COUNCIL DECISION

of 28 January 2002

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

(2002/84/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta [1],

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 555/2000 complements Regulation (EC) No 622/98 [2] which 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 Association Agreement 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 2001 Commission's regular report presents an objective analysis on Cyprus's preparations for membership and identifies a number of priority areas for further work.

(5) In order to prepare for membership, Cyprus 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.

(6) Cyprus needs to ensure that the appropriate legal and administrative structures needed for the programming, coordination, management, control and evaluation of Community pre-accession funds are in place.

(7) The European Council at Helsinki underlined that a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement has been reached by the completion of accession negotiations, the Council's Decision on accession will be made without the above being a precondition. In this the Council will take into account all relevant factors,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 1(2) of Regulation (EC) No 555/2000, the principles, priorities, intermediate objectives and conditions in the Accession Partnership for Cyprus 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 Association 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, 28 January 2002.

For the Council

The President

J. PIQUÉ I CAMPS

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[1] OJ L 68, 16.3.2000, p. 3.

[2] 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 the Accession Partnerships (OJ L 85, 20.3.1998, p. 1).

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 Cyprus was decided in March 2000. The present revision is based on a proposal by the Commission following consultation with Cyprus, and draws on the analysis of the Commission's 2001 regular report on progress made by Cyprus 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 Cyprus towards membership of the Union, the financial means available to help Cyprus implement these priorities and the conditions which will apply to that assistance. This 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 Cyprus, the pre-accession fiscal surveillance procedure, the pre-accession economic programme, the pre-accession pact on organised crime, a national employment strategy in line with the european employment strategy, and sectoral plans necessary for the participation in the Structural Funds after membership. 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 Cyprus. The priorities listed in the revised Accession Partnership have been selected on the basis that it is realistic to expect that Cyprus can complete or take them substantially forward over the next two years (2002 to 2003). Within this list, issues that require particularly urgent action have been highlighted as such. The progress made in meeting the priorities of the 2000 Accession Partnership is assessed in the 2001 regular report. This assessment has been used in formulating the priorities for the current Partnership.

Cyprus submitted an updated version of its national programme for the adoption of the *acquis* (NPAA) in September 2000. The NPAA sets out a timetable for achieving priorities and intermediate objectives, based on the 2000 Accession Partnership, as well as necessary administrative structures and financial resources.

The Accession Partnership indicates the priority areas for Cyprus' membership preparations. Cyprus will nevertheless have to address all issues identified in the 2001 regular report. It is also important that Cyprus fulfils the commitments of legislative approximation and the implementation of the *acquis* in accordance with the commitments made under the Association 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 2001 regular report, the following priorities and intermediate objectives have been identified for Cyprus. These priorities are presented in accordance with the structure of the regular report ([1]).

Efforts for a political settlement

— continue efforts to support a settlement under the auspices of the UN.

Economic criteria

— accelerate liberalisation of a number of protected sectors of the economy, including telecommunications, air transport, and energy,

— improve conditions for enterprise and development, with particular attention to sectoral diversification and small and medium-sized enterprises (SMEs).

Ability to assume the obligations of membership

Free movement of goods

— in need of particularly urgent action: adopt framework legislation for the implementation of the new and global approach principles,

— pursue implementation of 'New approach' Directives on the basis of this framework legislation; pursue alignment of remaining traditional sectoral legislation, in particular in the field of pharmaceuticals for veterinary use, cosmetics and foodstuffs,

— reinforce horizontal administrative infrastructure and implementing capacity in the sectors covered by product specific legislation,

— develop and implement a market surveillance strategy,

— align legislation on public procurement with the *acquis* concerning coverage and the review system,

— proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28 to 30 of the Treaty and complete administrative arrangements for the future monitoring in this area.

([1]) The order of presentation is that used as from the 2000 regular reports.

Free movement of persons

— complete alignment of mutual recognition of professional qualifications and diplomas and further develop required administrative structures, education and training programmes,

— with respect to professional qualifications obtained before harmonisation, Cyprus should give priority to introducing measures to ensure that all its professionals can, from accession, meet the requirements laid down by the directives,

— reinforce the administrative structures for the coordination of social security.

Freedom to provide services

— in need of particularly urgent action: reinforce supervision of financial services,

— proceed with bringing the cooperative and credit societies sector in line with the *acquis*.

Free movement of capital

— continue to align rules on medium and long-term capital operations and prepare the way for subsequent liberalisation of short-term operations,

— liberalise foreign participation in financial services and tourism,

— ensure compliance with the recommendations of the financial action task force,

— complete alignment of legislation with second Directive against money laundering.

