

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1976 Nr. 68

TITEL

*Overeenkomst inzake een Internationaal Energieprogramma
(met bijlage);
Parijs, 18 november 1974*

B. TEKST

De Engelse en de Franse tekst van de Overeenkomst, met bijlage, zijn geplaatst in *Trb.* 1975, 47.

De Overeenkomst is gewijzigd door de in rubriek J van *Trb.* 1975, 74 afgedrukte Overeenkomst van 7 februari 1975 en het eveneens aldaar afgedrukte besluit van 7 maart 1975.

C. VERTALING

Zie *Trb.* 1975, 47.

D. PARLEMENT

De artikelen 1 en 2 van de Wet van 10 maart 1976 (*Stb.* 151) luiden:

„Artikel 1

De op 18 november 1974 te Parijs tot stand gekomen Overeenkomst inzake een Internationaal Energieprogramma (met bijlage), waarvan de Engelse en de Franse tekst en de vertaling in het Nederlands zijn geplaatst in *Tractatenblad* 1975, 47 wordt voor Nederland goedgekeurd.

Artikel 2

De op 7 februari 1975 te Parijs tot stand gekomen Overeenkomst tussen het Internationaal Energie-Agentschap en de Regering van

het Koninkrijk Noorwegen inzake de deelneming van de Regering van het Koninkrijk Noorwegen aan de werkzaamheden van het Agentschap en het op 7 maart 1975 te Parijs tot stand gekomen Besluit betreffende institutionele regelingen inzake de deelneming van Noorwegen, waarvan de Engelse tekst en de vertaling in het Nederlands zijn geplaatst in Tractatenblad 1975, 74 worden voor Nederland goedgekeurd.”.

Deze wet is gecontrasigneerd door de Minister van Buitenlandse Zaken M. VAN DER STOEL en de Minister van Economische Zaken R. F. M. LUBBERS.

Zie voor de behandeling in de Staten-Generaal: Bijl. Hand. II 1974/75 en 1975/76 – 13 515; Hand. II 1975/76, blz. 2663–2677 en 2685–2687; Bijl. Hand. I 1975/76, nr. 92; Hand. I 1975/76, blz. 535.

E. BEKRACHTIGING

Zie *Trb.* 1975, 47 en 74.

Een kennisgeving als bedoeld in artikel 67, eerste lid, van de Overeenkomst is door de Regering van het Koninkrijk België ontvangen van de volgende Staten:

Luxemburg	24 april 1975
Denemarken	19 juni 1975
Ierland	28 juli 1975
de Bondsrepubliek Duitsland	20 oktober 1975
het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland	30 oktober 1975
Spanje	17 november 1975
Zwitserland	8 december 1975
Canada	17 december 1975
Zweden	18 december 1975
de Verenigde Staten van Amerika	9 januari 1976
het Koninkrijk der Nederlanden (voor Nederland)	30 maart 1976

Op 28 juli 1975 heeft de Raad van Bestuur van het Internationaal Energie-Agentschap besloten de in artikel 67, eerste lid, van de Overeenkomst bedoelde termijn voor alle deelnemende landen, die nog geen kennisgeving als bovenbedoeld hadden nedergelegd, voor de tweede maal te verlengen tot 31 december 1975 en op 19 december 1975 voor de derde maal tot 31 maart 1976.

F. TOETREDING

Zie *Trb.* 1975, 47.

G. INWERKINGTREDING

Zie *Trb.* 1975, 47.

De bepalingen van de Overeenkomst, met bijlage, zijn ingevolge artikel 67, tweede lid, op 19 januari 1976 in werking getreden voor de Staten die een kennisgeving bedoeld in artikel 67, eerste lid, of een akte van toetreding op 9 januari 1976 of eerder hadden nedergelegd. Voor elke ondertekenende Staat die de kennisgeving na de datum van inwerkingtreding nederlegt, treedt de Overeenkomst in werking op de tiende dag volgende op de dag van nederlegging.

