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UNITED NATIONS

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3 May 2012

Dear Mr. Ewing,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom (E&W) in relation to imposition of cross-undertakings regarding injunctions in environmental judicial review (ACCC/C/2012/65)

On 3 January 2012, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received from you the above communication addressed to the Compliance Committee of the Convention. The communication concerns compliance by the United Kingdom (England and Wales) with provisions of the Convention on access to justice in relation to imposition of cross-undertakings regarding injunctions in environmental judicial review. 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.

The communication has been registered under the symbol ACCC/C/2012/65, 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 website at: <http://www.unece.org/env/pp/pubcom.html>.

At its thirty-sixth meeting (27-30 March 2012), the Committee considered the communication and the supporting documentation. It decided that with respect to the allegation concerning security for costs, the communication was not admissible on the ground of not meeting the *de minimis* requirement.

With respect to the allegations on cross-undertakings on damages, while the communication was admissible on a preliminary basis, in accordance with paragraph 20 of the annex to decision I/7, the Committee decided to apply its summary proceedings procedure (ECE/MP.PP/C.1/2010/4, para.45), because they related to systemic legal issues which the Committee had already discussed in the past (see findings and recommendations on communication ACCC/C/2008/33 concerning compliance by the United Kingdom and decision IV/9i of the Meeting of the Parties). Hence, the Committee intends not to further consider these allegations. This is also in line with the nature of the Convention's compliance mechanism, which is not a means of redress.

A copy of the preliminary determination on admissibility is attached. The Committee did not proceed to reach any conclusions with respect to the compliance issues referred to in the communication.

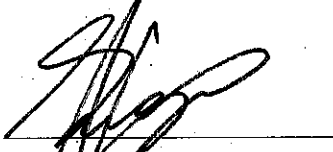
The communication will be forwarded to the Party concerned reminding it of the previous findings and recommendations and requesting it to provide information on the progress achieved on the previous recommendations.

The Party concerned may also comment on the allegations and the admissibility, if it so wishes.

You are also invited to consider these allegations you made in the light of the findings and recommendations of the Committee in respect of communication ACCC/C/2008/33 and of decision IV/9i of the Meeting of the Parties (all available on the Committee's web site).

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: Ms. Barbara Anning, International and European Coordination Division, DEFRA, UK
Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office
and other international organizations in Geneva

Enc. Preliminary determination on admissibility
Datasheet on the communication