

MAURITIUS SUGAR TERMINAL CORPORATION ACT

RL 3/653—30 June 1979

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PART I—PRELIMINARY

1 Short title

This Act may be cited as the Mauritius Sugar Terminal Corporation Act.

2 Interpretation

In this Act—

“appointed day” means a day appointed by the Minister for the purposes of section 5;

“authorised body” means any person authorised by the Minister, by regulations, to receive or store sugar or any other commodity;

“Board” means the Sugar Terminal Board established under section 7;

“Chairman” means the Chairman of the Board;

“Corporation” means the Mauritius Sugar Terminal Corporation established under section 3;

“fixed or floating charge” means a fixed or floating charge created under the Loans, Charges and Privileges (Authorised Bodies) Act; [This Act repealed 8/83]

“General Manager” means the person appointed as such under section 10;

“loading and unloading” includes the loading into, and the unloading from ships, barges, lighters or any other means of transport by land or sea;

“Marine Authority” means the Mauritius Marine Authority established by the Ports Act;

“member” means a member of the Board and includes the Chairman;

“Minister” means the Minister to whom responsibility for the Corporation is assigned;

“officer” means any employee of the Corporation;

“quay” includes a jetty and any other similar structure;

“sugar” in relation to a commodity, includes reception, weighing, tallying, storing, or otherwise disposing of the commodity;

“sugar terminal” means all the facilities provided or operated by the Corporation under section 4;

“Syndicate” means the Mauritius Sugar Syndicate.

PART II—ESTABLISHMENT, POWERS AND ADMINISTRATION OF THE CORPORATION

3 Establishment of the Corporation

There is established for the purposes of this Act the Mauritius Sugar Terminal Corporation which shall be a body corporate.

4 Objects of the Corporation

(1) The Corporation shall—

- (a) provide, operate and maintain facilities for the storage, sampling, bagging, packing, loading and unloading of sugar;
- (b) advise the Minister on—
 - (i) the provision of adequate means of inland or, after consultation with the Marine Authority, sea access to the sugar terminal; and
 - (ii) the transport of sugar to the sugar terminal.

(2) The Corporation may carry out such other activity as is not prejudicial to its objects under subsection (1)(a) in regard to such commodity, other than sugar, as the Minister may determine.

(3) For the purposes of this section, the facilities to be provided by the Corporation shall include—

- (a) loading quays and jetties;
- (b) buildings, sheds and other structures;
- (c) plant, machinery and equipment,

for and in connection with the storage, sampling, bagging, packing and loading and unloading of sugar or such other commodity as the Minister may determine.

5 Monopoly of the Corporation

(1) Subject to subsections (2) and (3), no person, other than the Corporation or an authorised body, shall—

- (a) as from the appointed day, store or load into ships any sugar manufactured in Mauritius; or
- (b) during such time as may be fixed by the Minister, by regulations, store any commodity specified in the regulations.

(2) Subject to subsection (3) and to such conditions as may be prescribed as from the appointed day—

- (a) every miller shall cause all sugars manufactured by him to be delivered to the Corporation or, with the approval of the Corporation, to an authorised body;
- (b) the sugar delivered under paragraph (a) shall be consigned to the Syndicate in the name of its owner;
- (c) the Corporation or an authorised body shall receive all sugars manufactured in Mauritius and delivered to it under paragraph (a).

(3) The Board may authorise a miller to store sugar on his premises or at such place as the Board may approve.

6 Powers of the Corporation

(1) The Corporation may enter into an agreement with any person—

- (a) for the performance, or provision, by that person of any service or facility which the Corporation is authorised to perform or provide;
- (b) to provide for, or to facilitate, the assessment, collection or recovery of any amount payable by or to the Corporation.

(2) The Corporation may, with the prior approval of the Minister, undertake, with the Marine Authority, the execution of bulk handling or automated or semi-automated cargo handling operations in respect of any commodity other than sugar, on conditions agreed upon by the Corporation and the Marine Authority.

