



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.11.2001
COM(2001) 659 final

Proposal for a

COUNCIL DECISION

**on the principles, priorities, intermediate objectives and conditions contained in the
Accession Partnership with Poland**

(presented by the Commission)

EXPLANATORY MEMORANDUM

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Poland was decided in March 1998. In line with the provisions laid down in Regulation (EC) No. 622/98¹ (article 2), the Partnership was updated a first time in December 1999, taking into account further developments in Poland. Based on the analysis of the Commission's 2001 Regular Report on progress made by Poland towards accession, the Commission considers that the time has come for a further revision of the priorities and intermediate objectives identified in the Accession Partnership. The present proposal for such a revision draws on the findings of the Commission's 2001 Regular Report on progress made by Poland towards accession.

The attached decision does not have financial implications.

In view of the above, the Commission invites the Council to adopt the attached decision.

¹ OJ L 85, 20.3.1998, p. 1

Proposal for a

COUNCIL DECISION

**on the principles, priorities, intermediate objectives and conditions contained in the
Accession Partnership with Poland**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships,² and in particular to Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Luxembourg European Council stated that the Accession Partnership is a new instrument and the key feature of the enhanced pre-accession strategy;
- (2) Regulation (EC) No 622/98 sets out that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities, intermediate objectives and conditions contained in the individual Accession Partnerships, as they are submitted to each applicant State, as well as on subsequent significant adjustments applicable to them;
- (3) Community assistance is conditional on the fulfilment of essential elements, and in particular on the respect of the commitments contained in the Europe Agreements and on progress towards fulfilment of the Copenhagen criteria; where an essential element is lacking, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance;
- (4) The Luxembourg European Council decided that the implementation of the Accession Partnership and progress in adopting the *acquis* will be examined in the Europe Agreement bodies;
- (5) The 2001 Commission's Regular Report presents an objective analysis on Poland's preparations for membership and identifies a number of priority areas for further work;
- (6) In order to prepare for membership, Poland should continue to update its national programme for the adoption of the *acquis*; this programme should set out a timetable for achieving the priorities and intermediate objectives established in the Accession Partnership;

² OJ L 85, 20.3.1998, p. 1

- (7) Poland needs to ensure that the appropriate legal and administrative structures needed for the programming, co-ordination, management, control and evaluation of EC pre-accession funds are in place;

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 2 of Regulation (EC) No 622/98, the principles, priorities, intermediate objectives and conditions in the Accession Partnership for Poland are set out in the Annex hereto, which forms an integral part of this Decision.

Article 2

The implementation of the Accession Partnership shall be examined in the Europe Agreement bodies and by the appropriate Council bodies to which the Commission shall report regularly.

Article 3

This Decision shall take effect on the third day following that of its publication in the Official Journal of the European Communities.

Done at Brussels,

For the Council
The President

ANNEX

1. INTRODUCTION

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Poland was decided in March 1998. As provided for in Regulation (EC) No. 622/98 (article 2), the Accession Partnership was updated a first time in December 1999, taking into account further developments in Poland. The present revision is based on a proposal by the Commission following consultation with Poland, and draws on the analysis of the Commission's 2001 Regular Report on progress made by Poland towards accession.

2. OBJECTIVES

The purpose of the Accession Partnership is to set out in a single framework the priority areas for further work identified in the Commission's 2001 Regular Reports on the progress made by Poland towards membership of the Union, the financial means available to help Poland implement these priorities and the conditions which will apply to that assistance. The Accession Partnership provides the basis for a number of policy instruments which will be used to help the candidate States in their preparations for membership. These include *inter alia* the updated National Programme for the Adoption of the Acquis prepared by Poland, the pre-accession fiscal surveillance procedure, the Pre-accession Economic Programme, the Pre-accession pact on organised crime as well as the National Development Plans, the Rural Developments Plans, a national employment strategy in line with the European Employment Strategy, and sectoral plans necessary for the participation in the Structural Funds after membership and for the implementation of ISPA and SAPARD before accession. Each of these instruments is different in nature and is prepared and implemented according to specific procedures and may be supported by pre-accession aid. They are not an integral part of this Partnership but the priorities they contain will be compatible with it.

