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19 January 2009

Mr. Charles Pirotte
Aarhus Convention Focal Point
Environment Directorate-General
Communication & Governance Unit (ENV.A.1)
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Dear Mr. Pirotte,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the European Community with provisions of the Convention in connection with access by members of the public to review procedures (Ref. ACCC/C/2008/32)

As noted in our letter dated 24 December 2008 concerning the above communication, the Committee, at its twenty-second meeting, preliminarily discussed whether and what issues might require further clarification from the parties concerned in order to facilitate further consideration of the communication.

Having concluded this discussion by electronic means, the Committee has requested the secretariat to invite you to provide in your response to be submitted pursuant to paragraph 23 of the annex to decision I/7 further details related to some of the matters raised in the communication by addressing the following questions:

1. Please explain how the Community sees the following provisions of the Convention in relation to activities undertaken by its institutions and what measures has it taken to ensure compliance with each of these provisions in connection with such activities:

- (a) article 9, paragraph 2;
- (b) article 9, paragraph 3;
- (c) article 9, paragraph 4.

2. Please explain how, in the context of article 9 of the Convention, the Community views the relation between, on the one hand, article 9, paragraph 1, of the Regulation 1367/2006 of the European Parliament and the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in

Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies and on the other, article 230 of the Treaty on the European Union (Maastricht Treaty) as interpreted by the European courts in relation to rights of NGOs?

3. Please explain how, in the light of the judgment in case WWF-UK (T-91/07), in particular its paragraphs 81 and 82, you see the application of article 9, paragraph 1, of the Regulation (EC) No 1367/2006 in the context of article 9, paragraphs 2 and 3, of the Aarhus Convention?

4. Please explain if European courts are under an obligation to interpret article 230 of the Treaty on the European Union in the light of the Aarhus Convention, and in particular its provisions on access to justice.

A number of additional questions have been raised in a letter to the communicant, a copy of which is attached for your information. Should you wish to address any of those questions, you are welcome to do so.

We look forward to hearing from you.

Yours sincerely,



Jeremy Wates

Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Ms. Anaïs Berthier, ClientEarth

Encs. Copy of letter to Ms. Anaïs Berthier, ClientEarth