FINANCING MEMORANDUM

The European Commission, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY"

on the one part, and

The Government of the Republic of Malta, hereinafter referred to as "THE RECIPIENT"

on the other part,

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this Memorandum. The technical, legal, and administrative framework within which the measure referred to in Article 1 below shall be implemented is set out in the General Conditions annexed to the Framework Agreement of 25 April 2001 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Memorandum and the Special Provisions annexed hereto.

ARTICLE 1 - NATURE AND SUBJECT

As part of its aid programme, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following MEASURE:

Programme numbers: 2002/000-268 (MT2002NP) projects 01 to 10 and all sub-projects except sub-project 08.03

2002/000-269 (MT2002NP) for sub-project 08.03 “Communication strategy”

Title: 2002 National Pre-Accession Programme for Malta

Duration: Until 30/04/2004

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 9.5 MEUR hereinafter referred to as "THE EC GRANT".
ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/04/2004 to the provisions of his Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 30/04/2005. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.

ARTICLE 4 - ADDRESSES

Correspondence relating to the execution of THE MEASURE, stating THE MEASURE'S number and title, shall be addressed to the following:

for the COMMUNITY:

Commission of the European Communities
Directorate General Enlargement
Malta Team
rue de la loi 200
B - 1049 Brussels
Tel. (+32.2) 296.87.24
Fax (+32.2) 299.02.54

for THE RECIPIENT:

Permanent Delegation of the Republic
of Malta to the European Union
rue Belliard 65
B - 1040 Brussels
Tel. (+32.2) 343.01.95
Fax (+32.2) 343.01.06

ARTICLE 5 - NUMBER OF ORIGINALS

This Memorandum is drawn up in duplicate in the English language.

ARTICLE 6 - ENTRY INTO FORCE

This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.
The Annexes shall be deemed an integral part of this Memorandum.

Done at Brussels

Date: 26/04/02

for THE RECIPIENT

S.E. M. Victor Camilleri

Commissioner Günter Verheugen

Annexes

A. Annex A of the Framework Agreement
B. Annex B of the Framework Agreement
C. Special Provisions
D. Visibility/Publicity
ANNEX A OF THE FRAMEWORK AGREEMENT
General Conditions relating to Financing Memoranda

In these General Conditions, the term "Recipient" shall mean the Government of the Republic of Malta.

TITLE I
FINANCING OF MEASURES

Article 1 - COMMITMENT OF THE COMMUNITY

The financial commitment of the Community "EC Grant", the amount of which is laid down in the Financing Memoranda, shall determine the limit within which expenditure will be covered by duly approved contracts (forming a "Measure").

In the case of the participation to Community Programmes and Agencies, the Commission contribution will be committed and disbursed according to the agreements signed with the Republic of Malta on their participation in the said Programmes and Agencies.

Any expenditure over and above the EC Grant shall be borne by the Recipient.

Article 2 - AVAILABILITY OF THE EC GRANT

Where the execution of a Measure depends on financial commitments from the Recipient's own resources or from other sources, the EC Grant shall become available at such time as the financial commitments of the Recipient and/or the other sources of funds, as set out in the Financing Memoranda, have themselves become available. The Recipient shall provide due evidence of the availability of these resources.

TITLE II
IMPLEMENTATION

Article 3 - GENERAL PRINCIPLE

The management of the Community assistance programmes shall be decentralised to the Recipient on the basis of systems and procedures which comply with the provisions of Title IX of the Financial Regulation applicable to the general budget of the European Communities relating to external aid, in accordance with Council Regulation (EC) N° 555/2000\(^1\) and with the provisions of the latest version of the Decentralised Implementation System (D.I.S.) Manual, notified to the Recipient.

\(^1\) OJ L68, 16/03/2000.
Article 4 - EXTENDED DECENTRALISATION

If the conditions specified in Annex B are met, and as foreseen in Article 7.4 of the Council Regulation (EC) Nº 555/2000, the Commission may decide on a case-by-case basis to extend the decentralisation and set up an Extended Decentralisation Implementation System (EDIS) for the programmes with Malta by waiving all ex-ante controls. The main objective of extended decentralisation is to familiarise the Recipient with the joint responsibility principles that underpin the implementation of the Structural Funds by Member States. Extended decentralised implementation will be subject to ex-post control by the Commission.

Article 5 - GENERAL PRIVILEGES

Personnel taking part in Community financed Measures and members of their immediate family may be accorded no less favourable benefits, privileges and exemptions than those usually accorded to other expatriates employed in the Republic of Malta under any other bilateral or multinational agreement or arrangements for economic assistance and technical co-operation programmes. The provisions of this Article do not confer diplomatic status on personnel taking part in the Community financed Measures.

TITLE III
PROCUREMENT AND EXECUTION OF CONTRACTS

Article 6 - GENERAL PRINCIPLE

The Recipient shall follow the procurement and contracting rules set out in the Practical Guide to EC external aid contract procedures.

Article 7 - EXTENDED DECENTRALISATION

Detailed conditions applicable to EDIS are set out in Annex B to this Agreement.

Article 8 - ELIGIBILITY

Tendering procedures for works, supply and service contracts shall be open on equal terms to all natural and legal persons of the countries referred to in Art. 7 of Regulation (EC) Nº 555/2000.

Article 9 - ORIGIN OF SUPPLIES

The supplies required for the performance of works, supply and service contracts must originate, as defined by the provisions laid down in Articles 22 to 26 of Regulation (EC) Nº 2913/92, in the countries allowed to participate pursuant to Article 8.

Article 10 - DISBURSEMENT

Contracts are eligible for payment from the EC grant only if they are concluded before the expiry date fixed for contracting in the Financing Memorandum. The last payment for such contracts must be effected no later than the expiry date fixed for disbursements in the Financing Memorandum. Extensions of this period should be exceptional and must be approved by the Commission.
Within the limit set on the EC Grant, requests for funds shall be presented to the Commission by the Recipient in accordance with the schedule set out in the Financing Memorandum. Documentary evidence relating to payments made in respect with the Measure shall be made available in support of the request for funds where the Commission so requires.

However, certain contracts covered by the Measure may provide for direct payment by the Commission to the contractors. Each contract shall lay down the rate and the time of such payments, together with the documentary evidence to be produced.

**Article 11 - CURRENCY**

Contracts financed from the EC Grant and the related tenders shall be expressed in Euro unless otherwise agreed with the Commission on a case-by-case basis, while payments to contractors shall be made either in Euro or in the currency of the Republic of Malta to a maximum of the Euro-value stipulated in the contract.

Exchange rate losses shall not be financed out of the EC Grant.

For payments in the currency of the Republic of Malta, the conversion rate between Euro and national currency shall be the exchange rate published by the European Central Bank on the last but one working day at the Commission in the month preceding the month during which the expenditure was recorded.

For amounts fixed by the clearance of accounts and conformity clearance decisions, the conversion rate between Euro and national currency shall be the exchange rate published by the European Central Bank on the last but one working day at the Commission in the month preceding the month during which the decision was taken.

**Article 12 - ESTABLISHMENT AND RIGHT OF RESIDENCE**

Natural and legal persons participating in tendering procedures and works, supply or service contracts shall be granted equal and provisional right of establishment and residence in the Republic of Malta where this is justified by the nature of the contract. This right shall remain valid for one month after the contractor is selected.

Contractors and natural persons and members of their family whose services are required for the contract shall enjoy similar rights for the duration of the contract up to one month following the final acceptance of work performed under the contract.

**Article 13 - TAX AND CUSTOMS ARRANGEMENTS**

1. No taxes, duties, or other charges having an equivalent effect shall be charged to the Community’s financial contribution.

