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**UNITED NATIONS**  
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26 September 2008

Mr. Gerhard Stimmeder-Kienesberger  
Federal Ministry of Agriculture, Forests, Environment and Water Management  
General Environmental Policy Dept./EU affairs environment  
Stubenbastei 5  
A-1010 VIENNA, Austria  
Fax: +43 1 51522 7301

Dear Mr. Stimmeder-Kienesberger,

**Re: Communication to the Aarhus Convention Compliance Committee  
concerning decision-making on road-planning and tonnage restrictions  
for lorries in the Enns Valley, Austria (Ref. ACCC/C/2008/26)**

On 15 July 2008, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received the above communication submitted by Nein Ennstal Transit-Trassel Verein für menschen- und umweltgerechte Verkehrspolitik (NETT), Austria, and addressed to the Compliance Committee of the Convention regarding compliance by Austria with certain provisions of the Convention. 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.

Please find enclosed a copy of the communication, which is being forwarded to you at the request of the Committee in accordance with the provisions of paragraph 22 of the annex to decision I/7. The communication has been registered under the symbol ACCC/C/2008/26, which you are invited to cite in future correspondence on the matter.

The Compliance Committee, having considered the preliminary admissibility of the communication at its twenty-first meeting (17-19 September 2008), 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.

Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter, any written explanations or statements clarifying the matter referred to in the communication and describing any response that may have been made in the mean time.

In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to submit further details related to some of the matters raised in the communication by addressing the following questions:

1. Which law or laws, relevant to the present complaint, implement articles 6 and 9 of the Aarhus Convention in Austria and at the level of the province of Styria?
2. What is the legal effect of decisions taken by regional planning committees under Austrian law, and in particular the effect of the decision related to the four-lane route taken by the regional planning committee on 25 April 2005?
3. What was the scope of discretion which the Steiermarkischen Landesregierung had to consider alternative options to the four-lane route and to allow for public participation in April 2008?
4. What is the legal relevance of the fact that the refusal to allow NETT to participate in the regional planning commission was communicated by letter instead of by official notification?
5. In connection with the issue of the four-lane route, the communicant alleges that article 9, paragraph 2, of the Convention has been violated due to lack of proper appeal possibilities. What possibilities were available to NETT to appeal the relevant decisions regarding the procedure (the decision not to allow NETT to participate in the regional planning commission referred to on page 8 of the English text of the communication) and substance (the decision of the Steiermarkischen Landesregierung of April 2008)?
6. Have any decisions on the 7.5-ton ban for lorries been taken and can such decisions be appealed?

Additional questions have also been raised in a letter to the communicant, a copy of which is attached for your information. Should you wish to address those questions, you are welcome to do so.

We look forward to hearing from you.

Yours sincerely,



Jeremy Wates  
Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Mr. Johannes Pfeifer

Encs. Communication ACCC/C/2008/26 including 5 addenda  
Preliminary determination on admissibility  
Copy of letter to Mr. Johannes Pfeifer  
Datasheet on the communication