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REGULAR REPORT

ON

MALTA'S

PROGRESS TOWARDS ACCESSION

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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.

Following the request of the European Council, the Commission presented a second Regular Report on Malta in November 2000 before the Nice European Council. The Commission has prepared this third Regular Report on Malta's progress towards accession with a view to the Laeken European Council in December 2001.

The structure followed for this Regular Report is the same as that used for the 2000 Regular Report. 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, 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. This part gives special attention to nuclear safety standards, as underlined by the Cologne and Helsinki European Councils. It encompasses not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*, as emphasised by the Madrid European Council in December 1995, and confirmed by the Gothenburg European Council in June 2001. At Madrid, the European Council underlined the necessity for the candidate countries to adjust their administrative structures, so as to create the conditions for the harmonious integration of those States. The Gothenburg European Council emphasised the vital importance of the candidate countries' capacity to effectively implement and enforce the *acquis*, and added that this required important efforts by the candidates in strengthening and reforming their administrative and judicial structures.

This Report takes into consideration progress since the 2000 Regular Report. It covers the period until 30 September 2001. In some particular cases, however, measures taken after that date are mentioned. It looks at whether intended reforms referred to in the 2000 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides also an overall assessment of the global situation for each of the aspects under consideration, setting out for each of them the main steps which remain to be taken by Malta in preparing for accession.

In accordance with this approach, the assessment of progress in meeting the political and *acquis* criteria (including Malta's administrative capacity to implement the *acquis*) focuses on what has been accomplished since the last Regular Report, complemented with a view of the global situation for each of the aspects discussed. The economic assessment, for its part, provides, besides an assessment of progress made over the reference period, also a dynamic, forward-looking evaluation of Malta's economic performance.

The Report contains a separate section examining the extent to which Malta has addressed the Accession Partnership priorities.

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 its 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 National Programmes for the Adoption of the *Acquis* of each of the candidate countries, as well as the information they have provided in the framework of the Association Agreement and in the context of the analytical examination of the *acquis* (screening) and the negotiations,¹ have served as additional sources. Council deliberations and European Parliament reports and resolutions² 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 that of non-governmental organisations.

b) Relations between the European Union and Malta

Recent developments under the Association Agreement (including bilateral trade)

The sixth meeting of the Malta-EU Association Committee was held in Valetta on 9 July 2001. It was the first Association Committee meeting since July 1990. The main points covered were the monitoring of Maltese commitments with respect to the Accession Partnership and the National Programme for the Adoption of the *Acquis*, and trade questions (mutual concessions on fish and agricultural trade).

Since the issuing of the Commission's last Regular Report, the Joint Parliamentary Committee comprising representatives of the Maltese and European Parliaments has met in November 2000 in Strasbourg and in May 2001 in Malta.

¹ As in previous years, the Report does not mention any commitments undertaken or requests made in the context of the accession negotiations.

² For the European Parliament the *rapporteur* is Ursula Stenzel.

The EC remains Malta's major trading partner, with around 33% of Malta's exports and 60% of imports in 2000, compared to 49% and 65%, respectively, in 1999. This change in trade patterns is due to a large extent to the increased activity of the major electronics manufacturer, which accounts for over 60% of the total manufacturing exports, and trades extensively with Asia and the US. Malta imports mainly semi-finished industrial supplies and exports mainly electronic equipment.

Malta has continued to implement a plan aiming at dismantling all levies on EC imported products by 2003, except for agricultural products. On the basis of a mandate from the Council, the Commission held discussions with Malta in April 2001 with a view to fully liberalising trade in fish and fishery products between Malta and the EC. The Commission is proposing to the Council an agreement for that purpose. In the context of the planned second round of negotiations on reciprocal concessions for agricultural products with the Central and Eastern European Countries, the Commission is presently preparing for negotiations with Malta, aiming at further trade liberalisation for agricultural products.

Accession Partnership / National Programme for the Adoption of the Acquis

An Accession Partnership was adopted in March 2000 – its implementation is reviewed in Part D. This Regular Report is accompanied by a proposal from the Commission to update the Accession Partnership.

Malta finalised its first National Programme for the Adoption of the *Acquis* (NPAA) in September 2000. This document sets out Malta's plan for the adoption and implementation of the *acquis* (see Part D). Malta has not yet submitted to the Commission an updated version of its National Programme for the Adoption of the *Acquis*.

Community aid

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

It provided for total pre-accession aid to Malta of € 38 million for the period 2000-2004, to be used mainly for institutional capacity building, as well as for 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 2001, the total pre-accession aid allocated to Malta was € 7.5 million, and the programme focused on the following priorities:

- Implementation of EC Occupational Health and Safety legislation (€ 0.700 million)
- Capacity building for the implementation of Regional Policy (€ 0.500 million)
- Capacity building in the fields of Asylum and Border Management (€ 1.350 million)

- Capacity Building at the Malta Standards Authority and in related departments / New & Global Approach (€ 1.350 million)
- Customs & Tax administrations change (PHASE 2) (€ 1.310 million)
- General administrative co-operation and support for the pre-accession strategy (€ 1.090 million)
- Malta's participation in EC education programmes (€ 1.200 million)

Malta participates in and benefits from multi-country and horizontal programmes, such as TAIEX. Malta also participates in the Community education programmes, SOCRATES, LEONARDO and YOUTH and in the Research Framework Programme. Furthermore, Malta participates in MEDA regional programmes, EUMEDIS in the field of Information Society and SMAP in the field of Environment. Following the ratification and entry into force of the agreement, the formal participation of Malta in the European Environment Agency will start in January 2002.

In order to streamline Community legal procedures and thereby facilitate future participation of Malta in Community programmes, an Agreement is in the process of being concluded between the European Community and Malta establishing the general principles for such participation.

It is still too early to assess the impact of the pre-accession aid granted in 2000 and 2001. However the administrative capacity building projects launched, for instance in the fields of Customs and Tax, Occupational Health & Safety or the New and Global Approach, are comprehensive and will address all the gaps and needs in their respective areas.

The Phare Review for 2000, 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 foresees the possibility that management of the pre-accession funds can be fully decentralised from 2002 if the strict pre-conditions set down in the Co-ordination Regulation 1266/99 are met. Second, the programming of the pre-accession funds can be moved onto a multi-annual basis if supporting strategies are in place. Third, the trends introduced in the past continue with an increased role for Delegations, further streamlining of procedures and, lastly, increasing emphasis on raising the verifiable and quantifiable impact of pre-accession projects in institution building, investment in compliance with the *acquis* and economic and social cohesion.

Twinning

One of the main challenges the candidate countries continue to face is the need to strengthen their administrative capacity to implement and enforce the *acquis*. As of 1998, the European Commission proposed to mobilise significant human and financial resources to help them in this respect, through the process of twinning of administrations and agencies. The vast body of Member States' expertise is now being made available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

To start with, twinning focused primarily on the priority sectors of agriculture, environment, public finance, justice and home affairs and preparatory measures for the Structural Funds. It now covers all sectors pursuant to the *acquis*.

A total of 372 twinning projects, primarily in the fields of agriculture, environment, public finance, justice and home affairs and preparation for the management of Structural Funds, have been funded by the Community between 1998-2000. These represent the principal priority sectors that have been identified in the Accession Partnerships. But also other important sectors of the *acquis* have been addressed through twinning, for example, social policy, fight against drugs, transport, and telecommunications regulation.

Thanks to the strong support and response from EU Member States 103 twinning partnerships, funded under the 1998 pre-accession funds and involving all candidate countries and almost all Member States are coming to an end or have been concluded. Under 1999 pre-accession funds, a further 124 projects are being implemented and the programming exercise for 2000 includes a further 145 twinning projects. The 2001 programming exercise foresees 131 twinning projects in all Phare beneficiary countries as well as Cyprus and Malta. Furthermore, the candidate countries are being offered the possibility of drawing on Member States' expertise through "Twinning Light" (projects of up to 6 months' duration), to address well-circumscribed subjects of limited scope, which emerge during the negotiation process as requiring adaptation. It is estimated that around 250 twinning projects are operational throughout the candidate countries at any one time.

For Malta, four twinning projects are going to start under the 2000 and 2001 programme, covering the following domains: agriculture (Integrated Administrative and Control System), Occupational Health and Safety; Asylum and Border' management and Regional Policy.

Negotiations / screening

The analytical examination of the *acquis* with Malta (bilateral screening) was completed by the end of January 2000. During 2000, the screening was updated on all chapters with due account taken of latest developments in the *acquis* and recent progress.

Since the opening of the accession negotiations, substantial discussions on the individual chapters of the *acquis* started, and by June 2001, negotiations on all chapters (with the exception of chapter 7 – Agriculture- chapter 30 - Institutions and chapter 31 – Other) had been opened.

By the end of September 2001, the following 17 chapters had 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, Statistics, Consumers and Health Protection, Financial control, Energy, Free movement of Goods, Freedom to provide services, Free movement of persons.

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.”³

In its 2000 Regular Report on Malta’s progress towards accession, the Commission confirmed the conclusions of its 1999 report stating that:

" Malta continues to fulfil the Copenhagen political criteria. Its institutions are democratic and function smoothly and there are no particular problems with regard to human rights. Basic civil and political rights continue to be respected. The overall situation with regard to economic, social and cultural rights is satisfactory.

However, special attention should be devoted to the issue of the backlog of civil judiciary cases. Malta should also pursue and reinforce the implementation of its policies with respect to the treatment of refugees and gender equality, as well as the reform of its public administration."

Below, an assessment is made of developments in Malta since the 2000 Regular Report, as well as of the overall situation in the country, seen from the perspective of the Copenhagen political criteria. Developments in this context 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. The section below aims to provide a general assessment of the situation in Malta from the perspective of the political criteria, including as regards the overall functioning of the country’s executive and its judicial system. 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 of this Report.

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 continued to seek involvement of all interested parties and representative organisations in the decision-making process related 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.

³ These principles have been emphasised in the Charter of Fundamental Rights of the European Union that was proclaimed at the Nice European Council in December 2000.

1.1. Democracy and the rule of law

As mentioned in the previous Regular Reports, Malta has achieved stability of institutions, guaranteeing democracy and the rule of law. This section focuses on the most significant developments of the past year.

The Parliament

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

It has maintained a high workload level because of the process of approximating Maltese legislation with 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 aiming at improving the effectiveness of its public administration.

In 2001 permanent secretaries and heads of department were given greater managerial authority and flexibility. The Management and Personnel Office, within the Office of the Prime Minister, has published a Performance Management Programme, and aims to help employees provide better public service through the organisation of work and the delegation of responsibility. A performance management manual has been drawn up and is now being used to assess around 5,000 persons throughout the year.

During the past twelve months, seven additional Quality Service Charters have been introduced, bringing to thirty the total number introduced since the launching of the initiative in 2000. 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 these may be accessed. They also set out the standards of service that customers can expect.

A co-operation agreement was signed in October 2000 between the Staff Development Organisation in the Office of the Prime Minister, and the European Institute of Public Administration in Maastricht. This allows for the participation of Maltese public officers, lawyers and judges or other experts in the various activities organised by the Institute.

These efforts to improve the effectiveness of the Maltese public administration should be sustained.

The main functions of the Ombudsman, established in 1995, are to protect the rights of individuals in their dealings with the public administration, to recommend appropriate redress where this is found to be justified, and to promote good governance and high administration standards. The Ombudsman is appointed by a two-thirds majority in Parliament, thus ensuring his / her independence. The number of complaints being received is around 50 per month but the ombudsman has the right to investigate matters on his / her own initiative without receiving a formal complaint. Since 1995, the office has received 7,443 requests. 60% of the cases still

pending are less than three months old, 35% are between 3-6 months old, 5% are more than 6 months old. Although the Ombudsman can only make recommendations, all but two have been taken up so far. Overall it can be considered that the office of the Ombudsman functions well with respect to its mission.

The latest round of local elections was held in March 2001 to elect twenty-one Local Councils. Turnout rose to 71.4 per cent from the 63.3 per cent for the same localities three years earlier, which reflects a stronger interest of both the electorate and the main political parties in the local councils.

The system of local government was enshrined in the Constitution of Malta through an amendment in April 2001. It is now stipulated that the territory of Malta shall be divided into a number of localities administered by a Local Council elected by the residents of the locality, in accordance with the relevant laws.

The Judicial System

Over the past year, Malta has continued to take measures to improve the functioning of the judicial system.

In line with Government's aim of concluding the administrative reform process in the law courts by end of 2001, reforms were approved in March 2001 aimed at providing the judiciary with administrative support and the necessary staff. In order to reduce the backlog of cases at the Law Courts, in the last year the government has recruited 50 additional staff at administrative level. The number of tribunal judges was increased from three to five to deal with the cases before them. The government has also increased most of the court fees whilst increasing the competences of the Small Claims Tribunal and of the Magistrates Court.

According to the Ministry of Justice, these measures allowed the backlog of civil Court cases to be reduced in 2000 for the first time in the past decade . The backlog of civil Court cases decreased from 16,429 at the end of December 1999 to 16,004 at the end of December 2000. The backlog of criminal Court cases, in both upper and lower jurisdictions has continued to decrease, from a total of 8,495 cases at the end of 1999 to 7,793 at the end of 2000.

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

However the conformity of the procedure for the challenge of judges and magistrates provided by article 738 of the Code of Organisation and Civil Procedure with the principle of impartial tribunal, enshrined in the European Convention on Human Rights, needs to be examined.

Overall, there has been progress in the administrative reform of the law courts and an improvement of the functioning of the Maltese judicial system. As regards the backlog of judiciary cases, the reversal of the previous trend is encouraging, however efforts should be pursued to consolidate the reform and ensure long term improvements.

Anti-corruption measures

As already pointed out in the last Regular Report, the effectiveness of the "Permanent Commission against Corruption" set up by the Government to fight against corruption in the public administration could be improved. The number of cases initiated by the Commission has decreased from 66 in 1994 to 13 in 2000, while the number of cases closed has decreased from 49 in 1994 to 39 in 2000. The Core Group of the Commission is composed of three persons working part time and the financial and staff resources allocated to it by the government have decreased in past years. It should also be noted that the reports of the Commission are confidential and handed over to the Minister of Justice, who decides whether to make them public and whether or not to proceed against the person(s) incriminated. This reduces the actual power of the Commission and the impact of its work. A stronger commitment by the government is needed to ensure the effectiveness of the Commission in its fight against corruption.

Malta has signed the Council of Europe Criminal Law Convention on Corruption but not the Council of Europe Civil Law Convention on Corruption opened for signature in 1999. Malta joined the Council of Europe Group of States against Corruption (GRECO) in May 2001.

1.2. Human rights and the protection of minorities

As mentioned in the previous Regular Reports, Malta continues to respect fundamental human rights and freedoms. The following section focuses on subsequent major developments.

Malta has ratified most of the major human rights instruments, including the European Social Charter. However, it has not yet signed the revised European Social Charter. It has not accepted to be bound by the additional protocol providing for a system of collective complaints. Neither has it signed protocols 4 and 7 of the European Convention on Human Rights.

No important development can be reported regarding the transposition of the EC anti-discrimination *acquis* (see Chapter 13 - Social Policy and Employment).

Civil and political rights

There has been further progress during the past year as regards the treatment of refugees.

Following the adoption of the Refugees Act last year, preparations have been made for its entry into force. The government has set up a Refugees Commission that will take care of the applications by *asylum* seekers and the Commissioner for Refugees has been appointed. Appeals by either the refugees or the Minister are to be heard by the Refugee Appeals Board, which is composed of three persons, a professor and two lawyers. Malta declared that the geographical reservation to the Geneva Convention will be lifted at the entry into force of the Refugees Act in the coming months. The Refugees Act makes provision for family reunification and humanitarian protection, for extending the provisions of the Social Security Act to persons falling under the Refugees Act, and for regulating the granting of work permits to refugees. As of December 2000, a total of 275 asylum seekers and refugees (including 47 children) were registered with the Emigrants' Commission. The Refugees Commission has received 113 asylum applications.

However, an amendment to the Criminal Code to make provision for the offence of *trafficking in human beings* remains to be adopted. The amendment to the Criminal Code aimed at criminalising *racist behaviour* is pending in the Parliament.

The *freedom of expression* is enshrined in the Maltese constitution and continues to be well respected in practice. 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. Malta is to have its first Islamic cemetery following an agreement between the lands department and the Islamic Call Society.

Basic civil and political rights continue to be respected in Malta, and arrangements for refugees are being improved. 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

The Maltese government has pursued its efforts to improve the situation in the field of *equal opportunities*, however progress is slow and no legislative development can be reported. The situation is satisfactory with respect to access to education. As regards politics, there is one woman in the government out of a total number of twenty ministers, and only 9 % of the seats in Parliament are held by women. It should be noted however that at the last local elections in March 2001, twenty per cent of councillors elected in all localities were women. Fifty-six female candidates contested this round of local elections, as compared to thirty-one female candidates in 1998, when the last round of elections in the same localities was held. As regards employment, the employment rate for women remains much lower than that of men (see chapter 13 – *Social Policy and Employment*). The government has started 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. In order to increase the female employment rate, the Employment and Training Centre holds specific training programmes for women wishing to return to work and it is developing a Gender Equality Action Plan on Employment. Sustained efforts will be needed to improve gender equality, in particular as regards employment and politics.

Malta has signed conventions related to the rights of the child with respect to labour, armed conflicts and child pornography.

As regards *persons with a disability*, the Equal Opportunities Act adopted last year establishes the separation of the National Commission for Persons with Disability from public structures, its reconstitution as a separate legal entity and the elimination of any discrimination on the basis of disability. The Commission's function is to investigate all allegations of discrimination on the basis of disability. The Commission is also responsible for running education and information campaigns highlighting the various provisions of the Act and the measures that may be taken to ensure compliance. However the Commission's activities still have to be developed.

Trade unions are powerful and well organised in Malta and the workers' right to undertake collective actions continues to be well established. However, in its assessment of Malta's compliance with the main provisions of the European Charter of Social Rights, the European

Committee of Social Rights concluded that the situation is not compliant with several provisions of the Charter. These concern in particular 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 is room for improvement as regards gender equality (in the areas of politics and employment) 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. As last year, there have been no significant problems related to racial discrimination.

1.3. General evaluation⁴

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.

⁴ See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 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”.

This finding was confirmed in the 1999 and 2000 Regular Reports.

In its 2000 Regular Report the Commission concluded that:

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

In examining the economic developments in Malta since the Opinion, 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 Opinion and the previous annual Regular Reports.

2.2. Economic developments

In 2000, the Maltese economy continued the improved macroeconomic performance initiated in 1999, despite a significant deterioration of the current account balance, while growth decelerated appreciably in the first half of 2001. Real GDP growth, at 5%, remained high in 2000, leading to significant reductions in unemployment and public deficit, while inflation has remained low. Output growth was primarily driven by strong domestic demand, led by a significant capital investment. Relatively low domestic inflation pressures, paired with restrained imported inflation, were the main reasons for the decrease of inflation. The general government deficit declined significantly although it remains relatively high. Nevertheless, major challenges remain: the current account deficit worsened very sharply in 2000 to 14.5% of GDP, reinforcing the need to further consolidate public finances. Growth decelerated markedly in the first half of 2001, when output grew at an average of 0.75%, largely led by a fall in capital expenditure and a large reduction in stocks.

Main economic trends							
Malta		1996	1997	1998	1999	2000	2001 latest
Real GDP growth rate	per cent	4.0	4.9	3.4	4.1	5.0	0.75 H1
Inflation rate (RPI)							
- annual average	per cent	2.5	3.1	2.4	2.1	2.4	2.4 ⁵ Sept
- December-on-December	per cent	1.5	5.2	0.4	3.3	1.1	4.3 Sept
Unemployment rate, end-year ⁶							
- ILO definition ⁷	per cent	4.4	5.0	5.1	5.3	4.5	6.1 P Q1
General government budget balance [*]	per cent of GDP	-7.7	-10.7	-10.8	-7.8	-6.6	:
Current account balance	per cent of GDP	-12.2	-6.0	-6.2	-3.4	-14.5	-4.4 H1
	million ECU/euro	-320	-176	-194	-116	-560	-86 H1
Foreign debt							
- debt export ratio	per cent	120.9	165.5	225.8	250.9	309.1	:
- gross foreign debt	Million ECU/euro	2,760	4,145	6,202	7,785	12,306	:
Foreign direct investment in flow							
- balance of payments data	per cent of GDP	8.3	2.4	7.6	22.5	18.0	:
	million ECU/euro	218	72	238	770	693	:

A number of important structural reforms are being gradually implemented. Trade liberalisation continued with the removal of import levies. The government is progressively reducing its weight in the economy although the privatisation of several public enterprises has been delayed. The financial sector has been strengthened after the introduction of new

⁵ Moving 12 month average rate of change

⁶ Administrative records

⁷ Registered unemployment up to 2000

legislation reinforcing the regulatory and supervisory framework. Interest rates were fully liberalised in 2000 and the process of liberalisation of exchange controls is progressing gradually towards full liberalisation by January 2003. The National Commission for Welfare Reform is expected to present a proposal for pension reforms shortly.

