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OF THE REPUBLIC OF BELARUS
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To No. _____ of _____

Compliance Committee for the
Convention on Access to
Information, Public Participation in
Decision-making and Access to
Justice in Environmental Matters
(Aarhus Convention)

The Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (hereinafter 'Ministry of the Environment') hereby submits to the Aarhus Convention Compliance Committee the action plan and additional materials (enclosed) prepared in the context of implementation of the recommendations issued to the Republic of Belarus at the Fourth Session of the Meeting of the Parties to the Aarhus Convention in Chisinau in June 2011. These documents were presented for discussion by civil society¹ at the meeting of the public coordination council for environmental matters attached to the Ministry of the Environment.

Enclosed: 1 copy of 7 pages of additional materials.

Yours respectfully,

First Deputy Minister

V.V. Kulik

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¹ Translator's note: The word *obshchestvennost'* can either be translated as 'the public' or 'civil society'.

APPROVED
 First Deputy Minister
 of Natural Resources and
 Environmental Protection
 V.V. Kulik
 30. 03.2012

Action Plan
 for the implementation of the decision on the Republic of Belarus
 taken by the Fourth Session of the Meeting of the Parties
 to the Aarhus Convention

No.	Measure	Responsible public authority	Timeframe for implementation
1	Discussion at the meeting of the public coordination council for environmental matters of the Ministry of the Environment of compliance with the Aarhus Convention in the Republic of Belarus, including the draft Action Plan, prepared in implementation of the recommendations received by the Belarusian party	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	1 st quarter 2012
2	Creation of a temporary working party involving civil society representatives to draw up draft amendments and additions to national legislation with the aim of ensuring fuller compliance with the Aarhus Convention and implementation of the recommendations issued to the Republic of Belarus at the Fourth Session of the Meeting of the Parties	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	2 nd quarter 2012
3	Agreement of the concept paper ² for draft amendments and additions to national legislation by the Convention working party	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	2 nd quarter 2012
4	Preparation of draft amendments and additions to national legislation with the aim of ensuring fuller compliance with the Aarhus Convention and implementation of the recommendations issued to the Republic of Belarus at the Fourth Session of the Meeting of the Parties	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	3 rd quarter 2012

² Translator's note: The 'concept paper' (*kontseptsii*) explains the need for a law and outlines its main provisions. Its role is similar to a British white paper.

No.	Measure	Responsible public authority	Timeframe for implementation
5	Discussion with civil society of the draft amendments and additions to national legislation with the aim of ensuring fuller compliance with the Aarhus Convention and implementation of the recommendations issued to the Republic of Belarus at the Fourth Session of the Meeting of the Parties	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	4 th quarter 2012
6	Revision of the draft amendments and additions to national legislation to take into account remarks and suggestions received during the agreement process	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	4 th quarter 2012
7	Submission of the draft amendments and additions to national legislation with the aim of ensuring fuller compliance with the Aarhus Convention and implementation of the recommendations issued to the Republic of Belarus at the Fourth Session of the Meeting of the Parties to a body possessing the right of legislative initiative	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	1 st to 2 nd quarter 2013*
8	Activities to advise state organisations and bodies on improving practical application of the Aarhus Convention	Ministry of Natural Resources and Environmental Protection of the Republic of Belarus	2012-2013

* - The plan for the preparation of draft statutes and the plan for the preparation of draft regulations of the Republic of Belarus for 2013 will be approved in the fourth quarter of 2012.

[unidentified signature]

Draft Concept Paper on Amendments and Additions to National Legislation

At the Fourth Session of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), the Aarhus Convention Compliance Committee addressed several recommendations to the Republic of Belarus regarding compliance with the Convention.

These recommendations require the insertion of amendments and additions into a variety of legislation, which will improve the legal basis for public participation in environmental decision-making.

Recommendation 1. ‘The general law on access to information refers to the 1992 Law on Environmental Protection that specifically regulates access to environmental information, in which case the general requirement of stating an interest does not apply’.

