

Review of Dnipro Basin Biodiversity Legislation Ensuring Public Participation and Support

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The analysis and subsequent improvement of the legislative framework and institutional capacity of each of the three riparian countries in the sphere of preserving biodiversity in the Dnipro Basin, as well as a further harmonization of the three countries' national environmental legislations seem to be high on the agenda. In the course of the Project, general and environmental legislation of the member-countries on biodiversity conservation was studied with a special focus on the legal instruments regulating the use and protection of individual natural systems and sub-systems (fauna, flora, water bodies), protection and preservation of endangered species and critical ecosystems, and natural reserve areas in the basin territory. Based on the research findings, recommendations were developed concerning the improvement and harmonization of the national legislations of the Republic of Belarus, the Russian Federation and Ukraine.

Key words: environmental legislation, legal protection of biodiversity, Dnipro Basin

Introduction

The Dnipro River is a trans-boundary system: 20% of its basin lies in the territory of the Russian Federation, 23% - in the Republic of Belarus and the largest part - 55% - in Ukraine. The significance of the river reaches beyond the three riparian countries as it flows into an international water body - the Black Sea.

On July 1, 1996 the environmental ministers of three countries (Belarus, Russia and Ukraine) met in Helsinki to sign a joint statement declaring their respective countries' commitment to contribute resources and take part in the development and implementation of the Dnipro Basin Environmental Program. That document testified to the regional governments' political will to fulfill their obligations and cooperate in meeting common objectives.

In view of the above, the analysis and subsequent improvement of the legislative framework and institutional capacity of each of the three member-countries in the sphere of preserving biodiversity in the Dnipro Basin, as well as a further harmonization of the three countries' national environmental legislations seem to be high on the agenda.

This project was designed on the basis of national reports "Review of the Legislative and Regulatory Frameworks of the Republic of Belarus Regarding the Protection of Biodiversity in the Dnipro Basin and the Public Involvement in Environmental Activities",

"Analysis of the Legislation of the Russian Federation Regulating the Practices of Preserving Biodiversity in the Dnipro Basin" and "Review of the Legislative and Regulatory Frameworks of Ukraine Relating to the Protection of Biodiversity in the Dnipro Basin", and implemented in accordance with the schedule and plan of activities under Project 5.2 of the UNDP-GEF Dnipro Basin Environment Program. It also embraces the materials of the International RTC Work Meeting held on April 22-23, 2002 in Minsk and of the Third International Work Meeting of the Biodiversity RTC that took place in Kharkiv on October 23-24, 2002.

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International Law Instruments on Biological Diversity Protection

1. The Russian Federation, the Republic of Belarus and Ukraine take part in the universal process launched

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by the decisions of the UN Conference on Environment and Development (Rio de Janeiro, 1992). The Conference final document, Agenda for the 21st Century (or Agenda 21), regards the preservation of biological diversity as one of the major prerequisites of sustainable development. It sets forth the following objectives in this area:

- Develop national strategies for the conservation of biological diversity and the sustainable use of biological resources and integrate them into the national development strategies;
 - Carry out country studies on the conservation of biological diversity;
 - Undertake long-term research into the importance of biodiversity for the functioning of ecosystems and the role of ecosystems in producing goods, environmental services and other values supporting sustainable development;
 - Take effective economic, social and other appropriate incentive measures to encourage the conservation of biological diversity and the sustainable use of biological resources, including the promotion of sustainable production systems, such as traditional methods of agriculture, agroforestry, forestry, range and wildlife management, which use, maintain or increase biodiversity;
 - Share in a fair and equitable way the benefits arising from the commercial and other utilization of biological and genetic resources among all users, including indigenous peoples and local communities;
 - Promote the protection of natural habitats in protected areas, including the environmentally sound and sustainable development in areas adjacent to protected areas;
 - Promote the rehabilitation and restoration of damaged ecosystems and the recovery of threatened and endangered species;
 - Develop methods of sustainable use of biotechnology and transfer technology to other Contracting Parties, particularly, to developing countries.
2. A decisive step forward was made in promoting the conservation of biodiversity when the Convention on Biological Diversity was open to signing on June 5, 1992 at the UN Conference on Environment and Development in Rio de Janeiro. The Republic of Belarus was among 140 countries of the world that signed the Convention on June 5, 1992. On June 10, 1993 Belarus ratified it. The Russian Federation and Ukraine also signed and ratified the Convention. The objectives of the Convention are: the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies,

taking into account all rights over those resources and to technologies, and by appropriate funding. The major principle proclaimed by the Convention is the recognition of each State's sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Each state that acceded to the Convention committed to take measures to ensure the conservation and sustainable use of biodiversity, the major of them being as follows:

- Develop national strategies, plans or programs for the conservation and sustainable use of biological diversity;
- Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programs and policies;
- Identify components of biological diversity important for its conservation and sustainable use;
- Monitor, through sampling and other techniques, the components of biological diversity paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use, and identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity;
- Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity, rehabilitate and restore degraded ecosystems and promote the recovery of threatened species;
- Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology;
- Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;
- Recognize and foster the traditional methods and the knowledge of indigenous people and their communities relevant to the conservation of biological diversity and the sustainable use of biological resources;
- Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;
- Adopt measures for the ex-situ conservation of components of biological diversity (i.e. the conservation of components of biological diversity outside their natural habitats);
- Adopt measures for the recovery and rehabilitation of threatened species and for their reintro-

duction into their natural habitats under appropriate conditions;

- Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity.
3. In 1971, the Convention on Wetlands of International Importance especially as Waterfowl Habitat was signed in the city of Ramsar (Iran), and, thus, is commonly referred to as the Ramsar Convention. The major aim of the Convention is to identify, designate and conserve the most valuable wetlands (marsh, fen, peatland, lakes, areas of marine water, stretches of river basins), irrespective of their geographical location, that have, according to a number of criteria, the status of lands of international importance. The criteria determining the importance of wetlands suggest that these lands should be typical or unique for their respective area, play an essential role in maintaining biological diversity and be regularly visited by big flocks of waterfowl. Wetlands designation as "having international importance" and their inclusion into the List of Wetlands of International Importance means that the State undertakes responsibility for facilitating the preservation and sustainable use of wetlands and for the conservation, management and wise use of migratory stocks of waterfowl. The major areas of activity under the Convention are:
- development, revision and implementation of criteria for designating the most valuable wetlands;
 - development of legal frameworks for designating, conserving and using the most valuable wetlands;
 - wetland stock-taking and research;
 - conservation of wetlands and waterfowl;
 - monitoring of the most valuable wetlands, exchange of data and publications regarding wetlands and their flora and fauna among the Contracting Parties of the Convention.

