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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**ON THE IMPLEMENTATION OF COMMITMENTS UNDERTAKEN BY THE
ACCEDING COUNTRIES IN THE CONTEXT OF ACCESSION NEGOTIATIONS
ON CHAPTER 21 – REGIONAL POLICY AND COORDINATION OF
STRUCTURAL INSTRUMENTS**

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INTRODUCTION

The European Council at its meeting in Brussels on 24-25 October 2002 endorsed the Commission's intention – as contained in the 2002 Strategy Paper on enlargement - to present, six months before accession, a comprehensive monitoring report on the state-of-play in the implementation of the commitments made by acceding countries in the context of accession negotiations. This is envisaged for November this year.

Furthermore, the Commission committed itself to present a report, no later than July 2003 on the progress made in the preparations in the field of regional policy and co-ordination of Structural Instruments (Chapter 21). Accession negotiations resulted in a financial allocation for the new Member States of €22 billion for Structural Funds and Cohesion Fund for the period 2004-2006. Ensuring programmes conducive to growth and employment, the adequate absorption capacity and putting into place the necessary administrative structures for an efficient implementation of structural funds is a particular challenge for the new Member States, taking into account in particular, the short programming period available.

In this context, the acceding countries have committed themselves to carry out the necessary preparations before the end of 2003 concerning the establishment and implementation of administrative structures as well as monitoring and control procedures which are indispensable for the sound implementation of these funds. Respect of this timetable is of particular importance given that the eligibility of projects to be funded under the Structural Funds and Cohesion Fund upon accession already starts on 1 January 2004.

The objective of this Communication is to assess how acceding countries are meeting these commitments and to assess the state of play of preparations of the acceding countries in view of the management of the Structural and Cohesion Funds. For this purpose, it highlights the progress made by the acceding countries as well as the outstanding issues, which still need to be tackled. In addition, it provides advice on the necessary steps to be taken to ensure that each country is able to establish a system for the sound and efficient implementation of the Funds. The assessment on the preparations for structural funds management and control systems in the report is based principally on the information provided by the acceding countries following detailed questionnaires sent out by the Commission.

Following adoption of the programmes and the finalisation of the implementation arrangements for the Cohesion and Structural Funds, the Commission will complete its review of compliance of the systems. The on-going process of negotiation of programme between the Commission and the acceding countries is particularly

important in this context. The EU has already made clear that the Commission will not be able to approve Community funding until all conditions set out in the Structural and Cohesion Funds Regulations are satisfied.

1. LEGISLATIVE FRAMEWORK

Harmonisation of the national legislation with the *acquis* and its full transposition in the areas of public procurement, state aids/competition, environment and equal opportunities is essential for the implementation of the Structural and Cohesion Funds.

Public procurement legislation is still not in full compliance with EC legislation. Action in this area is particularly urgent since all projects to obtain support from Structural and Cohesion Funds upon accession, including those for which national expenditure will be made between 1 January 2004 and the date of accession, need to be in compliance with EC public procurement rules.

As far as legislation in the area of **budgetary management** is concerned, further work is needed to prepare and adopt the legislation required for reorganising the budget structure, facilitating multi-annual commitments and reallocation of funds between and within the programmes.

Progress has been made in the adoption of **competition/state aid legislation**, however, notification of aid schemes to the Commission needs to be accelerated since only state aid schemes that are approved by the end of 2003, will be eligible for assistance under Structural Funds from 1 January 2004.

Concerning **environmental protection**, significant progress has been made in all countries. Nevertheless there are still a number of legislative provisions and implementing steps in the areas of environmental impact assessment, nature protection and waste management that need to be completed and whose application is a pre-condition for the implementation of Cohesion and Structural Funds.

2. INSTITUTIONAL FRAMEWORK

Whereas overall progress has been made with regard to **inter-ministerial co-ordination**, this issue remains a concern. Practice shows that this co-ordination is often weak. In some cases, the responsible authority should be more proactive and show reinforced commitment to steer this process. In others, there is a need to allow full participation and co-operation of all sectoral Ministries.

Delays have occurred in finalising the **institutional arrangements of the implementation system**, which in a number of countries appear to be weak and insufficiently defined. An issue of particular concern for the Commission relates to the **number and role of Intermediate Bodies**. A clear description of the delegation of tasks and the reporting lines between the different bodies involved must still be elaborated and laid down in written agreements in all countries.

An issue still to be resolved is the questions on the **independence of the certifying role of the Paying Authority**. In view of the importance of the Paying Authority's

role in ensuring the regularity of expenditure co-financed this issue should be rapidly resolved to guarantee fully compliant arrangements.

