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13 October 2011

Mr. Jean-Francois Brakeland  
Head of Unit  
DG Environment, Unit A2  
Compliance promotion, governance and legal issues  
BU-9 00/201, Rue de la Loi 200, 1049 Brussels  
Belgium

Pat Swords BE CEng FIChemE CEnv MIEMA  
10 Hillcourt Rd  
Glenageary  
Co. Dublin  
Ireland

Dear Mr. Brakeland,  
Dear Mr. Swords,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the European Union with provisions of the Convention in connection with the renewable energy programme in Ireland (Ref. ACCC/C/2010/54)**

On behalf of the Aarhus Convention Compliance Committee, I would like to thank the participants who took part in the discussion of the above referenced communication at the thirty-fourth meeting of the Compliance Committee (Geneva, 20-23 September 2011).

The advance unedited copy of the report of the meeting, including information concerning the discussion on the communication at issue, will be shortly accessible at the following link <http://www.unece.org/env/pp/ccMeetings.htm>.

You may recall that during the discussion of the communication, the Committee requested the Party concerned to submit some additional information, as detailed in the question annexed to the present letter. You are invited to reply to the question as soon as you can, but no later than **1 November 2011**. In providing your response, please address the question of the Committee in a brief and explicit manner and provide any relevant supporting documents in English. If the communicant wishes to react to the response sent by the Party concerned, he is requested to do so by 7 November 2011.

Please do not hesitate to contact the secretariat if you have questions or seek clarification of any of the above.

Yours sincerely,



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Fiona Marshall  
Acting Secretary to the Aarhus Convention Compliance Committee

cc: Permanent Delegation of the European Union to the United Nations Office and other international organizations in Geneva

Encl: Annex - Question to the Party concerned

## **Annex - Question to the Party concerned**

***Deadline: 1 November***

***The communicant will have one week after its receipt to comment on the Party's response***

The Committee understands that it is common ground between the Party concerned and the communicant that:

- The National Renewable Action Plan (NREAP) is a plan under article 4 of the renewable energy directive (Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC).
- Strategic environmental assessment does not apply and there is no legal requirement in the Directive for public participation.
- The Commission has prepared a template and requires Member States to report on the process of preparation of plans, including public participation (Commission Decision of 30 June 2009 establishing a template for National Renewable Energy Action Plans under Directive 2009/28/EC of the European Parliament and of the Council).
- This template, including the requirement for public participation, appears to be a “practical provision for the public to participate during the preparation of plans”, and thus the NREAP seems to be a plan under article 7.
- In addition, according to article 4, paragraph 5, of the Directive, the Commission evaluates the action plans and the measures envisaged by the Member States, and issues recommendations.
- Upon approval of the Convention, the EU declared that it would be responsible “for the performance of those obligations resulting from the Convention which are covered by Community law in force”.

Considering all the above, it would seem that there is EU law in force relating to the public participation requirements of article 7 in this case. Could you please explain why the Commission says that it is not responsible for the actions of the Member State in this case?