

List referred to in Article 24 of the Act of Accession: Malta

1. FREE MOVEMENT OF GOODS

1. Treaty establishing the European Community, Title I, Free Movement of Goods.

For the purposes of application of Article 31 of the EC Treaty, Malta shall adjust the market in the importation, stocking and wholesale marketing of petroleum products by 31 December 2005. In this context, Malta shall also ensure that trading licences are issued in time for operations by licensees to commence no later than 1 January 2006.

2. 32001 L 0083: Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

By way of derogation from the requirements of quality, safety and efficacy laid down in Directive 2001/83/EC, marketing authorisations for the pharmaceutical products on the list (in Appendix A to this Annex as provided by Malta in one language) issued under Maltese law prior to the date of accession, shall remain valid until they are renewed in compliance with the *acquis* or until 31 December 2006, whichever is the earlier. Notwithstanding the provisions of Title III, Chapter 4, of the Directive, marketing authorisations covered by this derogation shall not benefit from mutual recognition in the Member States.

2. FREEDOM OF MOVEMENT FOR PERSONS

Treaty establishing the European Community;

31968 L 0360: Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (OJ L 257, 19.10.1968, p. 13), as last amended by:

- 11994 N: Act concerning the conditions of accession and the adjustments to the Treaties – Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ C 241, 29.8.1994, p. 21);

31968 R 1612: Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257, 19.10.1968, p. 2), as last amended by:

- 31992 R 2434: Council Regulation (EEC) No 2434/92 of 27.7.1992 (OJ L 245, 26.8.1992, p. 1).

1. Article 39 of the EC Treaty shall fully apply only, in relation to the freedom of movement of workers in Malta, subject to the transitional provisions laid down in paragraphs 2 to 4.

2. Malta may resort to the procedures set out in the subparagraphs below until the end of the seven year period following the date of accession.

When Malta undergoes or foresees disturbances on its labour market which could seriously threaten the standard of living or level of employment in a given region or occupation, it shall inform the Commission and the other Member States thereof and shall supply them with all relevant particulars. On the basis of this information, Malta may request the Commission to state that the application of Articles 1 to 6 of Regulation (EEC) No 1612/68 be wholly or partially suspended, in order to restore to normal the situation in that region or occupation. The Commission shall decide on the suspension and on the duration and scope thereof not later than two weeks after receiving such a request and shall notify the Council of such a decision. Any Member State may, within two weeks from the date of the Commission's Decision, request the Council to annul or amend the Decision. The Council shall act on such a request within two weeks, by qualified majority.

Malta may, in urgent and exceptional cases, suspend the application of Articles 1 to 6 of Regulation (EEC) No 1612/68, followed by a reasoned *ex-post* notification to the Commission.

3. In order to have advance notice of any situation that may require action in accordance with paragraph 2 above during the seven year period following the date of accession, Malta may also retain its work permit system for nationals of other Member States for whom Articles 1 to 6 of Regulation (EEC) No 1612/68 apply, but shall issue such work permits automatically.

4. In so far as certain provisions of Directive 68/360/EEC may not be dissociated from those of Regulation (EEC) No 1612/68 whose application may be suspended pursuant to paragraph 2, Malta may derogate from those provisions to the extent necessary for the application of paragraph 2.

3. COMPETITION POLICY

1. Treaty establishing the European Community, Title VI, Chapter 1, Rules on Competition.

Notwithstanding Articles 87 and 88 of the EC Treaty, Malta may maintain operating aid granted under the fiscal schemes under Regulations 4 and 6 of the Business Promotion Act until 31 December 2008, provided that the following conditions are fulfilled:

- the annual amount of aid accrued to one undertaking does not exceed MTL 7 200 per employee, or
- if calculated on the basis of profits eligible for aid, the annual amount does not exceed MTL 25 000 per employee where the applicable reduced rate of tax is 5% (under either of Regulations 4 and 6) or MTL 28 000 per employee where the reduced rate of tax is 10% or 15% (under either of Regulations 4 and 6).

2. Treaty establishing the European Community, Title VI, Chapter 1, Rules on Competition.
- (a) Notwithstanding Articles 87 and 88 of the EC Treaty, Malta may apply corporate tax exemptions granted up until 30 November 2000 on the basis of the Industrial Development Act and the Malta Freeport Act under the following conditions:
 - (i) for small and medium-sized enterprises, as defined in accordance with the Community definition ¹ of such enterprises and in conformity with Commission practice up to and including 31 December 2011.

In the event of a merger, acquisition or any similar event which involves the beneficiary of a tax exemption granted under the aforementioned legislation, the exemption from corporate tax shall be discontinued.

¹ Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises (OJ L 107, 30.4.1996, p. 4).

(ii) for other undertakings provided the following limitations on the aid amounts granted under the aforementioned legislation are respected:

(aa) State aid for regional investments:

- the aid shall not exceed a maximum of 75% of the eligible investment costs if the undertaking obtained the entitlement for the tax exemption before 1 January 2000. If the undertaking obtained the entitlement for the tax exemption during the year 2000, the total aid shall not exceed a maximum of 50% of the eligible investment costs;
- the period for calculation of aid to be included under the above mentioned ceilings of 75% and 50% shall start on 1 January 2001; all aid claimed and received on the basis of profits that precede this date shall be excluded from the calculation;
- there shall be no requirement to reimburse the aid if at the date of accession the undertaking already exceeded the applicable ceilings;

- for the purpose of calculating the total aid, account shall be taken of all aid granted to the beneficiary in relation to eligible costs, including aid granted under other schemes and irrespective of whether the aid is granted by local, regional, national or Community sources;
- eligible costs shall be defined on the basis of the Guidelines on national regional aid ¹;
- the eligible costs that may be taken into account are those incurred between 1 January 1995 and 31 December 2006 under the terms of an investment programme formally adopted by the beneficiary no later than 31 December 2002, and notified to the Ministry for Economic Services of the Republic of Malta by 31 March 2003.

