

Secretary to the Århus Convention
UNECE, Environment & Human Settlement Division
Rm 332, Palais des Nations
CH-1211, Geneva 10, Switzerland

Re.: Communication to the Århus Convention's Compliance Committee

I. Information on correspondent submitting the communication:

Name: Dr Ian Miller
Address: 1 OFF Hill St., Menai Bridge, Anglesey/Ynys Môn, LL59 5AG, United Kingdom
Tel.: 44-1248-714961
Email: ianoceans@yahoo.co.uk

Complainant: Dr Ian Miller - marine scientist & specialist in coastal zone management; independent participant in the Welsh Government/Welsh conservation agency Newborough 'Science Review' - a review of the conservation agency's claims regarding the Newborough site. The complainant acts on behalf of the Newborough Forest Protection Group & local community of Newborough, Anglesey/Ynys Môn, North Wales.

II. Party concerned:

The 'party concerned' is the devolved Welsh Government & its conservation agency, Natural Resources Wales (NRW), who derive their obligations under the United Kingdom's participation in the Convention. The UK was a founding signatory to the Convention [Århus, 25/06/98] & became a full party to the Convention in May 2005 following ratification on the 24th February, 2005.

III. Facts of the communication

Overview: Failure by the Welsh Government and its conservation agency, Natural Resources Wales [NRW], formally the Countryside Council for Wales [CCW], to meet their obligations under the terms of the Convention. Specifically: a failure to provide access to information [Pillar I], to allow public participation in decision-making [Pillar II] and to provide access to justice in environmental matters [Pillar III]. Details of how the requirements of these pillars of the Convention have been breached are provided in the following submission.

Background

This complaint arises from outcomes from a long standing dispute between the public and the Welsh conservation agency & Welsh government concerning management plans for a coastal Special Area of Conservation (SAC), the Abermenai & Aberffraw Dune SAC, on the island of Anglesey/Ynys Môn in North Wales. In addition to the dune habitats for which the SAC was designated the SAC contains coastal woodland (Newborough Forest) and the conservation agency has sought to permanently remove significant areas of the forest since 2004. The local community, most visitors to the site (over 250,000/year) and independent scientists oppose this forest removal and this complaint arises from events from 2009 to the present. On the 11th

Sept., 2013 the conservation agency announced they had decided to begin to permanently removing areas of the coastal forest; specifically those that link the forest to the beach. This intimate link between forest and beach is a key aesthetic asset providing shelter and the opportunity to appreciate the seascapes and coastal environment in often inclement weather. It provides an all-weather venue with considerable health and recreational benefits. The forest also provides much needed shade in the height of summer. Tourism is a key component of the island economy and the forest with its intimate link to the beach and shore are a key aspect of the island attraction to both visitors and the local community. The conservation agency's forest removal plans will significantly degrade this asset and have significant environmental impact. The forest clearance plans also have significant impact on protected red squirrel woodland habitat, affect woodland associated flora and fauna; rare dune orchids shelter within the woodland margins and they have already been destroyed by clearance work and a range of bird species are also affected. The conservation agency has also never been able to substantiate the claims they have made to support their clearfelling agenda.

The process that leads to this complaint has been lengthy and complex so to provide clarity about the background to the specific failures the following is a timeline of key events that subsequently led to breaches of the Convention by the Welsh government and its conservation agency, Natural Resources Wales (NRW):

2004: the conservation agency, then called the Countryside Council for Wales (CCW), announced what they euphemistically called their 'Vision' for the Newborough area of the SAC. This involved permanent removal (clearfelling) of half of the forest. There was no prior consultation with the public and public opposition was intense; over 10,000 signed a petition opposing the plans and many more would have done so if campaigning had not been suspended when CCW announced they were 'putting aside' their clearfelling agenda. Following the campaign of public opposition a Freedom of Information (Fol) request obtained CCW internal briefing documents that showed that in November, only months after the public withdrawal of their plan, they had not changed their long-term agenda for permanent forest removal.

