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16 August 2011

Mr. Jean-Francois Brakeland
Head of Unit
DG Environment, Unit A2
Compliance promotion, governance and legal issues
BU-9 00/201, Rue de la Loi 200, 1049 Brussels
Belgium

Dear Mr. Brakeland,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the European Union with provisions of the Convention in connection with the renewable energy programme in Ireland (Ref. ACCC/C/2010/54)

We are writing to inform you that the Aarhus Convention Compliance Committee will discuss the substance of communication ACCC/C/2010/54 at its thirty-fourth meeting, to be held on 20-23 September 2011 at the Palais des Nations in Geneva.

The discussion of the above communication is currently scheduled for Wednesday, 21 September 2011, **starting at 9:30 am and concluding by 4.00 pm.**

In accordance with chapter IX of the annex to decision I/7 of the Meeting of the Parties to the Convention, both parties are entitled to participate in the discussion on the subject matter of the communication, though not in the preparation or adoption of any findings, measures or recommendations of the Committee.

According to the Committee's normal practice, the discussion of the communication, which will be held in open session, will be interspersed with at least one closed session in which the Committee will begin the process of preparing draft findings. It is envisaged that the first part of the discussion in open session will take the following form:

- introduction by the Chair;
- opening of the discussion by the curator for the case;
- concise presentations by the communicant and by the Party concerned, including possible joint proposals;
- questions from Committee members, responses from the Party concerned and the communicant;
- comments from other observers at the invitation of the Chair;

- final comments by the communicant;
- final comments by the Party concerned.

During the second part of the discussion (i.e. following the closed session), the Committee may pose additional questions to you or the communicant, or invite reactions to any tentative conclusions it has reached. Further details concerning the timetable for the discussions during the day will be provided nearer the time.

The Committee appreciated that the communicant and the Party concerned responded to its letters of 28 January 2011, on time so as to allow the Committee to study the documentation. However, the Committee noted that in its submissions of 21 June 2011, the communicant had significantly expanded the scope of the original communication, on the one hand by expanding the substance of its allegations of non-compliance with regard to large parts of Irish environmental law and policy; and on the other hand by including new allegations of non-compliance with almost all aspects covered by the Convention. The Committee expressed its disapproval of this approach, because it raises procedural issues with regard to admissibility and fairness to the Party concerned to respond to the allegations (within the five-month deadline provided by the annex to decision I/7), and also because it causes practical problems with respect to the schedule of the Committee's work and its capacity to deal with communications that are of an extremely wide scope.

Therefore, the Committee using its electronic decision-making procedure and also taking into consideration the letter of the Party concerned of 20 July 2011, decided that the examination and thus the discussion of the communication at its thirty-fourth meeting will be limited in effect to the facts and allegations presented in the original communication. Specifically, the following issues will be discussed:

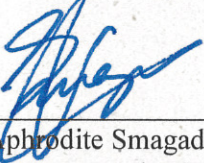
- a) *The responsibility of the EU to monitor* proper implementation of EU law related to the Convention by Ireland (not a Party to the Convention) with respect to the National Renewable Energy Action Plan (NREAP) (art. 3, 4 and/or 5, 6 and/or 7 of the Convention):
 - Access to/provision of information regarding the alleged non-conduct of a strategic environmental assessment for the programme;
 - Collection and dissemination of information;
 - Public participation.
- b) *The responsibility of the EU to comply with the Convention in respect of the approval of state aid* for the Renewable Energy Feed In Tariff I programme (REFIT I) in Ireland and the *approval of financial support* (€ 110 million) for the interconnector project (between Ireland and the United Kingdom), a project in the context of REFIT I (art. 3 and 5)
 - Approval of state aid and financing of a project in respect of which the Convention may not have been properly implemented;
 - Failure to disseminate information in respect of the REFIT I and the interconnector project.

In addition, the Committee has indicated that the meeting should not be used as an occasion to introduce substantial amounts of information that could or should have been provided to it at an earlier stage, unless this is unavoidable (e.g. because it concerns very recent developments). Should you wish to present any (further) substantial written material related to the matter to be discussed, as defined above, you should take into account that where such information is received less than two weeks before the scheduled meeting, it is doubtful whether the Committee would be able to take it into consideration when it is discussing the matter, even where the information is provided in English.

Should you or any other representative(s), as appropriate, wish to attend the meeting, the attached registration form should be completed for each participant and sent to the United Nations Economic Commission for Europe, attention of Ms. Maricar de la Cruz (public.participation@unece.org), by 6 September 2011.

Please do not hesitate to contact the secretariat if you require any further information concerning the meeting.

Yours sincerely,



Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

cc: Permanent Delegation of the European Union to the United Nations Office and other international organizations in Geneva
Pat Swords BE CEng FIChemE CEnv MIEMA, Ireland

Enc: Registration form for the thirty-fourth meeting of the Compliance Committee

