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Press Release

Coalition for Access to Justice for the Environment (CAJE)

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Legal Costs Review Recommends Greater Access to Environmental Justice

Leading environmental campaign groups have today welcomed proposals by Lord Justice Jackson for changes to the legal system to improve access to justice in environmental protection cases [1] and have called on the Government to act urgently to make the necessary changes to the costs rules.

The Coalition for Access to Justice for the Environment (CAJE) [2], will now write to the Government urging it to act swiftly to take forward recommendations in the review of legal costs.

Environmentalists have long argued that current court rules make access to justice unaffordable for people and groups who want to use the law to protect the environment [3].

Current rules mean that environmental campaigners who take their case to the Courts can expect to be ordered to pay tens of thousands of pounds to the other side - usually the Government - if they lose.

The Jackson Report highlights the importance of environmental laws but concludes that all judicial review cases should be given the same protection. The Report recommends that claimants in all judicial review cases should not normally be at risk of having to pay the other side's costs [4].

Carol Hatton, solicitor at WWF-UK said: "We welcome many of the findings in the report and call on Ministers to take urgent action to change the costs rules. If the Government refuses to act on these recommendations it may find itself called to account in the European Court of Justice."

Phil Michaels, Head of Legal at Friends of the Earth said: "The Government has known for years that the present costs system was preventing access to justice. The Jackson Report advocates a solution to part of the problem. There is no longer any excuse for inaction - a fairer system must be introduced as quickly as possible."

European Commission research [5] has shown that the UK has one of the worst cost regimes for access to justice in environmental matters, and that the current costs rules represent a "significant obstacle to access to justice in the United Kingdom".

As a result of a complaint lodged by CAJE in 2005, the European Commission is currently considering taking legal proceedings against the UK on the basis that legal action is prohibitively expensive for most individuals and organisations.

A committee of the United Nations is also currently considering a number of complaints against the UK because the nature of its court cost rules means that the UK cannot comply with its international obligations to ensure that access to justice in environmental matters is "not prohibitively expensive." [6].

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Notes to Editors

1. The recommendations come in the report of Lord Justice Jackson into Civil

Litigation Costs. The report was commissioned by Sir Anthony Clarke, the Master of the Rolls.

2. CAJE includes WWF UK, Friends of the Earth, Greenpeace, RSPB, the Environmental Law Foundation and Capacity Global.

3. See (a) "Environmental Justice" (2004) published by the Environmental

Justice Project (WWF-UK, ELF and Leigh, Day & Co Solicitors), (b) "Civil Law Aspects of Environmental Justice" (2003) published by ELF and (c) "Using the

Law: Barriers and Opportunities for Environmental Justice" (2003) published by Capacity Global available at:

(a) <http://www.unece.org/env/pp/compliance/C2008-23/Amicus%20brief/AnnexCEJP.pdf>

(b) <http://www.unece.org/env/pp/compliance/C2008-23/Amicus%20brief/AnnexDCivillawaspectsofEnvJustice.pdf>

(c) <http://www.unece.org/env/pp/compliance/C2008-23/Amicus%20brief/AnnexBEJUsingtheLaw009Capacity04.pdf>

4. This is referred to in the report as 'qualified one way costs shifting'.

5. In 2007, the European Commission commissioned research on access to environmental justice in 25 Member States. The UK was ranked amongst the bottom five Member States (along with Austria, Germany, Hungary and Malta), largely on the basis of its rules on costs. The UK Report can be found at: <http://www.unece.org/env/pp/compliance/C2008-23/Amicus%20brief/AnnexJUKFinalReport.pdf>

6. The UNECE Aarhus Convention seeks to ensure a minimum standard with regard to access to environmental information, public participation in decision-making and access to justice in environmental matters. The Aarhus Convention Compliance Committee is currently examining two complaints against the UK on the basis that environmental litigation in the UK is "prohibitively expensive". CAJE submitted an "amicus intervention" to the Committee in relation to both complaints and gave oral evidence in July and September 2009. The Compliance Committee is due to publish its findings in relation to these complaints in April 2010.