

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND MALTA

### Questions and Replies

Contracting parties were invited (GATT/AIR/855) to communicate to the secretariat any questions which they might wish to put concerning the agreement between the European Economic Community and Malta.

As a result of this request, a number of questions were received and transmitted to the parties to the above-mentioned agreement. These questions and replies from the parties are reproduced hereunder.

#### I. GENERAL CONSIDERATIONS REGARDING THE AGREEMENT

1. Do the parties consider that the Agreement constitutes an interim Agreement for the creation of a customs union in line with Article XXIV:5 of the GATT?

The Agreement, in conformity with the conditions laid down in Article 2, has as its aim the establishing of a customs union in two stages. With this aim in mind, the Agreement defines in a concrete manner, methods by which the process of tariff and quota dismantling will have to be carried out during the first stage and contains the necessary procedures to ensure that this dismantling and the introduction of a customs union can be pursued during the second stage. The Agreement consequently fulfils both in its aim as well as in its provisions all the conditions of a provisional agreement concluded with a view to the establishing of a customs union in the sense of paragraph 5 of Article XXIV.

2. Where in this Agreement is there a specific undertaking concerning, on the one hand, the elimination of trade restrictions and the adoption by Malta of the common customs tariff and, on the other hand, the rate of implementation of these measures?

Article 2 of the Agreement and the joint declaration relative to this Article constitute a precise undertaking concerning the realization of a customs union as well as the delays during which such a union can be completed.

3. Paragraph 2, Article 2 of the Agreement states that in principle the second stage of the Agreement will last five years. Is this intended to be a firm commitment to a maximum time-limit for progression to a customs union? Does this mean that at present a plan and schedule in line with Article XXIV:5(c) has been established? Do the parties to the Agreement intend to supply to the CONTRACTING PARTIES a "planned schedule" complying with Article XXIV?

The parties to the Agreement have also accepted to envisage a duration of five years for the second stage. They have however considered that it would not be very realistic to lay down as from now the duration of the second stage in precise terms which would be binding on Malta; such a duration would in any case depend on the evolution of Maltese economic development and could not reasonably be determined if not as a function of this evolution. The parties to the Agreement have consequently agreed in anticipation to define concretely, before the end of the first stage, the procedures for the second stage which should, according to Article 2 of the Agreement and of the joint Declaration relative to it, lead to the establishment of a customs union within a delay of five years. The parties to the Agreement shall not fail to inform the contracting parties.

4. (a) Paragraph 3, Article 2 of the Agreement states that the second stage will provide for a "further elimination of obstacles to trade between the parties". Does this imply that a full customs union may not be effected by the end of the second stage? If so, what kinds of exceptions are contemplated and how extensive will they be?
- (b) If the signatories of the Agreement do not envisage the elimination of all restrictions, what proportion of trade between the two contracting parties will remain subject to these restrictions at the end of the ten-year period?

The definition of a customs union, in the senses to which the General Agreement has been applied, and according to paragraph 8 of Article XXIV, implies that customs duties and other restrictive commercial regulations must be eliminated in the major part of trade exchanges. Both parties have undertaken to pursue the elimination of obstacles to trade during the second stage with a view to arriving at a customs union in the sense of Article XXIV of the GATT by the end of the second stage.

5. If it is claimed that the Agreement is consistent with GATT Article XXIV, does this mean that the joint Declaration by the parties concerning Article 2 of the Agreement definitely commits the parties to the action which it "envisages"?

Article 2 of the Agreement contains an undertaking by Malta to adopt the Common Customs Tariff. The aim of the joint Declaration by the parties relative to Article 2 is to define in a concrete manner the essential and overriding aspects with regard to the undertakings of Article 2 on the basis of which the contents and procedures of the second stage shall be defined during negotiations which shall be held to this end.

6. What proportion of trade in agricultural products between the two countries is excluded from the special treatment? What specific arrangements are provided with respect to the elimination of restrictions on trade in these products? Does Malta intend eventually to adopt the EEC Common Agricultural Policy?

On the part of the Community, the provisions of the Agreement which will regulate the first stage do not apply to agricultural products. In the case of Malta 36 per cent of 1969 agricultural imports which came from the Community were not covered by the present system.

During the second stage, the parties to the Agreement shall proceed with the elimination of obstacles to the major part of trade, including agricultural products. They have anticipated that it would be important to specify, during the negotiations relating to the change from one stage to the other, the supplementary conditions for the right application of the customs union as well as the special procedures governing imports to the Community of agricultural products, such procedures being designed to take into account the agricultural policy of the Community.

