

ANNEX

The general negotiating framework ⁽¹⁾

1. With a view to the decisions to be taken by the European Council in Luxembourg in the context of the enlargement process and in the light of discussions in Coreper, the Presidency has drafted a general negotiating framework based on the following three documents:
 - key components for the opening statement (Annex I);
 - internal rules of procedure (Annex II);
 - external procedural arrangements to be proposed to the applicant countries (Annex III).

For this purpose it used as a basis the texts drawn up in December 1992 for the previous enlargement (10397/92) but has incorporated the elements made necessary by developments in the situation and the specific features of the applicant countries.

2. In accordance with the procedure followed in 1992, it was agreed to submit these texts to the General Affairs Council at its meeting on 8 December 1997. Subject to the Council's discussions on the subject, this will then enable the European Council, in Luxembourg, when deciding to initiate the accession negotiations, to note that they will be based on that general negotiating framework.
3. The Council's attention is also drawn to the fact that these texts are then to be finalized in the light of the European Council's conclusions in Luxembourg and fleshed out in detail early in 1998 in the form of a general statement to be submitted by the Union at the ministerial meeting at which the negotiations are opened. That statement will be drawn up by Coreper and submitted for the Council's approval.

⁽¹⁾ This document was circulated as 12338/97 ELARG 24.

I. KEY COMPONENTS FOR THE OPENING STATEMENT

A. CONTEXT

- Summary of relations between the Union and the applicant CCEE, including a reference to the importance of enlargement and the background of contractual relations (in particular the conclusions of the Copenhagen European Council); reference to the fact that the Europe Association Agreements have led to a qualitatively new stage in those relations as well as reference to the conclusions of the Essen European Council (pre-accession strategy, including the White Paper, and PHARE). These factors have paved the way for the inauguration of the enlargement process.
- Reference to the comprehensive, inclusive and evolutionary nature of the enlargement process.
- Reference for the applicant CCEE to the importance of the possibilities contained in the Europe Association Agreements and the implementation of the reinforced pre-accession strategy as ways of facilitating and accelerating the process of preparing for accession, which will require major, sustained efforts by the applicant countries; the main need is to ensure that applicant countries are in a position to put the "acquis" into practice. Also a reference to the Commission's annual reports.
- Reminder that the applicant countries must come into line with the "acquis" before accession, including in relations between them.
- Summary of the background to relations between the Union and Cyprus, including the conclusions of the Madrid and Florence European Councils; reference to the Association Agreement which paved the way for the opening of enlargement negotiations.
- Reminder of the internal development of the Union, which led to Maastricht and Amsterdam, with a reference to the signing of the Amsterdam Treaty.
- Full statement of the objectives of the Amsterdam Treaty as defined in Article B; statement of the main features of the Treaty; including a reference to those connected with prospective enlargement.
- Reminder that it will be up to the Member States to decide in due course whether conditions are right for the conclusion of the negotiations, bearing in mind developments in the "acquis" since the date of opening of negotiations, especially as regards policy developments in the light of the proposals put forward in Agenda 2000, in particular.

B. NEGOTIATING BASES: PRINCIPLES

- Statement that accession implies full acceptance by the applicant country of the actual and potential rights and obligations attaching to the Union system and its institutional framework, known as the "acquis" of the Union. The new Member States will have to apply this as it stands at the time of accession. Statement that accession also implies effective implementation of the "acquis" by the applicant country, which requires the establishment of an efficient, reliable public administration. The "acquis" is constantly evolving and includes:
 - = the content, principles and political objectives of the Treaties (including those of the Amsterdam Treaty);
 - = legislation adopted pursuant to the Treaties, and the case law of the Court of Justice;
 - = statements and resolutions adopted within the Union framework;
 - = joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy (CFSP);
 - = joint actions, joint positions, conventions signed, resolutions, statements and other acts agreed upon within the framework of justice and home affairs (JHA);
 - = international Agreements concluded by the Community and those concluded among themselves by the Member States with regard to Union activities.
- Statement that any specific arrangements under the Association Agreement which depart from the "acquis" of the Union cannot be considered as precedents in the accession negotiations.
- Section setting out the approach of the Union in relation to the common foreign and security policy and justice and home affairs (including the integration of the Schengen "acquis") with the entry into force of the Amsterdam Treaty in prospect.
- Statement that, in accordance with the conclusions of the Copenhagen European Council, the Union should be capable of absorbing new members, while maintaining the momentum of European integration.
- Statement that enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to ensure that the institutional structures of the Union are not weakened or diluted, or its powers of action reduced.

