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COMMISSION ÉCONOMIQUE  
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Environment, Housing and Land Management Division  
Bureau 348  
Palais des Nations  
CH-1211 Geneva 10  
Switzerland

ОБЪЕДИНЕННЫЕ НАЦИИ

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UNITED NATIONS

ECONOMIC COMMISSION  
FOR EUROPE

Phone: +41-22-917 3294  
Fax: +41-22-917 0634  
E-mail: [public.participation@unece.org](mailto:public.participation@unece.org)  
Website: [www.unece.org/env/pp](http://www.unece.org/env/pp)

27 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

Dr. A. D. Hawkins  
Road Sense  
Kincaig, Blairs  
Aberdeen AB12 5YT  
United Kingdom

Dear Ms. Barton, Dear Dr. Hawkins,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom with provisions of the Convention in connection with the Aberdeen Western Peripheral Route transport proposal (Ref. ACCC/C/2009/38)**

At its twenty-ninth meeting (Geneva, 21-24 September 2010), the Compliance Committee continued its deliberations on the draft findings in closed session and agreed to seek clarification from the parties on certain points. The points upon which the Committee wishes to seek clarification are set out in the annex to this letter. The Committee has requested to receive your responses to the questions as soon as you can, but not later than 24 November 2010, in order that it may review these in advance of its thirtieth meeting.

The Committee will continue its deliberations on the matter at its thirtieth meeting with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

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 the United Kingdom of Great Britain and Northern Ireland to the United Nations Office and other international organizations in Geneva

## **Annex**

### **Questions to the Party concerned**

1. What possibilities were there for members of the public to challenge the Minister's decision of 1 December 2005? When did the time limit for such a challenge expire?
2. What is the scope and powers of the statutory appeal to the Court of Session under the Road (Scotland) Act?
3. Please provide us with a copy of the Modern Transport System (MTS) document containing the objective "Provide traffic relief (including the removal of long distance heavy goods vehicle traffic) on the existing congested A90 route through and to the south of Aberdeen". What date was this objective introduced into the MTS? Does the United Kingdom accept that the MTS is a plan or programme subject to article 7?
4. If the MTS does not contain the above objective, please provide us with the strategic document that does.
5. When was the last date that the "zero option" of not building the AWPR was an option for public participation?
6. The final approved route for the fast link appears to be some distance to the east of the consulted routes. Was the exact line chosen subject to consultation, and if so, when, and who was invited to participate in that consultation?
7. At any time was the option of both a "southern leg" and a "fast link" as one combined option presented to the public for their comments? If so, please describe the timeframes and modalities of the public's opportunity to comment.
8. When was the decision taken to change the "fast link" from a single carriage way to a dual carriage way? Was the public consulted on the single carriage way "fast link", and if so, when and how? Was the public consulted on the decision to change the single carriage way to a dual carriage way, and if so, when and how?
9. Please respond to the communicator's allegations in page 4 and 5 of its letter of 26 October 2010, regarding (a) the expenses/costs of an appeal; (b) the scope of an appeal; and (c) the right to bring a challenge.

### **Questions to the communicator**

1. Please advise whether Dr Hawkins has subsequently sought to appeal the Scottish Information Commissioner's decision of 25 May 2010 to the Court of Session.
2. Please indicate whether in light of the Scottish Information Commissioner's decision of 25 May 2010, the communicator still wishes to proceed with its allegations in respect of the freshwater pearl mussels.
3. Please advise whether the communicator or Dr Hawkins has made an application under the Freedom of Information (Scotland) Act or the Environmental Information (Scotland) Regulations to get access to the report on the location of the badger setts.
4. Please indicate whether the communicator (or Dr Hawkins or other member of the communicator) has brought a statutory appeal under the Road (Scotland) Act or an application for judicial review to challenge the Scottish Minister's decision of 3 March 2010. If so, please elaborate on the basis of the claim.
5. Please provide us with an internet link to the Scottish Legal Aid Board's guidance on Regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002.