The question of eventual adoption by Malta of the Common Agricultural Policy remains completely open at this stage.

7. To what extent will the parties to the Agreement continue to apply quantitative restrictions to their bilateral trade and how can these be justified under the GATT? Do the parties believe that the lack of provisions for the removal of quantitative restrictions on the part of Malta is consistent with the customs union requirement in Article XXIV?

In the course of the first stage of the Agreement and taking 1969 as a base year, quantitative restrictions applied to 1.6 per cent of Community imports coming from Malta and to 9.5 per cent of Maltese imports coming from the Community.

The elimination of quantitative restrictions is anticipated in the provisions which shall be defined for the second stage. In the course of the first stage, Malta shall strive to progress in the freeing of trade in every way compatible with the proper development of her economy. To this effect, the Government of Malta has declared that it is prepared to take the necessary steps to procure that, during the first stage of the Agreement, imports which are still subject to quantitative restrictions shall be freed from such restrictions as early as possible and to the extent compatible with the proper development of the Maltese economy.

8. Do the parties anticipate that the Agreement will apply between Malta and States which may in the future accede to the European Economic Community? Will further negotiations be required in that event?

The parties anticipate that the Agreement shall apply between Malta and the new member States of the Community. To this end, new negotiations will be necessary.

9. What relationship is anticipated between Malta and third countries with which the European Economic Community has association agreements or preferential trade agreements?

No changes in the trade relations between Malta and the countries with which the Community has established special ties will follow from the provisions which govern the first stage of the Agreement.

10. What is the reason underlying the reverse preferences i.e. those which Malta grants to the EEC? In what way will they contribute to Malta's economic development?

By its very definition, an agreement concluded with a view to the establishment of a customs union cannot include unilateral preferences. The positive effects of economic integration on development will be largely evident in a general manner.

11. Are the products in List B of Annex I excluded from the Agreement?

The provisions of tariff dismantling governing the first stage do not apply to the products of List B Annex I.

12. What provisions have been made to grant Malta duty-free treatment on those items falling under Annex II of the treaty establishing the European Economic Community? (See Article 1 of Annex I.)

On the Community side, the products falling under Annex II of the Treaty of Rome are not included in the process of tariff dismantling as defined for the first stage.

13. What criteria are established for selecting the Maltese products to be subject to Community quotas and for determining the size of those quotas? What proportion of trade between the two signatory parties do they represent? Is it envisaged that all the quotas applied on textiles will be completely eliminated ten years from now?

For four particular products which, on the one hand represent an export interest to Malta and, on the other hand, are considered as sensitive products within the Community, a controlled form of tariff dismantling will be applied during the first stage. The volumes of the quotas have been determined on the basis of the average Community imports coming from Malta, as recorded in Community statistics, during the last three years, for which statistical information is available, increased by 35 per cent. The average for 1967-69 of Community imports for these four products has accounted for 35 per cent of total imports coming from Malta. It is anticipated that these quotas will be eliminated during the course of establishment of a customs union.

14. What is the intention and meaning of the "Declaration by the Maltese Delegation concerning Article 3 of Annex II" (page 48 of L/3512)? What circumstances led to this Declaration? Explain, in this context the systems of customs duty and of internal taxes similar to customs duty in Malta.

For the time being, there is no distinction in the tariff of Malta between taxes which are purely fiscal and protective duties as such.

It is the intention of the Malta Government before the end of the first stage of the Agreement to establish such a distinction in conformity with Article III of the General Agreement.

15. Does Article 5 paragraph 3 of Annex II mean that the relevant duties would be eliminated over a period of ten years or does it mean that in the second and subsequent years, they would be reduced by only 10 per cent of remaining duties?

Article 5 paragraph 3 of Annex II means that the relevant duties will be eliminated over a period of ten years.

16. According to Article 6 of Annex II, Malta undertakes to refrain from introducing new quantitative restrictions on imports from the EEC. Does this undertaking mean that quantitative restrictions possibly could be introduced in a discriminatory manner towards other countries?

It is not the policy of the Malta Government to discriminate against any contracting party in the field of quantitative import restrictions.

17. Will the EEC receive preferential treatment in the administration of non-tariff barriers by Malta?

The first stage of the Agreement does not imply any change in the administration of non-tariff barriers in Malta.

As for the future, with the coming into force of a customs union, complementary provisions for its proper implementation shall be determined during the course of negotiations for transition to the second stage, in conformity with the Declaration concerning Article 2 of the Agreement.

