

*Influence of the professional field of
nature management on the
Flora and Fauna Law*

a MSc-thesis research after the amount of influence that the professional field of nature management has exercised on the content of the F&F-Law

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Preface

Writing a thesis report might sometimes feel like a lonely operation. Days and days you are sitting behind a computer, trying to gather data and translate it into a scientific acceptable conclusion. However, when I look back, I do realise that there are many people who were in some way involved in 'my' thesis report.

Of course, the most involved was my supervisor; Dr. Bas Arts. He was the one who had to steer a sometimes stubborn student in writing a report with enough scientific depth and proper English. At this point, I do thank Dr. Esther Turnhout as well; she was the one who helped me to mould a rather vague idea into a researchable topic. Pia Holleman is to be thanked; without her it would have become much more difficult to send 200 questionnaires. Matt Zijlstra is thanked for his efficient language checks, as are Bob Luigjes and Timo Rozendal. I am grateful as well for all the respondents who took the effort to fill in and send back the questionnaire. Without them this report wouldn't have been possible.

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List of abbreviations

- AVIH: Association of native wood; represents the interests of forestry and the wood processing industry
- AID: The vindictive organisation of the Ministry of LNV
- BOA: an employee (of for example an NMO) who is authorised to perform vindicative actions within the boundaries of his profession
- DLG: The governmental property developing organisation
- FPA: Frisian Rural Alliance; a co-operative of user-groups of green areas in Friesland (a Dutch province)
- F&F Law: Flora and Fauna Law; a Dutch law which aims to protect species
- FPG: 'Federation of private land property', represents the interests of Dutch private land owners
- GC: Game Counsel
- HoR: House of Representatives, the Dutch Parliament. Checks, changes and effectuates policies
- KNBV: Royal Dutch Forestry Association: Association of foresters and nature managers. Every month it publishes a professional journal, 'Vakblad Natuur Bos Landschap'
- KNJV: 'Royal Dutch Hunter's Association', represents interests of hunters
- the Landscapes: a group of Nature Management Organisations; each of them deals with nature management of one province
- LASER: organisation of LNV that, among other things, dealt with granting subsidies and permits. In 2004 it merged and became a part of the 'Dienst Regelingen', which effectuates the policies for agriculture and nature
- LNV: The Ministry of Agriculture, Nature and Food Quality
- NM: 'Nature Monuments', a large Nature Management Organisation
- NMO's: Nature Management Organisations,
- NOJG: 'Dutch Organisation for Hunt and Land management', represents interests of hunters
- NPC: Nature Protection Counsel
- SBB: 'State Forestry Service', a large Nature Management Organisation
- SOVON: Organisation that monitors the numbers of birds by organising bird countings, carried out by volunteers

Summary

At 1 April 2002, the Flora and Fauna Law came into force in the Dutch legislative system. The "F&F Law" had to protect animal and plant species against unnecessary harm. Now, protected animal and plant species could not be harmed unless a permit was given (the 'no-unless principle'). However, a while after the F&F Law came into force, it appeared to have some unpleasant consequences. For example, harvesting wood in summer and the prevention of damage from wild animals became nearly impossible. In general, the F&F Law was regarded as too theoretical and quite impractical among groups of people having to do with nature management.

The commotion that the F&F Law generated in the sector of nature management, indicated a mismatch between the F&F Law and the professional field of nature management ('the field'), which in turn questions the amount of influence that the field had. This sector was directly confronted with the F&F Law in their daily business and incurred heavy restrictions because of this Law. Therefore, this research focuses on the estimation of the amount of influence that the sector of nature management had on the (original) content of the F&F Law.

To estimate this amount of influence, first of all the extent of a mismatch between the F&F Law and the field is investigated. Were the encountered problems smaller distortions, or symptoms of a deeper mismatch? The extent of a mismatch can be linked to an amount of involvement (or the lack of it), therefore the involvement of the field in designing the F&F Law is investigated as well. This research applies the concept of networks as facilitator for active and passive involvement. The presence of an informal (or 'social') and/or a formal network serves as an indicator for the possibility of influence.

The perception of the professional field of nature management regarding the F&F Law and the amount of influence on its content is also included. Various factors that indicate the field's perception about the F&F Law are elaborated. Among them are the level of satisfaction with the F&F Law and the perception of the own amount of influence ('ego-perception').

To gather the data, a questionnaire was sent to 200 nature managers; 56 of them returned. The responses provided a unique overview of the field's situation with regard to their influence on and their opinion about the content of the F&F Law. A number of secondary sources were used as well, such as professional journals of nature management organisations and correspondence between the Minister of LNV and the House of Representatives.

Together, these sources showed that:

- the mismatch between the reality and the F&F Law was serious,
- altogether, there were few traces found of the involvement of the field in the design of the F&F Law,
- LNV was underrepresented in the informal network around the F&F Law and the formal network proved to be quite weak,
- twice as much respondents were dissatisfied with the F&F-Law as those who were satisfied with it. The nature management sector perceived that many times, other interests than their own had prevailed.

Taken together, it could be concluded that the amount of influence of the professional field of nature management on the content of the F&F Law can be described as 'quite low'.

Keywords in Dutch: Flora- en Faunawet, invloed, natuurbeheer, het veld, LNV, netwerken
Keywords in English: Flora and Fauna Law, influence, nature management, the field, LNV, networks

Chapter 1; Introduction

1.1; Legislation; a threat for nature management?

Nature in the Netherlands is under pressure. Pollution, fragmentation of habitats and exploitation of nature has led more and more plant and animal species to the brink of extinction, or beyond. Such a trend has continued unnoticed for a long time. However, a century ago¹ people started to realise that what goes lost might be lost forever (v.d. Windt, 1997). Actions were carried out to protect nature and with relative success; nature is still regarded as beautiful in some places in the Netherlands. And even though we can only guess how nature would have looked like if protection measures had begun a century earlier, nature protection that started a century later would very probably have had far less to protect.

Today, the issue of nature protection is well-known and anchored in society and legislation. As the pendulum of time swings, some people begin to wonder if the subject of nature protection might perhaps be anchored a little too deep. "Trees are emotion" is an often heard warning nowadays when restoration projects involve the cutting of large trees. For the thinning of recreationally used forest plots, it is advised to inform people living nearby and arrange meetings in order to explain the reasons for felling trees. The concerned citizen is all but too aware about anything that might possibly harm nature². The legislator seems to have chosen the same path. At the end of 2002, warnings were given that most commercial activities in the forest during the summer season may become prohibited for the sake of nature protection. Such a move would prevent the delivery of wood to timber factories and bring "forestry and timber companies to a standstill" as the timber industry warns. But it is not only the timber industry that signals problems caused by strict nature protection. In April 2003, VNO-NCW³ along with a number of other business representation groups and nature management organisations, warns for increasing tensions in the green sphere, caused by legal uncertainties that needlessly hinders even normal economic activities.

By 2003, this uncertainty had spread throughout almost all of the spatial planning, agriculture and nature management sectors. 'Nature' seemed to have gained a status of 'untouchability'. Tiny plants, mice, frogs, snails etc. were capable of gaining priority treatment over other competing interests, even nature development itself. This was a result of new legislation that became operative: the "Law of 25 May 1998, containing rules for the protection of wild living plant and animal species", commonly known as the 'Flora and Fauna Law' (or "F&F Law"). Though the title might suggest otherwise, this Law was not implemented into Dutch legislation until 1 April 2002; and has subsequently been referred to by some as a bad April Fools' hoax. Apparently being the imperative for these developments, one could wonder what this F&F Law is and why it is there? How does it work in a way that it could cause so much commotion? These questions are shortly answered below

What is it?

The primary objective of the Flora and Fauna Law is to protect animal and plant species. Together with the Nature Protection Law (which has the objective to protect nature areas), it constitutes the juridical framework for nature protection. It is the first law that does not only protect the useful parts of nature for humans; the F&F Law states that nature has an intrinsic value of its own which is worth protecting. And everybody should protect it; this Law also contains a general duty of care principle, which means that every civilian is held responsible to care for and protect nature.

¹ In 1901, the 'Dutch Society for Natural History' (Nederlands Natuurhistorische Vereniging) was founded, with the protection of nature as one of its goals, see v.d. Windt (1997) for a more detailed account of the beginning of nature protection in the Netherlands.

² An example of this concern is the commotion that the death of one sparrow could cause. This sparrow, later nicknamed 'de dominomus', was shot because it threatened some preparations for 'Domino Day 2005', an act that induced days of protest and attention in the Dutch media

³ VNO-NCW represents on a national and international level the joined interests of Dutch business society. In total, the organisation represents 90% of Dutch employment in the free market sector

Why was it implemented?

An important motivation for a complete new law was the opportunity it gave to combine all national and international legislation about the protection of species into one law. Five laws (or parts thereof) pertaining to species protection and several European Regulations (among them the European Bird and Habitat Directives and the international CITES convention) could now be integrated into one single law. This would simplify the rather fragmented legislative framework about the protection of biodiversity.

How does it work?

In principle, the Flora & Fauna Law forbids all activities that might be harmful for protected organisms, unless there is an exemption or permit given; the so-called 'no-unless' principle. Protected organisms are: all mammals (except three), all birds that naturally live in Europe, all reptiles and amphibians that naturally live in the Netherlands, all fish (except some) and many other plants and animals. It is obligatory to obtain permission from the Ministry of LNV before performing an activity that - intentional or not - might be considered harmful for one or more protected organisms. Permission can be granted only when there is no satisfactory alternative and the 'state of maintenance' of the specie is not in danger. See Appendix 3 for a summary of the F&F Law.

What happened when it faced the daily practice?

When it entered into force, it appeared that the regime of the F&F Law led to some unworkable situations in the daily practice of nature management. The F&F Law received a lot of negative criticism from the people in 'the field'; not only people directly involved with managing nature, but also from, for example, property developers. The F&F Law was considered to be far too strict, 'locking' the Netherlands up because nothing appeared to be allowed anymore, not even regular maintenance measures.

It was already mentioned above that the forestry sector experienced, for example, that it was unable to harvest wood in the summer. Harvesting activities tend to have 'disturbing' (i.e. possibly harmful) effects - especially on breeding birds - and was now forbidden. The exemptions that were required appeared to take quite some time to be processed, cost considerable money and required extensive inventories (Nijland & Jans, 2004).

The AVIH, the organisation that represents the interests of the forestry and wood processing industry, reacted in shock when these implications became clear: "Flora and Fauna Law brings the forest- and wood-processing industry to a standstill", claimed the organisation in September 2002.

And just after the F&F Law came into force, it became clear that the plans for regulating the management of harmful but protected animals (such as geese and fox) were not yet ready. The regional authorities were required to write the plans in which it would be stated which species' numbers should be controlled and to what extent⁴, and set-up an administrative system to regulate this. With this framework, exemptions and permissions requested for the protection of, for example, crops could be granted. Without this framework, the actual situation became described as 'a vacuum'; the 'no-unless' principle had turned into a 'no' principle (Honkoop, 2002).

The Minister of LNV, from the Ministry that wrote the F&F Law, admitted that "immediately after implementation of the Flora and Fauna Law some shortcomings were observed which could only be solved with an alteration of the law, and not with Amendments or Ministerial Regulations.⁵" In addition, an analysis in a journal article of the Royal Dutch Forestry Association (KNBV) stated a year later: "At the time the F&F Law was implemented, nobody realised what consequences this would have for normal forestry activities" (Nijland & Jans, 2004). Illustrative are perhaps the words of Rob Nas, the departing secretary of the 'Bosschap' (the Dutch Association of private forest owners) in July 2002, who said at his

⁴ the so-called 'Fauna Management Plans'

⁵ for example to be found at:

<http://www.nojg.nl/Indexpagina/Vragen%20PvdA%20en%20SP%20over%20opname%20Wildbeheerenheid%20in%20FF-wet.htm>

departure in July 2002, three months after implementation of the F&F Law: “We are one of the first nations who implemented the European Birds and Habitat Directives into national legislation. But I don’t think we understood the intentions of Brussels”.

Reality and legislation did not prove to be a good match. The journal of the KNBV indicated the surprise of the nature management sector. A report from the Agriculture Economic Institute (‘LEI’) confirmed this picture of surprise. In the report, a few local civil servants who regularly worked with the F&F Law were interviewed. This report states, for example, that: “the interviewed persons had not, or almost not, prepared themselves for the introduction of the Flora and Fauna Law (...). All respondents agreed that the Ministry of LNV should have given more information and support in the process.” (Vader, 2004). This shortage of information was reinforced by the time at which the nature management sector began to discuss the subject. That moment, when articles about the F&F Law started to appear in the professional nature management journals, always tended to be *after* it entering into force. Why was the sector not informed about this new legislation in an earlier stage?

What about the role of communication?

These indications point at a lack of communication between the policy makers (‘The Hague’) and the policy takers (the professional field of nature management; “the field”). There are furthermore no signs found about, for example, a kind of supervising committee with members from the professional field of nature management in it. The designing of the F&F Law seems to be an isolated operation of LNV; of which the result was released into daily practice afterwards. Nowadays, more and more attention is given to the opposite: the notion of participation, of communication; to involve stakeholders at an early stage in decision-making processes. Such approaches are regarded as being much ‘better’ than the classic ‘top-down’ approach of legislation implementation. The entering into force of the F&F Law might provide a good example as to why this would be ‘better’, because it might indicate the relationship between the level of involvement of ‘the practice’ in a policy making process and the level of practicality that results in.

1.2; Motivation for this research

At the time when I heard about the problems around the introduction of the F&F Law, I wondered why these things had gone the way they had gone. The confusion among the foresters where I was undertaking an internship at that time strengthened the portrayal of a government far removed from the rest of the world. However, is it realistic to assume that a strict top-down implementation of new legislation was adopted in 2002? Or is it more realistic to assume that at least some of those who wrote the F&F Law did have formal and/or informal contacts with those whose core business would be directly impacted by this new legislation? This kind of questions caused a curiosity for understanding the relationship between the F&F Law and the nature management sector; as a result, it was not difficult to find a topic for this thesis.

After the previous sections, the practicality of the F&F Law for nature managers can be questioned. It is therefore interesting to know the role that these nature managers played in the design of the F&F Law. Was their professional knowledge and experience actually used by policy makers? The government plays a significant role in the nature sector and feels responsibility for its development and protection (see for example the ‘Nota Natuur voor Mensen, Mensen voor Natuur, 2000). However, many consider that there is a considerable ‘gap’ in the relationship between the government and the civil society; it is a sentiment expressed by many civilians and politicians alike (see for example the “Kabinetsvisie ‘Andere Overheid’”). Does this hold true for forestry and nature management? Is there a communication gap between the government and professional nature management; i.e. between the legislative level and the level of practise? How effective is the interaction with other actors in this domain?

This research aims to find out just that; how 'close' was the relationship of the nature managers as 'the experts' dealing with nature on a daily basis with those who made a law to protect it? To what extent have these experts co-operated in policy making? How much influence and involvement did they have and what was the result of that?

1.3; Research Focus

To summarise, this leads to the following general research focus:

To what extent has been made use of the available professional knowledge and experience of the nature management sector in designing the Flora and Fauna Law?

This appears to be a matter of influence; in other words, this question is about how influential the nature management sector has been in designing the content of the F&F Law. Was the commotion caused because of the amount (or lack) of influence, or despite this amount of influence?

However, the influence of a certain group on decision making is not that easy to measure. Therefore, the next chapter deals with some theoretical concepts related to influence and provides a framework on the basis of which the question above can be answered.

Chapter 2; Theoretical Framework

The previous chapter ended with questions about the problems that the professional field of nature management experienced regarding the F&F Law, and their relation with the amount of influence that the field had on the content of the F&F Law. This chapter begins with examining the different ways in which the field could have exercised influence. The subject of the second part is the different possible processes of interaction enabling influence. It appears that the concept of networks is crucial. Therefore, the last part focuses on networks as carriers of interaction. It states some qualifications used to differentiate networks and examines which network concept applies the best for the situation at hand. This will show where to focus on to be able to detect a network and its shape. The knowledge about these networks will be necessary to reveal the extent of possibilities for participation and anticipation.

2.1; Power and influence

Influence from the field on the content of the F&F Law can have been exercised in various ways. A multitude of researchers has tried to define what the concept of influence exactly is, and how it is related to the concept of power.

Elias Berg (1975) argues that these two concepts have a clear distinction. According to him, "to have influence is to be able to deliberately enlist others in support of one's own aims; to exercise influence is actually doing this". Power, on the other hand, is "the ability to affect deliberately (positively or negatively) other people's aims, to back up one's own aims; to exercise power is actually doing this." (p.219-220). Arts & Verschuren (1999) define political influence as "the achievement of (a part) of an actor's goal in political decision making, which is either caused by one's own intention or by the decision-makers anticipation." They see power as "the general ability to influence" (p.413). Hubert & Kleinnijenhuis (1997) confirm with Kuypers' definition that power is "the ability to exercise influence." (p.15,17). They define influence as that "x has influence on y if y changes by x" (p. 19).

From the definitions above it becomes clear that in general, power is seen as an ability of an actor. It is the ability to change other people's actions or aims. Some link this directly with influence: when power is exercised and the result is what the one who exercised power wanted; this is influence. Power causes influence⁶.

In policy making, the responsible decision-makers are dependent on acceptance of their policies by the domain where they are implemented. On the other hand, it is in the interest of this domain to be confronted with workable, practical policies (Goverde, 2000, p.123). Therefore, both sides possess (potential) power over the other side. In this research, the question is whether this power of the field has been translated into influence. Has the professional field of nature management, by using its potential power of non-acceptance of the F&F Law, convinced the policy-makers of LNV to implement more favourable/practical parts in the F&F Law? Parties should feel interdependency to realise the need for interaction, a process necessary to translate power into influence. Only when both parties have acknowledged the need to co-operate, the field would have been able to use its power. However, in other cases when there was no deliberate interaction, the field could still have been influential. This would have been only passive influence, when LNV would have tried to anticipate (to some extent) upon the wishes of the field in order to make the F&F Law become more accepted. In this situation, the field itself was not deliberately involved and had no active part in decision making.

In other words, there is a difference between passive influence, when LNV could have tried to anticipate on the wishes of the field to some extent, and active influence, when the field strived to have its own say about the content. Both versions of influence, passive and active, will be discussed in the following sections.

⁶ Kuypers cf. Hubert&Kleinnijenhuis (1997) (p.15)

2.1.1 Passive Influence

Not everybody agrees about a causal relationship between power and influence. Berg (1975), for example, argues that influence is possible without having power. Type two of his five different types of citizen - legislature relationships describes an example of "the legislators paternalistic sense of "noblesse oblige."" (p.222) that takes into account the wishes of those who have not the power to actually exercise influence.

The notion of anticipation from Arts & Verschuren leans also into this direction. The concept of anticipation covers the passive form of political influence. This phenomenon occurs when the decision-making unit already knows the wishes or demands of a stakeholder, and they are regarded relevant. In such a case the decision-making unit will include the anticipated wishes of this stakeholder in his deliberations, without an active involvement of him. Arts & Verschuren (1999) describe it as follows: "A (stakeholder) does not necessarily need to intervene in decision-making in order to modify a decision; his presence or thoughts, if known by the decision maker, may be a sufficient precondition for political influence." (p. 413). However, anticipation does not mean that there is no power present of those anticipated upon. It is not difficult to imagine that the power silently exists, but as long as there is anticipated upon, it is not needed to put into action.

Both concepts of 'noblesse oblige' and anticipation describe a passive form of influence; it is not possible or needed to activate resources and to exercise power to change other's decision-making actions.

2.1.2 Active Influence

In the passive situation, power is absent or hidden and therefore difficult to pinpoint. The active forms of influence can easier be linked to power. Power can be executed in several ways, for example by threat, manipulation, authority, bargaining or negotiation. It is quite safe to assume that attempts from the field to exercise influence on the content of the F&F Law have been polite and cultural accepted. It is very unlikely that nature management organisations have threatened LNV in order to get influence on the content the F&F Law. The interaction between the professional field of nature management and LNV will have been polite, formal or friendly, but not hostile. In such case, active influence in decision making needed some processes of participation.

Participation means the involvement of others than the responsible decision makers in the decision making process itself. If, for some reason, passive or no influence is regarded as not sufficient anymore to safeguard one's interests, trying to participate in decision making is the logical next step to get more direct influence. The form of participation varies. The basic prerequisite for it is some kind of involvement in the decision making. If we keep to the 'polite' interaction, involvement in a (consensus seeking) working party or an advisory committee constitutes active influence. A less influential form is a structure of consultation, when members of the professional field of nature management were enabled to give advice in a (for LNV) more open-ended way as the previous form.

