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The Ten New Members and the Single European Market

– On the Basis of the 2003 Comprehensive Monitoring Report

By Péter Bilek

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Introduction

In December 2002, a long pre-accession negotiation process was closed between the EU and ten mostly Central and Eastern European countries. Before that time, every year the European Commission (EC) issued a so-called Regional Report on every official candidates' progress towards EU integration. But last year the pre-accession period came to an end and the accession treaty was signed in the first half of 2003. However, one year still remained until the accession and the candidate countries still had things to do before May 2004, the accession date.

Although, the negotiations have been finished, the EC intended to prepare a document on the new members' progress towards EU membership since the 2002 Copenhagen Summit. In contrast with the Regional Report, the new document focused on the deficiencies in case of the provisionally closed chapters and not on the Copenhagen criteria and the status of the negotiations, as the Regional Report did. Thus, in November 2003 the EC issued its so-called Comprehensive Monitoring Report on the ten new members.

As it was mentioned, the candidate countries needed to close all chapters to finish the negotiation process. There were 31 chapters representing the EU's "*acquis communautaire*". In the *acquis*, one of the most important blocks was related to the Single European Market (SEM), which is one of the main achievements of the European integration. The SEM knocked down several economic barriers among the members of the Community in the first half of the last decade. It eased the trade between the members, the flow of foreign capital and persons, and it contributed to the further unification of the members' economies, which had significant economic advantages. This stage of the integration is more advanced than the common market – when the technical, fiscal and other barriers remain - and is one step behind the economic union, where the economic and monetary policy is harmonized, according to the classification of Balassa.

Six chapters are directly related to the SEM out of the 31, thus this paper examines the status of the new members in connection with these six chapters. It focuses on the deficiencies and the economic consequences which will be carried if a new member fails to meet the requirements (the latter is in the Conclusion).

The six related chapters are the *free movement of goods*, the *free movement of persons*, the *freedom to provide services*, the *free movement of capital*, the *company law* and the *competition policy*, in other words the first six chapters. The first four chapters demand no explanation, the SEM requires the free movement or the freedom of the four main factors: persons, goods, capital and services. The company law provides that harmonized rules are related to the companies which are operating in the SEM, while the competition policy prevents the member states' government from granting

state aids and provides that the operation of anti-competitive companies is not allowed in the Single European Market. Of course, there are other chapters in connection with the SEM, but in this paper I focus only on these six chapters. On the one hand, these are in the closest connection with the SEM, on the other hand, other publications will be issued by ICEG European Center on the chapters related to the monetary issues and on the preparedness of the new members' sectors.

In the Comprehensive Monitoring Report (CMR) the implementation of the *acquis* is basically assessed at three degrees. First level is whether the country has reached a high level of alignment with the *acquis* in most policy areas. The second level is whether the country partially meets the commitments and requirements and needs to make enhanced efforts in order to complete its preparations for accession. And the third level is whether the country must take immediate and decisive actions to address the issues of serious concern to be ready by the date of accession. In this paper I will concentrate only on the second and third level, in other words on the issues which need enhanced efforts or which are seriously concerned.

1. Free movement of goods

In this chapter there are three issues in which the new members have deficiencies, however, none of them are serious concerns, only enhanced efforts are needed. The most frequent problem is connected to the so-called "*old approach*" directives. Nine new members out of the ten still need enhanced efforts to implement this part of the *acquis* (Malta is the exception). These directives mean that the new members need to impose precise product specifications and the majority of the new members still have shortages in this field. The lacks are mainly in the area of foodstuff safety or its legislation (in all the above-mentioned nine new members). The need of notification of the "new" chemical substances is also a frequent deficiency, while there are more unique shortages like the complete and proper implementation of the pharmaceutical legislation in Hungary and Poland.

In case of many new members – Czech Republic, Estonia, Hungary, Latvia, Malta and Poland –, the issue of the *public procurement* is another incomplete part of the chapter, it is mainly a legislative matter in the countries. In addition, there are six countries – Estonia, Hungary, Latvia, Malta, Poland and Slovakia –, where the screening of the national legislation must be completed and any problematic points discovered must be removed from the free movement of goods.

Table 1.

Free movement of goods			
	Old approach	Public procurement	Non-harmonized area
Cyprus	yes	no	no
Czech Republic	yes	yes	no
Estonia	yes	yes	yes
Hungary	yes	yes	yes
Latvia	yes	yes	yes
Lithuania	yes	no	no
Malta	no	yes	yes
Poland	yes	yes	yes
Slovakia	yes	no	yes
Slovenia	yes	no	no
TOTAL	9/10	6/10	6/10

* Yes means enhanced efforts required

2. Free movement of persons

This chapter contains only one deficiency; however, this is a serious concern in many future member states. The EC's Report lists eight countries – Czech Republic, Estonia, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia – where this chapter is not fully completed. In 6 out of them (Czech Republic, Estonia, Latvia, Lithuania, Poland and Slovenia), this issue is a serious concern, in the two other countries (Malta and Slovakia), it needs “only” enhanced efforts. The separation depends on the degree of the deficiency (how urgent measures need to be taken).

