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13 May 2011

Ms. Eldana Sadvakasova
Vice-Minister of Environment Protection
Ministry of Environmental Protection
Orynbor Street, House 8, "Ministries House"
Astana 010000
Kazakhstan

Dear Ms. Sadvakasova,

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 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.

Please find enclosed a copy of the communication (original in Russian, and translation in English), which is being forwarded to you at the request of the Committee in accordance with the provisions of paragraph 22 of the annex to decision I/7.

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.

Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter (i.e. by 13 October 2011), any written explanations or statements clarifying the matter referred to in the communication.

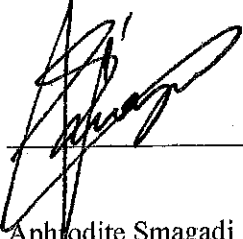
Additionally, in order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address a number of questions that are annexed to this letter. Please provide any supplementary documentation which is necessary to substantiate your response 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 providing your response, please note that you should explicitly comment on the communication itself and the allegations contained therein, as well as addressing the questions raised by the Committee.

In a letter to the communicant, a copy of which you will receive for your information, the Committee has invited the communicant to address other questions. You are welcome to respond to those question, if you so wish.

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: Permanent Mission of the Republic of Kazakhstan to the United Nations Office and other international organizations in Geneva
Mr. Bauyrzhan Momynjanuly Issaliyev, Deputy Chairman of the Board, Public Association "National Analysis and Information Resource" (NAIR), Shymkent, Kazakhstan

Encs. Communication ACCC/C/2011/59 (including annexes), in Russian and English
Preliminary determination on admissibility
Datasheet on the communication

ANNEX - Questions to the Party concerned

1. Does the agreement of 13 June 2009 between Kazakhstan and the International Bank for Reconstruction and Development (IBRD) (ratified by Act No. 172-4 of the Republic of Kazakhstan of 10 July 2009) contain any specific requirements on environmental impact assessment (EIA) and/or public participation in decision-making process related to the "South West Roads Project: Western Europe - Western China International Transit Corridor (CAREC 1b & 6b)" (IBRD loan no. 7681-KZ) in the South Kazakhstan Oblast? Please provide the Compliance Committee with a copy of this agreement (in English or Russian, if English is not available).
2. What is the current status of the agreement of 13 June 2009 between Kazakhstan and the IBRD (ratified by Act No. 172-4 of the Republic of Kazakhstan of 10 July 2009) in the hierarchy of normative acts of Kazakhstan?
3. What are the domestic remedies (administrative or judicial procedures) available in Kazakhstan for the representatives of the public to challenge acts and omissions of the "South Kazakhstan Oblast Directorate for Natural Resources and the Regulation of Natural Resource Use" of the Shu-Talassk Department of Environmental Protection of the Ministry of Environmental Protection?
4. What measures were taken (if any) by the South Kazakhstan Oblast Department of the Roads Committee of the Ministry of Transport to duly ensure public participation (including fulfillment of the requirements of article 6, paragraphs 7, 8 and 9, of the Convention) in the decision-making process related to the South West Roads Project (IBRD loan no. 7681-KZ)?
5. Were there any decisions made by the South Kazakhstan Oblast Department of the Roads Committee of the Ministry of Transport or by any other public agency of Kazakhstan concerning the planning or permitting of activities related to the "South West Roads Project" (IBRD loan no. 7681-KZ)?
6. A Request for inspection in relation to the IBRD project mentioned in this communication (IBRD Loan No. 7681-KZ) was submitted to the World Bank Inspection Panel (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.