



ACN-France

AARHUS CONVENTION and NUCLEAR

Summary Report

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Introduction

History of the ACN process

The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters was signed in 1998 by the European Community, and European countries among which the 27 European Union (EU) Member States and was then transposed into Community Law and into the National Law of the Member States. It applies directly to all nuclear activities and lays down the general principles on information, participation and access to justice for citizens in this field. **Beyond a formal application, how are these principles implemented in practice within the specific context of each European country?**

A discussion on this question of the practical implementation of these principles was initiated in 2008 by the French National Association of Local Information Committees and Commissions (ANCCLI) within the framework of the European Nuclear Energy Forum (ENEF) working group.

In order to promote broad participation of representatives of civil society of the various Member States in this discussion, **the ANCCLI and the European Commission organised a European feedback workshop in Luxembourg on 24-25 June 2009, in partnership with ENEF, the French Ministry of Ecology and the President of the European Union.** This Workshop on the practical implementation of the Aarhus Convention in the nuclear field brought together over 80 participants from around fifteen European States, with significant representation of the civil society and Aarhus Convention experts.

This event helped to validate and expand a diagnosis, benefiting from numerous witnesses and plural citizen expertise: **the implementation of the Aarhus Convention is written in texts, but its practical implementation must progress.** This workshop also confirmed the need to drive forward these discussions on a national scale in order to switch from a general discussion on the principles and "good practices" to a thorough evaluation of solutions for change within the specific context of each country and each field of nuclear activity.

After this workshop, the ANCCLI and the Directorate-General for Energy (DG-ENER) of the European Commission established a detailed work programme on transversal themes, firstly at European level, and secondly, analysis work on the local and national contexts, with the countries interested in the approach. Around ten national delegations therefore expressed their desire to continue this discussion by organising national pluralistic round tables associating civil society and decision-makers, in order to evaluate the practical implementation of the Convention's principles in the nuclear field and identify possible ways of progress.

Presentation of the ACN France Round Table

Within the framework of this ACN approach, the French High Committee for Transparency and Information on Nuclear Safety (HCTISN) and the ANCCLI teamed up to conduct the French round table.

As with all of the national round tables, the French round table carried out its discussion according to three principles:

- To validate the first diagnosis of the implementation of the Aarhus Convention in the nuclear field set in Luxembourg: what are the practical issues that arise for practical implementation of the Aarhus Convention in the country?
- To observe and analyse the practices and difficulties in the form of feedback from specific cases in specific fields rather than in a transversal manner, in order to achieve practical work, in situations.
- To open a discussion on actions and measures that can be taken in the country, at local and national level, to improve the practical implementation of the Aarhus Convention in the nuclear field, and make suggestions on actions to take at European level.

A first French meeting was organised on 26 November 2009 at ANCCLI's and HCTISN's initiative. Following a round table gathering a plurality of actors, it was agreed to work on three themes: the Aarhus Convention within the framework of nuclear waste management, procedures for access to information and public participation, and competence building of civil society actors. It was also decided that each of these themes would be treated by a pluralistic group, and led by a tandem team.

During the first half of 2010, the leaders formed their group and defined their work programme:

- The first group (**WG1**), led by the ANCCLI and co-led by the HCTISN worked on the feedback from the **"Process of selecting sites for low-level, long-lived waste"**,
- The second group (**WG2**), led by Greenpeace and co-led by the French Nuclear Safety Authority (ASN) worked on the theme of **"Public access to information and participation in decision-making"**,
- The third group (**WG3**), led by the IRSN (French Institute for Radiation Protection and Nuclear Safety) and co-led by the ANCCLI worked on the theme **"What competence building and access to expertise is needed to assure true participation?"**.

The work sessions began mid-2010. **The outcome of this work, presented in the form of feedback and proposals, was discussed during a plenary session on 10 February 2012.** This summary work day gathered together all of the participants of the ACN France approach (voluntary sector representatives, representatives of the CLIs (Local Information Commissions) and the ANCCLI, and the HCTISN, representatives of the IRSN, the EU and the ASN, and operators: Andra, EDF, Areva). The discussions reflected the constructive working spirit which enabled this approach to be carried out successfully.

Presentation of WG1's work programme and theme

WG1's theme

WG1 focused its work on feedback from the process of selecting sites for the disposal of Low Level, Long-Lived (LL-LLW) radioactive waste which was conducted in France. This process was officially initiated in June 2008 by the Ministry of Ecology, within the framework of the French Programme Law of 28 June 2006. Its implementation was entrusted to Andra which launched a call for applications with 3,115 municipalities including cantons with geologies favourable for hosting a LL-LL waste disposal facility. This process was not successful: one year later, in August 2009, the two municipalities pre-selected from the candidates withdrew. WG1 studied this failure in terms of the practical implementation of the Aarhus Convention.

WG1's objectives

WG1's work objectives were specified during a meeting on 11 February 2010. This involved:

- Establishing a diagnosis on the practical implementation of the Aarhus Convention within the context of finding a LL-LLW site which was conducted in France,
- Formulating recommendations for improving the implementation of the Aarhus Convention within this field in the future.

WG1's composition

To work on these objectives, WG1 mainly joined forces with the Permanent Group of Radioactive Materials and Waste (GPMDR) of the ANCCLI, representatives of the CLIS of Bure and members of the Low-Level, Long-Lived Waste (LL-LLW) Working Group of the HCTISN. The detailed list of participants involved in WG1's work can be consulted in Annexe 4.

The GPMDR of the ANCCLI was formed in 2007 and since its creation has studied the question of tritium and that of the reversibility of High-Level, Long-Lived (HL-LLW) waste disposal. The LL-LLW WG of the HCTISN was formed during the HCTISN plenary meeting held on 8 October

2009, in order to study the causes of failure of the process for finding LL-LLW disposal sites, to learn lessons and to formulate recommendations.

The work of the LL-LLW WG of the HCTISN and that of WG1 of the ACN France approach was therefore complementary, which led to these two groups jointly carrying out their investigations on this theme.

WG1's work programme and methodology

WG1 carried out two series of hearings with stakeholders in the LL-LLW site selection process (local actors and national authorities). The first hearings were carried out in November 2010 in Aube and more specifically in Soulaïnes, with "field" actors (mayors, associations, general councillors, etc.). The second series of hearings took place between March and May 2011 with national actors (Ministries, ASN, ANDRA, AREVA, EDF, and IRSN).

After this investigative work, WG1 drafted recommendations on 12 September 2011, which were presented before the HCTISN on 15 September 2011. The same day, the LL-LLW Group of the HCTISN published its report and recommendations adopted during the general assembly on 7 October 2011.

Presentation of WG2's work programme and theme

WG2's theme

WG2 focused its work on the implementation in France of Articles 6 to 8 of the Convention which lay down the modalities for public participation in environmental decision-making on projects and on the preparation of plans and programmes that have an environmental impact. Therefore, public access to information was only envisaged within WG2 because it allows the public to participate in the decision-making process.

WG2's objectives

WG2 set itself the objective of carrying out an inventory of the tools existing in France, that help meet the imperatives of public information and participation as mentioned in the Aarhus Convention, of carrying out a practical functional assessment of these tools in order to measure the real impact on effective public participation and information, and identifying areas of improvement in the effective implementation of these two principles in France.

The French system of participation is based on the public's right to "*participate in the preparation of public decisions that have an environmental impact*" as defined in Article 7 of the Environmental Charter. Within this legal context, public debate and public enquiry are the two procedures that cover the public's participation in the public consultation procedure. Starting from these observations, the WG2's questions were the following:

- Are the participation procedures currently implemented correctly?
- Does the French participation system achieve the public participation objectives set by the Aarhus Convention?
- How can the efficiency of existing procedures and more broadly the effectiveness of public participation in decision-making in the nuclear sector be improved?

WG2's composition

Within the framework of its discussions, WG2 gathered together around thirty members, comprising representatives from Greenpeace, ASN, ANCCLI, HCTISN, ANDRA, IRSN, ONDRAF, EDF and ACRO. The detailed list of participants involved in WG2's work can be consulted in Annexe 5.

WG2's work programme and methodology

The first meeting was held on 9 September 2010. This meeting set the WG2's objectives, the partners to bring together and the work programme to be carried out.

The work programme involved a legal and practical inventory of the question of participation, an analysis of the actual situation of two case studies and the drafting of a report of the recommendations presented within the framework of this summary report.

Between January and December 2011, WG2 met up seven times, on 27 January, 1 March, 21 June, 21 September, 21 October, 25 November and 22 December to carry out this work. WG2 met up once again on 27 January 2012 to summarise the conclusions and recommendations of its work.

Presentation of WG3's work programme and theme

WG3's theme

WG3 focused its work on the question of competence building and access to expertise of civil society actors, which are necessary conditions for implementing the first two pillars of the Aarhus Convention that are access to information and participation in decision-making processes and expertise.

The key issue that guided all of the WG3's work was knowing **how citizens and their representatives can develop specific systems to autonomously investigate the questions that interest them?** This key issue was subdivided into two sets of themed questions.

The first themed question involved examining civil society actors' needs for expertise, and more specifically the CLIs' needs for expertise in carrying out their tasks and their responsibilities resulting from the Nuclear Safety and Transparency Act, in particular in the event of a public enquiry.

The second themed question concerned the diversified expertise that could be provided to CLIs and other actors of society and how to promote the development of a pool of experts for these tasks.

WG3's objectives

WG3 set itself the objective of debating these questions around two work sessions, opened on solid experiences. For each of these sessions, the objective was two-fold:

- to discuss the main existing problems and the conditions for success for effective implementation of society access to diversified expertise (questions on financial and human resources, specific expertise capacity and public access to expertise, access to documents, etc.),
- to identify the lessons learned and recommendations that could be drawn from these discussions.

WG3's composition

To carry out this work, WG3 gathered together around fifty people, including representatives of the CLI, ANDRA, ASN, IRSN, EDF, AREVA, and voluntary and university experts who took part in at least one of the WG's work days. The detailed list of participants involved in WG3's work can be consulted in Annexe 6.

WG3's work programme and methodology

Two days mixing both themes were organised on 12 January 2011 and 7 February 2011 and were based on the same methodology: in the morning specific study cases were presented and in the afternoon workshops were carried out based on these presentations, with at the end of the day a summary of the discussions.

A third day on 12 March 2011 summarised WG3's conclusions and recommendations. As regards WG3's final report, a draft was prepared by the ANCCLI and the IRSN and sent to all WG3's

participants in July 2011 and their comments were incorporated into the report finalised in October 2011.

PART 1: Presentation of the conclusions and recommendations of the three working groups

Conclusions and Recommendations of the "Aarhus Convention and LL-LL waste management" Working Group (WG1)



SUMMARY-ABSTRACT

Since 2009, at the ANCCLI and European Commission's initiative, an "Aarhus Convention and Nuclear" (ACN) structure has been studying the practical implementation of the Aarhus Convention in the nuclear field in Europe and in around fifteen countries.

The ACN-France Group was supported by the work of three working groups:

- Working Group 1: work on waste led by the ANCCLI and the HCTISN;
- Working Group 2: work on the possibilities of citizen interventions (public debate, public enquiries, etc.) led by the ASN and Greenpeace;
- Working Group 3: work on competence building and access to expertise led by the ANCCLI and the IRSN;

In 2009, within WG1, we wanted to innovate and go directly on site to interview the actors.

The on-site experience was the following:

Bure was chosen as a laboratory site in 1994. The 2005 debate mainly concerned high-level waste and was opened by citizen interventions on all categories of waste.

In 2006, the law concerned all waste, but mainly deep repository disposal, not taking interim storage requirements into account while research was being conducted in the Bure laboratory.

However, the principle of reversibility (not defined) was inserted into law, bearing in mind that a new debate would be carried out on this principle of "reversibility" in 2016 following the debate on the decree for creation of waste disposal sites in 2013.

As regards low-level, long-lived waste, the citizens of 3,115 municipalities learned about the file in June 2008.

Effectively, at that time, the French government gave the ANDRA the responsibility of finding a site for the disposal of LL-LL waste after 2019.

- **June 2008:** the Andra launched a call for applications with 3,115 municipalities located in cantons where the geology was potentially favourable for the establishment of a waste disposal facility. Each municipality received an information file on the project to find a site and the project's schedule. The municipalities had four months to show their interest and give their agreement on an in-depth geological study of their region. Initially, the list of municipalities was not made available to the public.

- **26 September 2008:** a municipal council meeting, open to the public, was organised in Auxon

(Aube) with the presence of experts from Andra. Only three inhabitants from Auxon and two from neighbouring municipalities attended.

- **31 October 2008:** closure of the call for applications. Around forty municipalities were candidates (following favourable deliberation of the municipal councils), 39 of which around existing Andra sites. The list of municipalities was published by Andra on its website.

- **3 November 2008:** the challenge started in Pars-lès-Chavanges, the municipal council voted unanimously in support of the Mayor.

- **December 2008:** Andra provided the French government with an analysis report on the geological, environmental and socio-economic context of the applicant municipalities, to help with the pre-selection of municipalities where the investigations would be conducted. This report identified 10 sites as "very interesting".

- **January 2009:** the IRSN issued a favourable opinion on the approach retained by Andra for selection of 10 preferred sites.

- **January – June 2009:** the French government conducted consultations, in particular with key elected officials. In addition, it asked the opinion of the French Nuclear Safety Authority (ASN) and the French National Assessment Commission (CNE) (in charge of assessing the research on radioactive materials and waste management).

Pars-lès-Chavanges (Aube)

February-March 2009: Andra went to Pars-lès-Chavanges and announced to the Mayoress and her deputies that the municipality might be chosen among five or six other municipalities because the subsoil was perfectly suitable. At that stage, the authorities advised the Mayoress "not to inform the population". Opposition continued. Threats in particular were sent to the Mayoress.

May 2009: announcement during a municipal council meeting that Pars-lès-Chavanges was one of 3 or 4 municipalities still concerned.

20 June 2009: the Mayoress of Pars-lès-Chavanges was notified by the Ministry (by telephone) that her municipality and that of Auxon had been retained. She therefore wanted to distribute a press release to the inhabitants and organise a public meeting. Her spokesperson discouraged her from doing so, in any case in the immediate future.

21 June 2009: during a cantonal meeting that she attended, the Prefect and Deputy Prefect confirmed to the Mayoress of Pars-lès-Chavanges that her municipality had been selected and informed her that a press release and announcement on France 3 was scheduled for 24 June. In immediate response, the Mayoress drafted and circulated her press release to the municipality's inhabitants.

Auxon

January-June 2009: three municipal councillors resigned.

April-May 2009: a public meeting brought together 10 people.

And finally

24 June 2009: Andra announced the French government's decision to conduct in-depth investigations in two municipalities: Auxon and Pars-lès-Chavanges.

Pars-lès-Chavanges

24 June: France 3 interviewed the Mayoress. A demonstration took place in front of the Town Hall.

25 June: the Mayoress and Andra attempted to hold a meeting to inform the population of Pars-lès-Chavanges, but it could not be held under calm debate conditions because the meeting was disrupted by opponents of the project coming from outside of the municipality. Then telephone calls and pamphlets started arriving in quick succession. After one week, the municipal council decided to withdraw its application.

4 July: Pars-lès-Chavanges withdrew its application.

Auxon

End of June: elected officials and Auxon's opponents organised their own consultation with the population, by travelling to see every inhabitant. They announced a 90% no result.

30 June: an information meeting was organised with the participation of Andra; the Prefect was represented by his Secretary General. Approximately 350 people were present, including barely a third coming from Auxon and numerous anti-nuclear militants originating from 27 different regional departments. The meeting was held in a heated atmosphere not conducive to a debate.

July: the Mayors of a few neighbouring municipalities organised opposition to Auxon's application which triggered meetings, demonstrations in front of the Mayor's home, petitions, pamphlets and posters, etc. Death threats were also made against the Mayor and his family.

11 August: Auxon withdrew its application.

The process failed and the unanimous observation was the following: the consultation of 3,115 municipalities in such a short time is impossible.

In addition, the municipal level cannot be the only level: the communities in the municipalities should also be consulted

The recommendations mainly concerned:

Site selection: is this choice based on geological criteria? Or should preference be given to regions already involved in the nuclear sector?

Scheduling constraints: the schedule must allow for information and consultation, it must not be too restrictive;

Responsibilities: the State must make a commitment to and support the project;

Preferred local spokesperson: this level cannot be unique, it should be extended to other local levels and collectivities;

Public information: this information should permit interventions and help with the decision-making;

Consultation: citizens must be able to obtain answers to their questions and be able to influence the decision, this consultation must be based on pluralistic information;

Project assistance: to be discussed in consultation with the relevant municipalities who shall build their project.

