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AGREEMENT OF ASSOCIATION BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND MALTA

The Director-General has received the following communication from the Council of the European Communities and from the Government of Malta.

“I have the honour to forward to you herewith, for the information of the contracting parties, the text of the Agreement Establishing an Association between the European Economic Community and Malta, signed on 5 December 1970.

“The purpose of this Agreement is to bring about in two stages the progressive elimination of obstacles with respect to substantially all the trade between the Community and Malta, leading to the formation of a customs union.”

The document submitted has the following sections:

1. Text of the Agreement
2. Implementation of Article 3(1) of the Agreement
3. Implementation of Article 3(2) of the Agreement
4. Protocol relating to the definition of the concept “originating” products and to methods of administrative co-operation.
5. Text of the Final Act

Sections 1,2 and 5 are reproduced in full herewith. As, however, Sections 3 and 4 contain extensive product lists, only the main provisions of these sections are reproduced. The complete list will be found in the printed copies of the Agreement, one of which is now being made available to each contracting party.

AGREEMENT ESTABLISHING AN ASSOCIATION BETWEEN MALTA AND THE EUROPEAN ECONOMIC COMMUNITY

The Government of Malta, of the one part, and

The Council of the European Communities, of the other part,

determined to consolidate and to extend the economic and commercial relations existing between Malta and the European Economic Community,

aware of the importance of the harmonious development of trade between the Contracting Parties,

whereas, while observing the provisions of the General Agreement on Tariffs and Trade, the object of this Agreement is the progressive elimination of obstacles to trade between Malta and the European Economic Community, and whereas it provides that, eighteen months before the expiry of the first stage, negotiations may be opened with a view to determining the conditions under which a customs union between Malta and the Community could be established,

have decided to conclude an Agreement establishing an Association between Malta and the European Economic Community, in accordance with Article 238 of the Treaty establishing the European Economic Community, and to this end have designated as Plenipotentiaries:

THE GOVERNMENT OF MALTA:

Dr. Giorgio Borg Olivier,
Minister of Commonwealth and Foreign Affairs

THE COUNCIL OF THE EUROPEAN COMMUNITIES:

Mr. Sigismund von Braun,
President in Office of the Council of the European Communities

Mr. Franco Maria Malfatti,
President of the Commission of the European Communities

who, having exchanged their Full Powers, found in good and due form,

have agreed upon the following provisions:

By this Agreement, an Association is established between the European Economic Community and Malta.

ARTICLE 2

1. The aim of the Agreement is progressively to eliminate obstacles as regards the main body of trade between the European Economic Community and Malta and thus to contribute to the development of international trade.
2. The Agreement provides for two successive stages, the first being of five years' duration and the second, in principle, of five years.
3. Negotiations are provided for during the eighteen months preceding the expiry of the first stage, with a view to defining the content of the second stage, providing for a further elimination of obstacles to trade between the European Economic Community and Malta and the adoption by Malta of the Common Customs Tariff.
4. The first stage shall be governed by the provisions set forth hereinafter.

TITLE 1

TRADE

ARTICLE 3

1. Products originating in Malta, shall, on importation into the Community, benefit from the provisions set forth in Annex I.

2. Products originating in the Community shall, on importation into Malta, benefit from the provisions set forth in Annex II.

3. The Contracting Parties shall take all appropriate measures, whether general or particular, to ensure fulfillment of the obligations arising out of the Agreement.

They shall refrain from any measure likely to jeopardize the achievement of the aims of the Agreement.

ARTICLE 4

Any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, a discrimination between the products of one Contracting Party and like products originating in the other Contracting Party shall be forbidden.

ARTICLE 5

The rules governing trade applied by Malta to products originating in or exported to the Community may not give rise to any discrimination between the Member States, or between nationals or companies of these States.

The rules governing trade applied by the Community to products originating in or exported to Malta may not give rise to any discrimination between Maltese nationals or companies.

ARTICLE 6

To the extent that export duties are levied on products of one Contracting Party exported to the other Contracting Party, such duties shall not be higher than those applicable to products exported to the most favoured third country.

ARTICLE 7

The provisions set forth in the Protocol shall determine the rules of origin to be applied to the products covered by the Agreement.

ARTICLE 8

1. If one of the Contracting Parties finds that dumping is being practiced in its relations with the other Contracting Party, it may, following consultations within the Council of Association, have recourse to protective measures against such practices, in accordance with the provisions of the Agreement relating to the application of Article VI of the General Agreement on Tariffs and Trade.

In case of urgency, such Contracting Party may, after having informed the Council of Association, take the provisional measures provided for in the said Agreement. Consultations shall be held on such measures not later than two weeks after their implementation.

