

Report of the Ukrainian Party

on fulfillment of “Strategy of the Government of Ukraine developed for implementation of Articles 11-12 of Decision IV/2 approved at the Fourth Meeting of the Parties to the Espoo Convention on May 19-21, 2008 in Bucharest”

and

fulfillment of Articles 14 Decision IV/2 approved at the Fourth Meeting of the Parties to the Espoo Convention on May 19-21, 2008 in Bucharest

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Introduction

The Meeting of the Parties to the Espoo Convention (hereinafter - Meeting of the Parties) at its 4th gathering held in Bucharest on May 19-21, 2008 approached the Government of Ukraine with a request that its legislation and administrative measures should allow to implement fully the provisions of the Convention, and agreed to support the Government of Ukraine in the undertaking of an independent review of its legal, administrative and other measures to implement the provisions of the Convention for consideration by the Implementation Committee (Decision IV/2, Article 11).

The Meeting of the Parties also requested the Government of Ukraine to submit to the Implementation Committee by the end of 2009 a strategy, taking into account the efforts by the Government of Ukraine to implement the provisions of the Convention and based on the outcome of the independent review, including its time schedule and training and other actions to bring about compliance with the Convention, and thereafter to report to the Committee on the implementation of the strategy (Decision IV/2, Article 12).

Based on the independent review's outcome they prepared the Strategy of the Government of Ukraine for implementation of Articles 11-12 Decision IV/2 approved at 4th Meeting of the Parties to the Espoo Convention, May 19-21, 2008, Bucharest. This Strategy was forwarded to the Chairman of the Implementation Committee of the Espoo Convention (hereinafter - Convention) along with the letter of Minprirody dated 28.12.2009 No. 22690/19/10-09 and served the basis for approval of the Order of the Cabinet of Ministers of Ukraine dated 06.01.2010 No. 9-p "On approval of the Action Plan (Strategy) for implementation of Articles 11-12 Decision IV/2 of the Parties to the Espoo Convention". The above act relies on the conclusions of the independent review (ECE/MP.EIA/IC/2009/5) for the purpose of execution of the Convention's provisions.

This Strategy was considered at 18th and 19th meetings of the Espoo Convention Implementation Committee and was positively assessed by the Committee (ECE/MP.EIA/IC/2010/2, ECE/MP.EIA/IC/2010/4). In this regard and according to Article 13 Decision IV/2 taken at 4th Meeting of the Parties to the Espoo Convention, May 19-21, 2008, Bucharest, as well as to the letter of the Chairman of the Implementation Committee of the Espoo Convention dated 01.09.2010 No EIA.IC.S.1 the Ukrainian Party was requested to provide the following information on:

status of negotiations on concluding bilateral agreements with neighbouring Parties including a list of meetings conducted for this purpose with indicated date and place;

Strategy's implementation, progress report on elaboration and approval of the legislation referred to in the Strategy, as well as planned Government's act on public participation along with explanations of any changes in the Strategy's schedule.

Furthermore, the Committee requests attaching the following documents to the answers to mentioned questions:

any draft bilateral agreement with neighbouring Parties;

updated schedule for the Strategy if necessary;

copies of any drafts or approved legislation as far as concerned in the Strategy.

I. Report on implementation of Article 14 of Decision IV/2 of the Parties to the Espoo Convention

(status of negotiations on concluding bilateral agreements with neighbouring Parties including a list of meetings conducted for this purpose with indicated date and place)

1. For the implementation of Article 14 of Decision IV/2 of 4th Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context conducted on May 19-21, 2008 in Bucharest, Romania, the Ukrainian Party in its letters dated 10.12.2009 addressed the neighbouring Parties with a proposal to initiate negotiations on conclusion of bilateral agreements according to Article 8 of the Espoo Convention.

In the letter of Minpryrody dated 15.01.2010 No. 2387/19/10-10 the Ukrainian Party informed the Chairman of the Implementation Committee of the Espoo Convention on the negotiation start (copies of the above letters are attached hereto).

2. The most neighbouring Parties expressed their interest in signing these agreements. Romanian Party refused to come to the negotiation (the letter is enclosed) reasoning their refusal by the situation around Danube-Black Sea Deep-Water Navigation Rout.

3. With the mentioned above and due regard to the financial crisis Minpryrody of Ukraine lacks money for funding secondments to neighbouring Parties to negotiate on conclusion of bilateral agreements according to Article 8 of the Espoo Convention. Minpryrody of Ukraine 06.10.2010 provided all neighbouring Parties with invitations (the letters are attached) to visit Kyiv with a view of negotiating at any time suitable for them. It should be stressed upon that the Romanian Party were informed in the letters that the main purpose of executing and signing the agreement within Article 8 of the Espoo Convention was to address the issues related to the Convention's implementation and establish the cooperation for better relations in the area of environmental protection in a transboundary context. In this regard the Ukrainian Party invited again the Romanian Party for such negotiations (the letter is enclosed).

4. As of early December 2010 the Ukrainian Party has received no visit-connected proposals from the neighbouring Parties. Therefore Minpryrody of Ukraine developed a draft bilateral agreement in accordance with the requirements of Article 8 of the Espoo Convention that was sent 12.11.2010 to the Belarus Party and 07.12.2010 to Moldavia, Poland, Slovak Republic, Hungary and Romania (copies of the letters and draft agreement are attached).

With consideration of above this initiative would enable to discuss the draft agreement at the national level and in case of any remarks or proposals from the neighbouring Parties it would give a chance to conduct agreement-related negotiations in the future.

**II. Report on
execution of the Action Plan (Strategy) for implementation of Article 11-12 of
Decision IV/2 of the Parties to the Espoo Convention approved by the Order of the
Cabinet of Ministers of Ukraine dated 06.01.2010 No. 9-p**

(Strategy's implementation, progress report on elaboration and approval of the legislation referred to in the Strategy, as well as planned Government's act on public participation along with explanations of any changes in the Strategy's schedule)

5. The Edict of the President of Ukraine dated 13.10.2010 No. 953 "Issues of activities of executive authorities" sets forth an optimization of the system for central executive authorities, elimination of overlapping their powers, provision of reduction in the administration.

6. The Edict of the President of Ukraine dated 09.12.2010 No. 1085 "On optimization of the system for central executive authorities" foresees introduction of the administrative reform according to which functions of the central executive authorities were changed, some of them were subject to removal or reorganization when new heads of reorganized central executive authorities will be appointed.

With due regard to the mentioned above and pursuant to the Rules of Procedure of the Cabinet of Ministers of Ukraine approved by the Cabinet's Decree dated 18.07.2007 No. 950 (as amended) in case of the change of the central executive authority's head the draft regulatory legal act is subject to readjustment by such newly nominated head.

In this respect there will be a change in the number of working interdepartmental groups established to develop particular draft regulatory legal acts provided for in the Strategy and part of the projects already negotiated with interested central executive authorities and delivered to the Ministry of Justice for the legal due diligence and further submission for consideration by the Cabinet of Ministers of Ukraine will be returned by the Ministry of Justice to the chief developer for the purpose of readjustment according to the Rules of Procedure of the Cabinet of Ministers of Ukraine.

7. Taking into consideration mentioned above and proposals of the Espoo Convention Implementation Committee made at its 19th meeting Minprirody of Ukraine in order to carry out the instruction of the Cabinet of Ministers of Ukraine dated 20.10.2010 No. 50174/3/1-10 developed draft Order of the Cabinet of Ministers of Ukraine "On amendment to the Action Plan (Strategy) for implementation of Articles 11-12 Decision IV/2 of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context" and forwarded this draft for approval to the interested central executive authorities. This draft foresees making amendments to the execution period of the Action Plan (Strategy) with due account of Articles 5, 6 of this Report (the draft act is attached in Appendix 1).

