

MEMORANDUM FOR CABINET BY THE MINISTER OF
INDUSTRIAL DEVELOPMENT AND TOURISM

EXCHANGE AGREEMENT UNDER ARTICLE XV OF G.A.T.T.

As a result of Malta's accession to the G.A.T.T. it is now incumbent on her to fulfil the obligations arising out of Article XV of the Agreement. This article requires that a contracting party has to seek membership of International Monetary Fund, failing which, it has to enter into a Special Exchange Agreement with the Contracting Parties.

2. Normally a contracting party is allowed a period of six months from date of accession to the G.A.T.T. in order to seek membership of the I.M.F. or to sign the Special Exchange Agreement with the Contracting Parties. Alternatively a request would have to be put in asking for a waiving of this obligation.

3. Independently of any future decision as to whether or not Malta should join the I.M.F. and as it is evident that it would be impossible for this decision to be reached within a short time, it is recommended that she should enter into a Special Exchange Agreement with the Contracting Parties. A specimen text of this agreement is attached hereto.

4. The provisions of this Special Exchange Agreement follow closely the Articles of Agreement of the I.M.F. which Malta is already observing because of its link with sterling. Therefore it is felt that the signing of the Special Exchange Agreement will not impose any new obligations requiring parliamentary sanction.

5. It is therefore suggested that, until Malta becomes a member of the I.M.F. in her own right, Cabinet should:

- a) decide that Malta enter into a Special Exchange Agreement with the Contracting Parties in terms of Article XV of the G.A.T.T.; and
- b) authorise the Minister of Industrial Development and Tourism (or any person delegated by him) to sign such an agreement on behalf of the Government of Malta.

TEXT OF SPECIAL EXCHANGE AGREEMENT

WHEREAS paragraph 6 of Article XV of the General Agreement on Tariffs and Trade (hereinafter referred to as "the General Agreement") provides that any contracting party which is not a member of the International Monetary Fund (hereinafter called "the Fund") shall, within a time to be determined by the CONTRACTING PARTIES after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the CONTRACTING PARTIES;

WHEREAS paragraph 7 of the said article provides that such special exchange agreement shall provide to the satisfaction of the CONTRACTING PARTIES that the objectives of the General Agreement will not be frustrated as a result of action in exchange matters by the contracting party in question, and taking into account that the terms of such agreement shall not impose obligations on the contracting party in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the Fund on members of the Fund;

WHEREAS by Resolution of June 20, 1949 the CONTRACTING PARTIES adopted the text of the special exchange agreement for the purpose of giving effect to the above-mentioned provisions of the General Agreement and authorized their Chairman to sign on their behalf a special exchange agreement in the terms of this text with any contracting party which is not a member of the Fund and to take all necessary action to give effect to that resolution;

The CONTRACTING PARTIES and the Government of acting through its representative duly authorized for this purpose,

HEREBY AGREE AS FOLLOWS:

Article I

EXCHANGE STABILITY AND ORDERLY EXCHANGE ARRANGEMENTS

The Government of shall collaborate with the CONTRACTING PARTIES to promote exchange stability, to maintain orderly exchange arrangements with other contracting parties to the General Agreement, to avoid competitive exchange alterations, and to assist in the elimination of restrictions on the making of payments and transfers for current international transactions with a view to the establishment of a multilateral system of payments and to the promotion of international trade.

Article II

DETERMINATION OF INITIAL PAR VALUE

2. Unless an initial par value has been previously agreed between the Government of and the CONTRACTING PARTIES, the Government of shall, within 30 days after the CONTRACTING PARTIES so request, communicate to them the par value of its currency based on the rates of exchange prevailing at the time. The par value so communicated shall be the initial par value of its currency for the purpose of this agreement, unless within ninety days after the request has been received (a) the Government of notifies the CONTRACTING PARTIES that it regards the par value as unsatisfactory, or (b) the CONTRACTING PARTIES notify the Government of

that in their opinion the adoption of such par value would be prejudicial to trade among the contracting parties. When such notification is given, the CONTRACTING PARTIES and the Government of shall, within a period to be determined by the CONTRACTING PARTIES, agree upon a suitable initial par value.

