

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2008 Nr. 94

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Italiaanse
Republiek inzake het wederzijds aanhouden van voorraden ruwe
aardolie en/of aardolieproducten;
Rome, 31 maart 2008*

B. TEKST

**Agreement between the Kingdom of the Netherlands and the
Republic of Italy on the reciprocal holding of stocks of crude oil
and/or petroleum products**

The Kingdom of the Netherlands

and

the Republic of Italy,

hereinafter referred to as the “Contracting Parties” and each individually as the “Contracting Party”:

Having regard to Council Directive 68/414/EEC of 20 December 1968 imposing obligations on Member States of the European Economic Community to maintain minimum stocks of crude oil and/or petroleum products, as amended by Council Directive 98/93/EC of 14 December 1998 (hereinafter together referred to as “the Directive”);

Having regard to Article 6, paragraph 2, of the Directive which envisages the establishment of stocks within the territory of a Member State for the account of undertakings, established in another Member State, under agreements between Governments;

Having regard to national legislation regarding oil stockholding obligations;

Have agreed as follows:

Article 1

For the purposes of this Agreement:

- a) “competent authority” means the Governmental authority of each Contracting Party responsible for supervising the fulfillment by undertakings of stock obligations;
- b) “stock” means any stock of crude oil or petroleum products (including blending and finished products) covered by the Directive;
- c) “stock obligation” means the overall quantity of stock required to be held under national law;
- d) “supply crisis” in this Agreement shall have the same meaning as in Article 6, paragraph 2, of the Directive;
- e) “territory” means the area within the European Union over which each Contracting Party exercises jurisdiction;
- f) “undertaking” means any undertaking, body or entity, established in the territory of one Contracting Party which holds stocks for the purpose of facilitating compliance, whether by that undertaking or a third party, with the law relating to oil stockholding obligations of that or the other Contracting Party.

Article 2

This Agreement applies only to stocks covered by the Directive which have been accepted by the competent authorities of both Contracting Parties.

Article 3

1. An undertaking established in the Netherlands may hold stocks in Italy. Such stocks may be held either:
 - a) directly by the undertaking established in the Netherlands; or
 - b) by an undertaking established in Italy, on behalf of the undertaking established in the Netherlands.
2. An undertaking established in Italy may hold stocks in the Netherlands. Such stocks may be held either:
 - a) directly by the undertaking established in Italy; or
 - b) by an undertaking established in the Netherlands, on behalf of the undertaking established in Italy.
3. For stocks to be eligible for acceptance under Article 2 of this Agreement, the undertaking seeking acceptance of those stocks under that Article must have agreed to hold them whether itself or through the

other undertaking, from the first day of any calendar month for a period of at least three full calendar months, after acceptance by the competent authorities.

4. If an undertaking holds stocks on behalf of another undertaking in accordance with paragraphs (1)(b) or (2)(b) of this Article, then those stocks shall not be taken into account in the State where they are held, but shall be taken into account by the Contracting Party where the undertaking entitled to claim the stocks is established.

Article 4

Neither Contracting Party shall oppose the removal of stocks to which this Agreement applies from its territory to the territory of the other Contracting Party.

Article 5

The arrangement described in Article 3 shall require the approval of the competent authority of each Contracting Party, which must be applied for in advance in accordance with the procedure laid down in Articles 6 and 7.

Article 6

1. Applications must be made to the competent authority of the Contracting Party under whose legislation the stockholding obligation arises at least 20 (twenty) working days before the commencement of the period for which authorization is sought and must include the following information:

- a) the name and address of the applying undertaking (“the first undertaking”) and the name and address of the undertaking established in the Contracting Party where the stocks are to be held (“the second undertaking”), which is to hold the stocks on its behalf;
- b) the category and quantity of the stocks;
- c) the period for which the stocks are to be held;
- d) the location, if known, of the depot(s) where the stocks are to be held;
- e) period for which the authorization is being requested.

2. Where the application is approved by the competent authority of the Contracting Party under whose legislation the stockholding obligation arises (“the first competent authority”), the latter shall forward to the competent authority of the other Contracting Party (“the second competent authority”) the information listed in paragraph 1 of this Article no later than 10 (ten) working days before the start of the period for which authorization was sought and notify it of such approval.

3. The “second competent authority” shall use all reasonable endeavors to notify the first competent authority whether or not it approves the application no later than 5 (five) working days before the start of the period for which authorization was sought. In the event that no such notification is received by the first competent authority before the date of commencement of such period, the second competent authority shall be deemed not to have approved the application in question.

4. Notwithstanding the time limits indicated in paragraph (1), (2) and (3) of this Article, the competent authorities may, if necessary, agree to amend any or all of those time limits.

5. If there is any significant change in the matters regarding the supplied information, a further application as described in paragraph 1 must be submitted by the applicant.