2. In the event of measures being taken against drawbacks and subsidies, the Contracting Parties undertake to comply with the provisions of Article VI of the General Agreement on Tariffs and Trade.

3. Any dumping practices, drawbacks or subsidies which have been ascertained, and any measures taken against them, shall, at the request of one of the Contracting Parties, give rise to consultations within the Council of Association at three-monthly intervals.

ARTICLE 9

Payments relating to trade in goods, and the transfer of such payments to the Member State in which the creditor is resident, or to Malta, shall be free from any restrictions, to the extent that such transactions fall within the provisions of this Agreement.

ARTICLE 10

1. If serious disturbances occur in a sector of Malta's economic activity or jeopardize its external financial stability, or if difficulties arise which result in the deterioration of the economic situation of any area of Malta, Malta may take the necessary safeguard measures.

Such measures and the procedures for applying them shall be notified to the Council of Association without delay.

2. If serious disturbances occur in a sector of the economic activity of the Community or of one or more of its Member States, or jeopardize their external financial stability, or if difficulties arise which result in the deterioration of the economic situation of any area of the Community, the Community may take, or may authorize the Member State or States concerned to take, the necessary safeguard measures.

Such measures and the procedures for applying them shall be notified to the Council of Association without delay.

3. For the purpose of implementing paragraphs 1 and 2 above, the measures selected must, as a matter of priority, be such as would least disturb the functioning of the regime established by this Agreement. Such measures shall not exceed the limits of what is strictly necessary to remedy the difficulties that have arisen.

4. Consultations may be held within the Council of Association concerning measures taken pursuant to paragraphs 1 and 2.

ARTICLE 11

The provisions of this Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy, public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic, or archaeological value, or the protection of industrial or commercial property. However, such prohibitions or restrictions shall not constitute a means of arbitrary discrimination or a disguised restriction on trade.

TITLE II

GENERAL AND FINAL PROVISIONS

ARTICLE 12

1. A Council of Association is hereby established, which shall be responsible for the administration of this Agreement and shall supervise its implementation. For this purpose, it shall make recommendations, and shall take decisions in the cases provided for under Title II.

2. The Contracting Parties shall keep each other informed and, at the request of either Party, shall hold consultations within the Council of Association with a view to the proper implementation of this Agreement.

3. The Council of Association shall lay down its rules of procedure in a Decision.

ARTICLE 13

1. The Council of Association shall consist of the members of the Council and members of the Commission of the European Communities, on the one hand, and of members of the Government of Malta, on the other.

Members of the Council of Association may arrange to be represented, in accordance with the conditions to be laid down in the rules of procedure.

2. The Council of Association shall take its decisions by common agreement.

ARTICLE 14

1. The Council of Association shall be presided in turn by each of the Contracting Parties, in accordance with the provisions to be adopted in the rules of procedure of the Council of Association.

2. Meetings of the Council of Association shall be convened once a year by its President.

The Council of Association shall, in addition, meet whenever circumstances so require, at the request of either of the Contracting Parties, in accordance with the conditions to be laid down in its rules of procedure.

3. The Council Association may decide to set up any committee that can assist it in the discharge of its tasks.

In its rules of procedure, the Council of Association shall determine the composition and duties of such committee and how they shall function.

ARTICLE 15

This Agreement may be denounced by either Contracting Party, subject to six months' notice in advance being given.

ARTICLE 16

1. This Agreement shall apply on the one hand, to the European territories to which the Treaty establishing the European Economic Community applies, and, on the other hand, to the territory of the Maltese Islands.

2. The Agreement shall also apply to the French Overseas Departments in the sectors of this Agreement corresponding to those mentioned in article 227 (2), first paragraph, of the Treaty establishing the European Economic Community.

The conditions governing the application to the said Departments of the provisions of this Agreement relating to other sectors, shall be determined at a later date by agreement between the Contracting Parties.

ARTICLE 17

Annexes I and II and the Protocol shall form an integral part of this Agreement.

ARTICLE 18

This Agreement shall come into force on the first day of the month following the date on which the Contracting Parties have notified each other that the necessary procedures to this end have been completed.

ARTICLE 19

This agreement is drawn up in duplicate, in the English, German, French, Italian and Dutch languages, each of these texts being equally authentic.

In witness whereof, the undersigned Plenipotentiaries have affixed their signatures below this Agreement.

Done at Valletta on this fifth day of December in the year one thousand, nine hundred and seventy.

