

AGREEMENT
ON THE MAINTENANCE OF STOCKS OF CRUDE OIL AND PETROLEUM PRODUCTS
STORED IN THE TERRITORY OF THE ITALIAN REPUBLIC AND OF THE REPUBLIC OF
MALTA
BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC
AND
THE GOVERNMENT OF THE REPUBLIC OF MALTA

Having regard to the Council Directive 2006/67/EC of 24 July 2006 imposing an obligation on Members States of the EEC to maintain minimum stocks of crude oil and/or oil products (EEL 217 of 8.8.2006 p.8-15);

Having regard to article 7 (1) of the Directive which provides for the establishment of stocks within the territory of a Member State for the account of companies, or bodies/entities, established in another Member State, under intergovernmental agreements;

Having regard to the laws on petroleum stockholding in force in the Italian Republic and in the Republic of Malta;

Have agreed as follows:

Article 1
DEFINITIONS

For the purpose of this Agreement, unless the context otherwise requires:

- "Commission" means the Commission of the European Union;
- "Contracting Parties" means the Government of the Italian Republic and the Government of the Republic of Malta;
- "Malta law" means the Crude Oil and Petroleum Products (Minimum Security Stocks and Crisis Management) Regulations, 2002 of Malta as amended from time to time or any other legislation in force in Malta regulating security stocks;
- "Italian law" means the Italian law with title "the legislative decree of 31st January 2001, n.22 as amended from time to time or any other legislation in force in Italy regulating security stocks;
- "Competent authorities" means:
 - (i) in the case of Italy, the Ministry for Economic Development or any person or entity established by law in Italy for holding of security stocks authorized by it,
 - (ii) in the case of Malta, the Ministry of Resources or any person or entity established by law in Malta for holding of security stocks authorized by it

who are responsible for the supervision of the fulfilment of stockholding obligations under this Agreement;

- "monthly report" means the report prepared according to the provisions of article 8 of this Agreement;

- "petroleum product" means any product derived from the processing of crude oil which is included in the products specified in the enclosure A of the Italian Law and in regulation 4 of the Malta Law;

- "statistical summary" means the report that is submitted to the Commission by the Member States according to article 4 of the Directive;

- "stocks" means stocks of crude oil and petroleum products including blended and finished products covered by Directive 2006/67/EC;

- "territory" means the area over which the Contracting Parties exercise their jurisdiction;

"designated stockholding body or entity" means any subject obliged to hold stock according to Malta law or Italian Law;

"undertaking" means any legal person established in the territory of the Italian Republic which is required to hold stocks on behalf of Maltese the designated stockholding body or entity and any other undertaking established in the territory of the Republic of Malta which has been asked to hold stocks on behalf of Italian designated stockholding body or entity.

Article 2 SCOPE

This Agreement applies to stocks of petroleum oil products provided for in regulation 4 of Malta Law and in the legislative decree of 31st January 2001, n.22, articles 3 and 4 of the Italian Republic.

Article 3 MAINTAINANCE OF STOCKS

(1) According to this Agreement, and for the purposes of the same, the Maltese designated stockholding body or entity may hold stocks in Italy. Such stocks may be held directly by designated stockholding body or entity, or on behalf of designated stockholding body or entity by an undertaking established in Italy.

(2) Italian designated stockholding body or entity may maintain stocks in Malta. Such stocks can be held directly by Italian firms or on behalf of Italian firms by an undertaking established in Malta.

(3) The minimum period of such storing shall, in any case, not be less than ninety days

Article 4 STATISTICAL SUMMARY

(1) Subject to the provisions of this Agreement, stocks held by Italian firms or on their behalf by an undertaking established in the territory of the Republic of Malta shall be included in the statistical summary that the Italian Republic submits to the Commission and stocks held by Maltese designated stockholding body or entity or on their behalf by an undertaking in the territory of the Italian Republic shall be included in the statistical summary that the Republic of Malta submits to the Commission.

(2) If an undertaking established in Italy holds stocks on behalf of Maltese designated stockholding body or entity according to article 3, then those stocks shall not be taken into account for the preparation of the statistical summary that Italy submits to the Commission and if an undertaking established in Malta maintains stocks on behalf of Italian firms according to article 3 then those stocks shall not be taken into account for the preparation of the statistical summary that Malta submits to the Commission.

Article 5 TRANSFER OF STOCKS

Each Contracting Parties shall under no circumstances oppose the transfer of stocks held by or on behalf of entities of the other Contracting Party in its own territory and to which this Agreement applies, from its own territory to the territory of the other Contracting Party .

