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Sent: Friday, July 9, 2021 11:34 AM

To: ECE-Aarhus-Compliance <aarhus.compliance@un.org>

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Subject: Follow-up open session on communication ACCC/C/2014/104 (Netherlands) at the Committee's 71st meeting (7-9 July)

Dear Fiona,

With reference to the open session this morning on the Committee's draft report on communication ACCC/C/2014/104 and the request by the Chair to provide this information as soon as possible, I herewith send you the questions and comments as raised by the Netherlands during the meeting. All written comments by the Government of the Netherlands on the Committee's draft report will follow in the course of next week.

Questions

- Does it follow from the combined findings in the current communication (C104) and the one concerning the European Union (C121) that not all reconsiderations or updates have to pass through public participation, but only those that are capable of having significant effects for the environment, as it is confirmed in article 6 (1)(a) and (b) of the Convention?
- And in addition, is the margin for not applying the provisions of article 6 (2)-(9) to reconsiderations or updates more limited when the effects for the environment are more significant?
- How does article 6 (10) relate to article 6 (1) and (6b), in particular the notion of "significant effect(s) (of the proposed activity) on the environment"?

Comments

- With respect to par. 42 of the draft report:
The Government likes to recall the additional information that has been submitted to the Committee on 27 March 2021, which sets out the content of the proposed amendment of the Nuclear Facilities Decree. The newly proposed Article 11a contains the requirements for an application to amend, supplement or withdraw restrictions or conditions subject to which a permit has been granted, "if this may have significant consequences for the environment" and not "with significant consequences for the environment" as quoted by the Committee in its draft report. This means that the Government does consider that there might be potential significant effects for the environment and that these effects should be taken into account in the decision-making, regardless whether these effects will actually occur.
- With respect to par. 46 of the draft report:
The Committee states that the Government has not yet provided evidence of how the information disclosed would include at least the information listed in article 6(6)(a)-(f) of the Convention. However, the Government recalls that the additional information that has been submitted to the Committee on 27 March 2021, which set out the content of the proposed amendment of the Nuclear Facilities Decree, provides that the newly proposed Article 11a includes all the requirements of article 6, paragraph 6, of the Convention.

- In general:
The Government would like to point out that with regard to reconsidering or updating the operating conditions for a license for a nuclear installation, public participation is always mandatory on the basis of section 19 in relation to section 20 of the Nuclear Energy Act. It makes no difference whether this reconsideration or update is done upon request or by the public authority. An unofficial translation of these sections is attached.

Kind regards,
Noortje

Ms Noortje van Rijssen
Legal Counsel



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