

1999
REGULAR REPORT

FROM THE COMMISSION

ON

MALTA'S

PROGRESS TOWARDS ACCESSION

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A. Introduction

a) Preface

On request of the General Affairs Council in October 1998, the Commission presented in February 1999 a report updating the Commission's opinion on Malta's application for membership, following Malta's decision to re-activate its membership application, which had been frozen since November 1996. In its conclusion the Commission stated that "the Commission will prepare a regular report, setting out in detail the state of play regarding Malta's preparations for membership, which would be submitted at the end of the year along with reports on the other candidate countries and their progress towards accession. The Commission expects that, at that juncture, when the European Council discusses the possibility of extending the accession negotiations, Malta will be able to join the candidate countries with which negotiations are already underway."

This regular report on Malta follows to a large extent the structure of the report of February 1999. It

- describes relations between Malta and the Union;
- analyses the situation in respect of the political conditions set by the European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Malta's situation and prospects in respect of the economic conditions mentioned by the European Council (functioning market economy, capacity to cope with competitive pressures and market forces within the Union);
- addresses the question of Malta's capacity to adopt the obligations of membership, that is, the *acquis* of the Union as expressed in the Treaty, the secondary legislation and the policies of the Union.

It also covers judicial and administrative capacity as requested by the Madrid European Council which underlined the necessity for the candidate countries to adapt their administrative structures so as to guarantee the harmonious implementation of Community policies after membership.

The report takes into consideration progress since the February report. It looks at whether intended reforms referred to in the February report have been carried out and examines new initiatives.

While the assessment of progress in meeting the political and *acquis* criteria focuses on that which has been accomplished since the February report, the economic assessment is based on a longer term evaluation of Malta's economic performance. The assessment of progress made in adopting the *acquis* has been made on the basis of adopted legislation rather than legislation which is in various stages of either preparation or Parliamentary approval. This approach ensures equal treatment for all the candidate countries and permits objective assessment and comparison between countries in terms of concrete progress in preparation for accession.

This report draws on numerous sources of information. Malta was invited to provide information on progress made in preparations for membership since the publication of the February report. The analytical examination of the *acquis* (screening), which started in May 1999, was an additional source of information. Council deliberations and European Parliament reports and resolutions¹ have been taken into account in the preparations. The Commission also drew on assessments made by various international organisations and in particular on contributions from the Council of Europe, the OSCE and the international financial institutions as well as non-governmental organisations.

b) Relations between the European Union and Malta

The General Affairs Council in March 1999 decided that screening should start as soon as possible. Malta was invited to define a National Programme for the Adoption of the Acquis (NPAA). The Commission was invited to come forward with appropriate suggestions towards defining a specific pre-accession strategy for Malta. Taking into account these orientations, it was stated that the Presidency intended to invite Malta to participate in the next meeting of the European Conference.

The Commission started screening with Malta in May 1999 with nine chapters.

The European Council of Cologne in June 1999 welcomed "the fact that, on the basis of the Commission's updated opinion on Malta's accession application, it has now been possible to make a start on analytical examination of the Union *acquis* with Malta. The Commission will also submit a report, in good time for the Helsinki European Council meeting, on Malta's progress in preparation for accession, to form the basis, together with the corresponding reports on the other candidate countries, for any decision to be taken by the Helsinki European Council."

The General Affairs Council in June 1999 agreed to extend the current multilateral political dialogue with the CEEC's and Cyprus to Malta. It stated in its conclusions that "an enhanced dialogue on foreign and security policy issues with Malta will be beneficial to both parties and will allow Malta to familiarise and align itself with Common Foreign and Security Policy instruments, as well as to co-operate fully with the Union in international fora."

Developments under the EU-Malta Association Agreement (including bilateral trade)

No particular developments can be reported as far as the implementation of the Association Agreement is concerned. The establishment of a customs union in two five-year-stages is a long-standing objective that up to now has not been achieved.

At the time of the issuing of the last Commission's Report the Joint Parliamentary Committee comprising representatives of the Maltese and European Parliament met in February 1999.

¹ For the European Parliament the rapporteurs are A. Oostlander and E. Baron Crespo; Co-rapporteurs: M. Aelvoet, J. Donner, O. Von Habsburg, E. Caccavale, F. Kristoffersen, M. Hoff, C. Carnero Gonzales, P. Bernard-Raymond, R. Spicale, J. Wiersma, J.W. Bertens, B. Malone.

The EU remains Malta's major trading partner (three quarters of Maltese external trade is carried out with the EU). Exports from Malta into the Union accounted for €763 million in 1998 while imports from the EU amounted to €2 billion.

Financial co-operation

Financial and technical co-operation is based on the Fourth Financial Protocol (June 1995 - October 1998). In March 1999 the Council decided to extend the date of validity of the Fourth Financial Protocol by one year, until 31 December 1999. For 1999, €5 million are available:

€ 2 million for a risk capital operation with the EIB and € 844.000 for a scholarship programme have been already committed. € 511.000 for technical assistance to align the methodology of the Central Office of Statistics with the one of EUROSTAT and €1.645.000 for a technical assistance and administrative co-operation programme will be committed before the end of the year.

The Protocol is the sole financial instrument (EIB loans set aside) to support activities in the framework of financial and technical co-operation.

Malta should ensure the efficient use of future EU financial assistance.

Accession Partnership/NPAA

It is foreseen that a first Accession Partnership for Malta will be adopted in 1999. The purpose of the Accession Partnership is to set out in a single framework the priority areas for further work, the financial means available to help Malta implement these priorities and the conditions which will apply to that assistance.

Malta is currently preparing its first NPAA.

Pre-Accession Aid 2000

The Commission services are currently preparing a regulation defining the activities to be financed under the pre-accession strategy, for the next five years. The activities financed will focus on the harmonisation process (based on the priority areas that will be determined in the Accession Partnership with Malta).

B. Criteria for membership

1. Political Criteria

Introduction

In the report updating the Commission opinion on Malta's application for membership of February 1999, the Commission concluded that:

"...this reports confirms the conclusions drawn in the Commission's 1993 opinion: the institutions are functioning smoothly and there are no particular problems on the human rights front. Malta's public administration has sufficient personnel, but efforts are required to make it more effective. The country does not seem to be having any major problems in adapting its administrative and governmental structures in preparation for participation in Community institutions."

Recent developments

The term of the President of the Republic of Malta expired in April 1999. The appointment in April 1999 by the Parliament of Deputy Prime Minister and Minister for Foreign Affairs, Professor Guido de Marco, to the Presidency of the Republic of Malta, lead to some reshuffling of the government.

In March 1999 elections of the local councils in Malta and Gozo were held in 21 localities.

EU accession remains high on the political agenda of the governing Nationalist Party (NP), while the opposition, the Malta Labour Party (MLP), continues its criticism in this regard.

In order to prepare the accession process, government and non-government related bodies have been set up.

1.1 Democracy and the Rule of Law

As mentioned in the February Report, Malta has achieved stability of institutions guaranteeing democracy and the rule of law. This section therefore describes only the most significant developments of the past year. *The Parliament*

No new developments can be reported.

The Executive

The administrative capacity of the executive needs to be strengthened. The number of employees in the civil service sector remains high (approximately 33.000 persons). In spite of on-going personnel training and the introduction of information technologies, Malta has still a long way to go to improve the efficiency and effectiveness of its public administration, in particular to train and redistribute human resources to better match the needs.

The Judiciary

The court system, in general, remains rather slow. This applies not only to the judicial process, but also to delays in executing court judgements.

Anti-Corruption measures

The office of the Ombudsman, which is investigating allegations of corruption, continues to operate well. However, the efficiency of the "Permanent Commission against corruption" to protect citizen's rights should be improved given its slow performance.

Malta has not signed the Council of Europe's Criminal Law Convention on Corruption, which was opened for signature by the Council of Europe's members in January 1999.

Malta has so far not adhered to the OECD anti-Bribery Pact (recommendation of the Council of the OECD to Member Government on Bribery in International Business Transactions).

Malta has not joined the United Nation's anti-corruption programme for Drug Control and Crime Prevention.

1.2. Human Rights and the Protection of Minorities

The February 1999 report concluded that there are no problems regarding the observation of fundamental human rights and freedoms. This conclusion is to a large extent still valid.

Malta has ratified most of the major human rights instruments (see annex).

Basic civil and political rights continue to be respected in Malta. However, restrictions on the purchase of land by foreigners exist.

Recent incidents showed that Malta is not spared from the phenomena of racism anymore.

Moreover, it has been reported that certain persons detained by the police in Malta did not have the right to have access to a lawyer from the very outset of their custody and that conditions of detention are unsatisfactory. Malta should aim at improving the conditions for

detainees, including the notification of custody, the right to have access to a lawyer and medical care.

1.3. General evaluation

Malta fulfils the Copenhagen political criteria.

2. Economic criteria

2.1 Introduction

The report updating the Commission opinion on Malta's application for membership adopted by the Commission in February 1999 concluded that "Malta will need to build up a track record in the establishment of a stable and sound macroeconomic environment and implementation of reform and liberalisation. Given the small size of its economy, Malta should be able to address these issues in an appropriate way and hence become successfully integrated with the European economy".

In examining the economic developments in the other candidate countries, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993 which stated that membership of the Union requires:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

The Commission has followed the same methodology below.

2.2 Economic developments

Real GDP growth in 1998 is estimated to have been around 4 % and a slight deceleration from the growth rates reached before. Persistently weak domestic demand has helped to halve the current account deficit compared to its peak in 1995-1996 when it was close to 11% of GDP. Inflation fell to 1.4% in the closing quarter of 1998, reducing the average inflation for the year to 2.4%. Unemployment increased to more than 5% in the first months of 1999, despite labour market pressure in the private sector. The main challenge for economic policy in Malta is to bring down the government deficit, which is close to 12 % of GDP.

Macroeconomic developments

After having been at least 4% per year in the period 1993-1996, real GDP growth was below slightly above 4 % in 1998. Since 1993, Malta's GDP per capita thus increased by about one quarter in real terms, but it remains low relative to the EU average (Maltese statistics do not yet allow for a direct comparison on a purchasing power basis).

Unemployment stood at 5.1 % of the labour supply at the end of 1998, and has risen slightly in the first months of 1999. Nevertheless, the number of gainfully employed went up in 1998, while the loss of employment in the public sector was more than offset by job creation in the sector of private market services. At the same time, employment in direct production stagnated and the number of self-employed, which account for 11% of the gainfully employed, declined.

Weakening domestic demand has led to a reduction of the trade and current account deficits, compared with the very high levels of two years ago. In 1998, this trend was supported by an exceptionally large increase in the export of electronics and by the fall in energy prices, although the impact of the latter was muted because of forward purchases in the past. 1998 was also a good year for tourism: 6.4% more tourists arrived than in 1997. One of the world's leading cruise operators decided to use Malta as a hub port from 1999 onwards. On the financing of the current account deficit, it is worth noting that long-term capital inflows strengthened in the last two years, at the expense of short-term inflows.

The inflation rate was reduced to 2.4 % in 1998; in December the consumer price index was only 1.3% higher than in December 1997. After VAT was introduced in January 1999, year-on-year inflation rose to 1.9% in February but has since subsided to 1.4% in May.

The Maltese economy was not heavily affected by the recent turbulence on international financial markets. After cuts by 50 basis points in the first part of this year, the central bank's intervention rates are back at where they were two years ago, but in the meantime the yield difference with EU rates has remained well above 100 basis points due to the reduction of euro-zone interest rates. The Central Bank of Malta (CBM) delayed the reduction in interest rates, arguing that, at 10% in 1998, credit growth to households and enterprises (including state-owned ones) was still high, and that the strengthening of domestic demand would renew the pressure on the external accounts.