Article 6 CONDITIONS FOR MAINTAINING STOCKS

- (1) No stocks may be taken into account according to par.1 of article 3 of this Agreement unless:
- (a) the designated stockholding body or entity has submitted its request to hold stocks outside of Malta to the Ministry of Resources and no later than 20 working days prior to the commencement of the period to which the request relates, has furnished the Ministry of Resources with the following particulars:
 - (i) type (crude oil, product category) and quantity of the stocks;
 - (ii) an exact description of the location of storage of the stocks; and
 - (iii) the period of time for which the authorisation from the competent authorities for holding the stocks is requested.
 - (iv) The requesting firm must be able to prove that it has full availability of the stocks, of its own or hired, for the whole period for which the authorization is requested; the method of establishing the price of acquisition or hiring of the stocks must be agreed upon by interested parties.
 - (v) The requesting firm must undertake, upon request of the Ministry of Resources in case of difficulties in the oil supply, to return to the territory of Malta, within a short period, stocks which had been transferred to the Italian Republic.

In case the stocks are held on behalf of designated stockholding body or entity by an undertaking established in Italy, designated stockholding body or entity shall submit, in addition to the information stipulated in (i), (ii) and (iii) of paragraph (a), the following information:

- (vi) name and address of the undertaking in Italy where the stocks are to be held; and
 - (vii) the provisions of the Agreement by virtue of which the stocks are to be held on behalf of designated stockholding body or entity by the undertaking.
- (b) The Ministry of Resources has submitted the request of designated stockholding body or entity referred to in paragraph (a) to the Ministry of Economic Development, together with all the information stipulated in subparagraphs (a)(i) to (iii) or (a)(i) to (v), according to the case.

- (c) The Ministry of Economic Development has notified to the Ministry of Resources his decision regarding the requested authorisation no later than 10 days prior to the commencement of the period to which the request relates.
- (2) If the stocks which the designated stockholding body or entity holds in Italy are not owned by the designated stockholding body or entity, but are held on behalf of the designated stockholding body or entity by a undertaking established in the territory of Italy, in order for these stocks to be considered as stocks of the Republic of Malta for the purposes of article 4 of this Agreement, the following conditions shall be met:
- (i) there shall be a written agreement signed between the designated stockholding body or entity and the undertaking established in Italy in which the parties regulate the relationship between them, including the methods of establishing the price for the acquisition of stocks.
 - (ii) the designated stockholding body or entity shall have the contractual right to acquire the stocks throughout the period of the contract referred to in paragraph (2)(i);
 - (iii) the minimum period of such a contract shall be ninety days;
 - (iv) the storage location and the undertakings holding the stocks on behalf of the designated stockholding body or entity as well as the quantity and the category of petroleum products or crude oil stored in that location shall be specified;
 - (v) the actual availability of the stocks for the designated stockholding body or entity shall be guaranteed, at all times throughout the period of the contract, by the undertaking or body or legal person holding the stocks at the disposal of the designated stockholding body or entity; and
 - (vi) the undertaking or body or legal person which holds the stocks at the disposal of the designated stockholding body or entity shall be an undertaking or body or legal person subject to the jurisdiction of Italy with respect to the legal powers of Italy to control and verify the existence of the stocks.
- (3) The Ministry of Economic Development may withdraw the authorisation granted according to the provisions of paragraph (1)(c), in case of any inaccuracy in the information provided with respect to the request referred to in par.1 (a) or in case of any material change in the issues to which that information refers. Before withdrawing the said authorisation, the Ministry of Economic Development shall inform the Ministry of Resources and give the undertaking which has provided the information the right to present observations.
- (4) No stocks may be taken into account according to paragraph (2) of article 3 of this Agreement unless:
- (a) the interested Italian firm has submitted its request to hold stocks in the Republic of Malta to the Ministry of Economic Development and no later than 20 working days prior to the commencement of the period to which the request relates, has provided the Ministry of Economic Development with the following information:
 - (i) type (crude oil or categories of products) and quantity of the stocks;
 - (ii) name and address of the firm that is responsible for holding the stocks in the territory of Malta and exact description of the location of storage of the stocks

- (iii) the period of time for which authorization from the competent authorities for holding the stocks is requested.
- (iv) The requesting firm must be able to prove that it has full availability of the stocks, of its own or hired, for the whole period for which the authorization is requested; the method of establishing the price of acquisition or hiring of the stocks must be agreed upon by the interested parties.
- (v) The requesting firm must undertake, upon request of the Ministry of Economic Development in case of difficulties in the oil supply, to return to the territory of Italy, within a short period, stocks which had been transferred to the Republic of Malta.

In case the stocks are held on behalf of the Italian designated stockholding body or entity by an undertaking established in Malta, the designated stockholding body or entity shall submit, in addition to the information stipulated in (i), (ii) and (iii) of paragraph (a), the following information:

