thousand km², which is less than 30% of the total area of the Donetsk and Luhansk regions, and 46 cities are under control of the militants³⁰ (Figure 3). The “Donetsk People’s Republic” and



Figure 3: CADLR basic information

“Luhansk People’s Republic” are the self-proclaimed governing bodies of these regions.

The Law of Ukraine “*On special procedure for local self-government in certain areas of the Donetsk and Luhansk regions*”³¹ determines these territories as “certain areas of the Donetsk

²⁷ ATC SSU Head Order «*On defining of areas and duration of the antiterrorist operation*» of 7 October 2014 № 33/6/a.

²⁸ Besides that, Kharkiv region was also an area of antiterrorist operation 7 March – 14 September 2014.

²⁹ Illia Zhehuliov, *Blockade of Donbass. Who helps residents of the Donbass who have nowhere to run: report by Illia Zhehuliov, meduza*, 11 February 2015: <http://bit.ly/2ulazpq> (access – August 2017); Humanitarian group of the country, *Review of humanitarian issues*, November 2016, p.13: <http://bit.ly/2vf71UJ> (access – August 2017). At the same time, the National Institute for Strategic Studies represents a figure of 2.7 million people - Reznikova O.O., Semin S.V., *Problems of protection of constitutional rights and freedoms of the Ukrainian citizens during settlement of the armed conflict in Donbass*, the National Institute for Strategic Studies: <http://bit.ly/2fpsKDP> (access – August 2017).

³⁰ Mykola Balaban, Olga Volianiuk, Krystyna Dobrovolska, Bohdan Balaban, Maxym Maiorov, *Donbass on Fire. Guide on the Conflict Zone*, NGO “Prometheus”, 2017, p. 47: <http://bit.ly/2ulyjtH> (Accessed August 2017).

³¹ Law of Ukraine “*On special procedure for local self-government in certain areas of the Donetsk and Luhansk regions*” of 16 September 2014 No. 1680-VII.

and Luhansk regions” (CADLR), the same term is used in the Minsk Memorandum³². A specific list of settlements related to the CADLR is determined by the CMU Ordinance³³ 34.

The contact line is a delineation between the temporarily uncontrolled and controlled territory of Ukraine. It passes through the territory of the Donetsk and Luhansk regions, sometimes dividing one settlement into two parts – that controlled by the Ukrainian government and that controlled by the Russian-backed militants. However, the contact line divides not only the settlements - quite often on different sides of the contact line there are families, educational institutions and children who attend them³⁵, places of work and those who work there³⁶. The length of the contact line is about 450 km³⁷.

The "Gray zone" is the territory adjoining on both sides to the contact line in which there are *de-facto* no Ukrainian units and no Russian-backed militants, and over which neither side exercises effective control.

3.1.1 Crossing the contact line

The controlled and uncontrolled territories are connected by many roads and trails (some controlled by units involved in the ATO, some not). However, as mentioned in the previous chapters, the crossing of the contact line by individuals and the movement of goods is allowed only through specified transit corridors on the roads and on the rail. As of August 2017 the ATC Order³⁸



Figure 4: Number of vehicle and rail transit corridors to the CADLR

determines six transit corridors on the roads and seven transit corridors on the rail, through which movement of goods and individuals is allowed (Figure 4). To control the movement of individuals and goods to and from the CADLR on specific corridors,

checkpoints are established. The immediate decision on access to and from the CADLR is taken directly at the checkpoint.

Within specified road corridors, roadblocks are also established aimed at carrying out the general inspection of vehicles, and the verification of cargo and documents. In addition, roadblocks are also established on roads where crossing the contact line is prohibited (Figure 5).

Units that exercise state control at roadblocks and checkpoints

<i>Roadblock</i>	<i>Checkpoint</i>
Armed Forces of Ukraine	State Border Guard Service of Ukraine
State Border Guard Service of Ukraine	State Fiscal Service of Ukraine
State Fiscal Service of Ukraine	Security Service of Ukraine
National Police	
National Guard	

³² Memorandum on the implementation of the provisions of the Protocol on the outcome of consultations of the Trilateral Contact Group on joint steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and the initiatives of the president of the Russian Federation, V.Putin of 19 September 2014.

³³ CMU Ordinance “On adoption of the list of settlements on territory temporarily uncontrolled by government authorities, and list of landmarks located at contact line” of 07.11.2014 No. 1085-p.

³⁴ Territories related to the CADLR also can be seen on the map on page 55.

³⁵ Human rights in Ukraine. Information portal of Kharkiv Human Rights Group, *Situation with civil population in the Donetsk and Luhansk regions on the territory controlled by the Ukrainian government*, 05.10.2016: <http://bit.ly/2uBwwMm> (access – August 2017).

³⁶ Interview 1.

³⁷ Interview 20.

³⁸ “Temporary procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions” adopted by the ATC SSU First Deputy order (head of the anti-terrorist operation on the territory of Donetsk and Luhansk Oblasts) of 14.04.2017 №222or.

The same control is also organized on the railway into the CADLR. For example, most of them have checkpoints established on a certain station, and a further so-called “check station” on one of the stations after the main checkpoint.

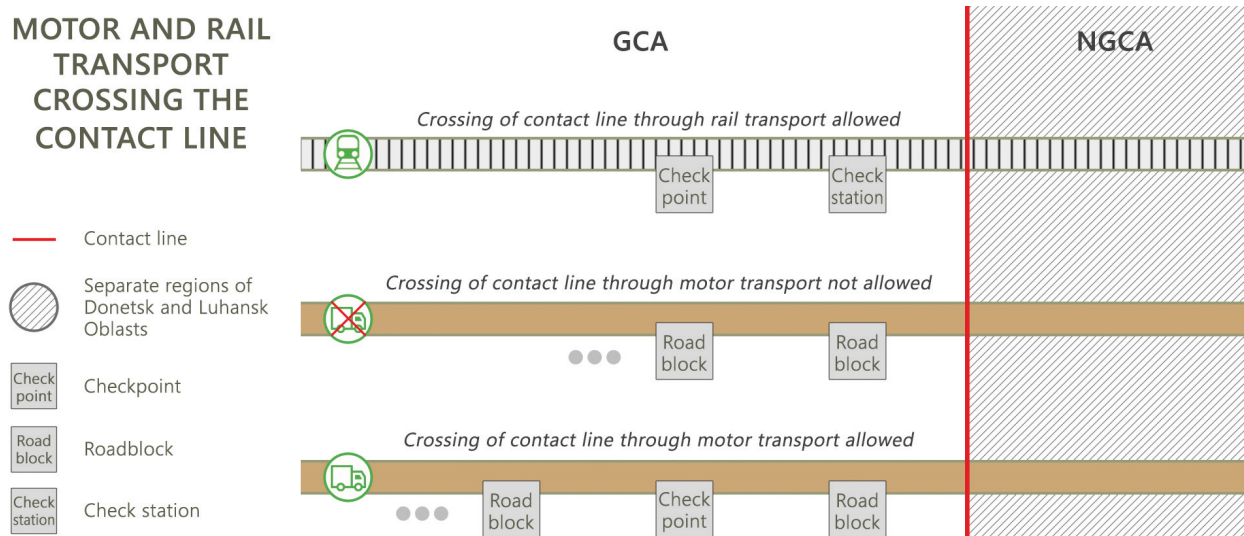


Figure 5: Scheme of crossing the contact line by motor and rail transport

3.1.2 Movement of goods across the contact line

In the CMU Resolution No. 99, which regulates the procedure for goods transfer to/from the CADLR, the term "movement of goods" is used to indicate crossing of the contact line. The term "trade" is used only in the context of HLC, where retail and small wholesale trade is allowed. However, in practice, even a formally allowed "movement of goods" to/from the CADLR even before the ban in March 2017 sometimes included illegal activities, such as carrying additional coal in a shipment in a “double-bottom wagon”³⁹. Thus, in practice, both the legal and illegal trade is conducted through the contact line.

3.1.3 Fight against illegal trade

Goods have been moved to the Donetsk and Luhansk regions, including from the CADLR, even before the establishment of the first restrictions, including when active combat actions were conducted. The combat actions in some ways put practical limitations the movement of goods to the occupied territories, but an increase in the volume of goods in the CADLR can be seen starting when the Minsk Agreements⁴⁰ were signed in September 2014, when the contact line stabilized and the fighting activity decreased⁴¹, and, therefore, it was safer to move goods to the occupied areas of two regions. December 29, 2014 marked the starting point for illegal trade, when by the ATC SSU Order No. 144or the restrictions on trade with the CADLR were introduced. The peak of illegal trade is reported to be the Summer-Autumn 2015⁴², after which the volume of illegal trade decreased somewhat, including through attempts to combat it.

One of the ways to combat illegal trade is through so-called joint mobile groups (JMG), created on the initiative of the President of Ukraine in July 2015⁴³. The JMG included members of the SSU, the SFS, the MIA, the SBGS, the Military Service of Law Enforcement, the AFU, as well as

³⁹ NSDC Decree of 15 March 2017 "On urgent additional measures to counter the hybrid threats to the National Security of Ukraine", put into effect by the President's of Ukraine Decree of 15 March, 2017 No.62/2017.

⁴⁰ Minsk Protocol of 5 September 2014 and Minsk Memorandum of 19 September 2014.

⁴¹ Interview 9.

⁴² Interview 1, 4.

⁴³ Interview 4; Roman Sushchenko, *Is climate change causing terror? Results of the Paris Conference*, UKRINFORM, 17.12.2015: <http://bit.ly/2ukMnDG> (Accessed August 2017).

volunteers⁴⁴. The JMG's task was to move along the contact line to prevent and counteract the illegal trade. The JMG started patrolling on July 15, 2015, but volunteers were withdrawn from JMG in May 2016⁴⁵, and on April 14, 2017, the new ATC SSU Order No. 222or provided for patrolling the contact line solely by forces of the so-called "Fiscal teams," composed of representatives of the SFS, stationary check stations⁴⁶ and the SBGS⁴⁷. As of July 2017, patrolling the contact line is carried out separately by the SFS and the SBGS divisions⁴⁸ (Figure 6).

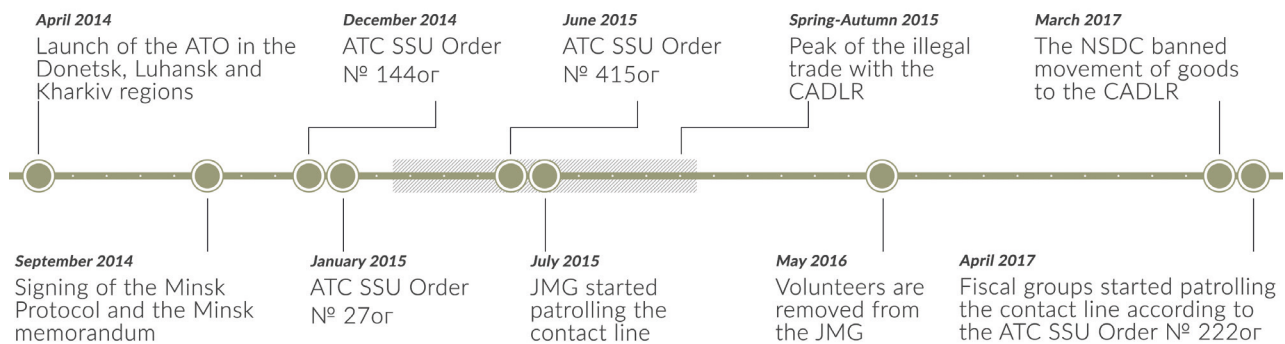


Figure 6: Evolution of the Ukrainian government's fight against illegal trade

Counteracting illegal trade with the CADLR is greatly complicated by the insufficient level of punishment of offenders, which is described in more detail in the section "[Individual liability and accountability](#)". This situation sometimes leads to the use of semi-legal means of combating illegal trade, or irregular methods - for example, digging up roads used for the illegal movement of goods. However, in response to this, offenders clear the adjoining territory, bypass a dug-out site, and create a new dirt road. Among other problems there is also a lack of appropriate infrastructure for storing confiscated goods, lack of personnel to oversee and manage it, insufficient armaments, and problems with vehicles⁴⁹.

Quite often, the fight against illegal movement of goods in the CADLR is opposed by those involved in it, including servicemen. For example:

There is a centralized system of passwords in the ATO zone, which changes every day. JMGs aware of the password were meant to be allowed through roadblocks. However, interviewees reported that in some cases, a battalion created its own separate passwords from the official ones. This meant that vehicles passing with goods to the contact line who had an inside connection and knew the new password would be allowed, and JMGs that knew only official passwords were stopped⁵⁰;

In some cases, JMGs were intentionally slowed down at roadblocks. If a JMG received information that a truck was going to move cargo illegally, it would try to meet the truck at the contact line in order to examine it. But interviewees reported that servicemen intentionally intercept JMGs at roadblocks, in some cases, and slowed them down by checking IDs for 30 minutes while the truck passed smoothly through the roadblock ahead⁵¹;

⁴⁴ Interview 4; *In the ATO zone 7 joint mobile groups will counter contraband* – SSU, UNIAN, 17 July 2015: <http://bit.ly/2wDdTsx> (Accessed August 2017).

⁴⁵ Interview 4.

⁴⁶ Stationary check station is a stationary check point on the territory beyond certain transit corridors where the SFS officers monitor the movement of goods through and along the contact line

⁴⁷ According to the "Temporary Procedures for controlling movements of persons along the contactline within Donetsk and Luhansk regions" adopted by the ATC SSU First Deputy Order (head of the anti-terrorist operation on the territory of the Donetsk and Luhansk Oblasts) of 14.04.2017 №222or.

⁴⁸ Interview 13.

⁴⁹ Interview 11.

⁵⁰ Ibid.

⁵¹ Ibid.

- In other cases, within the same team, there was an order not to let pass representatives of other law enforcement agencies, including the JMGs, in their area of responsibility, despite permission from the ATC SSU for these groups to move freely both within the controlled areas of the Donetsk and Luhansk regions, and within the CADLR;
- In some cases servicemen collude with illegal traders and act as protection from JMGs. When a JMG arrives, a serviceman who had agreed to help an illegal trader may pretend to detain them. After completing the arrest, the colluding servicemen releases them and help them cross the contact line again⁵²;
- In other cases, both ATO participants and local residents informed the persons who conducted illegal movement of goods about the presence of JMG in their area of responsibility, and also transmitted information about JMG's departure from the area⁵³.

Illegal trade through the contact line within Luhansk region differs significantly from the trade through the contact line within the Donetsk region. The uncontrolled territories within the Luhansk region have a less solvent population and fewer industrial facilities. In addition, along the contact line in the north of the Luhansk region, the Siversky Donets River flows, which somewhat complicates the movement of goods. It is also worth noting that for the entire Luhansk region there is only one functioning pedestrian checkpoint – "Stanitsa Luhanska"; there are no automobile checkpoints within the Luhansk region. In general, it can be argued that volume of the illegal trade through the contact line within the Donetsk region is much larger than volume of the illegal trade in the Luhansk region.

3.1.4 Prices and goods

One of the most important incentives for the illegal trade is the difference in prices on both sides. To find out prices in the CADLR, we interviewed 11 people who live on the uncontrolled territory and compared the data obtained with prices for similar products (mainly food products) in two supermarket networks in Kyiv as of the beginning of June 2017⁵⁴.

A comparative table of prices for some goods in Kyiv and the CADLR⁵⁵

<i>Goods</i>	<i>CADLR, UAH</i>	<i>Difference⁵⁶</i>	<i>Kyiv, UAH</i>
Bread	6–9	+19%	7–12
Buckwheat, 1 kg	22–45	-3%	25–40
Rice, 1 kg	22–45	-21%	18–35
Milk, 0,9 kg	17–29	-2%	19–26
Butter, 1 kg	100–205	+4%	136–180
Cheese, 1 kg	150–220	-24%	120–160
Bacon, 1 kg	75–175	-44%	70
Chicken fillet, 1 kg ⁵⁷	90	-15%	77

⁵² Ibid.

⁵³ Interview 4, 11.

⁵⁴ It should be noted that prices in Kyiv are higher than prices in other regions of Ukraine thus making the difference between CADLR and national average prices even bigger.

⁵⁵ Comparing prices, we mostly received information from Donetsk. Two respondents sent information about prices also in towns of Alchevsk and Novoazovsk, and the occupied part of the Luhansk region was represented by only one person who provided prices from the city of Luhansk. During the data collection, the countryside and small towns were not covered. Since the CADLR is actually in the ruble zone, prices from these territories were provided to us in rubles, which as of June 2017 were exchanged at the rate of 1 UAH = 2.20 rubles. However, for ease of calculations, we converted prices in UAH at the rate of 1 UAH = 2 rubles.

⁵⁶ It was calculated as the difference between the average prices in the CADLR and in two supermarket chains in Kyiv.

⁵⁷ Data in the table reflect general tendencies in the prices in the CADLR, but do not claim accuracy due to a small number of respondents. In addition, sometimes we received information about prices, which got sharply out of the picture - in particular,

Pork, 1 kg	125–190	-32%	100–115
Tomatoes, 1kg	38–70	-43%	28–34
Cucumbers, 1kg	22–30	-37%	15–18
Potato, 1kg	15–25	-50%	10
Apples, 1kg	30–50	-30%	28
Strawberry, 1kg	80–90	-59%	35
Sugar, 1kg	18–23	-2%	20
Sweets “Korivka”, 1kg	75–90	-15%	70
Beer, 1 l (Ukrainian production)	38	-34%	25
Vodka, 0,5 l	43–80	+37%	74–95
Champagne, 0,75 l	120–145	-43%	76
Cigarettes	10–24	+64%	28

As the table shows, some categories of goods in the CADLR are more expensive on average by 30%, compared with prices in Kyiv. The biggest difference in price is observed especially for meat products, alcohol and vegetables, although the prices for vegetables depend on the season. Thus, goods that cross the contact line get a significant profit margin. Exceptions to this trend are bread, vodka and cigarettes, which are cheaper in the CADLR than in the controlled territory of Ukraine. That is why they are some of the few goods transported in reverse direction - from the CADLR to the controlled territory.