8. However considering the above in fulfilment of paragraph 2 Article 1 "Action Plan (Strategy) for implementation of Articles 11-12 Decision IV/2 of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context" approved by the Order of the Cabinet of Ministers of Ukraine dated 06.01.2010 No. 9-p (hereinafter – Action Plan) Minprirody of Ukraine elaborated draft Law of Ukraine "On amendments

to some legislative acts of Ukraine on implementation of the provisions of the Convention on Environmental Impact Assessment in a Transboundary Context” that is under negotiation by central executive authorities. Pursuant to Article 7 of this Report the Ukrainian Party suggests specifying another term for elaboration of this draft (the draft act is attached in Appendix 2).

9. To comply with paragraph 4 Article 1 of the Action Plan the Cabinet of Ministers of Ukraine adopted the Decree of the Cabinet of Ministers of Ukraine dated 02.03.2010 No. 226 “On amendments to the Decree of the Cabinet of Ministers of Ukraine dated 13.09.2002 No. 1371” whereby Minprirody was assigned as a competent body responsible for the Convention’s execution (as specified in Article 1(ix) and other Convention’s Articles, due to the Decree’s large size its excerpt is attached in Appendix 3).

10. To fulfil paragraph 5 Article 1 of the Action Plan Minprirody of Ukraine established the Interdepartmental Working Group out of representatives from Minprirody, Minregiobud, Minpalyvenergo, Mintranszvyazok, as well as representatives from the State Ecological Academy for Postgraduate Education and Management and Taras Shevchenko National University of Kyiv since it is necessary as was foreseen in the Strategy and the law (Article 8 of this Report) that the draft act should provide for powers of the Cabinet of Ministers of Ukraine on approval of the procedure for environmental impact assessment and set up legal framework for adoption of the Decree of the Cabinet of Ministers of Ukraine “On approval of the procedure for environmental impact assessment in a transboundary context”. Since this draft law according to Articles 5, 6 of this Report was forwarded for subsequent approval, the draft Decree itself will be agreed and revised upon adoption of the Law. However the said Group elaborated the concept of this Government draft act to be attached (Appendix 4). With the view of Article 7 of this Report the Ukrainian Party suggests fixing another term for this draft elaboration.

11. To execute paragraph 6 Article 1 of the Action Plan Minprirody of Ukraine drafted the Decree of the Cabinet of Ministers of Ukraine “On amendments to Regulations on the Ministry of Natural Environmental Protection of Ukraine” but due to Articles 5, 6 of this Report Minprirody is under reorganization. Taking into consideration the mentioned above and in view of the fact that following the administrative reform’s results there would arise a need in the major modification of current wording of the Regulations on the Ministry of Natural Environmental Protection approved by the Decree of the Cabinet of Ministers of Ukraine dated 02.11.2006 No. 1524 Minprirody in order to execute the Edict of the President of Ukraine dated 09.12.2010 No. 1085 “On optimization of the system for central executive authorities” should until 09.02.2011 introduce for consideration by the President of Ukraine draft Edict of the President of Ukraine “On approval of the Regulations on the Ministry of Ecology and Natural Resources of Ukraine” and for consideration by the Cabinet of Ministers of Ukraine draft Decree of the Cabinet of Ministers of Ukraine “On declaration of nullity of the Decree of the Cabinet of Ministers of Ukraine dated 02.11.2006 No. 1524”. In respect of Article 7 of this Report the Ukrainian Party suggests specifying another term for elaboration of this draft.

12. To execute paragraph 7 Article 1 of the Action Plan Minprirody of Ukraine elaborated draft Decree of the Cabinet of Ministers of Ukraine “On amendments to the Regulations on the Interdepartmental Coordination Council on implementation in Ukraine of the Convention on Environmental Impact Assessment in a Transboundary Context”. This draft Decree was negotiated with interested central executive authorities and

forwarded to the Ministry of Justice for legal due diligence with further consideration by the Cabinet of Ministers of Ukraine however pursuant to Articles 5, 6 of this Report it will be subsequently submitted for re-approval (draft act is attached in Appendix 5). With the view of Article 7 of this Report the Ukrainian Party suggests fixing another term for this draft elaboration.

13. For implementation of paragraph 8 Article 1 of the Action Plan the Ukrainian Party herewith reports as follows. Elaboration of draft Decree of the Cabinet of Ministers of Ukraine “On amendments to the Procedure for approval of investment programs and construction projects and their state expertise accepted by the Decree of the Cabinet of Ministers of Ukraine dated 31.10.2007 No. 1269” could be initiated upon approval of the Law of Ukraine “On amendments to separate legislative acts of Ukraine on implementation of provisions of the Convention on Environmental Impact Assessment in a Transboundary Context”. However in relation to Minregionbud’s submission to the Cabinet of Ministers of Ukraine of draft Law of Ukraine “On regulation of bridge-construction activities” that was signed by the Prime-Minister of Ukraine and forwarded to the Verkhovna Rada of Ukraine, the issues of introducing a new procedure for approval of investment programs and construction projects and carrying out their state expertise will be revised due to necessary fulfilment of the requirements set forth in the very draft Law (in case of its adoption by the Verkhovna Rada of Ukraine). Therefore at the moment the issue of elaboration of draft Decree of the Cabinet of Ministers of Ukraine “On amendments to the Procedure for approval of investment programs and construction projects and their state expertise accepted by the Decree of the Cabinet of Ministers of Ukraine dated 31.10.2007 No. 1269” seems not relevant since such Procedure could be cancelled at all. In respect of Article 7 of this Report the Ukrainian Party suggests specifying another term for elaboration of this draft act of the Government.

14. For the execution of Article 2 of the Action Plan the Ukrainian Party communicates as follows: “Making amendments to the State Construction Standards “Composition and contents of the materials of the environmental impact assessment in design and construction of enterprises, buildings and facilities. A.2.2.-1-2003” will be possible upon implementation of Article 1 of the Action Plan. With the view of Article 7 of this Report the Ukrainian Party suggests fixing another term for this draft elaboration.

15. On fulfilment of Article 3 of the Action Plan within the project “Assistance to Ukraine in implementation of the Espoo Convention and the Aarhus Convention” financed by the European Commission and with the support of Minpryrody of Ukraine 09.03.2010 there was held a seminar on practical application of the Espoo Convention. This seminar was attended by the project experts and representatives from executive authorities. In addition, 30.09.2010 in the premises of Minpryrody of Ukraine they conducted training for regional bodies of Minpryrody of Ukraine carrying out the state ecological expertise on applying the Espoo Convention in the activities with possible adverse transboundary impact.

16. To execute Article 4 of the Action Plan the Ukrainian Party reports that elaboration and approval of recommended practice for application of the Convention on Environmental Impact Assessment in a Transboundary Context will be possible upon fulfilment of Article 1 of the Action Plan. With the view of Article 7 of this Report the Ukrainian Party suggests fixing another term for this draft elaboration.

17. Besides the Ukrainian party elaborated draft new wording of the Decree of the Cabinet of Ministers of Ukraine dated 27.07.1995 No. 554 “On the list of activities and objects with increased environmental hazard” that is under approval. With respect to Articles 5, 6 the draft Decree was forwarded for subsequent approval (draft act is attached in Appendix 6). With the view of Article 7 of this Report the Ukrainian Party suggests fixing another term for this draft elaboration.

18. As specified in the Strategy the Regulations on public participation will be drafted within the framework of activities on execution of the Action Plan for implementation of the Decision III/6f of the Parties to the Aarhus Convention approved by the Decree of the Cabinet of Ministers of Ukraine dated 27.12.2008 No. 1628 and the work on this project design will be coordinated with due account of transboundary procedure.

Under the project “Assistance of Ukraine on implementation of the Espoo Convention and the Aarhus Convention” covered at the European Commission’s expense thus project experts developed the Procedure for taking into account of public opinion in making environment-related decisions (draft document is attached in Appendix 7). 20.09.2010 the above draft act was placed at the web-site of Minpryrody of Ukraine for the purpose of entering comments and remarks. Provided comments and remarks were processed and the draft act was amended respectively. However the Cabinet of Ministers of Ukraine adopted its Decree dated 03.11.2010 No. 996 “On provision of the public participation in making and pursuing the state policy” that also regulates some provisions in the area of environment. In connection with above draft act is subject to review for the purpose of taking account of rules of already adopted Decree.

