

**Response of the Netherlands with regard to Communication to the Aarhus Convention Compliance Committee concerning compliance by the Netherlands with access to information provisions of the Convention in connection with wind turbines (ACCC/C/2015/133)**

**7. During the preparation of the performance agreements that were entered in 2013 between the central government and the provinces,<sup>1</sup> did the public have an opportunity to comment on the locations for windfarms included in the draft agreements? If so, please describe the nature of the public participation procedure.**

The performance agreements between the Central Government and the provinces were concluded in the period between 2001 and 2014. In the performance agreements no specific locations for windfarms were included, only areas for wind power that were already identified as potential areas for wind power in the provincial spatial policies. The public had an opportunity to submit its views on these spatial policies, amongst others on the potential areas for windfarms, during the decision-making process. Consequently, the areas that resulted from this provincial spatial policy process were included in the National Policy Strategy for Infrastructure and Spatial Planning (*Structuurvisie Infrastructuur & Ruimte*, SVIR) and further developed in the National Policy Strategy for Onshore Wind Power (*Structuurvisie Windenergie op Land*, SVWoL).<sup>2</sup> Both these strategies have also been subject to public participation. The public had the opportunity to submit views on the intention to conclude these policy strategies. In a Memorandum with reactions it has been set out how these views were taken into account. Thereafter, the draft strategies were made available for examination with again the possibility to submit views. In a Memorandum with reactions and commentaries a response to all views on the draft strategies was given. The Memorandum with reactions concerning the intention to conclude the SVWoL set out that, in response to objections from the public to specific areas, the suitability of these areas would be further examined in the project-environmental impact assessment. It subsequently followed from the project-environmental impact assessment that all designated areas are suitable for wind power. However, particular attention was drawn to certain issues for the ensuing process, such as to the issue of quality of life.

Therefore, in the performance agreements between the Central Government and the provinces only those areas for windfarms were included for which public participation was previously provided in a careful provincial policy process.

The development of the spatial policy for wind power of one of the provinces is set out as an example below. This example is an illustration of the spatial policy processes in all other provinces. Public participation in the identification of areas for windfarms took place as part of the provincial spatial policy, the results of which were included in the performance agreements between the Central Government and the provinces.

In the draft Provincial Environmental Plan 2000 (*Provinciaal Omgevingsplan Groningen*, the 'POP'), the province of Groningen designated areas that were identified as potentially suitable for wind power on the basis of an exploratory examination. It concerned areas in or adjacent to the cities of Eemshaven, Delfzijl and Veendam and additionally a small area close to Lauwersoog. In the biennial preparation phase leading up to the draft POP, interactive communication with the public took place through public communication and participation campaigns "*Kom maar op*" and "*Kaarten op tafel*". The first draft POP was made available for examination during a period from 3 July – 8 September 2000. During this period everyone had the opportunity to submit their views on the first draft POP. On 11, 13 and 14 September 2000 central hearings were held in the provincial government building which offered the persons that submitted their views the possibility to explain these orally. The reports of these hearings were sent to all persons that submitted their views. In total 208 written views were submitted in respect of the draft POP. In a Memorandum with reactions and commentaries a response to all views on the draft POP was given and if needed, a proposal for alterations was provided. On page 147 and following of the Memorandum<sup>3</sup>, the views with regard to areas for windfarms are set out, as well as the responses. This shows that it was possible to submit views concerning the potential areas for windfarms specifically, which were taken into account in the decision-making process on the areas for wind power.

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<sup>1</sup> Communication, para. 38.

<sup>2</sup> Government's Statement, paras. 74-81.

<sup>3</sup> Annex to the Response.

In 2001 the Government and the provinces agreed to realise 1,500 MW of onshore wind power in 2010 (*Bestuursvereenkomst Landelijke Ontwikkeling Windenergie*). The province of Groningen had a goal of 165 MW.

In 2006 a new Provincial Environmental Plan was developed, the second POP. This plan included the same potential areas for windfarms as the previous POP. Public participation was also set up for the second POP. In 2009 a third POP followed. In this plan the province of Groningen translated the national goal of 6,000 MW of onshore wind power into its own provincial goal for wind power, 750 MW in 2019. The areas through which the province intended to realise this goal were identical to the areas from the first and second POP, with the exception of Lauwersoog. The province did not include the area near Lauwersoog in the third POP because the existing wind turbines in this area were removed in 2008 to mitigate the effects on the nature of the Waddenzee as a result of wind turbines near the Eemshaven. Public participation was also set up for the third POP.

This description of the development of the spatial policy on wind power demonstrates that the province of Groningen has held a consistent policy since 2000 in respect of the identification of areas for windfarms for which public participation was provided. It also shows that the province of Groningen identified potential areas for windfarms in the first POP before entering into performance agreements with the Central Government.

The development of the spatial policy on wind power of the province of Groningen illustrates the policy processes on wind power in all other provinces. Part of this process was the provision for public participation in the identification of areas for windfarms. Therefore, the performance agreements between the Central Government and the provinces only included the areas for windfarms for which public participation was provided ahead of the actual decision-making.