When comparing prices in the controlled and uncontrolled territories, it is also worth comparing the incomes of population. In general, the population in the CADLR has a significantly lower income, which is important in the context of higher prices compared to the controlled territories.

Comparative table of pensions and salaries, UAH⁵⁸
(as of March 2017)

	<i>“DPR”</i>	<i>“LPR”</i>	<i>Controlled Territories of the Donetsk and Luhansk regions</i>
Pension	1 238 (46 USD)	904 (34 USD)	1 247 (46 USD)
Minimal salary	1 160 (43 USD)	1 381 (51 USD)	3 200 (119 USD)
Average salary	4 566 (170 USD)	3 883 (144 USD)	5 943–7 332 (220–272 USD)

The respondents also drew attention to their limited assortment of products. Respondents reported that the volume of Ukrainian products in the CADLR became significantly smaller⁵⁹, and in their

chicken fillet in town of Novoazovsk (120-130 UAH) is much more expensive than in other cities of the occupied Donetsk region (85-109 UAH).

⁵⁸ *Standard of living in the CADLR and in the unoccupied territory: comparison of earnings and prices*, Slovo I Dilo, 30 March 2017: <http://bit.ly/2hFEaUJ> (Accessed August 2017); Andrii Zaika, Petro Bilian, *Economy of the CADLR enterprises*, Occupied Donbas: economics, demography, groups of influence, Center for the study Russia and occupied territories, 2017.

⁵⁹ Nevertheless, there are still Ukrainian goods in the CADLR. Ukrainian trademarks, in particular, are presented among such products as cheese, butter, sausages, margarine, beer, champagne and sweets. According to the statements of the authorities, vegetables, fruits and meat are also being brought from the controlled territory to the territory of the CADLR. Some respondents stated that in Donetsk there are also products from the EU.

place a large number of Russian and Belarusian products appeared⁶⁰, which, as noted by majority of the respondents, are of a lower quality than the Ukrainian ones⁶¹. Also, high prices and a shortage of household goods, cosmetics and medicines were noted. Respondents reported that medicines are mostly Russian⁶².

It should be noted that the "Ministry of Revenues and Fees of the DPR", a part of the self-proclaimed "Donetsk People's Republic", by its "order"⁶³ of May 3, 2017, banned the import of goods from Ukraine through the contact line to the uncontrolled territories of the Donetsk region, thus leaving the opportunity to import Ukrainian goods only by "[terminated transit](#)"⁶⁴. Similar restrictions were also established by the "Council of Ministers of the LPR" (again, part of the self-proclaimed "Luhansk People's Republic"), which on January 26, 2017, temporarily prohibited import of a number of products from the controlled territories to the territory of the LPR⁶⁵. Nevertheless, as of Summer 2017 goods continue to flow to the CADLR through the contact line⁶⁶. Other respondents also reported similar restrictions on Ukrainian products - it was noted that the "control authorities" of the militants look for Ukrainian goods in the markets of Donetsk and issue fines; therefore, products from the controlled territory of Ukraine are often traded "under the counter"⁶⁷, or goods without a marker indicating Ukrainian origin are chosen⁶⁸.

The illegal trade with the CADLR is not limited to food products - a wide range of products⁶⁹ are transported to the uncontrolled territories, including fuel and lubricants, automobile spare parts⁷⁰, clothing⁷¹, electronics⁷², medicines⁷³, narcotic drugs⁷⁴, etc. By analyzing the lists⁷⁵ of enterprises that are allowed to transport goods to the CADLR, one may see that ski suits, bidets, smartphones, tablets, bicycles, compasses, pictures, and more items were transported to a number of factories on the uncontrolled territory (more details in the section "[Illegal trade through the checkpoints on the railway](#)").

Providing an estimate of the volume of the illegal trade is quite difficult, because the goods come from different countries and in different ways. Some basic information is available, though. For

⁶⁰ Interview 8, *Blood and vodka. How Belarus trades with the militants of the DPR and LPR groupings (investigation)*, Radio Svoboda, 24 July 2017: <http://bit.ly/2vhJPDP> (Accessed August 2017); Ihor Illiash, *Business in the war: how Belarus "feeds" Donbass. Investigation by "Belsat". Part 1*, belsat.eu, 24 July 2017: <http://bit.ly/2wpoWGI> (Accessed August 2017).

⁶¹ Interview 8, 11, 19; Yevhen Rudenko, *Half a year after the Donbas blockade: how do smugglers operate and what do they feed Donetsk with*, Ukrainska Pravda, 14 September 2017: <http://bit.ly/2xndvyC> (Accessed September 2017).

⁶² Interview 8.

⁶³ "Order of the Ministry of Revenue and Fees of the DPR" No. 170 of 03.05.2017 "On establishment of ban on import in the customs territory of the Donetsk People's Republic of goods from the territory of Ukraine", <http://bit.ly/2vK3zCZ> (access – August 2017).

⁶⁴ More detailed information about terminated transit in section "Terminated transit".

⁶⁵ "Decree of the Council of Ministers of the LPR" of 26 January 2017 No. 32/17 "On restriction of import to the territory of the Lugansk People's Republic of products of animal origin", <http://bit.ly/2wp9SBX> (access – August 2017).

⁶⁶ Interview 11, 13 Yevhen Rudenko, *Half a year after the Donbas blockade: how do smugglers operate and what do they feed Donetsk with*, Ukrainska Pravda, 14 September 2017: <http://bit.ly/2xndvyC> (Accessed September 2017).

⁶⁷ Interview 8; Fashik Donetskyi, *Through the Looking Glass. Inconvenient news of the occupied Donetsk*, Obzrevatel, 04 June 2017: <http://bit.ly/2vhof22> (access – August 2017).

⁶⁸ Radio Svoboda Ukraine, *Contraband on the Donbas. New schemes / Donbas.Realities*, YouTube, 5 June 2017: <http://bit.ly/2hFDkHv> (access – August 2017).

⁶⁹ Galyna Kachalova, *The ATO zone has turned into a new sales market*, Ekonomichna Pravda, 20 May 2015: <http://bit.ly/2hFehV8> (access – August 2017).

⁷⁰ Interview 11.

⁷¹ Press Service of the State Fiscal Service of Ukraine, *In the Donetsk region, the "Phantom" detained several shipments of goods at attempt of their illegal movement to the occupied territory*, website of the SFS, 08.07.2016: <http://bit.ly/2wp6tKt> (access – August 2017); Press Service of the State Fiscal Service of Ukraine, *The "Phantom" detained a shipment of clothes and shoes for the total amount of more than 50 thousand UAH*, website of the SFS, 02.06.2016: <http://bit.ly/2wpxV26> (access – August 2017).

⁷² Interview 9.

⁷³ As a result of special operation in the ATO zone, the largest supply channel of the militants was eliminated: the first deputy chairman of the SFS Bilan, Censor.net, 07.09.16: <http://bit.ly/2vJ4tOW> (access – August 2017).

⁷⁴ Interview 1, 4; TCN, *The Donbass "gray zone" actually turned into a "free trade zone"*, YouTube, 3 April 2016: <http://bit.ly/2hFFJC5> (access – August 2017).

⁷⁵ *Annex 4 to the temporary procedure of control over the movement of persons, vehicles and goods along the contact line within the Donetsk and Luhansk regions "List of business entities that are granted the right to transport certain goods to the uncontrolled territory"*, Civil-Military Cooperation of the Armed Forces of Ukraine: <http://bit.ly/2ukqKPJ> (access – August 2017).

example, in January-April 2015, more than 36 million UAH (1,3 million USD)⁷⁶ worth of goods was detected and prevented. However, this amount is likely significantly underestimated and does not reflect the real picture.

At the same time, there are numbers on the volume of illegal movement of goods from Russia to the CADLR through uncontrolled areas of the Ukrainian-Russian border according to data from the Federal customs service of Russian Federation, Russian Railways OJSC and the Ukrainian Railways PJSC. In particular, it is noted that in 2016, Russia exported goods for a total amount of 1 230 million USD to the CADLR, 264 million USD (21%) of which were agricultural products and food. In the same year - 2016 - from the CADLR to Russia goods in total amount of about 200 million USD were sent⁷⁷.

3.1.5 Economic situation in the CADLR

According to statements of the "Head of the Department for Industrial Matters under the administration of the DPR"⁷⁸, the industry of the occupied areas of the Donetsk region works approximately at 30% of the pre-war level, and retail trade decreased by 50%. Approximately the same data are provided by other studies. Studies⁷⁹ have shown that economic activity in the region has declined – it halved in Donetsk and reduced by two thirds of the original in Luhansk⁸⁰. Part of the region's industry is destroyed, part has been dismantled and taken to Russia, and less valuable objects (mines, warehouses, small businesses, etc.) are sold for scrap⁸¹. Enterprises that remained in the occupied territory, have been re-registered and pay taxes to the local "budget"⁸², and the "control authorities" of the militants monitor this process⁸³. And, if the enterprise is Ukrainian, then taxes are paid twice⁸⁴.

Most of the budgets of "DPR" and "LPR" (up to 90%) are filled by Russia, as repeatedly stated by the militants⁸⁵, as well as individuals⁸⁶. For the payment of pensions alone, about 37 million USD⁸⁶ comes from Russia per month. Money, mostly in cash, is transported to the CADLR by rail; financing of "DPR" and "LPR" is also carried out through the banks of occupied Abkhazia (Georgia)⁸⁷. In addition, the CADLR switched to settlements by Russian rubles⁸⁸, at an exchange rate as of June 2017 1 UAH = 2.20 rubles⁸⁹.

⁷⁶ Mazur M.V., *Administrative liability for violation of the Procedure for movement of goods to the area or from the area of conducting anti-terrorist operation*, Legal Bulletin: scien.magazine/edit.board: Predmestnikov O.G. and other – Odesa, OSUIA, 2016. - Issue 2 (2), p. 79: <http://bit.ly/2vIEvgZ> (Accessed August 2017).

⁷⁷ Yevgenii Golovatiuk, Economics of occupied Donbass: players, schemes, volumes, LIGA.net: <http://bit.ly/2fxoodW> (access - August 2017).

⁷⁸ Illia Zhehuliov, *Self-proclaimed economy. How business in the Donbas survives: investigation by Illia Zhehuliov*, meduza, 18 February 2015: <http://bit.ly/2vKr1Qd> (access – August 2017).

⁷⁹ By measuring the night-time light on the satellite images of Donetsk and Luhansk.

⁸⁰ Mykola Balaban, Olga Volianiuk, Kristina Dobrovol'ska, Bohdan Balaban, Maxim Maiorov, *Donbas on Fire. Guide on the conflict zone*, NGO "Prometheus", 2017, p. 48: <http://bit.ly/2ulyjtH> (access - August 2017).

⁸¹ Ibid, p. 60.

⁸² Illia Zhehuliov, *Self-proclaimed economy. How business in the Donbas survives: investigation by Illia Zhehuliov*, meduza, 18 February 2015: <http://bit.ly/2vKr1Qd> (access – August 2017).

⁸³ Interview 4: Sergey Ivanov, *Hunger Games of the "LPR"*, Ukrainska Pravda, 3 April 2015: <http://bit.ly/2fpc3YW> (access – August 2017).

⁸⁴ Illia Zhehuliov, *Self-proclaimed economy. How business in the Donbas survives: investigation by Illia Zhehuliov*, meduza, 18 February 2015: <http://bit.ly/2vKr1Qd> (access – August 2017).

⁸⁵ Mykola Balaban, Olga Volianiuk, Kristina Dobrovol'ska, Bohdan Balaban, Maxim Maiorov, *Donbas on Fire. Guide on the conflict zone*, NGO "Prometheus", 2017, p. 60: <http://bit.ly/2ulyjtH> (access – August 2017).

⁸⁶ *The SSU accuses the coal supplier of the TPP "Centrenerg" in large-scale financing of terrorism*, Interfax Ukraine, 04.09.2015: <http://bit.ly/2uljXt3> (access – August 2017); State Financial Monitoring Service of Ukraine, *Typological studies of the State Financial Monitoring Service of Ukraine for 2016 2015, 2014 – K.*, 2017, c. 77-79: <http://bit.ly/2wD0DUP> (access – August 2017); Russia transfers \$37 mln for pensions in DPR every month: Bloomberg, world.korupciya.com, September 16, 2015: <http://bit.ly/2AxsVWN> (access – November 2017).

⁸⁷ Mykola Balaban, Olga Volianiuk, Kristina Dobrovol'ska, Bohdan Balaban, Maxim Maiorov, *Donbas on Fire. Guide on the conflict zone*, NGO "Prometheus", 2017, p. 60: <http://bit.ly/2ulyjtH> (access – August 2017).

⁸⁸ Ibid, p. 48.

⁸⁹ Interview 8.

Despite the abovementioned, the CADLR still preserves certain industrial potential. In particular, the region produces anthracite (used by Ukrainian thermal power plants) and cooking coal (necessary for manufacturing steel)⁹⁰.

3.1.6 Methods of illegal trade

5 methods of illegal movement of goods to the CADLR were identified (Figure 7):

- Through the checkpoints on the roads;
- Through humanitarian logistic centers (HLC);
- Through the checkpoints on the railway;
- Avoiding the specified transit corridors;
- Terminated transit.

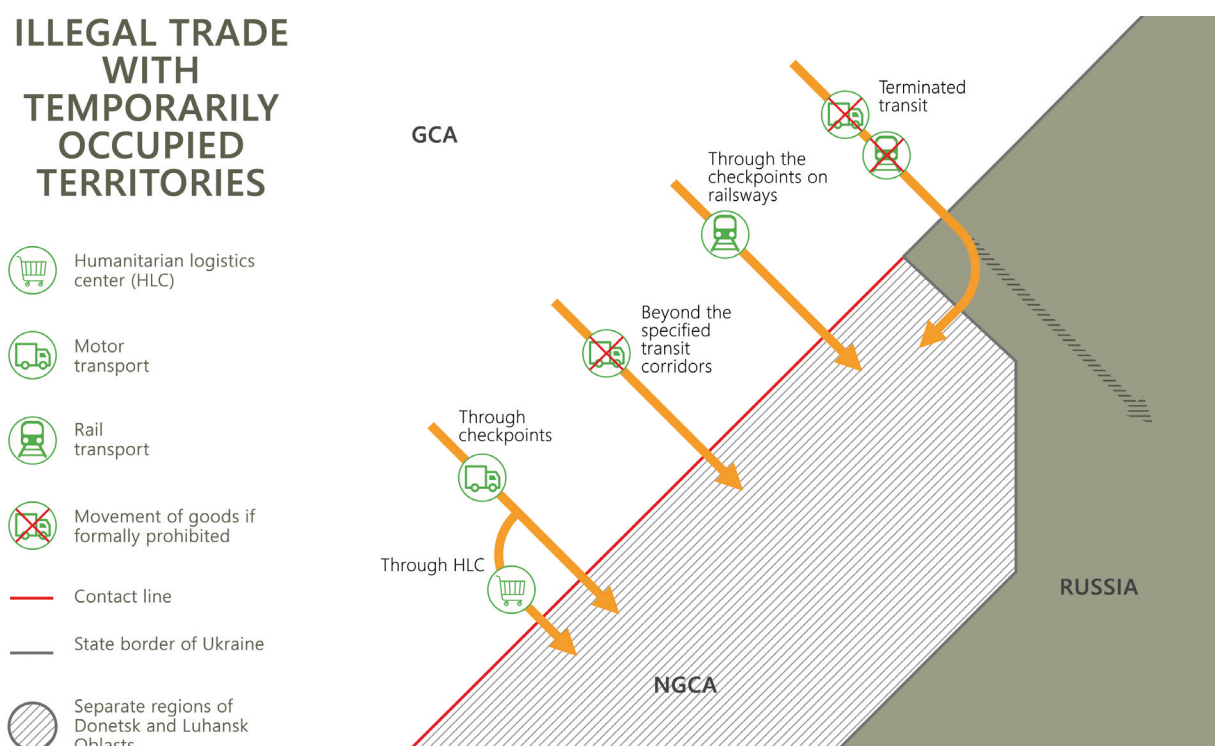


Figure 7: 5 methods of illegal movement of goods to the CADLR

During this study, several volunteers provided information about the possibility of moving goods to the CADLR in a sixth way, through the Azov Sea, but we can neither confirm nor deny that this occurs. One interviewee noted that this would pose a number of challenges, including small potential payload volumes in comparison with road and railway transport, and a high probability of being seen and destroyed by the coast guard. In such a situation it is more expedient to move along the coast, however, under such conditions, there is a fairly high probability of being noticed⁹¹. Another interviewee noted that illegal movement of goods through the Sea of Azov is impossible due to the fact that certain areas of it are mined⁹².

⁹⁰ Mykola Balaban, Olga Volianiuk, Kristina Dobrovol'ska, Bohdan Balaban, Maxim Maiorov, *Donbas on Fire. Guide on the conflict zone*, NGO "Prometheus", 2017, p. 22: <http://bit.ly/2ulyjitH> (access – August 2017).

