

Nru. 91

16. 12. 94

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli John Dalli, M.P., Ministru tal-Finanzi, u moqri ghall-Ewwel darba fis-Seduta tas-17 ta' Jannar, 1994.

ATT biex jirregola l-hruġ ta' liċenzi lil operaturi tal-*bunkering* u biex jagħmel taxxa fuq żjut mogħtija bi provvista għall-*bunkering*.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable John Dalli, M.P., Minister of Finance, and read for the First time at the Sitting of the 17th December, 1994.

AN ACT to regulate the issuing of licences to bunker operators and to levy a tax on fuels supplied for bunkering.

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI

imsejjaħ

ATT biex jirregola l-hruġ ta' liċenzi lil operaturi tal-bunkering u biex jagħme! taxxa fuq żjut mogħtija bi provvista għall-bunkering.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1994 dwar it-Taxxa fuq *Bunkering* ta' Żjut. Titolu fil-qosor.

2. F'dan l-Att kemm-il darba r-rabta tal-kliem ma teħtieġ mod Tifsir.
iehor:

“Awtorità” tfisser l-Awtorità Marittima ta' Malta mwaqqfa bl-Att ta' l-1991 dwar l-Awtorità Marittima ta' Malta (Att Nru. XVII ta' l-1991) u tinkludi lil kull uffiċjal jew impjegat ta' l-Awtorità;

“bastiment” tfisser kull deskrizzjoni ta' biċċa tal-baħar ta' liema kobor tkun li tithaddem fit-tbaħħir, sew jekk timxi waħedha sew jekk le, u tinkludi braken, *rigs taż-żejt*, puntuni u kull biċċa oħra tal-baħar bħal dawn;

“*bunkering*” tfisser it-tagħbija, hatt u trasferiment ta' żjut bejn *bunker barge* jew *road tanker* jew terminal marittimu jew faċilità marittima jew xi tnejn jew iktar minn dawk imsemmija qabel u bastiment li jirċievi;

“Dwana” tfisser il-Kontrollur tad-Dwana u tinkludi kull uffiċjal jew impjegat tad-dipartiment tiegħu li jkollu awtorità espressa jew impliċita li jaġixxi f'isem il-Kontrollur;

“Ministru” kemm-il darba ma jiġix indikat mod ieħor tfisser il-Ministru responsabbli għall-finanzi;

“żejt” tfisser kull *non-volatile marine grade fuel oil* li jintuża biex iħaddem bastiment jew il-makkinarju tiegħu u jinkludi żejt lubrikanti kif ukoll dawk il-prodotti li jinsabu taht is-subintestaturi H.S. 2710.00.93 u H.S. 2710.00.94 fl-Ewwel Skeda li tinsab ma’ l-Att dwar id-Dazji ta’ Importazzjoni.

Gbir ta’ taxxa.

3. (1) Għandha tintalab u tingabar mid-Dwana f’isem il-Gvern ta’ Malta taxxa fuq żjut elenkati fl-Iskeda li tinsab ma’ dan l-Att li jġu provvisti bla hlas minn kull dazju ta’ dwana jew dazju iehor u fornuti għall-*bunkering* lill-bastimenti, bir-rati murija fl-Iskeda li tinsab ma’ dan l-Att.

(2) Dik it-taxxa għandha tintalab u tingabar minnufih malli ż-żejt jinheles mill-istallazzjoni ta’ depożt, terminal marittimu jew faċilità marittima.

Żmien u mod kif tithallas it-taxxa.

4. (1) Il-hlas tat-taxxa jkun dovut minnufih malli jinheles iż-żejt mill-istallazzjoni ta’ depożt, terminal marittimu jew faċilità marittima fuq il-kwantità ta’ żejt meqjusa jew kalkolata mid-Dwana bhala dik mehlusa.

(2) Id-Dwana tista’ tagħmel kull arrangament, kif sugġett għal dawk il-garanziji u kondizzjonijiet li tista’ timponi, għall-hlas tat-taxxa li tingabar bis-sahha ta’ dan l-Att meta dan il-hlas ma jsirx mal-helsien taż-żjut kif hemm imsemmi fis-subartikolu (1) ta’ dan l-artikolu, u f’dawk l-intervalli ta’ żmien li jista’ jsir ftehim dwarhom.

