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Foreword

On 12 June 1997 the Advisory Council on International Affairs (AIV) was asked to compile an advisory report on the enlargement of the European Union. By way of preparation, the Council placed this request before one of its four permanent committees, namely the European Integration Committee, the members of which are as follows: Professor F.H.J.J. Andriessen (chair), Dr B. Knapen, H.J. Brouwer, W.S.J.M. Buck, Ms A.E.J.M. Cook-Schaapveld, Dr D.J.M. Corbey, Ms N. Kroes, H.C. Posthumus Meyjes, Dr S. Rozemond, P. Scheffer, Professor H.G. Schermers, W.K.N. Schmelzer, Professor A. Szász and Ms M.G. Wezenbeek-Geuke. The following also contributed to the draft report: Professor F. van Dam (Development Cooperation Committee), Professor W.J.M. van Genugten (Human Rights Committee) and E.P. Wellenstein (Peace and Security Committee). The Committee was assisted by the secretary, G.J. van der Zwan, and by M.P.M. Versteden, a trainee.

The European Integration Committee drew up a draft report on the enlargement of the European Union and presented it to the AIV, which then adopted it.

The basic thrust of the report is that all European countries should be allowed, in principle, to accede to the European Union. This principle forms the background to chapter II, *The origins and development of the Union*. Central and East European countries wishing to accede must fulfil a number of conditions, these being the subject of chapter III, *Conditions for the accession of new Member States*. One important question is whether enlargement to include countries from Central and Eastern Europe can go ahead without further ado or whether it will have to wait until after further reform of the EU's institutional structure. Such reform is essential to the proper functioning of the Union, whether or not it has 20 Member States. The question also arises in this connection of the impact the accession of new countries will have on political, security, financial, economic and institutional matters and in the field of the *acquis communautaire*. These matters are discussed in chapter IV, *Effect of enlargement on a number of policy areas*. The report closes with chapter V, *Summary and conclusions*.

Contents

Foreword

I	Introduction	7
II	The origins and development of the Union	8
	Peace and security	8
	Economic progress	8
	Community structure	8
	New objectives	9
III	Conditions for the accession of new Member States	10
IV	Effect of enlargement on a number of policy areas	13
	Political and security issues	13
	Economics	13
	Finance	14
	Acquis communautaire	14
	Institutional structure	15
V	Summary and conclusions	18
Annexe	Request for advisory report	

I Introduction

On 12 June 1997 the Minister for Foreign Affairs, the Minister of Defence, the Minister for Development Cooperation and the State Secretary for Foreign Affairs asked the Advisory Council on International Affairs (AIV) to produce a report on the enlargement of the European Union. The Council was asked to consider the enlargement strategy, to list the countries whose accession would be most in the interests of the Netherlands from an economic, financial, political, etc. point of view, to describe the advantages and disadvantages of the accession of certain countries and to estimate the relevance of a timetable in the matter. The AIV was asked to produce its report by October 1997. Given the short space of time available, the present report should be regarded as provisional. Other issues related to enlargement, and the external effect of enlargement on development cooperation, will be discussed in a subsequent report which the AIV plans to publish early in 1998.

The present report looks at the countries with which the EU can open negotiations, and outlines the advantages and disadvantages attached to the accession of new Member States, with a view to determining whether it is desirable to promote the accession of certain countries. Possible risks are also considered.

The importance of EU enlargement to the Netherlands can be described as the importance of a climate ensuring that:

- a) countries in Central and Eastern Europe can participate in structures that guarantee peaceful international relations; and
- b) the Netherlands can maintain relations with these countries in all the fields in which the Union is active.

In interpreting Dutch interests, the AIV has taken as its starting point the following four aims listed in the government policy document entitled "Enlargement of the European Union: possibilities and problems":

1. achieving a stable security policy, socioeconomic development, and democratic stability in Central and Eastern Europe;
2. maintaining the active participation of Germany in the European integration process and the joint European and Atlantic security structure;
3. maintaining the internal market and the Community legal order, and thus a European Union that is capable of decisive action; and
4. achieving the aforementioned objectives at acceptable cost.

The AIV would point out that some of these four aims might conflict. It would also point to a fifth Dutch interest, i.e. the fact that increasing globalisation of the world economy calls for greater regional cooperation, for example within the framework of the European Union.

II The origins and development of the Union

Half a century on, it is appropriate to give some thought to the origins and development of the European Union. The origins of European integration lie in the challenges that faced the nations of Europe after the Second World War, prompting six states to work together. This cooperation was embodied in the Treaty establishing the European Coal and Steel Community (ECSC Treaty, 1951), the Treaty establishing the European Atomic Energy Community (Euratom Treaty, 1957) and the Treaty establishing the European Economic Community (EEC Treaty, 1957). These treaties put into words the objectives of the participating countries, in such phrases as "safeguarding world peace", "the contribution which an organised and vital Europe can make to civilisation is indispensable to ... peaceful relations" and "the establishment of common bases for economic development".

