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**MEMORANDUM ON A PROPOSAL FOR A COUNCIL DECISION ON THE COMMUNITY POSITION REGARDING THE AMENDMENT OF THE ANNEXES OF THE AGREEMENT BETWEEN THE EC AND THE SWISS CONFEDERATION ON CERTAIN ASPECTS OF GOVERNMENT PROCUREMENT OF THE ENLARGEMENT OF THE EU AND THE INTRODUCTION OF EFFECTIVE COMPETITION IN THE TELECOMMUNICATIONS SECTOR (COM (2005) 315)**

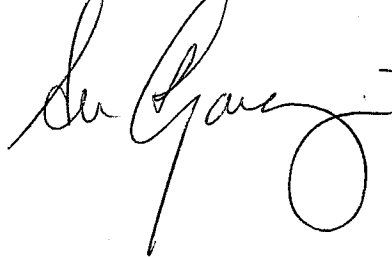
Lead Ministry	Ministry of Foreign Affairs	
Secondary Ministry	Ministry of Finance, Ministry for Competitiveness and Communications Ministry for Resources and Infrastructure, Ministry for Investment, Industry and Information Technology, Ministry for Urban Development and Roads	
Originating Department / Entity	Department of Contracts, Ministry of Finance	
Approvals	Cabinet (7 December 2005)	Inter-Ministerial Committee for European Union Affairs (18 November 2005)
Copy	Permanent Representative of Malta to the EU	Permanent Secretary, Ministry of Foreign Affairs
	Permanent Secretary, Ministry of Finance	Permanent Secretary, Ministry for Resources and Infrastructure
	Permanent Secretary, Ministry for Investment, Industry and Information Technology	Permanent Secretary, Ministry for Urban Development and Roads
	Permanent Secretary, Ministry for Competitiveness and Communications	
	Director Programme Implementation, Ministry of Finance	Director EU Affairs, Ministry for Competitiveness and Communications
	Director EU Affairs, Ministry for Resources and Infrastructure	Director EU Affairs, Ministry for Investment, Industry and Information Technology
	Director EU Affairs, Ministry for Urban Development and Roads	Director (Policy) EU Directorate, Ministry of Foreign Affairs
Reference Documents	COM (2005) 315	
DMS Reference Number	GAERC TELSEC 181105	

MINISTRY OF FINANCE

Memorandum on a Proposal for a Council Decision on  
the Community position regarding the amendment of  
the annexes of the Agreement between the EC and  
the Swiss Confederation on certain aspects of  
government procurement of the enlargement of the EU  
and the introduction of effective competition in the  
telecommunications sector (COM (2005) 315)  
7 December 2005

Signature

Prime Minister and Minister of Finance

A handwritten signature in black ink, appearing to be 'S. Gaspar', written in a cursive style. The signature is positioned below the text 'Prime Minister and Minister of Finance'.

## **1 Background**

1.1 The Proposal for a Council Decision to amend the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement follows two recent developments that require necessary modifications.

1.2 The entrance of the ten new Member States means that the list of entities and legislation of the Member States needs to be extended. In the case of Malta, the following acts are to be included:

- The Petroleum (Production) Act (Cap. 156) and subsidiary legislation;
- The Continental Shelf Act (Cap. 194) and secondary legislation.

Maltese entities to be listed are:

- Korporazzjoni għas-Servizzi ta' l-Ilma;
- Korporazzjoni Enemalta;
- L-Awtorita dwar it-Trasport ta' Malta;
- L-Ajruport Internazzjonali ta' Malta;
- L-Awtorita Marittima ta' Malta.

1.3 The second cause for amendment is to take into account the progressive liberalisation of the telecommunication markets. One of the latest Directives related to procurement in the European Union does no longer regulate purchases by entities operating in the telecommunications sector. In Switzerland, the telecommunications sector is not subject to procurement rules. Therefore, such a situation must be specifically mentioned in the Agreement.

## **2 Legal basis**

### *2.1 Basic Treaties*

2.1.1 Article 300(2) of the EC Treaty and the Agreement on Scientific and Technical Cooperation of 4 April 2002, with the Swiss Confederation, particularly Article 7(3).

### *2.2 European Parliament's involvement in decision-making procedure*

2.2.1 Consultation procedure: The European Parliament is consulted and gives an opinion; the Council, however, takes the final decision on the Proposal.

### *2.3 Majority required in Council*

2.3.1 Unanimity.

## **3 Malta's position**

### *3.1 Malta's position on the dossier in concrete terms*

The following is the consolidated position of the Ministries concerned (Lead: Ministry of Foreign Affairs; Secondary: Ministry of Finance, Ministry for Competitiveness and Communications; Ministry for Resources and Infrastructure; Ministry for Investment, Industry and Information Technology; Ministry for Urban Development and Roads) with regard to the Proposal for a Council Decision on the Community position regarding the amendment of the

annexes of the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement of the enlargement of the European Union and the introduction of effective competition in the telecommunications sector.

- 3.1.1 Malta encourages such Agreements with countries outside the Union so as to achieve harmonisation of government procurement across all European countries.
- 3.1.2 Both Malta and Switzerland are signatories to the World Trade Organisation (WTO) Government Procurement Agreement (GPA). The "updating" of the Annexes (I, II, III and IV) reflects the Maltese position and listing in the GPA. Thus, the inclusion of the 10 new EU-Member States will have no major effect on Malta since it is already bound by the scheduling in the annexes through the WTO GPA. These updates in the EU-Swiss Agreement are however required to reflect membership.
- 3.2 *Economic and financial repercussions of the dossier*
- 3.2.1 No major financial or economic repercussions are envisaged in view that Malta already grants such treatment to Switzerland through the World Trade Organisation's Government Procurement Agreement.

## **4 National Context**

### *4.1 Internal Consultations*

- 4.1.1 Internal consultations were held with the Ministry for Competitiveness and Communications, Ministry for Resources and Infrastructure, Ministry for Investment, Industry and Information Technology, Ministry for Urban Development and Roads, Ministry of Foreign Affairs and the Economic Policy Division and the Contracts Department within the Ministry of Finance.

### *4.2 External Consultations*

- 4.2.1 No external consultations are envisaged.

### *4.3 Related national legislation*

- 4.3.1 Public Contracts Regulations (LN177/05)
- 4.3.2 Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations (LN178/05)

### *4.4 Changes required in national legislation*

- 4.4.1 N/A