



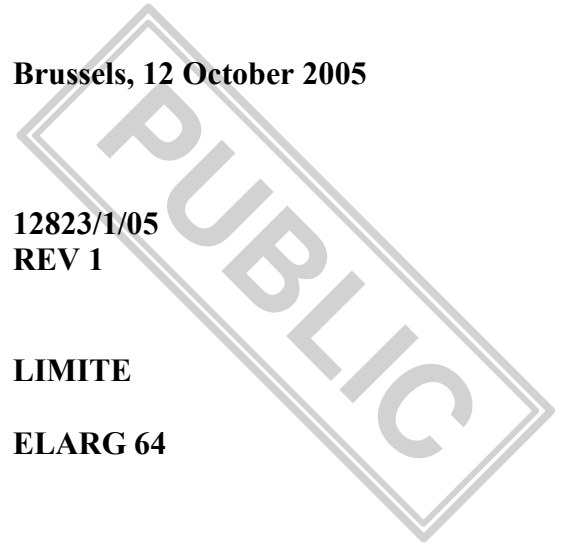
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 12 October 2005

**12823/1/05
REV 1**

LIMITE

ELARG 64



NOTE

from : General Secretariat

to : Council

No. prev. doc : 12768/1/05 REV 1 ELARG 60

No. Cion prop. : 10690/05 ELARG 35

Subject : ENLARGEMENT: Accession negotiations with Turkey: General EU Position
- EU Opening Statement
- Negotiating Framework
- External Arrangements

In the light of proceedings in the Council bodies and subsequent discussions, the Council is invited to adopt the draft General EU Position (EU Opening Statement; Negotiating Framework; External Arrangements) set out in Annexes I, II and III, and agree the minutes statement in relation to paragraph 7 of the Negotiating Framework as set out below :

" PRESIDENCY STATEMENT WITH THE CONSENT OF THE COUNCIL

Paragraph 7 of the Negotiating Framework, which is covering all relevant international organisations, cannot be interpreted as prejudicing the autonomy of decision-making and rights of any of those international organisations or of their members, or of the Member States of the European Union."

EU OPENING STATEMENT
FOR THE ACCESSION CONFERENCE WITH TURKEY

1. On behalf of the EU Member States, I am delighted to welcome here today the distinguished representatives of Turkey to the Intergovernmental Conference opening the accession negotiations with your country.

2. There are already well established, close ties between your country and the Union. We first concluded contractual relations in 1963, when we signed our Association Agreement, known as the Ankara Agreement. In 1995, we moved to the final stage of the Customs Union, and in 1999 the Helsinki European Council declared Turkey a candidate State. These represented important qualitative steps, both in political and economic terms. Today is another important step in the evolution of this relationship.

The Association Agreement will continue to provide the framework for our relations during the pre-accession period. By making progress toward extending the freedoms on which the Community is based, notably by liberalising trade between you and the Community, and by promoting economic and financial cooperation between us, it remains a key element of our ever-closer relations.

3. Since Turkey applied for membership in April 1987, successive decisions of the European Council have provided the strategy and the means to prepare the European perspective of your country. This includes an Accession Partnership which is supported by substantial pre-accession financial assistance.

4. We recall the European Council conclusions of 16/17 December 2004. We note that the six pieces of legislation identified by the Commission and requested by the European Council have entered into force and we expect that they will be fully implemented in accordance with the rule of law and respect for human rights and fundamental freedoms. We also acknowledge the signature of the Protocol regarding the adaptation of the Ankara Agreement. The position of the European Community and its Member States was set out in their Declaration of 21 September 2005, in response to the Declaration by Turkey of 29 July 2005.

The European Council of 16/17 December 2004 requested the Council to agree on a framework for our negotiations. The negotiating framework has been agreed by the Council on the basis of a proposal by the Commission. It takes account of the experience of the fifth enlargement process, and of the evolving *acquis* and has been prepared according to own merits and the specific situation and characteristics of Turkey. It indicates clearly the specific requirements of the process we are launching today.

The European Council also agreed that parallel to accession negotiations, the Union will engage with every candidate State in an intensive political and cultural dialogue involving civil society. This dialogue will prove valuable in improving mutual understanding and encouraging a debate on both sides on all aspects of our relationship.

