

FINNISH FOREIGN POLICY PAPERS

01

Eric Hayes

FINNISH FOREIGN POLICY PAPERS 01, September 2011

FROM COLD WAR TO COMMON CURRENCY

A personal perspective on Finland and the EU

Afghanistan Akrotiri Albania Algeria American Samoa Andorra Angola Anguilla Antarctica Antigua and Barbuda Argentina Armenia Aruba Ashmore and Cartier Islands Australia Austria Azerbaijan Bahamas Bahrain Bangladesh Barbados Bassas da India Belarus Belgium Belize Benin Bermuda Bhutan Bolivia Bosnia and Herzegovina Botswana Bouvet Island Brazil British Indian Ocean Territory British Virgin Islands Brunei Bulgaria Burkina Faso Burma Burundi Cambodia Cameroon Canada Cape Verde Cayman Islands Central African Republic Chad Chile China Christmas Island Clipperton Island Cocos Islands Colombia Comoros Congo, Democratic Republic Congo Cook Islands Coral Sea Islands Costa Rica Cote d'Ivoire Croatia Cuba Cyprus Czech Republic Denmark Dhekelia Djibouti Dominica Dominican Republic Ecuador Egypt El Salvador Equatorial Guinea Eritrea Estonia Ethiopia Europe Island Falkland Islands Faroe Islands Fiji Finland France French Guiana French Polynesia French Southern and Antarctic Lands Gabon Gambia Gaza Strip Georgia Germany Ghana Gibraltar Glorioso Islands Greece Greenland Grenada Guadeloupe Guam Guatemala Guernsey Guinea Guinea-Bissau Guyana Haiti Heard Island and McDonald Islands Holy See Honduras Hong Kong Hungary Iceland India Indonesia Iran Iraq Ireland Isle of Man Israel Italy Jamaica Jan Mayen Japan Jersey Jordan Juan de Nova Island Kazakhstan Kenya Kiribati Korea, North Korea, South Kuwait Kyrgyzstan Laos Latvia Lebanon Lesotho Liberia Libya Liechtenstein Lithuania Luxembourg Macau Macedonia Madagascar Malawi Malaysia Maldives Mali Malta Marshall Islands Martinique Mauritania Mauritius Mayotte Mexico Micronesia Moldova Monaco Mongolia Montserrat Morocco Mozambique Namibia Nauru Navassa Island Nepal Netherlands Netherlands Antilles New Caledonia New Zealand Nicaragua Niger Nigeria Niue Norfolk Island Northern Mariana Islands Norway Oman Pakistan Palau Panama Papua New Guinea Paracel Islands Paraguay Peru Philippines Pitcairn Islands Poland Portugal Puerto Rico Qatar Reunion Romania Russia Rwanda Saint Helena Saint Kitts and Nevis Saint Lucia Saint Pierre and Miquelon Saint Vincent and the Grenadines Samoa San Marino Sao Tome and Principe Saudi Arabia Senegal Serbia and Montenegro Seychelles Sierra Leone Singapore Slovakia Slovenia Solomon Islands Somalia South Africa South Georgia and the South Sandwich Islands Spain Spratly Islands Sri Lanka Sudan Sudan, South Suriname Svalbard Swaziland Sweden Switzerland Syria Taiwan Tajikistan Tanzania Thailand Timor-Leste Togo Tokelau Tonga Trinidad and Tobago Tromelin Island Tunisia Turkey Turkmenistan Turks and Caicos Islands Tuvalu Uganda Ukraine United Arab Emirates United Kingdom United States Uruguay Uzbekistan Vanuatu Venezuela Vietnam Virgin Islands Wake Island Wallis and Futuna West Bank Western Sahara Yemen Zambia Zimbabwe Afghanistan Akrotiri Albania Algeria American Samoa Andorra Angola Anguilla Antarctica Antigua and Barbuda Argentina Armenia Aruba Ashmore and Cartier Islands Australia Austria Azerbaijan Bahamas Bahrain Bangladesh Barbados Bassas da India Belarus Belgium Belize Benin Bermuda Bhutan Bolivia Bosnia and Herzegovina Botswana Bouvet Island Brazil British Indian Ocean Territory British Virgin Islands Brunei Bulgaria Burkina Faso Burma Burundi Cambodia Cameroon Canada Cape Verde Cayman Islands Central African Republic Chad Chile China Christmas Island Clipperton Island Cocos Islands Colombia Comoros Congo, Democratic Republic Congo Cook Islands Coral Sea Islands Costa Rica Cote d'Ivoire Croatia Cuba Cyprus Czech Republic Denmark Dhekelia Djibouti Dominica Dominican Republic Ecuador Egypt El Salvador Equatorial Guinea Eritrea Estonia Ethiopia Europa Island Falkland Islands Faroe Islands Fiji Finland France French Guiana French Polynesia French Southern and Antarctic Lands Gabon Gambia Gaza Strip Georgia Germany Ghana Gibraltar Glorioso Islands Greece Greenland Grenada Guadeloupe Guam Guatemala Guernsey Guinea Guinea-Bissau Guyana Haiti Heard Island and McDonald Islands Holy See Honduras Hong Kong Hungary Iceland India Indonesia Iran Iraq Ireland Isle of Man Israel Italy Jamaica Jan Mayen Japan Jersey Jordan Juan de Nova Island Kazakhstan Kenya Kiribati Korea, North Korea, South Kuwait Kyrgyzstan Laos Latvia Lebanon Lesotho Liberia Libya Liechtenstein Lithuania Luxembourg Macau Macedonia Madagascar Malawi Malaysia Maldives Mali Malta Marshall Islands Martinique Mauritania Mauritius Mayotte Mexico Micronesia Moldova Monaco Mongolia Montserrat Morocco Mozambique Namibia Nauru Navassa Island Nepal Netherlands Netherlands Antilles New Caledonia New Zealand Nicaragua Niger Nigeria Niue Norfolk Island Northern Mariana Islands Norway Oman Pakistan Palau Panama Papua New Guinea Paracel Islands Paraguay Peru Philippines Pitcairn Islands Poland Portugal Puerto Rico Qatar Reunion Romania Russia Rwanda Saint Helena Saint Kitts and Nevis Saint Lucia Saint Pierre and Miquelon Saint Vincent and the Grenadines Samoa San Marino Sao Tome and Principe Saudi Arabia Senegal Serbia and Montenegro Seychelles Sierra Leone Singapore Slovakia Slovenia Solomon Islands Somalia South Africa South Georgia and the South Sandwich Islands Spain Spratly Islands Sri Lanka Sudan Sudan, South Suriname Svalbard Swaziland Sweden Switzerland Syria Taiwan Tajikistan Tanzania Thailand Timor-Leste Togo Tokelau Tonga Trinidad and Tobago Tromelin Island Tunisia Turkey Turkmenistan Turks and Caicos Islands Tuvalu Uganda Ukraine United Arab Emirates United Kingdom United States Uruguay Uzbekistan Vanuatu Venezuela Vietnam Virgin Islands Wake Island Wallis and Futuna West Bank Western Sahara Yemen Zambia Zimbabwe



ULKOPOLIITTINEN INSTITUUTTI
UTRIKESPOLITISKA INSTITUTET
THE FINNISH INSTITUTE OF INTERNATIONAL AFFAIRS

FROM COLD WAR TO COMMON CURRENCY: A personal perspective on Finland and the EU

by Eric Hayes

Eric Hayes is a former official of the European Commission, who served in a number of capacities involving responsibility for the EU's relations with Finland, most notably as Ambassador and Head of the Commission's Delegation in Helsinki from 1993 to 1995. Since retiring from the Commission in 2007, he has written and lectured on a range of EU-related themes.

The Finnish Institute of International Affairs
Kruunuvuorenkatu 4
FI-00160 Helsinki
tel. +358 9 432 7000
fax. +358 9 432 7799
www.fii.fi

ISBN: 978-951-769-318-9
ISSN: 1799-9553

The Finnish Institute of International Affairs is an independent research institute that produces high-level research to support political decision-making and public debate both nationally and internationally.

The Institute undertakes quality control in editing publications but the responsibility for the views expressed ultimately rests with the authors.

The copyright to the text resides with the author.

TABLE OF CONTENTS

<i>PREFACE</i>	4
<i>I A PIANO LESSON IN EUROPEAN REALPOLITIK</i>	7
<i>II CASTING IN FINNISH WATERS</i>	12
<i>III THE EUROPEAN WAITING ROOM</i>	18
<i>IV THE DAM BURSTS</i>	23
<i>V THE RACE BEGINS</i>	36
<i>VI TO HELSINKI</i>	39
<i>VII NEUTRALITY: THE DOG THAT DIDN'T BARK</i>	47
<i>VIII ÅLAND ASPIRATIONS – AND EU ANXIETIES</i>	57
<i>IX AGRICULTURAL AGONIES</i>	66
<i>X SHAKESPEARE AND ELVIS PRESLEY</i>	75
<i>XI TOWARDS THE REFERENDUM</i>	80
<i>XII THE FINAL FURLONG</i>	89
<i>EPILOGUE: IMPRESSIONS AND REALITITES</i>	94
<i>APPENDIX – TIMELINE OF KEY EVENTS</i>	98
<i>BIBLIOGRAPHY</i>	100

PREFACE

Finland's decision to apply for membership of the European Union¹ was, in the words of President Koivisto, "one of the most important taken during Finland's independence".² Certainly, the sudden geo-political volte-face performed by Finland in the early 1990s, culminating in her accession to the EU in January 1995, was one of many remarkable chapters in the fundamental restructuring of Europe's political and security architecture that took place in the closing decade and a half of the twentieth century – even though many Finns would argue that it was no more than the continuation, in a different geo-political environment, of Finland's traditional policy towards European integration. Either way, it is a development that has received relatively little attention from non-Finnish commentators. Most have preferred instead to focus on the nine countries, formerly part of the Soviet Bloc, that became Member States of the European Union in 2004 and 2007: the "Visegrad Four", the Baltic States, Bulgaria and Romania.

Yet Finland too was consigned by the victorious Allies at the end of World War II to the Soviet sphere of influence. Initially, her position looked in some respects even more precarious than that of some of her Central and Eastern European neighbours.³ Luckily for Finland, however, she had not been occupied by the Red Army and had throughout the War retained intact her pluralist democratic institutions. Not only was there a broad political consensus; but the Finnish Social Democratic Party (unlike some of its counterparts elsewhere) was anti-Communist and Western-oriented. Finland's geo-strategic position – sitting as she did at the northern edge of Europe – was moreover, from Moscow's perspective, rather different from that of other countries in the Soviet sphere. By the mid-1950s it was becoming clear that

Finland, unlike the others, would not become "Sovietised".⁴

Instead, Finland spent the next four decades pursuing a careful geo-political balancing act that sought pragmatically to combine the economically necessary with the politically feasible. In so doing, Finland managed not only to set herself clearly apart from the rest of the post-War Soviet sphere of influence; but also to participate from an early stage in the economic integration of Western Europe. That this – highly successful – policy should have inspired the derogatory term "Finlandisation" has always seemed to me rather harsh on the Finns, who were after all just seeking to make the best of the cards they had been dealt by others. Considerations of Realpolitik – namely the paramount need to maintain friendly relations with Moscow – ruled out any possibility of closer political relations with the West. Even after the collapse of the Iron Curtain and the reunification of Germany, Finland proceeded with great caution.

Then, early in 1992, emboldened by developments in Moscow, and under the economic pressure of Sweden's sudden decision to apply for EU membership, Finland's political leaders seized the narrow window of opportunity that suddenly presented itself to confirm at last, *urbi et orbi*, Finland's identity as a Western European nation, not only economically but also politically.

In tabling her application for membership at that time, Finland ensured her participation in the 1995 wave of EU enlargement. Had she not done so, Finland might well have ended up joining the EU in 2004 alongside those Central and Eastern European countries that had formally been part of the Warsaw Pact. As it was, Finland demonstrated once again that she was in a different class. At the same time, Finland's accession to the EU was an important positive signal for those other aspirants on whom the Soviet yoke had fallen rather harder over the previous half-century.

By virtue of the successive functions I held in the European Commission during the 1980s

¹ In the text that follows, I have generally used the more correct term "European Communities" (EC) prior to the finalisation of the Maastricht Treaty in 1992.

² Finland and the Evolution of Europe: Address to the Plenary Session of the European Parliament, 16 Nov 1993 (Ulkoasiainministeriö: Ulkopoliittisia Lausuntoja ja Asiakirjoja 1993, p.246)

³ Saarikoski (2002)

⁴ Finland did not join the Warsaw Pact when the latter was created in 1955, but chose to join the Nordic Council. The following year, Moscow returned the Porkkala military base to Finland.

and 1990s, I was a privileged outside observer of this unexpected, and ultimately breathtakingly rapid, transformation of Finland's geo-political status. The narrative that follows is, inevitably, only a personal and partial account of what happened during those momentous years, based on my notes, diaries and recollections. I have however sought, wherever possible, to check these against other accounts of the events covered.⁵ I have also benefitted from many helpful comments and suggestions from those closely involved on the Finnish side, in particular Heikki Haavisto, Veli Sundbäck, Erkki Liikanen, Antti Kuosmanen, Pekka Huhtaniemi, Esa Härmälä, Eikka Kosonen, Leif Blomqvist, Esko Hamilo and Niilo Jääskinen. Particular thanks are due to Pertti Salolainen, without whose constant encouragement this account would probably never have seen the light of day.

⁵ I have relied in particular on Kuosmanen (2001), Liikanen (1995) and Granell (1995); and also, more generally, on Koivisto (1997) and Jakobson (1998). I am indebted to the Archives of the Ministry for Foreign Affairs of Finland for their assistance in checking the details of early ministerial contacts, as well as to the EFTA Secretariat in Geneva, who kindly permitted me to check a number of points against material in their archives.

Photo: Marko Helin / Wikimedia Commons



I

A PIANO LESSON IN EUROPEAN REALPOLITIK

My first exposure to the geo-political complexities of Finland's relations with the rest of Europe was in August 1981. It was, although I was blissfully unaware of this at the time, a textbook example of the Paasikivi-Kekkonen line in action.

I was then a junior official in the trade defence section of the European Commission's Directorate General for External Relations. I had never set foot in Finland before. I was, like most Western Europeans, including most European Commission officials at that time, deeply ignorant about Finland and all things Finnish. For most people, Finland was the home of Sibelius and/or the origin of the term "Finlandisation". For those addicted to spy fiction, it was a presumed hot-bed of East-West intrigue. A well informed few were aware of Finland's role as the originator of the "Helsinki Process" (which led to the creation of the C.S.C.E and subsequently the O.S.C.E.).

Urho Kekkonen's long Presidency was in its final declining days. The Cold War was still at its height. Ronald Reagan had just that January taken over the White House. The death of the Arch-Cold-Warrior himself, Leonid Brezhnev, was still fifteen months away. Russia was bogged down in a guerrilla war with the Western-backed Mujahedeen in Afghanistan. The USA and its European allies were in the middle of a bitter dispute over the possible security implications of European plans to pipe Siberian oil and gas to Western Europe. Transatlantic relations were about to be further troubled by widespread public protests in Europe at the deployment of US Pershing II cruise missiles.

Given the overriding importance of maintaining good relations with the USSR, Finland had understandably pursued a notoriously cautious approach to the establishment of economic and trade links with the countries of Western Europe, despite the fact that the latter had traditionally been an important market for Finnish forestry and other products. Having turned down the offer of Marshall Aid, Finland had not become a member of the OEEC,⁶ and had thus not been party to the (bitter and ultimately abortive)

⁶ Organisation for European Economic Cooperation, predecessor of the OECD

negotiations for an all-European Free Trade Area.⁷ However, when the European Free Trade Association (EFTA) was founded in 1960 by Finland's three Nordic neighbours together with the UK, Austria, Switzerland and Portugal, Finland, after some delicate manoeuvring,⁸ negotiated Associate Membership of the organisation. This effectively extended the Free Trade Area to Finland, but did not allow her to participate in the deliberations of the EFTA Council; the formal decisions of the latter being applied to Finland by separate subsequent decision of the FIN-EFTA Joint Council. Finland was similarly excluded from EFTA's contacts with other international organisations. Later in the 1960s, attempts were made to conclude a Nordic Economic Area (NORDEK) between Finland, Denmark, Norway and Sweden. These however collapsed in 1970, partly owing to pressure by Moscow on Helsinki, but also because Denmark and Norway had by then concluded that their own futures lay with the European Communities (EC). Shortly thereafter, Finland renewed for a further 20 years her Friendship Cooperation and Mutual Assistance Agreement with the USSR.

Finland demonstrated similar caution and hesitation when, in 1973, the UK and Denmark finally left EFTA in favour of membership of the EC. Given the need to ensure her competitive position in these two traditionally important markets for her industrial products, Finland joined her EFTA partners in negotiating Free Trade Agreements with the EC.⁹ Negotiations were concluded in July

⁷ The British Government had suggested that the EEC Six should be linked with remaining countries of Western Europe in a wider free trade area. This concept became known as the Maudling Plan. Negotiations began within the OEEC in 1956; however, two years later, the Six, fearful of seeing their own project diluted or submerged, put an end to them. For a full account, see Benoit (1961), especially pp. 70-7 and 92-5; Pedersen: EC-EFTA Relations - An Historical Outline in Wallace (1991); Antola (2000) pp. 3-4.

⁸ Max Jakobson (Jakobson, p. 92) considers that Kekkonen effectively double-crossed both the USSR and the West.

⁹ In practice two agreements, one with the European Economic Community (EEC) and one with the European Coal and Steel Community (ECSC).

1972. The prospect of a Free Trade Agreement with the EC was however to prove a controversial one for Finland, both domestically and in terms of relations with Moscow. The USSR was deeply suspicious of Western European integration, and its leaders made this quite clear to their Finnish counterparts. Many in Finland, especially on the political left, opposed the Agreement for both economic and ideological reasons. Getting to the point of signature required considerable efforts of persuasion by Kekkonen in Moscow, an exceptional four-year extension of his Presidential mandate, a change of government in Helsinki and the appointment of a high level committee to evaluate the potential effects of the FTA. Moreover, this step was taken only as part of a wider “deal” in which, in line with Finland’s policy of strict neutrality, equivalent privileges were simultaneously granted by Finland to the member countries of the CMEA (Comecon). The agreement was finally signed, in low-key fashion by Finland’s Ambassador to the EC, Pentti Talvitie, only in October 1973. This was some fifteen months after the signature of the FTAs with other EFTA countries¹⁰ and only just ahead of the deadline by which the agreement would have lapsed.¹¹ Moreover, Finland’s agreement with the EEC, unlike those of her EFTA partners, did not contain an “evolutionary” clause, explicitly foreseeing the possibility “to develop the relations established by the Agreement by extending them to fields not covered thereby”.

In the years that followed the signature of the FTA, Finland’s relations with the EC were essentially limited to the implementation of the latter and, in contrast to those of her EFTA partners, conducted almost exclusively at official level. Numerous senior European Commission officials responsible for questions of particular interest to Finland – such as pulp and paper, shipbuilding and competition – were invited to make “familiarisation” visits to Finland. However, in the period up to end of Kekkonen’s Presidency, there were only two contacts at ministerial level. The

¹⁰ With the exception of Norway, with whom an FTA was signed in May 1973, following Norway’s decision not to proceed with EC membership.

¹¹ Art. 35 of the EEC/Finland Free Trade Agreement

European Commission’s External Relations Commissioner, Wilhelm Haferkamp, had, at the invitation of the Finnish Government, visited Helsinki in December 1979 for meetings with Prime Minister Koivisto, Foreign Minister Väyrynen and Foreign Trade Minister Rekola. Discussions covered the operation of the FTA, the need to resist protectionism and the pragmatic expansion of contacts in areas of mutual interest.¹² Rekola had reciprocated with a visit to Brussels in March 1981.

Finland did not share the enthusiasm of some of her EFTA partners for developing closer relations with the EC. This had been highlighted when, to celebrate the completion of full free trade for most industrial products,¹³ the Austrian EFTA Presidency had convened a meeting of EFTA Heads of Government in Vienna in May 1977. Chancellor Kreisky, recalling the origins of EFTA in the failed Maudling Plan of the 1950s,¹⁴ proposed that Leaders should adopt a declaration “to intensify economic cooperation within the large free-trading area and thus consolidate it on a European scale”. In the course of the exchange of views that followed, Prime Minister Martti Miettunen stressed that Finland’s point of departure was her policy of neutrality and the retention of full national freedom of decision-making. He reminded his colleagues that Finland’s agreement with the EC contained no “evolutionary” clause and that its objectives were limited to cooperation in the trade field. Miettunen’s cautious line is reflected in the final text of the Vienna Declaration, which specifically refers to the absence of an evolutionary clause in the EEC–Finland Agreement. The text goes on to say that “it is the intention of Finland to develop her relations with the Community in the framework of the objectives of that Agreement”. For Finland, in any event, the most important date was not 1 July 1977, but 1 January 1984, when the remaining EC tariffs

¹² See communiqué of the visit (Archives of the Ministry for Foreign Affairs of Finland); also General Report on the Activities of the EC 1979, para. 542

¹³ Full free trade for all industrial products except a few sensitive items was achieved on schedule on 1 July 1977.

¹⁴ See above

on pulp and paper products would be eliminated.¹⁵

Fortunately for Finland, and to the frustration of many on the EFTA side, the EC side too was at that time far from enthusiastic about developing closer relations between EFTA and the EC. The text of the Vienna Declaration had been formally communicated to the EC under cover of a letter from Chancellor Kreisky, in his capacity as Chairman of the meeting, to the President-in-Office of the EC Council, UK Foreign Minister David Owen. It rapidly became apparent that, within the EC, views were very much divided as to how to respond. While the Commission took a fairly positive stance, not all Member States shared this. Some saw no need to develop new forms of cooperation with the EFTA countries, let alone of doing so with them collectively. For these, some of the language in the Declaration may have looked too much like an attempt to revive the controversial concept of an all-European Free Trade Area. The end result was that the completion of (almost) full free trade with EFTA remained uncelebrated on the EC side. A short, polite but essentially non-committal reply was agreed for Owen to send to Kreisky. It was not until some twelve months later that the EC Council, prompted by a Communication from the Commission, finally issued a statement confirming that it “agreed on the utility of improving and perfecting the operation of the agreements in all areas where this was deemed useful” and “that where additional cooperation beyond the free trade agreements was regarded as desirable by both sides, the Community was prepared to undertake such cooperation in the mutual interest of the parties concerned”.¹⁶ The ambiguity of the term “both sides” says all! The Council subsequently approved a list of areas where it was considered that strengthened cooperation with the EFTA countries was desirable and achievable.

The cautious Finnish line was further confirmed in an aide-mémoire handed over to

¹⁵ It was moreover not until 1 January 1985 that Finland herself had to abolish the remaining tariffs on a wide range of textiles, machinery, electrical equipment and other goods

¹⁶ EC Council Press Release 830/78 (Press 89)

the EC in March 1979, setting out the position of the Finnish Government on the follow-up to Vienna. This recalled once again that, for Finland, the Free Trade Agreement was the cornerstone of EC-EFTA cooperation. Finland supported efforts, within the scope of the FTA, to remove non-tariff barriers and to improve the rules of origin. Beyond the scope of the FTA, Finland was interested only in agriculture and fisheries. The practical results of this, by mid-1981, were some minor improvements to the rules of origin, the signature of a bilateral fisheries agreement (a necessary consequence of the introduction internationally of 200-mile exclusive economic zones) and the opening of negotiations for a bilateral cheese agreement.

But back to my visit to Finland. The European Commission had, in February 1981, launched an investigation into imports of pianos from the GDR and Poland. Community producers had alleged that these were being dumped at unfair prices on the Community market. The investigation had been extended in July to include imports from Czechoslovakia and the USSR. I was the case-handler responsible for this investigation, on the basis of which the Commission would have to decide, in due course, whether to propose additional charges on these imports. A necessary part of this process was the determination of the “normal” value to be used in assessing the margin of dumping. Since the four countries under investigation did not at that time operate market economies, “normal” value had, under EEC legislation and in accordance with international trade rules, to be determined “in an appropriate and not unreasonable manner” using if possible prices or costs of production for the like product of a market economy third country. It rapidly became evident that the only European market economy producers of pianos outside the EEC itself were to be found in Finland. Hence my visit.

We had already ascertained informally, via industry contacts, that the two Finnish producers, Fazer and Hellas, were willing in principle to assist us. (They were of course also suffering from this unfair competition from Eastern Europe.) Before we could proceed, however, we were required under GATT rules formally to notify the Finnish

authorities, in order to be sure that they had no objection to our visiting the premises of their two producers for this purpose. A note verbale to this effect was duly delivered to Finland's Mission to the European Communities in Brussels (the EC having in those days no representation of its own in Helsinki). This was regarded as a purely routine procedure, cooperation of this sort being the norm between GATT Contracting Parties.

Our first indication that things might prove a little more complicated in this case came a few days later, when I received a telephone call from Esko Hamilo, then Counselor at Finland's Mission to the EC in Brussels. He confirmed that our note verbale had been duly passed to Helsinki, but said he was not at all sure what the reaction might be. Helsinki was of course well aware of the GATT rules here. However, being seen to cooperate with the EC in an action aimed against the economic interests of the USSR was inevitably a sensitive matter for Helsinki. Hamilo promised to come back to me as soon as he had news of Helsinki's reaction.

It was a couple of weeks before Hamilo contacted me again, to inform me that Helsinki would not be replying formally to our note verbale. (A formal reply was not, in any case, strictly necessary under GATT rules.) He was, however, instructed to convey to me orally the message that Helsinki did not object to our visiting the premises of the two Finnish producers, provided that during the visit we did not seek to make contact with any officials of the Finnish Government, and that there was no reference, in any subsequently published decision, to Finnish cooperation in the investigation. Reading between the lines, the clear message was that Helsinki wanted to be able, if the need arose, to deny any knowledge of the matter.

Discretion was thus the order of the day. My accountant colleague and I spent two days visiting the offices and production facilities of the two Finnish companies, which were all in the Helsinki area, gathering the technical and commercial information we needed for our calculation of normal value and returned forthwith to Brussels. The case was concluded the following April with the imposition of additional duties on imports into the EEC of Russian pianos and the acceptance of what

were deemed to be satisfactory price undertakings from the Czech, GDR and Polish exporters. The published legal texts of these decisions,¹⁷ which explain in some considerable detail how the Commission arrived at its conclusions, include a list of all the firms whose premises were inspected in order to verify the export prices of the pianos under investigation. There is, however, for some mysterious reason, no mention of our visit to Finland; nor of any assistance or cooperation from the Finnish side.

¹⁷ See in particular Commission Regulation (EEC) No 871/82 of 14 April 1982 (OJ No L 101, 16/04/1982, p. 30) and Council Regulation (EEC) No 2236/82 of 11 August 1982 (OJ No L 238, 13/08/1982, p. 1)

Photo: D100a / Wikimedia Commons



II

CASTING IN FINNISH WATERS

My second visit to Finland, nearly six years later, in late June 1987, took place in very different circumstances. I had meanwhile become Private Secretary to the Commission's Director-General for External Relations, Leslie Fielding, who took a close interest in EC-EFTA relations. He had been invited to pay an official visit to Finland, his third since becoming Director-General, and had decided that I should accompany him. Our programme consisted of a day of official discussions in Helsinki with Undersecretary of State Paavo Kaarlehto and his officials (including the then Director for EC Affairs, Antti Satuli), following which we were whisked off by seaplane for further, more informal, discussions during sauna, dinner and a morning's pike fishing, hosted by Ilkka Haka at the Valio fishing cottage in the Turku Archipelago. It was my first introduction to "sauna diplomacy", as well as to the natural wonders of the archipelago. I became addicted to both.

Kaarlehto was well known to Brussels, having served as Finnish Ambassador to the EC from 1981 to 1985. There was much to talk about, for since 1982, under the new leadership of President Koivisto, Finland's relationship with the EC had evolved substantially against the background of the change of political leadership in Russia and of the EC's programme for the completion of its internal market.

This evolution had been given impetus by the various political declarations adopted on both sides in the latter half of 1982, in connection with the tenth anniversary of the signature of the EC's Free Trade Agreements with the EFTA countries.¹⁸ Not only did the EC Council, for the first time, refer publicly to the "special" nature of the EC's relations with the EFTA countries; it also recognised the importance of solidarity and cooperation between the EC and EFTA in the interests of preserving and defending, in an otherwise uncertain and dangerous world, the zone of monetary and trade stability and security

¹⁸ These celebrations conveniently ignored the fact that the EC-Finland Agreements had been signed only in October 1973!

constituted by the two entities.¹⁹ From that point on, while the FTAs remained the legal and institutional bedrock of the EC-EFTA relationship, new initiatives for its further development, even when legally enshrined in separate modifications to the individual FTAs, were increasingly the product of discussion and agreement at the EC-EFTA level.

That same year had also seen the genesis of the idea of holding a "jumbo" ministerial meeting, bringing together, for the first time, the ministers of all EC member states and all EFTA member countries to provide a symbolic political impulse to closer EC-EFTA cooperation in its tenth anniversary year. This was at the time a bold initiative, given the unprecedented nature of such a meeting and the uncertainty about what it might be expected to give rise to. Commission President Gaston Thorn had received support for the idea of such a meeting (or even an EFTA-EC Summit) from the Austrians during his visit to Vienna in June 1982. It had also received support from some other EFTA Ministers at the EFTA ministerial meeting in Geneva in early November. Then in December, with little prior warning, the incoming German Presidency of the EC announced its intention to organise, in mid-January 1983 in Aachen, a meeting of "interested" ministers from each of the EC and EFTA countries, plus the Commission. This would have been a symbolic *sui generis* gathering, ostensibly to mark (yet again, and rather belatedly) the tenth anniversary of the signing of the FTAs. In the end, owing to the extremely short notice, lack of adequate preparation and disagreement as to the precise format and purpose, the meeting failed to materialise.

