



LIETUVOS RESPUBLIKOS APLINKOS MINISTERIJA
THE MINISTRY OF ENVIRONMENT OF THE REPUBLIC OF LITHUANIA

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Ms. Vesna Kolar-Planinsic
Chair of Implementation Committee
Convention on Environmental Impact
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Palais des Nations
CH-1211 Geneva 10
Switzerland

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Ms. Tea Aulavuo
Secretariat, Convention on Environmental
Impact Assessment in a Transboundary
Context
Office: 429-1, Palais des Nations
CH-1211 Geneva 10
Switzerland

**RE: DRAFT FINDINGS AND RECOMMENDATIONS RELATED TO THE
SUBMISSION BY LITHUANIA REGARDING BELARUS (EIA/IC/S/4)**

Dear Ms. Kolar-Planinsic, Ms. Aulavuo,

Lithuania appreciates the Draft findings and recommendations which were prepared by the Implementation Committee at its 24th-25th Sessions. We would like to reassure you that safe implementation of the nuclear power plant (hereinafter – NPP) project in Belarus is of great importance to Lithuania given the extremely close proximity to the Lithuanian capital (which makes Lithuania potentially the most affected country), as well as strict compliance with the international requirements including Espoo Convention for the development of the project.

Being grateful for this opportunity to provide the Lithuanian comments, we would like to begin with the main observation which we would like to see outlined in the Committee's findings. We believe that the fact of breach of the Espoo Convention by Belarus, namely, despite that the EIA process is open (with Lithuanian and other parties involved, e. g. European Commission), the construction of the NPP in Belarus is in full swing, has to be clearly stated in the final version of the Committee's findings and recommendations. This fact was also officially confirmed by Belarus in the letter of 22 September 2011 to the Implementation Committee of the Espoo Convention. Moreover, Astravets has been selected as priority site for the NPP way before Lithuania received notification from Belarus on 24 August 2009 (as it was correctly noted in IV. Findings, 5. Assessment of alternatives (article 5 (a) and appendix II (b)) by the Committee).

In this regard, considering the serious infractions of the Espoo Convention, Lithuania would kindly ask that the list of recommendations include the calling to Belarus to suspend all the NPP-related construction works in Astravets site until the case with the Implementation Committee is closed and recommendations of the Committee are implemented.

Further, please find additional remarks related to the Draft findings and recommendations:

1. Paragraph 10 – Lithuania received the notification in compliance with the Espoo Convention on 24 August 2009, and not on 15 July 2008.

2. Paragraph 19 – the fact that immediately after the failed public hearings event Lithuania suggested Belarus to arrange a proper public hearings event in Lithuania, is missing.

3. Paragraph 23 – a correction is required: Lithuania submitted questions to Belarus on 20 June 2011, not on 5 August 2011.

4. Paragraph 26 – if requested, Lithuania would be ready to provide the Committee with any additional documents, if available in Lithuania.

5. Paragraph 40 – Lithuania has not received any invitations to participate in the public hearing held in Belarus on 2 October 2009. We maintain that the event does not qualify as public hearing for Lithuanian citizens, given the limited possibility for participation of Lithuanian citizens due to the Belarusian visa requirement. Moreover, by 2 October 2009 Lithuania was not provided even with the preliminary EIA report (translated into Lithuanian), which was modified substantially after the date. In the spirit of the Espoo Convention, public hearings shall be held in the territory of the potentially affected party (i. e. Lithuania). Besides, we maintain that there was not even a “first” public hearing (just a failed attempt to arrange one), let alone any “second”.

6. Paragraph 57 – Belarus maintains that Astravets was selected as priority site for the NPP in 2008 along with the start of EIA process. However, in line with the Espoo Convention, the start of the EIA process is given by notifying the potentially affected parties about the proposed activity, which in the Lithuanian case was received on 24 August 2009. Therefore we believe that prioritising any potential site before commencement of the EIA process constitutes a serious infringement of the Espoo Convention.

Paragraph 58 – Lithuania maintains that Belarus should carry out the assessment of reasonable alternatives (including no-action alternative). We believe that the Implementation Committee could issue a broader recommendation for Belarus in this regard including a necessity to prepare information on the potential impact to the environment by each of the sites under consideration; a comparison of possible scope of impact in different sites; a degree of risk of all the sites and its suitability, etc.

