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2013-11-21

Dear Mr Dierikx,

This letter is in response to your letters dated 17 September and 24 October 2013 in which you requested the IAEA to assess the two variants in relation to the creation of an Authority for Nuclear Safety and Radiation Protection in the Netherlands.

I have requested my staff to perform this assessment, based on IAEA Safety Standards and taking into account the relevant results from the completed IRRS (Integrated Regulatory Review Service) Missions.

As part of this process, I was informed that IAEA staff and your staff had a very productive exchange of information and they further clarified some elements needed for completing the assessment.

The results of this assessment are attached to this letter and consist of:

- A document addressing various aspects of regulatory independence, based on the relevant IAEA Safety Standards;
- An analysis of the two variants based on the key points included in the table attached to your letter dated 24 October, describing the legal framework applicable to agencies and independent administrative authorities. This analysis contains the IAEA comments for each item.
- The document sent to you in response to your letter dated 17 September, consisting of a table reviewing the two options against the relevant IAEA Safety Standards. This document reflects the assessment of the proposed variants in a broader perspective and is not limited to the independence aspects.

The assessment of the proposed variants is based on the general understanding of the information provided. In order to fully assess compliance with the IAEA Safety Standards, the chosen variant should be reviewed in detail through various mechanisms including self-assessment and a peer review, such as an IRRS mission.

In response to your request to identify which variant provides "the best guarantee for independence", the result of the assessment indicates that for both variants, compliance with IAEA Safety Standards does not appear to be fully achieved. The most significant concern is related to the position of the



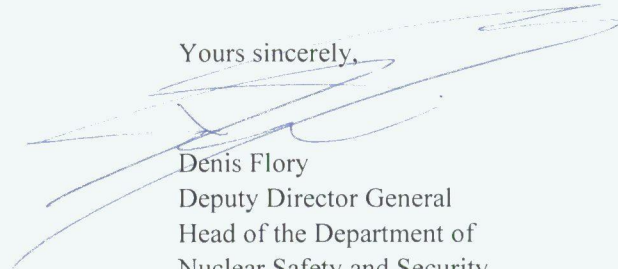
future regulatory body; the two options place the regulatory body under the Minister of Economic Affairs, which is responsible for the national energy policy and this may result in potential conflicts between energy supply issues and safety considerations.

From the assessment, the IAEA concluded that the variant where the ANVS will be established as an “Independent Administrative Authority (IAA)”, is preferable, given that the “deviations” from the “Framework Act on IAA’s” described in your table attached to your letter dated 24 October, are implemented. Even if this option is chosen, the main concern regarding the position of the regulatory under the Minister of Economic Affairs remains, if this Minister retains responsibilities for the national energy policy. In addition, it would be necessary to conduct a comprehensive assessment of the IAA option once finalized (including, a review of the implementing documents / legal provisions).

The conduct of an IRRS mission at the end of 2014 will constitute a good opportunity to further analyse the compliance of the Netherlands’ existing nuclear regulatory framework with the IAEA Safety Standards.

We are looking forward to our future cooperation and providing support as necessary for the establishment of an independent regulatory body in the Netherlands.

Yours sincerely,



Denis Flory  
Deputy Director General  
Head of the Department of  
Nuclear Safety and Security

cc: Permanent Mission of the Netherlands

## Independence of Regulatory Bodies

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### SF-1 – Fundamental Safety

**Principle 2:** Role of government “An effective legal and governmental framework for safety, including an independent regulatory body, must be established and sustained”.

3.8. A properly established legal and governmental framework provides for the regulation of facilities and activities that give rise to radiation risks and for the clear assignment of responsibilities. The government is responsible for the adoption within its national legal system of such legislation, regulations, and other standards and measures as may be necessary to fulfil all its national responsibilities and international obligations effectively, and for the establishment of an independent regulatory body.

3.10. The regulatory body must:

- Have adequate legal authority, technical and managerial competence, and human and financial resources to fulfil its responsibilities;
- Be effectively independent of the licensee and of any other body, so that it is free from any undue pressure from interested parties;
- Set up appropriate means of informing parties in the vicinity, the public and other interested parties, and the information media about the safety aspects (including health and environmental aspects) of facilities and activities and about regulatory processes;
- Consult parties in the vicinity, the public and other interested parties, as appropriate, in an open and inclusive process.

### GSR Part 1 – Governmental, Legal and Regulatory Framework for Safety

#### **Requirement 3:** Establishment of a regulatory body

The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.

#### **Requirement 4:** Independence of the regulatory body

The government shall ensure that the regulatory body is effectively independent in its safety related decision making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making.

2.8. To be effectively independent, the regulatory body shall have sufficient authority and sufficient staffing and shall have access to sufficient financial resources for the proper discharge of its assigned responsibilities. The regulatory body shall be able to make independent regulatory judgements and decisions, free from any undue influences that might compromise safety, such as pressures associated with changing political circumstances or economic conditions, or pressures from government departments or from other organizations.

Furthermore, the regulatory body shall be able to give independent advice to government departments and governmental bodies on matters relating to the safety of facilities and activities.

#### **Requirement 17:** Effective independence in the performance of regulatory functions

The regulatory body shall perform its functions in a manner that does not compromise its effective independence.

## **What is independence?**

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**Principle 2 of Safety Fundamentals (SF) -1 “Role of government”** provides that “An effective legal and governmental framework for safety, including an independent regulatory body, must be established and sustained”.

It further describes that “the regulatory body must:

- Have adequate legal authority, technical and managerial competence, and human and financial resources to fulfil its responsibilities;
- Be effectively independent of the licensee and of any other body, so that it is free from any undue pressure from interested parties”; (Para. 3.10)

In addition, **Requirement 3 of GSR Part 1 “Establishment of a regulatory body”** provides that “The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities”.

Based on the IAEA Safety Standards, concrete criteria to establish the regulatory independence include:

- Legal authority
- Competence – technical and managerial (the regulatory body should have the necessary level of competence in order to be an “intelligent customer”, e.g. to review and take informed technical decisions as a result of review and assessment/ inspection conducted by external organizations (e.g. technical support organizations, etc.)
- Resources – financial and human (to discharge its responsibilities – regulatory control of facilities and activities)
- Absence of undue pressure from interested parties

This will require a legislation covering both the powers and capabilities of the regulatory body (as well as its relationships with other governmental bodies, the regulated industry and the public).

## **The “effective” independence**

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**Requirement 4 of GSR Part 1, “Independence of the regulatory body”**, provides that “The government shall ensure that the regulatory body is effectively independent in its safety related decision making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making”. This requirement is the first step in establishing an independent regulatory body and addresses mainly the legislative framework aspects for ensuring independence.

Furthermore, INSAG-17 – “Independence in regulatory decision making” provides insights on how to practically achieve independence in regulatory decision making as in line with the principles stated in SF-1. Article 16 of the document makes the link between the legal framework and the need for safety objectives that would prevent the undue influence on regulatory body in relation to regulatory oversight.

In addition, **Requirement 17 of GSR Part 1 “Effective independence in the performance of regulatory functions”** provides that “The regulatory body shall perform its functions in a manner that does not compromise its effective independence”.

Therefore, the effective independence of the regulatory body, which primarily relates to its freedom from unwarranted interference in its regulatory functions, and it was formalised in the legislative framework, is further reflected in the execution of the regulatory functions. This is the second step in establishing an independent regulatory body and addresses mainly the aspects for ensuring

independence in performance of regulatory functions. Independence in the performance of the regulatory functions is ensured through competence of staff, as well as by implementing the regulatory body's values and ethical programmes, at all organizational levels.

