

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2013 Nr. 242

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland inzake de exploitatie van het ORCA-veld;
(met Bijlage)
's-Gravenhage, 27 november 2013*

B. TEKST

Agreement between the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland relating to the Exploitation of the Orca Field

The Kingdom of the Netherlands

and

the United Kingdom of Great Britain and Northern Ireland,

hereinafter referred to as “the Parties”:

Considering that there is a gas field, known as the Orca Field, which extends across the dividing line as defined in the Agreement between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the Delimitation of the Continental Shelf under the North Sea between the two Countries, done at London on 6 October 1965;

Having regard to the Agreement between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the Exploitation of single geological structures extending across the Dividing Line on the Continental Shelf under the North Sea, done at London on 6 October

1965 under which the Parties have undertaken to seek agreement as to the manner in which any such structure or field shall be most effectively exploited and the manner in which the costs and proceeds relating thereto shall be apportioned;

Desiring therefore to make an agreement about the exploitation of the Orca Field and the rights and obligations of the Parties in relation thereto;

Noting in this connection that there are a number of relevant issues, such as environmental protection, health and safety and physical protection of installations, which are covered by other international agreements or by the laws of the European Union;

Considering that the Licensees have the intention to exploit the Orca Field by a platform on the Dutch Continental Shelf;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement:

- “Licensee” means the holder of a licence issued by one of the Parties to exploit the part of the Orca Field on the Continental Shelf appertaining to that Party, together with any individual or body corporate appointed by that Party to participate on its behalf in the exploitation of that part;
- “Licensees’ Agreement” means the agreement which is, or will be, entered into by the Licensees for the exploitation of the Orca Field;
- “Orca Field” means the gas field in the area delimited in the Annex to this Agreement;
- “Development Plan” means the plan for the exploitation of the Orca Field.

Article 2

Exploitation of the Orca Field

1. The exploitation of the Orca Field shall be undertaken in accordance with the terms of this Agreement.

2. Each Party shall require its Licensees to conclude a Licensees’ Agreement with the Licensees of the other Party. The Licensees’ Agreement, as well as any proposal to amend, modify or otherwise change, or to waive or depart from, the provisions of the Licensees’ Agreement, including the apportionment of benefits and costs of the Orca Field, shall require the approval of the Parties before any such proposal may be

implemented by the Licensees. In the event that a Redetermination is undertaken in accordance with the Licensees' Agreement, any statement or instrument issued by the Unit Operator documenting any change shall not become effective unless and until both Parties have approved that statement.

3. A unit operator shall be appointed by agreement between the Licensees as their joint agent for the purpose of exploiting the Orca Field in accordance with this Agreement. The appointment of and any change to the unit operator shall be subject to prior approval by the Parties.

4. Production shall not commence until the Development Plan for the Orca Field has been approved by the Parties.

5. Drilling, maintenance and suspension of boreholes from the platform on the Orca Field under the United Kingdom Continental Shelf shall be considered to fall under Dutch legislation.

6. Profits and capital gains arising from the Orca Field shall be taxed in accordance with the laws of the United Kingdom and the Netherlands respectively, including the Convention between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, done at London on 26 September 2008, supplemented by the Mutual Agreement on the Implementation of paragraph 5 of Article 25, done at London on 26 September 2008 and The Hague on 2 October 2008, and any Protocol or Protocols to that Convention or any Convention replacing that Convention as may be signed in the future.

Article 3

Rights and Obligations of the Parties

1. a) Before production of gas from the Orca Field is scheduled to commence, the unit operator, as mentioned in Article 2, paragraph 3, needs approval of each Party for the measurement systems used to determine the quantities and value of gas won and saved from the Orca Field;

b) The Parties shall have access to relevant information including design and operational details of all systems relevant to the measurement of gas originating from the Orca Field;

c) The inspectors of the Parties shall have the right to inspect the relevant measurement systems to ensure that their interests are safeguarded;

d) An inspector of the United Kingdom, who shall be accompanied by an inspector of the Kingdom of the Netherlands, shall be given access in due time to measuring systems for gas originating from the Orca Field;

e) The United Kingdom shall inform the Kingdom of the Netherlands about the names of the inspectors of the United Kingdom who will inspect the measuring systems.

2. The Parties shall ensure a free flow of information between them about matters relating to the exploitation of the Orca Field.

3. The Parties shall consult, at the request of either of them, on any matter relating to the interpretation, application or operation of this Agreement, including any unreasonable delay in giving approval under Article 2(2) or Article 2(3).

4. The Parties shall also consult, at the request of either of them, in the event that it is proposed that a permanent installation for the exploitation of the Orca Field shall be placed on the Continental Shelf appertaining to the United Kingdom, and shall jointly agree or arrange the extent to which the provisions of this Agreement shall apply in that event.

5. The Parties shall also consult, at the request of either of them, in the event that one of them considers that an area of the continental shelf lying outside the Orca Field would appropriately be exploited in an integrated manner together with the Orca Field, and shall jointly seek to agree on appropriate amendments to this Agreement in that event.

6. The competent authorities of the Parties may jointly enter into technical or administrative arrangements relating to the implementation of this Agreement or otherwise in connection with the exploitation of the Orca Field.

