COUNCIL DECISION

of 28 January 2002

on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Malta

(2002/90/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta [1],

Having regard to the proposal from the Commission,

Whereas:

(1) The Luxembourg European Council stated that the Accession Partnership is a new instrument and the key feature of the enhanced pre-accession strategy.

(2) Regulation (EC) No 555/2000 complements Regulation (EC) No 622/98 [2] which sets out that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities, intermediate objectives and conditions contained in the individual Accession Partnerships, as they are submitted to each applicant State, as well as on subsequent significant adjustments applicable to them.

(3) Community assistance is conditional on the fulfilment of essential elements, and in particular on the respect of the commitments contained in the Association Agreement and on progress towards fulfilment of the Copenhagen criteria. Where an essential element is lacking, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance.

(4) The 2001 Commission's regular report presents an objective analysis on Malta's preparations for membership and identifies a number of priority areas for further work.

(5) In order to prepare for membership, Malta should continue to update its national programme for the adoption of the *acquis*. This programme should set out a timetable for achieving the priorities and intermediate objectives established in the Accession Partnership.

(6) Malta needs to ensure that the appropriate legal and administrative structures needed for the programming, coordination, management, control and evaluation of Community pre-accession funds are in place,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 1(2) of Regulation (EC) No 555/2000, the principles, priorities, intermediate objectives and conditions in the Accession Partnership for Malta are set out in the Annex hereto, which forms an integral part of this Decision.

Article 2

The implementation of the Accession Partnership shall be examined in the Association Agreement bodies, and by the appropriate Council bodies to which the Commission shall report regularly.

Article 3

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Communities*.

Done at Brussels, 28 January 2000.

For the Council

The President

J. PIQUÉ I CAMPS

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[1] OJ L 68, 16.3.2000, p. 3.

[2] Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of the Accession Partnerships (OJ L 85, 20.3.1998, p. 1).

ANNEX

1. **Introduction**

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Malta was decided in March 2000. The present revision is based on a proposal by the Commission following consultation with Malta, and draws on the analysis of the Commission's 2001 regular report on progress made by Malta towards accession.

2. **Objectives**

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 2001 regular reports on the progress made by Malta towards membership of the Union, the financial means available to help Malta implement these priorities and the conditions which will apply to that assistance. This Accession Partnership provides the basis for a number of policy instruments which will be used to help the candidate States in their preparations for membership. These include, *inter alia*, the updated national programme for the adoption of the *acquis* prepared by Malta, the pre-accession fiscal surveillance procedure, the pre-accession economic programme, the pre-accession pact on organised crime, a national employment strategy in line with the European employment strategy, as well as sectoral plans necessary for the participation in the Structural Funds after membership. Each of these instruments is different in nature and is prepared and implemented according to specific procedures and may be supported by pre-accession aid. They are not an integral part of this Partnership but the priorities they contain will be compatible with it.

3. **Principles**

The main priority areas identified for each candidate State relate to their ability to take on the obligations of meeting the Copenhagen criteria which state that membership requires:

— that the candidate State has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities,

— the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union,

— the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

At its meeting in Madrid in 1995, the European Council stressed the need for the candidate States to adjust their administrative structures to ensure harmonious operation of Community policies after accession and at Luxembourg, in 1997, it stressed that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient; it is necessary to ensure that it is actually applied. The Feira and Gothenburg European Councils in 2000 and 2001 respectively confirmed 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.

4. **Priorities and intermediate objectives**

The Commission's regular reports have highlighted, besides the progress already made, the extent of the efforts which still have to be made in certain areas by candidate States to prepare for accession. This situation requires the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the states concerned, the achievement of which will condition the degree of assistance granted and the progress of the negotiations under way with Malta. The priorities listed in the revised Accession Partnership have been selected on the basis that it is realistic to expect that Malta can complete or take them

substantially forward over the next two years (2002 to 2003). Within this list, issues that require particularly urgent action have been highlighted as such. The progress made in meeting the priorities of the 2000 Accession Partnership is assessed in the 2001 regular report. This assessment has been used in formulating the priorities for the current Partnership.

