

The Office of the Prime Minister (Energy & Projects)

Technical and Cost-Benefit Analysis for the Deployment of LNG fuel in the Maltese Islands

Work Package 3 - Legislative and Regulatory Analysis and Policy Recommendations

Introduction

Climate change has been the subject of a number of debates at European Union level for over a decade, and part of the European Union's push to towards a cleaner future was with the introduction of Directive 2014/94/EU regulating the deployment of an alternative fuels infrastructure. This Directive establishes a requirement on each of the Member States of the European Union to establish a national policy framework for the market development of alternative fuels and the infrastructure which supports such alternative fuels. The fundamental aim of this legislation is to lessen the dependency of fossil fuels within the transportation industry, and simultaneously, promote the use of alternative energy within the Member States. One such form of alternative fuel which is being pushed within the shipping industry is that of Liquefied Natural Gas, or LNG.

In view of this, the Office of the Prime Minister of Malta has commissioned a technical and feasibility study for the deployment of LNG fuel in the Maltese Islands. This study will take into consideration, amongst other aspects, the recommended legislative and policy measures which are to be taken in order to cater for the introduction of LNG fuel into the fuel transportation industry, any incentives which may be proposed to encourage the use of this marine fuel within the Maltese Islands, and the general deployment of LNG fuel as a marine fuel in Malta and Gozo. The necessity of this study is to attain a greater

understanding of the position of the key contributors and players within this segment, as well as determining the requirements and challenges which will be faced in this move towards LNG as a marine fuel. This study as herein described constitutes the scope of Work Package 3 under the Technical and Cost-Benefit Analysis for the Deployment of LNG fuel in the Maltese Islands.

Executive Summary

The legislative study to incorporate LNG as a marine fuel into Maltese law involved a number of key stages. The initial stage involved an in-depth evaluation of all the laws and regulations which were of general relevance to the fuel industry and infrastructure. This study provided a general overview of what laws and regulations regulate the fuel industry, fuel taxing and environmental law as well a working knowledge of fuel bunkering legislation and procedures. This stage would also provide a strong basis on which to build on the subsequent stages of this study. This stage also provided a preliminary platform in order to establish any gaps in Maltese legislation which should be flagged.

This preliminary stage of the legislative study was also conducted in order to answer the immediate legislative concerns of introducing LNG as a marine fuel into Maltese law. Such concerns included whether there were any territorial restrictions which may create issue for this project, as well as any other general restrictions which should be taken into consideration. This stage of the legislative study also oversaw an evaluation of the educational courses available in Malta which relate to LNG bunkering as a marine fuel.

The legal analysis in this stage of this study then sought to determine the legislative situation of foreign countries where LNG fuel is already used within the shipping industry. This study highlighted a number of key guidelines which establish a number of key principles within the sector of LNG bunkering. Amongst many other guidelines, the SIGTTO and IACS Guidelines provided an in-depth guide of the LNG bunkering procedures and practices which are advised. These guidelines delved into a number of fundamental issues such as the design and construction of marine terminals, the appropriate methods of

assessments which are to be carried out throughout the entire bunkering procedure and the training required to prepare workers for LNG bunkering. These guidelines provided useful and practical knowledge on how to prepare Maltese legislation for the incorporation of LNG as a marine fuel.

The second stage of this process involved a deeper elaboration of the legislative gaps found in the first stage of this study. This stage produced a number of key findings, including certain territorial restrictions within the Maltese internal waters and territorial seas, certain gaps in the authorisation process within the fuelling market and a number of potential areas of legislative overlap which need to be addressed in order to properly cater for the incorporation of LNG as a marine fuel within the Maltese fuel market. This stage also elaborated on a number of key environmental law gaps which require addressing in order to fulfil the requirements established by the European Union.

The findings of these previous stages were finally brought together with the drafting of the legislative framework required in order to fully establish LNG as a marine fuel within the Maltese fuel market. This stage of the study involved consolidating all the documentation and findings which the previous stages had established, and identifying the most appropriate foundation on which to build a draft legislative framework.

