

Customs Union

Negotiations on CUSTOMS UNION were closed on December, 13, 2002.

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Negotiations on Customs Policy – Chronology

Screening	October 1999
Negotiations opened	June 2001
Negotiations closed	October 2002

AT A GLANCE: Outcome of negotiations on Customs Policy

	Malta's request	Outcome
Duty relief	Transition period of five years to introduce gradually the EU's Common External Tariff (CET) on certain textiles for the production in Malta of men's and boys' outerwear.	YES. Request accepted. CET on textile raw materials will be progressively phased in by end 2008.

For the European Union to achieve an effective internal market, it had to develop into a Customs Union. This means that for customs purposes, the whole EU territory is one and the same territory. As a result, any product or even person who enters the EU territory from whichever EU country should be subjected to exactly the same customs treatment irrespective of which EU country was the point of entry. Once a product or person has entered the EU customs territory from outside, it achieves freedom of movement and can move freely within that territory without being subjected to any further customs controls. Countries that join the EU also join the EU customs union.

Free Trade Area and Customs Union: *the difference*

A Free Trade Area stops short of a customs union. In a free trade area there is free trade between the countries involved. But there is no common external customs border and no common external tariff. Free trade is guaranteed to those products originating in the countries involved. If country A and country B are in a free trade area, only products originating in those two countries have the free trade privilege. As such, therefore, the agreement would normally include rules on how to deal with flows of trade that originate from outside, known as rules of origin. Products from country C would have to pay duty to enter into either of countries A and B and the duty rate would depend on each country. Once a product does enter, it does not have automatic freedom of movement within the free trade area unless it complies with the rules of origin. Customs formalities, including customs checks would still be in place in a free trade arrangement. Quotas may also be imposed on the number of goods that may be traded 'freely'. If that quota is exceeded, then duties are applied.

If on the other hand, countries A and B were part of a customs union, then their external duty tariffs would be common and once a product from any other country enters either of the two countries, it would have full freedom of movement without any further customs controls.

Malta's Association Agreement with the EU

Since 1970, Malta has had an Association Agreement with the EU. This agreement provides for a two-phase development of trade relations between the two sides. The first phase had to lead to a free trade area after five years, whereas the second phase had to lead to a customs union after ten years. In fact, however, Malta has only just about achieved a free trade area of sorts from January 2003 when the final levies on industrial products imported from the EU were removed. Levies on agro-food products will be removed by membership. Since Malta has never really completed the first phase of the agreement, there is little question that it never proceeded to the second stage, namely that of a customs union. Instead, both stages will be automatically achieved upon membership.

Under the terms of the Association Agreement, a Maltese product may be exported to the EU duty free if it satisfies the 'origin rules', that is, if a substantial percentage of the work on the raw material was carried out in Malta. Products do not have automatic free movement and require certain documentation relating to origin before they enter the EU. They are also subject to customs checks and at times, quotas.

On the other hand, products imported from the EU into Malta are not subject to duties, provided a valid origin certificate is produced. However, products imported from the EU that originate from outside the EU (e.g. China) are still charged even though they had already paid the Common Customs Tariff (CCT) in the EU country. This is a common concern of local importers who complain that duty is being paid twice, once in the EU country and a second time in Malta. Upon membership, duty would only be paid once - at point of entry into the EU market.



Customs Duties

When a product is imported into an EU country from outside the EU, it attracts a tax called a customs duty or tariff. EU countries agreed to fix a common set of tariffs which will be the same for all EU Member States. This is known as the Common Customs Tariff (CCT) or the Common External Tariff (CET). On the other hand, there can be no customs duties, or any other form of fiscal barriers (such as levies), imposed on goods that are traded between EU Member States. This applies to products manufactured in the EU as well as to products imported from a third country but in free circulation within the EU.

• Position in Malta

Upon membership, Malta will form part of the EU's customs union and will therefore adopt the same external tariff, the EU's CCT. This means that the import duty of rates of some products may change after membership. However, Malta's customs duties have already, over time, been gradually aligned to the CET and therefore the overall change is expected to be negligible.

It must be remembered that the EU has concluded several trade arrangements with more than one hundred countries around the

world. These agreements often allow preferential treatment in the application of the EU common customs tariff with respect of the non-EU countries with which the agreements have been concluded. This means that some local importers may find that, upon membership, imports from non-EU countries may attract a higher duty than at present, but that this duty could be altogether avoided if the same products were sourced from other non-EU countries with which the EU has concluded a trade agreement. Moreover, there are many other products which at present are subject to customs duties when imported into Malta and which, upon membership, will pay a lower or no rate at all.

On certain types of products, typically agricultural produce imported from outside the EU, there are also EU agricultural levies that may apply.

The table below compares the duty rates of some commodities before and after membership. Malta will adopt this system on the date of accession.

Checking the tariff

The EU developed an information database, known as TARIC, that provides updated and integrated information on tariffs applicable on a product-by-product basis and depending on which country they come from. This is a very useful tool for traders. Whoever wishes to check the Common Customs Tariff of a product may do so by following this link:

http://europa.eu.int/comm/taxation_customs/dds/en/tarhome.htm.

