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: 4573/01 to 4573/13

Title: 2003 National Pre-Accession Programme for Malta

Duration: Until 30/11/2005

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 12.68 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 30/11/2005 subject to the provisions of this 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 30/11/2006. 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
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: 24/04/03

for THE RECIPIENT

Tarcizio Zammit
Acting Permanent Delegate to the EU

Done at Brussels
Date: 24/04/03

for THE COMMUNITY

Commissioner Günter Verheugen

Annexes

A. Annex A of the Framework Agreement
B. Annex B of the Framework Agreement
C. Special Provisions
D. Visibility/Publicity
SPECIAL CONDITIONS
NATIONAL PRE-ACCESSION PROGRAMME 2003 FOR MALTA

1. OBJECTIVES AND DESCRIPTION

The current financing proposal aims at addressing the most important needs identified following 13 identified objectives.

- **Objective 1**  Project ref. 01 (4573/01)
  **Construction of an Urban Waster Water Treatment Plant in Gozo**

  The overall objective is to preserve, protect and improve the quality of the marine environment by meeting the requirements set out in the Urban Waste Water Directive 91/271/EEC.

  The specific objectives are to reduce the impact of raw sewage discharge to the marine environment in the area known as Ta’ Mgarr ix-Xini in the South of the island of Gozo; to discharge the treated effluent to a non sensitive area (according to the guidelines laid out in Annex II of the Directive) through an existing marine sewage outfall; to ensure that the treated effluent is suitable for irrigation and for selected industrial reuse applications.

  The project activities comprise detailed engineering design, construction and supply and installation of materials and equipment for the following infrastructural elements: Urban Waste Water Treatment Plant; one sewage intake pumping station; one treated effluent pumping station; two rising mains; access Roads to intake pumping station and sewage treatment plant; one treated effluent reservoir.

  Execution of this project will require one Works type contract.

  **Conditionalities**
  - Co-financing of project by Malta funds.
  - Issue of development permit of project by MEPA (Malta Environment Planning Authority) following the public consultation phase.

- **Objective 2**  Project ref. 02 (4573/02)
  **Technical Assistance in the Environment Sector**

  The overall objective is to provide specific services in environmental audits, environmental monitoring and information systems required to facilitate and promote compliance with obligations arising from Chapter 22 - “Environment”.

  The specific objectives are to develop the technical capability to promote environmental management audits within industry as a key tool in improving compliance with environment obligations arising out of Chapter 22 – “Environment” of the acquis; to establish technical standards and information systems for integrating permitting and monitoring processes arising out of the obligations of the acquis; to further promote the exchange of information and experience through international co-operation.
The project will be implemented via two technical assistance projects:

- **Service Contract 1 - Specialised Industrial Processes and Environmental Audits:**
  a consulting team, to be appointed to work with MEPA, will identify industrial operators who are most likely to benefit from certification in environmental management systems; develop a framework for MEPA to facilitate the necessary requirements for these operators to implement environmental management systems; provide the necessary support for operators who choose to implement these systems; review permitting and inspection procedures to benefit to rationalise these processes with audited environmental management systems; provide training to MEPA and the operators to sustain the certification process.

- **Service Contract 2 – Integrated Monitoring and Permitting Systems:** a consulting team, to be appointed to work with MEPA, will develop an integrated approach to monitoring and permitting systems and provide training and assistance to staff within MEPA during the period of the project.

Execution of this project will require two service contracts.

**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.

- **Objective 3**
  
  **Project ref. 03 (4573/03)**
  
  **Institutional Capacity Building at the Ministry of Agriculture and Fisheries (MAF)**

  The overall objective is to create an efficient and effective agricultural administration, in Malta and Gozo, which is capable of programming and managing the various EC rural development instruments necessary for the successful implementation of the 2004-2006 Rural Development Plan (RDP).