2005: dune habitat condition & conservation status assessments were carried out and reported by CCW as a legal requirement under Article 17 of the Habitats Directive. These were subsequently provided to the complainant following an information request on behalf of the public. These habitat condition reports [2005] failed to substantiate CCW's claims that the protected dune habitats of the Newborough area of the SAC were in an unfavourable state.

2006: the Centre for Ecology & Hydrology [CEH], Wallingford, part of the United Kingdom's Natural Environmental Research Council [NERC], assessed hydrological research CCW claimed supported their view that there was a detrimental hydrological impact by the forest on the dune habitats of the SAC. CEH concluded that CCW's claims were unsubstantiated by the cited research.

2009: The conservation agency (CCW), with Welsh Government (WG) and Forestry Commission Wales (FCW) representatives, called an invitation only 'public' meeting on 30/04/09. The Welsh Government & agencies claimed that to avoid EU infraction proceedings following an anonymous complaint to DG Environment immediate clearfelling had to proceed. A response to an information request by the complainant to the Directorate General for Environment, EU, made it clear that this claim was untrue. No infraction proceedings were contemplated by the

EU. Intense public outcry led the Welsh Government to require the conservation agency, CCW, to 'review' its claims with the participation of four independent scientists; the complainant was one of those scientists. The Newborough Science Review was set up and five meetings took place in 2009/10; the first four all day meetings dealt with conservation, science and the requirements of the Habitats Directive, the fifth, the 'way forward'.

Arbitration commitment [2009]: it was recognized at the outset of the Science Review that there would be significant areas of disagreement. A key commitment by all parties to the Science Review was that disputed issues unresolved by the Review should be resolved by impartial and objective independent arbitration, and that no forest removal could take place until the disputed issues were resolved by the Review or subsequent impartial & independent arbitration. All parties were committed to a mechanism for ensuring environmental justice and for the public to be able to challenge the conservation agency's claims before an impartial and independent arbitration panel. To date [July, 2014] no impartial arbitration has taken place and the conservation agency has proceeded with phase I of its forest removal plan.

2009/10: Despite a commitment that the Newborough Science Review would inform any forest management plan while the review was underway the Forestry Commission Wales (FCW) in consultation solely with the conservation agency, CCW, produced a Forest Management Plan 2010-15, [2010]. The public were unaware that this bilateral decision-making process was underway and only became aware of the plan and its details after it was finalized. The 2010-15 FMP included plans to permanently remove significant areas of forest. However it also reiterated the commitment by the Forestry Commission Wales and the conservation agency, CCW, that no forest removal could take place until the disputed issues were resolved by impartial, independent arbitration. Accepting the commitment to ensure impartial arbitration would resolve the disputed issues the public deferred campaigning and opposition to the plans to remove areas of forest.

2010/11: CCW communicates their version of the Science Review outcome to WG. In August 2011 the WG decided they had no confidence that CCW were delivering the actual views of independent scientists who participated in the Review. They asked for independent scientists to provide their own summary of the issues and evidence supporting their views. The information from both sides to the dispute was passed to the Chief Scientific Adviser for Wales for his assessment of the evidence; a screening process prior to arbitration. No written report by the Chief Scientific Advisor was ever produced and he subsequently resigned his post on health grounds.

2011/12: the public and independent participants in the Science Review were asked by WG to wait while the Chief Scientist carried out his evidence review and then while a private sector geomorphology consultancy produced a commissioned report on sand mobility in Welsh dune systems. Subsequent repeated requests to the Welsh government for the promised arbitration to proceed produced no result.

July 2013: WG deliver a report to Dr Craig Shuttleworth, an independent Review participant, referring to finalized plans to proceed with clearfelling areas of Newborough Forest. This was the first indirect evidence that a decision to proceed with the forest removal included in the 2010-15 FMP had been made. The communicant made a formal request to the conservation agency, NRW, for information: all post 2011 reports concerning the condition & conservation

status of dune habitats within the SAC and those related to management plans for the forest.