2. The par value of the currency of shall be expressed in terms of gold as a common denominator or in terms of the United States dollar of the weight and fineness in effect on 1 July, 1944.

3. The CONTRACTING PARTIES will keep the Government of currently informed on the par value of the currencies of the other contracting parties.

Article III

GOLD TRANSACTIONS BASED ON PAR VALUE

1. The Government of shall not buy gold at a price above the par value of its currency plus the margin permissible under this article, or sell gold at a price below the par value minus the margin permissible under this article.

2. The margins permissible for transactions in gold by the Government of shall be the same as those permissible to contracting parties which are members of the Fund, and the CONTRACTING PARTIES shall keep the Government of informed of such margins.

Article IV

FOREIGN EXCHANGE DEALINGS BASED ON PARITY

The maximum and minimum rates for exchange transactions between the currency of and the currencies of other contracting parties taking place within the territories of shall not differ from parity:

- a) In the case of spot exchange transactions, by more than one per cent, and
- b) In the case of other exchange transactions, by a margin which exceeds the margin for spot exchange transactions by more than the CONTRACTING PARTIES consider reasonable.

Article V

OBLIGATIONS REGARDING EXCHANGE STABILITY

The Government of undertakes, through appropriate measures consistent with this Agreement, to permit within its territories exchange transactions between its currency and the currencies of other contracting parties only within the limits prescribed under Article IV. The Government of shall be deemed to be fulfilling this undertaking if its monetary authorities, for the settlement of international transactions, in fact freely buy and sell gold within the limits prescribed under Article III.

Article VI

CHANGE IN PAR VALUE

1. The Government of shall not propose a change

in the par value of its currency except to correct a fundamental disequilibrium.

2. A change in the par value of the currency of may be made only on the proposal of the Government of and only after consultation with the CONTRACTING PARTIES.

3. When a change is proposed, the CONTRACTING PARTIES shall first take into account the changes, if any, which have already taken place in the initial par value of the currency of as determined under Article II. If the proposed change, together with all previous changes, whether increases or decreases,

- a) Does not exceed ten per cent of the initial par value, the CONTRACTING PARTIES shall raise no objections;
- b) Does not exceed a further ten per cent of the initial par value, the CONTRACTING PARTIES may either concur or object, but shall declare their attitude within ninety-six hours if the Government of so requests;
- c) Is not within (a) or (b), the CONTRACTING PARTIES may either concur or object, but shall be entitled to a longer period in which to declare their attitude.

4. The CONTRACTING PARTIES shall concur in a proposed change which is within the terms of (b) or (c) of paragraph 3 if they are satisfied that the change is necessary to correct a fundamental disequilibrium. In particular, provided they are so satisfied, they shall not object to a proposed change because of the domestic, social or political policies of the Government of

5. If the Fund, in accordance with Article IV, Section 7, of the Articles of Agreement of the Fund, makes uniform proportional changes in the par value of the currencies of Fund members, the Government of will change its par value proportionately, unless it informs the CONTRACTING PARTIES within ninety-six hours after it has been notified by the CONTRACTING PARTIES of the Fund's action that it does not wish its par value of its currency to be changed.

6. Changes in the par value made under paragraph 5 shall not be taken into account in determining whether a proposed change falls within (a), (b) or (c) of paragraph 3.

7. If the Government of changes the par value of its currency despite the objection of the CONTRACTING PARTIES, in cases where the CONTRACTING PARTIES are entitled to object, the Government of shall be deemed to have failed in carrying out its obligations under this agreement.

Article VII

AVOIDANCE OF RESTRICTIONS ON CURRENT PAYMENTS

1. Subject to the provisions of Articles IX and XI, the Government of shall not, without the approval of the CONTRACTING PARTIES, impose restrictions on the making of payments and transfers for current international transactions.

2. The Government of shall not engage in, or permit its treasury, central bank, stabilisation fund, or other similar fiscal agency, to engage in any discriminatory currency

arrangements or multiple currency practices except as authorised under this agreement or approved by the CONTRACTING PARTIES. If such arrangements or practices have been maintained since 1 January 1948 (the date on which the General Agreement was first provisionally applied), the Government of shall consult with the CONTRACTING PARTIES as to their progressive removal. This paragraph shall not apply to such arrangements or practices maintained or imposed under paragraph 1 of Article XI, in which case the provisions of paragraph 3 of that article shall apply.

