

Naghti l-kunsens tieghi.

(L.S.)

GEORGE ABELA
President

20 ta' Lulju, 2010

ATT Nru XIII tal-2010

ATT biex jemenda l-Att dwar Dazju tas-Sisa (Kap. 382) u biex jimplimenta d-Direttiva 2008/118/KE.

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. (1) It-titolu fil-qosor ta' dan l-Att huwa Att tal-2010 li jemenda l-Att dwar Dazju tas-Sisa, u dan l-Att għandu jinqara u jiftiehem haġa waħda mal-Att dwar Dazju tas-Sisa, hawn iżjed 'il quddiem f'dan l-Att imsejjaħ "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehh.
Kap.382.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għad-dwana jstabilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'ohra -

"arranġament ta' sospensjoni tad-dazju" tfisser arranġament tat-taxxa applikat għall-produzzjoni, l-ipproċessar, iż-żamma jew it-transitu ta' oġġetti dazjabbli mhux koperti minn proċedura jew arranġament doganali sospensiv, filwaqt li d-dazju tas-sisa jkun sospiż;

"awtorità kompetenti" tfisser korp jew awtorità li jkun vestit bi rwol superviżorju jew regolatorju fi Stat Membru dwar oġġetti dazjabbli;

"dazju" u "dazju tas-sisa" ifissru d-dazju impost b'dan l-Att;

"destinatarju reġistrat" tfisser persuna fiżika jew ġuridika awtorizzata mill-Kontrullur, fl-eżerċizzju tan-negozju tagħha u taħt il-kondizzjonijiet stabbiliti mill-Kontrullur, li tirċievi oġġetti dazjabbli li jkunu qeghdin jiċċirkolaw taħt arranġament ta' sospensjoni tad-dazju tas-sisa minn Stat Membru ieħor;

"importazzjoni ta' oġġetti dazjabbli" tfisser id-dhul fit-territorju tal-Komunità ta' oġġetti dazjabbli kemm-il darba l-oġġetti, meta jidhlu fil-Komunità, ma jkunux soġġetti għal proċedura jew arranġament doganali sospensiv, kif ukoll ir-rilaxx tagħhom minn proċedura jew arranġament doganali sospensiv;

"Komunità" jew "territorju tal-Komunità" tfisser it-territorji tal-Istati Membri;

"il-Kontrullur" għandha l-istess tifsira mogħtija lilha fl-Ordinanza tad-Dwana;

"magazzinier awtorizzat" tfisser persuna fiżika jew ġuridika awtorizzata mill-Kontrullur li, fl-eżerċizzju tan-negozju tagħha, tipproduċi, tipproċessa, iżżomm, tirċievi jew tibgħat oġġetti dazjabbli taħt arranġament ta' sospensjoni tad-dazju f'maħżen tat-taxxa;

"maħżen tat-taxxa" tfisser post fejn jiġu prodotti, ipproċessati, miżmuma, riċevuti jew mibgħuta oġġetti dazjabbli taħt arranġamenti ta' sospensjoni tad-dazju minn magazzinier awtorizzat matul in-negozju tiegħu, bla ħsara għal ċerti

kondizzjonijiet stabbiliti mill-Kontrullur;

"mezz ta' trasport atipiku" tfisser it-trasport ta' karburanti minbarra fit-tankijiet tal-vetturi jew f'kontenituri ta' riżerva adatti u t-trasport ta' prodotti likwidi għat-tishin minbarra permezz ta' trakkijiet ċisterna użati għan-nom ta' negozjanti professjonali kif hemm fl-artikolu 14A(4);

"il-Ministru" tfisser il-Ministru responsabbli għad-dwana;

"oġġetti dazjabbli" tfisser kull oġġett ta' klassi jew deskrizzjoni kif elenkat fl-Ewwel Skeda;

"pajjiż terz" tfisser kull Stat jew territorju li ma japplikax għalih it-Trattat;

"persuna li tikkonsenja reġistrata" tfisser persuna fiżika jew ġuridika awtorizzata mill-Kontrullur, fl-eżerċizzju tan-negozju tagħha u taht il-kondizzjonijiet stabbiliti mill-Kontrullur, li tibgħat biss oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju wara li jiġu rilaxxati għaċ-ċirkolazzjoni libera kif hemm fl-Artikolu 79 tar-Regolament (KEE) Nru 2913/92;

"proċedura jew arrangament doganali sospensiv" tfisser xi proċedura speċjali kif provdut dwarhom fir-Regolament (KEE) Nru 2913/92 li għandhom x'jaqsmu mas-supervizjoni doganali li jaqgħu tahtha l-oġġetti mhux Komunitarji meta dawn jidhlu fit-territorju doganali tal-Komunità, hżin temporanju, żoni hielsa jew imħażen hielsa, kif ukoll kull arrangament imsemmi fl-Artikolu 84(1)(a) ta' dak ir-Regolament;

"produzzjoni ta' birra" jew "il-produzzjoni tal-birra" għandhom jinftehem bħala l-proċess li bih tiġi prodotta l-birra mill-fermentazzjoni tal-most u kull proċess li bih birra ta' densità jew gravità speċifika iktar baxxa tinhareġ mill-birra, tkun xi tkun l-orijini tagħha, ta' densità jew gravità speċifika oġhla. Għandha tinkludi wkoll it-taħlit ta' birra ma' kull xorb mhux alkoħoliku li fuq ebda wieħed minnhom ma jkun thallas dazju tas-sisa hekk li t-taħlita riżultanti jkun fiha qawwa alkoħolika attwali bħala volum li tiċċedi 0.5% vol;

"rilaxx għall-konsum" tfisser:

(a) kull tluq, inkluż tluq irregolari, minn arrangament ta' sospensjoni;

(b) kull manifattura, inkluża manifattura

irregolari, ta' oġġetti dazjabbli li ma jkunux jinsabu f'xi arrangament ta' sospensjoni;

(ċ) kull dhul ġewwa Malta ta' oġġetti dazjabbli, inkluż id-dhul irregolari, meta dawk l-oġġetti ma jkunux tqiegħdu taht arrangament ta' sospensjoni;

"Stat Membru" u "territorju ta' Stat Membru" tfisser t-territorju ta' kull Stat Membru tal-Komunità li japplika għalihom it-Trattat, kif hemm fl-Artikolu 299 tiegħu, bl-eċċezzjoni ta' territorji terzi;

"Tariffa Doganali" tfisser it-Tariffa Doganali Komuni adottata mill-Unjoni Ewropea;

"it-Trattat" tfisser it-Trattat li jistabbilixxi l-Komunità Ewropea;

"uffiċjal tas-sisa" tfisser kull uffiċjal li jkollu awtorità legittima li jwettaq xi dmir jew funzjoni taht dan l-Att;

"xorb mhux alkoħoliku" tfisser xarba mhux alkoħolika li tinsab taht l-intestatura 22.02 tat-Tariffa Doganali."

Emenda tal-artikolu 4 tal-Att prinċipali.