Main indicators of Economic Structure in 2000		
Population (average)	thousand	391 ⁸
GDP per head ⁹	PPS-euro	11,900
	per cent of EU average	53
Share of agriculture ¹⁰ in:		
- gross value added	per cent	2.3
- employment	per cent	1.9
Investment-to-GDP ratio ¹¹	per cent	26.4
Gross foreign debt/GDP ¹²	per cent	318.8
Exports of goods & services/GDP	per cent	103.1
Stock of foreign direct investment	million euro	:
	euro per head	:

P: provisional data

Malta has been catching-up with the EU. GDP per capita in purchasing parity standards as a percent of the EU average was 53% in 2000, up from 49% in 1995. In 2000, the economic activity rate stood at a very low 47%, on a slowly-declining trend from 47.6% in 1996. The registered unemployment rate remains at almost the 1996 level of 4.4%, after increasing slightly in the intervening years. Unemployment was 5.4% for men and 2.2% for women. Malta has an extremely low female employment rate resulting in an overall (male and female) low employment rate, at 53.9% in 2000. The share of long-term unemployment, at 53.5%, has been rapidly increasing from 39% in 1996, as the unemployment rate has declined. The youth unemployment rate was 6%.

⁸ Total population (Maltese and foreigners).

⁹ Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

¹⁰ Agriculture, hunting, forestry and fishing.

¹¹ Data refer to Gross fixed capital formation as % of GDP.

¹² Estimated.

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.

Generally, there is a broad consensus on the ultimate objectives of economic policy. The Maltese government remains committed to the implementation of the required reforms in order to improve the competitiveness of Malta's industry. In general, there is good co-ordination between government, parliament and other institutions which allows for a correct formulation and implementation of economic policy. The government has shown a good track in terms of consistency with its announced policy commitments. However, the lack of political consensus on EU accession between the government on the one hand, and the opposition and the main trade union on the other hand, creates some uncertainties about the continuity of some economic policies in the medium term. *In October 2001, the government submitted to the European Commission the first Maltese "Pre-accession Economic Programme" (PEP), which is part of the Pre-accession Fiscal Surveillance Procedure launched by the EU Commission.* The PEP has been compiled by the Ministry of Finance and the Ministry for Economic Services and received important inputs from institutions including the Central Bank of Malta and the National Statistics Office. Since the government has approved the PEP, it represents a firm political commitment, and it is important that it is fully anchored into the government's decision making process.

After performing strongly in 2000, the Maltese economy slowed down in the first half of 2001. Real GDP expanded by 5% in 2000, driven primarily by strong domestic demand. Investment was a major contributor to GDP growth and is estimated to have increased by 17%. This was mainly due to the private investment of foreign high-technology companies in Malta. Growth in consumer expenditure remained at similar levels to those of 1999, at around 6%, while government consumption reverted the trend followed in the last three years and increased by 5% as a result of higher employment and higher expenditure on health services. Imports of goods and services grew by about 10%, mainly driven by a sharp increase of capital goods and transport services, and outpaced a 6% growth in exports led primarily by machinery and transport equipment goods exports. Domestic demand slowed down markedly in the first half of 2001, as a result of lower growth in private and public consumption, coupled with a negative growth of investment and significant reductions in stocks. Both imports and exports decreased significantly in the first half 2001, with imports falling more rapidly than exports and therefore leading to a positive contribution of net exports to growth.

Unemployment fell in 2000 and the first quarter of 2001. Increases in labour supply were outpaced by high job creation in a dynamic private sector, mainly in electronics manufacturing, construction and private services, leading to a decrease in unemployment from 6.8% in May

2000 to 6.1% in March 2001¹³. The participation rate remains rather low and declined slightly to 47%. Notwithstanding the overall positive developments of the labour market, unemployment is likely to be under upward pressure in coming months due to enterprise restructuring.

Inflation started a decreasing trend in the second half of 2000 and remained low in 2001. In 2000, average inflation increased slightly to 2.4%, while the December year-on-year inflation declined to 1.1 from 3.3%. Tax changes and the reduction of subsidies were the main reasons behind the one-off pick-up of inflation in the first months of 2000. These effects were absorbed in the second half of the year and inflation remained relatively low at 2.4% in September 2001 after decreasing during the first half of the year. The main reasons have been low imported inflation, stemming from the weakening of the euro and the low inflation in Malta's major trading partners, and the lower prices resulting from the removal of import levies. However, the inflation rate has been kept artificially low, as the cap on domestic oil prices has not passed on the higher world oil prices to consumers.

Monetary policy was unchanged in 2000, despite the significant increase in the current account deficit, the net portfolio investment outflows and higher domestic demand. During 2000, there were significant net portfolio investment outflows as a result of lowered capital controls and rising interest rates abroad, while the current account deteriorated substantially. The Maltese authorities considered most of these factors contributing to the deterioration as temporary, and therefore decided not to adjust their monetary policy. However, the further liberalisation of capital movements and the strong growth in domestic demand experienced in 2000 emphasise the need to monitor closely the developments in the current and capital accounts and to adjust interest rates in order to preserve the level of reserves if external imbalances persist. After decreasing significantly in 2000, reserves increased in the first half of 2001. The Central Bank of Malta reduced the central intervention rate and the discount rate by 25 basis points to 4.5% in August 2001. In September 2001, the Central Bank lowered the commercial banks' reserve requirement ratio from 5% to 4% of bank's liabilities. The main reasons for the easing of monetary policy were the global economic slowdown, the lower interest rates abroad, the deceleration of domestic demand and growth, and the lower pressures over external reserves in 2001.

The general government deficit continued its decreasing trend initiated in 1999. The deficit according to harmonised EU standards (ESA95) decreased from 7.8% of GDP in 1999 to 6.6% in 2000¹⁴. Likewise, the general government primary deficit (deficit excluding interest payments) has been reduced substantially, from 7.3% of GDP in 1998 to 2.7% in 2000. The government remains committed to the implementation of the medium-term fiscal plan agreed in late 1998, which intends to reduce the public deficit to levels below 4% of GDP by 2004.

The reduction of the deficit was the result of increasing revenues and lower growth of expenditure. Ordinary revenues in 2000 increased nominally by 10% over 1999, while total expenditure increased by 3.7%. Higher revenues in 2000 were mainly due to new fiscal measures, comprising higher income taxes, increases in social security contribution rates and a

¹³ The methodology used by the National Statistics Office has been revised in 2000. The new methodology is based on a labour survey in accordance with the ILO guidelines. This has pushed upwards the unemployment rate figures from 4.4% to 6.1% in March 2001.

¹⁴ Two figures are given for the government balance. One is based on the most commonly used national concept, and the other is calculated according to the European System of Accounts (ESA 95), which was reported by the candidate countries for the first time this year.

wider VAT base. An improvement in tax collection also accounted for a significant part of that increase. Expenditures rose due to increases in wages, salaries and personal emoluments together with higher social security benefits and one-off compensations for the abolition of some product subsidies. Capital expenditures decreased over the same period by 7%, which is broadly reflecting the one-off oil drilling activities undertaken in 1999 and not repeated in 2000.

The new measures adopted in 2001 targeted predominantly the enforcement of tax legislation, the reduction of tax evasion and the control of the government's expenditure. During the period January-September 2001, ordinary revenues increased by 5.7% in nominal terms over the same period of 2000, mainly due to higher VAT and income tax revenues and social security contributions. Customs and excise duties were affected negatively by the progressive removal of levies on imported products. Total expenditure increased by 8.6% over the same period, mostly due to increases in wages and salaries, coupled with higher capital expenditure and public debt servicing costs.

Despite the positive trend of the public deficit initiated in 1999, further efforts are necessary to contain expenditures in order to achieve medium-term fiscal sustainability. Although a National Commission for Welfare Reform made up by government representatives and main social partners was created in June 1999 to propose measures for reforming the social security system, no agreement has been reached so far.

Government debt continues to increase as a result of the high level of government deficit. The ESA95 general government gross debt ratio increased from 60.1% of GDP in 1999 to 60.6% in 2000. Nevertheless, debt growth has slowed down in 2000. As expected privatisation transactions have not been accomplished in the first nine months of the year, debt increased nominally by about 11% in the period August 2000-August 2001. Since 1997, the government indebtedness has generated annual interest charges in the range of 3-4% of GDP.

External deficits increased very significantly in 2000, but declined substantially in 2001. The current account deficit rose very substantially in 2000 and reached 14.5% of GDP. A deterioration of the merchandise trade balance was coupled with a decline in the investment income account and the services account in 2000. Growth of both imports and exports of goods was remarkably sharp with imports outpacing exports, leading to a widening of the merchandise trade balance from 24% of GDP in 1999 to 27% (national account figures) in 2000. The strong increase in imports was mainly induced by a significant increase in imports of capital goods and inputs for industry – due to heavy capital investments within the electronics sector – and to the higher import bill for energy products as a result of higher international oil prices. Growth of both imports and exports has been negative in the first half of 2001. Trade figures for the period January-August 2001 show a significant reduction of the visible trade gap. The surplus in the services account fell in 2000 due to lower tourism earnings, higher expenditure by Maltese nationals abroad and higher payments of services, coupled with a significant deterioration of the transportation sub-account, closely related with the rise in goods imports. The services account has improved in the first half of 2001. A sharp increase in profits of foreign companies explains the sharp deterioration of the investment income account in 2000, although it has improved slightly up to June 2001. All these developments led to a significant decline of the current account deficit to -4.4% of GDP in the first half of 2001.

The net inflows on the capital and financial account were insufficient to finance the current account deficit last year, giving rise to a further decline in the official reserves.

The capital and financial account deteriorated in 2000 and the first quarter of 2001, partly reflecting capital outflows due to the further liberalisation of capital movements. Total gross external debt as a percentage of GDP has increased from 229% of GDP in 1999 to 319% in 2000. However, this figure is distorted by the impact that the liabilities from international banking institutions have in the calculation of the foreign gross debt, since these entities hold a large volume of liabilities towards foreign entities abroad but have nearly no impact on the domestic economy. The developments in the current and capital accounts led to a decline in reserve assets from 52% of GDP in 1999 to 40% in 2000.

Foreign direct investment (FDI) in form of reinvested earnings increased appreciably in 2000, although all other categories of FDI decreased. A threefold increase in reinvested earnings from foreign companies in 2000 contributed positively to overall FDI. On the other hand, the lack of major privatisation deals was the major contributor for a significant decrease in share capital investment. Other investment in form of net capital and reserve inflows from international banks decreased substantially and led to a lower total FDI in 2000. Without the flows of these international banks, FDI increased from approximately 9% of GDP in 1999 to 11% in 2000. During the first quarter of 2001, it fell substantially in comparison with the same period of 2000 due to large losses registered by international financial institutions, although it remained broadly stable without these transactions.

The policy mix needs to adjust to the new more open and liberalised macroeconomic environment. Fiscal policy needs to be sufficiently tight, monetary policy has to be more flexible, and structural reforms need to be implemented faster. The achievement of a more sustainable fiscal position is crucial to decrease the external imbalances under an environment of liberalisation of capital movements and fixed exchange rate. The recent economic developments and, in particular, the high current account deficit, higher domestic demand and lower private savings suggest that the government's target for its deficit might need to be tightened in order to keep the current account deficit in sustainable dimensions. Sustainability of the fiscal and external balances is equally necessary to support the current exchange rate peg in the medium term, which has proved to be a consistent nominal anchor in recent years. With more liberal capital movements, domestic interest rates need to be more responsive to international levels in order to regulate capital flows. Faster implementation of the structural reforms that the government is undertaking is crucial to support the sustainability of external balances and external competitiveness by accelerating productivity and capacity gains.

The Maltese economy is dominated by the free interplay of market forces but the system of price controls distorts relative prices in some areas. Several 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. Enemalta has kept energy prices fixed despite the international oil price increases, bearing a cost that has decreased its profitability in 2000. The whole system of price controls will be overhauled in 2002. In the presentation of the 2001 Budget, the government announced that in January 2002 it would introduce a new system for prices on oil products, linking them to world market prices. The weight of goods and services that are subject to price controls amounts to 12% of total expenditure.

Some sectors remain very protected, but government remains committed to the liberalisation of trade. The removal of levies on imported manufactured products, which started in 1999, continued as planned in 2000 and 2001. Full liberalisation is intended for 2003. The removal of the bulk of import levies has only started in 2001, with the removal of 20% of

the remaining levies. This liberalisation has already resulted in lower prices for those products affected. Out of the other 80%, a first 30% will be phased out in 2002 and the final 50% in January 2003.

The privatisation programme announced in 1999 is progressing at a slow pace. The government has made substantial progress in the early stages of the privatisation programme through the privatisation of the banking sector and the partial privatisation of telecommunications. However, no major privatisation deal has taken place in 2000 or the first nine months of 2001. Unexpected delays have held back the privatisation of Malta Freeport, but its completion is expected towards the end of 2001, as well as the privatisation of a number of other companies. Malta International Airport, the Mediterranean Offshore Bunkering Services, Kordin Grain Terminal, the management of the public Lotto and the remaining government stake in Bank of Valletta are among the most important privatisation deals expected for the next months.

There are no significant barriers to market entry or exit in Malta, and the legal framework supports the functioning of the market economy. Property rights are clearly established in Malta. Bankruptcy laws have been in place and implemented for a long time. There is a competent and independent judiciary system, corruption remains limited and the entrepreneurial and investment climate is excellent in that respect.

The liberalisation of the financial sector is progressing and the sector is developing along the lines of higher competition and privatisation. The banking sector is dominated by private institutions and is characterised by fairly high stability. Interest rates were fully liberalised in 2000 (with no significant impact on lending rates) but significant quantitative controls on transactions on the financial account remain in place. In January 2001, restrictions on financial transactions were relaxed further, and some other restrictions on lending between residents and non-residents were removed. The government has opted for a gradual approach for the liberalisation of capital movements, aiming at strengthening the financial system by introducing regulatory and supervisory provisions before completing full liberalisation. The higher competition introduced by the privatisation of Mid-Med bank in 1999 is leading to more diversification, more intermediation and a further development of insurance and capital markets. The whole banking sector is moving towards more accepted capital adequacy and seems to have led to a general reassessment of the bad loans by the banking system. Domestic credit remains about 140% of GDP, with a nominal growth of close to 9% in the period January-August 2001. The capital adequacy ratio of banks was 14% in June 2001.

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

The ability to fulfil this criterion depends on the existence of 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 this.

The existence of a functioning market economy with a sufficient degree of macroeconomic stability has allowed the development of economic activity. Activity in the private sector has expanded significantly under a positive economic climate. The liberalisation of prices, trade and capital controls is leading to a more efficient allocation of human and physical resources. The industrial restructuring and privatisation of state enterprises is modernising the economy and increasing production capacity, reflected in employment growth in the competitive sectors.

Education levels are relatively high, but skill shortages have emerged. The Maltese workforce is in general highly educated and has been a key factor for the establishment of high-technology companies in Malta. Trade liberalisation and industrial restructuring raise the need to continue with the efforts to increase labour skills, in particular to keep Malta attractive as a centre for information technology companies. Skill shortages are increasing in the information technology and construction sectors. Valuable initiatives by public and private institutions to provide training courses and improve labour skills have recently been developed but a stronger mechanism to identify and improve the necessary labour skills for the future would be beneficial.

Malta has a good physical capital endowment, although infrastructure would require modernisation in some areas. Gross fixed capital formation as a percentage of GDP has increased from 23.4% in 1999 to 26.4% in 2000, mainly due to high investment by electronics manufacturers. Export growth seems to be constrained by production capacities rather than by external demand. The high capital investment by the private sector in 2000 should add to capacity in the manufacturing sector and therefore augment the potential for economic growth. Public investment remains constrained by the priority of decreasing the government deficit. Energy, telecommunication and transport networks are well developed in Malta, although the physical infrastructure, e.g. road infrastructure, requires further modernisation.

The tourism infrastructure is being improved in response to increasing international competition. The aim of the government is to promote cultural, conference and cruise-liner tourism in Malta. Efforts have continued during recent months to develop the logistics of Malta Freeport and to increase its competitiveness. The government is aiming to involve the private sector more in infrastructure development projects, through Public-Private Partnerships.

Foreign direct investment (FDI) flows have been high in the last two years but depended substantially on one-off factors. Inward FDI has substantially relied on a large privatisation deal in 1999 and on large reinvested earnings from foreign companies in 2000. Total net FDI represented close to 20% of GDP per year in 1999 and 2000. However, a large share consisted of capital and reserve inflows from foreign banks to their Maltese subsidiaries with very limited commercial activities in the domestic economy. Such kinds of inflows have only a very mitigated impact on the Maltese economy. In order to improve the quantity and structure of FDI, a new Business Promotion Act was approved in January 2001. The incentives provided by the new Act are more focused on attracting value-added activities than on providing export incentives, but it is too early to assess their impact on FDI.

The government is currently designing plans to restructure public enterprises. Restructuring of the shipbuilding industry is under way in Malta but progress is slow. The industry is characterised by low productivity, low competitiveness and sizeable subsidies received from the State. The government is currently studying the viability of the core activities of the yards: ship repair and shipbuilding. Although it is generally agreed that subsidies to the

shipbuilding and ship repair industries should fall in the short to medium term, the industry is expected to make losses for some time. Similar plans will be explored for other large public entities within other sectors, but progress is slow. A faster restructuring process of loss-making public enterprises would be beneficial to other sectors where labour shortages are encountered such as the construction and technology sectors. This would need to be coupled with active labour market policies which provide suitable training and skills to workers.

The contribution of SMEs to GDP varies widely among sectors. About 44% of SMEs employ less than ten people. Their relative size in terms of GDP is high in the private services sector, while in the manufacturing sector their relative contribution to GDP is relatively low despite over 500 SMEs in the sector. This is mainly due to the existence of a single large electronics manufacturer. In general, those SMEs focused on the local market and facing the removal of import levies are under severe pressure to restructure in order to face competition. New legislation has been adopted and initiatives have been recently taken to promote the development and restructuring of SMEs. The Business Promotion Act puts more focus on SMEs. In addition, the institutional framework is being reinforced to support SMEs. Some of these initiatives are in their earlier stages and the results are still difficult to assess. The government will have to continue its targeting of public initiatives towards SMEs, especially the smallest of them, which do not always reap the benefits of such initiatives.

The degree to which government policy influences competitiveness is relatively high as state aids absorb a substantial amount of resources and price controls are significant in some areas. The government has started restructuring plans for some public enterprises, which absorb a substantial volume of state aid, mainly the shipyards, and is envisaging doing the same for public utilities. However, restructuring of loss-making public enterprises and utilities has been slow so far and most of those entities will continue to make sizeable losses for a number of years. The government also influences competitiveness through price controls, which distorts relative prices, mainly in the energy sector, transport and water distribution.

Malta is well integrated in terms of trade with the European Union although the EU's share of Maltese imports and exports has decreased gradually in recent years. In trade in goods, the EU accounted for around 33% of Malta's exports and 60% of imports in 2000, compared to 49% and 65%, respectively, in 1999. This is to a large extent due to the increased activity of the major electronics manufacturer which accounts for over 60% of total manufacturing exports, and trades extensively with Asia and the US. The degree of integration with the EU is significantly higher if services are taken into account. The share of imports and exports in GDP increased significantly in 2000. Total exports of goods and services represented 103% of GDP in 2000, against 91% in 1999, while total imports of goods and services accounted for 113% in 2000, against 96% in the previous year. The export base of the economy is concentrated strongly in a few sectors, mainly in electronics, machinery and transport equipment, which generated about 75% of total exports in the first half of 2001. The real effective exchange rate increased in 2000 by 1.4% and this was mainly due to the appreciation of the lira against the euro, as inflation in Malta's main competitors remained at similar levels to that of Malta.

2.4. General evaluation¹⁵

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

Macroeconomic developments have been favourable in terms of GDP growth, unemployment, inflation and a significant reduction of the government deficit. The government's medium-term fiscal programme generated a further decrease of the public deficit. Progress has been made in developing restructuring and privatisation programmes and initiatives for entrepreneurship.

However, despite the decreasing trend, the fiscal deficit remains too high, contributing further to a very large current account deficit. Although the current account deficit had a strong one-off component, it will need to be closely monitored. The authorities need to put public finances in a sustainable medium-term path. The reform of the social security system needs to be considered in this perspective. The implementation of the restructuring and privatisation of public utilities and loss-making public enterprises remains slow. Further efforts to limit the influence of the state in the economy are needed. A faster implementation of structural reforms and further liberalisation is crucial to support the sustainability of external balances and external competitiveness in a more open environment.

¹⁵ See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

3. Ability to assume the obligations of membership

Introduction

This section aims to update the Commission's 2000 Regular Report on 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 2000 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. This section is structured to follow the list of twenty-nine 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.

The European Council in Madrid in December 1995 referred to the need to create the conditions for the gradual, harmonious integration of the candidates, particularly through the adjustment of their administrative structures. Taking up this theme, 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 pre-condition for creating the mutual trust indispensable for future membership.

The European Council in Santa Maria da Feira and in Gothenburg in June 2000 and June 2001 respectively recalled the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures. Building on the assessment of Malta's administrative capacity provided in the 2000 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures which are required for implementing the *acquis* in its various aspects.

In the 2000 Regular Report, the Commission concluded that :

“Since the last Regular Report, the process of aligning legislation with the *acquis* has gained momentum in Malta, and progress has been significant in most areas, although uneven across the different fields. Malta has also speeded up efforts to strengthen its administrative capacity with a view to accession, and the first results are becoming visible.

There has been some progress with respect to the internal market *acquis*. Considerable further progress has been made in aligning with the *acquis* on industrial and intellectual property, and in the area of company law Malta is now close to full alignment. Malta has adopted a new Standardisation Act, but more work is required to align its legislation with the New and Global Approach, and to transpose sector specific directives. Some further adjustments are also needed to put the public procurement legislation in line with the *acquis*. Despite some progress on free movement of capital and services, much remains to be done to align Maltese legislation in these areas. As regards free movement of persons, efforts should be stepped up to ensure that there are no provisions in Maltese legislation which contradict Community rules. With respect to competition, substantial efforts are still needed to develop a proper state aid control system.

