

**ENLARGEMENT: FREE MOVEMENT OF WORKERS AND SOCIAL POLICY**

**UNICE POSITION PAPER**

Executive summary

European business strongly supports enlargement of the European Union and believes that it should lead to greater prosperity in Member States as well as in candidate countries.

The free movement of persons, and social and employment policy measures are integral parts of the “acquis communautaire”. As such, the general principle is that the provisions in these policy areas should be implemented and enforced by candidate countries and Member States alike upon accession. However, the chapter on Free movement of people and that on Social policy and employment may need some adjustment mechanisms to ensure smooth accessions.

On 30 May, Member States adopted a Common Position giving Member States the possibility to limit access of workers from candidate countries to their national labour market for up to 7 years. These transition periods should be as limited as possible. The same applies to transition periods requested by candidate countries with regard to implementation of the legislative acquis.

Unfounded fears of mass migration must not lead to unjustified policy measures. Structural reforms of labour markets in the EU as a whole are the best way to avoid disruptive effects of migration and will help increase employment in the Union for the benefit of all. In addition, communication, needs to be stepped to explain the benefits and obligations of the project. Business and social partners can play an essential role in this context.

Measures for frontier regions will also be useful if they aim at improving cross-border infrastructure and at encouraging the necessary adjustment by companies to improve competitiveness, without distorting competition.

In order to facilitate full implementation of the “acquis communautaire” in the employment and social policy areas, cooperation with candidate countries, and not least with the social partners in these countries, should be stepped up. UNICE therefore welcomes recent steps to associate candidate countries more closely to the Luxembourg process, preparing them for taking part in the European Employment Strategy and in the Lisbon Strategy.

Support to candidate country social partners should be a part of the pre-accession strategy. The Social Dialogue Committee meetings should be enlarged to include representatives from candidate countries and observers from candidate countries should be included in the social partners delegations in the consultative committee on health and safety at work as soon as possible. Finally, rather than multiplying one-off events on the social partners in candidate countries in an uncoordinated way, the EU should develop a strategic plan for the support of social partners in candidate countries at the EU level.

## 1. INTRODUCTION

European business strongly supports enlargement of the European Union. It is an historic opportunity to spread peace and prosperity to a wider part of the European continent. Thanks to free-trade provisions in the Association Agreements between EU and candidate countries and the prospect of enlargement, EU and candidate country economies are already well integrated. However, important additional benefits are to be reaped from enlargement:

- Improved investment climate in candidate countries;
- Larger Internal Market;
- Removal of remaining tariffs and trade barriers.

All these benefits will lead to increased economic growth and prosperity in Member States, as well as in candidate countries.

However, for these benefits to be grasped, a number of conditions have to be fulfilled:

- Undistorted competition and a well functioning Internal Market;
- An institutional and financial framework that would allow up to 28 members in the EU.

The free movement of persons, including workers, and social and employment policy measures are integral parts of the “acquis communautaire”. As such, the general principle is that the provisions in these policy areas should be implemented and enforced by candidate countries and Member States alike upon accession. However, the chapter on Free movement of people and that on Social policy and employment may need some adjustment mechanisms to ensure smooth accessions.

## 2. FREE MOVEMENT OF WORKERS

As the debate on the free movement of workers has clearly shown, the issue is a sensitive one, and the subject has to be approached with caution.

On 11 April 2001, the Commission proposed a general 5-year transition period, during which Member States would be allowed to continue operate their national regime. An automatic review is to be held after no more than two years, and an additional optional review may be held at the request of a Member State (current or new). The general transition period ends after five years, but a Member State may be allowed to maintain its national provisions for another two years maximum.

On 30 May, Member States adopted a Common Position giving Member States the possibility to limit access of workers from candidate countries to their national labour market for up to 7 years. One candidate country, Hungary, has accepted this approach on two conditions: reciprocity and clarity about the nature of Member States’ national transitory regimes.