3. L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem, "fil-waqt tal-produzzjoni tagħhom" għandhom jiżdiedu l-kliem ", jew kif ikun japplika l-estrazzjoni tagħhom,";

(ii) minflok il-kliem "ta' l-importazzjoni tagħhom" u "l-importazzjoni għandha titqies li sseħħ" għandhom jidhlu l-kliem "tad-dhul tagħhom" u "id-dhul għandu jitqies li jkun seħħ" rispettivament;

(iii) minflok il-kliem "mad-dhul tagħhom f'Malta" għandhom jidhlu l-kliem "mal-wasla tagħhom f'Malta"; u

(b) minnufih wara s-subartikolu (4) tiegħu għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

"(4) Għall-finijiet ta' dan l-artikolu, "rilaxx għall-konsum" tfisser:

(a) it-tluq ta' oġġetti dazjabbli, inkluż it-tluq

irregolari, minn arrangament ta' sospensjoni tad-dazju;

(b) iż-żamma ta' oġġetti dazjabbli barra minn arrangamenti ta' sospensjoni tad-dazju meta d-dazju tas-sisa ma jkunx ingabar kif hemm fid-dispożizzjonijiet li japplikaw tad-dritt Komunitarju u l-legislazzjoni nazzjonali;

(ċ) il-produzzjoni ta' oġġetti dazjabbli, inkluża l-produzzjoni irregolari, barra minn arrangament ta' sospensjoni tad-dazju;

(d) id-dhul ġewwa Malta ta' oġġetti dazjabbli, inkluż id-dhul irregolari ġewwa Malta, kemm-il darba l-oġġetti dazjabbli ma jitqegħdux, minnufih malli jsir id-dhul, taht arrangament ta' sospensjoni tad-dazju.

(5) Għall-fini ta' dan l-artikolu meta l-oġġetti dazjabbli jittransitaw taht arrangament ta' sospensjoni tad-dazju fit-territorju tal-Komunità, inkluż meta l-oġġetti jittransitaw permezz ta' pajjiż terz jew territorju terz, il-waqt tar-rilaxx għall-konsum għandu jitqies li jkun:

(a) meta destinatariju reġistrat jirċievi l-oġġetti dazjabbli minn maħżen tat-taxxa;

(b) meta destinatariju msemmi fl-artikolu 14(2) jirċievi l-oġġetti dazjabbli minn maħżen tat-taxxa li jkunu ntbagħtu minn Stat Membru ieħor.

(6) Meta oġġetti dazjabbli jiġu importati f'Malta u l-Kontrullur jippermetti li dawk l-oġġetti jittransitaw taht arrangament ta' sospensjoni tad-dazju kif hemm f'dawk il-kondizzjonijiet li huwa jistabbilixxi biex jiġu kunsinnati f'post li jkun ġie stabbilit minn magazzinier awtorizzat jew minn destinatariju reġistrat, il-waqt tar-rilaxx għall-konsum għandu jkun il-waqt meta jiġu riċevuti l-oġġetti dazjabbli fil-post li jkun ġie approvat mill-Kontrullur:

Iżda dan ma għandux japplika meta destinatariju reġistrat jirċievi l-oġġetti minn żmien għal żmien.

(7) Għall-fini ta' dan l-artikolu, il-qerda totali

jew it-telf irrimedjabbli ta' oġġetti dazjabbli li jkunu jinsabu taht arrangament ta' sospensjoni tad-dazju, b'riżultat tan-natura inerenti ta' dawk l-oġġetti, ta' ċirkostanzi mhux prevedibbli, forza maġġuri, jew b'konsegwenza ta' awtorizzazzjoni mogħtija mill-Kontrullur, m'għandhomx jitqiesu bhala rilaxx għall-konsum.

(8) Il-kondizzjonijiet li taħthom isir il-ħlas u rata ta' dazju tas-sisa li għandha tiġi adottata għandhom ikunu dawk fis-seħħ fid-data meta jsir ir-rilaxx għall-konsum."

Emenda tal-
artikolu 8 tal-
Att prinċipali.

4. Minflok is-subartikolu (1) tal-artikolu 8 tal-Att prinċipali għandu jidhol dan li ġej:

"(1) Il-ħlas ta'dazju fuq oġġetti dazjabbli għandu jithallas mill-persuni li ġejjin:

(a) fir-rigward tat-tluq ta' oġġetti dazjabbli, inkluż tluq irregolari minn arrangament ta' sospensjoni tad-dazju, id-dazju għandu jithallas:

(i) mill-magazzinier awtorizzat, mid-destinatarju reġistrat jew minn kull persuna oħra li tirrilaxxa l-oġġetti dazjabbli jew li f'isimha dawn jiġu rilaxxati mill-arrangament ta' sospensjoni tad-dazju u, fil-każ ta' tluq irregolari minn maħżen tat-taxxa, kull persuna oħra involuta f'dak it-tluq;

(ii) fil-każ ta' irregolarità matul it-transitu ta' oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju kif imfisser fl-artikolu 8A, mill-magazzinier awtorizzat, mill-persuna li tikkonsenja reġistrata jew minn kull persuna oħra li tkun iggarantiet il-ħlas tad-dazji kif hemm fl-artikolu 10 u kull persuna li tkun ipparteċipat fit-tluq irregolari u li kienet taf jew li suppost kellha tkun raġonevolment taf bix-xorta irregolari tat-tluq;

(b) fir-rigward taż-żamma ta' oġġetti dazjabbli barra minn arrangamenti ta' sospensjoni tad-dazju fejn id-dazju tas-sisa ma jkunx ingabar kif hemm fid-dispożizzjonijiet applikabbli ta' dan l-Att, mill-persuna li tkun qegħda żzomm l-oġġetti dazjabbli u kull persuna oħra involuta fiż-żamma tal-oġġetti dazjabbli;

(ċ) fir-rigward tal-produzzjoni ta' oġġetti

dazjabbli, inkluża l-produzzjoni irregolari, barra minn arrangament ta' sospensjoni tad-dazju, mill-persuna li tkun qegħda tipproduċi l-oġġetti dazjabbli u, fil-każ ta' produzzjoni irregolari, minn kull persuna oħra involuta fil-produzzjoni tagħhom;

(d) fir-rigward tal-importazzjoni ta' oġġetti dazjabbli, inkluż l-importazzjoni irregolari, kemm-il darba l-oġġetti dazjabbli ma jitqegħdux, minnufih malli jiġu importati, taħt arrangament ta' sospensjoni tad-dazju, mill-persuna li tiddikjara l-oġġetti dazjabbli jew li f'isimha jkunu ġew dikjarati meta ġew importati u, fil-każ ta' importazzjoni irregolari, kull persuna oħra involuta fl-importazzjoni."

5. Minnufih wara l-artikolu 8 tal-Att prinċipali għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żjieda tal-artikoli 8A u 8B ġodda mal-Att prinċipali.

"Irregolarità.

8A. (1) Meta tkun seħħet irregolarità dwar oġġetti dazjabbli waqt li jkunu qegħdin jittransitaw taħt arrangament ta' sospensjoni tad-dazju tas-sisa minn Stat Membru għal Malta jew meta oġġetti dazjabbli jkunu fit-transitu u jgħaddu minn Malta, u dik l-irregolarità tirisulta fir-rilaxx għall-konsum tagħhom kif hemm fl-artikolu 4(4)(a), il-Kontrullur, meta jikxef dik l-irregolarità, għandu jgħarraf lill-awtoritajiet kompetenti tal-Istat Membru li jikkonsenja.

(2) Meta jkun possibbli għall-Kontrullur li jiddetermina fejn tkun seħħet l-irregolarità taħt is-subartikolu (1), ir-rilaxx għall-konsum għandu jseħħ fl-Istat Membru fejn tkun seħħet l-irregolarità.

(3) Meta ma jkunx possibbli għall-Kontrullur li jiddetermina fejn tkun seħħet l-irregolarità taħt is-subartikolu (1), din għandha titqies li tkun seħħet f'Malta.