Responsabbiltà għall-*bunkering* ta’ żjut.

5. (1) Minkejja d-dispożizzjonijiet tas-subartikolu (2) ta’ l-artikolu 3 u tal-paragrafu (b) tas-subartikolu (1) ta’ l-artikolu 37 ta’ l-Att dwar l-Enemalta li għandhom x’jaqsmu ma’ l-importazzjoni, akkwist, manifattura, żamma, hżin, tqassim, bejgh, esportazzjoni jew kull tnehhija ohra ta’ żjut jew ta’ xi għamla tagħhom, jew maż-żamma jew l-użu ta’ xi tank, pompa jew apparat mekkaniku iehor sabiex jinhażen, jinbiegh jew jiġi provdut żejt għall-*bunkering*, l-Awtorità Marittima ta’ Malta għandu jkollha l-awtorità wahdaniya u esklużiva li twettaq kontroll u sorveljar shih fuq kull haġa li dwarha tista’ tohrog liċenza jew tidhol fi ftehim jew tagħmel arrangamenti bis-sahha ta’ l-artikolu 6 ta’ dan l-Att.

(2) Hadd f’Malta ma jista’ jagħmel xi haġa li dwarha jkunu mehtieġa xi liċenza, ftehim jew arrangamenti bis-sahha ta’ l-artikolu 6 ta’ dan l-Att kemm-il darba ma jkollux dik il-liċenza, u hadd ma jista’ jqassam, ibiegh, ibiegh fit-toroq, jesporta jew xort’ohra jneħhi żejt provdut għal *bunkering* skond dik il-liċenza, hliet skond dik il-liċenza, dak il-ftehim jew dak l-arrangement.

Għoti ta’ liċenzi mill-Awtorità.

6. (1) L-Awtorità tista’, fid-diskrezzjoni tagħha u taht dawk il-partijiet u l-kondizzjonijiet li jidhrilha xierqa, tagħti liċenza lil kull —

(a) ċittadin ta’ Malta;

(b) korp magħqud stabbilit bis-sahha u skond il-liġijiet ta’ Malta li jkollu l-post prinċipali tan-negozju tiegħu f’Malta jew li jkollu post tan-negozju f’Malta,

ghat-tqassim, bejgh, esportazzjoni jew tneħħija b'kull mod ieħor ta' żjut mogħtija bi provvista għall-*bunkering*. I L-Awtorità tista' wkoll tagħmel kull arrangament u tagħmel kull ftehim, kif jidhrilha xieraq jew spedjenti, ma' xi persuna għal kull wieħed mill-imsemmija għanijiet, jew dwar xi waħda mill-funzjonijiet tagħha skond dan l-Att.

(2) Liċenza mahruġa skond is-subartikolu (1) ta' dan l-artikolu u kull arrangament jew ftehim magħmul bis-saħħa tiegħu, għandhom, sakemm jiġġeddu, ikunu validi għaż-żmien li tkun inġhatat, giet magħmula jew imġedda:

Iżda jekk ma jiġix speċifikat ebda żmien ta' validità kull liċenza, arrangament jew ftehim jibqgħu validi sal-31 ta' Diċembru tas-sena li fiha jkunu nġhataw, ġew magħmula jew imġedda.

(3) Għandhom jithallsu mal-hruġ u mat-tiġdid ta' kull liċenza dawk id-drittijiet li jistgħu jiġu preskritti mill-Awtorità.

(4) Liċenza mahruġa skond dan l-artikolu, u kull arrangament jew ftehim li għalih japplika l-proviso tas-subartikolu (2) ta' dan l-artikolu, jistgħu f'kull żmien jiġu sospizi jew revokati mill-Awtorità jekk ikun hemm ċirkostanzi fejn, fil-fehma ta' l-Awtorità, xi liċenza, arrangament jew ftehim bhal dawk għandu jiġi sospiz jew revokat.

(5) Meta xi persuna taġixxi bi ksur ta' xi patt jew kondizzjoni ta' liċenza mogħtija minn, jew ta' arrangament jew ftehim li jsir ma' l-Awtorità, din għandha titqies li kienet qed taġixxi mingħajr dik il-liċenza, jew dak l-arrangament jew ftehim.