Since 1989, the Maltese lira has been pegged to a basket of three currencies: the ECU, the pound sterling and the US dollar. The lira peg was adjusted for the introduction of the euro on 1 January 1999; the weights in the basket are unchanged at 56.8% for the euro and 21.6% each for the pound sterling and the dollar.

Despite signs of tighter fiscal policies, the budget deficit rose to 11.8% of GDP in 1998 compared with 4% in 1995. During that period, government borrowing to finance the growing gaps in the budget has increased very significantly. Increasing recurrent expenditure, including the wages of government employees, strongly contributed to the worsening of public finances. On the other side of the account, government revenue declined in spite of the fact that the economy continued to expand. This drop was mainly due to a shortfall in tax revenues, reflecting a shift in the timing of the receipt of tax arrears and the effects of the previous change of the indirect tax system in July 1997. Since the early 1990s, the gap between social security contributions and payments has also steadily widened. Another sizeable contribution to the rise in the government deficit comes from interest payments. The level of government debt was 55.2% of GDP at the end of 1998.

Main Economic Trends						
Malta		1995	1996	1997	1998	1999 latest
Real GDP growth rate	per cent	6.2	4.0	4.9	4.1	4.0 Jan-Mar

Inflation	rate									
- annual	average	per	cent	4.0	2.5	3.1	2.4	:		
- December-on-December		per	cent	-	-	-	-	-		
Unemployment rate, end-year										
- ILO definition		per	cent	3.7	4.4	5.0	5.1	5.1	June	
General government balance ²	budget	per	cent of	-3.5	-7.7	:	:	:		
		GDP								
Current account balance		per	cent of	-11.0	-10.7	-6.2	-4.8	-3.5	Jan-Mar	
		GDP		-274	-281	-183	-150	-26.7	Jan-Mar	
		million ECU/€								
Foreign debt ³										
- debt export ratio		per	cent	:	:	90	97	:		
- gross foreign debt		billion ECU/€		:	:	2.6	3.2	:		
Foreign direct investment net inflow										
- balance of payments data		per	cent of	5.6	9.7	3.8	:	:		
		GDP		140	256	113	:	:		
		million ECU/€								
<i>Source: National sources, OECD external Debt Statistics, IMF Government Finance Statistics.</i>										

Structural reforms

The core of the economic programme of the current government is formed by a medium-term fiscal framework, which targets a reduction of the government deficit to 4% of GDP by 2004. It relies on improved tax administration and on tax increases when expenditure trends would put the achievement of the deficit targets at risk. Within this context, the government has decided a timetable for the dismantling of the levy system. The program also envisages structural reforms of government expenditure, combined with a commitment to social assistance and a scheme for

² Excluding local government.

³ The data are the result of cooperation between BIS, IMF, OECD and World Bank. This source should be more reliable in terms of broader coverage, avoidance of double counting, etc., as well as improved timeliness.

the retraining of redundant employees. The government stresses that such actions would be called for to address Malta's own needs, as well as facilitate EU entry.

The Maltese government has only recently initiated the process of privatisation and the restructuring of the public sector. A task force has been set up for this purpose, with representatives of the public and the private sector. For the time being, utilities remain in state hands and other corporations, such as dry-docks and shipbuilding companies, continue to be supported by large subsidies. State-guaranteed debts accumulated by loss-making public enterprises presently amount to more than 40% of GDP. Any attempt to privatisation is likely to meet stiff opposition, and there is mounting pressure on individual members of the task force.

In June 1999, the Maltese government sold its 70% stake in Mid-Med Bank, the largest Maltese bank, to Midland Bank. The sale also included the shares indirectly held through other companies controlled by the government, which amounted to an indirect share of almost 3% in Mid-Med Bank. Midland Bank is a subsidiary of the Hong Kong and Shanghai Banking Corporation (HSBC). It paid an estimated 86 million Maltese lira for the government's stake. The deal was heavily contested by the Labour Party, claiming that it would give more than half of the domestic banking market to a foreign institution and thereby challenge the sovereignty of the Maltese state.

Main Indicators of Economic Structure in 1998		
Population (average)	thousand	378
GDP per head	PPS-€	-
	per cent of EU average	
Share of agriculture ⁴		2.8
in:	per cent	1.8
- gross value added	per cent	
- employment		
Investment-to-GDP ratio	per cent	-
Gross debt/GDP	foreign per cent	100.7
Exports of goods & services/GDP	per cent	87.5

⁴ Agriculture, hunting, forestry and fishing.

Stock of foreign direct investment, according to EBRD	billion	€	:
	€per head		:

Source: National sources, OECD external Debt Statistics, IMF, EBRD.

2.3 Assessment in terms of the Copenhagen criteria

The existence of a functioning market economy

As set out in Agenda 2000, the existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

The new government of Malta has a comfortable majority to make the policy adjustments necessary to move towards greater macroeconomic stability in the sense of the EU treaty.

The main challenge of economic policy is to reduce the government deficit to a level which is sustainable in the long run, and which would allow Malta to maintain a balanced budget in the medium term after EU accession. This would also help to reduce interest rate differentials with the EU.

Value-added tax was reintroduced on 1 January 1999, after an earlier VAT system was replaced by an alternative indirect tax structure in mid-1997. The reintroduction of VAT was combined with the increase of excise tax rates on cigarettes and petroleum. Excise rates on other products were lowered to offset their inclusion in the VAT base.

The elections of September 1998 also allowed the reversal of the increase in water and electricity charges of late 1997. In November 1998 most public utility bills reflecting the earlier price increases had not been paid.

As indicated above, the Maltese government has a timetable for abolishing the still considerable number of trade levies (see the section on free movement of goods). It also has made clear its intention to lift the remaining controls on capital flows.

From mid-1999 Malta applies international standards on risk assessment in the banking sector. The risk-weighted capital ratio of banks was 15.3% at the end of 1998. Exchange rate exposures and risks related to interest rate volatility are now closely monitored, and financial sector regulation is strengthened in anticipation of a further liberalisation of capital controls.

Malta is a functioning market economy. It should re-establish macroeconomic stability by reducing the very large government deficit. Malta should also continue to open up its economy by further trade and capital account liberalisation.

The capacity to cope with competitive pressure and market forces within the Union

As set out in Agenda 2000, Malta's ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, an economy will be better able to take on the obligations of membership the higher the degree of economic integration it achieves with the Union prior to accession. Both the volume and the range of products traded with EU Member States provide evidence of this.

In relation to the timetable for the abolition of trade levies, the Maltese government has announced that measures would be taken to assist the small firms that are particularly affected by trade liberalisation. The government also argues that the further lifting of capital controls would improve the position of Malta as a destination for foreign direct investment, and intends to back up its approach with a one-window policy for would-be investors and effective support once business has started.

The electronics and electro-mechanical sectors and tourism remain the driving forces for investment and employment. Foreign direct investment is volatile and subject to large privatisation deals such as the take-over of Mid-Med Bank by HSBC.

The EU continues to be Malta's main export market, absorbing more than 50% of total exports. The share of imports from the EU remains approximately 70%. Malta's high dependence on tourism and a limited number of export products makes its trade performance vulnerable to shifts in international demand.

At around 3% of GDP, the share of the sectors of agriculture and fisheries in production is small

Malta should be able to cope with competitive pressure and market forces within the Union provided it takes the appropriate measures, in particular by continued industrial restructuring.

2.4 General Evaluation

Malta is a functioning market economy, and should be able to cope with competitive pressure and market forces within the Union provided it takes the appropriate measures, in particular by continued industrial restructuring. Malta's economic growth slowed in 1998 with persistently

weak demand leading to a reduction in the current account deficit. Inflation was decreasing in late 1998, while unemployment increased despite labour market pressure.

The main challenge for economic policy in Malta in the next few years is to bring down the government deficit and to enforce the collection of government revenue. Malta should also continue to open up its economy by further trade and capital account liberalisation. It should persist in the strengthening and implementation of the economic policies undertaken by the Government

3. Ability to assume the obligations of membership

This section aims to update the February report, as concerns Malta's ability to assume the obligations of membership - that is, the legal and institutional framework, known as the *acquis*, by means of which the Union puts into effect its objectives.

In the February report, the Commission concluded that :

“As regards the adoption of the *acquis*, a large number of the instruments required for the progressive adoption of the *acquis* are contained in the 1971 Association Agreement and its additional protocols. On the basis of these instruments, the final objective of a customs union has, however, not yet been achieved.

In the Internal Market area, Malta has made some progress since the 1993 opinion. In general terms, there would not appear to be major problems for Malta to adopt the *acquis*. Progress has been made with the adoption of new legislation on Public Procurement and Company and Accountancy Law, although further adjustments are needed. However, significant improvements are still needed in the Intellectual and Industrial Property rights sector as well as concerning legislation on Personal Data Protection. Considerable efforts may also be necessary on enforcement aspects.

Concerning free movement of goods major institutional arrangements regarding the implementation of the *acquis*, in particular the New Approach, are missing or not yet finalised. In the field of free movement of capital Malta should adopt a precise calendar in order to embark on an orderly liberalisation path. As far as the free movement of services is concerned some measures still need to be adopted, such as deposit guarantee schemes and supervision on a consolidated basis. The Maltese legislation on payment systems will have to be adjusted to comply with EC Directives. As regards the free movement of persons the conformity with EC Directives in the field of mutual recognition of diplomas will have to be further examined.

Furthermore, varied progress in adopting the *acquis* can be noted in most of the areas. However, priority should be given to significant improvements, which are still needed. Important transposition and implementation activities will require considerable efforts from the Maltese authorities in order to achieve full conformity of Maltese legislation with the entirety of the *acquis* in the years ahead.”

The presentation set out below follows the same structure as the other candidate countries' regular reports and focuses on progress made since February 1999. Under each heading legislative decisions and the progress in implementing and enforcing the legislation are reported.

3.1. Internal Market without frontiers

The Union's internal market is defined in Article 14 of the Treaty as an area without internal frontiers in which free movements of goods, persons, services and capital is ensured. This internal market, central to the integration process, is based on an open-market economy in which competition and economic and social cohesion must play a full part.

Effective implementation and enforcement of these four freedoms requires not only compliance with such important principles as, for example, non-discrimination or mutual recognition of national legislation but also the effective application of common rules, such as those designed for safety, environmental or consumer protection, and effective means of redress. The same principles apply to certain common rules, for example in the areas of public procurement, intellectual property and data protection, which are important in shaping the general framework within which the economies operate.

New legislation on *Public Procurement* was introduced in 1996, which partially corresponds with the provisions of the EC Directives . Malta still needs to introduce legislation extending the procurement rules to local authorities. Review procedures exist but will have to be brought into line with the *acquis*. In August 1999 the preferential treatment of local industrialists or suppliers was eliminated. Since February the total value of contracts awarded amounted to approximately €90 million.

Malta's current legislation on *intellectual property* rights urgently needs to be modernised and aligned with the *acquis*.

Since the February report there are no developments on copyrights and related rights. Sustained efforts are necessary to adopt and enforce new legislation and to eliminate existing piracy and counterfeit.

In the field of *industrial property* rights Malta should adopt new Patent and Trademark Acts. Specific training programmes are required both for intellectual and industrial property rights. Supplementary Protection Certificates should be introduced for pharmaceutical and plant protection products.

The February report stated that Malta had achieved “a fairly good degree of compliance with the *acquis* in the field of *company law*”. No further progress is to be reported in this area.

