



Aarhus Convention Compliance Committee
Attn. Ms Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
UN Economic Commission for Europe
Environment Division

P.O. Box 20061
2500 EB The Hague
The Netherlands
<http://www.government.nl>

Contact
Legal Department –
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Our reference :
Min-BuZa.2019.4444-12

Via email only

Date 5 November 2019
Re Communication ACCC/C/2014/124

Dear Ms. Marshall,

In response to your email of 16 September 2019 and the attached letter from Stichting Greenpeace Nederland of 13 September 2019, the Government of the Netherlands would make the following observations.

In judgment ECLI:NL:RVS:2018:3459 (24 October 2018) the Administrative Jurisdiction Division of the Council of State expressly held that its judgment of 20 December 2017 has a general scope and that the criterion for determining whether documents are deemed to be for internal consultation is whether the external third party has an interest in the matter other than providing the administrative authority with its input based on its own experience and expertise.¹ Contrary to the communicant's assertion, this line of case law is not limited to correspondence with permit holders or applicants, but applies to all categories of external parties.

The Government would once again point out that, under the Government Information (Public Access) Act (*Wet openbaarheid van bestuur*; WOB), information about personal opinions on policy that are contained in documents drawn up for the purpose of internal consultation within administrative authorities must not be disclosed. Amendments to or comments in draft documents (as opposed to the final document) are considered to be personal opinions on policy. If the environmental information in the document contains personal opinions on policy or is so closely linked to personal opinions on policy that this information cannot be separated, the public interest served by disclosure must be weighed on a case-by-case basis against the interest served by protecting personal opinions on policy. Factual information contained in documents drawn up for the purpose of internal consultation is not considered to constitute personal opinions on policy.

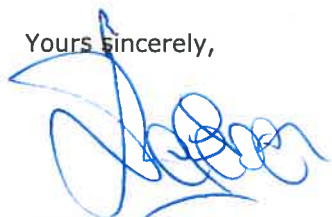
Please refer to the annexe for the original and translated versions of judgment ECLI:NL:RVS:2018:3459 (24 October 2018).

¹ Please refer to paragraphs 2.4 and 2.5 of the judgment in the annexe to this letter.

As regards the other arguments set out by Stichting Greenpeace Nederland in its letter of 13 September 2019, the Government of the Netherlands would refer to its previously expressed position on communication ACCC/C/2014/124.

Date
5 November 2019

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'René Lefeber', with a large, stylized initial 'R'.

René Lefeber
Legal Adviser