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ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE CONVENTION ON
ACCESS TO INFORMATION, PUBLIC PARTICIPATION
IN DECISION-MAKING AND ACCESS TO JUSTICE
IN ENVIRONMENTAL MATTERS**

Third meeting

Riga, Latvia, 11–13 June 2008

Item 6 (a) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention:

Reports on implementation

IMPLEMENTATION REPORT SUBMITTED BY THE NETHERLANDS¹

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

¹ The present document was submitted the above date due to resources constraints.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. The Convention is implemented in Dutch legislation by the following acts:
 - (a) Act on the approval of the Aarhus Convention² for the Kingdom of the Netherlands (Wet betreffende de goedkeuring van het Verdrag van Aarhus voor het Koninkrijk der Nederlanden, Stb. 2004, 518);
 - (b) Act on the implementation of the Aarhus Convention (Wet houdende tenuitvoerlegging van het Verdrag van Aarhus, Stb. 2004, 519).
2. The first act, which is a prerequisite for the ratification of the Convention in Dutch law, entered into force on 29 December 2004 and was deposited at the same date. This implies that since 29 March 2005 the Netherlands has become a Party in accordance with article 20 of the Convention. The second act, holding the material for adaptation of Dutch legislation to the Convention, entered into force on 14 February 2005.
3. The answers in this report are derived from the transposition table mentioned in the explanatory memorandum of the Act on the Implementation of the Aarhus Convention.
4. The Convention has mainly led to adaptation of Dutch legislation concerning the first pillar on access to environmental information. The second pillar has led to the introduction of public participation in a few environmental plans and programmes. The third pillar, on access to justice, has not led to adaptation of Dutch legislation.
5. The draft of this report was prepared in autumn 2007 by the Ministry of Housing, Spatial Planning and the Environment. Many other ministries were then consulted. During November 2007, the draft of this report was published for comment by the general public on the website of the Ministry of Housing, Spatial Planning and the Environment (www.vrom.nl) and was also sent to various non-governmental organizations (NGOs) known to be active in the field. Some of them forwarded the draft report to other organizations. The various comments received were used to complete this final report.

II. PARTICULAR CIRCUMSTANCES FOR UNDERSTANDING THE REPORT

6. No information was provided under this heading.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

Article 3, paragraph 2

7. Measures to ensure that officials and authorities provide and assist the required guidance is explicitly incorporated in article 3(4) of the Freedom of Information Act (de Wet openbaarheid

² The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

van bestuur) in conjunction with article 3, paragraph 45, and article 6, paragraph 23, of the General Administrative Law Act (GALA)(de Algemene wet bestuursrecht).

Article 3, paragraph 3

8. Measures to promote environmental education have not explicitly been translated into legislation. Currently, a new national policy for environmental education is in preparation. In 2004, a cooperative venture by six ministries, the association of provincial authorities and the association of water boards started the Learning for Sustainable Development Programme (LfSD). The core of all activities carried out through this programme is “social learning”: a process in which different groups, with different interests are brought together to explore values and knowledge to learn in a cooperative process for new - more sustainable - solutions.

Article 3, paragraph 4

9. Due to the broad definition of public concerned, as mentioned in the GALA, NGOs are adequately recognized and have broad access to participation in decision-making and to justice.

10. Measures are taken to promote citizens to realize their sustainable development ideas and create social cohesion in the Dutch civil society. Furthermore, there is an environmental and sustainable grant regulation for NGOs (SMOM-regeling), which enables them (and citizens through mediation by them) to receive subsidies for environment/sustainable development related projects or programmes.

Article 3, paragraph 7

11. Concerning the promotion of the Convention’s principles in international forums, the issues of transparency, access to information and public participation for the Netherlands are covered by the coordination mechanism’s instructions for international environmental agreements. The draft guidelines on the promotion of the Convention in other international forums are considered with the aim of strengthening the input and instructions in this field.

Article 3, paragraph 8

12. The exercise of the rights under the Convention is adequately guaranteed by the Environmental Management Act (Wet milieubeheer), the Freedom of Information Act and the General Act on Administrative Law. Moreover, article 1 of the Dutch Constitution contains an injunction on discrimination.

**IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION
OF ARTICLE 3**

13. In their reaction to the draft report several Dutch NGOs requested an increase of attention for the promotion of environmental education.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

14. No information was provided under this heading.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

15. Relevant information can be found at the following addresses:
www.overheid.nl (this site contains all national legislation), www.vrom.nl.

