

Advice by the Aarhus Convention Compliance Committee to the Netherlands concerning the implementation of paragraph 3 (a) of decision VII/8m

Adopted by the Committee on 28 November 2023¹

I. Introduction

1. On 22 April 2022, the Party concerned requested the Committee to provide it with advice on various questions it had regarding paragraph 3 (a) of decision VII/8m concerning the compliance of the Netherlands.
2. Pursuant to paragraph 36 (a) of the annex to decision I/7, the Committee, in consultation with the Party concerned, may provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention.
3. Accordingly, in reply to the Party concerned's questions of 22 April 2022, the Committee provides the following advice concerning the recommendation set out in paragraph 3 (a) of decision VII/8m.
4. By way of background, the recommendation in paragraph 3 (a) of decision VII/8m concerns the non-compliance found by the Committee in paragraph 88 of its [findings](#) on communication ACCC/C/2014/104 (Netherlands), endorsed by the Meeting of the Parties through paragraph 1 of [decision VII/8m](#).
5. While the present advice addresses each of the Party concerned's questions, so that the Committee's explanations can build upon one another, the order in which the questions are addressed differs from that set out in the Party concerned's request of 22 April 2022. For ease of reference, the Party concerned's questions are set out in italics throughout the advice.
6. The Committee completed its draft advice through its electronic decision-making procedure on 18 August 2022. In accordance with paragraph 34 of the annex to decision I/7, the draft advice was then forwarded to the Party concerned and the communicant of communications ACCC/C/2014/104 and ACCC/C/2014/124 on 24 August 2022 for their comments by 12 September 2022.
7. On 6 September 2022, the communicant of communications ACCC/C/2014/104 and ACCC/C/2014/124 provided its comments on the Committee's draft advice.
8. On 9 September 2022, the Party concerned requested an extension of the commenting deadline on the Committee's draft advice. It also asked the Committee to clarify whether other Parties to the Convention would be invited to submit their views on the draft advice.
9. On 13 September 2022, the Committee granted an extension of the commenting period on its draft advice, to apply to the communicant and observers also. The Chair also informed the Party concerned that it would request the secretariat to notify all Parties to the Convention of the possibility to submit comments on the draft advice.
10. On 28 September 2022, the Committee invited all Parties and stakeholders to comment on its draft advice by 9 November 2022.
11. On 9 November 2022, Czechia and the Party concerned each submitted their comments on the Committee's draft advice.
12. On 10 and 14 November 2022, respectively, Germany and the observer Irish Environmental Network submitted their comments on the Committee's draft advice.

¹ This text will be produced as an official United Nations document in due course. Meanwhile editorial or minor substantive changes (that is changes that have no impact on the findings and conclusions) may take place.

13. At its eightieth meeting (Geneva, 19–22 September 2023), the Committee proceeded to finalize its advice in closed session, taking account of the comments received. It thereafter adopted its advice through its electronic decision-making procedure on 28 November 2023. It requested the secretariat to send the advice to the Party concerned, communicant and observers and thereafter to publish the advice as an official document in the Convention’s three languages.

I General observations

14. The recommendation in paragraph 3 (a) of decision VII/8m stems from the Committee’s findings on communication ACCC/C/2014/104 (Netherlands), which concerned the reconsideration and update of the duration of a nuclear power plant. In those findings, the Committee found that “except in cases where a change to the permitted duration is for a minimal time and obviously would have insignificant or no effects on the environment, it is appropriate for extensions of duration to be subject to the provisions of article 6”.²

15. Subsequently, in its findings on communication ACCC/C/2014/121 (European Union), the Committee cited the above finding and held that:

... a similar test should be applied whenever a public authority reconsiders or updates an activity’s operating conditions.

Accordingly, when a public authority reconsiders or updates the operating conditions for an activity subject to article 6 of the Convention, except in cases where the reconsideration or update is not capable of significantly changing the basic parameters of the activity and will not address significant environmental aspects of the activity, public participation meeting the requirements of article 6 (2)–(9) is “appropriate” and thus required. It would be for a Party to demonstrate to the Committee that any possible change in the activity’s parameters would not be capable of significantly changing the basic parameters of the activity and would not address significant environmental aspects of the activity.

