

(**CONSOLIDATED** Legislation regarding APETRA - Law of 26 January 2006 till September 2013)

Notice: this document is an unofficial translation of the Belgian Law on emergency stockholding undertaken by APETRA and is for information purposes only. It has no legal status, as only the Dutch and French versions of the Law as published in the Belgian gazette have force of Law.

=== FEDERAL PUBLIC SERVICE

ECONOMY, SMEs, SELF-EMPLOYED AND ENERGY

Law on the compulsory stockholding of oil and petroleum products and on the setting-up of an agency responsible for managing part of these stocks, amending the Law of 10 June 1997 on the general arrangements for the holding, movement and control of excisable products.

ALBERT II, King of Belgium,
To all who are and will be, greetings.
The Chambers have adopted and We sanction what follows :

CHAPTER I. – General provisions

Article 1. This Law regulates the matter referred to in Article 78 of the Constitution. Its purpose is to transpose into Belgian law the Directive 2009/119/EC of the Council of 14 September 2009 imposing an obligation on the Member states to maintain minimum stocks of crude oil and/or petroleum products.

Art. 2. For the purposes of this Law, the following words shall mean :

1° «APETRA»: the public limited company with social goal, which is, pursuant to this Law, responsible for holding and managing the compulsory stocks of oil and petroleum products, as laid down in Article 6, § 1;

2° «Minister»: the Minister in charge of Energy;

3° «Directorate-General»: the Directorate-General for Energy of the Federal Public Service Economy, SMEs, Self-employed and Energy;

4° «Compulsory stocks»: the stocks of crude oil and/or petroleum products maintained by Belgium in order to meet the international obligations to hold a minimum stock of crude oil and/or petroleum products derived from the Directive 2009/119/EC and the Agreement on an International Energy Programme;

5° «Directive 2009/119/EC»: Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products;

6° «Agreement on an International Energy Programme»: the Agreement on an International Energy Programme, sanctioned by the Law of 13 July 1976 approving the Agreement on an International Energy Programme with annex, concluded at Paris on 18 November 1974, modified by the Law of 20 July 2006;

7° «Supply crisis»: a reduction in oil supply as referred to in Articles 13, 14 and 17 of the Agreement on an International Energy Programme or unanimously recognised as such by the Governing Board of the International Energy Agency or by the European Commission based on the findings of the Co-ordination Group or a situation inducing such a reduction that supply no longer suffices to meet normal demand, and recognised as a supply crisis by the Council of Ministers;

8° «registered oil company»: any natural or legal person who, for his/her own benefit or the benefit of others or for his/her own use, produces, buys, imports from outside the EU or from another Member State, exports within or outside the EU, refines, stores, processes, uses, distributes, offers for sale, sells, delivers or transports oil and/or petroleum products. Such person shall register with the Federal Public Service Economy, Directorate-General for Energy, Oil Division;

9° «those subject to a stockholding obligation»: any natural or legal person who, pursuant to Article 4, § 1, 1°, has an individual stockholding obligation;

10° «quantity released for home use»: the quantity of petroleum products released for home use in the sense of the articles 6, 35, 36 and 37 of the Law of 22 December on the general arrangements concerning excises, including the quantities delivered to the international aviation; .

11° «intergovernmental agreement»: any agreement between Belgium and another Member State of the International Energy Agency whereby is stipulated that none of the countries may hamper the transfer of the security stocks of the other country in case of a supply crisis as intended in article 3 of the Annex to the Agreement on an International Energy Programme;

12° «year of reference»: the calendar year of which the consumption or net import figures are used when calculating both the stocks to be held as the stocks that are effectively held;

13° «stockholding year»: the period of 12 months starting on 1 April of the relevant year;

14° « quantities (stocks) put at disposal »: the quantities of crude oil, semi-finished petroleum products and petroleum products, owned by the company or body which puts at disposal, that are for a given period reserved for APETRA or another central stockholding entity with a purchase right in case during this period a supply crisis takes place;

15° «individual stockholding obligation»: the quantities of finished petroleum products and components to be held by those subject to a stockholding obligation, without payment and in compliance with the provisions of this Law;

16° «threshold quantity»: the quantity released for home use for which a registered oil company does not have to hold compulsory stocks, these shall be automatically managed by APETRA;

17° «feedstocks»: the liquid hydrocarbons which can be later processed, by physical or chemical treatment, into one or more components or petroleum products;

18° «components»: the products which, when being blended with one another or with other petroleum products, can, without being processed by any chemical or physical treatment, be used for manufacturing petroleum products which comply with the legal specifications;

19° « big consumer » : any natural or legal person who, during the year of reference, releases, for his/her own use, a quantity of petroleum products higher than 100,000 tons per category.

20° " Resolution (EC) nr. 1099/2008 " : Resolution (EC) nr. 1099/2008 of the European Parliament en the Council of 22 October 2008 on energy statistics;

21° " International marine bunkers" : the stocks as defined in Section 2.1 of Annex A to Regulation (EC) No 1099/2;

22° " Central stockholding entity' (CSE)" : the body or service upon which powers may be conferred to law to acquire, maintain or sell oil stocks, including emergency stocks and specific stocks;

23° " inland consumption " : the total al all quantities, calculated according to Annex II of this Law, delivered within a country for both energy and non-energy use; this total includes deliveries to the transformation sector , industry, the transport sector, households and other sectors for 'final' consumption; this total also includes the own consumption of the energy sector (except refinery fuel);

24° " key products " : the petroleum products of which the crude oil equivalent of the inland consumption for the reference year constitutes at least 75 percent of the total inland consumption. The crude oil equivalent as referred to in the first paragraph is calculated by multiplying by a factor 1,2 the sum of the aggregate 'observed gross inland deliveries', as defined in Section 3.2.1 of Annex C to Regulation (EC) No 1099/2008, for the products included in the categories used or concerned. International marine bunkers are not included in the calculation.