It appears that the acceding countries are aware of **financial control requirements** and have taken appropriate steps to ensure compliance. However, some issues must still be addressed, in particular the adequate separation of control functions.

Adequate **internal audit arrangements** are in general foreseen, but information concerning a number of relevant authorities is still outstanding or needs to be further clarified as arrangements are in the process of being finalised. Most countries still need to develop an audit strategy in order to be ready for controls from the beginning of programme implementation.

3. ADMINISTRATIVE CAPACITY

Although most countries have developed **recruitment and training plans** in line with the commitments made in the accession negotiations, the recruitment of additional staff has been delayed. In general, recruitment plans address the human resources requirements for the Managing and Paying Authorities. Nevertheless a full assessment of needs in this area will only be possible when a clear decision on the number and role of Intermediate Bodies has been made. Furthermore, in those countries where Intermediate Bodies have been designated, these seem to remain understaffed in view of their future tasks. Particular attention needs to be paid to reinforce administrative capacity of regional and local administrations. Finally, in the majority of cases the public administrations have problems in attracting *and* retaining qualified and motivated staff.

The basic steps of **project application flows** have been identified for the majority of the future operational programmes. Further fine-tuning and clarification of responsibilities of the different actors involved in the selection process are required in order to be fully operational before accession.

All countries are in the early stages of **developing guidelines and manuals** for their operational programmes. These tools are essential to accumulate know-how within an organisation, and also to make it less vulnerable to fluctuation of staff.

4. PROGRAMMING CAPACITY

Despite some delays in the **submission of the programming documents**, the acceding countries have made significant efforts in this area. Furthermore, and in line with the Commission recommendations, they have adopted a simplified programming approach with a significantly reduced number of Operational Programmes, priorities and measures in coherence with the short programming period until 2006. Most programmes have been subject to a wide-scale consultation of the regional and local actors, economic and social partners and other relevant institutions.

However, the **programming documents** often appear to lack a coherent strategic framework due to difficulties in organising an effective inter-ministerial co-ordination. This is illustrated by the potentially overlapping or insufficiently focussed description of the priorities and measures in many of the documents submitted.

The **definition of monitoring indicators** and the setting up of a **computerised system for the collection and exchange of the data** required to fulfil the management, monitoring and evaluation requirements has been seriously delayed in most countries. The timetables by which the system should be operational often seem to be unrealistic, given that they are still in the process of designing the system or contracting the provider responsible for introducing a new system. In any event, appropriate physical and financial monitoring indicators need to be defined, and the Managing Authorities need to set up a system which enables them to gather this information and to provide for an adequate evaluation of the impact of the Structural Funds interventions.

5. FINANCIAL AND BUDGETARY MANAGEMENT

In view of the number of bodies involved in the **financial and budgetary management**, the establishment of adequate structures; which can guarantee sound financial management is complex and time-consuming. While overall the satisfactory arrangements are expected to be in place by 1 January 2004, significant efforts still need to be undertaken in some areas.

As regards the **flow of funds**, clarifications are still necessary concerning the submission of expenditure statements to the Commission in a number of countries. This is a key element in ensuring the regularity of expenditure. If any doubt about the independence of the Paying Authority and the checks carried out remain, the Commission may not be in a position to make payments to the Member State concerned.

The distinction between the two types of **control requirements** for the Structural Funds and the Cohesion Fund, namely verification checks to be carried out by management and sample checks to be carried out by staff independent of management and payment functions, is an essential element in the control framework for the Funds.

Most acceding countries have yet to introduce proper rules and procedures to ensure the retention of supporting documents, which is an important requirement of an audit trail. Information is also missing concerning the provisions of a winding-up declaration by an independent service in a number of countries.

The situation regarding the **provision of appropriate and separate accounting systems/accounting codes** for the Structural Funds and the Cohesion Fund is varied. It appears that in some cases there is still important action to be taken in order to ensure that satisfactory accounting systems are in place for Structural Funds and Cohesion Fund.

6. FUTURE PROJECT PIPELINE

The Commission believes that not all acceding countries have taken into consideration the difficulty and complexity of **developing a project pipeline** to ensure that full use will be made of the greatly increased funds as of 2004. Many of the acceding countries' project preparation proposals must still be worked out in sufficient detail. Most countries have no targeted budgets or timetables for future project preparation. The Commission is particularly concerned that the actions

planned at this stage will not be sufficient to guarantee a full absorption of the Structural and Cohesion Funds.

