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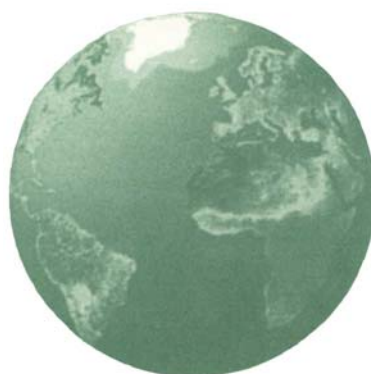
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SOME REFLECTIONS ON POSSIBLE SCENARIOS
FOR EU ENLARGEMENT

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SOME KEY ISSUES IN UNDERSTANDING
THE NEGOTIATIONS ON ACCESSION
TO THE EUROPEAN UNION



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SUMMARY

This Working Paper contains two studies dealing with two key issues of the enlargement process. One sets a broad framework of enlargement scenarios, while the other focuses on some strategic and tactical elements of the ongoing negotiation process.

1. Although the European Union acknowledged the strategic importance of the enlargement project from the very beginning of the transformation in Central and Eastern Europe, in practice, during the last decade it followed a 'non-strategic' approach. Neither a date, nor a clear timetable or the conditions of enlargement have been clarified for most part of this period. The official argument was that any move into this direction could slow down the preparation in the candidate countries and increase differentiation with negative impacts on regional stability. However, these arguments can easily be rejected if the scheme of the 'Eastern' enlargement is compared with other strategic objectives of the EU, which all have had a fix timetable and a clear set of preconditions. Following the Nice summit and the announcement of the first possible date of enlargement in 2004, an obvious conflict started to develop between the date and the pattern and conditions of accession. Since most candidate countries want to grasp the first opportunity to become members of the Union, accession negotiations have been accelerated and the possibility of a large-group enlargement has been increasing.

The author argues that any 'big-bang enlargement' could seriously deteriorate the future of European integration. The incorporation of too many countries would essentially threaten the internal cohesion of the EU in some traditional and new key policy areas (agriculture, budget, decision-making process, institutional reforms, security affairs). Also, the joining of not-yet-prepared countries could not only result in the degradation of functioning of the integration but, first of all, in the

self-generated second-class membership of some new entrants, as it will become clear that, in economic, social, institutional, legal and other terms, they are not able to adjust to the new environment. Finally, any 'big-bang enlargement', with the above mentioned conflictive areas, could seriously jeopardize the continuation of the enlargement process in the foreseeable future. As a result, instead of enhancing European stability, a new and lasting dividing line will be established within the continent.

Instead of launching such a project, which would be the clear result of the 'non-strategic' approach of the enlargement process over a decade, the paper outlines the main guidelines of a gradual enlargement over the next decade. Its key factor is the openness of the integration process towards all of those European countries which may join in the future and will comply with the basic conditions of membership. At least three enlargement data have to be set. Moreover, a new overall strategy has to be developed for candidates not joining the EU in the first wave. It should include enhanced financial support, regional planning and implementation of large-scale infrastructural and environmental projects, incorporation of candidates into selected areas of community policies, and upgraded cross-border cooperation programs along the (temporarily) new external borders of the Union. Gradual enlargement would set free additional economic growth potential in Europe, increase Europe's attractiveness to strategic investors, strengthen the euro and enhance the Union's credibility both in member and candidate countries as well as outside the continent. In sum, an enlargement project not threatening the internal cohesion of the EU, the sustainability of the transformation and modernization process in Central and Eastern Europe, and European stability could increase Europe's influence in global politics

and consolidate its position in the international marketplace.

2. The candidate countries, from the beginning of the negotiation process, had to realize that talks with the EU follow rules that differ substantially from those known and applied in traditional diplomacy. After explaining the widely used and often misused or misunderstood terms concerning the accession process (transitory requests, set-aside approach, phasing-in, second-class membership), the author concentrates on two basic factors of designing a negotiation strategy. First, key ‘national interests’ had to be defined as a result of widespread research and consultation with all affected entities and institutions. Second, the right approach to be

applied had to be chosen. Here, the dilemma mainly consisted in whether to start with a large number of transitory requests or with a small but clearly defined number of items representing ‘special interests’. The paper analyzes the pros and cons of both approaches, including the potential (optimal) length of transitory periods, the linkage between and among various negotiation chapters, the likelihood and consequences of different negotiation outcomes from country to country, and the possibility of identifying common negotiation positions among some of the candidate countries. The concluding part provides recommendations and sums up some basic dilemmas which, most probably, will only be possible to be answered after concluding the official negotiation process.

SOME REFLECTIONS ON POSSIBLE SCENARIOS FOR EU ENLARGEMENT

In the last weeks, several declarations preferring the scenario of the large-group (big-bang) enlargement of the European Union (EU) have been made both by member-countries and the Commission. Although the latest Commission reports, including the enlargement strategy paper, mention the previously unquestionable performance criteria of membership, according to which only adequately prepared countries fulfilling the fundamental accession criteria can join the EU, they emphasize that in the near future not less than ten countries may be able to reach this goal. This position is clearly supported by the fact that, with the exception of Bulgaria and Romania, all candidate countries can close the accession negotiations in the foreseeable future. Moreover, despite the general consternation among present and future members of the EU, the French foreign minister announced the possibility of a twelve-country enlargement.

It cannot be excluded that the political decision on the modality of enlargement has already been taken. Thus, supposing this case, it is a justified question whether it has still any sense to consider any potential scenario of enlargement. I am convinced, that it is justified for three reasons.

First, at present, there is not yet any clear EU position concerning the enlargement. As long as this position is open, all kinds of discussion are not justified but also welcome. Second, experts dealing with this topic can hardly abstain themselves from participating in the debate. Professionally and morally, they are (should be) committed to call attention to the potential dangers that, in my view, could seriously damage not only the future position of the candidate countries, but also the future of the EU and of the whole of the continent. Third, some developments seem to indicate that the discussion about the pattern of enlargement just has reached a turning point. This is the last

moment, in which the evolution of such processes can be prevented the consequences of which could condemn Europe to 'damage limitation', instead of strengthening Europe's stability and global competitiveness. The basic idea of this paper was generated by knowing and feeling that 'perhaps, it is not yet too late'.

INTRODUCTION

All through the 1990s, the EU dealt with 'Eastern enlargement' in a rather ambiguous way. On the one hand, it acknowledged from the beginning of the transformation process the strategic importance of the dramatic political, social and economic changes that were shaping the future of the continent in a decisive way. On the other, no longer-term strategy was elaborated, in the early years after the fall of the Berlin wall, on how to strengthen stability and incorporate the Central and Eastern European (CEE) countries into the framework of mainly Western European integration. In fact, the integration into the EU of the transforming countries, based on a gradual and longer term strategy, should have been started at the very beginning of the nineties, simultaneously with the German unification.¹

¹ In contrast, and mainly on French pressure, the EU gave clear priority to the creation of the common currency, by burdening the EU budget in general, and its main contributor, Germany, in particular. It is not difficult to discover behind this move the several centuries old French attitude towards Germany. The idea of the common currency could deprive Germany from one of its main 'national identity symbols', the strong DM. In addition, new barriers to the unification of the continent, supposed to serve fundamentally German interests, can be raised. Any attempt at enhancing German influence in Central and Eastern Europe should be blocked. This, however, has already proved to be a short-sighted consideration, if one looks at the Austrian example in the sixties. Artificial barriers

The situation changed with the publication of Agenda 2000 in July 1997. Considering European stability, the obvious success of the first period of transformation and, not less importantly, the internal reform pressure of the Western European integration, this document urges the starting of the enlargement process without any delay. The principle of differentiation has been applied, since negotiations have been proposed and initiated only with countries considered to be prepared for this stage. However, within a short period, political considerations became dominating the scene of enlargement. In December 1999, all candidate countries were invited to start accession negotiations. At the same time, all politicians and the Commission remained silent about the form, the timetable and the conditions of an enlargement by at least 12 new countries. In the light of far reaching internal reforms of the Union and the unprecedented task of incorporating as many as one dozen of new countries, such a clear strategy would have been essentially needed. Since this step had not been undertaken at the right moment, it should not surprise anybody that the EU has carefully avoided any mention of the potential first date of enlargement (until December 2000, this was linked to the internal reforms of the EU), and even more, of defining the number or circle of potential first-wave candidates.

