

## **Act No. XXIII of 2013**

### **on the Strategic Stockpiling of Imported Crude Oil and Petroleum Products**

In establishing a system of non-competitive regulation of strategic stockpiling of imported crude oil and petroleum products, the control of domestic consumption required for the well-founded calculation of contribution fees, the marking and monitoring of petroleum products placed into free circulation, imported and used, and ensuring the availability of emergency oil stocks in the event of a supply crisis, in order to ensure undisrupted and safe energy supply in Hungary and to increase the efficiency of tax collection in relation to the trade of petroleum products, and having regard to the legislation of the European Union, the Parliament hereby adopts the following Act:

#### *1. Definitions*

##### **Article 1**

For the purposes of this Act:

1. "Emergency stocks" shall mean stocks of crude oil and petroleum products listed in the first paragraph of item 3.1, Annex C of Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics, the compulsory stockpiling of which is required by this Act;
2. „International decision to release stocks" shall mean a decision taken by the Governing Board of the International Energy Agency to make crude oil or petroleum products available to the market by a release of its members' stocks and/or additional measures;
3. "Major supply disruption" shall mean a substantial and sudden drop in the supply of crude oil or petroleum products to the Community or to a Member State, irrespective of whether or not it has led to an effective international decision to release stocks;
4. "Physical accessibility" shall mean arrangements allowing removal from storage, release for free circulation, or effective delivery of oil stocks to end users in order to alleviate or resolve supply problems which may have arisen, as well as the fulfillment of tasks related to the maintenance and renewal of stocks.
5. "Crisis in the supply of crude oil and petroleum products" shall mean a situation when the decrease of imports in comparison to the domestic consumption reaches 7%, and the domestic consumption requirements can be fulfilled only at the expense of the emergency stocks, and when the European Union or the International Energy Agency declares emergency measures, including in particular international decisions to release stocks; situations due to changes in the domestic prices of crude oil and petroleum products shall not be considered a crisis in the supply of crude oil and petroleum products.

*2. Calculation of emergency stocks, constitution of specific stocks,  
storage and use of emergency stocks*

##### **Article 2**

- (1) On the basis of the average daily net imports of refinery feedstocks and petroleum products listed in Annex 1, imported in the time period referred to in paragraph (2), emergency stocks are to be constituted and maintained in accordance with the method and the extent set out in the present Act.
- (2) The average daily net imports of
  - a) the penultimate year preceding the given year, need to be taken into account for the period starting on January 1 and ending on March 31,
  - b) the year preceding the given year (hereafter: “reference year”), need to be taken into account for the period starting on April 1 and ending on December 31.
- (3) The Hungarian Hydrocarbon Stockpiling Association (hereafter: “the Association”) calculates the average daily net imports by March 31 of each year, using the method laid down in Annex 1.

### **Article 3**

- (1) The Association constitutes emergency stocks of crude oil and the petroleum products described in Annex 2, following the procedure indicated therein, taking account of paragraphs (2) and (3).
- (2) When determining the composition of emergency stocks, the security of energy supply in Hungary, the dependence on oil imports, and the indicators of oil production, petroleum processing and product consumption need to be taken into account.
- (3) The petroleum products listed in items 1. b)-f) of Annex 2 need to constitute at least one-third of the emergency stocks, except when the Board of Directors of the Association (hereafter: “the Board of Directors”) decides to create specific stocks.
- (4) The level of emergency stocks has to correspond, between August 1 of each year and March 31 of the subsequent year, to at least 90 days’ average daily net imports calculated in accordance with paragraphs (2) and (3) of Article 2.
- (5) The stocks existing in addition to the level of 90 days’ average daily net imports can be sold in the course of the given year in accordance with the decision of the Board of Directors, taking account of the expected level of stockpiling obligations. The sale shall not cause market disturbance. If the Board of Directors decides to sell, the Association announces the sale on its website.
- (6) The emergency stocks are owned by the Association.
- (7) The emergency stocks may be removed from storage only in case of the prior written consent of the Association.

### **Article 4**

- (1) The Association is entitled to create specific stocks in case of the decision of the Board of Directors. Specific stocks can be constituted according to the method and to the extent determined in Annex 3, of the petroleum products specified therein.
- (2) The oil stocks satisfying all the conditions laid down for emergency stocks and specific stocks may be included simultaneously in the calculation of both types of stocks.

### **Article 5**

- (1) The Association shall hold separate up-to-date records relating to emergency stocks and specific stocks, and it shall preserve all the data contained in its records for 5 years following data entry.
- (2) The records shall contain
  - a) the place where the stocks are located,
  - b) the volume of stocks,
  - c) the crude oil and petroleum products constituting the stocks.
- (3) The minister in charge of energy policy (hereafter: “the Minister”) shall be allowed to consult the records at any time.

#### **Article 6**

Emergency stocks and specific stocks can not be pledged in any manner.

#### **Article 7**

Emergency stocks shall be held in authorized storage facilities inspected for technical condition, compliance with safety and environmental legislation and suitable for

- a) preserving the quality of oil stocks,
- b) ensuring the availability and inspection of oil stocks at any time,
- c) allowing physical access, entry and removal from storage of oil stocks in relation to stock creation and release operations.

#### **Article 8**

- (1) The Association may store emergency stocks and specific stocks within the territory of another Member State of the European Union if an agreement exists between their Governments. Economic operators having stockholding obligations in another Member State of the European Union may hold emergency stocks within the territory of Hungary.
- (2) In case an operator having stockholding obligations in another Member State of the European Union holds emergency stocks within the territory of Hungary, the operator having such stockholding obligation shall at any time be entitled to dispose of these stocks.
- (3) If a resident natural person, resident legal person or resident company without legal personality (hereafter: “economic operator”) wishes to hold emergency stocks or specific stocks on behalf of an entity having stockholding obligation in another Member State of the European Union, the agreement between them shall be subject to the approval of the Minister.
- (4) The Association publishes information on its website, broken down by product category, on the free storage capacities and the conditions under which free capacities may be booked.
- (5) If the storage is made on behalf of another Member State of the European Union, the operator on which the storage has been entrusted shall not delegate this task to a third party.