According to Bulkeley (2003) it has been the trend of the last four decades that "increasingly, non-participatory forms of policy making are defined as illegitimate, ineffective and undemocratic, both by politicians and by stakeholders themselves" (p.144). The wish for participation means a breaking-up with the traditional top-down way of policy making and implementing. The reason for this is usually distrust in the ability of the government to make pragmatic and acceptable legislation on its own. Researchers confirm that an increased level of participation increases the pragmatism of the decisions in which was participated. In her article, Appelstrand (2002) identifies as a positive result of participation the fact that involvement of those outside the bureaucratic system may make bureaucraties become more active. Besides of that, outsiders can provide specific knowledge and show the involved environmental decision-makers in what way the public perceives a certain situation. "Pragmatic policy, therefore, depends upon the quality of the participatory process." (p.283). Besides of this, researchers "observed that stakeholders are more likely to have a positive

experience when invited to participate at a stage when no management or policy activities actually had been proposed”⁷

The goal of the Flora and Fauna Law; to protect biodiversity, cannot be reached without the co-operation of those who deal with biodiversity every day. Seen in this light, the words of Eden (1996), should apply to the policy-makers of LNV: “policy targets must be set in consultation with those who must act to achieve them in order to make the targets feasible and to consider the best means to encourage compliance”. The Ministry of LNV agrees with this. In a report that aims to guide policy-makers of LNV in communication with third parties⁸, the most important added value of communication in policy-making is said to be: “the possibility to make the formulation of the problems and the choice for solutions common. With such communication, the policy connects better with the practice and it increases the insight in the problems. Because of that, it has a larger chance of realisation than policy which has been developed out of an instrumental approach, unilateral” (p. 3).

As it appears, researchers agree that more pragmatic legislation needs processes of participation; influence from practitioners makes legislation more practical.

2.2 Interaction

For a process of exercising influence, processes of interaction are needed. Communication is essential to exchange information, which in turn is essential to translate power into influence. Even when the only influence is exercised according to the concept of ‘noblesse oblige’, for ‘reliable’ influence it is necessary that the decision-making unit knows *what* the other party is really waiting for. These constructions of communication are often characterised as ‘networks’. Decision-makers, stakeholders or their representatives can all be seen as individuals, linked with the rest of their (professional) world in a network-like way. If we focus on professional networks only, we can distinguish two types of networks: formal and informal ones. This section describes both, including their relevance for the content of the F&F Law.

2.2.1 Formal networks

Formal or official networks are networks that are purposely created. Usually they have a single goal for which they are created. Literature about these networks is often focusing on the management of larger groups of stakeholders with diverging goals around a certain, acknowledged complicated problem with many interests. Two cases which are regularly mentioned in literature are about a committee installed to solve agriculturally induced pollution in the ‘Gelderse Vallei’ and a committee focusing on the spatial and environmental problems around the Canal Zone in Zeeuwsch Vlaanderen⁹.

Such an official network can be managed, or manipulated. Management of a network means, according to De Bruijn et al (1993), “a way of steering in situations of mutual interdependence and diverging or conflicting goals. It is not about the realisation of pre-fixed goals, but about establishing or influence processes of interaction in which goals and means are been confronted with each other and exchanged”. A formal network can thus be seen as a place where not in the first instance decisions are made, but merely serves as a forum of communication. Where opinions can be expressed and where can be strived after a kind of balance between for example interests of nature protection, nature management, agriculture and targets of LNV (for example the translation of European Regulations). According to Termeer (1994), LNV considers such a network having important advantages:

⁷ Germain et al, 2000, Buchy and Hoverman, 2000; cf. Davies, 2001

⁸ **Communicatie bij beleidsvorming, een uitdaging voor beleidsmakers**, deelrapport 4 van het project Communicatie bij beleidsvorming, Werkdocument IKC Natuurbeheer W-72, Wageningen, 1995)

⁹ For a description: see Chapter 6 of ‘**Netwerkmanagement in het openbaar bestuur**’, de Bruijn et al, 1993.

- the acceptance of a policy; other actors better understand what the government wants, and why this policy is therefore necessary,
- the more shared responsibility for a policy increases the support of the other actors,
- the confrontation of the different worlds creates new information,
- the goals of the other actors become clearer, which creates opportunities to make more beneficial deals.
- it is a better representation of the variety of perceptions of actors, and the whole society.

In this report, LNV also acknowledges that “Effective policymaking is not possible without the collaboration of actors from the network”. And: “Policymakers are fallible. That makes it dangerous to let a select group (belonging to one actor) develop a comprising policy proposal”. An official, purposely installed network in the form of a kind of group of deliberation thus has many advantages regarding pragmatism and acceptance of policies.

2.2.2 Informal networks

‘Informal networks’ (or ‘social networks’) is the term for the personal network that most people have. Basically this network includes family, friends and acquaintances. On the professional level there are colleagues and people from other departments, offices, organisations, etc., that are in some way familiar and reachable. Such a network is not purposely set up from above. However, parts of a person’s network can have been created and maintained purposely. This network has usually not one single goal but serves mostly for the exchange of information and perceptions. Since it has no official status or an official, known (‘tangible’) purpose or deliberate set-up structure, the shape of this type of network is much more difficult to pin-point. Being present in an informal network means the access to, for example, the wishes and demands that are generally held by members of the network.

2.3 Characterisation of networks

The previous sections spoke about networks of linked individuals as carriers for communication. People in a certain network know other people more or less, and can easier get information, support or other resources from them. The previous two sections distinguished two types of networks; formal and informal ones. However, there is much more known about networks; their functioning, types, characteristics and the differences in it. The next sections describe some qualifications that can be found in the literature and that are suitable to distinguish networks.

The first section describes the general qualifications with which some authors have tried to differentiate a fair amount of network concepts that are used throughout literature. The second section compares these qualifications with the networks of section 2.2. The third section describes how these networks can be recognised if they would have been there. Later in this research, it will be revealed if these effects can be demonstrated and to what extent and by that if there were effective networks between LNV and the field. Networks, which provide interaction, necessary to translate power into influence.

2.3.1 General qualifications of distinctions

There are various attributes with which networks are described in literature. A network itself is mainly seen as a relational structure that develops or is maintained in situations where different actors feel interdependency for certain means needed to move forward. These means are for example information, expertise or adequate policies.

Researchers have tried to find proper qualifications to describe the various recognised concepts of networks, for example Jordan & Schubert (1992) and Van Waarden (1992). Jordan & Schubert identify three major characteristics to differentiate between networks, which are:

- Stability of the network or level of institutionalisation (stable versus ad hoc)
- Scope of the network; is the network localised within one specific sector of policy-making, or is it transsectoral?
- Number of participants or the size, is access restricted or open?

Van Waarden sees networks as “institutionalised exchange relations between State and (organisations of) civil society”. According to him, networks can be differentiated according to the following dimensions:

- Actors; this includes the characteristic of ‘number of participants’ from Jordan & Schubert. Besides of that, Van Waarden wants to draw attention to the type of actors involved. Actors are individuals, but they might represent state agencies or civil organisations. Every actor has its own set of characteristics, like resources, needs and interests, mandates, role concept etc.
- Function; the basic function of a network is as a channel of communication, this may however perform various functions depending on the actors and based on the intensity of relationship. It can vary from only channelling access to decision-makers to co-operation in policy formation and implementation
- Structure; this dimension focuses on the pattern of relation. Variables distinguished within this dimension are for example: size, character of boundaries, frequency of interaction, type of co-ordination, subclustering, stability, nature of participation (voluntary or compulsory), etc.
- Institutionalisation; the formal character of a network, and its stability because of that. Institutionalisation in a network is greater in a closed, compulsory, ordered, intensive, and multiplex¹⁰ network with a central policy unit.
- Rules of conduct; conventions of interactions, stemming from the role perception and social background of actors.
- Power relations; distribution of power; a function of the distribution of resources, needs and organisational structures.
- Actor strategies; strategies of actors versus networks and within them in order to manage their interdependencies.

With help of these characteristics, both authors describe various types of networks, mentioned in previous literature. This is done in an attempt to provide an overview of the often vague and overlapping definitions of various concepts. Together they differentiate between a total of 18 different network concepts. All the 18 concepts are described in Box 2.1¹¹; 11 that are recognised by Jordan & Schubert (marked with a ‘J’) and 12 by Van Waarden (marked with a ‘W’). Some concepts are described by both authors, others by only one.

Below, a table is presented which shows the concepts in relation with the qualifications of Jordan & Schubert. The (amount of) dimensions recognised by Van Waarden to differentiate between the network concepts makes it very hard to do that comprehensively¹², but the qualifications of Jordan & Schubert prove to be suitable. In their article they have already presented a diagram with a spatial visualisation of the relationship their recognised network-concepts have. This diagram will be presented here, supplemented with the concepts that only Van Waarden recognised (marked with a ‘i’). His more extensive diagram makes a translation possible towards the somewhat simpler diagram of Jordan & Schubert.

¹⁰ Multiplex = overlapping relations

¹¹ For a more extensive elaboration: see ‘A preliminary ordering of policy network labels’, G. Jordan & K. Schubert, 1992, and ‘Dimensions and types of policy networks’, F. van Waarden, 1992

¹² In his article, van Waarden needed 3 pages in an attempt to do that.

Box 2.1; 18 different concepts of networks

- Pluralism (J): the State is the passive implementer of the policies from the 'winning' pressure group. There is a quite low stability of outcomes.
- State corporatism (J/W): the government decides which interest groups are allowed to participate; these groups serve as instruments of control over society. In this form it is a non-western form (found for example amongst fascist regimes). It knows little group-competition.
- Societal corporatism (J): Interest groups are voluntary involved in not only stating demands, but also in policy-making and implementation.
- Group subgovernment (J): Most routine-decisions are based on a pattern of interaction with interested actors. It is a stable sectorized relation between State and client groups.
- Corporate pluralism (J): Sectorised pluralism; certain interest groups are in a position to develop and implement policies in a sector.
- Iron triangles (J/W): Restricted number of participants, closed and stable. A triangle develops, implements and protects policies for a single target-sector. It is an extension of clientelism into the political arena; domination of societal/business interests over the state agency, with autonomy of the iron triangle. Leads to particularism and fragmentation within state apparatus.
- Clientelism (J/W): Monopoly of representation by a single interest representation organisation of a sector. The responsible State agency is dependent on it for information. Tends to fragment the overall state organisation because of the closer relationships with specific parts of society.
- Sectoral (or meso) corporatism (J/W): Focuses on interests between a State agency and a single interest organisation that becomes involved in policy-making and implementation. This organisation gains some form of public authority or certain privileges and resources in exchange for co-operation and assistance.
- Issue networks (J/W): Access to this network is unrestricted, resulting in a changing cast of participants. This makes outcomes unpredictable and the focus on the problem not the same to everybody. Also the locus of decision-making is not easy to recognise and it can become transsectoral.
- Policy community (J): Policy-making is segmented into committees: co-optation and consensus with a limited number of privileged policy participants.
- Negotiated economy (J): The focus is at the (lower) level where decisions are made by negotiation between interdependent parties; no clearly defined boundary between State and society. Autonomy is restricted by the need for consensus.
- Statism (W): There is hardly any relation between state and business corporations. Deliberately, because state does not want to interfere with free market, or does not trust business.
- Pantouflage (W): Civil servants depart to leading positions in industry, but maintain relations in, and identification with, state agencies
- Captured statism (W): Opposite to pantouflage; state agencies become run by business-men who introduce business values.
- Pressure pluralism (W): There is a multitude of pressure groups that try to gain access and influence. The responsible State agency might become a mediator towards more general interests.
- Parentela relationship (W): This involves a dominant political party. Pressure groups gain access by their attachment to that party, rather than by their capabilities of representation.
- Macro corporatism (W): There is more than one interest group, and they usually have antagonistic interests. Co-ordination happens with government, which serves as a regulator for societal conflict. There is a search for consensus and compromise.
- Sponsored pluralism (W): The State actively supports many interest organisations. There is a freedom of association

J: this concept is recognised by Jordan & Schubert (1992)

W: this concept is recognised by van Waarden (1992)

Table 2.1 Network concepts of Jordan & Schubert, with Van Waarden's concepts included

Focus	Stability	Number of groups			
		One or mainly state (i)	Two (conflicting)	Restricted number	Large number
Sectoral	ad hoc			- Parentela relationship (i) - Captured Statism (i)	- Pluralism - Pressure pluralism (i) - Sponsored pluralism (i)
	stable	- Meso corporatism - Clientelism		- Group subgovernment - Corporate pluralism - Iron triangle - Policy community - Negotiated economy	
Trans-sectoral	ad hoc	- Statism (i) - Pantouflage (i)			- Issue network
	stable		- State corporatism - Societal corporatism - Macro corporatism (i)		

Like the original diagram, this diagram contains a number of empty boxes. Therefore, with help of the diagram in their article, Jordan & Schubert warned for the blind spots in scientific theory building regarding networks.

In this setting and with these qualifications, it is tried to describe where to locate the expected networks about the F&F Law. Where can they be located, which concept(s) apply the best for them and how can they be recognised in reality?

2.3.2 Qualifications of the participative networks

In the previous sections it is mentioned that two types of networks might have been present at the designing of the F&F Law; a formal one and an informal one.

A formal network in its extensive form would have been initiated, probably by LNV. It would have contained professionals in the domains of jurisdiction and nature management to combine expertise of nature with juridical knowledge and the targets of LNV. It would have supervised the contents of the F&F Law and in such a way produce legislation that is both juridical sound and practically feasible and acceptable (Goverde, 2000, p.123). Less extensive versions of official participation include structures of advice. An advisory board remains close to the above described form of participation, but advice can also be given once, or non-asked when stakeholders lobby for their interests. These structures already begin to mix with an informal network. An informal network would probably already have (partly) existed. Those who wrote the F&F Law might have known people in the field of nature management from previous interaction or from former jobs. In these circumstances it can be expected that a basic sense of understanding about the wishes and demands of the daily practice of nature management is present in the offices of LNV. The other way round, members of the field might have known about the F&F Law and its content in this way. Besides of increasing a basic general understanding, such a network would make the threshold to consult each other lower. Consultation, interference of the practice and theory, might have made the writers of the F&F Law more sensible for the consequences of the F&F Law.

Participative networks thus have a range of possible forms of existence. When there is no clear formal network present, it might even become difficult to distinguish the two different (formal and informal) networks. However, determining attributes might be found which makes it possible to indicate a more formal and/or a more informal participative network. A 'true', clear formal network would have been indicated by formal meetings with subjects of the F&F Law on the agenda. Membership would be restricted, but is likely to include a number of representatives of organisations from for example farmers, nature managers and nature protectors. The focus would mostly or only be the F&F Law, so a strict sectoral one. As

involved people will realise that new legislation is an important issue to have it as good as possible, the stability of the network will also be quite high.

In table 2.1, the formal network, depicted as a sectoral, stable one with a restricted access, can be placed in the neighbourhood of the concepts of group subgovernment, corporate pluralism, iron triangles, policy community and negotiated economy (see Box 2.1 for a short description of them). When taking a closer look, it appears that not all these concepts are that applicable. The concept of 'negotiated economy' for example, focuses on the lower (municipally) level of decision-making. The making of the F&F Law was on a much higher level, so this concept can be left out. The 'iron triangle' supposes one single interest representation organisation and domination of civil society or business over the responsible State agency (which would be LNV, in this case). This concept is USA-based and is not very likely in this situation. 'Group subgovernment' focuses on routine decisions, which the F&F Law certainly was not. 'Corporate pluralism' supposes that certain interest groups are able to develop and implement policies. This is also not very likely in this situation. It is very well possible that interest groups participated in the development of policies but in that case is the last concept, 'policy community', more applicable on the situation. The concept of policy community states:

- Policy community (J): Policy-making is segmented into committees: co-optation and consensus with a limited number of privileged policy participants.

This definition resembles quite accurately the formal network description above. The formal extreme of the range of forms of participation can thus be expected to be constituted by elements of the Policy Community concept.

The informal extreme of the forms of participation supposes that as long as LNV and the professional field of nature management do not live in two different worlds (and where, consequently, there is no influence), information is exchanged between LNV and the field to some extent, and this needs (informal) interaction. This network has no single focus of subject. All subjects having to do (or not) with mutual fields of interest can be discussed. The amount of participants is unrestricted, in fact everybody with contacts in the field of nature management is in some way, via-via, part of it. The intensity of contact will vary a lot per person and per time and subclustering within (sub)sectors can be strong. Direct contacts between LNV and members of the field, or members among each other, can occur incidentally (highly unstable), or have a regular basis (very stable).

In such a presence, the informal network would appear to be closest to the issue network.

- Issue networks (J/W): Access to this network is unrestricted, resulting in a changing cast of participants. This makes outcomes unpredictable and the focus on the problem not the same to everybody. Also the locus of decision making is not easy to recognise and it can become transsectoral.

In the setting of making decisions about the content of the F&F Law, members of LNV will always have been present in this network, and have had the ability to finally decide about the content. However, informal contacts with members of the field (and other stakeholders) about the F&F Law, will have made them aware of their wishes. What the professional field of nature management could accept and live with, what was considered practical and needed: it could all be channelled to LNV effectively through such a network of informal contacts. The more LNV knew about these wishes, the better they could be anticipated upon and included in decision making. It was also in the interest of LNV that their policies would become accepted in the field. The only thing needed for such a way of influencing LNV was contact.

2.3.3 How to recognise these networks?

The previous section described the range of networks that could most likely be recognised. This section states which indications can be used to determine the presence of a formal and an informal network.

The formal network, containing elements of a policy community, assumes that policy-making is segmented into committees with a limited number of policy participants. A committee usually has some kind of a name and is known by its members and others who became involved or just heard about it. Furthermore there are a *limited* number of participants. Limited means that there are noticeable boundaries, and that people can tell who is in, and who is not. If a committee like that has existed and has had perceivable influence on the content of the F&F Law, the tracing of this formal network comes down to find the committee. This can be done by asking people and by looking in available information where the making of the F&F Law is discussed to see whether such a committee is mentioned.

The informal network, in the form of a (loose and wide) issue network, assumes an unrestricted changing cast of participants. There are no recognisable boundaries; people will not actually consciously know they are in it (or not). Such a network is fuelled by information. Trace the flow of information about the F&F Law, and an (informal) network around the F&F Law might become visible. The more people ask information from their colleagues or organisations other than LNV-linked organisations, the further 'away' these people are from LNV and the more extensive the network is. Only direct flows of information from LNV to the field indicate a weak mutual network in the field. On the other hand, if there exist a lot of contacts among stakeholders with the F&F Law as subject, but only a few are with LNV, does this indicate a gap in the network and a bad connection of LNV with the professional field of nature management.

2.4 Summary & Research Questions

This chapter focused on the backgrounds of the concepts of influence and networks and how they are linked. It is stated that in order to have had influence, the field had to have participated or to be anticipated upon. Influence is caused by power: without power, no influence. This, except for the concept of 'noblesse oblige'.

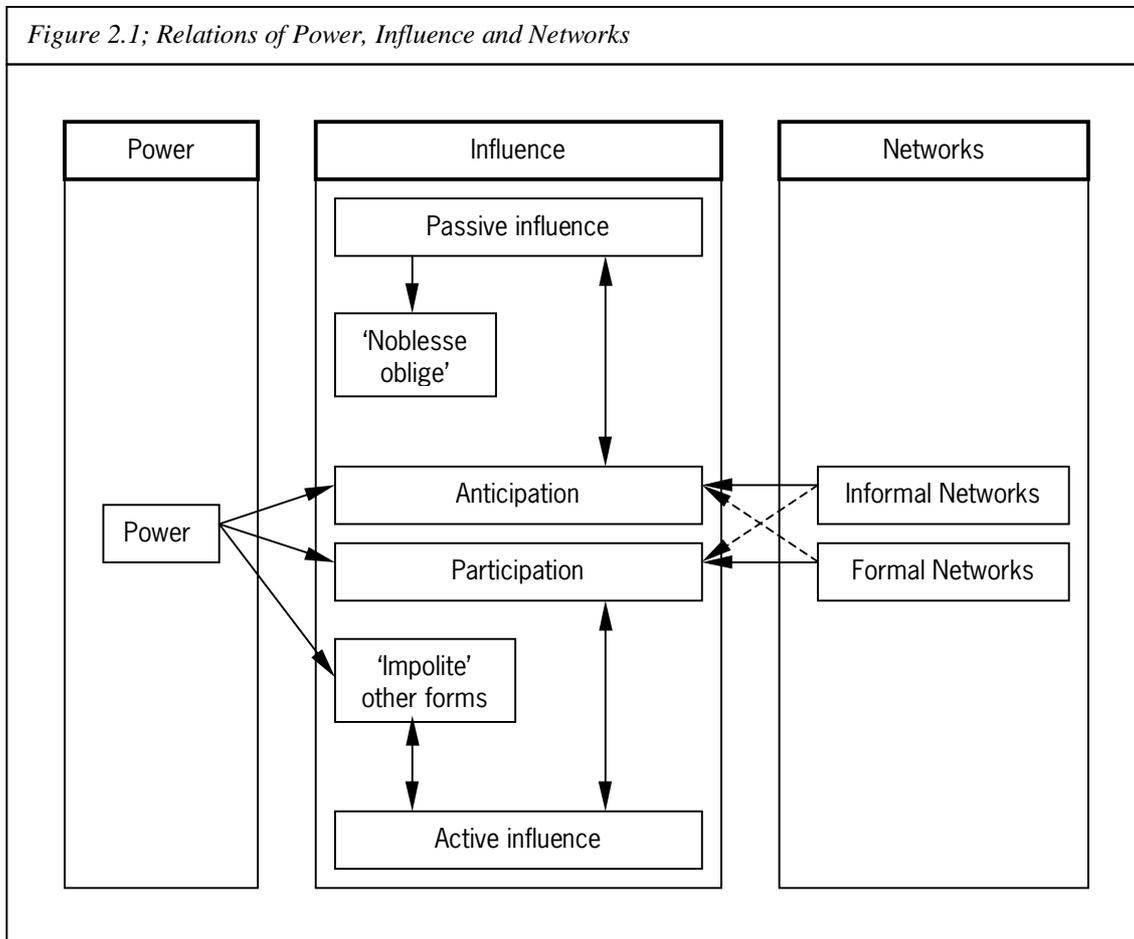
Power is based on the relation that the legislative and the practising level have. It is in a sector's advantage to have new legislation suited to its interests. On the other hand, it is in the legislator's interest to have its legislation fluently implemented and accepted among the practitioners.

