

THE CONSTRUCTION INDUSTRY

# Question & Answer

on Malta and the European Union

Edition No 6



## Question & Answer on Malta and the European Union Information booklet compiled by the Malta-EU Information Centre answering some of the most frequently-asked questions on Malta and the EU.

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### **This booklet is of interest to the following sectors:**

- Contractors
- Architects
- Engineers
- Electricians
- Plumbers
- Tile-layers
- Self-employed
- Manufacturers of construction products
- Quarry owners
- Estate agents
- Heavy vehicle rental companies
- Workers in the construction industry

## Issue No. 6 The Construction Industry

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**IN THIS BOOKLET YOU CAN GET ANSWERS  
TO THE FOLLOWING QUESTIONS:**

## Competing in the European Union

In general, how will EU membership affect the construction industry?	5
And what problems are we likely to face?	5
If we join, would EU construction companies be able to compete with us for public construction works in Malta?	5
Will there be some form of registration system for contractors?	6
Will foreign companies be able to compete for private projects too?	6
Will Maltese companies be able to tender for projects in EU countries?	6
But aren't Maltese companies too small to compete in Europe?	7
How about non-EU countries such as the North African Mediterranean countries?	7
Can we bid for work there?	7
Will the price of the construction products that we import be affected?	7
In Malta we have a problem with payments that affects our cash flow. Does the EU say anything on payment. Is there a time limit for the public sector to pay up?	8

## Standards in the construction industry

What does the EU say about stone quarries?	9
How will Maltese stone be affected?	9
Does the EU establish the size of windows in buildings?	9
What does the EU say about energy efficiency?	9
Does the CE marking apply to the construction industry?	10
What is the advantage of the CE mark?	10
Are there EU standards on construction material that we use?	11
Are there any technical specifications that apply?	12
Are there any other EU standards that are of interest to the construction industry?	12
Is the machinery and equipment that is used locally in the construction industry compatible with EU standards or do we need to change it?	13
If my machinery and equipment is already CE-marked does it mean that everything is OK?	13
So what do I have to do on the safety of work equipment?	13
And what about vehicles used in construction?	14
I heard something about vehicle speed. Do I need to check anything?	14
Will the road licence for trucks be increased?	14

## The Environment

How will the EU environmental policy affect the construction sector?	15
Will an impact study be required for all building projects?	17
Will the Planning Authority change in any way?	17

## EU funding

Is it true that the country's infrastructure will improve if we join the EU?	17
Will roads in Malta improve if we join? Can we get EU funds for our roads?	18

## Purchase of property in Malta

Will foreigners have unrestricted rights to buy property in Malta?	
And will this affect the price of property?	18
Will Maltese citizens be able to buy property in other EU countries?	19
Will estate agents be required to change their business practices?	20
Will local estate agents face competition from foreign agencies?	20
Can local estate agents set up abroad and sell property in that country?	20

## Workers in the construction industry

Will EU membership present any opportunities for individual workers?	20
If we join, will foreign EU workers be able to seek work in the construction sector in Malta?	21
And does this safeguard also apply to Maltese workers seeking to work in the EU?	22
Can we bring in foreign workers from non-EU countries?	22
Will construction workers be required to have some additional qualifications or training than they have today?	22
What will change on health and safety measures on construction sites?	22
Does the EU say anything on the work practices used in stone quarries?	23
Will conditions of work for construction workers change?	23
What about leave and sick leave?	23

## Professionals in the construction industry

How will Maltese architects be affected?	24
In Malta 'periti' are qualified in both civil engineering and in architecture?	
Can an EU citizen qualified only as a civil engineer work in Malta as a 'perit'?	24
And would a foreign architect or civil engineer recognised in Malta to work as a 'perit' be able to sign planning applications submitted to the Planning Authority?	24
Can an architect offer his or her services in any other EU country without having to go there, that is, whilst being based in Malta?	25
How will Maltese engineers be affected?	25

## More information

Where can I get more information?	26
-----------------------------------	----

## Annex

Vehicle registration	27
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### In general, how will EU membership affect the construction industry?

EU membership will mean being part of one single market where competition is open to all. This also includes the services sector and construction. Many of the opportunities that can be found through EU membership depend on the entrepreneurial spirit of the industrialist concerned. An open market will definitely mean more competition, therefore the local industry will have to prepare itself adequately to meet the challenge of competition. This applies both with respect to competing in Malta as well as to competing in projects, such as sub-contracted projects, elsewhere in the EU.

In Malta, EU membership will boost infrastructural projects since Malta will qualify for EU Structural and Cohesion Funding. This covers funding for capital projects in the areas of transport (in particular roads and ports) and the environment. Capital projects in both these areas are of direct interest to the construction industry.

### And what problems are we likely to face?

Competition brings with it both threats and opportunities. Those construction companies that are not sufficiently prepared to face competition - both local and foreign - may find it hard to survive. On the other hand, those companies that are prepared to compete on a level playing field should find membership a challenging opportunity.

### If we join, would EU construction companies be able to compete with us for public construction works in Malta?

Yes. EU law states that contracts beyond a certain value must be open for competition to all EU companies. The call for tender would need to be publicised in the EU's Official Journal which is similar to our Government Gazette. This would make it easier for resident firms and non-resident EU firms to compete for public-sector contracts. Public purchasing that discriminates against EU companies would be prohibited.