Sept. 11th, 2013: NRW, the recently re-named conservation agency made up of CCW, FCW and the Environment Agency Wales, delivered a verbal statement at a public meeting with the local community that clearfelling would proceed. There had been no dialogue, this was a fait accompli delivered without public consultation or public involvement in the decision-making process, and without the promised arbitration that should have preceded and informed any decision about permanent removal of any area of the coastal forest. The conservation agency in concert with the Welsh Government reneged on their commitment to use a suitably qualified arbitration panel to resolve the disputed rationale for permanent removal of areas of forest.

The following deals with specific details of the complaint in turn:

Pillar I - Access to Information

This section of the communication relates to a failure to comply with the Convention requirement to provide requested environmental information; it is a specific act as described in the Convention Guidance document, p.34, paragraph c):-

[‘c\) Specific events, acts, omissions or situations that demonstrate a failure of the public authorities to comply with or enforce the Convention.’](#)

In particular there has been a failure to comply with:

Art. 4:

para.1 - the public authority has failed to make information available

para.2 - the public authority has failed to provide the requested information in a timely manner; it has, in fact, failed to provide the information at all

para.3 - the authority has spuriously claimed the requested information is in a draft form and therefore unavailable.

The environmental information requested relates to the Welsh conservation agency's plans to permanently remove areas of coastal forest at Newborough within a Special Area of Conservation (SAC) on the island of Anglesey/Ynys Môn. Key information that purports to support this action is that concerning the condition of dune habitats, the habitat type for which the SAC was designated.

Assessment of the dune habitats condition and the processes that support the condition of the habitat types is a legal requirement of Art.17 of the Habitats Directive. Conservation agencies must assess the condition of the habitats and status of supporting processes every six years. In the UK this information is reported by regional conservation agencies to the Joint Nature Conservancy Council, JNCC (Peterborough) who compile the UK report for the EU.

The communicant on behalf of the public was provided with the conservation agency's previous 2005 round of dune habitat assessment reports. The reports provided were those written up by the conservation officer(s) carrying out the habitat assessments and were a report of the habitat condition & conservation status as assessed by the conservation officers. Those habitat assessments were carried out and reported in 2005 and subsequently provided to the

communicant; JNCC delivering a report to the EU in early 2006.

Being aware of the six year cycle of habitat assessment reports we have sought access to the latest round of condition assessments since Dec., 2011. These are the habitat condition assessments that provide the basis for the overall habitat conservation status assessment required under Art.17 of the Habitats Directive. We have made these requests to both the WG and CCW/NRW but have repeatedly been informed that the reports are unavailable because they are still in a draft form. However we have evidence that CCW/NRW completed the habitat condition assessment reports in late 2012 and provided JNCC with their final report on dune habitats in Wales in Feb., 2013; very minor edits were sent in Aug., 2013.

Copies of the completed Wales 'overview' Art.17 habitat assessment reports indicate that the Newborough site reports were completed in late 2012 - see section 2.7.4 in the example report. The 'structure' and 'function' referred to in section 2.7.4 are EU Habitats Directive parlance for habitat condition (structure) and the sustaining processes or factors maintaining the habitat (function). We received the general, all Wales, reports dated April 2013; however, JNCC have confirmed they received them in February, 2013 (see attached email from JNCC).

Having failed to obtain copies of the reports through requests to the WG a Freedom of Information (Fol) request was made to NRW - see initial email request below (blue text) plus copies of the subsequent email dialogue attached with this communication. The information request was clearly worded to cover all post 2011 habitat condition & related conservation issue reports for the dune habitats & forest at Newborough. NRW have withheld the dune habitat condition reports completed in Dec. 2012 and are claiming the reports are only in draft form and not available.

Information request to the conservation agency, NRW:-

From: ian miller <ianoceans@yahoo.co.uk>
Sent: 17 July 2013 12:17 PM
To: Access to Information Team
Subject: Newborough information request

Natural Resources Wales [NRW]

Re. Abermenai to Aberffraw Dunes SAC/Newborough Forest

17/07/13

Attention: Access to information team, NRW

I'm interested in information concerning the dune habitats and forest at the Newborough site within the Abermenai to Aberffraw dunes SAC. In particular any reports, surveys, monitoring, consultants reports and planning documents that relate to the conservation status & management of dune habits and the future structure and planned management of the forest.

