Agenda 2000: A Blueprint for Successful EU Enlargement?*

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Introduction

The signing of the Joint Declaration on the Establishment of Official Relations between the EEC and COMECON, in June 1988, permitted the opening up of bilateral relations between the EEC and the Countries of Central and Eastern Europe (CEECs). Trade and Co-operation Agreements were signed with the CEECs, in fairly rapid succession, shortly thereafter. However, developments continued to be fast-paced and far-reaching – dramatically embodied by the collapse of the Berlin Wall in 1989 – and many of these agreements were superseded, even before coming into force, by the Europe Agreements, which followed.[1] The European Community, and now the European Union, has struggled to keep up with these developments, and to respond in a way that would foster the transitions taking place and further the process of European integration, while keeping in mind concerns of the Union and its Member States.

In the less than ten years which followed the opening up of relations, all ten CEECs have submitted applications for EU membership.[2] On 15 July 1997 the Commission issued *Agenda 2000*, which included its opinions on these applications, as well as its view on the impact of enlargement on such areas as the EU budget, economic and social cohesion, and agricultural policy.[3] This long-awaited *avis* was expected to indicate how both the Union and the applicant states should prepare for, and successfully undertake, enlargement, but does it fulfil this expectation?

Membership Criteria

In evaluating the applications, the Commission looked to how well the applicant states complied with membership criteria. However, in order to do this the criteria had to first be identified. With regard to such criteria, the European Communities' treaties do not provide much guidance. The Treaty on European Union (TEU) only indicates that a state must be European to apply for membership. As a result of amendments made by the Treaty of Amsterdam, in addition to being European they must respect the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.[4] At the urging of the applicant states, a more developed checklist was identified. The European Council in Copenhagen, in June 1993, put forward three basic criteria:

- stable institutions to guarantee democracy, the rule of law, and respect for human rights, particularly for those of minorities;
- a functioning market economy and the ability to cope with competitive pressures and market forces within the Union; and
- ability to adhere to the political, economic and monetary goals of the Union.

The Copenhagen Council also identified the ability of the Union to absorb new members, without interfering with the pace of European integration, as an enlargement consideration.

The Commission's *Avis*

While relying heavily on the Copenhagen Criteria in formulating its opinions on the applications of the CEECs, the Commission also looked to the progress these countries had made with regard to adopting provisions in the White Paper on the Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market, issued in May of 1995, which identified core pieces of Internal Market legislation, in twenty-three sectoral areas.[5] In addition, it assessed the national pre-accession plans, institutional restructuring, compliance with obligations embodied in the Europe Agreements, and the extent to which the applicants were implementing non-White Paper legislation. The Commission divided its analysis into four basic areas: political, economic, capacity to take on the obligations of membership (generally considered to be the ability to take on the *acquis communautaire*), and administrative and judicial capacities.

In making its assessment, the Commission relied heavily on the answers given in the extensive questionnaires it sent to all applicants in April 1996, as well as on bilateral discussions, reports from embassies of Member States and the Commission's delegations, and, particularly with regard to political developments, input from international organisations such as the Council of Europe and the Organisation for Security and Co-operation in Europe (OSCE), as well as reports by non-governmental organisations.

Political criteria

The questions asked, under this criteria, were whether or not the applicant state 'presents the characteristics of a democracy,' and how 'democracy actually works in

* Un bref résumé de cet article en français figure à la fin.

progress'.[6] For all states but Bulgaria, Romania and Slovakia, identical language was used, and it was determined that 'political institutions function properly', are stable, and 'respect the limits on their competences and cooperate with each other'. However, it was also almost uniformly stated for all applicants that 'efforts to improve the operation of the judiciary and to intensify the fight against corruption must be sustained'. In the Bulgarian and Romanian opinions reference was made to the need to protect individuals against abuses by the police and secret services, while for Slovakia it was stated that 'Slovakia's situation presents a number of problems' with respect to the Copenhagen Criteria.

A problem which was identified for a number of the applicant states was with regard to the rights of minorities. The situation of the Roma is mentioned, particularly in Hungary, the Czech Republic and the Balkan states, while the problems of the Russian-speaking minorities in the Baltics was also referred to. Despite identified problems and causes for concern in a number of applicant states, it is only in the case of Slovakia that the Commission concluded that the political criteria was not met.