- Section explaining that the acceptance of these rights and obligations by a new Member State may give rise to technical adjustments and exceptionally to non-permanent transitional measures as defined during the accession negotiations (limited in time and scope, and accompanied by a plan with clearly defined stages for application of the "acquis"), but can in no way involve amendments to the rules or policies of the Union, disrupt their proper functioning or lead to significant distortions of competition. In this connection, account must be taken of the interests of the Union and the applicant countries.
- Negotiations with the different applicant countries will be conducted on the basis of the same principles and criteria, but separately and according to the individual merits of each applicant country. Their progress and conclusion are not required to take place in parallel.
- The individual progress of each applicant country in preparing for accession will contribute, within a framework of economic and social convergence, to the advancement of the negotiations, taking into account:
 - = the Copenhagen and Madrid criteria, i.e. membership requires of the applicant country:
 - stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
 - the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
 - the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union;
 - administrative capacity;
 - = the objective of a high level of nuclear safety and environmental protection;
 - = undertakings to resolve any border disputes within the framework of the Stability Pact procedures or by means of other dispute settlement methods laid down in the United Nations Charter, including the prior, compulsory jurisdiction of the International Court of Justice;

- = the Association Agreements; partnerships for accession, including compliance with intermediate priorities laid down in those partnerships (CCEE).
- Acceptance by each applicant country of the principle that its application forms part of the inclusive enlargement process established by the European Council.
- Undertaking by the applicant countries, within the framework of their policies towards third countries and within international organizations, particularly the WTO, to align progressively – with a view to their accession – on the policies and positions adopted by the Community and its Member States.

C. ORGANIZATION AND PROCEDURE

- Section setting out the broad lines of the procedure to be followed for the accession negotiations (based on the agreed documents on internal procedure) and stipulating in particular that negotiations will be conducted with each applicant on its own merits, the Union delegation being led by the Presidency.
- Reference to forthcoming meeting of deputies to agree on specific details of negotiating procedure (secretariat, expenses, documents, organization of work, etc.) and on first subjects for negotiation and proposal that work should start with the examination of secondary legislation ⁽¹⁾ with a view to gathering full information, deciding what technical adaptations are necessary and identifying the substantive problems to be dealt with in the negotiations.

⁽¹⁾ Internally, it is understood that the lists of Union "acquis" could be drawn up with Council help, as appropriate, in the JHA field in particular.

II. PROCEDURE FOR NEGOTIATIONS WITH APPLICANT COUNTRIES

1. The accession negotiations will be conducted by the European Union according to a uniform procedure at all levels and in relation to all problems.
2. Accordingly, the Council ⁽²⁾ will determine the common position of the European Union on all problems posed by the accession negotiations.
3. In order to determine the common positions of the European Union, the Commission is invited to make proposals on all the problems posed by the accession negotiations in those areas which relate to the Treaties establishing the European Communities.

Concerning matters related to CFSP and cooperation in the field of justice and home affairs, proposals will be made by the Presidency, as a general rule, in close liaison with Member States and the Commission. It is also open to Member States to make proposals, and to the Commission to make proposals in the areas covered by Article J and Article K.1(1) to (6) of the Treaty on European Union ⁽³⁾.

4. In accordance with Article 151 of the EC Treaty, Coreper will have overall responsibility for preparing the deliberations of the Council concerning the establishment of the common positions.

The Political Committee and the Coordinating Committee referred to in Article K.4 ⁽⁴⁾ will act as consultation and coordination bodies, contributing to the definition of the common positions for matters relating to CFSP and to cooperation in the field of justice and home affairs respectively, the results of their work being submitted to Coreper.

5. On the European Union side, the negotiating meetings between the European Union and the applicants will be chaired at all levels by the Presidency-in-Office of the Council.

⁽²⁾ This arrangement does not prevent the Permanent Representatives Committee from defining the common position of the European Union at its own level in conjunction with the Commission representative, insofar as it can reach agreement.

⁽³⁾ Articles K.1 to K.6 after entry into force of the Amsterdam Treaty.

⁽⁴⁾ Article K.8 after entry into force of the Amsterdam Treaty.

