



<Dorota-Anna.BURSA@ec.europa.eu>

12.07.2011 09:42

To <Public.Participation@unece.org>

cc

bcc

Subject "C/54" Email 32

From: ENV CHAP

Sent: Monday, July 26, 2010 9:33 AM

To: WEGERDT Patrick (ENV); BURSA Dorota Anna (ENV); WALKER Margaret (ENV)

Cc: STUYCK GARIN Beatriz (ENV)

Subject: FW: Clarifications related to political decision making - Further Information to CHAP(2010) 00645 / Garda File FB11.242/09

From: Pat Swords [mailto:pat.swords.chemeng@gmail.com]

Sent: Sunday, July 25, 2010 11:36 PM

To: ENV CHAP; gbfi_dv@garda.ie

Subject: Clarifications related to political decision making - Further Information to CHAP(2010) 00645 / Garda File FB11.242/09

To: EU CHAP(2010)00645 / Garda Bureau of Fraud Investigation (FB11.242/09)

It is clear from the below and the attached (including reply on 23/7/2010) that yet again the Irish Administration has no intention of acting within the legislation on the statute books and is engaged in systematic breaches of the Environmental Acquis.

----- Forwarded message -----

From: **Pat Swords** <pat.swords.chemeng@gmail.com>

Date: Thu, Jul 22, 2010 at 7:04 AM

Subject: Clarifications related to political decision making

To: Brian Cotter <b.cotter@amcham.ie>

Cc: privateoffice@taoiseach.gov.ie, MINISTER <minister@environ.ie>, Minister Ryan <minister.ryan@dceir.gov.ie>

To: Brian Cotter American Chamber of Commerce in Ireland

CC: Taoiseach's office, Minister Gormley's Office, Minister Ryan's Office

Date: 22-7-2010

On the first point I couldn't agree with your more. More than twenty years in design and regulatory approval of industrial projects has highlighted how important it is that industry has consistency and a long term strategy in the application of the regulatory process. Indeed it is something we have driven home

in training programmes for regulators and industry in the new Member States.

Unfortunately in Ireland, senior elected and non-elected officials are consistently acting outside the EU legislative framework for personal and political gain. It is not surprising that there are over 30 infringement proceedings now occurring against the Irish State, of which some are in the final stages in the European Court of Justice and will result in major fines. Not only is the taxpayer expected to 'pick up' the cost of these fines, but basic rights under EU legislation, such as Access to Justice are being denied. Furthermore the country has rapidly become off limits for industrial development as the regulatory system is grossly compromised.

These elected and non-elected officials are being given free reign to act outside the legislation, we even have the situation where perfectly legitimate business opportunities are being deliberately obstructed, while those that belong to the 'friends' are receiving massive subsidies. The most glaring example of this is the renewable energy programme, where the wind energy component has a capital cost of well over €30 billion, will raise electricity costs by a minimum of €3 billion per year (60%), will only result in a maximum of €36 million per year in avoided damage due to slightly warmer temperatures and where the main components, the wind turbines, will be life expired after only 10 years. By implementing waste to energy projects, such as has occurred in Germany and other Member States, the same environmental benefits could occur at less than one thirtieth of the cost. However, such projects are being consistently obstructed.

This obstruction is occurring due to officials acting outside the legislative framework. For instance one of the key aspects of EU Environmental legislation is that policies have to be implemented through the strategic environmental assessment process, which not only includes public participation but an environmental report documenting the cost, benefits and most critically the alternatives considered. If we consider the recent policy change on waste launched on the Department of Environment's website, under Directive 2001/42/EC (Articles 2 (2 a) and 4 (1)), an environmental report and public consultation is required for this policy change in advance of Government approval. It is clear from the attached clarification that the Irish Administration has no intention of completing this. Furthermore the international report on waste management practices and the environmental report on the Section 60 incineration cap, neither reflect proper scientific and technical facts nor EU legislation in the area of waste. I will be submitting a formal complaint on this to the EU investigation file CHAP(2010) 00645 and you are welcome to a copy if you so wish.

Unfortunately these issues are not isolated. For instance the Administration is refusing to state its policy for compliance with the EU Environmental Acquis, the 300 or so Directives in the environmental sphere, which regulate planning, energy, agriculture, industrial development, waste, etc. For instance see final section on report issued to EU Ombudsman in May as conclusion to complaint

(2587/2009/JF):

<http://www.scribd.com/doc/31378441/Bringing-the-Irish-Administration-to-Heel>

Unfortunately not only are peoples' livelihoods and business ventures severely threatened by this illegal behaviour, but the sums of money that are involved, as highlighted already above for wind energy, are enormous. The fact that senior elected and non-elected officials are being allowed to operate in this manner is a blatant abuse under our 2001 Prevention of Corruption (Amendment) Act. It was on this basis that I contacted the Garda Bureau of Fraud Investigation in November 2009 and have been sending them further information since. However, unlike other jurisdictions there is an unwillingness to act. Sadly it is not as if senior members of the Irish Administration do not know these issues, it has been repeatedly brought to their attention, the attached being only some of the relevant correspondence. All I can point out to your members and with regard to the planned meeting with the American Ambassador, which has been highlighted in the Irish media, is that the Covanta situation is not an isolated issue and is only part of the rampant political abuses of the legislation that is occurring.

Regards

Pat Swords BE CEng FICChemE CEnv MIEMA

On Wed, Jul 21, 2010 at 9:37 AM, Brian Cotter <b.cotter@amcham.ie> wrote:
Thanks Pat for this communication.

