

**Report of Interviews with CSOs in the Netherlands on NanoCode**

**4 November 2010**

**Piet Schenkelaars, Schenkelaars Biotechnology Consultancy, Wageningen  
Huib de Vriend, LIS Consult, Driebergen**

**In commission of David Bennett, Cambridge Biomedical Consultants, Delft**

## CONTENT

---

	<b>page</b>
<b>1. Introduction</b>	<b>3</b>
<b>2. Interest of CSOs in N&amp;N research</b>	<b>4</b>
<b>3. Views of CSOs on N&amp;N research priorities</b>	<b>5</b>
<b>4. Interest of CSOs in the European Commission N&amp;N CoC</b>	<b>6</b>
<b>5. Views of CSOs on the European Commission N&amp;N CoC</b>	<b>7</b>
<b>6. Views of CSOs on other initiatives</b>	<b>8</b>
<b>7. Views of CSOs on inclusion of the N&amp;N CoC in publicly funded research proposals</b>	<b>8</b>

## 1. Introduction

The objective of the NanoCode Project<sup>1</sup> is to define and develop a framework aimed at supporting the successful integration and implementation, at the European level and beyond, of the Code of Conduct (CoC) for nanosciences and nanotechnologies (N&N) proposed by the European Commission in 2008.

In the context of this NanoCode Project, David Bennett from Cambridge Biomedical Consultants commissioned Piet Schenkelaars from Schenkelaars Biotechnology Consultancy and Huib de Vriend from LIS Consult to investigate the opinions of Civil Society Organisations (CSOs) in the Netherlands on the CoC for N&N and their experiences with other voluntary codes, measures and practices aimed at the responsible development of N&N.

In first instance, it was agreed to investigate opinions and experiences of CSOs in the Netherlands by holding a stakeholder dialogue workshop with them. In practice, it appeared that this methodology could not be used. A number of spokespersons expressed slight irritation when they were approached with an invitation to participate at a workshop. Their reasons included:

1. Limited resources and time constraints – CSOs have to weigh carefully at what kind of activities they participate, because they are frequently invited to participate in all kinds of meetings without a clear purpose, so that CSOs regularly find it difficult to judge whether a meeting sufficiently fits the interest they stand for;
2. It is insufficiently clear how the workshop results would be used and to what extent this would contribute to adjustments of European and national policies, and;
3. Some CSOs lack confidence in the democratic character of current policy making by governmental authorities.

It was therefore decided to use semi-structured telephone interviews instead. In total, 10 CSOs in the Netherlands were approached with a request for a telephone interview of about 20 minutes based on a list with 11 interview questions, partly derived from the previously held on-line questionnaire.

In the end, 7 CSOs and one person with knowledge about the discussion in the peace movement and development organisations agreed to participate in this way. In contrast to 2 CSOs that flatly refused to collaborate, mainly because of distrust in the democratic character of almost any policy or activity of governmental authorities in the field new technologies like biotechnology and nanotechnology and insufficient clarity about further use of their comments.

It should further be noted that major environmental organisations in the Netherlands, like Greenpeace and Friends of the Earth, have not been approached, because these organisations neither issued position statements or press briefings on N&N so far, nor participated in the Netherlands government initiated multi-stakeholder dialogue “NanoPodium”.<sup>2</sup>

The table below provides an overview of CSOs that agreed or refused to participate.

---

<sup>1</sup> See <http://www.nanocode.eu/>

<sup>2</sup> See <http://www.nanopodium.nl/>

## Overview of CSOs in the Netherlands and their participation

Name of organisation	Spokesperson	Participation: Yes or No?
Netherlands Society for the Conservation of Nature and Environment	Lucas Reijnders	Yes
Association Urban Living Environment	Marga Jacobs	Yes
Platform Health and Environment	Maureen Butter	No
Genetech-Free and Nanotech-Free Citizens	Miep Bos	No
Women in Europe for a Common Future	Ingrid Elbertse	Yes
Foundation for Christian Philosophy	Hillie van de Streek	Yes
Netherlands Society for Replacement of Animal Testing	Marja Zuidgeest	Yes
IVAM Research and Consultancy on Sustainability, on behalf of FNV – labour union	Pieter van Broekhuizen	Yes
Consumers Union	Henri Uitslag	Yes
Knowledge about discussion in peace and development organisations	Ineke Malsch	Yes

The following sections of this reports represent the main findings from the interviews that were held in October 2010.