3. PRINCIPLES

The main priority areas identified for each candidate State relate to their ability to take on the obligations of meeting the Copenhagen criteria which state that membership requires:

- that the candidate State has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

At its meeting in Madrid in 1995, the European Council stressed the need for the candidate States to adjust their administrative structures to ensure harmonious operation of Community policies after accession and at Luxembourg, in 1997, it stressed that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient; it is necessary to ensure that it is actually applied. The Feira and Gothenburg European Councils in 2000 and 2001 respectively confirmed the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures.

4. PRIORITIES AND INTERMEDIATE OBJECTIVES

The Commission's Regular Reports have highlighted, besides the progress already made, the extent of the efforts which still have to be made in certain areas by candidate States to prepare for accession. This situation requires the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the states concerned, the achievement of which will condition the degree of assistance granted and the progress of the negotiations under way with Poland. The priorities listed in the revised Accession Partnership have been selected on the basis that it is realistic to expect that Poland can complete or take them substantially forward over the next two years (2002 – 2003). Within this list, issues that require particularly urgent action have been highlighted as such. The progress made in meeting the priorities of the 1999 Accession Partnership is assessed in the 2001 Regular Report. This assessment has been used in formulating the priorities for the current Partnership.

Poland submitted an updated version of its National programme for the Adoption of the *Acquis* (NPAA) in June 2001. The NPAA sets out a timetable for achieving priorities and intermediate objectives, based on the 1999 Accession Partnership, as well as necessary administrative structures and financial resources.

The Accession Partnership indicates the priority areas for Poland's membership preparations. Poland will nevertheless have to address all issues identified in the 2001 Regular Report. It is also important that Poland fulfils the commitments of legislative approximation and the implementation of the *acquis* in accordance with the commitments made under the Europe Agreement, and in the context of the negotiation process. It should be recalled that incorporation of the *acquis* into legislation is not in itself sufficient; it will also be necessary to ensure that it is actually applied to the same standards as those which apply within the Union. In all of the areas listed below there is a need for credible and effective implementation and enforcement of the *acquis*.

Drawing on the analysis of the Commission's Regular Report, the following priorities and intermediate objectives have been identified for Poland. These priorities are presented in accordance with the structure of the Regular Report.³

Political criteria

Democracy and the rule of law

- Improve the functioning of the judicial system by measures to upgrade recruitment, training, logistical and clerical support; improve public access to the law; review degree of

³ The order of presentation is that used from the 2000 Regular Reports.

immunity in line with international standards; establish a national training standard for magistrates.

- Continue to implement civil service legislation and establish permanent training capacity for the civil service, in particular related to acquis issues.
- Implement a comprehensive anti-corruption policy.

Economic criteria

- Maintain macroeconomic and budgetary stability.
- Make further progress on the institutional framework for the market economy and sound economic policy management (in particular on issues relating to public expenditure management and further fiscal decentralisation).
- Continue improving the competitiveness of the Polish economy and upgrading of skills in particular in rural and eastern border regions, in particular through SME development and human resources development measures.
- Make further progress on structural reforms, including improving the functioning of labour markets and continuing the process of privatisation of State-owned firms, in particular in the energy sector and the remaining State-owned financial institutions.
- Continue restructuring of the steel sector (e.g. by implementing measures as part of a comprehensive sectoral programme for restoring viability, including control of State-aid and appropriate reductions in capacity); complete restructuring of the coal sector.
- Restructure the Polish railways aiming at financial sustainability.
- Continue improving the functioning of the land market and complete development of property register.

Ability to assume the obligations of membership

Free movement of goods

- **In need of particularly urgent action:** adoption and implementation of secondary legislation in the field of pharmaceuticals.
- Continue transposition of New Approach directives and adopted related European standards.
- Adopt and implement the outstanding legislation on standardisation.
- Continue in parallel to the deletion of the pre-market approval system, the transposition and implementation of legislation in the field of foodstuffs and the rationalisation and reinforcement of the food control administration, as well as the training of inspectors and food operators.
- Continue transposition and implementation of traditional sectoral legislation, notably in the field of medical devices, chemicals and motor vehicles.

- Establish well-functioning market surveillance system and ensure implementing structures for all sectors.
- Adopt and implement a programme for the elimination of outstanding non-tariff market access barriers.
- Abolish by end 2002 National Preference Clause for Public Procurement by introducing access to award procedures in Poland for all Community companies. Implement SIMAP (Public Market Information System).
- Proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28-30 of the EC Treaty and complete administrative arrangements for the future monitoring in this area.