1. THE EU POSITION: PROS AND CONS

The EU has found *three main arguments* to support this 'non-strategic' approach. (1) It has stressed that any firm date, let alone any effort to identify first-wave candidate countries, might dramatically reduce the impetus of membership hopes propelling all the candidate countries. Those that are ineligible for first-wave membership might abandon their hard and sometimes expensive preparations, with

and delays generally foster and do not weaken 'unilateral dominance' in the economic activities of a given region or country.

clear negative impacts on their transformation process in general. (2) Any premature differentiation among the candidates might cause deep disappointment in the countries not in the first wave. This could produce instability in several CEE countries, with direct consequences for broader regional stability and the longer-term investment plans of international capital as well. (3) At least in the early stages of the negotiations, it would be impossible to give a clear timetable for enlargement, as both the EU and the candidate countries face several pieces of 'homework' before membership can materialize. Furthermore, any fixed commitment could be understood (or misunderstood) by candidates as a clear date for membership irrespective of their level of internal preparation. Another potential purpose behind this EU behaviour cannot be ignored. Lack of a firm commitment can always be seen as an effort to delay decisions on the date and composition of the enlargement.

The EU arguments can be countered by the following:

- (1) It is difficult to understand how a clear timetable could lessen the pace of preparation in any candidate country. On the contrary, it may have favourable impacts. First, it could have given a clear indication to the member-countries to initiate partly painful adjustments or to start longer-term restructuring. Second, it could have urged the EU to embrace fundamental reforms in enlargement-relevant areas well before this process starts. Third, 'early warning' could have been transmitted to candidate countries, which are on different levels of preparedness for EU membership, and more importantly, have different absorption capacities in political, economic, social and institutional terms. Therefore, each country could have been able to choose the most appropriate method and speed for a *sustainable* preparation strategy, according to their specific situations. Finally, and fourth, to a large extent, it is the lack of a clear timetable which can be made responsible for the growing opposition to enlargement in the societies of the member countries. Such a development could have been prevented or at least substantially

slowed down by a clear, gradual, country-related enlargement strategy. The continuous floating of the date of accession, and even more that of the group to join the EU in the first wave, proved to be an instrument of shaping public opinion with the worst results. No wonder, that such an approach generates large-scale uncertainty, which demobilizes the society and strengthens the status quo mentality - at least until the moment of irresistible, and therefore, much more dramatic, changes.

- (2) It is a mistake to see differentiation as a product of stating or not stating something. The whole transformation period of more than one decade is clearly marked by differentiation in a number of key policy areas, from the pattern of economic integration into EU structures to the different policy options and instruments used by individual candidate countries. Here politically motivated non-differentiation, or still more, the artificial approximation of most candidates for none-too-transparent political reasons may prove a dangerous, double-edged tool when the time to decide on the pattern of enlargement arrives. The longer this approach prevails, the higher the costs of a decision will be. If the EU opts for differentiated (small-group) enlargement, all the previously (and artificially) homogenized countries will be utterly disappointed, with unknown political and socio-economic consequences. In turn, if the decision goes in favour of a 'big-bang' enlargement, the EU is likely to find itself in a very difficult and risky future position with the whole integration process. The dilemma could have been resolved by announcing at the beginning of the accession negotiations a long-term strategy of enlargement with clear criteria and further EU support. Unfortunately, Brussels preferred the opposite, ostensibly smoother and more comfortable path, either out of short-termism, or because enlargement was still not seen as a serious, imminent issue. At the current, fairly advanced stage of negotiations, this dilemma can hardly be solved any more in a way that satisfies everybody. Nevertheless, a longer-term EU

strategy has to be announced, at the latest when the negotiations are concluded with some candidate countries. This paper attempts in the following pages to deal with this issue in more detail.

- (3) Looking back over the past decades of the integration process, it is clear that all major EU projects of strategic importance have had a clear timetable for the several years between the launch of the project and its expected completion. This was the case with the common commercial policy (1969–74), implementation of the Single Market (1985–92) and the preparations for the Economic and Monetary Union (EMU, 1993–9). It is therefore hard to understand why Eastern enlargement, several times quoted as the EU's 'project of the century', should not receive a schedule as well.
- (4) The uncertainty about the date and pattern of enlargement in recent years has brought further detrimental developments. It has been mentioned briefly already that the present member-countries have not sent out sufficiently forceful messages indicating that they want to speed up their adjustment process to the new situation evolving in Europe and the EU. Unsurprisingly, there is mounting opposition in several member-countries to enlarging the Union. On the other hand, impatience and even disenchantment are starting to appear in some of the best-prepared candidate countries. These derive, among other factors, from the uncertainty about the accession date, the fear of having to wait for less prepared countries, and lack of information about the potential volume of transfers expected to become available upon membership. Hitherto, these candidates have displayed fundamentally pro-European behaviour and held sincere hopes of exerting a positive impact on the reform process within the enlarging Union. Such stances may be questioned or cease if the EU proves unable to absorb the shocks of the first wave of enlargement quickly. Finally, it can hardly be denied that the position taken by Brussels has contributed substantially to misinforming the

public in the member-countries and increased public reluctance to see new countries admitted into the EU. In the absence of a clear enlargement scenario, the Western European media have been full of speculation about the appearance of a 25-member Union overnight. It is quite understandable that such a vast change should be hard for EU citizens to accept after living for decades under conditions of artificially high incomes (supported not least by net flows of resources from the current candidate countries).

At the turn of the century, the intensity of European developments and the new quality of accession negotiations made the continuation of the 'strategy' of 'no timetable – no group' unsustainable. As a result, at least one of these two elements had to be abandoned. No wonder, that it was the timetable, the potential date of accession. Thus, the European Council declared at the Nice summit that the EU had fulfilled its tasks connected with enlargement and was ready to receive new members from 2004 onwards.² Nonetheless, this is not a fixed commitment to enlarge in that year. The date of the first enlargement depends on the speed of the accession negotiations and ratification process, and on the still unknown composition of the first acceding group of countries.³

Although the announcement of the first possible year of enlargement is a welcome event, *it is likely to heighten the problem of conflicts over the date and the pattern of enlargement*. Since there has been no guidance at all on the second, enunciation of the date 2004 may generate difficulties in several areas. (1) The absence of a clear strategy for the 'years after' the first-wave accessions has set all the candidate countries (except Bulgaria and Romania) off on a headlong race for membership at the earliest moment. Obviously, they all

see the opening of the EU to new members as a unique opportunity that has to be seized. Candidates are convinced that if they miss this chance, the EU may close the doors again and offer no further enlargements in the foreseeable future. (2) As a direct result of (1), all candidate countries are concentrating hard on concluding their negotiations before the end of 2002, as the latest possible date for a candidate acceding in 2004. They are even prepared to sacrifice some or many of their basic interests, rather than be left out of the first wave.⁴ There is hardly any bigger danger for a widening Europe than the significant and further increasing time lag between the conclusion of negotiations and the real maturity or convergence of candidate countries, as domestic preparations cannot always keep up with the pace of the negotiations. Although it has concluded its negotiations, a country may be unprepared when it joins the Union in 2004, unless the Commission decides not to propose its succession to the European Council, or the Council rejects a positive avis from the Commission.⁵ This may be methodologically difficult to implement and politically risky, since the candidates see the conclusion of negotiations as the signal for an immediate start to the ratification process. (3) The unknown composition of the first group increases the uncertainties in key areas of EU internal reforms and policies. A number of major projects that will shape the future of the Union substantially are due to begin in the coming years. These include the institutional debate in 2004, reform of the Common Agricultural Policy (partly WTO-related) around the same time, negotiations on the 2007–2013 EU budget, due to start early in 2005. There are others already in the pipeline, such as Justice and Home Affairs and the Common Foreign and Security Policy. The conditions and possible outcomes of these negotiations will certainly be influenced by the countries involved (and by

² However, it has to be said that the breakthrough did not originate with the European Council. It was forced upon the Council by the European Parliament, from which it could hardly take a very different position.

³ Although in principle the appearance of other global and intra-EU barriers still cannot be ruled out, the EU has made a clear commitment at the highest political level, stating that from its side, it will not create any further obstacles to opening the enlargement process.

⁴ This haste can hardly be equated with the higher degree of flexibility that Brussels has requested several times from certain candidate countries.

⁵ In effect, the procedure before the start of the negotiation process will be repeated before the start of the ratification process (similarly to the decisions taken on the starting of the negotiation process in Luxembourg, in 1997 and in Helsinki, in 1999).

those not involved) in the first wave of enlargement.

It is urgent for the EU to construct a *clear, literally strategic plan* that extends well beyond the first wave of enlargement, covering at least a decade. The later such a strategy is launched, the worse the initial conditions that can be expected. The negative consequences of neglecting to do so will be felt by the EU and by the candidate countries (whether they can expect to be in the first wave or not). No less importantly, they will adversely affect the future of Europe.

2. THE BASIC APPROACH: HOW TO SUSTAIN AND STRENGTHEN STABILITY IN EUROPE

Regrettably, all examinations of the pattern of enlargement (or rather enlargements) in recent years have started out from a set of specific interests. Some have been based on rigorous economic arguments, some on political aspirations. Some have cited moral responsibilities on the EU side. Some have noted the competitive approach among candidate countries, which is otherwise quite understandable for historical reasons. What a steadily enlarging Europe really needs, however, is a strategic plan of enlargement based on the most critical issue facing the continent: its *stability*.