7 The Board

- (1) (a) The administration and control of the affairs of the Corporation shall vest in a Board to be known as the Sugar Terminal Board.
- (b) The Board shall perform, exercise and discharge the functions, powers and duties of the Corporation.
- (2) The Board shall consist of—
 - (a) a Chairman to be appointed by the Minister;
 - (b) a representative of the Prime Minister's Office;
 - (c) a representative of the Ministry of Finance;
 - (d) a representative of the Ministry of Agriculture and Natural Resources and the Environment;
 - (e) a representative of the Ministry of Economic Planning and Development;
 - (f) a representative of the Ministry of Commerce and Industry;
 - (g) a representative of the Ministry of Communications;
 - (h) a representative of the Ministry of Labour and Industrial Relations;
 - (i) a representative of the Ministry of Information and Cooperatives;
 - (j) the Director General of the Marine Authority;
 - (k) one representative of planters cultivating canes on 30 arpents or more of land, to be appointed by the Minister after consultation with the appropriate organisations;
 - (l) one representative of planters cultivating canes on less than 30 arpents of land, to be appointed by the Minister after consultation with the appropriate organisations;
 - (m) one representative of cane planters who are members of credit cooperative societies, to be appointed by the Minister;
 - (n) one representative of millers to be appointed by the Minister after consultation with the Mauritius Sugar Producers Association;
 - (o) one representative of miller planters to be appointed by the Minister after consultation with the Mauritius Chamber of Agriculture;
 - (p) one representative of the Syndicate, to be appointed by the Minister;
 - (q) 2 representatives elected by the employees of the Corporation in such manner as may be prescribed and appointed by the Minister;
 - (r) one representative elected by the employees who had been made redundant with the coming into operation of the Corporation, in such manner as may be prescribed and approved by the Minister.
- (3) Every member of the Board, other than the ex officio members, shall hold office for 3 years but shall be eligible for reappointment.
- (4) (a) A member of the Assembly or of a local authority shall not be a member of the Board.
- (b) Every member of the Board shall vacate his office if he becomes a member of the Assembly or of a local authority.
- (c) The seat of a member, other than an ex officio member, shall become vacant if he absents himself without a valid reason from 3 consecutive meetings of the Board.
- (5) Every member of the Board shall be paid by the Corporation such fees and allowances as the Board may, with the approval of the Minister, determine.

[Amended 16/82]

8 Meetings of the Board

- (1) The Board shall meet at such place and time as the Chairman thinks fit or as may be requested by not less than 3 members.
- (2) Seven members of the Board shall constitute a quorum.
- (3) Where the Corporation proposes to transact business with a member, or an undertaking belonging to a member or in which a member is a partner or shareholder, or an undertaking or an organisation in which a member has a direct or indirect interest, the member shall, as soon as practicable, disclose his interest to the Board and shall not—

- (a) unless authorised by the Board, take part in the consideration or discussion of any question relating to the business; or
- (b) vote on the question.

9 Delegation of powers

(1) Subject to subsection (2) and to such instructions and rules of a general nature as it may give or make, the Board may delegate to a committee consisting of not less than 3 members, or to the General Manager, such of its powers under this Act as may be necessary to assist in the effective management of the business of the Corporation, other than the power—

- (a) to borrow money;
 - (b) to make investment; or
 - (c) to enter into any transaction in respect of capital expenditure which exceeds 100,000 rupees.
- (2) (a) No document shall be executed by or on behalf of the Corporation unless it is signed by the General Manager and the Chairman or, in the absence of the Chairman, any other member appointed by the Board for the purpose.
- (b) Notwithstanding paragraph (a), any document to which the Corporation is a party may be signed by any other person nominated for the purpose by the Board and shall, when so signed, be deemed to be duly executed by or on behalf of the Corporation.

10 General Manager

- (1) There shall be a chief executive officer of the Corporation who shall—
- (a) be known as the General Manager; and
 - (b) be appointed by the Board with the approval of the Minister.
- (2) The General Manager shall be responsible for the execution of the policy of the Board and for the control and management of the day to day business of the Corporation.
- (3) In the exercise of his functions, the General Manager shall act in accordance with such directions as he may receive from the Board.
- (4) The General Manager may, with the approval of the Board, delegate his functions, or any power delegated to him under section 9, to an officer.