Economic criteria

The Commission sought to determine whether the applicant states have a functioning market economy and could 'cope with competitive pressure and market forces within the Union' in the medium term (defined as five years). To test for a market economy, the Commission looked for liberalised trade and prices, macroeconomic stability, broad consensus on economic policy, and a well-developed financial sector. The capacity to withstand competitive pressures was judged by the extent to which the government affects competition and trade policy, how it administers state aids and provides support for small and medium-sized enterprises, as well as the country's existing trade links with the European Union.

The five countries the Commission recommended negotiations be begun with were the same five it considered would be able to fulfil these economic criteria in the medium term – the Czech Republic, Estonia, Hungary, Poland and Slovenia – although they all had numerous areas where further reform was considered to be necessary. For example, virtually all applicant states were held to be in need of major structural reform, especially in the areas of banking, financial systems and social security, and with regard to capital markets and competition rules. Bulgaria was held to be 'only at the start of the process of structural transformation.' Latvia and Romania, while being deemed to have made considerable progress, were considered only able to cope with competition in the medium term with 'serious difficulties,' whereas it was considered that Lithuania might be able to cope if it made a 'considerable effort.' Although Slovakia was considered to be advanced in terms of legislation and the system in place, it was not considered to be a fully functioning market economy due to a lack of transparency in implementation of legislation and measures.

Capacity to take on the obligations of membership

In looking at administrative capacities, the Commission focused on how well the applicants had undertaken pre-existing obligations and recommendations. Bulgaria and Romania were determined to have made 'significant efforts' to fulfil Europe Agreement obligations, while Hungary and Slovakia were declared to have met the bulk of these obligations. Poland and the Czech Republic were considered to have implemented 'significant elements' of the Europe Agreements, although in the case of Poland a number of trade related problems have arisen. While Slovenia had not yet ratified its Europe Agreement, it was determined to have been progressing well in complying with the interim agreement obligations.[7] The Baltic countries were generally considered to have met their obligations under their current free trade agreements in a timely manner, and to have made impressive progress towards Europe Agreement obligations even though these agreements had not yet come into force.[8]

With regard to the transposition of White Paper Internal Market measures, public procurement and competition law tended to be a problem in most of the countries, while intellectual property rights and financial services were identified as problem areas for several of the applicant states. Bulgaria was found to have an 'unsatisfactorily low rate of transposition', while Romania's rate was categorised as 'too low'. Latvia and Lithuania were held to have made 'some progress', while the Czech Republic, Poland, Slovenia and Slovakia were held to have satisfactory rates of transposition. Estonia was deemed to have adopted significant elements of the single market *acquis* while Hungary had single market legislation 'almost completely in place.' This evaluation indicates that the five states recommended for negotiations, plus Slovakia, were satisfactorily assessed, in comparison to the others. However, if the actual numbers of White Paper measures transposed are looked at, a different assessment can be reached. For example, Romania has adopted 47% of the White paper legislation, while in Estonia only 31% of the White Paper legislation is in place.

In addition to the above analysis, the Commission looked at eleven separate policy areas.[9] In a number of these areas the uniformity of language and conclusions was even more striking than under the political criteria. For example, the Commission stated, in all the opinions, that in the area of environment 'very substantial/ important efforts will be needed, including massive investment and strengthening of administrative capacity'. With regard to transport policy, they will 'need to provide the investment necessary to complete the European transport network, which is an essential part of the effective operation of the single market,' and that with regard to Common Foreign and Security

Policy, the applicant states 'should be able to fulfil their obligations'.

