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

Referring to the paragraph 59 of the 6th MOP decision VI/2 the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus reports on the implementation by Belarus in 2017 of the recommendations made by the Meeting of the Parties further to the submission by Lithuania. This report complements Belarus' reports submitted in November 2014, December 2015 and December 2016.

Paragraph 57 of the decision VI/2 "Also encourages Belarus and Lithuania to agree on a post-project analysis in accordance with article 7 of the Convention;".

Having started the construction of the Belarusian NPP, Belarus in 2014 invited all interested countries, including Lithuania, to participate in the implementation of a post-project analysis for the planned activity.

Belarus also proposed Lithuania to establish a permanent joint body for post-project analysis of the Belarusian NPP.

Belarus considers the post-project analysis (i.e. actual impact monitoring) of nuclear power facilities as the best confidence-building mechanism for removing concerns which might arise at the project development and likely impact assessment stages.

Belarus welcomes Lithuania's agreement in principle to participate in the post-project analysis of the Belarusian NPP and to establish a permanent joint body for this purpose.

Currently Belarusian experts work over legal and technical tools which could provide for establishment and effective functioning of the joint body.

Paragraph 58 of the decision VI/2 "Further encourages Belarus and Lithuania to conclude the bilateral agreement for the implementation of the Convention in accordance with article 8;".

Another round of the bilateral experts' consultations on the draft Belarusian-Lithuanian agreement on the implementation of the Espoo Convention was held in Vilnius on 9-10 March 2017. In the course of the discussion the Parties moved forward on a number of the provisions of the

future agreement. The Parties also agreed to resume negotiations and to conduct a bilateral meeting in Minsk in September/October 2017. Regrettably, owing to force majeure the meeting had to be postponed to the 1st quarter of 2018.

Paragraph 62 of the decision VI/2 “Invites Lithuania and Belarus to improve their communication and cooperation for the implementation of the Convention, inter alia, by establishing a permanent joint body on post-project analysis according to article 7 and any other relevant issue concerning the Ostrovets nuclear power plant;”.

Throughout a number of years Belarus has repeatedly invited Lithuania to expert discussions on the issues related to the Belarusian NPP suggesting various formats and instruments of joint work. Among them are our initiatives to establish a permanent joint body for post-project analysis of the Belarusian NPP and any other relevant issue concerning the Belarusian NPP as well as to develop and implement joint radiation monitoring system for nuclear facilities located on both sides of the Belarusian-Lithuanian border. Belarus has also suggested Lithuania to create the system of mutual notification for events or occurrences related to nuclear facilities under construction, operation and decommissioning as Belarus also concerns about the decommissioning of the Ignalina NPP due to the mass-scale publications about serious breaches of international safety standards in the course of decommissioning works, lack of funding and international experience in this particular field.

Belarus will continue open and constructive cooperation on environmental protection and nuclear and radiation safety with all the interested countries and relevant international organizations. We are open to dialogue on these matters with Lithuania.

However Lithuania lingers to cooperate. Moreover, we consider certain steps of Lithuania as contradictory to the spirit of cooperation and violating the principle of good neighbourliness. This is the case of the Lithuanian Parliament’s resolution of May 2016 instructing the government to take all necessary diplomatic, legal and technical measures to stop the construction of the Belarusian NPP; Law of 20 April 2017 comprising measures for banning the electricity import from the Belarusian NPP; Law of 15 June 2017 declaring the Belarusian NPP a threat to the national security of Lithuania.

Under these circumstances communication with Lithuania on the Belarusian NPP turns out to be extremely difficult.

Paragraph 64 of the decision VI/2 “Encourages Belarus to further develop confidence-building measures, including to invite the International Atomic Energy Agency (IAEA) for a Site and External Events Design (SEED) mission with a view to evaluating the site selection criteria and studies for the

nuclear power plant, as well as its development and operation, to fully ensure its safety;”.

Despite the reservation¹ to the 6th MOP decision VI/2 Belarus requested the SEED mission in September 2014. The SEED team visited Belarus in January 2017.

The scope of the mission was selected in conformity with the above MOP decision as well as to demonstrate, inter alia, that an NPP of this design at this particular site is safe, all external hazards are screened adequately and safety margins are wide enough.

The SEED mission hosted by Belarus covered:

- site evaluation review, including review of screening and review of site evaluation report,
- review of site monitoring, including pre-operational stage monitoring programme and operational stage monitoring programme,
- review of issues identified from the Fukushima Daiichi accident.

By the 6th MOP Belarus was encouraged to evaluate site selection criteria and not the site selection process. The SEED mission evaluated the site selection criteria and studies. SEED mission did not give any recommendations to Belarus. This means that the mission found no gaps and no significant problems.

The mission concluded that “appropriate steps were followed to adequately address all necessary aspects of site safety and site-specific design parameters for the Belarusian NPP for relevant external hazards”.

Furthermore, the SEED review team concluded that:

- systematic and comprehensive screening of external hazards was performed using sound and well-documented criteria;
- site specific parameters are enveloped by the NPP design parameters;
- hazard monitoring programmes are adequate and properly documented in the PSAR; and
- appropriate measures have been taken to address challenges related to external events in light of lessons from the Fukushima Daiichi accident.

For the sake of the success of the Belarusian NPP project Belarus continuously takes **measures which may increase confidence** among other countries open for constructive engagement.

Belarus has already hosted two major IAEA safety-related review missions – Integrated Regulatory Review Service (IRRS) and Site and External Events Design Service (SEED). Reports of the both review missions are publicly available. We have officially requested the IAEA Emergency

¹ All IAEA review services are of voluntary nature and by no means can be imposed on the hosting State from outside. The primary goal of the missions is to assist the requesting State. Confidence-building is not the only or primary aim of any review mission.

