Proposal for a

DECISION OF THE COUNCIL AND OF THE COMMISSION

concerning the Community position within the Association Council on the transition to the second stage of the Association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, pursuant Article 7 of the Europe Agreement

(presented by the Commission)
EXPLANATORY MEMORANDUM

The Europe Agreement (EA), establishing an Association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, came into force on 1 February 1995.

Article 7 of the above-mentioned Agreement states that the Europe Agreement includes a transition period of a maximum duration of 10 years, divided into two successive stages, each in principle lasting five years as from the date of entry into force of the Agreement. During the course of the 12 months preceding the expiration of the first stage, the Association Council shall meet to decide the transition to the second stage as well as on any possible changes to be brought about as regards measures concerning the content of the provisions governing the second stage.

The questions regarding the transition to the second stage have been discussed between the EU and the Czech authorities at several occasions, amongst others during the Association Committee on 21 May 1999. The discussions led to the conclusion that the parties are ready to comply with the obligations deriving from the transition to the second stage.

The transition to the second stage of the Association has the following implications for the parties:

Movement of workers

- In line with Article 43 of the Europe Agreement, during the second stage referred to in Article 7, or earlier if so decided, the Association Council shall examine further ways of improving the movement of workers, taking into account, inter alia, the social and economic situation in the Czech Republic and the employment situation in the Community. The Association Council should make recommendations to this end.

Establishment

- Following Article 45 (1), (2) and (7) of the Europe Agreement, the Czech Republic shall:

1. as from the entry into force of the Agreement, have granted for the establishment of Community companies and nationals a treatment no less favourable than that accorded to its own companies and nationals, save for the sectors and matters referred to in Annex XVIa and XVIb (Article 45.1 (i)), where such treatment will be granted at the latest by the end of the transitional period referred to in Article 7 (1.2.2005).

2. as from the entry into force of the Agreement have granted in the operation of Community companies and nationals established in the Czech Republic a treatment no less favourable than that accorded to its own companies and nationals (Article 45.1 (ii)).

3. during the transitional periods referred to in Article 7, not have adopted any new regulations or measures which introduce discrimination as regards the
establishment and operation of Community companies and nationals in its territory in comparison to its own companies and nationals (Article 45.2).

4. as from the entry into force of the Agreement have granted the right to Community companies established in the Czech Republic to acquire, use, rent and sell real property, and as regards natural resources, agriculture land and forestry, the right to lease, where these are necessary for the conduct of the economic activity for which they are established (Article 45.7).

The Czech Republic ensures the implementation of the above-mentioned provisions as regards the area of financial services through the following legislation:

- Act No 21 of 1992 on Banks

- Act on Insurance Activities, adopted on 21/12/1999

The Czech Republic ensures the implementation of the above-mentioned provisions as regards Article 45.7 (first sentence), concerning the access of Community companies established in the territory of the Czech Republic to real property, natural resources, agricultural land and forestry, through the following legislation:

- The Foreign Exchange Act No. 528/1990 Coll.

Free movement of capital

- In line with Article 61 of the Europe Agreement, the parties shall, with regard to transactions on the capital account of balance of payments, from the entry into force of the Agreement, ensure the free movement of capital relating to direct investments made in companies formed in accordance with the laws of the host country and investments made in accordance with the provisions of Chapter II of Title IV, and the liquidation or repatriation of these investments and of any profit stemming therefrom.

- In line with Article 61 of the Europe Agreement, the Czech Republic shall:

1. by the end of the fifth year of the Agreement (31.1.2000) ensure the free movement, liquidation or repatriation of all investments linked to the establishment of nationals establishing in the Czech Republic as self employed persons pursuant to Chapter II of Title IV (Establishment).

2. as from the end of the fifth year following the entry into force of the Agreement (31.1.2000), not introduce any new foreign exchange restrictions on the movement of capital and current payments connected therewith between residents of the Community and the Czech Republic and shall not make the existing arrangements more restrictive.

- Article 62 of the EA states that during the five years following the date of entry into force of the Agreement, the parties shall take measures permitting the gradual application of Community rules on the free movement of capital. By the end of the fifth year from entry into force of the agreement (31.1.2000), the Association
Council shall examine ways of enabling Community rules on the movement of capital to be applied in full.

The Czech Republic ensures the full implementation of the above provisions through the following legislation:

- The Foreign Exchange Act No 219/1995

In order to make the transition to the second stage possible, the Council is invited to adopt the annexed proposal for decision concerning the Community position within the Association Council with the Czech Republic on the transition to the second stage.
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concerning the Community position within the Association Council on the transition to the second stage of the Association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, pursuant Article 7 of the Europe Agreement

THE COUNCIL OF THE EUROPEAN UNION,

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with Article 300 (2), first subparagraph thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement between the European Communities and their Member States, of the one part; and the Czech Republic, of the other part, signed in Brussels on 4 October 1993, entered into force on 1 February 1995,

(2) Article 7 of the Europe Agreement provides for a transition period of a maximum of ten years divided into two successive stages, each in principle lasting five years,

(3) The first stage began on 1st February 1995, date of entry into force of the Europe Agreement and terminates, in principle, on 31st January 2000,

(4) The Association Council, in accordance with Article 7 (2) of the Europe Agreement, has regularly examined the application of the Europe Agreement and the accomplishment of the Czech Republic’s economic reforms on the basis of the principles established in the preamble.

(5) The parties are determined to comply with the obligations deriving from the transition to the second stage of the Association,

(6) The Association Council shall decide the transition to the second stage as well as on any possible changes to be brought about as regards measures concerning the content of the provisions governing the second stage,
(7) The Czech Republic has taken the measures necessary to ensure compliance with all obligations resulting from the transition to the second stage.

HAVE ADOPTED THIS DECISION:

Sole Article

The position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, concerning the transition to the second stage of the Association, is the attached draft decision of the Association Council.

Done at Brussels,

For the Council
The President

For the Commission
The President
ANNEX
DRAFT DECISION NO. …/00 OF THE ASSOCIATION COUNCIL BETWEEN THE EUROPAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE CZECH REPUBLIC, OF THE OTHER PART
OF … 2000

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement between the European Communities and their Member States, of the one part; and the Czech Republic, of the other part, and in particular its Article 7, paragraph 3, thereof,

Whereas Article 7 paragraph 1 of the Europe Agreement provides for a transition period of a maximum of ten years divided into two successive stages, each in principle lasting five years,

Whereas the first stage began on 1st February 1995, date of entry into force of the Europe Agreement, and terminates, in principle, on 31st January 2000,

Whereas the Association Council, in accordance with Article 7 (2) of the Europe Agreement, has regularly examined the application of the Europe Agreement and the accomplishment of the Czech Republic’s economic reforms on the basis of the principles established in the preamble.

Whereas the parties are determined to comply with the obligations deriving from the transition to the second stage of the Association,

Whereas the Association Council shall decide the transition to the second stage as well as any possible changes to be brought about as regards measures concerning the content of the provisions governing the second stage,

HAS DECIDED AS FOLLOWS :

Article 1

The transition to the second stage referred to in Article 7 (3) of the Europe Agreement between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, hereby takes effect.
Article 2

This decision shall enter into force on the day of its adoption by the Association Council.

Done at Brussels, …. 2000.

For the Association Council

The President