

Document Provided by Malta

Chapter 9: Transport Policy

The European Union, in its Common Position (CONF-M 62/00), has invited Malta to provide further information on a number of matters referred to in its Negotiating Position Paper (CONF-M 51/00).

The information being provided in this Position Paper is subject to the negotiating principles endorsed by the Accession Conference (CONF-M 14/00), in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established.

Horizontal Issues

Extension of the Trans-European Transport Network to Malta

The terms of reference regarding the Transport Infrastructure Needs Assessment (TINA) were submitted to the Commission on 4 December 2000. Malta is currently carrying out an assessment of Malta's transport infrastructure requirements on the lines of the original TINA study conducted in eleven candidate countries between 1996 and 1999. The project outcome will be submitted to the Commission for consultation and review by the fourth quarter of 2001.

Regulation (EC) 2236/95

The Ministry for Transport and Communications and the Ministry for the Environment will be the authorities responsible for implementing the provisions of Regulation (EC) 2236/95 (financial aid in the field of trans-European networks).

Land Transport

Road Transport

Market Access: On accession, Malta will fully comply with the provisions of Regulation (EEC) 881/92 (access to the market in the carriage of goods by road). The 'Burdnara' permit system is not a market access issue as it simply concerns 'security-pass' arrangements to restricted port areas.

As stated in Malta's Negotiating Position Paper (CONF-M51/00), the Motor Vehicles Regulations (LN128/94) will be amended by the fourth quarter of 2002 to implement the provisions of Regulation (EEC) 3118/93 (conditions under which non-resident carriers may operate national road haulage services). These amendments will enter into force on accession.

Administrative Procedures for Passenger Transport: The Motor Vehicles Regulations (LN128/94) will be amended by the fourth quarter of 2001 to implement the provisions of Regulation (EEC) 684/92 (international carriage of passengers by coach and bus) and its amendments and Regulation (EC) 12/98 (conditions under which non-resident carriers may operate national road passenger transport services). These amendments will enter into force on accession. All bilateral agreements between Malta and EU member states on market access in international road passenger transport will be terminated on accession.

Further amendments to the Motor Vehicles Regulations will be adopted by the second quarter of 2002 to provide for the administrative provisions contained in Regulation (EEC) 2121/98 (application of Regulations (EEC) 684/92 and (EC) 12/98 as regards documents for the carriage of passengers by coach and bus). These amendments will enter into force on accession.

The Public Transport Directorate within the Malta Transport Authority will be responsible for the inspection, enforcement and issuance of all documentation required for the carriage of passengers by coach and bus. These include Community licences, journey forms, authorisation forms for regular / special regular services as well as certificates for own account transport operations.

Abolition of Road Circulation Fees: Amendments to the Motor Tractors Regulations (LN50/79) will be adopted by the second quarter of 2002 and will enter into force by the fourth quarter of 2002. These amendments will abolish the current road circulation fee imposed on foreign hauliers entering Malta. Should Malta decide to introduce road user charges on all hauliers using the road network in Malta, such charges would be levied in line with the provisions of Directive 99/62/EC (charging of heavy goods vehicles for the use of certain infrastructure).

Directive 99/62/EC: Malta confirms its request for a transitional period of two years on the implementation of Directive 99/62/EEC (charging of heavy goods vehicles for the use of certain infrastructure) for the harmonisation of road taxes on Maltese registered heavy goods vehicles that operate internationally.

Malta requests a transitional period of three years for the implementation of Directive 99/62/EC for the introduction of minimum road taxes on Maltese registered heavy goods vehicles operating exclusively on domestic territory.

On accession to the European Union, Malta may wish to explore the possibility of maintaining the above-mentioned reduced levels of vehicle tax in order to pursue policies of a socio-economic nature in line with the provisions of Article 6(3) of the Directive.

Social Legislation: Amendments to the Motor Vehicles Regulations will be adopted by the second quarter of 2002 and will enter into force by the fourth quarter of 2002 to transpose the provisions of Directive 96/26/EC (access to the profession of road haulage and passenger transport operators for national and international transport) as well as its amendments, which include Directive 98/76/EC. Malta will apply the provisions of Article 2(2a) of Directive 96/26/EC (as amended by Directive 98/76/EC) with regard to road haulage operators engaged in removal, building supplies, luggage transfer and courier services carried out exclusively in local transport using vehicles with an authorised weight between 3.5 tonnes and 6 tonnes. These operators have a minor impact on the transport market due to the short distances incurred.

