

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1980 Nr. 183

A. 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, het eveneens aldaar afgedrukte besluit van 7 maart 1975, en door het in rubriek J van *Trb.* 1979, 138 afgedrukte besluit van 1 maart 1979 en door de in rubriek J hieronder afgedrukte besluiten van 21 mei 1976 en 23 april 1980.

C. VERTALING

Zie *Trb.* 1975, 47.

D. PARLEMENT

Zie *Trb.* 1976, 68.

E. BEKRACHTIGING

Zie *Trb.* 1975, 47 en 74, *Trb.* 1976, 68, *Trb.* 1978, 6 en *Trb.* 1979, 138.

F. TOETREDING

Zie *Trb.* 1975, 47, *Trb.* 1978, 6 en *Trb.* 1979, 138.
In overeenstemming met artikel 71, derde lid, zoals gewijzigd, van de

Overeenkomst heeft de volgende Staat een akte van voorlopige toetreding bij de Belgische Regering nedergelegd:

Portugal 9 mei 1980

G. INWERKINGTREDING

Zie *Trb.* 1975, 47 en *Trb.* 1976, 68.

J. GEGEVENS

Zie *Trb.* 1975, 47 en 74, *Trb.* 1976, 68, *Trb.* 1978, 6 en *Trb.* 1979, 138.

Tijdens zijn op 20 en 21 mei 1976 te Parijs gehouden bijeenkomst heeft de Raad van Bestuur van het Internationaal Energie Agentschap een besluit aanvaard betreffende de toetreding van Griekenland tot de onderhavige Overeenkomst.

De Engelse tekst van dat besluit luidt als volgt:

Decision of the Governing Board Inviting the Government of Greece to Accede to the Agreement on an International Energy Program, Amending the Agreement on an International Energy Program and Amending the Decision on Institutional Arrangements for the Participation of Norway

The Governing Board

Considering the Decision of the Council of 15th November, 1974, Establishing an International Energy Agency of the Organisation;

Considering the Agreement on an International Energy Program of 18th November, 1974, as amended, and Articles 62, 71 and 73 thereof, and the Governing Board Decision on the Institutional Arrangements for the Participation of Norway, of 7th March, 1975;

Considering that the Government of Greece is able and willing to meet the requirements of the Program;

Decides:

1. The Government of Greece is invited to accede to the Agreement on an International Energy Program.

2. As a condition to the foregoing invitation, the deposit by the Government of Greece of the Instrument of Accession pursuant to Article 71.3 of the Agreement on an International Energy Program shall be deemed to constitute the accession of the Government of Greece to

the decisions of the Governing Board which shall be in force at the time of such deposit; if any such decisions create problems for the Government of Greece, the Delegate for Greece shall be entitled to discuss those problems with the Governing Board before the Instrument of Accession is deposited.

3. (1) Upon the accession of Greece to the Agreement on an International Energy Program, that Agreement shall be deemed to be amended as follows:

(a) Article 62, paragraph 2:

– add to the list of Participating Countries in alphabetical order: Greece with 3 General voting weights, 0 Oil consumption voting weights and 3 Combined voting weights;
– amend the “Totals” to 54 General voting weights and 154 Combined voting weights;

(b) Article 62, paragraph 4(a):

– the lead in to read: “60 per cent of the total combined voting weights and 42 general voting weights for:” (i.e. replace 39 with 42 general voting weights);

(c) Article 62, paragraph 4(b):

– the lead in to read: “48 general voting weights for:” (i.e. replace 45 with 48 general voting weights);

(d) Article 71.3:

– amend to read:

“3. Accession may take place on a provisional basis under the conditions set out in Article 68, subject to such time limits as the Governing Board, acting by majority, may fix for an acceding State to deposit its notification of consent to be bound.”

4. Upon the accession of Greece to the Agreement on an International Energy Program, the Governing Board Decision on Institutional Arrangements for the Participation of Norway, of 7th March, 1975, shall be deemed to be amended in order for paragraph 2(b) to read as follows:

“The total number of general voting weights and combined voting weights set forth in Article 62, paragraph 2, were deemed to be 57 and 157 respectively.”

