

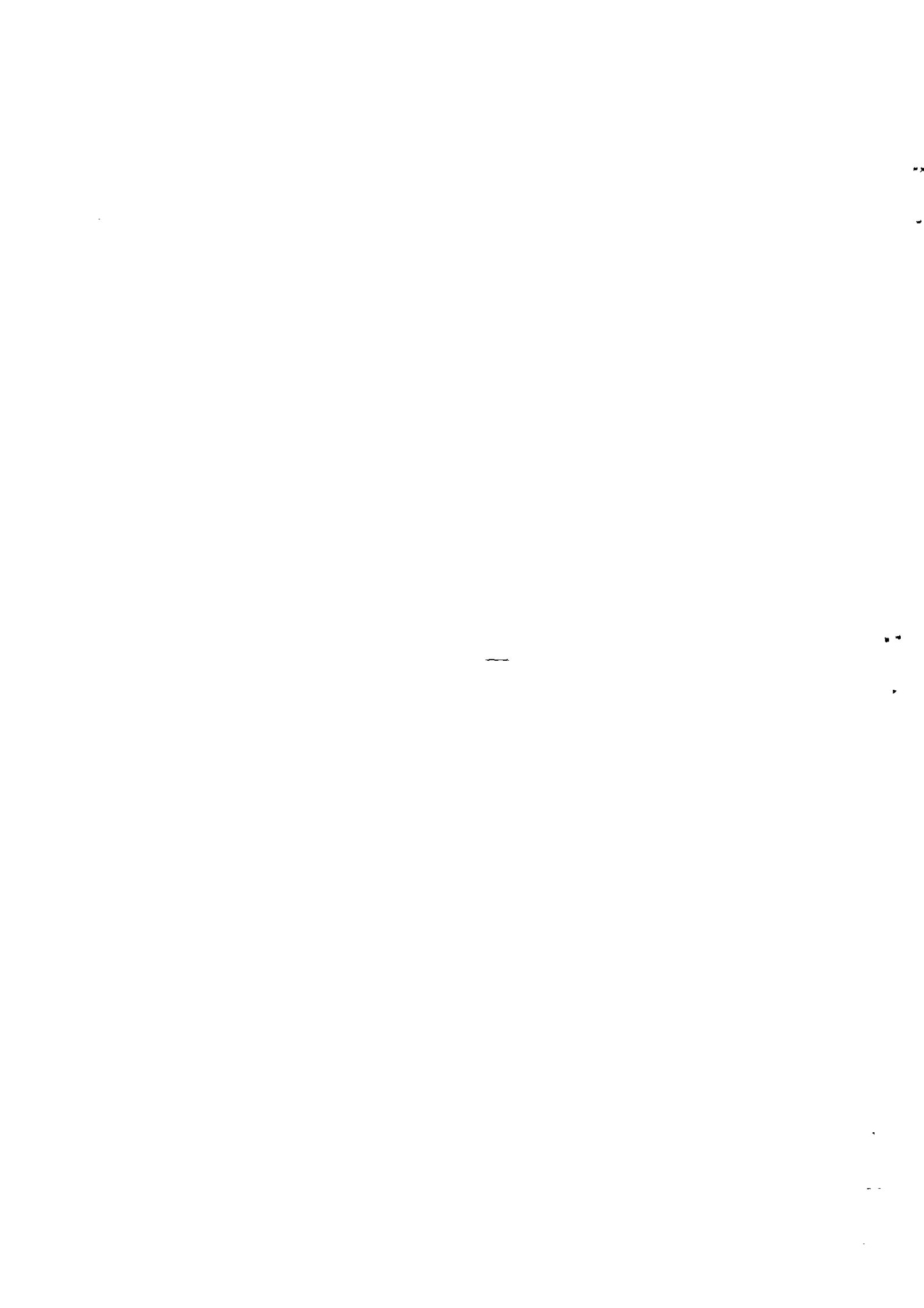
**ASSESSING MALTA'S BID TO JOIN THE
EUROPEAN UNION:**

The Case in Favour

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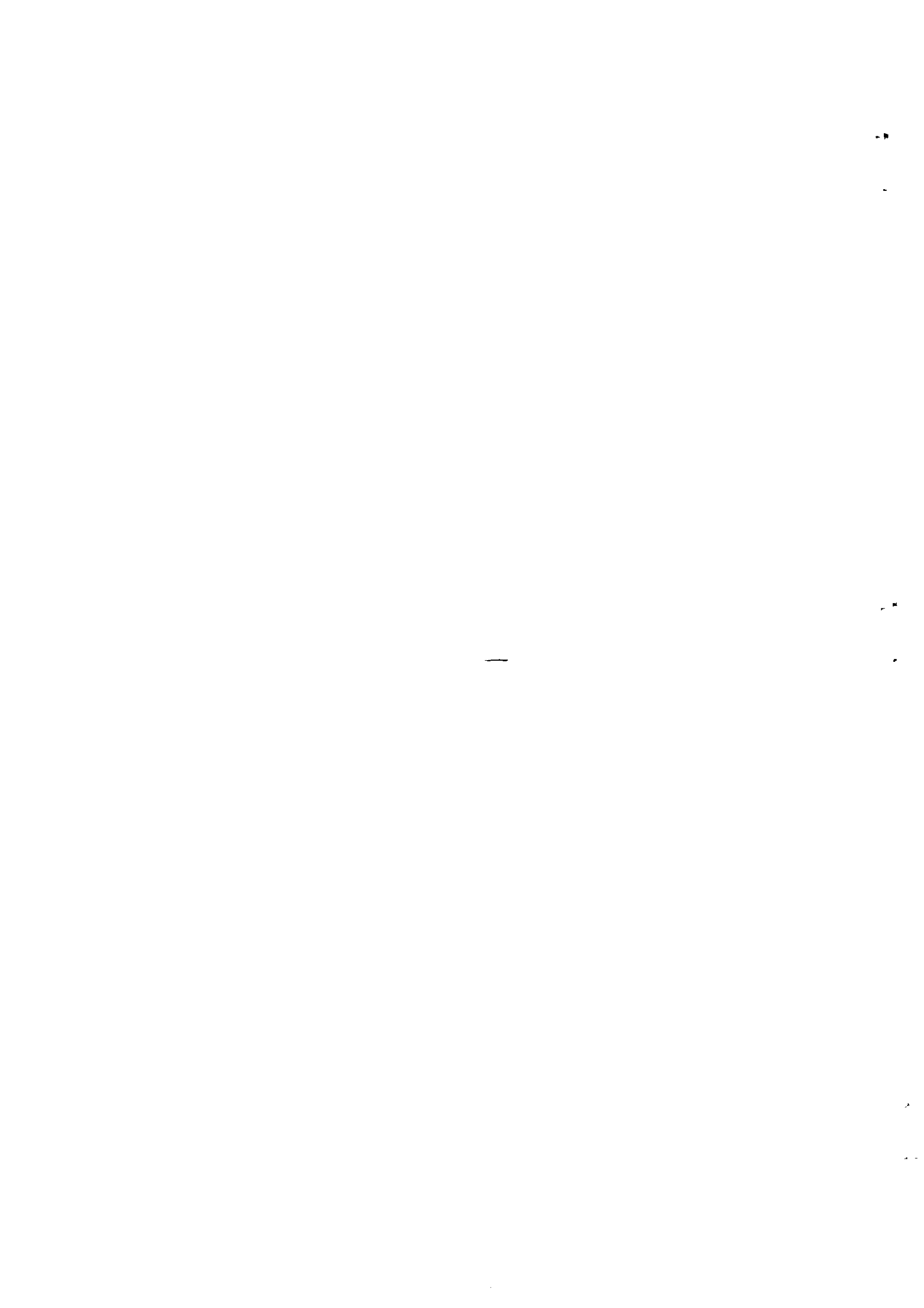
ASSESSING MALTA'S BID TO JOIN
THE EUROPEAN UNION:
The Case in Favour

by

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Introduction

Six months after the end of the 1996 EU Inter-Governmental Conference (IGC) on the institutions, the European Union has bound itself to open accession negotiations with Cyprus and Malta. This important milestone in the Mediterranean island states' EU membership bid came about as a result of very strong diplomatic pressure by Greece which blocked progress on the EU-Turkey Customs Union agreement until the rest of the member states had agreed on the setting of a definite date for the start of negotiations with Cyprus and with Malta as well. Meanwhile at the Essen European Council (9 and 10 December, 1994), European leaders invited Council to examine new reports to be presented by the Commission on Cyprus and Malta in early 1995. These reports deal largely with the way in which the applicant countries are coping with the economic and legal reform programmes, begun with a view to preparing them for eventual membership and initiated following the publication of their respective "avis" by the Commission of the European Communities.

From the Maltese perspective, there are two principal sets of reasons why Malta has applied to join the European Union. The first, though not necessarily first in order of importance, concerns the political considerations. One of Malta's main objectives is to overcome its geographical peripheral position in relation to Europe, by linking itself closer to the heart of European affairs.¹ Membership of the European Union also enhances its security in a region notorious for its instability. This point was made amply clear by the Prime Minister, Dr Eddie Fenech Adami, while delivering an address at the Paul Henri Spaak Foundation in Brussels in February 1994: *"We live in a dangerous sea. We have always lived in it. Yet today we have the opportunity of anchoring our country to an emerging political union which shares our moral values, our Christian culture and our beliefs in democracy, the rule of law and social justice. We see the EU gaining strength and cohesion, being endowed with its common foreign policy and tomorrow, perhaps, with its common security policy. Malta's security is the first aim of our foreign policy, and it is in our interest to belong to an entity which makes us more secure."*²

The second set of considerations is economic. In the first three quarters of 1994, no less than 83 per cent of domestic exports went to the European Union. Malta has targeted the Community as a market where its exports can grow and diversify. In this context, Malta's application to join the European Union can also be regarded as a manifestation of its disenchantment with its present trading arrangements with the EU and its desire for full integration with the Union. Consider, for example, the growing importance of the service sector for the Maltese economy, other than tourism which is marginally affected by Malta's relations with the Community: access for services in the European market is not covered by the 1970 Association Agreement and these will grow in importance for Malta in the future. For

example, it is known that Malta wants to join the single European air transport market. Whilst, geographically speaking, Malta is a peripheral country on the edges of the European continent, from the economic perspective, its position in the centre of Mediterranean, in the midst of the trade routes that criss-cross the "mare nostrum", gives it a strategic importance which it can exploit by developing services.

Further, Malta fulfils all the requirements of membership in accordance with article 237 of the Rome Treaty, and article O of the Treaty of Maastricht, whereby "*any European state may apply to become a member*" of the Union. Further, in article F of the Treaty of Maastricht it is stated that to be eligible for membership an applicant country must have a European identity, democratic status and respect human rights. Malta satisfies all criteria. In the words of the European Commission's avis on Malta's application to join the Union, published in June 1993: "*Bearing in mind the democratic status and consistent respect for human rights, Malta is entirely justified in asserting its vocation of membership of the European Union, a right that should be confirmed by the Community.*" The "avis" also spoke of Malta's indisputable European calling.³

Clearly, Malta's wish to join the European Union is motivated by the sense of exclusion that is natural to a small country on the periphery of Europe. This feeling of exclusion is rendered more acute as more states join the Union and as the number of applicants gathering on the EU's door step increases. Another factor contributing to this "exclusion" results from the EU's deepening of relations with its other European neighbours: for example, the conclusion of the European Economic Area agreement (EEA) with the EFTA group and relations with the countries of Central and Eastern Europe.

The Copenhagen European Council held on 21 and 22 June 1993, welcomed the Commission's intention of publishing its opinion on the membership applications of Malta and Cyprus and undertook to examine each applications rapidly and on its own merits.⁴ At its meeting of 4 October 1993, the General Affairs Council, adopted the opinion and invited the Commission "*to open an in-depth dialogue forthwith with the Maltese Government so as to define by common agreement the content of and timetable for the priority reforms to be implemented*", which reforms had been indicated in the Commission's opinion in preparation for Malta's eventual membership. This dialogue started on 6 October 1993.⁵

EC/EU-Malta Relations: Historical Background

The history of relations between the European Community and Malta can be divided into three stages, each having its own sub-stages. The first stage began in 1961, when Maltese politicians

awoke to the idea of Malta joining the European Community after gaining independence. The UK's application to join the European Community in 1962 landed the problem squarely in the lap of the Maltese government, led by the Nationalist Party which was seeking independence from the U.K. In September 1962, the Maltese Prime Minister, while in London to attend the Conference of Commonwealth leaders called to discuss Britain's application, stated that Malta would join the Community whether or not Britain joined.⁶ In 1963, one year before independence, basing itself on an interpretation of the Maltese constitution as giving the Government of Malta authority to negotiate trade agreements, and after obtaining the UK government's permission, a Maltese fact-finding mission went to Brussels to explore the possibility of an Association Agreement between the Community and Malta, to be concluded even before the latter had attained independence. The EEC's response was that such an agreement would only be possible after independence and that in the meantime Malta could sign an Interim Agreement.

The failure of Britain's first application removed the need for urgency. Malta became independent in 1964. Due to its economic dependence on the UK, and as long as the UK was out of the Community, economic wisdom dictated that Malta should not pursue relations with the Community for the time being. The economic situation in Britain, characterised chiefly by successive sterling crises and the imposition of exchange and import controls by the British Government in an attempt to control a deteriorating balance of payments position, convinced the Maltese Government to commence the process of weaning off the Maltese economy from over-reliance on the British market. The situation was compounded by the decision taken by the UK government to curtail its military commitments in the Mediterranean region. This entailed scaling down the UK military bases in Malta with the subsequent loss of employment opportunities for the many Maltese employed with them, not to mention the reduction of spending in the local economy, with all its resultant negative multiplier effects. Malta was constrained to seek ways of increasing the momentum of its economic growth, to absorb surplus labour, to seek foreign markets which would act as the engines of growth and to diversify from the increasingly unreliable British market in order to achieve its national economic development plans. Some form of relationship with the Community was seen as being conducive towards the achievement of these ends. In 1967, following the UK's second application to join the European Community, and three years after gaining independence, Malta asked Brussels for negotiations to conclude an Association Agreement on the model of the Athens agreement. Negotiations took three years to start but were commenced and completed in 1970. The signing of the Association Agreement took place on the 5 December 1970 at Valletta. Malta thus became the third European country to conclude an Association Agreement with the Community. The agreement provided for tariff reductions on the part of the Community on Maltese manufactures. It provided for two stages each, in principal, the

duration of five years. At the end of the second stage the two sides were to embark on a customs union.

The election of the socialist party to government in 1971 heralded the beginning of the second phase in the EC-Malta relationship. This period is characterised by two sub-phases. The first sub-phase began in 1971 with the new socialist government seeking to widen the scope of the 1970 agreement. The Community eventually accepted most of the Maltese proposals and on the basis of the then newly proclaimed "*Global Mediterranean Policy*" signed a number of new protocols with Malta further widening the scope of the 1970 Association Agreement and expanding the preferential treatment given to Maltese exports as well as adding financial cooperation via the first EC-Malta financial protocol. The first stage of the agreement was initially prolonged to 1977 to give the two sides more time to negotiate the content of the second stage. Subsequently, following further negotiations, it was prolonged once more to the end of 1980.