All transport operators (freight and passenger transport) will be required to fulfil the criteria on access to the profession (professional competence, good repute and financial standing) in line with the provisions of Directive 96/26/EC as well as its amendments, which include Directive 98/76/EC. When issuing the certificate of professional competence to established operators, the competent authority will check whether the applicant has had continuous experience at management level in a transport undertaking for at least five years and will also test that the applicant possesses satisfactory knowledge of the subjects contained in Annex I of Directive 98/76/EC. Established operators will also be required to satisfy the conditions of good repute and financial standing.

Plans for Monitoring Private Sector Vehicle Roadworthiness Test Stations: The Licensing and Testing Directorate carries out a number of measures to monitor private sector testing stations. Each testing station is required to submit regular returns containing full details on the roadworthiness tests carried out on each vehicle by virtue of the Motor Vehicles Roadworthiness Test Regulations (LN126/98). Random inspections are conducted at the premises of the testing station in line with the requirements of Directive 96/96/EEC (approximation of the laws of the member states relating to roadworthiness tests for motor vehicles and their trailers) and any complaints reported are thoroughly investigated.

A board composed of an independent chairman and representatives from the Licensing and Testing Directorate as well as testing stations was set up in November 2000 to receive and address such complaints. The board examines any complaints lodged and submits reports on its findings to the Director of Licensing and Testing. In the case where the complaint is justified, the provisions contained in the Motor Vehicles Roadworthiness Test Regulations are applied. These regulations stipulate that in the case of a first breach, the testing station is fined Lm5,000. In the case of a second breach, the testing station is fined Lm10,000 and the authorisation to act as a testing station is withdrawn. By 1 January 2001, one testing station (out of the thirty four licensed) was found in breach of these regulations and was fined the sum of Lm5,000.

Roadworthiness Testing of International Operating Vehicles: Malta confirms its request for a transitional period of two years on the implementation of Directive 96/96/EEC (approximation of the laws of the member states relating to roadworthiness tests for motor vehicles and their trailers) for the obligatory testing of the general conditions and suspension of vehicles.

On accession, all test items required by Directive 96/96/EC will become obligatory for all Maltese registered motor vehicles used in the international carriage of goods and passengers.

Installation and Use of Speed Limitation Devices for International Operating Vehicles: Malta confirms its request for a transitional period of three years on the implementation of Directive 92/6/EEC (installation and use of speed limitation devices for certain categories of vehicles) for the retrofitting of speed limitation devices, wherever technically feasible, to N3 and M3 vehicles registered between 1988 and 2002 operating exclusively on national territory.

On accession, all motor vehicles, registered in Malta after 1987 in the M3 category (exceeding 10 tonnes g.v.w) and the N3 category used in the international carriage of goods and passengers, will be required to use speed limitation devices in line with the provisions of Directive 92/6/EEC.

Transport of Dangerous Goods

Administrative Provisions: Malta confirms that the administrative structures necessary for enforcing the provisions of the relevant Directives concerning the carriage of dangerous goods by road as well as the necessary training and independent examination structures and certification bodies will be in place by the fourth quarter of 2002. The administrative capacity of the Licensing and Testing Directorate within the Malta Transport Authority is currently being strengthened and will reach full capacity by this date.

A fact-finding mission by experts in the field of transport of dangerous goods from the United Kingdom Department of Environment, Transport and Regions (DETR) was held in Malta during February 2001. Technical assistance is currently being sought for the initial training, examination and certification of safety advisers on dangerous goods by road. Given the small scale of local freight haulage operations, it is envisaged that the first group of local safety advisers will sub-contract their services to groups of road transport undertakings.

Checks on Carriage of Dangerous Goods: Malta confirms that it will be in a position to carry out checks on the transport of dangerous goods by road in line with the provisions of Directive 95/50/EC (uniform procedures for checks on the transport of dangerous goods by road) by the fourth quarter of 2002.

ADR Agreement: Malta will start attending the forum meeting as an observer in the working group of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR).

Functions of the Malta Transport Authority: The Licensing and Testing Directorate within the Malta Transport Authority will be responsible for issuing operators' licences to road haulage undertakings and Community-type vocational training certificates to safety advisers in line with the provisions of Directive 96/35/EC (appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway). The Directorate will also be responsible for approving the structures put forward by independent bodies for the training and examination of safety advisers on dangerous goods as well as drivers of vehicles carrying dangerous goods.

The Licensing and Testing Directorate will also be responsible for co-ordinating the regular roadside checks on vehicles and drivers as well as at the premises of the transport undertakings required by Annex I of Directive 95/50/EC (uniform procedures for checks on the transport of dangerous goods by road). These checks will be conducted by the Traffic Police assisted by scientific officers.

