

Covenant on soil development policy and strategy for urgent sites

Parties:

- 1 **THE MINISTER OF HOUSING, SPATIAL PLANNING AND THE ENVIRONMENT**, Dr J.M. Cramer, acting in her capacity as an administrative authority, referred to below as: the Minister of VROM;
- 2 **THE MINISTER OF AGRICULTURE, NATURE AND FOOD QUALITY**, Ms G. Verburg, acting in her capacity as an administrative authority, referred to below as: the Minister of LNV;
- 3 **THE STATE SECRETARY FOR TRANSPORT, PUBLIC WORKS AND WATER MANAGEMENT**, Ms J.C. Huizinga-Heringa, acting in her capacity as an administrative authority, referred to below as:
The State Secretary for V&W;
- 4 **THE ASSOCIATION OF PROVINCIAL AUTHORITIES**, having its registered offices in The Hague, duly represented in this matter by Ms T. Klip-Martin, mandated by its Chair Mr J. Franssen, referred to below as: the IPO;
- 5 **THE ASSOCIATION OF NETHERLANDS MUNICIPALITIES**, having its registered offices in The Hague, duly represented in this matter by Mr C.H.J. Lamers, Vice-Chair of the Board, referred to below as: the VNG;
- 6 **THE ASSOCIATION OF REGIONAL WATER AUTHORITIES**, having its registered offices in The Hague, duly represented in this matter by *Mr* P.C.G. Glas, Vice-Chair, referred to below as: UVW;

Whereas:

(1) The Netherlands' soil policy is to be changed. The foundation for this was laid on 21 May 2008 in the form of a Declaration of Intent signed at an administrators' conference. The Declaration of Intent also formed the point of departure for drawing up the present Covenant in which the starting points of the new policy and the steps still to be taken in this regard are agreed between the Parties.

(2) The change in policy is based on the following starting points:

- Further decentralisation of responsibilities and implementation to the competent authority;

- Management by way of policy arrangements laid down in administrative agreements;
- Increasing cohesion between the soil policy and the energy, water and subsoil policies;
- Further integration of the soil remediation policy in an area-specific approach, partly in the context of spatial planning policy;
- Accommodation of the ever increasing use of the soil as a result of pressure on space, taking environmental preconditions into account.

(3) The developments referred to above mean that it is necessary to deepen and broaden the soil policy, focusing on the following issues:

- a) Acquisition of knowledge on the risks inherent in the use of the subsoil;*
- b) Use of the opportunities offered by the subsoil (e.g. building underground, soil energy, CO₂ and gas storage, maintenance of a soil archive) and procurement of the necessary tools whilst preserving quality;*
- c) Optimisation of cohesion and collaboration between the various policy objectives (energy, water, biodiversity, soil and spatial development) with a view to arriving at the most efficient approach;*
- d) Formulation of arrangements on the strategy for urgent sites;*
- e) Where necessary, adjustment of the allocation of administrative tasks with a view to optimising the execution of tasks and powers.*

a) Acquisition of knowledge on the risks inherent in the use of the subsoil;

The effects of the ever-increasing use of the subsoil on the soil ecosystem, the functions the soil fulfils, the quality of the groundwater, cultural heritage remains and surface use functions are still not sufficiently well understood. There are some evident gaps in our knowledge of these areas. The Covenant introduces a knowledge agenda for the subsoil.

b) Use of the opportunities offered by the subsoil (e.g. building underground, soil energy, CO₂ and gas storage, maintenance of a soil archive) and procurement of the necessary tools whilst preserving quality

