



Third meeting of focal points appointed by the signatory countries of the Principle 10 Declaration

Aarhus Convention: benefiting from effective governance

International panel: Access rights and international processes
Lima, 31 October 2013

Jit Peters, Chair of the Meeting of the Parties of the Aarhus Convention



Contents of the presentation

■ Aarhus Convention – how it works

- Underlying principles
- Parties
- Structure of the text of the Convention
- Governing structure
- Compliance mechanism

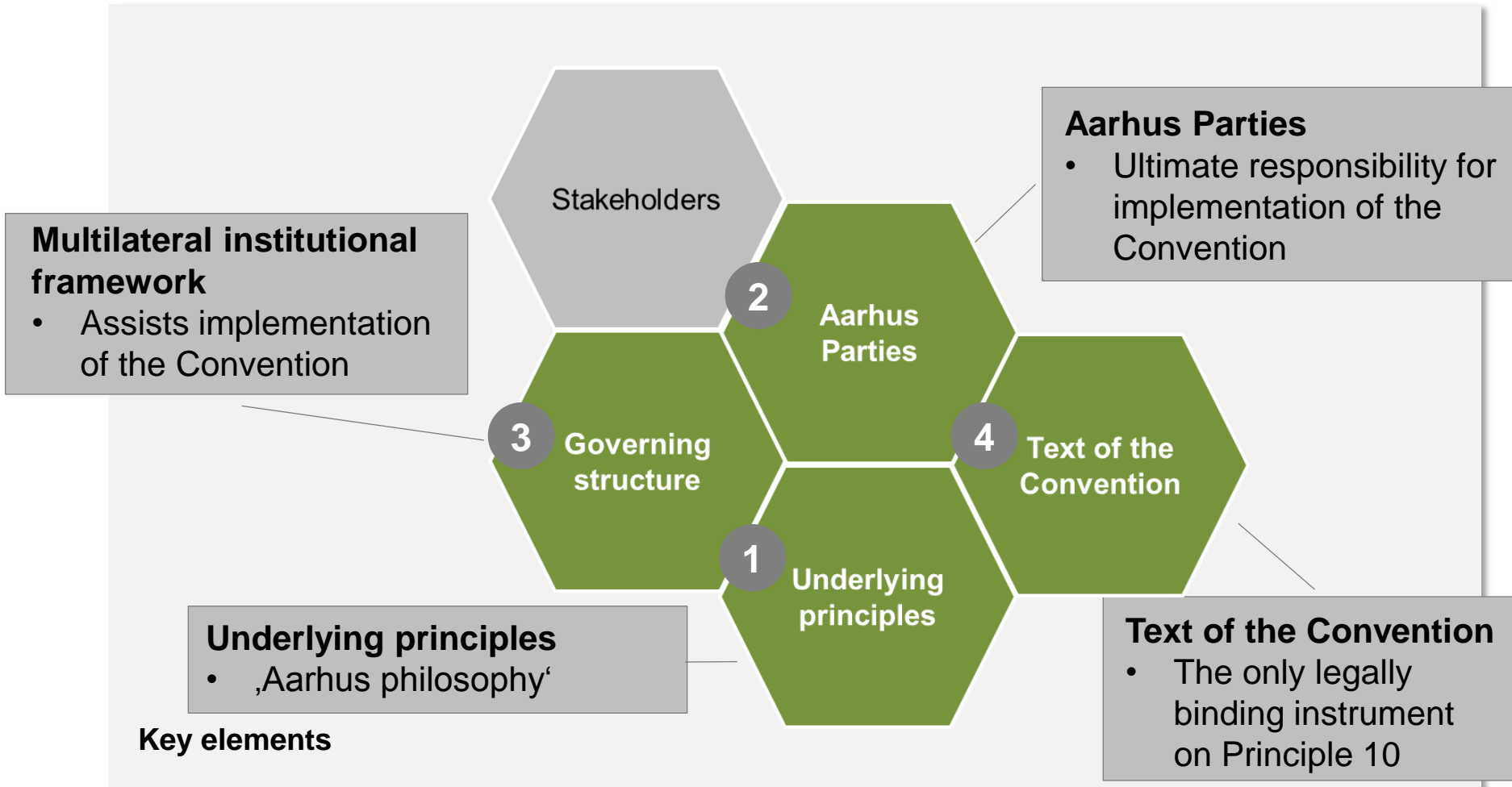
■ Benefits for the Parties of the Convention