2. The Recipient shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied to the most-favoured State or most-favored international organisation.
3. Imports under supply contracts concluded by the Maltese authorities and financed out of the EC Grant shall be allowed to enter the Republic of Malta without being subject to customs duties, import duties, taxes or fiscal charges having equivalent effect.

The Recipient shall ensure that the imports concerned will be released from the point of entry for delivery to the contractor as required by the provisions of the contract and for immediate use as required for the normal implementation of the contract, without regard to any delays or disputes over the settlement of the above-mentioned duties, taxes or charges.

4. Contracts for supplies or services provided by Maltese or external firms, financed out of the EC Grant, shall not be subject in the Republic of Malta to value added tax, documentary stamp, registration duties or fiscal charges having equivalent effect, whether such charges exist or are to be instituted.

5. Natural and legal persons, including expatriate staff, from the Member States of the European Union executing technical co-operation contracts financed out of the EC Grant shall be exempted from business and income tax in the Republic of Malta.

6. Personal and household effects imported for personal use by natural persons (and members of their immediate families), other than those recruited locally, engaged in carrying out tasks defined in technical co-operation contracts shall be exempt from customs duties, import duties, taxes and other fiscal charges having equivalent effect, the said personal and household effects being either re-exported or disposed of in the state in accordance with the regulations in force in the state of the Recipient after termination of the contract.

7. Natural and legal persons importing professional equipment shall, for the purpose of a contract financed out of the EC grant, if they so request, benefit from the system of temporary admission as defined by the national legislation of the Republic of Malta in respect of the said equipment.

**Article 14 - IMPORT AND FOREIGN EXCHANGE ARRANGEMENTS**

1. The Recipient shall undertake to authorise the import or acquisition of foreign exchange required for implementation of a Measure. It shall also undertake to apply its national rules on foreign exchange on a non-discriminatory basis to the countries authorised to participate pursuant to Article 9.

2. The Recipient shall grant the permits necessary to repatriate funds received in respect of Measures, in accordance with the foreign exchange control regulations in force in the Republic of Malta.

**Article 15 - INTELLECTUAL PROPERTY**

If studies are financed under this Financing Memorandum, the Commission and the Recipient shall be entitled to use the data contained in such studies and to publish it or pass it on to third parties.

All reports and data such as maps, diagrams, drawings, specifications, plans, statistics, calculations and supporting records or materials acquired, compiled or prepared by
consultants in the performance of contracts financed with the EC Grant shall be confidential and shall be the property of the Recipient. The Commission shall have access to all these reports and data.

Article 16 - DISPUTES BETWEEN THE RECIPIENT AND A CONTRACTOR

The Recipient shall undertake to reach agreement with the Commission before a final position is taken on any request from the contractor for compensation not covered by the contract. If no agreement can be reached, the Commission shall not be liable for any amounts granted unilaterally including those granted by the Recipient.

TITLE IV
GENERAL AND FINAL PROVISIONS

Article 17 - PUBLICITY

Measures shall be implemented in such a way to ensure maximum publicity for the Community’s involvement at all times. Actions of communication and information shall be determined in close collaboration with the EC Delegation in the Republic of Malta.

Special attention shall be devoted to implementing these provisions at events, and in all public or official written material connected with Measures. Objects, equipment and documentation connected with a Measure shall carry the Community flag with the text in the language of the Recipient. The symbols identifying the Community shall be of the same size and appearance as any symbols identifying the Recipient, should the latter be present.

Article 18 - FOLLOW-UP OF MEASURES

In following the execution of the Measure, the Commission may request any explanation and, where necessary, may agree with the Recipient on a new orientation for the Measure which is deemed to be better adapted to the objectives in view.

The Recipient shall make reports to the Commission following the time-schedule laid down in the Financing Memorandum, throughout the period of execution of the Measure and after completion thereof.

The Commission will in the light of the reports and where appropriate of the ex-post evaluation, proceed to the official closure of the Measure and will inform the Recipient of the date of official closure of the Measure.

Article 19 - INSPECTION AND AUDITS

1. The Commission shall have the right to send its own agents or authorised representatives to undertake any technical, accounting or financial assignments it may consider necessary to monitor the implementation of a Measure.

2. Notwithstanding the controls made by the recipient, the Commission and the European Court of Auditors, in the accomplishment of their responsibilities under the Treaties establishing the European Communities, shall have the right to undertake technical or financial audits on the spot and on the basis of supporting documents of accounts and accounting documents and any other documents relating to the financing of a Measure.
3. With a view to ensuring an efficient protection of the financial interests of the Community, in conformity with the Regulation (EC/Euratom) N° 2988/95, the Commission may also undertake on the spot checks and controls as foreseen by the Regulation (EC/Euratom) N° 2185/96.

4. The Recipient shall be notified when agents appointed by the Commission or the European Court of Auditors are sent to the site of a Measure.

5. To this end the Recipient:
   
   - shall undertake to provide any information or documents requested and to take any measures to facilitate the work of persons undertaking such audits or inspections;
   
   - shall keep full accurate and systematic records of the files and accounts required to identify the work, supplies or services financed under this Financing Memorandum and the supporting documents relating to local expenditure in accordance with best accounting practice;
   
   - shall assist the Commission and the European Court of Auditors, in the accomplishment of their responsibilities under the Treaties establishing the European Community, in auditing the Measure's accounts, if necessary, on the spot;
   
   - shall ensure that the Commission's representatives can inspect any accounting or other documents relating to a Measure and shall assist the European Court of Auditors in monitoring the use made of the EC Grant.

6. The Commission, or its authorised representatives, may also carry out an ex-post evaluation and a final audit of Measures. The ex-post evaluation will assess the achievement of the objectives/targets of Measures as well as the impact on the sector concerned. In case the objectives / targets have not been achieved, the Commission reserves the possibility to recover part or whole of the funds.

7. The final audit will review the financial data of a Measure, evaluate uncontracted and/or undisbursed funds, provide an independent opinion on the legality, eligibility, reliability and consistency of contracts and disbursements as well as on their compliance with the provisions of this Framework Agreement and the relevant Financing Memorandum. On this basis the audit will establish, after consultation with the recipient, the balance of funds which shall be reimbursed to the Commission.

8. The Commission shall, on the basis of the audit conclusions, take a formal Decision called a “Conformity Clearance Decision” on the expenditure to be excluded from Community financing and reimbursed.

9. The amount to be recovered in accordance with the conformity clearance Decision, shall be communicated to the Recipient who shall ensure that the amount is credited to the Commission in Euro within two months of notification of the decision. The Commission may however, on a case by case basis, decide that any amount to be credited to it shall be offset against payments due to be made by the Commission to the Recipient under any Community assistance Measure.
10. The amount recovered in accordance with the conformity clearance Decision shall not be reallocated to the Measure.

11. Where the timelimits fixed in the conformity clearance Decision are not respected, any outstanding amount shall generate interest at a rate equal to the Euribor rate for three month deposits published by the European Central Bank plus 1,5 % points. That rate shall be the monthly average of the month in which the decision referred to in these articles was notified.

Article 20 - CLOSURE OF MEASURES

The Commission will decide on a case by case basis when to close a Measure and discharge the Recipient from its financial responsibilities on the basis of the results of the audits carried out.

Article 21 - CONSULTATION – DISPUTES

1. Any matter relating to the implementation or interpretation of this Financing Memorandum shall give rise to consultation between the Recipient and the Commission. This procedure may, if necessary, lead to this Financing Memorandum being amended.

2. Where there is a failure to carry out an obligation set out in the Financing Memorandum and these General Conditions, which has not been the subject of remedial measures taken in due time, the Commission may suspend the financing of the Measure, after consultation with the Recipient.