EU rules apply for tenders issued by the Government, including government departments, state-controlled entities or corporations and even local councils. For a contract to be opened up to EU competition, it must exceed a certain value. Projects below these values need not be published in the Official Journal, but an EU contractor cannot be refused the right to compete. The following is a list of types of public procurement contracts and the value that they need to have:

Public Procurement of:	Contracts exceeding:	
	In euros	In liri
Public works	EUR 5 million	Lm2 million
Public supplies	EUR 0.2 million	Lm80,000
Services	EUR 0.2 million	Lm80,000
Supplies and services of other public service sectors	EUR 0.4 million	Lm160,000
Telecommunications supply and services	EUR 0.6 million	Lm240,000

Large infrastructural projects in Malta are already open to international competition. However, the local construction industry claims that it cannot compete for such projects because the conditions that are given to foreign companies are more favourable than those that are given to local contractors. With the EU public procurement rules, the rules and conditions for the award of such contracts must be clear, transparent and equal for all, whether Maltese or foreign. There will also be the possibility for companies to file a complaint on any public tender procedure and seek remedy both locally and if need be at EU level.

## Will there be some form of registration system for contractors?

The EU does not require that a registration system be put into place. However the Maltese Government is in the process of developing such a system for better organisation of the market. There are EU countries that register their contractors and others which do not. With this system of registration, those contractors that wish to establish themselves in Malta would require to be registered.

## Will foreign companies be able to compete for private projects too?

In the case of projects that are driven by the private sector, it would be entirely up to the promoters of the project to decide on who is to perform the construction work. But they are free to choose between Maltese and EU companies. They are already free to do so today.

## Will Maltese companies be able to tender for projects in EU countries?

Yes, a Maltese company would have the right to offer its services in any other Member State and vice-versa. As explained above, if a public contract to be awarded by a public authority in another country is of a certain value then Maltese companies can compete for that tender too.

## But aren't Maltese companies too small to compete in Europe?

No. Local companies need not take on full capital projects on their own. It is more likely that they would be better able to compete for parts of large projects, through sub-contracting. To help small firms team up and compete in this way, the EU encourages subcontracting whereby smaller companies, including those in the construction sector, are awarded parts of large projects. Subcontracting is becoming very important for small firms and it also gives the promoters of large projects more flexibility throughout their project.

## How about non-EU countries such as the North African Mediterranean countries? Can we bid for work there?

The EU is the major exporter of services in the world and EU companies are often involved in construction projects outside the EU. The EU is also committed to open up world trade in services through the World Trade Organisation and through other trade agreements that it has concluded with individual non-member countries. When Malta joins the EU, it would automatically become a member of all the agreements that the EU has signed with non-EU countries across the world. There are over one hundred non-EU countries covered by such agreements. These include the Euro-Mediterranean countries. This means that, yes, your company would also be able to bid for work in Southern Mediterranean countries.

## Will the price of the construction products that we import be affected?

This very much depends on where the products are imported from. If they are purchased from the EU, no customs duty or other tariff apply.

If they are imported from outside the EU, the products would need to be checked against the Common External Tariff. Let us take an example with product HS Code 3208109000 which includes polyester-based undercoats, primers and enamel paints. The situation is compared below:

Paints	Maltese Duty Rate (applicable today)	EU Duty Rate (applicable in Malta after membership)
Import Duty	10.00%	6.5%
Excise	0.00%	0.00%
Levy	Lm00.75/Litre	N/A
VAT	15%	Upon sale + rate depends on Member State

Another example we could take is tiles and paving of cement or of artificial stone (HS 6810193900):

<b>Tiles and paving</b>	<b>Maltese Duty Rate (applicable today)</b>	<b>EU Duty Rate (applicable in Malta after membership)</b>
Import Duty	8.10%	1.7%
Excise	0.00%	0.00%
Levy	N/A	N/A
VAT	15%	Upon sale + rate depends on Member State

The EU has agreements with more than one hundred non-member countries around the world. Countries that are part of the EU automatically become party to these agreements. For instance, the EU has a Customs Union agreement with Turkey (which is not part of the EU). If Malta joins the EU it would automatically become part of that agreement with Turkey and be able to extend the same commercial ties as the EU with this country.

The Maltese construction industry may need to look further into this matter so as to be able to tap possible opportunities and avoid possible risks. In particular, it should check what new markets would be open for export purposes or for imports of raw material. It should also check whether it may make sense to change the country from which certain raw-materials are sourced.

## In Malta we have a problem with payments that affects our cash flow. Does the EU say anything on payment? Is there a time limit for the public sector to pay up?

Yes. The EU adopted a law in June 2000 known as the Late Payment Directive. This law covers all commercial transactions, whether in the private or the public sector. It gives a period of 30 days after the receipt of an invoice for payment to take place, unless otherwise stipulated in the contract. When this time period expires, interest starts to be charged automatically by law. The seller need not issue reminders in order to collect interest on arrears. The EU law also gives the right to the sellers to claim full compensation for recovery costs incurred when trying to obtain payment from their customers. Through their national law, Member States may identify sectors where the time period is fixed at 60 instead of 30 days.

Malta already adopted this EU law in its Business Promotion Act, adopted in 2001. The law, like the directive, also applies to the public sector. The rate of interest to be charged is the minimum discount rate issued from time to time by the Central Bank plus a further 6%. This currently stands at 10%.

## What does the EU say about stone quarries?

The EU has health and safety requirements for building sites and it also has environmental rules on air quality, noise, waste and environmental impact assessments. Both these issues are covered later in this booklet.

Because of the EU environmental standards, the extractive industry needs to carry out an environmental impact assessment prior to quarrying. The environmental impact of quarrying may include air pollution, dust, noise, soil and water pollution, effects on groundwater level, destruction or disturbance of natural habitats and the visual impact on the surrounding landscape.

On the other hand, the EU does not say anything on how quarries should be licensed, who should licence them or how many quarries a country should have. This is left up to each individual country to decide.

## How will Maltese stone be affected?

The EU does not set standards on stone but rather on the methods of test, the methods of declaration of product performance values and the method of its conformity assessment. This also applies to any of the components that we use in the construction of our buildings because they mainly depend on the type of building. The EU has a law that is known as the Construction Products Directive. This law is a performance-based directive and therefore it does not enter into the quality and technical standards of stone or other construction material. More details on this law are given in the next pages.

