

## Negotiations closed on Transport

By Isabel Depasquale, MIC information officer



### Malta's negotiating requests in the area of transport

During negotiations with the EU, Malta declared that, upon membership, Maltese law will be in line with EU legislation within the transport sector. Malta has also adopted a plan to put into place, or restructure, a number of institutions, some of which are by now already operational. These structures should ensure that EU transport legislation and policy is implemented in our country.

By way of exception, in this area, Malta made four requests for extra time before applying fully EU law. These are known as "transitional periods" and are worked out over and above the date of January, 1, 2003 which is the deadline that Malta set for itself in order to be prepared for EU membership.

Malta had also requested a special arrangement with regard to another EU law, but following discussions, this request was withdrawn. The following is a brief overview of Malta's requests.

**In October 2001, Malta closed negotiations in the area of transport obtaining all four transitional periods that it had requested to implement EU standards over a longer time frame. In this article, MIC information officer, Isabel Depasquale, presents the key issues that were discussed.**

### 1.1 First request: Vehicle Road Worthiness Test (VRT)

EU law fixes common rules for roadworthiness tests (VRT). This applies to all vehicles, whether normal cars or others, whether private or public. The EU rules specify the frequency of tests and the compulsory items that need to be tested.

Although Malta has already introduced the VRT tests, testing is still being phased in and does not extend to all items included in EU law. For instance, in Malta, we already test cars for lights, the steering system, the braking system, side cars and vehicle identification. From 2002 it will be extended to tyres and wheels and to exhaust emissions.

The original phasing-in plan had targeted the year 2005 for the final stage of implementation when testing will be extended to all remaining tests, including suspension and the general conditions of the car. This means that whereas the tests conducted in Malta follow the EU model, it is clear that not all compulsory items listed in the EU law will be tested by January 2003 which is Malta's deadline for preparing for membership.

It is for this reason, therefore, that Malta requested, during the ongoing negotiations, a transitional period until January 2005 to be able to introduce full VRT testing over a longer period. This request was accepted by the EU.

### 1.2 Second request: Speed devices for trucks and coaches

EU law requires that speed limitation devices are fitted on vehicles that are used for the carriage of passengers and that have a maximum weight exceeding 10 metric tons and for vehicles that are used for the carriage of goods (maximum weight exceeding 12 metric tons). These vehicles cannot be used on the road unless they are fitted with these devices. Clearly, the scope of this law is to prevent over-speeding and to contribute to road safety.

On this point, Malta requested a transitional period until the end of 2005 for fitting these devices. This applies with respect to vehicles registered between 1988 and 2002 and that operate exclusively on national territory. Following discussions in which Malta presented its justification for its request, the EU accepted this request.

### 1.3 Third and fourth requests: Road taxes for trucks and heavy vehicles

EU law sets minimum rates that must be set in EU countries for taxes charged on heavy goods vehicles. This does not apply to normal passenger cars. These tax rates apply for heavy vehicles and vary according to the number of axles and maximum permissible weight of the vehicle.

The scope of this law is for individual countries to charge similar taxes for the use of the road infrastructure by heavy vehicles on their roads. EU law only applies minimum rates, not harmonised rates. But Malta's rates fell below the EU minimum.

Malta therefore requested a transitional period until the end of 2004 to change road taxes for Maltese registered heavy goods vehicles that operate internationally. This time will allow for the rates to be introduced in stages until they reach the minimum rates set in EU law (which vary between Lm56 and Lm372 according to the vehicle).

Furthermore, Malta also requested a longer transitional period – until the end of 2005 - for the introduction of minimum road taxes on Maltese registered heavy goods vehicles that only operate in Malta. This would give vehicle operators locally more time to adjust to the increase in road taxes. After membership, Malta will still explore the possibility, available under EU law, to apply lower rates for vehicles operating only in Malta.

Both requests were accepted by the EU after Malta presented and discussed its implementation plan and supported it with its justification.

**1.4 Fifth request: Road-side checks**

EU law states that vehicles operating in international transport must be subject to roadside checks, to ensure that the daily driving periods allowed are respected and that the recording equipment is functioning properly.

Malta had initially requested a derogation from this law on the grounds that roadside checks were not feasible in Malta because the number of international operators driving in Malta is negligible (an average of two trucks per day) – Malta being an island and not a transit territory.

Following discussions on this point, it was decided that Malta would conduct these technical inspections for vehicles operating internationally at the quayside, rather than at the roadside on Maltese roads, in order to take account of the geographical situation of our country. This means that Malta will conduct checking procedures at the quayside in the case of incoming transport, whereas Maltese registered international hauliers would be subject to checking procedures at their premises.

In view of this understanding, Malta withdrew its original request.

**A quick look at the EU's transport policy**

Since the 1980s, the EU has been adopting an increasingly integrated approach to the transport sector, in particular when the EU became one single market. A single market means that border controls of persons and goods travelling within the EU no longer exist. This single market is therefore of obvious importance to the transport sector since it has become easier for a truck or a coach to travel from one EU country to another.

