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Ref: ACCC/C/2013/81

ОБЪЕДИНЕННЫЕ НАЦИИ

ЕВРОПЕЙСКАЯ ЭКОНОМИЧЕСКАЯ
КОМИССИЯ

UNITED NATIONS

ECONOMIC COMMISSION
FOR EUROPE

Palais des Nations, Room 348
CH-1211 GENEVA 10

26 April 2013

Ingela Sundelin
Legal Adviser, Division for Legal Services
Ministry of Environment
SE-103 33 Stockholm, Sweden

Anna Josefsson
Legal Adviser, Division for Legal Services
Ministry of Environment
SE-103 33 Stockholm, Sweden

Dear Ms. Sundelin, Dear Ms. Josefsson,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Sweden with provisions of the Convention in relation to permits issued for wind turbines and the applicable legislation in general (ACCC/C/2013/81)

On 14 February 2013, 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 Sweden with the provisions of the Convention on access to information, public participation and access to justice in relation to the permitting process for the issuance of permits for two wind turbines near the town of Strängnäs, Sweden, and the applicable legislation in general. 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/2013/81, 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 fortieth meeting (25-28 March 2013), 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.

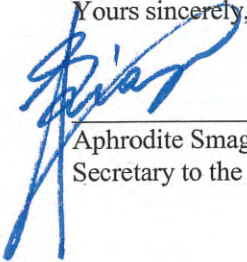
Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter (i.e. by **26 September 2013**), any written explanations or statements clarifying the matter referred to in the communication and describing any response that may have been made in the meantime.

Additionally, in order to facilitate further consideration of the communication, the Committee invites 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 allegations of non-compliance. In providing your response, please note that you should explicitly comment on the communication itself and the allegations contained therein, as well as addressing the questions raised by the Committee.

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

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: Permanent Mission of Sweden to the United Nations Office and other international organizations in Geneva
Bernd Stümer, on behalf of the community of Helgarö and others

Encs. Communication ACCC/C/2013/81 (including annexes)
Preliminary determination on admissibility
Datasheet on the communication

Annex
Questions for the parties in communication ACCC/C/2013/81

Questions to the communicant

- 1) Please clarify whether this communication is submitted by you as a natural person or on behalf of a group of persons or a legal entity, more in particular the community of Helgarö?
- 2) Please substantiate the allegations that the communication makes regarding the European Union and relate those articles to relevant articles of the Aarhus Convention?
- 3) We understand that the "Machinery Directive referred to in the communication is Directive 98/37/EC as amended by Directive 2006/42/EC. Please confirm. If yes, please indicate how the decision-making process or the construction of wind turbines in Sweden is contrary to the provisions of this Directive?
- 4) In your communication you refer to a number of relevant court decisions in Sweden. Could you provide the Committee with the text of these decisions (preferably in English)? (*Please note that you do not need to send to the Committee cases decided by the Courts of Justice of the European Union.*)
- 5) Please specify how Sweden is in non-compliance with article 9 of the Aarhus Convention, both in general and in relationship to the Helgarö wind turbines.
- 6) Please clarify what you mean with the acronym 'CE' used in the communication?

Questions to the Party concerned

- 1) Please provide information regarding how the decision-making processes in relation to the construction of wind turbines in the community of Helgarö complied with articles 4, 5, 6, 7 and 9 of the Aarhus Convention.
- 2) Please provide information on how Sweden regulates access to information, participation in decision-making and access to justice with respect the construction of wind turbines.
- 3) Please provide information on the conditions that apply under Swedish law for NGOs to have locus standi before Swedish courts in matters that come within the purview of the Aarhus Convention.
- 4) In practice which are the requirements for individuals to be able to appeal construction permits and detail plans for wind mills? Do they need to live within a certain distance from the installation – if so, how close? Do individuals need to own land near the installation to be able to appeal the decision?