COUNCIL DECISION

of 28 January 2002

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

(2002/86/EC)

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 [1], 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 Estonia's preparations for membership and identifies a number of priority areas for further work.

(6) In order to prepare for membership, Estonia 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.

(7) Estonia 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,

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 Estonia 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 its publication in the Official Journal of the *Official Journal of the European Communities*.

Done at Brussels, 28 January 2002.

For the Council

The President

J. PIQUÉ I CAMPS

[1] 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 Estonia 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 Estonia. The present revision is based on a proposal by the Commission following consultation with Estonia, and draws on the analysis of the Commission's 2001 regular report on progress made by Estonia 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 Estonia towards membership of the Union, the financial means available to help Estonia 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 Estonia, 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 development 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 Estonia. The priorities listed in the revised Accession

Partnership have been selected on the basis that it is realistic to expect that Estonia 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 1999 Accession Partnership is assessed in the 2001 regular report. This assessment has been used in formulating the priorities for the current Partnership.

Estonia submitted an updated version of its national programme for the adoption of the *acquis* (NPAA) on 12 April 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 Estonia's membership preparations. Estonia will nevertheless have to address all issues identified in the 2001 regular report. It is also important that Estonia 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 Estonia. These priorities are presented in accordance with the structure of the regular report ([1]).

Political criteria

Democracy and the rule of law

— continue to improve the efficiency and independence of the judiciary. Address, in particular, workload in courts and backlogs of pending court cases; improve infrastructure to ensure the due functioning of courts; ensure the enforcement of courts' decisions; improve citizen's access to justice; widen the availability of legal aid.

Human rights and protection of minorities

— continue the integration of non-citizens by implementing concrete measures, including language training for non-Estonian speakers; provide necessary financial support for the implementation of these measures,

— ensure that the implementation of language legislation is in line with both international standards and the Europe Agreement and respects the principles of justified public interest and proportionality.

Economic criteria

— continue efforts to improve labour market responsiveness, in particular by upgrading education and training, in order to reduce the level of unemployment,

— continue efforts to improve the conditions for the creation and development of private enterprises,

— implement the restructuring plan for the oil-shale sector,

— complete land reform, with particular emphasis on the registration of agricultural land.

Ability to assume the obligations of membership

Free movement of goods

— complete the transposition and implementation of 'New approach' directives and traditional sectoral legislation,

— reinforce the national accreditation system and market surveillance system; ensure that the metrology organisation is fully operational,

([1]) The order of presentation is that used in the 2000 regular report.

— continue with the adoption of EN standards.

— proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28, 29 or 30 of the Treaty and complete administrative arrangements for the future monitoring in this area.

Free movement of persons

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

— complete alignment of mutual recognition of professional qualifications and diplomas and continue efforts to introduce required administrative structures, education and training programmes,

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

Freedom to provide services

— complete alignment of financial services legislation,

— reinforce the supervision of financial services, in particular of securities markets,

— complete alignment of data protection legislation, strengthen and ensure the independence of the supervisory body.

Free movement of capital

— in need of particularly urgent action: align legislation on payment systems and ensure effective implementation,

— align legislation on direct investment in those sectors still restricted (security services),

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

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

Company law

— in need of particularly urgent action: complete alignment in intellectual and industrial property rights, and strengthen administrative and judicial capacity with a view to tackling piracy and counterfeiting.

Competition policy

— ensure the enforcement of anti-trust and State aid rules; increase awareness of the rules among all market participants and aid granters; intensify the training of the judiciary in the competition field.

Agriculture

— reinforce the administrative structures needed for the design, implementation, management, monitoring, control and evaluation upon accession of Community-funded rural development programmes,

— upgrade the capacity of the 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 and the Paying Agency, as well as for the implementation and enforcement of veterinary and phytosanitary and food safety legislation,

— complete upgrading of food processing industry, in particular in the dairy, meat and fish processing sectors in line with Community food safety standards; reinforce the food control administration,

— complete system of animal identification; implement food safety control systems (hazard analysis and critical control points), animal waste treatment, residue and zoonosis control programmes,

— complete alignment of veterinary and phytosanitary legislation and upgrade inspection arrangements, with particular emphasis on improvement of laboratory capacity, with a view to fulfilling the obligations of control of domestic production and at future external borders,

— 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 with sufficient institutional resources and equipment at central and regional level that 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 resources.

Transport policy

— complete legislative alignment in maritime transport, taking into account its latest developments, and in particular, strengthen the implementation of maritime safety standards, and further reinforce the relevant administrative capacity in order to improve the flag State performance of the Estonian fleet,

— complete legislative alignment and reinforce administrative capacity in the inland waterways sector, in the road sector in particular as regards road safety, dangerous goods and taxation, and in the railway transport sector with a view to the implementation of the revised railway *acquis*, particularly by setting up an independent allocation and charging body; complete legislative alignment in aviation, and in particular, set up an independent aviation accident investigation authority.