Tijdens zijn op 22 en 23 april 1980 te Parijs gehouden bijeenkomst heeft de Raad van Bestuur van het Internationaal Energie Agentschap een besluit aanvaard betreffende de toetreding van Portugal tot de Onderhavige Overeenkomst.

De Engelse tekst van dat besluit luidt als volgt:

Decision of the Governing Board Inviting the Government of Portugal to Accede to the Agreement on an International Energy Program, Amending the Agreement on an International Energy Program and Amending the Decision on Institutional Arrangements for the Participation of Norway

The Governing Board

Considering the Decision of the Council of 15th November, 1974, Establishing an International Energy Agency of the Organisation;

Considering the Agreement on an International Energy Program of 18th November, 1974, as amended, and Articles 62, 71 and 73 thereof, and the Governing Board Decision on the Institutional Arrangements for the Participation of Norway, of 7th March, 1975;

Considering that the Government of Portugal is able and willing to meet the requirements of the Program;

Decides:

1. The Government of Portugal is invited to accede to the Agreement on an International Energy Program.

2. As a condition to the foregoing invitation, the deposit by the Government of Portugal of the Instrument of Accession pursuant to Article 71.1 or .3 of the Agreement on an International Energy Program shall be deemed to constitute the accession of the Government of Portugal to the decisions of the Governing Board which shall be in force at the time of such deposit.

3. Upon the accession of Portugal to the Agreement on an International Energy Program, that Agreement shall be deemed to be amended as follows (such amendments shall be provisional in the event of accession on a provisional basis):

(a) Article 62.2:

– add to the list of Participating Countries in alphabetical order: Portugal with 3 General voting weights, 0 Oil consumption voting weights and 3 Combined voting weights;

– amend the “Totals” to 60 General voting weights and 160 Combined voting weights.

4. Upon the accession of Portugal to the Agreement on an International Energy Program, the Governing Board Decision on Institutional Arrangements for the Participation of Norway, of 7th March, 1975, shall be deemed to be amended in order for paragraph 2(b) to read as follows:

“The total number of general voting weights and combined voting weights set forth in Article 62, paragraph 2, were deemed to be 63 and 163 respectively.”

Op 23 juli 1980 heeft de Raad van Bestuur van het Internationaal Energie Agentschap het Handvest van het Centrum voor geschillenbehechting in het kader van het Internationaal Energie Agentschap aangevaard.

De Engelse tekst van dat Handvest luidt als volgt:

International Energy Agency

Charter of the International Energy Agency Dispute Settlement Centre (Adopted by the Governing Board on 23rd July, 1980)

Preamble

Recalling that the Participating Countries of the International Energy Agency are Contracting Parties to the Agreement on an International Energy Program which provides for common effective measures to meet oil supply emergencies including the provision of a system for allocation of available oil in an emergency;

Recalling that the Governing Board of the International Energy Agency has taken a number of decisions related to the establishment of a practical system for sharing the available oil in accordance with the Agreement on an International Energy Program;

Considering that under emergency allocation there may arise from time to time disputes between sellers and buyers of oil or between parties to an exchange of oil which the parties thereto may consider appropriate for settlement by arbitration under the auspices of the International Energy Agency (hereinafter referred to as “the I.E.A.”), although the parties may of course resort to other means of settlement including negotiation, mediation, conciliation and recourse to national courts of law;

Recognizing that in order to ensure the proper functioning of the International Energy Program, the Participating Countries and Norway (hereinafter referred to collectively as “the I.E.A. Countries”) agree

on the need to establish a mechanism for settling disputes between sellers and buyers of oil or between parties to an exchange of oil arising out of the emergency allocation of oil and under the International Energy Program, with a view to expeditious and amicable settlement which will minimize hindrance to the working of the oil allocation arrangements;

Desiring to establish the International Energy Agency Dispute Settlement Centre as a facility for such disputes to be settled by arbitration under the auspices of the Agency;

Recognizing that mutual consent by the parties is required for submission of disputes to arbitration by such facility and that such consent constitutes a binding agreement which requires in particular that any arbitral award be complied with,

The Governing Board adopts the Charter of the International Energy Agency Dispute Settlement Centre as set forth herein.

