

**МІНІСТЭРСТВА
ПРЫРОДНЫХ РЭСУРСАЎ І АХОВЫ
НАВАКОЛЬНАГА АСЯРОДДЗЯ
РЭСПУБЛІКІ БЕЛАРУСЬ**

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**МИНИСТЕРСТВО
ПРИРОДНЫХ РЕСУРСОВ И ОХРАНЫ
ОКРУЖАЮЩЕЙ СРЕДЫ
РЕСПУБЛИКИ БЕЛАРУСЬ**

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Секретариат Конвенции об
оценке воздействия на
окружающую среду в
трансграничном контексте

Председатель Комитета по
осуществлению Конвенции об
оценке воздействия на
окружающую среду в
трансграничном контексте

Председатель Бюро Конвенции
об оценке воздействия на
окружающую среду в
трансграничном контексте

Уважаемые г-жа Аулавуо, г-н Кремлис и г-н Захария!

Имею честь обратиться к вам в связи с седьмой сессией Совещания Сторон Конвенции Эспо, которое состоится в Минске 13-16 июня 2017 года. Прежде всего, позвольте мне выразить искреннюю признательность Секретариату, Бюро и Комитету по осуществлению за субстантивную и организационную работу, проделанную в рамках подготовки к Совещанию.

Беларусь внимательно изучила проекты решений, которые должны быть представлены на рассмотрение Сторон, и в попытке содействовать достижению консенсуса по проекту решения в соответствии с правилом 32 Правил процедуры Конвенции имеет честь представить свои предложения по проекту решения VII/2 (Общая часть и часть D относительно Беларуси).

Я хотела бы воспользоваться этой возможностью, чтобы кратко объяснить рациональные предложения Беларуси.

Беларусь не ставит под сомнение право Комитета по осуществлению искать помощи научных экспертов и другой технической поддержки или консультироваться с другими соответствующими источниками, если они будут полезны при решении вопросов в рамках Конвенции. Наши предложения два:

- любой механизм или формат для поиска помощи в изучении экологических или научных проблем, поднятых в связи с планируемой деятельностью, подпадающей под действие Конвенции, не должен быть исключительным для Беларуси. Подтверждая соответствующие решения, Стороны признают, что этот механизм может автоматически применяться для всех текущих и будущих дел;

- информация по вопросам, связанным с ядерной энергетикой, должна быть рассмотрена Международным агентством по атомной энергии:

МАГАТЭ играет центральную роль в координации международных усилий по укреплению ядерной безопасности на глобальном уровне и в предоставлении экспертных знаний и консультаций в этой области;

- во избежание конфликта компетенций, разумно запрашивать информацию о нормах, стандартах и т. д. в области ядерной безопасности из их основного источника, а не любой другой организации или отдельного эксперта.

Предложение, содержащееся в проекте решения VII/2 (часть D), о создании временного экспертного органа или о назначении экспертов для предоставления ответов на вопросы, заданные Комитетом, и использование этих ответов для завершения выводов, является ли документация по ОВОС достаточной основой для Беларуси в принятии окончательного решения о продолжении строительства АЭС, носит спорный характер и вряд ли реализуется:

- механизмы работы такого специального подхода неясны;
- выбор действительно независимых экспертов с достаточным опытом для ответа на все поднятые вопросы практически невозможен;

- такая процедура может поставить под вопрос компетентность других Сторон, полностью участвовавших в процедуре трансграничной ОВОС;

- мнения экспертов могут противоречить выводам и мнениям соответствующих международных механизмов (службы обзора МАГАТЭ, механизмы обзора других соответствующих конвенций, региональные и другие организации).

Будучи Главой белорусской делегации на предстоящем Совещании Сторон Конвенции Эспо, я хотел бы, чтобы вы, уважаемые

коллеги, любезно просили Стороны Конвенции безоговорочно рассмотреть белорусские предложения и заверить вас в нашей полной поддержке и сотрудничестве.

С уважением,

Приложение: на 4 л. в 1 экз.

