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Subject Reaction to the letter of the Implementation Committee ref
EIA/IC/Info/4

Our reference

DGR/LOK/2009065549

Your reference

EIA/IC/Info/4

Dear Members of the Implementation Committee,

On the 14th of October 2009 the Netherlands received a second letter from the Chair of the Implementation Committee regarding the planned combined-cycle gas turbine power plant at Visé in Belgium.

At it's seventeenth session, held in Geneva from 14-18 September 2009, the Committee considered the replies by the governments of the Walloon region and the Netherlands to the Chair's letter dated the 7th of April 2009.

The Committee concluded that there were still aspects that remained unclear, particularly with respect to the allegations made by the NGO 'Comite Centrale Nee'. Therefore, the Committee seeks clarification on three additional issues before the 31st of December 2009. To be clear on the information that the Committee is looking for, the Netherlands also consulted the Chair of the Implementation Committee by phone.

Based on the letter and the consultation with the Chair, we have provided information on the following issues in Appendix 1:

1. (the opinion of the Netherlands) as to whether the EIA documentation fulfilled the minimum content of requirements;
2. (the opinion of the Netherlands) whether, what and how alternatives are considered;
3. which timeframe for the different opportunities for public participation was used, the timeframe of the Party of Origin or the timeframe of the Affected Party.

Yours sincerely,

Eva Baron
Focal Point Netherlands,
Convention on Environmental Impact Assessment
in a transboundary context (Espoo Convention)

Appendix I Information on the 3 issues as requested by the Implementation Committee in their letter dd. 15-10-09

The first two issues (a + b) inquire the opinion of the Netherlands regarding the EIA documentation and the consideration of alternatives, rather than mere factual information (issue c).

In the case of the planned combined –cycle gas turbine power plant in Visé, Belgium (Walloon region), the regional and local governments are the relevant Dutch authorities, respectively the province of Limburg and the municipality of Eijsden.

Both governmental bodies have given a formal reaction to the Walloon government concerning the Environmental Impact Assessment report (EIA report). The municipality of Eijsden also appealed the decision of the Walloon government to issue a permit. As the views of the province of the Limburg and the municipality of Eijsden regarding the EIA documentation (EIA report) were not entirely congruent, we have expressed both the views of the province and the municipality.

a. (the opinion of the Netherlands) as to whether the EIA documentation fulfilled the minimum content of requirements;

The province of Limburg notes that - in comparison to Dutch standard EIA reports, the EIA report for the power plant in Visé is not very extensive. This however can be attributed to the fact that in the Netherlands the EIA goes beyond the examination of techniques considered 'best available techniques (BBT)'. Due to the poor quality of the air in certain areas in the Netherlands, the research and range of techniques considered in EIA are more extensive than required according to the relevant Reference Document on Best Available Techniques (BREF). In Belgium this is not necessary. Therefore, the province of Limburg finds the research undertaken for the EIA report sufficient to enable a fair judgment with respect to the contents of the EIA report.

The municipality of Eijsden has formally expressed a different opinion. The municipality objected the intention of the Walloon government to issue a permit for the power plant at Visé , dated 23-03-09. In their objection the municipality stated that the necessity for building the power plant is not sufficiently justified in the non-technical summary of the EIA-report.

The municipality of Eijsden also appealed the final decision of the Walloon authorities on 11-09-2009. In this appeal the municipality of Eijsden mentions various grounds as to why in their view the permit is unrightfully issued. The following issues concern the EIA documentation and whether the EIA report fulfilled the minimum requirements:

- The consideration of transboundary effects for the Netherlands in the EIA report can be characterized as minimal (also as opposed to Flanders).
- The EIA report does not include the possible effects of the power plant on the hourly limit value concerning the particulate matter (PM10) in the so called zone 'South' , in which the municipality of Eijsden is situated, nor is motivated as to why this aspect was not taken into account.
- The most recent data for air quality were not used in the EIA report (data of 2005 and 2006 instead of the available data 2007 on air quality zones in the region)

- The EIA does not take into account the detrimental effects on the area of "Caesterveldt", a ecological valuable area, and the adjacent Habitat-area "Drielandenpark".
- Insufficient warrant for the protection of the Caesterveld area (insufficient mitigating measures)
- the EIA report did not take into account the – prior permitted - planned construction and development of the Trilogiport and the possible cumulative effects that might occur as a result of the power plant in Visé and the Trilogiport, especially when taking into consideration the current pollution.
- The EIA report does not consider 'heat production' as a (possibly detrimental) environmental effect.
- In several instances the EIA report lacks precise formulation; the non-technical summary contains numerous subjective interpretations, such as "can be reasonably assumed" and "is not that bad".

b. (the opinion of the Netherlands) whether, what and how alternatives are considered (as one of the specific requirements in the EIA documentation)

The province of Limburg states that the range of the Reference Document on Best Available Techniques for Large Combustion Plants (BREF LCP) has been examined in the EIA report. The 'common agreement' is that when the BREF document is followed adequately, additional research is not necessary.

The municipality of Eijsden questions whether alternative energy sources on alternative locations are reported on objectively.

c. Timeframe for public participation

With respect to the timeframe for public participation, the procedure of the Country of Origin (in casu the Walloon region) was followed.