

## **Summary**

### ***The deepening of the Western Scheldt, 18 January 2000***

In order to improve access to the port of Antwerp, the governments of the Netherlands and the Flemish region decided in 1995 to deepen and widen the navigable channel in the Western Scheldt (i.e. the estuary of the river Scheldt). This decision was enshrined in a convention that the two parties signed on 17 January of the same year.

Under the terms of the convention, the Flemish regional government is responsible for undertaking all the necessary dredging operations, whilst the Dutch government is obliged to clear away shipwrecks, provide protection for the banks of the river and restore the natural environment. The majority of these activities will take place on Dutch territory. The operation will cost a total of between 400 and 600 million guilders (i.e. BEF 8 to 12 billion), the bulk of which is to be funded by the Flemish regional government. The Netherlands is contributing NLG 54 million (now: BEF 988 million) to the cost of removing wrecks and protecting the river banks, and is also paying for the restoration of the natural environment in so far as the cost of the latter exceeds the Flemish contribution of NLG 44 million (now: BEF 805 million). Work started on 1 July 1997.

During the period from December 1998 to the end of April 1999, the Belgian Audit Office and the Netherlands Court of Audit conducted a joint regularity and performance audit in relation to the preparation and implementation of the convention. The work performed on Belgian territory was also included in the audit.

#### ***Preliminary research***

The Belgian Audit Office and the Netherlands Court of Audit concluded that insufficient attention had been given, prior to the conclusion of the convention, to establishing the usefulness of and need for deepening and widening the navigable channel in the Western Scheldt. The auditors found that a cost-benefit analysis had not been performed.

At the time when the convention was signed, insufficient information was available about the scale and cost of the operation, particularly in relation to wreck clearance and the restoration of the natural environment. It was also unclear exactly how many shipwrecks needed to be removed. There were no clear plans for the restoration of the natural environment. Finally, the environmental impact which the operation would be likely to have was not entirely clear.

The arrangements made by the Dutch government and the Flemish regional government do not clarify the public-law procedure that would need to be followed for any further deepening, or for the granting of the permits that would be needed in order to enable dredgers to perform maintenance work in the future. The Flemish regional government does not have any guarantees at the moment that essential maintenance that needs to be carried out after 2001 could be performed under the same conditions

as apply at present. Finally, the convention does not impose any obligation on the Dutch government to report to the Flemish regional government on the way in which the Flemish contribution of NLG 44 million (BEF 805 million) towards the cost of restoring the natural environment has been spent.

***Cost control and progress reports***

According to the estimates published in May 1999, the costs are likely to be in excess of the budget agreed when the convention was signed. The budget overshoots (in current prices) will be between BEF 1.3 billion (NLG 71 million) and BEF 3.7 billion (NLG 202 million), which corresponds to around 30% of the original cost estimate. The doubts surrounding the number of wrecks that need clearing, and the cost that this will involve, represent a particularly critical financial risk. The party that is bearing most of this risk is the Flemish regional government, given that the Dutch contribution towards the cost of wreck clearance (and the same applies to the Dutch contribution to riverbank protection) is limited to a fixed amount of NLG 54 million (now: BEF 988 million). This contribution is intended *inter alia* to offset the VAT payment received by the Netherlands.

In other words, the Dutch contribution is subject to a maximum ceiling, which means that any overshoots relative to the original budget have to be borne in their entirety by the Flemish regional government. Indeed, the Netherlands actually stands to benefit from any increase in the cost of riverbank protection and wreck clearance, as this would lead to it receiving a larger amount of VAT from the Flemish regional government.

When the Dutch contribution was initially calculated, the calculations were based on cost estimates that were available at the time. However, if the calculations had been based on recent cost estimates, the Dutch contribution would have been 44% higher.

The Belgian Audit Office and the Netherlands Court of Audit concluded that no systematic check has been kept on increases in the level of spending. The Dutch government has not provided the Flemish regional government with sufficient information on either actual overshoots that have already occurred or potential overshoots that are likely to occur in the future.

The Belgian Audit Office and the Netherlands Court of Audit also found that the progress of the project has been subject to considerable delays. There has been insufficient monitoring of the progress of work on the project. No central project organisation has been formed, and there is no consultative body that is able to monitor spending and progress at an operational level.

The figure that is quoted in the convention as having been budgeted to cover the cost of the restoration of the natural environment in the Netherlands is NLG 66 million (BEF 1,208 million), to which the Flemish regional government is committed to contribute NLG 44 million (BEF 805 million). The Netherlands has spent a large proportion of this figure on projects that do not have any direct bearing on rectifying the destruction of natural features as a result of the estuary-deepening operation. The

Dutch government has yet to present any financial accounts to the Flemish regional government.