In this relation the working group elaborating draft Decree of the Cabinet of Ministers of Ukraine “On approval of the procedure for environmental impact assessment in transboundary context” took a decision that the mentioned draft would contain provisions (section) to regulate public participation in transboundary environmental impact assessment (see Article 10). Therefore further reporting within the implementation of the Espoo Convention on the draft Decree on the procedure for taking into account of the public opinion in environment decision making is not foreseen. This draft Decree is elaborated within the activities on execution of the Action Plan for implementation of the Decision III/6f of the Parties to the Aarhus Convention approved by the Decree of the Cabinet of Ministers of Ukraine dated 27.12.2008 No. 1628. This draft would contain a reference to the Decree of the Cabinet of Ministers of Ukraine “On approval of the procedure for environmental impact assessment in a transboundary context” in part of the public participation in transboundary environmental impact assessment.

CABINET OF MINISTERS OF UKRAINE

ORDER

dated _____ No. ____-p

Kyiv

**On amendments to the Action Plan (Strategy) for implementation of
Articles 11-12 of Decision IV/2 of the Parties to the
Convention on Environmental Impact Assessment
in a Transboundary Context**

Hereby to amend the Action Plan (Strategy) for implementation of Articles 11-12 of Decision IV/2 of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context approved by the Order of the Cabinet of Ministers of Ukraine dated 06.01.2010 No. 9-p as follows:

In Article 1:

in paragraph 2 words and figures “October 2010” shall be replaced by “June 2011”;

in paragraph 5 words and figures “November 2010” shall be replaced by “September 2011”;

in paragraph 6 words and figures “December 2010” shall be replaced by “February 2011”;

in paragraph 7 words and figures “December 2010” shall be replaced by “February 2011”;

in paragraph 8 words and figures “May 2011” shall be changed for “September 2011”;

in Article 2:

words and figures “December 2010” shall be replaced by “September 2011”;

in Article 4:

words and figures “December 2010” shall be replaced by “February 2012”.

Prime-Minister of Ukraine

M. AZAROV

LAW OF UKRAINE

“On amendments to some Laws of Ukraine on implementation of provisions of the Convention on Environmental Impact Assessment in a Transboundary Context”

The Verkhovna Rada of Ukraine hereby decrees:

I. To amend the following legislative acts of Ukraine:

1. To the Law of Ukraine “On Natural Environmental Protection” (Herald of the Verkhovna Rada of Ukraine, 1991, No. 41, p.546, official publication):

1) in the Law’s text the words “on ecology and natural resources” in all cases shall be replaced respectively by “on natural environmental protection” in corresponding cases;

2) Part VI shall be supplemented by Article 30-1 as follows:

“Article 30-1. Environmental impact assessment in a transboundary context.

Environmental impact assessment in a transboundary context shall be performed for the purpose of proper and efficient implementation of the measures on prevention of planned activities’ transboundary impact, as well as its mitigation and supervision.

The environmental impact assessment in a transboundary context shall be carried under the procedure as sets forth by the Cabinet of Ministers of Ukraine according to commitments within bilateral and multilateral agreements with Ukraine as the signatory Party”.

1. To the Law of Ukraine “On Ecological Expertise” (Herald of the Verkhovna Rada of Ukraine, 1995, No. 8, p. 54; 2000, No 27, p.213, official publication):

1) in the Law’s text the words “on ecology and natural resources” in all cases shall be replaced respectively by “on natural environmental protection” in corresponding cases;

2) Part 1 Article 15 shall be supplemented by paragraph 8 as follows:

“8) should a proposed activity be subject to international agreements on environmental impact assessment in a transboundary context the documentation for

objects of the state ecological expertise shall contain the environmental impact assessment in a transboundary context prepared under the Procedure approved by the Cabinet of Ministers of Ukraine”.

3) Article 21 after paragraph 4 shall be supplemented by new paragraphs as follows:

“4-1) shall set up an advisory body by the Cabinet of Ministers of Ukraine on coordination of the implementation in Ukraine of the Convention on Environmental Impact Assessment in a Transboundary Context;”;

“4-2) shall approve the procedure for the environmental impact assessment in a transboundary context as advised by a specially authorized central executive body on the natural environmental protection”;

4) Article 24 after paragraph 8 shall be supplemented by new paragraphs as follows:

“8-1) arrangement and control over the environmental impact assessment in a transboundary context;”;

“8-2) arrangement and carrying out an ecological expertise when Ukraine is a country of origin with due regard to results of the environmental impact assessment in a transboundary context.”;

5) Article 32 after paragraph 5 shall be supplementary by new paragraphs as follows:

“5-1) shall perform the environmental impact assessment in a transboundary context according to the procedure approved by the Cabinet of Ministers of Ukraine;

5-2) shall inform adequately, timely and efficiently the interested public by an open statement of a proposed activity according to paragraph 2 Article 6 of the Information Access Convention, the public participation in the decision-making process and access to justice on environment-related issues.”;

in this connection paragraph 6 shall be regarded as paragraph 8;

6) Part VI Article 34-1 shall be supplemented as follows:

“Article 34-1. Open statement of a proposed activity

For the purpose of taking into account of the public opinion in the process of the environmental impact assessment a requesting Party shall submit an open statement of a proposed activity in the form of the statement of intent on a proposed activity to a respective local government and an authority vested with power to the state ecological expertise of a corresponding activity or an object.

The statement on intent on a proposed activity shall contain the following information:

a) features of a proposed activity;

b) possible environmental impact of a proposed activity including available possible transboundary impact;

c) time and place of any planned public hearings and consultations;

- d) time and place of familiarization with environmental impact's materials, submission of remarks, questions and proposals;
- e) ecological and other restrictions of a proposed activity.

The statement on intent on a proposed activity could contain other data. It is obligatory for the statement on intent on a proposed activity to include the details mentioned in the first part of this Article”;

7) the second part of Article 38 after words “that appeared during the expertise” shall be supplied by words “, including as regards the environmental impact assessment under the requirements of the Convention on Environmental Impact Assessment in a Transboundary Context.”;

8) Article 48 shall be supplemented as follows:

“In case when according to the requirements of the Convention on Environmental Impact Assessment in a Transboundary Context Ukraine is deemed as an affected party the ecological expertise shall be financed under the requirements of international agreements.”;

9) The Law shall be supplied by a new Part X as follows:

“Part X. ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

Article 52. Environmental impact assessment in a transboundary context by Ukraine as a party of origin

In case when Ukraine is a party of origin of the environmental impact in a transboundary context a requesting Party for a proposed activity shall ensure carrying out the environmental impact assessment in a transboundary context before initiating the procedure for the state ecological expertise.

Article 53. Environmental impact assessment in a transboundary context by Ukraine as an affected party

In case when Ukraine is an affected party of the environmental impact in a transboundary context a specially authorized central executive body on the natural environmental protection upon receipt of the notice from a party of origin shall coordinate and control the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context.”.



CABINET OF MINISTERS OF UKRAINE

DECREE

dated 02.03.2010 No. 226 Kyiv

**On amendments to the Decree of the Cabinet of Ministers of Ukraine
dated 13.09.2002 No. 1371**

The Cabinet of Ministers of Ukraine hereby **decrees**:

1. To make amendments to the Decree of the Cabinet of Ministers of Ukraine dated 13.09.2002 No. 1371 “On procedure for participation of central executive bodies in the activities of international organizations where Ukraine is a member” that are attached hereto. “...”

Prime-Minister of Ukraine

Yu. TYMOSHENKO

APPROVED by
the Decree of the Cabinet of Ministers of Ukraine
dated 13.09.2002 No. 1371
(as reworded by the Decree of the Cabinet of Ministers
of Ukraine dated 02.03.2010 No. 226)

**LIST of
central executive bodies, other authorities responsible for fulfillment of the
commitments arising out of Ukraine’s membership in international organizations**

International organizations and their bodies	Central executive bodies, other authorities
“...” 4. Convention bodies (UN) and its principal bodies: “...”	
Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) “...”	Minprirody (Ministry of Natural Environmental Protection), Ministry of Foreign Affairs

APPENDIX 4

**Concept of
Regulations on environmental impact assessment
in a transboundary context**

These Regulations are directed at regulating legal relations in the process of procedures for an environmental impact assessment in a transboundary context and ensuring sound management of natural resources, protection of natural environment and provision of ecological safety.