The idea, however, remained very much alive. At the EFTA ministerial meetings in Bergen in early June 1983 and in Porto in late November, several ministers expressed regret that the proposed "Jumbo" meeting had not taken place and urged that the idea should continue to be pursued. Early in 1984, the Swedish EFTA Chairmanship took the

¹⁹ Declaration of the EC Council of 20 July 1982; Commission Statement of 22 July 1982 (Commission Press Release IP(82)193); Declaration by the EFTA Councils at ministerial level of 8 November 1982 (EFTA Press Release 17/82/F)

matter up formally with the French EC Presidency (Swedish Trade Minister Mats Hellström being one of the strongest supporters on the EFTA side). This time it was accorded a more favourable reception and Ministers of all EC member states and all EFTA member countries, plus the Commission, finally met together in Luxembourg on 9 April 1984. The timing was apposite: the final remaining tariffs and quantitative restrictions on EC-EFTA trade in industrial products had been eliminated on 1 January 1984,²⁰ and there had been time on both sides to flesh out in more concrete terms the political aspirations set out in the various 1982 declarations. The Commission, for its part, had proposed to the Council already in mid-1983 a list of 25 sectors deemed suitable for closer cooperation with the EFTA countries.²¹ Although this had not initially been foreseen, the meeting ended up adopting a major declaration (the “Luxembourg Declaration”) laying down “orientations to continue, deepen and extend cooperation within the framework of, and beyond, the Free Trade Agreements”.²²

The Luxembourg Declaration was an important new departure in EC-EFTA relations. It marked the final acceptance on the EC side of the notion that the EC and EFTA were part of a single “system of free trade” by laying down “the aim of creating a dynamic European economic space”. An explicit link was created between the improvement of the free circulation of industrial products between the EC and the EFTA countries and the EC’s own efforts to strengthen its internal market. A major push was given to EC-EFTA cooperation beyond the framework of the FTAs by agreement in principle on cooperation, consultations, contacts or exchanges of information in a whole range of new sectors. Parallel steps were taken to strengthen and improve cooperation within EFTA.

²⁰ Except, as noted in Chapter I, for certain Finnish import duties.

²¹ COM (83) 326, 6 June 1983

²² Joint Declaration of the ministerial meeting between the European Community and its Member States and the States of the European Free Trade Association, Luxembourg, 9 April 1984 (cf. EFTA Bulletin 2/1984, pp. 6-7)

Although the language of the Declaration itself carefully avoids any reference to this, the adoption of the Luxembourg Declaration also led to a major upgrading of institutional links between the EC and EFTA. This was an important breakthrough given the long-standing EC preference for dealing with EFTA at one remove via the seven separate sets of bilateral Free Trade Agreements; and given that a number of EC Member States would clearly have preferred to keep things that way. The EC Treaties, however, allotted the lead role here to the Commission, which was favourable to closer institutionalised links with EFTA. Such links had previously consisted essentially of a brief twice-yearly “tour d’horizon” at working level between the Commission and the EFTA Secretariat. Post Luxembourg, a new EC-EFTA “High Level Contact Group” (consisting of senior officials from the EFTA countries and the Commission) was set up to oversee the implementation of the Declaration, meeting for the first time in September 1984 and thereafter twice yearly. The tradition also became established of an annual meeting, in the margins of the mid-year EFTA ministerial meeting, between the EC’s Commissioner for External Relations and his EFTA Ministerial counterparts. On the first two such occasions, in December 1984 and May 1985, the President of the Commission (Thorn, and subsequently Dehors) also attended.

The Luxembourg Declaration marked, at the same time, an important watershed in Finland’s attitude towards European integration. This showed itself in her relations both with the EC and with EFTA.

With regard to the EC, Finland had until then continued to maintain the line, adopted following EFTA’s Vienna Declaration of 1977, that the bilateral FTAs were the cornerstone of the relationship. Finnish Foreign Trade Minister Jermu Laine²³ had not been among those pushing for a “Jumbo” meeting, seemingly preferring still at that stage to stick with the bilateral route with pragmatic “add-ons”. However, as Antti Kuosmanen recounts, Finland now decided, without huge fanfare, to

²³ Laine had taken over the post in May 1983, having occupied it already earlier at the time of the signature of Finland’s FTA with the EC.

broaden the room for manoeuvre and to take a full part in the Luxembourg process.²⁴ This was facilitated by the fact that the latter was implemented in an informal and pragmatic fashion without any explicit invocation of the “evolutionary” clauses contained in the agreements with Finland’s EFTA partners. Henceforth, even though the Joint Committee of the EC–Finland FTA continued to meet regularly and conduct a substantial amount of bilateral business (including on important issues like pulp and paper, shipbuilding and processed agricultural products) almost all significant new initiatives in EC–Finland relations emerged, and in many cases were managed, via the EC–EFTA conduit.

Ministerial-level contacts between the EC and Finland became more frequent. Officials at the Ministry for Foreign Affairs had for some time been concerned that Finland was being left behind by her EFTA partners, all of whom maintained regular high level contacts, up to Head of Government level, with the European Commission.²⁵ This had prompted, already in late 1980, a personal letter from Foreign Minister Väyrynen to incoming Commission President Gaston Thorn (then still Foreign Minister of Luxembourg)²⁶ extending an invitation on behalf of the Finnish Government to visit Finland in his forthcoming new capacity. (Thorn had already visited Finland in his previous capacity of Prime Minister of Luxembourg).²⁷ The visit finally took place in June 1982.²⁸ Thorn met with President Koivisto, Acting Prime Minister Pekkala, Foreign Minister Pär Stenbäck, and other ministers. The visit attracted

²⁴ Kuosmanen, p.4

²⁵ Norway and Sweden had instituted annual ministerial-level consultations with the Commission in 1980.

²⁶ Letter of 24 October 1980 from FM Väyrynen to FM Thorn (Archives of the Ministry for Foreign Affairs of Finland)

²⁷ This initiative was strongly supported by the Finnish Mission to the EC in Brussels in a telegram of 16 October 1980, which points out that Thorn’s predecessor as Commission President, Roy Jenkins, had visited all EFTA countries except Finland and Iceland (Archives of the Ministry for Foreign Affairs of Finland).

²⁸ Bulletin of the European Communities 6–1982, point 2.2.39

considerable media coverage in Finland. This still being early days, however, the media “spin” given to the visit emphasised heavily the purely “economic” and “commercial” nature of the discussions. More significant, perhaps, is the fact that, shortly before the visit, Secretary A. A. Rannih of the Soviet embassy was given a personal briefing at the Foreign Ministry on EFTA and EC questions.²⁹ During the meeting, Rannih indicated that his authorities saw no problem with the Thorn visit.

The Thorn visit was followed by numerous other high level exchanges. Competition Commissioner Frans Andriessen visited Finland in May 1983. Commissioners Sutherland (Andriessen’s successor at competition) and De Clercq (external relations) were to do so in, respectively, March and April 1986. De Clercq’s visit was also the occasion for the signature of an EC–Finland Framework Agreement for Scientific and Technical Cooperation, similar to those that had already been signed with several other EFTA countries. In the opposite direction, Foreign Trade Minister Laine visited the Commission in May 1984, September 1985 and January 1986. Moreover, the Finnish Foreign Trade Minister and the EC Commissioner for External Relations now sat annually across the table from each other at the Commission/EFTA ministerial meeting. There was even at one stage a proposal³⁰ that, while in Brussels for a meeting of the Socialist International in April 1985, Prime Minister Kalevi Sorsa should meet informally with Commission President Delors. In the event, seemingly owing to scheduling difficulties, the meeting did not take place; and it was to be another five years before a Finnish Prime Minister (Harri Holkeri) was to set foot inside the European Commission’s headquarters in Brussels.³¹

²⁹ Memo of 8 June 1982 by Head of the Integration Office Leif Blomqvist (Archives of the Ministry for Foreign Affairs of Finland)

³⁰ Memo of 7 January 1985 by Head of the Trade Policy Department Erkki Mäentakanen (Archives of the Ministry for Foreign Affairs of Finland)

³¹ Sorsa did, however, as a member of the Holkeri Government, become in December 1988 the first Finnish Foreign Minister to visit the Commission – see below.

The Luxembourg Declaration also provoked a change in Finland's relationship to EFTA. The latter had, since its inception, been the central pillar of Finland's policy towards Western Europe; and Finland had, for this reason, always been supportive of efforts to strengthen it. The formal distinction between full EFTA membership and Finland's associate membership had, for most practical purposes, by this time become largely irrelevant in the day-to-day work of the organisation. The one exception to this was external relations, where Finland, as a mere Associate, had no speaking rights or decision-making powers. This became a real problem with the strengthening of EC-EFTA links now under way. In September 1985 Finland chose to apply for full membership of EFTA and acceded to that status on 1 January 1986, simultaneously with the departure of Portugal, which had become a Member of the EC.

Further signs of Finland's evolving policy towards European integration were its decisions to join (in 1985) Eureka and (in 1986) the European Space Agency. While these two intergovernmental organisations were formally separate from the EC, they were at that time purely Western European in membership.

Such was the state of Finland's relationship with the EC at the time of Fielding's discussions with Kaarlehto: substantially transformed, but still revolving essentially around trade and economic issues. Further major changes were however already in the air.

Finland, having now become a full Member of EFTA, was about to take over for the first time the chairmanship of the EFTA Council and was to host in Tampere in June 1988 the mid-year EFTA Ministerial, together with the parallel meeting between EFTA Ministers and the EC Commissioner for External Relations, Willy De Clercq. This inevitably raised the profile of Finland in Brussels, coming as it did at a key juncture in the implementation of the Luxembourg Declaration, and of the EC-EFTA relationship in general (rumours that Austria was considering applying for full EC membership having been confirmed by Foreign Minister Mock to his EFTA colleagues in the margins of Tampere³²).

³² Kuosmanen, p. 5

Another important development was that the new Finnish Government that had taken office at the end of April 1987, under the leadership of Prime Minister Harri Holkeri, had launched a review of Finland's relations with the EC. Most ministers in the Holkeri Government were understood to be in favour of closer relations with the EC, including Foreign Minister Sorsa and Foreign Trade Minister Salolainen. The issue of membership itself however was seemingly not raised within the government, the subject still being considered at that time, for geopolitical reasons, to be taboo. Both Trade and Industry Minister Ilkka Suominen (also then Leader of the Conservative Party) and Paavo Lipponen (then out of Government) did, however, speak out publicly in positive terms about EC membership. The Government White Paper presented to the Finnish Parliament by Salolainen in November 1988³³ predictably ruled out the prospect of joining the EC, as being incompatible with Finland's policy of neutrality. Significantly, however, it did, on the other hand, argue for the closest possible relationship short of full membership.

All this was, moreover, happening at a time when Finland's wider international profile, until then largely based on its role, back in the 1970s, in launching the Helsinki Process, was receiving a major boost. Economically, Finland was gaining a reputation as the "Nordic Japan", having become in 1988 (before the collapse of its Soviet trade, the devaluation of the Markka and the descent into the Casino Economy) the eighth-richest country in the world on the basis of World Bank GNP statistics.³⁴ Politically, the process of post-Cold-War détente had highlighted the importance of Finland as a "bridge" between East and West, bringing a string of Western leaders to Helsinki, many of them to seek President Koivisto's advice on how to interpret what was happening in Gorbachev's USSR.

³³ *Finland and the Western European Integration Process* (Report to Parliament by the Council of State, 1 November 1988)

³⁴ Osmo Jussila et al.: *From Grand Duchy to a Modern State – A Political History of Finland since 1809* (Hurst, London 1999) Ch. 64, p. 331

Against this changing background, Brussels began to take a growing interest in Finland. One immediately visible result was a sudden surge in the number of visits to the country by high-level Commission personalities. The EC's Internal Market Commissioner, Lord Cockfield, visited Finland at the end of January 1988, Industry Commissioner Narjes in March and Economic and Financial Affairs Commissioner Christophersen in September, in addition to Commissioner De Clercq's visit for the traditional Commission-EFTA meeting in the margins of the EFTA Ministerial in Tampere. The highlight, however, was the visit in late July of Commission President Jacques Delors, the first ever full official visit to Finland by a President of the Commission. These visits involved extensive discussions with Finnish counterparts, including Prime Minister Holkeri, Foreign Minister Kalevi Sorsa, Foreign Trade Minister Salolainen, Trade and Industry Minister Suominen and Finance Minister Erkki Liikanen, as well as with representatives of Finnish industry and trades unions. Delors also had discussions with President Koivisto, mainly centring on East-West relations.

A similar upsurge in contacts occurred in the opposite direction. Sorsa visited the Commission in December 1988, the first ever such visit by a Finnish Foreign Minister. The geopolitical significance of this was certainly not lost on those concerned in Brussels, and he was received accordingly. Sorsa's visit was followed by a number of other ministerial visits to Brussels in the course of the following months, including by Salolainen (who had already visited Brussels shortly after taking office) and Liikanen, as well as by Foreign Affairs Secretary-General Åke Wihitol. Antti Kuosmanen, working at that time in Finland's Mission to the EC, recalls³⁵ that Brussels "started to become flooded with a huge variety of visitors from all corners and walks of life in Finland", wanting to know more about the EC and Finland's relations with it: Members of Parliament, representatives of Finnish industry, trade unions, media, think-tanks, regional authorities and the like.

³⁵ Kuosmanen, p.5

The two main messages exchanged during the above plethora of high-level political contacts were: (on the EC side) that the EC's relations with the EFTA countries should, for the present, remain firmly based on the Luxembourg Declaration, any new initiatives having to wait until such time as the EC had completed its own Internal Market programme; and (on the Finnish side) that Finland wanted to develop its relations with the EC via the EC-EFTA framework and was not (unlike Austria) interested in applying for EC membership.

By the end of 1988, however, it was becoming increasingly clear that, in the new Europe that was progressively emerging, the Luxembourg Declaration was no longer a viable basis for managing relations between the EC and the EFTA countries. Those of us involved sensed that something major and profound was occurring that was going to have huge and permanent consequences for the continent on which we lived. None of us, however, realised then just how far and how fast things would change.

I had meanwhile moved jobs, just prior to Sorsa's visit to Brussels, to join the Commission's EFTA Division, where I became responsible *inter alia* for relations between the EC and Finland. I thus found myself directly party to most of the above contacts, both official and other. This was to be the start of several years of intensive first-hand involvement with Finland and, more generally, with the radical reshaping of the political, economic and security architecture of Europe that was to have such important consequences for Finland's future.

Shortly after I took on my new responsibilities, a mysterious package was delivered one day to my office (something that would of course be inconceivable in today's security-conscious climate). It had come from Antti Kuosmanen at the Finnish Mission. The parcel contained a small selection of books on Finland, written in or translated into the English language (of which there were in those days very few): works such as Urho Kekkonen's "A President's View", Max Jakobson's "Myth and Reality" and David Arter's "Politics and Policy-making in Finland". My Finnish education had begun.

Photo: Guy Fawkes / Flickr.com



III

THE EUROPEAN WAITING ROOM

The events leading up to and surrounding the launching, negotiation and conclusion of the European Economic Area have been extensively recorded, analysed and commented upon, both by independent scholars and by various of the participants in these events.³⁶

Delors's speech of January 1989, in which he set out his thoughts on the possible parameters of a broader and deeper cooperation between the EC and the EFTA countries has been widely interpreted as a belated (and unsuccessful) attempt to persuade Austria to delay its intended application for EC membership. The reality, as so often in such cases, was rather more complicated.

Certainly, there was considerable reluctance on the EC side to launch negotiations for a further enlargement a time when the Community was still only part way through the implementation of its Single Market programme, and was already in the preliminary stages of a major new initiative in its own integration process.³⁷ The Commission, for its part, had already stated very clearly at the end of April the previous year³⁸ that, until the end of 1992 – deadline for completion of the internal market – priority should be given to the EC's own further integration, rather than to enlargement. No candidate or potential candidate for membership could therefore from then on possibly have been under any illusion that their application would lead to early negotiations.³⁹ In the same statement, moreover, the Commission had also proposed

³⁶ See in particular Dinkelspiel (2009), Dupont (1998), EFTA (2009), Gstöhl (1996), Hayes (1990), Laursen (1995), Norberg (1992), Pedersen (1994), Sevón (1992), Toledano Laredo (1992) and Wallace (1991).

³⁷ The European Council had, at its meeting in Hannover in June 1988, invited Delors to chair a group of experts to report on concrete steps to be taken towards economic union. This was the precursor to one of the two Intergovernmental Conferences launched in December 1990 that culminated in the Maastricht Treaty.

³⁸ Commission Press release MEMO/88/66 of 02/05/1988, issued following study seminar at Corsendonck

³⁹ That applied, incidentally, not only to Austria, but also to Turkey, which had applied already the previous year, and to Norway, rumoured at the time be considering a new application.

that the EC should, in return, pursue a “*politique de proximité*” making full use of the methods and instruments available to generate ever closer relations with its neighbours.

The content of Delors's intervention should not have taken anyone that much by surprise. As Delors himself said at the time, his remarks were designed to further advance a process of reflection that had already begun. A considerable amount of discreet behind-the-scenes brainstorming on possible new initiatives had been taking place for several months, involving key players from all parties concerned.⁴⁰ Even the idea of some sort of new institutional arrangements, which many saw as the central feature of Delors's “proposal”, had been batted back and forth in various informal discussions.

External Relations Commissioner Willy De Clercq, until then a firm proponent of continued pragmatic cooperation under the Luxembourg process,⁴¹ had, at his valedictory meeting with EFTA Ministers in Geneva in late November 1988, given a clear signal that change might now be on the horizon.⁴² In offering his thoughts on future prospects – and firmly ruling out any prospect of early further enlargement – De Clercq had mused briefly on the different alternatives: association, customs union, framework agreement. “I do not exclude”, he said, “that a new reflection, both inside EFTA and inside the Community, about the future of our cooperation may be useful”. The only warning note was against rushing ahead too fast (“*la fuite en avant*”) or ignoring the respective specificities of the EC and EFTA. A few days later, in early December, the Rhodes European Council stressed the EC's wish “to strengthen and expand relations with the EFTA countries”.

De Clercq's speech aroused considerable interest in EFTA circles, and I and other Commission officials involved were pressed hard to explain in more detail what it all meant.

⁴⁰ Some of these are recounted in Dinkelspiel (2009) pp. 105–119.

⁴¹ See for example his speech at the College of Bruges of 30 June 1988 (Commission Press Release SPEECH 88/61)

⁴² Speech by Mr. De Clercq at the Commission/EFTA Ministerial Meeting, Geneva, 29 November 1988 (Commission press release SPEECH/88/96)

In fact, at that time, although the Commission's general strategy was clear, there was no fully worked-out proposal within the Commission – let alone within the EC as a whole. Knowing how difficult it was to get major new initiatives of this sort launched through the EC machinery, I indicated privately to my EFTA contacts that if they wanted to move forward they might need to take the initiative themselves. (We knew that preparations were already underway for a Summit meeting of EFTA Heads of Government, to take place shortly in Oslo.) But the EFTA side were apparently not ready to do so at that stage. Then, a few weeks later, Delors caught everyone off guard, including many of his own officials, by seizing the initiative personally.

What was surprising, therefore, was not so much the content as the fact that Delors himself should have taken such a high profile personal initiative, as well as the timing and the manner of delivery of it.⁴³ Unlike De Clercq's earlier speech, which had been addressed directly to EFTA Ministers, Delors's remarks were addressed to the Plenary Session of the European Parliament, in the form of a short chapter in a 40-page keynote speech on the work programme of the newly appointed Commission.⁴⁴ They did not even, strictly speaking, constitute a proposal; merely a series of personal reflections on the possible consequences of pursuing various different future options in EC/EFTA relations.

Delors's initiative did nevertheless achieve the effect of moving the process forward – and rapidly. EFTA leaders, when they met in Oslo in mid-March 1989, responded positively to Delors's initiative, and declared themselves ready to explore ways and means to achieve a more structured partnership.⁴⁵ A week later, a joint meeting of EC and EFTA Ministers in Brussels gave the green light to

the launching of exploratory talks, at senior official level, between the Commission and the EFTA side. Following an interim report in November by the Commission and further discussion at the December meetings of the European Council and of the EFTA Ministerial Council, it was jointly agreed to open formal negotiations.⁴⁶ These were subsequently launched in June 1990. Hopes thereafter of an early conclusion were, however, progressively dashed.

Finland had welcomed the concept of the EEA when it was first mooted in 1989. The Delors model appeared “tailor made” for Finland:⁴⁷ it secured her vital economic interest of equal treatment on the EC's Single Market without compromising her established foreign policy position. Finland went on to play an active and central role in the negotiations, particularly during her chairmanship of EFTA in the second half of 1991.

Despite inheriting a negotiation that was by then in serious difficulties, Finland worked hard, under the leadership of ministerial chairman Pertti Salolainen and chief negotiator Veli Sundbäck, to bring the negotiations to a successful conclusion.⁴⁸ One of the lead EFTA negotiators on the key issue of legal and institutional structures was Leif Sevón,⁴⁹ then a senior Finnish Government lawyer. Negotiations on the EFTA Financial Mechanism, another major negotiating issue, were led on the EFTA side by Finland's Ambassador to the EC Erkki Liikanen. Among other Finnish officials who played important roles were Matti Vuoria (competition), Antti Satuli (services) and Eikka Kosonen (free movement of labour). Even if Finnish attitudes towards EC membership were by then evolving, particularly in the light of Sweden's application, Finland had no real alternative but to battle on with the EEA, especially given her responsibilities as EFTA Chairman,

⁴³ As has since been revealed, this was at least in part the result of Delors's discreet behind-the-scenes contacts with his fellow Social Democrats Swedish PM Ingvar Carlsson and Norwegian PM Gro Harlem Brundtland (Dinkelspiel (2009) pp. 118–119; Brundtland (p. 14) and Berg (p. 20) in EFTA (2009)).

⁴⁴ Press release SPEECH/89/3 of 17/01/1989

⁴⁵ Declaration adopted at the meeting of EFTA Heads of Government, Oslo, 14–15 March 1989

⁴⁶ EC Council press release 10949/89 of 19/12/1989

⁴⁷ Jakobson, p.106, Lipponen (1994)

⁴⁸ Sundbäck, *The EEA Negotiations – Bumpy Road, Worth Travelling in EFTA* (2009), pp. 26–28

⁴⁹ Sevón subsequently became a Member of the EU Court of Justice, and later the President of the Finnish Supreme Court.

and given that the EC had shown no interest in opening negotiations for new accessions.⁵⁰

The Finns nearly succeeded. The “political agreement” that had been reached at an EC-EFTA Ministerial dinner in Luxembourg on 18 June, under the previous Austrian Presidency of EFTA, had in practice left a raft of important issues unresolved, leading to the abandonment of plans to initial the text of an agreement at an EC-EFTA Ministerial meeting in Salzburg the following week. However, by 22 October, after a night spent shuttling back and forth between EC and EFTA ministers, gathered for the purpose in Luxembourg, the two negotiating teams finally reached agreement on a draft text. It was subsequently arranged to initial the latter on Monday 18 November, by which time the EC Court of Justice would – it was confidently expected – have delivered its “green light” to the concept of a joint EEA Court, a central feature of the institutional provisions of the draft agreement. A reception was duly planned by Ambassador Liikanen to celebrate this. A few days before the planned initialing, however, it became apparent that the Court ruling was likely to take longer than originally thought. The reception was postponed. More ominously, it became increasingly clear that this would not be a mere formality. A mood of gloom and foreboding began to descend. Finally, on 14 December came the unhappy news that the EC Court of Justice had, contrary to earlier informal soundings, ruled that the proposed EEA Court was incompatible with the EC Treaties. It was “back to the drawing board”!⁵¹

A further fifteen months were to pass before the end result of the negotiations for the EEA (minus Switzerland) was finally ready for signature. By the time that the EEA finally came into force between the EC and the other six EFTA countries, on 1 January 1994, negotiations were already largely completed for the accession of four of them, Finland among them, to full EC membership (although Norway, once again, did not in the end join); Switzerland had applied, but put its application on ice after its abortive EEA referendum.

⁵⁰ See Sundbäck op. cit. and also Koivisto, pp. 230–236

⁵¹ See Liikanen, pp. 56ff.

Austrian negotiators, playing on the German initials for the EEA (*EWR = Europäischer Wirtschaftsraum*), had already early on joked that the EEA was really a “European Waiting-room” (*Europäischer Warteraum*).

I do not share the view of those who argue that the EEA initiative in the end backfired on us in that, instead of providing a viable medium-term basis for managing our relations with the EFTA countries while the EC sorted out its internal affairs, it served merely to accelerate the pressures for an early further enlargement of the EC. Personally, I think this misses the point. The real driver of events was the rapidly changing geo-political situation in Europe: the fall of the Berlin Wall in November 1989, the reunification of Germany in October 1990, the dissolution of the Warsaw Pact in February 1991 and, finally, the disintegration of the USSR itself in December 1991. These radically altered the balance of options open both to the EC and to the EFTA countries.

The prime concern of the EFTA countries, ever since the publication by the European Commission in June 1985 of its White Paper on the Completion of the Internal Market, had been to preserve their competitive position in the face of the perceived negative effects for them of this new initiative, in terms both of market access and of investment flows. By 1988, it had become clear to most that, contrary to the high-flown political rhetoric,⁵² the pragmatic case-by-case approach of the Luxembourg Process was not up to that task:⁵³ it was, quite simply, what would nowadays be described as the wrong “business model”. This left the EFTA countries facing the risk both of economic marginalisation, by exclusion from the market integration process, and of satellisation, by being obliged to adjust autonomously to EC Directives and regulations.⁵⁴ The comprehensive approach

⁵² See e.g. the conclusions of the EC-EFTA Ministerial meeting of February 1988 in Brussels and of the June 1988 meeting between De Clercq and EFTA Ministers in Tampere

⁵³ See Berg in EFTA (2009), p. 20 and Nell (1990), p. 352

⁵⁴ Dupont (1998) and Nell (1990) both provide excellent and extensive analyses of the perceived negative externalities of the Single Market programme for the EFTA countries and of the failure of the Luxembourg process to address them.

of the EEA offered by contrast an escape from marginalisation. Indeed, by extending all four freedoms of the EC Internal Market to EFTA, it offered most of the economic advantages of membership,⁵⁵ albeit at a high political price in terms of loss of regulatory sovereignty. In a geopolitical scenario in which accession to the EC was excluded, both by the EC and by most of the EFTA countries themselves, it was nevertheless the best available option. Once however that scenario changed in such a way as to render the option of membership politically possible, the latter inevitably became the preferred option for most of the EFTA countries, since it offered political advantages that the EEA could not.⁵⁶

Scholars have understandably been intrigued by the question of why the EC chose to “overprice” the EEA⁵⁷ by insisting on an institutional structure that effectively satelised its EFTA partners.⁵⁸ (The fact that they were allowed to participate extensively in the “decision-shaping” phase may have sugared the pill, but did not change that harsh reality.) To understand this, once has to go back once again to the failure of the Maudling Plan in the 1950s. Then, as later, it was, quite simply, politically unthinkable that the EC should, at the risk of diluting its own purpose, re-write its founding Treaties so as to “nest” itself in a vast Western European free trade area.

The EC had, in its relations with the EFTA countries, consistently insisted on respect for EC autonomy. This was later refined into the three “Interlaken Principles”⁵⁹ (EC integration comes first; EC decision-making autonomy must be preserved; balance between benefits and obligations). These were all the more important at a time when the EC was in the process of moving, via the negotiation of the Maastricht Treaty, to an even higher level of integration; and we had made clear, already early on during the exploratory talks, that the EEA too must allow each side to preserve its decision-making autonomy

⁵⁵ Baldwin (1992), Flam (1995)

⁵⁶ Baldwin, *op. cit.*

⁵⁷ e.g. Dupont (1998) and Laursen (1995)

⁵⁸ Reymond (1993)

⁵⁹ so called because they figured prominently in De Clercq’s intervention at his May 1987 meeting in Interlaken with EFTA Ministers

throughout the process. There was no way that the EC was ever going to accept the EFTA position that there had to be a “genuine common decision-making mechanism” whereby the relevant EC decision-making bodies would be enlarged to nineteen delegations for the purpose of taking EEA-wide decisions. Difficult though this was for the EFTA side to swallow⁶⁰, it could hardly have been a surprise to those with experience of dealing with the EC. As Antti Kuosmanen rightly comments⁶¹, anything else “would have been rather odd”.

Despite not proceeding according to the original script, the EEA initiative did nevertheless, in the end, achieve its primary objective of postponing further enlargement until the Internal Market programme had been completed and the Maastricht Treaty was in force. Moreover, the considerable investment of ministerial and official time and effort involved in negotiating the EEA did not go to waste. The EEA provided an important safety net for the EFTA countries, both for those who had not applied for membership and, pending the final ratification of the outcome (including of their own national referenda), for those, like Finland, that had. It also constituted a valuable advance down payment in the context of the subsequent accession negotiations, shortening them by several months, since a large part of the EC *acquis* had already been examined and agreed to by the candidates, who had also as a result become already familiar with the EC’s legislative and institutional architecture.

When historians come in due course to write the full history of this period, the EEA initiative will, I am sure, be seen as an important transitional step in the post-Cold War restructuring of the geo-political architecture of Europe; and, no doubt, also as the final, belated chapter in the long saga of the Maudling Plan.

⁶⁰ An EFTA contact of mine exclaimed at one point in exasperation “you have to understand that EFTA is not an infectious disease!”

⁶¹ Kuosmanen, p.7

Photo: Wikimedia Commons



IV

THE DAM BURSTS

The tabling, in July 1989, of Austria's membership application, unwelcome though it was from the EC's point of view, did not in itself change very much at the time. Austrian intentions had been evident for many months, so it was hardly a surprise. Moreover, the next steps were entirely in the hands of the EC, for whom further enlargement was not at that stage a priority – indeed, as we have seen, quite the opposite.

The Commission, prompted initially by Turkey's application for membership in April 1987, and the prospect of applications from Cyprus and Malta, as well as of that of Austria, had launched a major internal reflection on the question of the future widening and deepening of the EC (under the French title “*approfondissement/élargissement*”), culminating in a reflection seminar at Corsendonck Priory⁶² in late April 1988. After reviewing the EC's relations with the EFTA countries and the EC's Mediterranean neighbours, the Commission had, as mentioned already in Chapter III, concluded that “as regards the dialectic between enlargement and building on existing structures, the Commission takes the view that, between now and the end of 1992 – the deadline for completion of the internal market – priority must be given to the latter”.⁶³ It was noted that, in practice, even if Austria were to apply in 1989, as many in Austria were now urging, accession was most unlikely to take place before the end of 1992; and, in any event, the Austrian Government was at that time still hesitating because of concerns over Soviet opposition. The Commission's Corsendonck line was not at the time formally endorsed by the Council. Indeed, the issue of enlargement was not even addressed by the Council (other than for the purely procedural purpose of requesting the Commission to deliver its Opinion on the various applications submitted) until over two and a half years later, at the Maastricht European Council of December 1991. There was no real pressure, however, for any other course of action; and the European Council did, on numerous

⁶² A retreat hotel in the Belgian countryside near Turnhout

⁶³ Commission Press Release MEMO/88/66 of 2 May 1988

occasions, effectively endorse the Commission's concept of a strengthened *politique de proximité*, starting with the Rhodes conclusion in December 1988 that “the Community wishes to strengthen and to expand relations with EFTA countries and all other European nations which share the same ideals and objectives”.