II. IMPORTS BY THE EEC FROM MALTA

18. (a) What was the value of imports into the EEC of products originating in Malta in each of the last three years for which statistics are available?

(b) (i) What value and percentage of the above were comprised of agricultural products?

(ii) What value and percentage of the above were comprised of industrial products?

(a) Total imports

1967	-	\$3,254,000
1968	-	\$5,126,000
1969	-	\$8,975,000

(b) (i) Agricultural products

1967	-	\$647,000	-	19.9 per cent
1968	-	\$414,000	-	8.1 per cent
1969	-	\$835,000	-	9.3 per cent

(ii) Industrial products

1967	-	\$2,607,000	-	80.1 per cent
1968	-	\$4,712,000	-	91.9 per cent
1969	-	\$8,140,000	-	90.7 per cent

19. (a) What was the value (and percentage of total imports) in respect of the following categories for each of the past three years:

(i) Imports of products already duty free?

(ii) Imports of products benefiting from reductions in duties and charges?

(iii) Products excluded from the Agreement?

(b) What percentage of imports from Malta was free from quantitative restrictions in these years; what percentage of imports from Malta will be free from quantitative restrictions after the Agreement is implemented?

(a) (i) Duty-free imports

1967	-	\$631,000	-	19.4 per cent
1968	-	\$664,000	-	13.0 per cent
1969	-	\$1,523,000	-	17.0 per cent

(ii) Imports of products benefiting from reductions in duties

1967	-	\$2,148,000	-	66.0 per cent
1968	-	\$4,537,000	-	88.5 per cent
1969	-	\$7,864,000	-	87.6 per cent

(iii) Imports of products which do not benefit from reductions in duties for the first stage

1967	-	\$1,106,000	-	34.0 per cent
1968	-	\$589,000	-	11.5 per cent
1969	-	\$1,111,000	-	12.4 per cent

- (b) The percentage of Community imports coming from Malta, which were free from quantitative restrictions at the time of the entry into force of the Agreement, is 98.4 per cent on the basis of trade statistics for 1969.

20. What percentage of the value of imports into the EEC of products originating in Malta, taking into account the level of tariff quotas set, is, or is scheduled under the Agreement to become completely free from duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX of the GATT):

(i) on the date of entry into force of the Agreement;

(ii) immediately before the expiration of the Agreement.

(i) At the date of the entry into force of the Agreement and on the basis of 1969, 17 per cent of Community imports coming from Malta were free of duty and 98.4 per cent did not encounter quantitative restrictions.

(ii) The provisions of the Agreement for the first stage aim at the progressive elimination of obstacles to trade according to the so-called "linear" method.

21. What percentage of total industrial imports of the European Economic Community originating in Malta are comprised of:

- (i) products for which there are no customs duties or other import charges;
  - (ii) products which benefit from the reduction of duties and charges;
  - (iii) products subject to quantitative restrictions;
  - (iv) products which are excluded from the Agreement.
- (i) 1969 - 13.6 per cent.
  - (ii) 1969 - 81.2 per cent.
  - (iii) Concerning 1969 imports no quantitative restrictions were applied.
  - (iv) 1969 - 3.5 per cent.

III. IMPORTS BY MALTA FROM THE EEC

22. (a) What was the value of imports by Malta of products originating in the EEC in each of the last three years for which statistics are available?
- (b) (i) What value and percentage of the above were comprised of agricultural products?
- (ii) What value and percentage of the above were comprised of industrial products?
- (a) Total imports value
- |      |   |             |  |
|------|---|-------------|--|
| 1968 | - | £14,470,238 |  |
| 1969 | - | £17,693,479 |  |
| 1970 | - | £19,576,193 |  |
- (b) (i) Value and percentage of agricultural products
- |      |   |            |   |                |
|------|---|------------|---|----------------|
| 1968 | - | £2,916,502 | - | 20.16 per cent |
| 1969 | - | £3,189,472 | - | 18.03 per cent |
| 1970 | - | £3,171,587 | - | 16.20 per cent |
- (ii) Value and percentage of industrial products
- |      |   |             |   |                |
|------|---|-------------|---|----------------|
| 1968 | - | £11,553,736 | - | 79.84 per cent |
| 1969 | - | £14,504,007 | - | 81.97 per cent |
| 1970 | - | £16,404,606 | - | 83.80 per cent |
23. (a) What was the value (and percentage of total imports) in respect of the following categories for each of the past three years?
- (i) Imports of products already duty free?
- (ii) Imports of products benefiting from 35 per cent duty reduction (Article 1, Annex II)?
- (iii) Imports of products falling within List A of Annex II?
- (iv) Imports of products falling within List B of Annex II?
- (v) Products excluded from the Agreement?
- (b) What percentage of imports from the EEC was free from quantitative restrictions in these years?
- (a) (i) Products already free of duty
- |      |   |            |   |                |
|------|---|------------|---|----------------|
| 1968 | - | £6,193,209 | - | 42.80 per cent |
| 1969 | - | £8,056,479 | - | 45.54 per cent |
| 1970 | - | £8,715,064 | - | 44.53 per cent |

