

## COMMISSION DECISION

of 12 December 1983

relating to a proceeding under Article 85 of the EEC Treaty  
(IV/30.525 — International Energy Agency)

(Only the English, French and German texts are authentic)

(83/671/EEC)

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty <sup>(1)</sup>, as last amended by the Act of Accession of Greece, and in particular Articles 4, 6 and 8 thereof,

Having regard to the notification and application for negative clearance submitted to the Commission on 5 January 1982 by the Chairman of the Industry Advisory Board of the International Energy Agency for the benefit of 32 oil companies which might be asked to participate in the carrying out of the International Energy Program in the event of its activation,

Having regard to the publication in the *Official Journal of the European Communities* <sup>(2)</sup> of the summary of the notification pursuant to Article 19 (3) of Regulation No 17,

After consultation with the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas:

## I. THE FACTS

- (1) An agreement on an International Energy Program (hereinafter referred to as the IEP) was signed on 18 November 1974. Twenty-one countries, members of the OECD, now participate in the IEP. Nine Member States of the European Economic Community have signed the IEP, France being a non-signatory. The Community has not signed the IEP and the Commission has the status of observer with the International Energy Agency (here-

inafter referred to as the IEA) an autonomous agency of OECD, responsible for carrying out the IEP. The Community has adopted measures aimed at regulating oil supply shortfalls at the Community level, which complement those adopted by the IEA.

- (2) The objectives of the IEP as set out in its preamble are to take common effective measures to meet oil supply emergencies by developing an emergency self-sufficiency in oil supplies, restraining demand and allocating available oil among the participating countries on an equitable basis. A principle of solidarity has been established between the participating countries to ensure that the effects of supply cuts are evened out between them and that no country or group of countries will suffer disproportionately the consequences of supply disruptions, all as set out in the IEP.

- (3) The IEP provides that the allocation process may be activated when one or more participating countries, or all the participating countries as a group, sustain a reduction of 7 % or more in the expected daily rate of oil supplies. Any reduction in the daily rate of oil supplies is likely to affect the participating countries differently. Some countries possess a large refinery capacity and thus mainly import crude oil, while other countries mainly import refined products. Some countries import only from one source, others from various sources or even have indigenous production. A country might be the subject to some form of embargo which might hamper the usual flow of oil to that country.

Because of these differences it would be necessary to find out in what degree the participating countries are affected by the supply disruptions, in order to establish which would have oil and/or products to share with other countries, and which would be entitled to receive oil. Each country's supply rights under the IEP would have to be established.

<sup>(1)</sup> OJ No 13, 21. 2. 1962, p. 204/62.

<sup>(2)</sup> OJ No C 199, 26. 7. 1983, p. 2.

Each country's supply right is calculated mathematically by the IEA. These supply rights are compared with overall available supplies in order to determine whether a country has an allocation right or an allocation obligation. If the overall supplies available to each country:

- are less than the supply right, the country will have an allocation right, that is a right to receive an allocation from other countries' available supplies,
- exceed the supply right, the country will have an allocation obligation, that is an obligation to make its excess available to other participating countries.

The finding of the IEA Secretariat in regard to activation of the emergency allocation system is subject to review by the Governing Board of the IEA which consists of representatives of the governments of the participating countries. The allocation system has never been activated. It has, however, been tested at regular intervals.

(4) *The companies*

The IEP provides that an International Advisory Board (normally called the Industry Advisory Board or IAB) from the oil industry shall be convened to assist the IEA in ensuring the effective operation of emergency measures. The IEA shall consult with oil companies to obtain their views regarding the situation and the appropriate measures to be taken. The objective is to draw on the expertise of the oil companies and their general knowledge about the world oil supply situation. Generally it can be said that the emergency allocation measures cannot be carried out without the assistance of the oil companies.

