

Nicholas Bonvoisin

Secretary to the Convention on
Environmental Impact Assessment
in a Transboundary Context

Dear Mr. Nicholas Bonvoisin,

The Ministry of Natural Resources and Environmental Protection of the Republic of Belarus expresses its thanks to the Secretariat to the Convention on Environmental Impact Assessment in a Transboundary Context for giving a chance to comment on the Lithuanian submission regarding the compliance of Belarus with its obligations under the Convention on Environmental Impact Assessment in a Transboundary Context with respect to the construction of the nuclear power plant in Belarus.

As to the questions raised by the Lithuanian Party in its submission we would like to inform of the following.

Since 2001¹ the Belarusian Government has taken legislative, administrative and other measures for implementing the provisions of the Convention on Environmental Impact Assessment in a Transboundary Context (hereinafter - the Convention). For the 2001-2011 period the effective legislation on environmental impact assessment in the Republic of Belarus has been improved in a systematic manner as well as new legal enactments regulating the procedure of EIA implementation have been adopted. The latest of the adopted acts (Law of the Republic of Belarus on State Ecological Expertize of 9 November 2009 with the amendments and addendum of 14 July 2011, and the Resolution by the Cabinet of Ministers of the Republic of Belarus №755 of 19 May 2010 and as amended on 1 June 2011) are of higher legal status than the preceding acts, and the provisions provided for in them are to the greatest extent defined by the country's experience accumulated through implementing the Convention either as an affected Party or

¹ Belarus accepted the Convention in 2005

as a Party of origin. International Experts² gave an affirmative opinion of the reforms regarding the legislation on environmental impact assessment pursued by the Government of the Republic of Belarus. The legislative framework of the Republic of Belarus in this field did not provoke any questions from the Lithuanian Party while implementing procedures under the Convention relating to the planned HPP on Nemunas river in Belarus.

In relation to the planned construction of the nuclear power plant on its territory (hereinafter - NPP) Belarus strictly adheres to the Convention provisions and proceeds from the principles of safety, responsibility and neighborliness.

By the recommendation of the Secretariat to the Convention, and showing openness and willingness to cooperation, in July 2008 Belarus informed all the neighboring states³ about its intentions to construct a NPP without indicating its possible location. In March 2009 the countries expressed their intention to participate in the procedure of environmental impact assessment (hereinafter - EIA) in a transboundary context, (hereinafter - affected Parties): Austria, Latvia, Lithuania⁴, Poland and Ukraine) were forwarded to further information after the acknowledgement of the Ostrovets site as priority for the NPP construction.

Pursuant to the provisions of Articles 3 and 4 of the Convention the Belarusian Party:

in March and, in addition, in May 2009 requested the information relating to the potentially affected Lithuanian territory necessary for the preparation of the environmental impact assessment report (hereinafter - EIA report) (Article 3, paragraph 6);

in August 2009 forwarded to the affected Parties a notification of a planned activity, EIA procedure including public participation and consultations on the construction of the planned NPP on its territory (Article 3, paragraph 2) and brief information on environmental impact assessment (Article 3, paragraph 5) in Russian and English;

in September 2009 sent to the affected Parties a EIA documentation - a Preliminary EIA report (Article 4, paragraph 1) in Russian and English.

The Preliminary EIA report⁵ was prepared in line with the requirements to the content of EIA documentation, set forth in the Annex II to the Convention, and in accordance with the national legislation. The Preliminary EIA report included a description of technical and geographical alternatives – assessment of different types of reactors and consideration of three sites for NPP location. Justification of the selection of the Ostrovets site for the Belarusian NPP

² A.A. Andrusevich, an expert to the European Eco Forum

³ The letter to the Ministry of the Environment of the Lithuanian Republic is enclosed

⁴ The Letter to the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus is enclosed

⁵ The Belarusian Party made a decision to differentiate the titles of an EIA report with respect to:

- "preliminary", i.e. prepared for discussion and consultations with the public and affected Parties, as well as defined as full EIA documentation at the stage of the EIA procedure, provided for by Article 4 of the Convention;

- "final", i.e. elaborated with materials of the public hearings and consultations with affected Parties, and defined as full EIA documentation at the stage, specified by Article 6 of the Convention

construction as priority as well as the selection of the VVER-1200 reactor for the NPP-2006 project was provided in the Preliminary EIA report.

