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To:  
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*per mail and facsimile*

**Ilisu Dam and downstream impacts on Iraq**

Brussels, 16 May 2007

Dear Commissioner Ferrero-Waldner,

We are writing with regard to the Ilisu Dam project, Turkey and expected downstream water impacts on Iraq.

According to an article that appeared in the Austrian newspaper 'Die Presse' of 4.5.2007<sup>1</sup>, the Minister of Foreign Affairs of the Republic of Iraq, Mr. Khosiar Zibari, has written to your offices on 8.03.2007 regarding the Ilisu Dam project and its expected impacts on Iraq. We have now obtained a copy of this letter in which the Minister informs you that the implementation of the Ilisu Dam has begun without Iraq having been informed or consulted by Turkey, violating international law governing the use of international watercourses. The Minister further requests that the Commission intervene to ensure the rights of Iraq are not breached in this regard and to stop European institutions or companies from contributing to or financing the project before an equitable agreement on water sharing has been reached between all concerned parties (Turkey, Iraq and Syria).

We have further obtained a report from an NGO fact finding mission to Iraq<sup>2</sup> confirming that Turkey did not provide Iraq with the information it requested on the proposed Ilisu Dam *prior* to approval of export credits from two EU Member States.<sup>3</sup>

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<sup>1</sup> "Tuerkei: Laesst Damm den Irak austrocknen?", Die Presse, 04.05.2007

<sup>2</sup> Kurdish Human Rights Project/The Corner House: Ilisu Dam. Downstream Water Impacts and Iraq. Report of Fact Finding Mission to Iraq, 29.03.2007

<sup>3</sup> A consortium of Austrian, German and Swiss companies building the Ilisu dam project have sought and recently obtained government-backed export credit guarantees (ECAs) to reduce the high financial

The 1997 UN Convention on the Law of the Non-Navigational Uses of International Watercourses, requires that watercourse states planning to utilize an international watercourse, notify, consult and negotiate with downstream neighbours in order to prevent the causing of significant harm to other watercourse states.

We note also that the European Community, together with Austria, Germany and Switzerland, is a party to the 1992 UN ECE Convention on the Protection and Use of Transboundary Watercourses and Lakes. In accordance with the relevant case-law of the European Court of Justice, the Community's participation in this Convention means that it has assumed an external competence in the matters governed by the 1992 and 1997 Conventions.

By agreeing to fund the Ilisu Dam without awaiting the outcome of negotiations between the three riparian states, the governments of Germany and Austria have set a dangerous precedent which undermines international law, the environment and human rights, and may themselves be held to have facilitated the violation of international law.<sup>4</sup> The Community has an obligation under EC and international law to ensure that the actions of Germany and Austria do not contribute to a violation of treaty and general international law rules concerning international watercourses.

The above mentioned letter shows that the European Commission had been informed of these circumstances by Iraq *before* export credits for the project had been granted by two EU Member States. In our opinion, it would have been the Commission's duty to ensure that no Member State financing is approved prior to Turkey fulfilling its obligations to notify, consult and negotiate with neighbouring countries Iraq and Syria.<sup>5</sup>

We would therefore ask the Commission to set out in what way they have acted to resolve the issues they have been asked to address by the Iraqi Foreign Minister. Or, if the Commission has not yet acted what actions is it planning to take?

Sincerely,

Judith Neyer

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and political risks of the project from Austria's ECA Oesterreichische Kontrollbank - OeKB (200 million Euro), Germany's EulerHermes (93,5 million Euros in addition to some 100 million Euro in re-insurance for OeKB) and Switzerland's SERV (formerly ERG) (225 million CHF = 140 million Euros). The approval of export credit applications was announced on 26 March 2007 by Austria and Germany and on 28 March 2007 by Switzerland.

<sup>4</sup> See legal opinion by Boisson de Chazournes, L., Crawford, J. and Sands, P., 'Note on the Ilisu Dam project/South-Eastern Anatolia Project ('GAP')', 2 March 2007 in Annex 1

<sup>5</sup> Turkey has not signed the above convention. However, this does not mean that Turkey is not bound by the principles set out in the Convention, which reflect a general obligation on all states under customary international law. See: Boisson de Chazournes et. al. in Annex 1