(4) Meta oġġetti dazjabbli li jittransitaw taht arrangament ta' sospensjoni tad-dazju minkejja li Malta tkun il-post ta' destinazzjoni tagħhom, ma jaslux Malta u matul il-transitu tagħhom ma tkun giet skoperta ebda irregolarità li tirriżulta fir-rilaxx tagħhom għall-konsum kif hemm fl-artikolu 4(4)(a), l-irregolarità għandha titqies li tkun saret fl-Istat Membru li jikkonsenja u fil-waqt li jkun beda t-transitu, kemm-il darba, f'perjodu ta' erba' xhur mill-bidu tat-transitu, ma tingiebx prova li tkun sodisfaċenti għall-Istat Membru li jikkonsenja dwar it-tmiem tat-transitu, jew tal-post fejn tkun seħħet l-irregolarità:

Izda meta l-persuna li tkun iggarantiet il-hlas kif hemm fl-artikolu 10 ma kinitx mgharrfa jew ma setghetx tiġi mgharrfa li l-oġġetti ma jkunux waslu fid-destinazzjoni tagħhom, dik il-persuna għandu jinghatalha xahar żmien li jibda jghodd minn meta taslilha din l-informazzjoni mill-Kontrullur biex hija tkun tista' ġġib prova dwar it-tmiem tat-transitu, jew dwar il-post fejn tkun seħħet l-irregolarità.

(5) Madankollu, jekk, qabel ma jiskadi perjodu ta' tliet snin mid-data meta jkun beda t-transitu, il-Kontrullur jiżgura li l-irregolarità imsemmija fis-subartikolu (4) tkun tassew seħħet f'Malta, huwa għandu jinforma lill-awtoritajiet kompetenti tal-Istat Membru fejn ikun ġie impost il-hlas tad-dazju tas-sisa, li mbagħad għandu jhallsu lura jew jaħfru malli tkun ingiebet prova li jkun ingabar id-dazju tas-sisa fl-Istat Membru l-iehor.

(6) Għall-fini ta' dan l-artikolu:

(a) it-transitu ta' oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju tas-sisa jintemm, fil-każijiet msemmija fl-artikolu 8B(1)(a)(i), (ii) u (iv) u l-artikolu 8B(1)(b), meta d-destinatarju jkun irċieva l-kunsinna tal-oġġetti dazjabbli u, fil-każijiet imsemmija fl-artikolu 8B(1)(a)(iii), meta l-oġġetti jkunu telqu mit-territorju tal-Komunità;

(b) it-transitu ta' oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju tas-sisa għandu jibda, fil-każijiet imsemmija fl-artikolu 8B(1)(a), meta l-oġġetti dazjabbli jtilqu mill-maħżen tat-taxxa minn fejn jintbagħtu u, fil-każ imsemmi fl-artikolu 8B(1)(b), meta jitqiegħdu f'ċirkolazzjoni libera kif hemm fl-Artikolu 79 tar-Regolament (KEE) Nru 2913/92;

(ċ) "irregolarità" tfisser sitwazzjoni li ssehh waqt transitu tal-oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju tas-sisa, minbarra dak imsemmi fl-artikolu 14(5) li minhabba fiha transitu, jew parti minn transitu, ta' oġġetti dazjabbli ma jkunx intemm kif hemm fil-paragrafu (a) ta' dan is-subartikolu.

Transitu ta' oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju tas-sisa.

8B. (1) L-oġġetti dazjabbli jistgħu jittransitaw taht arrangament ta' sospensjoni tad-dazju fit-territorju tal-Komunità, inkluż meta l-oġġetti jittransitaw minn ġewwa pajjiż terz jew territorju terz:

(a) minn maħżen tat-taxxa għal:

- (i) maħżen tat-taxxa ieħor;
- (ii) destinatarju registrat;
- (iii) post fejn l-oġġetti dazjabbli jtilqu mit-territorju tal-Komunità;

(iv) destinatarju msemmi fl-artikolu 14(2), meta l-oġġetti jintbagħtu minn Stat Membru ieħor;

(b) mill-post tal-importazzjoni lejn kull destinazzjoni msemmija fil-paragrafu (a), meta l-oġġetti jintbagħtu minn persuna li tikkonsenja reġistrata:

Iżda għall-finijiet ta' dan il-paragrafu, "post tal-importazzjoni" tfisser il-post fejn l-oġġetti jkunu jinsabu meta dawn jiġu rilaxxati biex jittransitaw liberament kif hemm fl-Artikolu 79 tar-Regolament (KEE) Nru 2913/92.

(2) B'deroga mis-subartikolu (1)(a)(i) u (ii) u (b) ta' dan l-artikolu, u ħlief fis-sitwazzjonijiet imsemmija fil-proviso mal-artikolu 10A(3), il-Kontrullur jista', taħt il-kondizzjonijiet li huwa jistabbilixxi, jippermetti li l-oġġetti dazjabbli li għandhom jittransitaw taħt arrangament ta' sospensjoni tad-dazju lejn post ta' konsenja diretta, meta dak il-post ikun ġie msemmi mill-magazzinier awtorizzat jew mid-destinatarju reġistrat. Dak il-magazzinier awtorizzat jew dak id-destinatarju reġistrat għandhom jibqgħu responsabbli biex jipprezentaw ir-rapport li jkunu waslu l-oġġetti msemmi fir-regolament 10 tat-Taqsima H tas-Sitt Skeda.

(3) Is-subartikoli (1) u (2) għandhom japplikaw ukoll għat-transitu ta' oġġetti dazjabbli b'rata ta' zero li ma jkunux ġew rilaxxati għall-konsum.

(4) It-transitu ta' oġġetti dazjabbli gandu jitqies li jsir taħt arrangament ta' sospensjoni tad-dazju biss jekk dan seħħ taħt il-kopertura ta' proċess ta' dokument amministrattiv elettroniku kif hemm fil-proċedura kontemplata taħt it-Taqsima H tas-Sitta Skeda."

Emenda tal-artikolu 10 tal-Att prinċipali.

6. L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu shiħ għandu jiġi enumerat mill-ġdid bħala

s-subartikolu (1) tiegħu, u fil-paragrafu (e) tiegħu minflok il-kliem "fuq l-istokk." għandhom jidhlu l-kliem "fuq l-istokk.";

(b) minnufih fi tmiem is-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan il-proviso li ġej:

"Izda l-Kontrullur, taht il-kondizzjonijiet li huwa jistabbilixxi, jista' jippermetti li l-garanzija msemmija fil-paragrafu (a) tiġi provduta mit-trasportatur jew min iġorr, mill-persuna li tikkonsenja registrata, mis-sid tal-oġġetti dazjabbli, mid-destinararju jew b'mod kongunt minn xi tnejn jew aktar minn dawn il-persuni hawn imsemmija."; u

(ċ) minnufih wara l-proviso għas-subartikolu (1) tiegħu kif enumerat mill-ġdid għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(2) Il-garanzija msemmija fis-subartikoli ta' qabel għandha tkun valida mal-Komunità kollha u r-regoli dettaljati tagħha għandhom jiġu stipulati mill-Kontrullur.

(3) Il-Kontrullur jista' jirrinunzja għall-obbligu li għandha tiġi provduta garanzija fir-rigward ta' kull transitu li ġej ta' oġġetti dazjabbli taht arrangament ta' sospensjoni tad-dazju:

(a) it-transitu li jsehh għalkollox f'Malta;

(b) meta l-Istati Membri l-oħra involuti hekk jiftiehem, it-transitu ta' oġġetti tal-enerġija ġewwa l-Komunità bil-baħar jew permezz ta' *pipeline* fiss."

7. Minflok is-subartikolu (3) tal-artikolu 10A tal-Att prinċipali għandu jidhol dan li ġej:

Emenda tal-artikolu 10A tal-Att prinċipali.