Первый заместитель Министра,
Национальный координатор
Республики Беларусь по Конвенции Эспо



И.В.Малкина

Dear Ms. Aulavuo, Mr. Kremlis and Mr. Zaharia,

I have the honour to address you with regard to the Seventh Meeting of the Parties to the Espoo Convention to be held in Minsk on 13-16 June 2017. At the outset let me express my sincere gratitude for the Secretariat, Bureau and Implementation Committee for all substantial and organizational work done in preparation to the Meeting.

Belarus carefully studied draft decisions to be submitted for the consideration of the Parties and in attempt to contribute to reaching consensus on draft decision has the honour to present its proposals to the draft decision VII/2 (General Part and Part D. regarding Belarus) in accordance with Rule 32 of the Rules of Procedure of the Convention.

I would like to use this opportunity to briefly explain **rational behind Belarusian proposals.**

Belarus does not question the right of the Implementation Committee to seek the services of scientific experts and other technical advice or consult other relevant sources, should it be helpful in resolving issues within the scope of the Convention. Our suggestion is two-fold:

- **any mechanism** or format for seeking advice to examine the environmental or scientific issues raised in connection with planned activity fallen under the Convention should not be exceptional to Belarus. By endorsing relevant decision Parties recognize that this mechanism may **automatically be applicable for all current and future cases ;**

MS. TEA AULAVUO
SECRETARY OF THE CONVENTION ON ENVIRONMENTAL
IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

MR. GEORGES KREMLIS
CHAIR OF THE BUREAU UNDER THE ESPOO CONVENTION

MR. FELIX ZAHARIA
CHAIR OF THE IMPLEMENTATION COMMITTEE
UNDER THE ESPOO CONVENTION

- the advice for nuclear energy-related issues should be thought from the **International Atomic Energy Agency**:
 - IAEA plays central role in coordinating international efforts to strengthen nuclear safety globally and **in providing expertise and advice in this field**;
 - **to avoid conflict of competences** it is reasonable to request information on the norms, standards etc. in the domain of nuclear safety from their primary source rather than any other organization or individual expert.

The proposal contained in draft decision VII/2 (Part D) to establish a **temporary expert body or to appoint experts** to provide answers to questions identified by the Committee and to use such answers for finalizing conclusions whether the EIA documentation constituted a sufficient basis for Belarus to take the final decision to proceed with the construction of NPP **is controversial in nature and hardly implementable**:

- mechanisms of operation of such ad-hoc mechanism are unclear;
- selection of truly independent experts with sufficient expertise to answer all raised questions is practically impossible;
- such procedure may put in question competence of other Parties, fully participated in the transboundary EIA procedure ;
- opinions of experts may contradict to the conclusions and opinions of relevant international mechanisms (IAEA review services, review mechanisms of other relevant Conventions, regional and other organizations).

As Head of Belarusian delegation at the forthcoming Meeting of the Parties to the Espoo Convention I would like through you, distinguished colleagues, to kindly request Parties to the Convention to consider Belarussian proposals with open mind and assure you of our full support and cooperation.

Sincerely,

Attachment: on 4 pages in 1 copy.



Ms. Iya Malkina

First Deputy-Minister of Natural
Recourses and Environmental Protection
of the Republic of Belarus, Focal Point of
Belarus

Draft decision VII/2 (ECE/MP.EIA/2017/8)

Review of compliance with the Convention

The Meeting of the Parties to the Convention,

I. General part

5. *Considers*, following the opinions of the Committee, that:

(a) The opportunity provided by the Party of origin to a Party that considers that it would be affected by a significant transboundary environmental impact of a proposed activity listed in appendix I to the Convention, for which no notification has taken place in accordance with article 3, paragraph 1, demonstrates the agreement of the two Parties that a likely significant environmental impact on the territory of the potentially affected Party cannot be excluded according to article 3, paragraph 7, of the Convention;

(b) The mere notification of possibly affected Parties, regardless of their number, does not impose an excessive burden on Parties of origin;

