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- Draft-Council conclusions on the state of preparedness of the
REPUBLIC OF LATVIA 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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**SCH-EVAL 164
COMIX 882**

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 LATVIA 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 Latvia

13. The Declaration of Readiness of Latvia 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. (Latvia 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.

In the field of **border management**, Latvia has been positively assessed. The organisation is streamlined and functional, including national level competency for supervision and instruction. Border management strategy in Latvia generally meets the Schengen requirements. The personnel are professional and in general terms, the equipment is up to date. The land borders are controlled systematically as well at the Border Crossing Points as the green borders. The coast is mostly covered by an integrated radar surveillance system backed up by a network of coast guard stations in readiness for rapid reaction.

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Also, an offshore element is present (offshore patrol crafts and helicopters), even if that equipment is mostly quite old-fashioned and not often mobile. A special note is taken concerning the integrated system of border control and aliens' control, which is deemed as an effective solution. The Riga airport does not fulfil the requirements at this stage, due to ongoing construction works, and the airport should be revisited later on.

The control of the **sea borders** is an issue, where different ministries and services have been searching ways of coordination. As a Schengen standard, the requirement of full professionalism in general and always in case of such duties as utilisation of intelligence, risk analysis, apprehension, searching of civilian persons or their vehicles, is emphasized.

Further reporting based on the evaluation committees' findings is welcomed, especially on the question of professionalism in the control of the sea borders.

Infrastructure, procedures and equipment in Zilupe railway crossing point do not yet fully fulfil Schengen requirements and the crossing point should be revisited later on.

Latvia has no border agreement with Russia (which does not have a crucial impact for the implementation of the Schengen requirements).

Although the border management and the organisation at the airports of Riga was widely appreciated, the physical characteristics of the infrastructure, in particular the separation of passengers, does not allow yet to comply with the Schengen requirements without construction work to be made. The airport of Riga should therefore be re-evaluated.

Following the inspection of Latvian **visa issuance** at its consular sections in St Petersburg and Kiev, it was concluded that the Latvia 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 amount and quality of information, the accreditation system for travel medical insurance companies and travel agencies, and certain security features (staff rotation scheme, ticket/number system) were appreciated.

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However particular attention should be paid to the proper assessment of individual applications including personal appearance and interviewing, awareness of the risk of illegal immigration and misuse of visa (Kiev), the limited possibilities of the IT system for exchanging information incl. the limited possibilities for prior consultation, general security issues (keeping of visa stickers, premises) and the legibility of the machine readable zone.

Data protection requirements will be met once Latvia accrues the independence of the Data protection authorities and allows it to enhance its activities in the field of supervision, including that of SIS, rather than to concentrate on the notification of databases.

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 according to Articles 40 and 41 of the Schengen Convention, is still hampered by the lack of bilateral agreements in force with the neighbouring countries.

Latvia has established a well-structured coordination mechanism under the Ministry of Interior for the preparation for entry into the Schengen area. Furthermore they follow a systematic multi agency approach, which increases the effectiveness in terms of international police cooperation.

Latvia has set up and designated a single point of contact for international police cooperation, including Schengen art 39 and 46 requests/information that guarantees effective and efficient cooperation.

The telecommunications system of the Latvian Authorities is not compatible with the telecommunications system used in Lithuania and Estonia. Therefore the Latvian authorities have to look as soon as possible for the right technical solution.

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[PART III- Conclusions

The Council is of the opinion that Latvia 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.]

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