The EU has no rules on the size of the stone.

## Does the EU establish the size of windows in buildings?

No, the EU does not set the size of windows. This would be determined by the architect who draws up the plan of the building, according to the building regulations that apply in Malta.

## What does the EU say about energy efficiency?

The EU has a directive dealing with the performance of heat generators for heating, the production of hot water in new and existing non-industrial buildings and the insulation of heat and domestic hot-water distribution in new non-industrial buildings.

Malta is drafting new building regulations taking these rules into account. These should enter into force prior to accession.

## Does the CE marking apply to the construction industry?

Yes. When a product satisfies the requirements set in the EU's Construction Products Directive (CPD) at the stage of manufacturing, it can be marked with the letters CE. This mark indicates that the manufacturer, or his agent, has satisfied EU standards in making that product. As explained above, the EU law does not specify the technical standards. It just sets objectives that the technical standards must reach.

Those construction products that satisfy the European harmonised standards or European Technical Approvals or, in the absence of such approvals, the national technical specifications, are eligible to bear the CE marking.

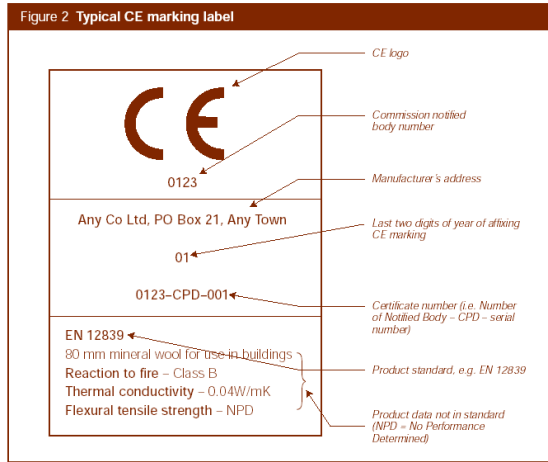
## What is the advantage of the CE mark?

The most obvious advantage is that CE marking implies that the products are allowed to circulate freely in the EU and the EEA (European Economic Area). The EEA comprises eighteen countries, that is, the EU plus Norway, Iceland and Liechtenstein. It is up to each country to monitor its market to ensure that the products in circulation are adequately marked. If the product is wrongly CE marked because it does not conform to

the required standards, a series of measures may be taken by the Member State, which may even include the withdrawal of the product from the market. Moreover the Member State is obliged to inform other Member States about the product.

When there are no harmonised European Standards, the principle of mutual recognition usually applies. This means that what is good for one Member State should, in principle, be good for the rest.

Affixing the CE marking is the responsibility of the manufacturer or his agent or authorised representative established within the EEA. One of the most important aspects of the CE marking is that it includes technical information in the form of declared values. Where minimum or maximum values have been set in the standards themselves, these are not repeated in the CE marking. Similarly, classes of performance may be declared with the CE marking,



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with the 'key' to the classes appearing in the standard. This means that the CE marking is in effect a harmonised technical data sheet. Together with the standard, it gives all the information needed by specifiers and regulators to judge whether the product is suitable for a particular intended use in the country in which it is sold, according to the regulations which apply there. Note that the manufacturer is not required to determine and declare values for which regulations do not exist in his chosen market sector (i.e. country/intended use). In these cases he may declare 'no performance determined' or NPd.

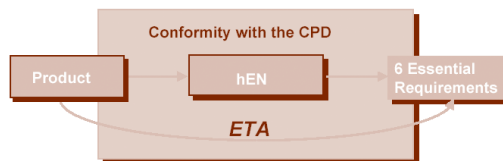
The CE marking is not a quality mark. It simply shows that the product addresses the regulatory requirements. Hence, quality marks are allowed to appear alongside the CE marking, provided their purpose they are not confused.

## Are there EU standards on construction material that we use?

The Construction Products Directive (CPD) aims to break down technical barriers to trade in construction products between Member States in the European Economic Area (EEA). To achieve this the CPD provides for the following four main elements:

- a system of harmonised technical specifications
- an agreed system of attestation of conformity for each product family
- a framework of notified bodies
- the CE marking of products

### Concept of the CPD:



The Directive does not aim to harmonise regulations. Member States and public and private sector procurers are free to set their own requirements on the performance of works and products. What the CPD harmonises are the methods of test, the methods of declaration of product performance values and the method of conformity assessment. The choice of required values for the chosen intended uses is left to the regulators in each Member State.

STANDARDS BODIES: Mandating and monitoring

**CE** marking NOW possible for

	Start	Compulsory
➤ Cement	1 Apr 2001	1 Apr 2001
➤ Fixed fire-fighting systems	1 Oct 2001	1 Oct 2001
➤ Geotextiles	1 Oct 2001	1 Oct 2001
➤ Effluent lifting plants	1 Oct 2001	1 Oct 2001
➤ Structural bearings	1 Oct 2001	1 Oct 2001

APPROVAL BODIES: Mandating and monitoring

**CE** NOW possible for:

Metal anchors for use in concrete (Parts 1 - 4)  
 Structural sealant glazing systems (Part 1)  
 Internal partitions kits  
 External thermal insulation composite systems  
 Liquid applied roof waterproofing kits  
 Mechanically fastened flexible roof-waterproofing membranes  
 Timber frame building kits  
 AND for additional items on the basis of Art. 9.2 procedure

From 1 April 2001 it has been possible for cement to be placed on the European market with CE marking based on a harmonised European Standard. By the 1st May 2002 CE marking will be possible for over 44 other construction products and within five years a total of over 600 products. CE marking has been possible for certain products since 1997, based on European Technical Approvals (ETAs). But the real increase in the visibility of CE marking has begun with the introduction of harmonised European Standards in 2001 and with an increase in the number of ETAs.