The former USSR acceded to the Convention in 1975. A special Resolution of the USSR Council of Ministers was passed to designate 12 wetlands of international importance. The Russian Federation, as a legal successor to the USSR, continues to fulfill its obligations under the Convention. Thus, the Russian government, by a relevant resolution, expanded the list of wetlands of international significance. It designated 35 such wetlands, including 3 formerly selected for the List. In the Republic of Belarus, on May 25, 1999, the President issued a Decree recognizing the country's legal succession in respect of the Convention on Wetlands of International Importance Especially as Waterfowl Habitat. In Ukraine, wetlands of international importance were also officially designated to include the following: "the Prypiat' Valley" (12,000 hectares) and "the Stokhod Valley" (10,000 hectares) on the Stokhod River.

The Russian Federation, the Republic of Belarus and Ukraine also cooperate within other conventions on biodiversity conservation: Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Convention Concerning the Protection of the World Cultural and Natural Heritage adopted in 1972 at the UNESCO General Conference in Paris. In 1992, the Russian Federation, the Republic of Belarus and Ukraine signed an Agreement on Cooperation in the Sphere of Environmental Protection and Ecology. According to Article 2 of this Agreement, the Parties pledged to "take measures facilitating the reproduction of living resources, conservation and restoration of biological diversity".

Given a special role the Dnipro Basin has to play in the conservation of biological diversity, it seems advisable that an international agreement on biodiversity preservation in the Dnipro Basin be drafted and signed by the interested parties. The Dnipro Basin is a holistic natural-and-economic system; therefore a basin-wide approach should be adopted to the activities affecting its environmental state. The riparian countries' administrative borders do not coincide with those of river basins, and the natural river water is the property of the riparian nations. The rehabilitation, protection and sustainable use of the Dnipro Basin located in the territory of the Russian Federation, the Republic of Belarus and Ukraine constitute an important and urgent task, which can never be performed without a close cooperation of these three states under an international agreement. The need for a coordinated policy of joint use and protection of water resources on the basis of such an agreement is conditioned by the national governments' commitments to improve the living standards of the population, to ensure the conservation and rehabilitation of the Dnipro River and related ecosystems, as well as by the demands of economic development of the three countries. The agreement in question is to establish the following fundamental cooperation principles:

- ensuring the ecologically and environmentally sustainable use and protection of water resources;
- preventing, limiting and reducing water contamination for priority provision of the population with high-quality drinking water;
- maintaining and rehabilitating, when necessary, water and related ecosystems;
- barring, in the countries' respective territories, unilateral actions detrimental to the other Contracting Parties' interests;
- envisaging environmental responsibility for the breach of the agreement;
- promoting the introduction, in the countries' respective territories, of environmental insurance systems in compliance with the national legislations with a view to enhancing environ-

mental safety of production and creating favorable conditions for life and economic activities of the population.

The agreement will become a step forward in the implementation of the UN/ECE Convention on the Protection of Transboundary Watercourses and International Lakes (1992).

National Legislations of the Russian Federation, the Republic of Belarus and Ukraine on Conservation and Sustainable Use of Biodiversity in the Dnipro Basin

National Strategies to Conserve Biological Diversity

By way of fulfilling its international obligations, the Republic of Belarus developed the draft National Strategy and Action Plan of Conservation and Sustainable Use of Biological Diversity. These documents were approved by Resolution #789 of the Council of Ministers of the Republic of Belarus dated 26 June 1997. The National Strategy of Conservation and Sustainable Use of Biological Diversity provides for a number of priority environmental measures, including: conducting national study and assessment of biodiversity status; creating conditions for the restoration of ecosystems and endangered biological species; expanding the system of protected areas to conserve biological diversity; adopting legislative framework for the protection of endangered species. The latter measure is of particular interest since it is unprecedented in the national legislative history of the Russian Federation, Belarus and Ukraine. In Ukraine, Resolution #439 of the Cabinet of Ministers of 12 May 1997 approved the Concept of Biodiversity Conservation in Ukraine. In the Russian Federation, the National Strategy of Conserving Biological Diversity as part of the National Strategy of Sustainable Development was elaborated in 2002.

Laws on Environmental Protection

The evaluation of legislative framework in support of biological diversity in the Dnipro Basin in terms of its compliance with the Russian, Belorussian and Ukrainian national legislations is a difficult and complicated matter, since these countries have no integrated systems in place for regulating this multifaceted natural system. The legislation on natural resources has traditionally regulated the issues of use and protection of separate natural features or sites. The environmental legislation systems of Russia, Belarus and Ukraine have a propensity for an approach based on "natural resources". In other words, the environmental legislation is classified on the basis of dividing the environment into natural features (land,

mineral resources, water, flora and fauna, atmospheric air) and regulating each of these separately. The three countries' effective legislation has such branches as land, water, forest (legal treatment of flora), mining (legal treatment of subsoil assets) and fauna (legal treatment of wildlife) law, as well as legal protection of atmospheric air. The above classification evolved within the Soviet legislation and was objectively determined by the underdevelopment of the conservational aspects of environmental relations in the 1960-1970s (when the legislation on natural resources was adopted), on the one hand, and by the non-existence of the very notion of "biological diversity" in the national legislations, on the other. Thus, the participating countries lack comprehensive legislations regulating biodiversity protection, while the national environmental laws do not define the category of "biodiversity" in legal terms. That is why the analysis of the Dnipro Basin biodiversity legislation necessarily included the study of laws of the Russian Federation, the Republic of Belarus and Ukraine on environmental protection and regulatory instruments regarding the protection of separate natural features: fauna and flora, water, rare and endangered plant and animal species, specially protected areas.

Legislation of the Russian Federation the Republic of Belarus and Ukraine on Natural Resources

Legal protection of fauna. Of special importance for the conservation of biological diversity are the provisions of laws and other regulatory acts on the protection and use of fauna. The Preamble of the Law of the Republic of Belarus "On Protection and Use of Fauna" of 19 September 1996 stipulates that "fauna of the Republic of Belarus is an indispensable component of the environment and of the Earth's biodiversity; it is a renewable, protected natural resource in need of sustainable use". Article 1 of the Federal Law of the Russian Federation "On Fauna" defines the notion "biological diversity of fauna" as the diversity "of components of fauna within one species, across species and in ecological systems". The Law of the Republic of Belarus "On Protection and Use of Fauna" does not offer such a definition, but it contains certain provisions concerning the legal status and treatment of habitats of biodiversity components.