(6) Il-hruġ ta' liċenza minn, jew l-għemil ta' xi arrangament jew ftehim ma' l-Awtorità ma jeżentax lil ebda persuna mill-htigijiet ta' kull liġi oħra.

7. (1) Il-Ministru jista' b'avviż fil-Gazzetta jemenda jew jissostitwixxi l-Iskeda li tinsab ma' dan l-Att:

Setgħa
għall-għemil ta'
regolamenti.

Iżda l-Ministru ma jistax b'dak l-avviż iżid ir-rata ta' taxxa li għandha tingabar skond dan l-Att għal iktar minn lira (Lm1) għal kull tunnellata metrika jew parti minnha.

(2) Il-Ministru responsabbli għall-portijiet jista', wara konsultazzjoni ma' l-Awtorità u bi ftehim mal-Ministru, jagħmel regolamenti:

(a) li jirregolaw il-mod li bih jiġu reġistrati u tinhareġ liċenza lil operaturi tal-*bunkering*;

(b) li jippreskrivu l-htigiet li jridu jiġu sodisfatti sabiex issir dik ir-reġistrazzjoni jew tinhareġ liċenza, magħdudin it-tiġdid u t-temma tagħhom;

(ċ) li jistabbilixxu l-kondizzjonijiet u l-parametri li permezz tagħhom għandhom isiru l-operazzjonijiet tal-*bunkering*;

(d) li jippreskrivu u jirregolaw il-livelli li għandhom jiġu applikati u miżmuma f' terminali u faċilitajiet marittimi kif ukoll fuq *bunker barges*, b' mod speċjali għar-rigward ta' l-inkolumità f' dawk il-lokalitajiet u l-harsien minn tingis marittimu;

(e) li jippreskrivu drittijiet u hlasijiet ohra li jistgħu jkunu jew li jkunu mehtieġa li jiġu preskritti minn jew skond id-dispożizzjonijiet ta' dan l-Att;

(f) li jippreskrivu u xort'ohra jagħmlu dispożizzjonijiet dwar kull haġa li tista' tkun mehtieġa jew li tenhtieġ li tiġi preskritta b'dan l-Att u dwar kull haġa ohra li tista' tidher li tkun mehtieġa jew spedjenti għall-aħjar twettieq tad-dispożizzjonijiet ta' dan l-Att.

Setgħat ta' l-Awtorità, tal-Pulizija u tad-Dwana.

8. (1) Il-helsien ta' żejt għall-*bunkering* għandu jingħata taht is-superviżjoni tad-Dwana. L-Awtorità jkollha jedd tissorvelja kull operazzjoni ta' *bunkering* u tista' titlob hlasijiet għal kull superviżjoni bħal dik hekk kif jista' jiġi preskritta b' regolamenti.

(2) Kull ufficjal ta' l-Awtorità, tal-Pulizija jew tad-Dwana għandu jedd f'kull hin li jispezzjona kull imkien fejn jinħażen jew jinżamm xi żejt sabiex jiżgura li d-dispożizzjonijiet ta' dan l-Att ikunu qegħdin jiġu osservati u li ma jkunx hemm evażjoni tat-taxxa, drittijiet u hlasijiet imposti b'dan l-Att.

Reati u pjeni.

9. (1) Kull min:

(a) huwa b'xi mod involut f'xi evażjoni bi frodi jew tentattiv ta' evażjoni ta' taxxa imposta b'dan l-Att; jew

(b) jgħin, ihajjar jew jassisti fit-twettieq tar-reati msemmija fil-paragrafu ta' qabel; jew

(ċ) xjentement jostakola, iwaqqaf jew idewwem lil xi ufficjal ta' l-Awtorità, tad-Dwana jew tal-Pulizija fl-eżekuzzjoni tad-dmirijiet u setgħat tiegħu taht dan l-Att; jew

(d) jikser xi jew kull dispożizzjoni ohra ta' dan l-Att, ikun hati ta' reat u għandu għal kull reat bħal dak jehel, meta jinsab hati mill-Qorti tal-Maġistrati, multa li tkun daqs darbtejn il-valur taż-żejt u t-taxxa fuq dak iż-żejt li dwaru jkun sar ir-reat, jew ta' elf lira, skond liema tkun l-aktar.