  The specific objectives are: to build the institutional capacity to effectively implement EC rural development instruments and all measures of the 2004-2006 Rural Development Plan (RDP); to set up within MAF the institutional capacity, structures and procedures needed to implement the pilot rural development schemes to be implemented in the pre-accession phase; to build the capacity to provide agricultural and agribusiness training to the farming community, through the setting up of an Institute of Agribusiness; to provide the public at large and particularly members of the rural community, with information on European Union agricultural policy, support provided under the RDP, and conditions of obtaining such support; to formulate proposals for the future development of the rural sector to meet the needs of the environment and operates under market conditions; to carry out a feasibility study for voluntary land re-parcelling as a means of improving efficiency in the rural sector.
Execution of this project will require a twinning arrangement, 5 service contracts and 1 supply contract to carry out the following activities:

- A twinning arrangement to support the Rural Development Department (RDD) including one PAA supported by short-term specialist advisors from the twinning institution. The twinning will review the existing organisation and procedures within MAF; further develop systems and procedures needed to implement the different phases of rural development programmes; carry out training needs assessment and training; review the proposed new organisation within the MAF; review associated budget requirements; specify the needed databases.

- *Service Contract 1 - Development of specific capacity for the implementation of the pre-accession pilot rural development schemes.*

- *Service Contract 2 - Setting up of an Institute of Agribusiness.*

- *Service Contract 3 - Public Awareness Campaign.*

- *Service Contract 4 - Sub-sector studies for key sectors.*

- *Service Contract 5 - Voluntary Land Re-parcelling Feasibility Study.*

- *Supply Contracts - Provision of equipment for RDD capacity building.*

**Conditionalities**

- MAF would be required to complete its on-going institutional review/re-organisation and recruit the additional staff required for the implementation of the RDP prior to the start of the project in April 2003.

- It is envisaged that the technical inputs to the project would largely be completed within the first two years.

**Objective 4** Project ref. 04 (4573/04)

**Pilot Rural Development Support Schemes**

The overall objectives of the project are: to initiate the process of restructuring of the Maltese agriculture and to start and develop a project pipeline that will ensure rapid and efficient take up of EU finance available under the RDP in 2004; to gain knowledge in the development of proposals in the rural community and to experience application of RDP measures by MAF.

The specific objectives are to raise the incomes and competitiveness of the agricultural sector and to protect and improve the rural environment. This project will be implemented through the 4 following grant schemes:

- *the Rural Stewardship Scheme*: to promote the protection, maintenance and enhancement of the traditional rural environment of the Maltese Islands by farmers;

- *the Rural Business Scheme* (excluding Producer Groups): to enhance the situation of the agricultural sector by improving the economic performance of the marketing and processing chain, through gains in both productivity and competitiveness;

- *the Rural Business Scheme for Producer Groups*: to improve the market efficiency of the agricultural sector by increasing the number and effectiveness of producer groups;

- *the Farm Holdings Scheme*: to promote improvements in economic performance at the farm level, through gains in productivity and competitiveness.

The project activities comprise four pilot projects and the associated provision of Pilot Activities, all contributing to the strengthening of MAF and to the aims of the
RDP provided in the framework of the MAF Institutional capacity building project proposed in 2003 programme together with this project.

In particular the four schemes will contribute to achieve the following results:

**Rural Stewardship Scheme**
- Adoption of usual good farming practices
- Improved and more detailed record keeping
- Increased awareness of environmental features and resources on farming land
- Reduced soil erosion through environmental awareness and support
- Improved landscape with enhanced biodiversity through afforestation
- Promotion of organic farming

**Rural Business Scheme (excluding Producer Groups)**
- Enhanced income for producers through increased value added at farm level
- Increase in operators to implement improvements and innovation in supply chain
- Improved economic performance of the marketing and processing chain
- Improved quality through better health and hygiene measures
- Reduced waste and improved environmental protection

**Rural Business Scheme for Producer Groups**
- Increased market share for producers
- Improved access to market information
- Assistance to producers to undertake new marketing activities
- Advance producers’ ability to meet legislative and other constraints

**Farm Holdings Scheme**
- Reduced production costs
- Improved productivity, diversification, efficiency and competitiveness of farms holdings
- Improved quality of Maltese farms produce
- Increased collaboration amongst farmers
- Better standards of animal hygiene, welfare and environmental protection

**Conditionalities**
- The appropriate personnel will have to be in post in the Rural Development Department.
- Technical assistance for the preparation of the schemes provided through MAF capacity building project will have been started by the time of the publication of the call for proposal of the schemes.