### **The positioning of the regulatory body**

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An independent regulatory body will not be entirely separate from other governmental bodies. However, the regulatory body shall be able to make independent regulatory judgements and decisions, free from any undue influences that might compromise safety, such as pressures associated with changing political circumstances or economic conditions, or pressures from government departments or from other organizations.

In addition, in the event that the licensee is a branch of government, this branch must be clearly identified as distinct from the branches of government with responsibilities for regulatory functions, to ensure that the regulatory body is effectively independent in its safety related decision making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making.

### **How is the independence guaranteed?**

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It is through the legal system that the government shall establish and maintain the regulatory body, confer it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.

It is important that the national legislation contains provisions that ensure that the regulatory body is provided with adequate personnel, financing, office quarters, information technology, support services and other resources.

Other aspects of independence include:

#### **Political**

The RB must not be subject to any political influence or pressure in taking specific safety decisions.

However, the RB remains accountable to government and parliament as well as to the general public with regard to effectively and efficiently fulfilling its mission to protect workers, the public and the environment from radiation hazards (e.g. through regular, public reporting to government and parliament and through professionally recognized audit and peer review procedures).

#### **Financial**

Adequate and stable financing for all regulatory activities is fundamental to independence. The financing mechanism should be clearly defined in the legal framework.

Within the limit on its total budget, the RB needs to have a high degree of independence in deciding how the budget is to be distributed between its various regulatory activities for the greatest effectiveness and efficiency.

The budget for the RB should NOT:

- depend on fines collected from licensees;
- be decided by or be subject to the approval of those parts of the government which are responsible for exploiting or promoting nuclear technologies;

#### **Competence**

The independence in the RB's decision making depends heavily on the competence of its staff. 3 types of competence are needed:

- Competence in applying the regulatory processes with their underpinning legal framework, ethical principles and codes of conduct.
- Competence with regard to the installations, organizations and activities of the licensees.
- Competence in the relevant scientific and technological areas.

### **Public Information**

The regulatory body needs to have the authority and the obligation to communicate its regulatory decisions and their documentation to the licensee(s) concerned, but also to make this information available as far as possible to the public.

The regulatory body shall promote the establishment of appropriate means of informing and consulting interested parties and the public about the possible radiation risks associated with facilities and activities, and about the processes and decisions of the regulatory body.

The regulatory body shall establish, either directly or through authorized parties, provision for effective mechanisms of communication, and it shall hold meetings to inform interested parties and the public and for informing the decision making process. This communication shall include constructive liaison such as:

- Communication with interested parties and the public on regulatory judgements and decisions;
- Making information on incidents in facilities and activities, including accidents and abnormal occurrences, and other information, as appropriate, available to authorized parties, governmental bodies, national and international organizations, and the public.

Transparency is a means to promote independence in regulatory decision making and to demonstrate such independence to politicians, licensees and other stakeholders, as well as the general public.

### **International**

A systematic programme for peer reviews of regulatory effectiveness is a useful tool to promote and enhance independence in decision making by the RB.

This includes e.g.: participation in various types of international professional co-operation, external peer reviews, either of a specific regulatory activity or of the RB as a whole.

The IAEA offers a range of such review services, performed at the request of the RB or the government.

**Review of Options 1 and 2 - Preliminary comments**

Options 1 and 2<sup>1</sup> tend to be very similar except when it comes to the Organizational aspects. To that extent, Option 2 is more favourable. However, having the Ministry of Economic Affairs as “politically” responsible of that future RB raises some concerns addressed in the below tables and in document A.

1. General	SF-1 / GSR Part 1	Comments
<p>Even though the <b>Minister of Economic Affairs is responsible for energy policy</b>, he does not promote nuclear power. The initiative for a new nuclear (power) plant is in the Netherlands up to the market. The Minister of Economic Affairs is not responsible for any nuclear installation.</p> <p>The Minister of Infrastructure and Environment is responsible for environment and external safety.</p> <p>The description of the variants we have the political responsibility of the Minister of Economic Affairs (EZ) as starting point.</p>	<p><b>GSR Part 1</b>  <b>Requirement 4: Independence of the regulatory body</b>  The government shall ensure that the regulatory body is effectively independent in its safety related decision making and that <b>it has functional separation from entities having responsibilities or interests that could unduly influence</b> its decision making.</p> <p><b>2.7.</b> An independent regulatory body will not be entirely separate from other governmental bodies. The government has the ultimate responsibility for involving those with legitimate and recognized interests in its decision making. However, the government shall ensure that the regulatory body is able to make decisions under its statutory obligation for the regulatory control of facilities and activities, and that it is able to perform its functions without undue pressure or constraint.</p>	<p>The delineation between policy and promotion should be clarified.</p> <p>The responsibility for energy policy might imply that energy supply issues may prevail over safety considerations.</p>

<sup>1</sup> Option 1 refers to ILT-variant and Option 2 refers to IAA-variant.

2. Organisation ANVS	SF-1 / GSR Part 1	Comments
<p>Option 1 The Authority for Nuclear Safety and Radiation Protection (ANVS) is part of the Human Environment and Transport Inspectorate (ILT). The ILT is an agency headed by the Inspector General (IG). Organizational the ILT is part of the Ministry of Infrastructure and Environment.</p> <p>The Human Environment and Transport Inspectorate monitors and encourages compliance with both national and European legislation and regulations in favour of a safe and sustainable human environment and transport. The activities of the inspectorate focus on good provision of services, fair enforcement and appropriate detection. If appropriate this is executed in collaboration with other inspectorates, is risk-driven, is based on mutual trust with the supervised organisation and moreover is focused on reducing the burden of supervision. Policy-makers determine the rules; people and businesses are responsible for compliance and the inspectorate monitors and enforces.</p> <p>The independence of the ANVS is regulated by law. The ANVS comes to an independent opinion, no intervention or hierarchical influences on decisions are possible. The Minister is politically responsible for the ANVS and: ensures that the functions and powers of the ANVS are established by law and which is secured to the ANVS can independently judge and take decisions on the basis of specific expertise, ensures the delivery and adoption of the budget and the formation of the ANVS, is accountable to Parliament on how the ANVS performs its tasks. The ANVS in organizational sense is part of the ILT, the director ANVS is in organizational sense and managerial sense accountable to the IG and uses the facilities of the ILT. The director of the ANVS is operationally</p>	<p><b>GSR Part 1</b></p> <p><b>Requirement 3: Establishment of a regulatory body</b> The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.</p> <p><b>Requirement 16: Organizational structure of the regulatory body and allocation of resources</b> The regulatory body shall structure its organization and manage its resources so as to discharge its responsibilities and perform its functions effectively; this shall be accomplished in a manner commensurate with the radiation risks associated with facilities and activities.</p>	<p>This structure appears to be a complicated structure.</p> <p>The fact that the minister is “politically responsible for the ANVS” and is “accountable to the Parliament” should be clarified but as in the first reading, it does not seem to be granting a sufficient level of independence to the regulatory body.</p>



<p>responsible for the functioning of the administration, but doesn't need to explain to the Inspector General the substantive judgments and decisions made.</p>		
<p><b>Option 2</b>  <b>The ANVS is an independent administrative authority (IAA), established by law, with its own management, budget, staff and legal powers. The ANVS reports directly to the Minister of Economic Affairs. The only responsibilities of the Minister of Economic Affairs are: arranging that the tasks and powers of the ANVS will be laid down in legislation and that the law will guarantee that the ANVS as an autonomous organisation and can judge independently on the basis of specific expertise, appointing (and dismissing) the members of the board of the ANVS, supplying and determining the budget (including the budget for staff) of the ANVS, being accountable to the Parliament of the general way ANVS performs its tasks.</b></p>		<p>Considering the responsibilities of the Ministry of Economic Affairs, the following points might represent a threat for the independence of ANVS:</p> <ul style="list-style-type: none"> <li>- The fact that ANVS reports directly to the Minister of Economic Affairs (which is accountable to the Parliament of the general way ANVS performs its tasks) – It would be better if ANVS would report directly to the Parliament.</li> <li>- The fact that the Minister of Economic Affairs is appointing (and dismissing) the members of the board of the ANVS. The appointment could be at higher level, (e.g. Prime minister, the President or the Congress, – which is the case in France or in the US). And the dismissing shall be strictly regulated.</li> <li>- The fact that the Minister of Economic Affairs is determining the budget (including the budget for staff) of the ANVS. The RB should be able to manage its resources.</li> </ul>
<p>An element missing in the 2 options when it comes to the organizational aspects is the structure of ANVS: will there be commissioners? And if yes how many? How will they be appointed?</p>		