The second sub-stage in the relationship began in 1980 after the two sides failed to reach agreement on the second stage of the Association Agreement which was to lead to a customs union. Malta proposed instead a special relationship which would entail full access into the Community for both Maltese manufactured and agricultural products. Malta also asked to benefit from the structural funds. Such a special-relationship would have meant that Malta would gain the benefits of membership without the burdens. Since such a relationship would have raised serious precedents for the Community in its relations with third countries, it was roundly rejected by it and EC-Malta relations were stalemated.

With negotiations between the two sides stalled, the Community continued to renew the trade provisions of the agreement unilaterally in order not to affect negatively the Maltese economy. This period was one in which the Maltese government handled its relations with Brussels in such an aggressive manner that a negative attitude towards Malta was cultivated in Community institutions, prompting Alfred Tovas⁷ to write that Malta's negotiating tactics aroused ill-feelings in Brussels.

The third phase began in 1987 when the Nationalist Party was elected to govern. Malta began to show clearly that it wished to honour the new government's electoral commitment to seek membership of the Community and to turn around Malta's foreign policy towards strengthening relations with the West. The relationship with the Community was brought back on to a contractual and legal basis through the signing of more protocols, effectively prolonging the duration of the first stage indefinitely. In July 1990 Malta made a formal application to join the European Community.

The 1994 Greek Presidency: the Corfu and Essen Summits, and beyond

The Greek Presidency of the European Union which commenced in January 1994, instigated a few positive signals to Malta and Cyprus, which Greece described as neighbours of the Union in a very sensitive area, the Mediterranean. Greece also laid emphasis on the long association which Cyprus and Malta had with the EU as well as their geographical, historical and cultural closeness to Europe. Addressing the European Parliament, the Greek Minister Theodoros Pangalos, while reviewing the progress made as regards both EU membership applications stressed that Greece would promote both these countries' relations with the EU. He said that the Presidency was "*willing to play a political role in the meeting of the joint Parliamentary Committee on European Union/Malta, due in Valletta on 15-17 February*".⁸ Significantly, Greece insisted from the start that "*regardless of the progress on the Cyprus problem itself, Cyprus should accede to the European Union as soon as possible, something which will significantly help the efforts to find a solution to that problem*"⁹

In February 1994, while addressing the European Parliament, Mr Pangalos declared: "*The enlargement of the Community is a continuous process. When these four [EFTA] countries have joined, there are already two small Mediterranean countries hoping to join the Union and we must take a decision on 1 January, 1995. These countries are economically, politically and socially ready to join the Union; these small countries are Cyprus and Malta. Later on we shall have to study the possibility of seriously tackling the request to participate in the Union by Central European countries like Hungary and Poland.*"¹⁰ Greece re-emphasised this position in no uncertain terms when Foreign Minister Papoulias told the European Parliament that "*The present enlargement (to include the EFTA group) must, of course, be just the first phase in a process of gradual enlargement of the Union to embrace other countries, such as Cyprus and Malta which are able now to meet the economic and political conditions of entry, and the countries of central and eastern Europe which, we hope, will soon be able to meet the economic requirements for accession into a united Europe.*"¹¹

In the Conclusions of the Presidency of the Corfu Council held on the 24 and 25 June 1994, which brought to an end Greece's turn at the Presidency of the European Union it was stated:

"The European Council welcomes the significant progress made regarding the application by Cyprus and Malta for accession to the European Union and

considers that an essential stage in the preparation process could be regarded as completed.

The European Council asks the Council and the Commission to do their utmost to ensure that the negotiations with Malta and Cyprus with a view to the conclusion of the fourth financial protocols, intended in particular to support the efforts of Malta and Cyprus towards integration into the European Union, are brought to a rapid conclusion.

The European Council notes that in these conditions the next phase of enlargement will involve Cyprus and Malta." 12

The Council did not give the green light for the start of negotiations with Cyprus and Malta. The commitment to involve Cyprus and Malta in the next enlargement was positive but vague, since no date for this next phase in European integration has been proposed or envisaged. Now that the European Union has membership applications from Hungary and Poland, it may imply that Cyprus and Malta will have to wait until the next enlargement which will include the Central and Eastern European applicants. Given the level of economic development of the two Mediterranean applicants when compared to that of their Eastern European counterparts, and their long-standing relationship with the Union, if this is the course which the EU will follow, then the Mediterranean applicants are being severely penalised, both economically and politically, by being included with the former, and by being forced to wait unduly on the doorstep of the Union. Although the two applicants have concluded the priority reform programme suggested by the Commission in record time, the EU is still resisting the idea of opening negotiations on the non-controversial chapters before the 1996 IGC.

One other interesting possibility that emerged from the Corfu declaration was that the European Union was perhaps ready, or was suggesting readiness, to accept the proposal made by Greece at the start of its Presidency of the Union regarding the admission of Cyprus to the Union: in other words that the admission of Cyprus in the Union would no longer be linked to the solution of the "Cyprus Problem". Effectively this means that the Cyprus government can negotiate the country's accession, de facto allowing the Greek part to integrate itself in the Union and leaving the northern Turkish occupied part the option of joining when an agreement is concluded on the reunification of the island. This is similar to what occurred when the Eastern part of Germany was reunited with West Germany. In fact, the Corfu declaration had separated the issue of the "Cyprus Problem" from the membership issue, though the EU still expressed itself strongly in favour of the sovereignty, independence, territorial integrity and unity of Cyprus in accordance with the relevant UN resolutions. The reaction of member states

remained mixed, however, at a press conference given on Sunday, 26 June 1994. At the end of the Corfu Council meeting, Greek Minister Pangalos noted that "*the question of the admission of Cyprus, was disassociated from the political problem of Cyprus*".¹³

Prior to the Essen European Council of December 1994, it became clear that leaders from the Eastern and Central European countries were going to be invited to a meeting with the European leaders to take place in Essen at the time of the European Council as part of the EU's strategy of preparing these countries for eventual membership through the so called "structured relationship". Malta and Cyprus were not invited to attend. The Green Group in the European Parliament managed to include an amendment to a resolution earlier tabled by Dutch MEP Arie Oostlander, and which dealt with measures to be implemented in preparing the states of Central and Eastern Europe for membership of the EU, and which called for Cyprus and Malta "*to be given an appropriate opportunity to state their views at the Essen European Council*".¹⁴

On 1 December, Cyprus officially complained to Germany about the decision to invite the six countries of Central and Eastern Europe whilst omitting Cyprus. The German ambassador to Nicosia, Friedrich Garbers, told the Cypriot Foreign Minister that there was no intention to discriminate against Cyprus and Malta, which, in any case were at an advanced stage in their relations with the Union. Mr Garbers added that the invitation to the six ex-Communist states was designed as a "*message of encouragement as well as a message about the need for them to prepare their economies*".¹⁵ Meanwhile, the German ambassador to Malta, queried on the same matter, said that Malta "*should be glad not to have been placed on the same footing as Eastern European countries. They have no chance of entering the union before the turn of the century, whereas Malta can perhaps come in just after the Intergovernmental Conference (IGC) scheduled for 1996*".¹⁶

At the Essen European Council, union leaders confirmed that the next phase of enlargement will involve Cyprus and Malta and invited the Council to examine, in early 1995, new reports to be presented by the Commission.¹⁷ The date for the start of accession negotiations remained however very nebulous, and the two Mediterranean applicants rapidly moving ahead with their legal and reform programme are keen to underpin this process with a definite accession time-table.

Following Essen, in the first few weeks of the French Presidency of the Union which began in January 1995, Greece continued to emphasise the position it had established well before Essen

- that progress on the EU-Turkey Customs Union Agreement would only be acceptable to it, if a time-table were set for the accession of Cyprus and Malta in the Union. Meanwhile, EU Commissioner Hans Van Den Broek, no doubt echoing a general mood in Europe, said that "*Cyprus could not be kept Turkey's hostage for ever*"¹⁸, implying that the Union would not wait for a solution to the Cyprus problem before admitting Cyprus. This statement also implied a public call on Turkey to drop its objection to Cyprus's membership before a solution to the Cyprus problem.

At the beginning of February 1995, two separate meetings took place - one in London between the Foreign Ministers of France, Germany, the United Kingdom, Italy and Turkey,- the other held in Brussels between the Cypriot Foreign Minister and the Commission to discuss a French sponsored plan, whereby Greece would lift its veto on the EU-Turkey Customs Union Agreement in return for a commitment on the part of the EU to open accession negotiations with Cyprus at a definite date. Greece protested against the London meeting, rightly claiming that matters such as the customs union with Turkey could not be decided by a small group of EU Member States outside the EU institutions. At the General Affairs Council, which met under the Chairmanship of French Foreign Minister Alain Juppé on Monday, 6 February, EU member states were divided on the issue of the start of the negotiations with Malta and Cyprus. Germany and Belgium argued that these should commence after the ratification process of the Treaty amendments agreed on during the IGC has been completed, whilst Greece insisted that they should begin six months after the end of the Conference. The Council eventually noted agreement *ad referendum* on the basis of the latter proposal. However, three days later Athens rejected the agreement. The Greek government claimed that the wording of the agreement, specifically that negotiations with Cyprus "*could start*" six months after the end of the IGC were ambiguous and had to be changed to "*will start*" in order to indicate a definite commitment to the commencement of negotiations. The Greek Government also demanded that a structured relationship with Cyprus be started on the lines of a similar dialogue initiated with the countries of Central and Eastern Europe, that the opening of accession negotiations with Cyprus would not in any way be linked to a solution of the "Cyprus Problem", that Greece be given ECUs 400 million compensation for opening its market to Turkish textiles, that as far as the EU-Turkey Financial cooperation went, no figures would be specified, and finally, that Turkey would drop its objection to Cyprus joining the EU before the Cyprus question was resolved.¹⁹

The attitude taken by Turkey was that the impasse provoked by Greece was an "internal" EU matter and that the EU must adhere to the contractual obligation of achieving the customs union with Turkey, as indicated in the 1963 Ankara Association Agreement.

The package demanded by Greece in return for lifting its veto on the EU-Turkey customs union was such that it left the way open for negotiations to resume. By the beginning of March, the impasse was solved, with Greece lifting the veto and flying off with the main prize of its demands - the fixing of a definite date for the start of accession negotiations with Cyprus.²⁰

The Wider Context of the EU's Enlargement: the Mediterranean

Discussion of the Mediterranean countries' bid to join the European Union has to be viewed in the context of the Union's attitude towards enlargement. The key to the EU's attitude towards the Mediterranean applicants may lie in Redmond's observation: "*These two Groups -- EFTA and Eastern Europe -- are now firmly entrenched at the top of the EC's pecking order. The policy towards the Mediterranean also has a coherence, although this is much more superficial, and the position of the Mediterranean in the EC's pecking order is consequently more uncertain.*"²¹ The Union has given greater importance to the admission of the EFTA countries and, primarily on Germany's insistence, to the stabilisation of the economic and democratic processes in the newly democratic states of Eastern and Central Europe. The Mediterranean applicants who signed Association Agreements with the Community - Turkey in 1963, Malta in 1970 and Cyprus in 1972 - clearly have not been placed on a fast track to membership. Long standing relations have not given the Mediterranean countries any advantages, and the EU's behaviour, based naturally on the interests of the present member states, has led to some bewilderment on the part of the Mediterranean applicants. While none will dispute the need to integrate the central and eastern parts of the old continent with the west, at the appropriate time, it is nevertheless important for the EU not to forget or neglect the challenges it faces in the Mediterranean and the old ties it has established there.

Declarations and other pronouncements regarding the Mediterranean have not been lacking, and European Union leaders have frequently confirmed the importance they attach to closer links between the Union and its partners in the Mediterranean. The Commission meanwhile published a document on the way it would like to see the EU's Mediterranean policy develop over the next five years, which was discussed at the Essen European Council.²² One other proposal that emerged from the Corfu Council is the organisation of a Euro-Mediterranean conference to give flesh to the idea of a "**Euro-Mediterranean Partnership**". The Essen European Council decided that a ministerial conference for all Mediterranean countries be convened in November 1995, during Spain's turn at the Presidency of the Union. Preparations for the conference are to take place during the French Presidency, in the first half of 1995. It is also true that through the Global Mediterranean Policy (1972), and more recently through the so called "New Mediterranean Policy" (1990), the Community has created some

means to deal with some issues related to the Mediterranean. However, these have not been sufficient to meet the challenges posed in the region and have more often than not been overtaken by events and shown to be somewhat inadequate. With the growth of the European Union from 12 to 15 on 1 January 1995, with its centre of gravity tilting more northwards and its span of attention fixed on Central and Eastern Europe, there is the possibility that the EU will become more and more of a Northern League engrossed in the North's "near abroad" and seemingly completely oblivious to the challenges it faces in the Mediterranean region, which can also threaten its own stability. The inclusion of more European Mediterranean states in the Union will certainly start to redress the balance in the Union's composition and perhaps herald the beginning of greater concern on the part of the Union with the Mediterranean.

Here the main argument is that if the Union does not wish to lose its sensitivity towards the Mediterranean region it must ensure that enlargement take place with the North in parallel to the South.²³

Since 1991, when Zbigniew Brzezinski coined the "*arc of crisis*" stretching from Pakistan to the Gulf and North Africa, it has become rather fashionable to speak in such terms. Bonvicini and Silvestri expanded the concept to encompass the regions lying "*northward towards the Steppes of Central Asia to include the Black Sea and Balkan regions, bordering two areas in the throes of revolution (Central-European and the former Soviet Union)*..."²⁴ It is in that upper part of the "arc" that Europe's eyes have been fixated for the past few years, while the red embers of the southern part of the arc seem ready to burn again into fully-fledged crises.

The challenges the EU faces in the Mediterranean are different in nature and perhaps in magnitude, but equally compelling. The Algerian crisis and the fearsome, perhaps unfounded, but certainly not improbable prospect of the spread of Islamic fundamentalism throughout North Africa by a domino effect, has perhaps reignited Europe's sensitivity. There is, however, the danger, of this being regarded as a "Southern European problem", or worse as "France's problem", rather than the EU's:

Up to the recent past, the biggest challenges to Europe's well-being that emerged in the Mediterranean were connected to the Middle East question and to the presence of Soviet forces. The same antidote, based on the concept of the balance of forces in region, was applied to both and took the form of the American and NATO military presence in the Mediterranean. As for the rest, meaning economic and social stability, the EC as an economic power played a significant role by concluding various trade and financial assistance arrangements with the countries of the region, buttressing NATO's southern flank through the association agreements

with Greece and Turkey and tying the rest of the region in with it through a web of economic relations. The old problems that have bedevilled the Mediterranean are gradually paling into insignificance, while new ones such as sluggish economic growth, falling living standards, indebtedness, social problems and the rise of Islamic fundamentalism are rearing their heads. None of these can be confronted with the old tools. The root cause of many of these problems is to be found in the inept economic leadership and corrupt political rule of the southern elites, ultimately considered as the 'internal affairs' of these states. Further, developments in Algeria have made it amply clear that a full move towards democracy carries the danger of destabilising the region even more. To keep the genie in the bottle, Europe finds itself dealing with and supporting the present elites, despite their abysmal human rights record, of course dutifully condemning some violations, a policy which goes against that for which Europe should stand.