Malta should adopt legislation on *data protection* as soon as possible. In this context an independent supervisory authority needs also to be established. Malta has not yet ratified the Council of Europe Convention on personal data protection.

The four freedoms

In the February report, the Commission indicated that concerning free movement of goods major institutional arrangements regarding the implementation of the *acquis*, in particular the New Approach, are missing or not yet finalised. In the field of free movement of capital Malta should adopt a precise calendar in order to embark on an orderly liberalisation path. As far as

free movement of services and persons are concerned, Malta still needs to fully align its legislation with the *acquis*.

Free movement of goods

The abolition of levies on imports from the EU is a prerequisite for Malta's proper application of Article 28 of the EC Treaty. In July 1999 the government decided on a timetable for lifting levies on non-agricultural goods. As of October only 56 levies will have been lifted, 121 levies will be eliminated by 1st January 2000, 392 levies at a slower pace (20% on 1st January 2001, 30% on 1st January 2002 and 50% on 1st January 2003).

This lengthy timetable contrasts sharply with the commitment previously made by Malta to abolish by the end of 1996 400 levies. A timetable for the removal of levies on agricultural goods has not yet been decided and should be addressed urgently.

In general terms, Malta lacks legislation in line with the EU *acquis* in the area of free movement of goods and should consider adopting an internal market approximation programme.

In the area of standardisation and certification, no progress has been made.

Further work in order to define the legal framework for the implementation of the EU principles on accreditation, metrology and market surveillance as well as in regard of an efficient conformity assessment system is needed.

As far as sector specific legislation is concerned, the following progress can be reported:

- The EC Directives on low voltage electrical equipment, on electromagnetic compatibility and on equipment for potentially explosive atmospheres have been implemented with secondary notices. Progress is still needed for pressure equipment, toys, recreational craft, metrology and pre-packaging, mechanical devices, personal protective equipment, medical devices, appliances burning gas, and construction products.
- Concerning foodstuffs, legislation transposing the *acquis* in the areas of extraction solvents, foods intended for use in energy-restricted diets, sugars, honey, fruit jams, jellies, marmalades and sweetened chestnut puree has been enacted between March and July 1999.
- With regard to chemicals no progress has been made in the area of limitations, of good laboratory practices and in detergents. There are no pre-market registration requirements for detergents.

No legislative measure can be reported which implements the Product liability Directive.

Free movement of capital

Malta is still behind in the process of aligning to the *acquis* in capital movements, although several liberalisation measures have been taken since the last report.

Notably, the general allowances for outward transactions by residents were substantially raised. The general authorisation procedure for banks' foreign exposure was abolished and replaced by a ceiling for such exposure, amounting to 20% of own funds. The time limit imposed on export companies for keeping foreign earnings in a foreign exchange account was extended, as was that for maintaining swap facilities and keeping overdraft facilities with foreign banks. Finally, Maltese residents were allowed to make long-term borrowings abroad.

Even with those changes, a rather comprehensive system of restrictions is still applied on capital movements, especially concerning outward transactions. Inward transactions are facilitated by relatively generous exemptions. Notably, inward direct investments are free except for a few sectors. Also, authorisation is usually given for acquisition of real estate for business purposes deemed to benefit Malta and for the acquisition of high standard residences.

Free movement of services

In general terms, Malta has already reached a high degree of compliance with the EU legislation in the financial services area.

From mid-1999 Malta also applies international (equal to the EU) standards on risk assessment in the *banking* sector. These changes also aim at implementing the Capital Adequacy Directive.

The Central Bank of Malta is responsible for the supervision of banks. 16 on-site examinations have taken place since February, eleven in credit institutions and five in financial (non-bank) institutions. The findings are discussed with senior officials of the relevant institutions and then evaluated internally by the Central Bank. Inspection reports are made available to the external auditor.

In 1998 Malta amended its *insurance* legislation intended to follow EC Directives. No legislative measures in the sector have been reported. Since February, the Malta Financial Service centre, examined the accounts of five Maltese insurance companies. It examined further the accounts of 31 companies acting as agents of insurance companies and 20 companies authorised as brokers. No on-site inspection have taken place since February.

The bulk of the EU stock exchange legislation has already been incorporated in the Malta Stock Exchange Act. Amendments are needed in order to further align legislation in the *securities* sector.

As regards large value *payments*, the volume of transactions has not required so far the introduction of a real time gross settlement system (RTGS). However, such a system should be implemented in order to align the Maltese payment system to those existing in the Member States of the European Union.

The Prevention of the *Money Laundering* Regulation of 1994 addresses the financial system and imposes obligations of identification, record keeping, training and reporting of suspicious transactions. This Regulation only partially transposes the Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering.

Free movement of persons

With regard to free movement of persons, freedom of establishment and mutual recognition of diplomas and qualifications, no significant progress can be reported. A sustained effort is necessary to ensure effective compliance with the *acquis* in this area.

As far as abolition of checks on persons at internal frontiers is concerned Malta will have to abolish checks on persons for air and sea transport within the EU.

Competition

The current Competition Act largely follows the basic EC antitrust rules. However, there is no specific merger control in Malta.

No specific system of *State aid* control exists in Malta as yet. Various types of State aid (export aid, operating aid...) are granted and the criteria under which they are awarded need to be brought into line with EU rules, in particular for ship-building and ship-repair.

Malta needs to ensure full transparency by presenting annual State aid reports following EU methodology and by establishing a comprehensive inventory on existing aid. It also needs to set up a State aid monitoring authority with adequate powers and qualified resources.

State *monopolies* exist in Malta in various sectors (telecommunications, postal sectors, electricity, water, etc) and should be subject to competition rules. Monopolies of a commercial character need to be made fully compatible with Article 31 of the Treaty.

No provision similar to Article 86 of the Treaty exists in Malta. Thus, competition rules generally do not apply to public undertakings or to private undertakings having special or exclusive rights. This needs to be addressed.

Conclusion

No substantial progress has been made since February and Malta should make the internal market a high priority.

Particular attention should be given to introducing new legislation and establishing the administrative structures to apply the *acquis*, in particular in the following areas: intellectual and industrial property rights, data protection, free movement of goods, capital liberalisation, competition (state aid, anti-trust, state monopolies of commercial character).

The continuing imposition of levies on imports from the EU is at odds with the philosophy of the internal market and the timetable for their removal should be completed and accelerated.

3.2 Innovation

Information society

There are several Internet service providers and the Internet penetration is about 7% of the population. Recently, a partnership was created between the Internet service providers and the Cable TV company, Melita Cable (covering about 80% of the households), which has formed an alliance with a US company providing Web TV services. Concerning wide area networks, the company "Malta Information Technology and Training Services Ltd" has established and is maintaining a modern network (MAGNET) to share administrative information between the Maltese government agencies.

Education, training and youth

Certain issues remain to be tackled relating to free circulation of persons and non-discrimination such as the access for women to vocational training and participation by the social partners in policy formulation. Progress is still required on the legislation to comply with the Directive on the education of the children of migrant workers.

Malta's employment policy is increasingly centred on retraining human resources. This is especially important given the structural changes in both the public and private sectors foreseen over the next few years. This new emphasis in employment policy should be formulated with a view to Malta's future participation in European employment policy.

Malta has indicated its wish to participate in the Community programmes such as Socrates II, Leonardo da Vinci II and Youth.

Research and technological development

The present Community *acquis* does not require transposition into the national legal order. However, the compatibility of the general legal order with the Community *acquis* needs to be ensured.

There are no new developments since the last report. Research and technological development co-operation between the EU and Malta takes place through the 5th Framework Programme.

Telecommunications

The telecommunications sector is well developed with a completely digitalised network and a penetration rate of 50.4 lines per 100 inhabitants in fixed lines, which compares to the EU average of 52.6. However, Malta has yet to start with the adoption of a regulatory framework in line with the *acquis* before the introduction of competition in the fixed voice telephony service, by January 2003 at the latest and the gradual opening of the markets for other services before that date. The authorities have already informed the licensed telecommunications operators about the intention to bring forward the date for the liberalization of the market for voice telephony which is scheduled for 2010 by the telecommunications law of 1997.

As for privatisation, the government sold 40% of the equity of Maltacom in an international public offering in June 1998, retaining 60% of the shares.

In 1998 the Postal Act was amended, assigning Universal Service obligations to Malta Post, which was established as a public limited company by a government regulation.

Audiovisual

No progress has been made in Malta with respect to the adoption of the audiovisual *acquis* (Television Without Frontiers Directive) since February 1999.

Conclusion

In the field of education, training and youth further progress is needed. No new developments can be reported as far as science and technological development is concerned. As regards telecommunications, Malta has considerable work to do in order to conform to the *acquis communautaire*.

3.3 Economic and fiscal affairs

Economic and Monetary Union

Malta will have to comply fully with the *acquis* as defined by title VII of the EC treaty and the other relevant texts and ensure that the administrative structures to implement and enforce the *acquis* will be in place.

Malta has made little progress in its preparation for participation in Economic and Monetary Union. In particular, for the *acquis* that has to be implemented before accession, the Central Bank of Malta is not fully independent from the government: whilst members of the Board of Directors are not to receive or accept directions from any person or authorities under the current legal framework, the Minister of Finance may still, in exceptional circumstances, give directions to the Central Bank on the conduct of monetary policy. Malta also does not comply with the Treaty on the issue of direct financing of the public sector by the Central Bank. At present, the Central Bank may both grant temporary advances to the government and buy government bonds on the primary market. An amendment to the Central Bank of Malta Act, which would abolish the overdraft facility, has not yet been brought into force. According to the Maltese authorities, the government does not have access to financing from financial institutions on preferential terms.

Compliance with the Economic and Monetary Union *acquis* is conditional on completion of the process of liberalisation of capital movements, which is examined under section on free movement of capital.

Taxation

Although Malta introduced *VAT* in 1995, it was abolished and replaced by a discriminatory Customs and Excise Tax in July 1997. However, following Malta's decision to reactivate its application for membership of the European Union, the Customs and Excise Tax was replaced by *VAT* as of January 1999.

In the field of *excise* duties an amendment to the Excise duty Act was enacted in May 1999, which increases the duty rate on cigarettes and which introduces a rate of excise duties on tobacco not imported for industrial production of cigarettes, and reduces the excise duty on kerosene. As for direct taxation the introduction of the concept of self-assessment for Income Tax, effective from the 1999 assessment, and the introduction of penalties and interest in the event of late payment of tax have taken place.

Conclusion

The reintroduction of *VAT* represents progress and the system now conforms to the general principles of the Community's *VAT* system, although significant alignment is still required. However, no progress was made as regards excises, where Malta's system differs to a large extent from that applied within the Community. Malta should prepare a well structured and targeted pre-accession strategy in this areas.

Statistics

Malta should be able to meet EU requirements in the medium-term. Since the end of 1998, the Central Office of Statistics has begun to implement the European System Of Accounts (ESA 1995) and it will be fully in line by mid-2002. The institutional framework for the necessary changes has been put in place and implementation work is ongoing.

– Other developments include a recent IMF approval of balance-of-payments reporting (in line also with Eurostat) and an intensification/revision of data collection in areas such as tourism, agriculture & fisheries, environment, transport and social affairs.

3.4 Sectoral policies

Industry

Having acknowledged the lack of openness of the economy and the low level of competitiveness of parts of the domestically-oriented industry, the Malta government has adopted an industrial restructuring programme and a timetable for removal of the protective levies on non-agricultural goods. However, the lengthy timetable for the removal of these duties should be speeded up (see section on free movement of goods).