5. The negotiations which we launch today are based on Article 49 of the Treaty on European Union. Let me recall that our negotiations are taking place in an Intergovernmental Conference with the participation of all Member States, as well as your country. As in all IGCs, decisions will be taken on the basis of unanimity. It will be up to the Member States to decide in due course whether conditions are right for the conclusion of the negotiations.

6. We recall the need for Turkey to continue to work towards full and effective implementation of the pre-accession strategy and reforms, in particular as regards strengthening the independence and functioning of the judiciary, the exercise of fundamental freedoms (association, expression and religion), cultural rights, the further alignment of civil-military relations with European practice and the situation in the Southeast of the country. This should ensure the irreversibility of the political reform process. In conformity with Turkey's commitment to peace and stability, and to the development of good neighbourly relations, including solutions to pending bilateral issues, Turkey should actively promote regional cooperation. This should contribute to regional stability.
7. Since the end of 1998, the Commission has made Regular Reports to the Council, reviewing your progress in the light of the Copenhagen criteria, in particular the rate at which you are adopting and implementing the *acquis*. Implementation of the Accession Partnership and progress in adopting the *acquis* are examined in the Association Agreement bodies. As with any other candidate country, the monitoring of your commitments will play a key role in informing the Council's decisions on the conduct of negotiations with you.
8. The timely and effective implementation of the *acquis* as well as the need to bring your administrative and judicial capacity up to the necessary level in order to achieve this are prerequisites for membership. Therefore, convergence with the *acquis* which you have already begun should now be intensified. You will also need to bear in mind developments in the *acquis* since the date of the opening of negotiations. The *acquis* includes the objectives and principles on which the Union is founded, as set out in the Treaty on European Union. It is a community of values, which every member must fully share.
9. The process will be rigorous and challenging. But we are confident in your determination and commitment and will support you in your efforts. We are pleased to engage with you today in this process.

NEGOTIATING FRAMEWORK

Principles governing the negotiations

1. The negotiations will be based on Turkey's own merits and the pace will depend on Turkey's progress in meeting the requirements for membership. The Presidency or the Commission as appropriate will keep the Council fully informed so that the Council can keep the situation under regular review. The Union side, for its part, will decide in due course whether the conditions for the conclusion of negotiations have been met; this will be done on the basis of a report from the Commission confirming the fulfilment by Turkey of the requirements listed in point 6.

2. As agreed at the European Council in December 2004, these negotiations are based on Article 49 of the Treaty on European Union. The shared objective of the negotiations is accession. These negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand. While having full regard to all Copenhagen criteria, including the absorption capacity of the Union, if Turkey is not in a position to assume in full all the obligations of membership it must be ensured that Turkey is fully anchored in the European structures through the strongest possible bond.

3. Enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to protect the cohesion and effectiveness of the Union. In accordance with the conclusions of the Copenhagen European Council in 1993, the Union's capacity to absorb Turkey, while maintaining the momentum of European integration is an important consideration in the general interest of both the Union and Turkey. The Commission shall monitor this capacity during the negotiations, encompassing the whole range of issues set out in its October 2004 paper on issues arising from Turkey's membership perspective, in order to inform an assessment by the Council as to whether this condition of membership has been met.

4. Negotiations are opened on the basis that Turkey sufficiently meets the political criteria set by the Copenhagen European Council in 1993, for the most part later enshrined in Article 6(1) of the Treaty on European Union and proclaimed in the Charter of Fundamental Rights. The Union expects Turkey to sustain the process of reform and to work towards further improvement in the respect of the principles of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms, including relevant European case law; to consolidate and broaden legislation and implementation measures specifically in relation to the zero tolerance policy in the fight against torture and ill-treatment and the implementation of provisions relating to freedom of expression, freedom of religion, women's rights, ILO standards including trade union rights, and minority rights. The Union and Turkey will continue their intensive political dialogue. To ensure the irreversibility of progress in these areas and its full and effective implementation, notably with regard to fundamental freedoms and to full respect of human rights, progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council, addressing all points of concern identified in the Commission's 2004 report and recommendation as well as its annual regular report.