By the time of Austria's application, the Commission and the Member States were, in any event, much more concerned about, and focussed on, what was happening elsewhere in Europe. Poland and Hungary had seized the opportunity presented by Gorbachev's reforms in the USSR to launch their own processes of economic and political reform, leading the G7, at its Paris Summit the day before Austria's application, to set up the Group of 24 to coordinate Western aid to these two countries. The Commission was, at President's Bush's suggestion, appointed overall coordinator for the G-24. In late August, Hungary opened its border with Austria. Czechoslovakia followed suit on 3 November. The subsequent massive flux of East Germans to the West via these two countries led to the sudden implosion of the GDR, which was forced, on 9 November, to throw open the Berlin Wall, leading less than a year later to the re-unification of Germany, with all its ramifications for the EC. By the end of 1989, all of the USSR's Warsaw Pact allies had deposed their Communist governments and the two super-powers had officially declared the Cold War to be over.

Moreover, less than a month before Austria's application, the European Council, at its meeting in Madrid, had decided, on the basis of the Report of the Delors Committee, to launch the first stage of Economic and Monetary Union, as well as preparations for the convening the following year of an Intergovernmental Conference to prepare the subsequent stages. The December 1989 European Council in Strasbourg confirmed that the IGC, which would be charged with preparing the necessary Treaty amendments for the final stages of EMU, would meet not later than the second half of 1990. No-one was in any mood to be distracted from this task by negotiations for a new enlargement of the EC.

A few days after the European Council's meeting in Strasbourg, the Commission delivered its Opinion⁶⁴ on Turkey's membership application of two years earlier. The Opinion was firmly against opening negotiations for the present. This was not only because of considerations relating to the economic and political situation in Turkey, but above all because "the Commission is of the opinion that it would be inappropriate for the Community – which is itself undergoing major changes while the whole of Europe is in a state of flux – to become involved in new accession negotiations". At another point in the text, the Commission re-states its view that it would be unwise to envisage the EC becoming involved in any new accession negotiations before 1993 at the earliest, "apart from exceptional circumstances". The Council duly "took note" of the Commission's Opinion.

As a result of the economic and political upheavals in Central and Eastern Europe, the strengthened *politique de proximité* pursued by the Commission in line with its Corsendonck philosophy had, by early 1990, become a three-pronged strategy, consisting of:

- exploratory conversations with the EFTA countries with a view to the creation of a European Economic Area, based on the four freedoms of the EC Internal Market;
- efforts to achieve closer relations with Turkey, Cyprus and Malta, on the basis of the already existing Association Agreements with those countries;
- development of closer relations with the former Communist countries of Central and Eastern Europe, initially via Trade and Economic Cooperation Agreements and subsequently via the conclusion of Europe Agreements holding out the prospect of eventual EC membership.

The implementation of this triple policy involved a considerable commitment of resources on the part of the Commission, not

⁶⁴ Commission Opinion on Turkey's Request for Accession to the Community, SEC (89) 2290 final/2 of 20 December 1989

only in the Directorate General for External Relations, but also in many "internal" DGs such as Internal Market, Competition, Agriculture, Transport, Research and Development, Fisheries, Financial Institutions, Customs Union and Education. Indeed, with the EFTA countries, we were now operating simultaneously at three levels: bilaterally through the separate Free Trade Agreements; collectively through the implementation of the Luxembourg Declaration; and, again collectively, in negotiations for the EEA. There was understandably little enthusiasm for committing yet further resources from all these services to the drafting of a Commission Opinion on Austria's membership application (nor in due course of those on Malta and Cyprus). Nor was the Commission under any particular pressure to do so. The Member States, having passed the ball to the Commission, by launching the procedures provided for in the EC Treaties, were clearly in no hurry to see the matter land back on the table of the Council. There was thus, as far as the Commission was concerned, no urgency. In September 1990, some fourteen months after the tabling of Austria's application, we were still at the stage of technical contacts with the Austrian authorities to obtain the information needed by the Commission to draw up its Opinion.⁶⁵ Even the Austrians must have realised, from the language of the Commission's Opinion on Turkey's application, that the earlier a Commission Opinion on Austria was delivered, the more negative it was likely to be.

At that stage, of course, we were not expecting any other membership applications (other than those of Cyprus and Malta, which had been duly delivered in July 1990). Finland and Sweden had both explicitly ruled out the possibility of EC membership, on the grounds that it was incompatible with their respective policies of neutrality. Norway, while remaining a possible applicant, was on our analysis unlikely, given the current state of Norwegian public opinion and the divisions within the ruling Social Democrat party, to consider an application before the next general election, due in 1993. Iceland

⁶⁵ See Commission reply to Written Question (1990) 1691 from Mr. Pisoni

and Switzerland had never indicated any interest in possible membership.

Meanwhile, within the EC, the process of laying the ground for what was to become the Maastricht Treaty on European Union was continuing apace. President Mitterrand and Chancellor Kohl had tabled in early 1990 a joint proposal for the creation of a Political Union. This had been discussed, together with a Belgian paper on the same subject, at a special meeting of the European Council in Dublin on 28 April. This led to a decision, at the June European Council meeting, to convene an additional Intergovernmental Conference, on the subject of Political Union, which was to meet on 14 December, the day after first meeting of the IGC on EMU that had already been convened on the basis of the Report of the Delors Committee. The two IGCs were instructed to conclude their work rapidly, with the objective of ratification of the result by Member States before the end of 1992. All the more reason therefore to keep the process of drafting an Opinion on Austria's application, for the time being, on the back burner.

Our peace of mind (such as it was) was, however, to be brutally shattered in the autumn of 1990, even before the two IGCs had met. On 26 October, only four months after the opening of formal negotiations for the EEA, and just three weeks after the reunification of Germany, the Swedish Government, under pressure from the opposition parties and Swedish industry, and faced with a domestic economic crisis, announced to the Riksdag – in a major policy U-turn – that it would seek a parliamentary decision “clarifying Sweden's ambitions to become a Member of the European Community”. On 2 December, the Riksdag voted by an overwhelming majority to apply for membership of the European Community “with the retention of neutrality”.

From that point on, a flood of applications from most if not all remaining EFTA countries seemed inevitable. It was no longer a question of whether, but simply one of when. It was clear that the EEA could not now, for most EFTA countries, be more than a short term holding operation. We began to monitor ever more closely the state of the membership debate in each of the EFTA countries, being well

aware that this was, in many cases, several steps ahead of the official government line. We perused, like old-style Kremlinologists, every significant utterance by anyone in any position of power or influence, looking for subtle changes of emphasis or vocabulary.

The EC was now of necessity forced into a serious internal reflection as to the best strategy to follow with regard to the spate of applications now in prospect. This was no easy task, given the very divergent views that then existed on the subject, not only as between the different Member States, but also within the Commission itself. Matters were further complicated by the uncertainty then still prevailing about the likely final outcome of the two Intergovernmental Conferences. There was a strong school of thought (to which both Delors and External Relations Commissioner Frans Andriessen then subscribed, as well as many in the European Parliament and a number of Member States) arguing that changes to the EC's decision-making institutions (involving in particular more qualified majority voting) were necessary before any new members could be admitted. Others (including, at a later stage, albeit somewhat reluctantly, Delors and Andriessen⁶⁶) considered that one could possibly envisage admitting one or two additional members within the existing institutional structures once the Single Market programme was completed. There were, in addition, some of course who saw enlargement as a way of preventing, or at least postponing, further internal integration. On one point, however, all sides were agreed: namely that it would be at least a decade before membership for the newly emerging democracies of Central and Eastern Europe could be contemplated.⁶⁷ As so often in such situations, it was left to the Commission to take the lead.

Given the limited staff resources available, and the pressures already put on them by the EEA negotiations, then in full swing, work was accelerated within the Commission on the Opinion on Austria, in order to be ready

⁶⁶ See e.g. Liikanen, pp. 49–50

⁶⁷ Erkki Liikanen's diary illustrates well the divergence and progressive evolution over this period of the views of the key protagonists on the EC side (See Liikanen, *passim*)

to deal with Sweden's application when it arrived.⁶⁸ By the time the latter was tabled, on 1 July 1991, the same day as the formal dissolution of the Warsaw Pact, the Opinion on Austria was almost finalised, being formally adopted by the Commission just one month later. In delivering its Opinion on Austria, the Commission was obliged in addition to address both the difficult and sensitive issue of neutrality⁶⁹ and the institutional question.

The Foreword to the Opinion⁷⁰ restated the now well-known Commission line that no negotiations on a fresh enlargement should be initiated before 1 January 1993. We went on to say that, once that date was passed, the EC "should be ready and willing to open negotiations with applicant countries meeting the economic and political conditions for accession". Such negotiations would, we said, have to take as their basis the Community rules and structures emerging from the two IGCs. Furthermore, enlargements of the Community "will entail, when the time comes, institutional adjustments according to the nature and number of the accession". Not knowing at that stage what the final contents of the Maastricht Treaty would be, there was probably not a lot more that the Commission could have said.

Significantly, while the Opinion was generally referred to as being "favourable", the Commission did not actually recommend the opening of negotiations with Austria. We did, it is true, conclude that, on the basis of the economic considerations, the EC should accept Austria's application; but we went on to say that Austria's permanent neutrality created problems for both the EC and Austria. However, by delivering its Opinion at the beginning of the Brussels summer break, the Commission ensured minimum public profile for its position. The Council, whose last meeting before the summer had taken place two days earlier, was conveniently spared

⁶⁸ My small Unit in DG External Relations was responsible for drafting all the Opinions on the EFTA applicants, on the basis of contributions from the "technical" services responsible for the different policy areas. I was in addition one of the Commission's EEA negotiators.

⁶⁹ See Chapter V below

⁷⁰ SEC (91) 1590 of 01/08/1991

the need formally to take note of the Opinion. August was dominated by the attempted coup against Gorbachev and the declarations of independence of Estonia and Latvia. By the autumn, attention was focussed once again on the crucial "final" stages of the EEA negotiations while, within my Unit, work was already well under way on the Opinion on Sweden.

In December 1991, at the European Council meeting in Maastricht, where political agreement was finally reached on the draft Treaty on European Union,⁷¹ the Member States at last got round to collectively addressing the issue of enlargement. There were by then five applications on the table, two of them from members of EFTA. The Swiss Federal Council had, on 22 October, declared (without indicating any timetable) that EC membership should constitute the aim of Switzerland's European integration policy. In Finland, the recently appointed Aho Government had announced already in September that it was studying the implications of EC membership. It was also clear that most, if not all, of the Central and Eastern European countries saw their long term future as being within the EU (as it was now about to become). We had already negotiated Europe Agreements with Czechoslovakia, Hungary and Poland.

While there was general agreement that no negotiations for new accessions should begin before 1993, there remained deep disagreements as to how far further institutional change (beyond that agreed in the Maastricht Treaty) should be a prerequisite. Some argued that the EC should indicate readiness to open negotiations only with Austria and Sweden (the two EFTA countries that had by then applied), although it would have been odd for such a decision to be taken in the absence of the Commission's Opinion on Sweden. There have always been suspicions that the two applicants themselves pushed for this. Sweden certainly had good reason to do so. Constitutional changes had normally to be approved by two successive Parliaments, with a general election taking place in between. The next Swedish general elections were due to take place in September 1994. The Swedish

⁷¹ Presidency Conclusions following the European Council meeting in Maastricht, 9/10 December 1991

Government was thus anxious to open negotiations, if at all possible, already in the course of 1992, with a view to completing them by the end of 1993, so that the result could be submitted to the Riksdag for the first time before the elections, with a further submission thereafter, paving the way for membership as of 1 January 1995. Sweden's chief ministerial negotiator, Ulf Dinkelspiel, claims however that the idea came from the EC side and that Sweden, on the contrary, wanted any negotiations to include Finland and Norway and hoped that they would apply.⁷²

What is undeniable on the other hand is that, from Maastricht onwards, the Swedes strove hard to launch what were effectively "pre-negotiations" with the Commission's services.⁷³ We were not in favour of this, as it risked pre-empting decisions still to be taken by the EC machinery. We did, however, in the end accept, after the adoption of the Commission's Opinion, a series of low-level, low-key contacts of a "clarificatory" nature.

Given the divergences of view, the Maastricht European Council limited itself to "noting" that negotiations for accession to the EU on the basis of the new Maastricht Treaty could start as soon as the EC had terminated its negotiations on Own Resources and related issues (the so-called Delors II package) in 1992. This effectively endorsed the Commission line that no negotiations should begin before the beginning of 1993.⁷⁴ Heads of State and Government declined however to address the wider institutional issues. It was simply noted that "a number of European countries have submitted applications or announced their intention of seeking membership". The ball was instead passed to the Commission, which was invited to produce, in time for the June 1992 European Council in Lisbon, a report on "these questions including the implications for the Union's future development".

These conclusions inevitably gave rise to intense speculation about how many waves

of enlargement there would now be; who would be in the first wave; whether the objective should be to complete negotiations in time for the first wave to enter before the new IGC now foreseen for 1996, or whether on the contrary the IGC should be limited to the present Member States, with new Members joining only thereafter, on the basis of revised institutional provisions. Above all, there was a growing conviction among potential applicants – politically inconvenient though this was for Norway – that, to be in the first wave, it would be necessary to have put in a formal application before Lisbon. While no such deadline was ever formally mentioned, strong encouragement had been given informally from several quarters to potential applicants not to leave it too long.⁷⁵

Within the Commission, we were convinced that the Swedish application would, sooner or later, provoke an application from Finland even though, at the time of the Maastricht European Council, the official position of the Finnish Government was still that membership was incompatible with Finland's policy of neutrality. This message had been conveyed to us on numerous occasions, most notably during the visits of PM Holkeri to the Commission in May 1990 and of Commission Vice-President Andriessen to Helsinki in April 1991. (I was present on both occasions.) Those of us close to the dossier had, however, known since the late 1980s, from personal contacts with academics, political commentators, Members of Parliament and business leaders in Finland, that there were even then those who saw EC membership as possible and even desirable, even though public debate was at that time firmly discouraged. We were therefore not altogether surprised when, after the March 1991 Finnish general elections, more public signs of a shift in political opinion began to appear. The day after leaving government, former Foreign Minister Pertti Paasio stated openly that Finland should be prepared to apply for EC membership, a view he continued to promote as Chairman of the influential Foreign Affairs Committee of the

⁷² Dinkelspiel, p. 202

⁷³ *Ibid.*, p. 213

⁷⁴ Maastricht was not due to enter into force until 1 January 1993 at the earliest (Treaty on European Union, Article R, paragraph 2)

⁷⁵ Erkki Liikanen refers (Liikanen p. 51) to the "friendly advice" given by Frans Andriessen already in late September 1991

Eduskunta.⁷⁶ In late August, just after the failed coup against Gorbachev, Foreign Trade Minister Pertti Salolainen (by then also Leader of the Conservatives) said that the Government should increase its readiness to apply if necessary for EC membership. Brussels began to sit up and take notice. We scrutinised with a hair-toothed comb every public utterance, or leaked comment, by any member of Finland's political elite. It was not an easy task, given that the Commission did not in those days have a diplomatic mission in Helsinki, and given that none of us understood Finnish (although the Desk Officer responsible in my Unit fortunately spoke Swedish). We were consequently heavily reliant on the good offices of the Finnish Mission in Brussels and on the occasional tip-off from those Member States that maintained substantial diplomatic missions in Helsinki.

We paid, of course, particular attention to the periodic – and often somewhat Delphic – pronouncements of President Koivisto, given his commanding role in the process. The fact that Koivisto, following the Swedish Government's U-turn in October 1990, had made no further public statements about the incompatibility of Finnish neutrality with EC membership was carefully noted. (We now know that he sought – unsuccessfully – to persuade PM Holkeri to be similarly cautious.⁷⁷) Koivisto's speeches on the occasion of the opening of the new Parliament and on the occasion of the swearing in of the new Government in late April 1991 were notable for not ruling out the possibility of eventual EC membership. The Finnish position was clearly evolving.

That autumn, following the tabling of Sweden's membership application and in the run-up to the Prime Minister Aho's visit to Brussels that September, the Finnish Government began to take a visibly more open position on the possible options. Aho's position was, as we were well aware, a delicate one, since a majority of his own Centre Party

was against EC membership.⁷⁸ The Government nevertheless decided to set up a working party, under the chairmanship of Foreign Ministry State Secretary Martti Ahtisaari, to study the effects of possible EC membership and report back by the end of the year.

Aho's discussions with Delors in Brussels on 16 September confirmed our impression that Finland was indeed now moving irrevocably towards applying for membership, but gave no firm indication as to the timing. Delors, for his part, refused to be drawn on the question of a possible deadline by which applications had to be lodged in order to be in the first wave of new accessions. Within a few weeks, however, the likely scenario on the Finnish side gradually became apparent: tabling early in January of a government report on the pros and cons of membership, leading to a formal decision to apply for membership not later than March or April. This prospect, combined with the earlier Swiss declaration that it considered the EEA as only a transitional stage towards the objective of full EC membership, made it increasingly difficult for those who wanted the Maastricht European Council to give a green light to the opening of negotiations only with Austria and Sweden. The end result (see above) was, however, by no means a foregone conclusion.

Immediately after the New Year, the Commission set to work to draft its report for the Lisbon European Council. This was a major collegiate effort, based on in-depth studies of each of the applicant or potential applicant countries, spearheaded by a Task Force specially set up for the purpose under the overall leadership of Vice-President Frans Andriessen, and involving substantial contributions from almost every Commission department. Meanwhile, in parallel, work continued on the preparation of the Commission's Opinion on Sweden's application, and we followed closely developments in Finland and Switzerland, in the firm expectation that both of these countries would lodge their applications before Lisbon. In both cases, what mattered was not so much the fact of the

⁷⁶ The Finnish Parliament

⁷⁷ Koivisto, p. 230

⁷⁸ The most that they were prepared to concede, in a series of major meetings around the country in early 1992, was that he should check the terms on which the EC might be prepared to admit Finland.

application – by now regarded as a foregone conclusion – as what was said in the process by the key political actors involved, especially on the difficult and controversial question of neutrality.

In his speech at the opening of the opening of the Parliamentary session on 7 February 1992, President Koivisto effectively gave his public backing for the first time to an application for EC membership. (The Government's communication of early January on the pros and cons of membership had not taken a position for or against.) This opened the way for the Government's subsequent decision of 27 February to apply, subject to Parliamentary approval, for membership of the EC. The text of the decision flagged clearly Finland's main future negotiating objectives as regards defence policy, agriculture, regional policy and the status of Åland. The proposal was tabled in Parliament on 5 March and voted on 18 March. Brussels had meanwhile been deluged with a raft of visitors from Helsinki, all seeking in their different ways to check out the EC position or to explain that of Finland. These included Ministers Ole Norrback, Eeva Kuuskoski and Martti Pura, Opposition MPs Ulf Sundqvist and Paavo Lipponen, Presidential advisor Jaakko Kalela and Prime-Ministerial advisor Seppo Härkönen.

Explaining the Finnish Parliament's vote of 18 March to my superiors in Brussels was not an easy matter, since the final vote had involved a choice between two motions, both of which were in favour of membership! The real test of MPs views on membership had in fact been the intermediate "free" vote between the Social Democrats motion in favour of accession and the Union of the Left's motion against. This had demonstrated clearly the split views of the Centre Party, the Greens, the Swedish People's Party and the Christian League, as well as the outright opposition of the Union of the Left and the Rural Party. Even with the application of party discipline in the final vote, however, the number of abstentions and absentees was such that the total number of MPs voting in favour of accession was a few short of the 5/6 majority which (it was then assumed) would be required to ratify the constitutional changes implied by EC accession without recourse to

the procedure of two hearings separated by a Parliamentary general election.

This latter aspect touched on an important issue of timing. In Finland, as in Sweden, constitutional changes had normally to be approved by two successive Parliaments, with a general election taking place in between. For Finland, however, as Jaakko Kalela had explained to me shortly before the Eduskunta vote, the constitutional timing was somewhat different. The next Finnish general elections were not due until March 1995. Thus, if the normal rule of submission to two subsequent Parliaments were to be followed, this would tend to favour 1 January 1996 as the preferred date of accession (rather than 1 January 1995 as dictated by the Swedish timetable). However, since the Finnish Constitution also allowed such matters to be decided in a single Parliament by a 5/6 majority (rather than the 2/3 required in the case of double submission), Finland could in the last resort be quite flexible on the matter of timing.⁷⁹

Following the Parliamentary vote of 18 March, Finland's application for EC accession, signed by the President of the Republic and the Prime Minister, was handed over at official level in Brussels later the same day. The text was formally handed over a few days later by PM Aho to Portuguese Prime Minister Cavaco Silva, in his capacity as President of the European Council. This was rapidly followed up by a further visit to Brussels by Aho on 1 April for discussions with Delors and with Council Secretary-General Niels Ersbøll.⁸⁰ Delors stressed the need for new Member States to take on board the whole of the future CFSP, including the eventual framing of a common defence policy which might in time lead to a common defence. He also reassured Aho that, as far as enlargement was concerned, Finland was now in the same group as Austria and Sweden. Aho stressed the issues of agriculture and regional policy.

As presaged already in President Koivisto's speech to the Parliament of 7 February, Finland's application was, like the earlier

⁷⁹ As we shall see in Chapter XII below, views were later to evolve as regards the constitutional requirements for ratification.

⁸⁰ Liikanen p. 84

Swedish application, drafted in the “short” form, i.e. without any reservations regarding neutrality or any other matters. While this was naturally well received in Brussels, the handling of the application did, nevertheless, give rise to some discussion when the matter arrived on the table of Member State Ambassadors in COREPER.⁸¹ This was the first membership application to be received since the signature in February that year of the Maastricht Treaty on European Union. Some Member States felt that, even though the Treaty was not yet ratified and in force, the letter of acknowledgement to Finland should draw attention to the fact that membership would henceforth be to the European Union and no longer to the three separate European Communities (EEC, ECSC and Euratom).⁸² The matter was referred up to the Council of Ministers, which referred it back to COREPER. The latter finally decided not to include a formal reference in the official letter of acknowledgement, but to draw the attention of the Finnish authorities orally to this new element when handing over the EC reply.

The Council had decided already on 6 April to set in hand the procedures foreseen by the EC Treaties, the first stage of which was the production by the Commission of its Opinion on Finland’s application. In line with previous practice, the Commission formally established on 22 April an inter-service group, bringing together representatives of most Commission services under the chairmanship of the Directorate-General for External Relations, with my Unit playing the key coordinating role. The group was tasked with gathering all the information and documentation necessary to enable the Commission to evaluate the consequences and implications of Finland’s accession, both for the Community and for Finland. The first meeting was held already on 29 April. Given the time-frame set by the Maastricht European Council, we knew that the Opinion on Finland would have to be produced within a very short period. We were also conscious

⁸¹ The French acronym by which the Committee of Permanent Representatives (i.e. the Member States’ Ambassadors to the EU) charged with preparing meetings of the EU Council is generally known.

⁸² Article O of the Treaty on European Union

that an application for EC membership by Switzerland was imminent. Luckily, work was by now already well advanced on the Opinion on Sweden.

The preparation of the Opinion on Finland brought me back almost full time to relations with Finland for the first time since the launch of the EEA negotiations. This began, appropriately enough, with an invitation to join a group of senior Finnish officials and industrialists in Lapland over the Easter holiday for a week of informal discussions, interspersed with the inevitable cross-country skiing and sauna sessions. The first few days were spent at the Outokumpu lodge in Levi, and the remaining days in Saariselkä. Among the senior officials in the group were several key players I knew already, such as Veli Sundbäck, Erkki Liikanen and Antti Satuli, as well as others, like Esa Härmälä and Jarmo Vaittinen, who were to become regular contacts in the period ahead. Among the senior industrialists present, in addition to our two hosts, Jyrki Juusela and Eino Mantere, were KOP Chairman Pertti Voutilainen and metal industry chief Harri Malmberg. It was my first taste of Lapland life and, since I had never skied before, a further important chapter in my Finnish education.

While in Saariselkä, I had the opportunity to meet briefly with Prime Minister Aho, Deputy Prime Minister Pertti Salolainen and other senior Finnish ministers, who like most of the rest of the Finnish élite, were gathered there for the Easter weekend. I was, and remain still today, amazed and deeply impressed that such a gathering could take place. In any other European country it would, even then, have been firmly ruled out by security considerations. It is a remarkable statement on the nature of Finnish society, of which I was to come across many other examples.

Meanwhile, work continued on the Commission’s Lisbon report.⁸³ This was not limited just to the implications of accession by the EFTA applicants (who by the time the report was finalised included not only Finland but

⁸³ Commission of the European Communities: *Europe and the Challenge of Enlargement* (Bulletin of the European Communities, Supplement 3/92)

also Switzerland⁸⁴) but set out, over and above this, the Commission's views on the wider challenge posed in the medium term by the possible enlargement of the EU to twenty, thirty or more members. The latter, however, need not concern us here, other than to note that the Commission made a clear distinction between, on the one hand, those countries (EFTA candidates and – possibly – Cyprus and Malta) who could adopt the EU system without a period of preparation and with whom early negotiations could be launched with a view to simultaneous accession; and, on the other hand, those (Turkey, the countries of Central and Eastern Europe and of the Western Balkans) who were not yet in a position to take on the obligations of membership and with whom negotiations, if and when they manifested themselves as candidates (as Turkey had already done), could be envisaged only at a much later date. The Commission also expressed the view that, for a limited number of new members, bringing the total up to less than twenty, institutional adaptations could be limited to those traditionally included in treaties of accession.

This was, on the face of it, a significant step back from the more restrictive positions earlier taken by Andriessen and Delors. Underlying it, however, was the recognition that the parameters of the exercise had meanwhile changed irrevocably. The disintegration of the USSR at the end of the previous year and the break-up of Yugoslavia meant that we were now facing the very real possibility of a future EU consisting of 20, 30 or more members. By the time of Lisbon, there were already 7 applications on the table. Like it or not, we were now forced to face the question of “organising the queue” in a manner that would ensure that enlargement did not come at the expense of deepening. At the same time, we had also to consider the broader questions of European architecture, taking account of the EC's relations with its European neighbours, and the need to develop these relations during the (in some cases possibly very long) period before accession could become a realistic possibility. We were caught between the two horns of a dilemma.

⁸⁴ Switzerland had submitted her application for EC membership on 20 May

On the one hand, there was no possible objective basis for discriminating between the different EFTA applicants in terms of their acceptability as candidates. On the other hand, the longer the opening of negotiations with the EFTA applicants was delayed, the longer the list of applicant countries was bound to become, and the more politically difficult it would be to limit negotiations to the EFTA countries alone. But extending the list would have involved extremely difficult decisions of selection and timing. The idea that the EU could rapidly negotiate the accession of those EFTA candidates wishing to join, and postpone all other accessions to a future wave several years down the line, was therefore a seductive one. It implied, however, accepting that the EFTA applicants could in principle join the EU prior to the Intergovernmental Conference on the revision of the EU's institutional structures that, under the Treaty of Maastricht, was due to be convened in 1996.

The Lisbon European Council of 26/27 June 1992 was a crucial watershed on the path to EU membership for Finland and the other EFTA applicants. Despite the genuine concerns that remained on the EC side about the possible negative consequences of neutrality for the future CFSP and about the need for institutional reform within the future EU,⁸⁵ the Heads of State and Government unequivocally confirmed their readiness to open enlargement negotiations, with a view to early conclusion, with those EFTA countries seeking membership of the EU. The EC institutions were invited to speed up the preparatory work, including the preparation before the December European Council in Edinburgh of the Union's general negotiating framework. Official negotiations were to be opened immediately after the ratification of the Maastricht Treaty and the agreement on the Delors-II Package, and were, to the extent possible, to be conducted in parallel, while dealing with each candidate on its own merit. In other words, the field was now open for all EFTA countries to participate in a first wave of EU enlargement, which would

⁸⁵ See e.g. Benelux Memorandum on the Decisions to be taken regarding EU Enlargement (Europe Documents, Agence Europe, Brussels, June 1992)

moreover take place on the basis of the existing EU institutional framework, even if the precise timing for the opening of negotiations was now somewhat put in question by the negative result of Denmark's referendum on the Maastricht Treaty earlier that month.

Shortly after the Lisbon European Council, Delors and Andriessen were in Helsinki for the CSCE Summit. On 10 July they met with both Koivisto and Aho. Koivisto confirmed once again that, as regards foreign and security policy, Finland, once she was a member, would respect all her obligations.⁸⁶

On 31 July the Commission delivered its Opinion on Sweden's application.⁸⁷ On the strength of the Commission's Lisbon report, and the European Council's conclusions, we recommended that negotiations be opened with Sweden in accordance with the Lisbon timetable. This now left us free to concentrate more fully on the preparation of the Opinion on Finland, where we were already under great time pressure. The UK Presidency wanted us to deliver the Opinion by the end of September, so that it could be considered by the General Affairs Council at its meeting of 5 October, in parallel with the preparation of the EC's general negotiating framework for the accession negotiations. (The press release of the Council meeting of 20 July had incorrectly recorded Andriessen as having promised to do this.) Logistically, this was a virtually impossible deadline, given the need for me and my desk officer Jorge Bento Silva to conduct a final "round-up" mission to Finland (including Åland) after the summer break and the need to get the final text translated and distributed for consideration by the Commission. We were also under strong pressure from Helsinki to deliver the Opinion in advance of President Koivisto's meeting with Delors in Brussels, now scheduled for 29 October. This would have meant putting it to the Commission meeting of 21 October, which also proved beyond us in the end. This did, however, have the advantage that we were able to reflect in the text, when

finally adopted on 4 November, the content of Koivisto's discussions with Delors, as well as of his lecture the previous day to the College of Europe in Bruges.⁸⁸

President Koivisto's visit to the Commission on 29 October was a symbolically important one, not only because of the essential messages he was able to convey in relation to Finland's application for EC membership, but also because it was the first ever such visit by a Finnish President. Following on from the visits to Brussels of Sorsa in December 1988, of Holkeri in May 1990 and of Aho in April 1992, it sent a clear signal that the relationship was now being notched up to the very highest level. Koivisto used the opportunity to stress once again that Finland, as an EU Member State, would live fully up to her obligations under the CFSP, and would not be an obstacle to any arrangement decided in common.⁸⁹ He was accompanied to Brussels by Pertti Salolainen and Paavo Väyrynen, who had useful side meetings with Andriessen and Commissioner Bruce Millan (responsible for Regional Policy). This being now the third meeting between Koivisto and Delors, it added also to the growing personal chemistry between these two remarkable leaders.