The publication of two White Papers on industrial development and privatisation, as well as the setting up of the Institute for the Promotion of Small Enterprises, have created a suitable framework for the development of an industrial and SME policy. However, the implementation of the privatisation programme remains slow.

While Malta has made progress in the area of social policy, further alignment is still needed in this field, in particular with respect to labour legislation and occupational health and safety.

In the field of taxation, the framework for the alignment of taxation legislation has been created with the re-introduction of VAT; however, further efforts are required with respect to both VAT and excise duties. Despite some progress in the area of customs, continued efforts are needed, not only to align Maltese customs legislation with the *acquis* in this domain, but also to develop the administrative capacity to implement it.

Notable progress has been made in the areas of telecommunications and culture and audiovisual policy. If efforts are pursued, alignment with the *acquis* in these areas, through secondary legislation, may be reached in the short-term.

In statistics, the Central Office of Statistics of Malta has made considerable progress and is pursuing its efforts to fully align its methodologies with EU standards. In the field of financial control, the reinforcement of the National Audit Office and the reform of the internal audit system within the Maltese Government have provided Malta with an adequate institutional framework. This progress should be further consolidated through appropriate staff training.

In the field of justice and home affairs, there has been significant progress in particular with the adoption of the new Asylum Act. Efforts are still needed with respect to data protection, immigration, visa policy and judiciary co-operation, as well as to strengthen administrative capacity.

In the areas of agriculture, the environment and regional policy, progress has been very limited. Malta still has to adopt most of the extensive agriculture and environment *acquis*. As regards the environment in particular, an overall strategy for the adoption and implementation of the environmental *acquis* remains to be developed. As far as regional policy is concerned, Malta has not yet taken the necessary steps to prepare itself for managing structural funds. Substantial efforts in these three areas are needed as a matter of priority.

While the Maltese administration appears to be adequately staffed, considerable restructuring and staff training is still needed for it to be able to implement the *acquis* in many areas. Efforts in this direction have started. Over the past year, the administrative capacity in the areas of statistics and financial control has been considerably improved. Important projects have been launched to reinforce the agriculture administration by setting up an Integrated Administrative Control System, as well as to strengthen the tax and customs administrations. Work in these areas must be continued.

Overall, Malta's administrative capacity still needs to be significantly reinforced with respect to market surveillance and certification, the enforcement of intellectual and industrial property rights, and in the area of maritime transport and safety. Considerable efforts are required also in the fields of environment and regional policy. Concerning justice and home affairs, administrative capacity should be strengthened in particular for the handling of Asylum cases, and in the area of police and judicial co-operation. Particular attention should be paid to

ensuring the adequate functioning of the newly created State Aids Monitoring Board and the Regulatory Authority for Telecommunications.

The majority of the Accession Partnership short-term priorities have been either partially or completely fulfilled. Progress has been particularly significant in the areas of industrial policy and justice and home affairs. Further efforts are required in particular with regard to state aids and in the area of the environment.

Malta has already started to address a number of medium-term priorities.”

3.1. The chapters of the *acquis*

As indicated, the review of Malta’s ability to assume the obligations of membership that is below has been structured in accordance with the list of twenty-nine negotiating chapters. Accordingly, this section opens with an assessment of progress related to the so-called “four freedoms”, the cornerstones of the internal market, and continues with a systematic review of progress on each of the chapters, to cover the *acquis* in all its various aspects, 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

Since the last Regular Report, Malta has made good progress in this domain.

In the area of **horizontal and procedural measures**, Malta has made significant progress in establishing the general framework for the *New and Global Approach principles*.

The Malta Standards Authority (MSA) is the recognised standardisation body in Malta. Regulations issued under the Malta Standards Authority Act established the first four functionally independent Directorates, namely: the Consumer and Industrial Goods Directorate, the Foodstuffs, Chemicals and Cosmetics Directorate, the Standardisation Directorate and the Accreditation Directorate. These establishments, together with others to be introduced later this year, ensure the functional separation of the MSA’s various roles and protect each Directorate’s independence. In particular, the Accreditation Directorate will operate as an independent accreditation service in line with international standards. An Accreditation Co-ordinator has been recruited. The Malta Standards Authority is to set up a Metrology Directorate in order to ensure the establishment of a market surveillance and verification system in this area.

An agreement with the British Standards Institute (BSI) for the adoption of all European standards as national standards (MSA ENs) was finalised in February 2001. Subsequently over 80% of all European standards (almost 8 000 EN standards, of which 5 600 CEN standards and 2 350 CENELEC standards) have been adopted as Maltese standards following the ‘endorsement method’ and titles published in the official Government Gazette. Following a recommendation by the CEN/CENELEC board, MSA became full member of CENELEC from 1 October 2001 and will become effective member of CEN on 1 January 2002. It is a member of ETSI.

The legal basis for market surveillance is the Products Safety Act, which entered into force on 1 March 2001 and which establishes the Market Surveillance Directorate in the Ministry for Economic Services as the main body in charge of market surveillance.

As regards the notification procedures, the procedure for the exchange of information in the field of technical standards and regulations and of rules of information society services regulations was issued in March 2001 under the Malta Standards Authority Act. The MSA has been appointed as the EU notification point. MSA has been identified as the Enquiry Point as required by the WTO Agreement on Technical Barriers to Trade.

Further progress was also made in the adoption of **sector specific legislation**.

As regards sectors covered by *New Approach Directives*, regulations to transpose the directives on Medical Devices came into force in October 2001. In addition, regulations to transpose the directives on Machinery, Lifts and Recreational crafts were adopted by the Government in September 2001 and will become effective as from 1 July 2002.

As regards sectors covered by *Old Approach Directives*, the Product Safety Act, adopted by Parliament in February 2001 came into force on 1 March 2001 and partially transposes the *acquis* in the field of Motor Vehicles. A number of regulations issued under the Product Safety Act came into force in the first quarter of 2001 and transposed the Community directives in various sectors: chemicals (detergents and related products, labelling of asbestos products), crystal glass, textiles, footwear and shoes, wood in the rough, and cosmetic products. As regards cosmetics, pre-market authorisation requirements have been removed. As regards pharmaceuticals, the Health Division within the Ministry of Health has already started the reform necessary to separate its operational and licensing functions. The regulatory and licensing functions will be assigned to the new Medicinal Products Regulatory Authority.

There have been no developments on the transposition of the *acquis* on firearms and cultural goods.

As regards the issue of food safety - foodstuffs legislation (*see also chapter 7 - Agriculture*), Malta issued regulations under the Food, Drugs and Drinking Water Act to transpose legislation on ionising radiation in April 2001.

As regards the **non-harmonised sector**, amendments to the Importation Control Regulations, issued under the Supplies and Services Act, became effective in April 2001. This legislation removed a group of products from import licensing control, including electric generators, electric generating sets, gas regulators, gas pressure instruments and apparatus, oil and fuel appliances and refuse collecting vehicles, as part of the ongoing process of adopting the *acquis* through the abolishing of import licensing procedures.

As regards **public procurement** no progress can be reported.

Overall assessment

Malta has reached a good level of alignment in this area. Progress in establishing the general framework for the New Approach and Old Approach directives remains steady, as does the transposition of the sectoral *acquis* on industrial products. Further efforts are however required as regards public procurement.

The implementing structures for standardisation are in place and operating. The full membership of CENELEC and the effective membership of CEN as from January 2002 represent an important step forward for MSA. The implementation structures for accreditation and market surveillance are in place, but the accreditation and market surveillance directorates need to be strengthened, and a comprehensive market surveillance strategy needs to be developed.

As regards sectoral legislation, most New Approach directives have been transposed and implemented: almost 75% of the New Approach directives will have been adopted through the transposition of new regulations in the period covered by the Regular Report. The transposition and implementation of Old Approach directives is progressing reasonably, but it still has to be completed. In particular, Malta still has to align its pharmaceutical legislation (renewal of existing marketing authorisations).

Malta still has to align its legislation with respect to firearms. As regards cultural goods, the compliance of the draft Cultural Heritage Act with the Directive on the return of cultural objects is being examined by the Commission.

As regards safety checks on products at external borders, Malta still needs to establish appropriate customs and market surveillance infrastructure as well as effective administrative co-operation between competent authorities.

Regarding food legislation, Malta had already transposed a substantial amount of EC legislation in previous years, but there has since then been few developments. Malta still has to adopt a number of regulations to transpose remaining horizontal and vertical food legislation. As for the administrative structures, Malta has prepared a Food Safety Strategy, which foresees the establishment of a Food Safety Commission that would be the competent authority for food safety and the upgrading of laboratories. This strategy must now be implemented.

As regards the non-harmonised sector, Malta has not yet clarified how the principle of mutual recognition will be introduced into the Maltese legislation and be applied.

Concerning public procurement, there has been no progress since last year and Maltese legislation conforms only partially to the *acquis* in this field. Further alignment is needed as regards the procuring entities covered - local councils and some private companies with exclusive rights are outside the scope – and the tendering procedures. As regards the remedies system, there has been no change to the current system where the Department of Contracts, which is responsible for the award of the contract, also reviews the complaints. An independent Appellate Board must be established. As regards the administrative capacity, a strengthening of the Department of Contracts is needed. With regard to bodies governed by public law, local councils and public undertakings, Malta will have to ensure that the existing structures are strengthened to assume the responsibility for supervising and monitoring the application of procurement rules by those bodies which would be subject to EC rules.

Chapter 2: Free movement of persons

There has been some progress in this area since the last Regular Report, mainly in the area of **mutual recognition of professional qualifications**.

The Malta Professional and Vocational Qualifications Awards Council was set up in October 2000. Its tasks include, among others, to foster the recognition abroad of professional and vocational certificates awarded in Malta. The National Academic Recognition Information Centre (NARIC) of Malta was created in February 2001 to act as the national co-ordinator required under the General System Directives. Although it has no direct responsibility for preparing sectoral legislation, it will closely follow developments in this regard. NARIC has adopted a strategy on its tasks and working method. Its first action will be to launch a consultation process with the competent ministries and professional boards.

No legislative progress can be reported as regards **citizens' rights, free movement of workers or coordination of social security systems**.

As regards participation in European Employment Services (EURES), in May 2001 the Employment and Training Corporation completed a training programme for its Employment Advisors. Two employment advisors have been identified to act as EUROadvisors. Following an agreement reached with Ireland, the Employment and Training Corporation will be sending some thirty of their Employment and Training Advisors to Ireland on secondment to the counterpart organisation, where they will pay particular attention to the work of EUROadvisors.

Overall assessment

While the overall situation is on the whole satisfactory with respect to mutual recognition of professional qualifications, important efforts are required in the fields of citizens' rights, free movement of workers and co-ordination of social security systems.

Efforts are needed to ensure that, by accession, there are no provisions in Maltese legislation which contradict Community rules, in particular with respect to language, nationality and residence requirements. For example, a recent study on the Tourism Sector in Malta has shown that current Maltese legislation may contain some restrictions impeding the freedom of movement of professional tourist guides within the single market. In particular, both the licensing procedure for guides used by the Department of Tourism in Malta, and the Employment and Training Services Act, would need to be amended to provide for free movement of these workers within the EU.

Malta is largely aligned with the *acquis* in the area of mutual recognition of professional qualifications. Legislative harmonisation however is still necessary to achieve full alignment, in particular in the Medical and Paramedical sectors.

With respect to professional qualifications obtained before harmonisation, Malta should introduce measures to ensure that all its professionals can, as of accession, meet the requirements laid down by the directives.

In the field of citizens' rights, Malta still needs to amend its Local Councils Act to extend voting rights for local elections to all citizens of the European Union on accession. New legislation transposing the Directive on voting rights for the European Parliament elections still needs to be adopted.

In the area of the free movement of workers, legislation is only partially aligned and efforts are required to ensure complete alignment by accession, including also the social and cultural

integration of migrant workers and their families. In particular, the Immigration Act still needs to be amended to remove restrictions on the free movement of workers, the right of residence and the access to the public sector.

As regards future participation in EURES, the Employment and Training Corporation is well prepared to participate in the EURES network. It has its own website where job vacancies are listed according to industry, region or occupation, and other facilities are offered to jobseekers. The relations with its Irish counterpart organisation will help it in its preparation for EURES.

With a view to the future co-ordination of social security systems, further work to develop the necessary administrative structures is needed. Agreements such as the one in preparation with the Netherlands on social security will facilitate Malta's compliance with the regulations as of accession, as they are normally based on the same principles as the social security co-ordination regulations and will thus familiarise the administration with the procedures.

Chapter 3: Freedom to provide services

Since last year's Regular Report, Malta has made some progress in this area, in particular as regards the insurance sector.

In the field of **the right of establishment and the freedom to provide** services (other than financial services) there have been no legislative developments since last year.

In the field of **financial services**, with regard to the *banking sector*, a Directive on Consolidated Supervision was issued by the Central Bank of Malta, exercising powers conferred by the Banking Act, and came into force in May 2001.

Concerning the *insurance sector*, the adoption in January 2001 of several major regulations relative to insurance companies' prudential and accounting rules has brought about significant alignment with the *acquis* in the insurance field. Further implementation has been achieved through secondary legislation.

With regard to *investment services and securities markets*, no significant legislative progress can be reported.

The Malta Financial Services Centre (MFSC) has engaged a number of Compliance Officers during the past year thus enhancing its human resources. These will be employed on monitoring and supervision of licence-holders, particularly through on-site compliance visits. An on-site compliance-testing programme has been devised. This is being implemented in the insurance and the investment services areas. On-site compliance visits are used to monitor licence-holders' operations and adherence to current regulations and guidelines.

Concerning the **protection of personal data and the free movement of such data**, the legislative work aimed at aligning Maltese legislation with the *acquis* in this area has not been finalised.

As regards **information society directives**, a regulation establishing the Procedures for the Provision of Information in the field of Technical Standards and Regulations and of Rules of Information Society Services Regulations was published in March 2001. It establishes the Malta

Standards Authority as the Notification Point for technical standards, regulations and rules on Information Society Services.

Overall assessment

Although Malta has achieved a reasonable level of alignment in the area of financial services, further legislative alignment is needed.

As far as freedom of establishment and the general principles of the freedom to provide services are concerned, discriminatory provisions vis-à-vis EU citizens will also have to be abolished in many areas. The Maltese authorities are conducting a horizontal review of legislation and administrative practices with a view to identifying any remaining discrimination and removing it by accession.

On *banking*, Malta follows the main principles of Community prudential legislation and the Banking sector is also assessed against the Basle Core Principles for Banking Supervision. However, the Netting Directive, the Consolidated Supervision Directive and the post-BCCI Directive still remain to be fully transposed. In this context, particular attention must be given to the notion of “close links” and the issue of co-operation with foreign authorities. Malta also needs to set up a deposit guarantee scheme, for which preparations are underway.

As regards the *insurance sector*, Malta has adopted regulations that were intended to align its legislation with most of the *acquis* in this sector. However, an assessment of their compliance with the *acquis* remains to be made. A bill still needs to be adopted to enable the Government to implement the Single Market provisions for insurance at the moment of accession (single licence principle, cross-border branching rules, co-operation with foreign supervisors, etc., as required by the “third generation” insurance Directives).

In the field of *investment services and securities markets*, not much progress has been made since 2000. The amendments to the Investment Services Act and to the Insider Dealing Act still have to be adopted to bring Maltese law in line with the *acquis*. The Directive on Undertakings for Collective Investments in Transferable Securities still has to be transposed. Malta also needs to introduce an investor compensation scheme.

In the field of Information Society Services, the Malta Standards Authority has prepared the necessary procedures for implementing the Directive on the provision of information in the field of technical standards. The Malta Standards Authority has been established as the EC Notification Point. A network system to co-ordinate and facilitate exchange of information is currently being developed.

Malta still needs to adopt a law on *data protection*. Particular attention should be paid to the independence of the Authority in charge of its enforcement, and to the appointment procedure for its chairperson.

The Malta Financial Services Centre (MFSC) regulates insurance and investment services operators, collective investment schemes and offshore companies, while the Central Bank of Malta regulates and supervises credit and financial institutions. Over 70 officials work at the MFSC, though some of them deal with the general company register. In the financial field, the MFSC issues licences and may suspend, cancel or restrict licences in case of wrongdoing, carry

out investigations and issue public statements. Subject to resource availability, on an ongoing basis, both on-site and off-site compliance inspections are carried out. Investigations are also carried out where necessary. The Insurance and Investment Services sectors are assessed under international standards. In fact, many operators in Malta in this field are branches or agents of international companies and are therefore subject to international regulation via their parent companies.

The Malta Standards Authority possesses the administrative infrastructure and human resources necessary for the effective implementation and enforcement of the *information society Directives*.

Chapter 4: Free movement of capital

Substantive liberalisation measures have been taken since the last report.

As regards **capital movement and payments**, the Government continued to implement the three-stage plan for full liberalisation which was initiated in autumn 2000. The second stage was implemented on 1 January 2001.

The maximum amount of investment in real estate abroad by residents has been raised. The global ceiling within which the residents can purchase foreign securities and units of UCITS or deposit abroad was doubled to LM 30.000 (about € 75.000) and the period for which Maltese exporting companies can retain foreign currency earnings in a foreign currency savings or time deposit account has been increased to one year. Financial credits by non-residents to residents are now free if maturity is over one year and guarantees issued by non-residents in favour of residents or vice versa as well as transfers of dowries by residents have been completely liberalised. All restrictions on current payments have been lifted and the limits for physical import and export of Maltese Liri have been raised.

As far as **payment systems** and **money laundering** are concerned, no progress can be reported.

Overall assessment

Malta is gradually liberalising capital movements and payments, in accordance with its three-stage liberalisation plan. However, it still has a rather comprehensive system of exchange controls and other restrictions on capital movements.

With regard to acquisition of real estate, under the present legislation, foreigners may be allowed to purchase immovable property in Malta provided that the said property is used as a personal primary residence or for business purposes deemed to benefit Malta. Foreigners are also allowed to purchase secondary residences as long as the price is above certain thresholds. These discriminatory measures are not compatible with the *acquis*. Outward medium-term capital transactions are free up to the annual allowances.

Concerning payment systems, Malta still has to finalise necessary amendments to its primary legislation to implement the EU *acquis* in this area. Malta has, in particular, to transpose the provisions of the Directives on cross-border credit transfers and on settlement finality in

payment and securities settlement systems. Out-of-court redress procedures for the settlement of disputes on cross-border credit transfers also need to be introduced.

As regards money laundering, a bill amending the Prevention of Money Laundering Act and establishing the financial intelligence unit still has to be adopted by Parliament. Malta will also have to set up a financial intelligence unit.

Compliance with the Recommendations of the Financial Action Task Force should be ensured.

The Central Bank of Malta, on delegation by the Ministry of Finance, regulates and supervises credit and financial institutions, operates exchange control and oversees the payment system. The Central Bank and the Ministry of Finance are deemed to have appropriate competence and capacity to administer the three-stage liberalisation scheme and to initiate the flanking policies needed to implement a regime of free capital movements.

Chapter 5: Company law

Since last year's Regular Report, Malta has made limited progress in this area as regards company law and the enforcement and protection of intellectual and industrial property rights.

Regarding **company law as such**, no legislative progress can be reported. The administrative system regarding accounting was modified with the aim of better implementing the *acquis*. In May 2001, the Malta Institute of Accountants was recognised by Government as an official administrative body responsible for most of the administrative work previously carried out by the Accountancy Board.

In the field of **industrial and intellectual property rights**, Malta has signed both the Paris Convention and the TRIPs Agreement. It has made no reservations regarding the Berne and Paris Conventions and is also presently fully compliant with the WTO Trips Agreement.

With the help of the World Industrial Property Organisation (WIPO), Malta has undertaken awareness-raising activities among the business community and training activities for the Industrial Property Office. The Customs Intellectual Property Rights Enforcement Unit was formally created in September 2000 to deal with piracy and counterfeiting cases and to co-ordinate enforcement operations between the administrative and investigative branches; however, it is not yet operational. Some Customs officials have also been trained on intellectual property rights (Cross Border Measures) and on the identification of counterfeit goods. The Economic Crimes Unit has been strengthened by the recruitment of six new Police Constables as of April 2001.

Inspections have been carried out at various localities and 16 seizures of counterfeit goods were carried out between October 2000 and March 2001, two of them at the Freeport.

Overall assessment

Malta has already to a large extent achieved alignment with the *acquis* in the area of company law, and in the field of industrial and intellectual property rights. However, enforcement of intellectual property rights is still insufficient.

As regards **company law**, Maltese legislation is already to a large extent in line with the *acquis*. Minor amendments are still needed, mainly as regards disclosure requirements for branches. Implementation is satisfactory as well, and the company register is fully computerised and operational. Malta still has to adopt the regulation replacing the Brussels Convention on the Jurisdiction and Enforcement of Judgements in Civil and Commercial Matters, and to sign the Rome Convention on the Law Applicable to Contractual Obligations.

Concerning *accounting law*, Maltese legislation is already to a large extent in line with the *acquis*. As regards the Eighth Council Directive on the Approval of Persons Responsible for Carrying out the Statutory Audits of Accounting Documents, the law which aims to align the legislation with this directive still needs to be enacted. The Accountancy Profession (Amendment) Act, which should introduce the minor amendments necessary for complete alignment, still has to be adopted.