Confronted with these challenges, the EU is badly in need of a new paradigm for its future relations with the states of the region, and more importantly, a unified approach or policy for the Mediterranean. The Single European Act and the Treaty of Maastricht have established the foundations for the development of a European Common Foreign and Security Policy [CFSP], (still in its embryonic stages), and thus offer the EU the legal basis for developing a coherent EU policy towards the Mediterranean, rather than abandoning this to the periodic and sporadic initiatives that have been launched in the past with much fervour by France, Spain and Italy but which fizzled out with equal velocity, confusing the issues in the process.

Consider in this context the quasi simultaneous launching of four initiatives in the Mediterranean in the short space of a few months in 1990. This refers to the convening of the "*Five Plus Five*" encounter in the Western Mediterranean, the proposal for a "*Conference on Security and Cooperation in the Mediterranean (C.S.C.M.)*", the proposal to revive the "*Euro-Arab Dialogue*" which turned out to be premature, and the announcement of the "*the New Mediterranean Policy*" by the EU.

The "*Five Plus Five*"²⁵ was proposed under the notion that it was easier to build peace in the Western part of the Mediterranean basin where it was possible to avoid having the Middle East question disrupt the process. The forum eventually floundered due to the worsening situation in Algeria and the deteriorating relations between the Maghreb countries themselves, while the death blow came when the United Nations imposed sanctions against Libya.

The C.S.C.M was the brain child of the then Spanish Foreign Minister Francisco Fernandez Ordoñez, who enlisted the help of the Italian Foreign Minister Gianni de Michelis during Italy's stint at the Presidency of the Community in the second half of 1990. The two ministers circulated a "non-paper" at the C.S.C.E. meeting in Palma de Mallorca on 24 September 1990

proposing the setting up of a C.S.C.M. Ordoñez's scheme failed largely because it was based on the false premise, no doubt itself the child of the hasty conclusions drawn during the euphoric months following the fall of the Berlin Wall, that the C.S.C.E. had generated enough détente in Europe to bring about a wholesale transformation of the European scene. Reflecting on events in Europe and the role of the C.S.C.E., Ordoñez had asked: "*why not apply to the Mediterranean region, the same model as has produced such good results in Europe ?...Why not summon a C.S.C.M ?*"²⁶

What is stranger still about the C.S.C.M. proposal is that within the Conference on Security and Cooperation in Europe (C.S.C.E.) itself, the Mediterranean had already featured, and a "*Mediterranean Chapter*" had been included in the Helsinki Final Act of 1 August 1975. Originally the issue of Mediterranean security had been proposed for the first time in 1972 Helsinki Conference by two Arab Mediterranean states, Algeria and Tunisia, who circulated a diplomatic note early on in the conference, expressing their desire to be allowed to participate in some fashion. Countries participating in the C.S.C.E., led by the United States and the Soviet Union, had rejected the proposal because of the divisiveness that it could have introduced in the process by dragging in the Middle East problem. Following the end of the cold war, the Mediterranean chapter in the Helsinki process, which for a long time had been left empty of any meaningful content, could have been expanded and developed as a forum that would cover more or less the same issues that were being proposed for the C.S.C.M.²⁷

A fortnight after the launching of the Spanish-Italian C.S.C.M proposal, on 10 October 1990, the first meeting of the *Western Mediterranean Forum* at ministerial level took place in Rome. Ministers who attended the meeting decided to establish a regional cooperation structure aimed at consolidating political dialogue, promoting conciliation and undertaking a collective effort to promote economic, cultural and social development in the Western Mediterranean.²⁸

In another initiative, the Italians had in the meantime launched the idea of reviving the Euro-Arab Dialogue. This proposal met with skepticism on both the Arab as well as the European side. The Arab world, at that time divided over the Gulf crisis following Iraq's invasion of Kuwait, had no enthusiasm for the scheme, since in the words of Morocco's Foreign Minister Abdellatif Fillali it might "*consecrate the division of the Arab World*". A substantial number of members of the EU opposed the idea for similar reasons.²⁹

In 1989, the EC launched its revamped "New Mediterranean Policy" for the period 1989-94 in an effort to strengthen its political and economic ties with the Mediterranean basin countries. For obvious reasons this turned out to be the only initiative to survive. In 1994, it went a step

further by proposing a strengthened Mediterranean Policy with the aim of achieving a *Euro-Mediterranean Partnership* with an improved financial package and proposals to further liberalise EU-Mediterranean Partners trade and cooperation.³⁰ It is unlikely that the level and extent of the cooperation being proposed will be achieved in the region while the EU's financial aid package is dwarfed by the magnitude of the problems posed.

As already noted, at its meeting in Essen, the European Council approved the convening of Euro-Mediterranean Ministerial Conference in the second half of 1995, during Spain's Presidency of the Union. Preparations for this conference have already commenced by consultations with all Mediterranean non-member states. The aims of this conference are to establish a permanent and regular dialogue, and to map future Euro-Mediterranean relations, addressing all relevant political, economic, social and cultural issues.³¹

A further Mediterranean initiative was the Mediterranean Forum launched in Alexandria in July 1994 by France and Egypt, and later extended to a number of other Mediterranean countries. The progress of this forum is still unclear as are equally nebulous the aims it wishes to achieve.

These Mediterranean initiatives were not mutually exclusive, although they could have been more effective had an attempt been made to co-ordinate them properly. They gave the impression of hasty political strides devoid of any prior thorough consultation between the European countries themselves, let alone with the Arab side. They also painted a picture of European Mediterranean states vying against one another with rival proposals. The quick death of these ill-thought initiatives and the coming into force of the Treaty of Maastricht, provided the EU with the opportunity of thinking afresh. As a first step, the EU should seek to integrate, as rapidly as possible, the European Mediterranean shore countries that are still out of the Union. In some instances this may not be immediately possible (e.g. Turkey) and the EU has embarked on the alternative course of deepening its economic relationship (by achieving a customs union) and by intensifying the political dialogue. In the case of others, such as Malta and Cyprus, the economic problems of integrating them in the Union are unimportant, however, the EU has some misgivings on the implications for the Union's institutions of two small states the size of Malta and Cyprus. On the other hand, the accession of these two applicants will enhance the Mediterranean dimension in the EU and increase its sensitivity towards the region.

In this connection, the observation made by Mr Pangalos in the European Parliament namely that "*enlargement is vital for Europe's political role in the Mediterranean and the Middle East. Cyprus and Malta strengthen that dimension*"³² summarises the geopolitical importance for the Union of the accession of the Mediterranean applicants.

Malta's Application :the Least Problematic³³

Of the three Mediterranean applications presently before the EU, Malta's application is probably the least problematic. For a long time, the fate of the Cypriot application, was made conditional, as in the case of Turkey's, to a solution of the "Cyprus Problem".³⁴ The Corfu summit's declaration seems to have separated the political problem of Cyprus from the issue of accession, making Cyprus's membership less problematic. The lifting of the Greek veto on the EU-Turkey Customs Union Agreement and the commitment to start accession negotiations with Cyprus and Malta six months after the end of the IGC has established the accession time frame with near certainty and effectively the Cyprus problem has been separated from the issue of the accession of Cyprus in the EU.

- Cyprus and Turkey

The Cypriot government clearly welcomed the approach that appeared to have been adopted at Corfu and reacted very negatively to a statement by Prime Minister John Major on 27 June 1994, in the House of Commons, which implied that Cyprus could not join the European Union until after a solution of the political problem of the island. An early day motion was tabled by a group of British Labour MPs on 8 July, no doubt lobbied by the Cypriots, expressing particular concern that Major's remarks seemed to go considerably beyond the wording of the official communiqué of the EU Corfu summit.

Soon after the Corfu summit, Greece pledged continued support for this political line and continued with its diplomatic pressure on the rest of the Union member states for membership negotiations with Cyprus to start during 1995.³⁵ The opportunity presented itself when the EU was racing towards the conclusion of the Customs Union Agreement with Turkey. Greece managed to end, in one single move, Turkey's opposition to Cyprus's membership of the Union and to separate the issue of the "Cyprus problem" from membership.

Developments seem to indicate that a solution of the "Cyprus Problem" appears closer today than it was up to a few months ago. Turkey is the only state which recognises the so-called "Turkish Republic of Northern Cyprus". The economic difficulties of this backward northern part of Cyprus may grow worse in the future as a result of a recent European Court of Justice decision prohibiting EU member states from importing agricultural products originating in Cyprus unless these are accompanied by phytosanitary certificates issued by the competent Cypriot authorities.³⁶ Effectively this entails the curtailment of the bulk of exports from the northern part of Cyprus, consisting mainly of citrus fruits and potatoes, and a tightening of the economic strangle hold on the Turkish Cypriot community whose dependency on Turkey will

now be strengthened.

There was the danger that the Court of Justice decision would not merely increase the economic stranglehold around the northern part of Cyprus but that it would reinforce their siege mentality, making them more intransigent in the inter-communal talks in Cyprus, thus making a solution of the "Cyprus Problem" a more remote possibility. In fact, following the Court of Justice decision, Turkish Cypriot leader Rauf Denktash put forward the proposal that the northern part of Cyprus could become an "autonomous region" of Turkey, having control over domestic politics, leaving external policy and defence in the hands of Ankara. This proposal split the Turkish Cypriots³⁷ and heated up politics in the Northern part of Cyprus where presidential elections took place in early 1995.³⁸

The ushering in of the EU-Turkey customs union and the surer prospects of Cyprus beginning the accession negotiations to join the Union soon after the IGC, have provided new conditions for an eventual negotiated settlement of the "Cyprus Problem". The EU-Turkey customs union will entail a tightening of the economic isolation of northern Cyprus from Turkey which can only be overcome if the northern part of Cyprus manages to put in place a contractual link with the rest of the EU, which is possible only if it enters the Union as part of unified Cyprus. The price which the northern part of Cyprus will pay for shunning this solution must already be considered to be too high both by Turkey and the Turkish Cypriots themselves. Besides, the main card in Turkey's hands, that of blocking the Cypriot accession, has now been played and the northern part of Cyprus will certainly find it more difficult to postpone a solution.

Given all these developments, the "Cyprus Problem", though it persists, has ceased to be a problem for Cyprus and has become a problem for Turkey and the hitherto intransigent Turkish Cypriots who effectively now find themselves more economically isolated and diplomatically weaker. Turkey has been forced, in essence, to ditch Northern Cyprus in order to achieve its wider interests of concluding the customs union with the EU. On the other hand, the need to satisfy Greek demands that a definite date be established by the EU for the start of accession negotiations with Cyprus, clears another bone of contention between Greece and Turkey and possibly opens the way for far-reaching agreements on a wide range of issues, the "Cyprus Problem" not excluded.

Besides the "Cyprus Problem", Turkey has also been told that if it joins the Community it will experience serious difficulties in taking on the obligations resulting from the Community's economic and social policies. This is why the EU had suggested that since membership was not a realistic possibility in the foreseeable future, Turkey and the Union should do their utmost to speed up the creation of the customs union envisaged in the Ankara Association Agreement

of 1963.

Turkey does present a number of economic, social and political headaches to the European Union connected with its size, its demographic growth, its lower level of economic development and the fact that it is traditionally a high inflation country [OECD estimates that inflation is around 125 per cent], making it most unlikely to achieve any of the so-called Maastricht "nominal" economic convergence criteria in the foreseeable future. Further, the level of Turkey's economic development and its demographic tendencies will place a huge burden on the Union's structural funds if Turkey is admitted to the Union at this point, not to mention the strong migratory pressures.

Then there is the question of Turkey's human rights record and its treatment of the Kurds, two issues which have repeatedly surfaced in various European fora. Some fears also relate to the rise of Islamic fundamentalism in Turkey despite the fact that for a long time span it has been a secular state, in fact the most oft-quoted paradigm of such an Islamic state.

However, with Turkey Europe faces a serious dilemma, since Turkey has for a long time formed part of the NATO alliance and played an important role in the West's strategy towards the Middle East and Central Asia. The fall of communism has not diminished Turkey's strategic role for the West, especially in central Asia. Here again the situation is changing very rapidly, and Russia's reassertion of its power in the Caucasus changes the strategic implications in the area, and, by deduction, Turkey's role. The Turks generally make a good case about Europeans wanting and encouraging them to be part of Europe in security matters but quickly change their attitude when the subject falls on Turkey's integration in the European Union.

- Malta

As far as Malta is concerned, while it fully endorses the EU's policy on the unity and sovereignty of Cyprus, for as long as the "Cyprus Problem" was considered to be a serious obstacle to Cyprus's membership bid, it sought to safeguard its own interests by insisting that each application must "be considered on its merits", in accordance with the principle first established by the Lisbon European Council. A glance at the EU's position on the Mediterranean applicants, and how this has evolved gradually over a period of around five years since the present three Mediterranean applicants launched their applications starting with Turkey in 1989, is indicative of the way in which the EU has tended to treat these applications differently. The steps are worth summarising. In a report prepared by the Commission for the June 1992 Lisbon summit on "Europe and The Challenge of Enlargement"³⁹, it was

stated that: "...*the integration of Cyprus and Malta into the Community system would not pose insurmountable problems of an economic nature*"⁴⁰. In the case of Turkey, the Commission reiterated the line expressed in its 1989 Opinion on Turkey's application that the country would experience serious difficulties in taking on the obligations of membership resulting from the EC's economic and social policies.⁴¹

Adaptation to the Community's "acquis" was not seen as being problematic for Cyprus and Malta. The Commission, however, advised that since both are very small states, "*the question of their participation in the Community institutions would have to be resolved in an appropriate manner in accession negotiations. The Commission will address this question in its opinions on these countries' applications*".⁴²

As for the "Cyprus Question", the Commission was of the opinion that "*there is inevitably a link between the question of accession and the problem which results from the de facto separation of the island into two entities...*"⁴³ No doubt the Commission's position was based on two main considerations: the Government of Cyprus did not have effective control over the whole of the territory of the island and the admission of the Greek part would "internalise" the Cyprus question and present more opportunities for confrontations with Turkey, whom the Community wanted to keep at arms length as far as membership was concerned, but not banished completely.

At the Lisbon European Council in June 1992, a decision was taken whereby the green light was given for the then EFTA applicants to join the Union "*on the basis of the institutional provisions contained in the Treaty on the Union and attached declarations*", while the membership of the Mediterranean applicants was subjected to progress being achieved in the institutional development within the EU, and hence on the outcome of the Inter-Governmental Conference on the institutions due to start in 1996.⁴⁴ In this case also, the EU has departed from past practice. Whereas in the past, the EC had been keen to involve applicant states in any major institutional changes envisaged even before actually joining the Community, Cyprus and Malta have actually been barred from any such involvement. The EFTA countries, on the other hand, have been admitted on the present institutional arrangements with minor modifications and thus were assured a seat at the 1996 Inter-Governmental Conference, when they joined the EU. The reason behind this decision is clearly that the EU is reluctant to admit more micro-states before new institutional arrangements have been put in place. The EFTAs are small states but they are comparable more or less to the "standard sized" smaller states of the Union. Besides, they have the added attraction that they will be net contributors to the EU budget. Through the European Economic Area Agreement with the EU they have already started adapting to the bulk of the EU's "acquis

communautaire" and hence their integration in the EU has been rendered easier.

