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Til underretning for Folketingets Europaudvalg vedlægges informationsnote fra Kommissionen til det uformelle møde i Det Europæiske Råd i Gent den 19. oktober 2001 om midtvejsrevision af gennemførelse af udvidelsesstrategien.



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION INFORMATION NOTE TO THE EUROPEAN COUNCIL

on a mid-term review of the implementation of the enlargement strategy

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Foreword

As declared by the European Council in Göteborg, "the enlargement process is irreversible. Based on the progress achieved so far, the European Council reaffirms the road map as the framework for the successful completion of the enlargement negotiations. Provided that progress towards meeting the accession criteria continues at an unabated pace, the road map should make it possible to complete negotiations by the end of 2002 for those candidate countries that are ready. The objective is that they should participate in the European Parliament elections of 2004 as members."

The roadmap for the accession negotiations is a key element of the enlargement strategy endorsed by the European Council in Nice. It lists, for 2001 and the first half of 2002, the negotiating chapters for which the Union has undertaken to define common positions with a view to provisionally closing the chapters. The special meeting of the European Council in Gent, on 19 October 2001, provides for an opportunity to review the implementation of the roadmap during the first half of its duration. For that purpose, the Commission herewith presents a "mid-term review of the implementation of the enlargement strategy" which examines the progress made in the accession negotiations for the chapters covered by the roadmap in 2001.

For the nine chapters foreseen in the roadmap for the first half of 2001, common positions have been defined allowing to provisionally close the chapter with the candidate countries in most cases. Negotiations are still ongoing with some candidate countries on certain chapters, such as free movement of persons, free movement of capital and environment.

For some of the nine other chapters foreseen in the roadmap for the second half of 2001, work is relatively advanced while common positions still need to be defined for the remaining chapters. The Commission will continue to assist in defining the required EU positions in the course of this semester by making proposals in time and by clarifying issues with the candidate countries where appropriate.

On the basis of this review, it can be concluded that the accession negotiations are progressing well in accordance with the roadmap which has proved to be useful in ensuring that all negotiating parties commit themselves to a realistic timetable. The commitment of the Union to define common positions within certain time frames, also in areas where the interests of Member States diverge, has sent a signal to the applicant countries that their efforts are worthwhile.

The Commission draws the attention of the European Council to the fact that the following areas covered by the roadmap in 2001 require particular consideration.

a) Areas where the EU will define a definitive position in the course of this semester :

- Transport

: the issue of potential temporary restrictions on access to the national road transport market (cabotage restrictions). An agreement should be found on temporarily limiting the access to the national road transport market of Member States for road transport operators from certain candidate countries (cabotage), both in light of requests for transitional periods by candidate countries and possible distortion of competition due to significant differences in operating costs.

- Taxation:

Requests of several candidate countries to temporarily maintain VAT zero-rates for certain products or lower excise duties for cigarettes. In considering whether such requests should be accepted, the Member States should take into account the need to safeguard the functioning of the internal market as well as the political, economic and social implications for the candidate countries.

- Agriculture, notably veterinary and phytosanitary matters

(direct payments and reference years not being addressed at this stage) : Particular attention should be paid to the issues of animal welfare and public health in slaughterhouses and dairies. The overall principle for negotiations in these fields is that the high level of food safety in the existing Union should be maintained by ensuring that internal market control systems are effectively implemented.

- Justice and Home Affairs

: On the one hand, enlargement should not cause any new division of Europe, especially in regions where close links exist. On the other hand, the future external border of the Union must meet the security needs of today's EU citizens. In addition, new Member States can only be fully integrated into the Schengen system when they are able to fully apply Schengen standards.

- Energy

: Nuclear safety. Now that the EU recommendations on nuclear safety have been transmitted to the candidate countries, their positions regarding these recommendations need to be examined in view of provisionally closing the chapter. Concerning non-upgradable units - Ignalina (Lithuania), Bohunice-VI (Slovakia) and certain units of Kozloduy (Bulgaria) - closure commitments must be respected, and therefore duly included in the Accession Treaties.

b) Areas where agreements should be found with certain candidate countries on the basis of common positions already defined:

- Free movement of capital

: Outstanding issues with Poland and Malta relating to requests for transitional arrangements regarding the investment in real estate. Efforts should be made in order to find an acceptable solution with these two countries.

- Free movement of persons :

The free movement of workers. An agreement should be reached with a number of candidate countries on the basis of the EU common position which offers a flexible solution within which Member States should be liberal. While as much free movement as possible is needed, certain measures to avoid disturbances in the labour markets must be possible for a number of years also.

The Commission will continue to implement the roadmap for the first semester of 2002 and will ensure that the relevant proposals are made early in 2002.

Meeting the objectives set at Göteborg requires efforts both from the candidate countries and from the Union. Candidate countries must continue preparations to fully meet the Copenhagen accession criteria. The Commission will review their progress in this respect in its forthcoming Regular Reports, which will examine with particular attention the countries' administrative capacity to implement the *acquis*. Progress in the negotiations must be based on convincing progress in adopting, implementing and enforcing the *acquis*. The Council, for its part, should agree on common positions within the timeframe provided by the roadmap. In doing so, Member States are invited to fully take into account the economic and social implications of their negotiating positions for the candidate countries.

The Commission will give a favourable opinion to the accession of a candidate country only if it is convinced that the country is properly prepared and meets all the accession conditions. Among the twelve negotiating countries, ten have fixed for themselves target dates of accession compatible with the Göteborg timeframe. Each country will continue to be judged on its own merits, so that the Union should consequently be prepared for the possibility of an accession in 2004 of all countries meeting the necessary conditions. The EU will also develop a strategy for those countries that will not join by that time.

The Commission welcomes the steps taken by Turkey to overcome the recent economic and financial crises, to amend the constitution, in order to extend basic rights and freedoms, and to adapt its laws and administrative structures to prepare for EU membership. It considers that these steps should be pursued actively, especially with a view to strengthening democracy and protecting human rights. It will be reporting in detail on these developments in its forthcoming Regular Report.