### 2.1 Fears of mass migration are exaggerated

Differences in wages and living standards are a function of economic development and of productivity. They must not be considered distortions of competition. However, some sections of EU public opinion fear that the important differences in wages and living standards between candidate countries and Member States combined with the high level of unemployment in candidate countries can be strong incentives to move to another country.

**Table 1: Unemployment and GDP per head in candidate countries**

	<b>Unemployment (1999) % of total labour force</b>	<b>GDP per head in PPS<sup>1</sup> EU-15=100 (1999)</b>
Bulgaria	17.0	23
Cyprus	3.6	82
Czech Republic	8.7	59
Estonia	1.7	36
Hungary	7.0	51
Latvia	14.5	28
Lithuania	14.1	29
Malta	5.3	52
Poland	15.3	39
Romania	6.8	27
Slovak Republic	16.2	48
Slovenia	7.6	71
Turkey	7.6	29
CC-13	10.4	35
EU-15	10.0	100

Source: Eurostat, 2000

However, even though opinions differ as regards the exact figures, numerous studies foresee that CC-EU migration will be limited after accession. As indicated in the Commission Information note, most studies suggest that migration will vary between 120,000 and 380,000 persons per year the first year, and decline to between 50,000 and 200,000 per year after ten years. That means that the total number of people having migrated from candidate countries to present Member States ten years after accession is suggested to range from 1.4 to 4.2 million. This should be compared with the present total EU population of 375 million. It should be noted, however, that these figures are estimates and that migration pressures and flows are difficult to predict.

Similar fears of migration pressures that were expressed when Greece, Portugal and Spain joined the European Union and led to free movement of workers not being granted immediately upon accession. Large inflows of people from these countries into the EU never materialised.

Furthermore, the free movement of people does not mean that an EU national has the right to reside in another Member State completely freely. In fact, an EU job-seeker cannot stay for more than three months in another Member State without finding a job. People that cannot find a job simply have to leave the country unless they can prove that they can provide for their living in some other way.

## **2.2 Black market, lower wages and welfare migration?**

Three fears that are often heard in the debate on free movement of workers from new to old Member States are that migration from candidate countries will lead to (1) wage competition and thus lower wages for present EU workers, (2) an increase of candidate country nationals seeking work on the black market and (3) higher burden on government budgets for social benefits. However, these concerns also fail to take due consideration of other relevant factors.

The worry about wage competition does not take into account the highly regulated nature of EU labour markets. Collective bargaining, the automatic extension of collective agreements to cover all workers active in that business sector and national legislation on minimum wage are all effective obstacles to wage competition.

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<sup>1</sup> Purchasing power standards

The fear that the application of free movement of persons will augment the inflow of persons from candidate countries seeking work on the black market ignores the fact that nationals from most candidate countries already have visa-free access for three months to present Member States. EU accession will thus make no difference in this field.

The concern about immigrants from new Member States putting a burden on government expenditure on social benefits tends to ignore the “entry factor”. In fact, there are several factors hindering a national from one Member State from being eligible for welfare schemes in another Member State, without having or having had a job in that country.

### **2.3 Arguments in favour of immediate application of free movement of workers**

In addition to the arguments raised above about fears of migration and its effect being exaggerated, there are number of arguments in favour of the free movement of persons being applied directly upon candidate countries’ accession to the European Union:

- The free movement of persons goes hand in hand with progressive globalisation and political EU integration;
- In principle migration brings welfare gains to both the host country and the country of origin;
- All key elements of the EU Internal Market should be applied at the same time;
- The strength of the EU negotiating position on other parts of the *acquis* that are vital to European business may be undermined by EU requests for transition periods in this field;
- Increased movement of persons helps match job seekers and vacancies, thereby improving the functioning of labour markets and cutting unemployment;
- The EU skills gap in high-tech industries could be narrowed by candidate country workers;
- The demographic structure of present Member States clearly indicates the need for more open migration policies.