11 Appointment of officers

- (1) The Board may employ, on such terms and conditions as it thinks fit, such officers as may be necessary for the proper discharge of the functions of the Corporation.
- (2) Every officer shall be under the administrative control of the General Manager.

12 Conditions of service of officers

- (1) The Board may make provision, in such form as it may determine, to govern the conditions of service of officers and, in particular, to deal with—
- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, officers;
 - (b) appeals by the officers against dismissal, or any other disciplinary measures; and
 - (c) the establishment and maintenance of provident and pension fund schemes, the contributions payable to and the benefits recoverable from those schemes.
- (2) No officer shall be authorised to take active political participation or to stand as a candidate for election to the Assembly or any local authority.

13 Protection of members and officers

No liability, civil or criminal, shall attach to any member or officer or to the Corporation in respect of loss arising from the exercise in good faith by a member or an officer or the Corporation of his or its functions under this Act.

14 Powers of the Minister

- (1) The Minister may, in relation to the exercise by the Board of the powers of the Corporation under this Act, after consultation with the Board, give such directions to the Board, not inconsistent with this Act, as he considers to be necessary in the public interest and the Board shall comply with those directions.

(2) The General Manager shall furnish to the Minister such returns or copies of such documents, including the minutes of proceedings of the Board, the accounts of the Corporation and such other information with respect to the activities of the Corporation, as the Minister may require.

15 Saving

Section 37(3)(b)(i) and (5) of the Interpretation and General Clauses Act shall not apply to the Corporation.

PART III—FINANCIAL PROVISIONS

16 Principles of financial management

The Corporation shall conduct its business according to commercial principles and perform its functions in such a manner as to ensure that, taking one year with another, its revenue is sufficient to meet its outgoings which are properly chargeable to revenue account, including proper allocations to the general reserve and provision in respect of depreciation of capital assets, equalisation of charges, pension liabilities and interest on and repayment of loans and a fair return on the capital contributed under section 17.

17 Contributions to the capital of the Corporation

(1) The initial capital of the Corporation shall be 300,000,000 rupees which shall be made up as follows—

- (a) 109,440,675 rupees being the proceeds of the cess levied on the sugar crop for the years 1974 and 1975;
- (b) 17,077,540 rupees being the amount of interest which has accrued on the amount specified in paragraph (a);
- (c) 173,481,785 rupees being the amount contributed by the Government.

(2) The initial capital of the Corporation may be increased by such amount as may be determined by the Board, with the approval of the Minister.

(3) The increase in the capital of the Corporation may be made up by funds raised under section 21.

18 Revenue of the Corporation

(1) The Board may, with the approval of the Minister, fix the rate of charges in respect of—

- (a) the storage, bagging, packing, loading and unloading of sugar;
- (b) the storage, loading and unloading of any commodity other than sugar, at or from the sugar terminal.

(2) In determining the charges under subsection (1), the Board shall have regard to section 16.

(3) The Syndicate shall, at the request of the Board and without incurring any liability to any person, pay to the Corporation the charges leviable under subsection (1)(a) at such time and in such manner as the Board may determine.

(4) The Marine Authority shall, after consultation with the Board, pay to the Corporation, the charges leviable under subsection (1)(b).

19 Appropriation of revenue

(1) The revenue of the Corporation in any financial year shall be applied in payment of or to provide for—

- (a) the interest on and the repayment of any loan made to the Corporation;
- (b) the rent payable in respect of any land leased to the Corporation;
- (c) the fees and allowances payable to members;
- (d) the salaries, fees, allowances, remuneration, pensions, gratuities and other superannuation benefits of officers, agents, auditors and technical or other advisers of the Corporation;
- (e) the working and establishment expenses of, and the expenditure on or provision for the maintenance of, any of the installations of the Corporation, and the discharge of the functions of the Corporation properly chargeable to revenue accounts;