- **Objective 5**  
  **Project ref. 05 (4573/05)**  
  **Capacity building - Oenology Unit**

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

The specific objectives are to set up an efficient Oenology Unit within the Department of Agriculture to be able to implement and monitor the Acquis on wine in particular emphasis on Council Regulation (EC) 1493/99; to prepare and execute a strategy for gathering information on the local winemaking conditions; to establish control methods with respect to trade with third countries, regulation of QWPSR, oenological practices and processes, fraudulent practices, and market mechanisms; to develop the role of producers’ organisations (PO) in the Ministry’s activities through workshops for PO and vintners.
Successful implementation of this project anticipates twinning assistance from an EU Member State for a one-year period. The advisor will be expected to offer his/her service until the local counterparts have been trained to take over the project. Other short-term experts will support him/her as necessary.

The Twinning Covenant will represent the main contract for the project, which covers the costs of the PAA and short-term experts. A contract for supplies (procurement of equipment required for the setting up of the oenology laboratory) will also be concluded.

**Conditionalities**

- Sufficient managerial and technical human resources allocated to the Viticulture and Oenology Unit.

- **Objective 6  Project ref. 06 (4573/06)**

**Maritime Safety though Implementation of the Maritime Transport Acquis**

The overall objective is to ensure that the Malta Maritime Authority has the required technical capacity, equipment and human resources to implement European Union standards in improving maritime safety through the monitoring of maritime traffic.

The specific objectives are to enhance safety of navigation, improve efficiency of traffic flow, and reduce in risks of pollution and maritime casualties within Maltese ports, their approaches and territorial waters through the investment in the necessary technical and human resources in establishing an integrated vessel traffic monitoring and management information system (VTMIS). The project activities comprise:

- **Training**: familiarisation visits to VTMIS centre stations in EU member states; attendance to induction and post graduate courses for the Authority’s management personnel involved in maritime safety and pollution prevention; and training for 25 persons, including trainers, VTS operators, and other maritime safety personnel, on IMO/IALA VTS model courses and simulators at training institutions.

- **Equipment**: investment in the necessary technical resources to establish an integrated vessel traffic monitoring and management information system.

Execution of this project will require contracts for the procurement of equipment and software development as well as for training courses.

**Conditionalities**

- Depends on the recommendations and technical specifications developed by the 2002 Twinning Project.
• **Objective 7**  
  
  **Project ref. 07 (4573/07)**  
  **Feasibility and Environmental Impact Studies for Transport Infrastructural Projects**

The overall objective is to prepare a project pipeline, complete with Environmental Impact Assessments and appropriate Feasibility Studies, for co-financing under Structural / Cohesion funding upon accession.

The specific objectives are to carry out feasibility studies and environmental impact assessments on the following transport infrastructure:

- construction and upgrading of Quay and Terminal Facilities in the island’s harbours;
- road Construction and Junction Improvements on the Gozo future Trans-European transport Network.

The successful implementation of this project anticipates the provision of technical assistance in the following tasks:

- carrying out of financial and economic feasibility studies which shall include examining, in detail, project proposal from both a technical and financial perspective.
- carrying out Environmental Impact Assessments on the project in line with European Union directives on the subject.

Execution of this project will require one service contract to carry out Feasibility Studies and Environmental Impact Assessments, in separate lots for the ‘ports’ and ‘roads’ studies.

*Conditionalities*

- This project is conditional on the co-financing of projects from Malta funds.

• **Objective 8**  
  
  **Project ref. 08 (4573/08)**  
  **Implementation of the Data Protection Acquis**

The overall objective is to implement the data protection obligations under the Acquis.

The specific objectives are to support the capacity building of the Office of the Commissioner for Data Protection so as to be fully operational to be able to implement the Data Protection Act. This entails having suitably trained staff in place, together with enhancing monitoring systems and procedures, to be capable of ensuring effective implementation of data protection at national level. This project is also aiming at building and enhancing data protection skills in the Public Service.

The project activities comprise a twinning consisting of two different modules focusing on one hand on the proper functioning of the Office of the Commissioner for Data Protection and, on the other hand, on the enhancing of data protection in the Public Service.

Execution of this project will require a twinning, covering the costs of the PAA and short-term TAs.
Conditionalities

- Availability of the appropriate human resources, as well as availability of continuing financial support for the Office of the Commissioner for Data Protection, to be allocated by Parliament in accordance with the financial provisions of the Data Protection Act.
- Adoption by Malta of measures ensuring that there is no risk of conflict of interests that can affect the independence of the Data Protection Commissioner, in accordance with the requirements of the Data Protection directive.

