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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**First Report on the implementation of the provisions of Protocol No 3 to the 2003 Act of
Accession on the Sovereign Base Areas of the United Kingdom of Great Britain and
Northern Ireland in Cyprus**

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Introduction

The 2003 Act of Accession¹, to which Protocol No 3 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus² (hereafter: "Protocol") is annexed, entered into force on 1 May 2004.

The Protocol determines which provisions of the Treaty establishing the European Community and related EC law (now European Union law) apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus (hereafter: SBAs) and makes special arrangements regarding the implementation of these provisions.

The movement of persons, goods and services across the 'Green Line' between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and the areas in which it does and the Eastern Sovereign Base Area respectively on the basis of Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession, is not covered in this report.^{3 4}

This Report covers the period 1 May 2004 - 30 April 2009.

1. CUSTOMS, INDIRECT TAXATION AND THE COMMON COMMERCIAL POLICY

The SBAs are included within the customs territory of the Union.⁵ For this purpose, and pursuant to Article 2 of the Protocol, a number of customs and common commercial policy acts (as amended or substituted from time to time) and their implementing acts apply to the SBAs.⁶ The implementation of this part of the *acquis* by the SBA Administration, as well as related cooperation with the competent authorities of the Republic of Cyprus is assessed as satisfactory. The Commission is not aware of any complaints.

This assessment in principle is the same as regards the applicable Community acts concerning turnover taxes, excise duties and other forms of indirect taxation.⁷ Nevertheless, when it

¹ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJ L 236, 23.9.2003, p. 33.

² OJ L 236, 23.9.2003, p. 940.

³ OJ L 161, 30.4.2004, p. 128.

⁴ For issues concerning the implementation of the Green Line Regulation see the Annual 'Green Line Reports' of the Commission to the Council (see e.g. COM(2009) 478 final, 14.9.2009).

⁵ See Articles 2 (1) and 7 (1) of the Protocol.

⁶ See for this list Part One of the Annex to the Protocol.

⁷ See Article 2 (2) of the Protocol and Part Two of the Annex to the Protocol.

comes to the reliefs and exemptions from duties and taxes on supplies to the UK forces and associated personnel⁸ (as already granted by the Treaty of Establishment⁹ and maintained by the Protocol), the Commission has identified certain risks. These risks in particular concern the VAT exemption granted to the UK forces and the civilian staff accompanying them: firstly the fact that some goods subject to VAT are not rationed leaves scope for abuse (this particularly concerns means of transport), and, secondly, the SBA Administration appears to interpret this exemption too broadly in the sense that it seems to be also extended to dependants of such staff.¹⁰ The Commission will examine this issue in more detail and take the necessary steps as appropriate.

2. COMMON AGRICULTURAL POLICY

The Common Agricultural Policy (CAP) applies to the SBAs¹¹. It is implemented smoothly.

The UK has fully delegated agricultural matters in the SBAs to the Republic of Cyprus.¹² Cooperation between the Sovereign Base Area Administration (hereafter: SBA Administration) and the relevant Cypriot authorities works well.

The competent authority of the Republic of Cyprus implemented the following CAP schemes for beneficiaries located in the SBAs during the reporting period: i) Single Area Payment Scheme; ii) Rural Development measures from the 3 different axes and iii) Common Market Organisation measures, in particular for the wine sector. A number of applications for the different schemes have been lodged to the Cyprus Agricultural Payments Organisation, on-the-spot controls have been performed and payments have been effectively granted.

No problems affecting the implementation of the CAP have been brought to the attention of the Commission. Desk verification on available information (2008 on-the-spot checklist) confirmed that claims were lodged from these areas. Furthermore, the administration (including payment) of agricultural subsidies by the Republic of Cyprus, in particular the internal control systems of the Cypriot paying agency, are judged as adequate by the certification body.

Only minor problems encountered in handling the applications and in executing on-the-spot controls were reported by the Republic of Cyprus. These problems concerned: i) the measurement of areas with the use of GPS devices in the vicinity of antennas installed by the SBA Administration (where it was difficult or impossible to obtain GPS connection); ii) the fact that the SBA Administration provides licenses for the use of agricultural areas for one year only, whereas the implementation of various Rural Development measures needs contracts of five years or more (e.g. in agri-environmental areas) – in these cases the relevant plots are approved as eligible for a subsidy but the applicant is required to submit each year the renewed document (issued by the SBA Administration); and iii) the reported risk¹³ that the

⁸ See Article 2 (3) of the Protocol and Part Three of the Annex to the Protocol.

⁹ Treaty concerning the Establishment of the Republic of Cyprus, 16 August 1960.

¹⁰ Such an interpretation would run against Article 151(1)(e) of the VAT Directive (Council Directive 2006/112/EC of 28 November 2006, OJ L 347, 11.12.2006, p. 1).

¹¹ See Article 3 (a) of the Protocol.