The priority consideration, to which the enlargement strategy should be 'subordinated', or by which it should be directed, is this. What kind of an enlargement strategy can guarantee (as far as anything can be guaranteed) the sustainability of stability in Europe, even in the most critical years of the gradual enlargement process. This needs to become and remain the cornerstone when considering various enlargement scenarios. All efforts that neglect this factor may reap short-term benefits for certain countries (members and candidates), but will end as a negative-sum game for the continent as a whole.

There are three basic criteria, from the point of view of European stability:

- (1) *The enlargement process must remain open to all countries that are candidates at present or are likely to become candidate countries in the foreseeable future.* Any closure of the enlargement process, even temporarily, may produce insurmountable problems and generate extremely dangerous developments in the outsider countries. There must be no repetition of the story of NATO enlargement.⁶
- (2) *The stability pillar on the EU side is that no enlargement should overburden the internal cohesion of the integration framework.* Any enlargement that seriously questions or even blocks normal functioning of the EU may be detrimental to its progress and to the stability of Europe. It is difficult to understand why the EU, always making reference to the consequences of any enlargement threatening the internal cohesion of the Community, suddenly seems to opt for a 'big-bang enlargement', which would contain countries with substantial difference concerning their GDP per capita level⁷ and competitive structures.
- (3) *Only well-prepared countries should join.* Any other pattern of enlargement, whatever its strategic, political or other motives, is extremely risky and self-destructive. On the one hand, it may easily produce 'second-class membership'. Necessarily not

⁶ Nato decided to admit three new countries in 1999 (the Czech Republic, Hungary and Poland). Although the decision itself was not necessarily wrong, the impact was negative because the enlargement was not accompanied by a strategic plan to continue the enlargement process. On the contrary, the process has halted for some years, with clear consequences for the 'stability perception' of CEE countries left out. The problem was not that some countries did not become members at the same time as the three CEE countries admitted. It arose from the impression that others might never become members, since the enlargement process might be over and the historic opportunity irrevocably lost.

⁷ According to official statistics, per capita GDP at purchasing power parity (PPP) among the candidate countries reveals a gap of three to one. This is larger than the difference among the present member-countries of the EU. The GDP per capita indicator of some candidate countries are closer to the EU average, let alone to the indicator of the less developed member-countries, than to the level of the least developed candidates.

only because they could become members of the EU without participating in the shaping of some community policy areas where their immaturity would destroy vital mechanisms of normal EU functioning. Furthermore, and more importantly, unprepared new member countries would enter such an environment, in which many of their shortcomings would become immediately manifest. The consequences of not being able to cope with the rules of the game of the Union would result in the request of additional exceptions and special treatments which could or could not be accepted by the EU. If not, serious financial consequences, including the judgements of the Court in Luxembourg should be faced. In sum, the insupportable burden of adjusting to the rules will produce a strong domestic backlash, due to the relatively limited absorption and adjustment capacity of such a country (in economic, institutional, legal, social, human and other terms). If, however, most of this will become manifest only after accession, there is practically no instrument to treat such a situation adequately. So the performance and maturity of each candidate country has to be assessed carefully before it joins. In terms of European stability, it is better to have countries wait than to admit them unprepared and face a process of 'self-disqualification' *within* the integration system. It is a fundamental and qualitative difference that, in this case, it is not the EU that assesses the integration maturity (or immaturity, i.e. the 'second-class' character) of the given country, but proper experience of the unprepared new member produce this judgement.

To sum up, the enlargement project has to be considered as a *bridge-building* exercise. The bridge requires two solid pillars, and from the outset, it has to be clear to everybody that the bridge will be built. All countries that contribute to strengthening these pillars are welcome to pass under the bridge. The bridge is not built for an exclusive group of countries, but for the widest European community that is in a position to strengthen, not question its pillars.

What follows is an attempt to evaluate two basic approaches to enlargement in the context of the three criteria just mentioned.

2.1. A merit-based approach

This strategy, based on clear performance criteria, states that EU membership can be given only to the countries that comply at a given moment with all the basic accession criteria. These were laid down at the Copenhagen summit and have served as a yardstick in successive annual reports on candidate countries. If acceptance is confined to well-prepared countries, *three positive developments* can be expected. (1) The EU will continue to function properly in all its basic areas (institutions, decision-making processes, budget, agriculture, labour market, *etc.*). (2) Well-prepared countries can rightly expect to adjust themselves smoothly to the established EU structures. Their political, economic, institutional and social inclusion will not therefore pose any great problem to the EU or the new members. (3) Probably most importantly, the smooth adjustment will be perceived as a success for the enlargement process, so that politicians and the public remain open-minded about further enlargement or enlargements.

The advantages of a gradual enlargement testing also the 'absorption capacity' of the EU has been clearly recognized by the Commission and the member-countries in the process of negotiating on the free flow of labour. Based on the argument, that the potential impacts on the labour flow from East to West, mainly on the German and Austrian labour markets, have to be experienced and measured in the framework of a gradual approach covering a seven-year period and consisting of 2 plus 3 plus 2 years, the EU, in fact, opted for a gradual scheme. Since the overall impact of any enlargement can hardly be compared with the partial impact in any of the areas covered by a particular accession chapter, the basic contradiction in the EU's position is obvious. It is, of course, difficult to understand, why specific fears immediately produce a gradual approach, while most

probable negative impacts on the overall cohesion of the integration process do not lead to any 'early warning' considerations.

Nevertheless, the great difficulty of creating absolutely unanimous and distinctive selection criteria has to be conceded. While the Copenhagen political criteria are clear,⁸ it is far harder to set the economic requirements, let alone the administrative and institutional ones.⁹ This dilemma is most apparent in the Commission's annual country reports. On the one hand, they 'homogenize' the economic performance of several candidates, despite clearly differentiated trends in their macro policies, and more importantly, on a micro level. On the other hand, the extremely delicate language used in differentiating candidate countries provides some evidence that the EU is aware of these differences. However, the very slight differences expressed pose a challenge to linguists and offer an easy target for any medium-level or short-term political endeavours. This situation is certainly not comfortable for the countries that have taken a merit-based approach to their accession strategy.

2.2. A politically driven approach

This is the opposite of the merit-based approach. The consequences for the stability of Europe can be evaluated for *two basic scenarios*. (1) There is no threat of early enlargement, but political compromise is likely to mean that less-prepared countries join concurrently with well-prepared countries. (2) Less-prepared countries gain more time to adjust themselves,

⁸ These were already applied in 1997, when Slovakia was prevented from starting accession negotiations by a perceived 'democratic deficit'.

⁹ It is harder still to assess the level of social flexibility of candidate countries, particularly in the framework of sometimes rapidly changing domestic relationship between the government and interest groups. More importantly, the basic negotiating-strategy priorities may be changed (or will be forced to change) as well, with obvious consequences for fundamental (or alleged) 'national interests'. The potential repercussions can produce serious conflicts if any compromise has not been substantively discussed with various lobbies, local or international.

but at the expense of delaying the entry of well-prepared countries. Both scenarios will have serious negative impacts on future European stability.

Premature enlargement with a large group of countries at different levels of preparation, generally referred to as '*big-bang enlargement*', jeopardizes all three priorities for sustainable stability and 'bridge-building' for Europe's future.

- (1) The open-endedness of the enlargement process is immediately jeopardized, whereas the future stability of Europe definitely depends on continuity of the enlargement process. The larger and (necessarily) more heterogeneous the first group becomes, the greater becomes the danger that the first enlargement will block the way for any further enlargements. Such a situation will greatly undermine stability in Europe, by drawing a new dividing line across the continent. At the same time, some powers may imagine that the leftover countries are free prey, which will further destabilize Europe. Any 'big-bang' scenario will further increase reluctance among many politicians, the media and the public in the present and probably the enlarged EU to contemplate further enlargement, or cause outright rejection of the idea. Such an approach certainly does not enhance stability in Europe. On the contrary, it will weaken stability, by definitively excluding from the EU some of the present, and no less importantly, several future candidate countries (for instance, in ex-Yugoslavia).
- (2) The larger and (necessarily) more heterogeneous the first-wave group becomes, the greater the challenge it presents to the internal cohesion of the EU. For one thing, various transitory exemptions will be required by the new, variously prepared member-countries. This will increase opaqueness, unequal 'legal competition' and 'special treatments', and multiply the cases taken to the European Court in Luxembourg. For another, the financial implications have to be considered. Although all estimates suggest that no pattern of East-

ern enlargement seriously endangers EU budgetary principles (1.27 per cent of GNP or a maximum 4 per cent of the GNP of any member country), the redistributive effects differ greatly between large and small-group enlargement. It is evident that the (re)distributive impacts of a large-scale enlargement substantially differ from those of a small-scale enlargement. Not only in the amount of financial transfers but, and more importantly, in their impact on the present beneficiary member-countries. The more and poorer countries join the EU, the lower will be the 75 per cent average GDP per head level. In consequence, more regions of the present EU countries benefiting from the financial transfers, will be on the 'phasing-out' list. Finally, the more countries join concurrently, the harder it becomes to maintain the normal functioning of the EU decision-making mechanism. The argument that if some heavy-weight countries join, the additional financial burden of accession by several smaller countries will be modest is a weak one. The dominant factor for Europe's future is not the financial capacity of the EU, but smooth functioning of its decision-making. Each new country, whatever its financial needs, may seriously influence the decision-making mechanism of the enlarged Union. So the *vital* issue is smooth integration into the EU structures.