Section I General provisions

This Section is to establish a general procedure for authorities' interaction in the process of the environmental impact assessment in a transboundary context.

Section II Procedure for the environmental impact assessment in a transboundary context when Ukraine is a party of origin

It is planned to formalize a provision according to which a person expecting to carry out an activity or construct a facility as set forth in Appendix 1 hereto shall be obliged to forward a statement of intent to a regional body on the natural environmental protection.

The regional body on the natural environmental protection shall verify the statement's contents and place it at the official web-site given its compliance with the applicable legislation. A requesting party shall publish the statement in mass media or bring it to the notice of an affected public in the manner that makes it possible for the public to study its contents (local mass media; making it public through announcements in public places etc).

Interested public shall be vested with a right to transmit comments via e-mail or ordinary mail within 30 days at the address of the regional body on the natural environmental protection.

The regional body on the natural environmental protection shall consider the statement on intent and based on a special list of activities and objects specified in Appendix 1 hereto shall appoint a procedure for the environmental impact assessment in a transboundary context to be applied in this case (shortened or complete procedure). In case when according to the mindset of the regional body the project would cause significant transboundary impact the statement shall be provided to a specially authorized central executive body in the area of the natural environmental protection (hereinafter – Minpryrody (the Ministry of Natural Environmental Protection)).

Minpryrody shall study these materials and based on a special list of activities and objects shall establish whether a significant transboundary impact shall occur. In case of no impact in place the regional body shall be notified accordingly and a national procedure for the environmental impact assessment in a transboundary context (hereinafter - EIA) shall be continued. Should such impact be the case Minpryrody shall notify an affected party.

The affected party shall consider provided materials and notify about its intention to participate in transboundary EIA procedures. Should it decide to join transboundary EIA procedures a confirmation and necessary information shall be sent to Ukraine.

In case of the affected party's withdrawal to participate in transboundary EIA procedures the latter shall not be carried out.

With no reply from the affected party the Ministry of Foreign Affairs and Minpryrody within their powers shall take measures to find out the interested party's position.

In case of the affected party's consent to participate in transboundary EIA procedures and comments from the effected party Minpryrody shall forward these materials to the regional body.

The regional body on the natural environmental protection shall collect the information received from national and foreign public and should it be necessary shall also send its comments and transmit these data to a requesting party.

The requesting party on the basis of these and other materials shall develop the project with incorporated EIA to cover also a statement on ecological consequences.

The requesting party shall forward EIA materials for holding public hearings. The latter shall be conducted by Minpryrody or its regional body at the requesting party's expense.

The regional body shall direct the materials to Minpryrody to be further forwarded to interested public in affected countries. The affected party shall arrange public hearings and deliver their results to Ukraine.

Minpryrody shall also receive the comments and proposals from the affected party's public and shall send them directly or through the regional body to the requesting party for taking into account either.

The requesting party shall consider both recommendations of Ukrainian public and the one of the effected party and if necessary shall adjust the project and send it along with public recommendations to Minpryrody or its regional body for the state ecological expertise.

Minpryrody or its regional body shall carry out the state ecological expertise and prepare an opinion of the state ecological expertise. Upon producing the opinion of a comprehensive state expertise it shall be delivered to Minpryrody within 5-day period.

Minpryrody shall send this opinion to affected parties.

It is also planned to shape out powers of interdepartmental coordination council as regards preparation and carrying out negotiations on post-project analysis.

Section III Procedure for the environmental impact assessment in a transboundary context when Ukraine is an affected party

In case of Ukraine acting as an affected party it is suggested to provide for the following provisions.

The party of origin shall notify Minpryrody. The latter shall consider these materials and publish the statement on intent in a specialized edition or in the manner that makes it possible to study a notification text.

Minpryrody shall specify the term for sending comments to the notification by the public. This term shall be established within the period fixed in the notification for response and a required time for Minpryrody to summarize public comments. It is planned to establish a percentage ratio between the time necessary for the public to send

the comments and the time required by Minprirody to summarize such comments. This ratio is to prevent corrupt practices among authorities by fixing unreasonably long term for summarizing the comments.

Minprirody shall consider these comments and decide on further participation in transboundary EIA. In case of a positive decision the notification shall be accompanied by the information on territories that could be affected by the project's implementation and public recommendations.

The party of origin shall send EIA materials. Minprirody or its regional body at the requesting party's expense shall hold public hearings on the project of carrying out a proposed activity.

Minprirody or its regional body shall perform the state ecological expertise. The public opinion shall be taken due regard of in the course of the expertise.

Upon the results of a comprehensive state expertise its opinion shall be delivered to Minprirody within 5-day period. The latter shall summarize the information and provide the party of origin with the comments and the remarks from the public and authorities.

For the purpose of enhanced efficiency in interactions of authorities while formulating the comments to be sent to the party of origin it is recommended to adjust the procedure for responding to Minprirody's requests on the projects where Ukraine is the affected party.

The party of origin shall receive the opinion of the state ecological expertise and give consideration of Ukraine's recommendations on implementation. The final decision shall be forwarded to Ukraine.

Minprirody shall publish the final decision in a specialized edition and place it at the official web-site, as well as otherwise notify the interested public that permits to study the final decision's text.

It is also planned to specify powers of interdepartmental coordination council as regards preparation and carrying out negotiations on post-project analysis.

Section IV Peculiarities of the environmental impact assessment in separate projects

Separate projects have specific features of the procedure for the environmental impact assessment. Such specific character is explained by the fact that the state ecological expertise's opinion shall be final by no means for all projects. This feature lays down essential distinctions in the procedure for the environmental impact assessment in a transboundary context. This Section shall deal namely with arrangement of these specific aspects.

This Section shall also regulate particular cases of the environmental impact assessment in a transboundary context. Among examples of such projects there are joint projects for two (or more) countries when each country shall act both as the party of origin and the affected party.

APPROVED by
the Decree of the Cabinet of Ministers of
Ukraine
dated No.

AMENDMENTS to
the Regulations on the Interdepartmental Coordination Council on implementation in
Ukraine of the Convention on Environmental Impact Assessment in a Transboundary
Context

1. In the Regulations' text the word "Council" in all cases shall be replaced respectively the words "Interdepartmental Council" in a corresponding case.

2. In Article 1 words "advisory body established by the Cabinet of Ministers of Ukraine" shall be replaced by words "shall be a permanent advisory body by the Cabinet of Ministers of Ukraine established for support of exercising the latter's powers".

3. Article 3 after paragraph 4 shall be supplied by new paragraphs as follows:
"identification of ways, mechanisms and methods of addressing the issues of concern arising in the process of the Convention's implementation";
improvement of the legal framework on the Convention's implementation."

4. In Article 4:
in subparagraph 1 words "the Convention's requirements" shall be supplied by words "including the problem root causes in the process of the Convention's implementation";

subparagraph 2 shall be reworded as follows:
"2) shall participate in elaboration of by-law drafts related to the Convention's implementation";

subparagraph 6-1 shall be supplied as follows:
"6-1) shall monitor the exercise of vested tasks by executive authorities;
shall submit recommendations and proposals worked out upon its performance results to the Cabinet of Ministers of Ukraine (hereinafter – decisions).".

5. In Article 5:
in paragraph 3 the word "specialists" shall be added by words ", as well as independent experts (by consent);";

paragraph 5 shall be added as follows:
"arrange conferences, seminars, meetings and other events.".

6. Article 5-1 shall be added as follows:
"5-1. Interdepartmental Council in exercising its tasks shall cooperate with authorities, local governments, enterprises, establishments and organizations.".

7. Paragraph 3 Article 6 shall read as follows:

“The official membership of the Interdepartmental Council shall be approved by the Cabinet of Ministers of Ukraine and its personal composition shall be approved by its Chairman”.