The Institute for the Promotion of Small Enterprises (IPSE), set up in 1998, is now starting to implement the restructuring programme.

An important part of the domestically-oriented firms in Malta which were established under an import substitution policy, still operate within the framework of a protective environment. A National Industrial Policy still needs to be adopted.

Direct state participation remains limited in Malta with the exception of the shipbuilding and ship repair sector, which receives substantial state subsidies, and remains thus a matter of concern. An important dimension of the industrial policy is the control of state aids (see section on competition).

Malta needs to restructure its industry and develop its SME sector to prepare for accession. In particular the shipbuilding and ship repair sector needs to be addressed.

Agriculture

Agricultural situation

Agricultural production accounts for approximately 2.7% of GDP (1998 figure) and of 1.6% of total employment. Part-time farming is continuously on the increase and the setting up of co-operatives is encouraged by the authorities. Malta continues to mainly export new spring potatoes, and to a much lesser extent, other horticultural products such as flowers and tomatoes.

Lack of water is the main problem for Maltese agricultural land, which accounts for about 12.000 hectares (6% are irrigated land).

Agricultural policy

In general, Maltese agricultural policy measures are not in line with the agricultural *acquis* and the role of the State in the production and marketing of agricultural produce remains important. The levies currently in force provide a considerable protection to Malta's agriculture. Latest upon accession this border protection system will have to be aligned with the Community.

Malta has not yet prepared a comprehensive legal framework to take over the Community agricultural *acquis*.

No concrete progress can be reported as regards the alignment of Maltese legislation with the *acquis* in important sectors of the common agricultural policy such as the phytosanitary sector nor for *arable crops*, although for the latter sectors the agricultural *acquis* contained in the Common market organisations concerned applies directly upon accession and does therefore not need to be transposed by Malta. The capacity of Malta to implement and enforce this *acquis* will therefore be of utmost importance. The implementation of the *veterinary* and *phytosanitary acquis* will have to be programmed.

Some environmental programmes to encourage the use of organic farming and integrated pest management to reduce the quantities of pesticides are applied.

Conclusion

No substantial progress has been made in aligning national legislation to the agriculture *acquis*. The complete integration of the Maltese agriculture and agricultural policy in the Common Agricultural Policy will require substantial efforts. The alignment to the Community *acquis* of the protective levies on agricultural commodities remains a necessity.

Fisheries

The local fisheries' sector amount to 0.21 % of the national GDP (1998 figures). No progress in aligning legislation to the *acquis* has been reported. It remains valid that Malta has to carry out a number of adaptations, in particular regarding its policies on controls, imports, state aid as well as the fleet register, to align its fisheries policy on that of the Community. In this context a major reform of its administrative structures is necessary.

Energy

Since February 1999, no new legislation has been enacted by Malta. The *acquis* on crude oil, oil products trade and oil stocks as well as legislation for specific measures in case of an oil crisis is needed. Special attention needs to be paid to the separation of policy formulation and operations and to reinforcing capacity to implement the *acquis*.

Conclusion

Most of the energy *acquis* needs to be adopted, including legislation on the internal energy market (gas and electricity directives), emergency preparedness including the building up of oil stock and energy efficiency.

Transport

There is still some lag in the implementation of the Community *acquis* in *road transport*, mainly for road safety, access to the profession, driving time, rest periods and taxation. It is noteworthy that Malta has not adhered to a number of important UN-ECE conventions in the field of social legislation and transport of dangerous goods, which are also incorporated into the community *acquis*.

Maritime transport is a key issue for Malta and full implementation of the *acquis* is still some distance away. Conditions for setting up shipping companies in Malta and obtaining the Maltese flag are less stringent than those generally applied by Member States. As far as implementation

is concerned, Malta still does not apply certain key safety and pollution standards and progress is urgently needed. The poor safety performance of vessels on the Maltese register is a matter of concern. The improvement of the flag state administration remains a priority. A sound strategy needs to be put in place in order to remove substandard shipping from the register.

In the field of *air* transport Malta is both economically and technically well advanced. Even if the Community *acquis* has not yet been adopted in a number of important areas, there is very good knowledge of the aviation *acquis*. Malta has a declared policy of entering into liberal air services agreements, based on reciprocal treatment particularly in the areas of tariff approval, capacity control and market access, with all the members of the European Union. Malta is already a member of the Joint Aviation Authority.

Malta will shortly begin to participate in TINA (Transport Infrastructure Needs Assessment – evaluation of *infrastructure* needs for the candidate countries).

Malta's participation in the *trans-European* network of Global Navigation and Satellite System (GNSS) should be considered in the framework of a multi-modal and viable Mediterranean satellite navigation system.

Conclusion

Given the importance of maritime transport for Malta, priority should be given to implementing and enforcing the *acquis* in this sector.

Small and medium-sized enterprises

Malta's economy is dominated by SMEs. These companies are affected by the lack of openness of the economy and the low level of competitiveness in parts of the domestically-oriented industry.

The SME sector is facing difficulties in mobilising financing, especially start-up capital and investment capital for restructuring. However, the Government provides loan guarantees and an Export Credit Guarantee Scheme. Specific programmes and measures are being taken by commercial banks and other financial institutions to improve SMEs' access to finance.

Malta benefits from *ad hoc* participation in Partenariat-type of events on the same basis as other Mediterranean Partner Countries and from Community initiatives such as a Euro Info Correspondence Centre, the business co-operation networks (BC-NET) as well as from participation in business co-operation events such as Europartenariat and INTERPRISE.

3.5 Economic and social cohesion

Employment and social affairs

The unemployment rate in Malta is rising, and is currently more than 5%. Employment policy aims at retraining of human resources. A Joint Employment Policy Review is foreseen in the coming years.

Malta has embarked on a substantial revision of its legislation in the areas of: *Health & Safety* in the Workplace, *Labour law*, and *Equal Treatment* of Men and Women. New legislation will be needed and the issue of enforcement needs special attention.

Social dialogue is well-established and has dealt *inter alia* with the widening welfare gap. In June 1999 a National Welfare Reform Commission was set up to study reforms of the national pensions and social security schemes.

Conclusion

Substantial alignment is still necessary in the area of Employment and Social Affairs.

Regional policy and cohesion

The Union supports the strengthening of cohesion, mainly through the Structural Funds. Malta will have to implement these instruments effectively whilst respecting the principles, objectives and procedures which will be in place at the time of its accession.

There has been no change since the February 1999 report. The lack of precise statistics on GDP in purchasing power parities prevents comparison with other EU regions. Malta does not have a regional structure and there is no intermediate level between national government and the 67 municipalities. Gozo (with Comino) has a separate ministry and specific aid programmes.

Conclusion

Priority should be given to the preparation of statistics in line with EU methodology.

3.6 Quality of life and environment

Environment

Malta has recently started to consider the development of its internal environmental policy in line with that of the European Union, but no comprehensive strategy has yet been developed.

No progress has been made on *nature protection*, nor has there been much progress on *water* protection, *air* quality, *waste* management, *industrial pollution* control and *risk management*. Greater awareness is also needed of general problems, e.g. chemicals and Genetically Modified Organisms.

Malta applied on 15 July 1999 for membership of the European Environment Agency.

Conclusion

Much needs to be done in all the sectors of the environment, transposition of the *acquis*, its implementation and enforcement and the development of the necessary administrative capacity. One of the vital issues when implementing the environmental *acquis* is to have a good estimation of the related costs. Until now Malta has not established such a directive-specific financing plan.

Consumer protection

Maltese consumer protection policy is not in line with the *acquis*. A Consumer Affairs Council of consumer organisations was set up in May 1999. Priorities, in the light of the importance of tourism to Malta, include: package travel; time-sharing; consumer credit; unfair contract terms; and comparative and misleading advertising. The Malta Travel and Tourism Services Act (adopted 13 July 1999) partially addresses some of these issues by creating the Malta Tourism Authority, and by consolidating and updating existing laws relating to the tourism industry.

Even if there are positive moves with regard to consumer protection, much work remains to be done.

3.7. Justice and home affairs

The February report underlined that the main short-term requirements in the field of Justice and Home Affairs concerned lifting the geographical reservation to the Geneva Convention but that further information was needed on the practical implementation of the right to asylum, the prevention of illegal immigration, the fight against organised crime, notably the fight against drugs and the means of combating them. The report also noted that Malta had to boost its participation in international co-operation in the field of justice, both civil and criminal.

Immigration/border control

Since March 1999, Maltese citizens no longer need to complete dis/embarkation cards for control of movement. Such cards for other travellers will disappear before end-1999. In the context of increasing illegal *immigration* by sea, the Armed Forces of Malta and Italy focussed their 1999 annual joint exercise on surveillance monitoring of this traffic.

It is necessary to assess the Maltese legislation in the field of migration and borders, to see how it is implemented, particularly at the sea frontiers, and to check how much staff, training and equipment are needed. Besides, responsibility for policing the coasts has to be transferred from the armed forces to a civilian border police.

Malta should continue progressive alignment of visa legislation and practice with that of the EU.

Asylum

Malta maintains a geographical reservation to the Geneva Convention, limiting acceptance to refugees of European origin. This reservation needs to be lifted in order to comply with the *acquis*. Besides, Malta has no specific legislation on asylum. In the absence of legislation and administrative infrastructure, Malta accepts the UNHCR's decisions on asylum and requests are processed through a non-governmental organisation, the local Migrants' Commission.

Police

In April 1999, Malta ratified the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime.

Malta has no general data protection legislation yet although there are several data protection clauses in some key pieces of legislation such as the Official Secrets Act, the Inland Revenue Act and the Social Security Act. A general law on data protection is a pre-condition to a participation of Malta to Europol.

Some additional staff is required in the Economic Crime Squad, in order to fight more efficiently against fraud and corruption, and in the structure in charge of international co-operation with the perspective of close links with Europol.

Drugs

Although Malta is not considered a centre for production of illegal drugs, it is a transit point and destination for drug trafficking from North Africa, the Middle East and Eastern Europe. Drug use and trafficking has become a great problem in Malta. Malta has not signed yet the Council of Europe Agreement on illicit traffic by sea, an agreement that is particularly relevant given the country's location. Additional staff and equipment are necessary for the implementation of the *acquis* in the field of drugs.

Judicial co-operation

Malta signed in June 1999 the Council of Europe Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders. But it still has to adopt a number of international instruments as mentioned in the February 1999 report.

Conclusion

In order to be able to implement the European Union *Acquis* in the field of justice and home affairs, Malta has still to adopt a number of legal instruments : a law on asylum – with no geographical reservation -, a law on data protection, the Agreement on illicit traffic by sea and several international Conventions on judicial co-operation.

Malta also has to enhance its capacities to implement the *acquis*, particularly as far as asylum, fight against illegal immigration, organised crime and drugs are concerned.

3.8 External policies

Trade and international economic relations

Malta is a member of the World Trade Organisation. When it joins the EU, Malta will have to renounce its status as a developing country and will have to subscribe to the plurilateral WTO agreements to which the Community adheres.

Malta has expressed its willingness to work closely with the EC in the preparation of, and during, the forthcoming WTO Round, with a view to aligning positions and policies as closely as possible.

Malta is a signatory to the General Agreement for Trade in Services (GATS). No major changes have been reported in this area since the last Report. The WTO new round will provide an opportunity for Malta progressively to align its level of commitments in this area to the EC level.

There have been no significant changes in Malta's average customs tariffs since the last report.

No further preferential trade agreements have been notified.

Development

To date Malta has no development policy.