- Example: experience from Netherlands

■ Conclusion

Aarhus Convention structure consists of key elements which ensures its effective implementation and constant review

Aarhus Convention – How it works



Focus of today's presentation

Aarhus Convention underpins the importance of involvement of all actors to achieve sustainable development

1 Underlying principles

■ Aarhus philosophy

- Sustainability needs involvement of all actors
- People should be entitled to have a say in issues affecting their life
- Effective participation = Effective decision-making and implementation

Name and entry into force

- Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters
- Adopted in 1998 in Danish city of Aarhus, entered into force in 2001

Aarhus Convention Parties have very different political traditions and vary in levels of economic development

2 Parties

■ Parties to the Convention – a mixed, but inclusive forum

- Convention currently has 46 Parties
- It is open for global accession

■ Differences between Parties

• Economic development

- Countries with some of the lowest GDPs per capita (e.g. Tajikistan 2.200 USD in 2012, PPP) to countries with some of the highest (e.g. Norway 55.300 USD in 2012, PPP)

• Political systems

- Wide range of political and legal traditions (e.g. former Soviet, western democracies)

• Governance systems

- Countries with federal systems (e.g. Spain, Germany, Belgium, BiH) and national governments only (e.g. Italy, Netherlands, Ukraine, Georgia)

• Environmental concerns

- Countries concerned with a diverse range of environmental activities and issues (e.g. mining, oil and gas exploration, water pollution and shortages, nuclear energy, renewable energies, desertification)

At the core of the Aarhus Convention are the three pillars of environmental democracy

3 Structure of the text of the Convention

Preamble

Objectives Article 1

Definitions Article 2

General provisions Article 3

3 pillars of the Convention

1

Access to information

- Articles 4 and 5

2

Public participation in decision-making

- Articles 6-8 with an annex of activities

3

Access to justice

- Article 9

Final provisions – Article 10-22

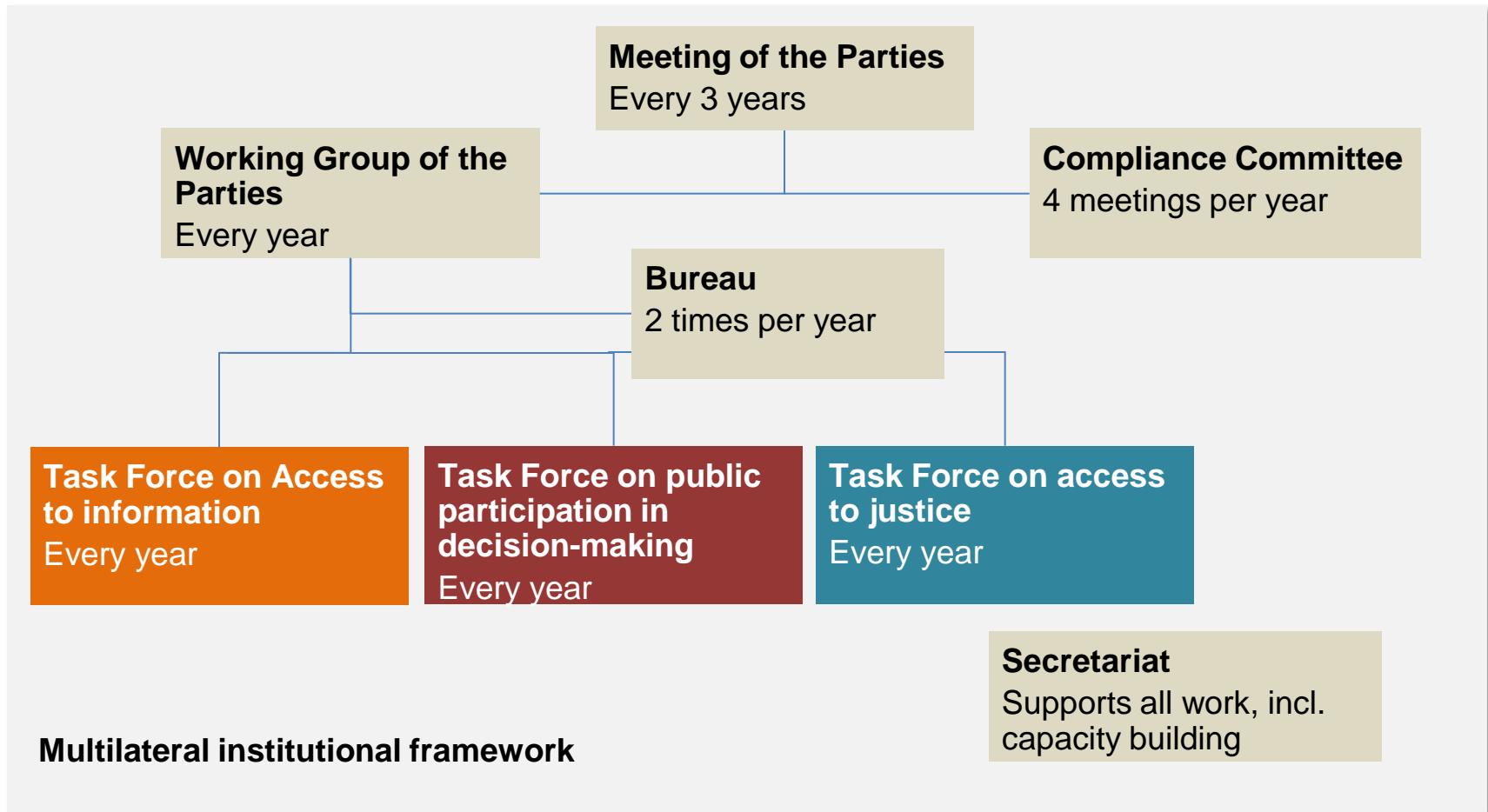
- Meeting of the Parties
- Voting rights
- Permanent secretariat,
- Review of compliance

