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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

29 June 2015

Dear Ms Marshall

**United Kingdom submissions on PRE/ACCC/C/2015/128 (European Union)**

1. We consider that communication PRE/ACCC/C/2014/128 is inadmissible as the issues raised are outside the scope of the Convention.

Out of scope of the Convention:

2. The subject matter of the decision at issue – a decision on whether to allow the provision of state financial assistance to a development – is clearly outside the scope of the Convention. The European Commission’s decision-making role here relates to competition matters rather than to environmental matters.
3. The purpose of the Commission’s role in giving approval to a state aid scheme is to avoid the distortion of the competition in the market that is harmful to citizens and companies in the EU. A development with an environmental impact is subject to decisions, and associated opportunities for legal review, potentially including EIA, SEA, habitats, planning and permitting processes.

Access to justice relates to non-environmental decision

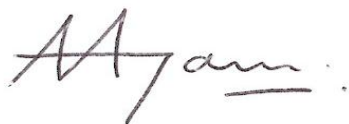
4. There is no suggestion here that there are no opportunities for access to justice in relation to the environmental decision-making aspects of the development at issue. The communicant instead raises a point on access to justice in respect of a non-environmental decision, a decision on competition. There are avenues open to the communicants to challenge developments such as Hinkley C, in relation to the various stages mentioned above, which do concern “national law relating to the environment”, as per article 9(3) of the Convention.
5. There can be no serious suggestion that rules on the distortion of competition applicable to state aid decisions are provisions of “national law relating to the environment”, even on the widest possible reading of that provision.



Not relevant in the context of the Convention

6. The communicant is not assisted by citing ACCC/C/2005/11 (Belgium) and ACCC/C/2011/58 (Bulgaria) in its communication. Both of these concerned planning regimes in which the decision-making functions at issue are more obviously related to the environment, attracting the associated access to justice provisions.
7. Environmental considerations do not form part of the decision-making process for state aid in the same way that they do for certain planning decisions or in decisions on environmental taxation, another example cited by the communicant.
8. A considerable portion of the communication is focused on matters including the status of Euratom, the security of supply offered by nuclear energy and the question of market failure/state intervention in relation to nuclear technology. The communicant has not established that these are matters relevant in the context of the Convention.
9. We therefore request that the Committee find the communication to be inadmissible on the basis that it relates to matters that are out the scope of the Convention, access to justice issues relate to those outside of the environment and are again outside the scope of the Convention, and the communication has not established that these are matters relevant in the context of the Convention.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ahmed Azam', with a horizontal line underneath the name.

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