(Translated from Russian)

**Information for the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on natural resource exploitation and the rights to freedom of peaceful assembly and of association**

**1. What are the particular challenges in your country to respecting individuals’ rights to freedom of peaceful assembly and of association in the context of natural resource exploitation, while also attracting investment and responsibly maximizing the State’s ability to benefit from these resources? For example, are all stakeholders affected by projects consulted, with their rights and concerns taken into account? Are peaceful assemblies facilitated? Are companies cooperative and understanding of the need to preserve individuals’ peaceful assembly and association rights?**

*Response from the Federation of Trade Unions of Kazakhstan*

The procedures for organizing and holding meetings, rallies, marches, pickets and demonstrations are set out in the Act on Procedures for the Organization and Holding of Peaceful Meetings, Rallies, Marches, Pickets and Demonstrations in the Republic of Kazakhstan. Under articles 2 to 4 of the Act, such assemblies may be held once permission has been granted by the local authorities, which must be notified of the event in writing at least 10 days in advance.

Persons who violate the Act, for their part, are punishable by law under article 488 of the Code of Administrative Offences and article 400 of the Criminal Code.

*Response from Kazatomprom (Kazakh state-owned nuclear holding company)*

The environmental problems of different countries are similar and interlinked; they cross national borders and must be resolved through effective cooperation among all States.

Kazatomprom’s activities are governed by the law of Kazakhstan, including the Environmental Code, which is the basic instrument regulating environmental policy.

In accordance with Kazakh law, projects that could have a direct impact on the environment and human health are to be publicly discussed at public hearings.

Under article 57 of the Environmental Code, the results of environmental impact assessments must be published in the media and made available to the public during the decision-making process.

It is therefore not possible to build new or modernize existing manufacturing facilities without taking into account the views of local residents. The procedure for holding public hearings is also regulated by the Environmental Code.

Mining companies affiliated with Kazatomprom invite the residents and members of the council of elders in the regions where they operate to attend their annual meetings.

*Response from Tau-Ken Samruk National Mining Co. JSC*

Since the company began operations, there have been no instances or indications of local residents holding a peaceful assembly or forming an association to protest against its mining operations or their environmental impact; nor have there been any challenges to doing so. The company, therefore, is not involved in efforts to raise awareness among the local population about the right to freedom of peaceful assembly and association.

**2. Can you identify any particular challenges faced by the States of origin of the corporations operating in your country?**

*Response from Kazatomprom*

A company’s reputation is staked on the degree of its social engagement at the local level and constitutes one of the most significant factors in a foreign investor’s decision concerning returns on investment. A careful detailed study of a given region, local attitudes and the law of Kazakhstan is therefore necessary before any investment is made or operations begun.

Kazatomprom’s partners have a high level of social involvement in local communities and in the regions where they conduct their business.

**3. For questions 1–3 – to what extent do these challenges stem from:**

**(a) Gaps/inadequacies in the domestic or international legal framework (e.g., laws on FOAA rights themselves, environmental laws, labour laws, trade agreements)**

**(b) Government institutions (e.g., ineffective enforcement, lack of independence, lack of capacity, corruption)**

**(c) The broader business environment (e.g., lack of voluntary guidelines or industry standards, competitive pressures)**

**(d) Individual businesses themselves (e.g., focus on profits over rights, lack of interest in consulting local communities, willingness to leverage Government corruption)**

**(e) Any other factors**

*Response from Kazatomprom*

The main challenge faced by manufacturing companies in Kazakhstan is the lack of direct dialogue with domestic and international voluntary associations to lay the groundwork for sustainable development. It should also be noted that the environmental law of Kazakhstan has been brought into line with international law as much as possible.

**4. What is your Government doing to mitigate these challenges?**

*Response from the Office of the Procurator-General*

The Procurator’s Office always aims to clarify and understand the demands of protesters.

In cases where a protest is made on the grounds of unlawful acts by officials or any other breach of the law, the Procurator’s Office takes measures to verify the facts and, if confirmed, to put a stop to the violation of the law and restore any rights that have been violated.

For example, if protesters state that wages have not been paid, the local procurator carries out checks; if wages are owed, appropriate measures are taken against the employer to settle the debt.

In general, the Procurator’s Office pays special attention to the protection of workers’ rights and actively works to identify and expose wage payments that have fallen into considerable arrears.

In total, as at 26 January 2015, 65 businesses in Kazakhstan had accumulated wage arrears totalling 763.7 million tenge (859.7 million tenge as at 1 January 2014).

