I assent.

(L.S.)

UGO MIFSUD BONNICI
President

28th April, 1995

ACT No. VIII of 1995

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) Tax Act, 1995.

Interpretation.

2. In this Act unless the context otherwise requires:

"Authority" means the Malta Maritime Authority established under the Malta Maritime Authority Act, 1991 and includes any officer or employee of the Authority;

Act No. XVII of 1991.

"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 where those fuels are for fuelling the same ship or its machinery;

"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. 2710.00.69.00 and H.S. 2710.00.78.00 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.

Levy of tax.

3. 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.

Time and manner of payment of tax.

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.

(2) Notwithstanding the provisions of subsection (1) of this section, 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.

Responsibility for bunkering of fuels.

Cap. 272.

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 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.

(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.

Grant of licences by the Authority.

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

(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 Authortiy shall have the exclusive authority to issue licences and to make any arrangement or agreement referred to in this section, but 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 rates of tax appearing in 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 or any other matter which may appear to be necessary or expedient for the better carrying out of the provisions of this Act.

Power of the Authority, of the Police and Customs.

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.

(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 tax, fees and charges imposed by this Act.

Offences and penalties.

9. (1) Any person who:

(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.

Exemption or refund of tax.

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.

Transitory provision.

11. Until the Import Duties Act (Cap. 337) is amended by the Bill entitled "An Act further to amend the Import Duties Act, Cap. 337", Bill No. 118, read for the first time on the 7th December, 1994, the references to "H.S. 2710.00.69.00" and "H.S. 2710.00.78.00" in section 2 and in the Schedule shall be read respectively as "H.S. 2710.00.93" and "H.S. 2710.00.94".

SCHEDULE

(Section 3)

Fuel falling under H.S. 2710.00.69.00; a tax of 40 cents per metric ton or part thereof.

Fuel falling under H.S. 2710.00.78.00; a tax of 20 cents per metric ton or part thereof.

Passed by the House of Representatives at Sitting No. 414 of 25th April, 1995.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

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