

The Enlargement to the East of the European Union

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1. Introduction

Due to the crisis in Kosovo, the enlargement process is entering a critical phase. Decisions will be taken at the December 1999 European Summit in Helsinki regarding the opening of accession negotiations. The urgent nature of these decisions and their potentially far-reaching institutional, social and economic implications prompted the International Affairs Committee of the Social and Economic Council (SER) to decide on 1 October 1999 to prepare a brief, unsolicited advisory report as soon as possible. A small ad hoc working party chaired by Prof. F.H.J.J. Andriessen was put together for this purpose. In drawing up the advisory report, the working party was also able to consider the enlargement proposals that the European Commission presented to the European Council on 13 October 1999.

This brief report elaborates on a series of advisory reports published in the past few years by the SER on the topic of social and economic relations with Central and Eastern Europe and on questions related to the enlargement of the EU and the accession of new Member States.¹ The report draws explicit attention to the social and economic risks associated with taking a unilaterally political approach to the enlargement process. While the SER recognises the great importance of the security considerations that have inspired the present accelerated accession process, it believes it is still vital to strike the right balance between what is politically desirable and what is economically feasible, and between the speed of enlargement and the quality of that process. The political dynamics of recent times have made it desirable in this connection for the SER to reconsider its earlier views and to subject them to a new reality check. This advisory report presents the provisional results of that process within the International Affairs Committee.

¹ See in particular the following abstracts of SER advisory reports: *Socio-economic relations with Central and Eastern Europe* (publication no. 93/16E), *The extension and further development of the European Union* (publication no. 95/09E) and *Agenda 2000: financing and enlarging the European Union* (publication no. 98/04E).

The report is organised as follows. Section 2 draws attention to a number of risks associated with accelerating the accession negotiations and the process of accession for new EU Member States, and with fixing the accession dates. The section ends with a brief consideration of the motives for bringing the accession negotiations forward, concluding that the accession strategy must be reinforced. Section 3 indicates the way in which the International Affairs Committee, elaborating on previous SER advisory reports, proposes undertaking such reinforcement. One of the “building blocks” it suggests is the introduction of a partial membership; for certain candidate countries this would provide an interim stage on the road to full membership. The final section looks more closely at some of the pros and cons of partial membership.

This advisory report was adopted by the International Affairs Committee on 10 November 1999.

2. A new momentum in the accession process

The crises in the Balkans have helped to create a new momentum in the EU's enlargement process. Earlier views have changed, and new types of solutions are being sought. Accession dates are now being considered, and there is talk of bringing forward negotiations with the "second group" of candidate countries in Central and Eastern Europe.

On 13 October 1999, the European Commission recommended that negotiations should be opened in 2000 with all candidate countries that fulfil the Copenhagen political criteria and have proved to be ready to take the necessary measures to comply with the economic criteria. This recommendation refers to Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia. The Commission has also recommended engaging in a political dialogue with Turkey and regarding it as a candidate country, although there is no question of opening accession negotiations at this stage.

The International Affairs Committee of the Social and Economic Council (SER) must question these latest developments. On the one hand, it recognises the political necessity of enhancing the accession strategy pursued until now. On the other, it believes that there are serious social and economic risks involved in the types of solutions now being proposed. If, for political reasons, the process of accession were to be speeded up too much, the workings of the Single Market and, consequently, of the European Union itself could be put at risk. Pre-mature accession may also pose a threat to the economies of the candidate countries.

The SER advocates a well-prepared enlargement

The SER advocates enlarging the European Union by the accession of Central and Eastern European countries. The countries that have concluded accession partnerships should be allowed to accede as soon as they have met or are able to meet the conditions set out at the European Summit in Copenhagen. The SER also believes that the EU should assist the candidate countries in every way to work towards accession as quickly and efficiently as possible. The SER has always

emphasised the need for such assistance, aware that the process of adopting the *acquis communautaire* and complying with the other obligations of EU membership will be long and laborious.

The SER also recognises that certain transitional measures will be unavoidable. The *acquis* must, however, continue to be the basis for accession. In cases where the problems inherent in its adoption prove to be too severe, the solution must be sought in permitting temporary and limited exceptions, not permanent derogations. The impact of these exceptions on the internal market should be minimised.

Risks of fixing accession dates

It may be useful to fix accession dates for the candidate countries in negotiations so as to keep up the pressure, not only on the candidate countries themselves but also on the European Union, which must have prepared both its institutions and its policies for enlargement. In the Committee's opinion, however, any such date can be no more than conditional, a target date. To insist that it be more would be to undermine the policy terms and conditions associated with accession. Once fixed, moreover, a target date can start to lead a life of its own and prevent any objective assessment of the degree to which candidate countries in fact meet the accession criteria. The EU would then be obliged to adopt further and more far-reaching transitional measures, or even exceptions, than can be deemed acceptable.