ACN WG1 therefore prepared the following recommendations.

RECOMMENDATIONS ON RADIOACTIVE WASTE MANAGEMENT WITH REGARD TO THE AARHUS CONVENTION

The example of finding LL-LL waste disposal sites in France

The recommendations concern the implementation of the Aarhus Convention in the field of radioactive waste management in general. The discussion is based on the example of LL-LL waste.

The objective of the recommendations concerns the creation of favourable conditions so that the Convention, which is addressed to populations, is respected.

These recommendations shall be used to build the position of ACN France.

Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied *mutatis mutandis*,* and where appropriate.

Following the hearings conducted jointly with the HCTISN, the work of Working Group 1 (WG1) of ACN France and the discussion of the GPMDR of the ANCCLI, WG1 decided to focus its recommendations on:

"Public participation in decision-making"

More specifically, Article 6 of the Aarhus Convention – "Public participation in decisions on specific activities".

The work method involved comparing the various requirements of Article 6 with on one hand comments from the hearings, and on the other hand the group's conclusions.

As a foreword

Any consultation may only be carried out over the long term, time is not an enemy: used in an optimum way it improves the chances of success, because it teaches the various actors how to dialogue, obtain information, and for some, acquire skills.

Recommendation no. 1: explain the issues and problems

It is important to inform the population of the "position" of the project that is proposed to them by informing them of the **issues and problems**.

Within the framework of the low-level, long-lived waste disposal project:

Radioactive waste management is a **national problem** which concerns us all: waste exists and solutions should be defined to manage it. In France, this management is covered in the Programme Law of 28 June 2006 on the sustainable management of radioactive waste and materials.

- The most frequently asked questions concern stocks and their condition and the problem of interim storage.
- The proposed solution must comply with appropriate technical criteria and requirements.

* *mutatis mutandis*: is a Latin phrase meaning "changing [only] those things which need to be changed" or more simply "[only] the necessary changes having been made. It is similar to the expression *Ceteris paribus* meaning "all other things being equal". (source: wikipedia)

Waste accumulates: it is not reasonable to indefinitely postpone a project by shifting the responsibility of finding the solution onto future generations and it should involve citizens as high upstream as possible.

- **When alternative technical options emerge**, they should be submitted for public consultation.
- **It should always be possible to redefine a project** throughout its implementation, or even abandon this project in favour of another possibility.

Recommendation no. 2: set up permanent reference entities

The public is faced with a multitude of actors and information, which may complicate clear understanding of the project. For this, it would be appropriate to appoint a neutral and objective **national permanent reference entity**, and local entities representing the relevant regions, as entry points for accessing any information that might prove useful for their task, and this in parallel with Andra. These bodies should be provided with specific human and financial resources which, in particular, help them study the possibility of a candidature.

Furthermore, as the project progresses, the region concerned shall be increasingly specific and new actors shall emerge at local level. The various public actors should regularly report their action within the decision-making process to these reference entities. **Discussions between these various levels should be continuous** throughout the process, initially with a local information and consultation body, then a Local Information Committee.

Within the framework of the low-level, long-lived waste disposal project:

- The role of the national reference entity could be played by the HCTISN which would be in charge of dealing with and assisting public requests (refer to the competent people - Andra, ASN, CLI, Scientific Committee of the ANCCLI, IRSN, and French National Assessment Commission, etc.) in order to respond to these requests.
- Local bodies could be set up under the aegis of departmental bodies.
- These entities could be referred to for requests for information coming from the public concerning the decision-making process.
- These entities would instruct any appeals from the public concerning the way the outcome of the public participation process was taken into account.
- These national and local entities should be provided with human and financial resources suitable for their information and monitoring tasks.

Recommendation no. 3: provide information on the project's progress

It would be useful to define a **provisional schedule specifying the stages and financial resources related to the project**.

This schedule should be accessible to the public, published and updated by the national reference entity.

Each stage should show the financial resources used for the information allocated to the various actors.

This schedule should be upgradeable in order to take the emergence of new data into account, such as, new technical knowledge, new legal, economic and social contexts, etc.

It is important to justify any "dead time" in the schedule with the public and to inform it of work in progress: administrative, technical, etc., stages.

Within the framework of the low-level, long-lived waste disposal project:

- Take the example of Andra's underground laboratory in Meuse/Haute-Marne: the CLIS has had the resources since 1999; for example, it was able to assess the reversibility.
- No longer leave any "dead time" in the schedule, provide continuous information, and show that the democratic process is moving forward.

Recommendation no. 4: state the reasons for the decisions at every stage of the process (this point is not sufficiently explained in the Convention)

Stating the reasons for the decisions is not usually practiced in France, however, this would provide milestones for the decision-making process, for which each stage would constitute an official basis for the next stage.

Within the framework of the low-level, long-lived waste disposal project:

- Make sure that at every stage the arguments that are the basis for the decision are communicated to the public.
- Publish the questions raised during public enquiries and the answers given.
- Make sure that account is taken of the outcome of the public participation.

Recommendation no. 5: sign a long-term multi-party agreement

Once the creation decision has been made, WG1 suggests adopting the **long-term governance principle**. In practice, it could lead to the signing of a **multi-party agreement under the aegis of the local CLI and the national entity**, grouping the various national, regional, departmental and local levels (State, operators, institutions, representatives of the population, qualified people). This approach would, among other things, help them escape election time-frames. It would define:

- the fields of action of the agreement: which may permit various actions (assessments, meetings, etc.),
- a schedule of regular meetings dedicated to long-term site monitoring,
- the financing modalities for the long-term monitoring of installations.

Within the framework of the low-level, long-lived waste disposal project:

- Identify the reference actors at local, regional, departmental and national level, in particular using as a basis the regions that put themselves forward as candidates during the 2008/2009 process and this with regard to their subsoil.
- Work with them on items of the future agreement.

Positioning the recommendations in the Aarhus Convention

The recommendations proposed by WG1 appear **highlighted in yellow bold**.

Article 6.2

The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

The project's issues and problems [Recommendation no. 1]

- a) *The proposed activity and the application on which a decision will be taken;*
- b) *The nature of possible decisions or the draft decision;*
- c) *The public authority responsible for making the decision;*
- d) *The envisaged procedure, including, as and when this information can be provided:*
 - i. *The commencement of the procedure;*
 - ii. *The opportunities for the public to participate;*
 - iii. *The time and venue of any envisaged public hearing;*

The appointed reference entity that shall answer all of the questions [Recommendation no. 2]

- iv. *An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;*

- v. An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and;
- vi. An indication of what environmental information relevant to the proposed activity is available.

- e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.

Article 6.3

The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.

A schedule is defined that can be revised according to technical, legal and economic developments. [Recommendation no. 3]

Article 6.4

Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

The public is consulted at a stage when alternative options (in particular techniques) are still open. [Recommendation no. 1]

Article 6.8

Each Party shall ensure that in the decision due account is taken of the outcome of the public participation. **The decision must be supported by sufficient reasoning. [Recommendation no. 4]**

An appeal procedure by members of the public with a neutral and objective, third-party institution, must be set up. [Recommendation no. 2]

Article 6.9

Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures **under the supervision of the reference entity. [Recommendation no. 2]**. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based, **throughout the process and at every stage the decisions should be reasoned (Recommendation no. 4).**

Article 6.10

The long-term governance principle is the basis for the project's monitoring. It shall lead to the signing of a multi-party agreement between the various national, regional, departmental and local level actors. [Recommendation no. 5]

Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied *mutatis mutandis*,* and where appropriate.

* *mutatis mutandis*: is a Latin phrase meaning "changing [only] those things which need to be changed" or more simply "[only] the necessary changes having been made. It is similar to the expression *Ceteris paribus* meaning "all other things being equal". (source: wikipedia)

Conclusions and Recommendations of the "Public access to information and participation in decision-making in the nuclear sector" working group (WG2)

Framework of the discussion

Within the framework of the discussion jointly carried out by the High Committee for Transparency and Information on Nuclear Safety (HCTISN) and the French National Association of Local Information Committees and Commissions (ANCCLI) on the implementation in France of the Aarhus Convention in the nuclear field, Working Group 2 (WG2) was given the responsibility of discussing this theme from the "Public access to information and participation in decision-making in the nuclear sector" perspective.

WG2 focused on the implementation in France of Articles 6 and 7 of the Aarhus Convention¹ which lay down the modalities for public participation during environmental decision-making on projects and on the preparation of plans and programmes². Public access to information was not analysed in an isolated way, but as a necessary element for ensuring effective public participation in decision-making.

WG2's work took place between November 2010 and January 2012 with 9 meetings organised around a core team of permanent members³ and interviews carried out face-to-face or by telephone. The group focused its discussion firstly on four specific cases⁴ of implementation of the participation procedures existing in France, secondly on certain situations where no public participation procedure is provided for by the texts (and in particular following the Fukushima Daiichi nuclear power plant accident in March 2011, on the question of a major accident risk).

The report presents several recommendations and new avenues for discussions; it also attempts to clarify the points of agreement or sometimes disagreement that could be identified between the participants.

Chapter 1 Participation in France in the nuclear sector: inventory

Article 6 of the Aarhus Conventions lays down the bases of "public participation in decisions on specific activities"; in a significant way, it shall:

- § 3. provide reasonable time-frames allowing sufficient time for informing the public and for the public to prepare and participate effectively during the decision-making process;
- § 4. provide for early public participation, when all options are open and effective public participation can take place;
- § 5. identify the public concerned, to enter into discussions, and to provide information regarding the project in question before applying for a permit;
- § 8. ensure that in the decision due account is taken of the outcome of the public participation;
- § 9. make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

Furthermore, Article 7 of the Convention stipulates that *"each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied"*.

In France, the public's right to *"participate in the preparation of public decisions that have an environmental impact"* is defined in Article 7 of the Environmental Charter 2004⁵ and is divided into two procedures which are the public debate and public enquiry. The public enquiry reform in 2012 added a public consultation procedure.

¹ Annexe no. 1: Articles 6 and 7 of the Aarhus Convention

² Article 6 of the Aarhus Convention lays down a public participation in decisions on specific activities listed in its Annex I; said Annex 1 cites "b) Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors".

³ Annexe no. 2: lists the members of the working group

⁴ The cases retained for analysis are the two public debates around the Flamanville 3 and Penly 3 EPR (European Pressurized Reactor) installation projects and the public enquiries concerning the dismantling of firstly the Brennilis power plant and secondly the UP2-400 plant in la Hague.

⁵ Constitutional Law no. 2005-205 of 1/3/2005

Taking this framework into account, WG2 attempted to answer several questions:

- a. Are the participation procedures/rules currently implemented correctly?
- b. Does this system achieve the public participation objectives set by the Aarhus Convention?
- c. How can the efficiency of existing procedures and more broadly the effectiveness of public participation in decision-making in the nuclear sector be improved (motivate the public to participate, allow the public to express its opinions, and show that these opinions and positions have been analysed and taken into account)?

I- Main observations

a- Participation tools designed for the preparation of projects and not plans and programmes

The two official participation procedures were devised and are mainly used for the preparation of projects and not to define plans or programmes. The public debate occurs upstream of the decision and concerns the opportunity of the project, the public enquiry occurs downstream of the decision to implement the project and concerns the operational modalities of this implementation.

There is no distinctive participation procedure for the preparation of plans and programmes relating to the environment. The public debate tool was, however, used twice in the process for the preparation of plans or programmes relating to the environment: in 2005/2006 on the subject of so-called high-level, long-lived (HL-LL) radioactive waste produced by the nuclear sector, and in 2010 on nanotechnologies.

In practice, the public may be called upon to participate in decisions concerning projects relating to the nuclear activity without preparation of the framework, in which these projects belong, actually being subject to participation. This observation raises the question of compliance with paragraph 4 of Article 6 of the Aarhus Convention which states that participation must be exercised, when all options are open and effective public participation can take place. Sometimes situations may occur where the exchange of viewpoints and the concerns and preferences expressed during the participation process shall extend over and above the scope of the project to go into the field of the national plan or programme.

Similarly, it may transpire that a project is submitted for participation with no clearly defined national framework. The case of Brennilis shall be cited where the lack of national framework regarding the dismantling of nuclear installations could have played a role in the unfavourable opinion of the enquiry commission on this project.

As regards public participation in the preparation of plans and programmes, no general mechanism therefore exists but specific initiatives have been implemented, in particular in the form of specialist pluralistic commissions, and sometimes making public participation available or even a public enquiry (for example for waste planning). In the nuclear field, the setting up of pluralistic working groups is often used (for example, for the national radioactive materials and waste management plan (PNGMDR)) but it generally results in a voluntary administration initiative and not a legal obligation. In addition, this practice is not widespread.

Therefore, public participation is almost completely absent in the preparation of plans and programmes concerning activities that have an environmental impact.

b- Procedures fragmented over time and space

As regards the preparation of projects, the working group considers that the two participation procedure that currently exist are good public information tools. They facilitate access to expertise (developed by the operator but also by the public authorities or associations, etc.) and to the elements of the debate between actors aware of the subject.

However, the "general public" still remains on the edge of these exchange sessions which are often debates between experts, far from the concerns of the "Average Person". Comments on public enquiry registers are rare and meetings during public debates do not pull in crowds...

WG2 sees challenges for participation which characterise the nuclear field, in particular the high technicality of the files and the complicated pluriannual sequencing of decisions. WG2 esteems that to be effective, participation requires sufficient time and continuity for interests to be identified, relationships to be forged between actors, competencies to be built, and feedback and training to be integrated. Designing decision-making periods based solely on mandatory procedures planned for informing or consulting the public amounts to fragmenting the field, and hampers the constitution of such a "capital".

As things stand, it is also difficult for the public to understand the links between the various stages taking place over years, and therefore the real impact of its participation on the decision. It is therefore difficult for the public to identify that the data from its participation is duly taken into consideration (Art.6, § 8 of the Aarhus Convention). Let's take the case of the 2003 debate on energy. Neither the 2005 framework law on energy nor its explanation explain the reasons why the findings of the debate were taken into account to prepare the decision and in particular the decision to construct an EPR reactor. This lack of continuous approach fuels the sentiment that the outcome of the public participation has no real impact on the final decision. In the case of the EPR projects, this sentiment was strengthened by the political announcements made before the completion of the participation procedure.

Finally, restricting participation to the region where the project is implemented⁶ does not meet the need to identify the "public concerned" (Art. 6, § 5). Although the location of the project and its immediate scope are important elements for implementing the recommendation (Art. 6, § 5 of the Convention) to identify the public concerned by the operator, they do not completely define "the public concerned" in relation to the project's issues or the importance accorded by society to the decision

II- General recommendations

a- Implement a continual dialogue process

For public participation in decision-making to be effective, it needs to have a "real impact" on the decision. Real impact, in particular, means that participation occurs when anything is still possible, therefore after the discussion carried out on the strategic framework (e.g.: which dismantling strategy in France?) and until the end of a project (e.g.: the public enquiry on the dismantling of the Brennilis nuclear power plant). Therefore, this concerns a continual, consistent and harmonised dialogue process. Real impact also means that the outcome of the participation is taken into consideration by the decision-maker which assumes that at least the decision-maker explains and gives reasons for his decision to retain or not to retain the elements from the participation.

Recommendation no. 1: Develop participation in decision-making for plans and programmes, when all options are still open:

- Extend the framework of discussions conducted on the strategic guidelines upstream of the decision-making. Example: open the discussion committee on the Pluriannual Programming of Investment (PPI) to make more room for civil society representatives and human and social science representatives.
- Generalise the use of public debate in the decision-making process on strategic guidelines, plans and programmes, by adapting it to a national framework in particular with regard to the rules of advertising, the public debate originally being designed for intervening on a project.
- Summarise the conclusions of the public debates that have taken place to date in the energy sector in order to identify the key guidelines and constitute the basis for the next discussions on the energy policy.

Recommendation no. 2: Ensure consistency, harmonisation and continuity of the participation:

To provide more effective participation, it would be desirable that each stage of the decision-making process and subsequently each stage of the participation takes into account and retraces what happened upstream. The practical implementation of this recommendation is the subject of several proposals:

- Integrate a graphic display of the entire decision-making process into participation procedures which shall therefore enable participants to position themselves in a more global context.
- In addition, have the entire participation process monitored by a pluralistic body, whether a nuclear-specific body such as the HCTISN or a generalist body such as the CNDP. This proposal could be tested for a project subject to public debate and public enquiry.