- (5) The IAB has been established by the Governing Board of the IEA. The oil companies in the participating countries have been asked by the IEA and governments of participating countries to participate. At present, 16 oil companies and two associations of oil companies are members of the IAB. The oil companies are all members of the group of 'reporting companies' of which there are approximately 46. Reporting companies, designated by the IEA, are to submit oil supply data on imports, exports, indigenous production, inventories, etc. to the IEA and national governments during an emergency and cooperate, voluntarily, with the IEA in

allocation implementation. Their number is fixed from time to time and will be known when the emergency allocation system is activated. Non-reporting companies are asked by the participating countries to submit data to national governments, who transmit them to the IEA on an aggregated basis. Both reporting and non-reporting companies also assist in carrying out the allocation at a national level in accordance with national law. The exact number of non-reporting companies which might be asked to participate when the emergency allocation system is activated is not known in advance.

- (6) An *ad hoc* group of the IAB is the Industry Supply Advisory Group (hereinafter referred to as ISAG). The members of ISAG consist of oil company employees with oil supply expertise. They coordinate the voluntary arrangement of supplies by reporting companies and National Emergency Sharing Organizations to direct the supplies for purposes of balancing the allocation rights and allocation obligations of participating countries. ISAG members will work for the IEA at the IEA headquarters in Paris on an *ad hoc* basis in all phases of the activation and deactivation of the allocation process. Detailed descriptions of the allocation sharing system and the involvement of oil companies have been adopted by the Governing Board.

- (7) National Emergency Sharing Organizations (hereinafter referred to as NESOs), established on a stand-by basis in each participating country, are responsible for national oil emergency measures and for liaison with the IEA on matters of international allocation in an emergency. The structure of NESOs will differ from country to country, reflecting different oil supply and political structures, and may have differing involvement of oil industry personnel. Where necessary, NESOs combine governmental authority for national oil emergency management with operational coordination of the oil supply activities of companies operating nationally, both reporting and non-reporting. As regards non-reporting companies the NESO takes on certain operational functions *vis-à-vis* the IEA. NESOs submit to the IEA reporting company data on a disaggregated basis and, for the

most part, non-reporting company data on an aggregated basis. They also carry out national fair sharing.

(8) *The goods*

The goods are crude oil, all petroleum products, all refinery feedstock, all finished products produced in association with natural gas and crude oil, and possibly synthetic fuels.

(9) *The allocation process*

The allocation process takes place in monthly cycles for as long as the emergency allocation system is activated, and embraces three types of activities which may take place at the same time:

— *Type 1:* Reporting companies and non-reporting companies will voluntarily and independently of any requests by the IEA rearrange their own supply arrangements, including exchanges and other commercial transactions with other oil companies, in response to the emergency situation. In this type of activity, these companies may take into account participating countries' allocation rights and obligations, projected oil supplies by country of origin, and other data supplied by the IEA;

— *Type 2:* Reporting companies will voluntarily rearrange supplies — including transactions between companies — in response to IEA requests or solicitations to assist in balancing allocation rights and obligations of the participating countries. In so doing, they will be assisted by ISAG;

— *Type 3:* If, in spite of the best voluntary efforts of the industry, additional actions to meet countries' supply rights are required, participating countries will establish what further actions are required and how they will be implemented. Such further action might include direct instructions from individual governments or NESOs to companies.

The allocation process may necessitate other activities relating to production, refining, distribution or transportation.

(10) Generally, Type 1 activities are normal commercial transactions between oil companies. Each company will establish its own independent emergency arrangements to share its available supplies with its affiliates and cust-

omers. On the whole this will merely reflect normal distribution patterns. However, when the companies concerned have taken account of allocation rights and obligations or other information supplied by the IEA in establishing and carrying out the transactions, this might present Type 2 characteristics.