## Are there any technical specifications that apply?

Yes there are. But it is not the EU that sets them. They are set by different technical bodies that are set up either at European level or at national level. Technical specifications at European level may be of two types:

1. Harmonised European standards adopted by the European Standardisation bodies (CEN and/or CENELEC); or
2. A system of European Technical Approvals (ETAs) to assess the suitability of a product for its intended use. This applies in cases where there is no harmonised standard, no recognised national standard and no mandate for a European standard. It also applies where the EU Commission feels, after consulting the Member States within the Standing Committee on Construction, that a standard cannot yet be prepared. The European Organisation of Technical Approvals (EOTA), which groups together the national approval bodies, would be in a position to draw up technical approvals guidelines in respect of a construction product or family of construction products. EOTA acts on a mandate from the Commission and after consulting the Standing Committee on Construction.

Where neither a harmonised European standard nor guidelines for an ETA yet exist, construction products may continue to be assessed and marketed in accordance with existing national provisions conforming to the essential requirements.

## Are there any other EU standards that are of interest to the construction industry?

Yes. Some products may also fall within the provisions of other EU directives. For example electrical products will be subject to the Low Voltage Directive (LVD) and/or the directive relating to Electromagnetic compatibility (EMC). That is why we often see a CE mark on electrical products. These two directives have already been part of Maltese legislation since 1999 (Legal Notices 23 and 24 of 1999).

There is also a directive on lifts that yet again defines essential requirements to which lifts and their safety components must conform in manufacture and prior to being placed on the market. Before being placed on the market, lifts and safety components must have the CE

conformity marking and accompanied by the respective Declaration of Conformity. This Directive has been transposed into Maltese law by Legal Notice 249 of 2001 known as “The Lifts Regulations, 2001”. These will come into force from 1<sup>st</sup> July 2002 (non-retroactive).

## Is the machinery and equipment that is used locally in the construction industry compatible with EU standards or do we need to change it?

The EU imposes standards on the machinery used in the industry. This does not mean that the machinery used in the construction industry will have to be changed once we join the EU. It means that EU standards on machinery must be respected at the stage when the machinery is being manufactured.

New machinery, including new heavy vehicles need to be CE marked (that is, certified) before being placed for sale on the EU market. EU technical harmonisation rules cover aspects such as noise pollution in order to reduce the negative impact that noise emissions from construction equipment, machinery and vehicles have on the environment.

However if the equipment, machinery or vehicles are already in service and do not comply with EU standards, this does not mean that they have to be changed. If anything, this problem may arise if you wish to change your machinery or re-sell it on the European market. It will not be possible to sell machinery that is not CE marked in the EU. This is already not possible today.

## If my machinery and equipment is already CE-marked does it mean that everything is OK?

In addition to the CE marking, there are other things you need to look out for. In particular you need to make sure that the work equipment is safe and does not pose a risk for workers that use it. Equipment that is CE-marked is likely to have passed safety standards. But safety must be guaranteed on an ongoing basis and not just when you buy the equipment. Apart from your machinery you also need to make sure that the vehicles that you use are also in good shape.

## So what do I have to do on the safety of work equipment?

EU law states that health and safety rules that must be respected in the case of work equipment that is used by workers. This means that the equipment or machinery must be safe and must not put the health and safety of workers at risk. Where the machinery or some equipment is not safe, then it needs to be upgraded for safety. On this point, Malta negotiated a transitional period in order to allow the industry until 2006 to adjust to these changes.

## And what about vehicles used in construction?

As far as vehicles used in the construction industry are concerned, there are some additional requirements with the application of the Vehicle Road-worthiness Test (VRT). VRT testing applies to all vehicles, including all kinds of trucks. In Malta, VRT regulations were introduced in 1998 and will be fully phased in by the year 2005. Malta negotiated a transitional period until this year in order to allow the VRT to be phased in gradually in line with the original plan and not rushed in because of EU membership.

A number of trucks that were bought either second or third-hand might eventually fail these tests. Clearly, this would lead to improved environmental standards but it will also come at a cost for contractors that may be effected.

## I heard something about vehicle speed. Do I need to check anything?

There are also requirements on speed. In order to improve road safety, EU law requires that speed limitation devices are fitted on vehicles that are used for the carriage of goods with a maximum weight of more than 12 metric tons. These vehicles cannot be used on the road unless they are fitted with these devices in order to prevent over-speeding and to contribute to road safety.

On this point, Malta negotiated a transitional period until the end of 2005 for the fitting of these devices. This applies with respect to vehicles registered between 1988 and 2002 and that operate exclusively on national territory. Speed limitation devices are only required for trucks and coaches. They are not required for normal passenger cars.

## Will the road licence for trucks be increased?

Yes. 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 fall below the EU minimum.

Malta negotiated a transitional period until the end of 2005 for the introduction of minimum road taxes on Maltese registered heavy goods vehicles that operate in Malta only. This would give vehicle operators locally more time to adjust to the increase in road taxes. In the case of trucks that operate only in Malta, after membership, Malta is likely to explore the possibility to apply lower rates. This is possible under the applicable EU law. However, this request can only be made after membership.

Furthermore, Malta also negotiated a transitional period - this time until the end of 2004 -

for the harmonisation of road taxes on Maltese registered heavy goods vehicles that operate internationally. This extra time will allow for the rates to be introduced in stages until they reach the minimum rates set in EU law. Rates will vary from Lm56 to Lm372 according to the vehicle. For a full list of applicable rates, please see the Annex.

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

## THE ENVIRONMENT

### How will the EU environmental policy affect the construction sector?

The construction industry will be affected by the EU's legislation on: waste management, air pollution, noise, water, nature conservation and the environmental impact assessments where the surface of the site exceeds 25 hectares.