The possibility of changing towards a continual participation concept throughout the decision-making process and which would replace set times for participation was mentioned but was never discussed in detail by WG2.

⁶ Municipalities where a proportion of the region is located at least 5 km away from the perimeter proposed by the operator for the nuclear installation are concerned by the procedure

Recommendation no. 3: Improve and trace whether account is taken of the outcome of the participation:

- Improve the use of current tools which include the public enquiry and public debate by improving the traceability of the questions/opinions/answers.
- Systematically give reasons for the administrative decision with respect to the outcome of the participation (e.g.: the CHSCT model). The administrative decision must take the outcome of the participation into account and accurately explain what was removed and what was retained and for what reasons.

b- Improve public confidence and access to information

Several elements must be brought together for the procedures to mobilise the "public concerned" and make its participation effective. The scope concerned by the decision must be clearly defined; opportunities for everyone to express their opinion must be arranged, which in particular passes through an explanation of the issues and outcomes of the decision; to help the public, access to the necessary expertise is arranged; finally, participation must be open to all those concerned by the decision.

Recommendation no. 4: Strengthen the role of third-party guarantors during procedures in particular by giving them a role of facilitator in access to information.

The two procedures of public enquiry and public debate require the involvement of an external third party who manages the procedure and ensures that it is followed correctly: the Enquiry Commissioner for the first and the French Special Public Debate Commission (CPDP) for the second.

Sometimes, the public may feel that the procedure is more of a communication exercise for the project sponsor who is trying to get the project accepted, than an exercise aiming to gauge public sentiment and incorporate it into the deliberation. The CPDP Presidents and the Enquiry Commissioners, and their "third-party guarantors", may instil neutrality and confidence (e.g.: the principle decision by the Enquiry Commission for Brennilis not to distribute, despite its usefulness for information, a non-technical document that had been drafted solely by the project sponsor). The role of these actors is currently limited and their neutrality is sometimes questioned⁷:

- Give third-party guarantors a role of facilitator in access to information and give them the technical and financial resources for facilitating debates (in particular for the enquiry commissioners).

Similarly, some members of the group wanted to raise awareness of the absence of external third parties within the framework of the so-called public consultation procedure which appeared with the public enquiry reform following implementation of the Grenelle 2 Law. Therefore, the risk that this exercise is more of a communication exercise for the project sponsor than an actual participation exercise is real for a proportion of WG2's members, in particular the voluntary members.

Recommendation no. 5: Facilitate understanding of the project and the voicing of various opinions.

- Encourage obtaining a second opinion which may be at the initiative of the third-party guarantor (e.g. contradictory analysis requested by the CPDP from non-institutional experts upstream of the public debate on radioactive waste) or even from the CLI during public enquiry procedures. This recommendation is not unanimously supported by WG2. It is pointed out that there are already two sources of expertise: the project sponsor's expertise and that of the control authority the document of which, however, is not yet available for the public during the public enquiry. It would be worth carrying out a discussion to provide visibility to the public on the control authority's expertise throughout the procedures.
- Generalise the compilation of an information document into a few pages which would present all viewpoints. This document could be drafted by the project sponsor before being completed if necessary and signed by the Environmental Authority. The third-party guarantor (Enquiry Commissioner or CPDP President) could be associated to the preparation.

⁷ It has been revealed several times by the working group's participants that the Enquiry Commissioner does not always have the skills or the neutrality criteria to perform this role of third-party guarantor correctly. For these participants, although the recent public enquiry reform provided an initial response to the problem of skills, the problem of neutrality is more complicated and would merit special attention because this alone may instil public confidence.

Recommendation no. 6: Strengthen the role of intermediary bodies, in particular the CLIs, who may act as interfaces between the public and the project sponsor

- Give them time to understand the subjects so that in the procedures the CLIs provide clear opinions that fuel the debates.
- This raises the question of reporting to the public and the financial and human resources of the CLIs for carrying out this work.

Recommendation no. 7: Study the notion of "public concerned" in greater detail and adapt the tools to this public at every stage of the procedure.

- Adapt the scope of the debates to real issues (e.g. the risks and the interests related to the construction of a new reactor are not the same as those for the construction of an enrichment plant or even a radioactive waste disposal facility).
- Generalise use of the Internet for advertising debates and participation. In the past, problems were mainly encountered in public debate situations. As regards the public enquiry, eventually the generalisation of on-line files and the possibility of sending comments electronically should move the problem of scope forward.

Chapter 2: Improve the efficiency of existing procedures

I- The public debate, a tool yet to be devised

A public debate (PD) is planned for all projects subject to Article 6 of the Aarhus Convention. It must take place upstream of the decision and concern the opportunity of the project. The French Special Public Debate Commission (CPDP), instituted for a specific project and supervised by the French National Public Debate Commission (CNDP), assesses the debate. As opposed to the public enquiry, this commission does not give an opinion on the project. On the other hand, the public debate report is subsequently attached to the public enquiry file for the same project.

a- Main conclusions of WG2

Through studying specific cases, WG2 agrees in saying that the public debate is a good public information tool. It facilitates access to expertise and clarifies the positions and arguments of all concerned. In the nuclear sector, innovative practices have emerged, for example to attempt to reconcile public and top secret information.

However, barriers may exist for effective public participation in decision-making provided by the public debate tool. These barriers partly reside in the texts, as the law states nothing on the link between the outcome of the participation and the decision, and partly in the practices sometimes observed. For example, the French President's announcement on the construction of a second EPR at Penly in 2009, i.e. one year before the public debate was held, shall be cited. Although the CNDP makes sure that the debate is carried out correctly, it has no subsequent rights.

Similarly, there is currently no uniformity in the use of the PD tool. The two EPR public debates were not held on a comparable basis; Flamanville CPDP made it a national issue, Penly CPDP made it a local issue.

The PD tool was also used once in the nuclear sector upstream of the preparation of a national programme, i.e. in 2005/2006 concerning radioactive waste (see above). The same procedure is used with two different end purposes without adapting the operating rules at discussion level.

The public debate attracts few members of the public and sometimes may be seen as a tool for validating a political decision made on elements that are impossible to question.

b- Make the public debate a true participation tool

Recommendation no. 8: Clearly differentiate the public debate tool so that it concerns the preparation of a plan/programme or a project and adapt it better to the issues (publicity, scope of the debate)

Recommendation no. 9: Provide a better quality of debate in particular by strengthening the role of the third-party guarantor in his information work

- To improve the quality of the debate, the public must be provided with tools enabling it to bring itself up to speed in order to ask the right questions. Work needs to be done upstream to identify

the subjects to be discussed, anticipate stumbling blocks which could tarnish the exchanges (e.g.: the question of secret during the Flamanville 3 PD which adversely affected the proper conduct of the debates). It may be important to generalise one or several pluralistic meetings upstream of the PD in order to detect points of tension.

- Permit the voicing of various opinions (the practice of actor journals is developed for certain public debates), also to debate the arguments of opponents.
- Promote the practice of obtaining a second opinion (or access to safety authority expertise) on the project sponsor's file (see above).
- Promote understanding by generalising the pluralistic preparation of a targeted information document by an external third party (see above).
- In addition to the project sponsor, ensure the presence of all actors concerned by the project, in particular, in many nuclear cases, Government representatives, so that the public can obtain answers to all of their questions including with regard to political choices.

II- The public enquiry procedure: from a public information tool to a participation in decision-making tool at project level

The Public Enquiry (PE) is a participation tool which precedes the implementation of a localised project, and in principle is open to all free of restrictions.

The public enquiry is usually opened when the main options are taken. The public's observations (written in a register, or formulated during a meeting) are examined by the Enquiry Commission or the Enquiry Commissioner in charge of the file. The enquiry commissioner's opinion does not bind the decision-maker. The legal consequences of an unfavourable opinion are minor, as this could for example require the organisation of a supplementary enquiry.

a- The public enquiry's limitations as a participation tool

The public enquiry creates a meeting place for dialogue between stakeholders around a localised project. Its very late position in the project's chronology limits the effectiveness of the participation in decision-making, as most of the options are already closed. The public enquiry is a good opportunity to take for raising awareness and public information, in order to develop local competences, and forge sustainable relationships between actors. But the temporal pressure and divisions imposed by the procedure must change to enable the public enquiry to become a better participation tool.

A local tool

The public enquiry was not designed to discuss national issues but local issues regarding specific projects. It is therefore not the most suitable instrument for discussing societal matters; therefore to operate well, the procedure must fall within a general framework which shall have been the subject of a suitable participation procedure⁸.

However, the restricted scope of the public enquiry does not always correspond to the actual impact of the project⁹, in particular in the case of nuclear projects¹⁰.

A procedure lacking interactivity

During the public enquiry procedure, the general council, municipal councils, local water commission and the relevant CLIs, are consulted for opinion by the Prefect at the latest before opening of the enquiry. They may communicate their opinion within a fortnight following closing of the enquiry. Introduction of these opinions into the public enquiry procedure is a first step towards a more dynamic participation procedure. However, too tight time-frames and the lack of interactivity produced by separate procedural stages constitute barriers for effective participation. Whereas the CLI could support the public (see recommendation 11), it currently does not have the resources to make a clear opinion upstream of

⁸ Therefore, with regard to the Brennilis public enquiry, part of the debate concerned the dismantling *strategy* when the tool is not suitable on the programmatic scale. The unfavourable opinion of the commission was also partly justified by this lack of a clear national dismantling strategy.

⁹ For example, the dismantling of Brennilis has consequences for residents living along the waste transport route or close to waste disposal facilities.

¹⁰ Some WG2 members asked the question of relevancy of the 5 km perimeter around sites as the scope of the participation on nuclear projects (in particular, can the risk of major accidents be restricted to such a context? With regard to national equipment, should only the opinion of the local public be consulted?)

opening the procedure to the general public. On one hand, the analysis of files and, in particular, the possible use of the IRSN's expertise and/or a second opinion require time¹¹ which the CLI lacks in the procedure as it currently stands. On the other hand, to be carried out these same analyses require financial resources. Finally, access to dialogue with the operator is not facilitated throughout the procedural process, in particular, by the principle of intangibility of the file¹². Therefore, the operator's answers are written in a memo in response which arrives after the closing of the procedure, and after the opinions and contributions have been set.

A procedure that does not mobilise the general public

WG2 has heard the enquiry commissioners and CLI members on the question of the publicity made around the public enquiry and mobilisation of the public on this type of procedure. As with the making available of the elements constituting the public enquiry file and the formulation of comments, the advertising rules could be changed in order to be more suitable for new forms of communication, including electronic media¹³. It shall be noted that the physical constraints of participation, and travelling to the town hall in an area within a 5 km radius, does not facilitate comments¹⁴.

Furthermore, the practice of the public meeting is fairly undeveloped; enquiry commissioners make little use of it because the budget for a public enquiry is modest compared with that of a public debate.

Finally, the complexity and technicality of the file lodged by the project sponsor constitutes a real barrier for public participation. The non-technical document mentioned by the ASN is not a general public information file.

b- Make the public enquiry a true participation tool

Recommendation no. 10: Do not turn the public enquiry into a place for discussing key strategical guidelines

- It is important that the public enquiry represents the continuity of a participation process which shall have started on the plans and programmes scale (see above).
- It is preferable that the public enquiry is not used for a project for which no framework exists. In the case of Brennilis, the difficulties encountered in conducting the public enquiry are explained in particular by the lack of national framework on the dismantling of nuclear installations. The public enquiry reform lays down that within this type of situation, the Prefect may organise a consultation before the public enquiry. WG2 suggests that it might also be envisaged that this responsibility be given to a body that shall ensure consistency and continuity of the participation (see Recommendation no. 2).

Recommendation no. 11: give the CLIs more time to get to grips with the public enquiry files

As an intermediary body, the CLI may act as the interface between the general public and the project sponsor to make the technical and/or socio-economic issues raised by the project easier to understand. WG2 recommends that the CLI's initial opinion should be attached to the public enquiry file. This would enable the public to be aware of this position supported by experience and expertise, before in turn voicing their opinions. Also, the CLI should be given the possibility of formulating, if it so wishes, a second opinion after closing of the public enquiry.

For this, the CLI needs to be in a position to give a clear opinion on the project before startup of the official period of participation (public enquiry), for which it currently lacks time and access to expertise.

Two issues underline this problem: how to avoid extending the time-frames for the operator while giving more time to the CLI; how to avoid creating a legal risk for the operator while providing the CLI with information?:

¹¹ As regards the UP2-400 public enquiry, the CLI returned a favourable opinion but without having the answers to the questions that it asked.

¹² Mrs Faysse therefore reminded everyone during her hearing that there is nothing in the texts preventing the project sponsor from answering the CLI's questions directly including during the public enquiry. Nevertheless, at the moment, due to the legal risk of subsequently being criticised for "modifying" the file, operators follow the principle of intangibility of the file and only answer questions from the enquiry commissioner.

¹³ Publicity is currently planned in two regional or local newspapers distributed in the relevant department(s), see Art R.123-11 of the EC: and 2 national newspapers for projects of national importance.

¹⁴ Comments in the registers held in the town hall are relatively rare, and this was particularly the case of the UP2-400 public enquiry.

- The public enquiry file could be sent to the CLI as upstream as possible, at least at the same time as to the environmental authority. This recommendation is shared by all of WG2's members and it seems that there are no legal risks with the exchanges on the file between the CLI and the operator upstream of the official launch of the participation period.
- Conversely, the principle of intangibility of the public enquiry file raises questions as regards the legal possibility for the operators to answer the CLI's questions during the public participation period. This point would merit clarification if not a legal amendment.
- Finally, to formulate its opinion, the CLI may want access to expertise other than that provided by the operator; this may concern the expertise of the IRSN and/or an external expert. As regards the CLI's members' access to IRSN expertise, WG2 recommends improving the flexibility of the rules guaranteeing the instruction in so that this actor can give the CLIs some answers on the technical aspects of the file. But bear in mind, for the IRSN this does not mean carrying out a technical second opinion at the same time for the CLI.
- In addition, for the CLIs to be able to effectively get to grips with a given file, they also need to be informed of any administrative procedures concerning the installation, and opinions given even if the CLI's opinion is not required.

It should be noted that the recent reform of the public enquiry shall provide a little more flexibility compared with the current situation by, in particular, making it possible to postpone the public enquiry for 6 months at most in order to modify the project, or even start a supplementary enquiry lasting at least 15 days¹⁵. However, these possibilities are only offered to the project sponsor.

Recommendation no. 12: Encourage enquiry commissioners to act as true facilitators:

- Attach the maximum amount of information to the public enquiry file. The practice of actor journals aiming to present everyone's position, tested during public debates, could be extended to the public enquiry.
- Develop the practice of public meetings, in particular, upstream of the formal participation period, which helps improve interactivity between CLIs, populations, and project sponsors.
- The preparation of a targeted information document of a few pages by external third parties must also improve the public's understanding of the file (see above).

III- Open questions

A certain number of questions were asked during WG2's work where WG2 could not find clear answers due to lack of time for investigating these themes further.

Two questions arose:

- How to reconcile long-term participation with the short-term economic requirements.
- How to give subjects, which according to the texts currently in force are not the subject of an information/participation procedure when they interest society and the CLIs, the benefit of effective participation (e.g.: major accident risks, extension of power plant operating times). One of the avenues for discussion is the proposal that a CLI or a group of relevant citizens may have the initiative to implement a procedure.

Annexe of WG2's conclusions: Extracts from the Aarhus Convention

Article 6: Public participation in decisions on specific activities

1. Each Party:

- a) Shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;

¹⁵ Article R 123-23 of the French Environmental Code

- b) Shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, Parties shall determine whether such a proposed activity is subject to these provisions; and;
 - c) May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that Party deems that such application would have an adverse effect on these purposes.
2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:
- a) The proposed activity and the application on which a decision will be taken;
 - b) The nature of possible decisions or the draft decision;
 - c) The public authority responsible for making the decision;
 - d) The envisaged procedure, including, as and when this information can be provided:
 - i) The commencement of the procedure;
 - ii) The opportunities for the public to participate;
 - iii) The time and venue of any envisaged public hearing;
 - iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;
 - v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and
 - vi) An indication of what environmental information relevant to the proposed activity is available; and
 - e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.
3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.
4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.
5. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.
6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4:
- a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;
 - b) A description of the significant effects of the proposed activity on the environment;
 - c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions;
 - d) A non-technical summary of the above;
 - e) An outline of the main alternatives studied by the applicant; and
 - f) In accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with paragraph 2 above.

7. Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.

9. Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

10. Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied *mutatis mutandis*, and where appropriate.

11. Each Party shall, within the framework of its national law, apply, to the extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Article 7: Public participation concerning plans, programmes and policies relating to the environment

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.

Conclusions and Recommendations of the "What competence building and access to expertise is needed to assure true participation?" group (WG3)

Working Group 3's objectives

In the same way as the other two working groups, WG3's comes under the French "Round Table" led by the ANCCLI and the HCTISN on the practical implementation of the Aarhus Convention in nuclear activities. Its theme (*"What competence building and access to expertise is needed to assure true participation?"*) places it in the continuity of the discussions carried out by the IRSN and the ANCCLI on the governance of nuclear activities for several years, and in the extension of the European Luxembourg workshops which took place in June 2009. This work therefore highlighted that **competence building and access to expertise are conditions that are essential for effective participation of society actors in the instruction of files upstream of the decisions.**

Two WG3 meetings in January and February 2011 gathered together around fifty people from various origins: members of the CLI and the ANCCLI (elected officials, volunteers, academics, etc.), operators, authorities and experts and enabled these issues to be discussed using recent practical case studies, based on two questions:

- **What expertise is needed for the CLIs and other society actors?**
- **What diversified expertise is needed for the CLIs and other society actors?**

A third meeting was dedicated to a summary of the work and discussion of the group's recommendations.

The discussions highlighted two main issues:

- **What conditions are needed for effective citizen instruction and technical mediation?** These conditions mainly refer to the specific constraints of access to files: on one hand those of the operators and on the other hand, the public expert analyses. To what extent can the CLIs have access to this data, in particular before and throughout the public enquiry?
- In addition to this need for access to information, the debate confirmed the need for diversified expertise which gives the CLIs the opportunity of benefiting from complementary, or even contradictory viewpoints. This question is strongly related to the **mobilisation of competences and expert resources by the CLIs**, in their region, which combines the internal competences of the four panels of the CLIs and the use of external resources.

WG3's conclusions are divided into four chapters:

- Chapter 1: Issues and definitions
- Chapter 2: Access to data and technical dialogue: the conditions for effective citizen instruction and technical mediation?
- Chapter 3: The CLIs and competence building at regional level: mobilisation of competences and expert resources
- Chapter 4: What conditions for progress: sharing of good practices and experimentation

Chapter 1 – Issues and definitions

WG3's work highlighted the **strengthening of the role of the CLIs and their needs for expertise**, resulting from the new task as provided for by the Nuclear Safety and Transparency Act to issue opinions on files submitted for public enquiry. This strengthening constitutes a major step forward and contributes to implementation of the right to information and the right to participation established by the Aarhus Convention.

But what instruction does this refer to? What expertise do the CLI's need?

Since the Nuclear Safety and Transparency Act of June 2006, the CLIs are responsible for monitoring, providing information and consulting on nuclear installations. Their function is not to produce technical expertise in competition with that conducted by the IRSN and the authorities. The purpose of the instruction of a file by the CLI's and society actors is to highlight the questions and issues of the citizens. Through this questioning work, depending on the case supported by technical expertise, the CLIs act as a driving force. They provide the opportunity to highlight aspects that from their point of view require instruction or more detailed attention. The CLI's therefore contribute to the instruction of a safety or radiation protection problem by providing their viewpoint, their questions, their competences and their knowledge of the local situation. By doing so, they contribute to improving safety and radiation protection.

The issue is therefore not one of additional scientific expertise but one of citizen instruction on technical files with two major purposes:

- **to understand the issues and feed them with questions asked by society**
- **to effectively question the sponsors of technical files and influence the decisions.**

Citizen instruction means all of the resources (tools and processes) that the CLIs and more broadly civil society actors use to investigate the subjects that concern them.

Therefore, for the CLIs and civil society actors, effective monitoring of nuclear activities involves understanding technical issues, without in as much becoming specialist experts. This necessary competence building presupposes the implementation of **technical mediation** processes which permits a two-way translation and a dialogue between citizen concerns and technical issues. This technical mediation is firstly conducted within the CLIs by mobilising the various competences and points of view of their members. It must also be possible to use resources outside of the CLI at local level or national level.

Without being a prerequisite, the reality of the resources available for the CLIs has become a vital condition for them to be able to develop the capacity and competences for the lofty task assigned to them by law. This requires the time and availability of the persons involved.

Chapter 2 - Access to data and technical dialogue: the conditions for effective citizen instruction and technical mediation?

The case studies discussed led WG3 to identify two characteristic situations in which access to data is vital for the CLIs to be able to conduct a citizen instruction for their task:

- the **instruction** that the CLIs must conduct in order to provide the authorities (Prefect or ASN) with an opinion at the same time as the public enquiries,
- the **continuous monitoring of the activities of the nuclear installations** where they are installed and understanding of the general themes irrespective of the time-frames related to the formal decisions and related procedures.

The discussions showed that, far from being contradictory, these two moments are complementary because **over the long term the CLI can build general knowledge on the installation and their own understanding of the main related safety and radiation protection issues**. This "continuous instruction" helps them give a reasoned opinion when appropriate on a specific file.

WG3 was able to note that:

- The **Nuclear Safety and Transparency Act** offers a new framework, which is only beginning to be tested by the CLIs, but which has already shown **substantial progress**, though somewhat variable depending on the locations. Therefore, some CLIs were able to have the public enquiry file before the official opening of the enquiry for a period covering up to three months.

- Operators find it **difficult to send a file to a CLI before its acceptability has been approved by the authorities**. From this viewpoint, they believe that the file could be sent to the CLIs at the same time as to the Environmental Authority.¹⁶

Consequently, WG3 recommends that:

- The **timing of the files and public enquiries** (and other administrative procedures) be improved to actually enable the relevant CLIs to make use of non-institutional expertise so they can formulate their own independent opinion on the exchanges that they were able to have with other actors (operators, authorities, public experts).
- When they must give an opinion within the framework of a public enquiry, the CLIs may have access to **operator files** at the same time as the Environmental Authority.
- The CLIs receive the various **opinions issued throughout the procedure** by the various departments at the time when they are published.
- The CLIs systematically **receive the conclusions of the enquiry commissioner** when he submits them to the administrative authority.
- For the other administrative procedures:
 - that the CLIs be **informed** of all administrative procedures concerning the installation, even if their opinion is not required.
 - that the CLIs may, if they so wish, have **access to the file** and to the various opinions issued throughout the procedure when they become available.

WG3 was able to note that:

- The construction of a **reasoned opinion** by the CLIs not only means that they may ask **questions** but also that they may obtain **answers** to those questions before formulating their final opinion.
- The possibility of a **technical dialogue** between the CLI and the operator during the enquiry is subject to debate, as operators fear in particular that answering the questions and sending additional information to the CLI shall risk invalidating the enquiry.

WG3 recommends:

- that a **legal analysis** be conducted to specify the possible constraints at every stage of a public enquiry (preparation, implementation and conclusions) and the conditions under which a technical dialogue including questions and answers may be developed with operators during the instruction by the CLIs.

WG3 was able to note that:

- **Publication by the ASN of its decisions and by the IRSN of its opinions** and summaries of the reports presented to the permanent groups of experts constitutes a **valuable source of information** for the CLIs, but this publication occurs when the public enquiry has finished and when the CLIs have long since given their opinion.
- The IRSN and the ASN consider that **the IRSN may not discuss the contents of a file that is in the process of being instructed** on referral to the authority, and which is also the subject of a public enquiry and a CLI opinion.
- However, if considered necessary, the CLIs would like to have **the IRSN's support with knowledge and competences** to help them understand the complex files that they must instruct and the main related issues.

¹⁶ European and national legislations stipulate that the environmental impact assessments of major operations should be submitted for opinion and made public by a "competent environmental authority". These requirements aim to facilitate public participation in making decisions that concern them (Aarhus Convention, Constitutional Charter) and to improve the quality of the projects before the decision-making. The Environmental Authority was created by Decree no. 2009-496 of 30 April 2009.

WG3 recommends:

- that the CLIs be able to **call upon the IRSN's competences and knowledge** to better understand a file and decipher the issues (without in as much that the IRSN discloses its draft opinion if it is in the process of analysing a file for an authority).

It has also been highlighted that even if the CLIs could have access to the **official file** submitted to public enquiry at the same time as the Environmental Authority, this **time-frame is very short** for the CLIs to instruct even more complex files if they consider that external expert resources need to be mobilised to help them in their instruction. In addition, WG3 noted that although the file presented during the public enquiry does not change during the enquiry:

- it is prepared upstream and is the subject of multiple instructions resulting in presentation of the official file at the time of the enquiry.
- the file shall change again after the enquiry, and amendments, that are sometimes significant, may be made

WG3:

- therefore notes the **need for CLIs to have additional access to the safety files** relating to their installations, upstream or even downstream of the public enquiry procedures, and irrespective of them. It considers that this **continuous "instruction" and access to the files** that it requires shall help the CLIs build competence by gaining general knowledge on a theme and being able to instruct the files submitted to public enquiry within the short time-frames imposed by the regulatory procedures.
- highlights the importance of **dialogue** and **cooperation** within the area of expertise **outside of decision-making or regulatory procedure phases**. This continuous technical dialogue must in particular deal with civil society questions relayed by the CLIs which are not always including within the time or the objectives of specific files submitted to public enquiry. This would be an added value for experts and civil society.
- notes that these **new requirements** involve changes to the work of all actors: operators, authorities and public experts and the actual CLIs. It believes that they should all implement an active **competence building** policy with their staff with regard to learning about this technical dialogue and the obligations resulting from the Aarhus Convention and the Nuclear Safety and Transparency Act.

WG3 recommends:

- that a technical dialogue be carried out over the long term with the operators on the preliminary files upstream of public enquiries (or public debates) and the files revised downstream.

Within the framework of a technical dialogue over the long term (over and above administrative procedures):

- that the CLIs have access to **the operator's and Authority's annual reports**, and shall be able to discuss them before communication to the media.
- that a technical dialogue be carried out over the long term with the **operators** on the generic themes irrespective of decision-making time-frames.
- that a **technical dialogue** be established over the long term between the **CLIs** (if they so wish, based on non-institutional expertise), the **ANCCLI** and the **ASN** on one hand, and the **IRSN** on the other hand, on the safety issues related to generic themes (periodic reviews on safety, discharges, waste, dismantling, etc.). Such a methodological dialogue disconnected from a specific file would thereby contribute to the competence building of all.

This continuous instruction raises the question of **access to data and to files**. Effectively, although the Aarhus Convention, the Environmental Charter and the Nuclear Safety and

Transparency Act (for operators) impose public information obligations, the law also protects secrets such as defence secrets and industrial and trade secrets.

WG3 considers that:

- access to data is a condition of the CLI's monitoring capacity. When investing in a subject, they need to access any relevant data that may be related to it, whether this data comes from the operator, the authority, the IRSN or other miscellaneous studies.
- the **agreements signed between certain CLIs, the ASN and the operator** to access non-public data constitute **a major step forward** to be encouraged as highlighted in the work of the "transparency and secrets" working group of the HCTISN.

WG3 recommends that:

- The CLIs be able to **have access to any knowledge and assessments available on a file** that they must instruct: earlier operator files, opinions of authorities and public experts or others (voluntary laboratories, academics, foreign expertise, etc.). Conventional modalities including confidentiality clauses may help.

Within the framework of regular monitoring of the installation:

- The CLIs have access to information and the responses to **followup letters** after an ASN inspection, in particular concerning incidents, within 2 months.
- The CLIs be informed of any **stated events** and may have access to analysis files, if they so wish. They shall also be informed of the measures taken by the operators, where appropriate, and the time-frames set for carrying out any necessary repairs.

WG3 also:

- highlighted the importance of **pluralistic instruction approaches** that enable all actors to build competence and take into account citizen concerns in the technical instruction underway.
- noted the interest that the CLIs and society actors would have in **accessing a posteriori the instruction conducted by the IRSN on a file**, including on elements that are not included in the final opinion. This knowledge could effectively shed light on the issues in the files and help them to build competence. However, it recognises the difficulties to overcome in this sense and currently has no practical proposals to formulate.

Chapter 3 - The CLIs and competence building at regional level: mobilisation of competences and expert resources

The case studies analysed by WG3 lead us to consider that:

- **Competence building** of CLIs occurs through the actual practice of **monitoring an installation**, over the long term. The members of a CLI learn to understand the technical issues regarding the operation of the site where it is positioned through continuous dialogue with the operator, the authority and the public expert.
- **The initial resource for the CLIs is within the commission:** with their four panels, they have significant internal expertise or competence, which is sometimes underestimated. Technical mediation necessary for the citizen instruction of files initially takes place through close dialogue between panel members by sharing the competences present as best as possible and promoting dialogue between various cultures to avoid becoming restricted solely to scientific rationality and to develop a transversal and citizen questioning capacity. It has been highlighted that the presence of scientists from various origins in the panel of qualified individuals was a considerable advantage.

WG3 recommends that:

- The Presidents of the General Councils pay special attention to the presence of experts, **qualified individuals** and **scientists** from various and varied origins within the panel.

- **Dialogue between the various levels of competence and expertise present within the CLI** (specialist and generalist) be encouraged in order to strengthen its ability to instruct the various dimensions of a file.

It was also highlighted that the members of the CLIs, regardless of their original panel, must receive training on the technical aspects and on the task of the CLIs within the framework of the Aarhus Convention and its practical implementation. In this respect, the organisation of training within a CLI through the organisation or reinforcement of exchanges between panels seems to be a crucial element.

WG3 recommends that:

- **Training be implemented for members of all CLI panels**, on technical and/or scientific aspects, and on the institutional and practical aspects of their task, or other.
- **Training be offered open to other relevant actors in the region** (fire fighters, police, medical professions, voluntary representatives, etc.).
- A basic training file be developed for the CLIs that can be customised according to each CLI's requirements, supported by the scientific committee of the ANCCLI.

WG3 also noticed that the competence building of the CLIs and their members requires a **considerable investment in time**. In addition, this currently depends on the voluntary nature of those concerned which constitutes a barrier. It was highlighted that recognising the time spent by CLI members would encourage their investment over the long term.

WG3 recommends that:

- The law lay down for CLI members an **hourly discharge** similar to those granted to staff representatives in representative institutions such as corporate committees.
- CLI members be systematically reimbursed their **travel expenses**.

However, even if a CLI cannot have a specialist from every field, it must however be able to identify external resources of the expertise that it requires. From this point of view, WG3 noted that task managers play a vital role in matching internal needs and expert resources and in the internal dialogue.

WG3 recommends that:

- Each CLI be able to set up a **scientific secretariat**, for example, via a technical profile task manager.

It was also noted that:

- the exchanges between CLIs and the **sharing of competences as well as knowledge** on a given subject (e.g. VD3 and provision of Fessenheim experience) broaden the field of internal resources for a CLI. Therefore, the sharing of resources within the ANCCLI is the first circle of external resources of a CLI taken individually.
- the CLIs and the ANCCLI need to rely on the **independent expertise** of the institutional control system (authority and public expert) as do operators. This resource is rare, often voluntary and requires having enough time to mobilise it but this resource mainly exists in the voluntary and university sector. The CLIs need to better identify the resources available at local and national level. The development and diversification of these expert resources for CLIs and society actors are a major issue.

WG3 recommends that:

- the **networking and sharing of expert resources** be developed between the CLIs and within the ANCCLI.
 - through permanent groups and the scientific committee;

- by mapping and networking the external expert resources on which the CLIs and civil society rely concerning nuclear activities by area of competence and/or by region
- by promoting the establishment of competence networks between laboratories (in particular university laboratories)

WG3's work also showed that **by becoming actively involved in the CLIs' work these scientists gradually become technical mediators for citizen instruction**. This means that the involvement of these scientists over the long term is recognised and enhanced in their institutions and primarily in universities, which may become a valuable local resource.

WG3 recommends that:

- The **expert role for the CLIs** be recognised in the task of universities and other public scientific organisations (law, university programmes, target-based contracts, etc.)
 - Competitiveness cluster, institutes (e.g. carbon-free energy institutes) able to mobilise scientists to provide expertise.
 - "Local" universities.

Chapter 4 - What conditions for progress: sharing of good practices and experimentation

The case studies analysed by WG3 enabled it to note recent progress in providing the CLIs with the necessary information for their task and the difficulties related to the regulatory timing of the files.