The use of the opportunities offered by the subsoil plays an important role in achieving the Netherlands' ambitions to limit emissions of greenhouse gases, make greater use of renewable energy and improve energy efficiency, as laid down in the *Werkprogramma Schoon en Zuinig* [Clean and Efficient working programme] and further elaborated upon in sectoral agreements with various social parties and public authorities. Laws, regulations and administrative arrangements are required in order to guarantee that our use of the subsoil remains sustainable. During the administrators' conference on 21 May 2008, a general consensus emerged that more detailed regulation was urgently required, particularly in the area of soil energy. This urgency partly stems from the realisation in the market that soil energy could be

financially viable. In response to this, the Minister took the decision to set up a Heat and Cold Storage Task Force which she asked to advise on ways of promoting heat and cold storage, what general conditions would need to be met and what role the government could play in this. The Heat and Cold Storage Task Force published its report entitled *Groenlicht voor bodemenergie* [Green light for soil energy] and presented it to the Minister at the beginning of April 2009. The Minister will formulate her position on the Task Force's recommendations in the near future. Given the urgency of the matter, it is necessary to make some arrangements on this issue in advance of this.

c) Optimisation of cohesion and collaboration between the various policy objectives (energy, water, biodiversity, soil and spatial development) with a view to arriving at the most efficient approach

Cohesion and collaboration between the world of energy, water and soil on the one hand and the world of spatial planning on the other are called for to ensure efficient and effective implementation of the new soil development policy. In order to enable the soil to perform its functions as efficiently as possible, the ecosystem needs to be of sufficiently good quality and must be restored where necessary. An innovation programme will be set up to promote innovative ways of incorporating the subsoil in spatial planning developments. Collaboration is also needed in the strategy for extensive groundwater contamination: partly with a view to implementing the Water Framework Directive and the Groundwater Directive, it is necessary to tackle both qualitative and quantitative aspects of groundwater management jointly and on an area-specific basis. In the light of the above, the Covenant sets out the initial steps to be taken towards amending the legislation by making it possible to transfer responsibility for remediation of deeper groundwater, against payment of a buy-out sum, to a local, regional or national management authority which will assume the responsibility and will guarantee an area-specific approach.

d) Formulation of arrangements on the strategy for urgent sites

With this Covenant, the Parties wish to record their joint intention to have remediated urgent sites involving humans by 2015, or in any event to have the risks under control by 2015. An overview of all temporary and permanent measures that have already been taken or are planned for each urgent site involving humans will be produced by 31 December 2010 at the latest. For urgent locations involving other risks (ecology and risk of spreading), this overview will be completed by 31 December 2015 at the latest. These overviews will only relate to urgent sites as defined in the Soil Protection Act (*Wet bodembescherming*). Under the Water Act (*Waterwet*), contamination of the water bottom will no longer be assessed according to severity or urgency but within the broader framework of improving the quality of the area. A guide is being produced on this issue.

e) Where necessary, adjustment of the allocation of administrative tasks with a view to optimising the execution of tasks and powers

It is important to introduce transparency in the allocation of tasks, bring the tasks and responsibilities down to an appropriate level and alleviate the administrative burdens. A large number of tasks have already been decentralised in the soil policy, but they are still controlled via the financial resources. In the new soil policy, the State will hand over control of the execution of these tasks and responsibilities to the other parties and will make policy arrangements on the joint achievement of the aims formulated in this Covenant. The State will be informed of progress by means of policy information provided by the competent authorities. The Parties will be able to call each other to account for failing to achieve the objectives. On the initiative of the party concerned, regional administrative arrangements relating to the area-specific strategy will be drafted.

(4) The arrangements in this Covenant will play a key role in the policy up to 2015. The Parties will act in accordance with the arrangements and will monitor progress jointly.

(5) In this Covenant the IPO and the UVW represent their members, consisting of the provincial executives of all provinces and the water authorities respectively.

(6) The VNG will encourage its members to act in accordance with the arrangements agreed in this Covenant as far as possible.

(7) This Covenant was approved by the Council of Ministers on 10 July 2009.

The Parties agree as follows:

Article 1 Definitions

In this Covenant, the following terms and definitions shall apply:

Declaration of Intent: The Declaration of Intent on Soil signed on 21 May 2008.

Transition: A shift in the soil policy to a soil development policy. The policy will no longer focus solely on the elimination of risks. The emphasis will be on creative, innovative and comprehensive management and use of the soil ('expansion and deepening').

Subsoil: The solid part of the earth, including the liquid and gaseous components, organisms and anthropogenic remains from previous occupation and soil use found in it.

