

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2008 Nr. 2

A. TITEL

*Verdrag betreffende toegang tot informatie, inspraak in besluitvorming
en toegang tot de rechter inzake milieuaangelegenheden;
(met Bijlagen)
Aarhus, 25 juni 1998*

B. TEKST

De Engelse en de Franse tekst van het Verdrag, met Bijlagen, zijn geplaatst in *Trb.* 1998, 289.

Tijdens de tweede bijeenkomst te Almaty van de Partijen bij het Verdrag werd op 27 mei 2005 in overeenstemming met artikel 4, vierde lid, een besluit tot wijziging van het onderhavige Verdrag aangenomen. De Engelse tekst van de wijziging luidt als volgt:

Amendment to the Convention

Article 6, paragraph 11

For the existing text, substitute

11. Without prejudice to article 3, paragraph 5, the provisions of this article shall not apply to decisions on whether to permit the deliberate release into the environment and placing on the market of genetically modified organisms.

Article 6 bis

After article 6, insert a new article reading

Article 6 bis

Public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms

1. In accordance with the modalities laid down in annex I bis, each Party shall provide for early and effective information and public participation prior to making decisions on whether to permit the deliberate release into the environment and placing on the market of genetically modified organisms.

2. The requirements made by Parties in accordance with the provisions of paragraph 1 of this article should be complementary and mutually supportive to the provisions of their national biosafety framework, consistent with the objectives of the Cartagena Protocol on Biosafety.

Annex I bis

After annex I, insert a new annex reading

Annex I bis

Modalities referred to in article 6 bis

1. Each Party shall lay down, in its regulatory framework, arrangements for effective information and public participation for decisions subject to the provisions of article 6 bis, which shall include a reasonable time frame, in order to give the public an adequate opportunity to express an opinion on such proposed decisions.

2. In its regulatory framework, a Party may, if appropriate, provide for exceptions to the public participation procedure laid down in this annex:

a) In the case of the deliberate release of a genetically modified organism (GMO) into the environment for any purpose other than its placing on the market, if:

(i) Such a release under comparable bio-geographical conditions has already been approved within the regulatory framework of the Party concerned; and

(ii) Sufficient experience has previously been gained with the release of the GMO in question in comparable ecosystems;

b) In the case of the placing of a GMO on the market, if:

(i) It was already approved within the regulatory framework of the Party concerned; or

(ii) It is intended for research or for culture collections.

3. Without prejudice to the applicable legislation on confidentiality in accordance with the provisions of article 4, each Party shall make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release into the environment or the placing on the market of a GMO on its territory, as well as the assessment report where available and in accordance with its national biosafety framework.

4. Parties shall in no case consider the following information as confidential:

- a) A general description of the genetically modified organism or organisms concerned, the name and address of the applicant for the authorization of the deliberate release, the intended uses and, if appropriate, the location of the release;
- b) The methods and plans for monitoring the genetically modified organism or organisms concerned and for emergency response;
- c) The environmental risk assessment.

5. Each Party shall ensure transparency of decision-making procedures and provide access to the relevant procedural information to the public. This information could include for example:

- (i) The nature of possible decisions;
- (ii) The public authority responsible for making the decision;
- (iii) Public participation arrangements laid down pursuant to paragraph 1;
- (iv) An indication of the public authority from which relevant information can be obtained;
- (v) An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments.

6. The provisions made pursuant to paragraph 1 shall allow the public to submit any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release, including placing on the market, in any appropriate manner.

7. Each Party shall endeavour to ensure that, when decisions are taken on whether to permit the deliberate release of GMOs into the environment, including placing on the market, due account is taken of the outcome of the public participation procedure organized pursuant to paragraph 1.

8. Parties shall provide that when a decision subject to the provisions of this annex has been taken by a public authority, the text of the deci-

sion is made publicly available along with the reasons and considerations upon which it is based.

C. VERTALING

Zie Trb. 2001, 73.

D. PARLEMENT

Zie Trb. 2005, 22.

De wijziging van het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan de wijziging kan worden gebonden.

