

**Report of Ukraine  
on the matters raised in paragraph 24 of the Decision V/4,  
adopted at the fifth session of the Meeting of the Parties to the  
Espoo Convention  
on 20-23 June 2011 in Geneva, Switzerland**

**Kyiv 2012**

## Table of Contents

Introduction .....	3
1. Report on implementation of the Action Plan (Strategy) for the Implementation of Paragraphs 11-12 of the Decision IV/2 of the Meeting of the Parties to the Espoo Convention, approved by the Resolution No. 9-p of the Cabinet of Ministers of Ukraine of 6 January 2010 .....	4
2. Report on measures taken to ensure implementation of the Espoo Convention provisions on the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta .....	9
2.1. Measures taken to ensure implementation of the Espoo Convention provisions on the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta. ....	9
2.2. Post-project analysis measures of the “Danube-Black Sea Deep Water Navigation Canal” Project (Phase I) .....	11
ANNEXES .....	12

## **Introduction**

Ukraine has ratified the Convention on Environmental Impact Assessment in a Transboundary Context (hereinafter - Espoo Convention) by the Law of Ukraine No. 534-XIV of 19 March 1999.

In paragraph 24 of the Decision V/4 adopted at the Fifth Session of the Meeting of the Parties to the Espoo Convention held on June 20-23, 2011 in Geneva, the Meeting of the Parties requested the Government of Ukraine to report by the end of each year on:

- steps taken to bring into full compliance the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta, implementing the measures in accordance with paragraph 19 of the Decision V/4 of the Meeting of the Parties to the Espoo Convention;

- Post-project analysis of the “Danube-Black Sea Deep Water Navigation Canal” Project (Phase I);

- implementation of the strategy, in particular on concrete legislative measures adopted to this effect.

Ukraine has developed this report implementing para. 24 of the Decision V/4 of the Meeting of the Parties to the Espoo Convention.

## **1. Report on implementation of the Action Plan (Strategy) for the Implementation of Paragraphs 11-12 of the Decision IV/2 of the Meeting of the Parties to the Espoo Convention, approved by the Resolution No. 9-p of the Cabinet of Ministers of Ukraine of 6 January 2010**

1. Paragraph 1 of point 1 of the Action Plan (Strategy) for the Implementation of Paragraphs 11-12 of the Decision IV/2 of the Meeting of the Parties to the Espoo Convention, approved by the Resolution No. 9-p of the Cabinet of Ministers of Ukraine of 6 January 2010 (hereinafter – the Strategy) provides for the development and submission of the draft Law of Ukraine “On Amendments to Certain Laws of Ukraine on Implementation of the Provisions of the Convention on Environmental Impact Assessment in a Transboundary Context” to the Cabinet of Ministers of Ukraine. The draft Law was developed by the Ministry of Ecology and Natural Resources of Ukraine (hereinafter – the MENR), agreed upon by the public authorities concerned and submitted to the Cabinet of Ministers of Ukraine by Letter No. 21697/16/10-11 of 4 November 2011 for further introduction thereof to the Verkhovna Rada of Ukraine for approval. However, in the opinion of the Cabinet of Ministers of Ukraine, provisions of the draft Law related to introducing amendments to the Law of Ukraine No. 3038-VI “On Regulation of Urban Development Activity” of 17 February 2011 shall be subject to further consent procedure (see Report of Ukraine on the matters raised in paragraph 24 of the Decision V/4, adopted at the fifth session of the Meeting of the Parties to the Espoo Convention on 20-23 June 2011 in Geneva, Switzerland, for the year of 2011 (hereinafter – Report for 2011)).

Numerous meetings of the MENR with outside public authorities concerned had no positive effect.

Representatives of the MENR met with experts of the EU funded Project “Support to Ukraine to implement the Espoo and Aarhus Conventions (Follow-up activities)” (hereinafter - Project) in January 2012. At the result of the meeting it was decided to elaborate the draft Law aimed at regulating the environmental impact assessment procedure.

By 1 March 2012 the Project elaborated and submitted to the MENR two drafts of the above Law. During March 2012 on the basis of those drafts the MENR elaborated the draft Law of Ukraine “On Environmental Impact Assessment” (hereinafter – the draft EIA Law) (see Annex I below) and submitted it to outside public authorities concerned for consent. All outside public authorities concerned except for the Ministry of Emergencies of Ukraine refused to approve the draft Law. Meetings and consultations with the heads of the above authorities showed that many of them refuse the mere idea of the draft EIA Law.

On 21 June 2012 the draft Law of Ukraine “On Amendments to Certain Laws of Ukraine on Implementation of the Provisions of the Convention on Environmental Impact Assessment in a Transboundary Context” (hereinafter – the draft Espoo Law) (see Annex 2) was registered in the Verkhovna Rada of Ukraine.

By 9 July 2012 all procedures required for the draft Espoo Law to reach the floor of the Parliament for the first reading were completed, but due to reasons independent of the MENR the draft Espoo Law was not considered by the Parliament then.

The MENR also participated in two seminars for the executive public authorities in order to convince them of the need to amend existing legislation regulating the EIA procedure. Those seminars were held on 29-31 May 2012 and on 13-14 September 2012.

The President of Ukraine ordered the Cabinet of Ministries of Ukraine to ensure compliance with international obligations of Ukraine as regards the EIA procedure and listed the main elements for that in his Order of 15 November 2012. The Prime-minister of Ukraine by his Order No. 45856/1/1-12 of 19 November 2012 requested to submit the required draft Law to the Cabinet of Ministries of Ukraine pursuant to the existing procedure. The MENR further developed the draft Espoo Law as appropriate and submitted it to the Cabinet of the Ministers as the draft Law of Ukraine “On Amendments to Certain Laws of Ukraine on Implementation of the Provisions of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters” (hereinafter – the draft Aarhus Law), by the letter of 4 December 2012 No. 23703/05/10-12 requesting the Cabinet of the Ministers to submit it to the Verkhovna Rada of Ukraine.

Aside from the mentioned above, on 10 May 2012 the draft Law of Ukraine “On Amending the Law of Ukraine “On Regulation of Urban Development Activity” ensuring public participation” (registration number 10442) was registered with the Parliament of Ukraine. The draft Law was aimed at setting out the procedure for public participation in decisions regarding constructions planned to be used for activities likely to cause significant impact on the environment and human health. The draft Law was rejected by the Verkhovna Rada and excluded from its further consideration.

The draft law “On Amending the Law of Ukraine “On Regulation of Urban Development Activity” (Regarding Public Consultations on the Project Design Documentation” was registered in the Verkhovna Rada of Ukraine (registration No. 11256) on 26 September 2012. The draft suggested to establish mandatory public consultations on the project design documentation. Pursuant to the draft Law village, town or city councils were entitled to adopt the procedure of the abovementioned public consultations on the project design documentation. The

procedures were to ensure involvement of all stakeholders in the public consultations. On 12 December 2012 the draft Law was also excluded from further consideration by the Verkhovna Rada.

The Law of Ukraine “On Amending the Land Code of Ukraine Regarding the Auctions Procedure” No. 5077-VI was adopted by the Verkhovna Rada of Ukraine on 5 July 2012. The Law reformulated Art. 136 of Land Code of Ukraine to prohibit including the land plots for construction into the auction lists without taking into account the outcomes of public consultations where those are provided for by the law.

On 20 November 2012 the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amending Certain Legal Acts Devoted to the Regulation of the Construction Activity” reformulating paragraph 3 part 1 of Art. 31 of the Law “On Development Construction Activity” to read as follows:

“The project design documentation of highly environmentally hazardous objects as well as objects subject to environmental impact assessment in a transboundary context, shall be supplemented by the outcomes of environmental impact assessment (assessment materials and assessment reports, as well as public consultations). The list of the abovementioned objects as well as the procedure for the assessment shall be established by the Cabinet of the Ministers of Ukraine”.

2. Point 1 of the Strategy also provided for the development and submission for approval to the Cabinet of Ministers of Ukraine of the draft Order of the Cabinet of Ministers of Ukraine on adoption of the procedure for the environmental impact assessment in a transboundary context. The MENR developed such the draft at the beginning of 2011 (see Report 2011).

In January 2012 at the result of the meeting with the Project it was decided to elaborate the draft Law aimed at regulating the environmental impact assessment procedure in a transboundary context. To this end relevant provisions were included into the abovementioned: the draft EIA Law, the draft Espoo Law and the draft Aarhus Law. Please see paragraph 1 of this Report regarding the outcomes of consideration of those draft laws.

3. Point 1 of the Strategy also provided for the development and submission to the Cabinet of Ministers of Ukraine of the draft Decree of the Cabinet of Ministers of Ukraine “On Amending the Regulation on the Ministry of Environmental Protection of Ukraine, approved by the Decree No. 1524 of the Cabinet of Ministers of Ukraine of 2 November 2006”. New Regulation on the Ministry of Ecology and Natural Resources of Ukraine was approved by the Order of the President of Ukraine No. 452/2011 of 13 April 2011. According to subparagraph 24 of paragraph 4 of the regulation, the MENR shall arrange, coordinate and monitor the environmental impact assessment, including in a transboundary

context ...”. Therefore, the requirement of this point of the Strategy has been fulfilled.