Again, regarding the Mediterranean applications the Lisbon European Council established that *"each of these [Mediterranean] applications must be considered on its merits"* and that economic relations were to be intensified on the basis of each country's respective Association Agreement with the Union, and in sharp contrast with Turkey, relations with Cyprus and Malta, were also to be based on their membership applications. In all three cases EU leaders called for further development of the political dialogue.

Lisbon established clearly the decoupling of Malta's application from that of Cyprus, and of these two from that of Turkey. However, it did leave out the possibility that membership for Malta and Cyprus would occur in the first group of enlargement with the EFTA group, as was entertained at the time by the Maltese authorities, at least as far as Malta was concerned.⁴⁵ The Maltese Government was not the only one to be optimistic about entry in the first wave. For example, Wallace and Michalski had also referred to favourable dispositions in this direction in the Commission, namely that Malta might be included in the first enlargement because some members in the Commission favoured this course.⁴⁶ Despite this failure, after the Lisbon Council, the idea that Malta could be included in the first wave of enlargement continued to be reinforced by Commission President Jacques Delors, when he told the French newspaper *Liberation*, *"There is a country one sometimes forgets but which is very important as a symbol: Malta. We must not displace Europe too much towards the North while forgetting the South: we risk losing our sensitivity to the Mediterranean world which is our world, but which at present cumulates danger for the future of all of us."*⁴⁷

Failure to clinch membership with the EFTA group has certainly had negative effects on Malta. A number of reasons could be advanced for this failure. Malta had missed a window of opportunity in the Eighties when the second enlargement had occurred by not developing further its Association Agreement into membership, choosing instead to waste precious time in a bitter and acrimonious squabble with the EU and western Europe. The second reason could be that Malta was slow to employ enough diplomatic resources and attention to its application after 1987, when the new Government made it clear that it wished to join the Community. Consider that up to 1993, Malta's Embassy in Brussels had less diplomats than most of the embassies of similar sized countries not aspiring to EU membership. At a crucial stage in the diplomatic effort, inexplicably, Malta took on the Presidency of the General Assembly of the United Nations. Much energy was dissipated in the futile effort to transform this normally ceremonial post into an important one both within the organisation and in world diplomacy.⁴⁸ The undue delay in submitting Malta's application to join the Union may have robbed the

whole process of two years of momentum at a very critical moment, perhaps even delaying unduly the process of economic restructuring in preparation for membership. Applications for membership, like target dates, have a catalysing effect, as the Community well knows from experience. Lastly, on the side of the EU there was much hesitancy to admit Malta and these problems were certainly compounded when Italy, Malta's principle membership sponsor, entered a phase of deep domestic political turmoil causing it to pay less attention to external relations.

Following the Lisbon summit, Malta's application made only small progress while the EU's position on the Mediterranean applicants remained unchanged. Council went through the motions of reiterating the Lisbon line at Edinburgh in December 1992 and at the Copenhagen Council in June 1993. At the latter Council meeting, European leaders urged the rapid examination of the Commission's opinions on the applications of Malta and Cyprus, which were about to be published, again emphasising that "*the particular situation of each of the two countries*"⁴⁹ should be taken into consideration.

However, the December 1993 European Council held in Brussels represented another important watershed in the uneven way in which the Union treats the EFTA applicants as opposed to those of the Mediterranean. This merits special comment which will be taken up in the discussion on the institutional implications of membership. Here again the evidence suggests that while European leaders are prepared to turn a blind eye to the alleged institutional effects of adding four new small EFTA states to its fold, the same treatment was denied to Cyprus and Malta.

Ironically, following the developments at the Corfu and Essen summits, in which it was stated clearly that Cyprus and Malta will be involved in the next enlargement, and in the light of the fact that all major political obstacles to Cyprus's membership seem to have been overcome and a near-definite date fixed for the start of accession negotiations with both island applicants, Malta's policy of insisting that "*each application be treated on its merits*" has been devalued, and a joint effort with Cyprus may now seem strategically more suited, especially since Malta lacks a stable ally in the EU as Cyprus has in Greece. Since 1980, and for obvious geopolitical considerations, Italy has effectively guaranteed Malta's security. When, following the 1987 election in Malta the latter had shown its true European vocation, Italy became the main sponsor of Malta's application. This support is still reiterated in no uncertain terms from time to time, but it is clear that Italy is presently too weak economically and too much absorbed by domestic politics and restructuring in the race to be with the "inner core" of EU countries which will embark on the last lap of monetary union (EMU), to exercise the unyielding pressure on the other partner countries as it did in the past, or as Greece has done on behalf of Cyprus.

Before the year ends, a general election has to take place in Italy, with the result no foregone conclusion. Whatever the outcome, the new government will be preoccupied with the 1996 Inter-Governmental Conference with hardly a moment to spare on lesser issues, Malta's membership bid being amongst the latter.

The Commission's Opinion On Malta's Application: an Assessment

The Commission's opinion on Malta's application, which was published in June 1993, was generally positive. The main difficulties with Malta's future integration in the European Union, as observed by the Commission, can be gathered under three main headings: political, economic and institutional. These will be dealt with separately.

- Political Objections

The main question in the political field raised by the Commission is that neutrality is incorporated in the Maltese constitution. The Commission observed that "*the Maltese Government's statement that it is in the country's interest to subscribe to the Common Foreign and Security Policy (CFSP) does not alter the fact that it might be necessary to amend the constitution if Malta is to participate fully in that policy as it develops over the next few years*".⁵⁰ This was not the first time that the question of neutrality, and the way it could interfere with Malta's participation in the European institutions, had been raised. In a European Parliament Report prepared in 1988, Euro MP Derek Prag had suggested that on account of its neutrality, the Community should consider allowing Malta to become a member of the three communities without, however, the right of veto in European Political Cooperation (EPC) or in certain aspects of EPC such as security.⁵¹ The Maltese authorities do not seem to accept that membership of the EU and participation in the CFSP warrant Constitutional amendments.

Malta's international status bears three elements: it is a neutral state, adhering to a policy of Non-Alignment and refuses to participate in any military alliance. The illustration and definition of these three elements are found in the Constitution [paragraphs (a) to (e) of section 1(3)].⁵² The text of the relevant articles of the Constitution is an exact reproduction of Article 1 of the Treaty of Neutrality signed with Italy in 1980. This shows that although the neutrality clause was only included in the Constitution in 1987, its definition had been officially established as far back as 1980 and it was presumably this definition which informed government action in the international arena from 1980 onwards. Further, the way the constitution defines neutrality, has led the present Government to claim that Maltese neutrality is *sui generis*.⁵³

This background becomes extremely relevant when discussing how Malta has interpreted the meaning of neutrality since 1980, and how this impinges on the way the Constitution will be interpreted when it comes to participation in the relevant EU institutions such as the CFSP and the WEU. Reference needs to be made to the two bilateral treaties regarding the status of neutrality which were concluded, with Italy, a NATO country in 1980 and with the USSR the following year, not to mention other agreements concluded with Libya and North Korea in the early Eighties. In the first treaty, Italy bound itself to guarantee Malta's neutrality, even by recourse to military force if the need arose. In the agreement with the USSR, which took the form of an exchange of diplomatic *aide memoires*, both sides expressed their readiness to consult one another on questions directly affecting their interests and to enter into contacts with one another so as to coordinate their positions in order to remove the threats and re-establish peace in moments of international crisis. Effectively, through this agreement, which has not been denounced, the USSR, while not fully guaranteeing Malta's neutrality, recognised that status and bound itself to provide the necessary aid to the Maltese Government to safeguard it if it were asked to do so by Malta.⁵⁴ In September 1993, Russia and Malta signed a new protocol in Valletta, listing the agreements signed between the USSR and Malta which would still be considered as binding. Among the treaties listed was the agreement on neutrality, which means that this is still binding with Russia.⁵⁵

A Friendship Treaty concluded with Libya in 1984 comprising a protocol covering security and committing both sides to a "*continuous exchange of information on matters of special interest to the mutual security and defence purposes of the other side*" is also relevant.⁵⁶ The protocol provided for Libya to train Maltese military personnel and to supply military equipment.⁵⁷ This cooperation in military matters was discontinued by Malta since the change in government in 1987. Subsequently, substantial changes were made to the original Friendship Treaty through the signing of a new agreement in February 1990, omitting the protocol on military cooperation.⁵⁸ The 1990 treaty established relations with Libya on the basis of mutual security, trade and cultural links.

The Socialist Government had also signed two secret treaties with North Korea. The second one, signed in July 1982 in Pyongyang and intended to "strengthen the bonds of friendship and solidarity between the two peoples and armies", bound North Korea to provide arms as well as military instructors to train Maltese military personnel in Malta.⁵⁹

The treaties with Italy a NATO member, the USSR, then leader of the Warsaw Pact, Libya and North Korea traditionally hostile towards the West, indicate that Malta's peculiar definition of neutrality was hardly regarded by its proponents as a serious obstacle to forging ties of military

guarantees, cooperation, the sharing of information, the free provision of military equipment and training of Maltese military personnel. For the present administration, past practice has established the precedent that while Malta can still maintain its *sui generis* definition of neutrality, nothing stops it from participating in Western security arrangements or in the Common Foreign and Security Policy (CFSP) of the European Union, as established by the Treaty of Maastricht. It may also be significant from a legal angle that the Maltese courts have upheld the *sui generis* definition of neutrality.⁶⁰

The Constitution, whilst prohibiting foreign military bases in Malta, does not disallow participation in commitments outside Malta (such as peace-keeping) and collective security arrangements. Foreign military personnel can be stationed in Malta, without being so numerous as to constitute a "concentration" of military forces. However, in times of need, when a threat may exist to the independence and sovereignty of Malta, foreign troops can in fact be invited to give a hand, presumably even if they constitute a "concentration of forces".

Furthermore, the basic policy stance regarding neutrality as the best safeguard for Malta's security is theoretically flawed. The notion that Malta's security could be preserved best by a policy of neutrality was developed by the socialist administration in the period following the closure of the British military bases in March 1979. Insecurity in the region was perceived as emanating from the East-West conflict and a policy of neutrality based on Non-Alignment was considered as the best option. However, since history has shown that neutrality can be preserved best when the neutral state can ward off challenges to its sovereignty, and being incapable of basing its neutrality on self-help, Malta sought guarantees from a number of neighbouring states that included countries with such diverse political interests that, had a serious threat to Malta's security ensued [such as the threat to use force made by Libya], it is doubtful whether the hotch-potch of international guarantees would have worked in Malta's favour.

When neutrality was being introduced in the Maltese Constitution, the then socialist Government emphasised that it was based on Non-Alignment. The objectives and reasons for the bill introduced in Parliament in late 1986 to amend the Constitution indicated that these were to "*to include in the Constitution ...the status of neutrality based on non-alignment*". While piloting the bill, the Prime Minister at the time stated unambiguously that: "*...the policy and status of neutrality are qualified by the principles of non-alignment; they do not exist in a vacuum or in the abstract but it is specifically stated that the status of neutrality is based on the principle of non-alignment. And the principles of non-alignment are very simple because they refer to the two most powerful powers on earth, to America and Russia and the blocs that are bound*

*to America and Russia. Therefore there can be no difficulty or doubts as to the true meaning of neutrality based on the principles of non-alignment."*⁶¹

Later, when the neutrality clause was being debated in the committee stage, the Prime Minister again stated that the development of an independent foreign policy by the European Community would be a vindication of Malta's neutrality and Non-Alignment.⁶² The definition of neutrality as inserted in the Constitution is identical to that found in the Italo-Maltese neutrality accord of 1980, however as earlier indicated, the foreign policy practised by Malta in the period 1980-87, clearly departed from the principles of both neutrality as well as Non-Alignment.

In the present international conjecture, neutrality has been rendered obsolete first of all by the end of the East-West confrontation following the fall of communism and by the fact that even Non-Alignment lost the last shreds of the reasons for its existence. From a national stand point it is also doubtful whether neutrality and Non-Alignment are the best safeguards of Malta's security in the context of the situation in the Mediterranean region.

The Maltese Labour Party is adamantly attached to neutrality, claiming that although the Cold War may have rendered the traditional concept of neutrality obsolete, the turbulent situation in the Mediterranean has given Maltese neutrality a new significance⁶³. The position of the Labour Party seems to ignore the fact that although the number of declarations recognising Malta's neutrality are numerous (19 by the last count), only one country, namely Italy, guarantees this neutrality and Malta's security. Apart from the fact that it may be politically undesirable to have one country solely responsible for another's security, as this may eventually develop into a hegemonic relationship, it goes without saying that Malta's security is in the hands of a NATO country. The socialist administration had sought unsuccessfully for seven long years to balance this by guarantees from other states. Membership of the WEU, or NATO for that matter, would resolve the problem of guarantees of Malta's security and end the complete dependence on a single country, without any changes to the present implications of its security arrangements.

In a policy update published in 1994, the Maltese Labour Party proposed that, if elected to govern, it would seek security guarantees from the European Union, in which the latter would pledge that upon *"the Maltese Government's request, on declaring a threat or violation of the sovereignty, independence, neutrality, unity and territorial integrity of the Republic of Malta, the EU shall in all cases take every measure, with the best possible means at its disposal...including military assistance, to meet the situation. This also applies, if the need arises, when our country has to exercise the right of self-defence."*⁶⁴. In the same document, the

MLP refers to the CFSP's lack of effectiveness, citing its failure to stop the war in ex-Yugoslavia.⁶⁵ The proposal flounders on this contrariety, that Malta's security guarantees are being offered to a European Union whose CFSP has already been declared ineffective by the Maltese Labour Party. However, this latest position at first seems as a tangible shift in the position of the Labour Party, that it is now seeking Western safeguards for Malta's security. However, the Labour leader still insists that this policy should be balanced by similar guarantees from other non-European states. In essence, then, Labour policy on security is no longer more pro-European than it was when they were in government.