Groundwater management: care (by public authorities) of the water that flows freely beneath the earth's surface along with the substances present in it, in practice split into groundwater quality management and groundwater quantity management. 2030 target: the endeavour to have the problem of soil contamination under control by 2030 so as to ensure that the soil is suitable for the uses to which society wishes to put it, that the spread of contamination and new contamination are avoided and that the safety of humans and ecosystems exposed to soil contamination is guaranteed.

Source: National Environmental Policy Plan 3 of February 1998, as amended in September 2003 (deferred from 2023 to 2030 in the VROM budget), p. 273

Extensive groundwater contamination: multiple incidents of groundwater contamination which arose before 1987 and which are so extensive and complex that they cannot easily be remediated cost-effectively with the incident-specific strategy or the cluster strategy set out in the Soil Protection Act.

Urgent sites involving humans: sites in respect of which it has been established by virtue of a decision pursuant to Section 37 of the Soil Protection Act that the current use of the soil is causing such high risks to humans that urgent remediation is needed, as well as sites in respect of which this is deemed to be likely, using a shorter analysis method (referred to below as the acceleration protocol).

Urgent sites on account of other risks: sites in respect of which it has been established by virtue of a decision pursuant to Section 37 of the Soil Protection Act that the current use of the soil is causing such a high risk of spreading contamination or such a high ecological risk that urgent remediation is needed, as well as sites in respect of which this is deemed to be likely, using the acceleration protocol.

Area-specific strategy for soil contamination: a strategy for soil contamination involving extensive groundwater contamination in which, besides the incident-specific approach defined in the Soil Protection Act, an area-specific approach is applicable in connection with the strategy for deeper groundwater contamination.

Article 2 Transition to a soil development policy

2.1. The Parties wish to see the soil policy expanded by 2015 in such a way that it includes policy on the subsoil, area-specific groundwater management and soil remediation. This expansion shall be geared towards the five objectives set out in point 3 of the Preamble.

2.2. To achieve this transition, the Parties deem it necessary to:

- a. promote innovation (Article 4);
- b. draw up a vision on the subsoil and investigate the effects of the use of the subsoil with regard to social, economic, ecological and cultural heritage factors (Article 5.1);

- c. formulate arrangements on a combination of soil objectives and the generation of sustainable energy, particularly heat and cold storage (Article 5.4);
- d. formulate arrangements on the implementation of area-specific groundwater management (Article 6);
- e. formulate arrangements on bringing the risks of soil contamination under control by 2015 at the latest and the financing thereof (Article 7 *et seq.*);
- f. achieve further decentralisation in which control of the implementation of the arrangements set out in this Covenant passes to the competent authority and the State is informed about progress through policy information (Articles 8.4 and 9).

Article 3 Implementation

3.1. The Parties shall jointly draw up an implementation programme in which they describe the activities and organisation required for the achievement of the objectives in this Covenant. The Ministry of VROM shall bear the initial costs up to 1 January 2010. The implementation programme to be drawn up shall also include arrangements on joint financing from administrative costs in advance of its implementation on 1 January 2010.

3.2. The implementation programme shall be completed by September 2009.

3.3. A steering group on which the Parties shall sit shall be tasked with preparing and implementing the implementation programme.

3.4. Progress in the arrangements laid down in this Covenant shall, where possible, be monitored using existing forms of monitoring.

Article 4 Innovative programme for the soil development policy

On 1 January 2010 the Parties shall launch an innovation programme for the soil development policy to promote innovative ways of incorporating the subsoil (including any contamination present in it) in spatial developments. This innovation programme shall partly be financed by stakeholders, i.e. third parties who have an interest in spatial developments.

Article 5 The subsoil

5.1. Sustainable use of the subsoil

5.1.1. The Parties shall give shape to the principle of sustainable use of the subsoil and shall work out the dynamic and other terminology that is relevant to it. The starting points in this regard shall be that (1) the various forms of use of the subsoil should not lead to unacceptable disruption of the soil and water system, (2) that they should not,

whether separately or in combination, adversely affect the opportunities for use of the subsoil, and (3) any form of use and the separate or combined use of the subsoil can take place in a sustainable manner while safeguarding the functions referred to in the Declaration of Intent.

