

Annex A Letter from the State Secretary for Infrastructure and Water Management
(Only relevant part is translated)

House of Representatives of the States-General

2

Session year 2018-2019

25 422 **Reprocessing of radioactive materials**

No. 253 LETTER FROM THE STATE SECRETARY FOR INFRASTRUCTURE AND WATER MANAGEMENT

To the President of the House of Representatives of the States-General

The Hague, 24 April 2019

On behalf of the Minister of Infrastructure and Water Management, I would like to inform you of the current situation regarding the unfulfilled pledge and later motion tabled by the MP Kröger (Parliamentary paper 25 422 no. 244), both of which relate to the design lifetime extension of the Borssele nuclear power plant and on which your House was to be kept informed. The Minister of Infrastructure and Water Management is involved because of her responsibility for the Environmental Impact Assessment (EIA) and the Espoo Convention¹. For further background information and a substantiation of the response below regarding the pledge and motion, I refer to the appendix to this letter².

Pledge relating to public participation regarding Borssele nuclear power plant

During the General Consultation on Nuclear Safety which took place on 28 November 2018³, I pledged to inform your House on how public participation is regulated where it concerns a lifetime extension of the Borssele nuclear power plant, following the findings of the Aarhus Convention Compliance Committee (hereinafter: Aarhus Compliance Committee).

The findings⁴ which the Netherlands received on 12 October 2018 correspond to a complaint by Greenpeace about the Long Term Operation licence based on the Nuclear Energy Act of 2013. With the Long Term Operation licence, the safety report linked to the licence was updated and the design lifetime of the Borssele nuclear power plant (the duration of the operations for which safety has been demonstrated) was set at the end of 2033.

¹ Convention 25 February 1991, Treaty Series 1991, no. 104.

² Can be consulted on www.tweedekamer.nl.

³ Parliamentary papers 25 422, no. 250

⁴ ACCC/2014/104.

The Aarhus Compliance Committee concluded in its advice to the Meeting of the Parties (MoP) that the Netherlands failed to comply with the obligation to allow public participation, pursuant to article 6 of the Aarhus Convention. The Committee issued the recommendation to the Netherlands to take all necessary legislative, regulatory and administrative measures to ensure that future reviews of or amendments to the lifetime of each nuclear activity comply with the participation and information requirements of the Aarhus Convention. The Committee considered it of great importance that it concerns a nuclear activity, namely a nuclear power plant.

In the preceding period and in anticipation of the decision of the MoP in 2021, I examined if additional legislative measures could and should be taken to improve public participation in future decision-making on the lifetime of nuclear activities (operating-e and design lifetime).

First and foremost this recommendation pertains to a specific case, namely the covenant concluded in 2006 limiting the operating time of a nuclear power plant. That covenant included the clause showing that the Dutch government will - for reasons other than safety - refrain from any measure that would prevent termination of operation in 2033. Another specific aspect is that legislation was amended for this decision. Having regard to this and after studying the above, I come to the conclusion that the options for public participation in covenants and legislation that sometimes precede the licensing of nuclear activities are generally properly provided for and do not, in response to the recommendation of the Aarhus Compliance Committee, require amendment.

It is a different matter where it concerns licences to review or amend the lifetime of nuclear activities. Although the Uniform Public Preparatory procedure was followed based on the General Administrative Law Act (GALA), this was not required by law for the Long Term Operation licence in the case of the Borssele nuclear power plant. Based on the Nuclear Energy Act, such a licence could be granted through the regular licensing procedure, therefore without application of the Uniform Public Preparatory procedure and without public participation, if no environmental impact is to be expected because of the lack of physical changes. To ensure in law that in future the Uniform Public Preparatory procedure is always followed for licences relating to a review or amendment of the duration of nuclear activities, I propose to amend Section 17 of the Nuclear Energy Act. This meets the recommendation of the Aarhus Committee. The Authority for Nuclear Safety and Radiation Protection (ANVS) has informed me that, in anticipation of the amendment's entry into force, it will work in its licensing practice in accordance with the proposed amendment. The Netherlands will inform the Aarhus Convention Committee in line with this conclusion.

(.....)

The State Secretary for Infrastructure and Watermanagement,
S. van Veldhoven-van der Meer