**Waste Management:** This aspect is of major importance, especially when one considers that 90% of our waste is construction and demolition waste. On waste, the EU's main principles are the famous three 'R's: reduce, re-use and recycle. Any waste produced should follow this principle and pre-supposes a national structure that will support these principles. This has been the main reason behind the drawing-up of a solid waste management plan in Malta. Landfilling should only be resorted to as a last option and if this is the only possible solution, then all waste must be treated before being dumped in a landfill. The EU insists on the separation of waste and on the use of engineered landfills.

In synthesis, this means that one can only have construction and demolition waste disposed of in a landfill specifically engineered for that specific type of waste and that waste must be recovered or disposed of in ways that will not damage human health or the environment.

**Air:** There are specific EU requirements on emissions from quarries and building sites. However, if these sites emit SO<sub>2</sub>, NO<sub>x</sub> and dust particulates or any others listed in a directive on Integration Pollution Prevention and Control (IPPC), then they will have to adhere to the emission levels in EU law on air quality. On this law, Malta requested a transitional period until the end of 2008. Emissions from mobile sources such as, trucks or tractors on site must also be taken into consideration under the EU's directives on limiting emissions from vehicles. On this issue, the VRT law applies.

**Noise:** The EU's noise policy refers specifically to equipment used in the construction industry such as construction plant equipment, compressors, tower cranes, welding genera-

tors, concrete breakers and hydraulic excavators. EU laws on all these items were recently consolidated into one law. EU law sets specifications for manufacturers that supply these products or equipment specifying the limits on the noise that may be emitted. Products that are not manufactured in line with these standards will not be given EU certification (CE mark) and may not be sold in the EU market. On the other hand, the EU laws do not apply to products that are already in use and these need not be changed simply because we join the EU. The laws apply to newly-purchased products. By the end of 2002, Malta will have a new law that will incorporate EU standards on noise emissions from equipment that is used outdoors. The Malta Standards Authority and the Market Surveillance Directorate (Ministry for Economic Services) will be the primary agencies that will oversee the enforcement of these laws.

**Water:** The EU now has a new water framework directive which requests member states to introduce basic measures for the protection of water. These can include introducing the practice of reinjection of pumped groundwater from quarries if, for instance, studies reveal that quarrying has a negative effect on groundwater.

**Nature Conservation:** The EU's policy on nature conservation also covers quarries indirectly because EU countries are obliged to avoid, in special areas of conservation, the deterioration of natural habitats, as well as disturbance of the species covered in this law.

**Environmental impact assessment:** Quarries need an environmental impact assessment before they can become operational. As mentioned earlier on, the environmental impact of quarrying may include air pollution, as in dust, noise, soil and water pollution, as well as the effects on groundwater level, destruction or disturbance of natural habitats and the visual impact on the surrounding landscape. Other factors that would need to be taken into consideration include the technologies and methods used for extraction and the methods for waste disposal. Through its LIFE programme, the EU provides co-financing to prevent or reduce possible negative impacts. Co-financing can also be given for the restoration of abandoned quarries. Just as the construction industry would need an EIA, the government would need a Strategic Environmental Assessment for overall policies, plans and programmes.

**Other initiatives:** Apart from the above, there are now several voluntary initiatives taken by industry which aim to bring about improvements in the environmental performance and to communicate achievements. For instance, the EU's Eco-Management and Audit Scheme is an instrument that can aid industries to integrate environmental concerns in their operations. This invites industrial companies to incorporate environmental protection standards into their production processes by introducing a form of environmental management. Besides applying these standards, an interested company must also have an independent environmental auditor before applying with the relevant national authority. If these two conditions are satisfied, the national authorities may then award the company with a standard EU mark.

## Will an impact study be required for all building projects?

Construction projects will continue to require authorisation under national laws and regulation and through the Planning Authority process. Environmental impact studies are not normally required for normal building projects. This will continue to be so.

However, when it comes to projects of a certain size - whether public or private - which have an effect on the environment, an environmental impact assessment is required. This is a requirement also under EU law and is intended to ensure that an assessment is carried out on the impact of the project before the project goes ahead. The promoter must provide the relevant detailed information to the relevant authorities. The authorities, as well as the public at large must be given the opportunity to comment before a decision on the project is taken.

## Will the Planning Authority change in any way?

Planning regulations depend on the national authorities and the EU does not get into this. As a result of membership, the Planning Authority process as such will not undergo any substantive changes. It will continue to be regulated by national law. On the other hand, the Planning Authority was recently given added responsibilities in the regulation of the environment in our country and because of this it was converted into the "Malta Planning and Environment Authority (MEPA)". This decision was taken by the Maltese authorities and was not required by the EU, although most new environmental standards are, in any case, based on EU law.

### EU FUNDING

## Is it true that the country's infrastructure will improve if we join the EU?

One of the EU funds, known as the Cohesion Fund, specifically allocates funds for infrastructural projects in the areas of transport and the environment. As a relatively less-developed country when compared to EU countries, Malta will qualify for funding from the Cohesion Fund. Projects that are eligible for financial support would include road infrastructure works and infrastructure works connected with Malta's ports and with the environment. This fund part-finances the projects with funding that can go up to 85% of the total costs of the project. So, yes, the local infrastructure, should improve as a result of membership.

## So will roads in Malta improve if we join? Can we get EU funds for our roads?

This is possible. But it depends on whether the Maltese government considers roads to be a priority for the purposes of EU funding. Upon membership, Malta will qualify for financial support from the EU's Structural and Cohesion Funds. However, this would depend on the type and quality of the projects submitted and also on the duty of the Maltese government to come up with additional finance to complement the EU funds. It must be remembered that the EU only provides part-finance and not the full cost of the project, although in the case of infrastructural projects, the proportion of EU funding can be up to 85% of the total costs of the project. The government would need to come up with additional funds either from public funds or through public-private partnerships.