3. Exchange contracts which involve the currency of any contracting party and which are contrary to the exchange control regulations of that contracting party maintained or imposed consistently with the Articles of Agreement of the Fund or with the provisions of a special exchange agreement entered into pursuant to paragraph 6 of Article XV of the General Agreement, shall be unenforceable in the territories of In addition, the Government of may, b, mutual accord with other contracting parties, co-operate in measures for the purpose of making the exchange control regulations of either contracting party more effective, provided that such measures and regulations are consistent with this agreement or with another special exchange agreement entered into pursuant to paragraph 6 of Article XV of the General Agreement or with the Articles of Agreement of the Fund, whichever may be applicable to the contracting party whose measures or regulations are involved.

Article VIII

CONTROLS OF CAPITAL TRANSFERS

1. The Government of may exercise such controls as are necessary to regulate international capital movements, but may not exercise these controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments, except as provided in Articles IX and XI.

2. The Government of undertakes that capital outflow will be in accordance with the objectives of this agreement and of the General Agreement.

article IX

SCARCE CURRENCIES

1. The Government of is authorised to impose temporarily, after consultation with the CONTRACTING PARTIES, limitations on the freedom of exchange operations in a currency which has formally been declared scarce by the Fund in accordance with Article VII, Section 3 (a), of the Articles of Agreement of the Fund. Subject to the provisions of Articles IV and V of this Agreement, the Government of shall have complete jurisdiction in determining the nature of such limitations, but they shall be no more restrictive than is necessary to limit the demand for the scarce currency to the supply held by, or according to, the Government of and they shall be replaced and removed as rapidly as conditions permit. The authorization here mentioned shall expire whenever the Fund formally declares the currency in question to be no longer scarce.

2. If the Government of is imposing limitations in accordance with paragraph 1, it shall give sympathetic consideration to any representations by the contracting party whose currency has been declared scarce regarding the administration of such restrictions.

3. The CONTRACTING PARTIES shall request any contracting party against which restrictions may be permitted under this article not to invoke the obligations of any engagement entered into with the Government of prior to this agreement in such a manner as will prevent the operation of the provisions of this article.

Article X

CONVERTIBILITY OF BALANCES HELD BY OTHER CONTRACTING PARTIES

1. The Government of shall buy balances of its currency held by another contracting party if the latter, in requesting the purchases, represents,

- a) That the balances to be bought have been recently acquired as a result of current transactions; or
- b) That their conversion is needed for making payments for current transactions.

2. The Government of shall have the option to pay either in the currency of the contracting party making the request or in gold.

3. The obligations under paragraph 1 shall not apply

- a) When the convertibility of the balances has been restricted consistently with Article VII or VIII; or
- b) When the balances have accumulated as a result of transactions effected before the removal by the Government of of restrictions maintained or imposed under Article XI; or
- c) When the balances have been acquired contrary to the exchange regulations of the Government of or
- d) When the currency of the contracting party requesting the purchases has been declared scarce and the Government of has been so notified under Article IX; or
- e) With the approval of the CONTRACTING PARTIES, in any particular circumstance in which the fulfilment of the obligations of paragraph 1 of this article would dangerously threaten exchange stability.

Article XI

TRANSITIONAL PERIOD

1. In the post-war transitional period the Government of may, notwithstanding the provisions of any other article of this Agreement, maintain and adapt to changing circumstances restrictions on payments and transfers for current international transactions. The Government of shall, however, have continuous regard in its foreign exchange policies to the intent of this agreement and of the General Agreement; and, as soon as conditions permit, it shall take all possible measures to develop such commercial and financial arrangements with other contracting parties as will facilitate international payments and the maintenance of exchange stability. In

particular, the Government of shall withdraw restrictions maintained or imposed under this paragraph as soon as it is satisfied that it will be able, in the absence of such restrictions, to settle its balance of payments in a manner which will not unduly impair its external financial position.