3. Components	SF-1 / GSR Part 1	Comments
<p>Option 1 In the ANVS as part of the ILT the following organisations will be merged: the Nuclear Physics Service (at this time part of the ILT), the Nuclear Installations and Safety Department (at this time part of the Ministry of Economic Affairs), the Nuclear Radiation Team of the NL Agency. The laboratory for nuclear radiation of the National Institute for Public Health and the Environment will support the Nuclear Safety and Radiation Protection Authority, but will be situated in Bilthoven.</p>	<p><b>IAEA Safety Glossary:</b> A regulatory body is an authority or a system of authorities designated by the government of a State as having legal authority for conducting the regulatory process, including issuing authorizations, and thereby regulating nuclear, radiation, radioactive waste and transport safety.</p> <p><b>GSR Part 1</b> <b>Requirement 7: Coordination of different authorities with responsibilities for safety within the regulatory framework for safety</b> Where several authorities have responsibilities for safety within the regulatory framework for safety, the government shall make provision for the effective coordination of their regulatory functions, to avoid any omissions or undue duplication and to avoid conflicting requirements being placed on authorized parties.</p>	<p>Even though the IAEA Safety Standards do not recommend a particular model, having a single organization in charge of radiation safety and nuclear safety is seen as more practical. Based on IAEA Member States example, the latest trend seems to be the merger of several authorities into ones and thus the gathering all regulatory functions under the responsibility of one single regulatory body.</p>
<p><b>Option 2</b> <b>In the Independent Regulatory Body the following organisations will be merged:</b> <b>the Nuclear Installations and Safety Department that will be detached from the Ministry of Economic Affairs, the Nuclear Physics Service that will be detached from the ILT, the Nuclear Radiation Team of the NL Agency that will be detached from the NL Agency. The laboratory for nuclear radiation of the National Institute for Public Health and the Environment in Bilthoven will support the ANVS, but will be situated in Bilthoven.</b></p>		

4. Facilities and Support	SF-1 / GSR Part 1	Comments
<p><b>Option 1</b> The ANVS will be housed at the ILT and will make use of the facilities and support provided by the ILT. For the tasks and responsibilities in other areas, the ILT is provided with management systems, processes, ICT resources and facility provisions, etc. For the development of policies and regulations in the field of nuclear safety and radiation the ANVS may make use of support systems provided by Ministries to be supported (mainly Economical Affairs, Health and Social Affairs). If necessary and possible, the Director of the ANVS is free to organize support form outside of the ILT</p>	<p><b>Requirement 20: Liaison with advisory bodies and support organizations</b> The regulatory body shall obtain technical or other expert professional advice or services as necessary in support of its regulatory functions, but this shall not relieve the regulatory body of its assigned responsibilities.</p> <p>4.18. The regulatory body may decide to give formal status to the processes by which it is provided with expert opinion and advice. If the establishment of advisory bodies, whether on a temporary or a permanent basis, is considered necessary, it is essential that such bodies provide independent advice, whether technical or non-technical in nature.</p>	<p>Does the reference to the “use of support systems provided by Ministries to be supported (mainly Economical Affairs, Health and Social Affairs) for the development of policies and regulations in the field of nuclear safety and radiation the ANVS” mean use of TSO? If yes, the issue of independence might be carefully looked at too.</p>
<p><b>Option 2</b> The ANVS will make use of the support and facilities provided by the "Shared Service Organisation Management of the State" (provides services for autonomous administrative authorities) and will be housed for reasons of efficiency at another government department(s). If necessary the ANVS may make use of support features provided by the department in which the ANVS will be housed. When this is the case, agreements will be signed. For the development of policies and regulations in the field of nuclear safety and radiation ANVS may make use of support systems provided by the Ministries to be supported (mainly Economic Affairs, Health, Social Affairs).</p>		

5. Judging and decision making	SF-1 / GSR Part 1	Comments
<p>Option 1 The ANVS is independent in its judgment and decides without being influenced by political, administrative or social forces. Judgments and decisions are made by the director of the ANVS, without being hierarchal influenced.</p>	<p><b>GSR Part 1</b> <b>Requirement 3: Establishment of a regulatory body</b> The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.</p>	<p>The part “judgments and decisions are made by the director of the ANVS, without being hierarchal influenced” needs to be redrafted</p>
<p><b>Option 2</b> <b>The ANVS, being an independent administrative authority, is able to judge independently, without being influenced by political, administrative or societal forces, on its own functions and powers, own HRM-policy, the choice of juridical options and means to inform the public.</b></p>	<p>2.8. To be effectively independent, the regulatory body shall have sufficient authority and sufficient staffing and shall have access to sufficient financial resources for the proper discharge of its assigned responsibilities. The regulatory body shall be able to make independent regulatory judgements and decisions, free from any undue influences that might compromise safety, such as <b>pressures associated with changing political circumstances or economic conditions, or pressures from government departments or from other organizations.</b> Furthermore, the regulatory body shall be able to give independent advice to government departments and governmental bodies on matters relating to the safety of facilities and activities.</p>	<p>Here Option 2 is better.</p>

6. Legal status ANVS	SF-1 / GSR Part 1	Comments
<p>Option 1 The minister of Economic Affairs takes care of the legal position of the ANVS and ensures that its authority and responsibility are laid down in law.</p>	<p><b>SF-1</b> <b>Principle 2: Role of government</b> “An effective legal and governmental framework for safety, including an independent regulatory body, must be established and sustained”.</p>	<p>Is it really the responsibility of this Ministry? Isn't the Ministry supposed to provide input and the Parliament to draft the law?</p>
<p><b>Option 2</b> <b>The minister of Economic Affairs ensures that the ANVS is established by law as an independent administrative authority with its own management, budget, civil service and legal powers.</b></p>	<p>3.8. A properly established legal and governmental framework provides for the regulation of facilities and activities that give rise to radiation risks and for the clear assignment of responsibilities. The government is responsible for the adoption within its national legal system of such legislation, regulations, and other standards and measures as may be necessary to fulfil all its national responsibilities and international obligations effectively, and for the establishment of an independent regulatory body.</p> <p><b>GSR Part 1</b> <b>Requirement 3: Establishment of a regulatory body</b> The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.</p>	<p>From the French example, in most cases, laws are Drafted by the Government (Projet de Loi) and adopted (possibly amended) by the Parliament. In a limited number of cases, the Parliament itself can draft laws (Proposition de Loi).</p>