The objectives set by the treaties can be divided into two closely connected categories: firstly, the promotion of the peace and security of the continent of Europe and secondly, the achievement of economic progress for the states of Europe.

Peace and security

This objective was primarily concerned with internal peace and security, in other words overcoming disputes between rival countries like France and Germany. This led to the creation of a structure such that powers - initially over such basic industries as coal and steel - were transferred from the participating countries to a supranational level.

Economic progress

The principal concern of European cooperation when it began in the 1950s was the reconstruction of Europe after the devastation of the Second World War, primarily by promoting the prosperity of the people of Europe. Over the years a further objective emerged, namely the notion of being able to meet competition from, for example, the United States and Japan by means of closer cooperation in the EC and, later, the EU. A united Europe would also be able to play a significant role when it came to placing matters of economic and financial policy on the world agenda and in the field of development cooperation. This was one of the reasons behind efforts to create the single market: a market without internal frontiers, allowing the free movement of persons, goods, services and capital.

Community structure

Both objectives - peace and security and economic progress - prompted the creation of a Community structure under which national powers were transferred to a supranational, i.e. European, level. This restricts the policy-making ability of individual countries, thus making armed conflict impossible and creating scope for new, potentially positive, policies such as the single market. Under this structure, the powers transferred from the Member States are allocated to and divided among the Council of Ministers, the European Commission, the European Parliament and the European Court of Justice. In essential fields, decisions must be taken by majority vote, in many cases by qualified majority voting (QMV), while unanimity is required in other policy fields. (Under the Treaty of Amsterdam the EU's research activities moved from unanimity to QMV.) Elements of a supranational regime and elements of intergovernmental cooperation have thus left their mark on the Community structure from the outset. In cases requiring unanimity, for example social and fiscal matters, competences have been transferred on a conditional basis, as it were; on condition that all the Member States are prepared for that competence to be implemented in the way proposed. The emphasis has gradually shifted towards unanimity, particularly

since the Luxembourg Accords. Intergovernmental forms of cooperation have gradually assumed greater importance. For example, the European Parliament and the European Court of Justice were hardly involved at all in the institutional structure for the second and third pillars laid down in the Maastricht Treaty.

New objectives

The European Union is facing new internal and external challenges. These include - to an increasing extent - the energy problem, and the globalisation of the world economy which has given rise to growing dynamism and competition. Numerous problems with an international dimension, such as world trade, monetary coordination, migration, crime and environmental issues, can no longer be dealt with at national level. The emphasis on the protection of human rights, minority rights and the strengthening of the democratic legal order is also on the increase. All in all, the power of individual countries to take action is gradually ebbing away, so that policy needs to be made at supranational level - with appropriate democratic control - if these problems are to be resolved.

Further integration through enlargement to include Central and East European countries should perhaps be seen, in both European and global terms, as one of the Union's more important new objectives. It is in line with the historical trend that began with the collapse of the Berlin Wall and the disintegration of Comecon and the Soviet empire. The years since 1989 have witnessed the disappearance of divisions between countries that had been at odds for some 40 years. Enlargement is a political given that should no longer be open to debate. Decisions still have to be taken as to how, how soon and under what conditions accession can take place.

Enlargement is in keeping with the EU's objectives, for the accession of new Member States will help to ensure internal stability, peace and security on the continent of Europe and economic progress for the people of Europe. This applies not only to Western and Southern Europe but also to Central and Eastern Europe. Enlargement is also in line with the awareness on the part of the peoples of Europe that territorial integrity and cultural diversity are complementary. It would be a historic error not to take this step, which will have a decisive influence on the unity of the Continent.

III Conditions for the accession of new Member States

Every European country that is associated with the Union should, in principle, be permitted to accede. The phrase "in principle" indicates that countries wishing to join the Union must fulfil a number of conditions, which were defined as follows by the European Council meeting in Copenhagen in 1993: "*Membership requires that the candidate country 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. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union*".

A distinction can be drawn between:

- a) conditions which countries must have fulfilled when negotiations begin: these include matters in respect of which there should be no question of transitional provisions, such as human rights, good governance and legal protection for minorities. Countries wishing to accede to the Union must have put their house in order in this regard, in accordance with the standards set by the Council of Europe, subject to the margin of appreciation that the Strasbourg organs allow in respect of certain norms to countries that are party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Secondly, applicant countries must have achieved economic progress such that it will probably be possible for the *acquis communautaire* to be applied in the medium term;
- b) conditions which countries have to meet by the time of their accession. This means that they must be able to accept the entire *acquis communautaire*, with the exceptions of the areas in which transitional provisions apply.

