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Ms Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
UN Economic Commission for Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10
Switzerland

25 February 2016

Dear Ms Marshall

UK comments on ACCC/C/2014/101 (EU)

1. We are aware that there is a connected communication, ACCC/C/2014/101 (European Union), which is to be discussed alongside communication ACCC/C/2014/100 (United Kingdom) on 10 March 2016. We would therefore make the following brief comments in respect of that Communication.
2. First, the communicants have now addressed that Article 7 does not require that an SEA be carried out (see United Kingdom further submissions on ACCC/C/2014/100 of 24 February 2016).
3. Secondly, it is clear that there is a difference in scope between Article 7 and the SEA Directive. Article 3 (2)(a) of the SEA Directive lists plans and programmes which set the framework for future development consent of projects, whereas Article 7 requires each Party to make "appropriate practical and/or other provisions for public participation during the preparation of plans and programmes". See generally the Respondent's Statement of Case before the Supreme Court (see United Kingdom submissions of 24 February 2016).
4. The Communicants now argue that Article 7 of the Convention requires the EU to set a "proper regulatory framework" by laying down in legislation a requirement on Member States to comply with Article 7. Article 7 instead refers to "appropriate practical and/or other provisions for the public to participate" and does not require "regulatory" provisions. Therefore, Article 7 does not require the adoption of regulatory provisions.
5. As set out above, the requirements set out in Article 7 mirror well-established principles of English domestic law as to what is required for a consultation to be fair and lawful. Those rights were therefore fully protected in the United Kingdom, as outlined above (see §20-21 of the United Kingdom submissions of 24 February 2016).



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6. In any event, we respectfully submits that it is no part of the Convention's purpose, or indeed remit of this Committee, to seek to regulate relationships between the EU and its Member States – who are individually Parties to the Convention. As previously submitted (§16 of its Response), the Convention was plainly intended to address the relative positions of members of the public and groups in comparison with public bodies. The suggestion that the Convention ratified by the Parties should be interpreted as going beyond that and also regulating regulations between different governmental bodies (namely the EU and its Member States) is clearly beyond the scope of the discussion that led to the Convention and the text itself.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ahmed Azam'. The signature is fluid and cursive, with a horizontal line underlining the name.

Ahmed Azam
United Kingdom National Focal Point
to the UNECE Aarhus Convention