#### **Article 9**

- (1) In the event of disequilibrium between production and consumption of crude oil and petroleum products, when purchasing opportunities are insufficient to meet

- consumption needs, the Minister may, by decree, impose restrictions on consumption as it is required for restoring stability, to the extent proportionate with the needs.
- (2) Emergency stocks may be released in the event of major supply disruption, crisis in the supply of crude oil and petroleum products, or difficulties arising in the supply of fuel (heating oil, fuel oil, natural gas), pursuant to the decree of the Minister.
  - (3) The decree referred to in paragraph (2) has to specify:
    - a) the type and quantity of crude oil and petroleum products the release of which has been authorized,
    - b) the deadline set for the replenishment of released stocks, and the combination of products that will be replenished.
  - (4) In the decree referred to in paragraph (2), the Minister may
    - a) specify the purpose of the release,
    - b) specify the time schedule for using the released stocks,
    - c) grant priority access to the released emergency stocks for consumers ensuring the proper functioning of the country,
    - d) impose measures to restrict consumption,
    - e) stipulate, for economic operators having oil refinery facilities, a minimum yield and schedule of processing under contract the released stocks.
  - (5) The stocks authorized to be released in accordance with paragraph (2) are sold by the Association in the manner and under the conditions set forth in the decree.
  - (6) The crude oil and petroleum products need to be sold at a price covering the expected stock replenishment costs.
  - (7) The Minister ordering the release of emergency stocks shall notify without delay the European Commission (hereafter: "the Commission"), as well as the International Energy Agency, in accordance with the 'Agreement on an International Energy Program,' signed in Paris on November 18, 1974, and the related Protocols, and Act No. XXXIX of 1999 announcing Decision C(74)204 (final decision) of the Organization for Economic Cooperation and Development to set up the International Energy Agency, about
    - a) the time at which emergency stocks fall under the mandatory level,
    - b) the reasons for the release,
    - c) the measures taken to ensure the replenishment of released stocks,
    - d) the expected changes in the level of emergency stocks until the time of replenishment.

## **Article 10**

- (1) In the Coordination Group for oil and petroleum products, set up by the Commission, the Minister shall represent Hungary.
- (2) If the Commission launches a review to examine the emergency preparedness and stockholding of Hungary, the Minister shall designate an official to participate in the review from among the public officials being employees of the Ministry headed by him.
- (3) In the event of a review referred to in paragraph (2), the Association and the authorities concerned shall cooperate with the Commission, they shall ensure access to all documents related to stocks and to the sites on which stocks are held, for the purposes of the review.
- (4) The public official participating in the review mentioned in (2), the concerned authorities referred to in (3) and the Association shall maintain the confidentiality of any information disclosed to them in the course of the review.

## **Article 11**

- (1) Subject to Chapter II, Article 5 (1) of the international agreement referred to in Article 2, Act XXXIX of 1999, the Minister shall prepare and continually update a contingency plan to be applied in case of major supply disruption.
- (2) Upon the request of the Commission, the Minister shall send its approved contingency plan to the Commission.

### *3. The Hungarian Hydrocarbon Stockpiling Association*

## **Article 12**

- (1) The main purpose of the Association, as a central stockholding entity, is to acquire, maintain and sell emergency stocks, to establish, operate and develop storage facilities required for these purposes, and to fulfill the tasks determined in Act XXVI of 2006 concerning the strategic stockpiling of natural gas (hereafter: "Natural Gas Stockpiling Act").
- (2) Moreover, the Association shall use well-founded procedures for calculating the level of emergency stocks referred to in Article 3 (1) and the level of contribution fees, and it shall apply a monitoring and marking system allowing the continuous monitoring of petroleum products placed into free circulation, imported and used as referred to in paragraph (3), with a view to increasing the efficiency of tax collection related to the sale of petroleum products.
- (3) For the fulfillment of the tasks contained in (2), the Association shall mark the petroleum products classified in headings No. 2710 11 41, 2710 11 45, 2710 11 49, 2710 19 41, 2710 19 45, 2710 19 49 of the customs tariff nomenclature, with different marking substances according to product groups.
- (4) In order to facilitate the tasks mentioned in (2) and (3), the operators which produce, place into free circulation, transport inward or import the petroleum products specified in (3) shall cooperate with the Association that performs marking and control.

## **Article 13**

- (1) The Association is a legal person, which finances its operations from its earnings. These earnings can be used to cover stockpiling costs, the purchase, construction and development of storage facilities for crude oil and petroleum products, the acquisition of shares in storage companies and loan repayment, marking and monitoring costs, the operating costs of the Association and the fulfillment of the tasks stipulated in the Natural Gas Stockpiling Act. The Association is not liable to corporation tax.
- (2) The organizational structure of the Association comprises the crude oil and petroleum products stockpiling section (hereafter: "Oil Section") and the natural gas stockpiling section (hereafter: "Gas Section").

## **Article 14**

- (1) Economic operators pursuing the activities referred to in Article 40 (2) are compulsory members of the Association.

- (2) Membership in the Association starts upon commencement of the activity described in Article 40 (2). Membership ends if the member has discontinued the activity involving stockpiling obligation for at least one year.

### **Article 15**

In respect of the released stocks remaining after satisfaction of the consumers to the benefit of whom stocks have been released for specific purposes under the decision of the Minister in accordance with Article 9 (4) point (c), the members of the Oil Section shall have preemptive right in proportion to their net contribution fees, due and paid according to the balance of sales performed in the calendar year preceding the release of the stocks. The balance of the paid, reclaimed and deducted contribution fees constitute net contribution fees.

### **Article 16**

In addition to the strategic stockpiling activities stipulated in this Act and in the Gas Stockpiling Act, the Association shall be entitled to pursue only such activities that are related to strategic stockpiling as specified in the Statutes.

