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REPORT

on the proposal for a Council decision concluding the Additional Protocol to the Agreement establishing an Association between the European Economic Community and the Republic of Malta, to associate the Republic of Malta with the fifth framework programme of the European Community for research, technological development and demonstration activities (1998 to 2002) (COM(2001) 777 – C5-0041/2002 – 2001/0303(CNS))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Carlos Westendorp y Cabeza

(Simplified procedure - Rule 158(2))

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 28 January 2002 the Council consulted Parliament, pursuant to Article 170(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) of the EC Treaty, on the proposal for a Council decision on concluding the Additional Protocol to the Agreement establishing an Association between the European Economic Community and the Republic of Malta, to associate the Republic of Malta with the fifth framework programme of the European Community for research, technological development and demonstration activities (1998 to 2002) (COM(2001) 777 - 2001/0303 (CNS)).

At the sitting of 4 February 2002 the President of Parliament announced that he had referred this proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, the Committee on Budgets and the Committee on Budgetary Control for their opinion(C5-0041/2002).

The Committee on Industry, External Trade, Research and Energy had appointed Carlos Westendorp y Cabeza rapporteur at its meeting of 24 January 2002.

At its meeting of 26 February 2002, the Committee on Industry, External Trade, Research and Energy decided to apply the simplified procedure under Rule 158 (2). As the chairman did not receive objections (from at least one fifth of the committee's members) within the time limit laid down by the above Rule, he noted that the report had been adopted.

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, the Committee on Budgets and the Committee on Budgetary Control decided on 23 January 2002, 18 March 2002 and 21 February 2002 respectively not to deliver an opinion.

The report was tabled on 26 March 2002.

LEGISLATIVE PROPOSAL

Proposal for a Council decision on concluding the Additional Protocol to the Agreement establishing an Association between the European Economic Community and the Republic of Malta, to associate the Republic of Malta with the fifth framework programme of the European Community for research, technological development and demonstration activities (1998 to 2002) (COM(2001) 777 – C5-0041/2002 – 2001/0303(CNS))

The proposal is approved.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council decision on concluding the Additional Protocol to the Agreement establishing an Association between the European Economic Community and the Republic of Malta, to associate the Republic of Malta with the fifth framework programme of the European Community for research, technological development and demonstration activities (1998 to 2002) (COM(2001) 777 – C5-0041/2002 – 2001/0303(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 777¹),
 - having regard to the Agreement establishing an Association between the European Economic Community and the Republic of Malta, to associate the Republic of Malta with the fifth framework programme of the European Community for research, technological development and demonstration activities .
 - having been consulted by the Council pursuant to Article 170(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) of the EC Treaty (C5-0041/2002),
 - having regard to Rule 67 and 97(7) of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy (A5-0104/2002),
1. Approves the Commission proposal;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C not yet published

EXPLANATORY STATEMENT

The proposal under consideration is welcomed by the Rapporteur and Chairman of the Committee responsible and he has proposed to speed up the EP procedure in rendering Parliament's opinion. This opinion takes a positive view with regard to Malta's progress in negotiations concerned with its accession to the EU.

However, even if it is not very specific to Malta, the Rapporteur would like to underline two unsatisfactory procedural aspects, which incidentally apply to most proposals falling into the field of international agreements concluded between the EC and third countries. These unsatisfactory aspects concern the choice of the legal base for these type of proposals and their content of the explanatory memorandum accompanying such proposals.

As to the first concern, the proposal uses a triple legal base: Article 170 (2) which is the standard article for research and development proposals; Article 300(2), first sentence of the first paragraph – which empowers the Commission to start negotiations and sign provisional acts until the entry into force, and allows the Council, acting by a qualified majority, to decide on the conclusion of the agreement – plus Article 300 (3), first subparagraph, which gives to the European Parliament the power of being consulted but that power is empty of essence because the EP has no right to amend the proposal.

In other words in this important field of research and development in which the EP is vested with powers of codecision, when applied to international agreements, the EP plays no serious role and even stripped of its role as a guarantor ensuring democratic accountability.

As to the second concern relating to the context of the explanatory memorandum attached to the proposal, it simply repeats the recitals of the proposal, avoiding any reference to the phase of negotiations, or to the views of the Maltese government, or to the contentious issues, if any. In fact the case of Malta is not a case falling in the category of third countries; it is a candidate country and the proposal under consideration constitutes an instrument of the pre-accession strategy. Hence the content of the Council Decision and its attached Additional Protocol concerned with the legal aspects of the Association Agreement and the two Annexes are matters that fall into the competence of elected bodies and require parliamentary scrutiny, while allowing implementation to the executive bodies.