The main barrier of the free movement of persons is that the *mutual recognition of professional qualifications* is not fully completed in these countries. The mutual recognition is incomplete mainly in case of the workers in health care sector – like doctors, nurses –, but even in case of lawyers, architects and other professional qualifications. Only Cyprus and Hungary were able to complete essentially this chapter.

Table 2.

Free movement of persons	
	Mutual recognition of professional qualifications
Cyprus	no
Czech Republic	yes
Estonia	yes
Hungary	no
Latvia	yes
Lithuania	yes
Malta	yes
Poland	yes
Slovakia	yes
Slovenia	yes
TOTAL	8/10

* "Bold" yes means a serious concern, "normal" yes means enhanced efforts required

3. Freedom to provide services

This chapter is the most problematic one out of the six SEM chapters. There are six issues with which the future members have problems. These are the right of establishment and the freedom to provide non-financial services (1), banking services (2), insurance services (3), investment services and securities markets (4), information-society services (5) and the protection of personal data (6). However, none of them is a serious concern, only enhanced efforts required in these fields.

The most problematic issues are connected to the *right of establishment and freedom to provide non-financial services* and *information-society services*. These two issues require further steps to make them complete in the majority of new member states (7-7 out of the 10). In case of information society services, the problem is mainly that the future members have not transposed the EU's e-commerce directives - finalized in May 2003 - yet. In the other case the most frequent deficiency is that in the legislation of a new member the distinction between economic operators providing services temporarily and those established permanently should be reflected. That is in order to ensure the free provision of cross-border services.

The *right of establishment and freedom to provide insurance and investment services and securities markets* are also frequently problematic issues (5-5 out of the 10). As regards the insurance sector, the enhanced effort means that the legislative alignment needs to be completed. For example, in Latvia and Poland the procedure for becoming a signatory of the so-called "green-card" Multilateral Guarantee Agreement requires finalization. In case of investment and securities services finalization of the legislation is required too.

Table 3.

Freedom to provide services						
	Investment services and securities markets	Right of establishment and freedom to provide banking	Right of establishment and freedom to provide non-financial services	Right of establishment and freedom to provide insurance	Data protection	Information society services
Cyprus	yes	no	no	no	no	yes
Czech Republic	no	no	yes	yes	no	yes
Estonia	yes	no	yes	no	yes	yes
Hungary	no	no	no	no	no	yes
Latvia	yes	no	yes	yes	yes	yes
Lithuania	yes	no	no	yes	no	no
Malta	no	no	yes	no	no	no
Poland	yes	yes	yes	yes	no	no
Slovakia	no	no	yes	yes	yes	yes
Slovenia	no	no	yes	no	yes	yes
TOTAL	5/10	1/10	7/10	5/10	4/10	7/10

* Yes means enhanced efforts required.

It is interesting that the *legislative alignments of banking sector* in the ten new members are essentially completed, except for Poland. The largest new member state only partially aligned its legislation with the *acquis*. Among others, there are deficiencies in the fields of liquidation procedures, capital adequacy, winding up and strengthening the legal protection of supervisors and the deposit guarantee systems. Poland has committed itself to ensuring the full application of the *acquis* in respect of co-operative credit institutions by the end of 2007, as it has been granted in the transitional arrangements. It means that Poland will fulfill the criteria concerning to the banking sector as an EU member and the deadline expires three years after the country's EU accession.

All of the new members still need to complete the chapter on freedom to provide services; none of them was able to meet the requirements and commitments completely. While Hungary has deficiencies in only one field in this chapter, Latvia has the most deficiencies in 5 fields.

4. Free movement of capital

This chapter is one of the less problematic ones among the six SEM chapters, there are only a few deficiencies in some fields. These are mainly country-specific issues, like Lithuania, where a new interbank payment and settlement system remains to be introduced or Latvia, where the restrictions concerning citizenship and language requirements in the 'Law on security services' need to be removed.

Table 4.

Free movement of capital			
	Payment system	Money laundering	Capital movements and payments
Cyprus	no	no	no
Czech Republic	no	yes	no
Estonia	no	yes	no
Hungary	no	no	no
Latvia	no	no	yes
Lithuania	yes	yes	no
Malta	no	no	no
Poland	no	yes	no
Slovakia	no	no	no
Slovenia	no	no	no
TOTAL	1/10	4/10	1/10

* Yes means enhanced efforts required

There is only one issue which concerns more than one new member: the issue of *money laundering*. This is a problematic issue of the chapter in the Czech Republic, Estonia, Lithuania and Poland. These four countries need to align their legislation to the *acquis* by extending the range of subjects obliged to report suspicious transactions to cover lawyers, accountants, tax advisors and auditors.