4. Point 1 of the Strategy provided for the development and submission to the Cabinet of Ministers of Ukraine of the Draft Order of the Cabinet of Ministers of Ukraine “On Amending the Procedure for Approval of Investment Programs and Construction Projects and the State Expertise Thereof”. On 17 February 2011 the Law of Ukraine “On Regulation of Urban Development Activity” was adopted and Article 31 thereof changed the procedure for the construction projects expertise requiring the adoption of a new Decree of the Cabinet of Ministers of Ukraine which would approve such a procedure. The Decree of the Cabinet of Ministers of Ukraine No. 560 of 11 May 2011 approved the Procedure for Approval of Construction Projects and the Expertise Thereof. This Decree declared void the Decree of the Cabinet of Ministers of Ukraine “On Procedure for Approval of Investment Programs and Construction Projects and the State Expertise Thereof” No. 1269 of 31 October 2007. Therefore, the requirement of this point of the Strategy can not be met because it contradicts to the present procedure for construction documentation expertise established by the law.

In order to establish a sound procedure for public participation in the decision-making likely to cause significant impact on environment, measures described in paragraph 1 of this Report were taken.

5. Point 2 of the Strategy provided for amending the DBN (State Constructing Norms) A.2.2-1-2003 “Structure and Contents of Environmental Impact Assessment (EIA) Materials in Project Designing and Constructing Industrial Enterprises, Buildings, and Facilities. Basic Principles of Design”, approved by the Order of the State Construction Committee of Ukraine No. 214 of 15 December 2003. Deadline - September 2011. Such draft Amendment was developed by the MENR and submitted to the Ministry of Regional Development, Construction, Housing and Public Utility Sector of Ukraine (see Report 2011). On 22 November 2011 the Law of Ukraine “On State Construction Norms” was adopted. According to this Law a state construction norm is defined as a “subordinate legal technical act”. This means that state construction norms shall set only technical requirements and shall not comprise procedural provisions for implementation of human rights. Keeping that in mind on 12 April 2011 the Cabinet of Ministers of Ukraine by its Decree № 471 adopted the “Program of Reconsidering State Construction Norms and Rules for the Period of until 2015” which provides for shifting provisions regulating legal relations in the sphere of construction and architecture from state construction norms to other legal acts. Therefore, the requirement of point 2 of the Strategy contradicts the law adopted after the Strategy has been enacted and for that reason cannot be met.

The goal of point 2 of the Strategy can be reached by measures set out in paragraph 1 of this Report.

6. With this Ukraine would like to inform that implementation of point 4 of the Strategy as regards the development and approval of guidelines on practical use of the Convention on Environmental Impact Assessment in a Transboundary Context will be possible after the adoption of the law of Ukraine regulating the EIA procedure.

## **2. Report on measures taken to ensure implementation of the Espoo Convention provisions on the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta**

### **2.1. Measures taken to ensure implementation of the Espoo Convention provisions on the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta**

7. On 19 January 2012 the meeting of the Intergovernmental Coordination Council on Implementation of the Provisions of the Espoo Convention in Ukraine (hereinafter - Intergovernmental Coordination Council) aimed at bringing the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta Project into full compliance with the Convention was held. The meeting decided to establish a working group, consisting of representatives of the MENR, Ministry of Infrastructure, Ministry of Foreign Affairs, Ministry of Justice, to investigate ways to meet obligations under the Espoo Convention in the process of implementation of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta Project.

8. The working group met on 22 March 2012 and proposed the list of measures necessary to meet the requirements of the Espoo Convention in the process of implementation of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta Project. Those measures include:

1) to develop the road map for ensuring compliance with the Espoo Convention in a process of implementation of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta Project;

2) to organise and conduct consultations with Romania in order to agree upon the road map;

3) to ensure all works stopped, including service checks and works under phase I of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta Project from the date, envisaged by the road map agreed with Romania and on for the period needed for completion of measures envisaged by the road map;

4) to allow urgent works necessary for keeping navigation parameters in case of critical situations on the marine access channel of the Danube-Black Sea Deep Water Navigation Canal related to shipping safety.

9. Taking into consideration that the mentioned above measures would require expenditures from the National budget the list of proposed measures has to be approved by the Intergovernmental Coordination Council.

The Implementation Committee of the Espoo Convention will be informed about further steps as appropriate.

## **2.2. Post-project analysis measures of the “Danube-Black Sea Deep Water Navigation Canal” Project (Phase I)**

10. In 2004 Ukraine has launched a comprehensive monitoring system for the environment of the Danube Delta, which contains the programs of environmental and engineering monitoring. Program implementation involves a number of leading scientific and engineering institutions. The coordination of these activities is carried out by the Ukrainian Research Institute of Ecological Problems.

11. Long-term hydrobiological studies for 2004-2011 provide grounds for the following main conclusions regarding the ecosystems located in the Ukrainian part of Danube delta during the period of the renewing and maintenance of the Danube - Black Sea Canal (Phase I).

The ratio in the distribution of the flow rate between the Kiliya and Tulchin spill-streams tends to permanently increase on the part of the Romanian Tulchin spill-stream (from 33% to 51% during the last 50 years of survey) and proportional decrease on the part of the Kiliya spill-stream. The main reason for this process is the large-scale hydrotechnical works launched on the Romanian territory in the XIX century and still ongoing.

Long-term hydrobiological studies prove the absence of direct impact of the renewing and maintenance of the Danube - Black Sea Canal (phase I) on the biotic communities of phytoplankton, zooplankton, zoobenthos, fish fauna of the studied water bodies, except for certain violations of local community structures in the immediate areas of hydraulic engineering works.

Overall, the results of monitoring carried out during the renewal and maintenance of the Danube - Black Sea Canal show no recorded facts of the decrease of species diversity of flora and fauna in protected areas. The comprehensive monitoring results since 2004 show that the impact of the Canal renewal can be characterized as local and limited. That is, recorded impacts do not result in significant changes in basic parameters of the environment and biodiversity of the Danube Delta, and actual changes in controlled parameters do not exceed the forecast, and often less substantial. Impact on plant and animal communities of the delta development during the reported period was mainly related to climatic and seasonal hydrological changes.

12. In early 2011 under the auspices of the International Commission for the Protection of the Danube River (ICPDR) and UNECE, Ukraine, Romania and Moldova launched the project "Joint environmental monitoring, evaluation and exchange of information for integrated management of the Danube Delta region."

**Law of Ukraine**

**“ON ENVIRONMENTAL IMPACT ASSESSMENT”**

**Chapter I. General provisions**

**Article 1. Definitions**

In the present Law the definitions below shall be used in the following meaning:

**Single registry** – a single publicly accessible national registry containing Declarations of intent, Environmental impact statements, environmental impact assessment materials, transboundary environmental impact assessment materials, Reports on public discussion, Conclusions on environmental impact assessment, and Decisions of the Joint Council on transboundary environmental impact assessment, mentioned in the present Law.

**Environmental impact assessment** – procedure, which precedes a document of a permitting character in the field of economic activity and is aimed at identifying and assessing a likely environmental impact of an environmentally hazardous economic activity.

**Environmentally hazardous economic activity** – objects and types of a proposed economic activity likely to cause a significant adverse impact on the environment (highly environmentally hazardous types of activity and objects), as well as objects and types of proposed economic activity likely to cause an adverse impact on the environment taking into account the nature of such an activity, its size (scale) and location, other factors.

**The public concerned** – natural persons and their associations likely to be affected by an environmentally hazardous economic activity taking into account, *inter alia*, their place of residence (location) or having expressed their interest to participate in the environmental impact assessment. Citizen associations performing statutory activities in the field of environmental protection shall be considered as the public concerned regardless of their location and status.

**Proposed economic activity** – means an activity of construction, expansion, reconstruction, technical re-equipment of objects, other interventions into the environment and landscapes, including extraction of mineral resources or any

major change to an activity including revision or renewal of conditions of undertaking an activity subject to a decision of a state authority or a permit.

**The state of origin procedure** – transboundary impact assessment of an environmentally hazardous economic activity to be undertaken on the territory of Ukraine.

**Transboundary impact** – any impact, not exclusively of a global nature, within the territory under the jurisdiction of a state caused by a proposed economic activity, the physical origin of which is situated wholly or in part within the territory under the jurisdiction of another state; for the purposes of this definition impact means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.

**State of origin** – the state under whose jurisdiction an economic activity likely to cause transboundary impact will be undertaken.

**Affected state** – the state likely to be affected by the transboundary impact of an economic activity.

**Concerned state** – the state which expressed interest to participate in a transboundary environmental impact assessment.

**Authorised central body** – the central state executive body in the field of ecology and natural resources.

**Authorised territorial body** – regional, in the cities of Kyiv and Sevastopol state administration, the Republican Committee of the Autonomous Republic of the Crimea on Environmental Protection.

## **Article 2. Legislation in the field of environmental impact assessment**

Relations in the field of environmental impact assessment shall be regulated by the Constitution of Ukraine, the Law of Ukraine “On environmental protection”, the present Law, Ukraine’s international treaties, other legal instruments of Ukraine.

## **Article 3. Scope of application of environmental impact assessment**

1. An environmentally hazardous economic activity shall be subject to environmental impact assessment before a document of a permitting character for such an activity is obtained.

The list of highly environmentally hazardous types of activity and objects as well as the list of types of activity and objects likely to cause an adverse impact on the environment shall be established by the Cabinet of Ministers of Ukraine. Such the lists may provide for thresholds for certain types of an environmentally hazardous economic activity (capacity, length, area, output, etc.).

2. Transboundary environmental impact assessment shall be a special type of environmental impact assessment.
3. Environmental impact assessment shall be an indispensable precondition for obtaining a document of a permitting character for the environmentally hazardous economic activity. Impact assessment shall be undertaken for each object for which a document of a permitting character is issued.

#### **Article 4. Principles of environmental impact assessment**

Environmental impact assessment shall be based on the principles of legitimacy, scientific reasonableness, comprehensiveness, independence, transparency, public participation and long-term prediction.

