



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.10.2002  
SEC(2002) 1407

**2002**

**REGULAR REPORT**

**ON**

**MALTA'S**

**PROGRESS TOWARDS ACCESSION**

{COM(2002) 700 final}

**2002**  
**REGULAR REPORT**  
  
**ON**  
  
**MALTA'S**  
  
**PROGRESS TOWARDS ACCESSION**

\*\*\*\*\*

## Table of contents

<b>A. Introduction.....</b>	<b>8</b>
<b>a) Preface .....</b>	<b>8</b>
<b>b) Relations between the European Union and Malta .....</b>	<b>10</b>
Recent developments under the Association Agreement, including bilateral trade ..	10
Accession Partnership.....	11
Action Plan for reinforcing administrative and judicial capacity .....	11
National Programme for the Adoption of the Acquis.....	11
Community Assistance .....	11
Twinning.....	12
Negotiations .....	13
<b>B. Criteria for membership .....</b>	<b>14</b>
<b>1. Political criteria .....</b>	<b>14</b>
Introduction.....	14
Recent developments .....	15
<b>1.1. Democracy and the rule of law .....</b>	<b>15</b>
The parliament .....	15
The executive.....	15
The judicial system .....	17
Anti-corruption measures .....	18
<b>1.2. Human rights and the protection of minorities .....</b>	<b>19</b>
Civil and political rights .....	19
Economic, social and cultural rights.....	20
Minority rights and the protection of minorities.....	21
<b>1.3. General evaluation .....</b>	<b>21</b>
<b>2. Economic criteria .....</b>	<b>22</b>
<b>2.1. Introduction .....</b>	<b>22</b>
<b>2.2. Summary of economic developments since 1997 .....</b>	<b>22</b>
<b>2.3. Assessment in terms of the Copenhagen criteria.....</b>	<b>27</b>
The existence of a functioning market economy .....	27
The capacity to cope with competitive pressure and market forces within the Union	31
<b>2.4. General evaluation .....</b>	<b>34</b>
<b>3. Ability to assume the obligations of membership.....</b>	<b>35</b>
Introduction.....	35
<b>3.1. The chapters of the <i>acquis</i> .....</b>	<b>38</b>
<b><i>Chapter 1: Free movement of goods</i> .....</b>	<b>38</b>
Progress since the last Regular Report .....	38
Overall assessment.....	40

Conclusion .....	41
<b>Chapter 2: Free movement of persons .....</b>	<b>41</b>
Progress since the last Regular Report .....	41
Overall assessment.....	42
Conclusion .....	43
<b>Chapter 3: Freedom to provide services .....</b>	<b>43</b>
Progress since the last Regular Report .....	43
Overall assessment.....	44
Conclusion .....	45
<b>Chapter 4: Free movement of capital.....</b>	<b>46</b>
Progress since the last Regular Report .....	46
Overall assessment.....	46
Conclusion .....	47
<b>Chapter 5: Company law.....</b>	<b>48</b>
Progress since the last Regular Report .....	48
Overall assessment.....	48
Conclusion .....	49
<b>Chapter 6: Competition policy .....</b>	<b>50</b>
Progress since the last Regular Report .....	50
Overall assessment.....	50
Conclusion .....	51
<b>Chapter 7: Agriculture .....</b>	<b>52</b>
Progress since the last Regular Report .....	52
Overall assessment.....	55
Conclusion .....	57
<b>Chapter 8: Fisheries.....</b>	<b>58</b>
Progress since the last Regular Report .....	58
Overall assessment.....	58
Conclusion .....	59
<b>Chapter 9: Transport policy.....</b>	<b>60</b>
Progress since the last Regular Report .....	60
Overall assessment.....	61
Conclusion .....	61
<b>Chapter 10: Taxation .....</b>	<b>62</b>
Progress since last Regular Report .....	62
Overall assessment.....	63
Conclusion .....	63
<b>Chapter 11: Economic and Monetary Union.....</b>	<b>64</b>
Progress since the last Regular Report .....	64
Overall assessment.....	64
Conclusion .....	65
<b>Chapter 12: Statistics.....</b>	<b>65</b>
Progress made since last Regular Report.....	65
Overall assessment.....	66
Conclusion .....	66

<b>Chapter 13: Social policy and employment.....</b>	<b>67</b>
Progress since the last Regular Report .....	67
Overall assessment.....	68
Conclusion .....	70
<b>Chapter 14: Energy .....</b>	<b>70</b>
Progress since last Regular Report .....	70
Overall assessment.....	71
Conclusion .....	72
<b>Chapter 15: Industrial policy.....</b>	<b>73</b>
Progress since last Regular Report .....	73
Overall assessment.....	73
Conclusion .....	74
<b>Chapter 16: Small and medium-sized enterprises.....</b>	<b>75</b>
Progress since the last Regular Report .....	75
Overall assessment.....	76
Conclusion .....	76
<b>Chapter 17: Science and research.....</b>	<b>76</b>
Progress since last Regular Report .....	76
Overall assessment.....	77
Conclusion .....	77
<b>Chapter 18: Education and training.....</b>	<b>78</b>
Progress since last Regular Report .....	78
Overall assessment.....	78
Conclusion .....	79
<b>Chapter 19: Telecommunications and information technologies.....</b>	<b>79</b>
Progress made since last Regular Report.....	79
Overall assessment.....	80
Conclusion .....	80
<b>Chapter 20: Culture and audio-visual policy .....</b>	<b>81</b>
Progress since the last Regular Report .....	81
Overall assessment.....	81
Conclusion .....	81
<b>Chapter 21: Regional policy and co-ordination of structural instruments..</b>	<b>82</b>
Progress since the last Regular Report .....	82
Overall assessment.....	83
Conclusion .....	84
<b>Chapter 22: Environment .....</b>	<b>84</b>
Progress since the last Regular Report .....	84
Overall assessment.....	87
Conclusion .....	88
<b>Chapter 23: Consumers and health protection .....</b>	<b>89</b>
Progress since last Regular Report .....	89
Overall assessment.....	89
Conclusion .....	90
<b>Chapter 24: Co-operation in the field of justice and home affairs .....</b>	<b>91</b>

Progress since the last Regular Report .....	91
Overall assessment.....	93
Conclusion .....	96
<b><i>Chapter 25: Customs union</i></b> .....	<b>96</b>
Progress since last Regular Report .....	96
Overall assessment.....	97
Conclusion .....	98
<b><i>Chapter 26: External relations</i></b> .....	<b>98</b>
Progress since the last Regular Report .....	98
Overall assessment.....	99
Conclusion .....	100
<b><i>Chapter 27: Common foreign and security policy</i></b> .....	<b>100</b>
Progress since the last Regular Report .....	100
Overall assessment.....	101
Conclusion .....	102
<b><i>Chapter 28: Financial control</i></b> .....	<b>102</b>
Progress since last Regular Report .....	102
Overall assessment.....	103
Conclusion .....	103
<b><i>Chapter 29: Financial and budgetary provisions</i></b> .....	<b>104</b>
Progress since the last Regular Report .....	104
Overall assessment.....	104
Conclusion .....	105
<b>3.2. Translation of the <i>acquis</i> into the national languages.....</b>	<b>106</b>
<b>3.3. General evaluation .....</b>	<b>106</b>
<b>C. Conclusion .....</b>	<b>110</b>
<b>D. Accession Partnership and Action Plan for strengthening administrative and judicial capacity: Global assessment</b>	<b>114</b>
Economic criteria.....	115
Ability to assume the obligations of membership .....	115
<b>Annexes .....</b>	<b>123</b>
<i>Human Rights Conventions ratified by the Candidate Countries, 15 September 2002</i> .....	<i>124</i>
<i>Statistical data</i> .....	<i>125</i>



## A. Introduction

### a) Preface

In October 1999, following the February 1999 update of the Commission's opinion on Malta's application for membership, the Commission issued its first Regular Report on Malta's progress towards accession with a view to the Helsinki European Council. In its 2001 Enlargement Strategy Paper, which accompanied the 2001 Regular Reports, the Commission indicated that, given the pace of negotiations and the progress made so far, the Commission should be able to make recommendations on those candidate countries ready for accession on the basis of its 2002 Regular Reports. At its meeting in Seville in June 2002, the European Council concluded that "in order to enable the European Council to be held in the coming autumn to decide which will be the candidate countries with which negotiations can be concluded at the end of 2002, [...] the Commission will have to draft appropriate recommendations in the light of the Regular Reports." The Commission has prepared this series of Regular Reports with a view to the Brussels European Council in October 2002.

The structure followed for this Regular Report is largely the same as that used for the 2000 and 2001 Regular Reports. In line with previous Regular Reports, the present Report:

- describes the relations between Malta and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, the rule of law, human rights, protection of minorities);
- assesses Malta's situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);
- addresses the question of Malta's capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation and the policies of the Union. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently at Seville in June 2002. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures so as to create the conditions for the harmonious integration of these States. The Seville European Council also stressed how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level.



This Report takes into consideration progress since the 2001 Regular Report. It covers the period up to 15 September 2002. In some particular cases, however, measures taken after that date are mentioned. It looks at whether planned reforms referred to in the 2001 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides a global assessment of the overall situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Malta in preparing for accession.

Furthermore, in view of the fact that the 2002 Regular Reports will provide the basis on which the Commission will formulate its recommendations as to which countries are ready to conclude negotiations, this Report includes an evaluation of Malta's track record since the 1999 Opinion. For the economic criteria the track record covers the period since 1997 and the report also provides a dynamic, forward-looking evaluation of Malta's economic performance.

For each of the negotiating chapters, this report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted. The commitments made by each country reflect the result of the accession negotiations, and, in accordance with the principle of differentiation underlying the negotiation process, may differ between countries. Where negotiating countries have committed themselves to completing specific measures by the time of accession, the Commission assesses the relevant preparatory processes. For chapters on which the accession negotiations continue, and final commitments remain to be defined, an indicative assessment is given of the state of implementation of the commitments that have been made to date. The Report contains a separate section examining the extent to which Malta has addressed the Accession Partnership priorities. This section also assesses the progress Malta has made in implementing the measures set out in the Action Plan for strengthening administrative and judicial capacity that the Commission developed with each negotiating country in the spring of 2002.

As has been the case in previous Reports, "progress" has been measured on the basis of decisions actually taken, legislation actually adopted, international conventions actually ratified (with due attention being given to implementation), and measures actually implemented. As a matter of principle, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all the candidate countries and permits an objective assessment of each country in terms of their concrete progress in preparing for accession.

The Report draws on numerous sources of information. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The information each of the candidate countries has provided within the framework of the Association Agreement and the negotiations, the National Programmes for the Adoption of the *Acquis* where they are available, as well as the process of developing the Action Plans, and various peer reviews that have taken place to assess candidate countries' administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament

reports and resolutions<sup>1</sup> have been taken into account in the preparations. The Commission has also drawn on assessments made by various international organisations, and in particular the contributions of the Council of Europe, the OSCE and the international financial institutions, as well as those of non-governmental organisations.

## **b) Relations between the European Union and Malta**

### *Recent developments under the Association Agreement, including bilateral trade*

The Association Agreement provides the legal base for the relations between the EC and Malta.

The sixth meeting of the Association Committee was held in Valetta in July 2001 and its next meeting is scheduled for 28 November 2002 in Brussels. The main items on the agenda are the monitoring of Maltese commitments on the Accession Partnership and the National Programme for the Adoption of the Acquis as well as trade-related issues (mutual concessions on trade in agricultural produce and processed agricultural products).

Since the Commission's last Regular Report, the Joint Parliamentary Committee comprising representatives of the Maltese and European Parliaments met in November 2001 in Brussels and in April 2002 in Malta. A study visit to Malta by members of the Economic and Social Committee took place in March 2001. It was followed by the publication of a report in July 2001 giving the "Opinion of the Economic and Social Committee on Malta on the road to accession". The President of the Committee of the Regions visited Malta in January 2002.

The EC remains Malta's principal trading partner, accounting for around 41.7% (€1.2 billion) of Malta's exports and 63.4% (€2.4 billion) of its imports in 2001, as compared to 33.5% and 59.9%, respectively, in 2000. This change in trade patterns is largely due to fluctuations in the activity of the country's main electronics manufacturer, which accounts for approximately 60% of the total manufacturing exports, and trades extensively with Asia and the United States. Malta imports mainly semi-finished industrial supplies and exports mainly electronic equipment.

In February 2002, the Council adopted a mandate authorising the Commission to enter into negotiations with Malta with a view to improving reciprocal agricultural trade concessions. Proposals were presented to Malta along the lines of the approach adopted with the countries of Central and Eastern Europe in the "double profit" negotiations.

Malta has continued to implement a plan to dismantle by 2003 all levies on products imported from the EC, except for agricultural produce. An agreement between the EC and Malta on mutual concessions with regard to trade in fish and fishery products was signed in December 2001 and entered into force in January 2002. It has been adopted as an additional protocol to the Association Agreement.

---

<sup>1</sup> For the European Parliament the *rapporteur* is Ursula Stenzel.

In March 2002, in response to protectionist measures taken by the US, which greatly restricted access to their market and created the risk of considerable trade diversion, the EU initiated provisional safeguard measures, with erga omnes effect, on imports of certain steel products. The measures were partly confirmed in September 2002.

### *Accession Partnership*

A revised Accession Partnership was adopted in January 2002. Its implementation is reviewed in Part D of this Report.

### *Action Plan for reinforcing administrative and judicial capacity*

As announced in the Commission's 2001 Enlargement Strategy, in spring 2002 the Commission and Malta jointly developed an Action Plan to strengthen Malta's administrative and judicial capacity, on which a common understanding was reached in March 2002. The revised Accession Partnership adopted in January has served as the point of departure for this exercise.

The purpose of this Action Plan is to identify jointly the next steps required for Malta to achieve an adequate level of administrative and judicial capacity by the time of accession, and ensure that all necessary measures in this regard are taken, providing Malta with targeted assistance in areas that are essential for the functioning of an enlarged Union. As such, the Action Plan is a key tool for meeting the common objective of the EU and Malta, i.e. to ensure that Malta's preparations for accession take place as effectively as possible within the planned time frame.

The implementation of the Action Plan is reviewed in Part D of this Report.

### *National Programme for the Adoption of the Acquis*

Malta submitted an updated version of the National Programme for the Adoption of the Acquis (NPAA) to the Commission in December 2001.

### *Community Assistance*

In response of a request made by the Council in March 1999, the Commission proposed a pre-accession regulation for Malta in October of the same year. The Council approved the regulation on the implementation of operations within the framework of the pre-accession strategy for Malta in March 2000.

It provided for pre-accession aid to Malta totally €38 million for the 2000-2004 period, to be used mainly for institutional capacity building and participation in Community programmes. The regulation also provided for Malta's participation in MEDA regional programmes. In addition, Malta is eligible for the EIB pre-accession facility and for the € 6.425 billion EIB facility for Mediterranean countries.

In 2002, the total pre-accession aid allotted to Malta was €9.5 million. The programme focused on the following priorities: Establishing Institutional Capacity in the Environment Sector (€0.7 million); Veterinary Control - Animal / Public Health (€0.6 million); Capacity building at the Plant Health Department (€0.9 million); Setting up the

Viticulture Unit (€0.5 million); Strengthening Fisheries and Monitoring Control (€0.4 million); Reinforcement of maritime safety (€1.7 million); Setting up the Medicines Authority (€0.9 million); Technical Assistance and Administrative Co-operation (€1.6 million); Trans-European Networks feasibility studies (€1 million); Malta's participation in EC education programmes (€1.2 million)

Malta participates in and benefits from multi-country and horizontal programmes, such as TAIEX. It is also a participant in the Community education programmes, SOCRATES, LEONARDO and YOUTH, in the Multi-annual Programme for Enterprises and Entrepreneurship and in the Research Framework Programme. It takes part in MEDA regional programmes such as EUMEDIS (Information Society) and SMAP (Environment). Finally, following the ratification and entry into force of the agreement, Malta affiliated to the European Environment Agency in January 2002.

To streamline Community legal procedures and thereby facilitate Malta's future participation in Community programmes, an agreement has been concluded between the European Community and Malta which lays down the general principles governing such participation.

The pre-accession aid granted in 2000 and 2001 is having an impact on administrative capacity, notably in the fields of customs and tax on the one hand, and occupational health & safety on the other. Projects in other sectors, including asylum and border management, regional policy and the new and global approach in the area of standardisation, are comprehensive and address all shortcomings gaps and needs in their respective areas.

The 2000 Phare Review, whose conclusions also apply to Malta's pre-accession programmes, confirmed the accession-driven approach and emphasised the importance of helping countries to prepare for the Structural Funds. The Review envisages full decentralisation of the management of the pre-accession funds from 2002 if the strict pre-conditions set down in Co-ordination Regulation No 1266/99 are met. Secondly, the pre-accession funds can be programmed on a multi-annual basis in future if supporting strategies are in place. Thirdly, the trends which have already emerged will continue with an increased role for Delegations, further streamlining of procedures and increasing emphasis on defining the verifiable and quantifiable benchmarks of pre-accession projects in institution building, investment in compliance with the *acquis* and economic and social cohesion.

### *Twinning*

One of the main challenges still facing the candidate countries is the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning administrations and agencies. In 2001, the Commission strengthened this emphasis on institution building further, through the launch of the Action Plans for strengthening administrative and judicial capacity.

The twinning process makes the vast body of Member States' expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

A total of 503 twinning projects were funded by the Community between 1998 and 2001. Between 1998 and 2000, these projects primarily targeted the main priority sectors identified in the Accession Partnership: agriculture, the environment, public finance, justice and home affairs and preparation for the management of Structural Funds. Since 2000, other important sectors of the *acquis* have also been addressed through twinning, such as social policy, the fight against drugs, transport, and telecommunications regulation. Twinning now covers all sectors pursuant to the *acquis*.

Thanks to the strong support of the EU Member States, 103 twinning partnerships were funded by Phare 1998, involving all the candidate countries and almost all the Member States. These first-generation projects have already come to an end. Under Phare 1999 a further 123 projects are currently being implemented and the programming exercise for Phare 2000 included a further 146 twinning projects. The 2001 programming exercise includes 131 twinning projects embracing all the Phare beneficiary countries, as well as Cyprus and Malta. Under the 2002 programming exercise, 119 twinning projects have already been planned and approved for implementation. A substantial number of additional twinning projects are planned, and these should be approved and implementation launched before the end of 2002. They include twinning projects identified in the Action Plans for strengthening administrative and judicial capacity in the negotiating countries. It is estimated that around 300 twinning projects are operational throughout the candidate countries at any one time. Furthermore, the candidate countries are being offered a further way of drawing on Member States' expertise through "Twinning light", a mechanism to address carefully-circumscribed projects of limited scope which emerge during the negotiation process as requiring adaptation.

In Malta, four twinning projects have started under the 2000 and 2001 programmes, covering the following domains: agriculture (Integrated Administrative and Control System), Occupational Health and Safety; asylum and border management and regional policy. Five other twinning projects are due to start in the coming months, covering the environment, veterinary inspection, phytosanitary legislation, viticulture and the setting up of a medicines authority.

### *Negotiations*

Since the opening of the accession negotiations, substantial discussions on the individual chapters of the *acquis* have been launched, and negotiations on all chapters (apart from Chapter 31 – Other) have been opened.

By the end of September 2002, the following 25 chapters have been provisionally closed: Industrial Policy, SMEs, Science & Research, Education & Training, Culture & Audio-visual policy, Common Foreign & Security Policy, External Relations, Telecommunications, Company Law, Economic & Monetary Union, Consumers and Health Protection, Financial control, Energy, Free movement of Goods, Freedom to provide services, Free movement of persons, Transport, Environment Free Movement of Capital, Statistics, Social Policy and Employment, Justice and Home Affairs, Institutions, Fisheries, Regional Policy.

## **B. Criteria for membership**

### **1. Political criteria**

#### *Introduction*

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”<sup>2</sup>

In its 1999 Update of its Opinion on Malta's application for membership, the Commission concluded:

*“Malta’s institutions function normally and there are no problems regarding human rights and the protection of minorities. Furthermore, there are no apparent weaknesses in the judicial system. However efforts are required to improve the efficiency and effectiveness of the civil service.”*

In its 2001 Regular Report, the Commission found that:

*“Malta continues to fulfil the Copenhagen political criteria. Further efforts have been made to prepare the administration for operation within the EU, and the authorities’ record on democratic and human rights remains generally good.*

*There has been further progress as regards the functioning of the justice system with the reduction of the backlog of judiciary cases and preliminary steps have been taken to implement the Refugees Act.”*

The section below provides an assessment of developments in Malta, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country’s executive and its judicial system. Such developments are in many ways closely linked to developments regarding Malta’s ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Malta's ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 – Co-operation in the field of justice and home affairs*) of part B.3.1. of this Report.

---

<sup>2</sup> In the meantime, through the entry into force of the Treaty of Amsterdam in May 1999, the political criteria defined at Copenhagen have been essentially enshrined as a constitutional principle in the Treaty on European Union. Article 6(1) of the consolidated Treaty on European Union reads: "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law." Accordingly, Article 49 of the consolidated Treaty stipulates that "Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union." More recently, these principles were emphasised in the Charter of Fundamental Rights of the European Union, that was proclaimed at the Nice European Council in December 2000.

### *Recent developments*

Like last year, EU accession has remained high on the political agenda of the government, while the opposition continues to express its dissent.

The Government has continued to seek to involve all interested parties and representative organisations in the decision-making process relating to the accession negotiations. This has been done both at the technical level and, more formally, in the context of the Malta-EU Steering and Action Committee.

#### **1.1. Democracy and the rule of law**

Malta has achieved stability of institutions guaranteeing democracy and the rule of law. This was the conclusion of the Commission's 1999 Update and the subsequent Regular Reports, and has been confirmed by developments over the past year. This section focuses on the most significant developments since the last Regular Report.

##### *The parliament*

The Parliament continues to function in full respect of democratic principles.

It has maintained a high workload because of the process of approximating Maltese legislation to the *acquis*. Ongoing discussions on the accession process continue to be held in the Foreign Affairs Committee of the House of Representatives, with the active involvement of both main parties.

##### *The executive*

During the past year, Malta has continued to take measures to improve the effectiveness and transparency of its public administration.

An Office of Review has been set up in every ministry so as to strengthen the capacity of ministries to initiate and implement the Public Service Change Programme. As part of the Government's strategic objectives, this programme covers EU-related initiatives, projects to improve service delivery, and ministry-specific initiatives. Each Office of Review is headed by a Director who reports to the Permanent Secretary of its ministry. In addition, all Offices have appointed an EU Co-ordinator and a Customer Care Co-ordinator. These are senior positions dealing primarily with EU-related projects and initiatives to improve the quality of service respectively.

The government, through the Ministry of Justice and Local Councils, has taken steps to implement its e-government strategy, notably through the launch of a government's service delivery portal. A number of services are already available online, including trade licence applications, applications for job vacancies advertised by the Employment and Training Corporation, a comprehensive database of Maltese laws, regulations and court judgements and the display of information on planning applications through a geographic interface. A Customer Care System has been launched. This is an automated system enabling local councils to receive and reply to requests and complaints from the public concerning Government services. An Internet interface will be added to the system in the future.

Eight new Quality Service Charters have been introduced, bringing to 38 the total number launched since 2000 when the Quality Service Charter Initiative was launched. The Charters constitute a written commitment by the government departments and other organisations involved to provide their customers with a quality service and to inform the public of available services and how to gain access to them. They also set out the standards of service that are to be expected by customers.

In January 2002 the government initiated measures to reform the recruitment of civil servants, with the aim of giving more responsibility to heads of department under certain conditions and under the supervision of the Public Service Commission.

An innovative type of public-private partnership has been adopted with the aim of avoiding redundancies in some categories of the Public Service workforce, by assigning staff to work under the direction of private firms engaged on government projects. The scheme is mainly used for works and services contracts awarded to private firms. The first call for expressions of interest from the private sector under this scheme was issued in October 2001.

The Performance Management Programme (PMP), a results-oriented employee appraisal system that applies to staff below senior management level, has been further developed. The Management and Personnel Office within the Office of the Prime Minister has undertaken compliance and quality audits on the use of the PMP in several ministries and departments. Training in PMP methodology has also been held for middle managers, particularly those newly appointed to this level.

The Ministry of Finance has launched an efficiency review initiative, with a view to improving the performance of government departments through benchmarking with comparable organisations in the private sector. In January 2002 the initiative was rolled out across Government and each ministry was requested to propose a benchmarking exercise for one of its departments.

The main duties of the *Ombudsman*, whose post was established in 1995, are to protect the rights of individuals in their dealings with the, to recommend appropriate redress where this is found to be justified, and to promote good governance and high administrative standards. The Ombudsman's main task is to deal with complaints received from citizens, but he also has the right to investigate matters on his own initiative without receiving a formal complaint. He is appointed by a two-thirds majority in Parliament, which guarantees independence. The number of new cases investigated by the Ombudsman in the past year has continued to be high at 698. At the same time the total number of cases closed in 2001 stood at 609. The number of cases still under examination has thus risen to 168. Although the Ombudsman can only make recommendations, the great majority of these have been taken up so far. Overall, the office of the Ombudsman continues to perform its duties well.

The latest round of local elections was held in March 2002 to elect 22 local councils. Turnout rose to 72% from 69% for the same constituencies three years earlier, reflecting the electorate's growing interest in the local councils.



## *The judicial system*

The Judicial system in Malta comprises Inferior Courts, Civil and Criminal Courts of Appeal, and a Constitutional Court. There is a legal aid scheme offered to citizens lacking the means to afford legal defence.

There has been further progress in reforming the judicial system.

The intended shift from the Civil and Magistrates' Court to the Small Claims Tribunal has materialised. Although the Tribunal's remit has been extended, particularly in the financial field, its pending caseload and throughput figures have been maintained at the previous level.

The first statistical report on lawsuits, "The Courts of Justice 2001", was published by the Ministry of Justice in April 2002. It provides data on the various courts and an analysis of pending cases. The strategy adopted to tackle the backlog of pending civil court cases<sup>3</sup>, the main planks of which are an increase in court fees and, as referred to above, a wider remit for the Small Claims Tribunal, continues to be successful. The figures show a drop in the number of pending civil cases from around 16 004 cases in December 2000 to 13 627 cases in December 2001, a 15% drop compared to the figure for the previous year.

However, the encouraging trend noted in previous Regular Reports, which showed a decreasing backlog of criminal cases, has not continued. The backlog of criminal legal actions in courts of all levels has risen from 7 793 in December 2000 to a total of 8 282 in December 2001.

As already stated in past reports, the principle of the separation of powers is fully applied in Malta. Members of the judiciary are wholly independent of the executive.

However, the procedure for challenging judges and magistrates provided for by Article 738 of the Code of Organisation and Civil Procedure must be examined to check whether it complies with the principle of an impartial tribunal enshrined in the European Convention on Human Rights.

Furthermore, in the context of preparations for accession to the EU, Malta would benefit from an efficient system of training in EC legislation for members of the relevant legal professions.

Overall, there has been progress in the administrative reform of the law courts and an improvement in the functioning of the Maltese judicial system. The continuing fall in the backlog of pending civil cases is encouraging. Efforts must however be pursued to ensure long-term improvements, in particular as regards the management and executive structure of the courts, so as to guarantee efficient and expedient court procedures. Due attention should also be given to tackling the backlog of criminal cases and to training the judiciary in EC legislation.

---

<sup>3</sup> The backlog of court cases is defined as the number of cases waiting to be heard by the courts.

### *Anti-corruption measures*

There have been positive developments in this area over the past year, with the adoption of legislation strengthening fight against corruption and of a Regulation setting up an independent Public Contracts Appeals Board. However, no improvement has been noted in the effectiveness of the Permanent Commission against Corruption.

*Corruption* is an offence under the Maltese Criminal Code. Following amendments to the Criminal Code in May 2002, the distinction between the public and the private sectors, as regards corruption, was removed. Where a government employee or a body established by law is found guilty of corruption, the government or the corporate body would be liable for damages caused.

In a recent development, two judges, including the chief justice, tendered their resignation from the judiciary after being charged with accepting bribes. They are being tried.

The Public Service Management Code issued by the Management and Personnel Office at the Office of the Prime Minister contains a code of conduct for public servants. This aims to create a culture of integrity and excellence by providing and updating guidelines on ethics and conduct for public servants.

Sections 55 and 56 of the Maltese Constitution contain provisions to avoid possible conflicts of interest for Members of the House of Representatives who are party to a government contract. A Code of Ethics of Members of the House of Representatives has been in place since 1995. It establishes standards of correct behaviour which Members are expected to observe.

Malta has taken steps to improve the openness and transparency of its procurement legislation by adopting, in April 2002, a Regulation providing for the setting up of an independent Public Contracts Appeals Board. This will put an end to the current situation, where the Department responsible for public procurement also hears complaints about the fairness or transparency of particular procurement processes. However, further alignment with the EC public procurement *acquis* is still needed and would improve the overall transparency of public procurement in Malta.

There is no specific anti-corruption programme in Malta. As indicated in earlier Reports, the Permanent Commission against Corruption was created in 1995 to investigate alleged or suspected corrupt practices in the public sector, i.e. acts constituting an offence under the Criminal Code. Although the staff of the Permanent Commission has been increased by one part-time clerk, there have been no significant changes since last year in its functioning and effectiveness, and the actual impact of its work remains low. The number of cases initiated by the Commission has further decreased from 66 in 1994 to 13 in 2000, and 12 in 2001. The number of cases closed has remained relatively high at 36 in 2001 (39 in 2000), and consequently the backlog has fallen. As mentioned in last year's Regular Report, the Commission's reports are confidential and are handed over to the Minister of Justice, who decides whether to make them public and whether or not to bring a legal action against the person(s) incriminated, which reduces their impact. The Government needs to take appropriate measures to ensure the effectiveness of the Commission in its fight against corruption.

Malta has ratified the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime, and signed but not ratified the Council of Europe's Criminal Law Convention on Corruption. It has not yet signed the Council of Europe's Civil Law Convention on Corruption, which opened for signature in 1999.

Having been a member of the Council of Europe's Group of States against Corruption (GRECO) since May 2001, Malta received a group of experts from GRECO on an evaluation mission in March 2002; the evaluation report has not yet been adopted.

## **1.2. Human rights and the protection of minorities**

Malta continues to respect human rights and freedoms. This was the conclusion of the Commission's 1999 Update and the subsequent Regular Reports, and has been confirmed over the past year. The following section focuses on the most significant developments since the last Regular Report.

Malta has ratified most of the major human rights instruments, including the European Social Charter. Positive developments over the past year have been the ratification of Protocols 4 and 13 to the European Convention on Human Rights. Malta has also withdrawn its reservations with regard to the Geneva Convention on Refugees. However, it has not yet signed the revised European Social Charter. It has not agreed to be bound by the Additional Protocol providing for a system of collective complaints. Neither has it signed Protocol 7 to the European Convention on Human Rights.

Malta has amended its Criminal Code and introduced the crime of incitement to racial hatred and racist behaviour as well as new rights for victims of racist behaviour. This is a positive development. Malta still needs to ensure full transposition and implementation of the *acquis* on anti-discrimination based on Article 13 of the EC Treaty (*see Chapter 13 - Social policy and employment*).

### *Civil and political rights*

There has been further progress during the past year as regards the rights of refugees and the legislation regarding trafficking in human beings.

An amendment to the Criminal Code to make provision for the offence of *trafficking in human beings* was adopted in April 2002.

In December 2001, Malta withdrew the geographical limitation on *refugees*, introduced when it signed the United Nations Convention on the Status of Refugees in 1971. Despite the limitation, Malta had always in fact provided shelter to refugees irrespective of origin.

A new Immigration Reception Centre was inaugurated in February 2002. It can accommodate both temporary immigrants and those awaiting the outcome of applications for refugee status. The new premises are part of the Government's strategy to protect the country from illegal immigrants, while affording them the best possible treatment while in Malta. The number of *asylum* applications received by the Refugees Commission in the past year has increased to 235 from 113 in the previous year. The number of recognised refugees in Malta stands at 153.

The *freedom of expression* is enshrined in the Maltese Constitution and continues to be well respected. The same applies to the *freedom of association and assembly*.

All persons in Malta continue to enjoy *freedom of conscience* and *freedom of religion*, both being enshrined in the Maltese Constitution.

Basic civil and political rights continue to be respected in Malta. Arrangements for refugees are being improved, although administrative capacity needs to be further enhanced in that area. The conclusion of the previous Regular Reports, that there are no significant problems regarding the observance of fundamental human rights and freedoms, remains valid.

### *Economic, social and cultural rights*

Developments over the past year in this area have been rather limited.

Malta still has to bring its legislation fully into line with the *acquis* in the field of *equal opportunities* (see Chapter 13 – *Social Policy and Employment*). It has pursued its efforts to improve the situation in the field of equal opportunities, with the publication of a White Paper on Gender Equality in March 2002. However, no legislative progress has been made in the past year. The situation is satisfactory with respect to access to education. Women's parliamentary representation in Malta has been rather low in the past and stands at 9% of the seats in the current Parliament. At the last local elections in March 2002, 17% of councillors elected in all constituencies were women. There is one woman in the Maltese government, out of 14 Ministers. Women's employment rate remains much lower than men's. The Government is pursuing its efforts to promote gender mainstreaming within the public sector in order to ensure that the gender equality perspective is incorporated in all policies and at all levels in the public administration. Sustained efforts continue to be needed to improve gender equality, in particular as regards employment and politics.