Conversely, if the EU insists on enforcing the accession criteria, any candidate country that fails to meet a fixed target date might become discouraged. This may lead in turn to further, perhaps even indefinite, delays in accession.

Advantages and risks associated with bringing forward the accession negotiations

There is no denying that opening up accession negotiations with the remaining candidate countries in the short term has the advantage of mitigating the difference between the "front-runners" and the "laggers". The candidate countries are all clearly starting out from different positions, but it is essential that ultimately, the point of

accession for each individual country is determined by the effectiveness with which it implements the *acquis*. The countries that make up the second group must therefore be able to catch up with "front-runners" by performing well.

Bringing the start of the accession negotiations forward is not without risk, however, if a candidate country still needs time to prepare for EU membership. In such cases it would be possible to open the negotiations officially, but not much progress can or will be made until the relevant country is far enough along in implementing the *acquis* to discuss post-accession transition arrangements in any meaningful way. By opening negotiations prematurely in this way, the Commission will have raised expectations that cannot subsequently be met. The negotiation process will become lengthier and more confused; the initially exciting prospect of accession will move farther and farther out of reach.

If the EU attempts to avoid discouraging the candidate countries, however, another problem will arise: it would have to waive the Copenhagen accession criteria. The accession negotiations would then clear a path for early accession to the EU, with all of the dangers that this poses to the *acquis* (for example with respect to the internal market) and the economies of the countries involved.

Reasons for bringing forward the accession negotiations

When assessing the benefits and risks of bringing forward the accession negotiations for the second group of candidate countries, the Commission and the Member States would do well to consider the different reasons for wanting to move up the negotiation process.

One of those reasons has been explained by the Dutch government in the following manner:

"The Netherlands is essentially in favour of commencing accession negotiations with all six 'pre-ins', including Romania and Bulgaria. In accordance with the strategy put forward by the Pact on Stability in Europe, these two countries can function as 'anchors' in the region." There is no question that stability in the Balkans is a vital concern.

Whether bringing forward the accession negotiations is an effective way of reinforcing such stability remains to be seen. It would be preferable to implement measures that work more directly to bind and support the candidate countries, thereby offering real and lasting prospects for accession. Such measures would include upgrading the so-called European Conference, intensifying the pre-accession instruments (specifically targeting institution building by offering training programmes and supplying experts on long-term secondment), offering reasonable compensation for the economic damage inflicted by the conflicts in the Balkans (for example due to navigation on the Danube being blocked) and further opening the EU's markets to products from the candidate countries.

In addition to these points, all of which belong to the first pillar of the EU Treaty, there is a further consideration: is the EU ready and willing, within the context of its Common Foreign and Security Policy, to give priority to satisfying the most important wish expressed by many of the candidate countries, namely to provide international security.

3. Building blocks for strengthening the accession strategy

The International Affairs Committee recognises the political need to strengthen the existing accession strategy. The problem will be to steer a middle course between awakening expectations that cannot be fulfilled and weakening the *acquis*. To bolster the accession strategy, the Committee would like to propose the following:

1. The EU should fix a date on which it will itself have to meet all the criteria – both institutional and policy-related² – for enlargement. The European Commission has already proposed the year 2002; the International Affairs Committee seconds this proposal. Once this term has been fixed, it may be possible to set a target date for concluding the first round of accession negotiations. This target date must not, by any means, be of a compulsory nature: after all, to conclude the negotiations will require the co-operation of both the EU and the candidate countries.
2. The foregoing implies that the candidate countries that have made adequate progress in adopting the *acquis* and with which the accession negotiations have been concluded satisfactorily may begin the accession process in 2003. The actual date of accession will continue to be based on a separate assessment of each individual candidate country.
3. In assessing the applications for membership, serious consideration must be given to the impact on the internal market. It is important, for example, to ensure the proper application of Community product standards, to prevent any significant competition distortions and to foster price convergence for agricultural products. It will presumably not be possible to avoid transition periods. The SER believes that a transition period of four

² Policy changes will be required in particular with respect to the CAP and the Structural Funds. These issues have been elaborated in prior advisory reports by the SER. The SER emphasises the importance of distinguishing between the enlargement criteria (to be met by the existing EU) and the accession criteria (to be met by the candidate countries).

or five years after accession is acceptable, during which time customs checks will be required at the frontiers between the existing internal market of fifteen Member States and the new Member States in order to compensate for the incomplete implementation of the *acquis*. The relatively large number of acceding countries provides an additional argument against allowing longer transition periods for those parts of the *acquis* that have a direct impact on the workings of the Single Market.

