Communication from the Commission on the transitional period (1978)

Caption: In 1978, in a communication to the Council, the Commission of the European Communities presents the main principles of its action programme for the introduction of differentiated transitional periods enabling Greece, Portugal and Spain to adapt to the European acquis communautaire.

Source: Bulletin of the European Communities. February 1978, No Supplement 2/1978. Luxembourg: Office for Official Publications of the European Communities. "The transitional period and the institutional implications of enlargement (Commission communication to the Council further to the Communication sent on 20 April 1978)", p. 6-8.

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Part One

Transitional period

Basic approach

1. At the time of the first enlargement it was decided that the acceding countries would be allowed a transitional period in which to adjust to existing Community legislation (*acquis communautaire*). This was essentially the same for all sectors and featured fixed, relatively short timetables. In addition, the three countries were involved in the Community's decision-making procedures and in political cooperation activities as soon as the Accession Treaty was signed and participated fully in the work of all the institutions once it entered into force. The choice of transitional arrangements was in fact dictated by the largely comparable situations of the 'Six' and the 'Three'.

2. The accession of Greece, Portugal and Spain presents rather different transitional problems. The solutions to be devised must promote the integration of countries with a level of development well below the Community average; they must allow for an additional effort to reorganize structures within the existing Community; and they must be conceived in such a way that the enlarged Community can be consolidated without impeding progress.

3. This being so, the end result of any attempt to plan and regulate the transition along the strict lines of the first Accession Treaty might be the opposite of that intended: instead of guaranteeing orderly integration of the acceding countries into the Community system, the enlarged Community might seize up or the new members, and perhaps certain existing members, might find it impossible to honour their obligations. It would be preferable therefore to find a simple formula that would allow a measure of flexibility in the management of the transitional period. The considerations which follow are based on this pragmatic approach. They set out to establish a general framework for reflection without prejudice to any special arrangements which may be found necessary during the negotiations to deal with the special situation of one or other of the applicants.

Negotiating period

4. Given the extent of the adjustment problems, it would seem advisable to tackle them during the negotiating period, without, however, delaying accession. The Community could go beyond mere encouragement of unilateral initiatives designed to facilitate integration of the applicant countries. The structural redevelopment policies applied by the Community and the applicant countries should be coordinated, if not actually harmonized, in preparation for enlargement. The two sides should also endeavour to make their economies as complementary as possible. Enlargement must not be allowed to aggravate the sectoral or regional problems already facing the Community, many of them shared by the applicant countries (for example, problems in Mediterranean agriculture and in the steel, textile, footwear and shipbuilding industries). With this in mind the Commission could liaise with the applicant countries and organize consultations on any important measures either side might be planning to introduce.

Interim period between signature and entry into force of the act of accession

5. Once the act of accession was signed the acceding States would be progressively involved in Community procedures and political cooperation, although they would have no formal rights in the matter. In particular, they would have to be associated in some way or other with the formulation of new policies and the revision of existing ones. This brings to mind the favourable experience acquired at the time of the first enlargement, when all important Community decisions liable to affect the acceding countries were discussed in detail by

the two sides. These preliminary contacts and consultations were taken care of by the Commission itself as far as Commission proposals and decisions were concerned. On the Council side contacts were organized within an interim committee consisting of representatives of the Community and the acceding States on the basis of common guidelines agreed by the Six. Furthermore, during the months immediately preceding entry, the acceding States actually played quite a large part in Council deliberations.

Following this precedent the countries now applying for membership would have to undertake to consult the Commission in advance on any national measure, legislative or otherwise, which might affect the functioning of the Community after enlargement.

The transitional period proper

6. Accession of the new Member States would involve their immediate and full participation in all Community institutions and bodies and in the decision-making process. This equality of rights would have to be matched by an equality of obligations, with the sole exception of obligations — limited in extent and in time — peculiar to the transitional period.

7. Given the larger scale of the adaptation exercise, it is obvious that the transitional period (the content of which would have to be determined in the act of accession) cannot be any shorter than that adopted for the first enlargement (five years). It would have to end on a fixed date and could not be too long lest the incentive to reform be lost and Community cohesion compromised. Furthermore, the transitional period actually necessary will depend in each case not only on the initial situation of the new member but also on the development of the economic situation in Europe and the world during the period of integration. Depending on the situation, ten years might be regarded as the maximum and five years as the minimum necessary to complete the transition.[(1)]

8. The scale and complexity of the integration problems to be resolved call for a greater degree of flexibility in the transitional procedures than at the time of the first enlargement. A possible basis here would be some of the rules established for the progressive establishment of the common market (Article 8 of the EEC Treaty). It would also seem appropriate to divide the transitional period (if it were longer than five years) into two stages, each with a clearly defined programme.