On accession, the Malta Transport Authority will submit annual reports to the Commission on the checks carried out in line with the provisions contained in Annex III of this Directive.

Combined Transport

Legislation to transpose the provisions of Directive 92/106/EEC (establishment of common rules for certain types of combined transport of goods between member states) will be adopted by the second quarter of 2002. This legislation will enter into force on accession.

Standard Checking Procedures

In its Negotiating Position Paper (CONF-M 51/00), Malta states that:

A special arrangement is being requested with respect to Directive 88/599/EEC (standard checking procedures for the implementation of Regulation (EEC) 3820/85 on the harmonisation of certain social legislation relating to road transport and Regulation (EEC) 3821/85 on recording equipment in road transport) with respect to regular roadside checks for international traffic.

Regular roadside checks are not feasible in Malta due to the negligible number (an average of two trucks per day) of international operators driving on Maltese roads. The requirements of Article 3 on regular roadside checks of Directive 88/599/EEC will therefore be achieved through the implementation of the required checking procedures at the quayside. As regards the Maltese registered international hauliers, the required checking procedures will be carried out at their premises. On this basis, Malta is withdrawing its request for a special arrangement since it will no longer be necessary.

Amendments to the Motor Vehicles Regulations (LN128/94) transposing Directive 88/599/EEC (standard checking procedures for the implementation of Regulation (EEC) 3820/85 on the harmonisation of certain social legislation relating to road transport and Regulation (EEC) 3821/85 on recording equipment in road transport) will be adopted by the second quarter of 2002 and will enter into force by the fourth quarter of 2002.

Air Transport

Legislation: Malta is currently in the process of harmonising its air transport legislation with the *acquis* in this area to allow full access to the Community air transport market and the liberalisation of the Maltese market on accession.

Allocation of Slots at Community Airports: Legislation to implement the provisions of Regulation (EEC) 95/93 (allocation of slots at Community airports) will be adopted by the second quarter of 2002. This legislation will enter into force by accession. The administrative infrastructure necessary for the implementation of this Regulation will be in place by accession.

Ground Handling: As stated in Malta's Negotiating Position Paper (CONF-M51/00), new legislation transposing Directive 96/67/EC (ground-handling markets at Community airport) will be adopted by the fourth quarter of 2002 and will enter into force on accession. The drafting of this legislation will commence during the third quarter of 2001. The administrative infrastructure necessary for the implementation of this Directive will be in place by accession.

Independent Investigation Body for Civil Aviation Accidents: The drafting of the new Accident Investigations Regulations transposing Directive 94/56/EC (investigation of civil aviation accidents and incidents) has been completed. These regulations will be issued under the Civil Aviation Act (Cap. 232) by the fourth quarter of 2001.

A plan for the carrying out of accident investigations by an independent body has been drawn up. This plan, which is currently being implemented, includes the:

- appointment of a chief investigator responsible for carrying out and co-ordinating aircraft accident investigations;
- entering into of a formal agreement with a reputable foreign aircraft accident investigation organisation for the provision of technical assistance in cases of major accidents;
- appointment, under current legislation, of technical experts who could be nominated as accident investigators for minor accidents;
- possibility of taking adequate insurance to defray the large costs emanating from investigations of a major accident.

Air Carrier Liability: Legislation will be adopted and enter into force by the second quarter of 2002 to implement the provisions arising from Regulation (EC) 2027/97 (air carrier liability in the event of accidents), the 1999 Montreal Agreement and the relevant European Civil Aviation Conference recommendations. In preparation of this legislation, differences between the 1999 Montreal Agreement and Regulation (EC) 2027/97 have been identified.

Maritime Transport

Non-safety Issues

Special Measures to Support the National Shipping Line: Malta is already in line with the *acquis* on the carriage of passengers and cargo on international voyages. Malta has been applying the principle of freedom to provide maritime services for the carriage of goods and passengers, to and from Malta, since 1993. Currently, the national shipping line, Sea Malta Co. Ltd., is not given any preferential treatment or financial advantage over other shipping lines calling at Maltese ports.

Sea Malta Co. Ltd. operates scheduled frequencies to the port of Reggio Calabria and Genoa in Italy. The Reggio Calabria route is implicitly imposed to ensure a regular sea-link between Malta and its nearest European port. This ensures the regular transportation of essential goods irrespective of the operational costs incurred. It also ensures the transportation of vital gases used by hospitals for the treatment of patients as well as by other entities. Frequent sailings are also imperative in view of the limited storage facilities of nitrogen and carbon dioxide in the country. Compensation for losses incurred on this route will be covered by an explicit public service obligation contract to be imposed by the Ministry for Transport and Communications. This contract, which will be of five years duration, will be awarded by the second quarter of 2002. On termination of this contract, tendering procedures will apply in line with the 1997 Community State-Aid Guidelines for the Maritime Transport Sector.