A Regional Policy Directorate has been set up within the Office of the Prime Minister in order to prepare Malta to absorb EU funding after membership.

Upgrading the roads network in Malta is said to be among the priority projects for EU funding.

### PURCHASE OF PROPERTY IN MALTA

## Will foreigners have unrestricted rights to buy property in Malta? And will this affect the price of property?

Under EU law, EU citizens have the right to purchase property in other EU member states and can transfer the necessary capital (funds) to purchase or rent property. Any measures that restrict this right would be illegal. However, Malta requested a special permanent arrangement on this issue so that EU citizens will not be able to buy unlimited property in Malta with the possible consequence that EU membership could lead to an increase in the price of property and negatively affect Maltese citizens.

The following are the main points that explain this issue further and the outcome of negotiations:

1. Most foreigners who buy property in Malta actually continue to reside abroad and only use their Maltese property as a holiday home. For them, Malta would be a secondary residence because their primary residence continues to be elsewhere. In recent years, an average of three hundred housing units were sold every year to non-resident foreigners, including non-EU citizens. Because this is the largest category of buyers, negotiations focused on them.
2. As a result of negotiations, the position of EU citizens who want to buy a holiday home in

Malta will remain unchanged after membership. This means that they will still require a permit to buy a first house, which is granted automatically if certain conditions (such as the value of the property) are fulfilled. And they will still not be able to buy a second property in Malta.

3. On the other hand, the position of EU citizens who emigrate to Malta and settle permanently here (as against those who use Malta for a holiday home) will change in three ways:
  - (a) Today, EU citizens who settle in Malta and want to buy their first property require a permit, which is granted automatically if they fulfil the relative conditions. After membership, they will no longer require a permit. This applies to the purchase of one property only.
  - (b) Today, EU citizens who settle in Malta to live here permanently cannot buy a second or more property. After membership, they will only be able to do so if they have lived here for at least five years.
  - (c) EU citizens who settle in Malta will also be able to buy property that is related to their business in Malta. Today they can only do so if this is approved by Government. After membership, they will not require authorisation.
4. These three changes only apply to EU citizens residing in Malta on a permanent basis, that is, as their primary residence. They do not apply to EU citizens who reside abroad but want a holiday home in Malta, where current restrictions will be retained.
5. Non-EU citizens (such as those from Russia or North African countries) make up a sizeable part of the foreigners who purchase property in Malta. The outcome of negotiations does not affect this category of purchasers and therefore existing restrictions will remain.
6. The arrangement will apply on a permanent basis and not just for a few years. This will be guaranteed through a Protocol (legal document) that will be attached to Malta's Treaty of Accession.
7. The EU made it clear that this arrangement was only acceptable to it because of Malta's unique geographic and demographic characteristics. It added that such an arrangement should not set a precedent for other candidate countries.
8. The outcome of negotiations on property mean that the market for Maltese property will remain liberalised only for residents of Malta. It will not be liberalised for all four hundred million EU citizens as should be the case under EU law. This is because existing restrictions will be retained for all foreigners who do not reside in Malta.

## Will Maltese citizens be able to buy property in other EU countries?

Yes. Upon membership, Maltese citizens will be able to purchase property in any EU country and may not be subject to additional requirements or restrictions because of their nationality. This means that the EU did not impose on Malta the restrictions that Malta will be imposing on EU citizens who want to purchase property in Malta.

## Will estate agents be required to change their business practices?

No. There are no specific EU requirements regulating estate agents. It is up to Malta to decide whether estate agents should be regulated or not in Malta. Currently, estate agents are not regulated in our country. This means that anyone can become an estate agent without any qualifications whatsoever. If Malta chooses to regulate this sector then these regulations would apply equally for Maltese operators as well as to EU operators seeking to set up shop in Malta.

## Will local estate agents face competition from foreign agencies?

Yes. Under EU law every individual, firm or company in the EU has the right to set up permanently in another EU country or to offer its services on a temporary basis in another EU country. However, in doing so, it would need to respect the applicable rules in the country where it is offering its services. Of course, local estate agents would still have the added advantage that they know the local property market much more than foreign agents.

## Can local estate agents set up abroad and sell property in that country?

Yes. Again, in doing so, they would need to respect the applicable rules in the country where they set up shop. This means, for instance, that if an individual wants to set up as an estate agent in London, he or she would need to operate under UK laws, if any, that regulate estate agents in that country.

### WORKERS IN THE CONSTRUCTION INDUSTRY

## Will EU membership present any opportunities for individual workers?

The main concern for construction workers is, in the first place, that they have a job. And this depends on whether the company that employs them is willing and able to take up the challenge of competition. A common complaint made by local contractors is that in Malta there is a shortage of workers in the construction industry.

There are other issues that ought to be considered. For instance, training in the construction sector is an important point. Here the EU is relevant because it actively supports training initiatives. The EU's vocational training programme, Leonardo da Vinci, supports training initiatives that are part of a European partnership involving different organisations across

Europe with an interest in training. Leonardo da Vinci initiatives are also applicable to individuals and companies in the construction industry. Placement and exchange projects, for example, provide young workers, trainees and students with the possibility of spending a period of time training in a foreign institution or company. Construction companies with an interest in training or the local construction training institution may co-operate with foreign companies and institutions in training-related projects.

A number of Leonardo da Vinci projects related to the construction industry have already been supported. Examples include a project aimed at creating training plans for the building sector with the task of keeping up to date with technological developments. Another involved the development of an innovative training programme providing personnel with knowledge and skills in environmental issues in relation to the design and construction of buildings. Others included historical building development and conservation and language skills specific to the construction industry, focusing on cross-cultural concepts of construction, such as comparative legislation and building systems.