E. PARTIJGEGEVENS

Verdrag

Zie rubriek E van Trb. 1998, 289 en rubriek F van Trb. 2001, 73.

Partij	Onder-tekening	Ratificatie	Type*	In werking	Opzeg-ging	Buiten werking
Albanië	25-06-98	27-06-01	R	30-10-01		
Armenië	25-06-98	01-08-01	R	30-10-01		
Azerbeidzjan		23-03-00	T	30-10-01		
Belarus	16-12-98	09-03-00	R	30-10-01		
België	25-06-98	21-01-03	R	21-04-03		
Bulgarije	25-06-98	17-12-03	R	16-03-04		
Cyprus	25-06-98	19-09-03	R	18-12-03		
Denemarken	25-06-98	29-09-00	R	30-10-01		
Duitsland	21-12-98	15-01-07	R	15-04-07		
EG (Europese Gemeenschap)	25-06-98	17-02-05	R	18-05-05		
Estland	25-06-98	02-08-01	R	31-10-01		

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Finland	25-06-98	01-09-04	R	29-11-04		
Frankrijk	25-06-98	08-07-02	R	06-10-02		
Georgië	25-06-98	11-04-00	R	30-10-01		
Griekenland	25-06-98	27-01-06	R	27-04-06		
Hongarije	18-12-98	03-07-01	R	30-10-01		
Ierland	25-06-98					
IJsland	25-06-98					
Italië	25-06-98	13-06-01	R	30-10-01		
Kazachstan	25-06-98	11-01-01	R	30-10-01		
Kroatië	25-06-98	27-03-07	R	25-06-07		
Kyrgyzstan		01-05-01	T	30-10-01		
Letland	25-06-98	14-06-02	R	12-09-02		
Liechtenstein	25-06-98					
Litouwen	25-06-98	28-01-02	R	28-04-02		
Luxemburg	25-06-98	25-10-05	R	23-01-06		
Macedonië, Voormalige Joegoslavische Republiek		22-07-99	T	30-10-01		
Malta	18-12-98	23-04-02	R	22-07-02		
Moldavië	25-06-98	09-08-99	R	30-10-01		
Monaco	25-06-98					
Nederlanden, het Koninkrijk der – Nederland – Ned. Antillen – Aruba	25-06-98	29-12-04 – –	R	29-03-05 – –		
Noorwegen	25-06-98	02-05-03	R	31-07-03		
Oekraïne	25-06-98	18-11-99	R	30-10-01		
Oostenrijk	25-06-98	17-01-05	R	17-04-05		

Partij	Onder-tekening	Ratificatie	Type*	In werking	Opzeg-ging	Buiten werking
Polen	25-06-98	15-02-02	R	16-05-02		
Portugal	25-06-98	09-06-03	R	07-09-03		
Roemenië	25-06-98	11-07-00	R	30-10-01		
Slovenië	25-06-98	29-07-04	R	27-10-04		
Slowakije		05-12-05	T	05-03-06		
Spanje	25-06-98	29-12-04	R	29-03-05		
Tadzjikistan		17-07-01	T	30-10-01		
Tsjechië	25-06-98	06-07-04	R	04-10-04		
Turkmenistan		25-06-99	T	30-10-01		
Verenigd Koninkrijk, het	25-06-98	23-02-05	R	24-05-05		
Zweden	25-06-98	20-05-05	R	18-08-05		
Zwitserland	25-06-98					

* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrachtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend

Verklaringen, voorbehouden en bezwaren

Denemarken, 25 juni 1998

Both the Faroe Islands and Greenland are self-governing under Home Rule Acts, which implies inter alia that environmental affairs in general and the areas covered by the Convention are governed by the right of self-determination. In both the Faroe and the Greenland Home Rule Governments there is great political interest in promoting the fundamental ideas and principles embodied in the Convention to the extent possible. However, as the Convention is prepared with a view to European countries with relatively large populations and corresponding administrative and social structures, it is not a matter of course that the Convention is in all respects suitable for the scarcely populated and far less diverse societies of the Faroe Islands and of Greenland. Thus, full implementation of the Convention in these areas may imply needless and inadequate bureaucratization. The authorities of the Faroe Islands and of Greenland will analyse this question thoroughly.

