



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.2.2004
COM(2004) 113 final

Proposal for a

COUNCIL DECISION

concerning the provisional application of the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area and the provisional application of four related agreements.

(presented by the Commission)

EXPLANATORY MEMORANDUM

Background

Article 128 of the Agreement on the European Economic Area (EEA) stipulates that all countries becoming members of the European Union must also apply to become contracting parties to the EEA Agreement. Following the successful conclusion of the EU enlargement negotiations at the December 2002 Copenhagen European Council, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak republic and Slovenia ("Acceding States") applied to join the EEA Agreement.

To this end, the Council adopted a mandate on 9 December 2002 enabling the Commission to negotiate for the Community and for the current Member States. The EEA EFTA States, Iceland, Liechtenstein and Norway negotiated individually, as did the Acceding States.

The EEA enlargement negotiations were launched on 9 January 2003 and concluded on 3 July 2003, almost three months later than originally foreseen, due to complications in the negotiations concerning quotas for marine products. The Agreement on the participation of Acceding States in the European Economic Area ("EEA Enlargement Agreement") together with four related agreements¹ was, with some delay, signed by all contracting parties on 14 October 2003.

EEA Enlargement Package

The EEA Enlargement Agreement defines the amendments to the EEA Agreement in the context of EEA enlargement. The bulk of the amendments originate from the EU Act of Accession. The arrangements for the application of Community acquis by the Acceding States upon accession to the EU, such as technical adaptations and transitional periods, are taken over in the EEA Agreement from the Act of Accession. The EEA EFTA States will also contribute € 600 million over a five-year period to alleviating social and economic disparities in the enlarged EEA.

The elements of the results of the negotiations that are not incorporated in the EEA Enlargement Agreement itself are contained in four related agreements:

- A bilateral Norway-EC agreement on a Norwegian financial mechanism of € 567 million for the period 2004-2009.
- An additional protocol to the EC-Iceland Free Trade Agreement of 1972.
- An additional protocol to the EC-Norway Free Trade Agreement of 1973.
- A bilateral EC-Norway agreement on certain agricultural products.

¹ 2003/0160(AVC), 11902 ADD 1
2003/0160(AVC), 11902 ADD 2
2003/0160(AVC), 11902 ADD 2-CO
2003/0160(AVC), 11902 ADD 3
2003/0160(AVC), 11902 ADD 4
2003/0160(AVC), 11902 ADD 5
2003/0160(AVC), 11902 ADD 6

A provision according to which each of the above texts should enter into force simultaneously is included in the EEA Enlargement Agreement and in the four related agreements.

Provisional Entry into Force

The EU Accession Treaty is to enter into force on 1 May 2004. With the enlargement of the EU, the new Member States will automatically become part of the internal market. The EEA Agreement extends the internal market to the EEA EFTA States and it would be very difficult for the good functioning of the internal market were the enlargement of the EU and the enlargement of the EEA not to take effect simultaneously.

Although the EEA Enlargement Agreement and the four related agreements have now been signed by all contracting parties, because of the delays incurred first during the negotiations and subsequently, in the signature process, it is to be expected that not all contracting parties will be able to ratify the EEA Enlargement Agreement and the four related agreements in time for them to enter into force on 1 May 2004.

The Commission therefore proposes that the Community, pending its entry into force, decides to apply the EEA Enlargement Agreement and the four related agreements provisionally as of 1 May 2004, and that each of the EEA EFTA States does likewise: such agreements on provisional application would take the form of an exchange of letters between the European Community and each of the three EEA EFTA States.

Conclusion

The Commission proposes that the Council adopt the annexed decision, based on Article 310 EC, in conjunction with Article 300(2) EC, on the provisional application of the EEA Enlargement Agreement and of the four related agreements as of 1 May 2004.

Proposal for a

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concerning the provisional application of the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area and the provisional application of four related agreements.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 128 of the Agreement on the European Economic Area (“EEA Agreement”) stipulates that any European State becoming a member of the Community shall apply to become a Party to the EEA Agreement, and that the terms and conditions for such participation shall be subject to an agreement between the contracting parties and the applicant State.
- (2) Following the successful conclusion of the EU enlargement negotiations, the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic (“Acceding States”) submitted applications to become parties to the EEA Agreement.
- (3) On the basis of the authorisation given to the Commission on 9 December 2002, the EEA enlargement negotiations were concluded on 3 July 2003 and an agreement between Iceland, Liechtenstein, Norway (“EEA EFTA States”), the Community, the EU Member States and the Acceding States on the participation of the Acceding States in the European Economic Area (“EEA Enlargement Agreement”), together with four related agreements, was signed by the Contracting Parties on 14 October 2003.
- (4) The EU Accession Treaty is to enter into force on 1 May 2004, on which date the Acceding States will become fully integrated into the internal market.
- (5) The EEA Agreement extends the internal market to the EEA EFTA States and, pending the completion of the procedures required to bring the EEA Enlargement Agreement into force, it is necessary to provide for the provisional application from 1 May 2004 of the EEA Enlargement Agreement and the four related agreements in order to maintain the good functioning of the internal market within the European Economic Area.