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

Article 4, paragraph 1

16. The procedural requirements regarding access to information are contained in the Freedom of Information Act. Provisions stating that any person has access to information without having to state an interest, that copies of the requested information be supplied and that the information be supplied in the requested form, are found in articles 2, 3 and 7. Besides the aforementioned act, the Archive Act 1995 contains similar provisions.

Article 4, paragraph 2

17. Article 6 of the Freedom of Information Act states that the requested information should be made available within two weeks, allowing for a delay of another two weeks, and providing the reasons for the delay.

Article 4, paragraphs 3 and 4

18. The provisions for refusing requests for environmental information are laid out in articles 10 and 11 of the Freedom of Information Act. The Archive Act 1995 contains similar provisions: article 14 states the principle that anyone is entitled to access documents which are held in archives; article 15a specifies the exceptions that may apply when requests relate to environmental information.

Article 4, paragraph 5

19. Where a public authority does not hold the information requested, the General Administrative Law Act, article 2, paragraph 3, requires the public authority to inform the applicant of the public authority to which it believes it is possible to apply for the information requested. It may also transfer the request to that authority and inform the applicant accordingly.

Article 4, paragraph 6

20. Articles 10 and 11 of the Freedom of Information Act explicitly provide for the release of the requested information unless, and as far as, the grounds for refusal apply. Consequently, the general rule is that (environmental) information is public. In accordance with established jurisprudence, the grounds for refusal have to be applied restrictively.

Article 4, paragraph 7

21. Article 3, paragraph 46, of the General Act on Administrative Law prescribes that all decisions taken by a public authority are adequately motivated and in written form.

Article 4, paragraph 8

22. The requirements concerning charges are implemented by a decision based on article 12 of the Freedom of Information Act (Besluit tarieven openbaarheid van bestuur). Besides this general framework, article 3, paragraphs 11 (3) and 22 (3), of the General Act on Administrative Law contains specific provisions on charges for the release of information in relation to public participation in specific decision-making.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

23. The main obstacle was the implementation of the Aarhus requirements concerning environmental information in the existing Freedom of Information Act on access to information in general. More specifically, the grounds for refusing access to environmental information had to be integrated in a general law, resulting in a specific regime. Procedural safeguards have been implemented in a general way and are thus applicable to all requests for information. The information about specific technical details in environmental permits is regulated in chapter 19 of the Environmental Act.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

24. Guidelines on the first pillar of the Convention (access to environmental information) have been drawn up by the Ministry of Housing, Spatial Planning and the Environment and representatives of the provinces, municipalities and water boards. Those guidelines can be found on the website of the Ministry of Housing, Spatial Planning and the Environment (www.vrom.nl). Guidelines for local authorities how to handle access to information are available at: www.infomil.nl. Moreover, the regime of the General Information Act was evaluated in January 2004 and was presented to Parliament on 10 May 2004. The evaluation is of a qualitative nature and contains a general description of the developments in the application and jurisprudence. Further information on the application of the Freedom of Information Act can be found at: www.minbzk.nl.

25. In the Netherlands the Internet is increasingly used for communication. About 80 per cent of the Dutch households have direct access to Internet. Many authorities and organizations publish (environmental) information on the Internet. One of the current challenges is to ensure that users can find requested information easily and quick within the vast quantity of information available online. Another challenge is to develop software to process (environmental) data into useful information. At present, much effort is being put into geographically based retrieval software. These projects are generally developed privately. In some cases, projects are subsidized.

26. Dutch NGOs indicated in their reaction to the draft report that both the availability and quality of information published on the Internet by provinces, municipalities and water boards differ significantly. The information quite often is processed and kept by different organizations. Furthermore, they indicate that data is not always accessible for inexperienced applicants.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

27. Relevant information can be found at the following addresses: www.overheid.nl, www.vrom.nl, www.minbzk.nl, www.infomil.nl

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

Article 5, paragraph 1

28. First of all, the General Administrative Law Act contains general provisions on collection and active dissemination of environmental information. Article 3, paragraph 2, requires that government bodies acquire and assess all relevant information prior to decision-making. Article 3, paragraph 46 also requires that all government decisions be motivated. This results in a general obligation to collect and assess (environmental) information.