The AIV's subsequent report will discuss the grave problem of transitional periods in more detail. It should be noted here, however, that the requirement of acceptance of the *acquis* in its entirety may be at variance with the preference - in general - for comparatively early accession. Strictness in setting transition periods (which sometimes must inevitably be long), with exceptions, may clash with the political imperative of rapid accession which both the applicant countries and the Union itself have declared to be a priority.

In all, 15 countries have applied for membership of the European Union. Ten of them are Central and East European countries which have an association agreement, the others being Norway, Switzerland, Turkey, Cyprus and Malta. It should be noted that the various countries' applications cannot all be considered at the same time. After the Swiss people, for example, voted against membership of the European Economic Area (EEA) in a referendum, Switzerland maintained its application but placed it in cold storage for the time being. Malta's application was shelved following the population's rejection of accession. Norway's application was also shelved when the people, in a referendum, rejected the agreement concluded between the EU and Norway in 1994. Turkey, which does not fulfil the conditions listed at a), will be examined in more detail in the discussion of the pre-accession strategy.

The EU promised to start accession negotiations with Cyprus six months after the conclusion of the Treaty of Amsterdam. The dispute over the government of the island should not stand in the way of negotiations; indeed negotiations might help to resolve the dispute.

In July 1997, on the basis of the conditions set by the European Council, the European Commission published its opinion or *avis* on the applications for accession. The Commission is of the opinion that five countries - Estonia, Poland, the Czech Republic, Hungary and Slovenia - already fulfil the requirements and that accession negotiations can therefore begin with these five alone. However, there are a number of options as regards opening negotiations. The EU could:

- open negotiations with all the applicant countries;
- open negotiations only with countries about which there is no difference of opinion within the EU (i.e. Poland, the Czech Republic and Hungary, in line with the decision of July 1997 that these three should be admitted to NATO);
- postpone negotiations on the grounds that the Treaty of Amsterdam did not introduce enough of the institutional changes necessary for enlargement;
- open negotiations with the countries that satisfy the conditions which countries must have fulfilled when negotiations begin.

There is something to be said for each of these options, although preference should be given to the last.

The European Commission's *avis* makes it clear that there is still a great deal of work to be done, in both the countries with which the Commission believes negotiations can begin and those which do not yet satisfy the negotiation conditions. In the Commission's opinion, Slovakia does not yet fulfil the democratic and human rights standards required of a Member State. On the other hand, the Commission believes that countries such as Romania, Bulgaria, Latvia and Lithuania do not qualify for negotiations on economic grounds, in that they will not be in a position to apply the *acquis communautaire* in the medium term.

Drawing a distinction between the associated countries is a distressing procedure and will be perceived as such. Nevertheless, the AIV can understand the choices made in the Commission's *avis*. The AIV did not see it as its task to verify all the data on which the Commission based its conclusions, it takes the view that the Commission's proposals can serve as the basis on which to proceed, but would express a reservation. The suggestion that negotiations be opened only with Estonia in the first instance will drive a wedge between the Baltic States. The argument advanced by the Commission in support of this suggestion is that economic conditions in Latvia and Lithuania are not such as to allow negotiations to begin. However, the disparities in economic progress do not appear to be of a magnitude such as to justify drawing an a priori distinction between the Baltic States which would be undesirable on political and historical grounds. The AIV is therefore of the opinion that special efforts will be required to prepare Latvia and Lithuania, too, for accession negotiations designed to admit the Baltic States to the Union either at the same time or in the quickest possible succession.

Notwithstanding the foregoing, credible prospects of accession must be held out to the European countries which have concluded association and Europe agreements with the Union but which do not yet fulfil the criteria for opening negotiations. This should be done by providing them with financial and technical assistance and by affording them market access. Drawing a distinction between countries should not lead to the emergence of new divisions. No exceptions should be made to this rule, as the European Commission does in respect of Turkey. Turkey, too, should have a credible prospect of accession.

The importance of a pre-accession strategy, with appropriate resources to support the

process of social transformation, is clear. This problem was addressed as early as the European Council meeting in Cannes in 1995, and the Commission is right to stress its importance. The pre-accession strategy is desirable for another reason: since the end of the Cold War and the collapse of the totalitarian regimes in Central and Eastern Europe there has been a real chance of latent disputes developing into open conflict. The prospect of accession to the EU (for example in the form of Europe agreements) has induced the governments of these countries to defuse potential conflicts (in relation to minorities, for example). It is therefore essential that they continue to have the prospect of ultimately being able to accede to the Union. If the misguided notion that accession was impossible were to gain ground, the result could be instability.

