

## *Summary of Conference Proceedings*

# **The Enlargement of the European Union: Prerequisites for Successful Conclusion of the Accession Negotiations**

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On 19 and 20 February 2001, the European Institute of Public Administration organised a conference on "The Enlargement of the European Union: Prerequisites for Successful Conclusion of the Accession Negotiations". It was the fourth consecutive conference on the theme of enlargement to be held in successive years. The speakers included the Swedish Permanent Representative, addressing the conference on behalf of the member states of the Union, officials of the European Commission and Chief Negotiators or Ambassadors from the twelve candidate countries that have started accession negotiations with the European Union.

The conference was a special event in the calendar of activities of EIPA not only for the high level of speakers but also for two other reasons. It was one of the chosen occasions to mark EIPA's twentieth anniversary and, second, it provided a platform for launching a new book giving an account of Finland's accession to the European Union. The book, entitled *Finland's Journey to the European Union*, was written by Antti Kuosmanen who is now Director in the General Secretariat of the EU Council. Two members of staff of EIPA, Frank Bollen and Phedon Nicolaides, made a contribution to the book.

The conference began with a review of the direction and priorities of the enlargement process under the Swedish Presidency of the Council of the EU. As is well known, Sweden attaches very high priority to speedy progress in the accession negotiations. Progress is now possible because of the conclusion of the inter-governmental conference that culminated in the Treaty of Nice.

### **The accession negotiations**

Although enlargement is seen by the EU as a historic necessity, it is unlikely to be achieved easily. Both the Union and the candidates are concerned about the

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modalities and consequences of enlargement. Yet, these concerns are not necessarily the same. Some of the differences that separate the Union and the candidates are real but can be bridged, while others are exaggerated. Experience with past enlargements suggests that compromises will in the end be found.

The candidates also expressed their frustration with the slow progress of the negotiations and especially with the fact that the EU keeps asking many questions and clarifications without offering any clear statements of intent with respect to significant negotiating chapters such as agriculture.

Several speakers from the EU side stressed on several occasions during the conference that the aim of the accession negotiations was not to modify the *acquis communautaire*. That would be unacceptable to the EU. The *acquis* is the result of countless negotiations and compromises among the existing member states. It therefore cannot be re-opened by acceding states otherwise the negotiations will be interminable. By contrast, some temporary derogations are unavoidable but they will be limited in number and duration and will be granted by the EU only to those candidates that present credible demands, pose no threat to the fundamental principles of the internal market and have well thought-out plans for gradual compliance with the whole of the *acquis*.

On their part, speakers from candidate countries explained that it was not their intention to seek modification of the *acquis* or request extensive derogations. However, they noted that the *acquis* as it currently stands reflects the needs of the existing member states. The candidates had their own special needs and peculiarities that deserved to be taken into account by the rules and policies of the EU. Although it was left unresolved whether and how the *acquis* could be adjusted so as to accommodate prospective member states, it was understood that some candidates would, nevertheless, attempt to introduce suitable changes into the *acquis* during their negotiations.

### **Road map of negotiations**

The intention of the Swedish Presidency is to open as many negotiating chapters as possible and, depending on the preparedness of the candidates, close as many as possible. In this context, it was explained that the "road map" which had been proposed by the Commission and accepted by member states was only indicative. This road map identifies the sequence of the chapters to be tackled by current and future EU presidencies. The clarification concerning the indicative nature of the road map suggests that those candidates that are capable or willing to progress faster will be able to do so without being held back by the pace and schedule which is followed by the rest.

However, it may not be possible for candidates to move faster on all negotiating chapters because, as was pointed out, the road map envisages discussions on agriculture for the Spring of 2002 while the work programme of the Commission makes it unlikely that it will be able to draft the common position of the member states before the middle or end of 2002. That is the point in time at which it is expected that the Commission will carry out an extensive review of the functioning of the common agricultural policy after the agreement for reform of that policy at the Berlin European Council in March 1999.

### **Capacity for implementation of EU rules**

An issue that was mentioned repeatedly during the conference was the development of administrative capacity by the candidate countries for effective implementation and enforcement of EU rules. The development of such capacity was considered to be one of the most difficult issues in the enlargement process. It is difficult not only because its development takes time and effort, but also because it is not so easy to assess whether the capacity has been firmly established.

It was suggested that the effective implementation of EU rules could not be secured only with the spending of money or the hiring of extra staff. Although financial and human resources are necessary, effective implementation and enforcement depend critically on the design of institutional and regulatory structures. Rules cannot be effectively applied unless those responsible are sufficiently empowered and at the same time accountable for their actions. In addition, the regulatory structures would have to provide sufficient information and strong incentives to those who have to comply with the rules.

Ultimately the task of the candidate countries, in this connection, is to persuade the EU that they have put in place credible and irreversible institutions and procedures. In this way the EU will be assured that indeed there exist national bodies which are equally concerned about the effective implementation and enforcement of EU rules in each of the candidates.

