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ADDENDUM TO "I/A" ITEM NOTE

from : General Secretariat of the Council
to : Permanent Representatives Committee (Part 1)/Council
Subject : Adoption of the proposal for a Regulation of the European Parliament and of the Council on the application of the provisions of the Århus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to EC institutions and bodies
– Statement

STATEMENT BY BELGIUM

Belgium is abstaining since it considers that, despite the definite progress made with implementing the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters at Community level, some provisions of the Regulation are not, however, in conformity with it or are inadequate to ensure compliance with the Århus Convention as a whole.

Belgium takes the view firstly that Title II of the Regulation does not scrupulously transpose the Århus Convention as far as the series of exceptions is concerned. In fact, the Regulation posits the general principle, in Article 3, that the system in Regulation (EC) No 1049/2001 is to apply, but qualifies that principle, in Article 6, to make the system compatible with the Århus Convention.

The provisions of Article 6 are not sufficient, however, to ensure full compliance with the Århus Convention since some of the exceptions in Regulation (EC) No 1049/2001 still apply to environmental information, such as the power of veto, for example, or the exception derived from Community financial, monetary or economic policy. The Regulation thus disregards the provisions of the Convention concerning access to information.

Belgium also regrets that the provisions of Title IV of the Regulation concerning the procedure for internal review and access to justice, as adopted by the Council in amending the initial Commission proposal, are drafted so restrictively and do not allow members of the public broad access to the legal remedies which the institutions are, however, obliged to guarantee in accordance with the Århus Convention.

STATEMENT BY SWEDEN IN RELATION TO ARTICLE 6(2)

In relation to Article 6(2) of the Regulation of the European Parliament and of 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 EC institutions and bodies, Sweden makes the following remarks.

Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents is the legislative instrument regulating the right of public access to the documents of those three institutions. The purpose of Regulation (EC) No 1049/2001 is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty.

Regulation (EC) No 1049/2001 does not prevent more generous access to documents in other legislative acts that implement instruments of international law. It does, however, prevent additional restrictions on the right of public access to documents in such, or any other, legislative acts. Consequently, Regulation (EC) No 1049/2001 provides a guaranteed, minimum right of public access to European Parliament, Council and Commission documents, a right which can be limited only in accordance with the exceptions defined in this Regulation. Any additional exceptions,

provided for in other Community law instruments, are thus not compatible with Regulation (EC) No 1049/2001. Sweden's support for the Regulation on the application of the provisions of the Aarhus Convention does not in any way affect the Swedish understanding of Regulation (EC) No 1049/2001 in this regard.

In addition, and bearing in mind the above, Sweden is and will remain committed to discussing the introduction in Regulation 1049/2001 of a provision corresponding to that in Article 6(2) of the Regulation on the application of the provisions of the Aarhus Convention.

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