(bb) State aid for training, research and development, and environmental investment:

- the aid shall not exceed the relevant aid intensity ceilings applicable to such aid objectives;

¹ OJ C 74, 10.3.1998, p. 9.

- the period for calculation of aid to be included under the applicable ceilings shall start on 1 January 2001; all aid claimed and received on the basis of profits that precede this date shall be excluded from the calculation;
- for the purpose of calculating the total aid, account shall be taken of all aid granted to the beneficiary in relation to eligible costs, including aid granted under other schemes and irrespective of whether the aid is granted by local, regional, national or Community sources;
- eligible costs shall be defined on the basis of the Community rules applicable to the aid objective concerned;
- there shall be no requirement to reimburse the aid if at the date of accession the undertaking already exceeded the applicable ceilings;
- the eligible costs that may be taken into account are those incurred between 1 January 1995 and 31 December 2006 under the terms of an investment programme formally adopted by the beneficiary no later than 31 December 2002, and notified to the Ministry for Economic Services of the Republic of Malta by 31 March 2003.

- (b) Any aid granted under the two schemes referred to above which is not brought into compliance with the conditions set out in (a) above by the date of accession shall be considered as new aid pursuant to the existing aid mechanism laid down in Annex IV, Chapter 3 on Competition Policy, to this Act.
 - (c) Malta shall supply the Commission:
 - two months after the date of accession, information on the fulfilment of the conditions set out in (a) above;
 - by the end of September 2007, information on the eligible investment costs effectively incurred by the beneficiaries under the aforementioned legislation, and on the total aid amounts received by the beneficiaries.
3. Treaty establishing the European Community, Title VI, Chapter 1, Rules on Competition.
- (a) Notwithstanding Articles 87 and 88 of the EC Treaty and subject to the conditions set out below, Malta may grant the following restructuring aid measures of a maximum overall amount of MTL 419 491 000 to Malta Drydocks and to Malta Shipbuilding Company Limited, or to any of their legal successors (hereinafter referred to as the "shipyards"), during the restructuring period from 2002 until the end of 2008, broken down as follows:

- debt write-off of up to MTL 300 000 000;
- investment aid of up to MTL 9 983 000 in accordance with the capital investment plan included in the restructuring plan;
- training grants of up to MTL 4 530 000;
- compensation for social costs of restructuring of up to MTL 32 024 000;
- aid for financial costs of up to MTL 17 312 000;
- other aid linked to financial costs of training grants and the capital investment subsidy of up to MTL 3 838 000;
- working capital subsidy of up to MTL 51 804 000. This operating aid element of the plan decreases over time, so that no more than 25% of the amount actually paid out may be paid out during the last four years of the restructuring plan.

The aid for each item shall not exceed the cost it is intended to cover, and shall be limited to the minimum necessary to attain the objectives of the restructuring plan.

- (b) Malta shall implement the restructuring of the shipyards on the basis of a restructuring plan which aims at achieving full viability no later than by the end of the restructuring period, and which respects the following conditions:
- (i) the aid shall only be granted once. No further aid shall be granted to the company owning the shipyards after 31 December 2008;
 - (ii) the man-hours available for the planned productive workforce for shipbuilding, ship repair and ship conversion of 1410 persons (after the restructuring) within the shipyards shall be 2,4 million man hours per annum;
 - (iii) the number of sold man-hours for ship-repair and ship-conversion shall not exceed 2 035 000 for any of the ten years following the beginning of the restructuring period;

- (iv) shipbuilding, as defined in Regulation (EC) No 1540/98 establishing new rules on aid to shipbuilding ¹, shall not exceed a maximum annual production of 10 000 compensated gross tonnage. The shipyards may deduct from their reported output the following operations which can be shown to have been outsourced: erection of scaffolding, internal transport, provisional services, guard services, construction of fixtures and models, ship cleaning services, insulation and laminating, bilge and ballast systems, fire-extinguishing and sprinkler systems, cableways (if not part of e-installation), e-installation (because of the generally high proportion of material costs they involve only 40% of documented costs shall be taken into account for these operations), rigging, locksmithery, mechanical processing, sanitation (excluding sanitary cells) and heating;

The total compensated gross tonnage of the shipbuilding contract in question may be reduced by the percentage accounted for by the above mentioned outsourced operations.

- (v) dock 1 of Malta Drydocks shall be closed to shipbuilding, ship conversion and ship repair for at least ten years from the date of the start of the restructuring period. If the closed dock is re-used for other activities, these must be independent of the companies owning the shipyards at present, and must not be related to shipbuilding, ship repair or ship conversion;

¹ OJ L 202, 18.7.1998, p. 1.

- (vi) with regard to the required reduction in manpower of the yards, Malta shall ensure that the necessary core workforce with the essential skill levels is retained;
 - (vii) training programmes associated with the restructuring plan must be compatible with the generally applicable Community rules;
 - (viii) any aid granted in breach of the above conditions shall be reimbursed.
- (c) If viability for the shipyards cannot be achieved owing to exceptional circumstances unforeseen at the time the restructuring plan was drawn up, the Commission may review the conditions set out in (b) above in accordance with the procedure provided for in Article 88(1) of the EC Treaty. Before beginning this procedure, the Commission shall take full account of the views of Member States on the existence of exceptional circumstances. These views shall be expressed on the basis of a Commission recommendation and on the basis of available relevant information and circumstances.

