

Memorandum

To: Hon. Glenn Bedingfield, Chairperson - Parliament of Malta's Foreign and European Affairs Committee

From: Hon. Dr Ian Borg, Minister for Foreign and European Affairs and Trade and Hon. Dr Byron Camilleri, Minister for Home Affairs, Security, Reforms and Equality

Subject: The Renewal of the bilateral programme between NATO and Malta

Date: 13 April 2023

Background

NATO values its relations with Malta as a Partner Country participating in NATO's Partnership for Peace (PfP), which are based on the fundamental principles of protecting and promoting human rights, and safeguarding freedom, justice, and peace through democracy. NATO fully respects Malta's policy of neutrality and in its relationship with Malta as a NATO partner it does not impose any targets or binding obligations. The Areas of cooperation and specific events in which Malta wishes to participate within the PfP framework are detailed in its Individual Partnership and Cooperation Programme (IPCP), which is jointly agreed with NATO. In fact, no areas or targets to which Malta does not fully agree are considered for inclusion in the bilateral partnership programme.

Malta recognises that it can help address emerging security challenges and contribute to international peace, security, and stability through the PfP framework, which is compatible with Malta's commitment to the principle of neutrality.

Apart from the formulation and submission of Malta's IPCP, interaction between Malta and NATO has mainly been focused on political meetings between the Western European Partners, now known as WEP5 (neutral and non-aligned Like-Minded partners consisting of Malta, Ireland, Austria, Switzerland, and Sweden, with the latter having applied for accession to NATO) and NATO officials.

Current State of Play

The Malta - NATO Individual Partnership Cooperation Programme (IPCP) is up for renewal during the current month and needs to be agreed by latest September 2023 (a grace period of 6 months is allowed for flexibility). Due to a streamlining process the IPCP is being replaced by an Individual Tailored Partnership Programme (ITPP), but it will be up to Malta to decide what partnership goals it would like to include in its ITPP.

New areas of cooperation can be added to Malta's ITPP. The ten areas that are currently under consideration by Allies for greater cooperation with Partners are: Arms Control / Disarmament /

Non-Proliferation, Climate Change and Security, Counterterrorism, Cyber Defence, Disinformation / Misinformation, EDTs and Innovation, Energy Security, Maritime Security, Resilience, Human Security / Women, Peace, and Security. It is to be noted that NATO's focus vis-à-vis the above-mentioned areas does not overlap with that of the EU.

The Planning and Review Process (PARP)

Over and above adding new areas of cooperation to Malta's new programme (ITPP), Malta has the possibility of joining the Planning and Review Process (PARP) within the framework of the Partnership for Peace (PfP) like Ireland, Austria, and Switzerland (all the other Western European Partners (WEP) are already in PARP). PARP is one of the partnership tools and mechanisms to support cooperation with partner countries through a mix of policies, programmes, action plans and other arrangements. PARP, which is open to all PfP partners and beyond, aims to promote transparency in national defence planning and better preparing partner forces to cooperate with those of members of the Alliance. It seeks to encourage the development of interoperability between partner forces and those of Allies for the full range of PfP operations and related training and exercises. The degree of interoperability between NATO and a particular partner within the PARP framework is chosen by the respective partner and no goals are imposed in any manner on the Partner Countries. There is no obligation on partners to participate in NATO-led operations and/or activities due to their participation in PARP. It is totally up to Partners to select the goals they want to have included in their respective PARP.

PARP is based on the principles of voluntariness, specificity and partnership and the following are its main objectives: (i) Assist in establishing interoperability requirements; (ii) Developing forces that could be made available for multinational operations – EU, NATO and UN; (iii) Promote defence transformation and modernization including in support of wider reform effort; (iv) Supporting those partners aspiring to join NATO.

When a Partner decides to join PARP, it is expected to commit to:

- Facilitate transparency in national defence planning and budgeting;
- Ensuring democratic control of defence forces;
- Maintaining capability and readiness to contribute to multinational operations;
- Developing military cooperation with NATO;
- Developing forces better able to have better cooperation with those of the Allies.

However, these are indicative commitments and every ITTP is tailor-made to the requests and requirements of the Partner country.

There are currently 15 countries participating in PARP, namely Austria, Finland, Ireland, Sweden, Switzerland, Bosnia Herzegovina, Armenia, Azerbaijan, Kazakhstan, Moldova, Serbia, Ukraine, Georgia, Jordan, and Tunisia.

Before a partner joins PARP, the said partner would have to fill in a PARP survey (most of the information is the same as that provided by EU Member States when submitting their EU Military Capabilities Questionnaire (EUMCQ)). Following the submission of the questionnaire, NATO's PARP team would visit the Capital of the Partner and carry out meetings on the information submitted

and discuss possible partnership goals. When the goals are agreed *ad referendum*, the partner would be asked to present the goals to the Allies for their endorsement (which is normally a procedural process).