⁹¹ Interview 1.

⁹² Interview 9.

3.2 Illegal trade through the checkpoints on roads

3.2.1 Humanitarian assistance as a way of trade

As described above, from a formal point of view from August 2017 the movement of goods through the contact line through checkpoints on the roads has been prohibited. There are only two exceptions – first cargo of humanitarian nature, and second, goods in hand luggage according to the volumes adopted by the MTOT⁹³.

Humanitarian assistance was widely used before the beginning of Russian aggression and is still used for the import of non-humanitarian goods to Ukraine, or their use for commercial purposes, in order to avoid payment of customs duties⁹⁴. Since the start of Russian aggression in the East of Ukraine, the amount of humanitarian assistance to these regions has increased significantly, and in addition to providing the population with basic goods, cases of unauthorized use of HA in the CADLR are common⁹⁵.

HA is allowed to be moved to the CADLR and can be transported exclusively through checkpoints on roads and on rail. To do this, cargo should be recognized as humanitarian in the established order, which is the responsibility of the Ministry of Social Policy of Ukraine (hereinafter - MSP), which also controls its transportation, receipt, storage, protection, warehousing, distribution, targeted use and accounting⁹⁶. There are numerous cases when the subjects use the same Order of the Ministry of Social Policy to recognize the cargo as HA several times on different dates and with respect to different cargos, because the relevant order is not attached to a specific vehicle or the specific time of transportation.

In addition, there is a reason to believe that certain humanitarian organizations import HA to the CADLR for the purpose of selling. In other cases, some declared recipients of HA were contacted by phone, a volunteer reported, to check the actual receipt of assistance by the population. It turned out that non-existent persons were declared as the recipients of HA or that the respondents could not confirm the receipt of HA⁹⁷. In another case, a humanitarian organization brought food products to one of the front-line settlements, which were formally distributed among the residents by the local civil-military administration, but in fact most of the products were sold in the CADLR⁹⁸. Humanitarian goods are often not checked on the checkpoints by authorized bodies⁹⁹; there are cases when under the guise of HA, electronics¹⁰⁰ and even radiostations¹⁰¹ were transported to the CADLR.

3.2.2 Other cargo

In addition to HA, the movement of other goods through the contact line through road checkpoints still occurs. There is "petty" corruption, when the control authorities at checkpoints let pass persons with overweight personal luggage for a certain amount of money, or do not check a car at all¹⁰². Another type of petty corruption are so-called "couriers" – persons with trolleys, which, for a fee, can transport any cargo from a checkpoint on the controlled territory to the "checkpoint" of the

⁹³ MTOT Order "On adoption of the List and volumes of goods allowed for movement to and from the HLC and across the contact line" No. 39 of 24.03.2017.

⁹⁴ Goods recognized in accordance with the established procedure as humanitarian assistance are exempted from payment of customs payments in accordance with Part 1 of Article 287 of the Customs Code of Ukraine.

⁹⁵ Fedir Oryshchuk, Humanitarian catastrophe in the government of Groisman. Who traded humanitarian assistance provided for Ukraine, Glavkom, October 2 2017: <http://bit.ly/2zCWaTG> (access – October 2017).

⁹⁶ Website of the Ministry of Social Politics, *Humanitarian assistance*: <http://bit.ly/2vfkYBY> (Accessed August 2017).

⁹⁷ Interview 2.

⁹⁸ Interview 11.

⁹⁹ Interview 2, 11.

¹⁰⁰ Interview 2; Mykola Balaban, Olga Volianiuk, Kristina Dobrovolska, Bohdan Balaban, Maxim Maiorov, *Donbas on Fire. Guide on the conflict zone*, NGO "Prometheus", 2017, p. 49: <http://bit.ly/2ulyjtH> (access - August 2017).

¹⁰¹ Iryna Salii, *The court arrested radiostations driven by the driver of the Akhmetov's fund truck to the militants*, Ukrainska Pravda, 7 February 2017: <http://bit.ly/2ulfd6R> (access – August 2017).

¹⁰² Interview 4, 11; Olga Nikolaeva, *Assault, corruption and renewals at the contact line*, donbassUA, 30.03.2017: <http://bit.ly/2vKg4OK> (access - August 2017).

militants¹⁰³. At one checkpoint 10-30 "couriers" can operate, receiving 50–300 UAH (2–11 USD) for one trip. In addition, "couriers" can also unload wagons and transport multi-ton cargo to the uncontrolled territory. For example, in 2017 on the checkpoint "Stanitsa Luhanska" there was a case when in 3 hours, 10 "couriers" unloaded and moved to the uncontrolled territory about 10 tons of goods¹⁰⁴. And since, according to the ATC SSU Order No. 415or, which is now out of force, the transfer of goods in hand luggage in accordance with approved lists and weights is allowed only once a day, corruption risks arise only when the allowed weight is exceeded and couriers pass through checkpoints multiple times a day. As of August 2017, the CMU Resolution No. 99 does not provide for a restriction on the number of goods crossing the contact line per day, however, "couriers" can carry exceeding volumes of goods (more than 75 kg allowed) bypassing the general line, by using part of their profits to bribes to those manning the checkpoints¹⁰⁵.

A separate category is the provision of services on passenger transportation to the checkpoints. For example, the passengers are transported on the route from Bakhmut to checkpoint "Maiorske". Buses carry passengers to the checkpoints, from which point passengers board other buses and travel to the "zero roadblock"¹⁰⁶. As of the summer of 2017, transportation along the route Bakhmut-checkpoint "Maiorske" costs 25 UAH (1 USD) for 25 km of the route, and from the checkpoint to the zero roadblock – 5 UAH (0,2 USD), for the remaining 1 km of the route. Such buses carry goods, which each of the passengers declares formally as their own. However, as noted, they can belong to a person who is on the bus and actually transports goods to the CADLR exceeding allowed volumes by having other passengers carry these goods¹⁰⁷. In addition, such buses are not always checked by the regulatory authorities¹⁰⁸. Such transportation of goods to the CADLR is also carried out by private persons on their own vehicles¹⁰⁹.

Secondly, the illegal trade with the CADLR also occurs by checkpoints employees in much larger volumes by admitting trucks with goods (which are allowed only in exceptional cases based on corresponding decision of the ATC). Such movement of goods can occur in different ways. For example, in the village where the checkpoint is located, improvised warehouses can be created in houses, where goods are brought pending a shift at the checkpoint to personnel are open to being bribed, for example. Heavy trucks can wait a few kilometers from the checkpoint for a certain shift, or drive up to the checkpoint directly at a certain time, when they can pass. Such a pass occurs in hours of darkness, mainly at night and after the official termination of control activities at the checkpoints¹¹⁰.

3.3 Illegal trade through the HLC

HLCs were created by the assignment of the President of Ukraine¹¹¹ and were intended to be trading platforms (markets) for small wholesale¹¹² and retail trade, located in the controlled territory, but outside the checkpoints. HLCs were primarily focused on selling goods to the population of the CADLR, as the prices in these markets were significantly less than in the uncontrolled territories. The idea was that sellers could go to the HLCs and sell their goods, and people living in the CADLR

¹⁰³ Yevhen Rudenko, *Half a year after the Donbas blockade: how do smugglers operate and what do they feed Donetsk with*, Ukrainska Pravda, 14 September 2017: <http://bit.ly/2xndvyc> (Accessed September 2017).

¹⁰⁴ Interview 13.

¹⁰⁵ Interview 5.

¹⁰⁶ "Zero roadblock" refers to the last roadblock of the AFU in the controlled area in the direction of traffic to the CADLR.

¹⁰⁷ Interview 12.

¹⁰⁸ Interview 9.

¹⁰⁹ Interview 14.

¹¹⁰ Interview 1, 3, 4.

¹¹¹ MOD press service, *There is a humanitarian-logistic center functioning near Artemivsk for the NGCA residents*, CMU web site, 7.09.2015: <http://bit.ly/2w572lp> (access – September 2017).

¹¹² Wholesale trade means sale of goods for their subsequent sale to business entities. Retail trade means sale of goods directly to citizens and other end-users for their personal non-commercial use. Therefore, it remains unclear what a "small wholesale trade" means; the more so that in Ukrainian legislation there is no corresponding definition.

could buy these goods and services, and they could get humanitarian and charitable assistance without crossing the checkpoint itself, and thus without obtaining permission for crossing the contact line from the SSU. For example, HLC “Maiorske” appeared at the end of August 2015 and functioned as intended only for about 2–3 months from the moment of opening, after which, it allegedly almost completely became wholesale warehouse¹¹³.

The main disadvantages that caused the HLCs to malfunction are difficulties for the buyers and sellers in gaining access to the markets themselves, which is proven by the HLC “Maiorske” on the road transit corridor “Horlivka – Bahmut,” explained below.

3.3.1 Buyer access to the HLC

Until October 2016, the HLC “Zaitsevo” was located between the zero roadblock (11,5 km) and the checkpoint “Zaitsevo” (5,5 km) (Figure 8). From the beginning there were special buses that brought people to the HLC from the zero roadblock. This allowed a large number of people to get to the market so at the beginning of the operation, the HLC was in high demand¹¹⁴.

Before entering the HLC, it was necessary to pass a check at the zero roadblock, and to take a special coupon and to make a note in it at the SBGS checkpoint on the way to the HLC¹¹⁵. At the exit from the HLC, the goods were weighed by the SFS representatives to verify compliance with the established volumes and a note placed again in the coupon. For some time there was also a separate

line to the HLC, so it was possible to get to the market quickly and conveniently.

However, subsequently the lines to the checkpoint and to the HLC were united, buses were canceled, and only those who have their own car could get to the HLC from the CADLR¹¹⁶. Those who did not have their own transport had to take a bus from the zero roadblock to the checkpoint “Zaitsevo” (pedestrian traffic between them is prohibited) and then to go back from the checkpoint to the HLC (about 1 hour) or to ask a driver to stop near the HLC. However, the problem was leaving the HLC, because loaded buses that moved in the direction of the zero roadblock did not stop there¹¹⁷.

As a result, ordinary people don’t use HLC “Maiorske”, which has allegedly become a hub for illegal trade¹¹⁸. It is more advantageous for people to cross the checkpoint

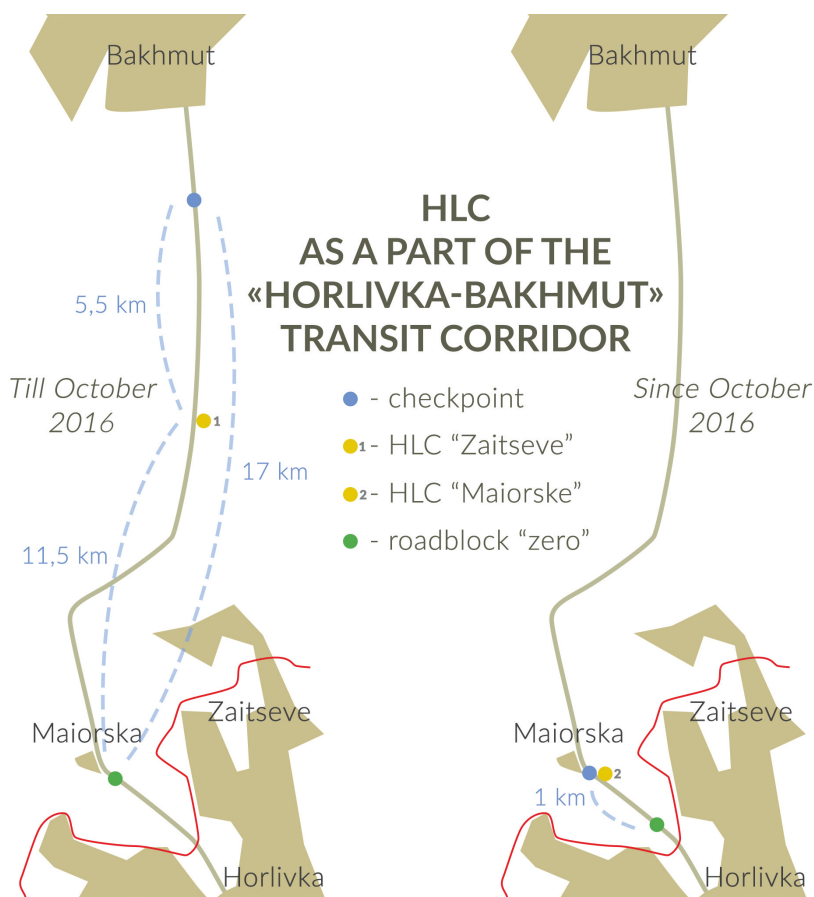


Figure 8: Positioning of the humanitarian logistics center (HLC) in Horlivka-Bahmut transit corridor before October 2016 and after

¹¹³ Interview 1, 3.

¹¹⁴ Interview 16.

¹¹⁵ Interview 12, 17.

¹¹⁶ Interview 12, 16.

¹¹⁷ Interview 12.

¹¹⁸ Interview 1, 3.

and to go to the city of Bahmut (GCA), where goods could be bought cheaper than even in this market¹¹⁹. In addition, there are restrictions¹²⁰ on the volume and cost of goods that can be taken from the HLC, which reduce the profitability of visiting such markets, although in April 2017, however, the cost of goods that can be taken from the HLC to the uncontrolled territories was increased from UAH 10 000 to UAH 20 000, and the weight from 75 kg to 150 kg¹²¹. Checkpoints were not allowed the same increase, though local people transport goods to the CADLR primarily in hand luggage through checkpoints.

Restrictions also exist on the part of militants, who established significantly smaller volumes of goods allowed for transportation than the Ukrainian side¹²². The movement of goods from the controlled territories to the CADLR as of August 2017 is still taking place, however, indicating that such restrictions on the part of the militants may have been in part introduced to intentionally create additional corruption opportunities.

3.3.2 Access of sellers to the HLC

Another disadvantage of the system is the complicated admission of sellers to the market, which occurs based on the decision of the HLC management¹²³. Allegedly, only certain trucks can get to the HLC “Maiorske” by prior arrangement. All others are blocked from the HLC “Maiorske”, formally or informally¹²⁴. Trucks deliver goods to the HLC “Maiorske” territory and unload them, and from there certain individuals (at the local jargon, so called “donkeys”, “couriers” or “ants”), which are in orderly manner delivered by cars (about 8-12 persons), “buy” goods, load them and leave them at the AFU zero roadblock in the gray zone, where goods are transferred to another car. The smugglers tend to make several trips. For one such trip, “couriers” receive about 150 Russian rubles (2,5 USD)¹²⁵. After in October 2016 the checkpoint was transferred to the railway station “Maiorska” and the HLC was opened near it, the distance between the HLC and the zero roadblock was significantly reduced, from 11 km to 1 km. It was reported that there were cases when goods were transferred manually or by bicycles (up to 80 kg at a time)¹²⁶. Thus, there is an imitation of retail trade at the HLC “Maiorske”, which in fact is a prohibited wholesale trade with the CADLR. In addition, the organizers of illegal trade at the HLC “Maiorske” also offer, as a separate service, agreements with the “customs of the DPR” on the unobstructed passing of cars with goods to the CADLR¹²⁷.

After the implementation in March 2017 of the NSDC decision on temporary prohibition of goods movement across the contact line, both HLCs were closed¹²⁸, but trade on the HLC on “Maiorske” checkpoint allegedly continues¹²⁹. In addition, information was received that certain representatives of control authorities received a fee from each person – around 1–2 UAH (0,4–0,8 USD) per 1 kilogram of goods¹³⁰. As of July 2017, this HLC operates as a terminal for wholesale trade with the

¹¹⁹ Interview 1; The list and volumes (cost, weight, quantity) of goods transported to/from the HLC and through the contact line are determined by the MTOT Order “On adoption of the list and volumes of goods allowed for movement to/from the HLC and across the contact line” No. 39 of 24.03.2017.

¹²⁰ The list and volumes (cost, weight, quantity) of goods transported to/from the HLC and through the contact line are determined by the MTOT Order “On adoption of the list and volumes of goods allowed for movement to/from the HLC and across the contact line” No. 39 of 24.03.2017.

¹²¹ MTOT Order “On amendment of the order of the Ministry of temporarily occupied territories and internally displaced persons of Ukraine” of 24 March 2017 No. 39 of 11.04.2017 № 45.

¹²² “Order of the Ministry of Revenue and Fees of the DPR No. 170 of 03.05.2017 “On establishment of ban on import to the customs territory of the Donetsk People's Republic of goods from the territory of Ukraine”, <http://bit.ly/2vK3zCZ> (access – August 2017).

¹²³ Interview 3, 12.

¹²⁴ Interview 3; Levko Stek, Yevhen Holovin, *Contraband in the ATO zone: gray schemes at the checkpoint “Maiorsk” (investigation)*, Radio Svoboda, 07 August 2017: <http://bit.ly/2vKvUJi> (Accessed August 2017).

¹²⁵ Interview 12, 17.

¹²⁶ Interview 3, 4.

¹²⁷ Interview 17.

¹²⁸ Interview 16; Oleksii Kudelia, *Logistic center in Maiorsk is closed in execution of the decision of the NSDC (video)*, Radio Svoboda, 17 March 2017: <http://bit.ly/2wD7TA0> (Accessed August 2017).

¹²⁹ Interview 12, 16.

¹³⁰ Interview 3.

CADLR – an order for goods comes from the uncontrolled territory, and they are delivered to the CADLR through the HLC “Maiorske”. There is a story that in early 2017 with the help of the “couriers” in one day eight 20-ton trucks were loaded¹³¹ with transported goods from the HLC “Maiorske”.