Article 1 of the Belorussian Law defines the categories "fauna" and "components of fauna" that have different meanings. These norms seem to need amending. Article 9 of the Law reads that "local Councils within their competence shall address the issues of using fauna components under their jurisdiction". It remains unclear in what way local Councils can use animals in private or collective property (as the category "fauna components" would include animals withdrawn from

their natural habitats). Article 7 (Section II "Public Administration in the Sphere of Fauna Protection and Use") establishes five basic principles of public administration in the sphere of protection and sustainable use of fauna (e.g. ensuring that fauna is used in a fashion excluding violent treatment of animals, humane attitude to fauna, etc). It is obvious, though, that the principles cited above are not, in essence, principles of public administration. Furthermore, Section III entitled "Protection of Fauna" regulates, inter alia, rights and responsibilities of the officials of specially authorized state bodies of fauna protection and use (see Articles 32-35). Whereas there is no doubt that the social and economic security of the latter is essential, Section III still does not seem an appropriate place for incorporating such provisions. Relations regulated in the respective articles are not relations of fauna protection and use, and the use of weapons against people has nothing to do with hunting. According to Article 36 of the Law under consideration, "fauna users can be individuals and legal entities of all forms of ownership, including foreign ones, foreign states and international organizations". It seems necessary to delete foreign states from the above list of fauna users. The Law also sets up minimum terms of leasing hunting and fishing areas at 10 and 15 years, correspondingly, which norm contradicts the provisions of Article 59, as the right to use fauna is subject to termination or limitation even in the case when the need for such use ceases to exist or the right to use is surrendered. Equally arguable are the provisions of Article 63, Section V, under which the system of payments for the use of fauna comprises fines and court claims for the violation of legislation on fauna protection and use and for excessive withdrawal of fauna components from their habitats. The distinction should be drawn between the notions of "payments" and "sanctions for non-compliance", to which fines should be referred.

Thus, numerous norms and provisions of the Law of the Republic of Belarus "On Protection and Use of Fauna" need revising and amending, which will be beneficial for the conservation and protection of biodiversity components.

The Federal Law of the Russian Federation "On Fauna" determines property rights in respect of fauna components (Article 4). The Law provides for the keeping of state inventory of fauna components and their use, as well as for the introduction of the state cadastre of fauna components and state monitoring thereof (Article 15). The protection and use of fauna components is carried out based on the established limits, standards, norms and rules (Article 17). The legal protection of fauna components includes: development and implementation of state programs of protecting and using fauna components (Article 18); organization and management of fauna protection (Article 19); establishment of restrictions and prohibitions for the use of fauna components

(Article 21); conservation of habitats of fauna components (Article 22); protection of rare, threatened and endangered fauna components (Article 24). In order to use fauna components, legal entities need long-term licenses (issued on a competitive basis, whenever demand is high), while individuals need a single registered license. The licenses indicate the terms of use (Article 33), namely: kinds of use, list of fauna components in use, boundaries of the territory of use, and the timeframes of use. Besides, the Law lists the kinds of use of fauna components (Article 34). Economic regulation (Article 50) envisions the following: establishing and regulating economic relations, stock-taking and economic assessment of fauna resources; forming a system of payments for the use of fauna, a system of fines and claims; safeguarding economic interests of the state; protecting economic interests of fauna users. Further improvement of legislation on fauna will involve the passage of the Law of the Russian Federation "On Fishing and Protection of Aquatic Biological Resources" and of a series of federal laws on conservation and use of sturgeon (*Acipenseridae*) and salmon (*Salmonidae*) species, as well as of other valuable aquatic biological resources.

The application in the riparian countries of a model law "On Fauna" approved on 8 June 1997 by the International Assembly of the CIS member-states will be conducive to the harmonization of the Dnipro Basin countries' legislation on fauna.

Legal protection of flora. Flora, with its variety of species and areas of growing, is defined in the environmental legislation of the three riparian countries as a separate object of legal protection. At the same time, member-countries' Forest Codes regulate only some relations pertaining to the protection and use of flora. However forests and flora should not be regarded as equivalents, as there is a certain relation of subordination between them. Forest should be viewed as a part of flora. As matters stand, forest law regulates relations in respect of forest tree vegetation (lignosa). As for flora outside forests, its protection and use are regulated in an unsystematic, fragmentary manner in the legislation on land, water, mineral resources and specially protected areas. It is doubtful that the above manage to cover the entire spectrum of plants that do not belong to forest vegetation. In Ukraine, the Law "On Flora" was adopted in 1999 to regulate relations in the sphere of protection, use and restoration of Ukraine's flora. According to this Law, the following requirements should be met in undertaking activities affecting flora: conservation of natural geographical, species, population and coenotic diversity of flora; conservation of natural habitats of wild plants and original plant communities; sustainable and scientifically justifiable use of natural plant resources; practical measures aimed to restore flora components (Article 5).

The following flora protection measures are foreseen in the Law:

- establishing norms and rules of the protection, use and restoration of flora components;
- prohibiting and limiting the use of natural plant resources when necessary;
- conducting environmental assessment and taking other steps to prevent damaging flora components in the course of economic activities;
- protecting land grown with flora components from erosion, mudflows, floods, waterlogging, eutrophication, salinization, soil drought, solidification, littering, contamination with industrial and municipal waste and discharges, with chemical and radioactive substances, etc;
- creating components of natural reserve stock;
- organizing research that facilitates the conservation and restoration of flora components;
- developing an information system on flora components and raising public awareness of the necessity to protect them;
- establishing a state inventory system of flora components and conducting state monitoring of flora protection, use and restoration;
- entering rare and endangered plant species into the Red Book of Ukraine, and rare plant communities - into the Green Book of Ukraine;
- envisaging responsibility under law for breaking the rules of protecting and using natural plant resources (Article 26).

In the Republic of Belarus, a draft law "On Flora" was passed in the first reading in December 2002. In the Russian Federation, these relations are not regulated by law. Therefore, there is a need for the Republic of Belarus and the Russian Federation to adopt their national laws "On Flora".

Legal protection of rare and endangered species. According to the Convention on Biological Diversity, one of the measures promoting the conservation and sustainable use of biodiversity to be taken by all Parties to the Convention is the development and implementation of legislation and other regulations with a view to protecting threatened and endangered species and populations. The notion of "rare and endangered species" is defined in the Agreement on a Book of Rare and Endangered Animal and Plant Species - Red Book of the CIS Member-States dated 23 June 1995, the Republic of Belarus, the Russian Federation and Ukraine participating in this Agreement as the CIS member-states. However the entering of certain plant or animal species into the CIS Red Book has no legal implications, i.e. does not entail any limitation of their use, being a mere formality. The reason is that not a single regulatory instrument (including the Criminal Code of the Republic of Belarus

or the Code on Administrative Infractions of the Republic of Belarus, for example) ever mentions the notion of "the CIS Red Book". Therefore this notion (the CIS Red Book) should be introduced into the national legislations of the Russian Federation, the Republic of Belarus and Ukraine. The entering of certain plant or animal species into the national Red Books has the following consequences: universal withdrawal of the corresponding species from economic circulation; complete prohibition of picking, storing, shooting and entrapping animals, gathering fruit, destroying plants or other such actions jeopardizing rare or endangered species or changing their natural habitats. Users of natural resources are in charge of special protection of these species, while enterprises, institutions and individuals are responsible under law for their illegal acquisition or destruction. The procedure of issuing licenses for the acquisition (collection) of animals and plants belonging to the species included into the Red Book of the Republic of Belarus was adopted by the Collegium of the State Committee of the Republic of Belarus for Environment on 1 March 1993. In the Republic of Belarus, such licenses are issued only to legal entities. Applications from individuals for licenses for the acquisition (collection) of rare animals and plants are not accepted or considered.

