

6485/1/98
REV 1

Document supplied by

Statewatch

PO Box 1516, London N16 0EW, UK

Status: Draft Adopted: _____

LIMITE

JAI 8
ELARG 14

NOTE

from : The Presidency

to : The Council

Subject: Enlargement: Justice and Home Affairs

The Presidency submits to the Council the following report of the Presidency which has been amended by the Presidency on its own responsibility in the light of recent discussions and progress on the various dossiers mentioned.

Introduction

1. At the informal meeting of Ministers of Justice and Home Affairs in Birmingham on 29/30 January, Ministers addressed JHA aspects of enlargement. The Presidency undertook to report that discussion through a reply to the letter from Commissioner Gradin of 25 November 1997. This reply issued on 16 February and is attached as an Annex to this report.
2. The thrust of this discussion was that JHA issues are one of the key issues for the enlargement process, especially given the importance of issues such as asylum and the threats posed by illegal immigration, organised crime, drug trafficking and money laundering. JHA Ministers concluded that they needed to be closely involved, both in identifying the JHA acquis and in assessing the progress being made by the applicant states in taking on and implementing the acquis. The purpose of this report is to offer some ideas for achieving this objective whilst maintaining the primary role of the General Affairs Council.
3. The issues are addressed under the following headings, broadly following those outlined at the Informal meeting of Ministers: the Justice and Home Affairs acquis, the accession partnerships, the pre-accession pact on organised crime, monitoring of progress (evaluation), accession negotiations, and assistance to applicant countries.

Justice and Home Affairs Acquis

4. The identification of the JHA acquis is important for the accession negotiations. A draft list of the acquis has been considered in the K4 Committee and will shortly come to Coreper for agreement. The list of the acquis need to be up-dated from time to time, since the acquis will develop between its initial presentation to the candidate countries and the date of accession to the Union.
5. The Schengen acquis will be determined in accordance with the Schengen Protocol to the Amsterdam Treaty. The decisions determining and distributing the acquis will be adopted by the Council on the date of the entry into force of the Amsterdam Treaty. The Presidency will aim, however, with the assistance of the Schengen Presidency, to make available a provisional list, and the documents subject to confidentiality, as soon as possible on the basis of the work done in Schengen.

Accession Partnerships

6. Accession Partnerships are the key feature of the enhanced pre-accession strategy for the applicants. They provide single frameworks within which all forms of assistance to the applicants can be mobilized in support of their accession programmes. They cover, for each applicant, the priorities to be observed in adopting the acquis and the financial resources available for that purpose.
7. Under the Accession Partnerships Framework Regulation, the Council will decide, by QMV, on the principle priorities, intermediate objectives and conditions of each individual Partnership. Adoption and implementation of JHA acquis should clearly be one of the priorities of each Partnership, given its key importance; and the Council decisions will provide a mechanism for ensuring this.
8. The Presidency wishes, however, to ensure the coherence of the Council process. This has argued against parallel consideration of the Partnerships in two or more Working Groups. Discussion of the Partnerships has therefore proceeded in the Enlargement Working Group (EWG) with input from JHA experts as each delegation has considered appropriate. The individual sets of principles for Accession Partnerships were discussed in Coreper on 11 March with a view to forwarding them to the General Affairs Council.

Pre-Accession Pact on Organised Crime

9. The Presidency envisages that this would be a political commitment undertaken by the Member States of the European Union and the countries of Central and Eastern Europe and Cyprus at a meeting in the margins of the JHA Council on 28/29 May. An outline of the Pre-Accession Pact with the countries of Central and Eastern Europe and Cyprus was sent to them following discussion in Coreper on 21 January. The letter and outline, amended in the light of views then expressed, is contained in CRIMORG (doc. 5362/1/98 CRIMORG 5 ELARG 3 REV 1 + COR 1).
10. This outline was discussed at the meeting with the countries of Central and Eastern Europe and Cyprus on 13 February and given a general welcome. There was clear agreement with the CEEC and Cyprus that the Pact should be a political commitment. It should emphasise the mutual benefit which could be drawn from it and should enhance practical cooperation. There should be some follow up mechanism without however overburdening the structures.
11. A Presidency proposal for a draft of the Pact (doc. 6454/98 CRIMORG 31) was discussed in the Multidisciplinary Group on Organised Crime on 9/10 March. This has been subsequently revised (doc. 6826/98 CRIMORG 41) and will be discussed in Coreper on 18 March with a view to submitting this draft subsequently to the countries of Central and Eastern Europe and Cyprus.

Monitoring of Progress (Evaluation)

12. As previously stated, the task for the applicants is not simply one of enacting the JHA acquis: the bigger challenge is satisfactory implementation. This will require sustained efforts on their part, which the EU will wish carefully to monitor and evaluate.
13. The sense of recent discussions in the Council is that member States' expertise should be drawn upon to support this evaluation process. Member States, as well as the Commission, will play an important role in evaluation.