## 2. Interest of CSOs in N&N research

### *Products*

The interest in N&N research activities varies considerably among CSOs in the Netherlands. Some of the environmental, women and consumer organisations show a primary interest in N&N applications in (consumer) products that appear on the market, and not so much in research. Other environmental and peace and development organisations do closely follow N&N research activities, as this could eventually lead to N&N applications in (consumer) products and for military purposes.

### *Philosophical aspects*

The Christian organisation is merely interested in the philosophical aspects of N&N. It provides educational training at three technical universities and co-operates with other philosophical organisations from Christian, Islamic and humanist background.

### *Risks and risk research*

Notably, all CSOs are interested in N&N research activities aimed at identifying and assessing potential risks of N&N applications. While the labour union is primarily interested in safe labour conditions, other CSOs have concerns about potential risks of N&N applications to human health and the environment. The consumer and environmental organisations also recognise a direct interest in research on possible human health and environmental risks involved in N&N applications in consumer products, as this should provide a scientific foundation of safety regulations on N&N research and its applications in end-products.

With a view to occupational safety in N&N research and production facilities, the labour union argues that openness and availability of all relevant data from suppliers of nanomaterials all the way through the research and production chain are therefore major requirements but it has to put pressure on companies for transparent behaviour. According to the labour union, the current discussion about the definition of nanoparticles is irrelevant from a scientific viewpoint, as this definition is subject to contradictory interests. In these discussions, the labour union needs to ensure that the interests in safe working conditions of employees are sufficiently taken into account by all operators in the chain from research to production. The labour union thereby argues to earmark 15% of public investments in N&N research activities for risk research.

All CSOs shared and stressed the viewpoint that a voluntary CoC should not replace legally binding safety regulations for N&N research and applications. From this perspective, the CSOs are supportive to regulatory N&N risk research.

#### ***Animal testing***

The Society for Replacement of Animal Testing is interested in N&N research activities, because they include the development of new animal testing models on the one hand, and the development of alternatives to animal testing models on the other hand. In this context, some environmental organisations would like to see disclosure of the results from N&N risk research conducted by companies, as this could also help avoiding duplication of animal testing.

#### ***Traceability and labelling***

The consumer organisation further recognised a direct interest in research for developing traceability tools with a view to implement and enforce labelling regulations on N&N applications in consumer products.

### **3. Views of CSOs on N&N research priorities**

#### ***Privately funded research and the market***

In case of privately funded N&N research, most CSOs share the view that setting of research priorities should be left to private investment decision-makers or to common market mechanisms in our society, as long as the research complies with scientific, safety and ethical standards and/or regulations.

#### ***Publicly funded risk research and regulations***

In case of publicly funded N&N research, most CSOs argue that N&N risk research should be adequately funded, also because of the need to implement legally binding regulation on N&N research and applications for the protection of workers, consumers and the environment as well as to develop tools for detection and traceability of N&N applications in products on the market.

#### ***Sustainable solutions and societal needs***

Yet, some environmental, women and peace and development organisations show an interest in (applications of) N&N research that might contribute to sustainable solutions for issues on which they campaign like climate change and energy. In this context, other priorities for

publicly funded N&N research should in the end be decided by politics and society based on well-founded cost-benefit analyses or risk-usefulness considerations.