### **Article 17**

- (1) The Association operates in accordance with the Statutes approved by the Minister.
- (2) The Statutes shall specify:
- a) the seat of the Association,
  - b) the organizational structure and operation of the Association,
  - c) the detailed rules of accession and withdrawal from membership,
  - d) the rights and obligations of members of the Association, not regulated in this Act, and the legal consequences of non-compliance,
  - e) the detailed rules of financial management of the Association,
  - f) the rules for the sale of released emergency stocks of oil and gas,
  - g) the detailed rules of payment of contribution fees, by members in favor of the Association,
  - h) the detailed rules of stockpiling crude oil and petroleum products, in particular
    - ba) the methods for identifying, assessing and registering stocks,
    - hb) the methods used for determining product structure and composition ratios, quantitative and qualitative parameters,
    - hc) the marking methods used for determining the ownership of stocks or part of stocks and for ensuring immunity from judicial enforcement,
  - i) the frequency, method, and system of replacing crude oil and petroleum products for the purpose of preserving the quality of the stocks, the regulations regarding normative loss and loss recovery, and the procedures concerning quality control of natural gas stockpiling,
  - j) the rules of electronic communication between members and the Association and the instructions for shutdown,
  - k) the detailed rules of natural gas stockpiling,
  - l) the reporting obligations of the Association,
  - m) the amount of interest and collateral applicable in case of deferred payment referred to in Article 38 (3), and the criteria for examining deferred payment requests,

- n) the detailed rules for providing material security referred to in Article 40 (6),
  - o) all the obligations prescribed in the present Act and in the Gas Stockpiling Act.
- (3) The Statutes of the Association have to be published in the Official Announcements of the Hungarian Legal Gazette (Magyar Közlöny), as well as on the website of the Association.
- (4) The Statutes of the Association come into force upon their publication in the Official Announcements of the Hungarian Legal Gazette.

### **Article 18**

The constituent bodies of the Association shall be the General Meeting, the Board of Directors, the Supervisory Board and the Directorate.

## *4. The General Meeting*

### **Article 19**

The main constituent body of the Association is the General Meeting, which is composed of all members of the Oil Section and the Gas Section.

### **Article 20**

- (1) The General Meeting is convened twice a year (ordinary general meeting).
- (2) An extraordinary General Meeting has to be convened if members holding at least 15% of the total vote request so in writing, indicating the cause and purpose.
- (3) The Director shall notify the members of the convocation of the General Meeting at least four weeks in advance and shall simultaneously send the proposed agenda.
- (4) The General Meeting shall have quorum if members representing at least 50% of all votes in both Sections are present.
- (5) If the General Meeting does not have quorum, it has to be convened for a second time within 8 days with the original agenda, and it must be considered as having quorum regardless of the number of members attending and their voting ratios.

### **Article 21**

The General Meeting shall have the following functions:

- a) to accept and amend the Statutes of the Association,
- b) to elect or recall the members of the Board of Directors and of the Supervisory Board, establish their remuneration, elect or recall the Director and the Deputy Director,
- c) to take decisions in matters referred to it by the present Act, the Gas Stockpiling Act or the Statutes.

### **Article 22**

The general meeting shall decide on the matters specified in Article 21 a) and b) by a two-thirds majority of the votes of the members present, while other matters shall be decided by simple majority of the votes cast by the members present, unless the Statutes stipulate a qualified majority.

## **Article 23**

- (1) Each member of the Association shall have one vote in the decisions of the general meeting. These votes constitute 50% of the total votes. The other half of the votes shall be divided between the members of the two Sections according to the proportion of the net contribution fees paid by them in the previous calendar year.
- (2) For the validity of the decisions of the General Meeting, the majority vote of members representing the Oil Section is required in matters regarding the stockpiling of crude oil and petroleum products, and the majority vote of members representing the Gas Section is necessary in questions concerning the stockpiling of natural gas.

### *5. The Board of Directors*

## **Article 24**

- (1) The Board of Directors shall have the following functions:
  - a) to propose to the General Meeting the annual budget plan of the Association,
  - b) to submit to the General Meeting the report concerning the execution of the Association's budget in the previous year,
  - c) to submit a proposal to the General Meeting concerning the use of the surplus revenue or of the savings on expenditures obtained in the annual budget, due to the Association,
  - d) to approve the business regulations of the Association,
  - e) to submit proposals to the General Meeting on raising credit for fulfilling the tasks required by the present Act,
  - f) to supervise the activities of the Directorate;
  - g) to commission an inspection as specified in this Act,
  - h) to discuss all matters proposed to it by the Directorate;
  - i) to submit proposals to the Minister for undertaking the measures specified in Article 9,
  - j) to propose candidates for the post of Director and Deputy Director.
- (2) The Board of Directors shall be entitled to request reports from members of the Directorate and give them instructions.
- (3) The Board of Directors may propose only such candidates to the post of Director or Deputy Director who are endorsed by the Minister, the minister competent in matters of public finance, and at least three representatives of the Hungarian Energy Office (hereafter: "HEO").

## **Article 25**

The Board of Directors has fourteen members. The General Meeting elects six members from the Oil Section and four members from the Gas Section for three years. Of the remaining four members, two members represent the Minister, one represents the minister competent in matters of public finance, and one represents the HEO.

## **Article 26**

The Board of Directors shall elect a President and a Vice-President from among its members. Election shall be by simple majority.

## **Article 27**

If the term of an elected member of the Board of Directors terminates before the end of the period specified in Article 25, a new member has to be elected for the remaining time. The new member is elected by the following General Meeting.

## **Article 28**

- (1) The Board of Directors has quorum if at least eight of its members, representing 50% of both Sections are present.
- (2) The decisions of the Board of Directors are generally taken by the simple majority of votes. In the event of a tie, the vote of the President of the Board is decisive. For the appointment of a new member of the Directorate according to Article 30 (2), the two-thirds majority vote of members present is necessary.
- (3) For the validity of the decisions of the Board of Directors, the majority vote of members representing the Oil Section is required in matters regarding the stockpiling of crude oil and petroleum products, and the majority vote of members representing the Gas Section is necessary in questions concerning the stockpiling of natural gas.