5.1.2. The State shall define a vision for the sustainable use of the subsoil in 2009. This vision shall be developed jointly with the other Parties. The opportunities and constraints relating to the subsoil and its use shall be explored in depth in this vision. Besides spatial aspects, this shall also include the quality of the soil and the groundwater, partly in the light of the social services supplied by the soil. The development of the vision shall also include an initial exploration of the allocation of powers. In this regard, the State has in mind the following starting points to supplement the current allocation of powers:

- (1) designation of the provinces as the party with prime responsibility for considering the various options for use functions in the spatio-economic sphere at a supra-local level;
- (2) recording of the outcomes of these deliberations which will form the framework for decisions at a local level;
- (3) site-specific options in the context of subsoil planning and the issuing of permits shall in principle be considered at a municipal level and, for other incidents yet to be defined, at the level of the water authorities.

5.1.3. Any necessary amendments of existing laws and regulations and further elaboration of the allocation of powers shall be included in the implementation programme referred to in Article 3.1.

5.2. Knowledge of the subsoil

5.2.1. The Parties shall jointly gather and communicate knowledge, data and geo-information in order to obtain an insight into the opportunities which the subsoil offers the community.

5.2.2. In order to achieve this, on 1 July 2009 the Parties shall initiate a five-year research programme entitled *Kennisagenda van de ondergrond* [Knowledge agenda for the subsoil] which shall consist of fundamentally scientific and applied research and pilots. The Ministry of VROM shall act as the coordinator of this programme. The programme shall focus on, among other things, the following strategic and application-specific subjects:

1. Comparison of the consequences of the use of the subsoil for soil life, groundwater quality and quantity, archaeological remains etc.
2. Comparison of underground and above-ground use
3. Comparison of underground use and other possible underground use
4. Comparison of underground use and unknown future use

5. Application of the layer strategy
6. Initiatives
7. Costs and benefits
8. Innovations
9. Knowledge generation

5.3. Structure for exchanging information; basic registration system for the subsoil

5.3.1. The Parties shall create a transparent structure for exchanging information on the subsoil. This shall be based on existing initiatives such as BIELLS (Soil Information Essential for National and Local Control), DINO (Data and Information on the Dutch Subsurface) and the basic registration system for the subsoil described below.

5.3.2. The Minister of VROM shall develop DINO into a basic registration system for the subsoil (BRO) with information on the geological and pedological structure of the subsoil which shall, where practical, link into other information systems relating to the underground infrastructure* and rights of use. The Alterra Soil Information System (BIS) shall also be incorporated into this system. At a later stage, information on archaeology and environmental quality may be added to the BRO.

** Cables and pipes are not included in the BRO. Registration of these objects is regulated in the Exchange of Information on Underground Networks Act (Wet informatie-uitwisseling ondergrondse netten, WION). At a later date it will be ascertained whether it is desirable to link this system into the basic registration system.*

5.4. Heat and cold storage

5.4.1. The Parties expect the recommendations made by the WKO Task Force to play a key role in the creation of additional arrangements and the shaping of policy on heat and cold storage. The recommendations on this aspect will be able to be elaborated upon in the implementation programme referred to in Article 3.1. In anticipation of this, the Parties shall for the time being follow the arrangements set out in the articles below.

5.4.2. When considering how to achieve maximum energy efficiency in major construction projects (both new builds and replacements, with the exception of infrastructure projects), extensive heat and cold storage shall be considered and applied wherever possible, unless another form of sustainable energy is more efficient. The possibility of controlling or remediating contamination in the groundwater can also be included in this consideration. It must be ascertained whether it will be necessary to monitor the effects of heat and cold storage on the soil and water system, and in

what way this should be regulated. The Parties shall formulate more detailed arrangements on this in the context of the implementation programme.

5.4.3. The Parties shall formulate more detailed arrangements on how to promote the coordinated installation of heat and cold storage systems in areas with extensive groundwater contamination, so that such systems can play a role in managing and, where necessary, remediating the contamination.