Malta submitted its national programme for the adoption of the *acquis* (NPAA) in September 2000. The NPAA sets out a timetable for achieving priorities and intermediate objectives, based on the 2000 Accession Partnership, as well as necessary administrative structures and financial resources.

The Accession Partnership indicates the priority areas for Malta's membership preparations. Malta will nevertheless have to address all issues identified in the 2001 regular report. It is also important that Malta fulfils the commitments of legislative approximation and the implementation of the *acquis* in accordance with the commitments made under the Association Agreement, and in the context of the negotiation process. It should be recalled that incorporation of the *acquis* into legislation is not in itself sufficient; it will also be necessary to ensure that it is actually applied to the same standards as those which apply within the Union. In all of the areas listed below there is a need for credible and effective implementation and enforcement of the *acquis*.

Drawing on the analysis of the Commission's 2001 regular report, the following priorities and intermediate objectives have been identified for Malta. These priorities are presented in accordance with the structure of the regular report [1].

Economic criteria

— continue efforts to stabilise public finances (budget deficit and debt), giving consideration to the reform of the social security, with a view to ensuring medium-term sustainability,

— restructure loss-making public sector enterprises; reduce price controls and improve price adjustment mechanisms, accelerate the implementation of the privatisation programme,

— continue efforts to restructure and develop small and medium-sized enterprises (SMEs), adopt and start to implement a plan for the dismantling of remaining levies on agricultural goods as well as a restructuring policy for the agri-food sector.

Ability to assume the obligations of membership

Free movement of goods

— complete the process of the transposition and implementation of all 'New approach' and traditional sectoral legislation with the *acquis*, in particular, in the fields of foodstuff and pharmaceutical (renewal of existing marketing authorisations) legislation,

— establish a basic infrastructure in the metrology sector; reinforce horizontal administrative infrastructure and implementing capacity in the sectors covered by product specific legislation; reinforce national accreditation system; develop a market surveillance strategy,

— complete alignment in public procurement to include local authorities and other bodies governed by public law and to align the tender procedures; adapt the judicial review system to the requirements of relevant Directives,

— proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28, 29 and 30 of the Treaty and complete administrative arrangements for the future monitoring in this area.

Free movement of persons

— complete alignment of mutual recognition of professional qualifications and diplomas, strengthen administrative structures and continue efforts to introduce education and training programmes,

[1] The order of presentation is that used as from the 2000 regular reports.

— with respect to professional qualifications obtained before harmonisation, Malta should give priority to introducing measures to ensure that its professionals can, from accession, meet the requirements laid down in the related Directives,

— reinforce the administrative structures for the coordination of social security.

Free movement of services

— complete alignment of banking rules on deposit guarantee schemes, payment systems and securities,

— reinforce supervision of the financial services,

— adopt national legislation and establish independent supervisory authority in accordance with Community legislation on data protection.

Free movement of capital

— ensure compliance with the recommendations of the Financial Action Task Force,

— complete the implementation of the three-stage plan for the elimination of remaining restrictions on inward and outward capital movements in order to achieve full liberalisation,

— set up a financial intelligence unit to combat economic crime, including money laundering,

— complete alignment of legislation with the second Directive against money laundering.

Company law

— adopt legislation on supplementary protection certificates as well as legislation transposing Community *acquis* on designs and protection of biotechnological inventions,

— strengthen the enforcement of the intellectual property rights in accordance with the *acquis*, in particular police and customs authorities in charge of the enforcement of the intellectual property rights and improve cooperation between them; train judges and prosecutors with respect to intellectual property rights legislation; increase efforts to fight against piracy and counterfeiting,

— reinforce the administrative capacity of the Industrial Property Office.

Competition

— complete alignment with the *acquis*, in relation to antitrust and state aid legislation; complete inventory and annual State aid reports; ensure conformity of State aid system in particular regarding shipbuilding,

— strengthen the administrative capacity of the competition authorities to ensure the full enforcement of the antitrust and State aid rules; intensify the training of the judiciary in the specific fields of antitrust and State aid, increase awareness of the rules among all market participants and aid granters.