1. It should be noted that Law No. 455-3 of 10 November 2008 on Information, Informatisation and Information Protection does not contain a general requirement for an interest to exist. However, under article 2, paragraph 2 of this Law, ‘The legislation of the Republic of Belarus may establish specific rules for information relations³ connected to information constituting state secrets, to personal data and to advertising, scientific and technical, statistical, legal and other information.’ As the Law of 26 November 1992 on Environmental Protection as amended by the Law of 17 July 2002 contains specific rules on access to environmental information, it would make sense to insert a provision on the specific rules for information relations connected to environmental information into the general legislation on information. To this end it is essential to add a reference to environmental information to article 2, paragraph 2 of the Law on Information, Informatisation and Information Protection. Article 74-4, paragraph 11 of the Law on Environmental Protection will hence apply, according to which ‘the applicant shall not be obliged to state the reasons for his interest in the acquisition of environmental information’.

³ Translator’s note: The Information Law defines ‘information relations’ as ‘relations arising from the search, acquisition, transfer, collection, processing, accumulation, storage, distribution and (or) presentation of information, use of information, protection of information and use of information technology’ (article 1).

2. The definition of ‘environmental information’ provided by article 1 of the Law on Environmental Protection requires additions and amendments to public health and planning legislation, i.e. the the Law on the Sanitary and Epidemiological Wellbeing of the Population, the Law on Architectural, Urban Planning and Construction Activity in the Republic of Belarus and the Law on Genetic Engineering Safety. It is essential to incorporate the sources of environmental information into these laws in the light of article 74 of the Law on Environmental Protection, which refers to the provisions of other legislation with regard to environmental information produced as a result of activities not directly specified by the second paragraph of this article.

The implementation of this recommendation therefore requires amendments and additions to be inserted into the following statutes:

The Law on Information, Informatisation and Information Protection of 10 November 2008;

The Law on the Sanitary and Epidemiological Wellbeing of the Population of 7 January 2012;

The Law on Architectural, Urban Planning and Construction Activity in the Republic of Belarus of 5 July 2004;

The Law on Genetic Engineering Safety of 9 January 2006.

Recommendation 2. ‘There is a clear requirement for the public to be informed of decision-making processes that are subject to article 6 in an adequate, timely and effective manner’.

It is appropriate to include this requirement in the Law on Environmental Protection. Moreover, the use of natural resources is frequently connected to environmental decision-making by the authorised state bodies. An analysis of law on natural resources reveals that rules on participation by the public concerned in such decision-making are either missing from a range of legislation on the use and protection of individual components of the natural environment, for example, the Land Code, the Law on Atmospheric Air etc., or are inadequate (the Water Code, etc.).

The implementation of this recommendation requires amendments and additions to be inserted into the following statutes:

Law on Environmental Protection of 26 November 1992 as amended by the Law of 17 July 2002;

Land Code of 23 July 2008;

Law on the Protection of Atmospheric Air of 16 December 2008;

Law on the Treatment of Waste of 20 July 2007;

Forestry Code of 14 July 2000;

Law on Wild Plants of 14 June 2003;

Water Code of 15 July 1998;

Law on Wild Animals of 10 July 2007;

Law on Specially Protected Natural Areas of 20 October 1994.

Recommendation 3. ‘There are clear requirements regarding the form and content of the public notice, as required under article 6, paragraph 2, of the Convention’.

It should be noted that the content of the notice of public discussions of the OVOS report is specified by the Regulations on the Conduct of Environmental Impact Assessment approved by Resolution No. 755 of the Council of Ministers of 19 May 2010 (with the amendments and additions of 13 October 2011). Under section 35, the notice of public discussions must contain:

35.1 information on the developer of the proposed activity (name, registered office, postal and electronic addresses, telephone and fax numbers);

35.2 name, rationale and description of the proposed activity;

35.3 information on the location of the proposed activity;

35.4 information on the time frame for the implementation of the proposed activity;

35.5 information on the time frame for the conduct of public discussions and presentation of remarks on the OVOS report;

35.6 information on where the OVOS report may be examined and where to send remarks and suggestions on the OVOS report (name, postal address, internet site, surname, given name, patronymic and position of the contact person, telephone and fax numbers and electronic address);

35.7 information on the location of the local executive and administrative body responsible for taking the decision to allow construction of the installation (name, postal address, internet site, telephone and fax numbers, electronic address) and the time frame for submitting a declaration on the need for a meeting to discuss the OVOS report and a declaration of the intention to hold a public environmental expertiza.