Signing by Denmark of the Convention, therefore, not necessarily means that Danish ratification will in due course include the Faroe Islands and Greenland.

Duitsland, 21 december 1998

The text of the Convention raises a number of difficult questions regarding its practical implementation in the German legal system which it was not possible to finally resolve during the period provided for the signing of the Convention. These questions require careful consideration, including a consideration of the legislative consequences, before the Convention becomes binding under international law.

The Federal Republic of Germany assumes that implementing the Convention through German administrative enforcement will not lead to developments which counteract efforts towards deregulation and speeding up procedures.

EG (Europese Gemeenschap), 25 juni 1998

The European Community wishes to express its great satisfaction with the present Convention as an essential step forward in further encouraging and supporting public awareness in the field of environment and better implementation of environmental legislation in the UN/ECE region, in accordance with the principle of sustainable development.

Fully supporting the objectives pursued by the Convention and considering that the European Community itself is being actively involved in the protection of the environment through a comprehensive and evolving set of legislation, it was felt important not only to sign up to the Convention at Community level but also to cover its own institutions, alongside national public authorities.

Within the institutional and legal context of the Community and given also the provisions of the Treaty of Amsterdam with respect to future legislation on transparency, the Community also declares that the Community institutions will apply the Convention within the framework of their existing and future rules on access to documents and other relevant rules of Community law in the field covered by the Convention.

The Community will consider whether any further declaration will be necessary when ratifying the Convention for the purpose of its application to Community institutions.

EG (Europese Gemeenschap), 17 februari 2005

The European Community declares that, in accordance with the Treaty establishing the European Community, and in particular Article 175 (1) thereof, it is competent for entering into international agreements, and for implementing the obligations resulting there from, which contribute to the pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at international level to deal with regional or world-wide environmental problems.

Moreover, the European Community declares that it has already adopted several legal instruments, binding on its Member States, implemen-

ting provisions of this Convention and will submit and update as appropriate a list of those legal instruments to the Depositary in accordance with Article 10 (2) and Article 19 (5) of the Convention. In particular, the European Community also declares that the legal instruments in force do not cover fully the implementation of the obligations resulting from Article 9 (3) of the Convention as they relate to administrative and judicial procedures to challenge acts and omissions by private persons and public authorities other than the institutions of the European Community as covered by Article 2 (2)(d) of the Convention, and that, consequently, its Member States are responsible for the performance of these obligations at the time of approval of the Convention by the European Community and will remain so unless and until the Community, in the exercise of its powers under the EC Treaty, adopts provisions of Community law covering the implementation of those obligations.

Finally, the Community reiterates its declaration made upon signing the Convention that the Community institutions will apply the Convention within the framework of their existing and future rules on access to documents and other relevant rules of Community law in the field covered by the Convention.

The European Community is responsible for the performance of those obligations resulting from the Convention which are covered by Community law in force.

The exercise of Community competence is, by its nature, subject to continuous development.

Declaration by the European Community concerning certain specific provisions under directive 2003/4/EC

In relation to Article 9 of the Aarhus Convention, the European Community invites Parties to the Convention to take note of Article 2 (2) and Article 6 of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on Public Access to Environmental Information. These provisions give Member States of the European Community the possibility, in exceptional cases and under strictly specified conditions, to exclude certain institutions and bodies from the rules on review procedures in relation to decisions on requests for information. Therefore the ratification by the European Community of the Aarhus Convention encompasses any reservation by a Member State of the European Community to the extent that such a reservation is compatible with Article 2 (2) and Article 6 of Directive 2003/4/EC.

Finland, 1 september 2004

1. Finland considers that provisions of Article 9, paragraph 2 on access to a review procedure do not require those provisions to be applied at a stage of the decision-making of an activity in which a decision in principle is made by the Government and which then is endorsed or rejected.

ted by the national Parliament, provided that provisions of Article 9, paragraph 2 are applicable at a subsequent decision-making stage of the activity.