8. Article 7 shall be reworded as follows:

“7. The Interdepartmental Council shall perform its activities in the form of meetings to be held under its Chairman’s decision upon Minprirody’s request with justifications for its conduction.

The Interdepartmental Council’s meetings shall be presided by its Chairman or its Deputy Chairman in case of the former absence.

Secretary shall provide preparation of the materials for consideration at the Interdepartmental Council’s meetings.

The Interdepartmental Council’s members shall be notified on the meeting date and its agenda two days prior the event at the latest.

The Interdepartmental Council’s meeting shall be deemed qualified with more than half of its members present.

To address the issues of concern in a prompt manner that are under the Interdepartmental Council’s jurisdiction the Cabinet of Ministers of Ukraine could set up the presidium of the Interdepartmental Council to operate between its meetings. The presidium shall include the Chairman, Deputy Chairman, Secretary and members of the Interdepartmental Council. The presidiums’ personal composition shall be approved by its Chairman of the Interdepartmental Council.”.

9. In Article 8:

in paragraph 3 the word “Council” shall be supplied by words ”and the Cabinet of Ministers of Ukraine”;

Paragraph 4 shall be added as follows:

“The Interdepartmental Council’s member who does not share a proposal (a recommendation) could formulate his/her personal opinion in writing to be attached to the meeting Minutes.”.

10. In Article 9:

words “the Cabinet of Ministers of Ukraine” shall be supplied with words “which projects shall be forwarded by an executive authority within its powers”;

paragraph 2 shall be added as follows:

“In cases as provided for by the legislation the Interdepartmental Council could take decision compulsory for executive authorities, local governments, other authorities, enterprises, establishments and organizations, citizens.”.

11. Article 10 shall be reworded as follows:

“10. The Interdepartmental Council in its activities shall use the letterhead paper.

Minprirody shall ensure organizational, informational and material support to the Interdepartmental Council”.

CABINET OF MINISTERS OF UKRAINE

DECREE

dated _____ **2010 No.** _____

Kyiv

On the List of activities and objects with increased ecological hazard

The Cabinet of Ministers of Ukraine hereby **decrees**:

1. To approve the List of activities and objects with increased ecological hazard for which the state ecological expertise and the ecological audit are compulsory developed by the Ministry of Natural Environmental Protection of Ukraine.

2. To deem the Decree of the Cabinet of Ministers of Ukraine dated 27.07.1995 No. 554 “On the List of activities and objects with increased ecological hazard” as null and void.

Prime-Minister of Ukraine

M. Azarov

APPROVED by
the Decree of the Cabinet of Ministers of
Ukraine
dated _____200__ No. _____

The List of activities and objects with increased ecological hazard

1. Atomic power and atomic industry:
nuclear power plants (NPP) irrespective of design and capacities;
nuclear heat and power plants (NHPP);
research-and-development nuclear reactors of any purpose with maximum capacity above 1 kW permanent heat load;
all production processes of nuclear fuel cycle (ore extraction, cleaning and processing; nuclear fuel production; storage, processing and burial of spent nuclear fuel and other radioactive materials);
management of radioactive wastes, uranium ore-processing wastes, spent ionizing radiation sources and radioactive wastes of Chernobyl origin.
2. Ferrous and nonferrous industry (including production with applied nonferrous metals).
3. Extraction, storage and transportation of hydrocarbon material (oil, gas condensate), as well as fuel-filling stations and complexes.
4. Extraction, storage and transportation of natural gas and condensed hydrocarbon gas (including engineering solutions on gas supply of population and industrial enterprises), as well as self-gas-filling compressor stations and condensed gas-filling stations.
5. Chemical productions (including production of polymer materials, perfume and cosmetic goods, chemical and biological, biotechnical, pharmaceutical productions, production of crop protecting agents, plant growth stimulants, mineral fertilizers) and storage of chemical products (base and ready item depots, storage facilities, bases), production of nanomaterials.
6. Management of all kind-wastes (collection, storage, processing, treatment, removal, recycling, neutralization, burial, disposal) including landfills, rubbish incineration and recycling plants, separate lines, workshops, production facilities of preprocessed wastes, as well as treatment and recycling of secondary raw materials.
7. Production, storage, recycling and disposal of all kind-ammunition, explosive substances and rocket fuel and other toxic chemical substances.

8. Coal, mining industry, extraction and processing of peat, sapropel.
9. Thermal power:
thermal power plants (TPP);
boiler houses with thermal capacity of 50 kW and more.
10. Recycling of mineral raw materials with production of all kind-construction materials.
11. Extraction of all kind-minerals including from sea floor – shelf and river beds except for extraction of local minerals for domestic needs with a general mining depth up to 2 m and fresh ground water – up to 20 m.
12. Hydropower:
hydro power plants on rivers irrespective of their capacities (including all small HPP);
hydroelectric pumped storage power plants (HPSPP).
13. Production of cellulose, paper and cardboard from any raw materials.
14. Timberworking facilities (chemical timber processing, production of wood chip and fibre boards and others with applying artificial resins, wood preservation by infiltration).
15. Construction, extension, reconstruction of all-kind hydrotechnical facilities (dams, dykes, breakwaters, berths, bankheads and other bank-protecting structure, made-up beaches, permanent mooring, specialized terminals etc).
16. Machine manufacturing and metal working.
17. Use of alternative energy sources (except for research and experimental isolated facilities).
18. Production of technical carbon and electrographite.
19. Production of light industry (with colouring and treatment by chemical agents).
20. Cattle farming, poultry breeding and fish farming:
animal production units for growing hog, cattle, sheep, goats, fur-producing animals, birds and others;
fisheries;
objects of animal killing;
objects of processing animal carcasses (meat-processing plants and other objects of meat processing);
production and facilities on processing and disposal of wastes of cattle, poultry and fish farming;

skin-tanned and chrome-tanned production.

21. Installations for surface treatment with organic solvents, namely for decoration, printing (applying paints, lacquers, organic solvents, removers and cleaning agents, dryers), coating, defatting, hydroinsulating, calibrating, colouring, cleaning or saturation.

22. Construction, reconstruction and modernization of transportation objects:
railway stations and railway main lines of all categories;
undergrounds;
tramway, trolleybus parks and funicular railroads;
bus and car objects (parks, bus stations);
car parking (above 20 car-places) and stationary car garages (above 20 boxes);
car wash;
service stations;
airports and aerodromes of all classes for servicing all kind-aircrafts;
highways of state and local meaning and all categories;
sea and river passenger and cargo ports;
specialized transportation terminals;
deep-water navigable channels along natural river beds, special channels at upland and shallow marine areas;
ammonia lines, other main products pipeline.

23. Construction, extension, reconstruction, technical and technological upgrading of water consumption facilities:
surface intake structures;
groundwater intake structures;
drinking water supply treatment facilities;
water supply and sewage systems;
systems for sewage-water injection of any origin to isolated underground water-bearing horizons;
systems for reverse water consumption, drainage, treatment (preparation) and discharge of mining, quarry and drainage waters;
all types of purification facilities, systems for discharge of treated sewage into water bodies;
set of measures on sediment and dredging control and river beds, modification and stabilization of beds;
construction, dredging works, sand and gravel extraction, laying cables, pipe lines and other communications on the lands of water resources;
activities on interbasin river flow transfer;
water storage reservoirs.

24. Production activities on processing animal products, production of flavouring agents, prepared food and food products through working and processing:
raw materials of animal origin (including milk);
raw materials of vegetable origin.