Malta has signed the Optional Protocol to the Convention on the *Rights of the Child* related to the Involvement of Children in Armed Conflict. As highlighted by the United Nations Committee on the Rights of the Child, due attention needs to be given to ensuring that all of the Convention's provisions are enforced.

As regards *persons with a disability*, there have been some developments since the last Regular Report. Following the adoption of the Equal Opportunities Act last year and the establishment of the National Commission for Persons with Disability as a separate legal entity, the Commission has started to address complaints of discrimination. To ensure that the Act's provisions are properly enforced, these activities need to be further developed, as does the Commission's capacity.

*Trade unions* are powerful and well organised in Malta and workers' right to take collective action is well established. However, Malta still does not comply with some of the provisions of the European Charter of Social Rights, as indicated in the assessment made last year by the European Committee on Social Rights. The two main issues are the possibility for one party in a dispute to request the Minister to refer the dispute to compulsory arbitration and the social rights of nationals of other contracting parties not regularly working (but lawfully present) in Malta.

Although there continues to be room for improvement as regards gender equality (in the areas of employment and politics) and with respect to social dialogue, the overall situation with regard to economic, social and cultural rights is satisfactory.

### *Minority rights and the protection of minorities*

As in previous years, no significant problems have been reported with respect to the status and situation of immigrants in Malta, who represent approximately 1% of the population.

A positive development was the amendment of the Criminal Code to criminalise racist behaviour, as reported above.

Malta is a party to the Council of Europe's Framework Convention for the Protection of Minorities. In November 2000, the Advisory Committee on the Convention expressed concern over some alleged cases of discrimination. In November 2001<sup>4</sup>, the Council of Europe's Committee of Ministers concluded that the ratification of the Framework Convention by Malta was to be welcomed, and that there remained potential for the application of some of its provisions. This was confirmed by a report on Malta published by the European Commission on Racism and Intolerance in July 2002, which concluded that "despite a widely-held perception in Malta that problems of racism and discrimination are not a major issue, incidents of discrimination...suggest that further steps need to be taken. Malta is encouraged to duly address the matter. The adoption of comprehensive anti-discrimination legislation would be an important step forward.

### **1.3. General evaluation<sup>5</sup>**

The Commission has repeatedly concluded that Malta fulfils the political criteria. This was the conclusion of previous Regular Reports, and has been confirmed over the past year. Malta continues to fulfil the Copenhagen political criteria.

Malta has taken further measures to improve the quality of the civil service as well as of the judicial system.

Malta continues to respect human rights and freedoms. It has made further progress by improving its legal framework in the area of asylum, the fight against racism and the fight against trafficking in human beings.

---

<sup>4</sup> Resolution Res CMN (2001)7 of 27 November 2001.

<sup>5</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

## **2. Economic criteria**

### **2.1. Introduction**

In the 1999 update of its Opinion on Malta's application for EU membership, the Commission concluded:

“Malta will need to build up a track record in the establishment of a stable and sound macroeconomic environment and implementation of reform and liberalisation. Given the small size of its economy, Malta should be able to address these issues in an appropriate way and hence become successfully integrated with the European economy”.

In its 2001 Regular Report, the Commission found that:

“Malta is a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union.”

In examining economic developments in Malta since the first Regular Report, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires:

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

In the analysis below, the Commission has followed the methodology applied in the previous annual Regular Reports. The analysis in this year's Regular Report takes stock of developments since 1997.

### **2.2. Summary of economic developments since 1997**

*Malta's macroeconomic performance has improved since 1997, although economic activity slowed down markedly in 2001, largely as a result of the downturn in international demand.* Real GDP growth averaged 3.4% in the period 1997-2001, but fell by 0.8% in 2001. The deceleration was largely caused by the international economic downturn. Electronics and tourism, Malta's two main export sectors, were particularly badly hit by the crisis in the information and communication technology (ICT) sector and the consequences of the 11 September attacks. The average current account deficit since 1997 has been high at 7.1% of GDP, but it oscillated between 3.4% in 1999 and 14.8% in 2000. The large swing was due to several one-off factors in 2000 that were absent in 2001, when the deficit fell to 4.8% of GDP, better reflecting the underlying trend of the current account deficit since 1997. Annual average inflation remained relatively moderate at 3.6%, to an extent reflecting the strength of the peg and moderate wage increases. Nevertheless, price controls kept inflation artificially low during some periods. The average general government deficit was very high at 8.8% of GDP, although it has been on a declining trend from its 10.8% peak in 1998. The decreasing trend was interrupted in 2001, when the deficit remained stable at 7% of GDP. Reforms to decrease public expenditure are necessary to guarantee fiscal sustainability in the medium term, but they are progressing slowly: in particular, an agreement on pension reform has not yet been

reached. Job creation has been increasing since 1997, mainly driven by several dynamic private sub-sectors, and has helped to keep unemployment relatively low, despite ongoing enterprise restructuring.

Main Economic Trends								
Malta		1997	1998	1999	2000	2001	Average	2002 latest
Real GDP growth rate	per cent	4.9	3.4	4.1	5.5	-0.8	3.4	1.4 Q1
Inflation rate	<sup>a</sup> per cent	6.4	3.7	2.3	3.0	2.5p	3.6p	:
- annual average								
- December-on-December	per cent	7.1	2.9	4.4	1.0	3.6	3.8	1.8 July
Unemployment rate	<sup>b</sup> per cent	5.6	5.6	5.8	6.5	6.5	6.0	7.7 Q1
- LFS definition								
General government budget balance	per cent of GDP	-10.7	-10.8	-8.3	-7.0	-7.0p	-8.8p	
Current account balance	per cent of GDP	-6.0	-6.3	-3.4	-14.8	-4.8	-7.1	
	Million ECU/€	-175	-194	-116	-576	-191 <sup>d</sup>	-250	-33 Jan.-March <sup>d</sup>
Gross foreign debt of the whole economy	<sup>c</sup> per cent of exports of goods and services	80.4	84.0	123.6	177.9	182.3	129.6	
- debt export ratio								
	Million ECU/€	1,984	2,284	3,812	7,125	6,402	4,321	
Foreign direct investment inflow	per cent of GDP	2.4	7.7	22.6	18.1	8.8	11.9	
- balance of payments data								
	Million ECU/€	71	238	770	707	350 <sup>d</sup>	427	:

Sources: Eurostat. National sources. OECD external Debt Statistics

<sup>a</sup> Index not yet harmonised

<sup>b</sup> Administrative records until 1999. Largely EU-harmonised LFS as from 2000

<sup>c</sup> Less liabilities due to International Banking Institutions

<sup>d</sup> Source: Website of the Statistical Office.



*Structural reforms are under way in several sectors, though progress has sometimes been slow and reforms need to be completed.* Significant progress has been achieved as regards trade liberalisation. A programme launched in 1999 to remove levies on imported products (except some agricultural and agri-food products) over a period of three years is progressing as planned. The removal of protective tariffs has significantly increased pressure for reform in the enterprise sector. The present system of price controls is being overhauled, although some price orders are still in place. Interest rates were fully liberalised in 2000, and the liberalisation of capital movements is under way. Most remaining controls concern short-term capital movements. A privatisation programme has been in place since 1998. Substantial privatisation has been achieved in the banking and telecommunications sectors, but progress has been slow in most areas compared to the original plans. The process of restructuring large loss-making public enterprises and public utilities is progressing at a slow pace. An important initial step to restructure the shipyards was taken in 2001 in the form of an early retirement scheme.

*Malta's income levels have remained constant in relation to the EU average.* Malta has a relatively low economic activity rate, at 58% in 2001, and a very low female participation rate in the labour market. The total employment rate in 2001 was 54.2%, which hides a very low employment rate for women of 31.6%, compared to 76.4% for men. Higher female participation would allow the economy to confront labour shortages in some sectors. Differences between female and male unemployment rates are less acute. The unemployment rates for males and females were, respectively, 6% and 7.8% in 2001. Registered unemployment declined in 2000 and remained relatively low at 5.1%<sup>6</sup> in 2001, below the 1997 level of 5.6%. The share of long-term unemployment in total unemployment was 43.8% in 2001. The youth unemployment rate was 15.4% in 2001.

---

<sup>6</sup> Labour market statistics based on labour surveys in accordance with ILO guidelines are only available for 2000 and after. The unemployment rate according to ILO definitions was 6.5% in December 2001.

<b>Main Indicators of Economic Structure in 2001</b>		
Population (average)	Thousand	394,5 <sup>c</sup>
GDP per head <sup>a</sup>	PPS	:
	per cent of EU average	:
Share of agriculture <sup>b</sup> in:		
- gross value added	per cent	2.4
- employment	per cent	2.2
Gross fixed capital formation/GDP	per cent	23.2
Gross foreign debt of the whole economy/GDP <sup>d</sup>	per cent	179.2
Exports of goods & services/GDP	per cent	87.8
Stock of foreign direct investment	Million €	:
	€per head <sup>a</sup>	:
Long term unemployment rate	per cent of labour force	2.8

<sup>a</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>b</sup> Agriculture, hunting, forestry and fishing.

<sup>c</sup> Total Population (Maltese & Foreigners).

<sup>d</sup> Data refer to 2000.

### **2.3. Assessment in terms of the Copenhagen criteria**

#### *The existence of a functioning market economy*

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

*There is a broad consensus on the fundamentals of economic policy, though the divergence of opinion on EU accession between the two main political parties creates uncertainty about the continuation of certain reforms.* There is overall consensus about the need for economic reforms such as reducing subsidies to loss-making public enterprises or increasing efficiency in the public sector, but it is unclear whether some areas of reform which are particularly linked to EU membership would keep up their momentum under a change of government. There is good co-operation between line ministries and the Ministry of Finance, and between the monetary authorities and the government. The government has a satisfactory track record in keeping to announced policies, even though some announced reforms have not progressed at the expected pace. In August 2002, the government submitted to the EC the second Pre-Accession Economic Programme (PEP). The PEP is compiled by the Ministry of Finance and the Ministry for Economic Services and receives important inputs from institutions including the Central Bank and the National Statistics Office. Since the government approves the PEP, it represents a firm political commitment.

*A combination of domestic and external factors has determined real economic growth in recent years.* Strong foreign demand induced robust export growth until 2000. The steady export growth trend was interrupted in 2001 and the first quarter of 2002, as two external shocks impacted strongly on the economy, namely the lower international demand for electronics and lower activity in the tourism sector. Domestic demand was a leading factor for growth in 1999 and 2000, led by private consumption and investment growth, after a weak performance in 1997 and 1998. Private consumption growth slowed down sharply to 0.2% in 2001, affected by lower non-wage income and by international economic uncertainty, but it picked up and reached 6.3% in the first quarter of 2002. The contribution to growth of gross fixed capital formation has been very uneven. After decreasing in 1997 and 1998, fixed investment growth increased sharply and peaked at 18% in 2000, but contracted by 12.4% in 2001. This wide fluctuation largely reflects a one-off equipment renewal by the major electronics firm in 2000, but it also hides considerable investment growth in 1999 and 2000 in the private manufacturing sector in the wake of economic liberalisation, and in the construction industry. Economic uncertainty in 2001 led to delays in investments in the private sector.

*Strong export performance over most of the period widely reflects growth in the more open and competitive sectors.* Increasing export activity by foreign companies has been a leading factor in export growth and the gradual decrease of the trade deficit as a percentage of GDP (with the exception of 2000). The trade balance deteriorated markedly in 2000, as a result of higher international oil prices and a sharp increase in capital goods imports by the electronics industry. Both imports and exports decreased in 2001 and the first quarter of 2002, as the tourism and electronics sectors were negatively affected by

international developments. Imports of goods decreased faster than exports and led to a notable improvement in the visible trade gap. Preliminary customs data suggest a recovery of external trade, as positive growth of imports and exports of goods was registered in May, for the first time in 2002. The services balance deteriorated steadily until 2000 reflecting, to an extent, higher competition from other tourism destinations. The average current account deficit has remained high at 7.1% of GDP. The average is pulled up by a very high peak of 14.8% of GDP in 2000, led by a number of one-off factors, mainly linked to investment in the electronics sector and to higher oil prices. The lack of those factors in 2001, together with a faster decrease in imports than in exports, were the main reasons for a contraction in the deficit to 4.8% of GDP. The current account deficits have been financed to a significant extent by net foreign direct investment inflows and reinvested earnings.

*Unemployment has remained relatively low, as the labour market seems to be coping well with enterprise restructuring.* Despite the 2001 economic slowdown, unemployment remained fairly stable at 6.5%. The labour market seems to have been able to absorb redundant labour from enterprise restructuring. Although there have been job losses stemming from restructured and bankrupted enterprises, they have been largely compensated by growing sectors. Nevertheless, the impact of enterprise restructuring has been relatively high in the first quarter of 2002. The closure of two manufacturing companies and lower seasonal employment in the services sector generated an increase of the unemployment rate to 7.7% in March. The private services and construction sectors have shown the highest employment growth, but the private manufacturing sector has also been dynamic in creating new jobs.

*Average inflation has remained relatively low, although price controls have kept it artificially low in some periods.* The exchange rate peg has been successful in keeping inflation fairly close to that of Malta's major trading partners, while moderate wage increases and the removal of import levies attenuated domestic inflation pressures. Preliminary estimates of the harmonised index of consumer prices (HICP) show that inflation declined from 6.4% in 1997 to 2.3% in 1999. The trend was interrupted in 2000, as several taxation changes and fiscal measures drove inflation to 3%. The high increase in international oil prices experienced in 2000 was not reflected in inflation, as the higher prices were not passed onto the consumers by the state energy monopoly. Inflation decreased to 2.5% in 2001, led by lower private consumption growth in spite of a wage increase in the public civil service, and by low imported inflation. Nevertheless, inflation started an increasing trend at the end of 2001, reaching 3.6%<sup>7</sup> in March 2002, mostly led by higher food prices. It decreased slightly to 3.4% in July.

*The exchange rate peg has proved to be a successful nominal anchor for macroeconomic stability over time, and monetary policy has been conducted with a view to supporting the peg without facing significant pressures.* During 1998 and 1999, the interest rate differential between Malta and the EU widened, triggering capital inflows. The trend reverted in 2000, when capital liberalisation continued and interest rates rose abroad, leading to significant portfolio outflows. Monetary policy was unchanged as most of these factors were seen as temporary. In 2001 and the first quarter of 2002, capital inflows increased and led to a recovery of international reserves. The Central Bank of Malta (CBM) relaxed monetary policy several times in 2001 but kept a relatively high

---

<sup>7</sup> Retail Price Index.

premium over the currencies represented in the basket. The global economic slowdown, lower interest rates abroad, the deceleration of domestic demand and lower pressures on external reserves allowed monetary policy to ease in 2001. The liberalisation of capital movements is decreasing the capacity of the CBM to lead an autonomous monetary policy under the present fixed exchange rate system. Monetary policy remains committed to support the peg, which has been a successful anchor for maintaining relatively low inflation in Malta. This might require a more active use of interest rates in order to guarantee a certain level of international reserves, in response to interest rate developments in those currencies represented in the basket. The amendment of the CBM Act to establish price stability as its primary objective was approved by Parliament in July 2002 and will help to maintain confidence in the fixed peg. In order to reflect better Malta's current and future external trade trends, the monetary authorities revised the weight of the currencies included in the Maltese lira basket on 23 August 2002. The new weights of the currencies in the basket are 70% for the euro, 20% for the pound sterling and 10% for the US dollar.

*The declining trend of the general government deficit was interrupted in 2001, though the government remains committed to consolidating the public finances.* The general government deficit, according to EU standards (ESA95), decreased from 10.7% of GDP in 1997 to 7% in 2000. The general government primary deficit has been improving steadily, although the improvement was only marginal in 2001. The tax collection system has been enhanced with the reintroduction of VAT in 1999 and with stronger enforcement of legislation and higher efficiency in tax collection, while controls on expenditure growth have been strengthened. In 2001, the deficit remained stable at 7% of GDP, as the economic slowdown affected revenues significantly, while an increase in public service wages and the postponement of several planned privatisation deals contributed to an increase in expenditure. In spite of the recent steps taken to control expenditure, spending pressures remain, for example in health and education and in agriculture, where the government is increasing expenditure to compensate for the negative impact of the removal of agricultural levies. A proposal for a pension reform was expected in 2001, but no agreement has been reached so far. The gross debt ratio increased steadily from 1999 to about 66% of GDP in 2001. The annual interest charges generated by government indebtedness ranged from 3.3% of GDP in 1998 to 3.9% in 2001.

*The increasingly liberalised macroeconomic environment raises new challenges for the policy mix.* The liberalisation of capital movements is increasing the country's exposure to fluctuations of capital flows, while draining the CBM's capacity to conduct an autonomous monetary policy under the exchange rate peg. This leaves monetary policy focusing on safeguarding the exchange rate system as a way of guaranteeing stability, which might require higher relative interest rates to guarantee an adequate level of reserves. Fiscal policy needs to be sufficiently firm to curtail external imbalances by restraining excessive consumption. As price controls are being reduced, a too expansionary fiscal policy would also exert more upward pressure on inflation.

*The price system is being gradually overhauled.* Relative prices are still distorted by price controls in some areas. Some services offered by public companies such as the energy monopoly (Enemalta) or the Water Services Corporation remain subject to direct price controls by the government. Prices of electricity and water have been progressively adjusted since 1999 to better reflect the cost of production. Oil prices remained fixed until 2001, despite the marked international oil price increases in 2000. A process of

gradual liberalisation of fuel prices started in November 2001, aiming at linking them gradually to world market prices. Although price controls involve approximately the same items of the RPI as in 1997, the prices of some of those items now better reflect the reality of a market economy, as some subsidies have been scaled down. The largest share of price controls, expressed as a percentage of expenditure, remains in the public utilities, although cigarettes, tobacco, and some food items remain subject to controls and account for a significant share of total consumption.

*The private sector has slightly increased its weight in the economy since 1997 and has been dynamic as regards job creation, but the public sector still absorbs a high share of total employment.* The private sector accounted for about 64% of total employment in 2001, up from 62% in 1997. In general, there are no particular difficulties in the land and housing market, except those related to the scarcity of land in a small island with a high density of population.

*Privatisation of public enterprises remains slow, despite substantial progress in the banking sector and the partial privatisation of telecommunications and postal services and the airport.* A White Paper was published in 1999, setting out a strategy to privatise public enterprises over a period of five years. The privatisation of the banking sector was largely accomplished in 1999 with the sale of Mid-Med Bank to a foreign investor. Only 25% of one commercial bank is still held by the government. Progress has been slower in most of other sectors identified in the White Paper. In the beginning of 2002, 35% of Maltapost shares were sold to a subsidiary of New Zealand Post, which holds a management agreement for Maltapost. An agreement has been reached for the privatisation of 40% of Malta International Airport. The Privatisation Unit, set up in 2000, started preparations for the privatisation of a number of companies, including the Malta Freeport, the Lotto, the Malta Offshore Bunkering Company, the Kordin Grain Terminal, and the remaining government stakes in Bank of Valletta and in Maltacom. A combination of technical problems and negative international developments held back the process. There are no short-term plans to privatise public utilities.

*There are no significant barriers to market entry or exit in Malta, and the legal framework supports the functioning of the market economy.* The number of newly registered companies stood at 1617 in 2001, down from 1886 in 2000. Bankruptcy laws have been in place and implemented for a long time. The process for approving new businesses and for dissolving existing businesses is in general considered to be long and burdensome by small enterprises.

*The legal system successfully guarantees the enforcement of laws and contracts.* There is a competent and independent judiciary, and property rights are clearly established. There are no particular legal problems related to the judicial system that would pose a threat to the entrepreneurial or investment climate.

*The financial sector is becoming more developed, the regulatory and supervisory environment has been strengthened and financial diversification has increased in the wake of capital liberalisation.* Financial intermediation is in general well developed in Malta. Total deposits of commercial banks<sup>8</sup> accounted for about 140% of GDP in 2001. Domestic credit to the non-bank private sector has grown significantly since 1997 and stands at around 100% of GDP. Investment funds and insurance business are expanding

---

<sup>8</sup> Excluding international banking institutions.

as quantitative restrictions to invest in foreign capital markets are reduced. Market capitalisation of collective investment schemes was about 15% of GDP in 2001. The legislative framework has been strengthened in line with the opening up of the sector. The equities market is relatively well developed despite its small size; market capitalisation increased from 13% of GDP in 1997 to 38% in 2001, after a high peak in 2000. The capitalisation of listed government bonds increased from 38% of GDP in 1997 to 53% in 2001. Private pension funds and venture capital are not highly developed. The liberalisation of interest rates accomplished in 2000 is allowing a more efficient allocation of resources in the sector, as interest rates applied by banks better reflect the risk associated with their financial assets.

*Privatisation of the banking sector has been largely completed, and competition is relatively high despite the economy's small size.* The government plans to privatise its remaining 25% stake in a major bank in the next months. Despite a high concentration in the sector (two banks account for about 90% of total deposits and loans of domestic banks), the degree of competition is reasonable given the size of the economy. It is evidenced by the increasing range of financial products on offer and the relatively low spreads between interest rates on credits and deposits. New stricter directives on provisioning and classification of bad loans were introduced recently. Together with a stricter credit classification policy that was introduced by a privatised bank, this has contributed to a sharp increase in reported doubtful loans to about 20% of total loans. Close attention should be paid to the supervision of such loans, and necessary actions should be taken to reduce them. The responsibility for the supervision and regulation of credit and financial institutions was transferred from the Central Bank to the Malta Financial Services Centre (MFSC) in January 2002. The MFSC is now responsible for the supervision of banking, insurance and investment services.

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

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

*Malta enjoys a sufficient degree of macroeconomic stability to allow economic agents to take decisions in a climate of predictability.* Overall, market mechanisms work sufficiently well to permit an efficient allocation of resources. Macroeconomic stability has been reinforced since 1997 with the gradual reduction of the government deficit and the implementation of some structural reforms.

*Educational levels have been a key factor in attracting investment.* The Maltese workforce is, in general, highly educated. The language and technical skills have been important factors in attracting several foreign companies, mainly in the ICT sector. As some of these companies have expanded since 1997, demand for skilled technicians has

been strong and has led to shortages. The College of Arts, Science and Technology, established in 2000, aims at enhancing training in several areas and should guarantee a better match between skills offered and demanded. Trade liberalisation and industrial restructuring are increasing the need to continue improving the labour skills, in particular to keep Malta attractive as a centre for information technology companies.

*The ongoing economic transformation is increasing the need for reorienting labour market policies.* Increasing the overall employment rate is a major challenge, in particular for women and long-term unemployed. Other specific challenges are related to the need to redress low skilled workers who are likely to suffer job losses due to enterprise restructuring and to the need to adapt the workforce to new technological developments. New programmes are being designed to deal with these problems, in particular related with upgrading the skills of the labour force, although most of the initiatives are still at an early stage. Overemployment is evident in some areas of the public sector, which is being dealt with mostly through privatisation, the increasing use of private and public partnerships, and limiting new recruitment.

*Malta has a fairly good physical infrastructure, although it requires modernisation in some areas.* Gross fixed capital formation decreased steadily from 25.3% of GDP in 1997 to 23.2% in 2001, with a single interruption registered in 2000, when it increased to 26.2%. The spike was mainly explained by an equipment renewal by a major electronics company. A few infrastructure projects involving the private sector are being stepped up in 2002. Public infrastructure needs to be upgraded to cope with capacity needs in some of the public utilities (energy and water production and treatment), while road infrastructure is, in general, relatively poor. Investment in the Freeport also seems imperative to increase efficiency and competitiveness, as low efficiency leads to high fees for merchandise handling and transport and markedly increases the operating costs of the companies using the port. The tourism infrastructure needs to be upgraded in some areas in response to increasing international competition. The telecommunications infrastructure is fairly well developed. The number of fixed telephone lines has increased steadily from 1997 and the number of subscriptions to cellular mobile services has multiplied by fifteen. The number of internet subscriptions has increased by about 300% over the same period.

*Foreign direct investment (FDI) flows have to a large extent financed the current account deficits, but they have depended significantly on one-off factors.* The privatisation of a major bank in 1999 and large reinvested earnings by a single electronics company in 2000 contributed to large increases in FDI. However, FDI fell significantly in 2001, reflecting the lack of large one-off operations. Foreign direct investment inflows have contributed to developing modern and competitive productive infrastructure in some sectors which are already exposed to international competition, e.g. in the high technology, printing and medical equipment sectors. FDI has also been a key factor in the development of the banking sector after the privatisation of Mid-Med Bank in 1999.

*The restructuring process of public and private enterprises is ongoing, though the process is in general more advanced in the private sector.* Overall, the private sector is coping well with the process of economic liberalisation. Consolidation has increased in several sectors, such as in the retail and bottling business, where two bankruptcies occurred in 2001. Higher competition has also led to greater consolidation in some sectors. The agri-food sector is generally regarded as the sector that is most vulnerable to the impact of the removal of protective barriers. Overall, progress in restructuring loss-



making public enterprises has been slower. An important initial step towards restructuring the shipyards was taken in 2001 with the introduction of an early retirement scheme. It aims at reducing the workforce by about 1900 workers and at restoring financial viability in 7 years. About 680 workers had accepted the scheme by July 2002. Downsizing needs to continue, and investment will be carried out to refocus the activity towards more profitable business. Progress in restructuring other public entities is generally slow, especially as regards public utilities.

*The Maltese economy is primarily based on services, and the structure of the economy has remained fairly constant since 1997.* The share of services in total gross value added has averaged 69.7%. The share of manufacturing in 2001 was, at 24.5%, at about the same level as in 1997. A peak of 26.5% was reached in 2001 when manufacturing in the electronics sector increased remarkably. The share of agriculture in total value added accounted for 2.9% in 1997, declining to 2.4% in 2001. Construction accounted for 3% of total value added in 1997 and decreased to 2.5% in 2000, although a significant pick-up in construction activity in 2001 increased the share of construction to 2.8%.

*SMEs are a key contributor to growth in Malta.* There are about 23000 enterprises in Malta, of which about 21500 employ less than 10 people. Access to finance does not seem to have been a major problem for the development of SMEs, although the lack of collateral security and the recent introduction of stricter credit mechanisms may have restricted access to finance in some particular cases. A Technology Venture Fund with a capital of MTL 1 million (€2.5 million) has been set up within the Malta Development Corporation in order to provide seed capital for new technological initiatives.

*The degree to which government policy affects competitiveness has been reduced, but further efforts are necessary to decrease subsidies to public enterprises and utilities.* The progressive removal of import levies has forced enterprises to restructure and increase competitiveness. The system of price controls kept fuel prices artificially low in 2000, when international prices were increasing, and gave Maltese producers a competitive advantage. The level of subsidies to public enterprises remains high. The removal of the aid scheme to tourism operators this year is a step in the right direction. A positive step was taken in 2001 with the initial stage of restructuring of the shipyards but the pace of restructuring of public enterprise is, in general, slow. The high fees for clearance and transport of merchandise applied by the Freeport seem to constrain the competitiveness of Maltese enterprises, as they considerably increase the unit production costs of the port users. This could also hinder foreign investment decisions as regards new business establishments in Malta.

*Malta is a very open economy that is well integrated in terms of trade with the European Union.* Total trade, measured by the sum of imports and exports of goods and services, has remained over 85% of GDP since 1997, and peaked at above 100% in 2000, which largely reflects the high international demand for electronics products in that year. The share of the EU in trade of goods declined from 71.4% of imports and 54.3% of exports in 1997 to 63.6% and 41.3% respectively in 2000. If services are taken into account, the EU's shares in imports and exports increases significantly. Manufacturing exports are very concentrated in electronics, and the direction of trade of Maltese imports and exports is very much influenced by this sector. In particular, imports from and exports to Asia and the US have increased. Labour productivity in manufacturing increased significantly from 1997 and grew by 16% in 2000, coinciding with a large capital investment in the sector. The productivity increase in manufacturing outpaced a productivity decline in

market services. The consumer-price-index-based real effective exchange rate appreciated by about 11% vis-à-vis the euro in the period 1997-2001, but it only appreciated by 0.8% vis-à-vis 23 industrialised countries (including the euro area countries). This largely reflects the trade share of the other currencies of the basket (the pound sterling and the US dollar) in Malta's total international trade.

## **2.4. General evaluation<sup>9</sup>**

Malta is a functioning market economy and it should be able to cope with competitive pressure and market forces within the Union.

The 1999 update of the Opinion already acknowledged the economic reform efforts undertaken by the Maltese authorities to prepare for EU accession. Since the Opinion, the Maltese authorities' commitment to the economic requirements of EU accession has been sustained.

Further improvements can be made to macroeconomic management by reducing the general government deficit and reforming public expenditure to ensure medium-term fiscal sustainability. More progress can be made on restructuring large loss-making public enterprises and public utilities. Attention should be paid to the supervision of non-performing loans in the banking sector.

---

<sup>9</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

### 3. Ability to assume the obligations of membership

#### *Introduction*

This section addresses the question of Malta's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2001 Regular Report, this section seeks to provide an overall assessment of Malta's ability to assume the obligations of membership, and of what remains to be done. Furthermore, it includes an evaluation of Malta's track record since the 1999 update of the Commission's Opinion. It also provides, for each of the negotiating chapters, a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted.

This section is structured in accordance with the list of 29 negotiating chapters, and incorporates an assessment of Malta's administrative capacity to implement the *acquis* in its various aspects. Malta's progress in translating the *acquis* into its official language is assessed in a separate section.

In December 1995, the Madrid European Council remarked on the need to create the conditions for the gradual, harmonious integration of the candidate countries, particularly through the adjustment of their administrative structures. Taking up this theme, in Agenda 2000 the Commission underlined the importance of effectively incorporating Community legislation into national legislation, and the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential precondition for creating the mutual trust indispensable for future membership.

In June 2002, the Seville European Council repeated how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level. Building on the assessment of Malta's administrative capacity provided in the 2001 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

In the 1999 update of its Opinion on Malta's application for EU membership, the Commission concluded:

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

*In the Internal Market area, Malta has made some progress since the 1993 opinion. In general terms, there would not appear to be major problems for Malta to adopt the acquis. Progress has been made with the adoption of new legislation on Public Procurement and Company and Accountancy Law, although further adjustments are needed. However, significant improvements are still needed in the Intellectual and*

*Industrial Property rights sector as well as concerning legislation on Personal Data Protection. Considerable efforts may also be necessary on enforcement aspects.*

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

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

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

In the 2001 Regular Report, the Commission found that :

*"Since the last Regular Report, Malta has continued to progress well in aligning its legislation with the acquis and strengthening its administrative capacity. However, progress has been uneven across the different fields.*

*Considerable further progress has been made in aligning with the acquis on Free Movement of Goods, especially as regards the framework for the New and Global Approach. Malta must pursue its efforts in the fields of standardisation, certification and market surveillance and also align its public procurement legislation as regards the remedies system and bodies governed by public law. As regards free movement of persons, efforts should be pursued to further align Maltese legislation. Malta has continued to progress on free movement of services and capital, however further legislative alignment is needed in particular in the fields of banking and investment services, data protection as well as money laundering. In the area of company law Malta is close to full alignment. As regards competition, there has been some progress with the beginning of the enforcement of the State aid rules, but further efforts are needed to strengthen the administrative capacity in this area and to ensure that public undertakings are submitted to competition law in line with the acquis.*

*Malta has made substantial progress in the area of social policy, mainly as regards labour legislation and occupational health and safety. However efforts are needed in the area of equal opportunities and to further strengthen the implementation capacity on occupational health and safety.*

*In the field of taxation, considerable progress has been achieved as regards excise tax and some progress with respect to VAT, although progress is needed as concerns the scope of exempt transactions and the code of conduct on direct taxation. Despite some*

*progress in the area of customs, continued efforts are needed to align Maltese customs legislation with the acquis in this domain, and to develop the administrative capacity to implement it.*

*Progress has continued in the areas of telecommunications and culture and audio-visual policy. Malta has also created a suitable framework for the development of investments and the restructuring of SMEs.*

*In the statistics area, the Central Office of Statistics of Malta has continued to progress and is pursuing its efforts to fully align its methodologies with EC standards. In the field of financial control, the reengineering of the internal audit system within the Maltese Government has been completed and the National Audit Office has continued to be strengthened, providing Malta with an adequate internal and external audit institutional framework. Malta should further consolidate this progress. Substantial progress has been achieved in the area of regional policy, where the structures needed to implement the structural and cohesion funds have been set up and strengthened.*

*In the field of justice and home affairs, little further legislative progress has been achieved. Progress has been made in preparing the Maltese administration to the implementation of the Asylum legislation and the control of borders in accordance with the Schengen requirements, in particular with the preparation of a Schengen Action Plan. Efforts are still needed with respect to data protection, immigration, visa policy and judiciary co-operation.*

*In the area of agriculture, progress has been limited. Malta still has to adopt most of the extensive agriculture acquis and to prepare its agriculture for the Common Agricultural Policy. As regards the environment, the adoption of the Environment Protection Act together with subsidiary legislation represents a significant progress but Malta is still far from full alignment and the capacity to enforce the legislation remains very weak. An overall strategy for the adoption and implementation of the environmental acquis must also be developed.*

*Over the past year, efforts to strengthen Malta's capacity to implement the acquis have started in the areas of state aids, regional policy and asylum. Capacity building efforts have been pursued in many areas, in particular in the areas of free movement of goods, market surveillance, transport, taxation, social policy, customs, statistics, border control and financial control. It is important to continue to reinforce the administrative capacity in these areas, in particular as regards the maritime safety acquis. In both customs and taxation, particular attention must be paid to the development of IT systems needed for the exchange of computerised data with the EC. There is a need to further strengthen the administrative capacity in the field of border management Malta should also step up its efforts to enforce the intellectual property rights.*

*The capacity to enforce the acquis remains a source of particular concern in the area of the environment and it should be strengthened as a matter of priority. Malta should also significantly strengthen its administrative capacity in the agriculture field, in particular it has to upgrade inspection arrangements in the veterinary and phytosanitary fields.*

*Most of the Accession Partnership short-term and medium-term priorities have been partially fulfilled. Progress has been particularly significant in the areas of free movement of goods and social policy and also in the areas of taxation and*

*telecommunication. Further efforts are required in particular with regard to agriculture and the environment, and in the area of free movement of services."*

### **3.1. The chapters of the *acquis***

As indicated, the following review of Malta's ability to assume the obligations of membership has been structured in accordance with the list of 29 negotiating chapters. Accordingly, this section opens with an assessment of progress relating to the cornerstones of the internal market which are known as the "four freedoms", and continues with a systematic review of progress on each of the chapters, covering all aspects of the *acquis*, including sectoral policies, economic and fiscal affairs, regional policy, environment, justice and home affairs, external policies, and financial questions.