The Commission recalls that a number of priorities identified in the Accession Partnership for Turkey have been pursued in the enhanced political dialogue. These include, notably, efforts to resolve the Cyprus problem and to resolve outstanding differences with neighbouring countries. It notes that discussion with Turkey on this issue will be pursued in the framework of the enhanced political dialogue. With respect to the efforts of the United Nations Secretary General to promote a comprehensive settlement of the Cyprus problem, the Commission considers that Turkey has a valuable contribution to make. It expects that Turkey will provide support for the current UN process in order to create the conditions for its successful conclusion. The Commission will work for a settlement of the Cyprus problem to be reached before Cyprus's accession to the EU, on the basis of the conclusions of the Helsinki European Council.

Since the invitation extended by the Copenhagen European Council to the countries of Central and Eastern Europe in 1993, the enlargement process has contributed decisively to the framework of political stability, economic progress and social justice that is now prevailing in that part of the continent. Stable institutions, changes in government on the basis of free and democratic elections, the reinforced protection of human rights, including rights of minorities, and market economy principles are now common features in almost all candidate countries. In today's turbulent world, the enlargement process thereby delivers an important contribution to global conflict prevention strategy. Its credibility requires that the Union remains faithful to its promises and that all countries involved continue to work constructively towards the common goals, communicated in clear terms to their people.

COMMUNICATION FROM THE COMMISSION INFORMATION NOTE TO THE EUROPEAN COUNCIL

on a mid-term review of the implementation of the enlargement strategy

1. Introduction

The aim of this note is to present to the European Council, in view of its meeting in Gent on 19 October 2001, the progress to date in implementing the enlargement strategy, in particular the roadmap for the accession negotiations outlined therein endorsed by the Nice European Council, and reaffirmed by the Göteborg European Council as the framework for the successful completion of the negotiations.

The accession process is based on two essential elements. The first of these is the pre-accession strategy (main elements being the Accession Partnerships, the National Programmes for the Adoption of the Acquis, pre-accession aid, participation in Community programmes and Association Agreements), whose objective is to permit all thirteen candidate countries (including Turkey) to align with the *acquis* as soon as possible and before accession. The pre-accession strategy for Turkey was decided by the Helsinki European Council in December 1999. The second element is the negotiation process itself, which involves at present the ten Central and Eastern European candidate countries, Cyprus and Malta. The present note will concentrate on the accession negotiations.

Considerable progress has been achieved in the accession negotiations since they started with a first group of six countries (Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia) in March 1998 and a second group of equally six countries (Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia) in February 2000. All 31 negotiation chapters (except institutions and "other") have been opened with each of the countries that have been negotiating since 1998, and up to 23 of these have been provisionally closed. For each of the countries with which negotiations were launched in 2000, between 29 and 15 chapters have been opened, of which up to 19 chapters have been provisionally closed. The situation of the negotiations per country is described in the attached table.

The enlargement strategy identified a road map for the accession negotiations until 2002, which lists the chapters for which the Union would have as its priority to define common positions, including positions on requests for transitional measures, with a view to provisionally closing these. The progress to date in implementing this road map for the accession negotiations is in the following assessed on a chapter-by-chapter basis.

For each chapter covered by the road-map in 2001, the note reviews with which countries the chapter has been opened for negotiations and with which countries it has been provisionally closed. Agreed transitional measures are indicated. It should in this context be noted that the acceptance of any transitional measure has been proposed by the Commission on the basis of the principles that were laid down in the enlargement strategy paper.

The note further indicates the planning for the presentation of draft common positions (DCPs). It should however be borne in mind that the planned timing is dependent on the reception of sufficient information in time from the candidate countries.

The document further identifies core issues of the negotiations on each chapter and highlights specific problems that have arisen in the negotiations that require further political consideration. Measures taken to advance on core issues, such as technical meetings, and other information of relevance to the review of progress in implementing the enlargement strategy are also indicated. Information is also provided concerning the extent to which important commitments undertaken by the candidate countries or requirements by the EU have been fulfilled.

2. Implementation of the road map agreed for the first semester 2001

The priority schedule for the first half of 2001 consists of the following chapters: free movement of goods, free movement of persons, freedom to provide services, free movement of capitals, company law, culture and audio-visual policy, social policy and employment, environment, and external relations.

Free movement of goods (Chapter 1)

The chapter has been provisionally closed with all countries except Bulgaria and Romania. Bulgaria is expected to present a supplementary position paper in response to the first EU Common Position very soon. The chapter has not yet been opened with Romania and it is not planned to do so during the Belgian Presidency.

The EU has only accepted a very small number of transitional periods in this chapter. These transitional periods concern the renewal of marketing authorisations for pharmaceuticals in four candidate countries (Cyprus, Lithuania, Malta and Slovenia) and the expiration of the validity of certificates for medical devices in Poland.

Bulgaria has explicitly stated in its opening position that it does not intend to request any transitional periods. Technical meetings have been held with Bulgaria. Technical consultations will also be organised with Romania to clarify outstanding issues before negotiations in this chapter can be opened.

Overall, the implementation of commitments made by candidate countries during the negotiations is proceeding without major delays in most cases.

Free movement of persons (Chapter 2)

The chapter has been provisionally closed with Cyprus, Hungary, Latvia, Malta and Slovakia. Negotiations are still ongoing with the Czech Republic, Estonia, Poland, Slovenia and Lithuania, as an agreement with these countries on the terms of the EU common position which would allow the provisional closure has not yet been reached. The chapter still needs to be opened with Bulgaria and Romania. For Bulgaria, the draft common position (DCP) is under preparation with the aim of presenting it by the end of September. It is not planned to open the chapter with Romania during the current presidency.

The key issue in this chapter is that of free movement of workers. The political and practical importance of this area of the *acquis* and the sensitivities and uncertainties surrounding mobility of workers, as well as the expectation that most

predicted labour migration would be concentrated in certain Member States, has led the EU to propose a transitional arrangement. It consists of a minimum two-year period during which national measures can be applied by all current Member States to nationals of new Member States as regards their access to the labour market. Before the end of this period, reviews will be held, as a result of which Member States may decide to apply the *acquis*. The transition period should come to an end after five years, but it may be prolonged for a further two years in those Member States where there are serious disturbances of the labour market or a threat of such disruption. Safeguards may be applied up to the end of the seventh year. Austria and Germany will be able to apply flanking national measures to address serious disturbances on their labour markets in specific sensitive services sectors, linked to the movement of workers providing cross-border services. As specified in a separate declaration, Member States will endeavour to grant increased labour market access to nationals of the candidate countries also before the full *acquis* is applied, and positive indications in that sense have already been given by a number of Member States.