The crude oil equivalents. Specific stocks can only be composed of one or more of the following product categories, as defined in Section 4 of Annex B to Regulation (EC) No 1099/2008:

- Ethane
- LPG
- Motor gasoline
- Aviation gasoline
- Gasoline-type jet fuel (naphtha-type jet fuel or JP4)
- Kerosene-type jet fuel
- Other kerosene
- Gas/diesel oil (distillate fuel oil)
- Fuel oil
- White spirit and SBP
- Lubricants
- Bitumen
- Paraffin waxes
- Petroleum coke;

25° " security stocks " : all stocks of crude oil and/or petroleum products that a Member state and/or its central stockholding entity and/or its companies manage to comply with the Directive 2009/119/EC;

26° " specific stocks " : the stocks of key products owned by the members state or by the CSE established by the member state and whereby for each key product a same number of consumption days must be maintained. The specific stocks are held on the territory of the Community;

27° " management tasks " : the tasks concerning the management of security stocks and, with the exception of their sales and purchase, of special stocks;

28° " biofuel " : liquid or gaseous fuel for transport produced from biomass, 'biomass' being the biodegradable fraction of products, waste and residues from agriculture (including vegetable and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

29° "additives" : non-hydrocarbon compounds added to or blended with a product to modify its properties;

30° "commercial stocks" : the oil stocks of registered oil companies which are not held because of an obligation under this Law.

Art. 3. § 1. For the purposes of this Law, petroleum products are defined as in Annex C, point 3.1., first part, of the Regulation (EC) nr. 1099/2008 and divided into the following categories :

1. 1st category: kinds of petrol used for motor vehicles, aviation fuels (aviation gasoline and gasoline-type jet fuel);
2. 2nd category: heating gasoil, diesel fuel, kerosene and kerosene-type jet fuel;
3. 3rd category: residual fuels.

§ 2. The Minister shall lay down the codes of the combined nomenclature or of the products falling into these categories.

Art. 3/1. § 1. The compulsory stocks are at least equal to the largest of the following two quantities: 90 times the daily average of the net imports or 61 times the daily average of the inland consumption.

§ 2. The daily average of the net imports are calculated based on the imported crude oil equivalent in the previous calendar year, determined in conformity with the rules and methodology described in the annex I to this Law. The daily average of the inland consumption is calculated based on the inland consumed crude oil equivalent in the previous calendar year, determined in conformity with the rules and methodology described in the annex II to this Law.

§ 3. When calculating the security stocks, biofuels and additives are only taken into account if they are mixed with the petroleum products concerned.

§ 4. At least one third of the security stocks are held under the form of key products.

CHAPTER II – Compulsory stockholding rules

Section I: Size of the stocks to be held by those subject to a stockholding obligation and by APETRA

Art. 4. § 1. The compulsory stocks to be held by Belgium in order to meet its international commitments are divided up as follows :

- 1° Each registered oil company or each big consumer who releases, in the year of reference and for a given product category, a quantity for home use higher than the threshold quantity referred to in Article 2, 16°, shall, for this product category, comply with the individual stockholding obligation referred to in Article 2, 15°, during the stockholding year and on a permanent basis, on the Belgian territory, by holding stocks of finished petroleum products and/or components;
The quantity released for home use shall be calculated after a possible transfer as referred to in Article 14, § 2.
- 2° APETRA shall, in the stockholding year, hold the quantities of crude oil and petroleum products laid down in Article 6, § 1.
- 3° The King shall, by decree deliberated upon in the Council of Ministers, set the threshold quantity as well as the individual stockholding obligation, taking into account that this obligation shall gradually diminish within the first five years of APETRA's creation.

§ 2. Paragraph 1, 1°, shall not apply to the Ministry of Defence, provided that the quantity released for home use relates to petroleum products used for motor vehicles and military airplanes.

§ 3. Where those subject to a stockholding obligation hold insufficient operational stocks, APETRA shall, for at least a period of one month, hold the missing quantity against payment of the applicable contribution.

§ 4. In the event of a supply crisis as referred to in Article 2, 7°, the Minister may decide to temporarily use part of the compulsory stocks which he/she shall determine. This decision can include limitations such as a limitation of the categories of petroleum products concerned.

§ 5. The Minister may authorise a temporary reduction in these stocks in order to renew or adjust them to new product specifications. He/she shall set the time within which these stocks must be replenished.

§ 6. Where the stocks held by APETRA are put on the market, they shall sell at market prices.

Section II: Conditions for APETRA's stockholding

Art. 5. § 1. APETRA is designated as central stockholding entity.

§ 2. APETRA shall hold its stocks in the following forms:

- 1° crude oil
- 2° petroleum products belonging to the three categories of article 3, § 1;
- 3° mixing components which meet the criteria of article 12, § 1;
- 4° biofuels and additives in conformity with the clauses of article 6, §3.

§ 3. APETRA can maintain the different forms of stocks as referred to in paragraph 2 in full property or under the form of quantities put at disposal by companies. APETRA can only use stocks put at its disposal when:

- 1° the agreement starts on the first of a month;
- 2° the agreement runs over whole calendar months;
- 3° the agreement deals with a quantity put at disposal of minimum 5.000 tons per agreement and minimum 2.500 tons per eligible storage facility, unless the quantities are put at disposal in the context of replacement operations of stocks that APETRA holds in property. In this last case the quantity put at disposal equals the difference between the quantity of product property of APETRA already delivered and to be redelivered;
- 4° the stocks put at disposal meet the criteria of the compulsory stocks stipulated in this Law and its executive decrees;
- 5° these stocks are the property of the registered or foreign oil company and merely concern quantities of stocks that this company has on top of stocks that are held in order to comply with its individual stockholding obligation or the obligation of another member state.