## *6. The Supervisory Board*

### **Article 29**

- (1) The Supervisory Board is composed of six members. Two members are designated by the Minister, one is delegated by the minister competent in matters of public finance, two members nominated by the Oil Section and one nominated by the Gas Section are elected by the General Meeting for a period of three years. The members elect a President from among their number. The Supervisory Board has quorum if at least three members are present. The Supervisory Board takes decisions by simple majority and, in the event of a tie, the vote of the President is decisive. The Supervisory Board determines its rules of procedure, which need to be approved by the General Meeting.
- (2) The supervisory powers of the Supervisory Board concern the review of the operations and activities of the Association from the point of view of legality.
- (3) Within the framework of the review referred to in paragraph (2), the Supervisory Board shall examine the following:
  - a) all business policy proposals figuring on the agenda of the General Meeting,
  - b) all proposals that concern matters falling within the exclusive competence of the General Meeting,
  - c) the Annual Report drawn in accordance with Act C of 2000 on Accounting (hereinafter: "Accounting Act"),
- (4) In the matters referred to in paragraph (3) points a) and c), the General Meeting may decide only in possession of the written report of the Supervisory Board,
- (5) The Supervisory Board is subject to the supervision of the General Meeting, to which it has to report on its activity. The members of the Supervisory Board participate in the General Meeting in a consultative capacity. The members of the Supervisory Board may receive a remuneration determined by the General Meeting. The provisions of Article 23, paragraphs (1)-(2) and of Article 25 of Act No. IV (2006) on Economic

Entities shall be applied to the conflict of interest of the members of the Supervisory Board.

- (6) The members of the Supervisory Board shall act personally. They may request information and reports from the executives of the Association, and they may inspect the books and documents of the Association.
- (7) In case the activity of the Association violates any legal provision, the Statutes or the resolutions of the Association, the Supervisory Board shall be entitled to convene an extraordinary General Meeting and make a proposal for its agenda.
- (8) If the mandate of a member of the Supervisory Board is terminated before the end of his term of office as provided by paragraph (1), a new member has to be elected for the remaining period. The new member is elected at the next General Meeting.
- (9) The Supervisory Board shall report to the Minister on its activity as needed, but at least once in every six-month period.

## *7. The Directorate*

### **Article 30**

- (1) The Director and the Deputy Director (hereafter together: “the members of the Directorate”) of the Association are elected by the General Meeting, on the proposal of the Board of Directors. The Director is the executive officer of the Directorate. In the event of being prevented from fulfilling his/her duties, the Director is replaced by the Deputy Director who shall act with full powers. The General Meeting elects the Director and the Deputy Director for an indefinite period.
- (2) The General Meeting has powers to dismiss the Director or the Deputy Director for the reasons specified by the Statutes of the Association. In the event of dismissal of the Director or the Deputy Director, the Board of Directors is entitled to appoint a new member of the Directorate. At the subsequent General Meeting, the appointment is confirmed or a new member is elected.

### **Article 31**

The Director shall have the following duties:

- a) to perform the management of the Association and exercise the employer’s rights,
- b) to propose, and submit to the Board of Directors, the annual budget plan and the draft report on execution of the budget of the Association,
- c) to decide on matters of the Association that do not fall in the competence of other bodies,
- d) to send the decisions of the General Meeting to the Minister, and to send the annual budget of the Association and the report on execution of the budget to the Minister and to the minister competent in matters of public finance,
- e) to represent the Association, unless the present Act provides otherwise,
- f) for the purpose of fulfilling the task defined in Article 12 points (2)-(3), to make agreements with business organizations registered in Hungary, subject to the approval of the Minister, the minister competent in matters of public finance, and at least three members of the Board of Directors of HEO.

## *8. Financial Management of the Association*

### **Article 32**

- (1) Defined as “other organization” in the Accounting Act, the Association bases its activities on an Annual Budget and prepares an Annual Report with the reporting date of December 31.
- (2) The Association performs bookkeeping in the system of double-entry bookkeeping. The provisions of the Accounting Act are applicable, taking also account of Article 37.
- (3) The Association has separate accounts for the allocation of the assets and liabilities, income and expenses of the crude oil and petroleum products stockpiling activities, the natural gas stockpiling activities, and the activities not related to stockpiling, and these are presented in the annex of the Annual Report. The costs and expenses not directly related to stockpiling have to be evenly divided between the oil stockpiling and the gas stockpiling activities.

### **Article 33**

- (1) The assets required for stockpiling, the increase of stocks and the fulfillment of other functions of the Association, are provided by members in the form of contribution fees on the basis of the annual budget.
- (2) The Association may raise credit for the fulfillment of its functions, to the extent approved by the General Meeting. The interest payments on loans are accounted among operating charges.
- (3) In the annual budget, the Association shall anticipate the expenditures related to the following areas:
  - a) the strategic stockpiling of oil and gas,
  - b) the fulfillment of the functions specified in Article 12, points (2) and (3),
  - c) the operations of the Association.
- (4) The Association shall plan the income from contribution fees in such a way that it should cover the expected expenditures referred to in paragraph (3), also taking account of other types of income (not related to contribution fees) that the Association expects to collect. The income from the sale of stocks can be used exclusively for loan repayment or for the purchase of new stocks.
- (5) On the basis of the annual budget, the Association shall determine the unit contributions per product group. When calculating this, the following need to be taken into account:
  - a) the part of the unit contributions for a given product group, that is required for fulfilling the functions specified in Article 12, points (2) and (3), should not be lower than 1% of the average monthly fuel price – published by the National Tax and Customs Administration in accordance with Article 82 (2) of Act CXVII of 1995 concerning the personal income tax – applicable to the first six months of the year of adoption of the annual budget by the General Meeting;
  - b) in case that the expected income from the part of the unit contributions for a given product group, calculated according to point a), is higher than what is required for the tasks specified in Article 12, points (2) and (3), the surplus income has to be considered for defining the unit contributions in the given product group.
- (6) The Minister shall publish the unit contributions for each product group in the Official Announcements of the Hungarian Legal Gazette.

#### **Article 34**

- (1) The Directorate shall prepare the budget for the following year by November 30, and this has to be approved by the General Meeting.
- (2) The budget may be submitted to the General Meeting after approval by the Minister, the minister competent in matters of public finance and the representatives of HEO in the Board of Directors.