The official government position contrasts with this. The Deputy Prime Minister and Foreign Minister Guido de Marco, while addressing the WEU Assembly in June 1994, stated the position in this way: *"The move (membership of the EU) would not require any constitutional amendment. The reason for that is very simple. Austria is a neutral country and its national day is neutrality day. Austria's neutrality arises out of the situation after the second world war. Austria made neutrality a particular issue when it applied to join the EU. Within that context, the Commission has already given its avis, some time ago, and the Council of Ministers has confirmed that Austria, inspite of its neutrality clause, is in a position to abide by all the requirements of the Maastricht Treaty, in particular the CFSP.*

*"...The clause about neutrality in its constitution does not neutralise Malta's full commitment to the CFSP. Sweden and Finland are about to join the EU despite their neutrality, and we have not mentioned Ireland, which has been in the Union for many years but whose policy of neutrality does not hinder its belonging in the Union"*⁶⁶

This position does not deny that Malta will continue to adhere to its *sui generis* neutrality, but makes it amply clear that neutrality will not be allowed to interfere with Malta's full participation in the relevant European security arrangements. Specifically, membership of the EU will entail participation in the Western European Union [WEU] and Malta regards the development of the WEU as part of the "'finalite politique" of European integration.⁶⁷ In July 1994, the Prime Minister expressed interest in NATO's "Partnership For Peace". A resolution to that effect was approved by Cabinet and tabled in Parliament and was approved before Parliament's Easter recess in April 1995.⁶⁸ Malta signed the protocols joining the PFP in Brussels on 26 April 1995. Ministers of Foreign Affairs and Defence of the WEU, meeting in Lisbon on 15 May, *"welcomed the Permanent Council's decision to enter into a dialogue with Cyprus and Malta, which would evolve in line with the*

development of links between Cyprus and Malta and the European Union".⁶⁹

When discussing Malta's security needs and how these may be met by membership of the European Union, a prior assessment of Mediterranean realities need not be emphasised. Following such a discussion the inadequacy of Malta's neutrality as a means to national security becomes more evident. When trying to understand the Mediterranean realities, one does not have to share fully the rather pessimistic views of Huntington's "Clash Of Civilisations"⁷⁰, or the alarmist pronouncements/assumptions that Islam and western civilisation cannot cohabit, but it is very difficult to comprehend how a small island of 350,000 Europeans of Catholic faith could in the near future maintain their security by standing aloof from the rest of the European family in the midst of a sea dominated by a people of a different cultural stock⁷¹, possibly led by an emerging elite which will be less inclined to maintain the present links with the West, potentially hostile to Western values, seeking at every opportunity to "test" Western resolve and bargain for more. Besides, despite the many links which unite the two shores of the Mediterranean, the political division of the region is nearly one of completeness: to the north the Europeans who, with some exceptions, belong to the wider European culture based on a "Christian" foundations, the respect for pluralism and human rights, and gathered in the European Union and other organisations such as NATO; to the south the Arab states bound together by language, culture and Islam, in search of a unifying factor, at times and in places trying to achieve regional integration (Greater Arab Maghreb Union). The Arab nations have not forged strong bonds of unity or strong alliances among themselves as have the Europeans through the formation of the EU and NATO. However, the Gulf War has made amply clear how pan-Arabic nationalism, or the notion of "Islam vs the West" [or the mixture of the two in one] can rally support. The negative attitude taken by the Arab League on the renewal of UN imposed sanctions against Libya over the Lockerbie bombing, shows how such bonds could quickly be concocted, even on an *ad hoc* basis and out of a sense of an Arab "esprit de corps". Relations in the Mediterranean and the security of every state in the region will continue, in the foreseeable future, to be shaped by these parameters as well as by power considerations which after all, have featured strongly, though perhaps not uniquely, in those which shaped its past. It follows that Malta's security can neither depend on neutrality nor on balanced guarantees from the two sides of the Mediterranean divide whose future may be governed by serious conflicts of interest and outlook, but must be based on forging the strongest of links with like-minded democracies.

One has to keep in mind that the only military threat to Malta's sovereignty since independence has come from Libya over the median line separating the two countries' continental shelves. The incident happened on 21 August 1980 when the Libyan navy threatened an oil rig prospecting in disputed waters with the use of force unless it moved out of the area.⁷²

Presently Malta has a similar dispute with Tunisia over the delineation of the two countries' territorial waters and talks are continuing between the two sides to resolve the issue. A small state like Malta, surrounded by bigger and stronger neighbours, is more prone to suffering such or worse challenges to its sovereignty.

Yet, despite the powerful arguments that can be lined up in favour of Malta integrating further in Europe's security structures, the issue of Maltese neutrality, as connected to membership of the EU, might not be resolved easily despite the precedent created by the accession of so many neutral countries in the EU, a fact which forms the basis of Malta's stand on the issue, and the *sui generis* definition of its neutrality.

At the level of the EU, the nagging issue is what could be Malta's contribution to the CFSP when it joins the Union and whether or not its neutrality would serve as an obstacle to its full participation in, and the further development of, the CFSP. Here the case of the neutral states which have joined the European Union in 1995 is instructive. Austrian Foreign Minister Alois Moch recently summed up his country's position on neutrality and its compatibility with the CFSP thus: *"The question of the compatibility of Austria's traditional policy of neutrality and of her participation in the CFSP was frequently raised during the early stages of the accession process. Our position has been clear: there is no contradiction between the CFSP as provided for in the Maastricht Treaty and the core elements of our neutrality law, namely non-participation in military alliances and no stationing of foreign military troops on Austrian territory. In her relatively exposed position on the edge of Europe's stability zone, Austria has every interest in an effective and cohesive foreign and security policy of the Union."*⁷³

Malta too does not see any incompatibility between its brand of neutrality and the CFSP. Living on the edge of Europe's stability zone in the Mediterranean, there is also a case to be made for Malta's participation in a strong European CFSP. Malta's step in joining NATO's *Partnership for Peace*, has been described by Government spokesmen as a way of participating in efforts to strengthen regional and international stability. This will also serve Malta in linking to other European countries in security interests and peace keeping measures.

The CFSP as it presently stands may undergo further modifications during the IGC due to start in 1996. It remains to be seen how it develops. With or without significant developments, Malta may find it difficult to participate fully in the CFSP without doing what the ex-EFTA neutrals have done and amend the Constitution to provide the legal basis for participating fully in the CFSP. The success or otherwise of such an amendment depends on national attitudes

towards neutrality and national perceptions about the efficacy of giving Malta the security it requires on Europe's stability zone. In this regard, the problem is that neutrality has been inserted in the Maltese constitution without popular consultation expressed in a referendum and hence it is somewhat more difficult to predict what the outcome would be if the people were called to vote on the issue.

As for Malta's participation in and contribution to the CFSP, it will certainly be in Malta's interest to heighten consciousness, in concert with other EU Mediterranean states, on the dangers lurking in the Mediterranean and to try to influence the Union in the direction of the formulation of a more coherent policy towards the region at the level of the CFSP. Without being over pretentious, Malta can use the experience it has gained in Mediterranean diplomacy to help in the formulation of such a policy. The EU would do well to make sure that its Mediterranean Policy does not simply develop as a reaction to crisis and that such a policy is freed from the "prima donna" syndrome of the past two decades, where one Mediterranean European state after the other has fallen to the temptation of declaring the sea its "mare mio", rather than a "mare nostrum" of all states on the littoral. The problems posed in the Mediterranean region which threaten the stability of Europe are of such a magnitude that they dwarf the resources of any single European state, and the CFSP provides the opportunity for organising Europe's resources better. Just as Central and Eastern Europe are considered Europe's problem, so must the Mediterranean challenge be looked at. Right now Europe does not have much of a CFSP, though it has the legal instruments to forge one. Hence it is opportune that while it is building a CFSP it ensures that the Mediterranean features well in such a policy.

The Institutional Question

In the report, "Europe and The Challenge Of Enlargement", the Commission had said that the participation of Malta and Cyprus in the Community would have to be resolved in an appropriate manner in accession negotiations and envisaged that it would address the matter in its Opinions on these countries' applications. Hence it was rather disappointing to find very scant and ill-founded remarks in the "avis" connected to this issue, such as the dubious statement that "*Malta has only a very few senior public officials with sufficient international experience to play a full part in the decision-making and operational processes of the Community institutions*"⁷⁴ Having first raised expectations, when it finally published its Opinion on Malta's application, the Commission added little new to the debate, but simply left the issue to the Inter-Governmental Conference scheduled for 1996.⁷⁵ One reason for this is that the EU is reluctant to raise the institutional question before it really has to because of the divisiveness that this will instil among the

member states themselves.

Central to the question of the reform of the EU institutions is the "small states" issue; namely, what should be the rights and obligations of such states in the Union and will such small states have the capabilities of living up to the demands of the Presidency of a larger Community. Linked to this is the other issue of whether larger states should be given greater weight in the decision-making institutions. No doubt the EU cannot function more efficiently without deepening its institutions while widening to include more members. There is certainly more scope for increased majority-voting in EU institutions.

Some of the fears and prejudices regarding smaller European states joining the European Union were expressed during the enquiry on Enlargement held in Britain by a Select Committee of the House of Lords. The French Ambassador told the Committee that smaller states like Liechtenstein, Monaco and Malta could not have the same rights and obligations as Member states. Lord Thomson of Monifieth said that "full membership" should not be encouraged for small states such as Malta and Cyprus. He added: "*We have one mini-state at present, Luxembourg, and I think one is quite enough*". Contrary to these opinions were those expressed by George Roberston M.P. who claimed that the old arguments regarding small states being unable to run the Presidency were knocked on the head by the good job Luxembourg had made in running the Presidency. The Greek ambassador said that the institutional changes necessitated by enlargement did not represent an insuperable obstacle for the Greek government. The institutional changes might result in the creation of more efficient, democratic and decentralised institutions than would otherwise have been the case.⁷⁶

In an Opinion on enlargement published in September 1992, the Economic and Social committee of the EU stated that Malta's accession, for example, meant that the Union should gear the level of Member States' representation to their geographic and demographic clout within the EU, while fully respecting sovereignty.⁷⁷

Malta's position on the reform of the institutions was summarised by the Prime Minister while addressing the Paul Henri Spaak Foundation in Brussels in February 1994. The Prime Minister made the following important points:

- i. Malta favours the strengthening of the institutions and of the European Parliament;
- ii. A small country has an interest in strong institutions. For a large country, strong European institutions represent an addition to what it already has on its own; they offer a difference in quality. For a small country, they give it an opportunity in

sharing in what it can never hope to achieve by its own limited resources.

- iii. The reform of the institutions need not take place necessarily before the accession of any one member state, whether Malta or some other country or, indeed, before accession negotiations actually start with such a state.⁷⁸

Indeed, the Prime Minister was referring to the decision taken at the Brussels European Council held in December 1993 establishing the number of members from each member state to be appointed or elected to the Union's institutions, as well as the fixing of qualified majority weights of each Member state in Council and the new system of rotation of the Presidency of the Council.⁷⁹ Later, the informal *Ioannina Meeting*, convened by the Greek Presidency in March 1994, led to transitional arrangements regarding qualified majority voting [and the "blocking minority"] in Council, which will last until the reform of the institutions in the Inter-Governmental Conference of 1996.⁸⁰ Agreement to the *Ioannina Declaration* was sought for and obtained from the four EFTA applicants.

It has been argued that the institutional changes, which would have been brought about by the adhesion of Cyprus and Malta to the EU before the Inter-Governmental Conference of 1996, would not have been any more damaging to the smooth functioning of the Union's institutions than the adhesion of the four EFTA states. This is illustrated more clearly by reference to the tables included in Annex I and showing the change in the institutions brought about by the inclusion of both the EFTA applicants as well as Cyprus and Malta.⁸¹ For instance, the adhesion of the EFTA states brings an addition of 11 to qualified majority voting in Council, whilst the accession of Cyprus and Malta would have induced an addition of four, or just as much as Switzerland would have added if it had joined the Union together with the rest of the EFTA pack. Switzerland's accession to the Union was at no stage regarded as being catastrophic for the decision-making process of the Union, however the addition of two Mediterranean states, one the size of Luxembourg, the other twice its size, was considered to be unacceptable. Nor would the outcome of the 1996 Inter-Governmental Conference have been prejudiced by the entry of the Mediterranean states, since they too would have subscribed to the declaration attached to the official record of the Brussels Council and the *Ioannina Compromise*, whereby the member states and the applicants bound themselves to revise all the institutional arrangements established so far, at the Inter-Governmental Conference on the institutions.⁸² No doubt, the European Union's uneven treatment of Cyprus and Malta, as compared to their treatment of the EFTA countries, is motivated by the fact that the EU does not wish to raise precedents in its treatment of future membership applications from similar-sized countries.

The other major objection that is made at times with reference to small countries is their alleged inability to handle the Presidency of the Union. In a report to the European Parliament, Euro Parliamentarian Hansch⁸³ wrote, "*The Union will increasingly assert its identity through a common foreign policy. As the number of Member states rises, so too will there be an increasing number of governments with virtually no proven ongoing ties and experience in certain regions of the world, for instance the Middle East, Africa, the Balkans, etc. Those will be the regions, however, which will come to pose greater challenges for the Union's common foreign and security policy (CFSP). The new responsibility which the Maastricht Treaty has conferred on the Council presidency as regards implementing the CFSP will bring this structural flaw more sharply to light. The joint 'Troika' system will not be able to tackle the root of the problems.*"

⁸⁴ Hansch's opinions are not unchallengeable and the observation by Wallace and Michalski is certainly most telling in this context: "*Small-country presidencies have not had such a bad track record and some large-country presidencies have been less than outstanding. The collegiality and sense of playing a respected part on quasi-equal terms has been an important element of 'solidarity' within the EC.*"⁸⁵

Lastly, the proposal made by the Commission in its communication on Enlargement to the Lisbon Council of June 1992, that the question of participation of Malta and Cyprus in the institutions should be dealt with during accession negotiations, would have placed both countries in the unfavourable position of having to negotiate their place in the institutions before the 1996 Inter-Governmental Conference had even commenced and from the position of outsiders rather than insiders. Besides, it would have been difficult to negotiate such institutional arrangements before any proposals had been submitted in the Union as a whole.

The Economic gains For Malta

Malta is disenchanted with the present relationship based on the 1970 Association Agreement because its competitive position in the Union's market has been eroded by various developments. From the economic point of view, the European Union has little or nothing to gain from the adhesion of a small state like Malta. Nor does it stand to lose anything.

The proliferation of various Association Agreements and other preferential trading arrangements between the EU and third countries since Malta signed its Association Agreement in 1970 and more recently the conclusion of Europe Agreements with the Visegrad countries and beyond, has eroded the original preferences in the agreement.

The second main concern regards the structural funds of the Community, to which Malta has no access, and which enhance the competitiveness of European backward regions and thus positively affect the competitive performance of EU firms and the flow of investment. As a result, as long as Malta does not have access to these funds it will be losing in its competitiveness, unless of course the Maltese authorities find alternative development funding on a par with what the EU spends in its backward regions. The question of the structural funds is not one which interests Malta in the membership context only, but is intimately related to its competitiveness.

The completion of the single market has simplified and removed many barriers to trade for Malta in the EU. However, measures aimed at helping Small and Medium-sized Enterprises (SMEs) and to encourage mobility and exchange of information, which were introduced concurrently with the single market, still put Maltese firms at a disadvantage. The removal of non-tariff barriers to trade has resulted in a reorganisation of European industry so that the market has certainly become more competitive for Maltese firms as European firms hitherto prevented from competing in a Europe-wide market by the existence of non-tariff barriers have had their competitiveness enhanced by the single market and parallel measures.

In trade matters, membership will enhance the rules of origin in favour of Malta. It will permit products such as processed food and beer, which are presently subjected to restrictive practices (beer has a tariff quota) by the Community, to enter the European market.

Membership will permit Maltese firms in the services sector to expand in the European market.

The economic strength of the European Union today is such that Malta, like most other third countries with extensive trading links with it, has to adapt to EU decisions in the economic sphere without actually having a say in them. Membership will afford a way out of this situation.

