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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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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 ESTONIA 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. In 2005, the Schengen Evaluation Working Party started evaluating the readiness of the ten new Member States. All non-SIS evaluations of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia have now been completed, as is partially the case for Cyprus and for Malta. Altogether 58 themes have been evaluated for the ten countries in the course of nineteen evaluation missions.
2. The legal basis for the evaluation process in the new Member States is Article 3(2) of the 2003 Act of Accession in conjunction with 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).

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3. According to Article 3(2) of the Act of Accession, the verification through evaluation procedures that the necessary conditions for the application of all parts of the acquis concerned have been met by the new Member States is a precondition for the Council to take Decisions on the abolition of checks at internal borders with those Member States
4. The evaluations have been conducted new Member State by new Member State, and the by the Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will also be taken individually.
5. In taking these Decisions, the Council may determine that not all the new Member States will 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 the borders between Member States at which the Council has decided not to abolish border checks and which have not already been evaluated. No such visit has taken place so far.
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 for the application of all parts of the Schengen acquis by the new Member States through a questionnaire and a series of supplementary questions and answers.
8. The questionnaire was followed by evaluation visits by teams of experts which 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 the new Member State in question, subjected to a full evaluation procedure, fulfill all the preconditions for the practical application of the relevant parts of the Schengen acquis. In case the preconditions have not been completely fulfilled, the Council conclusions indicate where additional measures are required and in which cases the necessary changes should be reassessed during new evaluation visits. These conclusions should be read in conjunction with the detailed evaluation reports. A list of the relevant reports and a follow-up table is annexed to these Council conclusions.

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b. Background for Estonia

10. The Declaration of Readiness of Estonia allowed to start the Schengen evaluation by 1 May 2006, without any reservation (doc. 5822/05 SCHEVAL 9 COMIX 67).
11. 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.
12. (Estonia 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 which contain all weaknesses that should be remedied. Many positive findings are mentioned in these reports, which can in some cases be considered best practices. However, for the purpose of drawing conclusions and in particular with a view to defining which sites should be revisited, the focus has inevitably been put on the main weaknesses that should be remedied.

In the field of **border management**, Estonia has been positively assessed. The organisation is streamlined and functional, including national level competency for supervision and instruction. The personnel are professional and in general terms, the equipment is up to date. Special note was taken of the intelligence and risk analysis system, which was regarded as very good.

The border agreement with Russia should be ratified by Russia (although this has no crucial impact on implementation of the Schengen requirements).

The division of responsibilities between authorities involved in immigration control should be clarified. Estonia faces a challenge regarding the number of staff in the Border Guard; as appropriate staff and resources should be deployed to carry out border control at the external borders, Estonia should pay particular attention to developing the number of staff, in particular at the Russian land border.

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The **land borders** are controlled systematically both at the border crossing points and at the green borders. The infrastructure, procedures and equipment at Narva railway crossing point as well as at Narva-2 crossing point (pedestrian) do not yet fulfil all Schengen requirements ¹

The **sea borders** are entirely covered by an integrated radar surveillance system backed up by a network of coast guard stations in readiness for rapid reaction. Also, an offshore element is present (offshore patrol crafts and helicopters), even if that equipment is partly obsolete . The slow-data transfer to the border crossing points should be improved, by the latest in the context of introducing the Schengen Information System.

At the Estonian **airborder** in Tallinn, the reconstruction plans comply with the Schengen requirements; Estonia is urged to start work in line with its planning, involving i.a. the Border Guard . A revisit to the airport is considered necessary.

Following the inspection of **visa issuance** at Estonia's consular sections in St Petersburg and Kiev, it was concluded that Estonia may be in a position to implement the CCI/Schengen acquis in full in due course and that no significant shortcomings were noted in their daily work.

The synchronised cooperation between all relevant authorities to optimise the handling of an application, the travel agencies' accreditation system and staff training and education was appreciated.

However particular attention should be paid to (physical) security (visa stickers, premises), the visa decision making process (Kiev: handling time); awareness of the risk of illegal immigration (Kiev); the insured sum of travel medical insurance, stamping of the visa sticker and the data in the machine readable zone.

¹ A revisit in Narva has been envisaged. SCH-Eval should decide on 16/17 November whether this visit is indispensable.

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Estonia in general has a satisfactory level of **data protection**, although a crucial element fails for the correct application of the Schengen acquis. Contrary to the provisions of Article 114 of the Schengen Convention, no independent authority has been designated to supervise the SIS. This needs to be modified imperatively. Additional efforts are required, e.g. as far as the independence of the Data Protection Authority is concerned.

On **police cooperation**, most of the preparatory work for 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 the neighbouring countries (with the exception of Finland which has been signed, and of Latvia which will be enforced 16/11/2006) Estonia has a very good level of international police cooperation with Finland in fighting crime and organised crime, mainly in the border area. Estonian authorities are encouraged to reach the same standards of international police cooperation with other countries, especially Latvia.

Estonia has introduced the concept of intelligence-led policing with a multi-agency approach, including an outstanding on-line database for sharing of both information and intelligence between Law Enforcement Authorities.

PART III - Conclusions

In order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession, it requests Estonia to inform the Council in writing, on the follow-up it intends to give to these recommendations and those contained in the evaluation reports. Estonia is also invited to remedy the weaknesses listed the evaluation reports, especially those referred to in Part II.

The Schengen partners must be kept informed of the measures adopted to this end.

In addition, the Council requires revisits of the airport of Tallinn, at the Data Protection Authority (and at the border in Narva. - see footnote 1, page 4).

The Council cannot but underline that the legislation on data protection must be made compliant with Schengen.