In the field of **industrial and intellectual property rights (IPR)**, Maltese legislation has transposed most of the *acquis* on copyright and related rights. Further implementation will be necessary, in particular in view of the new directives on the harmonisation of certain aspects of copyright and related rights in the information society and on the resale right for the benefit of the author of an original work of art. Contrary to the directive harmonizing the term of protection of copyright and related rights, Malta fails to provide for the revival of rights for those works which have fallen into the public domain.

The Maltese legislation in the field of patents is to a large extent in line with the *acquis*. Some adjustments of this legislation will however be necessary. Furthermore, before joining the EU, Malta will have to implement the Directive on the legal protection of biotechnological inventions and consider possible adjustments to its current legislation in order to fully implement the Regulations on Supplementary Protection Certificates. Malta has, in principle, implemented the First Council Directive on trademarks, although some minor amendments will be necessary. Malta will have to implement the directive on the legal protection of designs before accession.

Malta has signed both the Paris Convention and the TRIPs Agreement. Malta should consider signing up as soon as possible to other international agreements in the field of industrial property.

The level of piracy remains high and the enforcement of intellectual property rights is still not satisfactory. The district police and the administrative law enforcement sections are directly involved in the enforcement of intellectual property rights with respect to products which have been released on the market. In general, it can be stated that the enforcement authorities continue to lack the resources to effectively fight piracy. In particular, the economic crime unit of the police still needs to be reinforced in relation to the fight against counterfeiting and piracy. The Enforcement Unit for Intellectual and Industrial Property Rights within the Customs Department, which co-ordinates enforcement operations between administrative and investigative branches, still needs to be adequately staffed and provided with sufficient own resources. Border enforcement and the cooperation of the enforcement authorities with the right-holder organisations should be further organised and developed.

Further training in IPR Legislation is required for judges and prosecutors.

Chapter 6: Competition policy

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

In the field of **anti-trust**, on the legislative side, the Competition Act was amended in November 2000, including the power for the Minister of Economic Services to issue regulations on merger control. The Office for Fair Competition within the Consumer and Competition Division of the Ministry for Economic Services was empowered to make use of so-called compromise penalties, thereby increasing its sanctioning powers.

The block exemption regulations, which expired at the end of October 2000, were renewed for one year up to October 2001.

The amended act subjects public undertakings (which were previously exempted from the legislation) to the provisions of the Act, with the exception of those which the Ministry may declare to be exempt by Legal Notice. By the end of 2002, those undertakings which provide a universal service will be exempted. However, it should be noted that these exemptions would cover all activities of these undertakings and not only those which are of general economic interest. The amending Act also allows the Minister to exempt certain agreements in the agriculture and fisheries sectors on the basis of the relevant Commission Regulations.

In the **state aid** field, Malta has continued to make some progress. The new Business Promotion Act, which entered into force in June 2001, has introduced new incentives structured to be in line with the state aid *acquis*. It aims to abolish export-linked incentives and align other fiscal incentives contained in the old Malta Freeport and the Industrial Development Acts. It also provides legislative backing for the State Aid Monitoring Board and obliges aid grantors to consult the Board on aid projects.

The State Aid Monitoring Board has just been set up and is not yet fully operational. It consists of 5 members (of which 2 are full-time employees) and the Minister of Economic Services appoints its Secretary. The enforcement practice relating to State aid rules is only gradually emerging.

Overall assessment

Malta has adopted much of the necessary legislation to enforce the *acquis* in the field of competition policy and state aid, but it still has to fully align with the *acquis* on the status of public undertakings and to develop the state aid enforcement mechanisms and practice.

The amended Competition Act is modelled on the main principles of Community anti-trust rules, as regards restrictive agreements and abuse of dominant position. It is still possible for the responsible Ministry to exempt undertakings from the application of the Competition Act. After the end of 2002, exemptions may be justified only if they are necessary to fulfil a particular task of public interest. According to Article 86 of the EC Treaty, only a specific operation of the service of general economic interest of an undertaking can be exempted, and the company's competitive operations have to remain subject to the competition rules. The entire exemption of a group of undertakings from the application of the Competition Act is therefore not compatible with the *acquis*.

As regards block exemptions, Malta still has to adopt new general block exemption regulation on vertical restraints.¹⁶ Malta has also undertaken to include the revision of the block exemption regulations on specialisation and on research and development in view of the EU's new policies on horizontal co-operation agreements.

As far as merger control is concerned, the Competition Act already provides for a limited control of concentrations. Work is underway to establish a specific merger control system taking account of the specific situation of the Maltese economy (in particular, its small size).

The Office for Fair Competition appears to have a fair enforcement record (21 decisions in 2000, comprising 10 restrictive agreements, 9 abuse of dominant position cases and 2 merger cases). The authority has used considerable resources on own initiative cases and complaints. A policy on fines, however, needs to be established, and this should be achieved through regulations implementing the amended Competition Act. The Maltese authorities also need to consider strengthening the Office of Fair Competition, especially in view of the upcoming tasks under the merger control legislation.

As regards state aid, Malta is transposing the EC State aid rules through direct harmonisation and is aligning the criteria for granting aid directly in its aid schemes. This is to be complemented by control provisions in the Business Promotion Act, which provides a legal framework for industrial and fiscal aid granted in Malta, enabling the Ministry to issue specific incentive measures. For other aid, state aid control relies on the State aid Monitoring Board. The Business Promotion Act provides legislative backing to the Board and further procedural rules for the control of State aid will need to be adopted for the aid granted outside the Business Promotion Act.

The State Aid Monitoring Board needs to be reinforced through training and institution building. The State aid Monitoring Board has scrutinised the fiscal incentives under the Business Promotion Act and has thus established a first enforcement record. However, the state aid situation is still unclear since no State aid inventory has so far been formally submitted. The notification procedure would need to be more formally enforced. Continued effective application and enforcement of the State aid rules, including the alignment of existing aid schemes and legislation under which authorities at various levels grant aid, is required. State aid in the shipbuilding and ship repair industry will, in particular, have to be adjusted accordingly.

In order to ensure maximum aid intensities in assisted areas, Malta should also propose a regional aid map.

Chapter 7: Agriculture

Agriculture in Malta accounted for 2.3 % of Gross Value Added in 2000, continuing a downward trend (2.5% in 1999, 2.7% in 1998)¹⁷. Employment in agriculture has remained stable in 2000, accounting for 1.9 % of total employment¹⁸.

¹⁶ Commission Regulation (EC) 2790/1999.

¹⁷ The source for all agricultural statistics is EUROSTAT unless otherwise specified.

¹⁸ Eurostat Labour Force Survey definitions (LFS). Agricultural employment is defined in LFS terms as economically active persons who gain a significant part of their income from agriculture.

Malta has a large agricultural trade deficit with the Community, with imports exceeding exports by an average ratio of around 26:1. In 2000, EC imports¹⁹ of agricultural products originating in Malta amounted to € 7.7 million. EC exports to Malta amounted to € 209.5 million, the trade balance in favour of the Community amounting to €201.9 million. On average, spring potatoes account for around 70% of Malta's agricultural exports, whereas its imports are made up of a much wider range of products. Malta has requested to open discussions on further mutual concessions in agricultural trade with the European Union (*see section A.b. – Relations between the European Union and Malta*).

Since last year's Regular Report, following an impact assessment study, the Maltese authorities have identified the part of the agriculture sector that would be affected by the adoption of the Common Agricultural Policy. The Maltese government is preparing a programme of measures to accommodate these effects. This assessment provides the basis for a rural development strategy and a rural development plan has been commissioned.

Malta does not have direct support schemes for its farmers. However the agriculture sector benefits from high protection through a system of import levies applying to certain products. Malta is committed in principle to dismantling these levies but no progress can be reported in the reference period. The levies on imported agricultural products act as an indirect support scheme since they allow high prices to be maintained on the Maltese market for local products benefiting from the levy protection.

There is a fully liberalised but extremely small land market. Prices for agricultural land are very high.

Horizontal issues

As regards the implementation of measures related to the *European Agricultural Guidance and Guarantee Fund (EAGGF)*, there has been little progress. A Director of Review was appointed in April 2001. One of the tasks of this office will be the building up of the administrative capacity necessary to implement the *acquis*.

No progress can be reported as regards the *Paying Agency*.

A project manager for the introduction of the *Integrated Administration and Control System (IACS)* has been appointed. Various surveys are currently being carried out in Malta in connection with the different IACS components (land and animal registries). The basic elements are available but they need to be digitised and integrated into an Information system.

No progress can be reported as regards the implementation of *trade mechanisms* and in relation to *organic farming*. As regards *quality policy* the adoption of the Products Safety Act will facilitate the adoption of quality standards (see below).

A *Farm Accountancy Data Network (FADN)* Pilot Project involving a representative sample of 65 farmers was carried out between February and May 2001. The National Office of

¹⁹ Source of trade figures: Uruguay Round definition of agricultural products, figures taken from EUROSTAT COMEXT (see U.E. 12/15: Commerce des Produits Agricoles 1988-2000, 1 Partie D.G. AGRI/A.2 Analyses quantitatives, prévisions, statistiques, études, 2001, p. 10-57 et 86-89) .

Statistics is making all the necessary preparations to undertake a census on agriculture in October 2001, which will serve as the basis of the actual FADN.

Common Market Organisations

Since last year's Regular Report, there has been little progress as regards the introduction of a legal framework and administrative structures for the establishment of Common Market Organisations.

As regards the adoption of marketing and quality standards, the Product Safety Act entered into force in March 2001. This enabling Act empowers the Minister responsible for Consumer Protection to prescribe minimum permissible standards for any type or category of goods, including fruits and vegetables. Marketing and quality standards will be introduced as legal notices under the Product Safety Act on the advice of the Malta Standards Authority, which will facilitate their adoption.

Rural development and forestry

Little progress has been made in this field. The Trees and Woodlands (Protection) Regulations were issued in January 2001 as subsidiary legislation under the Environment Protection Act for the preservation of existing woodland and trees.

Veterinary and phytosanitary issues, including food safety

No legislative progress can be reported in the **veterinary** sectors since the last Regular Report.

As for **phytosanitary** legislation, the Parliament adopted an Act on the control of pesticides in March 2001 and an Act on the control of plant pests and diseases in July 2001.

As regards **food safety** (*see also chapter 1 - Free movement of goods*), in April 2001, Malta has produced a Food Safety Strategy which outlines the systems for co-ordination between the various official bodies involved, their competencies, organisation and staffing. In particular, it foresees the establishment of a Food Safety Commission that would be the competent authority for food safety and the upgrading of laboratories.

Overall assessment

As regards the transposition of the *acquis*, there has been little progress in this area during the past year. Malta is still far from full alignment and considerable efforts are still needed as regards administrative capacity. However, the Maltese authorities have progressed in assessing the impact of applying the Common Agriculture Policy to Maltese agriculture and in preparing measures to accompany this move. This must, as a matter of urgency, be translated into concrete measures.

As regards **horizontal issues**, progress has been made in the implementation of the *IACS* and the *FADN* system. However the implementation of these systems must be finalised and important efforts are needed as regards the set up of a *Paying Agency*, and the implementation of *trade mechanisms*. Efforts are needed to strengthen the capacity of the Ministry of Agriculture to manage the implementation of *EAGGF*-related measures.

As regards the implementation of **Common Market Organisations**, the adoption of the Product Safety Act represents progress in the *adoption of marketing and quality standards*, but these standards still need to be adopted through legal notices. Progress is needed concerning EC intervention systems and the EC supply management instruments.

In the area of **Rural Development**, Malta needs to step up the efforts to build up the administrative capacity to devise and, later on, manage a rural development strategy. While rural development support schemes would be important for Malta, administrative preparations for the design and setting-up of such schemes have not started yet. In particular, measures concerning less-favoured areas could be important for rural development in Malta. Furthermore, the implementation of agri-environmental measures is mandatory upon accession. The administrative preparations for implementing such measures have not started yet.

While there has been some progress in the **phytosanitary** field, continuing alignment of veterinary and phytosanitary legislation and upgrading of inspection arrangements, in particular at future external borders, should be pursued. The proposed Veterinary Act, which aims to provide the legal framework for future alignment with the *acquis*, still has to be adopted. Progress is also needed in the field of animal nutrition.

As regards administrative capacity in this field, the veterinary service staff check all relevant activities, from the issuing of licences, certificates for importation/exportation and regular inspections in farms and slaughterhouses, to agri-food processing establishments and retail outlets. The Department can impose sanctions in the event of non-compliance with regulations. Capacity building is needed to tackle new phytosanitary aspects and reinforce other areas. Three functional laboratories – Chemistry, Biology and a Virology Laboratory – are available within the Plant Health Division. But an upgrading of the facilities available in the laboratories would be needed.

With regard to **food safety**, the plans to set up a Food Safety Commission that would be the competent authority for food safety and for the upgrading of laboratories remain to be implemented.

With respect to *control measures*, Malta has an emergency plan which is generally in line with Community rules.

Chapter 8: Fisheries

Since the last Regular Report, an important step has been taken in the process of legislative alignment, with the adoption of the Fisheries Conservation and Management Act, but no significant improvements to the administrative capacity can be reported.

The Fisheries Conservation and Management Act was approved by Parliament in January 2001 and came into force in June. This enabling act will provide for the adoption of subsidiary legislation to cover all aspects of the fisheries *acquis*.

As regards **resource management, inspection and control**, the secondary legislation that has been prepared to align with the *acquis* concerning management and control of resources and types of fishing gears has not been adopted. Progress was achieved in preparing for the establishment of a Vessel Monitoring System (VMS). However the effective set-up of a VMS

and the introduction of a system of logbooks and catch data collection are delayed pending the adoption of the relevant legislation.

With respect to **structural actions**, the drafting process of a Multi-Annual Guidance Programme for fisheries has started.

Concerning **market policy**, no progress can be reported as regards the introduction of common marketing standards, the recognition of producer organisations and the preparation for market intervention mechanisms.

As concerns **state aid** to the fisheries sector, and **international fisheries agreements**, no particular developments are to be reported.

As regards the administrative capacity, no recruitment has taken place in the Department of Fisheries in the reporting period. However, the Department established a two-year course leading to a Higher National Diploma in Fisheries Science in co-operation with Plymouth University and the FAO. The first year has taken place successfully, with seven students expected to continue into the second year of the course. These students will be ready to take up employment as officers within the Department of Fisheries and Aquaculture in October 2002. It is intended that these officers will be responsible for vessel and market surveillance.

Overall assessment

The adoption of the Fisheries Conservation and Management Act paves the way for Malta's alignment with all parts of the fisheries *acquis*. The main effort should now bear on the rapid adoption of the subsidiary legislation that will align the Maltese legislation with the provisions of the fisheries *acquis* concerning management and control of resources, fishing gear, fish standards and marketing.

In the field of structural actions, progress towards the establishment and updating of a fishing fleet register is satisfactory.

The Department of Fisheries and Aquaculture in the Ministry of Agriculture and Fisheries is responsible for overseeing the enforcement of all aspects of fisheries policy. It has undertaken to strengthen its administrative capacity by sending students to a specially designed training course with the aim of recruiting them at the end of the course. The capacity of the Department needs to be monitored and assessed in light of this expected strengthening.

Chapter 9: Transport policy

During the last year, Malta continued to align its legislation with the *acquis* and achieved some progress, in particular in the fields of road transport safety and maritime safety, while only limited progress was achieved in air transport.

As regards **Trans-European Transport Networks**, a methodology for the collection and collation of information for the compilation of Community road infrastructure accounts has been established to bring Malta's accounting system for expenditure on infrastructure in line with the requirements of the *acquis*.

In the **land transport** sector, progress was achieved in the field of *road transport* with regard to driving licenses and administrative capacity .

New legislation aligning Malta with the *acquis* on driving licences entered into force in January 2001. Due to technical problems, new driver's licences in European format will be available only at the end of the year. Requirements for roadworthiness tests are being gradually phased in.

The new Malta Transport Authority, responsible for all land transport issues including inspections and controls, has since been set up and will become fully operational in the second half of 2001. The new Malta Transport Authority consists of three departments (Road, Public Transport, and Licensing and Testing). A supervisory board is in place. The first training courses for safety advisers for the transport of dangerous goods are under way.

As concerns **air transport**, regulations transposing the EC Regulation on the denied boarding compensation system for scheduled air transport were published in April 2001. A new Air Traffic Control Centre was inaugurated.

As regards **maritime transport**, Malta has made progress, including with regard to maritime safety. Malta submitted to the Commission in May 2001 a Maritime Transport Action Plan with the aim of establishing a timetable for alignment with the *acquis*. It has increased its efforts to enforce EU maritime safety standards. It has implemented the Directive on Marine Equipment, a reform of Port State control records and an increase of flag state inspections. Amendments to the Pilotage and Mooring Regulations to introduce a tax differential in favour of tankers with segregated ballast tanks were published in June 2001 in line with the corresponding EC regulation. The Malta Maritime Authority (MMA) is strengthening its administrative capacity with five new flag and port State control inspectors, as well as supporting clerical staff. Officials and inspectors of the MMA have undertaken training activities related to maritime safety, flag state implementation and marine engineering.

In 2000, a number of ships representing 1.5 million gross tonnage were deleted from the Maltese ship register or refused entry. Nevertheless, Malta still has the biggest commercial fleet of all accession countries (1505 ships with 28 170 010 gross tonnage as of 31.12.2000) and the average age of Malta's fleet has not changed significantly as compared to 1999. According to 2000 statistics under the Paris Memorandum of Understanding (MoU), the percentage of Malta flag vessels detained following port State control was 11.81%, an increase compared to 1999 (10.63%). This compares to an average for EU-flagged vessels of 3.9% in 2000. The MMA is in the process of concluding agreements with its authorised classification societies to regulate the relationship.

Overall assessment

Malta's legislation in the transport sector is in line with the EC *acquis* to a certain extent, but important parts of road and air transport law remain to be transposed, and sustained efforts are needed as regards maritime safety.

As regards Trans-European Transport Networks, Malta still has to finalise the report that should form the basis for extending the Trans-European Transport Networks to Malta after accession.

On road transport, Malta still needs to adopt the necessary legislation on fiscal harmonisation, market access, access to the profession, dangerous goods and passenger transport. The administrative capacity of the new Malta Transport Authority will have to be strengthened, in particular by training its staff for the new responsibilities arising from the *acquis*.

On air transport, the legislation to comply with the *acquis* on slot allocation, groundhandling and accident investigation still needs to be adopted.

As regards maritime safety, Malta's vessel detention rate as a result of State Port Controls remain very high, and has increased from 1999 to 2000. In the Paris Memorandum of Understanding 2000 annual report, Malta is ranked as one of the medium-to-high risk flag States. However, some time is needed before the important measures taken by MMA to improve its safety record have their full effect. Malta should further single out old ships with lower safety standards and efforts should be continued to further strengthen the administrative capacity of the MMA and improve the safety record of the Maltese commercial fleet.

Chapter 10: Taxation

Since the last Regular Report Malta has made good progress, especially in the area of excise duties.

In the area of **indirect taxation**, particularly significant progress was made in the field of excise duties. In March 2001, Malta amended its excise legislation in the field of mineral oils, tobacco products and alcoholic beverages with retroactive effect from 20 November 2000. The amendments include a single combined excise duty on cigarettes meeting the required minimum duty level of 57% irrespective of the length of the cigarettes, new definitions of tobacco products and new duty rates for cigars, cheroots and pipe tobacco. In addition, fuel oils and methane have become subject to taxation, a distinction has been made in the duty level between leaded and unleaded petrol, new duty rates for mineral oils, when used for specific purposes, have been introduced and a wider application of fiscal markers has been enabled. In the field of alcoholic beverages, a positive duty rate on alcoholic products, including beer, has been imposed as required under the *acquis*. A new definition of wine linked to the alcoholic strength, including the notion of intermediate products, has been introduced and spirits are now taxed per hectolitre of pure alcohol. These amendments were intended to fully align the Maltese excise legislation with the *acquis*.

In the field of VAT, the legislation was amended in January 2001, so as to tax at the standard rate the supply of food in canteens located in work places and study areas. At the same time, the supply of educational, health and welfare services has been exempted from VAT without input credit, and a special scheme for travel agents has been introduced based on the profit margin.

Regarding **direct taxation**, no legislative alignment can be reported since the previous report.

The administrative capacity has been strengthened by way of the establishment of a Pre-Accession Unit. A Quality Service Charter has been launched and two additional Appeals Boards have been set up. The number of VAT inspectors has been increased from 38 to 52 and IT applications connected with debt management and sifting of risks taxpayers have been installed.

Overall assessment

Malta has advanced well with alignment in this field and its excise duty legislation is now on the whole in line with that of the *acquis*. More efforts are, however, required to align the legislation in the fields of VAT, direct taxation, administrative co-operation and mutual assistance, and also to strengthen the administrative capacity.

Although some progress has also been made in the field of VAT, further substantive challenges remain in this area. The main discrepancies between the Maltese VAT legislation and that of the Community relate to the application of rates and the scope of exempt transactions.

As regards the field of direct taxation, Malta will have to address this part of the tax *acquis*, including its preferential tax schemes, so as to comply with the Code of Conduct for Business Taxation to the same extent as current Member States upon its accession to the EU.

As regards the *acquis* on administrative co-operation and mutual assistance, full transposition is still required. The setting up of national IT systems compatible with the EC systems (in particular the VIES) should be given priority.