Legal treatment of specially protected areas. One of the areas of activity under the Convention on Biological Diversity is "establishing a system of protected areas, rehabilitating and restoring degraded ecosystems".

Some of the Dnipro tributaries flow in the territory of the Republic of Belarus, namely: the Berezina, Prypiat', Desna, Psiol, Vorskla and Ingulets. Part of the Berezina River belongs to Berezinsky biosphere reserve. Prypiat' national park has been created in the country. In 1991, the outcropping of an interglacial peat-bog "Nizhninsky Rov" on the Dnipro left bank in Mogiliov Oblast was declared a natural landmark. Several reserve areas are located in the Dnipro Basin on the territory of Ukraine. These are: Dnipro-Orelsky nature reserve (3,766 hectares) and Kanivsky reserve (2,027 hectares). Desna-Starohutsky national park has been established on the River Desna, the Dnipro tributary. Regional landscape parks have been created in the low flows of the Dnipro - "Kinburnska Kosa" (17,890 hectares) - and of the Prypiat' - Prypiat'-Stokhod (22,628 hectares). The legal status of the above areas is regulated by the Law of the Republic of Belarus "On Specially Protected Areas" of 1994, amended on 23 May 2000, by the Law of the Russian Federation "On Specially Protected Areas" dated 15 February 1995 and by the Law of Ukraine "On Natural Reserve Stock of Ukraine".

Biosphere reserves. The major aims of setting up biosphere reserves is an on-going environmental monitoring, unusual for other types of reserves. In the case of biosphere reserves, attention is focused on constant

observation of anthropogenic changes in the environment, their study and forecasting. In this regard, biosphere reserves, being sites of the least affected environment, serve as a background, and as a benchmark against which deviations from the established standards of environment quality in adjacent areas are assessed. The above is important for the Republic of Belarus because the only natural reserve area in this country is Berezinsky biosphere reserve. As the biosphere reserves have far broader and more diverse functions than the other reserve areas, the usual practice is to divide them into several sections (zones) each performing its specific functions. Thus, the legal treatment of biosphere reserves also should be different from that of other types of reserve areas, and as such it should be regulated by the Law of the Republic of Belarus "On Specially Protected Areas". The Law should make a provision stipulating that biosphere reserves are environmental institutions of international importance. Their legal treatment should be specific in that it should provide for a functional zoning of their territory, which is inadmissible for the other types of reserve areas. The Law of the Russian Federation "On Specially Protected Areas" of 15 February 1995 defines the status of state natural biosphere reserves as "reserve areas included into the international system of biosphere reserves conducting the global environmental monitoring" (Article 10). The Law of Ukraine "On Natural Reserve Stock of Ukraine" contains a special section entitled "Biosphere Reserves", which determines the status and objectives of biosphere reserves, their territory structure and management procedures.

Another common type of specially protected areas is a *preserve*. The legislation defines preserves as "territories under protection established in order to conserve, rehabilitate and restore natural complexes and sites, natural resources of one or several types in combination with a limited and coordinated use of other natural resources". The Resolution of the Council of Ministers of the Republic of Belarus dated 5 August 1999 established the national biological preserve "Dnipro-Sozhsky". According to Item 1 of the Regulations on the National Biological Preserve "Dnipro-Sozhsky", it was formed to conserve valuable forest formations and meadow communities with complexes of rare and endangered plant and animal species entered into the Red Book of the Republic of Belarus. The following activities are prohibited in its territory: irrigation, drainage and other operations leading to the change of natural landscapes and existing hydrological regime; disturbance of natural soil continuum, with the exception of parcels of agricultural land, and of cases connected with forest management activities; burnout of dry vegetation and fire slash removal; discharge of untreated or under-treated waste water, industrial and consumer waste into water bodies and watercourses; setting up stationary tourist camps, fires and parking lots in non-assigned places; motor

vehicle traffic out of roads, except for the vehicles engaged in agricultural and forest management works; felling of major use trees and grazing cattle in places designated in the Regulations. The construction of buildings and houses, electric power lines, roads, pipelines and other engineering communications, development and exploitation of common mineral resources in the territory of preserves for internal needs can be carried out in strict compliance with the legislation of the Republic of Belarus and upon approval of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus and Ministry of Architecture and Construction of the Republic of Belarus. The preserve establishment in a certain territory does not suppose the confiscation of land plots from their land users. The land users whose land plots are included into the territory of "Dnipro-Sozhsky" preserve are to observe the rules and regulations regarding the preserve and use environmentally friendly technologies.

The Law of the Russian Federation "On Specially Protected Areas" establishes several categories and types of specially protected areas depending on their specific regimes and the status of environmental institutions contained within their territory (Article 2). The largest and most essential categories, forming the structure of specially protected areas, are represented by the state natural reserves, including biosphere ones, and national parks. Other categories are: natural parks, state natural preserves, natural landmarks, dendrological parks and botanic gardens, recreational areas and resorts. Protected zones with a regulated regime of economic activity can be created in the lands or water surface areas adjacent to specially protected areas. Within specially protected areas, special protection regimes are established to ensure that the functions of the relevant categories and types of specially protected areas are duly fulfilled and their objectives are met. Any activities breaching the established regime are prohibited in specially protected areas; sometimes any human interference into natural processes is excluded (Articles 9, 15, 21, 24, 27, 29, 32). Administrative responsibility for the breach of the established regime of specially protected areas envisages fines amounting from one to forty non-taxable minimum personal incomes; criminal responsibility is also foreseen. In any case, the damage is to be indemnified (Article 36).