The present import duty, excise duties, levies and VAT rates for products entering Malta are also accessible on the website of the Department of Customs: <http://customs.business-line.com>.

Imports from non-EU countries	HS Code	Malta duty rate TODAY	Duty rate AFTER membership*
Car spare parts (e.g. gear boxes)	8483409400	4.9%	3.7 %
Motor cars (petrol: 1000-1500 cc)	8703221000	12%	10%
Mobile phones	8525209100	6.5%	0%
Colour TVs (42-52cm)	8528125400	14%	14%
Ornaments made of (tropical) wood	4420101100	3%	3%
Egg Noodles	1902110000	12% (+ Lm0.36/kg levy)	7.7 % (+ €24.6/100 kg)
Plastic toys	9503903200	8%	4.7%
Cotton garments	6114200000	14%	12.4%
Roasted coffee, not decaffeinated	0901210000	0%	7.5%
Leather handbags	4202210000	5.1%	3%

* With respect to those non-EU countries that have a trade agreement with the EU, this duty rate may be lower or not applicable.

Other Customs barriers

After membership, imports of products which are in free circulation in the EU do not require a customs declaration when they enter Malta, as is the case at present. Nor does their entry into Malta trigger any tax being charged. This means that levies must be removed in the same way as customs duties have already been removed. But it also applies to VAT. This tax is currently imposed on goods from the EU at point of their entry into Malta. VAT can no longer be charged at this point of entry on goods which are in free circulation in the EU but would have to be charged at later stages, culminating in final collection at point of sale. This means that importers, upon membership, will not require to make a customs declaration for goods in free circulation in the EU and would also no longer need to pay the 15% VAT deposit on their supplies upon their arrival in Malta. The Customs Department will no longer have a role in collecting this tax on goods entering from an EU country.

Apart from tax barriers, also known as tariff-barriers, there are also other types of barriers to trade, often known as non-tariff barriers. These include quotas which mean that limits are set on the number of items imported. They also include technical regulations, bureaucratic paperwork, certain types of inspections and many more. The European Court of Justice has judged on a number of these barriers adopted by EU countries. In many cases they were found to be measures in disguise protecting local manufacture. This goes against the principle of the free movement of goods, and consequently EU countries had to change their policy.

Customs department would become part of the customs frontier of the EU. Its responsibility would shift from its current work (which still covers imports from the EU) to a role that concentrates on external policy vis-à-vis non-EU countries. This includes not just customs procedures but also a role in the implementation of other EU policies, not least those relating to health, environment, competition, piracy as well as the EU's agricultural and fisheries policy. This role is very important because once goods enter Malta, they will be able to circulate freely within the EU. The role also covers flows of goods that enter Malta but are ultimately intended to the EU market. In other words, our customs department would be a gateway for the entire EU customs territory and not just the Maltese territory.

Customs duties paid to the EU

Yes, to a large extent it is. This applies to customs duties on goods that we import from outside the EU. It also applies to agricultural levies that we would pay on agricultural products that enter Malta from outside the EU. As part of a country's obligations of EU membership, it must pay a contribution to the EU budget. This includes the transfer to the EU budget of all revenue collected in the form of customs duties and agricultural duties or levies on non-EU imports. This revenue becomes part of what is known as the "Traditional Own Resources" of the EU. This is because the money paid to the EU is automatically considered as the Union's "own resources". It is deposited directly into an account in the name of the European Commission on behalf of the Union.



Customs procedures

Upon membership, the notion of "import" and "export" between Malta and EU countries will cease to exist. Since Malta would be part of the wider EU market, sales made between one part of the market to another cannot be considered as "importation" or "exports". It will just be internal EU trade.

Equally, border controls when goods cross from the EU into Malta (and vice-versa) will also cease to exist. This does not mean that no checks or controls can be made on goods, especially in case of suspect movements, but simply that control at the point of entry into a country should be the exception, not the rule, as it is now.

On the other hand, customs procedures will remain with respect to imports from a non-EU country. In the EU, since 1993, customs procedures vis-à-vis non-EU countries have been consolidated into one single Customs Code.

Malta's customs procedures after membership

Malta introduced a new customs procedure for all imports, whether from EU or non-EU countries. This procedure uses the single document known as the Single Administrative Document (SAD). Upon membership, this procedure will no longer apply to goods entering from EU countries and will instead only continue to apply to imports from non-EU countries. After membership, our

It is this money that the EU uses when it spends money from its budget, in areas such as agricultural or to finance its Structural and Cohesion Funds or its EU programmes. Although all customs duties on non-EU imports must be paid to the EU, each country is entitled to retain a portion of the money by way of a collection fee for the administrative work involved in collecting the duties. Since 2001, EU countries retain, by way of collection costs, twenty five per cent (25%) of the amount collected in customs duties. The same also applies to agricultural levies on non-EU imports and on any other duties. Before 2001, the collection fee was just ten per cent (10%) of the duties collected.