Ferry Transport Services: The Ministry for Transport and Communications is taking the necessary action to impose a public service obligation for the regular and affordable transport of passengers and cargo between ports in Malta and Gozo. The initial public service contract will be awarded to the current operator, Gozo Channel Co. Ltd., in view of its long-standing experience in this sector. Although a written contract to fulfil public service obligations does not exist, the Gozo Channel Co. Ltd. is obliged by the Maltese Government to provide regular services, irrespective of their financial viability. On the basis of these obligations, the Gozo Channel Co. Ltd. has recently invested in the construction of three new ferries and employed additional personnel in order to guarantee the provision of services. The public service obligation contract, which will be of five years duration, will be awarded by the second quarter of 2002. On termination of this contract, tendering procedures will apply in line with the provisions of Regulation (EEC) 3577/92 (maritime cabotage). Malta will abide by the 1997 Community State-Aid Guidelines for the Maritime Transport Sector should aid be granted.

Tonnage Tax Regime: Malta's tonnage tax system is flag linked and restricted to the maritime transport sector. This system is based on the imposition of a tax computed on the net tonnage and the number of crew of the ship.

Tonnage tax is imposed in lieu of the corporate tax imposed on shipping companies owning or operating Maltese ships. This tax, which is based on the net tonnage of the ship, that is, the cargo carrying and therefore the revenue earning capacity of the ship, may be considered as a withholding tax or a tax at source. A shipping company may opt not to participate in the tonnage tax scheme and instead fall under the normal corporate tax system.

Malta's tonnage tax system is applicable only to those ships registered under the Merchant Shipping Act (Cap. 234). The concept of 'exempted ship' enshrined in the Act restricts the scheme to those shipping companies which are qualified to own a Maltese ship and to the gains or profits derived from the ownership or operation of such ships.

In order to prevent 'spill over' to non-shipping related activities, Maltese legislation requires shipping companies to keep separate accounts clearly distinguishing the company's payments and receipts with respect to the ownership and operation of an 'exempted ship' and those with respect to any other business. Pleasure yachts, fishing vessels as well as ships of less than one thousand net tonnage trading locally are not declared 'exempted ships'.

The Merchant Shipping Act empowers the Minister responsible for shipping to ensure due observance of the Maltese legislation on merchant shipping. Any shipping companies in breach of such legislation will lose their eligibility for registering ships under the Merchant Shipping Act and consequently the right to participate in the tonnage tax scheme.

Malta's tonnage tax system has a direct effect on the development of Malta's shipping register. The system has led to the general development of the Maltese shipping sector at large creating employment in the maritime onshore sectors and serving to develop maritime know-how and skills in Malta.

The total economic impact of Malta's shipping register is estimated to approximate Lm12.8 million, representing approximately 1% of Malta's Gross National Product.

Malta's tonnage tax system is in line with the requirements and underlying principles of the 1997 Community State-Aid Guidelines for the Maritime Transport Sector. It also considers that, on accession to the EU, Malta's tonnage tax regime will contribute directly to the attainment of the general objectives of the 1997 Community State-Aid Guidelines for the Maritime Transport Sector as well as benefit the Community's shipping sector.

The tonnage registered under the Malta flag is a very important asset. More than 60% of the tonnage registered in Malta is under the control of companies established in the EU. On accession, this tonnage will increase considerably the percentage of world tonnage falling under EU jurisdiction.

Maritime Safety

Classification Societies: In line with the provisions of Directive 94/57/EC (common rules and standards for ship inspection and survey organisation and for the relevant activities of maritime administrations), Malta has authorised the following classification societies: the American Bureau of Shipping (ABS), the Bureau Veritas (BV), the China Classification Society (CCS), the Det Norske Veritas (DNV), the Germanischer Lloyd (GL), the Hellenic Register of Shipping (HRS), the Korean Register of Shipping (KR), the Lloyd's Register of Shipping (LR), the Nippon Kaiji Kyokai (NK), the Registro Italiano Navale (RINA) and the Russian Maritime Register of Shipping (RS). These classification societies are all EU recognised societies, except for the HRS which currently enjoys partial EU recognition. Malta also authorises the Polish Register of Shipping (PRS) as well as the Croatian Register of Shipping (CRS) on a case by case basis. Authorisation of these two societies is, however, closely linked to the principal place of business of the ship operators and the class of the ship during the previous twelve months prior to registration. If the PRS, the CRS and the HRS do not manage to be included in the EU list of approved classification societies by accession, Malta will request partial recognition or request ship owners to have their respective vessels certified by an EU fully recognised organisation within a predetermined time-frame.