Legal treatment of territories contaminated with radionuclides. Apart from specially protected areas established with the purpose of biological diversity protection from adverse anthropogenic impact, there are a number of other territories with a special regime. Given that since 1986 the Dnipro Basin in the lower flow of the river has been exposed to radioactive contamination, such territories include the zone of compulsory evacuation and the isolation zone set up after the Chernobyl

accident. The isolation zone has the area of about 170 thousand hectares; it is part of Polesye radiation-environmental reserve, the legal status of which is determined in the Regulations on Polesye State Radiation-Environmental Reserve approved by the Order of the Ministry for Emergency Situations and Protection of the Population from the Consequences of the Chernobyl Accident of the Republic of Belarus dated 5 August 1995. This reserve is set up to prevent the radionuclide transport beyond the contaminated zones, to maintain environmental balance of natural systems, to conduct radiation-and-environmental monitoring of flora and fauna, to carry out radio-biological research and to develop principles of sustainable use of natural resources and environmental protection. The reserve is an environmental research institution of national importance with a special land use regime (Item 1.2). Land of the reserve is under conservation. The types of activities allowed here are aimed at ensuring radiological safety of the territory, environmental protection, research and experimental work; limited economic activities are allowed in specifically assigned plots to satisfy the internal needs of the reserve. The conservation of biodiversity was one of the objectives of establishing Polesye radiation-environmental reserve (Item 2.1). Any transfer of land into temporary use, removal of soil, mineral resources and other values from the territory of the reserve are prohibited unless sanctioned by its administration and approved by the Ministry for Emergency Situations of the Republic of Belarus. It should be noted, however, that the institution and the territory in question should not have been granted the status of "environmental" because the aims and objectives of this reserve differ from those of the other reserve areas. The entire territory of the reserve lies within the zone of compulsory evacuation and isolation, surrounding the Chernobyl NPP. These zones are protected by the reserve guards and officers of the Ministry of Interior against unsanctioned trespassing by people, all land transportation means and other vehicles. All activities are strictly regulated. For example, the following is prohibited in the reserve territory: permanent residing of the population; unsanctioned stay of people, unsanctioned entry of all transportation means and other vehicles; timber floating; all economic activities unrelated to the reserve objectives (except for specifically assigned plots used for the internal needs of the reserve); any activity that is directly or indirectly harmful to the natural complexes; employing individuals without required medical certificates or their consent; unsanctioned removal of materials and constructions, machines and equipment, individuals' personal belongings, timber, soil, peat, loam, sand and other mineral resources, plant-growing produce, medicinal herbs, mushrooms, berries and other by-products (except for research samples). All types of activities in the reserve territory can only be carried out with its

administration's permission and upon approval of the Ministry for Emergency Situations.

The legislation regulating the legal status of the territories subjected to radioactive contamination needs special consideration. In the Republic of Belarus, the core of this legislative framework is the Law "On Legal Status of Territories Subjected to Radioactive Contamination Resulting from the Chernobyl NPP Accident" adopted on 12 November 1991 and amended on 12 May 1999. The Law establishes the legal status of the territories in the Republic of Belarus that have been exposed to radioactive contamination since the Chernobyl accident; it aims to reduce the radiation impact on the population and ecological systems, to promote rehabilitation and restoration activities, to ensure sustainable use of the natural, economic and research potential of the area. The following criteria are used to classify the territories subjected to radioactive contamination:

1. suitability for human residency (mean annual effective dose of people's exposure to radiation);
2. level of radioactive contamination of the territory (density of radioactive contamination);
3. possibility of obtaining products in which the content of radionuclides does not exceed the nationally established maximum admissible levels (agricultural and forestry produce, peat, water and other kinds of products and raw materials).

According to Article 3 of the Law, the territory contaminated with radionuclides is part of the territory of the Republic of Belarus where a long-term environment contamination with radionuclides occurred as the result of the accident at the Chernobyl NPP, the density of soil contamination with radionuclides of Caesium-137, Strontium-90 or Plutonium-238, 239 and 240 being, respectively, 1.0; 0.15 and 0.01 Curie per square kilometer or higher; as well as other territories where the mean annual effective dose of people's exposure to radiation can exceed the natural or technogenic background level by 1.0 mSv per year, and the territories where it is impossible to obtain products with the concentration of radionuclides below the admissible levels.

Legal regulation of water protection; legal treatment of riverbanks and water protection zones. The Preamble to the Water Code of the Russian Federation emphasizes that "water provides necessary conditions for the existence of flora and fauna", in other words, the existence of biological diversity. This provision is made in Article 3, which defines the conservation of biological diversity of water ecosystems as one of the essential objectives of the national legislation on water. This legislation also regulates relations concerning forests, flora and fauna arising in the course of use and protection of water bodies, to the extent necessary for the sustainable use and protection of water objects (Article 5). The Preamble to

Water Code of the Republic of Belarus stipulates that its main aim is to create conditions for sustainable use and protection of water resources, rehabilitation of water bodies, conservation and improvement of water ecosystems. However, the effective legislation should be further amended to regulate in a greater detail all issues relating to riversides and water protection zones, particularly in respect of preserving biological diversity in the Dnipro Basin. Water protection zones are created to prevent the contamination, littering and exhaustion of water bodies, to conserve the flora and fauna habitats on the land adjacent to watercourse channels or other water bodies (Article 77 of the Water Code of the Republic of Belarus). A special regime of economic activity is established in water protection zones.

The Dnipro River is a large river. Until recently, there had been no legally determined procedure for determining the dimensions and marking the boundaries of water protection zones and riverbanks of such rivers. On 5 March 2002, the Council of Ministers of the Republic of Belarus passed a Resolution called "On Approving the Regulations on Water Protection Zones and Riversides of Large and Middle Rivers". According to it, the following activities are forbidden within the water protection zones of such rivers:

- using aviation to disperse chemical weed and pest killers and mineral fertilizers on agricultural land and in forests;
- locating and building premises for storing toxic substances, chemical weed and pest killers, mineral fertilizers and oil products, as well as industrial enterprises and sludge tanks;
- setting up sites for filling equipment with chemical weed and pest killers, etc.

Certain types of activity are banned within the Dnipro riverside, which is most likely to facilitate the conservation of biodiversity. At the same time, the Regulations in question apply only to the Dnipro-adjacent territories beyond the boundaries of cities, towns and urban settlements. Yet the Dnipro flows through the cities and towns of Smolensk, Mogiliov, Loyev, Rechitsa, Kiyv, Cherkassy, Dniprodzerzhynsk and others where the anthropogenic pressures on the river are very intense. The role of water protection zones is enhancing. Therefore, the riparian countries should develop specific regulations on water protection zones, riversides and waterfronts within city and town boundaries.

Legal regulation of genetic engineering activities. In the Russian Federation, the Law "On State Regulation of Genetic Engineering Activities" has been adopted. The development of biotechnologies, including genetic engineering, or creating new forms of organisms by changing their genetic system with the aim of obtaining useful and highly efficient organisms, is accompanied with a grow-

ing risk of producing uncontrollable organisms with unpredictable characteristics and, consequently, is posing a threat to biodiversity.

