

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 337 final

Brussels, 19 September 1991

Proposal for a

COUNCIL DECISION

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

(presented by the Commission)

Explanatory memorandum

1. On 2 May 1986 a negotiating conference convened under the UNCTAD adopted the terms of reference of an international study group on nickel. Since the conditions for entry into force were not met within the scheduled time limit this group did not commence its work.
2. On 23 May 1990 twelve countries representing 61% of international trade in nickel<sup>1</sup> decided to bring into force all the terms of reference of the international group and called for the convening of the first meeting of the group in The Hague. This meeting was held on 25-28 June 1990 and The Hague was confirmed as the future location of the group's secretariat.

All countries affected by the production and consumption of nickel or by international trade in nickel may become members of the group.

3. During the inaugural meeting the terms of reference adopted in 1986 were amended by unanimous agreement following an initiative from Canada to the effect that "any intergovernmental body responsible for negotiating, concluding and applying international agreements, and in particular product agreements", may become a member of the group. This amendment allows the Community, as represented by the Commission, to become a full member except for the right to vote. The Community will in fact pay the same fixed contribution as the other countries in order to cover 40% of the total budget, the other 60% being subdivided between the countries in accordance with their share of international trade.
4. The terms of reference approved by the conference assign the group the important tasks of analysing and monitoring the market for and trade in nickel:
  - by way of consultation on international trade in nickel;
  - by way of better access to and availability of statistics;
  - by way of suitable studies;
  - by way of examination of the special problems that exist or might arise in international trade in nickel.

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<sup>1</sup> Germany, Australia, Canada, Cuba, Finland, France, Greece, Indonesia, Japan, Norway, Netherlands, Sweden.

The group's activities have a bearing on the common commercial policy. Consequently, the Community must be part of it and not be excluded from this international initiative. However, only the participation of the countries has been taken into account to determine the entry into force of the terms of reference of the group. Were the Commission to claim exclusive powers for the Community under Article 113 of the EEC Treaty and thus prevent the participation of the Member States it would be impossible for the group to operate.

5. It therefore seems wise to have once more recourse to the arrangement provided for in the Council on adoption of the terms of reference of the international study groups on tin and copper. According to the joint Council-Commission declaration this arrangement may serve as a model for the study group on "nickel", which is the subject of the Commission proposal. The text of the arrangement is contained in the annex, as is the proposal for a Council decision.

**PROPOSAL FOR A COUNCIL DECISION**  
**on acceptance of the terms of reference**  
**of the International Study Group on Nickel**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

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

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

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

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

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

HAS DECIDED AS FOLLOWS:

Article 1

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

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

The text of the terms of reference is attached hereto.

Article 2

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

Done at Brussels,

For the Council  
The President

TERMS OF REFERENCE OF THE INTERNATIONAL NICKEL STUDY GROUP,  
AS ADOPTED ON 2 MAY 1986 BY THE UNITED NATIONS CONFERENCE  
ON NICKEL, 1985, AND INCORPORATING AMENDMENTS APPROVED  
AT THE INAUGURAL MEETING, JUNE 1990

Preamble

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

Establishment

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

Objectives

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

Definitions

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

Functions

4. (a) To establish the capacity for and to undertake the continued monitoring of the world nickel economy and its trends, particularly by establishing, maintaining and continuously updating a statistical system on world production, stocks, trade and consumption of all forms of Nickel.

- (b) To conduct between Members consultations and exchanges of information on developments related to the production, stocks, trade and consumption of all forms of Nickel.
- (c) To undertake studies as appropriate on a broad range of important issues concerning Nickel, in accordance with the decisions of the Group.
- (d) To consider special problems or difficulties which exist or may be expected to arise in the international nickel economy.

#### Membership

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

#### Powers of the Group

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

#### Headquarters

- 7. The Headquarters of the Group shall be at a location selected by it in the territory of a Member State. The Group shall negotiate a Headquarters Agreement with the host Government.

#### Decision-making

- 8. (a) The highest authority of the Group established under these Terms of Reference shall be vested in the General Session.
- (b) The Group, the Standing Committee referred to in paragraph 9, and such committees and subsidiary bodies

as may be established, shall normally take decisions by consensus. If a vote is called for, it shall be taken under the conditions set out in the Rules of Procedure.

#### Standing Committee

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

#### Committees and Subsidiary Bodies

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

#### Secretariat

11. (a) The Group shall have a Secretariat consisting of a Secretary-General and such staff as may be required.
- (b) The Secretary-General shall be the chief administrative officer of the Group and shall be responsible to it for the administration and operation of these Terms of Reference in accordance with the decisions of the Group.

#### Co-operation with others

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

#### Legal status

13. (a) The Group shall have legal personality in its host country. It shall, in particular, have the capacity to enter into contracts, to acquire and to dispose of



movable and immovable property, and to institute legal proceedings.

- (b) The status of the Group in the territory of the host Government shall be governed by a Headquarters Agreement between the host Government and the Group, to be concluded as soon as possible after these Terms of Reference have come into effect.

Budget contributions

- 14. The Group shall assess the contribution of each Member for each financial year, in the currency of the host country, in accordance with the provisions for contributions specified in the Rules of Procedure. The payment of the contribution by each Member shall be made in accordance with its constitutional procedures.