(11) Type 2 activities involve action by oil companies to remedy the remaining imbalances. ISAG will evaluate the voluntary offers put forward by the reporting companies, the non-reporting companies via NESOs and by NESOs and may solicit further offers. The voluntary offers may be 'closed-loop' offers where the companies involved in giving or receiving oil have been identified in advance. They mainly concern affiliated companies. Or the voluntary offers may be 'open' offers, either to receive oil or to supply it. All these offers are specific as to the kind of crudes or products offered or required.

(12) The circumstances of any supply disruption cannot be foreseen precisely. Supply disruptions might affect participating countries differently. Not all countries use the same kind of crudes or products, and there are differences in refining capacities. Any embargoes might also affect countries differently. It is not possible before IEP activation to establish the amount of oil that will have to be reallocated under Type 2 or Type 3.

(13) ISAG will evaluate the voluntary offers it receives. In so doing it will take into account the special needs of each participating country. If the offers do not meet the requirements necessary to carry out the allocation adequately, ISAG may solicit alternative offers. In matching the open offers intensive exchange of information may take place between ISAG members, between ISAG and reporting companies, between ISAG and NESOs, between reporting companies and between NESOs, on the origin, quality, tanker and refinery capacity, storage capacity, pricing of oil as appropriate and other issues which prove necessary to carry out the allocation process. The object is to fulfil allocation rights and obligations, that is, to direct oil and/or products from countries with a surplus to countries with a deficit.

- (14) The following is an example: Alpha Oil notifies ISAG that it has a part-cargo of 50 000 tons of Arabian Light crude oil, 34° API, three days out from North West Europe on open voluntary offer. The cargo was intended, before the crisis, for one of Alpha's United Kingdom refineries, but the United Kingdom has, in fact, after the activation of the allocation system, an allocation obligation. ISAG scrutinizes its detailed information about those countries in the system which have allocation rights and solicits voluntary buy offers until it finds a buyer needing crude of this particular quality, say Beta's refinery at Rotterdam, the Netherlands, a country having an allocation right. The offer is therefore matched, the Allocation Coordinator gives his approval, the price is arrived at between Alpha and Beta on commercial principles and the tanker carrying the crude delivers it to Beta at Rotterdam.
- (15) ISAG will not be involved in the fixing of commercial terms for the reallocated oil. Companies will fix such terms between themselves once the offers have been matched by ISAG. However, in the case of open offers companies may elect to advise ISAG of the commercial terms, including prices, in order for ISAG to be able to solicit acceptances of the offers.
- (16) When ISAG has made recommendations regarding the matching of the voluntary offers, the Allocation Coordinator, who is the Executive Director of the IEA, either approves or disapproves. The Allocation Coordinator is responsible to the Emergency Group of the Standing Group on Emergency Questions (hereinafter referred to as the SEQ Emergency Group) for the supervision and guidance of the allocation process. The SEQ Emergency Group is a body of government representatives responsible to ensure intergovernmental agreement and/or consensus as regards decisions taken in implementation of the IEP during an emergency.
- (17) If the Allocation Coordinator disapproves, ISAG will be asked to do a rematch. When the Allocation Coordinator approves the ISAG recommendation, ISAG will notify the reporting companies and governments accordingly. If ISAG is unable to match all offers because discrepancies of some kind persist, the Allocation Coordinator will take the matter to the SEQ Emergency Group and, if requested by the SEQ Emergency Group, the ISAG and the Allocation Coordinator will consult with the IAB. Governments then establish what action is required and how it will be implemented. Such action constitutes Type 3 activity.
- (18) The allocation process is deactivated when the shortfall of supplies has decreased or can reasonably be expected to decrease below 7 %. The Governing Board either approves of the IEA Secretariat finding on the subject matter, or decides to deactivate without such finding. Neither ISAG nor reporting companies or non-reporting companies will be asked to reallocate oil after deactivation.
- (19) Members of the oil industry will be involved to some extent before the activation or without the actual activation of the emergency sharing system. Article 19 (6) of the IEP provides that the IEA Secretariat shall consult with oil companies to obtain their views regarding the overall supply situation and the appropriateness of the measures to be taken. Such consultation before or without activation of the emergency allocation system is considered necessary in view of the oil companies' knowledge of the market. Article 19 (7) contemplates that the IAB will be convened to assist the IEA in emergency allocation and such assistance could begin before actual activation of emergency measures. Article 55 (3) of the IEP specifies that the SEQ may consult with oil companies on any matter within its competence, and this could include consultation before or without activation of the emergency allocation system. Oil companies will also, in the event of a supply disruption, submit data to the IEA and to national governments such as that on imports, exports, indigenous production and inventories, at the request of the Executive Director of the IEA.
- (20) The IEP emergency sharing system and the detailed rules adopted for its carrying out are tested by the IEA at regular intervals. Test runs involve company participation (both reporting and non-reporting companies, ISAG and NESOs) to the same extent as activated emergencies. The data base and other information so far used during test runs have been either historical or hypothetical and no real oil has been shared.
- (21) A Dispute Settlement Centre has been created by the Governing Board. The purpose of the Centre is to provide, for consenting parties,