5. In the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption. The Council will decide by qualified majority on such a recommendation, after having heard Turkey, whether to suspend the negotiations and on the conditions for their resumption. The Member States will act in the Intergovernmental Conference in accordance with the Council decision, without prejudice to the general requirement for unanimity in the Intergovernmental Conference. The European Parliament will be informed.

6. The advancement of the negotiations will be guided by Turkey's progress in preparing for accession, within a framework of economic and social convergence and with reference to the Commission's reports in paragraph 4. This progress will be measured in particular against the following requirements:
 - the Copenhagen criteria, which set down the following requirements for membership:
 - * the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

 - * the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;

 - * the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union and the administrative capacity to effectively apply and implement the *acquis*;

- Turkey's unequivocal commitment to good neighbourly relations and its undertaking to resolve any outstanding border disputes in conformity with the principle of peaceful settlement of disputes in accordance with the United Nations Charter, including if necessary jurisdiction of the International Court of Justice;
 - Turkey's continued support for efforts to achieve a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded, including steps to contribute to a favourable climate for a comprehensive settlement, and progress in the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus.
 - the fulfilment of Turkey's obligations under the Association Agreement and its Additional Protocol extending the Association Agreement to all new EU Member States, in particular those pertaining to the EU-Turkey customs union, as well as the implementation of the Accession Partnership, as regularly revised.
7. In the period up to accession, Turkey will be required to progressively align its policies towards third countries and its positions within international organisations (including in relation to the membership by all EU Member States of those organisations and arrangements) with the policies and positions adopted by the Union and its Member States.
8. Parallel to accession negotiations, the Union will engage with Turkey in an intensive political and civil society dialogue. The aim of the inclusive civil society dialogue will be to enhance mutual understanding by bringing people together in particular with a view to ensuring the support of European citizens for the accession process.
9. Turkey must accept the results of any other accession negotiations as they stand at the moment of its accession.

Substance of the negotiations

10. Accession implies the acceptance of the rights and obligations attached to the Union system and its institutional framework, known as the *acquis* of the Union. Turkey will have to apply this as it stands at the time of accession. Furthermore, in addition to legislative alignment, accession implies timely and effective implementation of the *acquis*. The *acquis* is constantly evolving and includes:

- the content, principles and political objectives of the Treaties on which the Union is founded;
- legislation and decisions adopted pursuant to the Treaties, and the case law of the Court of Justice;
- other acts, legally binding or not, adopted within the Union framework, such as interinstitutional agreements, resolutions, statements, recommendations, guidelines;
- joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy;
- joint actions, joint positions, conventions signed, resolutions, statements and other acts agreed within the framework of justice and home affairs;
- international agreements concluded by the Communities, the Communities jointly with their Member States, the Union, and those concluded by the Member States among themselves with regard to Union activities.

Turkey will need to produce translations of the *acquis* into Turkish in good time before accession, and will need to train a sufficient number of translators and interpreters required for the proper functioning of the EU institutions upon its accession.

11. The resulting rights and obligations, all of which Turkey will have to honour as a Member State, imply the termination of all existing bilateral agreements between Turkey and the Communities, and of all other international agreements concluded by Turkey which are incompatible with the obligations of membership. Any provisions of the Association Agreement which depart from the *acquis* cannot be considered as precedents in the accession negotiations.
12. Turkey's acceptance of the rights and obligations arising from the *acquis* may necessitate specific adaptations to the *acquis* and may, exceptionally, give rise to transitional measures which must be defined during the accession negotiations.

Where necessary, specific adaptations to the *acquis* will be agreed on the basis of the principles, criteria and parameters inherent in that *acquis* as applied by the Member States when adopting that *acquis*, and taking into consideration the specificities of Turkey.

The Union may agree to requests from Turkey for transitional measures provided they are limited in time and scope, and accompanied by a plan with clearly defined stages for application of the *acquis*. For areas linked to the extension of the internal market, regulatory measures should be implemented quickly and transition periods should be short and few; where considerable adaptations are necessary requiring substantial effort including large financial outlays, appropriate transitional arrangements can be envisaged as part of an on-going, detailed and budgeted plan for alignment. In any case, transitional arrangements must not involve amendments to the rules or policies of the Union, disrupt their proper functioning, or lead to significant distortions of competition. In this connection, account must be taken of the interests of the Union and of Turkey.