Article I

Dispute Settlement Centre

(a) There is hereby established within the I.E.A. the International Energy Agency Dispute Settlement Centre (hereinafter referred to as "the Centre").

(b) The purpose of the Centre shall be to provide facilities for arbitration of disputes falling within the jurisdiction of the Arbitration Tribunals as provided in Article II.

(c) The Centre shall be governed by and operated pursuant to the provisions of this Charter and the decisions of the Governing Board.

(d) Operation of the Centre is assigned to the I.E.A. Secretariat. The Centre shall have a Director (hereinafter referred to as "the Director"), who shall be the Legal Advisor of the I.E.A. acting *ex officio*. The Director shall serve without separate compensation. If the office of I.E.A. Legal Advisor should be abolished or become vacant, or if the Legal Advisor should become incapacitated or otherwise unable to serve, the office of Director shall be filled by a person designated by the Executive Director of the I.E.A. (hereinafter referred to as "the Executive Director").

(e) Staff assistance to the Director shall be furnished by the I.E.A. Secretariat as necessary.

(f) Expenses incurred in the operation of the Centre shall be borne by the I.E.A., except that the expenses of arbitration proceedings and the remuneration of members of Arbitration Tribunals shall be covered

by fees charged to parties to such arbitration proceedings in accordance with the Procedures for Arbitration.

(g) The Governing Board shall as soon as practicable adopt Procedures for Arbitration, which shall include rules and regulations for the bringing and conduct of arbitrations and rules of evidence applicable therein. The Governing Board may amend or modify such Procedures for Arbitration from time to time, as may be appropriate.

(h) The Director shall maintain a Panel of Arbitrators, as provided in Article III hereof, and there shall be convened from such Panel one or more Arbitration Tribunals when necessary to resolve disputes, as provided in Article V hereof.

Article II

Jurisdiction

(a) The jurisdiction of Arbitration Tribunals convened pursuant to the Charter extends to any dispute between a seller and a buyer of oil, or between the parties to an exchange of oil, arising out of an oil supply transaction during implementation of the emergency allocation of oil and under the International Energy Program and as between the parties to a particular supply transaction but not to decisions or rights or obligations of I.E.A. Countries under the International Energy Program, including allocation rights and allocation obligations of I.E.A. Countries.

(b) Jurisdiction of Arbitration Tribunals convened pursuant to the Charter extends, however, only to disputes where:

(1) the parties to the arbitration have consented in writing to arbitration pursuant to the Charter;

(2) such consents to arbitration include, explicitly or implicitly, an agreement of the parties to the arbitration to exclude any other remedy; and

(3) such consents include, explicitly or implicitly, an agreement of the parties to the arbitration that the award shall be final and binding as between them.

The Director should be provided promptly with a copy of each consent to arbitration pursuant to the Charter.

(c) After a transaction has occurred, or action has been taken, which was within the scope of a party's consent to arbitration, such party may withdraw such consent only with the agreement of all other parties to the arbitration.

Article III

Panel of Arbitrators

(a) The Panel of Arbitrators maintained pursuant to the Charter, hereinafter called "the Panel", shall consist of at least fifty persons, designated as hereinafter provided, who are willing to serve thereon.

(b) Each I.E.A. Country may designate two persons to serve on the Panel who may but need not be nationals of such Country. The Executive Director may also designate not more than ten persons to serve on the Panel irrespective of the number of persons designated by I.E.A. Countries. In addition, the Executive Director may make such further designations as are necessary to bring the total number of Panel members to a number representing two persons from each I.E.A. Country plus the ten referred to above. In designating persons to serve on the Panel, I.E.A. Countries and the Executive Director are invited to receive recommendations from professional and other qualified bodies.

(c) Persons designated to serve on the Panel shall be persons of high moral character and recognized competence in the fields of law, commerce, petroleum industry and operations, finance, taxation or accounting, who may be relied upon to exercise independent judgement.