6. The common position of the European Union will be set out and upheld in the negotiations with the applicant countries either by the President of the Council or, where the Council so decides, by the Commission, particularly if existing Community policies are concerned.
7. When the negotiations are conducted at the level of Permanent Representatives and in the working parties that will be established, the rules set out in paragraphs 5 and 6 above will apply.
8. In addition, the Council declares itself ready to give the Commission the task of seeking possible solutions, in contact with the applicant countries, to certain problems arising in the course of negotiations and reporting to the Council, which will give it the necessary guidance for the subsequent continuation of this task in order to identify points of agreement to be submitted to the Council.

This arrangement will apply in particular when existing common policies are concerned.

III. PROCEDURE FOR AND ORGANIZATION OF THE NEGOTIATIONS

1. Chairmanship

In accordance with the practice in bilateral negotiations between two delegations, each led by a head, the question of electing a President of the Conference does not arise.

The practical work involved in chairing meetings will be performed by the head of the Union delegation in his capacity as head of the host delegation.

2. Frequency of meetings at ministerial level and deputy level – setting up of working parties

It is planned that there should be at least [–] ⁽⁵⁾ meetings per year at ministerial level and [–] ⁽⁵⁾ meetings per six-month period at deputy level, on the understanding that the frequency could be adjusted if this were felt necessary.

The negotiations will remain centralized at ministerial and deputy level. The setting up of working parties should not be envisaged except to meet objective requirements of the negotiations. Any such working parties will operate under the authority of the deputies, on the basis of explicit terms of reference and in accordance with a specific timetable.

3. Venue for the meetings

Meetings will be held in Brussels, but during April, June and October ministerial meetings will be held in Luxembourg.

4. Organization

(a) Secretariat

Conference secretariat services will be provided, under the authority of the Secretary-General of the Council of the European Union or his representative, by a team consisting of officials of the General Secretariat of the Council and officials appointed by the [–] delegation.

⁽⁵⁾ To be decided on in due course.

(b) Operating expenses of the Conference

Each party will bear its own travel ⁽⁶⁾ and subsistence expenses and also the salaries of staff who are put at the disposal of the Secretariat.

The operating expenses of the Conference (rents, office furniture and supplies, telecommunications, interpreting, translation, auxiliary staff recruited for the Conference, etc.) will be met by advances made by the Council of the European Union.

These expenses will be entered in the Council's budget under a special budget heading.

The General Secretariat of the Council will submit an annual financial management report to the Conference on the operating expenses. These expenses will be divided among the participants in accordance with procedures to be mutually agreed.

(c) Preparation of meeting documents

Without prejudice to other special documents which the Secretariat might be asked to draw up, the following arrangements have been adopted on the understanding that they could, if necessary, be modified in the light of experience.

(i) Ministerial meetings

- Preparation, after each meeting, of a summary of conclusions, to be finalized by the deputies on the basis of a draft produced by the Secretariat and submitted to the next ministerial meeting for formal approval.
- The verbatim account of the ministerial meetings, as recorded on tape, will be filed in the archives of the Secretariat, where it can be consulted in the event of a dispute over the interpretation of a decision.

⁽⁶⁾ The travel expenses of the delegations of the Member States of the Union will be refunded on the basis of the Community rules.

(ii) Meetings at deputy level

- Preparation of a summary of conclusions after each meeting.
- Preparation of reports for submission to ministerial meetings on the basis of drafts produced by the Conference Secretariat.

(iii) Working parties

- Preparation of reports for the deputies on the basis of drafts produced by the Conference Secretariat.

PROVISIONAL INDICATIVE LIST OF CHAPTER HEADINGS

(Note: This list in no way prejudices the decisions to be taken at an appropriate stage in the negotiations on the order in which the subjects will be dealt with.)

1. Free movement of goods
2. Freedom of movement for persons
3. Freedom to provide services
4. Free movement of capital
5. Company law
6. Competition policy
7. Agriculture
8. Fisheries
9. Transport policy
10. Taxation
11. Economic and monetary union
12. Statistics
13. Social policy and employment
14. Energy
15. Industrial policy
16. Small and medium-sized undertakings
17. Science and research
18. Education and training
19. Telecommunications and information technologies
20. Culture and audiovisual policy
21. Regional policy and coordination of structural instruments
22. Environment
23. Consumers and health protection
24. Cooperation in the fields of justice and home affairs
25. Customs union
26. External relations
27. Common foreign and security policy
28. Financial control
29. Financial and budgetary provisions
30. Institutions
31. Other