The overall aid amount referred to in (a) above shall not be exceeded under any circumstances.

- (d) Malta shall cooperate with the monitoring arrangements established by the Commission, including on-site inspections by independent experts, during the restructuring period.

Malta shall supply to the Commission yearly reports on the implementation of the plan. The reports shall include all relevant information to enable the Commission to assess the situation with regard to the implementation of the restructuring programme, including the pricing behaviour of the yards for new ship-repair and shipbuilding contracts obtained by the yards. The shipyard's yearly production report must specify the compensated gross tonnage of eligible outsourced works according to the actual period of time over which they were carried out by third parties and include this in the calculation of the compensated gross tonnage of the shipbuilding contract. In the case of ships the construction of which extends over two years, the compensated gross tonnage figure shall be frozen at the end of the year in order to prevent retroactive corrections. The shipyard must also be able to produce all contracts relating to the outsourcing of works contained in the list in subparagraph (b) (iv) for verification purposes.

Malta shall provide these reports within two months of the end of each year, beginning in March 2003. The last report shall be submitted by the end of March 2009, unless agreed otherwise by the Commission and Malta.

4. AGRICULTURE

A. AGRICULTURAL LEGISLATION

1. 31975 R 2759: Regulation (EEC) No 2759/75 of the Council of 29 October 1975 on the common organisation of the market in pigmeat (OJ L 282, 1.11.1975, p. 1), as last amended by:

- 32000 R 1365: Council Regulation (EC) No 1365/2000 of 19.6.2000 (OJ L 156, 29.6.2000, p. 5);

31975 R 2771: Regulation (EEC) No 2771/75 of the Council of 29 October 1975 on the common organisation of the market in eggs (OJ L 282, 1.11.1975, p. 49), as last amended by:

- 32002 R 0493 Commission Regulation (EC) No 493/2002 of 19.3.2002 (OJ L 77, 20.3.2002, p. 7);

31975 R 2777: Regulation (EEC) No 2777/75 of the Council of 29 October 1975 on the common organisation of the market in poultrymeat (OJ L 282, 1.11.1975, p. 77), as last amended by:

- 32002 R 0493 Commission Regulation (EC) No 493/2002 of 19.3.2002 (OJ L 77, 20.3.2002, p. 7);

31992 R 1766: Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals (OJ L 181, 1.7.1992, p. 21), as last amended by:

- 32000 R 1666: Council Regulation (EC) No 1666/2000 of 17.7.2000 (OJ L 193, 29.7.2000, p. 1);

31995 R 3072: Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice (OJ L 329, 30.12.1995, p. 18), as last amended by:

- 32002 R 0411 Commission Regulation (EC) No 411/2002 of 4.3.2002 (OJ L 62, 5.3.2002, p. 27);

31996 R 2200: Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables (OJ L 297, 21.11.1996, p. 1), as last amended by:

- 32002 R 1881: Council Regulation (EC) No 1881/2002 of 14.10.2002 (OJ L 285, 23.10.2002, p. 13);

31996 R 2201: Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products (OJ L 297, 21.11.1996, p. 29), as last amended by:

- 32002 R 0453: Commission Regulation (EC) No 453/2002 of 13.3.2002 (OJ L 72, 14.3.2002, p. 9);

31999 R 1254: Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal (OJ L 160, 26.6.1999, p. 21), as last amended by:

- 32001 R 2345: Commission Regulation (EC) No 2345/2001 of 30.11.2001 (OJ L 315, 1.12.2001, p. 29);

31999 R 1255: Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products (OJ L 160, 26.6.1999, p. 48), as last amended by:

- 32002 R 0509: Commission Regulation (EC) No 509/2002 of 21.3.2002 (OJ L 79, 22.3.2002, p. 15);

31999 R 1493: Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1), as last amended by:

- 32001 R 2585: Council Regulation (EC) No 2585/2001 of 19.12.2001 (OJ L 345, 29.12.2001, p. 10);

32001 R 1260: Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector (OJ L 178, 30.6.2001, p. 1), as last amended by:

- 32002 R 0680: Commission Regulation (EC) No 680/2002 of 19.4.2002 (OJ L 104, 20.4.2002, p. 26).

Special Market Policy Programme for Maltese Agriculture (SMPPMA)

- (a) Special temporary State aid to support agricultural producers

By way of derogation from Article 21 of Regulation (EEC) No 2759/75, Article 19 of Regulation (EEC) No 2771/75, Article 19 of Regulation (EEC) No 2777/75, Article 43 of Regulation (EC) No 2200/96, Article 23 of Regulation (EC) No 2201/96, Article 38(1) of Regulation (EC) No 1255/1999 and Article 71 of Regulation (EC) No 1493/1999, Malta may grant special temporary State aid to producers of tomatoes for processing, fresh fruit and vegetables, wine, pigmeat, milk, poultry and eggs. This assistance shall be adapted in each sector concerned taking account of the assistance existing under the current common agricultural policy rules.

Such aid may be granted during a period of seven years from the date of accession for animal products and 11 years from the date of accession for crops, in accordance with the following schedule of degressivity:

for animal products: 1st year 100%, 2nd year 95%, 3rd year 90%, 4th year 72%, 5th year 54%, 6th year 36% and 7th year 18%;

for crops: 1st – 2nd year 100%, 3rd – 4th year 95%, 5th-6th year 90%, 7th year 75%, 8th year 60%, 9th year 45%, 10th year 30%, and 11th year 15%.

