

QUESTION 4 ACC TO NLVOW

4. Please provide an English translation of the rows of the table in the explanatory memorandum for the SvWOL that you consider demonstrate your allegation that the specific locations for large scale wind farms had already been set through performance agreements entered in 2013 between the government and the provinces.

NLVOW REPLY TO QUESTION 4

This note and its conclusions are supported by three files in the special sub-directory for Question 4. In chronological order:

- Draft SvWOL published on 04-18-13.pdf
- Annotated table of comments from public on draft SvWOL.pdf
- Final SvWOL as adopted on 03-31-14.pdf

Wherever necessary in order to answer Question 4 I have added explanatory comments (in the .pdf “balloon” format) to these documents, also to meet the request of the Committee to provide an English translation. To translate these document in full is beyond that capabilities of the NLVOW. Scanning the “balloons” should suffice to support the allegations of the NLVOW in its Communication of November 2015 and in this reply to Question 4.

The analysis below is essentially based on the Annotated Table. The other two documents support the conclusion of that analysis by showing that, in terms of substance, draft and final version of the SvWOL are identical.

As was noted in the Communication, the SvWOL (2014) is an elaboration of the SVIR (2012) specifically for the spatial planning aspects of wind energy. Whereas the SVIR identified rather large areas as suitable for wind farms, the SvWOL is much more specific, detailed and comprehensive not just in relation to the selection of areas, but also in relation to a range of other aspects. The SvWOL is designed as the principal guide to the national government’s spatial policies in respect of wind energy.

In terms of text and substance the document “Annotated table of comments from public on draft SvWOL.pdf” is identical to the “Nota van Antwoord” of April 2013 in which the government responds to the comments from the public on the draft SvWOL. Part A of chapter 2 (p. 12 to p. 92) of the “Nota van Antwoord” summarizes all observations in the comments received and indicates whether or not (and how) the government intends to give follow up to a particular observation or point made in a comment.

Part B of chapter 2 provides *inter alia* a survey of all parties that submitted comments (p. 98 to p. 100). In that section I have marked the source of a comment (without any changes in the text).

- **In yellow:** comments received from a private organizations or individual persons.
- **In brown:** comments from a governmental organization (such as: a province or municipality) .
- **In turquoise:** comments received from a commercial organization.

For privacy reasons, individual persons were not identified by name, but were listed as “Particulier” (Individual person).

A total of 151 unique comments were received. However, the number of parties that submitted a comment is significantly larger as multiple parties submitted identical comments. If these identical comments are counted separately, the number of comments received from the public jumps to 514. Of the 151 unique comments, 23 came from governmental organizations, 21 from parties with commercial interests and 107 from private organizations or individual persons. If the 514 comments are considered, the balance is even more one-sided: the numbers for governmental organizations and commercial parties remain the same, but the total from private organizations and individual persons increases to 470.

Most of the comments from private organizations or individual persons were (highly) critical of the policy plans of the national government, especially in relation to the selection of areas deemed suitable for wind farms. Many governmental organizations also submitted critical observations.

Back to Part A of chapter 2.

In the last column of that section the government indicates if and how it will give follow up to each separate observation or point made in a comment. These responses come in five flavors:

- With a “geen” or a “-” the government indicates that there will be no follow up: 198 times.
- The government indicates it will edit the text or provide additional explanation: 7 times.
- The government indicates that a particular point has already been dealt with: 16 times.
- The government indicates that a point will be dealt with in another document: 14 times.
- The government indicates that a point is not relevant for the SvWOL: 32 times.

The implication is that of the 267 separate observations in the 151 (or: 514) comments, just 7 lead to some sort of follow up action, albeit that such action is limited to some minor text editing or some extra explanation. Accordingly, of the 267 substantive observations 260 observations did not result in any action at all.

This analysis can lead to just one conclusion: except for a few editorial changes the final version of the SvWOL is identical to the draft version. **All comments from the public did not result in a single substantive change.** This regardless of the fact that some issues addressed in the SvWOL - such as the location of wind farms - were (and are) highly controversial.

Accordingly, the allegation in the NLVOW Communication that for the SvWOL the government did not take into account the comments from the public is well-founded - in fact: most convincingly founded.

On the question of the Committee whether or not specific locations for large scale wind farms had already been set through performance agreements entered in 2013 between the government and the provinces:

- First, the SVIR of 2011 already identified several areas that were deemed suitable for large scale wind farms. See chapter 4 of the SVIR as adopted (file in the special directory for Question 3) where I have marked in yellow all references on the various maps to areas deemed suitable for wind farms. The NLVOW reply to Question 3 shows that all critical comments from provinces on the selection of these areas were set aside by the national government in the final SVIR.
- Second, that the areas had already been set, is confirmed by the fact that the SVIR also states explicitly that the national government and the provinces had agreed that through spatial planning they will make room for a total of 6000 MW of wind power in 2020. See the paragraph marked in yellow on p. 35 of the SVIR. The first sentence in English: “The national government and the provinces are responsible for making the continued growth of wind energy on land possible in spatial terms up to a minimum of 6000 MW in 2020.”

- Third, the SVIR raised the target of wind power in 2020 from 4.500 to 6.000 MW. Earlier, the provinces and the national government had agreed on the contribution of each province to realizing this 4.500 MW target. This agreement did not specify specific areas for wind farms, but provinces committed themselves to find, through spatial planning, enough room to realize their contribution to the national target of 4.500 MW.
- Finally, the SvWOL adopted in 2014 put all these previous agreements and commitments under one single umbrella and identified - after an extensive EIA - in each province the precise areas that are suitable for large scale wind farms so that a province could meet the performance standards - an agreed number of MWs in 2020 - that it had agreed to. See Annexes 1 to 10 for a detailed description of each area

One final observation on the legal status of the SvWOL. Under Netherlands law citizens have no access to an administrative law court to challenge a “structuurvisie” such as the SvWOL. This on the ground that a “structuurvisie” establishes policy guidelines that do not create legal obligations for citizens. Never mind, that the SvWOL selects in detail areas suitable for wind farms.

On behalf of the NLVOW,

A handwritten signature in black ink, appearing to read 'A.W. Koers', with a horizontal line underneath.

Prof.em. dr. Albert W. Koers