However, the form of this notice is not specified by legislation. It would be appropriate for this form to be approved by a Resolution of the Cabinet of Ministers and therefore a provision should be inserted into the Law on Environmental Protection specifying that 'the form of the notice of public discussions of the OVOS report' shall be approved by the Cabinet of Ministers.

The implementation of this recommendation requires amendments and additions regarding the form of the notice of public discussions of the OVOS report to be inserted into the following legislation:

Law on Environmental Protection of 26 November 1992 as amended by the Law of 17 July 2002;

Resolution No. 755 of the Cabinet of Ministers of 19 May 2010 (with amendments and additions of 13 October 2011) on Several Measures to Implement the Law of the Republic of Belarus of 9 November 2009 on State Environmental *Expertiza*.

Recommendation 4. ‘There are reasonable minimum time frames for submitting the comments during the public participation procedure, taking into account the stage of decision-making as well as the nature, size and complexity of proposed activities’.

The implementation of this recommendation requires amendments and additions to be inserted into the following legislation:

Law on Environmental Protection of 26 November 1992 as amended by the Law of 17 July 2002;

Resolution No. 755 of the Cabinet of Ministers of 19 May 2010 (with amendments and additions of 13 October 2011) on Several Measures to Implement the Law of the Republic of Belarus of 9 November 2009 on State Environmental *Expertiza*.

Recommendation 5. ‘There is a clear possibility for the public to submit comments directly to the relevant authorities (i.e., the authorities competent to take the decisions subject to article 6 of the Convention)’.

The implementation of this recommendation requires amendments and additions to be inserted into the following legislation:

Law of 26 November 1992 on Environmental Protection as amended by the Law of 17 July 2002;

Resolution No. 755 of the Cabinet of Ministers of 19 May 2010 (with amendments and additions of 13 October 2011) on Several Measures to Implement the Law of the Republic of Belarus of 9 November 2009 on State Environmental *Expertiza*.

Recommendation 6. ‘There is a clear responsibility of the relevant public authorities to ensure such opportunities for public participation, as are required under the Convention, including for making available the relevant information and for collecting the comments through written submission and/or at the public hearings.’

Under article 9.6 of the Code of Administrative Offences of 21 April 2003 No. 194-3 (as amended on 13.12.2011), an unlawful refusal by an official to present a citizen with documents and materials that have been collected in the proper fashion that directly concern his rights, freedoms and legitimate interests or the presentation to him of incomplete or deliberately falsified information, where such acts do not constitute a crime, -

entails a fine of between ten and 30 basic units.

Under article 15.61 of the Code of Administrative Offences of 21 April 2003 No. 194-3 (as amended on 13.12.2011), the concealment, deliberate falsification and (or) untimely transfer of information on the state and pollution of the environment, the sources of its pollution, the state of natural resources, and their use and conservation incurs administrative liability. It should be noted that the concept of ‘environmental information’ is wider than ‘information on the state and pollution of the environment, the sources of its pollution, the state of natural resources, and their use and conservation’. The introduction of this term (environmental information) into article 15.61 of the Code of Administrative Offences would allow liability to be incurred for failure to provide, for example, information on proposed forms of activity that have or may have an impact on the environment, etc. It is also essential that breach of the procedure for conducting public discussions incur administrative liability under the Code. All of this will help to increase the responsibility of the relevant public authorities to ensure such opportunities for public participation that must be created pursuant to the Aarhus Convention, including the provision of the corresponding information.

The implementation of this recommendation requires amendments and additions to be inserted into the Code of Administrative Offences of 21 April 2003 No. 194-3 (as amended on 13.12.2011).

Recommendation 7. ‘There is a clear responsibility of the relevant public authorities to take due account of the outcome of public participation, and to provide evidence of this in the publicly available statement of reasons and considerations on which the decisions is based’;

Recommendation 8. ‘There is a clear responsibility of the relevant public authorities to:

(i) Inform promptly the public of the decisions taken by them and their accessibility;

(ii) Maintain and make accessible to the public: copies of such decisions along with the other information relevant to the decision-making, including the evidence of fulfilling the obligations regarding informing the public and providing it with possibilities to submit comments;

(iii) Establish relevant publicly accessible lists or registers of the decisions held by them’;

Recommendation 9. ‘(i) Statutory provisions regarding situations where provisions on public participation do not apply cannot be interpreted to allow for much broader exemptions than allowed under article 6, paragraph 1 (c), of the Convention’.