§ 4. In the composition of its stocks, APETRA takes into account the key products that it needs to hold in conformity with article 6, § 1, and the decision concerning the specific stocks referred to in article 6/1. The stocks that APETRA holds consist for maximum 60 percent of crude oil. APETRA elaborates the necessary instruments in order to be able, in a supply crisis, to have this crude oil transformed into finished petroleum products if necessary and this within 30 days. For the purchase and sales of stocks in property the Governing board fixed, upon proposal of the Management Committee, specific conditions and rules in the General Terms and Conditions for purchase and sales.

§ 5. APETRA inspects the stocks that it manages frequently and adequately. The inspections are undertaken by certified independent inspectors appointed by APETRA. The measurements of the quantities and samples for quality control are taken by calibrators accepted and recognized by the European Union. The quality analyses of the APETRA stocks are done by certified laboratories equally appointed by APETRA. In case APETRA holds stocks outside the Belgian territory and the inspections by the competent authorities of the Member state concerned do not allow to check both the quantitative and qualitative aspects of the stocks held, these inspections are equally undertaken by the inspectors appointed by APETRA.

§ 6. The stocks of crude oil and petroleum products in property of APETRA are to be adequately insured.

§ 7. APETRA can for a certain period delegate management tasks

- 1° to another Member state of the European Union on whose territory the stocks are located or to the CSE established by this Member state or
- 2° to registered oil companies or foreign companies.

In the reverse sense APETRA can perform certain management tasks for a certain period on behalf of another Member State or its CSE.

A delegation of management tasks between Member states of the European Union or their CSEs cannot be delegated toward other Member states or their CSEs; a delegation of management tasks from APETRA toward a registered oil company or foreign company can on the whole not be delegated.

When a delegation of management tasks results in stocks managed by APETRA being held outside the Belgian territory, APETRA respects the terms of article 13, § 1.

§ 8. For stocks put at its disposal, APETRA makes sure that these petroleum product scan at the latest be delivered:

1° 7 days after exertion of its purchase right for stocks put at disposal covered by means of oil products and biofuels that meet the terms of article 6, § 3, second paragraph;

2° 30 days after exertion of its purchase right for stocks of semi-finished products and crude oil put at disposal. When APETRA has the instruments that allow, in case of a supply crisis, to transform crude oil within 30 days in finished oil products, APETRA can equally contract stocks put at its disposal that give the right to purchase crude oil. This provided that the maximum percentage fixed in § 4 is taken into account.

§ 9. APETRA watches over the reliability of its contractors and the availability and quality of the quantities put at disposal and the tasks managed on its behalf. The contracts for quantities put at disposal and storage capacity contain adequate sanctions that become applicable in case APETRA finds infractions. For the acceptance of quantities put at disposal the Governing Board, upon proposal of the Management Committee, establishes specific conditions and rules in the internal code of conduct, as referred to in article 26, § 1, 2°, last sentence, which reflect this vigilance and responsibility.

Art. 6. § 1. The level of compulsory stocks that is to be held by APETRA throughout the stockholding year is determined as the difference between the the compulsory stocks calculated in conformity with article 3/1 and the summ of the individual stockholding obligations expressed in ton crude oil equivalent. For the sake of compliance with article 3/1, §4, APETRA holds at least those key products that are not kept als compulsory stocks by those subject to a stockholding obligation.

§ 2. The Minister notifies APETRA latest on 31 March of each year in writing of :

1° the level of compulsory stocks that APETRA needs to manage during the upcoming stockholding year in conformity with paragraph 1, first sentence;

2° in order to comply with article 3/1, §4, last sentence:

- a) the petroleum products that, together, constitute the key products and their daily average of consumption calculated on the basis of the crude oil equivalent;
- b) the stocks of key products that need to be held by those subject to a stockholding obligation, throughout the stockholding year and;
- c) the key products which APETRA at least needs to hold in the upcoming stockholding year.

§ 3. The level of stocks to be held is calculated in accordance with the methods contained in annex III. When calculating the stock level per category mentioned in article 2, 24°, these methods are merely applicable to the products of a given category.

Biofuels and additives are counted towards the level of effectively held stocks if

1° they are mixed together with the petroleum products referred to in article 3, §1, or

2° they still need to be mixed together with the petroleum products referred to in the article 3, § 1, provided that:

- a) they are located on Belgian territory;
- b) the location where they are stored is suitable for (transport toward a location) for blending and;
- c) the thus held stocks are in proportion to the petroleum products that APETRA manages and in proportion to the additives and biofuels that can be blended in accordance with the specifications.

§ 4. All oil stocks can be counted toward both the compulsory stocks and specific stocks, if they meet all conditions fixed in this Law concerning, respectively, each of these stock types.

§ 5. On top of the stocks that APETRA needs to manage as a result of paragraph 1 and must take over as a result of article 4, §3, APETRA can take over (part of) the stockholding obligation of a foreign company, provided that:

- 1° it has beforehand declared itself prepared to do so and;
- 2° the terms of article 13, § 1, are respected.

APETRA makes public :

- a) on an ongoing basis, full information, broken down by product category, on the stock volumes that it can undertake to maintain for foreign companies or CSEs;
- b) at least 7 months in advance, the conditions subject to which it is willing to provide services related to maintaining the stocks for foreign companies. The conditions under which services may be provided, including conditions relating to scheduling, may also be determined following a competitive procedure intended to determine the best bid among companies or, where appropriate, CSEs. APETRA shall accept such delegations under objective, transparent and non-discriminatory conditions. Payments by the companies for the APETRA services shall not exceed the full costs of the services rendered and may not be required until the stocks are constituted. APETRA may make its acceptance of a delegation conditional upon the company's provision of a guarantee or some other form of security.