3. The Recipient may decide to withdraw wholly or partially from a Measure with the Commission's approval.

4. Any decision taken by the Commission to suspend financing or by the Recipient to withdraw totally or partially from a Measure shall be notified to all interested parties in writing.

Article 22 - NOTIFICATION - ADDRESSES

Any communication or agreement between the Community and the Recipient shall be recorded in writing, giving the number and title of the Measure. This shall be sent by letter to the authorised addressee at the latter's address. In emergencies, communications by fax or e-mail shall be allowed, provided they are immediately confirmed by letter. The addresses are set out in this Financing Memorandum.
ANNEX B OF THE FRAMEWORK AGREEMENT
Special conditions applicable to Extended Decentralisation (EDIS)

Article 1 - CONDITIONS

If, during the course of implementation of a Measure, the following conditions are met, the Commission may decide on a case-by-case basis to grant the Recipient, following its request, extended decentralisation (i.e. waive Commission ex-ante approval on tenders and contracts and perform ex-post control instead).

1. The conditions set out in the Annex to Council Regulation (EC) No 555/2000 for waiving the ex-ante approval of the Commission of measure selection, tendering and contracting by the Recipient are as follows:

1.1. Minimum criteria and conditions for decentralising management to Implementing Agencies in applicant countries to be fulfilled:

1.1.1. Minimum criteria for assessing the ability of Implementing Agencies in applicant countries to manage aid. The following criteria shall be applied by the Commission in assessing which Implementing Agencies in partner countries are able to manage aid on a decentralised basis:

(1) there should be a well-defined system for managing the funds with full internal rules of procedure, clear institutional and personal responsibilities;

(2) the principle of separation of powers must be respected so that there is no risk of conflict of interest in procurement and payment;

(3) adequate personnel must be available and assigned to the task. They must have suitable auditing skills and experience, language skills and be fully trained in implementing Community programmes.

1.1.2. Minimum conditions for decentralising management to Implementing Agencies in applicant countries. Decentralisation to applicant countries with ex post control by the Commission may be considered for an Implementing Agency where the following conditions are met:

(1) demonstration of effective internal controls including an independent audit function and an effective accounting and financial reporting system which meets internationally accepted audit standards;

(2) a recent financial and operational audit showing effective and timely management of Community assistance or national measures of similar nature;

(3) a reliable national financial control system over the Implementing Agency;
(4) procurement rules which are endorsed by the Commission as meeting requirements of Title IX of the Financial Regulation applicable to the general budget of the European Communities;

(5) Commitment by the National Authorising Officer to bear the full financial responsibility and liability for the funds.

1.2. Respect of specific provisions concerning, inter alia, invitations to tender, scrutiny and evaluation of tenders, the award of contracts and the implementation of Community public procurement directives (See Article 3 Procurement, hereafter).

1.3. This approach shall not prejudice the right of the Commission and the European Court of Auditors to check the expenditure.

2. THE RECIPIENT MUST FORMALLY ACCEPT FULL FINANCIAL RESPONSIBILITY FOR THE USE OF THE EC GRANT.

Article 2 - INDEPENDENT AUDIT BODY

As part of EDIS, a functionally Independent Audit Body (IAB) should confirm in an annual report that reliable financial control systems exist within the relevant implementation structures as well as effective accounting and financial reporting systems, which meet internationally accepted audit standards.

The Independent Audit Body is responsible for the audit of all relevant implementation structures including the National Fund. In particular it will audit the annual accounts of the NF and IA(s)/CFCU and ensure that annual reports are sent to the Commission on implementation of Community assistance programmes.

Article 3 - PROCUREMENT

In the case of extended decentralisation (EDIS), the procurement rules prescribed by the Practical Guide to EC external aid contract procedures apply. National procurement rules may be used provided the conditions listed in Council Regulation (EC) No 555/2000 are met subject to approval by the Commission.

Article 4 - COMMISSION ASSESSMENT

In order to grant EDIS to the Recipient, on the basis of the conditions listed in Article 1, the Commission will perform an assessment of the capacity of the Recipient to assume the tasks and responsibilities of EDIS.

This assessment will be based on a Checklist previously communicated to the Recipient, and in which all the issues to be assessed by the Commission in the context of EDIS will be addressed. This Checklist will include a detailed questionnaire for the Recipient.

On the basis of the written answers to the questionnaire and the statement of readiness, supported by an audit trail mapping out the overall management and control system, addressed by the recipient to the Commission, the Commission will make a preliminary assessment.
The final assessment will be made following an assessment mission to the Republic of Malta, resulting in an assessment report.

Based on this report, the Commission will decide on granting EDIS to the Recipient.

Article 5 - COMMISSION CONTROLS

Notwithstanding the controls and audits undertaken in conformity with Article 19 of Annex A, Commission controls will be exercised on an interim evaluation and ex post basis through verification of accounts and operational evaluations. Any non-compliance with established rules - individual irregularity or systematic errors - will result in financial corrections (recovery and/or withdrawal of financing) in accordance with provisions of Article 19 of Annex A.

Article 6 - MONITORING AND EVALUATION

The monitoring and evaluation systems should be able to provide reliable operational details of the implementation of the EU funded assistance. Monitoring Reports should be issued by the Implementing Authorities. Interim Evaluation reports, which review the performance and the design of the assistance, should be performed by independent external evaluators. The Monitoring and the Interim Evaluation Reports will be submitted to appropriate monitoring committees to be set up for these purposes and to the Commission Services. Ex-post Evaluations, which describe the impact of the assistance, should be performed by independent external evaluators and submitted to the Commission Services.
SPECIAL CONDITIONS
NATIONAL PRE-ACCESSION PROGRAMME 2002 FOR MALTA

1. OBJECTIVES AND DESCRIPTION

The November 2001 Report of the Commission on the progress made by Malta towards accession stressed the need to reinforce the administrative and institutional capacity to implement the "acquis" in a number of sectors. The current financing proposal aims at addressing the most important needs identified. It is composed of sectoral components and general components:

- The *sectoral components* are related to environment, agriculture, fisheries, maritime safety, free movement of goods/medicines, statistics, telecommunications, preparation to structural and cohesion funds, consumer protection, trade/dual-use goods, financial control and Community education programmes. A critical level of funding has been assured in each sector, allowing a significant impact of the pre-accession funds.

- The *general components* are related to the strengthening of the administrative capacity of the Maltese administration through administrative co-operation, short-term twinnings and a communication plan.

Institution building will be composed of twinning, technical assistance and other funding for institution building.

Twinning is envisaged in the areas of maritime safety, pharmaceuticals, environment, veterinary control, phytosanitary and viticulture. "Light twinnings" are envisaged in the area of fisheries and in other areas where needs may arise in the near future.

Technical assistance is envisaged in all areas except phytosanitary and participation to the Community education programmes.

- Objective 1 Establishing Institutional Capacity in the Environment Sector

  Project 01

The overall objective of the project is that of strengthening the institutional capacity within the environmental sector in order to achieve compliance with obligations arising from Chapter 22 - Environment of the Acquis.

The specific objectives to be accomplished by the project are to ensure that the organisational structure of the institutions involved in the implementation and enforcement of the environmental Acquis is adequate for the task; to ensure that the staff carrying out environment protection functions gain sufficient knowledge and expertise; to develop the technical capability to manage new and existing infrastructure, especially in the solid waste management sector; to establish technical standards and codes of practice for various functions related to environmental protection; to ensure the establishment of appropriate data collection and information dissemination structures essential for reporting functions related to
the Acquis and obligations related to public access to information; to promote further the exchange of information and experience through international co-operation.