In order to translate power into influence, so that actually something happens like wanted by a powerful actor, interaction is necessary. Two separated worlds have no power over each other. This interaction knows different varieties of occurrence, ranging from very impolite interaction (by using violence for example) to polite interaction (by consultation for example). Regarding processes of interaction between LNV and the field about the F&F Law, this research assumes that these processes all have been polite. Polite interaction is facilitated by networks of (individual) contacts. This fact can be applied in an official structure, which then leads to the set-up of a formal, official network in the form of some kind of a committee that includes relevant stakeholders. Interaction is then purposely activated with as goal the participation of the included (powerful) actors, and by that their acceptance and co-operation in designing and implementing the result. By such involvement in committees, the field would have been able to actively exercise influence on the decision-making unit (LNV).

Interaction also occurs on non-official basis. Informal, social networks distribute information and perceptions through the network. Demands and wishes, preconditions for successful co-operation in the implementation, will be known on beforehand without the need of active consultation. In such case, policymakers can anticipate on the demands of the field and by that design acceptable legislation. Through such informal contacts, the field is able to passively exercise influence on the decision-makers.

In reality, formal and informal networks can mix up. To still be able to differentiate them, indications that are based on the concepts of the 'Policy Community' concept and 'Issue Network' concept are used to determine whether they both, more or less separately, existed.

The summary of the previous page can be visualised in Figure 2.1:



2.4.1 Theoretical Research Focus

To further illustrate how this theoretical framework changes the perspective of this research, the research focus of section 1.3 is translated into a 'theoretical' research focus. The original research focus is:

"To what extent has been made use of the available professional knowledge and experience of the nature management sector in designing the Flora and Fauna Law?"

When applying the theoretical perspective of this chapter by taking into account the central theoretical concepts of this chapter the theoretical research focus will become:

"To what extent has the nature management sector been able to translate its power into influence through formal and informal networks in the process of the design of the Flora and Fauna Law?"

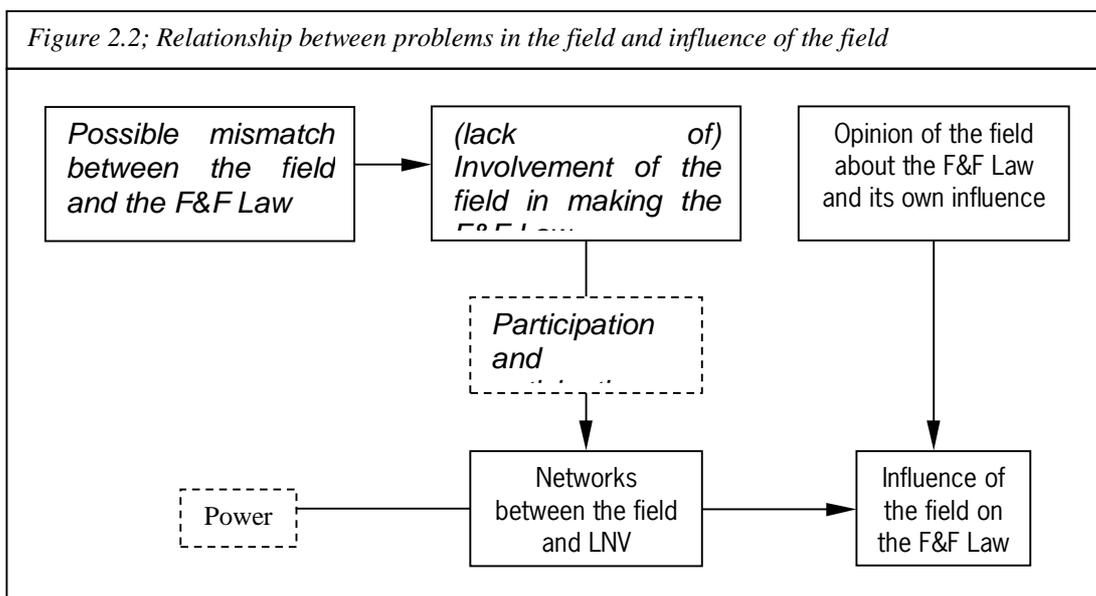
2.4.2 Research Questions

Chapter 1 showed that at least to some extent there is a mismatch between the field (practice) and the F&F Law (theory). Chapter 2 shows that researchers agree that involvement of those outside the bureaucratic system increase the pragmatism of legislation and by that decrease the mismatch between theory and practice. It can be assumed that the

more the field had been involved, the better the F&F Law would suit its interests. The field could have been involved in an active and a passive way. Involvement is facilitated by participation and anticipation, which in turn need formal and informal networks. In chapter 2 it is stated that networks are indicators for influence, because of their facilitation of involvement. Therefore, networks can be seen as facilitators to translate power into influence. It can safely be assumed that the field had power, but the question remains if the field has been able to translate it into influence, through networks. The extent of a mismatch between the theory of the F&F Law and the practice of the professional field of nature management, combined with the level of involvement of the field in decision making, facilitated by networks, will answer this question.

To be able to draw more empirically grounded conclusions about factors indicating the amount of influence of the field, various indicators regarding the opinion of the field itself are used. The overall satisfaction and the (positive or negative) opinion of the professional field of nature management about the practicality of the F&F Law shows the existence and the extent of a mismatch between theory and practice as well. The opinion of the field is furthermore influenced by the history; meant the F&F Law an improvement of the legislative situation, or made it things (even) worse? And to what level of support has this led; are the objectives of the F&F Law widely supported through the field? And as the last factor is the perception of the amount of influence of the own sector of nature management used (the 'ego-perception'). Taken together, these factors will give a detailed impression of the fields' opinion regarding the F&F Law. The combination of this approach and the mismatch-involvement-networks approach will make the conclusion much more robust and accurate.

Figure 2.2 illustrates the relationship of the mentioned factors as they are used throughout this research.



The findings in chapter 2 resulted in Figure 2.2, which enables the research focus of chapter 1 to become translated into research questions that can be used to steer data gathering, interpretation and analysis in the following chapters. In order to do so, all the closed boxes will become translated into one or two question(s). In such a way each of these relevant indicators will be 'revealed', which in the end enables the answering of the research focus. The box of 'Participation and anticipation' is dotted, because it is regarded merely as a process through which the boxes of 'Involvement' and 'Networks' are linked. As explained, power is assumed to be there but it needs a channel to become effective. This approach results in the following research questions:

Research Questions:

- 1) To what extent emerged a mismatch between the professional field of nature management and the F&F Law when it came into force?
- 2) To what extent and in which way was the professional field of nature management involved in the process of designing the F&F Law before its entry into force?
- 3A) What informal networks have existed around the F&F Law and what was their shape?
- 3B) What formal networks have existed around the F&F Law and what was their shape?
- 4) What was the opinion of the professional field of nature management regarding the F&F Law?
- 5) What was the amount of influence of the professional field of nature management on the F&F Law?

The first four questions will be answered in chapter 4, the last question serves as conclusion and will be answered in chapter 5.

Chapter 3; Methods

With the research questions 'to steer data gathering' in section 2.4.2 ended the first, speculative part of this report. There is explained *what* will be researched, what remains for this chapter is *how* it will be researched; what the research strategy to answer the research questions will be.

3.1; Research Strategy

Verschuren & Doorewaard (1999) recognise three major decisions to base a research strategy on. These are: breadth versus depth, a qualitative versus a quantitative approach and an empirical versus a desk research.

This research comes down to the study of the relationship between the domain of professional nature management ('the field'), and the F&F Law and its creator; the Ministry of LNV. The concepts of influence and networks are particularly interesting in this relation. The study of networks and the influence they are ought to facilitate require a rather broad approach in order to map it out. To be able to include as much as possible of the field of nature management, it is opted for a broad approach rather than for a deep one here. The best strategy to study the amount of influence of the field will be to study the emerging problems, the involvement of the field in the design of that what caused them, and of the networks of contacts of the field in relation with LNV. The opinion of the field should be included as well. This requires an overview of the whole field of nature management, and for that is a broad approach the most suitable.

As for the qualitative/quantitative decision: to accurately quantify a network of the mentioned dimensions will become a performance not yet encountered in literature. If even possible, it will consume more time than available, and it is not necessary either to answer the research questions. Therefore, this research will be mainly qualitative oriented, though numbers won't be avoided either. Percentages, for example, can be used very well to support a qualitative analysis or conclusion.

The third decision concerns the choice whether the research will be an empirical one or a desk research. It will be difficult to find networks by using literature only. The empirical field, there where the networks are, will show the most accurate results. However, questions about a possible mismatch can be answered easily and more objectively by media-accounts as well. Chapter 1 already showed that attention has been given to it. As a quite easily accessible source of information, media-accounts and/or literature discussing the introduction of the F&F Law can not be ignored lightly as is, of course, the empirical focused strategy. The use of multiple sources of information (called 'triangulation') will make the results more objective and robust. Therefore, this research will use both empirical and desk research approaches.

3.2; Methods and data sources

As can be read in the previous section, a method that provides a broad overview of the professional field of nature management about a certain subject (influence and networks in this case) is considered necessary. The boundaries of 'the field' are rather vague and it will certainly not be possible to reach every member of it in one way or another. However, there should be opted for a method which reaches as much members of the field and as diverse as possible, within the given timeframe and resources.

Therefore it was chosen to make and send a (paper) questionnaire. Addresses of members of 'the field' to send the questionnaire to will be gathered with help of a few sources. At first it is simply possible to go to the category of 'nature' and 'forestry' in the telephone book. Both a paper one as an electronic one (www.goudengids.nl) are accessible. The internet can yield addresses from other sources, for example estates and interest representation organisations. The Royal Dutch Forestry Association (KNBV) releases a list of its members every year. Since I am a member as well, a list of potential forestry and nature management oriented respondent's lies within my reach. Together, these sources should represent the diversity of the field quite well.

It is not only by questionnaire that information about the relation of the field and the F&F Law can be obtained. Especially whether there was a mismatch and if so, how big it was and what the consequences were, is probably covered in media. The domain of forestry and nature management has its own professional journal; 'Vakblad Natuur Bos Landschap' which is very likely to have informed its public. Other sources might have written about the impact and effects of the F&F Law on nature management as well.

After and before the F&F Law entered into force, politics might have received comments and questions from organisations representing interests of the field¹³. Correspondence between the minister of LNV and the House of Representatives (HoR) in which this is discussed is publicly available¹⁴. The minister of LNV will be held responsible for negative comments, and he will have to defend 'his' Law. Questions of the HoR and answers of the minister of LNV will reveal what messages reached 'the Hague' and how problems around the implementation were perceived. Which were regarded really problematic, and if so; what was the solution of the minister?

Besides of these three specific sources, other literature will be used to answer the research questions when this is applicable to the situation.

3.3; Answering the Research Questions

In the previous section it is made clear which sources of data will be used, given the objective, time and resources present for this research. This section specifies for each research question of section 2.4.2 what information is needed and in which way it is to be obtained. The final answering of the research questions is done in a later chapter with help of this information.

3.3.1; Research Question 1

1) *"To what extent emerged a mismatch between the professional field of nature management and the F&F Law when it came into force?"*

This question has an explorative character, with the aim to show what actually happened after the F&F Law 'hit' the practice. It shows how pragmatic the law was in reality and indicates the amount of involvement of the field in the creation of it. Its main goal is to provide the context in which the answers to the other questions should be understood. And with the aim of this research to reveal how much influence of the field there has been, reading backwards will show to what this amount of influence can lead with regard to practicality of legislation.

In answering this question, sources of media and literature will be especially relevant. Content, date of publishing and length of the articles will show how 'hard' the F&F Law hit, and they show the main bottlenecks that emerged. The same applies to correspondence with the HoR. The reaction of the field is indirectly indicated in it, and emerging bottlenecks will be discussed. To confirm or counter the image that will result from these sources, questions can be included in the questionnaire about the respondents' experiences regarding the practical consequences of the F&F Law at the time it entered into force. Questions whether the F&F Law improved the situation or not, and certainly *why*, will therefore yield interesting results.

3.3.2; Research Question 2

2) *"To what extent and in which way was the professional field of nature management involved in the process of designing the F&F Law before its entry into force?"*

The question after the involvement of the field before the F&F Law entered into force, focuses on signs of participation of the field during the process of writing the F&F Law, which took several decades. Although it would be interesting to see what professional journals write about the F&F Law and what the correspondence with the HoR mentions, both sources seem to be quite quiet about the subject. A general search for other sources might therefore be necessary to give a bit more clarity about the subject. To complement the results from

¹³ This can be LNV itself, but reactions are also regularly made known directly to specific members of the House of Representatives

¹⁴ At www.minlnv.nl

these sources, the questionnaire can generate information about the field's perception about its involvement.

3.3.3; Research Questions 3A&B

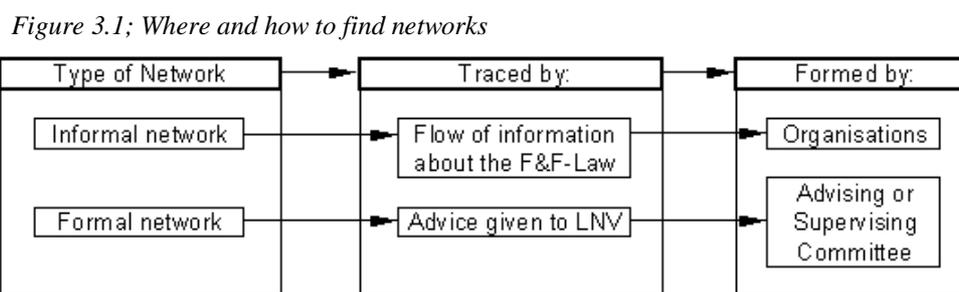
3A) "What informal networks have existed around the F&F Law and what was their shape?"

The element of networks tries to reveal the informal networks that existed at the time the F&F Law was introduced (April 2002). The fluent nature of informal networks makes it extremely labour-intensive to study them during the whole preparation phase (which lasted several decades). The informal network about the F&F Law will be based on previous experiences of respondents; therefore the network at April 2002 will resemble the relationship between the field and LNV of the times before as well. The network around the F&F Law can be seen as a structure of contacts about the F&F Law. To be able to reveal this structure between LNV and the field, the questionnaire will prove to be crucial. In it, members of the field can be asked after their relation with LNV with regard to the F&F Law. With as main point of interest the relative 'share' of informal contacts LNV had and the distance of LNV to the respondent¹⁵. The amount of different organisations mentioned and how much LNV was mentioned, tells something about the extensiveness of an informal network and the extent of involvement of LNV in it. The distance of LNV will probably differ per respondent and is not a subject that is likely to be covered in depth in journals or in correspondence with the HoR. These sources of information might therefore add only a general picture.

3B) "What formal networks have existed around the F&F Law and what was their shape?"

Formal networks, in the form of a supervising or advisory Committee, have a more official character than informal networks and are likely to be mentioned in articles and in correspondence with the HoR. In a question in the questionnaire it can be asked which organisations (besides LNV) did have had the most influence on the content of the F&F Law. If there has been a committee of some kind having had influence, the answers should reveal so, otherwise it can be assumed it had not, or marginally. If the formal network was less strong and not existing of (a) committee(s) but of some structure of consultation, a question about personal involvement or involvement of one's own organisation or sector should reveal so. Those who were consulted, or know about others in their organisation or sector that were know the (form of) existence and extensiveness of a structure of consultation.

Figure 3.1 shows shortly where and how formal and informal networks are ought to be traced and what constitutes them.



Chapter 2 already mentioned the fact that this division can be less clear-cut as presented here. As indicated, there might have been two different networks present, which then might have interfered with each other to some extent.

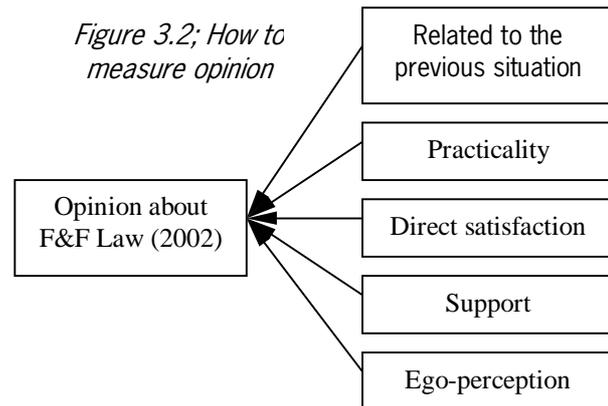
¹⁵ For an elaborated example of this method, see Chan, K., and Liebowitz, J., 2006, p.27

3.3.4; Research Question 4

4) "What was the opinion of the professional field of nature management regarding the F&F Law?"

The opinion of the professional field of nature management about the F&F Law is another clue in the search for indicators for the amount of influence. Diagram 5 shows some factors that are researched in order to measure 'opinion'. Estimating them will reveal a number of relevant features of the relationship between the F&F Law and the field.

The most direct factor for estimating the opinion of the field is probably the factor of satisfaction. Was the field 'happy' with the F&F Law? Was it what they wanted? Adding other factors will broaden this rather one-dimensional picture. For example; the opinion of the field can very well have been altered because the previous legislation was (even) worse. Any improvement can lead to more satisfaction then. Another relevant aspect of the opinion is the factor of practicality; how practical is the F&F Law considered by 'the practice'? The factor of 'support' looks at the matter from a somewhat different side: what is the level of support of the field? Does the field in general support the objectives of the F&F Law, or does the field adhere to it only as much as necessary to stay out of trouble? The last factor regarding the opinion of the field is the perception the field itself has about its own amount of influence. Does the field perceive to have had much influence? Does the field think that its wishes were heard and implemented in the F&F Law?



3.3.5; Research Question 5

5) "What was the amount of influence of the professional field of nature management on the content of the F&F Law?"

The answer to this question serves as the conclusion of this report. It needs the results of the previous questions. The amount of influence is indicated by the amount of problems, made clear in question 1. Furthermore, the amount of influence has a direct correlation with the amount of involvement by networks (via participation and anticipation), which is made clear in questions 2 and 3. In section 2.4.2 it is argued that another factor should be measured to form a check of the estimation of the influence; the opinion of the professional field of nature management itself (question 4). Together, these factors will make it possible to indicate the amount of influence of the field, as was visualised in figure 2.2.

3.4; The content of the questionnaire

To understand and to know the actual point of view of 'the field' about the F&F Law and its consequences, the perception of the influence the field had and to search for a formal and/or informal network of some kind, a questionnaire has been send to members of the field. Addresses have been obtained by the internet, the telephone-book (by searching for companies under 'nature' and 'forestry') and the list of members of the KNBV, the Royal Dutch Forestry Association. A questionnaire was send to 200 addresses of estates, nature-management/forestry organisations, steward agencies, nature protection organisations and advising agencies. This section present the questions that were send and which were based on the subjects that in the previous sections were considered relevant to ask for. The possible answers are put between brackets. The full, original Dutch version is printed in Appendix 2.

It should be noted that the questionnaire started with an introductory piece of text. It explained that when not indicated otherwise, the questions were aimed at the period the F&F Law entered into force (April 2002).

Background

- 1.1) Was your job in the sector of nature-protection or nature-management in 2002?
[nature protection], [nature management]
- 1.2) What was your function in 2002? [open]
- 1.3) In which organisation was that? [open]
- 1.4) In which way were you involved with the Flora and Fauna Law then? [open]

Network

- 2.1) With which organisations did you have the most contact about the Flora and Fauna Law? [open; three spaces]
- 2.2) Why these organisations? [open]
- 2.3) Did LNV, according to you, operate in the same sector as you? [yes], [no]
- 2.4) Why did or didn't LNV? [open]
- 2.5) Can you indicate how often you had contact with LNV then?
[very often], [often], [sometimes], [seldom], [never]
- 2.6) Nowadays, when you need extra information about the Flora- and faunalaw, where will you go to first?
[open; one space]

Involvement

- 3.1) Were you personally involved in the making of the Flora and Fauna Law? [yes], [no]
- 3.2) If so, in which way? [open]
- 3.3) Was your organisation involved in the making of the Flora and Fauna Law? [yes], [no]
- 3.4) If so, in which way? [open]
- 3.5) Was the sector in which you operated involved in the making of the Flora and Fauna Law? [yes], [no]
- 3.6) If so, in which way? [open]

Influence

- 4.1) How high do you estimate your personal influence on the content of the Flora and Fauna Law?
[high], [quite high], [average], [quite low], [low]
- 4.2) How high do you estimate the influence of your organisation on the content of the Flora and Fauna Law?
[high], [quite high], [average], [quite low], [low]
- 4.3) How high do you estimate the influence of your sector on the content of the Flora and Fauna Law?
[high], [quite high], [average], [quite low], [low]
- 4.4) Which organisation(s) besides LNV has/have had the most influence on the content of the Flora and Fauna Law? [open; three spaces]
- 4.5) In which way did they have that? [open]

Practical knowledge

- 5.1) Has LNV made enough use of the practical knowledge of people from the field in making the Flora and Fauna Law? [yes], [no]
- 5.2) If so, in which way has LNV done that? [open]
- 5.3) Can you indicate how close you think LNV is to the daily practice of your sector?
[very close], [close], [not close, but not far away either], [far away], [very far away]

Information delivery

- 6.1) When and how did you hear about the Flora and Fauna Law for the first time? [open]
- 6.2) Can you indicate in which way you received the most information about the Flora and Fauna Law? Was that mostly by LNV, or mostly by colleagues, professional journals etc?
[only by LNV], [mostly by LNV], [from both more or less the same], [most by colleagues, professional journals, etc.], [only by colleagues, professional journals etc.]