The exchanges also made it possible to note some significant differences between the local practices of the various actors and identify "good practices" promoting the instruction of files by the CLIs.

WG3 believes that sharing these good practices at national level and continuing experimentation on a case-by-case basis on specific files will promote further progress.

Consequently, WG3 recommends that:

- The **sharing of good practices between all actors (CLI, ANCCLI and volunteers, and also operators, authorities, experts and HCTISN) be developed.**
- **A few files or specific themes of general interest be identified through which experimentation of WG3's recommendations may be carried out.**

The HCTISN and the ANCCLI, leaders of the Aarhus France approach, could ensure the monitoring of these actions.

PART 2: Summary of the recommendations for improving public information and public participation in decision-making at regional level and national level

The Aarhus Convention, the Environmental Charter and the Nuclear Safety and Transparency Act lay down citizen information and their participation in decision-making for activities affecting the environment including nuclear activities.

In addition, the effective participation of society actors in the instruction of files upstream of the decisions made requires vital conditions to be met:

- Society actors must have access to expertise, have knowledge of the existing expertise and have the resources to build citizen instruction of technical files
- Any consultation may only be carried out over the long term, time is not an enemy: used in an optimum way it improves the chances of success, because it teaches the various actors how to dialogue, obtain information, and build competence, etc.
- The consultation must be able to influence decisions: the way that it is taken into account throughout the decision-making process and in final decisions must be explained.

Recommendations relating to the consultation processes upstream of the decisions

Society actors and primarily the CLIs and the ANCCLI can only build general knowledge on the technical issues related to an installation and their understanding of the related safety, radiation protection and environmental over the long term. Therefore, it seems that for all matters, such as, consultation, participation and their consequences, i.e. access to expertise, competence building and opinions on files, time is an unavoidable variable enabling the various actors to participate in the information/participation process.

This "continuous instruction" helps society actors give a reasoned opinion when appropriate on a specific file. It is therefore vital that society actor participation during procedures falls within a continuous consultation approach not only during but also upstream and downstream of the procedures. It is also important to define the various levels of decision between strategic national level and regional level decisions.

I: Participation continuity and consistency at every stage of the decision-making process and improvement of procedures

For public participation in decision-making to be effective, several conditions must be met.

Firstly, this participation must make a real impact on the decision, Real impact presumes two conditions: firstly that participation occurs when anything is still possible, therefore after the discussion carried out on the strategic framework (e.g.: which dismantling strategy in France?) and until the end of a project (e.g.: the public enquiry on the dismantling of the Brennilis nuclear power plant). Secondly, that the outcome of the participation is taken into account by the decision-maker.

The consultation leader is also one of the key elements that guarantees the participation procedure's impartiality.

In the case of public enquiries, the CLIs must be given more time to get to grips with the public enquiry files and make sure that the regulatory constraints of existing procedures do not constitute an obstacle.

Recommendation no. 1: develop participation in decision-making on key strategic guidelines, plans and programmes, when all options are still open:

- By extending the framework of discussions conducted on the strategic guidelines upstream of the decision-making. Example: open the discussion committee on the Pluriannual Programming of Investment (PPI) to make more room for civil society representatives and human and social science representatives.
- By generalising the use of public debate in the decision-making process on strategic guidelines, plans and programmes, by adapting it to a national framework in particular with regard to the rules of advertising, the public debate originally being designed for intervening on a project.

Recommendation no. 2: ensure consistency, harmonisation and continuity of the participation:

The practical implementation of this recommendation is the subject of several proposals:

- Improve the use of current tools which include the public enquiry and public debate by improving the traceability of the questions/opinions/answers.
- In addition, have the entire participation process monitored by a pluralistic body, whether a nuclear-specific body such as the HCTISN or a generalist body such as the CNDP. This proposal could be tested for a project subject to public debate and public enquiry.
- Systematically give reasons for the administrative decision with respect to the outcome of the participation (e.g.: the CHSCT model). The administrative decision must take the outcome of the participation into account and accurately explain what was removed and what was retained and for what reasons. This process helps to encourage participation in decision-making because the official basis is defined at every stage and known for the next stage.

Recommendation no. 3: Strengthen the role of third-party guarantors¹⁷ during procedures in particular by giving them a role of facilitator in access to information.

The two procedures of public enquiry and public debate require the involvement of a neutral external third party who manages the procedure: the French special public debate commission for the first and the Enquiry Commissioner for the second. As a guarantee of the participation procedure's impartiality, their role is currently limited and their appointment is sometimes controversial. Steps should be taken to:

- Give the third-party guarantor an access to information facilitator role.
- Give the third-party guarantor the technical and financial resources to facilitate the debates (in particular for the enquiry commissioners) in particular contributing to the understanding of the project and the various opinions.
- Permit the voicing of various opinions (the practice of actor journals developed for certain public debates) and thereby discuss the arguments for and against.
- Plan the organisation of public meetings for the public enquiry procedure, a resource currently rarely used by enquiry commissioners. The public enquiry reform has not changed the situation much. The development of the practice of public meetings organised by the enquiry commissioner should be encouraged.
- Obtain a second opinion, in particular at the initiative of the third-party guarantor (e.g. contradictory analysis requested by the CPDP from non-institutional experts upstream of the public debate on radioactive waste) or even from the CLI during public enquiry procedures. This recommendation is not unanimously supported

¹⁷ Here, the term third-party guarantor means the neutral third party who ensures the correct conduct of a participation procedure (the French special public debate commission or enquiry commissioners for public enquiries)

by WG2. It is pointed out that there are already two sources of expertise: the project sponsor's expertise and that of the control authority which is, however, not yet available for the public during the public enquiry. It would be worth carrying out a discussion to provide visibility to the public on the expertise of the control authority during the procedures.

- Generalise the compilation of a 4-page information document which would present all viewpoints and which would not only come from the project sponsor (e.g. a little on the model of what EDF did on Brennilis but that the enquiry commission decided not to distribute). This document could be drafted by the project sponsor and signed by the Environmental Authority. The third-party guarantor (Enquiry Commissioner or Public Debate Commission) could also be associated to the preparation.

Recommendation no. 4: give the CLIs more time to get to grips with the public enquiry files

As an intermediary body, the CLI may act as the interface between the general public and the project sponsor to facilitate understanding. The group's members recommend that an initial opinion from the CLI be attached to the public enquiry file so that the public can become aware of this position before expressing their opinion and so that the CLI is open to formulate a second opinion, if it so wishes, after closing of the public enquiry.

For this, the CLI needs to be in a position to give a clear opinion on the project before startup of the official period of participation (public enquiry), for which it currently lacks time and access to expertise.

Two issues underline this problem: (i) how to avoid extending the time-frames for the operator while giving more time to the CLI; (ii) how to avoid creating a legal risk for the operator while providing the CLI with information?:

- The public enquiry file may be sent to the CLI as upstream as possible, at least at the same time as to the environmental authority. This recommendation is shared by all of the group's members and it seems that there are no legal risks with the exchanges on the file between the CLI and the operator upstream of the official launch of the participation period.
- Conversely, the principle of intangibility of the public enquiry file raises questions as regards the legal possibility for the operators to answer the CLI's questions during the public participation period. To clarify the situation, the group recommends a study of the case law which should ensure operators that there are no legal risks should they answer the CLIs' questions on the public enquiry file while the procedure is underway.
- Finally, to be able to formulate a clear opinion, the CLI should have access to expertise other than that provided by the operator. This may concern the expertise of the IRSN and/or an external expert. As regards the CLI members' access to IRSN expertise, the group recommends improving the flexibility of the instruction in order to give the CLIs some answers on the technical aspects of the file. But bear in mind, this does not involve carrying out a technical second opinion at the same time for the CLI.
- In addition, for the CLIs to be able to effectively get to grips with a given file, they also need to be informed of any administrative procedures concerning the installation, and opinions given even if the CLI's opinion is not required.

II: Consultation process and locations upstream of the creation of an installation

A special case is related to the creation of an installation (for example, waste disposal) in a location where there are no installations and therefore no local or regional bodies.

To guide such a process, a national entity is necessary: the HCTISN could be this national reference, which is permanent and of pluralistic composition.

Local entities for the relevant regions should then be established, which are relays between the citizens' requests and the official responses (operators, authorities, experts). These entities would contribute to the consultation and decision-making taking this consultation between the local, regional and national levels into account.

Financial and human resources shall be necessary to establish such structures.

If the project is successful, a long-term monitoring process would have to be started, i.e. creation of CLIs.

Recommendation 5: if an installation (example, waste disposal) needs to be created, set up permanent reference entities (national, regional, and local) and plan financial and human resources so that the public can understand the file from all angles and participate in the decision-making process.

In order to present this project clearly, it is necessary to:

- Have a schedule stating the stages. This schedule shall be updateable in particular so that new technical data, new legal, economic or even political contexts can be incorporated. The national reference entity shall keep it up-to-date and shall always make it accessible.
- Provide the citizens with information well in advance of the implementation of a project, so that they can understand its technical aspect (IRSN and voluntary experts) and participate in decision-making fully informed on the various issues.
- Provide information on all technical, financial and environmental developments.
- Send all of the analyses from official bodies so that the citizens can formulate their questions.
- Show the project's progress and acknowledgement of the questions, even to explain why a proposal has not been retained.
- Accept its modification using local competences.

Recommendation 6: provide access to files very much upstream of the regulatory phases (public debate, public enquiry, consultation, etc.), provide information on the project's progress, have a schedule stating the various stages but which can be reviewed based on the results of the stages, use the HCTISN as a guarantor and the CLIs as communication channels to open the debate to all.

Exchanges and knowledge sharing must be established between the CLI, the ANCCLI and the bodies (operators, authorities, ministries). Access to information and expertise enables local actors to participate. However, participation does not always mean consultation. To organise a consultation, an effort must be made to state the reasons for the decisions stage by stage. The approach, which in general is rarely practiced in France, helps mark out the decision-making process.

It is necessary to:

- Make sure that at every stage, the arguments that are the basis for the decision are communicated to the public.
- Publish the questions raised during consultations and the answers given.

- Make sure that account is taken of the outcome of the public participation.
- State the reasons for the decisions at every stage of the decision-making process, with each one defining the official basis and known for the next stage.

Recommendation 7: state the reasons for the decisions at every stage of the process so that participation starts the consultation, which influences the decision-making process.

Exchanges should not be restricted between citizens, bodies (operators, authorities, ministries), the CLIs and the ANCCLI on the establishment of a short-lived dialogue (public enquiry, public debate, etc.). Effectively, monitoring of the installation should be established. It is therefore essential that over the long term exchanges are established for this continuous monitoring of installations.

It would be important to plan an agreement providing access to various operator files, ASN inspection followup letters, and IRSN assessments. This would include the financial terms and conditions enabling the CLI to control technical, environmental and health assessments. For this control, the CLIs must be able to set up a scientific secretariat (scientists, secretaries).

Recommendation 8: Ensure long-term monitoring by signing a multi-party agreement between the various national, regional, departmental and local level actors. This agreement would include the financial terms and conditions for various studies and for a secretariat. The sharing of knowledge between CLIs must also be guaranteed.

III: Access to expertise and competence building

The issue of access to expertise, in terms of society actor participation in decision-making, is not to produce additional scientific expertise but the **citizen instruction** of technical files for two main purposes:

- to understand the issues and feed them with questions asked by society,
- to effectively question the sponsors of technical files in order to influence the decisions.

Such a citizen instruction involves a certain degree of understanding of technical issues by civil society actors, i.e. "competence building" on the subjects discussed based on a mediation between the citizens' concerns and the technical issues. This is mainly operated internally within CLIs (or other bodies) and is strongly facilitated by the presence of their own qualified staff.

Recommendation 9: Ensure CLI (or other consultation bodies) access to any available knowledge and evaluations on a file that they must instruct: earlier operator files, authority and expert opinions, public or other. Within the framework of the procedures, this mainly means that they have various opinions issued during the procedure when they are available.

Recommendation 10: Engage a technical dialogue over the long term over and above administrative procedures, in particular regarding generic themes:

- with the operators upstream of the formal files;
- with the control authority and the IRSN, for example the safety issues related to the generic themes.

Recommendation 11: Promote technical mediation within the CLI and other consultation bodies by:

- providing them with a technical secretariat preparing the instruction of technical files;
- recognising the importance of the role of CLI members in a similar way to the members of representative institutions in companies (delegation hours, taking into account travel expenses);

- **recognising the expert role for the CLI in the task of universities and other public scientific organisations, in particular through the presence of members in the CLIs**

IV: Practical implementation of the recommendations

Implementation of the above-mentioned recommendations requires training by all of the relevant actors, which requires them to be included in specific files.

It is therefore important to share good practices at national level between all actors, not only CLI, ANCCLI and associations but also operators, authorities, experts and HCTISN.

Furthermore, most recommendations are not determined by the establishment of new regulatory provisions, however, it is also necessary to guarantee the legal safety of the project sponsors and check whether legislative or regulatory provisions might hinder their implementation. Two examples of such questions are the possibility of developing a technical dialogue including questions and answers between the CLIs and the operator during a public enquiry or even the possibility for operators of sending draft documents in advance of the regulatory files.

Recommendation 12: identify a few files or specific themes of general interest through which the recommendations could be tested.

Recommendation 13: conduct a legal analysis to specify the possible constraints imposed by existing procedures (public enquiry, public debate) and any barriers for the implementation of the above-mentioned recommendations.

Conclusion

Following the exercise conducted by each of the three discussion bodies set up within the framework of ACN France, the quality of the debates should be highlighted, characterised by a consensus by the group members on the general objective, and the importance of the work accomplished.

ACN France now has a documented report retracing the conclusions of the three working groups and a series of recommendations that should be developed.

Five areas of development can therefore be proposed:

- **Testing certain points of the recommendations:**

With regard to a number of questions asked, the regulations do not prohibit the actors from using their initiative. Each stakeholder in the working groups may, within his/her field of activity, initiate the implementation of certain elements of the recommendations without needing authorisation from the administration. Testing certain points of the recommendations may constitute an interesting option for continuing the work.

- **Bringing certain proposals before a certain number of bodies, in particular political bodies:**

The High Committee for Transparency and Information on Nuclear Safety seems to be the most suitable body for achieving this objective. Implementation of this proposal could result in the constitution of a working group within the High Committee. Following analysis of the recommendations from the work of the three WGs, this body would be responsible for suggesting to the HTCISN to repeat a certain number of proposals on its behalf so that it can bring them before the political bodies.

- **Ensuring wide distribution of the summary report of the three working groups:**

Distribution of the report and recommendations must be envisaged on a national and European level. With regard to this last point, this means that the report must be translated into English.

- **Sharing the discussions conducted within the framework of ACN France with those from other national approaches:**

This sharing of experience could be carried out under the aegis of the ACN Europe approach which seems to be the most appropriate body for ensuring this pooling of information.

- **Exchanging information with fields other than the nuclear field:**

It is proposed to publicise the discussions conducted within the framework of ACN France outside of the nuclear field. These exchanges and this sharing of experience could in particular be conducted with the support of voluntary representatives who belong to structures, the role of which is not only restricted to the nuclear field.

Annexes

Annexe 1: feedback from debates of the ACN France plenary meeting of 10 February 2012

This document presents the transcript of:

- The introductory session of the meeting by Mr Michel Demet, ANCCLI and Mr Henri Révol, President of the HCTISN.
- The discussion that took place following presentation of the conclusions of the three working groups.
- The summing up presented by Mr Henri Legrand of the ASN, at the end of the afternoon.

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I- Introduction of the debates

Michel Demet, ANCCLI: Ladies and Gentlemen, thank you for attending this meeting. As an introduction, I would like to say a few words as ANCCLI's representative, firstly to apologise for the absence of its President, Jean-Claude Delalonde, who could not make it due to other professional obligations. Then, Mr Revol, President of the High Committee, will say a few words. Before starting the work session, I would like to invite you to participate in a round table so that you can all get to know who is who and who does what.

I will therefore start by thanking Mr Revol and the HCTISN's members for accepting to lead this French round table with the ANCCLI for a few years now and since the startup of the ACN approach. As you know, since 2009 the ACN initiative has been studying the practical implementation of the Aarhus Convention in the nuclear field in Europe and in around fifteen European countries. In France, in 2010 this work took the form of three themed working groups, made up of representatives from the CLIs, the HCTISN, associations, nuclear operators, the French nuclear safety authority (ASN), the IRSN, and academics, etc.