The project activities comprise the preparation of one twinning arrangement, two technical assistance projects and one supply project:

- **Twinning**: since this project is essentially directed to capacity building, the activities will primarily aim at supporting the Ministry of Environment (MoE) and its dependent Agencies by strengthening each institution directly involved in environment protection. A key element of the assistance will be to adapt the existing procedures used in the Member State for use in Malta. The project will: identify and ensure the development of procedures for the regulatory functions required for the implementation of the Acquis; develop training packages for the implementation of the procedures; provide procedures and training on EIA specification and evaluation; advise on harmonisation of the planning and operational permits; review the adequacy of the proposed new organisation within the MoE for achieving the requirements of the Acquis and make recommendations if necessary; prepare a memorandum of understanding between the different regulatory agencies to clarify their respective responsibilities; review the budget requirements; specify the databases that will be needed to be established; provide advice on taxation and economic instruments in relation to the implementation of the Acquis; provide management training to senior technical staff.

- **Assistance to the Waste Management Strategy Implementation Project Team (WMSIPT) and the Waste Management Services Agency (WMSA)** (MoE dependent agencies): appointment of a consultant to evaluate the options for separate collection of municipal waste by means of trials; select the most practical and cost effective method for separate collection; develop the specification and contract documentation for separate collection contracts; specify the procedures for monitoring of the contracts to be awarded by the WMSIPT for the provision of waste management facilities; specify the information technology (IT) needs for ongoing monitoring of contractor performance; provide training to the WMSA in a formal or informal manner to enable it to carry out its duties as specified in the Solid Waste Management Strategy.

- **Development of Communications Strategy for MoE**: appointment of a consultant to work with the MoE and MRA to develop an integrated communications strategy and implementation plan for both organisations with regard to all aspects of the environmental Acquis.

- **Development of GIS System for DPU**: appointment of a consultant to assist DPU by developing a GIS system to enable the tracing of possible sources of detected pollution.

- **Provision of Monitoring Equipment**: Personal Protective Equipment; Radiation Monitors; Monitoring Equipment for the EPD and DPU.
Execution of this project will require:

- twinning assistance from the competent authority or authorities responsible for the environment of an EU Member State. Assistance will be provided by a PAA supported by short-term specialist advisors from the twinning institution;
- two service contracts;
- one supply contract.

**Conditionalities**

- *All necessary preparatory works have been completed. Administrative documentation (ToR and technical specifications) will be ready in a draft form by the time of the signature of the Financing Memorandum. These documents will be checked and finalised by the PAAs.*
- *The beneficiary institutions of the twinning project will provide for the appropriate working environment of the PAAs and of the related medium and short term experts to be invited (office space, telecommunication and IT facilities, access to relevant data and persons dealing with subjects concerned).*
- *Recruitment programme for EPD and DPU has been completed.*
- *WMSA has been formally established and adequate staff appointed.*

**Objective 2  Veterinary Control - Animal / Public Health**

**Project 02**

This project is intended to set up efficient monitoring and control programmes in view of implementing the food safety acquis in the veterinary field (processing, on-farm, slaughterhouses and laboratory services). The immediate objectives are:

- to train Veterinary Service Department staff in Meat and Hygiene Inspection as auxiliaries;
- to set up guidelines for inspection and auditing in processing plants of food of animal origin (including fisheries) and in particular to train Veterinary Service Department staff on the principles of HACCP auditing;
- to train in particular the Laboratory staff in view of the forthcoming laboratory accreditation procedure;
- to develop guidelines for the setting up of epidemiological surveys, with particular and specific reference to the Mediterranean disease situation, in order to be able to create an effective system of disease control and diagnosis;
- to improve approval procedure and to develop guidelines on good hygiene practices for establishments processing food of animal origin as in EU Directives;
- to upgrade residue analysis in food of animal origin.

The main activities of the project will be:

- **Animal Health, Food Hygiene and Veterinary Controls**: training of local veterinarians and veterinary support officers in order to achieve harmonisation / implementation of EU acquis related to public health in the veterinary field; additional training in veterinary public health - meat and hygiene inspection;
expertise for slaughterhouses and processing plants of food of animal origin including fisheries products, in order to carry out HACCP auditing; guidelines for HACCP auditing; guidelines for approval of food processing establishments to assist in the official approval process of food establishments and guidelines for good hygiene practices in these food establishments; assistance in establishing an on-farm clinical survey programme of Bovine and Porcine diseases with a view to providing valid and accurate scientific information to be able to set up monitoring and surveillance programmes; training in clinical diagnosis with special emphasis on diseases typical of the Mediterranean basin; assistance in the conception of surveillance programmes and reports including monitoring and control programmes that are to be adopted according to the acquis.

- **Residue Analysis of Veterinary Drugs**: preparation of guidelines for the revision of residue monitoring and surveillance programmes; review of existing equipment and recommendations for additional equipment for Veterinary Services Laboratory; assistance in designing a training plan on analytical and validation methods for the laboratory staff; provision of the training to the laboratory staff in order to provide them with the suitable qualifications to implement the acquis and in accordance with good laboratory practice; assistance in the preparations for the accreditation of the Veterinary Services Laboratory.

This project is based on receiving twinning assistance from an EU Member State. The twinning arrangement will include one Pre-Accession Adviser who will work closely with the Department of Veterinary Services and advise on issues pertaining to the strengthening of administrative capacity. Preferably the PAA will have a sound experience in veterinary food safety issues and will be supported by other short-term experts in different fields of animal health/public health and residue analysis.

**Conditionalities**

- Malta complies with NPAA initiatives.
- Deployment of the necessary human resources to follow up the decisions and activities identified by the experts.
- The provision of co-financing from Maltese sources.
- The provision of training for accreditation of the laboratory staff should be conditional to their attachment to the veterinary laboratory in accordance with the usual Maltese government rules.

**Objective 3  Capacity building at the Plant Health Department**

**Project 03**

Malta still has to harmonise its legislation with the phytosanitary EU acquis.

The objective of this project is to establish the necessary mechanisms and conditions for protective measures against the introduction into Malta of organisms harmful to plants or plant products and against their spread within the territory of Malta free of all major diseases and pests harmful to plant production (Dir. 2000/29), ensure food safety from residues of toxic pesticides (EU Dir. 91/414) and protect the rights of plant breeders (EU Reg. 2100/94).
The project will include the following activities:

- **Horizontal**: advise on the full requirements relating to the institutional capacity building; advise and programme immediate future activities of the Plant Health Sector in conformity with EU requirements; advise and design an efficient strategy for tapping the existing data sources for the building of the required registration and transmission system; advise on the building of a reference library to back up procedures to be followed in compliance with the Phytosanitary Acquis.

- **Pesticides**: review the current Pesticides’ Control Act and subsidiary legislation and recommend amendments accordingly to be fully updated and in compliance with the Phytosanitary Acquis; review and advise on the current pesticide residue monitoring programme for the Maltese Islands; advise on an updated registration system for Plant Protection Products and Biocides: advise and train personnel in the evaluation of Plant Protection Products and Biocides and how to extrapolate known foreign data to assess the toxicity and danger hazard of an unknown new product when applied to local conditions; advise and train personnel on the interpretation and evaluation of pesticides’ residues analysis and the ensuing appropriate action to be taken according to Council Directive 91/414; establish the Maximum Residue Levels for products according to the National Intake Assessment and the Toxicological End Points; set up the assessment criteria for the pesticides’ Acceptable Operator Exposure Levels; set up the criteria to be followed for the evaluation of the harmful effects of pesticides on the environment: advice and implement training of staff for the competence in evaluating the efficacy of pesticides using the toxicological and ecotoxicological data; advice and implement alternative methods for the substitution in the use of Methyl bromide; provide training in the implementation of the Rapid Alert System.