The stocks managed in this context cannot count toward the coverage of the obligations resulting from § 1.

Art. 6/1. The Minister can, after consultation with APETRA and a cost-benefit analysis established by APETRA, decide that APETRA needs to hold specific stocks. This decision also contains the minimum number of consumption days that per key product needs to be held and the period of holding, which is at least one year. APETRA can only temporarily stay below this minimum level, if this happens in the context of a refreshment operation or in order to adapt its stocks to changing or changed specifications or consumption patterns.

In such case the Directorate general shall send the Commission a notice to be published in the *Official Journal of the European Union*, specifying the level of such stocks that it has undertaken to maintain and the duration of such undertaking. In the absence of a decision concerning specific stocks or in case of a level of specific stocks which is less than 30 days, the Minister shall draw up an annual report which is to be send to the Commission by the end of the first month of the calendar year to which it relates. This annual report contains an analysis of the measures taken to ensure and verify the availability and accessibility as referred to in Article 9, first lid, and the arrangements made to control the use of these stocks in case of oil supply disruptions.

Art. 7. § 1. APETRA shall, as for the stocks it manages, give preference to the stocks located on the Belgian territory. In this light, the crude oil supplies located at the beginning of the RAPL pipeline in Rotterdam, owned by Belgian refineries and intended to be refined in Belgium, shall be considered as supplies located on the Belgian territory.

§ 2. The King shall determine the maximum percentage of stocks that APETRA may hold abroad, in compliance with the conditions set out in Article 13. This maximum percentage is not applicable on crude oil in property of APETRA that is kept abroad underground.

Art. 8. § 1. The stocks managed by APETRA shall be found in eligible depots. The King will lay down the recognition procedure and conditions these depots will need to fulfil.

§ 2. The King shall determine, by decree deliberated upon in the Council of Ministers, the additional rules relating to APETRA's stockholding.

Section III: Requirements regarding the compulsory stocks

Art. 9. § 1. The compulsory stocks that are held to cover an individual stockholding obligation or are put at the disposal of APETRA shall be the property of those subject to a stockholding obligation or of the company that puts at disposal.

§2. The compulsory stocks are, in the event of a supply crisis, at all times available and physically accessible. .

The compulsory stocks are not prone to sequestration by third parties. They cannot be encumbered by any legal or personal charges, unless they serve as warranty for funding the purchase of the product in relation to the volume that is kept as compulsory stocks. For stocks put at the disposal of APETRA, this guarantee does not detract the right of APETRA to buy stocks in case of a supply disruption.

§3. The specific stocks held on behalf of Belgium or another Member state which are stored or transported on Belgian territory have unconditional immunity from enforcement.

Art. 10. The following supplies shall not belong to the compulsory stocks :

1. crude oil supplies found in oil deposits;
2. supplies of fuel intended for the bunkers of sea-going vessels;
3. supplies in direct transit;
4. supplies in pipelines, in road tankers and rail tank-wagons;
5. supplies contained in storage tanks of retail outlets and those held by small consumers;
6. supplies located in pipelines and processing units of refineries;
7. supplies in barges located in the country;
8. supplies held by the armed forces and those contractually reserved for them by oil companies;
9. supplies contractually reserved for the petrochemical industry and other big consumers.

Art. 11. The quantities held by big consumers shall only be used in order to meet these consumers' individual stockholding obligation.

Art. 12. § 1. The end products present in the compulsory stocks shall have the legal appellation and shall comply with the legal specifications. Products that do not comply with the aforementioned specifications shall be considered as components. Components shall only be taken into consideration for the compulsory stocks where all the products of which a given mixture product is made are located on the same premises and only according to the proportion in which they are normally used in that mixture product.

§ 2. The King may lay down limitations on the oil and petroleum products that can be taken into account for the compulsory stocks.

Section IV: Stocks in and for other Member States

Art. 13. § 1. APETRA can for a determined period delegate management tasks to another Member State, CSE of this Member State or foreign company, if

- 1° the maximum percentage referred to in Article 7, § 2, has been adhered to;
- 2° the managed stocks are located on the territory of the European Community in storage facilities that meet the conditions referred to in article 8, §1 and
- 3° the beforehand approval of this delegation or its modification or extension by the Directorate general and the competent authorities in the other Member state has been received.

In the case that APETRA takes over (part of) the stockholding obligation of a foreign company in conformity with article 6, §5, this can only take place on prior approval of the delegation of stockholding obligation by the Directorate general and the competent authorities in the other Member state. If the foreign oil company is located outside the European Union, moreover, an intergovernmental agreement between Belgium and the country of this company is needed.

§ 2. A registered oil company can for a determined period execute management tasks for the benefit of another Member State or its CSE if the beforehand approval of this delegation or its modification or extension by the Directorate general and the competent authorities in the other Member state has been received .

A registered oil company can takes over (part of) the stockholding obligation of a foreign company if

- 1° it disposes of surplus stocks or available storage capacity and
- 2° the approval in advance from the Directorate general and the competent authorities in the other Member state has been received.

A delegation of management tasks or stockholding obligation cannot in turn be delegated.

If the other country, central entity or foreign oil company is located outside the European Union, moreover, an intergovernmental agreement between Belgium and the country of this company is needed.

§ 3. The King shall determine the further rules concerning the compulsory stocks or security stocks on the territory of another Members state and on the Belgian territory at the request of another Member State, its central entity or company.

§ 4. The Minister may, in the event of an (impending) oil crisis, decide to transfer to Belgium the stocks which are located abroad, within a time limit which he/she shall set.

§ 5. The stocks held in Belgium, pursuant to this Article, for the benefit of a company or a body established in another Member State of the European Union shall not be taken into consideration in order to fulfil the obligations provided for by this Law. Belgium may not oppose the transport of these products to their countries of destination and shall, where possible, control these stocks. In case domestic events should hamper this transport, the Minister shall take all measures necessary to guarantee the transport of these stocks to their countries of destination.