Today's meeting has been considered as a workshop, the objective of which is to present and discuss the results of the three working groups which were set up and to find shared perspectives. The programme for this day is in two stages. The first stage involves feedback on the recommendations prepared by the three working groups. Here, I would like to take this opportunity to say a big thank you to the leaders and co-leaders of these three working groups that have carried out amazing work in a limited time. The second stage is a period for discussing and preparing perspectives shared by the three working groups. To remind you, the working themes of the three groups are:

- WG1 worked on the process of selecting sites for low-level, long-lived waste. It was led by the HCTISN and the ANCCLI.
- WG2 worked on public access to information and participation in decision-making. It was led by Greenpeace and the ASN.
- WG3 worked on the questions of what competence building and access to expertise is needed to assure true participation? It was led by the IRSN and the ANCCLI.

I hope you have a good day of work and discussions. We are relying on you. Yesterday, you received the documents. We have held preparation and organisation meetings which were slightly delayed but at least you were able to get an idea of what would be presented to you today. I will now leave the floor to Mr Revol.

Henri Revol, President of the HCTISN: Thank you very much. On behalf of the HCTISN, I would like to greet you all. As stated by Michel Demet, the ACN approach was initiated in 2009. The High Committee for Transparency and Information on Nuclear Safety (HCTISN) was a young body at that time, as you know it was created by the Law of 2006 but was only set up in July 2008. We therefore only had one short year in operation when the ANCCLI approach and European Commission was initiated and when President Delalonde contacted the High Committee to ask for its involvement in this approach, which it willingly accepted. Since then, we have been working very closely with one another on the subjects mentioned by Mr Demet. However, the High Committee has been more deeply involved in WG1 which will be the subject of the first talk by Mrs Sené, since the High Committee, parallel with the ACN approach, created a working group on the problem of the citizen approach leading to the possible creation of LL-LLW disposal sites. At the High Committee, we have therefore specifically participated with the ACN approach working group repeating this theme even if the High Committee's representatives were also present in the other working groups. With regard to the work on this subject, the High Committee's report and recommendations were adopted and published WG1's work on 7 October 2011 and are available on the High Committee's website, so to remind you it retraces all of our High Committee's activities. We are very pleased to note that the work of the three working groups has come to an end. Obviously, with regard to the work of the working groups that has not been presented before the HCTISN, we hope that it will be presented in the future.

Today, I am delighted that we can examine all of the reports from these three working groups and I would like to congratulate all of the members who have been very devoted and who have produced extremely important work. I would also like to wish you all an excellent meeting and as requested by Mr Demet, I think that we can now hold a quick presentation round table.

The people present at the meeting introduce themselves. The list of participants is referenced in the Annexe.

II- Summary discussion on the work presentations (end of the morning)

Jean-Claude Autret, ANCCLI: Wanting to place the nuclear file, which until now was absent, in the public arena is a vast subject. However, this file has been in progress for a long time at least on a human life scale. I would like to comment on the notion of "public concerned" which appears in the Aarhus Convention and which in my view does not seem well defined in group 1 and 2's summaries. I have two questions to put forward for discussion:

- **With regard to waste, does the notion of public concerned only refer to those who receive the discharge or should it also include those who feed it, i.e. consumers of electricity?** As is the case of more ordinary waste that citizens are now required to selectively sort in order to recycle it and therefore contribute to its management. For example, household waste, water treatment, etc. This would perhaps lead to the idea of a contract being defined or monitoring between the producer public and receiver public which would offer a "guarantee" against the risk of future rupture that I would qualify as "socio-regional". I am specifically thinking about current waste disposal sites and former nuclear sites which are currently experiencing difficulties with regard to their dismantling. It should be noted that this notion of dismantling does not concern long-lived waste burial sites...
- I would also like to comment on the notion of time. I believe that acceleration and speed are barriers for participation. **Also, should we not have reason to fear that passing on an unsatisfactory waste solution to "future generations" may be worse than passing on the problem?** Three examples illustrating this come to mind: the la Manche disposal facility, which poured radioactive waste, graphite and low-level long-lived waste into the water table, which experienced the full force of this failure when researching sites. I am also thinking about the dismantling of sites and returning them to a clean state: not enough questions were asked upstream for the public to be able to get to grips with this.

As regards WG2's presentation with which I took part, I would suggest preparing tools that could be given to the public, such as, an organisation chart and history of participation on the file could help the public's understanding. Here, I would like to repeat the proposals that Mr Mercadal made when he presented his views to WG2. He insisted on the importance of contextualising and linking nuclear-related files.

As regards WG3's presentation, the term "technical" combined with "mediation" is restrictive for the discussion. I believe that we could quite simply talk about mediation, technical being only one part of a broader mediation.

As regards the CLIs, in my opinion I believe there is a lack of openness to non-specialist members. However, my view is perhaps a little biased because I mainly know the 3 CLIs of Nord Cotentin, which has a significant number of nuclear installations, and know the others less. In these CLIs, in my opinion there is an over-representation of members who are or have been closely connected to operators or to the nuclear field in general. This meant that the CLI's members used terms in the debates that tended to make their comments a little abstruse for the more novice members of the public living in Normandy.

More generally, perhaps the problem stems from an approach mainly focused on the how, when the public are perhaps expecting a discussion on the what and why? There is always this compulsive question of doing, which also questions the notion of time that I spoke about. Effectively, we have economic time, industrial time and political time but also other notions of

time that may concern stakeholders, entrepreneurs or employees and the electors who will want to examine this over a longer period of time.

Gilles Hériard Dubreuil, ANCCLI: Various institutions are represented around the table. From a method point of view, I would suggest asking the representatives present to give their opinions on all three reports. Each one of them contributed to the work with one, two or three groups depending on the situations. We now have an overall transparency of all of the work. Could we possibly ask for your feedback? For example, we could start by asking the operators their points of view.

Alain Vicaud, EDF: I did not realise that the aim of today's meeting was for the entities represented to officially say what they think about the results of the working groups. I shall just make a few comments that do not constitute EDF's official position.

For WG 2 in which I took part, I think that there are some very interesting openings. What's more we contributed to them. Sophia Majnoni presented elements on which diverging points of view existed and for which, the more you go into detail, the more difficult it is to find a consensus. However, innovative, interesting and consensual elements exist that can be quickly implemented.

For the "competence" section, François Rollinger gave us a brilliant report. I think that another technical second opinion will add nothing more. The way this was expressed by WG3 is interesting. The public are not necessarily expecting the same thing.

I feel that trust, a word that has not yet been used, is lacking. When the project owner (petitioner, future owner or former owner in the case of dismantling) produces a four-page document which is intended to provide better understanding of what he intends doing and how he intends doing it, as soon as this document is produced by the operator a lot of people will think that he must have something to hide. Therefore, if we do not answer a request such as "are you giving us the response that you gave to the followup letter..." immediately, then everyone has the same suspicion that we have retained data.

I think that we need to find the means to work and progress together. In particular, I am a supporter of continuity of the relationship with the CLIs. I do not know which tools should be put in place for this. Regulatory meeting points exist such as public enquiries. The CLIs' members mainly become aware of our files through these regulatory meetings. More continuity is needed with the relationships between the operator and the CLI and some of the ideas put forward are along these lines. I believe that building the competence of the people in the CLI, being able to answer their questions and involving them more, is important.

Through these meetings, I would in fine like us to succeed, and I believe that within WG2 we all managed to consider that we did not totally distrust one another. I recently discussed the debates with a specialist, and he told me that a distinctive feature of the French is that debates are always considered nothing short of a conspiracy. Neutrality is never sought. This is fairly different in other countries such as Germany or the United Kingdom where important debates on the use of nuclear are held.

In brief, we therefore have to take action on two levels:

- **Find the right tools to work and progress together to build mutual trust between actors,**
- **Find solutions for possible judicialisation problems.** Throughout the administrative procedure, when the operator does not follow up on such and such a request, often this may disrupt the regulatory administrative process and may represent a legal risk that may delay the procedure.

Gilles Hériard Dubreuil, ANCCLI: You have introduced two important points. You also started by the question of second opinion. On this point, it seems to me that this deserves a genuine debate: asking the operator to prepare these information documents with others does not necessarily mean that we do not trust him or that we think he is hiding something. It seems to me that the perspective that is at stake behind these consultation questions, is finally the quality

of safety. Why mix viewpoints? Everyone has their role with a view to improving safety. Nobody is criticising the operator for developing a project based on his own perspective, he cannot do everything. However, external actors who have their own awareness provide a different point of view and say things that operators would not say. The importance of having different points of view is not so much to be reassured of producing a good quality, robust, decision-making process. All of the safety mechanisms are now pluralistic and establish distinctive roles for all actors. INSAG 4, the IAEA document which now dates back twenty years lays down the safety and security culture principles. It clearly highlights the importance of plurality and, for example, the distancing to be established between authorities, operators and experts. In our mechanism, we go a little further by introducing a new actor, civil society, which makes its own contribution to safety. This is not a problem of mistrust but solidity and robustness of the mechanisms.

François Rollinger, IRSN: I shall not comment on whether there is trust or distrust. The results of the IRSN barometer on the perception of risks, in particular, the diagram concerning the perception of actors in terms of competence and credibility, indicate that actors are more credible if they are not part of the system. This explains CNRS's excellent position on the barometer, which is considered as clearly competent but also much more credible than the bodies within the French nuclear system. Therefore, there is a latent mistrust of institutional and industrial actors in the system. This is not specific to the nuclear sector, it is a general observation.

The response to this mistrust is a procedure of openness and pluralism. If we compare the information provided during the Tchernobyl accident twenty-five years ago with the information provided at the time of the Fukushima accident this year, the institutional actors have changed and provided more information but the fundamental difference is that the credibility of what they said was guaranteed by additional information from voluntary actors who were able to provide their own expertise. The fact that their results concord with those of the institutional actors confirmed the credibility of the information sent. Pluralism is a factor of robustness and confidence. Saying that, we can also clearly see that the resources are not the same, but it is important to be able to provide critical analysis and possibly confirm the information sent when the institutional expertise is carried out correctly, or in the opposite case, develop it.

It is important to observe the disparity of the resources. Requesting a second opinion does not necessarily mean adding another technical opinion in addition to the technical expertise provided by institutional actors. Society groups have neither the time nor the resources for this. In other work that the IRSN conducted with the ANCCLI on the question of the VD3 generic report carried out upstream of the file specific to each site, the question of knowing which resources were dedicated to a file was asked. The answer was given by EDF's representative for engineering and fleet maintenance. This represented one thousand full-time employees. The IRSN answered that on this generic file, with monitoring over the last five years, fifty employees/year were concerned. What resources can civil society set up? One person/year. This means that if civil society wants to carry out efficient work, it needs to have the necessary logistics to conduct a critical assessment on points of interest. This also means that it must be able to understand the operator's files and the various experts mobilised by the public authorities. It must also be provided resources at that level.

At the end of the same meeting, ASN's representative indicated that they were already formally discussing what should be included in a VD4 file with the operator. At this point of the discussion, the CLI representatives present then said that they were interested in discussing at this stage. The IRSN is ready and willing to test the organisation of upstream discussions with all actors, with regard to the specifications, the issues and the main expectations perceived by all actors on the future establishment of a project. This is not necessarily obvious because it is one of the areas that we must work on.

Henri LEGRAND, ASN: The reports that we have heard this morning are indicative of important work. Now we need to think about how we are going to use this work.

I would like to talk about a few points that are purely personal questions, rather than affirmations:

I doubt that a solution can be found which, to enlighten the public on a file submitted for consultation, would find the most competent institution or person possible, knowing the truth and capable of making a decision on all of the points of this file upstream of the consultation procedure. I think that it is more important to think about the diversity of the points of view and give a plurality of actors the possibility of voicing their opinion, because the opinion alone of an authority in any case will be questioned. But this asks a genuine question: how and how far can you go to replace a file presumed only until now by the operator who sponsored the project, by a set of documents coming from various sources? If we want to give the public the possibility of fully understanding the issues, I think that we should mainly go down this route (as we started to do with the environmental authority's opinion), even if we have to define limits for this pluralistic composition process for the file, in particular, to avoid diluting the operator's responsibility. If we succeed in producing this much talked-about four-page summary jointly prepared by Greenpeace and EDF, this would be excellent because I am not sure that we could succeed every time!

A second point concerns the time constraint, as the nuclear sector is not necessarily the most emblematic place on this subject. We are always in two minds between wanting to reconcile a consultation and a discussion under the best conditions with the industrial constraints, which requires time. Operators are legitimately saying that if the process takes too long in the industrial world, they have no chance because they are overtaken by their competitors. These two dimensions must be included. Although this problem is not necessarily the main problem in the nuclear sector, (certain classified installation operators no doubt are subject to a great deal of competition), it exists even so.

Confronted with this problem, in my opinion there are two types of responses:

- The first is found in flexibility and "deviation from procedure". In addition to well-defined procedural frameworks, information should be exchanged before and after the time-frame stipulated by the regulations. This would then make it possible to adopt procedures that take place over shorter periods.
- The second point concerns the "solidity" of the procedures. The more detailed the consultation procedures, the greater the possible sources of contention multiply on an administrative technical level. If you have three pages of procedures to follow, you multiply the chances of finding points that were not followed exactly during the implementation.

We should perhaps examine this subject which may constitute a barrier for the development of consultation procedures in legal texts. Ideas exist to mitigate this. For example, doing what we do regarding electoral litigation or other matters, i.e. when the administrative judge studies the litigation file, does not only stop at following the procedure *stricto sensu* but looks at whether the problem highlighted might have an impact on the outcome of the procedure. As regards procedures in our field, formal litigation may exist. As soon as a procedural fault is highlighted, this may be a reason for cancellation even if the consequences of this fault are clearly minimal. Without taking a stand on the subject, I think we should discuss the question of when the procedural rules should be developed and we should think about relying on the discretion of the judge.

A final point that I would like to discuss on the subject, is the question of "nuclear tropism". Many of the subjects that we have discussed are not specific to the nuclear sector, and a certain number of our discussions could be very easily applied elsewhere. We can start testing them in the nuclear sector, but we should ask ourselves if they can also be exported to other fields.

Gilles Hériard Dubreuil, ANCCLI: When reading the reports, we can effectively say that if some measures are adopted, they will have impacts elsewhere. However, this does not mean that we should have debates which would be carried out in an even wider arena, as this would be problematic.

I would like to make a comment on judicialisation. Within the ACN arena, this question has been mentioned several times. It is quite clear for all participants that anything that is judiciary is

extremely long, arduous and costly especially for civil society. This concerns strategies that are difficult to implement by civil society and that represent last resort strategies. During one of the European round tables of the ACN approach, a Greenpeace participant said that it was a bit like the nuclear weapon in the consultation. It is only used when all other information channels established by the procedure have been exhausted and when the information provided is still lacking or unsatisfactory. You commented that we have not made much reference to the third pillar of the Aarhus Convention. I think that a true climate of discussion exists which seeks to establish what we can do together constructively.

We will continue to exchange points of view. I would like to add that the HCTISN and the ANCCLI also have a point of view, whilst chairing the process. We will give them the floor in a moment. But I would like to come back to the operators. With regard to Andra, Mr Charton, would you like to explain your point of view?

Philippe Charton, ANDRA: Andra took part in the three WGs. Personally, I took part in WG1 and WG2. I agree with Mr Legrand that this work has made significant headway. Of course, issues still remain that some people will find unsatisfactory but this does not prevent us from releasing the positive outcomes in the three groups.

In WG1 with regard to low-level, long-lived waste, a subject that concerns us directly, discussions were held that ANDRA could not have had alone and this is fairly important. When we restart the low-level, long-lived waste process, I hope that I will be able to take into account the recommendations made which were analysed by the High Committee. The "we" does not only represent Andra but all actors of the mechanism.

In WG2, I thought that Sophia Majnoni's report, which highlighted that there were still points of disagreement, was brilliant. That said, for me the disagreements highlighted between Greenpeace and the nuclear operators seem logical. However, once again emphasis should be placed on the advances made possible by this work or what they will help achieve in the future. It would be useful if this work could be continued. I think that perhaps distrust does exist as mentioned but also sometimes a lack of understanding. For example, with regard to the notion of third-party guarantor, during the exchanges there was a moment when ANDRA and Greenpeace did not understand each other. Dialogue is important also to clarify certain points, to better understand one another and to realise that we can talk about the same thing whilst having the impression that we are talking about two different things.

Philippe Guétat, CEA: I really liked the idea that we should have a decision-making organisation chart. A number of potential actors must work on a certain amount of pre-existing data several times throughout the process.