The Committee emphasises it is not the actual outcome of the reconsideration or the update that is determinative of whether public participation should be carried out. Rather, ... the key criterion is whether the reconsideration or update is “capable of” changing the activity’s basic parameters or will “address” significant environmental aspects of the activity. In this regard, the scope of what is to be considered “appropriate” must be even more limited if the update of the operating conditions may itself have a significant effect on the environment. However, it is not decisive whether the operating conditions of the activity will indeed ultimately be updated or will in fact have significant environmental effects. Likewise, it is immaterial that, if the operating conditions are updated, the updated conditions could in some respects have a beneficial effect on the environment, human health and safety. The crucial point is whether the reconsideration or update is “capable of” changing the activity’s basic parameters or will “address” significant environmental aspects of the activity.³

16. In the above excerpt from its findings on communication ACCC/C/2014/121 (European Union), the Committee makes clear that: “It would be for a Party to demonstrate to the Committee that any possible change in the activity’s parameters would not be capable of significantly changing the basic parameters of the activity and would not address significant environmental aspects of the activity”.⁴ For this reason, it will be important that competent public authorities maintain an accurate and up-to-date record each time the operating conditions of an activity subject to article 6 of the Convention are reconsidered or updated, including the determination on whether public participation was appropriate and thus required, or not, and the reasons why public participation was appropriate and thus required, or not, as the case may be.

² ECE/MP.PP/C.1/2019/3, para. 71.

³ ECE/MP.PP/C.1/2020/8, paras. 102–104.

⁴ ECE/MP.PP/C.1/2020/8, para. 103.

II. Operating conditions

“What constitutes ‘operating conditions’ as referred to in article 6 (10)? In the Committee’s view, is it possible that, for example, changes in certain administrative obligations, which require a reconsideration or update of the existing permit, are not considered to be ‘operating conditions’? Examples of such administrative obligations could be:

- *Adaption of the description of the management system, such as the description of the organizational structure, the organizational units or the required functions, or of the description of quality assurance systems, etc.;*
- *Changes in certain reporting or monitoring requirements;*
- *Changes in requirements related to knowledge management; etc”*

What constitutes “operating conditions”

17. In its [findings](#) on communication ACCC/C/2014/122 (Spain), the Committee held that: “for the purposes of article 6 (10), an activity’s “operating conditions” include all the conditions in the permit and not just the technical or functioning conditions affecting the production process.”⁵ In accordance with those findings, all conditions relating to the permit, whether or not they are contained in the permit itself, are to be considered as operating conditions. An example of a condition not contained in the permit itself may be an administrative obligation which is not specifically stated in the permit but is a condition of the activity’s continued operation. For the purposes of article 6 (10), such administrative obligations are to be considered as operating conditions.

18. Accordingly, to the extent that the examples provided by the Party concerned in its above question are conditions of the activity’s continued operation, they each constitute “operating conditions” of that activity. Consequently, if any of these conditions are to be reconsidered and/or updated then, in accordance with article 6 (10), the competent authority must determine whether public participation is appropriate and thus required.

19. Importantly, this does not mean that public participation will necessarily have to be carried out each time the administrative obligations, or any other operating conditions, of an activity subject to article 6 are reconsidered or updated. Rather, for each reconsideration or update, there must be a determination of whether public participation is “appropriate”, and thus required. If the reconsideration or update is “capable of significantly changing the basic parameters of the activity” or “will address significant environmental aspects of the activity”, then “public participation meeting the requirements of article 6 (2)–(9) is ‘appropriate’ and thus required” (see the Committee’s [findings](#) on communication ACCC/C/2014/121 (European Union)).⁶ A further criterion for determining whether public participation is “appropriate”, and thus required, may be whether there is significant public concern regarding the activity or the proposed reconsideration or update thereof.

Whether a change in an administrative obligation could “significantly change the basic parameters” or “address significant environmental aspects” of an activity

20. A change of an administrative obligation, or responsibility therefor, in the permit could “significantly change the basic parameters of an activity”. For example, in the Committee’s view, the identity of the operator, with its particular environmental management practices, environmental performance to date, and level of financial stability, is a basic parameter of the activity. While certain activities, such as nuclear power plants, may fall into the special category of “ultrahazardous activities”, every activity subject to article 6, by definition, is an activity which may have a significant effect on the environment. Accordingly, the identity of the operator is an important parameter for every activity subject to article 6. While the Committee does not consider that a mere change in the name of the operator would change the basic parameters of the activity, in contrast a change of operator may indeed be a significant change in the activity’s basic parameters for which public participation is appropriate and thus required.

⁵ ECE/MP.PP/C.1/2021/7, para. 73 (emphasis added).

⁶ ECE/MP.PP/C.1/2020/8, para. 103.