facilities for arbitration of disputes between a seller and buyer of oil, or between the parties to an exchange of oil, arising out of an oil supply transaction during implementation of the IEP emergency allocation system. No award rendered by the Dispute Settlement Centre of the IEA, to which Article 85 may apply, is exempted by this Decision.

- (22) No comments were received from third parties in response to the Commission's notice pursuant to Article 19 (3) of Regulation No 17.

## II. LEGAL ASSESSMENT

### A. Article 85 (1) of the EEC Treaty

- (23) Article 85 (1) prohibits, as incompatible with the common market, all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market. These provisions are applicable in this case.
- (24) The undertakings involved — reporting and non-reporting oil companies — are undertakings within the meaning of Article 85 (1).
- (25) The consent of the oil companies to cooperate with one another and the IEA in the framework of the IEP and in the operation of the IEA emergency oil allocation system is a concerted practice. The IEP contemplates the assistance of oil companies in carrying out its emergency oil allocation system. Governments have laid down rules for this assistance and adopted the framework for the involvement of the companies. The object of that involvement is to arrive at a specific result, that is, the redistribution of oil and/or products to fulfil the participating countries' allocation rights and obligations. For this purpose company representatives will be gathered together to achieve the object through common effort. An extensive exchange of information will take place on origin of oil, quality, tanker and refinery capacity, storage capacity and other matters and company representatives will be exposed to data and

information some of which is otherwise proprietary and confidential. This will be done under the assumption that all the participants will play their part to achieve the object of the IEP.

- (26) The concerted practice may have the effect of distorting competition. The main objective of the IEP emergency oil allocation system is to allocate oil and/or products among the participating countries on an equitable basis if a shortfall occurs. An obligation of solidarity has been established among the participating countries to prevent one country or a group of countries from suffering disproportionately the consequences of oil supply disruption. Each country's supply right will be compared with available supplies to determine which countries will have a right to receive oil and which countries an obligation to share oil. The concertation between the oil companies has the object and effect of taking into account, in the case of some Type 1 transactions, and balancing, in the case of Type 2 and Type 3 transactions, allocation rights and obligations. This means in some cases directing oil to destinations where it would not have gone had the IEA system not been activated. This implies that the usual market processes may be set aside in order to bring about results different from those which unrestricted competition would bring about in a supply shortfall. The concertation between the oil companies will lead to conditions of competition which do not correspond to the conditions of the market which would otherwise exist.

The oil companies concerned remain competitors in an oligopolistic market. The concertation during an emergency within the framework of the IEA will cover exchanges of information of confidential and proprietary data which would not otherwise be given to competitors. Such exchanges of information may affect the subsequent market conduct of competitors. Some uncertainty about supply sources, storage and refinery capacities, tanker capacity and other issues may be removed. The oil companies' behaviour in the light of this may, in view of the market structure, alter the market conditions from what they would be without such exchanges of information.