I share the idea that a third opinion is not necessary but it would be good if the population was at least aware of the information of the assessment and the public second opinion, and that it could at least benefit from these two points of view, that of the IRSN and that of the operator in order to hold discussions under good conditions.

The organisation chart aspect is something that I believe is important because you get a little lost in the multitude of documents, between what is requested by the ASN, what is produced by the IRSN, and what is required by the regulatory framework. So many actors are involved at the same time that it is difficult to know who is who. In the field of safety, does this mean that safety-related issues are sorted out, or does this overlap into legal issues? For our French regulations, we need to introduce some order, hierarchy and organisation. Every time I delve into the Public Health and Environmental and Radiation Protection Regulation or Safety Codes, I find that this is not obvious. We need to have a little more clarity in our regulatory texts.

Gilles Hériard Dubreuil, ANCCLI: Would you have any examples that would help to convey this reflection in practical terms?

Philippe Guétat, CEA: At moment, in the field of waste, for example, as soon as we need to manage "nuclear" waste, we find ourselves in a regulatory configuration where any installation receiving this waste will in turn be considered as a "nuclear" activity, whereas in fact, there is no radioactivity in the products used. This is a definition that exists within our regulations and which

causes problems. If you ask a steelmaker if he wants to be listed as a nuclear activity, he will answer no. You find yourself in a configuration where it will not be possible to establish a product recovery system.

The texts in the regulations need to be clearer. Similarly, efforts must be made to create greater consistency of the regulations produced by the various institutions, such as those produced by the ASN and those produced by the Ministry of the Environment, for example, within the framework of a zoning procedure.

Henri Legrand, ASN: With regard to the question of consistency, anything coming out of a basic nuclear installation (BNI) will not necessarily go into a BNI. Some elements go to classified installations, therefore the Ministry of the Environment is responsible for them. If the installation is neither a BNI nor a classified installation, then it comes under the jurisdiction of the ASN in accordance with the Public Health Code. The institutions coordinate with each other, and this is not perfect but exchanges take place to create consistency with the regulations. In particular, with regard to waste, an approach such as the national radioactive materials and waste management plan (PNGMDR) is there to provide consistency. To come back to the question of public participation, if we want the public to participate, then it needs to fully understand what is involved. This effectively raises a certain number of questions. It is clear that the administrations, operators and highly specialised associations do end up using a certain jargon and understand one another, even if from time to time misunderstandings occur, as highlighted earlier. However, a problem persists on this subject, which is the production of clear documents for the general public. Producing understandable documents on subjects that are so complex is not easy and does not happen in five minutes.

Gilles Hériard Dubreuil, ANCCLI: It seems to me that one of the contributions of civil society actors, is to be plunged into complexity and not into a restricted mandate. Earlier, François Rollinger mentioned the question of resources in terms of people per year that could work on expertise within civil society. What strikes me in the stress test reports, is that it was noted that the people living on the spot have a transversal view. This view does not stop at the nuclear issue but also considers chemical installations, etc.

The region's inhabitants also ask themselves a number of questions not only related to a single field of expertise, such as, waste, terrorism, etc. This global way of discussing the file adopted by civil society makes its contribution to the process unique. It is precisely this transversal view that cannot be provided by the administration because, by definition, each administration is responsible for one part of the problem with a share of the responsibilities.

François Rollinger, IRSN: I would like to come back on the question of legal risk. It was discussed in WG3. The operators showed their willingness to forge ahead and test the possible solutions, including as upstream as possible, but providing that this did not create problems for them at a later date. And we fully understand this. The idea of having a study carried out on this particular issue seems important to me. It would enable us to examine the barriers that exist in law or which constitute a risk for some actors, rather than trying to increase the requirements in terms of the law and the procedure. This does not necessarily mean imposing more constraints but finding the means to pave the way for experiments. Perhaps on some subjects we need to move forward to restrict a little more but it is also important to carry out this study in order to examine what might slow down the implementation of experiments or more pragmatic solutions in law. To me this seems to be an important solution.

Monique Sené, ANCCLI, HCTISN: I would like to come back on several points. Firstly, mistrust and distrust is found on both sides of the fence, with operators as well as volunteers, everyone distrusts someone. Therefore, this in fact needs to be reviewed.

I would also like to come back on what Jean-Claude Autret said on the importance of initially defining the why. If we want members of society to be able to participate, they have to understand the issues related to dismantling. Citizens need to be able to represent themselves which means in terms of rubble, contamination risks, etc. Therefore, a great deal of explanatory work is needed and must genuinely be included in the question of why. This involves reviewing

the way the installation was erected, the reasons leading to such and such a technical choice, and the estimates about future changes to the installations.

This is not only a highly technical subject. Obviously, it can be. But for all individuals concerned, this is not what will worry them. When we talk about what was done at Gravelines regarding additional safety assessments, not only were technical questions raised but also questions relating to the environment and anything that the site raised as a problem at that level. Therefore, it was highlighted, for example, that some people felt quite simply ill at ease and this was enough to create a tense environment.

Within the groups, in particular for WG1, we tried to show that building participation and access to information requires times. It is often said that taking this time to reflect wastes time but this is not true. If a process is blocked due to lack of consultation or if an element was forgotten during the process, you have to start the whole process again from scratch. This takes much longer. There is something not quite right in the understanding of time as it is currently perceived within the processes.

As regards the points mentioned regarding justice, I would say that the laws must not be blind and must take past experiences into account. It must be possible to amend them if we notice that procedures are failing. But at the moment, changes are made within public enquiries and public debates when we haven't yet finished assessing the efficiency of existing mechanisms and we haven't yet finished discussing what can effectively be added to improve them. Like Mr Mercadal, I believe that we must first analyse what has been done and determine elements that we think can be improved.

Finally, there is a clear willingness for active public participation. But if consultation elements are never taken into account, citizens will no longer participate. They never have access to the answers and therefore never see how they were able to contribute to the decision. When they are asked, the decision has almost been made. Over and above technical aspects, the question of effective citizen participation is very important when taking the weight of their opinions into account in the decision-making process.

Agnès Huguet-Moustaine, Areva: I shall begin by reminding you like the previous speakers have already done that I am not talking on behalf of my organisation. Personally, I find that the advances made in the various groups are important.

As regards WG1 and its work on low-level, long-lived waste, I have read the reports published in October with great interest. I agree with Mrs Sené and I believe that we are on long time-frames and the risk must be accepted by populations armed with all of the facts. It is therefore worth taking the time to provide information and build competences.

As regards public participation in decision-making, this is considered within the nuclear context but I believe that we should also know how to look at this outside of the nuclear sector. In France, we are a representative democracy and attempts to include public participation in direct public enquiry or public debate type democratic initiatives, even on very local issues which closely concern the inhabitants, are coming up against problems in terms of participation.

Therefore, the question is knowing how to succeed in organising firstly the role of the representatives such as local and national elected officials, and the role of trusted third parties, such as bodies such as the CLIs who are delegated the task of defending our interests, with secondly effective public participation in the broad sense. If the process of public participation in decision-making is taken through to its conclusion, the question is knowing whether all actors are prepared to accept the fact that the public actually influence the decision. This might mean stopping the project if this observation arises from the consultation. We have started to think about this question during these discussions, and we must fully examine this matter.

With respect to information, the question asked repeatedly is knowing what level of information should be made public in terms of safety to better inform the public. I have a few doubts on whether publishing letters sent to the ASN in response to inspections makes much difference to the public. On the other hand, to me it seems important to intelligently discuss with the CLIs the

best way to inform the public and inform them more regularly throughout the process and on the followups given to corrective actions.

This also leads to the question of how much time is needed for this. I share WG3's conclusions on this point where competence building is carried out over time and through regular relations. In the words of Mr Vicaud "An on-going relationship". This continuity also involves remembering what has been done. It would be interesting and enriching to be able to share all of this work with other high-risk sectors which share the same problems and questions of public acceptability, such as the household waste management sector, for example. For me this constitutes a major challenge.

Gilles Hériard Dubreuil, ANCCLI: The question of public acceptability should be related to the question of why and how. The problem of acceptability is that it seems to be developed on fixed subjects. The question of why raises questions on the social justification of the activity. This is a very important preliminary stage for building trust between parties.

Anita Villers, EDA, ANCCLI: I took part in WG1 and WG3. With no scientific training and simply being a member of an association, I needed a certain amount of time to understand the various elements of information discussed during the workshops.

I would like to talk about the question of mistrust. It not only exists between operators and associations but also between associations pursuing the same goals! Our association is affiliated to the "sortir du nucléaire" (Nuclear phase-out) network and in particular would like to stop the construction of the EPR. Many members did not understand why I was taking part in the work of the various working groups. I had to take the time to explain and convince them of the importance of understanding the themes discussed within the ANCCLI's commissions such as post-accident management or WG1's work on low-level, long-lived waste, etc. This was not easy but I argued because I was convinced that it was vital for members of associations to take part in these discussions because this is the best way to become involved in future decisions. It is also a good opportunity to express the specific issues of the regions potentially concerned and be able to voice an opinion.

Everything that was mentioned in WG2 is also particularly important. These discussions are completely in line with our current commitments. A debate has just been organised by the French National Public Debate Commission in the Nord Pas de Calais region concerning the installation of a very high voltage line (400,000 volts) over a section of around thirty kilometres. The goal announced by the members of the special commission was to gather various points of views that were as representative as possible of the municipalities passed through in order to clarify the operator's decision, i.e. to cancel or implement the project. Duration of the exchanges: six months and a number of meetings organised in various points of the region in question. Obviously, sometimes the exchanges were heated and irrelevant, but on the whole, RTE's representatives showed a great deal of patience and everyone was able to express their opinions. Over time it became obvious that the operator was increasingly adapting its arguments, whether to reassure everyone of the health impacts or to guarantee that the enormous pylons would be carefully designed, etc.

Very quickly, the idea of being able to influence the decision proved to be illusory. It was obvious that the line would be built despite well-structured arguments proposing the development of alternative local energies, and despite the health-related fears of the inhabitants condemned to live under the lines, or the serious damage to a landscape appreciated by residents. These are all elements that RTE refuted with strong promises or "global" studies to finally learn that when the representative of the particular commission submitted his reports recounting the discussions, RTE alone will decide if the project was going to be pursued next July or not. Consultations will then be held with the relevant villages and farmers on the compensatory measures. An individual public enquiry will be held throughout the process and finally, the Prefect will make the decision.

For the population who travelled there and who put forward their arguments, this course of action was not a debate but an illusion of a debate. Obviously, it was taken very badly. For 6 months, we discussed with a crescendo for a pure and simple cancellation. 16 actor journals

were drafted. Finally, in view of the discussions to adjust the path of the line, RTE decided to initiate compensatory measures, irrespective of the legitimate oppositions expressed. The debate was therefore used to modulate the RTE project! During the last public meeting, when the question arose of knowing whether the project could be cancelled, the answer was quite clearly no. The importance of the public consultation has been to discuss the best possible compensatory measures to be obtained and other minor development modalities. **At the moment, it is therefore still not possible to stop a project that has already been debated!**

It is not surprising that members of associations are attending public enquiries or debates less and less as the work and proposals made are used simply to qualify decisions that have already been endorsed! The DREAL (*Regional Directorates of the Environment, Development and Housing*) deplores this desaffection of the citizens and with its support, our association is preparing a project concerning the competence building of citizens and how to improve consultation and governance through future public enquiries and debates. Would it be pertinent for us to change current practices?

Alain Vicaud, EDF: I would like to provide an explanation on this question which was also discussed within WG2: how is it possible to hold a debate on nuclear energy or on new nuclear installations when the decision seems to have already been made?

Clearly, you do not decide to build a nuclear power plant (or a very high voltage electricity transmission line) in a location to meet a local requirement, but to fulfil a national or European objective (if the VHV transmission line in question is considered). Debates on sectoral and energy policies and the main choices of energy solutions must take place but the framework of a target project is not the appropriate place to hold these debates. On this point, the debate is politically biased. The public expects that the project cannot be finalised following the consultation procedures, but this decision is not made at this level.

Gilles Hériard Dubreuil, ANCCLI: This boils down to emphasising the need for a consultation on the programmes and frameworks.

Suzanne Gazal, ANCCLI: I was not present during the round table, so I would like to introduce myself now. I am the President of the ANCCLI's Scientific Committee and also, I am an academic on the problem of risks.

With regard to the consultation, I would like to say that any project has positive and negative issues and has advantages and disadvantages that are not seen in the same way by the different actors. For example, many civil society actors will not see the implications of an industrial project in the same way as the project sponsor. Usually, we speak about civil society "irrationality". In fact, civil society actors simply do not have the same systems of rationality as other actors, such as industrialists. It is important for this "civil society" to be able to push forward the various issues to which it is sensitive. Until now, this was not the case. And this may involve a third-party assessment: how to bring to the fore civil society's point of view other than through a third approach that could be qualified as "societal" assessment? How do we bring to the fore these various sensitivities, other than by drawing attention to aspects of the files that are not mentioned by other actors or not mentioned enough? In their roles every actor highlights the specific issues and the role of civil society is still to point out the issues that are not identified elsewhere or that are not highlighted enough. This type of approach naturally presupposes detailed knowledge of the ins and outs of the files.

Regarding this question of information, I am also convinced that being up-to-date on how these safety authority requests have been followed up, and how carrying out highly accurate and regular monitoring of what is happening on an operational level, is an important aspect of vigilance. This monitoring results in the operator exercising further vigilance, and overinvesting in the field of vigilance and control. From this point of view, within the framework of the CLI of Golfech where I am Vice-President, we noticed that three years after they were formulated certain Safety Authority recommendations relating to the earthquake risk do not seem to have been implemented. I think that if civil society has the resources to help the safety authority apply a certain number of requests and measures, then this can only be beneficial for the safety of the

installations. Civil society involvement is an asset in this field, whether through its direct action or because it results in the regulatory provisions being completed.

Now with regard to legal actions, we are faced with a double problem: on one hand, compliance with regulations and on the other hand management and control. Who has the decision-making power? There is an imbalance, because if we talk about joint-construction, the decision belongs to the project manager or the safety authority. Civil society may feel deprived. For civil society, taking legal action is a means to try and fully control the process. Taking legal action means trying to prolong its control in decision-making.

Gilles Hériard Dubreuil, ANCCLI: I would just like to point out the fact that being able to assist the game of pass the parcel between the expert and the operator may save considerable time and energy for the external observer in understanding the issues and what is at stake. But at the same time, this needs to be balanced with what may be the effects of an administrative precautionary principle which would mean that these meetings would be completely stripped of all meaning.

Henri Revol, President of the HCTISN: I shall not give the High Committee's point of view which shall come but I will make a few personal comments. Being associated to most of the participants, I can see the great wealth of the work summarised to us this morning. I will not be able to be here for the conclusions of this afternoon of summary, but more needs to be done and we need to find ways to do more and to make sure that all of the recommendations, once adopted by consensus, can be optimised. We should think about the resources for this optimisation.

I would like to make one or two comments on the need to have better informed citizens. Our educational system needs to provide information on the risks and, in particular, on the nuclear risks since our country has a significant nuclear industry. Unfortunately, to my knowledge, no information on this subject is given to our children in schools. This is a real pity as they will become capable citizens within a CLI, within various bodies and will be actors at public enquiries. On the subject of training with the CLIs, we have already talked about this often with the ANCCLI. 70% of new formula CLI members are members of a CLI for the first time. I believe that information and training needs to be given. We have been discussing possible solutions for this issue for a while now. Finally, the involvement of universities is one of the High Committee's first recommendations. We are trying to develop expertise coming from our scientific organisations and universities. The latter are distributed throughout France and it is a bit of a shame that they do not have more involvement at the file examination stage. The CLIs could make use of this sector.

On another point, there is always a problem between the definition of key strategical guidelines and public participation. This is the contradiction or at least the completeness between representative and participative democracy. This problem will always exist. We can use the example of the great debate on energy which took place in 2003 and which was meant to foreshadow the Programme Law, and of which I happened to be the Rapporteur at the Senat. I followed the problem of defining a law following a public debate for several years. I think that it is still current news. A certain number of political guidelines can be defined following a great debate but political decisions will always have to be made at some point in time. Finally, anything emerging from the summary of the work within our circle shall be welcomed by the Nation's representatives who will take advantage of it and possibly translate it into legal terms. My wish is that members of Parliament become involved in the conclusions of our work.