It is worth noting that there are technical problems at the HLC “Maiorske”, including an unreliable energy supply that makes refrigeration of produce impossible. Also, at the HLC “Maiorske” there is no pharmacy and bank, which significantly reduces potential motivation of the CADLR residents to visit it¹³². Skepticism about the HLCs was also expressed by the leaders of the Donetsk regional CMA¹³³.

3.4 Illegal trade through the checkpoints on the railway

Between the controlled territories and the CADLR, rail cargo transportation is conducted within seven specified rail transit corridors, along which there are five checkpoints (checkpoint “Krasnyi Lyman” is used simultaneously for three rail transit corridors)¹³⁴.

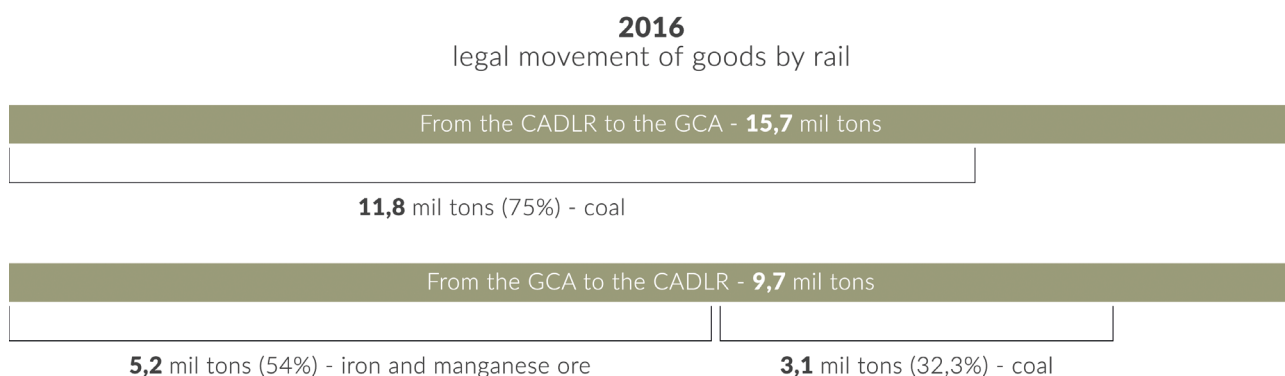


Figure 9: Volume of legal movement of goods by rail in 2016

The idea to allow cargo transportation through the contact line was that the enterprises that pay taxes to the budget of Ukraine, but whose production capacities are on both sides of the contact line, could transport the necessary raw materials and components between them in order to maintain their production cycles and to be able to export finished products to the GCA.

According to published data, in February 2016 alone, 41,772 wagons were forwarded from the CADLR to the controlled territories. Among them there were 12,355 wagons with coal (about 741,300 tons), which was supplied mainly to thermal power plants; 441 wagons of coking coal, 485 wagons of coal concentrate and 360 wagons of anthracite. Among other goods there are also large-capacity containers, steel ropes, equipment, machines and spare parts for them, lime, ferrous metal products, and more¹³⁵. In total in 2016, about 32,500 000 tons of products, approximately half a million wagons¹³⁶, were transported legally by rail through the contact line in both directions, 55% of which (18 million tonnes) was coal. Of these, 15.7 million tonnes were transported from the CADLR to

¹³¹ Interview 4.

¹³² Interview 16, 17.

¹³³ Mariana Pietsukh, *Pavlo Zhebrivsky: If you haul off, then hit it drop-dead*, Ukrainian Pravda, 12 September 2016: <http://bit.ly/2vhZ0g4> (Accessed August 2017); *Checkpoint "Zaitseve" and "Novotroitske" will be transferred, logistics centers will be closed* - Zhebrivsky, Ukrinform, 22.06.2016: <http://bit.ly/2wpxo8C> (Accessed August 2017).

¹³⁴ Passenger transportation by rail is prohibited in accordance with clause 1.6 “Temporary procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions” adopted by the ATC SSU First Deputy Order (head of the antiterrorist operation on the territory of the Donetsk and Luhansk Oblasts) of April 14, 2017 No. 222or.

¹³⁵ Victory Krm, *Hackers and Donetsk Railway InformNapalm conducted a detailed analysis of files*, Informnapalm, 23.03.2016: <http://bit.ly/2foYEAg> (Accessed August 2017).

¹³⁶ Open wagons with payload of approximately 65 tonnes.

controlled territories, and 9,7 million tonnes from the controlled territories to the CADLR¹³⁷ (Figure 9).



Figure 10: The movement of anthracite from the CADLR to Shchastia

Ukrainian anthracite is exported from the uncontrolled territories to the Russian Federation, and then imported to the controlled Ukrainian territories. As of August 2017 anthracite for Luhansk TPP (town of Shchastia)¹³⁸ allegedly comes from Russia from the North of the Luhansk region through the border station Lantratovka (on the Russian side - station Vystril)¹³⁹ (Figure 10). This is confirmed also by the official statistics of the Southern Customs Administration of the Federal Customs Service of the Russian Federation¹⁴⁰. According to these data, in January-May 2017, 236,568 tons of anthracite were exported from the CADLR to the Rostov region and 236,296 tons were exported from the Rostov region to Ukraine (Figure 11). Judging by the published data, it can be concluded that this scheme works exclusively for moving anthracite from the NGCA to the GCA, since almost all anthracite that was first exported it was again imported to Ukraine¹⁴¹. The fact that anthracite, which comes to Luhanskaya TPP, was mined in the CADLR, is confirmed by the employees of Luhansk TPP¹⁴².

Cargo transportation by rail from the CADLR is conducted not only to Russia, but also to Belarus and the EU countries. To make such export operations possible, management of the enterprises re-registered their legal addresses in the controlled territories. So, for example, Alchevsk Metallurgical Plant is now registered in Sievierodonetsk, and Enakievo Steel Plant in Mariupol¹⁴³.

As noted previously, the movement of goods by rail through the contact line is only possible if the owners, senders and recipients of such goods are listed in the respective lists. At the time of the ATC SSU Order No. 415or, such lists contained Annexes

From the CADLR to Russia	January-May 2017	From Russia to Ukraine
236 568 tons of anthracite		236 296 tons of anthracite

Figure 11: Volumes of anthracite coming from the CADLR to controlled territories

¹³⁷ Yevgenii Golovatiuk, Economics of occupied Donbass: players, schemes, volumes, LIGA.net: <http://bit.ly/2fxoodW> (Accessed August 2017).

¹³⁸ Luganskaya TPP (town of Shchastia) operates only on anthracite of those types that are mined in the town of Rovenky and town of Dovzhansk (until 2016 Sverdlovsk). Both cities are occupied as of August 2017.

¹³⁹ Interview 11, 13.

¹⁴⁰ Federal Customs Service, Southern Customs Administration, *Foreign Trade of the Rostov Region in 2017*, File "Rostovskaya Oblast_May 2017_n.xls", tab "Form 2-TC (ЭК)", line 336 and tab "Form 2-TC (ИМ)", line 217, <http://bit.ly/2wDd03i> (Accessed August 2017).

¹⁴¹ Interview 11.

¹⁴² Interview 11.

¹⁴³ Victory Krm, *Hackers and the Donetsk railway. InformNapalm conducted a detailed analysis of the files*, Informnapalm, 23.03.2016: <http://bit.ly/2foYEAg> (Accessed August 2017).

4¹⁴⁴, 5¹⁴⁵ and 9¹⁴⁶ to the Order. Judging by these lists, to the CADLR, as well as in the reverse direction to the controlled territory, not only coal, metal structures, machine tools and other goods that were obviously needed for the production process were transported, but also microphones, bicycles, compasses, picture frames, digital cameras, radar and radio navigation devices, bidets, watches, furniture, lamps, marble, buttons, hygiene or pharmaceutical products, cattle hides and leather, garments or clothing accessories, wooden items with mosaic and inlay; boxes for jewelry or knives, whips, switches, sinks, washbasins and the like. Judging only from these lists, it cannot be definitively concluded without doubts that these goods were imported to the CADLR for the purpose of sale but it seems unlikely that those goods would be needed to support the production of existing enterprises in the CADLR.

As noted during an interview, the controlling authorities do not conduct effective checks of the railway trains moving to the CADLR. On the territory of the checkpoints there are special bridges on the railway from which the SBGS servicemen perform a visual inspection of the wagons. Sometimes, the presence of some other cargo under the coal can be checked with the help of a rod, however, the controlling authorities may still not know what is actually in the wagons¹⁴⁷. The ATO participants and volunteers noted that computers and consumer goods¹⁴⁸ were transported by rail to the CADLR under coal, sometimes using a "double bottom" in the wagon¹⁴⁹. In one case, a train with 56 wagons arrived to the checkpoint on the railway, although only 52 wagons were declared according to the documents. The four "extra" wagons carried food products, and representatives of one of the agencies involved in the ATO offered a bribe to the checkpoint employees to allow the unobstructed passing of the train¹⁵⁰.

In addition, on the way from the checkpoint to the contact line, the train can be stopped and goods can be loaded/unloaded and people can be picked up – for example, an interviewee noted that one of the local officials went to the CADLR this way¹⁵¹. Gold, silver, church goods and antiques were also found to have been transported in this way¹⁵².

In light of this, it can be assumed that, due to the large cargo capacity and insufficient level of control, the railway can be considered the largest in terms of the volume method of illegal trade.

Despite the fact that at the end of May 2017 PJSC "Ukrzaliznytsia"¹⁵³ claimed that pursuant to the decision of the NSDC of March 2017 the transport of goods by rail between the controlled and temporarily uncontrolled territories is no longer carried out¹⁵⁴, the transport of goods in some sectors allegedly still took place¹⁵⁵.

3.5 Illegal trade by avoiding specified transit corridors

Through the contact line, outside the checkpoints and into the uncontrolled territory, there are many roads and paths on which the movement of goods and individuals to the CADLR is prohibited. There

¹⁴⁴ Civil-Military Cooperation of the Armed Forces of Ukraine, Appendix 4 - List of business entities that have been granted the right to transport certain goods to the uncontrolled territory, <http://bit.ly/2ulhEpS> (Accessed August 2017).

¹⁴⁵ Civil-Military Cooperation of the Armed Forces of Ukraine, Appendix 5 - List of business entities that have been granted the right to transport certain goods to the uncontrolled territory, <http://bit.ly/2wprXH6> (Accessed August 2017).

¹⁴⁶ Civil-Military Cooperation of the Armed Forces of Ukraine, Appendix 9 - List of Business Entities - Recipients of Coal Products (Energy Generating Enterprises): <http://bit.ly/2vKum1O> (Accessed August 2017).

¹⁴⁷ Interview 1.

¹⁴⁸ Interview 10; *Soldiers of the invisible front: for the sake of what the employees of "Phantom" go as volunteers in the ATO*, Obozrevatel, 27 January 2016: <http://bit.ly/2vfNlzX> (Accessed August 2017).

¹⁴⁹ Interview 13.

¹⁵⁰ Interview 11.

¹⁵¹ Interview 5.

¹⁵² Interview 4, 5, Aleksei Bobrovnikov, facebook-account, 13 March 2017: <http://bit.ly/2vKM6KD> (Accessed August 2017).

¹⁵³ A state owned enterprise of rail transport in Ukraine.

¹⁵⁴ *Ukrzaliznytsya does not have divisions in LDPR and accordingly does not finance them*, website of PJSC "Ukrzaliznytsya", 29.05.2017: <http://bit.ly/2vhuUJA> (Accessed August 2017).

¹⁵⁵ Interview 18, 19.

may be a number of roadblocks with members of security and defence forces on these routes. In order to move goods to the uncontrolled territory, a smuggler needs to pass all checkpoints on the chosen route, including the "zero roadblock"¹⁵⁶, where the AFU servicemen are located, as well as the militant checkpoints on the uncontrolled territory. Theoretically it is possible to move goods to the CADLR outside the checkpoints without paying bribes, but in this case one needs to use dirt roads and there is a danger of mines. Thus, it is more advantageous and relatively safe to go through roadblocks passing through the "zero roadblock" and paying bribes.

If a person crosses the contact line on paths with a small volume of goods, bypassing the checkpoints it can be agreed on site. Such paths are called "life paths", as they help residents of the front-line settlements to cross the contact line to get to their workplaces, educational institutions, their families, etc. One of these "life paths" functioned until summer 2015 between Avdiivka (the controlled territory) and Yasinovata (the CADLR), used by people from Yasinovata to go to work to the Avdiivka Coke Plant. This route was also used for the illegal movement of alcohol, drugs and other goods¹⁵⁷.

If larger volumes of goods are transferred, this requires agreement at a higher level. Such questions are resolved at least at the level of the brigade commander or battalion commander. In the process itself other people such as company commander, platoon commander or other individual servicemen may be involved¹⁵⁸. If a separate unit lets the trucks with goods through, the beneficiaries are mostly commanders, while ordinary servicemen usually execute their orders¹⁵⁹. In some cases, the commander can pay ordinary soldiers at roadblocks up to 400 UAH (15 USD) per day for assistance¹⁶⁰.

There are two main ways to bring goods to the contact line bypassing the checkpoints:

- to be registered as a private entrepreneur in a settlement in the "gray zone";
- through agreements with representatives of control authorities at the roadblocks.

3.5.1 Individual entrepreneurs in the "gray zone"

Registration as a private entrepreneur in the "gray zone" settlement (in the controlled territory) serves as a "pass" for the truck driver to the contact line through the roadblocks. The driver formally declares that he or she does not intend to deliver the goods to the CADLR and may even unload them on the controlled territory without crossing the contact line. After that, the goods are either reloaded into new trucks and moved through the contact line, or the trucks transport goods without obstacles through the contact line by agreement with AFU servicemen or in small batches they are manually transferred to the gray zone at improvised warehouses¹⁶¹. For example, in one of the settlements on the contact line before the war, seven private entrepreneurs were registered; during the war their number increased to 50, but as a result of various circumstances, including counteracting the illegal trade, it later decreased to 20¹⁶². Though trade in the gray zone itself is legal, the main reason for registering there is the proximity to the CADLR and the access to illegal trade.

¹⁵⁶ "Zero roadblock" refers to the last roadblock of the AFU in the controlled area in the direction of traffic to the CADLR.

¹⁵⁷ Interview 1.

¹⁵⁸ Interview 1, 4; Judgement of the Krasnoarmiysky district court of the Donetsk region of December 29, 2015 on the case № 235/10514/15-к, Single State Register of Court Judgments: <http://bit.ly/2uC5zIt> (Accessed June 2017); Judgement of Illichivskiy district court of Mariupol of February 15, 2016 in the case № 263/1025/16-к, Single State Register of Court Judgments: <http://bit.ly/2hFJgAl> (Accessed July 2017).

¹⁵⁹ Interview 4.

¹⁶⁰ Interview 11.

¹⁶¹ Interview 4.

¹⁶² Ibid.

A special case is the village of Novoluhanske, which until December 2016 was *de facto* not controlled by the AFU¹⁶³, but *de jure* it was considered to be the territory controlled by the Government. The latter was a formal reason for a private entrepreneur, registered there, to bring goods to the settlement, but the control authorities had no opportunity to control their actual unloading¹⁶⁴. As a consequence, about 90% of the goods that flow to the village of Novoluhanske go directly to the CADLR¹⁶⁵. In particular, in autumn of 2016 the Donetsk regional Civil-Military Administration noted that in two houses of the village of Novoluhanske 90 private entrepreneurs were registered, and during one month food products worth about 35 million UAH (1,3 million USD) passed through the village of Novoluhanske¹⁶⁶. According to the SFS data, in July-August 2016 in the village of Novoluhanske more than 2,500 trucks with goods arrived, thus delivering about 4, 000 tons of products per month for a total amount about 200 million UAH (7,4 million USD)¹⁶⁷. Thus, in the settlement with population of about 3,800 people, there were 1,05 tonnes of food per person monthly, while on average one person in Ukraine consumes about 76,6 kg¹⁶⁸ of food products per month (Figure 12).

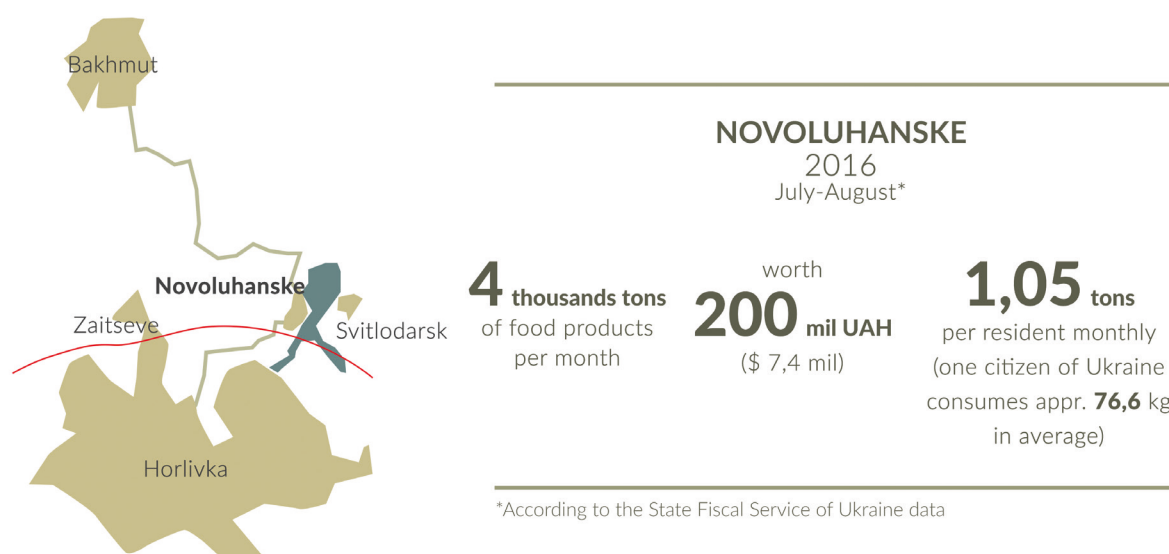


Figure 12: Volume of illegal trade through Novoluhanske in 2016

In addition, in the forest belt near the village of Novoluhanske, improvised industrial refrigerators were created and used by trucks as bases¹⁶⁹. The availability of industrial refrigerators is a critical factor for the movement of goods in warm weather. Because of the proximity to the CADLR, industrial refrigerators in the front-line settlements are very important and can be found primarily in markets and supermarkets¹⁷⁰.