#### ***Chapter 1: Free movement of goods***

##### ***Progress since the last Regular Report***

Since the last Regular Report, Malta has continued to make important progress in this domain.

In the area of **horizontal and procedural measures**, considerable developments have taken place to transpose the remaining *acquis* and reinforce the relevant administrative capacity. The national *standardisation* body, the Malta Standards Authority (MSA) has been admitted as a full member of the European Committee for Electrotechnical Standardisation (CENELEC) and it gained full membership of the European Committee for Standardisation (CEN) in January 2002. Malta has completed the transposition of all current European harmonised standards by using the endorsement notice method. Technical Committees have been set up to help strengthen the risk assessment capacity of the Consumer and Industrial Goods Directorate of MSA, and experts for these committees were nominated in November 2001.

The national *accreditation* body, the Accreditation Directorate, within the Malta Standards Authority was set up by a regulation issued under the Malta Standards Authority Act in January 2002. It is an independent, non-profit making service which will accredit laboratories, quality system, product and personnel certification bodies, and inspection bodies on the basis of European and international criteria, including the EN 45000 series of standards. An Accreditation Co-ordinator has been recruited and training is being provided.

A regulation issued in January 2002, by virtue of the Malta Standards Authority Act, has set up the *Metrology* Directorate and established the legal base to ensure the establishment of traceable National Reference Standards. A metrology co-ordinator has been recruited and training is being provided.

There has been further development in the *market surveillance* system since the last progress report. A preliminary market surveillance programme has been formulated for certain product sectors, in coordination with the Malta Standards Authority and the Consumer and Competition Division in the Ministry for Economic Services. The Market Surveillance Directorate, under the Ministry for Economic Services, is the main body responsible in the area. It collaborates with the Malta Standards Authority, the Malta

Communications Authority, the Wireless Telegraphy Department, the Occupational Health and Safety Authority, the Building Construction Industry Department and the Malta Maritime Authority to ensure market surveillance in all product sectors. The market surveillance unit within the Consumer and Competition Division of the Ministry is currently carrying out informal surveillance. An assistant director market surveillance was recruited in November 2001.

Important progress has been achieved in the past year as regards the adoption of **sector-specific legislation**. In the areas covered by *New Approach Directives*, regulations have been adopted, since the last Regular Report, transposing the EC Directives on machinery, lifts, recreational crafts and construction products, radio equipment and telecommunications terminal equipment, *in-vitro* diagnostic medical devices, new hot-water boilers fired with liquid or gaseous fuels, energy efficiency requirements for household electric refrigerators, freezers and combinations thereof and pressure equipment.

Progress has also been considerable in sectors covered by *Old Approach Directives*. In the field of pharmaceuticals for veterinary use, the Veterinary Services Act, adopted by Parliament in November 2001, provides the basis for future transposition through secondary legislation of the corresponding Community directives. Regulations have been adopted that aim to transpose the directives related to chemicals (dangerous substances notification, restrictions on marketing and use), motor vehicles, pressure vessels, certification and marking of wire-ropes, chains and hooks, aerosol dispensers and cosmetic products. In the field of cosmetics, all pre-market authorisation requirements have been removed.

As regards the area of food safety and foodstuffs legislation (*see also Chapter 7 - Agriculture*), the Food Safety Act was adopted by Parliament in July 2002. Transposition measures have been adopted during the past year in the areas of labelling, additives, contaminants and natural mineral waters. The Food Safety Act identifies the newly formed Food Safety Commission as the authority responsible for public health in respect of food safety and the responsibility for food safety in the entire food chain will be placed with this body.

There have been no developments regarding the transposition of the *acquis* on firearms. As regards cultural goods, the Cultural Heritage Act that was enacted by Parliament in April 2002 provides the basis for the transposition, through secondary legislation, of the Directive on trade in national cultural treasures.

Since the last Regular Report, some progress has been made as regards the **non-harmonised area**. Malta has almost completed the systematic screening of legislation for provisions that might not be compatible with the principle of mutual recognition and Articles 28 to 30 of the EC Treaty.

As regards **public procurement**, new legislation aimed at completing alignment with the *acquis* is pending. Malta has begun to strengthen its administrative capacity in order to ensure effective application of EC public procurement law, with the recruitment of supplementary staff at the Directorate General of Contracts.

## *Overall assessment*

As regards horizontal and procedural measures, the basic infrastructure required for legislation, standardisation, accreditation and market surveillance is in place. Malta has now completed the adoption of all current European harmonised standards by using the endorsement notice method, under an agreement with the British Standards Institute (BSI) for the adoption of all European standards as national standards. The development plan for the Accreditation Directorate, which has been prepared, needs to be implemented to develop the necessary guidelines and documentation and enable the Directorate to achieve membership to the European Co-operation for Accreditation (EA) by the end of 2002. MSA also needs to recruit the scientific and technical officers needed for both the National Reference Laboratories and the legal metrology service and to train them, as planned. As regards market surveillance, Malta needs to pursue and develop the activities of the Market Surveillance Directorate in accordance with the current plans. Malta should also continue infrastructure development in the areas of testing and certification.

Regarding sector-specific legislation, in the areas covered by New Approach directives, practically all the relevant legislation is now transposed. More work is needed for the completion of alignment in areas covered by Old Approach directives. In particular, further transposition is necessary in the fields of chemicals, ammonium nitrate fertilisers, drug precursors, explosives for civil use, good laboratory practice, medicinal products for human use, veterinary medicinal products, legal metrology and pre-packaging and cableway installations.

In the area of food safety and foodstuffs (*see also Chapter 7 - Agriculture*), the transposition and implementation of the food safety *acquis* is almost complete. However the Food Safety Commission will become operational when the Food Safety Act comes into force later this year. Malta should pursue its efforts to meet the objective of full transposition and implementation of the EC food safety *acquis* by the end of 2002. It also needs to reinforce administrative capacity, notably to improve the equipment of the public health laboratory, to enhance co-ordination between the various enforcement bodies and strengthen the control services.

Following the recent adoption of the Cultural Heritage Act, Malta still needs to adopt secondary legislation to transpose the Directive on trade in national cultural treasures. Furthermore legislation to transpose the Directive on the control of the acquisition and possession of weapons must also be adopted.

As regards the non-harmonised area, following the finalisation of the screening of all existing non-harmonised national legislation, Malta will need to take action to ensure that its national legislation will have been brought in line with Articles 28 to 30 of the EC Treaty upon the date of accession. This concerns in particular the existing restrictions to export licensing.

Concerning safety checks on products at external borders, Malta needs to ensure adequate administrative co-operation arrangements between Customs and market surveillance authorities to allow the implementation of the corresponding EC regulation.

Regarding public procurement, Malta still needs to issue the regulations it has drafted to achieve full alignment with the *acquis* in this area. This concerns in particular the entities covered (local authorities, bodies governed by public law, utilities), the prohibition of



negotiations with tenderers and the setting up of an independent Public Contract Appeals Board.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta's institutional set up in the context of the new approach was not finalised and that, even if Malta had made progress in transposing EC standards into Maltese standards and was continuing its efforts to further speed up this process, sufficient independence of the different activities of the MSA was not assured. It added that the Maltese authorities were not in a position to demonstrate that full conformity with the *acquis* on sector-specific legislation was ensured and that concerning public procurement, the new regulations corresponded only partially with the *acquis* obligations.

Since the 1999 update of the Opinion, Malta has made steady and important progress in setting up an appropriate framework for the New and Global Approach and in transposing most of the New Approach, Old Approach and food safety directives. The process of bringing Malta's structures in relation to standardisation, accreditation and market surveillance into line with the *acquis* has developed satisfactorily. Malta is at an advanced stage in terms of transposition of the *acquis* and administrative capacity in the field of free movement of goods.

Negotiations on this chapter have been provisionally closed. Malta has been granted a transitional arrangement concerning the renewal of marketing authorisation for pharmaceuticals (until 31 December 2006). Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on the transposition of the remaining old approach and food safety directives as well as those on cultural goods and firearms, and on the alignment of its public procurement legislation with the *acquis*. Malta should also ensure that, by accession, no provision of its national legislation infringes Articles 28 to 30 of the EC Treaty.

## ***Chapter 2: Free movement of persons***

### *Progress since the last Regular Report*

There has been legislative progress during the past year mainly in the area of mutual recognition of professional qualifications and some strengthening of the administrative capacity.

As regards **mutual recognition of professional qualifications**, Malta has adopted in September 2002 the Mutual Recognition of Qualifications Act, which provides the framework for the implementation of the *acquis* in this area, as well a series of implementing legislation aiming to transpose the general system directives and the directives on lawyers and architects. The Veterinary Services Act that aims to transpose the *acquis* on mutual recognition of qualifications in this sector, was adopted in November 2001. There has been some progress as regards administrative capacity, with the setting-up of eight Professional and Vocational Standards Development Boards by the Malta Professional and Vocational Qualifications Awards Council. They are responsible

for the overseeing of professional education and training and the recognition of pertinent qualifications.

No legislative progress can be reported as regards **citizens' rights** and **free movement of workers**.

As regards the free movement of workers, preparatory work has continued to facilitate Malta's participation in the European Employment Services system (EURES).

With a view to the future **co-ordination of social security systems**, some progress has been made with regard to the development of sufficient administrative capacity, in particular by the establishment of a specialised co-ordination unit within the Ministry of Social Policy.

### *Overall assessment*

The compliance with the *acquis* of the recently adopted Mutual Recognition of Qualifications Act, its implementing legislation and the Veterinary Services Act needs further assessment. These Acts aim to bring Maltese legislation in line with the general system directives and the directives covering lawyers, architects and veterinary professions. Malta still needs to transpose the *acquis* regarding the mutual recognition of the healthcare professions and it must also ensure that, by accession, all its legislation is aligned with Community rules, in particular with respect to nationality, residence and language requirements. Legislation on mutual recognition needs to be monitored to ensure that it distinguishes between academic and professional recognition and includes simpler procedures to allow the provision of services. With respect to professional qualifications obtained before harmonisation, Malta needs to introduce measures to ensure that all its professionals can, as of accession, meet the requirements laid down by the directives.

Malta must also adopt new legislation to comply with the *acquis* on voting rights. In particular, it needs to amend its Local Councils Act to extend voting rights for local elections to all citizens of the European Union on accession and to adopt new legislation on voting rights for the European Parliament elections.

In the area of the free movement of workers, Malta still needs to align its legislation with the *acquis*, in particular as regards the social and cultural integration of migrant workers and their families. The Immigration Act still needs to be amended to remove restrictions on the free movement of workers and the right of residence. EU migrant workers must be ensured access to the public sector in accordance with Community law and Malta must ensure that any language requirements are proportionate and non-discriminatory.

As regards future participation in EURES, efforts should continue, especially with regard to language training.

With a view to the future coordination of social security systems, further work is needed to develop the necessary administrative structures, in particular training and recruitment of additional staff.

## *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that the right of EU citizens to enter, reside and obtain employment in Malta was still partially restricted and that the necessary actions would have to be taken to ensure effective alignment with the *acquis*. It stated that some adaptation was still necessary in the area of mutual recognition of professional qualifications and that the formalities needed to practise regulated professions had to be made considerably lighter in the context of provision of services.

Since the 1999 update of the Opinion, Malta has made progress in the area of mutual recognition of professional qualifications and little progress in other areas. Malta's alignment with the *acquis* on mutual recognition of professional qualifications is now rather advanced (the newly adopted legislation needs however further assessment) but the alignment with the *acquis* on citizens' rights and free movement of workers is still low. While the overall administrative structure seems to be adequate in the area of mutual recognition of professional qualifications, further strengthening of the capacity to enforce the *acquis* is needed as regards co-ordination of social security systems and participation in EURES.

Negotiations on this chapter have been provisionally closed. Malta has been granted a safeguard clause as regards the free movement of workers (until seven years after accession). Malta is generally meeting the commitments it has made in the accession negotiations in this field. However, delays have occurred in implementing commitments regarding in particular the citizens' rights and the free movement of workers. These issues must be addressed.

In order to complete preparations for membership, Malta's efforts now need to focus on completing legislative alignment as regards mutual recognition of the healthcare professional qualifications, in the areas of citizens' rights and the free movement of workers, and on further strengthening its capacity to enforce the *acquis* as regards co-ordination of social security systems and participation in EURES.

## ***Chapter 3: Freedom to provide services***

### *Progress since the last Regular Report*

Since last year's Regular Report, Malta has made important progress in this area.

In the field of **the right of establishment and the freedom to provide services**, the Maltese Parliament adopted at the end of 2001 the Trade Licences Act, which came into force in May 2002. The Act introduces provisions intended to allow EU companies or nationals who are established in any other Member State to provide services in Malta.

In the field of **financial services**, there have been significant legislative developments.

Malta adopted amendments to the existing legislation in September 2002, which aim to transpose provisions of the post-BCCI directive.

As regards the insurance sector, amendments to the existing legislation were adopted in September 2002 with the aim to transpose provisions of the *acquis* relating to life and non-life insurance (single licence, home country control, cross-border provision of

services, prohibition from carrying both life and non-life insurance activities, duties of auditors and confidentiality rules). These amendments also intend to transpose provisions of EC directives on tourist assistance and legal expenses insurance, taking up and pursuit of assurance business (concept of close links), annual accounts, reorganisation and winding up of insurance undertakings, exchange of information with third countries as well as the insurance groups directive.

Regarding investment services and securities markets, amendments adopted in September 2002 aim to transpose the directives on undertakings for collective investment in transferable securities (UCITS), investment services, investor compensation schemes, capital adequacy, prospectus relating to transferable securities offered to public as well as the e-money directive.

As for administrative capacity, following the issuing of regulations in January 2002 under the Banking Act and the Financial Institutions Act, the Malta Financial Services Centre (MFSC) has become the sole competent authority responsible for the licensing and supervision of credit and financial institutions.

Concerning the **protection of personal data and the free movement of such data**, an important step was taken with the approval of the Data Protection Act by Parliament in December 2001. The Data Protection Commissioner has been appointed and the Data Protection Appeals Board Tribunal was set up in March 2002.

Concerning the **information society regulations**, Malta has transposed the relevant EC directives to cover information society services, including the Directive on electronic commerce.

### *Overall assessment*

In the field of the *right of establishment and freedom to provide services*, Malta still needs to identify restrictions to the right of establishment (Article 43 EC) and freedom to provide services (Article 49 EC) and, if there are any, remove them before accession. It remains to be seen whether the new horizontal licensing regime introduced by the Trade Licence Act is in line with these principles. Amendments to the existing legislation introducing a system of competitive recruitment for port worker vacancies still need to be adopted. As regards the establishment of self-employed commercial agents, Malta still needs to align with the *acquis*, in particular as regards periods of notification and the system for indemnity or compensation in the case of termination of contract.

As regards *financial services*, the Maltese regulatory and supervisory framework is largely compliant with the IOSCO (International Organisation of Securities Commissions) objectives and principles. The compliance with the *acquis* of the recently adopted amendments to the legislation on financial services needs to be assessed. However they are intended to bring Malta's legislation largely in line with the *acquis* on insurance, investment services and securities markets. Regarding banking, Malta still needs to transpose the provisions of the netting Directive and adopt a law on a Deposit Guarantee Scheme. Regarding the insurance sector, the basic features of the EC supervisory system are covered by the current legislation. The Maltese Parliament needs, however, to adopt amendments to the motor vehicle insurance provisions.

Since the Malta Financial Services Centre (MFSC) took over in January 2002 the supervisory responsibility for the banking sector from the Central Bank, the MFSC is now the sole supervisory authority in the field of financial services. It is in the process of being reconstituted and renamed the Malta Financial Services Authority. As regards its administrative capacity, most professional staff both in the Banking Unit and in the Insurance Unit have many years of supervisory experience and staffing levels are adequate to enable supervisory programmes to be completed on schedule. The Maltese authorities should pursue their plans to turn MFSC into a regulatory authority and strengthen its powers accordingly.

As regards the *protection of personal data and the free movement of such data*, the adoption of the Data Protection Act represents an important step forward in the transposition of the *acquis* in that area. This Act generally follows the provisions of the Directive on the protection of individual data. However, it does not seem to prevent the risks of conflict of interests that may affect the independence of the appointed Data Protection Commissioner, as required by the Directive. Malta must also strengthen the capacity of the newly created office of the Data Protection Commissioner.

### *Conclusion*

In the 1999 update of its Opinion, the Commission noted that Malta had taken some steps towards alignment with the *acquis* in the area of financial services, but that considerable further alignment was needed in most sectors. It also recalled the need to suppress discrimination on grounds of nationality for providing services.

Since the 1999 update of the Opinion, Malta has made continuous progress in most areas of the chapter, both in terms of legislation and in bolstering the administrative and regulatory infrastructure required to supervise the financial services sector. The administrative arrangements for the supervision and regulation of the financial services sector have been improved, with the concentration of responsibility within the Malta Financial Services Centre. Malta's alignment with the *acquis* is well advanced in the field of financial services (although the recently adopted legislation needs further assessment) but important efforts are still needed as regards the right of establishment and the freedom to provide services. Malta's administrative capacity is broadly adequate in the field of financial services but needs to be strengthened as regards the protection of personal data.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on completing alignment, eliminating provisions which discriminate against non-nationals as regards the right of establishment and freedom to provide services and on strengthening its administrative capacity in the field of protection of personal data.

## ***Chapter 4: Free movement of capital***

### *Progress since the last Regular Report*

Since last year's Regular Report, Malta has continued to progress in this area.

It has continued the liberalisation of **capital movements and payments** in accordance with its multi-stage liberalisation plan.

The third stage of the plan was introduced and several exchange control liberalisation measures came into force in January 2002. A number of thresholds fixing limits for capital movements were raised. Authorisation is still needed for export of the national currency, Maltese Lira (LM). This threshold was raised from LM 10 000 to LM 15 000 (approximately €37 500) for travel purposes. The current limit on purchase and export of foreign currency was raised from LM 50 000 to LM 100 000 (€250 000).

Malta has now fully liberalised residents' right to invest in real estate abroad and has further raised the limits for their portfolio investments abroad to LM 50 000 (€125 000).

Local collective investment funds which invest in Maltese denominated securities can now invest a maximum of 10% of their shareholders' funds in foreign assets and local collective investment schemes and are now free to seek listing on recognised international capital markets.

Regarding **payment systems**, an amendment to the Central Bank of Malta Act was adopted in July 2002 to empower the Bank to regulate payment systems.

As regards **money laundering**, Malta adopted an amendment to the Prevention of Money Laundering Act which made it possible to establish the Financial Intelligence Analysis Unit (FIAU). The FIAU, reporting to the Ministry of Finance, will assist the government in furthering its commitment to enhance Malta's reputation as a financial services centre by fighting criminal abuse of the country's financial services. The government appointed the Chairman and the Deputy Chairman of the Financial Intelligence Unit in January 2002. The members of the unit, who come from the financial sector and the police force, have been appointed for a three-year period.

The gradual abolition of bearer accounts is continuing at a satisfactory pace. The number had been reduced to 1 379 accounts in June 2002, amounting to approximately €4.25 million.

### *Overall assessment*

Though further progress has been achieved during the last year and Malta is following its timetable to fully liberalise current capital movements and payments, quite a substantial number of restrictions still persist. These restrictions must be abolished before accession. Malta had initially planned to fully liberalise capital movements and payments in January 2003. However, certain short-term transactions will now only be liberalised upon accession.

Any authorisation procedure not compatible with the *acquis* will have to be replaced by a simple declaration upon accession. This concerns in particular the current need for

authorisations by the Malta Financial Services Centre and the Department of Trade for direct investment in Malta by non-residents, investments in wholesale and retail services, and travel allowances. As regards the latter, Malta requires a declaration for the export and import of Maltese Lira in amounts above LM 5 000 (€12 500) as a means to combat money laundering. Furthermore direct investment in wholesale and retail services, public utilities and restaurants below first class category are not allowed. Participation of non-residents in information technology is restricted to 50%

As regards administrative capacity, Malta needs to make the FIAU fully operational by appointing additional competent staff, completing the technical infrastructure needs and designating a police liaison officer.

Following the amendments to the Central Bank Act with regard to payment systems, Malta needs to issue directives for the Central Bank of Malta to fully transpose the *acquis* on cross-border credit transfers and on settlement finality directives.

Malta introduced in 2000 straight-through processing for large-value inter-bank payments via the SWIFT network. Infrastructure in relation to payment and securities' settlement is in place. Further improvement to the payment infrastructure, based on the SWIFT network, is envisaged.

On the establishment of out-of-court redress schemes, the amendment to the Central Bank of Malta Act assigns this responsibility to the Financial Services Tribunal established under the Banking Act.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that some progress had been made in the liberalisation of capital movements and that, notably, restrictions on inward direct investment had been loosened, except for sensitive sectors, such as real estate, wholesale and retail activities. It noted that all direct investment was still subject to Central Bank approval and that numerous restrictions and demands for authorisation also remained concerning inward and outward capital movements. Lastly, it stated that Malta had to adopt a precise calendar in order to embark with more determination on an orderly liberalisation path, starting by dismantling the remaining restrictions on long-term inward and outward capital flow.

Since the 1999 update of the Opinion, Malta has adopted such a liberalisation plan with a timetable and has implemented it steadily. The process of bringing Malta's legislation and structures into line with the *acquis* has developed satisfactorily. Malta's alignment with the *acquis* is well advanced, though it has still to adopt a non-discriminatory system of acquisition of real estate and authorisation procedures which are in line with the *acquis*. Its administrative capacity is generally adequate in this area, although the newly established FIAU needs to be strengthened.

Negotiations on this chapter have been provisionally closed. Malta has been granted a special arrangement for the purchase of secondary residences, restricting the purchase of such property for all EU citizens who have not been resident on the island for at least 5 years. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on the final liberalisation of capital movements and payments following its multi-stage plan and on the strengthening of the capacity of its newly established FIAU.

## ***Chapter 5: Company law***

### *Progress since the last Regular Report*

Since last year's Regular Report, Malta has achieved only limited progress in this area.

Regarding **company law**, no progress can be reported during the last year.

In the field of **intellectual and industrial property rights**, no legislative progress can be reported. The police have continued to carry out some inspections at various localities and have made limited seizures of counterfeit goods during the past year.

As regards the **Regulation replacing the Brussels Convention** on jurisdiction and enforcement of judgements in civil and commercial matters and the **Rome Convention** on the law applicable to contractual obligations, Malta has made the necessary legislative amendments to be able to apply the Regulation and will be able to accede to the Rome Convention upon accession.

### *Overall assessment*

Malta achieved a high level of alignment in the area of company law, including accounting, with the adoption of the Companies Act of 1995. The implementation of this legislation seems to be satisfactory and administrative capacity is good, with a fully computerised and operational company register.

However, minor amendments are still needed. A legislative act should be adopted before the end of the year to bring the remaining offshore companies into conformity with EC company law Directives and ensure that no more offshore companies exist in Malta beyond the date of accession. Other minor amendments are also expected to the Companies Act, the Conditions of Employment Act and the Industrial Relations Act.

In the field of intellectual and industrial property rights (IPRs), further efforts are needed to transpose the *acquis* before the date of accession.

Some delays have occurred concerning the adoption and the signature of some important *International Conventions* but Malta is now taking the necessary steps to join the Rome Convention for the protection of performers, phonogram producers and broadcasting organisations ahead of accession. It still needs to accede to the two 1996 WIPO Treaties and is in the process of doing so. As regards patents, Malta will start negotiations by the fourth quarter of 2002 to accede to the European Patent Convention (EPC). According to Malta the legislation to implement the EPC is already in place.

As regards *intellectual property rights*, the Directive on broadcasting via satellite and retransmission via cable has been transposed only partially, since the provisions on retransmission via cable still need to be transposed. Further legislative measures are needed since Maltese legislation is not in line with the rules on exceptions as set out in the Rental Directive, the Database Directive and the Directive on Copyright in the



Information Society. As regards this last Directive, the legislation does not satisfy certain requirements set out in the Directive such as the exceptions to the rights, technological measures, remedies and sanctions. Also as regards the Term Directive, the legislation fails in particular to provide for a revival of rights for specific works which have fallen into the public domain. Malta also still needs to transpose the Directive on resale rights.

Maltese legislation in the field of patents is to a large extent in line with the *acquis*; however some adjustments of this legislation are necessary. In particular, Malta still has to implement the Directive on the legal protection of biotechnological inventions and adjust its current legislation to fully implement the Regulations on Supplementary Protection Certificates. Malta still needs to transpose the Directive on the legal protection of designs.

As far as administrative capacity is concerned, the enforcement and monitoring capacity of the competent authorities in the field of IPRs, i.e. customs authorities, police and judiciary, need to be further strengthened, and co-operation between them should be intensified. Malta continues to suffer from a high level of piracy, notably in the area of videos and CDs, and the enforcement of intellectual and industrial property rights is still not sufficient. The Customs Intellectual Property Rights Enforcement Unit is improving its co-operation with the Economic Crimes Unit but more efforts are required for an effective fight against piracy and counterfeiting. The number of staff officials dealing with IPR offences needs to be increased, in particular more officials need to be dedicated exclusively to the task of investigating these crimes. The handling of piracy and counterfeiting cases in the courts must be improved. The present practice of handing out small fines for IPR violations is not an efficient deterrent to combat these practices and more needs to be done in that respect.

Malta has announced that a joint commission composed of representatives from the Customs Department, the Industrial Property Office and the Malta Police is to be set up in order to strengthen the enforcement of IPR violations. Targeted training of all services involved in the implementation and enforcement of IPR legislation, necessary for both copyright officials and for enforcement officials, including judges and prosecutors, should be treated as a priority.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta had achieved a fairly good degree of compliance with the *acquis* in the field of company and accounting law, but significant improvements were still needed in the intellectual and industrial property rights sector. It also noted that Malta was due to implement all TRIPs provisions by January 2000 and to accede to the Berne Convention for the protection of literary and artistic works and to the Rome Convention for the protection of performers, producers of phonograms and broadcasting organisations.

Since the 1999 update of the Opinion, Malta has made good progress by signing both the Paris Convention and the TRIPs Agreement. It has no reservations regarding the Berne and Paris Conventions and is also now fully in line with the WTO Trips Agreement. Its legislation on company law, including accounting, is broadly in line with the *acquis* and Malta has a good administrative capacity in this area. The protection of copyright and related rights has also, to a large extent, been brought into line with the Community *acquis*, notably through the introduction of the Maltese Copyright Act, which entered into

force in 2001. Malta is largely in line with the *acquis* in the area of company law but it still needs to complete alignment in the field of intellectual and industrial property rights. The administrative capacity is broadly adequate as regards company law but needs to be strengthened for the enforcement of intellectual property rights.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta has agreed to the EU proposal relating to industrial property rights for pharmaceuticals products and Community Trademark. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on completing alignment with the IPR *acquis* (notably with respect to copyright in the information society, artists' resale rights and supplementary protection certificates), and on urgently tackling the high level of piracy and counterfeiting, by further strengthening the enforcement and monitoring capacity of the competent authorities in the field of IPR protection, namely the customs authorities, the police and the judiciary, as well as the co-operation between them.

## ***Chapter 6: Competition policy***

### *Progress since the last Regular Report*

Since last year's Regular Report, Malta has made progress in this area.

In the field of **anti-trust**, progress can be reported with the introduction of a separate merger control regulation in June 2002 establishing a national merger control system. Funds have been committed to set up a merger task force, and train its officers, in the Consumer and Competition Division within the Ministry of Economic Services.

In the field of **state aid**, Malta has introduced a control system based on the Business Promotion Act, as well as a regulation on the state aid procedures providing, in particular, for an ex ante notification system and the recovery of aid not granted in compliance with the regulation. The State Aid Monitoring Board has started to develop its enforcement record. The Board has mainly vetted the incentives granted under the main fiscal aid scheme, the Business Promotion Act.

### *Overall assessment*

Generally, Malta's *anti-trust* legislation was already broadly in line with the *acquis*, with the exception of the exclusion of public undertakings, and Malta has also achieved a reasonable enforcement record. The Maltese Competition Act contains the basic principles of the Community anti-trust rules as regards restrictive agreements and the abuse of dominant position. Malta must now fully align its legislation with the *acquis* by including all public undertakings within the scope of the competition law. As regards implementing legislation, Malta has already introduced block exemption regulations, taking account of the Community's new policies on vertical and horizontal restraints. Malta must, however, align its legislation regarding the treatment of public undertakings under competition law.

The administrative capacity of the Office for Fair Competition and the Commission for Fair Trading appears adequate. The Office for Fair Competition currently employs five

people. It has a satisfactory enforcement record. The authority has used its resources on own-initiative cases and complaints. An important challenge for the Office is to continue ensuring and further developing the effective application and enforcement of the competition rules. In particular, efforts to develop a more effective deterrent sanctions policy should be continued. In view of the planned modernisation and decentralisation of the application of the EC anti-trust rules, training efforts should be pursued, in particular with regard to the judiciary. It is also important to increase awareness of the *acquis* among the business community.

As regards *state aid*, the existing provisions cover most of - and are largely in line with - the *acquis*. However, the general state aid control and monitoring mechanism lacks transparency, since there is no framework legislation on state aid control. Malta intends to transpose the EC state aid rules through direct alignment of the criteria for granting aid directly in its different aid schemes. This is complemented by control provisions in the Business Promotion Act (BPA), a framework law that lays down the basis for the support granted annually in Malta to industry, which entered into force in February 2001.

A State Aid Monitoring Board has also been established, and has started to develop its enforcement record. It has an operational staff of two people. Development of the enforcement record is developing, but further work is still required, in particular to aid granted to the shipyards, which should be aligned with the *acquis*, in the framework of an overall restructuring plan. Furthermore, some of the fiscal incentives granted under the Business Promotion Act need to be aligned in order to bring the operating aid elements into line with the restrictive rules applicable in the Community in this area. Finally, existing fiscal aid granted on the basis of the old legislation still has to be aligned.

Malta still has to submit a regional aid map.

A state aid report was submitted in September 2001 and it provides a reasonable degree of comparability.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta was well positioned as regards alignment with the *acquis* in anti-trust legislation, though further efforts would be required as regards state aid monitoring.

Since the 1999 update of the Opinion, Malta has made good progress in adopting anti-trust legislation and state aid legislation. Good progress has also been made in developing the administrative capacity of the Competition Board and of the State Aid Monitoring Authority. Overall, on legislative alignment, administrative capacities and enforcement record Malta is reasonably advanced, except on the scope of the Competition Act (partial exclusion of public undertakings), the compatibility of the aid granted to the shipyards, as well as the incomplete alignment of various fiscal aid measures granted under past and present legislation.

Negotiations on this chapter continue.

In order to complete preparations for membership, Malta's efforts now need to focus on converting the fiscal aid granted on the basis of old legislation into compatible aid and aligning the incompatible operating aid schemes under the current BPA as well as the

state aid provided to the shipyards, extending the scope of the Competition Act to include public undertakings, adopting an appropriate framework for public undertakings, proposing a regional aid map to ensure maximum aid intensities in assisted areas, continuing to develop a track record of proper application and enforcement of both anti-trust and state aid legislation. Malta should ensure that it continues to update its alignment as the *acquis* in this area evolves.

## ***Chapter 7: Agriculture***

### *Progress since the last Regular Report*

Since the last Regular Report, Malta has made some legislative progress in the area of agriculture, but little has been achieved as regards the strengthening of the administrative capacity.

Agriculture in Malta accounted for 2.4% of gross value added in 2001, compared with 2.3% in 2000<sup>10</sup>. Employment in agriculture has declined considerably over recent years, and now accounts for 2.2% of total employment<sup>11</sup>.

In 2001, overall agricultural trade<sup>12</sup> between Malta and the EC showed mixed tendencies. EC imports of agricultural products originating in Malta decreased by 12 % to € 7 million. EC exports to Malta increased by 6 % to €223 million. The trade balance in favour of the Community amounted to €216 million compared to €203 million in 2000. EC imports were dominated by vegetables. Dairy products, tobacco, beverages, spirits and vinegar were the main export goods from the EC.

Malta has made limited progress on the agricultural reform needed to bring Maltese agriculture into line with the Common Agriculture Policy. However an important step was taken in July 2002 when the Government initiated the progressive dismantling of levies on 73 agricultural products. The reductions in levies, which range between 14 and 20%, apply mainly to live animals - bovine, poultry and swine - and their fresh or chilled meat products as well as fresh or chilled vegetables and fruit. The reductions coincide with the introduction of a scheme for the payment of direct subsidies to the agricultural sector. In 2002, the budget allocated to agriculture amounted to €31.2 million (1.64% of the central government budget), out of which approximately €6 million were granted as direct subsidies to farmers.