Several initiatives have been taken which have strengthened the capacity of Malta's tax administration. The setting up of the Tax Compliance Unit has significantly improved tax collection. The implementation of the Tax & Customs Business Change Management Plan began last year and is gaining momentum. It is of paramount importance that the plan should be fully implemented, according to schedule.

Chapter 11: Economic and Monetary Union

A detailed assessment of Malta's economic policy in its various aspects 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 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, no specific progress in the adoption of the EMU *acquis* can be reported .

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. It will need to implement the necessary changes to its institutional and legal framework by the date of accession.

Overall, Malta has adopted substantial parts of the EMU *acquis*. However, Malta has not yet fully aligned its legislation with the requirements of the Treaty concerning the **independence of the Central Bank** and **direct public sector financing by the Central Bank**. Draft

amendments to the Central Bank of Malta Act to bring it into line with the requirements of the *acquis* have been prepared but still have to be adopted by the Parliament.

The administrative capacity of the Economic Policy Division in the Ministry of Economic Services is being strengthened, in particular with respect to economic programming and econometric modelling capability.

Chapter 12: Statistics

Malta has made considerable progress over the past year in this area.

As regards **statistical infrastructure**, a new statistics law, the Malta Statistics Authority Act, providing for the establishment of a Statistics Authority, came into force in March 2001. The Act establishes the National Statistics Office (NSO) as an autonomous and independent institution, replacing the former Central Office of Statistics. The NSO has been quantitatively and qualitatively reinforced, with the recruitment of fifteen statisticians and further improvement of the IT infrastructure.

Concerning **classifications**, the NACE classification has already been adopted for industry statistics. Full compliance has been achieved this year for the classification of the construction sector. The classification of individual consumption by purpose (COICOP) has been adopted in the ongoing household budget surveys. The International Classification of Professions (ISCO-COM) has been adopted in the labour force surveys.

Concerning **demographic and social statistics**, further progress has been made. A Labour Force Survey (LFS), conducted for the first time in May 2000, was repeated in December 2000 and the results published in June 2001. Quarterly LFS data collection started this year. As regards Health and Safety, relevant statistics have been collected on accidents at work in compliance with EU requirements. The NSO has carried out a Continuous Vocational Training Survey, as recommended by Eurostat.

As regards availability of statistics at **regional** level, no progress can be reported.

In the field of **macro-economic statistics**, the classification of the functions of governments (COFOG) has been adopted and the reclassification of all government finance transactions in accordance with ESA 95 has been completed. The new chart of accounts has been in use since January 2001. Work on the modification of the relevant Treasury Department software was completed by the end of September 2000. The first non-financial national accounts in accordance with ESA 1995 are now being compiled.

The balance of international payments has been published, in accordance with the fifth edition of the Balance of Payments Manual of the IMF and in conformity with Eurostat's recommendations. The data is being published on a quarterly basis within three months of the end of the reference quarter and is being transmitted to Eurostat.

The implementation plan for the introduction of INTRASTAT (system for the exchange of statistics between member states) was introduced in February 2001 and is being evaluated.

Concerning **business statistics**, Business Register information was submitted in June 2001 for the Aerostat "Annual Inquiry on Business Register".

As regards **transport statistics**, the NSO is in full compliance with most of the requirements for statistics on transport of goods by road and sea. The first pilot Road Transport Survey is being carried out.

For **agricultural statistics**, Malta has already achieved quite a good situation as regards agricultural structures. The National Statistics Office has established an extensive register of all agricultural enterprises. Information from this register is now being stored in a GIS-based Agricultural Information System known as AGRISTAT. The basic weighting frame for the input price index was finalised in early November 2000.

The Farm Accountancy Network (FADN) pilot survey launched in December 2000 has been completed. Agricultural statistics on pig farms were published in June 2001.

Concerning fruit growing, the NSO has carried out a full-scale census of all areas with fruit trees. Collected data are stored in a GIS database and full compliance has been achieved in this area.

Results of data collection concerning fish landing statistics for the December 2000 quarter were published in February 2001. Data on fish farm facilities has been entered into a database. Aquaculture statistics are available.

Overall assessment

Thanks to sustained efforts over the past years, Malta is quite well advanced in the area of statistics. In order to achieve full alignment with the *acquis*, it is important that Malta continue to make substantial efforts.

Since the introduction of the new law on statistics and the further strengthening of the NSO, Malta now has the administrative capacity required to apply the *acquis* in this domain.

Chapter 13: Social policy and employment

Some progress has been made in this area since the last Regular Report.

The drafting of subsidiary legislation under the Conditions of Employment (Regulation) Act was completed in June 2001. This legislation aims to transpose all **labour law** directives, except the Directive on the organisation of working-time.

An internal intervention unit was set up in 2000 within the Employment and Training Corporation (ETC) to deal with collective redundancies. A joint unit was also set up in 2000 by the Ministry for Economic Services and the Ministry for Social Policy to co-ordinate the work of several public agencies and other social partners and to act as an early warning system in the event of collective redundancies.

The principal structure for enforcing the protection of workers is the Inspectorate and Enforcement Section of the Department of Industrial and Employment Relations. The administrative capacity of the Department is being strengthened with ten additional labour relations officers. No progress can be reported as regards the set up of a Guarantee institution in terms of the Directive on Insolvency of Employer.

In the field of **equal treatment for women and men**, the Protection of Maternity at Work Places Regulations 2000 entered into force in January 2001. These Regulations transpose the provisions of Directive on safety and health at work of pregnant workers and workers who have recently given birth. Legal approximation in the **health and safety** field continued during the reporting period with the transposition of other parts of the *acquis*. In particular, the Occupational Health and Safety Authority Act was published in November 2000. The part of the Act setting up the Occupational Health and Safety Authority came into force in January 2001. The new Occupational Health and Safety Authority will aim to ensure the effective implementation of the health and safety *acquis*. Its members were appointed in May 2001

In the sphere of **public health**, no particular development can be reported in this area of the *acquis*. With regard to **social dialogue**, the Malta Council for Economic and Social Development Act passed through all stages in Parliament in June 2001. It entered into force in August 2001.

The National Statistics Office published the results of the first and second labour force survey in June 2001.

Malta and the Commission have agreed a Joint Assessment of **Employment Policy** Priorities with a view to examining the progress made by Malta in adapting its employment system so as to be able to implement the European Employment Strategy in line with the Employment Title. The first Labour Force Surveys (LFS) in accordance with ILO guidelines were carried out last year and are now being done on a quarterly basis. According to the LFS, unemployment decreased to 6.1% in March 2001, from 6.8 % of the labour force in May 2000. It was higher than the registered unemployment rate of 4.4% in March 2001. The unemployment rates for women were slightly higher than for men.

Further legislative progress was made with a view to preparations for administering support received through the **European Social Fund (ESF)**. A special preparatory committee has been set up within the Ministry for Social Policy to deal with matters related to the ESF. The Director (Office of Review) in the Ministry for Social Policy was appointed in April 2001

The fight against exclusion, as laid down in Art. 136 of the Treaty establishing the European Community, is part of the objectives of EU social policy. As decided at the Lisbon and Nice European Councils, policies to combat social exclusion combine commonly agreed objectives at the EU level, and national action plans. The Göteborg European Council in June 2001 invited candidate countries to translate the Union's objectives of promoting social inclusion into their national policies.

In the field of **anti-discrimination**, the Equal Opportunities (Persons with Disability) Act came into force in October 2000. The Act prohibits discrimination on the basis of physical or mental disability with regard to employment. The Act provides for the elimination of discrimination against persons with disability in the fields of employment, education, access, accommodation, and insurance, as well as the provision of goods and services. It also introduces the principle that the burden of proof shall not lie with the person with the disability. The Act also provides for the right to moral damages. Apart from this Act, no further progress can be reported as regards anti-discrimination.

In the field of **social protection**, the recruitment of additional personnel and the provision of ongoing training continue to strengthen the administrative capacity of the Department of Social Security.

Overall assessment

Malta is generally well advanced in terms of legal transposition of the *acquis* in this area, especially as regards labour law and Health and Safety, but it is still far from alignment as regards equal treatment.

It should also be noted that enforcement of legislation is frequently scheduled at a much later stage after its adoption. In some cases, this will make it difficult to monitor implementation and enforcement.

Malta's labour law is largely in line with the relevant Community *acquis*. It still has to set up the Guarantee institution in terms of the Directive on Insolvency of Employer.

Concerning Equal Treatment of women and men, only one of the nine EC directives has been fully transposed to date and Malta must finalise the transposition of the remaining *acquis*. Much work needs to be undertaken to strengthen implementation and enforcement mechanisms.

In the health and safety field, the level of alignment has improved substantially. The Occupational Health and Safety Authority Act, which came into force at the beginning of the year, establishes an Occupational Health and Safety Authority and provides for the general health and safety responsibilities of employers and workers. It also establishes a Health and Safety Appeals Board, and provides administrative and financial provisions, as well as penalties.

On Public health, further work is required to finalise the alignment with the *acquis*, in particular in the area of tobacco control. Malta has confirmed its full commitment to participating in the surveillance and control of communicable diseases under the European Network set up by the Community.

Social dialogue continues to be well developed in Malta. The setting up of the Malta Council for Economic and Social Development is a positive step, including the involvement of representatives of civil society as well as the social partners. However, it would be beneficial to reinforce tripartite consultations and increase the number of tripartite agreements. Autonomous social dialogue, sectoral social dialogue and collective agreements should also be strengthened in order to prepare the Maltese social partners for the role they will play in social dialogue at EU level. At company level, workers' participation and information/consultation need to be promoted along the line of the Community *acquis* and practice in this area.

With regard to employment policy, important steps have been taken by Malta to adapt its employment systems so as to implement the European Employment Strategy, including the agreement of the Joint Assessment Paper (JAP). This paper will be important in the preparation for accession and ensure an effective monitoring of the phasing in of the priorities and commitments contained in the JAP.

Malta is developing the necessary structures and operational arrangements to implement the ESF effectively. Further efforts are required to improve both administrative capacity and the mechanism for co-ordination of ESF interventions in the context of the European Employment

Strategy and the fight against social exclusion. The special preparatory committee set up within the Ministry for Social Policy to deal with matters related to the ESF is chaired by the Permanent Secretary of the Ministry. It is composed of officials from various Ministries, the Employment and Training Corporation and the Staff Development Organisation of the Office of the Prime Minister. However, the Ministry still needs to appoint an ESF manager, who will be responsible for policy, procedures and propagation of all matters related to ESF.

As regards anti-discrimination, the Equal Opportunities (Persons with Disability) Act establishes the separation of the National Commission for Persons with Disability from public structures, its reconstitution as a separate legal entity and the elimination of any discrimination on the basis of disability. The Commission will investigate all allegations of discrimination on the basis of disability. The Commission is also responsible for running education and information campaigns highlighting the various provisions of the Act and the measures that may be taken to ensure compliance.

Malta still has to comply with the *acquis* on anti-discrimination based on Article 13 of the EC Treaty.

The fight against exclusion, as laid down in art. 136 of the Treaty establishing the European Community, is part of the objectives of EU social policy. As decided at the Lisbon and Nice European Councils, policies to combat social exclusion combine commonly agreed objectives at the EU level, and national action plans. The Gothenburg European Council in June 2001 invited candidate countries to translate the Union's objectives of promoting social inclusion into their national policies.

Chapter 14: Energy

Malta has made significant progress during the period covered by this Regular Report. An important development in the field of energy has been the entry into force, in January 2001, of the Malta Resources Authority Act which provides a basis for alignment with the *acquis*.

Concerning **security of supply**, Malta has made little progress.

In relation to **competitiveness and the internal energy market**, Malta has taken initial steps to align with the *acquis*. The Malta Resources Authority was established through the Malta Resources Authority Act as an independent regulatory body for the energy sector, among others. The Malta Resources Authority Act came into force in February 2001 and the Authority is to be fully operational by the third quarter of 2001. The regulatory powers vested in Enemalta Corporation through the Enemalta Corporation Act were transferred to the Malta Resources Authority and its Energy Directorate in March 2001. The Malta Resources Authority has also taken over responsibility for Malta's energy policy. It is currently finalising the national energy policy document.

As regards **energy efficiency** and the use of renewable energy sources, Malta adopted the Product Safety Act in February 2001 in order to align with the *acquis*, in particular as regards energy labelling and efficiency requirements.

In October 2000, Malta adopted amendments to the Petroleum Act and Continental Shelf Act to bring its legislation in line with the Hydrocarbons Licensing Directive.

Malta ratified the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects in July 2001, together with amendments to the Trade-Related Aspects of the Energy Charter Treaty.

Overall assessment

Malta has reached a reasonable level of alignment with the energy *acquis* but efforts must continue to ensure full compliance in particular as regards security of supply and energy efficiency.

Malta should finalise its National Energy Strategy.

Secondary legislation under the Malta Resources Authority Act to align with the oil stocks *acquis* still needs to be adopted. Particular attention should be given to the completion of appropriate legislation as regards emergency security of supply and to the actual building up of oil stocks. The Maltese government needs to accumulate progressively towards the level of 90 days of oil stocks, as required by the *acquis*.

Regarding competitiveness and the internal energy market, particular attention needs to be paid to the implementation of the Malta Resources Authority Act and the restructuring of the electricity monopoly of Enemalta. The elimination of price distortions also needs attention. Malta has a small energy market and considers itself a small isolated system within the terms of the Electricity Directive.

As regards oil products, Malta should strengthen its efforts and provide detailed plans in order to bring the operations of the state trading monopoly in the importation, stocking and sales of petroleum products in line with the *acquis*.

The Malta Resources Authority is now responsible for Malta's energy policy and the implementation of the Energy Charter Treaty. It has just been created and its administrative capacity will need to be strengthened so that it can carry out its new responsibilities.

Malta still has to complete the alignment of its legislation with the *acquis* in energy efficiency. The Ministry for Economic Services is the competent authority implementing legislation on general product safety and subsidiary legislation relating to energy efficiency. The Department responsible for consumer affairs will have to deal with the enforcement aspect. Malta should enhance the use of renewable energy and the improvement of energy efficiency. Apart from tax (VAT) reductions for solar energy, there are no other incentives for energy saving and renewable energies in place.

Whereas Malta does not generate electricity from nuclear power sources, the Council Report on Nuclear Safety in the Context of Enlargement (June 2001) contains recommendations with regard to other activities of relevance to Malta (that is the management of institutional radioactive waste, i.e. mainly sealed sources from industrial and medical applications).

The Report emphasises that its general observations and recommendations are relevant, in particular with regard to the need for Malta to ensure that the appropriate regulatory oversight is established according to good practice within the EU.

Malta will need to ensure compliance with Euratom requirements and procedures. In this respect, continued attention should be given to preparing the implementation of Euratom Safeguards, in particular regarding the reporting of nuclear material flows and inventories directly by the persons or structures operating nuclear installations or storing nuclear material. It should be noted that Malta has conducted a Full Scope Safeguards Agreement with the IAEA. Malta has not yet signed an Additional Protocol to this Agreement.

Chapter 15: Industrial policy²⁰

Since the 2000 Regular Report, the Maltese government has made progress in the development of an **industrial policy** and in **investment promotion**, while the implementation of the **privatisation** programme has continued to progress slowly.

A wide consultation process with the social partners on the priorities and issues identified in the White Paper entitled “Prosperity in Change: Challenges and Opportunities for Industry” took place within the Malta Council for Economic and Social Development (MCESD).

The Business Promotion Act, aimed at **promoting investment**, entered into force in June 2001. The Act, which amends the Industrial Development Act, includes small business legislation to facilitate the implementation of incentive schemes and other measures targeting small businesses (*see also chapter 16 – Small and medium-sized enterprises for progress in implementing the business environment*). The Business Promotion Regulations which derive from it introduce new incentives structured to be in line with the Commission’s Guidelines on State Aid. It should be noted that the Business Promotion Act provides incentives to local as well as foreign investments.

In 2000 Malta witnessed a steady growth in capital investments. In 2000 the share of gross fixed capital formation in GDP reached 26.3%, a 12.4% increase as compared with 1999.

Since last year, **privatisation and restructuring** have advanced slowly. The privatisation process has been launched for the Lotto Department, Malta Freeport, Malta International Airport and the Bank of Valetta in particular, but progress has been slow. (*See Section B.1.2. - Economic criteria*).

Overall assessment

Overall, Malta’s policy towards industry is by and large in conformity with the principles of EC industrial policy, i.e. market-based, stable and predictable. The consultations with the social partners on the White Paper “Prosperity in Change: Challenges and Opportunities for Industry” represent a step towards the drawing up of an integrated industrial strategy. Malta should now finalise its industrial strategy as well as its national industrial policy document.

Malta needs to continue strengthening its competitiveness with a view to integrating its enterprise sector in the Single Market.

²⁰ 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 new Business Promotion Act and the Business Promotion regulations represent a positive step towards improving the investment environment. The Act should also be a valuable tool for enterprise restructuring as import levies continue to be progressively dismantled. Malta needs to ensure that the incentives provided by the regulations conform to the Commission's Guidelines on State Aid (*see Chapter 6 - Competition policy*).

Malta should pursue and speed up the implementation of its privatisation programme. As regards the restructuring program for industrial SMEs, 48 companies in the manufacturing sector have submitted business plans to the Institute for the Promotion of Small Enterprise (IPSE), 28 of which were approved up to April 2001, 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 ought to be extended.

The administrative capacity of the Ministry for Economic Services, which is responsible for industrial policy, seems on the whole adequate. However the privatisation unit is staffed with only two persons and may need to be reinforced to cope with the challenge of the government's privatisation programme. IPSE manages the restructuring programme for small enterprises efficiently, however its capacity would need to be strengthened in order to broaden the intensity of its restructuring activities and their scope (in particular to the agri-industrial sector).

Dialogue between the government and the private sector is taking place through various fora, but there is room for improvement in that area.

Chapter 16: Small and medium-sized enterprises²¹

Since the last Regular Report, Malta has made progress in this field, through strengthening its SME policy and taking further measures to promote SME development.

The Business Promotion Act, which entered into force in June 2001, includes small business legislation to facilitate the implementation of incentive schemes and other measures targeting small businesses. The Business Promotion Regulations which derive from it introduce new incentives, such as reduced rates of income tax, investment tax credits, value added incentive scheme, soft loans, loan interest subsidies, loan guarantees, incentives for job creation and training assistance. The incentives have been structured to be in line with the Commission's Guidelines on State Aid.

The Institute for the Promotion of Small Enterprises (IPSE), which assists small enterprises through consultancy on restructuring and business plans, has undertaken sectoral studies to extend its activities to specific sectors (wine industry, fruit and vegetables processing, meat processing, and the printing sector). A new Business Incubation Centre managed by IPSE has been launched to promote the development of innovative enterprises. IPSE has also launched a Business Resource Centre offering various services to businesses.

Following an Operations Review in the Ministry for Economic Services, a Commerce Division has been set up to provide services and support to local small and micro enterprises as well as

²¹ Developments concerning SME policy should be seen in relation to the overall enterprise policy, including the industrial policy (*see Chapter 15 - Industrial policy*).

to the crafts sector. The Division also incorporates the former Department of Trade and Industry, the Small Business Efficiency Unit and the Malta Crafts Council.

Malta has recognised the need to make progress in the improvement of the **business environment**. The Small Businesses Efficiency Unit is participating in a scheme to convert Local Councils into local 'one-stop shops'. The Unit meets with entrepreneurs at their respective Local Council to try to offer solutions for their problems. The Ministry of Justice and Local Government is responsible for the implementation of the scheme.

The Business Promotion Act incorporates legislation in relation to the **SME definition** with a view to aligning it with the Commission's recommendations.

Overall assessment

Malta's policy towards SMEs follows the approach promoted at EU level and sustained efforts are being made to help SMEs restructure and to develop entrepreneurship. The adoption of the Business Promotion Act together with the Business Promotion regulations, and the sustained efforts made by IPSE to help restructure and develop small businesses, provide a good basis for the implementation of the SME policy.

The administrative capacity of the Ministry for Economic Services, together with IPSE, seems on the whole adequate. However there is not yet a real one-stop shop for SMEs, which still have to deal with several departments and agencies. Efforts are needed to simplify further the administrative and regulatory environment for SMEs.

Chapter 17: Science and research

Further progress has been made in this area since the last Regular Report.

The scientific and technological agreement giving Malta full access to the Fifth Framework Programme for research and technological development (1998-2002) was signed on 20 June 2001. It had entered into force on a provisional basis on 1 March 2001 and covers the period 2001- 2002.

The Malta Council for Science and Technology (MCST), the government agency responsible for the management and co-ordination of Malta's participation in the FP5, organised a workshop on a National R&D Audit and Foresight Exercise for Malta. This was to serve as the basis for developing and implementing an R&D capacity-building strategy. The R&D audit aims at identifying the strengths and weaknesses in the R&D system to eventually develop strategies for strengthening the R&D and innovation set up and to develop an R&D policy.

Two assistant executives have been appointed by MCST to coordinate four Fifth Framework Programme programmes. The National Contact Point Organisation (NCPO) is currently being re-organised, after consultations with the Institute for the Promotion of Small Enterprise (IPSE), the Federation of Industry (FOI), Malta Development Corporation (MDC), METCO (Malta External Trade Corporation), the University and interested ministries, in order to encourage the participation of the industrial sector. A number of briefing sessions focusing on the thematic and horizontal programmes were organised by MCST between February and June 2001, involving experts from both the Commission and the member states. MCST has reinforced the national

Fifth Framework Programme information distribution network, particularly through increased interaction between the National Contact Points (NCPs) and interested entities and researchers in different sectors.