Such aid shall be limited to the following amounts in each sector:

Programme for crops (EUR million)					
Year	Tomatoes for processing sector, including additional aid	Wine sector, including additional aid	Fresh fruit sector	Fresh vegetables sector	Total for crops
2004	1,37	2,76	2,43	0,96	7,52
2005	1,48	2,62	2,43	0,96	7,49
2006	2,68	1,23	2,31	0,91	7,13
2007	2,68	1,10	2,31	0,91	7,00
2008	2,63	1,04	2,18	0,86	6,71
2009	2,63	0,94	2,18	0,86	6,61
2010	2,15	0,83	1,82	0,72	5,52
2011	1,46	0,83	1,46	0,57	4,32
2012	0,85	0,76	1,10	0,43	3,14
2013	0,42	0,51	0,73	0,29	1,95
2014	0,18	0,36	0,37	0,15	1,06
TOTAL	18,53	12,98	19,32	7,62	58,45

Programme for animal products (EUR million)					
Year	SMPPMA programme for the dairy sector, including restructuring aid	Pigmeat sector, including restructuring aid	Eggs sector, including restructuring aid	Poultry meat sector, including restructuring aid	Total for animal products, including restructuring aid
2004	2,50	5,40	2,30	1,80	12,0
2005	2,45	5,17	2,18	1,70	11,5
2006	2,40	4,94	2,03	1,63	11,0
2007	1,97	4,15	1,70	1,38	9,20
2008	1,63	3,28	1,34	1,15	7,40
2009	1,28	2,46	0,99	0,87	5,60
2010	0,94	1,65	0,59	0,62	3,80
TOTAL	13,17	27,05	11,13	9,15	60,5

For each sector, State aid may only be allocated within the following quantitative ceilings:

Crops (annual quantities):

Tomatoes for processing: 27 000 tonnes

Fresh fruit: 19 400 tonnes

Fresh vegetables: 38 200 tonnes

Wine: 1000 ha

Animal products (annual quantities):

Dairy: 45 000 tonnes

Pigmeat: 125 200 heads

Poultry: 7 000 tonnes

Eggs: 5 000 tonnes

- (b) Special temporary State aid to support processors and recognised retailers of imported agricultural products

By way of derogation from Article 21 of Regulation (EEC) No 2759/75, Article 19 of Regulation (EEC) No 1766/92, Article 19 of Regulation (EC) No 3072/95, Article 23 of Regulation (EC) No 2201/96, Article 40 of Regulation (EC) No 1254/1999, Article 38(1) of Regulation (EC) No 1255/1999 and Article 45 of Regulation (EC) No 1260/2001, Malta may grant special temporary State aid to support the purchase of imported agricultural products which before accession benefited from export refunds or which were imported from third countries without duties provided that Malta provides a mechanism to guarantee that the support is effectively passed on to consumers. The aid shall be calculated on the basis of, and must not exceed, the price differential between EU prices (including transport) and the world market ones, and shall take into account the level of export refunds.

Such State aid shall be applied degressively over a maximum period of seven years from the date of accession: 1st year 100%, 2nd year 95%, 3rd year 90%, 4th – 7th years 18% reduction per year.

Such aid shall be limited to the following amounts in each sector:

Supply measures

EUR million

Products	2004	2005	2006	2007	2008	2009	2010	Total
Cereals	3,0	2,9	2,7	2,2	1,6	1,1	0,5	14,0
Sugar	11,0	10,5	9,9	7,9	5,9	4,0	2,0	51,2
Meat products	0,8	0,8	0,8	0,6	0,5	0,3	0,2	3,9
Dairy products	1,0	1,0	0,9	0,7	0,5	0,4	0,2	4,7
Semi-processed tomato products	0,8	0,8	0,7	0,6	0,4	0,3	0,1	3,7
Total								77,4

For each sector, State aid may only be allocated within the following quantitative ceilings:

Sugar	
Product	Quantity (tonnes per year)
Sugar	35 000

Cereals	
Product	Quantity (tonnes per year)
Common wheat and meslin seed	52 000
Barley, excluding barley seeds	61 000
Maize (corn), excluding seeds	62 000
Rice	3 000
Malt of other cereals excluding wheat flour	2 500
Semolina (groats and meal of durum wheat)	3 500

Dairy Products	
Product	Quantity (tonnes per year)
Milk cream in powder or other solid form, fat content <1,5%	521
Natural butter fat content ≤85% immediate pack	250
Other butter, fat content ≤85% immediate pack	250
Cheddar cheese	1 200
Edam cheese	1 000
Other processed cheese (Kefalo-tyri, etc.)	1 500

Meat products	
Product	Quantity (tonnes per year)
Hindquarters of bovine with bone frozen	4 200
Boneless crop chuck and blade and brisket cut bovine frozen	2 000
Other prepared processed domestic swine products	500
Corned beef in airtight containers	1 200

Other Products	
Product	Quantity (tonnes per year)
Prepared tomatoes dry matter content >30% in packs >3kg	5 500
Tomatoes preserved whole or in pieces in containers >3kg	3 000

- (c) With regard to each of the agricultural products covered by the SMPPMA, the general economic safeguard clause set out in Article 37 of this Act shall be applicable for Malta up to five years after the date of accession.
- (d) Malta shall submit annual reports to the Commission on the implementation of the State aid measures, indicating the form of the aid and the amounts per sector.

2. 31992 R 3950: Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector (OJ L 405, 31.12.1992, p. 1), as last amended by:

- 32002 R 0582: Commission Regulation (EC) No 582/2002 of 4.4.2002 (OJ L 89, 5.4.2002, p. 7).

By way of derogation from Article 11 of Regulation (EEC) No 3950/92, the representative fat content of milk delivered shall be determined for Malta after a period of five years from the date of accession.