#### **Article 35**

- (1) When approving the Annual Report (by May 31 following the year of report), the Association shall review the budget stipulated in Article 33.
- (2) If the General Meeting does not accept the Annual Report submitted by the Board of Directors, the Board representative of the minister competent in matters of public finance shall initiate an examination by the State Audit Office.

#### **Article 36**

- (1) The Board of Directors is entitled to modify the extent of the unit contributions once in each calendar year, except when a second modification is necessary because of a crisis in the supply of crude oil and petroleum products.
- (2) The Board of Directors must modify the extent of the unit contributions if this is required for preventing the insolvency of the Association.

#### **Article 37**

- (1) The Association prepares an Annual Report on the financial year, which is identical with the calendar year, by May 31 following the year of report. The Business Report has to include detailed numerical data and descriptive comments demonstrating the fulfillment of the budget.
- (2) The Balance Sheet has to be prepared with the structure and content stipulated in Annex 1 of the Accounting Act. More detailed rules are included in the Statues of the Association.
- (3) The Profit and Loss Statement has to be prepared with the structure and content stipulated in Annex 2 of the Accounting Act. The Statues of the Association include more detailed rules for the preparation of the Profit and Loss Statement in accordance with the annual budget, also considering the requirements of paragraph (4).
- (4) Contribution fees shall be recorded under "other income" of the Association.
- (5) The Association shall publish the Annual Report on its website.

### *9. Recovery and Accounting of Receivables*

#### **Article 38**

- (1) The provisions of the law on taxation must be applied to compulsory payments due to the Association, subject to the requirements of this Act and with the proviso that payments are collected by the Association.

- (2) A member who/which fails to pay the contribution fee falling due, or unjustly deducts or reclaims contribution fees without legal basis, shall be obliged to pay interest that is identical with the late charges stipulated in the law on taxation.
- (3) In exceptional and duly justified circumstances, the Board of Directors may allow additional time for the payment of the Association's claims, in which case it shall charge an interest and require the provision of collateral. The extent of interest and collateral, as well as the other discretionary criteria relating to the evaluation of the request for deferred payment are specified by the Statutes.

### **Article 39**

- (1) The Director of the Association requires in a decision the payment of the member's unpaid liability. If no settlement is made by the requested date, the Director shall take measures for enforcement or may file a petition for insolvency or liquidation against the member.
- (2) If the member finds the content of the decision injurious, it is entitled to contest the decision in court within 30 days of the receipt, in accordance with the general rules of the Code of Civil Procedure. Litigation shall not defer the collection of the claim, but the court may suspend the enforcement proceedings upon request.
- (3) The debt paid to or collected by the Association shall be accounted under late interest, costs incurred and, subsequently, contribution fees.

## *10. Rights and Obligations of Members of the Oil Section*

### **Article 40**

- (1) The members of the Oil Section shall pay contribution fees to the Association in connection with the trade, or the import for proper use, of petroleum products. The unit contributions per product group shall be determined according to Article 33 (5).
- (2) The members of the Oil Section shall pay contribution fees on the basis of the quantity of petroleum products specified in Annex 4 in the following cases:
  - a) an authorized warehouse keeper, a registered commercial entrepreneur, or an importer holding excise authorization places the petroleum products into free circulation in accordance with the provisions of the Excise Act,
  - b) an authorized warehouse keeper removes from storage and transfers the petroleum products to a tax-exempt user under duty suspension,
  - c) a tax-exempt user or an authorized user imports the petroleum products from a third country under duty suspension,
  - d) a registered consignor dispatches the petroleum products, imported from a third country, to a tax-exempt user or an authorized user under duty suspension, in accordance with the Excise Act,
  - e) a commercial entrepreneur holding excise authorization, engaged in trade in the Community, an authorized warehouse keeper or an authorized user purchases petroleum products, placed into free circulation in another Member State of the European Union, from this Member State,
  - f) an authorized warehouse keeper uses the petroleum products within the tax warehouse, excepting the use for producing excise products,
  - g) an authorized warehouse keeper fills the petroleum products in the fuel tank of vessels used for the carriage of goods and passengers, under duty suspension,

- (3) The basis of the contribution fee is, in case of paragraph (2) point a), the quantity of petroleum products placed into free circulation according to the Excise Act; in case of paragraph (2) point b) and g), the quantity of petroleum products removed from storage; in case of paragraph (2) point c), the quantity of imported petroleum products; in case of paragraph (2) point f), the quantity of petroleum products used, subject to contribution payment.
- (4) The contribution fee shall be paid by the authorized operator concerned in the case of paragraph (2) points a), c), e), f) and g), by the authorized warehouse keeper in the case of paragraph (2) point b), and by the registered consignor in the case of paragraph (2) point d).
- (5) The member shall account the contribution fee mentioned in paragraph (1) among “other expenditures”.
- (6) The Association may request the provision of financial security in order to ensure its budgetary revenues from contribution fees. The value of the financial security shall be determined on the basis of the expected turnover in the case of newly adhering members and, in the case of active members, on the basis of three months’ average contribution fees paid in relation to the activity for which the membership was created, in an amount the covers at least one and at most three months’ contribution fees. The financial security may be cash deposited as security money or bank guarantee issued by a bank established in Hungary. The detailed rules concerning the provision of financial security are contained in the Statutes of the Association.

#### **Article 41**

- (1) No contribution fees are payable, or the contribution fees already paid may be recovered according to Article 42 (3) in connection to the quantity of petroleum products specified in Annex 4, which the member imports or sells directly to end users for one of the following purposes:
  - (1) for military purposes,
  - (2) for the fulfillment of the stockpiling obligations of Hungary or another Member State of the European Union, or
  - (3) for the purposes of the chemical industry, lubrication technology or corrosion prevention, provided that this can be demonstrated.
- (2) No contribution fees are payable, or the contribution fees already paid may be recovered according to Article 42 (3) in connection to the quantity of petroleum products specified in Annex 4, used by a commercial aviation company for operating aircrafts involved in international air traffic (with foreign or Hungarian registration mark), or in connection to petroleum products that are sold to the commercial aviation company for such purpose, or the petroleum products that the aviation company reserves for its later use.