I had by this time already been nominated (subject to the *agrément* of the Finnish authorities) to become the European Commission's first Head of Delegation to Finland. While this was not strictly in accordance with the dictates of diplomatic protocol, Erkki Liikanen seized the opportunity to introduce me in that capacity to President Koivisto at the reception given by the Finnish Ambassador to Belgium the evening before Koivisto's meeting with Delors. I was grateful for this since, although I had been present at most of Koivisto's meetings with Commission leaders, I had not before had the opportunity of a one-to-one conversation with the President. I do not remember the precise details of our discussion, but I do recall that Koivisto appeared remarkably well

⁸⁶ For a fuller account of these discussions, see Liikanen p. 98

⁸⁷ *Commission Opinion on Sweden's Application for Membership* (Bulletin of the European Communities, Supplement 5/92)

⁸⁸ *Ulkopoliittisia Lausuntoja ja Asiakirjoja 1992*, pp. 273–278

⁸⁹ The visit was followed up by the handing over of a memorandum setting out in detail Finland's position in relation to foreign and security policy (*Ibid.*, pp. 139–142)

briefed on, and positively disposed towards, my appointment. Our next such meeting was to be on the occasion of my presentation of credentials in Helsinki.

The Commission's Opinion,⁹⁰ like the earlier Opinion on Sweden, was a positive one, recommending the opening of negotiations with Finland in accordance with the timetable decided at Lisbon. The Opinion analysed carefully the state of the Finnish economy and of Finland's relations with the EC, examining for each key sector the foreseeable impact of Finland's accession, both for Finland and the EC, and flagging up the likely problem areas, without however seeking – since this was not part of our task – to anticipate or prejudge the solutions which might in due course be negotiated to resolve them. In doing so, we relied heavily, not only on the technical expertise of our colleagues in other Commission departments, but also on the replies provided by the Finnish authorities to the detailed questionnaires we had sent to them. Ironically, as Antti Kuosmanen also recalls,⁹¹ some of the processing of these replies within these other Commission departments was actually undertaken by Finnish interns, to whom the Commission had offered places in order for them to become acquainted with the working of the EC machinery. The final drafting of the text was, however, firmly in the hands of my own Unit, reporting via our hierarchy to Vice-President Andriessen. We took great care to try to get our facts straight and to ensure that our conclusions were as objective and soundly based as possible. We were only too aware that what we were producing was, as Kuosmanen rightly points out,⁹² the most thorough document on Finland hitherto produced on the EC side; and one on which the Council would rely heavily in its subsequent deliberations. The key problem areas that we identified as requiring special attention in the negotiations were, not surprisingly, agriculture, regional policy, the common foreign and security policy and the special status of Åland. We also noted

⁹⁰ *Commission Opinion on Finland's application for membership* (Bulletin of the European Communities, Supplement 6/92)

⁹¹ Kuosmanen p. 20

⁹² Kuosmanen p.230

potential problems in relation to the Finnish alcohol monopoly and to Finland's free trade agreements with the Baltic countries. Comparing this list with what happened during the negotiations, the one significant problem that we failed to foresee was the issue of duty-free sales on Baltic ferries. This was perhaps forgivable, given that the issue only surfaced much later in the day and that the Finnish position here was (as Kuosmanen readily admits⁹³) in fairly obvious contradiction with that taken in relation to the alcohol monopoly and to duty-free allowances for travellers. We did not make a big issue of the devaluation of the Finnish Markka in November 1991, or of its subsequent unpegging from the ECU in September 1992, even though this had drawn sharp criticism at the time from some Member States.

I and my colleagues in the EFTA Division were of course not party to the ongoing efforts during the autumn to find a solution to the problem of the Danish "no" vote to Maastricht; but we did of course follow events closely since they affected us directly. Even if a solution could be found for the Danes, the need for them to hold a further referendum was inevitably going to delay the completion of the Maastricht ratification process, one of the preconditions set at Lisbon for the opening of accession negotiations with the EFTA applicants. There was also the question of how to finesse the issue of Norway. The Norwegian Government had, as long expected, put in its application on 25 November, immediately after the governing Labour Party's national congress; but the Council could not take the formal decision to open negotiations until it was in possession of the Commission's Opinion, which could not realistically be delivered before March the following year.

At the European Council meeting in Edinburgh on 11/12 December, Heads of State and Government approved as expected a series of decisions and declarations designed to enable Denmark to proceed (subject to a second referendum) with the ratification of the Maastricht Treaty. This meant, however, that the entry into force of the Treaty, originally foreseen for 1 January 1993, was now

⁹³ Kuosmanen p. 268

inevitably going to be postponed by several months. If the opening of the accession negotiations were to be similarly postponed, as implied by the decisions taken at Lisbon, this would reduce considerably the already rather limited time available to complete negotiations in time for the new Member States to participate in the 1996 Intergovernmental Conference on EU institutional reform. There was also the complication of the Swedish ratification timetable. The solution that was finally arrived at was that negotiations would begin with Austria, Sweden and Finland at the beginning of 1993, i.e. before the final ratification of the Maastricht Treaty, and be extended to Norway once the Commission had produced its Opinion. (Switzerland's application for EC accession had, at the request of the Swiss authorities, been put on ice following the negative result of the Swiss referendum on the EEA Agreement.)⁹⁴ Negotiations would be opened under the existing EC Treaties, but concluded only once the Maastricht Treaty had been ratified by all Member States. Accession would thus imply full acceptance of the European Union *acquis*.

Work was meanwhile already well advanced within the Council of Ministers on the preparation of the EC's general negotiating framework. The incoming Danish Presidency consequently proposed that a joint ministerial opening session with the Three take place on 1 February 1993, to be followed by the formal opening of negotiations with Norway as soon as the Council was in possession of the Commission's Opinion (which, it was tacitly assumed, would be positive).

To maintain the parallelism of the four negotiations, it was obviously important that the Commission's Opinion on Norway be available rapidly. It was therefore agreed that, pending my departure to Helsinki to take up my new functions there, I should apply myself full time to this, together with my desk officer for Norway Milvia Van Rij. The Commission's Opinion on Norway still holds the record for the fastest ever delivery of a Commission Opinion on an application for EC/EU membership, as measured by the interval between the formal request from the

Council (7 December 1992) and its adoption by the Commission (24 March 1993). By the latter date, however, although I happened by chance to be in Brussels on that day, I had already taken up my new duties in Helsinki.

⁹⁴ The application was not however withdrawn, and still even today remains formally on the table.

Photo: Jinx! / Flickr.com



V

THE RACE BEGINS

The joint Ministerial Session that took place on the afternoon of 1 February 1993 to mark the opening of accession negotiations with Austria, Finland and Sweden⁹⁵ was essentially a ceremonial affair. During the one-and-a-half hour meeting, prepared statements were read out by Foreign Minister Uffe Ellerman-Jensen (on behalf of the Danish Presidency), Commissioner Van Den Broek, and the ministerial lead negotiators of each of the candidate countries. Deputy Prime Minister Pertti Salolainen delivered the Finnish opening speech.⁹⁶ The content of these various speeches was, however, important for setting the tone and parameters of the negotiations that were to follow.

Negotiations for EU accession are a rather special sort of international negotiation. The process for handling an application is a complicated mixture of supra-national (Community) procedures and intergovernmental procedures based on public international law.⁹⁷ The application is addressed to the EU Council; and it is the latter that takes the formal decision to accept it, after consulting the Commission and receiving the assent of the European Parliament. The accession negotiations themselves, on the other hand, fixing the conditions of admission and the corresponding adjustments to the EU Treaties, take place entirely outside the formal EU structures, being conducted within an intergovernmental conference between the EU Member States and the candidate country. The resulting Treaty is ratified not by the EU as such, but by the individual Member States

⁹⁵ Negotiations with Norway were launched separately on 5 April 1993, a few days after the Commission had delivered its Opinion.

⁹⁶ *Ulkopoliittisia Lausuntoja ja Asiakirjoja* 1993, p. 257

⁹⁷ At the time of the various applications, the relevant provisions were those of Article 237 of the EEC Treaty (as modified by the Single European Act of 1986), and the corresponding Articles of the ECSC and EURATOM Treaties. By the time of signature and ratification of the resulting Treaty of Accession, these had been replaced by the (effectively identical) language of Article O of the (Maastricht) Treaty on European Union. These days, accession is governed by the somewhat more elaborate provisions of Article 49 of the Treaty on European Union, as last modified by the Lisbon Treaty.

in accordance with their respective constitutional procedures. Within the negotiating conference, however, the EU Member States negotiate as a bloc, on the basis of common positions prepared within the framework of the EU Council machinery and presented to the conference by the EU Presidency.

The Commission's role in the accession process is also a rather particular one. The formal decision to open accession negotiations is taken only after the Commission has delivered a detailed Opinion on the candidate country's application. That Opinion – a long established tradition – is not, however, the one referred to in the Treaties: the latter is the one page document delivered at the end of the negotiations. Formally speaking, the Commission has, under the Treaties, no role to play in the accession negotiations themselves, which are – as already noted – a matter purely for the Member States. In practice, however, the technical complexity of the issues to be negotiated is such that the Commission's expertise is indispensable. The common positions collectively defended by the EU Member States are consequently, in almost all cases, based on drafts drawn up by the Commission. Similarly, it is the Commission that conducts, on behalf of the Member States, most of the informal and technical contacts that take place with the authorities of the candidate country in between the formal sessions of the negotiating conference. There are moreover areas, such as competition policy, that fall within the executive authority of the Commission and where the Member States have no say. Such issues are handled entirely outside the framework of the Accession Conference, in separate discussions between the Commission and the Candidate Country. Work within the Commission is traditionally coordinated by a Task Force specially set up for the purpose, working in close coordination with the many Directorates-General responsible for the individual issues of substance. Within the Council machinery, the work of Ministers and COREPER is traditionally prepared by an ad hoc working party dealing specifically with the enlargement negotiations.

A further particular characteristic of accession negotiations is that the agenda is to a large extent set by the applicants themselves.

The EU's starting point, as was made clear in our opening statement on 1 February 1993, is that accession implies full acceptance of the EU *acquis* (Treaties, secondary legislation (i.e. Directives and Regulations), case law, resolutions, international agreements), subject only to technical adjustments, temporary derogations and transitional arrangements to be agreed in the negotiations. Apart from the unavoidable institutional adaptations, these almost invariably arise from requests tabled by the candidate. The negotiation thus essentially revolves around the EU's response to such requests.

Negotiators identified 29 chapter-headings for the negotiations with Finland and the other candidates, corresponding to the areas covered, or shortly to be covered, by the *acquis*. These chapter-headings fell into five groups:

- areas wholly covered by the EEA;
- areas partly covered by the EEA (e.g. agriculture);
- other areas covered by the existing EC Treaties, but completely excluded from the scope of the EEA (e.g. customs union, structural funds, economic and monetary cooperation);
- new areas introduced by the Maastricht Treaty (e.g. foreign and security policy, justice and home affairs, EMU);
- general questions (e.g. institutions, budget)

The early months of the negotiation were largely taken up with the technical examination of the tens of thousands of pages of the Community's secondary legislation: an unglamorous but necessary process designed, on the one hand, to identify the purely technical adaptations which would be needed to reflect the addition of further Member States (e.g. lists of official bodies in the Member States, lists of currencies) and, on the other, to identify areas that were problematic for the candidates. The fact that a sizeable part of the *acquis* had already been scrutinised for the purposes of the EEA was of course a major advantage. The fact that a temporary or permanent derogation had been agreed in the context of the EEA did not, however, necessarily mean that a similar derogation would be acceptable to

the EU in the context of accession. Finland indicated already at the first negotiating session that it could accept without modification 7 of these 29 chapters. It was rapidly apparent that many other chapters were also essentially non-problematic. The "real" negotiations began only towards the summer of 1993, with the tabling of Finnish position papers on the key problem areas. Finnish negotiators had identified three broad areas of particular difficulty: agriculture, regional policy and the customs union, as well as a number of more specific issues of concern, such as the status of Åland, the future of the alcohol monopoly and the issue of travellers' allowances. There was, over and above these high profile issues, a whole raft of more minor technical issues to resolve or clarify.

The negotiations were, from the beginning, conducted against very tight time constraints. EU leaders had, quite understandably, not wanted to begin them before the completion of their own internal negotiations on the Maastricht Treaty and on future financing (the Delors II package). Nor, as confirmed by the Edinburgh European Council in mid-December 1992, could accession negotiations be completed before Maastricht was actually in force. This left, however, only a short time window if the candidates were to accede in time to participate in the planned 1996 Intergovernmental Conference on future institutional arrangements. Matters were further constrained by Sweden's need to make an initial submission of the Accession Treaty to the Riksdag before the September 1994 general election.⁹⁸ In the light of these various considerations, and having reviewed the state of the negotiations, the Copenhagen European Council of June 1993 concluded that EU enlargement "should become a reality by 1 January 1995". Given the time needed for ratification (both in the candidate countries and in the EU Member States), and given that the Accession Treaty could not be signed until the European Parliament had given its assent to the four accessions, this meant that negotiations had to be concluded at the latest by 1 March 1994. This objective was subsequently formally confirmed by the Brussels European Council of October 1993.

⁹⁸ See Chapter IV above

Photo: mac steve / Flickr.com



VI

TO HELSINKI

The opening by the European Commission of a permanent diplomatic mission in Helsinki, to reflect the growing importance of EC-Finland relations, had first been formally proposed by Prime Minister Harri Holkeri, during Delors's visit to Finland in July 1988. The issue was thereafter raised systematically by the Finnish side during every high level contact with the Commission. Despite the high priority accorded to relations with the EFTA countries, the other pressures on the Commission's limited resources were such that it was not until 1991 that the Commission was finally able to place Helsinki on the list of future new delegations.

From then on, however, matters moved more rapidly. By early October 1992, I had been formally nominated by the Commission as the Head of the new delegation – subject of course to agrément by the host authorities. (The latter had, incidentally – thanks to the tenacious efficiency of Finnish diplomacy – got wind of my likely nomination even before I myself knew that it was being considered.) A Headquarters Agreement between the Commission and Finland was signed in Brussels on 6 November 1992, two days after the adoption of the Commission's Opinion on Finland's membership application. It was tentatively agreed that I should aim to take up my new functions in Helsinki early in the New Year.

In the event, things took a little longer. In the first place, the Headquarters Agreement had not yet been cleared by the Eduskunta. Second, and rather more painfully for me, I was hospitalised in late November for urgent back surgery, and was able to return to work only in mid-January. This inevitably delayed my departure to Helsinki. A further unfortunate consequence was that I was unable to be present at the dinner that Erkki Liikanen had kindly organised in my honour to celebrate, in the presence of all the EFTA countries' Ambassadors to the EC, my appointment as Commission Head of Delegation to Helsinki. Instead, I received their farewell present in my hospital bed a couple of days later.

It was thus not until 1 March 1993 that I finally flew to Helsinki to take up my new duties. In Brussels, it was by then almost spring. In Finland, it was still very much winter. The weekend after my arrival, a major blizzard

struck Helsinki. I promptly went out and purchased a warm Finnish fur hat. Political correctness has no place in cold climates.

An advance team, consisting of two of the three Brussels-based staff who would be working with me⁹⁹ was already in place at our offices at 31 Pohjoisesplanadi (which continued to be occupied by the Commission until very recently).¹⁰⁰ Our office infrastructure consisted of one rather battered laptop computer, an old typewriter and a few pieces of borrowed furniture. Apart from a twice-weekly diplomatic bag, our only communication links with Brussels were a fax machine and a single telephone. My two most urgent tasks were to recruit local staff for the Delegation – essential if we were to become operational, since none of the Brussels-based staff at that stage spoke any Finnish – and to find a suitable residence. The former was accomplished fairly rapidly: the economic crisis that had struck Finland enabled us to engage some first-rate people. The latter took a good deal longer, forcing me to live for an extended period in hotel accommodation. Meanwhile, the accession negotiations had been launched and we were expected, both by Brussels and by our Finnish hosts, to be fully operational.

Fortunately, I was able to present my credentials to President Koivisto already the week after my arrival. The protocol arrangements for this proved somewhat of a teaser. Although I had the personal rank and courtesy title of Ambassador, I was not of course the Ambassador of a sovereign state. Initially, I was informed that I would therefore not be accorded the customary guard of honour on my arrival at the Presidential Palace. I had no problem with that. A few days later, however, I was told it had been decided that I would after all be accorded a guard of honour; but that, in place of the usual national anthem, the band would play a fanfare. I was duly flattered. My conversation with the

⁹⁹ The third, my deputy Wouter Wilton, arrived, like me, on 1 March.

¹⁰⁰ The Delegation (which formed part of the EU's external relations structure) was converted, upon Finland's accession, into a Commission Representation similar to those in existing Member States.

President was, in accordance with normal practice, devoted to matters of substance, rather than to formalities. Among the subjects raised by the President were the state of ratification of the EEA, prospects for the Uruguay Round and relations with Eastern Europe and the former USSR – all important subjects on the current agenda. We did not discuss Finland's membership negotiations, which had of course barely begun.

My presentation of credentials coincided with the first of what was to be a constant stream of high level visitors from the EC Institutions. The President of the EC Court of Justice, Ole Due, was in Helsinki to speak, alongside Minister of Justice Hannele Pokka and Leif Sevón of the Supreme Court, at a seminar jointly organised by the University of Helsinki and the Ministry of Justice. The seminar was timed to coincide with the launch of a new Finnish language database summarising the judgements of the ECJ. Also in town, on separate business, was the Commission's Deputy Director-General for Industry, Alex Schaub.

The following week saw the arrival of a further large delegation from Brussels, headed by Hans van den Broek, since January the Commissioner for External Political Relations and Enlargement. They were in Helsinki for the Ministerial Meeting of the Council of Baltic Sea States. Van den Broek had bilateral meetings with President Koivisto, Prime Minister Aho, Foreign Minister Väyrynen and Foreign Trade Minister Salolainen. There was general agreement that the accession negotiations were progressing well, although our Finnish interlocutors were concerned about the consequences of a possible non-ratification of Maastricht. Väyrynen stressed the need to establish, within the CAP, a system for the support of Nordic agriculture.

Such were my first two weeks in the job, as I struggled in addition to sort out the staffing and infrastructure of the Delegation, and to progress with the extensive round of courtesy calls that newly accredited Ambassadors are expected to pay. Luckily, I already knew Finland well, and was able to draw heavily on the large network of contacts that I had established. Of particular value in these early days was my "hot line" to Ambassador Erkki Liikanen in Brussels, who was frequently

better informed than I was about the planned visits to Helsinki of some of my colleagues from other Commission services.

In mid-April, the political scene in Helsinki was shaken by the sudden resignation as Foreign Minister of Paavo Väyrynen, ostensibly to pursue his campaign for the January 1994 Presidential elections. There was even greater surprise when it emerged that his successor would be the current President of the farmers' association MTK, Heikki Haavisto. While widely regarded for his competence in agricultural and trade policy matters, Haavisto had, by his own admission, little experience of Foreign Policy. He had never served before in Government or in Parliament.

Once people got over their initial surprise, however, Haavisto's appointment was generally interpreted as a shrewd move by Aho. Indeed, it was later to prove central to the success of the accession negotiations, given the importance for Finland of the agricultural dossier and the need to neutralise possible opposition from the farming lobby and to ensure unity in the Centre Party. The appointment, which was seemingly made with the full support of the President, had the additional advantage of avoiding the need for a Government reshuffle at this crucial juncture.

The role of a Commission Delegation in a candidate country was not, in those days, a well defined one. Commission Delegations represented the Commission and not the EU as such. Moreover, like the Commission Heads of Delegation in the other candidate countries, I was not formally a member of the EU negotiating team. We had nevertheless a key bridging role to play. One of our most important tasks was to provide the Commission's enlargement team – and through them the EU machinery more widely – with timely, succinct and authoritative analysis of political and economic developments in Finland and of their likely impact on the negotiations. This was especially so in the case of the new Helsinki Delegation as, following the restructuring that had taken place in the Commission services earlier in the year, there was no longer anyone working on the Finnish accession file in Brussels who had extensive firsthand knowledge of the country.

Equally important was to explain and defend EU and Commission positions in Finland. Few Finns, outside the small circle dealing directly with the negotiations, had any real knowledge at that time of what the EU was or how it worked. This was the main focus of our press and information activities. I tried, in addition, to spend at least a couple of days each month visiting places outside the capital, in order to meet, and listen to the views of, as wide a cross-section of the population as possible. Many of these visits were organised via the good offices of Finland's excellent network of Chambers of Commerce or via organisations such as MTK. Realising that this would bring me into contact with many people with little if any command of English, I took an early decision to apply myself to the difficult task of acquiring at least a basic knowledge of Finnish.

We were expected in addition, like all Commission Delegations, to establish a close working relationship with the local Embassies of the EU Member States, of whom all except Luxembourg had resident Ambassadors accredited to Helsinki.¹⁰¹ My EU colleagues were, for the most part, senior and experienced diplomats, with good contacts around town but little if any knowledge of the internal workings of the EU or of the accession process. Our monthly EU Ambassadors' meetings (usually with a high-level Finnish luncheon guest) were important occasions to exchange and pool information, both as regards the domestic Finnish scene and as regards what was going on in Brussels.

A further – major – part of our workload was the handling of the succession of high level visitors from Brussels that flooded into Helsinki (at least during the more clement months of the year!) as a result of the accession negotiations. European Parliament President Egon Klepsch visited Finland at the end of April 1993, overlapping with the inaugural meeting in Helsinki of the EC-Finland Parliamentary Joint Committee.¹⁰² The EU Co-Chairman of the latter, Gary Titley MEP,

¹⁰¹ Ireland opened an Embassy in Helsinki shortly after my arrival.

¹⁰² This upgrading of the former EP Delegation was a product of the formal opening of accession negotiations.

was also the Parliament's rapporteur for Finland in the handling of the accession dossier and was, in this latter capacity, a regular visitor to Helsinki. The Spring and summer saw visits by Economics and Finance Commissioner Henning Christophersen, Agriculture Commissioner Steichen and a string of senior EU officials, among them Council Secretary General Niels Ersbøll and Commission Directors General Landaburu (Regional Policy), Burghardt (External Political Relations) and Almeida Serra (Fish). The Belgian Prime Minister also visited Helsinki during this period.

Between my arrival and the Finnish mid-summer break, while the accession negotiations were going through their preliminary technical phases, I set about establishing – or, as it was in many cases, re-establishing – personal contact with as many as possible of the key actors on the Finnish side. This meant not only Prime Minister Esko Aho and his key ministerial colleagues, but also their senior officials, the major personalities in Finnish industrial and trade union circles, the agricultural lobby, major think-tanks and the leading editors and journalists of the Finnish media. I maintained close and regular contact with the Finnish negotiating team, in particular the two ministerial level lead negotiators Pertti Salolainen and Heikki Haavisto and the senior official level negotiator Veli Sundbäck. The fact that so many doors were willingly thrown open to me was the clearest possible indication of the importance Finland attached to the accession dossier. I was particularly gratified to be told that I would have access whenever needed to Aho himself – a privilege which, although I rarely invoked it, was to prove of importance at certain critical junctures.

These multifarious contacts were invaluable to me in keeping Brussels briefed on the wider background to Finland's negotiating requests, as well as in flagging in good time potential problems further down the line. I tried in return to give my Finnish interlocutors as realistic a picture as possible of what EU reactions were likely to be to the many ideas floating around on the Finnish side at that stage.

The autumn of 1993 saw a further influx of high level personalities from Brussels, with visits by Commissioners Paleokrassas

(Environment & Fisheries), Bangemann (Industry) and a further visit by Christophersen (attending a Liberal International meeting). The Italian President, Austrian Chancellor Franz Vranitzky and Portuguese Prime Minister Cavaco Silva were also in town. The high point for us, however, was the official opening of the Commission Delegation on 25 September. This had been timed to coincide with a visit to Helsinki by Foreign Affairs and Enlargement Commissioner Hans Van Den Broek. This was taking place at a crucial point in the accession negotiations, just after the tabling of the Finnish position paper on agriculture. Van Den Broek held meetings with Aho, Salolainen and Haavisto, as well as with Eduskunta Speaker Ilkka Suominen and with representatives of the Finnish Industry and Employers Association.

The reception held to mark the official opening of the Delegation was attended (or so it seemed) by the whole of Helsinki: Government ministers and senior officials, Members of Parliament, representatives of Finnish industry, agriculture, trade unions and the media and, of course, the Ambassadors of the EU Member States. We were particularly honoured by the presence of President Koivisto, who did not normally accept invitations to attend such events. The fact that he had agreed to do so in this case was a marker of the political importance now attached to Finland's relationship with the EU. Somewhat to the surprise of my Brussels colleagues, the President chose to travel the short distance from the Presidential Palace on foot, with only minimal security. There were speeches by Van Den Broek and (on behalf of the host country authorities) Foreign Minister Haavisto. When the time came to make the concluding toast, Haavisto caused great amusement by producing from his jacket pocket a full glass of champagne that he had somehow managed to keep there – unspilled – throughout his speech.

The flow of visitors was not entirely one-way. Salolainen and Haavisto were of course regularly in Brussels, in their capacity as Finland's ministerial level negotiators. Aho also paid a visit to Brussels on 18/19 October, in the course of which he attended a working lunch hosted by Delors and held meetings with Belgian Prime Minister Dehaene, NATO

Secretary-General Wörner and EC Council Secretary-General Ersbøll. The discussion with Delors was inevitably dominated by the accession negotiations, in particular the CFSP chapter on which negotiations were about to be opened. (Aho had a few weeks earlier, in a speech to a Wilton Park conference in Helsinki, argued firmly that the Candidates should not be asked to commit themselves to anything more than the existing Member States. For Finland, he had added, no future option was a priori excluded, but there was no current alternative to Finland's existing policy of non-alliance and independent defence.¹⁰³) There was only a cursory discussion on agriculture, given that the Finnish position paper was still being studied internally in the Commission. Delors limited himself to expressing confidence that solutions could be found within the existing framework of the CAP.

A second, even more important, high level visit to the EU took place in mid-November, when President Koivisto travelled to Strasbourg to address the European Parliament in Plenary Session. Given the President's constitutional responsibilities in this field, his remarks on foreign and security policy – coming as they did just after the opening of the CFSP chapter of the accession negotiations and delivered as they were to an audience where concern about neutrality was still widespread – were noted with even greater attention than Aho's earlier comments. Koivisto stressed that Finland was “not asking for a free ride in terms of security”; that she was fully prepared to take an active part in the EU's CFSP “and its future development as foreseen in the Treaty”; and that no options were excluded. Koivisto also put down a brief but clear marker on the problem of agriculture. Keeping the whole country populated, he stressed, was of vital importance for Finland. This meant that “limited additions to the present repertoire of Community measures in agriculture” were necessary; in requesting these Finland was

¹⁰³ Finland's European Policy: Speech by PM Esko Aho at a Wilton Park Conference on the impact of EC Policies on the New Members and Neighbouring States, Helsinki, 16 September 1993 1993 (Ulkopoliittisia Lausuntoja ja Asiakirjoja 1993, p. 232)

doing no more than seeking to adjust long-standing Community objectives to Finland's particular conditions.¹⁰⁴ Although the Hemi-cycle was only around a third full, Koivisto was given a warm reception and his address received loud applause.

Later in the day, Koivisto met with Delors (who was also in Strasbourg for the Parliament's Plenary Session). It had been agreed, in order to avoid a special trip to Strasbourg by the Commission's Head of Protocol, that I should greet President Koivisto and his party at the entrance to the Parliament. Unfortunately, instead of stopping as planned at the main entrance to the Parliament building, Koivisto's cortège shot past and stopped at the "back" door used by Commission officials. I was forced to perform a rapid 100 metre sprint in order to catch up with them. Given that the EU was still in the process of defining its position on the two main potential subjects of discussion – agriculture and CFSP – the meeting was not the most productive. Delors's remarks about the interlinkages between agricultural policy and regional policy appear to have heightened, rather than reduced, concerns on the Finnish side.¹⁰⁵

By this stage, the focus of the accession negotiations was narrowing down to a handful of key issues. The biggest and most complicated problems, as foreseen all along, were agriculture and the closely related issue of regional policy, which nobody expected to be solved until the very end of the negotiations. For most other major issues, by contrast, the broad outlines of the way forward were clear, even if the precise details were not in all cases yet agreed. The potential problem of Finland's free trade arrangements with the Baltic States, one of the major issues in the customs union chapter, looked set to be resolved by the EU's own conclusion of free trade agreements with the latter. Most other outstanding customs union issues related to the detailed arrangements for adjustment to the EU's common external tariff regime. It was generally assumed that the Åland dossier, on which negotiations had barely begun,

¹⁰⁴ Ulkopoliittisia Lausuntoja ja Asiakirjoja 1993, pp. 240–26

¹⁰⁵ Liikanen, p. 162

would be resolved – one way or another – along the lines of existing precedents. Some of the more minor issues, such as secondary residences, fisheries and Sami issues, also remained open until virtually the end of the negotiations, but this was generally either for tactical reasons or because they were common to other Candidates as well as Finland.

The politically sensitive issue of the future of the alcohol monopoly was not strictly speaking a part of the accession negotiations as such since it lay within the executive competence of the Commission, as "guardian of the Treaties", subject only to the jurisprudence of the European Court of Justice.¹⁰⁶ It was clear from the latter that the import, export and production monopolies would have to be dismantled to comply with EU law. The Commission, for its part, had confirmed that it would not itself take any initiative to challenge the retail monopoly, provided that the latter operated in a non-discriminatory fashion. That left the question of the wholesale monopoly, which the Finnish Minister responsible, Toimi Kankaanniemi (the one Christian League Minister in the Government Coalition) was initially unwilling to dismantle. The Commission however was adamant: if it were not dismantled on accession, Finland would be taken to the ECJ. The Finnish side in the end gave in and the "deal" was confirmed in an exchange of letters.¹⁰⁷

Closely linked to the issue of the alcohol monopoly was that of travellers' allowances, on which a totally disproportionate amount of time and negotiating capital was spent; and which remained an open issue right up to the start of the final "marathon" negotiating

¹⁰⁶ Article 37 (1) of the EC Treaty (now Article 37 TFEU) requires Member States to adjust any monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

¹⁰⁷ The fact that the Commission would not of its own initiative challenge the retail monopoly did not however prevent anyone else from doing so. Indeed, just after accession the legality of the Swedish monopoly was challenged in the courts by a Swedish entrepreneur, Harry Franzén. The subsequent ruling of the ECJ (C-198/95) confirmed the Commission's view that a retail monopoly was not illegal as long as it operated in a non-discriminatory fashion.

session.¹⁰⁸ Finland (along with Norway and Sweden) sought, in line with her general policy on alcohol, and contrary to the rules of the EU single market, to continue to restrict the quantities of beer, wines and spirits that individuals travelling to Finland from other Member States could bring in with them. Although the Commission and most Member States were reluctant, the Nordic position was helped by the fact that Denmark, as part of its Maastricht referendum “package”, had been granted this right for a transitional period. A similar transitional period was in the end agreed for the three Nordic Candidates.