21. While it is difficult for the Committee to provide a view in the abstract on the examples cited by the Netherlands, the Committee considers that a reconsideration or update of an activity's quality assurance system or reporting or monitoring requirements may address significant environmental aspects of the activity and therefore require public participation. Similarly, if a particular management system or organizational structure was among the activity's operating conditions, then a reconsideration or update of that aspect may be capable of changing the basic parameters of the activity and therefore require public participation. However, on the basis of the very limited information before it, the Committee is not in a position to express a definitive view on the examples provided.

22. The Committee underlines that the application of article 6 (10) is by no means to be limited to situations where the relevant national legislation would require an environmental impact assessment to be carried out. For example, in certain legal systems, a change of operator would not necessarily require an environmental impact assessment. However, as discussed in paragraph 20 above, a change from an operator with a good environmental track record to one with a poor, or unknown, record of environmental performance would constitute a significant change in the activity's basic parameters, meaning that public participation is appropriate and thus required.

III. Relationship between annex I, paragraph 22, and article 6 (10)

“Can it be assumed that for a change or extension of a permitted activity for which no criteria or thresholds are envisaged in the annex only the significance test of article 6, paragraph 10 applies?”

“In the case of an activity with criteria or thresholds, can a proposed measure fall within the scope of both articles and therefore both tests? How do the two tests relate to each other in these cases and how should they be dealt with in practice?”

“Is the fact that the proposed measure does not lead to a physical intervention relevant for which test should be carried out?”

23. Annex I, paragraph 22, refers to a change or extension of an activity subject to article 6 of the Convention. The first sentence of paragraph 22 of annex I establishes that, where a change or extension of an activity listed in annex I meets the criteria/thresholds set out in annex I, that change or extension shall be subject to article 6 (1) (a) of the Convention.

24. For every other change or extension of an activity subject to article 6 of the Convention, whether it be an activity for which no criteria or threshold is set in annex I or where the change or extension does not meet the criteria in annex I, article 6 (1) (b) of the Convention applies. In accordance with article 6 (1) (b), the Party concerned must therefore determine whether the proposed change or extension “may have a significant effect on the environment”. If so, the proposed change or extension must be subject to public participation meeting the requirements of article 6 of the Convention.

25. Works or interventions involving alterations to the physical aspects of an existing activity subject to article 6 of the Convention constitute a “change or extension” within the scope of annex I, paragraph 22. However, paragraph 22 of annex I is not limited only to changes or extensions that will involve works or physical intervention.⁷

26. Importantly, if the existing activity is not already itself subject to article 6 of the Convention, paragraph 22 does not apply to a proposed change or extension of that activity.

27. Article 6 (10) refers to a reconsideration or update of the operating conditions for an activity subject to article 6 of the Convention. The reconsideration or update may entail a change or extension of the activity, but

⁷ In contrast with Commission notice regarding application of the Environmental Impact Assessment Directive (Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU) to changes and extension of projects - Annex I.24 and Annex II.13(a), including main concepts and principles related to these (2021/C 486/01), p. 5, and the judgments of the Court of Justice of the European Union in Case C-2/07, *Abraham and Others*, para. 23; Case C-275/09, *Brussels Hoofdstedelijk Gewest and Others*, para. 24; and Case C-121/11, *Pro-Braine and Others*, para. 32.

not necessarily so. In contrast, all proposed changes or extensions within the scope of paragraph 22 of annex I to the Convention will also constitute an update of the operating conditions for that activity. The scope of article 6 (10) is therefore broader than the scope of annex I, paragraph 22.

28. If the activity was already permitted, and subject to public participation, but is currently operating below the permitted level, a proposal to increase operations to the level set out in the permit does not amount either to a reconsideration or update under article 6 (10) or a proposed change or extension under paragraph 22 of annex I.

29. Both article 6 (10) and annex I, paragraph 22, serve the goals of the Convention, recognizing that “access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns”,⁸ and “aiming thereby to further the accountability of and transparency in decision-making and strengthen public support for decisions on the environment”.⁹ Accordingly, when determining whether public participation is required for a particular reconsideration, update, change or extension, it is appropriate to apply some form of significance test. However, as explained below, the nature of that test will necessarily differ in the light of the different purposes of the two provisions.

30. Paragraph 22 of annex I applies when a change or extension of an activity subject to article 6 has been proposed, and therefore the proposed nature and scale of the change or extension envisaged is already known. The test is accordingly whether the change or extension proposed “may have a significant effect on the environment”.