### **Chapter II. Environmental impact assessment procedure**

#### **Section 1. General requirements**

##### **Article 5. Stages and basic requirements**

1. Environmental impact assessment shall consist of the following stages:
  - a) ascertainment of the need for environmental impact assessment;
  - b) development of environmental impact assessment materials;
  - c) issuance of a Conclusion on environmental impact assessment.

Transboundary environmental impact assessment shall be undertaken in accordance with the procedure foreseen by Chapter IV of the present Law.

2. Permitting body shall take due account of the outcomes of environmental impact assessment when making decision to issue or reject a document of a permitting character for the environmentally hazardous economic activity.
3. In a case where the authorised central body is a permitting body, its functions in the field of environmental impact assessment shall not be executed by units and officials performing permitting functions for the environmentally hazardous economic activity.
4. A decision on taking into account of the outcomes of transboundary environmental impact assessment shall be mandatory for execution by the economic agent, permitting bodies, the authorised central body and the authorised territorial body.
5. Public participation shall be ensured through timely, adequate and effective informing and ensuring opportunities to provide comments at early stages of environmental impact assessment.
6. The authorised central body shall maintain the publicly accessible Single Registry. The procedure for maintaining the Single Registry shall be established by the Cabinet of Ministers of Ukraine.

## **Section 2. The need to undertake environmental impact assessment**

### **Article 6. Ascertainment of the need for environmental impact assessment**

1. At the beginning stage of a project designing the economic agent shall inform the authorised territorial body of the intent to undertake the environmentally hazardous economic activity by submitting the Declaration of intent (in a written and electronic forms) following the location of the proposed economic activity.

The Declaration of intent shall be submitted for all highly environmentally hazardous types of activity and objects regardless of their thresholds (capacity, length, area, output, etc.).

2. The economic agent shall have the right to a free of charge consultation from the authorised territorial body following the location of the proposed economic activity regarding the need to undertake environmental impact assessment for the proposed economic activity.

3. The authorised territorial body shall forward the Declaration of intent to the authorised central body if:

- the proposed economic activity is likely to cause a transboundary impact;
- the proposed economic activity is likely to cause an impact on the territory of two or more regions or outside of the Autonomous Republic of the Crimea;
- the proposed economic activity will be financed involving foreign credits given under the guarantees of the Cabinet of Ministers of Ukraine or where the estimate project costs exceed 100 million UAH.

The authorised territorial body shall within 5 business days from the date of receipt of the Declaration of intent inform the economic agent in writing regarding the fact of forwarding of the Declaration of intent to the authorised central body.

### **Article 7. Publishing of the Declaration of intent**

1. The authorised territorial body shall within 5 business days from the date of receipt of the Declaration of intent ensure its publishing and shall add it to the Single Registry.

In cases foreseen by paragraph 3 of article 6 of the present Law the authorised central body shall within 10 business days from the date of receipt of the Declaration of intent ensure its publishing.

2. The Declaration of intent shall be published by posting it at the official website of the respective body on the Internet and by publishing it in the printed mass media. Also the Declaration of intent may additionally be placed on information boards or published in another way, which guarantees informing citizens of the relevant administrative-territorial unit or relevant territorial community, which are

affected or likely to be affected by the proposed economic activity and other stakeholders.

3. In identifying the printed mass media for the publication of the Declaration of intent preference shall be given to the official printed mass media, and it shall be ensured that such the printed mass media is used whose area of distribution covers the administrative-territorial units likely to be affected by the proposed economic activity.

In cases foreseen by paragraph 3 of article 6 of the present Law the authorised central body shall be using the publishing in the official printed mass media.

4. Publishing of the Declaration of intent shall be executed by the state-owned undertakings, which belong to the sphere of management of the authorised territorial body and, in cases foreseen by paragraph 3 of article 6 of the present Law, to the sphere of management of the authorised central body at the cost of the economic agent.

### **Article 8. Content of the Declaration of intent**

1. The Declaration of intent shall contain information on:

- economic agent;
- proposed economic activity, its nature, alternatives;
- location of the proposed economic activity, alternatives;
- socio-economic impact of the proposed economic activity;
- needs in resources in the process of undertaking of the proposed economic activity;
- transportation supply of the proposed economic activity;
- general technical characteristics, including parameters of the proposed economic activity (capacity, length, area, output, etc.);
- environmental and other limitations for the proposed economic activity in alternatives;
- needed environmental-engineering training and protection of the territory in alternatives;
- sphere, sources and types of possible impacts on the environment;
- foreseen environmental impact assessment procedure and possibilities for public participation;
- belonging of the proposed economic activity to the list of highly environmentally hazardous types of activity and objects or to the list of types of activity and objects likely to cause an adverse impact on the environment;

- undertaking of and procedure for public discussion of the terms of reference (in case the economic agent has decided to undertake public discussion of the terms of reference);
  - existence of grounds for the transboundary environmental impact assessment;
  - type of a possible document of a permitting character;
  - the state body whose competence includes the adoption of a document of a permitting character;
  - environmental information in possession of the respective state executive body which is relevant to the proposed economic activity.
2. The format of the Declaration of intent shall be established by the Cabinet of Ministers of Ukraine.
  3. Simultaneously with the Declaration of intent the economic agent may request from the competent bodies the underlying reference data and additional information necessary for the identification of the area of potential adverse impact and the terms of reference for the development of environmental impact assessment materials.

### **Section 3. Environmental impact assessment materials**

#### **Article 9. Development of environmental impact assessment materials**

1. Development of environmental impact assessment materials shall be undertaken by the economic agent and shall commence with the approval of the terms of reference for the development of environmental impact assessment materials, including the scope of work and research on assessing impacts on the environment.
2. Environmental impact assessment materials shall thoroughly discuss the outcome of the impact assessment on the natural, social, including people's life, and man-caused environment and provide reasoning for admissibility of the proposed economic activity. Environmental impact assessment materials shall cover identification, prognosis and assessment of an adverse impact of the proposed economic activity and substantiation of economic, technical, organisational, sanitary, environmental and other measures to ensure environmental and peoples' health safety in decision-making on undertaking of the environmentally hazardous economic activity.
3. The economic agent shall submit the environmental impact assessment materials (in a written and electronic forms) following the location of the proposed economic activity to the authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, to the authorised central body.
4. The authorised territorial body or the authorised central body shall add the environmental impact assessment materials to the Single Registry and publish them at its official web-page on the Internet.

## **Article 10. Terms of reference for environmental impact assessment**

1. The authorised territorial body shall have the right to formulate proposals to the terms of reference for the development of the environmental impact assessment materials, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall have the right to formulate such proposals. The mentioned bodies shall have the right to formulate respective proposals within 20 business days from the date of publishing of the Declaration of intent.

2. At the request of the economic agent the authorized territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall be obliged to formulate comments and proposals to the terms of reference for the development of the environmental impact assessment materials. The mentioned bodies shall forward such comments and proposals within 30 business days from the moment of receiving the terms of reference for the development of the environmental impact assessment materials.

3. The authorized central body, aiming at formulating proposals to the terms of reference for the development of the environmental impact assessment materials, shall have the right to request from other state executive bodies and institutions their proposals to the terms of reference for the development of the environmental impact assessment materials. The state executive bodies or institutions shall submit such proposals within 10 business days from the date of the request from the authorized central body. The absence of response within the indicated time schedule shall mean the absence of proposals to the terms of reference for the development of the environmental impact assessment materials.

4. Aiming at submitting well-founded comments and proposals the respective state executive bodies and institutions shall have the right to request the terms of reference for the development of the environmental impact assessment materials from the authorised central body. The obligation of the referred state executive bodies and institutions to submit comments and proposals shall appear from the moment of receiving the mentioned terms of reference for the development of the environmental impact assessment materials.

5. Within 15 business days from the date of the official publishing of the Declaration of intent the public may submit comments and proposals on the scope of work and research on assessing impacts on the environment to the authorized territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, to the authorised central body, as well as to the economic agent. In case of receiving comments and proposals from the public the respective authorized body shall inform the economic agent of them within the time schedule established in paragraph 1 of this article.

6. When compiling and approving the terms of reference the economic agent shall take into account comments and proposals from the authorized territorial body, the authorized central body and from the public.

7. If no comments and proposals have been forwarded to the economic agent within the time schedule established in this article of the Law, it shall be considered that such proposals do not exist.

8. The economic agent shall have the right to a free of charge consultation from the authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, from the authorised central body on the issue of the scope of work and research on assessing impacts on the environment.

9. The economic agent may undertake public discussion of the terms of reference aiming at taking into account public opinion on the scope of planned work and research on assessing impacts on the environment, in particular, substantiation of the need to assess individual elements and objects of the environment and possible impacts on them. The economic agent shall inform of the decision to undertake public discussion of the terms of reference and its procedure in the Declaration of intent. Should the economic agent take such a decision the timeframe for public discussion shall be no less than 30 business days.