The Law mentioned above regulates relations in the sphere of the use of natural resources, environmental protection and ensuring environmental security that arise in connection with gene-engineering activities (Article 1). Among the main areas of state regulation are: a) improvement of living conditions of human beings and human healthcare; b) environmental protection and rehabilitation, conservation of biological diversity (Article 5). According to the Law, in conducting genetic engineering activities the biological and physical protection of natural environment should be guaranteed (Article 7). In the Republic of Belarus and Ukraine, there is no legislative framework regulating this kind of relations. At the same time, a draft law was developed in Belarus that regulates relations connected with the use of genetically modified organisms.

Legal support to cooperation among three riparian countries in the Dnipro Basin management

At present, there is no unified institution in place to coordinate the three riparian countries' activities with regard to biodiversity conservation in the Dnipro Basin. As matters stand, each country has separate governmental agencies in charge of environmental and water protection activities at a national level. Therefore, the need for establishing a control system based on a reasonable combination of basin planning and territorial administration is self-evident. It should be borne in mind that the use and protection of water resources (directly relating to biodiversity conservation) are two components of the same process, as the quality of transboundary rivers and of entire biodiversity in any particular basin is dependent on their users. Besides, forecasts, plans and assessments of potential environmental impacts of certain factors should be developed not for an individual site (which is a current practice of environmental authorities in the three countries) but for the whole territory and all natural sites and features of the basin. The following steps should be made to implement the basin approach to environmental management:

- the three neighboring countries should sign a basin agreement;
- the neighboring countries should carry out independent water protection and water management activities within the established limits and given the control of specially authorized bodies (inter-state commissions);
- each country should adhere to the basin approach in its activities.

In the Russian Federation, a combination of the basin and administrative-territorial principles in manag-

ing environmental protection and use of natural resources is applied. Unlike that, the legislation of the Republic of Belarus makes no provision as to the basin management of water bodies. This gap in the legislation should be filled so that the work of conserving biodiversity in the Dnipro Basin could be more effective.

The most instrumental in addressing the above challenge is the Integrated Water Resource Management Concept that has been implemented in the countries of Western Europe and Northern America since the 1970s. Its major provisions are reinforced in the Ministerial Declaration on Water Security in the 21st Century, adopted in March 2000 at the Second World Water Forum in the Hague, and in Directive # 2000/60/EC of the European Parliament and EU Council of October 23, 2000. The main principles of an integrated management of river basins (based on the international practice, including French experience and an experiment currently under way in Russia) are as follows:

- basin approach recognizing the river basin in its hydrographic borders, including ground waters, as a major management unit;
- setting up an agency for special management of water resources;
- using effective management methods and techniques (developing a general plan of the basin management and development);
- involving all water users and policy-makers of all levels into the management of a given water economy complex;
- informing water users about all management decisions;
- covering all costs of provided water services, including the cost of environmental and water resource protection, based on economic analysis and the "polluter pays" principle; and
- using financial incentives ("water pays for water").

Levels of river basin management. The current international practice is for the river basin management agencies to comprise two levels:

- decision-making level represented by the Basin Council consisting of water economy complex participants (representatives of state executive power bodies, water users, non-governmental organizations);
- executive level, responsible for policy development in the sphere of river basin management (program-oriented planning) and for the implementation of made decisions and provision of relevant funding.

In light of the above-cited principles, the situation with water resource management in the Republic of Belarus is characterized by the following:

- Water resource management in the Republic of Belarus is based on the administrative-territorial principle (republic - oblast - district). Similar organizational principle is applied in the Russian Federation and Ukraine. Accordingly, river basins are not major units of water resource management. The notion of the "basin management" is not to be found in either the 1998 Water Code of the Republic of Belarus or any other legislative acts. The Water Codes of the Russian Federation and Ukraine (1995) lay down the principle of basin management, but so far it has not been widely applied in practice, with the only exception of the Russian experiment.
- There is no legal mechanism for policy development and implementation in the sphere of water resource management within the river basin; thus, none of the countries currently designs plans of the river basin development.
- Local governments and self-government bodies take part in decision-making on water resource management; however, it is done within the administrative-territorial units of the three countries rather than at the river basin level. Besides, water users are not involved in management decision-making in this area of legal relations.
- The "polluter pays" principle is not fully implemented since the existing methods of calculating charges for contaminant release (discharge) into environment and water preclude levying fines for diffuse contamination of water bodies amounting, according to expert estimations, to 70%-90% of the total contamination scope in the three riparian countries. So the existing charging system in water economy does not reflect the actual situation with specific water bodies. The "water pays for water" principle is not implemented either, as at present the payments for water use and fines for contaminating water bodies are channeled to the budgets of different levels, including to the budget environmental funds, and only insignificant part of these payments is used for the "preservation and rehabilitation of water ecosystems". The existing system of privileges in payments for water use in municipal housing sector is also at variance with the principles "water pays for water" and "polluter pays".
- The legislation of the Republic of Belarus lays down the principle of multitude of public administration agencies in the sphere of water use and protection; local councils, executive and administrative bodies, the Ministry of Natural Resources and Environmental Protection and the Ministry of Housing and Municipal Economy having primary competence in the sector. As estimated by experts, such a distribution of management func-

tions is not conducive to the implementation of the concept of integrated water resource management; it allows for addressing the consequences rather than the causes of contamination and exhaustion of water resources.

The system of water resource management in the Dnipro Basin should be based on the basin principle. The system of water resource management in the Republic of Belarus should be reformed to accommodate the principles of territorial management and to ensure a gradual transition to the basin-wide management.

1. The system of water resource management agencies should incorporate two two-tier subsystems.

First:

- National level of management,
- Basin level of management.

Second:

- Decision-making level,⁴
- Decision implementation level (executive).

2. The following institutional framework is to be established:

Decision-making bodies:

- Water Councils in the member-countries (national level),
- Dnipro Basin Council (inter-state basin level).

Executive bodies (or bodies in charge of implementing decisions):

- Water Service (Water Committee or Water Department) within the system of state executive power bodies in the sector of environmental protection and use of natural resources of individual countries (national level),
- Basin Administration (river basin level).

3. Water Councils at the national level should have members representing highest legislative and executive power bodies (ministries in charge of water resource management, ministries of finance and economy), water users, research and academic communities. Water Councils should be advisory bodies for developing major areas of public policy in the sphere of water resource management as well as proposals on improving the effective regulatory framework, methodology and technical standards. The basin Council should unite representatives of state power and public administration bodies of the three countries and of main water users. The Basin Council should be responsible for the development and approval of the River Basin Management and Development Plan and of the long-term Basin Target Program of Sustainable Water Use. In the suggested management system, the Basin Council is an advisory body. It is an essential integral part of the management system since it enables the participating countries to implement one of the fundamental principles of integrated river basin management, namely,

water users' involvement in the decision-making processes. The Basin Council should have the following functions: (1) conducting environmental assessment of the current situation in the basin (river ecosystem, water quality and amount, types of water use related to the economic and other activities in the basin) in terms of its compliance with the policy of integrated river basin management, on the basis of materials prepared by the Basin Administration; (2) setting priorities, aims, objectives and principles of water use policy in the river basin; (3) providing a forum for various participants of basin-wide water economy complex and enabling them to voice their problems and needs; (4) approving the River Basin Management and Development Plan developed by the Basin Administration; (5) making decisions concerning the basin budget expenditures.