#### **Article 42**

- (1) By the 15<sup>th</sup> day of each month, members shall report to the Association the amount of petroleum products, covered by this Act and providing a basis for contribution fee payment, that they have placed into free circulation, removed from storage, imported, dispatched, purchased, used or filled in the fuel tank of vessels in the previous month. Upon the request of the Association, members shall, without delay, submit all such data and documentation that is necessary for verifying the payment of the membership contribution.

- (2) Members shall calculate their contribution fee obligation on the basis of the data recorded in the monthly report according to paragraph (1), and shall pay the calculated amount to the Association's bank account by the last working day of the month. The contribution fee payment is considered to be fulfilled on the day when it is credited to the account of the Association.
- (3) Within 90 days of the payment, members may recover the contribution fee paid on the basis of the quantity of petroleum products – identified with the number of combined nomenclature included in Annex 4 (hereafter: "CN") – sold or used by the member for purposes specified in Article 41. With respect to petroleum products of a given CN number, the quantity of petroleum products for which the contribution fee recovery is requested, shall not exceed the total quantity of petroleum products, falling under contribution fee obligation, included in the reports filed for the 90 days preceding the request of recovery. Within 15 days of the receipt of the request and the confirmation of the use based on the accounts, the Association must evaluate the recovery request, credit and transfer back the approved amount. The money may be transferred only if this does not create a liability on the part of the member toward the Association.
- (4) From their contribution fee obligations, members may deduct the contribution fee paid on the quantity of petroleum products sold abroad, within 90 days of exporting.
- (5) Members shall properly demonstrate the legitimacy of their request of recovery and the deduction of contribution fees, by submitting pertinent documents and records. On the annual level, the sum of fees recovered and deducted should not exceed the total contribution fees paid by the member.
- (6) The questions not regulated by paragraphs (2)-(5) shall be stipulated in the Statutes in accordance with Article 17 (2) point g).
- (7) Before submitting the report to the Association according to paragraph (1), the members of the Oil Section shall contact the National Tax and Customs Administration (hereafter: "NTCA") in order to verify the accuracy of the reported data. The NTCA sends the certified report to the member.
- (8) Members shall submit the report to the Association according to paragraph (1) by electronic way.
- (9) The Association sends the report mentioned in paragraph (8) electronically to the NTCA in order to verify the accuracy of the reported data. If the data are correct, the NTCA certifies the report and sends it to the Association and, via the Association, to the member.
- (10) The member of the Oil Section must consult with the inspection service of the NTCA in the event that the NTCA finds the reported data to be inaccurate.

### **Article 43**

Upon the request of the member, the Association shall certify that the member has fulfilled its reporting and contribution fee payment obligations toward the Association.

*11. Cooperation with the National Tax and Customs Administration,  
the Hungarian Energy Office and the Central Statistical Office*

### **Article 44**

- (1) Upon the request of the Association, the NTCA, the HEO and the Central Statistical Office shall provide information based on the data in their possession, in order to
  - a) determine the level of emergency stocks,
  - b) verify the payment of contribution fees,
  - c) facilitate the reporting obligations of the Association,concerning the quantity of crude oil and petroleum products falling under the effect of this Act, placed into free circulation, removed from storage, imported, dispatched, purchased, used, filled in the fuel tank of vessels, exported or withdrawn from free circulation by members.
- (2) The data provided by the Central Statistical Office shall not include individual data records as described in the Act on Statistics.
- (3) The Association shall provide to the NTCA all the data collected during inspections.

## *12. Supervision and Audit of the Association*

### **Article 45**

- (1) The Minister shall supervise the Association.
- (2) In the supervisory quality, the Minister
  - a) approves the Statutes of the Association and its modifications,
  - b) may oblige the Board of Directors to convene the General Meeting in case of becoming aware of an unlawful decision taken by a constituent body of the Association,
  - c) may request information from the Association and may impose a reporting obligation on the Association,
  - d) may consult the records of the Association.
- (3) In the event of a crisis, the Minister shall act in accordance with Act XXXIX of 1999, and he shall
  - a) delegate an expert to the group of experts of the Commission,
  - b) inform the Commission about the measures that have been taken.

### **Article 46**

- (1) With the help of inspectors commissioned by the Association (hereafter: “the inspector”), the Association shall verify the veracity of the data reported by members in accordance with Article 42, the presence of markers in the fuels sold at filling stations for detailers and end users, and the compliance of members with the present Act and the Gas Stockpiling Act.
- (2) The inspector shall be entitled to enter the member’s business property and commercial premises, inspect documents in connection with the inspection activity specified in paragraph (1) at these premises, to conduct an examination and request information.
- (3) During the inspection referred to in paragraph (1), the inspected member shall provide all such data, information and documentation that are required for the exercise of its activity and the examination of the membership relation.

## *13. Reporting*

#### **Article 47**

- (1) Within the framework of reporting, the Minister or the organization designated by the Minister shall inform the Commission and the International Energy Agency about the emergency stocks of oil and shall provide data relating to stockpiling in accordance with the ministerial decree concerning international reporting on crude oil and petroleum products.
- (2) By February 25 of each year, the Minister shall send to the Commission the data concerning emergency stocks as described in Article 5 (2) points b)-c), showing the status of the last day of the preceding year, or the Minister shall send these data within 15 days if requested by the Commission.
- (3) If the Association constitutes specific stocks in accordance with the decision of the Board of Directors, the Minister shall inform the Commission about the quantity of these stocks and the period for which these have been created.
- (4) Upon the request of the Commission, the Minister shall send to the Commission within 15 days the data concerning specific stocks as defined in Article 5 (2) points b)-c).
- (5) As long as no specific stocks have been created, the Minister shall inform the Commission by January 31 of each year about the measures taken in order the guarantee the
  - a) availability,
  - b) physical access to,
  - c) inspection of the emergency stocks, including the inspection of the use of stocks in case of a major supply disruption.