Wat het Koninkrijk der Nederlanden betreft, is de Overeenkomst op 9 april 1976 voor Nederland in werking getreden.

J. GEGEVENS

Zie *Trb.* 1975, 47 en 74.

Voor het op 25 maart 1957 te Rome tot stand gekomen Verdrag tot oprichting van de Europese Economische Gemeenschap zie ook *Trb.* 1976, 78.

De op 7 februari 1975 te Parijs tot stand gekomen Overeenkomst tussen het Internationaal Energie-Agentschap en de Regering van het Koninkrijk Noorwegen inzake de deelneming van de Regering van het Koninkrijk Noorwegen aan de werkzaamheden van het Agentschap (tekst in rubriek J van *Trb.* 1975, 74) is ingevolge artikel 8, tweede lid, eveneens op 19 januari 1976 in werking getreden. Deze Overeenkomst en het Besluit van 7 maart 1975 betreffende institutionele regelingen inzake de deelneming van Noorwegen (tekst eveneens in rubriek J van *Trb.* 1975, 74) hebben op 9 april 1976 voor Nederland effect gekregen.

Op 28 juli 1975 heeft de Raad van Bestuur van het Internationaal Energie-Agentschap een Besluit genomen inzake Richtlijnen voor samenwerking betreffende onderzoek en ontwikkeling op energiegebied, die een onderdeel vormen van het Lange-termijn-samenwerkingsprogramma.

De Engelse tekst van dit Besluit luidt als volgt:

Decision of the Governing Board on Guiding Principles for Co-operation in the Field of Energy Research and Development

The Governing Board,

Having regard to the provisions of Articles 41 to 43 in Chapter VII and Article 65 in Chapter IX of the Agreement on an International Energy Program;

Mindful of the role of research and development in energy conservation and in providing alternative sources of energy;

Reaffirming the obligation of the Participating Countries, under Article 41 of the Agreement, to undertake national programmes and promote the adoption of co-operative programmes, while concerting national policies, in the areas set out in Article 42 of the Agreement, including the development of alternative sources of energy and the development of energy conservation systems and techniques;

Determined to adopt and to implement in the near future an initial co-operative programme in the field of energy research and development, including as a matter of priority the areas defined in Article 42(c) of the Agreement on an International Energy Program, and to reinforce and enlarge further this initial programme by including other areas and topics of mutual interest,

Noting that such a programme will concern all individual projects in the various areas specified, each of which will, where appropriate, be the subject of a separate Implementing Agreement, to which the Participating Countries or participants designated by them will be able to subscribe;

Taking into account the desirability of protecting environmental quality while developing alternative sources of energy;

Convinced that an agreement among Participating Countries on guiding principles for international co-operation in the field of energy research and development, to serve as the framework for carrying out individual programmes and projects, would significantly contribute to facilitating and accelerating the implementation of their programmes and projects.

Decides:

Article I

In fulfilment of Chapter VII of the Agreement on an International Energy Program, the Participating Countries shall:

- Encourage and implement exchanges of information among all Participating Countries regarding national programmes, public and private, on energy R and D and energy-related technologies; and
- Identify and promote programmes and projects in which two or more Participating Countries can join for their mutual benefit or for the general benefit; this may include the formation of consortia, involving both public and private interests, to implement certain joint activities.

Article II

Each Participating Country shall contribute as fully as possible to the programmes and projects identified in accordance with Article I of the present Decision and shall endeavour to secure the necessary scientific, technical and financial resources, as appropriate by attracting both public and private support to such programmes and projects. The Implementing Agreements establishing such programmes and projects shall, as appropriate, take into account the Guiding Principles set forth herein.

Article III

(a) The Participating Countries may designate national agencies or other public organisations as the vehicle for their participation, in particular programmes and projects, and shall encourage private corporations or companies or other entities in their Countries to take part in such programmes and projects as appropriate.

