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Swedish statements regarding the admissibility of the communication PRE/ACCC/C/2019/174

Sweden would like to thank the Aarhus Convention Compliance Committee for the possibility to leave a statement on the preliminary admissibility of the communication PRE/ACCC/C/174. Sweden takes this opportunity to clarify the content of the ACCC's assessment.

Noting that ClientEarth seems to argue that the Swedish Supreme Administrative Court rejected the request to carry out a court review on the basis that ClientEarth has not been active in Sweden for at least three years, thus not fulfilling criteria (3) in Chapter 16, Section 13 of the Environmental Code, Sweden would like to underline that this criteria was not addressed by the Supreme Administrative Court and hence not used for ground of refusal.

Further, it is clear from Swedish case law that organisations meeting the criteria in Chapter 16, Section 13 of the Environmental Code have the right to appeal and that the criteria set out in the section in question are not exhaustive. This means that in cases where an organisation does not meet all the criteria an assessment has to be made considering all circumstances in the particular case.

According to Swedish case law the criteria set out in Chapter 16, Section 13 must never be viewed in isolation from their purpose, that is to establish whether an organisation has been active in such a way that it can be considered to represent the public, in particular in order to monitor nature conservation or environmental protection interests in general.

In the court ruling relevant for today's hearing the court found that -whilst the organisation had provided information on the general public interest in this particular permitting process - it had not provided any corroborating information showing that the works of the organisation as such had public support.