

**THE DAY AFTER COPENHAGEN:  
IS TURKEY READY FOR ACCESSION NEGOTIATIONS**

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*It is safe to say that within the last two years, Turkey has taken significant steps towards alignment with the acquis. In addition to economic reforms, new legislation has been adopted in almost all areas. If and when a date is given for accession negotiations, they will be built upon the three rounds of sub-committee meetings. When we look into the previous enlargements and at the current accession negotiations, which have already taken four years, it is reasonable to say that a long process is ahead of us. Yet, this is not as daunting a task as it might have been had Turkey not achieved what it has so far. Consequently, Turkey is confident that it is ready to proceed with the accession negotiations.*

Turkish – EU relations are currently focused on the Copenhagen European Council to be held in December 2002, and the possibility of taking a decision on a date for opening accession negotiations. Turkey wishes that they begin in 2003. To open these negotiations a candidate has to fulfill the political criteria that were set out at a similar European Council during the Danish Presidency in 1993. While we tend to concentrate on starting accession talks, we have curiously avoided discussing whether Turkey is actually ready for them. What are the challenges in front of Turkey in adopting the EU acquis, which covers virtually every aspect of daily life?

After the political criteria are fulfilled, the negotiations will deliberate on sometimes esoteric but equally important areas such as farmer registration or environmental impact assessment. These concerns may not grab headlines, but will represent the bulk of the work in the years ahead and improve the standard of living of each and every one of us. How ready is Turkey for starting negotiations, what has it done so far and what are the challenges ahead? This is what we will be discussing here below.

The accession negotiations are rather interesting in that they are not negotiations in the classic sense. It is not a give and take exercise where you try to find a consensus that can be mutually beneficial to both sides. In fact, it is a one-sided affair in which the candidate country has to harmonize its entire legislation with that of the EU. As the EU continues to put out new legal instruments (directives, regulations etc), it becomes a moving target where the candidate closes the relevant chapters only on a temporary basis. The one leeway a candidate has in these negotiations is to obtain transitional periods in certain areas of primary importance or sensitivity to the country concerned. Transition measures – not derogations – may be agreed upon in the course of negotiations, but have to be duly justified.<sup>1</sup>

Fulfilling economic criteria is not a prerequisite for starting accession negotiations. In its “Agenda 2000” document prepared in 1997, which constituted the basis of the conclusions of the Luxembourg European Council; the Commission stated that none of the applicants fully met the economic conditions. The period up to Luxembourg was aimed at assessing these countries and gearing up a tailor-made strategy for each. Hence, a roadmap was devised in Luxembourg for the candidates. A phase called analytical examination (screening) managed this preparation for the accession negotiations.

After Turkey was recognized as a candidate for membership at the Helsinki European Council, a similar path was prepared for Turkey. The difference from the other candidates derived from a time lag of two years between Luxembourg and Helsinki and also from the way Turkey was being handled by the EU. Whereas we all thought that a screening process would start in 2000, the Commission clearly pointed out that the process was somewhat different, as the conclusions of Helsinki stated “preparation for the analytical examination,” which in EU parlance meant preparation for screening. The reasoning behind this would become clear towards the end of 2001.

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<sup>1</sup> “Agenda 2000 For a Stronger and Wider Union” COM(97) 2000 final. Transitional periods must be limited in scope and duration. For chapters such as Economic and Monetary Union, Statistics and Regional Policy the EU

Although the Commission's Accession Partnership (AP) Document was presented to Turkey by the Commission and was countered by a National Programme for the Adoption of the Acquis in 2001, Turkey was not idle in 2000. Immediately after Helsinki, an Association Council was held after three years of hiatus. Under the EU-Turkey Association Council Decision adopted on 11 April 2000, 8 sub-committees were established (see table 1) to monitor progress with the priorities of the Accession Partnership and approximation of legislation. During 2000, the AP was discussed with the Commission, and Turkey prepared the 1000 -page National Programme comprising every aspect of the acquis.