- **Objective 9** Project ref. 09 (4573/09)  
  **Strengthening of Malta’s capacity in Border Control (Phase II)**

The overall objective is to strengthen Malta’s administrative and operational capacity to implement the Schengen Acquis related to border control.

The specific objectives are:

- to upgrade the technical capabilities of available aircraft and patrol vessels needed to conduct surveillance and interdiction operations in the area of border control;
- to upgrade the communications facilities of land-based/sea-borne assets and special teams involved in the reinforcement of border control;
- to provide training in the operation and maintenance of new technical systems and security of air entry points.

The project activities comprise:

- **Institution Building** (Training): Inspection of routine ship’s documents by inspection teams; Waterborne boarding of vessels underway; Intelligence gathering, collation and dissemination; Use of coastal radar chain in border protection; Training of Airport Security personnel; Training in use and operational support of FLIR; Professional pursuit boat handling.

- **Procurement of equipment** to further supplement the equipment already scheduled for purchase under Phase I of the project.

Execution of this project will require a twinning light arrangement (for the IB component) and (a) supply contract(s) for the procurement of the required equipment.

**Conditionalities**

- Provision of co-financing from Maltese sources.
- Deployment of the necessary human resources to follow up the decision and activities identified by the Project Team.
Objective 10

Project 10 (4573/10)
Modernisation and Upgrading of the Operational Capacity of the Customs and Tax Departments (Phase III)

The overall objectives are:

- **General Customs and Tax Activities**: to continue with the implementation of the Business Change Management Plan under the EU reform and Modernisation Programme for Customs and Taxation in order to upgrade the operational capacity of the tax departments (Customs, VAT and Inland Revenue) according to Customs and Taxation Blueprints.

The specific objectives are:

- **General Customs and Tax Activities**: to continue with the development of the Departments and further progress interfacing of I.T. systems with those of the European Union; to further develop and enhance the role of the Training unit; to provide all necessary support and information to staff and VAT taxable persons to ensure successful implementation of the European Community’s transitional “intra-community transactions” system.

- **Customs** (including Excise activities under Taxation): to continue and finalise the implementation of the recommendations of Organisational restructuring exercise so as to establish an operational base that would be capable of supporting all the functions and controls; to provide developmental support to the newly established Customs Intelligence Service; to further enhance border controls by providing expert assistance in enforcement and investigation fields and by developing comprehensive strategies; to provide all necessary support and information to staff and the trade on the successful implementation of the new Customs Integrated I.T. System; to further develop and enhance the role of the Training unit; to further implement recommendations received through current BCMP projects; to develop further the administrative capacity of the excise administration (technical support to assist with planning, methodology and structural approach which accession will entail).

- **Taxation**: to further implement recommendations received through BCMP projects carried out under Phase I and Phase II; to better integrate and enhance IT system at the VAT Department for the benefit of both the taxpayers and the staff of the Department.

The project activities comprise:

- **General Activities**: training and ongoing support plan; development of a pre-accession training strategy & programme; promotion of uniform interpretation by staff and tax payers on the theory and practice of the transitional EU VAT system for intra-community transactions; communication plan to be developed through targeted public relations campaigns to ensure that the public is aware of the (impact of) proposed changes in the VAT legislation and that all the taxable persons who need it are fully informed about the VAT intra-community procedures and other changes in the VAT legislation; development of a comprehensive public relations strategy; interfacing with EU systems.

- **Customs** (including Excise activities under Taxation): implementation of the recommendations of Review of Organisational Structures exercise; developmental support to Customs Intelligence Service; further enhancing border controls; all necessary support and information to staff and the trade on the successful implementation of the new Customs Integrated I.T. System; further
development and enhancing of the role of the Training unit; further enhancing of
cisce structures and administration.

- **Taxation:** further improve taxpayer record & account management through a
review of the entire IT system used by the VAT Department in the light of all the
separate changes brought about by the BCMP implementation project (Phase I
and Phase II), determine how it can be further enhanced and made more effective
by integrating and consolidating the various newly developed applications; re-
design parts of the system if and as necessary, in line with the conclusions of the
review.

Execution of this project will require contracts for services.