- (3) The second pillar of the bridge to Europe's future may suffer major negative impacts. The adjustment capability, institutional-absorption capacity and social flexibility of candidate countries will continue to vary for a long time.¹⁰ This will lead either to requests for further exceptions, violating the general rules of Community policies (including above all the Single Market) or to non-fulfilment of obligations linked to membership. Nevertheless, this could be

the lesser of two evils, compared with internal destabilization of the country concerned, after the imposition of harsh EU rules.

The other version of a politically driven enlargement will postpone the process for several years, even for the best-prepared countries, with unpredictable, clearly negative consequences for the future stability of Europe.

- (1) Even the best-prepared candidates could be left out of the discussions on fundamental EU reforms that start in the coming months and years (institutions, constitution, WTO negotiations on the Common Agricultural Policy, ongoing talks on the EU budget for 2007–13). They will then join an EU that has not been shaped with their active participation. Involvement in discussions of the future of Europe is no substitute for voting membership of the changing Community.
- (2) The best-prepared countries will be bitterly disappointed, because their better initial position will not be recognized by the EU and their serious and socially painful efforts to absorb EU rules and standards will be unacknowledged. This will have two main consequences. First, the Europhile section of society in the most advanced candidate countries may obviously lose ground to nationalistic or even extremist anti-European parties, which may gain great influence over domestic and foreign policy-making. Although such groups are weak in some candidate countries, they have been rapidly gaining ground in others. Secondly, delayed accession of the best-prepared countries may weaken the overall stability of Europe. Since most of these countries are direct neighbours of the EU-15, the instability zone within Europe may shift towards the present EU borders. Instead of extending the EU area of stability gradually eastwards and southwards, which is a priority task for the Union and the candidate countries, the EU may encourage the opposite development.
- (3) Postponed enlargement will not strengthen the internal cohesion of the present EU.

¹⁰ Flexibility and adjustment capacity are not a direct function of relative economic development. Countries at a lower level of economic performance may be more successful and cooperative in adjusting to the EU and cooperating with it than 'more developed' candidates. The EU maturity of countries has to be assessed in much more comprehensive terms.

Further insistence on retaining the present situation and delaying crucial EU reforms can hardly be taken as proof of internal cohesion. On the contrary, it will undermine the future of integration, as it proves less and less able to respond adequately to the external and internal challenges. Here, simply admitting the best-prepared candidates may contribute to building up a 'critical mass' for starting fundamental reforms. The latter will not prevent the enlarged EU from launching important new policies. On the contrary, these will emanate from the most reformist members of the Community.

Here, mention should be made of the consideration which tries to support the advantages of a large-scale enlargement by emphasizing the impact of 'critical mass'. However, it ignores the fact that this 'critical mass' can represent very different volumes and produce rather different impacts. There is a critical mass which accelerates the reform process within the (enlarging) community. On the contrary, there is another critical mass which would slow down or bloc such processes, let alone that it may even question the existence of a given community.¹¹ Just considering the 'critical mass', the difference between the likely consequence of a small- and a large-group enlargement becomes manifest.

3. OUTLINING A VIABLE STRATEGY

The stability of Europe calls for a clear, long-term strategy. A basic component of this is for the integration process to remain open after the first wave of enlargement (and after the second or third waves as well, since nobody knows where the Eastern borders of Europe can be drawn). It is therefore urgent and imperative to prepare an accession plan consisting of various stages of enlargement. The EU should clearly commit itself to a strategy of gradual enlarge-

ment and indicate that it will be ready to take in new countries in 2004, in the second half of the decade (perhaps around 2007), and in the first half of the next decade (perhaps around 2012). Such a commitment cannot be interpreted as a *blank cheque*, since the preconditions for membership will remain valid (or for better or worse, become ever more rigorous over time). Furthermore, no country need be classified under a specific future date of accession. Flexibility of the process, through open-endedness, has to remain a basic feature of enlargement. Each country will join once it is ready for accession. On the other side, the EU will only commit itself to accepting new members once they are ready.

However, sustained and enhanced stability can only be guaranteed if the enlarging EU does not allow any division of the continent to appear, even temporarily. The successive waves of enlargement will certainly perpetuate the 'institutional divide' within Europe, between member and non-member-countries of the EU, but this has to be offset by well-designed policies directed at prospective member-countries. Such policies, however, will only work if *sustained open-endedness*¹² will never be questioned and will be accompanied by selected and well-targeted instruments.

The policy package has to be announced and launched at the moment when the EU publishes its overall strategy of enlargement, and preferably, well before the composition of the first wave becomes clear. Let us look briefly at its main contents.

- (1) Candidate countries need access to additional financial resources, partly to cover the costs of rapid adjustment to EU rules. The remaining monies in the pre-accession fund, not used by the new member-countries, should be redistributed among those not included in the first wave of enlargement (as part of the Euro 3 billion annual budget). In addition, the enlarged Union should seriously consider raising this allocation for the period

¹¹ Similar to the therapeutical or the 'killing' impact of pharmaceuticals and other medical treatments in hospitals.

¹² Sustained open-endedness is understood to be an integral part of an institutionalized strategic plan, as opposed to an 'open-door' approach, which constitutes a vague political declaration without any commitment.

2007–13. This needs raising in the budget discussions due to start early in 2005. Above all, the new member-countries should be prominent in urging the EU in this direction.

- (2) Large infrastructural and environmental projects should from the outset cover the whole area of the new member-countries and remaining candidate countries, and not only be based on specific and sometimes narrow-minded efforts of first-wave members. Just from its geographic location, 'Eastern' enlargement is significantly different from any previous enlargement of the EU,¹³ since it covers the geographic core of the continent and does not incorporate geographic peripheries into the integration process. As a result, the new members will become transit countries of the enlarging Union in the East-West and North-South directions.¹⁴ Gradual enlargement must not create any temporary 'infrastructural and environmental divide'. Business can only explore the economic potential of Central and Eastern Europe if potential growth areas become easily accessible. Even more importantly, large infrastructural developments will send more positive messages to the societies of candidate countries than any further high-level political declarations (of which they have already experienced a surfeit).
- (3) All fields of Community policy where prospective member-countries are partly or fully involved have to be investigated and identified. This requirement derives not only from an 'upgraded pre-accession strategy', but from the various paces of

development in different policy areas. For instance, the increasing importance of security in the EU calls for a policy approach extending far beyond its present borders. Non-member and prospective member-countries have to be included in common foreign policy, research and development strategy, and education and environmental policies. While the institutional, legal and economic conditions for full EU membership can only be fulfilled gradually, the gap must not prevent present and future candidates from actively participating in selected Community policies. This involvement in the everyday practice of the EU will bring mutual benefits, helping the enlarging EU to shape truly European policies, while supporting the adjustment process of the candidates, by introducing them into the functioning of EU policies and sending positive messages to society that no candidate has been forgotten. Other important elements include incorporating candidate countries into general discussion (rather than decision-making and implementation processes) in selected areas of reform, and into the ongoing exchange of views about the future of Europe. However, such moves cannot substitute for becoming an integral part of specific areas of Community policy-making.

- (4) The enlargement process will shift the EU's external borders eastward and southward, bringing new requirements for cross-border cooperation. Any enlargement scenario will create a number of new external borders, most of which have features different from the present border areas. Furthermore, the new border regions will vanish in turn as the enlargement process advances. So a qualitatively new approach is needed to supporting cross-border cooperation, as a major instrument of enhanced regional stability.¹⁵ This issue

¹³ The TEN and TINA projects have to be reconsidered in the new strategy context.

¹⁴ One of the main transport problems of the present EU are the limitations of North-South traffic (both road and railway). This feature characterizes the candidate countries as well. While most of them have an already established physical infrastructure in East-West direction, the same can hardly be told concerning the North-South transportation network. The construction of the third main North-South 'channel', (following the London–Paris–Barcelona and the Hamburg–Stuttgart/Munich–Italy channels) can be considered as one of the most relevant infrastructural projects, with substantive impact on longer-term European growth and stability.

¹⁵ The various new external border regions of the enlarging EU will involve ethnic and minority issues, which will increase the relevance of this topic. However, enhanced regional stability has to be driven by more intensive economic cooperation, better infrastructures, and common project implementation. In other words,

should also become part of the negotiations on the 2007–13 EU budget.