Practicality

7.1) How practical did you consider the Flora and Fauna Law when it was just implemented?
[very practical], [quite practical], [its ok], [not that practical], [completely unpractical]

7.2) How practical do you consider the Flora and Fauna Law now?

[very practical], [quite practical], [its ok], [not that practical], [completely unpractical]

7.3) How content were you with the Flora and Fauna Law when it was just implemented?

[very content], [quite content], [its ok], [quite discontent], [very discontent]

7.4) How content are you now with the Flora and Fauna Law?

[very content], [quite content], [its ok], [quite discontent], [very discontent]

7.5) Was the Flora and Fauna Law an improvement of the legislation when compared with the situation before? [quite an improvement], [a slight improvement], [not really an improvement, but also no deterioration], [a slight deterioration], [quite a deterioration]

7.6) In which way was the Flora and Fauna Law in your opinion an improvement or a deterioration of the legislative situation? [open]

7.7) Do you think that the Flora and Fauna Law still needs important improvements? [yes], [no]

7.8) If so, which are those? [open]

7.9) When applicable to your current situation: do you try to act according to the spirit or to the letter of the Flora and Fauna Law, in other words; do you keep to it as good as possible, or as much as necessary?

[as good as possible], [as much as necessary]

3.5; The response

From the 199 questionnaires that were send, 56 usable responses returned. Table 3.1 illustrates the division in functions of the respondents, table 3.2 illustrates for which organisations they work.

Category of function	Frequency
Practical nature management	31%
Estate steward	18%
'Green' advisor	16%
'Green' policy employee	15%
Higher ranked executives	11%
Rest	9%

Category of organisation	Frequency
Nature management organisation	43%
Estate Agency	16%
Advising Agency	14%
Interest representation organisation	9%
Hunt	7%
Province	4%
Rest	7%

Table 3.1 shows a variety of functions. Of course 'outdoor nature managers' are included, but also a variety of other functions that are related to the practice of nature management. This is reflected in the organisations they work for; a lot of the respondents work for a nature management organisation, but also other organisations, having to do with a number of aspects of nature management are represented. The most important thing is however that all respondents will have felt the practical consequences of the F&F Law in their daily business. The full content of the responses is showed in Appendix 1; the next chapter answers the research questions and will frequently use figures and tables based on the respondents' answers.

Chapter 4; Indicators of influence

This chapter provides the answers to the research questions 1, 2, 3A, 3B and 4 as stated in section 2.4.2. Chapter 4.1 discusses the extent of a mismatch between the field and the F&F Law, mainly based on researches and articles about the F&F Law. The perception of the practical field of nature management about a mismatch between the F&F Law and themselves is shortly elaborated as well. Chapter 4.2 discusses the amount of involvement of the field, by searching for commenting reports about the F&F Law and the involvement as it was perceived by the respondents. Chapter 4.3 discusses the existence of both formal and informal networks, based on the respondents' accounts of these networks. Chapter 4.4 focuses on various factors determining the opinion of the field about the F&F Law and their perception of the level of influence the field had.

Chapter 4.1; The mismatch

In the previous chapters it is explained that the extent of a mismatch between the professional field of nature management and the F&F Law can be seen as the first step in estimating the influence of the field on the content of the F&F Law. Very shortly said: it can not be expected that there was much influence of the field when the mismatch appears to be big. In order to estimate the extent of the mismatch, several sources are used in this chapter. The professional journal of the nature management sector (Vakblad Natuur Bos Landschap) indicates the impact the F&F Law had on the field of nature management. Correspondence between the House of Representatives and the Minister of LNV reveals the political impact (possible) mismatches had. And also a variety of commentaries and researches about the relation between the F&F Law and the field might be obtained.

When it entered into force, the F&F Law appeared to cause a great amount of confusion. Researchers and commentators raised critiques about the amount of information about the F&F Law and quite harsh conclusions were drawn about the obscurity of the F&F Law. Besides of these general critiques, the F&F Law appeared to be able to generate commotion especially about forestry related subjects (felling of trees) and the prevention of damage by wild animals, which is linked with the subject of the hunt. Both these themes caused a lot of unintended problems and appeared to need a long political trajectory to become solved again. Furthermore, business organisations and nature management organisations raised alarm about the threat of a decrease in societal support for specie protection, caused by regulations in the F&F Law.

When the findings about these subjects are combined with reactions in the questionnaire regarding the respondents' experiences with the F&F Law, these sources will provide an overview whether a mismatch of these themes were individual minor distortions, or indicators of a deeper mismatch.

4.1.1; the F&F Law and clarity

In April 2004, the LEI; (Agricultural Economic Institute; 'Landbouw Economisch Instituut') released a research report in which some people involved with the F&F Law and working for local governments were interviewed. These were for example urban-ecologists and policy employees. The F&F Law was by most of these respondents experienced as "difficult", with regard to practical feasibility and interpretation. The F&F Law proved to be impossible to follow literally, so it had to be interpreted. The report showed that not everybody interpreted the F&F Law in the same way, and these different interpretations caused confusion. The report also mentions that the F&F Law came 'out of the blue'; although it was known it would come, there was no information about the content and consequences. Furthermore it states that "interviewed people had not, or almost not, prepared themselves for the introduction of the F&F Law. (...) All respondents agreed that the Ministry of LNV should have given more information and support in the process." A low amount of contact with LNV is mentioned; before and after implementation. This has risen suspicion about the knowledge of LNV about the practical consequences of their measures. As said before, the F&F Law had European predecessors; the Habitat and Bird Directives. A lack of information about regulations for

specie protection started already there: van der Zouwen (2002) concludes that knowledge about the Habitat and Birds Directives had not gone further than the national level; regional authorities were virtually unaware of their existence, let alone what they contained.

De Kraker & Tuin (2004) interviewed nature managers in eleven different municipalities. These interviews showed that these nature managers considered the F&F Law having good intentions, but being unworkable because it is written too intricate and unpractical. Just like in the LEI report, in their recommendations the authors mention the need for improved communication between LNV and municipalities; there are no practical guidelines, which a municipality needs to successfully implement the F&F Law. Kistenkas & Kuindersma (2004) confirm the fact that a practical translation of a few core-concepts, like 'significance and favourable conservation status' are by no governmental apparatus officially elaborated, which causes the fact that for example advising agencies made their own interpretations¹⁶. In turn, this conclusion is supported by H.E. Woldendorp (2005), which states that "in general there is agreement that the F&F Law has an unclear objective, leads to unforeseen consequences, induces unnecessary bureaucracy and has only a limited contribution to specie-protection¹⁷". The author continues with stating that "it seems that the subject 'specie-protection' is grown above the head [literally translated] of the legislator and that it is not clear to him what, in which way, he wants to achieve and expects to be able to achieve. The legislator runs after the practice, which cannot do much with the law, to a yet unknown destiny. (...) The course of things in practice has only from a far distance to do with the letter of the law. With such an unclear legislation it is perhaps unavoidable that the practice seeks its own way." Also Ch. Backes et al (2004) states: "we conclude that the F&F Law anyway contributes less than intended with regard to specie protection and that this legislation does not properly fulfil its allotted task."

The F&F Law appears to be quite obscure when it entered into force. This obscurity and the overall lack of information has led researchers to the conclusion that the effectiveness of the F&F Law is undermined.

The shortage of information and clarity about the F&F Law in the field did not go unnoticed. In September 2002, the Minister of LNV indicates towards the HoR that all necessary measures will be taken to improve the performance of the F&F Law. In this correspondence can also be found what the Ministry of LNV has done the last six months (so, *after* the F&F Law entered into force) to improve the knowledge of the F&F Law. This includes information meetings with 1700 direct involved people and a special edition about the F&F Law in the journal of the environmental police ('Blad Dier en Milieu') that was send to local offices, police-stations and hunters. Furthermore 10.000 volumes of a special brochure were send to 'direct concerned persons', among them nature managers and landowners. And in a few dozen newspapers special adds were placed. In total, eleven different measures have been taken to inform the public (Stand van zaken uitvoering Flora- en faunawet, 25-9-2002).

The shortage of information and clarity was furthermore confirmed by a warning from society in April 2003. Then, business corporation representative organisations¹⁸ joined nature protection and management organisations¹⁹ to write recommendations²⁰ to the Minister of

¹⁶ With the well-known example of the 'Waardenburg-norm', made by a private advising agency and now widely (legally) accepted because there is nothing else. In short it says that a decrease of a population of more than 5% can be regarded as 'significant' (F.Kistenkas, 2004).

¹⁷ Here is also referred to the failure of article 75, researched by Kistenkas et al.

¹⁸ VNO-NCW (Dutch employer's representative organisation), HISWA (Dutch watersport organisation), AVBB (Common Union Building Companies), VNP (Dutch Association of Paper and Cardboard factories) and the Royal Hotel and Catering Industry the Netherlands.

¹⁹ SNM (Foundation Nature&Environment), a large number of regional Environmental Federations, BirdLife, Natuurmonumenten (national NMO), Staatsbosbeheer (national NMO), the provincial NMO's ('Landscapes') and a large number of nature protection organisations.

²⁰ 'Recommendations about the execution of specie protection legislation in the Netherlands' ('Aanbevelingen over uitvoering van soortenbeschermingswetgeving in Nederland')

LNV with suggestions to improve the performance of the F&F Law (see Appendix 5 for this document). Both sectors felt tensions caused by this Law, which did not have to exist. All the signed parties acknowledged that nature needs adequate protection and that economy has to be able to develop well. The interests of both sectors are not always possible to combine, it is however “regularly possible that fierce conflicts might turn out to be able to become solved satisfactory”.

Companies experience most of all problems:

- in situations where the planning part is already done, but where the actual carrying out of the activity has not started yet and where in the meantime an individual of a protected specie has settled,
- when the carrying out of regular/maintenance activities cause disturbance of protected species.
- when activities of a company cause the temporal existence of a habitat suitable and/or used by protected species.
- when specie protection legislation is used to counter or delay company activities, without really aiming for the protection of species by those who do so.

One of the reasons for these problems is (legal) uncertainty for which “the lack of adequate information from the central government” can be blamed. Entrepreneurs don’t know about the content, the reach and the consequences of the F&F Law. The signed parties consider that this can lead to unnecessary costs and delays for business corporations, which will consequently negatively influence the support for specie protection.

4.1.2; The F&F Law and Forestry

For the sector of forestry and nature management, an article of De Boo (2002) highlights the entering into force of the F&F Law. Published a short while after the entering into force of the F&F Law, this article explains briefly how this law works; what is still allowed and what has changed. Phrases like the ‘duty of care’, the ‘no, unless’ principle and the way hunting is organised are treated. The subject of hunting gets the most attention, covering more than half the article.

The first signal that things might go wrong originates from the AVIH. The AVIH is the Association of Native Wood (‘Algemene Vereniging Inlands Hout’), the Dutch Association of the forestry and timber processing industry. By articles on their web-site they inform the public about relevant developments for the forestry sector. In an article of September 2002 it is written that it slowly became clear that normal forestry wasn’t possible anymore with this new F&F Law: harvesting (and supplying) of timber in summer would almost certainly disturb at least breeding birds, which was prohibited. The head of this article is therefore very subtle: “Flora- and faunalaw brings forestry and timber companies to a standstill”. In the article, the AVIH protests against the rigid way the Law is applied in court-cases and warns for the economic effects it could have for the whole forestry and timber processing industry when half of the year no wood can be felled and delivered. It is also said that this rigidity is not necessary because the sector has already proven that it can carry out normal activities without extreme consequences for nature; nature which was apparently capable of handling this impact in the previous years as well. The AVIH urgently pleads for a change in the F&F Law by a general exemption for forestry activities. According to correspondence between the Minister of LNV and the HoR, the forestry sector has indeed reacted. In September 2002, the Minister of LNV writes that “organisations from (among others) the forest and timber sector²¹ have indicated that they fear that because of the F&F Law, the Netherlands will be ‘locked²²’ and normal forest maintenance activities, building activities and such will be no longer possible” (‘Stand van zaken uitvoering Flora- en faunawet’, 25-9-2002).

²¹Such correspondence has been retrieved; this organisation is the AVIH, discussed in section 4.2.3; Journals of NMO’s.

²² Meaning that it would become nearly impossible to carry out projects which would cause the standstill of rural development

Articles in the *Vakblad Natuur Bos Landschap* (2004, 2005), the journal of the KNBV, confirm that the nature management and forestry sector did not really realise beforehand what the impact of this Law would be. Only after a condemnation by court of a regular forestry measurement, because of the disturbing effects it had, the sector became upset: nature management and forestry seemed to be 'locked'. During long times of the year nothing could be carried out in the forest before intensive inventories were carried out. For a lot of ordinary practices expensive dispensations had to be requested, which took months to be handled.

'Motion van den Brink' and the 'Code of Conduct'

In November 2002, the AVIH informs the field about the 'motion van den Brink'. Representatives of the HoR agreed upon the fact that the current law and case law proves to be unnecessary strict for normal forest activities, also in comparison with other European countries. Therefore, a motion was handed in that, when adopted, urged the government to "make normal nature management and forestry activities possible again, in short term." (motion van den Brink, 5 November 2002). The reaction of the Minister of LNV was that "it is not the meaning of the F&F Law to unnecessarily hinder activities of companies in the timbersector." He assured that he takes the matter serious and that he will conduct research for solutions. The 'motion van den Brink' was adopted at 12 November 2002 (by six fractions in favour, and three against). It should be noted that the actual content of the motion said nothing about *how* to reach the desired result. It appeared that this motion, allowing standard forestry practices, would take a long time to become actually implemented in legislation. At 20 August 2003, the Minister of LNV mentions the progress with regard to the motion van den Brink in correspondence with the HoR. In the letter is written that is looked for better solutions within the given framework of the Habitat and Bird Directives, and that is looked for the possibilities to give a so-called 'Code of Conduct' a better legal status.

A Code of Conduct had been made by the Dutch Forestry Board²³ ('Bosschap') and the AVIH, in order to give the principles of the F&F Law a practical translation. The idea of the Code was simple; the guidelines in it give a practical translation of key principles of the F&F Law. In the Code, a sector makes clear how it adheres to the sometimes rather vague conditions of the F&F Law, about for example 'careful acting' and not threatening the 'favourable state of maintenance'. These principles were nowhere clarified practically. For example; in forest plots where it can be expected that no special flora and fauna is present, less severe inventories are needed. If LNV agrees about the content, the Code can be seen as a practical translation of the F&F Law. The status was not legally based yet; a person working according to this Code could still be accused in court. However, working with the Code would show his good intentions, which is expected to lead to acquittal (Nijland & Jans, 2004).

In April 2004 the Code of Conduct for 2004 is presented, made by the Dutch Forestry Board and BirdLife ('Gedragscode zorgvuldig bosbeheer 2004'). Again, it has no legal status, but it is supported by LNV and satisfactory translates legislative principles like 'careful acting' into practice. This Code is supported through the whole sector of nature management. Henkes (2005) evaluates this Code of Conduct. In general it proved to work well during 2004: nobody using this Code was violating the F&F Law for as far the vindictive agency (AID) could discover. Its practice oriented set-up and the attached checklist was praised all around, and the only complaints were the usual ones about extra paper work. At this time, the content of the practical translation of the motion van den Brink could be visualised; it would give working according to this Code a legal basis. In April 2005, the AVIH confirms that this Code appears to work well, and in such a good way that it gets a legal status for the next five years, being the practical translation of the 'motion van den Brink'. After an evaluation of Alterra, and an Amendment in the F&F Law implying that the prohibition provisions of the

²³ The Dutch Forestry Board ('Bosschap') is a Statutory Trade Organization, which means it has "legislative powers to determine rules and regulations", being a public-law body with regard to forestry and silviculture in the Netherlands (see www.bosschap.nl).

F&F Law do not apply to those working according this Code, it is finally possible and clear how to work with the F&F Law. The Code is printed in Appendix 4 of this report.

And so, at 26 May 2005, AVIH and BirdLife release a joint press bulletin that states: “the Netherlands are not locked with the Flora and Fauna Law, Code allows for forestry activities with good protection of flora and fauna”. At this moment (2006), other sectors also see the advantages of such a Code of Conduct, and are also busy to make one for them self. The construction-sector, the agricultural sector and the horticultural sector are constructing their own Codes of Conduct, according to the Ministry of LNV.

All in all, this theme of the problems that forestry encountered because of the entering into force of the F&F Law, shows that the provisions in the F&F Law could cause problems that everybody considered problematic, but which took years to solve.

4.1.3; The F&F Law and prevention of damage from wild animals

The professional journal for arboriculturists²⁴ (*‘De Boomkwekerij’*) dedicated an article to the F&F Law and the issue of preventing damage from wild animals at 19 April 2002 (just after the entry into force). In the F&F Law, fauna regulation is the responsibility of the province. The article shows that although the F&F Law was implemented nation-wide, the provinces were not ready for their task. The article describes the situation that resulted as “a vacuum”. “It is completely unclear how arboriculturists have to deal with faunal damage”. The F&F Law itself forbids every way of direct faunal suppression without a permit or an exemption from the province, except for five huntable species during the hunting season. When the F&F Law says ‘no suppression, unless a permit or exemption’, and the provinces appear to have no framework yet (the ‘Fauna Management Plans’) to treat requests for a permit or exemption; the ‘no, unless’ principle of the F&F Law has in fact turned into a ‘no’ principle.

A few months later, correspondence between the Minister of LNV and the HoR confirms what this article stated: “the Fauna Management Area’s are not set up yet, and because of that there are no Fauna Management Plans as well.” (*‘Stand van zaken uitvoering Flora- en faunawet’*, 25-9-2002). These (regional) FMP’s would make it possible to grant a general exemption to harm a protected specie, (which are, for example, all birds and nearly all mammals) that is causing damage on a regional scale. But since these coherent plans are not present yet, an owner/user that is confronted with animals dealing damage (individually) has to request a permit, before he is allowed to do something against it. The Minister adds however that every request can be handled individually, indeed causing much more work for the requester and the province, but not being impossible. However, Kistenkas & Kuindersma (2004) conclude in their report that “the dispensation and exemption regime of the F&F Law (article 75) is very complex, even for the experienced reader. Elaborating policy-rules were not yet ready at implementation and the lack of this has led to many obscurities” (see also section 4.1.1).

‘Policy Framework Fauna Management’

In a somewhat later stage (the second half of 2003), the Minister of LNV informs the HoR a few times about “the progress with regard to the motions and other promises concerning the execution of the Flora and Fauna Law and the status quo of the consultation with involved parties.” The first letter (of 20 August 2003) makes clear that the Minister discussed matters concerning fauna management in combination with the F&F Law (like hunting and damage-prevention) with representatives of involved parties. In the beginning these were the Dutch Hunter’s Association (KNJV) and BirdLife the Netherlands, later the provinces, the Dutch Agricultural Association (LTO) and two large NMO’s (SBB and NM) became involved as well. These meetings started in April 2003. The goal was to find and solve bottlenecks in fauna management caused by the F&F Law, with as main target the damage caused by geese.

In a letter of 1 September 2003, the Minister announces the ‘Policy framework fauna management’ (*‘Beleidskader faunabeheer’*), which consists of regulations on which all the

²⁴ Although the arboriculturist-sector is a sector a bit ‘out of the line’ of nature management, the date of publishing and the content made it interesting enough to enclose it, certainly when the low amount of articles about this subject is taken into account.

parties mentioned above agreed upon. This policy framework addresses most of the identified bottlenecks in fauna management, and is supported by all the parties; by that ensuring a wide support in the field. At 28 November 2003, the Minister of LNV informs the HoR that the 'Policy framework fauna management' will be implemented at 1 December 2003. Box 4.1 shows the content of it. This policy framework is the result of consultation with involved parties regarding the subject of fauna management. The Minister concludes that there "is agreement about the Policy Framework, and there is also a great commitment of the parties to the implementation of this policy framework. When necessary, involved parties will be asked for advice about left-over points."

Box 4.1; The content of the 'Policy Framework Fauna Management'

The Policy Framework focuses on wintering geese and widgeons. Being birds, they automatically fall under the heaviest protection regime of the Flora and Fauna Law. The great masses of geese wintering in the Netherlands, eating vast amounts of grass and crops from farmers' meadows, would, and did, cause much commotion among the farmers. The idea behind the Policy Framework is that geese and widgeons have the ability to learn to adapt their behaviour. Safe areas will be created for them, where they can winter undisturbed. In the other areas, these birds can be chased away, supported with even killing a few of them. Over time they will learn in which areas they are welcome, and which they are not. 80.000 hectares of suitable land will be appointed as 'forage area'. These areas will lie as much as possible in area's managed by nature management organisations, and the farmers in the forage areas will be compensated. The provinces will decide which areas become forage areas; a single area needs to be at least 500 hectare and lying on a suitable location (close to an overnight place).