***Compliance with rules and procedures***

The Belgian Audit Office and the Netherlands Court of Audit found that European regulations on the publication of calls for tender relating to the award of contracts for the provision of works and services were not always observed. Some contracts were awarded without any competitive bidding having taken place. Most of the dredging work that was needed for deepening the estuary was performed under existing contracts with the Flemish regional government, without any competitive bidding having taken place.

The audit also revealed that the Flemish regional government had not been supplied with sufficient information by the Dutch government to enable the former to check the invoices it was receiving. It should be pointed out, however, that the Flemish regional government has not actually taken much action to date in order to obtain this information.

***Financial management***

The Belgian Audit Office and the Netherlands Court of Audit found that the Flemish regional government did not have sufficient resources for checking the volume of dredgings removed by the dredgers. The Flemish regional government does not have either sufficient numbers of staff or sufficiently qualified staff for performing the necessary price checks and supervising the work performed by the contractors responsible for clearing wrecks from the estuary. The Flemish regional government is also not used to the practice of preparing an audit plan for every contract.

The audit also revealed that the financial procedures drawn up by the Zeeland Department of the Directorate-General for Public Works and Water Management for clearing expenditure with the Flemish regional government do not make clear which items qualify for clearing and which do not.

Supervision of the implementation of the wreck clearance plan, which has an open-ended budget (i.e. with no fixed price, the costs depending on the personnel and equipment that are actually used), has been weak. The wrong rates were charged in connection with a subsidiary contract for wreck clearance on Dutch territory.

Finally, the audit showed that the Directorate-General for Public Works and Water Management did not obtain in good time the permits required for the construction of a specific stretch of estuary bank protection. As a result, bank protection work came to a halt and the resultant costs were charged to the Flemish regional government (in accordance with the terms of the convention, it should be said).

***Reporting to the respective parliaments***

The Flemish regional parliament was not provided with sufficient data on the usefulness of and need for the project. Moreover, the two parliaments were supplied with different information on the financial obligations and risks associated with the project. The estimates given to the Dutch parliament included certain margins, whereas the Flemish regional parliament was supplied only with the lowest estimates. The Flemish regional parliament was also not informed about the cost of additional work performed on Belgian territory.

No provision was made for the Flemish regional parliament to be presented with reports on the progress of the project, despite the fact that the Flemish regional government is the main stakeholder in what is a large-scale, high-risk and costly project that will take many years to complete.

***Final conclusion and recommendations***

The Belgian Audit Office and the Netherlands Court of Audit conclude in brief that, in planning and performing the work envisaged by the convention, neither the Dutch government nor the Flemish regional government took sufficient steps to guarantee an effective form of cost control. As a result, the Flemish regional government is faced with considerable financial risks.

The Dutch government should provide the Flemish regional government with more detailed information on the level of cost relative to the budget. An independent registered accountant or company auditor should be given an opportunity to examine the invoices which the Dutch government sends to the Flemish regional government.

In general, the Belgian Audit Office and the Netherlands Court of Audit recommend that more information should be provided to justify the usefulness of and need for projects with substantial financial ramifications. The same applies to estimates made of the scale of the projects, and of the costs involved. In the case of an international project, a single central project office should preferably be set up, that is capable of monitoring the cost and progress of the project, ensuring that there is a full exchange of information between the governments concerned and providing identical information to the parliaments concerned.

To ensure that the Flemish regional parliament receives more adequate information from the Flemish regional government, a procedure could be developed, based on the 'Procedure for large-scale projects' used in the Netherlands, for enabling the Flemish regional parliament to monitor the planning and execution of projects such as this.

***Government response***

At the beginning of December 1999, the Deputy Prime Minister of the Flemish regional government, the Flemish Minister of Mobility, Public Works and Energy, and the Dutch State Secretary for Transport, Public Works and Water Management responded to the results of the audit undertaken by the Belgian Audit Office and the Netherlands Court of Audit.

The Flemish Minister stated that he was prepared to supply the Flemish regional parliament once a quarter with all necessary information on the progress of the project. The first progress report is due to be published by 1 April 2000.

In her response to the audit report, the Dutch State Secretary for Transport, Public Works and Water Management stated that the deepening of the Western Scheldt was one of the most sensitive issues in the relationship between Belgium and the Netherlands. The State Secretary took the view that the Belgian Audit Office and the Netherlands Court of Audit had regarded the project too much as a national project. The point was that the Flemish regional government wanted the work done, and the Netherlands had been prepared to accept the political and administrative risks in order to remain on good terms with its neighbour. The State Secretary believed that this put many of the conclusions drawn in the audit report in an entirely different perspective.

The Belgian Audit Office and the Netherlands Court of Audit agree that the implementation of the convention should be based on a mutual desire to remain on good terms with one's neighbour. However, this means that there is also a need for effective financial management and for adequate procedures for regulating the way in which the two signatories to the convention report to one another and to their respective parliaments.