7. Responsibility for the budget of ANVS	SF-1 / GSR Part 1	Comments
<p>Option 1 The minister of EZ provides for a separate budget for the ANVS which should be outlined as such in the budget of EZ. This budget will be put at the disposal of the director of the ANVS by the ILT. The director ANVS is, without interference of the IG ILT, accountable for the deployment of the financial means. The director ANVS is directly accountable to the minister of EZ.</p>	<p><b>GSR Part 1</b> <b>Requirement 16: Organizational structure of the regulatory body and allocation of resources</b> The regulatory body shall structure its organization and manage its resources so as to discharge its responsibilities and perform its functions effectively; this shall be accomplished in a manner commensurate with the radiation risks associated with facilities and activities.</p>	<p>Both options seem to be in line with GSR Part 1 as in both cases, it seems that the Chair of ANVS is responsible for the allocation of resources. The word “accountable” might be replaced by “responsible” for better clarity (see e.g. in option 2, “The chairman of the board is, without interference of the minister of EZ, <i>accountable</i> for the deployment of the financial means”).</p>
<p><b>Option 2</b> The minister of EZ provides for a separate budget for the ANVS which should be outlined as such in the budget of EZ. This budget will be put at the disposal of the chairman of the board of ANVS. The chairman of the board is, without interference of the minister of EZ, accountable for the deployment of the financial means. The Chairman of the board is accountable to the minister of EZ for the performance of the ANVS.</p>	<p>4.4. Requirement 3 establishes that the government shall be responsible for ensuring that the regulatory body has sufficient resources to fulfil its statutory obligations.</p> <p>4.5. The regulatory body has the responsibility for structuring its organization and managing its available resources so as to fulfil its statutory obligations effectively. The regulatory body shall allocate resources commensurate with the radiation risks associated with facilities and activities, in accordance with a graded approach. Thus, for the lowest associated radiation risks, it may be appropriate for the regulatory body to exempt a particular activity from some or all aspects of regulatory control; for the highest associated radiation risks, it may be appropriate for the regulatory body to carry out a detailed scrutiny in relation to any proposed facility or activity before it is authorized, and also subsequent to its authorization.</p>	

8. Human resource management policy ANVS	SF-1 / GSR Part 1	Comments
<p>Option 1 The minister of Economic Affairs will arrange for enough formation that will be made available to the director of the ANVS through the ILT. The director of ANVS shall independently decide on how to manage this formation. The director of the ANVS shall decide on the Human Resource Management of the ANVS. Support of Human Resource Management will take place from the ILT. The director of ANVS will decide on the level of support.</p>	<p><b>GSR Part 1</b> <b>Requirement 11: Competence for safety</b> The government shall make provision for building and maintaining the competence of all parties having responsibilities in relation to the safety of facilities and activities.</p> <p>2.34. As an essential element of the national policy and strategy for safety, the necessary professional training for maintaining the competence of a sufficient number of suitably qualified and experienced staff shall be made available.</p>	<p>Both options seem in line with GSR Part 1 as the Ministry will make sure that training are in place while ANVS will be in charge of its Human Resources Management.</p> <p>However some clarification might be needed in Option 2 regarding the <i>“Support of Human Resource Management will take place from the “Shared Service Organisation Management of the State”, and if effective and efficient, support will be drawn from the State Service(s) at which the ANVS is accommodated”</i>.</p>
<p><b>Option 2</b> The minister of Economic Affairs will arrange for enough formation. This formation will be made available to the chairman of the board of the ANVS. The chairman of the board of the ANVS will decide on the deployment of people, without interference from, or accountability to the responsible minister. The chairman of the board of the ANVS will also decide on the policy for the Human Resource Management of the ANVS. Support of Human Resource Management will take place from the "Shared Service Organisation Management of the State", and if effective and efficient, support will be drawn from the State Service(s) at which the ANVS is accommodated. The managing director of the ANVS will decide on the level of support.</p>	<p>2.35. The building of competence shall be required for all parties with responsibilities for the safety of facilities and activities, including authorized parties, the regulatory body and organizations providing services or expert advice on matters relating to safety. Competence shall be built, in the context of the regulatory framework for safety, by such means as:</p> <ul style="list-style-type: none"> <li>—Technical training;</li> <li>—Learning through academic institutions and other learning centres;</li> <li>—Research and development work.</li> </ul> <p><b>Requirement 18: Staffing and competence of the regulatory body</b> The regulatory body shall employ a sufficient number of qualified and competent staff, commensurate with the nature and the number of facilities and activities to be regulated, to perform its functions and to discharge its responsibilities.</p>	

9. Legal instruments ANVS	SF-1 / GSR Part 1	Comments
<p>Option 1 The minister of EZ provides the legal instruments to be used by ANVS by law. The director of ANVS can use these legal instruments to his own discretion, without interference of anyone or accountability to anyone.</p>	<p><b>GSR Part 1</b> <b>Requirement 22: Stability and consistency of regulatory control</b> The regulatory body shall ensure that regulatory control is stable and consistent.</p>	<p>Are the “legal instruments” referring to the adoption of regulations and guides by ANVS as well as the establishment of enforcement policy?</p>
<p><b>Option 2</b> <b>The ANVS as an independent administrative authority possesses by law various legal instruments to fulfil its tasks. The ANVS can use these instruments to its own discretion, without interference or being accountable.</b></p>	<p>4.26. The regulatory process shall be a formal process that is based on specified policies, principles and associated criteria, and that follows specified procedures as established in the management system. The process shall ensure the stability and consistency of regulatory control and shall prevent subjectivity in decision making by the individual staff members of the regulatory body. The regulatory body shall be able to justify its decisions if they are challenged. In connection with its reviews and assessments and its inspections, the regulatory body shall inform applicants of the objectives, principles and associated criteria for safety on which its requirements, judgements and decisions are based.</p> <p><b>Requirement 32: Regulations and guides</b> The regulatory body shall establish or adopt regulations and guides to specify the principles, requirements and associated criteria for safety upon which its regulatory judgements, decisions and actions are based.</p> <p><b>Requirement 30: Establishment of an enforcement policy</b> The regulatory body shall establish and implement an enforcement policy within the legal framework for responding to non-compliance by authorized parties with regulatory requirements or with any conditions specified in the authorization.</p>	<p>In addition, the director of ANVS cannot use “these legal instruments to his own discretion” but has to follow regulatory processes based on its mandate (as provided by the law), specified policies, principles and associated criteria. Those regulatory processes should be documented as part of the management system.</p> <p>Finally, one cannot be without “accountability to anyone”. Indeed if the RB must not be subject to any political influence or pressure in taking specific safety decisions, the RB remains accountable to government and parliament as well as to the general public with regard to effectively and efficiently fulfilling its mission to protect workers, the public and the environment from radiation hazards (e.g. through regular, public reporting to government and parliament and through professionally recognized audit and peer review procedures).</p>



10. Means to inform the public of the ANVS	SF-1 / GSR Part 1	Comments
<p>Option 1 The minister of Economic Affairs will by law establish the authority of the ANVS to inform the public, to its own perception, on nuclear safety and radiation protection, without political, administrative or social influence on form and content.</p>	<p><b>SF-1</b> 3.10. The regulatory body must: - Set up appropriate means of informing parties in the vicinity, the public and other interested parties, and the information media about the safety aspects (including health and environmental aspects) of facilities and activities and about regulatory processes; - Consult parties in the vicinity, the public and other interested parties, as appropriate, in an open and inclusive process.</p> <p><b>GSR Part 1</b> <b>Requirement 36: Communication and consultation with interested parties</b> The regulatory body shall promote the establishment of appropriate means of informing and consulting interested parties and the public about the possible radiation risks associated with facilities and activities, and about the processes and decisions of the regulatory body.</p> <p>4.66. The regulatory body shall establish, either directly or through authorized parties, provision for effective mechanisms of communication, and it shall hold meetings to inform interested parties and the public and for informing the decision making process. This communication shall include constructive liaison such as: (a) Communication with interested parties and the public on regulatory judgements and decisions; [...] (d) Communication on the requirements, judgements and decisions of the regulatory body, and on the bases for them, to the public;</p>	<p>In both cases, it would be better to avoid using wording like “perception” and better use “regulatory judgements and decisions”</p>
<p><b>Option 2</b> The ANVS is capable to inform the public, as independent governing body and to its own perception, on nuclear safety and radiation protection, without political, governmental and social influence.</p>		