2. The Government of shall notify the CONTRACTING PARTIES, within thirty days after it accepts this agreement whether it intends to avail itself of the transitional arrangements in paragraph 1, or whether it is prepared to accept the obligations of Articles VII and X. If the Government of avails itself of the transitional arrangements, it shall notify the CONTRACTING PARTIES as soon as it is prepared to accept the above-mentioned obligations.

3. Not later than 1 March 1950, and in each year thereafter, the CONTRACTING PARTIES shall report on the restrictions still in force under paragraph 1. Not later than 1 March 1952, and in each year thereafter, if the Government of still retains any restrictions inconsistent with Article VII or X, it shall consult with the CONTRACTING PARTIES as to their further retention. The CONTRACTING PARTIES may, if they deem such action necessary in exceptional circumstances, make representations to the Government of that conditions are favourable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other article of this agreement. The Government of shall be given a suitable time to reply to such representations. If the CONTRACTING PARTIES find that the Government of persists in maintaining restrictions which are inconsistent with the intent of this agreement, the Government of shall be deemed to have failed in carrying out its obligations under this agreement.

4. It is recognised that the post-war transitional period is one of change and adjustment, and when decisions are being made on requests occasioned thereby which are presented by the Government of that government shall be given the benefit of any reasonable doubt.

Article XII

FURNISHING OF INFORMATION

1. The Government of shall furnish the CONTRACTING PARTIES with such information as they may require in accordance with paragraph 8 of Article XV of the General Agreement.

2. In requesting information under paragraph 8 of Article XV of the General Agreement, the CONTRACTING PARTIES shall take into consideration the varying abilities of contracting parties to furnish the data requested. The Government of undertakes, however, to furnish the desired information in as detailed and accurate a manner as is practicable, and, so far as possible, to avoid mere estimates.

Article XIII

MISCELLANEOUS PROVISIONS

1. The relevant explanation of terms contained in Article XIX of the Articles of Agreement of the Fund shall apply to this agreement.

2. - The CONTRACTING PARTIES shall at all times have the right to communicate their views informally to the Government of on any matter arising under this agreement.

3. The CONTRACTING PARTIES shall suspend the operation of Articles IV and V of this agreement for the same period of time and to the same extent as the Fund suspends the operation of corresponding provisions of its Articles of Agreement in accordance with Article XVI, Section I, of the Articles of Agreement of the Fund.

4. Without prejudice to Article XXIII of the General Agreement, whenever in the opinion of the CONTRACTING PARTIES the Government of fails to observe any of the provisions of this agreement, the CONTRACTING PARTIES shall make representations to the Government of The Government of shall be given reasonable time to reply to such representations.

5. The CONTRACTING PARTIES shall seek an understanding with the Fund to the effect that

- a) whenever the CONTRACTING PARTIES consult the Fund on exchange matters particularly affecting the Government of, the latter will be offered an opportunity to present its case directly to the Fund, and
- b) The Government of may initiate direct consultation between itself and the Fund in appropriate cases, provided that it shall notify the Chairman of the CONTRACTING PARTIES upon such occasion that it avails itself of this right.

article XIV

ACCEPTANCE, ENTRY INTO FORCE AND TERMINATION

1. This agreement shall be signed on behalf of the CONTRACTING PARTIES by their Chairman and shall be deposited with the Secretary-General of the United Nations, who is hereby authorized to register this agreement.

2. The Government of may accept this agreement by depositing an instrument of acceptance with the Secretary-General of the United Nations. The Secretary-General will inform the CONTRACTING PARTIES of the date of deposit of such instrument of acceptance.

3. This agreement shall enter into force thirty days after the Government of deposits an instrument of acceptance in accordance with paragraph 2.

4. The provisions of this agreement, entered into pursuant to Article XV of the General Agreement, shall be deemed to be included within that article.

5. This agreement shall terminate on the day on which the Government of becomes a member of the Fund or ceases to be a contracting party.

IN WITNESS WHEREOF, the Chairman of the CONTRACTING PARTIES has signed this agreement.

DONE AT this day of, one thousand nine hundred and

L-ARKIVJI NAZZJONALI TA' MALTA