IV Effect of enlargement on a number of policy areas

Over the next few years the European Union will have to take decisions - independently of the accession process - which will determine how the Union will look and function in the early years of the 21st century. The Common Foreign and Security Policy (CFSP) will have to be developed further. International crime, which could jeopardise the internal stability of the Union, must be tackled. Reforms must be introduced in the EU's finances, including the cohesion and structural funds, and in the Common Agricultural Policy (CAP). While these reforms are necessary in themselves, they gain an added dimension - particularly the reform of the CAP - in the light of enlargement. The rest of this advisory report discusses the impact of enlargement on certain policy areas.

Political and security issues

The political importance of enlargement lies in the fact that it will put an end, once and for all, to the divisions that have separated the countries of Europe since the Second World War. The inclusion of the countries of Central and Eastern Europe in cooperative fora such as the EU offers a historic opportunity of achieving peace and security in Europe on a permanent basis.

The accession of Poland, the Czech Republic and Hungary to the Union will enhance stability in Europe and will not essentially affect the EU's security situation. The political considerations in relation to the Baltic States are more complex. The basic principle should be that countries that are EU Member States should be able to decide for themselves which security structure they wish to belong to. That freedom should be respected by all countries. However, greater convergence between the EU, the WEU and NATO would be desirable from the point of view of developing a common security policy for the EU.

Economics

The economic consequences of the accession of new Member States are difficult to estimate in advance. This need not be a problem, since enlargement is based primarily on political rather than economic motives. Moreover, enlargement will probably bring economic advantages in its wake, particularly in the longer term. Statistics show an increase in trade between the Netherlands and Central and Eastern Europe in recent years. In 1996, for example, Dutch exports to Poland rose by approximately 8%, to the Czech Republic by 19% and to Estonia by as much as 26%. Exports to Hungary, which rose by no more than 2%, lagged behind. Figures on Dutch direct investment show a similar trend. Direct investment in the Czech Republic rose from 84 million guilders in 1994 to 296 million in 1996, and in Poland from 349 million in 1994 to 718 million in 1996. Direct investment in Hungary fell from 211 million guilders to 206 million over the same period. It should be noted in this connection, however, that trade and direct investment are still very low in absolute terms. It was impossible to break these figures down further in the short space of time available for the compilation of this report. The expansion of the single market will have favourable consequences for the Netherlands and those of its EU partners with extensive trade relations. The accession of new Member States will lead to a more far-reaching division of labour that will on balance be advantageous to all the Member States. Steps must be taken to guard against the incomplete or incorrect application of the *acquis communautaire* in the countries acceding (for example through the continued existence of subsidies that are not in accordance with Community law, thus distorting competition). The AIV intends to examine the economic consequences of enlargement in more detail in its subsequent report.

Finance

Following the accession of countries with a relatively low GNP, funding the Union will require greater efforts. In budgetary terms, these countries will receive more than they contribute. The advent of new Member States will also lead to more radical reform in a number of policy areas, such as the CAP and the structural funds, than would have been the case without enlargement.

Given the economic situation in the countries acceding, enlargement will entail costs, which will largely be borne by the existing Member States. The European Commission assumes that enlargement can be funded within existing financial arrangements, under which a maximum of 1.27% of the Member States' GNP is transferred to the Union. The Commission assumes that this percentage is sufficient to cover EU expenditure until the year 2006. This assumption is based on an expected annual growth rate between 2000 and 2006 of 2.5% in the current Member States and of 4% in the countries acceding. The Commission proposes that the current Own Resources Decision be continued, with the aim of avoiding a prolonged debate about the EU's finances (a field in which decisions must be taken by unanimous vote). A disadvantage of maintaining the status quo is that this would mean continuing the compensation granted in the past to the United Kingdom (and to a lesser extent to the Federal Republic of Germany). The European Commission believes that negotiations on this rebate should not begin until after the accession of new Member States. For further discussion of the Commission's position in this matter, the AIV would refer to its subsequent report. However, the AIV would point out here that it is not possible to implement major policy changes without taking account of their financial implications.

On the subject of allocating resources from the structural funds to applicant countries in Central and Eastern Europe and to the countries that are already eligible for such funding, the AIV takes the view that the objective of respecting the existing financial structure should not result in different treatment being given to countries in similar situations.