### **Article 11. Environmental impact statement**

1. Environmental impact statement shall be a legal document regarding the essence of environmental impacts and guarantees of implementation of environmental protection measures on ensuring environmental safety for the entire period of the environmentally hazardous economic activity, by the economic agent, contain summary outcomes of environmental impact assessment and information on ensuring public participation in environmental impact assessment, including:

1) information on the proposed economic activity, its purpose and methods of undertaking, including a description of physical characteristics of the environmentally hazardous economic activity, requirements for the usage of a plot of land in the course of construction of a respective object and undertaking of the proposed economic activity; a description of the main features of manufacturing, in particular the nature and peculiarities of materials planned to be used;

2) assessment of types and volume of possible discharges into water bodies, air emissions, pollution of lands, noise, vibration, light, heat, radiation and other factors, which cause or likely to cause environmental impact at the result of undertaking of the environmentally hazardous economic activity;

3) quantitative and qualitative indicators of environmental risk and safety assessment of the environmentally hazardous economic activity for people's life;

4) measures undertaken to inform and take into account comments and proposals from the public;

5) a description of reasonable alternatives to the environmentally hazardous economic activity, including the no-action alternative stating main reasons for choosing the respective alternative and taking into account the environmental effects;

6) a description of the environment likely to be significantly affected by the proposed economic activity, including, *inter alia*, population, flora, fauna, soil, air, water, climate, material assets including architectural and archeological heritage, landscapes and the interaction among these factors;

7) a description of the potential significant environmental impacts of the proposed economic activity at the result of: undertaking of the environmentally hazardous economic activity; use of natural resources; emissions and discharges of pollutants; generation of wastes; methods used to assess these impacts;

8) a description of measures to mitigate, prevent, reduce and, if possible, eliminate the significant adverse environmental impact;

9) a non-technical summary, including a visual presentation as appropriate (maps, graphs, etc.);

10) environmental information in possession of the respective state executive body which is relevant to the environmentally hazardous economic activity;

11) information on any difficulties (technical shortcomings or gaps in knowledge) encountered by the economic agent in compiling the required information.

2. Requirements for the content and format of the Environmental impact statement shall be established by the Cabinet of Ministers of Ukraine.

3. Environmental impact statement shall be signed by the economic agent copies of which shall be submitted for further control to the executive bodies of village, town, and city radas and to the authorised territorial body following the location of the proposed economic activity.

4. The authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall add the Environmental impact statement to the Single Registry.

5. All environmental impact assessment materials shall be considered public information from the moment of registration of the Environmental impact statement.

## **Section 4. Public discussion**

### **Article 12. General provisions**

1. Public discussion shall be undertaken with the aim to identify, collect and take into account comments and proposals of the public on the environmentally hazardous economic activity, which is a subject to environmental impact assessment.

2. Public discussion of the environmental impact assessment materials shall take the form of public hearings and written commenting (comments and proposals). Public discussion may provide for several public hearings.

3. Public discussion of the environmental impact assessment materials shall commence from the moment of publishing of the Announcement on the commencement of public discussion of environmental impact assessment materials (hereinafter – “Announcement”).

### **Article 13. Requirements for public discussion**

1. The authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall approve the Public Discussion Plan.

During the public discussion of the environmentally hazardous economic activity the public shall have the right to submit any comments and proposals, which to its view are related to the environmentally hazardous economic activity. Comments and proposals may be submitted during the entire period, established in paragraph 2 of this article, irrespective of whether public hearings or other forms of public discussion are undertaken.

2. Public discussion of the environmental impact assessment materials shall last not less than 30 and not more than 45 calendar days from the moment of publishing of the Announcement.

3. Public access to the environmental impact assessment materials shall be ensured by placing them for examination in locations, accessible to the public in the area falling under the impact of the environmentally hazardous economic activity. The mentioned materials may be placed for examination in the premises of the respective local authorities and local self-governance bodies, the economic agent, other popular places as well as on the Internet.

The authorised central body and the authorised territorial body shall ensure the possibility for the public to examine the environmental impact assessment materials free of charge during the entire period of public discussion.

The public shall be provided with the possibility to make copies and excerpts from the provided materials as well as the possibility to study information at its placement.

4. The authorised central body and the authorised territorial body shall also make public other information regarding the proposed economic activity available to them, except for the cases when dissemination of such information would be prejudicial to national security or would violate the rights of other people.

5. The authorised central body and the authorised territorial body shall summarize comments and proposals received in a Report on public discussion. The Report on public discussion shall be supplemented with minutes of public hearings and written comments and proposal received. The Report on public discussion shall be considered public information. Requirements for the content and format of the Report on public discussion shall be established by the authorised central body.

6. Public discussion shall be organised and performed by the state-owned undertakings, which belong to the sphere of management of the authorised

territorial body and, in cases foreseen by paragraph 3 of article 6 of the present Law, to the sphere of management of the authorised central body at the cost of the economic agent.

7. The authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall prepare the Report on public discussion, which shall include:

a) information regarding publishing in the mass media of the Declaration of intent and on the public discussion, written and other documents of public communications, the list of materials submitted for public examination, minutes of public hearings, the list of issues, comments and proposals from the public, reasoned responses;

b) summarised decisions regarding the taken into account part of public comments and proposals and the reasoning on the disregarded part (in the form of a table indicating the proposal and information on taking it into account);

c) a conclusion of the public ecological expertiza (if undertaken).

8. A copy of the Report on public discussion shall be kept by the authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, by the authorised central body, which at the request from the public shall ensure free access to it for examination.

#### **Article 14. Announcement on the commencement of public discussion of environmental impact assessment materials**

1. The state-owned undertakings, which belong to the sphere of management of the authorised territorial body and, in cases foreseen by paragraph 3 of article 6 of the present Law, to the sphere of management of the authorised central body, shall publish the Announcement within 5 business days from the moment of registration of the Environmental impact statement at the cost of the economic agent.

The draft Announcement shall be developed by the economic agent.

The Announcement shall be published in the official printed mass media and on the Internet. In identifying the official printed mass media for the publication of the Announcement it shall be ensured that such the printed mass media is used whose area of distribution covers the administrative-territorial units likely to be affected by the proposed economic activity.

2. The Announcement shall contain information on:

a) the environmentally hazardous economic activity (short description);

b) the economic agent;

c) the authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body, ensuring public discussion;

- d) the respective permitting procedure and a permitting body to consider the outcomes of environmental impact assessment;
- e) the timeframes and procedure for public discussion of the environmental impact assessment materials, including information on the time and venue of any envisaged public hearing; the state body from which relevant information can be obtained; place where the relevant information has been deposited for examination by the public; an indication of the relevant body to which comments and proposals can be submitted and of the time schedule for transmittal of questions, comments and proposals; available environmental information relevant to the proposed economic activity; the place and time where the public can examine the Report on environmental impact assessment.

### **Article 15. Requirements for public hearings**

1. The Public Discussion Plan shall provide for at least one public hearing on the territory of the region affected or likely to be affected by the environmentally hazardous economic activity. Undertaking of this hearing shall be ensured by the authorised territorial body.

2. In cases foreseen by paragraph 3 of article 6 of the present Law the Public Discussion Plan shall provide for at least one public hearing on the territory of each affected region, undertaking of which shall be ensured by the authorised territorial body of the respective region, as well as at least one public hearing on the national level, undertaking of which shall be ensured by the authorised central body.

3. The body responsible for undertaking public hearings shall ensure free of charge access to the environmental impact assessment materials and collect written comments and proposals from the public.

Minutes of public hearings shall contain all comments and proposals submitted during the hearings.

4. Public hearings shall be undertaken not earlier than in 15 calendar days from the date when the public has been provided with access to the environmental impact assessment materials and to other documents for examination and review as well as the publishing of the Announcement.

5. The venue and time of public hearings shall be determined in view of the area of the likely impact of the environmentally hazardous economic activity and the documentation submitted for discussion taking into account the possibility to ensure presence of all potential stakeholders.

6. Public hearings shall commence with the statement of the economic agent. The statement should reflect the following issues:

- a) essence of the environmentally hazardous economic activity;

- b) possible adverse impact on the environment;
- c) measures to prevent and / or mitigate such impact;
- d) summary of public comments and proposals, received before the public hearing commenced;
- e) other information regarding the environmentally hazardous economic activity.

7. During public hearings the public shall be provided with the possibility to express freely (orally and in a written form) its views, comments and proposals regarding the issues put forward for discussion.

8. All participants of the hearings shall enjoy equal conditions to express their views and submit proposals and comments.

9. The course of public hearings shall be recorded using stenographic or audiovisual methods.

10. The economic agent shall be obliged to answer questions from the public either orally during the public discussion and to reflect them in the minutes or in a written form after the hearing is over.

11. The course and results of public hearings shall be reflected in the minutes to be signed by the chairman and the secretary, elected during the public hearings by its participants.

12. The case of absence of comments and proposals from the public or non-attendance of the public hearings by members of the public, the authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall reflect in the respective act.

## **Section 5. Conclusion on environmental impact assessment**

### **Article 16. Issuance of a Conclusion on environmental impact assessment**

1. The authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall issue a Conclusion regarding the quality, completeness and scientific reasonableness of the environmental impact assessment materials, measures to reduce or eliminate likely impacts, compliance with requirements of environmental legislation as well as admissibility of the environmentally hazardous economic activity (hereinafter – “the Conclusion on environmental impact assessment”).

The Conclusion on environmental impact assessment shall be of a non-binding character.

2. In order to obtain the Conclusion on environmental impact assessment the economic agent shall submit the environmental impact assessment materials, including the Environmental impact statement. The list of documents to be submitted in order to obtain the Conclusion on environmental impact assessment shall be established by the Cabinet of Ministers of Ukraine.

3. In preparing the Conclusion on environmental impact assessment the authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall take into account comments and proposals, received during public discussion of the environmental impact assessment materials.

4. The Conclusion on environmental impact assessment shall be issued not later than in 45 calendar days from the date of submission of the environmental impact assessment materials by the economic agent. The Conclusion on environmental impact assessment shall be supplemented with the Report on public discussion (with annexes). The procedure for issuing the Conclusion on environmental impact assessment shall be approved by the authorised central body.

5. The Conclusion on environmental impact assessment shall be issued free of charge.

6. The authorized central body, aiming at issuing the Conclusion on environmental impact assessment, shall have the right to request from other state executive bodies and institutions their comments and proposals to the environmental impact assessment materials. The state executive bodies or institutions shall submit such comments and proposals within 15 days from the date of the request from the authorized central body. The absence of response within the indicated time schedule shall mean the absence of comments and proposals to the environmental impact assessment materials.