For the Government of Malta,

Giorgio Borg Olivier

For the Council of the European Communities,

Sigismund von Braun
Franco Maria Malfatti

Provided that the Community shall be finally bound only after the other Contracting Party has been notified that the procedures required by the Treaty establishing the European Economic Community, and, in particular, consultation of the European Parliament, have been completed.

FINAL ACT

The Plenipotentiaries of the Government of Malta, of the one part, and of the Council of the European Communities, of the other part, assembled at Valletta on this fifth day of December in the year one thousand nine hundred and seventy for the purpose of signing the Agreement establishing an Association between Malta and the European Economic Community, have, at the time of signing this Agreement,

-adopted the following Joint Declarations by the Contracting Parties:

1. Joint Declaration by the Contracting Parties concerning co-operation and contacts between the European Parliament and the Maltese Parliament,
2. Joint Declaration by the Contracting Parties concerning amendments to the Customs Tariffs and to the import regulations,
3. Joint Declaration by the Contracting Parties concerning Article 2 of the Agreement,
4. Joint Declaration by the Contracting Parties concerning Article 2 of Annex I,

-and have taken note of the following Declarations by the Maltese Delegation:

1. Declaration by the Maltese Delegation concerning Article 3 of Annex II
2. Declaration by the Maltese Delegation concerning Article 6 of Annex II

The aforementioned Declarations are annexed to this Final Act.

The Plenipotentiaries have agreed that these Declarations shall, in so far as necessary, be subject, under the same conditions as the Agreement, to the procedures required to ensure their validity.

In Witness Whereof, the undersigned Plenipotentiaries have affixed their signatures below the Final Act.

Done at Valletta on this fifth day of December in the year one thousand nine hundred and seventy.

For the Government of Malta,

Giorgio Borg Olivier

For the Council of the European Communities,

Sigismund von Braun

Franco Maria Malfatti

Provided that the Community shall be finally bound only after the other Contracting Party has been notified that the procedures required by the Treaty establishing the European Economic Community, and, in particular, consultation of the European Parliament, have been completed.

Joint Declaration by the Contracting Parties

Concerning co-operation and contacts between

The European Parliament and the Maltese Parliament

The Contracting Parties agree to take all appropriate measures in order to facilitate co-operation and contacts between the European Parliament and the Maltese Parliament.

Joint Declaration by the Contracting Parties

Concerning amendments

To the Customs Tariffs and to the import regulations

The Contracting Parties agree to notify each other with the least possible delay of any amendments made to their respective customs tariffs, or to the regulations governing their import trade.

Joint Declaration by the Contracting Parties

Concerning Article 2 of the Agreement

1. Malta envisages the progressive establishment, during the course of the second stage, of a customs union with the Community. To this end, the products mentioned in List A to Annex II of the Agreement shall, as from the commencement of the second stage, be subject to an initial reduction vis-à-vis the Community of at least 35 percent of customs duties and taxes having an equivalent effect.
2. The Community envisages granting Malta, from the commencement of the second stage, exemption from customs duties and taxes having equivalent effect in respect of products referred to in Article 1 of Annex I of the Agreement.
3. The procedures for the introduction by Malta of the common customs tariff, the elimination of the customs duties and quantitative restrictions applied vis-à-vis the Community, complementary provisions for the proper implementation of the customs union, and the special arrangements for the importation into the community of agricultural products, which latter arrangement shall take due account of the common agricultural policy of the Community, shall be determined during the course of negotiations for transition to the second stage.

Joint declaration by the Contracting Parties

Concerning Article 2 of Annex I

The Contracting Parties, taking into consideration the undertaking by Malta to apply the common customs tariff during the second stage of the Agreement, agree that, for the purpose of the implementation of the Protocol on the definition of “originating” products and on methods of administrative co-operation, applicable, during the first stage, to imports, made under the conditions laid down in Article 2 of Annex I, of products falling under tariff heading 56.04 (man-made fibres discontinuous or waste, carded, combed or otherwise prepared for spinning) and 61.01 (men’s and boys’ outer garments).

Declaration by the Maltese Delegation

Concerning Article 3 of Annex II

The Government of Malta declares that it is prepared to make, before the end of the first stage of the Agreement, the necessary amendments to its customs tariff in order to distinguish customs duties from taxes pertaining to the internal fiscal system within the meaning of Article 4 of the Agreement.

Declaration by the Maltese Delegation

Concerning Article 6 of Annex II

The Government of Malta declares that it is prepared to take the necessary steps to procure that, during the first stage of the agreement, imports which are still subject of 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.

It also declares that it is prepared to ensure that, when products still subject to quantitative restrictions are imported, normal conditions of competition, are respected.