Parallel to the subject of the Policy Framework, the HoR is informed about the progress with regard to a motion allowing nation-wide hunting for the fox, jackdaw and carrion crow ('vos, kauw en zwarte kraai'). These species deal damage to, for example, meadow-bird populations. The next chapter shows that the increased level of protection of these species was a major point of concern of an Alliance of meadow-bird protectors; they protested against it even before the F&F Law entered into force. According to all the parties that were responsible for the Policy Framework, the regulation of their populations should be carried out by dispensations in the framework of the Fauna Management Plans. However, to settle this case in legislation would last until the end of 2004.

Just like the forestry theme, it appears that nobody wanted this theme of damage prevention to become problematic. However, the commotion that the F&F Law caused, made LNV to set-up a committee with organisations from the field in it to tackle the problems. As such, it is a nice example of a formal network as discussed in chapter 2.

4.1.4; The perception of the field

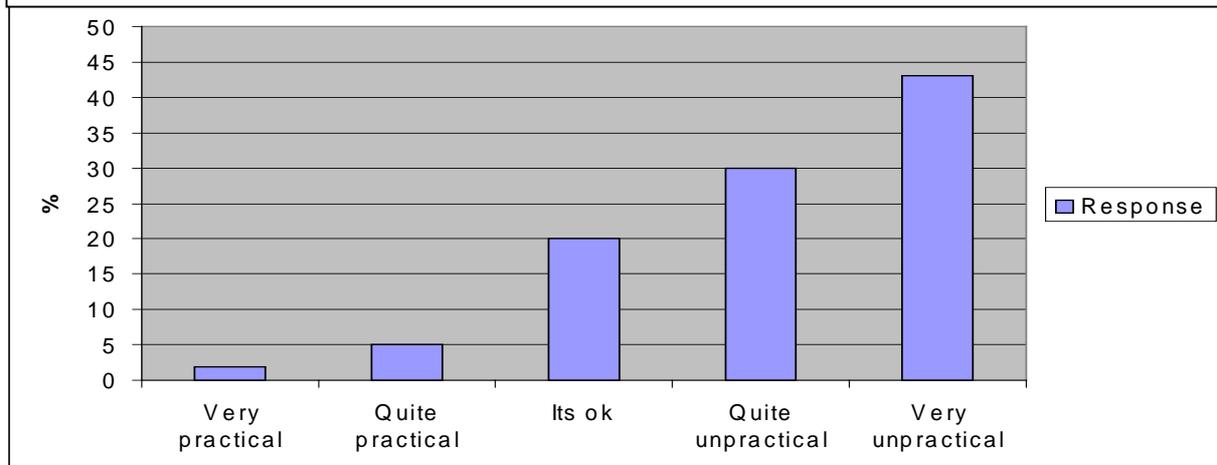
In the previous sections it is shown what professional journals, the Minister of LNV and a multitude of researchers and commentators have written about the F&F Law. But what was the perception of the professional field of nature management itself? Did the members perceive a mismatch?

A possible mismatch between the field and the F&F Law is clearest revealed in table 4.1. This table illustrates the respondents' perception

<i>Table 4.1; F&F Law improvement or deterioration legislative situation</i>	
<i>Improvement</i>	Frequency
Increased level of protection	8,5%
Increased protection against activities	7%
Concept of intrinsic value	4%
More clarity	3%
Combination of legislation	3%
Rest	5,5%
<i>Deterioration</i>	
Increased level of bureaucracy	15,5%
Unpractical/theoretical character	14%
Rules regarding hunting	10%
Lack of clarity	8,5%
Normal (nature) man. not taken in account enough	4%
Rest	17%

whether the F&F Law was an improvement or a deterioration of the legislative situation with regard to nature management. It appears that according to the respondents, the F&F Law has improved the legislative situation as well as deteriorated it. The increased protection of nature against human activities is by many respondents regarded as an improvement. On the other hand, the 'desk-made' character of the F&F Law is seen as the major reason for a perception that the legislative situation has deteriorated. This table shows that the goal, 'the idea', of the F&F Law is seen as a good one. Nature managers support the concept of intrinsic value and the legislative acknowledgement that nature is important. The translation of this idea into a practical applicable form appears to have failed, however. This is further illustrated in figure 4.1, which shows that a vast majority of the respondents consider the practicality of the F&F Law low.

Figure 4.1; Practicality of the F&F Law in 2002



This last figure makes clear that those who have to work with the F&F Law in practice regard this Law in general *unpractical*. It can be assumed that from the perspective of the field the practicality of the F&F Law is very important, perhaps even the most important characteristic of it. It is not needed to use more words for concluding that there certainly was a mismatch between these members of the professional field of nature management and the F&F Law with regard to the practical application of the F&F Law.

4.1.5; Conclusion

What can be concluded about the extent of a mismatch between the field and the F&F Law? Table 4.2 gives a short summary of the mismatches found in the previous sections.

Subject:	mismatch
Information and clarity	F&F Law obscure and had no practical translation.
Business	F&F Law needlessly hinders business activities because of a lack of information.
Forestry	Unintended heavy restrictions on forestry activities.
Damage prevention	Unintended heavy restrictions in preventing damage from wild animals.
Perception of the field	F&F Law unpractical, in general a deterioration of legislative situation.

In the first place, it can not be denied that there was a mismatch. The questionnaire, for example, showed a quite poor rating of the practicality of the F&F Law. That alone already indicates a mismatch. The practicality is further challenged by a multitude of researchers who describe the F&F Law (among other things) as 'impossible to follow literally', 'unworkable' or 'very complex'.

The questionnaire, as well as the commentaries, revealed that most of all the idea of the F&F Law is regarded as being an improvement for nature. Nature has gained importance

against other, sometimes threatening, interests. The response from the society shows however that this importance is sometimes a bit too high, which works counterproductive for everybody. The theoretical strictness of the Law is not indicated only by this response. Complaints about the bureaucratic and 'desk-made' design of the original idea are, altogether, heard the most. The two themes that appeared to be most eye striking stress the fact that a nice idea (for example: 'do not harm birds in any way') can turn out to cause very unpractical situations in practice. The fact that new policies were needed to mend the situation for these two themes shows that the mismatch between what the F&F Law had in mind and what the practice could handle, was serious.

One researcher gives an explanation for this situation. Woldendorp (2005) mentions the fact that the practical and financial consequences of the F&F Law did not play a role while drafting. Before this new specie protecting law, specie protection legislation was not obeyed or enforced, as a consequence this did not reveal any practical disadvantages of specie protection.

4.2: Involvement of the field

The origination of the F&F Law goes a few decades back. The aim of Research Question 2 is to reveal the level of involvement of the professional field of nature management in the shaping of the F&F Law in the period before it entered into force. Most information will have to be obtained from official reports about the F&F Law. In other sources, like professional journals of the nature management sector, no articles can be found about the F&F Law before it actually entered into force. Fortunately, some relevant organisations in the domain of nature management have written advisory reports during the process of shaping the F&F Law. These reports show what these organisations consider needing improvement, and what their concerns are. For those who have read the previous part about the mismatch between the field and the F&F Law some familiar subjects might pass by.

The second part of this chapter shows the response to the questionnaire with regard to questions about involvement of the respondent itself, his organisation and the whole sector of nature management.

4.2.1; Reports from relevant organisations

Before the Flora & Fauna Law entered into force at 1 April 2002, the Ministry of LNV did receive comments from the field about this Law. Some of these advises were asked for by the Ministry, some were sent from a feeling of concern of the sender. Relative to the impact the F&F Law had on nature management (according to the answer to Research Question 1), it is surprising to recover a fairly low amount of 'warnings' on beforehand. In libraries and on the Internet only four advises from outside LNV can be retrieved. These are from:

- the Nature Protection Counsel (1988)
- the Game Counsel (1988)
- BirdLife the Netherlands (1993)
- The Frisian Rural Association ('FPA') (2001)

To what each of these reports comes down, is discussed below.

4.2.2; The first draft of the F&F Law

Already in 1987 the first draft version of the Flora and Fauna Law was there. In its Explanatory Memorandum ('Memorie van Toelichting') is stated why 'The Hague' wanted this new law. In the previous decades a variety of laws concerning the protection of animal and plant species had been implemented and a number of international and European treaties had been signed. This had the result that "a central objective and a intertuned set of instruments generally lacks" (Memorie van Toelichting Voorontwerp F&F-Wet, 1987). Members of the HoR and some advising parties (the Nature Protection Counsel and the Game Counsel) complained about this situation; this began with the 'motion Beekmans', already in 1977. The Ministry of Agriculture and Fisheries²⁵ started to investigate the possibilities of an integration of the legislation about indigenous fauna, but also about indigenous flora and exotic flora and fauna. As a result of this investigation, the first draft of the F&F Law was ready in 1987, with as its goal to integrate (parts of) five different laws²⁶ and some international treaties and European Directives²⁷. The Minister concluded that "although these regulations have a wide variety of points of departure, they are all aimed at the regulation of human activities that might form a threat for the continued existence of

²⁵ The predecessor of the later Ministry of Agriculture, Nature and Food-Quality ('LNV')

²⁶ The Bird Law 1936 ('Vogelwet 1936'), the Hunting Law ('Jachtwet'), Chapter V of the Nature Protection Law (Hoofdstuk V van de 'Natuurbeschermingswet'), the Law threatened exotic animalspecies ('Wet bedreigde uitheemse diersoorten') and the Im- and export resolution threatened exotic animal and plant species ('In- en uitvoerbesluit bedreigde uitheemse dier- en plantensoorten').

²⁷ International treaty for the protection of birds; 1963 ('Internationaal verdrag tot bescherming van vogels'), Convention of Paris; 1950 ('Conventie van Parijs'), the Convention of Bonn; 1979 ('Overeenkomst inzake het behoud van trekkende diersoorten'), the Wetlands Convention (Ramsar-conventie); 1971 ('Overeenkomst inzake watergebieden van internationale betekenis, in het bijzonder als verblijfplaats voor watervogels'), Benelux treaty regarding the hunt and birdprotection; 1970 ('Benelux-overeenkomst op het gebied van de jacht en de vogelbescherming'), Bird Directive; 1979 ('richtlijn van de Raad van de Europese Gemeenschappen inzake het behoud van de Vogelstand'), Convention of Bern; 1979 ('de Overeenkomst inzake het behoud van wilde dieren en planten en hun natuurlijk milieu in Europa'), Convention of Washington (CITES-convention); 1973 ('de Overeenkomst inzake de internationale handel in bedreigde in het wild levende dier- en plantensoorten').

species.” (Memorie van Toelichting Voorontwerp F&F-Wet, 1987) Based on that, one law covering all aspects of the protection of animals and plants was ought to be possible.

4.2.3; Advises about the first draft

In literature, two advises can be found about this first draft version of the F&F Law. They come both from officially installed counsels, who were asked to deliver their opinion about the parts of the F&F Law where they are regarded experts about. These were the Nature Protection Counsel (‘Natuurbeschermingsraad’) that wrote the report *‘Flora- and Fauna Law; Advice about the first draft’* (1988) and the Game Counsel (‘Jachtraad’) that wrote the report *‘Advice concerning the first draft of the Flora and Fauna Law’* (1988). Both these reports, the first retrievable comments on the F&F Law, will be briefly discussed here. Not in detail, since both advises deal with a lot of different, detailed topics (the advice of the Nature Conservation Counsel, for example, altogether has 22 different points of comment).

‘Flora and Fauna Law; Advice about the first draft’, by the Nature Protection Counsel

In their advise, the Nature Protection Counsel pleads for an article which formulates a ‘general duty of care’, which means that everybody should maintain and take care of flora and fauna as best as possible. The counsel advises furthermore to simplify provisions for, among other things, hunting exams and –acts. The regulations concerning fauna damage prevention are regarded “very complicated, which works very confusing and will be very difficult to control in practice”. Comments are also stressed about the relation between protection of species and protection of habitats; the one cannot do without the other. Pointed is at the fact that the regulations concerning plover-egg picking are not really in line with the Bird Directive. At last the Counsel protests against the unacceptable shrinking of its own advisory tasks.

‘Advice concerning the first draft of the Flora and Fauna Law’, by the Game Counsel

The Game Counsel has the impression that it deals with a concentration of regulations rather than with a true integration. Just like the Nature Protection Counsel, this counsel pleads for a general ‘duty of care’-article. Furthermore, the counsel understands and supports the need for protection of nature, but it rejects agriculture in a position dependant on “exemptions, dispensations and licenses.” The counsel is also worried about the “societal support” and finds “little space for a part of those who have to deal with this law in practice.” The counsel pleads for as much input from the field [literally] while drafting and preparing further regulations. Regulations regarding hunting are “unnecessary complicated and refined”. The counsel adds that it foresees “big difficulties in the practice of damage-prevention” and that too much responsibility is given/held to people on the level of the field, who have not a proper overview.

From both advises of the Nature Protection Counsel and the Game Counsel it might become clear that is warned against a law that is too complicated and that has too many regulations. These reactions are concentrated at the hunting subject. Furthermore, both Counsels plead for a duty-of-care article in the law. The NPC warns for the very complicated regulations concerning faunal damage prevention. The GC shows concern about the societal support and the room to manoeuvre of some parts of nature management. The previous chapter showed that some of these warnings turned out to become reality when the F&F Law entered into force.

4.2.4; Advise about the next version

In 1993, another draft version of the F&F Law was released. Triggered by this, ‘BirdLife the Netherlands’ wrote an advice, at own initiative: *‘Towards a better Flora and Fauna Law’* (1993). From this advice it becomes clear that BirdLife considers this draft version (in theory) too soft. The organisation has quite some points of comment, from which the most important are:

- exemptions are too easy to get; the level of protection is too low; only if the whole specie is in danger an exemption to harm can *not* be given.
- weak and uneven connection between area protection and specie protection; there will be two different laws regarding nature protection, regarding area protection allows the F&F Law only to protect small (core)areas; for larger areas only the severe regime of the Nature Protection Law is possible. The more flexible regime of the F&F Law is also useful for larger areas, like meadow-bird areas.
- no 'duty of care'-principle.
- the law gives prerequisites when it is *possible* to protect a specie, not for the *duty* if they apply.
- no legal consequences from a Red List status of a specie; the F&F Law does state the duty to make Red Lists, but the protection of Red List species itself is not arranged; there are no norms or framework.
- tradition can be enough to allow harmful activities (such as plover-egg picking).
- no hard guarantee of searching for alternatives and preventive measures before granting an exemption.
- no norms to which delegations of the law (in AMvB's and Ministerial Regulations) should confirm are stated; thus protection is not fully arranged in the F&F Law itself.
- no advising tasks are given to the Nature Protection Counsel (in contrary to the Game Counsel).
- the F&F Law has different starting-points; it is uncertain whether it aims to protect animals and plants or species/populations: it is not clear what the aim really is.

Just like the NPC and the GC, BirdLife considers the principle of the duty-of-care important; for ethical reasons (no parts of nature are anymore rücksichtslos exploitable) and to serve as a safety net (if for some reason species lack specific protection while nevertheless needing it). For the rest, BirdLife considers the F&F Law too 'open'; subjects like compensation, Red List-consequences and delegation of responsibilities are not completely defined by legislation now. This will give way too much chances of harming nature unsustainable by those who have not the intention to avoid this. The mismatch between what really to protect, and this obscurity about how far the law will go in practice when 'filled in', might lead to confusion among those who have to work with it.

4.2.5; Advise about the final version

Before the actual entering into force of the final version of the F&F Law, people in the professional field of nature management might have known about its coming, and according to the questionnaire many of them did. If they knew about the content, they might have understood that this new F&F Law could cause crucial problems when it entered into force in the current version. In such case, some could have felt the need to try to focus attention to what they perceived to become problematic. One such reaction from the field, send to the Ministry of LNV, can be found in correspondence with the House of Representatives (www.minInv.nl). This reaction was send by the FPA; the Frisian Rural Alliance ('Friese Plattelandsalliantie i.o') and dates from Januar 2001. Apparently, the FPA has red the F&F Law and observed some bottlenecks. In a letter (see Appendix 6) they propose a few changes;

- to use a general exemption policy for the fox and corvine, since without rigid methods to keep their numbers low they predate far too much on meadow-birds
- to allow nation-wide egg-seeking, as it is *the* method to make people enthusiastic for (meadow)nature.
- take into account the intrinsic value of humans in nature protection. Lowering this well being may result in a careless or even hostile opinion regarding nature (so, do not regulate too strict).
- listen to the real experts in the domain of nature, and not only to the emotions of city-inhabitants

Therefore, the FPA proposes some changes in the F&F Law with regard to a few subjects; first of all the possibility to hunt fox and corvine around the year. In the new F&F Law these species will become protected species, which means that every time again it has to be proven that they inflict damage (and “proving something is almost impossible in nature”). When this is combined with the possibility of objection and appeal of opponents, this will in the end harm the vulnerable ground-breeders the most. Besides of this general exemption, the FPA proposes the allowance of picking of plover eggs, being a tradition.

The answer of the State-Secretary²⁸ can be understood as that she has no intentions to change the F&F Law in favour of these propositions. According to her it is not needed either, since the F&F Law will provide enough possibilities of dispensation to prevent major damage from fox and corvine. They could either be placed on a list of regional or national damage species (in the Fauna Management Plans), which means that also landusers²⁹ themselves are allowed to “carry out certain operations to prevent damage”. Besides of that it is also always possible to request a dispensation at the regional authorities. The picking of plover-eggs is regarded as the sole responsibility of the regional government (in this case the province of Friesland).

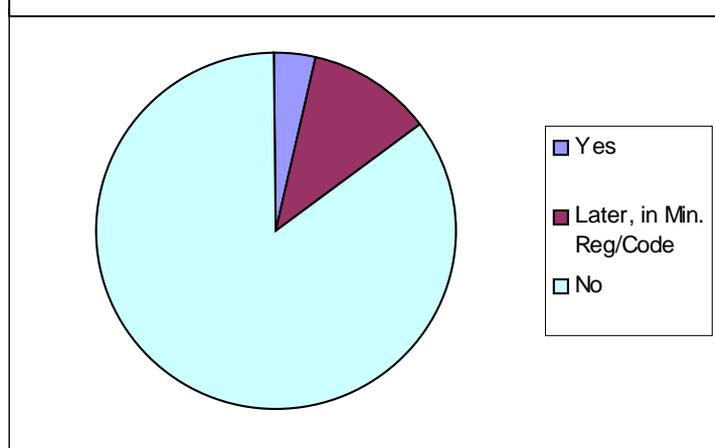
It is not that surprising that the FPA protested against the F&F Law. The subjects they protested against would interfere with some core-interests of the Alliance, and make some usual practices not possible anymore. The proposed adaptations would keep the future practical situation for these important subjects more or less like the current situation, which the FPA apparently judges as being preferable. The answer of the State-Secretary can be considered as a bit naive: at the time the F&F Law was implemented the Fauna Management Plans hadn't been made yet.

4.2.6; Involvement according to the field

This section discusses the knowledge of the professional field of nature management about its involvement in shaping the content of the F&F Law. Were the respondents or other members of the field involved? And to what level do the respondents rate this involvement and what do they know about *how* the field was involved?

Figure 4.2 illustrates the respondents' view about his/her own involvement. The figure shows that the vast majority of respondents was not involved personally. This majority consists not only of those who choose 'no', but also of the 'later' category. Although these respondents did become involved, they were only *after* the entering into force of the 'original' F&F Law of 2002. They participated in the Code of Conduct and Ministerial Regulations (for example the Policy Framework Fauna Management), mentioned in chapter 4.1. The few who do claim personal involvement in the F&F Law itself, appear to be involved only indirectly (for example, by supplying LNV with the results of inventories that were used to make the lists of protected species). As it appears, none of the respondents has personally, directly participated in the shaping of the content of the F&F Law. Considering the diversity of the respondents' functions, a widespread process of direct participation of members of the

Figure 4.2; Personal involvement in the F&F Law



²⁸ State-Secretary of the Ministry of LNV in 2001; G.H. Faber

²⁹ Otherwise the 'hunt-keepers' (the hunters who are responsible for fauna-regulation) are the only ones allowed to 'disturb'.

professional field of nature management should have included at least a few of them as well. If there have been any process of participation of the field, a large part of this field was not included.

When respondents them self are not included in any process of participation, they might know about others in their organisation who were. Figure 4.3 illustrates that for a quarter of the respondents this appeared to be the case, or these respondents *think* this is the case. The questionnaire shows that organisations that claim some involvement are: NM, SBB, KNJV and NOJG. The two large NMO's

and the NOJG have been involved at the level of their head-offices, by consultation. The KNJV has been lobbying to "relevant parties" since 1977. It should be noted that not every respondent is a 100% certain about his statement, considering for example an attached "(I think)". Nevertheless, it can not be denied that the professional field of nature management has been involved in a consultative structure. However, only a limited number of privileged organisations were involved, and only at the higher level.

Perhaps it is because of this limited number of involved organisations that only half of the amount of respondents thinks that the(ir) sector of nature management has been involved in shaping the content of the F&F Law, as figure 4.4 illustrates. It means that (the other) half of the amount of respondents is *not* able to confirm that the professional field of nature management has participated in shaping the content of the F&F Law. The participation of for example SBB and NM seems to have remained unknown for large parts of the field. This corresponds with the fact that in the period before the F&F Law entered into force, almost no accounts about the F&F

Law have been found. Chapter 4.1 indicated already that information about the F&F Law was scarce, and the fact that the involvement of the field was unknown to half of the field shows that this involvement was not much and not widespread through the professional field of nature management.

