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**Aarhus Convention
Compliance Committee**

The Ministry of the Environment of the Republic of Kazakhstan is pleased to forward an Annex, as a supplement to its letter sent to the e-mail addresses public.participation@unece.org and Maryna.Yanush@unece.org on 4 July 2013, containing information concerning Decision IV/9c of the Meeting of Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and concerning implementation of the Committee's recommendations in Case ACCC/C/2011/59.

Annex: 5 pages.

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**Annex to Letter from the Ministry of the Environment
of the Republic of Kazakhstan
No. _____ of _____ 2013**

Measures for the implementation of Decision IV/9c on compliance by Kazakhstan with its obligations under the Convention.

In light of the fact that the Aarhus Convention Compliance Committee, at its 38th Meeting on 28 September 2012, called on Kazakhstan to increase the pace of its work on introducing relevant amendments into legislation, the Republic of Kazakhstan has taken the following legislative, regulatory, administrative and practical measures.

As we have previously informed the Committee, in 2011 the Republic of Kazakhstan undertook an Analysis of the Environmental and Civil Procedural Legislation of the Republic of Kazakhstan for compliance with the requirements of the Aarhus Convention with regard to access to environmental information, access to justice and public participation in decision-making and an Analysis of Court Rulings for the period 2008-2011 in disputes concerning access to environmental information, public participation in decision-making and access to justice in environmental matters.

The next step for Kazakhstan is to draw up relevant proposals to bring the legislation of the Republic of Kazakhstan into line with the Aarhus Convention, on the basis of the recommendations made in these analyses. This work is being carried out in close cooperation with non-governmental organisations ('NGOs'). In 2013, the Ministry of the Environment of the Republic of Kazakhstan initiated the drafting of a Concept Paper on a Bill to introduce amendments and additions to certain legislation of the Republic of Kazakhstan on access to information, public participation in decision-making and access to justice in environmental matters ('the Concept Paper'). The Concept Paper proposes amendments and additions to the Environmental and Tax Codes and to a range of laws.

It proposes to amend the Environmental Code in order to:

- centralise all environmental information into the State Environmental Information Fund (a national pool of environment-related information);
- guarantee the competence of the environmental protection authority to draw up a National Report on the State of the Environment and to manage the procedure involved;
- lay down an obligation for local executive agencies and the environmental protection authority to publish information on a web site about the resources received by local and national budgets from payments for environmental pollution, from compensation claims for environmental damage and from fines for breaches of environmental legislation.

It proposes to make the following amendments to the Tax Code:

- to exempt natural persons and legal entities from payment of state duty in lawsuits concerning failure to provide reliable environmental information, in relation

to claims seeking reversal of decisions to place, construct, renovate and put into operation enterprises, structures and other environmentally hazardous facilities,

- with regard to the restriction and suspension of business or other activities of natural persons or legal entities which adversely impact on the environment and human health.

The draft Concept Paper has received favourable responses from the Ministry of Justice and from expert academic legal study at the Institute of Legislation, and has also been approved by the public authorities concerned.

In order to improve public access to the data archives of the State Environmental Information Fund, it is planned to create a National Environmental Information Provision Service.

The draft Concept Paper was presented for public discussion at the High-level National Preparatory Conference, which took place on 25-26 June 2013 in Astana and was devoted to the 21st OSCE Economic and Environmental Forum on 'Increasing stability and security: Improving the environmental footprint of energy-related activities in the OSCE region' and to celebrating the 15th anniversary of the adoption of the Aarhus Convention; it was also placed on the Aarhus Centre web site at <http://aarhus.kz/ru/7-2?mingleforumaction=viewtopic&t=4> and sent out to the NGO network by e-mail.

A working group is currently being created to draw up the Bill to introduce amendments and additions to certain legislation of the Republic of Kazakhstan on access to information, public participation in decision-making and access to justice in environmental matters; this group will include representatives of 24 public authorities and 25 NGOs, and 10 expert members. In September 2013, a draft Order on the creation of this working group was placed on the Aarhus Centre web site.

In August 2013, in the aim of ensuring uniform interpretation and correct application by the courts of environmental legislation when reviewing civil environmental cases, the Supreme Court of the Republic of Kazakhstan drafted a regulatory statute 'Some issues in the practical application of legislation by courts reviewing civil cases in environmental disputes'.

The draft regulatory statute and a comparative table to collect comments from the public are available on the Aarhus Centre web site (<http://aarhus.kz/ru/7-?mingleforumaction=viewtopic&t=3>).