Long transitional periods, derogations, specific arrangements or permanent safeguard clauses, i.e. clauses which are permanently available as a basis for safeguard measures, may be considered. The Commission will include these, as appropriate, in its proposals in areas such as freedom of movement of persons, structural policies or agriculture. Furthermore, the decision-taking process regarding the eventual establishment of freedom of movement of persons should allow for a maximum role of individual Member States. Transitional arrangements or safeguards should be reviewed regarding their impact on competition or the functioning of the internal market.

Detailed technical adaptations to the *acquis* will not need to be fixed during the accession negotiations. They will be prepared in cooperation with Turkey and adopted by the Union institutions in good time with a view to their entry into force on the date of accession.

13. The financial aspects of the accession of Turkey must be allowed for in the applicable Financial Framework. Hence, as Turkey's accession could have substantial financial consequences, the negotiations can only be concluded after the establishment of the Financial Framework for the period from 2014 together with possible consequential financial reforms. Any arrangements should ensure that the financial burdens are fairly shared between all Member States.
14. Turkey will participate in economic and monetary union from accession as a Member State with a derogation and shall adopt the euro as its national currency following a Council decision to this effect on the basis of an evaluation of its fulfilment of the necessary conditions. The remaining *acquis* in this area fully applies from accession.
15. With regard to the area of freedom, justice and security, membership of the European Union implies that Turkey accepts in full on accession the entire *acquis* in this area, including the Schengen *acquis*. However, part of this *acquis* will only apply in Turkey following a Council decision to lift controls on persons at internal borders taken on the basis of the applicable Schengen evaluation of Turkey's readiness.

16. The EU points out the importance of a high level of environmental protection, including all aspects of nuclear safety.
17. In all areas of the *acquis*, Turkey must bring its institutions, management capacity and administrative and judicial systems up to Union standards, both at national and regional level, with a view to implementing the *acquis* effectively or, as the case may be, being able to implement it effectively in good time before accession. At the general level, this requires a well-functioning and stable public administration built on an efficient and impartial civil service, and an independent and efficient judicial system.

Negotiating procedures

18. The substance of negotiations will be conducted in an Intergovernmental Conference with the participation of all Member States on the one hand and the candidate State on the other.
19. The Commission will undertake a formal process of examination of the *acquis*, called screening, in order to explain it to the Turkish authorities, to assess the state of preparation of Turkey for opening negotiations in specific areas and to obtain preliminary indications of the issues that will most likely come up in the negotiations.
20. For the purposes of screening and the subsequent negotiations, the *acquis* will be broken down into a number of chapters, each covering a specific policy area. A list of these chapters is provided in the Annex. Any view expressed by either Turkey or the EU on a specific chapter of the negotiations will in no way prejudice the position which may be taken on other chapters. Also, agreements reached in the course of negotiations on specific chapters, even partial ones, may not be considered as final until an overall agreement has been reached for all chapters.

21. Building on the Commission's Regular Reports on Turkey's progress towards accession and in particular on information obtained by the Commission during screening, the Council, acting by unanimity on a proposal by the Commission, will lay down benchmarks for the provisional closure and, where appropriate, for the opening of each chapter. The Union will communicate such benchmarks to Turkey. Depending on the chapter, precise benchmarks will refer in particular to the existence of a functioning market economy, to legislative alignment with the *acquis* and to a satisfactory track record in implementation of key elements of the *acquis* demonstrating the existence of an adequate administrative and judicial capacity. Where relevant, benchmarks will also include the fulfilment of commitments under the Association Agreement, in particular those pertaining to the EU-Turkey customs union and those that mirror requirements under the *acquis*. Where negotiations cover a considerable period of time, or where a chapter is revisited at a later date to incorporate new elements such as new *acquis*, the existing benchmarks may be updated.
22. Turkey will be requested to indicate its position in relation to the *acquis* and to report on its progress in meeting the benchmarks. Turkey's correct transposition and implementation of the *acquis*, including effective and efficient application through appropriate administrative and judicial structures, will determine the pace of negotiations.
23. To this end, the Commission will closely monitor Turkey's progress in all areas, making use of all available instruments, including on-site expert reviews by or on behalf of the Commission. The Commission will inform the Council of Turkey's progress in any given area when presenting draft EU Common Positions. The Council will take this assessment into account when deciding on further steps relating to the negotiations on that chapter. In addition to the information the EU may require for the negotiations on each chapter and which is to be provided by Turkey to the Conference, Turkey will be required to continue to provide regularly detailed, written information on progress in the alignment with and implementation of the *acquis*, even after provisional closure of a chapter. In the case of provisionally closed chapters, the Commission may recommend the re-opening of negotiations, in particular where Turkey has failed to meet important benchmarks or to implement its commitments.