Free movement of persons

- Reinforce the administrative structures for the co-ordination of social security systems.
- Complete alignment of mutual recognition of professional qualifications and diplomas and introduction of the administrative structures required.
- With respect to professional qualifications obtained before harmonisation, Poland should give priority to introducing measures to ensure that all its professionals can, from accession, meet the requirements laid down by the directives.

Freedom to provide services

- Develop monitoring and regulatory bodies, in particular for financial services.

Free movement of capital

- **In need of particularly urgent action:** amend the sectoral legislation restricting foreign direct investments, abolish remaining restrictions.
- Strengthen surveillance and regulatory bodies including the Financial Intelligence Unit.
- Liberalise progressively short-term capital movements.
- Ensure implementation of the recommendations of the Financial Action Task Force.

Company law

- **In need of particularly urgent action:** implement Copyright and Neighbouring Rights Law and amendments.
- **In need of particularly urgent action:** Continue to upgrade intellectual and industrial Property enforcement at administrative and judicial level; increase efforts to fight against piracy and counterfeiting and intensify training for enforcement bodies including judges and prosecutors; ensure better co-ordination among enforcement bodies.
- Take the necessary steps to ensure equal level of protection of industrial property rights with regard to pharmaceuticals.

Competition policy

- **In need of particularly urgent action:** improve transparency and flow of data especially with regard to information on state aid so as to ensure a credible enforcement record.
- Adopt and implement programme for alignment of existing aid in special economic zones.
- Analyse in depth and realign with the obligations under the acquis state aid granted to the sensitive sectors, in particular the automotive and steel industries.
- Reinforce the anti-trust and State aid authorities and procedures and ensure co-ordination and training at all levels.
- Ensure the enforcement of the anti-trust and State aid rules. Increase awareness of the rules among all market participants and aid grantors. Intensify the training of the judiciary in the specific fields of anti-trust and State aid.

Agriculture

- **In need of particularly urgent action:** Upgrade the capacity of agricultural administration and complete preparations for the enforcement and practical application of the management mechanisms of the Common Agricultural Policy, in particular the Integrated Administration and Control System, the Paying Agency and preparation for setting-up the milk quota management system.
- Reinforce the administrative structures needed for the design, implementation, management, monitoring, control and evaluation of EC funded rural development programmes.
- **In need of particularly urgent action:** align and implement veterinary legislation and food safety standards.
- Upgrade inspection arrangements in particular at the future external borders and continue to implement the comprehensive development programme of phytosanitary and veterinary administration border posts. Complete system of animal identification and registration. Implement national laboratory plans for testing and diagnostic facilities, in particular the national reference laboratory; ensure adequate education on disease surveillance and EC animal health legislation at all levels.
- Continue the up grading of agri-food processing establishments so that they are in a position to respect EC food safety standards and legislation. Implement food hygiene, control system, animal waste treatment, modernise dairy farms, residue and zoonosis control programmes.

Fisheries

- Complete the establishment of adequate administrative structures and equipment at central and regional level that can ensure the implementation of the Common Fisheries Policy, including management of resources, inspection and control of fishing activities, the market policy, structural programmes co-financed by the Financial Instrument for Fisheries Guidance, a fishing vessel register and a management plan for the fleet capacity in accordance with available fish resources.

Transport policy

- Continue legal alignment and reinforce administrative capacity in road transport (in particular access to the profession, technical and safety standards, axle weight and dimensions) and maritime transport (in particular ship reporting, maritime safety standards and classification requirements); continue alignment and establish the necessary administrative structures in air transport (in particular air safety and air traffic management).
- Continue legislative alignment and restructuring in the railways sector with a view to the implementation of the revised railways acquis, devote particular attention to the setting-up of an independent infrastructure manager and regulatory body.

Taxation

- Ensure legislative alignment with particular attention to VAT and excise duty rates, including the transitional VAT regime.
- Eliminate discriminatory duties against imports from the EC
- Ensure that new tax measures and existing laws comply with the principles of the Code of Conduct for business taxation.
- Implement national strategy for the improvement of tax and revenue collection and reinforce administrative capacity including control and enforcement procedures and administrative co-operation and mutual assistance.
- **In need of particularly urgent action:** Develop IT systems so as to allow for the exchange of electronic data with the Community and its Member States.

Economic and Monetary Union

- Consolidate the independence of the National Bank of Poland.

Statistics

- Further improve quality and coverage of statistics; ensure adequate resources are available to further strengthen statistical capacities, including at regional level.
- Further adapt and harmonise agricultural statistics and statistical systems.