As for other candidate countries associated with the Fifth Framework Programme, Malta has been granted observer status in CREST (*Comité pour la Recherche Scientifique et Technique*).

Overall assessment

Malta's efforts to ensure participation in the Fifth Framework Programme and to improve links between academics and research institutes and industry are largely satisfactory. However although the financial and institutional framework is well established, the research-related administrative capacities and infrastructure should be further reinforced to ensure successful association.

Malta's participation in the Fifth Framework Programme represents an important step which will give local researchers the opportunity to team up with EU partners in joint science and technology research projects. Efforts to better disseminate information about FP5 should be pursued to develop and consolidate the participation of the scientific community and of SMEs in Community research and technology programmes. Further concrete measures to help increase the financial support for research and development, and stimulate the business enterprise expenditure on research, would be needed for the further development of the sector and for an effective integration of Malta into the European Research Area.

Priority should be given to the development of a national strategy and programme for the development of science and technology policy.

Chapter 18: Education and training

In the past year, some further progress has been made in this area.

Malta has stepped up its participation in the second generation of the Leonardo and Socrates **Community programmes**. It also started to participate in the Youth programme, which incorporates European Voluntary Service activities (*see section A.b - Relations between the European Union and Malta*). The European Union Programmes Unit in the Ministry of Education (EUPU) has been strengthened following the launch, this year, of Youth Community Action. It co-ordinates the management of the three programmes, with an executive secretary for each programme. EUPU brings under its umbrella the co-ordinators of the different programmes, each of them heading a special consultative committee.

No progress has been made as regards the **Directive concerning education of children of migrant workers**.

As regards the **reform of its education and training system**, the Malta Professional and Vocational Qualifications Awards Council started carrying out its duties in October 2000.

Overall assessment

Participation in the relevant Community programmes can be considered generally satisfactory. The administrative capacity and internal organisation of Malta's national agencies could however be strengthened to improve performances in carrying out the tasks required of them. The Commission has proposed training courses for the personnel of the agencies, in particular in the fields of informatics and financial procedures.

Malta still has to enact amendments to the Education Act in order to fulfil the requirements of the **Directive concerning education of children of migrant workers**.

Chapter 19: Telecommunications and information technologies

Malta continued to make good progress in this area during the period covered by this report.

As a consequence of the implementation of the National Plan for the **liberalisation of the telecommunications markets**, the second licensee for GSM mobile telephony started operating in December 2000. Following the amendment of the Telecommunications (Regulation) Act of 1997 by the Malta Communications Authority Act, last year, regulations were adopted for the gradual introduction of competition in the telecommunications markets, e.g. in the field of radio paging.

As regards the **regulatory framework**, regulations applying the Telecommunications (Regulation) Act were published to align the Maltese legislation with respect to individual licenses and general authorisations in the field of telecommunications services. Regulations were also published to align the Maltese legislation with respect to the cost orientation of tariffs, Internet and other data services and interconnection requirements, with regard to mobile and personal communications.

The numbering report was approved at the end of May 2001 and the new numbering plan is in place from November 2001. The European emergency number (112) became operational on 1 June 2001 and all operators have to provide free communications access to emergency services as of November 2001. Broadband Internet was launched by Melita Cable in October 2000. A White Paper describing a vision and strategy for the attainment of electronic Government in Malta was published in October 2000 and adopted as government policy in January 2001.

As regards the **postal services**, no progress can be reported.

The Malta Communications Authority (MCA) regulates telecommunications, data protection, e-Commerce, and similar areas in the field of communications. After the adoption of the telecommunications and postal services law, it will also regulate the postal sector. It has recruited a technical specialist, two lawyers, a financial analyst and two project managers for electronic commerce.

Overall assessment

Malta has advanced considerably in the telecommunications sector over the last few years. The liberalisation of its telecommunications markets is going ahead and its regulatory framework is now largely in line with the *acquis*. Attention should be given now to the completion of legislative alignment before full liberalisation in 2003.

As regards the liberalisation of the telecommunications markets, attention should now focus on the actual application of regulations and Government decisions. As regards the development of Internet, there is a need for better co-operation between the infrastructure providers Maltacom and Melita Cable on one hand and the Internet Service Providers (ISPs) and the other hand in order to promote cheap access. The MCA has improved its capability to draft regulation and to monitor competition in the markets, e.g. by initiating regular consultations with the ISPs. The MCA is also actively participating in the eMalta Commission and the preparation of the eEurope + Action Plan of the candidate countries. However, the MCA needs to be strengthened through training and transfer of expertise in order to cope with all these responsibilities.

As regards the regulatory framework, regulations on data protection in the field of electronic communications networks and services and on carrier selection and number portability have to be adopted, as well as the necessary legislation to align with the *acquis* on postal services. The actual implementation of this legislation may require a further strengthening of the Malta Communications Authority.

Chapter 20: Culture and audio-visual policy

Malta has made further progress in aligning its legislation with the Community **audio-visual** *acquis* since the last Regular Report.

Alignment with the provisions of the Television Without Frontiers Directive and the Council of Europe Convention on Transfrontier Television and its amending protocol has been achieved through subsidiary legislation under the Broadcasting Act. This legislation concerns measures relating to advertising, sponsorship, the protection of minors, the investigation and determination of complaints, and fees payable on the filing of judicial acts in connection with appeals regulations. Broadcasting regulations related to jurisdiction and European co-operation came into force in December 2000, with the exception of those parts relating to the broadcasting of European works.

Malta became a party to the Protocol amending the European Convention on Transfrontier Television in October 2000.

No particular developments are to be reported in the area of **culture**.

Overall assessment

Following the progress made in the audio-visual field, Malta is largely aligned with the *acquis* in that area. Malta has provided adequate assurances that sections of its legislation relating to the broadcasting of European works will come into force on accession, taking into account Malta's international obligations.

Malta has ratified the Council of Europe Convention on Transfrontier Television and will be bound by its amending Protocol upon the date of entry into force.

Administrative capacity in the audio-visual field seems adequate and the Broadcasting Authority seems well equipped to fulfil its duties. Amendments to the Broadcasting Act have further

strengthened the effectiveness of the Broadcasting Authority by introducing a system of administrative sanctions in respect of certain offences committed by broadcasters.

In the context of Malta's preparations for integration with Community activities in the field of culture, a National Culture Policy Document has been prepared with the aim of strengthening executive and operational capacity in the cultural heritage sector.

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

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

No new developments can be reported as regards Malta's **territorial organisation**.

With regard to the **legislative framework**, in June 2001 the Parliament adopted a legal Act which sets up the framework for the Malta Council for Economic and Social Development (MCESD). Furthermore, a legislative Act which amends the legal framework for local councils was adopted in April 2001.

Concerning Malta's **institutional structures**, substantial progress was made with the creation of the Regional Policy Directorate within the Office of the Prime-Minister, an inter-ministerial committee and the MCESD.

The Regional Policy Directorate will have overall responsibility for the programming and co-ordination of structural and cohesion funds upon accession. The Ministry of Agriculture and Fisheries will take over responsibility for the European Agricultural Guidance and Guarantee Fund (EAGGF) and the Financial Instrument for Fisheries Guidance (FIFG), while the Ministry of Social Policy will be responsible for the European Social Fund (ESF). The Regional Policy Directorate will be responsible for European Regional Development Fund (ERDF) and is also acting as the National Aid co-ordinator for pre-accession funds in the pre-accession period. The Regional Policy Directorate is currently staffed with five officials and recruitment is ongoing to reinforce it. The Ministry of Gozo will be responsible for implementing the Structural Funds in Gozo.

The Inter-Ministerial Committee responsible for inter-ministerial co-ordination with regard to pre-and post- accession funds will be chaired by the Permanent Secretary in the Office of the Prime Minister. Line Ministries have set up internal co-ordination units. Directors of the Office of Review in the respective Ministries will interface with the Regional Policy Directorate on issues pertaining to programming, monitoring and evaluation. The Regional Policy Directorate will act as the co-ordinator and secretariat of the inter-ministerial Committee.

The MCESD will be the body where all social partners will be consulted in the programming process for the structural and cohesion funds.

Although a study has been launched to design a National Development Plan for Malta, no progress can be reported with regard to **programming**. Neither has there been progress as regards **monitoring and evaluation**.

Concerning **financial management and control**, Malta has a system of three-year rolling business plan where all spending ministries produce multi-annual business plans, which are then

consolidated in a master multi-annual business plan, based on key economic indicators and forecasts. This multi-annual budgeting procedure is however not binding, since it is not subject to adoption by the Parliament.

As concerns **statistics**, no new developments are to be reported since the last Regular Report.

Overall assessment

Overall, Malta has advanced well in developing the necessary structures for the implementation of the Structural Funds after accession. However, some issues still remain to be clarified as regards the responsibilities of the different bodies involved, while substantial and sustained efforts will be needed to ensure that the Regional Policy Directorate and the line ministries are fully prepared upon accession.

Malta still has to agree with the Commission on a territorial organisation (corresponding to NUTS) which allows for the effective implementation of the Structural Funds.

The overall institutional set-up adopted for the implementation of the Structural and Cohesion Funds seems sound. The capacity of the Regional Policy Directorate for programming, monitoring and evaluation of the structural funds needs to be significantly developed. This applies to the line ministries concerned as well. The respective roles of the offices of review and the internal co-ordination units in the line ministries have to be clarified. Malta will also have to make further efforts regarding technical preparation of projects eligible for Structural and Cohesion Funds (project pipeline).

Concerning ESF, Malta is developing the necessary structures and operational arrangements to implement the European Social Fund effectively. Further efforts are required to improve both administrative capacity and the mechanism for co-ordination of ESF interventions in the context of the European Employment Strategy and the Inclusion process.

In order to be able to implement the Structural and Cohesion Funds after accession, Malta will need to substantially improve its preparations for an integrated regional development plan, aiming to produce a Single Programming Document (SPD).

In the field of financial management and control, Malta has generally made good progress. The overall financial control and auditing framework that has been set up seems to be satisfactory and the audit trail that has been developed by the Internal Audit and Investigation Directorate provides a good basis for assessing the capacity to manage pre-accession funds as well as structural funds. The re-engineering process for the financial control and audit functions has been completed. *Ex-ante* control is done at decentralised level. The Internal Audit is carried out centrally by the Internal Audit and Investigations Directorate (IAID), an independent agency operating under the responsibility of the Cabinet Office and reporting to the Internal Audit and Investigations Board chaired by the Secretary to Cabinet. The International Relations Directorate within the Ministry of Finance, which will act as the paying authority, is operational. Its Director acts as the National Authorising Officer and its administrative capacity has been strengthened with the recruitment of two officials. However Malta still needs to make some efforts to meet the specific financial management and control requirements of the Structural Funds regulations.

As to statistics, 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.

Chapter 22: Environment

Malta has made some progress since last year in aligning its legislation with the *acquis* in the environment area, however little progress was made as regards administrative capacity.

No progress can be reported as regards the **integration of the environment into other policies**. In the field of **horizontal legislation**, in September 2001 Malta issued subsidiary legislation under the Development Planning Act, in order to transpose the environmental impact assessment requirements.

The Environment Protection Act came into force in September 2001 and a set of subsidiary regulations has been issued under the Act to transpose parts of the environment *acquis* in different fields.

As regards **air quality**, regulations have been issued under the Environment Protection Act to transpose the Framework Directive and related “daughter” Directives. Regulations have also been issued to transpose the legislation on internal combustion engines and quality of petrol and diesel fuel, as well as for the incorporation into Maltese law of the Vienna Convention and the Montreal Protocol on the protection of the ozone layer.

In the area of **waste**, regulations were issued under the Environment Protection Act to transpose the legislation on the use of sewage sludge in agriculture and of waste from the titanium dioxide industry. A study aiming at defining a waste management strategy was completed in June and the report was published. There has been no progress in building the administrative capacity in order to tackle the waste issue.

In the field of **water quality**, regulations have been issued under the Environment Protection Act to transpose the Directive on discharges of dangerous substances and its “daughter” Directives.

No legislative progress can be reported in the field of **nature protection**. In the field of **industrial pollution control and risk management**, the only progress is the adoption of a regulation issued under the Environment Protection Act to transpose the legislation on asbestos.

In the field of **genetically modified organisms and chemicals**, Malta signed the Stockholm Convention on Persistent Organic Pollutants in May 2001. The Product Safety Act, which came into force in March 2001, will allow Malta to align with the EU chemicals legislation through subsidiary legislation based on this act.

As regards **noise**, no direct progress can be reported. However, the Product Safety Act which came into force in March 2001 lays the ground for alignment with the Directive on noise emission of equipment used outdoors through subsidiary legislation based on this act.

In the field of **radiation protection** (see also chapter 14 - Energy), the administrative provisions of the EURATOM Regulation on shipments of radioactive substances between Member States were implemented in November 2000.

As regards administrative capacity, the Environment Protection Act has established the Environment Protection Department in the Ministry of Environment as the competent environment authority. Following the adoption of the Malta Resources Authority Act, the newly created Malta Resources Authority was established as the regulatory authority for water resources and energy.

Overall assessment

Despite the adoption of the Environment Protection Act and a series of subsidiary regulations, which constitute an important step, Malta still needs to make important efforts in several areas to align with the *acquis* and its administrative capacity remains very weak.

On the whole, the current situation in Malta remains characterised by the weakness of the existing administrative capacity and by the lack of a long-term and sustainable approach to environmental issues. This situation is compounded by considerable environmental problems, waste management being the most critical one. There is an urgent need to tackle the challenge of adopting and enforcing the environmental *acquis* with appropriate means. This will require the adoption of a strategy and of a directive-specific programme for the transposition and the enforcement of the EC environmental *acquis*, an acceleration of the pace of alignment of Maltese legislation, and a considerable strengthening of the administrative capacity to enforce it. Without proper enforcement and prevention structures supported by a respected sanction system, and increased environmental awareness, it will be difficult to improve the enforcement of EC environmental legislation and the environmental situation on the Island.

Malta has not yet adopted a strategy and a directive-specific programme for the transposition and the enforcement of the EC environmental *acquis*. The lack of a long-term and sustainable approach is a source of concern in an area where results require long-term planning, as well as substantial investments.

The adoption of the Environment Protection Act may accelerate the pace of alignment of the Maltese legislation with the environmental *acquis* if efforts to that end are maintained.

While Malta has adopted horizontal legislation on environmental impact assessments, it still has to align its legislation with respect to access to information and reporting.

In order to comply with the *acquis*, extensive legislative transposition is necessary in most areas of waste management legislation. The conditions of waste disposal at the Maghtab landfill require particular attention to ensure compliance with the *acquis* and the difficulties regarding waste management in Malta are compounded by the small size of the island. The finalisation and implementation of a sustainable waste management plan is therefore crucial.

Legislation transposing the *acquis* related to air quality has been adopted to a large extent.

With regard to water quality, some progress has been made, but Malta still has to transpose important parts of the *acquis*, in particular in relation to nitrates, bathing water, drinking water and treatment of urban wastewater. New infrastructure is required in particular for the

implementation of the wastewater directive. At present, Malta has only one wastewater treatment plant, and the sewage sludge from this plant, along with the remaining collected wastewater (85% of the total), is discharged untreated into the sea through two outlets.

With regard to nature protection, most Community legislation must still be transposed, in particular the directives on birds and habitats. However, as regards birds, the creation of a tripartite Joint committee on control of hunting, composed of hunters' associations, NGOs and government, represents a step in the right direction.

Malta still has to adopt legislation with regard to industrial pollution control and risk management.

Malta still has to transpose directives on the contained use and deliberate release of genetically modified organisms, as well as the regulations on the import and export of certain dangerous chemicals, and on the evaluation and control of the risks of existing substances.

While some progress was made regarding shipments of radioactive substances between Member States, legislation related to noise and to radiation protection has still to be adopted.

Malta's administrative capacity in the area of the environment is currently split between different Ministries.

The Ministry for Environment, through its Environment Protection Department (EPD), is responsible for the drafting and implementation of most of the legislation related to the *acquis*. Besides the EPD, which has a total staff of 60 persons, the Ministry of Environment includes the Department of Public Works, which has a staff of 3 600 and whose activities are not directly related to the environment. The EPD covers horizontal legislation, nature protection, water and air quality, waste management and industrial pollution control and risk management. The Environment Protection Act has designated the Environment Protection Department as the competent authority. However it remains to be seen to what extent the actual responsibilities and powers of the Authority will differ from those of the Environment Protection Department, since this will determine to a large extent the actual enforcement of environmental legislation.

The Ministry of Home Affairs, through the Planning Authority, is responsible for land use and the delivery of environment permits. The Civil Protection Department in the Ministry of Home Affairs is responsible for civil protection and for marine pollution in co-ordination with the Pollution Control Co-ordination Unit, the Malta Maritime Authority and the Malta Armed Forces. In that respect, it should be noted that maritime safety remains a concern in Malta, although steps have been taken to improve its record. The newly created Malta Resources Authority will play an important future role in the area of industrial pollution and control, since the two major power stations (Marsa and Delimara) account for the majority of industrial pollution control issues in Malta.

While the Planning Authority seems to be adequately staffed, the EPD, which is now the competent environment Authority in the Ministry of Environment, is understaffed and does not have the means to fulfil its role. With only 10 environmental inspectors, the shortfall in enforcement and prevention remains serious. The enforcement is dependent on the involvement of the police, with limited results. There is a need to better define the roles of the different agencies and departments involved, and to improve the co-ordination between them. There is also a need to streamline the permitting, inspection and enforcement procedures. It is therefore

of paramount importance that, following the adoption of the Environment Protection Act, adequate powers and resources are provided to the Authority for the monitoring of the application and enforcement of the *acquis*. This could also provide an opportunity to streamline the procedures and better define the role of the different structures involved in the enforcement of the environmental *acquis*.

Considerable investments need to be secured, also in the medium-term, to ensure implementation of the environmental *acquis*.

Chapter 23: Consumers and health protection

During the reference period, Malta made substantial progress in this area.

As regards **safety-related** measures, the Product Safety Act, repealing the Quality Control (exports, imports and local goods) Act of 1971, and the Dangerous Imitations Order came into force in March 2001. They are meant to transpose the EU *acquis* in the area of general product safety and dangerous imitations. Concerning **non-safety related measures**, the Consumer Affairs (Amendment) Act was adopted by Parliament in October 2000 and came into force in January 2001. It also covers misleading and comparative advertising, doorstep selling, unfair contract terms, sale of consumer goods and associated guarantees, and injunctions to protect consumer interests. The Act will be gradually brought into force and it is envisaged that it will be fully in place by mid-2002. Regulations aiming at transposing the Directive on the Protection of consumers in respect of distance contracts were issued in August 2001. Regulations aiming at transposing the Directive on time share were issued under the Malta Travel and Tourism Services Act and published in December 2000. They will come into force gradually by the fourth quarter of 2001. Other Regulations, intending to transpose the Directive on package travel, package holidays and package tours were enacted under the Malta Travel and Tourism Services Act. They were published in August 2000 and should come into force by the fourth quarter of 2001 as well.

As regards the enforcement of consumer policy and legislation, a Consumer and Competition Division was created at the beginning of 2001 within the Ministry of Economic Services. The Consumer Affairs Department and the Office for Fair Competition have been amalgamated and their functions have been taken over by the Office of Fair Trading, which is now incorporated in the new Consumer and Competition Division. The Division is currently strengthening its staff in both numbers and training.

A **Market Surveillance** Directorate has been set up within the Ministry of Economic Services to co-ordinate the surveillance programmes of certain Ministries (Health, Agriculture and Fisheries, Transport and Communications and Tourism) for the monitoring of standards of products and services.

The new Malta Standards Authority has a much broader mandate than before and its action will be instrumental in introducing the concept of safety. Three independent Directorates have been set up within the Authority: Consumer and Industrial Goods, Foodstuffs, Chemicals and Cosmetics, and Standardisation. Another Directorate – Metrology and Accreditation- will be established later in 2001.

Overall assessment

Malta has adopted legislation intended to align with most of the *acquis* in the field of safety and non-safety measures, although the compliance of this legislation still has to be assessed.

Further progress is needed in the areas of consumer credit and price indications.

Enforcement of consumer policy and legislation is now handled by four government agencies: the Consumer and Competition Division, the Market Surveillance Directorate, the Malta Standards Authority and the Malta Tourism Authority for relevant issues (Travel Package Tours and Time Sharing), and it is too early to assess their effectiveness.

In addition, there is a Consumers Affairs Council, which has an advisory role, and a Consumer Organisation (Ghaqda tal-Konsumaturi).

The Consumer Affairs Council is an autonomous structure, with an advisory and consultative role. It is composed of an independent chairman, persons with expertise in consumer issues, representatives from the private sector and the consumer association, and the Director of Consumer Affairs. However, with only one person working full time, the Council does not have enough resources to fully carry out its role advising the government on consumer policy and legislation.

‘Ghaqda tal-Konsumaturi’ is the sole voluntary consumer association in Malta. It focuses mainly on assisting consumers with complaints, consumer education and information, acting as the consumer 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 and it is run by volunteers in their free time.

Consumer and producer awareness still needs to be enhanced as to their respective rights and responsibilities. Consumer Health Institutions need to be upgraded in terms of training and equipment, and legal professions need to be further familiarised with product liability related cases. The role of consumer organisations should be further promoted by the Government, as part of the institution building process.

The Consumer Claims Tribunal, presided by an Arbiter, has now been functioning for almost four and a half years. It has proved to be a fairly effective means of redress for consumers (claims up to Lm 1500).