This means that EU countries end up paying the EU three quarters of their revenue collected from customs duties on non-EU imports as part of their contribution to the EU.

Malta as a gateway to the EU customs territory

When a product enters the EU it must pay the same duty irrespective of the entry point. And once a product enters the EU and settles the duty, it can move freely throughout all EU countries without paying any further duty. This would also apply with respect to products that enter Malta. Once products enter Malta and pay the Common Customs Tariff, they can move to any EU country without suffering any further duty charges.

This also means that Malta can act as an inward gateway for EU trade. In other words, goods intended for the EU market can be shipped to Malta, undergo customs clearance, including payment of the relative duties and then be shipped out again to other EU countries, entering duty-paid without any further customs controls. This would be possible because Malta's customs would also be part of the EU customs system. And entering Malta would also mean entering the EU customs territory.

Of course, there is no obligation for such goods to enter the Maltese customs territory and they can still opt to remain outside the customs territory by using say, the Freeport. But if they do take that option, Malta would be able to collect customs duties on non-EU goods even if they are destined to other EU countries. As a result, Malta would be able to benefit from the collection fee not

just on goods destined to Malta, but also with respect to goods that enter Malta as a gateway for the EU customs territory. Clearly, for this to happen, a lot must surely depend on the efficiency and reliability of our customs department as well as on other port services.

Recent estimates show that more than a quarter of customs duties collected in the Netherlands relate to goods that enter this country but then move on to other EU countries. So are one third of the customs duties collected in Antwerp (Belgium). In both these cases, Belgium and the Netherlands are used as an entry point into the EU and not simply as an entry point into their own national territory. As a result, they are collecting customs duties that they would otherwise not have collected. And while they must pass on this revenue to the EU, they can pocket a hefty portion by way of collection fee.

Outcome of negotiations

• Textiles

During negotiations, Malta confirmed both its willingness and its capability to apply the EU customs policy. However, there was one issue in particular that needed special attention. Until now, Malta has imported limited amounts (quotas) of four types of fabrics used for the manufacturing of men's outerwear for export to the EU duty free. With the adoption of the CCT, a rate of duty would have had to be introduced. This ranges from 6.3% to 9%. Malta argued that an immediate introduction of duties would have a negative impact on the companies operating under this duty-free regime. In particular, Malta argues that this sector employs women and it was important to safeguard this employment since the participation of women in the Maltese workforce is already low. This was a winning argument during negotiations, although the EU also considered that the amounts imported into Malta represent a very small amount of the total imports of these items into the EU. Moreover, this arrangement does not give the Maltese producers any further advantage than they do actually possess now. It was therefore agreed that these duties will be phased in gradually over a period of 5 years.

The phasing-in will work out as follows: For the first two years after membership no external tariff rate will be charged on woven fabrics of combed wool or of combed fine animal hair (CN Code 51121110) up to a maximum of 20,000 square metres per year, denim (CN Code 52094200) up to a maximum of 1.2 million square metres per year, woven fabrics of artificial filament yarn CN Code 54082210) up to a maximum of 110,000 square metres per year and other made up clothing accessories (CN Code 62171000) up to a maximum of 5,000 kg per year. The tariff will be phased in from the third to the fifth year of membership. We repeat : this applies only for those manufacturing enterprises which produce woven outerwear for the EU market.

• Levies

Malta still imposes levies on imports of agricultural and agro-industrial products from the EU. These levies – or taxes - constitute a barrier to trade and cannot be retained if Malta joins the EU. Products where levies still apply include pasta, wine, fruits and vegetables, meats, ice-cream and so on. In the main, these are products that compete with local production in Malta and levies are therefore intended to protect the local industry. At the same time, however, these levies reduce consumer choice and tend to increase prices. Once they are removed food prices on all products where levies apply, will go down. The table below illustrates some examples of products where prices will go down on imported products. But similar savings are also expected on local goods that compete with these products.

As a result of negotiations, it was confirmed that all remaining levies will be removed by the date of membership at the latest. The issue of how the local agricultural sector can be assisted to compete within the single market was discussed during negotiations on agriculture.

Lower prices as a result of the removal of levies

Consumers will save

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| <ul style="list-style-type: none"> • 15 cents on every kg of pig meat • 10 cents on eggs (per dozen) • 4 cents on every kg of poultry • 81 cents on every kg of tomato polpa • 45 cents on every kg of pasta (e.g. spaghetti) | <ul style="list-style-type: none"> • 50 cents on every kg of peaches, plums, • 70 cents on every kg of ice-cream • 15 cents on every litre of juices • 25 cents on every litre of beer • Lm1.50 on every litre of wine |
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For more information see also: • Aggornat Special Edition on Free Movement of Goods • Aggornat Special Edition on Agriculture • Malta's negotiating position paper on Customs Union



Malta's official negotiating position paper on this area is also available from MIC or from:

www.mic.org.mt

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