11. ANVS Management system	SF-1 / GSR Part 1	Comments
<p><b>Option 1</b> The setting up of the management system for ANVS is linked to the ANVS mission which is to foster safety culture and aiming at continuous improvement. To attain this director of ANVS will develop a specific, own, management system. The focus of this management system is a comprehensive management of the activity chain, and the learning organisation concept. As far as the substantial orientation is concerned, the director will make specific appropriate choices, linked to the internationally established goals of the Nuclear Regulatory Body. As for the process-related organisation of the managements system, the ANVS director can join the IL T management system, where useful and possible. The director will be accountable towards the minister for the safety culture of the organisation.</p>	<p><b>GSR Part 1</b> <b>Requirement 19: The management system of the regulatory body</b> The regulatory body shall establish, implement, and assess and improve a management system that is aligned with its safety goals and contributes to their achievement.</p> <p>4.14. The regulatory body shall establish and implement a management system whose processes are open and transparent. The management system of the regulatory body shall be continuously assessed and improved.</p> <p>4.15. The management system of the regulatory body has three purposes: (1) The first purpose is to ensure that the responsibilities assigned to the regulatory body are properly discharged. (2) The second purpose is to maintain and improve the performance of the regulatory body by means of the planning, control and supervision of its safety related activities. (3) The third purpose is to foster and support a safety culture in the regulatory body through the development and reinforcement of leadership, as well as good attitudes and behaviour in relation to safety on the part of individuals and teams.</p> <p>4.16. The management system shall maintain the efficiency and effectiveness of the regulatory body in discharging its responsibilities and performing its functions. This includes the promotion of enhancements in safety, and the fulfilment of its obligations in an appropriate, timely and cost effective manner so as to build confidence.</p>	<p>The mission of the RB as stated in both cases is too limited – as only focusing on safety culture. It should be reviewed and the description and implementation of the management system should be based on Requirement 19 of GSR Part 1.</p> <p>A reference to all main regulatory functions (Authorisation and notification, review and assessment, inspection, enforcement, development of regulations and guides, emergency and preparedness) should be introduced. The organisation could be presented in a more understandable way if a link between regulatory functions and RB organisation could appear.</p>
<p><b>Option 2</b> The mission of ANVS is: ANVS fosters safety culture in industries, authorities and organisations with the ultimate goal of a nuclear safe Netherlands and an appropriate protection of the population against the dangers arising from ionizing radiation. This mission contains the responsibility for the whole chain of activities. The chairman of the board of the ANVS sets up his own management system. The management system is based upon safety, an explicit safety culture and continuous improvement, comprehensive management of the whole chain of activities and upon the concept of a learning organisation. The chairman of the board of the ANVS is responsible for his own safety culture and accountable towards the minister of EZ for the functioning of the organisation.</p>		

**General Comments**

The IAEA comments provided in the table below are made in relation to the relevant IAEA Safety Standards (i.e. SF-1, Fundamental Safety and GSR Part 1, Legal Governmental and Regulatory Framework for Safety), and reflect the general understanding of the information provided. It should be noted that, based on this analysis, some inconsistencies were identified.

The most significant comment is that neither of the two proposed options appears to be in compliance with the IAEA Safety Standards. The two options place the RB under the Ministry of Economics, which is responsible for the national energy policy and this may result in potential conflicts between energy supply issues and safety considerations.

As stated in GSR Part 1, "2.8. To be effectively independent, the regulatory body shall have sufficient authority and sufficient staffing and shall have access to sufficient financial resources for the proper discharge of its assigned responsibilities. **The regulatory body shall be able to make independent regulatory judgements and decisions, free from any undue influences that might compromise safety, such as pressures associated with changing political circumstances or economic conditions, or pressures from government departments or from other organizations.** Furthermore, the regulatory body shall be able to give independent advice to government departments and governmental bodies on matters relating to the safety of facilities and activities".

The proposed option for IAA indicated that some "deviations" from the current Framework Act on IAA's [Kaderwet ZBO's] are possible, but, a comprehensive assessment of the IAA option cannot be performed without reviewing the implementing documents (legal provisions)

**From the overall documentation provided in the attached overview as well as in information provided earlier (letter of the 17<sup>th</sup> of September and its two appendices), the IAEA's view would be that the variant 2, where the ANVS is established as an independent administrative authority (IAA), is preferable, given that the "deviations" described are implemented. Even if this option is chosen, the main concern regarding the position of the RB under the Minister of Economic Affairs remains, if this Minister retains responsibilities for the national energy policy.**

Independent Administrative Authority (IAA) Pursuant to the Framework Act on IAA's [Kaderwet ZBO's]	Agency Pursuant to the Agencies Regulation [Regeling Agentschappen]	IAEA Comments	
Key points of definition		Relevant IAEA Safety Standards	Comments
<b>Key points:</b> 1. Independent Administrative Authority 2. Vested with public authority 3. Not hierarchically subordinate to a minister	<b>Key points:</b> 1. Internally independent part of a ministry 2. Engaged in enforcement 3. Own governance model	<b>GSR Part 1 Requirement 4: Independence of the regulatory body</b> The government shall ensure that the regulatory body is effectively independent in its safety related	<b>From the information provided, <u>the IAA variant seems preferable.</u></b>  The relation between the Ministry of Economic Affairs and the IAA as described in Key Point 3 "Not hierarchically subordinate to

<p><b>4. Not necessarily restricted to enforcement</b></p>		<p>decision making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making.</p>	<p>a minister” is unclear.</p>
<p><b>Section 1</b></p> <ul style="list-style-type: none"> <li>• In this Act, the following terms shall be understood to have the meanings assigned to them below:</li> <li>a. Independent Administrative Authority: A public body of the central government, vested with public authority by law, pursuant to law by an order in council (a governmental decree), or pursuant to law by ministerial regulation, and that is not hierarchically subordinate to a minister;</li> <li>b. Our Minister: the responsible minister.</li> </ul>	<p><b>Section 1</b></p> <ul style="list-style-type: none"> <li>• In this Regulation , the following terms shall be understood to have the meanings assigned to them below:</li> <li>a. Agency: an internally independent enforcement unit of a ministry that has its own governance model and financial accounting system;</li> </ul>	<p><b>2.7.</b> An independent regulatory body will not be entirely separate from other governmental bodies. The government has the ultimate responsibility for involving those with legitimate and recognized interests in its decision making. However, the government shall ensure that the regulatory body is able to make decisions under its statutory obligation for the regulatory control of facilities and activities, and that it is able to perform its functions without undue pressure or constraint.</p> <p><b>2.8.</b> To be effectively independent, the regulatory body shall have sufficient authority and sufficient staffing and shall have access to sufficient financial resources for the proper discharge of its assigned responsibilities. The regulatory body shall be able to make independent regulatory judgements and decisions, free from any undue influences that might compromise safety, such as pressures associated with changing political circumstances or economic conditions, or pressures from government departments or from other organizations. Furthermore, the regulatory body shall be able to give independent advice to government departments and governmental bodies on matters relating to the safety of facilities and activities.</p>	<p>If IAA is part of the central government, rather than of the Ministry of Economic Affairs, it would give the RB a higher degree of independence from possible undue influence.</p> <p>More explanation regarding the characteristics of “vested with public authority” is necessary.</p> <p>The functions of the RB should not be restricted to enforcement as the “Agency” option implies</p> <p>Indeed, the functions of the RB should not be restricted to enforcement but should include the full set, i.e.:</p> <ul style="list-style-type: none"> <li>—Preparation of regulations and guides;</li> <li>—Authorization of facilities and activities;</li> <li>—Review and assessment of information relevant to safety;</li> <li>—Inspection of facilities and activities;</li> <li>—Enforcement of compliance with regulations and standards.</li> </ul>