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

Since the 2000 Regular Report, little progress has been made in Malta in the area of Justice and Home Affairs.

No particular development can be reported as regards **data Protection** and **visa policy**.

There has been some progress in the implementation of the *acquis* in the field of control of **external borders**, and as regards preparations for the **Schengen** agreement. The Ministry for Home Affairs set up a project team in November 2000 to oversee Malta’s compliance with the Schengen *acquis*. The team drew up an action plan on the implementation of the *acquis*, which was submitted to the Commission in April 2001. The Action Plan addresses, among other

things, staffing needs at border points and at the offices which will be connected to the SIRENE and National Schengen Information System, the Europol office, the aliens office, field operations and the analysis office. The project team is also acting in liaison with the Ministry of Foreign Affairs on the adoption of the Common Consular Instructions. Initial preparations are currently being made so that this Ministry would also make the necessary infrastructure and training preparations required for the implementation of the Schengen *acquis* and, in particular, those relating to consular co-operation.

As regards **migration**, no progress can be reported.

Following the adoption of the **Asylum** Act last year, the Commissioner for Refugees and the members of the Refugee Appeals Board have been selected and are contributing to the setting-up of the necessary structures. The staff of the Commissioner's office, the secretary of the Appeals Board and the police immigration officers who will deal with refugees have been chosen. Training under the auspices of the UNHCR has been provided to all key players in the asylum process. Member States immigration experts have also provided training for police border control personnel. The Office of the Advocate of Legal Aid will be responsible for providing free legal aid to asylum seekers at the Appeals stage. A seminar for these advocates has been organised under the auspices of the UNHCR.

In the field of **police co-operation and the fight against organised crime**, in December 2000 Malta signed the United Nations Convention Against Transnational Organised Crime (2000). Malta has been invited to attend meetings of the Pre-accession Pact on Organised Crime and has been formally notified that this Pact has now been extended to Malta. During the past year Malta has signed bilateral agreements on the fight against organised crime with the Slovak Republic, Hungary, Tunisia, Sweden and Greece.

As regards the **fight against fraud and corruption**, in November 2000, Malta signed the Council of Europe Criminal Law Convention on Corruption.

As regards **drugs, money laundering**, (see also Chapter 4 - "Free movement of capital") and **customs co-operation**, no particular new developments are to be reported.

With regard to **judicial co-operation**, on civil matters, as regards extradition, Malta signed and ratified the Additional Protocol (1975) and the Second Additional Protocol (1978) to the European Convention on Extradition (1957) in November 2000. On criminal matters, Malta has started to participate as an observer in the European Judicial Network. An amendment to the Interpretation Act was adopted, making provision for the interpretation of the term "political offence" in accordance with customary international law in general and international instruments to which Malta is a party in particular.

Overall assessment

Although Malta has a fair level of alignment with the *acquis* in the area of Justice and Home Affairs, Malta should accelerate the pace of its work in this area to achieve full alignment. It should also pursue efforts with respect to the administrative capacity.

The **Data Protection** Act should be adopted as a matter of urgency and Malta should ensure the establishment of an independent personal data supervisory authority. A general law on data protection is a pre-condition for participation of Malta in Europol.

As regards **visa policy**, further alignment is required. The adoption of a timetable for alignment to that end is a step forward but actual implementation of the alignment plan needs to start.

As regards **external borders** and preparations for **Schengen**, work on the drawing-up of a Schengen Action Plan is a positive development. The structure of the border control branch/immigration branch of the Police, including certain units of the Malta Armed Forces (MAF), is effective. Co-ordination among competent authorities, police and Armed Forces, should be pursued and strengthened. However, at present, the maritime squad is not able to guarantee full control of pleasure boats and domestic fishing boats on their way to the archipelago of Malta. Compared to present Schengen standards, equipment is still poor and generally needs to be improved, particularly the control line equipment and ship- and land-based surveillance devices.

The signing of the readmission agreement with Italy was a positive step. It should now be ratified. Malta's efforts towards concluding readmission agreements with Egypt, Morocco, Tunisia, Algeria and Libya represent a positive step and should be pursued.

As regards **asylum**, following the adoption of the Refugees Act last year, Malta still has to adopt subsidiary legislation related to the procedures of the Refugees Appeals Board, to the application for a declaration of refugee status and to the means of facilitating the identification of applicants. Malta still has to lift the geographical reservation to the Geneva Convention. Progress has been made in setting up the capacity to implement the asylum legislation. However a reinforcement of human resources in this area and training are needed. A strategy to cover the social integration of recognised refugees, suitable accommodation arrangements, an effective "removals" policy and adequate infrastructure are also needed.

In the field of **police co-operation and the fight against organised crime**, amendments to the Criminal Code that would make provision for the offence of trafficking in human beings, still have to be adopted. The fight against trafficking in human beings should be strengthened. Malta should ensure that the pre-requisites for the conclusion of a co-operation agreement with Europol are met.

Regarding the **fight against fraud and corruption**, Amendments to the Criminal Code are needed to extend provisions on corruption to include bribery of officials of foreign Governments and international organisations and to take into account the Council of Europe Criminal Law Convention on Corruption (1999). Malta has not signed the Council of Europe Civil Law Convention on Corruption. Malta has not acceded to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Nor has it joined the United Nations anti-corruption programme for Drug Control and Crime Prevention. Regarding the protection of the financial interests of the European Communities, Malta should align its legislation with the Convention on the Protection of the Financial Interests of the European Community and its Protocols.

As regards **money laundering**, a bill amending the Prevention of Money Laundering Act and establishing the financial intelligence unit has been issued, but it remains to be adopted by Parliament.

In the field of **customs co-operation**, Malta has not ratified the international Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (1977).

As far as **judicial co-operation** in civil matters is concerned, Malta still has to adopt an Act to enable Government to ratify a number of conventions. This concerns in particular the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965), the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1970), the Convention on International Access to Justice (1980) and the Convention on Jurisdiction and Enforcement of Judgements in Civil and Commercial Matters (1988). It would also enable Malta to accede to the EU Convention on the Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1997) and the Convention on Jurisdiction and Enforcement of Judgements in Civil and Commercial Matters (1968). As regards judicial co-operation in criminal matters, amendments to the Criminal Code are needed to make provision for a simplified extradition procedure in line with the Convention on Simplified Extradition Procedures between the Member States of the European Union (1995).

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, and protocols 4 and 7 to the European Convention on Human Rights.

Chapter 25: Customs union

Malta has made significant progress in the field of customs since the last Regular Report.

As regards alignment between Maltese legislation and the **EC Customs Code and its implementing provisions**, the Single Administrative Document (SAD) was introduced on 1 January 2001. The amendments to the Import Duties Act 2001 providing for inward processing, outward processing, processing under customs control and customs warehouses, compatible with the relevant provisions of the Community customs legislation, entered into force on 1 January 2001.

Regarding the **customs *acquis* outside the Customs Code**, as from 1 January 2001, the provisions on duty relief were aligned with the corresponding Community provisions. The amendments to the Customs Ordinance transposing the provisions of the Decision concerning action against fraud relating to containers entered into force in April 2001.

In relation to international Agreements and Conventions, Malta became a signatory to the Istanbul Convention in December 2000.

As far as the administrative and operational capacity to implement the *acquis* is concerned, some progress can be noted. The implementation of the Customs & Tax Business Change Management Plan has started and is gaining momentum. A training unit was set up in January 2001 and is providing training on the introduction and implementation of the new legislation

within the Customs Department of the Ministry of Finance. In the area of counterfeit/pirated goods, an Assistant Director has been appointed in order to strengthen the fight against cross-border movements of these goods. A CAP Unit is being set up within the Customs department to deal with customs-related aspects of the Common Agricultural Policy (CAP).

The computerisation of the Customs Department includes the setting up of an Integrated Customs Information System. The plans to migrate to ASYCUDA ++ (a computerised customs information system) have been discarded because of technical problems. The Customs Department has explored contacts for the acquisition of a functioning Integrated Customs IT system from a Member State.

The Code of Customs Ethics was published in April 2001.

Overall assessment

Malta has reached a reasonable degree of alignment with the customs *acquis*, but substantial parts of the *acquis* still need to be transposed and Malta should complete its efforts in that direction.

The new Customs Code, based on the Community Customs Code and its implementing provisions, needs to be approved by the Parliament. Malta should, in particular, aim to achieve further alignment in the fields of simplified procedures, free zones, free warehouses, re-export, transit, customs debt repayment, remission of duties and recovery.

As regards administrative and operational capacity to implement the *acquis*, Malta should continue its efforts. It is of paramount importance that the Business Change Management Plan is fully implemented according to schedule. Malta should pay particular attention to the development of IT systems allowing computerised data exchange with the EC. In this respect, it must be emphasised that flawlessly functioning EC-compatible IT systems should be put in place at least one year before accession to the EU in order to guarantee interconnectivity with the EC customs computerised systems.

Malta should continue its efforts in combating customs fraud and economic crime and to improve co-operation with other enforcement bodies, in particular with respect to enforcement of intellectual property rights (*See Chapter 5 – Company Law*). It is important that the Quality Service Charter is fully implemented in due course.

Chapter 26: External relations

Since the previous Regular Report Malta has continued to co-ordinate its positions and policies with those of the Community within the World Trade Organisation (WTO).

As regards the **common commercial policy**, upon accession Malta will be required to align its tariffs with those of the EC. Malta's applied MFN tariffs currently average 6.2% on all products, 7.1% on agricultural products, 4.1% on fishery products and 6.0% on industrial

products. By comparison the EC tariffs²² currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products.

Malta has made the legal changes necessary to adhere to the WTO Agreement on Trade in Civil Aircraft through subsidiary legislation entitled the Import Duties Act (Amendment of First Schedule) Regulations. It acceded to the Agreement in December 2000, through the deposit of the Instrument of Accession with the WTO Secretariat in Geneva. Malta was granted observer status on the WTO Committee on Government Procurement in May 2001 following a request to this effect.

No further preferential **trade agreements** have been notified. Exploratory talks have been held recently with Tunisia regarding a Free Trade Agreement. A Dual-Use Goods and Community Trade Unit has been set up within the Commerce Division of the Ministry for Economic Services. The human resources for this Unit were deployed from existing resources within the Ministry for Economic Services. It is intended ensure co-ordination with the other entities involved, notably the Ministry of Foreign Affairs and the Department of Customs.

During 2000, **humanitarian aid** was given to Kosovo, Albania, Turkey, Mozambique and Ethiopia. In the first half of 2001, funds were sent to earthquake victims in India and El Salvador.

Overall assessment

Malta's alignment with the *acquis* with regards to the common commercial policy is advanced and the co-ordination of Malta's positions and policies with those of the Community within the WTO is well developed.

With regard to the WTO Agreement for Textiles and Clothing (ATC), Malta has co-operated with the Community in the process of third-stage notification to align its list of integrated products under the ATC with the EC's, thus avoiding integrating products that have not yet been integrated by the EC.

Subsidiary legislation that would align Maltese legislation with the Council Regulation concerning the export of dual-use goods still needs to be enacted.

Malta has to undertake further efforts in order to align its legislation on export credits to the *acquis*.

The EU and Malta have established a framework for co-operation regarding WTO issues both at ministerial and departmental level. Malta is supportive of EU policies and positions in the context of the WTO framework and in particular the preparation of a new round.

Work involving Malta, the Commission and Member States' experts has continued on the formulation of Malta's amendments to its GATS Schedule of Specific Commitments in order to align it with that of the European Community and its member states. Further co-operation is

²² WTO bound tariffs after full implementation of all concessions including - where possible - estimated ad valorem equivalents of specific and compound tariffs.

needed to ensure alignment of Malta's GATS commitments with EC commitments and MFN exemptions.

Malta is a party to the plurilateral Agreement on Trade in Civil Aircraft. It will need to join the Agreements on Information Technology and Government Procurement by the time of its accession to the EU.

Malta has no Free Trade Agreement with other partners than the EC. In this area, further progress is necessary in aligning with the EC international trade obligations. Any international agreement which is incompatible with the obligations of membership will have to be re-negotiated or renounced prior to accession. Malta should continue to keep the Union fully informed about negotiations aimed at the conclusion of any new trade agreements with a third country.

The EU Directorate within the Ministry for Foreign Affairs regularly monitors all bilateral agreements that Malta is considering entering into with third countries, including Investment Guarantee Agreements. To date Malta has no development and humanitarian aid policy but it responds to humanitarian needs 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. An International Economic Relations Directorate has been set up within the Ministry of Economic Services to strengthen its capacity to deal with WTO matters.

Chapter 27: Common foreign and security policy

Since the previous Regular Report Malta has continued to align its foreign policy with that of the European Union and has participated constructively in the framework of the Common Foreign and Security Policy.

Malta continues to orient its foreign and security policy towards the Union. It continues to participate actively in the framework of the Common Foreign and Security Policy (CFSP), including the meetings at the level of Political Directors, European Correspondents and Working Groups.

Malta has shown a keen interest in the development of European Security and Defence Policy (ESDP) as part of the CFSP. It has actively participated in the exchanges in this context with the EU, in EU + 15 format (i.e. non-EU European NATO members and candidates for accession to the EU).

In line with its practice last year regarding alignment with **EU statements and declarations**, Malta has regularly aligned its positions with those of the Union and when invited to do so, it has associated itself with the Union's **joint actions and common positions**, including negative measures. Since October 2000, it has also associated itself with 8 EU common positions, including 3 on the Federal Republic of Yugoslavia.

Since the 2000 Regular Report progress has been made in adopting the necessary legislative framework for effective participation in the CFSP. Regulations were issued under the National Interest Act to reconstitute the Sanctions Committee administering, overseeing and generally co-ordinating matters related to Malta's adherence to negative measures. A Government Notice issued in February 2001 lists the names of the members of the Board and the Sanctions Monitoring Board was formally reconvened in March 2001.

Malta played an active role in the first Capabilities Commitment Conference in November 2000. It pledged armed forces to be part of EU Rapid Intervention Force missions from 2003. These will be integrated into the Italian contingent.

During the past year, Malta has continued to have good relations with all its neighbours, and to play an active role in the Euro-Mediterranean partnership.

Overall assessment

Malta's alignment with the *acquis* in the CFSP area is overall satisfactory. As the *acquis* in the field of foreign policy and security develops further, Malta should maintain the orientation of its foreign policy in line with that of the Union.

Malta has aligned itself to the content and principles contained in the EU Code of Conduct on Arms Exports but still has to ensure full compliance.

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

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.

Chapter 28: Financial control

During the period covered by this 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 procedures completed. There has been further upgrading and strengthening of internal control systems.

As regards **external audit**, two principal auditors have been recruited by the National Audit Office (NAO). The Code of Ethics was completed and published in May 2001.

With regard to **control of structural action expenditure and EC pre-accession funding**, Malta's preparations to comply with criteria and conditions for fully decentralised implementation of pre-accession aid (EDIS) have reached an advanced stage. An audit trail document has been finalised.

In the field of the **protection of EC financial interests**, the Internal Audit and Investigations Directorate is currently undertaking preparations in order to act as Malta's Anti-fraud Co-ordinating Unit as well as OLAF's interlocutor in Malta.

Overall assessment

On the whole, Malta's preparations with respect to financial control are largely satisfactory, but there are concerns as regards the protection of EC financial interests.

As regards Public Internal Financial Control, the current systems appear compatible with internationally accepted standards. Managerial (*ex-ante*) control is decentralised (to line ministries or other spending agencies) or performed centrally (Treasury and Department of Contracts, both under the Minister of Finance). The Internal Audit is carried out centrally by the Internal Audit and Investigations Directorate (IAID), an independent agency operating under the responsibility of the Cabinet Office and reporting to the Internal Audit and Investigations Board chaired by the Secretary to the Cabinet. The IAID is structured into two distinct and separate units under the sole responsibility of the Director, Internal Audit and Investigations. The 'Compliance and Operations' Unit is responsible for internal audit work, the 'Special Assignments' Unit is responsible for government-wide assignments and investigations. The regulatory package for the whole Internal Audit system has been completed and approved by the Internal Audit and Investigations Board. Between January and April 2001, Internal Audit staff went through an intensive training programme. Five more auditors are being recruited. The Internal Audit and Investigations Directorate is now operational.

In the field of external control, the NAO staff has been reinforced, and seven senior auditors are being recruited. However, the audit manual still has to be completed.

With regard to control of structural action expenditure and EC pre-accession funding, substantial progress has been made and the situation is satisfactory.

Legislation which will provide for the protection of EC's financial interests and will allow on-the-spot inspections to be carried out by the Commission/OLAF remains to be adopted. As regards the designation of the Internal Audit and Investigation Directorate as the Anti-fraud Co-ordinating Unit and OLAF's interlocutor, OLAF will have to assess whether this proposal is appropriate, taking into account progress made in carrying through the necessary legislative and administrative adaptations.

Chapter 29: Financial and budgetary provisions

Malta has made some progress over the reporting period.

As regards the **national budget and EC co-financed measures**, Malta has a system of three-year rolling business plan where all spending ministries produce multi-annual business plans which are then consolidated in a master multi-annual business plan based on key economic indicators and forecasts. This multi-annual "soft budgeting procedure" is however not binding, since it is not subject to approval by the Parliament.

A new classification of Government revenue and expenditure transactions compliant with the European System of Accounting (ESA) has been in use since 1 January 2001. A new Chart of Accounts together with the classification for government functions has also been in use since 1 January 2001.

The International Relations Directorate within the Ministry of Finance will be responsible for coordinating the collection of Malta's contribution to the Community's own resources. Three new recruits have joined the Directorate.

As regards own resources and administrative infrastructure, a special unit within the Ministry of Finance has been set up to build the necessary capacity to compile, calculate, collect and forward Malta's future contribution to the Communities' own resources upon accession. The Unit is made up of representatives from the Budget Office, the National Statistics Office, the Agriculture Department, the Value Added Tax Department, the Department of Customs, the Economic Planning Division, the Regional Policy Directorate, the Internal Audit and Investigations Directorate and the Treasury.

Overall assessment

Whilst Malta is fairly advanced in this area, further efforts will be required.

Although basic budgetary rules are broadly satisfactory, further improvements are needed in macro-economic forecasting and drawing up a medium-term budget strategy to consolidate the soft multi-annual budget programming. The implementation of the operating procedures for the management of EC pre-accession funds, through the National Fund, should be continued and improved as a preparation for accession.

As regards the Community's Own Resources, further alignment in the field of VAT is necessary in connection with intra-community transactions and the tax status of certain supplies and services. The holding, movement and monitoring of exciseable goods will also need to be aligned. A consolidated Customs Code, in line with the *acquis*, must be put in place. There is currently no provision in Maltese law with regard to the levies on trading in and warehousing of sugar which form part of the Traditional Own Resources. 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.

Measures have been taken to co-ordinate centrally the proper collection, monitoring and payment and to control funds to and from the EC budget. However, administrative capacity should also be strengthened in the context of the relevant policy areas described elsewhere in this report, such as Agriculture, Customs, Regional Policy, Financial Control and Taxation.

The capacity to calculate in a reliable, accurate and transparent way the level of customs duties and VAT collected by Malta and to calculate Malta's GNP needs to be improved to allow calculations to be made in a harmonised and controllable way. Adequate administrative capacity to duly collect and transfer in a timely manner all Own Resources to the Community budget, building on the Own Resources Unit established in the Ministry of Finance, will need to be established prior to accession, as well as the ability to accurately and regularly report to the Commission on the situation with regard to each of the types of own resources.

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

Applicant countries are to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. The *acquis*, consisting of primary and secondary binding legislation, represents at present a considerable volume of acts, roughly

estimated at 60,000-70,000 pages of the Official Journal. To help the candidate countries in this process, assistance is being provided under the pre-accession programmes. TAIEX supports the candidate countries who so wish to create a centralised Translation Co-ordination Unit.

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 consists of a core group, which has three full-timers and three part-time staff. The unit has also appointed 60 translators.

The translation of the *acquis* into Maltese is currently being carried out using both the original English and Italian versions of the *acquis* as base texts. The translators are using specialised computer software to aid them in their work. As of September 2001, translation of the Treaties had been completed, and 7 000 pages of secondary legislation had been translated, but not revised. Without prejudice to the outcome of the accession negotiations, urgent additional efforts are required in this area.

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

3.3. General evaluation²³

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

²³ See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

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.

C. Conclusion²⁴

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.

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

Macroeconomic developments have been favourable in terms of GDP growth, unemployment, inflation and a significant reduction of the government deficit. The government's medium-term fiscal programme generated a further decrease of the public deficit. Progress has been made in developing restructuring and privatisation programmes and initiatives for entrepreneurship.

However, despite the decreasing trend, the fiscal deficit remains too high, contributing further to a very large current account deficit. Although the current account deficit had a strong one-off component, it will need to be closely monitored. The authorities need to put public finances in a sustainable medium-term path. The reform of the social security system needs to be considered in this perspective. The implementation of the restructuring and privatisation of public utilities and loss-making public enterprises remains slow. Further efforts to limit the influence of the state in the economy are needed. A faster implementation of structural reforms and further liberalisation is crucial to support the sustainability of external balances and external competitiveness in a more open environment.

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*.

²⁴ See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

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.

D. Accession Partnership and National Programmes for the Adoption of the *Acquis*: Global assessment

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.