2. Some activities in Annex I to the Convention may require consecutive decisions by a public authority or public authorities on whether to permit the activity in question. Finland considers that each party shall, within the framework of its national legislation, determine at what stage the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6 may be challenged pursuant to Article 9, paragraph 2.

Frankrijk, 8 juli 2002

Interpretative declaration concerning articles 4, 5 and 6 of the Convention:

The French Government will see to the dissemination of relevant information for the protection of the environment while, at the same time, ensuring protection of industrial and commercial secrets, with reference to established legal practice applicable in France.

Depositaire mededeling:

Excluding New Caledonia, French Polynesia and Wallis and Futuna.

Noorwegen, 2 mei 2003

In accordance with article 16, paragraph 2 a of the Convention, Norway hereby declares that it will submit the dispute to the International Court of Justice.

Oostenrijk, 17 januari 2005

The Republic of Austria declares in accordance with article 16 (2) of the Convention that it accepts both of the means of dispute settlement mentioned in paragraph 2 as compulsory in relation to any party accepting an obligation concerning one or both of these means of dispute settlement.

Verenigd Koninkrijk, het, 23 februari 2005

The United Kingdom understands the references in article 1 and the seventh preambular paragraph of this Convention to the "right" of every person "to live in an environment adequate to his or her health and well-being" to express an aspiration which motivated the negotiation of this Convention and which is shared fully by the United Kingdom. The legal rights which each Party undertakes to guarantee under article 1 are limited to the rights of access to information, public participation in decision-making and access to justice in environmental matters in accordance with the provisions of this Convention.

Zweden, 20 mei 2005

Sweden lodges a reservation in relation to Article 9.1 with regard to access to a review procedure before a court of law of decisions taken by

the Parliament, the Government and Ministers on issues ~ involving the release of official documents.

A reservation is also lodged in relation to Article 9.2 with regard to access by environmental organisations to a review procedure before a court of law concerning such decisions on local plans that require environmental impact assessments. This also applies to decisions regarding issuing permits that are taken by the Government as the first instance, under, for example the Natural Gas Act (2000:599) and after appeal under Chapter 18 of the Swedish Environmental Code. It is the Government's ambition that Sweden will shortly comply with Article 9.2 in its entirety.

Wijziging van 27 mei 2005

Partij	Ondertekening	Ratificatie	Type*	In werking	Opzegging	Buiten werking
Bulgarije		30-04-07	R			
Denemarken		18-10-06	R			
Litouwen		30-08-07	R			
Luxemburg		04-01-07	R			

* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekräftig, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend

Verklaringen, voorbehouden en bezwaren

Denemarken, 18 oktober 2006

Territorial exclusion in respect of the Faroe Islands and Greenland.

G. INWERKINGTREDING

Zie *Trb.* 2005, 22.

De wijziging van het Verdrag zal ingevolge artikel 14, vierde lid, van het Verdrag van kracht worden voor de Partijen die deze hebben bekräftigd, goedgekeurd of aanvaard op de negentigste dag na de ontvangst door de Depositaris van de kennisgeving van hun bekräftiging, goedkeuring of aanvaarding door ten minste drievierde van deze Partijen.

J. VERWIJZINGEN

Zie *Trb.* 1998, 289, *Trb.* 2001, 73 en *Trb.* 2005, 22.

Titel : Handvest van de Verenigde Naties;
San Francisco, 26 juni 1945

Laatste *Trb.* : *Trb.* 2007, 50

Titel : Verdrag inzake milieu-effectrapportage in grens-
overschrijdend verband,
Espoo, 25 februari 1991

Laatste *Trb.* : *Trb.* 2005, 186

Titel : Verdrag inzake de bescherming en het gebruik van
grensoverschrijdende waterlopen en internationale me-
ren;

Helsinki, 17 maart 1992

Laatste *Trb.* : *Trb.* 2005, 93

Titel : Verdrag inzake de grensoverschrijdende gevolgen van
industriële ongevallen;

Helsinki, 17 maart 1992

Laatste *Trb.* : *Trb.* 2006, 259

Uitgegeven de *eenentwintigste* januari 2008.

De Minister van Buitenlandse Zaken,

M. J. M. VERHAGEN