**Conditionalities**

- The implementation of the Business Change Management Plan has followed a
pre-defined sequence commencing with the setting up by Malta of the Pre-
Accession Unit which co-ordination role is vital for the successful
implementation of the whole plan.

**Objective 11**  
**Project 11 (4573/11)**

**Technical Assistance and Administrative Cooperation**

The overall objective is the strengthening the institutions and administrative
capacity for the full application of the *acquis communautaire*.

This project has an horizontal and a sectoral component covering the following
specific objectives:

- **Horizontal Component:** general reinforcement of the capacity of the Maltese
administration through twinning/twinning light and technical assistance to meet
the requirements related to specific urgent and unforeseen needs identified in the
course of the accession negotiation process, in the preparation of the Action Plan
for the Administrative and Judicial capacity and the Peer Review and through
administrative co-operation to reinforce the knowledge and expertise of Maltese
officials and representatives from associations and NGOs, with respect to the
acquis.

- **Sectoral Component:** to prepare Malta for implementation of acquis in the
sectors of Education, Training and Youth, and Financial Control where specific
need have been identified.

The project activities comprise:

**Horizontal Component**

- Implementation of projects which target very specific areas where Institutional
Building support is required in relation to the EU integration process.

- Participation of Maltese public sector officials in the EU working groups, special
meetings, committees, seminars, conferences, workshops and training sessions
(other than those organised by TAIEX), in the European Union or in Malta,
aiming at informing, familiarising and educating the interested parties of the
public and private sector on issues relating to the adoption and effective
implementation of the acquis.

**Sectoral Component**

- Education, Training and Youth: The main activities will consist in: (1) an
assessment of the courses currently on offer in the six MCAST institutes; (2) an
assessment of the future courses to be offered by four new MCAST institutes; (3)
a gaps and needs analysis with emphasis on training requirements and staff development.

- Financial Control: Procurement of IT hardware and software to store and manage EU harmonised databases and training on financial investigations.

Execution of this project will require Twinnings, Twinnings light and contracts for supplies and services.

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

- **Objective 12**  
  **Project ref. 12 (4573/12)**  
  **Participation in Community Programmes and Agencies**

The purpose of the project is to contribute to the participation of Malta in, inter alia, the *European Monitoring Centre for Drug and Drug Addiction* (EMCDDA).

The participation in certain Community programmes and agencies is a key feature of the pre-accession strategy as foreseen by the Regulation 555/2000.

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>EMCDDA in 2003</td>
<td>75,000</td>
<td>25,000</td>
<td>100,000</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>75,000</strong></td>
<td><strong>25,000</strong></td>
<td><strong>100,000</strong></td>
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</tbody>
</table>

**Conditionalities**

- The EU Pre-accession funds' contribution to the participation to the EMCDDA will only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

- **Objective 13**  
  **Project ref. 13 (4573/13)**  
  **Administrative co-operation TAIEX**

The objective of the project is to continue with the support Malta participation to TAIEX activities through the existing PHARE multi-beneficiary Programme. Activities include seminars, training, workshops, expert and study visits, provision of tools and information products for among others, translation and interpretation activities, as well as the necessary co-ordination and monitoring, in close cooperation with Member States and Commission services. Furthermore a database has been developed to permit the Candidate Countries to log the progress made in transposing and implementing EU legislation, covering the entire Acquis and its application and enforcement infrastructures.
2. **BUDGET**

<table>
<thead>
<tr>
<th>EU funding in '000 €</th>
<th>DAC Sector Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Investment</strong></td>
<td><strong>Institution Building</strong></td>
</tr>
<tr>
<td>1. Urban Waster Water Treatment in Gozo</td>
<td>3700</td>
</tr>
<tr>
<td>2. Technical Assistance in the Environment Sector</td>
<td>-</td>
</tr>
<tr>
<td>3. Institutional Capacity Building at the MAF</td>
<td>20</td>
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<tr>
<td>4. Pilot Rural Development Support Schemes</td>
<td>1450</td>
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<tr>
<td>5. Set up of an Oenology Unit</td>
<td>-</td>
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<tr>
<td>6. Implementation of the Maritime Transport <em>acquis</em></td>
<td>825</td>
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<tr>
<td>7. Studies for Transport Infrastructural Projects</td>
<td>-</td>
</tr>
<tr>
<td>8. Implementation of the Data Protection <em>acquis</em></td>
<td>-</td>
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<tr>
<td>9. Border Control - Phase II</td>
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<tr>
<td>10. Customs and Tax Project - Phase III</td>
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</tr>
<tr>
<td>11. Technical Assistance and Administrative Co-operation</td>
<td>33</td>
</tr>
<tr>
<td>12. Participation in Community Programmes and Agencies</td>
<td>-</td>
</tr>
<tr>
<td>13. Administrative Co-operation TAIEX*</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>6595</strong></td>
</tr>
</tbody>
</table>