There has been no significant change as regards the land market. The amount of agricultural land in the Maltese islands was provisionally established at 10 738 hectares, a drop of 396 hectares when compared to the 1991 census. Total agricultural land is on the decline whilst available irrigated land is on the increase. Only a low percentage of

---

<sup>10</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>11</sup> Administrative records for 1997-1999. Largely harmonised Labour Force Survey since 2000. Agricultural employment is defined in LFS terms as economically active persons who gain a significant part of their income from agriculture.

<sup>12</sup> Source of trade figures: WTO definition of agricultural products, figures from EUROSTAT COMEXT (see U.E. 12.15: Commerce des produits agricoles 1998-2000, 1 Partie D.G. AGRI/G.2 Analyses quantitatives, prévisions, statistiques, études, 2001, pp. 10-57 et 86-89).

agricultural land is farmer-owned<sup>13</sup> and the Government leases agricultural land to most of the farmers on an annual basis for a very low rental (€43 per ha). Land is normally automatically re-let to the existing tenant or his descendants. However, in the event that an agricultural holding becomes vacant, then the Government is obliged to put the tenancy up for tender.

### **Horizontal issues**

Since last year's Regular Report, Malta has made some progress on implementing measures related to the *European Agricultural Guidance and Guarantee Fund (EAGGF)*.

The Ministry for Agriculture and Fisheries has been reorganised to enable it to better fulfil its obligations in terms of the *acquis*, in particular by separating the regulatory and service delivery functions of the Ministry. Four divisions have been set up dealing respectively with Agricultural Services and Rural Development, Food and Veterinary Regulation, Fisheries Conservation and Control and Special Projects.

A Manager was recruited in May 2002 to initiate all the plans required for the setting-up of the whole structure of the Paying Agency and steps have been taken to ensure appropriate training and technical assistance for the new structure.

In relation to the *Integrated Administration and Control System (IACS)*, in January 2002 the Department of Agriculture completed the process of digitising land parcels. The digitised parcels are being validated through on-site visits. Six additional agricultural officers were recruited to the IACS Unit during March 2002. Technical assistance has been provided since May 2002 to further strengthen the unit and finalise the IACS system.

Regarding *trade mechanisms*, no particular developments can be reported.

As regards *quality policy*, an indicative list of traditional names of products has been compiled by the Ministry for Agriculture and Fisheries together with the Malta Standards Authority.

An *organic farming* unit was set up within the Agricultural Services and Rural Development Division of the Ministry in March 2002. It is responsible for implementing the *acquis* in this area, in particular notifications and related functions, decisions on equivalence when requested by importers of products from third countries, and general enforcement measures. The Unit will also participate in exchange of information as required. A call for expressions of interest to set up an inspection system was issued in June 2002.

Little progress can be registered in the area of the *Farm Accountancy Data Network (FADN)*. The National Office of Statistics undertook the census on agriculture in October 2001 and the results of this survey are being fed through as the basis of the actual FADN.

---

<sup>13</sup> The latest census of Agriculture from 1991 indicated that only 16% of holdings were operated on a freehold basis, the rest being operated on the basis of a rent from the government, which owns the land.

## **Common Market Organisations**

Since last year's Regular Report, Malta has made little progress on introducing a legal framework and administrative structures for the establishment of Common Market Organisations.

The Producer Organisations Act adopted in June 2002 provides the legal framework for the setting up of agricultural producers' associations.

Concerning *arable crops*, no progress can be reported.

Concerning *specialised crops*, no significant progress can be noted. In the *wine* sector, the Wine Act was adopted in October 2001. A study to ascertain the competitiveness of the wine industry in Malta was finalised in November 2001. A vine register in line with the requirements of the *acquis* has been completed by the Department of Agriculture, following a full census of all the areas under vines carried out by the National Statistics Office. It includes data on the area under vines, the type and quality of vines and grape production. The list of vine varieties has been completed, as required by the *acquis* in this area. The National Statistics Office continues to carry out further surveys and to update the available database on wine.

As regards *animal products*, no new legislation has been adopted. The identification of bovines in line with EC requirements has been initiated and there has been progress in the establishment of the national database of bovine animals.

## **Rural development and forestry**

Significant progress has been made in this field, which is completely new for Malta. A first draft of the Rural Development Plan has been prepared following intensive consultations with the stakeholders. A programme for the preservation of Maltese trees and woodlands has been completed. The list of areas in Malta and Gozo where there is a degree of forest fire risk has been compiled by the Urban and Rural Landscaping Unit within the Ministry for Agriculture and Fisheries in collaboration with the Ministry for the Environment.

## **Veterinary and phytosanitary issues, including food safety**

Since last year's Regular Report, some progress has been made in transposing and implementing the *acquis* in the **veterinary** sector, and certain administrative structures have been strengthened.

The Veterinary Services Act and the Animal Welfare Act were adopted in November 2001 and December 2001, respectively. They provide a legal framework for the adoption of the *acquis* in the veterinary and animal welfare areas through secondary legislation. The Veterinary Service has recruited a junior veterinary officer. Additional personnel within the Food and Veterinary Regulation Division of the Ministry for Agriculture and Fisheries has been recruited while new calls for applications have been issued. In-house training is being carried out. An assessment of the import control systems was held in June 2002. Plans for the building of the Border Inspection Post (BIP) at the Malta Freeport have been drawn up and calls for tenders are being issued.

Malta has made only limited progress in preparing the internal market control system. The Food and Veterinary Regulation Division's Services Department has completed the

procedures for participation in the computerised network linking veterinary authorities ANIMO and the setting up of the bovine database is progressing. The contingency plans for foot and mouth disease and BSE have been completed.

In the **phytosanitary** sector, no significant development can be reported.

No progress can be reported in the area of *plant health (harmful organisms)* or *pesticides*.

In the seed and plant propagating material sector, no significant legislative progress can be reported.

There has been some strengthening of the administrative structures for phytosanitary issues. The Plant Health Department, which has been incorporated into the Agricultural Services and Rural Development Division, has been strengthened with the recruitment of new Scientific Officers. An extensive training program covering the identification of plant bacterial diseases, pesticides registration and residues, harmful organisms, seeds and plants has been initiated. Plans for the building of a new seed-testing laboratory have been drawn up and a tender for the construction of the laboratory has been awarded, with completion of the building of the laboratory scheduled for the end of 2002. A new scientific officer has been recruited for the seed-testing laboratory. The Maltese authorities have issued international tenders for the analytical testing of pesticides residues in those areas where it is not feasible to build up a local testing capacity. For the time being, direct orders for testing are given out to various international bodies.

As regards **food safety** (*see also Chapter 1 - Free movement of goods*), no further legislative developments can be reported.

### *Overall assessment*

Malta has taken an important step in starting the progressive dismantling of levies on agricultural products and finalising its Rural Development Plan. However important efforts are still needed to complete the removal of levies prior to accession and ensure the integration of the Maltese agriculture in the Common Agricultural Policy. The organisation of trade should also be restructured, with a suppression of the current restrictions on export licensing for certain products. A number of functions relating to the marketing of agricultural products will need to be devolved to the farmers, who will need to organise themselves for that purpose.

In the area of **horizontal measures**, the Paying Agency remains to be established as a matter of priority. Progress has been achieved in relation to the Integrated Administration and Control System, with the completion of the digitisation of land parcels. However, considerable efforts are needed to finalise the setting up of the system and ensure that it is operational in accordance with the requirements of the *acquis*. The same can be said of the Farm Accountancy Data Network.

The establishment of the Organic Farming Unit is a step forward in this area, however the Unit still needs to be strengthened to implement the *acquis* both in terms of administration and control at national level. An inspection system in line with the provisions of the *acquis* needs to be set up.

As regards **Common Market Organisations**, Malta is at a very early stage in their development. The regulations for the adoption of marketing standards for fresh fruits and vegetables, processed agricultural products and flowers, eggs and poultry, which have been drafted by the Malta Standards Authority, still need to be issued. As regards cereals, the operational and regulatory aspects of Medigrain Ltd still need to be separated. As regards wine, secondary legislation under the Wine Act related in particular to marketing and quality standards still need to be drafted. Further progress is needed, in particular for animal products (carcass classification and labelling system). Malta still has to introduce a system of premiums for sheep meat.

Appropriate **rural development** measures will be crucial to support the restructuring and development of the Maltese agriculture, which is characterised by very small and part-time holdings. The drafting of the Rural Development Programme represents an important progress in rural development, since it lays down the basis and the framework for the implementation of the policies in that area. However, further work is needed to bring the measures proposed in line with the *acquis*. Work is also required on preparing the rural development priority of the Structural Funds' programme. Considerable strengthening, both quantitatively and qualitatively, of the Rural Development Department of the Ministry is needed to allow Malta to actually implement these policies, which are crucial for the future of the Maltese agriculture. Considerable efforts are also needed to raise farmers' awareness about the opportunities offered by rural development schemes, and to involve them in these schemes.

Concerning the **veterinary field**, following the adoption of the Veterinary Act, Malta still needs to adopt secondary legislation to comply with most of the *acquis* and to prepare for the implementation of the principles of the internal market. This concerns, in particular, trade controls and imports from third countries, identification of animals, certification of animals and animal products, mutual assistance, controls and requirements regarding public health conditions in establishments for animal products. Malta also needs to adopt secondary legislation to transpose the *acquis* regarding animal welfare. The building of Border Inspection Posts at the Malta International Airport and the Malta Freeport should be speeded up, and a new facility needs to be set up at Valletta Harbour.

Concerning food establishments, plans for the upgrading of establishments in the red meat and poultrymeat industry to ensure compliance with EC requirements should be finalised and implemented as a matter of urgency. Important efforts are required in that regard. Efforts are also needed to strengthen the administrative capacity of the veterinary departments, in particular by recruiting more veterinary supervisory staff. Training on the implementation of the *acquis* is needed at the level of both veterinary supervision and food establishments. Following the completion of the contingency plans for foot-and-mouth disease and BSE, contingency plans to respond to suspicion or outbreaks of other so-called list 'A' diseases remain to be drafted. Concerning TSE, further significant efforts are necessary. As regards animal waste treatment, a new project for incineration is being considered.

In the **phytosanitary sector**, initial legislative steps have been made in transposing and implementing legislation, but this process is far from being complete. Further harmonisation is needed, particularly with regard to analytical testing of pesticide residues. The Plant Quarantine Act adopted by Parliament in July 2001 contains elements which are not compatible with the *acquis* and the functioning of the single market. The Phytosanitary Border Inspection Posts need to be set up, in conjunction with the



Veterinary Border Inspection Posts at the Malta International Airport and the Malta Freeport. In the field of plant health, Malta needs to complete the building of the new seed-testing laboratory and strengthen the staff needed to run it.

With regard to **food safety**, the proposed Food Safety Act, published in September 2001, still needs to be adopted by the Parliament. It should provide for the legal establishment of a Food Safety Commission as the competent authority on food safety issues. Malta is streamlining the authorities responsible for inspections related to food safety. The Food Safety Commission is the co-ordinating body for food control in Malta. The Commission is chaired by the Director General of the Ministry of Health and includes representatives from different Departments involved in food safety.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that the integration of Maltese agriculture and agricultural policy into the CAP would still require efforts, and that for Malta, the adoption of the CAP could improve its capacity, in particular the food processing export industry, as well as its efficiency. The Commission added that the Maltese agricultural policy measures were still not in line with the *acquis* and the role of the State in the marketing of agricultural produce remained important. The implementation of the CAP also required a reinforcement of the institutional and administrative capacity, a scheme for the application of (international standards) for fruit and vegetables, as well as a control mechanism to enforce compliance.

Since the 1999 update of the Opinion, Malta has made some progress in bringing its legislation in line in the veterinary and phytosanitary areas. It has taken important steps to set up horizontal measures needed for the Common Agricultural Policy as well as measures needed for the Common Market Organisations. It has started to strengthen its administrative capacity and defined a rural development policy providing a framework for the future development of Maltese agriculture. It has initiated the restructuring of its agriculture by starting to implement a process of dismantling of the levies on some agricultural products.

Negotiations on this chapter continue. Malta is meeting the majority of the commitments it has made in the accession negotiations in this field. However, delays have occurred on the establishment of the Paying Agency. This needs to be urgently addressed.

In order to be ready for membership, Malta needs to give urgent attention to the restructuring policies associated with the dismantling of levies, as well as the devolving of marketing responsibilities from the state to the farmers. Malta needs to implement all remaining legislation in this area, whether it concerns the Common Market Organisations or the veterinary and phytosanitary areas and, as an urgent priority, to upgrade considerably its capacity to implement the *acquis*, particularly in the area of rural development. Ongoing efforts to strengthen administrative capacity and to continue the dismantling of levies should be vigorously pursued.

## ***Chapter 8: Fisheries***

### *Progress since the last Regular Report*

Since the last Regular Report, some further progress can be noted with legislation.

As regards **resource management, inspection and control**, some progress has been registered concerning the operation of the Fishing Vessel register and the licensing system. A satellite-based vessel monitoring system is now almost completed.

In the field of **structural actions**, the multi-annual programme for fisheries was completed in April 2002.

As regards **market policy**, little progress can be reported. The Producer Organisations Act, which provides the legal basis for the setting up of producers associations in agriculture and fisheries, was adopted in June 2002.

As regards **state aid to the fisheries sector** there are no new developments to report.

As regards **international fisheries agreements**, Malta acceded to the UN Agreement on the Conservation and Management of Straddling and Highly Migratory Fish Stocks in November 2001.

### *Overall assessment*

In the field of resource management, inspection and control, the legislation needs to be expanded so as to provide the legal base for data collection and transmission, licensing, the fishing vessel register and the satellite-based vessel monitoring system. Progress regarding the collection of data on fishing activities is satisfactory. Technical facilities for inspection and control have been improved, in particular by taking further steps to provide satellite-based vessel monitoring. However, for full-scale satellite monitoring (VMS) to be in line with the requirements of the *acquis*, further work is needed to set up a fisheries monitoring centre and fully equip all vessels concerned. Also, further work is needed regarding the establishment of catch logbooks compatible with EC requirements.

On vessel registration, delays have occurred in adopting the necessary legislation. This issue must be urgently addressed. The database for the separate fishing vessel register, to be set up in full conformity with the *acquis* requirements, must still be completed. The data collected has been entered into Malta's computerised Fisheries Statistics System and is being reviewed in line with the provisions of the *acquis*.

As regards structural action, the completion of the multi-annual programme for fisheries in April 2002 is a positive step. The procedure to set up the Paying Agency within the Ministry of Agriculture and Fisheries is under way. The first draft of the Single Programming Document is expected to be completed by the beginning of 2003, and the programme complement by May 2003. In order to benefit from the Structural Funds as from accession, this process should not be delayed.

As regards market policy, the Producer Organisations Act has been enacted but has not entered into force as yet. The adoption of a fish standards regulation and fish marketing

implementing legislation, due at the beginning of 2002, has been delayed until the end of the year. The upgrading of fish market facilities will start only at the end of 2002.

Malta provides very limited state aid to the fisheries sector.

Malta has acceded to the UN Agreement on the Conservation and Management of Straddling and Highly Migratory Fish Stocks.

The Fisheries Department is responsible for overseeing the enforcement of all aspects of fisheries policy. It currently employs 46 people. A restructuring and strengthening of the Department has been planned, the final objective being to bring the total staff number to 90 in 2003. However this process is far from being completed and there are still no significant improvements with regard to administrative capacity. This aspect is important for the management of the special regime within the conservation zone. The administrative capacity to manage projects under the FIG also needs to be strengthened, in particular as regards programming.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that the implementation of the Common Fisheries Policy should not pose any major problem. However, Malta still had to carry out a number of adaptations, in particular regarding its policies on controls, imports and state aid, as well as the fleet register, to align its fisheries policy on that of the Community. It was noted that this would require a major reform of its administrative structures.

Since the 1999 update of the Opinion, Malta has made some progress in adapting its legislation and strengthening the administrative capacity of its Fisheries and Aquaculture Department. However, progress has been slow in establishing catch logbooks compatible with EC requirements and in the adoption of a fish standards Regulation and fish marketing secondary legislation. Malta's legislation has been partially aligned with the *acquis*. Its administrative capacity in this area remains insufficient and needs to be further improved.

Negotiations on this chapter have been provisionally closed. Malta has been granted the inclusion of dolphinfish (*Coryphaena hippurus*) in Annex IV to Regulation (EC) 104/2000 and a special management regime in a conservation zone within 25 nautical miles of baselines of Malta. Malta is meeting the majority of the commitments it has made in the accession negotiations in this field. However, delays have occurred in adopting legislation on vessel registration, and in the adoption of a fish standards regulation and implementing legislation with regard to fish marketing. These issues need to be addressed.

In order to be ready for membership, Malta's efforts now need to focus on the adoption of the outstanding legislation in the fields of resource management, inspection and control vessel registration and market policy, as well as on the further reinforcement of its capacity for implementation and enforcement. Current plans to strengthen the fisheries department are steps in the right direction, but substantial efforts are still required.

## ***Chapter 9: Transport policy***

### *Progress since the last Regular Report*

During the past year, Malta has made some progress in the maritime and aviation sectors.

As regards **Trans-European Transport Networks**, the assessment of Malta's transport infrastructure requirements on the lines of Transport Infrastructure Needs Assessment (TINA) was concluded in April 2002.

In the **land transport** sector, very limited progress has been achieved in the field of *road transport*. Regulations transposing the Directive on driving licenses were issued in July 2002, and provide for the introduction of the credit card format for driving licenses. Malta started aligning vehicle taxes with the fiscal harmonisation *acquis* on charging for heavy goods vehicles by introducing vehicle taxes at 50% of the EC minima in January 2002 under the Police Licensing Act. Roadworthiness testing of motor vehicles and their trailers was expanded in January 2002.

As regards **air transport**, regulations were issued in November 2001 to transpose EC rules on allocation of slots at Community airports. The Air Navigation Regulations transposing EC rules on the operation of noisy aircraft came into force in April 2002. Civil Aviation Regulations on denied boarding compensation came into force in November 2001.

In terms of administrative capacity, the plan for the carrying out of accident investigations by an independent body has been implemented and contacts have been made with the UK Air Accidents Investigation Branch. Field inspectors have been recruited to the Airworthiness Inspectorate. For slot allocation, a scheduling co-ordinator has been appointed.

As regards **maritime transport**, progress has been made in further alignment with EC rules. Merchant Shipping Regulations on distressed seamen were issued and came into force in January 2002. Amendments to the Dangerous Cargo Ships, Marine Terminals and Facilities, and Bunkering Regulations to comply with the corresponding *acquis* were issued in April 2002. The Merchant Shipping Regulations on the counting and registration of persons were issued in June 2002 to transpose the corresponding EC Directive. Regulations were also issued in July 2002 to transpose the EC Directives on minimum wage, hours of work and medical examination. Malta acceded to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the continental shelf in November 2001.

As regards administrative capacity, capacity building at the Ports Directorate was completed during the first quarter of 2002 with the recruitment of a marine engineer and an administrator. The Merchant Shipping Directorate has recruited six full-time flag and port state control inspectors and supporting clerical staff. The restructuring of the Technical Department of the Merchant Shipping Directorate is well under way. Investments have been made to build up a computerised ship register as well as a vessel monitoring system.

The flag state control measures outlined in the “Maritime Transport Action Plan” have been further developed.

According to 2001 statistics under the Paris Memorandum of Understanding, the percentage of Maltese flag vessels detained following Port State control was 9.5%, a decrease compared with 2000 (11.8%). This compares with an average for EU-flagged vessels of 3.14% in 2001. Between January and December 2001, 21 ships representing 270 257 gross tonnage were refused Maltese registry, while 40 ships representing 468 933 gross tonnage were removed from the ship registry due to technical non-conformity. Between January and December 2001, a total of 627 flag state inspections were carried out on ships registered under the Malta flag. Malta has been consistent in its support of the EC position in the International Maritime Organisation.

### *Overall assessment*

As regards Trans-European Transport Networks, Malta should plan for the modernisation and development of the main transport infrastructure network. Malta must in particular complete, by accession, the feasibility studies for its different components to prepare for the necessary investment. Special emphasis should be given to ensuring the necessary administrative capacity (both in quantitative and qualitative terms) to prepare for the significant investments that will be needed in transport infrastructure.

As regards road transport, important parts of the *acquis* still need to be transposed and efforts to transpose the *acquis* have to be further strengthened. Further efforts are still to be made in the transposition and implementation of fiscal, technical (dangerous goods) and social rules (admission to the occupation, and driving times and rest periods), for both international and domestic road transport operations. While there has been some strengthening of the administrative capacity of the new Malta Transport Authority, it will have to be further reinforced, and the training of its staff for the new responsibilities arising from the *acquis* should be pursued.

In the area of air transport, the transposition of the *acquis* is slightly more advanced, although further alignment is needed as regards market access, air carrier liability and ground handling. Only very limited strengthening of the administrative capacity has taken place and further training is needed.

Regarding maritime transport there has been some legislative progress; however, substantial parts of the *acquis* still need to be transposed and further efforts need to be made to implement the *acquis*. There has been a substantial effort to strengthen administrative capacity and Malta’s efforts with the implementation of its “Maritime Action Plan” have resulted in a decrease in the detention of Maltese flag vessels. However, the number of Flag State Inspectors still seems insufficient. Malta must pursue its efforts to further improve its safety standards, notably through adequate staffing and training of the Malta Maritime Authority, in order to meet the objective of its removal from the Paris MoU black list.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that substantial efforts were needed in order to implement entirely the *acquis*, especially for maritime transport. Concerning air transport, the *acquis* was not fully adopted and the association of Malta to

the European Common Aviation Agreement was therefore not yet possible. As regards maritime transport, a lot of efforts were urgently needed to achieve compliance with the *acquis*, in particular in the field of the conditions for setting up shipping companies in Malta and obtaining the Maltese flag, the implementation of international safety and pollution standards and the application of certain key safety requirements. In the field of road transport, considerable efforts were needed to bring legislation into line with the *acquis*. Moreover, Malta still needed to sign important multilateral conventions. The guidelines for development of the Trans-European Networks did not apply to Malta.

Since the 1999 update of the Opinion, Malta has made some progress in transposing the *acquis* in the areas of land, air and maritime transport. Malta has also taken first steps to strengthen its administrative capacity in all these areas and particularly as regards maritime transport and safety. In this last area, Malta has started to implement a “Maritime Action Plan”, involving strengthening its Maritime Authority, removal of non-conforming ships from the Maltese register and more flag and port state controls. This has led over the past 18 months to some improvements as regards the detention rate of Maltese ships. Malta is still far from full alignment in this area. Its administrative capacity needs further strengthening, particularly in the field of maritime safety.

Negotiations on this chapter have been provisionally closed. Malta has been granted transitional arrangements for the gradual increase of vehicle taxes for vehicles engaged in international transport operations (until 31 December 2004) and for vehicles engaged exclusively in domestic transport operations (until 31 December 2005), for the phasing in of roadworthiness tests for certain vehicles used in domestic transport (until 31 December 2004), and for the retrofitting of certain vehicles used in domestic transport with speed limitation devices (until 31 December 2005). Malta is meeting the majority of the commitments it has made in the accession negotiations in this field. However, delays have occurred in the areas of road and maritime transport. These issues must be urgently addressed.

In order to be ready for membership, Malta should focus further efforts on aligning its legislation with the substantial parts of the *acquis* which are not transposed yet, and on pursuing its efforts to strengthen its administrative capacity, particularly in the area of maritime transport and safety, so as to achieve the objective of being removed from the Paris Memorandum of Understanding black list. The Maritime Action Plan has introduced some improvements in this area. Ongoing efforts must be pursued.

## ***Chapter 10: Taxation***

### ***Progress since last Regular Report***

Since the last Regular Report, Malta has made some progress in this area.

In the area of **indirect taxation**, as concerns VAT, the supply of gold by the Central Bank, which was previously taxed at zero-rate, became taxable at the standard VAT rate in October 2001. The scope of the special VAT scheme for second-hand goods was broadened in October 2001 to include works of art, collector’s items and antiques. Further alignment with the special VAT scheme for travel agents was carried out in October 2001. On excise tax, certain provisions were introduced in February 2002 in respect of the general arrangements on holding, movement and monitoring of products subject to excise duties.

No notable developments can be reported in the areas of **direct taxation** and **administrative co-operation and mutual assistance**.

Since last year's Regular Report, Malta has continued the implementation of its plan to restructure and strengthen the Taxation Department in the Ministry of Finance, started in 2000, particularly in the VAT area. A research Intelligence Unit was set-up in April 2002 and the training of the officials has started. Information Technology applications were installed in October 2001, with a Web-site including facilities and services for business operators. An additional Appeals board was set-up in November 2001.

### *Overall assessment*

In the field of VAT substantial legislative alignment is still required. This concerns in particular the taxable scope, the distinction between supplies of goods and services, the definition of imports, VAT exemptions without credit for input tax, the definition of the place of taxation, the provisions for credit for input VAT, and the provisions for intra-Community transactions. Malta should accelerate the process of alignment in the field of VAT.

Alignment of Malta's excise legislation with the *acquis* is quite advanced, although further amendments are still required. Malta should, in particular, address the issue of the reduced excise duty rate on beer produced by small breweries, which should only be applied to small independent breweries, and not those operating under licence. Malta must also ensure that the scheme is applied in a non-discriminatory manner, irrespective of origin.

As regards direct taxation, legislation will have to be reviewed in order to eliminate potentially harmful tax measures, so as to comply with the Code of Conduct for Business Taxation to the same extent as current Member States upon accession. The Commission's initial technical assessment of potentially harmful measures applied in Malta is ongoing.

The modernisation of the tax administration, to reinforce its capacity for implementation and enforcement of the *acquis*, needs to be pursued and stepped up, particularly in the field of excise duty. There is an urgent need to plan and address the changes that accession will entail in this area, together with the necessary reallocation and training of staff. Malta needs to reinforce the staffing of the Tax Department. As regards administrative co-operation and mutual assistance, Malta has taken steps to set up the VAT Information Exchange System (VIES) and a Central Liaison Office. However, this work needs to be completed in order to achieve a satisfactory level of Information Technology operational capacity and interconnectivity with EC systems by accession.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta needed to provide a sustained effort over time in order to comply with the *acquis* concerning VAT and excise duties. Additional adjustments were required in order to bring the VAT legislation fully in line with the *acquis* and the effects of its application needed to be assessed. The issue of excise duties still needed to be addressed, as there were significant discrepancies with the EU requirements. Business taxation still needed to be assessed for its possible impact on unfair fiscal competition. It was noted that Malta should be in a

position to start participating in mutual assistance as the tax administration developed its expertise in this respect.

Since the 1999 update of the Opinion, Malta has made important progress in the alignment of its tax legislation, particularly in the area of excise duties. Malta has in general strengthened and modernised its tax administration as regards VAT and direct taxation. Malta's administrative capacity is on track to meet the requirements of the *acquis* by accession in these two fields, but it is insufficient in the area of excise duties.

Negotiations on this chapter continue. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on the alignment of its legislation, particularly in the field of VAT and to the urgent strengthening of its administrative capacity in the field of excise duties, together with a reinforcement of human resources of the Tax Department.

## ***Chapter 11: Economic and Monetary Union***

### *Progress since the last Regular Report*

A detailed assessment of the various aspects of Malta's economic policy has been given above, in the Chapter discussing the economic criteria (B-2). Therefore, the present section is limited to a discussion of those aspects of the Economic and Monetary Union *Acquis* — as defined by Title VII of the EC Treaty and the other relevant texts — which candidate countries should implement before accession, i.e. the prohibition of direct public sector financing by the central bank, the prohibition of privileged access of the public sector to financial institutions, and the independence of the national central bank. As to the process of liberalisation of capital movements, upon the completion of which compliance with the EMU *acquis* is conditional, this aspect has been covered above, in the section on *Chapter 4 – Free movement of capital*.

Since the last Regular Report, Malta has made progress in the adoption of EMU-related *acquis*.

In the areas of **prohibition of direct public sector financing by the central bank** and of **independence of the central bank**, progress has been recorded. Amendments to bring the Central Bank of Malta Act into line with the requirements of the *acquis* were approved by the Parliament in July 2002. They relate to the declaration of price stability as the primary objective of the Central Bank and to the prohibition of lending to the Government.

### *Overall assessment*

Malta will participate in EMU upon accession with the status of a country with a derogation under Article 122 of the EC Treaty, and it will need to implement the necessary changes to its institutional and legal framework by the date of accession.

In the area of central bank independence and prohibition of direct public sector financing by the central bank, the compliance of the amended Act with the *acquis* remains to be confirmed.



## *Conclusion*

In the 1999 Update of its Opinion, the Commission concluded that Malta had to continue to prepare for integration into the Economic and Monetary Union. The Central Bank of Malta was not fully independent from the government and Malta did not comply with the EC Treaty on the issue of public sector financing by the central bank.

Since the 1999 update of the Opinion, Malta has made progress in the area of prohibition of privileged access of the public sector to financial institutions and of prohibition of direct public sector financing by the central bank. The process of bringing Malta's legislation and structures in relation to Central Bank independence into line with the *acquis* has developed satisfactorily. Malta is largely in line with the *acquis* in this chapter and its administrative capacity is generally adequate.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on further reinforcing its administrative capacity in this area.

## ***Chapter 12: Statistics***

### *Progress made since last Regular Report*

Malta has continued to make good progress over the past year.

In the field of **statistical infrastructure**, the National Statistics Office (NSO) is in the process of developing the necessary procedures to ensure its co-ordinating role, as stipulated in the Statistics Act 2000. Efforts to increase the staff and to ensure the availability of skilled staff have been made. IT infrastructure at the NSO continues to be strengthened, in particular concerning data transmission and the development of new software for surveys.

As regards **classifications**, the NSO has reached an agreement with Eurostat concerning the Nomenclature of Territorial Units for Statistics (NUTS) for Malta. The Classification of Individual Consumption by Purpose (COICOP) was adopted in the Household Budget Survey. Preparation for the implementation of PRODCOM (Products of the European Community) is well advanced.

As regards **demographic and social statistics**, the preparations for the Earnings and Labour Cost survey were accomplished. The work on the adoption of the European System of Social Protection Statistics (ESSPROS) is being finalised. Indicators on income and poverty were compiled.

In **regional statistics**, the regional GDP for Gozo has been finalised and will be published in 2002.

In the area of **macro-economic statistics**, the NSO has undertaken a project on improving the exhaustiveness of GDP estimates. Substantial research work has already been carried out on estimates of illegal activities. Compilation and validations of the

GDP results in accordance with ESA 95 is under way. The Harmonised Index of Consumer Price (HICP) was finalised in the first quarter of 2002. In March 2002, Malta compiled and submitted to the Commission its second Excessive Deficit and Debt Procedure Notification.

In the area of **business statistics**, monthly surveys of the quarrying, manufacturing and construction sectors and of the wholesale and retail trades, with the inclusion of some service sectors, were implemented. About 38 000 business units registered with the VAT office have already been coded and stored in the Business Register and a number of quality checks have been carried out. The system of updating the register has been set up with the VAT office. The Short-term Business Statistics Programme is mostly in place.

The first pilot survey on road **transport statistics** has been carried out. In tourism statistics, the work for introducing surveys at exit points has been finalised. Surveys on inbound tourism have been adopted and tourism statistics are being generated on a monthly basis.

For **external trade**, work has started and new software is currently being prepared for the implementation of INTRASTAT, the system which gathers data on the internal trade in commodities among Member States. A pilot study in this area is planned for October this year.

In **agricultural statistics**, the NSO has established an extensive register of all agriculture enterprises. An Agriculture census was undertaken in November 2001 and the NSO already satisfies most of the requirements of the *acquis* in this area.

### *Overall assessment*

Malta has the basic infrastructure for meeting the EC requirements in the field of statistics and no further legal transposition is required.

The fundamental principles of impartiality and reliability of data, transparency of statistics and confidentiality of personal data are safeguarded. NSO has further strengthened its co-operation with other producers of official statistics in Malta. It has continued training its staff through study visits in the statistical offices of Member States. Malta has made efforts to ensure that adequate human and financial resources are allocated to further strengthen statistical capacities, as there is an urgent need for more staff. Upgrading of the information technology infrastructure has also contributed to the overall progress.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta still had some way to go to meet the requirements of the European Statistical System.

Since the 1999 update of the Opinion, Malta has made considerable progress in adopting the *acquis*, in particular with the adoption of the new Statistics Authority Act of 2000 which takes account of the relevant statistical *acquis* and is based on a detailed programme of harmonisation prepared already in 1999. Malta has been incorporated into the data collection mechanism of the European Statistical System. Malta is largely in line with the *acquis* and its administrative capacity in this area is broadly satisfactory.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on ensuring the implementation of the European System of Account (ESA 95) methodology and the full functioning of INTRASTAT at the date of accession.

### ***Chapter 13: Social policy and employment***

#### *Progress since the last Regular Report*

Since the last Regular Report, limited progress has been registered in this chapter regarding legislation, while some progress has been made on enhancing administrative capacity.

Concerning **labour law**, the protection of young persons at work places Regulation came into force in January 2002.

As for **equal treatment for women and men**, no significant progress can be reported.

In the area of **health and safety at work**, regulations on minimum health and safety requirements at the workplace were published in February 2002. They brought into effect the Directive on minimum workplace health and safety requirements for workplaces used for the first time following publication of this legislation. This legislation will apply to all workplaces from January 2003.