7. Aiming at submitting well-founded comments and proposals the respective state executive bodies and institutions shall have the right to request the environmental impact assessment materials from the authorised central body. The obligation of the referred state executive bodies and institutions to submit comments and proposals shall appear from the moment of receiving the environmental impact assessment materials.

8. The authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall ensure the possibility for the public to examine the text of the Conclusion on environmental impact assessment (including the possibility to make copies of it or excerpts from it).

9. The authorised territorial body, and, in cases foreseen by paragraph 3 of article 6 of the present Law, the authorised central body shall add the Conclusion on environmental impact assessment to the Single Registry, as well as publish it at its official web-page on the Internet.

10. The procedure for issuing and publishing the Conclusion on environmental impact assessment shall be approved by the authorised central body.

### **Article 17 Corrections of the project and environmental impact assessment materials**

On the basis of the outcomes of public discussion and taking into account the Conclusion on environmental impact assessment the economic agent shall have the

right to introduce corrections to the project documentation and the environmental impact assessment materials.

### **Chapter III. Taking into account of the outcomes of environmental impact assessment**

#### **Article 18. Mandatory nature of the obligation to take the outcomes of environmental impact assessment into account**

1. A permitting body shall be obliged to consider and take due account of the outcomes of environmental impact assessment. The outcomes of environmental impact assessment shall include:

- a) environmental impact assessment materials;
- b) a Report on public discussion;
- c) a Conclusion on environmental impact assessment.

2. The permitting body may decide that the outcomes of environmental impact assessment provide grounds for rejection of a document of a permitting character.

3. The permitting body shall publish the document of a permitting character adopted (issued) by it. This document of a permitting character shall contain reasons and considerations on which the permitting body has based its decisions.

4. The permitting body shall ensure the possibility to examine the documents of a permitting character and the outcomes of impact assessment during the whole period of undertaking of the respective economic activity.

#### **Article 19. Challenging acts and omissions of public executive authorities in the course of environmental impact assessment**

1. The public shall have the right to challenge in a court procedure the outcomes of environmental impact assessment, acts or omissions of the public executive authorities in the course of environmental impact assessment in cases when:

- a) such acts or omissions have led to the violation of their rights or protected by law interests;
- b) such acts or omissions have caused or likely to cause a significant adverse impact on the environment;
- c) such acts or omissions have led or likely to lead to the abatement of effectiveness of guarantees of environmental and other rights of a person, who has filed the law-suit, or other people;
- d) as the result of such a violation the general public interest has been damaged or is likely to be damaged.

2. The groundless disregard or improper taking into account of comments and proposals from the public in the course of adoption of a document of a permitting character shall be considered a violation of the right to participate in the environmental impact assessment procedure.

3. In hearing the case referred to in paragraph 1 of this article the court, where the interests of protection of the rights or protected by law interests, interests of environmental protection or the general public interest so require, shall have the right to rule obliging the state body to establish certain conditions, change the decision, take certain steps or change the parameters of the project.

## **Chapter IV. Transboundary environmental impact assessment**

### **Section 1. General requirements**

#### **Article 20. Compulsory character of transboundary environmental impact assessment**

1. Environmentally hazardous economic activity likely to cause a significant adverse transboundary environmental impact shall be subject to transboundary environmental impact assessment procedure before such an activity commences.

Construction, putting into operation of objects of the environmentally hazardous economic activity, with respect to which the transboundary environmental impact assessment procedure has commenced, shall be prohibited until such a procedure is completed.

2. Transboundary environmental impact assessment shall be undertaken on the basis of the decision of the authorised central body.

3. Depending on the location of the environmentally hazardous economic activity the transboundary environmental impact assessment shall be undertaken pursuant to:

- a) the state of origin procedure – with respect to the proposed economic activity which is to be undertaken on the territory of Ukraine;
- b) the affected state procedure – with respect to the proposed economic activity which is to be undertaken on the territory of a foreign state.

4. The decision on taking into account of the outcomes of transboundary environmental impact assessment shall be mandatory for execution on the territory of Ukraine.

### **Section 2. The state of origin procedure**

#### **Article 21. General requirements for the state of origin procedure**

The state of origin procedure shall consist of the following stages:

- a) making decision regarding the transboundary environmental impact assessment;
- b) notification of the affected states;
- c) development of the transboundary impact assessment materials;
- d) public discussion;

- e) consultations with the concerned state(s);
- f) taking into account of the outcomes of transboundary impact assessment of the environmentally hazardous economic activity;
- g) provision of the final decision to the concerned states.

## **Article 22. Decision regarding the transboundary environmental impact assessment**

1. Transboundary impact assessment shall be undertaken on the basis of the decision of the authorised central body to be made on the grounds of:

- a) any information regarding the environmentally hazardous economic activity which is possessed by the authorised central body;
- b) communication from a foreign state(s) requesting the transboundary impact assessment on the grounds foreseen by the Convention on environmental impact assessment in a transboundary context (Espoo Convention).

2. The authorised central body may adopt a decision regarding the transboundary impact assessment at any stage of project designing or permitting procedures. The authorised central body shall within 10 business days inform the economic agent in writing about the decision regarding the transboundary impact assessment of the environmentally hazardous economic activity.

3. The authorised central body shall be authorised to impose requirements suspending the permitting procedures until the procedure of the transboundary impact assessment of any environmentally hazardous economic activity is completed.

4. On the basis of a request foreseen by paragraph 3 of this article the permitting body shall suspend the permitting procedure until the procedure of the transboundary impact assessment of any environmentally hazardous economic activity is completed.

## **Article 23. Notification of the affected states**

1. The authorised central body shall officially notify the states whose environment is likely to be affected by a significant adverse transboundary impact.

The economic agent shall prepare the draft notification of the affected states and ensure its translation into a foreign language(s).

2. The notification shall contain information on the environmentally hazardous economic activity, including any available information on its possible transboundary impact, nature of a possible decision and the procedure for the transboundary environmental impact assessment, the proposed economic activity. The content and the form of a notification shall be established by the authorised central body taking into account the requirements of Ukraine's international treaties.

3. The notification shall indicate timeframe within which a response from the affected state regarding its participation in the transboundary environmental impact assessment is required. Such a timeframe shall be not less than 30 days from the date of receipt of the notification by the affected state. The authorised central body shall terminate the transboundary impact assessment procedure if all affected states decide not to participate in such an assessment or do not respond within the timeframe specified.

#### **Article 24. Development of the transboundary environmental impact assessment materials**

1. The development of the transboundary environmental impact assessment materials shall be ensured by the economic agent. Requirements for the content and composition of the transboundary environmental impact assessment materials shall be established by the Cabinet of Ministers of Ukraine taking into account the requirements of Ukraine's international treaties.

2. The terms of reference for the development of the transboundary impact assessment materials shall be coordinated with the authorised central body.

3. The authorised central body may request the affected states to provide information on the state of environment of respective territories of the affected states if such information is necessary for the development of the transboundary environmental impact assessment materials and shall forward the information received to the economic agent.

4. The economic agent shall ensure translation of all transboundary environmental impact assessment materials into a foreign language(s), identified on a case by case basis by the authorised central body.

5. The economic agent shall submit all transboundary environmental impact assessment materials to the authorised central body, which shall add them to the Single Registry, ensure their publication on the Internet and transmittal to the concerned states. All transboundary environmental impact assessment materials shall be considered public information.

#### **Article 25. Consultations with the concerned state(s)**

1. The delegation of Ukraine for consultations with the concerned state(s) may include representatives of the state executive bodies, economic agent, scientific and other institutions and organisations.

2. Consultations with the concerned state(s) shall be focused on the assessment of potential transboundary impact on the environment, measures to reduce or eliminate it, and other matters in concert with the concerned states on the basis of the transboundary environmental impact assessment materials.

3 Consultations with the concerned state(s) can take any form; outcomes of consultations shall be reflected in the minutes (if the consultations took the form of

a meeting) and official letters (if the consultations took the form of an exchange of letters).

#### **Article 26. Public discussion of the transboundary environmental impact assessment materials**

1. The authorised central body together with the concerned states shall ensure public discussion of the transboundary environmental impact assessment materials. Public discussion of the transboundary environmental impact assessment materials within the territory of Ukraine shall be undertaken at the cost of the economic agent pursuant to the respective provisions of the present Law.
2. The authorised central body shall post announcement on the commencement of public discussion of the transboundary impact assessment materials, its procedure and timeframes.
3. The authorised central body shall provide the public in the areas of a foreign state likely to be affected by the environmentally hazardous economic activity with the possibility to submit written comments and proposals.
4. The authorised central body shall participate in public hearings on the territory of the concerned states to discuss the transboundary impact assessment materials. The authorised central body may include into the delegation the representatives of the economic agent, other state bodies.
5. The authorised central body shall summarise all comments and proposals, received in the course of public discussion of the transboundary impact assessment materials, and shall prepare a Report on public discussion of the transboundary impact assessment materials.

#### **Article 27. Taking into account of the outcomes of transboundary impact assessment of the environmentally hazardous economic activity**

1. A decision on taking into account of the outcomes of transboundary impact assessment shall be adopted by the Joint Council on transboundary environmental impact assessment. The Joint Council on transboundary environmental impact assessment shall consist of representatives of the authorised central body and other concerned state executive bodies. The Regulation on the Joint Council on transboundary environmental impact assessment shall be approved by the Cabinet of Ministers of Ukraine.
2. The outcomes of transboundary impact assessment shall include:
  - a) the transboundary environmental impact assessment materials;
  - b) minutes (letters) as the outcome of consultations with the concerned state(s);
  - c) a Report on public discussion of the transboundary environmental impact assessment materials.