The Commission's proposals would result in reductions in the amount the Netherlands receives from the structural funds and under the CAP. The Netherlands will thus become even more of a net contributor. Germany, too, is a net contributor; for many years it has made the largest contribution to the EU budget. Although there is thus a connection between enlargement and financing, it would not be appropriate to posit too close a connection between net contributions and enlargement. Net contributor status is related to the financing mechanisms and the allocation of the available resources. Only a small proportion will go to the countries of Central and Eastern Europe in the future. It would therefore not be correct to question enlargement on the basis of the Netherlands' position as a net contributor.

If it is the case that some countries unjustifiably transfer too much money to the Union, the EU funding system as such should be debated and not connected directly to enlargement. In that case, questions could be raised about the considerable amounts that the southern Member States will continue to receive from the structural and cohesion funds even after the accession of countries which would, economically speaking, be more eligible for these resources. In assessing the position of a net contributor, account must be taken of the wider economic context and the related advantages to the Netherlands of membership of the Union. EU funding will also be considered in the subsequent report.

Acquis communautaire

An important point to be taken into account in considering the accession of new Member States is the extent to which they will be capable of applying the *acquis communautaire* in

full within a reasonable time. The basic principle is that countries acceding should be able to apply the entire corpus of the *acquis* - legislation, case law, decisions and treaties - within their own territory at the time they accede. In principle the *acquis* will apply in full in new Member States from their accession, unless agreement has been reached on exceptions. It is essential to the functioning of the Union, and in particular that of the internal market, that countries be able to apply the *acquis*. Much of the case law in the field of the internal market is based on the principle of the reciprocal recognition of norms: for example, Member States should in principle admit goods, professionals and services which satisfy the relevant norms in their country of origin to their own markets unless they can show that important safeguards have not been complied with. Many of the directives in the fields of the internal market and the common agricultural policy are based on the principle of home country control, which means that the receiving Member State must in theory assume that products, professionals and services comply with European rules, and have been monitored in the country of origin. It is only in exceptional cases that the receiving state can take measures, and in that event it should notify the European Commission.

Temporary exceptions will have to be permitted in relation to certain sectors, for example, agricultural policy, the movement of capital and the free movement of persons.

In the light of the political considerations discussed above, which make it desirable for Central and East European countries to accede as soon as possible, the impossibility of applying the *acquis* in full immediately after accession will have to be accepted. However, the Union and the countries acceding will have to make a major joint effort to ensure that as much of the *acquis* as possible can be applied. The importance of this can hardly be emphasised enough. It is a highly complex problem which is of the greatest significance to the functioning of the internal market. It is difficult to give an opinion in the abstract on permissible tolerance levels with regard to the acceptance and implementation of the *acquis*. At this point the AIV will therefore confine itself to stating that the order of priorities which has been adopted for enlargement implies a margin of discretion in relation to problems in the functioning of the market. The AIV will return to the implications of this issue later in this report and will discuss them in more detail in the subsequent one.

Institutional structure

In recent years a connection has always been made between the accession of new Member States and the functioning of EU institutions. The form taken by the Community in the 1950s was based on the existence of six Member States, a number which has now risen to 15. Moreover, as stated above, a shift is under way from Community to intergovernmental cooperation, a trend which may be reinforced by the addition of a fairly large number of new Member States.

In the past each enlargement was accompanied by institutional changes. The Commission and the European Parliament were expanded, for example, and the weighting of votes in the Council of Ministers reviewed. However, fundamentally the structure remained the same. A structure that was designed for six Member States will undoubtedly cause problems if it has to cope with 20 or 25. To avoid such problems, the European Council meeting in Copenhagen, which laid down the conditions for the accession of new Member States, concluded as follows: *"The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries"*. On this basis, arguments could now be put forward for an entirely new structure. However, in view of the differences of opinion that exist between the Member States as to the Union's future structure, it is doubtful whether it is possible to reach agreement at present on any such fundamental change. For pragmatic reasons, therefore, the Union will have to continue to build upon the existing *acquis communautaire*.

The changes to be made include modifications in the workings of the European Commission. As it takes its decisions by majority vote, nothing need be done to its decision-making procedures. However, in the event of enlargement the Commission will have too many members for the available policy areas, thus creating rivalries and inefficiency. However, it will be difficult to limit the number of Commissioners as each Member State wants to be represented on the Commission.

Enlargement will also give rise to problems for the Council. As the number of Member States increases, it will become more and more difficult to take decisions in the policy areas where unanimity is required, for every Member State will be able to obstruct decision-making. The problem need not in principle arise in areas where decisions are taken by qualified majority vote, although there too the practice of endeavouring to achieve consensus may hinder decision-making. In short, decision-making will become more difficult with enlargement of the Union.