The Delegation naturally kept a close eye on all of these open issues. It was clear, however, that for some of these our value-added to the negotiation was fairly limited: they were essentially issues to be thrashed out between the technical experts of both sides. I focussed my personal efforts primarily on agriculture – which was clearly going to be the “make-or-break” chapter – and on Åland – given the political sensitivities it aroused on both sides. On the other issues, I was called upon to get directly involved from time to time; but otherwise limited myself to keeping Brussels briefed on the overall temperature and mood on the Finnish side.

Beyond the accession negotiations themselves, my political reports to Brussels in the early months of my posting were dominated primarily by the economic crisis and its impact on the popularity of the Aho Government; and, increasingly as the year progressed, by the prospects for the January 1994 Presidential elections – matters that were of particular interest to Brussels in view of their potential impact on the course of the accession negotiations.

We all knew that it would be difficult for Finland to become a member of the Union unless the Centre Party (whose political base lay in the countryside) were prepared to go along with the result of the negotiations. This they would do only if there were what they regarded as an acceptable result on agriculture. The conventional wisdom, to which I also subscribed, was that parliamentary and popular majorities in favour

of bringing Finland into the EU were more likely to be achieved under a Government led by the Centre Party than if the latter were in opposition. The Finnish negotiating position would undoubtedly be tougher; but if a deal could be clinched it would be more likely to be approved. Despite increasing difficulties on the economic front and declining popularity in the opinion polls, Aho himself, as I reported to Brussels at the time, showed every intention of continuing in office until the next scheduled parliamentary elections in March 1995. If things went badly wrong on the agricultural chapter of the accession negotiations, however, nobody could be certain what the end result might be.

We were motivated by similar concerns in our monitoring of the Presidential elections, the first to be held on the basis of popular ballot, rather than the former electoral college system. Of course, all diplomats love predicting the outcome of elections in their host countries, and I was no exception. We sent regular status reports to Brussels, based on the latest opinion polls and our contacts around town. Having, like most commentators, been caught out by Elisabeth Rehn’s surprise performance in the first round, I carefully hedged my bets on the second round. But for Brussels the most important thing was the likely impact on the accession negotiations. At no time did it appear likely that any of those candidates that were opposed to EU membership would win. Our concerns were therefore two-fold. On the one hand, there was a risk that the rhetoric of the electoral campaign might force the Government, for domestic party political reasons, to toughen its stance on agriculture, making it harder for us to reach agreement by the 1 March deadline. Secondly, there was the question of the implications of the outcome for the future of the Aho Government. There had been much debate among political theorists in Finland as to whether constitutional practice required the Government automatically to tender its resignation to the new President. In the end, this did not happen. Doubts remained however as to how long the Coalition would be able to hang together in the politically charged run-up to the referendum.

¹⁰⁸ For a full account of this see Kuosmanen pp. 220–223

But before we were allowed to embark on the endgame of the accession negotiations, we had first to undergo what was for many of us one the more surreal experiences of the whole accession dossier: the anticlimax of the opening – and closing – of the CFSP chapter.

Photo: redwolfoz / Flickr.com



VII

NEUTRALITY: THE DOG THAT DIDN'T BARK

When the accession negotiations had been launched in February 1993, the EU side had served notice that negotiations on the CFSP and other new chapters introduced by the Maastricht Treaty would begin only once that Treaty had entered into force. This compromise, reached at the Edinburgh European Council the previous December, had enabled the negotiations as a whole to start early in 1993 despite the upset caused by the “no” vote in Denmark’s first Maastricht referendum. Negotiations on the CFSP chapter were thus duly launched at the Fourth Ministerial Session of the Accession Conferences on 9 November 1993.¹⁰⁹ By the time of the Fifth Ministerial Sessions on 21 December, the chapter had – without great difficulty or fanfare – been brought to a close.

There were in essence two main reasons why, after five years of doubts and drama about the compatibility of neutrality with EU membership, the negotiations themselves proved to be such a non-event. The first relates to the rather special manner in which accession negotiations are conducted. The second lies in the rapidly shifting parameters of the wider geo-political architecture of the Europe of the early 1990s.

At the opening session with Finland and the other candidates in February 1993 the Danish Foreign Minister Uffe Ellemann-Jensen, on behalf of the EU Presidency, had indicated that, when the time came to open the CFSP chapter, the following principles would apply:

- enlargement should strengthen the internal coherence of the Union and its capacity to act effectively in foreign and security policy;
- applicants must from the time of their accession be ready and able to participate fully and actively in the CFSP as defined in the Maastricht Treaty;
- applicants must, on accession, take on in their entirety and without reservation all the objectives of the Treaty, the provisions of its Title V, and the relevant declarations attached to it;

¹⁰⁹ The Maastricht Treaty had entered into force on 1 November 1993.

- applicants should be ready and able to support the specific policies of the Union in force at the time of their accession.

Nobody had, at that stage, considered how all this was to be reflected in the text of the Act of Accession. Acts of Accession are, as already noted,¹¹⁰ essentially a catalogue of technical adaptations and transitional provisions modifying the EU *acquis* upon the accession of the new Member(s). The accession negotiations revolve essentially around the reaction of the current Member States to the requests for such modifications that are tabled by the Candidate(s).¹¹¹ This methodology, while in general a sound one, was quite unsuited for dealing with the CFSP chapter since the issues at stake had nothing to do with the *acquis* as such, to which neither side was, in this case, proposing any changes.

The Council’s Political Committee was instructed to establish a list of CFSP *acquis* – i.e. the common actions, positions, declarations and statements adopted over the years by EC Ministers – which the Candidates would be expected to sign up to in addition to the provisions on a Common Foreign and Security Policy set out in Title V of the Maastricht Treaty. Having examined these, Finland and the other Candidates indicated that none of this *acquis* posed any problem for them. They were willing and able to take on board, without any derogations or modifications, the entirety of *acquis communautaire*, the Maastricht Treaty and the *finalité politique* of the European Union. The CFSP chapter could, as far as they were concerned, consequently be closed, since there was nothing to negotiate.

This left the EU side somewhat wrong-footed, since what concerned EU negotiators was of course not the *acquis* itself, but the positions that the neutral Candidates might take (or which it was feared they might take) in future CFSP decisions once they had become Members. Would they, as Member States, participate in a constructive manner in its

¹¹⁰ See above, Chapter V

¹¹¹ In only very few cases – transitional periods for fish upon the accession of Spain and Portugal being a notable example – had such requests emanated from the EC side rather than from the Candidate(s).

development? Or would they, as some feared, end up throwing a spanner in the works of the fledgling Common Foreign and Security Policy? There were, understandably, particular fears about Austria, which had entered a written reservation on this subject at the time of her membership application. The problem, however, was to find a way of expressing all this textually in the Act of Accession. Matters were not helped by the fact that there was, at that time, no consensus among the existing Member States as to how the CFSP should develop in the future. What, in short, should the Candidates be asked to sign up to?

The Belgian Presidency initially proposed an “innovatory approach”: each of the Candidates would be interrogated on their respective attitudes to the future evolution of the CFSP *acquis*. Since, however, Member States were unable to agree on the precise list of questions to be put to the Candidates, and since the Candidates themselves were in any event opposed to the idea, this proposal soon fell by the wayside.

A few weeks later, the Presidency came up with an alternative idea. Candidates would be asked to make a common unilateral declaration, incorporating the language of the Presidency’s intervention at the opening of negotiations (see above) and confirming their commitment to the “actual and potential” *acquis* of the CFSP. This proposal was not acceptable as it stood to the Candidates, since the latter were not prepared to sign up to language that appeared to impose obligations on them over and above those applying to existing Member States. It did, however, in the end prove to be the way forward. After some discussion, the words “and potential” were dropped, as was language singling out Austria (which had been inserted because of Austria’s neutrality reservation) and the declaration was converted into a joint declaration by both the Candidates and the existing Member States, to be appended to the Final Act of the Accession Treaty.¹¹² The end

¹¹² *Joint Declaration on Common Foreign and Security Policy* (Declaration no. 1 to the Final Act concerning the accession of the Republic of Austria, the Kingdom of Sweden, the Republic of Finland and the Kingdom of Norway to the European Union, Official Journal No C 241, 29 August 1994)

result was little more than a statement of the obvious, but it sufficed to close the CFSP chapter of the negotiations. The fact that it did was a telling indication of how far things had moved over the previous half a decade.

Looking back at these events from today’s perspective, one could be forgiven for wondering what the fuss was all about in the first place. It would not even enter the mind of any serious commentator these days to suggest that Finland’s policy of military non-alignment and credible national defence (as it is now described) were in any way at odds with her membership of the European Union. On the contrary, Finland has been an active participant in developing and implementing the EU’s European Security and Defence Policy. A Finnish General, Gustav Hägglund, was (from 2001–2004) the first Chairman of the EU’s Military Committee. Successive Finnish Governments have supported further deepening of the ESDP, on the grounds that this would bolster Finland’s security.¹¹³ Even the question of possible NATO membership is now openly discussed in official government documents.¹¹⁴

Back in the autumn of 1988, however, when the future geo-political architecture of Europe was still in a state of uncertain flux, the prospect that neutral Austria might apply for EC membership created major shock-waves in Brussels. The timing of Austria’s application and the terms in which it was drafted were, moreover, indelibly to influence the manner in which the EC/EU approached the whole question of neutrality and membership.

¹¹³ The Programme of the Katainen Government, as submitted to the Eduskunta on 22 June 2011, states (p. 23) that “Finland will actively work for the development of the EU’s Common Foreign and Security Policy (CFSP) and the common European defence policy in accordance with the opportunities offered by the Lisbon Treaty”. See also *Finnish Security and Defence Policy 2009*, Government Report 13/2009, p.72.

¹¹⁴ The current Government Programme (see note 5 above) states that, although Finland will not prepare an application for membership of NATO during the term of office of the present Government, “Finland will evaluate a possible NATO membership on the basis of its own national security and defence policy interests”.

At that time, one should remember, the Berlin Wall and the rest of the Iron Curtain were still in place, as were the USSR and the Warsaw Pact. The EC, moreover, was in the preliminary stages of a major new initiative in its further integration, which many were hoping would lead to a far-reaching political and economic union, including a common foreign, security and defence policy. Those whose thoughts ran in that direction found it hard to believe that Austria and the other European neutral states would be able or willing to participate fully in such a process. There were even doubts as to whether such neutrality was legally compatible with parts of the existing EC Treaties.

EC concerns were further exacerbated by the content of Austria's letter of application, delivered in July 1989, which included a lengthy statement reserving Austria's right to pursue, as an EC Member State, her existing policy of neutrality.¹¹⁵ The Austrians were, in a strict sense, correct to say that the legal basis of their permanent neutrality was the (legally autonomous) Constitutional Act on Neutrality of October 1955. It was, on the other hand, common knowledge that there was a political link between the State Treaty (under which Austria recovered its post-War sovereignty) and neutrality. In order to obtain Soviet agreement to the State Treaty, and the consequent removal of Soviet troops from Austrian soil, the Austrian Government had been obliged to undertake (in the so-called Moscow Memorandum of April 1955) that Austria would immediately and of its own free will espouse permanent neutrality of the Swiss type, including the obligation to defend that neutrality, join no military alliance and permit no foreign military bases on

¹¹⁵ The full text of the key passage reads: "Austria submits this application on the understanding that its internationally recognised status of permanent neutrality, based on the Federal and Constitutional Law of 26 October 1955, will be maintained and that, as a Member of the European Communities by virtue of the Treaty of Accession, it will be able to fulfil its legal obligations arising out of its status as a permanently neutral state and to continue its policy of neutrality as a specific contribution towards the maintenance of peace and security in Europe".

its soil.¹¹⁶ Given this background, together with Moscow's well-known concerns about the possibility of Austrian EC membership,¹¹⁷ it was hardly surprising that the Austrian Government felt it necessary to include such extensive language on neutrality in its letter of application. Had the application been made two years later, things might well have been otherwise. At the time, however, even if the risk of a military reoccupation by the USSR could reasonably be discounted, the possibility of other unpleasant manifestations of Soviet displeasure could not.

Faced with this unwelcome political hot potato, and having put Austria on notice that the remarks on neutrality in her reservation would require further examination,¹¹⁸ the EC Council, after some difficult internal deliberations, opted to pass the ball to the Commission by adopting the traditional formal Council decision "to initiate the procedures foreseen by the Treaties" (i.e. to request the Commission to deliver its Opinion). This decision¹¹⁹ was accompanied by a declaration in the Council's minutes, confirming that its examination of Austria's neutrality reservation would be carried out "at the appropriate time"¹²⁰ in the light of the relevant provisions of the Single Act and in particular those¹²¹ relating to European Political Cooperation (the forerunner of CFSP). Having thus disposed of the issue, the Council did not return to it until over three years later in the autumn of

¹¹⁶ Memorandum on the Results of Negotiations between Government Delegations of Austria and the Soviet Union (Moscow, April 15, 1955)

¹¹⁷ For details of the various Soviet demarches at the time, see Luif: *Austria in Wallace* (1991)

¹¹⁸ Letter of 17 July 1989 to Austrian Foreign Minister Mock, acknowledging Austria's application, signed by Mr. Roland Dumas, French Foreign Minister, in his capacity as President-in-Office of the EC Council

¹¹⁹ Council document 8233/89 of 28 July 1989 (+COR 1 of 3 August 1989)

¹²⁰ One Member State, in a separate unilateral declaration, made clear its own view that this examination should not be conducted before 1 January 1993.

¹²¹ Article 30 (5) of the Single European Act, which states that the external policies of the EC and the policies agreed in EPC must be consistent. The Presidency and the Commission are jointly charged with ensuring this.

1992,¹²² in the context of formulating the negotiating guidelines to be followed by the EC side in the accession negotiations.

The Commission, meanwhile, was in no rush either to get its fingers burned. Nor was there any need to do so, since nobody on the EC side was contesting the Commission's well-publicised view that no negotiations for new accessions should be launched before the beginning of 1993 at the earliest. The relevant Commission departments were in any case fully engaged with other matters. The negotiations for the Maastricht Treaty were at that time still not completed. Even the basic outlines of the new Common Foreign and Security Policy remained uncertain. The "appropriate time" to examine Austria's neutrality reservation was therefore put off for as long as possible.

It was, as already noted,¹²³ the prospect of a Swedish application for membership that ultimately forced the Commission's hand. The Swedish Parliament's vote of December 1990 in favour of full EC membership opened up the very real possibility that we could potentially find ourselves confronted within a short space of time with membership applications from all four of the EFTA neutrals. A coherent line on the issue of neutrality was urgently needed. This was no mean task.

The Commission's conclusions were set out in four separate documents produced over a period of fifteen months: namely, the Opinions on Austria's, Sweden's and Finland's applications and the Commission's report to the Lisbon European Council of June 1992. Central to all three Opinions, and implicit in the Lisbon Report, is the Commission's concern at the possible implications of what international lawyers call the "anticipatory effects" (*Vorwirkungen* in German) of permanent neutrality: the restraints on foreign policy that permanent neutrals are obliged to respect even in peacetime, in order to be able to adhere to a policy of strict neutrality in the event of war. (The differences in the political and/or legal or constitutional basis of the neutrality of each of the four EFTA neutrals were, for this purpose, irrelevant: they were

for all practical purposes all permanent neutrals.) Our concerns related both to certain provisions of the existing EC Treaties – in particular economic sanctions and other trade measures motivated by political and/or security considerations – and to those of the future Common Foreign and Security Policy (CFSP). Some on the EC side considered that the main goals of the CFSP¹²⁴ (in particular safeguarding the independence of the Union and strengthening its security) could not be reconciled with permanent neutrality whatever its basis. The central problem however was not so much the CFSP *acquis*. At that stage this was largely an empty framework of general objectives and procedural rules, to which the applicants would in any case have to sign up. What concerned us more were the future policy decisions to be taken within that framework. These required unanimity, and the fear was that the presence of the EFTA neutrals in the decision-making process might "neutralise" progress towards European security and defence policies, by excluding in advance, in a manner not susceptible to debate, certain policy options that might be deemed to be contrary to their principles of neutrality.

None of the four documents concludes that these considerations should lead the EC to reject applications from the EFTA neutrals. All four, however, stress that solutions to the problems identified would need to be found in any accession negotiations; and that, with regard to the future CFSP, specific and binding assurances would need to be sought with regard to the applicant's political commitment and legal capacity to undertake the obligations entailed by this new policy.

Beyond these common elements, each of the four documents is subtly different in tone. This is partly a reflection of the underlying differences in the character of the neutrality practised by each of the four countries concerned. Mainly, though, it is the product of events; and, in particular, the rapid and progressive evolution of three separate but inter-connected factors: first, the finalisation and ratification of the text of the Maastricht Treaty; second, the wider geo-political

¹²² Informal meeting of Foreign Ministers at Brompton Hall (UK) on 12/13 September 1992.

¹²³ See Chapter IV above

¹²⁴ Art J.1(2) of the Maastricht Treaty (now transposed into Art 21 TEU)

architecture of the New Europe; and, third, the applicants' own definitions of their respective concepts of neutrality.

The Commission's Opinion on Austria, being the first official public manifestation of EC thinking on the compatibility of neutrality with EC/EU membership, was the subject of careful deliberation. Moreover, Austria was a particularly worrisome case since (a) her neutrality was enshrined in a Constitutional Law that was difficult to change; (b) a formal written reservation had been entered in her membership application; and (c) we were being obliged to take a position at a time when events in Europe were still evolving and when the final outcome of the Maastricht negotiations was still far from clear. Luckily, on the other hand, events in Europe had moved on considerably in the two years since Austria's application. The risk of Russian opposition to Austrian membership had evaporated: the Moscow Memorandum could be consigned to the dustbin of history. The Commission's analysis thus focussed solely on the compatibility of neutrality with the future EU Treaties such as they were likely to emerge from the ongoing Intergovernmental Conference.

The Opinion on Austria was unquestionably the most toughly worded of the four documents. We did not accept the argument put forward by the Austrian authorities that Austria's neutrality represented an obligation "accepted for the purpose of maintaining peace and international security" such as to permit Austria to exempt herself from certain Treaty obligations.¹²⁵ Consequently, unless the EU were to grant Austria a special derogation from the EC Treaties, Austria would have to redefine her neutrality. Moreover, with regard to the future common foreign and security policy it was not at all self-evident, by reference to the draft texts which had at that stage been accepted as the basis for negotiations, that Austria would be constitutionally capable of entering into the sort of obligations to which the CFSP might give rise. Such was the Commission's clear message at that stage to Austria, Sweden and other potential neutral applicants.

¹²⁵ Cf. Art 347 TFEU (at that time Art. 224 of the EEC Treaty)

It would have been difficult for the Commission to be much more forthcoming at a time when German reunification was only a few months old, the Warsaw Pact had only just been dissolved, the USSR was still in existence and we did not know for certain what the final content of the Maastricht Treaty would be. Moreover, although Sweden's application, unlike Austria's, had contained only the essential language, with no reference to her neutrality, it was apparent from the Government's declaration to the Swedish Parliament that they intended, as EC Members, to continue to pursue Sweden's traditional security policy; and that, in particular, they reserved their position with respect to any possible defence option.¹²⁶ Had the Commission's lawyers had their way, the language of the Commission's Opinion on Austria would have been markedly tougher. But the Commission's Opinions on accession applications are political documents, not legal documents. The Austrian Government, for its part, sensibly chose to interpret the Opinion as a positive sign that membership and neutrality were at least not necessarily incompatible in principle.

It was not until almost a year later that the Commission tabled its next two contributions on the subject: its report to the Lisbon European Council and, shortly thereafter, its Opinion on Sweden's membership application. During the intervening period, much had changed. Estonia and Latvia had declared their independence. The dismemberment, at the end of 1991, of the USSR had marked the definitive end of the Cold War. The EC had meanwhile signed association agreements (Europe Agreements) with three former Warsaw Pact members – Poland, Hungary and Czechoslovakia – and was well advanced in its negotiations for similar agreements with another two – Bulgaria and Rumania. All of these agreements held out the ultimate prospect of full EC membership.

Events had also moved on within the EC itself. The Maastricht Treaty, agreed in principle at the Maastricht European Council of December 1991, had been signed in February 1992. The text, as finalised, provided for

¹²⁶ Government Declaration to the Swedish Parliament of 14 June 1991

the establishment of a common foreign and security policy that “shall include all questions relating to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence”. However, just three weeks before Lisbon, the Treaty had been narrowly rejected by the Danish people in a referendum.

How large a role the Danish “no” vote played in influencing EC attitudes toward neutrality has been the subject of much debate. In practice, it seems to have influenced attitudes in two mutually conflicting directions. On the one hand, there was an understandable desire to ensure that the applicant countries would not create the same sort of difficulties that the Danes just had; or, as President Koivisto puts it: “from now on our breath would smell different”.¹²⁷ On the other hand, the Danish “no” vote was – together with the subsequent close result of the French referendum – an important reality check for those with high ambitions for the EU’s future common security and defence policy, for whom the final outcome of the Maastricht negotiations had already been a disappointment. The lower those ambitions, the sooner would the progressive redefinition by the EFTA neutrals of their concept of neutrality reach the bar of acceptability.

In its report to the Lisbon European Council,¹²⁸ the Commission took a favourable attitude towards the accession of the EFTA applicants, whose membership “would strengthen the Community in a number of ways”; but with the qualification that “the question of neutrality, and its compatibility with the common foreign and security policy, is however a particular concern”.

The Commission suffered a fair amount of criticism from the applicants for proposing that they should be obliged to give “specific and binding assurances” in respect of the future CFSP. The constant refrain was that the EC was demanding more of its future new

¹²⁷ Koivisto, p.243

¹²⁸ European Commission: *Europe and the Challenge of Enlargement*, 24 June 1992 (Bulletin of the European Communities, Supplement 3/92)

members than of existing Member States.¹²⁹ The fact was however that the Commission had a duty, under the EC Treaties, to analyse the issue and present its conclusions to the EC Council. The Member States were, by contrast, under no obligation at that stage to make their views known and remained, at least in public, largely silent. The tabling of the Commission’s report was noted without comment. As already mentioned, the issue of neutrality was not collectively addressed by the Member States in the Council Framework until the informal Foreign Ministers meeting at Brompton Hall in September 1992; and it was not until the opening of the CFSP chapter of the negotiations in November 1993 that substantive positions had to be taken.

This did not mean, however, that Member States did not hold strong views. As the internal EC discussions about the handling of Austria’s application showed, Member States were far from indifferent to the issue of neutrality. Nor, as some have claimed, were concerns limited to a small group of the more “federal” minded Member States. The UK Foreign and Commonwealth Office, for example, went on record in February 1992¹³⁰ with the following: “We and other Member States would want new members to participate fully in CFSP and related Community activities (e.g. an economic embargo). The neutral EFTA applicants would need to demonstrate that they could and would fully comply with the *acquis*.” The report continues: “Keeping defence in the WEU, with its Treaty link to NATO, should ensure that future accessions to the Union (for example by neutral countries) do not undermine NATO’s central role in European defence.” A few weeks earlier, FCO Minister Tristan Garel-Jones, during a visit to Helsinki, had asked President Koivisto outright whether Finland would be prepared, as an EC member, to join in sanctions against Russia if this became necessary.¹³¹

¹²⁹ See for example Koivisto p. 245 and Lipponen (1994) p. 96

¹³⁰ Memorandum on *Enlargement of the European Community: Implications for the UK*, submitted in evidence to the House of Lords Select Committee on the European Communities, 25 February 1992

¹³¹ Koivisto, p.237

When the moment finally came for Member States to address the issue, the Commission's proposal proved to represent pretty much the consensus view of the Member States.

The Lisbon European Council was the decisive moment in the debate about neutrality, even though the word itself did not figure in the conclusions of the meeting. The decision by EU Leaders that negotiations *would* be opened with the EFTA applicants (albeit without fixing a precise date) was implicit confirmation of the Commission's view that neutrality was not in principle an obstacle to membership. From then on it was merely a question of defining precisely what assurances the EU side would seek during the accession negotiations in order to assuage its concerns. Moreover, the decision to open negotiations was a clear sign of confidence that those concerns could now be met.

Central to this process was a succession of official statements from the candidates themselves, defining what neutrality meant to them in the new geopolitical realities of Europe. The new Swedish Prime Minister, Carl Bildt, had declared in his Government's policy statement of 4 October 1991 that the term "policy of neutrality" was no longer an adequate description and that his government preferred instead to speak of a "Swedish foreign and security policy with a European identity". He went on, in December 1991, to welcome the decisions taken at the Maastricht European Council and to confirm Sweden's willingness to participate fully in the CFSP. A few days prior to the Lisbon European Council Austria addressed an aide-memoire to all EC Member States in which, echoing an earlier statement by Foreign Minister Mock, she committed herself fully and unreservedly to the objectives of the CFSP and undertook to "participate in this policy and its dynamic development actively and in a spirit of solidarity".¹³²

Bildt's statements, like the later Austrian ones, were visibly somewhat ahead of domestic public opinion. Having acknowledged, however, that the accession of the EFTA applicants would on the whole be of benefit

¹³² Full text (in the original German) available at: <http://www.ena.lu>

to the EU, it was not in our interest to make too great an issue of this. A certain amount of fudge was necessary to keep the show on the road while geo-political developments in Europe took their course and the likely future evolution of the CFSP became clearer. When, in August 1992, the Commission delivered its Opinion on Sweden's application,¹³³ Bildt's remarks were thus duly noted as proof that Swedish policy had evolved considerably. We remained concerned, however, about Sweden's apparent reservations in relation to the eventual framing of a common defence policy and, even more markedly, in relation to the possible establishment in time of a common defence.¹³⁴

Ironically, at the very moment when Austria and Sweden were trying so hard, against the scepticism of international lawyers, to defend the compatibility of neutrality with EC/EU membership, the Finnish Government was still, as late as mid-1991, officially proclaiming the opposite. Finnish neutrality was, of course, quite different in nature from that of the other EFTA neutrals. Unlike that of Sweden and Switzerland, it did not go back in time to any of the great rendezvous of European history, such as the Congress of Vienna or the Versailles Treaty. Unlike that of Austria, it had not been imposed by outside forces. Indeed, quite to the contrary, Finland had struggled for years to get her self-proclaimed neutrality recognised at all by the two main Cold War protagonists and had finally achieved unreserved recognition only during the respective visits to Helsinki by Reagan in May 1988 and Gorbachev in October 1989.¹³⁵ Some indeed (like those of the "Finlandisation" school) had argued that the Paasikivi-Kekkonen line did not really count as neutrality at all in the traditional sense of the term, owing to Finland's Treaty of Friendship, Cooperation and Mutual Assistance with the USSR. Moreover, Finland had from 1947 to 1956 (albeit not voluntarily) hosted a Soviet naval base on her territory,

¹³³ Opinion of the Commission of 31 July 1992 on Sweden's application for membership (Bulletin of the European Communities, Supplement 5/92)

¹³⁴ Cf Treaty on European Union, Art. J.4(1)

¹³⁵ Koivisto, pp. 111-112 and 128-129; Lipponen pp. 85-86

which, in the words of President Paasikivi himself, “lent Finnish neutrality a colour of its own that did not quite fit the handbooks of international law”.¹³⁶ Paavo Lipponen argues that Finland in reality practised two parallel foreign policies after the Second World War: on the one hand, a policy for bilateral relations with the Soviet Union; and, on the other, a policy of neutrality to increase the room for manoeuvre in foreign policy and to permit Finland to participate in Western economic integration.¹³⁷ The Commission’s task, however, was not to pass judgment on Finland’s foreign policy line during the Cold War, but to assess to what extent Finland’s policy of neutrality, as currently defined, might constrain her future fulfilment of the obligations of EU membership. Here, our concern was essentially the same as for the other neutral applicants: namely how far the peacetime foreign policy limitations implicit in the “anticipatory effects” of permanent neutrality would prevent the applicant, as an EU member, from participating as a truly free actor in the decision-making processes of the future CFSP.

The main issue here was, of course, Finland’s relationship with her neighbour to the East. As Soviet power waned, Finland had begun (in Max Jakobson’s colourful simile) “to edge towards full participation in Western institutions, but gingerly, like a hunter who has shot a bear but is not quite sure that the beast is dead”.¹³⁸ We followed this process closely, and with great interest, in Brussels. We took little, if any, reassurance from the USSR’s informal indications (of which the Finns were well aware¹³⁹) that they had no objection to Finland’s joining the EC. If anything, they served on the contrary to reinforce the suspicions of those who saw the EFTA neutrals as potential “Trojan horses” within the CFSP. What really mattered was how Finland interpreted the situation and what the reaction of the Finnish Government was.

By October 1990, the latter had felt confident enough to abrogate unilaterally the

clauses in the 1947 Treaty of Paris that limited the size of Finland’s armed forces, as well as the references in the FCMA to Germany as a potential aggressor. The next important step was the replacement of the FCMA by a CSCE-style bilateral treaty, without any clauses on military cooperation, which was signed with Russia in January 1992, following the collapse of the USSR. These two initiatives, taken already prior to the tabling of Finland’s application, were important elements in our evaluation. We also noted closely the language on foreign and security policy used in the two Government reports tabled in the Finnish Parliament in the run-up to the tabling of Finland’s application. In these, the core of Finnish neutrality was characterised as “military non-alignment and independent defence”.

Aho, in his speech to the Parliament on 16 March, had stressed that “in seeking EC membership, Finland approves the *acquis communautaire*, the content of the Maastricht Treaty and the *finalité politique* of the European Union”. Identical language was used by President Koivisto in the speech he delivered in October 1992 to the College of Europe in Bruges. The Finnish Government did not, however, regard membership of the WEU as constituting a precondition of membership of the EU. When pressed on this point by Delors, when the two met in Brussels just after the Bruges speech, Koivisto replied that a decision regarding WEU membership could be taken only once Finland had become an EU member. Although we did not share the apparent view of the Finnish authorities that the WEU would be developed merely as an instrument of crisis management for the Union, we did not press the point further at that stage.

Thus, by the time the Commission came to adopt its Opinion on Finland’s application,¹⁴⁰ Finland’s post-WWII foreign and defence policy had already undergone a huge metamorphosis. In being a late comer to the list of applicants, Finland had the advantage of being able to observe, and learn from, EC reactions to the applications, and subsequent

¹³⁶ Jakobson, p. 60

¹³⁷ Lipponen, p. 94

¹³⁸ Jakobson, p. 103

¹³⁹ Kuosmanen, p.7

¹⁴⁰ Opinion of the Commission of 4 November 1992 on Finland’s application for membership (Bulletin of the European Communities, Supplement 6/92)

“clarificatory” statements, of Austria and Sweden. Moreover, by the time of Finland’s application, and even more so by the time the Commission delivered its Opinion, most of the factors that would inevitably have complicated matters had, in one way or another, been resolved. Thus, while the Commission’s Opinion contains the same Lisbon language on “specific and binding assurances” as for Sweden, it is otherwise noticeably more positive, and softer in tone, in its assessment of foreign and security policy.

