



NATIONS UNIES
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ОБЪЕДИНЕННЫЕ НАЦИИ
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ДЛЯ ЕВРОПЫ

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27 July 2009

Dr. Åsa Sjöström
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EU and International Coordination
Department for Environment, Food and Rural Affairs (DEFRA)
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Dear Dr. Sjöström,

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)

On 7 May 2009, 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 submitted by the non-governmental organization Road Sense and addressed to the Convention's Compliance Committee regarding compliance by the United Kingdom with certain provisions of the Convention. 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 to the Convention.

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/2009/38, which you are invited to cite in future correspondence on the matter.

At its twenty-fourth meeting (30 June - 3 July 2009), the Committee determined on a preliminary basis that the communication was 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, any written explanations or statements clarifying the matter referred to in the communication and describing any response that may have been made in the mean time.

In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address in particular the following questions:

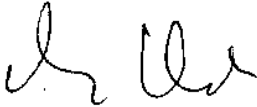
1. Why was the request for the report on the state of the freshwater pearl mussel population in the River Dee refused by the Scottish National Heritage? Was part of the information in any way provided (in a more general manner) to the public?
2. What kind of risks would have been involved with the release of the report?
3. Was the "badger report" withheld from the public and if so, on what grounds? Was a request for release of the report received and by whom?
4. How did the public learn of the discussion about the "five possible routes" for the Southern Leg of the Aberdeen Western Peripheral Route (AWPR)? How and in what manner was "a major informal public consultation exercise" conducted in spring 2005? How was the Murtle Route identified as "the preferred option for public consultation"?
5. What is the relevance of the announcement on 1 December 2005 by the Minister that the AWPR would follow a new route? Was this based on the new "additional, retrospective strategic transport objective" as claimed by the communicant? How was the outcome of the "informal public consultation exercise" which was held in spring 2005 taken into account?
6. In what manner was public participation ensured leading up to the announcement of 2 May 2006 on the "preferred route" and the preparation of Draft Orders for the AWPR?
7. What legal remedies are open to the public to challenge the decisions taken in regard to the AWPR? Please comment on the allegations by the communicant that the conduct of the decision-making process limits the scope of available legal remedies.
8. It would be helpful to the Committee if you could provide a map showing the geographical location of the AWPR routes.

Please provide any supplementary documentation which is necessary to substantiate your response to the above questions. At the same time, you are encouraged to avoid overburdening the Committee with documentation which is not strictly relevant to the allegation of non-compliance.

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

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

Yours sincerely,



Jeremy Wates

Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Dr A. D. Hawkins, Road Sense

Encs. Communication ACCC/C/2009/38
Preliminary determination on admissibility
Datasheet on the communication
Letter to the communicant dated 27 July 2009