It should also be remembered that the completion of the Customs Union at the end of 1995 constituted a precursor for experience in alignment with the EU acquis. Thus, Turkey harmonized its commercial and customs legislation with that of the EU before the other candidates even began negotiations. However, in all fairness, Turkey also looked into the practice of other applicant countries since Luxembourg. As the current wave of enlargement is different in time, scope, size and nature from previous ones, the process devised by the Commission is unprecedented. Therefore, before embarking upon our own process, it made sense to inquire how the others fared.

The sub-committees, which cover all of the acquis, do not have decision-making capacities. Their role is to make an overview of the developments. Between June 2000-July 2001, they completed two rounds of meetings, held in Brussels and Ankara/Istanbul on a rotating basis. A somewhat enhanced third round took place between March - July 2002.

Another important obligation for the candidate countries is the establishment of administrative structures necessary for the implementation of the acquis. The two essential prerequisites for actual membership are the adoption of legislation necessary for the

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does not allow such periods. On the other hand, the EU has required transitional periods from the candidate

alignment with the *acquis* and the establishment of administrative capacities for the full implementation of the aligned legislation. The screening process conducted with the candidate countries, along with the accession negotiations, covers these issues as well. Although Turkey did not undergo a screening exercise, in practice, the sub-committee meetings have in time begun to serve this purpose.

Turkey – EU relations stretch back 40 years, yet during this process both sides would encounter for the first time each other's policies in detail in the fields outside trade, customs or foreign policy. The first round of sub-committee meetings was exploratory, in the sense that the parties had a chance to get to know each other's views in this totally new process. The Commission representatives explained the EU policies, priorities and legislation under the responsibility of each sub-committee in very general terms. The Turkish side, on the other hand, elucidated upon Turkey's policies, existing legislation and ongoing work for the alignment with the *acquis* in these same areas. In addition, the sub-committees also discussed bilateral issues taken up by other organs such as the Customs Union Joint Committee and the Association Council (trade, agriculture, marine transport, social policies etc.). In some areas, meetings were more in the form of reciprocal presentations, rather than a comprehensive dialogue. This not only allowed the experts to get to know each other better, but also shed a light to the objectives and policies of each side.

In the second round of meetings, a more detailed analysis became possible. The Accession Partnership and the National Program had been presented, so the second round focused specifically on what Turkey was aiming to achieve within the framework of the short-term priorities set out in these two documents. While presenting the work underway in Turkey in this period, the related draft laws and regulations were elaborated. Moreover, bilateral talks among experts gained pace.

After these two rounds of sub-committee meetings at the end of 2001, Turkey pointed out that the “preparation of the analytical examination” phase had been properly completed and that it had therefore become essential for a more in-depth and meticulous harmonization process. In other words Turkey requested a decision for the initiation of screening be taken at the Laeken European Council.

We also mentioned that initiating the screening process with Turkey would be important in two aspects. Firstly, it would indeed provide a further technical capacity of developing the integration process. Secondly, beginning the screening process would present Turkey with a clearer perspective and thus give added impetus to the implementation of the reform measures undertaken by the government in the political and economic spheres.

However, nothing is simple or easy in Turkey – EU relations and some EU countries had identified screening with the accession negotiating process. Taking the other candidates as an example, it was evident that there were no conditions for starting a screening process. Slovakia had started screening in 1998 without fulfilling the political criteria. Furthermore, the Helsinki European Council Conclusions pointed out that there should be no discrimination between the candidate countries and future steps for Turkey should also be similar to those of the other candidates. Nevertheless, it was difficult politically for the EU to accept a screening exercise with Turkey and the EU innovatively came up with another designation.

In line with the new stage foreseen for Turkey’s pre-accession strategy at the Laeken European Council of December 2001, the sub-committees would carry on a third round of meetings within the framework of a “detailed legislative scrutiny”.