7. Paragraph 62 – in Belarus, the President of the Republic is the highest authority, and his decrees have the highest legal power. Therefore one has no reason to doubt that the decree dated 15 September 2011 by which the President designated Astravets as the site for the NPP and effectively instructed the Government to begin immediately the implementation of the necessary work constitutes the final decision, as it can only be overruled by the President himself. Contrary to the Committee’s findings suggested in 6. The final decision (article 6, paragraph 1 and 2), Paragraph 61, Lithuania is confident that the decision was “final” as the Presidential decree did authorize the design and construction of the NPP.

8. Paragraph 63 – Lithuania welcomes the conclusion that by the decree of 15 September 2011 Belarus failed to comply with the article 6, paragraphs 1 and 2. However, we believe that additional reasoning should be provided in the Draft findings:

- The Presidential decree of 15 September 2011 was issued before the EIA process with Lithuania could be completed (as a matter of fact, it is still open).

- Up to date, Lithuania has not been provided with the text of the final decision (i. e. the Presidential decree as above).

- The said decree fails to comply with the requirements of the Espoo Convention.

9. Paragraph 64, clause D – due to the fact that the construction works in the Astravets site are in full swing already (see the last paragraph of this letter for an outline of the latest events), we believe the Committee should revise the wording of this recommendation to reflect the real situation. Besides, in our view, the EIA process should be renewed in order to include all the missing elements, namely: assessment of alternative sites, no-action alternative and the new international (post-Fukushima) precautionary measures taken into account. Also, according to the article 2, paragraph 4 and article 3, paragraph 1, all potentially affected neighbouring countries

should be informed about the new EIA report.

10. Paragraph 64, clause G – given the fact that only the President of Belarus has the power to overrule any Presidential decree, and the Government of Belarus has no authority to revise the decision of 15 September 2011, we suggest that the wording of the clause should be revised. Lithuania suggests that the Committee requests Belarus to recall the Presidential decree of 15 September 2011 due to its failure to comply with article 6, paragraphs 1 and 2 of the Espoo convention. In addition, we believe the Committee should call Belarus to stop all the construction works in the Astravets site and issue the final decision only after the recommendations outlined in the paragraph 64, clauses B-F are implemented.

11. Paragraph 64, clause I (new) – Lithuania suggests adding important information on the current progress on the bilateral agreement for the implementation of the Convention in accordance with the article 8:

- On 28 May 2012 Lithuania proposed Belarus to arrange bilateral consultations on the agreement. Prior to the consultations, Lithuania requested Belarus to provide comments to the draft agreement which was sent to Belarus on 3 February 2010.

- Belarus submitted comments to the draft agreement just a week before the planned consultations (despite the Lithuanian request to provide them two weeks before the date of consultations); therefore, on 27 June 2012 Lithuania proposed Belarus to arrange a new date for the meeting.

- During the summer period, Lithuania started the necessary domestic legal procedures to prepare ground for signing the bilateral agreement. In the meantime, the draft document was disseminated for comments to the relevant Lithuanian authorities.

- After evaluating the comments both by Belarus and the Lithuanian institutions concerned, Ministry of Environment of Lithuania confirms that Lithuania is ready for signing the bilateral agreement.

Last but not least, the following is the outline of the latest facts related to the development of the NPP Project in Belarus:

- on 26 April 2012 President of Belarus confirmed that construction works were already launched in the Astravets site.

- on 22 June 2012 First Deputy Prime Minister of Belarus announced that special ground works aimed at preparing the site for the first NPP reactor have begun.

- on 28 July 2012 Belarusian media reported that 13-meter-deep foundation pit was dug already.

- on 9 August 2012 President of Belarus participated at the ground breaking ceremony at the Astravets site where a symbolic capsule was laid.

Hoping that the above comments will be useful in drafting the final version of the Committee's findings and recommendations, we remain looking forward to further cooperation with you.

Yours sincerely,

Dr. Aleksandras Spruogis
Vice-Minister



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