The possible effects of these restrictions on competition will be appreciable. The under-



takings start to concert on allocation actions only when a 7 % shortfall in oil supplies available to all IEA countries or to one of them has occurred or may reasonably be expected to occur. The monthly oil supply to the IEA as a whole is about 120 million tonnes. It is estimated that in case of activation between 10 and 15 million tonnes of oil will have to be redistributed each month. This would represent about 10 % of normal supplies. In case of some products or some countries the supply shortfall may be higher depending on the characteristics of the supply disruption. The entire market is concerned, as companies which will have to give up or receive oil will take their overall supply situation into account when forwarding offers and requests to ISAG.

- (27) The concerted practice will affect trade between Member States. Allocating oil among countries signatory to an international agreement involves direct transactions across frontiers. The obligation of international solidarity among participating countries laid down in the IEP implies that oil companies in each of the participating countries will be affected and asked for assistance in one way or another in case of activation. The usual flow of oil supplies will be modified in order to meet allocation rights and obligations. Such rights and obligations relate to the individual participating countries and not to the companies involved. The joint effort of the oil companies to redistribute available oil will have an appreciable effect on trade between Member States.

#### B. Article 85 (3) of the EEC Treaty

- (28) Under Article 85 (3), the provisions of Article 85 (1) may be declared inapplicable in the case of any concerted practice which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

- (29) The concerted practice does contribute to improving the distribution of the relevant goods and to promoting economic progress.

The object of the concerted practice is to reallocate available oil supplies among the participating countries on an equitable basis as set out in the IEP. Because some countries might otherwise suffer more from supply disruptions than others it has been agreed to provide any country with a larger than average deficit with some degree of supply, taking normal supply and consumption patterns into account. This would not necessarily happen as a result of free market forces in a supply situation serious enough to activate the emergency oil allocation system. Only some kind of intervention in the market can secure this. This is the task of the oil companies. As a result of their concerted practice oil and/or oil products will be directed as far as is necessary to destinations where they might not otherwise have gone.

The restrictions on competition contained in the concerted practice of the oil companies are more likely than competition itself to achieve the aims of the IEP, namely a reduction of the inconvenience and a sharing of the difficulties.

- (30) The concerted practice allows the consumer a fair share of the resulting benefit.

Because supply cuts are likely to affect the participating countries differently they are also likely to affect consumers differently. Consumers will benefit from the emergency oil allocation process the aim of which is to share available supplies among the participating countries. The consumers may not obtain the equivalent of usual supplies, but they will be assured that their country has proportionally equal supplies. Furthermore, the concerted practice can be expected to minimize

the impact of the shortage on the general economy of the participating countries with immediate benefit to the consumers.

- (31) The concerted practice does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives.

The concerted practice which takes place both before and after the activation of the emergency allocation system or without the actual activation of the system is aimed at matching participating countries' allocation rights and obligations and redirecting oil and/or products as far as necessary for that purpose. The actions concerned are: consultations with oil companies before the activation of the allocation sharing as provided for in the IEP, or without the actual activation; submission to the IEA and to national governments by the companies of data such as that on imports, exports, indigenous production and inventories; Type 1 transactions, to the extent to which Article 85 (1) may apply to them, when the companies concerned with such transactions have taken into account participating countries' allocation rights and obligations and have reported such transactions to the IEA and the Commission; Type 2 transactions and Type 3 transactions to the extent to which Article 85 (1) may apply to them.

The extent to which exchanges of specific data and information are needed to carry out the abovementioned transactions and the extent to which it will be necessary to redirect oil and/or products will depend upon the magnitude and characteristics of the supply disruption and vary from case to case. No behaviour which is not necessary to carry out the allocation system is exempted by this Decision. No exchange of price information will occur except what is necessary for individual supply transactions, including those in which ISAG may participate through solicitation of acceptance of offers. Any use of confidential or proprietary information obtained as a result of participation in the emergency allocations process is prohibited after the deactivation of that process.