(d) Panel members shall serve for renewable periods of four years and until their successors have been designated. In the case of death, resignation or incapacity of a member of the Panel, the I.E.A. Country or the Executive Director, whichever designated said member shall have the right to designate another person to serve for the remainder of that member's term.

(e) Panel members shall serve without compensation except that when serving as members of an Arbitration Tribunal they shall receive appropriate compensation and reimbursement of their expenses, in accordance with the Procedures for Arbitration.

Article IV

Request for Arbitration

(a) Any party desiring to institute arbitration proceedings shall address a request to that effect in writing to the Director, who shall immediately send copies of such request to all other parties named therein.

(b) The request shall contain information concerning the issues in dispute and the identity of the parties to the dispute and their consent to arbitration, in accordance with the Procedures for Arbitration.

(c) The Director shall accept the request unless he finds, on the basis of the information contained in the request, that the dispute is clearly outside the jurisdiction of Tribunals convened pursuant to the Charter. The Director shall immediately notify the parties of his acceptance or rejection of the request. Any rejection by the Director of a request for arbitration shall be subject to review, at the request of a party, by the Executive Director, who shall cause such request to be accepted by the Director unless he finds, on the basis of the information contained in the request, that the dispute is clearly outside the jurisdiction of Tribunals convened pursuant to the Charter.

(d) The Director shall provide the members of the I.E.A. Standing Group on Emergency Questions promptly with a brief summary of each request for arbitration, identifying the parties to the arbitration and the issues in dispute. The Director shall bring to the attention of the Tribunals and the parties any submission concerning the case which he receives from an I.E.A. Country or from an international organization which takes part in the Agency's work.

Article V

The Arbitration Tribunal

(a) An Arbitration Tribunal, hereinafter called "the Tribunal", shall be constituted as soon as possible after acceptance of any request in accordance with Article IV (c) hereof.

(b) The Tribunal may consist of a sole arbitrator or any odd number of arbitrators, appointed as agreed upon by the parties. If the parties do not agree upon the number of arbitrators and the method of their appointment within thirty days after notice of acceptance of the request has been dispatched by the Director in accordance with Article IV (c) hereof, or such other period as the parties may agree, the Executive Director shall, at the request of any party and after consulting all parties as far as possible, determine the number of arbitrators and appoint the Tribunal. In the absence of agreement of the parties, arbitrators appointed by the Executive Director shall not include nationals of an I.E.A. Country whose national is a party to the dispute.

(c) Arbitrators may be appointed, by agreement of the parties, from outside the Panel. Arbitrators appointed from outside the Panel shall possess the qualities stated in Article III (c).

Article VI

Replacement and Disqualification of Arbitrators

(a) After a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that

if an arbitrator should die, become incapacitated, resign or be disqualified, the resulting vacancy shall be filled by agreement of the parties or, failing such agreement, by the Executive Director in accordance with Article V (b) hereof.

(b) A member of the Tribunal shall continue to serve in that capacity notwithstanding that he shall have ceased to be a member of the Panel.

(c) A party may propose to a Tribunal the disqualification of any of its members on account of any fact indicating that such member was not appointed in accordance with the provisions hereof, or that his conduct after appointment was inconsistent with his responsibilities as a member of the Tribunal.

(d) The decision on any proposal to disqualify an arbitrator shall be taken by the other members of the Tribunal; provided that where those members are equally divided, or in the case of a proposal to disqualify a sole arbitrator or a majority of arbitrators, the Executive Director shall take that decision.

Article VII

Powers and Functions of the Tribunal

(a) The Tribunal shall be the judge of its own jurisdiction.

(b) Any objection by a party that a dispute is not within the jurisdiction of the Tribunal shall be considered by the Tribunal which shall determine whether the objection as a preliminary question or to join it to the merits of the dispute.

