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PRESS RELEASE

Opening speech by the Hon Tonio Borg, Minister for Justice and Home Affairs of the Conference on Human Rights and the Treatment of Asylum Seekers

Mr. Chairman,
Ladies and Gentlemen

According to recent UNHCR statistics there are more than 20 million people in the world who can be described as refugees or asylum seekers. Despite the opposition and hardship they may face, millions of emigrants leave their home country each year, driven by poverty, persecution, or just the hope of a better life.

The current international legislation on the global level regarding asylum seekers rights consists in the 1951 United Nations Convention on the Status of refugees which Malta signed and ratified in 1971 even though a number of significant reservations were then registered on ratification. The subject is also one of the themes of European Union legislation currently in draft from dealing with the minimum standard rules regarding such rights, and rules relating to the granting and withdrawal of refugee status.

The developments in Malta of the rights of refugees and asylum seekers has registered a dramatic improvement in the past five years. When I was appointed Minister responsible for immigration in 1998, there was no refugee law at all; refugees were considered as any other foreigners for work permit purposes; the recognition or otherwise of refugee status was left in the hands of UNCHR in Rome entailing undue delays. The rights of refugees were not spelt out in any legal document. Indeed if a refugee succeeded in obtaining a work permit on

conditions at par with other foreigners, then on obtaining such permit he was obliged to renounce to his refugee status.

Since the Refugees Act 2000 was enacted law the following rights have been guaranteed:

- (a) The right of an asylum seeker not to be deported during the processing of asylum applications;
- (b) The right of a refugee to be immediately released on the granting of refugee status or temporary humanitarian protection;
- (c) The right to free medical care and educational services;
- (d) The right to family reunification;
- (e) The right to social assistance at par with Maltese nationals
- (f) The right to a travel document in accordance with the Geneva 1951 Convention;
- (g) The right to work;

Besides, the enactment of this law led to the removal of the geographical reservations which Malta had retained to the 1951 Convention on the status of refugees namely that it would recognize refugees from the European continent; other reservations e.g. the one relating to a travel document were raised; all reservations will be removed on accession to the European Union.

A local Refugee Commissioner was appointed in October 2001 and a Refugee Appeals Board was constituted at the same time. Applications are considered locally, thus ensuring their expeditious processing. The criteria used for such processing are adopted from the UNCHR Convention and each application is considered on its own merits, although group determination can be applied when necessary.

Persons who though not refugees are given Humanitarian Status have a right to apply for employment with a work permit issued once the individual finds work. In rare cases people given Humanitarian Status are also given a temporary travel document.

Until December 2002, foreigners arriving illegally in Malta were taken to Court and a removal order used to be requested after they were declared prohibited immigrants. Following an amendment to the Immigration Act, the Principal Immigration Officer can now issue removal orders to foreigners in Malta who are in breach of the provisions of the Immigration Act. There is however a right of appeal before the Immigration Appeals Board. The act of illegal immigration has been decriminalized but the trafficking in human beings is now a specific criminal offence.

Malta has come face to face with the phenomenon of illegal migration in the past twenty-months. Last year no fewer than 1680 illegal immigrants persons landed on our shores in 21 separate landings; this year's figures are considerably less 350 in 10 separate landing. The 2002 figures represent practically half the number of annual births in Malta. With Malta being the smallest European state and the most densely populated this dramatic influx caused a crisis situation for our law enforcement agencies particularly the Armed Forces and the Police. The country was not prepared for such an influx. A new center, catering for about a hundred persons was opened just a few weeks before the beginning of the arrival of these immigrants. Indeed in 2001 only 100 illegal migrants spread over twelve months had arrived in Malta irregularly.

Malta has been following a detention policy for irregular migrants for the past thirty years. Indeed the question has been put whether it is morally or legally correct for our immigration authorities to detain persons, even asylum seekers, whose only misdemeanor is that of entering Malta without permission. The answer is that the specific situation of our country militates in favour of a firm

stand against irregular migration. In some countries migrants are released; some remain in the country where they are released, others move on to neighbouring countries. In our case even such an option would be unnecessarily dangerous. I am also of the firm opinion that if our detention policy is to survive, considering the high number of persons in detention compared with previous years (500 as against an average of 40 prior to 2001), such detention should not exceed a reasonable period. This will be guaranteed through the introduction of several reforms amongst which the acceleration of procedures for processing of applications, the increase in human resources, and the drafting of an internal policy of not detaining irregular immigrants beyond a reasonable period of time. By reducing the figures, the conditions of detention centres will also improve.

Malta invested in a new capital project at Corradino Correctional Facility to the tune of 5.5 million liri. The CCF houses 275 detainees. Recurrent expenditure almost touched the Lm2 million figure. How is a small country with limited resources be expected to invest such amounts in new detention centres? The answer is to reduce the figures and improve the current situation through gradual investment in services to be provided by government in conjunction with NGOs.

In this context, apart from the marked improvements in the legal rights of refugees and asylum seekers, one must also mention that the figures show that the approval rate of applications hovers in the region of 50%, by far one of the most positive approval rates in Europe.

We are aware that as from 1 May 2004, Malta will be the southernmost border of the European Union. Its geographical position therefore places on it a special onus. Malta is also aware of its Mediterranean dimension and unique identity and is more than willing to play a vital role in fostering EU-African dialogue with an established framework such as Med-Forum or the Euro-Med process. Joining the European Union is also an excellent opportunity to secure the rights of asylum seekers, participate in the harmonisation of such minimum rights in a new

European area of freedom, security and justice. It will also provide us with increased assistance in the fight against irregular migration, the protection of the deserving cases and the expeditious repatriation of immigrants who do not satisfy the requirements under the Geneva Convention for protection.

In spite of our shortcomings our country has demonstrated in the past and today solidarity with the week fleeing political persecution. It intends to fulfill all its international obligations, while pursuing the middle of the road approach of being generous with deserving cases but firma and intransigent with those who do not deserve such protection.