I'm interested in more recent information, 2011 to the present, and already have access to the

outside consultants report by Ken Pye Associates so that may be excluded from the request. I also have the earlier Forestry Commission Forest Management Plan [FMP].

If for some reason information is withheld I would appreciate a detailed statement of the reasons for such a withholding of information.

With thanks.
Yours sincerely,
Dr Ian Miller

Our request to NRW was for post 2011 information: 'any reports, surveys, monitoring, consultants reports and planning documents that relate to the conservation status & management of dune habitats and the future structure and planned management of the forest'. Since the habitat condition assessment information was processed and provided in a completed format to JNCC in February 2013 we can only conclude that the reports are being withheld by NRW staff. To date, 08/07/14, we have still not received copies of these habitat assessment reports, reports completed in late 2012.

It is worth noting that the conservation agency's 2005 habitat assessment reports reported that all but one of the five dune habitats within the SAC had met all of their condition targets. This was 'inconvenient' for those within the agency who have an agenda to clearfell areas of the coastal forest; claiming that the forest has significantly harmed the condition and conservation status of the dune habitats. It would appear that the latest conservation officers' reports, those completed in Dec. 2012, are now being withheld while a modified, 'for public consumption', version of their reports is prepared.

Regarding the requested forest 'planned management' reports NRW were clearly in possession of reports related to the planned clearfelling that was subsequently announced on 11/09/13. These documents must exist and have also been withheld by NRW.

Having withheld the latest documents that describe the condition and conservation status of the dune habitats [those produced in late 2012] the conservation agency, NRW, have denied the public key information that would have allowed them to challenge the claimed rationale for permanent removal of areas of coastal forest. The agency has now proceeded with its clearfelling agenda with the intent of creating a fait accompli and has now completed phase I of its plan to permanently remove sections of the forest; those areas that link the forest to the beach & foredune zone.

Supporting documents:

1. Email: Chris Worker, WG Aberystwyth, 15/12/11
2. JNCC Art.17 rpt example, dune habitat type 2120
3. JNCC email stating date Art.17 reports received by JNCC, 19/09/13
4. Email dialogue with NRW: Donna Muirhead, NRW Access to Information team

Pillar II: Participation in decision-making

This section of the communication relates to a failure to comply with the Convention requirement to meaningfully involve the public in the decision-making process; to provide timely, adequate and effective public participation; as a minimum to provide effective notice, adequate information, proper procedures and appropriately take account of the outcome of public participation. It is a specific act as described in the Convention Guidance document, p.34, paragraph c):-

‘c) Specific events, acts, omissions or situations that demonstrate a failure of the public authorities to comply with or enforce the Convention.’

This breach of the Convention relates to a decision made to permanently remove sections of Newborough Forest. The initial decision was made through a process of bilateral consultation between the Welsh conservation agency, CCW (at that time), and the Forestry Commission Wales (FCW). Although fully aware of the public interest and concern the authorities excluded the public from this process; the public were in fact unaware that the decision-making dialogue between the two agencies was taking place. The later decision to proceed with the action was made by the conservation agency, now called NRW, and the Welsh Government. This decision also excluded the public from any participation. The failure to comply with the Convention relates to a specific decision requiring a permit (clearfelling licence) and taking place in a specific place. It is not an Annex 1 listed activity so relates to a breach of Article 6; paragraph 1b).

It is worth noting that as far as the public are aware the conservation agency has never assessed the environmental impact of its clearfelling agenda: neither the climate change/C budget impact, impact on woodland wildlife nor the inter-related socio-economic and human health and wellbeing impact. If they had done that might also have provided an opportunity for public engagement and participation.