- (5) The enlarging EU has to be prepared not only to hold accession negotiations with current candidates that will not be part of the first wave, but also to start negotiations with several future applicants (notably ex-Yugoslav states). Such talks are likely to start around the date of the first enlargement, so that new candidates will soon become part of the decade-long EU enlargement strategy.
- (6) Finally, Europe needs a common education policy, extending well beyond the geographical frontiers of institutional enlargement. This needs to include Russia, Belarus and Ukraine into the evolving European network, and to some extent compensate them for long-term non-membership of the EU. It is similarly important to enrich the enlarging EU with a manifold input of European countries, for the Western half of Europe to understand CEE interests, fears and behaviour better, and above all, to create a two-way flow of information and cultural linkage across Europe in the widest sense.

*

A transparent, long-term enlargement strategy will have an impact far beyond the internal stability of Europe. There will be several positive consequences for the future of Europe and its place in global politics and economic competition.

- (1) A clear, committed enlargement scenario will be able to release unused economic (and innovative) potential in Europe. This will generate higher sustainable growth, whose volume will clearly outpace the generally calculated impact of 'more than 100 million new consumers'. It means that the dynamic impacts of enlargement, which are several times greater than the static ones, can be adequately used.
- (2) The enlargement strategy outlined will have a positive impact on the future

there have to be proactive, offensive cross-border policies, not just damage limitation.

standing of the Euro in international financial markets. To achieve the second key goal in introducing the euro¹⁶—to create an international reserve currency similar to the US dollar—the EU has to convince global investors to change their mind and start considering the Euro as a better (or at least equivalent) reserve currency. It is hard to imagine any other, better European project to attract the attention and financial resources of potential investors.¹⁷ A well-designed enlargement strategy, with its large-scale positive economic consequences, can increase the euro's international standing.¹⁸

- (3) A credible enlargement strategy will greatly improve the EU's image in Europe and probably beyond. It will show that the EU is a reliable partner, a strategic ally and the unquestioned anchor of modernization and development in the continent. This message is badly needed. Confidence in the EU has been shrinking recently in more than one candidate country. Clearly, any loss of confidence within Europe will lead automatically to lower confidence and reliance on the EU in other parts of the world.
- (4) Only a Europe enlarging and strengthening on the basis of a strategic plan can envisage playing a greater role in global politics and economics. This is how European values (still not always clearly defined) can take on successfully the competition evolving on a global scale.

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¹⁶ The first goal of price stability has been fairly well fulfilled in the last three years of preparing for the common currency.

¹⁷ The EU's common defence and security policy cannot be decoupled from that of the United States. Although Europe's partnership role may have increased since the September 11 terrorist attacks, it cannot act as an independent player in military and security issues for the foreseeable future. Institutional reforms, though important to the future functioning of the EU, can hardly exert a major positive impact on potential international investors.

¹⁸ This impact is seen as far more important than the unjustified fear in some Western European financial circles that premature accession to the monetary union by new members could reduce confidence in the euro.

SOME KEY ISSUES IN UNDERSTANDING THE NEGOTIATIONS ON ACCESSION TO THE EUROPEAN UNION

Ten Central and Eastern European (CEE) countries, all linked to the European Union (EU) by an Association Agreement, are currently included in the process of negotiations towards eventual EU membership. According to their domestic targets, these each expect to complete their negotiations some time between the end of 2002 and the end of 2004.

The EU declared at the Nice summit in December 2000 that it was ready to contemplate enlargement from 2004 onwards. Membership therefore depends today on two main processes: internal preparation by the candidate country and a successful conclusion to the negotiations with Brussels and the existing EU member-countries. Although successful participation in the EU structures and decision-making processes obviously calls for much more than good negotiation strategies and tactics, these can have a big effect on how long the negotiations take and the conditions under which membership is obtained, particularly in the initial, critical years after joining. Moreover, the negotiation period can be seen as a process of building confidence among the experts on all the sides, so that it creates a perception of the extent to which a candidate will be able to cope with the challenges of accession.

This paper sets out to cover some key issues connected with the accession negotiations. It is divided into three parts. Chapter 1 clarifies some basic terminology, which has to be interpreted correctly before viable negotiation strategies can be devised. Chapter 2 concerns the ways candidate countries shape and implement their negotiating strategies. The last chapter puts forward guidelines for successful negotiation and healthy preparation for membership.

1) UNDERSTANDING THE BASIC TERMINOLOGY

The CEE countries, from the beginning of the process, had to realize that negotiations with the EU follow rules that differ substantially from those known and applied in traditional diplomacy. In the classic sense, negotiations start with the participants holding clear, different positions and end after several rounds in a compromise that satisfies all partners by containing some elements of the original position of each, while self-evidently ignoring other elements. The outcome serves some kind of mixture of the interests of the parties. With the EU, the starting point for negotiations is the *Acquis communautaire*, a 90,000-page body of Community policies that all applicants have to accept beforehand. So the rules have to be accepted, not negotiated. In that sense, the word 'negotiations' itself is misleading in the context of discussions about accession with Brussels and the EU member-countries. The classic process of negotiation is confined to requests for temporary exemption from Community rules. It includes identifying the areas in which such requests should be made and the time-frame within which the candidate will implement the *acquis* in full. Here the negotiations are two-way, because the EU can and will ask for temporary exemptions, as well as the candidates.

Furthermore, the 'negotiations' take place between highly unequal parties. The EU is the policy-maker and each candidate country a policy-taker. The imbalance is

exacerbated by the fact that the EU constitutes one of the world's most powerful economic groupings (despite conflicts of interest among member-countries), while each applicant country is involved in the discussions individually. In other words, the EU never negotiates on enlargement with a group of countries, even if several countries are negotiating at the same time.¹

Finally, there is another departure from the classic rules of negotiation in the times the two parties present their positions. The candidate country always has to put its position on a chapter on the table first,² while the corresponding EU paper follows later. It is symptomatic that the EU has still not put forward a position in some key chapters, such as agriculture, financial transfers and the budget. So negotiations on them can only be opened in virtual terms, by presenting the applicant's position without the corresponding EU position, which postpones any in-depth discussion of them.

To sum up, the candidate countries have very limited room for manoeuvre during the negotiation period. The rules for joining the club have been defined by its present members and are not going to be rewritten as a result of the accession talks.³ Consequently, there would appear to be

more scope for candidate countries to shape EU rules after they have obtained full membership.

A basic rule of the negotiating process is that no chapter is closed until all chapters are closed. So chapters already discussed and agreed gain only a 'temporarily closed' status, as they can still be reopened as long as the negotiations last. This approach seems logical for various reasons.

- (1) The *acquis* is constantly changing, as more and more areas are drawn into the competence of Brussels. The new members will have to adopt and adjust to the *acquis* as it exists at the moment of their accession. The *acquis* on which the candidates formulated their national positions at the beginning of their negotiations will have changed by the time the negotiations are concluded and again by the time of accession. All changes occurring up to the end of the negotiations have to be included in the accession treaty. Additional changes in the period between signature of the treaty and actual membership have to be introduced into the document as they occur, up to the moment of accession.
- (2) Candidates formulating their position papers (and member-countries) have to start out from a certain date when they believe they can become members of the EU. Since most of the requests for temporary exemption have a clear timetable, they are based on this hypothetical date of accession. If the date of accession is postponed, some of the exemption requests may become meaningless, which automatically leads to changes in some temporarily closed chapters.⁴
- (3) Domestic developments in candidate and member-countries may cause alterations in the content of temporarily

¹ The group-to-group approach is permitted in EU practice in other areas, such as trade policy, technical cooperation and financial issues (for instance, with the Lomé Convention, the Europe-Asia dialogue, EU-MERCOSUR cooperation or the Stability Pact for South-Eastern Europe).

² There are altogether 31 chapters to be negotiated, whose status falls into three main categories: chapters temporarily closed, chapters opened, and chapters yet to be opened. The applicant countries at the most advanced stage of negotiation have opened 29 chapters, as negotiations on institutional issues cannot start until the EU member-countries have ratified the Nice Treaty, while the chapter labelled 'Others' will be opened in the last negotiating stage.

³ In some cases, accession negotiations can enrich the *acquis* and add to the rules. Examples include the tighter Swedish, Finnish and Austrian environmental standards entering the *acquis* and becoming binding on existing member-states; changes in the scope and instruments of the structural fund during the Iberian and Nordic enlargements; creation of the cohesion fund with the advent of the Economic and Monetary Union (EMU).

⁴ Hungary, for instance, aimed originally for accession in 2002 and some requests for temporary exception were phrased accordingly. Since membership will now not materialize before 2004, requests for the two-year period of 2002-3 (e.g. extension of the telecommunications monopoly rights of MATÁV until the end of 2002) have been overtaken by events.

closed chapters. These may involve withdrawal of earlier derogation requests or inclusion of new ones.