Through this, it was established that the most appropriate basis on which to build the legislative framework on LNG bunkering would be on two regulations, namely the Bunkering (Authorisation) Regulations, Subsidiary Legislation 545.25, and the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations, Subsidiary Legislation 499.12. Once these Regulations were established, a thorough examination of the provisions of these Regulations was made and, after due consultation with the relevant authorities and parties, a comprehensive list of amendments were made to these respective Regulations. These amendments were then incorporated into a draft version of both the Bunkering (Authorisation) Regulations, Subsidiary Legislation 545.25, and the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering, Subsidiary Legislation 499.12.

The result was the creation of a more holistic legislative framework whereby parties who are interested in carrying out LNG bunkering services must seek authorisations from the Regulator and Transport Malta once these parties have fulfilled the necessary requirements established by international guidelines such as SIGTTO and IACS. This will ensure that the appropriate health and safety procedures are adhered to, that due environmental considerations are made and that the correct protocols and bunkering procedures are followed when carrying out LNG bunkering exercises within the Maltese internal waters.

The outcome of this study resulted in a comprehensive evaluation of the relevant legislation which is currently in force in Malta, including the legislative gaps which need to be addressed in order for LNG bunkering to be better incorporated into Maltese law. Finally, a thorough amendment of the Bunkering (Authorisation) Regulations, Subsidiary Legislation 545.25 and the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering, Subsidiary Legislation 499.12 was made, along with separate documentation to provide an index of each amendment made within each Regulation which is also attached to this folder.

With the legislative recommendations provided herewith, LNG bunkering can be better regulated in the short-to-medium term, such that a number of considerations are made towards a number of aspects, such as risk assessments, health and safety concerns, environmental concerns and procedural concerns. The end result would thereby mean stronger adherence to Directive 2014/94/EU, and a way forward towards a future with greater use of sustainable fuels.

It should furthermore be added and emphasized that, all documentation presented in this portfolio have been drafted after extensive due consultation and discussion with all the relevant bodies and authorities which will have some input in the outcome of these legislative amendments.

Following the completion of the legislative aspects of Work Package 3, the fourth and final part of the Work Package delved into a number of supply-side and demand-side policy recommendations that the Government of Malta may use as a decision-making tool in forming a national policy related to LNG bunkering. Here, general recommendations which Government should consider in the policy formation process along with sustainable financial incentives and fiscal regimes that may be introduced was set forth. Various EU funding opportunities that can assist public and private entities in their investment in LNG infrastructure along with other industry led incentives to encourage take-up of alternative fuels in the maritime sector have also been presented. Lastly, various barriers that persist in the local bunkering market that are to be addressed to support the creation of a mature LNG market have been identified. These measures and initiatives are designed to encourage market demand and maximise the benefits of adopting LNG fuel for maritime purposes.

Outline of Study Presentation – Work Package 3

The content of Work Package 3 of the Technical and Cost-Benefit Analysis for the Deployment of LNG fuel in the Maltese Islands shall be presented as follows:

1. Work Package 3 – Part 1 – Analysis of Legislative Infrastructure (Prepared by Mamo TCV Advocates):
 - a. Legal Questionnaire – Outline of Salient Legislative Instruments;
 - b. Compendium of Applicable Laws and Regulations.
2. Work Package 3 – Part 2 – Gap Analysis (Prepared by Mamo TCV Advocates);
3. Work Package 3 – Part 3 – Proposed Amendments to Current Legislative Framework (Prepared by Mamo TCV Advocates):
 - a. Proposed Legal Notice Carrying Amendments to S.L. 545.25;
 - b. Draft clean version of S.L. 545.25 following introduction of amendments;
 - c. Proposed Legal notice carrying amendments to S.L – 499.12;
 - d. Draft clean version of S.L. 499.12 following introduction of amendments;
 - e. General suggested amendments to various laws and or regulations.
4. Work Package 4 – Part 4 – Policy Recommendations (prepared by PWC).