#### *14. Infringement of the obligations of members and other obligations; legal consequences*

#### **Article 48**

- (1) If the Association becomes aware of an irregularity or of the illegal operation of a member from the inspector's report during the inspection referred to in Article 46, or in case that a member fails to fulfill or incorrectly fulfills its reporting obligations specified in Article 42 (1), the Association sets a deadline and requests the member to restore compliance with the rules infringed.
- (2) If the request is not acted upon or when there are serious grounds for believing that the inspected person pursues illegally the activity providing a basis for the membership relation, the Association may initiate proceedings at the authority competent in the matter.

#### *15. Closing Provisions*

#### **Article 49**

The Minister shall have the authority to stipulate by decree

- a) the restrictive measures on consumption to be applied in accordance with Article 9 (1),
- b) the rules concerning the use of emergency stocks referred to in Article 9 (2),
- c) the detailed rules of reporting,

- d) the rules of the emergency plan to be applied in the event of a major disruption of supply and in the case referred to in Art. 5 (1) of the international agreement mentioned in Art. 2, Act XXXIX of 1999.

#### **Article 50**

- (1) The present Act shall take effect on the first day of the month following its publication, with the exception of paragraph (2) hereunder.  
(2) Article 42 (8)-(9) and Article 54 (3) shall enter into force on July 1, 2013.

#### **Article 51**

- (1) At the first ordinary General Meeting following the entry into force of this Act, the Association shall modify its Statutes in accordance with the Act and it shall approve the modified text.  
(2) The entry into force of this Act does not affect the membership relation of the members of the Directorate, the Board of Directors and the Supervisory Board.

#### **Article 52**

The Association has to develop the monitoring and marking system required for the tasks described in Article 12 (2)-(3) within six months following the entry into force of this Act.

#### **Article 53**

- (1) Article 54 (2) hereunder serves the implementation of Commission Regulation (EU) No. 1286/2011 of 9 December 2011 adopting a common methodology elaborated according to Art. 5 (4) of Directive 2009/18/EC of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.  
(2) With the exception of Article 54 (2) hereunder, the present Act serves the purpose of compliance with Council Directive 2009/119/EC of 15 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products.

#### **Article 54**

- (1) The following Article 95/A is added to Act LIII of 1994 on judicial execution:  
“Article 95/A The emergency stocks and specific stocks of crude oil and petroleum products owned by the Hungarian Hydrocarbon Stockpiling Association shall be exempt from execution.”  
(2) The following point d) is added to Article 23 (2) of Act CLXXXIV of 2005 on the technical investigation of aviation, railway and marine accidents and incidents:  
*(This act contains provisions implementing the following legally binding Union acts:)*  
“d) Commission Regulation (EU) No. 1286/2011 of 9 December 2011 adopting a common methodology elaborated according to Art. 5 (4) of Directive 2009/18/EC of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.”  
(3) Article 42 (7) is repealed.

(4) Act XLIX of 1993 on the strategic stockpiling of imported crude oil and petroleum products is repealed.

### Calculation of the quantity of imported crude oil and petroleum products

1. For calculating the quantity imported in the reference year, the following refinery feedstocks and petroleum products should be taken into account:
  - 1.1 Refinery feedstocks: crude oil, natural gas condensates (NGL), refinery feedstocks, additives, oxygenates and other hydrocarbons.
  - 1.2 Petroleum products: refinery gases (non liquefied), ethane, liquefied gas (LPG), motor gasoline, aviation gasoline, gasoline-type jet fuel, kerosene-type jet fuel, other kerosene, gas oil/diesel oil, home heating oil and other heating oil, fuel oil – low sulfur content (less than 1%), fuel oil – high sulfur content (more than 1%), white spirit and SBP, lubricants, bitumen, paraffin waxes, petroleum coke and other refinery products.
2. Calculation of average daily net imports of crude oil and petroleum products, in crude oil equivalent

$$A = \frac{(a - b + c) \times g + (d - e + f) \times 1.065}{365}$$

where

A = the average daily net imports of crude oil and petroleum products in crude oil equivalent

a = the quantity of imports of refinery feedstocks, specified in 1.1, in the reference year, in tons

b = the quantity of exports of refinery feedstocks, specified in 1.1, in the reference year, in tons

c = changes in the stocks of refinery feedstocks, specified in 1.1, in the reference year (opening stocks minus closing stocks), in tons (for the changes in stocks of crude oil and petroleum products, the changes in commercial and emergency stocks also have to be considered)

d = the quantity of imports of petroleum products, specified in 1.2., in the reference year, in tons

e = the quantity of exports of petroleum products, specified in 1.2., in the reference year, in tons

f = changes in the stocks of petroleum products, specified in 1.2., in the reference year, in tons

g = if the average net yield (“h”) (reduced by the material flow returned to the refinery from chemical production) of gasoline processing by the domestic chemical industry  
- is not higher than 7%: 96%  
- is higher than 7%: (100% - h).

For the purpose of this provision,

- a) the imported quantity shall mean the quantity of crude oil and petroleum products
  1. that is imported from another Member State of the European Union for inland consumption, trade or storage,
  2. that is imported and cleared from a third country, for domestic destination,
- b) the exported quantity shall mean the quantity of crude oil and petroleum products

1. that is transported to another member state of the European Union and properly certified in accordance with the relevant legislation,
  2. that is exited and certified by the NTCA to a third country,
- c) commercial stocks shall mean the stocks of crude oil and petroleum products that do not fall under the stockpiling obligation specified in Council Directive 2009/119/EC, except for technology stocks; the imports and exports of fuel filled in the tank of vehicles, vessels, aircraft and engines suitable for hauling railway locomotives and rolling stock shall not be considered as imports or exports in the application of the present Act.
3. When calculating emergency stockholding obligations for the reference year, biofuels (including biomass) and additives shall be taken into account only where they have been blended with the petroleum products concerned.