Company law

— align and enforce trade mark, copyright and neighbouring rights legislation; reinforce administrative capacity especially by strengthening border controls. Maintain sustained efforts on enforcement of intellectual property rights in particular on the fight against piracy and counterfeiting. Improve cooperation among enforcement bodies; intensify training for enforcement bodies including judges and prosecutors.

Competition

— in need of particularly urgent action: complete the legislative framework; bring State aid to international business enterprises (offshore) in line with the *acquis*; further reinforce the administrative capacity (both with respect to antitrust and State aid control); ensure enforcement of the rules in antitrust and State aid; maintain a comprehensive State aid inventory and annual report; bring the existing aid schemes in line with the *acquis* well before accession; increase awareness of the rules among all market participants and aid grantors; intensify the training of the judiciary in the specific fields of antitrust and State aid.

Agriculture

— set up the administrative structures needed for the design, implementation, management, monitoring, control and evaluation of Community funded rural development programmes,

— 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 and the Paying Agency, as well as for the implementation and enforcement of veterinary and phytosanitary and food safety legislation; bring the status and operation of the current monopolies in line with the *acquis*,

— continue alignment of veterinary and phytosanitary legislation and upgrade inspection arrangements,

— complete transposition of legislation on transmissible spongiform encephalopathies, plant passports, maximum residue levels, animal nutrition and ensure implementation and enforcement, including testing of animal diseases, in particular transmissible spongiform encephalopathies, in accordance with the *acquis*.

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 the market policy, structural programmes co-financed by the Financial Instrument for Fisheries Guidance, and a fishing vessel register,

— reduce the number of fishing vessels operating outside the Mediterranean Sea in accordance with agreed objectives and timetable.

Transport policy

— in need of particularly urgent action: complete alignment and implementation of maritime transport legislation, taking into account its latest developments, in particular enforce maritime safety standards and further strengthen the administrative capacity of the Department of Merchant Shipping, in accordance with the Department's 2000 to 2002 action plan in order to improve the flag State performance of the Cypriot fleet,

— continue alignment and strengthen administrative capacity in road transport, in particular transport of dangerous goods, and in aviation (particularly air safety).

Taxation

— ensure due alignment of the tax *acquis*, with particular attention to alignment of the VAT and excise duty regimes, including the transitional VAT regime. In need of particular urgent action: proceed with alignment of VAT and excise duty rates to that of the Community *acquis* and elimination of discriminatory measures against imports from the Community,

— ensure that existing and future tax legislation complies with the principles of the code of conduct for business taxation,

— strengthen administrative capacity including control and enforcement procedures, and administrative cooperation 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.

Statistics

— further improve quality and coverage of statistics; ensure adequate resources are available to further strengthen statistical capacities.

Social policy and employment

— continue to support social partners' capacity building efforts, in particular with a view to their future role in the development and implementation of Community employment and social policy, including the European Social Fund, notably through autonomous social dialogue. Strengthen administrative capacity in the fields of labour law and equal opportunities,

— complete alignment and ensure proper implementation of Community legislation in particular in the field of equal treatment for women and men. Strengthen the related administrative and enforcement structures, including the labour inspectorates and establish an independent guarantee fund for employees in the case of employer's insolvency. Adopt legislation against discrimination and develop a timetable for its implementation,

— complete alignment and implement Community legislation on public health, and adapt the national structures for surveillance and control of communicable diseases and health monitoring and information,

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

Energy

— continue alignment of oil stocks requirements; make progress in ensuring the actual constitution of the stocks, including the necessary investments in storage capacity, towards the level of 90 days; develop the administrative structure,

— prepare for participation in the international energy market, notably concerning the electricity Directive; eliminate remaining price distortions; establish a regulator and a common system operator for both transmission and distribution,

— improve energy efficiency: enhance the use of renewable energy, 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

— adopt new law on telecommunications and postal services and introduce a comprehensive regulatory framework, in particular in the fields of licensing, interconnection, universal service, numbering and data protection; terminate monopoly for mobile voice telephony.

Regional policy and coordination of structural instruments

— in need of particularly urgent action: establish a territorial organisation allowing for the effective implementation of the Structural Funds Regulations,

— prepare a coherent development plan as required by the Structural Funds Regulations; define the implementation structures of the final plan; define the managing and paying authorities; improve the administrative capacity, in particular in terms of recruitment and training,

— 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,

— align with the specific financial management and control procedures for future Structural and Cohesion Funds under the relevant Community Regulations,

— develop the technical preparation of projects eligible for Structural and Cohesion Funds assistance (project pipeline).