31. In contrast, when a public authority commences a reconsideration or update of the operating conditions of an activity, the public authority may not yet have determined whether the operating conditions will indeed be updated, and if so, in which respects. Until the nature and extent of the proposed update is known, it is not possible to assess whether it may have a significant effect on the environment. A broader, more flexible, test is therefore needed for determining when public participation is “appropriate” and thus required for a reconsideration or update under article 6 (10). In this vein, in its [findings](#) on communication ACCC/C/2014/121 (European Union), the Committee held that when a public authority reconsiders or updates the operating conditions for an activity subject to article 6 of the Convention, “except in cases where the reconsideration or update is not capable of significantly changing the basic parameters of the activity and will not address significant environmental aspects of the activity, public participation meeting the requirements of article 6 (2)–(9) is “appropriate” and thus required”.¹⁰ A further criterion for determining whether public participation is “appropriate”, and thus required, may be whether there is significant public concern regarding the activity or the proposed reconsideration or update thereof (see para. 19 above).

32. To take the example of a Periodic Safety Review (PSR), according to point 2.18 of the International Atomic Energy Agency’s Safety Standards, during the regulatory review stage of a PSR:

The regulatory body should review the PSR report prepared by the operating organization and the proposed safety improvements, should identify any issues it wishes to raise (for example, whether further safety improvements need to be considered), should review the proposed integrated implementation plan and should determine whether the licensing basis for the nuclear power plant remains valid.¹¹

33. The regulatory review stage of a PSR necessarily entails a determination by the regulatory body as to whether, in the light of its review of the PSR report, the nuclear power plant (NPP) concerned should be permitted to continue to operate. This amounts to a decision, tacit or otherwise, under article 6. Accordingly, the requirements of article 6 (10) apply to that determination.¹² However, it is only through carrying out the regulatory review that the regulatory body ascertains whether the operating conditions for the NPP should be updated, and if so, in which respects. In its findings on communication ACCC/C/2016/143 (Czechia), the Committee examined

⁸ Aarhus Convention, ninth preambular paragraph.

⁹ Ibid., tenth preambular paragraph, ECE/MP.PP/2011/11/Add.3, para. 56, and ECE/MP.PP/C.1/2020/8, para. 97.

¹⁰ ECE/MP.PP/C.1/2020/8, para. 103.

¹¹ International Atomic Energy Agency (IAEA), Periodic Safety Review for Nuclear Power Plants, IAEA Safety Standards Series No. SSG-25 (Vienna, 2013), pp. 7–8.

¹² ECE/MP.PP/C.1/2021/28, para. 115.

whether public participation was “appropriate” and thus required during the regulatory review stage of a PSR. Applying the criteria identified in its findings on communication ACCC/C/2014/121 (European Union) (see para. 31 above), the Committee held:

The regulatory review stage of a PSR is accordingly “capable of changing the basic parameters” of the NPP, including determining whether the licensing basis and operating conditions for the NPP remain valid or should be changed. The Committee therefore considers it is “appropriate” and thus required, for the Party concerned to apply the provisions of article 6 (2)–(9) when carrying out the regulatory review of each 10-yearly periodic safety review.¹³

34. To further illustrate its advice in paragraphs 23 - 33 above, the Committee provides examples of various situations in paragraphs 35–36 below.

35. For an existing activity subject to article 6 of the Convention, in the case of a proposed reconsideration or update which does not in itself entail a proposed change or extension of the activity (e.g. the regulatory review stage of a PSR), then only article 6 (10) applies. The competent public authority must then determine whether public participation is “appropriate” and thus required.

36. In the case of a proposed change or extension to an existing activity:

- (a) For an existing activity for which criteria/thresholds are set in annex I of the Convention and where the existing activity meets the criteria/thresholds listed therein, if there is a proposed change or extension that will itself also meet those criteria/thresholds, then, by virtue of annex I, paragraph 22, first sentence, article 6 (1) (a) applies and public participation is required on the proposed change or extension.
- (b) For an existing activity for which criteria/thresholds are set in annex I of the Convention and the existing activity meets those criteria or thresholds, if there is a proposed change or extension that will not in itself meet those criteria/thresholds, then annex I, paragraph 22, second sentence, applies and the screening determination in article 6 (1) (b) must be carried out.

If the outcome of the screening determination under article 6 (1) (b) is that the proposed change or extension may have a significant effect on the environment, then public participation is required.

Alternatively, if the competent public authority, applying the test in article 6 (1) (b), determines that the proposed change or extension will not have a significant effect on the environment, it must then proceed to apply the test under article 6 (10) to determine whether public participation on the proposed change or extension is nevertheless “appropriate” and thus required.