14. The following mechanisms for providing Council input on third pillar implementation might be considered:
- (a) Individual member state evaluations of the state of implementation of the third pillar acquis in any of the applicants might be conducted on an ad hoc basis and passed bilaterally to the Commission.
 - (b) Collective evaluations of third pillar implementation might be undertaken. The form requires further consideration. One possibility is that, where appropriate, joint actions might be used. Subject to resource constraints, EU Embassies and Commission delegations in the candidate countries, might be asked to prepare such collective evaluations. In addition to the existing arrangements for sending of experts JHA missions to the candidate countries, ad hoc teams of representatives and experts of Member States and the Commission might be formed to carry out evaluations on specific aspects. Experience might be drawn from experts' missions conducted within the Schengen framework. Account might also be taken of reports by the Council of Europe on the implementation of Council of Europe conventions.
 - (c) The Council could invite the Commission to take account of such collective evaluations in any adjustments to the priorities and objectives of the Accession Partnerships. The Commission will also make regular reports to the Council on progress in implementation.

Accession Negotiations

15. The draft EU's Opening Position for the accession negotiations is now being considered in Coreper and will be forwarded to the GAC. JHA considerations now feature significantly in the Opening Position. The drafts state in terms that accession depends upon the implementation, as well as adoption, of the JHA acquis.
16. Member States might also participate, with appropriate arrangements, with the Commission, in the process of screening the justice and home affairs acquis with the candidate countries. The Council might also maintain regular contacts with the candidate countries on preparation for accession, for example, through the Europe Agreements. In this context the Presidency also recalls its intention to have a meeting with the candidate countries in the margins of the JHA Council on 28/29 May.

Assistance to Applicant Countries

17. In addition to the possible contribution to the process of evaluation, national experts from Member States must play an essential role in developing the expertise within the applicant countries.
 18. As discussed at the Informal meeting of Ministers, Member States and the Commission might therefore consider:
 - (a) How best to assist, in conjunction with the PHARE and other programmes, the applicant countries by providing some of the necessary national experts.
 - (b) How to develop proper coordination of the assistance given by individual Member States.
 19. In connection with (b) the coordination of assistance might best be organised by means of the regular meetings of national contact points (as the Commission has already proposed), supported by a full register of assistance in order to avoid duplication of effort.
 20. The Presidency also takes note of the proposal from the Commission that countries of the European Union might undertake a form of twinning with the applicant countries, as has already happened in part with the Baltic States.
-



QUEEN ANNE'S GATE LONDON SW1H 9AT

17-6 FEB 1998

Commissioner Anita Gradin
European Commission
Rue de la Loi 200
B-1049 Brussels

Dear Commissioner,

ENLARGEMENT AND JHA MATTERS

As you know, at the informal meeting of JHA Ministers on 30 January in Birmingham, we had a useful further discussion of the JHA aspects of enlargement. I am writing, as President of the JHA Council, to put on record the views which emerged and to ask that they be taken into account in the overall enlargement process. We had before us at the meeting both your helpful letter to JHA Ministers of 25 November and a note by the Presidency identifying a number of areas where, in the Presidency's view, some input from JHA Ministers would seem to be especially important.

There was a wide measure of agreement amongst those JHA Ministers who contributed to the discussion about the importance of JHA matters in the overall enlargement process (especially with regard to the threats posed by illegal immigration, organised crime and money laundering). Whilst acknowledging the primary role of the General Affairs Council, with the Commission, in taking the necessary decisions on enlargement, JHA Ministers underlined the need for themselves to be closely involved both in identifying the JHA acquis and in assessing the progress being made by the applicant states in taking on and implementing the acquis.

Concern was also expressed at the meeting that, in view of the tight timetable established for the next stages of the enlargement process, there should be a way to ensure an effective input on JHA aspects of the accession partnerships. I share the concern expressed on this point. I believe it to be of crucial importance both that JHA Ministers in their capitals and representatives in Brussels should seek to make a full input into their national positions with regard to the partnerships and also that the ensuing detailed work should take full account of JHA expertise in Member States.

There was a wide measure of agreement at the Birmingham Informal about the need for the Council and the Commission to place emphasis on the practical aspects of the enlargement process: declarations of intent by the applicants with regard to the JHA acquis needed to be followed by concrete reforms, progress in making which would need to be assessed by means of the annual progress reports which the Commission will be producing.

There was general support for early completion of the pre-accession pact on organised crime (in a form which would not be legally binding) and for the Presidency's proposal that Ministers of the countries of central and eastern Europe and Cyprus should be invited to a joint meeting with JHA Ministers in the context of the May JHA Council in order to conclude the pact.

Other practical initiatives which were supported included provision of increased assistance by Member States both through national experts and through their embassies in the capitals of the applicant countries; improved co-ordination of all ongoing bilateral and multilateral activity; and better evaluation of the implementation of agreements already concluded with the applicant states. As Presidency we will be considering as a matter of urgency how these ideas can best be carried forward.

We shall certainly give Member States the opportunity to discuss enlargement issues at the JHA Council in March, although I would not wish to delay the proposed timetable for the accession partnerships and the opening of the negotiations. We will also place preparation of JHA aspects of enlargement on the agenda for Coreper on 18 February and the K4 meeting on 24/25 February.

I am sending a copy of this letter to Justice and Interior Ministers in all Member States, as well as to my colleague Robin Cook as President of the General Affairs Council.

Yours sincerely,



JACK STRAW