- (6) The Agreements between the Community and each of the EEA EFTA States on provisional application in the form of an Exchange of Letters should therefore be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreements in the form of an Exchange of Letters between the Community and each of the EEA EFTA States which provide for the provisional application as from 1 May 2004 of the EEA Enlargement Agreement and four related agreements is hereby approved on behalf of the Community.

The texts of the Agreements in the form of an Exchange of Letters are attached to this Decision.

Article 2

The President of the Council is authorised to designate the person(s) authorised to sign the Agreements in the form of an Exchange of Letters and thus express the Community's agreement to be bound by them.

Article 3

This Decision shall be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council
The President*

Annex

AGREEMENTS

in the form of an exchange of letters

relating to the provisional application of the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area and the provisional application of four related agreements

A: Letter of the European Community to the Republic of Iceland

Sir,

With reference to the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, in the European Economic Area (“EEA Enlargement Agreement”) and four related agreements signed on 14 October 2003, I have the honour to inform you that the European Community is prepared to apply the EEA Enlargement Agreement and the Agreement between the European Community and the Republic of Iceland on an additional protocol to the Free Trade Agreement of 22 July 1972 between the European Economic Community and the Republic of Iceland, on a provisional basis, with effect from 1 May 2004, provided that the Republic of Iceland is disposed to do the same.

I should be obliged if you could confirm the Republic of Iceland’s agreement to the content of this letter.

Please accept, Sir, the assurance of my highest consideration

For the European Community

B: Letter of the Republic of Iceland to the European Community

Sir,

I have the honour to acknowledge receipt of and confirm the Republic of Iceland’s agreement with your letter of today’s date, which reads as follows:

“With reference to the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, in the European Economic Area (“EEA Enlargement Agreement”) and four related agreements signed on 14 October 2003, I have the honour to inform you that the European Community is prepared to apply the EEA Enlargement Agreement and the Agreement between the European Community and the Republic of Iceland on an additional protocol to the Free Trade Agreement of 22 July 1972 between the European Economic Community and the Republic of Iceland, on a provisional basis, with effect from 1 May 2004, provided that the Republic of Iceland is disposed to do the same.”

Please accept, Sir, the assurance of my highest consideration

For the Republic of Iceland

C: Letter of the European Community to Principality of Liechtenstein

Sir,

With reference to the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, in the European Economic Area (“EEA Enlargement Agreement”) and four related agreements signed on 14 October 2003, I have the honour to inform you that the European Community is prepared to apply the EEA Enlargement Agreement on a provisional basis, with effect from 1 May 2004, provided that the Principality of Liechtenstein is disposed to do the same.

I should be obliged if you could confirm the Principality of Liechtenstein’s agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration

For the European Community

D: Letter of the Principality of Liechtenstein to the European Community

Sir,

I have the honour to acknowledge receipt of and confirm the Principality of Liechtenstein’s agreement with your letter of today’s date, which reads as follows:

“With reference to the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, in the European Economic Area (“EEA Enlargement Agreement”) and four related agreements signed on 14 October 2003, I have the honour to inform you that the European Community is prepared to apply the EEA Enlargement Agreement on a provisional basis, with effect from 1 May 2004, provided that the Principality of Liechtenstein is disposed to do the same.”

Please accept, Sir, the assurance of my highest consideration

For the Principality of Liechtenstein

E. Letter of the European Community to the Kingdom of Norway

Sir,

With reference to the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, in the European Economic Area (“EEA Enlargement Agreement”) and four related agreements signed on 14 October 2003, I have the honour to inform you that the European Community is prepared to apply the EEA Enlargement Agreement and the following three related agreements:

- Agreement between the Kingdom of Norway and the European Community on a Norwegian Financial Mechanism for the period 2004 – 2009,
- Agreement between the European Community and the Kingdom of Norway on an additional protocol to the Free Trade Agreement of 14 May 1973 between the European Economic Community and the Kingdom of Norway,
- Agreement in the form of an exchange of letters between the European Community and the Kingdom of Norway concerning certain agricultural products,

on a provisional basis, with effect from 1 May 2004, provided that the Kingdom of Norway is disposed to do the same.

I should be obliged if you could confirm the Kingdom of Norway’s agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration

For the European Community

F: Letter of the Kingdom of Norway to the European Community

Sir,

I have the honour to acknowledge receipt of and confirm the Kingdom of Norway's agreement with your letter of today's date, which reads as follows:

“With reference to the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, in the European Economic Area (“EEA Enlargement Agreement”) and four related agreements signed on 14 October 2003, I have the honour to inform you that the European Community is prepared to apply the EEA Enlargement Agreement and the following three related agreements:

- Agreement between the Kingdom of Norway and the European Community on a Norwegian Financial Mechanism for the period 2004 – 2009,
- Agreement between the European Community and the Kingdom of Norway on an additional protocol to the Free Trade Agreement of 14 May 1973 between the European Economic Community and the Kingdom of Norway,
- Agreement in the form of an exchange of letters between the European Community and the Kingdom of Norway concerning certain agricultural products,

on a provisional basis, with effect from 1 May 2004, provided that the Kingdom of Norway is disposed to do the same.”

Please accept, Sir, the assurance of my highest consideration

For the Kingdom of Norway