Subordinate – not subordinate		Relevant IAEA Safety Standards	Comments
<p><b>Key points:</b>  <b>1. A member of an IAA cannot be subordinate to a minister.</b></p>	<p><b>Key points:</b>  <b>1. Director and also personnel are subordinate to a minister.</b></p>	<p><b>GSR Part 1</b>  <b>Requirement 4: Independence of the regulatory body</b>  The government shall ensure that the regulatory body is effectively independent in its safety related decision making and that it <b>has functional separation from entities having responsibilities or interests that could unduly influence its decision making.</b></p>	<p>What does "member" mean? A staff member? A commissioner?</p> <p><b><u>From the information provided, the IAA variant seems preferable but see our comment above</u></b> (i.e. The relation between the Ministry of Economic Affairs and the IAA as described in Key Point 3 "Not hierarchically subordinate to a minister" is unclear if IAA).</p> <p>If it is a fact that the staff of an IAA is not subordinate to a ministry, this would give the RB a higher degree of independence from possible undue influence.</p> <p>However, this appears to be in contradiction with the fact that a Minister can give general instructions as indicated below.</p>
<p><b>Section 9</b></p> <ul style="list-style-type: none"> <li>A member of an Independent Administrative Authority cannot also be a civil servant subordinate to Our Minister.</li> </ul> <p><b>Section 16</b></p> <p>The personnel working for an Independent Administrative Authority are subject to the authority of that Independent Administrative Authority and are accountable regarding their work solely to that Authority.</p>	<p><b>Section 1</b></p> <p>a. Agency: .... unit of a ministry.</p>		

Performance of duties assigned by law		Relevant IAEA Safety Standards	Comments
<b>Key points:</b> <b>1. Minister can give general instructions.</b>	<b>Key points:</b> <b>1. Minister can give general and also specific instructions.</b>	<b>2.7.</b> An independent regulatory body will not be entirely separate from other governmental bodies. The government has the ultimate responsibility for involving those with legitimate and recognized interests in its decision making. However, the government shall ensure that the <b>regulatory body is able to make decisions under its statutory obligation for the regulatory control of facilities and activities, and that it is able to perform its functions without undue pressure or constraint.</b>	<b>From the information provided and with the proposed "deviation", the IAA variant, is preferable. The Ministry of Economic Affairs should not be empowered to give instructions to the RB.</b>  In addition, it is not clear what "general instructions" mean.
<b>Section 21</b>  1. Our Minister may adopt policy rules regarding the performance of duties by an Independent Administrative Authority.	<b>Section 10:22 General Administrative Law Act [Awb]</b>  1. If a statutory power to take decisions has been allocated to a person or board working subject to the responsibility of a public body, said public body may give instructions on a case-by-case basis or in general regarding the exercise of the power allocated.		
<b>The Framework Act on IAAs may be deviated from if this is necessary in connection with international requirements. If the Dutch Nuclear Safety and Radiation Protection Authority (ANVS) is to be organised as an IAA, it is possible <i>not</i> to empower the Minister in question to give general instructions.</b>			

Appointment, suspension, and removal from office	Relevant IAEA Safety Standards	Comments	
<p>1. The minister appoints the members of an IAA and may suspend them or remove them from office.</p> <p>2. Removal from office is only possible for compelling reasons relating to the person in question.</p> <p>3. The minister determines the remuneration for an IAA.</p>	<p>1. The minister, together with the Minister for Housing and Civil Service, or the Minister for Housing and Civil Service by Royal Decree, appoints, suspends, and removes from office.</p> <p>2. Removal from office possible on grounds including unsatisfactory performance.</p>	<p><b>Requirement 16: Organizational structure of the regulatory body and allocation of resources</b> The regulatory body shall structure its organization and manage its resources so as to discharge its responsibilities and perform its functions effectively; this shall be accomplished in a manner commensurate with the radiation risks associated with facilities and activities.</p> <p>4.4. Requirement 3 establishes that <b>the government shall be responsible for ensuring that the regulatory body has sufficient resources to fulfil its statutory obligations.</b></p>	<p>From the information provided, <u>and given that the "deviation" specified at the end is implemented, the IAA variant is preferable.</u></p> <p>For a higher level of independence, it is recommended not to have the Ministry of Economic Affairs be responsible for the appointment, suspension or removal and remuneration of the RB's personnel.</p> <p>Just like in the previously supplied table, it is noted that an element missing in the 2 options when it comes to the organizational aspects <u>is the structure of ANVS</u>. E.g. will the RB have commissioners?</p>
<p><b>Section 12</b></p> <p>1. Our Minister appoints the members of an Independent Administrative Authority and may suspend them or remove them from office.</p> <p>2. Suspension and removal from office are possible only for reasons of unsuitability or incompetence as regards the position held, or for other compelling reasons related to the person in question. The person concerned may also be discharged at his own request.</p> <p><b>Section 14</b></p> <p>1. Remuneration or compensation shall be paid to members of a</p>	<p><b>Basic principles set out in the General Public Service Regulations [ARAR]</b></p> <p><b>Section 91</b></p> <p>1. Without prejudice to the provisions of Section 81(1)(k), the civil servant can be suspended from office:</p> <p>a. if a criminal prosecution has been instituted against him regarding a crime;</p> <p>b. if he has been notified by the competent authority of its intention to punish him with unconditional removal from office, or if that punishment has been imposed on him;</p> <p>c. if, in the opinion of the competent authority, such is required by the interest of the service.</p>	<p>4.5. The regulatory body has the responsibility <b>for structuring its organization and managing its available resources so as to fulfil its statutory obligations effectively.</b> The regulatory body shall allocate resources commensurate with the radiation risks associated with facilities and activities, in accordance with a graded approach.</p>	

