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ECONOMIC COMMISSION
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Ref: ACCC/C/2013/96

3 January 2016

Robert Konrad
Head of Unit, DG Environment,
Unit F3, Communication
European Commission

Angelika Wiedner
Aarhus Team Leader, DG Environment
Unit A2, Compliance promotion, governance and legal issues
European Commission

Dear Mr. Konrad, Ms. Wiedner,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the European Union in connection with access to information and public participation in the adoption of a list of projects of common interest (ACCC/C/2013/96)

During the discussion of the above communication at its fifty-first meeting (Geneva, 15-18 December 2015), the Compliance Committee indicated that following the meeting it would send questions for the written response of the Party concerned. Please now find enclosed the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your responses to the enclosed questions on or before **Monday, 4 March 2016**. Please send your response to aarhus.compliance@unece.org, copying the communicant. The communicant will then have until **Monday, 18 March 2016** to provide the Committee with any comments it wishes to make on your response. The Committee will consider the responses and comments received by the above deadlines when deliberating upon its draft findings.

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

Yours sincerely,

Fiona Marshall
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
Mr. Pat Swords, representing the communicant of communication ACCC/C/2013/96

Enc: Questions to the Party concerned

Questions to the Party concerned

Access to environmental information (article 4)

1. Please provide further and more detailed information on how **business interests, the protection of personal data and the public interest in disclosure** were considered in the access to information requests within the framework of this case, including with regard to the identity of the project developers and financial subsidies.
2. Please indicate whether the **deadlines** for replying to the communicant's access to documents requests and confirmatory requests were complied with, and if not, whether the communicant was informed beforehand including with the reasons for any delay.
3. Is it the Party concerned's understanding that if requested information is confidential commercial information the Convention requires **disclosure only if the information concerns emissions into the environment**?¹

Public participation during the preparation of the list of Projects of Common Interest (article 7)

4. Please clarify whether the Party concerned considers that the list of PCIs is **subject to article 7** of the Convention and, if so, whether the list of PCIs is (i) a plan; (ii) a programme; or (iii) a policy within the scope of article 7. In addition, please clarify whether the list of PCIs complies with **article 9 of the 'Aarhus Regulation' 1367/2006** or any other EU legislation providing for public participation.
5. With respect to the European Ombudsman's conclusion that the EU need not duplicate consultation at local level (Closing Decision in Complaint 240/2014/FOR), please explain how information and public participation duties were **divided between the EU and the Member States** during the process of preparing the list of PCIs.
6. Please provide further information on the **current stage of the projects** on the list of PCIs, including **which decisions have been taken so far** and **whether projects on the list of PCIs have already received some EU funding**.

¹ See letter from President Barroso to the European Ombudsman dated 3 June 2014, page 6 (available on the communication webpage as annex 3 to the communicant's letter of 9 September 2014):

“As illustrated by the content itself of the disclosed documents at stake, the exception provided under Article 6 of Regulation 1367/2006 which obliges the divulgation of information only when it is information on emissions, is not relevant at all given that the content of the requested documents concerns information on proposals from project promoters for European Projects of Common Interest (PCIs) (key infrastructure projects in the energy sector, i.e. electricity transmission lines and electricity storages) and they do not contain any information on emissions into the environment. Therefore, an overriding public interest is not deemed to exist in this case.”