- **Quality of Seeds and Plant**: review the subsidiary legislation concerning the Quality of Seeds and Plants under the current Plant Quarantine Act and recommend amendments accordingly to be fully updated and in compliance with the Phytosanitary Acquis; help and advice in the setting up of a Seed Certifying Body; identify, advise on the handling of and implement the procurement of additional necessary laboratory equipment required in the various laboratories and especially in the new Seed Testing Laboratory, devise and implement a training programme for the setting up of laboratory procedures according to good laboratory practice; establish a manual on the standard operating procedures to be followed for field inspections and sampling and labelling of seeds.

- **Harmful Organism**: review the current Plant Quarantine Act and subsidiary legislation and recommend amendments accordingly to be fully updated and in compliance with the Phytosanitary Acquis; devise and implement a training programme for the setting up of laboratory procedures according to good laboratory practice; design a strategy and tactical procedures for the implementation of a plant passporting system according to EU Directive 92/105; design a strategy, and supervise its logistical implementation, on an information campaign (including workshops and seminars) to all stakeholders involved in plant passporting; advise on the carrying out of scientific surveys and testing procedures for the monitoring of *Clavibacter michiganensis* ssp. *sепedonicus* and
Annex C

*Ralstonia* solanacearum bacterial diseases; establish a *vademecum* to be used for the systematic monitoring of harmful organisms; identify and procure further essential equipment and facilities that must be in place at each of the identified three Border Inspection Posts.

- Additional necessary laboratory equipment required in the various laboratories, and especially in the new Seed Testing Laboratory, will be identified by the Twinning Team, that will also advise on the handling of and implementation the procurement.

The implementation of this project anticipates twinning assistance from one or more EU Member State/s and the presence of a Pre-Accession Advisor for the duration of the project. The PAA will need a sound knowledge of Phytosanitary measures and experience in such projects for the achievement of all project objectives in terms of what is expected of candidate countries in the Phytosanitary field. Short-term experts will support the PAA.

*Conditionalities*

- The required final drafting of the subsidiary legislation concerning Pesticides’ Control and Plant Quarantine would finish on schedule.
- Sufficient managerial and technical human resources allocated to the Plant Health Department.

- **Objective 4  Capacity Building - Viticulture Unit**

**Project 04**

The overall objective is to strengthen the capacity of the Ministry of Agriculture and Fisheries in Viticulture.

The immediate objectives are to set up an efficient Viticulture Unit within the Department of Agriculture able to implement and monitor the acquis with particular emphasis on plantings, the vineyard register, market measures and oenological practices, to prepare and execute a strategy for gathering information on the local viticultural conditions as required by the vineyard register, to establish the best suited grapes and the best vineyard management techniques for the production of quality fresh table grapes over a longer period of the year, to develop an educational campaign to support farmers in the reconversion and renewal processes of existing vineyards and instruct wine growers and producers on viticultural practices.

The main activities are the following:

- Assist the Ministry of Agriculture and Fisheries in identifying measures to upgrade and enhance the sector involved.
- Assist the MAF in drawing up a strategy for the sector in line with Malta’s Rural Development Plan which is expected to be completed by the end of 2002.
- Compile a list of authorised and recommended vine varieties for the production of marketable quality wines while preserving the genetic bio-diversity of the indigenous varieties.
- Identify the means required to upgrade vineyards with the introduction of good viticultural techniques and modern management practices.
• Determine the best suited vine varieties for quality wine production and quality table grape production.

• Provide assistance in the setting-up of a laboratory.

• Determine specifications and purchase equipment including the microvinification equipment necessary for the determination of the best-suited varieties to be grown under local conditions.

• Train one official from the Viticulture Unit by means of internships and short courses in a Member State in the modern aspects of viticultural practices including pruning, grafting, fertilisation, disease control and selection of vine varieties.

• Assist in the drawing up of on-going training strategies for current and future field and laboratory officers.

• Provide assistance in the setting up of a register of vineyards and growers.

• Assist in the setting up of an experimental station having an experimental vineyard to conduct research associated with viticulture.

• Advise and ensure that the implemented system satisfies the requirements and common rules for direct support schemes and other schemes under Council Regulation 1493/1999 with regards to reconversion and planting rights and under other Council Regulations, as well as the adoption of measures under the Rural Development Regulation.

• Set out pesticide and fertiliser use programs to conform with the Code of Good Agricultural Practice being set up with the objective of minimising environmental impacts and protect consumers.

• Hold information seminars and training workshops for winegrowers and producers.

This project anticipates twinning assistance from an EU Member State for a one-year period. Other short-term experts will support the PAA as necessary. Equipment and training will also be required.

Conditionalities

– The project is conditional upon sufficient managerial and technical human resources allocated to the Viticulture and Oenology Unit.

• Objective 5 Strengthening of Fisheries Monitoring and Control in Malta

Project 05

The project aims at strengthening the administrative capacity of the Department of Fisheries and Aquaculture to fulfil its obligations under the acquis, and especially at strengthening the Fisheries Monitoring Centre.

The immediate objectives are to strengthen the fisheries administration through training, to enable the Department to implement the Common Fisheries Policy in the field of control and enforcement, to prepare for the implementation of structural programmes in the fisheries sector, to establish a continuous Vessel Monitoring System (VMS) using satellite tracking, to create the basis for a system of collecting
and processing statistical data concerning fisheries, to procure Department with computer equipment and proper software.

The project includes the following activities:

- European expertise and training in the enforcement and compliance of the Regulations contained within the fisheries acquis (Twining Light).
- Training of Fisheries Protection Officers.
- Training of officials on VMS and VHF systems.
- Further training (hands-on) in a Member State Statistical Unit.
- Drawing up of technical specifications for the procurement of the equipment.

This activity will be implemented through a Twinning Light. Also, training and procurement of equipment is required.

**Conditionalities**

- *The project is conditional upon availability of human resources.*
- *The provision of training for Fisheries Protection Officers should be conditional to their attachment to the Department of Fisheries and Aquaculture in accordance with the usual Maltese government rules.*

**Objective 6  Maritime Safety through the implementation of the Maritime Transport Acquis**

**Project 06**

The overall objective of the project is to ensure that the Malta Maritime Authority has the required technical and administrative capacity to implement EU standards in the fields of maritime safety, including those to be contained in the new maritime transport acquis expected to enter into force in the near future. The project has the purpose of improving the quality and safety of shipping.

The project comprises 4 components including the following activities:

- **Development of human resources:** attendance at overseas universities for specialisation in maritime safety administration and environment protection; attendance at overseas academic institutes for training courses in flag state implementation, maritime law, marine accident investigation.

- **Development of a functional fleet management information system** providing quick and accurate data and performance monitoring of each Malta flag vessel and useful as a means for targeting inspection of vessels in breach of provisions of international maritime safety and environment protection conventions: hardware and software for phase 2 of management information system (technical module), hardware and software for phase 3 (accounts integration module), hardware and software for phase 4 (internet module), training of staff on IT system.

- **Commissioning of a study to determine the significant wave height (SWH) along the coast of the Maltese Islands up to a radius of 20 nautical miles (study over six months).**
• **Twinning assistance** from an EU Member State for experts to assess existing systems and procedures connected with the reporting and monitoring of vessels, and the carriage of dangerous goods and the handling of ship wastes in ports. The experts shall also advice on the development of systems that are required to ensure compliance with EU requirements for a maritime traffic vessel monitoring and information system (VTMIS), a dangerous goods database and port waste management plans.