Until the representative fat content is determined, the comparison of fat content for the purpose of calculating the additional levy as laid down in Articles 3 and 4 of Regulation (EC) No 1392/2001 laying down detailed rules for applying Regulation (EEC) No 3950/92 ¹, shall not be applicable in Malta.

¹ OJ L 187, 10.7.2001, p. 19.

3. 31996 R 2201: Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products (OJ L 297, 21.11.1996, p. 29), as last amended by:

– 32002 R 0453: Commission Regulation (EC) No 453/2002 of 13.3.2002 (OJ L 72, 14.3.2002, p. 9).

By way of derogation from Article 3(1) of Regulation (EC) No 2201/96, in the course of the marketing years 2004/2005 to 2008/2009, contracts between processors and individual producers shall be eligible for the scheme referred to in Article 2 of that Regulation. Out of the total quantity of tomatoes contracted for by any processor, the share of the quantities under contracts between processors and individual producers shall account for a maximum of 75% during the 2004/2005 marketing year, 65% during the 2005/2006 marketing year, 55% during the 2006/2007 marketing year, 40% during the 2007/2008 marketing year and 25% during the 2008/2009 marketing year. The existing Maltese cooperatives and other associations of producers which have not been recognised as producer organisations under Community legislation shall be considered as "individual producers".

4. 31997 R 2597: Council Regulation (EC) No 2597/97 of 18 December 1997 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk (OJ L 351, 23.12.1997, p. 13), as last amended by:

- 31999 R 1602: Council Regulation (EC) No 1602/1999 of 19.7.1999 (OJ L 189, 22.7.1999, p. 43).

By way of derogation from Article 3(1)(b) of Regulation (EC) No 2597/97 the requirements relating to the minimum fat content of whole milk shall not apply to drinking milk produced in Malta for a period of five years from the date of accession. Drinking milk which does not comply with the requirements relating to fat content may be marketed only in Malta or exported to a third country.

5. 31999 R 1254: Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal (OJ L 160, 26.6.1999, p. 21), as last amended by:

- 32001 R 2345: Commission Regulation (EC) No 2345/2001 of 30.11.2001 (OJ L 315, 1.12.2001, p.29).

By way of derogation from Article 12(1) and (2) of Regulation (EC) No 1254/1999, in Malta the application of the stocking density shall be gradually phased in on a linear basis from 4,5 LU per hectare for the first year after accession to 1,8 LU per hectare five years after accession. During this period, for determining the stocking density on the holding, account shall not be taken of dairy cows needed to produce the total reference quantity of milk allocated to the producer.

Malta shall submit a report on the implementation of this measure to the Commission by 31 December 2007.

6. 31999 R 1493: Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1), as last amended by:

– 32001 R 2585: Council Regulation (EC) No 2585/2001 of 19.12.2001 (OJ L 345, 29.12.2001, p. 10).

By way of derogation from Annex V, point C.3, of Regulation (EC) No 1493/1999, Malta may until 31 December 2008 maintain the minimum natural alcoholic strength of wine produced from the indigenous vine varieties Ġellewża and Ghirgentina at 8% vol. with an allowable increase in natural alcoholic strength (enrichment) not exceeding 3% vol.

During this period Malta shall ensure the effective adaptation of viticultural techniques in order to enable the production of high quality wine grapes of indigenous character by 31 December 2008.

7. 32001 R 1260: Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector (OJ L 178, 30.6.2001, p. 1), as last amended by:

– 32002 R 0680: Commission Regulation (EC) No 680/2002 of 19.4.2002 (OJ L 104, 20.4.2002, p. 26).

By way of derogation from Article 45 of Regulation (EC) No 1260/2001 and the corresponding Articles of the other regulations on the common organisation of agricultural markets, Malta may for a period of five years from the date of accession grant State aid for the ferry transport of agricultural products from Gozo on a linear degressive basis (20% reduction per year).

Malta shall submit an annual report to the Commission on the implementation of the State aid measures, indicating the form of the aid and the amounts.

B. VETERINARY AND PHYTOSANITARY LEGISLATION

I. VETERINARY LEGISLATION

1. 31992 L 0046: Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products (OJ L 268, 14.9.1992, p. 1), as last amended by:

– 31996 L 0023: Council Directive 96/23/EC of 29.4.1996 (OJ L 125, 23.5.1996, p. 10).

(a) Until 31 December 2009 the milk establishment listed in Appendix B to this Annex may receive deliveries of raw milk which do not comply with Annex A, Chapter IV, of Directive 92/46/EEC or which come from dairy farms which do not comply with Annex A, Chapters I and II, of that Directive, provided that those farms are mentioned on a list maintained for that purpose by the Maltese authorities.

- (b) As long as the establishment referred to in paragraph (a) above benefits from the provisions of that paragraph, products originating from that establishment shall only be placed on the domestic market, irrespective of the date of marketing. Such products must bear a special health mark.
 - (c) Malta shall ensure gradual compliance with Annex A of Directive 92/46/EEC in dairy farms and shall submit annual reports to the Commission on the progress made in upgrading and restructuring each of the farms and in the control of mastitis in herds in order to meet the hygiene and quality requirements of Directive 92/46/EEC.
 - (d) Detailed implementing rules to ensure the smooth operation of the above transitional regime shall be adopted in accordance with Article 31 of Directive 92/46/EEC.
2. 31999 L 0074: Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens (OJ L 203, 3.8.1999, p. 53).