3.5.2 Control of routes of transportation

A key issue in illegal trade is the issue of roadblocks, and, consequently, the actual control of routes of transportation (Figure 13). It is significant that, for some time, some AFU units had conflicts with

¹⁶³ The village of Novoluhanske is actually controlled by the militants of the DPR and smugglers, Ukraine Moloda, 30.06.2016: <http://bit.ly/2vfj78> (Accessed August 2017); Radio Svoboda Ukraine, *Contraband at the Donbas. New Schemes / "Donbas.Realities"*, YouTube, 5 June 2017: <http://bit.ly/2hFDkHy> (Accessed August 2017).

¹⁶⁴ Interview 4.

¹⁶⁵ Press-service of the State Fiscal Service of Ukraine, *The largest channel of supply of goods to the militants with a monthly turnover of about 200 million UAH has been blocked*, the SFS website, 08.09.2016: <http://bit.ly/2vIP0yl> (Accessed August 2017).

¹⁶⁶ Mariana Pietsukh, Pavlo Zhebrivsky: *If you haul off, then hit it drop-dead*, Ukrainska Pravda, 12 September 2016: <http://bit.ly/2vhZ0g4> (Accessed August 2017).

¹⁶⁷ Press-service of the State Fiscal Service of Ukraine, *The largest channel of supply of goods to the militants with a monthly turnover of about 200 million UAH has been blocked*, the SFS website, 08.09.2016: <http://bit.ly/2vIP0yl> (Accessed August 2017).

¹⁶⁸ The calculation of this figure can be found in Annex 3 – Product Consumption.

¹⁶⁹ Interview 9.

¹⁷⁰ Interview 11.

the SBGS units concerning location of their roadblocks, and, consequently, control over the flow of the illegal trade. In particular, the AFU units could prevent the SBGS units from establishing checkpoint. In other cases, after bilateral agreements have already been reached, the AFU units attempted to take control of new routes without involving the SBGS. For example, when the local residents managed to organize a river crossing through an improvised bridge in one of the settlements, bypassing some of the existing roadblocks, the AFU units established their control over it, without involving the SBGS. Another example of internal conflicts for control of the routes can be the case when servicemen, who were not directly on the contact line, established actual control over one of the roads, while arrangements for the movement of goods on it were reached with other units. As a result, minor fighting broke out between them for control of the route of communication¹⁷¹.

A common way to transport goods through the contact line is to bring a large volume of the goods to warehouses in a front-line settlement. In summer period perishable products must be stored in

ILLEGAL TRADE BY AVOIDING THE CHECKPOINTS

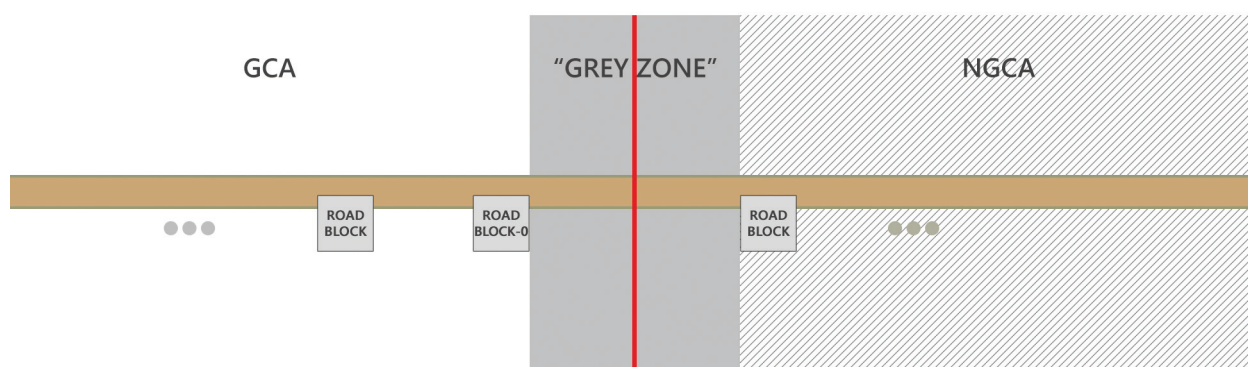


Figure 13: Scheme of how illegal trade routes avoid the checkpoints

industrial refrigerators, which can usually be found available in the markets or supermarkets. After that, the goods are transported in small batches through the contact line by concluding agreements at roadblocks. However, there are cases when goods are transported to the CADLR directly in larger lots¹⁷².

A smuggler can agree on crossing the contact line either directly or through intermediaries who already have appropriate established contacts, but will also take a separate payment for this service¹⁷³. For example, in spring 2015 a person organized transport of 4 large trucks through the contact line with products, by negotiating with the commander of one of the battalions through his subordinate. The total amount of the bribe was 400,000 UAH (14,800 USD), that is, 100,000 UAH (3,700 USD) per truck. Of that 60,000 UAH (2,200 USD) from the total amount was paid to the intermediary. The servicemen at the checkpoint near the village of Slavne of the Donetsk region were instructed to pass the appropriate trucks without stopping them, checking the documents and examining the cargo. The four trucks were accompanied to the contact line by the forces of the battalion's servicemen¹⁷⁴, which means that an escort of trucks with goods is used as an additional service, guaranteeing successful passage of the roadblocks¹⁷⁵. There were reports of cases where

¹⁷¹ Interview 1.

¹⁷² Interview 11.

¹⁷³ Interview 4.

¹⁷⁴ The case is described in detail in the text of the judgement of the Krasnoarmiyskyi district court of the Donetsk region of November 16, 2015 in the case No. 235/9618/15-к, Single State Register of Court Judgments: <http://bit.ly/2wDasSV> (Accessed June 2017).

¹⁷⁵ Interview 1, 4.

plainclothes servicemen with service weapons were in the trucks to ensure successful passage of the truck through the roadblock¹⁷⁶, and when goods were transported to the contact line in AFU cars¹⁷⁷.

In another case, in summer 2015, agreements on unobstructed passage with food products were made with the employees of the law enforcement authorities of Ukraine, who were serving at the roadblocks in the town of Toretsk (before renaming – Dzerzhynsk) in the Donetsk region. Coordination of the roadblocks passage by vehicles was carried out via mobile communication, and the payment for the passage of each truck made was 80,000 UAH (2,960 USD). In another case, in summer 2015, agreements on passage were made directly with the servicemen who were serving at the roadblocks of the town of Toretsk, and for passage of each of three roadblocks 10,000 UAH was paid (370 USD)¹⁷⁸.

Currently, the practice of paying bribes at the roadblocks has been significantly reduced and the procedure itself has become more centralized. Usually, one pays for passage of a truck in a place far from the contact line, and then the truck is accompanied by escort or the driver is told a password, or the commander informs the servicemen at the roadblocks in advance and instructs them to let the truck pass¹⁷⁹.

After crossing the contact line, truck drivers either take the products further to the CADLR, or reach a pre-agreed place where the goods are reloaded to other trucks that take them further to the settlements for sale¹⁸⁰.

It is obvious that the issue of admission or prevention of the illegal trade depends on the personal decision of commanders in charge of particular areas¹⁸¹.

3.5.3 Fee for passage of goods

The fee to allow the passage of trucks has varied over time and could vary depending on the unit, the place of the passage, and also the cargo itself. And, if at the beginning of the war it was possible to pay by providing a portion of the transferred goods, then over time the truck drivers started paying with money¹⁸². For example:

Estimated cost of pass through one roadblock, 2015 ¹⁸³	
Truck, 5 tonnes	20 thousand UAH (700 USD)
“GAZel” truck with meat	5–7 thousand UAH (180–260 USD)
“GAZel” truck with cereals	2–3 thousand UAH (75–110 USD)

Separate tariffs exist on the "zero roadblock". For example, some units can set a price of 1 UAH/kg (0,04 USD/kg), for more expensive goods the cost is around 2 UAH/kg (0,08 USD/kg). Other units on the same site can significantly raise the price to 8–10 UAH/kg (0,3–0,4 USD/kg)¹⁸⁴.

Depending on the goods, a "green corridor" through all of the roadblocks (in other words, the ability to pass all roadblocks without any obstacles) could make:

¹⁷⁶ Interview 1.

¹⁷⁷ Interview 11.

¹⁷⁸ The case is described in detail in the text of the judgement of the Illichivsky district c of the city of Mariupol of February 15, 2016 in the case No. 263/1025/16-к, Single State Register of Court Judgments: <http://bit.ly/2hFJgAl> (Accessed June 2017).

¹⁷⁹ Interview 4.

¹⁸⁰ Ibid.

¹⁸¹ Interview 1, 4.

¹⁸² Interview 4.

¹⁸³ Interview 1.

¹⁸⁴ Ibid.

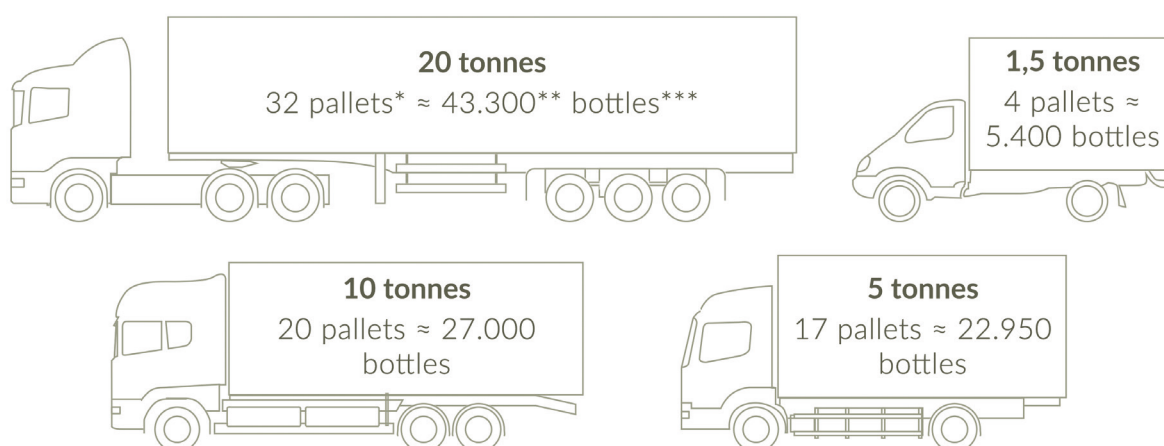
Estimated cost of “green corridor”, 2015¹⁸⁵

Truck 10 tonnes	100–120 thousand UAH (3,7–4,4 thousand USD)
Truck 5 tonnes	60–80 thousand UAH (2,2–3,0 thousand USD)
Truck 3 tonnes	25–30 thousand UAH (1 thousand USD)

3.5.4 Vehicles used

For the movement of goods to the CADLR, mainly trucks - 20-, 10- and 5-ton vehicles, GAZel vehicles with a carrying capacity of about 1,5 tonnes, and cars with trailers are used. However, as a result of counteracting the illegal trade, there appeared to be a trend towards the use of lorries with a of lower payload, given their greater maneuverability and less visibility. So, for example, as of summer of 2017, the Niva car is quite widely used, which can be loaded with up to 700 kg of goods¹⁸⁶, GAZel cars and VW Transporter¹⁸⁷ (Figure 14).

VEHICLES WHICH ARE MOSTLY USED FOR MOVEMENT OF GOODS TO THE CERTAIN AREAS OF DONETSK AND LUHANSK REGIONS AND THEIR APPROXIMATE PAYLOAD



*Depending on construction peculiarities different amount of pallets can fit into vehicles with the same payload

**Counting that 1 pallet can fit 1350 bottles. The actual number can be different

***Given the volume of the bottle - 0.5 liters

Figure 14: Payload of vehicles used for illegal trade

3.5.5 Income and profit from the illegal trade

Despite the high cost of bribes, the illegal transport of the goods to the CADLR has been and remains profitable. The gross profit¹⁸⁸ differs depending on the goods and other factors, but reached 200–250% of the amount spent on the goods in 2015; so, for example, a 2.5 liter bottle of beer, bought in the controlled territory for 25 UAH (0.9 USD) in 2015 could be sold in the CADLR for 50–60 UAH (1.85–2.22 USD)¹⁸⁹. In 2015, a driver of a 20-ton truck could receive, depending on the goods, 15,000–20,000 UAH (550–740 USD) of net profit per night¹⁹⁰. A passenger car with a trailer, having passed seven roadblocks from Pokrovsk (former Krasnoarmiisk) to Donetsk in one night and transporting

¹⁸⁵ Ibid; Rodion Shovkovskiyi, *Contraband in the ATO zone: as it was and how it became - eyewitness*, Argument, 10.12.2015: <http://bit.ly/2vAriVy> (Accessed August 2017).

¹⁸⁶ Interview 13.

¹⁸⁷ Interview 19.

¹⁸⁸ Gross profit - excluding bribes, travel expenses and “taxes” of the “DPR” and the “LPR”.

¹⁸⁹ Interview 1.

¹⁹⁰ Interview 4, Shovkovskiyi, *Contraband in the ATO zone: as it was and how it became - eyewitness*, Argument, 10.12.2015: <http://bit.ly/2vAriVy> (Accessed August 2017).

meat could receive 8,000 UAH (300 USD) of net profit in one night in the same year¹⁹¹. For comparison, below there is the statistics¹⁹² of average monthly wage in some regions of Ukraine at the end of 2016.

<i>Region</i>	<i>Average monthly salary, UAH</i>
City of Kyiv	11,094 (410 USD)
Donetsk region	7,111 (263 USD)
Kyiv region	6,406 (237 USD)
Luhansk region	6,009 (223 USD)
Ternopil region	4,781 (177 USD)
Ukraine	6,475 (240 USD)

The following areas are the most exposed to large volume of trade: town of Shchastia, town of Zolote, village of Stanytsia Luhanska, village of Novoluhanske, village of Zaitseve, town of Mariinka and village of Verkhnetoretske. The advantages of the village of Verkhnetoretske for the illegal trade, in particular, is that it is a relatively good road and convenient location near major cities - Horlivka and Donetsk. In addition, in the village of Verkhnetortseke there was a closed "crony" club, where the AFU divisions let pass only certain vehicles (up to 15 people) at high rates. The road from the village of Novoluhanske is preserved in a satisfactory condition and also allows access to reach the city of Horlivka and Luhansk bypassing the checkpoints¹⁹³.

3.5.6 Illegal trade through the Siverskyi Donets River

The peculiarity of the Luhansk region is that the contact line within it runs mainly along the natural barrier – the Siverskyi Donets River. Therefore, boats are frequently used to ferry people and goods to the other shore (which is the NGCA), particularly nearby the villages of Lobacheve, Lopaskine, and Triokhizbenka¹⁹⁴. Another peculiarity of this area is that greenhouses are located here, which



Figure 15: Areas for illegal movement of goods across the Siverskyi Donets river

¹⁹¹ Interview 4.

¹⁹² *Average wage by region for the month in 2016*, the State Statistics Service of Ukraine: <http://bit.ly/2uC31d9> (Accessed August 2017).

¹⁹³ Interview 1, 4.

¹⁹⁴ TCH, *Villages in Luhansk, bordering on the occupied territories, survive on contraband*, YouTube, 22 October 2015: <http://bit.ly/2vi3lQo> (Accessed August 2017); Mediaproject Boiled over, *Lobachevo - Zheltoe. Life at the line...*, YouTube, 17 August 2015: <http://bit.ly/2uByBYD> (Accessed August 2017); The judgement of the Novoaidarsky District Court of the Luhansk region of December 12, 2016 in the case No. 419/2891/16-к, Single State Register of Court Judgments: <http://bit.ly/2vKidKe> (Accessed May 2017); The judgement of the Novoaidarsky District Court of the Luhansk region of April 8, 2016 in the case No. 419/1215/16-к, Single State Register of Court Judgments: <http://bit.ly/2fpgAug> (Accessed May) and other; Human rights in Ukraine. Information portal of the Kharkiv Human Rights Group, *The situation with the civil population in the Donetsk and Luhansk regions on the territory under the control of the Ukrainian government*, 05.10.2016: <http://bit.ly/2uBwwMm> (Accessed August 2017).

are an important source of income for the local residents¹⁹⁵. Agriculture was an important economic interest of neighboring settlements, however the contact line cut off the villages of Triokhizbenka, Lopaskine and Lobacheve from the major markets. In response to these circumstances, transfers by boats increased (Figure 16).