Regarding the failure to comply with specific requirements of Pillar II of the Convention Natural Resources Wales (NRW) in concert with the Welsh Government have breached:-

Article 6:

- Para. 1(b) - they have excluded the public from any participation in the decision-making process regarding a specific act leading to significant environmental impact
- Para. 2 - despite being fully aware of the public's concern the two involved agencies, CCW & FCW, failed to inform the public about their bilateral decision-making process that led to the clearfelling agenda; did not do so early in the process, in a timely, adequate or effective manner. In fact they failed to inform the public at all until after the decision-making process was concluded and a Forest Management Plan signed off. Subsequently and also in breach of para. 2 the Welsh Government in concert with the newly named conservation agency, NRW, failed to inform the public about their decision to proceed with their clearfelling agenda until well after the decision had been made. They delivered a fait accompli announcement in Sept., 2013.
- Para. 3 - there was no public involvement so no effective timeframe ever provided for public engagement.

- Para. 4 - there was no public participation, 'pro forma' or otherwise. A final decision was announced ensuring no alternative options were considered.
- Para. 5 - the only information provided to the public was a single 'justification' document produced by a Welsh Government official and delivered at the meeting in Sept. at the time the clearfelling decision was announced.
- Para. 7 - since the public remained ignorant of the decision to proceed with permanent removal of sections of coastal forest there was never an option to submit comment or challenge the decision-making process.
- Para. 8 - NRW & the WG cannot provide evidence of how the public's views have been taken into account because they have failed to take them into account.

Supporting information:

- The clearfelling agenda was included in the Newborough Forest Management Plan [FMP] 2010-2015 at the insistence of CCW, the conservation agency. This plan was created exclusively through bilateral dialogue between the Welsh conservation agency and the Forestry Commission Wales. This bilateral dialogue took place during the Science Review that was meant to precede and inform any decisions about forest clearance. Despite knowing of the public's interest and concern the authorities excluded the public from the decision-making process. The public were only informed of the FMP once it had been completed and signed off. [FMP quotes and link at end of Pillar III section below].
- The announcement that clearfelling would proceed was made verbally by the conservation agency, NRW, at a public meeting in Sept. 2013. This was well after the decision had been made and without any public consultation or dialogue. A PR statement subsequently appeared on the NRW website [see link at end of Pillar III section].

Pillar III: Justice in environmental matters

The Welsh conservation agency, Natural Resources Wales (NRW), in concert with the Welsh Government's Ministry for Environment and Sustainable Development have breached the Convention by failing to meet their obligations to provide justice in environmental matters (Pillar III). This relates to:

- [Decisions, acts and omissions by public authorities concerning permits, permit procedures and decision-making for specific activities. \[p.193 Implementation guide\]](#)

The decisions and acts relate to permanent removal of sections of Newborough Forest on the island of Anglesey/Ynys Mon. This action requires a felling licence and this licence was granted by the Forestry Commission for Wales (FCW) to itself. The FCW is now a constituent part of the new Welsh conservation agency, NRW, who have carried out phase I of their clearfelling agenda.

Having agreed to provide a mechanism to ensure environmental justice the two 'Parties' then reneged on that commitment failing to facilitate and allow impartial and independent arbitration to resolve disputed claims made by the conservation agency in support of its forest clearance agenda.

The Convention Implementation Guide makes clear that such administrative procedures may be effective and appropriate in resolving environmental disputes; allowing a fair review for both parties in a dispute and avoiding the need to go to court. The guide states that:

Its members must be independent and impartial. Independence is to be determined by the manner of appointment of its members, the duration of their terms of office and guarantees against outside pressures. It is also important whether or not the body is seen to be independent by impartial spectators.(ref.397) Lay assessors are generally acceptable, but in specific cases their objectivity can be questioned.(ref.398) [see p.196]

And:

Article 9, paragraph 2, also specifies that the review procedure must be before a court of law or another "independent and impartial body established by law". Thus, the review procedure must have safeguards to guarantee due process, independent of influence by any branch of government and unconnected to any private entity.

