



**TREATY SERIES 2010
N° 23**

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

Done at Dublin on 28 April 2005

Entered into force on 5 May 2006

Presented to Dáil Éireann by the Minister for Foreign Affairs

**AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE
GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS ON THE
RECIPROCAL HOLDING OF STOCKS OF CRUDE OIL AND/OR
PETROLEUM PRODUCTS**

The Government of the Kingdom of the Netherlands and the Government of Ireland,

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 stocking obligations;

HAVE AGREED as follows:

Article 1

For the purposes of this Agreement:

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

Article 2

This Agreement applies to stocks, which have been accepted by the competent authorities in both States as being stocks to which this Agreement applies.

Article 3

1. An undertaking established in Ireland may hold stocks to which this Agreement applies in the Netherlands. Such stocks may be held either:

- (a) directly by the undertaking established in Ireland, or
- (b) by an undertaking established in the Netherlands, on behalf of the undertaking established in Ireland.

2. An undertaking established in the Netherlands may hold stocks to which this Agreement applies in Ireland. Such stocks may be held either:

- (a) directly by the undertaking established in the Netherlands, or
- (b) by an undertaking established in Ireland, on behalf of the undertaking established in the Netherlands.

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 a third party, from the first day of any calendar month for three or more 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 also be taken into account by the undertaking first mentioned in its own stocking declarations.

Article 4

Neither Government shall oppose the removal of stocks to which this Agreement applies from its territory nor their treatment in accordance with directions issued by the competent authority of the other Government.

Article 5

1. No stocks may be accepted under Article 2 of this Agreement as being stocks to which this Agreement applies unless:

(a) the undertaking seeking to hold the stocks outside its State of establishment ("the first undertaking") has furnished the competent authority of its State of establishment, not later than fifteen days before the commencement of the period to which the acceptance relates, with the following particulars:

- (i) its name and address and the name and address of the undertaking established in the State where the stocks are to be held ("the second undertaking"), which is to hold the stocks on its behalf;
- (ii) the nature and quantity of the stocks;

- (iii) location, if known, of the depot(s) where the stocks are to be held;
- (iv) the period for which the stocks are to be held
- (v) if requested, the provisions of any agreement whereby the stocks are to be held on behalf of the first undertaking by the second undertaking.

(b) both the first and the second undertakings consent to the competent authority of the State in whose territory the stocks will be situated disclosing to the competent authority of the other State any information obtained for the purpose of implementing this Agreement.

2. Where an undertaking is seeking to hold outside its State of establishment stocks which will not be owned by that undertaking ("the beneficiary undertaking") but will be held at its disposal by another undertaking, ("the delegating undertaking"), then in addition to the provisions of paragraph (1) above, no stocks which are to be so held may be accepted under Article 2 of this Agreement as being stocks to which this Agreement applies, unless

- (a) the stocks are to be held by virtue of an agreement in writing between the beneficiary undertaking and the delegating undertaking ("the contract") which will subsist throughout the period to which the acceptance relates;
- (b) the beneficiary undertaking has the contractual right to acquire the stocks throughout the period of the contract;
- (c) the actual availability of the stocks for the beneficiary undertaking is guaranteed at all times throughout the period of the contract, and
- (d) the delegating undertaking is one which is subject to the jurisdiction of the State on whose territory the stocks are situated insofar as the legal powers of that State to control and verify the existence of the stocks are concerned.

3. Where the competent authority of one State has been furnished with particulars under paragraph (1)(a) and (2) of this Article, or any changes in respect of such particulars, and accepts the stocks in question as stocks to which this Agreement applies, that authority shall, not later than ten days before the commencement of the period to which the acceptance relates, transmit the particulars to the competent authority of the other State and notify it of such acceptance.

4. The competent authority to which such notification is given shall be deemed not to have accepted the stocks in question as stocks to which this Agreement applies unless, not later than five days before the commencement of the period to which the acceptance relates, it notifies the competent authority of the other State whether or not it accepts the stocks in question.

5. Any acceptance under paragraphs (3) or (4) of this Article may be withdrawn by either competent authority if any inaccuracy is found in the particulars furnished in

respect of that acceptance under paragraph (1)(a) and (2) of this Article or if there is any material change in the matters to which those particulars relate. Before withdrawing an acceptance under this provision the competent authority concerned shall inform the competent authority of the other State and afford the undertaking, which had furnished the particulars a reasonable opportunity to make representations.

Article 6

1. Each competent authority shall require any undertaking holding stocks in the territory of the other State to furnish it with a statistical return, at least monthly, 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 State and where applicable, the name and address of the undertaking established in the State where the stocks are to be held, which is to hold the stocks on its behalf;

(b) the nature and quantity of the stocks; and

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

3. Each competent authority shall, if requested, transmit to the other competent authority copies of every statistical return furnished under paragraph (1) of this Article.

4. The competent authority of the State in which the stocks are held shall, by exercising from time to time its powers of inspection, check on the information contained in statistical returns so furnished and notify forthwith the competent authority of the other State of any material discrepancy in respect of that information.

5. The competent authorities shall co-operate in relation to the use of their powers of inspection in cases where either authority considers such co-operation to be necessary in relation to particular stocks held under the terms of the Agreement.

Article 7

1. In the event of a shortfall in the total amount of stocks which a delegating undertaking should be holding both on behalf of beneficiary undertakings and as part of the stock obligation of the State in which it is established the competent authority of the latter State shall notify the competent authority of the other State as soon as it becomes aware of the same.

2. The Governments agree to consult each other as soon as reasonably practicable:

(a) in the event of a supply crisis; or

- (b) on the occurrence of a shortfall referred to in paragraph (1) above;
- (c) at the request of either of them in order to
 - (i) resolve any difficulty arising in the interpretation or application of this Agreement; or
 - (ii) amend any of the terms of the Agreement.

Article 8

The Agreement may be amended by the written agreement of both Governments and the amended Agreement shall take effect when each Government has notified the other Government through the diplomatic channel of the completion of their respective requirements for the entry into force of the amended Agreement.

Article 9

This Agreement shall enter into force when each Government has notified the other Government through the diplomatic channel of the completion of its procedures necessary for the entry into force of the Agreement.

Article 10

1. This Agreement may be terminated by either Government upon giving notice in writing, through the diplomatic channel to the other Government, not less than six months before the end of any calendar year. The Agreement shall cease to be in force from the first day of the following calendar year.
2. Neither Government shall exercise the power of termination in paragraph (1) of this Article without having informed the Commission of the European Communities of its intention to do so.
3. The provisions of paragraph (1) of this Article shall not apply during a supply crisis.

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

DONE in two originals in Dublin, this 28th day of April 2005, in the English language only.

**FOR THE GOVERNMENT
OF IRELAND**

Brendan Tuohy

**FOR THE GOVERNMENT
OF THE KINGDOM OF THE
NETHERLANDS**

J. Van Der Velden