SIVERSKYI DONETS ILLEGAL RIVER CROSSINGS

(near the occupied town Slovianoserbsk)

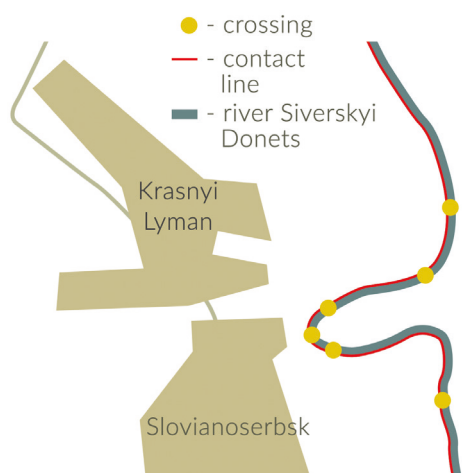


Figure 16: Positioning of illegal crossings on the Siverskyi Donets river

There is also some evidence that servicemen and officials in the ATO have been involved in the illegal movement of goods, including through the Siverskyi Donets River, as evidenced by both court decisions¹⁹⁶, and evidence of the ATO participants interviewed¹⁹⁷.

Payment for transportation of one person across the rivers of summer 2017 was 50 UAH (1,8 USD) and for transportation of cargo, around 1 UAH/kg (0,03 USD/kg)¹⁹⁸. The SFS regularly reports on the SFS special unit "Phantom" detaining people who are transporting goods and people across the river (that is, through the contact line). Food is most commonly transported across the river, but coal, electronics¹⁹⁹, medicines, cigarettes, animal feed, etc., for a sum of several thousand to 100,000 UAH (3,700 USD)²⁰⁰ are also reported.

3.5.7. Combat and conflict trends along illegal trade routes

Among the tendencies that accompany the illegal trade, it should be noted that some units cooperate with the militants in the trade, and that there is a much lower intensity of fighting in the places where trucks pass through the contact line. This is because both sides are interested in the unobstructed movement of goods. At times this has worked to the advantage of Ukrainian forces. For example, in 2015, the commander of the Ukrainian unit stationed near an illegal trade sites, threatened to stop transport of trucks if shelling didn't cease, and it did.

In 2015, there were cases when the Ukrainian units and the militants arranged mutual mortaring on the flanks to prevent the joint mobile groups to enter the "battlefield", while at the same time trucks with goods were passing through the center towards the CADLR. Such "battles" can also be organized to reduce the likelihood of inspections by the superiors or the authorized bodies²⁰¹. Sometimes the organized flow of the illegal trade is so conducive to the cessation of hostilities that both sides agree on a minor mortaring in order to simulate hostilities and avoid suspicion²⁰². There were other cases of cooperation, when a commander of one company and his subordinate, in a state of intoxication, went to the militants and were taken prisoner, after which the issue of their release was directly handled by the commander of the corresponding battalion, who threatened to stop the trucks movement²⁰³.

¹⁹⁵ Interview 9.

¹⁹⁶ The judgement of the Novosaidarsky District Court of the Luhansk region of April 5, 2016 in the case No. 419/998/16-к, Single State Register of Court Judgments: <http://bit.ly/2vKlKbz> (Accessed August 2017).

¹⁹⁷ Interview 11.

¹⁹⁸ The Main Department of the SFS in the Luhansk region, "Phantom" officers detained a "river taxi driver", the SFS website, 30.03.2017: <http://bit.ly/2hEHSg> (Accessed August 2017).

¹⁹⁹ Interview 11.

²⁰⁰ The SFS website, search for "Siversky Donets", <http://bit.ly/2uByYT1> (Accessed August 2017).

²⁰¹ Interview 4, 11.

²⁰² Interview 4.

²⁰³ Interview 1.

3.6 Illegal trade in the form of «terminated transit»

Unlike the methods of the illegal trade described in the previous chapters, which arose as a response to new circumstances, the "terminated transit" together with the HA are not new for Ukraine.

"Terminated transit" means the practice when a cargo that was declared as transit²⁰⁴, and therefore should be exported to a third country, but does not actually leave the borders of Ukraine, and is sold on the domestic market without taxes (Figure 17).

In the context of the illegal trade with the CADLR, two types can be distinguished:

- the CADLR as a route for Ukrainian sales;
- the CADLR as the target.

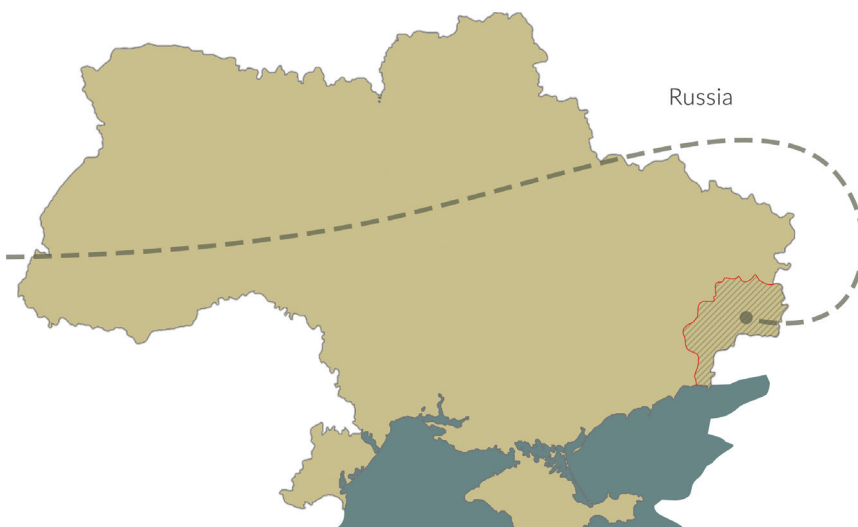


Figure 17: "Terminated transit" scheme

3.6.1 CADLR as a route for Ukrainian sales

The purpose of this method is to sell goods on the domestic market of Ukraine, in the government-controlled areas, without paying taxes.

In practice, this may occur as follows: A truck comes to the Western customs border of Ukraine from a Western country and provides documents that state that the goods are being carried, for example, to the Russian Federation, city of Rostov-na-Donu. In this case, Ukraine will be a transit country for this cargo; the state only verifies a non-damaged seal and the TIR carnet²⁰⁵ as a guarantee that the goods will be exported without being sold on the domestic market. This creates an almost 100% guarantee²⁰⁶ that the car body will not be opened to check that the cargo claimed in its customs documentation matches what the vehicle is actually carrying, since the transit does not risk economic damage for the state. The only type of cargo control that must be done at the Ukrainian customs is weighing. The truck is put on a special scales and, if the claimed weight corresponds to the actual one, can continue to move without obstacles²⁰⁷.

After successfully passing customs, the truck arrives in the territory of Ukraine, the seal is removed, the previous goods are unloaded, and any other goods that must meet the officially declared weight only are loaded. The seal is forged and the truck goes to the customs border of Ukraine (for example, in the Kharkiv region in the East of Ukraine) with the new products. At customs, the truck is weighed and the seals are inspected, and the Ukrainian customs officers are provided with the documents stating that the cargo is being exported, for example, to the city of Rostov-na-Donu. After

²⁰⁴ According to Part 1 of Art. 90 of the *Customs Code of Ukraine*, transit is a customs regime according to which goods and/or commercial vehicles are transported under customs control between two revenue and fees bodies of Ukraine (or within zone of activity of one such body) without any use of these goods without payment of customs payments and without application of measures of non-tariff regulation of foreign economic activity. Goods that are transported under the customs regime of "transit" can not be used for any other purposes than transit. The customs regime of "transit" is completed either by the export of these goods out of the customs territory of Ukraine, or by placing these goods in another customs regime.

²⁰⁵ Carnet TIR is a customs document that gives the right to transport goods across the customs border of states in sealed by the customs bodies of trucks under a simplified customs procedure. The document covers road and rail transportation of goods between the states that recognize the Customs Convention on International Transport with the use of TIR Carnet of 1959 and 1975.

²⁰⁶ The customs has an automated computer database of risk analysis, information from which is the basis for checking the cargo. In addition, such verification can be carried out if there is relevant information from either its own analytical structures or from law enforcement agencies.

²⁰⁷ Interview 6.

inspections, the transit of this cargo for Ukraine is considered "closed" and the truck goes to the Russian customs and already there provides other documents, according to which the cargo is being carried to Ukraine, city of Luhansk. Here, by agreement with Russian customs officials, the driver can "close" the TIR carnet and open a new one, thus creating a new transit. In this case, the Russian Federation becomes a transit territory for this cargo and exempts it from corresponding payments. Similarly, the cargo passes the Russian customs control at the entrance to the CADLR, and crosses the border with the temporarily occupied territories of Ukraine, fulfilling all the formalities for the Russian side²⁰⁸.

3.6.2 CADLR as the target

The purpose of this method is to deliver the goods to the CADLR, by avoiding the prohibitions and restrictions in Ukrainian legislation, reducing costs and minimizing risks.

In practice, this is carried out according to the same logic as "the CADLR as a route for Ukrainian sales", except that in Ukraine the previous goods are unloaded and the ones which should be delivered to the CADLR – which in this case is the carrier's goal - are loaded into its place. Thus, any cargo can be delivered to the CADLR, including items that are not customs-cleared, counterfeit, prohibited for trade or prohibited for movement through the contact line²⁰⁹.

Another way to move goods to the CADLR is using the customs regime of export. This can take place in a form of truck coming to customs border of Ukraine and the driver declaring to both Ukrainian and Russian customs officers that the goods are being carried, for example, to the Russian Federation, city of Rostov-na-Donu. Customs payments (legitimate ones, not bribes) should be made in this case at the departure customs in Rostov-na-Donu. After that the driver says the recipient of the cargo refused to receive the shipment and provides a relevant letter. Based on this the Rostov-na-Donu customs grants the driver a permission to remove the cargo back to the territory of Ukraine, and the truck enters the territory of Ukraine through the uncontrolled part of the Ukrainian-Russian border to the CADLR²¹⁰.

The use of such methods for the delivery of goods to the CADLR is confirmed not only by the customs officers and journalists, but also by the SSU, the SBGS and the General Prosecutor's Office of Ukraine. For example, the SSU reported on the closure of this type of channel of food and essential goods supply to the CADLR²¹¹. The SBGS also reported on a scheme in which a Ukrainian company formally supplied electrical equipment to Cyprus by transit through the territory of the Russian Federation, but in fact the goods were carried to the CADLR²¹², and the Prosecutor General's Office reported on a scheme for the delivery of food products (oil, sugar, champagne, etc.) to the uncontrolled territories, which were officially carried to Georgia²¹³.

In the case of terminated transit, drivers prefer to provide documents on carriage of goods from a country that does not provide customs information to Ukraine (or such information is difficult to be obtained), makes its verification very difficult²¹⁴.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ Press center of the SSU, SSU blocked a huge illegal channel for delivering goods to the terrorists, the SSU website, 26.05.2017: <http://bit.ly/2vIHVhy> (Accessed August 2017).

²¹² *In the Kharkiv region, border guards revealed the scheme of moving goods to the territory uncontrolled by Ukraine*, the SBGS website, 03.05.2017: <http://bit.ly/2vAiNcU> (Accessed August 2017).

²¹³ Press Service of the Prosecutor's Office of the Donetsk region, *In the Donetsk region the scheme for supply of goods to the temporarily uncontrolled territory with the assistance of customs officials has been revealed* (PHOTO), the website of the General Prosecutor's Office of Ukraine, 14.06.2017: <http://bit.ly/2wD7Cx1> (Accessed August 2017).

²¹⁴ Interview 6.

3.7 Trade in the reverse direction

3.7.1 From the CADLR to Ukraine/EU

Goods are transported not only from the controlled territories to the CADLR, but also in the reverse direction - from the CADLR to the controlled territories, as well as from the CADLR to the EU countries²¹⁵. In this direction the goods that are transported are mainly alcohol, cigarettes and drugs²¹⁶. This is mainly because prices are for these goods in the CADLR are lower in comparison with the controlled territories, as well as because there are lines of production of alcoholic beverages and tobacco products in the CADLR²¹⁷. In addition, the SFS also reported that production facilities are available in the CADLR for producing petroleum products which may be moved through the contact line²¹⁸.

As of August 2017, within the Luhansk region, the volume of the illegal trade in the reverse direction is much less (almost none) compared with the Donetsk region²¹⁹. On a local level, bread can be carried, though only in small quantities²²⁰.

3.7.2 From Russian Federation to the EU countries

There are reasons to believe that when railway transport has taken place, goods have been transported from Russia to the EU through the CADLR. Using the liberalization of Ukraine's trade relations with the EU, and the situation in the uncontrolled territories, goods were exported from Russia to the CADLR through the uncontrolled sections of the Ukrainian-Russian border, processed as goods of Ukrainian origin, and exported through the Ukrainian firms on the CADLR territory to the EU. In this way some Russian goods subject to sanctions, in particular metals, have been sold to European Union countries²²¹. Even when they are not subject to sanctions, some metal alloys are banned for export and some are subject to additional duties, but customs officials do not always have the ability to determine their chemical composition and whether the declared alloy complies with the actual one²²².

4. INDIVIDUAL LIABILITY

It is not enough just to stop illegal activity. It is also important to establish an effective punishment mechanism that will outweigh the lucrative nature of the illegal trade. In this context, two articles of *the Code of Ukraine on Administrative Offenses* (CUAO) and one article of *the Criminal Code of Ukraine* (CCU) are relevant:

<i>Art. 332-1 of the CCU</i>	<i>Art. 164 the CUAO</i>	<i>Art. 204-3 of the CUAO</i>
Violation of the procedure of entry to and departure from the	Violation of the procedure of conduction of economic activities	Violation of the procedure of movement of goods to the area

²¹⁵ *Anthracite from the occupied Donbass enters Poland - media*, Yevropeiska Pravda, 4.10.2017: <http://bit.ly/2i6Q1YL> (Accessed October 2017).

²¹⁶ Interview 1, 4; *From the occupied territory there is a constant contraband of illegal alcohol*, Argument, 22.06.2015: <http://bit.ly/2vJdlvI> (Accessed August 2017); The press service of the SFS of Ukraine, *"Phantom" seized cigarettes for the total amount of more than 3,5 millions UAH*, the SFS website, 07.06.2016: <http://bit.ly/2vJbdN3> (Accessed August 2017); The press service of the SFS of Ukraine, *"Phantom" detained a batch of falsified tobacco products for the total amount of 400 thousand UAH and almost 235 thousand UAH of cash*, 20.05.2016: <http://bit.ly/2vidooU> (Accessed August 2017).

²¹⁷ *For 3 months, the tax police detained contraband from the ATO zone for the amount of 100 million UAH*, - the SFS, the SFS website, 07.08.2015: <http://bit.ly/2vKy0ZI> (Accessed August 2017); Galina Kachalova, *The ATO zone has turned into a new sales market*, *Economichna Pravda*, 20 May 2015, <http://bit.ly/2hEehV8> (Accessed August 2017).

²¹⁸ *For 3 months, the tax police detained contraband from the ATO zone for the amount of 100 million UAH*, - the SFS, the SFS website, 07.08.2015: <http://bit.ly/2vKy0ZI> (Accessed August 2017).

²¹⁹ Interview 11.

²²⁰ Interview 5.

²²¹ Interview 5, 6.

²²² Interview 6.

temporarily occupied territory of Ukraine		and from the area of the antiterrorist operation
Date at which the article was amended to the law:		
15 April 2014	7 December 1984	17 July 2015

All three provisions are most often used in the context of combating the illegal trade with the CADLR, but all have their own characteristics. Two of them – Art. 332-1 of the CCU and 204-3 of the CUAO – were created specifically to counter the illegal trade with the occupied territories. Protocols under Art. 164 of the CUAO were drawn up mainly because there were almost no accusatory judgments using the other two laws. The problem, however, is that although there are number of articles to prosecute smugglers none of them provide an opportunity to punish them effectively.

4.1 Article 332-1 of the CCU

On April 15, 2014 *the Criminal Code of Ukraine* was supplemented by Art. 332-1, which establishes responsibility for violating entry procedures to and from the temporarily occupied territory of Ukraine for the purpose of inflicting harm to the interests of the state, which is punishable by restriction/deprivation of liberty for up to three years²²³. This article was created in the context of the Autonomous Republic of Crimea and the city of Sevastopol, which are recognized as temporarily occupied territories of Ukraine in accordance with the Law of Ukraine *"On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine"* of April 15, 2014 No. 1207-VII. However by the Verkhovna Rada Decree *"On recognition of certain regions, cities, towns and villages in Donetsk and Luhansk regions as temporarily occupied territories"* of 17.03.2015 No. 254-VIII the CADLR was also recognized as the temporarily occupied territories, which allowed for this article to be applied to violations of the procedure of entry to and departure from there also.

In the Unified State Register of Judicial Decisions, there are data on only 27 court decisions related to this article. All 27 verdicts were imposed solely by the courts of Donetsk and Luhansk regions in the period July 2015 – December 2016²²⁴. In all 27 court decisions, the court found the defendants guilty, as their actions violated the norms of the corresponding Orders of the ATC SSU. In all 27 cases the individuals pleaded guilty and settled with the prosecutor's office. In about half of the cases, the court based on Art. 69 of the CCU²²⁵, sentenced the suspects to pay a fine in the amount of 2,465–14,960 UAH (91–554 USD)²²⁶. In the other half of the cases, the court sentenced the suspects to 1–4 years of restriction of liberty, but were exempted from serving a sentence with a probation period of 1–3 years²²⁷.

At the same time, in the framework of other court decisions, the ATC SSU orders (in particular, the ATC SSU Order No. 415or dated on June 12, 2015) were not recognized as a normative legal act. The argument is that it was not registered by the Ministry of Justice of Ukraine and was not published in official publications, and therefore it can not be the basis for prosecution²²⁸.