This arrangement has been presented to eight candidate countries and three (Hungary, Latvia and Slovakia) have been able to accept it subject to some adaptations – reciprocity vis-à-vis current Member States and the possibility to apply safeguards against new Member States which are subject to national measures. No transition period has been put forward in relation to Cyprus and Malta. However, a safeguard clause that will run for seven years has been agreed for Malta, which concerned that its labour market could come under pressure following accession. Negotiations with the remaining candidate countries are ongoing.

A further key issue concerns mutual recognition of professional qualifications and specifically how to ascertain the standard of qualifications dispensed in candidate countries, in particular for the sectoral directives. This will be monitored very closely and candidate countries are encouraged to step up their efforts to align with the *acquis*. For professional qualifications obtained before harmonisation, candidate countries are expected to take the necessary measures to ensure that all their professionals will be able to meet the requirements laid down by the directives and therefore benefit from professional recognition throughout the EU.

Most of the *acquis* in this chapter can only be applied as from accession. The monitoring effort is focussed on the candidate countries' commitment to build in time the necessary administrative structures to ensure that EU citizens can make use of their rights under the *acquis* on free movement, mutual recognition, citizens' rights and social security coordination as from accession. Joint work is undertaken with the candidate countries at expert level since early 2001 to define the technical adaptations that need to be included in the *acquis* on social security coordination.

Freedom to provide services (Chapter 3)

The chapter has been provisionally closed with all countries except Bulgaria and Romania. With Bulgaria a DCP, proposing provisional closure, has been presented to Member States in mid-September. The chapter has not been opened with Romania, and it is not planned to do so under the Belgian Presidency.

For most candidate countries, transitional periods up to five years have been agreed for reaching minimum levels of guarantees for banking deposits or investor protection. A number of candidate countries have been accorded, in line with existing Member States, exemption from the banking *acquis* for very small institutions, e.g. credit unions. Such institutions would not benefit from the "European passport" for operating in the single market.

Although the candidate countries have made progress in transposing and applying the *acquis* in this chapter, in particular under the provisions of the Association Agreements, much remains to be done, both in the area of financial services and the primary Treaty provisions on right of establishment and freedom to provide services. In view of the large amount of work still to be done by the candidates, and the complexity of the *acquis*, monitoring of their commitments is crucial. In the financial services, implementation of the *acquis* depends to a large extent upon effective supervisory bodies. The Commission is organising, with participation of Member States' supervisors, a series of "peer reviews" to examine the candidates' supervisory arrangements (Estonia, Hungary and Cyprus reviews have already been carried out).

Free movement of capital (Chapter 4)

The chapter has been provisionally closed with all countries except Poland, Malta and Romania. As far as Poland and Malta are concerned, the fact that the chapter is still open is due to divergences in position with the EU. In the case of Romania, there is a need for further assessments and clarifications and the DCP could be presented before the end of the year provided the necessary information is received.

The key issue in the negotiations in this chapter is the investment in real estate (agricultural land and forests, as well as secondary residences). A 7-year transitional period for agricultural land and forests and a 5-year transitional period for secondary residences have been agreed with several candidate countries. However, self-employed farmers and persons already legally residing in candidate countries are excluded from the application of this transitional arrangement.

An agreement with Poland on the provisional closure proposed in the EU common position has not yet been reached. At the Ministerial meeting in June, Poland indicated that it would prefer to set aside the issue of investment in real estate to a later stage of the negotiations, the main issue being the length of the transitional period (Poland has requested 18 years for agricultural land and forests and secondary residences and 5 years for investment purposes). Poland has however not yet provided an answer to the EU common position presented to Poland during the Swedish Presidency proposing transitional periods identical to those proposed to other candidate countries. Poland needs to make a commitment to amend its legislation in order to bring investment rules for capitalised occupational pension funds in line with the acquis.

Malta has with reference to its small size and high population density requested to keep the current limitations vis-à-vis non-Maltese citizens purchasing secondary residences on a permanent basis. An agreement to this request would however lead to a discrimination of EU citizens which would neither be justified or proportionate to the provisions of the EC Treaty. The Commission has received additional information from Malta in the beginning of the Belgian Presidency and is currently preparing a revised DCP.

The Commission will continue to pay particular attention to the candidate countries' implementation and enforcement of the provisions in the anti-money laundering Directive. Ad hoc meetings will be held with the candidate countries to monitor their implementation of the acquis in this area (a first meeting has taken place with Cyprus).

In order to be able to provisionally close the chapter, a solution needs to be found regarding Poland and Malta. A position should be taken regarding the Polish request for longer transitional periods than those accepted by other candidate countries. The Commission recommends that every effort should be made in order to find a solution which is acceptable for both sides. In the case of Malta, a non-discriminatory solution that would not go beyond what is necessary to attain the objective of the restriction should be found.

Company law (Chapter 5)

The chapter has been provisionally closed with all countries except Poland (disagreement with EU proposal on pharmaceutical issues) and Romania.

The protection of industrial property rights for pharmaceutical products within the enlarged Union constitutes one of the main issues dealt with under this chapter. The Candidate countries have introduced patent protection for pharmaceutical products in the 1990s apart from Cyprus and Malta, where patent protection was introduced in the 1920's and 1900's respectively. Since the new patent laws have no generalised retroactive effects, all medicinal product marketed in the applicant countries before the change in the legislation took place will remain unprotected there while they are still under patent in the EU. In order to minimise potential problems resulting from this situation, the EU has proposed a mechanism whereby the patent holder may prevent the import into the EU of a product patented in a Member State at the time when a product patent could not be obtained in candidate countries for that product.

As far as the Supplementary Protection Certificate Regulation is concerned (the SPC, which is a prolongation of the patent term), Member States requested that all patented pharmaceutical products with market authorisation should be eligible for SPC. Hungary has withdrawn the request for a 5-year transitional period on the application of the SPC and accepted, after several rounds of negotiations, the EU's proposal.