The Government has recruited trainee inspectors for eventual appointment as health and safety inspectors in the Building Construction Industry Department of the Works Division. Training is being provided since the beginning of 2002 for the new Occupational Health and Safety Authority and other bodies, including social partners, involved in the enforcement of the legislation on health and safety at work. Information and awareness-raising activities have been launched and cover broad sectors of society.

In the area of **social dialogue**, limited progress can be reported. A Committee for Civil Society has been set up within the Malta Council for Economic and Social Development. This Committee includes representatives of key national civil society organisations on a permanent basis. It is structured in a way to encompass all civil society organisations as and when necessary. It will act as an advisory body providing a forum for consultation and dialogue between social partners and organisations of civil society.

An Economics Officer has been recruited in the Department of Industrial and Employment Relations of the Ministry of Social Affairs.

In the field of **public health**, no major progress can be recorded in the transposition of the tobacco legislation. Work is being conducted on developing a health monitoring system. An internal reform is being carried out with the aim of strengthening administrative capacity. As from April 2002, the District Health Inspectorate Services were grouped into five regions, with one subsidiary office for each region in Malta and one regional office in Gozo. Each region employs a number of health inspectors divided into food control and environmental health control.

In the field of **Employment Policy**, the Joint Assessment of Employment Policy Priorities (JAP) was signed in October 2001. As part of the monitoring process of the employment policy reviews, Malta delivered a progress report on implementation of the priorities identified in the JAP in June 2002. It is an important step in assessing the extent to which Malta is progressing towards its objectives of labour market reform and adaptation of its employment system, in order to prepare for participation in the European Employment Strategy upon accession. Unemployment in Malta remained constant between 2000 and 2001, at 6.5%. While male unemployment fell from 7% to 6%, female unemployment increased from 5.4% to 7.8%. The employment rate remained constant at 54.2%. There continues to be a substantial gap between the employment rates for men and women. The female employment rate is extremely low at only 31.6%, whereas for men it is 76.4%.

As regards the future establishment of the European Social Fund (ESF), the Director of the Office of Review in the Ministry for Social Policy acts as a focal point on behalf of the Ministry. An ESF Manager was recruited in June 2002. Another officer was assigned to the Office of Review in March 2002 to assist the ESF Manager.

As a follow-up to the Gothenburg European Council, where the EU invited the candidate countries to translate the EU objectives into their national policies, the Commission and Malta have initiated a joint co-operation exercise to prepare for future participation in the EU **social inclusion** process after accession. This exercise consists in joint identification of the social exclusion challenges and relevant policy responses. In this context, the Statistical Office of Malta co-operates with Eurostat to produce data on poverty and social exclusion. Preliminary figures suggest that overall income disparities seem to be rather low, but the poverty rate after social transfers is cause for concern (14.7%). Malta's participation in the Community Action Programme to combat Social Exclusion will contribute to the joint overall effort which is needed.

As regards other areas of **social protection**, implementation of the National Programme for People with Disabilities has produced initial results in the areas of work environment, communications, transportation, health care, education and training, employment, sports and leisure time, and social welfare.

As regards **anti-discrimination**, the amendments to the Criminal Code Act came into force in May 2002. They will enhance the provisions dealing with the fight against racism and xenophobia.

### *Overall assessment*

Regarding *labour law*, substantial legislative work remains to be done to achieve complete alignment with the *acquis*. In particular, regulations transposing the Directives on works councils, posting of workers, part-time and fixed-term work, insolvency, collective redundancies, transfer of undertakings and working time need to be transposed. The new Employment and Industrial Relations Bill, consolidating the previous Conditions of Employment Regulations Act and the Industrial Relations Act, is still before Parliament. Malta will also have to transpose the Directives related to the involvement of workers in the European Company and to information and consultation of workers.

Regarding *equal treatment for women and men*, Malta still has to transpose important parts of the Community legislation. At the moment Malta has only presented a White Paper and there is an urgent need to complete the legislative work in this field. Malta should also be prepared to integrate the recently adopted amendments to the Directive on equal treatment between men and women in access to employment, promotion, vocational training and working conditions.

Regarding *health and safety at work*, there is a good level of alignment with the *acquis*, but Malta needs to finalise transposition of the Directives on manual handling of loads, mineral and extracting sites, fishing vessels, and improved medical treatment on board vessels. The Occupational Health and Safety Authority (OHSA) is currently facing a period of change. Staff resources are being increased and they are to start operating from more than one location. There is also a need to improve and standardise IT hardware and software currently available to OHSA staff.

With regard to *public health*, further efforts need to be made in order to develop a health monitoring system with a view to obtaining health data and indicators comparable with those of the EC. Malta also needs to take measures to meet the requirements of the Community network for epidemiological surveillance and control of communicable diseases. Transposition of the old and new tobacco legislation still remains to be completed.

*Social dialogue* is well developed in Malta. The newly established Malta Council for Economic and Social Development (MCESD) is entrusted with the task of advising Government on issues relating to the sustainable economic and social development of Malta. The MCESD needs to be reinforced. Tripartite dialogue with employers' and trade unions' representatives as privileged partners should also continue to be strengthened, especially in policy areas such as employment or social inclusion. Bipartite social dialogue should also be reinforced, also at sectoral level, in order to facilitate the implementation of the *acquis*.

Regarding *employment*, the Joint Assessment of the Employment Policy Priorities of Malta (JAP) by the European Commission and Malta represents an important step in the preparations for accession. Progress in the implementation of these policies is assessed regularly and it will now be important to ensure effective monitoring of the phasing-in of the priorities and commitments contained in the JAP. Employment policies should aim at increasing the overall employment rate, in particular for women, addressing the emerging skill mismatches and shortages and increase incentives for inactive and unemployed people to actively look for employment.

A national integrated strategy on promoting social inclusion, taking into account the EU objectives, needs to be developed. As poverty and social exclusion are multidimensional by nature, it is important to promote an integrated approach mobilising various governmental bodies and all relevant stakeholders in the process. It is also crucial to improve and develop social statistics systems on poverty and social exclusion in line with the EU commonly agreed indicators on social inclusion.

In the field of other *social protection*, following the adoption of the Equal Opportunities Act last year and the establishment of the National Commission for Persons with Disability as a separate legal entity, the Commission started to address complaints of

discrimination. These activities as well as the capacity of the Commission need to be further developed, to ensure the enforcement of the various provisions of the act.

Finally, as regards *anti-discrimination*, there has been progress in the field of anti-racism, but more efforts are needed in order to ensure alignment with the *acquis*. In particular, legislation transposing the anti-discrimination Directives based on Article 13 of the EC Treaty will need to be introduced and implemented. The Equality Body provided for in the Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin will also have to be established.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta had transposed parts of the *acquis*, but further progress was necessary in the main legislative areas. The main labour laws still had to be reviewed to achieve full compliance with the EC Directives. A detailed review of the legislation covering equal treatment of men and women still had to be carried out, covering issues of enforcement.

Since the 1999 update of the Opinion, Malta has made progress in the area of health and safety at the workplace and, to a lesser extent, on equal treatment of women and men. The process of bringing Malta's legislation and structures in relation to occupational health and safety and social dialogue into line with the *acquis* has developed satisfactorily, but this has not been the case in the areas of equal treatment and labour law where important parts of the *acquis* still need to be transposed. The administrative capacity needed to implement the *acquis* is in place but needs to be further strengthened, particularly in the field of occupational health and safety and public health.

Negotiations on this chapter have been provisionally closed. Malta has been granted transitional arrangements covering the implementation of the Directive on noise at work until 31/12/04, the Directive on work equipment until 31/12/05, the Directive on temporary mobile construction until 31/12/04, and the Directive on working time until 31/7/04 (however, the existing collective agreements providing for a working time which exceed the terms of the Directive would remain in force until 31/12/04). Malta is meeting the majority of the commitments it has made in the accession negotiations in this field. However, important delays have occurred on the transposition of the Directives in the field of labour law and equal treatment. This needs to be urgently addressed.

In order to be ready for membership, Malta should focus further efforts on stepping up the pace of legislative work to ensure full alignment of its legislation, particularly in the areas of equal treatment and labour law, in accordance with its commitments. It must also continue to strengthen its administrative capacity in the areas of occupational health and safety and public health. Ongoing preparations must be pursued.

## ***Chapter 14: Energy***

### *Progress since last Regular Report*

Since last year's Regular Report, progress has been made in this area.

With regard to **security of supply**, Malta adopted in August 2002 a series of regulations aiming to align its legislation with the *acquis* on oil stocks and oil supply crisis

management. In November 2001, the Malta Resources Authority (MRA) commenced its monitoring of oil stocks held in Malta by Enemalta Corporation, the sole provider for Malta's energy requirements, that also has the monopoly on oil imports and distribution of oil products. In April 2002, oil stocks amounted to 10 days' of category 1 fuels, 20 days' of category 2 fuels equivalent and 10 days' of category 3 fuels.

In the area of **competitiveness and the internal energy market**, there has been limited progress with the adoption of a regulation aiming to align its legislation with the common rules for the internal market in natural gas. Following the transfer last year of all of its previous regulatory functions to the Malta Resources Authority (MRA), the Enemalta Corporation has pursued restructuring that reduces the scope of its activities. In particular, Enemalta Corporation has sold its shareholding in the Malta Offshore Bunkering Company Ltd to the Government, prior to this subsidiary's privatisation. Another step towards the internal restructuring has been undertaken, to separate the internal financial accounts of the Corporation, with a view to establish transparency of prices of all energy products and to remove the possibility of internal subsidisation between individual energy products.

On **energy efficiency and renewable energy**, during the reference period Malta adopted a set of regulations aiming at aligning its legislation with the energy efficiency and labelling *acquis*.

Regarding administrative capacity, following the appointment last year of the Board, the Chief Executive Officer and the Directors, MRA has been strengthened with the recruitment of environmental and EU analysts, a technical manager, a financial controller, a legal officer and five administrative staff. The recruitment process for two further analysts on economic affairs and energy, an information systems manager, and additional administrative and project support staff, is currently underway. MRA has taken several initiatives during the year, including the publication of a strategy paper on the development of renewable sources. With regard to **nuclear energy**, Malta does not operate any nuclear power or research reactor.

### *Overall assessment*

With regard to security of supply, the compliance with the *acquis* of the recently adopted regulations on security stocks and oil supply crisis management remains to be assessed. However they are intended to align the Maltese legislation with the *acquis* in this field. Malta has taken steps towards achieving the required level of oil stocks and is encouraged to continue these efforts to reach the required levels.

As regards the internal energy market, efforts are needed to ensure that Malta transposes the electricity directive. In this respect, it is recalled that Malta plans to transpose the directive through specific derogation as a 'small isolated system', in accordance with the directive. The compliance of the recently adopted regulation on gas with the common rules for the internal market in natural gas remains to be assessed. Malta should finalise the restructuring of the Enemalta corporation and the definition of a national energy policy in line with the European energy policy objectives.

As regards energy efficiency, alignment of Maltese legislation is quite advanced and Malta now needs to finalise the transposition of the remaining Community *acquis*. MRA

should pursue the development of a strategy and plans to encourage the use of renewable energy.

On the whole, the administrative capacity of MRA will be adequate when the current recruitment process is completed. However more training will be needed on issues pertaining to the *acquis*.

In June 2001 the Council of the European Union took note of a Report on Nuclear Safety in the Context of Enlargement. Although Malta does not generate electricity from nuclear power sources, the Report contains recommendations of relevance to Malta with regard to other nuclear installations, including the safe management of radioactive waste. During the first half of 2002 a special Peer Review on nuclear safety assessed the progress made by candidate countries in implementing all the recommendations. This exercise, conducted under the auspices of the Council, resulted in a Status Report published in June 2002, which concludes that Malta has accepted and adequately addressed all the recommendations contained in the June 2001 Report on Nuclear Safety in the Context of Enlargement. However, in line with commitments, Malta still needs to set up a Radiation Protection Board in 2002 to function as the regulatory authority for nuclear safety and radiation protection, with implementing regulations to enter into force by the end of 2002. The Board should compile a register and set up an interim storage facility for orphan and disused radioactive sources stemming from medical and industrial applications.

Malta will need to ensure compliance with Euratom requirements and procedures. In this respect, due attention must be given to preparing for the implementation of Euratom Safeguards, in particular the reporting of nuclear material flows and inventories directly by the persons or undertakings operating nuclear installations or storing nuclear materials. This includes small holders like universities, hospitals and medical practice. It should be noted that Malta has concluded a Full-Scope Safeguards Agreement with the IAEA.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that the vast majority of the *acquis* still needed to be transposed, especially the *acquis* covering crude oil, oil products trade, oil stocks, crises measures and energy efficiency. It was noted that particular attention should be paid to the restructuring of Malta's institutional structures to separate policy formulation and regulation (creation of an independent Regulator for the development and monitoring of energy policy) and to the reinforcement of its capacity to implement the *acquis*.

Since the 1999 update of the Opinion, Malta has made progress in setting up an independent Regulator for the energy sector and transposing partly the *acquis* on crude oil, crisis measures and energy efficiency. It has started the restructuring of Enemalta, its Energy Corporation to put in line with the principles of the internal energy market. Overall, partial legislative alignment with the EC requirements has been achieved. The development of administrative capacities is on track to meet the requirements of the *acquis* by accession.

Negotiations on this chapter have been provisionally closed. Malta has been granted a transitional period until the end of 2006 to build up oil stocks to the required level. Malta



is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on the full and timely transposition of the Electricity Directive and the remaining *acquis* related to energy efficiency, as well as on the gradual building up of its oil stocks and finalising the restructuring of the Enemalta Corporation.

## ***Chapter 15: Industrial policy***<sup>14</sup>

### *Progress since last Regular Report*

Since the 2001 Regular Report, Malta has made some progress in this area.

As regards **industrial strategy**, several sectoral studies were completed covering fruit and vegetable processing, wine, basic metals and non-mineral products, and the jewellery sector.

The Government has continued its efforts to further integrate the business community in the policy-making process. Since the Malta Council for Economic and Social Development (MCESD) was set up last year, it has held regular meetings discussing various documents, including the Industrial Policy document and the White Paper on the Employment and Industrial Relations Act. The MCESD also has a number of sub-committees, which meet on a regular basis.

No important developments can be reported as regards investment promotion. In 2001, Malta witnessed a substantial decrease of investments in the manufacturing sector. In 2001, fixed capital formation decreased to 23.2% of GDP from 26.2% of GDP in 2000.

Since last year, there has been limited progress in the **privatisation** process. The Malta Mediterranean Link Consortium was selected as the Strategic Partner for Malta International Airport and the partial privatisation of Maltapost plc has been completed. However the absence of clear guidelines for the privatisation process gave rise to concern. The privatisation of other companies like the Malta Freeport had to be delayed because of unfavourable general economic conditions.

### *Overall assessment*

Malta's policy towards industry remains in line with the established principles of EC industrial policy, being market-based, stable and predictable. Malta should now finalise its industrial strategy and have its national industrial policy document adopted.

The formulation of a long-term industrial strategy did materialise in the drafting of a policy paper in 2001. This document served as a basis for a consultation between governmental institutions and representatives of the industry. However, its adoption by the government, which was initially scheduled for end 2000, has been very much delayed.

---

<sup>14</sup> Developments concerning Industrial policy should be seen in relation to the overall enterprise policy, including the SME policy (*see Chapter 16 - Small and medium-sized enterprises*).

The finalisation of several studies covering various industrial sectors is a significant step to prepare the enterprises of these sectors to face competition in the internal market, following the removal of import levies on industrial products. However, efforts must be pursued to continue improve the overall competitiveness of Maltese industry prior to the integration of its enterprise sector in the Single Market.

The Business Promotion Act and the Business Promotion regulations represent a positive step towards improving the investment environment. Although the incentives provided by the regulations conform broadly to the Commission's Guidelines on State Aid (*see Chapter 6 - Competition policy*), the conformity of certain aspects still needs to be assessed.

Malta should pursue the implementation of its privatisation programme, following the privatisation of Malta International Airport and Maltapost plc. The privatisation unit within the Ministry of Economic Services needs to be strengthened for the finalisation of the programme. Clear guidelines for the privatisation procedure must be issued to further improve the transparency of the privatisation process.

As regards the restructuring of industrial enterprises, Malta has taken steps to start the restructuring of the shipbuilding sector, although it still has to finalise the restructuring plan for the sector (*see Chapter 6 – Competition policy*). 69 companies in the manufacturing sector have submitted business plans to the Institute for the Promotion of Small Enterprise (IPSE), 62 of which were approved up to June 2002, leading to a restructuring programme with the help of IPSE. While IPSE's work is estimable, it covers only part of the country's needs and has to be extended.

The administrative capacity of the Ministry for Economic Services, which is responsible for industrial policy, seems on the whole adequate, with the exception of the Privatisation unit that needs to be strengthened.

The setting up of the MCESD has helped improve the dialogue between the Government and the private sector and the involvement of the business community in the elaboration of industrial policy.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta had to implement a clear industrial policy without delay in order to ensure that its industry, consisting mainly of SMEs, could withstand the competitive pressure within the EU.

Since the 1999 update of the Opinion, Malta has made good progress in this area. Malta has steadily implemented a three-year programme for the suppression of the protective industrial levies and a restructuring programme of the enterprises affected by the removal of these levies. It has partly implemented its privatisation programme and started the preparation of the restructuring process in the shipbuilding sector. It has adopted business incentive regulations, which conform broadly to the Commission's Guidelines on State Aid. Malta's policy towards industry generally complies with the concepts and principles of EC industrial policy, i.e. it is market-based, stable and predictable.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on finalising its industrial strategy and its privatisation programme, as well as the restructuring of the shipbuilding sector.

## ***Chapter 16: Small and medium-sized enterprises<sup>15</sup>***

### *Progress since the last Regular Report*

Since the last Regular Report, Malta has made some progress in this area and efforts to improve the business environment have continued.

As regards **SME policy**, Malta has launched a Business Incubation Centre programme for innovative start-up ventures, co-ordinated by the Institute for the Promotion of Small Enterprises (IPSE). The programme offers hands-on counselling, networking, linkage to finance and space from where the start-up enterprises could operate. 10 tenants are currently operating at the Business Incubation Centre, but most of them have no business plan approved yet.

In April 2002, Malta endorsed the European Charter for Small Enterprises as the basis for its action to support and develop small enterprises. The European Charter, adopted by the European Council in June 2000, is the reference document in the field of enterprise policy within the socio-economic strategy set up at the Lisbon European Council. The Small Business and Efficiency Unit (SBEU) will be directly involved in the annual reporting process on the implementation of the Charter in Malta, which started in May 2002.

Malta has taken further steps to improve the **business environment**. The Malta Enterprise Board has been recently established with a view to merging in this new structure the three current government agencies that deal with enterprise development: the Malta External Trade Corporation (METCO), the Malta Development Corporation (MDC) and the Institution for the Promotion of Small Enterprises (IPSE). These agencies will combine their efforts to streamline their services to enterprises and find the best means of accelerating their development and attracting foreign investments. The Small Business Efficiency Unit (SBEU) within the Ministry of Economic Services is engaged in a number of initiatives aimed at the needs of small businesses and the self-employed. These measures aim at facilitating the treatment of queries and complaints by enterprises, as well as ensuring a closer presence at the level of local councils or at the place of work.

No particular developments can be reported as regards the **SME definition** applied by Malta.

---

<sup>15</sup> Developments concerning SME policy should be seen in relation to overall enterprise policy, including industrial policy (*see Chapter 15 - Industrial policy*).

### *Overall assessment*

The adoption of the Business Promotion Act together with the Business Promotion regulations and the sustained efforts made by the IPSE to help restructure and develop small businesses, provide a good basis for the implementation of SME policy. The finalisation by the IPSE of studies covering various industrial sectors provides a basis for developing restructuring and development strategies for the SMEs of these sectors. There is now a need to implement support plans for these sectors, and the capacity of the IPSE should be strengthened in that regard. Efforts are also needed to develop and implement agri-business schemes for the agri-food sector.

The administrative capacity of the Ministry for Economic Services seems on the whole adequate. The creation of the Enterprise Board grouping the IPSE, the METCO and the MDC will represent a step towards the creation of a one-stop shop for SMEs, although more needs to be done in that direction. Despite these positive developments, there are still difficulties to attract small enterprises towards the existing restructuring and development schemes, and creative efforts are needed in that regard.

Malta's definition of SMEs does not yet totally conform to the EC Recommendation in that area.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that for Malta's industry, consisting mainly of SMEs, to withstand the competitive pressure within the EU, a clear industrial restructuring policy must be implemented. It also added that the adoption of the SME-related *acquis* was unlikely to pose any serious problems to Malta.

Since the 1999 update of the Opinion, Malta has made steady progress by dismantling the levies on industrial products and developing restructuring programmes through IPSE. Malta's policy towards SMEs is generally in line with the principles and objectives of EU enterprise policy.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on reinforcing the capacity of IPSE to help restructure and develop SMEs, and on further simplifying the business regulatory and administrative environment.

## ***Chapter 17: Science and research***

### *Progress since last Regular Report*

There has been some progress in this area since the last Regular Report.

Malta has launched a National Research & Development Audit and Foresight Exercise to set priorities and update its Science, Technology and Innovation Policy. The Malta Council for Science and Technology (MCST), responsible for the co-ordination of Malta's participation in the Community Research Programmes, has set up a Policy

Development Unit focusing on the development of sectoral networks to provide policy advice on areas of national interest.

Efforts are being pursued to develop joint public-private sector Research & Development ventures. The MCST has set up an Innovation Relay Centre and has also subscribed to two Innovation networks.

As part of this ongoing awareness-raising process, a number of briefing sessions focusing on the thematic and horizontal programmes of the Fifth Framework Programme have been organised by the MCST in the past year.

During the reference period, Malta has continued to be associated with the **Fifth Framework Programme** and its participation in the programmes has been stepped up. Malta has expressed interest in being associated with the Sixth Framework Programme (2002-2006). In July 2002 the European Union Programmes Unit (EUPU) within the Ministry of Education hired an Executive Secretary responsible for the RTD Framework Programme.

### *Overall assessment*

The framework for co-operation in the field of science and technology (including National Contact Points) is well established as well as Malta's administrative capacity to implement the *acquis* in this area.

The development of the research sector, its effective integration into the European Research Area and the promotion of science and research will, in particular, require a further increase in business expenditure on research and development. Research activities in universities should be fostered. The current efforts to foster the participation of the business community in the Research Framework Programmes and to develop joint public-private sector Research & Development ventures should be sustained.

Malta has taken important steps to develop an overall framework strategy for the development of research as a result of the current National Research and Development Audit and Foresight Exercise. However this still needs to be finalised.

### *Conclusion*

In the 1999 update of its Opinion, the Commission noted the substantial effort undertaken by the MCST to foster Malta's integration into the framework programme through a network of local correspondents.

Since the 1999 update of the Opinion, Malta has continued to progress by ensuring its full participation in the Fifth Framework Programme, strengthening the structures needed for this participation and fostering public-private partnerships in research as well as the interest of the stakeholders in the research programmes.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts should now focus on finalising its national research strategy, reinforcing its efforts to ensure public-private partnership and fostering the participation of both universities and the business community in the relevant Communities' Framework Programmes.

## ***Chapter 18: Education and training***

### *Progress since last Regular Report*

Some progress has been made in this area over the past year.

During the reference period, Malta has stepped up its participation in the second generation of the Leonardo da Vinci, Socrates and Youth **Community programmes** (*see section A.b – Relations between the European Union and Malta*).

Malta adopted in September 2002 Regulations, under the Education Act, aiming to align its legislation with the **Directive concerning education of children of migrant workers**.

There has been little progress regarding the **reform of the education and training system**. As regards vocational training, a National Co-ordinator on Lifelong Learning has been appointed and a Commission has been set up to draw up the National Policy on Lifelong Learning.

### *Overall assessment*

While the limited legal alignment required in this area must still be completed, participation in the Community Education and Youth Programmes is satisfactory, and the existing national agencies are operational.

The compliance with the *acquis* of the recently adopted regulations concerning the education of children of migrant workers remains to be assessed, and their implementation needs to be ensured.

The reforms initiated several years ago aim at gradually raising educational attainment levels and adapting the initial and continuing vocational training system to the requirements of the labour market, taking into consideration policy developments at EU level. The trend towards higher education levels is illustrated by an increasing number of university students (7 600 in 2002, compared with less than 1 000 in 1987). As regards vocational training, Malta has undertaken the consolidation of the Malta College of Arts, Science and Technology (MCAST), the development of a national qualification framework, together with the phasing out of Trade Schools. However, a comprehensive strategy outlining the Government's key policy objectives in this field does not exist yet and it is still too early to assess the impact of the MCAST on the overall Vocational Training system and on the relevance of training for the labour market. The integration of the different components of the current vocational training system in a lifelong learning perspective is needed in order to ensure, in particular, flexible responses to the needs of individuals and the labour market. The participation of social partners in the Governing Boards of institutions such as the MCAST, the Malta Professional and Vocational Qualifications Awards Council, and in apprenticeship schemes can be considered a

positive development. But the role of social partners in initial and continuing vocational training needs to be further strengthened.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta still had to incorporate in its legislation the Directive concerning education of children of migrant workers and that special attention should be given to facilitating access to vocational training measures. It added that the social partners' involvement in the policy formulation of vocational training should be encouraged and it noted that Malta envisaged participating in the Community education programmes.

Since the 1999 update of the Opinion, Malta has made important progress, especially as regards vocational training and its participation in relevant Community programmes. The administrative capacity in the field of education and training is broadly in place.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements in this area. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on ensuring implementation of the legislation concerning education of children of migrant workers, as well as on developing and implementing a strategy for vocational training with a stronger role for the social partners.

## ***Chapter 19: Telecommunications and information technologies***

### *Progress made since last Regular Report*

Since last year's Regular Report, Malta has made some progress, mainly regarding the regulatory framework.

Concerning the **liberalisation of the telecommunications markets**, there are no new developments to report.

As regards the **regulatory framework**, a formal decision of the Malta Communications Authority (MCA) on the designation of dominant market operators was published in June 2002. Since November 2001, all operators have had to provide free communications access to emergency services. The implementation of the new numbering plan adopted last year was finalised in April 2002.

The MCA also published consultation papers on cost-based accounting systems and accounting separation in February 2002, on universal service obligations and funding in March 2002, and on the introduction of price controls in June 2002. In May 2002, the MCA requested that the public network operator Maltacom and the mobile telephony operators Vodafone Malta prepare Reference Interconnection Offers and that Maltacom submit its accounts for leased line tariffs.

An e-Government programme was adopted in 2001, which aims at providing the majority of e-Europe basic public services on a full-transaction basis by the end of 2002, in line with the e-Europe + Action Plan 2003.

As regards **postal services**, no legislative progress can be reported. The Maltese authorities have partially privatised Maltapost (*see also Chapter 15 – Industrial Policy*).

A decision was made to give the Malta Communications Authority (MCA), which regulates telecommunications, data protection, e-commerce, and similar areas in the field of communications, responsibility for regulating the postal sector and radio spectrum. In April 2002, the human resources of the MCA were further increased with a technical, a project and a research analyst, bringing the total to 14 legal, economic and engineering experts and 5 support staff.

### *Overall assessment*

Malta's policy in this area has progressed well towards the liberalisation of the markets. However, progress in completing the regulatory framework has been slow in the past year because regulations on leased lines, rights of way, data protection in electronic communications, carrier selection and access to the local loop still need to be adopted. In addition, several parts of the existing regulations must be reviewed to align them with the *acquis*.

The sector's infrastructure has continued to develop well. The fixed network is now 100% digitalised with a penetration rate of 53% in fixed voice telephony. Since the introduction of a second GSM mobile network, a mobile penetration rate of 51% was achieved as of December 2001. The Internet penetration rate within the population is 29% and the percentage of households connected to cable TV is the highest of the candidate countries, at 71%.

As for the institutional aspects, the MCA has continued to demonstrate its professional profile by initiating consultation papers in a co-operative effort to prepare the sector for full competition in 2003. A Task Force has been created to look into the requirements for implementation of the new *acquis* in electronic communications in Malta on the basis of a study on this subject.

As regards postal services, the bill amending the Post Office Act to transpose the *acquis* for further liberalisation of the sector needs to be adopted.

Malta will need to transpose the updated telecommunications *acquis* before accession and to complete the implementation procedures as soon as possible afterwards.

### *Conclusion*

In the 1999 update of its opinion, the Commission noted that the telecommunications law of 1997 was not in line with the *acquis* since Maltacom was granted a monopoly for most services. It added that Malta needed to adopt a regulatory framework conforming to the *acquis* and that a tariff rebalancing scheme on the basis of cost-orientation was required.

Since the 1999 update of the Opinion, progress has been made in aligning with the *acquis*, liberalising the markets for mobile telephony, radio paging, Internet services and cable TV, as well as creating a qualified regulatory authority. Although several parts of the regulations are not in line with the *acquis* in this area, the administrative capacity is broadly adequate.



Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts need to focus on the full opening of the markets by January 2003 and on completing the regulatory framework, taking into account the new *acquis*.

## ***Chapter 20: Culture and audio-visual policy***

### *Progress since the last Regular Report*

There have been some developments in this area since last year's Regular Report but there is no particular progress to report.

As regards the **audio-visual** *acquis*, the Malta Broadcasting Authority published in October 2001 the list of major events to which viewer access should be ensured, in line with the powers conferred by the Broadcasting (Jurisdiction and European Co-operation) Regulations of 2000.

In the field of **culture**, the Cultural Heritage Act that aims to strengthen executive and operational capacity in the cultural heritage sector was enacted by Parliament in April 2002. The Parliament also enacted in April 2002 an Act, which provides for the setting up of the Malta Council for Culture and the Arts that will supervise and co-ordinate the definition of a national culture policy.

Malta has taken steps to participate in the Culture 2000 programme as of 2003.

### *Overall assessment*

Malta is largely aligned with the audio-visual *acquis*. Elements of its legislation relating to the broadcasting of European works will come into force on accession, thus taking into account Malta's international obligations.

Administrative capacity in the audio-visual field seems adequate and the Broadcasting Authority seems well equipped to fulfil its duties. Malta is a party to the Council of Europe Convention on Transfrontier Television and its amending Protocol.

As regards *culture*, a National Culture Policy Document has been in place as a White Paper since last year, but the National Culture Policy still needs to be adopted and Malta needs to strengthen its executive and operational capacity in the cultural heritage sector.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta's broadcasting legislation was broadly in line with the *acquis* in the audio-visual sector, but that Malta needed to comply with the legislation related to the promotion of European and independent works.

Since the 1999 update of the Opinion, Malta has made significant progress. Malta is broadly in line with the *acquis*. The necessary administrative structures are in place.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

To complete preparations for membership, the sections of Maltese legislation relating to the broadcasting of European works will come into force on accession, in view of its international obligations.

## ***Chapter 21: Regional policy and co-ordination of structural instruments***

### *Progress since the last Regular Report*

Since the last Regular Report, significant progress has been made in preparing for the implementation of structural policies.

Concerning **territorial organisation**, in June 2002 Eurostat reached agreement with the Maltese National Statistics Office concerning the NUTS classification for the Maltese islands. The country has been designated as one region at NUTS Levels 1 and 2 and two regions at NUTS Level 3 consisting of Malta (MT001), and Gozo and Comino (MT002).

There have been no particular developments since the last Regular Report regarding the **legislative framework**.

With regard to **institutional structures**, the Regional Policy Directorate within the Office of the Prime Minister has been designated as the managing authority with the overall responsibility for the preparation and management of the Structural Funds and the Cohesion Fund. Also, the International Relations Directorate of the Ministry of Finance has now been designated as the future paying authority for all the Funds. Malta has appointed a number of intermediate bodies for the individual Structural Funds as well as for the Cohesion Fund. In the previous months, all these management structures have been strengthened with significant numbers of extra staff and have benefited from general and specific training. Since April 2002, technical assistance and training is being provided to the Regional Policy Directorate to identify gaps and assist the Government on training and other aspects of institution building with particular focus on programming, inter-ministerial co-ordination, reporting and evaluation.

With regard to **programming**, Malta is finalising its National Development Plan 2003-2006. It will be used as an internal strategic document. Malta has started to work on the draft Single Programming Document (SPD) as required by the Structural Funds regulations. In April 2002, a Special Needs Assessment Study for Gozo was finalised. It will serve as a basis for formulating a separate priority in the SPD to address the specific needs of Gozo.

In order to ensure that the **partnership** principle is applied, sectoral working groups have been set up and a workshop was held in April 2002. Both aim at feeding first into the National Development Plan and later into the SPD.

With regard to **monitoring and evaluation**, the Inter-Ministerial Committee has been set up and held two meetings in November 2001 and March 2002. It is the instrument for achieving inter-ministerial co-ordination and will act as the main Monitoring Committee. The Regional Policy Directorate in conjunction with the Staff Development Organisation

has organised intensive training for all ministries concerned with regional policy on evaluation of socio-economic programmes.

No significant developments can be reported with respect to **financial management and control** or **statistics**.

### *Overall assessment*

Malta has already organised its territory into units corresponding to the NUTS classification.

Malta is well advanced as regards the setting up of *institutional structures*. It has designated the bodies that are to be responsible for the implementation of the Structural Funds and the Cohesion Fund. It has set up the Inter-Ministerial Committee to ensure effective inter-ministerial co-ordination. The administrative capacity of the managing and paying authorities and other relevant bodies has been well strengthened and Malta must complete its plans to bring them up to the level required. The precise allocation of tasks, particularly as regards certain intermediary bodies, has to be defined more precisely.