25. Manufacturing of products with genetically modified organisms (GMO) intended for use in an open system.
26. Introduction of alien flora and fauna species into the natural environment.
27. Objects to be located nearby or within the territory of the natural-reserved fund (NRF), protected area of NRF object, reserve-prospective territory, water protection zone, territory of coastal shelterbelts of water bodies, sanitary control zones.
28. Cutting down of trees and bushes on the areas above 0.1 ha.
29. Activity on removal of fertile and potentially fertile soil layers for construction needs.
30. Radio engineering facilities (radio transmission, broadcasting, radiolocation stations, digital radio-relay stations, base stations for cellular communication systems).
31. Overhead and underground high-voltage transmission lines (TL) and their infrastructure.
32. Communication cables and fibre optic communication lines (underground cable laying with length of above 1 km).
33. Special (including nature conservative) measures that due to project or construction faults when executed could cause violation of ecological standards, adverse impact on the natural environmental condition:
 - artificial filling of underground waters;
 - activities on land reclamation (technical and biological);
 - engineering activities on improvement of hydro geological conditions of territories (neutralization of underflooding, extreme drainage, development of depressive holes);
 - activity aimed at neutralizing unfavourable geological conditions and processes – landslides, sinks, erosions, karsts, mudflows, snow avalanches, falls, suffusions, rockfalls etc;
 - activities on flood prevention from surface waters and flood waters of rivers;
 - activities on planting, afforestation of natural territories and man-made objects (waste piles, disposals, reclaimed quarries, dumping grounds etc).
34. Other isolated objects and activities which execution could have adverse impact on the natural environmental condition that in each case are established by regional divisions of a specially authorized central executive authority on ecology and natural resources under criteria specified in Appendix 1 to the List subject to consent by a specially authorized central executive authority on ecology and natural resources.

Appendix 1 to
the List of activities and objects
with increased ecological hazard

Criteria for determination of objects and activities which execution could have an
adverse impact on the natural environmental condition

1. Construction of the object under design shall require above 1 ha arable land or other valuable lands;
2. Due to peculiarities of existing technological load on the area of its location, functioning of the object under design could cause extreme impact on the environment;
3. Activities on erection, construction of the objects that could have an adverse impact on the environmental condition.

APPROVED by the Decree
of the Cabinet of Ministers of Ukraine
from _____ # _____

Order on Taking into Account of Public Opinion in Environmental Decision-Making process

General Provisions

1. This Order defines the main requirements to organization of public participation in environmental decision-making process (further – public participation) in order to implement the rights of the public to participate in decision-making and to take due account of public opinion in environmental decision-making.
2. This Order shall be applied to relations in the field of implementation of public rights of participation in environmental decision-making.

Ensuring the transparency principle and taking due account of public opinion in legislative activities of the Verkhovna Rada of Ukraine are defined by the legislation on organization of activities of the Verkhovna Rada of Ukraine.

Public discussion of the drafts of local construction plans and drafts of town construction documentation shall be carried out following the procedure established by the Law of Ukraine “On Planning and Building Up of Territories”.

3. General principles of public participation:

Transparency and democracy;

Prohibition of discrimination based on political views, party, gender, age, religion, nationality citizenship, race, language;

Public information and participation from the earliest stage of decision-making, effectiveness of means of public information and participation;

Ensuring public access to information, on which the decision is based;

Ensuring equal opportunities for all participants of the process of public discussion;

Taking due account of public opinion in the final decision;

Encouraging public participation in decision-making.

4. This Order uses terms in the following meaning:

The Public shall mean one or more physical and legal entities, their unions, organizations or groups, acting according to current legislation.

Public discussion shall mean a procedure, directed to take into account public opinion in environmental decision-making

Public hearings shall mean a form of public discussion in environmental decision making.

Permitting document shall mean a permit, conclusion, decision, approval, certificate, or another document, which permitting body is obliged to issue to a business entity when authorizing it with a right to carry out certain actions of economic activity or types of economic activities and in the absence of which a business entity may not carry out certain actions of economic activity or types of economic activities.

Genetically modified organism in this Order shall be used in the meaning established by the Law of Ukraine "On State System of Biological Safety in Creation, Testing, Transporting and Use of Genetically Modified Organisms".

Permit on environmental matter shall mean any of a permitting document, in the absence of which a business entity may not carry out economic activity, related to:

Waste management;

Special use of subsoil;

Special water use;

Negative impact on air;

Production, storage, transportation, use, disposal, destruction and utilization of poisonous substances, including products of biotechnology and other biological agents;;

Release of genetically modified organisms in open system.

Decisions on environmental matters shall mean:

- Normative-legal acts, adopted by an authorized body, which - or certain provisions of which - are directed towards legal regulation of relations regarding impact on environment;
- Other official written document, adopted by an authorized body, which establishes, amends or repeals legal norms, is used non-expendably and towards unrestricted number of persons and which - or certain provisions of which - are directed towards legal regulation of relations, related to impact on environment, whether this document is considered to be a normative-legal act under the law regulating a certain field;
- Permitting document (a conclusion of state ecological expertise, permit for the actions affecting the environment, etc.)
- Decisions on financing environmental and resource-saving measures on expense of environmental protection funds

Environmental decision-making body (decision-making body) shall mean a state executive authority or local self-government body, which is competent to adopt normative-legal acts, decisions on financing environmental and resource-saving measures on expense of environmental protection funds, to approve conclusions of state ecological expertise or to issue other permitting documents.

Requester of a draft decision on environmental matters (requester of draft decision) shall mean a person, applying for a permitting document for actions, affecting the environment

Person, authorized to organize procedure of public discussion (organizer of public discussion) shall mean a person, authorized according to legislation or by assignment of decision-making body to arrange public discussion in the process of environmental decision-making and who is not the decision-making body.

5. Types of decisions on environmental matters, in the process of decision-making for which public discussion is conducted:

1) normative-legal acts

2) interstate, state, regional, local and other territorial programs, action plans, strategies and other program documents;

3) conclusions of state ecological expertise;

4) permitting documents for use of natural resources, for purposeful release of genetically modified organisms into the environment, as well as for activities related to environmental pollution, dangerous substances treatment, waste allocation;

5) decisions to finance environmental and resource saving actions on expense of environmental funds;

6) other decisions, which can have significant impact on environment.

6. Procedure of public discussion shall obligatory include:

1) informing public about the start of environmental decision making procedure and possibility to participate in it

2) provision of public access to the information (including to the draft decision and background documentation)

3) provision of possibility for public to provide proposals (comments), to participate in public hearings and other forms of public discussion

4) consideration of received comments and proposals and taking them into account

5) informing public about decisions and possibilities of access to decisions on environmental matters and their groundings

7. Organization of public discussion and incorporation of public opinion shall be done by decision-maker, and in cases, envisaged by legislation, by decision-maker and organizer of public discussion.

The organizer of public discussion can be a state executive body, local self-government body, requester or drafter of draft decision and other persons, which according to legislation or by assignment is entrusted to organize public discussion (or some of its stages) and to incorporate public opinion in the decision making on environmental matters.

8. Persons, conducting public discussion shall ensure the following the procedure of public discussion, to prepare and keep materials of taking of public opinion into account.

9. Persons, putting draft decisions and other documentation for discussion, are responsible for their authenticity (relevance of the documentation, submitted for decision-making) as well as for compliance to legal requirements and state norms and standards.

10. Decision-maker and organizer of public discussion can involve by agreement a coordinator of public discussion, including at paid basis into organization of public discussion or some of its stages (informing, organization of public hearings etc.)

A physical or legal person, a person with relevant experience in the field of environmental protection and organization of public participation can be a coordinator of public discussion.

The following criteria should be used while selecting the coordinator:

- 1) sufficient work experience in the field of environmental protection and organization of public participation;
- 2) work reputation in the field of environmental protection and public participation, namely all proved information about him, which allows to make conclusion regarding his professional capacities in the field of environmental protection and public participation, decency, and relevance of his activity to legal requirements;
- 3) statute documents envisage types of activities in the field of environmental protection (for legal entities).

11. Responsibility for following the procedure of public discussion and requirements of this Order is laid upon the decision-maker and in the cases envisaged by legislation upon the organizer of public discussion.

12. Coordinator of the public discussion is liable to the person, on behalf of whom he organizes public discussion, according to the conditions, envisaged by agreement.

13. Main forms of public discussion are submitting proposals and comments (commenting) and public hearings.

Any other forms of public discussion (speeches in media, "round tables", conference, inclusion of NGO representatives into the expert commissions, conduction of public environmental expertise) shall be additional only and can be conducted by initiative of decision-makers or public together with the main forms of public discussion. Additional forms of public participation cannot replace main forms, defined above in this paragraph.