In the case of utility investment, it is the uncertainty around the planning process and Government policy that heightens the risk assessment for investment decisions and that is our primary concern. The system seems unable to decide exactly what to do, and that cloud makes for a poor investment decision environment. I note your concern is that this is caused by systematic deficiencies in the planning process rather than political decision making. Clarity and certainty is indeed required. Our only ask from policy is that due regard is taken for matters that impact our competitiveness – as export led job creation remains our shared primary focus.

Best regards

Brian

Brian Cotter

Commercial & Public Affairs Director

American Chamber of Commerce Ireland

Tel +353 1 661 6201

From: Nicola Thornton

Sent: 21 July 2010 08:30

To: Brian Harrison; Brian Cotter

Subject: FW: CHAP (2010) 00645 Decision of Appeal on Access to Information on the Environment Request related to An Bord Pleanala and associated information.

Kind Regards

Nicola Thornton

Operations & Finance

American Chamber of Commerce

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From: Pat Swords [mailto:pat.swords.chemeng@gmail.com]

Sent: 20 July 2010 19:36

To: info; simon.mckeever@fco.gov.uk; info@netherlandsembassy.ie; emb.dublin@mfa.no

Cc: Brendan Cafferty

Subject: Fwd: CHAP (2010) 00645 Decision of Appeal on Access to Information on the Environment Request related to An Bord Pleanala and associated information.

To: American Chamber of Commerce in Ireland, Simon McKeever Director of Trade and Investment British Embassy in Dublin, Embassy of the Netherlands in Dublin, Norwegian Embassy in Dublin

Date: 20/7/2010

As you are no doubt aware the US Ambassador has had to make vocal comments about the abuses of the regulatory process in Ireland in relation to the US Company Covanta. The situation with regard to the Royal Dutch Shell / StatoilHydro project on the Corrib gas project is if anything worse. There have been systematic and repeated breaches of EU Environmental Legislation by the Irish Regulatory Agencies, not to mention a track record of abusive behaviour to the project by what are now senior members of the Irish Government.

On a personal basis I have been addressing these issues for sometime, which has lead to:

- An investigation by the EU Ombudsman (2587/2009/JF) of the EU Commission relating to insufficient enforcement of infringements in Ireland of Directives 2003/4/EC on Access to Information on the Environment and 2001/77/EC on Promotion of Electricity from Renewable Energy Sources.
- Complaint CHAP (2010) 0065 being processed by the EU Commission against the State of Ireland for non-compliance with Directive 2003/4/EC and details relating to planning and renewable energy.

The documentation below clearly shows how An Bord Pleanala is continuing to act outside EU Environmental Legislation (Environmental Acquis) with regard to the Corrib development, actions which have cost the developers hundreds of millions of Euros in delays and additional unnecessary costs. Furthermore this behaviour is completely detrimental to those of us in Ireland, who earn our livelihoods (used to earn our livehoods) in industrial development and expect to see foreign investors, who come to our shores, treated with the respect that as a minimum is due to them on the statute books.

Regards

Pat Swords BE CEng FIChemE CEnv MIEMA

10 Hillcourt Rd

Glenageary

Co. Dublin

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----- Forwarded message -----

From: **Pat Swords** <pat.swords.chemeng@gmail.com>

Date: Mon, Jul 19, 2010 at 8:01 PM

Subject: CHAP (2010) 00645 Decision of Appeal on Access to Information on the Environment Request related to An Bord Pleanala and associated information.

To: env-chap <ENV-CHAP@ec.europa.eu>

Cc: Brendan Cafferty <brendancafferty@hotmail.com>, info <info@corribgas.com>

To: CHAP(2010)00645

Date: 19/7/2010

Please note the decision today of the Commissioner for Environmental Information relating to a request for information that began in September 2009.

With regard to the critical infrastructure of the Corrib project, which after an investment of €1.5 billion, is now mothballed as the 9 km onshore pipeline cannot obtain planning permission to finally connect the gas field and gas terminal. Gross maladministration has occurred. There has been a failure by the Planning Appeals Board (An Bord Pleanála) to comply with several EU Directives, notably 2003/4/EC on access (and dissemination) of environmental information, a failure to comply with public participation procedures under Directive 2003/35/EC in that neither the main technical reports and advice on which the decision was to be made were made public in advance of the public consultation nor was there adequate documentation relating to the main reasons and considerations for the decision to refuse permission in October 2009 made available. It is also clear from the Decision of the Commissioner for Environmental Information (CEI/10/0002) that An Bord Pleanála simply do not have any system for implementing the Environmental Acquis in their decision making.

There is a personal cost to this, the country is now effectively off-limits for industrial development and huge job losses in this sector are occurring.



Cover letter from EU Ombudsman April 2010.pdf



Reply relating to Acknowledgement of Complaint Procedure by EU Commission 19-3-2010.pdf



Reply from Garda Bureau of Fraud Investigation 8-12-09.pdf J. Reply from Department of Taoiseach 9-12-08.pdf



Brought to the Taoiseach's attention 2-11-2009.pdf Brought to the Taoiseach's attention 11-11-2009.pdf



Brought to the Taoiseach's attention 5-3-2010.pdf Brought to the Taoiseach's attention 2-7-2010.pdf



Clarification related to Strategic Environmental Assessment 19-7-2010.pdf 2001-42-EC.pdf



Brought to the Taoiseach's attention 23-7-2010.pdf