As a candidate country, Malta can already participate in this programme. If you want to know more about this subject, you should contact the local Leonardo da Vinci agency or MIC to check out how you can participate.

After membership, Malta will also be eligible to benefit from the European Social Fund which allocates financial assistance for projects that promote human resource development and employment in all areas, including the construction sector.

## If we join, will foreign EU workers be able to seek work in the construction sector in Malta?

Yes, if Malta joins the EU, construction workers would be able to work in Malta provided that they are citizens of an EU country. In Malta, the construction industry claims that there are insufficient Maltese workers to fill vacancies in this sector.

However, on the issue of free movement of workers, during negotiations with the EU, Malta obtained a special arrangement on the right of EU workers to seek work in Malta. EU workers will be able to seek work in Malta. However, for a period of seven years after membership, restrictions may be imposed unilaterally by Malta in urgent and exceptional cases where the inflow of EU workers presents a serious threat to the local labour market as a whole or parts of it. After this period, in the event of a disproportionate influx of EU workers, Malta may still seek a remedy, provided that at this stage it does not act unilaterally but through the EU institutions.

This means that if we join the EU and there is a shortage of construction workers in Malta, we would be able to bring in EU workers to work in this sector. Workers may be brought in from any EU country, including the new EU Member States of Central and Eastern Europe. For the first seven years after membership, a work permit would still be required for EU workers. However, work permits will be granted automatically, unless they are refused on the

grounds explained above as negotiated by Malta. After the first seven years, work permits will no longer be required for EU workers.

## And does this safeguard also apply to Maltese workers seeking to work in the EU?

No. Malta secured the right for Maltese citizens to seek work in other EU countries from the first day of membership without any restrictions whatsoever. This means that the restrictions that may be imposed by Malta on EU workers cannot be imposed on Maltese workers in other EU countries.

## Can we bring in foreign workers from non-EU countries?

Workers from non-EU countries would still require a work permit in order to work in Malta as is the case today.

## Will construction workers be required to have some additional qualifications or training than they have today?

No. Training requirements and qualifications for construction workers are set and determined by each individual country, not by the EU.

The EU only comes into the picture in order to ensure that if a person obtains a qualification - even if this is a vocational qualification - then this should be recognised in another EU country. This means that if an EU worker has obtained some kind of qualification in his country of origin, this qualification should be recognised in Malta. The same applies for a Maltese citizen who obtains a qualification from the Malta College for Arts, Science and Technology (MCAST) and wants to seek work in another EU country.

## What will change on health and safety measures on construction sites?

Under EU law, there are obligations that must be carried by the employers to respect health and safety at the workplace, including building sites. Workers too have obligations to co-operate in the enforcement of such standards. This law is more relevant to large projects than for small building work.

The main obligations of the employer include the duty to supervise workers and to undertake a risk assessment of the workplace. Employers must also provide training and check that workers are compatible with the tasks assigned to them. On site, they must also take

action to prevent fire and explosive atmospheres. They must also ensure that there are enough escape and rescue facilities, sanitary installations and rest rooms and they must also provide regular health checks for the employees. Workers must also be consulted, informed and involved in decision-making relating to their health and safety.

On this law, during negotiations, Malta has requested until January 2004 before implementing it in full in order to give sufficient time for the enforcement system to be put in place as well as for the local industry to adjust.

## Does the EU say anything on the work practices used in stone quarries?

Again, here the EU health and safety standards in the construction sector apply. The employer has various duties relating to health and safety. These include supervision and the duty to undertake a risk assessment of the workplace. Employers must also provide training and check that workers are compatible with the tasks assigned to them.

## Will conditions of work for construction workers change?

If you are self-employed, it is up to you to decide the amount of hours you wish to work. The same roughly applies if you are a family worker or if you work on your own but on a part-time basis.

However, if you are an employee, you should not be forced to work more than 48 hours per week, including overtime. If you agree with your employer to work longer hours you can do so provided that this does not pose a health or safety risk to you or to other workers. On the other hand, if you do not want to work beyond 48 hours, your employer can neither discriminate against you nor dismiss you.

## What about leave and sick leave?

If you are employed, you should have at least four weeks paid annual leave. This may not be replaced by an allowance instead of leave except where employees are working out their notice. On the other hand, there is no EU law that deals with the amount of sick leave, remuneration and other benefits. These are granted according to Maltese law.

## How will Maltese architects be affected?

The EU has a specific law on architects which deals with their right of free movement within the EU. Architects are one of just seven professions whose recognition is directly regulated at EU level. The law specifies the kind of training needed for an architect to be recognised in any member state of the EU.

As a result of this law, an architect who is fully qualified to work in his or her home country is automatically recognised as qualified to work in another European Member State of his or her choice. The only exception to this is if there are specific characteristics of the architectural profession in that particular country. For example, architects may receive special training on a volcanic island that may not be taught elsewhere in every country. In this case, the receiving country may ask the applicant architect to undergo a period of training before accepting his or her qualifications and warrant.

## In Malta 'periti' are qualified in both civil engineering and in architecture? Can an EU citizen qualified only as a civil engineer work in Malta as a 'perit'?

Yes, if his or her qualifications and experience are recognised by the *Periti Warranting Board*. In this area, there is a slight complication in that in other countries, the qualification as an architect is normally separate from that of a civil engineer, whereas in Malta the two are combined in the same course. In Malta, recognition of a foreign architect would be somewhat easier than that of a civil engineer seeking to work here as a 'perit'. In the latter case, the applicant is likely to be required to sit for a further aptitude test before being granted recognition to work in Malta as a 'perit'.

## And would a foreign architect or civil engineer recognised in Malta to work as a 'perit' be able to sign planning applications submitted to the Planning Authority?

