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Treaty Series No. 3 (2003)

## Agreement

between the Government of the United Kingdom of Great Britain and  
Northern Ireland and the Government of the Kingdom of Belgium

# relating to the Transmission of Natural Gas through a Pipeline between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Belgium

Brussels, 10 December 1997

[The Agreement entered into force on 21 August 2002]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
February 2003*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF BELGIUM RELATING TO THE TRANSMISSION OF NATURAL GAS THROUGH A PIPELINE BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE KINGDOM OF BELGIUM**

The Government of the United Kingdom of Great Britain and Northern Ireland

and

the Government of the Kingdom of Belgium,

Recalling the Agreement between them signed at Brussels on 29 May 1991<sup>1</sup> relating to the delimitation of the Continental Shelf between the two countries;

Desiring to facilitate the construction and operation of a pipeline between Bacton in Norfolk in the United Kingdom and Zeebrugge in Belgium for the transmission of Natural Gas in either direction;

Recognising that both the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Belgium are bound by the rules of international law concerning the protection of the environment from pollution, including those reflected in Part XII of the United Nations Convention on the Law of the Sea;

Have agreed as follows:

**ARTICLE 1**

**Definitions**

In this Agreement, unless the context otherwise requires:

- (a) “Interconnector Commission” means the Commission established under Article 13;
- (b) “Inspector” means any person authorised by either Government to carry out any inspection of any part of the Pipeline;
- (c) “Natural Gas” means all gaseous hydrocarbons as well as liquids and other substances transmitted with such hydrocarbons;
- (d) “Operator” means the person referred to in Article 5 and authorised in accordance with Article 4 who organises or supervises the construction or operation of the Pipeline;
- (e) “Pipeline” means the pipeline for the transmission of Natural Gas together with any associated facilities which may be installed and operated in connection with the Pipeline, between the flanges connecting the Pipeline to the Terminals;
- (f) “Terminals” means the terminal facilities relating to the Pipeline which are situated at Bacton in Norfolk in the United Kingdom and Zeebrugge in Belgium;

the singular includes the plural unless the context otherwise requires.

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<sup>1</sup>Treaty Series No. 20 (1994) Cm 2499.

## ARTICLE 2

### **General**

(1) The Pipeline shall be constructed and operated in accordance with the terms of this Agreement and in accordance with and subject to the laws of the State under whose jurisdiction it lies.

(2) The two Governments agree that any part of the Pipeline located on the Continental Shelf appertaining to the Kingdom of Belgium shall be under the jurisdiction of the Kingdom of Belgium and any part of the Pipeline located on the Continental Shelf appertaining to the United Kingdom of Great Britain and Northern Ireland shall be under the jurisdiction of the United Kingdom of Great Britain and Northern Ireland.

## ARTICLE 3

### **Direction of Transmission**

The two Governments recognise that, subject to Article 4 of this Agreement, the Pipeline or any part thereof may be used for the transmission of Natural Gas in either direction, and the provisions of this Agreement apply equally to such use of the Pipeline.

## ARTICLE 4

### **Construction and Operation Authorisations and Consents**

(1) Subject to paragraphs (2) and (3), neither Government shall object to the laying and operation of the Pipeline or any part thereof.

(2) Each Government shall, in accordance with and subject to its laws, issue any necessary authorisation or consent with respect to the laying and operation of the Pipeline or any part thereof. A copy of any such authorisation or consent shall be given by the Government issuing it to the other Government.

(3) No authorisation or consent referred to in this Article shall be issued, revoked, altered, modified or reissued by one Government without prior consultation with the other.

## ARTICLE 5

### **Operator of the Pipeline**

Any Operator or change of Operator of the Pipeline or any part thereof shall require the approval of both Governments.

## ARTICLE 6

### **Safety**

(1) Each Government shall have the right to determine, in accordance with its own laws, the safety measures which are to govern the construction and operation of the part of the Pipeline under its jurisdiction.

(2) Without prejudice to paragraph (1), the competent authorities of the two Governments shall consult one another with a view to ensuring that there are appropriate safety measures for the Pipeline and that the Pipeline is subject to uniform safety and construction standards.