Annexes

GMO amendment

Aarhus' multilateral institutional framework assists the implementation of the Convention

4 Governing structure



Unique compliance mechanism is ensuring the Convention remains a living treaty

4 Compliance mechanism

- Soft mechanism, non-confrontational, non-judicial – not a court or tribunal
- Allows public, as well as Parties, to bring issues before it (subject to exhaustion of domestic remedies)
 - Cannot impose sanctions or make orders
 - it transmits its findings and recommendations to the MOP for endorsement
- Pending MOP, the Compliance Committee can make recommendations to a Party, but only if that Party agrees for it to do so
- Recognised by Parties as a valuable asset
 - To date, Meeting of the Parties
 - Endorsed all findings and recommendations
 - Adopted 18 decisions on compliance
 - Helpful way for partner organizations to identify opportunities to provide capacity building and technical assistance.

Monitoring implementation and assisting capacity building

Other highlights

■ **Monitoring implementation – national implementation reports**

- Parties are required to submit national implementation reports prior to each MOP
- At present in the 4th reporting cycle
- Prepared in consultation with civil society, identifies challenges and needs

■ **Capacity building and technical assistance**

• **At the national and subregional level**

- Working with partner organizations, e.g. UNEP, OSCE
- Providing advisory support to e.g. international financial institutions
- Aarhus Centres in many countries, with support of OSCE

Being a Party to the Convention provides several benefits; it also gives a solid foundation for sustainable development

Legally binding instrument on good governance - Benefits for the Parties

Good governance		Legally binding instrument
Benefits at the national level	Benefits at the regional/ international level	Greater & more efficient cooperation
<ul style="list-style-type: none"> • Creates foundation for sustainable development leading to an attractive investment climate • At the national level, concrete tool to attract overseas development assistance • Supports policies to tackle inequality and poverty by ensuring that all persons, incl. the poorest segments and rural communities, are able to participate 	<ul style="list-style-type: none"> • Consistent standards leads to closer integration of countries in the region leads to higher economic growth • Leads to greater political stability within each country, which leads to greater political stability in the region • Gives greater visibility to the region for its progressive initiative 	<ul style="list-style-type: none"> • Convention's bodies under the instrument that carry out technical assistance, workshops, capacity building, and permanent secretariat to provide ongoing support • Increased efficiency due to the sharing of resources and know-how between the various Parties/partners • Provides solid structure through which partner organizations (international organizations, IFIs, bilateral donors) can channel their support

Dutch examples of succesful public participation

Expansion Rotterdam harbour (Tweede Maasvlakte)

- Goal: reception of larger containerships
- Result public participation:
 - lesser appeals with courts
 - Nature compensation
 - Greater consensus
- At the end expansion was not delayed, but the opposite.