For the purposes of this item,

- a) *additives*: shall mean non-hydrocarbon compounds that modify the properties of a petroleum product if added to or blended with the product;
  - b) *biofuel*: shall mean the product defined in Article 1, point 1 of Act CXVII of 2010 on the promotion of the use of renewable energy for transport purposes and on the reduction of greenhouse gas emissions from energy used in transport (the "Biofuels Act");
  - c) *biomass*: shall mean the product defined in Article 1, point 3 of the Biofuels Act;
  - d) *technology stocks*: shall mean the stocks of crude oil or petroleum products held in pipelines or in factories using refinery technology, which serve to ensure the proper operation of the refinery.
4. When calculating emergency stockholding obligations for the reference year, the quantities of crude oil and petroleum products carried on international marine bunkers shall not be considered.

For the purposes of this item, "the quantities transported on international marine bunkers" shall mean the quantities of fuel carried on board of vessels of all flags engaged in international navigation, specified in Annex A, point 2.1 of Regulation (EC) No. 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics. The international navigation may take place at sea, on inland lakes and waterways, and in coastal waters. Excluded is: consumption by ships engaged in domestic navigation.

### Constitution of Emergency Oil Stocks

1. The following crude oil and petroleum products may be used for constituting emergency oil stocks:

	Combined Nomenclature, 2012
a) Crude oil	27090090
b) Motor gasoline	27101231-27101270
c) Gas oil/Diesel oil	27101943-27101948,
d) Home heating oil and other heating oil	27102011-27102019
e) Fuel oil – of low sulfur content (less than 1%)	27101962-27101964, 27102031-27102035
f) Fuel oil – of high sulfur content (less than 1%)	27101968, 27102039

2. The level of emergency oil stocks has to be determined as follows:

$$A = [a \times 0,96 + (b+c+d+e+f) \times 1,2] \times 0,9$$

where

A = the size of emergency oil stocks in crude oil equivalent

a = the quantity of stored crude oil in tons

b = the quantity of stored motor gasoline in tons

c = the quantity of stored gas oil/diesel oil in tons

d = the quantity of stored home heating oil and other heating oil in tons

e = the quantity of stored fuel oil of low sulfur content in tons

f = the quantity of stored fuel oil of high sulfur content in tons

3. For calculating the quantity of emergency and specific stocks of oil, the biofuels (including biomass)

a) blended with petroleum products, or

b) stored in Hungary, blended with petroleum products and used in transportation should be taken into account.

For the purposes of this item,

a) *additives*: means non-hydrocarbon compounds that modify the properties of a petroleum product if added to or blended with the product;

b) *biofuel*: means the product defined in Article 1, point 1 of Act CXVII of 2010;

c) *biomass*: means the product defined in Article 1, point 3 of Act CXVII of 2010.

4. The stockpiling obligation can never be fulfilled with the following crude oil and petroleum products:

a) crude oil not yet produced,

b) the quantities held in pipelines, rail tank cars, seagoing ships' bunkers, tankers at sea and in the tanks of service stations;

c) the quantities constituting retail stocks and end users' stocks;

- d) the quantities owned by or reserved for military organizations;
- e) petroleum products aged more than six years since production, and crude oil held in stock for more than six years;
- f) the quantities of crude oil or petroleum products which are subject to seizure order or enforcement action.

### Composition and Size of Specific Stocks

1. Part of the stocks of petroleum products, composed according to Annex 2, item 1 b)-f), may be registered as specific stocks under the following conditions:
  - a) the stocks are held within the territory of the European Union,
  - b) the total consumption recorded in the selected categories corresponds to at least 75% of inland consumption in the reference year,
  - c) the level of registered stocks does not vary within at least one calendar year, except for periods of stock renewal,
  - d) the decision to maintain specific stocks has to be published in the Official Journal of the European Union, and
  - e) any modification of the obligation undertaken and published has to fall on the first day of the calendar month.
2. The level of specific stocks has to correspond to at least 30 days of annual inland consumption as specified in this Annex. The level of specific stocks may be reduced exclusively for the purpose of stock renewal, on a temporary basis.
3. If specific stocks are constituted, the inland consumption referred to in item 1 b) has to be defined as follows: the annual inland consumption is the sum of the “observed gross inland traffic” in a given calendar year of the following products exclusively (as specified in item 3.2.1 of Annex C of Regulation (EC) No. 1099/2008): motor gasoline, aviation gasoline, gasoline-type jet fuel, kerosene-type jet fuel, other kerosene, gas oil/Diesel oil, home heating oil and other heating oil, fuel oil of low sulfur content (less than 1%), fuel oil of high sulfur content (more than 1%). The crude oil equivalent of inland consumption is calculated with a multiplication factor of 1.2.
4. When calculating the quantity of specific stocks, the biofuels (including biomass) and additives
  - a) blended with petroleum products, or
  - b) stored in Hungary, blended with petroleum products and applied in traffic can be taken into account.

For the purposes of this item,

- a) *additives*: shall mean non-hydrocarbon compounds added to or blended with a product to modify its properties;
  - b) *biofuel*: shall mean the product specified in Article 1, point 1 of the Biofuels Act;
  - c) *biomass*: shall mean the product specified in Article 1, point 3 of the Biofuels Act;
5. When calculating the quantity of specific stocks, the quantities of crude oil and petroleum products carried by international maritime Bunkers shall not be considered.

For the purposes of this item, “the quantities transported on international marine bunkers” shall mean the quantities of fuel carried on board of vessels of all flags engaged in international navigation, specified in Annex A, point 2.1 of Regulation (EC) No. 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics. The international navigation may take place at sea, on inland lakes and

waterways, and in coastal waters. Excluded is: consumption by ships engaged in domestic navigation.

**Products Subject to Contribution Fee**

	Combined Nomenclature 2011	Combined Nomenclature 2012
Motor gasoline	27101131	27101231
	27101141	27101241
	27101145	27101245
	27101149	27101249
	27101151	27101251
	27101159	27101259
	27101170	27101270
Kerosene-type jet fuel	27101921	27101921
Gas oil and heating oil	27101941	27101943, 27102011
	27101945	27101946, 27102015
	27101949	27101947, 27102017
		27101948, 27102019
Fuel oil with low and high sulfur content	27101961	27101962, 27102031
	27101963	27101964, 27101935
	27101965	27101968, 27102039
	27101969	