(The figures in the budget table are indicative only)

(*) **Project nr. 13 - Administrative Co-operation TAIEX** - will be implemented by DG Enlargement.

In accordance with Art. 5 par.2 of the Council Regulation 555/2000, a national co-financing is insured as stated in the single project fiches ².

Co-financing for Institution Building projects is provided by the beneficiary bearing certain infrastructure and operational implementation costs, through financing the human and other resources, required for effective and efficient absorption of pre-accession assistance.

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² Taxes are not an element eligible for co-financing.
3. IMPLEMENTATION ARRANGEMENTS

3.1. Financial and Project Management by the Candidate Country

The programme will be managed in accordance with the Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision and the Agreement on the Implementation of EDIS (EDIS Implementation Agreement; EIA) to be concluded between Malta and the Commission. Prior to the conclusion of said Agreement, implementation will exceptionally follow the Decentralised Implementation System (DIS) procedures. Extended Decentralisation will, however, apply from the date of accession at the latest.

Project nr. 13 - Administrative Co-operation TAIEX - will be implemented by DG Enlargement through the project Europeaid/113730/C/SV/MULTI-PMG (TAIEX).

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring 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 EDIS Implementation Agreement and/or the DIS Manual as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and published by the European Commission for the implementation of External Actions.

The NAC and the NAO shall be jointly responsible for co-ordination between the pre-accession funds and the Structural and Cohesion Funds.

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 pre-accession 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.

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3.2. Contracting and disbursement deadline: programming deadline

All contracts must be concluded by 30 November 2005. In no case can the contracting period exceed 3 years after the date of global commitment.

All disbursements must be made by 30 November 2006. Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted. Concerning the amount foreseen under the unallocated sub-component of the Technical Assistance and Administrative Co-operation project (sub-project number 11.01) projects must be programmed and draft Terms of Reference agreed by the Commission by no later than the date of accession. This does not apply to the funds used to cover administrative co-operation activities (such as exchanges of experts, visits, participation to seminars, committees, etc.).

3.3. Clearance of Accounts Procedure and Recovery of Funds

A clearance-of-accounts procedure in line with Art. 53 para 5 of the Financial Regulation\(^5\) and Art. 42 of the Implementing Rules to the Financial Regulation\(^6\) will be put in place.

Any proven irregularity or fraud\(^7\) 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.

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\(^7\) As defined under number 8a (Audit and Anti-fraud Measures by the Candidate Countries) of this document.
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 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 Malta in April 2001 and its Addendum of 28 March 2003. 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 first transfer of up to 20% of the funds to be managed locally*, representing pre-financing® will be sent to the NF following signature of the Financing Memorandum and the Note of Instructions, according to the provisions foreseen in articles 5 and 14 of the MoU on the NF. Furthermore, the NAO must submit to the Commission the Note of Instructions describing 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 further transfers of up to 30% each of the funds to be managed locally* will be made. The second transfer will be triggered when 5% of the budget* has been disbursed by the Treasury. The third transfer may be requested when 35% of the total budget* in force has been disbursed. A fourth transfer will be made when 70% of the total budget* in force is disbursed and when all expenditure has been incurred (i.e. fully contracted). No later than 2 months after expiry of the disbursement deadline the NF will submit a final declaration of expenditure, which will trigger a balancing operation of all transfers against final certified expenditure incurred, which at that point will be equal to payments made (closure of expenditure).®

Exceptionally the NAO may request payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of

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* Excluding the amount foreseen for the Community programmes.
® As defined in Art. 81.1.b.i of the Financial Regulation.
® As defined in Art. 105 of the Implementing Rules.
Understanding. Save express prior authorisation from the Commission HQs, no interim payments may be made if the trigger points mentioned above have not been respected.