9. This general arrangement should have sufficient built-in flexibility to allow for the differences between the adaptation difficulties peculiar to each sector — which rules out a uniform conception of the transitional period. The progress to be made during each of the stages would be set out in specific programmes for individual sectors or groups of sectors, account being taken of the clear interdependence of the formulas to be adopted. In each case it would be necessary to determine the correct blend of automatic and flexible elements in the integration process. The solutions chosen should not only promote rapid, effective integration of the new Member States, they should also cater for existing needs in the Community of Nine and guarantee the subsequent development of the Community of Twelve.

10. The first stage should see the attainment of precise objectives in each sector in line with a timetable designed to ensure that, by the end of that stage, the new Member States are as fully integrated as possible. In view of the adaptation effort that would be required, it seems logical that the Community should use the financial instruments at its disposal to channel maximum special assistance to the new Member States during this period, and also set aside sufficient funds to assist the Nine in making any adjustments that might be necessary on their side.

11. Should it become factually apparent that the key objectives set could not be attained in time, a decision might be taken by the Council, on a proposal from the Commission, to extend the first stage. The decision would be taken by a qualified majority in the case of an initial extension (length to be determined). If a second extension proved necessary, unanimity would be required. The decision would be taken well before the end of the first stage and would mean an automatic reduction in the length of the second stage.

12. Over and above the measure of flexibility thus added to the transitional period, the second stage would serve to complete integration in sectors where the adjustments were so complicated or so extensive as to need the full transitional period.

13. In addition to the provisions peculiar to each stage, a number of clauses would be valid for the entire transitional period. For example the requirement to adopt the *acquis communautaire* should be qualified in certain cases by special safeguard clauses to cope with unforeseeable difficulties. The same would apply to the Nine, in view of the dangers enlargement could present for some sensitive sectors. A general safeguard clause of the type provided for in Article 135 of the first Act of Accession could be invoked throughout the transitional period.

14. The new accession treaty should not be content to regulate, with the necessary precautions and flexibility, arrangements for the adoption of the *acquis communautaire*. It should also provide for the development of the Community during the transitional period. It could happen that one or other of the new Member States might not be able, for serious reasons, to participate from the outset in the implementation of a new policy. A standstill in Community activity must be avoided at all costs. A possible response to these problems would be derogation or safeguard clauses for a limited period. Provisions of this kind would not be a new departure for the Community: the protocols to the EEC Treaty afford numerous examples. In framing a new policy and exceptions of this kind, the Community should approve special measures which would allow the Member State in question to catch up. The same consideration would apply in the event of far-reaching changes to existing policies if the policy in question had still to be applied by the new Member State.

15. Provision should therefore be made in the accession treaty for the possibility of recourse to such formulas (derogation and catching-up) to deal with developments arising during the transitional period. The decision to invoke a clause of this kind should be taken within the Community institutions in accordance with normal procedures. If exceptions to the fundamental principle of full participation by all Member States in the decision-making process were contemplated, exceptions should be strictly limited to acts of short duration, confined to the transitional period (compare non-participation in the machinery of the European Development Fund after the first enlargement), or to simple administrative measures of no interest to the acceding State or States. However, if it were necessary to provide for *ad hoc* decision-making procedures, the weighting applicable to qualified majority voting would have to be adjusted. Furthermore, allowance would have to be made for the fact that there will doubtless be three different transitional periods. These complications militate in favour of an alternative approach — namely, abstention.

16. Subject to any strictly limited exceptions or derogations specified in the accession treaty, the end of the transitional period would represent the ultimate deadline for entry into force of all Community rules and application of all measures associated with enlargement.

[...]

(1) It is true that the Treaty of Rome (Article 8 of the EEC Treaty) provided for a twelve-year transitional period. But the comparison is not a valid one. The provisions in question were experimental. In practice it proved possible to shorten the period and many of the clauses dictated by caution during negotiation of the Rome Treaties proved unnecessary in the end. Indeed some were never used.