To find out what the fields' knowledge actually was about the coming of the F&F Law, table 4.3 is used. This table illustrates when and how the respondent heard about the F&F Law for the first time. It can be assumed that a more intense contact between LNV and the field during the preparation phase would have resulted in more respondents hearing about it in an earlier stage. Table 4.4 shows that information that the F&F Law was coming slowly spread through the field. However, only two respondents actually mention LNV as the source of this knowledge. The others heard it from their interest representation organisation (KNJV and AVIH for example), during education or by the press. The answers to this question show that, indeed, parts of this field stayed unaware of the F&F Law for a long time.

Figure 4.3; Involvement of the organisation in the F&F Law

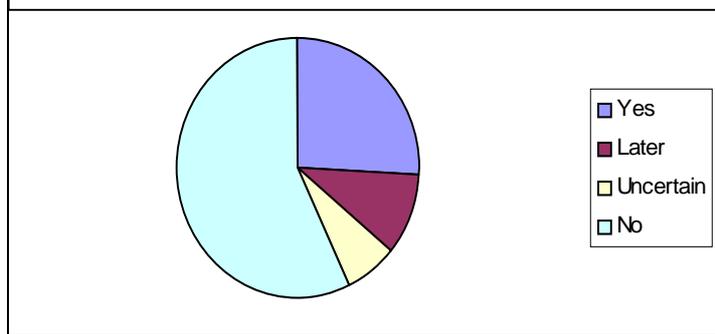


Figure 4.4; Involvement of the sector in the F&F Law

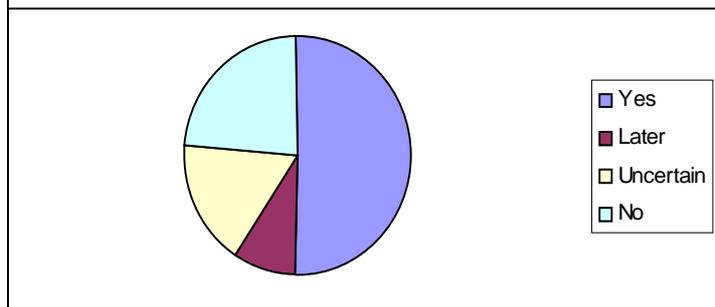


Table 4.3; The time respondents heard about the F&F Law for the first time

When	Frequency
Directly at the start	3%
In the preparation-phase	11%
Long ago	11%
In 'the nonagenarian years'	13,5%
1998	5,5%
1999	3%
2000	11%
2001	5,5%
2002	13,5%
Unknown/don't know	24%

4.2.7; Conclusion

Chapter 4.1 showed that for (parts of) the professional field of nature management the consequences of the F&F Law were not foreseen and that attention was paid to it only after it entered into force. But to what extent was the field involved before the entering into force of the F&F Law? In 1988, 1993 and 2001 relevant actors warn LNV for shortcomings in the F&F Law. Sometimes the Law is changed afterwards in favour of these advises (the duty-of-care principle, for example). However, it appears that some of the major bottlenecks revealed in the previous chapter (about a mismatch between the field and the F&F Law) had already been warned for in 1988 (with the theme of damage prevention from wild fauna as the best example). The respondents to the questionnaire showed that there has been involvement of the professional field of nature management. However, this involvement appeared to have existed only on a small scale and at the level of the head-offices of some of the larger nature management organisations.

All in all, there are only a few accounts found of involvement of the professional field of nature management. Many of the subjects for which are warned, reappear after the entry into force of the F&F Law. It can be concluded that the field has been involved to some extent, by reports and by participation, but this involvement has never been widespread and was not at the level of practical nature management. A large part of the professional field of nature management stayed unaware of the F&F Law for a long time and heard about it only indirectly.

Chapter 4.1 showed that on top of this, question marks can be placed at the results any involvement had. That is however a subject of a next chapter.

4.3: Networks around the F&F Law

Networks can be seen as the facilitators for influence. They translate power into influence by serving as a channel through which the (latent) power of the professional field of nature management can reach the place where decisions were made, in this case LNV. For active influence, some process of involvement is needed, for effective passive influence or anticipation, LNV needs to have at least a basic idea of what is wanted by those anticipated upon. Therefore, influence needs some kind of interaction; two separate worlds have no influence over each other. This research focuses on networks as carriers for interaction (and therefore influence). Two sorts of networks are distinguished; formal and informal ones. Together, they show both the 'above-ground' and the 'underground' amount and shape of relations between LNV and the field.

4.3.1: Informal Networks

What is an informal network? Chapter 2 showed that some characteristics of the informal network are the unrestricted access and fluent character. The chapter also showed that the informal network around the F&F Law can be found by analysing the flow of information about the F&F Law. In this research, the location of LNV in relation to the professional field of nature management is of particular interest. The share of contacts of LNV in the flow of information about the F&F Law, (i.e. how much was LNV asked for information about the F&F Law in relation to other organisations) shows to what extent LNV is present in the informal network. And this is an indicator for the 'closeness' (or distance) of LNV and the field. It can be assumed that the more closer the field and LNV are, the more interaction there was, and the more possibilities there have been to raise the awareness of LNV about the wishes of the field.

This is difficult or impossible to extract from literature to a reasonable extent, therefore only the questionnaire is used to discover the presence and the shape of an informal network. To do so, table 4.2 is used. This table illustrates with which organisations the respondent had the most contact about the F&F Law at the time it entered into force. Appendix 1 displays the full list of which table 4.2 is the summary. This table shows that LNV had a 'share' of 11,5% in the informal network around the F&F Law. As a single organisation, it is the highest score (though it should be noted that for example the regional authorities follow close with 11%). It means that the Ministry of LNV was involved in 11,5% of the total of informal contacts regarding the F&F Law.

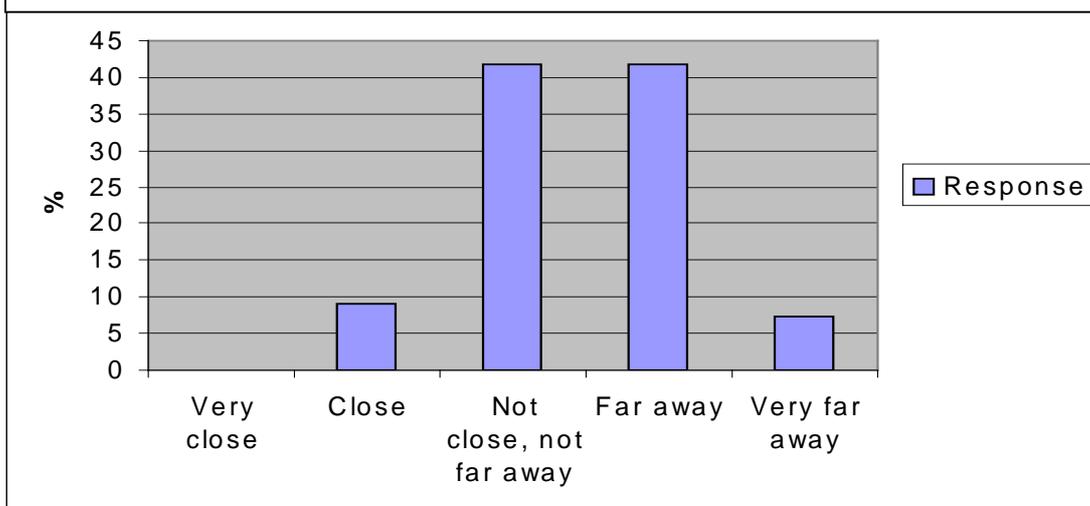
Is that much? What does this say about the position of LNV in the informal network? First of all it says that 88,5% of the informal contacts was NOT directly with the organisation that created the F&F Law. Those contacts were with other organisations, leaving LNV offside; at a distance. The perception of the respondents about this distance of LNV to their daily practice is illustrated in figure 4.5.

Table 4.4; Share of respondents' contacts regarding the F&F Law in 2002

Category	Share of contacts
Public authorities	21%
Interest Repr. Org.	19%
Nature Man. Org.	13%
LNV	11,5%
Vindictive Org.	11,5%
Intern/colleagues	10%
Rest	14%

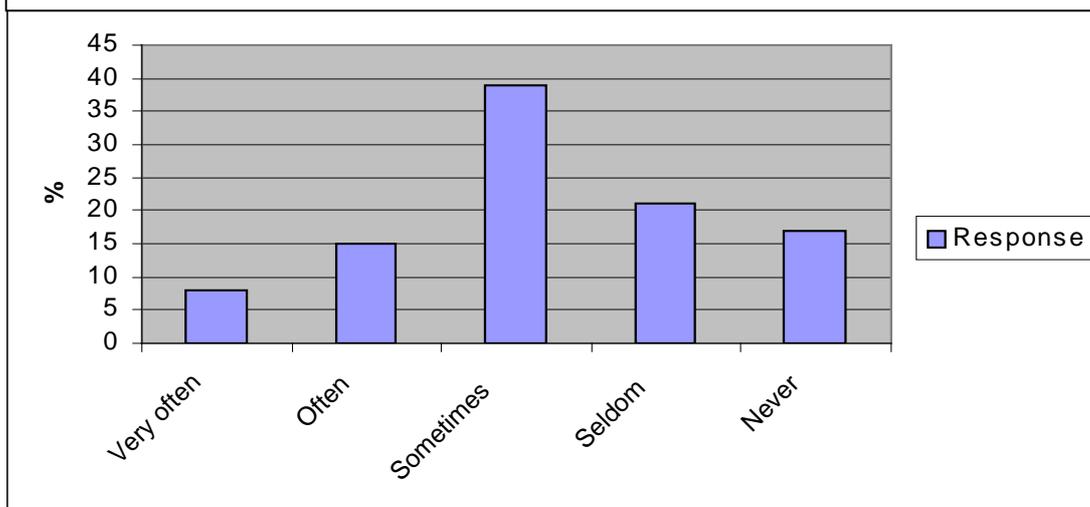
Public authorities: national, regional and local governments, DLG
Interest Representation Organisations: KNJV, NOJG, FPG, Bosschap, AVIH, SOVON
Nature Management Organisations: Bosgroepen, SBB, NM, de Landschappen
Vindictive Organisations: LASER, AID, Police, BOA-Organisations

Figure 4.5; LNV's distance from the daily practice



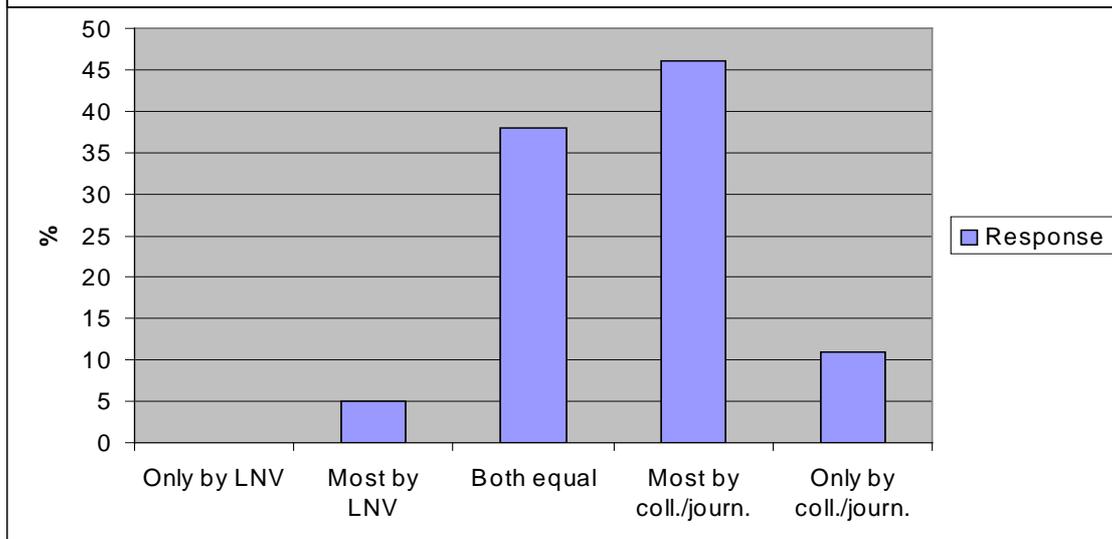
This figure shows that 9% of the respondents consider LNV close to their daily practice. The majority places LNV somewhere in 'not close and not very far away'. Thus, for most respondents, LNV is present in the network, but at a certain distance. This 'certain distance' is confirmed in figure 4.6, which illustrates the respondents' frequency of contact with LNV in 2002.

Figure 4.6; Frequency of contact with LNV



This figure shows a tendency towards the low frequency side; 23% of the respondents can be said to have regular contact with LNV, against 38% that seldom or never had contact. This figure indicates more than the previous figure that at least for a part of the field, LNV was not far away in the informal network. However, content of this contact should not be overestimated. Figure 4.7 illustrates what the field's sources were for information about the F&F Law. (where 'coll/journ.' stands for 'colleagues, professional journals, etc').

Figure 4.7; Sources of information



This figure shows that a large majority of information about the F&F Law came from colleagues, professional journals, etc., and not from LNV. This, despite the fact that it can be assumed that it was the task of LNV, more than anyone else, to provide the field with information about ‘their’ new law. Still, LNV as the creator of the F&F Law, had not a majority of direct information delivery at all.

4.3.2; Conclusion

Figure 3.1 showed that to find the presence and the extent of an informal network around the F&F Law, the flow of information about the F&F Law between organisations should be traced. How much LNV was present in this network would indicate the extent of informal contacts between the field and LNV. These informal contacts are necessary to make LNV aware of the wishes and demands of the field. If LNV was sufficient aware of them, they could be correctly anticipated upon without active involvement of the field (in a formal network). The previous section showed that the existence of an informal network between the professional field of nature management and LNV can not be denied. But to what extent was LNV present in this network? Table 4.5 summarises the previous findings of this chapter. The table shows that informal networks

Table 4.5; Summarised findings about the informal network
Share of contacts in informal network is 11,5%
LNV is present in the network, but at a certain distance
Frequency of contacts: 23% quite high, 38% quite low
Large majority of information about F&F Law did not come directly from LNV

between the field and LNV did exist; all the sources show the presence of LNV in contacts of the field. However, several factors indicate that this presence was not overwhelming. The majority of contacts present in an informal network about the F&F Law did not include LNV. However, the F&F Law was written by LNV, and therefore it could be assumed that LNV knew the best how it should be applied and interpreted. And still, the majority of the field does not choose for LNV as the main source of information. Regarding the F&F Law, LNV can be considered as a bit of an ‘outsider’ in the field of nature management. LNV did not have the central position in the informal network it (logically) could and should have had as creator of the F&F Law.

4.3.3: Formal Networks

What is a formal network? In chapter 2 it is explained that a formal network contains elements of the concept of the Policy Community: “Policy-making is segmented into committees: co-optation and consensus with a limited number of privileged policy participants”. The formal side of the range of participative networks thus focuses on official committees. An influential advisory or supervising committee with members of the field in it can be seen as the ‘ultimate’ form of a formal network³⁰. In chapter 3 it is explained that such a committee, if it was influential, should be mentioned in articles, correspondence with the HoR and, ultimately, by respondents to the questionnaire³¹. It is also possible that the formal structure was less strong and existed only of a kind of consultative structure. In such case it would be more difficult to find it in the secondary sources, but the respondents should be able to reveal this structure as well.

Those who have read chapter 4.2; about the involvement of the field, could have noticed that in that chapter no clearly present ‘ultimate’ advisory or supervising committees were found, during the period the F&F Law entered into force. As a sidenote: formal committees regarding the F&F Law do have existed, as is shown in chapter 4.1 and 4.2. The Nature Protection Counsel and the Game Counsel, as well as the working groups regarding the Policy Framework and Code of Conduct, can be regarded as formal networks. However, they existed either long before, or only after the entering into force of the F&F Law itself. Accounts of them were easily to find, so the fact that no accounts were found about such a formal network in the period before the F&F Law entered into force, shows that a strong formal network in the form of an advisory or supervising committee was not present. This is confirmed by table 4.6, which shows which organisations were regarded influential by the respondents. The detailed list of organisations is printed in Appendix 1; table 4.6 gives a short overview of it. The table shows that the answers to this question do not provide any indications for an influential committee of some kind. There is no separate ‘umbrella organisation’ recognised, representing, among others, the interests of the field. (conform de Bruijn, 1993).

Category	Response
Nature Protection Org.	29%
Interest Repr. Org.	26%
Public authorities/‘politics’	18%
Nature Man. Org.	15%
Science/Knowledge Man. Org	5%
Rest	7%

But what about a less strong version; a consultative structure of some kind? Again, in chapter 4.2 it is concluded that there has been consultation with the field. Head-offices of two large NMO’s (SBB and NM) and the NOJG appear to have given advice to LNV. Table 4.7 illustrates that it can not be denied that some form of participation has occurred. In the questionnaire, the answers presented in table 4.7 are linked to the answers presented in table 4.6 because their aim is to reveal in which way the organisations that were mentioned in table 4.6 exercised their influence. According to the respondents’ perception, influence has been exercised in a lot of different ways. It should be noted that the question behind this table (‘In which way did these organisations have influence?’) is quite speculative and that the answers are sometimes merely expectations than facts. This is confirmed by the fact that none of the respondents is able to specify further details about for example a formal structure. However, when the results in this table are linked to what is found about involvement in chapter 4.2, it can be concluded that a small formal structure of consultation has existed. But nothing more than that.

Ways	Response
Lobbying	19,5%
Consultation	11%
(Scientific) Advice	11%
Informal structures	9%
Formal structures	7%
European policies	3,5%
Public opinion	3,5%
Participation	3,5%
Other	32%
(other: for example by knowledge, by ‘a big mouth’, by case law, by species lists, etc. etc.)	

³⁰ See for an example of such a network Chapter 6 of ‘netwerkmanagement in het openbaar bestuur’, de Bruijn et al, 1993.

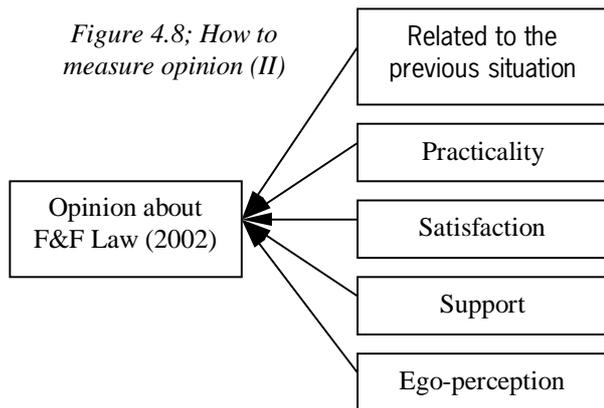
³¹ To confirm this; for example, the committee that was responsible for the Policy Framework was indeed found in all these sources.

4.3.4; Conclusion

Figure 3.1 showed that an 'ultimate' formal network around the F&F Law would be formed by an advisory or supervising committee about the F&F Law with members of the field in it. In such a committee, the field could have exercised active influence on the content of the F&F Law. The fact that no hard clues for a formal network in the years before the F&F Law entered into force are found, shows that a supervising or advisory committee as described in section 2.3.2 has not been present. What has been present though, is a weaker form, existing of a consultative structure in which at least SBB, NM and the NOJG have participated. This structure contained some elements of the Policy Community concept; only a few privileged participants from the field had (some) access.

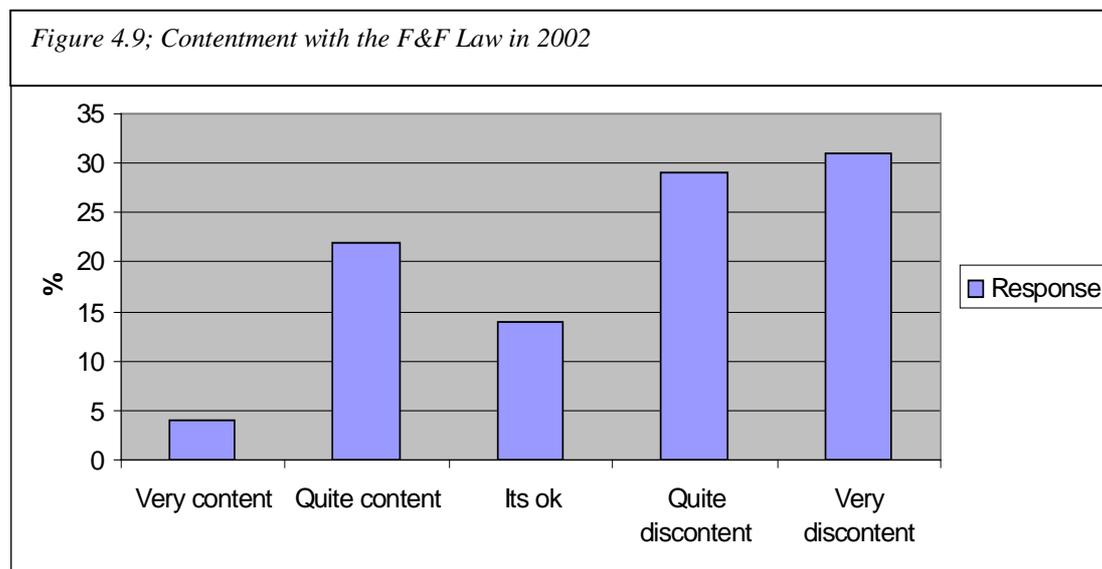
4.4: The opinion of the field

In Chapter 2, it was argued that the opinion of the field about the 2002-version of the F&F Law should be used as an additional indicator to estimate the amount of influence from the professional field of nature management. Figure 2.2 visualised this. Figure 3.2 in Chapter 3 (shown again here as figure 4.8) highlighted the factors to consider in determining the opinion. Each of these factors influences the way the opinion of the field should be understood, and, subsequently, the relationship between this opinion and influence. The sections below discuss the various factors of Figure 4.8, based on the respondents' answers to the questionnaire (the full version of the answers can be found in Appendix 1). These factors include the perception of the field about its own influence (ego-perception), the level of satisfaction, the opinion about the key-characteristic 'practicality', the amount of support that the F&F Law is given and the opinion whether the F&F meant an improvement in the legislative situation. The conclusion about the opinion and perceptions of the field regarding the F&F Law will provide more insight in the relationship between the field and the F&F Law, and by that make the final conclusion more robust.