3. The taking into account of the outcomes of transboundary impact assessment shall take the form of a decision of the Joint Council on transboundary environmental impact assessment, which may contain any recommendations to the economic agent or the permitting bodies regarding the environmentally hazardous economic activity, as well as mandatory assignments and conditions including the inadmissibility of the environmentally hazardous economic activity.

4. The authorised central body shall provide to all concerned states a copy of the decision of the Joint Council on transboundary environmental impact assessment regarding the environmentally hazardous economic activity, shall add it to the Single Registry and publish on the Internet within 10 business days from the date of its adoption.

The economic agent shall ensure translation of the decision of the Joint Council on transboundary environmental impact assessment into a foreign language(s).

### **Article 28. Provision of the final decision to the concerned states**

The authorised central body shall inform all concerned states regarding the decision of the permitting body to issue or reject the document of a permitting character for the environmentally hazardous economic activity, which has been subject to the transboundary impact assessment, and shall publish it at its official web-page on the Internet.

### **Section 3. The affected state procedure**

#### **Article 29. General requirements for the affected state procedure**

1. The transboundary impact assessment pursuant to the affected state procedure shall be undertaken on the basis of a decision of the authorised central body to be made on the grounds of:

- a) any information in its possession regarding the proposed economic activity, which will be undertaken on the territory (under jurisdiction) of a foreign state and is likely to cause a significant adverse impact on Ukraine's environment;
- b) a notification on the proposed economic activity, transmitted by a foreign state.

2. Implementation of the affected state procedure shall be ensured by the authorised central body and may provide for:

- a) a request to the foreign state regarding the need for the transboundary impact assessment;
- b) a response to the notification indicating intention (no intention) to participate in the transboundary impact assessment;

c) participation in consultations between the state of origin and the affected state(s) on the provided transboundary environmental impact assessment materials;

d) other actions and measures.

3. The authorised central body shall publish its decision regarding the transboundary environmental impact assessment pursuant to the affected state procedure and shall facilitate public discussion of the transboundary environmental impact assessment materials and taking them into account. The authorised central body shall inform the public of the final decision made by the state of origin.

## **Chapter V. Closing provisions**

1. To acknowledge void the Law of Ukraine “On ecological expertiza”. The conclusions of the state ecological expertiza, issued before the entry into force by the present Law, shall be valid for the whole period for which they were issued.

2. Delete point 4 of the List of documents of a permitting character in the field of economic activity, approved by the Law of Ukraine “On the List of documents of a permitting character in the field of economic activity”.

3. In the Law of Ukraine “On environmental protection”:

delete point «e» of paragraph 1 of article 3;

delete the words “and in undertaking public ecological expertiza” in point «e» of paragraph 1 of article 9;

delete point «ж» of paragraph 1 of article 15;

replace the words “ecological expertiza” in paragraph 1 of article 16 with the words “environmental impact assessment”;

replace the words “state ecological expertiza” in point «3» of paragraph 1 of article 18 with the words “environmental impact assessment”;

replace the words “state ecological expertiza” in point «д» of paragraph 1 of article 20 with the words “environmental impact assessment, including the transboundary environmental impact assessment”;

replace the words “state ecological expertiza” in point «г» of paragraph 4 of article 20 with the words “environmental impact assessment”;

Chapter VI formulate as follows:

«Chapter VI. Environmental impact assessment.

Article 26. Mandatory nature of the environmental impact assessment

Environmentally hazardous economic activity shall be subject to environmental impact assessment before a document of a permitting character for such an activity

is obtained. The list of highly environmentally hazardous types of activity and objects shall be established by the Cabinet of Ministers of Ukraine.

With respect to the types of economic activity, which are not environmentally hazardous economic activity, impact assessment shall be undertaken on a voluntary basis pursuant to a decision of an economic agent.

#### Article 27. Principles of environmental impact assessment

Environmental impact assessment shall be based on the principles of legitimacy, scientific reasonableness, comprehensiveness, independence, transparency, public participation and long-term prediction.

#### Article 28. Taking into account of the outcomes of environmental impact assessment

A permitting body shall be obliged to consider and take due account of the outcomes of environmental impact assessment when making a decision to issue or reject a document of a permitting character for the environmentally hazardous economic activity.

#### Article 29. Public participation

Public participation shall be ensured through timely, adequate and effective informing and ensuring opportunities to provide comments at early stages of environmental impact assessment.

#### Article 30. Transboundary environmental impact assessment

Transboundary environmental impact assessment shall be a special type of the environmental impact assessment and shall be undertaken pursuant to the requirements of the valid international treaties, laws and other legal instruments of Ukraine.”;

replace the words “conclusion of the state ecological expertiza” in paragraph 4 of article 52 with the words “conclusion on environmental impact assessment”.

point «B» of paragraph 2 of article 68 formulate as follows:

«“violation of the requirements of the legislation of Ukraine when undertaking environmental impact assessment, including the provision of intentionally false conclusion on environmental impact assessment;»

replace the words “state ecological expertiza” in point «Д» of paragraph 2 of article 68 with the words “regarding environmental impact assessment”;

4. In the Law of Ukraine “On the regulation of urban development activity” (3038-6):

replace the words “shall be supplemented with the assessment of existing or foreseeable impact on the state of environment” in part 3 of paragraph 1 of article

31 with the words “shall be supplemented with the outcomes of environmental impact assessment”;

add point 4) to part 2 of paragraph 4 of article 37:

“4) outcomes of environmental impact assessment”;

5. In the Law of Ukraine “On the decision-making procedure for placement, designing, construction of nuclear plants and objects designated for radioactive waste treatment of a national significance” (2861-15):

replace the words “conclusion of the state ecological expertiza” in subpoint 2 of paragraph 1 of article 5 with the words “outcomes of environmental impact assessment”.

6. In the Forest Code of Ukraine (3852-12):

replace the words “ecological expertiza” in subpoint 9 of paragraph 1 of article 29 with the words “environmental impact assessment”;

replace the words “ecological expertiza” in paragraph 2 of article 61 with the words “environmental impact assessment”;

add subparagraph 5 to paragraph 8 of article 69 with the following wording: “outcomes of environmental impact assessment”.

7. In the Law of Ukraine “On the national system of biosafety in creation, testing, transportation and use of genetically modified organisms” (1103-16):

replace the words “the state ecological” in subpoint 6 of paragraph 1 of article 8 with the words “environmental impact assessment”;

replace the words “undertakes state ecological expertiza” in subpoint 2 of paragraph 1 of article 9 with the words “ensures environmental impact assessment”.

8. In the Law of Ukraine “On wastes” (187/98):

replace the words “state ecological expertiza” in subpoint «B» of paragraph 1 of article 23 with the words “environmental impact assessment”;

add article 7-1 stating:

“Article 7-1. Environmental impact assessment

Issuance of permits, provided for by the present Law, for objects and types of activity subject to environmental impact assessment shall be undertaken taking into account the outcomes of environmental impact assessment of such an activity pursuant to the Law of Ukraine “On environmental impact assessment”.

9. To amend the Code of Ukraine on entrails (132/94) with article 15-1:

“Article 15-1. Environmental impact assessment

In case the use of entrails entails environmentally hazardous economic activity, rendering their use shall be undertaken taking into account the outcomes of environmental impact assessment pursuant to the Law of Ukraine “On environmental impact assessment”.

10. In the Law of Ukraine “On oil and gas” (2665-14):

replace the words “ecological expertiza” in paragraph 2 of article 45 with the words “environmental impact assessment”;

add subpoint 8 to paragraph 1 of article 12 of the following wording: “taking into account the outcomes of environmental impact assessment.”

add paragraph 3 to article 14 of the following wording: “Issuance of special permits for rendering use of oil-gas-bearing entrails shall be undertaken taking into account the outcomes of environmental impact assessment.”

11. To the Cabinet of Ministers of Ukraine:

to reconcile its acts with the requirements of the present Law within three months after its entry into force.

12. The present Law shall enter into force on the date of its publication.

The President of Ukraine

V.Yanukovych

## Annex 2

Law of Ukraine

### **On introducing amendments into certain laws of Ukraine on implementation of provisions of the Convention on environmental impact assessment in a transboundary context**

The Verkhovna Rada of Ukraine hereby r e s o l v e s:

I. Introduce amendments into the following laws of Ukraine:

1. The Law of Ukraine «On Environmental Protection» (Vidomosti Verkhovnoi Rady Ukrainy (VVR), 1991, № 41, p. 546; 2000, № 5, p. 34):

1) Article 18 shall be supplemented by item κ) reading:

«κ) participates in the environmental impact assessment»;

2) Part one Article 20 shall be supplemented by item o) reading:

«o) participates in the environmental impact assessment including transboundary context»;

3) Add Section VI-1 reading:

«Section VI-1. ENVIRONMENTAL IMPACT ASSESSMENT

#### **Article 25-1. Declaration of Intent**

The environmental impact assessment shall be mandatory when any physical or legal entity (Customer) plans to carry out the activity which is likely to produce

significant impact on the environment, human health and safety, flora, wildlife, soils, air, water, climate, natural geography, historical landmarks and other material objects or the links between these elements, cultural heritage, social and economic conditions, which may be affected through changes in these elements, or the types of activities which are likely to produce a significant transboundary impact.

The list of the types of activities and facilities which are subject to environmental impact assessment shall be approved by the Cabinet of Ministers of Ukraine.

Environmental impact assessment shall also be performed for projects which are planned for simultaneous implementation and/or are closely related (cumulative projects) and if combined will reach or exceed respective indicators (size, capacity etc).

The type of activities shall be deemed as being closely related if they:

Are located on the same operational site and are linked by the common operational process or common equipment;

Impact the environment and natural geography provided there is a close space connection between the planned activity projects.