With regard to *programming*, following the preparation of the National Development Plan for 2003-2006, Malta's decision to opt for a Single Programming Document is an important step forward. However, Malta needs to speed up its programming capacity. To that end, there will need to be a real involvement of a broad partnership throughout the whole process. Further progress must also be made with the technical preparation of projects eligible for the Structural Funds and the Cohesion Fund (project pipeline).

As regards *partnership*, the sub-committee of the Malta Council for Economic and Social Development, composed of representatives of civil society representatives, and responsible for liaising with the partners on regional policy issues, needs to be made operational. This is needed to ensure involvement of the partners from the programming to the implementation and evaluation stages.

Although work on ensuring compliance with the *acquis* requirements for *monitoring and evaluation* is going on, more effort is required to prepare the structures and administrative capacity for the ex-ante evaluation of the draft Single Programming Document, the definition of the monitoring indicators and the collection of related statistics. To ensure efficient implementation of the Structural Funds programmes, it is crucial that an effective monitoring system should be up and running well in advance.

Malta is well advanced in the field of *financial management and control*. It is finalising the specific procedures for financial control, auditing, certification of expenses and correction of irregularities specifically applicable to the Structural and Cohesion Funds. The existing legislative framework needs to be completed and amended, in particular with regard to the prevention of and the fight against fraud affecting the Communities' financial interests (*see chapter 28 - Financial Control*). The necessary internal controls, checks and procedures of the agencies that will be responsible for the management of the Structural Funds and the Cohesion Fund are in place. Accounting officers within the Financial Control Units of the relevant Ministries continually monitor the procedures. The Internal Audit and Investigations Directorate (IAID) within the Cabinet Secretariat of the Office of the Prime Minister has the means and authority to independently assess, examine and report on the use of Structural and Cohesion Funds. The International

Relations Directorate within the Ministry of Finance, whose Director is the National Authorising Officer for pre-accession funds, will act as the paying authority. Once it becomes operational, however, it will have to adapt its functioning to its future tasks. All of these departments have been strengthened and their staff trained both inside Malta and abroad.

As regards the budgeting procedure, Malta has a system of three-year rolling business plans. This multi-annual budgeting procedure provided by the Financial Administration and Audit Act is not binding, yet it provides sufficient flexibility to transfer allocations between funds and priorities.

As for statistics, except for the GNP per capita in terms of PPP, the key indicators are available at national level. Malta still needs to improve the system for the collection and processing of relevant statistical information for the purposes of ex-ante evaluation. Regional statistics will have to be prepared for analyses, evaluation and monitoring of the programmes, in particular for Gozo.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta, given its size, did not operate a regional policy in the classical sense, nor did it dispose of precise statistics to assess the eligibility for the Structural Funds.

Since the 1999 update of the Opinion, Malta has made important progress, in particular since 2001, in developing its institutional structures, improving considerably the quality of its statistics, and moved forward rapidly with developing the necessary administrative capacity. The overall legislative framework and institutional set-up is broadly adequate, although the administrative capacity of the different bodies involved in the management of the structural and cohesion funds needs to be further strengthened.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts should now focus on finalising the Single Programming Document, clearly defining the final implementation structures and strengthening them, filling the project pipe-line with eligible projects, and strengthening the broad-based partnership.

## ***Chapter 22: Environment***

### *Progress since the last Regular Report*

Since the last Regular Report, Malta has made good legislative progress in this area, but it has only started to consolidate and strengthen its administrative capacity to enforce it.

With regard to the **integration of the environment into other policies**, a National Commission for Sustainable Development, chaired by the Prime Minister, was established in February 2002. Its first meeting was held in April 2002.

In the field of **horizontal legislation**, a new Regulation on freedom of access to information on environment and several amendments to the Development Planning Act were adopted during the reference period with the aim of enhancing public access to information.

As regards **air quality**, regulations were adopted in June 2002 to transpose the directives on limit values for benzene and carbon monoxide in ambient air, reduction in sulphur content of liquid fuels and information on fuel economy and CO<sub>2</sub> emissions of new cars. The government has adopted and started to implement a plan to enforce fully by accession the legislation on quality of petrol and diesel fuels. An air quality-monitoring programme is at present implemented in 31 localities and a study has been completed during the reporting period to prepare the upgrading of the monitoring network.

In the area of **waste management**, there has been substantial legislative progress and some progress as regards implementation. In December 2001, regulations on waste and hazardous waste framework and on incineration were adopted. Regulations on waste oils, batteries and accumulators, PCB/PCT and landfill of waste were also adopted in June 2002. Legislation on sewage sludge came into force in the second quarter of 2002. Steps have been taken to address the important problems in this sector, with the start of the implementation of the Waste Management Strategy agreed last year. The strategy has three main courses of action related to demolition waste, municipal and hazardous waste and the closure and remediation of the three existing landfills. Following a tender for the management of demolition waste and municipal and hazardous waste, the contracting process is progressing. As for the closure and remediation of the existing landfills, impact and risk assessment are being completed prior to the launch of the tendering process later this year. Malta started to prepare an inventory of equipment containing PCB.

In the field of **water quality**, regulations were issued during the reference period to transpose the *acquis* on urban wastewater treatment, protection of waters from nitrate pollution, quality of fresh waters for fish life, quality of surface water and groundwater. Malta took steps to implement a sewerage master plan providing for the necessary wastewater treatment plants.

As regards **nature protection**, progress was made with the adoption in December 2001 of a regulation on imports of seal pups, and in June 2002 of regulations on capture and killing methods aimed at completing the transposition of the habitats Directive.

As regards **industrial pollution control and risk management**, regulations were adopted in June 2002 on Integrated Pollution Prevention and Control and on limitation of certain pollutants from large combustion plants. The government has taken a decision to relocate the existing gas bottling and LPG storage plant.

In the field of **genetically modified organisms and chemicals**, progress was made with the adoption of regulations on contained use of genetically modified organisms and on the deliberate release into the environment of genetically modified organisms. The Foodstuffs, Chemicals and Cosmetics Directorate within the Malta Standards Authority will be the competent authority responsible for chemicals. A Chemicals Control Board was established in January 2002 to co-ordinate, in particular activities between various line Ministries.

With regard to **noise**, there has been further progress with the adoption in March 2002 of regulations, under the Product Safety Act, on noise of outdoor equipment and household appliances.

As regards **nuclear safety and radiation protection** (*see also Chapter 14 - Energy*), there has been progress with the issuing in December 2001 of a regulation on supervision and control of shipments of radioactive waste.

As regards the **administrative capacity** in the field of the environment, Malta has started this year an important reshaping of its environmental administrative structures. The first step has been the setting up in March 2002 of the new competent authority for the environment (as provided for in the new Environmental Protection Act adopted in 2001), the Malta Environmental and Planning Authority (MEPA). This new authority is the result of the merger of the environmental protection department from the former Ministry of Environment and Resources and the Planning Authority. The Authority has been established under the Ministry of Home Affairs, under the direct responsibility of a Parliamentary Secretary. As a result, the former Ministry of Environment and Resources was renamed the Ministry for Resources and Infrastructure, while the former Ministry for Home Affairs has become the Ministry for Home Affairs and Environment.

The Ministry of Resources and Infrastructure still retains important responsibilities for environmental matters, mainly related to permitting and management of environmental infrastructure in the sectors of waste, water and industrial pollution. Those functions are carried out by the Maltese Resources Authority (MRA), the regulator operating under the tutelage of that Ministry (*see also chapter 14 - Energy*). A new waste agency, responsible for implementation and management of the new necessary waste management strategy, mentioned above, has also been established under authority of the Ministry of Resources and Infrastructure.

During the reporting period, Malta established plans to enhance its administrative capacity in 2002 and 2003. The former Environment Protection Department, now Directorate and part of the Malta Environment and Planning Authority, recruited eight Environment Inspectors in January 2002. The Authority also published calls for the recruitment of five Environment Officers and five Environment Inspectors.

Both MEPA and MRA have permitting obligations. However a permitting system needs to be created, not least to implement the provisions of various directives including the IPPC Directive. As regards monitoring, the current inspection practices remain a simple procedure where the inspector has little authority to make recommendations. While there are planning enforcement procedures, no counterpart exists yet on the environment side. The Environment Protection Act foresees the possibility of suing in court infringements of environmental legislation, with an Environment Fund acting as plaintiff for the recovery of civil damages and the inspectors allowed to prosecute. However the system is not yet operational.

Important investments have been programmed in the waste sector, in particular as regards landfills, as well as for the implementation of a sewerage master plan involving the building of three wastewater treatment plants.

## *Overall assessment*

While Malta has achieved considerable alignment with the EC environmental *acquis*, it still needs to adopt several implementing legislative acts to complete transposition in the field of air quality (non-road mobile machinery), waste (packaging and end-of-life vehicles), water quality (drinking water, bathing water and water framework directive), nature (birds), industrial pollution (major accident hazards), chemicals (biocides, animal protection), nuclear safety and radiation protection (basic safety standards), outside workers, information to the public in case of radiological emergency, medical exposure and foodstuffs.

Close attention must be paid to the implementation of the *acquis*. Basic measures for implementation of air quality legislation, as identification of zones and agglomerations and establishments of networks of measuring stations still need to be established. Efforts for implementation of legislation on quality of petrol and diesel fuels need to continue. Despite progress in the implementation of the waste strategy, the adoption of a strategy for reduction of biodegradable waste going to landfill is urgent in order to complete the existing plans and concretise the necessary actions and investments to deal with the waste generated in Malta in the medium term. Besides, important efforts are needed to fulfil the extremely tight schedule provided for construction of the necessary new landfills and other disposal installations (replacement of existing non-compliant small incinerators, upgrading of the composting plant) and establishment of adequate selective collection systems and increase of recycling and recovery capacity. Implementation efforts need also to be strengthened with regard to horizontal legislation (environment impact assessment), water quality (discharge of dangerous substances), nature (habitats, birds), industrial pollution (integrated permitting and major accident hazards), GMOs and chemicals (administrative capacity).

The principle of integration requires continuous attention both at national and local level. Malta needs to continue integrating environmental protection requirements into the definition and implementation of all other sectoral policies so as to promote sustainable development.

In spite of the progress achieved in the past year, Malta's administrative capacity to implement the EC environmental *acquis* needs urgently to be strengthened and still requires close attention. Plans adopted during the reporting period to enhance the administrative capacity by the end of 2002 need to be adhered to strictly.

The setting up of the Malta Environment and Planning Authority (MEPA), by the merging of the former Planning Authority with the former Environment Protection Department represents progress, since it simplifies the overall administrative structure and allows better use of the existing resources. Similarly, the creation of the Malta Resources Authority (MRA) and of the Waste Management Service Agency together with the launch of implementation of the waste management strategy are positive steps forward.

However, despite the recruitment of environment inspectors and officers over the past year, MEPA still faces considerable challenges. In view of its new responsibilities arising from the *acquis*, it needs considerable strengthening in staff, particularly in the fields of inspection and permitting. This applies also to the Planning Board of MEPA which has been given substantially more responsibilities by the new Environment Protection Act,

while its composition and functioning have not yet changed. Finally there is a potential overlap of responsibilities between MEPA –that has overall permitting responsibility– and MRA –that has overall responsibility, including permitting, for the water and energy sectors. Some clarification of responsibilities is necessary as are the establishment of memoranda of understanding on co-operation between the two institutions. One of the main urgent tasks is to build up a new system of environmental permitting, in line with the requirements of the integrated permitting required by the IPPC Directive. Environmental inspections and enforcement mechanisms also need to continue their reorganisation and reinforcement.

The major training programme planned for 2002 and 2003 is a positive step, but it will not compensate for the lack of resources. A strong political commitment to ensure that current plans to increase significantly resources in MEPA, MRA including the waste agency, is necessary to meet the requirements by accession.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that important efforts had to take place in order to bring Malta's legislation into line with the environmental *acquis*. A detailed programme for legislative transposition as well as for implementation and enforcement had to be prepared. Investment plans for environment-related sectors had to be clearly focused on the implementation of the *acquis*.

Since the 1999 update of the Opinion, Malta has achieved considerable progress mainly over the past year in adopting environmental framework legislation, transposing substantial parts of the *acquis* and reorganising its environment administrative structures. A cost approximation for the investments needed to comply with the *acquis* has been completed and investment plans have been prepared.

Negotiations on this chapter have been provisionally closed. Malta has been granted transitional arrangements in the areas of volatile organic compound emissions from the storage of petrol (until 31 December 2004), packaging (until 31 December 2009), urban waste water treatment (31 March 2007), the drinking water directive (until 31 December 2005), the discharge of dangerous substances directive (until 31 March 2007), large combustion plants (until 31 December 2005) and concerning the trapping of finches to establish a captive breeding system under the birds directive (until 31 December 2008). Malta is generally meeting the commitments it has made in the context of the accession negotiations in this field. Following the delayed adoption of the Environmental Protection Act in September 2001, Malta has defined a timetable for the transposition of the remaining *acquis* through implementing legislation and it has generally met this new schedule. However, important parts of the *acquis* remain to be transposed and, in view of the tight schedule, it is crucial that every effort is made to respect the commitments on transposition and in particular implementation.

In order to be ready for membership, Malta should focus further efforts on finalising transposition of the *acquis* (in particular in the areas of environmental impact assessment, waste, water quality, major accident hazards, biocides and nature protection), strengthening the overall administrative capacity and ensuring the implementation of the *acquis* (particularly in the areas of waste, water quality, nature and industrial pollution). Plans adopted to enhance the administrative capacity by the end of 2002 need to be adhered to strictly.



## ***Chapter 23: Consumers and health protection***

### *Progress since last Regular Report*

During the reference period progress was made, mainly as regards the administrative capacity in this sector.

No particular progress can be reported with respect to **safety** or **non-safety related measures**. Regulations that were adopted in 2001 entered into force during the reference period. They concern the directives on package travel, package holidays and package tours, protection of buyers in contracts for timesharing of immovable property, injunctions for the protection of consumers' interests, product liability, unfair contract terms and guarantees.

Progress has been made in developing a **functioning market surveillance mechanism** since the last progress report (*see also Chapter 1–Free Movement of Goods*). The Market Surveillance Directorate in the Ministry of Economic Services has overall responsibility for co-ordinating the surveillance programmes of certain ministries for the monitoring of standards of product and services. It is responsible for strategic policy and guidelines for market surveillance. A preliminary market surveillance programme has been formulated for certain product sectors, in coordination with the Malta Standards Authority and the Consumer and Competition Division in the Ministry for Economic Services. The market surveillance unit within the Consumer and Competition Division of the Ministry is currently carrying out informal surveillance.

The recently created Consumer and Competition Division, which is responsible for operating and administering market surveillance (inspections and on-the-ground controls), is being strengthened in terms of human resources. The Department should achieve its full capacity during 2002. The Information and Client Affairs Directorate of the division runs a free-phone service for consumers' enquiries and complaints. It also carries out an educational campaign through TV and radio aimed at increasing consumer and business awareness on consumer-related issues. In 2001, out of 4 600 enquiries or complaints received, 1 024 were registered as formal complaints. Mediation was successful in 658 cases, while 366 cases were referred to the Consumer Claims Tribunal (that deals with complaints up to €3 600). Only a few of these enquiries or complaints related to safety of products. No cases have been put to ordinary courts in the last years.

Steps have been taken for the setting up of a market surveillance committee, with the identification of its members. It will encompass representatives from consumers, business operators and various ministries responsible for market surveillance operations and enforcement. The committee will support the Market Surveillance Directorate by providing input in policy formulation, annual programme development, and monitoring and evaluation of surveillance activities across government.

### *Overall assessment*

As regards alignment with the *acquis* in this area, only some implementing legislation still has to be adopted, in particular to transpose the directive on price indication and the amended directive on consumer credit.

Regarding market surveillance mechanisms, the overall framework is broadly adequate. Mechanisms for market surveillance of products covered by the directive on general product safety are on the way to being created in Malta.

The Government should pursue its efforts to make these mechanisms fully operational, provide the necessary training to officers, and develop a comprehensive market surveillance strategy. It should, in particular, address the need for more proactive market surveillance activities, broader inclusion of other interested parties in market surveillance (e.g. consumer organisations and trade unions), and a better definition of the role of the Consumer Affairs Council and the Market Surveillance Committee.

The Government should also pursue its plans to improve the accreditation and calibration of testing laboratories.

The current plans to increase consumers' awareness of their rights and businesses' awareness of their responsibility should be implemented and further enhanced.

'Ghaqda tal-Konsumaturi' is the sole registered consumer association in Malta. It focuses mainly on assisting consumers with complaints providing consumer education and information, acting as the consumers' voice in Malta and representing their interests. Its main source of revenue is the payment of (small) membership fees; the association lacks the necessary financial resources to undertake its activities effectively and it is run by volunteers in their spare time. Further support for consumer organisations is needed in order to enable them to protect consumer interests effectively.

Malta officially joined the Transitional Rapid Exchange of Information System (TRAPEX) in 2001. Rapid-alert measures are notified to the Market Surveillance Directorate at present only by the TRAPEX information system.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that much of the Maltese legislation was not in line with the *acquis* and that considerable work was still needed to ensure transposition of the *acquis*.

Since the update of the Opinion, Malta has made progress in transposing most of the *acquis* in this area. The development of mechanisms for market surveillance activities and consumer protection is underway. Malta's legislation is largely in line with the *acquis* and the creation of a general consumer protection system does not seem to pose major problems.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on completing alignment with the *acquis* developing a comprehensive strategy to make market surveillance mechanisms fully operational.

## ***Chapter 24: Co-operation in the field of justice and home affairs***

### ***Progress since the last Regular Report***

Malta has continued to make substantial progress in this chapter.

Regarding **data protection** (*see also Chapter 3 - Freedom to provide services*), a new act was approved by Parliament in December 2001, and entered into force in March 2002. The provisions of the Data Protection Directive will come into force by accession, except where a longer time frame is permitted by the Directive. Regulations were adopted in March 2002 providing for the setting up of the independent national supervisory authority and for a Data Protection Appeals Tribunal Board. A Data Protection Commissioner has been appointed for a period of five years.

Malta has made progress in aligning its **visa policy** with that of the EU. As from October 2002, in line with the timetable established by the Government, Malta has introduced visa obligations for nationals from a first group of 38 countries. Although Malta does not yet issue airport transit visas, measures were introduced regarding the endorsement of the passports of nationals of the twelve countries requiring an airport transit visa under the Schengen *acquis*. The Immigration Police has embarked on an information campaign by including information on the new visa requirement in magazines and by informing travel agencies.

As regards the **Schengen** / EU requirements Malta has continued to prepare for future participation in the Schengen Information System (SISII). The Malta Maritime Authority signed a contract with a consortium in November 2001 for the construction and operation of a cruise liner terminal, which includes provisions to cater for passenger requirements as set out in the Schengen *acquis*.

With regard to **external border control**, the microwave link system of the Armed Forces of Malta is now fully operational. Extensive training is being provided for all police stationed at borders as well as other relevant authorities. Funds have been committed for the procurement of equipment, including equipment for the detection of forged passports.

As regards **migration**, the readmission agreement between Malta and Italy was signed in December 2001 and will come into force by the fourth quarter of 2002. Malta is currently negotiating readmission agreements with Egypt, Morocco, Tunisia, Algeria and Libya.

As far as **asylum** is concerned, Malta withdrew its geographical limitation to the Geneva Convention in December 2001. It also lifted fourteen out of seventeen reservations made when it signed the Convention, leaving three limitations referring to the issues of refugee seamen, naturalisation and the Government's obligation to offer public relief services to refugees. Implementing legislation under the Refugees Act was adopted in October 2001, providing for the comparison of fingerprinting as well as other provisions needed for compliance with the criteria and mechanisms for determining the responsible member state (Dublin Convention).

Following the setting up last year of the Refugee Commissioner's Office, a call for applications for the recruitment of refugee officials was issued in April and a training programme, starting in September, has been designed for them.

A reception centre for illegal immigrants and refugees was inaugurated in February 2002.

In the field of **police co-operation and the fight against organised crime**, Malta signed a bilateral agreement on the fight against organised crime with Albania in February 2002.

Amendments to the Criminal Code, including provisions making trafficking in human beings an offence, were enacted by Parliament in April 2002. The amendments also align the Maltese legislation with the UN Convention Against Trans-national Organised Crime (Palermo Convention) (as well as its protocols against the smuggling of migrants by land, sea and air and to prevent, suppress and punish trafficking in persons, especially women and children), signed by Malta in 2000. They also make it a criminal offence to participate in a criminal organisation.

Malta has started discussions with Europol, in accordance with the Council Decision of March 2000, with a view to becoming a member prior to accession.

As regards the **fight against fraud and corruption** (*see Section B.1.1- Democracy and the rule of law*), the amendments to the Criminal Code adopted in April 2002 include provisions that will extend the offence of corruption to include the bribery of officials of foreign governments and international organisations. The amendments aim at implementing the Protocol of 27 September 1996 to the Convention on the Protection of the European Communities' Financial Interests and taking into account the Council of Europe Criminal Law Convention on Corruption (1999).

As regards **drugs**, the Maltese Government decided that Malta will participate in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) from January 2003. The National Co-ordinating Commission against Drug and Alcohol Abuse (reporting to the Ministry for Social Policy) will act as the European Information Network on Drugs and Drug Addiction (REITOX) focal point for the EMCDDA. The Co-ordinating Commission carries out the functions of a national drug-monitoring centre. It collects and collates data on four of the six areas required by the EMCDDA. Funds have been committed to enable capacity building in the drug field in 2003. The Co-ordinating Commission published two study and evaluation reports in June 2002.

As regards the fight against **money laundering** (*see also Chapter 4 - Free movement of capital*), amendments to the Prevention of Money Laundering Act, providing for the setting up and the operational structure of the Financial Intelligence Analysis Unit, entered into force in March 2002. The unit has been set up and its Board have been appointed. A Director and 2 Financial Analysts have been recruited. The amendments to the Criminal Code Act, enacted by Parliament in April 2002, also intend to align Malta's legislation with the requirements of the Joint Action of December 1998 on money laundering as well as the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime. This would allow Malta to lift its reservations to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime.

In the field of **customs co-operation**, a new Customs Code, largely in line with the EC customs *acquis*, was approved by Parliament in February 2002. The Customs Department continues to organise and strengthen the post-clearance audit system provided for in the Import Duties Act in order to strengthen its anti-fraud operations. It is also organising training courses in EU systems of intelligence analysis and anti-fraud and anti-drug operations. A Central Intelligence Service is being developed which is responsible for

risk analysis in this area. A contract for the setting up of the new information technology system was signed in December 2001.

The cargo shipping company Sea Malta and the Customs Department signed a Memorandum of Understanding in March 2002 aimed at enhancing collaboration between the two organisations to control illicit activity.

With regard to **judicial co-operation in criminal and civil matters**, the Legal Procedures Ratification of Conventions Act was enacted in February 2002. This Act aims to enable Malta to ratify the International Conventions on the service abroad of judicial and extra-judicial documents, on the taking of evidence abroad in civil or commercial matters, on international access to justice, and on the enforcement of judgements in civil and commercial matters.

The amendments to the Criminal Code, adopted in April 2002, enable Malta to ratify the Additional Protocol on Mutual Assistance in Criminal Matters (1978) and the Council of Europe Criminal Law Convention on Corruption (1999). These amendments also make provision for the simplified extradition procedure and bring Maltese legislation in line with the *acquis* on extradition.

### *Overall assessment*

As for **data protection**, Malta has established the necessary legal and administrative framework. However, implementing legislation on the use of personal data by Police, Security Service and Customs still needs to be approved. It is important that the Data Protection Commissioner operates in complete independence and without external political interference and that the Data Protection Appeal Board is well established. Attention needs to be paid to the risks of conflicts of interest in that respect. Furthermore Malta still needs to ratify the European Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.

As regards **visas**, Malta has now a precise timetable for alignment with the EU visa list. It foresees introduction of visas with another small group of countries (Turkey, Morocco, Egypt, Tunisia) on 1 January 2003, while nationals of Libya will start requiring a visa to enter Maltese territory on the date of Malta's accession to the EU. Malta should now provide all diplomatic and consular missions abroad with security and technical equipment including on-line connection with the central immigration authorities. Malta needs to remove visa requirements for Romanian citizens and also to align with the EU *acquis* on airport transit visas.

Malta is well advanced in the adoption of the **Schengen** *acquis*. It needs to continue its preparation for full implementation of the Schengen *acquis* by further developing the Schengen Action Plan, maintaining a clear distinction between the requirements that must be applied upon accession and those which are connected to the Council Decision for the lifting of internal border controls. It must also set a detailed and realistic timetable to put in place the necessary infrastructure to adapt the seaports and airport to the Schengen / EU requirements, and must prepare the national system for the linkage to SIS II and continue efforts to establish the SIRENE office.

Currently Malta is preparing for the implementation of the Common Consular Instructions. This preparation involves all parties concerned, mainly the Malta Police

Force, the Ministry of Foreign Affairs and the Armed Forces of Malta. An updated plan was finalised in October 2001 to acquire all the necessary equipment and provide the training required for the implementation of the *acquis* in this area, and now needs to be implemented. Discussions are also being held to plan the steps required to conclude consular co-operation agreements with one or more Schengen states.

As far as **border control** is concerned, Malta needs to implement the current plans to increase the staff at official points of entry, improve border-checking procedures, and procure equipment to detect forged or false documents at the points of entry as well as more sophisticated patrol and coastal equipment. It should also ensure co-ordination of all relevant authorities (including police, customs and the prosecution service) for the implementation of a national border strategy.

Malta also needs to continue and intensify its co-operation with neighbouring countries in the field of the control of the external borders for the purpose of preventing and fighting illegal immigration.

In relation to **migration**, the necessary amendments to the Immigration Act still need to be approved by Parliament. Malta should align legislation with the *acquis* on the entry, stay and work of third country nationals for study purposes as well as with the Council Resolution of 30 November 1994 on the admission of third country nationals as self-employed persons.

Malta should strengthen and implement measures to combat illegal immigration and extend legislation to cover the issue of detention procedures concerning persons having received “deportation orders” or persons whose entry has been refused, as well as sanctions against carriers.

On **asylum**, the required legislation in relation to refugees has been enacted and has entered into force. Following the lifting of its reservations to the Geneva Convention, including the geographical reservations, Malta should lift the remaining reservations on refugee seamen, naturalisation and public relief services to refugees. It should be noted that the Social Security Order, which came into force in October 2001, states that the provisions of the Social Security Act are to apply to refugees who, under the terms of the Refugees Act, are given refugee status. As regards the administrative capacity, both the Refugee Commissioner's staff and the Appeals Board are now functioning properly in terms of the law. Following the selection of competent staff, training is being provided to all key players in the asylum process. A further increase of the staff of the Commissioner's office and other human resources responsible for processing requests is needed in order to be able to cope with a larger influx of asylum seekers. Malta needs to further strengthen the Independent Review Authority for asylum seekers. Efforts are also needed for the integration of recognised refugees.

The reception centre is small and Malta does not have the facilities to house a large number of refugees should a crisis situation arise. A suitable solution to that problem has yet to be found.

Malta has ratified the 1999 UN Convention for the suppression of the financing of terrorism and has joined the EU common position on the fight against terrorism. However Malta should comply with the *acquis* and international standards on the fight against the misuse of the financial system and terrorism financing.

As regards the **fight against fraud and corruption**, the recent amendments to the Criminal Code have largely aligned the Maltese legislation with the Convention on the Protection of the European Communities' Financial Interests. However, certain aspects of the Maltese legislation, related in particular to the definition of active corruption, criminal liability of heads of business and liability of legal persons, might still need to be aligned. Malta should pay more attention to the fact that prevention through transparency and accountability standards is as important as repressive tools.

In the field of **police co-operation and the fight against organised crime**, Malta needs to accede to the EU Convention of 29 May 2000 on Mutual Assistance in Criminal Matters and sign and ratify the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters from 8 November 2001.

An essential requirement for the finalisation and ratification of the co-operation agreement with Europol is the drawing up of regulations under the Data Protection Act regarding the use of personal data by the police.

Malta should establish a comprehensive strategy for fighting against new types of organised crime. Statistical instruments for measuring crime rate should be improved. Particular attention needs to be given to training in the fields of forensic sciences, financial investigation and criminal analysis and to complying as soon as possible with the *acquis* and other international standards on the fight against the misuse of the financial system and financing terrorism.

Malta has signed but not yet ratified the UN Convention Against Trans-National Organised Crime and 2 of its 3 protocols. It has not signed the third protocol on illicit manufacturing and trafficking of firearms.

In the fight against **drugs**, the National Co-ordinating Commission against Drug and Alcohol Abuse still needs to finalise Malta's national strategy against drugs abuse in line with the EU Action Plan on drugs (2000-2004). Malta should provide efficient inter-ministerial co-ordination, intensify co-operation with the Member States in this field, concretise its participation in REITOX and finalise negotiations to conclude other co-operation agreements in the fight against drug trafficking and organised crime.

As regards **money laundering**, the setting up of a Financial Intelligence Analysis Unit (FIAU), following recent amendments to the Prevention of Money Laundering Act, constitutes an important step. However, the FIAU, which will assist the government in furthering its commitment to enhance Malta's reputation as a financial services centre by fighting criminal abuse of the country's financial services, needs to be further strengthened in particular with the appointment of a police liaison officer.

As far as **customs co-operation** is concerned, Malta should align with the Convention on Mutual Assistance and Co-operation between the Customs Administration of 18 December 1997 (Naples II) upon accession and with the 1995 Convention on the Use of Information Technology for Customs Purposes. Malta needs to ensure the timely implementation of its plans regarding the use of information technology for customs purposes and the mutual assistance and co-operation between Customs administrations on accession. Malta should enhance the investigative powers of customs officials. Malta should continue its efforts to further implement the Joint Action of 29 November 1996 on co-operation between customs authorities and business organisations on combating drugs

trafficking by concluding Memoranda of Understanding with other business organisations.

As for **judicial co-operation in criminal and civil matters**, Malta should ratify the Council of Europe Convention on Cybercrime. Malta should take further measures to ensure implementation of the Community instruments in the area of judicial co-operation in civil matters, notably as regards mutual recognition and enforcement of judicial decisions. Direct contacts between competent judicial authorities should be made possible.

All the **human rights** legal instruments which are part of the justice and home affairs *acquis* have been ratified by Malta, with the exception of the 1981 Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that the main short-term requirement was the lifting of the Maltese geographical reservation to the Geneva Convention. Also, further information was needed on the practical implementation of the right to asylum, the prevention of illegal immigration, and the fight against organised crime, notably the fight against drugs and the means of combating them. It was noted that Malta had to boost its participation in international civil and criminal co-operation in the field of justice.

Since the 1999 update of the Opinion, the process of bringing Malta's legislation and structures into line with the justice and home affairs *acquis* has developed satisfactorily. Malta has lifted its geographical reservation to the Geneva Convention and made considerable progress in the practical implementation of asylum rights. Progress has been substantial in the area of border control and the fight against illegal immigration and there has been progress as regards the fight against organised crime and drugs. The legal framework and required administrative structures are largely in place.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on completing alignment (visas, migration, customs co-operation) and on ensuring the implementation of the measures planned for the effective enforcement of the policies in this area, in particular as regards the Schengen Action Plan, asylum, data protection and money laundering.

### *Chapter 25: Customs union*

#### *Progress since last Regular Report*

Malta has achieved considerable progress in the customs field since the last Regular Report.



As regards alignment of Malta's legislation with the **customs *acquis***, a new consolidated Customs Code, in line with that of the Community, was adopted in March 2002 and came into effect, together with the implementing provisions, on 30 June 2002. It covers valuation, entry procedures, simplified procedures, customs procedures with economic impact, free zones and free warehouses, customs debts, repayment and remission of duties, transit and appeals from decisions of the Customs' authorities. However the provisions on free zones / warehouses and on representation will not be implemented until accession, which is reflected in the implementing provisions.

As far as **administrative and operational capacity** to implement the *acquis* is concerned, significant progress has been made, with the continued implementation of the Customs Business Change Management Plan started in 2000.

As regards the *organisation and infrastructure* of the Customs Department, a Common Agricultural Policy (CAP) unit was created within department in November 2001, as well as a post-clearance verification unit (with 3 persons) in March 2002. The re-organisation and development of intelligence teams has been carried out since December 2001.

On the *co-operation with trade and other departments*, a Memorandum of Understanding was signed between the Malta National Laboratory and the Customs Department in February 2002, for the provision of professional testing services required by the Department. The Customs Department issued guidelines for users on the new provisions of the Customs Code, in particular on economic regimes.

Concerning *mutual administrative assistance and pursuit of fraud*, a protocol on mutual administrative assistance in customs matters was initialled between the Community and Malta in October 2001.

Training sessions were held on *ethics and anti-corruption measures*, in December 2001 and January 2002.

Regarding *computerisation and interconnectivity*, Malta has designed implementation plans for an 'e-Customs'-system including a new computerised entry-processing system with a risk analysis module and a data warehouse. It is aimed at ensuring all information technology (IT) interconnectivity requirements with Community systems are met. The implementation of this work started in the beginning of 2002.

### *Overall assessment*

The new provisions regrouped in the Customs Code replace a number of disparate texts, thereby improving internal cohesion and clarity, and mark an important advance in the alignment with the Community *acquis*. Malta will apply some of the EC customs provisions only at the date of accession (Community transit, rules of origin, simplified valuation rules, precursors, free zones and free warehouses, etc).