29. Besides these general requirements, chapter 4 of the Environmental Management Act contains the following specific provisions on collection and dissemination of environmental information. Article 4, paragraph 2, stipulates that once every four years a scientific report must be drawn up at national level describing developments in environmental quality over a period of no less than 10 years. The description shall in any event be based on the most likely trends in the relevant conditions. This report shall also contain projections which could reasonably be assumed to take place in the period covered by the report. The same article also prescribes the drawing up of an annual scientific report describing developments in environmental quality resulting from the implementation of policy measures in the previous year. The report shall in any event indicate the extent to which the policy measures helped to achieve the results envisaged for a given year by the current national policy plan. The report shall also indicate how developments in environmental quality described therein relate to those mentioned in earlier reports. Article 4, paragraph 3, stipulates that at least once every four years, a national environmental policy plan must be drawn up to provide guidance to the Government. This plan

shall contain the main elements of the government environmental policy and shall take into account possible developments in society, the environmental quality in the long term and relevant international developments. At the regional level, article 4, paragraph 9, stipulates that the provinces must draw up at least once every four years a regional environmental policy plan containing the same elements as the aforementioned national plan. At the local level, municipalities may draw up a municipal environmental policy plan, but this is not compulsory.

30. The Environmental Management Act contains special provisions on the obligation to inform public authorities of activities that may significantly affect the environment. The main provisions are:

(a) Chapter 8, article 8, paragraph 1, requires a license to set up, operate or modify an establishment;

(b) When general rules apply to establishments not requiring a license (art. 8, para. 40), the operator has to notify the competent administrative authority pursuant to article 8, paragraph 41, and provide specific information to the authority;

(c) Chapter 7 contains provisions on environmental impact assessment, in the case of specific, large-scale activities or corresponding decisions with major environmental consequences;

(d) Chapter 17 contains specific provisions on measures to be taken in special circumstances. If an incident occurs or has occurred in an establishment causing adverse environmental effects, the operator is obliged to inform the competent authority thereof and provide the relevant information (causes, measures taken and other necessary information to reduce the consequences for the environment). In this respect, the Law on Disasters and Serious Incidents (*Wet rampen en zware ongevallen*) should also be mentioned. It provides a special framework for information provision and public notification;

(e) Chapter 19, article 2, requires authorities to inform involved persons of health and environmental hazards.

Article 5, paragraph 2

31. Concerning transparency and effective public accessibility, article 3, of the Archive Act 1995 obliges government bodies to keep all documents held by them in good order and accessible to the public. All government bodies are also obliged to appoint officials that provide general information and support to the public seeking access to information. The names of these civil servants can be found in the State Almanac (*de Staatsalmanak*).

Article 5, paragraph 3

32. Essential environmental information is stored in electronic databases that are easily accessible to the public:

(a) The aforementioned national environmental reconnaissance report is available at: www.mnp.nl. The national environmental policy plan is posted on the website of the Ministry of Housing, Spatial Planning and the Environment (www.vrom.nl);

(b) The texts of all acts, orders, decrees and international treaties are published in the State Bulletin or State Journal. Moreover, all the aforementioned legislation, in place since from 1995, is made available free of charge at www.overheid.nl. Most of the provincial regulations

can be found on the provincial websites. Projects to publish environmental information on the Internet are complex and costly. Required software is generally available. The most costly and time-consuming aspect is the digitalizing process of existing documents;

(c) Another important initiative is the so-called Action Program Electronic Government (Actieprogramma elektronische overheid), which aims at making available on the Internet all permits at the local, regional and national levels. For further information, see www.andereoverheid.nl.

Article 5, paragraph 4

33. See response above concerning Article 5, paragraph 1.

Article 5, paragraph 5

34. All legislation and policy documents regarding the environment as well as progress reports on implementation, are published in accordance with the Publishing Act (Bekendmakingswet) in the State Bulletin (*Staatsblad*) or State Journal (*Staatscourant*). Provincial and municipal regulations, plans and programmes are also published in accordance with provincial and municipal ordinances.

35. International treaties, conventions and other relevant international documents are published in the Treaty Bulletin (*Tractatenblad*). See also comments under section IX above.

Article 5, paragraph 6

36. Chapter 12, article 12, paragraphs 2 to 4, of the Environmental Management Act (Wet milieubeheer) requires that the operators of about 250 of the largest companies in the Netherlands draw up an environmental report. This should contain an overall description of the adverse effects caused by the establishment, including a summary of the relevant data and measures taken and facilities installed in order to protect the environment. According to article 12, paragraph 7, anybody shall be allowed to consult this report free of charge, or to receive a copy of this report.

Article 5, paragraph 7

37. Regarding access to environmental information, see the response concerning Article 5, paragraph 1, above. Information concerning the other two pillars of the Convention was already adequately embedded in Dutch legislation.