The Malta Maritime Authority is in the process of concluding agreements with its authorised classification societies to regulate its relationships with these societies. These agreements will be in line with all the provisions and requirements of Directive 94/57/EC.

Port State Control: The flag and port state control inspectors of the Merchant Shipping Directorate within the Malta Maritime Authority are fully qualified in line with the requirements of Directive 95/21/EC (port state control). The human resources capacity of the Directorate is being strengthened by the recruitment of additional personnel by the fourth quarter of 2001. This will allow Malta to come in line with the EU average of port state control ship inspections.

Most of the requirements of Directive 95/21/EC as well as its amendments are already enforced in practice. Subsidiary legislation under the Malta Merchant Shipping Act will be adopted by the second quarter of 2002 and will enter into force by the fourth quarter of 2002 to fully transpose the provisions of this Directive.

Improvements in Maritime Safety: Flag state control measures namely legislative, organisational and implementation measures are in place. These measures are being further developed and are outlined in the document entitled "A Maritime Transport Action Plan" submitted to the Commission in July 2001. This action plan provides a detailed programme of the capacity building necessary and the strengthening of the administrative infrastructures required, including the recruitment and training of additional flag and port state control inspectors within the Malta Maritime Authority. In the period between March 2000 and March 2001:

- 53 ships, representing 811,153 gross tonnage, were refused Maltese registry;
- 52 ships, representing 664,124 gross tonnage, were removed from the ship register due to technical non-conformities.

During the period January 2000 and June 2001, a total of 938 flag state inspections were carried out on ships registered under the Malta flag. These inspections were in addition to the statutory surveys carried out by authorised classification societies on behalf of the Maltese authorities.

The progress achieved in the field of flag state implementation is reflected in the annual statistics published by the Paris Memorandum of Understanding on Port State Control which show that the detention rate of ships registered under the Malta flag improved considerably during the last five years. Statistics for the period 1995 to 2000 are provided in the attached Annex.

The Ports Directorate within the Malta Maritime Authority is strengthening and upgrading its administrative and IT infrastructure to carry out the monitoring and auditing required by the *acquis* on the movement of dangerous goods through Maltese ports. The Malta Maritime Authority is currently seeking technical advice on the required hardware and software to record and hold information in line with the provisions of Directive 93/75/EEC (reporting requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods).

The amendments to the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations (LN13/96) are currently being drafted to incorporate the provisions of this Directive. These amendments will be adopted by the fourth quarter of 2001.

The amendments to the Pilotage and Mooring Regulations (LN163/75) introducing a tariff differential in favour of tankers with segregated ballast tanks in line with Regulation 2978/94 (implementation of IMO Resolution A747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers) were issued on 17 June 2001 as Legal Notice 137 of 2001.

Subsidiary legislation under the Malta Maritime Authority Act (Cap. 352) transposing Directive 98/41/EC (registration of persons sailing on board passenger ships) has been drafted and will be adopted by the fourth quarter of 2001.

The drafting of the new Commercial Craft Regulations under the Malta Maritime Authority Act (Cap. 352) to provide for the safety of vessels operating exclusively within Maltese territorial waters has been completed. These regulations, which will be adopted by the fourth quarter of 2001, will also implement the provisions of Regulation (EC) 3051/95 (safety management of roll-on/roll-off passenger ferries) as well as its amendments and Directive 98/18/EC (safety rules and standards for passenger ships). A call for tender to commission a study on the classification of sea areas in line with Directive 98/18/EC will be issued by the Ports Directorate during the third quarter of 2001.

The human resources capacity of the Marine Department within the Ports Directorate is also being strengthened by the recruitment of additional personnel by the fourth quarter of 2001. A marine administrator has been recruited to upgrade the administrative set-up required in order to implement the provisions of new regulations related to safety.

Paris Memorandum of Understanding on Port State Control Annual Statistics

Year	No of Inspections	Detentions	Detention Rate (% total inspections)
1995	954	165	17.29
1996	1019	143	14.03
1997	1245	152	12.21
1998	1409	148	10.50
1999	1571	167	10.63
2000	1760	208	11.82

Source: Paris Memorandum of Understanding on Port State Control Annual Reports 1995-2000

Note:

The total inspection rate increased by 85% whilst the detention percentage rate of total inspections decreased by 32% during the period 1995 to 2000.