- (c) For an existing activity for which criteria/thresholds are set in annex I of the Convention and the existing activity does not itself meet the criteria or thresholds set in annex I of the Convention, if a change or extension of the activity is proposed that will mean that the activity taken as a whole meets the criteria or thresholds set in annex I of the Convention, then article 6 (1) (a) applies and public participation is required with respect to the activity as a whole.

For the avoidance of doubt, the Committee clarifies that paragraph 22 of annex I does not apply in this situation, because paragraph 22 only applies to changes or extensions of activities that are themselves subject to article 6.

Rather, in accordance with article 6 (1) (a), public participation is required on the activity as a whole. This accords with the logic of the Convention, since neither the existing activity nor the proposed change or extension have previously been subject to public participation.

- (d) For an existing activity for which criteria/thresholds are set in annex I of the Convention and the existing activity does not itself meet the criteria or thresholds set in annex I of the Convention, if a change or

¹³ ECE/MP.PP/C.1/2021/28, paras. 122-123.

extension of the activity is proposed that will mean that, under the legal framework of the Party concerned, the activity taken as a whole requires screening as to whether it may have a significant effect on the environment, article 6 (1) (b) applies. If, as a result of the screening, it is determined that the activity taken as a whole may have a significant effect on the environment, pursuant to article 6 (1) (b) public participation is thus required on the activity as a whole.

As for paragraph (c) above, that public participation is required on the activity as a whole accords with the logic of the Convention, since neither the existing activity nor the proposed change or extension have previously been subject to public participation.

- (e) For an existing activity listed in annex I for which no criteria or thresholds are set in annex I, if a change or extension of the activity is proposed, then annex I, paragraph 22, second sentence, applies and the screening determination in article 6 (1) (b) must be carried out.

If the outcome of the screening determination under article 6 (1) (b) is that the proposed change or extension may have a significant effect on the environment, then public participation is required.

Alternatively, if the competent public authority, applying the test in article 6 (1) (b), determines that the proposed change or extension will not have a significant effect on the environment, it must then proceed to apply the test under article 6 (10) to determine whether public participation on the proposed change or extension is nevertheless “appropriate” and thus required.

37. The situations described in paragraphs 35–36 above are illustrated in the diagram provided in the annex to the present advice. Note: In the case of any disparity between the diagram and paragraphs 35–36 above, paragraphs 35–36 are to be considered authoritative.

38. By way of additional clarification, in its request for advice the Netherlands refers to the Committee’s [findings](#) on communication ACCC/C/2009/41 (Slovakia) in which the Committee stated at paragraph 58 that, for those activities listed in annex I for which the Convention does not establish any criteria or thresholds (including nuclear power stations):

By virtue of the first sentence of paragraph 22 of annex I ... in principle, all changes or extensions to such activities are subject to article 6. However, bearing in mind that a change or extension to already permitted activities requires reconsideration or updating of the existing permit, the provisions of article 6 would apply “mutatis mutandis, and where appropriate”, as stipulated in article 6, paragraph 10.¹⁴

39. The Committee welcomes the opportunity to clarify the excerpt from paragraph 58 quoted above since the Committee’s understanding of how the Convention applies to changes or extensions of activities for which no threshold is set in annex I of the Convention has substantially evolved in the eleven years since those findings were adopted. The clarification provided in paragraph 40 below accordingly supersedes the excerpt from paragraph 58 quoted above. The Committee notes that, since it had already determined in paragraph 57 of its findings that the activity at issue was required to undergo public participation under article 6 (10) of the Convention, paragraph 58 was in any event *obiter dictum*.

40. As explained in paragraph 36 (e) above, in the case of an activity listed in annex I of the Convention for which no criteria or thresholds are set, the competent public authority must, by virtue of annex I, paragraph 22, second sentence, apply the test in article 6 (1) (b) to determine whether the proposed change or extension may have a significant effect on the environment. If the proposed change or extension may do so, then public participation under article 6 of the Convention is required. Alternatively, if the competent public authority, applying the test in article 6 (1) (b), determines that the proposed change or extension will not have a significant effect on the environment, it must then proceed to apply the test under article 6 (10) to determine whether public participation on the proposed change or extension is nevertheless “appropriate” and thus required (see para. 36 (e) above).

¹⁴ ECE/MP.PP/2011/11/Add.3, para. 58.