- (f) any compensation payable to employees of the United Docks, the stevedoring companies, Société Noël Frères, Mauritius Jute and Textile Ltd, Central Aloe Fibre Factory and Taylor-Smith Co Ltd or their widows as per agreements signed by the Minister of Labour and Industrial Relations on behalf of the Government of Mauritius with the Port Louis Harbour and Docks Workers' Union, the Docks and Wharves Staff Employees Association, the Aloe Industry Workers' Union and the Mauritius Workshop Workers' Union on 7 and 8 June 1979;
- (g) any allocation to any special reserve fund or Capital Fund as the Corporation thinks fit to establish to provide for depreciation of capital assets of the Corporation or the equalisation of the charges leviable by the Corporation or such other contingencies as the Board may determine;
- (h) any other expenditure authorised by the Board and properly chargeable to revenue.

(2) The balance of the revenue of the Corporation after the appropriation provided under subsection (1) shall accrue to such persons in such manner and in such proportion as the Board may determine.

(3) The share of the revenue accruing to the Government under this section shall be paid to the Accountant-General at such time and in such manner as the Minister of Finance may determine.

(4) The share of the revenue accruing to the sugar industry under this section shall be paid over to the Syndicate for distribution among the exporters of sugar in the proportion of their respective exports.

(5) Notwithstanding any other enactment or any agreement, no commission, brokerage or charge shall be leviable in respect of any sum payable to the Syndicate under this section.

[See *Ah Tong v Mauritius Sugar Terminal Corporation* 1986 MR 55]

20 Investments

The Board may invest, on such terms and conditions as it may determine, such part of the funds of the Corporation as are not required to meet its liabilities.

21 Raising of funds

The Corporation may, with the approval of the Minister of Finance, raise funds upon such terms and conditions as the Board may determine by—

- (a) negotiations of loans, within or outside Mauritius;
- (b) the issue of bonds, debentures or certificates of indebtedness; or
- (c) negotiations or arrangements with any corporate body for overdrafts.

22 Register of debentures

- (1) The Corporation shall keep at its principal place of business—
 - (a) a register of debentures issued by the Corporation; and
 - (b) a copy of every outstanding debenture or, in the case of a uniform series of debentures, a copy of each of the series.
- (2) The register of debentures shall, in respect of each transaction entered in it, show—
 - (a) the names of the parties;
 - (b) the principal sum payable;
 - (c) the date of repayment; and
 - (d) such other particulars as may be prescribed.

(3) The register required to be kept under this section shall be made available for inspection by any creditor of the Corporation free of charge or by any other person on payment of a charge of 10 rupees and the person making the inspection may make copies of any part of the register.

23 Debentures may become a charge

Debentures issued under this Act may, in or in the subject of a fixed or floating charge, or any charge of a similar nature authorised to be created by any enactment.

24 Pledging of debentures

(1) Debentures issued under this Act may be given in pledge in all civil and commercial transactions.

(2) Any pledge of debentures under this section shall be by instrument in writing duly signed by the pledger and the pledgee.

(3) The instrument in writing shall be in such form as may be approved by the Corporation and shall state—

- (a) the nature of the debt in respect of which the pledge is given;
- (b) that the debenture issued to the pledger has been delivered to the pledger in warranty of the debt.

(4) No pledge shall be valid unless the debenture delivered to the pledger has been endorsed by the Corporation to that effect.

(5) Where any debenture has been given in pledge, the Corporation shall, after endorsement of the debenture, make an entry to that effect in the register of debentures.

(6) Notwithstanding articles 2074 and 2075 of the Code Napoléon, any pledge given under this section shall, to all intents and purposes, be valid as regards the parties to it or any third party.

(7) Except where expressly provided, the Civil Pledges Act and the Commercial Pledges Act shall apply to any pledge given under this section. [These Acts were repealed by 8/83]

(8) Where the Corporation is satisfied that any pledge given under this section has been redeemed, it shall cancel the endorsement on the debenture relating thereto and shall make an entry to that effect in the register of debentures.

25 Estimates

(1) Subject to subsection (5), the Board shall, not less than 3 months before the beginning of every financial year, submit to the Minister an estimate of the income and expenditure of the Board for that financial year.

(2) (a) The Minister shall, before the beginning of the financial year, but subject to paragraph (b), signify in writing to the Board his approval of the estimates.