6. Any acceptance of an application may be withdrawn by either competent authority if any significant inaccuracy is found in the particulars furnished in respect of that acceptance under paragraph 1 of this Article. Before withdrawing an acceptance under this provision the competent authority concerned shall inform the competent authority of the other Contracting Party and afford the undertaking with the stockholding obligation, which had furnished the particulars a reasonable opportunity to make representations.

7. Both undertakings consent to disclose to the competent authorities any information obtained for the purpose of implementing this Agreement.

Article 7

1. Where an undertaking is applying for authorization to hold stocks under the framework of this Agreement in circumstances where it will not be the owner of those stocks, as mentioned in Article 3 (1b) and (2b), then neither competent authority shall approve of the holding of the stocks concerned under the framework of this Agreement unless:

a) the undertaking holding the stocks on behalf of the applicant is one who is subject to the jurisdiction of the Contracting Party on whose territory the stocks are situated insofar as the legal powers of that Contracting Party to control and verify the existence of those stocks are concerned;

b) the stocks are to be held by virtue of an agreement in writing between the undertaking with the stockholding obligation and the undertaking holding the stocks on his behalf (the “contract”) which will subsist throughout the period for which authorization is sought;

c) the undertaking with the stockholding obligation has the contractual right to acquire the stocks throughout the period of the contract and the methodology for establishing the price of such acquisition is specified in the contract; and

d) the actual availability of the stocks for the undertaking with the stockholding obligation is guaranteed throughout the period of the contract.

2. Both undertakings consent to disclose to the competent authorities any information obtained for the purpose of implementing this Agreement.

Article 8

1. Each competent authority shall require any undertaking holding stocks in the territory of the other Contracting Party to furnish it with a statistical return of those stocks within six weeks of the expiry of the period to which the return relates.

2. Each statistical return to be furnished under paragraph (1) of this Article shall include particulars of:

a) the name and address of the undertaking holding the stocks in the other Contracting Party and, where applicable, the name and address of the undertaking established in the Contracting Party where the stocks are to be held, which is to hold the stocks, on its behalf;

b) the category and quantity of the stocks;

c) location, if known, of the depot(s) where the stocks are held.

3. Each competent authority shall from time to time and, in particular, whenever so requested by the competent authority of the other Contracting Party, undertake any inspections, checks or other verification measures which it considers appropriate in respect of stocks accepted as being stocks to which this Agreement applies and shall notify the competent authority of the other Contracting Party immediately of any material discrepancy or irregularity which those measures reveal.

4. Together with the monthly statistical return foreseen in article 4 of the Directive the competent authorities shall file with the European Commission a report on the situation of the stocks concerned herein and under the conditions set in article 6 of that same Directive.

5. The same information shall be reported to the International Energy Agency according to IEA procedures.

Article 9

The competent authorities agree to consult each other as soon as reasonably practicable:

- a) in the event of a supply crisis;
- b) to resolve any difficulty arising in the interpretation or application of this Agreement; or
- c) to amend any of the terms of the Agreement, in which case the consultations must in any event begin no later than sixty days after the request has been received.

Article 10

This Agreement shall enter into force on the first day of the second month after each Contracting Party has notified the other Contracting Party through the diplomatic channel of the completion of its procedures necessary for the entry into force of the Agreement.

Article 11

1. This Agreement may be terminated by either Contracting Party upon giving notice in writing through the diplomatic channel to the other Contracting Party, not less than six months before the end of any calendar year. In such event the Agreement shall cease to be in force from the first day of the immediately following calendar year.

2. If a Contracting Party exercises the power of termination in paragraph (1) of this Article it shall notify the Commission of the European Union in writing of the termination before it takes effect.

3. The power of termination in paragraph (1) of this Article is not exercisable during a supply crisis.

DONE at Rome, on the 31st March 2008, in two originals in the English Language only.

IN WITNESS WHEREOF, the undersigned duly empowered to this effect, have signed this Agreement.

For the Kingdom of the Netherlands

E.F. JACOBS

For the Republic of Italy

A. GIANNI

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 10 in werking treden op de eerste dag van de tweede maand nadat de Verdragsluitende Partijen elkaar langs diplomatieke weg ervan in kennis hebben gesteld dat hun onderscheiden procedures vereist voor de inwerkingtreding van dit Verdrag zijn afgerond.

J. VERWIJZINGEN

- Titel : Overeenkomst inzake een Internationaal Energieprogramma;
Parijs, 18 november 1974
- Tekst : *Trb.* 1975, 47 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 1980, 183
- Titel : Richtlijn nr. 68/414/EEG van de Raad van de Europese Gemeenschappen;
Brussel, 20 december 1968
- Tekst : *Pb.* L 308 van 23 december 1968, blz. 14–16

Titel : Richtlijn nr. 98/93/EG van de Raad van de Europese
Unie;
Brussel, 14 december 1998
Tekst : *Pb.* L 358 van 31 december 1998, blz. 100–104

Uitgegeven de *drieëntwintigste* mei 2008.

De Minister van Buitenlandse Zaken,

M. J. M. VERHAGEN