

From: ECE-Aarhus-Compliance

Sent: 08 December 2022 8:22 AM

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Subject: RE: Decision VII/8f (European Union) - invitation to open session at Committee's 77th meeting (13-16 December 2022)

Dear Ms. Belenyessy,

Thank you for confirming the participation of the European Union in the open session to discuss its plan of action on decision VII/8f to be held next Thursday, 15 December, at the Compliance Committee's seventy-seventh meeting.

In my email of 3 December I had indicated that the Committee would in advance of the meeting provide a brief summary outlining some of its concerns regarding the plan of action to assist the Party concerned to prepare for the open session. Please see the Committee's brief summary below:

With respect to paragraph 2 (a) of decision VII/8f, the Committee has repeatedly made it clear to the Party concerned that "a clear instruction would amount to a direction or order that has to be followed by the member States" (see, for example, para. 72 of the Committee's report to MOP7 on ACCC/M/2017/3 (EU)). The Committee has not been able to identify from the plan of action any measures either already taken, or that the Party concerned proposes to take, that would constitute "clear instructions" to member States regarding the recommendations in paragraph 2 (a) (i) and (ii) of decision VII/8f. The Committee accordingly invites the Party concerned to identify which of its proposed measures will constitute "clear instructions" to member States regarding the recommendations in paragraph 2 (a) (i) and (ii) of decision VII/8f.

Regarding paragraph 2 (b) of decision VII/8f, the Committee points out that, given that member States are required to submit their draft updated NECPs by 30 June 2023, in order for the Commission's proposed assessment of each draft updated NECP to be effective as a tool to lead to more effective public participation procedures by member States, it will be important that the Commission inform member States as soon as possible, and well before the completion of the member States' public participation procedure on their draft updated NECP, that the Commission will be assessing the extent to which the public participation procedure carried out by the member State on its draft updated NECP met the requirements of paragraph 2 (a) (i) and (ii) of decision VII/8f.

With respect to paragraph 8 of decision VII/8f, the Committee notes that the plan of action consistently refers to:

- (a) Opportunities for public participation at the project-permitting stage (which is irrelevant to the recommendation which concerns article 7 only);
- (b) Opportunities for the specified "relevant stakeholders", but not for members of the public, to participate.

The Committee accordingly invites the Party concerned to identify which provisions, if any, of the revised TEN-E Regulation or other measures in its plan of action specifically address the recommendations in paragraphs 8(a) and (b) of decision VII/8f.

We hope the above may be of assistance. The link to join the open session will be sent to all registered participants this weekend, following the expiry of the deadline for registration on Friday, 9 December.

We look forward to the participation of the European Union in the open session on 15 December.

Kind regards,
Fiona



Fiona Marshall

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