The EU transport policy has forked out in three areas, namely land, sea and air transport. One of the main aims of the EU transport policy is to ensure that the transport infrastructure across the EU is safe and reliable in order to eliminate all obstacles to the free movement of goods and persons across the EU. The EU has sought to achieve this objective through a process of gradual liberalisation and harmonisation of laws that relate to transport standards. In other words, the EU wants to ensure a free market in the provisions of transport services whether with respect to goods or passengers and whether with respect to transport by land, air or sea.

In order to achieve this objective, the EU has introduced several laws which now apply equally in all EU countries within the transport sector. Particular emphasis is made on economic, social and environmental issues related to transport.

**Malta's Negotiations on Energy**

Screening of laws	November 1999
Negotiations opened	March 2001
Negotiations closed	October 2001

Transition Period	Requested	Obtained
VRT	A transitional period until 2005 for the obligatory roadworthiness testing (VRT) of vehicle suspension and general conditions of the vehicle.	YES
Speed limitation devices for trucks and coaches	A transitional period until 2006 for the retrofitting of speed limitation devices on heavy vehicles.	YES
Road taxes for trucks operating internationally	A transitional period until 2005 to increase to EU minimum levels road taxes on Maltese registered heavy goods vehicles that operate internationally.	YES
Road taxes for trucks operating in Malta	A transitional period until 2006 to increase to EU minimum levels road taxes on Maltese registered heavy goods vehicles operating nationally.	YES
Roadside checks	A derogation from the EU law that requires roadside checks for vehicles that operate internationally.	WITHDRAWN

**2.1 Trans-European Transport Networks**

In order to ensure that goods and persons move efficiently, the EU considers it essential to link the national transport networks, the islands, landlocked and peripheral regions and to make them more easily accessible through the use of modern and efficient infrastructure. For this reason, the EU set out guidelines for the development of the Trans-European Transport Network. What this means is that the EU wants to integrate land, sea and air transport infrastructure networks throughout the entire EU territory making it easier for a person to get from one place to another. This calls for a concerted effort to identify projects of common interest, such as the construction of interconnecting roads. All of these may qualify for EU financial aid.

**2.1.1 Assessing Malta's Transport Infrastructure Needs**

The enlargement process has now also brought about the need to incorporate the applicant countries into the Trans-European Transport Network. This led to a project - Transport Infrastructure Needs Assessment (TINA) - which is assessing the needs of the candidate countries.

TINA was also extended to Malta and TINA officials are working with representatives from the Maltese transport authorities to assess the present transport infrastructure requirements for Malta as well as future requirements forecast over the next 15 years. The infrastructure projects should be eligible for EU funding after Malta joins the EU.



## 2.2 Land transport

EU law and policy within this sector apply solely to the road sector in Malta, since rail transport as well as inland waterway transport are not relevant for us.

EU laws within the road transport sector provide that road passenger transport operators and operators who transport goods and are established in an EU country may freely transport passengers and goods to another EU country.

In the case of Maltese operators, this means that every operator, upon membership, would be able to transport passengers and goods to another member state. It also means that Maltese operators must have an EU operator's licence. This may be obtained in Malta upon satisfying the three criteria of good repute, good financial standing and professional competence. Drivers must also possess an EU driver's licence, as well as drive a licensed vehicle.

The EU also recognises that this transnational activity must not result in serious disruption to the transport market and, for this reason it permits a member state to set quotas in the case of certain sectors. In the case of Malta, the quota (*numerus clausus*) which is currently in place in the case of minibuses or buses, for example, can be retained. The same applies to taxis.

EU laws also permit cabotage, which means that a transport operator established in a member state may provide transport services in another member state on a temporary basis. EU laws also cover safety on the roads through rules on technical inspections of vehicles (particularly heavy goods vehicles) and the use of safety belts.

The protection of the environment is also of concern to the EU, and in order to reduce the adverse effects of the use of vehicles on the environment, the EU sets standards to control the pollutants emitted by vehicles.

The EU also has certain laws within the social sector and regulates for example, the number of working hours, rest periods and health and safety checks.

### 2.2.1 'Burdnara'

In Malta, *burdnara* are licensed by the Customs Department as 'cargo clearing or forwarding agents' and are licensed to transport goods to and from the customs area. The number of licences is limited (subject to a *numerus clausus*) and currently stands at 113. There are, however, several other local operators offering transport services, such as furniture transport services and so on. Market access rules in the EU state that the transportation of goods market must be a free market and open for competition.

During negotiations, it was agreed that the licence granted in Malta to *burdnara* simply grants the individual a 'security-pass' to a restricted port area and does not in itself pre-

vent EU hauliers from operating in Malta. This means that the current situation with regard to licensing of *burdnara* and their limited number will remain as it is even after membership.

