

Negotiations closed in crucial free trade area

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As the process of Malta-EU negotiations enters into the tough stage, Malta has closed negotiations on two important areas which are basic to EU membership. These are free trade in goods and services. On Friday, negotiations were also closed in another interesting area, energy. In this sixth round of negotiations since February of last year, Malta also obtained its first transitional period which means extra time for our country to adjust to EU laws after membership. This article concentrates on the area of free trade in goods.

Why crucial?

Free trade in goods or as it is also known, free movement of goods, is a pre-condition to being part of the European Union's single market and therefore to joining the EU. This is one of four "freedoms" which also cover services, workers and capital. Without these "freedoms" the EU market cannot function. You cannot join the EU if you are not part of the

EU market which brings together all EU countries into one single market. This is why negotiations in this area are considered as crucial to the whole process.

To put it simply, negotiations in this area were like agreeing on the terms of a free trade area with the EU on industrial goods. Non-industrial goods are covered in other areas.

Malta's Negotiations on Free Movement of Goods

Screening of laws	September, November 1999
Negotiations opened	May 2001
Negotiations provisionally closed	June 2001

Special arrangements	Requested	Obtained
Pharmaceuticals	Transitional period of 4 years for the renewal of marketing authorisations	YES
Milk & chocolate products	To retain current terminology for milk and chocolate products	YES

What exactly do we mean by free trade in goods?

EU rules promote free trade by banning all trade restrictions between EU countries. Directly linked to them is the EU's objectives of promoting the harmonious development of economic activities, continuous balanced expansion, increased stability, a rapid rise in living standards and closer relations between its Member States.

Two types of trade restrictions

Trade restrictions normally take two forms. They can either be tax barriers when products cross from one EU country to another or there can be other barriers which are not tax restrictions. This means that, as a start, customs duties cannot exist between EU countries. But nor can levies exist or

other forms of taxes. In this way, products entering one EU country are treated in the same way as products made in that country.

Non-tax barriers can take the form of import licences or quotas but also measures which can have the same effect. Again, products from other EU countries cannot be treated differently from products made in your country.

More competition

Clearly, all this leads to free trade and to more competition between companies in different parts of the EU. It also leads to the creation of a single market where, by definition, there is no import and export between one EU country and another since all trade is internal EU trade. All EU countries are part of this market but so are countries in the European Economic Area (EEA), namely, Norway, Iceland and Liechtenstein.

Trade with non-EU countries was dealt with during negotiations on external relations which have already been closed.



Products covered by EU Standards	
Product Group	Products included in group
Toys	
Cosmetics	
Foodstuffs	
Glass	
Textiles	
Footwear	
Wood	
Pharmaceuticals	
Medical products	¥ Medical devices, Active implantable medical devices, In vitro diagnostic medical devices and electro-medical equipment
Household appliances	¥ Refrigeration appliances and appliances burning gaseous fuels. ¥ Noise emitted by household appliances ¥ Indication of labelling of the energy consumption of household appliances including labelling & standard product information of the consumption of energy & other resources. Energy labelling also covers in particular household electric refrigerators freezers and their combinations, household tumble dryers, combined washer-dryers, household dishwashers and household lamps
Machinery & Equipment	¥ All machinery, as well as personal protective equipment, simple pressure vessels, low voltage equipment, electromagnetic compatibility, equipment and protective systems in potentially explosive atmospheres, construction products, lifts, pressure equipment, hot water boilers, radio & telecommunications terminal equipment, civil explosives, pressure vessels and methods for inspecting them, aerosol dispensers, seamless, steel gas cylinders, and seamless, unalloyed aluminium & aluminium alloy gas cylinders. ¥ Standards also cover noise emission in the environment by equipment for use outdoors.
Motor vehicles	
Recreational crafts	¥ Including motor vehicles, spare-parts

Good in one country, good in another

Any product that is good enough to be sold in one EU country may also be sold in another without suffering additional difficulties. A famous court case, known as the *Cassis de Dijon* case established this principle, known as mutual recognition of products. The only barriers to trade resulting from differences between national laws that can be allowed are those that are justified on the grounds of health, safety, consumer protection and environmental protection or if they serve some other legitimate purpose.

The situation in Malta: Exports

Malta already exports to the EU duty-free, but this is conditional to Maltese products requiring a significant amount of work input (value-added) in our country. Upon membership, these conditions (rules of origin) will be removed and complete access will be possible to all products irrespective of whether they were produced in Malta in whole or in small part.

There are also considerations related to the importation of raw material from outside the EU. Upon membership, these supplies may be subject to new or higher EU customs duties, unless they may be sourced from different non-EU countries which enjoy duty-free access to the EU.

Imports from outside the EU are tackled in negotiations on the EU's so-called "Customs Union", where negotiations have only just started.