Environment

— complete transposition of the *acquis*, with special emphasis on waste management,

— continue implementation of the *acquis*, with special emphasis on urban waste water treatment and packaging waste; develop an implementation plan for the water framework Directive,

— continue strengthening the administrative and enforcement capacity, with special emphasis on nature protection legislation,

— continue integration of environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

Cooperation in the field of Justice and Home Affairs

— continue efforts aiming at a fair and effective application of the law on asylum, in particular the provision for manifestly unfounded claims. Ensure that an independent authority examines the asylum applications in appeal; ensure that implementing rules and regulations are drafted in accordance with international and European standards; enhance administrative capacities in the domain and improve overall conditions in reception centres; establish a system for the integration of refugees,

— complete alignment with common visa policy,

— ensure due implementation of the Schengen action plan, and continue preparation for future participation in the Schengen information system by developing national databases and registers,

— ensure due implementation of immigration legislation, in particular the proper application of immigration procedures,

— review the readmission agreements with neighbouring countries and their implementation in conformity with the principle of 'non-refoulement'. Continue efforts to reinforce the technical equipment for border control,

— maintain sustained efforts in the fight against money laundering, ensuring sufficient human resources and qualified staff as well as training. Implement the national drugs strategy and improve the fight against drug trafficking,

— continue efforts to implement the data protection legislation,

— improve the internal cooperation within the police and with other law enforcement agencies and with the judiciary in particular to strengthen capacities to fight organised crime,

— take the necessary steps in order to ensure the implementation of the Community instruments in the area of judicial cooperation in civil matters,

— ensure that the prerequirements to the conclusion of a cooperation agreement with Europol are met,

— take the necessary steps to align the legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols.

Customs union

— accelerate legislative harmonisation including as regards the introduction of all customs regimes with economic impact and simplified procedures; strengthen the institutional and administrative capacity. Implement the reform and modernisation programme of the customs department,

— in need of particularly urgent action: continue the implementation of the IT strategy of the Cypriot customs administration. Develop IT systems so as to allow for the exchange of computerised data between the Community and Cyprus.

External relations

— take the necessary measures to ensure that any international treaty or agreement incompatible with the *acquis* is renegotiated or terminated by accession.

Financial control

— further develop functional independence for internal controllers/auditors at both central and decentralised levels; complete work on an audit manual and on developing audit trails for the control of Community funds,

— strengthen public financial control functions through the provision of adequate staff, training and equipment,

— confirm a suitable contact point for OLAF for the protection of the Communities' financial interests, and start cooperation with OLAF through this contact point,

— strengthen the fight against fraud,

— continue efforts to ensure the correct use, control, monitoring and evaluation of EC pre-accession funding as a key indicator of Cyprus' ability to implement the financial control *acquis*.

5. **Programming**

After the expiry on 31 December 1999 of the fourth Financial Protocol concluded with Cyprus, Council Regulation (EC) No 555/2000 replaced the financial protocols from 2000 onwards for a period of five years. The total budget allocated to Cyprus for the period 2000 to 2004 adds up to EUR 57 million, of which one third of each annual allocation is to be used for financing the 'bi-communal' projects. The programming exercise for each year has to be submitted for opinion to the PHARE Management Committee.

Activities financed under this new Regulation will focus assistance on priority operations to prepare for accession as defined within this and the previous accession partnership with Cyprus, as well as the participation in certain Community programmes and agencies including research and technological development framework programmes.

The 2000 budget (EUR 9 million) has been programmed to support activities in the following sectors: internal market (taxation and customs); Justice and Home Affairs; administrative cooperation; participation in Community programmes in the sector of education (Leonardo, Socrates, Youth); and bi-communal activities (Nicosia master plan).

Cyprus is still participating in the multicountry activities of the MEDA programme, and also receives EIB support.

6. **Conditionality**

Community assistance for financing projects is conditional on respect by Cyprus of its commitments under the Association 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 Association Agreement and in particular in the Association Committee.

Council Regulation (EC) No 555/2000 stipulates that 'the Commission shall be assisted by the Committee provided for in Article 9(1) of Council Regulation (EEC) No 3906/89'. This means that the Management Committee that shall supervise the pre-accession programmes with Cyprus is the same as for the PHARE programme.

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