Some 603.3 million tenge of the arrears is owed by 52 businesses that have ceased to operate, 47 of which are on the verge of bankruptcy (with arrears amounting to 498.7 million tenge). The total owed by the 13 companies still in business is 160.4 million tenge.

*Response from Kazatomprom*

Guarantees of the freedom of peaceful assembly in Kazakhstan are set forth in article 32 of the Constitution: “Citizens of the Republic of Kazakhstan have the right, peaceably and without arms, to assemble and hold meetings, rallies and demonstrations, marches and pickets. Use of these rights may be limited by the law in the interest of governmental security, social order, protection of health, protection of rights and freedoms of other persons.” Furthermore, acts of public advocacy are regulated by the Act on Procedures for the Organization and Holding of Peaceful Meetings, Rallies, Marches, Pickets and Demonstrations in the Republic of Kazakhstan of 17 March 1995.

The Government involves national human rights institutions and non-governmental organizations in improving the legislation on the right to freedom of peaceful assembly.

**5. Please provide any specific case studies illustrating natural resource exploitation projects which your Government believes had a positive or negative impact upon FOAA rights, for example: (1) suppression or facilitation of peaceful protests regarding a project; (2) harassment or facilitation of civil society or grass-roots groups involved in a project; (3) outcomes when consulting — or failing to consult — with affected communities; (4) involvement of private security companies. We would especially appreciate examples that demonstrate how Government action helped or hurt the protection and promotion of FOAA rights.**

*Response from the Office of the Procurator-General*

Under article 57 of the Environmental Code, with the exception of applications involving draft environmental emissions standards, applications for State environmental impact assessments must, without fail, be published in the media by the company concerned.

Furthermore, under article 57, paragraph 2, all citizens and voluntary associations concerned are afforded an opportunity to express their views when assessments are carried out.

The views of the public and individuals are presented at public hearings held by the local authorities and developers concerned, since, in accordance with article 57, paragraph 3, public hearings are to be held for projects that might have a direct impact on the environment and public health.

During the hearings, while the proposed business activities are under negotiation, the State takes into account the opinions and rights and interests of individuals and the public that could be harmed by those activities.

Public hearings are regulated by the rules of procedure approved by Order No. 135-p of the Minister of the Environment of 7 May 2007.

Under paragraph 8 of the rules, for example, the developer is to agree in advance with the local authorities with jurisdiction over the area where the work would be carried out on a time and place for the public hearing and publish an announcement of the hearings in the media.

The hearings allow the citizens concerned to be directly involved in the consideration of issues relating to the proposed projects. Moreover, transparency in decision-making and the involvement of the citizens and legal entities concerned in environmental assessments is ensured by providing all stakeholders with access to information on the environmental impact assessment process, in accordance with article 57, paragraph 5, of the Environmental Code.

*Response from Kazatomprom*

Kazatomprom arranges for an independent assessment of the impact of uranium mines on the environment and the population to be made. It commissions the Nuclear Society of Kazakhstan, together with the scientists and experts from the EcoMuseum in Karagandy, to carry out the work.

The local population is also involved in the assessment through a group composed of elders, veterans, small-scale farmers and community activists. The group approves the sampling locations.

The results of the assessment are made public at meetings with local residents and the media.

*Response from the Federation of Trade Unions of Kazakhstan*

One of the most important components of the long-term strategy for the sustainable development of the country is the social responsibility of business. Special attention is paid to promoting the concept of corporate social responsibility and establishing conditions conducive to socially responsible behaviour by businesses.

In 2008, the Head of State launched the Paryz (Duty) Corporate Social Responsibility Awards in an effort to encourage businesses to address social issues and demonstrate and publicize best practices in the field to a wide audience.

The competition was a significant step in facilitating socially responsible business projects and programmes, setting standards and evaluation criteria for companies’ social responsibility and developing various social practices.

Between 2008 and 2014, 3,203 enterprises around the country took part in the contest. In 2013, an award for contributions to the environment was introduced alongside the categories “best collective agreement” and “most socially responsible business”.

The award for contributions to the environment covers the work of businesses that have distinguished themselves in carrying out programmes to improve the state of the environment.

An award for businesses with the highest standard of occupational safety was introduced in 2014, which covers the efforts made by businesses to create working conditions to protect the health of workers at the workplace.

In addition, the General Agreement between the Government and National Associations of Trade Unions and Employers for the period from 2015 to 2017 includes provisions designed to incorporate the 10 principles of the United Nations Global Compact, including improvements to industrial and environmental safety management.

**6. What measures/actions would you recommend that States, businesses and private actors take to enhance the promotion and protection of freedom of peaceful assembly and of association in their policies, projects, goals and other engagements with civil society?**

We have no proposals to make.