These considerations shall apply only to the types of activities which are included in the list of activities and facilities subject to environmental impact assessment.

Customers shall submit the Declaration of Intent in writing and in electronic format to:

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection in the event when the type of activity is subject to the environmental impact assessment in a transboundary aspect or is likely to produce significant adverse impact on two or more regions;

The regional state administration, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea in the event when the planned activity is likely to have significant negative impact on one region.

The authorities specified in part six of this Article shall check the content of the submitted Declaration of Intent, enter it into the Unified register and post it on their official website.

The central executive authority responsible for policy development and implementation of the government policy in the area of the natural environment protection shall send the copy of the Declaration of Intent to the regional state administrations, Kyiv and Sebastopol municipal government administrations, the Council of Ministers of the Autonomous Republic of Crimea, which territories may be affected or are likely to be affected by the adverse impact from the planned activity.

The regional state administrations, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea shall send the copy of the Declaration of Intent to the village, settlement and town councils of the territories which may be affected or are likely to be affected by the adverse impact from the planned activity. These bodies shall ensure that the communities of these settlements are duly informed.

A Customer shall provide the required number of copies of the Declaration of Intent.

The Declaration of Intent shall provide the information on:

- An economic agent;
- Planned activity for which the decision is going to be made;
- Planned activity site;
- Social-economic impact of the planned activity;
- Need in resources in the process of planned activity undertaking;
- Transport arrangements in the process of planned activity;
- General technical features including characteristics of the planned activity (capacity, dimensions, space, production volumes etc);
- Environmental and other constraints of the planned activity;
- The necessary environmental and engineering arrangements and protection of the territory intended for implementation of the planned activity;
- Territory, sources and types of likely impacts on the environment;
- Statutory procedure for environmental impact assessment and public participation, in particular: on the start of the procedure; time and venue of the planned public hearing; government authority, which shall provide the information on the planned activity and the authority to which the information on the planned activity has been forwarded for public consultation; the government authority to which the comments or inquiries on planned activities can be submitted and the deadlines; available environmental information on the planned activity; reasons to carry out transboundary environmental impact assessment;
- Connection of the planned activity with the list of activities which are subject to the environmental impact assessment;

- Procedure for the arrangement and holding of public hearings of an assignment for the design development (if a Customer decides to hold public hearings of this assignment);
- The permitting documents which grant the right to carry out the planned activity;
- The government body which is authorized to issue the permitting document.

**Article 25-2. Assignment to conduct the environmental impact assessment**

The assignment to conduct the environmental impact assessment shall be prepared and approved by a Customer.

The regional state administrations, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea and in the event foreseen under the paragraph two part five Article 25-1 of this Law the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall have the right within 20 working days from the day of posting the declaration of Intent to submit proposals to the draft assignment for developing materials for environmental impact assessment.

On the request of the Customer the regional state administrations, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea and in the case foreseen under the paragraph two part five Article 25-1 of this Law the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall furnish proposals to the assignment draft on designing materials for environmental impact assessment within 30 days since the day of receipt of the above draft.

In the process of the assignment development and approval, the Customer shall take due account of the proposals submitted by the regional state administrations, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea, the central executive authority responsible for policy development and implementation of the government policy in the area of the natural environment protection.

If the no comments or proposals have been furnished to the Customer within the time limits defined in this Article they shall be considered as non-existent.

### **Article 25-3. Requirements to the documentation on environmental impact assessment**

The customer shall prepare and submit to regional state administrations, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea and if foreseen under the paragraph two part five Article 25-1 of this Law to the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection the documentation for the environmental impact assessment on hard copies and in the electronic format. The above mentioned authorities shall enter the data into the Unified registry, post them on their official websites and ensure their availability to public.

The documentation on the environmental impact assessment is deemed to be publicly available information. The Customer shall have the right to exempt classified commercial information, confidential information and information intended for internal use only, contained in the documentation on the environmental impact assessment. In this case the decision on the exemption of this information by the Customer shall be taken by the authority which pursuant to the provisions of this law is authorized to carry out the public consultation. The materials on environmental impact assessment shall include at least the following:

- 1) Description of the planned activity including: physical characteristics of the activity and needs to use land plots at the stage of constructing buildings required for carrying out the activity and at the stage of performing the planned activity; description of the major characteristics of the production process, types and volumes of materials intended for use; estimated types and volumes of wastes and emissions (discharges) of pollutants to water, air, soil, noise, vibration, radiation, heat etc generated as a result of carrying out planned activity;
- 2) The objectives of the planned activity;
- 3) The description of options (in terms of location or technologies etc) of the planned activity), including the option of cancelling the planned activity, the lists of reasons to substantiate a selected proposed option with the account of the environmental effects;
- 4) The description of the environmental elements which are like to experience a significant impact from the proposed activity, and its option. Including specifically, the population, flora, wildlife, soils, water, air, climate factors, material assets, including elements of cultural heritage, natural geography and the connections between these elements;
- 5) The description of potential significant effects of the planned activity (including the assessment of the scale of these effects) on the environment

generated by the planned activity, resulting from the use of natural resources for the planned activity, emissions, discharges of pollutants, inconveniences for individuals and waste management;

6) The description of the methods used for forecasting and projections which served as the base for assessment the environmental impact as defined in clause 5, and the applied environmental information;

7) The description of the measures aimed at the prevention, mitigation and when feasible elimination of any adverse environmental impacts;

8) Non-technical summary (information mentioned in the above paragraphs excluding technical data);

9) Specification of barriers (lack of sufficient technical means, technical deficiencies lack of information), identified in the process of drafting the materials for the environmental impact assessment;

10) Comments and proposals submitted to regional state administrations, Kyiv and Sebastopol municipal state administrations, the Council of Ministers of the Autonomous Republic of Crimea and the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection in response to public release of the Declaration of Intent;

11) The summary of the monitoring programmes of the planned activity and the measure for post project review of the planned activity.

#### **Article 25-4. Requirements to public discussions of the documentation on environmental impact assessment**

When the central executive authority which is responsible for the policy development and implementation of the government policy in the area of the natural environment protection receives the documentation on environmental impact assessment, it shall forward these documentation to the regional state administrations, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea which territories are likely to be affected by the negative effects from the planned activity within one week since the day of their receipt. Once the regional state administration, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea receive these materials, they shall commence the procedure pursuant to the provisions of part three- eight of this Article.

The Customer shall provide the required number of copies of the documentation on the environmental impact assessment and shall fulfill the

payment for all statutory measures related to the public discussion of the materials of the environmental impact assessment.

Having received the documentation on the environmental impact assessment the regional state administrations, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea shall enter these materials into the Unified Register, post the documentation on their official websites and ensure the public access to the documentation on the environmental impact assessment and other relevant information in their possession related to this type of planned activity.

The public has the right to study the documentation on the environmental impact assessment and other above mentioned information within the period of at least 30 days. During this term and two weeks after its expiration the public and the executive authorities have the right to submit their remarks and comments on the materials of the environmental impact assessment.

On the deadline of the period foreseen under part four of this Article the regional state administration, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea shall take the decision on the time and the venue for holding the public hearing (hearings) in terms of the documentation of the environmental impact assessment.

On the expiry of the time period provided for in part four of this Article and after the public hearing (public hearings) the regional state administration, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea shall collect the comments and remarks submitted by the public and by the executive authorities and within two weeks shall present these comments and remarks together with the materials on the environmental impact assessment for carrying out the state environmental audit of the documentation on the environmental impact assessment to:

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection if the type of the activity is subject to the environmental impact assessment in a transboundary aspect, or if it is likely to have a significant negative impact on two or more regions;

The territorial administrations of the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection if the planned the activity is likely to have a significant adverse impact on one region.

Once the authorities defined in part six of this Article complete the state environmental audit of the documentation on the environmental impact assessment, these authorities shall enter the opinion of the state environmental audit into the Unified Registry, post it on their official websites and forward it to the regional state administrations, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea.

The regional state administrations, Kyiv and Sebastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea shall forward these remarks and comments on the documentation on the environmental impact assessment submitted by the public and the executive authorities together with the opinion of the state environmental audit of the documentation on the environmental impact assessment to the government authority which in line with the current legislation shall be responsible for taking the final decision on the implementation of the planned activity.

The comments and remarks furnished by public and the executive authorities after the expiry of the terms set in this article shall be disregarded.

#### **Article 25-5. The final decision**

The permitting document granting the right to carry out the planned activity subject to the environmental impact assessment shall constitute the final decision.

The government authority which takes the final decision shall take the due account of information contained in the documentation on the environmental impact assessment, remarks and comments submitted by public and the executive authorities on the materials on the environmental impact assessment and the opinion of the state environmental audit of the materials on the environmental impact assessment.

The negative opinion of the state environmental audit of the documentation of the environmental impact assessment shall constitute the grounds to refuse issuing the permitting document for the planned activity.

The permitting document which provides the final decision shall include information on the grounds which served as the basis for issuing the permitting document for the proposed activity by the permitting authority.

The permitting document which constitutes the final decision shall be issued within 30 days.

The permitting authority shall ensure the public access to the permitting documents which present the final decision and to information received in the course of carrying out the environmental impact assessment during the entire period of implementing the planned economic activity.

#### **Article 25-6. Post project review**

If in the process of carrying out the economic activity subject to the environmental impact assessment the information is found that the economic activity produces a negative impact on human life and health or on the environment and if this impact has not been assessed during the assessment procedure and/or if it significantly changes the environmental impact assessment outcomes for the implemented activity, the permitting document which constitutes the final decision for this activity shall be cancelled.

In this event the procedure of the environmental impact assessment shall be repeated with the account of the newly found information in line with the procedure provided for in Section V-I of the Law.