In addition, practical measures have been taken which will facilitate implementation of the Compliance Committee's recommendations:

1. On 26 June 2013, with the support of the OSCE Centre, specialised training was held in Astana for judges, directors of Aarhus Centres and environmental NGO activists;

2. From 29-31 July 2013, with the support of the OSCE Centre, an integrated three-day training seminar was held in Astana (at the Korgalzhyn Nature Reserve) on 'Bases for the sustainable development of Aarhus Centres in Kazakhstan'. More than 30 people took part in this training seminar – managers and staff from the 11 Aarhus Centres in Kazakhstan, representatives of NGOs and associations which support the

network of Aarhus Centres in the Republic of Kazakhstan, trainers and partners from the state sector and business;

3. the web site of the Aarhus Centre has been upgraded;

4. The State Environmental Information Fund now ensures the gathering, inventory and storage of environmental information;

5. In addition to the 6 existing Aarhus Centres, 4 new Aarhus Centres have been created in the cities of Almaty and Shchuchinsk and in the North Kazakhstan and West Kazakhstan oblasts.

With regard to implementation of the Compliance Committee's recommendations of 28 March 2013 concerning Communication ACCC/C2011/59, we would like to inform you that the following measures have been taken.

By Order of the Minister for the Environment of the Republic of Kazakhstan of 26 March 2013 No. 50-ø, a new edition of the Rules for the Conduct of Public Hearings was issued. The definitions of 'public' and 'public concerned' used in paragraph 3(1) and (2) of the Rules accord with those in the Aarhus Convention. The term 'interested persons' is not used in defining the public. In addition, the draft Concept Paper proposes the introduction of amendments to the Environmental Code of the Republic of Kazakhstan and the strengthening of the concept of 'public' and 'public concerned' in accordance with the Aarhus Convention.

Pursuant to Article 6(2) of the Aarhus Convention, which requires that the public shall be informed in a timely manner of the holding of public hearings, the following provision has been inserted into paragraph 2(8) of the 26 March 2013 edition of the Rules for the Conduct of Public Hearings: 'The developer is to agree in advance with the local executive agencies (for the area where the planned works would be carried out) the time and place for public hearings and is to publish an announcement of the hearings in the mass media. Publication of the announcement is to be in the official language and in Russian and take place no less than twenty calendar days before the date of the public hearings.

'The announcement is also to be placed on the web site of the local executive agencies.'

The new edition of these Rules came into force on 3 August 2013. A letter was sent to local executive agencies about the requirement to publish the announcement of public hearings on the web sites of mayors' offices, in the official language and in Russian, twenty calendar days before the date of the public hearings, in accordance with paragraph 8 of the Rules. According to the new requirements (paragraph 18 of the Rules), local executive agencies are to publish the minutes of public hearings on their web sites within a period of no more than five working days after the date on which the public hearings took place. A section headed 'Public hearings' is to be created on the web sites of local executive agencies (mayors' offices). In order to ensure uniform access, the texts of minutes of public hearings are to be made available in PDF format. Apart from the texts of the minutes, the 'Public hearings' section is to provide a function for public comments and responses to them.

Under the Law of the Republic of Kazakhstan of 24 March 1998 No. 213 on Normative Legal Acts, the competent authority that is drafting a normative legal act is to create a working group to prepare a draft or is to make one of its subdivisions responsible for preparing the draft, in which case that subdivision is to perform the functions of a working group. When a normative legal act is drafted, it is essential that staff from the legal section of the drafting authority take part in the work. It is essential that representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan and accredited associations of private businesses participate in drafting laws and regulations affecting the interests of private businesses. Draft laws are to be simultaneously sent for approval to the public authorities concerned and placed on the web site of the competent authority.

After official signature, all texts of laws and regulations of the Republic of Kazakhstan must be published for general information in official journals and other periodicals.

Central government agencies, local representative bodies and local executive agencies, through expert councils, are to send the draft of a normative legal act affecting the interests of private businesses to accredited associations of private businesses and to the National Chamber of Entrepreneurs of the Republic of Kazakhstan, annexing a mandatory explanatory note, in order to obtain expert findings; this must also be done each time a given draft is agreed with the public authorities concerned.

A list of accredited associations of private businesses has been approved by Order of the Ministry of the Environment of the Republic of Kazakhstan; under the mandatory procedure, draft laws and regulations must be sent to them for agreement.

In addition, the composition of a public environmental council has been approved, with the participation of NGOs to which draft laws and regulations are also to be sent for public review.

All draft laws and regulations are to be placed on the Ministry's web site, and draft laws and regulations in the field of environmental protection are also to be displayed on the Aarhus Centre site at www.aarhus.kz, indicating an address to which comments may be sent.

All newly adopted environmental protection legislation is to be placed on the web site of the Aarhus Centre at www.aarhus.kz and, in addition, is to be sent to the e-mail addresses of the public concerned and to the users of natural resources

The Concept Paper proposes the introduction of the Compliance Committee's recommendations in regard to: mandatory requirements for public notices; the submission of comments by the public without any requirement that these comments be reasoned ones; the clear responsibility of the public authorities to inform the public promptly of measures they have taken and of how their decisions can be accessed; making copies of decisions accessible to the public, along with other information relevant to decision-making by public authorities.

An action plan for implementing the above Compliance Committee recommendations is currently being drawn up and will be submitted by 30 November 2013.