The selection of the safest site for the NPP construction was based on the research results, including studies carried out on the territory of Belarus before. For a more careful examination the following sites have been chosen: Krasnopolianskaya and Kukshinovskaya in the Mogilev region, and Ostrovetskaya – in the Grodno region. The selection of the site for the Belarusian NPP construction was made according to the IAEA standards - the IAEA safety requirements "Site evaluation for nuclear installations NS-R-3" and to the national legislation. The findings concerning three alternative sites for the NPP construction in Belarus were considered with the participation of the IAEA experts (during special expert missions in May and December 2008) and international experts from Russia and Ukraine. The main criterion for selecting a site for the NPP construction was the safety of the Belarusian NPP. The Ostrovets site was defined as priority since contrary to the others this site has no limiting factors and meets the requirements of the national legislation and the IAEA recommendations for the NPP location.

In response to the comments of the Lithuanian Party on the Preliminary EIA report of 15 October 2009 the Belarusian Party on 26 January 2010 sent the answers in Lithuanian as well as at the request of the Lithuanian Party a summary of the EIA report and information on the possible transboundary impact of the Belarusian NPP in Lithuanian. In addition, on 2 February 2010 the Lithuanian Party was sent to the answers to its comments in English.

Consideration of the answers of the Belarusian Party and results of the public hearings (held in Vilnius on 2 March 2010 with participation of the Belarusian experts) recorded in the Minutes of the event resulted in the additional comments forwarded by the Lithuanian Party on 7 May 2010.

The Belarusian Party answered (in English) to the received comments with the letter of 14 June 2010. The comments not responded to in writing as well as the questions on the Preliminary EIA report posed by Lithuanian Party were answered during the bilateral Belarusian-Lithuanian consultations held in Minsk on 18 June 2010 as well as at the request of the Lithuanian Party they were resent to it by the letter of 22 April 2011.

The comments on the Preliminary EIA report from all the affected Parties and public concerned were taken due consideration in the final version of the EIA report.

It should be noticed that:

the final version of the EIA report does not include any additional information on the characteristics of the Belarusian NPP and its environmental impact but contains explanations and elucidations of one and another kind of decisions and conclusions set out in the Preliminary EIA report in which the affected Parties showed their interest during the consultations and public hearings;

the proponent published the full project documentation⁶ on the justification of investment into the construction of the Belarusian NPP in the Internet for some time that the Lithuanian Party is supposed to have considered as the final EIA report.

In line with the provisions of Article 6 of the Convention the Belarusian Party intended to send the final (approved) EIA report along with the information on the decision made on approval of the justification of investment into the construction of the NPP construction (including the EIA report pursuant to the national legislation) after such a decision being made. However, by the recommendation of the Implementation Committee to the Convention the final EIA report was sent to the affected Parties for comments in February 2011 prior to the approval of the justification of investment into the construction of the Belarusian NPP.

The comments from the Lithuanian (letter of 18 March 2011), Latvian (letter of 4 April 2011) and Polish (letter of 18 March 2011) Parties on the final EIA report were responded to on 22 April, 18 May, 22 April respectively. The Belarusian Party's answers entailed further questions from the Lithuanian (letter of 20 June 2011) and Latvian (letter of 5 August 2011) Parties and the answers to these questions will be sent in the nearest future.

After the proponent had made a decision on approval of the justification of the investment into the NPP construction in the Republic of Belarus (including the EIA report) the Belarusian Party informed all the affected Parties about this decision and the completion of the discussion procedure of the EIA report for the Belarusian NPP.

We are informing that on 15 September 2011 the President of the Republic of Belarus has signed the Decree on the approval of the Ostrovets site for the NPP location and project development of the NPP. The Decree is the final decision in accordance with Article 6 of the Convention and with the national legislation of the Republic of Belarus. In the nearest future this information will be sent to all the affected Parties.

During the activities carried out by the Belarusian Party within the EIA procedure some affected Parties showed an interest in the post-project analysis procedure as referred to in Article 7 and Annex V to the Convention. The Republic of Belarus is also interested in this procedure and will enter upon its implementation at the stage of NPP project documentation development.

We would like to note that NPP construction is not underway due to lack of project documentation for the construction of the NPP. At present in the Ostrovets district of the Grodno region underway are project development and construction works relating to NPP infrastructure (housing facilities, engineering and transport infrastructure) as well as to production base, required for the NPP construction.

In view of the aforesaid as well as the fact that the other affected Parties did not find out any violations of the Convention provisions by the Belarusian Party

⁶ Includes technical documentation and the EIA report

in relation to the planned NPP construction we believe that the Lithuanian submission on non-compliance of Belarus with its obligations under the Convention with respect to the planned NPP construction is unjustified.

Enclosure: 1. Letter by the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus;
2. Letter by the Ministry of the Environment of the Lithuanian Republic.

Yours sincerely,

First Deputy Minister

Vitaly Kulik