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28 October 2010

Ms. Jane Barton
National Focal Point for the Aarhus Convention
EU and International Coordination
Department for Environment, Food and Rural Affairs (DEFRA)
Area 1 Nobel House, 17 Smith Square
London SW1P 3JR, United Kingdom

Dear Ms. Barton,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom in connection with the planning decision for a superstore in Hythe and access to justice in general (Ref. ACCC/C/2010/45)

On 10 September 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 the above communication addressed to the Compliance Committee of the Convention. The communication concerns compliance by the United Kingdom with provisions of the Convention in connection with the planning decision for a superstore in Hythe and access to justice. 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. However, please note, that additional information had been sent by the communicant in support of the communication, which has not reached the secretariat yet. This information will be sent to you, as soon as we receive it.

The communication has been registered under the symbol ACCC/C/2010/45, 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 twenty-ninth meeting (21-24 September 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. However, the Committee did not proceed to reach any conclusions with respect to the compliance issues referred to in the communication.

The Committee also identified that legal issues raised by the communication had already been dealt with by the Committee in light of its deliberations in previous communications concerning compliance by the United Kingdom (ACCC/C/2008/23, ACCC/C/2008/27, ACCC/C/2008/33), and decided that summary proceedings would apply, according to its procedural decision at the twenty-eighth meeting (ECE/MP.PP/C.1/2010/4, para. 45). Hence, while the preliminary determination of the Committee is that on the basis of the information at its

disposal at the moment the communication is admissible, the Committee intends not to further consider the specific allegations (except in respect of some minor issues), because they relate to systemic legal issues which the Committee has already discussed in the past. This is also in line with the nature of the Convention's compliance mechanism, which is not a means of redress.

You are now kindly requested to provide information, as appropriate, on the progress achieved on the previous recommendations, if possible, within five months of the date of this letter. Please provide any supplementary documentation which is necessary to substantiate your response. At the same time, you are encouraged to avoid submitting to the Committee excessive documentation which is not strictly relevant to the allegations of non-compliance.

You are also invited to comment on the allegations, if you so wish.

Further to the submissions it receives from you and the communicant, the Committee will deliberate on the communication focusing on the progress, if any, in the law and implementation of the Convention. The Committee does not exclude that during the process and depending on the information it receives it may decide to consider some of the allegations following its ordinary procedure, in which case you will be informed accordingly.

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: Dr. Geoff Meaden, The Kent Environment and Community Network, Kent, UK
Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations
Office and other international organizations in Geneva

Enc. Preliminary determination on admissibility
Datasheet on the communication