



**EUROPEAN COMMISSION**

Enlargement Directorate-General

Director-General

Brussels,

**ACCESSION NEGOTIATIONS**

**MONTENEGRO**

**DRAFT EU COMMON POSITION**

(Following Montenegro's Negotiating Position CONF-ME 19/14)

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**Negotiating chapter 30 - External relations**

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## **I. Introduction**

### **Position of Montenegro**

In its negotiating position CONF- ME 19/14, Montenegro accepts the *acquis* under chapter 30 as in force on 12 June 2013, and declares that it will be ready to fully implement it by the date of its accession to the European Union.

Montenegro does not request any derogation or transitional periods for the implementation of the *acquis* under this chapter.

### **Overall evaluation**

Taking into account the *acquis* in this chapter, and on the basis of the available information, including that provided by Montenegro during the bilateral screening meeting on 12 June 2013, the Commission concludes that Montenegro has already reached an advanced level of alignment. Montenegro presented in its negotiating position CONF- ME 19/14 the remaining incompatibilities of its legal order with the *acquis*, thus showing a high degree of awareness of what needs to be done in the process of alignment. This confirms the conclusion the Commission had reached during the screening exercise.

In view of the present state of Montenegro's preparations, the Commission considers that the following benchmark would need to be met for the provisional closure of chapter 30, External relations:

- Montenegro presents to the Commission an action plan for its remaining preparations in terms of legislative alignment, bringing international agreements into conformity with the *acquis* and enhancement of administrative and control capacity to ensure full application and enforcement of the *acquis* in this chapter from the day of accession.

## **II. Draft Common Position**

This position of the European Union is based on its general position for the Accession Conference with Montenegro (CONF- ME 2/12) and is subject to the negotiating principles therein, in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

as well as to the requirements set out in points 24, 28, 41 and 44 of the Negotiating Framework.

The EU encourages Montenegro to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general to develop already before accession policies and instruments as close as possible to those of the European Union.

The EU notes that Montenegro, in its negotiating position CONF-ME 19/14 accepts the *acquis* under chapter 30 as in force on 12 June 2013, and that Montenegro declares that it will be ready to implement it by the date of its accession to the European Union.

### **Common commercial policy**

The EU takes note of Montenegro's commitment that, from the day of accession it will fully apply the common commercial policy. The EU takes note of Montenegro's declaration that it will have the necessary administrative capacity in place to implement the EU's common commercial policy upon accession.

The EU underlines that, in line with Article 26 of the Negotiating Framework, in the period up to accession Montenegro will be required to progressively align its policies towards third countries and its positions within international organisations with the policies and positions adopted by the European Union and its Member States.

Montenegro needs to closely cooperate with the European Commission on all changes to trade policy in the pre-accession period. In particular, the EU invites Montenegro to follow the EU line in all negotiations in the World Trade Organisation (WTO).

The EU welcomes Montenegro's recent accession to the WTO Agreement on Government Procurement.

The EU takes note of Montenegro's preparations in the fields of trade barriers, trade defence instruments, customs tariffs and quotas. The EU invites Montenegro to continue this work, in particular with regard to the enhancement of its administrative capacity, to ensure that the *acquis* can be fully applied from the day of accession.

The EU invites Montenegro to continue its preparations in the field of export credits and insurance, in particular as regards the remaining legislative adaptations, so that the *acquis* can be fully applied from the day of accession.

The EU takes note that Montenegro is not a member of any of the multilateral export control regimes which define controls on dual-use items. However, the EU welcomes Montenegro's plan to consider the accession to the Wassenaar Arrangement, which can facilitate preparations to implement the *acquis* for dual-use items, and invites Montenegro to pursue this effort. The EU further invites Montenegro to continue its preparations in the field of dual use items, in particular as regards remaining legislative adaptations as well as the enhancement of its administrative and control capacity.

The EU takes note that Montenegro is not party to the Kimberley process. The EU invites Montenegro to continue its preparations, including legislative alignment, in order to ensure full implementation and enforcement of EU rules on the supervision of export and import of rough diamonds, as well as on the control of trade in goods that could be used for capital

punishment, torture or other cruel, inhuman or degrading treatment or punishment, from the date of accession.

### **Bilateral agreements with third countries**

The EU recalls that Montenegro will be required to terminate all existing bilateral agreements between Montenegro and third countries and all other international agreements concluded by Montenegro, which are incompatible with the obligations of EU-membership. The EU underlines that it is the responsibility of Montenegro to ensure that upon accession all its international agreements, and in particular, any trade related agreements or bilateral investment treaties (BITs), are in conformity with the *acquis*.

The EU takes note of Montenegro's commitment to denounce all free trade agreements in their entirety before accession and to ensure that all agreements on trade, investment and economic cooperation and other relevant agreements are brought into conformity with the *acquis*. Montenegro is invited to keep the EU informed about the content of any negotiations in this regard with third countries and to closely coordinate any such negotiations with the Commission. The EU underlines that any new trade-related agreement which Montenegro may conclude with a third country between now and the date of accession should include a provision which enables Montenegro to terminate the agreement, before accession, without need for compensation of any kind by the EU.

The EU takes note of Montenegro's commitment to insert in any BIT negotiated with an EU Member State a clause that provides for automatic termination of the BIT upon Montenegro's accession to the EU, as well as to bring in full conformity with the EU-acquis the BITs with non-EU Member States (e.g. by inserting a so-called "REIO [Regional Economic Integration Organisation]-clause").

The EU invites Montenegro to continue its active participation in the Central European Free Trade Agreement (CEFTA) in the period up to accession.

### **Development policy**

The EU takes note of the information regarding Montenegro's preparations in the area of development policy and of its plans to meet the EU requirements. The EU encourages Montenegro to continue to build up the administrative and financial capacity needed to fulfil its commitments, including doing its part in reaching the EU Official Development Assistance (ODA) targets. The EU recalls that Montenegro's contribution to the European Development Fund (EDF) will be decided by the Council, in accordance with the Internal Agreement establishing the European Development Fund, following Montenegro's accession to the EU.

### **Humanitarian aid**

The EU takes note of Montenegro's plans for participation in the humanitarian policy of the EU and for full legislative alignment with the *acquis* in this field. The EU encourages Montenegro to build up the financial and administrative capacity needed to fulfil its commitments.

In view of the present state of Montenegro's preparations, the EU notes that, on the understanding that Montenegro has to continue to make progress in the alignment with and implementation of the *acquis* covered by the chapter 30 external relations, this chapter may only be provisionally closed once it is agreed by the EU that the following benchmark is met:

- Montenegro presents to the Commission an action plan for its remaining preparations in terms of legislative alignment, bringing international agreements into conformity with the *acquis* and enhancement of administrative and control capacity to ensure full application and enforcement of the *acquis* in this chapter from the day of accession.

Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Montenegro's administrative capacity and its capacity to complete alignment with the External Relations *acquis*. Particular consideration needs to be given to the links between the present chapter and other negotiation chapters. A final assessment of the conformity of Montenegro's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to all the information, the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Montenegro to provide regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*. In view of all the above considerations, the Conference will have to return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 12 June 2013 and the conclusion of the negotiations.