Customs

Maltese customs legislation is not in line with the *acquis* and Malta has not made substantial progress in the harmonisation of its customs legislation to the *acquis*. Alignment is needed in areas such as customs procedures with an economic impact, free zones, customs warehouses, tariff quotas and ceilings, suspensions, counterfeited and pirated goods. A Binding Tariff Information System should be set up.

As a matter of priority, Malta should adopt the Combined Nomenclature (which implies the amendment of the rules of origin), review the system for the valuation of goods currently in place to implement the WTO Agreement on Customs Valuation (Gatt 1994), and apply the Single Administrative Document (SAD).

Malta has expressed its interest in signing a Protocol on Mutual Administrative Assistance on customs matter with the EU and the Commission has already started the procedure necessary for an agreement in this area.

Conclusion

Malta should design a pre-accession strategy for customs administration covering the areas of harmonisation of the customs legislation to the *acquis*, the building up of the institutional and

administrative capacity to fulfil the responsibilities of an EC customs administration and the computerisation of the administration.

Common foreign and security policy

Malta continues to orientate its foreign policy towards the EU. In June 1999 the Union decided to invite Malta to rejoin the multilateral political dialogue with the associated Central European countries and Cyprus within the framework of the Common Foreign and Security Policy “to allow (the country) to familiarise and align itself with CFSP instruments, as well as to co-operate fully with the Union in international fora”. Malta will from now on participate in the dialogue, including the regular meetings at Political Directors', European Correspondents' and Working Group level, and align its positions with those of the EU. Already before the resumption of the multilateral dialogue it has generally supported EU positions in the field of CFSP. Thus it joined the Common Position on Kosovo, the ban on Yugoslav flights and the oil embargo on Yugoslavia.

Malta strives to contribute to regional stability in the framework of the Euro-Mediterranean Dialogue. It has established strong co-operation with its Mediterranean neighbours.

3.9 Financial questions

Financial control

Alignment of legislation with the *acquis* is needed to allow the system of own resources to be introduced. Administrative practice in this area has been improved.

Other changes (legislative, administrative) are also needed to fulfil EU control requirements. Most notably, the public *internal* financial control function in Malta is currently characterised by decentralised control management in the line ministries. Weaknesses relate to: the "functional independence" of auditors; the quality of the "Internal Audit function"; and the numbers of qualified financial control staff. To remedy this, Malta is transferring responsibility to a General Audit Committee, separate from the Ministry of Finance and under direct control of the Cabinet Office.

Malta will also need to establish appropriate administrative systems for the management and control of EU funds, which Malta will receive after accession.

Conclusion

Much work remains to be done both as regards the alignment with the *acquis* and the establishment of the necessary administrative structures.

3.10 General evaluation

Since the Commission's last Report in February 1999 there has been little additional progress in the internal market area. Malta should adopt a programme for alignment in this area as a matter of urgency. There has been progress in public procurement where the national preference clause was abolished but deficiencies remain in the area of standardisation and certification. There is a need to accelerate alignment in areas such as protection of intellectual property and data protection. The re-introduction of VAT in 1999 was a positive step although further alignment is still needed. The continuing imposition of levies on imports from the EU is an anomaly which should be removed immediately.

There is quite a high degree of alignment in the area of anti trust legislation although there is no merger law in Malta and undertakings with special or exclusive rights are still not subject to competition rules. There is no systematic control of state aids and no legal framework. Alignment in this area should be given priority, particularly in the areas of aid to ship building and ship repair. The state continues to play an important role in agriculture and there has been little recent progress in preparing the sector for the common agricultural policy. In the transport sector there is a need for greater alignment especially in the areas of maritime safety and pollution control. Malta needs to adopt an overall strategy for alignment in the environment sector and to strengthen its implementation and enforcement capacity. In the area of justice and home affairs Malta should adopt a law on asylum and lift its geographic reservation. There is a need to strengthen capacity in areas such as immigration control, data protection, the fight against drugs and organised crime.

Institutions still have to be set up in the areas of environment, customs, consumer policy, fisheries, maritime transport and regional policy. Administrative capacity needs to be strengthened across the board.

4. Administrative capacity to apply the *acquis*

This chapter updates the information given in the February report. The European Council in Madrid in December 1995 referred to the need to create the conditions for the gradual, harmonious integration of the candidates, particularly through the adjustment of their administrative structures. Taking up this theme Agenda 2000 underlined the importance of incorporating Community legislation into national legislation effectively, but the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential pre-condition for creating the mutual trust indispensable for future membership.

Wherever possible information is provided on the Ministry or organisation which is responsible for a specific part of the *acquis*, its legal powers, staffing levels and budget. As in the Member States each administration has to decide how to allocate scarce human and financial resources, ensuring that it has sufficient capacity to implement the *acquis*. There is no 'ideal' level of staffing and numbers alone are no indication of capacity to implement the *acquis* effectively. However, wherever they are available, staff numbers and changes in staffing levels are provided. It is clear that in areas where there is a heavy control and enforcement burden one or two people are not sufficient and in such cases very low staff levels can indicate a need to give greater priority to administrative capacity.

Many of the enforcement structures covered in this report have only recently been established. They are beginning to take decisions in *acquis*-related areas but it is often too early to assess the quality and compatibility of these decisions with the *acquis* or the information needed is not available. However, in some areas it is possible to provide data to illustrate that the *acquis* is becoming a living and integral part of domestic decision-making. During the coming year the Commission will continue to work with each of the candidate countries to build up a data base on administrative capacity and information on enforcement which will allow the Union to assess operational capacity to implement the *acquis*.

In the February report, the Commission concluded that :

“As concerns Malta’s administrative and judicial capacity to apply the *acquis*, it seems that major problems will not be encountered. However, administrative capacities remain to be improved in a number of areas, among others, in the field of customs, competition, maritime transport and Justice and Home Affairs.”

4.1 Administrative structures

Malta has administrative structures based on democratic principles.

The number of civil servants currently employed in government departments amounts to approximately 33.000. The conclusion of the February report that "there is scope for improving the efficiency and effectiveness of the public administration" remains valid.

Since February some administrative structures to manage the integration process have been put in place. Government and non-government related bodies have been set up in order to prepare the accession process. Decisions pertaining to the screening and the negotiation process will be taken by an ad-hoc Cabinet Committee chaired by the Prime Minister on the basis of recommendations of the Malta/EU Steering and Action Committee (MEUSAC) established under the Chairmanship of the Foreign Minister. MEUSAC has a large national representation including the government, the private sector, trade unions, political parties, as well as interest groups.

Moreover, a Euro-Assistance Co-ordination Task Force was set up to facilitate participation in Community programmes open to Malta and to ensure full and effective exploitation of EU funds before and after membership.

4.2 Administrative and judicial capacity: key areas for the implementation of the *acquis*

The uniform application of EC law : The number of judges at present - as established by the Code of Organisation and Civil Procedure - is seventeen, including the Chief Justice. Moreover, there are seventeen magistrates. More attention is paid to knowledge of EC law. There are currently no vacant posts for judges or magistrates.

*It is not possible, at this stage, to have a comprehensive and accurate evaluation of the judicial capacity to apply the *acquis*.*

Single market : The Department of Contracts, which is an autonomous entity within the Ministry of Finance, is responsible for the application and enforcement of the different aspects of the *public procurement* legislation. Apart from the nine members of the General Contracts Committee (who are not Government employees), the Department has a staff of 26 persons.

All Government Departments and a number of Government Corporations process their tenders through the Department of Contracts. The Public Service (Procurement) Regulations allow for a high degree of delegated authority to the Head of the Department, the Director of Contracts, who has the right to use his discretion on whether to refer any matter for the final decision to the Ministry of Finance.

The Department of Contracts is competent for monitoring the issuance of public tenders, advising departments on public purchasing, information etc. All tenders financed by Government funds are published in the Malta Government Gazette whilst tenders published by Corporations are generally published in the nations media.

The General Contracts Committee is enabled by the Public Service (Procurement) Regulations to become a Committee of Review to hear and decide on complaints submitted by aggrieved tenderers , acting as an arbiter between the recommending Department/Corporation and the tenderers concerned. Furthermore, since the introduction of a complaint procedure, aggrieved tenders have the possibility to submit their objections to the award of contract before the actual

contract is signed. In addition, there is legal redress in the commercial courts.

The administrative capacity appears adequate for government departments. Particular attention should, however, be paid to the appropriate training of staff. With regard to bodies governed by public law, local councils and public undertakings (for utilities), Malta will have to set up the necessary administrative infrastructure in order to ensure responsibility for supervising and monitoring the application of procurement rules by those bodies which would be subjected to EU rules.

The Industrial Property Office is responsible for approving registration of trademarks, patents and for designing records assignments. Once goods have been released on the local market, *intellectual property rights* are enforced by the Economic Crimes Unit of the Police Force. The Unit carries out regular investigations at retail outlets and on the open markets. The Investigations Section of the Customs Authority is responsible for border enforcement.

The administrative set up needs to be strengthened substantially in order to facilitate an efficient adoption of the acquis. Current systems may need to evolve towards a national authority with the right amount of competent staff. There is no court specialised in Intellectual Property Rights Cases. Cases are dealt with in the Civil Courts but very few judges and prosecutors are familiar with IPR legislation. Police and Customs Authorities require extensive training.

Particular attention is needed for the upgrading of resources in the area of enforcement.

The Ministry of Finance (Budget Office, the Treasury and Customs Department) and the National Audit Office are responsible for the application of legislation concerning *Accountancy*. Approximately 160 officers in the Ministry and 30 officers in the Audit Office work on the implementation of the relevant legislation in Malta.

Auditors are answerable to the Accountancy Board (Ministry of Finance) established by the Accountancy Profession Act.

The administrative set up to implement the acquis in this area already exists, but human resources need to be substantially increased.

The Registry of Companies, with a staff of 25 people, is responsible for the implementation of the EC *company law*.

The Registry of Companies operates within the structure of the Malta Financial Services Centre and oversees companies incorporated under the Companies Act, 1995 and partnerships under the Commercial Partnerships Ordinance, 1962.

The existing structure should be adequate to implement and enforce the acquis.

No administrative structures are in place as regards *data protection*. This area represents a gap in Malta's capacity to implement the *acquis*.

A public supervisory authority acting independently will have to be created to monitor the correct application of the data protection provisions.

The application of the EC legislation establishing *free movement of goods*, falls within the remit of the administrative spheres of a number of authorities.

Approximately 15 agencies and government departments are responsible for the implementation of the technical legislation in this area. In some sectors human resources need to be strengthened for full implementation of the *acquis*.

A system of mutual recognition has yet to be set up. The present administrative and technical infrastructure needs to be expanded in order to effect checks for conformity with the rules on product safety in the case of goods imported from third countries.

The Malta Standardisation Authority (MSA) was set up under the 1996 amendment to the Malta Board of Standards Act to provide for the establishment of an autonomous authority for Standards and ancillary matters. This authority is now the sole authority in Malta entrusted with the co-ordination of *standardisation* and related activities. It is governed by a Council composed of members representing public administration (Industry, Agriculture, Customs, Consumer Affairs, Environment Protection, Public Health) and other interests (trade and professional organisations, Council for Science & Technology). The Council has 5 full-time staff and 15 Council Members (part-time).

The Department of Health remains the authority for the enforcement of food standards set by the Ministry of Health or any recommendations from the MSA.

The Maltese authorities should not encounter any unmanageable barriers to implement the acquis in the area of free movement of goods. Training, will, however, be essential. Adequate administrative structures capable to implement and enforce the acquis still need to be established.