(c) For certain activities, in particular nuclear energy-related activities, while the chance of a major accident, accident beyond design basis or disaster occurring is very low, the likelihood of a significant adverse transboundary impact of such an accident can be very high; therefore, on the basis of the principle of prevention, when considering the affected Parties for the purpose of notification, the Party of origin should be exceptionally prospective and inclusive, in order to ensure that all Parties potentially affected by an accident, however uncertain, are notified. The Party of origin should make such consideration using the most careful approach on the basis of available scientific evidence, which indicates the maximum extent of a significant adverse transboundary impact from a nuclear energy-related activity, taking into account the worst-case scenario;

(d) Procedural and substantive aspects of environmental impact assessment procedures cannot necessarily be treated separately when assessing compliance, in particular if the essence of the compliance case in question pertains to substantive aspects;

(e) It is not within the capacity or mandate of the Implementation Committee to examine the environmental and scientific issues¹, raised in connection with nuclear energy-related activities, taking into account their complexity and cross-disciplinary character;

6. *Reiterates* that:

(a) The procedure in article 3, paragraph 7, does not substitute for the obligations of a Party of origin deriving from the Convention to notify possibly affected Parties, or to fulfil any other step of the transboundary environmental impact assessment procedure in compliance with the Convention in case transboundary environmental impacts cannot be excluded;

¹ ECE/MP.EIA/IC/2017/2, para. 9; ECE/MP.EIA/IC/2016/6, para. 26

(b) While the primary aim of the Convention, as stipulated in article 2, paragraph 1, is to “prevent, reduce and control significant adverse transboundary environmental impact from proposed activities”, even a low likelihood of such an impact should trigger the obligation to notify affected Parties in accordance with article 3. This is in accordance with paragraph 28 of the Guidance on the Practical Application of the Espoo Convention, endorsed by decision III/4. This means that notification is necessary unless a significant adverse transboundary impact can be excluded;

(c) The Committee may-, as appropriate, seek the services of scientific experts and other technical advice or consult other relevant sources²;

7. *Encourages* Parties to bring issues concerning their own compliance before the Committee;

8. *Requests* the Committee to provide assistance to Parties in need of such assistance, as appropriate and to the extent possible, and in this respect refers to decision VII/3 on the adoption of the workplan, recommending general requirements to be met by Parties wishing to receive technical advice from the Convention;

8 bis. *Recalling* the central role of the International Atomic Energy Agency in providing expertise and advice in the field of nuclear safety³, *calls upon* the Committee, to cooperate with the Agency and, where appropriate, other relevant international organizations and bodies, to seek answers to technical questions relevant to the achievement of purposes of the Convention including for resolving nuclear energy-related disagreements;

9. *Urges* Parties to take into account in their future work the recommendations for further improving the implementation of and compliance with the Convention, including by strengthening national legislation, based on but not limited to the analyses on general compliance issues from the reviews of implementation, adopted by decisions III/1, IV/1, V/3 and VI/1, in conjunction with the general guidance on enhancing consistency between the Convention and environmental impact assessment within the framework of State ecological expertise in countries of Eastern Europe, the Caucasus and Central Asia adopted by decision VI/8;

10. *Also urges* Parties to ensure the application of the Convention in nuclear energy-related activities, and in that respect recalls the 2014 Geneva Declaration¹⁸ (Part A) on the application of the Convention and the Protocol to nuclear energy issues, and in particular:

(a) Emphasizes that Parties to the Convention that carry out nuclear energy-related activities should do so in accordance with the Convention, in a sustainable manner, taking into consideration the precautionary and polluter pays principles, and respecting international nuclear safety standards and relevant environmental legislation;

² ECE/MP.EIA/6, annex II

³ GC(60)/RES/9, preamble, para. (c)

(b) Also emphasizes that close cooperation and improved mutual understanding of the practices and needs of other Parties in the field of nuclear energy will facilitate the application of transboundary environmental procedures in full compliance with the Convention and the Protocol;