Neither the rules laid down by governments on the handling of the allocation process nor the concertation between companies to achieve the allocation needed go beyond what is necessary for the fulfilment of the objectives of the IEP. The changes in patterns of trade will be the minimum found necessary in the circumstances.

- (32) The concerted practice does not afford the undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

In a situation of oil shortage, the usual market situation will change. Competitors will make efforts to secure their own supply arrangements using all available possibilities. The concerted practice which is intended to take care of the reallocation process is likely in practice to affect directly only about 10 % in total of normal supplies to the IEA countries. Although this percentage will depend on the nature of the supply disruption oil companies will take their overall supply situation into account when forwarding voluntary offers and requests to ISAG. Competition between the oil companies will continue in all other respects apart from their obligation to fulfil allocation rights and obligations. Even as far as Type 1 and Type 2 transactions are concerned the companies themselves will establish the commercial terms including prices of the oil and/or product to be delivered. Therefore the requirement of Article 85 (3) (b) is fulfilled.

- (33) All the requirements of Article 85 (3) are therefore satisfied in respect of the oil companies' concertation in the event of a supply disruption prior to or without the activation of the IEP emergency sharing system as provided for in Article 19 (6) and (7) and Article 55 (3) of the IEP, and in respect of submission to the IEA and to national governments of data such as that on imports, exports, indigenous production and inventories; and after activation in respect of continued consultation with the IEA and submission of data as well as their concertation with a view to implementing Types 1, 2 and 3 activities, both as to reporting and non-reporting companies, ISAG and NESOs, subject to the conditions and obligations of this Decision.

#### C. Article 8 of Regulation No 17

- (34) In accordance with Article 8 (1) of Regulation No 17, a Decision in application of Article 85 (3) shall be issued for a specific period and conditions and obligations may be attached thereto. In addition, under Article 8 (2) of the said Regulation, the Commission has a duty

to ensure that the requirements of Article 85 (3) continue to be satisfied.

- (35) The concerted practice as notified qualifies for exemption. A long-term protection of consumer interests is needed. The Decision should thus remain in force for any activation of the IEP emergency sharing system which might occur during a period of 10 years. At the end of that period the Decision will be reviewed.
- (36) Conditions on the oil market are constantly changing. The rules governing the participation of the oil companies in the allocation process are modified at regular intervals by the Governing Board to take account of that. Four test runs of these rules have taken place so far. Experience gained during those test runs also leads to modifications of the rules. It is important that the Commission be informed immediately of any such changes in order for it to assess whether the conditions for an Article 85 (3) Decision are still fulfilled.
- (37) The Commission must be informed about consultations with oil companies with a view to activation of the IEP, any activated emergency or any test run of the IEP emergency oil allocation system. It must have access for representatives of the Commission to allocation sharing or test runs, to all documents or other information available in connection with sharing procedures or test runs and to meetings attended by industry representatives relating to the emergency oil allocation system or test runs,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The provisions of Article 85 (1) of the EEC Treaty are, pursuant to Article 85 (3), hereby declared inapplicable to all concerted practices between all oil companies, reporting and non-reporting, to which this Decision applies and which are necessary to carry out the emergency oil allocation system of the International Energy Program. In particular, Type 1 activities are hereby exempted, to the extent to which Article 85 (1) may apply to them, only where the companies which are parties to such activities take into account participating countries' allocation rights and obligations or other informa-

tion supplied by the International Energy Agency and report such activities to the International Energy Agency and the Commission. All Type 2 activities are exempted. Type 3 activities are exempted to the extent to which Article 85 (1) may apply to them.

