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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 October 1991

on acceptance of the terms of reference of the International Nickel Study Group

(91/537/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 113 and 116 thereof,

Having regard to the proposal from the Commission,

Whereas the terms of reference of the International Nickel Study Group hereafter referred to as 'Group' were adopted in Geneva on 2 May 1986 by the United Nations Conference on Nickel and amended during the inaugural meeting of the Group in June 1990;

Whereas the States and international organizations which participated in the Conference have been asked to notify the secretary-general of the Group of their acceptance of the terms of reference in accordance with paragraph 19 (c) thereof;

Whereas the Group will perform the important functions of analysing and monitoring the market of and trade in nickel;

Where the institutional structure of the Group, as laid down in the terms of reference, implies joint participation of the Community and those Member States which have agreed to the terms of reference;

Whereas certain other Member States have indicated their intention to participate in the work of the Group;

Whereas some Member States already participate in the work of the Group,

HAS DECIDED AS FOLLOWS:

Article 1

The terms of reference of the International Nickel Study Group are hereby accepted by the European Economic Community.

The Community and those Member States which at this stage have decided to participate in the proceedings of the Group shall simultaneously lodge their instruments of acceptance with the secretary-general of the Group as soon as the necessary internal procedures have been completed.

The text of the terms of reference is attached hereto.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to lodge the instrument of acceptance on behalf of the Community.

Done at Luxembourg, 14 October 1991.

For the Council

The President

B. de VRIES

ANNEX

TERMS OF REFERENCE OF THE INTERNATIONAL NICKEL STUDY GROUP

as adopted on 2 May 1986

by the United Nations Conference on Nickel, 1985, and incorporating amendments approved at the inaugural meeting of June 1990

Preamble

The parties to this arrangement have reached an understanding for the establishment of an International Nickel Study Group which will have the following terms of reference.

Establishment

1. The International Nickel Study Group is hereby established to administer the provisions and supervise the operation of the terms of reference.

Objectives

2. To ensure enhanced international cooperation on issues concerning nickel, in particular by improving the information available on the international nickel economy and by providing a forum for intergovernmental consultations on nickel.

Definitions

3. (a) 'The Group' means the International Nickel Study Group as constituted in these terms of reference;
- (b) 'Nickel' shall include, *inter alia*, scraps, wastes, and/or residues and such nickel products as the Group may determine;
- (c) 'Members' means all States and intergovernmental organizations as provided for in paragraph 5 which have notified their acceptance pursuant to paragraph 19.

Functions

4. (a) To establish the capacity for and to undertake the continued monitoring of the world nickel economy and its trends, particularly by establishing, maintaining and continuously updating a statistical system on world production, stocks, trade and consumption of all forms of nickel;
- (b) to conduct between Members consultations and exchanges of information on developments related to the production, stocks, trade and consumption of all forms of nickel;

(c) to undertake studies as appropriate on a broad range of important issues concerning nickel, in accordance with the decisions of the Group;

(d) to consider special problems or difficulties which exist or may be expected to arise in the international nickel economy.

Membership

5. Membership of the Group shall be open to all States which are interested in the production or consumption of, or international trade in nickel, and to any intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.

Powers of the Group

6. (a) The Group shall exercise such powers and perform or arrange for the performance of such functions as are necessary to carry out the provisions of the terms of reference;
- (b) the Group is not a trading organization and shall not have power to enter into any trading contract for nickel or any other commodity or product;
- (c) the Group shall adopt such rules of procedure as are considered necessary to carry out its functions.

Headquarters

7. The headquarters of the Group shall be at a location selected by it in the territory of a Member State. The Group shall negotiate a headquarters agreement with the host government.

Decision-making

8. (a) The highest authority of the Group established under these terms of reference shall be vested in the general session;
- (b) the Group, the standing committee referred to in paragraph 9, and such committees and subsidiary bodies as may be established, shall normally take decisions by consensus. If a vote is called for, it shall be taken under the conditions set out in the rules of procedure.

Standing committee

9. (a) The Group shall establish a standing committee which shall consist of those members of the Group who have indicated their desire to participate in its work ;
- (b) the standing committee shall undertake such tasks as may be assigned to it by the Group and shall report to the Group on completion, or on progress, of its work.

Committees and subsidiary bodies

10. The Group may establish such committees or subsidiary bodies, in addition to the standing committee, on such terms and conditions as it may determine.

Secretariat

11. (a) The Group shall have a secretariat consisting of a secretary-general and such staff as may be required ;
- (b) the secretary-general shall be the chief administrative officer of the Group and shall be responsible to it for the administration and operation of these terms of reference in accordance with the decisions of the Group.