(b) In defining and conducting their national programmes, the Governments of the Participating Countries should avoid unnecessary duplication with programmes and projects undertaken in implementing the present Decision.

Article IV

(a) Participation in programmes and projects under the present Decision shall be on the basis of equitable sharing of obligations, contributions, rights and benefits. Participants in programmes and projects shall undertake to make a constructive contribution, whether technical, financial or otherwise, as may be agreed.

(b) The term "participants" means the Governments of Participating Countries, or the designated national agencies, public organisations, private corporations, companies or other entities which take part in programmes or projects under the present Decision, pursuant to Article III (a) above.

(c) The European Communities may take part in any programme or project under the present Decision.

(d) Other Member countries of the OECD may take part in any programme or project under the terms of the present Decision with the agreement of the Governing Board.

Article V

Programmes and projects under the present Decision may take the form of, inter alia:

- (a) exchange of information on national programmes and policies, on scientific and technological developments, and on legislation, regulations and practices;
- (b) meetings to identify programmes or projects which might be usefully undertaken;
- (c) visits and exchanges of scientists, technicians or other experts;
- (d) special programmes and projects in the form of coordination and planning of specific R and D studies, works or experiments carried out at national level, with subsequent exchange, joint evaluation and pooling of the scientific and technical results acquired through such studies, works or experiments;
- (e) creation of programmes and projects, including participation in the operation of special research or pilot facilities and equipment provided by a Participating Country, or in the form of joint design, construction and operation of such facilities and equipment;
- (f) joint development and harmonisation of technical criteria.

Article VI

- (a) In order to further certain programmes and projects, participants from two or more Participating Countries may conclude, where appropriate, a specific Implementing Agreement to which the Participating Countries or participants designated by them will be able to subscribe.
- (b) Other participants from Participating Countries, where designated to that effect by the Governments of their respective Countries, may become subsequently parties to an Implementing Agreement and a participant may withdraw from an Implementing Agreement in accordance with the terms and conditions defined in such Agreement.
- (c) Other Member countries of the OECD may take part in any programme or project under an Implementing Agreement with the agreement of the Governing Board and in accordance with the terms and conditions defined in such Agreement.
- (d) Implementing Agreements should establish the terms of the contribution of scientific and technical information, know-how and studies, or manpower, or capital investment and other forms of financing to be provided by each participant.
- (e) Unless otherwise agreed, Implementing Agreements shall assign the responsibility for the operational management of the programme or project to a single entity, accountable to a specific Participating Country where feasible.
- (f) Implementing Agreements should, upon signature, be presented to the Governing Board for information.

Article VII

(a) Subject to provisions in specific Implementing Agreements relating to the sharing of expenditure, each participant shall bear the costs of its own participation in the programmes and projects under the present Decision.

(b) Each Government of a Participating Country shall use its best endeavours to facilitate the accomplishment of formalities involved in the exchange of persons, the importation of materials and equipment and the transfer of currency, which are required for the purpose of the programmes and projects undertaken under the present Decision.

(c) A Participating Country or an International Organisation may be invited to assume responsibilities in relation to the initiation of programmes and projects or the practical arrangements necessary for the preparation or execution of them.

(d) Programmes and projects shall be subject to the applicable laws and regulations of the Participating Countries and shall be subject to the appropriation of funds of the Governments and their national agencies concerned.

Article VIII

(a) Scientific, technical and other information:
– resulting from programmes and projects, or
– obtained for the purpose of programmes and projects and which is freely at the disposal of the participants,
shall be made available to Participating Countries, in accordance with any particular terms and conditions that may be prescribed in Implementing Agreements.

(b) Reports on the progress of programmes and projects shall be submitted at least annually to the Governing Board.

Article IX

The termination or modification of the present Decision shall not automatically affect either the carrying out of any programme or project undertaken in accordance with this Decision or the provisions of any Implementing Agreement previously concluded.

