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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

**EU CONTRACTUAL RELATIONS  
WITH UZBEKISTAN**

## Explanatory Memorandum

### The European Union's contractual relations with Uzbekistan

1. The General Affairs Council of 17th July 1995 invited the Commission to hold exploratory discussions with Uzbekistan and Turkmenistan, centring in particular on open questions regarding the treatment of democracy and human rights in these countries, and to report in view of a subsequent decision by the Council to open negotiations on Partnership and Cooperation Agreements.
2. Such exploratory discussions were held in Uzbekistan in July 1995. The Uzbek authorities, at the highest level, expressed their wish to negotiate such an agreement which they see as an important element in their strategy of building up links with the West, as a counterweight to Russian pressure to become more integrated into CIS political and economic structures. They agreed to enter into an ongoing dialogue with the EU on democracy and human rights questions and requested technical assistance in these fields.

No such discussions have as yet been held with Turkmenistan, which has so far shown little interest in closer relations with EU or in an open dialogue on human rights and democracy. The case of Uzbekistan should therefore be considered on its own merits.

3. The Commission considers that:
  - a) it remains in our political and commercial interests to establish closer bilateral relations,
  - b) following the opening offered by Uzbekistan for dialogue on human rights and democracy, it is also in our interests to pursue our objectives in these domains through intergovernmental cooperation,
  - c) following the Council's decision to negotiate with the Transcaucasian republics, and the EU's signature of PCAs with Kazakhstan and Kyrgyzstan and of the Interim Agreement with Russia, it is important to avoid conveying the impression to the Uzbeks, who are potentially our most valuable partners in the region, that the EU wishes to discriminate against them,
  - d) it would therefore be reasonable to open negotiations with Uzbekistan bearing in mind that the negotiating process (negotiations, initialling, signature, ratification, conclusion) is a long one which can be slowed down or even suspended should Uzbekistan fail to make further progress.
4. The reasons for adopting the above approach are set out in the attached Communication, which constitutes the report requested by the General Affairs Council. It proposes that negotiations be initiated in early 1996, while noting that the negotiating process itself provides sufficient flexibility to take account of ongoing developments in Uzbekistan in the fields of human rights and democracy.

## **Introduction**

1. In its Communication on relations with the Newly Independent States of Central Asia<sup>1)</sup>, the Commission reviewed the EU's political, economic and human rights interests in the region, and assessed the options for the development of contractual relations with Uzbekistan and Turkmenistan.

The General Affairs Council of 12 June 1995 invited the Commission to hold exploratory discussions with Uzbekistan and Turkmenistan and to report back on developments regarding human rights and democracy, before deciding whether to open Partnership and Cooperation Agreement (PCA) negotiations.

The purpose of this Communication is to consider whether, following the exploratory discussions with Uzbekistan which took place on 23-28 July 1995, sufficient advances have been made as to justify - under current circumstances - a decision to open negotiations.

2. No discussions with Turkmenistan have yet been held. That country has not yet requested the reinforcement of contractual links with the Union, nor expressed readiness to engage in dialogue on human rights issues. The Commission is therefore of the view that the case of Uzbekistan should be considered independently from that of Turkmenistan and on its own merits.

## **The exploratory discussions**

3. The purpose of these discussions was:
  - to establish an overall assessment of developments in democracy and human rights and to identify main areas which are lagging behind;
  - to assess whether there is an open attitude on the part of the Government towards initiating a dialogue with the EU on these matters, and whether there are clear signals of a willingness to proceed with reforms;
  - to establish whether the government is ready to request EU technical assistance in key democracy related issues and if so, to identify projects for implementation through the Tacis Democracy Programme.

The discussions also enabled the Commission to assess, in consultation with the embassies of the Member States in Tashkent, the general context within which the Uzbek request to open negotiations on a PCA should be placed.

4. At a meeting on 27 July 1995 with Commission representatives, which was attended by the embassies of the Member States representing the Troika, President Karimov outlined his government's reform strategy. Its objective is to transform the country into a modern democracy based on a multiparty system; but the President's view is that true pluralism can only develop if parliamentarians genuinely represent the

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<sup>1)</sup> COM (95) 206

interests of different sectors of society - interests which can only emerge once private ownership has taken full root. Thus economic reform must, in President Karimov's view, be a prerequisite for political reform. At the same time, change must be gradual. Too much haste could exacerbate ethnic tensions or regional disparities or render the reform process itself unsustainable.

In this ongoing process the President attached great importance to strengthening links with the EU and other Western partners, and to the value of technical assistance through Tacis, including assistance on democracy-related issues. He referred in particular to three areas identified by the Commission as essential for the strengthening of the rule of law, i.e.:

- the creation of a constitutional court,
- strengthening the independence of the judiciary
- the operation of the new Parliamentary human rights Committee.