#### **Article 25-7. Mandatory assessment of the transboundary environmental impact**

The planned activity which is likely to produce a significant transboundary impact shall be subject to the mandatory transboundary environmental impact assessment before commencement.

The conduct of the activity subject to the environmental impact assessment and in relation to which the procedure of the transboundary environmental impact assessment has started shall be banned until this procedure is fully completed.

The transboundary environmental impact assessment shall be conducted on the basis of the decision issued by the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection.

Depending on the site of the planned activity the transboundary environmental impact assessment shall be conducted:

According to the procedure of the country of origin – applicable to the activity which shall be conducted in the territory of Ukraine;

According to the procedure of the affected country держави – applicable to the activity which shall be conducted in the territory of a foreign country.

The decision to take into the account the outcomes of the transboundary environmental assessment shall have the binding force in the territory of Ukraine.

#### **Article 25-8. General requirements to the procedure of the country of origin**

The procedure of the country of origin shall involve the following stages:

- a) Taking the decision on the transboundary environmental impact assessment;
- б) Notification of the affected countries;
- в) Preparation of the materials for the transboundary environmental impact assessment;
- г) Public discussions;
- д) Consultation with the affected country (countries);
- е) Consideration of the findings of the transboundary environmental impact assessment produced by the planned activity;
- ж) Presentation of the final decision to the affected countries;
- з) Post project review.

#### **Article 25-9. Decision on the transboundary environmental impact assessment**

The transboundary environmental impact assessment shall be conducted following the decision of the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection taken on the grounds of:

- a) information related to the proposed activity available to this authority;
- б) application from the foreign country (countries) requesting the conduction of the transboundary environmental impact assessment based on the grounds foreseen by the Convention on environmental impact assessment in a transboundary aspect (Espoo Convention);
- в) Declaration of Intent.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection has the right to:

Take the decision on the transboundary environmental impact assessment at any stage of the project development works and permitting procedure;

Request to suspend the permitting procedures until the transboundary environmental impact assessment procedure related to the proposed activity is completed.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall notify the economic agent in writing of the decision to carry out the transboundary environmental impact assessment related to the proposed activity within 10 working days.

The permitting authority in response to the application foreseen under part three of this Article shall suspend the permitting procedure until transboundary environmental impact assessment related to the proposed activity is completed.

### **Article 25-10. Notification of the affected parties**

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall send the official notification to the countries which may experience significant transboundary environmental impact.

The Customer shall design the draft notification for the affected countries and ensure its translation into foreign language.

The notification shall contain information on the proposed activity, including the available information on its potential transboundary impact, information of the nature of the possible decision and the procedure of the transboundary environmental impact assessment related to the proposed activity.

The notification shall indicate the time limit granted to the affected country for sending the response in terms of participation in the transboundary environmental impact assessment and this term shall be at least 30 days. This term shall be calculated since the day the affected country receives the notification.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall terminate the procedure of the transboundary environmental impact assessment if all affected countries decline their participation in the assessment procedure or if they fail to provide their response within the specified time limits.

### **Article 25-11. Preparation the transboundary environmental impact assessment documentation**

The Customer shall be responsible for drafting the transboundary environmental impact assessment documentation.

The Customer shall draft the transboundary environmental impact assessment documentation and agree it with the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection on the request from the Customer may forward the request to the affected countries asking them to provide environmental information on the respective territories which are likely to be significantly affected by the proposed activity and transfer the received information to the Customer.

The Customer shall be responsible for the translation of all documentation of the transboundary environmental impact assessment into a foreign language (languages) specified in every particular case by the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection.

The Customer shall provide all documentation of the transboundary environmental impact assessment to the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection which shall enter it into the Unified Registry and provide it to the affected countries. All documentation of the transboundary environmental assessment shall be regarded as publicly available information.

### **Article 25-12. Public discussions of the transboundary environmental assessment documentation**

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection jointly with the affected countries shall ensure public discussion of the transboundary environmental impact documentation. Pursuant to this Law in the territory of Ukraine the public discussion of the transboundary environmental impact documentation shall be conducted at the cost of the Customer.

The government authorities of the affected country shall release the notification on the commencement of public discussion of the transboundary

environmental impact assessment documentation, indicating the procedure and time limits in line with their national legislation.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection:

Shall ensure provisions to residents of the regions in the foreign country which are likely to experience the impact from the proposed activity to furnish their remarks and proposals in writing;

Shall participate in the public hearings in the territory of the affected countries to discuss the transboundary environmental assessment documentation;

Shall engage representatives of the Customer and other government executive authorities to participate in the delegation;

Shall consolidate all remarks and proposals received in the process of the public discussions of the transboundary environmental impact assessment documentation and shall draft the report on the public discussion of the transboundary environmental impact assessment documentation;

Shall conduct the government environmental audit of the environmental impact assessment documentation.

### **Article 25-13. Consideration of the outcomes of the transboundary environmental impact assessment from the proposed activity**

The decision to take the due account of the outcomes of the transboundary environmental impact assessment shall be granted to the Intersectoral Council in the matters of the transboundary environmental impact assessment. The Joint Meeting in the matters of the transboundary environmental impact assessment shall involve the representatives of the central executive authorities in the matters of ecology and natural resources and other executive authorities stakeholders. The Regulations on the Intersectoral Council in the matters of the transboundary environmental impact assessment shall be approved by the Cabinet of the Ministers of Ukraine.

The outcomes of the transboundary environmental impact assessment shall involve:

- d) The transboundary environmental impact assessment documentation;
- e) reports (letters) recorded in the process of consultation with the affected country (countries);

- f) the report on the public discussion of the transboundary environmental assessment documentation;
- g) the opinion of the government environmental audit of the environmental impact assessment documentation.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall provide all affected countries with copies of the decision of the Intersectoral Council in the matters of the transboundary environmental impact assessment related to the proposed activity and within 10 working days since the moment of taking this decision shall enter it into the Unified registry.

The Customer shall ensure the translation of the decision of the Intersectoral Council in the matters of the transboundary environmental impact assessment into a foreign language (languages).

#### **Article 25-14. Furnishing the final decision to the affected countries**

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall inform all affected countries of the decision of the permitting authority indicating if the permitting document has been issued or rejected for the proposed activity subject to the transboundary environmental impact assessment. The authority shall also post the decision on its official website.

#### **Article 25-15. Major requirement to the procedure of the affected country**

The transboundary environmental impact assessment pursuant to the procedure of the affected country shall be conducted according to the decision of the central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection based on the following:

- c) information available to the authority on the proposed activity which will be conducted in the territory (under the jurisdiction) of the foreign country and may have a significant negative impact on Ukraine's environment;
- d) notification of the proposed activity furnished by a foreign country;

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection shall ensure Ukraine's participation in the affected country procedure for the proposed activity ~~та-мөжө~~ and do the following:

- e) furnish the request to the foreign country on the need to conduct the transboundary environmental impact assessment;
- f) provide the response to the notification indicating the desire (disinterest) to participate in the transboundary environmental impact assessment;
- g) participate in consultations between the country of origin and the affected country (countries) on the provided transboundary environmental impact assessment documentation;
- h) ensure public participation;
- i) perform other actions and measures.

The central executive authority responsible for the policy development and implementation of the government policy in the area of the natural environment protection:

shall declare its decision to conduct the transboundary environmental impact assessment pursuant to the procedure of the affected country;

shall facilitate the discussion of the transboundary environmental impact assessment documentation and promote due account of their outcomes;

Shall inform the public of the final decision taken by the country of origin

2. The Law of Ukraine «On ecological expertise» (Vidomosti Verkhovnoi Rady Ukrainy (VVR), 1995, № 8, p. 54; 2000, № 27, p. 213, official publication):

1) Part one Article 13 the word «organizations» shall be followed by the wording «enterprises»;

2) Part one Article 14 shall be supplement by item 7 reading:

«7) the environmental impact assessment documentation.»;

3) Part one Article 15 shall be supplemented by item 8 reading :

«8 the environmental impact assessment documentation.»;

4) Article 32 shall be supplemented by items 5-1 reading:

«5-1) implement the environmental impact assessment in line with the procedure set out by Law.

3. The Law of Ukraine «On regulation of urban planning activities» (Oficijnyj Visnyk Ukrainy, 2011, № 18, p. 735; 2011, № 44, p. 1775, official publication Official Gazette of Ukraine):

1) In Article 31:

In paragraph three part one the wording « the opinion of the current or estimated environmental impact is enclosed. The list of the facilities shall be defined by the Cabinet of Ministers of Ukraine. » shall be replaced by the wording « the environmental impact assessment documentation is enclosed. The list of the activities and facilities subject to the environmental impact assessment shall be approved by the Cabinet of Ministers of Ukraine. »;

Part two after the first paragraph shall be supplemented by the paragraph reading:

«The projects for facilities construction which present high environmental hazard and the facilities subject to the environmental impact assessment shall undergo the environmental impact assessment according to the procedure specified by Law.»;

In this regard paragraph two shall be regarded as paragraph three;

Item 1 part for following the wording «relate to complexity categories IV and V,» shall be supplemented by the phrase «as well as those which are subject to the environmental impact assessment».

2) paragraph two part four Article 37 shall be supplemented by item 4) reading:

«4) environmental impact assessment findings.»

## II. Final Provisions.

1) This Law comes into effect from the day following the day of publication .

2) The Cabinet of Ministers of Ukraine shall within the period of two months since the day of the law publication:

Align its regulatory-normative framework with the Law;

Ensure the alignment of the normative regulatory acts of the ministries and other central executive authorities with the Law.

**Chairman of the Verkhovna Rada of Ukraine**  
**V.Lytvyn**