(b) In signifying his approval under paragraph (a), the Minister may—

- (i) approve part only of the expenditure under any item;
- (ii) direct the Board to amend the estimates in respect of any item.

(3) The Corporation shall not incur any expenditure in excess of 100,000 rupees unless it has been approved by the Minister under this section.

(4) No contract, the consideration for which is in excess of 50,000 rupees, shall be awarded by the Corporation unless—

- (a) it has been approved by the Minister; and
- (b) the award has been recommended by a committee of members appointed for that purpose in accordance with the procedures laid down by the Board.

(5) Subsection (1) shall not apply to the first financial year of the Corporation.

PART IV—MISCELLANEOUS**26 Liability for damage**

(1) Where damage is done to any property of the Corporation by a vessel or vehicle or by any person employed in or about the vessel or vehicle, the cost of making good the damage may be recovered by the Corporation from the master, owner or person in charge of the vessel or vehicle.

(2) The Corporation may detain a vessel or vehicle referred to in subsection (1) until the costs of making good the damage have been paid to the Corporation or security has been given to the Corporation for the amount of the damage.

27 Lien on vessel, vehicle or cargo

(1) Notwithstanding any other enactment, the Corporation may detain and arrest any vessel or vehicle or cargo in respect of which fees or charges have not been fully paid and the

rights of the Corporation over the vessel, vehicle or cargo shall have priority over any debt other than a debt due to the Government.

(2) Notwithstanding any other enactment but subject to subsection (1) and sections 5 and 6 of the Mauritius Sugar Syndicate Act, no sugar delivered to the Corporation shall be attached, arrested or levied upon for or in respect of any debt or claim due by the person by whom or on whose behalf the sugar is so delivered.

28 Limitation of liability

- (1) The Corporation shall not be liable to any person in respect of—
- (a) any loss or damage caused to a vessel or vehicle unless the actual fault or privity of the Corporation is proved; and
 - (b) any failure or delay in the delivery of any commodity, in the course of the operations of the Corporation, where the failure or delay arises out of a riot, industrial dispute, civil commotion, war or act of God, or is not occasioned by the fault or negligence of the Corporation.

(2) Where the Corporation is liable in respect of any matter specified in subsection (1), the damages shall be limited to the actual loss or damage, net of other losses.

29 Powers of arrest

A police officer or any officer of the Corporation authorised in writing by the General Manager may, without warrant, arrest on the premises of the Corporation, any person committing or whom he has reasonable ground to suspect has committed any criminal offence.

30 Transfer of assets and liabilities

(1) The Government shall, on a day to be fixed by regulations made by the Minister, transfer to the Corporation such assets as may be specified in the regulations.

(2) Any contract, other than a contract for personal service, entered into by the Government for the setting up of a sugar terminal shall have effect as if it has been entered into on the same terms and conditions by the Corporation and every right, obligation, liability or arrangement subsisting in favour of or against the Government shall continue to subsist in favour of or against the Corporation.

(3) Any liability incurred before the day fixed by regulations under subsection (1) shall as from that day become a liability of the Corporation.

31 Control and management of quays

(1) Where the facilities provided by the Corporation relate to a quay, the quay shall be managed and controlled by the Marine Authority under the Ports Act.

(2) The Marine Authority may, in relation to the services offered by it under subsection (1), levy such charges and fees as it may determine.

(3) The Syndicate shall, without incurring any liability to any person, pay to the Marine Authority the charges and fees leviable under subsection (2) in respect of sugar at such time and in such manner as the Minister may approve.

32 Regulations

- (1) The Board may make such regulations as it thinks fit for the purposes of this Act.
- (2) Any regulations made under subsection (1) may provide for—
- (a) the taking of fees;
 - (b) the issue of licences;
 - (c) the waiving of fees payable by a corporate body; and
 - (d) any matters relating to the management of the sugar terminal.

33 Offences

(1) Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Notwithstanding—

- (a) section 114 of the Courts Act; and
 - (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,
- a Magistrate shall have jurisdiction to try all offences under this Act and may impose any penalty provided by this Act.

34 Auditor

The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.
