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Subject: Aarhus Case ACCC/C/2014/101 (EU) - Committee's draft findings
Sent by: <Affef.GARBAA@ec.europa.eu>

Dear Ms Marshall,

Thank you for having submitted the Draft findings with regard to communication ACCC/C/2014/101 concerning compliance by the European Union, of which we have taken careful note. We would like to suggest one small addition to the text to enable these findings to reflect more accurately the EU position with regard to the application of the Strategic Environmental Assessment Directive 2001/42/EC ("SEA Directive").

In paragraph 52, the Draft states: "The Committee notes that both parties agree, that according to the Supreme Court's judgment, the DNS is not covered by the SEA Directive (see paras 35 and 37 above)".

As the EU outlined in its observations to the case (see notably paragraphs 15 and 26 of the EU's opening statement to the hearing on 10 March 2016, published on the UNECE website), compliance with public participation obligations under Article 7 of the Convention does not require, in the Union's view, an environmental assessment under the SEA Directive. The United Kingdom is responsible to cover any obligations arising from Article 7 in respect of the DNS that might not already be covered by EU legislation. Accordingly, in the hearing, the EU noted that the application of the SEA Directive or not to the DNS was a matter between the Commission and the United Kingdom.

Indeed, this matter is still under bilateral discussion between the Commission and the United Kingdom.

The EU would like to respectfully ask the Committee that this element be reflected in the text, by way of amending the first sentence of paragraph 52 of the Draft Findings to: "The Committee therefore notes that according to the Supreme Court's judgment the DNS is not covered by the SEA Directive."

Best regards,

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