14. During decision-making, envisaged by par.5 of the Order, decision-maker or organizer of discussion should provide adequate, timely and effective informing of public, depending on conditions by public announcing or on individual basis at the primary stage of the decision-making procedure on environmental matters, about, among others:

- 1) proposed type of activity and application, using which a decision will be taken;
- 2) character of possible decisions or draft decision;
- 3) decision-making body;
- 4) envisaged procedure, including how and when such information can be provided (if it is not announced immediately), namely about:

Start of the procedure;

Possibilities for public participation;

Time and place of any planned public hearings;

State authority, where one can obtain relevant information and information about where relevant information was transmitted for public consideration;

Relevant state authority or any other official authorized person, to whom proposals, comments or questions can be sent, including the questions regarding the deadlines for inquires, proposals and comments;

Existing environmental information regarding the proposed type of activity;

- 4) whether this type of activity is included in the national or transboundary environmental impact assessment procedure.

15. Announcement (notice) is publicized in such way, which guarantees informing citizens of the relevant administrative-territorial unite or relevant territorial commune, which can be affected as a result of implementation of the decision or activity and other stakeholders.

While identifying printed mass media, where announcements are published:

- 1) preference is given to official printed mass media
- 2) relevance of the field of possible impact on environment as a result of implementation of decision to the field of dissemination of printed mass media.

The announcement is placed at the information boards and official web-pages of decision-maker during all period, starting from publicizing till finalization of public hearings.

Making comments and proposals (commenting)

16. During public discussion, the public can provide any proposals and comments (comments, proposals, information, analysis or opinion etc.), which are relevant, in its opinion, to the draft decision and planned activity.

17. Proposals and commenting are presented within deadline, defined by the procedure of public discussion, despite the fact whether public hearings or other forms of public discussion are conducted.

18. Proposals and comments can be presented in written form, sent by email and presented orally.

All proposals and comments expressed in written, electronic or oral form (including the ones, expressed by phone) are fixed, obligatory mentioning, surname, middle name and name of the person, making proposals (comments) and his/ her address.

In case if proposals are received by email, a confirmation that the email was received should be sent to the person, making proposals (comments)

Legal entities present proposals and comments in written or electronic form, mentioning their title and legal address.

Anonymous proposals are not being registered and considered.

19. Publicizing of draft decision or statement (announcement) of intends to implement the activity (obtaining the permit) in order to obtain proposals and comments does not exclude possibility to conduct public hearings and any other forms of public discussion.

Public hearings

20. Public hearings are organized and conducted by decision-maker or organizer of public hearing.

Conduction of public hearings is obligatory in the process of decision-making regarding implementation of types of activities and sites with high environmental danger and in other cases, defined by legislation.

By initiative of decision-maker or organizer of public hearings, public hearings can be conducted in the process of public discussion of any environmental decision.

There can be several public hearings in the process of public discussion.

21. Location and time of public hearings are determined depending on the type of decision and documentation to be discussed, taking into account capacity to participate of all potential participants.

22. The following persons can take part in public hearings:

physical persons of the full legal age, living in the area, covered by the decision or activity, described in the documentation;

legal entities, located in the area, covered by the decision or activity, described in the documentation; юридичні особи, by their authorized representatives;

owners and users of land, located in the area, covered by the decision or activity, described in the documentation;

representatives of NGOs,

representatives of bodies of population self-organization, active in the area, covered by the decision or activity, described in the documentation;

requester and drafters of draft decision or documentation;

authorities of Verkhovna Rada of Autonomous Republic of Crimea or local self-government of the area, covered by the decision or activity, described in the documentation;

elected representatives of Ukraine, elected representatives of the relevant Radas.

Specialists on the issues considered at the hearings can be invited to give explanations.

23. Decision-maker of organizer of public hearing, responsible for the public hearing, determines the date and place of the public hearings and informs the public about this not later than 15 days before its start by mass media (radio, TV, press, Internet, special magazines), by sending this information to potential participants of the hearings by regular post or e-mail, announcing in the public places and information centers, informing via representative consultative and advisory bodies.

24. Announcement (declaration) about conduction of public hearings is publicized in such a way, which guarantees informing citizens of the relevant administrative-territorial unit or relevant territorial commune and other stakeholders.

Announcement is also publicized in printed mass media, defined by the decision-maker and by placement at the official web-page of the decision-maker.

During identification of the printed mass media, where to publish the announcement (declaration):

- 1) the preference is given to official printed mass media;
- 2) relevance between the field of potential impact on the environment as a result of implementation of the decision and field of dissemination of the printed mass media.

The announcement is placed at the information boards and official web-pages of decision-maker during all period, starting from publicizing till finalization of public hearings.

25. Announcements about a public hearing include the following information:

- 1) envisaged procedure, location, date and time of its conduction;

2) summary of the draft decision, strategy, program, local action plan, legal act or announcement of the contractor of the draft decision regarding intend to allocate, construct, reconstruct the site or conduct other activity, which influence or can influence negatively the environment;

3) decision-maker, addresses, where it is possible to get relevant documentation and additional information, ask questions and send proposals (comments) regarding the issued planned to be discussed;

4) deadlines for submission of proposals;

26. Public hearings are conducted under the chairmanship of the authorized representative of the decision-maker or organizer of public discussion. The obligations of the chair of public hearings include:

- 1) provision for registration of participants of the hearings (with signature of each participants in the journal of registration);
- 2) announcing the agenda and proposals to it;
- 3) information about the order of making minutes of meeting, presentation of oral and written proposals (comments) regarding the subject of discussions;
- 4) giving opportunity for drafters to explain the main statements of the decision and documentations to be discussed and problematic issues, which need public attention;
- 5) informing participants of hearings regarding obtained proposals (comments) and order of their consideration;
- 6) allowing public representatives to ask questions and express their opinion;
- 7) provision for conduction of discussion and submission of proposals (comments) of the public, following time limits;
- 8) concluding public hearings and informing about the order of inclusions of public proposals (comments) of participants of the hearings.

27. Public hearings start from the presentation of the organizer of the hearings or requester (drafter) of the draft decision or documentation. The presentation should reflect the following issues:

- 1) summary of the draft decision regarding the planned activity (or legal act);
- 2) possible negative impact on state of environment (or need to discuss the draft legal act);
- 3) actions to prevent and / or minimize such impact;
- 4) summary of public comments and proposals, received before public discussions started;
- 5) other information regarding the draft decision.

28. During conduction of the public hearings, public receives the opportunity to express freely orally and in written form its thoughts, comments and proposals regarding the discussed issues.

29. All participants of the hearings are provided with equal conditions to express their thoughts and submit proposals and comments.

30. Course of public hearing should be fixed using stenographic or audiovisual methods.

31. Persons, organizing public hearings, are obliged to answer the public questions orally during the public discussion and to put them into minutes of meetings or in written form after their end.

32. Course and results of public hearing are registered by minutes of meeting, signed by the head and his/her secretary, elected during the public hearing by its participants.

33. Proposals and comments, received during public hearings are fixed in the minutes of the public hearings.

34. In case of no public proposals (comments) or absence of public representatives at public hearings, the relevant act is being prepared.

35. Conduction of public hearings does not exclude the possibility to submit comments and proposals according to par.16-19 of the Order during all term, defined for public discussion.

Due account taken of results of public discussion

36. Decision-maker and in the cases envisaged by the legislation organizer of public discussion should consider all comments and proposals, received within the deadline.

Following the results of such consideration, the mentioned above persons fully or partly include received comments and proposals or give grounds for not accepting them.

37. Materials of taking of public opinion into account shall include the information about publicizing (confirmation of placement in the mass media, at notice boards, sending of individual notices etc), list of materials presented for public consideration, received proposals (comments) and information about their inclusion or reasons for not accepting them (fully or partially) and in case of no proposals and comments a statement about their absence.

Informing about the decision taken and possible access to the decision and its grounding

38. Publicizing of normative-legal acts shall follow requirements in respective legislation.

39. Conclusions of state ecological expertise are publicized by publication in printed mass media of the authority, which approved the decision (if available) and/or placement at the official web-page of the relevant authority.