"(3) Negozjant registrat għandu jikkonforma ruħu mal-htigiet li ġejjin:

(a) qabel ma jintbagħtu l-oġġetti dazjabbli, jiggarrantixxi l-hlas tad-dazju tas-sisa taht il-kondizzjonijiet stabbiliti mill-Kontrullur;

(b) fi tmiem it-transitu, idahhal fil-kontijiet tiegħu l-oġġetti dazjabbli li jkunu ġew riċevuti taht arrangament ta' sospensjoni tad-dazju tas-sisa;

(ċ) jagħti l-kunsens tiegħu għal kull verifika u kontroll tal-istokk li bihom il-Kontrullur ikun jista'

jivverifika li l-oġġetti jkunu tassew waslu:

Iżda meta destinatariju reġistrat jirċievi biss oġġetti dazjabbli okkażjonalment, l-awtorizzazzjoni mogħtija mill-Kontrullur għandha tkun limitata għal kwantità speċifikata ta' oġġetti dazjabbli, għal persuna waħda li tikkonsenja u għal perijodu ta' żmien speċifikat jew għal transitu wiehed. Il-Kontrullur jista' jillimita l-awtorizzazzjoni għal transitu wiehed."

Emenda tal-artikolu 13 tal-Att prinċipali.

8. Minnufih wara l-paragrafu (f) tas-subartikolu (1) tal-artikolu 13 tal-Att prinċipali, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(g) il-proċedura li għandha tintuża fit-transitu ta' oġġetti dazjabbli taħt dazju tas-sisa sospiż;

(h) livelli ta' gwida li jistabilixxu l-ammont ta' oġġett soġġett għal dazju tas-sisa."

Emenda tal-artikolu 14 tal-Att prinċipali.

9. Minnufih wara l-paragrafu (ċ) tas-subartikolu (2) tal-artikolu 14 tal-Att prinċipali, għandu jidhol dan li ġej:

"(d) oġġetti dazjabbli maħsuba biex jiġu użati minn organizzazzjonijiet internazzjonali rikonoxxuti mill-Istat Membru ospitanti, u minn membri ta' dawg l-organizzazzjonijiet, fil-limiti u taħt il-kondizzjonijiet stabbiliti mill-konvenzjonijiet internazzjonali li jistabilixxu dawg l-organizzazzjonijiet jew minn kull ftehim tal-kwartieri ġenerali;

(e) oġġetti dazjabbli maħsuba biex jiġu użati għall-konsum taħt ftehim li jkun sar ma' pajjiżi terzi jew ma' organizzazzjonijiet internazzjonali sakemm dak il-ftehim ikun permess jew awtorizzat fir-rigward ta' eżenzjoni mit-taxxa fuq il-valur miżjud:

Iżda oġġetti dazjabbli li jittransitaw taħt arrangament ta' sospensjoni tad-dazju għal għand persuna msemija f'dan is-subartikolu għandu jkollhom magħhom ċertifikat ta' eżenzjoni li jkollu dik l-għamla u dak il-kontenut li jiġu stabbiliti mill-Kontrullur."

Żjieda tal-artikoli ġodda 14A sa 14F mal-Att prinċipali.

10. Minnufih wara l-artikolu 14 tal-Att prinċipali għandhom

jizziedu l-artikoli godda li ġejjin:

"Ogġetti dazjabbli akkwistati minn individwu privat.

14A. (1) Id-dazju tas-sisa fuq ogġetti dazjabbli akkwistati minn individwu privat għall-użu tiegħu stess, u trasportati minnu stess minn Stat Membru lejn Malta, għandu jithallas biss fl-Istat Membru fejn ikunu ġew akkwistati l-ogġetti dazjabbli.

(2) Sabiex jiġi stabbilit jekk l-ogġetti dazjabbli msemmija fis-subartikolu (1) ikunux intenzjonati għall-użu ta' individwu privat minnu stess, l-Kontrullur għandu jqis dan li ġej:

(a) l-istat kummerċjali tad-detentur tal-ogġetti dazjabbli u x'raġunijiet ikollu biex dawn ikunu fil-pussess tiegħu;

(b) il-post fejn ikunu jinsabu l-ogġetti dazjabbli jew, jekk ikun il-każ, il-metodu ta' transport użat;

(ċ) kull dokument li jkollu x'jaqsam mal-ogġetti dazjabbli;

(d) ix-xorta ta' ogġetti dazjabbli;

(e) l-ammont tal-ogġetti dazjabbli.

(3) Għall-finijiet li jiġi applikat is-subartikolu (2)(e), il-Ministru jista' jagħmel regolamenti biex jistabbilixxi livelli ta' gwida, bħala forma ta' prova biss.

(4) Il-Ministru jista', b'avviż fil-Gazzetta, jipprovdi wkoll li d-dazju tas-sisa isir dovut mal-akkwist ta' żjut minerali li jkunu diġà ġew rilaxxati għall-konsum fi Stat Membru iehor jekk daww l-ogġetti jiġu trasportati minn individwu privat b'mezzi ta' trasport atipiċi.

Ogġetti dazjabbli diġà rilaxxati għall-konsum.

14B. (1) Mingħajr preġudizzju għall-artikolu 14D(1), ogġetti dazjabbli li jkunu diġà ġew rilaxxati għall-konsum f'xi Stat Membru u li jinżammu għal finijiet kummerċjali f'Malta biex jiġu konsenjati jew użati f'Malta, għandhom ikunu soġġetti għad-dazju tas-sisa f'Malta:

Iżda għall-finijiet ta' dan is-subartikolu, iż-żamma għal finijiet kummerċjali għandha tkun tfixxer iż-żamma ta' oġġetti dazjabbli minn persuna li mhix individwu privat jew minn individwu privat għal raġunijiet li m'humiex li jużahom hu nnifsu u li jittrasportom.

(2) Id-dazju tas-sisa dovut kif hemm fis-subartikolu (1) għandu jithallas mill-persuna li tikkonsenja jew li żżomm l-oġġetti maħsuba li jiġu konsenjati, jew mill-persuna li lilha jiġu konsenjati l-oġġetti fl-Istat Membru l-iehor, kif jista' jkun il-każ.

(3) Mingħajr preġudizzju għall-artikolu 14F, oġġetti dazjabbli li jkunu diġà ġew rilaxxati għall-konsum f'xi Stat Membru u li jkunu jittransitaw fil-Komunità għal finijiet kummerċjali, m'għandhomx jitqiesu bħala li jkunu miżmuma għal dawn il-finijiet sakemm dawn jaslul fl-Istat Membru tad-destinazzjoni, sakemm ikunu qegħdin jittransitaw fil-kuntest tal-formalitajiet stipulati fit-Taqsima H tas-Sitt Skeda.

(4) Oġġetti dazjabbli li jinżammu abbord opra tal-baħar jew inġenju tal-ajru li jivvjaġġaw jew itiru bejn Malta u xi Stat Membru ieħor iżda li ma jkunux disponibbli għall-bejgħ meta l-opra jew l-inġenju jkunu fit-territorju ta' Malta, m'għandhomx jitqiesu li jkunu miżmuma għal finijiet kummerċjali f'Malta.

(5) Meta d-dazju tas-sisa għal oġġetti dazjabbli li ġew rilaxxati għall-konsum f'Malta kellu jithallas u jingabar fi Stat Membru ieħor, il-Kontrullur jista' jitlob lill-awtoritajiet tal-Istat Membru l-ieħor ihallsu lura jew jaħfru id-dazju li jkun ġie mħallas.

Oġġetti dazjabbli rilaxxati għall-konsum kif hemm fl-artikolu 14B(1).