In the field of *free movement of capital*, the Central Bank of Malta regulates and supervises credit and financial institutions, operates exchange control according to the Exchange Control Act, 1972 and oversees the payment system as delegated by the Minister of Finance. It has a staff of 329 officials.

No new administrative infrastructure is required to apply the acquis in this field. On the contrary, with the process of liberalisation, present administrative systems for control and authorisation of capital movements will need to be eliminated.

As far as *financial services* are concerned, the Malta Financial Services Centre (MFSC) regulates insurance and investment services operators, collective investment schemes and offshore companies. 66 officials work at the MFSC.

The MFSC issues licences and may suspend, cancel or restrict licences in case of wrongdoing, may carry out investigations and issue public statements.

Subject to resource availability, on an ongoing basis, both on-site and off-site compliance inspections are carried out. Investigations are also carried out where necessary.

The acquis may be implemented under the existing administrative set up. In the medium-term, a separate authority should be established to supervise the insurance sector.

In the field of *free movement of persons*, the University of Malta (Registrar Office) is in charge of the recognition of all higher education degrees and professional qualifications. It may consult the respective professional organisations whether any problem arises. Furthermore, some professions need an authorisation to practice (Government warrant for lawyers, architects, etc.). The Ministry for Justice and Home Affairs issues warrants for lawyers and Ministry for the Environment for architects.

The law regulating the profession of architects, which was passed through Parliament in mid-1996, is to come into force on October 1st. This legislation provides for an Architects' Warrants Board to liaise with the Chamber of Architects and the Government. The Board's role includes the consideration of applications for the issuing of architects' warrants, as well as the approval and recognition of qualifications obtained from universities abroad, for the issuing of a warrant.

The recognition of professional qualifications for which rules and regulations have still to be passed, is a major problem. As regards the Registrar Office, this system works quite well for Maltese nationals, but is rather slow for non-nationals, a fact that could be negatively interpreted as a reluctance to allow non-nationals to settle in Malta. As regards government warrant for lawyers, architects, etc. the strengthening of the current administrative structure is not enough – what is needed is the setting up of an independent regulatory body having under its umbrella the different sectors involved.

Competition : The National Competition Authority to enforce competition rules (rules on restrictive agreements, abuse of dominant position and on the control of mergers) is the Office for Fair Competition (25 staff). The Authority investigates the claims of unfair competition and hands over the findings of infringements to the Commission of Fair Trading.

The Commission of Fair Trading has decision-making powers and is an independent authority appointed by the President. It regulates its own procedures and has the powers vested in the domestic Civil Courts.

A National Monitoring Authority to supervise State aids (i.e. to assess the compatibility of state aids with the criteria arising from the relevant EU acquis) will have to be set up.

Telecommunications : The ownership function of the state in relation to the public network operator Maltacom is exercised by the Ministry of Economics and has therefore been separated from the regulatory functions, which is in line with the *acquis*. However, the Office of the Telecommunications Regulator is not independent of the policy making functions of the

government because the office reports to this Ministry of Transport and Communications and the prime minister appoints the director of the office.

The Office of Telecommunications Regulator (OTR) within the Ministry of Transport and Communications is responsible for licensing, fixing the tariffs mechanism, regulating radio frequencies, settling disputes and safeguarding subscriber's interests. The Wireless Telegraphy department within the ministry is responsible for standards and testing of telecoms equipment. The staff of the Regulator's office consists of 65 persons, including engineers, technicians and administrative personnel.

The Telecommunications Appeals Board settles any dispute between the regulator and operator(s). It consists of a Chairperson and two other members appointed by the Minister for Transport and telecommunications.

The regulatory authority needs to obtain more independence from government and has yet to demonstrate its efficiency by preparing regulation in line with the acquis, in particular in the field of licensing, interconnection and numbering.

Audio-visual services : The Broadcasting Authority, Malta, in accordance to the Broadcasting Act (1991), carries out implementation and enforcement of audio-visual legislation with a staff of 22 persons. The members of this statutory body are appointed by the President of the Republic acting in accordance with the advice of the Prime Minister and after consultation with the Leader of the Opposition.

Apart from the functions laid down in the Constitution (i.e. ensuring the preservation of due impartiality in respect of matters of political or industrial controversy or relating to current public policy), the role and function of the Broadcasting Authority are two-fold: to select and appoint radio and television station licences and contractors and to monitor these stations, regulate their performance in terms of their legal, licence obligations, and impose sanctions for breach of conditions from fines to suspension of licence – temporary or total. The Broadcasting Authority also deals with appeals by license holders and ensures that the statutory rules concerning advertising are observed.

The Government (Office of the Prime Minister) is responsible for the allocation of frequencies assigned to the Malta Broadcasting Authority.

These broadcasting services include state and privately-owned radio and television stations broadcasting on a nation-wide basis, community radio stations broadcasting on a limited service radios as well as a cable television service. Cable television carries local and foreign terrestrial television services as well as various other terrestrial and satellite-delivered channels.

The Broadcasting Authority is a non-profit making organisation whose income derives mainly from Government subvention (National Budget). To ensure the Broadcasting Authority's independence the Government is bound by law to contribute not less than a quarter of a million. Other income derives from licence fees (of which 20% are automatically paid to the Ministry responsible for Wireless Telegraphy), franchise fees and the levy of fines.

The Broadcasting Authority is a dynamic body. It has been an active member of the European Broadcasting Union and of the Commonwealth Broadcasting Association for many years. The Authority is also a member of the European Institute for the Media and a founder member of EPRA – the European Platform of Regulatory Authorities – which was set up during a conference held in Malta in 1995.

Taxation : The Inland Revenue Department (395 employees), the Value Added Tax Department (125 employees) as well as the Customs and Excise Department (685 employees, of which 32 are working on excise duties), all of them part of the Ministry of Finance, are the responsible bodies in the field of taxation.

The information available does not allow to give a comprehensive and accurate evaluation of Malta's capacity to implement the acquis in a satisfactory way.

Agriculture : The Ministry of Agriculture and Fisheries is made up of three departments: Agriculture, Veterinary Services, Fisheries and Aquaculture.

The *Plant Health Division* within the Department of Agriculture – with a staff of 41 – tackles all issues concerning the phytosanitary sectors (issuance of certificates, registration of pesticides and fertilisers, plant health and quality control). A Biology Laboratory is available within the Plant Health Division. As a member of the European and Mediterranean Plant Protection Organisation (EPPO), the Plant Health Division is always upgrading its standards and is in a position to advice farmers (“early warning”).

The *Veterinary Services Department* - with a staff of 180 officials - controls all relevant activities from the issuing of licences, certificates for importation and regular inspections in farms and slaughterhouses to agro-food packing establishments and retail outlets. The Department can induce sanctions in case of non-conformity to regulations.

There is no administrative infrastructure for the area of Plant Variety Rights, but the Department of Agriculture may be used as a “mailbox” for applications to the Community Plant Variety Office.

Malta will still have to set up Maximum Residue Limits (MRLs) and no capacity exists to implement this chapter.

The Ministry of Agriculture and Fisheries has basic administrative structures in order to apply and enforce EC legislation in a large number of areas, including the veterinary and phytosanitary sector. Certain Divisions require more resources in terms of qualified manpower and equipment to implement the acquis, such as the Plant Health Division, which needs to restructure its human resources. The Veterinary Services department needs to make better use of human resources and promote better co-operation and co-ordination with other bodies, such as the Public Health Department, the Department of Agriculture and the Police Force for inspection purposes. As Malta is an island, training would be required as regards the re-enforcement of border checkpoints. New

administrative structures will also have to be created in a number of areas where Malta currently lack legislation.

Fisheries : Fisheries and Aquaculture units are one Department under the Ministry of Agriculture and Fisheries. The Fisheries unit (50 employees) has regulatory functions while the Aquaculture unit (6 specialists) is more oriented on experimenting and training.

In order to implement the Community “acquis”, the fleet register, the inspection and control will have to be reformed. The market structure will also have to be reformed in order to implement the Common Organisation of the Market.

Energy : As the principal energy provider for the country, Enemalta exercises and performs operations relating to the acquisition, transformation, manufacture, distribution and sale of energy. It is a corporation with independent responsibilities controlled by the Government and under the umbrella of the Ministry for Economic Services.

The structure of Enemalta includes three divisions: electricity (2 thermal power stations); gas (importation of liquefied petroleum gas); petroleum (procurement and marketing of all petroleum products, fuel supplies for bunkering and aviation international customers). Enemalta has a staff complement of 2000 persons.

Malta has no nuclear energy and the Oil Exploration Division is part of the Office of the Prime Minister. It has a staff of 12 and is responsible for the implementation of the EC legislation on Hydrocarbons Licensing. New energy is still at an experimental stage.

The Malta Standardisation Authority is responsible for energy efficiency with a staff of 20 employees (5 on a full-time basis, 15 on a part-time basis). Once the EC legislation on Energy Efficiency has been transposed, the enforcement of the legislation will be shared by the Malta Standardisation Authority, Consumer Affairs Department and the Department of Industry.

Regulations and enforcement to respect EU directives for energy production are necessary. The setting up of an independent regulatory body is essential. There is no “crisis body” to co-ordinate and implement crisis measures at national level.

Transport: The Ministry of Transport and Communications is the competent administrative authority.

Within the Ministry, the Public Transport Authority (PTA) is responsible for regulations (and their enforcement) concerning Public Land Transport and the Traffic Control Board (4 members) is responsible for Traffic Regulation, enforcement of which is wholly with the Police.

The PTA consists of a Chairman and 4 other members appointed by the Minister responsible for public transport (these appointments are renewable every year) and it employs 172 staff.

Legislation concerning Vehicle Roadworthiness Tests has recently been adopted. The tests will be carried out by privately owned testing stations. During the first phase (as from October 1999), only vehicle parts not directly affected by the sub-standard road conditions (steering, lights, brakes, plate) will be tested.

Within the Ministry, the Roads Department (25 staff) establishes and maintains standards for the planning, design, construction and maintenance of roads.

Other departments within the Ministry for Transport and Communications are:

- Civil Aviation Department, which regulates civil aviation matters, provides air traffic services in the Malta Flight Information region and ensures the availability of facilities for the management of the Malta International Airport (MIA);
- Licensing and Testing department, which provides services in the whole area of licensing, training and testing of vehicles and drivers;
- Malta International Airport, which co-ordinates the administration, policies, management, supervision, control, research, planning, trading and all other activities of any airport in Malta;
- Malta Maritime Authority (190 staff), which is responsible for Maritime Transport, including the administration, services and operations of ports and yachting centres.

Handlers at the ports enjoy a monopoly, which enables them to dictate transport tariffs, resulting in exorbitant transport costs within Malta (from port to final destination). The enforcement of regulations and standards is a major weakness and remains a problem. Particular attention has to be paid to the implementation and enforcement of international safety and pollution standards as key safety requirements in the field of maritime transport.

Employment and social policy : The Ministry for Social Policy administers the operation of the Social Security scheme, which provides benefits, assistance and pensions to the poor, sick, elderly and the unemployed. In the field of social assistance, a public sector agency, the Social Welfare Development Programme, has been set up. The Ministry for Social Policy is also responsible for implementing the national employment policy. For this task, the Employment Training Corporation (ETC) was set up as an agency under the National Employment Authority Act 1990, and its main tasks are to promote the placement of unemployed people and to run the labour and retraining centres.

With regard to Vocational Education and Training, both the Ministry for Social Policy through the ETC and the Ministry for Education are responsible for its implementation. The Ministry for Social Policy is also responsible for the development and implementation of social policies which themselves have an influence on employment.