4. An executive body responsible for the practical day-to-day management of the river basin is the Basin Administration. For this institution to operate effectively, hydrographic borders of river basins should be established, marked and determined in relevant legislation. The Basin Administration is responsible for the preparation of the River Basin Management and Development Plan and the long-term Basin Target Program of Sustainable Water Use.

The Basin Administration is established to fulfill the following functions: (1) analyzing the state of water economy; (2) implementing the main areas of state water policy in the basin; (3) organizing and conducting the monitoring of the river basin situation; (4) designing the River Basin Management and Development Plan and the long-term Basin Target Program of Sustainable Water Use, and controlling their realization; (5) organizing the development of water economy balances, territorial schemes of water use and protection; (6) placing governmental contracts for the development on water economy balances, for research, experimental and exploration work, and for the construction of water economy facilities in the river basin; (7) conducting, within its competency, the state environmental assessment and coordinating pre-project and project documentation regarding the construction and reconstruction, expansion and re-equipment of water economy facilities; (8) supervising the implementation of agreements on joint use and protection of trans-boundary water bodies and of water use contracts; (9) coordinating the cooperation of oblast, city/town and district inspections of the use and protection of water resources.

5. Responsibilities should be clearly distributed between general and special agencies of water resource management, and the duplication of functions (planning, licensing, monitoring, control, standardization, data management, information collection, etc) should be

eliminated. At the national level, a specially established Water Service (department or committee) should perform the functions of coordination and management.

6. Financial and economic schemes of water resource management and a plan of forming basin budgets should be developed. The cash flow formed of water charges should be determined. The major part of these funds should be used for various basin programs and plans. In order to realize the "polluter pays" principle, the rates of environmental tax for contaminant discharges into water bodies should be established with due regard both of the toxicity of discharged substances and of the sanitary conditions and category of receiving water body at the discharge point. Based on the "polluter pays" principle, an environmental tax for contaminant discharge into water bodies should be established for water treating facilities of municipal sewerage systems, taking into account major indicators characterizing municipal wastewater. The environmental tax for specific contaminants characteristic of industrial wastewater should be levied on the relevant industrial enterprises.
7. The organization of monitoring, management of data and information flows that are important tools of water resource management should be revised and updated.
8. The Dnipro is a transboundary river. This should be taken into consideration in organizing water use management activities, which means that the management system should target internationally recognized norms and principles of using transboundary water bodies. The timing seems appropriate for acceding to the existing international conventions and agreements (including the CIS ones) and starting negotiations with a view to concluding bilateral and multilateral inter-state agreements on transboundary water bodies. These agreements should determine regimes and quality of transit water at border river stations under the conditions of different water content. They should also formulate the programs of water protection and other environmental activities within the controlled drainage area.

Legal Substantiation of the Public Support to and Participation in Preserving Biodiversity in the Dnipro Basin

1. One of the forms of public participation in conserving biodiversity can be public environmental control. According to the Law of the Republic of Belarus "On Environmental Protection" of 17 June 2002, the work of state power bodies and officials can also be subjected to public monitoring and control. The laws of the Republic of Belarus stipulate that "the procedures of public monitoring and control shall be regulated by the legislation of the Republic of Belarus and charters of non-governmental organizations". This provision is extremely important as it opens up opportunities for introducing new forms of public control by envisaging them in NGO charters. Thus, according to the Law "On Legal Status of Territories Subjected to Radioactive Contamination Resulting from the Chernobyl NPP Accident", non-governmental organizations active in assisting the people who suffered in the Chernobyl accident, upon being accredited in an established order, can conduct radiation monitoring and control of products and environment (Articles 41-42).
2. Public has an important role to play in controlling the environmental decision-making in the Dnipro Basin within the frameworks of public environmental examination. The citizens are interested in and entitled to participating in the environmental impact assessment procedures and evaluating their results. In the international practice, a legal form of public involvement in the environmental impact assessment procedures is that of public hearings. However, the Regulations on Environmental Impact Assessment of the Russian Federation, approved by the Order of the Ministry of Natural Resources of the Russian Federation of 18 July 1994, and the Instruction on Procedures of Assessing Environmental Impact of Planned Economic and Other Activities in the Republic of Belarus, approved by the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus of 6 February 2001, give the consumer a choice of either public hearing or project discussion in the mass media. The latter offers the interested public fewer opportunities for expressing their attitude to discussed projects. It seems more appropriate for the basin countries' legislation to give preference to public hearings as a form of public participation.
3. The citizens' environmental rights and responsibilities in the sphere of conserving biodiversity in the Dnipro Basin cannot be fully exercised unless they have access to environmental information and take part in environmental decision-making, in particular with regard to conservation and sustainable use of biodiversity in the Dnipro Basin. The constitutional legislation regulates the right to receiving, storing and disseminating complete, accurate and timely information on environmental situation (Article 34 of the Constitution of the Republic of Belarus) and the right to reliable information on environmental situation (Article 42 of the Constitution of the Russian Federation). An instrument of international law regulating legal aspects of ensuring access to environmentally relevant information is the Convention on Access to Information, Public Participation in Deci-

sion Making and Access to Justice in Environmental Matters. This Convention was ratified by Ukraine and the Republic of Belarus. Its ratification by the Russian Federation would foster a more active public involvement in the process of making environmentally relevant decisions for the Dnipro Basin.

Strategic Recommendations

The legislation in the three Dnipro Basin countries regulates some aspects of biodiversity conservation. At the same time, the mechanisms of implementing norms of national environmental legislations are not effective enough. There are a number of challenges caused by organizational, legal and economic factors, as well as by the existing imbalance in the legislative regulation of the right of ownership in natural resources and natural components, the right to use natural resources, on the one hand, and the formation of new economic relations on the other.

Basin-wide International Agreements

1. The Dnipro Basin plays an exceedingly important role in biodiversity conservation in general. Therefore, it is highly recommended that the riparian countries develop and conclude an international agreement on biodiversity conservation in the Dnipro Basin.