In short, neutrality was, in the end, largely a non-issue during the accession negotiations themselves because the real debate had already taken place earlier in other forms. By the time negotiations on the Common Foreign and Security Policy chapter began in November 1993, the candidates had, for the most part, already adapted their respective concepts of neutrality to the new geo-political realities of Europe and confirmed their preparedness to accept without question the full application to them of the EU’s CFSP acquis. There was, in the end, not much else that could realistically be requested of them.

Photo: Bruno Girin / Flickr.com



VIII

ÅLAND ASPIRATIONS – AND EU ANXIETIES

Although the Åland chapter of the accession negotiations did not, at any stage, look set to be a deal-breaker, it was one of number of issues that had been flagged by Finland as being of specific concern. It was also one that demanded a fair amount of my own personal attention during the negotiations. The main challenge lay not so much in the difficulty of the issues on the negotiating table (on most of which agreement was fairly rapidly reached) as in the difficulty of defining precisely what those issues should be. While discussions never quite descended to the level of surrealism of the CFSP chapter, they certainly had their occasional Kafkaesque moments. Even today, misconceptions still abound.

The difficulty of the dossier was essentially threefold. In the first place, the legal status of Åland is inherently complex, based as it is on a series of international and domestic legal instruments adopted over the previous century and a half. Secondly, few if any on the EU side had, at the time of Finland's application, much knowledge of this. Thirdly, the Åland authorities, whose consent Helsinki needed on matters over which Åland had autonomy, had at that time little understanding of the workings of the EU and were primarily concerned with testing the limits of the recently modified Autonomy Act.

Åland's legal status is quite unlike that of any other region or territory of an EU Member State. There are within the EU many examples of autonomous or semi-autonomous regions and territories, including several with their own special language regime. But in none of these cases is this special status a consequence of the international obligations of the Member State in question. Åland's special status is, by contrast, a direct result of a 1921 Resolution of the now-defunct League of Nations¹⁴¹ – one of the few success stories of the League – adopted in response to a territorial dispute between Finland and Sweden that had arisen following Finland's independence

¹⁴¹ Resolution of the Council of the League of Nations of 24 June 1921 (Official Journal of the League of Nations, Sept 1921, p. 699)

in 1917.¹⁴² The League recognised Finland's sovereignty over the Åland Islands, subject to certain guarantees for the protection of the islanders. Subsequent bilateral discussions between Finland and Sweden led to a Finnish undertaking to introduce into the existing 1920 Law of Autonomy of the Åland Islands certain additional guarantees for the preservation of the Swedish language, culture and local traditions of Åland.¹⁴³ By the time of the accession negotiations, these new provisions had undergone review and major extension twice, most recently through the 1991 Autonomy Act, which is still in force.

Finland's international obligations are moreover not limited to preserving the language, culture and traditions of Åland. She is also required to maintain the archipelago as a demilitarised and neutralised zone. The history of this obligation – sometimes referred to as the Åland Islands Servitude – goes back to the little-known Northern Campaign of the Crimean War, when the Russian fortress at Bomarsund was destroyed by a large Anglo-French naval force.¹⁴⁴ As part of the subsequent Paris Peace Treaty of 1856, the Åland Islands were, at British and French insistence, made into a permanently demilitarised zone. The taking over of this obligation by Finland, as successor state, was confirmed by the 1921 Convention on the non-fortification and neutralisation of the Åland Islands, drawn up pursuant to the above Resolution of the League. Similar obligations are imposed on Finland by the Finnish-Soviet Treaty of 1940 concerning the Åland Islands, as well as by the 1947 Paris Peace Treaty. The 1921 Convention, which was signed by Germany, Denmark, Estonia, Finland, France, Italy, Latvia, Poland, Sweden and the UK, includes in addition a prohibition on military and naval operations in the archipelago.¹⁴⁵

¹⁴² For a comprehensive account of the League's deliberations and the events leading up to them, see Barros (1968)

¹⁴³ This undertaking was formally annexed to the above Resolution by the Council of the League's decision of 27 June 1921 (Official Journal of the League of Nations, Sept 1921, p. 701).

¹⁴⁴ For a full account of this campaign see Greenhill & Giffard (1988)

¹⁴⁵ For a detailed analysis of Finland's obligations under these various instruments see Rosas (1997)

At the time of Finland's application, few, if any, on the EU side were aware of all this, if indeed they had ever heard of Åland at all.¹⁴⁶ Some of our legal experts might have been able to cite the international case law referred to above, but would probably have been hard-pressed to locate Åland on a map. Even the handful of us in the European Commission who by then knew Finland reasonably well had a fair bit of homework to do on the subject. I had never set foot in Åland before and therefore included a stopover in Mariehamn in the visit I made to Finland in late August 1992 as part of the Commission's preparatory work on its Opinion. This enabled me to have the benefit of full briefings, both from the Åland authorities and from their counterparts in Helsinki. These were extremely useful, not least in revealing the considerable differences in their respective approaches.

Our work at that stage was of a purely analytical nature, focussed, on the one hand, on getting an overall picture of Finland's international legal obligations in respect of Åland and of the key relevant provisions of the new Autonomy Act, then about to enter into force; and, on the other hand, on making a broad assessment of possible conflicts between these provisions and the EU *acquis*. Were there elements in Åland's autonomy or in its demilitarisation and neutralisation that might lead to Finland's being unable or unwilling to implement parts of the EU *acquis*? That was the essential question the Commission had to answer. It was neither an exhaustive process, akin to the later "screening" of the *acquis*, nor a negotiation, aimed at finding solutions to the problems identified.

It was clear, from our analysis of the material available to us, that there were at least potential conflicts with the EU *acquis* in respect of both autonomy and demilitarisation/neutralisation; and that Åland was therefore inevitably going to be a negotiating issue that would require a special mention in the Opinion. It was, however, extremely difficult at that stage to foresee precisely what the parameters of that negotiation were likely to be, over and above the points covered

¹⁴⁶ In one document, Åland was confused with the Swedish island of Öland.

by the EEA Agreement¹⁴⁷ – to which at that stage the Åland *Lagting* had still not yet given its assent. On the issues arising from Åland's autonomy, much would depend on what requests for derogations Helsinki in the end chose to table (bearing in mind the more ambitious agenda of Mariehamn). As for Åland's demilitarised and neutralised status, this was, like neutrality in general, a deeply sensitive issue; all the more so given that Finland was bound by international obligations to which a number of existing and future EU Member States were also party, as well as Russia. The Commission's Opinion, after summarising in a few paragraphs the essential features of Åland's autonomy and of its demilitarised and neutralised status, consequently limited itself to noting that "the status of the Åland Islands... thus calls for a more detailed examination during accession negotiations".¹⁴⁸

The negotiations themselves were, as far as the Åland chapter was concerned, effectively a *pas de deux à trois*. Formally speaking, given that Åland has no treaty-making competence, there were only two negotiating partners: on the one hand, the EU Member States (represented by the Presidency and/or the Commission); and, on the other, the Finnish authorities in Helsinki. Since, however, Finland could not bind Åland, in respect of matters covered by the Autonomy Act, without the consent of the Åland *Lagting*, Helsinki was obliged, both in drawing up its initial negotiating position and throughout the negotiations, to conduct a parallel negotiation with Mariehamn. Matters were further complicated by the fact that the accession negotiations were taking place at a time when the Åland authorities were testing the possibilities open to them under the new Åland Autonomy Act that had entered into force in January 1993. There was moreover a

¹⁴⁷ Finland had sought and obtained special provisions (Article 126 (2)) permitting Åland to retain vis-à-vis non-Ålanders, on a non-discriminatory basis, restrictions on the purchase of real estate and on the right of establishment and freedom to provide services.

¹⁴⁸ Opinion of the Commission on Finland's application for membership, *Bulletin of the European Communities*, Supplement 6/92

considerable lack of knowledge on the Åland side about the EU; and in particular about how negotiations for EU enlargement were conducted.

The Åland authorities had set out, in a Communication of early 1992 to the *Lagting*,¹⁴⁹ a very ambitious agenda for the accession negotiations. The “model” they were seeking for Åland participation in the EU, on which I was given an extensive briefing on the occasion of my visit to Mariehamn that August, involved:

- measures to safeguard the Ålanders as a unilingual Swedish-speaking national minority;
- full participation in the common market for goods and services, but with the right to retain restrictions connected to regional citizenship;
- special solutions concerning taxation and economic legislation (especially continuation of duty-free sales on ferries to Åland, VAT exemption for tourism services and the possibility to operate “offshore” financial services);
- confirmation of Åland’s status as a demilitarised zone;
- EU to take over the role of the League of Nations in policing the 1921 guarantees and settling conflicts of authority between Mariehamn and Helsinki

There was also considerable concern (as in other parts of Finland) about the effects of EU membership on local agriculture and fisheries.

We could not of course react formally to these ideas, since negotiations had not yet been launched and our formal negotiating partner would in any case be Helsinki, and not Mariehamn. I and other Commission colleagues did, however, make clear in our informal contacts that some of these proposals, in particular the two last bullet points above, were quite unrealistic. We explained the general EU approach to accession negotiations and reminded our interlocutors that the EU as such was not party to any of the

¹⁴⁹ Landskapstyrelsens meddelande till Landtinget (EG-med. nr 1) of 11 March 1992

international legal instruments governing the status of Åland.

At the formal opening of the accession negotiations in February 1993, the EU side had, as already noted,¹⁵⁰ stressed that accession implied full acceptance by the Candidate Country of the EU *acquis*, subject only to such technical adjustments, temporary derogations and transitional arrangements as were agreed in the negotiations. We had also made it clear that EEA provisions departing from the *acquis*, such as transitional measures and derogations, could not automatically be transposed into the Accession Treaty. In the EEA, special derogations, provided they were strictly limited in number and scope, had been in principle acceptable. EU accession was an entirely different matter and any such requests would have to be examined afresh *ab initio*.

This did not mean that the EU was necessarily opposed *a priori* to special provisions of some sort for Åland. On the contrary, it was obvious that special arrangements would be needed. However, if Finland considered that she needed to derogate from the full application of the *acquis* in order to accommodate the special situation of Åland, then it was, in the first instance, for Finland to justify this and to come forward with appropriate proposals in the negotiating conference, to which the EU would then respond.

Nor, it should be stressed, was anybody on the EU side seeking to question the principle or extent of Åland’s autonomy, let alone its demilitarisation and neutralisation. The EU was in any event – not being (unlike certain of its Member States) a party to any of the international legal instruments concerned – in no position to do so. These were simply the fixed parameters of the equation. What was at issue was whether, in those cases where the special status of Åland created actual or potential conflicts with Finland’s implementation of the EU *acquis*, mutually satisfactory solutions could be found within the context of Finland’s accession negotiations. This fundamental point, central to the EU’s whole approach to the Åland dossier, was not always well understood in Mariehamn.

¹⁵⁰ See Chapter V above

The Finnish Government, for its part, put down a firm marker in Foreign Trade Minister Pertti Salolainen's statement to the opening Ministerial Session: "The specific legal and constitutional position of the Åland Islands must be taken into account in the negotiations. Accession by Finland to the Community must not affect the rights granted to this province by virtue of its autonomy". This was a clear indication that Finland's negotiators intended to focus on the autonomy issue; it left open the question of how far they intended (as desired by Mariehamn) to raise the issue of the demilitarisation and neutralisation of the islands.

Although work was, by this time, seemingly already well advanced on the preparation of the Finnish position,¹⁵¹ the formal Finnish Position Paper on the status of the Åland Islands in the context of Finland's accession was tabled only at a much later stage in the negotiations, in October 1993. The EU side had given Helsinki to understand that there was no great urgency here. Helsinki was, moreover, still in deep disagreement with Mariehamn about the content of the Paper.

After taking up my post as Ambassador and Head of the European Commission Delegation in Helsinki in March 1993, I had maintained close and regular contacts with both Helsinki and Mariehamn on this dossier. By the end of July, I was able to report to Brussels that agreement had been reached between the two on most issues concerning the Åland economy and regional citizenship, including the very important question of the preservation of duty-free sales on ferries. (The latter was not formally speaking a part of Åland's autonomy, but it was regarded, both in Mariehamn and in Helsinki, as essential to the maintenance of a viable local economy in Åland.) Mariehamn was, however, still pressing for references in the Finnish position paper to demilitarisation/neutralisation, guarantees for Åland autonomy and the possibility of an Åland seat in the European Parliament. I had stressed, during a visit to Mariehamn earlier that month, that Åland could not expect the EU to take

¹⁵¹ Kuosmanen, Ch. 25, p. 257

over the policing of Finland's international obligations; nor did the EU have a position as regards the internal allocation of a Member State's seats in the European Parliament. We already knew that Helsinki did not regard demilitarisation, neutralisation or autonomy as such to be issues for negotiation with the EU. It therefore came as no surprise to us that these issues were not in the end taken up in the Finnish Position Paper when it was finally tabled.

The Paper stressed that Finland's goal was that her EU Membership should also cover the Åland Islands; but that, by virtue of the archipelago's special legal status and economic circumstances, special terms of accession would be necessary. The "special terms" proposed were effectively (as in the earlier EEA negotiations) a modified version of the solution agreed for the Faroe Islands at the time of Danish accession, namely:

- that the EEC,¹⁵² ECSC and Euratom Treaties should not apply to Åland unless Finland, when depositing its ratification, gave notice that they should apply (which replicated exactly the Faroese precedent);
- that in that latter event, the application of the Treaties to Åland should be subject to a special Protocol providing derogations in respect of voting rights, the right to hold or acquire real estate, the right of establishment and freedom to provide services and the application of EU rules on the harmonisation of taxation (the proposed content of the Protocol was novel, since none of the EU provisions in question had been in force at the time of previous enlargements).

Helsinki proposed in addition that Finland should be allowed to make a unilateral declaration recalling that the Finnish constitutional and legal provisions governing the autonomy of the Åland Islands had been adopted pursuant to the two League of Nations Resolutions of 1921 and "that the Åland

¹⁵² Which would become the European Community (EC) Treaty following the entry into force of the Treaty of Maastricht

Islands are the subject of an established status under international law”.

The fact that the Finnish Government, in drawing up its formal position paper, had understandably and quite sensibly based itself on established precedents from previous accession negotiations ought in theory to have made the negotiation of the Åland chapter a fairly straightforward affair. The potential economic impact of the derogations requested was relatively easy to assess. Indeed, except for those relating to voting rights and duty-free sales, they had already been examined in depth during the EEA negotiations. Unfortunately for Finland, however, these were the first accession negotiations to take place since the completion, following the Single European Act, of the EU's Single Market. As we were to see also in other areas of the accession negotiations (in particular as regards transitional arrangements for agriculture) this made the EU less willing to follow without question some of the precedents established in earlier accession negotiations.

Thus it was that, when a draft EU position paper, essentially favourable to Finland's requests, was circulated for inter-departmental consultation within the Commission, major concerns were voiced about the potential consequences of the proposed derogations for the proper functioning of the Single Market, particularly in view of their permanent nature, the possible future use that might be made of them and the fact that not all of them appeared to be strictly justified by Finland's international obligations in respect of the Åland Islands. After some internal debate, the Commission did in the end propose broadly to grant the Finnish requests here, but only with respect to existing restrictions, and subject to the possibility of review should these subsequently lead to distortions of competition within the EU. The Commission also proposed that the EU should reserve the right to take any necessary measures to avoid trade distortions for agricultural products in the event that Åland in the end remained outside the EC.

Further problems surfaced when the formal EU response was being finalised with Member States. A number of the latter were concerned that Finland might use the

indirect tax derogation (designed to permit the continuation of duty-free sales on ferries to and from Åland) to create a tax-free haven in Åland. This was not an altogether unfounded fear. Helsinki had, it was true, stressed in its Position Paper that it was not seeking, via the requested derogation, unjustified economic benefits. But it was common knowledge that Mariehamn had been seeking a wider economic derogation similar to that applying to the Isle of Man. Only following further specific reassurances from Finland in this regard, and the introduction of some additional language in the Protocol, was the matter finally resolved.

The imminent entry into force of the Maastricht Treaty, creating as it did a new three-pillar European Union with its own Common Foreign and Security Policy, led to additional complications for the Åland chapter. Although Helsinki had been most careful not to make any reference in its Position Paper to the demilitarised and neutralised status of the Åland Islands,¹⁵³ it was a fact of life that could not be denied. For those concerned about the future development of the CFSP, it posed the same basic problem as Finland's neutrality in general:¹⁵⁴ namely, whether it might limit the political commitment and legal capacity of Finland to fulfil the obligations of the EU's future Common Foreign and Security Policy. But it posed it in a more acute manner since Finland was, by virtue of her international obligations, not at liberty, as she was for Finnish neutrality in general, to alter or reinterpret the demilitarised and neutralised status of the Åland Islands. Finnish political leaders had of course reiterated on several occasions that Finland accepted in full the *acquis* of the CFSP as well as the *finalité politique* of the Union, and that they were not looking for any derogations or special arrangements for Finland in respect of the CFSP. Neither had Finland asked for any for any special reference to Åland's demilitarisation or neutralisation, let alone for any special provisions to accommodate them. But it left some on the EU side nervous, not

¹⁵³ Helsinki submitted a separate “non-paper” on the status of the Åland Islands under national and international law.

¹⁵⁴ See Chapter VII above

least since we knew that Mariehamn had been pushing for just that.

Concern became focussed on the proposed Finnish unilateral Declaration. Some of the EU's legal experts considered that, by mentioning the League of Nations Resolution, it drew attention – albeit indirectly – to the Convention on non-fortification and neutralisation. Allowing such a reference, it was feared, could be tantamount to giving support to legal provisions that were potentially incompatible with future developments of the CFSP; at the very least, it placed a question mark over Finland's full participation in the latter. While such seeming paranoia might appear strange today, it was perhaps understandable in the context of other developments at the time. The end result was that the proposed unilateral Declaration was not appended to the Act of Accession itself, but inscribed instead in the Minutes of the Conference.

The entry into force of the Maastricht Treaty also gave rise to a second, more existential problem: namely, whether Åland could have the possibility of “opting out” of the EC Treaty while remaining covered by the CFSP and Justice and Home Affairs “pillars” of the EU Treaty. (In its Position Paper, which had been tabled before the entry into force of Maastricht, Helsinki had argued that, regardless of what happened in respect of the Community Treaties (EEC, ECSC, Euratom), the future Maastricht provisions on CFSP and Justice and Home Affairs would in any event apply to Åland.)

It rapidly became apparent that this was a contentious and sensitive legal grey area. The drafters of the Maastricht Treaty had not thought to include any special provisions concerning the territorial application of the new Treaty on European Union. They had, however, left untouched the existing provisions on the territorial application of the EEC (now EC) Treaty, as well as the corresponding (identical) provisions of the ECSC and Euratom Treaties. Finnish legal experts concluded from this that the territorial application of the CFSP and JHA “pillars” was consequently governed by the “default” provisions of the Vienna Convention on the Law of Treaties: namely that, in the absence of specific provisions to the contrary, they were

binding upon each party in respect of its entire territory. The EU's legal advisors, on the hand, were of the view that, since the newly-formed European Union was “founded on the European Communities”, to which the new policies and forms of cooperation were merely a supplement,¹⁵⁵ the provisions on the territorial application of the EC Treaty applied by extension to the two new “pillars”. Moreover, even if there was some ambiguity concerning the status of certain territories of Member States that had acceded earlier, the Maastricht Treaty stated clearly¹⁵⁶ that accession was now possible only to the Union as a whole, not to individual “pillars”.

There followed several weeks of learned and intense exchanges between the legal experts of both sides. Helsinki argued forcefully that it was Finland, not Åland, that was seeking to join, and that Finland did indeed intend to accede to all three “pillars”. The debate lingered on until, virtually at the end of the negotiations as a whole, the EU's chief negotiators concluded that this was a can of worms it was more prudent to leave unopened and decided not to press the point.

It is interesting to note that, had the Lisbon Treaty been in force at the time, the issue would have been resolved rather differently since the latter, like the defunct Constitutional Treaty, provides for a single uniform scope of territorial application for the EU Treaties as a whole.¹⁵⁷ The effect of this would have been that, had the Åland Lagting not given its assent to the terms of accession, none of the provisions of the EU Treaties would have been applicable to the Åland Islands. Åland would thus have been left completely outside the EU, as the Faroe Islands are now confirmed to be.¹⁵⁸

There was one last-minute issue that has since provoked controversy: namely the addition of a preamble to the Åland Protocol. It is a basic rule of EU legal drafting that all provisions must be motivated. When the final texts on Åland were being prepared

¹⁵⁵ Article A of the Maastricht Treaty on European Union

¹⁵⁶ Article O of the Maastricht Treaty on European Union

¹⁵⁷ Article 52 TEU, together with Article 355 TFEU

¹⁵⁸ Article 355 (5) (a) TFEU

for adoption at the penultimate ministerial negotiating session in February 1994, one of the EU legal experts noted that the provisions of the draft Protocol were lacking such a motivation. A preamble was consequently inserted referring to “the special status that the Åland Islands enjoy under international law”. (The language used replicated exactly that already figuring as the justificatory preamble to the EU’s Common Position on Åland.) The text thus amended was approved by the negotiating session.

Some commentators have since argued that this preamble effectively constitutes the reference to demilitarisation and neutralisation that Mariehamn had so fervently been seeking. Personally, I do not share this interpretation. It seems to me quite clear that the “special status” referred to is the autonomy, not the neutralised and demilitarised status of the islands. There was no reference to the latter in any of the formal position papers. The EU side most certainly did not want such a reference (see above). Moreover, the Protocol was “attached” to Article 227 of the EC Treaty and the corresponding articles of the ECSC and Euratom Treaties. There was no reference to it in the Treaty on European Union.

Thus was the Åland chapter of Finland’s accession negotiations concluded, as part of a wider mini-package agreed on the eve of the final marathon negotiating session. The provisions agreed were enshrined in Art.28 of the Act of Accession and Protocol No.2 to the latter (the “Åland Protocol”).¹⁵⁹ But that was by no means the end of the story.

In the first place, it is important to realise that only strictly Åland-specific issues, i.e. where Finland was seeking special derogations from the EU *acquis* in respect of the Åland Islands, were dealt with in the Åland Protocol. There were many other issues of undoubted interest to Åland in the accession negotiations (e.g. agriculture, regional policy) where Finland sought transitional arrangements or technical adaptations of one sort or another to the EU *acquis*. But here Åland was treated no differently from any other comparable region of Finland or the EU.

¹⁵⁹ See Act of Accession Art. 28 and Protocol No. 2 on the Åland Islands, OJ C 241, 29/08/1994

This did not mean, however, that these issues were necessarily unimportant in influencing Åland’s decision on the overall package.

Secondly, even though the negotiations between Helsinki and Brussels had been concluded, talks continued for several months between Helsinki and Mariehamn on a range of questions arising from Finland’s prospective EU membership. The most important and difficult of these were the implementation of Åland’s EU tax exemption and the question of representation in the European Parliament. Brussels had a direct interest in the first of these, since we were concerned to ensure that there were no negative effects on the interests of the Union or on its common policies.¹⁶⁰ Our concerns were heightened by the fact we had been given to understand that Mariehamn was still hoping to achieve in due course a status equivalent to that of the Isle of Man. The question of representation in the European Parliament was, by contrast, a purely domestic Finnish issue in which we were not, and did not wish to be, involved. We nevertheless followed the discussions closely in view of their likely impact on the deliberations on EU membership in the Åland Lagting.

It had been agreed in the accession negotiations that Finland should have the right to elect 16 representatives to the European Parliament, the same as Denmark (an existing Member State of similar population size). Helsinki was proposing that these should be elected on the basis of a single national list, meaning that there would be no MEP specifically representing Åland in Strasbourg. Mariehamn argued that this would lead to a loss of influence for Åland on those matters where sovereignty passed to Brussels on accession. The issue was still around in August 1995 when I paid my farewell visit to Åland, just before leaving my post as Commission Head of Delegation in Helsinki. I reiterated once again, in the concluding press conference, that the question of whether Åland should or should not have its “own” MEP was not an issue on which the EU could be called upon to take a position. As far as the EU was concerned, the total number of seats for Finland

¹⁶⁰ Article 2 (b) of Protocol No. 2 to the Accession Treaty

had been definitively settled in the Act of Accession and the manner in which those seats were allocated geographically among its citizens was a purely domestic matter for Finland.¹⁶¹ Helsinki had therefore been quite right not to raise this question in the Finnish position paper on Åland.¹⁶²

The final text of the Åland Protocol was, together with the rest of the Act of Accession, submitted for the assent of the Åland *Lagting* in accordance with the provisions of the Act on Autonomy. It was decided that a separate advisory referendum should be held in Åland (in addition to Åland participation in Finland's national referendum). The Åland referendum was to take place a month after the national referendum since the question of Åland assent naturally arose only if Finland as a whole voted yes. The Åland referendum was also timed to come after Sweden's EU referendum. It was hoped that if, as expected, the latter produced a "yes" result, this would have a positive influence on the Åland vote. Helsinki's goal – as was made clear already in the Position Paper on Åland – was that Finland's EU membership should also cover the Åland Islands.

Åland's EU referendum on 20 November 1994 produced a decisive majority of 73.6 % in favour of including Åland in Finland's EU membership. The result was undoubtedly boosted by the fact that both Finland as a whole and Sweden had by then voted to join: in the Finnish national referendum of 20 October, only 51.9% of Ålanders had voted in favour. Shortly thereafter the Åland *Lagting* gave its assent by a majority of 26 to 4. The way was thus set for Åland's full participation in Finland's EU membership, on the basis of the provisions set out in the Åland Protocol.

¹⁶¹ *Ålandstidningen* 18 August 1995

¹⁶² This remains however a current issue in relations between Helsinki and Mariehamn, Finland's "quota" of MEPs having meanwhile been reduced from 16 to 13 in accordance with the Treaty of Nice.

Photo: Sami Oinonen / Flickr.com



IX

AGRICULTURAL AGONIES

We had known all along that agriculture was going to be the most difficult issue in the Finland's accession negotiations. "Accession", the Commission had noted in its Opinion on Finland's application, "would represent an important challenge for Finnish agriculture, resulting in lower prices, reduced support levels and increased competition". The key issue was the price level. The basic objectives of Finnish agricultural policy, as well as its main policy instruments, were in most other respects rather similar to those of the CAP. EC policy was, like Finnish policy, also gradually expanding to encompass wider rural policy and agro-environmental objectives. We knew that it was for crop products – and in particular for cereals and horticulture – that the biggest problems were likely to arise, as a result of the short growing season and low temperatures prevailing at Finnish latitudes. For livestock producers, we calculated, lower producer prices would to some extent be offset by lower production costs, in particular for feedstuffs. What none of us realised however until much later was that the greatest stumbling block would in the end be, not the arctic and sub-arctic regions of N. and E. Finland, but the agricultural heartland of the South and Southwest where the climate, though still harsh by normal EU standards, was relatively less extreme.

The fundamental challenge in the negotiations was to square two seemingly irreconcilable positions. On the one hand, Finland needed to achieve modifications to existing EC rules if a viable agricultural sector were to be maintained in all regions of the country. On the other hand, the EU's basic position was that candidates had to accept the *acquis* as it stood, subject only to technical adjustments and exceptionally to temporary – but not permanent – derogations and transitional arrangements. The Commission was moreover, for its part, most anxious to avoid re-opening any of the elements of the CAP reform that had, with great difficulty, only recently been agreed within the EU. Seen in this context, the basic Finnish approach was tactically a very sound one. Finland, said Salolainen in his statement to the first Ministerial Meeting of the Accession Conference, was not seeking derogations from Community

rules and obligations; only that they should be applied and developed in a manner that took the special conditions of Finland into account. "As to agriculture, our objectives in the negotiations are simple: to ensure that the goals of the Common Agricultural Policy – including a fair standard of living for farmers and the availability of agricultural products – will also be reached in Finland".

The negotiations thus revolved essentially around the "technical" adaptations to be made to the EC's agricultural and regional policy *acquis* so as to take account of the particular conditions of the Nordic candidates and the "transitional" measures needed to allow the full integration of Finland's agricultural sector into the CAP. This concerned not only EU support measures, but also the EU's rules regarding the nature and level of permissible national support to farmers and food processors. Owing to divergent positions of principle, the transitional arrangements to apply for the downward alignment of Finnish agricultural support prices onto those of the EU were also a major negotiating issue. Among other issues, the most important related to production quotas and animal and plant health. Although formal and substantive negotiations on agriculture began only with the tabling in September 1993 of the Finnish Position Paper, this was preceded by several months of informal and technical contacts between Finnish and Commission officials, much of this connected to the "screening" of the EU *acquis*. The feedback I received at the time, from both Commission and Finnish interlocutors, was that these talks were proceeding satisfactorily. Unfortunately, essential as they were to the process, they were also the source of many later misunderstandings and accusations of back-tracking.

In mid-June 1993, Commissioner Steichen visited Finland. This was primarily to attend an international ministerial meeting on forestry that was taking place in Helsinki. He took the occasion, however, to meet bilaterally with both PM Aho and Agriculture Minister Pura. Steichen's programme also included a farm visit, as well as briefings for the EU Ambassadors in Helsinki and the Finnish media. There had been a rather unhelpful article in *Helsingin Sanomat* based

on an interview he had given earlier in Brussels, to the effect that Finland's needs were not being recognised. Steichen did his best to correct this, stressing his optimism that solutions to Finland's agricultural needs could indeed be found within the existing CAP. As I pointed out privately to some of my Finnish contacts, however, bringing Steichen to Southern Finland in the middle of June, when the sun was shining most of the day, the crops were shooting up in the fields and the cows were grazing contentedly on lush green grass, may have left him with a rather over-rosy impression of the real difficulties facing Finnish farmers.

The Finnish Position Paper on agriculture, when it finally emerged, was a detailed document of some 125 pages, accompanied by a further 60 or so pages on animal and plant health issues: a total, according to Antti Kuosmanen's calculations, of 134 separate requests.¹⁶³ The central thrust was the continued provision of a high level of support to Finnish farmers, to compensate them for the difficult production conditions prevailing in Finland. The two key elements proposed for achieving this were: on the one hand, the classification of the whole of Finland as a "less-favoured" area for the purposes of the EU Structural Funds; and, on the other, the payment of regionally graduated direct subsidies per hectare and per livestock unit. Finland requested in addition to be allowed to grant national support to livestock production in the northern half of the country, as well as national transport subsidies for the primary processing of milk, meat and eggs. By way of transitional arrangements, Finnish support prices, it was proposed, should be reduced only gradually to the EU level.