As regards administrative capacity, the continuous implementation of the Customs Business Change Management Plan is providing positive results. These efforts and training must continue in view of the lack of experience of the Maltese customs administration in applying certain Community Customs provisions and procedures such as inward and outward processing and temporary import. Efforts will also be needed to adapt to the introduction of CAP and trade policy measures that will significantly alter

the context in which non-preferential rules of origin are applied. Malta will have to apply as well all Community preferential agreements and arrangements which will involve the application of systems which are new to Malta such as simplified procedures (invoice declarations) and pan-European cumulation of origin. The move from clearance- to post-clearance-based controls is a relatively recent development, which remains to be thoroughly integrated. The Malta Freeport will need to be operated in accordance with Community-type rules applicable to free zones, by the time of accession.

The implementation of the plans for the setting up of the computerised entry-processing system ensuring all IT interconnectivity requirements with Community systems are met is a key step. Provided that it is carefully implemented, Malta should be on track to complete the work by mid-2003.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that Malta had to undertake substantial efforts in order to fulfil the responsibilities of an EC customs administration. The principal issue was the full and rapid alignment of the Maltese legislation with the *acquis* as well as a substantial reform of the customs administration. The system of levies had to be imperatively eliminated in accordance with the Association Agreement. It was noted that the adoption of the Common Customs Tariff could be problematic, as it would lead to a decrease in the protection level and a loss of revenue.

Since the 1999 update of the Opinion, Malta has made considerable progress on aligning its legislation and developing administrative and operational capacity. Overall its legislation is largely in line with the *acquis* in this area and, while its administrative capacity still needs to be strengthened, it is on track to meet the requirements of the *acquis* by accession.

Negotiations on this chapter continue. Malta is generally meeting the commitments it has made so far in the accession negotiations.

In order to complete preparations for membership, Malta's efforts now need to be focused on implementing the new Customs Code and its provisions, in particular with regard to the Business Change Management Plan in order to reinforce administrative and operational capacity. Malta must effectively pursue the implementation of the information technology strategy in order to meet the targets regarding computerisation and interconnectivity with Community systems and take steps necessary to prepare for the application of measures and provisions that will be introduced only at the time of accession in particular with regard to the Freeport.

## ***Chapter 26: External relations***

### *Progress since the last Regular Report*

Since the previous Regular Report Malta has continued to align with the *acquis* on common commercial policy and to co-ordinate positions and policies within the World Trade Organisation (WTO) with the EU, in particular with regard to the Doha Development Agenda negotiations.

As regards the **common commercial policy**, upon accession Malta will be required to align its tariffs with those of the EC. Malta's applied tariffs currently average 6.2% (MFN) on all products, 7.4% on agricultural products, 3.9% on fishery products and 5.9% on industrial products. By comparison, EC tariffs currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products.

With regard to the *acquis* in the area of dual-use goods, regulations on the export control of dual-use items were issued under the National Interest Act and came into force in January 2002 and Malta adopted regulations to transpose the most recent *acquis* in July 2002. They provide for the necessary authorisation mechanism concerning the export of dual-use goods largely in line with the corresponding EC Regulation. The procedures necessary for processing requests for export authorisations have been established. An exercise was carried out to identify exporters who could be potentially affected by dual-use legislation in order to advise them accordingly. Bilateral co-operation with the UK on export control and training of experts has taken place.

The process of aligning the Maltese legislation in the field of medium and long-term export credits has not yet been completed.

There have been few new developments as regards **bilateral agreements with third countries**. Malta has signed a new co-operation agreement with Cyprus.

No particular development can be reported as regards **development policy** and **humanitarian aid** initiatives.

### *Overall assessment*

The EU and Malta have established a framework for co-operation regarding WTO issues at both ministerial and departmental level. Malta has been supportive of EU policies and positions within the WTO framework, in particular also during the preparation for and the launching of the Doha Development Agenda. This close co-operation should continue. Close coordination is needed and should continue to ensure the smooth alignment of Malta's GATS commitments with the EC's commitments and MFN exemptions and steps have been defined to this extent.

Malta is an observer to the WTO plurilateral agreement on Government Procurement and a member of the WTO plurilateral agreement on trade in Civil Aircraft. With regard to the WTO agreement on Trade in Textiles and Clothing (ATC), coordination has taken place within the third stage of integration under the ATC to align Malta's integration programmes with those of the EC.

Malta has reached a good level of alignment with the *acquis*, following the adoption of legislation in line with of the EC Regulation on dual-use goods, however full alignment to the *acquis* in this field, in particular the general export authorisations, can only take place upon accession. In the case of export credits, Malta still needs to adapt its credit insurance practices to align with the corresponding Community regulations.

Malta has no Free Trade Agreement with other trading partners than the EC. Malta needs to ensure that any international agreement, which is incompatible with the obligations of membership, is re-negotiated or renounced prior to accession. In particular, the

compatibility with the *acquis* (internal market, visa and immigration) of the Authorised Destination Status (tourism) agreement concluded with China in 2001, needs further examination. Malta should continue to keep the Union fully informed about negotiations aimed at the conclusion of any new trade agreements with a third country.

To date Malta has no development and humanitarian aid policy but it provides humanitarian assistance on a case-by-case basis.

Malta's administrative capacity to implement the *acquis* has been strengthened and would appear to be satisfactory, in particular in relation with WTO and commercial issues. Malta's external commercial policy is within the responsibilities of the Ministry for Economic Services and Malta's relations with the WTO are conducted by the Ministry of Foreign Affairs in co-ordination with the ministries concerned. The EU Directorate within the Ministry for Foreign Affairs monitors all bilateral agreements that Malta is considering entering into with third countries, including Investment Guarantee Agreements. An International Economic Relations Directorate has been set up within the Ministry of Economic Services to strengthen its capacity to deal with WTO matters. The dual-use goods regulations are implemented by a unit within the Commerce Division of the Ministry for Economic Services specifically set up for this purpose and the officials of this unit are receiving adequate training.

### *Conclusion*

In the 1999 update of its Opinion, the Commission noted that Malta had to subscribe to the multilateral WTO agreements to which the Community adheres and align its commitments in this area with those of the EC. It added that Malta should design a pre-accession strategy to align its customs legislation with the *acquis*.

Since the 1999 update of the opinion, Malta has made progress in aligning its policies with the Community common commercial policy. It has aligned its legislation as regards dual-use goods and made considerable progress in transposing the EC customs *acquis*. Its administrative capacity to implement the *acquis* in this area is broadly adequate.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on finishing the process of legislative alignment, including finalising the alignment of its legislation on export credits and bringing its bilateral agreements with third countries into full conformity with its EU membership obligations, as well as on ensuring that the capacity exists to fully implement and enforce the *acquis* in this field upon accession.

## ***Chapter 27: Common foreign and security policy***

### *Progress since the last Regular Report*

Since the previous Regular Report, Malta has continued to position its foreign and security policy in line with that of the European Union.

Malta has shown a keen interest in continuing its active participation in **political dialogue** with the EU, including on European Security and Defence Policy (ESDP) developments. It has actively participated in exchanges in this context with the EU and, for ESDP, in the EU+15 format meetings (i.e. with non-EU European NATO members and candidates for accession to the EU). Malta has participated in all relevant meetings, including at the level of Political Directors, European Correspondents and Working Groups.

As regards **alignment with EU statements and declarations**, Malta has continued to align with almost all EU declarations and, when invited to do so, has associated itself with the Union's **common positions and joint actions**, including negative measures. Malta has signed the Rome Statute establishing the International Criminal Court but still needs to ratify it. It has passed new legislation including measures against the financing of terrorism. It has aligned with the EU Plan of Action of September 2001 and the four Common positions on combating terrorism. Malta has acceded to the relevant international conventions relating to terrorism.

Since the 2001 Regular Report, progress has been made with the adoption of the necessary legislative framework for effective participation in the CFSP. Malta has continued to comply with **international sanctions and restrictive measures** imposed by the UN and the EU.

Malta has confirmed its preparedness to contribute both to EU Rapid Intervention Force missions (Maltese forces will be integrated into the Italian contingent) and to EU civilian instruments for crisis management. It participated in the Capabilities Improvement Conference in November 2001 and the EU +15 Defence Ministers' meeting in May 2002.

Since last year, the Ministry of Foreign Affairs (MFA) has instituted the posts of interlocutors for the Political and Security Committee and the EU Military Committee. A Liaison Officer to the EU Military Committee has been appointed. Concerning arms exports, Malta takes guidance from the EU Code of Conduct. Malta has established a sanctions monitoring board.

### *Overall assessment*

Malta has maintained steady and good relations with partners in the south and east Mediterranean. Relations with other candidate countries have become increasingly intensive.

Malta has subscribed to the EU Code of Conduct on Arms Exports, but it still has to ensure full compliance with its content.

As regards administrative capacity to implement the provisions relating to the CFSP, Malta has the capacity, both in terms of staffing allocations and in terms of the appropriate information systems, to effectively participate in the Associated Correspondents' Network through which the EU communicates within the CFSP with the associated partners.

Malta has nominated interlocutors for the EU Political and Security Committee and the EU Military Committee. It has also nominated a Point of Contact for the EU Military Staff. This will allow it to monitor developments in the European Security and Defence

Policy. Malta is involved in the political dialogue process and since 2000 a Political Director and a European Correspondent have been appointed within the Ministry of Foreign Affairs.

### *Conclusion*

In the 1999 update of its Opinion, the Commission noted that Malta is an active participant in the Euro-Mediterranean Partnership (Barcelona Process) and that it has no territorial disputes with its neighbours.

Since the 1999 update of the Opinion, Malta has shown a keen interest in continuing its active participation in political dialogue with the EU, including on European Security and Defence Policy (ESDP) developments. Its alignment with the CFSP *acquis* is generally satisfactory at this stage and administrative structures are in place.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts need now to focus on ensuring that its foreign policy orientation remains in line with the Union's developing foreign and security policy and ensuring full compliance with the EU Code of Conduct on Arms Exports.

## ***Chapter 28: Financial control***

### *Progress since last Regular Report*

Since last year's Regular Report, Malta has continued to progress in this area.

The **Public Internal Financial Control** system has been consolidated and the re-engineering process regarding institution building and procedure completed. There has been further upgrading and strengthening of internal control systems, with the finalisation of the Audit Manual for audit examiners in December 2001. The staff of the Internal Audit and Investigation Directorate (IAID) went through an intensive training programme both at national and international level.

Malta has made good progress in the area of **external audit**. During the reporting period the National Audit Office (NAO) undertook an intensive training programme and increased its staff with an Assistant Auditor General and five Principal Auditors.

With regard to **control over structural action expenditure and EC pre-accession funding**, Malta's preparations to comply with the criteria and conditions for the fully decentralised implementation of pre-accession aid (EDIS) has reached an advanced stage. The EDIS application was presented to the Commission in April 2002.

Regarding the **protection of the financial interests of the European Communities**, the IAID is currently undertaking preparation, in particular through training and study visits, in order to act as Malta's Anti-fraud Co-ordinating Unit, responsible for the co-ordination of all legislative, administrative and operational activities related to the protection of the Communities' financial interests.

## *Overall assessment*

With regard to *Public Internal Financial Control*, Malta has at present satisfactory regulatory frameworks for both managerial accountability systems (including ex ante financial control) and functionally independent internal audit. Malta has established manuals for financial management and control and for internal audit as well as an Internal Audit Charter and a Code of Ethics for the function of internal auditor. The Internal Audit and Investigation Directorate is centralised so that harmonised audit methodology is guaranteed in accordance with international practice and standards. The IAID is on the whole adequately staffed and should reach a sufficient administrative capacity with the training activities programmed in 2002 and 2003.

In the area of *external audit*, the operational and functional independence as well as the audit scope of the National Audit Office have been satisfactorily dealt with in legislation. The NAO has introduced into its audit manuals all the INTOSAI auditing standards. The administrative capacity of the NAO has been steadily reinforced over the past years and, with the current recruitment plans, should soon reach a satisfactory level.

With regard to the *control of structural action expenditure and EC pre-accession funding*, substantial progress has been made over the past two years and the situation is generally satisfactory. Malta now needs to focus on actually starting the introduction of EDIS, once approved by the Commission.

With a view to ensuring suitable *protection of EC financial interests*, an Internal Audit and Financial Investigation (IAFI) Act has been drafted, together with amendments proposed to the Public Finance Management Act, however they still need to be adopted. They will formalise the IAID's competencies and responsibilities with regard to the prevention of and fight against fraud affecting the Communities' financial interests, including relations with other institutions and bodies involved in the Communities' financial interests. In addition, they will provide for the possibility to carry out on-the-spot checks, if necessary jointly with the Commission, in accordance with the rules laid down in the relevant Community legislation and pre-accession instruments. Co-operation with OLAF through the IAID, in its capacity as anti-fraud co-ordinating service, should effectively be implemented.

## *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that further clarification was needed on the effectiveness of Malta's legislative and administrative systems in respect of internal and external financial control as well as of procedures to fight against fraud.

Since the 1999 update of the Opinion, Malta has made steady progress in the area of public internal financial control, external audit and protection of the Communities' financial interests. Its regulatory framework is largely in line with the *acquis* in this area and its administrative capacity is broadly adequate.

Negotiations on this chapter have been provisionally closed. Malta has not requested any transitional arrangements. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on the training of the staff involved in audit and anti-fraud activities, on the adoption of the Internal Audit and Financial Investigation Act as well as on the development of the role of Internal Audit and Investigation Directorate (IAID) as the body responsible for the co-ordination of the fight against fraud affecting the Communities financial interests.

## ***Chapter 29: Financial and budgetary provisions***

### *Progress since the last Regular Report*

Malta has made some progress in this area since the last Regular Report.

As regards the **national budget and EC co-financed measures**, no particular progress can be reported.

As regards **own resources and administrative infrastructure**, Malta continued its preparation to build up its administrative capacity with regard to the operational management of the own resources system, in particular through the co-ordinating service within the Ministry of Finance. Recruitment of extra-staff and training for staff took place.

For the purposes of calculating the GNP resource, further progress was made with the introduction of the Malta Statistics Authority Act, which provides for further harmonisation with the ESA 95 standards.

A consolidated Customs Code, largely in line with the *acquis*, was adopted in February 2002.

### *Overall assessment*

The legal framework for budgetary management and for the transparency and efficiency of financial flows to and from the EC budget is largely in place. However, further improvements are needed in macro-economic forecasting and drawing up a medium-term budget strategy to consolidate the soft multi-annual budget programming.

Overall preparations for application of the *acquis* on own resources are progressing well, although there is room for further improvement.

Concerning VAT, further alignment is necessary in connection with intra-Community transactions and the tax status of certain supplies and services (in particular zero-rates). Further efforts are also required in order to be able to calculate the weighted average rate (WAR) in accordance with ESA 95 and to determine the impact on the VAT base of any special arrangements agreed under the Taxation Chapter. Malta should continue to participate in the VAT simulation exercise, which is the key tool for effectively testing its capacity regarding the VAT resource. Sustained efforts are also needed to improve the actual collection and control of VAT.

As regards the GNP resource, the level of compliance has improved. However considerable efforts remain necessary as regards the exhaustiveness of national accounts. Malta should continue implementation of the ESA 95 concept, with the ongoing process of quality and methodology improvements.



The introduction of a new Customs Code, largely in line with the *acquis*, represents an important step forward.

Malta needs to develop its reporting system on fraud and irregularities. Certain other reporting and accounting requirements (A and B accounts, implementation of the new electronic e-customs 2002 IT system) still need to be set up in time for accession.

As regards administrative capacity, all the institutions necessary for applying the own resources system already exist and the Service set up within the Ministry of Finance to co-ordinate the establishment of the necessary procedures and infrastructure in the area of own resources appears to function well. All members of the Service are public officers appointed by the Prime Minister and are familiar with the methodology applicable for the calculation of own resources in their respective area of concern. After joining the EU, the Service's role will consist of co-ordinating the calculation, control and payment of own resources, while the International Relations Directorate in the Ministry of Finance will act as Paying Authority.

In addition to the need for central co-ordination for the proper collection, monitoring and payment of funds to and from the EC budget, administrative capacity should be strengthened in the context of the relevant policy areas described elsewhere in this report, such as Agriculture, Customs and Taxation.

With regard to the control of future EC own resources, Malta should continue its efforts to set up effective instruments to combat VAT and customs duty fraud so that the financial interests of the EC can be protected.

### *Conclusion*

In the 1999 update of its Opinion, the Commission concluded that, in order to ensure that own resources were established, monitored and made available in line with Community regulations, Malta would have to overhaul its existing customs system. Furthermore, for the purposes of accurately calculating the GNP resource, considerable improvements would have to be made to the national accounts to ensure that they were reliable, homogeneous and complete. The Commission added that improving the statistics would also be essential for drawing up the VAT own resources base, which would mean bringing Malta's VAT system fully into line with the Community directives.

Since the 1999 update of the Opinion, Malta has made considerable and steady progress in these areas. It has considerably improved its capacity in statistics and recently adopted a Customs Code largely in line with the *acquis*. The legal framework for budgetary management and for the transparency and efficiency of financial flows to and from the EC budget is largely in place and the institutions necessary for applying the own resources system are in place. However its preparations to apply the *acquis* in the field of own resources are still insufficient.

Negotiations on this chapter continue. Malta is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Malta's efforts now need to focus on improving its calculation of the VAT base, guaranteeing the exhaustiveness of the national accounts for determining the GNP resource in accordance with ESA 95,

developing its reporting and accounting requirements in the field of traditional own resources as well as setting up effective instruments to combat VAT and customs duty fraud.

### **3.2. Translation of the *acquis* into the national languages**

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and secondary legislation alone represents a considerable volume of texts, roughly estimated at 60 000-70 000 pages of the Official Journal. In the framework of the translation of the *acquis*, the Court of Justice has defined a set of key judgements to be translated as a priority (representing about 15 000 pages). To help the candidate countries in this process, assistance is being provided under the pre-accession programmes. With the help of TAIEX, a dedicated database has been set up to act as a repository of all translated acts and as a tool through which candidate countries forward their translations to the Commission and the Council. The legal revisers of the Commission and the Council vet the submitted texts; they meet regularly and liaise with representatives of the centralised Translation Co-ordination Units in each country.

The Ministry of Justice has set up a unit within the Ministry to translate the *acquis* into Maltese, the national language of Malta. The unit, which consists of a core group made up of three full-timers and three part-time staff, co-ordinates the overall translation work. Translation capacity has been considerably increased, with 100 part-time translators and 10 revisers.

The translation of the *acquis* into Maltese is being carried out from an English language source document. French and Italian versions are also made available on request. The translators are using specialised computer software to aid them in their work.

As at September 2002, 5 300 pages of revised text were registered in the dedicated Commission database. According to Maltese sources, as of June 2002, translation of the Treaties had been completed, and 36 000 pages have been translated, which exceeds the target of 30 000 translated pages by the end of 2002, set with TAIEX. Malta envisages appointing more revisers, to increase the output in revisions. Considerable further efforts are required in this area.

Due attention must also be given to the training of conference interpreters.

### **3.3. General evaluation<sup>16</sup>**

Since the update of the Opinion in 1999, Malta has made considerable progress in aligning its legislation with the *acquis* and it has significantly improved its administrative capacity, particularly as regards free movement of goods, statistics, telecommunication, regional policy, justice and home affairs, and financial control. There has been progress, although uneven, in all other areas of the *acquis*.

---

<sup>16</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

Over the past year, Malta has made considerable legislative progress in the areas of freedom to provide services, environment and customs and further progress in other areas, particularly regarding free movement of goods, free movement of persons and statistics. It has continued to improve its administrative capacity, notably in the areas of standardisation and market surveillance, statistics, regional policy, justice and home affairs, customs and financial control. However, progress has been limited in the areas of agriculture, fisheries, transport and social policy.

Overall Malta has achieved a good degree of alignment with the *acquis* in many areas and is well advanced towards adequate administrative capacity to implement the *acquis* in many fields, although further efforts remain to be made, in particular as regards agriculture and environment. Detailed plans have been agreed, in particular in the negotiations and the Action Plans, to cover the remaining gaps.

In the field of the *internal market*, there has been considerable legislative progress on *free movement of goods*, and Malta has reached a high level of alignment with the *acquis* in this area. Malta must finalise the alignment of its public procurement legislation as regards the remedies system and bodies governed by public law. Its administrative capacity is broadly adequate in this area. As regards *free movement of persons*, there has been progress in adopting a legislative framework for the mutual recognition of professional qualifications, but alignment is still incomplete in the fields of citizens' rights and free movement of workers. Malta has continued to progress on *free movement of services and capital*, particularly as regards financial services and data protection, however further legislative alignment is needed in particular as regards the right of establishment and freedom to provide services. In the area of *company law*, there has been little progress over the past year and Malta still needs to transpose some directives on intellectual and industrial property rights in order to align fully with the *acquis*. As regards *competition*, Malta has made further progress in the enforcement of the State aid rules, but it still needs to adopt an appropriate framework for public undertakings. The compatibility of the aid granted to the shipyards needs to be ensured. The administrative capacity of the Competition Board and of the State Aid Monitoring Authority should reach a satisfactory level, provided efforts to strengthen them are continued.

In the field of *taxation*, Malta has achieved a high level of alignment as regards excise tax, but further alignment is needed as concerns VAT (scope of exempt transactions) and the code of conduct on direct taxation. The administrative capacity is on track to reach an adequate level as regards VAT and direct tax, but urgent efforts are needed as regards excise tax. In the area of *customs*, following the adoption of a new customs code, the Maltese customs legislation is now largely in line with the *acquis*, and the administrative capacity is on track to fulfil the requirements in this area.

As regards *transport*, there has been little progress over the past year, and that mainly in the field of maritime transport. Malta still has to transpose considerable parts of the *acquis*. Following the implementation of the Maritime Action Plan by Malta, there has been an improvement regarding maritime safety but the administrative capacity needs to be further strengthened and efforts on maritime safety need to be pursued to achieve the objective of being removed from the Paris Memorandum of Understanding black list. The Maritime Action Plan has introduced some improvements in this area. Ongoing efforts must be pursued. In the field of *energy*, Malta progressed in transposing the *acquis*, in particular as regards energy efficiency. Recent progress, in particular on the internal

energy market, needs to be sustained to align Maltese legislation in this area to the *acquis*. Administrative capacity needs to be further strengthened.

In the area of *agriculture*, there has been some legislative progress, but little progress as regards the administrative capacity. Malta has still to adopt considerable parts of the agriculture *acquis*. The capacity to enforce the *acquis* remains a source of particular concern in the area of agriculture and it should be strengthened as a matter of priority. In particular Malta must improve its administrative capacity to implement the Common Agricultural Policy and the EC rural development schemes and has to upgrade inspection arrangements in the veterinary and phytosanitary fields, as well as the border inspection arrangements. Steps have been taken for the setting up of the Integrated Administrative Control System and the Paying Agency, and funds have been committed to further strengthen the administrative capacity regarding rural development. However, a comprehensive plan to strengthen the administrative capacity in this area is still lacking. Ongoing efforts to reinforce administrative capacity and to continue the dismantling of levies should be vigorously pursued. As regards *fisheries*, Malta also needs to finalise the alignment of its legislation with the *acquis* and to implement fully its plans for substantial strengthening of its administrative capacity. Current plans to strengthen the fisheries department are steps in the right direction. Substantial further efforts are still required in this regard.

Malta has made some progress in the area of *social policy*, mainly as regards occupational health and safety. The alignment with the *acquis* is insufficient in the fields of labour law and equal opportunities. Malta is on track to achieve adequate implementation capacity for occupational health and safety, provided the current efforts are pursued, but a strengthening of the capacity regarding public health is needed. There has been continued progress in the area of *regional policy*, where the overall framework is in place to implement the structural and cohesion funds, however Malta still needs to finalise its Single Programming Document. As regards the administrative capacity, some bodies involved in implementation need to be further strengthened. As regards the *environment*, there has been considerable legislative progress but Malta needs to stick to its tight schedule of alignment with the *acquis*. It should also significantly strengthen its administrative capacity in the field of environment, which remains very weak. It is crucial, to that purpose, that Malta implements its plan to increase the staffing of the competent bodies in this area considerably (mainly the Malta Environment and Planning Authority) and to reinforce its permitting and inspection practices. These plans need to be adhered to strictly.

Malta has reached a good level of alignment with the *acquis* in the field of *telecommunications*, although further alignment is still needed, and in *culture and audiovisual policy*, and its administrative capacity in these areas is broadly adequate.

In the field of *justice and home affairs*, there has been progress, in particular as regards the *acquis* on asylum, data protection, visa policy and money laundering, as well as with the adoption of a Schengen Action Plan and strengthening of the administrative capacity in the areas of border control and asylum. Malta has achieved a good level of alignment with the *acquis* but further progress is needed as regards immigration and judicial co-operation. The administrative capacity in this area is generally adequate, but the current plans to strengthen it in the fields of data protection, money laundering, asylum and border control need to be fully implemented.

In the field of *financial control*, the regulatory framework and the institutional capacity are broadly satisfactory and efforts need only focus on the finalisation of the arrangements regarding fight against fraud and protection of EC financial interests. In the *statistics* area, the administrative capacity is broadly adequate and Malta well on track to fully align its methodologies with EC standards, provided the current efforts continue.

Overall, provided Malta implements its plans to strengthen its administrative capacity as mentioned above, it should be able to ensure a reliable enforcement of the *acquis* and to participate adequately in the Union's policy-making processes. Malta's capacity to ensure sound, efficient and controllable management of EC funds is generally good and should be fully adequate once it has finalised its plans regarding the body in charge of fight against fraud and protection of EC financial interests.

In the accession negotiations, 25 chapters have been provisionally closed. Malta is generally meeting the commitments it has made in the negotiations. However delays have occurred in the areas of free movement of persons (citizens' rights and free movement of workers), fisheries (vessel monitoring, market policy), agriculture (establishment of the Paying Agency), transport (road and maritime transport) and social policy (labour law and gender equality). These issues need to be addressed.

Bearing in mind the progress achieved since the 1999 update of the Opinion, the level of alignment and administrative capacity that Malta has achieved at this point in time, and its track record in implementing the commitments it has made in the negotiations, the Commission considers that Malta will be able to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Malta needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

## C. Conclusion<sup>17</sup>

The Commission has repeatedly concluded that Malta fulfils the political criteria. This was the conclusion of previous Regular Reports, and has been confirmed over the past year. Malta continues to fulfil the Copenhagen political criteria.

Malta has taken further measures to improve the quality of the civil service as well as of the judicial system.

Malta continues to respect human rights and freedoms. It has made further progress by improving its legal framework in the area of asylum, the fight against racism and the fight against trafficking in human beings.

Malta is a functioning market economy and it should be able to cope with competitive pressure and market forces within the Union.

The 1999 update of the Opinion already acknowledged the economic reform efforts undertaken by the Maltese authorities to prepare for EU accession. Since the Opinion, the Maltese authorities' commitment to the economic requirements of EU accession has been sustained.

Further improvements can be made to macroeconomic management by reducing the general government deficit and reforming public expenditure to ensure medium-term fiscal sustainability. More progress can be made on restructuring large loss-making public enterprises and public utilities. Attention should be paid to the supervision of non-performing loans in the banking sector.

Since the update of the Opinion in 1999, Malta has made considerable progress in aligning its legislation with the *acquis* and it has significantly improved its administrative capacity, particularly as regards free movement of goods, statistics, telecommunication, regional policy, justice and home affairs, and financial control. There has been progress, although uneven, in all other areas of the *acquis*.

Over the past year, Malta has made considerable legislative progress in the areas of freedom to provide services, environment and customs and further progress in other areas, particularly regarding free movement of goods, free movement of persons and statistics. It has continued to improve its administrative capacity, notably in the areas of standardisation and market surveillance, statistics, regional policy, justice and home affairs, customs and financial control. However, progress has been limited in the areas of agriculture, fisheries, transport and social policy.

Overall Malta has achieved a good degree of alignment with the *acquis* in many areas and is well advanced towards adequate administrative capacity to implement the *acquis* in many fields, although further efforts remain to be made, in particular as regards agriculture and environment. Detailed plans have been agreed, in particular in the negotiations and the Action Plans, to cover the remaining gaps.

---

<sup>17</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

In the field of the *internal market*, there has been considerable legislative progress on *free movement of goods*, and Malta has reached a high level of alignment with the *acquis* in this area. Malta must finalise the alignment of its public procurement legislation as regards the remedies system and bodies governed by public law. Its administrative capacity is broadly adequate in this area. As regards *free movement of persons*, there has been progress in adopting a legislative framework for the mutual recognition of professional qualifications, but alignment is still incomplete in the fields of citizens' rights and free movement of workers. Malta has continued to progress on *free movement of services and capital*, particularly as regards financial services and data protection, however further legislative alignment is needed in particular as regards the right of establishment and freedom to provide services. In the area of *company law*, there has been little progress over the past year and Malta still needs to transpose some directives on intellectual and industrial property rights in order to align fully with the *acquis*. As regards *competition*, Malta has made further progress in the enforcement of the State aid rules, but it still needs to adopt an appropriate framework for public undertakings. The compatibility of the aid granted to the shipyards needs to be ensured. The administrative capacity of the Competition Board and of the State Aid Monitoring Authority should reach a satisfactory level, provided efforts to strengthen them are continued.

In the field of *taxation*, Malta has achieved a high level of alignment as regards excise tax, but further alignment is needed as concerns VAT (scope of exempt transactions) and the code of conduct on direct taxation. The administrative capacity is on track to reach an adequate level as regards VAT and direct tax, but urgent efforts are needed as regards excise tax. In the area of *customs*, following the adoption of a new customs code, the Maltese customs legislation is now largely in line with the *acquis*, and the administrative capacity is on track to fulfil the requirements in this area.

As regards *transport*, there has been little progress over the past year, and that mainly in the field of maritime transport. Malta still has to transpose considerable parts of the *acquis*. Following the implementation of the Maritime Action Plan by Malta, there has been an improvement regarding maritime safety but the administrative capacity needs to be further strengthened and efforts on maritime safety need to be pursued to achieve the objective of being removed from the Paris Memorandum of Understanding black list. The Maritime Action Plan has introduced some improvements in this area. Ongoing efforts must be pursued. In the field of *energy*, Malta progressed in transposing the *acquis*, in particular as regards energy efficiency. Recent progress, in particular on the internal energy market, needs to be sustained to align Maltese legislation in this area to the *acquis*. Administrative capacity needs to be further strengthened.

In the area of *agriculture*, there has been some legislative progress, but little progress as regards the administrative capacity. Malta has still to adopt considerable parts of the agriculture *acquis*. The capacity to enforce the *acquis* remains a source of particular concern in the area of agriculture and it should be strengthened as a matter of priority. In particular Malta must improve its administrative capacity to implement the Common Agricultural Policy and the EC rural development schemes and has to upgrade inspection arrangements in the veterinary and phytosanitary fields, as well as the border inspection arrangements. Steps have been taken for the setting up of the Integrated Administrative Control System and the Paying Agency, and funds have been committed to further strengthen the administrative capacity regarding rural development. However, a comprehensive plan to strengthen the administrative capacity in this area is still lacking. Ongoing efforts to reinforce administrative capacity and to continue the dismantling of

levies should be vigorously pursued. As regards *fisheries*, Malta also needs to finalise the alignment of its legislation with the *acquis* and to implement fully its plans for substantial strengthening of its administrative capacity. Current plans to strengthen the fisheries department are steps in the right direction. Substantial further efforts are still required in this regard.

Malta has made some progress in the area of *social policy*, mainly as regards occupational health and safety. The alignment with the *acquis* is insufficient in the fields of labour law and equal opportunities. Malta is on track to achieve adequate implementation capacity for occupational health and safety, provided the current efforts are pursued, but a strengthening of the capacity regarding public health is needed. There has been continued progress in the area of *regional policy*, where the overall framework is in place to implement the structural and cohesion funds, however Malta still needs to finalise its Single Programming Document. As regards the administrative capacity, some bodies involved in implementation need to be further strengthened. As regards the *environment*, there has been considerable legislative progress but Malta needs to stick to its tight schedule of alignment with the *acquis*. It should also significantly strengthen its administrative capacity in the field of environment, which remains very weak. It is crucial, to that purpose, that Malta implements its plan to increase the staffing of the competent bodies in this area considerably (mainly the Malta Environment and Planning Authority) and to reinforce its permitting and inspection practices. These plans need to be adhered to strictly.

Malta has reached a good level of alignment with the *acquis* in the field of *telecommunications*, although further alignment is still needed, and in *culture and audiovisual policy*, and its administrative capacity in these areas is broadly adequate.

In the field of *justice and home affairs*, there has been progress, in particular as regards the *acquis* on asylum, data protection, visa policy and money laundering, as well as with the adoption of a Schengen Action Plan and strengthening of the administrative capacity in the areas of border control and asylum. Malta has achieved a good level of alignment with the *acquis* but further progress is needed as regards immigration and judicial co-operation. The administrative capacity in this area is generally adequate, but the current plans to strengthen it in the fields of data protection, money laundering, asylum and border control need to be fully implemented.

In the field of *financial control*, the regulatory framework and the institutional capacity are broadly satisfactory and efforts need only focus on the finalisation of the arrangements regarding fight against fraud and protection of EC financial interests. In the *statistics* area, the administrative capacity is broadly adequate and Malta well on track to fully align its methodologies with EC standards, provided the current efforts continue.

Overall, provided Malta implements its plans to strengthen its administrative capacity as mentioned above, it should be able to ensure a reliable enforcement of the *acquis* and to participate adequately in the Union's policy-making processes. Malta's capacity to ensure sound, efficient and controllable management of EC funds is generally good and should be fully adequate once it has finalised its plans regarding the body in charge of fight against fraud and protection of EC financial interests.