²²³ Three to five years, if such actions are repeated, by prior agreement with a group of persons, or an official, and from five to eight years, if committed by an organized group

²²⁴ Single State Register of Court Judgments, <http://bit.ly/2foIBCI> (Accessed August 2017).

²²⁶ Article 69. Assignment a softer penalty than prescribed by law.

²²⁷ Unified State Register of Judicial Decisions, <http://bit.ly/2foIBCI> (Accessed August 2017).

²²⁸ Decree of the Popasnyanskiy District Court of Luhansk region of November 2, 2015 in the case No. 423/1214/15-п, Single State Register of Court Judgments: <http://bit.ly/2vhKW6j> (Accessed August 2017).

There are problems of procedural nature with the enforcement of article 332-1 because unlike prosecution under articles of the *Code of Ukraine on Administrative Offences*, bringing criminal liability presupposes a long legal procedure, requires a larger evidence base, higher evidential standards and the likelihood of failing to prove guilt of a person increases. That is why in all cases in which the guilt of person was proven under Art. 332-1 of the CCU the case was settled. Given this, quite often the protocols have been compiled according to Art. 164 of the CUAO – a violation of the procedure of conducting economic activity – which provides for collecting a fine of 17 000 UAH (630 USD), as the probability of bringing to responsibility under this article was much higher.

Nevertheless, it was noted that there were difficulties with Art. 164 of the CUAO. In particular, it was reported that the protocols were intentionally mistreated and the perpetrators were not held accountable²²⁹.

4.2 Article 204-3 of the CUAO

On July 17, 2015, the *Code of Administrative Offenses of Ukraine* was amended by Art. 204-3, establishing liability for violation of the procedure of the goods movement to or from the ATO area, and the Law of Ukraine "On Combating Terrorism" No. 638-IV dated on March 20, 2003, was supplemented with Article 14-1, according to which the movement of goods to or from the ATO area is carried out according to the procedure established by the Cabinet of Ministers of Ukraine on the proposal of the SSU. The Cabinet of Ministers of Ukraine was to approve such procedure within 14 days after introduction of such changes²³⁰, but this requirement was not fulfilled and the procedure was approved after 593 days, namely on March 1, 2017.

The first court decisions using art. 204-3 of the CUAO appeared in September 2015 and allowed for fines to be imposed and goods to be confiscated. Judicial practices began to change after the adoption of a number of decisions in this category of cases by the Popasnyansky District Court of the Luhansk region, the first of which was the decision in case No. 423/1214/15-п, which became dominant in the judicial practice. According to this legal position, no person could be brought to administrative responsibility under Art. 204-3 of the CUAO, as the CMU did not take a decision on the procedure of the movement of goods to or from the ATO area, as required by Art. 14-1 of the Law of Ukraine

Courts heard cases against 953 individuals in 2016			
885 (93%)		538 UAH -	66 (7%)
Number of individuals whose cases were closed		average imposed fine	administrative fines imposed

Figure 18: Number of individuals whose cases were closed without penalty versus number of individuals who were fined in 2016

"On Combating Terrorism"; instead such regulation was adopted at the level of the ATC SSU²³¹ ²³². Indicative are data of the State Statistics Service of Ukraine, according to which in 2016 953 cases under Article 204-3 of the CUAO were considered. 885 (93%) of these cases were closed and in 66

²²⁹ Interview 4.

²³⁰ According to the Law of Ukraine "[On amendments to certain legislative acts of Ukraine regarding the Procedure for movement of goods to the area or from the area of the anti-terrorist operation](#)" of 17.07.2015 No. 649-VIII.

²³¹ *Temporary Procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions*, adopted by the ATC SSU First Deputy Order of 12 June 2015 No. 415or. The majority of courts did not recognize this Procedure as a normative legal act, since it was not properly approved in accordance with the requirements of the current legislation.

²³² Mazur M.V., *Administrative responsibility for the violation of the Procedure of moving goods to the area or from the area of the anti-terrorist operation*, Legal Bulletin: [scien.magazine/edit.board: Predmestnikov. O.G. and other – Odesa, OSUIA, 2016. - Issue 2 \(2\), p. 80: <http://bit.ly/2ul7gOT>](#) (Accessed August 2017).

cases administrative fines were imposed²³³. The average amount of fine imposed in 2016 was 538 UAH (20 USD)²³⁴ (Figure 18).

On March 1, 2017, the CMU Resolution № 99 approved *the Procedure for the movement of goods to or from the area of the antiterrorist operation*, which is a legal act required by Art. 14-1 of the Law of Ukraine "On Combating Terrorism". The first references to the CMU Resolution No. 99 began to appear in court decisions in March 2017, but since the Procedure came into effect on April 4, 2017, there were no judicial decisions on collecting fines until April 20, 2017, when the judge of the Novoyaidarsky District Court of the Luhansk region established a violation of the CMU Resolution No. 99. On the basis of this for the first time a decision was made to collect a fine of 850 UAH (50 non-taxable minimums; 30 USD)²³⁵. It is worth noting that the defendant at the time of detention carried goods amounting to 35,000 UAH (1,300 USD), which indicates to the next problem – the fact that the sanctions are not sufficient to dissuade the illegal trade.

Article 204-3 of the CUAO provides for the imposition of a fine from 10 to 100 (170–1,700 UAH (6,3–63 USD)) non-taxable minimums with confiscation of goods, and if the same actions are committed again within a year – from 100 to 200 (1,700–3,400 UAH (63–126 USD))²³⁶. However, this amount can hardly be considered an adequate punishment and effective encouragement not to violate the Procedure of the goods movement, because for a person who carries goods amount to 85,860 UAH (3 180 USD)²³⁷ or 350,000 UAH (12,963 USD)²³⁸, this fine is not a significant amount.

The situation is further complicated by the fact that quite often offenders are not owners of the goods they move²³⁹ (or it is not possible to prove this fact), and according to the provisions of Art. 29 of the CUAO, only an object that is in private property of the offender can be confiscated. Therefore, there are many cases when, for example, court makes an offender pay a fine of 170 UAH (6,3 USD) for illegal movement of goods worth 8 000 UAH (300 USD) without even confiscating the goods.²⁴⁰ In some cases, offenders may not even appear in court, since the presence of the offender in the proceedings under Part 1 of Art. 204-3 is not mandatory²⁴¹.

5. RECOMMENDATIONS

Despite the ban on trade with the CADLR, goods continue to flow in both directions at considerable volumes. This is not an easy problem to solve – the only way to fully abolish illegal trade is for Ukraine to defeat Russian-backed militants and restore its constitutional order over the CADLR. Until that occurs, there are two main options for preventing illegal trade:

- A full blockade of the CADLR;
- Introducing partial permission for trading with these territories.

Demand is high, making trade lucrative – so a blockade will only address the symptom of the problem, not the root cause. The people of the CADLR will need goods and supplies; smugglers will

²³³ State Statistics Service of Ukraine, *Statistical Bulletin "Administrative Offenses in 2016"*, p 43: <http://bit.ly/2fpx2Lr> (Accessed August 2017).

²³⁴ Ibid, p. 114.

²³⁵ The first such decision, according to the data of the Single State Register of Court Judgments, was made by Novoyaidarskyi District Court Judge Lobodyuk V.A. of April 20, 2017 in the case No. 419/1079/17, Single State Register of Court Judgments: <http://bit.ly/2vhFq3t> (Accessed August 2017).

²³⁶ The *Code on Administrative Offenses of Ukraine* (Articles 1 - 212-21), <http://bit.ly/2fp2k52> (Accessed August 2017).

²³⁷ Resolution of the Volnovasky District Court of the Donetsk region dated April 6, 2017 in the case No. 221/1274/17, Single State Register of Court Judgments: <http://bit.ly/2ulcXN2> (Accessed August 2017).

²³⁸ Resolution of the Volnovasky District Court of the Donetsk region dated April 6, 2017 in the case No. 221/1272/17, Single State Register of Court Judgments: <http://bit.ly/2uC5nJ1> (Accessed August 2017).

²³⁹ For example, the Resolution of the Novoyaidarsky District Court of Luhansk region of June 21, 2017 in the case No. 419/1762/17, Single State Register of Court Judgments: <http://bit.ly/2uCGp7k> (Accessed August 2017).

²⁴⁰ the Resolution of the Novoyaidarsky District Court of Luhansk region of June 23, 2017 in the case No. 419/1811/17, Single State Register of Court Judgments: <http://bit.ly/2wpyBge> (Accessed August 2017).

²⁴¹ According to the Article 268 of the CUAO.

find increasingly innovative means of moving goods into the CADLR. And the profitability of the trade creates an incentive for individuals on both sides to perpetuate the conflict.

With this in mind, it seems preferable to legitimize some of the trade, thereby increasing the Ukrainian state's control and revenue from it, and reducing the CADLR's dependence on Russia's and Belarus's goods. This would also be likely to have a positive effect on the local population, and build trust in the Ukrainian state among residents of the uncontrolled territories.

The recommendations below set out potential options for improving the government's response to illegal trade. Recognising the challenge of legalising the trade and its political sensitivity, these recommendations are in two parts:

1. Immediate solutions that can be implemented in a relatively short period of time to reduce trade without a full legalisation of trade;
2. Long-term solutions to eliminate the root cause of illegal trade.

5.1 Immediate solutions

Following the analysis of the problems above, the following recommendations represent an attempt to find immediate solutions for the specific vulnerabilities that currently enable the illegal trade.

5.1.1 Addressing corruption in HLCs

In order to prevent HLCs as facilitators of the illegal trade, they must either be closed – or forced to function properly²⁴². This means ensuring free and equal access to HLCs by both sellers and buyers, and easing direct transportation between HLCs and roadblocks²⁴³.

NAKO recommends:

- The Donetsk Regional CMA should review existing procedures for conducting trade, and develop, approve and publish, in cooperation with interested non-governmental organizations, a procedure for conducting trading activities in the HLC that regulates and guarantees free access to the HLC by both buyers and sellers. These should be effectively communicated to local residents.
- Regular and straightforward transportation between the HLC and roadblocks is key to their functioning. The Donetsk Regional CMA should immediately conduct an open tender to select an organisation to manage the functioning of the HLC and passenger transportation.
- The SBGS should publish weekly statistics of the HLC trading activity to enable effective monitoring.

5.1.2 Preventing the illegal movement of goods through “terminated transit”

Preventing “terminated transit” trade requires a combination of technical steps to increase controls on the border, and steps to incentivise integrity by SBGS and SFS staff.

NAKO recommends:

- The Government of Ukraine should equip all international checkpoints (road and rail) with X-ray facilities to aid vehicle inspection²⁴⁴.

²⁴² Organization of proper functioning of the HLC is one of the measures envisaged by the CMU Resolution “[*On the approval of the plan of measures aimed at the implementation of certain principles of state internal policy in certain areas of the Donetsk and Luhansk regions, where the state authorities temporarily do not exercise their powers*](#)” of 11 January 2017 No. 8-p.

²⁴³ There is a need for two lines - for those who intend to cross the checkpoint, and for those who intend to visit the HLC.

²⁴⁴ The plans to equip the Ukrainian customs with X-ray facilities in 2016 were already declared by the Prime Minister of Ukraine Volodymyr Groisman - *Groisman described how the customs officers destroyed their scanners themselves*, Ukrainian Pravda, 14 October 2016: <http://bit.ly/2vA1bQ5> (Accessed August 2017); Groisman promises new scanners for the customs, Volynska newspaper: <http://bit.ly/2wDABAR> (Accessed August 2017).

- The SBGS and SFS leadership should consider what measures can be put in place to increase the integrity of personnel. Low salaries of SBGS and the SFS employees are a significant underlying factor driving corrupt behaviour and this issue should be reviewed, including by the Council of Ministers, with the intent of gradually increasing salaries.
- The SBGS and SFS leadership should also consider other positive steps, such as improving awareness of the impact of corruption in illegal trade through training and strengthening the internal security units of the both the SBG and SFS and an overall reform of both services.
- The Cabinet of Ministers of Ukraine should complete the implementation of the Convention on Joint Transit Procedure²⁴⁵, which is currently used for the movement of goods between the 28 EU Member States, the EFTA countries (Iceland, Norway, Liechtenstein and Switzerland), Turkey, the former Yugoslav Republic of Macedonia and Serbia²⁴⁶. Among other things, this will make it more difficult to manipulate the price in customs declarations, and for smugglers to provide different customs declarations to different national authorities.

5.1.3 Recommendations: increasing individual liability and accountability

Effective penalties need be applied to those engaged in illegal trade. Current legislation however is inadequate. Although those directly engaging in illicit trade are covered by both the Administrative Code and theoretically by the Criminal Code, administrative penalties are too small to serve as an effective deterrent, and the Criminal code is simply extremely difficult to apply. Current legislation fails to capture those security personnel engaged in facilitating the trade, as the CUAO does not provide for the punishment of those involved in planning and enabling the offense.

The NAKO therefore recommends:

- The Committee on Legal Policy and Justice of the Verkhovna Rada of Ukraine and the Ministry of Justice should quickly complete the institution of criminal misdemeanors. They should qualify the violation of the procedures of the movement of goods to or from the CADLR as criminal misdemeanors. This should allow for the seizure of material evidence, confiscation of used tools (goods, vehicles), confiscation of all proceeds of illegal activity and ensure effective, proportionate and dissuasive sanctions²⁴⁷. Completing the legislative framework for criminal misdemeanors will help resolve a number of issues related to the illegal trade. For example:
 - Classifying the crime as an administrative offence only enables the punishment of direct perpetrators of the offense (in most cases), not accomplices and organisers – which are key to sustaining the illegal trade;
 - The qualification of an offense as a criminal misdemeanor will create legal grounds to seize material evidence and confiscate vehicles. Since perpetrators often have no regular income and fail to pay fines, the confiscation of a vehicle may be a greater threat²⁴⁸;
 - It will enable the use of procedural tools such as setting fines based on the value of goods, which is not enabled by the CUAO²⁴⁹;
 - It will reduce the time required to conduct investigative actions.

Until the institution of criminal misdemeanors is completed and legalised, NAKO recommends:

²⁴⁵ Andrii Ocheret, *Implementation of the Convention on the joint transit*, Visnyk. Officially about taxes, 27.02.2017: <http://bit.ly/2ukPSdr> (Accessed August 2017).

²⁴⁶ Common and Union Transit, European Commission Taxation and Customs Union: <http://bit.ly/2Aj7SHm> (Accessed November 2017).

²⁴⁷ Interview 15.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

- The Ministry of Justice should draft amendments to the CUAO to increase the amount of the fines provided for in Article 204-3 of the CUAO, from 1,000 to 3,000 non-taxable minimums for the first violation of the procedures regulating the movement of goods.

5.1.4 Recommendations: increasing the ease with which residents can move across the contact line

Residents of frontline settlements regularly cross the contact line away from formal checkpoints, sometimes bribing to get through. Given the close social and economic ties between settlements in these areas, the limited number of checkpoints create incentives for people to move goods across the contact line illegally.

To address, this, NAKO recommends:

- The government of Ukraine should consider measures to improve the ease with which residents can move across the contact line by opening new pedestrian-only checkpoints, through which only holders of local resident permits for approved localities will be allowed to cross. This would require the government to develop a list of settlements along the contact line and issuing residence permits that allow individuals to pass the contact line with greater ease. The locations for these pedestrian checkpoints should be selected based on the routes that are in high demand today despite being illegal. In order to do this, the ATC SSU should develop instructions in consultation with relevant stakeholders, and amend the Order of the First Deputy Head of the ATC SSU "Temporary procedure for Control over Transit of Persons across the contact line within the Donetsk and Luhansk regions" to allow the establishment of local checkpoints. NAKO would recommend that residents be allowed to transfer a certain amount of goods on a weekly basis. It may be sensible to start with a pilot local checkpoint before rolling this out throughout the region;
- The ATC SSU, with the participation of public organizations, should organise outreach activities among the residents of the front-line settlements about the procedure of the local checkpoints, conditions for their crossing, as well as prohibitions and risks of crossing the contact line outside of official checkpoints. Once this has been communicated, the Government should increase efforts to block informal passages across the contact line;
- It is necessary to develop, in cooperation with the human rights organizations, distinct instructions for behavior in situations related to the movement of goods to the CADLR, binding for all the ATO units involved²⁵⁰.

5.1.5 Recommendations: improving capability of the Ukrainian government to fight illegal trade

If the government implements partial permission of trade with the CADLR, certain goods still remain prohibited for movement, so it is important for the government to improve controls on the behaviour of servicemen on the contact line, regardless of the long-term approach. This will require the government to increase practical mechanisms for preventing the movement of goods, and addressing the role of security personnel's involvement in the trade.

During the research, three potential ways of doing this were raised: re-starting the activities that were previously conducted by the JMGs; strengthening the SFS and SBGS, which are currently responsible; and establishing a monitoring centre. The monitoring centre could conduct analytical

²⁵⁰ In practice, there is no clear and uniform for all, binding corresponding procedure, including situations where the military officers have the purpose of counteracting the illegal movement of goods. Only a minority of the ATO participants has formal authority over the movement of goods, but a significant number of them actually face these issues. During the interview, the majority of the surveyed participants of the ATO noted that they were not informed either by the orders of the ATC SSU, nor by the Resolution of the CMU No. 99.

work on how prevent the illegal trade, for example through the use of unmanned aerial vehicles and closer work with the local population.