The project will be implemented via Twinning arrangement for one pre-accession advisor (PAA) for a period of 12 months in order to monitor the implementation of the projects and to identify operational requirements for a vessel traffic monitoring and information system on dangerous goods and ship wastes for vessels bound for or leaving Maltese ports, and advice on the necessary capacity building. Also, Twinning arrangement for one environmental expert (six man months) will be needed in order to advice on the establishment and implementation of port waste management plans. Furthermore, Twinning arrangement will be provided for one IT expert to identify and recommend on the development of the required electronic systems and the necessary hardware and software and prepare the technical specifications for their procurement. A contract for a study leading to the assessment of significant wave height in Maltese waters is envisaged under the project. Two supply contracts are also anticipated.

*Conditionalities*

- **The development of a functional fleet management information system, is subject to time constraints since the need to develop and implement this component of the project is a matter of priority. The Authority is constrained to begin implementation, obviously out of its own funds, of phase 1 of the project and will be asking, once the project component is approved by EU, approval to proceed with the call for tenders for the other phases of the project component prior to EU funding provisions.**

- **Component 1, development of human resources, should be conditional to the attachment of the trained staff to the Malta Maritime Authority in accordance with the usual Maltese government rules.**

• **Objective 7**  
**Setting up of a Competent Regulatory Authority, namely the Medicines Authority**

**Project 07**

The objective of the project is to set up a Medicines Authority responsible for the implementation and enforcement of the relevant legislation with respect to regulation of medicines and pharmaceutical activities. The project is designed to assist in the implementation of legislation related to the authorisation for medicines to be placed on the Maltese market following a positive evaluation of EU type dossiers. Medicines coming from third countries will be the first to be targeted using the national procedure. It will also provide the Medicines Authority, through training, with the capacity to assess EU type dossiers and implement the appropriate IT systems to be used within the Medicines Authority, considering the current practices and developments within the EU context. Also, the project is aiming at designing appropriate surveillance systems and procedures intended to support the
enforcement process related to market authorisations, strengthening the capacity for enforcement of Good Distribution Practice (GDP) and Good Manufacturing Practice (GMP), setting up appropriate systems of pharmacovigilance within the Maltese context and ensuring the effectiveness of the quality systems adopted by the Medicines Authority.

The main activities of the project will be:

- Assistance to enhance the capacity of the Medicines Authority.
- Assessment of the current IT systems being used and recommendations on the adoption of new systems; advice on drawing up of specifications; assistance on procurement of the required hardware and software.
- The design of suitable surveillance systems and procedures intended to sustain the enforcement process related to market authorisations; training in this respect.
- Pro-active dissemination of information to local importers and manufacturers on current processes of GDP and GMP.
- Assistance in devising and implementing suitable pharmacovigilance methods, and a review of such methods.
- Assistance in the defining audit of quality systems and quality assurance procedures, and implementation of recommendations in this regard.
- Full transposition of EU directives and definitions as well as other areas not covered by directives into the new Medicines Act.
- Hands on training (local) on the evaluation of EU type dossiers to be followed with short attachments at the European Medicines Evaluation Agency (EMEA) as well as the counterpart agencies and authorities in EU member states.

This project will be implemented via a twinning involving full-time assistance from the pre-accession advisor (PAA) mainly to help in establishing the Medicines Authority, to provide training on assessment of EU type dossiers and market authorisation issues. Assessment of and recommendations on IT systems, pharmacovigilance procedures, as well as audit of quality systems require short-term assignments. The project also include the purchase of adequate software (and hardware), if already available on the market, or design and development of new one is required.

**Conditionalities**

- The relevant legislation must be adopted before the funds for investments for the project are released. The project is dependent upon the establishment of the Medicines Authority and the availability of the appropriate human resources, as well as on continuing Government financial support for the Authority, until it becomes fully financially independent.
Objective 8 Technical Assistance and Administrative Co-operation (including support to the Pre-accession Strategy)

Project 08

This project is composed of several sub-projects that can be grouped in the two main components.

- Horizontal Component

General reinforcement of the capacity of the Maltese administration through administrative co-operation and through short-term twinnings and support to the pre-accession strategy through the implementation of a Communication Plan. Will cover the following activities:

- "Twinnings light": foreseen in particular in the areas of agriculture, environment, telecommunications and for the different activities undertaken by the Ministry of Economy.

- Other administrative co-operation and general technical assistance: provision is made to cover activities aim at reinforcing Malta's capacity to implement the acquis: visits to member states of Maltese officials and representatives of NGOs and associations concerned with the implementation of the acquis; participation of Maltese experts in seminars, workshops and training sessions (other than those organised by TAIEX); visits of experts from Member states to Malta for seminars, workshops and training sessions.

- Support to the pre-accession strategy through the Communication Strategy which is intended to provide factual and objective information to the Maltese people on the EU policies and the impact of EU accession for Malta.

- Sectoral Component

Will cover the following activities to prepare Malta for implementation of acquis in the following sectors:

- Statistics: participation in specific technical multi-country working groups, seminars and task forces, as well as formal training courses in European statistical methods, evaluation of compliance with the acquis and participation in pilot projects.

- Free Movement of Goods / New and Global Approach: technical and financial assistance to the National Laboratory with regards to consultancy, design and implementation of systems conformant to ISO 17025 together with the relevant training of staff to acquire accreditation by the year 2002.

- Intellectual Property Rights: assistance required for the setting up a Patent Unit.

- Trade / Dual-use goods: setting up of an Export Control Unit.

- Small and Medium Size Enterprises: assistance is required for (1) the formulation of criteria to be followed in the drafting of new laws and the introduction of procedures having an impact on SMEs; (2) the assessment of laws and procedures likely to leave an impact on small businesses; (3) a strategy for the facilitation of the business environment.
• Consumer and Health Protection: design of an action plan for the information campaign and support of the running and management of the latter; design of leaflets and media spots; experts to conduct workshops for training purposes; procurement of hardware and software for implementation of campaign; training of consumer organisations.

• Telecommunications: Procurement, training and technical assistance for a multi-user frequency management software (developed in accordance with ITU recommendations) for the Department of Wireless Telegraphy.

• Financial Control: training in the compilation of certificates and reports required under the EDIS/Structural Funds exercise; short-term attachments of not more than two months (3-4 officers) within Member States’ counterpart organisations; short-term attachments of 2 officers within DG OLAF Member States’ counterpart organisations.

Conditionalities

– The Maltese authorities must assume adequate staff for the completion of the activities aforementioned.

• Objective 9 Feasibility and Environment Impact Studies for Transport Infrastructure Project

Project 09

This project is intended to prepare a project pipeline complete with Environmental Impact Assessments and appropriate Feasibility Studies for co-financing under structural / cohesion funding upon accession for parts of the Malta TINA network.

The immediate objectives is to provide additional information, through the carrying out of appropriate studies to assist in the further technical evaluation of transport infrastructure proposals emanating from the Malta TINA study. It will also provide information for the development of a transport infrastructure Development Strategy 2001-2015 budgetary planning purposes.

The main activities of the project will be:

• Carrying out of financial and economic feasibility studies which shall include examining, in detail, project proposal from both a technical and financial perspective and reporting on the justification of investment.

• Carrying out Environmental Impact Assessments on the project in line with European Union directives on the subject, identifying negative impacts and proposing suitable mitigating measures.

• Deliver workshop and carry out consultation with and dissemination of information to the main stakeholders involved.

• Reporting on the effects and costs of the project investments.

The project will be implemented via contracts for technical assistance.