In the accession negotiations, 25 chapters have been provisionally closed. Malta is generally meeting the commitments it has made in the negotiations. However delays have



occurred in the areas of free movement of persons (citizens' rights and free movement of workers), fisheries (vessel monitoring, market policy), agriculture (establishment of the Paying Agency), transport (road and maritime transport) and social policy (labour law and gender equality). These issues need to be addressed.

Bearing in mind the progress achieved since the 1999 update of the Opinion, the level of alignment and administrative capacity that Malta has achieved at this point in time, and its track record in implementing the commitments it has made in the negotiations, the Commission considers that Malta will be able to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Malta needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

## **D. Accession Partnership and Action Plan for strengthening administrative and judicial capacity: Global assessment**

Malta's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. The present section assesses the extent to which the priorities of the Accession Partnership have been met and the measures foreseen under the Action Plan implemented according to schedule. It should be noted that both the Accession Partnership and the Action Plan have a time perspective of two years covering 2002 and 2003, providing for another 15 months for priorities to be met. Furthermore, much has already been achieved based on previous Accession Partnerships. The present one focuses on remaining specific and well-circumscribed topics identified as requiring more work to prepare Malta for membership. Therefore the analysis below only focuses on these specific topics and does not give an overall picture of the state of preparation of Malta in each domain.

The purpose of the Accession Partnership is to set out in a single framework:

- the priority areas for further work identified in the Commission's Regular Report;
- the financial means available to help candidate countries implement these priorities;
- the conditions which will apply to this assistance.

The Accession Partnerships are revised on a regular basis, to take account of progress made, and to allow new priorities to be set. The Council adopted a revised Accession Partnership for Malta in January 2002, based on a proposal from the Commission.

The revised Accession Partnership has served as the point of departure for the Commission and Malta to develop jointly an Action Plan to strengthen Malta's administrative and judicial capacity.

The purpose of the Action Plan is to identify jointly the next steps required for Malta to achieve an adequate level of administrative and judicial capacity by the time of accession, and ensure that all necessary measures in this regard are taken, providing Malta with targeted assistance in areas that are essential for the functioning of an enlarged Union.

Developing adequate administrative and judicial capacity for EU membership is a demanding and wide-ranging task, which requires detailed preparations in each and every domain covered by the Union's policies and legislation. In preparing individual Action Plans, the Commission has taken a comprehensive approach. All priorities from the revised Accession Partnerships which relate to the development of administrative and judicial capacity have been included in the Action Plans. Each of these priorities is treated separately in the Action Plans, and specific measures have been designed to address each of them.

In the following, progress in addressing each of these priorities is reported. For ease of reference and to avoid repetitions, wording from the *Accession Partnerships* is rendered in italics. As regards the measures foreseen by the Action Plan, implementation is checked against timetables and reported.

## *Economic criteria*

As regards the *stabilisation of public finances (budget deficit and debt)*, giving consideration to the reform of the social security, Malta's continuous efforts were hindered by the global economic turndown in 2001. The reform of the social security system has been discussed with the social partners but no concrete steps have been taken. The *restructuring of loss-making public sector enterprises* has continued slowly, with in particular the implementation of a pre-retirement scheme at the Maltese shipyards. The *reduction of price controls and improvement of price adjustment mechanisms* has proceeded slowly, with a better reflection of international oil prices in the prices paid by consumers. There was a slight *acceleration of the implementation of the privatisation programme* in 2001 as compared to 2000, with the privatisation of Maltapost and of the Malta International Airport. The efforts *to restructure and develop SMEs* have continued with IPSE starting to extend its activities to new sectors and with further simplification of the business environment. Malta has *started to dismantle some of the remaining levies on agricultural goods*, but the adoption of a plan is linked by Malta to the results of the accession negotiations on agriculture. There have been studies to help define a *restructuring strategy for the agri-food sector* but no clear plan has been adopted. On the whole, the Accession Partnership priorities related to the economic criteria have been met to a limited extent.

## *Ability to assume the obligations of membership*

### **Chapter 1 - Free movement of goods**

Malta has progressed considerably in the completion of the process of transposition and implementation of all *New Approach and traditional sectoral legislation, including in the fields of foodstuff and pharmaceutical* (renewal of existing marketing authorisations) legislation. It has established a basic infrastructure in the *metrology sector*. It has continued to *reinforce horizontal administrative infrastructure and implementing capacity in the sectors covered by product specific legislation* (Malta Standards Authority-MSA) and started to *reinforce its national accreditation system*. It has started to develop and implement a *market surveillance strategy*. The implementation of the related measures of the Action Plan, i.e. the strengthening of the MSA and the setting up of a competent authority for food safety, is on track. Malta has prepared regulations to *complete alignment in public procurement* to include local authorities and other bodies governed by public law and to align the tender procedures, but has not issued them yet. It has adapted *the judicial review system* to the requirements of relevant directives by setting up an independent Public Contracts Appeals Board. By doing so, it has put on track the corresponding measure of the Action Plan. Malta has started with the *screening of legislation in the non-harmonised area* to ensure that it is in compliance with Articles 28-30 of the EC Treaty. It has started but not completed *administrative arrangements for the future monitoring* in this area. The implementation of the measures of the Action Plan, in particular the designation of the bodies responsible for the screening and monitoring in this area, is on track. The Accession Partnership priorities have been met to a large extent. Implementation of the measures under the Action Plan is on track.

### **Chapter 2 - Free movements of persons**

Malta has not aligned its legislation regarding *mutual recognition of professional qualifications and diplomas*. It has started to *strengthen administrative structures* in this

area and *continued efforts to introduce education and training programmes*. The corresponding measures of the Action Plan, i.e. the training of the Employment and Training Corporation advisors and the appointment of Euroadvisors, have started but are delayed. With respect to *professional qualifications obtained before harmonisation*, Malta has started to introduce measures to ensure that its professionals can, from accession, meet the requirements laid down in the related directives. However this process is far from being completed. Malta has started to *reinforce the administrative structures for the co-ordination of social security*, but more needs to be done. The corresponding measures of the Action Plan, i.e. the setting up of a unit responsible for that aspect within the Ministry of Social Policy and the training of its staff, have started but are delayed. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is delayed.

### **Chapter 3 - Free movement of services**

Malta has started but not completed the alignment of its *banking rules on deposit guarantee schemes, payment systems and securities*. Malta has taken important steps to *reinforce the supervision of its financial services*, by giving all responsibility for supervision to the Malta Finance Service Centre. It has implemented to a large extent the corresponding measures of the Action Plan, related to ensuring an efficient and well-supervised financial sector, strengthening client protection and transparency and security of transactions. Malta has adopted *national legislation and established an independent supervisory authority*, broadly in accordance with *EC legislation on data protection*. The corresponding measure of the Action Plan, i.e. the setting up of an independent national supervisory authority for data protection, is on track. The Accession Partnership priorities have been met to a considerable extent. Implementation of the measures under the Action Plan is on track.

### **Chapter 4 - Free movement of capital**

Malta has progressed in ensuring *compliance with the recommendations of the Financial Action Task Force*. As regards the corresponding measures of the Action Plan, Malta has applied to the Egmont group but the establishment of a sound and efficient payment infrastructure has started but is delayed. Malta has continued, with minimal divergences, the implementation of the three-stage plan for the elimination of remaining restrictions *on inward and outward capital movements in order to achieve full liberalisation*. Malta has set up *a financial intelligence unit to combat economic crime, including money laundering*. The implementation of the corresponding measure foreseen in the Action Plan has therefore started but it is slightly delayed. Malta has adopted legislation to align with the Second Directive against money laundering. The Accession Partnership priorities have been met to a considerable extent. Implementation of the measures under the Action Plan is slightly delayed.

### **Chapter 5 - Company Law**

Malta has not adopted legislation on *Supplementary Protection Certificates*, neither has it adopted legislation transposing the Community *acquis on Designs and protection of biotechnological inventions*. Malta has taken limited steps to strengthen the *enforcement of the intellectual property rights* in accordance with the *acquis*. In particular Police and Customs Authorities in charge of the *enforcement of the Intellectual Property Rights* have been only slightly strengthened and co-operation between them should be improved.

Training for judges and prosecutors with respect to Intellectual Property Rights legislation is still necessary. The efforts to fight against piracy and counterfeiting should be increased. The *administrative capacity* of the Industrial Property Office has not been reinforced. The implementation of the corresponding commitments mentioned in the Action Plan has not started. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is delayed.

## **Chapter 6 - Competition**

With the adoption of merger regulations, Malta has made important progress in *aligning with the acquis, in relation to antitrust and state aid legislation*. However the alignment is still not complete and it is urgent to include public undertakings within the scope of the Competition Act. Malta has produced *an inventory and an annual state aid report*. The new Business Promotion Act represents progress in ensuring the *conformity of its state aid system*, however Malta must still finalise an acceptable restructuring plan for the shipyards leading to viability of the yards, in line with the state aid *acquis*. Malta has *strengthened the administrative capacity of the competition authorities* (Office of Fair Competition and State Aid Monitoring Board) *to ensure the full enforcement of the anti-trust and State aid rules*. The implementation of the corresponding measures foreseen in the Action Plan is on track. Malta still needs *to intensify the training of the judiciary in the specific fields of anti-trust and State aid and increase awareness of the rules among all market participants and aid grantors*. The Accession Partnership priorities have been met to a considerable extent. Implementation of the measures under the Action Plan is on track.

## **Chapter 7 - Agriculture**

While Malta has formally set up the *administrative* structures needed for the design, implementation, management, monitoring, control and evaluation of *EC-funded rural development programmes* (a priority in need of particularly urgent action), these structures remain in reality very weak. One of the corresponding measures of the Action Plan, the finalisation of a Rural Development Plan, has been completed, while the other one, the setting up of the necessary structures for the implementation of the rural development policies, is delayed. Malta has initiated but not completed the up-grading of the capacity of the agricultural administration and preparations for the enforcement and practical application of the management mechanisms of the Common Agriculture Policy, in particular the *Integrated Administration and Control System, and the Paying Agency*, as well as for the implementation and enforcement of *veterinary and phytosanitary and food safety legislation*. The implementation of the corresponding measures of the Action Plan, e.g. the *Integrated Administration and Control System, and the Paying Agency*, has therefore started but it is delayed. Malta has progressed in aligning its veterinary legislation but not its phytosanitary legislation. It has taken steps to *upgrade inspection arrangements, in particular at future external borders*. (All these are priorities in need of particularly urgent action). The implementation of the measures of the Action Plan related to the upgrading of inspection arrangements and border inspection posts has therefore started but is delayed. Malta still needs to complete alignment of *its legislation on transmissible spongiform encephalopathies, plant passports, maximum residue levels, animal nutrition and ensure implementation and enforcement, including testing of animal diseases, in particular transmissible spongiform encephalopathies*. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is delayed.

## **Chapter 8 - Fisheries**

Malta has made some progress in aligning with the *fisheries acquis* regarding *resources management, inspection and control* but not with *market policy legislation*. It has not completed the *fishing vessel register* in full compliance with EC requirements; neither has it developed a management plan for *the fleet capacity* according to available fish resources. The implementation of the corresponding measures foreseen in the Action Plan is therefore delayed. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is delayed.

## **Chapter 9 - Transport policy**

Malta has made little progress in *legal alignment on road transport (in particular access to the profession, fiscal harmonisation, and transport of dangerous goods) as well as on air transport*. It has continued to progress with the *alignment and implementation of maritime transport legislation, taking into account its latest developments, and in particular with the enforcement of maritime safety standards*. It has continued to *strengthen the administrative capacity of the Maritime Authority* as foreseen in the Action Plan and started to *improve the flag state performance of the Maltese Merchant fleet* which continues, however, to be listed in the black list of the Paris MoU (priority in need of particularly urgent action). The implementation of the corresponding measures of the Action Plan, e.g. the finalisation of the Maritime Action Plan and the recruitment of port state control inspectors, is on track. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is on track.

## **Chapter 10 - Taxation**

Malta has *continued alignment with the acquis*, however progress has been slow in the *VAT area, including the transitional VAT regime* (priority in need of particularly urgent action). The review of the existing laws to ensure compatibility with the principles of the *Code of Conduct for Business Taxation* is in process. Malta has pursued consistent efforts to *strengthen administrative capacity including administrative co-operation and mutual assistance* in the field of VAT and direct taxation, whereas for excise duties, particularly urgent action is needed. It has taken the necessary steps to *develop IT systems so as to allow for the exchange of computerised data with the Community and its Member States*. The implementation of the corresponding measures of the Action Plan, e.g. the setting up of a VAT Information Exchange System, is on track. Malta has continued to implement its plan for the *complete elimination of the current special levies on industrial products*, as foreseen, and it still needs to eliminate the levies on *certain agricultural products*. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is partly on track.

## **Chapter 12 - Statistics**

Malta has continued to *improve quality and coverage of statistics and has made resources available to further strengthen statistical capacities*. The recruitment and training of staff at the National Statistics Office, foreseen by the Action Plan, is taking place. The Accession Partnership priority has been met to a large extent. Implementation of the measures under the Action Plan is on track.

### **Chapter 13 - Social policy and employment**

Malta has not completed alignment with EC legislation, in particular there have been delays in the field of *labour law* and *equal treatment for women and men*. It has continued to *strengthen the related administrative and enforcement structures*, especially regarding *occupational health and safety* but not the *labour inspectorates*. It has not established *an independent guarantee fund for employees in the case of employer's insolvency*. It has made progress in adopting *anti-discrimination legislation* and *developing a timetable for its implementation*. The measures of the Action Plan related to the strengthening of the administrative and enforcement structures are on track as regards occupational health and safety but delayed for the rest. Malta has made little progress in the *transposition and implementation of EC legislation in the field of public health*, and in adapting the national structure for surveillance and control of communicable diseases and health monitoring and information to meet the EC requirements. The implementation of the corresponding measures of the Action Plan is delayed. Malta has *continued to support social partners' capacity building efforts in particular with a view to their future role in the elaboration and implementation of EU employment and social policy, including the European Social Fund, notably through autonomous bipartite social dialogue*. Malta has progressed in *preparing a national strategy, including data collection, with a view to later participation in the European strategy on social inclusion*. The implementation of the corresponding measures of the Action Plan is on track. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is partly delayed (especially regarding labour inspectorates and public health infrastructure).

### **Chapter 14 - Energy**

Malta has started to define *the National Energy Strategy* in line with EU energy policy objectives but it needs to be finalised. Malta has progressed in the preparation for the *internal energy market*, notably with the implementation of the Malta Resources Authority Act and the continuation of the restructuring of *Enemalta*. However the electricity directive still needs to be transposed. Malta has reduced some *price distortions*, but not eliminated them. It has *strengthened the Regulator, its role and administrative capacity*. The corresponding measures of the Action Plan, i.e. the recruitment of more staff for the Malta Resources Authority and the improvement of its premises, are on track. Malta has continued the alignment process with respect to *oil stocks*. Limited progress has been made in the actual constitution of the stocks, including the necessary investments, towards the level of 90 days. Malta has taken legislative steps to improve *energy efficiency* and the use of renewable energy sources but actual progress has been limited. It has strengthened the relevant institutions in this area. The corresponding measures of the Action Plan, i.e. the strengthening of the Department of Consumer Affairs and of the Market Surveillance Directorate, are being implemented. Malta has taken the necessary steps to implement the recommendations contained in the Council Report on *Nuclear Safety* in the Context of Enlargement with due regard to the priorities assigned in the report. The Accession Partnership priorities have been partially met. Implementation of the measures under the Action Plan is on track.

### **Chapter 19 - Telecommunications and Information Technologies**

Malta has adopted framework legislation on data protection, but still needs to issue regulations to transpose legislation on *data protection in the telecommunications sector*. The Accession Partnership priority has been met to a limited extent.

## **Chapter 21 - Regional policy and co-ordination of structural instruments**

Malta has established a *territorial* organisation allowing for the effective implementation of the Structural Funds regulations (priority in need of particularly urgent action). It has made progress in the *preparation of a coherent development plan* (Single Programming Document) as required by the Structural Funds Regulations. It has continued to reinforce all the structures necessary for the *programming and management of the Structural and Cohesion Funds* and to establish structures *for monitoring, appraisal and evaluation*. It has taken measures to *ensure effective inter-ministerial co-ordination and progress in programming*. The implementation of the corresponding measures of the Action Plan, e.g. the strengthening of the Regional Policy Directorate and of ministries of Social Policy, Agriculture and Fisheries, is on track. Malta has taken measures to comply with the specific *financial management and control provisions* (including pluri-annual budgeting procedures) as laid down by the respective regulations as regards the management and control systems for assistance granted under the Structural Funds. The implementation of the corresponding measures of the Action Plan, e.g. the drafting of a new Public Finance Management Act providing multi-annual budgeting, is on track. Malta has continued to develop the technical preparation of projects eligible under the Structural and Cohesion Funds assistance (*project pipeline*). The implementation of the corresponding measures of the Action Plan, e.g. the launching of feasibility studies for investment projects in the field of environment and transport, is on track. The Accession Partnership priorities have been met to a large extent. Implementation of the measures under the Action Plan is on track.

## **Chapter 22 - Environment**

Malta has made substantial progress in the transposition of the *acquis*, in particular as regards *horizontal environmental legislation, waste management, industrial pollution control and nature protection*. However further alignment is still needed, in particular as regards nature protection (birds). Malta has developed implementation plans for the environmental *acquis*, based on estimations of costs of alignment and realistic sources of public and private finance year-by-year, and started implementation as regards waste framework directives, packaging and packaging waste, landfill of waste, urban waste water treatment, the phasing out of leaded petrol and industrial risk management. However considerable efforts are needed, in particular in the waste sector, in order to fulfil the implementation deadlines set in the EC *acquis*. Malta has started the strengthening of the *administrative, monitoring and enforcement capacity*, with the establishment of the competent authority under the new environment protection Act (priority in need of particularly urgent action). However considerable further efforts are needed to ensure an adequate administrative capacity and to clarify the overall institutional framework by the end of 2002 in line with the plans adopted during the reporting period. The implementation of the corresponding measures of the Action Plan, e.g. the setting up of a new competent authority and the recruitment of additional personnel, is on track, but steady efforts are needed to ensure their full execution. Although Malta has taken steps to continue *integration of environmental protection requirements* into the definition and implementation of all *other sectoral policies* with a view to promoting sustainable development, continued attention is needed both at national and local level. The Accession Partnership priorities have been met to a limited extent. Implementation of the measures under the Action Plan is on track.



### **Chapter 23 – Consumer and health protection**

Malta has continued to *align its legislation and strengthen market surveillance and enforcement authorities*. The implementation of the corresponding measures of the Action Plan, e.g. the strengthening of the Market Surveillance Directorate and the development of its activities, is on track. The Accession Partnership priorities have been met to a large extent. Implementation of the measures under the Action Plan is on track.

### **Chapter 24 – Co-operation in the area of justice and home affairs**

Malta has adopted legislation to *ensure alignment of data protection practices and establish an independent personal data supervisory authority*. The implementation of the corresponding measures of the Action Plan, e.g. the appointment of a data protection commissioner, is on track. Malta has taken measures to *ensure that the pre-requirements to the conclusion of a co-operation agreement with Europol are met*. It has taken steps towards joining Europol before accession. Malta has continued the *preparations for future participation in the Schengen Information System by developing various national databases and registers*. The implementation of the corresponding measures of the Action Plan, e.g. the drafting of a Schengen Action Plan, is on track. Malta has continued efforts to *reinforce the external borders by improving technical means and appropriate training of the professionals*. Malta has met the Accession Partnership priorities in this area to a large extent, and the implementation of the corresponding measures of the Action Plan, e.g. the training of professionals responsible for control at external borders, is on track. Malta has pursued its efforts for *due implementation of the Refugees Act and alignment with migration acquis*. Malta has met the Accession Partnership priorities in this area to a large extent. Malta has adopted and started to implement a timetable for a *complete alignment with common visa policy and practice*. The implementation of the corresponding measure foreseen in the Action Plan is on track. Malta has taken further necessary steps *to ensure the implementation of the Community instruments in the area of judicial co-operation in civil matters and to align the legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols*. The Accession Partnership priorities have been met to a large extent. Implementation of the measures under the Action Plan is on track.

### **Chapter 25 – Customs union**

Malta has adopted a new Customs Code which *completes alignment of customs legislation* with the EC Customs Code. However the provisions on free zones and representation will not be implemented until the time of accession. Therefore the Maltese implementing provisions remain to be fully aligned on those of the Community. The new code provides for the *use of simplified procedures*. It *reinforces the organisation of the customs administration*, in particular the preparation for the operation of all customs procedures with economic impact, the system of tariff suspensions and the administration of tariff quotas and ceiling. Malta has continued efforts to implement *the customs ethics policy*. The implementation of the corresponding measures foreseen in the Action Plan is on track. Malta has accelerated the implementation of the IT strategy of the Maltese customs administration. It has developed and started to implement plans for IT systems so as to allow for the *exchange of computerised data* between the EC and Malta. It has continued efforts to provide for sufficient IT staff in the Customs Administration (priority in need of particularly urgent action). The implementation of the corresponding measures foreseen in the Action Plan is on track. The Accession Partnership priorities have been met to a large extent. Implementation of the measures under the Action Plan is on track.

## **Chapter 26 - External Relations**

Malta has taken *measures to ensure that any international treaties or agreements incompatible with the acquis are renegotiated or terminated by accession*. However Malta must finalise the process of checking the compatibility of some agreements (e.g. in the field of tourism). The Accession Partnership priority has been met to a large extent.

## **Chapter 28 - Financial control**

Malta has implemented the new *Public Internal Financial Control (PIFC) legislation*. It has designated *an anti-fraud co-ordinating service* (the Internal Audit and Investigations Directorate) and taken steps to *effectively start co-operating with OLAF* through this service. The same service has been designated as a contact point for PIFC. Malta has continued *to strengthen the fight against fraud, notably in the area of VAT and customs duties*, and adopted the appropriate legislative framework to this effect. Malta has continued efforts *to ensure the correct use, control, monitoring and evaluation of EC pre-accession funding* as a key indicator of Malta's ability to implement the financial control *acquis*. The implementation of the corresponding measures of the Action Plan, e.g. the strengthening of the Department of Contracts and of the National Fund in the Ministry of Finance, is on track. The Accession Partnership priorities have been met to a large extent. Implementation of the measures under the Action Plan is on track.

## **Annexes**

***Human Rights Conventions ratified by the Candidate Countries,  
15 September 2002***

<i>Adherence to following conventions and protocols</i>	<b>BG</b>	<b>CY</b>	<b>CZ</b>	<b>EE</b>	<b>HU</b>	<b>LV</b>	<b>LT</b>	<b>MT</b>	<b>PL</b>	<b>RO</b>	<b>SK</b>	<b>SI</b>	<b>TK</b>
<b>ECHR (European Convention on Human Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 1 (right of property)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 4 (freedom movement et al.)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 6 (death penalty)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 7 (ne bis in idem)	X	X	X	X	X	X	X	O	O	X	X	X	O
<b>European Convention for the Prevention of Torture</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>European Social Charter</b>	O	X	X	O	X	X	O	X	X	O	X	O	X
<b>Revised European Social Charter</b>	X	X	O	X	O	O	X	O	O	X	O	X	O
<b>Framework Convention for National Minorities</b>	X	X	X	X	X	O	X	X	X	X	X	X	O
<b>ICCPR (International Covenant on Civil and Political Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
Optional Protocol to the ICCPR (right of individual communication)	X	X	X	X	X	X	X	X	X	X	X	X	O
Second Optional Protocol to ICCPR (death penalty)	X	X	O	O	X	O	X	X	O	X	X	X	O
<b>ICESCR (International Covenant on Economic, Social and Cultural rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CAT (Convention against Torture)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>CERD (Convention on the Elimination of All Forms of Racial Discrimination)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
Optional Protocol to the CEDAW	O	X	X	O	X	O	O	O	O	O	X	O	O
<b>CRC (Convention on the Rights of the Child)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X

**X** = Convention ratified

**O** = Convention **NOT** ratified

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

## Statistical data

	1997	1998	1999	2000	2001
<b>Basic Data</b>	<b>in 1000</b>				
Total Population (Maltese & Foreigners)	384.2	386.4	388.7	391.4	394.5
	<b>in km<sup>2</sup></b>				
Total area	315.6	315.6	315.6	315.6	315.6
<b>National accounts</b>	<b>Mio Malta Lira</b>				
Gross domestic product at current prices	1,288	1,362	1,456	1,562	1,627
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	2.9	3.1	3.4	3.9	4.0
	<b>ECU /euro</b>				
Gross domestic product per capita a) at current prices	7,700	8,100	8,800	9,900	10,300
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	4.9	3.4	4.1	5.5	-0.8
Employment growth	-0.1	-0.1	0.7	1.2	1.1
Labour productivity growth	5.0	3.5	3.3	4.3	-1.9
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita a) at current prices	10,600	11,100	11,700	:	:
<b>Structure of production</b>	<b>% of Gross Value Added</b>				
- Agriculture	2.9	2.7	2.5	2.3	2.4
- Industry (excluding construction)	24.3	25.0	24.9	26.5	24.5
- Construction	3.0	2.8	2.4	2.5	2.8
- Services	69.7	69.6	70.2	68.7	70.4
<b>Structure of expenditure</b>	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	82.9	81.9	81.6	82.6	84.1
- household and NPISH	62.4	62.1	62.8	63.9	63.9
- general government	20.5	19.8	18.7	18.6	20.2
- Gross fixed capital formation	25.3	24.5	23.4	26.2	23.2
- Stock variation b)	0.2	-0.8	0.6	2.1	-2.7
- Exports of goods and services	85.1	87.7	90.7	102.7	87.8
- Imports of goods and services	93.5	93.2	96.3	113.6	92.3
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index c)	6.4	3.7	2.3	3.0	2.5p
<b>Balance of payments</b>	<b>Mio ECU/euro</b>				
-Current account	-175	-194	-116	-576	-191i
-Trade balance	-579	-528	-537	-673	:
<i>Exports of goods</i>	1,467	1,629	1,891	2,689	:
<i>Imports of goods</i>	2,047	2,156	2,428	3,363	:
-Net services	348	340	351	252	:
-Net income	8	-58	30	-171	:
-Net current transfers	49	51	40	16	:
- <i>of which: government transfers</i>	4	2	-8	1	:
- FDI (net) inflows	71	238	770	707	350 i
<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-10.7	-10.8	-8.3	-7.0	-7.0p
General government debt	51.5	64.9	59.9	60.7	65.7p

<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy f)	66.9	71.9	109.8	179.2	156.8
	<b>as % of exports</b>				
Gross foreign debt of the whole economy f)	80.4	84.0	123.6	177.9	182.3
Monetary aggregates	<b>1000 Mio ECU /euro</b>				
- M1	1.1	1.2	1.4	1.5	1.6
- M2	4.2	4.4	5.2	5.5	6.2
- M3	4.7	5.0	5.9	6.2	6.9
Total credit	3.5	3.8	4.5	5.0	5.8
Average short-term interest rates	<b>% per annum</b>				
- Day-to-day money rate	5.2	5.5	5.0	4.7	4.7
- Lending rate	:	:	:	7.4	7.0
- Deposit rate	:	5.4	5.5	5.3	5.2
ECU/EUR exchange rates	<b>(1ECU/euro=..Malta Lira)</b>				
- Average of period	0.437	0.435	0.426	0.404	0.403
- End of period	0.433	0.442	0.415	0.408	0.399
	<b>1995=100</b>				
- Effective exchange rate index	103.4	105.1	105.3	106.7	107.9
Reserve assets	<b>Mio ECU/euro</b>				
-Reserve assets (including gold) g)	1,251	1,449	1,783	1,581	1,904
-Reserve assets (excluding gold) g)	1,248	1,448	1,782	1,580	1,902

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-814	-742	-810	-1039	-857
Exports	1,442	1,634	1,856	2,653	2,186
Imports	2,256	2,376	2,666	3,692	3,043
	<b>corresponding period of the previous year = 100</b>				
Terms of trade	98.2	99.1	99.8	102.8	92.8
	<b>as % of total</b>				
Exports with EU-15	54.3	52.8	48.7	33.3	41.3
Imports with EU-15	71.4	69.3	65.4	60.0	63.6

<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	4.0	3.2	2.8	3.0	2.4
Net migration rate (including corrections)	8.4	6.5	8.0	8.5	8.5
	<b>per 1000 live-births</b>				
Infant mortality rate	6.4	5.3	7.2	6.1	4.4
Life expectancy:	<b>at birth</b>				
Males	74.9	74.4	75.1	74.3	74.7
Females	80.1	80.1	79.3	80.2	80.0

<b>Labour market (Labour Force Survey) d)</b>	<b>% of population</b>				
Economic activity rate (15 - 64)	55.4	55.1	55.0	58.0	58.0
Employment rate (15-64), total	52.6	52.1	52.0	54.2	54.2
Employment rate (15-64), male	76.1	74.8	74.0	75.1	76.4
Employment rate (15-64), female	28.8	29.1	29.7	33.1	31.6
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	1.7	1.6	1.6	1.7	2.2
- Industry (excluding construction)	26.9	26.8	26.1	26.1	21.1
- Construction	4.5	4.3	4.1	6.9	7.7
- Services	66.9	67.3	68.2	65.2	66.0
	<b>% of labour force</b>				
Unemployment rate, total	5.6	5.6	5.8	6.5	6.5
Unemployment rate, males	6.3	6.6	6.8	7.0	6.0
Unemployment rate, females	3.3	3.0	3.1	5.4	7.8
Unemployment rate of persons<25 years	7.1	7.2	7.5	11.2	15.4
	<b>as % of all unemployed</b>				
Long-term unemployment share	40.6	42.5	46.7	62.3	43.8

<b>Infrastructure</b>	<b>in km per 1000 Km2</b>				
Railway network	.	.	.	.	.
	<b>km</b>				
Length of motorways	.	.	.	.	.

<b>Industry and agriculture</b>	<b>previous year = 100</b>				
Industrial production volume indices g)	98.5	110.5	107.0	116.2	93.2
Gross agricultural production volume indices h)	110.2	102.5	98.3	98.6	96.4

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars e)	439.0	450.0	466.0	481.0	492.0
Main telephone lines	483.1	497.0	509.3	528.4	534.7
Number of subscriptions to cellular mobile services	39.3	49.0	62.6	289.8	605.0
Number of Internet subscriptions	33.5	58.8	63.9	87.9	137.0

p = provisional figures

- a) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.
- b) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.
- c) Index not yet harmonised
- d) Administrative records for 1997-1999. Largely EU-harmonised LFS since 2000.
- e) Registered cars.
- f) Less liabilities due to International Banking Institutions
- g) 1999-2001 estimated since the index compiled according to ISIC was discontinued
- h) Source: Economic Accounts for Agriculture (Manual on EAA/FAF Rev 1.1)
- i) Source: Website of the Statistical Office

## Methodological Notes

### Inflation rate

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

### Finance

*Public finance:* The government deficit and debt statistics of the Candidate Countries are provisional, in the sense that they do not yet fully comply with EU methodological requirements. Broadly speaking, the general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value. The series are available from 1997; the 1996 data are an approximation derived from the IMF's GFS methodology.

*Gross foreign debt* is of the whole economy, covering both short- and long-term, but excluding equity investment and money market instruments. The source for stock of outstanding debt is OECD, while the source of GDP is Eurostat. For the ratio of gross foreign debt to exports, the national accounts definition of exports of goods and services is used (source: Eurostat). The data for 2000 are Eurostat estimates, based on joint OECD/IMF/BIS/World Bank series. The Maltese series adjusted by Eurostat. Malta has important international banking activities. Following contacts with the authorities, it was decided to exclude external liabilities of the banking sector held in the form of loans, currency and deposits.

*Monetary aggregates* are end-year stock data, as reported to Eurostat. Generally, M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks. M3 means M2 plus certain placements in a less liquid or longer-term form. Not all countries produce an M3 series. Total credit means loans by resident monetary financial institutions (MFIs) to non-MFI residents.

*Interest rates:* Annual average rates based on monthly series reported to Eurostat. In the case of Malta, lending rates refer to bank lending to enterprises (all maturities). Deposit rates refer to bank deposits with an agreed maturity of up to one year. Day-to-day money rates are overnight interbank rates.

*Exchange rates:* ECU exchange rates are those that were officially notified to until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank. The effective exchange rate index (nominal), as reported to Eurostat, is weighted by major trading partners.

*Reserve assets* are end-year stock data, as reported to Eurostat. They are defined as the sum of central bank holdings of gold, foreign exchange, SDRs, reserve position in the IMF, and other claims on non-residents. Gold is valued at end-year market price.



## **External trade**

*Imports and exports (current prices).* Trade data is based mainly on the general system although we use also the special system. We exclude transshipment trade (direct re-exports), customs free zones, licences, know-how patents and services. FOB means that all costs incurred in transport are charged to the seller and CIF means that the purchaser pays the additional costs. The value of imports is in CIF/CF and exports in FOB. Regarding classification, the H.S. coding system is used together with the National Tariff that is 10-digit code.

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

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

## **Labour force**

*Economic activity rate (ILO Methodology).* Percentage of labour force in the total population aged 15-64. This rate is derived from LFS (Labour Force Survey) observing the following ILO definitions and recommendations:

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

*The employed:* all persons aged 15-64, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of cooperatives or contributing family workers. Members of armed forces and women on child-care leave are included.

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

have no work,

are actively seeking a job and

are ready to take up a job within a fortnight.

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

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

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

## **Infrastructure**

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

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

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

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

## **Industry and agriculture**

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

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

## **Standard of living**

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

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

## **Sources**

Total area, infrastructure, industry and agriculture, external trade, inflation rate, labour market, demography: National sources.

National accounts, finance: Eurostat.