3.4.2. Transfer of Funds to the Treasury

The National Fund will transfer funds to the Treasury in accordance with a Note of Instructions signed between the NF and the Department of Contracts / Treasury / Implementing Authorities. Bank accounts for sub-programmes shall be opened in line with Art. 14 of the MoU on the Establishment of the National Fund.

Under DIS, 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. 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. However, it should be noted that the pre-accession contribution for each programme will only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more tranches, so that 100% of the funds necessary for the programmes in force can be transferred immediately.

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\textsuperscript{10} 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.

3.5. **Implementing Authorities will be responsible for sub-programmes as follows:**

<table>
<thead>
<tr>
<th>Project titles</th>
<th>Project Nber</th>
<th>Implementing Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waster Water Treatment in Gozo</td>
<td>4573/01</td>
<td>Ministry for Resources &amp; Infrastructures</td>
</tr>
<tr>
<td>Technical Assistance in the Environment Sector</td>
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<td>Malta Environment and Planning Authority</td>
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<tr>
<td>Institutional Capacity Building at the MAF</td>
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<td>Pilot Rural Development Support Schemes</td>
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<td>Implementation of the Maritime Transport <em>acquis</em></td>
<td>4573/06</td>
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<td>Implementation of the Data Protection <em>acquis</em></td>
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<td>Border Control - Phase II</td>
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<tr>
<td>Technical Assistance and Administrative Co-operation</td>
<td>4573/11</td>
<td>The Beneficiary Departments</td>
</tr>
</tbody>
</table>

\textsuperscript{10} In particular, but not exclusively, accounts run by the NF, the Treasury and IAs.
3.6. **Environmental Impact Assessment and Nature Conservation**

The procedures for environmental impact assessment as set down in the EIA-directive\(^{11}\) 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\(^{12}\).

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\(^{13}\) must be documented\(^{14}\).

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.

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.

*Grant Schemes*

For Grant Schemes in the field of Economic and Social Cohesion (project ref. 04), the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

- The procedures and formats to be used in the implementation of the schemes and award of the grants will follow the provisions of the Practical Guide. In particular, due care will be given to the selection process of the beneficiary projects, which has to be done at technical level through selection committees composed of experts appointed by the authorities which are co-financing the schemes as well as by the relevant administrations and interest groups involved in the schemes.

- Prior to EDIS accreditation, the ex-ante approval of the Commission will be required, in conformity with the provisions of chapter 6 of the Practical Guide (decentralised ex-ante control).

The implementation of the selected projects through the provision of works, supplies and services sub-contracted by the final beneficiaries of the individual grants shall be subject


\(^{12}\) In Annex EIA to the corresponding investment project fiche.

\(^{13}\) DIR 92/43/EEC; OJ 206/7; 22.7.1992.

\(^{14}\) In Annex Nature Conservation to the corresponding investment project fiche.
to the procurement regulations in the Practical Guide. The financial commitments in pre-accession funds’ terms will be effected at the date of signature of the grant contracts by the competent authority. Project implementation and all pre-accession funds’ disbursements are to be done before the expiry date of the present Financing Memorandum.

4. **MONITORING AND EVALUATION**

Project implementation of this programme will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission services. 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 re-allocation of pre-accession funds.

The JMC will review in detail the progress of each programme, including its components and contracts, assembled into suitable monitoring sectors on the basis of regular monitoring reports and interim evaluations undertaken with the assistance of external consultant. The JMC will put forward recommendations 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 national or Community law, this Financing Memorandum or ensuing contracts or 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:

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15 In accordance with the rules set down in Art. 54 of the Financial Regulation.
16 Defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (for example the Europe Agreements, the Framework Agreement, the Memorandum of Understanding on the Establishment of the National Fund, etc.).
(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\(^{17}\).

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 within two months following 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 on-the-spot checks and, as long as the Extended Decentralisation System is not yet applicable to the Implementing Authorities in the Candidate Country concerned, measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned.

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\(^{18}\).

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.

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\(^{17}\) OJ L 178; 12.7.94; p. 43-46.

\(^{18}\) OJ L 292; 15.11.1996; p. 2-5.
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 set down in 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.
INFORMATION AND PUBLICITY FOR THE
MALTA & CYPRUS PRE-ACCESSION PROGRAMMES
OF THE EUROPEAN COMMUNITIES

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.