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- Draft-Council conclusions on the state of preparedness of the
REPUBLIC OF LITHUANIA towards the implementation of all provisions of
the Schengen acquis except SIS-related issues

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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THE EUROPEAN UNION**

**Brussels, 27 October 2006 (27.10)
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NOTE

from : the Presidency
to: the Schengen Evaluation Working Party

Subject : Schengen evaluation of the new Member States
- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF LITHUANIA towards the implementation of all provisions of the Schengen acquis except SIS-related issues

PART I

a. Background applicable to all new Member States

1. The Schengen Evaluation Working Party has started evaluating the new Member States from 2005 on and has completed by the end of 2006 all non-SIS-related tasks. Altogether 58 themes were evaluated for the ten countries in the course of nineteen evaluation missions.
2. The evaluations were meant to ascertain whether the countries involved are able to apply all parts of the Schengen acquis with the ultimate goal of allowing the Council to decide on the abolition of controls at internal borders.
3. The evaluation task fits within the requirements of Article 3(2) of the 2003 Act of Accession which foresees that the provisions of the Schengen acquis and the acts building upon it or related to it, listed in the Annex referred to in that Article, shall be binding on and applicable in the new Member States from the date of accession.

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The provisions and acts not referred to in that Annex, although binding on the new Member States from the date of accession, will only apply in a new Member State pursuant to a Council decision to that effect in accordance with that Article.

4. The Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will be taken on a Member State-by-Member State basis. Each Member State will be evaluated on its own merits.
5. The legal basis for the evaluations is the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (Sch/Com-ex (98) 26 Def.
6. The evaluation process started with a Declaration of Readiness for all non-SIS related evaluations by the Member States involved.
7. The Schengen Evaluation working party verified in writing the preparation of the new Member States for the application by them of all parts of the Schengen acquis through a questionnaire and a series of supplementary questions and answers.
8. These visits led to exhaustive reports containing factual descriptions as well as positive and critical assessments, and recommendations.
9. The purpose of the following Council Conclusions is to establish whether each of the new Member States subjected to the full evaluation procedure satisfies the conditions that are necessary for the application by it of all parts of the Schengen acquis, where additional follow-up measures are required and in which cases the necessary changes should be reassessed during inspection visits.
10. In taking the Decisions referred to in Article 3(2) of the 2003 Act of Accession, the Council may determine that all the new Member States will not be ready to apply the Schengen acquis as a whole from the same date. In such a case, it may be necessary to organise additional visits in order to evaluate the application of the Schengen acquis at borders between Members States at which the Council has decided not to abolish border checks and which have not already been evaluated. No such evaluation has taken place so far.
11. These conclusions should be read in conjunction with the detailed inspection reports. A list of the relevant reports and a follow-up table is annexed to these Council conclusions.

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12. The Council considers it necessary to require follow-up measures to remedy the weaknesses that were detected during the evaluation process, in particular as to the ones mentioned in the following Part II, in order to allow the Council to adopt the Decisions referred to in point 3 and 9.

b. Background for Lithuania

13. The Declaration of Readiness of Lithuania allowed to start the Schengen evaluation by 1 May 2006, without any reservation.

14. Inspections on site took place at the land, sea and air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.

15. (Lithuania has provided the Schengen evaluation working party with a follow up report, in which it states that it will be possible to remedy the weaknesses that have been detected without creating unnecessary delays.)

PART II - Specific findings

As stated before, the current conclusions should be read in conjunction with the evaluation reports. In these reports, many positive findings are mentioned in these, in some cases even best practices; However, for the purpose of the underlying conclusions and in particular with a view to defining which sites should be revisited, it is obvious that more focus has been put on weaknesses that should be remedied.

Lithuania has been basically positively assessed in the field of **border management**, which is based on integrated border security model of EU. The organisation is streamlined and functional, including national level competency for supervision and instructions on border control, risk analysis, intelligence and investigation of border related crimes. The surveillance of land- and sea borders is carried out systematically, based on patrolling, technical surveillance and maintaining necessary reaction capability. Land border surveillance is mainly in line with Schengen requirements, but the control of the sea borders is an issue of concern where Lithuania faces a challenge with respect to the Schengen standards.

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According to the Schengen standards, border control functions at the sea have to be carried out only by professional law enforcement officers, with the exception of detection and identification of vessels. Coastal surveillance equipment and offshore patrol craft are mostly quite old-fashioned and integration into one system is suggested. Further reporting based on the evaluation Committee's findings on these issues is welcomed.

Border checks are mainly carried out in line with Schengen requirements. The infrastructure of the Vilnius and Palanga airports, the Klaipeda port and the Panemune road border crossing points is not in line with Schengen standards at this stage and due to ongoing reconstruction works. Vilnius airport and Klaipeda port should be revisited at a later stage. The procedures and quantity of staff in the Panemune border crossing point should be re-evaluated.

The level of **Data protection** was generally positively assessed in Lithuania, with one exception which concerns the independence of the Data State inspector and his position as a (dismissible) civil servant.

Following the inspection of Lithuanian **visa issuance** at its consular sections in Moscow and Kiev, it was concluded that Lithuania may be in a position to implement the CCI/Schengen acquis in full in due course and that no significant shortcomings were noted in the daily work.

The level of training and education of staff was appreciated, however the proper and thorough assessment of individual visa applications, including interviews and personal appearance of minors should be ensured: awareness of the risk of illegal immigration and other forms of visa misuse should increase. Certain practices e.g. regarding people travelling to Lithuania for 10 days or less, travel medical insurance, the affixing of visa stickers on passenger lists, collection of the handling fee, and the practice that an applicant whose visa has been refused cannot lodge a new application for a year, should be reviewed/abolished (incl. the use of the "refusal stamp"). Finally, the visa decision making process should be adapted to future needs resulting from the abolition of bilateral agreements.

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On **Police cooperation**, most of the preparatory work for the full implementation of the Schengen acquis has already been accomplished as regards institutional and operational structures, whereas the practical execution of cross-border activities under Articles 40 and 41 of the Schengen Convention is still hampered by the lack of bilateral agreements in force with neighbouring countries.

Lithuania has an effective and efficient cooperation concerning exchange of information (including under Schengen Articles 39 and 46) at international level, as this is channelled via one single point. The channel chosen depends on the type of information.

However Lithuania has to speed up its decision concerning responsibility for surveillance cases. In taking this decision, the Lithuanian authorities must bear in mind that Schengen is not in favour of judicial involvement in police surveillance.

[PART III - Conclusions

The Council is of the opinion that Lithuania has progressed in a substantial manner towards applying the Schengen acquis in full.

It is necessary to follow up the weaknesses that were detected, in particular to require correction of the weaknesses taken up in Part II, in order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession. The Schengen partners must be kept informed of the measures adopted to this end. Among the weaknesses that will be re-visited in-situ, one can refer to the issues mentioned in Part II.]