The agreement should lay down the following basic principles:

- ensuring environmentally and economically feasible and sustainable use and protection of water resources;
- preventing, limiting and reducing water contamination for priority provision of the population with high-quality drinking water;
- maintaining and rehabilitating, when necessary, water and related ecosystems;
- barring, in the countries' respective territories, unilateral actions detrimental to the other Contracting Parties' interests;
- envisaging environmental responsibility for the breach of the agreement;
- promoting the introduction, in the countries' respective territories, of environmental insurance systems in compliance with the national legislations with a view to enhancing environmental safety of production and creating favourable conditions for life and economic activities of the population.

The agreement will mark a further progression towards the implementation of the UN/ECE Convention on the Protection of Transboundary Watercourses and International Lakes.

2. All three riparian countries should further improve and harmonize their national legislative frame-

works for biodiversity conservation in the Dnipro River Basin.

3. Fulfilling its international obligations, the participating countries have developed their National Strategies and Action Plans of Conservation and Sustainable Use of Biological Diversity (in Ukraine and the Republic of Belarus these instruments were adopted in 1997). The State Strategy of Sustainable Development of the Russian Federation made a number of provisions concerning biodiversity conservation, but that seemed insufficient. So in 2002, the Russian Federation designed the National Strategy of Conserving Biological Diversity as part of its State Strategy of Sustainable Development.
4. The evaluation of a legislative framework in support of biodiversity in the Dnipro Basin, in terms of its compliance with the Russian, Belorussian and Ukrainian national legislation, is a difficult task since in these countries there are no integrated systems for regulating this multifaceted natural system. The national legislations on natural resources have traditionally regulated the use and protection of separate natural features and sites. The environmental legislation systems of Russia, Belarus and Ukraine tend to take an approach based on "natural resources".

Fauna and Flora Protection

Of special importance for the conservation of biodiversity are the provisions of laws and other regulatory acts on the protection and use of fauna. The Law of the Republic of Belarus "On Protection and Use of Fauna" needs revising and updating. Further improvement of legislation on fauna will involve the adoption of the Law of the Russian Federation "On Fishing and Protection of Aquatic Biological Resources" and of a series of federal laws on conservation and use of sturgeon and salmon species, as well as of other valuable aquatic biological resources.

In order to harmonize the Dnipro Basin countries' legislation on fauna, it is desirable that, while amending their laws, the riparian countries use a model law "On Fauna" approved on 8 June 1997 by the International Assembly of the CIS member-states.

5. The Law "On Flora" was adopted in Ukraine in 1999, whereas in the Republic of Belarus and the Russian Federation these relations are yet to be regulated at the legislative level. Therefore, one of the priority objectives is to fill in this gap in the environmental legislation of the Republic of Belarus and the Russian Federation and to prepare and adopt national laws "On Flora".
6. Since the three basin countries signed the "Agreement on a Book of Rare and Endangered Animal and Plant Species" - Red Book of the CIS Member-

States dated 23 June 1995, the national legislatures of the Republic of Belarus, the Russian Federation and Ukraine should formulate and incorporate the notion of the "CIS Red Book".

Specially Protected Areas

7. It should be recognized that the legal regime of biosphere reserves is different from that of other types of reserve areas and stipulated as such in the Law of the Republic of Belarus "On Specially Protected Areas".
8. Along with specially protected areas established with the purpose of biological diversity protection from adverse anthropogenic impact, there are a number of other territories with a special regime. Given that since 1986 the Dnipro Basin in the lower flow of the river has been exposed to radioactive contamination, such territories include the zone of compulsory evacuation and the isolation zone set up after the Chernobyl accident. The isolation zone is part of the Polessye radiation-environmental reserve. However, granting the status of "environmental" to the institution and the territory in question seems unjustified since the aims and objectives of this reserve are unique in and of themselves, and differ from those of the other reserve areas. Thus, the legislation should distinguish "natural" reserve areas from "other types" of reserves.
9. The Dnipro River flows through the cities and towns of Smolensk, Mogiliov, Loyev, Rechitsa, Kiyv, Cherkassy, Dniprodzerzhynsk and others where anthropogenic pressures on the river are very intense. The role of water protection zones is expanding. Therefore, the riparian countries should develop specific regulations on water protection zones, riverbanks and waterfronts within city and town boundaries.

Genetic Engineering

10. In the Russian Federation, the law "On State Regulation of Gene-Engineering Activities" has been adopted. The development of biotechnologies including genetic engineering, or creating new forms of organisms by changing their genetic system with the aim of obtaining useful and highly efficient organisms, is associated with a growing risk of producing uncontrollable organisms with unpredictable characteristics and, consequently, poses a threat to biodiversity. It is recommended that in the course of considering a similar draft law, the Belorussian legislators take into account the objective unification tendencies currently under way in the legislations of the Republic of Belarus and the Russian Federation. It is also recommended that a similar law be prepared in Ukraine.

Natural Resources

11. The Dnipro River Basin embraces the territories of several countries. All of them have their own, sometimes conflicting, interests in what concerns the use of natural resources. To address this challenge the countries should set up a management system that would combine basin-wide planning with the existing administrative-territorial management. The legislation of the Republic of Belarus is different from those of the Russian Federation and Ukraine in that it does not provide for the principle of basin management of water bodies. The resolution of this problem will foster a more effective cooperation towards conserving biodiversity in the Dnipro River Basin.

The system of water resource management agencies should incorporate two two-tiered subsystems.

First,

- National level of management
- Basin level of management

Second,

- Decision-making level
- Decision implementation level (executive)

Using this approach, the following institutional framework is to be established:

Decision-making bodies:

- Water Councils in the member-countries (national level)
- Dnipro Basin Council (inter-state basin level)

Executive bodies (or bodies in charge of implementing decisions):

- Water Service (Water Committee or Water Department) within the system of state executive power bodies in the sector of environmental protection and use of natural resources of individual countries (national level)
- Basin management (river basin level)

Public Involvement

12. An instrument of international law regulating legal aspects of ensuring access to environmentally relevant information is the Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters. This Convention was ratified by Ukraine and the Republic of Belarus. Its ratification by the Russian Federation would promote a more active public involvement in the process of making environmentally relevant decisions for the Dnipro Basin.
13. It is advisable that the legislation of the Republic of Belarus envisage new forms of public involvement in the environmental examination procedures, following the example of the Russian law "On Environ-

mental Examination" that regulates in detail the public participation in environmental examinations on the basis of transparency, openness, respect of public opinion, etc.

It seems appropriate for the legislation of the Republic of Belarus to regulate the procedures of public examination in their correlation with the state environmental inspections. In particular, regional and local agencies of the Ministry of Natural Resources and Environmental Protection should be entitled to approve the conclusions of public examinations, provided the latter were conducted in compliance with all requirements and that their findings are beyond doubt. Whenever the conclusions of public environmental examinations are submitted to the agencies of the Ministry of Natural Resources and Environmental Protection, the Ministry itself or its territorial agencies should initiate a state environmental inspection.

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