Apart from the General Workers Union, the largest employee union, the other main unions and employee associations are affiliated to the “Confederation of Malta Trade Unions. The major associations representing employers/entrepreneurs are the Malta Employers Association, the Malta Federation of Industries and the Malta Chamber of Commerce. The Malta Council for Economic Development, on which employers, trade unions and other relevant bodies are represented, is consulted by the government on major social issues.

Under the auspices of the Ministry for Social Policy a number of agencies/commissions are responsible for different parts of the *acquis* (National Commission on Persons with Disabilities – advisory body/management of services, Sedqa (public sector agency) – drug and alcohol abuse, Commission for the Advancement of Women – gender issues).

At present, Health and Safety at Work is the responsibility of the Department for Industrial and Employment Relations (49 employees) of the Ministry for Social Policy as well as the Commission for the Promotion of Occupational Health and Safety (tripartite body on which the social partners are also represented)..

Public Health is the responsibility of the Ministry of Health. There are 8 Departments in the Health Division, each with a Director: Finance & Administration, Health Information, Policy and Planning, Health Promotion, Human Resources, Institutional Health, Primary Health Care and Public Health.

It is the task of the Ministry of Health to provide a comprehensive health service to all Maltese residents that is entirely free at the point of delivery. Private health services exist alongside the Government service. The Chief Medical Officer is the advisor to the Government on Health and related matters. He is in charge of the Health Division and is administratively responsible to the Minister for the implementation of Government policy on health.

The administrative capacity for the enforcement of the acquis in the field of employment and social security has not yet been sufficiently improved. Short-comings of the administrative structures in place need to be addressed as a matter of priority. Investment in infrastructure, recruitment and the appropriate training of human resources is needed.

Regional policy and cohesion : The Maltese Government has set up a Euro-Assistance Task Force to co-ordinate any future EU funding (pre- and post- accession). Members of the social/economic partners and other interested parties are represented on this task force.

In the field of regional policy and cohesion, the Ministry for Social Policy, the Ministry for Education as well as the Ministry of Gozo are the bodies in charge of the social dimension of this sector (implementation of the European Social Fund and related legislation). The Ministry of Gozo is responsible for the implementation of relevant legislation on the island of Gozo. The Planning Authority is in charge of rural development issues as far as land use is concerned.

Due to Malta's size, no real regional policy has ever been established. Preparations for the implementation of EU structural policies have been minimal. Very few public officers are acquainted with EU cohesion policies and structural actions. An administrative structure to co-ordinate the implementation of structural funds and to be responsible for the implementation of the ERDF will need to be created.

Environment : The Ministry for the Environment, and in particular the Environment Protection Department (EPD), is the competent authority for horizontal legislation while the actual implementation (and enforcement) may be divided among several institutions (e.g. Ministry of

Home Affairs shares responsibility for Environment Impact Studies and the issuing of environmental permits, the latter one with the Planning Authority).

The Ministry is responsible for monitoring the quality of air and water (Pollution Co-ordinating Control Unit within the Environment Protection Department), including combating pollution of surface waters, and for waste management (Drainage Department). The Planning Authority, within the Ministry of Home Affairs, is responsible for nature protection, Environment Impact Studies, the issuing of environmental permits and the establishment of protected areas. Civil protection is the responsibility of the Civil Protection Department within the Ministry of Home Affairs.

Total staff within the Environment Protection Department is 225, of which 13 employees are working in the Pollution Co-ordinating Control Unit. The Planning Authority has a total staff of 320.

No administrative structures are yet in place for the implementation and enforcement of industrial pollution control and risk management.

A decision on how to fully transpose the *acquis* on Waste Management, Nature Conservation (e.g. Birds Directive), Noise from Vehicles and Machinery, Nuclear Safety and Radiation Protection still has to be taken.

Administrative capacity is inadequate. Regulations are not up to standards and enforcement is generally very weak or even non-existent. Additional investment in equipment and human resources is urgently required.

Implementation and enforcement of legislation on air and water quality (Environment Protection Department, Pollution Control Unit together with the Ministry of Health) as well as waste management (Drainage Department) hardly exists.

Consumer policy : The Department of Consumer Affairs within the Ministry for Economic services is the responsible authority in the field of consumer policy with a very limited number of staff (only one inspector and some clerks). The Consumer Affairs Act (1994) provides for the setting up of the Consumer Affairs Council, which was launched in May this year. The Council's role is to have, under the same umbrella, the various consumer associations (only two for now) and to advise on consumer policy – until now no Consumer Policy Action Plan is being drafted.

Enforcement is very limited due to the limited capacity of the Department.

Another Inspectorate, also with a limited number of employees, exists within the Health Department. It's role is to check food safety in restaurants and hotels.

Another structure is the Standardisation Authority, an autonomous authority for standards and ancillary matters.

The Consumers Claims' Tribunal decides on complaints.

The existing administrative structures are weak and need to be built up. At present the administrative infrastructure is not sufficient to be able to fully implement and oversee the working of the new legislation. There is need to strengthen and improve administrative structures in terms of human resources and, to enhance the number of specialised personnel. Attention should be paid to appropriate training of staff.

Justice and home affairs : No administrative public structure exists to process asylum applications, neither an independent judiciary body for appeals, asylum requests being processed by an NGO. External *borders* and *immigration* is the responsibility of the Police Immigration Authorities. It has a total staff of 124 officials.

The Malta *Police* is responsible for organised crime, terrorism, drugs, fraud and corruption and police co-operation. The Crime Department is made up of two sections, the Criminal Investigation Department and the Mobile Squad. The first one consists of 9 teams in charge of general investigations and another team responsible for investigating stolen vehicles.

The *Drugs* Squad is the main organisation directly involved in the fight against drugs. It is currently made up of 6 teams with a total of 39 persons, and it is headed by an Assistant Commissioner. The anti drug section in the Customs department has 46 employees carrying out risk assessment and targets for examining sea vessels, aircraft and passengers.

The Economic Crime Squad is responsible for a wide range of crime investigations, from forgeries to copyright violations, from corruption of public officials to exchange control etc. Only 15 officers make up the squad.

Current police co-operation is based on bilateral agreements as well as through Interpol. Only 7 officers with limited administrative tasks are allocated to the Interpol Office. Judicial co-operation in civil and criminal matters is dealt with by the Ministry of Foreign Affairs.

*The administrative capacity to enforce issues related to justice and home affairs will have to be strengthened. Particular attention should be paid to appropriate and continuous training of staff. Additional facilities and staff would be required for the Malta Police to form an active part of Europol. Additional staff and equipment is required for the Police Immigration Authorities to implement the *acquis* on external borders.*

Customs : The Customs Department of Ministry of Finance is responsible for the implementation of the *acquis* in the Customs sector with a total staff of 685 employees (including management, finance and human resources, landing and releasing sections, investigations sections, passengers sections excise and internal taxes).

The department processes import and export documents; issues origin, landing and other certificates; authorises requests for refunds; ascertains that import/export requirements are followed.

A substantial reform of the customs administration is necessary in order to provide it with sufficient staff and with an adequate level of infrastructure and equipment, in

particular in terms of computerisation and investigation. Particular attention should also be paid to the appropriate training of staff.

Financial Control : The National Audit Office (30 employees) is the control institution in Malta.

Even if administrative structures seem to function in a satisfactory manner, improvements are desired, in particular as regards the Internal Audit Structure, and the establishment of a Financial Intelligence or Anti-Fraud Unit to serve as an appropriate "contact-point" for Commission officials investigating suspicions of fraud against the financial interests of the EC. This would imply the recruitment of additional qualified staff and the further provision of training.

C. Conclusion

Malta fulfils the Copenhagen political criteria.

Malta is a functioning market economy, and should be able to cope with competitive pressure and market forces within the Union provided it takes the appropriate measures, in particular as regards creating the appropriate conditions for continued industrial restructuring.

Malta's economic growth slowed in 1998 with persistently weak demand leading to a reduction in the current account deficit. Inflation was decreasing in late 1998, while unemployment increased despite labour market pressure.

The main challenge for economic policy in Malta in the next few years is to bring down the government deficit and to enforce the collection of government revenue. Malta should also continue to open up its economy by further trade and capital account liberalisation. It should persist in the strengthening and implementation of the economic policies undertaken by the Government.

Since the Commission's last Report in February 1999 there has been little additional progress in the internal market area. Malta should adopt a programme for alignment in this area as a matter of urgency. There has been progress in public procurement where the national preference clause was abolished but deficiencies remain in the area of standardisation and certification. There is a need to accelerate alignment in areas such as protection of intellectual property and data protection. The re-introduction of VAT in 1999 was a positive step although further alignment is still needed. The continuing imposition of levies on imports from the EU is an anomaly which should be removed immediately.

There is quite a high degree of alignment in the area of anti trust legislation although there is no merger law in Malta and undertakings with special or exclusive rights are still not subject to competition rules. There is no systematic control of state aids and no legal framework. Alignment in this area should be given priority, particularly in the areas of aid to ship building and ship repair. The state continues to play an important role in agriculture and there has been little recent progress in preparing the sector for the common agricultural policy. In the transport sector there is a need for greater alignment especially in the areas of maritime safety and pollution control. Malta needs to adopt an overall strategy for alignment in the environment sector and to strengthen its implementation and enforcement capacity. In the area of justice and home affairs Malta should adopt a law on asylum and lift its geographic reservation. There is a need to strengthen capacity in areas such as immigration control, data protection, the fight against drugs and organised crime.

Institutions still have to be set up in the areas of environment, customs, consumer policy, fisheries, maritime transport and regional policy. Administrative capacity needs to be strengthened across the board.

**HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES,
JUNE 1999**

<i>Adherence to following conventions and protocols</i>	BG	CY	CZ	EE	HU	LV	LIT	MT	PL	RO	SK	SV	T
ECHR (European Charter for Human Rights)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 1 (right of property et al.)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 4 (freedom of movement et al.)	O	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 6 (death penalty)	O	O	X	X	X	X	X	X	O	X	X	X	O
Protocol 7 (ne bis in idem)	O	O	X	X	X	X	X	O	O	X	X	X	O
European Convention for the Prevention of Torture	X	X	X	X	X	X	X	X	X	X	X	X	X
European Social Charter	O	X	O	O	X	O	O	X	X	O	X	O	X
Revised European Social Charter	O	O	O	O	O	O	O	O	O	X	O	X	O
Additional Protocol to the ESC (system of collective complaints)	O	X	O	O	O	O	O	O	O	O	O	O	O
Framework Convention for National Minorities	X	X	X	X	X	O	O	X	O	X	X	X	O

ICCPR (International Covenant on Civil and Political Rights)	X	X	X	X	X	X	X	X	X	X	X	X	X	O
Optional Protocol to the ICCPR (right of individual communication)	X	X	X	X	X	X	X	X	X	X	X	X	X	O
Second Optional Protocol to ICCPR (abolition death penalty)	X	O	O	O	X	O	O	X	O	X	O	X	O	
ICESCR (International Covenant on Economic, Social and Cultural Rights)	X	X	X	X	X	X	X	X	X	X	X	X	X	O
CAT (Convention against Torture)	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CERD (Convention on the Elimination of All Forms of Racial Discrimination)	X	X	X	X	X	X	X	X	X	X	X	X	X	O
CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CRC (Convention on the Right of the Child)	X	X	X	X	X	X	X	X	X	X	X	X	X	X

X = Convention ratified

O = Convention NOT ratified

BG = Bulgaria; CY = Cyprus; CZ = Czech Republic; EE = Estonia; HU = Hungary; LV = Latvia; LIT = Lithuania; MT = Malta; PL = Poland; RO = Romania; SK = Slovakia; SV = Slovenia; T = Turkey

Annex

STATISTICAL DATA

STATISTICAL DATA

	1994	1995	1996	1997	1998
Basic data	in 1000				
Population (average)	368	370	373	375	378
	Km ²				
Total area	:	:	:	:	315.6
	Mio Malta Lira				
National accounts					
Gross domestic product at current prices	1028.5	1145.5	1201.3	1288.2	1364.4
	Mio EURO				
Gross domestic product at current prices	2293.2	2482.2	2625.1	2952.7	3132.3
	EURO				
Gross domestic product per capita at current prices	6207	6687	7019	7841	8276
	% change over the previous year				
Gross domestic product at constant prices (nat. currency)	5.7	6.2	4.0	4.9	4.1
	in Purchasing Power Standards				
Gross domestic product per capita at current price	:	:	:	:	:
	% of Gross Value Added ⁵				
-Agriculture	2.8	2.9	2.9	2.9	2.8

⁵ At factor cost.