¹² On the basis of SBA Agricultural Provisions Ordinance 2007, Ordinance 9 of 2007, Supplement No. 2 to "The Sovereign Base Areas Gazette No 1454 of 20th April 2007", p. 83 (hereafter: "Agricultural Provisions Ordinance 2007").

¹³ As reported to the Commission during an audit mission by one beneficiary located in the SBAs.

SBA Administration does not easily grant the authorisation for the construction of new buildings (thereby causing possible limitations under certain CAP schemes).

3. VETERINARY AND PHYTOSANITARY ISSUES

The implementation of the European Union veterinary and phytosanitary rules, referred to in Article 3 (b) of the Protocol, is delegated to the Republic of Cyprus.¹⁴ The SBA Agricultural Provisions Ordinance 2007 incorporates a series of laws of the Republic of Cyprus that implement measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health. The Republic of Cyprus Government notifies the SBA Administration of any adoption or amendment of related legislation. In addition, there is a close cooperation in case of emergencies¹⁵ to coordinate measures to be taken for the control of diseases. Products needing a phytosanitary certificate cannot be directly introduced from third countries into the SBAs but enter Cyprus through a port or airport in the government-controlled areas of the Republic of Cyprus. Relevant inspections are therefore carried out by the inspectors of the competent Cypriot authority at the official points of entry of the Republic of Cyprus. Comparable procedures are in place when it comes to the introduction from third countries of animals and animal products which require a veterinary inspection.

The implementation of this provision of the Protocol is assessed as satisfactory. No difficulties or practical problems occurred. No complaints have been brought to the attention of the Commission.

4. SOCIAL SECURITY

Article 4 of the Protocol provides that persons resident or employed in the territory of the SBAs who are subject to the social security legislation of the Republic of Cyprus shall be treated for the purposes of Council Regulation (EEC) No 1408/71¹⁶ as if they were resident or employed in the territory of the Republic of Cyprus¹⁷. The Protocol therefore grants people working in the SBAs¹⁸ in practice equal treatment with those working in the Republic of Cyprus when it comes to social security.

¹⁴ As a consequence, all consignments of potatoes from the northern part of Cyprus across the Green Line into the Eastern Sovereign Base Area are inspected by phytosanitary inspectors of the Republic of Cyprus.

¹⁵ For instance in the case of outbreak of infectious animal diseases, such as Avian Influenza and Foot and Mouth Disease in 2006 and 2007.

¹⁶ Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, OJ L 149, 5.7.1971, p. 2.

¹⁷ As the SBAs are part of UK territory, people working there are considered to be working in the UK and consequently would be subject to the social security legislation of the UK (as outlined in Council Regulation (EEC) No 1408/71). On the basis of the latter Regulation, these persons therefore would be treated in Cyprus like foreigners. They would, for instance, only benefit from health care in Cyprus after prior authorisation from the UK health authorities if required. Article 4 of the Protocol addresses this problem.

¹⁸ The military personnel and UK civil servants are not subject to the Cypriot social security legislation, but according to Articles 13 (2) (d) and 13 (2) (e) of Council Regulation (EEC) No 1408/71, to the UK Social Insurance legislation, and do not benefit from Article 4 of the protocol

In order to facilitate the application of the Cyprus Social Insurance legislation, the SBA Administration has replicated the provisions of the relevant Cypriot legislation.¹⁹ The SBA Administration has also mirrored (in English) all forms used by the Republic of Cyprus Social Insurance Services. A bilateral agreement provides for the necessary administrative arrangements. Supervision of the implementation is – with the exception of employment in military installations – generally delegated to the competent Republic of Cyprus authorities.

The implementation of this provision of the Protocol is effective. No complaints have been brought to the attention of the Commission.

5. JUSTICE AND HOME AFFAIRS

According to Article 5 of the Protocol, the Republic of Cyprus shall not be required to carry out checks on persons crossing their land and sea boundaries with the Sovereign Base Areas, but the UK shall exercise controls on persons crossing the external borders of the Sovereign Base Areas.

These 'external borders of the Sovereign Base Areas' are defined as "*their sea boundaries and their airports and seaports, but not their land or sea boundaries with the Republic of Cyprus*".²⁰ In other words, the SBA Administration has no obligation to exercise control on persons at the land boundaries with the Republic of Cyprus.²¹

During the whole reporting period, only RAF Akrotiri and a 3 mile strip of the coast of Dhekelia were designated as 'entry points'.²² Though, the latter, which is meant to be used only for limited purposes, was not used for this purpose during the reporting period. Both entry points are restricted for use by military and civilian personnel connected with the British forces in Cyprus or the SBA Administration.

The SBA Administration does not maintain any records of numbers or nationalities of persons crossing. No incidents were reported to the Commission. On one single occasion (Lebanon crisis in 2006), the SBA Administration derogated from the conditions for nationals of third countries to cross the external borders of the SBAs, as laid out in point 3 (a) of Part Four of the Annex to the Protocol²³, on humanitarian grounds.²⁴ On this occasion, a small number of non-EU nationals (less than 50) was airlifted from Lebanon to RAF Akrotiri in the first few days of the evacuation procedure.²⁵

¹⁹ Social Insurance Ordinance of 1980, Gazette No. 569 of 2.10.1982.