- (4) Candidate or member-countries may try, during the negotiating process, to link a special issue in one chapter with another chapter that is already closed, asking for the latter to be reopened. If such an approach became overall practice, the speed of the negotiations or even their very continuation could be threatened. The Commission has therefore tried to avoid such 'linkage-creation'.⁵ The candidate countries also seem to be avoiding such an approach, even if the linkage promises them some advantage. For them, the detrimental effects of losing time and slowing down the accession process would probably outweigh the gain in a specific area.

It is important to underline that the EU has closed the way for outright 'derogations' by any new member-country.⁶ It is no longer possible to follow the course of opting out; every new member-country will have to adopt the full *acquis*. So the word 'derogation' can be forgotten. The terms 'temporary exception' or 'transitory request' are the appropriate ones in professional papers and information for a wider public.

The most recent strategic EU paper on enlargement, published in November 2000,⁷ introduced some new elements that affect the accession negotiations.

⁵ An example was the Commission's refusal to reopen the chapter on the free flow of services (as requested by Austria and some German circles) in connection with the discussion on the free flow of persons (labour).

⁶ In the past, present member-countries were allowed such options and took them. Denmark and the United Kingdom stayed out of the social pact. Several members remained outside the Schengen Agreement. Most recently, the United Kingdom and Denmark declined to participate in the EMU. (Greece was not ready until [?] 1999. Sweden hid behind non-compliance with one Maastricht criteria as a pretext for avoiding EMU membership, which would have been unpopular at home.)

⁷ *Enlargement. Strategy Paper*. Brussels: The European Commission, November 8, 2000.

- (1) Transitory requests were classified into three categories: acceptable, not acceptable and negotiable. The first covers requests where it is clear that the applicant country would not be able to adopt the *acquis* in the short run (before membership), adjustment to the EU needs financial transfers, and most importantly, the request is outside the 'hard core' of the internal market. All (or most) requests affecting the normal functioning of the internal market and/or distortion of competition within the EU fall within the category of 'not acceptable'. All other requests are negotiable, without it being known at the time whether or not they will be accepted.
- (2) The door opened for utilizing the so-called 'set-aside' approach. To help accelerate the negotiating process and prevent one issue paralysing the temporary closure of a chapter (where all other problems have been cleared), the Commission may agree to close the chapter after removing one (or two) blocking element(s) from it. This allows more chapters to be temporarily closed and may have a positive psychological impact on both parties that breaks the deadlock. However, it also shifts one or more highly sensitive issues into the final stage of negotiations. There is a danger that by 'setting aside' a larger number of critical issues, the final package to be negotiated, which in any case will contain the most delicate problems, may become overburdened. This may make searches for compromise extremely difficult and protract the negotiations, with the possibility looming that the final package has to be unbundled and addressed again in individual chapters. To sum up, the set-aside approach is a two-edged instrument. Each applicant country in general, and each chief negotiator in particular, has to gauge the extent to which it can be suc-

cessfully used in the negotiating process.⁸

- (3) Finally, the widely used and often-misused category of 'second-class membership' has to be dealt with. Clearly, any such negative differentiation flagrantly violates the basic principles of European integration. In addition, it is extremely difficult or impossible to gain acceptance for such a status in the society of a prospective member-country. Nevertheless, what can and what should not be considered 'second-class membership' has to be considered. The distinction is fairly easy. The sphere of second-class membership covers everything that creates a lasting, institutionalized, contractually fixed differentiation of one member from the others. On the other hand, it should be considered as normal in the early years of membership to have various phasing-in periods with a clear table of upgrading, followed after a specified, relative short period by equal treatment. Thus, one of the key tasks of negotiating teams is to reduce the duration of phasing-in periods, which also depends, of course, on the absorption and adjustment capabilities of the new member-country concerned.

Let us take some specific examples. Disregarding the transitory agreements still to be negotiated, which, as far as rights and obligations are concerned, will provide full membership after a certain period of transition, there are at least four other, crucial areas of phasing-in.

- (1) EU transfers will be increased gradually, as already indicated in the financial framework for 2000–2006, attached to *Agenda 2000*. This procedure is due to the parallel phasing-out approach for present net beneficiaries of EU transfers and to the gradual establishment of the

necessary legal, financial, institutional and human factors in the candidate countries, allowing them to absorb their entitlements.⁹ The same holds for the phasing-in of the candidate countries' contributions to the EU budget. Both these sums, and more importantly, the timing of the phasing-in process represent a critical area in the coming stage of negotiations.

- (2) There is an inevitable phasing-in period for integrating of new members into the Common Agricultural Policy. Agriculture in the CEE countries differs in some features from EU agriculture, so that some new financial structures may also be considered temporarily. This, however, cannot be regarded as 'second-class membership' so long as the new members are adequately compensated (e.g. with higher production quotas or larger transfers directed to modernizing agriculture and rural areas).
- (3) The rules of membership of the EMU contain a clear restriction. New member-countries have to await full EMU membership for at least two years, in the ERM-2 framework, irrespective of whether they match the Maastricht criteria. In this case, the phasing-in is institutionally stipulated.
- (4) Fully fledged admission into the Schengen agreement also comes some time after accession.¹⁰

The common underlying feature of all of the cases listed are these: (a) Full and

⁸ In principle, a very small number of set-aside issues may influence positively the ultimate bargaining power of an applicant country, particularly if the final package does not contain a larger number of heavyweight issues.

⁹ Overall experience shows that financial resources from the EU can generally be used only after a delay, due to the bureaucratic nature of the application process and the time required for domestic preparation. This has been a common feature of the PHARE and pre-accession funds in the CEE countries and the dominant experience in countries acceding earlier. (Burgenland, a region entitled to EU regional support, was not able to draw the first sums until one year after accession by Austria, which was a well-prepared country.)

¹⁰ Austria had to wait almost two years before its border with Germany (Bavaria) became a real Schengen border. Germany retained normal controls on the Austro-German border after 1995 despite Austria's EU membership.

equitable participation in all EU community policies is not blocked, but institutionally and legally recognized from the outset. (b) The transitory period has a clear time frame ('road map'), including the duration of the phasing-in process, gradual (annual) adjustment to the EU structures, and identification of the necessary instruments, on the EU side and by the new member-state.

By contrast, 'second-class membership' could be created in all the areas indicated if (a) EU resources kept favouring present net beneficiaries and discriminating against new (and poorer) countries, or no less, if present beneficiaries changed the access rules for EU funds, preventing new members from qualifying,¹¹ (b) new members were excluded from the Common Agricultural Policy or received only a small part of the money present agricultural producers receive, or if a smaller quantity of direct income payments were not complemented by other supporting financial instruments. Furthermore, the Nice summit provided a classic case of second-class membership by assigning 22 seats in the European Parliament to three present member-countries with populations of around 10 million each (Belgium, Greece and Portugal), and only 20 seats to the Czech Republic and Hungary, which belong to the same population bracket. (This discrepancy is expected to be resolved once the chapter on institutions is opened.) Finally, a dangerous precedent would be any attempt to create a 'core group' within the EU, excluding others from aspects of the decision-making process. This, self-evidently, would affect not only new members but some present members as well. While the extension of qualified majority voting (QMV) is widely supported by smaller member-countries, efforts to create a big-country hegemony would be strongly opposed. Support should be given instead to a more federal European structure instead of the present intergovernmental architecture, which always presents the temptation to

negotiate, decide or bloc initiatives without or over the heads of smaller countries.

2) CONSTRUCTING AND IMPLEMENTING NEGOTIATION STRATEGIES AND TACTICS

Candidate countries have faced the unique challenge of shaping their negotiation strategies at least since the Madrid summit of the European Council in December 1995. There the green light was given to start negotiations on accession with the candidate countries proposed by the Commission report based on the Avis (conducted between the spring of 1996 and the summer of 1997), subject to approval by the European Council. The focus was on two fundamental questions: (a) How should key 'national interests' be defined, represented and protected? (b) What approach should be taken on the negotiations in general and transitory requests in particular? Some further issues have emerged during the negotiating process, such as the possibility of linking different chapters and the scope for stronger cooperation between candidate countries. This chapter concentrates on the first two issues—(a) and (b)—and makes only a few comments on other points.

The problem with identifying national interests begins with defining them. 'National interests' will be differently interpreted by lobbies in different interest contexts—political, economic, social, environmental, *etc.* Each group will argue, of course, that its own interests are the most important on a national level. The government has to take the lead in arriving at a more or less systematic approach. However, that does not mean that the government should define 'national interests'. It should simply coordinate the debate, by asking different interest groups to prepare and submit their positions and by starting a wide-ranging dialogue with society. Unfortunately, the first exercise was

¹¹ There are already some disquieting signs of such efforts in the preparations for the next round of budgetary negotiations on the financial framework for 2007–13, which start early in 2005.

performed only in a rudimentary fashion. In most cases, the elaboration of the positions of interest groups was not followed by institutionalized dialogue with the government. Even more regrettably, the second did not start at all before the negotiations. Most of the work remains to be done in the critical stage or stages of the negotiations. The public is generally unprepared or ill-prepared for understanding what is going on and how it should support through its arguments the position of the country's negotiating team in Brussels and contribute to the necessary process of adjustment and self-adjustment at home.