The situation in Malta: Imports

As to imports of EU products into Malta, again, we already do not impose customs duties. But in some cases we still impose levies in order to protect local industry. These levies will be removed by January 2003. However, levies on agro-industrial products and agricultural produce will be negotiated during talks on agriculture.

These developments will expose local companies, such as those in the furniture sector, to more competition with EU products and this is one of the reasons why the restructuring exercise in these sectors is being undertaken. Those enterprises which already engage in some form of export or that do not export but are willing to specialise in particular products, areas or markets may find restructuring easier. Other firms may find that they may not be able to withstand competition and would therefore need to redirect their business efforts or even stop their production altogether.

The situation in Malta: Impact on consumers

From the consumer's point of view, increased competition in those areas where levies are being removed should normally result to increased quality, wider choice and cheaper prices.

Standardisation

Free trade is not just free trade but comes with a long list of EU standards or technical harmonisation on a number of products. EU standards on products were introduced to facilitate free trade but also to protect the consumer from low-quality products that might jeopardise safety.

The "CE mark" is a typical and visible sign of EU standards that most of us are already familiar with. Products covered by EU standards include those indicated in the table (left).

How to enforce standards

When products have been placed for sale on the market someone must ensure that they are actually safe and are not

in any way deceiving consumers into believing so. This is where market surveillance comes in. This means that products placed on the market can be checked for their standards and quality and if found deficient, may be withdrawn. Goods may be withdrawn even if they are already on supermarket shelves or in shops. This is the same in all EU countries and is done in the interests of both the consumer as well as the enterprises which respect the law and would like others to do so too.

Standardisation in Malta

The Maltese law that will allow for market surveillance is the Products Safety Act, which entered into force on March 1, 2001. The Malta Standards Authority will be the coordinating body for standardisation and other related activities. So far, close to 8,000 standards have been adopted in Malta which amounts to roughly 80 per cent of European standards. The remaining ones will be introduced between now and accession.

Public Procurement in the EU

Public procurement refers to all goods and services purchased by government. This is a market in itself and is liberalised within the EU. Objective criteria have to be applied in both the tendering and award procedures. All EU enterprises can compete for public tenders which are of a certain value. The thresholds are indicated in the attached table.

Public Procurement in Malta

In Malta, the Ministry responsible for the awards of public contracts is the Ministry of Finance acting through its Director for Public Contracts. A Public Contracts Appeal Board is being set up to decide on complaints by aggrieved bidders.

Thresholds for Public Procurement Contracts in the EU

Public works contracts not less than Im2 million
Public supply contracts not less than Im80,000
Public service contracts not less than Im80,000

What Malta requested during negotiations

While accepting, during the negotiations, with the EU, all the principles that come with free trade, the Maltese Government submitted certain requests for special arrangement after making the assessment that these were necessary to safeguard Malta's interest in certain areas.

Four-year transitional period for pharmaceuticals

In the case of Pharmaceuticals, Malta requested four years after membership to allow sufficient time for the completion of renewal of marketing authorisations for pharmaceuticals in line with EU law. EU law states that medicinal products may only be placed on the market (in our case, sold in Malta) if they are authorised by the competent authority (in Malta). For pharmaceuticals to be authorised they must be supported by certain particulars and documents. Malta called for more time to be able to review the marketing authorisations in line with EU standards for the over five thousands medicinal products that are already on our local market.

This means that Malta would have to be in line with EU standards in this area by January 1, 2007, rather than by January 1, 2003. This request was accepted by the EU and this represents the first transitional period that has been negotiated by Malta.

Technical arrangements for milk and chocolate products

Two technical requests were made on the labelling of milk and chocolate products. Like the United Kingdom and Ireland, Malta wanted to maintain its present labelling names for 'evaporated milk' and 'low fat evaporated milk' as well as for 'milk chocolate'. The way these products are labelled in continental Europe differs from English-speaking countries. Malta asked for these arrangements so as not to create confusion among consumers and so as not to disrupt trade. These requests were accepted by the EU which will now take into account Malta's labelling names in its law.

Restrictions on the importation of detergents containing boron

Malta also requested to retain its present restrictions on the importation of detergents containing boron. Malta wants to retain this restriction in line with the EC Treaty (Article 30) which allows for prohibitions or restrictions on imports provided these are justified on certain grounds. The EU accepted that this request can be assessed after membership in line with the criteria applied for the use of this article since such an exemption can only be used by countries after they join.

First negotiating requests obtained

Although the arrangements negotiated in this area are very much of a technical and certainly not of a political nature, they still break new ground in the ongoing process of negotiations since this is the first time that Malta has negotiated particular issues. In areas that had been negotiated so far, Malta had made no specific negotiating requests. However, Malta did make a number of other requests in areas which are still being negotiated, some of which are of a significant political importance. On these we must wait and see.



Malta's official negotiating position paper on this area is also available free-of-charge from MIC or from its web site:

www.mic.org.mt



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