The Christian organisation thereby suggests taking ‘the good life’ as a starting-point for weighing technological possibilities and societal needs in political and societal decision-making. A similar view was expressed in discussions in the peace movement and development organisations, in which ‘the common good’, like sustainable development, was suggested as a starting point for political and societal decision-making on the priorities of publicly funded N&N research.

Some environmental and peace and development organisations are however concerned about the quality of current political decision-making on technology-related issues in general; too often, debates in parliament are held only because of incidents or accidents. The labour union notes that this ‘technology governance issue’ is not unique for the area of N&N.

#### **4. Interest of CSOs in the European Commission N&N CoC**

##### ***Voluntariness***

Most CSOs were aware of the European Commission recommendation on a voluntary N&N CoC prior to the interview. The other CSOs were pleasantly surprised, also because in the absence of legally binding (safety) regulations on N&N research and N&N applications “something is better than nothing”. This view is commonly shared. Though, all CSOs also share the view that a voluntary N&N CoC should neither be a substitute for legally binding regulations on N&N research and applications, nor be used a public relations instrument. The Christian organisation notes that subsidiarity and ‘sovereignty in the own circle’ are key principles for the organisation; it therefore supports voluntary approaches that allow citizens, stakeholders and governments to adapt CoCs to their own principles and needs. In contrast to the labour union which generally views voluntary approaches as problematic, because they cannot be enforced sufficiently.

The Society for Replacement of Animal Testing is not in favour of regulating everything, but is also against approaches without liability. In its view, regulation is ‘solidified ethics’ and often lags behind practical initiatives. The organisation points at the ethical committees for animal experiments that were installed in most cases long before it was made compulsory by law. From this experience, the organisation favours permanent interaction between research institutions and companies involved in animal experiments with compulsory reporting as a tool to force research institutes and companies to keep ethical issues on the agenda and to reflect on what they are doing. The organisation does not oppose a N&N CoC

Moreover, several environmental and women organisations express concerns about voluntary CoCs, because they would often not be effective, require lot of resources and lead to bureaucracy and much paper.

##### ***Covering the relevant issues***

Most CSOs consider the N&N CoC reasonably well drafted, also because it addresses most issues they regard as important. But several CSOs also express scepticism. One environmental organisation for example argues that implementation of a N&N CoC will meet opposition from boards of universities and public research institutions. In its view, a N&N CoC might be more appealing to pharmaceutical and chemical companies. From its experience with voluntary agreements between companies and CSOs, it recommends to develop and implement N&N CoCs that are tailor-made for specific (clusters of) companies.

### *A framework for international discussions*

One of the interviewees thinks that N&N CoC would be particularly useful for publicly funded N&N researchers as a framework for international discussions to reach consensus on responsible N&N applications, to prevent the emergence of trade barriers and to provide workers and consumers an equal level of protection worldwide.

## **5. Views of CSOs on the European Commission N&N CoC**

### *Communication: Transparency and access*

For communication of N&N research and applications and their potential effects on production and distribution chains, transparency and access for a broad public and stakeholders are considered crucial by all CSOs. Views are however diverging on how to communicate and to whom. While the labour union feels that it is useless to inform continuously a public that is not interested, the Christian, women and anti-vivisection organisations point at the importance of providing information actively to the public and stakeholders, because without information there can be no serious discussions. Yet, they also acknowledge that in practice it is very hard to engage the general public in discussions about technology-related issues, including research agendas and priorities. According to a few environmental and women organisations, engagement of CSOs (that represent parts of the public) could be fostered by empowering them to develop their own views and policy proposals.

For issues like respecting fundamental human rights, safety for humans, animals and the environment, the application of the precautionary principle, liability and oversight, all CSOs urge that N&N researchers should comply with existing regulations or principles. For example, in the case of research of N&N for medical applications, existing ethical principles like ‘prior informed consent’ and ‘the inviolability of the human body’ should be followed, according to environmental, women and peace and development organisations. The anti-vivisection organisations comments that testing animal do not yet have fundamental rights. Nonetheless, most CSOs feel that the N&N CoC could provide a framework for discussions between researchers, stakeholders and the general public.