Under paragraph 2, a Party may provide for a preliminary review procedure before an administrative authority. The administrative appeal system is not intended to replace the opportunity of appeal to a court, but it may in many cases resolve the matter expeditiously and avoid the need to go to court. [p.205]

When the Science Review was set up in 2009 to review the claims made by the conservation agency to support its clearfelling agenda it was recognized that there would be significant areas of disagreement. All the parties including the Chief Executive of CCW, Roger Thomas, with Welsh government support agreed that impartial and objective independent arbitration should resolve disputed issues. All parties were committed to a review process that would lead to impartial & independent arbitration to resolve disputed issues. The 'Process Statement', 2009, reiterates this commitment by the authorities although it was produced without input from the independent scientists participating in the Review. The conservation agency, CCW, tried to manipulate the detail by suggesting a single scientist could perform this function. For a single individual to arbitrate the complex range of issues covering dune ecology, hydrology, geomorphology, the Habitats Directive and UK dune management quality assurance standards (CSM standards), and to be impartial and objective, was never a viable or acceptable option. It would also have failed to meet the requirements of the Convention which requires that a review procedure must meet the following requirements:

Its members must be independent and impartial. Independence is to be determined by the manner of appointment of its members, the duration of their terms of office and guarantees against outside pressures. It is also important whether or not the body is seen to be independent by impartial spectators.(ref.397) Lay assessors are generally acceptable, but in specific cases their objectivity can be questioned.(ref.398) [see Implementation guide p.196]

At the 5th 'Way Forward' Science Review meeting (17/08/10) Dr. David Parker, chairman of the Science Review and CCW's Director Evidence & Advice, agreed with independent Review participants that a panel of three appropriately qualified experts with a separate chairman of stature in the scientific community should fulfil the requirement for impartial and objective independent arbitration [see 5th meeting report]. The agreed impartial arbitration review procedure was a mechanism that would have provided a fair hearing and allowed the public to challenge the conservation agency's claims; it may be considered an administrative authority or 'other independent and impartial review of substantive or procedural legality' - Art. 9, paragraph 2 (see Implementation guide quote below).

The failure to ensure the agreed impartial arbitration took place has breached Art. 9, paragraph 5 which requires Parties to facilitate effective access to justice. Independent and impartial arbitration, as agreed at the outset of the Newborough Science Review, would have ensured access to justice and a fair hearing for challenges to the conservation agency claims.

Under the Convention Article 9 paragraph 2:

Requires access to review procedures relating to decisions, acts or omissions subject to article 6 and other relevant provisions of the Convention.

- Judicial or other independent and impartial review of substantive or procedural legality
- Standing requirements to be determined in accordance with national law and the objective of wide access to justice
- Possibility for preliminary administrative review procedure

Article 9, paragraph 5:

Requires Parties to facilitate effective access to justice

- Information on access to administrative and judicial review procedures
- Appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice

Since that commitment to proceed to the agreed independent arbitration was made by CCW's Chairman of the Science Review on the 17th August, 2010, no arbitration has taken place. Repeated requests to both CCW and the Welsh Government have produced no result. [see Welsh Environment Minister communication to Ieuan Wyn Jones AM, Assembly Member for Anglesey & former deputy first minister in the Welsh Government, 19/08/11, plus additional email evidence]

NRW, the newly named conservation agency, and the WG have proceeded with permanent removal of significant areas of coastal forest (clearfelling) and have reneged on their commitment to defend & substantiate their claims before a panel of independent experts and allow independent arbitration to inform any decisions about forest removal.

The Welsh government and its conservation agency made a clear commitment in 2009 to provide a means of delivering environmental justice to resolve the disputed issues concerning management plans for the dune SAC at Newborough. The Welsh government & its conservation agency have reneged on those commitments and in doing so have denied the public environmental justice regarding the resolution of the dispute. The public deferred opposition to

allow the disputed issues to be fairly resolved by impartial, independent arbitration. By failing to facilitate and ensure that arbitration took place the conservation agency, NRW, in concert with the Welsh Government have cynically avoided public opposition and failed to honour their commitment at the outset of the Science Review. In doing so both Parties in collaboration have failed to meet their obligations under the terms of Article 9, paragraphs 2 & 5 of the Convention.