Lastly, Malta's economy, being dependent because of its small domestic market on exports, will gain access to the markets of non-EU countries which have preferential trading arrangements with the European Union. In the absence of membership, such access would theoretically be possible only if Malta could conclude bilateral trade accords with each of these countries, giving it similar privileges to those which these third countries accord the EU. For a small country like Malta, the successful conclusion of such accords is extremely limited. In fact, when Malta joins the EU, it will gain better access to the neighbouring Mediterranean countries than it has at present.

Of course, the liberalisation of the Maltese market will open the domestic sector to external competition and induce some costs, especially if uncompetitive firms enjoying high protection have to close down. The situation as regards such firms is not a simple one. Some domestic-oriented firms are presently constrained to stick to such inward-looking policies for various reasons, ranging from inaccessibility to the European market due to the absence of trade concessions on the part of the European Union (e.g. processed agricultural products) to the stiff competition they are faced with from EU firms if they try to make inroads in non-EU markets in the Mediterranean, some of which enjoy export subsidies or production subsidies.

A few service sectors like banking and insurance may face stiffer competition, however this is not looked upon negatively by most other economic sectors.

The economic restructuring programme has already been set in motion and the liberalisation programme is a gradualist one which would have advanced much by the time Malta enters the Community. However, other restructuring such as changes in the fiscal policy and the introduction of VAT has had to be rapidly introduced, eliciting some public resistance. Without the compensating advantages that membership could at least bestow, such as the sense of finally belong to the Union, political and social fatigue could set in, including, perhaps, negative attitudes towards EU membership.

Economic and Legal Reform In Malta in Preparation for EU Integration.

Malta's economy is already deeply integrated with that of the European Union. Around 84 per cent of its trade is tied with the EU and the latter is the source of the bulk of its foreign direct investment. Exports to the Community stood at ECU 354.8 million in 1987 and ECU 713.8 million in the first nine months of 1994. Between 1987 and 1994, exports to the Community have more than doubled. Clothing was the predominant export in the Eighties, in the Nineties its place has been taken by electronic goods. The share of Maltese exports in the EU's extra-Union imports has been increasing fast, at a time when intra-EU trade has generally increased faster than extra-EU trade. On average in the last five years, Malta's GDP at factor cost increased by around 8.6 per cent per annum. Inflation has been between 3.0 and 4.0 per cent but part of this inflationary pressure can be explained by the fact that the economy has been expanding for the past six years. In the labour market, the gainfully occupied have increased by 11.2 per cent from 1987 to September 1994. Unemployment stood at 3.9 per cent in September 1994. Tourism is another important source of income. In 1987 the number of tourist arrivals stood at 745,900 while in 1994 the figure stood at 1.2 million. Gross income from tourism has climbed from ECU 301.5 million in 1987 to ECU 462.5 million in

the first nine months of 1994. Efforts to diversify tourist arrivals from the British market have been successful and while quantitatively the intake from the UK has declined slightly after reaching a peak in 1992, tourist arrivals from other destinations have increased faster. In 1987, tourists from the U.K accounted for around 60 per cent of the total. In 1994 their share in total tourist arrivals was less than 50 per cent. Diversification of the tourist market is intended, of course, to increase the resilience of the local industry to external shock. The external reserves of the monetary authorities have also been steadily increasing. Malta traditionally has had balance of trade deficits which normally become more negative with an increase in tourism and fast economic growth prompted, of course, by an increase in consumption of both consumer goods and industrial supplies. However, for many years, Malta has had net balance of payments surpluses. The reserves of the monetary authorities have increased from ECU 1,216.7 million in 1987 to ECU 1,318.6 million in September 1994.⁸⁶ By the end of 1994, net Public debt amounted to ECU 525.4 million or 26.6 per cent of GDP. Public debt servicing amounted to around 2.4 per cent of GDP in 1994.

Yet in its "avis" on Malta's application, the Commission observed that the adoption of the "*acquis communautaire*" by Malta especially in the trade, economic, financial and competition issues "*depends on a thorough-going overhaul of the Maltese economy's regulatory and operational systems. The problems posed by such an overhaul are far from insurmountable, but the reforms will affect so many practices and situations with deep roots in Maltese society that the government's undertaking to adopt the acquis communautaire in its entirety must be backed by the adoption of an overall structural reform programme and by the effective implementation of its most pressing measures.*"

Basically the difficulties referred to by the Commission are the following: part of the manufacturing sector which is oriented towards the local market is protected by rather high tariff walls. Ship building and ship repair are heavily subsidised by government, the government relies for its revenue on customs duties [in 1992, 24 per cent of total government revenue came from customs and excise], the banking sector is not open to international competition, the central bank is not independent and does not operate a monetary policy in the true meaning of the word, and lastly government exercises rigorous administrative controls to put a lid on prices and profits. Reference was also made to the absence of competition law and especially the absence of anti-trust legislation and lastly the lack of environment regulations.

At first glance, the judgment expressed in the Commission's opinion on Malta's application seemed a bit out of tune with the real developments in the economy. The most telling question asked was why should Malta thoroughly overhaul an economy which was doing well [healthy

economic growth, low inflation, low unemployment etc.]. However, legal and economic reforms had been considered for a long time in order to make the economy more efficient, by opening up the protected sector to competition and by overhauling Government's fiscal policy. In 1987 Government embarked on the first phase of this reform by removing administrative controls on imports and replacing these by additional tariffs, a process of tariffication. Further developments took place in the areas of fiscal reforms and exchange controls. Prior to Malta's application to join the European Union, the Government had already concluded a plan for Malta's adaptation to the "*acquis communautaire*".

One of the Government's main concerns was that the reforms should not be sudden and catastrophic but that they should continue to obtain wide-ranging popular support. Whereas most EU Member states can blame unpopular reforms "on Brussels", the Maltese authorities do not have such elbow room. Any measure which requires short-term sacrifices will not easily be sold, not even if it can be shown to be required outside the context of membership or that it would lead to benefits in the long-run. A reform that coincides with adaption to the Union's "acquis" is immediately labelled by opponents to EU membership as an infringement on sovereignty, a measure designed to please Brussels. No doubt this must be an essential factor which must be considered by the Union in its negotiations with Malta on the fourth financial protocol so that the quantum of financial aid will have to be adequate to support the reforms.

The economic and legal reform programme is certainly on track and running smoother than expected. This could, however, be attributed to the fact that at this stage, the programme consists primarily in the passage of the necessary legal acts through parliament. The introduction of Value Added Tax has encountered a mixed reaction from part of the trade union movement and the association representing small retailers. It was successfully introduced on January 1st, 1995. The more interesting part of the reforms will surely commence with the actual enforcement of some of the changes. This, however, appears to be a new experience in which Maltese decision-makers are happily engaged.

The most salient parts of the reforms, on which there was prior agreement with the Commission as part of a mutually agreed reform programme of March 1994 and which have successfully been introduced are the following:

- (1) The Central Bank Act has been modified by a law to that effect passed in November 1994 in order to enhance its independence and enable it to conduct monetary policy via open market operations. The Government will not be in a position to borrow through the Bank and interests rates, which it hitherto fixed, are being liberalized, a process which will be completed by 1997. Meanwhile commercial banks are being given more

freedom to determine interest rates according to market demands. The strengthening of the independence of the Central Bank also satisfies the requirements of the Maastricht Treaty.

- (2) New Financial Services Acts have been approved in Parliament, bringing financial legislation in line with its EU counterparts. In the case of banking legislation, this has been brought into line with the first and second EU banking directives, particularly with regard to the control of credit institutions and combatting money laundering and insider dealing.[see Appendix 2] The financial services sector has been liberalized for foreign operators, who are now free to set up financial institutions in Malta. Two foreign banks have been licensed to operate from Malta. In the banking sector, the Government has already privatized two banks, a small bank in 1994 and one of Malta's two largest ones in March 1995. The process of privatisation continues.
- (3) Exchange controls are being eliminated gradually in order that they will be removed completely by 1997 to allow for the full freedom of capital movements. Since November 1994, Malta has complied with IMF Article VIII.⁸⁷
- (4) As regards fiscal policy, VAT was satisfactorily introduced on 1 January 1995. The relevant Maltese law is based on the VAT Sixth Directive. Some fields of economic activity such as in the tourist, educational and health services have been exempted completely from VAT or subjected to a reduced rate. The VAT legislation encountered the opposition of the Labour Party and the General Workers' Union, Malta's biggest trade union which is closely allied to the Labour Party. The General Retailers and Traders' Union also opposed the law on the method of its introduction and not in principle. Nevertheless, when the law actually went into effect its implementation moved rather smoothly.
- (5) Customs duties have been eliminated on all EU imports and a new customs duty equivalent to the Common External Tariff of the EU has been adopted for non-EU imports. Some protective levies have been maintained on around 850 products including agricultural produce, processed agricultural foods and some manufactures. The imposition of these levies has been subjected to a clear and definite timetable for their dismantlement, expected to be completed by the end of 1996 for half of them. The remaining levies will be dismantled in accordance with agreements reached during the accession negotiations. Meanwhile customs formalities have been modernised with the use of new information technology.

- (6) Efforts have begun to align technical standards with those of the European Union in order to eliminate new obstacles to trade such as technical barriers.
- (7) A new Competition Act, based on the EU's competition rules was enacted in December 1994.
- (8) A consumer protection Act modelled on EU regulations was approved by Parliament.
- (9) The civil service is actively being reformed.
- (10) In ship building and ship repair a restructuring programme has been in operation for some years.
- (11) In the area of the environment, regulations have been issued, bringing Maltese law in line with EU regulations especially on the question of bird protection. Malta has also acceded to the Berne Convention.
- (12) A number of state-owned companies have been wound up or sold to the public. Banks, which up to now have been wholly state-owned, have been allowed to sell shares to the public, thus relaxing the state's majority share holding to pave the way for more privatisation. One of the smaller banks has been completely privatized. The policy on privatisation seems to point to the achievement of a situation where only the basic utilities [water, energy and telecommunications], considered to be natural monopolies in an island the size of Malta, will remain in state control. In the case of telecommunications, the EU's decision to create a single market in telecommunications will mean that the sector will be open to competition, although it does not necessarily entail that government will relinquish control over the Maltese telecommunications corporation, which presently enjoys a monopolistic position.

This process may entail short-term adjustment costs, although the negative repercussions have largely been avoided due to the fact that the economy is buoyant. The authorities have kept in place a number of protectionist measures, such as the maintenance of price controls and import levies in order to minimise the adjustment costs and stagger the negative economic effects. Price controls and new legislation on competition and fair trading will enable the authorities to keep a close watch and control on prices in the first year of the operation of VAT in order to prevent the reduction in customs duties from being turned into extra profit by retailers hiding behind the excuse that VAT has raised the general price level. The import levies, mostly on processed food and drinks, which will also be gradually dismantled in the longer run, will

allow the domestic-oriented industry to survive the onslaught of competing imports. Once controls on these imports are removed on the Community's side, either as a result of membership or by such a decision in the interim period, the pressure on this industry will ease and make liberalisation possible.

Financial aid from the Union will mitigate further the impact of this adjustment programme which will eventually make the Maltese economy more efficient. However, the unique situation Malta finds itself in the midst of this adjustment programme, the fourth EU-Malta financial of around 45 million ECUs spread over a period of five years, is only marginally better than the previous protocol in real terms, which shows that the burden of legal and economic changes is not being taken by the EU.

Positively noting the changes that have been going on Malta, on 1 March 1995, the Commission of the European Communities sent a report to Council on the implementation of these economic and legal reforms, reiterating that the negotiations will therefore be able to start up on the basis of the Commission's proposals six months after the conclusion of the 1996 InterGovernmental Conference and in the light of its outcome. The Commission has also promised to present concrete proposals on a specific pre-accession strategy, including a structured dialogue, in good time for the next Association Council meeting scheduled for June 1995.⁸⁸

Attitudes Towards EU Membership In Malta in The Mid-90s

The governing Nationalist Party, which won a convincing electoral success in the general election of 1992, has traditionally been in favour of membership of the European Union. The Malta Labour Party opposes membership of the EU, stating that this would end Malta's neutral status. The Labour Party wants a long term agreement based on the setting up of a free trade zone in industrial products which would make allowance for the domestic oriented industrial sector. The labour proposal also refers to "*continued Common Market financial contributions to Malta, cooperation in research and development, transfer of technology and investment in Malta*"⁸⁹. Such a proposal looks positive in the abstract, however a free trade area (FTA) in industrial goods is not the best possible "incomplete" integration relationship that ought to be pursued by a small economy the size of Malta in which the export of services is becoming increasingly crucial. The proposal also seems to turn a blind eye to the fact that the level of financial and economic cooperation which the Community would offer Malta will largely depend on the Global Mediterranean Policy of the Union, the amount of global aid allocated from the EU's own resources and the way the EU will decide how to divide the cake. In this regard, no doubt the poorer and larger Mediterranean states will get the

lion's share of the aid and the criteria for dividing such aid will rest, no doubt, solely on the donor's interest and not on the recipient's. Further, such aid will have more restrictive ties than regional and social development aid transfers which will flow to Malta following membership.

Neither has the Maltese labour proposal been convincing on the economic arguments which have been put forward for maintaining their commitment for a free trade area with the Community in preference to membership. For example, the Labour Party has opposed the introduction of Value Added Tax, and promised to repeal the system when elected to government, even though this tax system permits government to reform its revenue and fiscal policy which is presently dependent on income from customs duties. VAT could become a handy tool for the achievement of the free trade area option, were this to become Malta's choice in the future in the eventuality of a rejection of the membership option. It is difficult to find convincing political and economic arguments to show how the FTA proposal will entail more benefits and less costs for Malta than membership.

One plausible argument in favour of the FTA proposal is that it will allow Malta to maintain flexibility and be in a position to conclude other trading arrangements with other countries. The reverse side to this argument is that Malta, being a small country, will find it harder to negotiate, let alone conclude free trade arrangements with other countries while the European Union already has in place such arrangements or preferential trading agreements with nearly all the countries of the world. Membership of the Union can be seen as a way of integrating the Maltese economy with the rest of the global economy, not least in the Mediterranean region itself, where south-south networks remain so under-developed and where the European Union already enjoys extensive economic and political relations and will no doubt try to improve these relations in the future. The EU has already proposed negotiations with Israel and the Maghreb countries in order to improve the present preferential trading arrangements and recent proposals put forward to improve its Mediterranean policy show that it will be further encouraging greater trade liberalisation in the region. When all is said, Malta's choice amounts to one between joining the EU or asking the latter to treat it just like any other Mediterranean state under the aegis of the global Mediterranean policy.

Alternatively, outside the membership option, Malta also has the choice of extricating itself from the Mediterranean policy and embarking on a closer integration project with the Community on the model of the European Economic Area. This will amount to joining the Community in everything except its decision-making institutions.