5. Company Law

Company Law is also such a chapter where all the new members still have work to do. In case of the protection of intellectual and industrial property rights all ten future member have deficiencies. In that field the majority of commitments and requirements are generally fulfilled, while the protection of these rights need to be enhanced by further legislative adjustments and by a more efficiently functioning judiciary system.

Besides the protection of industrial and intellectual property rights, there is another specific issue where a future member has deficiency; it concerns the accounting in Cyprus. In the Cyprian company law, non-qualified auditors are allowed to practice

and audit the accounts of publicly listed companies, which is not in line with the acquis at all. This part of the law needs to be revised.

Table 5.

Company Law		
	Accounting	Protection of intellectual and industrial property rights
Cyprus	yes	yes
Czech Republic	no	yes
Estonia	no	yes
Hungary	no	yes
Latvia	no	yes
Lithuania	no	yes
Malta	no	yes
Poland	no	yes
Slovakia	no	yes
Slovenia	no	yes
TOTAL	1/10	10/10

* Yes means enhanced efforts required

6. Competition Policy

This is the other chapter out of the six in which some future members have serious deficiencies and in these fields the Commission evaluated the situation as a serious concern. In case of Malta and Slovakia, the issue of state aid is the serious concern. In Malta the ship-repair/shipbuilding industry is supported by the state and Malta has a transitional arrangement with the EU to grant state aid to this industry until 2008. However, the pace of the restructuring of the ship-repair and building industry is slow and that is the reason why the Commission concerns seriously about that issue. Thus, the EC recommends urgent steps to abolish the delays. In Slovakia, the situation is similar, but it concerns a company operating in the steel sector. Slovakia has a transitional period until the end of 2009 in this case.

Table 6.

Competition policy		
	State aid	Antitrust
Cyprus	no	no
Czech Republic	yes	no
Estonia	no	no
Hungary	no	no
Latvia	no	yes
Lithuania	no	no
Malta	yes	no
Poland	yes	no
Slovakia	yes	no
Slovenia	no	yes
TOTAL	4/10	2/10

* “*Bold*” yes means a serious concern, “*normal*” yes means enhanced efforts required

The issue of state aid is also a problem in the Czech Republic and Poland; however, in these countries the deficiencies need “only” enhanced efforts. In the Czech Republic, the proper enforcement of all fiscal aid measures must be ensured and the full implementation of the restructuring of steel industry must be ensured. In Poland, besides the two above-mentioned deficiencies, state aid measures for companies operating in sensitive sectors like shipbuilding and repair must be in full compliances with the special rules and the amendments to the Act of Special Economic Zones. They must be adopted and their implementation needs to be ensured to meet the requirements and commitments essentially.

There is another specific issue where only two countries have deficiencies. These are Latvia and Slovenia and the issue of antitrust. These two countries need to strengthen their administrative capacity to implement the antitrust rules more effectively.

Conclusions

1. The deficiencies mentioned above are not so serious that they would prevent all the future members from finishing their remained jobs until the accession. It is true that there are 8 future members that have a serious concern – Cyprus and Hungary are the exceptions – related to the six Single European Market chapters, however, all the eight countries have only one serious concern each. The remaining time seems enough for completing the alignment to the acquis.
2. The chapters are mainly fulfilled, while there are some problematic questions where further enhanced efforts are required. In three chapters – free movement of goods, freedom to provide services and company law – all the ten new members have work to do and abolish the deficiencies.
3. Considering the number of fields in which the future members have deficiencies, Cyprus (5), Hungary (5) and Malta (6) have the least, while Latvia (12), Estonia (11) and Poland (11) have the most related to the SEM chapters. We emphasize that this fact does not reflect any kind of rank list among these countries. It is only statistical data that represents the number of remained deficiencies and does not include the weight of the problems. On the other hand, each of these problems is solvable and cannot endanger these countries' EU accession.
4. However, the possibility cannot be excluded that a country will not be able to abolish all of its deficiencies. The Commission hopes that this case will not occur, but even if so, the EC will take steps to enforce the urgent therapy of the situation. If a new member is not fully prepared at the time of the accession, the EU can take the appropriate measures to ensure the well functioning Single European Market. It may mean that the member that has broken the rules can be excluded temporarily from the advantages of the Single European Market. Actually, this kind of penalty cannot be underestimated. Certainly, the alignment to the acquis is not confined to the moment of the accession but it also concerns the time after EU accession as well.