

HILLMAN

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 134 final

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Proposal for a

COUNCIL REGULATION (EEC)

on the application of the provisions of
the Financial Protocol concluded with Malta

(submitted to the Council by the Commission)

COM(77) 134 final



EXPLANATORY MEMORANDUM

Financial Protocol signed with Malta provides for financial and technical cooperation between the Community and this country. The purpose of the accompanying proposal for a regulation is to establish the rules to be applied within the Community for the implementation of the cooperation in question.

The solution proposed for the division of powers between the Commission and the European Investment Bank as regards the administration of the aid was adopted on the basis of contacts with the Bank, which expressed its agreement subject to a reservation on one point (Article 10).

PROPOSAL FOR A
COUNCIL REGULATION (EEC)

on the application of the provisions of the financial Protocol
concluded with Malta

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 209 thereof,

Having regard to the Opinion of the European Parliament,

Whereas the Financial Protocol, which constitutes an integral part of the Agreement establishing an Association between the European Economic Community and Malta, has fixed the aggregate amount of Community aid to Malta at 26 million units of account, comprising 5 million units of account in the form of loans on special terms, 5 million units of account in the form of grants and 16 million units of account in the form of loans granted by the EIB from its own resources;

Whereas the unit of account applicable in the context of the Protocol was defined in a declaration annexed to the Final Act of the said Protocol;

Whereas the detailed rules for the administration of the aid not covered by the Bank's own resources must be laid down;

Whereas provision should be made to lay down the rules for the management of financial and technical cooperation, the procedure for directing, examining and approving aid and the detailed rules for supervising the use of that aid;

Whereas a Committee of representatives of the Member States should be set up under the auspices of the Commission;

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Whereas it should be stipulated that the draft financing proposals drawn up by the Bank for operations not covered from its own resources should be submitted for opinion to a Committee of representatives of the Governments of the Member States;

Whereas the work done by the Commission and the Bank to apply the Agreements should be harmonized; whereas it is therefore desirable that, as far as possible, the composition of the Committees set up under the auspices of the Commission and of the Bank should be identical;

Whereas the Council adopted on 16 July 1974 a Resolution on the harmonization and coordination of Member States' cooperation policies,

HAS ADOPTED THIS REGULATION:

Article 1

In implementing the aid arrangements for Malta, the Commission shall see to it that proper application is given to the aid policy as defined by the Council and to the general guidelines for financial and technical cooperation as defined by the Association Council established by the Association Agreement in accordance with Article 21 of the Protocol laying down provisions relating to the Agreement establishing an association between the European Economic Community and Malta and with Articles 9 and 16 of the Financial Protocol.

Article 2

1. The appropriations for the financing of aid not covered from the Bank's own resources shall be administered by the Commission, in accordance with the Financial Regulation of 25 April 1973 applicable to the general budget of the Communities.

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2. The Commission shall itself administer the grants for technical assistance programme or schemes.

A general mandate will be given to the Bank by the Commission in the name of the Community, to administer the interest rate subsidies for loans from its own resources, the special loans and the risk capital operations.

3. Operations covered by the mandate established pursuant to paragraph 2 shall be undertaken by the Bank on behalf and at the risk of the Community. The Bank shall act in accordance with the procedures laid down by its statute, subject to Articles 9 and 10 of this Regulation.

The special conditions of the mandate - in particular the provisions concerning movements of funds and the remuneration for executing the mandate - shall be the subject of an agreement between the Commission and the Bank.

4. The limit on the sums which may be committed by the Bank in any year in executing the mandate shall be fixed annually. This limit may be reviewed during the year in question.

Article 3

The unit of account used for applying this Regulation shall be that defined in the Declaration by the European Economic Community relating to Article 2 of the Financial Protocol and included in the Final Act signed at the same time as the Protocol.

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Article 4

The Commission shall provide the Member States with information obtained from Malta as regards the content and prospects of their development plans, the objectives they have set themselves and projects already identified which are likely to attain these objectives.

The Commission shall compile this information in collaboration with the Bank.

Member States shall at the same time inform the Commission of any bilateral aid they have granted or intend to grant.

Furthermore, the Commission shall forward to the Committee referred to in Article 6 all available information on any other bilateral or multilateral aid granted or envisaged for Malta.