The problem relating to patent protection for pharmaceutical products is still outstanding with Poland and Romania. Poland's official reaction to the last EU common position is still awaited. The Commission is currently examining additional information submitted by Romania. Technical meetings have also been held with both countries to clarify outstanding issues.

The enforcement of intellectual and industrial property rights remains a serious concern. Given the poor enforcement record, the EU has strongly emphasised the need for candidate countries to enhance the administrative capacity in particular as regards the fight against piracy and counterfeiting. The Commission continues to devote special attention to this question and to provide support through existing mechanisms.

Culture and audio-visual policy (Chapter 20)

The chapter has been provisionally closed with all countries except Hungary and Romania (given in particular that the legislation of these two countries is not in line with the acquis).

Negotiations in this chapter have focused upon alignment with and implementation of the Television Without Frontiers Directive. The countries with which the chapter has been closed to date have introduced legislation providing for a high degree of alignment, even if in some cases further refinements or secondary legislation are still needed to achieve full alignment.

The Commission has held regular and detailed consultations on legislative alignment with the candidate countries and these continue as necessary. In parallel, most of the regulatory authorities in the audio-visual field have also been strengthened. Exchange of experience with similar authorities in Member States is ongoing or planned in certain candidate countries, in particular through twinning projects.

The question of candidate countries implementing measures of promotion of European works in the pre-accession phase has implications for certain of those countries in the WTO and OECD. Discussions and consultations continue concerning Romania's position in the WTO (a temporary solution has been found for Malta to accommodate a similar problem) and those of the Czech Republic, Hungary, Poland and Slovakia in the OECD.

Social policy and employment (Chapter 13)

The chapter has been provisionally closed with all countries except Malta, Bulgaria and Romania where negotiations are ongoing. Malta's request for a transitional period concerning the working time directive requires careful consideration. The aim is to present a revised DCP during the Belgian Presidency, taking into account the necessary information provided by Malta. In the case of Bulgaria and Romania, it is planned to open the chapter under the Belgian presidency. For Romania DCP will be presented in September, and in the case of Bulgaria the DCP could be presented by the end of October, provided that the Commission receives the necessary information in time.

The main focus of the negotiations in this chapter is on labour law, equality of treatment for men and women and health and safety at work. In general, candidate countries have provided detailed timetables for adoption and implementation of all measures. However, the strengthening of the administrative and enforcement structures, in particular the labour inspectorates, is still a concern.

Some legislative work remains for all countries, particularly in and the field of health and safety at work. This area calls for progress on social dialogue at the workplace and also has significant cost implications, especially for small and medium-sized enterprises. The experience with those countries that have requested transitional arrangements is that it is possible, but quite difficult, to appraise the costs and timing necessary to effectively implement the *acquis*. Clearly, the full and timely respect of health and safety rules presents a considerable challenge to the candidate countries. In order to take into account objective difficulties to implement quickly certain elements of the health and safety *acquis*, some limited transitional arrangements have been granted (to Latvia, Poland and Slovenia) and a few more may be accepted in the future. There is a need for careful and regular monitoring of progress made in the field of health and safety at work, not least in those countries that have *not* requested any transitional arrangements (Cyprus, the Czech Republic, Estonia, Hungary, Lithuania and Slovakia).

Other areas of general concern in this chapter are the transposition, implementation and enforcement of labour law, and equality of treatment between men and women, as well as the development of social partners structures in line with the key role of social dialogue in the EU social model. To prepare them to adapt their employment policies to the EU employment strategy, all candidates are participating in "employment reviews" with the Commission services over the coming years.

Environment (Chapter 22)

The chapter has been provisionally closed with Cyprus, the Czech Republic, Estonia, Hungary, Lithuania and Slovenia. Negotiations are ongoing with all other countries except Romania, where the chapter has not yet been opened, and this is not planned for the Belgian Presidency.

Revised draft common positions for Poland was presented in September and a revised DCP for Latvia will be presented in November at the latest, as a result of these countries having replied to the positions of the EU. Extensive technical consultations have been held, allowing for a number of clarifications.

The Commission is studying Slovakia's recent reply to the EU position. A technical consultation is likely to be needed and the Commission is prepared to organise it very shortly. Depending on whether and when additional clarifications are received, a draft common position may be proposed towards the end of the Belgian Presidency or at the beginning of the Spanish Presidency.

As regards Malta and Bulgaria, the EU adopted its positions in May 2001 and in July 2001 respectively, and replies to these are awaited. Draft common positions are therefore not likely to be proposed during the Belgian Presidency.

All candidate countries have requested transitional measures and technical adaptations. As a result of negotiation, clarification and substantial additional efforts by the candidate countries, several of these requests have been withdrawn. The EU in its turn has considered transitional measures in areas where substantial adaptation of infrastructure is required or where substantial investments need to be spread over time. As a result, limited transitional periods have been granted in relation to urban waste water treatment, packaging and packaging waste, landfill of waste, integrated pollution prevention and control, drinking water, large combustion plants, incineration of hazardous waste, and volatile organic compound emissions from

storage and distribution of petrol. Transitional measures have not been granted on transposition of legislation, framework legislation (air, waste, water, impact assessment, access to information), nature protection or on essentials of the internal market. Also, transitional measures do not relate to new installations in line with the EU position that all new investments should comply with the environment acquis. Hence transitional periods will allow the future Member States to deal with the legacy of the past but not to attract new investments with lower environmental standards. Moreover, transitional measures have only been agreed on the basis of detailed implementation plans, including financing strategies and intermediate targets. These intermediate targets should be inserted in the Acts of Accession.

In cases where the chapter has been provisionally closed, the schedules for transposition and implementation have been fully clarified. Plans on strengthening of the administrative capacity have been provided, in particular in the fields of chemical control and genetically modified organisms. Most of the commitments made within the negotiations have been met without considerable delays, sometimes even in advance of the schedules. Continuous further progress is needed, including the strengthening of administrative capacity. This will be closely monitored through existing structures.

External relations (Chapter 26)

The chapter has been provisionally closed with all countries. No request for a transitional arrangement has been accepted under this chapter.