Section V: Information and administration requirements

Art. 14. § 1. Registered oil companies and big consumers shall communicate to the Directorate-General all data necessary to draw up an oil record in accordance with the provisions of the Royal Decree of 11th March 2003 organising the collection of data relating to the oil record.

§ 2. The quantity released for home use by a registered oil company shall only be transferred where:

- 1° the registered oil company's sole activity is the storage of petroleum products;

- 2° the registered oil company has received the prior authorisation of the Directorate-General for the transfer;
- 3° the natural or legal person to whom the quantity is transferred is a registered oil company or a big consumer;
- 4° the natural or legal person to whom the quantity is transferred commits him/herself to guaranteeing Belgian supplies in the event of an oil crisis;
- 5° the transfer has been confirmed by both parties.

If a registered oil company as referred to in the first part, 1°, who has die prior authorisation referred to in the first part, 2°, notices that the registered oil company or big consumer to whom he can contractually delegate the quantities release for home use is officially declared bankrupt, the registered oil company referred to in the first part, 1°, will be relieved of the quantities released for home use resulting from the transactions with the bankrupt company. This on the condition that the company can substantiate the transactions with the bankrupt company.

Art. 15. § 1. Those subject to a stockholding obligation, the oil companies which hold security stocks in conformity with article 13, §2, the storage facility owners or operators which manage security stocks upon instruction of third parties and APETRA shall inform the Directorate-General of the location, the quantity and the composition of the compulsory and/or security stocks held by them. They shall allow the persons mandated by the European Commission to inspect the security stocks and shall assist them.

These persons are granted the right to consult all documents and registers relating to the stocks and have right of access to all sites on which security stocks are held and to all related documents.

§ 1/1. The directorate general shall keep a detailed and continuously updated register of all other compulsory stocks than the specific stocks. This register contains the necessary information to determine in which storage facility of refinery the stocks are held, what quantities are concerned, who is the owner and what is their nature, with reference to the categories referred to in Annex C, point 3.1., part 2, of the Resolution (EC) nr. 1099/2008. A summary of this register, stating at least the quantity and nature of the compulsory stocks present in Belgium at the end of the previous calender year, is provided to the Commission latest on 25 February of each year.

The Directorate general shall equally keep a detailed and continuously updated register stating the exact location, of all specific stocks held on Belgian territory.

Upon request of the European Commission the Directorate general provides the Commission within 15 days a full copy of the two registers stated in this paragraph.

§1/2. The Directorate general provides the Commission on a monthly basis statistical overviews of the security and specific stocks on or outside the Belgian territory and of the commercial stocks on Belgian territory held at the end of the month. This communication towards the Commission takes place at the latest:

- a) Within 55 days following the month to which it relates for the compulsory stocks and
- b) Within a month following the month to with it relates for specific stocks.

At the request of the Commission the Directorate general provides the Commission immediately with a copy of the statistical overviews of the specific stocks. The Minister can change the frequency and ultimate date of entry of the data following a decision on the European level.

§ 2. The King shall, by decree deliberated upon in the Council of Ministers, lay down additional rules regarding the information and administration requirements.

Section VI. - Monitoring of compliance with the stockholding obligations

Art. 16. §1. The monitoring of compliance with the obligations arising from this Law and from the Decrees providing for its enforcement shall be carried out by the officers of the Directorate-General for Enforcement and Mediation of the Federal Public Service Economy, SMEs, Self-employed and Energy, duly appointed by the Minister.

Systematic checks by physically measuring the quantity of the compulsory stocks which are held in order to cover an individual stockholding obligation and assessing the quality of the products of these stocks shall be performed by an independent control body.

§2. The King shall, by decree deliberated upon in the Council of Ministers, lay down the control procedures.

CHAPTER III. - Institutional provisions

Section I. - Establishment and name

Art. 17. A public limited company, governed by public law and having a social purpose, called « APETRA », is hereby established which shall guarantee Belgium's oil supplies and allow the State to meet its international stockholding obligations.

Section II. - Financial provisions

Art. 18 § 1. APETRA's operating expenses shall be covered by a contribution levied on each litre of the petroleum products referred to in Article 3, § 1 and released for home use. Registered oil companies shall pay this contribution to APETRA for the quantities they release for home use.

§ 2. This contribution shall be collected by APETRA on the basis of the data it receives from the Directorate-General for each registered company.

This contribution shall always be mentioned on the invoice where the petroleum products referred to in Article 3, § 1 are sold among oil companies.

The contribution shall always be mentioned in detail in the supply chain. It shall be communicated and passed on to consumers through the price structure provided for in the programme contract.

§ 3. The contribution referred to in § 1 shall not be levied on the petroleum products referred to in Article 3, § 1, which are used by the Defence Ministry for motor vehicles or military airplanes.

§ 4. The King shall, by decree deliberated upon in the Council of Ministers, determine the methods of calculation and collection of this contribution.

Any decree passed pursuant to this subparagraph shall produce no effects unless sanctioned by law within 12 months of its coming into force.

§ 5. APETRA shall be made subject to the same conditions as the State as regards the enforcement of the laws and regulations on the contributions, taxes, duties, rights of the State, the Provinces, the municipalities and conglomerations of municipalities.

Art. 19. § 1. In order to get a clear picture of the quantities released for home use, the Customs and Excise Department of the Federal Public Service Finance shall, on the basis of the data in its possession, at the latest on the last working day of the month following a quarter, communicate to the Directorate-General and to APETRA the quantities released, during this quarter or the past 12 weeks, for home use by each natural or legal person.

The Customs and Excise Department gives APETRA access to the list of companies which have an excise number for oil and petroleum products.