-Industry (excluding construction)	26.1	25.5	24.7	24.3	24.7
-Construction	3.4	3.3	3.1	3.0	2.8
-Services	67.7	68.3	69.3	69.7	69.7
Structure of expenditure					
as % of Gross Domestic Product (at market prices)					
- Final consumption expenditure	79.5	81.7	85.3	82.9	82.5
- household and NPISH	59.1	61.1	63.7	62.4	62.2
- general government	20.4	20.5	21.6	20.5	20.3
- Gross fixed capital formation	29.7	31.9	28.7	25.3	23.8
- Stock variation	:	:	:	:	:
- Exports of goods and services	96.7	93.8	87.0	85.1	87.5
- Imports of goods and services	106.9	107.5	101.0	93.5	92.4
Inflation rate					
% change over the previous year					
Consumer Price	4.1	4.0	2.5	3.1	2.4
Balance of payments					
Mio EURO					
- Current account	-111	-274	-281	-183	-150
- Trade balance	-507	-553	-601	-579	-528
<i>Exports of goods</i>	1361	1490	1396	1467	1626
<i>Imports of goods</i>	1867	2042	1998	2046	2154
- Services, net	259	209	233	330	368
- Income, net	58	30	9	8	-53
- Net current transfers	79	39	78	59	63

<i>-of which government transfers</i>	27	8	45	26	25

	1994	1995	1996	1997	1998
Public finance	% of Gross Domestic Product				
General government deficit/surplus⁶	-4.3	-3.5	-7.7	:	:
Financial indicators	% of Gross Domestic Product				
Gross foreign debt of the whole economy	59.8	60.9	71.2	89.1	100.7
Monetary Aggregates	In 1000 Mio EURO				
- M1	1.0	1.1	1.1	1.1	1.2
- M2	3.5	3.8	4.2	4.7	5.0
- Total credit	2.1	2.4	3.0	3.5	3.8
Average short-term interest rates	% per annum				
- Lending rate	8.5	7.4	7.8	8.0	8.1
- Deposit rate	4.5	4.5	4.5	4.6	4.6
EURO exchange rates	(1EURO=.. Malte Lira)				
- Average of period	0.449	0.461	0.458	0.437	0.435
- End of period	0.453	0.463	0.451	0.433	0.442
	1990=100				
- Effective exchange rate index	93.4	94.5	93.4	94.8	95.8
Reserve assets ⁷	million EURO				
-Reserve assets (including gold)	1525	1254	1229	1297	1417
-Reserve assets (excluding gold)	1509	1246	1221	1294	1416

⁶ Central government only.

⁷ National source.

External Trade	million EURO				
Imports	2047	2249	2200	2250	2379
Exports	1320	1463	1362	1438	1637
Balance	-727	-786	-837	-812	-742
	previous year = 100				
Terms of trade	:	:	:	103.3	104.3
	as % of total				
Imports with EU-15 (EU-12 in 1994)	75.7	72.7	68.5	70.2	69.3
Exports with EU-15 (EU-12 in 1994)	74.0	71.4	56.9	54.3	52.8
Demography	per 1000 of population				
Natural growth rate	5.8	5.1	5.8	5.2	3.8
Net migration rate	2.4	-0.5	1.6	1.6	:
	Per 1000 live-births				
Infant mortality rate	9.1	8.9	10.7	6.4	5.3
	at birth				
Life expectancy : Males	74.9	74.9	74.9	74.9	74.4 ⁸
Females	79.1	79.5	79.8	80.1	80.1 ⁹

⁸ National source.

⁹ National source.

	1994	1995	1996	1997	1998
	% of labour force				
Labour market (ILO methodology)					
Economic activity rate	47.0	48.0	48.6	48.6	:
Unemployment rate, total	4.1	3.7	4.4	5.0	5.1
Unemployment rate of persons < 25 years	4.4	4.3	5.2	6.4	6.5
Unemployment rate of persons >= 25 years	4.0	3.5	4.1	5.1	4.7
Average employment by NACE branches (LFS)	% of total Gainfully Occupied				
-Agriculture and forestry	1.9	1.9	1.9	1.9	1.8
-Industry ¹⁰ (excluding construction)	26.0	25.0	24.1	23.8	23.9
-Construction	3.9	4.3	4.3	4.1	4.0
-Services	68.2	68.8	69.7	70.2	70.3
Infrastructure	Km per 1000 Km2				
Railway network	0	0	0	0	0
Length of motorways	:	:	:	157	:
Industry and agriculture	Previous year = 100				
Industrial production volume indices	116.7	129.5	123.5	121.7*	130.4*
Gross agricultural production volume indices	:	:	:	:	:

¹⁰ Except water supply.

Standard of living	Per 1000 inhabitants				
	Number of cars ¹¹	564	597	547	611
Telephone subscribers	:	:	483 ¹²	:	:
Number of Internet connections	:	:	:	:	3.00 ¹³

* preliminary data

: not available

¹¹ Since 1996 a large number of vehicles still registered but inactive were deregistered, hence the drop in quantity of registered vehicles between 1995 and 1996.

¹² Main telephone lines. Source: United Nations.

¹³ Source: United Nations.

Methodological notes

Inflation rate

Price Index

The Maltese Retail Price Index is a Laspeyres Index with base 1995=100. The index weights were derived from a year-long household budgetary survey held in 1994. The index "basket" is composed of some 530 items for which direct and monthly price observations are carried out by field by Central Office of Statistics (COS) field officers. The Index is also used for the measurement of local inflation rates.

Finance

Sources

The IMF's 'International Financial Statistics' publication has been used as the main source. The European Commission is used as the source for exchange rates against the EURO, where available.

Concerning gross foreign debt, the OECD External Debt Statistics publication has been used as the source for 1994-6. The data for 1997-8 are the result of closer cooperation between BIS/ IMF/ OECD/ World Bank, and published jointly by them. Debt is of the whole economy, and includes both short- and long-term. According to the convention, the stock of outstanding debt is converted from US dollars into EURO at end-year exchange rates, whereas GDP is converted into EURO using annual average exchange rates.

Concerning general government deficit / surplus, Candidate Countries are presently unable to provide reliable data on a national accounts basis. Given the lack of reliable data, an approximation for general government deficit / surplus is derived from the IMF's Government Finance Statistics Yearbook (for an explanation of methodology, see below).

Method

Reserve assets are end-year stock data. They are defined as the sum of central bank holdings of gold, foreign exchange, and other (gross) claims on non-residents. Gold is valued at end-year market price.

General government deficit / surplus is an approximation of the national accounts definition, derived from data based on the IMF's GFS (government finance statistics) methodology. The general government deficit / surplus is obtained by adding the consolidated central government deficit / surplus (normally including certain extra-budgetary funds) to the local government deficit / surplus. The total is adjusted for net lending / borrowing for specific policy purposes, which is a financing item in the national accounts. GFS data are on a cash basis.

Monetary aggregates are end-year stock data. M1 generally means notes and coin in circulation plus bank sight deposits. M2 generally means M1 plus savings deposits plus other short-term claims on banks. Total credit generally means domestic credit to the government (net of deposits, including non-financial public enterprises), plus the private non-financial sector, plus other non-monetary financial institutions. It should be noted that the problem of measuring the circulation of foreign currency in some Candidate Countries may affect the reliability of the data.

Interest rates Annual average rates. Lending rates generally consist of the average rate charged on loans granted by reporting banks. Deposit rates generally refer to average demand and time deposit rates.

Exchange rates Where available, the EURO exchange rates are those officially notified. The effective exchange rate index is weighted by major trading partners, with a base year of 1990.

External trade

Imports and exports (current prices). Trade data is based mainly on the general system although we use also the special system. We exclude transshipment trade (direct re-exports), customs free zones, licences, know-how patents and services. Value is in CIF/CF and exports in FOB. Regarding classification, the H.S. coding system is used together with the National Tariff that is 10-digit code.

Terms of trade. Calculated as Unit Value Index of Export divided by Unit value Index of Imports.

Imports and exports with EU-15. Data declared by the republic of Malta.

Labour force

Economic activity rate (ILO Methodology). Percentage of labour force in the total population aged 15+. This rate is derived from LFSS (Labour Force Sample Survey) observing the following ILO definitions and recommendations:

Labour force: employed and unemployed persons in the sense of the ILO definitions stated below.

The employed: all persons aged 15+, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of cooperatives or contributing family workers. Members of armed forces and women on child-care leave are included.

The unemployed: all persons aged 15+, who concurrently meet all three conditions of the ILO definition for being classified as the unemployed:

- (i) have no work,
- (ii) are actively seeking a job and

- (iii) are ready to take up a job within a fortnight.

Unemployment rate (by ILO methodology). Percentage of the unemployed in labour force. This rate is derived from LFSS (Labour Force Survey) observing the ILO definitions and recommendations (see ILO definitions above)

Average employment by NACE branches. This indicator is derived observing the ILO definitions and recommendations.

Gainfully Occupied persons: persons in gainful employment, both employed and self employed, during a period. These have to be registered as such at the Employment and Training Corporation (ETC) which is the official agency dealing with labour data. By law all gainfully occupied have to be registered with ETC. No labour force survey is carried out so that the employment data is not related to any reference period.

Infrastructure

Railway network. All railways in a given area. This does not include stretches of road or water even if rolling stock should be conveyed over such routes; e.g. by wagon-carrying trailers or ferries. Lines solely used for tourist purposes during the season are excluded as are railways constructed solely to serve mines; forests or other industrial or agricultural undertakings and which are not open to public traffic. The data considers the construction length of railways.

Length of motorway. Road, specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

- (a) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;
- (b) does not cross at level with any road, railway or tramway track, or footpath;
- (c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

Entry and exit lanes of motorways are included irrespectively of the location of the signposts. Urban motorways are also included.

Industry and agriculture

Industrial production volume indices. Industrial production covers mining and quarrying, manufacturing and electricity, gas, steam and water supply (according to the NACE Rev.1 Classification Sections C, D, and E).

Gross agricultural production volume indices. Gross agricultural production volume indices are calculated in constant prices of 1993. The quarter indices are calculation on the basis of the previous quarter.

Standard of living

Number of cars. Passenger car: road motor vehicle, other than a motor cycle, intended for the carriage of passengers and designed to seat no more than nine persons (including the driver).

The term "passenger car" therefore covers microcars (need no permit to be driven), taxis and hired passenger cars, provided that they have less than ten seats. This category may also include pick-ups.

Sources

Total area, national accounts, inflation rate, infrastructure, industry and agriculture, reserve assets for 1998, external trade, labour market: **National sources.**

Demography: Eurostat.

Balance of payment: IMF.