



**ПОСТІЙНЕ ПРЕДСТАВНИЦТВО УКРАЇНИ
ПРИ ВІДДІЛЕННІ ООН ТА ІНШИХ
МІЖНАРОДНИХ ОРГАНІЗАЦІЯХ У ЖЕНЕВІ**

**MISSION PERMANENTE DE L'UKRAINE
AUPRES DE L'OFFICE DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS
INTERNATIONALES A GENEVE**

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N 64/096

The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva presents its compliments to the Secretariat of the United Nations Economic Commission for Europe (UNECE) and has the honour to transmit herewith a copy of the letter of the Deputy Prime Minister of Ukraine H.E. Hryhoriy NEMYRYA, dated 14th April 2009, addressed to the Executive Secretary of the United Nations Economic Commission for Europe H.E. Jan KUBIS (attached).

The original of this letter will be forwarded to the Secretariat of the UNECE after receiving it through diplomatic channels.

The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the United Nations Economic Commission for Europe (UNECE) the assurances of its highest consideration.

Encl.: as stated on 2 pages.



5 April 2009

**Secretariat of the United Nations
Economic Commission for Europe
(UNECE)**

Geneva



КАБІНЕТ МІНІСТРІВ УКРАЇНИ

ВІЦЕ-ПРЕМ'ЄР-МІНІСТР

Kyiv, 14th April, 2009

Dear Mr. Kubis,

In reply to your kind letter dated 20th March, 2009, may I take this opportunity to send my warmest congratulations on your appointment as the UNECE Executive Secretary. It is a pleasure for me to continue our cooperation in your new capacity.

I would like to emphasize that recently Ukraine has made a number of concrete steps to comply with its obligations under UNECE Environmental Conventions, under Espoo Convention, in particular.

In the witness of the abovementioned, let me mention here the creation of the Coordination Council on the implementation of Espoo Convention provisions and recent commitments of Ukraine taken in the light of the Decision IV/2 of the 4th Meeting of Parties held in Bucharest in May, 2008 and other relevant Decisions of the Convention' Implementation Committee.

In this context, in its Reports to the Implementation Committee send to the Secretariat on the 6th October, 2008 and 27th February, 2009, Ukraine clearly indicated that no works under the Phase II of the Project on the Renovation of Deep-Water Navigation Route "Danube – Black Sea" in the Ukrainian part of the Danube Delta (hereinafter referred as Project) are being implemented.

Moreover, the Implementation Committee on its Meeting on 28 to 30th October, 2008 came to the conclusion that "the caution to the Government should not become effective" and requested that "the Government of Ukraine reports in writing to the Committee on steps taken to apply the relevant provisions of the Convention to (a) any further works related to Phase I of the Project, including operation and maintenance works; (b) Phase II of the Project" (Dec. V-b, Para. 32).

Thus, the assumption of Ukraine is that the Implementation Committee was not committing Ukraine to stop works, but to report on the application of Convention' provisions not only for the Phase II, but also Phase I of the Project.

H.E. Mr. Jan Kubis
Executive Secretary
United Nations Economic
Commission for Europe
Geneva

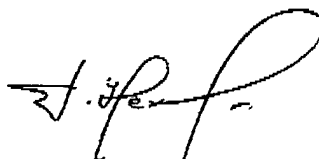
Based on the assumptions that the Convention's provisions do not apply to Phase I and, thus, no separate EIA procedure for Phase I is needed (Chapter V of "Implementation Committee's findings and recommendations further to a submission by Romania regarding Ukraine" (EIA/IC/S/1) and (ECE/MP.EIA/10) stipulates that "in the absence of clear legal grounds in the Convention for accepting a retroactive effect (*ex tunc* effect), the final opinion of the Inquiry Commission should be understood as having only *ex nunc* effect"), assuming that the sudden stop of the maintenance works can potentially cause even greater impact on the environment of the Danube delta (according to the precautionary principle stipulated in the Preamble and Articles 1 and 2 of the Convention, the Party shall take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities), being not provided with precise requirements on the content of the Report, Ukraine included the information requested by the Implementation Committee to the EIA documentation for Phase II and, to some extent, to the Report of Ukraine sent on 27th February, 2009.

As you may know, currently Ukraine is in the process of implementation of EIA procedure for the Phase II of the Project, also is working on the comments to the Draft of Independent Review of Ukraine's legal, administrative and other measures to implement the provisions of the Convention. In this context, I would like to emphasize that Ukraine is ready to carry out the additional Consultations with the Secretariat of the Convention, Implementation Committee and other relevant bodies in order to ensure that all the Parties involved interpret the conditions set by Convention unambiguously.

We would be also delighted to discuss the abovementioned issues during the visit to Ukraine of the Executive Secretary of Espoo Convention Mr Wiek Schrage and national experts from countries with experience in the implementation of the Convention planned to be held in May, 2009.

I am looking forward to our continued cooperation.

Please accept, Mr. Kubis, the assurances of my highest consideration.



Hryhoriy NEMYRYA

Deputy Prime Minister of Ukraine

**The Head of Intergovernmental Coordination Council
on the implementation of Espoo Convention in Ukraine**