To this end, and in order to keep Member States informed, the Commission shall obtain all relevant information on aid to the States concerned which Member States, international institutions and other aid donors have already granted or intend to grant.

Article 5

The position to be taken by the Community with a view to defining aid guidelines within the Association Council shall be adopted by the Council on a proposal from the Commission drawn up in close cooperation with the Bank. In the event of disagreement, the Bank shall state its position in the Council.

Article 6

1. A Committee (hereinafter called the "Article 6 Committee"), consisting of representatives of the Member States, shall be set up under the auspices of the Commission.

The Article 6 Committee shall be chaired by a representative of the Commission; its secretariat shall be provided by the Commission.

A representative of the Bank shall take part in its work.

2. The Council, acting unanimously, shall adopt the rules of procedure of the Article 6 Committee¹.
3. Within the Article 6 Committee, the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty.

The Article 6 Committee shall act by a majority of 41 votes.

Article 7

1. The Article 6 Committee shall give its opinion on draft financing proposals for projects or programmes submitted to it by the Commission.
2. The draft financing proposals for these projects shall explain the relevance of the projects to the development prospects of Malta; where appropriate, they shall mention the use to which Malta has put previous Community aid.

They shall include in particular measures promoting, in accordance with Article 12 of the Financial Protocol, participation by national firms of Malta in carrying out the projects.

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¹ The rules of procedure would make provision for the Committee to be consulted by written procedure,

The Committee's assessment shall cover conformity of the projects with Community development aid policy, with the objectives of financial and technical cooperation laid down in the Protocol and with the general guidelines adopted by the Association Council.

Article 8

The draft financing proposals referred to in Article 7, together with the opinion of the Article 6 Committee, shall be submitted to the Commission for its decision.

If the Commission decides to differ from the opinion expressed by the Committee, or if the Committee has not delivered a favourable opinion, it shall either withdraw the financing proposal or, at the earliest opportunity, refer the proposal to the Council, which shall decide on it by a qualified majority.

Article 9

1. The draft financing proposals drawn up by the Bank in implementation of the general mandate referred to in Article 2 (2) shall be submitted for an opinion to a Committee consisting of representatives of the Member States, hereinafter called the "Article 9 Committee".

The Article 9 Committee shall be chaired by the representative of the Member State currently assuming the Presidency of the Board of Governors of the Bank; its secretariat shall be provided by the Bank.

A representative of the Commission shall take part in its work. He shall express the Commission's opinion on the financing proposals submitted by the Bank.

The assessment by the Committee and the Commission shall cover conformity of the projects with Community development aid policy, with the objectives of financial and technical cooperation laid down by the Protocol and with the general guidelines adopted by the Association Council.

In addition, this Committee shall be informed by the Bank of any loans without interest rate subsidies that it intends to grant.

2. The Council, acting unanimously, shall adopt the rules of procedure of the Article 9 Committee ¹.
3. Within the Article 9 Committee, the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty.
4. The Article 9 Committee shall act by a majority of 41 votes..

Article 10

1. The document in which the Bank submits draft financing proposals to the Article 9 Committee shall, in particular, explain the relevance of the projects to the development prospects of the country or countries concerned and, where appropriate, indicate the situation as regards loans granted by the Community.

¹ The rules of procedure would make provision for the Committee to be consulted by written procedure. ./.

2. Where the Article 9 Committee and the Commission deliver a favourable opinion in respect of a request for a loan with an interest rate subsidy, the request shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the provisions of the Bank's statute.

In the absence of a favourable opinion from the Article 9 Committee or in the event of a unfavourable opinion from the Commission, the Bank shall either withdraw the application or request that the Member State taking the chair of the Article 9 Committee bring the matter before the Council as soon as possible ¹.

3. Where, in respect of a draft financing proposal by special loan or risk capital, the Article 9 Committee and the Commission deliver a favourable opinion, the proposal shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the provisions of the Bank's statute.

In the absence of a favourable opinion from the Article 9 Committee or in the event of an unfavourable opinion from the Commission, the Bank shall either withdraw the proposal or request that the Member State taking the chair of the Article 9 Committee bring the matter before the Council as soon as possible.