Conditionalities

– The project is conditional upon agreement between the Commission Services and the relevant Maltese authorities on the results of the TINA report that is to be submitted to the Maltese authorities and DG-TREN of European Commission by mid-December 2001.
Objective 10  Support Malta’s participation in the Education programmes

Project 10

The *Leonardo da Vinci*, *Socrates* and *Youth* programmes represent a great part of the Community acquis in the fields of training, education and youth. Participation in these programmes allows citizens and national administrations of candidate countries and Member States to develop co-operation and exchange networks and should speed up integration of these countries into a Europe of knowledge and support their preparation for accession to the European Union. Full participation benefits both these countries and the EU. It supports economic development in them.

Malta has confirmed its willingness to participate in the second phase of *Leonardo da Vinci*, and the second phase of *Socrates* as from 2000, and in the *Youth* programme from 2001. As the participation of Malta in Community programmes is not provided in its Association Agreement, the conditions and modalities of its participation are defined in a specific agreement with the Community.2

To participate in these programmes, Malta will have to pay each year a financial contribution, which is established in the said agreement. On the basis of the pre-accession strategy for Malta and Cyprus adopted by the Council, Malta expressed its wish to use part of the pre-accession funds allocated in 2002 as a complement to its national budget part to finance its contribution as entry ticket in 2003. The contribution from the pre-accession funds, as well as the total cost of the contribution are detailed in the following table.

<table>
<thead>
<tr>
<th></th>
<th>EU Support</th>
<th>National contribution</th>
<th>Total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leonardo II</td>
<td>400,000</td>
<td>102,000</td>
<td>502,000</td>
</tr>
<tr>
<td>Socrates II</td>
<td>400,000</td>
<td>272,000</td>
<td>672,000</td>
</tr>
<tr>
<td>Youth</td>
<td>400,000</td>
<td>73,000</td>
<td>473,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,200,000</strong></td>
<td><strong>447,000</strong></td>
<td><strong>1,647,000</strong></td>
</tr>
</tbody>
</table>

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2. **BUDGET**

The following table specifies the EU contribution to the programme.

<table>
<thead>
<tr>
<th>Projects</th>
<th>Budget (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Establishing Institutional Capacity in the Environment Sector</td>
<td>700,000</td>
</tr>
<tr>
<td>02 Veterinary Control - Animal / Public Health</td>
<td>580,000</td>
</tr>
<tr>
<td>03 Capacity building at the Plant Health Department</td>
<td>850,000</td>
</tr>
<tr>
<td>04 Setting up of the Viticulture Unit</td>
<td>500,000</td>
</tr>
<tr>
<td>05 Strengthening of Fisheries and Monitoring Control</td>
<td>430,000</td>
</tr>
<tr>
<td>06 Reinforcement of the maritime safety</td>
<td>1,731,000</td>
</tr>
<tr>
<td>07 Setting up of the Medicines Authority</td>
<td>908,000</td>
</tr>
<tr>
<td>08 Technical Assistance and Administrative Co-operation (including</td>
<td>1,601,000</td>
</tr>
<tr>
<td>support to the Pre-accession Strategy)</td>
<td></td>
</tr>
<tr>
<td>- Horizontal component</td>
<td></td>
</tr>
<tr>
<td>• 08.01 Twinning Light</td>
<td>300,000</td>
</tr>
<tr>
<td>• 08.02 Administrative. Co-operation and General Technical Assistance</td>
<td>168,000</td>
</tr>
<tr>
<td>• 08.03 Communication Strategy*</td>
<td>252,000</td>
</tr>
<tr>
<td>- Sectoral component</td>
<td></td>
</tr>
<tr>
<td>• 08.04 Statistics</td>
<td>200,000</td>
</tr>
<tr>
<td>• 08.05 Free Movement of Goods</td>
<td>50,000</td>
</tr>
<tr>
<td>• 08.06 Company Law</td>
<td>160,000</td>
</tr>
<tr>
<td>• 08.07 Common Foreign and Security Policy</td>
<td>45,000</td>
</tr>
<tr>
<td>• 08.08 Small and Medium Size Enterprises</td>
<td>26,000</td>
</tr>
<tr>
<td>• 08.09 Consumer and Health Protection</td>
<td>150,000</td>
</tr>
<tr>
<td>• 08.10 Telecommunications</td>
<td>150,000</td>
</tr>
<tr>
<td>• 08.11 Financial Control</td>
<td>100,000</td>
</tr>
<tr>
<td>09 Impact studies for transport infrastructures projects</td>
<td>1,000,000</td>
</tr>
<tr>
<td>10 Support Malta's participation in EU education programmes</td>
<td>1,200,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>9,500,000</strong></td>
</tr>
</tbody>
</table>

(*) Administrative budget line B7-040A.

The Maltese contribution to these projects is estimated at 2.386 M€.

3. **IMPLEMENTATION ARRANGEMENTS**

3.1. **Financial and Project Management by the Candidate Country**

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures.³

The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of pre-accession programmes. The National Authorising Officer (NAO) will ensure that the programmes are implemented in line with the procedures laid down in the *DIS Manual* and other instructions of the Commission, and

³ Taking into consideration the rules set down in the annex of Council Regulation 1266/1999.
that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD.\textsuperscript{4}

The National Fund (NF) in the Ministry of Finance, headed by the NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO shall have overall responsibility for financial management of the pre-accession funds. He shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the pre-accession funds of a programme until the closure of the programme.

3.2. Contracting and disbursement deadline

All contracts must be concluded by 30 April 2004. All disbursements must be made by 30 April 2005.

3.3. Recovery of Funds

Any proven irregularity or fraud discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission’s approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

(a) reduce or cancel any advance;

(b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued.

\textsuperscript{4} The Practical Guide has replaced section F ("Procurement") of the DIS Manual.
by the NAO just after the end of the disbursement period of the Financing Memorandum showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the National Fund and the Treasury shall also be enclosed.

Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of notification. If the NAO does not repay the amount due to the Community, the beneficiary country shall refund this amount to the Commission. Interest on account of late payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

3.4. Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Republic of Malta in April 2001. Funds will be transferred following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the NF in the Central Bank.

3.4.1. Transfer of Funds to the National Fund

A payment of up to 20% of the funds to be managed locally* will be transferred to the NF following signature of the Financing Memorandum and a financing agreement between the NF on one hand and the Department of Contracts and the Treasury on the other hand. The provisions foreseen in articles 5 and 14 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission a description of the system put in place, highlighting the flow of information between the NF and the Department of Contracts/Treasury/Implementing Authorities and the manner in which the payment function will be carried out.

Two replenishments will be made of up to 30% of the funds to be managed locally* and the final payment of up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget* has been disbursed by the Treasury. The second replenishment may be requested when 35% of the total budget* in force has been disbursed. The final third replenishment will be paid when 70% of the total budget* in force is disbursed. Exceptionally the NAO may request an advance payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save express prior authorisation from the Commission HQs, no replenishment may be made if the trigger points mentioned above have not been respected.

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* Excluding the amount foreseen for the Community programmes.
* Excluding the amount foreseen for the Community programmes.
3.4.2. Transfer of Funds to the Treasury

The National Fund will transfer funds to the Treasury in accordance with a Financing Agreement (FA) signed between the NF and the Department of Contracts/Treasury/Implementing Authorities where applicable. Bank accounts for sub-programmes shall be opened in line with Art. 14 of the MoU on the establishment of the National Fund.

The FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the project, the NF shall effect the payments to contractors following requests from the Treasury, in accordance with the DIS Manual and other instructions from the Commission. The NF shall report the payments to the Treasury to enter the data in the Financing Reporting System without delay.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the NAO and established by the Commission, will be paid to the Treasury before the official closure of the programme. The Treasury assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses.

The Treasury further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

3.4.3. Transfer of Funds to the National Fund for Participation in Community Programmes and Agencies

A single advance will be made to the National Fund to cover the full amount of the pre-accession funds part of the financial contribution for participation in Community programmes and agencies. This advance will be made following signature of the Financing Memorandum and upon request from the National Fund.