- (vi) name and address of the undertaking in Italy where the stocks are to be held; and
 - (vii) the provisions or the agreement by virtue of which the stocks are to be held on behalf of designated stockholding body or entity by the undertaking.
- (b) The Ministry of Economic Development has submitted the request with all related information to the Ministry of Resources, together with all information stipulated in subparagraphs (a) from (i) to (v).
 - (c) The Ministry of Resources has notified to the Ministry of Economic Development his decision regarding the requested authorization no later than 10 days prior to the beginning of the period to which the request refers.
- (5) If the stocks which the Italian firm holds in Malta are not owned by the Italian firm but are held on her behalf by an undertaking established in the territory of Malta, in order for these stocks to be considered as stocks of the Italian Republic for the purposes of article 4 of this Agreement, the following conditions shall be met:
- (i) there shall be a written agreement signed between the Italian firm and the undertaking established in Malta in which the parties regulate the relationship between them, including the methods of establishing the price for the acquisition of stocks.
 - (ii) the Italian firm shall have the contractual right to acquire the stocks throughout the period of the contract referred to in paragraph (7)(i);
 - (iii) the minimum period of such a contract shall be ninety days;
 - (iv) the storage location and the undertakings holding the stocks on behalf of Italian firm as well as the quantity and the category of petroleum products or crude oil stored in that location shall be specified;
 - (v) the actual availability of the stocks for the Italian firm shall be guaranteed, at all times throughout the period of the contract, by the undertaking or body or legal person holding the stocks at the disposal of the Italian firm; and
 - (vi) the undertaking or body or legal person which holds the stocks at the disposal of the Italian firm shall be a undertaking or body or legal person subject to the jurisdiction of

Malta with respect to the legal powers of Malta to control and verify the existence of the stocks.

(6) The Ministry of Resources may withdraw the authorization granted according to the provisions of paragraph (4) (c), in case of inaccuracy in the information provided in respect of the request referred to in paragraph (4)(a) or in case of any material change in the issues to which the information relates. Before withdrawing the said authorization, the Ministry of Resources shall inform the Ministry of Economic Development and give the undertaking which has provided the information the right to present observations.

Article 7 MONITORING AND INSPECTION

(1) Under this Agreement, the competent authorities of each Contracting Party will monitor and conduct the inspections which are necessary in order to verify the availability of stocks held on its own territory by or on behalf of entities of the other Contracting Party and the continuing fulfillment of all obligations related to the maintenance of these stocks.

(2) The competent authorities, at regular intervals which do not exceed 3 months, will provide information to each other on the monitoring, the inspections carried out and their results.

(3) In case the condition of the stocks does not ensure the fulfillment of required quality and quantity standards, the responsible competent authority shall inform the other competent authority as soon as possible.

Article 8 MONTHLY REPORT

(1) (a) The Ministry of Economic Development requires any undertaking holding stocks on behalf of the Maltese designated stockholding body or entity on the Italian territory to submit at least one report on these stocks monthly. This monthly report shall be submitted at latest within ten days after the end of the month to which the report refers.

(b) The Ministry of Resources requires any undertaking holding stocks in the territory of Malta on behalf of Italian undertaking to submit at least one report on these stocks monthly. This monthly report shall be submitted at latest within ten days after the end of the month to which the report refers.

(2) Each monthly report to be furnished under par.1 will include the following information:

- (a) the name and address of the undertaking holding stocks in Italy or Malta.
- (b) the nature and quantity of the stocks; and
- (c) the location of the tanks where the stocks are held.

(3) The competent authorities transmit to each other copy of the monthly reports received under par.1.

(4) The competent authorities shall check within the framework of article 7 the information contained in monthly reports submitted according to the provisions of this article and shall notify to each other any discrepancies observed.

**Article 9
CONSULTATION AND
DISPUTES RESOLUTION**

The Contracting Parties agree to consult one another as reasonably practicable:

- (a) in the event of a supply crisis or of a shortfall of oil stocks subject to this Agreement or
- (b) at the request of either of them with respect to:
 - (i) the resolution of any difficulty arising from interpretation or application of this Agreement; or
 - (ii) the amendment of any of the terms of this Agreement.

**Article 10
AMENDMENT OF THE AGREEMENT**

This Agreement may be amended by mutual agreement between the Contracting Parties. The amended Agreement shall enter into force immediately according to the respective relevant procedures.

**Article 11
ENTRY INTO FORCE**

This Agreement shall enter into force on the date of the last written notice by which the Contracting Parties notify through diplomatic channels that their respective internal procedures for the entry into force have been complied with.

**Article 12
DURATION AND TERMINATION**

- (1) Subject to the provisions of paragraph 3, the Agreement -
 - (a) shall be in force for an unlimited time period;
 - (b) may be terminated by either Contracting Party with a written notice through the diplomatic channel at least six months prior to the end of any calendar year. In case of termination, the Agreement shall cease to be in force from the first day of the following calendar year.
- (2) Neither Contracting Party will make use of the right of termination according to par.1 without prior notice to the Commission.
- (3) The provisions of par.1 b) shall not apply during period of supply crisis. The term "supply crisis" shall, for the purpose of this Agreement, have the same meaning given to it by article 7 of the Directive.

IN WITNESS WHEREOF the undersigned Representatives, duly authorized by their respective Government, have signed the present Agreement.

Done in on..... and signed, in two originals, in the English language and in the Italian language, all being equally authentic. In case of differences in the interpretation, the English language shall prevail.

On behalf of the Government
of the Italian Republic

On behalf of Government
of the Republic of Malta

Date, Signature