(c) Encourages effective cooperation among Parties, the secretariats of all relevant international treaties and international organizations to maximize synergies and strengthen capacities with a view to ensuring the highest possible quality of environmental assessment and level of safety in the nuclear energy field;

11. *Urges* Parties to take into account in their further work the opinions of the Committee in the period from 2001 to 2017, and requests the secretariat to arrange for the revision of the informal electronic publication of these opinions to include the opinions of the Committee from 2014–2017;

12. *Decides* to keep under review and to develop, if necessary, the structure and functions of the Committee and its operating rules at its eighth session, in the light of experience gained by the Committee in the interim, and requests the Committee to prepare any proposals, as it deems necessary, for submission to the Meeting of the Parties at its eighth session;

II. Follow-up to decision VI/2

...

D. Regarding Belarus

54. *Appreciates* the annual reports and information provided by Belarus and Lithuania to the Implementation Committee further to decision VI/2 (para. 59);

55. *Welcomes* the steps taken by both Parties since the sixth session of the Meeting of the Parties to address the recommendations in decision VI/2 directed to them (paras 51-58, 62, and 64);

56. *Commends* the Implementation Committee for its thorough analysis of the steps undertaken by Belarus after the twenty-seventh session of the Committee, as outlined in the report of the Committee on its activities;

57. *Endorses* the findings of the Implementation Committee that Belarus had undertaken all the required steps to reach the final decision on the planned activity at Ostrovets as provided for in the Convention; ~~Recognizes the efforts made by Belarus to implement decision VI/2, but acknowledges that it is not within the capacity or mandate of the Committee to examine the environmental and scientific issues that had been raised in connection with the planned activity at Ostrovets;~~

58. *Recognizes, however, that it was not within the capacity or mandate of the Implementation Committee to examine the environmental and scientific issues that had been raised by Lithuania in connection with the planned activity at Ostrovets;*

5859. *Further acknowledges* that, in order to finalize its conclusions concerning compliance by Belarus with the provisions referred to in paragraph 50 of decision VI/2, the Implementation Committee needs expert advice;

~~5960. Recalling Article 11, paragraph 2, of the Convention, and the 2014 Geneva Declaration (Part A) requests~~Decides, therefore, the Implementation Committee to consult the International Atomic Energy Agency as a central Agency in coordinating international efforts to strengthen nuclear safety globally on the applicable international norms and standards relevant to the issue in question ~~[establish, by the end of 2017, a temporary expert body in accordance with the provisions of annex II to this decision]~~ ~~[ask Parties to appoint, by the end of 2017, national experts in accordance with the provisions of annex II to this decision]~~, to assist the Implementation Committee;

~~60. Requests the [temporary expert body] [national experts] to provide the Implementation Committee with answers to the questions listed in annex I to this decision, before 1 July 2018;~~

~~61. Requests the Implementation Committee to finalize its conclusions whether the EIA documentation constituted a sufficient basis for~~consider ~~compliance by Belarus to take the final decision to proceed with the implementation of the activity at Ostrovets, taking into account~~with the provisions of the Convention, results of the consultations as provided for in para. 60, and clarifications made by Belarus further to these consultations~~in the light of the answers provided by the [temporary expert body] [national experts], and to report to the Meeting of the Parties at its eighth session on the matter;~~

~~62. Encourages Belarus and Lithuania to continue bilateral expert consultations on issues of disagreement, including on matters that are beyond the scope of the Convention;~~

~~63. Also encourages both Parties to continue working on the post-project analysis and reach an agreement in establishing a joint bilateral body and procedures for post-project analysis, in particular to ensure sufficient public participation in the framework of the post-project analysis regarding the activity at Ostrovets;~~

~~64. Regrets that the bilateral agreement for the implementation of the Convention has not been yet concluded, and encourages Lithuania and Belarus to conclude such an agreement further to article 8 of the Convention;~~

~~65. Requests Belarus and Lithuania to report annually to the Implementation Committee on the progress made.~~