Room for the rivers

Example: experience from the Netherlands

- Goal: prevention of flooding, very controversial idea
- Public participation was linked with Environmental Assessment
- Public participation plan
- Results: less negative reactions
- Number of reactions per project decreased

Lessons learned in The Netherlands about public participation

- :Possible objections:
- Too early in the process versus you create options
- You only hear from the articulate versus you expand the group of participants
- You raise expectations you can't satisfy versus try to be honest about possible results
- Local community won't understand the issues versus they are intelligent enough to choose their representatives

Plan public participation

Make a public participation plan: describe the public participation process

- Inform people where they can get more detailed information
- Publish the period of time for written comment
- Decide early if you will organize a public hearing
- Make clear in how far you will take the results of public participation into account in the decisionmaking

Conclusion on public participation in The Netherlands

- You create more consensus
- Less negative reactions
- Less appeals with the courts
- Less delayment
- Less political controversy
- Projects are improved by public participation (expansion Rotterdam harbour, Oosterschelderdam)

Legally binding instrument has proved beneficial for the Aarhus Convention Parties

Conclusion

■ Legally binding instrument

- Positive experience
 - Beneficial for national and international cooperation
 - Beneficial for good governance, environmental security and socio-economic development
- Aarhus Convention Parties ready to assist your endeavours

AARHUS CONVENTION IN THE NETHERLANDS

Professor J.A. Peters

Chair of the Aarhus Convention

Base for Aarhus Convention

- UN Conference on Environment and Development (Rio de Janeiro, 1992)
- **Principle 1:**
- Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature

- **Principle 10:**

- Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At national level each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision making processes.
- States shall facilitate and encourage public awareness and participation by making information widely available.
- Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided

Rio P10 became Aarhus Convention

- In translation, Aarhus Convention focuses on:
 - Access to information
 - Public participation in decisionmaking processes
 - Access tot justice

Ratification of Aarhus Convention

- The Netherlands ratified Aarhus Convention in 2004.

Implementation in The Netherlands

- **Access to information:**
 - Passive openness: Freedom of information act offers opportunity to ask for environmental information
 - In specific cases government can deny access to information, but it must be well-founded and can be tested in court (e.g. state security, information owned by private enterprises)

Implementation in The Netherlands

- **Access to information:**
 - Active openness: public authorities should publicise information on its responsibilities, functions and services with respect to the environment
 - There is no positive or negative list of issues that must be publicised/ must be kept secret

Implementation in The Netherlands

- **Public Participation**
 - Participation of the public in decisionmaking was already common use in The Netherlands
- Plans
- Programmes
- Laws
- Government decisions
- Environmental impact assessments

Implementation in The Netherlands

- **Access to Justice**

- The Aarhus Convention did not change practice in The Netherlands to go to court over the lack of information: it already was possible to a large extent.

Experience after ratification

- As access to government information was already quite common in The Netherlands, on national level the ratification of Aarhus Convention did not lead to extra requests for information or court cases to fight decisions against openness in information

Experience after ratification

- **Quality of data**
 - Liability: who owns data?
 - ‘easy access’: comprehension of inexperienced viewer
 - Principle rule: duty of care and weighing of interests are laid down in the General Administrative Law Act

Experience after ratification

- **Quality of information**
 - Presentation (digital)
 - (old) archives
 - Development of software for internet applications (multi-layer digital information)

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Zoeken

Resultaat

Zoeken op adres

Bijvoorbeeld "Coolingsingel 21, Rotterdam" of "3011AD"

zoek!

Zoeken op vergunning

 Naam aanvrager:

>>

[Uitgebreid zoeken op vergunning](#)