PROCEDURE FOR AND ORGANISATION OF THE NEGOTIATIONS

1. Chairmanship

In accordance with the practice in bilateral negotiations between two delegations, each led by a head, the question of electing a President of the Conference does not arise.

The practical work involved in chairing meetings will be performed by the head of the Union delegation in his capacity as head of the host delegation.

2. Frequency of meetings at ministerial level and deputy level – setting up of working parties

It is planned that there should be at least one meeting per six month period at ministerial and deputy level, on the understanding that the frequency could be adjusted if this were felt necessary.

The negotiations will remain centralised at ministerial and deputy level. The setting up of working parties should not be envisaged except to meet objective requirements of the negotiations. Any such working parties will operate under the authority of the deputies, on the basis of explicit terms of reference and in accordance with a specific timetable.

3. Venue for the meetings

Meetings will be held in Brussels, but during April, June and October ministerial meetings will be held in Luxembourg.

4. Organisation

(a) Secretariat

Conference secretariat services will be provided, under the authority of the Secretary-General of the Council of the European Union or his representative, by a team consisting of officials of the General Secretariat of the Council and officials appointed by the delegation of Turkey.

(b) Operating expenses of the Conference

Each party will bear its own travel and subsistence expenses and also the salaries of staff who are put at the disposal of the Secretariat.

The operating expenses of the Conference (rents, office furniture and supplies, telecommunications, interpreting, translation, auxiliary staff recruited for the Conference, etc.) will be met by advances made by the Council of the European Union.

These expenses will be entered in the Council's budget under a special budget heading.

The General Secretariat of the Council will submit an annual financial management report to the Conference on the operating expenses. These expenses will be divided among the participants in accordance with procedures to be mutually agreed.

(c) Preparation of meeting documents

Without prejudice to other special documents which the Secretariat might be asked to draw up, the following arrangements have been adopted on the understanding that they could, if necessary, be modified in the light of experience.

(i) Ministerial meetings

- Preparation, after each meeting, of a summary of conclusions, to be finalised by the deputies on the basis of a draft produced by the Secretariat and submitted to the next ministerial meeting for formal approval.
- The verbatim account of the ministerial meetings, as recorded on tape, will be filed in the archives of the Secretariat, where it can be consulted in the event of a dispute over the interpretation of a decision.

(ii) Meetings at deputy level

- Preparation of a summary of conclusions after each meeting.
- Preparation of reports for submission to ministerial meetings on the basis of drafts produced by the Conference Secretariat.

(iii) Working parties

- Preparation of reports for the deputies on the basis of drafts produced by the Conference Secretariat.

PRELIMINARY INDICATIVE LIST OF CHAPTER HEADINGS

(Note: This list in no way prejudices the decisions to be taken at an appropriate stage in the negotiations on the order in which the subjects will be dealt with.)

1. Free movement of goods
2. Freedom of movement for workers
3. Right of establishment and freedom to provide services
4. Free movement of capital
5. Public procurement
6. Company law
7. Intellectual property law
8. Competition policy
9. Financial services
10. Information society and media
11. Agriculture and rural development
12. Food safety, veterinary and phytosanitary policy
13. Fisheries
14. Transport policy
15. Energy
16. Taxation
17. Economic and monetary policy
18. Statistics
19. Social policy and employment¹
20. Enterprise and industrial policy
21. Trans-European networks
22. Regional policy and coordination of structural instruments
23. Judiciary and fundamental rights
24. Justice, freedom and security
25. Science and research
26. Education and culture
27. Environment
28. Consumer and health protection
29. Customs union
30. External relations
31. Foreign, security and defence policy
32. Financial control
33. Financial and budgetary provisions
34. Institutions
35. Other issues

¹ This chapter includes also anti-discrimination and equal opportunities for women and men.