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ECONOMIC COMMISSION FOR EUROPE

MEETING OF THE PARTIES TO THE CONVENTION ON
ACCESS TO INFORMATION, PUBLIC PARTICIPATION
IN DECISION-MAKING AND ACCESS TO JUSTICE
IN ENVIRONMENTAL MATTERS

Third meeting

Riga, 11–13 June 2008

Item 6 (b) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention:
Compliance mechanism

DRAFT DECISION III/6

GENERAL ISSUES OF COMPLIANCE

Draft decision prepared by the Bureau *

Addendum

DRAFT DECISION III/6c

**COMPLIANCE BY KAZAKHSTAN WITH ITS OBLIGATIONS
UNDER THE CONVENTION**

*This document was submitted on the above date because it could only be prepared by the Bureau following the finalization of the corresponding findings of the Compliance Committee at its nineteenth meeting (5-7 March 2008).

The Meeting of the Parties,

Acting under paragraph 37 of the annex to decision I/7 on review of compliance,

Mindful of the conclusions and recommendations set out in its decision II/5a with regard to compliance by Kazakhstan (ECE/MP.PP/2005/2/Add.7),

Taking note of the report of the Compliance Committee and the corresponding addendum (ECE/MP.PP/2008/5 and Add.5), as well as the first addendum to the report of its twelfth meeting (ECE/MP.PP/C.1/2006/4/Add.1), with regard to a case concerning access to justice in appealing the failure of Almaty Sanitary-Epidemiological Department and Almaty City Territorial Department on Environmental Protection to enforce domestic environmental law with regard to operation of an industrial facility for storage of cement and coal and production of cement-based materials,

Encouraged by Kazakhstan's continuous efforts to engage in a constructive discussion with the Committee on the compliance issues in question and to take measures implementing decision II/5a in the intersessional period,

1. *Takes note* of the progress made by the Party concerned in implementing decision II/5a of the Meeting of the Parties, in particular with regard to the relevant legislative and regulatory developments, including the introduction of detailed procedures for access to information and public participation in decision-making;
2. *Also takes note* of the progress made by the Party concerned in implementing the Committee's recommendations with regard to communication ACCC/C/2004/06 since their adoption in June 2006, and in particular provisions of the new Environmental Code further facilitating access to justice as well as many relevant capacity-building initiatives for the judiciary and other legal professionals initiated by the Supreme Court of Kazakhstan;
3. *Notes with appreciation* the active engagement and constructive approach demonstrated by the Government of Kazakhstan in the process of review of compliance and implementation of the recommendations made in this context;
4. *Recognizes* that further efforts, in particular in the area of access to justice, are needed and that the Party remains in non-compliance with article 9, paragraph 4, in conjunction with article 9, paragraph 3, of the Convention;
5. *Endorses* the following findings of the Committee:
 - (a) The Government of Kazakhstan has overall undertaken effective and comprehensive measures to implement most of the provisions of decision II/5a;
 - (b) Despite the aforementioned efforts, the Government of Kazakhstan has not yet achieved compliance with article 9, paragraph 4, in conjunction with article 9, paragraph 3,

of the Convention, in particular with respect to practical possibilities to appeal against a failure to act by public authorities;

6. *Invites* the Government of Kazakhstan to thoroughly examine, with appropriate involvement of the public, the relevant environmental and procedural legislation as well as the relevant case law to identify whether it sufficiently provides judicial and other review authorities with the possibility to provide adequate and effective remedies in the course of judicial review;

7. *Further invites* the Government of Kazakhstan to report to the Meeting of the Parties, through the Compliance Committee, six months before the fourth meeting of the Parties, on the measures taken in connection with bringing about full compliance with article 9 of the Convention and ensuring effective implementation of article 6, including, as appropriate, any further developments in legislative framework and detailed procedures, and in particular, their practical application in connection with providing the public with various effective means of participation in decision-making, ensuring that due account is taken of the public comments and ensuring that activities subject to article 6 of the Convention are not carried out prior to the completion of the corresponding permitting process with the required level of public participation;

8. *Requests* the secretariat, and invites relevant international and regional organizations and financial institutions, to provide advice and assistance to the Party concerned as necessary in the implementation of these measures;

9. *Undertakes* to review the situation at its fourth meeting.