The Position Paper was not without its critics in Finland. On the one hand, the Social Democrat Opposition attacked both the budgetary cost and the burden placed on consumers by the proposed gradual price alignment. In the opposite direction, there were criticisms from the farming lobby, and from within Aho's own Centre Party, that it did not do enough for farmers in Southern Finland. For Brussels, it was problematic on several fronts.

¹⁶³ Kuosmanen, p.113

The first reactions from the EU side were set out in a Memorandum adopted by the Commission in late November 1993 and covering the three interlinked fields of structural policy, regional state aids and support for agriculture in respect of all four candidates. It was not a formal EU Position Paper, but an internal document intended to pave the way for the subsequent tabling of individual EU positions papers. It did not consequently attempt to respond in detail to each of the requests tabled by the Candidates. It was nevertheless an important indication of the way thinking was going.

Conscious of the huge sensitivity of this issue in Finland, I arranged, with the agreement of Brussels, to give a personal briefing to Prime Minister Aho, who had earlier that month written to Delors to express his concerns on the subject. The Commission Memorandum was in fact more positive towards Finland's requests than we were initially given credit for. As I stressed to Aho and others, the Commission had explicitly accepted that the candidate countries should be able to maintain farming throughout their territory. We had indicated openness towards the Finnish proposal to consider latitude as a surrogate for altitude in the definition of mountain, hill and less-favoured areas. We had also taken a positive attitude towards national support measures, even accepting that these could, where justified by agro-climatic conditions, be of a long-term nature. Contrary to the many rumours that had been flying around earlier in Helsinki, the Commission had not rejected out of hand Finnish requests in relation to Southern Finland, but had deliberately left the issue open for negotiation.

Much of the negative press reporting centred on the Commission's rejection of gradual price alignment, which was widely misunderstood as implying an immediate drop in farm incomes. As I had to keep pointing out, this did not mean that there would be no transitional regime, just that it would have to take another form. I had, from my arrival in Helsinki onwards, warned my Finnish interlocutors that the prevailing view in Brussels – which I shared – was that the abolition of frontier controls within the Single Market effectively ruled out gradual price alignment

for agricultural products. There were, admittedly, divided views on the matter, and the Finnish side appears to have concluded from its exploratory contacts with Commission officials in the agriculture department that price alignment could be organised as for previous enlargements, with levies or refunds (“accession compensatory amounts”) being respectively charged or granted on Finnish imports and exports to compensate for the remaining price differential. But this, as the Commission’s Memorandum pointed out, meant the retention of border controls, not just for agricultural trade but – because of the risk of fraud – for all trade between Finland and the rest of the Union. The Commission, for its part, was not prepared to sanction such a fundamental breach of Single Market principles. This was perhaps the most high profile issue on which exploratory contacts between Finnish and Commission experts led the subsequent negotiations seriously astray. Unfortunately, it was not the last such incident.

A different Finnish line might not necessarily have facilitated earlier agreement on the transitional regime, as the final details of the latter were so closely bound up with those of the longer term regime towards which Finnish agriculture was supposed to adapt. This applied in particular to the budgetary implications: if transitional payments were to be made to Finnish producers to compensate for the immediate fall in support prices, how was the cost to be divided between Helsinki and Brussels? Had it not been, however, for the continued stand-off on the basic issue of principle, work could have begun at a much earlier date on some of the underlying technical problems. Price alignment, whether immediate or in stages, poses the risk of speculative market disruption. There is also the problem of how to deal with higher-priced stocks produced at an earlier date. The (still relatively inefficient) Finnish primary processing sector faced its own special problems of adjustment. As it was, none of these questions was seriously addressed until the final marathon session at the end of February 1994. The continued presence on the table of these complex and essentially technical transitional issues further complicated the already difficult discussions on

other, more fundamental, issues and was a source of irritation to EU Ministers.

In the early weeks of 1994, as the negotiations proceeded towards their final climax, there was a flurry of high level contacts in both directions. On 20 January, Greek Foreign Minister Pangalos, who – as President-in-Office of the EU Council – was now chairing the negotiations from the EU side, visited Helsinki, as part of his final round of Applicant capitals, accompanied by Council Secretary General Ersbøll and by officials from Athens and the Commission. He met with President Koivisto, Prime Minister Aho, Foreign Minister Haavisto and Foreign Trade Minister Salolainen. His reassurances on procedure were well received. He confirmed in particular the Presidency’s commitment to the 1 March deadline, and outlined the timetable of Ministerial Sessions foreseen for February, to culminate in a last minute marathon session. (He declined however, at the subsequent press conference, to rule out the possibility of a break in parallelism.) On substance, he was – perhaps understandably – rather less specific, limiting himself to expressing understanding for Finnish difficulties, openness to the use of latitude as a criterion for agricultural support, as well as to the possibility of national coverage for special measures and to the idea of EU co-financing both for transitional income support and for permanent aid. He stressed the need to remain within the existing EU Financial Perspectives and Structural Fund provisions.

Four days later, as part of a continuing round of visits to EU capitals, Aho stopped off in Brussels on his way to a Council of Europe meeting in Strasbourg. Shortly after his return, he gave a dinner for EU Ambassadors in Helsinki, at which President Koivisto was the guest of honour. The mood on the Finnish side was distinctly downbeat. Aho expressed himself concerned that, despite what appeared to be firm political will at the highest level, Finland’s situation was not yet fully understood by those who sat at the negotiating table on our side. Even Koivisto gave an uncharacteristically gloomy assessment, complaining that people on our side seemed to regard the negotiations as a “zero sum game”, in which any gains by Finland must necessarily involve corresponding losses by

others. Haavisto too was visibly concerned and subdued.

On 8 February, Haavisto and Salolainen travelled to Brussels for the 6th meeting of the Accession Conference at ministerial level, at which there were further exchanges on agriculture and regional policy and at which the Customs Union chapter was closed. Shortly afterwards, on 11 February, the Commission's chief negotiator at official level, Steffen Smidt, was in Helsinki for talks with Finnish officials. He was followed on 14 February (in his EU Presidency capacity) by Greek Agriculture Minister Moraitis – who at least, unlike Commissioner Steichen the previous summer, had some opportunity to witness at first hand the rigours of the long Finnish winter. It was hoped that the remaining outstanding issues, with the inevitable exception of agriculture, could be settled at the 7th – and penultimate – meeting at ministerial level on 22 February in Brussels.

Not all visits during this crucial final period of the negotiations were agriculture-related. Both Internal Market Commissioner Vanni d'Archirafi and Research Commissioner Ruberti were in Helsinki in early February. Vanni's visit in particular provided a good opportunity to review the status of some of the other main questions that remained open. In his meetings with Aho, Salolainen, Haavisto and others, Vanni pressed the advantages of immediate alignment of agricultural prices and sought to calm Finnish fears on institutional issues.

On the eve of the ministerial meeting in Brussels, a large group of Finnish farmers staged a noisy demonstration in Helsinki, directly outside the Commission Delegation's offices in Pohjoisesplanadi. We knew of the demonstration in advance, and I agreed to receive a small delegation of farmers earlier in the day in my offices to listen to their views. I told them that the EU understood their predicament and that, although it was not an easy process, we were confident solutions could be found within the constraints of the CAP that would ensure the future of farming in Finland. They were clearly sceptical. Later in the day, the demonstration became – by Finnish standards – quite violent. Truckloads of snow were brought in and dumped in the road outside, preventing traffic from getting

through. The Delegation's EU flag was pulled down and burned. By Brussels standards, on the other hand, it was a rather tame affair; and some on the Finnish side clearly thought I was, as a result, rather too complacent in my subsequent media reactions.

The following day's ministerial meeting of the Conference was able, as expected, to register that agreement had now been reached on a raft of non-agricultural issues (secondary residences, fisheries, maritime links, Åland and Sami-related issues) permitting them to be cleared from the negotiating table. The main substantial business of the meeting, however, was the presentation by the EU side of its recently adopted position papers on the key agricultural issues outstanding, as well as on the proposed new Objective 6 Regional Policy structural instrument. The Finnish side declared itself disappointed and accused the EU of failing to understand the problems faced by Finnish agriculture.

In order to brief Brussels in preparation for the ministerial “marathon” at the end of February, I took contact in the following few days with most of the key personalities involved on the Finnish side at both ministerial and official level, in addition to the contacts I had already taken with key figures in the Eduskunta, in MTK and in the Confederation of Finnish Industries and Employers. It emerged that the Finnish side expected four agricultural issues to have to be settled at Ministerial level: long term (i.e. LFA and Nordic) support, production quotas (milk/sugar), veterinary questions (mainly for the Swedes to fight) and price alignment. In addition, there would be regional policy (Objective 6) and (possibly) travellers' allowances. The two major sticking points, as far as I was able to judge were: (a) on long term agricultural support, the need to achieve a solution which provided *some* EU money for *all parts* of the country; and (b) on regional policy, the need to achieve *visibly* equal treatment with the other Nordics (even if this would be of limited real benefit to Finland, given the already very good infrastructure that existed in the regions that would qualify). On (a), I warned Brussels that a line drawn at 62° was simply not sellable, given that three-quarters of Finland's cereal production took place south of that line, in conditions that

were manifestly far less favourable than anywhere in the present EU. If there were not a satisfactory solution here, it was likely that Haavisto would be unable to sell the deal to the Centre Party, with serious consequences both for the referendum and for the future of the Aho Government. On price alignment, by contrast, I advised that this should in the end be sellable to the Finnish side, provided we showed sufficient willingness to resolve the various, very real, practical problems it gave rise to, in particular the risk of market disruption in the early months of membership.

The ministerial “marathon” duly convened in Brussels, beginning with a formal meeting of the EU Council on the evening of Friday 25 February to finalise remaining EU common positions and review outstanding issues. I had flown to Brussels the previous evening in order to be available for last minute briefing. The next three days were taken up mainly with a succession of informal and technical contacts with Finland and the other Candidates, interspersed with brief formal sessions of the EU Council to report back and review positions. This pattern was broken briefly in the evening of 27 February, when there was a ministerial dinner followed by brief super-restricted (Ministers + 1) sessions of the four Accession Conferences. This apart, the Accession Conferences did not actually meet in formal session until the “moment of truth” arrived on 1 March. While such a procedure is not abnormal in EU negotiations of this sort, it inevitably contributed to the general sense of confusion.¹⁶⁴

On the central question of longer term agricultural support, the basic difficulty was that, while there was a willingness on the EU side to adapt the *acquis* to reflect the special circumstances of Nordic agriculture, the Commission wanted to avoid any “spill over” effect that would create new rights – at the expense of the EU Budget – for producers in existing Member States. There were many misunderstandings about this, which were only ultimately clarified in “technical” meetings between senior Commission and Finnish officials that took place on Sunday 27 February.

¹⁶⁴ See Kuosmanen, pp. 140–142

The key issue here was the latitude to be taken as the reference point for “mountain” LFA status. Finland had argued that all regions north of 60 degrees should be classified as mountain LFA (the most generous regime) on the basis that this corresponded to an altitude of 600m further south. This would have provided 100% coverage for Finland. Unfortunately, within the existing *acquis*, it was 800m, and not 600m, that was the determining altitude for mountain LFA status based on the shortness of the growing season. The inclusion of certain regions (e.g. the Vosges) at lower altitudes was based on other, non-climatic factors, such as steepness of slope or difficulty of access. Commission experts had calculated that 800m in the Alps was the equivalent of 62 degrees North: a growing season of 160/170 days. A limit of 60 degrees would have implied substantial spill over elsewhere in the Union. Certain Finnish regions south of 62 degrees could qualify for “normal” LFA status; but since that was determined by comparison with national, rather than EU, averages, this could not by definition lead to 100% coverage, though it could mean that at least 72% of Finland was classified as either mountain or normal LFA. The fact that certain other EU regions further south had “normal” LFA status was irrelevant, since that depended on the national average data for the Member State concerned, not on a comparison with Finland. Moreover, neither mountain nor normal LFA provided any support for wheat or sugar beet, meaning that it would be of limited help anyway to Southern Finland.

There were similar Commission concerns about spill over in relation to the granting of additional, nationally-financed “Northern” support. It was important that no new rights were created for any region of the existing EU-12. There were also concerns about encouraging over-production, particularly in the cereals, beef and dairy sectors. The solution proposed was to limit such aid to areas that would qualify, under the new latitude criterion, for mountain LFA status, with certain additional restrictions related to land-use and production potential. The Finnish side retorted that these additional restrictions would limit support to only 5% of agricultural land.

I had predicted, in a report to Brussels in early December 1993, that agriculture in Southern Finland could well be the issue that would determine Finnish accession. And so it was now to prove. The Finnish problem, I had earlier reported to Brussels, was basically four-fold: firstly, poor structures (small farm size, fragmented holdings); secondly, poor marketing for most products (many cereal farmers sold most of their produce privately to local livestock producers); thirdly, poor climatic conditions, resulting in low and heavily fluctuating yields; and, fourthly, regional specialisation under the current domestic agricultural policy. The first two problems could, to some extent, be solved given time. The third would of course remain a permanent reality. Here, the South of Finland was now particularly vulnerable because of the legacy of regional specialisation. Current domestic Finnish policy, devised at a time when accession was politically inconceivable, sought to reserve the South of the country for crop production (and related sectors such as pigs and poultry) by encouraging dairy production in the Central and Northern regions. This reflected the logic of regional *comparative* advantage, even though the South undoubtedly had an *absolute* advantage in almost all sectors. With accession, however, Southern cereal farmers now faced a situation where they would be unable to compete under normal market conditions with other cereal producers in the European Union, but had little possibility of switching to other products because of the quota restrictions that existed in the dairy and sugar sectors and the high levels of aid which were likely to be given to the Northern regions of the country.

In the afternoon of 28 February 1994, the EU side tabled a “final” package of revised positions. Finland would receive 725 MECU of “agro-budgetary” support, just under half of which was – on Finnish figures – effectively a contribution to the cost of transitional compensation for immediate price alignment. LFA status would apply to 85% of Finnish agricultural land, including certain small areas of Southern Finland affected by specific handicaps, with mountain LFA status for all areas north of 62 degrees. The definitional criteria applied for Northern

national support would be such as to ensure full coverage for all areas north of 62 degrees “as well as in a small adjacent area to the south of this”. There were also improved offers on milk, sugar and aid to the processing industries, as well as on Regional Policy coverage under the new Objective 6 (where we knew that visible parity with Sweden was important to the Finns). The most that could be offered for Southern Finland, however, was that those areas not covered by LFA or Northern support could be especially targeted, within Finland’s overall national programming, for receipt of EU structural and environmental funds. Recourse to national direct aid “could be contemplated” in the case of serious remaining difficulties.

The offer was rejected by Haavisto as insufficient and – in the exhaustion of the early morning of 1 March – it looked for a time as if negotiations had broken down (the EU Council having rejected a compromise proposal put together by the Presidency and the Commission).

Talks were, however, subsequently resumed and a deal was finally struck late in the afternoon. The most important improvements (from a Finnish perspective) were: first, an increased agro-budgetary package of 855 MECU; second, confirmation that mountain area status would be given to “the areas referred to in the Union’s position”; third, confirmation that recourse to national direct aid “*will* be considered” for the remaining serious difficulties; and, last but not least, a clear statement that the whole of Finland “*will* be eligible” for Nordic, national and/or Community support. Indicative amounts were provided for future Finnish receipts from the EU Structural Funds. There were also new elements in relation to the market regimes for a number of products, plus a declaration on how to deal with any market disturbances during the transitional period. With this last minute political deal, all the remaining open questions in relation to agriculture and regional policy were considered to have been settled. Both sides went off to brief the press accordingly and returned home to catch up on lost sleep.

However, once the legal drafters set to work to convert this into treaty language, a number of disputes arose about what had

actually been agreed. This was almost inevitable, given the chaotic nature of the final stages of the negotiations and the ambiguous language of the final negotiating documents. There was much haggling about the precise status of “long term” national support. The EU position was that the Accession Treaty could provide only for technical adaptations of the *acquis* and transitional measures, in line with the basic EU philosophy that there could be no permanent derogations. The provisions on both long term national support and national aid for remaining serious difficulties were thus consigned to that part of the Treaty dealing with transitional measures. In other words, although they were not specifically limited in time, their permanence was not guaranteed. The Commission had moreover, in order to obtain agreement to the final package, been obliged to enter a number of declarations into the Council minutes, one of which committed it to ensure “that national aids designed to facilitate the integration of the agricultural sector into the common agricultural policy are of a transitional and degressive nature”.¹⁶⁵ This caused considerable upset on the Finnish side when they later learned about it.¹⁶⁶ This issue was, as we shall see below, to resurface again later in connection with the Commission approval of the national aid package.

A second major dispute concerned the precise status of the 85% of Finland that was to be classified as LFA. It was clear that all regions north of 62 degrees were to receive mountain LFA status. But what of those areas to the south? Both Heikki Haavisto and Veli Sundbäck raised this issue with me a few days after the political agreement of 1 March. Helsinki understood it to have been agreed that these latter areas were also to be mountain LFA and was deeply concerned at rumours that the EU was now seeking to backtrack on this. I immediately sought instructions from Brussels. I had not attended the final negotiating session on 1 March, as I had returned to Helsinki to be present with the rest of the Helsinki Diplomatic Corps at the inauguration of President Ahtisaari. Mountain LFA status south of 62 degrees was,

¹⁶⁵ Council document 5057/94 ADD 1

¹⁶⁶ Kuosmanen, pp. 150–151

however, certainly not consistent with the overall logic of the LFA package, nor with the positions taken in the Council’s discussion of 28 February. It emerged that, in Brussels too, there was considerable doubt, especially within the Commission, as to whether such a concession had in fact been made. Helsinki, however, remained adamant: the final negotiating document listed a number of clarifications and precisions to the Union’s earlier common position; one of these was that “mountain farming status will be given to the areas referred to in the Union’s position”. A political crisis loomed, not least since the Finnish side had gone public with their interpretation in a press release issued at the end of the final negotiating session. Despite the doubts that persisted, the EU in the end accepted the Finnish interpretation. The Accession Treaty duly records that “the areas above the 62nd Parallel and some adjacent areas” shall be treated as mountain areas for the purposes of the LFA Directive.¹⁶⁷ Furthermore, an EU Declaration appended to the Final Act makes clear that this applies to all areas of Southern Finland that form part of the agreed 85%.¹⁶⁸

A third problem related to the size of the production quotas for sugar. A precise figure of 144,278 tonnes had been proposed for Finland’s “A” quota¹⁶⁹ for sugar in the document setting out the various modifications and precisions to the EU’s common position that had formed the basis for the final agreement at ministerial level. It later transpired that an error had been made within the Commission services and that the text should have made clear that this was the total “A” quota for both sugar and isoglucose.¹⁷⁰ The EU’s insistence

¹⁶⁷ Annex 1 to the Act of Accession, point V.C.1

¹⁶⁸ The relevant part of the Declaration reads: “For Finland, counting the northern latitude as a relevant criterion for the purposes of Article 3, paragraph 3 of Council Directive 75/268/EEC as well as the amendment to Article 19 of Council Regulation (EEC) No 2328/91 will allow the coverage of 85 % of the utilized agricultural area within the meaning of Article 3, paragraph 3 of Council Directive 75/268/EEC”.

¹⁶⁹ i.e. that part of the production quota eligible for the full benefits of the price support system

¹⁷⁰ A starch-based fructose sweetener that is also covered by the EU’s sugar regime and which, like sugar, is subject to a production quota.

on correcting this error after final ministerial agreement had been reached caused considerable resentment on the Finnish side.¹⁷¹

The resolution of these three outstanding issues cleared the way for the finalisation of the drafting of the Accession Treaty. It was however far from the last that was to be heard on the subject of agriculture in the context of Finnish accession. As we shall see in the following chapters, it was to figure as a central element in the referendum campaign and in the subsequent parliamentary debate. Even long after Finland's actual accession to the EU, there were still loose ends to be tied up in relation to some of the provisions that had been agreed in that difficult final package.

¹⁷¹ See Kuosmanen, p. 152

Photo: Thomas Schoch / Wikimedia Commons



X

SHAKESPEARE AND ELVIS PRESLEY

Although the ministerial “marathon” session that ended (for Finland) in the afternoon of 1 March is generally considered to have been the decisive concluding moment, the accession negotiations did not in fact formally end until some weeks later, with the approval by the final sessions of the four Accession Conferences of the legal texts of the Treaty of Accession. Although the legal drafters had begun their work already at the end of the previous year, they still had to convert into legal treaty language the negotiating documents that had formed the basis for the final political agreement reached by Ministers. As we saw in the previous Chapter, this was a far from straightforward process, given the differing interpretations of what had actually been agreed.

There were moreover certain institutional issues on which substantive agreement had still not been reached, owing to problems on the EU side. The most important of these related to qualified majority voting in the enlarged Council of Ministers, and in particular the number of votes that would constitute a blocking minority. The EU was finally able to agree on a Common Position (the so-called “Ioannina compromise”) only at the informal EU Foreign Ministers meeting of 26/27 March in Ioannina in Greece. This enabled the institutional chapter to be formally closed at the meeting of the Accession Conference (Deputies) of 30 March.¹⁷²

It was not however until 12 April, under the inexorable time pressure resulting from the European Parliament’s assent procedure (see below), and after much shuttling back and forth of officials between COREPER and the respective Accession Conferences, that the definitive legal text of the Accession Treaty together with its various appendages was – with a certain amount of bad temper on both sides – finally approved by the negotiators of the EU and the Candidate Countries. This opened the way for the process of ratification to begin.

The Copenhagen European Council of June 1993 had set a target date of 1 January 1995 for the accession of the new Member States. This was primarily to enable the latter

to participate in the 1996 Intergovernmental Conference provided for in the Maastricht Treaty.¹⁷³ Although the IGC itself was formally opened only at the end of March 1996, the preparations for it were to be launched already at the Corfu European Council of June 1994. In particular, the Reflection Group chaired by Carlos Westendorp was to begin its work already in June 1995, on the basis of contributions submitted in the meantime, and to report to the Madrid European Council in December that year. If the Candidates were to participate fully in that process, they therefore needed to accede not later than the beginning of 1995.¹⁷⁴ Sweden, as we have already noted, was in any event pressing for that date for domestic constitutional reasons.¹⁷⁵

Following the precedent of all previous enlargements, the Treaty of Accession had consequently set a deadline of 31 December 1994 for the deposit of ratifications, failing which the Treaty would lapse. The Treaty was however so crafted – again following previous precedents – that, if one or other candidate was unable to ratify, the Treaty could still enter into force for the others, provided that the all EU Member States had ratified.

For the four Candidates, ratification required in all cases the approval of the Treaty by their parliaments. Each of the four had, in addition, decided to hold an advisory referendum in advance of the parliamentary vote. On the EU side, the process of ratification was a rather more complicated affair. Under the EU Treaties, the accession of new Member States required – then as now – the approval of the EU Council, acting by unanimity after consulting the Commission¹⁷⁶ and after

¹⁷³ Articles A (5th indent) and N (2)

¹⁷⁴ The possibility that Candidate Countries might be allowed to participate in the work of the IGC prior to their date of accession, as was the case for the 2002–3 Convention on the Future of Europe, was not, as far as I am aware, ever considered as a possible alternative.

¹⁷⁵ See Chapter IV above

¹⁷⁶ The Opinion which the Commission delivers at this point – which is the one referred to in the Treaties – is not to be confused with the detailed analysis (also called an Opinion) that the Commission traditionally delivers before the Council’s decision to open accession negotiations.

¹⁷² See Council press release 6004/94 of 11 April 1994

obtaining the assent, by an absolute majority of its component members, of the European Parliament.¹⁷⁷ As for the Treaty of Accession itself, fixing the conditions of admission and consequent adjustments to the EU Treaties, this – being the product of an intergovernmental conference between the Candidate Countries and the existing Member States – had to be ratified by each of the latter in accordance with their respective constitutional requirements.

By the standards of the previous three enlargements, the time allowed for ratification was not unprecedentedly short. On these earlier occasions there had been a gap of between five-and-a-half and nineteen months between the date of signature and the date of accession. This time round there were eight-and-a-half months from the final sessions of the Accession Conferences on 12 April to the target accession date. This was, however, the first enlargement to be subject to the assent of the European Parliament, since this requirement had been introduced only by the Single European Act of 1987. Those eight-and-a-half months had moreover also to accommodate four national referenda (plus a separate provincial referendum in Åland) on top of the usual parliamentary ratification procedures. In the case of Finland, there was the additional need to finalise, in advance of the referendum, the accompanying domestic agricultural package. Against this background, the timetable looked distinctly less generous.

One of the first key deadlines in this tight schedule related to the assent of the European Parliament. This was because 1994 was an election year. If the relevant Resolutions were not voted at the May Part-session, before Parliament was dissolved prior to the June elections, they were unlikely to be voted before September. The Accession Treaty could not be signed until the Parliament had given its assent. (This was not a Treaty requirement, but the Member States had deemed it politically prudent to go along with the Parliament's insistence on this.) Parliamentary ratification procedures, in the Member States as in the Candidate Countries

¹⁷⁷ Now called "consent" (Article 49 TEU) since the entry into force of the Lisbon Treaty

could, conversely, be launched only on the basis of a signed text. The timing of the European Parliament's vote was thus crucial to the meeting of the January 1995 deadline for accession.

For the Parliament to deliver its vote at its May Session, it had first to receive the final legal texts in sufficient time for them to be examined in detail by the relevant Parliamentary Committees. Given that the Session was taking place already in the first week of May, the final legal texts needed to be with the Parliament not later than 12 April. Hence the time pressure on the legal drafters. It was however by no means a foregone conclusion that, even if the Parliament did receive the legal texts in time, it would be prepared to vote on the accession package at its May Session; nor, if it did, that the vote would necessarily be a positive one.

There was a strong body of opinion in the Parliament that considered that the institutions of the EU needed to be reformed before any further enlargements could be contemplated. The Parliament had put down a clear marker already in 1991, during the negotiations for the Maastricht Treaty, "that the Community cannot embark upon a process of enlargement unless the Treaty amendments currently under discussion result in a substantial strengthening of the Community institutions".¹⁷⁸ Judging the outcome insufficient, the Parliament subsequently declared that "it will not be able to agree to the accession of new Member States unless further reforms are adopted in addition to the Maastricht Treaty".¹⁷⁹ A whole raft of very specific proposals for institutional reform was set out in the Resolution adopted by the Parliament in January 1993 pursuant to the Hänsch Report.¹⁸⁰ The Parliament's Resolutions on

¹⁷⁸ European Parliament Resolution of 15 May 1991 on Community enlargement and relations with other European countries (*Official Journal C 158*, 17/06/1991 P. 0054)

¹⁷⁹ European Parliament Resolution of 7 April 1992 on the outcome of the intergovernmental conferences (*OJ No C 125*, 18.5.1992, p. 81)

¹⁸⁰ European Parliament Resolution of 20 January 1993 on the structure and strategy of the European Union with regard to its enlargement and the creation of a Europe-wide order (*OJ No C 42*, 15.2.1993, p. 124)

enlargement of February¹⁸¹ and July 1993,¹⁸² as well as its March 1994 Resolution on enlargement and neutrality,¹⁸³ recalled and reaffirmed these earlier *prises de position*.

The Parliament's institutional concerns were further exacerbated by the actions of the Greek Presidency. There was deep dissatisfaction with the Presidency's proposal that the Parliament should – like the Economic and Social Committee and the Committee of the Regions – be only “associated” with the preparations for the 1996 IGC, rather than being a full member of the Reflection Group. Many MEPs moreover were strongly opposed to the Ioannina compromise, considering that the blocking minority should simply be raised to 27 votes as the simple arithmetic of enlargement would suggest.

Moreover, although there was for the most part no objection to the four candidates themselves, there were, in some quarters, still lingering worries about neutrality, particularly in respect of Austria. This was clearly visible in the above-mentioned Resolution on enlargement and neutrality, which expressed concern that public opinion in some of the Candidate Countries might be opposed to the development of a defence policy dimension within the EU; also that Austria's neutrality in particular might pose problems for participation in joint measures and joint action under the newly established CFSP. Austrian neutrality had also been the subject of a number of parliamentary questions.¹⁸⁴

There was, on top of all this, the risk that, this being the last Session before the June Parliamentary elections, many MEPs might absent themselves to prepare their election campaigns or – for those not seeking re-election – to prepare their future new careers. If this happened it might prove difficult, given the strength of the opposition,

¹⁸¹ European Parliament Resolution of 10 February 1993 on enlargement (*OJ No C 72, 15.3.1993, p. 69*)

¹⁸² European Parliament Resolution of 15 July 1993 on enlargement (*OJ No C255, 20.9.1993, p. 207*)

¹⁸³ European Parliament Resolution of 24 March 1994 on enlargement and neutrality (*OJ No C 114, 25.4.1994, p. 61*)

¹⁸⁴ See for example Written Question no. 2408/92 (*OJ No C 86, 26.3.1993, p. 20*) and Question H-1297/93 (*EP Debates no 441, p. 174*)

to muster the requisite 260 votes in favour. As late as 27 April Member State Ambassadors in COREPER were still being urged by certain of their colleagues, in the light of the uncertainties that persisted, to get their capitals to lobby actively their compatriots of all political groups in the Parliament to seek their support.

Worried that they would end up being taken hostage by the institutional concerns of the Parliament, the four Candidate Countries sent their Prime Ministers (or their deputies) to a special hearing organised by the Parliament on 19 April. Pertti Salolainen attended for Finland. Further opportunities for Helsinki to lobby the European Parliament were provided by the meetings in Helsinki of the EU-Finland Joint Parliamentary Committee (of which the EP rapporteur for Finnish accession, Gary Titley, was the EU co-chair) in mid-March and the EEA Joint Parliamentary Committee at the end of April. (Finland was chairing the EFTA Council – for the last time – in the first half of 1994.) The Secretary General of the Socialist Group in the EP, Julian Priestley, also visited Helsinki in mid-April.

Contrary to all the pessimistic forecasts, the Parliament did in the end put the item on its Plenary agenda for 4 May; and, confounding all fears of the opposite, gave its assent to the four accessions by comfortable majorities. The two draft motions for referral back to committee – which would effectively have postponed accession – were voted down by decisive majorities. The debate itself was a mammoth, atmospheric occasion, lasting over six hours, with 105 interventions. The Ambassadors of the four candidate countries sat looking on, in a public gallery packed with journalists and television cameras. The Parliament's rapporteur for Finland, Gary Titley, began his intervention with a quote from Shakespeare (“There is a tide in the affairs of men...”) and ended with one from Elvis Presley (“It's now or never!”). When the four draft Resolutions (one for each of the Candidates) were put to the vote, the accession of Finland was approved by an overwhelming majority of 377 to 21, with 61 abstentions. There were similar, though not totally identical, majorities for the three other Candidates.