(c) The Tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties or as may have been specified by the parties in the terms of any relevant contract. In the absence of such agreement or specification, and if the transaction giving rise to the dispute as initially accepted by the Director involves a supplier of oil based in an I.E.A. Country, the Tribunal shall apply the law of the jurisdiction within such I.E.A. Country where such supplier of oil maintains its principal executive offices, but not including the rules of such jurisdiction concerning the conflict of laws. If neither of the above conditions pertains, the Tribunal shall apply such rules of law as it may determine.

(d) Except as the parties otherwise agree, and without prejudice to the jurisdiction of the I.E.A. Countries concerned, the Tribunal may, if it deems it necessary at any stage of the proceedings:

(1) call upon the parties to produce documents or other evidence;
and

(2) visit the scene connected with the dispute, and conduct such

inquiries there as it may deem appropriate, after securing the agreement of any third party concerned.

(e) Arbitration proceedings shall be conducted in accordance with the provisions of this Article and, except as the parties otherwise agree, in private and in accordance with the Procedures for Arbitration then in effect; provided, however, that if such Procedures for Arbitration then in effect are materially different from Procedures for Arbitration in effect on the date of any party's consent to arbitration, the Procedures for Arbitration in effect on the date of the earliest consent of any party shall be applied. If any question of procedure arises which is not covered by this Article or the Procedures for Arbitration, or any rules agreed by the parties, the Tribunal shall decide the question.

(f) Failure of a party to appear or to present his case shall not be deemed an admission of the other party's assertions.

(g) If a party fails to appear or to present his case at any stage of the proceedings, another party may request the Tribunal to deal with the questions submitted to it and to render an award. Before rendering an award, the Tribunal shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that such party does not intend to do so. Such period of grace shall not exceed thirty days from the date of such notification to such party.

(h) Except as the parties otherwise agree, the Tribunal shall, if requested by a party, determine any incidental or additional claims or counter-claims arising directly out of the subject matter of the dispute, provided that they are within the scope of the consent of the parties and are otherwise within the jurisdiction of the Tribunal. The Tribunal may, in order to preserve the rights of any party, make such awards of interim measures as may be necessary and, in a dispute involving price, may make an interim award requiring payment of undisputed amounts and deposit of disputed amounts with a neutral third party pending final award.

(i) Arbitration proceedings shall be held at Paris, France; provided, however, that arbitration proceedings may be held, if the parties so agree, at any other place approved by the Tribunal after consultation with the Director, provided the additional costs of holding the arbitration in the other place including Secretariat travel and per diem are borne by the parties.

Article VIII

The Award

(a) The Tribunal shall render its award as soon as is reasonably possible after presentation of the parties' cases is complete.

(b) The Tribunal shall decide questions by a majority of the votes of all its members.

(c) The award of the Tribunal shall be in writing and shall be signed by the members of the Tribunal who voted for it.

(d) The award shall deal with every question submitted to the Tribunal and shall state the reasons upon which it is based. If the award requires any amounts due to be paid, it shall specify precise amounts and when payment shall be made. If the award requires any other action, it shall specify such action and the time within which it shall be taken.

(e) Any member of the Tribunal may attach his individual opinion to the award, either concurring with or dissenting from the award.

(f) The Director shall promptly dispatch certified copies of the award to the parties. The award shall be deemed to have been rendered on the date on which the certified copies were dispatched.

(g) The Director shall not publish the award without the consent of the parties.

(h) The Tribunal shall, upon request of a party made within thirty days after the date on which the award was rendered, and after notice to the other parties, decide any question which it had omitted to decide in the award, and shall within such thirtyday period, upon its own motion or upon request of a party, and after notice to the parties, rectify any clerical, arithmetical or similar error in the award. Its decision shall become part of the award and shall be notified to the parties in the same manner as the award. The periods of time provided for under Article IX (b) and (h) hereof shall run from the date on which the decision was rendered.

(i) In commencing proceedings for the recognition of enforcement of awards, it is recommended that the party commencing the proceedings submit to the Director within five days of the commencement of such proceedings a summary statement identifying:

(1) the competent authority where recognition or enforcement is sought;

(2) the parties to the proceedings;

(3) the title and number or other official designation of the proceedings; and

(4) the relief sought in the proceedings.