Each candidate has been invited to adopt a National Programme for the Adoption of the *Acquis*. This sets out how the country in question envisages to deal with the Accession Partnership, the timetable for implementing the Partnership's priorities, and implications in terms of human and financial resources. Both the Accession Partnerships and the National Programmes for the Adoption of the *Acquis* are revised on a regular basis, to take account of progress made, and to allow for new priorities to be set.

1. Accession Partnership

In the following assessments the main sub-headings are indicated in bold type and further key concepts taken from the Accession Partnership highlighted in *italics*.²⁵

Short-term priorities

Economic criteria: The corresponding **priorities had already been met** in 2000.

Internal Market: There has been no progress on *data protection*. As regards *Company law*, there has not been progress.

Regarding *Free Movement of Goods*, the government continued to implement a plan in three steps for the *elimination of levies* on goods imported from the EC, except for agricultural products. There has been progress in aligning the Maltese legislation with the *product liability directive*.

In the area of *Free Movement of Services*, no progress has been made as regards *data protection*. As regards *Free Movement of Capital* the government pursued the implementation of the three-stage plan to *abolishing restrictions on capital flows* by 2002, with the second stage enacted this year. As regards *Competition*, there has been progress in aligning the state aids with the *acquis* and with the setting-up of a *State Aid Monitoring Authority* but the State Aid Inventory has not been completed. Despite some progress, further alignment is still needed as regards merger legislation and the application of competition rules to public undertakings with special rights.

The Malta Communication Authority was established to act as an independent regulatory authority in the *Telecommunication* sector. With regard to *Audio-visual policy*, Malta has

²⁵ For the detailed text of the short and medium term priorities established in the 1999 Accession Partnership, please refer to Decision 2000/249/EC (OJ L 78 of 29 March 2000, p. 17).

almost completed alignment of its legislation and some secondary issues will have to be regulated through implementing Regulations.

In the *Taxation* area, good progress has been registered in the *alignment of VAT and excise duties legislation*. There has been progress in the compliance with the *principles of the Code of Conduct for business taxation*. With respect to *Customs*, Malta has implemented the *single administrative document* but the *Combined Nomenclature including the harmonised rules of origin* still has to be adopted by the Parliament. A project for the *reinforcement of the administrative capacity* including computerisation has started and needs to be completed.

Overall the **priorities related to internal market continue to have been partially met.**

Agriculture: There has been little progress in *alignment of veterinary legislation* but some progress was made as regards the *phytosanitary legislation*. Border inspection posts have not been sufficiently upgraded. Initial activities for the set up of an Integrated Administrative Control System aiming at preparing Malta's administration for the *Common Agricultural Policy* and to the *Rural Development Policies* have started. Despite some progress, **the priorities in this area have been only partially met.**

Environment: There has been significant progress in this area with the adoption of a *framework legislation*, the Environmental Protection Act, and subsidiary *sector legislation*, in particular as regards air quality. A legislation has been adopted to transpose the *Environmental Impact Assessment Directive* but neither the *strategy for the transposition and implementation of the acquis*, nor the plan for financing investments necessary to implement the *acquis* have been finalised. There has been no progress in building the capacity to implement the *acquis*. Overall, **the priorities in this area have been partially met.**

Transport: Malta has started the transposition of the maritime transport *acquis* as well as the preparation of its implementation. Although Malta has not designed formally a *strategy and timetable for the transposition of the maritime and air transport acquis*, a Maritime Action Plan has been drafted. Therefore **the priority in this chapter continues to have been partially met.**

Employment and social affairs: The government has closely involved the social partners in the accession process, however more could be done *to support their capacity building efforts to implement the acquis*. Therefore Malta has continued to meet **this priority to a large extent.**

Industrial Policy: The *industrial restructuring policy* that had been agreed, mainly for *SMEs*, has continued to be implemented however it does not yet cover the *agri-food sector*. The *privatisation programme* continues to be implemented although at a slow pace.. **Malta has continued to meet the priorities in this area to a large extent.**

Justice and Home Affairs: Malta has given notice to the High Commissioner of the UNHCR that Malta will be *lifting its geographical reservation to the Geneva Convention on Refugees (with effective implementation in 2001)*. It has continued its participation in international co-operation in the field of justice. It has adopted *legislation on Asylum* that is largely in line with the *acquis* and it started to set up *structures to deal with asylum requests*. Malta signed the *Council of Europe Agreement on Illicit Drug Trafficking by sea*. It has

strengthened the staff of the services in charge of the *fight against drugs*, but not yet those of the *economic crime squad*. It has ratified the *European Convention on laundering of proceeds of crime*. **The priorities in this area have been met to a large extent.**

Reinforcement of administrative and judicial capacity, including the management and control of EC funds: Malta has completed the legislative framework for *internal and external financial control*. It has set up the Internal Audit Directorate within the government to *harmonise audit and control functions*, as well as *internal audit units in spending centres*. It has introduced *ex-ante control* and *functional independence of auditors at both central and decentralised levels*. It has issued an *audit manual*. It has to develop an audit trail for control of EC funds. Malta has taken measures to improve *the efficiency and effectiveness of its public administration* but has not adopted a comprehensive *reform programme* in that respect. Finally GDP per capita data has been produced in accordance with EC methodology. Therefore **the priorities in this domain continue to have been met to a large extent.**

Medium-term priorities

Economic criteria: Malta has further *reduced the budget deficit and improved tax collection*. It has *strengthened the financial system* through liberalisation, higher competition and privatisation, *preparing it for a liberalised capital account regime*. It has continued efforts to *improve the conditions for enterprise creation and development*, in particular through the Institute for the Promotion of Small Enterprises. It has *established an annual fiscal surveillance procedure aimed to bring the reporting, monitoring and control of public finances in line with the EU procedures*. However the restructuring of loss-making public sector enterprises and the privatisation process have not been completed. **The priorities in this area have been partially met.**

Internal Market: There has been no progress in the area of *public procurement*, neither concerning the *extension of public procurement legislation to local authorities and bodies governed by public law*, nor concerning the *judicial review system*. **The priorities in this area have not been met.**

Regarding *data protection*, no legislation has been adopted and consequently the independent supervisory authority has not been established. **The priorities in this area have not been met.**

As regards *free movement of goods*, Malta has made good progress in *ensuring sufficient independence of standardisation, accreditation and metrology bodies and finalise overall institutional arrangements*. However arrangements must still be finalised as regards *certification*. **The priorities in this area have been met to a large extent.**

Concerning *free movement of services*, Malta has made little progress in aligning its legislation related to *deposit guarantee schemes, payment systems, and in the securities sector*. **The priorities in this area have not been met.**

In the area of *free movements of Persons*, Malta has made good progress in aligning its legislation with respect to the mutual recognition of diplomas. **The priorities in this area have been met to a large extent.**

Concerning *free movement of capital*, Malta has continued to implement its three-stage plan to *abolish remaining restrictions on inward and outward capital movements* in order to achieve full liberalisation. **The priorities in this area have been partially met.**

In the area of *competition*, Malta has continued to strengthen its *competition authorities*. However the *State aid system* does not yet conform to the *acquis*. **The priorities in this area have been partially met.**

With respect to *telecommunications*, Malta has progressed in aligning its legislation in areas such as *transparency obligations, interconnection, universal service obligations, numbering and number portability, and carrier pre-selection*, but not as regards *data protection*. **The priorities in this area have been partially met.**

In the area of *taxation*, there has been some progress in the alignment with the Community's transitional VAT regime but Malta has not reached full alignment. Malta has not assured a full compatibility of its direct taxation legislation with the code of conduct for business taxation. Malta has continued to strengthen its administrative capacity but this does not cover the needs in the fields of administrative co-operation and mutual assistance. **The priorities in this area have been partially met.**

As regards *consumer protection*, the legislation has been further aligned and the *market surveillance* directorate has been set up and strengthened. **The priorities in this area have been partially met.**

In the area of *Customs*, Malta has progressed in aligning its legislation with respect to customs warehouses, tariff suspensions, the use of simplified procedures and the fight against fraud and corruption. The Customs Department has been reinforced. **The priorities in this area have been partially met.**

Agriculture: Malta has made limited progress in its preparations to the Common Agriculture and Rural Development policies. **The priorities in this area have not been met.**

Fisheries: Malta has made some progress by adopting a framework legislation to prepare the adoption of the remaining *acquis*. **The priorities in this area have been partially met.**

Energy: Malta has made limited progress in partially aligning its legislation *on energy efficiency*. It has also separated *policy formulation from regulation*, through the creation of the Malta Resources Authority. Limited progress was made as regards the preparation to the internal energy market, in particular the implementation of the electricity and gas directives. **The priorities in this area have been partially met.**

Environment: Malta has made limited progress as regards *framework and horizontal legislation, nature protection and waste management*. Some progress has been made in the area of *water protection*. No progress was made as regards the *administrative and monitoring capacity*. Little actual progress has been achieved as regards the *integration of sustainable development principles in the sectoral policies*. **The priorities in this area have been met to a limited extent.**

Employment and Social Affairs: Malta has made good progress in the transposition of EC legislation in the fields of *occupational health and safety, and labour law*; but less progress

in the field of equal treatment of men and women. Malta has started to reinforce the related administrative structures. Malta and the Commission launched the *Employment Policy review* with a view to finalise a joint assessment of Malta's employment policy and prepare its participation in the *European employment strategy*. **The priorities in this area have been partially met.**

Economic and Social Cohesion: Malta has not finalised a National Development Plan for economic and social cohesion. Preliminary activities have started to create the administrative structures for the implementation of Structural Funds. **The priorities in this area have been met to a limited extent.**

Transport: Malta has made limited progress in the field of road transport and aviation, and some progress in maritime transport. **The priorities in this area have been partially met.**

Justice and Home Affairs: Malta has not progressed as regards its visa legislation and in the fight against trafficking of women and children. **The priorities in this area have not been met.**

Reinforcement of administrative and judicial capacity, including the management and control of EC funds: Malta has strengthened *public financial control functions* through the provision of adequate staff and training both to the internal auditors and to the National Audit Office, partially meeting the corresponding priority. It has taken further measures to improve the *efficiency and effectiveness of its public administration*. Malta has adopted EC compatible statistical methodologies and practices as regards *GDP estimation, short-term indicators, social statistics and balance of payments*. **The priorities in this area have been partially met.**

2. National Programme for the Adoption of the *Acquis*

The Maltese National Plan for the Adoption of the *Acquis* (NPAA) was adopted in September 2000. It follows the structure of the Accession Partnership with short-term and medium-term priorities. There is also generally at the end of each chapter an estimate of the administrative cost of compliance with the *acquis*.

It is, on the whole, largely coherent with the priorities of the Accession Partnership (AP). There are however slight discrepancies in a few chapters. As regards Free Movement of Capital, the NPAA does not provide a timetable for the dismantling of the existing restrictions on movement of capital. In the Agriculture chapter, there is not an adequate reference to the administrative structures needed for the implementation of the Common Agricultural Policy (rural development measures and direct payments). The alignment with the Community phytosanitary legislation, a priority of the AP is mentioned neither in the Agriculture nor in the Consumers and Health Protection chapter of the NPAA. As regards energy, more precision would be needed on the compliance with the electricity directive.

The Maltese NPAA is, in general, consistent with the results of the screening and with the commitments made by Malta in other frameworks. There are a few areas with little inconsistencies, or where some parts of the *acquis* are not explicitly mentioned. As regards Free movement of Goods, it is mentioned that an adjustment of the price control system would

be needed to make it more in line with Community practices, which requires clarification. With respect to the Free Movement of Workers and citizenship, the amendment of the Immigration Act should be mentioned. Regarding Free Movement of Capital, several restrictions to capital movements are mentioned and it is not clear whether and when these restrictions will be lifted. Concerning Energy and Transport, more precision would be necessary on the opening of the electricity market to competition, on transport of dangerous goods and on maritime safety. In the environment chapter, there is no mention of an overall long term strategy for compliance with the environmental *acquis* and of the Birds Directive. As regards Consumers & Health Protection, there is no mention of the legislation on seeds/propagating material, and on plant variety rights.

The Implementation structures and institution building needed are not always mentioned in the NPAA. However, as regards public procurement, there is no mention of the need to revise the remedies system, as well as the need to extend public procurement legislation to bodies governed by public law or local authorities. Concerning Free Movement of Capital, no mention is made of the need to set up a Financial Intelligence Unit. Regarding Agriculture, a restructuring of the Ministry of Agriculture is mentioned, but, apart from the Integrated Administrative Control System, there are no details on the other implementation structures required, in particular for the rural development. As regards Transport, there is a lack of precision on the measures intended to reinforce the administrative capacity in particular with respect to maritime safety and the functions of the transport authority will need to be extended to cover all aspects of the *acquis*. In the Environment chapter, there is no mention of the needs related to the implementation structures and to the reinforcement of the existing administrative capacity. As regards Consumer and Health Protection, more details are needed on the administrative structures needed for checks in the phytosanitary field.

The financial cost of the adoption and implementation of the *acquis* is not always mentioned. It is not mentioned in the "Free Movement of Goods" chapter, neither is it mentioned for the "Agriculture" chapter. It lacks precision in the "Transport" and "Energy" chapters. There is no reference to the budgetary cost of the administrative measures mentioned in the "Regional Policy" chapter. As regards Environment, there is no mention of the budgetary cost of the administrative measures needed, neither is there a mention of the cost of the investments needed to assure compliance.

The timing provided for compliance with the *acquis* is in general realistic. There are however chapters where the lack of precision of the timing makes it difficult to assess how realistic it is. This is the case for the economic chapter where the timing for the privatisation programme and the reform of the public sector are unclear. It is also the case for the "Free Movement of Capital" chapter, the Agriculture chapter (rural development and forestry programmes), the Transport and Energy chapters and the phytosanitary legislation. Finally as regards the "Environment" chapter, it is not possible to comment on the timing in view of the absence of a clear strategy and timetable for compliance.

Annexes

***Human Rights Conventions ratified by the Candidate Countries,
30 September 2001***

<i>Adherence to following conventions and protocols</i>	BG	CY	CZ	EE	HU	LV	LT	MT	PL	RO	SK	SI	TK
ECHR (European Convention on Human Rights)	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	O	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
European Convention for the Prevention of Torture	X	X	X	X	X	X	X	X	X	X	X	X	X
European Social Charter	O	X	X	O	X	O	O	X	X	O	X	O	X
Revised European Social Charter	X	X	O	X	O	O	X	O	O	X	O	X	O
Framework Convention for National Minorities	X	X	X	X	X	O	X	X	X	X	X	X	O
ICCPR (International Covenant on Civil and Political Rights)	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 the ICCPR (death penalty)	X	X	O	O	X	O	O	X	O	X	X	X	O
ICESCR (International Covenant on Economic, Social and Cultural Rights)	X	X	X	X	X	X	X	X	X	X	X	X	O
CAT (Convention against Torture)	X	X	X	X	X	X	X	X	X	X	X	X	X
CERD (Convention on the Elimination of All Forms of Racial Discrimination)	X	X	X	X	X	X	X	X	X	X	X	X	O
CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)	X	X	X	X	X	X	X	X	X	X	X	X	X
Optional Protocol to the CEDAW	O	O	X	O	X	O	O	O	O	O	X	O	O
CRC (Convention on the Rights of the Child)	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

	1996	1997	1998	1999	2000
Basic Data	in 1000				
Total Population (Maltese & Foreigners)	381,4	384,2	386,4	388,7	391,4
	in km²				
Total area	315,6	315,6	315,6	315,6	315,6
National accounts	Mio Malta Lira				
Gross domestic product at current prices	1.201,3	1.288,2	1.362,3	1.456,1	1.559,9
	1000 Mio ECU/euro				
Gross domestic product at current prices	2,6	2,9	3,1	3,4	3,9
	ECU /euro				
Gross domestic product per capita ²⁶ at current prices	6.900	7.700	8.100	8.800	9.900
	% change over the previous year				
Gross domestic product at constant prices (nat. currency)	4,0	4,9	3,4	4,1	5,0
	in Purchasing Power Standards				
Gross domestic product per capita ²⁷ at current prices	9.400	10.100	10.500	11.100	11.900
Structure of production	% of Gross Value Added				
- Agriculture	2,9	2,9	2,7	2,5	2,3
- Industry (excluding construction)	24,8	24,3	25,0	24,9	26,9
- Construction	3,1	3,0	2,8	2,4	2,3
- Services	69,3	69,7	69,5	70,2	68,5
Structure of expenditure	as % of Gross Domestic Product				
- Final consumption expenditure	85,3	82,9	81,8	81,6	82,5
- household and NPISH	63,7	62,4	62,1	62,9	63,8
- general government	21,6	20,5	19,7	18,7	18,7
- Gross fixed capital formation	28,7	25,3	24,5	23,3	26,4
- Stock variation ²⁸	-0,8	0,2	-0,8	0,7	1,5
- Exports of goods and services	87,0	85,1	87,7	90,7	103,1
- Imports of goods and services	100,3	93,5	93,2	96,3	113,5
Inflation rate	% change over the previous year				
Consumer price index ²⁹	2,5	3,1	2,4	2,1	2,4
Balance of payments	Mio ECU/euro				
- Current account	-320	-176	-194	-116	-560
- Trade balance	-601	-581	-527	-537	-670
Exports of goods	1.397	1.472	1.626	1.889	2.693
Imports of goods	1.998	2.053	2.153	2.426	3.362
- Net services	248	349	340	351	255
- Net income	9	8	-58	30	-161
- Net current transfers	24	49	51	40	17
-of which: government transfers	-1	4	2	-8	1
- FDI (net) inflows	218	72	238	770	693
Public finance	in % of Gross Domestic Product				
General government deficit/surplus	-7,7	-10,7	-10,8	-7,8	-6,6
General government debt	:	51,5	56,9	60,1	60,6

²⁶ Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

²⁷ Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

²⁸ These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

²⁹ For Malta, only a Retail Price Index is available.

Financial indicators	in % of Gross Domestic Product				
Gross foreign debt of the whole economy	105,3	140,8	198,0	227,7	318,8
	as % of exports				
Gross foreign debt of the whole economy	120,9	165,5	225,8	250,9	309,1
Monetary aggregates	1000 Mio ECU /euro				
- M1	1,0	1,1	1,2	1,4	1,5
- M2	3,7	4,2	4,4	5,2	5,5
- M3	4,1	4,7	5,0	5,9	6,2
Total credit	2,8	3,5	3,8	4,5	5,0
Average short-term interest rates	% per annum				
- Day-to-day money rate	:	5,2	5,5	5,0	4,7
- Lending rate	:	:	:	:	7,4
- Deposit rate	:	:	5,4	5,5	5,3
ECU/EUR exchange rates	(1ECU/euro=...Malta Lira)				
- Average of period	0,458	0,437	0,435	0,426	0,404
- End of period	0,451	0,433	0,442	0,415	0,408
	1995=100				
- Effective exchange rate index	100,6	103,4	105,1	105,2	106,7
Reserve assets	Mio ECU/euro				
- Reserve assets (including gold)	1.131	1.251	1.449	1.783	1.581
- Reserve assets (excluding gold)	1.120	1.248	1.448	1.782	1.580

External trade	Mio ECU/euro				
Trade balance	-838	-812	-742	-809	-1039
Exports	1.362	1.438	1.637	1.858	2.654
Imports	2.200	2.250	2.379	2.667	3.693
	corresponding period of the previous year = 100				
Terms of trade	97,4	98,2	99,1	99,8	:
	as % of total				
Exports with EU-15	56,9	54,3	52,8	48,7	33,5
Imports with EU-15	68,6	71,4	69,3	65,4	59,9

Demography	per 1000 of population				
Natural growth rate	4,4	4,0	3,2	2,8	3,0
Net migration rate (including corrections)	7,6	8,4	6,5	8,0	8,5
	per 1000 live-births				
Infant mortality rate	10,7	6,4	7,2	7,2	6,1
Life expectancy:	at birth				
Males	74,9	74,9	74,4	75,1	:
Females	79,8	80,1	80,1	79,3	:

Labour market ³⁰	% of labour force				
Economic activity rate	47,6	47,6	47,3	47,2	47,0
Unemployment rate, total	4,4	5,0	5,1	5,3	4,5
Unemployment rate, males	5,0	5,8	6,1	6,3	5,4
Unemployment rate, females	2,9	2,8	2,5	2,6	2,2
Unemployment rate of persons <25 years	5,2	6,4	6,5	7,0	6,0
Unemployment rate of persons ≥25 years	4,1	4,5	4,7	4,8	4,1
	as % of all unemployed				
Long-term unemployment rate	39	43,7	45,2	50,4	53,5
Average employment by NACE branches	in % of total				
- Agriculture and forestry	1,9	1,9	1,9	1,9	1,9
- Industry (excluding construction)	25,0	24,6	24,8	24,3	23,6
- Construction	4,4	4,2	4,1	3,8	3,9
- Services	68,7	69,3	69,2	70,0	68,9

³⁰ Administrative records.

Infrastructure	in km per 1000 Km²				
Railway network	.	.	.	.	.
Length of motorways	km				
	.	.	.	.	.

Industry and agriculture	previous year = 100				
Industrial production volume indices	95,3	98,5	110,5	:	:
Gross agricultural production volume indices	108,5	111	101,3	:	:

Standard of living	per 1000 inhabitants				
Number of cars ³¹	436	479	497	520	540
Main telephone lines	:	483,1	497,0	509,3	528,4
Number of subscriptions to cellular mobile services	:	39,3	49,0	62,6	289,8
Number of Internet subscriptions	:	33,5	58,8	63,9	87,9

³¹ Registered cars.

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.

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 DG ECFIN 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+. 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+, 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.**