Annex to the Guiding Principles

General Guidelines concerning Information and Intellectual Property in Implementing Agreements pursuant to Article VI(A) of the Decision of the Governing Board on Guiding Principles for Co-operation in the Field of Energy Research and Development

I. Introduction

1. The Participating Countries anticipate that the Decision of the IEA Governing Board of 28th July, 1975 on Guiding Principles for Co-operation in the Field of Research and Development, will result in a wide range of programmes and projects among a variety of participants. Implementing Agreements between participants in particular co-operative activities should, where appropriate, contain detailed operational provisions including rules governing dissemination of scientific and technical information and rights to intellectual property. It is understood that such Agreements will be developed with regard to the special circumstances of each programme or project, taking into account the following Guidelines.

2. Definitions

As used in this Annex,

- "Participating Countries" shall mean all states which participate in the International Energy Programme as Participating Countries of the International Energy Agency.
- "participants" shall mean the Governments of Participating Countries, or the designated national agencies, public organisations, private corporations, companies or other entities which take part in programmes or projects under the Governing Board Decision of 28th July, 1975.
- "Intellectual property" shall mean intellectual property as defined in Article 2 (viii) of the Convention Establishing the World Intellectual Property Organisation, signed on 14th July, 1967, as well as proprietary information.
- "proprietary information" shall mean information of a confidential nature (including e.g. "knowhow" and "software") and information appropriately marked which is not yet patented or is not patentable but is subject to property rights or to commercial or other restrictions of a contractual, customary or legal nature.

II. General dissemination of information

3. Participants involved in a programme or project under an Implementing Agreement should support the widest possible dissemination of information to all Participating Countries, subject only

to the need for protecting intellectual property and in particular, retaining in confidence that type or property which can be destroyed by improper or premature disclosure. Implementing Agreements should therefore provide for appropriate arrangements for the dissemination of such information to Participating Countries according to Article VIII (a) of the Guiding Principles. This policy should be applied in relation to programmes and projects for industrial and commercial applications, such as consortia, as well as to purely scientific forms of co-operation.

4. The participants in a programme or project may invite other Participating Countries to make available or to identify all published information known to them which concerns the programme or project.

III. Exchanges of information and joint meetings

5. With respect to intellectual property generated as a direct result of participants exchanging information in a specified field ("resulting intellectual property"), it will be difficult in many cases to identify specific, underlying information used to generate such property ("underlying information"), as well as the origin of the information used. However, to the extent such property can be identified:

- the generating participant (or its Government, where appropriate) shall determine the allocation of all rights to resulting intellectual property in all countries, provided however that the participant which supplied the underlying information used (and, where appropriate, its Government and the nationals designated by it) shall be granted a non-exclusive licence to resulting intellectual property in all countries other than the country of the generating participant.

IV. Exchanges of scientists or other experts

6. With respect to intellectual property generated as a direct result of visits and exchanges of scientists or other experts between participants:

- the generating participant (or its Government, where appropriate) receiving the scientists or experts shall determine the allocation of all rights to such intellectual property in its own country and in all third countries, provided however that the participant sending the scientists or experts (and, where appropriate, its Government and nationals designated by it) shall be granted a non-exclusive licence to such property in third countries other than that of the generating participant;
- the participant (or its Government, where appropriate) sending the scientists or the experts shall determine the allocation of all rights to such intellectual property in its own country.

V. Additional Provisions for Exchanges of Information and Scientists (and for other simplified arrangements)

7. Each participant will take all necessary steps to protect and respect the intellectual property referred to in paragraph 5 and 6 in accordance with the laws of its respective country and international law.

8. Each participant in a programme or project will, without prejudice to any rights of inventors under its national law, take all necessary steps to provide the co-operation from its authors and inventors required to carry out the provisions in the Implementing Agreement regarding intellectual property.

