

Proposal for a Council Decision for a common position on the adoption of a Decision by the Joint Committee of the Convention of 20 May 1987 on a common transit procedure and the Joint Committee of the Convention of 20 May 1987 on the simplification of formalities in trade of goods concerning an invitation to Estonia, Latvia, Lithuania and the Republic of Slovenia to accede to these Conventions

(2002/C 291 E/05)

COM(2002) 249 final — 2002/0113(ACC)

(Submitted by the Commission on 24 May 2002)

EXPLANATORY MEMORANDUM

The 1987 EC-EFTA Conventions on a common transit procedure and the simplification of formalities in trade in goods (hereafter: the Conventions) by the candidate countries for accession to the EU currently have 8 Contracting Parties: the EC, Norway, Switzerland, Iceland, Poland, Hungary, Czech Republic and Slovak Republic.

The following countries are interested in being invited to accede to the Conventions: Estonia, Latvia, Lithuania, Bulgaria, Romania, Slovenia and Turkey.

By its Communication from the Commission to the European Parliament and the Council of 31 May 2001 ⁽¹⁾ the Commission has set out its strategy to prepare the candidate countries for accession to the Conventions. Core of the Commission's approach is that any country applying for accession to the Conventions can only be invited to accede if it is able to implement the whole of the *acquis* on common transit and the simplification of formalities (SAD) in force at the time, at legislative, operational and computerisation level. On the latter point, the only countries that can be invited to accede to the Conventions are those possessing a computerised transit system that meets the legal, technical and financial requirements of the New Computerised Transit System (NCTS) in force at the time of the invitation.

Assessment of the countries' compliance with the set standards shall be done on an individual basis and will require an evaluation of the administrative capacity as well as conformance testing for the connection to NCTS. The candidate countries, with the support of PHARE are currently undertaking the necessary steps for the connection to NCTS at a date which is planned to occur in the next 18 months.

The EC, as Contracting Party to the Conventions, would have to establish a common position to agree to the proposal to invite new candidate countries to accede to the Conventions by means of a Decision of the Council on the basis of Article 133 of the EC Treaty. In order to be able to provide the legal basis for the use of the common transit procedure as quickly as possible after proof has been provided that the candidate country complies with the set conditions, it would be preferable if the Council Decision provides the basis of acceptance for a group of countries, starting with those countries which are candidate for accession to the EU by 2004, leaving it to the Commission which represents the EC in the Joint Committees to launch the invitation procedure for the accession of new partner countries.

The legal assurance from Community side, that the candidate countries' compliance with the accession criteria will immediately result in the possibility to accede to the Conventions, should for those countries, in line with our computerisation and interconnectivity priorities under the Accession Partnership, be an incentive to continue, or more likely to increase their efforts. The positive effects for the customs transit procedure will remain even if accession of these countries to the EU is realised shortly afterwards, given the fact that the Conventions are fully compatible with the Community *acquis*.

Accession to the Conventions will further strengthen the economic and political integration between the EC and the candidate countries. Moreover, the use of the common transit procedure could be instrumental to a more fluent phasing out of formalities at those borders which in future will become internal EC borders. It will allow to anticipate to a situation which will occur after enlargement by reallocating control activities from these future internal borders to the EC's future external border and inland customs offices.

⁽¹⁾ COM(2001) 289 final.

Finally, accession to the Conventions, under the principle of computerisation will further shift the balance away from the use of the (paper-based) TIR transit system, towards a more modern, and fraud proof Community/common transit system.

This Council decision should be the basis for the first invitation for accession to the Republic of Slovenia, which should be ready to comply with the conditions for accession at the end of 2002. The Commission will propose the decisions of the Joint Committees established by both Conventions, and launch the procedure for the adoption of the invitations addressed to each candidate country, complying with the technical conditions for accession to the Conventions after such accomplishment has been stated by the Commission following consultations with the customs experts of the Member States.

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300 (2) first sentence thereof,

The Decisions of the EC-EFTA Joint Committee on common transit concerning the invitations to Estonia, Latvia, Lithuania and the Republic of Slovenia to accede to the Convention of 20 May 1987 on a common transit procedure which shall be addressed to each of these countries in order to permit them to accede to the Convention are hereby approved.

Having regard to the proposal from the Commission,

Article 2

(1) Whereas Article 15 of the Convention on a common transit procedure⁽¹⁾ empowers the Joint Committee set up by that Convention to adopt by decision invitations to third countries within the meaning of Article 3(1)(c) to accede to that Convention in accordance with Article 15a.

The Decisions of the EC-EFTA Joint Committee on the simplification of formalities in trade of goods concerning the invitations to Estonia, Latvia, Lithuania and the Republic of Slovenia to accede to the Convention of 20 May 1987 on the simplification of formalities in trade of goods which shall be addressed to each of these countries in order to permit them to accede to the Convention are hereby approved.

(2) Whereas Article 11 of the Convention on the simplification of formalities in trade of goods⁽²⁾ empowers the Joint Committee set up by that Convention to adopt by decision invitations to third countries within the meaning of Article 3(1)(c) to accede to that Convention in accordance with Article 11a,

Article 3

After the technical conditions for accession have been fulfilled by each of the candidate countries the EC representative in the Joint Committees shall propose the decisions to invite each of them to accede to the Convention and vote on these decisions in line with Articles 1 and 2.

⁽¹⁾ OJ L 226, 13.8.1987, p. 2.

⁽²⁾ OJ L 134, 22.5.1987, p. 2.