14Ċ. (1) L-oġġetti dazjabbli li jkunu ġew rilaxxati għall-konsum kif hemm fl-artikolu 14B(1) għandhom jittransitaw bejn it-territorji tad-diversi Stati Membri fil-kuntest ta' dokument li jimxi magħhom u li jkun jelenka l-informazzjoni prinċipali li toħroġ mid-dokument imsemmi fit-Taqsima H tas-Sitt Skeda.

(2) Il-persuni msemmija fis-subartikolu (2) tal-artikolu 14B għandhom jikkonformaw ruhhom mar-rekwiżiti li ġejjin:

(a) qabel ma jiġu konsenjati l-oġġetti, għandhom jipprezentaw dikjarazzjoni lill-Kontrullur u jggarantixxu l-ħlas tad-dazju tas-sisa;

(b) iħallsu d-dazju tas-sisa lill-Kontrullur wara li jaslu l-oġġetti dazjabbli;

(ċ) jaqblu li ssir kull verifika mill-uffiċjal tas-sisa biex jiżgura ruħu li l-oġġetti dazjabbli jkunu tabilhaqq ġew riċevuti u li d-dazju tas-sisa li jkollu jithallas fuqhom ikun fil-fatt thallas.

Oġġetti dazjabbli diġà rilaxxati għall-konsum fi Stat Membru.

14D. (1) L-oġġetti dazjabbli li jkunu diġà ġew rilaxxati għall-konsum f'xi Stat Membru, li jinxtraw minn xi persuna, li ma tkunx xi magazzinier awtorizzat jew destinatarju reġistrat, stabbilit fi Stat Membru iehor li ma jkunx iwettaq xi attività ekonomika indipendenti, u li jiġu konsenjati jew trasportati lejn Malta direttament jew indirettament mill-bejjiegh jew f'ismu għandhom ikunu soġġetti għad-dazju tas-sisa.

(2) Fil-każ imsemmi fis-subartikolu (1), id-dazju tas-sisa għandu jithallas fil-waqt tal-konsenja tal-oġġetti dazjabbli. Il-kondizzjonijiet tal-ħlas u r-rata tad-dazju tas-sisa li għandhom jiġu applikati għandhom ikunu dawk fis-sehħ fid-data meta jkollu jithallas id-dazju.

(3) Il-persuna li għandha thallas id-dazju tas-sisa għandha tkun dak il-bejjiegh li jħares dawn ir-rekwiżiti li ġejjin:

(a) qabel jikkonsenja l-oġġetti tas-sisa, jirreġistra l-identità tiegħu u jggarantixxi l-ħlas tad-dazju tas-sisa lill-Kontrullur u skont il-kondizzjonijiet stabbiliti mill-Kontrullur;

(b) iħallas id-dazju tas-sisa lill-Kontrullur wara l-wasla tal-oġġetti dazjabbli;

(ċ) iżomm il-kontijiet tal-konsenji tal-oġġetti dazjabbli:

Iżda l-Ministru jista' jagħmel kull ftehim bilaterali ma' Stati Membri oħra biex jissimplifika dawn il-htigiet.

(4) Fil-każ imsemmi fis-subartikolu (1), id-dazju tas-sisa impost għandu jithallas lura jew jinħafer mill-Kontrullur, fuq talba tal-bejjiegh, meta l-bejjiegh ikun segwa l-proċeduri stipulati fis-subartikolu (3).

(5) Il-Ministru jista', b'avviż fil-Gazzetta, jistipula regoli speċifiċi dwar kif jiġu applikati s-subartikoli (1) sa (5) għal oġġetti dazjabbli li jkunu jinkwadraw f'arranġamenti ta' distribuzzjoni nazzjonali partikolari.

Telf ta' oġġetti dazjabbli waqt it-trasport.

14E. (1) Fis-sitwazzjonijiet imsemmija fl-artikolu 14B(1) u fl-artikolu 14D(1), f'każ ta' qerda totali jew telf irrimedjabbli tal-oġġetti dazjabbli matul it-trasport tagħhom li ma kinux ġew rilaxxati għall-konsum f'Malta, bhala riżultat tax-xorta minnha nfisha tal-oġġetti, jew ta' ċirkostanzi mhux prevedibbli, jew forza maġġuri, jew bhala konsegwenza ta' awtorizzazzjoni mill-Kontrullur, id-dazju tas-sisa m'għandux jithallas f'Malta:

Iżda l-qerda totali jew it-telf irrimedjabbli tal-oġġetti dazjabbli involuti għandhom jiġu ppruvati għas-sodisfazzjon tal-Kontrullur. Iktar minn hekk, għandha tigi rilaxxata l-garanzija pprezentata konformement mal-artikolu 14Ċ(2)(a) jew l-artikolu 14D(4)(a).

(2) Il-Ministru jista', wara li jikkonsulta lill-Kontrullur, b'avviż fil-Gazetta, jistipula r-regoli u l-kondizzjonijiet li bihom jiġi stabbilit it-telf imsemmi fis-subartikolu (1).

Meta tigi jew tinkixef irregolarità f'Malta.

14F. (1) Meta ssir xi irregolarità f'Malta matul it-transitu tal-oġġetti dazjabbli taht l-artikolu 14B(1) jew l-artikolu 14D(1), u dawn l-oġġetti dazjabbli ġew rilaxxati għall-konsum fi Stat Membru ieħor, dawn għandu jithallas fuqhom id-dazju tas-sisa.

(2) Meta tinkixef xi irregolarità f'Malta waqt it-transitu ta' oġġetti dazjabbli taht l-artikolu 14B(1) jew l-artikolu 14D(1), u dawk l-oġġetti dazjabbli jkunu ġew rilaxxati għall-konsum f'xi Stat Membru ieħor u ma jkunx jista' jiġi stabbilit fejn tkun fil-fatt seħhet l-irregolarità, dik l-irregolarità għandha titqies li tkun seħhet f'Malta:

Izda jekk qabel ma jiskadi perjodu ta' tliet snin li jibda għaddej mid-data tal-akkwist tal-oġġetti dazjabbli, jiġi żgurat f'liema Stat Membru tkun fil-fatt seħhet l-irregolarità, id-dispożizzjonijiet tas-subartikolu (1) għandhom japplikaw.

(3) Id-dazju tas-sisa għandu jkun dovut mill-persuna li tkun tat garanzija li ser thallsu kif hemm fl-artikolu 14Ċ(2)(a) jew fl-artikolu 14D(4)(a) u minn kull persuna li tkun ipparteċipat fl-irregolarità:

Izda jekk l-oġġetti dazjabbli jkunu ġew rilaxxati għall-konsum il-Kontrullur għandu, wara li ssirlu talba, iħallas lura jew jaħfer id-dazju tas-sisa fl-Istat Membru fejn tkun saret jew inkixfet l-irregolarità. Iktar minn hekk, il-Kontrullur għandu jirrilaxxa l-garanzija li tkun ġiet depożitata konformement mal-artikolu 14Ċ(2)(a) jew l-artikolu 14D(4)(a).

(4) Għall-finijiet ta' dan l-artikolu, "irregolarità" tfisser sitwazzjoni li sseħh waqt transitu ta' oġġetti dazjabbli taht l-artikolu 14B(1) jew l-artikolu 14D(1), li mhumiex koperti bl-artikolu 14E u li minħabba f'hekk transitu, jew parti minn transitu, tal-oġġetti dazjabbli ma jkunx intemm kif dovut."