Thema's

☑ Bodeminformatie

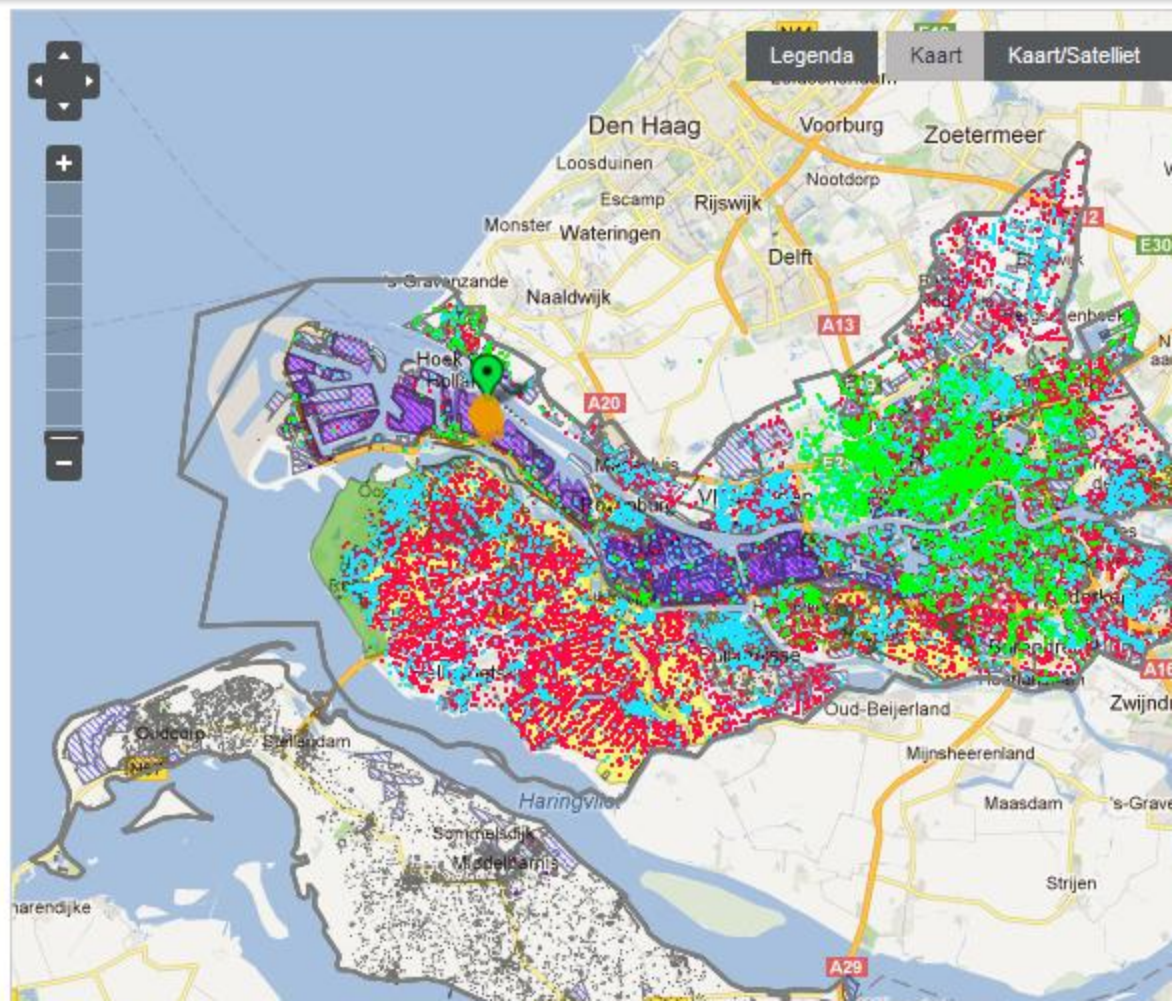
- Verdachte locaties
- (ondergrondse) Tanks
- ▨ Bodem-onderzoeklocaties

☑ Vergunningen / Meldingen

- ★ Vergunning (VPL), (MEV)
- ★ Melding (MPL)