Until 31 December 2006, 12 establishments in Malta listed in Appendix C to this Annex may maintain in service existing cages not meeting the minimum requirements laid down in Article 5(1)(4) and Article 5(1)(5) of Directive 1999/74/EC for minor construction elements (height and floor slope only), provided that the cages are at least 36 cm high over at least 65% of the cage area and not less than 33 cm high at any point and have a floor slope not greater than 16%.

II. PHYTOSANITARY LEGISLATION

32002 L 0053: Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.7.2002, p. 1);

32002 L 0055: Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed (OJ L 193, 20.7.2002, p. 33).

Malta may postpone for a period of five years following the date of accession the application of Directives 2002/53/EC and 2002/55/EC with regard to the marketing in its territory of seeds of varieties listed in its respective national catalogues of varieties of agricultural plant species and varieties of vegetable plant species which have not been officially accepted in accordance with the provisions of those Directives. During that period, such seeds shall not be marketed in the territory of other Member States.

5. FISHERIES

31992 R 3760: Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture (OJ L 389, 31.12.1992, p. 1), as last amended by:

- 31998 R 1181: Council Regulation (EC) No 1181/98 of 4.6.1998 (OJ L 164, 9.6.1998, p. 1).

Regulation (EEC) No 3760/92 shall apply to Malta subject to the following specific provisions:

Malta's share of the Community's fishing possibilities for bluefin tuna will be determined by the Council acting by qualified majority on a proposal from the Commission following recognition by the International Commission for the Conservation of Atlantic Tunas (ICCAT) upon Malta's accession to the Union that Malta's catch limit in accordance with ICCAT Recommendation 94-11 is added to the Community's present fishing possibilities.

6. TRANSPORT POLICY

1. 31992 L 0006: Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ L 57, 2.3.1992, p. 27).

By way of derogation from Article 2 and Article 3(1) of Directive 92/6/EEC, motor vehicles engaged exclusively in domestic transport operations in Malta need not be equipped with speed limitation devices until 31 December 2005.

2. 31996 L 0096: Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers (OJ L 46, 17.2.1997, p. 1), as last amended by:

– 32001 L 0011: Commission Directive 2001/11/EC of 14.2.2001 (OJ L 48, 17.2.2001, p. 20).

By way of derogation from Article 1 of Directive 96/96/EC, the following items shall not be tested as regards the following categories, listed in Annexes I and II to the Directive, of motor vehicles engaged exclusively in domestic transport operations in Malta until 31 December 2004:

- item 5.3 for vehicle categories 1-6;
- items 6.1.6, 6.2, 7.1, 7.8, 7.9 and 7.10 for vehicle categories 1-3; and
- items 6.2 and 7.5 for vehicle categories 4-6.

3. 31999 L 0062: Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures. (OJ L 187, 20.7.1999, p. 42).

By way of derogation from Article 6(1) of Directive 1999/62/EC, the minimum tax rates laid down in Annex I to the Directive shall not apply in Malta to vehicles engaged in international transport operations until 31 December 2004. During this period, the rates to be applied by Malta to these vehicles shall not be less than 80% of the minima laid down in Annex I to the Directive.

By way of derogation from Article 6(1) of Directive 1999/62/EC, the minimum tax rates laid down in Annex I to the Directive shall not apply in Malta to vehicles engaged exclusively in domestic transport operations until 31 December 2005. During this period, the rates to be applied by Malta to these vehicles shall not be less than 65% of the minimum laid down in Annex I to the Directive.

7. TAXATION

31977 L 0388: Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1), as last amended by:

– 32002 L 0038: Council Directive 2002/38/EC of 7.5.2002 (OJ L 128, 15.5.2002, p. 41).

1. By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Malta may maintain an exemption with refund of tax paid at the preceding stage on the supply of foodstuffs for human consumption and pharmaceuticals until 1 January 2010.

2. For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Malta may maintain the following exemptions:

- (a) from value added tax on inland passenger transport, international passenger transport and domestic inter-island sea passenger transport, referred to in point 17 of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier,
- (b) from value added tax without credit for input VAT on the supply of water by public authorities, referred to in point 12 of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier,
- (c) from value added tax without credit for input VAT on the supply of buildings and building land, referred to in point 16 of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier.

8. SOCIAL POLICY AND EMPLOYMENT

1. 31989 L 0655: Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 393, 30.12.1989, p. 13), as last amended by:

– 32001 L 0045: Directive 2001/45/EC of the European Parliament and of the Council of 27.6.2001 (OJ L 195, 19.7.2001, p. 46).

In Malta, Directive 89/655/EEC shall not apply until 1 January 2006 in respect of work equipment already in use on the date of accession.

As from the date of accession and until the end of the above period, Malta will continue to provide the Commission with regularly updated information on the timetable and the measures taken to ensure compliance with the Directive.

2. 31993 L 0104: Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993, p. 18), as amended by:

- 32000 L 0034: Directive 2000/34/EC of the European Parliament and of the Council of 22.6.2000 (OJ L 195, 1.8.2000, p. 41).

In Malta, Article 6(2) of Directive 93/104/EC shall not apply until 31 July 2004 in the manufacturing sub-sectors of food and beverages, textiles, clothing and footwear, transport equipment, electrical machinery, appliances and supplies, and furniture; and until 31 December 2004 in respect of collective agreements existing on 12 December 2001 in the above mentioned manufacturing sub-sectors where these agreements contain clauses relevant for Article 6(2) with validity beyond July 2004.

9. ENERGY

31968 L 0414: Council Directive 68/414/EEC of 20 December 1968 imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products (OJ L 308, 23.12.1968, p. 14), as last amended by:

- 31998 L 0093: Council Directive 98/93/EC of 14.12.98 (OJ L 358, 31.12.1998, p. 100).

