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13 May 2011

Mr. Bauyrzhan Momyjanuly Issaliyev
Deputy Chairman of the Board
Public Association "National Analysis
and Information Resource" (NAIR)
Flat 4, House 4, Al Farabi Square
Al Farabi Raion
Shymkent
160012 South Kazakhstan Oblast
Kazakhstan

Dear Mr. Issaliyev,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Kazakhstan with provisions of the Convention in connection with public participation in the conduct of state environmental review (expertiza) for the South West Roads Project (Ref. ACCC/C/2011/59)

On 13 March 2011, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received from you the above communication addressed to the Compliance Committee of the Convention. The communication concerns compliance by Kazakhstan with provisions of the Convention in connection with public participation in the conduct of state environmental review (expertiza) for the South West Roads Project (project CAREC 1b & 6b, IBRD Loan No. 7681-KZ). The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

The communication has been registered under the symbol ACCC/C/2011/59, which you are invited to cite in future correspondence on the matter. The main documentation relating to the communication will be shortly available on the Committee's web site at: <http://www.unece.org/env/pp/pubcom.htm>.

The Compliance Committee, having considered the admissibility of the communication at its thirty-second meeting (11-14 April 2011), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication.

In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address a number of questions that are annexed to this letter. Please provide any supplementary documentation which is necessary to substantiate your response to the questions. At the same time, you are encouraged to avoid submitting to the Committee excessive documentation which is not strictly relevant to the allegations of non-compliance.

In a letter to the Party concerned, a copy of which you will receive for your information, the Committee has

invited the Party to address other questions. You are welcome to respond to those question, if you so wish.

Please send us the requested information as soon as possible but not later than 13 October 2011.

Should you need any clarification, please do not hesitate to contact the secretariat
(public.participation@unece.org).

Yours sincerely,



Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

Cc: Ms. Eldana Sadvakasova, Vice Minister of Environment Protection of the Republic of Kazakhstan
Permanent Mission of the Republic of Kazakhstan to the United Nations Office and other international
organizations in Geneva

Enc. Preliminary determination on admissibility
Datasheet on the communication

ANNEX - Questions to the communicant

1. Could you please specify the date when the representatives of the NAIR, B.M. Issaliyev and S.B. Moldabekov, sent their comments on the environmental impact assessment (EIA) report together with a suggestion to the Expert - the South Kazakhstan Oblast Directorate for Natural Resources and the Regulation of Natural Resource Use? (Was it by letter of 25 November 2010?)
2. Please provide the Compliance Committee with the copy of your letter of 25 November 2010 to the South Kazakhstan Oblast Directorate for Natural Resources and the Regulation of Natural Resource Use and the copy of their response (No.08/4778 of 7 December 2010) as well.
3. Please specify if in your opinion the agreement of 13 June 2009 between Kazakhstan and the International Bank for Reconstruction and Development (ratified by Act No. 172-4 of the Republic of Kazakhstan of 10 July 2009) contradicts the principles of the Aarhus Convention.
4. Please inform the Compliance Committee if after the exchange of correspondence with the Expert, NAIR tried to resolve the dispute at the Court, as stipulated in Article 58 of the Environmental Code "Procedure for examining disputes relating to state environmental review". If NAIR did not try to use the mentioned domestic remedy, please explain the reasons.
5. The communication mentions that the disputed report does not comply with World Bank Operational Policy 4.01: Environmental Assessment, January 1999, and that in October 2010 NAIR sent letters to IBRD Team Leader Mr. Jacques Buré. Could you provide the Compliance Committee with the copy of this letter and with response, if any? Apart from the Team Leader, did NAIR also try to contact other officials at the IBRD local office or the World Bank Inspection Panel (WBIP)?
6. A Request for inspection in relation to the IBRD project mentioned in this communication (IBRD Loan No. 7681-KZ) was submitted to the WBIP on 5 February 2010. That Request was closed on 28 June 2010, because the issues at stake in the Request were satisfactorily resolved. Please provide the Committee with information on the relationship between the Request submitted to the WBIP and the related findings of the WBIP, on the one hand, and the present communication, on the other.