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ECONOMIC COMMISSION
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Tel: +41 (0)22 917 4226 (direct)
+41 (0)22 917 1234 (Palais des Nations)
E-mail: aarhus.compliance@unece.org

Palais des Nations, Room 429-4
CH-1211 GENEVA 10

Ref: ACCC/C/2013/87

26 October 2015

Ms. Maryna Shimkus
Chief Specialist of the Division of State Ecological Expertise
Department of State Ecological Expertise and Auditing,
Monitoring and Technical Regulations
Kyiv
Ukraine

Dear Madam,

Re: Communication ACCC/C/2013/87 to the Aarhus Convention Compliance Committee concerning compliance by Ukraine with provisions of the Convention in connection with decision-making on construction of biofuel and waste incineration plants

At its fiftieth meeting (Geneva, 6-9 October 2015), the Compliance Committee noted that it had still not received Ukraine's response to communication ACCC/C/2013/87, originally due on 26 December 2013, nor an update from the Party concerned since the statement made at the Committee's forty-eighth meeting (Geneva, 24-27 March 2015) in which the Party concerned had stressed, inter alia, that it was taking all possible efforts in order to ensure the submission of its response to the communication.

During its fiftieth meeting, the Committee discussed in open session the draft questions it proposed to send to the Party concerned in order to move forward with the communication. Both the Party concerned and the communicant were invited to provide their input on the draft questions. The Party concerned took part in the session by audio conference, and indicated that it agreed to the proposed questions and would make its best efforts to fully address them. The communicant also stated by email after the meeting that he agreed to the draft questions.

In the light of the above, please find **attached** the Committee's questions for your response. I would be grateful to receive the Party concerned's response to the attached questions by **Thursday, 26 November 2015**.

The Committee will consider how to further proceed with the communication after receiving the Party concerned's response to the questions.

Please do not hesitate to contact the secretariat if you require further information.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'F Marshall', written in a cursive style.

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

cc: Ms. Olha Molotska, Assistant National Focal Point, Ministry of Ecology and Natural Resources of Ukraine
Permanent Mission of the Ukraine to the United Nations Office and other international organizations in Geneva
Mr. Alexandr Lapin, communicant of communication ACCC/C/2013/87

Questions to the Party concerned

- 1 Does the Party concerned accept that the proposed waste incineration plant was to be “an installation for the incineration of municipal waste with a capacity exceeding 3 tons per hour” as referred to in the second bullet of paragraph 5 of Annex I to the Convention?
- 2 Does the Party concerned consider that EcoEnergy Donetsk OOO was a legal person within the scope of article 2 (c) of the Convention?
- 3 Does the Party concerned have an alternative procedure (other than the courts) for a member of the public to challenge the act of the public authority if a request for environment information was ignored, wrongfully refused, whether in part or fully, inadequately answered, or otherwise not dealt with in accordance with the provisions of the Article 4 of the Convention?
- 4 What time-frame is foreseen under national legislation for the Ukraine Parliamentary Commissioner for Human Rights (Ombudsman) to provide a response to the request from the public?
- 5 What is the current state of the project of construction of a waste incineration plant in the Proletarsky District?
- 6 Please explain the extent to which you consider the actions taken by the Donetsk City Council (in particular actions listed by the High Administrative Court of Ukraine (Decision of 12/08/2014) and Donetsk Appellate Administrative Court (Decision of 13/05/2014): organization of one round table, creation of working group, two meetings and discussions within the working group, placement of answers to the questions of the working group on the website of the company EcoEnergy Donetsk OOO, placement of some information on the result of the working group on the website of the Donetsk City Council) are sufficient to comply with all requirements under the Article 6 of the Convention? If these actions were not in themselves intended to fulfill all the requirements of article 6 of the Convention, please explain which other actions were taken to meet the requirements of Article 6 of the Convention on the decision-making on the waste incineration plant.
- 7 Does the Party concerned consider that the State Building Standards of Ukraine ДБН А.2.2-1-2003 Composition and content of the environment impact assessment (EIA) in the design and construction of plants, buildings and structure (State Building Standards ДБН А.2.2-1-2003) are a measure through which to implement article 6 of the Convention? If so, are the State Building Standards ДБН А.2.2-1-2003 currently in force?¹
- 8 If the State Building Standards ДБН А.2.2-1-2003 are in force, does the Party concerned consider that the obligations set out in these Standards provide full compliance with all requirements in article 6 of the Convention?
- 9 If the Party concerned considers that the State Building Standards ДБН А.2.2-1-2003 do not provide full compliance with all requirements of article 6 of the Convention, which other additional legislative acts ensure compatibility with article 6 of the Convention?
- 10 Please provide English translations of the relevant national legislation through which the Party concerned implements articles 4 and 6 of the Convention.

¹ These building standards are referred to in the EIA for the waste incineration plant.