In effect, this third round was a screening process in all but name. Indeed, as opposed to previous sub-committee meetings, the new round of meetings focused on specific sectoral issues and was pursued in a comprehensive dialogue. It was a detailed exchange of views regarding individual draft legal documents. As the Commission officials highlighted, some of

the written questions presented to the Turkish side were the same as those included in the questionnaire that the EU had given to the other candidate countries during their screening exercise. This allowed for a sort of “gap analysis”, with reciprocal evaluation of the work underway in Turkey, concerning the alignment of legislation and its implementation. In short, the new exercise was much more satisfactory. As Turkey desired all along, the Turkish legislation vis-à-vis the acquis, any discrepancies between them and the work required for alignment were now taken up in much more detail. The Commission’s attitude was also more constructive regarding the comprehensive work being carried out.

Moreover, to support these ongoing activities, issue-specific seminars were held in related areas. Also, for a better understanding of the acquis, comprehensive activities were carried out. The Technical Assistance Information Exchange (TAIEX) Office created specifically for the candidate countries was also now open for Turkey.

The most important aspect for Turkey in the work of transposing EU legislation was to decipher where the salient and pressing areas were. In other words, one had to prioritize. The EU acquis is said to consist of between 80 – 120 thousand pages. Of these, half concern the agricultural sector. Nobody is quite sure of the exact figure, as new directives and regulations are added, while some are merged or deleted. Therefore, it was rather difficult to know whether legislation one had transposed was out of date or soon would be.

Translation was another pressing issue. Not only did the legislation need to be translated into Turkish in order to make a comparison with existing laws and fill in the gaps, but also a reverse translation was required so that the Commission could verify them. Translation is time-consuming and costly. The difficulty in finding good translators on arcane technical matters was one other hurdle to overcome.

Another difficult matter was presenting timetables on when the harmonization process would be completed. Despite Helsinki, there was, and still is, some hesitancy within the Turkish bureaucracy on whether the EU would accept Turkey as a member. It was therefore essential that all of the bureaucracy be brought up to speed so that they would act along similar lines. The EU Secretariat General was set up in the fall of 2000 for this purpose. It provided an important boost for this exercise. The EUSG quickly filled its staff with a coterie of determined people who helped in coordination and in providing the necessary tools.

It is safe to say that within the last two years, Turkey has taken significant steps towards alignment with the *acquis*. In addition to economic reforms, new legislation has been adopted in almost all areas. The Banking Supervisory and Regulatory Authority, the Public Procurement Authority, regulatory authorities in the energy and the telecommunications sectors, as well as the National Agency in the field of education have been established (see table 2). There has been further administrative restructuring as well. Ministries and other establishments have had to upgrade their EU departments or create new ones.

These developments are already affecting day-to-day life in Turkey. The regulatory bodies are independent and act as a guardian for effective competition and users rights with the power of enforcing legislation. Current issues, such as the roaming problem in GSM services, have been taken up in the sub-committees.

In the economic sphere, sub-committee 4 deals with the macroeconomic situation. As the existence of a functioning market economy is one of the main pillars for accession, Turkey had to further develop its policies. In conjunction with the IMF and the World Bank, the decisions taken by Turkey fell in line with the EU's requirements, regarding monetary and fiscal policies, banking and employment. Turkey was also brought into the EU's pre-accession fiscal surveillance procedure, which is a major endeavor, and has already prepared its second contribution this year. Furthermore, major acts, such as the Public Procurement Law, have been adopted.



In this respect, conformity in statistics is essential to avoid discrepancies. The EU does not allow any transitional periods in the chapter on Economic and Monetary Union or on Statistics for good purpose. During the past two years, EUROSTAT and the Turkish State Institute of Statistics have increased their contacts for this reason.

Throughout this exercise, Turkey also became aware that not all areas need harmonization. Areas such as education, training and youth, as well as culture lie within the competence of the member states, and are built upon cooperation.

Overall, the past two years, constructed upon the limited, but significant experience of the Customs Union, has changed and clearly developed the Turkish bureaucracy and the quality of the legislation it has produced. Turkey is not out of the woods yet, but has certainly gained confidence. Secondary or implementing legislation is still required for some issues. Transposing the EU acquis is a costly and time-consuming enterprise. Fortunately, financial cooperation with the EU has thawed after more than two decades of political obstruction. Although the amount provided is modest (127 million € on average between 2003-6) it is now entirely geared towards the accession process.