Agriculture

— in need of particularly urgent action: set up the administrative structures needed for the design, implementation, management, monitoring, control and evaluation of Community-funded rural development programmes,

— upgrade the capacity of agricultural administration and complete preparations for the enforcement and practical application of the management mechanisms of the common agricultural policy, in particular the integrated administration and control system and the paying agency, as well as for the implementation and enforcement of veterinary and phytosanitary and food safety legislation,

— in need of particularly urgent action: continue alignment of veterinary and phytosanitary legislation and upgrade inspection arrangements, in particular at future external borders,

— complete transposition of legislation on transmissible spongiform encephalopathies, plant passports, maximum residue levels, animal nutrition and ensure implementation and enforcement, including testing of animal diseases, in particular transmissible spongiform encephalopathies, in accordance with the *acquis*.

Fisheries

— complete alignment, in particular with the market policy legislation and resources management, inspection and control.

— complete the fishing vessel register in full compliance with Community requirements and develop a management plan for the fleet capacity according to available fish resources.

Transport policy

— continue legal alignment on road transport (in particular access to the profession, fiscal harmonisation, and transport of dangerous goods) as well as on air transport.

— in need of particularly urgent action: complete alignment and implementation of maritime transport legislation, taking into account its latest developments, in particular enforce maritime safety standards, and further strengthen the administrative capacity of the Maritime Authority in order to improve the flag State performance of the Maltese merchant fleet.

Taxation

— ensure due alignment with the *acquis*, with particular attention to the alignment in the VAT area, including the transitional VAT regime. In need of particularly urgent action: alignment of VAT duty rates,

— review existing laws to ensure compatibility with the principles of code of conduct for business taxation,

— pursue efforts to strengthen administrative capacity and control procedures including administrative cooperation and mutual assistance,

— develop IT systems so as to allow for the exchange of computerised data with the Community and its Member States,

— ensure complete elimination of the current special levies on certain imported products, as foreseen.

Statistics

— further improve quality and coverage of statistics; ensure adequate resources are available to further strengthen statistical capacities.

Social policy and employment

— complete alignment and ensure proper implementation of Community legislation, in particular in the field of equal treatment for women and men. Strengthen the related administrative and enforcement structures, including the labour inspectorates and establish an independent guarantee fund for employees in the case of employer's insolvency. Adopt legislation against anti-discrimination and develop a timetable for its implementation,

— complete the transposition and implementation of Community legislation in the field of public health; adapt the national structure for surveillance and control of communicable diseases and health monitoring and information to meet the Community requirements,

— continue to support social partners' capacity building efforts in particular with a view to their future role in the development and implementation of Community employment and social policy, including the European Social Fund, notably through autonomous bipartite social dialogue,

— prepare a national strategy, including data collection, with a view to later participation in the European strategy on social inclusion.

Energy

— finalise the national energy strategy in line with Community energy policy objectives,

— speed up the preparation for the internal energy market, notably the implementation of the Malta Resources Authority Act and the restructuring of Enemalta, eliminate remaining price distortions, strengthen the Regulator,

— strengthen the role and administrative capacity of the Regulatory Authority,

— continue the alignment process with respect to oil stocks; make progress in the actual constitution of the stocks, including the necessary investments, towards the level of 90 days,

— step up the improvement of energy efficiency and the use of renewable energy sources and strengthen the relevant institutions in this area,

— implement the recommendations contained in the Council report on nuclear safety in the context of enlargement with due regard to the priorities assigned in the report.

Telecommunications and information technologies

— adopt legislation on data protection in the telecommunications sector.

Regional policy and coordination of structural instruments

— in need of particularly urgent action: establish a territorial organisation allowing for the effective implementation of the Structural Funds Regulations,

— prepare a coherent development plan as required by the Structural Funds Regulations,

— reinforce all the structures necessary for the programming and management of the structural funds and establish structures for monitoring, appraisal and evaluation; ensure effective interministerial coordination and progress in programming,

— prepare to comply with the specific financial management and control provisions (including pluriannual budgeting procedures) as laid down by the respective regulations as regards the management and control systems for assistance granted under the Structural Funds,

— develop the technical preparation of projects eligible under the Structural and Cohesion Funds assistance (project pipeline).