11. Is-subartikolu (1) tal-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 15 tal-Att prinċipali.

(a) minflok il-kliem "Ma għandu jinghata lura ebda dazju" għandhom jidhlu l-kliem "Kemmiel darba ma jiġix speċifikat xort'ohra f'dan l-Att, ma għandu jinghata lura ebda dazju"; u

(b) fl-ewwel proviso mas-subartikolu minflok il-kliem "li jkun thallas id-dazju:" għandhom jidhlu l-kliem "li jkun thallas id-dazju u d-dazju tas-sisa fuq oġġetti dazjabbli li jkunu

ġew rilaxxati għall-konsum jista', wara li ssir talba mill-persuna involuta, jithallas lura jew jinhafer mill-Ministru fejn dawk l-oġġetti dazjabbli jkunu ġew rilaxxati għall-konsum fis-sitwazzjonijiet identifikati mill-Ministru u kif hemm fil-kondizzjonijiet li jiġu stipulati mill-Ministru b'avviż fil-Gazzetta bil-ghan li tiġi prevenuta kull evażjoni jew abbuż li jistgħu jsiru. Dak il-hlas lura jew dik il-mahfra tista' ma taghtix lok għal eżenzjonijiet hlief dawk li hemm provdut dwarhom fl-artikolu 14:".

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 255 tal-14 ta' Lulju, 2010.

MICHAEL FRENDO
Speaker

PAULINE ABELA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE ABELA
President

20th July, 2010

ACT No. XIII of 2010

AN ACT to amend the Excise Duty Act (Cap. 382) and to implement Council Directive 2008/118/EC.

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:-

1. (1) The short title of this Act is the Excise Duty (Amendment) Act, 2010, and this Act shall be read and construed as one with the Excise Duty Act, hereinafter referred to as "the principal Act".

Short title and commencement.

Cap. 382.

(2) This Act shall come into force on such a date as the Minister responsible for customs may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

2. For article 2 of the principal Act there shall be substituted the following:

"2. In this Act unless the context otherwise requires -

"atypical mode of transport" means the transport of fuels other than in the tanks of vehicles or in appropriate reserve fuel canisters and the transport of liquid heating products other than by means of tankers used on behalf of professional traders in terms of article 14A(4);

"authorised warehouse keeper" means a natural or legal person authorised by the Comptroller, in the course of his business, to produce, process, hold, receive or dispatch excise goods under a duty suspension arrangement in a tax warehouse;

"beer production" or "the production of beer" shall be taken to mean the process whereby beer is produced from the fermentation of the wort and any process whereby beer of lower density or specific gravity is derived from beer, whatever its origin, of a higher density or specific gravity. It shall also include the mixing of beer with any non-alcoholic beverage and on either of which no excise duty had been paid such that the resulting admixture contains an actual alcoholic strength by volume exceeding 0.5% vol;

"the Community" or "territory of the Community" means the territories of the Member States;

"competent authority" means a body or authority which has a supervisory or regulatory role in a Member State in relation to excise goods;

"the Comptroller" has the same meaning assigned to it in the Customs Ordinance;

"customs suspensive procedure or arrangement" means any one of the special procedures as provided for under Regulation (EEC) No 2913/92 relating to the customs supervision to which non-Community goods are subjected upon their entry into the Community customs territory, temporary storage, free zones or free warehouses, as well as any of the arrangements referred to in Article 84(1)(a) of that Regulation;

"Customs tariff" means the Common Customs Tariff adopted by the European Union;

"duty" and "excise duty" mean the duty imposed by this

Act;

"duty suspension arrangement" means a tax arrangement applied to the production, processing, holding or movement of excise goods not covered by a customs suspensive procedure or arrangement, excise duty being suspended;

"excise goods" means any goods of a class or description as listed in the First Schedule;

"excise officer" means any officer charged by lawful authority with the performance of any duty or function under this Act;

"importation of excise goods" means the entry into the territory of the Community of excise goods unless the goods upon their entry into the Community are placed under a customs suspensive procedure or arrangement, as well as their release from a customs suspensive procedure or arrangement;

"Member State" and "territory of a Member State" means the territory of each Member State of the Community to which the Treaty is applicable, in accordance with Article 299 thereof, with the exception of third territories;

"the Minister" means the Minister responsible for customs;

"non-alcoholic beverage" means a non-alcoholic beverage falling under heading 22.02 of the Customs Tariff;

"registered consignee" means a natural or legal person authorised by the Comptroller, in the course of his business and under the conditions fixed by the Comptroller, to receive excise goods moving under a duty suspension arrangement from another Member State;

"registered consignor" means a natural or legal person authorised by the Comptroller, in the course of his business and under the conditions fixed by the Comptroller, to only dispatch excise goods under a duty suspension arrangement upon their release for free circulation in accordance with Article 79 of Regulation (EEC) No 2913/92;

"release for consumption" means:

(a) any departure, including irregular departure, from a suspension arrangement;

(b) any manufacture, including irregular manufacture, of excise goods outside a suspension arrangement;

(c) any entry into Malta of excise goods, including irregular entry, where those products have not been placed under a suspension arrangement;

"tax warehouse" means a place where excise goods are produced, processed, held, received or dispatched under duty suspension arrangements by an authorised warehouse keeper in the course of his business, subject to certain conditions laid down by the Comptroller;

"third country" means any State or territory to which the Treaty is not applicable;

"the Treaty" means the Treaty establishing the European Community."

Amendment of
article 4 of the
principal Act.

3. Article 4 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof:

(i) immediately after the words "time of their production" there shall be added the words ", or where applicable of their extraction,";

(ii) for the word "importation" wherever it appears, there shall be substituted the word "entry"; and

(iii) for the words "entry into Malta" there shall be substituted the words "arrival in Malta"; and

(b) immediately after subarticle (3) thereof, there shall be added the following new subarticles:

"(4) For the purpose of this article "release for consumption" means:

(a) the departure of excise goods, including irregular departure, from a duty suspension arrangement;

(b) the holding of excise goods outside a duty suspension arrangement where excise duty has not been levied pursuant to the applicable provisions of Community law and national legislation;

(c) the production of excise goods, including irregular production, outside a duty suspension arrangement;

(d) the entry into Malta of excise goods, including irregular entry into Malta, unless the excise goods are placed, immediately upon entry, under a duty suspension arrangement.

(5) For the purpose of this article where excise goods are moved under a duty suspension arrangement within the territory of the Community, including where the goods are moved via a third country or a third territory, the time of release for consumption shall be considered to be:

(a) when a registered consignee receives the excise goods from a tax warehouse;

(b) when a consignee referred to in article 14(2) receives excise goods from a tax warehouse which have been dispatched from another Member State.

(6) Where excise goods are imported into Malta and the Comptroller allows such goods to be moved under a duty suspension arrangement according to the conditions laid down by him to be delivered to a place which has been designated by an authorised warehouse keeper or registered consignee, the time of release for consumption shall be the time of receipt of the excise goods at the place which has been approved by the Comptroller:

Provided that this shall not apply when a registered consignee receives goods on an occasional basis.

(7) For the purpose of this article, the total destruction or irretrievable loss of excise goods under a duty suspension agreement, as a result of the actual nature of the goods, of unforeseeable circumstances, as a result of *force majeure*, or as a consequence of an authorisation granted by the Comptroller, shall not be considered as a release for consumption.

(8) The chargeable conditions and rate of excise duty to be adopted shall be those in force on the date on which release for consumption takes place."