§ 2. The Directorate-General may complement the information received from the Customs and Excise Department with data from the monthly oil record drawn up pursuant to the Royal Decree of 11th March 2003 organising the collection of data relating to the oil record.

Section III. - Registered office

Art. 20. APETRA shall be based in the Brussels-Capital Region, at a location determined by the Governing Board.

Section IV. - Object

Public Service Tasks regarding the holding and management of compulsory stocks

Art. 21. § 1. APETRA shall have the exclusive power to carry out, within and outside the Belgian territory, its public service tasks regarding the holding and management of the compulsory stocks of oil and petroleum products in compliance with the provisions of this Law and of the Decrees providing for its enforcement.

These public service tasks shall be as follows :

1° the holding of quantities of crude oil and petroleum products sufficient to meet APETRA's stockholding obligation;

2° the buying of crude oil and/or petroleum products in order to meet the requirements concerning APETRA's own stocks as set out in this Law or in the Decrees providing for its enforcement;

3° the concluding, with registered oil companies and foreign oil companies, of contracts regarding the quantities put at disposal, in compliance with the provisions of this Law or of the Decrees providing for its enforcement;

4° the buying, building and/or renting of storage installations for holding stocks in full ownership, in compliance with the provisions of this Law or of the Decrees providing for its enforcement.

§ 2. APETRA may carry out any act, activity or transaction which contributes, directly or indirectly, to the performance of the tasks referred to in § 1.

§ 3. In derogation of article 438, part 2, of the Code of enterprises APETRA can publically appeal or have appealed to the savings and investment sector without mention of this capacity in its statutes. This derogation is temporarily, namely in the sense that APETRA introduces this capacity in its statutes on the first modification of statutes that takes place after this capacity has been obtained.

Section V. - Capital Subsection I.

Subsection I. – Registered capital

Art. 22. APETRA's registered capital shall initially be set at EUR 62,000. It shall be made up of 62 shares fully paid, without stating the nominal value, each representing a 1/62nd of the registered capital. All shares issued at the creation of APETRA shall be allocated to the Federal State.

Subsection II. – Limitations as regards increase of capital

Art. 23. Each issue of new shares shall be subject to prior authorisation by the King, by decree deliberated upon in the Council of Ministers.

Only the Federal State shall subscribe for new shares.

Subsection III. - Limitations as regards share transfer

Art. 24. The Federal State shall not transfer the shares allocated at the time of the setting-up of APETRA nor those resulting from a capital increase.

Section VI. – Organisation

Art. 25. § 1. APETRA shall be composed of :

- 1° the General Assembly;
- 2° the Governing Board;
- 3° the Managing Committee.

§ 2. The Minister or his/her representative shall represent the Federal State at the General Assembly.

This Assembly shall perform no other tasks than those referred to by the provisions of the Corporations Code applying to public limited companies.

Art. 26. § 1. The Governing Board shall be composed of a chairperson and of six other members :

- 1° the chairperson and three members shall be recommended by the State;
- 2° the other three members shall be recommended by the oil industry.

The members of APETRA's Governing Board shall perform no activity and hold no appointment paid by a registered oil company as referred to in Article 2, 8°, by a foreign oil company or by a company owning a storage capacity for petroleum products, nor shall they own more than 1% of the shares in such a company.

The members of the Governing Board shall not be remunerated.

The General Assembly shall appoint and dismiss the chairperson and the other members of the Governing Board. The term of office of the chairperson and of the members of the Board shall be 4 years and may be renewed.

The Governing Board shall determine APETRA's policy in order to fulfill the relevant stockholding obligation and shall monitor the activities of the Managing Committee, which it shall appoint.

The Governing Board shall draw up the rules of procedure, which shall be subject to the Minister's approval.

§ 2. The King shall, by decree deliberated upon in the Council of Ministers, lay down the mode of operation and the other powers of the Governing Board, as well as the mandates and capacities which are incompatible with the membership of the Governing Board.

Art. 27. § 1. Besides implementing the Governing Board's decisions, the Managing Committee shall be in charge of the daily management and administration of APETRA. It shall carry out any act necessary or useful for performing the tasks referred to in Article 21, § 1.

The members of the Managing Committee shall be selected, appointed and dismissed by the Governing Board. They shall be selected on the basis of their knowledge of the oil market and shall not be working in a commercial company. The Governing Board shall determine the distribution of the tasks between the members, among whom it shall appoint a Director-General.

The term of office of the members of the Managing Committee shall be 6 years and may be renewed.

§ 2. The Governing Board shall determine the composition, the mode of operation and the other tasks of the Managing Committee.

Mutual rights, including the remuneration and obligations of the members of the Managing Committee, shall be governed by an individual agreement concluded between each member of the Managing Committee and APETRA, represented by the Director-General. The members of the Managing Committee shall be paid by APETRA.

The King shall lay down the mandates and capacities which are incompatible with the membership of the Management Committee.

Art. 28. APETRA's staff shall be recruited and employed by the Managing Committee under a labour contract governed by the Law of 3 July 1978 on labour contracts.

Section VII. - Statutes

Art. 29. § 1. APETRA's statutes shall be laid down by the King, by decree deliberated upon in the Council of Ministers.

Any amendment to the statutes shall be decided upon by the General Assembly and shall produce its effects only after being approved by the King, by decree deliberated upon in the Council of Ministers.

§ 2. APETRA's statutes shall mention the information referred to in Article 661, 1°, 2°, 3°, 6° and 9° of the Corporations Code, relating to companies with a social purpose.

Section VIII. -Management contract

Subsection I. - Definition and content

Art. 30. § 1. The terms and specific conditions under which APETRA shall perform its public service tasks pursuant to Article 21, § 1, shall be laid down in a management contract concluded between the Federal State and APETRA.