It is necessary to monitor that the candidate countries take the necessary steps to renegotiate or repeal any bilateral or multilateral treaty or agreement, which is incompatible with the acquis. For instance, all candidate countries currently involved in the accession negotiations, except Cyprus, Malta, Hungary and Slovenia, have concluded bilateral investment treaties that are considered incompatible with the acquis.

In the WTO framework, the candidate countries need to align their objectives and positions with those of the EC. The commitments made by the candidate countries in the WTO need to be compatible with those of the EC to ensure that compensation to third parties is kept to a minimum. The EU and the candidates have established a framework of cooperation regarding WTO issues, both at Ministerial and official level, in view of the new round of negotiations.

3. Implementation of the road map agreed for the Belgian Presidency

The Belgian Presidency presented its work programme in the area of enlargement on 11 July 2001, in which the Presidency stated its intention to continue the negotiations at an unabated pace, on the basis of the "road map" for the accession negotiations that was outlined in the enlargement strategy. The Presidency intends to organise a series of Conferences at deputy level, the first of which took place on 27 July 2001. A second series is planned for 25-26 October, and a third series for 27-28 November. Conferences at Ministerial level are planned for 11-12 December 2001. On 11 July 2001, the Presidency also confirmed, following the Commission's recommendation, the chapters that are to be opened with Malta, Bulgaria and Romania, the only countries with which all the chapters have not yet been opened (with the exceptions of Chapter 30 on institutions, which has not yet been opened with any country).

The priority schedule for the second half of 2001 consists of the following chapters: competition policy, transport policy, energy, taxation, customs union, agriculture (in particular veterinary and phytosanitary questions), fisheries, justice and home affairs, and financial control.

Competition policy (Chapter 6)

The chapter has been opened with all countries. It has not been provisionally closed with any of them so far. Only Poland, Slovakia and Malta currently request transitional arrangements. Hungary has requested a six-month adaptation period with regard to the application of a number of Community anti-trust regulations. The EU considers this a technical adaptation which will be taken up in the Treaty of Accession. The Commission believes that it will be in a position to submit revised DC Ps for all 12 Candidate Countries by the end of October.

In line with the Commission's Progress Report on the accession negotiations on this chapter, which was updated in July 2001, the EU position is that the candidate countries can be considered ready for EU membership only if (a) the necessary legislative framework is in place (for anti-trust and State aid); (b) the necessary administrative capacity has been established; and (c) the candidate countries can show a credible enforcement record of the competition acquis. The Commission is finalising an assessment of the actual enforcement practice in the candidate countries. This exercise is based on an assessment of the decisions taken by the competition authorities in the candidate countries as compared with the Commission's practice. The preliminary results of the assessment of Candidate Countries' preparations suggest that the Commission could consider, still this year, that in a limited number of the countries, companies and public authorities have become accustomed to a competition discipline such as that of the Community, and consequently propose the provisional closure of this chapter.

The main problem in this chapter continues to be the granting of State aid which is not compatible with the *acquis*, mainly in the form of fiscal incentives typically granted to foreign investors (as, e.g., in the case of the Special Economic Zones) and aid to prop up ailing industries. The problem is widely, but not equally spread across the candidate countries. The Czech Republic has revamped its incentive policy in line with *acquis* requirements in close co-operation with the Commission. Estonia and Lithuania are other countries for which the Commission is not aware of incompatible aid schemes. In view of the fact that the entire territories of the associated Central and Eastern European countries are considered as an area identical to those of the Community referred to in Article 87(3)(a) EC Treaty, the Commission believes that the Community's rules offer considerable possibilities for adjusting the incompatible aids awarded into compatible regional aid. Guided by the principle of *égalité de traitement*, the Commission believes that this would provide a basis for taking matters forward, in a way that would not penalise countries that have demonstrated considerable goodwill and political determination in aligning their State aid policies with the *acquis*.

With regard to state aid to steel sector, the precondition for bringing negotiations on the competition chapter forward is the adoption of a restructuring plan in line with competition rules and which demonstrates viability of the companies concerned within a reasonable period of time. So far Slovenia has submitted a plan that has been deemed acceptable by the Commission. Poland, the Czech Republic, Slovakia, Romania and Bulgaria still need to take important steps in order to be able to resolve all issues related to the granting of aid to the steel sector.

Transport policy (Chapter 9)

The chapter has been opened with all countries. It is provisionally closed only with Cyprus, where a transitional period on tachographs has been accepted. In a DCP presented last May the Commission has proposed that the chapter be provisionally closed also with Slovenia, which has requested no transitional period. The Council is presently considering this proposal. DCPs for other countries are planned for October, except for Bulgaria and Romania with which negotiations have been opened only this year.

The key issues of the EU negotiating positions for most countries will be road transport market integration, railways and maritime safety. The road haulage market integration issue needs to be dealt with in the light of both the Council discussion of last April of the Commission's Information Note on Road Transport Market Integration and Enlargement and the large number of transitional periods requested by the candidate countries. Other elements to be taken into account include the situation as regards legal approximation, administrative capacity and socio-economic development in the road transport markets of candidate countries and its impact on the internal market of the enlarged Union.

The newly adopted White Paper on the Common Transport Policy recognises that price competition, already fierce inside the existing EU market, could be further exacerbated as a result of the entry of candidate countries. That EU operators might suffer a loss of market share to operators from candidate countries is a sensitive issue. Equally sensitive are the environmental issues, and the White Paper advocates a better regulation of the competition between the modes by giving rail and other environmentally friendly modes the means to become competitive alternatives and thereby bringing the growth in road traffic under control. These trends are likely to be strengthened further should the market be fully opened to candidate countries at the point of their accession. For all these reasons some temporary restrictions on access to the national road transport market (*cabotage restrictions*) will need to be considered. In addition, in the event of a significant market disruption, an additional temporary safeguard procedure will need to be considered.

With regard to railways, candidate countries have been requested to re-examine their negotiating positions in view of the ambitious nature of the new *acquis* (increased market access rights, separation of infrastructure management from operations of undertakings, introduction of safety certificates and licensing etc) which has been introduced in the negotiations earlier this year. The DCPs should take a position on candidates' revised positions in light of this new *acquis* and possible request for transitional periods. It is therefore desirable that candidate countries react as soon as possible to this request.