However, the President noted that partnership with the EU was an objective in itself. His request for assistance should not be seen as part of a "bargain".

5. Following this meeting, the Justice Ministry co-operated fully in setting up terms of reference for appropriate projects. It is clear that assistance is badly needed on a whole range of democracy-related questions. Initially, the EU's contribution will concentrate on:

- establishment of a Constitutional Court
- establishment of an Administrative Court, for judicial review of decisions taken by the various branches of the Administration under their respective powers and for treating complaints on violations of human rights by the administration
- independence of the judiciary, with special reference to the training of judges and lawyers and to the transparency of judicial decisions having an effect upon the interpretation of the laws.

In meetings with the US Ambassador, the deputy head of the UN Mission and the new representative of OSCE, it was agreed that the EU, US and international organisations should co-ordinate their work on human rights and democracy in Uzbekistan.

### **The political and economic context**

#### **6. a) The state of political reform in Uzbekistan**

Uzbekistan is not yet a fully democratic state, and power is still concentrated in the hands of the President. However, a basis does exist for qualitative improvement:

- The constitution is a liberal one: on paper, more so than the new Kazakh constitution approved by a much-criticised referendum in August. The government has just announced the establishment of a constitutional court.
- The Parliament is functioning. New parties are being formed. Uzbek parliamentarians already claim to reflect the interests of various social constituencies and have expressed the wish to learn from European parliamentary experience.
- The government is willing to work with international organisations (OSCE, UNDP) and Western partners (EU, the Member States, and the US) on human rights and democracy issues.

The major problem results from the fact that constitutional guarantees are not being applied in practice due to deficiencies in the legal system, the lack of competent courts, absence of NGOs and a population and an administration which are not aware of their respective rights and obligations. Although President Karimov's regime is authoritarian, these problems appear to be of a different order to those prevailing in Turkmenistan and are in many ways comparable to those of other NIS. Moreover, Uzbek society is probably safer, stabler and less violent than elsewhere in the former USSR.

It is the view of the Member States' embassies, as confirmed by other sources including international organisations, that after a disappointing two years following the country's independence there have been meaningful improvements in particular during 1995. There is a general impression that whereas in some areas Uzbekistan lags behind other Independent States, in others the reverse is the case.

#### **b) The economic context**

Buoyed up by high world cotton prices, a good wheat harvest and good progress towards the government's goal of self-sufficiency in fuel, the economy is performing relatively well. The IMF representative in Tashkent confirmed that Uzbekistan is well on course for the conclusion of a stand-by arrangement. Thanks to a strong trade performance the budget, which was expected to show a small deficit, is actually in surplus. There are no external financing problems and the IMF is satisfied with the country's macroeconomic performance. The World Bank is a major donor, having provided a \$160 m rehabilitation loan; up to \$300 m is in the pipeline if present assumptions are borne out.

Industrial privatisation is still at an early stage. Uzbekistan has rejected a voucher system, preferring sale of minority shares with government institutions retaining overall control. Five year tax holidays are offered to overseas investors, but under present conditions very few are likely to buy into existing Uzbek enterprises. Whereas most dwellings are now privately owned, land itself remains the property of the state, albeit with long-term (99 year) leases.

The lack of legal certainty represents a major problem for investors. Since the business of government is carried out largely by decree, the investor cannot be certain that his rights will be adequately protected. It may be concluded that a properly functioning legal system, including the ability to defend rights in court and to invoke the state's international obligations, is an essential requirement for the future development of European investments.

#### **c) Uzbekistan's external relations**

Although the Uzbek authorities are well aware of the importance of the Union as an economic partner their wish to negotiate a PCA must be seen primarily in its political context. Uzbekistan's prime objective remains the preservation of its ability to make sovereign policy decisions. Its wish to intensify relations with the EU should be seen against the background of Russian policy towards the other NIS. The Customs Union agreements between Russia, Belarus, Kazakhstan are - as President Yeltsin specified in his decree on the CIS of 14 September - an important element in this process. It will be recalled that the Yeltsin decree also specifies that third countries and international organisations should recognise that the region is primarily the zone of Russia's interest. Prime Minister Chernomyrdin visited Tashkent in the same week as

the exploratory discussions with the EU, and on this occasion President Karimov announced his country's wish to enter into the customs union. At the end of September 1995 the President of Kazakhstan issued a decree removing the customs posts between his country and Russia. The significance of this action for Uzbekistan could be profound: following the agreements in 1994 to remove their own frontier posts, Uzbekistan's Northern border is now fully open, subject only to checks on transit traffic by the Kazakh authorities, and controls could not be imposed without creating major difficulties for Uzbekistan with all its major partners.