### *Risks to be regulated*

All CSOs express concerns about possible risks for workers, consumers and the environment involved in N&N research and applications and argue that these risks should be strictly regulated by adapting existing regulations (for cosmetics, novel foods, chemicals, etc.) or adopting new regulations. No CoC should replace legally binding regulations, also with a view to governmental oversight and liability issues. In this context, the anti-vivisection organisation would like to see a more critical assessment of the need and the type of animal testing models and the availability of alternative testing models.

### *Precautionary principle*

Most CSOs think that the precautionary principle should be applied but their views differ slightly on how it should be applied. In the view of the women organisation, the precautionary principle should apply to all products and services than contain nano-particles; in case of doubt about their safety, nano-particles should be banned, especially in products for vulnerable groups such as children, and if there is no need or if there are alternatives. According to the labour union, the Social Economic Council (Sociaal Economische Raad,

SER), translated the ‘no data, no market’ principle in a ‘no data, no exposure’ principle. But since it is often impossible to create a situation of zero exposure, one has to stay close to zero, for which you need reference levels. One of the environmental organisation points out that this has led parties that are member of the SER to develop and negotiate so-called Nano Reference Values, which are based on the application of the precautionary principle and depend on the type of nano-particles and their analogy with other substances, like for instance asbestos or fine-dust particles. If a Nano Reference Value is exceeded, an extensive risk analysis has to be done and measures must be taken to minimise exposure. Notably, these Nano Reference Values are established only with a view to workers’ safety. Similar Nano Reference Values should therefore be immediately developed with a view to protect consumers and the environment.

### ***Regular updates***

Finally, most CSOs agreed that the N&N CoC should be updated from time to time, although they have slightly different views on the frequency. One environmental organisation expects that the frequency of updating will in practice be determined by the dynamics of the societal debate, namely when CSOs consider this a priority.

## **6. Views of CSOs on other initiatives**

According to one environmental organisation, some pharmaceutical and chemical companies are now voluntarily adopting high occupational safety standards in the absence of legally binding regulations on nano-particles. The labour union is aware of a few other initiatives, like the UK Responsible Nanocode. Further, companies like BASF and Bayer have introduced a CoC, while retailers in Switzerland require information about the presence of nano-materials from their suppliers.

Another environmental organisation points at NanoPodium, a multi-stakeholder dialogue initiated by the Netherlands government. This initiative is viewed as ‘mawkish and fluffy’, because there should be dialogue and not debate, while possible risks should not be a subject of the debate/dialogue within NanoPodium.

The women organisation refers to the so-called Code Tabaksblatt, a CoC that sets rules for tasks, methods and remuneration of board members of companies registered at the stock market. In its view, this CoC has so far not been particularly successful. Other ‘codes’, like ‘fair-trade’ or ‘organic’, demonstrate that CoCs can be successful if there is an incentive or reward.

The anti-vivisection organisation would like both public institutions and companies to apply Corporate Social Responsibility principles.

## **7. Views of CSOs on the N&N CoC for publicly funded research proposals**

The previous Netherlands government had the intention to make inclusion of the N&N CoC into “NanoNext” research conducted under the “High Tech Systems and Materials” programme mandatory. At this moment, it is not clear whether the new government will continue this programme.

***Beware of false promises***

While not all CSOs were aware of this intention prior to the interview, they all show (some) support. Though, the women organisation warns that a N&N CoC for fundamental research might lead research to inflate claims about possible benefits, which could raise false expectations among the public. The labour union, environmental and peace and development organisations hope that it helps publicly funded N&N researchers to be transparent and reflect on their accountability for the possible societal and ethical consequences of their work. One environmental organisation suggests that the reports on this N&N research should not only present the research results but also justify how the researchers have complied with the N&N CoC. The peace and development organisations also argues that it could help to have a societal check of a N&N research project but expects that in practice it will be difficult to enforce.