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26 February 2008

To: Mr. Volodymyr Bevza  
Deputy Minister  
Ministry of Environmental Protection  
Uritskogo Str. 35  
03035 Kiev, Ukraine  
Fax: + 380 44 206-31-07

Dear Mr. Bevza,

**Re: Implementation of decision II/5b of the Meeting of the Parties to the Aarhus Convention and participation of Ukrainian representative in the nineteenth meeting of the Compliance Committee**

Please convey our thanks to Minister Philipchuk for his letter of 25 February 2008 nominating you to participate as an observer in the nineteenth meeting of the Compliance Committee (Geneva, 5-7 March 2007) and requesting financial support to facilitate your participation.

We welcome the intention of your Government to be represented at the meeting. The agenda may be found on the Convention website at <http://www.unece.org/env/pp/compliance.htm#Documents>. The agenda item which is probably of most relevance to Ukraine and which will be held in open session is item 8 on follow-up on specific cases of non-compliance. Under that item, the Committee is expected to discuss possible recommendations to the Meeting of the Parties concerning those Parties, including Ukraine, that have been found to be in non-compliance.

As you will know from the Committee meeting reports<sup>1</sup> as well as our earlier correspondence (letters of 14 July 2005, 19 April 2006, 30 June 2006 and 4 September 2006), the Committee has made efforts to monitor and support implementation by Ukraine of the recommendations contained in decision II/5b of the Meeting of the Parties on compliance by Ukraine with the provisions of the

<sup>1</sup> ECE/MP.PP/C.1/2005/6, paras 28-30, ECE/MP.PP/C.1/2005/8, paras 23-24, ECE/MP.PP/C.1/2006/2, para. 30, ECE/MP.PP/C.1/2006/4, paras 26-27, ECE/MP.PP/C.1/2006/6, paras 27-30, ECE/MP.PP/C.1/2006/8, paras 20-21, ECE/MP.PP/C.1/2007/2, para. 24, ECE/MP.PP/C.1/2007/6, para. 25 and ECE/MP.PP/C.1/2007/8, para. 23

Convention. It has also on several occasions expressed concerns with regard to implementation of that decision.

The Committee, having reviewed the matter most recently at its eighteenth meeting (28-30 November 2007), took note in particular of the fact that the implementation strategy which was due to be provided by the Government of Ukraine by 31 December 2005 pursuant to decision II/5b has not as yet been provided; nor, as far as the Committee is aware, has it been developed.

The Committee recalled that the letter of 31 August 2006 from your Ministry referred to the process of restructuring in the Ministry as a reason for the delay in the implementation of the strategy and informed the Committee that Ukraine intended to submit the strategy by the end of 2006. No such strategy has been provided. In this regard the Committee noted that process of internal restructuring is a usual occurrence in the public authorities of many States, which should not affect compliance by Parties with their obligations under international treaties, nor prevent, over a number of years, any engagement with the relevant international processes.

The Committee at its eighteenth meeting also took note of the information submitted by the Government of Romania to the Standing Committee under the Convention on the Conservation of the European Wildlife and Natural Habitats as part of the Follow-up of Recommendation No.111 (2004) for the Ukrainian Danube-Black Sea Navigation Route Restoration Project (Danube Delta, Ukraine) which, inter alia, alleged failure by Ukraine to conduct an effective public consultation process in the decision-making on the above project, in particular in a transboundary context, in the period 2006-2007. In the opinion of the Committee this information indicated that, despite the request made by the Meeting of the Parties to the Convention contained in its decision II/5b, Ukraine had not taken measures to bring about compliance with the Convention.

The Committee stressed that it would consider the matter again at its nineteenth meeting (5-7 March 2007) in the course of preparing its report to the Meeting of the Parties. As was noted in its letter of 19 April 2006 and confirmed at its eighteenth meeting, it will consider recommending, in the context of its report to the Meeting of the Parties prepared pursuant to paragraph 35 of the annex to decision I/7, that the Meeting of the Parties decide on further and stricter measures with regard to Ukraine in accordance with paragraph 37 (e) - (h) of the annex to decision I/7. Such measures may include issuance of a declaration of non-compliance or suspension, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, of the special rights and privileges accorded to Ukraine under the Convention.

Noting all of the above, and with a view to facilitating the Committee in its task of assessing implementation of the decisions on the review of compliance by individual Parties in its report to the Meeting of the Parties, we would like to invite you to provide the Committee with information on any progress made with regard to implementation of specific recommendations contained in decision II/5b, including the preparation and submission of the strategy referred to in paragraph 3 of decision II/5b, preferably in the form of a written submission in advance of the Committee's nineteenth meeting.

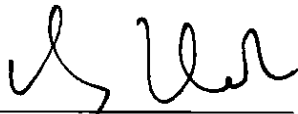
In this regard, we would also like to refer to the relevant information included in the national implementation report submitted by Ukraine in December 2007 to the

third meeting of the Parties. In paragraph 2 of decision II/5b, the Meeting of the Parties requested Ukraine to bring its legislation and practice into compliance with the provisions of the Convention and to include information on the measures taken to that effect in its report to the next meeting of the Parties. However, upon preliminary review, Ukraine's national implementation report for 2005-2007 provides very little information on such measures. Indeed, with respect to implementation of decision II/5b, it refers only to the process of developing the implementation strategy referred to in paragraph 3 of the decision, pointing out that the strategy which was due to be finalized by the end of 2005 has not as yet been drafted. Other information of relevance (albeit indirect) primarily covers legislative developments that took place prior to 2005 and which were not, prima facie, aimed at resolving the problems identified in the Committee's findings and recommendations with regard to submission ACCC/S/2004/01 and communication ACCC/C/2004/3 and outlined in paragraph 1 of decision II/5b of the Meeting of the Parties.

With regard to financial support to cover the costs of your participation in the nineteenth meeting of the Committee, in the interests of supporting a dialogue which can hopefully lead towards a resolution of the problems identified by the Meeting of the Parties, we are willing in principle and subject to approval by our Executive Office to cover your travel costs and daily subsistence allowance for one day. In making your travel and hotel arrangements, please note that agenda item 8 will be discussed on the morning of the second day of the meeting, i.e. Thursday 6 March 2008. A timetable will be circulated nearer the time.

We look forward to welcoming you to Geneva next week.

Yours sincerely,



Jeremy Wates

Secretary, Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Mr. Leonid Yaremenko, Ukrainian National Focal Point for the Aarhus Convention  
Permanent Mission of Ukraine to the United Nations and other international organizations in Geneva