The Commission intends to suggest differentiated EU positions on the other requests, in particular in the field of inland waterways (non-application of the "old for new" rule - scrapping requirements - by Hungary) and air transport (market access, licensing of carriers, noisy aircraft by Hungary, Lithuania, Poland and Romania).

Close monitoring of the implementation by candidate countries of the existing *acquis* is required. Moreover, in the light of forthcoming substantial *acquis*, for example on maritime safety, provisional closure will be proposed on the understanding that subsequent *acquis* will be brought into the negotiations at a later stage.

In general, the situation in the transport sector is characterised by considerable progress made by many candidate countries on the transposition of key parts of the *acquis*, whereas their implementation and enforcement aiming at increasing the financial, social and technical standards in this sector require in many cases more detailed secondary

legislation and administrative procedures. These should be completed where possible early in the next phases of the accession process.

Energy (Chapter 14)

The chapter has been opened with all countries except Bulgaria and Romania. It has been provisionally closed with Hungary, which has requested no transitional periods, and with Poland, Slovenia, Cyprus and Malta. With these last four countries, transitional periods on oil stocks, until between end of 2005 for Slovenia and end of 2008 for Poland, have been accepted. It is planned to open the chapter with Bulgaria under the Belgian Presidency.

It is planned to prepare revised DCPs in October for the Czech Republic and Slovakia, which have both presented additional position papers. Depending on the timing of the presentation of further position papers by the other countries, the Commission expects to prepare other revised DCPs in November. To enable the expedient transmission of future position papers the Commission has already held and may hold further technical meetings with Estonia. The Commission is also planning to hold a technical meeting with Latvia in September and may also hold technical meetings with Lithuania and Bulgaria as necessary.

The key issues in the energy chapter in terms of transitional periods concern oil stocks and the internal energy market. In addition, nuclear safety constitutes an element of the energy negotiations with several candidate countries.

It has proved possible to propose the acceptance of transitional periods on oil stocks, a typical investment related issue. The Commission will continue to propose the acceptance of transitional periods, requested by candidate countries, provided that certain conditions are met. In particular, the candidate country should present a credible investment plan.

In the area of the internal energy market (electricity and gas directives), the complex core of EU energy policy, one (Czech) request for a transitional period until the end of 2004 regarding the gas directive is being examined by the Commission. Indications by Estonia and Latvia that they will use the possibility of getting permanent derogations provided by the gas directive after accession are currently evaluated by the Commission. Such derogations provide for the (partial) non-application of certain market opening provisions of the gas directive. Furthermore, the Commission is analysing the gas sector situation in Latvia with a view to the possible existence of a long-term monopoly and its impact on the implementation of the gas directive.

A solution should further be found, preferably within the *acquis* (possibly in the framework of the electricity directive, e.g. "stranded costs"), for handling the request by Estonia for a 'special status' for its oil shale (a specific local solid fuel). In this respect the consequences of the ongoing privatisation deal in the sector, which may close a part of the Estonian electricity market for a certain period, may conflict with the market opening thresholds of the Electricity Directive.

Concerning nuclear safety, the Commission has, on invitation of the Council, transmitted, in July, the Council Report on Nuclear Safety in the Context of Enlargement to the candidate countries. The candidate countries have then been invited to indicate by 31 October their acceptance of the recommendations contained in the report; and to indicate time schedules envisaged for the implementation of the recommendations. The Czech Republic and Slovakia have already transmitted their initial replies to this request and are currently complementing them. Monitoring is envisaged through a 'Peer Review' mechanism under auspices of the Council's Atomic Questions Group. The Commission will continue to fully co-operate in this process. Although not being part of the *acquis stricto sensu*, this approach should allow to solve satisfactorily the need to ensure a high level of nuclear safety in the candidate countries. Concerning non-upgradable units - Ignalina (Lithuania), Bohunice-VI (Slovakia) - closure commitments must be respected, and therefore duly included in the Accession Treaties.

Taxation (Chapter 10)

The chapter has been opened with all countries except Romania. It has been provisionally closed only with Hungary where five-year transitional periods to maintain the reduced VAT rate on supplies of district heating and on restaurant services, and a reduced excise duty rate for small distilleries have been accepted. Under the Belgian Presidency, it is planned to open the chapter with Romania and to prepare revised DCPs with the other countries. Additional information has been received from Latvia and Slovakia and is expected from Lithuania and Malta.

All candidate countries request transitional periods under this chapter, mainly to apply lower VAT or excise duty rates than what are provided for under *acquis* to selected goods and services. Regarding VAT, Cyprus and Malta would like to maintain zero-rates and exemptions for socially sensitive goods, while Central and Eastern European countries request to maintain reduced rates. Regarding excise duties, all candidate countries except Hungary, Malta and Cyprus have requested transitional periods to keep lower excise duty rates on cigarettes than the minimum levels provided by the *acquis*.

So far, negotiations on this chapter have progressed mainly on requests for reduced VAT rates, VAT exemption threshold for small and medium-sized enterprises and excise duties on small distilleries, which is not considered to have a serious impact on competition or the functioning of the Internal Market. Candidate countries have also withdrawn some of their requests.

During the Belgian Presidency, the Commission intends to present to Member States revised DCPs in October, recommending positions on the requests for transitional periods, notably on the requests aimed at maintaining VAT zero-rates and the requests aimed at maintaining lower excise duties on cigarettes. In considering whether transitional measures should be accepted, the Member States should take into account the need to safeguard the functioning of the Internal Market as well as the political, economic and social implications for the candidate countries.

Agriculture (Chapter 7)

The chapter has been opened with all countries except Bulgaria, Malta and Romania, and has been provisionally closed with none of them so far. All countries have requested a considerable number of transitional measures or derogations. Malta has transmitted its opening negotiation position. It is foreseen to open the chapter around the end of 2001. Bulgaria has also transmitted its opening negotiation position, although it is however not planned to open the chapter with Bulgaria before 2002.

The objective with relation to this chapter is to agree on EU positions at the end of 2001 for as many issues as possible except those of major significance such as direct payments and supply management instruments. These remaining issues will be addressed during the first half of 2002.