Social policy and employment

- Complete alignment and ensure proper implementation of EC legislation in the fields of labour law, equal treatment for women and men and health and safety at work. Strengthen the related administrative and enforcement structures, including the labour inspectorates. Adopt legislation against discrimination and develop a timetable for its implementation.
- Align the national system for surveillance and control of communicable diseases and health monitoring and information with those of the EU.
- Continue to support social partners' capacity-building efforts, in particular with a view to their future in the elaboration and implementation of EU employment and social policy,

including the European Social Fund, notably through autonomous bipartite social dialogue.

- Prepare a national strategy, including data collection, with a view to future participation in the European strategy on social inclusion.

Energy

- Continue preparations for the internal energy market (complete the alignment of electricity and gas directives, including the elimination of price distortions and consolidating the regulator).
- Continue the alignment of oil stock requirements in a non-discriminatory and transparent manner, and make progress in ensuring the actual constitution of stocks, including the necessary investments, towards the level of 90 days.
- Step up the improvement of energy efficiency and the use of renewable energy sources and strengthen the relevant institutions in this area.
- Implement the recommendations contained in the Council report on “Nuclear Safety in the Context of Enlargement” with due regard to the priorities assigned in the report.

Telecommunications and information technologies

- **In need of particularly urgent action:** Complete alignment with the acquis and ensure transparent and effective implementation.
- Consolidate national regulatory authority for telecommunications.

Culture and audio-visual policy

- Complete alignment of legislation and continue to strengthen the capabilities of the independent television/radio regulatory authority.

Regional policy and co-ordination of structural instruments

- Establish National Development Plan and define the implementation structures of the final plan.
- Define the bodies in charge of the implementation of Structural Funds and the Cohesion Fund, in particular the Managing and Paying authorities; establish a clear division of responsibilities.
- Ensure effective inter-ministerial co-ordination and clarify responsibilities for regional policy issues.
- Set up the required monitoring and evaluation systems for Structural Funds, in particular for ex-ante evaluation and for the collection and processing of the relevant statistical information and indicators including regional statistics for the purposes of ex-ante evaluation.

- Improve the budgetary system according to structural funds standards; establish financial control arrangements for Structural Funds management, establish and properly staff future managing and paying authorities for Structural Funds management.
- Develop the technical preparation of projects eligible for Structural and Cohesion Funds assistance (*project pipeline*).

Environment

- Complete transposition of the *acquis*, with a special emphasis given to water quality (by adopting the Act on Water and related ministerial regulations) and industrial pollution.
- Continue implementation of the *acquis*, in particular as regards air quality (including improvement of monitoring network), waste management (by achieving full implementation of the directive on waste and the hazardous waste directive, by drawing up waste management plans and by improving the recovery and selection system), water quality (by giving special emphasis to waste water treatment in agglomerations above 100000 (population equivalent), by establishing the inventory for discharges of dangerous substances, by fully implementing the directives on drinking water, on quality of surface water and on nitrates pollution from agricultural sources) and industrial pollution (including the issuing of integrated permits under the IPPC directive).
- Continue strengthening the administrative, monitoring and enforcement capacity at national, regional and local level, with particular emphasis on permitting and planning and the establishment of the institutional structures to implement directives in the field of chemicals (also accredited laboratories) as well as in the field of nature protection.
- Continue the integration of environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

Consumers and health protection

- Continue alignment of legislation, strengthen market surveillance and enforcement including through a strengthening of consumer organisations and consumer awareness.

Co-operation in the field of justice and home affairs

- Ensure due implementation of the Schengen Action Plan.
- Continue preparation for future participation in the Schengen Information System by developing national databases and registers.
- Continue efforts in upgrading the equipment at border crossing points, but also at the green border and blue border and in particular at the future external border of the Union; allocating adequate national budgetary and administrative resources; align visas.
- Ensure full co-operation between national and EU law enforcement agencies by providing necessary administrative and logistical support; ensure the alignment of data protection practices; align cross-border surveillance, ensure exclusively civilian co-ordinated crime fighting services.