One other argument posited is that in joining the European Union Malta would have to sacrifice its sovereignty. Here again the argument is rather obscure, since it often neglects the extent

and the meaning of sovereignty for a small state. Sovereignty is a relative concept and a small state which is open to the pressures of bigger neighbouring states cannot really define its sovereignty in the abstract. Malta's brush with Libya over the delineation of the continental shelf in 1980 clearly demonstrated that small states are more liable to be threatened with force sometimes even by neighbouring states which presumably are on the best of relations with it. As an EU member, Malta would certainly have to surrender some national control over some policy areas. It will not mean that it will not be pressurised by bigger states. However, de facto, in a world where power characterises international relations, small states have been constrained on more than one occasion to sacrifice their sovereignty and right to decide certain issues silently. Membership of the European Union will give a small state like Malta a voice in world affairs with the rest of its partners and at least ensure that deliberations occur within an acceptable and more transparent framework and not on a "might-is-right" basis in behind-the-scenes diplomacy. Membership will enhance Malta's security, give it a say in the internal Community decision-making and in the longer run make it less likely to be pushed around in the international arena. The sovereignty of a small state cannot then be viewed in all or nothing terms. A small state will lose some freedoms but it would definitely gain others, thus the gains weigh more than the losses. Ultimately, membership enhances Malta's sovereignty, not diminishes it.

On the question of security, the Maltese Labour Party, while opposing membership because of the presumed loss of sovereignty which this will entail, has recently proposed that should it be re-elected to government, it would seek a bilateral security agreement with the European Union. In an official Labour Party review of security policy it was stated that "*Through this agreement Malta obtains a guarantee of assistance and protection which the European Union pledges to give according to the resources and mechanisms which it has at its disposal from time to time*"⁹⁰

Conclusions

Confronted by the European Union, Malta really has no choice but to join. Membership does not depend on Malta but on the European Union. The experience of other countries which have joined the Union since 1973 have perhaps conveyed the message that membership is indeed a tiring proposition. In the case of Malta's application, progress towards membership has been slow and incremental, but on the whole positive.

The Maltese economy is already integrated with that of the European Union. Malta does not threaten any major indigestible costs for the Union. Its buoyant economic growth means that it will be in a position to achieve the so-called nominal Maastricht criteria and to make progress in

real convergence.

From the political point of view, Malta has already indicated that it will fully participate in the CFSP. Membership of the Union is also a means by which Malta seeks to enhance its own security.

The institutional issue, proposed as the most serious impediment to Malta's (and Cyprus's) accession of the Union with the EFTA countries, exposes the uneven-handedness with which the European Union treats the Mediterranean states as opposed to its treatment of the EFTA ns. There appears to be no serious reason why the small Mediterranean applicants should not be allowed to join the Union on the present institutional arrangements whereby the EFTA states have been admitted.

The Union's ambivalent and seemingly half-hearted response to Malta's application undermines popular support for membership in Malta and discredits a government which has built up its policies and popular support on the notion that anchoring Malta in the European fold was an end which was also desired by Europe.

As the economic and legal reform goes on in Malta, the EU's inability to set a definite date for the start of negotiations continues to supply the uncertainty which nobody wants. Once such negotiations start, there is no obstacle to their rapid and positive conclusion. By now both sides have demarcated the difficulties and the solutions clearly. One option could be to start negotiations with the Mediterranean applicants on the non-controversial issues, leaving the more difficult ones, such as those related to their place in the institutions to the very last, until after the IGC. The two applicants can also be given observer status at the IGC.

Membership of the Union for more Mediterranean countries will go a long way to restore some of the internal balance within the Union. In the CFSP, where the EU's Mediterranean policy belongs, Malta can bring to bear the experience it has gained in Mediterranean diplomacy over the past three and a half decades of its existence as an independent state. The Union might neglect, to its own peril, the dangers lurking in the Mediterranean, yet events in the region have taken a life of their own and present ominous possibilities for Europe in the future.

1. The Nationalist Party (Christian Democrat) in government since 1987, has since 1962 expressed itself in favour of membership of the European Community. It has included membership of the Community in the electoral manifestos of 1981, 1987 and 1992. It has interpreted the absolute majority of votes obtained in the three elections as giving it the necessary mandate to seek membership of the European Union.

2. Address by the Hon. Dr Eddie Fenech Adami, Prime Minister of Malta, at a conference held at the Foundation Paul Henri Spaak, on "Malta in The European Union", Brussels, Belgium, 3 February 1994. [Office of the Prime Minister, Malta] page 2.

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3. "Commission's Opinion On Malta's Application for Membership", *Com (93) 312 final*, Brussels, June 30th, 1993, see points 42 and 44, page 21.
 4. Conclusions of the Presidency, European Council held in Copenhagen 21 and 22 June 1993, *Bulletin of the European Communities*, EC 6-1993, point 1.11, page 12.
 5. This dialogue is still going on. The Prime Minister of Malta, Dr Eddie Fenech Adami has been invited to take part in the EU Council meeting which will take place in Cannes - together, of course, with the political leaders of other countries with whom the EU has a structured dialogue.
 6. *Ir-Review*, Department of Information, Valletta, 12th September, 1962.
 7. Tobias Alfred, "EEC Enlargement - The Southern Neighbours", *Sussex European Papers, No 5*, Sussex University, European Research Centre, 1979, page 58: "*Her negotiating tactics arouse ill-feeling in Brussels*"
 8. Debates of the European Parliament in the *Annex to the Official Journal*, No 3-441, session of Wednesday and Thursday, 19 and 20 January 1994, pages 149 forward.
 9. *ibid.*, page 149.
 10. Debates of the European Parliament, *Annex of the Official Journal* No. 3-442, 9 February, 1994, page 141.
 11. Debates of the European Parliament, *Supplement to the Official Journal of the European Communities*, No. 3-445, 9 March 1994, page 78-79.
 12. Conclusions of the Presidency, European Council, Corfu, 24 and 25 June 1994, *Doc. SN 150/94*, page 14.
 13. *Europe*, Special Edition, No. 6260; Agence Europe, Brussels, 26 June 1994, page 4.
 14. The amendment to the Oostlander resolution was presented in the Plenary Session of the European Parliament on 30 November 1994. The relevant part of the text is: Recital G, "Whereas the European Council in Corfu noted that the next phase of enlargement of the Union would incorporate Cyprus and Malta, and having regard to the European Parliament's resolutions on the subject and **whereas, therefore, those countries must be given an appropriate opportunity to state their views at the Essen European Council**". Note: the bold part was the amendment inserted by the Greens while the part in italics was an amendment inserted by the Group of the European Democratic Alliance. The latter passed unanimously by show of hands while the amendment tabled by the Greens passed by 152 in favour, 143 against and 10 abstentions.
 15. *Cyprus Bulletin*, Vol XXXII, No 22, 22 December 1994.
 16. H.E. Dr Martin Florin, German Ambassador to Malta, interviewed in *The Sunday Times* (of Malta), 1 January 1995, page 14.
 17. Conclusions of the Presidency of the European Council meeting on 9 and 10 of December, 1994, held in Essen, Germany.
 18. As reported in *Europa Van Morgen* issued by the Commission Press Office in the Netherlands, 26 January 1995.
 19. *Europe* of No. 6419 of 13/14 February, p.5; No 6420 of 15 February, pp 10 - 11, both issues of 1995.
 20. Six months after the end of the IGC (Inter-Governmental Conference) - due to begin in 1996.
 21. Redmond John, *The Next Mediterranean Enlargement of the European Community: Turkey, Cyprus and Malta?* Darmouth Publishing Co. Ltd., 1993, page 4.
 22. Communication from the Commission to the Council and European Parliament On the Strengthening of the EU's policy towards the Mediterranean Basin countries. *Com (94) 427/3* of 17 October 1994.

23. See the comments made by Mr Pasmazoglou of the European People's Party in the debate on the applications of Cyprus and Malta held in the European Parliament, Debates of the European Parliament, *Annex to the OJ No 3 - 441*, page 237.

24. Bonvicini Gianni and Silvestri Stefano, "The New Arc of Crisis and The European Community", *The International Spectator*, Volume XXVII, No 2, April-June, 1992, pages 31 - 43.

25. Originally the forum was a "4 + 5" with the European side being represented by France, Italy, Spain and Portugal. The Arab side was made up of Algeria, Libya, Mauritania, Morocco and Tunisia. Malta joined the forum later. The setting up of the forum was first proposed by President François Mitterrand of France in Marrakech.

26. Fernandez-Ordoñez Francisco, "The Mediterranean - Devising a Security Structure", *NATO Review*, Volume 38, No 5, October 1990, pp 7-11, vide pp 9-10.

27. For details of the "Mediterranean Chapter" see:

- i. Helsinki Final Act of 1 August 1975;
- ii. Concluding Document of the Belgrade Meeting of the C.S.C.E., 9 March 1978
- iii. Report of the Meeting of Experts Representing the Participating States of the C.S.C.E. foreseen by the Mediterranean Chapter of the Helsinki Final Act, Valletta, 26 March 1979;
- iv. Concluding Document of the Madrid Meeting of The Conference on Security and Cooperation In Europe, 9 September 1983;
- v. Concluding Document, Of The Vienna Meeting Of Representatives of the Participating States of The C.S.C.E., 19 January 1989;
- vi. Charter of Paris for a New Europe, 21 November 1990;
- vii. Helsinki Summit Declaration of 10 July 1992
- viii. Maresca John J., *To Helsinki: The Conference on Security and Cooperation In Europe, 1973-1975*, Duke University Press, 1987 for details on the origins of the Mediterranean Chapter in the CSCE.

28. Reported in *Europe*, Agence Europe, No 5348, Friday 12 October 1990, page 6.

29. *Europe*, Agence Europe, No 5332, 20 September 1990, page 7. The proposal for the revival of the Euro-Arab Dialogue was forwarded to Mr Adnane Omran, Deputy Secretary General of the Arab League, by the Italina Ambassador in Tunis. The meeting was scheduled for 7 and 8 October 1990, in Venice.

30. Communication from the Commission To The Council: "Strengthening The Mediterranean Policy of the European Union: Establishing A Euro-Mediterranean Partnership", *Com (94) 427 final*, 18.10.1994;

- Report From the Commission To The Council and The European Parliament, "On the Implementation of Financial and Technical Cooperation With Mediterranean Non Member Countries and On Financial Cooperation with Those Countries as A Whole", *Com (94) 384, Brussels*, 18.11.1994.

31. 3 int 10 to Annex V of the Conclusions of the Presidency of the Essen European Council, 9 and 10 December 1994.

32. Debates of the European Parliament, *Annex to the OJ*, No 3-441 page 152.

33. Since a discussion at length of the individual Mediterranean applications is not the aim of this short study, John Redmond's excellent work on the issues involved [op.cit in footnote 8] is recommended.

34. Point 47 in the Commission's Opinion on the application made by Cyprus to join the EU: "...Cyprus's integration with the Community implies a peaceful, balanced and lasting settlement of the Cyprus question..."

Point 48: "...as soon as the prospect of a settlement is surer, the Community is ready to start the process with Cyprus that should eventually lead to its accession." - *Com (93) 313 final*, Brussels, 30 June 1993.

35. Greek Deputy Foreign Minister in charge of European Affairs, Yiannos Kranidiotis, said during a press conference in Nicosia on 3 August 1994, that the aim of the Cyprus Government is to get approval for the start of negotiations with Cyprus, regardless of developments in the Cyprus problem. According to the

same report, the diplomatic offensive by Greece had to start in the autumn when Mr Kranidiotis was to begin a series of contacts with Greece's partners and the German Presidency in a bid to persuade them that the island's admission will help the Cyprus problem and that membership would benefit both sides. *CYPRUS BULLETIN*, Vol XXXII, No 14, Press and Information Office, Nicosia, Cyprus, 22 August 1994.

36. The court pointed out that the system whereby movement certificates were regarded as evidence of the origin of products depended on mutual reliance and cooperation between the EU and the competent authorities in Cyprus. Such cooperation was excluded with the authorities of an entity, such as that established in the Northern part of Cyprus, which was recognised neither by the Community nor by the member states; the only state they recognised was the republic of Cyprus. see *Case C-432/92, The Queen v Minister of Agriculture, Fisheries and food, Ex parte: S.P. Anastasiou (Pissouri) Ltd and others*. On 5 July 1994, the Court ruled as follows: "The Agreement of 19th December 1972 establishing an Association between the European Economic Community and the Republic of Cyprus, annexed to Council regulation No 1246/73 of 14th May, 1973, and Council Directive 77/93/EEC of December 21, 1976 on protective measures against the introduction into Member States of organisms harmful to plants or plant products must be interpreted as precluding acceptance by national authorities of a Member State, when citrus fruit and potatoes are imported from the part of Cyprus to the North of the UN buffer zone, of movement and phytosanitary certificates issued by authorities other than the competent authorities of the Republic of Cyprus."

37. Denktash was re-elected with 62% of the vote.

38. *The Cyprus Financial Mirror*, 27 July - 2 August 1994, page 7.

39. *Bulletin of the European Communities*, Supplement 3/92, Brussels, 1992.

40. *ibid.*, page 13

41. *ibid.*, point 29 page 17. See also Commission's opinion on Turkey's application, *Sec (89) 2290 final* of 20 December 1989, particularly point 7.

42. *ibid.*, point 31, pp 17-18

43. *ibid.*, point 30, page 17

44. Conclusions of the Presidency of the Lisbon European Council, *Bulletin of the European Communities*, No 6, 1992, p. 10.

45. Electoral Manifesto of the Nationalist Party for the February 1992 general election, page 91, point 10.1 "The Nationalist Party is confident that Malta will be in the first group of enlargement".

46. Michalski Anna and Wallace Helen, "The European Community: The Challenge of Enlargement", *European Programme Special Paper*, Royal Institute of International Affairs, London, 3 June 1992, p.30, "The Commission expects those EFTA countries that apply to be the first such group [to join the Community]. In addition, Malta might be included in this group as some in the Commission think the Maltese case should be addressed in the context of the first enlargement...feasible objective on different time scales for different groups of countries, the EFTAs, perhaps Malta in the more immediate future..." - page 17.

47. *Liberation* of 14 September 1992.

48. The Foreign Minister and Deputy Prime Minister, Dr Guido de Marco was unanimously elected President of the forty-fifth session of the UN General Assembly on 18 September 1990.

49. Conclusions of the Presidency of the Edinburgh European Council, *Bulletin of the European Communities*, EC 12-1992, page 7 forward;

Conclusions of the Presidency of the Copenhagen European Council, *Bulletin of the European Communities*, EC 6-1993, page 7 forward. Quote taken from p.12.

50. Commission's Opinion, *Com (93) 312 final*, Brussels, 30 June 1993, point 19, p 10.

51. Report Drawn On Behalf of the Political Affairs Committee of the European Parliament on Malta and its relations with the European Community. Rapporteur: Mr Derck Prag. *PE Doc A2 - 128/88* of 29 June 1988, page 18.

52. The definition of neutrality as inserted in the Constitution by Act IV of 1987 states that "Malta is a neutral state actively, pursuing peace, security and social progress among all nations by adhering to a policy of non-alignment and refusing to participate in any military alliance. Such a status will, in particular, imply that: (a) no foreign military bases will be permitted on Maltese territory; (b) no military facilities in Malta will be allowed to be used by any foreign forces except at the request of the Government of Malta, and only in the following cases: [reference is made to the right of self defence or if the sovereignty, independence, neutrality or territorial integrity are threatened]; (c) except as aforesaid no other facilities in Malta will be allowed to be used in such a manner...as will amount to the presence ... of a concentration of foreign forces; (d) except as aforesaid, no foreign military personnel will be allowed on Maltese territory, other than military personnel performing...civil works...and other than reasonable number of military technical personnel assisting in the defence of the Republic of Malta; (d) the shipyards...". *Constitution of Malta*, Department of Information, Valletta, 1992, Chapter 1, article 1, pp 1-2.