(2) Ir-responsabbiltà imposta bis-subartikolu (1) ta' dan l-artikolu għandha tkun mingħajr preġudizzju għal kull responsabbiltà ohra imposta f'kull liġi ohra għall-istess reat.

Eżenzjoni mit-taxxa, jew għoti lura ta' taxxa.

10. Il-Ministru jista' b'ordni, u bla hsara għal dawk il-limitazzjonijiet li jagħmel f'dak l-ordni, jeżenta lil persuna mill-hlas tat-taxxa imposta b'dan l-Att jew jippermetti l-ghoti lura ta' dik it-taxxa.

SKEDA

(Artikolu 3)

Żjut li jinsabu taht H.S. 2710.00.93: *taxxa ta' 40 ċenteżmu għal kull tunnellata metrika jew parti minnha.*

Żjut li jinsabu taht H.S. 2710.00.94: *taxxa ta' 20 ċenteżmu għal kull tunnellata metrika jew parti minnha.*

Għanijiet u Raġunijiet

L-Għan ta' l-Abbozz huwa sabiex jimponi *taxxa fuq il-bunkering* ta' żejt lil bastimenti u sabiex jipprovdi li l-kontroll u s-sorveljar *tax-xogħol tal-bunkering* jibdwew isiru mill-Awtorità Marittima ta' Malta.

A BILL
entitled

AN ACT to regulate the issuing of licences to bunker operators and to levy a tax on fuels supplied for bunkering.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:—

Short title. 1. This Act may be cited as the Bunkering (Fuels) Act, 1994.

Interpretation. 2. In this Act unless the context otherwise requires:

“Authority” means the Malta Maritime Authority established under the Malta Maritime Authority Act, 1991 (Act No. XVII of 1991) and includes any officer or employee of the Authority;

“Bunkering” means the loading, discharging and transferring of fuels between a bunker barge or a road tanker or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship;

“Customs” means the Comptroller of Customs and includes any officer or employee of his department having an expressed or implied authority to act for the Comptroller;

“Fuel” means any non volatile marine grade fuel oil used to fuel a ship or its machinery and includes lubricating oil and also those products falling under sub-headings H.S. 2710.00.93 and H.S. 2710.00.94 in the First Schedule to the Import Duties Act, (Cap. 337);

“Minister” unless otherwise stated means the Minister responsible for finance;

“Ship” means every description of vessel of any size used in navigation, whether self propelled or not, and includes barges, oil rigs, pontoons and any other craft and similar vessels.

3. (1) There shall be charged and levied by Customs on account of the Government of Malta a tax on fuels listed in the Schedule to this Act, supplied free from customs and other duties, for bunkering to ships, at the rates shown in the Schedule to this Act.

Levy of tax.

(2) Such tax shall be chargeable and leviable as soon as fuel is released from any bonded installation, marine terminal or marine facility.

4. (1) The payment of the tax shall be due immediately upon the release of the fuel from the bonded installation, marine terminal or marine facility on the quantity of fuel measured or calculated by Customs as having been released.

Time and manner of payment of tax.

(2) Customs may make arrangements, subject to such guarantees and conditions as it may impose, for the payment of the tax leviable under this Act otherwise than on the release of fuels as mentioned in subsection (1) hereof, and at such intervals as may be agreed.

5. (1) Notwithstanding the provisions of subsection (2) of section 3 and of paragraph (b) of subsection (1) of section 37 of the Enemalta Act (Cap. 272) relating to the importation, acquiring, manufacture, keeping, storing, distributing, selling, exporting or otherwise disposing of fuels or any form thereof, or to the keeping or using of any tank, pump or other mechanical device for the purpose of the storage, sale or supply of fuel for bunkering, the Malta Maritime Authority shall have the sole and exclusive authority to exercise overall control and supervision over all matters for which it may grant a licence or enter into agreements or make arrangements under section 6 of this Act.

Responsibility for bunkering of fuels.

(2) No person shall in Malta do any matter for which a licence agreement or arrangement is required under section 6 of this Act unless he is in possession of such licence, and no person shall distribute, sell, hawk, export or otherwise dispose of fuel supplied for bunkering in accordance with such a licence, otherwise than in accordance with such licence, agreement or arrangement.

6. (1) The Authority may, in its discretion and under such terms and conditions as it may deem appropriate, grant a licence to any —

Grant of licences by the Authority.