<p>Independent Administrative Authority.</p> <p>2. The amount of the remuneration or compensation shall be determined by Our Minister.</p>	<p>2. Suspension shall be effectuated by the authority that is empowered to appoint to the office from which the civil servant is suspended. Should that power be vested in Us, then suspension shall be effectuated by Our Minister.</p> <p><b>Section 93</b></p> <p>Removal from office shall be effectuated by the authority that is empowered to appoint to the office from which the civil servant is removed. The proposal for removal from office of the civil servant within the meaning of Section 4(5)(a) shall be made by Our Minister of the Interior and Kingdom Relations. Removal from office of the civil servant within the meaning of Section 4(5)(b) or (c) shall be in agreement with Our Minister of the Interior and Kingdom Relations.</p> <p><b>Section 96</b></p> <p>1. In the context of a reorganisation, a civil servant may be honourably removed from office if it is not possible to reallocate him to a suitable position.</p> <p>2. ....</p> <p><b>Section 97(b)</b></p> <p>1. Removal from office within the meaning of Section 125(e)(2) of the Central and Local Government Personnel Act [<i>Ambtenarenwet</i>] shall require agreement with Our Minister of the Interior and Kingdom Relations. The latter shall</p>		
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	<p>be required to seek the advice of the Advisory Committee on Basic Rights and Professional Duties of Civil Servants [<i>Adviescommissie grondrechten en functie-uitoefening ambtenaren</i>].</p> <p>2. Should the proposal for removal from office derive from Our Minister of the Interior and Kingdom Relations, the agreement of Our Prime Minister shall be required.</p> <p><b>Section 98</b></p> <p>1. Other than at the request of the civil servant, by way of punishment, or pursuant to the provisions of Section 7 of the Incompatibility of Office (States General and European Parliament) Act [<i>Wet Incompatibiliteiten Staten-Generaal en Europees Parlement</i>], Sections 95, 96, 96(a), 96(b), 96(c) and 97 of this Decree and the provisions of Section 125(e)(2) of the Central and Local Government Personnel Act, a civil servant may be removed from office on the grounds of:</p> <ul style="list-style-type: none"> <li>a. the loss of a requirement for appointment imposed by the competent authority in a regulation prior to the appointment, unless the requirement only applies to the commencement of the office;</li> <li>b. entering into a degree of relationship by marriage such as to exclude appointment to the office;</li> <li>c. a court ruling, no longer open to appeal, whereby the civil servant has been placed under</li> </ul>		
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	<p>legal guardianship;</p> <ul style="list-style-type: none"> <li>d. being made subject to committal for failure to comply with a judicial order in respect of debt pursuant to a court ruling that is no longer open to appeal;</li> <li>e. imposition, no longer open to appeal, of a custodial sentence due to the commission of a crime;</li> <li>f. incapacity for work due to illness;</li> <li>g. incompetence or unsuitability for the office held otherwise than due to a mental or physical disorder;</li> <li>h. reaching retirement age;</li> <li>i. the provision of incorrect or incomplete information upon or in connection with the assumption of office and/or assessment, if, were such not to have been done, the civil servant would not have been appointed or approved, unless the civil servant can demonstrate that he acted in good faith.</li> </ul> <p>2. ....</p> <p><b>Section 99</b></p> <p>3. A civil servant with a permanent appointment may also be removed from office on grounds other than those set out in Section 98 or referred to in that section. Such removal from office shall be honourable.</p>		
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	2. ....		
<p><b>The Framework Act on IAAs may be deviated from if this is necessary in connection with international requirements. If the ANVS is to be organised as an IAA, it is possible for the appointment (and also suspension or removal from office) of the members of the IAA to be effectuated not by the responsible minister but, as in the case of the ARAR, by the responsible minister in agreement with the Minister for Housing and Civil Service or by the Minister for Housing and Civil Service by Royal Decree (depending on the salary scale grade). The grounds for removal from office set out in the Framework Act on IAAs shall, however, continue to apply. Also, the matter of remuneration should not be left to the responsible minister alone but decisions should be made by him together with the Minister for Housing and Civil Service.</b></p>			<p><b>As noted above, this deviation should be implemented.</b></p>

Termination		Relevant IAEA Safety Standards	Comments
1. Government and Parliament jointly (by means of legislation)	1. By the responsible minister together with the Minister of Finance.	<b>Requirement 3: Establishment of a regulatory body</b> The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.	<b>From the information provided above, the IAA variant is preferable.</b>  In general, to grant sufficient authority to the RB, it is suitable that the RB is established by a high level legal instrument such as a law. In a similar way, the dissolution of the RB should be decided at the highest level (here Government and Parliament).
	<b>Section 8. Termination of an agency</b>  1. Termination of an agency shall be effectuated by a decision, accompanied by reasons, by the responsible minister; this shall be co-signed by the Minister of Finance.  2. ....  3. The House of Representatives shall be informed separately of the decision to terminate.  4. The decision to terminate shall be published in the Government Gazette [ <i>Staatscourant</i> ].  5. The responsible minister shall send a copy of the decision to terminate the agency to the Netherlands Court of Audit [ <i>Algemene Rekenkamer</i> ].		

Governance and accountability		Relevant IAEA Safety Standards	Comments
<p><b>Key points:</b></p> <ol style="list-style-type: none"> <li>1. If the Act establishing a independent administrative authority prescribes internal rules of procedure [<i>bestuursreglement</i>], these must be approved by the minister.</li> <li>2. IAA sends an annual report on the performance of its duties and the policy conducted to the Minister and Parliament.</li> <li>3. IAA provides the Minister with the information necessary for him to perform his duties.</li> <li>4. The Minister can reverse a decision adopted by the IAA.</li> <li>5. In the event of neglect of duties, the minister can take the necessary measures.</li> </ol>	<p><b>Key points:</b></p> <ol style="list-style-type: none"> <li>1. The governance model consists of an owner, assignment giver, and contractor.</li> <li>2. The owner is responsible for supervising the policy and the general course of affairs, for example the auditing and approval of the budget, the rates, and the annual plan.</li> <li>3. The assignment giver formulates the assignment and the desired result of the agency.</li> <li>4. The contractor ensures the performance of the agreements made and the rendering of account.</li> <li>5. The Financial and Economic Affairs Department [<i>FEZ</i>] exercises financial supervision of the agency.</li> <li>6. The Minister can give general or specific instructions in advance.</li> </ol>	<p><b>Requirement 3: Establishment of a regulatory body</b> The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence and the resources necessary to fulfil its statutory obligation for the regulatory control of facilities and activities.</p>	<p><b>From the information provided above, both variants seem similarly satisfactory.</b></p> <p>Enabling the RB to be fully responsible for the definition of its internal rules would grant it a higher level of independence.</p> <p>The submission by the RB of annual reports to the Ministry of Economic Affairs is not problematic if the Parliament and other Ministries also receive it.</p> <p>The capacity of the Minister of Economics to reverse a safety decision adopted by the IAA would be inappropriate.</p>
<p><b>Section 11</b></p> <ol style="list-style-type: none"> <li>1. If an Independent Administrative Authority adopts internal rules of procedure pursuant to a statutory provision, these must be approved by Our Minister.</li> <li>2. Our Minister may refuse such approval if he considers that there is a conflict with the law or on the grounds that he believes that said rules of procedure</li> </ol>	<p><b>Section 1</b></p> <p>m. <i>Owner</i>: The party within the ministry concerned designated as responsible for supervising the contractor's policy and the general course of affairs within the agency;</p> <p>n. <i>Assignment giver</i>: The party within the ministry that has given the agency an assignment to deliver products or services and that allocates a contribution for that purpose;</p>		