4.4.1; 'Satisfaction'

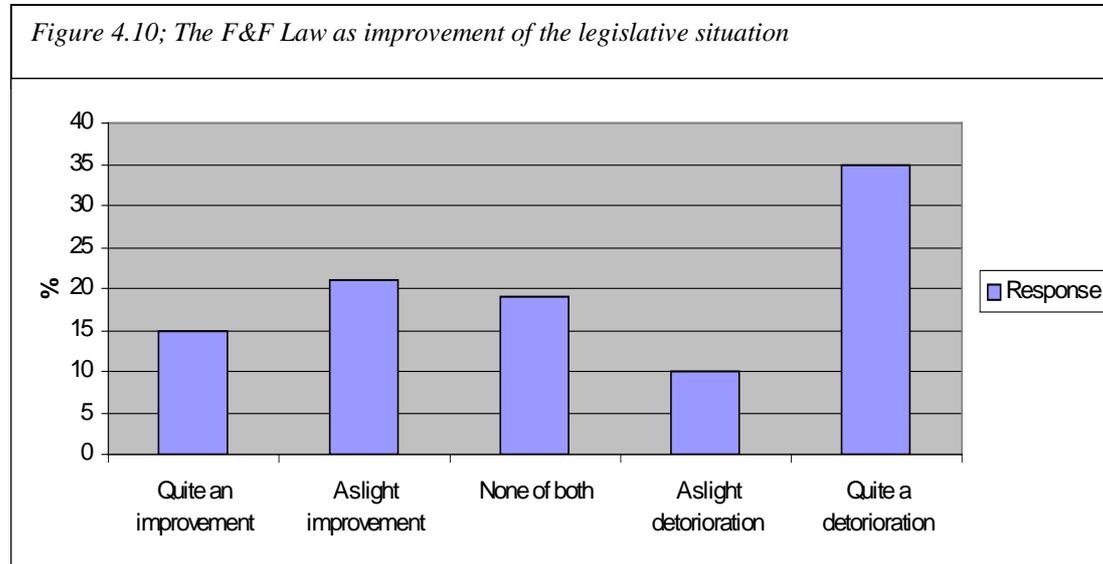
The factor of general (or overall) satisfaction is the first indicator to be considered when trying to estimate the opinion of the field. It shows how 'happy' the field was with this new law. It can be regarded as an 'average opinion'; i.e. the accumulated value of all kinds of factors that influence a persons' opinion. These factors will differ per respondent as to which are regarded more important and which are regarded less important, but this factor provides the overview. Figure 4.9 illustrates the division of satisfaction in the field.



This figure shows that a majority of 60% is to some extent not satisfied with the F&F Law, against 26% satisfied respondents, and 14% who remained neutral. Large parts of the field were not that happy with the new F&F Law, so apparently it did not suit their wishes very well.

4.4.2; 'Related to previous situation'

People can also be relatively satisfied with a situation. If a new situation is perceived as relatively better than what existed previously, then people can be satisfied (to some extent) with the improvement. This factor might therefore interfere with the general opinion of the field, discussed above. Figure 4.10 illustrates the opinion of the field whether the F&F Law meant an improvement or a deterioration of the legislative situation.

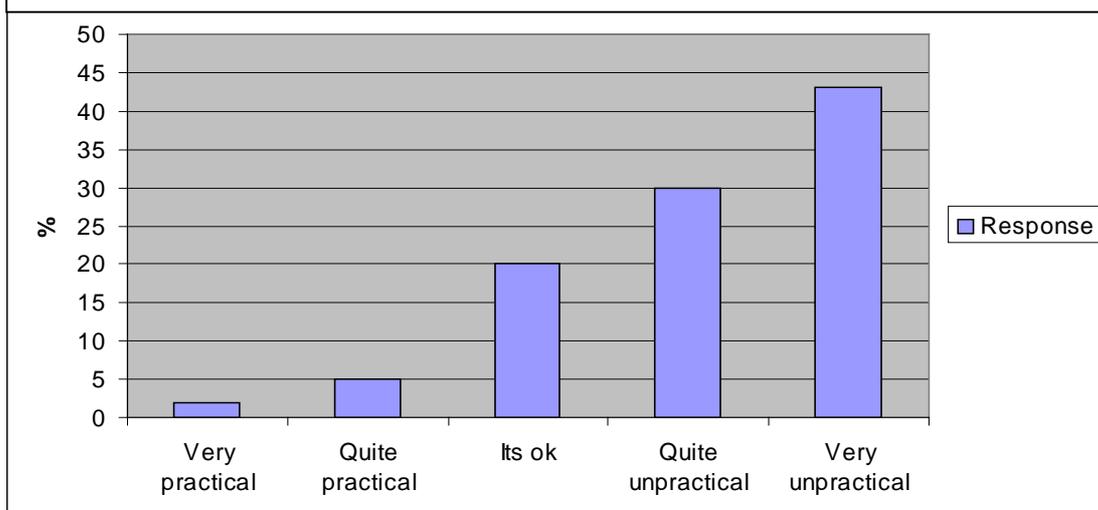


The figure shows that 36% of the respondents considered the F&F Law as an improvement to some extent and 45% considered the Law as a relative deterioration of the legislative situation. The remaining 19% were neutral. Note that the majority of the latter group voted for the 'heavy' option, which is not the case with the former group. The tendency is thus toward a perception of deterioration of the legislative situation. A majority considers the old legislative situation better than the new one. Therefore, this factor will have affected the opinion of the field about the new F&F Law in a negative way.

4.4.3; 'Practicality'

The level of practicality is (logically) a crucial characteristic for those who have to work with the F&F Law in practice. It is that aspect which the nature management sector is directly confronted with. It can be assumed that in negotiation, lobbying and advising most attention (and influence) of the field is aimed at making the F&F Law as practical applicable as possible. Figure 4.1 (shown again here as figure 4.11) illustrated the respondent's perception about the practicality of the F&F Law.

Figure 4.11; Practicality of the F&F-Law in 2002 (II)



The figure shows that a majority of the respondents considered the F&F Law unpractical to some extent at the moment it came into force (a total of 73% of responses fall under one of the two right-hand categories).

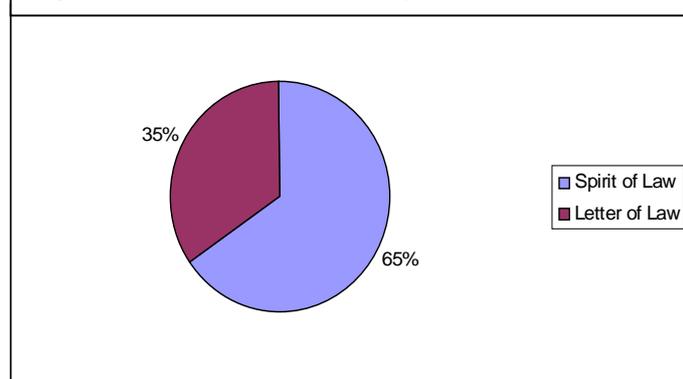
This confirms what was already indicated in chapter 1 and 4.1; the F&F Law and the daily practice did not match well. As for the opinion of the field, this factor shows where a major cause of dissatisfaction can be found, though the previous chapters probably already spoiled this surprise.

4.4.4; 'Support'

The level of support shows whether people actually 'believe' in the F&F Law. Do they keep to the F&F Law because they agree with its objectives and the way those are carried out, or do they keep to it only because they have to? It can be assumed that those who agree with the Law closely obey it, while the other category tends to adhere to it only to the extent that they remain out of trouble with the public, customers or vindictive organisations. The level of support can thus be seen as a proxy for the level of agreement and serves as an indicator for the opinion of the field. The more satisfied respondents are with the F&F Law, the higher the level of support will be, while completely dissatisfied respondents are unlikely to support the F&F Law out of free will.

Figure 4.12 illustrates whether the respondent acts according to the spirit or to the letter of the F&F Law, in other words: does he/she adhere to it as close as possible, or as much as necessary? The answers to this question show that 65% of the respondents act according to the spirit of the law. The other 35% acts only according to the letter of the F&F Law. It should be noted that this is a quite rough indicator; it does not touch on the difference between theory and practice.

Figure 4.12; How is the F&F Law followed?



For example, a respondent can very well agree with the general goal of the F&F Law (to protect biodiversity, with which most nature managers will agree) but can disagree with the strict theoretical way it is carried out. However, though this research is more interested in the opinion of the latter factors (the opinion about the pragmatism of the F&F Law), the former factor will have played a role in the answering of this question as well. It

might explain the indications for the relatively high level of support that can be deduced from the response.

What does this say about the opinion of the field regarding the F&F Law? The section above showed that practicality cannot be regarded as a strong point of the F&F Law. Section 4.1 showed that indeed the increased level of protection is regarded as the major improvement brought by the F&F Law. Increased bureaucracy and the unpractical/theoretical character are regarded as the major factors for legislative deterioration. Therefore, whilst the F&F-Law is supported in principle, its theoretical character is seen as a major detractor.

4.4.5: Ego-perception

The ego-perception, (the perception of having had one's own say) in the process of designing the F&F Law shows whether the respondents feel that they and their sector have been taken serious in the policy-design process. Was the nature management sector given the chance to inform the policy makers of their wishes? Realistically, most people won't expect that a new policy will completely suit their wishes. However, it is easier to accept a decision that, whilst not in one's favour, did place one's views as a subject of discussion but where ultimately other interests have, in this case, prevailed. On the contrary, when one feels that they are more or less ignored, accepting unfavourable policies becomes more difficult. Therefore, it can be assumed that the perception of having been taken serious affects the opinion of the respondent, especially when the new policy contains some unfavourable elements.

Figure 4.13 shows the respondents perception whether LNV has made sufficient use of the practical knowledge of people from the field of nature management in formulating the F&F Law. The figure illustrates that a large majority (89%) of the respondents voted 'no', against 11% who voted 'yes' as an answer to this question. It appeared to be difficult to explain the way LNV had made sufficient use of the practical knowledge by those who considered so.

The answers contained only some references to networks and the Code of Conduct afterwards. Some of those who considered LNV having not listened sufficiently to 'the practice' explained that the F&F Law was developed 'from behind a desk'. Such responses show a considerably pessimistic perception from the nature management sector about the extent to which they felt they 'had their own say'.

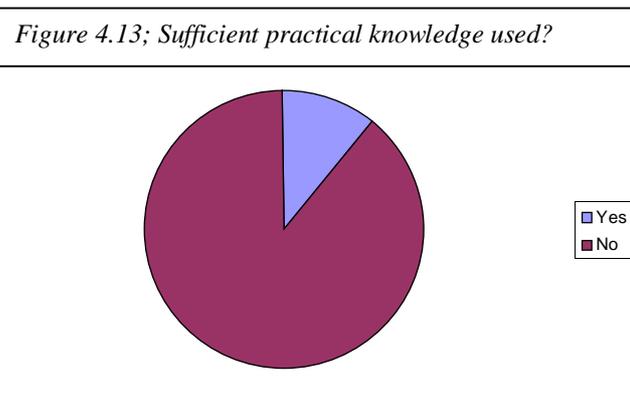
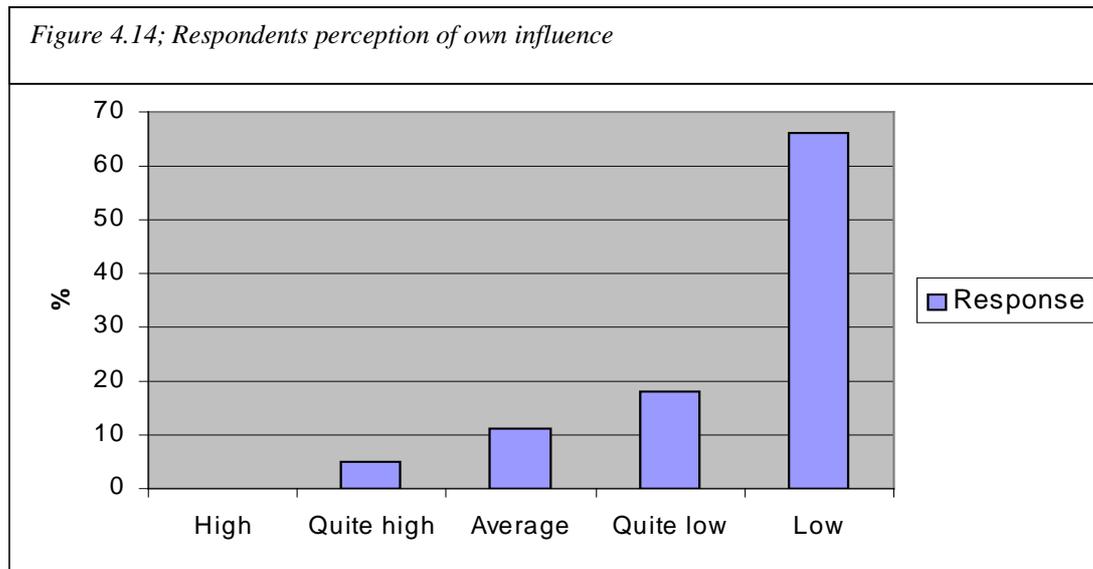
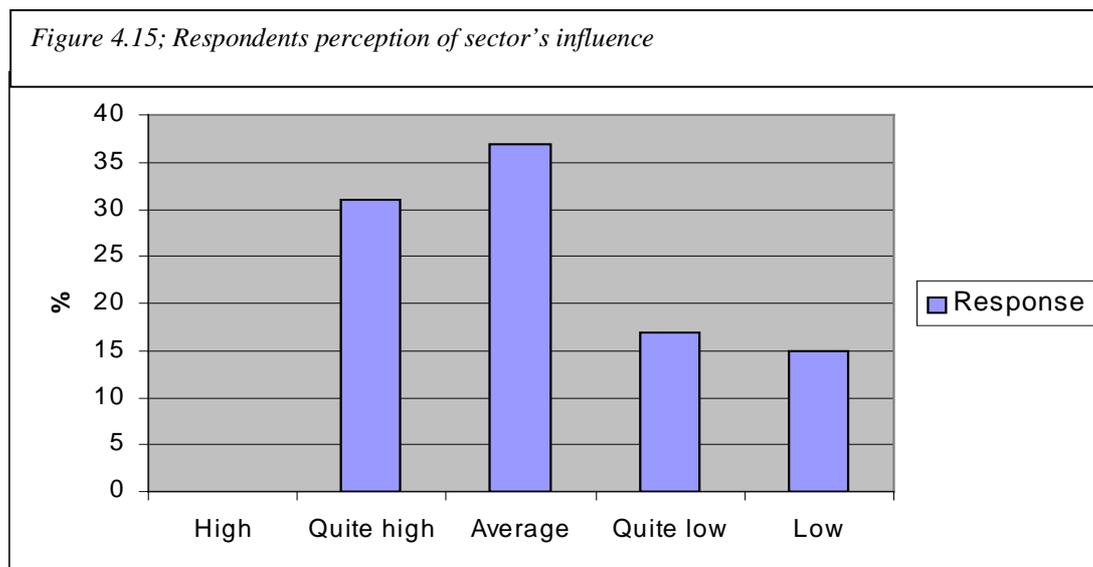


Figure 4.14 illustrates to what extent the respondent perceives that he/she has had influence on the content of the F&F Law.



This figure shows that most respondents do not think they had much influence on their own. However, a lot of respondents consider their sector of nature management to have had more influence as figure 4.15 illustrates.



This figure shows an almost equal division between those who consider their sector to have quite a lot of influence and those who consider the opposite. Therefore, there is a fair number of respondents who believe the level of influence was average or even quite high yet still holds the opinion that they were not sufficiently listened to (something which only 11% thinks according to figure 4.13). What does this say about the opinion of the field with regard to the ego-perception?

As it appears, a considerable part of the field thinks that although their sector, the field, had influence, there was not sufficiently made use of their practical knowledge. The latter part is confirmed by the bad rating of the practicality of the F&F Law, showed in a previous section. However, the low level of practicality seems to have occurred *despite* a reasonable extent of (perceived) influence. It points at the fact that the field considers that influence of other factors like 'Europe' or the sector of nature protection has prevailed in numerous instances.

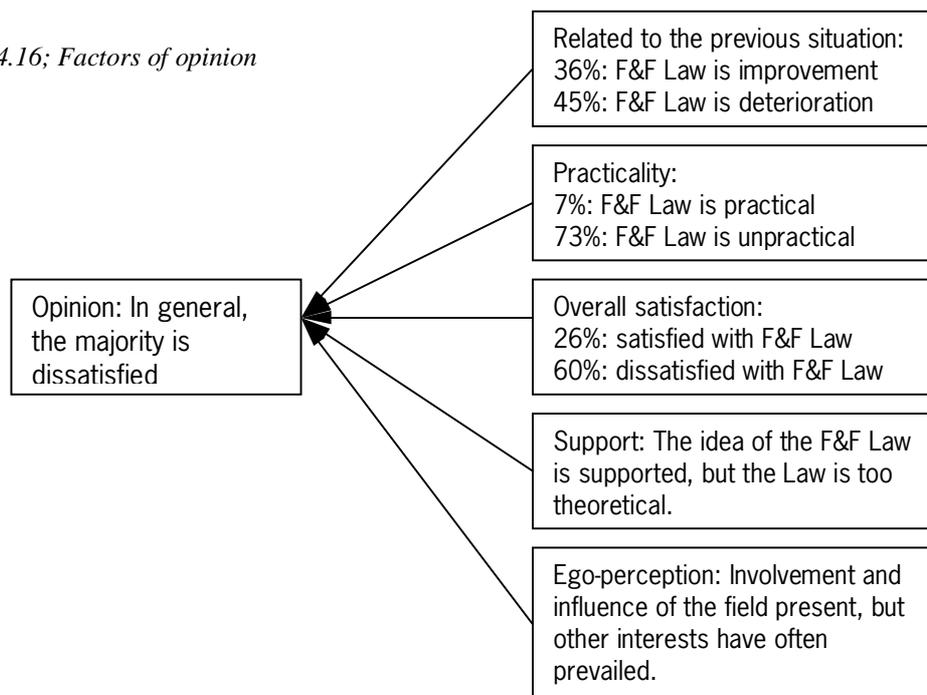
Indeed, table 4.6 in section 4.3.3 show large proportions of thought influence from these two factors. 29% of the respondents regard 'nature protection organisations' to have been the most influential on the content of the F&F Law, and 18% of them places 'politics' (including the HoR and 'Europe') in this position. And here, only 15% of the respondents regarded 'nature management organisations' the most influential. This shows again that though the professional field of nature management is perceived to have exercised a certain amount of influence, others had more influence.

4.4.6; Conclusion

What is the opinion of the field about the F&F Law? Constitutes the F&F Law an improvement, is it practical and worth to support, what is the opinion about the own influence of the field? Is the professional field of nature management satisfied with the F&F Law?

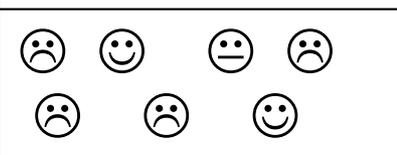
The factor of satisfaction showed a 26% satisfied – 60% dissatisfied ratio. Relatively, the 'dissatisfied' group is twice as large as the 'satisfied' group. The other factors differ in the division of a positive or a negative opinion. Some are more extreme divided ('Practicality'), some are less extreme ('Related to the previous situation') and some are not exactly known but show the same inclination towards a rather negative opinion ('Support' and 'Ego-perception'). Figure 4.16 illustrates what happens when the conclusion about each factor is implemented in figure 4.8.

Figure 4.16; Factors of opinion



The figure shows that all these factors point in the general direction of an opinion of dissatisfaction. When this 'majority' is to be quantified, the 26% - 60% division can serve as a basis, illustrating that one group is more or less twice as big as the other group. It does however NOT show an absolute $\frac{1}{3}$ - $\frac{2}{3}$ division of satisfaction – dissatisfaction in the response, because there is also a neutral group (the remaining 14% in this case). This division shows *only* that (in general) for every satisfied respondent with a positive opinion, there were two dissatisfied respondents with a negative opinion: nothing more, nothing less. To visualise this, figure 4.17 is added, only as an example.

Figure 4.17; Representation of the opinion of the field about the F&F Law



Chapter 5; Conclusion

This chapter provides the final answer to the question about the amount of influence from the professional field of the nature management sector on the content of the Flora and Fauna Law. Therefore, it also serves as the conclusion of this research. By analysing the extent of the mismatch between the field (practice) and the F&F Law, the level of involvement of the field in creating the F&F Law and the size and shape of networks around the F&F Law, a statement can be made about the level of influence the field has exercised. Factors that provide insight in the opinion of the field with respect to the F&F Law serve as a check for the conclusion about the level of influence based on the mismatch-involvement-networks route. When they are in line with each other, does this strengthen the statement about the amount of influence.