Finally, I would like to comment on a last point, still in the field of information, which was highlighted earlier. We all represent an informed microcosm and we speak a language that we understand better than all of our citizens. Therefore, we would like to ask the High Committee to use clear and simple terms. Earlier, it was highlighted that it was not always easy to post information online originating from the Nuclear Safety Authority that was originally intended for the operator. How can the citizen possibly understand everything? I think a major effort should be made with the wording of the recommendations, reports and work that we produce. I believe that we need to speak clearly and simply. This is very difficult. Simply look at the documents

provided by those in charge of publishing opinions. I have personal experience of this because I was a local elected official for a long time. We need to make major efforts to simplify and clarify information.

Michel Demet, ANCCLI: I would like to make a few comments and personal general remarks. Firstly on trust and distrust, I would like to remind you where we are coming from. Before the law of 2006, even though local commissions existed, the nuclear sector was referred to as the three pillars. The Law of 2006 established and recognised the fourth pillar which is civil society, by giving it the means to voice its opinions through local commissions.

You also need to remember that the local commissions had just been set up. The 38 CLIs currently represent approximately 3,000 members, including 1,500 elected officials, but also and above all 70 to 80% new members who do not understand much about nuclear activities and the monitoring of these files.

I really liked the notion that time is not an enemy. We can clearly see that we are working on a long process. I think that this process is based on trust, otherwise we would not be here today. In addition, all of the entities are represented here today, which is quite remarkable and should be highlighted. This trust must be developed and, given the road that still lies ahead, we need to continue learning to work together, as we have done within the framework of the working groups. This gives me the opportunity to underline the amazing work done by all actors. Of course, different views exist. But, recommendations were produced leading to significant advances. Some things can be done quickly, others require more time. This means that we need to continue working together.

I have also noticed two things. Within the various processes, there is significant local commission participation. Throughout all of the meetings, over 20 CLIs have been represented by over 80 members. This is significant when you look at just how far we have come in such a short time. I have also noticed strong participation of the various actors from the nuclear field. We have appreciated the IRSN's, the ASN's and in particular EDF's involvement.

I also talked about the need for independent support which was mentioned two or three times. The High Committee was mentioned. Personally, I agree with this but I think that this feeling is shared by the ANCCLI. I think that a new structure does not need to be built, but that an institution that has a proven track record should be given the resources and that we should continue to rely on it. The ANCCLI will do everything for that to happen.

III- Summary of the themed discussions (end of the afternoon)

Henri Legrand, ASN: The summary exercise is always a difficult exercise. I would like to reiterate once again that the work carried out by the working groups is extremely important. A number of recommendations have been made and during the meetings we have been able to note a consensus on the overall goal despite disagreements on a certain number of modalities.

I shall not repeat everything that has been said but I would like to remind you of two important points:

- We have talked about the information needed by the CLIs a lot and the way they are closely related to the consultation process. The subject of public participation should not stop there. One aspect that we must not forget is the way the information may be reflected on the external public once it has been sent to the CLIs.
- We also mentioned the idea that some points of the recommendations can be tested. It seems to me that this is an interesting area for continuing our work.

On a practical level, the work that has been accomplished should be followed up. Firstly, I propose putting in writing everything presented by the various groups this morning and summarising the exchanges of this workshop. Then, in addition to this summary, I shall propose five areas:

- With regard to a number of points raised, the regulations do not prohibit actors from using their initiative. Each of us in the working group may, within his/her field, initiate the

implementation of certain elements of the recommendations without needing authorisation from the administration.

- President Revol also mentioned the possibility of bringing certain proposals before a number of bodies. In the next few months, a debate may be held within the HCTISN on the proposals from our work and it would be interesting to set up a small group within the High Committee to monitor and summarise these exchanges. The idea would be that this debate within the High Committee may result in a certain number of proposals being taken up on its behalf so that it can bring its aura of legitimacy, in particular, before the political bodies currently in place. This does not prevent any of the participants of the working groups from also making their own submissions. The main thing is to breathe life into the recommendations produced by work carried out over two years now.

- The summary text of all of the recommendations by the three working groups which shall be drafted based on the exchanges made during this meeting that we have just held is intended to be circulated as widely as possible.

- It would also be important for us to hold a discussion on how to share the discussions that we have within the framework of this ACN France approach with the discussions from other national approaches. This is not easy, because often other countries have very different structures from ours but the ACN Europe approach may help this sharing of national discussions.

- We could also share our discussions with fields other than the nuclear field. How might the discussions that we may have within this ACN approach be carried over to other levels? It seems to me that the voluntary representatives present here are in the best position to carry out this discussion as their field of work is not just limited to the nuclear field.

All of these proposals target the same objective, that is to optimise the work that has been done as much as possible and they may obviously be accompanied by other measures along these lines.

Monique Sené, ANCCLI, HCTISN: I can add that the High Committee and the ANCCLI that I am representing are both very much in favour of the creation of a working group within the HCTISN. This proposal shall be submitted in advance to the deliberating bodies of the HCTISN but it should be adopted fairly quickly.

This working group will bring together a certain number of people present at this meeting today and will study the verbatim comments and all of the documents produced by the working group on the ACN approach in order to produce a compendium which will be sent to all of the deputies and to the French Parliamentary Office for Scientific and Technological Assessment (OPECST). The aim is to highlight this problem at the time of the upcoming public debates.

Annexe 2: Agenda of the meeting of 10 February 2012



High Committee for Transparency and Information on Nuclear Safety



ACN France Plenary Meeting

10 February 2012

Paris, Grande Arche de la Défense, Salle 2 Paroi Sud

9.30 - 17.00

Agenda

9.30: Welcome participants

9.45: Introduction, *HCTISN-ANCCLI*

10.00: Report of the work of the three WG of the ACN France approach

The objective is to present the work and the discussions carried out by the working groups of the ACN France approach and discuss the resulting recommendations.

10.00: presentation of the work and recommendations of WG1 "process of selecting sites for low-level, long-lived waste", *Monique Séné (25 minutes)*

10.25: presentation of the work and recommendations of WG2 "public access to information and participation in decision-making in the nuclear sector", *Sophia Majnoni (25 minutes)*

10.50: presentation of the work and recommendations of WG3 "what competence building and access to expertise is needed to assure true participation?", *François Rollinger (25 minutes)*

11.15: Break

11.30: Discussion with all of the participants on the presentations

12.30: On-site tray meal lunch

13.30: Preparation of the summary of the work

The objective is to prepare the joint summary of the work based on elements of the conclusions shared by the three groups and discuss recommendations for improving public information and participation in decision-making:

13.30: Review of procedures. *Leader: Sophia Majnoni, WG2 (Greenpeace, ASN)*

14.30: Through a continuous dialogue upstream, downstream of the procedures and over the long-term. *Leader: François Rollinger, WG3 (IRSN, ANCCLI)*

15.30: Through consultation processes focusing on the regional and national level. *Leader: Monique Séné, WG1 (HCTISN, ANCCLI)*

16.30: Summary of the discussions

17.00: End of the meeting

Annexe 3: List of participants for the summary meeting held on 10 February 2012

AUTRET	Jean-Claude	ANCCLI advisory committee, ACRO
BOLOGNESE	Theresa	European Commission, Department for Energy
BOUTIN	Dominique	ANCCLI
CERTES	Catherine	IRSN
CHAMBON	Paul	ANCCLI scientific committee
CHARTON	Patrick	ANDRA, deputy director for the risk management directorate
CHEVALLIER	Alexandre	ASN
DEMET	Michel	ANCCLI
DELAFALIZE	Fabien	HCTISN secretariat
DEWOGHELAERE	Julien	Mutadis
EIMER	Michel	ANCCLI bureau, CLI of Saint-Laurent des Eaux
GAILLARD	Pierre	ANCCLI, Vice-President of the CLI of Golfech
GAZAL	Suzanne	President of ANCCLI scientific committee
GILLI	Ludivine	IRSN, openness to society department
GILLOIRE	Christine	HCTISN, FNE
GUETAT	Philippe	Environmental expert at CEA
HERIARD DUBBREUIL	Gilles	Mutadis, member of ANCCLI advisory committee
HUGUET-MOUSTAINÉ	Agnès	Areva, Department of safety and sustainable development
LEGRAND	Henri	ASN
MAJNONI	Sophia	Greenpeace
MAYS	Claire	Symlog
MOULIE	Michel	EDF, Nuclear fuel division
PASSERIEUX	Olivia	CEA
QUENTIN	Pascal	IRSN, reactor nuclear safety centre
REVOL	Henri	President of HCTISN
RIGAL	Chantal	ANCCLI
ROLLINGER	François	IRSN, Director of the openness to society department
SENE	Monique	Vice-president of ANCCLI, HCTISN
SUBREBOST	Isabelle	ASN
TAILLEBOIS	Christian	EDF, Corporate Communications at the Nuclear Fuel Division
VICAUD	Alain	EDF, Nuclear Operations Division, Manager of the Prospective and Environmental Division
VILLERS	Anita	President of EDA, ANCCLI
AUTRET	Jean-Claude	ANCCLI advisory committee, ACRO
BOLOGNESE	Theresa	European Commission, Department for Energy

BOUTIN	Dominique	ANCCLI
CERTES	Catherine	IRSN
CHAMBON	Paul	ANCCLI scientific committee
CHARTON	Patrick	ANDRA, deputy director for the risk management directorate
CHEVALLIER	Alexandre	ASN
DEMET	Michel	ANCCLI
DELAFAZIZE	Fabien	HCTISN secretariat
DEWOGHELAERE	Julien	Mutadis
EIMER	Michel	ANCCLI bureau, CLI of Saint-Laurent des Eaux
GAILLARD	Pierre	ANCCLI, Vice-President of the CLI of Golfech
GAZAL	Suzanne	ANCCLI scientific committee
GILLI	Ludivine	IRSN, openness to society department
GILLOIRE	Christine	HCTISN, FNE
GUETAT	Philippe	Environmental expert at CEA
HERIARD DUBBREUIL	Gilles	Mutadis, member of ANCCLI advisory committee
HUGUET-MOUSTAINE	Agnès	Areva, Department of safety and sustainable development
LEGRAND	Henri	ASN
MAJNONI	Sophia	Greenpeace
MAYS	Claire	Symlog
MOULIE	Michel	EDF, Nuclear fuel division
PASSERIEUX	Olivia	CEA
QUENTIN	Pascal	IRSN, reactor nuclear safety centre
REVOL	Henri	President of HCTISN
RIGAL	Chantal	ANCCLI
ROLLINGER	François	IRSN, Head of openness to society department
SENE	Monique	Vice-president of ANCCLI, HCTISN
SUBREBOST	Isabelle	ASN
TAILLEBOIS	Christian	EDF, Directorate of communication at the Nuclear Fuel Division
VICAUD	Alain	EDF, Nuclear Operations Division, Manager of the Prospective and Environmental Division
VILLERS	Anita	President of EDA, ANCCLI

Annexe 4: List of participants with WG1's work

Leader: Monique SENE, ANCCLI

Co-leader: Henri REVOL, HCTISN

AUTRET Jean-Claude	ACRO
CERTES Catherine	IRSN
CHAPALAIN Estelle	HCTISN
COLON Laetitia	CLIS of Bure
CORRIER Roland	CLIS of Bure
COUDRY Jean	CLIS of Bure
DALLEMAGNE Philippe	CLI of Soulaines
DANDRIEUX Géraldine	ASN
DEMET Michel	ANCCLI
EIMER Michel	ANCCLI
GILLI Ludivine	IRSN
GILLOIRE Christine	HCTISN
GUIBERTEAU Philippe	CEA
HERIARD DUBREUIL Gilles	Mutadis
JOUAN Antoine	CLI of Gard/ Marcoule
LANGLOIS Elodie	ANDRA
MALINGREAU Jean-Marie	CLIS of Bure
MOULIE Michel	EDF
REVOL Henri	HCTISN
RIGAL Chantal	ANCCLI - GPMDR leader
SABATIER Marie-Anne	CLI of Gard/ Marcoule
SENE Monique	ANCCLI HCTISN
SERRES Christophe	IRSN
STOJKOVIC Sandra	HCTISN
VILLERS Anita	EDA

Annexe 5: List of participants with WG2's work

Leader: Sophia MAJNONI D'INTIGNANO, Greenpeace France

Co-leader: Henri LEGRAND, ASN

WG2 members

Jean-Claude AUTRET, ACRO

Antoine BIZET, EDF

Patrick CHARTON, ANDRA

Sébastien FARIN, ANDRA

Benjamin MAQUESTIEAU, ONDRAF

Yves MARIGNAC, WISE Paris

Michaël PETITFRERE, IRSN

François ROLLINGER, IRSN

Isabelle SUBREBOST, ASN

Alain VICAUD, EDF

People interviewed*

Philippe BERNET, EDF

Julien BETAILLE, CRIDEAU, U. of Limoges

Albert COLLIGNON, CLI AREVA La Hague**

Olivier DEPLACE, CFDT, CLI of Monts d'Arrée**

Joseph DUPUIS, EDF

Alexandre FARO, Greenpeace France

Danielle FAYSSE, Enquiry Commissioner

Hélène GASSIN, Paris Region**

Jean-Victor GRUAT, Brennilis, CLI of Monts d'Arrée**

Jean-Claude HELIN, U. of Nancy, Enquiry Commissioner**

Didier HOUÏ, CNDP

Roland JACQUET, AREVA

Daniel LEBAILLIF, AREVA

Michel LALLIER, CGT, HCTISN

Pierre MAILLE, CG of Finistère, CLI of Monts d'Arrée**

Jean-Luc MATHIEU, CNDP

Georges MERCADAL, CNDP

Gilbert PIGREE, ACRO**

Yannick ROUSSELET, Greenpeace France

Annie SUGIER, ANCCLI

Florence TOUITOU-DURAND, CEA

Methodological support:

Claire MAYS, Institut Symlog

Polina DEKHTYAR, Institut Symlog

Nina SCHNEIDER, Institut Symlog

Serge GADBOIS, Mutadis

Anne-Juliette COUTRET, Mutadis

Trainee:

Mark HIRIBARNE, Greenpeace France

* Some people attended several WG2 meetings

** People interviewed by telephone, with a validated report

Annexe 6: List of participants with WG3's work

Leader: François Rollinger, IRSN

Co-leader: Michel Demet, ANCCLI

Jean-Claude Autret	ACRO
Pierre Barbey	ACRO
Yves Baron	CLI Areva La Hague
David Boilley	ACRO
Philippe Bosquet	AREVA
Dominique Boutin	CLI of Chinon Avoine
Catherine Burille	Mayoress of Léry
Charlotte Cazala	IRSN
Nicolas Chantrenne	HCTISN
Sylvie Charron	IRSN
Patrick Charton	ANDRA
Fabrice Cazier	University of Littoral-Côte d'Opale
Albert Collignon	CLI AREVA La Hague
Jean Coudry	CLIS of Fessenheim
Anne-Juliette Coutret	Mutadis
Philippe Crochon	Areva
Michel Demet	ANCCLI
Richard Dormeval	CEA Valduc
Michel Eimer	CLI of Saint Laurent
Laurent Felber	ASN
Jacques Foos	CLI of la Hague
Nicolas Fournier	CLI of Gravelines
Pierre Fournier	University of Aix
Michel Fromm	University of Franche-Comté
Serge Gadbois	Mutadis
Pierre Gaillard	CLI of Golfech
Francis Galizi	CLI of Cadarache
Didier Gay	IRSN
Suzanne Gazal	ANCCLI
Ludivine Gilli	IRSN
François Godin	ASN
Philippe Guétat	CEA
Etienne Hannecart	CLI of ITER
Gilles Hériard Dubreuil	Mutadis
Alain Houpert	SEIVA – Senator
René Junker	CLIS of Fessenheim
Edward Lazo	AEN
Audrey Lebeau	IRSN
Igor Le Bars	IRSN
Mathieu Leborgne	University of Aix

Thomas Legoupil	MEDDTL
Yves Marignac	Wise-Paris
Benjamin Okra	AEN
Michaël Petitfrere	IRSN
Jean-Marie Poirier	CLI of Dampierre
Henri Revol	HCTISN
Céline Roche	AREVA
François Rollinger	IRSN
Marie-Anne Sabatier	CLI of Gard/Marcoule
Thierry Schneider	CEPN
René Schuller	CLIS of Fessenheim
Monique Sené	ANCCLI
Claudine of Smolenski	CLI of ITER
Michel Tindillère	CLI of Dampierre
Pierre-Franck Thomé-Jassaud	EDF
Anita Villers	EDA
André Virlon	CLI of Fontenay-aux-Roses