The Director shall promptly transmit to the members of the I.E.A. Standing Group on Emergency Questions each statement received by him pursuant to this paragraph.

Article IX

Interpretation, Revision and Annulment of the Award

(a) Any party may request interpretation of the meaning or scope of an award by an application in writing addressed to the Director.

(b) The application shall be made within thirty days after the date on which that award was rendered.

(c) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Article V hereof. The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

(d) Any party may request revision of the award by an application in writing addressed to the Director on the grounds of discovery of some fact of such a nature as decisively to affect the award, provided that when the award was rendered that fact was unknown to the Tribunal and to the applicant and that the applicant's ignorance of that fact was not due to negligence.

(e) The application shall be made within thirty days after the discovery of such fact in any event prior to the entry of judgement in any action brought to enforce the award.

(f) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible a new Tribunal shall be constituted in accordance with Article V hereof. The Tribunal may, if it considers that circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Tribunal rules on such request.

(g) Any party may request annulment of the award by an application in writing addressed to the Director on one or more of the following grounds:

- (1) that the Tribunal has manifestly exceeded its powers;
- (2) that there was corruption on the part of a member of the Tribunal;
- (3) that there has been a serious departure from a fundamental rule of procedure; or
- (4) that the award has failed to state the reasons on which it is based.

(h) The application shall be made within thirty days after the date on which the award was rendered, except that when annulment is requested on the grounds of corruption such application shall be made within thirty

days after discovery of the corruption and in any event prior to the entry of final judgement in any action brought to enforce the award.

(i) On receipt of the application the Director shall forthwith appoint from the Panel an ad hoc Committee of three persons. None of the members of the Committee shall have been a member of the Tribunal which rendered the award and none shall be of the same nationality as any such member, shall be a national of an I.E.A. Country whose national is a party to the dispute, or shall have been designated to the Panel by any such I.E.A. Country. The Committee shall have the authority to annul the award or any part thereof on any of the grounds set forth in paragraph (g) hereof and may, if it considers that circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Committee rules on such request.

(j) The provisions of Articles VI and VII hereof and the Procedures for Arbitration shall apply as appropriate to the proceedings of the Committee.

(k) If the award is annulled the dispute shall, at the request of a party, be submitted to a new Tribunal constituted in accordance with Article V hereof.

Article X

Effect of the Award

The award of a Tribunal has no effect except as a resolution of the particular dispute before the Tribunal and as between the parties to that particular dispute. Provision for the consents to arbitration and the effect thereof is set forth in Article II (b) above.

Article XI

Enforcement of the Award

A final or interim award rendered pursuant to this Charter is subject to enforcement in accordance with the applicable law of the State where enforcement is sought or in accordance with any applicable international obligation, including obligations undertaken by that State in the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10th June, 1958 or the Convention for the Execution of Foreign Arbitral Awards, signed at Geneva on 26th September, 1927. Recognition and enforcement of an award may be refused if the award is contrary to the public policy of the State in which

recognition or enforcement is sought, including the law of the European Communities insofar as it forms part of the public policy of that State, being a member State of the European Communities.

Van het op 10 juni 1958 te New York tot stand gekomen Verdrag over de erkenning en tenuitvoerlegging van buitenlandse scheidsrechterlijke uitspraken, naar welk Verdrag in artikel XI van het hierboven afgedrukte Handvest wordt verwezen, zijn de Engelse en de Franse tekst geplaatst in *Trb.* 1958, 145 en de vertaling in *Trb.* 1959, 58; zie ook, laatstelijk, *Trb.* 1980, 27.

Van het op 26 september 1927 te Genève tot stand gekomen Verdrag nopens de tenuitvoerlegging van in het buitenland gewezen scheidsrechterlijke uitspraken zijn tekst en vertaling bij Koninklijk besluit van 14 september 1931 bekendgemaakt in *Stb.* 399; zie ook, laatstelijk, *Trb.* 1980, 26.

Uitgegeven de *zevenentwintigste* november 1980.

De Minister van Buitenlandse Zaken a.i.,
A. A. M. VAN AGT