IV. “Capable of significantly changing basic parameters” v. “will address significant environmental aspects”

41. As an initial point, the Committee recalls (see para. 27 above) that while all proposed changes or extensions within the scope of paragraph 22 of annex I to the Convention will also constitute a reconsideration and/or update of the operating conditions for that activity, a reconsideration or update under article 6 (10) will not necessarily entail a change or extension of the activity.

“Will address significant environmental aspects of the activity”

“Could you please provide practical guidance on what constitutes ‘significant environmental aspects’ or examples of cases that ‘will address significant environmental aspects’, in general and especially for nuclear activities? We would expect that the term ‘environmental aspects’ relates to article 2 (3) of the Aarhus Convention which mentions the nature of environmental information. Is it possible that what constitutes ‘significant environmental aspects’ differs from case to case? When is an environmental aspect ‘significant’?”

42. With respect to what constitute the “environmental aspects” of an activity, in its [findings](#) on communication ACCC/C/2012/88 (Kazakhstan), the Committee held:

The Committee considers, as also stated in the Implementation Guide, that whether a particular plan or programme relates to the environment should be determined with reference to the implied definition of “environment” found in the definition of “environmental information” (article 2, para. 3).¹⁵

43. In line with the above findings, the Committee considers that the implied definition of “environment” found in the definition of “environmental information” in article 2 (3) of the Convention serves as a useful reference regarding the environmental aspects of an activity.

44. To identify which, if any, environmental aspects of a particular activity may be “significant”, the Committee considers that the criteria listed in [appendix III of the Espoo Convention](#) and [Annex IIA](#) and [Annex III of the EIA Directive](#) are useful starting points.

45. These references also demonstrate that activities’ environmental aspects, and the significance thereof, will differ from case to case.

“Capable of significantly changing basic parameters”

“Could you please provide practical guidance on what constitutes a ‘basic parameter’ or examples of cases that are ‘capable of significantly changing the basic parameters’ in general and especially for nuclear activities?”

“We understand ... that basic parameters may include type, size and location. Could you please confirm that this is what constitutes a ‘basic parameter’. Are there other basic parameters?”

46. As a preliminary point, the Committee considers that it is not possible to provide an exhaustive list of what constitutes an activity’s basic parameters as these will necessarily vary depending on the nature of the activity itself.

47. That said, the basic parameters of an activity are usually set out in the permit itself.

48. A non-exhaustive list of the most obvious basic parameters includes the nature, size and dimensions, location, hours of operation and duration of the activity and the identity of the operator. The basic parameters of an activity, including of a nuclear activity, will also include any conditions relating to the permit required to address significant environmental aspects of that activity, such as for example, required waste management approaches, limits on water consumption, radiation and emissions, including noise, and safety measures to reduce the risk of severe accidents or accidental releases of radioactive or toxic substances into the environment.

¹⁵ ECE/MP.PP/C.1/2017/12, para. 128, citing *The Aarhus Convention: An Implementation Guide*, United Nations publication, Sales No. E.13.II.E.3, p. 176.

49. In accordance with the Committee's [findings](#) on communication ACCC/C/2014/121 (European Union),¹⁶ unless an activity's basic parameters are not capable of being significantly changed as a result of a particular reconsideration or update, then public participation is appropriate, and is thus required to be carried out in the context of that reconsideration or update.

Difference between “capable of significantly changing basic parameters” and “addressing significant environmental aspects”

“What is the difference between ‘capable of significantly changing basic parameters’ and ‘whether it will address significant environmental aspects of the activity’?”

50. As explained above, the basic parameters of the activity are usually set out in the permit itself. An activity's basic parameters include the measures required to address significant environmental aspects of that activity but, as demonstrated by the examples listed in paragraph 48 above, are not limited to them. There will therefore usually be considerable crossover between an activity's “basic parameters” and its “significant environmental aspects”. For example, the emission limits or the waste management approaches set in the permit for an activity may be both “basic parameters” and address “significant environmental aspects” of the activity.

Conclusion

51. The Committee welcomes the proactive approach demonstrated by the Party concerned through its request for the Committee to provide it with advice regarding the implementation of paragraph 3 (a) of decision VII/8m. The Committee also commends the questions posed by the Party concerned in its request, as these have enabled the Committee to focus its advice on the points upon which the Party concerned considered it needed assistance in particular. To this end, the Committee's advice regarding the questions posed by the Party concerned are set out in paragraphs 14–50 above.

¹⁶ ECE/MP.PP/C.1/2020/8, para. 103.

Annex: Applying article 6 of the Aarhus Convention to the reconsideration, update, change or extension of existing activities

