

**Possible Implications of Accession to the EC
and The Complexity of Enlargement Negotiations
Seen from an Austrian Perspective***
H.E. Ambassador Dr Gregor Woschnagg
Ministry for Foreign Affairs in Vienna

The so-called Austrian success story' after the Second World War is based on - and has been achieved through - Austria's participation in Western European integration.

The difficult, cumbersome and time-consuming aspects of this participation in the Western European integration process can best be demonstrated by describing the numerous steps leading to the opening of Austria's negotiations for EC membership on 1 January 1994.

After concluding the State Treaty of 1955, through which it gained its independence, Austria also joined the Council of Europe and was a founding member of the European Free trade Association (EFTA) in 1960. Austria has been described as *un pays fondateur manqué* in relation to the European Economic Community (EEC) for, as early as 31 July 1961, the Austrian Government decided to open negotiations for an association agreement with the EEC pursuant to Article 238 EEC.

After the French veto against the British application for EEC membership, Austria reasserted its desire for an EEC association agreement. Austria had to face an Italian veto in 1967, which was withdrawn in 1969 after the conclusion of the South Tyrol package, as well as a French veto in view of its fears for the institutional autonomy of the EEC. It was not until 1972 that Austria was finally able to conclude an Interim Agreement (1.10.72 to 1.7.73) as well as a Global Agreement along the same lines as the bilateral free trade agreements between the other EFTA countries and the EEC and ECSC.

The first meeting of foreign ministers of the EFTA countries and of the EEC and EC Commission did not take place until 9 April 1984. The meeting adopted the Luxembourg Declaration and the target of creating a dynamic European Economic Area' comprising the EFTA countries and the EEC was mentioned for the first time.

The EFTA countries tried, in the so-called Luxembourg follow-up', to establish common fields of cooperation by setting up over 24 joint committees, but soon encountered EEC reservations as these joint committees worked out specific but not always compatible proposals. The EEC side accused the EFTA side of 'raisin picking' and of not standing up for the other obligations of European integration, such as the implementation of the four freedoms.

Following a proposal by the President of the EC Commission, Jacques Delors, on 17 January 1989, the EC Member States and EFTA countries commenced the complicated negotiations leading to the European Economic Area (EEA) agreement. This agreement was signed in Porto on 2 May 1992 and entered into force - after the necessary adaptations resulting from the non-participation of Switzerland - on 1 January 1994. The EEA - comprising the 12 EC Member States and 6 EFTA countries representing 372 million inhabitants with a GNP of \$6,351 billion - is larger than the North American Free Trade Association (NAFTA).

From the economic point of view, the EEA can be considered as satisfactory, in that it enables the EFTA countries to participate in the EC Internal Market process by accepting the *acquis communautaire* relating to the four freedoms, including the necessary flanking policies. The EEA agreement also incorporated the acceptance of the content of about 11,000 pages of the *acquis communautaire*, namely approximately 1,300 EC legal acts. This, however, could be implemented in Austria by changing only 99 Austrian federal laws.

The institutional part of the EEA negotiations was referred to as the 'squaring of the circle', in that essentially a compromise had to be found between the following three divergent requirements:

- decision autonomy of EC institutions should remain unchanged;
- sovereignty of EFTA countries should be maintained;
- EFTA countries should participate fully in the EC Internal Market.

A compromise solution was reached whereby the EFTA countries could make the formal decision whether to accept EC legal acts by joint decision (EFTA speaking with one voice'), or not to accept them at all, which could then lead to EC retaliation, thus endangering the homogeneity of the EEA for economic operators.

For Austria, the EEA represents a preparatory step on the way towards EU membership. It cannot replace EU membership as it does not permit equal participation in the EU decision-making process, nor does it include customs union (border controls and certificates of origin are still required for the EEA free trade area), agriculture, EU third-country policy, Economic and Monetary Union or several other aspects of the European Union.

The new Austrian coalition government (SPÖ + ÖVP) stressed the following in its legislative programme on 28 January 1987:

- the primary importance of Austria's participation in the further development of the European integration process;
- the further development of its relations with the EC;
- full and comprehensive participation in the new EC internal market.

With the aim of working out a more dynamic relationship with the EC, the new Austrian government established the internal Working Group for European Integration' on 3 February 1987 under the chairmanship of the former and present Austrian Ambassador to the EEC, Manfred Scheich. It was assigned the following tasks:

- to undertake a comparative analysis of the *acquis communautaire* in relation to the existing Austrian legislation; and
- to elaborate concrete proposals required for new steps in the integration policy.