(a) citizen of Malta;

(b) body corporate established under and subject to the laws of Malta having its principal place of business in Malta or having a place of business in Malta;

for the distribution, sale, exportation or disposal in any other manner of fuels supplied for bunkering. The Authority may also make any arrangements or enter into any agreement, as it may deem appropriate or expedient, with any person for any of the purposes aforesaid, or in connection with any of its functions under this Act.

(2) A licence issued under subsection (1) of this section and any arrangement or agreement made thereunder shall, subject to their renewal, be valid for such period for which it is granted, made or renewed:

Provided that if no period of validity is so specified any licence, arrangement or agreement shall be valid until the 31st December of the year in which it is granted, made or renewed.

(3) There shall be payable on the issue and renewal of each licence such fees as may be prescribed by the Authority.

(4) A licence issued under this section, and any arrangement or agreement to which the proviso to subsection (2) of this section applies, may at any time be suspended or revoked by the Authority if circumstances exist which, in the opinion of the Authority, any such licence, arrangement or agreement should be suspended or revoked.

(5) Where a person acts in breach of any term or condition of a licence granted by, or of an arrangement or other agreement made with the Authority, he shall be deemed to have acted without such a licence, arrangement or agreement.

(6) The issue of a licence by, or the making of any arrangement or agreement with the Authority shall not exempt any person from the requirements of any other enactment.

Power to make regulations.

7. (1) The Minister may by notice in the Gazette amend or substitute the Schedule to this Act:

Provided that the Minister may not by such notice increase the rate of tax leviable in accordance with this Act to more than one lira (Lm1) per metric ton or part thereof.

(2) The Minister responsible for ports may, in consultation with the Authority, and with the concurrence of the Minister make regulations:

(a) regulating the mode of registration and licensing of bunker operators;

(b) prescribing the requirements that have to be satisfied for such registration and licensing, including their renewal and termination;

(c) setting out the conditions and parameters under which bunkering operations shall be carried out;

(d) prescribing and regulating the standards that must be applied and maintained at marine terminals and facilities and on bunker barges, especially with regard to the safety at such places and the prevention of marine pollution;

(e) prescribing fees and other charges which may be or are required to be prescribed by or under the provisions of this Act;

(f) prescribing and otherwise making provision with respect to any matter which may be or is required to be prescribed by this Act and with respect to any other matter which may appear to be necessary or expedient for the better carrying out of the provisions of this Act.

8. (1) The release of fuel for bunkering shall take place under the supervision of Customs. The Authority shall have the right to supervise any bunkering operations and may impose charges for such supervision as may be prescribed by regulations.

Power of the Authority, of the Police and Customs.

(2) It shall be lawful for any officer of the Authority, Police or Customs to inspect at any time any place where fuel is stored or handled to ensure that the provisions of this Act are being complied with and that there is no evasion of the duty, fees and charges imposed by this Act.

9. (1) Any person who:

Offences and penalties.

(a) is in any way concerned in any fraudulent evasion or attempt at evasion of any tax imposed by this Act; or

(b) aids, abets or assists in the commission of the offences referred to in the foregoing paragraph; or

(c) wilfully obstructs, impedes or delays any Authority, Customs or Police officer in the execution of his duties and powers under this Act; or

(d) contravenes any other provision of this Act,

shall be guilty of an offence and shall for every such offence be liable, on conviction by the Court of Magistrates, to a fine (*multa*) equivalent to twice the value of the fuel and the tax on the said fuel involved in the offence, or one thousand liri, whichever is the higher.

(2) The liability imposed by subsection (1) of this section shall be without prejudice to any other liability imposed by any other law for the same offence.

10. The Minister may by order, and, subject to such limitations in such order, exempt any person from the payment of the tax imposed by this Act or allow the refund of such tax.

Exemption or refund of tax.

SCHEDULE

(Section 3)

Fuel falling under H.S. 2710.00.93;	a tax of 40 cents per metric ton or part thereof
Fuel falling under H.S. 2710.00.94;	a tax of 20 cents per metric ton or part thereof.

Objects and Reasons

The Object of this Bill is to impose a tax on the bunkering of fuel to ships, and to provide for the control and supervision of bunkering operations by the Malta Maritime Authority.