Thus, on the one hand Uzbekistan needs to find an accommodation with its CIS partners and especially Russia, but on the other hand it also needs to retain its ability to make independent decisions regarding its future. This future will in large part depend on further integration into the global economy and closer links with the West - especially the EU, where the most important western customers for Uzbekistan's products, particularly cotton and metals, are to be found. Uzbekistan is submitting an application to WTO, and has requested EU assistance for this purpose.

At the same time, in the light of events in Tajikistan and Afghanistan the Uzbek government has sought to resist pressures from elements wishing to promote Islamic fundamentalism as a basis for a new Uzbek nationalism.

These are the pressures from both sides which are pushing Uzbekistan, with some urgency, to develop its relations with the West as a counterweight - and in the course of this, to respond to Western pressures for more democracy and an improved human rights regime. President Karimov's request for EU technical assistance is the most recent and perhaps the most eloquent expression of this openness.

### Assessment

7. In the Commission's view, Uzbekistan's positive stance on democracy-related questions in the exploratory discussions is a new element which should be taken into full consideration. However the Council's decision on whether to open PCA negotiations should take into account both human rights considerations and the EU's political and economic interests.
8. For the EU Uzbekistan is unquestionably an important partner <sup>1)</sup>. With 23 million people it is the economic and cultural heart of the region. Its geopolitical situation between Russia, China and the Islamic world makes it a valuable interlocutor. Member States' bilateral trade is already more than three times trade with all the Caucasian republics put together. The country is stable. As regards the Union's human rights interests, the Commission's assessment is that a basis for progress does exist; but a lot of time and work is needed and for this, long-term cooperation is essential.
9. The exploratory discussions have served to illustrate why relations with the West, and the EU in particular, form a central component in Uzbekistan's foreign policy. In turn, Uzbekistan's wish both to preserve its independence and to resist pressures from some

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<sup>1)</sup> In 1994, total trade (imports plus exports) amounted to 908 Mecu, a 47% increase on 1993. Uzbekistan was our fifth largest trading partner among the NIS after Russia, Ukraine, Belarus and Kazakhstan. Uzbekistan's positive balance (+130 Mecu) is due above all to exports of high quality cotton and gold.

nationalist and Islamic fundamentalist elements will be vital in deciding the region's future orientation. Unlike Kazakhstan, Uzbekistan's ethnic Russian population is relatively small and its economy is less interdependent with Russia's. These factors have doubtless played a part in the improvement of Uzbekistan's relations with the US in the course of this year. They will also be crucial for the EU's role in Central Asia. The 17 July 1995 General Affairs Council's conclusions underlined the EU's support for the independence of the Central Asian States.

10. President Karimov's stated objective is gradually to transform Uzbekistan into a modern democracy with a market economy; but he has also stressed the need for gradual change. There is a genuine fear that too much haste could exacerbate ethnic tensions or regional disparities, or be counter-productive for reform; developments in neighbouring countries and in particular in Tajikistan have alarmed many Uzbeks, both inside and outside the government.
11. A decision regarding Uzbekistan should take into account recent decisions taken by the EU concerning contractual relations with other newly independent states. It has been noted in Tashkent that the Union is negotiating with the three Transcaucasian republics; has signed PCAs with Belarus, and with Kyrgyzstan and Kazakhstan; and signed an Interim Agreement with Russia as soon as developments in Chechnya permitted. Further delay would certainly be regarded in Tashkent as unjustifiable discrimination. It would also represent a major blow to those who favour closer relations with the West and especially the EU and who have been, in consequence, pleading for a more flexible policy on human rights and democracy issues.

A window of opportunity exists for the EU to construct a strong relationship with a potentially highly significant partner - a relationship would allow the Union to initiate an ongoing dialogue on, inter alia, human rights and democracy issues and so influence developments in a positive way.

### **Recommendations**

12. a) The Commission concludes that following the exploratory discussions, it would be in the Union's human rights interests, as well as its political and economic interests, to initiate PCA negotiations without further delay, based on the 1992 negotiating mandate. The Uzbek authorities should therefore be informed of the EU's willingness to hold a first round in the first months of 1996.
- b) As the concrete results of the technical assistance projects under the Tacis Democracy Programme mounted in 1995-96 will not yet be visible, the EU should use the PCA process itself as continued leverage. The PCA should serve as a vehicle for further dialogue on human rights and democracy, and the EU should continue to use technical assistance to support this dialogue. The entire process, (negotiation, initialling, signature, ratification and conclusion) can be expected to last at least two years. This will provide ample opportunity for the Union to take account of ongoing developments, and if these are negative, to take appropriate steps.
- c) The Commission will implement technical assistance programmes under the Tacis Democracy Programme as agreed with the Uzbek authorities. If the means are available it will seek to intensify this cooperation. In doing so it will continue to liaise closely with other donors including the Member States.