Article 5, paragraph 8

38. The Netherlands encourages the use of ecolabel and other (Dutch or international) product certification or hallmark systems (*milieukeur*). The Government also subsidizes an independent organization (Milieu centraal), which provides consumers with product information. Moreover, the European Directive on Eco-design will be implemented in the Environmental Management Act. There is also an annual subsidy to help NGOs take initiatives on sustainable consumption and production.

Article 5, paragraph 9

39. The Netherlands has had an emission registration system for more than 30 years. This system produces the data required for the national evaluation of environmental policy measures (e.g. the national environmental reconnaissance report) and for several environmental reports required to fulfil international obligations (e.g. the reporting obligations of the United Nations Framework Convention on Climate Change, the Convention on Long-range Transboundary Air Pollution, etc.). In 2003, the emission registration system provided data for the submission of the first report in accordance with European Commission (EC) Decision on the implementation of a European Pollutant Emission Register (EPER) under the Integrated Pollution Prevention and Control (IPPC) Directive. From 2008 onwards, the system will be used for the implementation of the Protocol on Pollutant Release and Transfer Registers under the Convention and the incorporation of the Pollutant Release and Transfer Register (PRTR) into the European PRTR. The information about emissions to air and water that is available in the emission registration system, is published on a website (www.emissieregistratie.nl). This site contains information about stationary sources based on the EPER-data, but also earlier data (1990 and 1995) as well as more recent information (2005 and 2006) based on the existing environmental reporting system. The information on the website is accessible in different ways: individual company, municipality, postal code, type of emission, industrial sector and year are the most important variables. The new version of the website has been presented to and discussed with stakeholders from the Government, environmental organizations and industry.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

40. In the context of the implementation of the European PRTR Regulation and the protocol on PRTRs, the alignment with the existing Annual Environment Report required discussion with stakeholders. In some respects, the existing system of environmental reporting in the Netherlands asks for more detail compared to the requirements of PRTRs, which brings about discussion whether this extra information (lower thresholds) should continue to be part of the Annual Environment Report.

41. Another limitation is that the environmental information required to be published on the PRTR website (yearly emissions of specific substances) is often not suitable for most citizens. Given the rather technical nature of the information, it is mainly used by professional users and environmental NGOs.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

42. No information was provided under this heading.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

43. Relevant information can be found at the following addresses: www.mnp.nl, www.vrom.nl, www.overheid.nl, www.andereoverheid.nl, www.emissieregistratie.nl .

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

Article 6, paragraph 1

44. Chapter 8 of the Environmental Management Act, and the Decree on Environmental management and licences based on that Act prescribe a licensing system for the proposed activities listed in annex I to the Convention. Article 8, paragraph 1, states that it is prohibited to set up, operate or modify an establishment or the operation thereof without a licence. In accordance with article 8, paragraph 6, of the Environmental Management Act, the extended public participatory procedure mentioned in section 3.5 of the General Administrative Law Act applies in the process of granting a permit. The activities included in article 6, annex I, of the Convention are listed in annex I of the Decree on Environmental Management establishments and licences.

45. Moreover, the Environmental Management Act, chapter 7, and the ensuing decision on the environmental impact assessment contain rules on the environmental impact assessment of activities similar to those listed in the aforementioned annex I.

46. In 2008, the number of establishments that have to comply with general rules instead of rules laid down in individual permits will increase considerably. This increase, however, will not apply to establishments with activities that are mentioned in annex I of the Convention.

Article 6, paragraphs 2 to 5

47. Measures taken to ensure that the public concerned is informed adequately and can participate more effectively in the decision-making procedure is implemented by article 13, paragraph 4, of the Environmental Management Act and section 3.5 of the General Administrative Law Act (see article 3, paragraphs 19 (2), 20, 21 (1) and 22 (1)). This latter section contains general provisions on public participation in environmental decision-making that must be taken into account when the application of this section is legally required, as in the case of granting environmental licences (see above). More specifically:

- (a) Article 3, paragraph 19, contains requirements on the timely public announcement of the draft decision;
- (b) Article 3, paragraph 20, contains requirements on the content of the announcement;
- (c) Article 3, paragraph 21, contains provisions on the relevant information that is available for the public;
- (d) Article 3, paragraph 22, contains provisions on public inspection.

48. Article 13, paragraph 4, of the Environmental Management Act contains special provisions concerning environmental impact assessments that have to be drawn up prior to a decision on a license.