The PARP goals chosen would be assessed regularly by NATO officials and discussed by the Allies and Partners (upon invitation). According to the NATO Secretariat, partners do not have problems reaching the set goals as these are set by the partners in the first place. On the contrary, partners usually ask NATO for assistance which goes beyond the targets set. If the PARP set targets are not reached by the Partner there would not be any consequences, but rather a re-evaluation of the ongoing PARP objectives.

Partners in PARP have more access to training opportunities and NATO documents as well as more support from NATO in the areas selected by the Partner. By way of example, although a Partner Country not in PARP can avail itself of set training opportunities offered by NATO, a Partner Country in PARP would have a tailored training programme in a strategic framework leading to specific goals, which it would reach with the support of NATO Structures and/or that of NATO Allies on a bilateral basis.

PARP goals, which are assessed biannually and might be amended, are more specific and ambitious in terms of implementation than partnership goals, which tend to be more generic. On the other hand, Partner Countries receive more support from NATO to reach their respective PARP goals, albeit not financial, than they do to achieve their generic objectives. If a partner participating in PARP is not able to reach the goals set due to lack of support from NATO allies, NATO's PARP Unit assists the partner by intervening with allies bilaterally, roping in NATO's hierarchy as necessary.

Partner Countries in PARP can make use of NATO's support in procurement, particularly through access to entities such as the NATO Support and Procurement Agency (NSPA), amongst other benefits.

Examples of possible PARP goals and outcomes which Malta may wish to consider have been provided by the NATO Secretariat and can be found listed in the power point presentation annexed to this Memo. Malta can consider PARP goals in a multitude of areas, with some concrete examples being specialised training focusing on maritime interdiction operations so that Malta will be able to better fulfil its international obligations, an assessment of cyber defence and air surveillance capabilities, procurement related assistance, and the sharing of experience and best practices in the area of civil protection so as to improve the capacity of the Maltese civil protection to deal with natural disasters.

Legal advice and legal opinion regarding the compatibility or otherwise of Malta's possible participation in NATO's Partnership for Peace Planning and Review Process with Malta's constitution

Legal opinion

The Ministry for Foreign and European Affairs and Trade and the Ministry for Home Affairs, Security, Reforms and Equality, asked for an internal detailed legal analysis on the question of the compatibility or otherwise of Malta's constitutional neutrality with participation in the PARP.

According to the said analysis, which also included requests for clarifications / further information from the NATO Legal Team (questions asked and the replies of the NATO Legal Team and Secretariat are being annexed to this Memo), Malta's participation in the PARP, if so decided upon, falls within the four corners of the margin of discretion vested in the Government in interpreting the neutrality clause in the Constitution and would also align with the constitutional commitment to "actively" pursue "peace, security and social progress" as a neutral state as provided in sub-article 1(3).

Legal Advice by the Office of the State Advocate

Following the submission of the above-mentioned legal opinion, The Ministry for Foreign and European Affairs and Trade and the Ministry for Home Affairs, Security, Reforms and Equality sought legal advice from the State Advocate. The Office of the State Advocate carried out its legal analysis and provided the following legal advice:

"In the view of the Office of the State Advocate, Malta's participation in the PARP would not *per se* conflict with the neutrality clause in the Constitution. From the documentation provided it is sufficiently clear that participation in the PARP **does not entail any obligation to contribute to any NATO-led operations** or the NATO Response Force. Partner contributions to such undertakings would be initiated through separate processes and *remain subject to sovereign decision-making* by the partner concerned. Furthermore, the PARP does not impose any legal obligations in defence or operational terms on participating States.

Accordingly, should Malta's participation in the PARP ultimately be decided upon by Government, it would then need to be determined on a case-by-case basis whether an individual contribution to each NATO-led operation or programme considered by Government would conflict with Malta's constitutional neutrality, depending on its implications for the principle of non-alignment as set out in article 1(3) of the Constitution."

Way forward

Considering the potential benefits to Malta from participation in NATO's Partnership for Peace Planning and Review Process and fully taking into consideration the above-mentioned legal advice and legal opinion, Parliament's Foreign and European Affairs Committee is being invited to put this item on its agenda with the aim to discuss Malta joining PARP and having PARP goals chosen by Malta included in Malta's Individual Tailored Partnership Programme.

Hon Ian Borg
Minister for Foreign and European Affairs and Trade

Hon Byron Camilleri
Minister for Home Affairs, Security, Reforms and Equality

Annexes:

The questions asked to the NATO Legal Team and the written replies received from the NATO Secretariat and Legal Team;

A presentation prepared for the Maltese delegation by the NATO Secretariat which includes tailored examples of possible goals and outcomes;

A sample of PARP goal, outcome and milestones;

A Brochure on PARP.