53. Prime Minister Dr Eddie Fenech Adami in his first address to the Diplomatic Corps in Malta: "The essence of this consensus has now been declared in our Constitution which provides that Malta is a neutral state adhering to a policy of non-alignment. My Government will abide strictly by the provisions of the Constitution, which, I must point out, however, describe a 'sui generis' status based on the consensus of opinion above described.". Department of Information, Malta, 9 June 1987. It was also officially communicated by the Malta High Commission to the Select Committee on the European Communities, of the House of Lords in the session 1992-93. The report, "Enlargement of the Community", HMSO, 9 June 1992, point 64, page 17.

54. - Neutrality Agreement, Malta-Italy, concluded 15 September 1980. Published by the Ministry of Foreign Affairs, 1980: " (Italy)Undertakes to consult, at the request of the Government of...Malta or of the Government of a neighbouring Mediterranean state, making a like declaration as the present one, with the government of ... Malta and of the other states aforesaid whenever one of them declares that there is a threat of violation or a violation of the sovereignty, independence, neutrality...of Malta. (5.2.)...At the request of...Malta and after consulting the aforementioned states...adopt any other measure, not excluding military assistance, it will consider necessary to meet the situation."

- Agreement on the neutrality of Malta, Malta-USSR, concluded 8 October 1981 and published by the Ministry of Foreign Affairs: " [The Government of the USSR] expresses its readiness to consult with the Government of...Malta on questions directly affecting the interests of the two countries, including the neutral status of Malta, and in the case of situations arising, which create a threat to peace and security...will also be prepared at the request of the Government of Malta and by agreement between the Parties, to enter into contact with it so as to coordinate their positions in order to remove the threat or to establish peace."

55. Protocol Between the Government of Malta and The Government of the Russian Federation On the Inventory of The Treaties, Valletta, 10 September 1993.

56. Protocol on Cooperation in Security attached to the Treaty of Friendship and Cooperation Between the Government of the Republic of Malta and the Socialist People's Libyan Arab Jamahirija, signed in Valletta on 19 November 1984 by Prime Minister Dom Mintoff and Muammar El Gaddafi.

57. David C. Martin and John Walcott make an interesting allegation in their book: *Best Laid Plans: The Inside Story of America's War Against Terrorism*, Harper and Row Publishers, New York, 1988, page 266-67: "Intercepts of communications between Tripoli and the Libyan People's Bureau in Malta convinced members of the National Security Council [USA] that the Libyan Government was a partner in hijacking [of an Egypt Air Plane, November 1985 by the Abu Nidal Group]...and certainly had passed instructions to the hijackers once they were on the ground in Malta. The Government of Malta was one of Gadaffi's few real allies. The two countries had signed a treaty of friendship complete with secret codicils allowing Libya to

operate a radar station on Malta and to refuel its military aircraft at Maltese bases" If this version of events is correct, and no contradictory evidence has been put forward, it shows the extent to which the definition of neutrality was stretched. Following the April 1986 American raid on Libya, the socialist Prime Minister Dr Karmenu Mifsud Bonnici said that Maltese radar had spotted American planes approaching Libya and had warned the Libyans. Reuter's Service From New York, 6 August 1986, reporting an interview which the Maltese Socialist Prime Minister, Dr Carmelo Mifsud Bonnici, gave to the New York Times. The PM told the New York Times that Maltese air traffic controllers detected a number of unidentified jets in the direction of North Africa some 30 to 45 minutes before the raid. The information was passed on to the Libyan controllers. Dr Mifsud Bonnici added that he did not know if Libya had acted upon the information. In the interview with the New York Times, Mifsud Bonnici also said: "We've committed ourselves to exchange information with all friendly countries, North and South.....If we know that any nation is planning an attack against Libya, we will pass it on, just as we would to Italy or to the United States."

58. The new treaty was initialled in November 1989 and signed in Valletta on February 19, 1990 by Maltese Prime Minister Dr Eddie Fenech Adami and Eng. Jaddalah Azzuz Al-Talhi, Secretary of the People's Committee of the People's Bureau for Foreign Liaison and International Cooperation, of the Socialist People's Libyan Arab Jamahariya.

59. The secret treaties with North Korea, linked to the opposition press during the socialist administration and subsequently published by the new Nationalist Government after 1987, were the following:

- a. Agreement signed in March 1982 in Valletta between the Government of the Republic of Malta and the Government of the Democratic People's Republic of Korea on the Free Offer of Military Assistance to the Republic of Malta by the Democratic People's Republic of Korea.

- b. Agreement (a) was replaced by another agreement, with the same title and signed in Pjongyang in July 1982 by Malta's Foreign Minister.

Incidentally, this agreement was identical to an agreement signed between North Korea and Granada, which agreement was publicised following the invasion of Granada by the United States.

Article 5 of the first and Article 6 of the second Malta-North Korea Agreement: "Both sides observe strict secrecy in respect of all transactions made pursuant to this agreement and shall not disclose any matter thereof to any third country."

60. Borg Tonio, "in the case Saviour Balzan noe et versus the Honourable Prime Minister (June 23rd, 1988) the court, in the Ark Royal case, rejected a request to stop the visits to Malta of warships belonging to a NATO power and referred to the sui generis status of our Republic's neutrality and non-alignment", *The Sunday Times*, 27 February 1994.

61. Debates of the House of Representatives, Sitting of 30 December 1986, page 93.

62. Debates of the House of Representatives, Sitting of 20 January 1987.

63. "Malta's National Security - Final Report", Malta Labour Party, 15 March 1993.

64. Report to The Leader of the Opposition: "Proposals For Updating The Foreign Policy of the Malta Labour Party in Sectors Concerning National Security, Document prepared by an informal working group for the consideration of the National Executive and the General Conference of the Malta Labour Party, published by the MLP, 1994, page 32.

65. *ibid.* page 18.

66. Speech by the Deputy Prime Minister and Foreign Minister, Guido de Marco and questions by members of the WEU Assembly, as reported in *The Sunday Times* (of Malta), 19 June 1994.

67. Foreign Minister Guido de Marco, addressing the WEU Assembly in June 1994, said that Malta accepts participation in the WEU not only as another element of the *acquis communautaire* but also as part of the *finalite politique* which we intimately share with the rest of Malta's European partners. *The Times* (of Malta), June 16th, 1994.

68. The Prime Minister as reported by *The Times* (of Malta) of July 29th, 1994 asked whether as a European country, Malta could remain isolated from developments regarding the Partnership for Peace.

69. Point 39 of the Lisbon Declaration - Final Text of the WEU Ministerial Meeting.

70. Huntington Samuel P., "The Clash Of Civilizations ?", *Foreign Affairs*, Summer 1993, pages 22 to 49.

71. [demographic changes entail that in about twenty years time the population in North Africa would be double that of Southern Europe]

72. "Libya, by their actions [threatening to use force to stop prospecting for oil in disputed waters] ...by subsequently dishonouring the agreement through the use of force, are a danger to peace in the Mediterranean.

"Any move to settle the dispute...rests with Libya to manifest...their regret for an action which should not even have been reserved for one's greatest enemy...The Maltese Socialist Government is convinced that in all this dispute, needlessly provoked by Libya..." - Extracts from a Government Statement on the Libya-Malta dispute issued on the 27 August 1980.

73. Moch Alois, "Austria's Role In The New Europe", *NATO Review*, No 2, March 1995, page 17.

74. Commission's Opinion on Malta's application, *Com (93) 312 final*, Brussels, 30 June 1993, point 39, page 19.

75. *ibid.*, Commission's Opinion, point 41, page 20.

76. *ibid.*, Select Committee Report, House of Lords, HMSO, 9 June 1992 points 91-97, page 22.

77. Opinion of the Economic and Social Committee on "The Future Enlargement of the Community", *CES 1039/92*, Brussels, 23 September 1992, point 4.1, page 5. —

78. Speech by the Prime Minister to the Paul Henri Spaak Foundation, Brussels, 3 February 1994. [quoted in footnote 2]

79. Conclusions of the Presidency, Brussels European Council, 10 and 11 December, 1993, *Bulletin of the European Communities*, Bull. EC 12-1993, pp 7 forward. See especially annex III, p.16.

80. The compromise, Council Decision of 29 March 1994 concerning the taking of Decision by qualified majority by the Council: "If Member of the Council representing a total of 23 to 26 votes indicate their intention to oppose the adoption by the Council of a Decision by qualified majority, the Council will do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by the treaties and secondary law...a satisfactory solution that could be adopted by at least 68 votes. During this period, and always respecting the rules of Procedure of the Council, the President undertakes, with the assistance of the Commission, any initiative necessary to facilitate a wider basis of agreement in the Council. The Members of the Council lend him their assistance" - *OJ C 105 of 13.4.1994*, page 1. As from 1 January 1995 the figures of 26 and 68 were replaced by 25 and 65 respectively - *OJ C 1 of 1.1.1995*, page 1.

81. Pace R., "Malta's Application In The European Parliament", *The Sunday Times*, Malta, 9 January 1994, p.14.

82. Conclusions of the Presidency, Brussels European Council, 10 and 11 December 1994: "The following declaration will appear in the official record of the conference: 'In adopting the institutional provisions of the Accession Treaty, the Member States and the Applicant countries agree that, as well as examining the legislative role of the European Parliament and the other matters envisaged in the Treaty on European Union, the intergovernmental conference to be convened in 1996 will consider the questions relating to the number of members of the Commission and the weighting of the votes of the Member States in the Council. It will also consider any measures deemed necessary to facilitate the work of the institutions and guarantee their effective operation.' Bulletin of the European Communities, Bull. EC 12-1993, page 18.

83. Now President of the European Parliament.

84. Report of the Committee on Institutional Affairs of the European Parliament, on the structure and strategy for the European Union with regard to its enlargement and the creation of a Europe-wide order. Rapporteur Klaus Hansch, *Doc ENRR\208537 - PE 152.242/fin - A3-0189/92*, 21 May 1992. see page 17.

85. Wallace and Michalski, *op.cit.*, page 15.

86. Total reserves, ie those of the monetary authorities together with those of the banking system stood at around ECU 1,732 million in September 1994.

87. Article 8 of the IMF means that Malta has liberalised international exchange and payments systems. The key parts of the IMF are:

Section 2: Avoidance of restrictions on current payments:

"(a) Subject to the provisions of Article VII, Section 3 (b) and Article XIV, Section (a), no members shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions...."

Section 3:

"No members shall engage in, or permit any of its fiscal agencies... to engage in any discriminatory currency arrangements or multiple currency practices....except as authorised under this Agreement or approved by the Fund..."

88. European Commission Press Release, March 1st, 1995, Ref: IP/95/198. The Association Council takes place on 12 June; a week later the dialogue continues, involving the ministers of Justice and Home Affairs; 27 June the Maltese PM will be in Cannes. On the agenda of the Association Council will be the discussion of the Commission referred to earlier.

89. "Malta and The EEC:Economic and Social Aspects" [Reports and documents], Information Department, Malta Labour Party, 1990, page 10.

90. Report to The Leader Of The Opposition, "Proposals For Updating The Foreign Policy of the Malta Labour Party In The Sectors Concerning National Security", Document prepared by an informal working group for the consideration of the National Executive and the General Conference of the Malta Labour Party. Published in Malta, 1994, vide page 38.

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APPENDIX 1

TABLE 1

Place Of Applicant Countries In The Institutions And Bodies

	(1)	(2)	(3)	(4)	(5)
Belgium	1	25	5	12	12
Denmark	1	16	3	9	9
Germany	2	99	10	24	24
Greece	1	25	5	12	12
Spain	2	64	8	21	21
France	2	87	10	24	24
Ireland	1	15	3	9	9
Italy	2	87	10	24	24
Luxembourg	1	6	2	6	6
Netherlands	1	31	5	12	12
Austria*	1	20	4	11	11
Portugal	1	25	5	12	12
Finland*	1	16	3	9	9
Sweden*	1	21	4	11	11
United Kingdom	2	87	10	24	24
Total	20	624	87	220	220
Malta	1	6	2	6	6
Cyprus	1	6(7)	2	6	6
New Total	22	636	91	232	232

Notes

- (1) Members of the Commission
- (2) Seats in the European Parliament
- (3) Qualified Majority Voting in Council on the basis of the Treaty on European Union and EU Council Decision of December 12, 1993 held in Brussels
- (4) Seats in the Economic and Social Committee
- (5) Seats in the Committee of the Regions
- * EFTA member state - new EU members as of 1 January 1995
For Malta and Cyprus estimate based on Luxembourg

TABLE 2**ADDITIONS TO THE INSTITUTIONS AS A RESULT OF ENLARGEMENT**

	(1)	(2)	(3)**
Commission	2	3	4
European Parliament	12	57	73
Qualified Majority Voting In Council	4	11	14
Economic and Social Committee	12	31	40
Committee of the Regions	12	31	40

Notes

- (1) additions which would result from the entry of Malta and Cyprus
(2) additions brought about by the entry of, Austria, Sweden and Finland
(3) additions which would result from (2) plus Switzerland
** Informed Estimate

APPENDIX 2

The following is a list of Acts which have been passed in the Maltese Parliament and which form part of the legal reform programme.

1. **Act No.XII of 1994**

An Act to make provision for the Value Added Tax.

2. **Act No.XIII of 1994**

An Act to confer on the Malta Business Authority the Functions of the Malta Financial Services Centre, to change the name of the Authority and to make certain consequential amendments to the Malta International Business activities Act, Cap.330. This Act is intended to control the activities of off-shore business organisations.

3. **Act No.XIV of 1994**

An Act to regulate the carrying on of investment business and to make provision for matters ancillary thereto or connected therewith. The aim of the bill is to regulate investment services and actually to open the possibility of the creation of such new investment services under regulation.

4. **Act No.XV of 1994**

An Act to regulate the business of banking. The aim of this act is to update banking regulations in a way that it would make the "deregulation" of the banking sector possible. Legislation in this sector has been aligned with that of the EU.

5. **Act No.XVI of 1994**

An Act to amend the Duty on Documents and Transfers Act, 1993.

6. **Act No.XVII of 1994**

An Act further to amend the Income Tax Act.

7. **Act No.XVIII of 1994**

An Act to collect the regulation of income tax and to provide the administrative machinery for such collection.

8. **Act No.XIX of 1994**

An Act to make provision for the prevention and prohibition of the laundering of money in Malta.

9. **Act No.XX of 1994**

An Act to enable Malta to ratify the Convention on the law applicable to trusts and on their recognition, and to make certain amendments to the Offshore Trusts Act, Cap.331.

10. **Act No.XXI of 1994**

An Act to regulate insider dealing.

11. **Act No.XXII of 1994**

An Act to regulate the business of financial institutions.

12. **Act No.XXIII of 1994**

An Act to make special provisions applicable to certain companies and to supplement the provisions of the Commercial Partnerships Ordinance, Cap.168.

13. **Act No.XXIV of 1994**

An Act to establish general provisions protecting professional secrecy and to make consequential amendments to other laws.

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