### 2.2.2 Port workers

Port workers were discussed during negotiations on services and not within this chapter. Initially, Malta had requested a transitional period in order to safeguard the port workers' legitimate rights in cases where they had the right to pass on their permit to their descendants (inheritance scheme). This issue was solved when it was agreed that a joint-registration system would enable those workers who still had the inheritance right to be jointly registered with their next descendant in line. At the same time, inheritance rights have no longer been granted since the early 1990s. In view of this understanding, Malta had withdrawn its original request on port workers.

### 2.2.3 Recognition of driving licences

Driving licenses that are issued by one EU country are recognised by other member states. Malta will be introducing the EU-standard credit-card-sized driving licence by accession.

### 2.2.4 Recognition of driving licence and other qualifications

Each EU country must recognise diplomas, certificates and other evidence of qualifications that grant access to the profession that are issued by another member state. National authorities may, however, oblige a qualification holder from another member state to undergo a test on the national aspects of the occupation. This is particularly relevant for bus drivers and mini-bus drivers.

## 2.3 Maritime transport

In this area, EU policy favours liberalisation and cabotage within the maritime transport sector in a way similar to that within the land transport sector. In other words, EU law states that EU shipowners may provide transport services between member states with no restrictions and ships that are registered in and fly a flag of an EU country may provide maritime transport services in another EU country.

Maritime transport within the EU is also subject to compliance with safety, environmental protection and social standards. The EU has passed legislation on safety rules and standards for ships, on port state control which requires member states to inspect foreign vessels which call at EU ports, on the levels of training of seafarers and on the transport of dangerous goods.



Malta already applies the freedom to provide maritime services of the international carriage of goods and passengers and therefore had no difficulty to implement EU legislation in this field. During negotiations with the EU, Malta declared that by membership, all laws will be in line with EU legislation.

Malta also presented the Action Plan prepared by the Malta Maritime Authority which is intended to ensure the proper implementation of maritime transport legislation. On this point, Malta's enforcement of maritime safety standards was under particular scrutiny, largely in view of the *Erika* disaster in 1999, when a Maltese-registered ship sank off the coast of Brittany with extensive environmental repercussions.

#### 2.4 Air transport

Air transport within the EU is also a liberalised market, which means that European airlines have free access to any European airport. EU law includes what is known as the "third package" which is a set of laws that open up the entire EU market for airlines registered in any EU country. This means that upon membership, Air Malta will be able to operate flights in a more flexible manner, using flights that need not necessarily start or end in Malta but which may start or end in another EU country.

European airlines are also subject to common rules on technical harmonisation, air safety, consumer protection and environmental issues, which seek to safeguard the highest possible standard of safety and environmental protection.

In the wake of the US terrorist attacks, EU airlines and airports will increasingly be the focus for tightened security and the EU is already taking steps in this regard.

EU law also states that the ground handling market or the operations of passenger check-in and baggage handling, for example, must be open to competition. Malta is not requesting any exemption from the implementation of EU legislation and has committed itself to open ground handling to competition in time for accession.

#### 2.5 Transport and State aid

The EU imposes restrictions on the amount of state aid that may be granted in the case of transport. In principle, subsidies are allowed if they are intended to compensate for public services that are rendered to the public.

##### 2.5.1 State aid in land transport

Public bus transport is a case in point where the government pays financial assistance to compensate the sector for the public service rendered and in adhering to government norms on fares, special fares, route networks and so on. This subsidy is permitted under EU law provided it does not exceed compensation for the public service element of the transport service concerned.

##### 2.5.2 State aid in sea transport

In the area of maritime transport, Sea Malta Co Ltd and Gozo Channel Co Ltd are likely to carry public service obligations. Again, state aid may be allowed even upon membership as long as it is limited to compensate for the losses incurred in the provision of regular public services.

##### 2.5.3 State aid in air transport

Finally, in the area of air transport, EU law includes strict control of state aid (subsidies) to airlines. Subsidies are only allowed in exceptional cases and under strict conditions. Limited subsidies were allowed, for instance, in the aftermath of the US attacks because of their impact on certain airlines. Restructuring aid is also allowed provided that it is granted on a one-time-last-time basis.

Most recently, the EU authorised aid by the Belgian government to the Belgian national airline, Sabena, under the form of rescue aid. In the wake of the US attacks, in Malta, there have been no reports so far that the national airline, Air Malta, is seeking financial assistance from the state, although there have been reports of other initiatives that it has taken as cost-cutting measures.

Maltese Authorities in the field of transport: Who does what?	
Transport Sector	Maltese Authority
Land	In Malta, all forms of land transport are now regulated by the Malta Transport Authority which is composed of four directorates and which brings together the Public Transport Authority, Licensing and Testing Department, Roads Department and Traffic Control Board. The aim is to improve the integration and co-ordination of land transport policy in Malta.
Sea	Within the maritime transport sector, the Malta Maritime Authority, through its various directorates, is the main administrative body responsible.
Air	The Department of Civil Aviation within the Ministry for Transport and Communications is responsible for the regulation of all aspects of air transport.

**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](http://www.mic.org.mt)**



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