We have exhausted attempts to get the WG and NRW to stand by their commitment to proceed to impartial & independent arbitration to resolve the issue of forest clearfelling. They have made a decision and proceeded with their agenda producing a fait accompli and have failed to provide access to environmental justice and excluded the public from the decision-making process; in doing so contravening key pillars of the Convention and also failing to meet the requirements of Art.2(3) of the Habitats Directive.

Supporting documents:

1. 2009 CCW/FCW/WG 'Process Statement', Sept. 2009
2. 5th Science Review meeting notes; produced by the Review chairman and Director Evidence & Advice (CCW), David Parker. Dated 17/08/10
3. Quotes from the FCW Forest Management Plan [FMP] reiterating that no clearfelling can take place until independent arbitration has resolved the disputed felling issue.
4. Link to the FCW Forest Management Plan [FMP]:

<http://www.forestry.gov.uk/forestry/INFD-7UMEG8>

5. Emails concerning failure to proceed to arbitration: Ieuan Wyn Jones AM, Anglesey Welsh Assembly representative & former deputy first minister to WG, 21/07/11; Dr Craig Shuttleworth to WG, 26/07/11; Ieuan Wyn Jones to WG Env. minister, 19/08/11; Dr Ian Miller to WG, 31/08/11
6. WG July document alluding to the clearfelling plans - subsequently described by the WG as an 'internal review' document & not circulated publicly
7. No written statement to the community was provided at NRW's 11/09/13 public meeting but a Public Relations slanted News story on the NRW website subsequently provided information on the initial phase of the planned clearfelling operation:

<http://naturalresourceswales.gov.uk/our-work/news/work-to-improve-dunes/?lang=en#.U8Y1NkCmVGQ>

IV. Nature of alleged non-compliance

The Parties concerned, the Welsh conservation agency, NRW, in concert with the Welsh Government (WG), have failed to comply with key requirements of the Convention. They have failed to provide requested environmental information; have failed to ensure and facilitate public participation in the decision-making process, and denied access to justice by failing to implement an agreed impartial arbitration process.

V. Provisions of the Convention relevant for the communication

The Parties concerned have failed to comply with the following provisions of the Convention:

Pilar I: Article 4, paragraphs 1, 2, 3

Pilar II: Article 6, paragraphs 1b), 2, 3, 4, 5, 7, & 8

Pilar III: Article 9, paragraphs 2 & 5

VI. Use of domestic remedies or other international procedures

- Independent scientific participants in the Newborough Science Review have written to successive Environment Ministers in the Welsh Government following a failure by the conservation agency and the Welsh environment ministry to proceed to arbitration.
- We have also asked Anglesey/Ynys Môn's political representatives to intervene; the island's Westminster MP, Mr. Albert Owen, and the island's Welsh Assembly member at the time, Mr. Ieuan Wynn Jones AM [Deputy First Minister 2007 - 2011]. They in turn wrote to the Environment Minister to ask that arbitration should proceed.
- The complainant has sent a complaint to the EU DG Environment, the Commission agency responsible for environmental issues. This principally concerned the conservation issues & Habitats Directive rather than specifically breaches of the Convention. It was sent 04/10/13 and was considered by DG Environment to require investigation. They issued the following reference for the complaint: CHAP (2013) 02967 14/10/13
- We have complained to the Ombudsman for Wales on a closely related Newborough environmental information issue and once that is resolved will consider whether a complaint regarding breaches of the Århus Convention should also be addressed to the ombudsman.

VII. Confidentiality - there is no need for confidentiality

VIII. Supporting documentation

See documents, emails enclosed as attachments with this submission

IX. Summary

Included as an attachment accompanying this submission

X. Signature

Dr Ian Miller

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Tel.: 44-1248-714961

E-mail: public.participation@unece.org

Clearly indicate: "Communication to the Århus Convention's Compliance Committee"