<p>impede the proper fulfilment of the tasks of the Independent Administrative Authority.</p> <p><b>Section 18</b></p> <ol style="list-style-type: none"> <li>1. Before 15 March of each year, the IAA shall draw up an annual report. Said annual report shall describe the performance of the IAA's duties and the policy conducted. Said annual report shall also describe the policy conducted with regard to quality assurance.</li> <li>2. Said annual report shall be submitted to Our Minister and to both houses of Parliament.</li> </ol> <p><b>Section 20</b></p> <ol style="list-style-type: none"> <li>1. An Independent Administrative Authority shall provide Our Minister, on request, with all information required for him to perform his duties. Our Minister may require that he be enabled to inspect all business data and records if such is reasonably necessary for him to perform his duties.</li> <li>2. In providing the information referred to in Subsection 1, an Independent Administrative Authority shall if necessary indicate which information is of a confidential nature. The confidentiality of the information may arise from the nature of that information or from the fact that natural persons or legal entities provided it to the Independent</li> </ol>	<p>o. <i>Contractor</i>: The party within the agency bearing final responsibility.</p> <p><b>Section 9. Governance model</b></p> <ol style="list-style-type: none"> <li>1. An agency shall have a governance model in which three different roles are distinguished, namely those of the owner, assignment giver, and contractor. These roles shall not be combined.</li> <li>2. In deviation from Subsection 1, the roles of assignment giver and owner may be combined if services are provided only within the ministry concerned, if reasons are given and if sufficient checks and balances are guaranteed between the parties involved.</li> </ol> <p><b>Section 10. Responsibilities of the owner</b></p> <ul style="list-style-type: none"> <li>• The owner, who is responsible for supervising the contractor's policy and the general course of affairs within the agency, shall ensure: <ol style="list-style-type: none"> <li>a. the construction of a governance model such as to comply with the requirements of the present Regulation;</li> <li>b. the long-term continuity of the agency;</li> <li>c. the assessment and approval of the budget, the rates, the annual plan, the loan applications, the financial statements, and the agreements on how the financial consequences of unforeseen developments shall be assigned to the owner, assignment giver, and contractor;</li> <li>d. that no later than the first supplementary budget act</li> </ol> </li> </ul>		
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<p>Administrative Authority on condition that it should be classified as confidential.</p> <p><b>Section 22</b></p> <ol style="list-style-type: none"> <li>1. Our Minister shall be empowered to reverse a decision adopted by an Independent Administrative Authority.</li> <li>2. Such reversal decision shall be announced in the Government Gazette.</li> </ol> <p><b>Section 23</b></p> <ol style="list-style-type: none"> <li>1. Should Our Minister consider that an Independent Administrative Authority is seriously neglecting its duties, is entitled to take the necessary measures.</li> <li>2. Except for urgent cases, said measures shall not be taken until the Independent Administrative Authority has been given the opportunity to perform its duties properly after all within a period to be determined by Our Minister.</li> <li>3. Our Minister shall immediately inform both houses of the States General of measures he has taken within the meaning of Subsection 1.</li> </ol>	<p>[<i>suppletoire begrotingswet</i>], any negative cash reserve in the case of obligations/cash agencies [<i>verplichtingen-kasagentschappen</i>], or any negative equity in the case of income/expenditure agencies [<i>baten-lastenagentschappen</i>], shall be supplemented up to a balance or equity of at least zero (in accordance with Section 22(3) or Section 25(2), respectively).</p> <p><b>Section 11. Responsibilities of the assignment giver</b></p> <ul style="list-style-type: none"> <li>• The assignment giver shall be responsible for: <ol style="list-style-type: none"> <li>a. careful formulation of the assignment, with as detailed a description as possible of the desired result;</li> <li>b. timely involvement of the contractor in the event of unforeseen developments that may affect performance of the assignment;</li> <li>c. the recording, together with the contractor, of performance indicators and reporting agreements, so that performance of the assignment can be monitored.</li> </ol> </li> </ul> <p><b>Section 12. Responsibilities of the contractor</b></p> <ul style="list-style-type: none"> <li>• The contractor shall be responsible for: <ol style="list-style-type: none"> <li>a. the consistency of the internal organisation;</li> <li>b. the effective, lawful, and professional performance of the</li> </ol> </li> </ul>		
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	<p>agreements made with the assignment giver(s) and owner, and the rendering of account in that regard;</p> <p>c. timely involvement of the assignment giver(s) in the event of unforeseen developments that may affect performance of the assignment;</p> <p>d. the financial and material management, including the implementation of the budget, and the rendering of account regarding those points.</p> <p><b>Section 20. Public annual report</b></p> <ul style="list-style-type: none"> <li>• If an agency publishes a public annual report, it shall mention the special status of said report in said annual report.</li> </ul> <p>• <b>Section 30. Supervision</b></p> <ul style="list-style-type: none"> <li>• The Financial and Economic Affairs Department of the ministry in question shall supervise an agency in accordance with the provisions of Sections 6, 10, and 12(1) of the Financial and Economic Affairs Department Tasks Decree [<i>Besluit Taak FEZ</i>].</li> </ul> <p>• <b>Section 31. Systemic responsibility</b></p> <ul style="list-style-type: none"> <li>• The Minister of Finance shall supervise the organisation of the agencies and implementation of the budgets.</li> </ul>		
<p><b>The Framework Act on IAAs may be deviated from if this is necessary in connection with international requirements. If the ANVS is to be</b></p>			



organised as an IAA, the following alterations may be made:

- 1. The responsible minister may be allocated no power, or limited power, to reverse decisions adopted by the IAA.**
- 2. The annual report of the ANVS will be sent not only to the Minister of Economic Affairs and Parliament but also to the Minister of Social Affairs and Employment and the Minister of Health, Welfare and Sport. If it is determined that the annual report will be sent to Parliament through the intervention of a minister, then the period will also be determined within which he must do so, and that he cannot alter the report.**
- 3. The option to request information from the ANVS in order to perform his duties will also be allocated to the Minister of Social Affairs and Employment and the Minister of Health, Welfare and Sport.**
- 4. In the event of the ANVS neglecting its duties, the power to take the necessary measures will be assigned to the Cabinet, which will decide pursuant to a proposal by the Minister of Economic Affairs, the Minister of Social Affairs and Employment, or the Minister of Health, Welfare and Sport. The Minister of Economic Affairs will implement such decision.**
- 5. Rules of procedure are optional. There are no plans to prescribe internal rules of procedure for the ANVS as an IAA. However, if that should be done, then in any case will the responsible minister not have the power of approval.**

Budget and funding		Relevant IAEA Safety Standards	Comments
<p><b>Key points:</b></p> <ol style="list-style-type: none"> <li>1. The IAA sends a draft budget to the Minister.</li> <li>2. The IAA's budget is a separate section in the Minister's budget act.</li> <li>3. The budget is adopted in the form of legislation by the government and Parliament.</li> </ol>	<p><b>Key points:</b></p> <ol style="list-style-type: none"> <li>1. The agency's budget is a separate section in the Minister's budget act.</li> <li>2. The budget is adopted in the form of legislation by the government and Parliament.</li> </ol>	<p><b>Requirement 3: Establishment of a regulatory body</b></p> <p>The government, through the legal system, shall establish and maintain a regulatory body, and shall confer on it the legal authority and provide it with the competence <b>and the resources necessary to fulfil its statutory obligation</b> for the regulatory control of facilities and activities.</p>	<p><b>From the information provided, <u>both variants seem similarly satisfactory.</u></b></p>
<p><b>Section 25</b></p> <ul style="list-style-type: none"> <li>• An Independent Administrative Authority that forms part of the State shall submit an annual draft budget for the ensuing year, before 1 April, to Our Minister.</li> </ul> <p><b>Section 30</b></p> <ul style="list-style-type: none"> <li>• If significant differences arise, or seem likely to arise, in the course of the year between the actual and budgeted revenue and charges, or income and expenditure, the Independent Administrative Authority shall immediately inform Our Minister, stating the reasons for those differences.</li> </ul>	<p><b>Section 14. Funding</b></p> <ul style="list-style-type: none"> <li>• Agencies shall receive contributions for the products and services that they deliver. Said contributions shall be paid on the basis of the agreements made with the agency's assignment giver(s) regarding quantity, quality, and price. This means that the contributions are linked to performance.</li> </ul>		

**Remarks:**

- The Framework Act on IAAs must be declared explicitly applicable to the organisation concerned by the responsible minister. In each case, it must also be stated which sections of the Framework Act are declared to be applicable. The ministerial powers regarding an Independent Administrative Authority can be tailor-made. However, the Minister of the Interior and Kingdom Relations must agree. Deviations must also be substantiated, and require the explicit agreement of the Council of Ministers and ultimately the legislature.
- Arrangements regarding a specific agency (duties) must be laid down, for example in a protocol with the owner and the mandate regulations.
- After 1 January 2014, the appointment procedure for an Independent Administrative Authority will be the same as for services and agencies, i.e. a decision by the Minister for Housing and Civil Service and the responsible minister.
- In the Netherlands, the government and Parliament are jointly the legislature. A Bill for establishing the ANVS as an IAA will be prepared by the Minister of Economic Affairs, the Minister of Social Affairs and Employment, the Minister of Health, Welfare and Sport, and the Minister for Housing and Civil Service jointly.
- The ANVS will *not* be responsible for decreeing the National Programme for Radioactive Waste (or for the preparations for setting it up) (that responsibility remains with the Minister of Economic Affairs). The ANVS does, however, determine the aspects of nuclear safety and radiation protection in that programme.