### **Significant policies and negotiating chapters**

An innovation of the conference this year in relation to past conferences was that it had sessions dedicated to particular EU policies, corresponding to different negotiating chapters. With respect to the common agricultural policy, the stance of the candidate countries is that they must be eligible for direct payments to farmers. They reject as unjustified and unacceptable the EU view that direct payments are a form of compensation for the reduction in guarantee prices. Despite their many requests for temporary derogations, the candidate countries want full and immediate integration in all aspects of the CAP [institutional, technical and financial]. They defend this position on grounds of fairness and equality with existing member states. Nonetheless, they also expect to benefit considerably from the CAP. Such gains would make their accession to the EU more attractive to their populations.

There was consensus that the issue of direct payments would likely dominate the negotiations on agriculture, even though it was suggested that it would not prove as difficult as it is believed at present. Other issues are seen by some as more problematic. These are, for example, quality and food safety standards and the setting of national production quotas for sugar and milk.

In the session on regional policy and the structural funds there was less discussion about the eligibility of the candidate countries and more expressions of concern about whether the aims and instruments of regional policy could adequately address their regional problems. Given their level of income in relation to the EU, most candidate countries are fairly confident that they will be eligible for assistance from the structural funds. Even those candidates with the highest levels of income, which would soon become ineligible for support from the structural funds, still felt that they should also receive assistance in order to cope with the costs of adoption of the *acquis* and the other preparations for membership.

In the session on environmental policy it was emphasised that the candidate countries were in favour of applying EU environmental rules not only in order to comply with the requirements of membership but mostly because they stood to benefit from cleaner environment. The most problematic issues were thought to be the packaging waste and the treatment of waste water because they needed large amounts of resources and time.

In the session on the movement of persons the candidate countries were united in their opposition to any restrictions on the right of free movement. Movement of persons was the issue on which the candidates appeared to feel they had some bargaining power vis-à-vis the EU because the EU itself was expected to ask for exceptions. They also rejected German and Austrian demands for restrictions on the movement of persons because they were thought to be too long in duration, too vague as to how they would apply in

practice and too disproportional to their intended effect. There was also the view that if the candidates would not be granted any derogations, even temporary, to the fundamental EU freedoms, there would hardly be any justification for the EU to ask for such derogations.

Yet, some surprising differences emerged among the candidate countries. While the larger countries argued that they did not pose any threat in terms of large migration into the EU, the smaller candidates were themselves concerned about migration from the EU into their territory. Movement of persons was also the issue on which the candidates appeared to be following different negotiating strategies. Some seemed determined to pursue a line arguing for equality with EU member states, perhaps hoping to gain something else, another concession on a different issue, later on. Some were inclined to argue that any restriction imposed by the EU ought to apply on a country by country basis and sector by sector case (meaning that no restrictions would be imposed on smaller countries and less sensitive sectors). While still a third group appeared willing to consider safeguard solutions in the form of emergency restrictions imposed in cases where a certain threshold of persons entering the EU is exceeded.

Indeed, the chapter on the movement of persons may give rise to distinct negotiating strategies. Some candidates may decide that the optimum strategy is to make and accept no request that restricts fundamental freedoms, while others may choose the option of accepting some reciprocal restrictions.

### **Past experiences**

The conference ended with an account of the experience of Finland and the similarities and differences between its accession negotiations and the present enlargement.

Similarities can be found in the basic assumptions concerning the nature of enlargement whereby the *acquis communautaire* has to be fully adopted and implemented by the candidates. Also the organisation of the negotiating process and the way the negotiations

progress have not been changed. Differences between the previous enlargement and the present enlargement exist mainly in the number of the candidate countries [larger], their level of development [lower], their ability to implement EU rules [lower] and the size of the *acquis communautaire* [larger].

It was pointed out that the negotiations between the EU and a candidate country do not constitute international negotiations in the normal sense of the word; reaching an agreement by compromise and through offers and requests, with both the negotiating partners standing on an equal footing. Rather, it is much more a matter of the candidate countries adopting the Union *acquis*.

Linked with the above is the fact that the accession conferences tend to be formal events where written positions are exchanged with little actual negotiating. Real negotiations [in the sense of bargaining] only take place in the end of the negotiation process, where there is much time pressure and the final agreement inevitably is in the form of a package deal. The structure of the EU makes it a rigid negotiating partner, with very limited space to manoeuvre and little flexibility. In this sense, it is a tough negotiating partner precisely because it cannot respond fully by making concessions to the demands of the other side.

If any lesson can be drawn from past enlargements is that the candidate countries should not expect much responsiveness from the EU and therefore should think very carefully about their positions, their requests and their expectations. Too complicated and excessive requests will make it impossible for the EU to reach an internal compromise that would result in an external concession in favour of the candidate countries. As a consequence, the candidates were also advised to pay particular attention to their domestic discussions and internal negotiations between the different national actors. That is where they will have to decide the extent of the concessions they will inevitably have to make in Brussels. □