Article 6, paragraph 6

49. Specific information related to environmental decision-making can be found in the Decree on Environmental Management and licences, chapter 5, concerning provision of information. Article 5, paragraph 1.1, specifies the information that the applicant has to provide when applying for a license to set up or operate an establishment, referred to in article 8, paragraph 1, of the Environmental Management Act. This information is made available to the public pursuant to article 3, paragraphs 21 and 22, mentioned above.

Article 6, paragraph 7

50. Procedures for public participation that allow the public to submit comments (in writing or orally), information analysis or opinions relevant to the proposed activity are implemented by the article 3, paragraphs 24 (1), and 25 (1), of the General Administrative Law Act.

Article 6, paragraph 8

51. Article 3, paragraph 27, of the General Administrative Law Act states that due account must be taken of the outcome of public participation.

Article 6, paragraph 9

52. Article 3, paragraph 41, of the General Administrative Law Act contains specific provisions on the public announcement of the decision. According to article 3, paragraph 42, a decision can also be deposited for public inspection. Article 3, paragraph 46, requires that reasons be given for a decision and article 3, paragraph 47, requires that these reasons be made public together with the decision.

Article 6, paragraph 10

53. The legal system described above also applies to reconsideration or updating of the operating conditions for the activities listed in annex I.

Article 6, paragraph 11

54. The Dutch Decree on Genetically Modified Organisms (GMOs)(Besluit GGO, based on EC Directives 90/219, 90/220, 98/81 and 2001/18) aims mainly to secure the safety of man and the environment. The procedural terms and conditions for decision-making with respect to GMOs (including public information, participation and access to justice) are regulated partly by the provisions of the General Administrative Law Act and partly by specific regulations in the Decree on GMOs. This legal system applies, where feasible and appropriate, to decisions on whether to permit the deliberate release of GMOs into the environment. The Dutch system

already complies with the guidelines on access to information, public participation and access to justice with respect to GMOs.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

55. No information was provided under this heading.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

56. No information was provided under this heading.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

57. Relevant information can be found at the following addresses: www.vrom.nl.

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

58. The public participation regime in drawing up plans and programmes is laid down in the extensive public participatory procedure mentioned in section 3.5 of the General Administrative Law Act (see the answer to article 6 above). The following plans and programmes relating to the environment are subject to public participation:

- (a) National, provincial and municipal environmental policy action plans (Environmental Management Act, chapter 4 (plans and programmes));
- (b) Memorandum on water management and water management plans at the national and regional levels (the Water management act);
- (c) National nature conservation plans (Nature Protection Act 1998);
- (d) Key planning decisions (The Town and Country Planning Act).

59. In more general terms, Dutch environmental policy aims at sustainable development and is based upon five “pillars”, one of which is to increase participation of citizens and companies in problem-solving. These pillars have been incorporated in an environmental strategy, the national environmental policy plan.

60. The Dutch approach is based on the premise that environmental improvement requires a multi-stakeholder approach and places great emphasis on the responsibility of the Government. The ministry with prime responsibility for the environment is the Ministry of Housing, Spatial Planning and the Environment, although other ministries are also involved.

61. In 2002, at the request of Parliament, the Ministry of Housing, Spatial Planning and the Environment initiated a programme called “Policymaking with citizens” (Beleid met Burgers). The programme aims to involve citizens in policymaking and to strengthen the citizen-orientation of civil servants involved in the ministries’ policymaking. Citizens are consulted through panels and surveys, invited to participate in debates, and to draw up solutions. The programme encourages a ministry to take more account of the ideas, expectations and views of citizens; to examine how policy measures affect their daily life; and to draft policies in collaboration with citizens. The programme also aims to strengthen the connections between NGO initiatives and citizens and between citizens’ initiatives and the Government. Citizen-oriented projects of civil servants are supported and stimulated through the provision of knowledge, skills and funding.

62. Other ministries are also looking for similar ways of involving citizens in policy development. The current Dutch Cabinet has pledged to allow for a greater public dialogue, thereby further reinforcing interest in interactive policy development.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

63. No information was provided under this heading.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

64. In their reaction to the draft report, Dutch NGOs indicated that the decision making process concerning environmental policy increasingly takes place at European Union (EU) level. They indicate that public participation at that level quite often is limited to Internet consultation which is in their opinion inadequate. In their view, participation is also hindered by the required high level of technical knowledge. Acquiring the necessary knowledge is difficult and quite often expensive. Furthermore, they observe a tendency of privatization in the research sector, which can cause conflicts of interest.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