§ 2. The management contract deals with the following matters :

1° the precise definition of the object of the public service tasks referred to in Article 21, § 1, and the time limit within which the special report, referred to in Article 661, 6° of the Corporations Code, must be communicated, in any case before 1st June of the year following the relevant year;

2° the particulars regarding the public service tasks referred to in Article 21, § 1;

3° the elements to be included in the business plan, notably the assessment of the execution of the management contract during the calendar year expired and the time limit within which the special report must be communicated, in any case before 1st June of the following year as well as the time limit beyond which the authorisation is supposed to have been granted;

4° where appropriate, the procedures and objective parameters for the annual assessment of the management contract referred to in Article 32, § 1;

5° the penalties imposed on a party failing to meet its commitments resulting from the management contract;

6° the way in which the financial interests of the Federal State are preserved;

7° the obligations regarding the internal or external control of any matter with a financial impact or relating to procurement contracts, including the obligation to provide the government commissioners referred to in Article 36 with prior information.

Subsection II. - Conclusion – Approval - Assessment and modification of the management contract

Art. 31. § 1. When the management contract is negotiated and concluded, the Federal State shall be represented by the Minister or his/her representative.

§ 2. When the management contract is negotiated, APETRA shall be represented by its Director-General. The management contract shall be subject to the approval of APETRA's Governing Board, which shall act by an absolute majority of its members.

§ 3. The management contract shall enter into force only after its being approved by the King, by decree deliberated upon in the Council of Ministers.

Art. 32. § 1. The management contract shall be assessed each year and shall, where necessary, be adjusted to any modification of the terms as well as to the technical developments, in compliance with the procedure and objective parameters provided for in the management contract.

§ 2. Any modification of the management contract which is not referred to in the preceding subparagraph and which is proposed by one or both parties shall be made in accordance with the provisions of Article 31.

Subsection III. - Duration and renewal of the management contract

Art. 33. § 1. The duration of the management contract shall be minimum 3 years and maximum 6 years.

§ 2. Six months at the latest before the expiry of the management contract the Director-General shall submit to the Minister a draft of the new management contract.

Where, at the expiry of the previous management contract, the new management contract has not entered yet into force, the former shall be extended by right until the entry into force of the new management contract. This extension of contract shall be published by the Minister in the Belgian Official Journal (Belgisch Staatsblad/Moniteur belge).

If, one year after the extension referred to in the previous subparagraph, the new management contract has still not come into force, the King may, by decree deliberated upon in the Council of Ministers, lay down provisional rules regarding the matters referred to in Article 30, § 2. These provisional rules shall apply until the entry into force of the new management contract concluded pursuant to Article 31.

Subsection IV. - Publication

Art. 34. The decrees approving a management contract or any modification thereof as well as the decrees laying down provisional rules shall be published in the Belgian Official Journal (Belgisch Staatsblad/Moniteur belge).

Section IX. - Legal and regulatory provisions

Art. 35. § 1. A public limited company with a social purpose, governed by public law, APETRA shall be subject to the legal and regulatory provisions of commercial law applying to public limited companies provided this Law or any other Law does not specifically depart from these provisions.

§ 2. APETRA's acts shall be deemed commercial.

§ 3. Articles 454, 4°, 542, subparagraph 2, 544, 646, § 1, subparagraph 2 and § 2, 661, 4°, 7° and 8°, 667 of the Corporations Code shall not apply to APETRA.

§ 4. APETRA shall not be subject to the provisions of the Law of 31st January 2009 concerning the continuity of enterprises nor to those of the Law of 8th August 1997 on bankruptcy.

§ 5. APETRA shall enjoy immunity of enforcement for the goods fully or partially allocated to the performance of its public service tasks.

Art 36. §1. APETRA shall be controlled by the Minister, through the intermediary of a government commissioner, appointed and dismissed by the King, on the recommendation of the Minister.

§2. The government commissioner shall see to the enforcement of the Law, of APETRA's statutes and of the management contract.

Art. 37. A college of commissioners, composed of two members and instituted within APETRA, shall verify the financial situation, the annual accounts as well as the compliance of the transactions to be mentioned in the annual accounts with this Law and APETRA's statutes.

Art. 38. APETRA shall be subject to the Act of 17th July 1975 on business accounts. It shall draw up the accounts per calendar year in two separate books: one for its public service tasks and another for its other activities.

Art. 39. The King shall lay down the methods for the control of APETRA, as referred to in Articles 36, 37 and 38.

Art. 39bis. § 1. The verification of the financial position, of the annual account and of the regularity of the point of view of the law and the statutes of APETRA that are shown in the annual accounts, will be assigned to a board of revisers that will count two members. The members of the board will carry the title of reviser.

§ 2. The Auditor's Office will appoint one reviser. The other reviser will be appointed by the Governing Board.

The reviser appointed by the Auditor's Office will be chosen amongst the other members of the Office. The other reviser will be appointed amongst the members, natural persons or legal persons of the Institute of company revisers.

§ 3. The reimbursement of the revisers is at the expense of APETRA.

§ 4. The report referred to in article 143 of the Code of Corporations will be put at the disposal of the Governing Board and the Minister.

§ 5. The Auditor's Office will only supervise on the basis of § 6.

§ 6. Before 31 may of the year following the concerned financial year, the Minister will sent the annual account, the policy report, en the report of the board of revisers to the Auditor's Office for verification.

The Auditor's Office can through mediation of the representative in the board of revisers start up an surveillance on the accounts and transactions that are related to the tasks of the public service obligations. The Office may publish the accounts in its Book of comments.

Moreover, the Auditor's Office will, through mediation of its representative in the board of revisers, annually draw up a report for the Senate en the Chamber of Representatives about the execution of tasks relating to the public service obligations.