Article 6 Area-specific approach

6.1. Groundwater management

6.1.1. Groundwater management shall be embedded in municipal sewage plans, the water authorities' water management plans, municipal and provincial structural visions, river basin management plans and/or the plans and visions set out in this Covenant. Where plans and visions have already been established, these shall be discussed during the next review.

6.1.2. Progress in this embedding process shall be discussed during the mid-term review referred to in Article 8, at which, among other things, it shall be ascertained whether the experience gained with the new statutory allocation of tasks provided for in the Water Act might require changes to be made.

6.2. Extensive groundwater contamination

6.2.1. The Parties shall promote an area-specific strategy for soil contamination involving extensive groundwater contamination. The correlation with groundwater management shall play a central role in this area-specific strategy. Where necessary, the Parties shall draft regional administrative arrangements with a view to arriving at the desired area-specific strategy.

6.2.2. The Minister of VROM shall see to it that a bill concerning the legal foundation for an area-specific strategy for soil contamination involving extensive groundwater contamination is sent to the Council of Ministers by 1 January 2010 at the latest. In anticipation of any amendment of laws and regulations, the Minister of VROM shall provide a guide to the area-specific strategy for soil contamination involving extensive groundwater contamination.

6.2.3. The Parties shall make efforts to enable liability for remediation of contamination in deeper groundwater to be bought out, possibly in combination with a local, regional or national specific financial facility which will manage buy-out payments and take over responsibility for remediation of the deeper groundwater.

These efforts shall also relate to the prevention of private damage suffered by third parties and the conditional provision of indemnity for this.

6.3. Water Framework Directive and Groundwater Directive

6.3.1 The Parties shall harmonise the new soil remediation policy, including the policy on extensive groundwater contamination and contamination plumes, with the obligations arising from the Water Framework Directive and the Groundwater Directive.

6.3.2. The relationship between soil and the Water Framework Directive and Groundwater Directive shall form part of the implementation programme, in which an incident-specific and an area-specific approach shall be regarded as equal alternatives. The Minister of VROM shall provide a brochure setting out the responsibilities and powers of the parties concerned.

6.3.3. The groundwater contamination measures to be incorporated in the river basin management plans to be submitted pursuant to Article 13 of the Water Framework Directive and the trend assessments are not covered by the scope of the Covenant insofar as they do not relate to investigation and remediation of urgent sites. The provisions of Articles 7, 8 and 9 of this Covenant apply to urgent sites.

Article 7 The 2015 target and related efforts

7.1. The competent authorities under the Soil Protection Act shall produce an overview of urgent sites involving humans by 31 December 2010 at the latest. This overview shall describe all temporary and permanent measures that have already been taken or are planned for each site. The Parties shall establish the acceleration protocol with which the sites can be identified in consultation with the competent authorities under the Soil Protection Act in September 2009.

7.2. The Parties shall see to it that in all incidents of severe soil contamination on sites currently in use which require urgent remediation on account of the risks to humans, any necessary remediation shall have been completed or temporary safety measures to adequately manage the risks put in place by 2015.

7.3. All urgent sites involving humans which are already included in the programmes or are already known shall be tackled prior to the completion of the overview referred to in Article 7.1.

7.4. The Parties shall tackle urgent sites involving humans as a priority. However, this does not mean that other severely polluted sites cannot be tackled with Soil Protection Act resources in the period up to 31 December 2015.

7.5. The competent authorities under the Soil Protection Act and the water authorities shall produce an overview of urgent sites involving other risks (ecology and spreading of contamination) by 31 December 2015 at the latest. This overview shall describe all temporary and permanent measures that have already been taken or are planned for each site. The Parties shall endeavour to have the risks of soil contamination under control in any event by 2015. The intention is to ensure that any strategy introduced after 2015 for urgent sites which have been transferred from the Soil Protection Act regime to the Water Act regime shall be implemented under the same conditions as during the period from 2010 to 2015. This shall be elaborated upon, both with regard to content and financing aspects, in the implementation programme.

7.6. If any measures remain uncompleted after 31 December 2015, any further steps will, if necessary, be able to be at least partly financed from regular soil remediation funds to be provided by the State via decentralisation payments or a special budget item in the VROM budget for problematic situations. The provisions of Article 8.1 shall apply in this regard.