(ii) Products benefiting from the 35 per cent reduction of duties (Article I, Annex II)

1968	-	£3,555,835	-	24.57 per cent
1969	-	£4,711,400	-	26.63 per cent
1970	-	£4,922,275	-	25.14 per cent

(iii) Products of List A, Annex II

1968	-	£1,672,494	-	11.56 per cent
1969	-	£1,899,224	-	10.73 per cent
1970	-	£2,252,145	-	11.50 per cent

(iv) Products from List B, Annex II

1968	-	£3,048,700	-	21.07 per cent
1969	-	£3,026,376	-	17.10 per cent
1970	-	£3,686,709	-	18.83 per cent

(v) Products excluded from the Agreement

1968	-	£3,048,700	-	21.07 per cent
1969	-	£3,026,376	-	17.10 per cent
1970	-	£3,686,709	-	18.83 per cent

(b) Percentage of imports originating from the EEC exempt from quantitative restrictions

1968	-	89.77 per cent
1969	-	90.52 per cent
1970	-	91.60 per cent

24. What percentage of the value of imports into Malta of products originating in the EEC is, or is scheduled under the Agreement to become completely free from duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX of the GATT):

(i) on the date of entry into force of the Agreement;

(ii) immediately before expiration of the Agreement.

(i) At the date of the entry into force of the Agreement, and on the basis of 1969, 45.5 per cent of imports coming from the EEC were free of duty.

90.5 per cent did not encounter quantitative restrictions.

(ii) The provisions of the Agreement for the first stage aim at the progressive elimination of obstacles to trade according to the so-called "linear" method.

IV. BASIC INFORMATION REGARDING THE TRADE COVERAGE OF THE AGREEMENT

25. What is the value and percentage of the total industrial imports of Malta originating in the European Economic Community constituted by:

- (i) products for which there are no customs duties or other import charges;
- (ii) products which benefit from the reduction of duties and charges;
- (iii) products subject to quantitative restrictions;
- (vi) products which are excluded from the Agreement?

Industrial products

(i) Products that are not subject to customs duty or to any other import charge

1968	-	£4,469,766	-	38.69 per cent
1969	-	£6,131,227	-	42.28 per cent
1970	-	£7,056,637	-	43.02 per cent

(ii) Products benefiting from the reduction of duties and charges

1968	-	£5,117,758	-	44.29 per cent
1969	-	£6,494,058	-	44.77 per cent
1970	-	£7,017,192	-	42.77 per cent

(iii) Products subject to quantitative restrictions

1968	-	£333,928	-	2.89 per cent
1969	-	£403,605	-	2.78 per cent
1970	-	£435,597	-	2.66 per cent

(iv) Products that are excluded from the Agreement

1968	-	£1,966,212	-	17.02 per cent
1969	-	£1,878,722	-	12.95 per cent
1970	-	£2,330,777	-	14.21 per cent

26. What is the value and percentage of total agricultural imports of Malta originating in the EEC constituted by:

- (i) products for which there are no customs duties or other import charges;
- (ii) products which benefit from the reduction of duties and charges;
- (iii) products subject to quantitative restrictions;
- (iv) products which are excluded from the Agreement?

Agricultural products

(i) Products that are not subject to customs duty or to any other import charge

1968	-	£1,723,443	-	59.09 per cent
1969	-	£1,925,252	-	60.36 per cent
1970	-	£1,658,427	-	52.29 per cent

(ii) Products benefiting from the reduction of duties and charges

1968	-	£110,571	-	3.79 per cent
1969	-	£116,566	-	3.66 per cent
1970	-	£157,228	-	4.96 per cent

(iii) Products subject to quantitative restrictions

1968	-	£1,146,320	-	39.30 per cent
1969	-	£1,273,666	-	39.93 per cent
1970	-	£1,209,381	-	38.13 per cent

(iv) Products that are excluded from the Agreement

1968	-	£1,082,488	-	37.12 per cent
1969	-	£1,147,654	-	35.98 per cent
1970	-	£1,355,932	-	42.75 per cent.