Yes. If the architect's or civil engineer's warrant is recognised by the *Periti Warranting Board*, then he or she would be authorised to sign a planning application submitted to the Planning Authority. If there is recognition to practice in Malta, then there can be no discrimination. As a matter of fact, this practice already seems to exist in Malta.

## Can an architect offer his or her services in any other EU country without having to go there, that is, whilst being based in Malta?

Yes. This is because, apart from the right of being employed in another country or being able to set up practice there, you also have the right to remain based in your own country but provide your service in another. This means that there is a right to free movement of services whereby an architect can participate in projects in other countries and be involved in work in that other country on a temporary rather than on a permanent basis. Equally, he or she may choose to set up practice in another country on a permanent basis by establishing himself in another country. This is known as the right of establishment.

In both cases, however, the architect can only offer services in another country if his or her qualifications are duly recognised. Recognition is clearly a pre-condition to working or offering services in another country.

## How will Maltese engineers be affected?

The main issue will definitely be that of the free movement of engineers, that is, foreign engineers seeking work in Malta and Maltese engineers seeking work abroad. To facilitate free movement, the EU has a system of mutual recognition of qualifications. In this case, the engineering profession is covered by what is known as the general system, where a distinction is made between regulated and non-regulated professions. The profession is regulated if the national legislation of the host country stipulates that the take up or pursuit of this profession in question is subject, directly or indirectly, by virtue of laws, regulations or administrative provisions, to the possession of evidence of education and training (or an attestation of competence). This is the case of engineers in Malta. Thus, an engineer wishing to practise his profession in Malta will have his qualifications compared to the Maltese requirements. If discrepancies are found, this person may be required to either undergo an adaptation period or to take an aptitude test. Some other EU countries where the engineering profession is regulated include the UK, Germany, Spain and Luxembourg.

In those EU countries where the engineering profession is not regulated, a person is not required to have a specific qualification in order to work there as an engineer; neither is there any need to apply for recognition of his/her foreign qualification. This is the case, for instance, in Belgium, the Netherlands and Denmark.

**MORE INFORMATION**

## Where can I get more information?

If you want more information or if you want to hold a direct meeting where we can explain things to you in more detail, contact the Malta-EU Information Centre (MIC) on telephone 2590 9192 or send us an email on [euinfo.mic@magnet.mt](mailto:euinfo.mic@magnet.mt)

A great deal of additional information is also available on the following websites:

Malta-EU Information Centre (MIC)

<http://www.mic.org.mt>

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Council of European Producers of Materials for Construction (CEPMC)

<http://www.cepmc.org>

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European Organisation for Technical Approvals (EOTA)

<http://www.eota.be/>

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European Agency for Health and Safety at Work (OSHA)

<http://europe.osha.eu.int/>

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Dialogue with Business

<http://europa.eu.int/business/en/index.html>

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Construction Industry

<http://europa.eu.int/comm/enterprise/construction/>

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Information by sector

[http://www.mic.org.mt/EUINFO/sector/sec\\_glossary.htm](http://www.mic.org.mt/EUINFO/sector/sec_glossary.htm)

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Environment

<http://europa.eu.int/comm/environment>

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European Industrial Minerals Association

<http://ibase093.eunet.be>

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## ANNEX: MINIMUM ROAD TAXES APPLICABLE TO TRUCKS

### SITUATION TODAY

#### Current Annual Vehicle (road) Tax

Heavy goods vehicles that operate exclusively in Malta:	Lm 40
Heavy goods vehicles that operate internationally:	Lm 58

### SITUATION AFTER THE TRANSITIONAL PERIOD (End 2004/5)

#### Minimum rates of Annual Vehicle (road) Tax to apply to vehicles

Taxes not applicable to passenger cars.

Transitional period ends in end 2004 for vehicles operating internationally,  
in end 2005 for vehicles operating in Malta.

#### Vehicles

<b>2 axles</b>	<b>Lm</b>	<b>Lm</b>
12.0 – 12.9	0	13
13.0 – 13.9	13	35
14.0 – 14.9	35	49
15.0 – 18.0	49	111
<b>3 axles</b>		
15.0 – 16.9	13	22
17.0 – 18.9	22	45
19.0 – 20.9	45	58
21.0 – 22.9	58	90
23.0 – 24.9	90	140
25.0 – 26.0	90	140
<b>4 axles</b>		
23.0 – 24.9	58	59
25.0 – 26.9	59	92
27.0 – 28.9	92	147
29.0 – 30.9	147	217
31.0 – 32.0	147	217

**SITUATION AFTER THE TRANSITIONAL PERIOD (End 2004/5)****Minimum rates of Annual Vehicle (road) Tax to apply to vehicles**

Taxes not applicable to passenger cars.

Transitional period ends in end 2004 for vehicles operating internationally,  
in end 2005 for vehicles operating in Malta.

**Vehicle Combinations – Articulated vehicles**

<b>2 + 1 axles</b>	<b>Lm</b>	<b>Lm</b>
12.0 – 13.9	0	0
14.0 – 15.9	0	0
16.0 – 17.9	0	6
18.0 – 19.9	6	13
20.0 – 21.9	13	30
22.0 – 22.9	30	39
23.0 – 24.9	39	71
25.0 – 28.0	71	124
<b>2+2 axles</b>		
23.0 – 24.9	12	28
25.0 – 25.9	28	47
26.0 – 27.9	47	68
28.0 – 28.9	68	83
29.0 – 30.9	83	136
31.0 – 32.9	136	188
33.0 – 35.9	188	286
36.0 – 38.0	188	286
<b>2+3 axles</b>		
36.0 – 37.9	150	209
38.0 – 40.0	209	283
<b>3+2 axles</b>		
36.0 – 37.9	132	184
38.0 – 38.9	184	254
40.0 – 44.0	254	376
<b>3+3 axles</b>		
36.0 – 37.9	75	91
38.0 – 38.9	91	136
40.0 – 44.0	136	217