Statistics and information

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

Annual assessment and studies

- 16. (a) The Group shall prepare and distribute to Members an annual assessment of the world nickel situation and related matters in the light of information supplied by Members and supplemented by information from all other relevant sources.

- (b) The Group shall, as deemed desirable, undertake or make appropriate arrangements to undertake studies of short- and long-term trends in the international nickel economy, including, once a year or, with the approval of the Group, more than once a year, the provision of an outlook on nickel production, consumption and trade for the following calendar year, so that such an exchange of information will be a technical aid to Members in their individual assessments of the evolution of the international nickel economy.

#### Obligations of Members

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

#### Amendment

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

#### Coming into effect

19. (a) These Terms of Reference shall come into effect when at least 15 States which in total account for over 50 per cent of the world trade in Nickel have notified the Secretary-General of the United Nations pursuant to (c) below. If the Terms of Reference come into effect under this article, members shall be invited to attend an inaugural meeting. Members shall be notified at least one month, where possible, prior to that meeting.
- (b) If the requirements for the coming into effect of these Terms of Reference have not been met on 20 September 1986, the Secretary-General of the United Nations shall invite those Governments having notified, pursuant to (c) below, their intention to become members of the Group, to meet at the earliest time practicable to decide whether or not to put these Terms of Reference into effect among themselves in whole or in part.
- (c) Any State or any intergovernmental organization referred to in paragraph 5 which desires to become a Member of the Group shall give written notice that it intends to apply these Terms of Reference either provisionally, pending the conclusion of its internal procedures, or definitively. Pending the coming into effect of these Terms of Reference and the assumption

of office by the Secretary-General of the Group, such notice shall be given to the Secretary-General of the United Nations; thereafter it shall be given to the Secretary-General of the Group. A State applying these Terms of Reference provisionally shall endeavour to complete its procedures within six months but in any case not later than 12 months from the date of its notification and shall notify the depositary accordingly.

Withdrawal

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

Duration of the Group

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

Termination

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

FICHE FINANCIERE  
VOLET 1 : IMPLICATIONS FINANCIERES

1. Intitulé de l'action : Participation de la Communauté au groupe d'étude sur le nickel.
2. Ligne budgétaire concernée : B5-411
3. Base légale : Art. 235
4. Description de l'action
  - 4.1. Objectifs spéciaux de l'action : le groupe d'étude a d'importantes fonctions d'analyse et de surveillance du marché et du commerce du nickel.
  - 4.2. Durée : illimitée
  - 4.3. Population visée par l'action : Producteurs et consommateurs de nickel.
5. Classification de la dépense ou des recettes
  - 5.1. DNO
  - 5.2. CD
6. Quelle est la nature de la dépense ou des recettes
  - 6.2. Subvention pour co-financement avec d'autres sources du secteur public
7. Incidence financière sur les crédits d'intervention (partie B du budget)
  - 7.1. Le coût total de l'action est de 33.336 florins (soit 14.414 Ecus) sur la base d'une prévision faite par le secrétaire général du groupe. 40 % du budget du groupe sont couverts par une contribution fixe égale pour tous les membres du groupe. La Communauté n'intervient pas pour les 60 % restants.
  - 7.3. Echancier indicatif des crédits d'engagement et de paiement  
Il est prévu de consommer 100 % des crédits en 1991.

**VOLET 2 : DEPENSES ADMINISTRATIVES (partie A du budget)**

1. L'action proposée n'implique aucune augmentation du nombre d'effectifs de la Commission.
2. Montant des dépenses de fonctionnement : environ 1000 Ecus de frais de mission (7 jours à La Haye + 2 voyages en train Bruxelles-La Haye)

**VOLET 3 : ELEMENTS D'ANALYSE COUT-EFFICACITE****1. Objectifs et cohérence avec la programmation financière**

1.1. Le groupe d'étude international du nickel rassemble des pays industrialisés et en développement producteurs et consommateurs de ce métal. Comme les statuts du groupe confient à celui-ci d'importantes fonctions d'analyse et de surveillance du marché et de commerce du nickel, il est indispensable que la Communauté soit présente dans le groupe afin d'être informée des politiques nationales de pays comme l'URSS, Cuba, le Canada et l'Australie qui pourraient influencer l'approvisionnement de la Communauté.

1.2. L'action est-elle prévue dans la programmation financière de la DG pour les années concernées ?

Oui.

1.3. Indiquez à quel objectif plus général défini dans la programmation financière de la DG correspond l'objectif de l'action proposée

Actions dans le domaine industriel.

**2. Justification de l'action**

Il n'y a pas d'alternative permettant d'atteindre les mêmes objectifs

### 3. Suivi et évaluation de l'action

3.1. Indicateurs de performance sélectionnés : Connaissance du commerce international du nickel, matière première essentielle pour l'industrie européenne.

3.2. Modalités et périodicité de l'évaluation prévues :

2 fois par an, faisant l'objet d'un rapport de mission.

3.3. Principaux facteurs d'incertitude pouvant affecter les résultats spécifiques de l'action :

Fluctuation dans l'approvisionnement du nickel/connaissances statistiques incomplètes.

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# DOCUMENTS

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