### **2.4 Flexible solutions**

In general, European business supports free movement of persons. Since migration might be disruptive to labour markets in some sectors of the economy and in some regions, transition periods can be necessary. However, these transition periods should be as limited as possible. If implemented in this spirit, the compromise agreed between Member States should allow such limited transitions.

The debate has clearly showed how sensitive the issue is. The discussion must not be allowed to jeopardise the entire project, by undermining public support for enlargement, either in Member States or in candidate countries. On the other hand, unfounded fears must not lead to unjustified policy measures, but must be addressed through communication policies. It is therefore of the utmost importance that communication on enlargement is stepped up by all relevant actors, explaining the benefits and obligations of the project. Business and social partners have an essential role to play in this context.

Structural reforms and more flexible labour markets in the EU as a whole are the best way to avoid disruptive effects of migration and will help increase employment in the Union for the benefit of all.

### **2.5 Special measures needed for border regions**

Even though the effects of free movement of persons on border regions are overwhelmingly positive in the long run, the short-term effects may be more negative. The promotion measures for frontier regions, envisaged in the December 2000 Nice European Council, should concentrate on the framework conditions for business. Such measures are particularly useful if aimed at improvement of cross-border infrastructure, non-thematic promotion and targeted qualification. They should not discourage the necessary adjustment

by companies to improve competitiveness, neither should they be allowed to distort competition.

### **3. SOCIAL POLICY AND EMPLOYMENT**

Even though it is important to make a distinction between legal provisions and political aims, EU social and employment policies are integral parts of the “acquis communautaire”. As indicated in the Commission’s November 2000 Strategy Paper, candidate countries’ progress in adopting the acquis in this area, with a few exceptions, continues to be slow.

It is therefore important to cooperate with candidate countries more closely as regards EU policies in this field, and not least with the social partners in these countries. This should be done by integrating candidate countries into different bodies and processes. UNICE therefore welcomes recent steps in this direction:

- The process of Joint Employment Review with the European Commission, associating candidate countries more closely to the Luxembourg process, preparing them for taking part in the European Employment Strategy; and
- The 2001 Stockholm Summit agreement to “develop ways and means of actively involving the candidate countries in the goals and procedures of the Lisbon Strategy”.

The need to also associate social partners from candidate countries more closely in key EU committees on EU social and employment policies was highlighted at the Social Partners’ Conference on enlargement, supported by the European Commission, in Bratislava 16-17 March 2001. In the conference conclusions, the European Social Partners proposed among other things to organise enlarged Social Dialogue Committee meetings to include representatives from candidate countries. Integration of observers from candidate countries in the social partners delegations in the consultative committee on health and safety at work should also be made possible.

Support to candidate country social partners should be a part of the pre-accession strategy in order for them to be able to carry out the role they are supposed to play in EU policies, not least in the European social dialogue as stipulated in the Treaty. Many national and EU initiatives exist but they are not always well thought through, nor included in a real strategic plan. This leads to unnecessary duplication, multiplication of one-off events rather than fully developed projects prolonging actions beyond meetings or conferences, and demotivation of the players concerned. Developing a strategic plan for the support of social partners in candidate countries at the EU level is an absolute necessity.

### **4. TRANSITION MEASURES REQUESTED BY CANDIDATE COUNTRIES**

UNICE outlined its overall policy on transitional measures in its 2 October 2000 Position Paper on Enlargement: “The most important aspect of the accession negotiations is that the Internal Market and flanking policies are not distorted. However, transition periods may need to be accepted in certain cases. If so, they should be limited in scope and in time and combined with strict conditions for full application of the acquis. At the moment of entry, EU law is not only to be transposed into national law but also to be implemented and consistently enforced in candidate countries as required by the Copenhagen criteria.”