9. Each participant will assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

VI. For special joint projects and programmes

A. Use of pre-existing intellectual property for the purpose of programmes and projects

10. Intellectual property which is in the possession of, owned by or otherwise at the disposition of either a participant or its Government at the commencement of the co-operative activity and which is needed for the purposes of the project or programme, should be made available to the other participants (and, where appropriate, to the Governments of other participants) and to their prime or sub-contractors for use in the project or programme only. This obligation concerns only intellectual property which is freely at the disposal of the participant or Government and the transmission or use of which is not subject to contractual and/or legal obligations.

11. A participant and its Government contributing pre-existing information and/or intellectual property for the purpose of the project or programme should normally be given recognition of this contribution, on terms and conditions to be defined by or pursuant to the Implementing Agreement.

B. Rights in intellectual property resulting from the co-operative activities

12. In most cases, projects and programmes will generate intellectual property, the detailed treatment of which can only be agreed on a case-by-case basis, in view of the complexity of the factors to be taken into account. However, the following principles should be followed:

- arrangements should be agreed for appropriate dissemination of proprietary information resulting from the co-operative activity;
- steps should be taken for ensuring appropriate protection of intellectual property generated by programmes or projects;
- each participant (or its Government, where appropriate) should be granted the exclusive right to licence the manufacturing of a product or use of a process in its own country, and a non-exclusive right to licence the sale of a product in the countries of all participants, on terms and conditions to be agreed to on an equitable basis related to the sharing of obligations, contributions, rights and benefits of the participants and their Governments;
- use of such property by the participants in the territory of other countries should be agreed upon between the participants (or their Governments, where appropriate) on an equitable basis related to the sharing of obligations, contributions, rights and benefits of the participants and their Governments;
- other Participating Countries, in order to meet their energy needs, will have the right (in agreement with the participants) to a non-exclusive licence in their own country on terms that are equitable to the participants.

C. Use of pre-existing intellectual property for related purposes

13. This paragraph concerns the continued use for related purposes of pre-existing intellectual property after the termination of a programme or project. Detailed treatment of such property can only be agreed on a case-by-case basis, in view of the complexity of factors to be taken into account. However, the following principles should be followed:

- arrangements should be agreed by all recipients for respecting pre-existing intellectual property and maintaining proprietary information in confidence;
- steps should be taken to restrict further dissemination of proprietary information which is not covered by agreement of the originating participant;
- each participant (and, where appropriate, its Government and nationals designated by it) should be granted a non-exclusive licence to such property in the countries of all participants, for use as determined by the Implementing Agreement and on terms and conditions agreed to on an equitable basis related to the sharing of obligations, contributions, rights and benefits of the participants and their Governments;
- use of such property by the participants in the territory of other countries should be agreed upon between the participants (or their Governments, where appropriate) on an equitable basis

- related to the sharing of obligations, contributions, rights and benefits of the participants and their Governments;
- other Participating Countries, in order to meet their energy needs, will have the right (in agreement with the participants) to a non-exclusive licence in their own country on terms that are equitable to the participants.

D. Other Provisions

14. Implementing Agreements should contain provisions with respect to:
- the protection of intellectual property;
 - co-operation from authors and inventors; and
 - awards and compensation due to authors and inventors.

VII. Explanatory Notes

15. As used in the text, the term "non-exclusive licence" and the term "exclusive licence" do not indicate whether or not such licences are royalty bearing; this issue is left for decision of the participants.

16. In providing for the protection of intellectual property with regard to a specific project, participants may take account of the effectiveness of the protection afforded under the respective laws of all countries.

17. In regard to the designation of nationals to receive licences provided for in these guidelines, such designation may be delegated to a private participant by its Government.

18. Nothing herein shall derogate from the rights of the Governments of participants in respect of intellectual property and proprietary information as provided for by their national laws.

Uitgegeven de veertiende juni 1976.

De Minister van Buitenlandse Zaken.
M. VAN DER STOEL.