By way of derogation from Article 1(1) of Directive 68/414/EEC, the minimum level of stocks of petroleum products shall not apply in Malta until 31 December 2006. Malta shall ensure that its minimum level of stocks of petroleum products corresponds, for each of the categories of petroleum products listed in Article 2, to at least the following number of days' average daily internal consumption as defined in Article 1(1):

- 40 days of product category "motor spirit and aviation fuel" and 45 days of the remaining product categories by the date of accession;
- 55 days of product category "motor spirit and aviation fuel" and 60 days of the remaining product categories by 31 December 2004;
- 90 days for all product categories by 31 December 2006.

10. ENVIRONMENT

A. AIR QUALITY

31994 L 0063: European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations (OJ L 365, 31.12.1994, p. 24).

1. By way of derogation from Article 4 and Annex II of Directive 94/63/EC, the requirements for loading and unloading equipment at terminals shall not apply in Malta until 31 December 2004 to 4 gantries in the Enemalta terminal with a throughput greater than 25 000 tonnes/year.
2. By way of derogation from Article 5 of Directive 94/63/EC, the requirements for existing mobile containers at terminals shall not apply in Malta until 31 December 2004 to 25 road tankers.
3. By way of derogation from Article 6 and Annex III of Directive 94/63/EC, the requirements for loading into existing storage installations at service stations shall not apply in Malta:
 - until 31 December 2004 to 61 service stations with a throughput greater than 1000 m³/year;

- until 31 December 2004 to 13 service stations with a throughput greater than 500 m³/year;
- until 31 December 2004 to 8 service stations with a throughput equal to or less than 500 m³/year.

B. WASTE MANAGEMENT

1. 31993 R 0259: Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ L 30, 6.2.1993, p. 1), as last amended by:

- 32001 R 2557: Commission Regulation (EC) No 2557/2001 of 28.12.2001 (OJ L 349, 31.12.2001, p. 1).

(a) Until 31 December 2005, all shipments to Malta of waste for recovery listed in Annexes II, III and IV to Regulation (EEC) No 259/93 and shipments of waste for recovery not listed in those Annexes shall be notified to the competent authorities and processed in conformity with Articles 6, 7 and 8 of the Regulation.

(b) By way of derogation from Article 7(4) of Regulation (EEC) No 259/93, the competent authorities shall object to shipments of waste for recovery listed in Annexes II, III and IV to the Regulation and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants ¹, during the period in which the temporary derogation is applied to the facility of destination.

2. 31994 L 0062: European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

(a) By way of derogation from Article 6(1)(a) of Directive 94/62/EC, Malta shall attain the overall recovery targets for the following packaging materials by 31 December 2009 in accordance with the following intermediate targets:

- recycling of plastics: 5% by weight by the date of accession, 5% for 2004, 5% for 2005, 7% for 2006, 10% for 2007 and 13% for 2008;
- overall recycling target: 18% by weight by the date of accession, 21% for 2004 and 25% for 2005;

¹ OJ L 309, 27.11.2001, p. 1.

- overall recovery target: 20% by weight by the date of accession, 27% for 2004, 28% for 2005, 34% for 2006, 41% for 2007 and 47% for 2008.

- (b) By way of derogation from Article 18 of Directive 94/62/EC, the requirement not to impede the placing on the market on Malta's territory of packaging which satisfies the provisions of the Directive shall not apply in Malta until 31 December 2007 to the requirements under Maltese national legislation that beverage packaging for carbonated beverages with less than 2% alcohol content shall be sold in refillable glass bottles or dispensed from metal kegs.

C. WATER QUALITY

1. 31983 L 0513: Council Directive 83/513/EEC of 26 September 1983 on limit values and quality objectives for cadmium discharges (OJ L 291, 24.10.1983, p. 1), as last amended by:

- 31991 L 0692: Council Directive 91/692/EEC of 23.12.1991 (OJ L 377, 31.12.1991, p. 48).

By way of derogation from Article 3 and Annex I of Directive 83/513/EEC, the limit values for discharges of cadmium into the waters referred to in Article 1 of Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community¹, shall not apply in Malta until 31 December 2004 to Ras il-Hobż outfall, until 31 December 2006 to Iċ-Ċumnija outfall and until 31 March 2007 to Wied Għammieq outfall.

2. 31986 L 0280: Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC (OJ L 181, 4.7.1986, p. 16), as last amended by:

– 31991 L 0692: Council Directive 91/692/EEC of 23.12.1991 (OJ L 377, 31.12.1991, p. 48).

¹ OJ L 129, 18.5.1976, p. 23. Directive as last amended by Directive 2000/60/EC (OJ L 327, 22.12.2000, p. 1).

By way of derogation from Article 3 and Annex II of Directive 86/280/EEC, the limit value for discharges of chloroform into the waters referred to in Article 1 of Council

Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community¹ shall not apply in Malta until 30 September 2004 to Marsa and Delimara power plants, until 31 December 2004 to Ras il-Hobż outfall, until 31 December 2006 to Iċ-Ċumnija outfall and until 31 March 2007 to Wied Għammieq outfall. In addition, the limit values for discharges of trichloroethylene and perchloroethylene shall not apply in Malta until 31 December 2004 to Ras il-Hobż outfall, until 31 December 2006 to Iċ-Ċumnija outfall and until 31 March 2007 to Wied Għammieq outfall.

3. 31991 L 0271: Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40), as amended by:

– 31998 L 0015: Commission Directive 98/15/EC of 27.2.1998 (OJ L 67, 7.3.1998, p. 29).

