



**Implementation Committee  
of the Convention on Environmental Impact  
Assessment in a Transboundary Context**

Further to the letter of 12 September 2013, I hereby submit the following information.

On 25 January 2011, pursuant to Article 3 of the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention), the Polish party received a notification along with a brief information on the construction and operation of power units 3 and 4 planned in the Khmelnytska Nuclear Power Plant in Netishyn, Ukraine. The Polish party was to confirm its participation in the procedure of environmental impact assessment (EIA) by 31 January 2011. On 31 January 2011, the Polish party confirmed its participation in the EIA procedure for the investment planned.

In the letter of 4 February 2013, the Polish party described the EIA procedure for the investment planned in Poland and, as the exposed party, requested the Ukrainian party to provide information on the conduct of this procedure in Ukraine. At the same time, the Ukrainian party was requested to indicate what information on environment in Poland would be necessary to prepare the documentation on environmental impact assessment. The Polish party did not receive any response regarding this matter.

In the letter of 28 February 2012, the Ministry of Ecology and Natural Resources of Ukraine was provided with comments on the scope of documentation on environmental impact assessment. On 12 June 2012, the documentation on environmental impact assessment for this investment was officially submitted to the General Directorate for Environmental Protection. The documents included:

- information and analysis of "The feasibility study of the construction of power units 3 and 4 in the Khmelnytska Nuclear Power Plant in Ukraine";
- the EIA report "Assessment of the transboundary transfer consequences under normal and emergency conditions", Part 14, Volume 13.

Further to the above-documentation the General Director for Environmental Protection informed in the letter of 15 June 2012 that the official position of the Polish government would be submitted by the end of August 2012. In the official position of the Polish party of 10 August 2012 the competent authorities of the Republic of Poland presented a number of comments and objections concerning the investment planned, including the issue of nuclear safety. The Polish party also highlighted the fact that the exposed party should be provided with the full and final version of the documentation on environmental impact assessment. Furthermore, the Polish party expressed a wish to participate in the intergovernmental transboundary consultations under Article 5 of the Espoo

Convention, following clarifications on the part of the Ukrainian party concerning the comments and objections submitted.

On 20 September 2012, following the information on the adoption of the act on the construction of power units 3 and 4 in the Khmelnytska Nuclear Power Plant by the Verkhovna Rada of Ukraine, the General Director for Environmental Protection requested clarification from the Minister of Ecology and Natural Resources, asking for information on how the Ukrainian party would respond to the requests of the Republic of Poland submitted in the official position of 10 August 2012. Due to no response, in the letter of 14 January 2013 the Minister of the Environment of the Republic of Poland requested clarification from the Minister of Ecology and Natural Resources of Ukraine by 28 February 2013 as to why the decision on implementation of the investment had been taken before the end of the consultation process and what measures the Ukrainian party would take to fulfil international law obligations and complete the process of environmental impact assessment in a transboundary context. In the absence of clarification on the Ukrainian party, the Polish party notified the Implementation Committee of the Espoo Convention of that fact on 13 March 2013.

On 23 April 2013, the General Directorate for Environmental Protection received a letter from the Ukrainian party with clarification in response to the official position of the Polish party of 10 August 2012 along with a proposition to hold consultations under Article 5 of the Espoo Convention on 13–24 May 2013. Additionally, the Ukrainian party informed on the possibility to read the entire documentation on environmental impact assessment in Russian and provided a link thereto. As it was necessary to provide the stakeholders and the public with clarification on the subject, the General Directorate for Environmental Protection proposed to postpone the consultations to 25 June – 5 July 2013. On 14 June 2013, the Polish party forwarded to the Ukrainian party the priority points of the consultations agenda. Additionally, the Ministry of Ecology and Natural Resources of Ukraine submitted clarification concerning the letter of the Minister of the Environment of Poland of 14 January 2013 (Annex 1).

Only on 26 July 2013, the Polish party received a response regarding the new date of consultations and the final consultations date was confirmed on 13 August 2013. The consultations were scheduled for 22 August 2013.

The Ukrainian delegation, except for the Espoo Convention Focal Point Mr. A. Tarasenko from the Ministry of Ecology and Natural Resources, consisted only of representatives of the investor Energoatom. The Polish party was represented by General Directorate for Environmental Protection, National Atomic Energy Agency and Polish Geological Institute.

One of the key issues to be clarified at the consultations in Kiev was how to implement the results of the consultations to the EIA procedure and the final decision, given the fact that the Verkhovna Rada of Ukraine has already granted the consent to implement the investment in question.

At the meeting, the Polish delegates raised the issue of adoption of the Verkhovna Rada of Ukraine the act on the construction of two power units in the power plant, determining their location, reactor type and use of the 1980s infrastructure. According to the Polish party, the act *de facto* entails the construction of the two units in a particular location, with a particular reactor type. The Ukrainian party admitted that any divergence between the results of the transboundary consultations and the act of the Verkhovna Rada of Ukraine, would defer the decision on construction of the two power units until the adoption of relevant amendments to the act. During the consultations, the Polish party also addressed several issues concerning the potential impact assessment of the investment in Poland. Due to the fact that the Ukrainian party didn't answer the majority of questions asked (no relevant

documentation at this stage of planning), the Polish party requested that a set of documents be prepared and submitted (Annex 2).

This information is necessary to determine the environmental impact of the investment in Poland, including nuclear safety. The Polish party will make a written opinion on the materials submitted. **By that time the consultations referred to in Article 5 of the Espoo Convention shall theretofore be deemed incomplete.**

#### **Problems identified in the EIA procedure in a transboundary context for the Khmelnytska Nuclear Power Plant power units 3 and 4.**

- Full documentation on environmental impact assessment for the investment planned was unavailable for opinion of the Polish party, only selected chapters were provided (the entire EIA documentation was made available only following a request made after the position of the exposed party was submitted);
- Communication and information exchange with the Ministry of Ecology and Natural Resources of Ukraine coordinating the transboundary proceedings was impeded (delayed responses, date confirmations, etc.);
- There was no unequivocal information concerning the current legal status of the EIA procedure in Ukraine and the decisions issued;
- The consent to implement the investment was granted by the Verkhovna Rada of Ukraine prior to the completion of the EIA procedure;
- There was no information whether and how the results of the transboundary consultations with the Republic of Poland, as the exposed party, would be taken into consideration in the final decision for the investment in question.

Zastępca Dyrektora Departamentu  
Oceny Oddziaływania na Środowisko  
  
Katarzyna Twardowska

#### **To the attention of:**

Ms. Gabriela Szuba, Deputy Director of the Minister's Office, the Ministry of the Environment  
Ms. Anna Barbarzak, Deputy Director of the Department of Economic Cooperation, the Ministry of Foreign Affairs  
Ms. Ewa Figel, Director of the Eastern Department, the Ministry of Foreign Affairs  
Ms. Elżbieta Bodio, Deputy Director of the Department of Promotion and Bilateral Cooperation, the Ministry of Economy  
Mr. Zbigniew Kubacki, Director of the Department of Nuclear Energy, the Ministry of Economy

#### **Annex**

1. Clarification concerning the letter of the Minister of the Environment of the Republic of Poland of 14 January 2013
2. The list of proposals of the Polish party put forward during the consultations on the Khmelnytska Nuclear Power Plant