Revised DCPs for Cyprus, the Czech Republic, Estonia, Hungary, Poland, and Slovenia have been presented to the Council, including the parts on the horizontal issues, common market organisations and rural development (for the Czech Republic, Hungary and Slovenia, these include also the veterinary and phytosanitary parts). For the three other countries, the remaining parts will shortly be presented to the Council. On this basis it is foreseen to define a common position for Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia before the end of the Belgian presidency.

The revised DCPs are based on close analysis of the position taken by the countries with which the EU opened negotiations in 1998 and on the outcome of bilateral technical meetings during the first half of 2001. These meetings focussed on clarifying outstanding technical issues, including statistics, comitology and the situation regarding implementation of the acquis in the candidate countries, and resulted in the withdrawal of a number of negotiation requests. As regards the agricultural parts, the DCPs clarify as many of the large number of technical issues raised in the negotiations as possible. These issues include, for example, extending certain lists of varieties eligible for Community support, permitted practices under organic farming, marketing standards, minimum requirements for the recognition of producer organisations, names and geographical indications for wine and alcohol, vine growing areas and zones, fat content of drinking milk and carcass classification.

The veterinary and phytosanitary parts of the DCPs address, amongst other issues, questions relating to the veterinary and phytosanitary control system, border inspection posts, the systems for identification and registration of animals, public health requirements for establishments as well as additional guarantees for specific animal diseases. They further address the possibility and conditions of transition periods in the fields of animal welfare, under exceptional circumstances, and public health in slaughterhouses and dairies. The overall principle for negotiations in these fields is that the high level of food safety in the existing Union should be maintained by ensuring that internal market control systems are effectively implemented. It will be important to ensure that comprehensive information regarding establishments is provided by the candidate countries on these two fields. In the phytosanitary field the DCPs will address such issues as protected zones for harmful organisms, pesticides, zero tolerance for certain weeds as well as marketing of seeds and propagating material.

The chapter was opened with Latvia, Lithuania and Slovakia in June 2001 and revised DCPs for these three countries are not foreseen during the Belgian Presidency. Technical consultations will be held with them during the autumn in order to clarify outstanding technical issues and ensure the availability of necessary information.

During the Belgian Presidency, the issues related to veterinary and phytosanitary legislation will be among the priority areas, as indicated in the road map. Special emphasis is therefore to be given on clarifying the EU's position on outstanding issues and to ensure that sufficiently detailed information is made available. This will be the case as regards the ongoing process of approximation of legislation, which is important due to the high number of Directives in this field, and the strengthening of the administrative capacity. Particular attention should be given to the issues of public health and animal welfare.

Fisheries (Chapter 8)

The chapter on Fisheries has been provisionally closed with all of them except Poland, Latvia and Malta for which negotiations are ongoing. Latvia and Malta have provided additional information while Poland still needs to do so, and Malta will need to provide some further information. The countries with which the chapter has been provisionally closed have requested no transitional measures. Under the Belgian Presidency, discussions in the Council (on the basis of the Commission's report) have allowed the framework for remaining issues to be defined.

Poland, Latvia and Malta have put forward requests for obtaining permanent derogatory regimes for certain waters (Poland's entire Exclusive Economic Zone, Malta's 25-miles zone, and Latvia's waters of the Riga Gulf). In the case of Latvia the request also involves specific conservation measures, while all three countries also highlight a wish to limit the fishing effort for conservation reasons as well as for protecting the local fishermen. Poland, Latvia and Malta have requested the inclusion of new species in Annex I of the regulation on the Common Market Organisation. In addition Malta maintains a request for a waiver in the area of the structural policy (fleet modernisation).

Taking into account the fundamental principle of equal access to waters beyond 12 miles, possible solutions should be examined on a case-by-case basis for each of the countries and should be guided by the following principles: non-discrimination, scientific basis, respect of the CFP framework regulation, limited scope and objective character of any measures to regulate the fishing effort.

Concerning the request of inclusion of new species (Annex I) none of the species put forward have so far been found to qualify for Annex I (community-wide withdrawals and carry-overs). As an alternative, for certain species Annex IV (independent interventions by producers' organisations) is being considered.

The general principles and methodology for defining each applicant's access to fisheries resources do not generate major difficulties. When closing provisionally the chapter, the EU highlights, in relation to the eventual definition in quantitative terms of each applicant's rights that it will be necessary towards the end of the negotiations to define recent and representative reference periods, as well as to fix the relative stability keys.

While the information and commitments provided by most candidate countries regarding their implementation capacity to apply the *acquis* appear satisfactory and will continue to be monitored, further commitments in specific areas are still awaited from Poland, Latvia and Malta.

Justice and home affairs (Chapter 24)

The chapter has been opened with all countries except Romania, with which it is not planned to be opened under the Belgian Presidency. It has not been provisionally closed with any country so far. Revised DCPs for Hungary and Slovenia have already been produced, and revised DCPs will be prepared for other countries before the end of the Belgian Presidency, provided the necessary additional information is received in time. Revised DCPs for Estonia, Cyprus, the Czech Republic and Poland will be presented in October. Revised DCPs for the other countries will be presented once they have replied to the EU positions.

In line with the commitments under the road map, the EU has very largely defined its position under this chapter, in particular through the recent EU common position on Hungary and the horizontal paper on Schengen and enlargement endorsed by Coreper on 26 September 2001.

This is not a chapter where the negotiations will focus on transition periods. In essence, it will rather be necessary to find ways to build confidence, among member states, in the candidate countries' capacity to implement the *acquis* in this area. On issues such as border control, illegal migration, drugs trafficking and money-laundering, organised crime, police and judicial co-operation, data protection and the mutual recognition of court judgements, there is a need to ensure that candidate countries are equipped to meet acceptable standards. The establishment of an independent, reliable and efficient judiciary and police organisation are also of paramount importance.

A key tool for each candidate country to demonstrate its preparedness in this area is its Schengen Implementation Action Plan, which the EU has requested in its first common positions on this chapter. Such a plan needs to demonstrate full awareness of the ramifications of the Schengen *acquis*, and to provide a credible timetable for its implementation. To date, all countries except Bulgaria and Lithuania have submitted a Schengen Action Plan. The EU has made clear that full application of the Schengen *acquis* is a two-stage process, with the lifting of internal border controls occurring only some time after EU accession and subject to a separate decision-making process. Upon accession, candidate countries need to have achieved a high level of border control, even though certain special arrangements such as shared infrastructure and equipment or joint patrols could be envisaged with (other) future member states. Continued emphasis

should nevertheless be put on the need for the candidate countries to upgrade their systems of external border control already now.