More generally, with the advent of more Member States and a more heterogeneous Union, it will become necessary to simplify the legislative process. Over the years, much European legislation has become highly detailed, and its application in this more heterogeneous Union could hinder the passage of future legislation. It might be possible to make greater use of framework legislation: the main principles of policy could be laid down at European level, in accordance with the principle of subsidiarity, while implementation in the form of specific legislation can take place at Member State level. In such cases the Court of Justice in Luxembourg could assess whether the specific legislation is in accordance with and sufficiently implemented the framework legislation. The AIV plans to discuss the problems relating to legislation in its next report.

In addition to the foregoing, other institutional problems will arise, particularly in relation to the division of powers between the Council and the Commission. Efforts were made in the past to shift executive powers from the Council to the Commission, so far without sufficient success. Attention will have to be devoted to this issue when the Union is enlarged.

The Treaty of Amsterdam went some way towards resolving the institutional problems. The valuable points in this connection are as follows:

- qualified majority voting has been introduced in a number of policy areas of relevance to individuals, such as consumer policy;
- the European Parliament has been given the right of co-decision in certain policy areas, thus reducing the democratic deficit somewhat. However, the absence of proper democratic control remains a serious flaw in the Union's institutional structure;
- immigration and asylum policy will, in the long term, be dealt with at Community level (although decisions will still require unanimity). This means that the European Parliament and the Court of Justice will now have a say in these areas;
- the Schengen Agreement is to be integrated into the framework of the European Union;
- the Council will adopt the general strategies for the CFSP on a unanimous basis, and implementation will be a Community matter;
- a title on flexibility has been included, making it possible, albeit subject to certain conditions, for Member States to cooperate more closely than others wish to.

The Amsterdam Treaty also states that the size of the Commission will be restricted if no more than five new countries accede ¹ with the proviso that the number of votes wielded by each Member State in the Council (known as the weighting) must be reviewed before membership of the Commission is limited, in order to ensure that the larger Member States carry more weight in EU decision-making. However, these changes do not go far enough to effect the institutional reforms required if a much larger Union is to function adequately. In any event, these reforms will not be completed before negotiations begin.

They should however be in place before new Member States accede. Every effort will therefore have to be made to guarantee in good time a proper institutional basis for a greatly enlarged Union. If steps are not taken, enlargement will only result in a decline in the Union's functioning. This must, at the very least, be regarded as a serious possibility: an unattractive prospect for both the EU and the new Member States which should be avoided if at all possible. However, this is by no means certain given the profound differences of opinion between the Member States on this issue.

The preceding reflections on the *acquis communautaire*, the inevitable temporary (albeit in some cases prolonged) derogations and the likelihood that the institutional structure will not be properly modified highlight two important problem areas in the enlargement process. Once again the familiar question of widening versus deepening arises, with the slight difference that deepening implies not only strengthening the institutional structure but also the preservation (as far as possible and as soon as possible) of the *acquis* of all the Member States of the Union, including the new ones. This is by no means a new question, but it must now be considered in a more highly charged political context than ever before, namely the context of post-1989 Europe. Of course, it is a question that need not be answered today, but it is not irrelevant to the continuation of the process of negotiation and integration. The issues at stake are expectations pitched at a high political level, the dynamics of the reform process in Central and Eastern Europe and the prevention of the emergence of a political and psychological vacuum with all the attendant dangers of instability in that part of Europe. In short, what is at stake is the credibility of the prospect of accession, not only for the second but also for the first group of countries.

The AIV would point to the possibility of tension between the debate on the accession of new Member States and the necessary institutional reforms. Old and new Member States would feel tricked if in the future they were all members of a Union where little trace could be found of the old and new ideals and objectives. Every effort must be made to achieve a satisfactory outcome whereby the newly acceding countries comply with the *acquis* and the institutional structure is reformed. The importance of this - to both existing and new Member States - cannot be overemphasised. The political imperative of enlargement should therefore be used to the full for this purpose. The AIV believes that historical and political reality dictates that failure to achieve sufficient institutional reform or insufficient compliance with the *acquis* must not be allowed to stand in the way of accession. The question of whether and if so to what extent this will involve falling short of a minimum limit should be examined in due course on the basis of the progress made by the internal and external negotiations and an assessment of political priorities.

1 *Protocol on the institutions with the prospect of enlargement of the European Union.*

Article 1

At the date of entry into force of the first enlargement of the Union, notwithstanding Article 157(1) of the Treaty [...] the Commission shall comprise one national of each of the Member States, provided that, by that date, the weighting of the votes in the Council has been modified, whether by reweighting of the votes or by dual majority, in a manner acceptable to all Member States, taking into account all relevant elements, notably compensating those Member States which give up the possibility of nominating a second member of the Commission.

Article 2

At least one year before the membership of the European Union exceeds twenty, a conference of representatives of the governments of the Member States shall be convened in order to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions.