7.7. Where possible, the Parties shall see to it that remediation of urgent sites involving humans on the one hand and sites involving other risks on the other hand is performed before 31 December 2015 by stakeholders or by or at the expense of those parties to whom the judicial instruments of the Soil Protection Act apply. This means that at least all urgent sites involving risks to public health which are eligible at the time of signature, including urgent sites resulting from function changes for which the regular budgets (e.g. the Urban Renewal Investment Budget) are intended, must have been remediated or the risks brought under control by 31 December 2015 at the latest. This also applies to the implementation of temporary safety measures, control measures and follow-up measures. The content of the *Eindnotitie project afstemming bevel/kostenverhaal Wbb (2003)* [Final memorandum on the coordination project for orders and recovery of costs under the Soil Protection Act (2003)] or the Parties' own policies on orders shall play an essential role in these efforts. Where possible, the obligation to remediate set out in Section 55b of the Soil Protection Act shall be duly implemented.

7.8. Because of the possibility that the definition of a surface water body in the Water Act could be broadened after 2014, as a result of which a number of potential or actual incidents of severe soil contamination would be transferred from the Soil Protection Act regime to the Water Act regime, it will be necessary to gain an insight, by the autumn of 2011 at the latest, of the extent of the soil contamination, the risks (partly in the light of possible long-term river-related developments) and any costs involved in tackling such contamination. The competent authority under the Soil Protection Act shall map out these tasks with the aid of existing data by the autumn of 2011 at the latest and shall consult the water manager on the need for the competent authority under the Soil Protection Act to make further efforts. During the mid-term review

referred to in Article 8 it shall be ascertained whether the parties are sufficiently on schedule, and more detailed arrangements shall be drawn up on the financial and other conditions applicable to the possible transfer of sites.

7.9. Incidents of regional water bottom contamination caused by a point source on the land which need to be tackled in order to achieve the desired area quality or water quality as referred to in the Water Act shall be tackled within five years of establishment of the urgency under the responsibility of the competent authority under the Soil Protection Act and in consultation with the manager under the Water Act.

7.10. This Covenant - in particular the provisions of Articles 9.1a and 9.1b on the soil remediation budget - shall also apply to incidents of regional water bottom contamination which will be covered by the Water Act regime. The State shall provide a guide to the strategy for contaminated water bottoms in collaboration with the water authorities and the provinces.

Article 8 Mid-term review

8.1. By the autumn of 2011 at the latest, a mid-term review shall be held in order to ascertain whether the Parties are sufficiently on schedule with regard to achieving the aims of this Covenant. The steering group shall put forward a proposal for the subjects to be discussed at the mid-term review by September 2009 at the latest. This shall in any event also include the allocation of funds in the period 2015 to 2019, whereby it shall be ascertained firstly whether, and if so to what extent, there are any urgent sites and other problem areas remaining after 1 January 2015 which need to be tackled in that period, and secondly through which financing framework the funds should be allocated. The intention of the Parties is to make the soil remediation funds available for an indefinite period as of 2015 by way of a general payment. Shortly after the mid-term review is held, it shall be discussed at an administrators' conference. At this administrators' conference the Parties shall establish whether there is any conflict between the ambition level on the one hand and the available funds and practical aspects of implementation and control on the other. This exercise may, if necessary, lead to the arrangements being amended. However, it does not mean that the arrangements cannot be amended at an earlier stage if there is evidence of a conflict or problem areas.

8.2. After 2011 the Parties shall continue to monitor closely whether the 2015 target can realistically be achieved and, if it is reasonable to expect that the target cannot be achieved, shall consult one another as soon as possible on the measures to be taken. This shall be based as far as possible on existing processes (Article 87b Soil Protection Act).

8.3. In order to ensure timely implementation of the arrangements of this Covenant and in order to control the administrative costs involved, the timing of the planned review and simplification of the laws and regulations is important. The Ministry of VROM shall act as the coordinator in this regard.