(3) Operation of the Pipeline, or any part thereof, shall not commence until each Government has issued all necessary safety authorisations and consents in accordance with their national legal requirements.

(4) The competent authorities of the two Governments shall consult one another from time to time in order to review the implementation of the arrangements made under paragraph (2).

## ARTICLE 7

### **Inspections**

(1) Each Government affirms that it has sole responsibility for all inspections of the part of the Pipeline under its jurisdiction and of the operations carried out within its jurisdiction in relation to such part, and that it is responsible for its own inspectors.

(2) Without prejudice to paragraph (1), each Government shall take steps to ensure that safety or pollution inspectors appointed by one Government have:

- (a) access to the part of the Pipeline under the jurisdiction of the other during the time of fabrication, construction and laying of the Pipeline as well as subsequently; and
- (b) access to all necessary information including all reports of inspections.

(3) Each Government shall ensure that if it is informed or if it becomes apparent to it (whether by or through an inspector or otherwise) that the safe operation of the Pipeline may be in doubt or that there may be a risk of damage to persons or property or of pollution arising from the Pipeline, this information shall be communicated immediately to the Operator and to an inspector of the other Government.

(4) The competent authorities of the two Governments shall consult one another and agree practical measures for the implementation of paragraph (3) including the manner of implementation to apply in an emergency.

## ARTICLE 8

### **Security Arrangements**

The competent authorities for security of each Government shall consult one another with a view to concluding such mutual arrangements in relation to the physical protection of the Pipeline as shall from time to time seem appropriate to them.

## ARTICLE 9

### **Access and Use**

(1) The two Governments agree that the Pipeline and the Terminals may be used for the transmission of any Natural Gas for which contractual arrangements for the supply of transportation services have been made.

(2) Provided the necessary capacity is available in the Pipeline and the Terminals, each Government, in accordance with and subject to its laws, shall make use of such powers as it may have to assist persons wishing to make use of that capacity for the transmission of Natural Gas on fair commercial terms. Such use shall not prejudice the efficient operation of either the Pipeline or the Terminals for the transmission of quantities of Natural Gas for which contractual arrangements for the supply of transportation services have been made.

(3) The connection of any pipeline to the Pipeline or the Terminals shall be in accordance with and subject to the laws of the State under whose jurisdiction the connection lies. Before any connection to the Pipeline is made, the two Governments shall agree any further arrangements which may be necessary. The two Governments shall ensure that as part of

such arrangements the connection of any pipeline to the Pipeline does not prejudice safety measures for the Pipeline and shall also agree suitable arrangements for the measurement of Natural Gas entering the Pipeline through such a connection.

(4) Articles 6, 7 and 8 of this Agreement shall apply to that part of any connecting pipeline between the Pipeline and the first isolation valve.

## ARTICLE 10

### **Tax**

Any profits, income and capital gains derived from or attributable to either the use or operation or alienation of the Pipeline or any part thereof, or the grant of any right to use or operate the Pipeline or any part thereof shall be exempt from income tax in Belgium if the beneficial owner of these profits, income or capital gains is a resident of the United Kingdom for the purposes of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains signed at Brussels on the 1st day of June 1987.<sup>1</sup>

## ARTICLE 11

### **Security of Supply, Transit and Emergency Arrangements**

(1) Each Government undertakes to make every effort to ensure the uninterrupted flow of Natural Gas contracted for transmission through the Pipeline, but without prejudice to the right of each Government, in accordance with and subject to its laws, to take emergency measures with respect to the availability and use of energy supplies.

(2) Subject to paragraph (1), the two Governments shall place no obstacles in the way of Natural Gas intended for sale in third markets which is transmitted through the Pipeline out of their territories.

(3) The two Governments, recognising each other's legitimate interest in safeguarding supplies of Natural Gas to consumers and in maintaining system security and operational capability, shall consult each other to establish the framework for co-operation in the event of a serious disruption of gas supplies.

## ARTICLE 12

### **Abandonment**

(1) Each Government shall ensure that the abandonment of the Pipeline, or any part thereof, shall be undertaken in compliance with the laws of the State under whose jurisdiction it lies.