It was the first time that such a comprehensive working group had been established in Austria, and it included all politically relevant institutions, namely all government ministries, the representatives of the Austrian provinces, the so-called social partners' i.e. Federal Chamber of Commerce, Chamber of Labour and the Chamber of Agriculture, as well as interest groups such as the Federation of Austrian Industrialists and the Labour Union. With the help of 18 subgroups chaired by the highest ranking civil servants in the different ministries, a substantive report was finalized relating to the reforms necessary in Austria for possible participation in the EC Internal Market.

Furthermore, the Council of Ministers decided on an 'EC compatibility clause' for all new Austrian legislation, with the aim of gradually harmonizing Austrian legislation with the EC *acquis communautaire*.

Austrian Foreign Minister Mock agreed with EC Commissioner de Clercq in 1987 to organize regular meetings at ministerial level and to appoint an EC Ambassador in Vienna.

On 1 December 1987, the Austrian government decided not to exclude the option of EC membership'. The abovementioned report by the Working Group on European Integration and its recommendations were accepted by the government in 1988. This new Austrian integration policy was also fully supported by the social partners'.

The government decided on 17 April 1989 to apply for EC membership and after receiving the necessary support of the parliament (175 votes in favour; 7 against), Foreign Minister Mock submitted the three Austrian applications to join the EEC, ECSC and EURATOM to the acting President of the EC Council of Ministers, the French Foreign Minister, Roland Dumas, on 17 July 1989.

Ten days later, the 12 EC Member States decided to initiate the necessary procedures by requesting the Commission of the EC to work out an opinion on the Austrian application for membership. This opinion was elaborated by an interdepartmental group of the Commission, and came to a very positive conclusion *vis-à-vis* Austrian EC membership; it was submitted to the EC Council of Ministers on 31 July 1991.

At the meeting of the European Council in Maastricht on 10 December 1991, it was decided that negotiations for membership of the European Union (EU) could only commence after agreement had been reached in the EC on the new budgetary requirements and after the Treaty on European Union had entered into force. The Council requested the Commission to prepare a report on the implications of an EU enlargement for the European Council in Lisbon in June 1992.

When the Maastricht Treaty was signed, the Austrian Foreign Minister Mock stressed Austrian readiness to accept the *acquis*' of the Maastricht Treaty including its perspectives, namely participation in the European Union.

On 27 June 1992 the Lisbon European Council decided that the extension of the EC could be achieved on the basis of the Maastricht Treaty and requested the EC institutions to conclude the negotiations on pending questions within the EC.

The EC Council of Foreign Ministers accepted the Opinion of the EC Commission on 6 October 1992 and, at the same time, requested the COREPER to prepare the necessary general negotiating mandate for the membership negotiations.

This preparatory work enabled the European Council of Edinburgh, on 12 December 1992, to decide upon opening membership negotiations at the beginning of 1993.

The opening meeting of the membership negotiations at foreign minister level took place in Brussels on 1 February 1993.

The EC membership negotiations were facilitated by the fact that Austria had already taken over a considerable part of the *acquis* through the EEA. Of the 29 negotiating chapters up to November 1993, 9 chapters were finalized. However, substantive problems remain unresolved, namely transit, secondary residences, agriculture, regional policies and higher standards and norms.

As Austria will be organizing a referendum on its EU membership, the negotiations are conducted under great pressure with the aim of achieving results which will find the necessary support of the Austrian population.

In view of the target set by the European Council in Copenhagen that the EFTA countries applying for EU membership should be EU members by 1 January 1995, the negotiations should now be speeded up, with the aim of finishing the text of the accession treaty by February 1994.

Preparing for EU membership also requires careful preparation on the part of the applicant country at national level over several years. The fact that integration starts at home' is often underestimated. It is necessary *inter alia*:

- to prepare, by means of a bottom-up approach', the national institutions for the new challenges of European integration;
- to prepare the national economy gradually for the obligations of European integration by limiting protectionism (it is often overlooked that freeing trade does the most good for those who open their own markets; competition raises efficiency, lowers prices and the signals from trade channel investment into the firms that are the strongest and into activities at which a country is best);
- to prepare the national legislation by introducing an EU compatibility clause' for EU membership;
- to familiarize civil servants in different ministries, journalists and other opinion leaders as far as possible with the general questions and practical aspects of European integration through participation in EU seminars, traineeships in the various EU institutions, etc;
- to establish departments of European law in the national universities, in order for there to be a sufficient number of lawyers and judges who are trained in European law by the time of EU membership;
- to expand the staff of the EU Mission in Brussels with representatives from other ministries, with the aim of preparing for its possible transformation into an effective Permanent Representation from the date of EU membership;
- to ensure support for leading government representatives, even if there is an unavoidable crisis in the membership negotiations, with the aim of concluding the negotiations within the required time-frame.

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