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¹ The EIB wishes to replace this subparagraph by the following:

" In the absence of a favourable opinion from the Article 9 Committee or in the event of an unfavourable opinion from the Commission, the Bank shall either withdraw the request or decide to uphold it. In the latter event, this request, together with the reasoned opinion of the Committee and the opinion of the Commission, shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the provisions of the Bank's statute. "

4. Where, in the absence of a favourable opinion from the Article 9 Committee or in the event of an unfavourable opinion from the Commission, the matter is brought before the Council in accordance with paragraphs 2 and 3, the Bank's request or proposal shall be submitted to the Council together with the reasoned opinions of the Article 9 Committee and the Commission¹.

The Council shall act by a qualified majority.

If the Council decides to confirm the position taken by the Article 9 Committee or by the Commission, the Bank shall withdraw its proposal.

If, however, the Council is in agreement with the Bank's proposal, the Bank shall implement the procedures provided for in its statute.

Article 11

1. The Commission shall ascertain how the Community aid administered by it is used by Malta, or by any other recipients.
2. It shall also ascertain, in close collaboration with the relevant authorities of the Malta how projects financed with Community aid are used by the recipients.

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¹ Wording requested by the EIB in order to take account of its position regarding paragraph 2:

" In the latter event, the Bank's proposal shall be submitted to the Council together with the reasoned opinions of the Article 9 Committee and the Commission, "

3. When ascertaining how Community aid and projects are used, as provided for in paragraphs 1 and 2, the Commission shall examine jointly with the Bank the extent to which the objectives defined pursuant to Article 21 of the Protocol and Articles 9 and 16 of Financial protocol thereto have been attained.
4. The Commission shall inform the Council at least once a year of its findings pursuant to paragraphs 1, 2 and 3.

Article 12

This Regulation shall be applicable for the same period as the Financial Protocol.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the Council

The President

FICHE FINANCIERE

établie pour le budget de l'exercice 1977

A. PREMIERE PARTIE : CREDITS D'INTERVENTION

(pour actions anciennes et nouvelles)

1. LIGNE BUDGETAIRE CONCERNEE : Article 962
2. INTITULE DE LA LIGNE BUDGETAIRE : "Coopération financière avec certains pays tiers".
3. BASE JURIDIQUE : Article 238 du Traité CEE
4. DESCRIPTION, OBJECTIF (S), ET JUSTIFICATION DE L'ACTION
Proposition de règlement du Conseil relatif à l'application des dispositions du protocole financier conclu avec Malte.

Le présent document a pour but de préciser les procédures de décisions applicables à l'intérieur de la Communauté pour la mise en oeuvre de l'aide en faveur de Malte ainsi que la répartition des compétences entre la Commission et la Banque européenne d'investissement pour la gestion de cette aide.

5. CREDITS (en u. c. e.)

Aucun crédit ne sera engagé sur le budget 1977, au titre de l'aide financière prévue au protocole financier (la ligne budgétaire est du reste dotée d'un p.m.). Ce n'est qu'à partir de l'exercice 1978, après ratification du protocole, que les crédits budgétaires pourront être utilisés. Le protocole prévoit un montant de 10 M.u.c.e. à engager pendant une période expirant cinq ans après l'entrée en vigueur du protocole sur crédits budgétaires (auxquels s'ajoutent 16 M.u.c.e. des prêts de la B. E. I.). La répartition de ce montant sera fixée annuellement au cours de la procédure budgétaire.

B. DEUXIEME PARTIE : INFORMATIONS SUPPLEMENTAIRES POUR UNE ACTION

NOUVELLE

6. COUT TOTAL DE L'ACTION PENDANT TOUTE LA DUREE ENVISAGEE

Les dépenses imputées sur le budget communautaire s'élèveront à 10 M.u.c.e. pendant toute la durée d'application du protocole

7. INFORMATION SUR LE PERSONNEL ET SUR LES CREDITS DE FONCTIONNEMENT NECESSAIRES POUR LA REALISATION DE L'ACTION

L'action sera réalisée dans le cadre du tableau des effectifs de la Commission

8. FINANCEMENT DE L'ACTION

L'aide financière, pour la durée totale du protocole, sera financée sur crédits budgétaires communautaires (10 M.u.c.e.) et sur les ressources propres de la B. E. I. (16 M.u.c.e.)

Les crédits budgétaires se répartiront comme suit :

5 M.u.c.e. sous forme de prêts spéciaux

5 M.u.c.e. sous forme d'aides non remboursables.

