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ОБЪЕДИНЕННЫЕ НАЦИИ  
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25 October 2005

Attn. Ms. Maud ISTASSE  
National Focal Point for the Aarhus Convention  
Federal Public Service of Public Health, Food Chain Security and Environment  
Directorate-General for Environment  
Montagne de l'Oratoire, 20 Bte 3  
B-1010 BRUSSELS  
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Dear Ms. Istasse,

**Re: Communication to the Aarhus Convention Compliance Committee  
concerning standing of NGOs under Belgium legislation and case-law  
(Ref. ACCC/C/2005/11)**

With regard to the above communication, the Committee was highly appreciative of your participation in its recent meeting and felt that many issues were clarified during the discussion. However, in order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address the following additional points:

1. In Belgium, are there cases where *building permits* are given that may affect the environment, and where no environmental NGO – due to criteria for standing – would be able to appeal the decision in an administrative or judicial procedure? Why/why not? Please, explain beyond the wording of the legislation, what would be decisive for an NGO to have such access.

2. Would the issuing of a) a building permit, or b) an authorisation for a specific landfill site, be considered to be a decision to permit a proposed activity within the meaning of article 6 of the Convention, where the relevant thresholds or criteria are met (cf. Arrêt Nos. 133.834 of 13 July 2004 and 135.408 of 24 September 2004 cited in appendices 6 and 7 of the communication)?

3. In Belgium, are there cases where *plans* are adopted that may affect the environment, and where no environmental NGO – due to criteria for standing – would be able to appeal the decision in an administrative or judicial procedure? Why/why not? Please, explain beyond the wording of the legislation, what would be decisive for an NGO to have such access.

4. In case an act/omission by a *private person* contravenes Belgian (including EC) law relating to the environment, which means are available for an NGO to challenge the act/omission in an administrative or judicial procedure? Which are the decisive criteria, if any, for an NGO to do that? Are there cases where no NGO would be in a position to challenge such an act/omission? Please explain beyond the wording of legislation.

5. In case an act/omission by a *public authority* contravenes Belgian (including EC) law relating to the environment, which means are available for an NGO to challenge the act/omission in an administrative or judicial procedure? Which are the decisive criteria, if any, for an NGO to do that? Are there cases where no NGO would be in a position to challenge such an act/omission? Please explain beyond the wording of legislation.

6. Please explain how the case law interpretation of the concept of 'interest' as personal and direct interest, and the requirement for there to be moral or material damage in the case law, comply with article 2, paragraph 5. In interpreting that provision, to what extent are there limits on the flexibility or discretion of Parties to impose additional 'requirements under national law' (cf. page 4 of your written response to the communication)?

7. How are the requirements that in order to have standing, an NGO should have been in existence for 3 to 5 years and have its activities centred around a particular geographical location in conformity with article 3, paragraph 9?

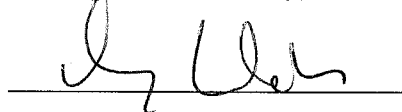
Should you have any other comments with regard to the matter, please address them in your response.

The Committee would like to prepare the draft findings at its next meeting (5-7 December 2005). We would therefore kindly invite you to submit the information as soon as possible but at the latest by 21 November 2005.

Many thanks for your kind cooperation.

We look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'J. Wates', written over a horizontal line.

Jeremy Wates

Secretary

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

Cc: Bond Beter Leefmilieu Vlaanderen VZW, Belgium