To facilitate negotiations on transitional measures, the European Commission has suggested that candidate countries’ requests for transitional measures be divided into three categories, depending on their effect on competition or the functioning of the Internal Market, as well as their time and scope:

- a) Acceptable, i.e. measures that are limited in time and scope and do not have any significant impact;

- b) Negotiable, i.e. measures with a more significant impact and/or which are less limited in time and scope;
- c) Unacceptable, i.e. measures posing fundamental problems.

UNICE welcomes this approach, which lays the ground for a clearer EU policy on transitional measures. Even though some transitional measures appear inevitable, it shares the Commission's approach that, before any such requests are accepted by the EU, it is important to evaluate carefully any effects they will have on competition and the functioning of the Internal Market. By definition, any transition period is limited in time. Otherwise it is a derogation or an opt-out.

However, UNICE would like the Commission to specify the concepts "significant impact" or "fundamental problems". Even though it is difficult to make a generalisation about what "significant impact" and "fundamental problem" mean, it is important that the Union's policy in this field is clear and consistent, and based on objective criteria.

From a business perspective, transitional measures granted to candidate countries must not be so extensive that their effect on competition and the functioning of the Internal Market outweighs the economic benefits of an enlarged Internal Market.

According to the road map outlined in the 2000 Strategy Paper, during the first semester of 2001 common positions are to be defined, including positions on requests for transitional measures, with a view to closing provisionally among others the chapters on Free movement of persons and on Social policy and employment. Below is presented the business evaluation of some of the major transitional measures that, according to UNICE's information, candidate countries have requested as regards these chapters.<sup>2</sup> Requests evaluated as acceptable are measures that UNICE believes can be included in the accession treaty without negotiations on substance, whereas requests judged to be unacceptable should be withdrawn unconditionally. Negotiable requests can be discussed, under certain circumstances, with a view to negotiations leading to reduction of their scope and/or duration, or to other modifications to make the requested measure acceptable.

Only the requests made by those candidate countries with which negotiations on the chapters in question have been opened are included in this position paper.<sup>3</sup> The requests made by those candidate countries which have not yet started negotiations on the chapters in question will be commented on at a later stage.<sup>4</sup>

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<sup>2</sup> A position paper on transitional measures as regards the other chapters to be closed during the first semester 2001 is accessible at [www.unice.org](http://www.unice.org).

<sup>3</sup> Please note that a candidate country can have submitted a position paper on a chapter without it having been opened.

<sup>4</sup> For information about what chapters have been opened/provisionally closed with which candidate countries, please see table at annex.

Transitional measure	Country/ies	UNICE Position on request	Motivation
Recognition of diplomas and qualifications of persons with Soviet/SFRY diplomas, and persons who began to study a profession before the harmonisation of Estonian curricula with EU requirements.	Estonia Slovenia	Acceptable ð Negotiable x Unacceptable ð	Makes sense to have such recognition but may raise problems in certain professions (lawyers, doctors, etc.)
Reserve on full participation in co-ordination of social security systems	Poland	Acceptable ð Negotiable ð Unacceptable x	The logical consequence of benefiting from free movement is full participation in social security coordination
Transitional period for minimum health and safety requirements for the use of work equipment by workers at work	Czech Republic Poland, Malta	Acceptable x Negotiable ð Unacceptable ð	Will require big investment. Complying with it is a problem for western enterprises. Better to have realistic transition periods than pretending to comply when this is not the case.
3-year transitional period for personal protective equipment	Poland	Acceptable ð Negotiable x Unacceptable ð	On certain expensive equipment only. Better to have realistic transition periods than pretending to comply when this is not the case but one should be careful not to compromise on equipment essential to safety (e.g.: helmets or gloves on construction sites).
Reserve on biological agents	Poland	Acceptable ð Negotiable ð Unacceptable x	Transitions not acceptable on such an important risk.
Implementation of certain Health and Safety at work Directives (noise, chemical agents)	Slovenia Malta	Acceptable ð Negotiable x Unacceptable ð	Better to have realistic transition periods than pretending to comply when this is not the case but one should be careful not to compromise on essentials for workers safety. One must be very cautious before accepting transition periods on chemical agents. The 1986 directive on noise should also be implemented as soon as possible.
4-year transitional period from Working time directive: daily rest, weekly rest, maximum weekly working time, length of night	Malta	Acceptable ð Negotiable x Unacceptable ð	Better to have realistic transition periods than pretending to comply when this is not the case.
One-year transitional period for 92/57/EEC (temp or mobile working sites)	Malta	Acceptable ð Negotiable x Unacceptable ð	Better to have realistic transition periods than pretending to comply when this is not the case but one should be careful not to compromise on essentials for worker safety.