Environment

— complete transposition of the *acquis*, in particular as regards horizontal environmental legislation, waste management, industrial pollution control and nature protection,

— develop implementation plans for the environmental *acquis*, based on estimations of costs of alignment and realistic sources of public and private finance year-by-year, and start implementation. Continue and/or complete implementation of the *acquis*, in particular as regards the waste framework Directives (preparation of waste management plans), packaging and packaging waste, landfill of waste, industrial risk management and phasing out of leaded petrol,

— in need of particularly urgent action: continue strengthening the administrative, monitoring and enforcement capacity. Particular attention needs to be paid to the establishment of the competent authority under the new Environment Protection Act,

— continue integration of environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

Consumer protection

— continue alignment and strengthen market surveillance and enforcement authorities.

Justice and Home Affairs

— ensure alignment of data protection practices; ensure the establishment of an independent personal data supervisory authority,

— ensure that the prerequirements to the conclusion of a cooperation agreement with Europol are met,

— continue preparation for future participation in the Schengen Information System by developing various national databases and registers,

— continue efforts to reinforce the external borders by improving technical means and appropriate training of the professionals,

— continue efforts for due implementation of the Refugees Act and alignment with immigration *acquis*,

— complete alignment with common visa policy and practice,

— take the necessary steps to ensure the implementation of the Community instruments in the area of judicial cooperation in civil matters,

— take the necessary steps to align the legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols.

Customs

— complete alignment of customs legislation, in particular on free zones, counterfeit and pirated goods, and duty reliefs,

— provide for the use of simplified procedures; reinforce the organisation of the customs administration, in particular to prepare for the operation of all customs procedures with economic impact, the system of tariff suspensions and the administration of tariff quotas and ceiling; continue efforts to implement the customs ethics policy,

— in need of particularly urgent action: accelerate the implementation of the IT strategy of the Maltese customs administration. Develop IT systems so as to allow for the exchange of computerised data between the Community and Malta. Provide for sufficient IT staff in the Customs Administration.

External Relations

— take the necessary measures to ensure that any international treaties or agreements incompatible with the acquis are renegotiated or terminated by accession.

Financial control

— implement the new public internal financial control legislation,

— designate a contact point for the protection of the Communities' financial interests and effectively start cooperating with OLAF through this contact point,

— strengthen the fight against fraud, notably in the area of VAT and customs duties, and adopt the appropriate legislative framework to this effect,

— continue efforts to ensure the correct use, control, monitoring and evaluation of Community pre-accession funding as a key indicator of Malta's ability to implement the financial control *acquis*.

5. **Programming**

After the expiry of the fourth Financial Protocol with Malta and the decision of the Helsinki European Council to begin accession negotiations with Malta in December 1999, the Council adopted Regulation (EC) No 555/2000.

Following this Regulation, EUR 38 million was earmarked for the period 2000 to 2004 to allow Malta to prepare for accession and implement the Community *acquis*, mainly through administrative capacity building projects and participation in Community programmes and agencies, including research and technical development framework programmes. In addition, Malta remains eligible for MEDA regional programmes and EIB loans.

In 2000, EUR 6 million was committed to finance capacity building projects in the fields of customs, tax, agriculture as well as Malta's participation in Community Education and Youth programmes. In 2001, EUR 7,5 million was committed to finance capacity building projects in the fields of borders control and asylum, occupational health and safety, standardisation, and regional policy, as well as Malta's continued participation in Community Education and Youth programmes.

6. **Conditionality**

Community assistance for financing projects is conditional on respect by Malta of its commitments under the Association Agreement, further steps towards satisfying the Copenhagen criteria and in particular progress in meeting the specific priorities of this revised Accession Partnership. Failure to respect these general conditions could lead to a Decision by the Council on the suspension of financial assistance on the basis of Article 4 of Regulation (EC) No 622/98.

7. **Monitoring**

The implementation of the Accession Partnership is monitored in the framework of the Association Agreement and in particular in the Association Committee.

Council Regulation (EC) No 555/2000 provides that 'the Commission shall be assisted by the Committee provided for in Article 9(1) of Council Regulation (EEC) No 3906/89'. This means that the Management Committee that shall supervise the pre-accession programmes with Malta is the same as for the PHARE programme.

The Accession Partnership will continue to be amended as necessary in accordance with Article 2 of Regulation (EC) No 622/98.