Section XI. - Tax status and miscellaneous provisions

Art. 40. Article 180 of the 1992 Income Tax Code, consolidated by the Royal Decree of 10th April 1992 and confirmed by the Law of 11th June 1992, shall be supplemented with a 13°, as follows :

«13° the public limited company with a social purpose APETRA».

Art. 41. APETRA shall be considered as a public institution within the meaning of Article 6 of the Law of 3rd July 1969 establishing the VAT Code, replaced by Article 7 of the Law of 28th December 1992.

Art. 42. APETRA shall be considered as a public institution within the meaning of Article 161 of Royal Decree No. 64 of 30th November 1939 containing the Code of Registration, Court Registry and Mortgage Fees.

Art. 43. APETRA may receive donations and legacies.

Section XII. - Dissolution

Art. 44. APETRA's dissolution shall only be decided by law. Such a law shall regulate the methods and terms of liquidation pursuant to Article 661, 9° of the Corporations Code.

CHAPTER IV. - Criminal provisions

Art. 45. § 1. Shall be punished by a fine of EUR 100 to EUR 10,000 :

1° those who release goods for home use and who are not registered with the Directorate-General;

2° those who fail to provide the data referred to in Articles 14 and 15, § 1 or who knowingly provide incomplete or incorrect data or who provide these data belatedly;

3° those who hamper the monitoring of compliance referred to in Article 16. In the event of a second infringement the amount of the fine shall be doubled.

§ 2. Those who fail to comply with the provisions of Article 4, § 1, 1° shall be punished by a sentence of imprisonment of one month to one year and by a fine amounting to ten times the contribution referred to in Article 18, § 1, levied on the quantity released for home use, corresponding to the missing quantity as regards the stockholding obligation, with a minimum of EUR 500, or by one of these penalties only. In the event of a second infringement, the amount of the fine shall be doubled.

§ 3. Those who fail to comply with the provisions of Article 18, § 1 shall be punished by a sentence of imprisonment of one month to one year and by a fine amounting to ten times the contribution referred to in Article 18, § 1, levied on the quantity of petroleum products for which the contribution has not been paid to APETRA, with a minimum of EUR 500, or by one of these penalties only.

§ 4. The provisions of the First Book of the Criminal Code, including Chapter VII and Article 85, shall apply to the infringements referred to in this Law.

Art. 46. Without prejudice to the other measures provided for by this Law, the duly authorised officers, as referred to in Article 16, § 1, may enjoin any natural or legal person established in Belgium to comply with specific provisions of this Law or of the Decrees providing for its enforcement within a time limit set by the Directorate general.

Where such natural or legal person fails to comply at the expiry of the time limit, and provided that such person has been heard or duly summoned, the duly authorised officers, as referred to in Article 16, § 1, may impose upon him/her an administrative fine. This fine shall not amount, per calendar day, to less than EUR 500, or to more than EUR 5,000, nor shall it be more than EUR 100,000 in total. The fine shall be collected for the Treasury by the VAT, Registration and Public Lands Department.

Art. 47. Without prejudice to the other criminal provisions provided for by this Law, Article 20, § 3, of the Law of 10th June 1997 on the general arrangements for the holding, movement and control of excisable products, inserted by the Law of 4th May 1999, shall be replaced by the following provision :

« § 3. The authorisations referred to in § 1 shall not be granted to those who have not paid the sums owing pursuant to the customs, tax and social regulations or to the legislation on the stockholding obligation or who have committed a serious infringement or repeat infringements of the same regulations or who have been sentenced for forgery and uttering, counterfeiting or falsification of seals and stamps, corruption of civil servants or misappropriation of public funds, theft, possession of stolen goods, swindle, breach of trust, bankruptcy with irregularities deemed a breach of the law or fraudulent bankruptcy. »

CHAPTER V. - Transitional and final provisions

Art. 48. Article 1 of the Ministerial Decree of 27th December 1978 on the registration of the persons involved in the supply chain for oil and petroleum products for the country and the consumers, as amended by the Ministerial Decree of 1 December 2000, shall be supplemented as follows:

« § 4. Any natural or legal person who holds an excise authorisation to import petroleum products into Belgium both from within and outside the EU or to refine petroleum products in Belgium shall be registered with the FPS Economy. »

Art. 49. Shall be repealed :

1° Article 183 of the Law of 8th August 1980 on the 1979-1980 budgetary proposals;

2° the Royal Decree of 11th October 1971 imposing obligations regarding the means of storage and the holding of petroleum products stocks, as amended by the Royal Decrees of 1st June 1976, 15th October 1997 and 4th April 2003.

Art. 50. As regards the minimum stocks of oil and petroleum products, the King may, by decree deliberated upon in the Council of Ministers and after consulting the Governing Board, take all measures necessary in order to meet the stockholding obligations arising from international treaties or from international instruments instituted pursuant thereto. These measures may include repealing, modifying, adding or replacing existing legal provisions.

Any decree adopted pursuant to the 1st subparagraph shall be deemed without effect unless confirmed by law within twelve months of its entry into force.

Art. 51. With the exception of this Article, the King shall, by decree deliberated upon in the Council of Ministers, set the date of entry into force of the provisions of this Law.

We hereby promulgate this Law, order that it bear the States' seal and be published in the Belgian Official Journal (Belgisch Staatsblad/Moniteur belge).

Brussels, 26th January 2006.

The Finance Minister, DIDIER REYNDERS

The Minister of Economy and Energy, M. VERWILGEN

State's seal affixed by the

Justice Minister

L. ONKELINX

ANNEXES

Art. N1. Annex 1. Calculation method for the crude oil equivalent of the imported products

Art. N2. Annex 2. Calculation method of the crude oil equivalent of the inland consumption

Art. N3. Annex 3. Methods for calculating the level of stocks managed.