(2) Each Government shall, on receipt of any proposal for abandonment of the Pipeline, or any part thereof, consult the other Government with a view to ensuring that possibilities for potential further economic use of the Pipeline are not neglected.

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<sup>1</sup>Treaty Series No. 25 (1990) Cm 1037.

## ARTICLE 13

### **The Interconnector Commission**

A Commission, called the “Interconnector Commission”, shall be established for the purpose of facilitating the implementation of this Agreement. The Commission shall consist of joint Chairpersons and joint Secretaries. One Chairperson and one Secretary shall be nominated by each Government with substitutes as necessary. Any other person which either Government considers should be present at any Commission meeting may attend such meeting. The functions of the Commission, which shall include that of considering matters referred to it by either or both of the Governments, and its procedures shall be subject to such further arrangements as may be agreed by the two Governments from time to time.

## ARTICLE 14

### **Settlement of Disputes**

(1) Except in the case of a dispute about the application or interpretation of the Convention referred to in Article 10, which shall be dealt with in accordance with the procedures under that Convention, any dispute about the interpretation or application of this Agreement shall be resolved through the Interconnector Commission or, failing that, by negotiation between the two Governments.

(2) If any such dispute cannot be resolved in the manner specified in paragraph (1) or by any other procedure agreed on by the two Governments, the dispute shall be submitted, at the request of either Government, to an Arbitral Tribunal composed as follows:

Each Government shall designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairperson and who shall not be a national of, or habitually reside in, the United Kingdom of Great Britain and Northern Ireland or the Kingdom of Belgium or a third State having a direct interest in the dispute. If either Government fails to designate an arbitrator within three months of a request to do so, either Government may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within one month of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. The Tribunal shall determine its own procedure, save that all decisions shall be taken, in the absence of unanimity, by a majority vote of the members of the Tribunal. The decisions of the Tribunal shall be final and binding upon the two Governments. Each Government shall bear its own costs and the two Governments shall share the costs of the Chairperson of the Tribunal.

## ARTICLE 15

### **Application of Belgian Law**

(1) The principle of accession under Belgian law shall not apply to any part of the Pipeline located on the Continental Shelf appertaining to the Kingdom of Belgium or in the territorial waters or in the land territory of the Kingdom of Belgium either during or after construction.

(2) Ownership of any part of the Pipeline referred to in paragraph (1) shall be established on the basis of private agreements, permits or otherwise. Ownership of that part of the Pipeline located on the Continental Shelf appertaining to the Kingdom of Belgium shall initially be vested in the person acting as the building principal for that part of the Pipeline. Ownership of that part of the Pipeline located in the territorial waters or in the land territory of the Kingdom of Belgium shall initially be vested in the person acting as the building principal and holding the authorisation required for the laying and operation of such parts of the Pipeline.

(3) The above-mentioned persons, their successors and all subsequent holders of legal title shall have full legal title in rem under Belgian law without the need for any publication or registration formalities in the Kingdom of Belgium and shall be capable of transferring legal title or granting any contractual rights or rights in rem to third parties by simple private agreement and also without the need for any such publication or registration formalities aforesaid.

(4) The above rules on the vesting and transfer of legal title and any other contractual rights or rights in rem apply to the extent necessary notwithstanding any provisions of Belgian law to the contrary.

#### ARTICLE 16

##### **Jurisdiction**

(1) Nothing in this Agreement shall be interpreted as affecting the jurisdiction which each State has under international law over the Continental Shelf which appertains to it.

(2) Nothing in this Agreement shall be interpreted as prejudicing or restricting the application of the laws of either State, or the exercise of jurisdiction by their Courts, in conformity with international law.

#### ARTICLE 17

##### **Entry into Force**

(1) Each Government shall notify the other in writing through the diplomatic channel of the completion of their respective requirements for entry into force of this Agreement. The Agreement shall enter into force on the date of the receipt of the later of the two notifications.

(2) This Agreement shall be applied provisionally from the date of its signature.

(3) The two Governments may amend or terminate this Agreement at any time by agreement.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Brussels this 10th day of December 1997 in the English, French and Dutch languages, each text being equally authentic.

For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland:

D H COLVIN

For the Government of the Kingdom of  
Belgium:

DI RUPO





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