☑ Zonering

- Bovengrondse bodemkwaliteit (0 - 0,5 m-mv)
 - Schoon
 - Licht verontreinigd

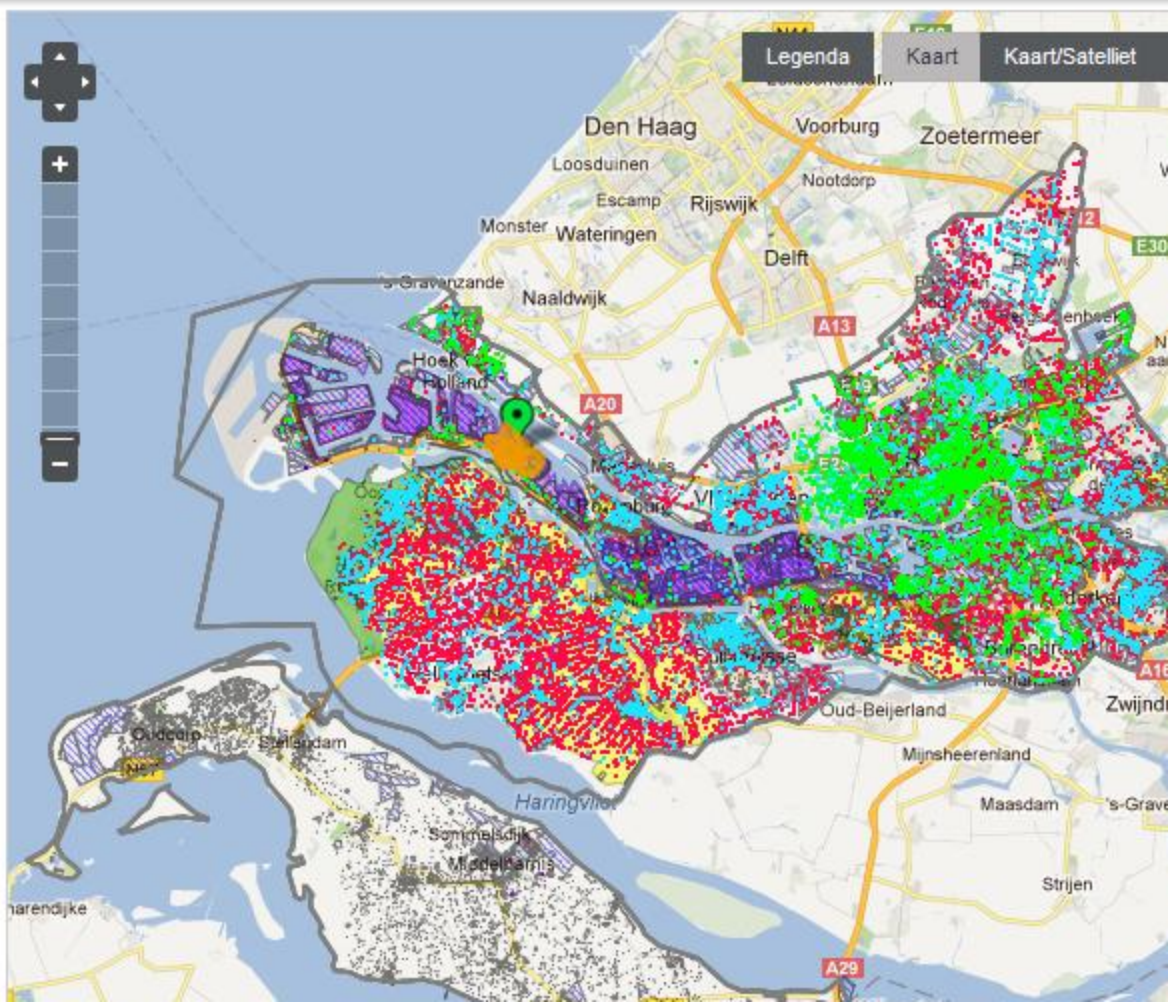


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Zoeken Resultaat

- ▶ Verdachte locaties (0 gevonden)
- ▶ (Ondergrondse) tanks (1 gevonden)
- ▶ Onderzoeklocaties (1 gevonden)
- ▼ Vergunningen (2 gevonden)
 - Kuwait Petroleum Europeoort Bv
Moezelweg 255 Energie-industrie
 - Abengoa Bioenergy Netherlands B.V.
Merwedeweg 10 Chemische industrie



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Zoeken

Resultaat

▶ Verdachte locaties (0 gevonden)

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▼ Vergunningen (2 gevonden)

Kuwait Petroleum Europort Bv

Moezelweg 255 Energie-industrie

Abengoa Bioenergy Netherlands B.V.

Merwedeweg 10 Chemische industrie



Resultaat

Hoofdactiviteit	Energie-industrie
Status	Meldings- en vergunningplichtig
Locatienummer	238500

Beschikkingen

Beschikking	Datum	Document	Status
WABO (ntb)			afgerond
Wob verzoek			afgerond
Wob verzoek			afgerond
Beoordeling Veiligheidsrapport			afgerond
Wob verzoek			afgerond
Besluit ogv Titel 4.1 AWB (b.v. bij beoordelingen)			afgerond
Wob verzoek			afgerond
Besluit ogv Titel 4.1 AWB (b.v. bij beoordelingen)			lopend
Wob verzoek			lopend
WABO (ntb)	05-12-2011		afgerond
WABO (ntb)	22-06-2011	BESCHIKKING	afgerond



provincie **HOLLAND**
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BESLUIT van Gedeputeerde Staten van Zuid-Holland

Experience after ratification

- Recent is the development of a law on surroundings in which environmental, spatial and economic laws are integrated in order to simplify and speed up processes for the implementation of infrastructure.

Exchange of experiences

- In UNECE countries meet in expertgroups and working groups to exchange experiences and solve common problems
- UNECE also has a clearinghouse in which good experiences are documented