V Summary and conclusions

On 12 June 1997 the Advisory Council on International Affairs (AIV) was asked to compile an advisory report on the enlargement of the European Union. The Council was asked to consider the enlargement strategy, to list the countries whose accession would be most in the interests of the Netherlands from an economic, financial, political, etc. point of view, to describe the advantages and disadvantages of the accession of certain countries and to estimate the relevance of a timetable in the matter. The AIV looks at a number of important questions in this provisional report.

The importance of EU enlargement to the Netherlands can be described as the importance of a climate ensuring that:

- a) countries in Central and Eastern Europe can form part of structures that guarantee peaceful international relations; and
- b) The Netherlands can maintain relations with these countries in all the fields in which the Union is active.

The European Commission proposed that accession negotiations be opened with the Czech Republic, Estonia, Hungary, Poland and Slovenia. However, the Commission's opinions (*avis*) make it clear that there is still a great deal of work to be done, in both the countries with which the Commission believes negotiations can begin and those which do not yet satisfy the negotiation conditions. Drawing a distinction between the associated countries is a distressing procedure and will be perceived as such. Nevertheless, the AIV can understand the choices made in the Commission's *avis*. Although the AIV did not see it as its task to verify all the data on which the Commission based its conclusions, it would express a reservation. The suggestion that negotiations be opened only with Estonia in the first instance will drive a wedge between the Baltic States. The argument advanced by the Commission in support of this suggestion is that economic conditions in Latvia and Lithuania are not such as to allow negotiations to begin. However, the disparities in economic progress do not appear to be of a magnitude such as to justify drawing an a priori distinction between the Baltic States. The AIV is therefore of the opinion that special efforts will be required to prepare Latvia and Lithuania, too, for accession negotiations designed to admit the Baltic States to the Union either at the same time or in the quickest possible succession.

Notwithstanding the foregoing, credible prospects of accession must be held out to the European countries which have concluded association and Europe agreements with the Union but which do not yet fulfil the criteria for opening negotiations. This should be done by providing them with financial and technical assistance and by affording them market access. Drawing a distinction between countries should not lead to the emergence of new divisions. No exceptions should be made to this rule, as the European Commission does in respect of Turkey. Turkey, too, should have a credible prospect of accession.

Enlargement will entail costs, which will largely be borne by the present EU Member States. The Commission assumes that enlargement can be funded within existing financial arrangements and that these will be sufficient to cover EU expenditure until the year 2006. The Commission hopes to avoid a prolonged debate on EU funding and to postpone, until after the new Member States have acceded, opening negotiations on rebates granted previously. For further discussion of the Commission's position in this matter, the AIV would refer to its subsequent report. However, the AIV would point out here that it is not possible to implement major policy changes without taking account of their financial implications.

An important point to be taken into account in considering the accession of new Member States is the extent to which they will be capable of applying the *acquis communautaire* in full within a reasonable time. In principle the *acquis* will apply in full in new Member States from their accession, unless agreement has been reached on exceptions. It is essential to the functioning of the Union, and in particular that of the internal market, that countries be able to apply the *acquis*. Once again the familiar question of widening versus deepening arises, with the slight difference that deepening implies not only strengthening the institutional structure but also the preservation (as far as possible and as soon as possible) of the *acquis* of all the Member States of the Union, including the new ones.

The AIV would point to the possibility of tension between the debate on the accession of new Member States and the necessary institutional reforms. Old and new Member States would feel tricked if in the future they were all members of a Union where little trace could be found of the old and new ideals and objectives. Every effort must be made to achieve a satisfactory outcome whereby the newly acceding countries comply with the *acquis* and the institutional structure is reformed. The importance of this - to both existing and new Member States - cannot be overemphasised. The political imperative of enlargement should therefore be used to the full for this purpose. The AIV believes that historical and political reality dictates that failure to achieve sufficient institutional reform or insufficient compliance with the *acquis* must not be allowed to stand in the way of accession. The question of whether and if so to what extent this will involve falling short of a minimum limit should be examined in due course on the basis of the progress made by the internal and external negotiations and an assessment of political priorities.

Annexe

Ministry of Foreign Affairs

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Date: 12 June 1997 Ext. no.: (348) 6212 Ref.: DIE/AB-526/97

Unit: European Integration Department
Re: Request for advisory report on enlargement of the European Union

We should like to put before you a request for an advisory report on the enlargement of the European Union.

Enlargement is presenting the European Union with a historic challenge. The aim is clear: a stable, democratic, and prosperous Europe, for which six countries laid the foundations in Rome 40 years ago. Ten associated Central European countries, Cyprus and Turkey have applied to accede to the European Union. Norway, Switzerland and Malta may also be regarded as candidate countries, although a majority of the people of each of them has voted against joining the EU for the time being.