Customs Union (Chapter 25)

The chapter has been provisionally closed with Cyprus, the Czech Republic, Hungary, Poland, Slovakia and Slovenia. It remains open with all other countries. Only Hungary has requested a transitional arrangement (for the import of aluminium) which has been accepted in the meantime in a modified form, and which will not constitute a precedent. A revised DCP proposing to close the chapter with Latvia has been brought forward by the Commission in the light of progress already achieved in legislative alignment. Lithuania has provided additional information according to which, the alignment of legislation during the second semester of 2001 would be accelerated. If confirmed, this should allow for provisionally closing the chapter under the Belgian Presidency.

Revised DCPs will also be prepared under the Belgian Presidency for Malta, Estonia, Bulgaria and Romania once they provide additional information. On the basis of a technical meeting held in July, it appears that Malta has speeded up the approximation of legislation, but its position on duty reliefs requires further clarification. Estonia should adopt the new customs code and the implementing provisions as scheduled, together with the progressive introduction of a full customs tariff and tariff related measures. Both issues constitute a key area for accession, and it is an essential element to the functioning of the Internal Market. Bulgaria and Romania should substantially strengthen their administrative capacity.

A very high degree of alignment of legislation (particularly of the customs code and the implementing provisions) is a condition for the provisional closure of the chapter, but administrative capacity also plays a major role. In this field, the Commission services intend, with the support of the Customs administrations of the EU Member States, to visit customs offices in these countries with a view to appraising their operational readiness to apply the acquis. In some cases, like Romania and Bulgaria, a high level of approximation does not necessarily imply the existence of a well functioning customs administration. Computerisation is a key issue to be monitored, as all candidate countries should have a fully functioning EU-compatible IT system in place at least one year before accession.

Financial control (Chapter 28)

The chapter has been provisionally closed with Cyprus, Estonia, Hungary, Poland, Slovenia, and Malta. Under the Belgian Presidency, it should be possible to prepare revised DCPs for Latvia, the Czech Republic, Lithuania, Slovakia and Bulgaria once these countries have finalized outstanding legislative issues and have submitted all the necessary additional information. The candidate countries have requested no transitional arrangements. The chapter has not yet been opened with Romania, and this is not planned for the Belgian Presidency.

The main issues at stake in the negotiations on this chapter include the adoption of the necessary legislation in the area of Public Internal Financial Control (PIFC), as well as significant steps for its implementation (especially the establishment of financial management and control and internal audit functions throughout the administration). In addition, the candidate countries should confirm the independence of their external control bodies and the presence of a mechanism for a proper reaction by the Parliament to the audit findings. Furthermore, it is important that candidate countries closely collaborate with OLAF and designate an institution with the appropriate competencies as a single point for co-operation in the field of protection of the EU financial interests.

Whereas nearly all the countries for which the negotiations of this chapter are ongoing have achieved significant progress in the legislative field, there is much to be done in terms of the institutional set up. The Czech Republic and Slovakia still need to complete the legislative procedures for the adoption of the primary legislation in the area of PIFC. Lithuania and Bulgaria need to put significant efforts in the implementation of their PIFC legislation as well as the development of the institutional capacities for internal financial control and external audit. Latvia needs, in particular, to improve significantly its system of external audit.

It should be noted that a good management of pre-accession instruments by the candidate countries is of high importance also in view of the necessary administrative capacity of future Member States to properly manage Structural and Cohesion Funds projects.

4. Conclusions

The accession negotiations are progressing well in accordance with the roadmap foreseen in the enlargement strategy. The roadmap has proved to be a useful tool in ensuring that all parties to the negotiations commit themselves to a realistic timetable.

The EU, on the basis of Commission proposals, has defined common positions on all the nine chapters included in the priority schedule for the first half of 2001. This has allowed to provisionally close the chapter with all or almost all candidate countries in the case of 7 chapters (free movement of goods, free movement of services, free movement of capital, company law, social policy, culture & audio-visual and external relations) and with about half of the candidate countries for the two remaining chapters (free movement of persons and environment).

With respect to the priority schedule for the second half of 2001, work is relatively advanced on 4 chapters (fisheries, customs union, justice and home affairs and financial control) while efforts are still needed to define common positions with a view to provisionally closing the 5 remaining chapters. The Commission remains committed to making the necessary proposals in time to allow the Council to define common positions within this semester. Member States are invited to agree on their common positions within that timeframe. Candidate countries, for their part, should also be prepared to give the necessary substantive replies and commitments in this period.

Among the issues at stake that still need to be tackled among the chapters scheduled for 2001 under the roadmap, the Commission has identified the following as being in need of particular consideration:

a) Areas where the EU will define a definitive position in the course of this semester:

- Transport
: the issue of potential temporary restrictions on access to the national road transport market (cabotage).
- Taxation
: Requests of several candidate countries to temporarily maintain VAT zero-rates for certain products or lower excise duties for cigarettes.
- Agriculture, notably veterinary and phytosanitary matters
(direct payments and supply management systems not being addressed at this stage): Particular attention should be paid to the issues of animal welfare and public health in slaughterhouses and dairies.
- Justice and Home Affairs
: On the one hand, enlargement should not cause any new division of Europe, especially in regions where close links exist. On the other hand, the future external border of the Union must meet the security needs of today's EU citizens. In addition, new Member States can only be fully integrated into the Schengen system when they are able to fully apply Schengen standards.
- Energy
: Nuclear safety. Now that the EU recommendations on nuclear safety have been transmitted to the candidate countries, their positions regarding these recommendations need to be examined in view of provisionally closing the chapter.

b) Areas where agreements should be found with certain candidate countries on the basis of common positions already defined:

- Free movement of capital
: Outstanding issues with Poland and Malta relating to requests for transitional arrangements regarding the investment in real estate.
- Free movement of persons
: The free movement of workers.

The priority schedule for the first half of 2002 consists of the following chapters: Agriculture (remaining questions), Regional policy and structural instruments, Financial and Budgetary provisions, Institutions, and other remaining matters.

