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UNITED NATIONS

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2 February 2012

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 behalf of the Aarhus Convention Compliance Committee, I would like to thank the participants in the discussion of the above referenced communication at the thirty-fifth meeting of the Compliance Committee (Geneva, 13-16 December 2011).

The advance unedited copy of the report of the meeting, including information concerning the discussion on the communication at issue, will be shortly accessible at the following link
<http://www.unece.org/env/pp/ccMeetings.htm>.

You may recall that during the discussion of the communication, the Committee requested you to submit some additional information, as detailed in the questions annexed to the present letter. You are invited to reply to the questions as soon as you can, but no later than 1 March 2012.

The Compliance Committee hopes to be able to complete the preparation of its draft findings with regard to the communication at its thirty-sixth meeting (Geneva, 27-30 March 2012), after which the draft findings will be circulated for comment to the parties concerned.

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

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,



Fiona Marshall
Acting Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Kazakhstan to the United Nations Office at Geneva and other international organizations in Geneva
Ms. Diana Mukanova, Director of Environmental Legislation and Legal Support Department,
Ministry of Environment Protection, Kazakhstan

ANNEX - Questions to the parties

Questions to the Party Concerned

1. Please clarify whether the Conclusion of state environmental review (expertiza) is a final decision according to the legislation of Kazakhstan. In this regard, please explain what legal consequences will follow after the working project “Bypass Temirlanovka” is agreed upon. Please provide the Compliance Committee with the copy of the Conclusion of state environmental review (expertiza) of the working project “Bypass Temirlanovka” together with its cover page (title page).
2. In its response to the questions of Compliance Committee, the Party Concerned stated that due account was taken of the comments from the public on the working project “Bypass Temirlanovka”. The communicant disputes this. To this end please specify in detail how the public authority has taken into account the comments received.
3. Please provide the Compliance Committee with precise, step-by-step, information on the procedural obligations on (i) the public authority and (ii) the developer in handling comments submitted by the public before, during or after the public hearings within the framework of conducting EIA and state environmental review (expertiza).
4. According to the legislation of Kazakhstan, is there an obligation for the public authority to publicize the conclusion of the state environmental review (expertiza)? To this end, please clarify how and to what extent is article 6 para. 9, of the Aarhus Convention implemented in the legislation of Kazakhstan?
5. Please provide the Compliance Committee with the minutes, summary of the outcomes and any other relevant documentation from the meeting held at the Ministry of Environment Protection of the Republic of Kazakhstan on 14 December 2011.

Questions to the Communicant

1. Please provide the Compliance Committee with copies of the following letters:
 - (a) Letter of 2 November 2010 from the Directorate of Natural Resources in response to the letter of 29 October 2010 sent by the representative of the communicant, Mr. B.M. Isaliev;
 - (b) Letter of 4 November 2010 from the Directorate of Natural Resources in response to the letter of 1 November 2010 sent by the representative of the communicant, Mr. S.B. Moldabekov.
2. Please provide the Compliance Committee with the minutes, summary of the outcomes and any other relevant documentation from the meeting held at the Ministry of Environment Protection of the Republic of Kazakhstan on 14 December 2011.
3. Please describe your understanding of the relationship between article 6, para. 9 of the Aarhus Convention and Art. 57 para. 5 of the Environmental Code of the Republic of Kazakhstan.