5.1; The amount of influence

It cannot be denied that a mismatch emerged between the professional field of nature management and the F&F Law. Chapter 4.1 concluded: "The questionnaire, for example, showed a quite poor rating of the practicality of the F&F Law. That alone already indicates a mismatch. The practicality is further challenged by a multitude of researchers and commentators who describe the F&F Law (among other things) as 'impossible to follow literally', 'unworkable' or 'very complex'."

When such sources admit that the F&F Law is almost impossible to follow literally, that can be considered as quite a mismatch. Because what can one do when it is just not possible to adhere to a law in practice? In such cases, many people will endeavour to find their own way of not violating the law (too much) and yet still maintain the freedom to be able to do what they need to do. However, having people follow a law in a way that each of them thinks is best effectively turns a law into a set of guidelines. Control by vindictive organisations is one possible solution, but it is near impossible to fully 'control' nature management through vindication only.

The answer to research question 1 also showed that the mismatch between the practice and the theory of the F&F Law was visualised in the theme of harvesting wood in summer. These harvests became nearly impossible. A translation of some core-principles of the F&F Law was needed to be able to continue with activities that had already been carried out for a long time and which, as it appeared, nobody really wanted to hinder. A Code of Conduct had to show that nature managers have no intention to harm nature. The theme relating to damage prevention from wild animals again illustrated a mismatch. This was clearly described in a professional journal, which described the situation as being ruled by a 'no-principle', a situation not intended by anyone. Because of the strict rules about what was still permitted in nature, the F&F Law caused tensions between different groups working with or within the 'green sphere'. The Minister of LNV himself also considered that the F&F Law contained some extraordinary shortcomings. Chapter 4.1 concluded: "Complaints about the bureaucratic and 'desk-made' design of the original idea are, altogether, heard the most." Taking this all into account, the mismatch between the field and the F&F Law at the time of its entry into force can be considered as being 'serious'.

In Chapter 4.2, the conclusion about the involvement of the field in the decision-making process was: "All in all, there are few hard traces of involvement of the professional field of nature management to be found. The field has been involved to some extent; it is however a small extent." In 15 years, LNV has received four official reports with comments and suggestions for improvement of the F&F Law. The field of nature management itself is divided on whether they were or were not involved. This uncertainty, taken together with the few traces of involvement found in secondary sources, led to the conclusion: "that the field has been involved to some extent, by reports and by participation, but this involvement has never been widespread and was not at the level of practical nature management. A large part of the professional field of nature management stayed unaware of the F&F Law for a long time and heard about it only indirectly."

In the informal network around the F&F Law, LNV is present with a fair share of contacts: as single organisation, LNV was asked the most for information about the F&F Law, compared to other organisations. One out of every nine requests for information was directed to LNV. It is however not much more than some other organisations; LNV is certainly not dominant present in the informal network. Chapter 4.3 concluded: "And still, the majority of the field does not choose for LNV as the main source of information. It makes LNV a bit of an 'outsider' in the field, or the field a bit of an outsider at LNV. LNV did not have the central position in the informal network it (logically) could and should have had as creator of the F&F Law."

This is reinforced by the evidence that exists about formal networks; an influential formal network has not been detected. After the implementation there were official committees, responsible for the Code of Conduct and the Policy Framework, but such committees were not found at the time of writing the F&F Law itself. Only at the time of the first draft versions of the F&F Law (around 1988), were there formal networks (the Nature Protection Counsel and Game Counsel). The questionnaire did indicate official contact with LNV arising from the field (with for example the KNJV, SBB and NM), but there is no evidence that this contact had a supervising task of some kind. Chapter 4.3 concludes that, "The fact that there are no hard clues for a formal network in the years before the F&F Law entered into force shows that a supervising or advisory committee as described in section 2.3.2 has not been present. What has been present though is a weaker form, probably existing of a consultative structure in which at least SBB, NM and the NOJG have participated."

The opinion of the field shows that the process of participation and anticipation of the field resulted in the fact that 26% of the respondents to the questionnaire were, to some extent, satisfied with the F&F Law. Twice as much respondents (60%) were not satisfied. The amount of effective influence of the field is perceived to be not very high as well. The conclusion regarding the fields' opinion about the own level of influence stated "(...) though the professional field of nature management is perceived to have exercised a certain amount of influence, others had more influence."

Chapter 1 ended with the Research Focus:

"To what extent has been made use of the available professional knowledge and experience of the nature management sector in designing the F&F Law?"

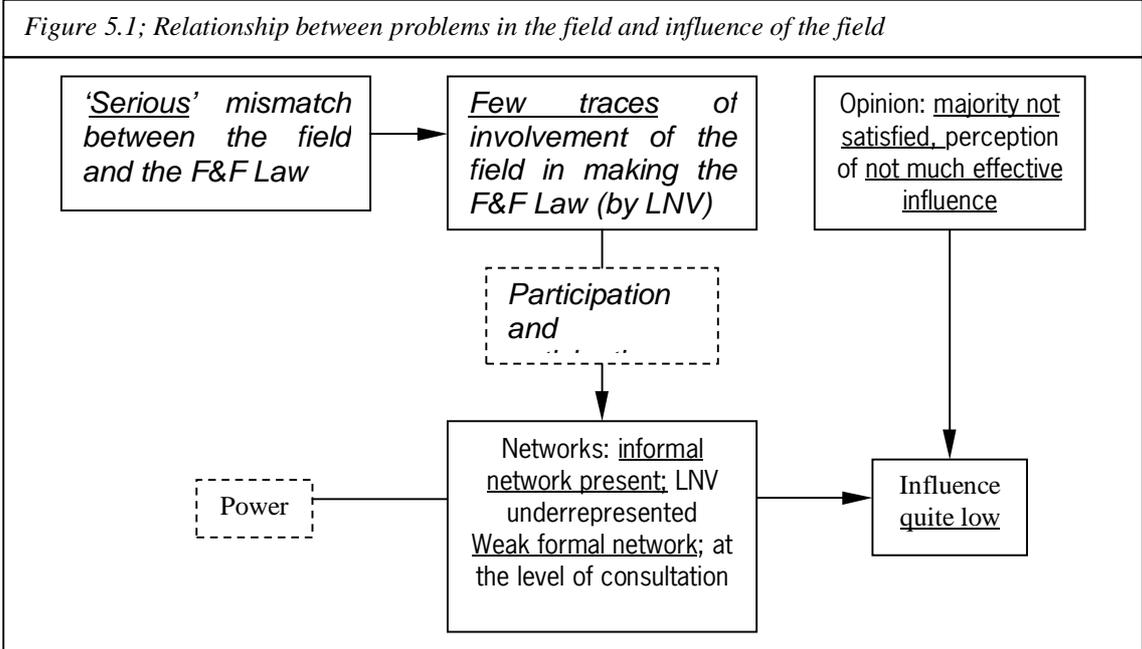
This question was translated into a matter of the amount of influence of the professional field of nature management. This research showed a serious mismatch between practice and theory. The practicality of the F&F Law was low, and throughout the field a number of serious problems arose. If participation enhances pragmatism, as various researchers agreed upon, this serious mismatch indicates a low amount of participation. Involvement of the field proved indeed to be not overwhelming. Yes, there was involvement, but the few traces of it illustrated that involvement was only a high organisational level, and certainly not widespread through the professional field of nature management. This is reflected in the networks. Because both types of networks were present, but certainly not overwhelming as well. The analysis of the informal network showed that LNV was present in it, but quite underrepresented when related to the crucial role it played in creating the F&F Law. This network has provided some possibilities for interaction, and they have been used to some extent, but was it sufficient to enable LNV to anticipate (correctly) on the wishes and demands of the field?

The same question about participation can be posed; to what extent has a formal network enabled the field to participate in the decision-making about the content of the F&F Law? The research showed that there was no formal advisory or supervising committee, and only a weak structure of consultation. Participation was not widespread either.

Before answering these questions about to what amount of influence these networks have led, the opinion of the field is compared with these findings. This opinion strengthens the image of a serious mismatch between the F&F Law and the professional field of nature management; a majority is not happy with the F&F Law.

Taken together; there was a serious mismatch, there were few traces of involvement, there was a weak formal network and an informal network in which LNV was underrepresented. The field was not happy and perceived that other interests had more influence. Therefore, it can be concluded that little use was made of the available professional knowledge and experience of the nature management sector in designing the F&F Law, and, subsequently, the influence of the field can be considered 'quite low'.

Figure 5.1 (see below) is based on figure 2.2 at the end of Chapter 2, which formed the basis for the research questions. Figure 5.1 illustrates the results from these research questions and thus empirically 'fills in' the boxes.



Chapter 6; Comments

Though the previous parts of this research report had the aim to present a set-up for a feasible research and a logical conclusion with regard to how much influence the field had on the Flora and Fauna Law, some comments can be made about this report. The way some theoretical concepts have been translated carried some flaws in it. Besides of that, some other subjects deserve a comment as well.

6.1; Comments on the theoretical framework

To understand the comments made about the theoretical framework that was used to structure the research, this framework is shortly repeated here first, where the focus will be on the concept of networks.

Chapter 2 started with linking the concept of influence (the main concept of interest) to the concept of power. It is stated that although it is not necessary to have power in order to exercise passive influence, power is needed to be able to exercise active influence.

However, both processes of influence require interaction. In a process of passive influence, when wishes and demands of a relevant stakeholder are anticipated upon by the decision-maker, interaction provides the knowledge about the actual demands and wishes of those anticipated upon. Here, the research already touched the concept of networks. Networks of (informal) contacts constitute the channel of communication by which wishes and perceptions are spread from one party to the other. Only when these networks are present and function properly, it is possible to have correct anticipation, and by that reliable passive influence.

Besides passive influence, there is active influence. In this report, active influence was linked to the concept of participation, which is assumed to be the most accepted and used form of exercising active influence in the Netherlands. Besides of this, participation is seen as a way of increasing the pragmatism of legislation. It is needless to say that interaction is an essential part for a reliable process of exercising active influence. The report stated that interaction is always between individuals, which are connected to each other in a network-like way. Networks as channels of communication were divided in two types: formal and informal networks. The formal networks (usually in the form of a committee of some kind) are purposely created with as goal to facilitate group-wise interaction, which enables to steer in situations of diverging interests and mutual interdependency. The creation of the F&F Law was seen as such a situation where different parties have different interests, but are dependent on each other for a good result.

Next to formal networks, informal network (or social network) can be recognised. An informal network is constituted by the personal network of contacts that somebody has. On the professional level, this network of contacts is also able to communicate demands and wishes to relevant parties, without an active involvement in the decision-making process. Therefore, networks can be seen as the link between power and influence. Networks enable power to be translated into influence, by facilitating the different possibilities of interaction. And therefore, this research focused on the search for networks. Literature about networks showed that a 'visible' manifestation of a formal network comprises some kind of supervising or advising committee, or at least some structure of consultation. For informal networks, the literature showed that these are far less visible, because of their private, unofficial character. However, their shape and structure regarding a certain subject can be found by tracing the flow of information about that subject (which was, in this case, the F&F Law).

It was not only by researching the existence and shape of networks that this research tried to estimate the amount of influence from the field. Because networks show only the *possibility* to exercise influence. Therefore, based on literature, (i.e. Appelstrand, 2002) it was assumed that the more the field had been involved in the creating of the F&F Law, the more pragmatic the F&F Law would be. Indications for the involvement of the field and the extent of a mismatch between the F&F Law and the field were also used as indicators for the amount of interaction (through networks) between the field and LNV. The opinion of the field about the F&F Law served as another indicator for the effective amount of influence.

6.1.1; Comment about the added value of the concept of networks

Having read the above, one might ask now why the concept of networks was included. Because, as stated above, their presence only shows the *possibility* that the field could have exercised influence. Literature indicated that the extent of a mismatch will show the pragmatism of the F&F Law, which indicates the amount of influence from the field as well (the more influence; the more pragmatism; and the smaller the mismatch).

First of all; including networks made the conclusions more robust. It showed the larger picture of cause and effects. Furthermore, by including the concept of networks, this research report can serve as an example of how to apply this concept of networks in research after influence. There is a lot of research after how to encart detailed networks, to draw a map in which it is possible to show who is linked with who and who has influence over who (see for example Chan, 2006). There is also a lot of research after interaction within groups of interdependent stakeholders with diverging goals and means (see for example De Bruijn et al, 1993).

This report showed another approach. In this report it is not aimed for a detailed account of a network. It was also not the aim to research group-behaviour of different interdependent stakeholders. Based on that kind of researches, this research gives first of all an empirical example of an approach to discover the presence and shape of the networks around a certain subject or theme. But the networks themselves are not the final point of interest of this research, they are merely regarded as a necessary condition for influence. To what result regarding influence and practical outcome the presence and shape of networks leads, is one of the things this research wanted to help to investigate.

Furthermore, this research illustrated a possible way of how to place one specific actor (LNV) in the networks of a large stakeholder (the sector of nature management) about a certain subject (the F&F Law). Based on that, it showed what the consequences of the location of this actor might be regarding influence of this stakeholder.

6.1.2; Comment on informal networks

The methodology used to encart the shape of the informal network yielded a horizontal result. The focus was at the informal network about the F&F Law *around April 2002*. But of course, this network existed also before 2002, a fact which is more or less ignored by this research now. Of course, the informal network of 2002 can be seen as a result of the processes in the previous years. And, as it was also mentioned in the report itself, encarting an informal network over time would be too labour-intensive. However, the extent and shape of the informal networks between LNV and the professional field of nature management in the years before 2002 remains a bit of a blind spot now.

6.1.3; Comment on formal networks

It is inherent to the process of researching(/learning) that you discover that what looked nice on first sight, might not be that well applied in the reality.

One of these things encountered was the fact that no direct question about a supervising or advising committee was added to the questionnaire. In the secondary sources that were analysed before making the questionnaire were no indications for such a committee found, and of course contained the questionnaire questions about whom had influence. However, the questionnaire reached all kinds of members of the professional field of nature management, and a clear “no, there was no advising or supervising committee” would have made the conclusion just that bit more convincing.

6.1.4; Comment on lobbying

In the search after networks, this research does not pay specific attention to the notion of lobbying. This is partly due to the method that the questionnaire used to search for networks: the focus was either on the flow of information and the distance between the field and LNV, or for advising or supervising committees. The search for participation was aimed at structures which were purposely created and which had, because of that, a two-way interaction between LNV and the field. However, the questionnaire did not ignore it either, for

example, it revealed that the KNJV has been lobbying since 1977. It was also the opinion of the respondents that lobbying has contributed in influencing LNV (see table 4.7). However, according to the respondents, most lobbying was done by other actors (nature protection). This is confirmed by the secondary sources that rarely mentioned the method, or much other efforts of the field to influence the content of the F&F Law before it came into force.

6.2; Comment on the methods

The research used a questionnaire (send to members of the field), as its primary source of data. The set of data was supplemented with secondary sources of literature, professional journals and correspondence with the HoR.

Using a questionnaire is opting for breadth rather than for depth. For this research, it was considered important to cover a broad plane of nature management. Depth, in the form of interviews, had to be sacrificed for that. Interviews with key-informants in the sector of nature management would certainly have yielded very interesting and relevant information about the influence of the field. Together with interviews of people from LNV, it would have given the opportunity to display a more accurate and in-depth picture of the situation around 2002. However, it should be noted that, given time and resources, an approach of using key-informants would have deprived this research from the necessary breadth to discover the proper key-informants. For *this* research, an approach of using key-informants would have carried a great risk of selecting the wrong key-informants.

6.2.1; Comment on the set of data

In this research, all reactions to the questionnaire were treated equal and were regarded to represent one, more or less uniform sector. The professional field of nature management might however not be that uniform as supposed. If it is the case that there are two or three or more groups of nature managers, each with a different relationship with LNV, this will have consequences for the analysis of the responses. In the case of more 'factions' of nature managers, the responses to the questionnaire show some kind of an average position of these different groups now. The actual relationship between one such a group and LNV and the F&F Law will tend to be more extreme to one side or the other than is concluded in the conclusion and analyses now.

6.3; Other comments

Besides comments about the theory and the methods that are used, some other general comments can be made. For example about a next research or a about what could best be improved in the F&F Law, according to the field.

6.3.1; Comment about the language

This report is written in English, because it is the current scientific language. However, because the topic is Dutch and the audience probably as well, writing the report in English might make the threshold to read it higher for some. And it appeared that writing in English putted an extra strain on the research(er) as well. The advantage of writing in English is that also foreigners can read this empirical study after the effects of networks on influence. However, recognising the fact that foreigners won't have any feeling with, for example, the F&F Law of Dutch nature management, makes that one could wonder if it was worth the extra effort.

6.3.2; Comment about a next research

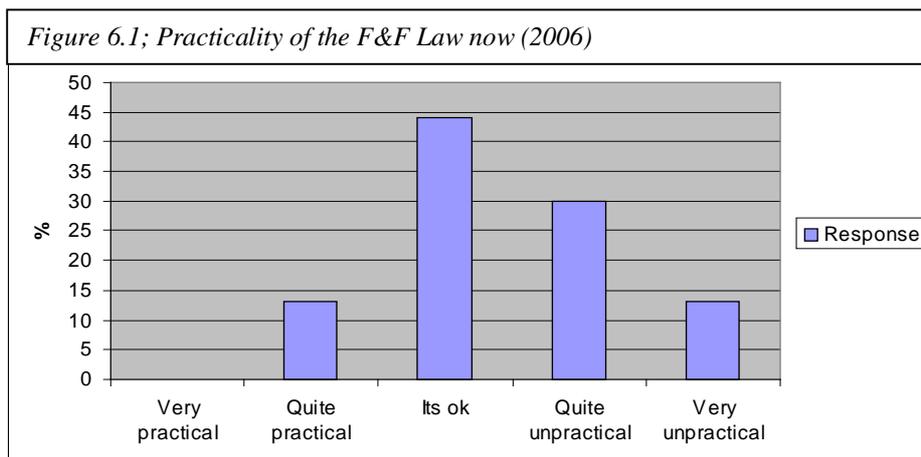
Section 6.2 mentioned that for this research, a choice had to be made at the expense of depth in the form of, for example, interviews with key-informants. One of the reasons for this choice was that there was a lack of information present to base a reliable set of key-informants on. A next research might however make use of this research, and therefore select people from for example the higher levels of NM, SBB, KNJV and the provinces.

In addition; the perspective of LNV is relevant as well in further research. What is the perception of the influence of the professional field of nature management in the offices of

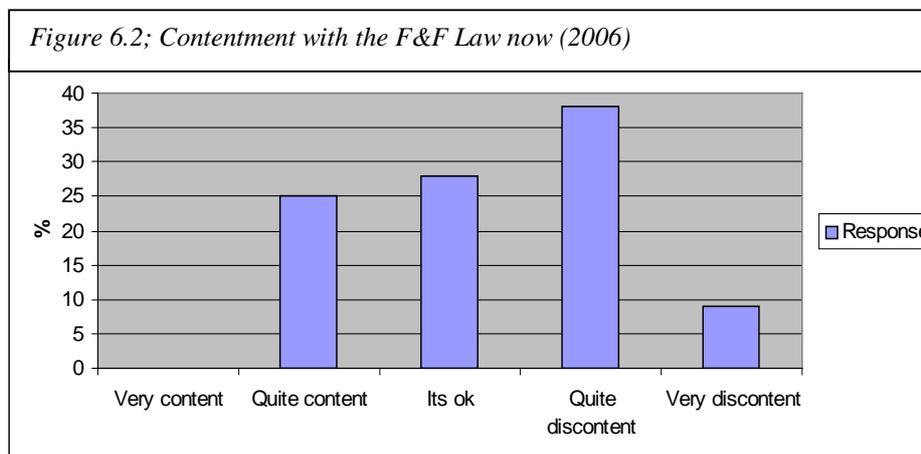
LNV? What is their explanation for the rather negative opinion of the field? How important was the sector of nature management related to other influencing factors (Europe, nature protection, etc.)? Another factor of relevance is the role of the House of Representatives ('Tweede Kamer'). In the Netherlands, the HoR controls the legislative process. Before the F&F Law entered into force, the HoR has approved it. The HoR has a commission installed that deals with environmental issues. Their perspective on this issue would be relevant as well.

6.3.3; Comment about further improvement of the F&F Law

Since 2002, the F&F Law has been changed. Figure 6.1 shows that these changes have improved the practicality of the F&F Law, compared with the practicality in 2002 (see figure 4.1).



However, these changes of the F&F Law have not made the field very enthusiastic; figure 6.2 shows that the level of satisfaction has not improved a lot, compared with the situation in 2002 (see figure 4.7). Apparently, there are still points of improvement remaining, according to the respondents.



These remaining points of improvement are illustrated in table 6.1. It appears that the field is still regarding the bureaucratic, desk-made character of the F&F Law as a major problem, as well as the strict application of it. And what appeared to be another major mismatch in 2002; the obscurity of the F&F Law, has remained a point to improve as well.

Table 6.1; Remaining points of improvement for the F&F Law

Category	Frequency
Make law more practical, decrease bureaucracy	13
Specie protection instead of individual protection	8
More room to manoeuvre for management	7
More clarity and enlightenment	7
A complete reform	5
Better integration with other laws/policies	4
Better/higher level of vindication	4
Rest	12



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