65. No information was provided under this heading.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

66. Relevant information can be found at the following address:
www.vrom.nl/beleidmetburgers.

XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

67. Apart from the parliamentary procedure applicable to the preparation of acts e.g.(advice of the Council of State, an independent advisory body, followed by a parliamentary procedure in the Second and First Chamber), article 21, paragraph 6 (4), of the Environmental Management Act provides for extensive public participation in the preparation of orders relevant to the environment. This implies that draft orders are presented to both houses of the States General and published in the *Government Gazette*. People are given the opportunity to submit written comments on the drafts to the Minister of Housing, Spatial Planning and the Environment within a period stated therein of at least four weeks. These comments have to be taken into account in the further procedure. Local authorities like councils and provinces have similar procedures for legislation within their competence.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

68. No information was provided under this heading.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

69. No information was provided under this heading.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

70. All local authorities have websites that supply local information. As mentioned under section IX in this report, the content of websites can differ considerably.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

Article 9, paragraph 1

71. When a request for information is ignored, wrongfully refused, inadequately answered or otherwise not dealt with in accordance with article 4 of the Convention, article 7, paragraphs 1 and 10, of the General Administrative Law Act provides for a review procedure by the public authority that took the initial decision. The review procedure is free of charge (art. 7, para.15). Article 8, paragraph 1, of the same law also applies to the review procedure by a court of law (rechtbank). Article 8, paragraphs 67 and 77, contains provisions on the oral and written verdict.

Finally, there is a possibility of appeal against the decision by the court. The Council of State hears this appeal (art. 37 of the Act on the Council of State (Wet op de Raad van State)).

Article 9, paragraph 2

72. The possibility to challenge the substantive or procedural legality of decisions, acts or omissions according to article 6 of the Convention, is provided for in chapter 20 of the Environmental Management Act (see art. 20, paras. 1 (1 and 3), 6 (2), 10 (2) and 3). The basic rule is that appeals may be lodged with the Council of State (art. 20, para. 1). Article 20, paragraph 6, contains the provisions concerning appeals against decisions which are subject to the extensive public participatory procedure described in section 3.5 of General Administrative Law Act. This article thus applies to decisions on the activities mentioned in annex I, which are, as explained above in the section on implementation of article 6 – subject to the aforementioned procedure. An appeal may be lodged by anyone who has submitted reservations about the draft decision in the review procedure (art. 20, para. 6). This system can be described as an indirect *actio popularis*. Article 20, paragraph 10, regards appeals for the public concerned on decisions on the basis of the Environmental Management Act, for which section 3.5 of the General Administrative Law Act does not apply (see also the response to question 28 (c) below).

Article 9, paragraph 3

73. Members of the public may challenge acts or omissions by private persons or public authorities which contravene provisions of national environmental laws. Article 18, paragraph 14, of the Environmental Management Act stipulates firstly that any person may request an administrative authority to apply executive coercion, impose an order for a monetary penalty or withdraw a license or an exemption to make a decision to this effect. If that request is not adequately addressed, an appeal can be lodged in accordance with article 20, paragraph 10 (see also the answer to para. 2 above). Secondly, Dutch environmental legislation generally allows for an appeal to be lodged by anyone who has submitted reservations about the draft decision in the review procedure (art. 20, para. 6).

Article 9, paragraph 4

74. Provisions on effective access to justice (procedures that provide for effective remedies, including injunctive relief, and are fair, timely and not prohibitively expensive) are embedded in the provisions on the General Administrative Law Act (art. 8, paras. 41, 51, 72, 66, 67 and 81) and in the Environmental Management Act (art. 20, paras. 1 (3) and 6).

Article 9, paragraph 5

75. Adequate information on access to justice is to be found in article 3, paragraph 45, and article 6, paragraph 23, of the General Administrative Law Act. Removal or reduction of financial barriers is legally guaranteed by a special act on legal aid (Wet op de rechtsbijstand).

**XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION
OF ARTICLE 9**

76. No information was provided under this heading.

**XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE
PROVISIONS OF ARTICLE 9**

77. Verdicts of courts of law and The Council of State are supplied when requested. The verdicts are also accessible via internet: www.rechtspraak.nl and/or www.raadvanstate.nl.

**XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 9**

78. www.rechtspraak.nl, www.raadvanstate.nl

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION
TO THE PROTECTION OF THE RIGHT OF EVERY PERSON OF
PRESENT AND FUTURE GENERATIONS TO LIVE IN AN ENVIRONMENT
ADEQUATE TO HIS OR HER HEALTH AND WELL-BEING**

79. No information was provided under this heading.