The Commission strongly recommends reinforcing the efforts **for project preparation**, including the use of specific technical assistance where necessary. While pre-accession funds should be used to the greatest extent possible to this aim, ownership of the projects should fall mainly under the responsibility of the acceding countries themselves which have to ensure that additional resources, especially sufficient trained personnel are allocated to this aim. All available sources of project preparation funding should be mobilised. Project preparation needs to include the identification and provision of financial means for co-financing.

Establishing an adequate project pipeline is only an early step in the project cycle. The experience of the pre-accession funds has shown that the implementation of projects after approval has been a major bottleneck and that key stages in the project cycle which have proved to be weak in the past, especially public procurement, will require special attention from the national authorities.

7. CONCLUSIONS AND RECOMMENDATIONS

The Commission acknowledges the considerable progress made by the acceding countries in their preparations to ensure the sound and effective management of the Structural and Cohesion Funds. However, much remains to be done. It has to be recalled that acceding countries, as agreed in the accession negotiations, will benefit of eligibility of project and expenditure to be funded by the Structural and Cohesion Funds upon accession, already from the 1 January 2004. Therefore, all legislation relevant for the Structural and Cohesion Funds needs to be aligned and fully transposed by 31 December 2003.

The following ten items need to be addressed as matter of urgency if the Commission is to grant Community finance as provided for in the Regulations:

- 1) Delays in the alignment and implementation of **public procurement** rules are of particular concern. An adequate reinforcement of the bodies and mechanisms ensuring proper implementation in this area is of utmost importance. Full use should be made of technical assistance to strengthen further the capacity of the national administrations.
- 2) **Inter-ministerial co-ordination** must be reinforced. The Commission is particularly concerned as regards the delays in fully and properly defining the institutional arrangements for the management of the Funds, in particular as regards the respective roles of the Managing Authorities and the Intermediate Bodies. In some countries, clarifications on the independence of the certifying role of the Paying Authority are still outstanding.
- 3) With regard to **financial management and control**, the main weaknesses are – on the one hand - a confusion between the management checks which are the responsibility of the Managing Authority or Intermediate Bodies and the independent sample checks, and on the other hand the insufficient segregation of functions between the implementing bodies and the control bodies.

- 4) Adequate **accounting systems**, which are a prerequisite for sound financial management, are still not established in all acceding countries. This needs to be dealt with urgently.
- 5) In several countries the **recruitment of additional staff** for the management of structural funds has been delayed. This is in particular true for Intermediate Bodies and regional administrations. Delays in the definition of the number and tasks of Intermediate Bodies have also affected the correct evaluation of staff needs. Significant efforts in terms of timely recruitment and training are necessary. The acceding countries are encouraged to fully explore the possibilities to co-finance certain additional administrative expenses from the future technical assistance budgets.
- 6) The objective to **finalise the programme negotiations by end of December 2003** needs to be maintained in order to avoid any delays as regards the implementation of the Structural Funds programmes. In this context, it is of major importance to better define the priorities and measures within the programmes with a view to correctly reflecting the needs of each country and to avoid overlaps between the programmes.
- 7) The Commission is particularly concerned that the actions planned at this stage within the **project pipeline**, will not be sufficient to guarantee a full absorption of the significant allocation for the Structural and Cohesion Funds in 2004. The Commission strongly recommends reinforcing the efforts **for project preparation**, including the use of specific technical assistance where necessary. It has to be recalled that ownership of the projects should fall mainly under the responsibility of the acceding countries themselves.
- 8) The acceding countries have made a significant effort to implement the **partnership** principle. This effort needs to be maintained in the course of the negotiating and the implementation period as good partnership structures improves the efficiency of EU interventions.
- 9) Substantial delays have occurred in the set up of the **monitoring** systems. This matter needs to be addressed with urgency since the functioning of these systems conditions the transparency of the implementation of the programmes and plays a decisive role in terms of financial absorption.
- 10) In view of the efforts needed in several countries to achieve sound public finance, careful planning of the **national co-financing** components linked to the Structural and Cohesion Funds is an essential part of the successful implementation of cohesion policy in the acceding countries. Therefore, project preparation needs to cover the identification of sources of co-financing.

These ten issues must be given urgent attention in the coming months. The ongoing negotiations on Structural Funds interventions provide a unique opportunity for each acceding country to address the remaining tasks in these ten areas. The Commission is confident that the acceding countries will establish the best possible implementation conditions, and the Commission will be a constructive partner in ensuring this is the case.