UNICE is pleased to note that the chapter on social policy and employment has been closed with 9 candidate countries. Full respect of commitments made during the negotiations on the implementation and enforcement of the legal acquis will be essential for the success of the enlargement process.

## ACCESSION NEGOTIATIONS – STATE OF PLAY\*

## CHAPTERS OPEN AND CLOSED BY CANDIDATE COUNTRIES – 20 JUNE 2001

Chapter/country	EE	PL	SI	CZ	HU	CY	BG	LV	LT	MT	RO	SK
1. Free m. goods	○	○	○	○	○	○	□	○	○	○		○
2. F. m. people	□	□	□	□	○	○						
3. F. m. services	○	○	○	○	○	○	□	○	○	○		○
4. F. m. capital	○	□	○	○	○	○	□	○	○	□		□
5. Company law	○	□	○	○	○	○	○	○	○	○	□	○
6. Competition	□	□	□	□	□	□	□	□	□	□	□	□
7. Agriculture	□	□	□	□	□	□						
8. Fisheries	○	□	○	○	○	○	○	□	○	□	□	○
9. Transport policy	□	□	□	□	□	○		□	□	□		□
10. Taxation	□	□	□	□	○	□		□	□			
11. EMU	○	○	○	○	○	○		○	○	○		○
12. Statistics	○	○	○	○	○	○	○	○	○	○	○	○
13. Social & Empl	○	○	○	○	○	○		○	○	□		○
14. Energy	□	□	○	□	○	○		□		○		□
15. Industr. policy	○	○	○	○	○	○		○	○	○		○
16. SMEs	○	○	○	○	○	○	○	○	○	○	○	○
17. Science & res.	○	○	○	○	○	○	○	○	○	○	○	○
18. Edu & training	○	○	○	○	○	○	○	○	○	○	○	○
19. Telecom & IT	○	○	○	○	○	○	□	□	○	○	□	○
20. Cult & audiov.	○	○	○	○	□	○	○	○	○	○	□	○
21. Region. policy	□	□	□	□	□	□		□	□	□		□
22. Environment	○	□	○	○	○	□		□	□			□
23. Consumers	○	○	○	○	○	○	○	○	○	○		○
24. JHA	□	□	□	□	□	□						
25. Customs Union	□	○	□	○	○	○		□	□		□	○
26. Ext. Relations	○	○	○	○	○	○	○	○	○	○	○	○
27. CFSP	○	○	○	○	○	○	○	○	○	○	○	○
28. Financ. control	○	○	○	□	○	○	□	□	□	○		
29. Fin. & budget	□	□	□	□	□	□		□	□	□		□
30. Institutions												
31. Other												
<b>Closed chapters</b>	<b>19</b>	<b>16</b>	<b>20</b>	<b>19</b>	<b>22</b>	<b>22</b>	<b>10</b>	<b>15</b>	<b>17</b>	<b>16</b>	<b>6</b>	<b>17</b>
<b>Cand. country</b>	<b>EE</b>	<b>PL</b>	<b>SI</b>	<b>CZ</b>	<b>HU</b>	<b>CY</b>	<b>BG</b>	<b>LV</b>	<b>LT</b>	<b>MT</b>	<b>RO</b>	<b>SK</b>

○ = Chapter provisionally closed; □ = chapter open

\* Unofficial table compiled by UNICE secretariat