Such blanket statements give no indication of which states are most, or least, likely to be able to comply with the *acquis*. In other cases the Commission merely identified a division between states deemed likely to be able to participate in certain policy areas in the medium term and those for whom this would present a problem, often without a clear indication of how this differentiation was made. For example, with regard to control at borders, the candidate countries fell into two camps: those for whom 'it is not yet possible to be sure when (it) could become able to take and implement the measures necessary,' in which category Bulgaria, Estonia, Latvia, Lithuania, Romania, and Slovakia fell, and those which 'could be in a position in the medium term to take and implement the measures necessary,' in which group Hungary, Poland, the Czech Republic, and Slovenia fell.[10]

The establishment of independent labour inspectorates and the application of EU health and safety standards in the work place, the need for an appropriate administrative and budgetary framework, as well as structures for financial control with regard to the use of structural funds, and fundamental reforms in the area of agricultural policy were issues raised in many of the opinions. Not surprisingly, with regard to Economic and Monetary Union the Commission stated, for all applicants, '... it is premature to judge whether (the applicant state) will be in a position, by the time of its accession, to participate in the Euro area.' While this is undoubtedly true, it leaves unaddressed the question of whether or not these states would be expected to make efforts necessary to qualify for participation, and what their likely capacities for doing so will be.

Administrative and judicial capacity

The European Council, at the Madrid Summit in December 1995, stated that the administrative and legal capacity of the applicant states to implement and enforce the Communities' legislation was also a membership requirement. For most of the applicant countries the Commission concluded that a significant and sustained effort in this area will be needed. Areas singled out as potentially problematic included environmental and technical inspections, banking supervision, public accounts and statistics. The Commission noted a lack of sufficient numbers of qualified judges and lawyers in most applicant states, and also recommended that the applicant countries be required to establish a timetable indicating their intended institutional, administrative and judicial reforms, as part of their pre-accession strategy.

The Commission's reinforced pre-accession strategy

The Commission proposed a reinforced pre-accession strategy, which would include focusing Phare aid more effectively on preparing for membership, as well as establishing Accession Partnerships – bilateral frameworks within which all aid and co-operation activities would take place, replacing multilateral structured dialogue. According to the Commission, the Accession Partnerships will develop timetables with regard to adoption of the *acquis* not yet implemented, and deal with specific problems identified within the Commission's *avis*. Annual financing agreements would be conditioned upon achieving progress with regard to the timetable.

As was already partially provided for in the Europe Agreements, under the Accession Partnership applicant states would be able to participate, to varying degrees, in Community programmes, although without decision-making powers. This would provide a forum in which potential problems could be solved, before entry of the applicants into the Union, and would also provide the opportunity for the associated countries to become familiar with Community procedures and agencies and related bodies (e.g. – certification and standardisation bodies).

In addition to the Accession Partnerships, a European Conference has been proposed, which would involve the Heads of State and Government of the Member States and all applicant countries, and the President of the Commission, meeting on a yearly basis. The conference would address issues of Common Foreign and Security Policy and Justice and Home Affairs.

Conclusions

Taking into account all of the above, does *Agenda 2000* provide useful guidelines for proceeding with enlargement? Criticisms of the document can certainly be made. Uncertainties arise due to uniformity of language, there is a lack of in-depth analysis in non-economic areas (e.g. – CFSP and JHA), and the failure to clarify why certain distinctions between the applicant states were made leave many questions unanswered.

From the applicant states' point of view, considering the rather generic approach to some analysis the utility to them individually may be less than desired. Further, many of the applicant states, particularly those not recommended for immediate negotiations, have protested that the analysis was based on incorrect or outdated information, and did not consider recent developments and legislation that was likely to lead to further changes in the near future. For these states the Commission's conclusion was that '...negotiations for accession ... should be opened ... as soon as (they have) made sufficient progress in satisfying the conditions of memberships defined by the European Council in Copenhagen.' This does not give any indication of the threshold they must reach before this can occur.

From an EU perspective there may also be a less-than-satisfied response to *Agenda 2000*. For example, one of the areas of almost universal concern has to do with the impact of enlargement on the Communities' budget. While the Commission appropriately stressed that it is far too early to make an accurate determination of this, it did come up with some estimates of the cost to

the EU of accession of the individual applicants, based on the assumptions that reform of agricultural policy and the phasing in of structural measures would be undertaken along the lines it had proposed in its *avis*. These cost estimates, for the year 2005-06, range from ECU 0.3-0.4 billion for Estonia to ECU 7.5-9.5 billion for Poland. Interestingly, the estimates indicate that the cost of accession are generally higher for those countries the Commission has recommended for negotiations. This becomes even more striking when the costs per applicant state citizen are analysed. However, there is no indication of how, or even whether, the Commission took such costs into account in making its recommendations. Another area of major concern has to do with institutional reform within the Union itself, and this was also barely addressed in the *avis*.

