L.N. 237 of 2002

MALTA RESOURCES AUTHORITY ACT, 2000

(ACT NO. XXV OF 2000)

Crude Oil and Petroleum Products (Minimum Security Stocks and Crisis Management) Regulations, 2002

BY virtue of the powers conferred by article 28(1) of the Malta Resources Authority Act, 2000, hereinafter referred to as "the Act", the Minister for Resources and Infrastructure, after consultation with the Malta Resources Authority, has made the following regulations:-

Title, commencement and scope.

1. (1) The title of these regulations is the Crude Oil and Petroleum Products (Minimum Security Stocks and Crisis Management) Regulations, 2002.

(2) (a) These regulations shall come into force on such date as the Minister may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of these regulations.

(b) A notice under paragraph (a) of this sub-regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

(3) These regulations are aimed at the maintenance of minimum security stocks of crude oil and petroleum products and at providing the competent authority with the necessary powers to manage such stocks in the event of difficulties arising in the supply of crude oil and petroleum products which might appreciably reduce the supply of these products and cause severe disruption.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

"competent authority" means the Malta Resources Authority;

"market operator" shall mean a person, including both natural and legal persons, duly licensed to carry out operations in crude oil or petroleum products;

"Minister" means the Minister responsible for resources;

"operations in crude oil or petroleum products" includes the production, refining, importation, exportation, storage and wholesale distribution of crude oil or petroleum products.

Minimum stockpiling.

3. (1) The competent authority shall ensure that at all times, subject to the provisions of regulation 6 hereof, the security stocks of petroleum products in Malta are kept at a level corresponding, for each of the categories of petroleum products listed in regulation 4 hereof, to at least ninety days' of average daily internal consumption in the preceding calendar year referred to in regulation 7 hereof;

Provided that that part of consumption met by derivatives of petroleum produced indigenously may be deducted up to a maximum of twenty-five per centum of the said consumption.

(2) The competent authority shall establish fair and non-discriminatory security stockholding arrangements.

(3) In order to fulfil the requirements of these regulations, the competent authority shall designate a market operator or market operators and, or designate or set up a stockholding body or entity to hold all or part of the security stocks.

(4) The designated market operator or operators or entity may, following an agreement between the Government of Malta and the Government of another State concerning the establishment of security stocks of crude oil and petroleum products within the territory of that State and subject to the approval of the competent authority, maintain part of the stocks required to be held in terms of sub-Regulation (1) within the territory of such State and such stocks shall count towards the fulfilment of the obligations under these regulations.

(5) The competent authority may require market operators to maintain a minimum operating stock as separate from security stock.

Product categories to be taken into account.

4. The following categories of products shall be taken into account in calculating internal consumption:-

(i) motor spirit and aviation fuel (aviation spirit and jet-fuel of the gasoline type);

(ii) gas oil, diesel oil, kerosene and jet-fuel of the kerosene type; and

(iii) fuel oils:

Provided that bunker supplies for sea-going vessels shall not be included in the calculation of internal consumption.

Maintenance of security stocks.

5. (1) Security stocks required to be maintained under regulation 3 may be maintained in the form of crude oil and intermediate products, as well as in the form of finished products. In the monitoring and reporting procedures of stocks provided for in regulation 7, finished products shall be accounted for according to their actual tonnage; crude oil and intermediate products shall be accounted for:

(i) in the proportions of the quantities for each category of product obtained during the preceding calendar year from the source refineries, or

(ii) on the basis of the production programmes of the source refineries for the current year, or

(iii) on the basis of the ratio between the total quantity manufactured during the preceding calendar year of products covered by the obligation to maintain stocks and the total amount of crude oil used during that year; the foregoing shall apply to not more than forty per centum of the total obligation for the first and second categories (petrol and gas oils), and to not more than fifty per centum for the third category (fuel oils).

(2) Blending components, when intended for processing into the finished products listed in regulation 4 hereof, may be substituted for the products for which they are intended.

Level of minimum security stocks.

6. (1) When calculating the level of minimum stocks provided for in regulation 3 hereof, only those quantities which would be held in accordance with regulation 3 shall be included in the monitoring and reporting procedures under regulation 7.

(2) Subject to the provisions of the sub-regulation 1, the following may be included in the calculation of security stocks:

(i) supplies on board oil tankers in port for the purpose of discharging, once the port formalities have been completed;

(ii) supplies held in ports of discharge;

(iii) supplies held in tanks at the entry to oil pipelines;

(iv) supplies held in refinery tanks, excluding those supplies in pipes and refining plant;

(v) supplies held in storage by market operators;

(vi) supplies held in barges and coasting-vessels engaging in transport within national frontiers, in so far as it is possible for the competent authority to keep a check on such supplies and provided that the supplies could be made available immediately.

(3) The following shall be excluded from the monitoring and reporting procedures, compiled further to regulation 7:

(i) indigenous crude oil not yet extracted;

(ii) supplies intended for the bunkers of sea-going vessels;

(iii) supplies in direct transit;

(iv) supplies in pipelines, in road tankers and rail tank-wagons, in the storage tanks of retail outlets, and those held by small consumers;

(v) quantities held by the armed forces and those held for them by the oil companies.

Monitoring and reporting procedures.

7. (1) The competent authority shall adopt all the necessary provisions and take all the necessary measures to monitor consumption, and to ensure the control and supervision of stocks. It shall put in place mechanisms to verify the stocks held according to the provisions of these regulations.

