



UNITED NATIONS
ECONOMIC COMMISSION FOR EUROPE

The Executive Secretary

Under-Secretary-General

Ref: ECE/EHLM/Q39/2008/L

30 October 2008

Sir,

Further to my letter of 19 June 2008, you recall that at the recent Fourth Meeting of the Parties to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context, which was held in Bucharest from 19 to 21 May 2008, the Parties considered, inter alia, the findings and recommendations of the Convention's Implementation Committee with regard to the construction of the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian Sector of the Danube Delta (the "Bystroe Canal Project"). In this respect, the Meeting of the Parties decided to issue a caution to the Government of Ukraine to become effective on 31 October 2008 unless the Government of Ukraine fulfilled three conditions: first, stops the works; second, repeals the final decision; and, third, takes steps to comply with the relevant provisions of the Convention (ECE/MP.EIA/10, decision IV/2, para. 10)

I confirm that the secretariat has received the report on this issue prepared by the Government of Ukraine before 8 October 2008. The Convention's Implementation Committee at its meeting from 28 to 30 October 2008 has considered, inter alia, the information provided in the report.

...

H.E. Mr. Hryhoriy NEMYRYA
Deputy Prime Minister of Ukraine
The Head of Intergovernmental Coordination Council
On the Implementation of the Espoo Convention
Kiev, Ukraine



The Committee considered that the first condition in decision IV/2 related to all works, but recognized that this condition was ambiguously expressed in the decision and that Ukraine could have interpreted it to mean that it related only to works in Phase II of the Project. The Committee agreed that this first condition had been fulfilled for Phase II, but it was concerned that the Government of Ukraine had not taken steps to apply the Convention to continuing works for Phase I. In this respect, the Committee agreed to remind the Government of Ukraine of the findings in paragraphs 69(b) and (c) of the Committee's findings and recommendations further to a submission by Romania regarding Ukraine (decision IV/2, annex I), as endorsed by the Meeting of the Parties. These findings require, as a minimum, that no further works, including operation and maintenance works, should be undertaken for Phase I without taking steps to comply with the relevant provisions of the Convention.

The Committee considered that the second condition related to the final decision of 28 December 2007 on Phase II of the Project. The Committee agreed that this second condition had been fulfilled by the Government of Ukraine in its repeal of the final decision on 11 June 2008.

The Committee considered that the third condition related to the application of the Convention to both Phases I and II of the Project, and, more broadly, to Ukraine's implementation of the Convention. The Committee accepted that Ukraine's report to the Committee demonstrated that the Government of Ukraine had taken steps to:

(a) apply the Convention to Phase II, through its notification of Romania and its meetings with Romania; and

(b) improve the implementation of the Convention more broadly, including through the establishment under your leadership of an inter-ministerial council on the implementation of the Convention.

The Committee welcomed the steps taken by the Government of Ukraine and agreed that the third condition had been broadly satisfied. However, the Committee agreed to request the Government of Ukraine to ensure that:

(a) the steps taken to comply with the relevant provisions of the Convention cover also any further works related to Phase I of the Project, including operation and maintenance works; and

.../



(b) the EIA documentation currently under preparation for the Project addresses, inter alia: (i) possible alternatives to the whole Project discussed with the affected Party, including the no-action alternative, (ii) the combined impact of the two phases of the Project, and (iii) the mitigation measures to minimize this combined impact.

The Committee consequently decided to request the Government of Ukraine to report in writing to the Committee on steps taken to apply the relevant provisions of the Convention to:

(a) any further works related to Phase I of the Project, including operation and maintenance works; and

(b) Phase II of the Project.

A first report on these steps should be submitted to the Committee by 28 February 2009, for the Committee's consideration at its 16th session in March 2009, and a second report by 31 August 2009, for the Committee's consideration at its 17th session in September 2009.

The Committee has also asked me to convey to you its satisfaction with the information provided. The Committee is convinced that the Government of Ukraine has made considerable progress in applying the relevant provisions of the Convention.

The Committee decided that, in the light of the above, the caution should not become effective.

Please accept, Sir, the assurances of my highest consideration.

Marek Belka