The information submitted by the sub-committees will be the basis of this year's Regular Report, which will be presented to the Copenhagen European Council and should prove Turkey has the capacity for alignment with the acquis. According to last years Regular Report<sup>2</sup> Turkey's alignment with the acquis is most advanced in the areas covered by the Customs Union. The Report also mentions that the major discrepancies that exist in some areas are also due to the complexity of the transposition process itself. In any case, this year's Regular Report should be much more engrossing.

The major challenges ahead are:

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<sup>2</sup> 2001 Regular Report on Turkey's Progress Towards Accession. p.107

- ❖ Continuing to translate and transpose the acquis and draw up the necessary legislation within a specified time frame;
- ❖ Drafting secondary legislation for the implementation of those that have been passed so far;
- ❖ Establishing monitoring mechanisms for implementing the legislation;
- ❖ Setting up practical and quick responding administrative structures for handling the negotiations;
- ❖ Finding financial funding for all of the above;
- ❖ Making an impact assessment in order to specify those areas where transitional periods may be required.

If and when a date is given for accession negotiations, they will be built upon the three rounds of sub-committee meetings. The negotiations themselves will not commence with all the 31 chapters, but will be taken up in groups. When we look into the previous enlargements and at the current accession negotiations, which have already taken four years, it is reasonable to say that a long process is ahead of us. Yet, this is not as daunting a task as it might have been had Turkey not achieved what it has so far. Consequently, Turkey is confident that it is ready to proceed with the accession negotiations.

Title	Issues
1. Agriculture and fisheries	Products of agriculture and fisheries Agricultural cooperation and rural development Processed agricultural products Veterinary and plant-health issues Legislation applicable to trade
2. Internal market and competition	Free movement of goods, including standardization, certification, conformity Assessment and market surveillance Intellectual and industrial property rights Public procurement, data protection and civil law Company law, accounting and e-commerce Consumer protection Competition and state aid Services, including financial services (banking, insurances, investment) and postal services Movement of workers, except coordination of social security Right of establishment and provision of service Turkish participation in Community programmes
3. Trade, industry and ECSC products	Trade issues ECSC products Investment promotion Small and medium-sized enterprises and Turkish participation in Community SME programmes Industrial policy and cooperation, tourism
4. Economics and monetary issues, capital movements and statistics	Economic and monetary issues Current payments and movements of capital, including investment protection Reform of the financial sector Statistical cooperation
5. Innovation	Education, training courses and youth, and Turkish participation in community programmes Science, research and technological development and Turkish participation in research and technological development programmes and demonstration programmes Telecommunications and information technology Cultural cooperation and audiovisual policy, Turkish participation in community programmes
6. Transport, environment and energy (including trans-European networks)	Transport Environment and Turkish participation in community programmes Energy, including nuclear safety, Turkish participation in community Programmes
7. Regional development, employment and social policy	Employment policy, social policy, Turkish participation in community programmes Regional development policy Coordination of social policies
8. Customs, taxation, drug trafficking and money laundering	Customs cooperation Indirect Taxation and Turkish participation in Community programmes in the field of taxation Money laundering Drugs Auditing and financial control

**ANNEX TO DECISION 3/2000 OF THE EC-TURKEY ASSOCIATION COUNCIL  
SUBCOMMITTEES ATTACHED TO THE ASSOCIATION COMMITTEE**



**TABLE 2**

<b><u>Board / Agency</u></b>
<b>Banking Regulation and Supervision Agency</b>
<b>Telecommunication Board</b>
<b>Energy Market Regulatory Board</b>
<b>Capital Markets Board</b>
<b>Radio and Television Supreme Council</b>
<b>Sugar Board</b>
<b>The Tobacco, Products and Alcoholic Beverages Market Regulation Board</b>
<b>Public Procurement Board</b>
<b>Turkish Accreditation Authority</b>
<b>National Agency (The EU Education and Youth Programmes Centre)</b>
<b>Regulatory Authority for Monitoring and Supervision of State Aids</b>