(2) The competent authority shall collect, verify and process information in such format and at such intervals and for such periods as it deems appropriate, which shall include:

(i) the consumption of all products related to the production of energy broken down by major products and sectors of consumption;

(ii) the production of all petroleum and crude oil products;

(iii) the stock levels of crude oil and petroleum products;

(iv) the stock changes and orders in crude oil and petroleum products;

(v) the stocks of crude oil and petroleum products held in marine bunkers;

(vi) the importation of crude oil and petroleum products by:

(a) source;

(b) type;

(c) amount.

(vii) the exports of crude oil products by:

(a) destination;

(b) type;

(c) amount.

(3) Where difficulties in the supply of crude oil and petroleum products arise, the competent authority may request this information to be supplied in the form of estimates in accordance with a procedure which it may establish.

(4) The market operator or operators or body designated in terms of regulation 3(3) shall allow the competent authority and any person authorised by it such access to any premises, installations, documents, records or other information as may be reasonably required for the purpose of investigating any matter relevant to the compliance of the provisions of these regulations and any directives or orders issued thereunder.

(5) The competent authority shall compile a statistical summary of security stocks existing at the end of each month, drawn up in accordance with regulations 5 and 6 hereof, and specifying the number of days of average consumption in the preceding calendar year which those stocks represent. This summary shall at the latest be compiled by the twentieth day of the second month following the month to be reported. In the monitoring and reporting procedures and statistical summary, stocks of jet fuel of the kerosene type shall be reported separately under the second category.

(6) At the beginning of each calendar year, the competent authority shall re-calculate its stockholding obligation, which calculation is to be based on the consumption of the previous calendar year, at the latest by the last day of March of that year, and ensure that the designated operator or operators or entities designated in terms of regulation 3(3)

comply with their new obligations as soon as possible and, in any event, at the latest by the first day of July of that year.

(7) The competent authority will treat information acquired by virtue of these Regulations as confidential and shall only publish such information in an aggregate or collated form.

Cost burden and cost recovery.

8. (1) The cost burden resulting from the maintenance of security stocks in accordance with regulation 3 hereof shall be identified and calculated by transparent mechanisms. In this context, the competent authority shall adopt measures to obtain any information which it may deem appropriate regarding the cost burden of holding stocks in accordance with the regulation 3.

(2) The competent authority shall establish the mechanisms for the recovery of part or all of the accrued costs resulting from the maintenance of stocks in accordance with these Regulations.

Powers during a supply crisis.

9. (1) The competent authority shall draw up intervention plans for use in the event of difficulties arising in the supply of crude oil and petroleum products which might appreciably reduce the supply of these products and cause severe supply disruptions. Such plans shall be effective, shall provide for the minimum market intervention, be proportionate to the nature, severity and foreseen duration of the threat and shall take into account the following factors:

(a) Whether the threat faced is a potential one or whether it is actual;

(b) Whether the threat is a physical threat or an economic threat;

(c) The severity of the threat;

(d) Any other factors which the competent authority may consider to be relevant:

Provided that the intervention plans may include a target for reducing consumption of petroleum products in Malta by up to ten per centum of normal consumption where difficulties arise in the supply of crude oil or petroleum products. Should the competent authority take the decision to adopt such a target in the intervention plans, such target shall be applicable for a maximum of two months. Such intervention plans may include the possibility of withdrawing on emergency stocks held in accordance with these Regulations.

(2) Intervention plans drawn in pursuance of the provisions of sub-regulation (1) shall be subject to the approval of the Minister.

(3) Stocks maintained in accordance with regulation 3 shall be fully at the disposal of the competent authority should difficulties arise in obtaining oil supplies. The Minister, acting in consultation with the competent authority shall have the power to control the use of stocks in such circumstances. At all other times, the competent authority shall ensure the availability and accessibility of these stocks.

(4) The Minister, acting in consultation with the competent authority shall have the power, in the event of difficulties arising in the supply of crude oil and petroleum products which might appreciably reduce the supply of these products and cause severe disruption, to:

(a) impose specific or broad restrictions on consumption, depending on the estimated shortages, and give priority to supplies of petroleum products to certain groups of users;

(b) draw on emergency stocks held in accordance with these regulations;

(c) regulate prices in order to prevent abnormal price rises.

Provided that the Minister may order the withdrawal of emergency stocks and the implementation of intervention plans under sub-regulation 1 in circumstances of crisis other than difficulties arising in the supply of crude oil and petroleum products.

Offences and penalties.

10. (1) Any market operator who contravenes the provisions of these Regulations or of any order, direction or prohibition issued thereunder shall be guilty of an offence and shall be liable, on conviction, to pay a fine (*multa*) not exceeding ten thousand liri.

(2) Any person who, when information with respect to these Regulations is requested by the Authority, knowingly or recklessly:

(a) gives any false, inaccurate or misleading information; or

(b) supplies incomplete information; or

(c) fails, without reasonable cause to supply information requested within the time given; or

(d) prevents or hinders any investigation; or

(e) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any material respect,

shall be guilty of an offence and be liable, on conviction, to pay a fine (*multa*) of not less than one hundred liri and not more than one thousand liri.

Suspension or revocation of licence by the Authority.

11. The Authority may, where an offence has been committed, suspend or revoke any licence or authorisation which it may have granted to a market operator who breaches any of the provisions of these regulations or any order, direction or prohibition issued thereunder.

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