



TREATY SERIES 2013
Nº 18

**Agreement between Ireland and the Kingdom of Spain on the
Reciprocal Holding of Emergency Stocks of Crude Oil and/or
Petroleum Products**

Done at Madrid on 12 December 2012

Entered into force on 12 December 2012

Presented to Dáil Éireann by the Minister for Foreign Affairs and Trade

AGREEMENT BETWEEN IRELAND AND THE KINGDOM OF SPAIN ON THE RECIPROCAL HOLDING OF EMERGENCY STOCKS OF CRUDE OIL AND/OR PETROLEUM PRODUCT

Ireland and the Kingdom of Spain,

Having regard to Directive 2006/67/EC of the Council of the European Communities of 24 July 2006, which obliges Member States of the European Communities to maintain minimum stocks of crude oil and/or petroleum products and to Directive 2009/119/EC of the Council of the European Communities of 14 September 2009, which repeals and replaces Directive 2006/67/EC with effect from 31 December 2012,

Having regard to national legislation concerning emergency stocks of crude oil and / or petroleum products,

HAVE AGREED as follows:

Article 1

For the purpose of implementing this Agreement,

- a) The term “emergency stocks” means strategic stocks of crude oil, intermediate petroleum products and finished products, in accordance with the relevant legislation in force in the respective States;
- b) The term “enterprise” means an Irish enterprise required to maintain emergency stocks or a Spanish enterprise governed by the legislation concerning the maintenance of emergency stocks and
- c) The term “competent authority” means;

In respect of Ireland, the Minister for Communications, Energy and Natural Resources.

In respect of Spain, the Ministry of Industry, Energy and Tourism
- d) The term “supply crisis” has the same meaning as the term “major supply disruption” in Directive 2009/119/EC.
- e) The term “Directive”:
 - i) up to 31st December 2012 means Directive 2006/67/EC of the Council of the European Communities of 24 July 2006, which obliges Member States of the European Communities to maintain minimum stocks of crude oil and/or petroleum products, and
 - ii) from 1st January 2013 means Directive 2009/119/EC of the Council of the European Communities of 14 September 2009 which obliges Member States of the European Communities to

maintain minimum stocks of crude oil and/or petroleum products.

Article 2

This Agreement applies to stocks of crude oil and / or any petroleum products covered by the Directive which have been accepted by the competent authorities in both States as being stocks to which this Agreement applies.

Article 3

1. An enterprise required to maintain emergency stocks in Ireland may hold a portion of such stocks in Spain.
2. An enterprise required to maintain emergency stocks in Spain may hold a portion of such stocks in Ireland.

Article 4

1. In order to implement the provisions of Article 3, an enterprise must obtain prior acceptance from the competent authorities in accordance with the procedure outlined in this Article.
2. Requests for acceptance shall contain the following information:
 - a) The name and address of the enterprise required to maintain emergency stocks, which is submitting the request;
 - b) The nature and quantity of the stocks in question;
 - c) If the owner of the emergency stocks is not the enterprise, the name and address of the person owning the stocks and guaranteeing to cover them in accordance with Article 9;
 - d) The name and address of the company operating the warehouse or facility where the said emergency stocks are held, and the precise location of the facilities and the name of the tanks used;
 - e) The period for which acceptance is requested, which shall be not less than three calendar months;
 - f) The customs and fiscal arrangements under which the stocks are held;
 - g) The consent of the parties identified under subparagraphs (a), (c) and (d) to the disclosure of any information obtained for the purposes of implementing this Agreement to the competent authority of the State on behalf of which the stocks are to be held;
 - h) If requested, the provisions of any agreement whereby the stocks are to be held on behalf of the enterprise required to maintain emergency stocks.

3. After examination of the request submitted by the enterprise to the competent authority of the State under whose jurisdiction it is required to maintain stocks, the latter shall transmit to the competent authority in the jurisdiction in which the stocks may be established, not later than 40 calendar days prior to the beginning of the period for which the acceptance is requested, the information indicated in paragraph 2 above concerning the requests for acceptance which it has accepted.

4. The competent authority of the jurisdiction in which the emergency stocks are to be established shall communicate its decision to the competent authority of the State on behalf of which the stocks are to be held, not later than 15 calendar days prior to the beginning of the period for which the acceptance is requested.

5. Where the competent authority does not communicate its decision within the time period specified in paragraph 4 then it shall be deemed as having granted its acceptance.

6. If there is any change in the information referred to in paragraph 2 above, a new request for acceptance shall be submitted.

Article 5

The Government of the jurisdiction in which the stocks are maintained pursuant to this Agreement shall not, under any circumstances, hinder the free movement of, to the jurisdiction of the other State, the stocks referred to in the above articles or their treatment in accordance with directions issued by the competent authority of the other State.

Article 6

The emergency stocks referred to in Article 2 cannot be taken into account for the purpose of meeting stock obligations falling on enterprises pursuant to the legislation of the State in which the stocks are held. These stocks shall be used solely to meet the obligations of the State on behalf of which they are maintained and may be included only in the stock returns of the State for which they are held.