Despite that, the opinions provide much useful information. Applicant and Member States, European citizens, non-governmental organisations, and other social actors now have a better idea of what to expect from enlargement. The conclusions, even if identical for all, most, or many of the applicants, still point the way for the individual candidates to go. In fact, this may allow an applicant state to more easily compare its status with that of other applicants, which is useful information in preparing for accession negotiations.

Further, the Commission has identified the steps to now be taken. The Council has agreed with the Commission's suggestions, and accession negotiations with the five recommended, plus Cyrpus, will begin at the end of March 1998. The Accession Partnerships proposed by the Commission will, in part, form the basis upon which these negotiations will proceed. In addition, the Commission stated it will present a report, no later than the end of 1998, on the progress made by all ten applicant countries in pursuing pre-accession preparations for membership. While not always providing the answers, the Commission has certainly set the stage for the necessary discussions both before and during accession negotiations, pointing the way forward.

RÉSUMÉ

L'avis de la Commission européenne sur les candidatures d'adhésion à l'UE des dix pays d'Europe centrale et orientale (PECO), rendu le 15 juillet 1997, représente l'étape la plus récente dans le processus d'élargissement de l'UE. Dans ce document appelé Agenda 2000, la Commission ne s'est pas seulement penchée sur chaque pays candidat, mais elle a aussi examiné l'impact de l'élargissement de l'Union, en particulier dans les domaines de l'agriculture, de la cohésion économique et sociale et du budget.

Dans son examen des candidatures individuelles, la Commission a appliqué les critères d'adhésion présentés au sommet de Copenhague qui sont, schématiquement, des exigences politiques, économiques et administratives. Le document met l'accent sur les domaines auxquels chacun des dix pays candidats doit s'attaquer avant que sa candidature ne puisse être sérieusement envisagée et propose des voies pour mieux canaliser et adapter les efforts pendant la période de pré-adhésion. En ce qui concerne l'évaluation des candidats, les critères économiques ont été déterminants. Les pays candidats avec lesquels la Commission recommande d'ouvrir des négociations d'adhésion sont ceux dont elle considère que l'économie fonctionne bien et qui sont en mesure, selon elle, de supporter les pressions concurrentielles à moyen terme. Il s'agit de la Pologne, de la Hongrie, de la République tchèque, de l'Estonie et de la Slovénie.

NOTES

1. These association agreements provide for further liberalised trade, approximation of laws, political dialogue, and co-operation in economic, scientific, technical, and cultural fields. It is interesting to note that the designation, 'Europe Agreement', was chosen in part to distance these agreements from previous association agreements which were interpreted to promise EC membership.
2. Hungary submitted its request for membership in March 1994, followed a few days later by Poland. Romania, Slovakia, Latvia, Estonia, Lithuania and Bulgaria submitted applications in 1995, while the Czech Republic, and Slovenia submitted their applications in the first half of 1996.
3. Commission of the European Communities, *Agenda 2000 – Summary and conclusions of the opinions of Commission concerning the Application for Membership to the European Union presented by the candidates Countries*, Strasbourg/Brussels, 15th July 1997, DOC/97/8.
4. Article O of the Treaty on European Union, amended by the Treaty of Amsterdam.
5. COM (95) 163 final.
6. Commission of the European Communities, *Agenda 2000 – Volume I – Communication: For a stronger and wider Union,* DOC/97/6, Strasbourg, 15 July 1997, Part II: 'The Challenge of Enlargement' (Hereinafter 'Communication').
7. On the date of the issuance of the Commission's opinion the Slovenian Constitution was amended, with regard to the foreign ownership of property, which allowed the Europe Agreement to be ratified.
8. These agreements have since entered into force, on 1 February 1998.
9. The areas looked at were: industry, environment, transport, employment and social affairs, regional policy, agriculture, energy, borders, economic and monetary union, justice and home affairs, and common foreign and security policy.
10. Communication, supra note 6, p. 69. ❑