2. The provisions of Article 85 (1) are, pursuant to Article 85 (3), hereby declared inapplicable to all concerted practices between all oil companies, reporting and non-reporting, to which this Decision applies and which are necessary for the purposes of:

- (a) consultations with oil companies prior to or without activation of the system provided for in Article 19 (6) and (7) and Article 55 (3) of the International Energy Program; or
- (b) submission to the International Energy Agency and to national governments by the companies of data such as that on imports, exports, indigenous production and inventories, at the request of the Executive Director of the International Energy Agency in connection with the consultations referred to in point (a) or in the event of a supply disruption; or
- (c) test runs of the emergency oil allocation system or test runs of the emergency data system organized by the International Energy Agency.

3. The exemption hereby granted shall apply to the concerted practices of the Industry Supply Advisory Group and its subgroups, and of reporting and non-reporting oil companies, including their participation and that of their employees in the work of National Emergency Sharing Organizations, in so far as such concertation may be necessary to carry out the emergency oil allocation system of the International Energy Program. The exemption shall apply to concertation during meetings of the Industry Advisory Board and subcommittees for the purposes of the pre-emergency consultations provided for in Article 19 (6) and (7), and Article 55 (3) of the International Energy Program and to meetings of any of the foregoing during an emergency and during test runs of the emergency oil allocation system or of the emergency data system.

#### *Article 2*

The exemption hereby granted shall not apply to:

- 1. Any exchange of price information, except in so far as necessary for negotiation of individual bilateral transactions;



2. Concerted practices which are not necessary to carry out the emergency oil allocation system of the International Energy Program;
3. Concerted practices at a time when the emergency oil allocation system is not in operation, with the exception of the consultations held prior to or without activation of the system and provided for in Article 19 (6) and (7) and Article 55 (3) of the International Energy Program, submission to the International Energy Agency and to national governments by the companies of data such as that on imports, exports, indigenous production and inventories, and concerted practices for the purpose of test runs of the said system or test runs of the emergency data system.

#### *Article 3*

The exemption shall be granted subject to the obligation that the Commission be informed at the earliest possible moment by the oil companies to which this Decision is addressed or by any representative nominated by the Industry Advisory Board of:

1. Any changes adopted by the Governing Board or National Emergency Sharing Organizations to the rules governing the emergency oil allocation system and the participation of oil companies therein;
2. Any consultations with oil companies provided for in Article 19 (6) and (7) or Article 55 (3) of the International Energy Program or submission by the companies to the International Energy Agency or national governments pursuant to the foregoing rules of data such as that on imports, exports, indigenous production and inventories;
3. The declaration of the beginning of any emergency;
4. Any proposals or arrangements for a test run of the emergency oil allocation system or of the data system.

The exemption shall be granted subject to the obligation that the Commission shall have access for its representatives to any consultations with oil companies provided for in Article 19 (6) and (7) or Article 55 (3) of the International Energy Program which may take place, and to any meetings of the Industry Supply Advisory Group or its subgroups or of the Industry Advisory Board or its subcommittees which may take place when the emergency oil allocation system is being implemented or when test

runs are being carried out. The Commission's representatives shall have made available to them upon request all documents and other information in connection with such consultations, meetings and test runs in the possession or under the control of any company to which this Decision applies, and all documents and other information in such possession or control in connection with Type 2 and Type 3 activities and with Type 1 activities that are reported to the Commission.

#### *Article 4*

This Decision shall apply to the oil companies to which it is addressed. It shall also apply to any oil company which may be asked by the International Energy Agency or by any government or National Emergency Sharing Organization to participate in the emergency oil allocation system, in any consultations provided for by Article 19 (6) and (7) and Article 55 (3) of the International Energy Program, or in any test run of the emergency oil allocation system, or the emergency data system, or to provide any information for the purpose of the emergency oil allocation system or of any such consultation or test run, and to any company under the control of any such company, or which controls any such company, or which is under the same control as such company.

#### *Article 5*

This Decision shall apply with effect from 5 January 1982 until 31 December 1993.