#### **8. With respect to the Netherlands' 2010 national renewable energy action plan (NREAP):**

**(a) Please provide the English text of the NREAP;**

**(b) Was the draft NREAP made available to the public for comments? If so, please:**

**(i) Describe the public participation procedure including the relevant timeframes for the public to comment and how the public was notified of their opportunity to comment.**

**(ii) Provide the document summarizing how the public's comments were taken into account in the preparation of the NREAP.**

As indicated in the Government's Statement, the Netherlands' 2010 national renewable energy action plan (NREAP) does not constitute a plan or programme relating to the environment subject to Article 7 of the Convention. The NREAP predominantly contained existing policies, brought together in a new document, but without changing the legal or political status of those policies. In the case of new policies, these were only announced in the plan and not adopted.

Since the NREAP did not contain new policies, its draft was not made available to the public for comments. The text was sent to parliament and the European Commission on 21 June 2010 and discussed with NGOs. Generally accessible information on the plan and Directive 2009/28/EC was provided on the website of SenterNovem (the Netherlands Enterprise Agency). The NREAP was discussed on 6 December 2010 and 30 March 2011 in the House of Representatives.

When drafting the NREAP, the Association of the Provinces of the Netherlands (*Interprovinciaal Overleg*, IPO) and the Association of Netherlands Municipalities (*Vereniging Nederlandse Gemeenten*, VNG) were involved. Additionally, on 16 April 2010 an external session for consultation/participation took place on the basis of the draft document. The session aimed to explain the draft and to verify whether it contained an adequate description of the policy for renewable energy applicable at the time. Organisations from the energy sector participated in the session, such as NGO's, public authorities and private parties. A large part of the invited stakeholders, 19 in total, were present during the session. Ahead of the session, the draft action plan was confidentially shared with the invited parties. During and after the event, (written) comments could be made to the draft. In consultation with the organisations that were present, a deadline for written comments, including possible text suggestions, was set on 28 April 2010. All oral comments made during the session were taken together, as well as the written comments received afterwards. All these comments were taken into account for the conclusion of the final version of the action plan. Participants in the external consultations (both on 16 April 2010 and afterwards) received a copy of the final NREAP.

No changes have been made to the 2010 NREAP itself, but since then the Energy Agreement (*Energieakkoord*) was concluded in 2013 and the Energy Dialogue was convened leading to the Energy Agenda in 2016. These instruments are not to be considered as national renewable energy action plans and were not sent to the European Commission on the basis of the obligations resulting from Directive 2009/28/EC. These instruments did not lead to modifications of the NREAP.

The NREAP is based on the following policy instruments:

The ***Werkprogramma Schoon en Zuinig (2007)*** is a governmental programme with ambitious targets that were set after consulting academic research institutions, actors from the industry, and environmental and social organisations. Specific attention is placed on the involvement of the public for the implementation of the measures.

The climate agreement between municipalities and the Central Government (***Klimaatakkoord gemeenten en rijk (2007-2011)***) and the climate-energy agreement between the Central Government and the provinces (***klimaat- energieakkoord tussen rijk en provincies***) provide additional guidance to the targets from the *Werkprogramma Schoon en Zuinig*. These are agreements between public authorities, not subject to public participation. However, the agreements offer space for public initiatives, such as educational activities on climate and energy at the municipal level.

In its energy report (***Energierapport 2008***) the Government presents its energy vision, building on the *Werkprogramma Schoon en Zuinig*. In the energy report the Government indicates its actions for the coming years and its expectations from other parties. In the framework of this report, public perception of nuclear energy was examined by an independent market research agency and an essay by the Netherlands Institute for Social Research (<https://zoek.officielebekendmakingen.nl/kst-31510-40.html>).

The ***Plan van aanpak Windenergie (2008)*** promotes the involvement of the public in realising the goal to (more than) double the wind power capacity by establishing a realistic image of the effects of wind power and encouraging local initiatives. Hence, the plan does not only enable participation of ministries, IPO, the Association of Netherlands Municipalities, the provincial environmental federations, environmental organizations and individual municipalities, but also of citizens and companies.

The *Plan van aanpak Windenergie* was elaborated in the National Spatial Perspective for Onshore Wind Power (***Nationaal Ruimtelijk Perspectief Windenergie op Land***) (2010). During the decision-making process on the National Spatial Perspective, the public was extensively involved.<sup>4</sup> In different settings and sessions the public was asked how it values wind power and how it perceives the involvement of its own region.

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<sup>4</sup> The text of the National Spatial Perspective for Onshore Wind Power is available online: [https://www.ijsselmeervereniging.nl/nieuws/2011/archief\\_2011\\_htm\\_files/Windenergie%20LUW%20Visie%20VROM%20wind%20op%20land%2020100621.pdf](https://www.ijsselmeervereniging.nl/nieuws/2011/archief_2011_htm_files/Windenergie%20LUW%20Visie%20VROM%20wind%20op%20land%2020100621.pdf). Para. 3.4 contains the views from the public.