40. Information about the issued permits is publicized in printed mass media of the authority, which approved the decision (if available) and / or by placement at the official web-page of the relevant authority.

41. In case of written public inquiry, the public can get written records, audio, video records of the public hearings, full text of adopted decision with its grounding and other materials, relevant to the public discussion.

42. Decision-maker maintains all the materials of public discussions and documentations, which was the basis for decision-making, in the manner prescribed by legislation for the documents generated in the process of activity of government and local self-governments, other businesses and organizations.

Peculiarities of procedure of public discussion of acts of normative-legal character

43. Draft decisions, mentioned in points 1,2 of par. 5 of this Order are publicized in order to obtain and include public proposals and comments.

44. Drafter of the draft decision informs public about publicizing draft decision in order to obtain and include its proposals and comments.

Announcement about the draft decision should include:

- 1) summary of the draft decision;
- 2) postal address and email (if available) of the drafter of draft decision and other bodies, to which according to the legislation or by initiative of drafter the proposals and comments should be sent;
- 3) information about the way of publicizing the draft decision (title of the printed mass media and / or web-page, where draft decision or information about another way of publicizing, envisaged by par. 49 of this Order;
- 4) information about the deadline, within which public proposals and comments are accepted;
- 5) information about the way for public to provide their comments and proposals.

45. Deadline of public discussion, within which public comments and proposals are accepted, are determined by the drafter of draft decision. It cannot be less than 30 days and longer than 90 days since the date of publicizing of the draft decision.

46. Announcement about publicizing of the draft decision in order to obtain comments and proposals and draft decision are publicized by publication in the printed mass media, defined by the drafter of the draft and / or by placement at official web-page of the developer of draft decision.

During identification of the printed mass media, where announcement and draft decision are published:

- 1) the preference is given to official printed mass media;
- 2) relevance between the field of potential impact on environment as a result of decision's implementation and field of dissemination of the printed mass media.

If within the limits of administrative-territorial unit or settlement, printed mass media are not disseminated, and local executive authorities, territorial authorities of the central executive bodies, bodies and officials of local self-government do not have their official web-pages, announcement about publicizing and draft decision can be publicized in any way, which guarantees informing the residents of the relevant administrative-territorial unit or relevant territorial community.

Local programs, action plans, strategies and other program documents are also placed at announcement boards of the relevant local authorities and self-governance bodies or in other public places.

The announcement about publicizing and draft decision are placed at announcement boards and official web-pages of the decision-maker from the moment of publicizing till end of public discussion.

47. Expenses, related to publicizing of the documents, mentioned in this paragraph, are financed at expense of the decision drafters or bodies, publicizing these documents.

48. Draft decision is publicized not later than five working days since the day of publicizing of the announcement about publicizing this draft.

49. Drafter of the draft decision is obliged to consider all comments and proposals regarding it, obtained within the deadline. Following the results of such consideration, the decision drafter fully or partly includes received comments and proposals or gives grounds for their dropping out.

50. Publicizing of draft decision in order to obtain comments and proposals does not exclude the possibility to conduct public hearings and other forms of public discussion.

Peculiarities of public discussion in the process of environmental impact assessment (EIA) and preparation of the conclusions of state ecological expertise

51. Public discussion in the process of decision-making regarding location, construction, reconstruction of a unit or conduction of another activity, having or which can have negative impact on state of environment is conducted during two main stages: stage of preparation of materials for EIA and stage of state ecological expertise.

52. Public discussion is conducted in form of commenting and public hearings. For types of activities and sites with increased environmental danger, conduction of public hearings at the stage of preparation of materials for EIA is obligatory.

Width of discussion should correspond to the scope of expected impact.

A number of hearings can be conducted during public discussion.

53. At the stage of preparation of materials for EIA, public hearings starts from the time of publication of letter of intend, composed according to requirements of the current legislation.

Duration of discussion (commenting and conduction of public hearings) at this stage cannot be shorter than 30 days since publication of the Statement of intend.

Obligatory public hearings are conducted not earlier than 15 days since provision of EIA documents and other documentation to the public for consideration and publicizing announcement regarding their conduction.

54. At the stage of state ecological expertise, public discussion continues since the time of presentation of the documentation to the authority, conducting state ecological expertise and publication by this authority of information (announcement) about conduction of the state ecological expertise.

55. In the process of state ecological expertise, public hearings and open discussions can be conducted.

Public can also participate in the process of ecological expertise by making presentations in media, inclusion of public representatives into the expert commissions, groups for conduction of public ecological expertise etc.

Duration of the discussion at this stage cannot be shorter than 15 days since the time of publication of information about the conduction of state ecological expertise.

56. Publication of Statement of intend and information about conduction of state ecological expertise is done according to the par. 14, 15 of this Order.

57. Public hearings are conducted according to requirements of the par. 21-36 of this Order.

58. During public discussion, organizer of public discussion and authority, which approves relevant conclusions of state ecological expertise should provide free of charge public access to all documentation regarding the decision-making process (EIA materials and other documentation, available at the moment of conduction of public discussion procedure and as soon as it comes), except exclusions, used in the access to the information.

Such information should at least include the following:

- 1) description of the industrial unit, physical and technical characteristics of the proposed activities, including the assessment of expected waste and emissions;
- 2) description of the most important factors, affecting the environment;
- 3) description of activities, envisaged to prevent and / or mitigate impact, including waste;
- 4) non-technical summary of the above mentioned;
- 5) description of the main alternatives, considered by applicant, and
- 6) other envisaged by legislation documentation, submitted to the authority, approving conclusions of the state ecological expertise and is available at the moment of public inquiry.

Public access to the information is provided by its allocation in the places accessible by public at the area, covered by the activity, mentioned in the documentation. Mentioned information can be placed in the premises of relevant local authorities and self-government, Aarhus centers and relevant territorial bodies, which approve conclusions of state ecological expertise and in Internet.

Public has an opportunity to make copies and extracts from the given documentation, as well as opportunity to inspect the information at the place of its location.

59. Materials of inclusion of public opinion in the EIA process and state ecological expertise should include:

information about publication in media of letter of intend and conduction of public discussions;

written public appeals and other documents of inquiries;

list of the documents, presented from the side of contractor and implementer of EIA for public consideration, list of public questions, proposals and comments of citizens, grounded responses;

summarized decisions about included part of public proposals (comments) and grounding regarding their not included part (in form of a table, where proposal and information regarding its inclusion is given);

decision of public expertise (if conducted).

60. Amendments to EIA materials by results of public discussion are done by contractor and general designer. Motives for leaving out of any decisions, proposals (comments) are presented to public.

Peculiarities of public discussion in the process of issuance of permits regarding the environment

61. Public discussion in the process of issuance of the permits regarding the environment is done according to this Order taking into account the procedures of issuance of separate permits defined by legislation.

62. Decision-makers provide publicizing of declarations (announcements) about intend to obtain permit taking into account the requirements of the par. 14,15 of this Order.

63. Decision-makers provide publicizing the issued permits taking into account par. 41 of this Order.

64. For effective provision of the information to the public, registers of declarations (announcements) about the intend to obtain a permit and issued permits can be established (including electronic ones)..

Appeals of decisions and responsibility for non-compliance with requirements of the Order

65. Decision on environmental matters cannot be adopted or approved by authorized body or its authorized person, if draft decision or statement of intent to implement activity were not publicized.

66. If decision on environmental matters should be registered by the Ministry of Justice or its regional bodies, in case if such decision was not publicized, the Ministry of Justice or its regional body should reject to provide state registration of such act or not later than 10 days after finding this fact up cancels its decision about the state registration of such decision.

67. In case of violation of the order of conduction of public hearings, they can be considered as such which did not take place by decision-maker or court in order defined by law.

68. Decisions on environmental matters, taken with violation of the requirements of this Order can be appealed and cancelled by decision-maker, higher bodies or court in the order, defined by law.

Cancellation of the decisions on environmental matters, taken with violation of the requirements of this Order is a ground to cancel further decisions, taken on the basis or with consideration of the cancelled decision.

69. Persons, guilty in violation of this Order incur a liability according to the current legislation.