²⁰ See point 1 of Part Four of the Annex to the Protocol.

²¹ This though with the exception of the boundary between the Eastern Sovereign Base Area and the areas not under the effective control of the Government of the Republic of Cyprus (which is treated as part of the external borders of the SBAs for the duration of the suspension of the application of the acquis under Protocol 10; see Article 2 (2) of Protocol 10 to the 2003 Act of Accession).

²² Since 11 August 2009, the following points are authorised by the SBA Administration as 'crossing points' in accordance with point 1 (b) of Part Four of the Annex to the Protocol: RAF Akrotiri, Akrotiri Mole, Watson's Mole in Dhekelia and Kingsfield Airfield in Dhekelia.

²³ These are in particular the condition to possess a valid travel document and a valid visa for the Republic of Cyprus, if required.

²⁴ See point 3 (b) of Part Four of the Annex to the Protocol.

²⁵ According to the information from the SBA Administration, these were urgent cases. All subsequent non-EU arrivals during the Lebanon crisis were transported to Limassol port in the government-

As regards the surveillance of the external borders of the SBAs, the SBA Administration carries out regular maritime controls along the sea boundaries. With regard to asylum, based on a Memorandum of Understanding between the two countries, the responsibility of examining the applications of asylum seekers who first entered the island of Cyprus through the SBAs is delegated to the Republic of Cyprus. The latter also examines the applications of all those asylum seekers who entered the government-controlled areas of the Republic of Cyprus via the Eastern Sovereign Base Area.²⁶ No other related function has been delegated to the Republic of Cyprus.

No irregularities have been encountered with regard to the implementation of the provisions of point 5 of and Part Four of the Annex to the Protocol. Checks on persons and surveillance of the external borders of the SBAs carried out by the SBA Administration as well as cooperation with the Republic of Cyprus authorities is assessed as adequate.

6. OTHER AREAS OF EUROPEAN UNION LAW

Beyond the precise scope of the Protocol, the SBA Administration has made provision for the unilateral application of directly applicable EU law.²⁷ As a consequence, also other parts of the *acquis* indirectly apply in the SBAs. This Ordinance gives effect to the commitment of the SBA Administration that the "*laws applicable to the Cypriot population of the British base areas will be as far as possible the same as the laws of the Republic.*"²⁸ In complying with this 'mirroring' commitment, the SBA Administration in particular adopted the Euro as its currency at the same time as the Republic of Cyprus (on 1 January 2008).²⁹

7. CONCLUSIONS

Protocol No 3 to the 2003 Act of Accession on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus entered into force on 1 May 2004. It determines which provisions of the European Union law apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus and makes special arrangements regarding the implementation of these provisions.

With regard to customs, indirect taxation and common commercial policy, the implementation of this part of the *acquis* by the SBA Administration, as well as related cooperation with the competent authorities of the Republic of Cyprus is assessed as satisfactory. Though, risks have been identified in the context of reliefs and exemptions from duties and taxes on supplies to the UK forces and associated personnel.

The Common Agricultural Policy is implemented smoothly in the Sovereign Base Areas. Only minor problems encountered in handling the applications and in executing on-the-spot controls were reported by the Republic of Cyprus.

controlled areas of the Republic of Cyprus and underwent immigration controls with the Republic of Cyprus authorities.

²⁶ See point 7 (b) of Part Four of the Annex to the Protocol.

²⁷ See the 'European Community (Specified Measures) Ordinance 2005', Ordinance 24 of 2005.

²⁸ Section 3 (2) of the Agreement in the form of an exchange of notes, made on 16.8.1960, between the UK and the Republic of Cyprus on the administration of the UK Sovereign Base Areas ('Appendix O').

²⁹ See the 'European Community (Specified Measures) (Medals and Tokens similar to Euro coins) Order 2008', Public Instrument 37 of 2008, published in Gazette No. 1518 of 10.11.2008.

The implementation of the provision of the Protocol on phytosanitary and veterinary issues is assessed as satisfactory. No difficulties or practical problems appear to have occurred. No complaints have been brought to the attention of the Commission.

As regards the provision on social security, its implementation is assessed as effective. Also no complaints have been brought to the attention of the Commission.

No irregularities have been encountered with regard to the implementation of the provisions in the field of Justice and Home Affairs. Checks on persons and surveillance of the external borders of the Sovereign Base Areas carried out by the SBA Administration as well as cooperation with the Republic of Cyprus authorities are assessed as adequate.

The overall conclusion is that Protocol 3 to the 2003 Act of Accession provides an effective way of applying certain provisions of European Union law to the Sovereign Base Areas of Akrotiri and Dhekelia of the United Kingdom of Great Britain and Northern Ireland in Cyprus. The Commission will continue to monitor the implementation of the Protocol, in particular with regard to the risks identified.