In areas where the relationship with the internal market is less direct, it may be possible to settle on longer transition periods where required. One such area concerns specific EU production process standards (e.g. environmental standards or standards with respect to working conditions). It could, for example, be agreed that new plants must meet these standards from the very start, but that existing plants will be upgraded more gradually.

4. It may be a number of years before some of the candidate countries are capable of joining the EU at the level of integration described above. Those candidate countries that are unable to accede around 2005 are eligible for *partial membership* as an interim stage on the road to full membership. Partial membership should consist of a standard package (no *à la carte* integration) in which rights and obligations are evenly balanced. Its precise contents have still to be determined; items 6, 7 and 8 below are a first attempt to do so.

The Copenhagen political criteria will, of course, have to be satisfied. The relevant countries will have to undertake to effectively enforce important basic rights³, including freedom from discrimination and equal treatment for men and women (as part of the social *acquis*). The International Affairs Committee assumes, based on the decisions taken at the European Summits in Cologne

³ Such as those laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter and the ILO's core conventions.

and Tampere, that the EU will have its own charter of fundamental rights and freedoms in the foreseeable future.

5. Partial membership would not be a permanent construction for an individual country. It would be established for a limited period of time (e.g. ten years from the date on which a country becomes a partial member). The question thereafter is whether or not the relevant country will in fact accede (possibly subject to transitional measures). The deadline is necessary to prevent a kind of second-rank membership from being created, and to keep differentiated integration within the confines of a multiple-speed approach.
6. In the social and economic field, the obligations arising from the Europe Agreements (including the free movement of goods, the right of establishment and the protection of property rights) should be taken as the basis for the partial membership package. In addition, the common trade policy and competition policy should be incorporated into the package. Consideration should also be given to any elements of the social *acquis* that can be adopted in the short term.

The most reasonable approach would be to have partial members abstain from the Common Agricultural Policy but participate in the structural and cohesion policy. Partial membership would also not include freedom of movement for workers.

7. In keeping with the obligations accepted by the relevant countries on the basis of their partial membership, they would also be involved in the decision-making process within the EU (in any event by participating in the Council of ministers and the European Parliament) and have access to the Court of Justice. Introducing a partial membership will lead to institutional complications whose severity should not be underestimated (and for which amendments to the Treaty will be required). There are examples of how to resolve these complications (see, for instance, the difference in status between the eleven Member States that make up "Euro-land" and the remaining four). This would, in fact,

mean the reverse application of the flexibility made possible by Article 11 of the Amsterdam Treaty (which discusses closer co-operation).

8. Foreign policy and security do not fall within the SER's remit. The Committee will therefore suffice by observing that the desire to integrate Central and Eastern European countries is fuelled largely by security considerations. Viewed in this light, it may also be appropriate to include the Common Foreign and Security Policy in the partial membership package.
9. The European Conference should be upgraded substantially so that it becomes a permanent and operational forum for exchanging information and for consultations on the different fields of Community policy. This will require greater intensity and a broadening of the focus of its meetings (including at working party level). All countries associated with the EU that have applied for membership should have access to the European Conference.
10. The Copenhagen political criteria must be preserved, regardless of the circumstances. The economic criteria, on the other hand, were not intended as a condition for opening accession negotiations. These criteria in fact make it possible to bring forward the negotiations to some extent; the risks involved appear to be reasonably small if the result is in the first instance a partial membership.
11. The Pact on Stability in Europe should provide the context for negotiations with countries in the Western Balkans. The Committee would emphasise the importance of regional integration in this regard. It views the Europe Agreements as a possible next step along the way to further integration.

4. Conclusion

The points listed above are based largely on prior SER advisory reports. These reports elaborate on the concepts that could only be discussed briefly within the context of this brief response.

One essentially new element is the partial membership proposal, of which only a thumbnail sketch can be given at present. The International Affairs Committee wishes to emphasise that this option should, in its view, remain open for future consideration and decision-making, at the very least. The option of partial membership offers significant advantages when compared with rapid accession and longer transition periods. The latter could lead to a patchy, disorienting complex of far-reaching transition and exclusion provisions, accompanied by the following risks:

- The *acquis* of the Single Market could be adversely affected;
- The relationship between the rights (including participation in decision-making) and the obligations of the new Member States could be distorted for a considerable period of time;
- There could be further significant institutional complications, in terms of both European decision-making and the implementation thereof.

The International Affairs Committee realises that adding an extra step in the accession process in the form of partial membership will also give rise to institutional complications, but it believes that this option is preferable to the present alternatives.

On request, the Committee would be happy to work out the details of this concept.