7. The Parties shall in first instance seek to resolve any disputes about the interpretation, application or operation of this Agreement through consultation in accordance with paragraph (3) above, but if the dispute cannot be resolved in this manner the dispute shall be submitted at the request of either Party, to an Arbitral Tribunal composed as follows:

Each Party shall designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman and who shall not be a national of or habitually reside in the United Kingdom of Great Britain and Northern Ireland or the Kingdom of the Netherlands. If either Party fails to designate an arbitrator within three months of a request to do so, either Party may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within one month of the designation or appointment of the sec-

ond arbitrator, the third arbitrator has not been elected. The Tribunal shall determine its own procedure, save that all decisions shall be taken, in the absence of unanimity, by majority vote of the members of the Tribunal. The decisions of the Tribunal shall be final and binding upon the Parties.

8. Nothing in this Agreement shall be interpreted as affecting the jurisdiction which each Party has under international law over the Continental Shelf which appertains to it. In particular, any part of the Orca Field located on the Continental Shelf appertaining to the United Kingdom shall be under the jurisdiction of the United Kingdom and any part of the Orca Field located on the Continental Shelf appertaining to the Kingdom of the Netherlands shall be under the jurisdiction of the Kingdom of the Netherlands.

9. Nothing in this Agreement shall be interpreted as prejudicing or restricting the application of the laws of either Party or the exercise of jurisdiction by their courts, in conformity with international law.

Article 4

Entry into force and Duration

1. This Agreement shall enter into force on the date of signature.
2. The Parties may amend or terminate this Agreement at any time by agreement or arrangement.
3. The Annex shall form an integral part of this Agreement.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at The Hague this 27th day of November 2013 in the English language.

For the Kingdom of the Netherlands,

M.R.P.M. CAMPS

For the United Kingdom of Great Britain and Northern Ireland,

SIR GEOFFREY DOYNE ADAMS

Annex

Delimitation of the Orca Field

The area of the Orca Field is bounded by a line joining, in the sequence shown, the points set out below defined by coordinates of latitude and longitude on WGS 84 Datum:

Point	Latitude	Longitude
A	54° 12' 38.9421" N	2° 47' 31.2590" E
B	54° 11' 56.4209" N	2° 48' 25.7732" E
C	54° 10' 07.4375" N	2° 49' 44.4733" E
D	54° 10' 36.4672" N	2° 51' 57.7158" E
E	54° 09' 52.0860" N	2° 52' 37.7788" E
F	54° 09' 07.0808" N	2° 53' 48.1361" E
G	54° 08' 14.2138" N	2° 54' 30.5305" E
H	54° 06' 57.1987" N	2° 51' 06.7096" E
I	54° 08' 01.5605" N	2° 49' 57.4987" E
J	54° 07' 30.4866" N	2° 49' 04.3564" E
K	54° 08' 16.8019" N	2° 47' 52.2446" E
L	54° 09' 26.4567" N	2° 45' 44.5040" E
M	54° 09' 36.2259" N	2° 45' 43.4556" E
N	54° 10' 25.3077" N	2° 43' 54.9146" E
O	54° 10' 57.3073" N	2° 43' 54.9283" E
P	54° 11' 55.7368" N	2° 45' 57.0573" E
Q	54° 12' 01.0634" N	2° 45' 50.9016" E

D. PARLEMENT

Het Verdrag, met Bijlage, behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag, met Bijlage, kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag, met Bijlage, zijn ingevolge artikel 4, eerste lid, op 27 november 2013 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag, met Bijlage, van 27 november 2013 alleen voor Nederland (het Europese deel).

J. VERWIJZINGEN

- Titel : Overeenkomst tussen de Regering van het Koninkrijk der Nederlanden en de Regering van het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland inzake de begrenzing van het tussen deze landen gelegen continentale plat onder de Noordzee;
Londen, 6 oktober 1965
- Tekst : *Trb.* 1965, 191 (Engels en Nederlands)
- Laatste *Trb.* : *Trb.* 2013, 118
- Titel : Overeenkomst tussen de Regering van het Koninkrijk der Nederlanden en de Regering van het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland inzake exploitatie van op zichzelf staande geologische structuren die zich over de grenslijn op het continentale plat onder de Noordzee uitstrekken;
Londen, 6 oktober 1965
- Tekst : *Trb.* 1965, 192 (Engels en Nederlands)
- Laatste *Trb.* : *Trb.* 1966, 299
- Titel : Verdrag betreffende de Europese Unie;
Maastricht, 7 februari 1992
- Tekst : *Trb.* 2008, 53 (Nederlands, geconsolideerd)
- Laatste *Trb.* : *Trb.* 2012, 182
- Titel : Verdrag tussen de Regering van het Koninkrijk der Nederlanden en de Regering van het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen en naar vermogenswinsten;
Londen, 26 september 2008
- Tekst : *Trb.* 2008, 201 (Engels en Nederlands)
- Laatste *Trb.* : *Trb.* 2013, 110
- Titel : Onderlinge Overeenkomst inzake de uitvoering van artikel 25, vijfde lid;
's-Gravenhage, 2 oktober 2008
- Tekst : *Trb.* 2009, 123 (Engels en vertaling)
- Laatste *Trb.* : *Trb.* 2011, 7

- Titel : Protocol tot wijziging van het Verdrag tussen de Regering van het Koninkrijk der Nederlanden en de Regering van het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen en naar vermogenswinsten;
Londen, 12 juni 2013
- Tekst : *Trb.* 2013, 110 (Engels en Nederlands)
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In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het Verdrag, met Bijlage, zal zijn bekendgemaakt in Nederland (het Europese deel) op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *vijfde* december 2013.

De Minister van Buitenlandse Zaken,

F.C.G.M. TIMMERMANS