Enlargement has been discussed at a number of meetings of the European Council:

- Copenhagen (June 1993): **the criteria**
The Council concluded that a country may accede to the European Union if it has stable institutions guaranteeing democracy, the rule of law, human rights and respect for the rights of minorities, if it has a functioning free market economy and can cope with competition within the EU. Candidate countries should also assume the obligations of membership and endorse the EU's political, economic and monetary objectives;
- Essen (December 1994): **the strategy**
The Council concluded that accession negotiations with Cyprus and Malta (note: in November 1996 the people of Malta voted against accession for the time being) should begin six months after the conclusion of the IGC. The structured dialogue was also initiated;
- Cannes (June 1995): **the resources**
The Council concluded that the financial resources for support to the process of social transformation in the countries of Central Europe via the PHARE programme would be linked to the duration of the EU's own resources decision;
- Madrid (December 1995): **the calendar**
The Council concluded that accession negotiations with Malta and Cyprus would begin six months after the conclusion of the IGC and expressed the hope that the first phase of negotiations with Central European countries would coincide with those with Cyprus and Malta. The Council also asked the Commission to issue a number of reports and documents shortly after the completion of the IGC:

- * separate opinions (*avis*) on the applicant states, containing an analysis of the current situation in the state in question and an evaluation of its expected progress before accession;
 - * an impact study on the effects of enlargement on Community policy, particularly agricultural policy and structural policy;
 - * an overview of enlargement to supplement the *avis* and the impact study;
 - * a communication on the future financial frameworks of the EU, taking account of prospective enlargement.
- Florence and Dublin: these meetings of the Council confirmed the time frame for the enlargement process laid down at Madrid. The Commission assured the Council that the documents referred to above would be available immediately after the closure of the IGC. The Council meetings also welcomed the Commission's plans for a general reinforcement of the pre-accession strategy.

The Council will discuss these documents at the special enlargement summit which the Luxembourg Presidency plans to hold on 16 and 17 October 1997. On the basis of this, the European Council, meeting in Luxembourg in December 1997, will decide *inter alia* on the modalities for the accession negotiations. The enlargement process will then probably be launched with a group photograph. The Council will then adopt a negotiating mandate for the Presidency, supported by the Commission.

We would therefore request the Advisory Council to advise the Government on the enlargement of the Union and the strategy to be adopted, taking account of the above-mentioned Commission documents. The Advisory Council should compile, before October 1997, a list of the countries whose accession would be of most benefit to the Netherlands in economic, financial and political terms. It could also outline the advantages and disadvantages associated with the accession of individual countries, and indicate the relevance of the timetable.

By December 1997, the Advisory Council should answer the following questions:

- What role should the Netherlands play in the enlargement process?
- Should the Netherlands support a particular country or group of countries, such as the Scandinavian countries support the Baltic states?
- The wording of the Copenhagen criteria is fairly general; what internal and external conditions must at all events be met by countries wishing to accede?
 - * Internal: what directives must the countries take on board? Only those in the fields of economic and financial affairs, agriculture, the environment, customs duties and indirect taxes? Or also those in the fields of industry, competition, social affairs, transport, audio-visual affairs, telecoms, energy and consumer protection?
 - * External: How can the Union ensure that tensions relating to cross-border minority issues and potential border disputes are not brought into the Union on the accession of the applicant countries?
- Should a new Member State be able to exercise a veto in respect of later accessions?
- How can enlargement make the maximum contribution to stability in Europe and what is the relationship between EU enlargement and NATO enlargement?
- What are the potential consequences for European integration of enlargement? How can the Union cope with possible consequences?

One of the principal questions to be considered is that of relations with countries not included in the first group to accede. We would ask the Advisory Council to advise us, before December 1997, on the minimum elements to be included in a reinforced pre-accession strategy. Should the strategy be concerned more with the countries which need one

last push to be able to accede, or should the focus rather be on countries that cannot form part of the first group because they have not yet accepted EU legislation? Is the idea of a permanent conference in combination with the PHARE programme, which since March 1997 has been fully concerned with preparing candidate states for accession, sufficient consolation? Or should the EU come up with a new idea?

The Advisory Council's report will be of great help in determining the Netherlands' standpoint for the European Council meeting in Luxembourg in December 1997, where enlargement and the enlargement strategy will be at the top of the agenda.

(Signed)

H.A.F.M.O. van Mierlo
Minister for Foreign Affairs

(Signed)

J.C. Voorhoeve
Minister of Defence

(Signed)

J.P. Pronk
Minister for Development Cooperation

(Signed)

M. Patijn
State Secretary for Foreign Affairs