Cooperation with others

12. (a) The Group may make arrangements for consultations or cooperation with the United Nations, its organs or specialized agencies, and with other intergovernmental institutions, as appropriate ;
- (b) the Group may also make arrangements for maintaining contact with interested non-participating Governments of the States referred to in paragraph 5, with other international non-governmental organizations, or with private sector institutions, as appropriate.

Legal status

13. (a) The Group shall have legal personality in its host country. It shall, in particular, have the category to enter into contracts, to acquire and to dispose of movable and immovable property, and to institute legal proceedings ;
- (b) the status of the Group in the territory of the host government shall be governed by a headquarters agreement between the host government and the Group, to be concluded as soon as possible after these terms of reference have come into effect.

Budget contributions

14. The Group shall assess the contribution of each Member for each financial year, in the currency of the host country, in accordance with the provisions for contributions specified in the Rules of Procedure.

The payment of the contribution by each Member shall be made in accordance with its constitutional procedures.

Statistics and information

15. (a) The Group shall collect, collate and make available to Members such statistical information on production, trade, stocks, consumption and internationally recognized published prices of nickel as it deems appropriate for the effective operation of these terms of reference ;
- (b) the Group shall make such arrangements as it considers appropriate by which information may be exchanged with the interested non-participating governments and with appropriate non-governmental and intergovernmental organizations in order to ensure the availability of recent and reliable data on production, consumption, stocks, international trade, internationally recognized published prices, and on other factors that influence the demand for and supply of nickel ;
- (c) the Group shall endeavour to ensure that no information published shall prejudice the confidentiality of the operations of persons or enterprises producing, processing, marketing or consuming nickel.

Annual assessment and studies

16. (a) The Group shall prepare and distribute to Members an annual assessment of the world nickel situation and related matters in the light of information supplied by Members and supplemented by information from all other relevant sources ;
- (b) the Group shall, as deemed desirable, undertake or make appropriate arrangements to undertake studies of short- and long-term trends in the international nickel economy, including, once a year or, with the approval of the Group, more than once a year, the provision of an outlook on nickel production, consumption and trade for the following calendar year, so that such an exchange of information will be a technical aid to Members in their individual assessments of the evolution of the international nickel economy.

Obligations of members

17. Members shall use their best endeavours to cooperate and to promote the attainment of the objectives of the Group, in particular as far as the provision of data referred to in paragraph 15 on the nickel economy is concerned.

Amendment

18. The terms of reference may only be amended by consensus of the Group and without a vote.

Coming into effect

19. (a) These terms of reference shall come into effect when at least 15 States which in total account for over 50 % of the world trade in nickel have notified the Secretary-General of the United Nations pursuant to (c) below. If the terms of reference come into effect under this article, members shall be invited to attend an inaugural meeting. members shall be notified at least one month, where possible, prior to that meeting;
- (b) if the requirements for the coming into effect of these terms of reference have not been met on 20 September 1986, the Secretary-General of the United Nations shall invite those governments having notified, pursuant to (c) below, their intention to become members of the Group, to meet at the earliest time practicable to decide whether or not to put these terms of reference into effect among themselves in whole or in part;
- (c) any State or any intergovernmental organization referred to in paragraph 5 which desires to become a member of the Group shall give written notice that it intends to apply these terms of reference either provisionally, pending the conclusion of its internal procedures, or definitively. Pending the coming into effect of these terms of reference and the assumption of office by the secretary-general of the Group, such notice shall be given to the Secretary-General of the United Nations; thereafter it shall be given to the secretary-general of the Group. A State applying these terms of reference provisionally shall endeavour to complete its procedures within six months but in any case not later than 12 months from the

date of its notification and shall notify the depositary accordingly.

Withdrawal

20. (a) A member may withdraw from the Group at any time by giving written notice of the withdrawal to the secretary-general of the Group;
- (b) withdrawal shall be without prejudice to any financial obligations already incurred and shall not entitle the withdrawing State to any rebate of its contribution for the year in which the withdrawal occurs;
- (c) withdrawal shall become effective 60 days after the notice is received by the Secretary-General;
- (d) the Secretary-General shall notify each Member of any notification received under this paragraph.

Duration of the Group

21. The Group shall remain in existence as long as it continues in the opinion of the Members to serve a useful purpose, unless terminated in accordance with paragraph 22.

Termination

22. (a) The Group may at any time decide by a two-thirds majority vote of the members to terminate these terms of reference. Such termination shall take effect on such date as the Group shall decide;
- (b) notwithstanding the termination of these terms of reference, the Group shall continue in being for as long as it is necessary to carry out its liquidation, including the settlement of accounts.