In most cases, 'national interest' is a relative concept, from various points of view. (1) It is dependent on which group raises the issue. Each lobby may have a vital interest in some questions, but not all of them can be represented at the Brussels negotiating table. Some lobby-specific aspirations plainly clash with basic EU rules, while some others generate high-cost consequences for the applicant country (in the form of equivalent EU transitory requests or substantial delays in the negotiating process). (2) Not all sectoral interests can be represented by the government and the negotiating team, so that they cannot all be included in the national position papers. As a result, careful weighting of different interests is indispensable before negotiations start. (3) 'National interests' are time-dependent in two respects. On the one hand, their relative weight may change over time, as previous interests decline or vanish and new interests become stronger. On the other, time is a crucial factor in the negotiating process. Sometimes protracted insistence on 'national interests' may lead to substantial delay in accession. So the political, social and macroeconomic damage suffered by the delayed accession may easily outweigh the potential gain from stubbornly and inflexibly defending 'national interests' in a specific issue.

In effect, a more or less balanced picture as a starting point for preparing national position papers can be obtained only if the basic interests of the various

groups are gathered and impact studies made in each case. The impact studies should identify economic costs and benefits of defending or rejecting the different interests formulated, and also include macro-level social, political, regional, institutional and psychological consequences. In this way, a comprehensive and harmonized package, hopefully without major internal contradictions, can be created. This overall package, containing almost all interests not sharply contrasting with EU legislation and having clear financial implications, has to be discussed again with all interested parties. (Unfortunately, this did not happen in any candidate country. In most cases, even the most necessary impact studies were not prepared.)

The next step is crucial for choosing of the appropriate negotiating strategy. Faced with a fully fledged list of 'national interests', the government has to decide. Will it base its approach on representing all or most interest positions as argued for in the document? Or will it opt for a targeted strategy concentrating only on vital issues and discard representation of all other partial interests during the negotiating process? Each approach has its pros and cons. It should be remembered that during the last round of accession negotiations, Sweden and Finland took a 'concentrated' approach, dealing with a small number of 'national-interest' issues, while Austria decided to talk about a larger number of issues. The following paragraphs summarize briefly the advantages and disadvantages of both approaches.

A negotiating strategy based on a *large number* of transitory requests pursues the following real or alleged advantages:¹²

¹² Poland, the Czech Republic and Hungary all chose this approach. Poland's inflexibility has already left it in a very difficult position. The Czech Republic and Hungary proved much more flexible, due also to better public acceptance of the negotiating results and compromises. Hungary started the official negotiations in March 1998 with about 90 requests. These were reduced to about 70 during the screening process. A further substantial cut occurred when it had to be decided which requests should feature in the position papers. Eventually, about 40 requests were forwarded to Brussels, of which some have already been

- (a) Presentation of many special interests increases the confidence felt by the EU and its member-countries, as it shows that the applicant understands the *acquis* and is technically well prepared for the negotiations.
- (b) It obviously increases domestic confidence in the negotiators, showing society that the government is strongly committed to representing and defending a wide range of 'national interests', and is not ready to 'sell out' the country to the EU.
- (c) A large number of transitory requests may give good opportunities for showing flexibility and gaining additional advantages from the EU by withdrawing some requests during the negotiations.
- (d) In the domestic context, a high number of transitory requests shows how the government is defending the position of the lobbies with an interest in keeping things as they are. This is likely to lead to a short-term political and economic consolidation that may be very necessary in several CEE countries.
- (e) Finally, it may signal to the EU that the applicant country's society will not tolerate excessive concessions to membership, for the success of accession/enlargement is in the interest of both sides. So some 'specificities'¹³ of the candidate country may have to be reckoned with.

At the same time, this approach has a high level of fragility on the level of official negotiations and in the domestic context. (a) A large number of transitory requests can convey the impression that the country concerned is not yet well prepared for negotiations, let alone accession. (b) In a

more benevolent scenario, the EU and its member-countries may understand the large number of special problems for the candidate country and propose in-depth discussions on each request. This could prolong the negotiating process, so that the applicant runs out of time. (Similar, largely concealed interests in some member-countries may further this outcome in some cases.) (c) Transitory requests are a two-way street. In accepting some requests from the candidate country, the EU may ask for counter-exceptions, which may cause losses greater than its gains from its requests. (d) It is no less dangerous, in the first stage of negotiations, if the EU accepts some 'soft' requests, in order to crowd out hard requests in the final stage of negotiations, by referring to its great flexibility in previous periods. As a result, the large number of initial transitory requests may backfire, as less important ostensible 'national interests' leave no room for successful presentation of the hard-core national interests, due to a lack of clear priorities. (e) Finally, requests that are withdrawn certainly have a serious impact on the political, business or social groups that support them and on the budget of the applicant country.

Impact studies should be carried out immediately on these issues. The studies should be utilized in the budgetary planning of the following years and also made public, which is certainly a risky exercise in the later, critical stage of the accession process, which may include a referendum. In the second case, short-term political and economic consolidation based on vested interests may contrast sharply with longer-term, dynamic adjustment needs. Once it turns out that not all requests by any means can be pushed through and that the EU and its member-countries are not prepared to accept most 'specificities', the government finds itself in a critical situation. It can risk prolonging or even postponing the negotiations, by insisting on the requests it formulated in its national position papers. The clearly negative impacts of belated accession may be political (no participation in crucial EU reform plans once they start), economic

withdrawn (notably in the environmental chapter). Further steps in the same direction can be expected as the negotiations touch upon critical chapters such as competition law, transport policy, agriculture, *etc.*

¹³ Portugal tried in the 1980s to identify a number of 'specificities' during and after the negotiating process. Most turned out either not to be specific to Portugal or to be untenable against a unified, large integration group.

(later access to EU funds), or most importantly, stability-related (all CEE countries live in very fluid times in a volatile region). Alternatively, the government may feel obliged to withdraw some or most of its transitory requests. However, this has to be communicated to the interested lobby groups at home, which may generate demagogical arguments that the government has betrayed key representatives of ostensible national interests and sold out these interests for EU membership.¹⁴ Certain political movements or parties will certainly be at hand to exploit such a situation.

The later such a development occurs, the more dangerous the situation may become. Late withdrawal of exemption requests will deprive several interest groups of the time needed for adjustment to the strong pressures arising from EU accession. The general argument put up under those conditions will run like this: Why did the government not tell us the truth two or three years ago? Why did it promise something that it was unable to keep? It would have been better, the complaints will run, to say initially that the applicant was unable to advance or break through on several issues. It would have been better to start a tough preparatory period, maybe with some governmental or even EU support, so as to make the sector concerned fit for accession at the time when it occurs.

The late or belated withdrawal of several transitory requests may easily initiate competition to withdraw exemption requests, if there are 12 countries simultaneously negotiating accession, as there are at present. This may undermine further the position of the interested sectors (and countries) and enhance further the already dominant bargaining position of the EU.

After looking at the shortcomings of a negotiating strategy based on a large number of transitory requests, some countries, such as Slovenia and Estonia, opted for a more limited number. This has the advantage of

concentrating on vital interests and defending them, even in the final round of negotiations. It leaves less room for the EU to ask for complementary transitory exceptions or pick out the 'soft' issues and crowd out the hard ones at the end of negotiations. Communications with domestic players seems to be less problematic and conflictive. Furthermore, instead of protecting lobby interests, the government can devote its energies to discussions with society and preparing the public for the challenges of membership. Finally, this approach, at least at first sight, promises faster progress in the negotiations and earlier accession.

Of course, without high risk, this course can only be followed by countries that are well prepared for accession. Even then, the EU and its member-countries may be understandably mistrustful of a low number of transitory requests. It may raise serious questions about the extent these countries have really understood the meaning of the *acquis* and how it can be adjusted to and enforced. Furthermore, the strategy may sacrifice some chances of obtaining additional advantages in the negotiating process. More importantly still, if the low-profile approach results from failure to involve society in preparing for the negotiations on accession, the treaty may later appear to the public to have been dictated to the economy and society. Such impressions will have unpredictable consequences on the outcome of a referendum, and even more, in the early years of EU membership.

Besides these strategic issues, there are some other questions that can be expected to emerge during the negotiating process.