In order to determine the best approach, NAKO recommends:

- The government should hold a consultation on how to strengthen controls along the contact line, including detailed consultation with operational-level officers in the SSU, SFS, and SBGS officers, and volunteers. This approach should also address the problems of insufficient personnel, inadequate equipment and fuel supply, and a lack of infrastructure for storing confiscated goods, which pose consistent problems for the SFS and SBGS;
- International involvement and assistance has been important²⁵¹ in improving border control in other parts of Europe already (e.g. Southeast Europe), and the European Union should provide specific assistance in this areas for the Ukrainian government;
- If the government of Ukraine were to introduce the concept of “lots” of goods, it would mean that goods being transported in bulk can’t be accounted to multiple individuals, and help address the mechanism used by some couriers to transport a large number of goods by splitting them between multiple individuals in their vehicle.

5.2 Fighting the root cause

The root causes of illegal trade are the high levels of profit that are available to the corrupt, which are a result of high demand and a significant differential in prices on either side of the contact line. There are two ways to deal with the problem: a fully effective blockade of the trade with the CADLR, or its partial liberalisation.

It is likely, though, that the implementation of a blockade can only reduce the volume of the illegal trade, and not completely eliminate it. Further implementing a blockade on the flow of goods across the contact line is likely to increase the incentives for corruption, creating the risk that illegal traders do not cease trading – just become more organised in how they conduct it.

With this in mind, the NAKO believes that partial liberalisation of trade is, in the long run, the simplest and most effective means of reducing corruption of security services operating in this area. Of course, such a decision would need to be part of a wider calculation of the political and military realities, and the public sentiment, Ukraine faces.

The two options – a blockade and partial liberalization – are outlined below.

5.2.1 Option 1: “Blockade of trade”

If the Government of Ukraine would select this option, it has to be kept in mind that it implies not only preserving the existing ban on trade with the CADLR, but also strengthening it, with the aim of closing the contact line more effectively to counteract the illegal movement of goods.

History shows the risks of implementing this approach: after the decision to temporarily ban the movement of goods to the CADLR, the market of the uncontrolled territories was filled with Belorussian and Russian goods. Ukraine partially lost control of these markets. The actual blockade did not last long and, as of summer of 2017, the goods were moving again to the CADLR, including through the contact line, despite prohibitions. Any additional restriction does not destroy the illegal trade (although decreases its volumes to some extent), but instead increases the profit of a smaller circle of beneficiaries.

The initiatives to counteract the illegal trade took place not only in the form of imposing restrictions, but also through direct obstruction. Some units destroyed goods and the vehicles carrying them, and

²⁵¹ Marko Hajdinjak, Smuggling in Southeast Europe. The Yugoslav Wars and the Development of Regional Criminal Networks in the Balkans, Center for the Study of Democracy, 2002, p. 58: <http://bit.ly/2xfrZDJ> (Accessed September 2017).

others mined boats by which goods were transported to the CADLR. In some cases, such methods of counteraction led to casualties, but did not destroy the illegal movement of goods – instead, it redirected the flow of goods to other places. Restrictions and prohibition have proved to be effective only in the short term and do not systematically reduce the amount of the illegal trade with the CADLR²⁵².

It poses advantages and disadvantages:

Option 1 “Blockade of trade”

<i>Advantages</i>	<i>Disadvantages</i>
Along the contact line there are a significant number of units that can be involved in combating illegal trade.	It is unclear how this will be implemented. In particular, how illegal trade will be blocked avoiding the specified transit corridors and through the checkpoints, as well as through terminated transit.
Option 1 is an extension of the current approach, and, therefore, will not involve significant changes in existing regulations.	It is not yet clear how this option is qualitatively different from the current situation, since those units that facilitate the illegal trade would also need to be involved in the blockade. Also, there is no answer to the question of how to guarantee the integrity of new units which will be involved in the blockade.
Strengthening of the CADLR blockade is supported by a large number of citizens. This option is intuitively and emotionally understandable.	If the problem were weak control of the contact line, strengthening their efforts would contribute to solving the problem; however, the number of units is not the problem. The real problem is the lack of integrity and accountability for those units – and an incentive structure that favours getting involved in the illegal trade. As a result, this approach does not solve the root cause of the problem as identified in this research.
	It is not yet clear how to ensure consistency long term. As experience shows, the volume of the illegal trade after the NSDC decision to ban temporarily the movement of goods to the CADLR, significantly decreased. But this was only a temporary effect and the illegal trade volumes again increased to some extent.
	Enhancing the blockade would require more people on the front lines, which would likely lead to inadequate personnel numbers.
	During the CADLR trade blockade, purchases of Russian and Belorussian goods increase in these territories, which benefits their economy. There is a reduction in the economic links and dependence between the CADLR and the GCA.

²⁵² Among other approaches to combating the illegal trade there were attempts to restrict the activities of individual entrepreneurs in the front-line zone in order to make it impossible for emergence and existence of situations as with the village of Novoluhanske. Such initiatives were expectedly met with considerable resistance from the local population and were not implemented.

It contributes to creating a negative image of Ukraine among the CADLR population and the international community, which also hampers the future reintegration of these territories.

5.2.2 Option 2: “Partial permission of trade”

The liberalisation of trade would almost certainly serve to reduce rent-seeking opportunities for security personnel at the contact line.

At the same time, it would also increase economic opportunity for the local population living within the Government controlled areas and reduce the revenues of those operating in support of the CADLR. Between 600 and 700 thousand individual crossings are recorded on the contact line monthly, 80% of which are pensioners (480-560 thousand people). Thus, pensioners alone monthly bring to the CADLR a minimum of 600–700 million UAH (22,2–25,9 million USD)²⁵³. The SSU also estimated the loss of the state budget from payment of funds to fake IDPs²⁵⁴ at 1 billion UAH per month²⁵⁵ (a certain proportion of which also gets to the CADLR). This is wealth which is being transferred out of the Ukrainian economy to the CADLR and could be brought back to the controlled territories by partial permission of trade.

The table below outlines the advantages and shortcomings of partially legalising trade:

Option 2 “Partial permission for trade”

<i>Advantages</i>	<i>Shortcomings</i>
Legalization of trade is likely to be the most effective way to reduce its volume.	Requires development of new regulations, which will require additional time.
May decrease AFU’s involvement in the illegal trade.	May increase involvement in the illegal trade of the SBGS, SFS as well as SSU units, which operate on the checkpoints. The likelihood of this happening increases when one takes into account the level of corruption on the Ukrainian customs.
Increase revenue to the national budget.	Requires development of appropriate infrastructure for possibility of trading with the CADLR, which in turn will require additional financial costs.
Assistance to business, particularly in the Donetsk and Luhansk regions, including increase in employment of local population.	Even under the condition of legalization of trade, some goods will remain forbidden. Thus, the illegal movement of goods across the contact line can be significantly reduced, but it will not disappear.
May increase the economic dependence of the CADLR from the controlled territories.	The idea of legalization of trade is difficult to communicate to society, and may not receive broad public support.

²⁵³ Mariana Pietsukh, *To return the lost: how the pensioners from the CADLR “deceive” the Ukrainian government*, Ukrainian Pravda, 4 April 2017: <http://bit.ly/2vKpolU> (Accessed August 2017).

²⁵⁴ Internally displaced person.

²⁵⁵ Yurii Pelykh, *How much does the CADLR cost for Ukraine*, Vgolos, 10.05.2017: <http://bit.ly/2uBLVfm> (Accessed August 2017).

This approach to solving the problem can also be used to create a positive image of Ukraine among residents of the uncontrolled territories. Ukrainian politicians have noted that the authorities treat people in the occupied territories as hostages of Russia and fail to distinguish between ordinary people and the militants – this policy change would help address this²⁵⁶.

If the government chooses to move ahead with partial permission of trade, the following steps should be taken:

- Introduce permission for the movement of some goods the CADLR. Steps should be taken to ensure this process is smooth and conducted without undue delays; clear, unambiguous instructions should be provided to those who wish to move through checkpoints with goods. This new decision should also enhance controls on the movement of goods that might be directly used by the militants to conduct combat operation, or exported to neighbouring countries. The government should consider establishing separate cargo terminals at checkpoints, in order to speed checks on cargo without slowing normal transit by citizens;
- The new decision should also establish the complete ban on the small volume of goods flowing from the CADLR to the controlled territories. This trade indirectly finances armed formations in the CADLR, and is also a potential route for the evasion of import duties that should be applied in legitimate trade between Russia and Ukraine;
- The Ministry of Finance should consider the introduction of a separate tax on goods that are moved from the controlled territories to the CADLR;
- Recognising that the incentives for smuggling would have reduced and that counter-smuggling operations could be more concentrated on the trade of a smaller range of more important items, such as weapons and related equipment, the SSU, the SFS and the SBGS should together introduce new mechanisms for preventing and stopping this trade with the CADLR. Checkpoints should be more tightly controlled, including by introducing x-ray facilities.

Should militants oppose the partial permission of trade in goods and prevent passing of trucks from the controlled territories to the CADLR, it can be used to demonstrate the reluctance of the militants and Russia to comply with the Minsk agreements²⁵⁷.

Partial legalization of the trade will not destroy the illegal trade entirely, but it can significantly reduce its volume. With such a radical change in conditions, new opportunities for abuse will emerge over time, and therefore it will be necessary to carry out regular monitoring with a view to their detection and rapid development of countermeasures.

²⁵⁶ *Ukraine refers to the residents of the CADLR as the hostages of Russia*, Agency “Crimean News”, 23 May 2017: <http://bit.ly/2wpzmWK> (Accessed August 2017).

²⁵⁷ In particular, clause 7 of the *Complex of Measures for Implementation of the Minsk Agreements* of February 12, 2015.

ANNEXES

Annex 1 – Interviews

- Interview 1: former AFU serviceman, Kyiv, May 2017;
Interview 2: volunteer, Kyiv, April 2017;
Interview 3: AFU serviceman, April 2017;
Interview 4: former JMG participant, Kyiv, May 2017;
Interview 5: 3 NGO representatives, Kyiv, May 2017;
Interview 6: 2 Ukrainian Customs officers, Kyiv, May 2017;
Interview 7: AFU serviceman, by phone, May 2017;
Interview 8: 11 CADLR local residents, May-June 2017;
Interview 9: Coordinator of the Media initiative for human rights, Kyiv, June 2017;
Interview 10: SBGS officer, April 2017;
Interview 11: 6 ATO participants, червень 2017;
Interview 12: NGO representative, Kyiv, July 2017;
Interview 13: 3 ATO participants, червень 2017;
Interview 14: NGO representative, Kyiv, May 2017;
Interview 15: judge of one of the courts in the Luhansk region, June-July 2017;
Interview 16: local resident in Donetsk region, July 2017;
Interview 17: journalist covering events in the East of Ukraine, July 2017;
Interview 18: ATO participant, July 2017;
Interview 19: ATO participant, July 2017;
Interview 20: ATO participant, July 2017.

Annex 2 – Legal regulations

- Law of Ukraine «On Combating Terrorism» of 20 March 2003 № 638-IV;
- Law of Ukraine «On temporary measures for the antiterrorist operation period» of 2 September 2014 № 1669-VII;
- Law of Ukraine «On special procedure for local self-government in certain areas of the Donetsk and Luhansk regions» of 16 September 2014 № 1680-VII;
- Verkhovna Rada of Ukraine Resolution «On recognition of certain districts, cities, towns and villages of the Donetsk and Luhansk regions as temporarily occupied territories» of 17 March 2015 № 254-VIII;
- Verkhovna Rada of Ukraine Resolution «On defining of certain districts, cities, towns and villages of the Donetsk and Luhansk regions where a special procedure for local self-government is introduced» of 17 March 2015 № 252-VIII;
- Verkhovna Rada of Ukraine Resolution «On Verkhovna Rada of Ukraine Statement "On derogation from certain obligations stipulated by the International Covenant on Civil and Political Rights and European Convention on Human Rights"» of 21 May 2015 № 462-VIII;
- President's of Ukraine Decree of 14 April 2014 № 405/2014 On National Security and Defence Council Decision of 13 April 2014 "On urgent measures to counter terrorist threats and preservation of Ukraine's territorial integrity";

- President's of Ukraine Decree №62/2017 On National Security and Defence Council Decision of 15 March 2017 "On urgent additional measures to counter hybrid threats to Ukraine's national security";
- President's of Ukraine Decree № 37/2017 On National Security and Defence Council Decision of 16 February 2017 "On urgent measures to neutralize threats to the energy security of Ukraine and enhance critical infrastructure protection";
- CMU Resolution «Certain issues of improving the level of national security of Ukraine» of 30 January 2015 № 38;
- CMU Resolution «Certain issues of Ministry of temporarily occupied territories and internally displaced persons» of 8 June 2016 № 376;
- CMU Resolution «On adoption of Procedure for movement of goods to the area or from the area of conducting anti-terrorist operation» of 1 March 2017 № 99;
- CMU Resolution «On adoption of Procedure for granting the status of combatant to persons defending independence, sovereignty and territorial integrity of Ukraine and directly engaged in the antiterrorist operation, provided operational support» of 20 August 2014 № 413;
- CMU Ordinance «On adoption of the list of landmarks where antiterrorist operations was conducted and on declaring certain ordinances of the Cabinet of Ministers of Ukraine invalid» of 2 December 2015 № 1275-p;
- CMU Ordinance «On adoption of the list of settlements on territory temporarily uncontrolled by government authorities, and list of landmarks located at contact line» of 7 November 2014 № 1085-p;
- MTOT Order «On adoption of the list and volumes of goods allowed for movement to/from the humanitarian logistic centers and across the contact line» of 24 March 2017 № 39;
- MTOT and Ministry of economic development and trade Order «On adoption of the list of goods and products allowed for movement to and from the temporary uncontrolled territories in the area of the antiterrorist operation» of 13 March 2017 № 34/357;
- «Temporary Procedures for controlling movements of persons along the contact line within Donetsk and Luhansk regions» adopted by the ATC SSU First Deputy Order (head of the antiterrorist operation on the territory of the Donetsk and Luhansk Oblasts) of 14 April 2017 №222or;
- ATC SSU Head Order «On defining of areas and duration of the antiterrorist operation» of 7 October 2014 № 33/6/a.

Annex 3 – Details on product consumption

Based on the information from the Ministry of Health of Ukraine²⁵⁸ and the State Statistics Service of Ukraine²⁵⁹, an approximate minimum food basket was formed.

<i>Goods</i>	<i>Per month</i>	<i>Per day</i> ²⁶⁰	<i>%</i>
Meat, kg	4,6	0,153	6,0
Dairy products, kg	19,8	0,660	25,9
Eggs, item/kg	19 items/1,140 kg	0,6 items/0,038 kg	1,5
Fish, kg	1,2	0,040	1,6
Sugar, kg	2,8	0,093	3,6
Oil, kg	1,6	0,053	2,1
Potato, kg	6,6	0,220	8,6
Cereals, kg ²⁶¹	12,3	0,409	16,0
Vegetables, kg	8,8	0,293	11,5
Fruit, kg	3,1	0,103	4,0
Bread, kg	8,5	0,283	11,0
Strong alcohol, l ²⁶²	0,6	0,019	0,7
Beer, l	5,0	0,167	6,5
Wine, l	0,6	0,019	0,7
Total	76,6 kg ²⁶³	2,553 kg	100%

According to the UN Office for the Coordination of Humanitarian Affairs (UN OCHA)²⁶⁴, 2.3 million people live in the CADLR as of November 2016²⁶⁵. Based on this figure, we can calculate that the demand for food in the CADLR is a minimum of 176,180,000 kg, or 176,180 tons per month, for the delivery of which conventionally 8.809 trucks (with a carrying capacity of 20 tons) are needed. These needs are met through humanitarian assistance from both the controlled territories and from Russia²⁶⁶, through the illegal movement of goods to the CADLR as well as CADLR local food production. It should be noted that the figure of 176.180 tons is a conditional minimum cap of needs in the main types of food.

²⁵⁸ Liliia Dvoretzka, *Drunk Country. About a million of the Ukrainians are addicted to alcohol, most of all they drink at age of 18-29*, Independent News Bureau, 01.10.2013: <http://bit.ly/2vAxnBw> (Accessed August 2017).

²⁵⁹ *Consumption of food products in households*, the State Statistics Service of Ukraine: <http://bit.ly/2vfm807> (Accessed August 2017).

²⁶⁰ In a day = in a month/30.

²⁶¹ We used National Geographic data for Russia in 2011 since the State Statistics Service of Ukraine did not present information on cereal consumption - *What the World Eats*, National Geographic: <http://on.natgeo.com/2veElp8> (Accessed June 2017).

²⁶² To reduce computation complexities 1 l = 1 kg.

²⁶³ The figures given in these calculations do not pretend to be accurate, but have the aim, like Fermi's problems, to show an approximate figure for the overall representation.

²⁶⁴ Humanitarian Group of the Country, *Humanitarian Review*, November 2016, c.13: <http://bit.ly/2vf71UJ> (Accessed August 2017).

²⁶⁵ Of these, adults - 1.0 million, elderly people - 0.6 million and children - 0.7 million.

²⁶⁶ Although there are reasons to believe that "humanitarian convoys" from the Russian Federation were not used for humanitarian purposes (Mykola Balaban, Olga Volianiuk, Krystyna Dobrovolska, Bohdan Balaban, Maxym Maiorov, *Donbass on Fire. Guide on the Conflict Zone*, NGO "Prometheus", 2017, p. 49: <http://bit.ly/2ulvjtH> (Accessed August 2017)), some amount of humanitarian assistance from Russia nevertheless came to the CADLR.

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