- Adopt and implement a strategy to combat organised crime (from prevention to prosecution); combat trafficking in human beings; adopt and implement a national anti-drugs strategy; including the establishment of a National drugs Focal Point to co-operate with the European Monitoring Centre on Drugs and Drug Abuse; effectively address money-laundering and economic crime.
- Improve the internal co-operation within the police, with other law enforcement agencies and with the judiciary in particular to strengthen the fight against organised crime and eliminate overlapping investigations.
- Take the necessary steps in order to ensure the implementation of the Community instruments in the area of judicial co-operation in civil matters.
- Ensure that the pre-requirements to the conclusion of a co-operation agreement with Europol are met.
- Take the necessary steps to complete alignment with the Convention on the Protection of the Communities' Financial interests and its Protocols.

Customs Union

- **In need of particularly urgent action** fully implement the Business Strategy for the Customs Service on schedule, in particular the implementation of the IT strategy of the Polish customs administration. Develop IT systems so as to allow for the exchange of computerised data between the EC and Poland.
- Strengthen integrated border management - including co-operation with the national partner services and neighbouring countries to establish integrated joint working procedures.
- Implement the integrated tariff and the modernisation strategy for the customs administration including regional levels.
- Ensure uniform application of the Customs code throughout the country.
- Complete alignment regarding simplified procedures; strengthen the administrative and operational capacity of Polish customs (notably as regards border management and co-ordination with other law enforcement bodies).

External relations

- Take the necessary measures to ensure that any international treaties or agreements including bilateral investment treaties incompatible with the *acquis* are renegotiated or terminated by accession.

Financial control

- **In need of particularly urgent action:** complete Public Internal Financial Control policy paper and relevant secondary legislation at national and regional level; set up a central unit for co-ordination and harmonisation of the methodology for financial management and control as well as for internal audit throughout the government; set up internal audit/control units in spending centres.

- Introduce functional independence for internal auditors at both central and decentralised levels. Strengthen public internal financial control functions at all levels through enhancement of the administrative capacity.
- Strengthen the concept and practice of managerial accountability.
- Bring the activities of the Supreme Chamber of Control in line with international and EC standards.
- Consolidate anti fraud unit.
- Continue efforts to ensure the correct use, control, monitoring and evaluation of EC pre-accession funding as a key indicator of Poland's ability to implement the financial control *acquis*.

5. PROGRAMMING

For the period 2000-2006, in addition to Phare, financial assistance to Poland comprises support for pre-accession measures for agriculture and rural development through the pre-accession instrument SAPARD (Council Regulation (EC) No 1268/99, OJ L 161, 26.6.1999, p.87); and support for infrastructure projects in the fields of environment and transport through the structural instrument ISPA (Council Regulation (EC) No 1267/99, OJ L 161, 26.6.1999, p. 73), which gives priority to measures similar to the cohesion fund in the pre-accession period. Under these national allocations, Poland can also fund part of its participation in community programmes including the Research and Technological Development Framework Programmes and programmes in the areas of Education and Enterprise. In addition Poland will have access to funding from multi-country and horizontal programmes directly related to the *acquis*. Joint financing by the applicant States is systematically required for all investment projects. Since 1998 the Commission has worked with the European Investment Bank and the International Financial Institutions, in particular the European Bank for Reconstruction and Development and the World Bank, with a view to facilitating the co-financing of projects relating to pre-accession priorities.

6. CONDITIONALITY

Community assistance for financing projects through the three pre-accession instruments Phare, ISPA and SAPARD is conditional on respect by Poland of its commitments under the Europe Agreement, further steps towards satisfying the Copenhagen criteria and in particular progress in meeting the specific priorities of this revised Accession Partnership. Failure to respect these general conditions could lead to a decision by the Council on the suspension of financial assistance on the basis of Article 4 of Regulation (EC) No 622/98.

7. MONITORING

The implementation of the Accession Partnership is monitored in the framework of the Europe Agreement. As underlined by the European Council in Luxembourg, it is important that the institutions of the Europe Agreement continue to be the framework within which the adoption and implementation of the *acquis* can be examined. The relevant sections of the Accession Partnership are discussed in the appropriate sub-committee. The Association Committee discusses overall developments, progress and problems in meeting the

Partnership's priorities and intermediate objectives as well as more specific issues referred to it from the sub-committees.

The PHARE Management Committee ensures that actions financed under all three pre-accession instruments, PHARE, ISPA, and SAPARD, are compatible with each other as well as with the Accession Partnerships as laid down in the Co-ordinating Regulation (Council Regulation (EC) No 1266/99, OJ L 161, 26.6.1999, p. 68).

The Accession Partnership will continue to be amended as necessary in accordance with Article 2 of Regulation (EC) No 622/98.