Preparedness Review Service mission (EPREV) and pre-Operational Safety Review Team (pre-OSART) mission.

Comprehensive risk and safety self-assessment (stress-tests) for the future NPP taking into account the EU specification has been performed. National report on the Belarusian NPP stress-tests has been submitted to the European Commission in the beginning of November 2017 for a transparent peer-review by European regulators. The report is available on the web-sites of the European Nuclear Safety Regulators Group (ENSREG) and Belarusian regulatory body for public consultations also.

The peer-review team is comprised of experts from Austria, Bulgaria, Czech Republic, Finland, France, Germany, Greece, Hungary, Lithuania, Slovakia, Spain, Sweden, Switzerland, Ukraine and United Kingdom. The peer-review team mission to Belarus and visit to the NPP construction site are scheduled for 12-16 March 2018. The final peer-review report is expected to be presented by the peer-review board (Slovakia, Austria, European Commission, France and United Kingdom) during its visit to Belarus on 12-14 June 2018.

Belarus proposed Lithuania to establish a permanent joint body for post-project analysis of the Belarusian NPP and any other relevant issue concerning the Belarusian NPP as well as to develop and implement joint radiation monitoring system for nuclear facilities located on both sides of the Belarusian-Lithuanian border. We suggested Lithuania to create the system of mutual notification for events or occurrences related to nuclear facilities under construction, operation and decommissioning.

Among confidence-building measures are also negotiations with Latvia, Lithuania and Slovenia on the draft bilateral agreements on cooperation and exchange of information in the field of nuclear and radiation safety, ongoing collaboration with Armenia, Austria, France, Germany, Hungary, Northern Europe countries (Finland, Norway, Sweden), Poland, Russia, Slovakia and Ukraine on the basis of the existing bilateral agreements on cooperation and exchange of information in the field of nuclear and radiation safety.

We would also like to use this opportunity and to make **the following observations and comments in respect to the working methods of the Committee.**

Committee's decision (report on the 40th IC session, paras. 5 and 29), as we understood it, not to provide the concerned Parties with the access to the information on their compliance that was made available to the Committee until the Committee had concluded its consideration of the particular compliance matters raises concerns.

Party's compliance should be considered on a non-discriminatory, non-arbitrary and unbiased manner as provided for in the Committee's operating rules.

It is our firm belief that if the Committee seeks to consider compliance matters on non-discriminatory and unbiased basis it is in its best interest to provide concerned Parties with all the correspondence related to their compliance (except the parts of the information that have been provided to the Committee under the conditions of confidentiality) and provide them with the opportunity to comment on it.

We would also like to draw attention of the Committee to yet another issue – decision of the Committee to reopen the list of questions regarding the Belarusian NPP formulated by the Committee itself on the basis of so-called remaining issues of disagreement between Lithuania and Belarus and, more than that, to revise the fifth question regarding the Belarusian NPP (report on the 40th IC session, para. 32).

We would like to underline that at its ad-hoc session in June 2017 the Committee officially decided to remove the first and the fifth questions from the list of the technical and scientific questions regarding the Belarusian NPP² for the reason that it had found that the information in the SEED mission report properly answered these questions. Committee's decision to delete the first and fifth questions from the list was reported by its Chair to the 7th MOP and reflected in the MOP report. The decision of the Committee to reopen the questions, to broaden their scope is not in line with the Committee's earlier decisions, disrupts the continuity in its work.

Furthermore, the Committee at its 40th session decided to start considering in depth the site selection for the Belarusian NPP.

In our view such precedent in the Committee's work compromises the compliance review mechanism³ and will seriously undermine viability of the Convention.

With regard to the Committee's questions to the IAEA (report on the 40th IC session, annex I) we would like to draw your attention to the following. The IAEA under its Statute plays central role in providing expertise and advice in the field of nuclear safety and therefore Belarus welcomed the idea of cooperation of the Committee with the IAEA to seek answers to technical questions regarding international standards in nuclear area relevant to the achievement of purposes of the Convention as was discussed both in the course and in the margins of the 7th MOP.

² The list of questions had been put forward by the Committee at its 37th session on the basis of the points of disagreement between Belarus and Lithuania.

³ It is intended that the Committee's operating rules promote consistency, predictability, credibility, transparency, accountability and efficiency in the work of the Committee, particularly with regard to procedures for the review of compliance (decision IV/2, annex 4, preamble).

The list of questions to the IAEA as drafted by the Committee at its 40th session:

- requests the IAEA to evaluate activities, to make conclusion and judgements and to take sides in the argument;
- is retrospective, i.e. addresses the **current** international rules, recommendations, guidelines, etc. which are not necessarily applicable to the Belarusian NPP case (the EIA procedure for the Belarusian NPP was completed on 2 November 2013).

It seems unlikely that the Committee would be able to engage in meaningful consultations with the IAEA on scientific and technical issues that Committee seeks clarification on to eventually fulfill its task and responsibility to review the compliance by the Parties with their obligations under the Convention.

Let us express our firm belief that Belarus' point of view and information provided will be duly analyzed and taken into account by the Committee. We strongly encourage the Committee to restore the continuity in its work and to prevent any concerns in its objectivity in the future. In particular we request to bring the list of questions in line with the decision of the Committee taken at its ad-hoc session in June 2017. If the Committee needs expert and technical advice the remaining questions should be addressed to the IAEA in a non-judgmental, technical manner and be aimed at assessing Belarus' obligations existing before the EIA procedure for the Belarusian NPP was completed on 2 November 2013.

Belarus confirms its readiness to further engage with the Committee on the issues arising from its obligations under the Convention and expresses its hope for continued open and transparent communication and collaboration.

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Belarus on the Espoo Convention



Iya Malkina