- (1) Should candidates request short (shorter) or long (longer) exemption periods? The easy answer is that it depends on the topic. In fact, the answer is more complicated. First, the length of an exemption period depends largely on the EU's willingness or unwillingness to accept or refuse a certain length of ex-

¹⁴ This may also be a good opportunity to argue for some kind of 'second-class membership'.

ceptional status.¹⁵ Secondly, the length may depend on the volume of the EU's financial commitment. Larger amounts required to finance the adjustment process may extend the transitory period, while smaller amounts are likely to shorten it. In the domestic context, each government should consider that longer transitory periods not only make formal adjustment easier, but longer-term competitiveness weaker. The reason is the widespread experience that the longer a transitory period lasts, the higher the probability becomes of creating strong interest groups oriented towards protection and subsidy-seeking instead of efficiency-seeking, or a vested-interest mentality instead of a competition mentality.

- (2) Can or should different chapters be linked during the negotiating process? Hypothetically, policy-oriented research has considered several such links: between the free flows of capital and of labour (land purchase and free movement of workers); between the free flow of labour and obtaining additional resources from the social fund; postponing the issue of agricultural land purchase until the hard-core agricultural negotiations, *etc.* So far, the Commission has rebuffed all such efforts by candidate countries (which have remained on a level of thinking aloud in any case) and by member-countries.¹⁶
- (3) Can different candidate countries negotiate substantially different agreements with the EU? It is widely considered among the Polish public that the

country's size, influence and political importance (not to mention its specific problems) will allow it to obtain better treatment on joining the Union than other candidates. This hope of special treatment is one of the concealed (believed) arguments for Poland being a laggard in the negotiating process. (Currently, it has temporarily closed only 17 chapters and has a number of crucial conflicts on hard-core issues, such as the four freedoms.) Although some country-specific terms cannot be ruled out, there are two basic rules in the accession negotiations. First, following a transitory period, all countries will have the same rights and obligations in the integrated community. Secondly, for technical, administrative and political reasons, very few exceptions can be made among candidate countries. If this basic line of negotiation were abandoned, all candidates could easily find areas where they think they should be treated in a more favourable way than others.¹⁷

- (4) Probably most importantly, can candidate countries (especially CEE candidates) find common negotiation positions and act as a group before Brussels and the EU member-countries? This question has been raised several times. Many experts were urging a greater sharing of positions well before the negotiations started. The regrettable but inevitable reality has been different. First, the EU has never been prepared to carry out accession negotiations with any group of countries. In all cases in which more than one country wanted to join the integration, the negotiations remained strictly bilateral. Secondly, the EU has always used its dominant bargaining power to improve further its position in the emerging treaty. This was often achieved by finding the 'point of

¹⁵ With purchases of agricultural land, the EU seems ready to accept a seven-year transitory period (similar to the one for the EU-proposed exception in the labour market). It is highly questionable whether it will agree to the 18-year exemption requested by Poland.

¹⁶ Spain's efforts to link the chapter on the free flow of labour with the future of the structural funds were clearly an attempt to blackmail Germany and its taxpayers. The Commission (and Germany) rejected it in an unusually forthright manner. The Commission's position is that no chapter can be linked to any other. Chapters with financial implications especially have to be handled separately from other chapters.

¹⁷ The result could be the same kind of competition as with the withdrawal of transitory requests. This 'special-advantage-seeking' competition could have catastrophic results for the enlargement process and the future cohesion and manageability of the EU.

least resistance' among several candidate countries and coming to terms with it in a difficult chapter. Afterwards, all the other candidates were forced to accept the 'pattern' formulation. In the ongoing negotiations, Slovenia was the first to close temporarily the environmental chapter. All other candidates, if they wanted to have this chapter closed as well, had to accept the 'Slovenian' terms. Next, Hungary agreed on the widely disputed chapter on the free flow of persons (labour) and caused some consternation in Poland with a rather compliant attitude.¹⁸ Then the Czech Republic signed the chapter on the free flow of capital first and put the other countries on a forced path. Thirdly, the most important barrier to agreement on common positions is the different weights or mixtures of interests concerning the chapters. The differences are due to the different values given to each question on the national priority lists, the diverging levels of preparation in each field, the differing influences of domestic pressure groups, and the different public reactions to be expected when negotiating delicate issues. Nevertheless, some level of cooperation has been established. There are regular meetings on different levels of government and public administration. Chief negotiators and experts regularly exchange views as well. Remarkably, cooperation among the first-group countries has been indicated by regular half-year meetings right after the EU summits in June and December. The last meeting in Ljubljana produced for the first time an official communiqué as well.

There is one field in which previous experience suggests that the candidates

could and should be successful. All previous enlargements have resulted in the creation of special target areas entitled to additional EU financing.¹⁹ The candidate countries could easily find arguments for a special fund exclusively (or mainly) supporting the transforming region of Central and Eastern Europe. This is urgently needed, because of the advanced stage of the accession negotiations, and in order to offset the efforts of the present net beneficiaries to change the currently valid entitlement pattern of the EU's structural and regional funds, to suit their interests.

3) RECOMMENDATIONS AND DILEMMAS

The negotiating strategy of the CEE candidate countries has to be based on clear criteria. These include:

- (a) Realism: the negotiations' are not classic diplomatic exercises and even the limited scope of bargaining takes place among unequal partners.
- (b) A clear future-oriented adjustment strategy driven by longer-term advantages of future membership not short-term technical gains during the negotiating process.
- (c) An evolutionary approach, since the EU and the applicant countries will change between now to accession, which has to be taken into account over the whole negotiating period and in preparing for membership at home as well.
- (d) An offensive, proactive approach, emphasizing the interests of the candidate country, its reliability as a future

¹⁸ Polish inflexibility on this could not be explained solely by the preparations for general elections in September 2001. The dividing line is not only between parties but within the society, whose split attitude is unlikely to change after the elections either. On the contrary, the election results and the composition of the new Sejm suggest that the government's room for manoeuvre has not improved.

¹⁹ Portugal and Spain benefited from a greatly expanding structural fund. They and both Ireland and Greece gained access to the cohesion fund created on the eve of the EMU project. Even rich countries, such as Sweden, Finland and Austria, found rightful arguments for additional EU resources, for their sparsely populated Arctic and Alpine regions.

partner, and no less importantly, its contribution or value to the new, enlarged EU.

- (e) The same proactive approach at home, to support rapid adjustment instead of protecting, outdated vested interests (including the definition of transitory requests).
- (f) A well-designed domestic-adjustment strategy, to raise the country's competitiveness to an adequate level before membership, rather than waiting for EU resources to start major restructuring or infrastructural, institutional or environmental development. (Each year this is not done will be a fundamental loss and delay in the process of becoming a full-fledged Community member.)
- (g) Intensified contacts with EU member-countries, parallel with the negotiations in Brussels, on diplomatic, political, business, professional, expert and civil society levels. Influencing the official position of member-countries and their public opinion must be a fundamental task for all candidates in the critical period of negotiations and ratification.
- (h) Openness towards domestic actors and public opinion, without concealment of problems and conflicts with the EU. At the same time, there must be explanation of the costs and benefits of accession, and of why membership creates a different quality for the country's international standing and development prospects, despite the high costs of doing so in some respects.
- (i) Since society enters the EU and society's well-being and comfort will define how a country feels and performs in the integration framework, a dense network of cooperation between public administration on different levels (including local and regional authorities), business and civil society must be established. This should entail a two-way flow of information, not be a new instrument for declaring principles or informing society or part of it about the latest developments or government plans. Grass-

root, bottom-up initiatives, ideas, fears and dilemmas have to be given high priority.

- (j) Official negotiations focused on narrow legal issues cannot be allowed to divert public opinion and policy-makers from the major goals of membership. These include a higher level of stability, economic predictability, business confidence, clear rules of the game, accelerated economic and social modernization, and higher amounts of financial resources to develop such crucial sectors as the physical and human infrastructure, as well as environment protection, upgraded cross-border cooperation, *etc.*

Even with the best domestic preparation for membership and the most brilliant negotiating strategy and tactics in Brussels (and the member-countries), a number of important dilemmas will remain. The solution of these is not in the competence of the candidate countries. Here their policy-taker position manifests itself in the most obvious way. None of them, irrespectively of their level of EU maturity or mastery of the negotiations, will be asked about the time or scope of the EU enlargement. Nobody knows when or under which conditions a candidate will become an EU member. Nobody yet knows whether we will witness a merit-based or a politics-driven enlargement, whether the enlargement will be based on a 'big-bang' approach, or whether a small group of countries will be admitted, with subsequent enlargements over future years or decades. Nonetheless, all candidate countries have the task and duty to prepare in the best way possible for the historic opportunity when the EU opens its doors to new members. EU maturity is not only needed at the negotiation table. It is much more important to successful integration of the economy, society and public administration after accession. The first-wave accession countries have not only a chance, but a unique historical responsibility to keep the door open for further enlargements and thereby contribute to strengthening of cohesion and stability of Europe.

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