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UNITED NATIONS

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28 January 2011

Pat Swords BE CEng FICHEM CEnv MIEMA
10 Hillcourt Rd
Glenageary
Co. Dublin
Ireland

Dear Mr. Swords,

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)

On 15 October 2010, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received from you the above communication addressed to the Compliance Committee of the Convention. The communication concerns compliance by the European Union with provisions of the Convention in connection with the renewable energy programme in Ireland. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

The communication has been registered under the symbol ACCC/C/2010/54, which you are invited to cite in future correspondence on the matter. The main documentation relating to the communication will be shortly available on the Committee's web site at: <http://www.unece.org/env/pp/pubcom.htm>.

The Compliance Committee, having considered the admissibility of the communication at its thirtieth meeting (14–17 December 2010), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication.

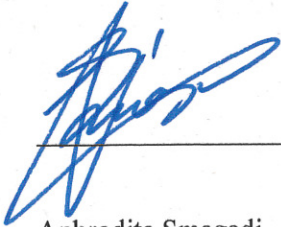
In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address a number of questions that are annexed to this letter. Please provide any supplementary documentation which is necessary to substantiate your response to the questions. At the same time, you are encouraged to avoid submitting to the Committee excessive documentation which is not strictly relevant to the allegation of non-compliance.

In a letter to the Party concerned, a copy of which you will receive for your information, the Committee has invited the Party to address other questions. You are welcome to respond to those questions, if you so wish.

Please send us the requested information as soon as possible but no later than 28 June 2011.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

Cc: Mr. Jean-Francois Brakeland, Head of Unit, DG Environment, European Commission
Permanent Delegation of the European Union to the United Nations Office and other international
organizations in Geneva

Enc. Preliminary determination on admissibility
Datasheet on the communication

ANNEX - Questions to the communicant

1. Please indicate how in your view the European Commission failed to properly monitor the implementation of the Aarhus Convention in Ireland and indicate how your allegations relate to the issues raised in the sub-questions listed under 2.
2. Please provide us with information regarding the following questions:
 - a. To what plan, program or policy do the allegations of non-compliance with the Convention relate? We found the following possibly relevant documents/decisions
 - Energy Policy Green Paper, 1 October 2006
 - Energy Policy White Paper, March 2007, basis for Government Renewable Energy Policy
 - Government's policy decision to accelerate the development of Ocean Energy (Wave and Tidal) in Ireland
 - Offshore Renewable Energy Development Plan
 - SEAI's Strategic Energy Plan 2010-2015
 - b. If the allegations of non-compliance relate to any of the above documents/decisions, all of the above or if the allegations relate to other documents please clearly indicate in each case which provisions of the Convention in your view are at stake and why.
 - c. In what way does the decision of the Commissioner for Environmental Information in Case CEI/09/0016 on 27 September 2010 amount to non-compliance with the Convention?
 - d. Have you made use of the possibility to appeal the decision of the Commissioner in Case CEI/09/0016 to the High Court? If so when is a decision expected; if not why not?
 - e. In the communication mention is made of several requests for environmental information, in addition to the request at stake in Case CEI/09/0016. The communication also mentions that these requests have been submitted to the Irish Authorities and to the Commissioner for Environmental Information. Please explain how in your view decision-making with regard to these requests amount to non-compliance with the Convention?
 - f. How in your view does the decision-making process regarding the interconnector between Ireland and the United Kingdom amount to non-compliance with the Convention?
 - g. How does the Renewable Energy Action Plan submitted by Ireland to the European Commission amount to non-compliance with the Convention?
3. Please provide us with information on pending remedies, both those of a judicial and of an administrative nature and both those at national and European level. Also please provide us with the likely approximate dates on which these procedures may deliver their outcome. We have identified the following remedies that may be pending, in case there are others, please inform us.
 - Possible appeal to High Court of Decision CEI/09/0016 by the Commissioner of Environmental Information
 - Other decisions pending before the Commissioner of Environmental Information

- Investigation of the EU Ombudsman (2587/2009/JF), started January 2010, concerning infringement of Environmental and Energy Legislation in Ireland
 - Formal complaint investigation by EU Commission initiated March 2010 (CHAP (2010) 00645) related to compliance with EU Environmental Legislation
 - Complaint submitted to Garda Bureau of Fraud Investigation concerning elected and non-elected officials (FB 11/242.09), November 2009
4. How in your view does the September 2007 decision of the European Commission by which it approved the REFIT I program for state aid (State aid N 571/2006 Ireland) amount to non-compliance with the Convention?
 5. How in your view does the March 2010 decision of European Commission to allocate 110,000,000 Euro to the interconnector between Ireland and the United Kingdom (Wales) amount to non-compliance with the Convention?
 6. In the communication submitted to us there are various allegations that the European Union is in non-compliance with the Convention for having failed to provide access to environmental information (article 4 of the Convention) and/or for having failed to collect and disseminate environmental information (article 5 of the Convention). Please provide us with more concrete information supporting these allegations.