(a) By way of derogation from Article 3 of Directive 91/271/EEC, the requirements for collecting systems for urban waste water shall not fully apply in Malta until 31 October 2006 in accordance with the following intermediate targets:

– by accession, compliance with the Directive shall be achieved for Marsa Land and Gozo-Main representing 24% of the total biodegradable load;

¹ OJ L 129, 18.5.1976, p. 23. Directive as last amended by Directive 2000/60/EC (OJ L 327, 22.12.2000, p. 1).

- by 30 June 2004, compliance with the Directive shall be achieved for Malta South representing a further 67% of the total biodegradable load;
 - by 31 December 2005, compliance with the Directive shall be achieved for Gharb in Gozo and Nadur in Gozo representing a further 1% of the total biodegradable load.
- (b) By way of derogation from Article 4 of Directive 91/271/EEC, the requirements for treatment of urban waste water shall not fully apply in Malta until 31 March 2007 in accordance with the following intermediate targets:
- by accession, compliance with the Directive shall be achieved for Marsa Land representing 19% of the total biodegradable load;
 - by 31 October 2004, compliance with the Directive shall be achieved for Gozo-Main representing a further 5% of the total biodegradable load;
 - by 31 December 2005, compliance with the Directive shall be achieved for Gharb in Gozo and Nadur in Gozo representing a further 1% of the total biodegradable load;

- by 31 October 2006, compliance with the Directive shall be achieved for Malta North representing a further 8% of the total biodegradable load.

4. 31998 L 0083: Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

By way of derogation from Articles 5(2) and 8 and part B of Annex I of Directive 98/83/EC, the values set for fluoride and nitrate parameters shall not apply in Malta until 31 December 2005.

D. NATURE PROTECTION

31979 L 0409: Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1), as last amended by:

- 31997 L 0049 : Commission Directive 97/49/EC of 29.7.1997 (OJ L 223, 13.8.1997, p. 9).

By way of derogation from Articles 5(a), 5(e), 8(1) and Annex IV(a) of Directive 79/409/EEC, *Carduelis cannabina*, *Carduelis serinus*, *Carduelis chloris*, *Carduelis carduelis*, *Carduelis spinus*, *Fringilla coelebs* and *Coccothraustes coccothraustes* may be deliberately captured until 31 December 2008 by traditional nets known as clap-nets within the Maltese islands exclusively for the purpose of keeping them in captivity in accordance with the following intermediate targets:

- by the date of accession at the latest, the Maltese Ornithological Committee will have been established, all trapping sites will have been registered, a pilot study for a captive breeding project and a study on mortality of finches in captivity will have been presented, the number and types of species held and bred in aviaries will have been assessed, as well as an information programme for implementation of a captive breeding system will have been presented to the Commission;
- by 30 June 2005 a captive breeding programme will have been introduced;
- by 31 December 2006 the success of the captive breeding system as well as the mortality rate of birds within the established captive breeding system will have been assessed;
- by June 2007 the number of captured wild birds required to sustain genetic diversity will have been assessed;

- by 31 December 2007, the Malta Ornithology Committee will have established the number of wild specimens per species that may be captured in line with the Directive to ensure sufficient genetic diversity of the captive species.

The measures taken during the transitional measure shall be in full accordance with the principles governing the timing of hunting of migratory bird species as outlined in Directive 79/409/EEC. The number of captured birds is expected to be significantly reduced during the transitional measure. Malta will report annually to the Commission on the application of this transitional measure and on progress achieved.

E. INDUSTRIAL POLLUTION CONTROL AND RISK MANAGEMENT

32001 L 0080: Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ L 309, 27.11.2001, p. 1).

By way of derogation from Article 4(1) and part A of Annex VII of Directive 2001/80/EC, the emission limit value for dust shall not apply until 31 December 2005 to Phase One of the Delimara power plant.

11. CUSTOMS UNION

31987 R 2658: Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1), as last amended by:

- 32002 R 0969: Commission Regulation (EC) No 969/2002 of 6.6.2002 (OJ L 149, 7.6.2002, p. 20).
- (a) By way of derogation from Article 5(1) of Regulation (EEC) No 2658/87, Malta may until the end of the fifth year following the date of accession or until 31 December 2008, whichever is the earlier, open yearly tariff quotas for woven fabrics of combed wool or of combed fine animal hair (CN Code 5112 11 10), denim (CN Code 5209 42 00), woven fabrics of artificial filament yarn (CN Code 5408 22 10) and other made-up clothing accessories (CN Code 6217 10 00), in accordance with the following schedule:
 - a zero rate of duty during the first and second years;
 - one third of the prevailing EU duty *ad valorem* during the third and fourth years;

- two thirds of the prevailing EU duty *ad valorem* during the fifth year;

for the following volumes:

- for CN Code 5112 11 10: a maximum of 20 000 square metres per year;
- for CN Code 5209 42 00: a maximum of 1 200 000 square metres per year;
- for CN Code 5408 22 10: a maximum of 110 000 square metres per year;
- for CN Code 6217 10 00: a maximum of 5 000 kilos per year,

provided that the goods in question:

- are used in the territory of Malta for the production of men's and boys' outerwear (not knitted or crocheted), and
- remain under customs supervision pursuant to the relevant Community provisions on end-use as laid down in Articles 21 and 82 of Council Regulation (EEC) No 2913/92 ¹ establishing the Community Customs Code.

¹ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

- (b) The provisions laid down above shall be applicable only if a licence issued by the relevant Maltese authorities stating that the goods in question fall within the scope of the provisions laid down above is submitted in support of the declaration of entry for release for free circulation.
- (c) The Commission and the competent Maltese authorities shall take whatever measures are needed to ensure that the goods in question are used for the production of men's and boys' outerwear (not knitted or crocheted) in the territory of Malta.