8.4. The Parties wish to emphasise the importance of the policy reversal referred to in Article 2.2 f, namely the transition to decentralisation payments and the associated full responsibility for the implementation of policy, whereby provision of policy information to the State takes the place of financial reporting. However, this does not detract from the fact that the State continues to share responsibility, with the aim of enabling the competent authority under the Soil Protection Act to achieve the 2030 target via a decentralisation payment or a general payment.

Article 9 Soil remediation budgets/financing

9.1a. In the programme period from 1 January 2010 to 31 December 2014, an amount of €893 million has been set aside in the current VROM budget, which does not yet include the cutbacks announced in the Spring Memorandum 2009, for research into soil contamination and remediation of severely contaminated sites, of which at least € 44 million is earmarked for the implementation of regional water bottom remediation.

The soil remediation budget shall largely be made available via a decentralisation payment for soil in the provincial and municipal fund and the ISV (Urban Renewal Investment Budget). The Minister of VROM shall submit a proposal for an amendment of the law to the Council of Ministers to ensure that the ISV funds can be made available as of 2011 via a decentralisation payment. General Administrative Orders shall also be drawn up for the purpose of allocating funds via decentralisation payments for soil and the ISV, based on the policy arrangements set out in this Covenant.

Taking the above into account, the portion of the soil remediation budget referred to above shall consist of:

- Decentralisation payment for soil € 417 million
- ISV (decentralised as of 2011) € 242 million
€ 659 million

9.1b. Part of the funds shall remain in the VROM budget between 1 January 2010 and 31 December 2014. This part shall include funds for the business segment and funds for problem areas. It has been agreed that the cutbacks referred to in Article 9.1a shall first and foremost be found in the business segment. It is not intended to make cutbacks in the other budgets. As far as the funds for problem areas are concerned, these funds shall be based on existing administrative and/or judicial arrangements,

and any cutbacks will only be able to be made if these arrangements in this or other categories are not implemented.

9.2. The indicative budgets for each budget holder were announced by the Minister of VROM on 1 April 2009. Part of the budgets will be allocated on 1 January 2010 on the basis of an allocation key agreed jointly by the Parties; the allocation for specific projects or programmes shall take place during the programme period. The arrangements set out in this Covenant shall form the starting point for spending the funds, taking any previous legal obligations still in existence into account.

9.3. If public funds need to be used for the strategy for urgent sites, the competent authorities shall make every effort to do so within the framework of the financial resources available to them. They shall adjust their programming accordingly.

9.4. If it should become apparent that the strategy of an ongoing soil remediation project is not achievable notwithstanding the above and that the budgets are likely to be significantly exceeded, the competent authority may make use of the funds referred to in Article 9.1b which still form an item in the VROM budget, or it shall be ascertained whether it would be possible to tackle the problems in the period 2015 to 2019. This option will only be available if the competent authority can demonstrate that it has specifically given priority to the strategy for urgent sites in its regular budget spending and that it has otherwise acted in the spirit of this Covenant.

OTHER PROVISIONS

Article 10 Compliance and resolution of disputes

10.1. With regard to their policy on issues that have yet to be regulated, the Parties shall as far as possible act in accordance with the spirit and tenor of this Covenant.

10.2. The Parties shall make every effort to resolve any disputes in connection with this Covenant or arrangements relating to it by mutual consultation, whereby the provinces shall play a coordinating role. If the province is party to a dispute itself, the State shall assume the coordinating role.

10.3. If it proves impossible to resolve a dispute in the manner described above, the Parties shall attempt to resolve the dispute through mediation.

Article 11 Duration

11.1. This Covenant shall enter into force on the day after signature and shall end on 31 December 2015.

11.2. The Parties shall consult one another on the possible continuation of this Covenant no later than four months before the end date referred to above.

Article 12 Publication

The text of this Covenant shall be published in the Government Gazette within four weeks of its signature.

Article 13 Supplements and/or amendments to the Covenant

This Covenant may only be supplemented or amended by means of a written declaration signed by all Parties to the Covenant. The text of the amendment shall be published in the Government Gazette within four weeks of signature of the declaration.

This Covenant was drawn up in a single original and signed in The Hague on 10 July 2009.