Article 7

1. Each entity holding emergency stocks in its jurisdiction on behalf of an enterprise required in the other State to maintain stocks, pursuant to the provisions of this Agreement, shall supply the competent authority of the jurisdiction in which the emergency stocks are located, within 4 calendar weeks of the expiry of the month concerned, a monthly summary return of such emergency stocks.

2. The summary return shall contain the following information:

- The name and address of the enterprise required to maintain stocks;
- The nature and quantity of such stocks;

- If the owner of the emergency stocks is not the enterprise required to maintain stocks, the name and address of the person owning the stocks and guaranteeing to cover them in accordance with Article 9;
 - The name and address of the enterprise operating the warehouse or facility where the emergency stocks are held, the precise location of the facilities and the name of the tanks used.
3. Each competent authority shall transmit to the other competent authority copies of summary returns supplied under this Article.
4. The competent authority in the jurisdiction in which the emergency stocks are held shall monitor such stocks and, in the event that there is a discrepancy, shall inform the competent authority of the other State within 20 calendar days from the end of the month.

Article 8

With respect to the monthly statistical summary provided for in the Directive each Contracting State shall transmit to the European Commission a report concerning the emergency stocks maintained in its jurisdiction on behalf of the other State, in accordance with the Directive requirements.

Article 9

1. When stocks established pursuant to the provisions of this agreement are not owned by the enterprise which has an obligation to hold stocks (“the first enterprise”), but are held at its disposal by an undertaking of the State in the territory of which the stocks are stored (“the second enterprise”), the following conditions shall be met:
- (a) the second enterprise is the legal owner of the stocks;
 - (b) the stocks are to be held by virtue of an agreement in writing between the first enterprise and the second enterprise (the “contract”) which will subsist throughout the period to which the acceptance relates;
 - (c) the contract shall include the name and address of the company operating the warehouse or facility where the said stocks are held, whether that company is the second enterprise or another company operating under an agreement to hold the stocks on behalf of the second enterprise, and the precise location of the facilities and the name of the tanks used;
 - (d) the first enterprise 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 agreed between the parties concerned;
 - (e) the actual availability of the stocks for the first enterprise is guaranteed at all times throughout the period of the contract; and

- (f) the second enterprise is one which is subject to the jurisdiction of the State in whose territory the stocks are stored insofar as the legal powers of that State to control and verify the existence of the stocks are concerned.

2. An enterprise holding emergency stocks under paragraph 1 of this Article must obtain prior acceptance from the competent authorities in accordance with the procedure outlined in Article 4.

Article 10

Pursuant to this Agreement, the competent authority of either State may request the corresponding authority of the other State to carry out the control of their emergency stocks, in accordance with its powers of inspection, such inspections as are deemed necessary to guarantee compliance with the requirement to maintain emergency stocks.

Article 11

Where in the course of inspections as set out in Article 10, material discrepancies in statistical returns relating to emergency stocks are detected by officials of the jurisdiction in which the emergency stocks established on behalf of the other Contracting State are stored pursuant to this Agreement, these shall be notified to the latter State as soon as possible.

Article 12

At the request of either Contracting State, any question regarding the interpretation or application of this Agreement may be the subject of consultation. In the event of a supply crisis, such consultation shall be initiated without delay.

Article 13

1. If either Contracting State deems it advisable to amend any provision of this Agreement, it may request consultation with the other State. Such consultation shall begin within 60 calendar days from the date of receipt of the request.

2. The Contracting States shall indicate, in writing, their acceptance of any amendment to this Agreement. Such amendment shall enter into force as soon as the States notify one another through the diplomatic channel that the amendment is compatible with their respective legislative requirements.

Article 14

1. This Agreement is concluded for an indefinite period. However, either Contracting State may terminate it upon giving notice in writing, through the diplomatic channel to the other Contracting State not later than three months before the end of a calendar year. Such termination shall take effect on the first day of the following calendar year.

2. The option to terminate shall not be exercised in a supply crisis.

3. The European Commission shall, in all cases, as soon as possible, be given advance notice of any proposed termination.

Article 15

Nothing in this Agreement shall prevent the competent authority of a State, for whose benefit emergency stocks falling within the ambit of this Agreement are held, from commencing disciplinary proceedings, as provided for under the domestic law of that State, against an enterprise for the failure of that enterprise to fulfil its statutory obligations under the domestic law of that State to maintain such emergency stocks.

Article 16

This Agreement shall enter into force on the date of its signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Madrid, on 12th December 2012, in duplicate in the English and Spanish languages, both texts being equally authentic.

FOR IRELAND

Justin Harman

Ambassador of Ireland to
the Kingdom of Spain

FOR THE KINGDOM OF SPAIN

Jaime Suárez Pérez-Lucas

Director-General for Energy
Policy and Mining