This Decision is addressed to the following oil companies:

Atlantic Richfield Company,  
Arco Petroleum Products Company,  
515 South Flower Street,  
Los Angeles, CA 90071, USA

The British National Oil Corporation,  
29 Bolton Street,  
London W1Y 8BN, England

British Petroleum Company PLC,  
Britannic House,  
Moor Lane,  
London EC2Y 9BU, England

Cities Service Company,  
110 West Seventh Street,  
PO box 300,  
Tulsa, OK 74102, USA

Conoco Inc.,  
1007 Market Street,  
Wilmington, DE 19898, USA

Daikyo Oil Co., Ltd,  
Jyowa-Yaesu Building,  
4-1 Yaesu, 2-Chome,  
Chuo-ku,  
Tokyo 104, Japan

Exxon Corporation,  
1251 Avenue of the Americas,  
New York, NY 10020, USA

Gulf Oil Corporation,  
Gulf Trading & Transportation Co.,  
PO box 3726,  
Houston, TX 77001, USA

Hispanica de Petroleos, SA (Hispanoil),  
Pez Volador, 2,  
Madrid 30, Spain

Idemitsu Kosan Co., Ltd,  
1-1, 3-Chome, Marunouchi,  
Chiyoda-ku,  
Tokyo 100, Japan

Mabanaft GmbH,  
Kattrepelsbrücke 1,  
D-2000 Hamburg 1,  
Federal Republic of Germany

Maruzen Oil Co., Ltd,  
6-1-20, Akasaka,  
Minato-ku,  
Tokyo 107, Japan

Mobil Oil Corporation,  
150 East 42nd Street,  
New York, NY 10017, USA

Murphy Oil Company,  
200 Jefferson Avenue,  
El Dorado, AR 71730, USA

Nippon Mining Co., Ltd,  
10-1, Toranomom, 2-Chome,  
Minato-ku,  
Tokyo 107, Japan

Occidental Petroleum Corp.,  
PO box 1183,  
Houston, TX 77001, USA

Petrofina SA,  
33, rue de la Loi,  
B-1040 Brussels, Belgium

Petroleos de Portugal, EP (Petrogal),  
Avenue Fontes Pereira de Melo 6-2,  
1000 Lisboa, Portugal

Phillips Petroleum,  
252 Phillips Building Annex,  
Bartlesville, OK 74004, USA

Saarbergwerke AG,  
Hafenstraße 25,  
6600 Saarbrücken,  
Federal Republic of Germany

Shell International Petroleum Co., Ltd,  
Shell Centre,  
London SE1 7NA, England

Standard Oil Company of California,  
225 Bush Street,  
San Francisco, CA 94104, USA

Standard Oil Company (Indiana),  
200 East Randolph Drive,  
PO box 5910A,  
Chicago, IL 60680, USA

Standard Oil Company of Ohio,  
Sohio Supply Company,  
1000 Midland Building,  
Cleveland, OH 44115, USA

Statoil,  
Breidablikkveien 3,  
Mariero,  
PO box 300,  
N-4001 Stavanger, Norway

Sun Company,  
100 Matsonford Road,  
Radnor, PA 19087, USA

Svenska Petroleum AB,  
Wahrendorffsgatan 4,  
Box 16101,  
S-103 23 Stockholm, Sweden

Texaco Inc.,  
2000 Westchester Avenue,  
White Plains, NY 10650, USA

Union Rheinische Braunkohlen Kraftstoff AG,  
5047 Wessling, Postfach 8,  
Federal Republic of Germany

Union Oil Company of California,  
Union Oil Center,  
461 South Boylston Street,  
PO box 7600,  
Los Angeles, CA 90051, USA

Veba Öl AG,  
Pawikerstraße 30,  
D-4660 Gelsenkirchen-Buer,  
Federal Republic of Germany

Wintershall AG,  
Friedrich-Ebert-Straße 160,  
3500 Kassel,  
Postfach 10 40 20,  
Federal Republic of Germany

Done at Brussels, 12 December 1983.

*For the Commission*  
Frans ANDRIESSEN  
*Member of the Commission*

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