4. For subarticle (1) of article 8 of the principal Act, there shall be substituted the following:

"(1) Duty on excise goods shall be paid by the following persons:

(a) in relation to the departure of excise goods, including irregular departure from a duty suspension arrangement, duty shall be paid:

(i) by the authorised warehouse keeper, the registered consignee or any other person releasing the excise goods or on whose behalf the excise goods are released from the duty suspension arrangement and, in the case of irregular departure from the tax warehouse, by any other person involved in that departure;

(ii) in the case of an irregularity during a movement of excise goods under a duty suspension arrangement as indicated in article 8A, by the authorised warehouse keeper, the registered consignor or any other person who guaranteed the payment in accordance with article 10 and any person who participated in the irregular departure and who was aware or who should reasonably have been aware of the irregular nature of the departure;

(b) in relation to the holding of excise goods outside a duty suspension arrangement where excise duty has not been levied pursuant to the applicable provisions of this Act, by the person holding the excise goods and any other person involved in the holding of the excise goods;

(c) in relation to the production of excise goods, including irregular production, outside a duty suspension arrangement, by the person producing the excise goods and, in the case of irregular production, by any other person involved in their production;

(d) in relation to the importation of excise goods, including irregular importation, unless the excise goods are placed, immediately upon importation, under a duty suspension arrangement, by the person who declares the excise goods or on whose behalf they are declared upon importation and, in the case of irregular importation, by any other person involved in the importation."

5. Immediately after article 8 of the principal Act there shall be added the following new articles:

Addition of new articles 8A and 8B to the principal Act.

"Irregularity.

8A. (1) When an irregularity occurs in relation to excise goods which are moving under a duty suspension arrangement from a Member State to Malta or when excise goods are in transit and pass through Malta, which irregularity gives rise to their release for consumption in accordance with article 4(4)(a), the Comptroller, on detecting such an irregularity, shall inform the competent authorities of the Member State of dispatch.

(2) When it is possible for the Comptroller to determine where the irregularity under subarticle (1) occurred, the release for consumption shall take place in the Member State where the irregularity occurred.

(3) When it is not possible for the Comptroller to determine where the irregularity under subarticle (1) occurred, it shall be presumed that it has occurred in Malta.

(4) When excise goods moving under a duty suspension arrangement, notwithstanding that they have Malta as their destination, fail to arrive in Malta, and during the movement no irregularity giving rise to their release for consumption in accordance with article 4(4)(a) has been detected, an irregularity shall be deemed to have occurred in the Member State of dispatch at the time when the movement began, unless, within a period of four months from when the movement began, evidence is provided to the satisfaction of the Member State of dispatch of the end of the movement, or of the place where the irregularity occurred:

Provided that where the person who guaranteed payment in accordance with article 10 has not been, or could not have been, informed that the goods have not arrived at their destination, a period of one month from the date of communication of this information by the Comptroller shall be granted to enable him to provide evidence of the end of movement, or of the place where the irregularity occurred.

(5) If before the expiry of a period of three years from the date on which the movement began, the Comptroller ascertains that the irregularity referred to in subarticle (4) actually occurred in Malta, he shall inform the competent authorities of the Member State where the excise duty was levied, which shall reimburse or remit it as soon as evidence of the levying of the excise duty in the other Member State has been provided.

(6) For the purpose of this article:

(a) the movement of excise goods under a duty suspension arrangement shall end, in the cases referred to in article 8B(1)(a)(i), (ii), and (iv) and article 8B(1)(b) when the consignee has taken delivery of the excise goods and, in the cases referred to in article 8B(1)(a)(iii) when the goods have left the territory of the Community;

(b) the movement of excise goods under a duty suspension arrangement shall begin in the cases referred to in article 8B(1)(a), when the excise goods leave the tax warehouse of dispatch, and in the cases referred to article 8B(1)(b) upon their release for free circulation in accordance with Article 79 of Regulation (EEC) No. 2913/92;

(c) "irregularity" means a situation occurring during a movement of excise goods under a duty suspension arrangement, other than the one referred to in article 14(5), due to which a movement, or a part of a movement of excise goods, has not ended in terms of paragraph (a) of this subarticle.

Movement of excise goods under a suspension of excise duty.

8B. (1) Excise goods may be moved under a duty suspension arrangement within the territory of the Community, including where the goods are moved via a third country or a third territory:

- (a) from a tax warehouse to:
 - (i) another tax warehouse;
 - (ii) a registered consignee;
 - (iii) the place where the excise goods leave the territory of the Community;
 - (iv) a consignee referred to in article 14(2), where the goods are dispatched from another Member State;

(b) from the place of importation to any of the destinations referred to in paragraph (a), where the goods are dispatched by a registered consignor:

Provided that for the purposes of this paragraph, "place of importation" means the place where the goods are when they are released for free circulation in accordance with Article 79 of Regulation (EEC) No 2913/92.

(2) By way of derogation from subarticle 1(a)(i) and (ii) and (b) hereof, and except in the situations referred to in the proviso to article 10A(3), the Comptroller may, under the conditions which he lays down, allow excise goods to be moved under a duty suspension arrangement to a place of direct delivery, where that place has been designated by the authorised warehouse keeper or by the registered consignee. The authorised warehouse keeper or the registered consignee shall remain responsible for submitting the report of receipt referred to in regulation 10 to Part H of the Sixth Schedule.

(3) subarticles (1) and (2) shall also apply to movements of excise goods at a zero rate which have not been released for consumption.

(4) A movement of excise goods shall be considered to take place under a duty suspension arrangement only if it takes place under cover of an electronic administrative document process in accordance with the procedure contemplated under Part H of the Sixth Schedule to this Act."

Amendment of article 10 of the principal Act.

6. Article 10 of the principal Act shall be amended as follows:

(a) the whole article shall be renumbered as subarticle (1) thereof, and in paragraph (e) thereof, for the words "stock checks." there shall be substituted the words "stock checks:";

(b) immediately at the end of subarticle (1) thereof as renumbered, there shall be inserted the following proviso:

"Provided that the Comptroller, under the conditions set by him, may allow the guarantee referred in paragraph (a) to be provided by the transporter or carrier, the registered consignor, the owner of the excise goods, the consignee, or jointly by two or more of the said persons herein mentioned."; and

(c) immediately after the proviso to subarticle (1) thereof, as renumbered, there shall be added the following new subarticles:

"(2) The guarantee mentioned in the previous subarticle shall be valid throughout the Community and its detailed rules shall be laid down by the Comptroller.

(3) The Comptroller may waive the obligation to provide a guarantee in respect of the following movements of excise goods under a duty suspension arrangement:

(a) movements which take place entirely in Malta;

(b) where the other Member States concerned so agree, movements of energy products within the Community by sea or by fixed pipeline."

7. For subarticle (3) of article 10A of the principal Act, there shall be substituted the following:

Amendment of article 10A of the principal Act.

"(3) A registered consignee shall comply with the following requirements:

(a) before dispatch of the excise goods, guarantee payment of excise duty under the conditions fixed by the Comptroller;

(b) at the end of the movement, enter in his accounts excise goods received under a duty suspension arrangement;

(c) consent to all monitoring and stock checks enabling the Comptroller to verify that the goods have actually been received:

Provided that where a registered consignee receives excise goods only occasionally, the authorisation granted by the Comptroller shall be limited to a specified quantity of excise goods, a single consignor and a specified period of time or to a single movement. The Comptroller may limit the authorisation for one movement."

8. Immediately after paragraph (f) of subarticle (1) of article 13 of the principal Act, there shall be added the following new paragraphs:

Amendment of article 13 of the principal Act.

"(g) the procedure to be followed on a movement of excise goods under suspension of excise duty;

(h) guide levels to determine the quantity of an article subject to excise duty."

Amendment of article 14 of the principal Act.