This advance is separate from the advances made for the rest of the programme.

The National Fund will be responsible for transferring the funds back to the Commission, following the call for funds of the Commission’s Directorate General responsible for the programmes concerned and within the deadlines requested.

3.4.4. Interest

In principle, all bank accounts\(^5\) will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme.

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\(^5\) In particular, but not exclusively, accounts run by the NF, the Treasury and IAU's
3.5. **Implementing Authorities** will be responsible for sub-programmes as follows:

<table>
<thead>
<tr>
<th><strong>Project titles</strong></th>
<th><strong>Project numbers</strong></th>
<th><strong>Implementing Authorities</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Establishing Institutional Capacity in the Environment Sector</td>
<td>01</td>
<td>Ministry for the Environment</td>
</tr>
<tr>
<td>Veterinary Control - Animal / Public Health</td>
<td>02</td>
<td>Ministry for Agriculture and Fisheries / Department of Veterinary Services</td>
</tr>
<tr>
<td>Capacity building at the Plant Health Department</td>
<td>03</td>
<td>Ministry for Agriculture and Fisheries / Plant Health Department</td>
</tr>
<tr>
<td>Setting up of a viticulture unit</td>
<td>04</td>
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3.6. **Environmental Impact Assessment and Nature Conservation**

The procedures for environmental impact assessment as set down in the EIA-directive\(^6\) are fully applicable for all investment projects under pre-accession funds. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex I or annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented.\(^7\)

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\(^8\) must be documented.\(^9\)

All investment projects shall be carried out in compliance with the relevant Community environmental legislation. The Project Fiches will contain specific clauses on compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

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\(^7\) In Annex EIA to the corresponding investment project fiche.

\(^8\) DIR 92/43/EEC; OJ 206/7; 22.7.1992.

\(^9\) In Annex Nature Conservation to the corresponding investment project fiche.
3.7. Special rules for certain components for the programme

Twinning
The amounts earmarked for twinning projects will cover the eligible costs (as set down in the DIS instructions) for implementing the work plan agreed between the Member State and the Applicant Country. The eligible costs may include costs incurred by the selected Member State during the preparation of the twinning covenant in the period between signature of the Financing Memorandum and the final notification of the financing approval of the covenant.

4. MONITORING AND ASSESSMENT

Project implementation will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all pre-accession funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the reallocation of pre-accession funds.

The JMC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations and take decisions on aspects of management and design, ensuring these are effected.

The Commission services shall ensure that an ex-post evaluation is carried out after completion of the Programme.

5. AUDIT AND ANTI-FRAUD MEASURES

5.1. By the Candidate Countries

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

(i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
(ii) non-disclosure of information in violation of a specific obligation, with the same effect,

(iii) the misapplication of such funds for purposes other than those for which they are originally granted.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94\(^{15}\).

In particular, all suspected and actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud and irregularity to report, the beneficiary country shall inform the Commission of this fact at the end of each quarter.

5.2. **By the Commission**

All financing memoranda as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and audits by the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned and on-the-spot checks.

In order to ensure efficient protection of the financial interests of the Community, the Commission may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96.\(^{14}\)

The accounts and operations of the National Fund, and, where applicable, the Treasury, the Department of Contracts and all relevant Implementing Authorities may be checked at the Commission’s discretion by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Union’s Court of Auditors as referred to in the “General Conditions relating to the Financing Memorandum” attached to the Framework Agreement.

6. **VISIBILITY/PUBLICITY**

The National Authorising Officer will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission Delegation. Further details are at the Annex “Visibility/Publicity” (*enclosed*).

7. **SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons which are within the control of the Government of Malta, the Commission may review the programme with a view, at the Commission’s discretion, to cancelling all or part of it and/or to reallocate unused funds for other purposes consistent with the objectives of the pre-accession programme.

\(^{15}\) OJ L 253; 7.10.00; p. 5-14.

\(^{14}\) OJ L 292; 15.11.1996; p. 2-5.
1. **Objective and scope**

Information and publicity measures concerning assistance from the European Community Malta & Cyprus pre-accession Programmes are intended to increase public awareness and transparency of EU action and to create a consistent image of the measures concerned in all applicant countries. Information and publicity shall concern measures receiving a contribution from the Malta & Cyprus pre-accession Programmes.

2. **General principles**

The appropriate Programme Authorising Officer in charge of the implementation of Financing Memoranda, and other forms of assistance shall be responsible for publicity on the spot. Publicity shall be carried out in co-operation with the EC Delegations, which shall be informed of measures taken for this purpose.

The competent national and regional authorities shall take all the appropriate administrative steps to ensure the effective application of these arrangements and to collaborate with the EC Delegations on the spot.

The information and publicity measures described below are based on the provisions of the regulations and decisions applicable to the Structural Funds. They are:


Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

3. **Information and publicity concerning Malta & Cyprus pre-accession programmes**

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the EC Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.

The costs of information and publicity relating to individual projects shall be met from the budget for those projects.
When Malta & Cyprus pre-accession programmes are implemented, the measures set out at (a) and (b) below shall apply:

(a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced.

(b) Information and publicity measures on the spot shall include the following:

(i) In the case of infrastructure investments with a cost exceeding EUR 1 million:
   - billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.
   - permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Malta & Cyprus pre-accession programmes:
   - measures to make potential beneficiaries and the general public aware of Malta & Cyprus pre-accession programmes’ assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.
   - measures targeting applicants for public aids part-financed by Malta & Cyprus pre-accession programmes through an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Malta & Cyprus pre-accession Programmes in accordance with the provisions outlined above.

4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public

4.1 Business circles

Business circles must be involved as closely as possible with the assistance which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.

4.2 Other potential beneficiaries

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development
of human resources. To this end, they shall secure the co-operation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

**Forms**

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Malta & Cyprus pre-accession Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Malta & Cyprus pre-accession Programmes. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

4.3 The general public

**The media**

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Malta & Cyprus pre-accession programmes in particular. Such participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the EC Delegation in the applicant country.

The principles laid down in the two preceding paragraphs shall apply to advertisements such as press releases or publicity communiqués.

**Information events**

The organisers of information events such as conferences, seminars, fairs and exhibitions in connection with the implementation of operations part-financed by the Malta & Cyprus pre-accession Programmes shall undertake to make explicit the participation of the EU. The opportunity could be taken of displaying the European flags in meeting rooms and the EU logo upon documents depending on the circumstances. The EC Delegation in the applicant country shall assist, as necessary, in the preparation and implementation of such events.

**Information material**

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Malta & Cyprus pre-accession programmes should, on the title page, contain a clear indication of the EU participation as well as the EU logo where the national or regional emblem is used.

Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that EU participation is made clear.

Such publications shall refer to the national and regional bodies responsible for informing interested parties.
The above-mentioned principles shall also apply to audio-visual material.

5. **Special arrangements concerning billboards, commemorative plaques and posters**

In order to ensure the visibility of measures part-financed by the Malta & Cyprus pre-accession Programmes, applicant countries shall ensure that the following information and publicity measures are complied with:

**Billboards**

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to EUR 1 million or more. Even where the competent national or regional authorities do not erect a billboard announcing their own involvement in financing the EU assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the technical manual obtainable from EC Delegations, referred to above.

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the specifications outlined in the technical manual referred to above.

**Commemorative plaques**

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU part-financing together with a mention of the Malta & Cyprus pre-accession Programmes.

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than EUR 1 million, the EU participation must also be indicated.

6. **Final provisions**

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the EC Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.

In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.