Taxation

— complete alignment with the tax *acquis* as regards VAT (zero-rating and the transitional VAT regime), excise duties and direct taxation,

— ensure that legislation complies with the principles of the Code of Conduct for Business Taxation,

— strengthen administrative capacity and control procedures and improve administrative cooperation and mutual assistance,

— develop IT systems so as to allow for the exchange of electronic data with the Community and its Member States,

— Implement the Holding and Movements Directive.

Statistics

— further improve the quality and coverage of statistics; ensure that adequate resources are available to further strengthen statistical capabilities, including at regional level.

Social policy and employment

— complete alignment and ensure proper implementation of Community legislation in particular in the field of equal treatment for women and men. Strengthen the capacity of enforcement bodies, in particular the National Labour Inspectorate and ensure coherence and coordination between these. Adopt legislation against discrimination and develop a timetable for its implementation,

— complete transposition and continue to implement the *acquis* on public health and develop a national system for surveillance and control,

— 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 bipartite social dialogue,

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

Energy

— continue preparations for the internal energy market and alignment of legislation with the electricity and gas directives; establish an independent transmission system operator (electricity); eliminate remaining price distortions and bring levels of market opening in line with the *acquis*,

— strengthen the administrative capacity of the independent regulator of the energy sector,

— make progress in building up levels of oil stocks, including necessary investments, towards the level of 90 days, and develop adequate administrative structures,

— improve energy efficiency, promote 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

— complete transposition and implementation of the *acquis* including local loop unbundling; ensure effective functioning of the liberalised market through effective interconnection regulation and availability of carrier selection facilities.

Culture and audiovisual policy

— strengthen administrative capacity and coordination of relevant authorities in order to ensure implementation of the *acquis*.

Regional policy and coordination of structural instruments

— ensure effective interministerial coordination and appropriate partnership with a view to both programming and implementation; prepare a single programming document as required by the Structural Funds regulations, including an *ex ante* evaluation,

— ensure that the designated managing authority and paying authorities will progressively build up their capacity in order to be able, upon accession, to fulfil their responsibilities and deliver the tasks assigned to each of them according to the Structural Funds Regulations,

— set up monitoring and evaluation systems; align financial management and control procedures with the specific requirements of the Structural Funds Regulations,

— develop the technical preparation of projects eligible for Structural and Cohesion Funds assistance.

Environment

— complete transposition of the *acquis*, with particular emphasis on water quality and waste management,

— continue implementation of the *acquis*, in particular as regards landfill of waste (establish waste management plans and find sustainable solutions to the handling of wastes from extraction, incineration and refining of oil-shale), discharge of dangerous substances in the aquatic environment (establish pollution reduction programmes and ensure monitoring) and nitrate pollution from agricultural sources; strengthen efforts to meet microbiological parameters for water intended for human consumption,

— continue strengthening administrative capacity, in particular at regional and local level,

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

Consumers and health protection

— complete legislative alignment and strengthen market surveillance and enforcement authorities.

Cooperation in the field of Justice and Home Affairs

— ensure implementation of the Schengen action plan,

— improve coordination among law enforcement bodies and the judiciary; continue the fight against organised crime; strengthen capacities to deal with money laundering,

— continue preparation for future participation in the Schengen Information System by developing various national databases and registers,

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

— continue the fight against drugs by developing and implementing the national drugs strategy and strengthening the administrative bodies involved in its implementation; prepare for full participation in the work of European Monitoring Centre for Drugs and Drug Addiction,

— align legislation on visas, legal migration and asylum; implement border and migration legislation to prevent illegal immigration; properly implement the Refugees Act,

— pursue border demarcation with Russia; strengthen border management and control, including sea surveillance,

— complete legislative alignment with the Convention on the Protection of the Communities' Financial Interests and its Protocols.

Customs union

— ensure effective implementation of tariffs and tariff-related measures; further align legislation concerning cultural goods and precursors; continue the fight against fraud and corruption; continue to implement the customs ethics policy,

— reinforce administrative and operational capacity including border control; develop capacity in the field of revenue collection and on all customs procedures related to tariffs; improve coordination between the relevant bodies as regards enforcement and revenue collection of duties; improve the capacity of customs laboratories,

— continue the implementation of the IT strategy of the Estonian customs administration; develop IT systems so as to allow for the exchange of computerised data between the Community and Estonia.

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

— ensure the implementation of the new legislation on public internal financial control; continue to develop internal audit/control units in all spending centres; strengthen managerial accountability and public financial control functions through the provision of adequate staff, training and equipment,

— complete the legislative framework for external audit; formalise the working relationship between the Supreme Audit Office and the Parliament,

— start cooperating effectively with OLAF through the designated central 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 Estonia's ability to implement the financial control *acquis*.

5. **Programming**

For the period 2000 to 2006, in addition to PHARE, financial assistance to Estonia comprises support for pre-accession measures for agriculture and rural development through the pre-accession instrument Sapard (Council Regulation (EC) No 1268/1999, 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 1267/1999, 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, Estonia 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 Estonia will have access to funding from multicountry 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 Estonia 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 subcommittee. 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 subcommittees.

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 Coordinating Regulation (Council Regulation (EC) No 1266/1999, 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.