9. Immediately after paragraph (c) of subarticle (2) of article 14 of the principal Act, there shall be added the following:

"(d) excise goods intended to be used by international organizations recognized by the host Member State, and by members of such organizations, within the limits and under the conditions laid down by the international conventions establishing such organizations or by headquarters agreements;

(e) excise goods intended to be used for consumption under an agreement concluded with third countries or international organizations provided that such an agreement is allowed or authorised with regard to an exemption from value added tax:

Provided that excise goods moving under a duty suspension arrangement to a person referred to in this subarticle shall be accompanied by an exemption certificate in the form and content established by the Comptroller."

Addition of new articles 14A to 14F to the principal Act.

10. Immediately after article 14 of the principal Act, there shall be inserted the following new articles:

"Excise goods acquired by a private individual.

14A. (1) Excise duty on excise goods acquired by a private individual for his own use, and personally transported from a Member State to Malta, shall be charged in the Member State in which the excise goods are acquired.

(2) To determine whether the excise goods referred to in subarticle (1) are intended for the own use of a private individual, the Comptroller shall take account of the following:

(a) the commercial status of the holder of the excise goods and his reasons for holding them;

(b) the place where the excise goods are located or, if appropriate, the mode of transport used;

(c) any document relating to the excise goods;

(d) the nature of the excise goods; and

(e) the quantity of the excise goods.

(3) For the purposes of applying subarticle (2)(e), the Minister may make regulations laying down guide levels, solely as a form of evidence.

(4) The Minister may, by notice in the Gazette, also provide that excise duty shall become due on the acquisition of mineral oils already released for consumption in another Member State if such products are transported by a private individual using atypical modes of transport.

Excise goods
already released
for consumption.

14B. (1) Without prejudice to article 14D(1), excise goods which have already been released for consumption in one Member State and are held for commercial purposes in Malta in order to be delivered or used in Malta, shall be subject to excise duty in Malta:

Provided that for the purpose of this subarticle, holding for commercial purposes shall mean the holding of excise goods by a person other than a private individual or by a private individual for reasons other than his own use and transported by him.

(2) Excise duty due in terms of subarticle (1) shall be paid by the person making the delivery or holding the goods intended for delivery, or to whom the goods are delivered in the other Member State, as the case may be.

(3) Without prejudice to article 14F, excise goods which have already been released for consumption in one Member State and move within the Community for commercial purposes shall not be regarded as being held for such purposes until they reach the Member State of destination, provided that they are moving under cover of the formalities set out at Part H of the Sixth Schedule.

(4) Excise goods which are held on board a boat or aircraft making sea-crossings or flights between Malta and another Member State but which are not available for sale when the boat or aircraft is in the Maltese territory shall not be regarded as held for commercial purposes in Malta.

(5) When excise duty for excise goods which were released for consumption in Malta had become chargeable and collected in another Member State, the Comptroller may request the authorities of the other Member State for a reimbursement or remittance of the duty paid.

Excise goods released for consumption in terms of article 14B(1).

14C. (1) Excise goods which have been released for consumption in terms of article 14B(1) shall move between the territories of the various Member States under cover of an accompanying document listing the main data from the document referred to at Part H of the Sixth Schedule.

(2) The persons referred in article 14B(2) shall comply with the following requirements:

(a) before the goods are dispatched they shall submit a declaration to the Comptroller and guarantee payment of the excise duty;

(b) pay the excise duty to the Comptroller after the excise goods arrive;

(c) consent to any checks by an excise officer to satisfy himself that the excise goods have actually been received and that the excise duty chargeable on them has been paid.

Excise goods
already released
for consumption
in a Member
State.

14D. (1) Excise goods already released for consumption in one Member State, which are purchased by a person, other than an authorised warehouse keeper or a registered consignee, established in another Member State who does not carry out an independent economic activity, and which are dispatched or transported to Malta directly or indirectly by the vendor or on his behalf, shall be subject to excise duty.

(2) In the case referred to in subarticle (1), the excise duty shall become chargeable at the time of delivery of the excise goods. The chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which the duty becomes chargeable.

(3) The person liable to pay the excise duty is the vendor who shall comply with the following requirements:

(a) before dispatching the excise goods, he shall register his identity and guarantee payment of the excise duty with the Comptroller and be subject to the conditions laid down by the Comptroller;

(b) pay the excise duty to the Comptroller after the excise goods arrive;

(c) keep accounts of deliveries of the excise goods:

Provided that the Minister may enter into bilateral agreements with other Member States in order to simplify these requirements.

(4) In the case referred to in subarticle (1), the excise duty levied shall be reimbursed or remitted by the Comptroller at the vendor's request, where the vendor has followed the procedures laid down in subarticle (3).

(5) The Minister may, by a notice in the Gazette, lay down specific rules for applying subarticles (1) to (4) to excise goods that are covered by special national distribution arrangements.

Loss of excise goods during transport.

14E. (1) In the situations referred to in article 14B(1) and article 14D(1), in the event of the total destruction or irretrievable loss of the excise goods, during their transport, which were not released for consumption in Malta, as a result of the actual nature of the goods, or unforeseeable circumstances, or *force majeure*, or as a consequence of authorisation by the Comptroller, the excise duty shall not be chargeable in Malta:

Provided that the total destruction or irretrievable loss of the excise goods in question shall be proven to the satisfaction of the Comptroller. Furthermore, the guarantee lodged pursuant to article 14C(2)(a) or article 14D(4)(a) shall be released.

(2) The Minister may, after consulting the Comptroller, by notice in the Gazette, lay down the rules and conditions under which the losses referred to in subarticle (1) are determined.

Irregularity occurring or detected in Malta.

14F. (1) Where an irregularity has occurred in Malta during a movement of excise goods under article 14B(1) or article 14D(1), and such excise goods were released for consumption in another Member State, they shall be subject to excise duty.

(2) Where an irregularity has been detected in Malta during a movement of excise goods under article 14B(1) or article 14D(1), and such excise goods were released for consumption in another Member State, and it is not possible to determine where the irregularity occurred, the irregularity shall be deemed to have occurred in Malta:

Provided that if, before the expiry of a period of three years from the date on which the excise goods were acquired, it is ascertained in which Member State the irregularity actually occurred, the provisions of subarticle (1) shall apply.

(3) The excise duty shall be due from the person who guaranteed payment thereof in accordance with article 14C(2)(a) or article 14D(4)(a) and from any person who participated in the irregularity:

Provided that, if the excise goods were released for consumption, the Comptroller shall, upon request, reimburse or remit the excise duty in the Member State where the irregularity occurred or was detected. Furthermore, the Comptroller shall release the guarantee lodged pursuant to article 14(C)(2)(a) or article 14D(4)(a).

(4) For the purposes of this article, "irregularity" means a situation occurring during a movement of excise goods under article 14B(1) or article 14D(1), not covered by article 14E, due to which a movement, or a part of a movement, of excise goods has not duly ended."

11. Subarticle (1) of article 15 of the principal Act shall be amended as follows:

Amendment of article 15 of the principal Act.

(a) for the words "No excise duty" there shall be substituted the words "Unless otherwise specified in this Act, no excise duty"; and

(b) in the first proviso thereto, for the words "duty has been paid:" there shall be substituted the words "duty has been paid and excise duty on excise goods which have been released for consumption may, at the request of the person concerned, be

reimbursed or remitted by the Minister where those goods were released for consumption in the situations identified by the Minister and in accordance with the conditions that the Minister shall lay down by a notice in the Gazette for the purpose of preventing any possible evasion or abuse. Such reimbursement or remission may not give rise to exemptions other than those provided in article 14:".

Passed by the House of Representatives at Sitting No. 255 of the 14th July, 2010.

MICHAEL FRENDU
Speaker

PAULINE ABELA
Clerk to the House of Representatives