The key to this quite unexpectedly good result was that, once it became clear that the motions for referral would be defeated, many of those MEPS who had supported them went on – having made their point – to vote in favour of assent in the main vote. Matters were undoubtedly helped by the impassioned and warmly applauded speech Delors had delivered when the Ioannina compromise had been debated by the Parliament on 20 April – and to which Van Den Broek had referred during his intervention in the assent debate. Delors had reminded his audience that he personally had been a firm advocate of institutional reform ever since the IGC that had prepared Maastricht. The Commission, he had stressed, was determined that the Ioannina compromise should not be allowed to prejudice the outcome of the 1996 IGC. The accession of the current four Candidates would in no way worsen the institutional “*dérive*” that already resulted from the Maastricht Treaty. The Parliament would do better to save its powder for the battle to come in 1996.

With the Parliament’s assent confirmed, the EU Council was now in a position to adopt, a few days later, its brief formal Decision accepting the applications for membership of the four Candidates.¹⁸⁵ (The Commission had, already a month earlier, given its green light in its – equally brief – Opinion on the four accessions).¹⁸⁶ Moreover, the way was now clear for signature of the Accession Treaty.

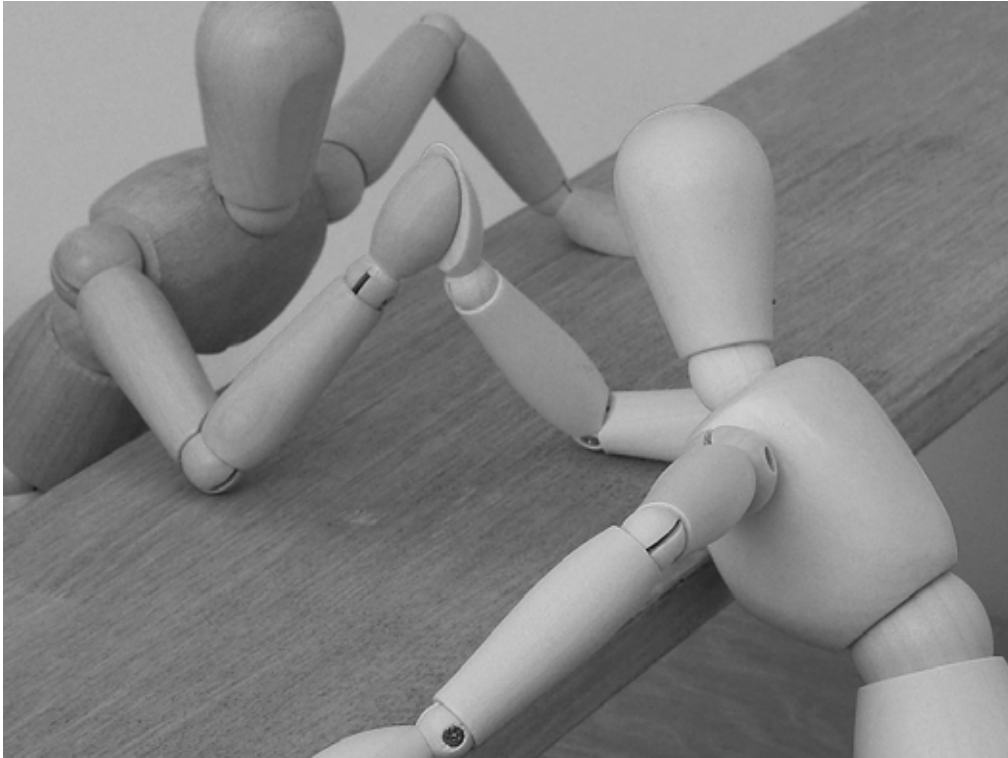
It was proposed that the signature ceremony should take place on 24 June in the margins of the European Council’s meeting in Corfu, which the Leaders of the four Acceding Countries (as they would henceforth become) would be invited to attend as observers. This was in line with the traditional EU policy of allowing observers from acceding states to attend meetings of the various organs of the

Council in the interim period between signature of the Accession Treaty and the actual date of accession. By this time, attention in Finland had long since become focussed on the package of domestic agricultural support measures that Finland would need to introduce in consequence of her EU membership. So central was this to the domestic debate on EU membership that it was not until 20 June that the Finnish Government finally took the formal decision to proceed with the signature of the Accession Treaty at Corfu. There were also divided views in Helsinki over the question of who should represent Finland at the meeting, given the respective constitutional competences of the President and the Prime Minister. In the end both attended, although the debate continued back home over what should happen when Finland became a full EU member.

¹⁸⁵ Decision of the Council of the European Union of 16 May 1994 on the admission of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union (OJ C241 of 29 August 1994, p. 6)

¹⁸⁶ Commission Opinion of 19 April 1994 on the applications for accession to the European Union by the Republic of Austria, the Kingdom of Sweden, the Republic of Finland and the Kingdom of Norway (COM(94) 148 of 19 April 1994)

Photo: Aldo Cavini Benedetti / Flickr.com



XI

TOWARDS THE REFERENDUM

It had been apparent ever since the final ministerial negotiating session that the extent and nature of Finnish domestic agricultural support post-accession was going to be one of the decisive factors in determining whether Finland would in the end ratify the Accession Treaty. It would, in particular, determine whether Aho could sell the deal to his own Centre Party – or even to some of his Centre Party colleagues in the Government. It was also an important issue for the Swedish People’s Party because of the vulnerability of the horticultural producers in the Vaasa region.

These factors, and the divisions within the Government to which they had given rise, were, I reported to Brussels, the main reason why the Finnish Government’s reaction to the deal reached on 1 March was so muted, compared with the generally positive media reaction and the continuing high popular support for membership. Latest polls were showing 45% for vs. 27% against, with 27% undecided. We estimated that there was a hard core of around 25% who would vote “no” whatever happened (not necessarily because of agriculture). The key battlefield was therefore the 27% of “don’t knows”. How far would they be swayed in a negative direction if MTK and/or the Centre Party were to pronounce themselves in outright opposition to EU membership on the terms negotiated?

In presenting to the Eduskunta on 4 March the deal that had emerged from the final ministerial marathon, Aho limited himself to saying that the result obtained “will secure the preconditions for agriculture”; he went on to stress that it would be only “together with the national measures to be subsequently decided upon” that the outcome could be regarded as fulfilling Finland’s basic negotiating objectives. Four high-level working groups were established by the Government to report on the various aspects (agriculture, food industry, taxation, structural policy), with instructions to come up with draft proposals by early May, following which the Government would table a bill in the Eduskunta. There were no further Government presentations to the Eduskunta on the outcome of the accession negotiations until Aho’s response to a no-confidence

motion in mid-June (see below); and no written communication until the tabling in August of the bill for ratification of the Accession Treaty. President Ahtisaari was, by contrast, in his frequent public utterances, unequivocal in his support for Finland’s EU accession.

Until well into June, the future timetable at the Finnish end remained very uncertain. There was, in particular, much debate about when the referendum should take place. Initial indications were that, provided the European Parliament gave its assent in May, the referendum would take place sometime in September, i.e. before the Swedish referendum. Later indications suggested that Aho had a preference for holding it on 13 November, the same day as Sweden, while the President and other Party Leaders were pressing for early October.¹⁸⁷ There was even, so we were reliably informed, talk at one stage in some Centre Party circles of seeking to postpone accession until 1 July 1995, with the referendum being held only after the March 1995 general elections. The one thing on which everyone apparently agreed was that the Centre Party conference in June was likely to be the decisive rendezvous, both for the fate of Finland’s EU membership bid and for the survival of the Aho Government. Only thereafter would the remainder of the timetable become clear.

Meanwhile, work had begun in earnest on the domestic agricultural support package (*Tukipaketti*). This was a two-stage operation. The first stage consisted of a “Government Decision in Principle”, which was published at the end of May,¹⁸⁸ in good time ahead of the Centre Party National Congress in mid-June. The second stage involved the tabling of the necessary draft national legislation in the Eduskunta, as part of the August package of bills related to the ratification of the Accession Treaty; the objective being that

¹⁸⁷ There had been much discussion between the three Nordic Candidates as to the “optimum” order of the three referendums.

¹⁸⁸ Government Decision in Principle on the adjustment of Finnish agriculture and food economy as well as regional and structural policy to membership in the European Union, 27 May 1994

the Eduskunta should approve this in advance of the referendum.

The nature and size of the tukipaketti rapidly became the object of a complicated – and, to outside observers, peculiarly Finnish – game of political poker; pitting not only the Government against the Social Democrat Opposition, but also creating splits and pressures within the Coalition itself. There were divided views, not only within Aho’s Centre Party, but also within the Conservative Party, where internal pressures were to lead in June to the resignation of Pertti Salolainen from the party leadership (although not from the Government).

Although we were mere observers on the sidelines of all this, the Commission was directly involved in a different fashion with the elaboration of the tukipaketti. This was because, under the EU Treaties, national state aids have to be notified to, and in most cases approved by, the Commission before they may be put into force. This applied also to the transitional and longer term support measures that Finland was entitled to introduce under the Act of Accession. Formal Commission approval could however be given only once Finland became an EU Member State. This posed a problem that Veli Sundbäck had raised with me when we had met in early March, just after the ministerial marathon, namely: how could the Commission be involved in this in advance of the date of accession, to avoid a situation where measures presented as part of a referendum package were subsequently declared illegal by the Commission after accession? I had suggested that the Finnish side take this up informally with Brussels (to whom I duly reported on our conversation). This was subsequently done and resulted in a series of informal contacts and exchanges in the course of the following months. It was a delicate and high risk operation, which indeed on a couple of occasions nearly came unstuck. I kept in regular contact throughout with Minister Mikko Pesälä and Secretary of State Reino Uronen at the Ministry of Agriculture as well as with Agriculture Commissioner Steichen’s senior advisors in Brussels. This proved to be a wise precaution.

One initial major problem was that it was difficult to have any meaningful discussion

with the Commission until there was some measure of agreement within the Government itself. It was thus not until 18 May that the first serious contacts took place, in the form of a meeting in Brussels between Pesälä and Steichen.¹⁸⁹ By then, a fair amount of material had already been made public at a press conference given by Pesälä on 15 May. At the meeting a non-paper was handed over, summarising the main lines of the “Government Decision in Principle” which was in the process of being finalised. Steichen responded in a carefully worded letter in which, while stressing that he could not commit the Commission either way in advance of Finnish accession, he nevertheless put down a clear marker of concern regarding the nature of the long term national aids that were being envisaged. The letter did however confirm the Commission’s willingness to continue discussions.

The Government’s “Decision in Principle” was duly published on 27 May. Shortly thereafter, on 7 June, Aho met with Delors in Brussels. The discussion was mainly devoted to the political situation in Finland in relation to EU accession. Aho outlined the timetable now envisaged for ratification:

- Government statement to the Eduskunta on 13 June, on both the outcome of the negotiations and the domestic package, culminating in a vote of confidence (simple majority);
- tabling of the formal bills in the Eduskunta as soon as possible after signature at Corfu, probably late July/early August;
- referendum 16 October;
- final vote in the Parliament (two-thirds majority) after the referendum

Aho added that the Finnish Government wanted to discuss the domestic package with the Commission well ahead of the referendum.

Delors agreed that it was important to have a common attitude if trouble were to be avoided later on. The Commission’s preliminary examination suggested that there

¹⁸⁹ This was the first time they had met, as Pesälä had only taken over his post the previous month.

were two main difficulties: the list of areas south of 62° that would be eligible for Nordic support;¹⁹⁰ and the measures to deal with any remaining serious difficulties.¹⁹¹ The Commission had been assuming that contacts on the package would stretch out until the date of accession. If a Commission reaction was needed earlier, then it would be necessary to proceed in strict confidentiality. It was agreed to follow up at official level, in a very restricted format, with a view to reaching (informal) agreement in good time before the referendum.

A week after his return from Brussels, Aho delivered as expected his statement to the Eduskunta on the outcome of the accession negotiations and the national measures proposed by the Government to complement the Accession Treaty. He stressed that the legislation related to the latter would have to be passed before the referendum; and that “sufficient certainty as to their acceptability will be obtained from the EU Commission prior to the parliamentary proceedings”. Aho’s statement was, technically speaking, the response to a Left Wing motion of no confidence concerning the effects on Finland of participation in the CFSP; but it became in effect a vote on EU membership and the tukipaketti. At the end of the two-day debate, the Government survived by 97 votes to 80, with 18 abstentions. But Aho failed to get the “broad national consensus” he had argued for. The Social Democrats, forced to vote on the two issues together, voted against – but reportedly only after carefully doing their sums to ensure that this would not result in the fall of the Government and the possible consequent derailing of EU accession. Significantly, most of the 18 abstentions were from the Government parties, half of them from Aho’s own Centre Party.

From then on, until the summer break, events moved rapidly. With the Government’s “Decision in Principle” under his belt, Aho was able on 18 June to obtain an impressive two-to-one vote in favour of his Government’s EU policy at the Centre Party national congress – albeit (so we were informed) only after threatening to resign the

party leadership. On 20 June, the Government took the formal decision to proceed with the signature, on 24 June in Corfu, of the Accession Treaty. This led, as widely expected, to the departure from the Coalition of the Christian League. (Although this theoretically reduced the Government’s majority by 8 seats, it did not in reality change anything much, since the Christian League could probably be counted on to support the Government on the agricultural support package, and would in any case vote against ratification of the Accession Treaty.) The following day, the Eduskunta unanimously approved the Government’s referendum bill, providing for a referendum on 16 October on the basis of a yes/no response to the question: “should Finland join the EU on the basis of the negotiated agreement?”.

In late July, Commission President Jacques Delors paid a long-planned visit to Finland (which he had last visited in July 1988). His visit had been deliberately postponed until after the end of the accession negotiations, and the programme – which took place between 21 and 23 July entirely outside Helsinki – was carefully crafted to minimise the risk of Delors’s being drawn into the domestic ratification debate. Delors was one of the speakers (together with President Koivisto, Prime Minister Aho, Foreign Trade Minister Salolainen and other dignitaries) at the Chydenius Seminar in Kokkola, in between a visit to the Pori Jazz Festival – a particular interest of Delors – and the Kaustinen Folk Music Festival. A visit to a local dairy farm was also included, as well as an address to a seminar of representatives of the two sides of industry and a round table discussion with representatives of the Finnish cultural community. In the margins, Delors had meetings with President Ahtisaari, PM Aho and Social Democrat Leader Paavo Lipponen.

It was, contrary to Delors’s earlier fears, a very successful visit. Delors was given a warm and friendly welcome throughout, and there was much positive press coverage. The latter showed that, without being drawn into the domestic debate, Delors had succeeded in getting across a number of important public messages: first, that Finland would find a warm welcome as a Member of the EU; second, that the Nordic model of society was

¹⁹⁰ Article 142 of the Act of Accession

¹⁹¹ Article 141 of the Act of Accession

safe inside the EU; thirdly, that EU membership would strengthen Finland's security; and, last but by no means least, there was no contradiction between the CAP and the objectives of Finnish agricultural policy – the EU would not abandon Finnish agriculture. The fact that Delors's own father had been a small farmer was also favourably commented on.

Both Ahtisaari and Aho expressed optimism about the outcome of the Finnish referendum. In respect of the Commission's evaluation of the tukipaketti, it was agreed that no public statement should be made while talks were still continuing. Aho stressed the importance of reaching agreement before the Eduskunta began its deliberations on the related legislative bills.

The informal talks between the Commission and Finnish officials continued over the summer, leading up to a meeting on 9 September in Brussels between Haavisto, Pesälä and Steichen. In preparation for this, I called beforehand on Haavisto, Reino Uronen and Veli Sundbäck to get their assessments. I also had the opportunity for a conversation with Pertti Salolainen, who was the luncheon guest at the EU Ambassadors' meeting on 7 September. Haavisto, when I called on him, was about to address the following day (3 September) an extraordinary general assembly of the farmers' association MTK, which was expected to adopt a negative position towards EU membership. He was concerned about the possible impact of this on the parliamentary vote. Regarding the ongoing talks on the tukipaketti, it emerged from my various contacts that these did not formally speaking stand in the way of the Government's tabling the various bills in the Eduskunta, since these were mainly enabling legislation. On the other hand, the Government would need to be much more specific in the course of the debate itself.

There was recognition that not everything could be settled in detail now. But it was important, I was told, to be able to say that the basic issues were solved, that Finland's basic problems were understood, and that there were no reasons to expect any difficulties from the Commission in the implementation of the support package as now tabled in the Parliament. The politically most important

issues were: the list of areas south of 62° eligible for Nordic support ("the map"); the maximum levels for Nordic support; and the problems surrounding the long term national aids to be granted to offset "remaining serious difficulties".¹⁹² The problem with the latter was that the Finnish side wanted to fix the amounts already now, whereas the Commission's line was that such difficulties could by definition be measured only once all the other instruments were in force. There were also a few more technical issues which the Finnish side wished to see resolved between experts in advance of the parliamentary debate.

I also called on MTK Chairman Esa Härmälä (whom I knew well from his previous functions in the Prime Minister's Office and as a member of Finland's negotiating team) to discuss the outcome of the 3 September MTK meeting. Härmälä agreed that the timing had been unfortunate, but claimed that MTK had earlier been given to understand that the informal contacts between the Commission and Finnish officials would be concluded by the end of August. He stressed that the resolution adopted by MTK, while negative, had limited itself to the purely sectoral considerations of Finnish farmers. It did not take a position on the wider balance of national interest; nor would MTK be combining its efforts with the mainstream "no" lobbies, or contributing to them financially.

The Haavisto/Pesälä/Steichen meeting in Brussels went reasonably well. The feedback I received from the Finnish side indicated that they were quite satisfied with the outcome. There had been, as hoped, agreement on "the map" (a copy of which was duly signed by the three ministers), as well as on the basis for fixing the borderline between LFA and non-LFA areas. On transitional support and Nordic support (now that the map had been agreed) there appeared to be no outstanding political problems. On support for remaining serious difficulties a compromise had been reached permitting the problem to be postponed. In his subsequent comments to the press, Steichen announced that overall agreement had been reached on the most important issues, even if more work was still required at

¹⁹² Article 141 of the Act of Accession

technical level. At Finnish request, Steichen subsequently confirmed, in a letter to Pesälä, his understanding of what had been agreed.

As always, however, the devil was in the detail. This proved to be the case both for the agro-environmental support measures to be implemented under existing CAP rules and, above all, for the transitional measures to compensate for immediate price alignment. This became painfully apparent when, on 6 October, Pesälä gave a press conference at which he outlined the details of the tukipaketti as it now stood. This included detailed figures for transitional production aid to a series of products in the form of additional price supports per kg of output.

During the weekend, there were reports in the Finnish press that the Commission had just rejected similar proposals from Norway. I was rung up at home by a deeply disturbed Reino Uronen, to be told that his Minister was on the verge of resigning. Uronen was adamant that the measures envisaged by Finland reflected the outcome of technical contacts with Commission officials who, according to Uronen, had not only been aware for some time of Finnish intentions but had even, at an earlier stage, encouraged them to go in this direction. Shortly thereafter, I received a call from my German colleague, Ambassador Peter Bazing,¹⁹³ who had been himself rung up on the same issue by Heikki Haavisto. Haavisto himself was subsequently the luncheon guest at that Monday's EU Ambassadors' meeting, where he was highly critical of the Commission's handling of the issue.

We were thus faced, less than a week from Finland's EU referendum, with a situation where the credibility, both of Agriculture Minister Pesälä personally and of the Commission as a reliable negotiating partner, were at stake. If Pesälä were obliged to retract or modify what he had said to the press the previous week, this would be ruthlessly exploited by the opponents of EU Membership as evidence that the Commission should not be trusted with the future of Finnish agriculture. The situation could hardly have been worse.

¹⁹³ German Ambassador to Finland 1989-1995. Germany held the Presidency of the EU Council during the second half of 1994.

On receiving Uronen's phone call, I had immediately contacted Steichen's office to inform them, and to seek instructions. Steichen himself was in Latin America and difficult to get hold of. The press line agreed was that Steichen's letter had confirmed that the overall approach of the national support package appeared acceptable. The details released the previous week by the Finnish side had been the subject of technical contacts between the two sides, but there had been no formal Commission decision. Since, however, the overall approach had been agreed at political level, there was no reason to suppose that there would be any fundamental difficulties in agreeing the technical implementing details. I immediately informed Uronen of the line we were taking. In their own press release, put out on the Monday, the Finnish side took a similar approach, stressing that there had been agreement on the structure and scale of the measures and that the details had been discussed with the Commission services, albeit that no formal decision had yet been notified to Finland.

The main Finnish TV news channels were still however reporting later in the week rumours supposedly emanating from Buenos Aires that the Commission had difficulties with the Finnish proposals. In response to press questions on Friday 14 October (just two days before the referendum) the Commission's Spokesman categorically denied that Steichen had given interviews to any Finnish journalist. He also quoted from Steichen's letter to Pesälä to demonstrate that - contrary to what was being reported - there had indeed been agreement on the overall approach to transitional aid. As for the ongoing discussions at technical level, important progress had been made and these were continuing "in a climate of confidence and goodwill". Pesälä did not resign.

The referendum campaign itself had meanwhile got into full swing already in early August, at the end of the Finnish summer break. The role of the Commission Delegation in Helsinki during this period was a rather delicate one. Brussels was firmly hoping for a positive result in the three Nordic referendums, following the two-thirds majority in favour in the Austrian referendum of 12 June - although we all knew that it would be

a close call in Norway. My clear mandate was to do what I could to help things along in a positive direction. But, as a diplomatic mission, we could not be seen to be interfering in a domestic political debate in our host country. Moreover, if we had done so, it would almost certainly have been counterproductive. We consequently kept a low profile, limiting ourselves mainly to providing information on the EU and its policies to those interested.

I did nevertheless, after careful consultation, accept a few invitations to speak in public during this period. One such occasion was a seminar organised in Helsinki in late September by the Association of Finnish Local and Regional Authorities (Kuntaliitto), sharing a platform with Paavo Väyrynen. I began my intervention (probably to the disappointment of many in the audience) by stressing that I was not there to tell them how to vote on 16 October: Finns had to weigh up for themselves the arguments for and against EU membership on the basis of the package that had been negotiated. I did however invite them, in doing so, to bear certain points in mind. I reminded them that the EU was about pooling national sovereignty – not surrendering it – in order to do certain things in common more effectively than they could be done separately. I stressed that Finland was most warmly welcome as a future Member State and that we were looking forward to the contribution which Finland's long and successful experience could make to helping us play our part in ensuring the peace and stability of post-Cold War Europe. I urged those present to look at the accession package as a whole, and not just at those few chapters, such as agriculture, that had received the most attention during the accession negotiations. Finally, I reminded them that EU membership did not just mean taking on board the existing *acquis communautaire*; it meant participation in the decision-making procedures of the EU and in the shaping of the EU of the future.

These were the essential points that we sought to get across, in low key fashion, in all our public and private contacts. I sought in addition actively to counter the illusion, promoted by opponents of EU accession, that a “no” vote in the referendum could lead, within a few months, to new negotiations

resulting in better terms. I argued that rejection of the current deal would, on the contrary, mean postponing membership for several years and joining the EU alongside the former Communist countries of Central and Eastern Europe. The EU would moreover in the meantime have moved further forward with its own integration, on the basis of decisions in which Finland would have had no say. Boarding a moving train was already difficult enough. It would certainly not get any easier as the train accelerated out of the station towards its next destination.

As with the visit of Delors in July, great care was taken to ensure that none of the numerous high level visitors from Brussels during this period found themselves dragged into the domestic debate. The only other Commissioner to visit Finland during this period was Henning Christophersen, who represented the Commission at the traditional meeting with EFTA Ministers in the margins of the EFTA Ministerial meeting in late June – the last to be chaired by Finland. The most difficult question he had to face came, however, not from the Finnish media but from the meeting itself, when Icelandic Foreign Minister Jón Baldvin Hannibalsson asked quite out of the blue what the EU reaction would be if Iceland were now to apply for membership. Most visits by senior officials were related to the future implementation of the EU *acquis* by Finland in areas such as transport, the environment, development, justice and home affairs and competition. These involved almost exclusively contacts with counterparts in the Finnish Administration. In a few cases, arrangements were made, in cooperation with the latter, for them to address selected audiences on their particular area of interest.

Even though we were not active participants in the referendum campaign, we of course monitored developments closely, and reported regularly back to Brussels. I made a point of keeping in close and regular contact with the key personalities in the campaign. We paid particular attention to the evolution of Finnish public opinion towards EU membership. Up to the start of the campaign, most polls had shown a clear majority in favour of EU membership – albeit with 20–30% of “don't knows” – and this had widened after

the conclusion of the accession negotiations. In late August/early September however the gap suddenly narrowed. At the time of the Pesälä and Haavisto's meeting with Steichen in Brussels, some polls were even showing a majority against membership.

Many reasons were advanced by the media and others to explain this apparent¹⁹⁴ sudden shift in public opinion: the long-drawn-out discussions over the tukipaketti; the excessive generosity of the latter to farmers to the detriment of Finnish tax-payers; the non-committal attitude of the Government;¹⁹⁵ the domestic debate about who should represent Finland at meetings of the European Council; the recent debate within the EU about a multi-speed Europe. Whatever the reasons, the "yes" campaign undoubtedly got off to a bad start and was widely considered not to have performed well in the first two televised debates. This was probably inevitable, given the nature of the debate and the character of the players.

Both the "yes" and the "no" lobbies were coalitions of fairly disparate interests. The "no" lobby, moreover, was made up both of those who were opposed to membership on any terms and those (such as Paavo Väyrynen) who claimed not to be opposed to membership as such, but only to the terms that had been negotiated. But, as is so often the case in such debates, the "no" campaign had the advantage of being able to focus its efforts narrowly and forcefully on a few key messages, making maximum use of the public funding that had been made available to both sides in the campaign. For the agricultural lobby, this was that EU membership posed a threat to the future of Finnish agriculture. For the far Left, it was that the EU would erode levels of employment and social security because

¹⁹⁴ It is interesting to note that the polls published by EVA – based on more in-depth surveys conducted over longer periods – had consistently shown a more even result (40% for, 40% against, 20% don't know) that had hardly shifted since the opening of negotiations in February 1993.

¹⁹⁵ While the Government undoubtedly was, as a result of its internal divisions, extremely low key in its support for the accession package, it is by no means certain that a more active approach would have helped: indeed, probably to the contrary, given the Government's unpopularity by this time.

of EMU constraints and because of "social dumping" from Member States with lower standards. For the Christian League, the EU was a supranational Catholic conspiracy. Another key argument was that EU membership would mean once again surrendering Finnish sovereignty to an outside power ("from Tehtaankatu to Esplanadi"¹⁹⁶). For the "yes" lobbies, by contrast, promoting the advantages of EU membership involved, at least initially, addressing a much wider agenda, rather than just one or two central arguments.

Most of the key actors in the "yes" campaign had moreover deliberately chosen to play it low key. Virtually the whole of Finland's political and economic élite was in favour of EU membership. Drawing the lesson of the Danish Maastricht referendum, however, they were anxious to avoid what might be perceived as a co-ordinated attempt to bulldoze the Finnish people into a "yes" vote. The Confederation of Finnish Industries and Employers and the three main trade union confederations, all of whom were pro-membership, had thus been concentrating most of their efforts on their members/employees, mainly at shop-floor level. The two main pro-membership political parties, the Conservatives and the Social Democrats, had also been directing their campaigns largely to their own constituency groups. The Government (as distinct from its individual ministers) had so far limited itself to launching an extensive campaign of factual information, without actively campaigning in favour of the membership deal it had negotiated. At national level, the task of putting the case for EU membership was thus, in the early weeks of the campaign, left largely, on the one hand, to President Ahtisaari and, on the other, to an umbrella group of "non-active" political personalities, under the leadership of former Prime Minister Kalevi Sorsa.

By early October, public opinion polls were once again recording a clear majority in favour of membership. President Koivisto had intervened for the first time in the debate to explain why he personally supported

¹⁹⁶ The former being the location of the Russian Embassy in Helsinki and the latter that of the offices of the European Commission Delegation

EU membership. Opponents continued to cite agriculture as a reason for saying “no”, but much of the earlier steam appeared to have gone out of this issue (although it was, as we saw above, to resurface in the final week of the campaign). Following the anti-membership resolution adopted by MTK on 3 September, there was, quite frankly, not much more to be said on the subject, especially after both Haavisto and Pesälä had indicated that they now supported accession; it was assumed in any event that a majority of farmers would vote “no”. The debate began to revolve instead primarily around the issues of “security” (in the widest sense of the term), sovereignty and independence; and, behind these, a series of “soft” issues, such as the environment, the position of women and religion.

The defence/security question (the “Zhirinovsky factor”, as it became known¹⁹⁷) was, I reported to Brussels in the final days before the referendum, one of the strongest arguments in favour of membership. While most Finns did not expect membership to lead to other European soldiers defending the Finnish frontier, they did perceive it as leading to increased political security, by raising the potential political and economic cost to Russia of any possible future attempt to pressurise Finland. This perception was, I added, reinforced by the strong psychological desire of most Finns, having lived for centuries at the very margins of Western Europe, to affirm unequivocally their Western European identity.¹⁹⁸ At the same time, I warned, Finns do not want to be railroaded into defence alliances which might lead to potential conflict with Russia. (This issue had been given particular prominence in the previous few days following fears expressed by the Defence Committee of the Parliament that observer status in WEU will lead indirectly to membership of NATO.)

¹⁹⁷ The success of Vladimir Zhirinovsky’s radical nationalist Liberal–Democratic party in its opposition to President Boris Yeltsin had aroused great concern in the West, and particularly in Finland.

¹⁹⁸ David Arter – one of the top non-Finnish experts on Finnish politics – comes to a similar conclusion in his own later analysis of the outcome of the referendum (Arter (1995)).

In the event, when the day of the referendum arrived on 16 October 1994, the Finnish people voted by a comfortable margin of 56.9% to 43.1% in favour of EU membership. There were however, as expected, considerable variations according to age, sex, occupation, political affiliation and location (North vs. South, urban vs. rural).

In his television address following the announcement of the result, President Ahtisaari remarked that this “historic referendum” was “the first time [that] the Finnish nation have decided for themselves which road the country should follow”. He appealed for national consensus (“the commitment of every Finn”) in the forthcoming adjustment to EU membership; stressing that the latter was the natural extension of the policy of European cooperation that had been followed so far, and that the EU also offered new ways of strengthening Finland’s own well-being and security. Ahtisaari also stressed that the outcome of the referendum was “morally and politically binding” on Parliament, the President of the Republic and the Government.

On the EU side, Delors expressed his own personal pleasure at the choice Finnish voters had made. He recognised that, for many Finns, it had not been an easy decision. He confirmed his respect for the position of those who had voted against (“that’s democracy”). This would, he stressed, in no way diminish the welcome extended to them as EU citizens (“there will not be passports of different colours for those who voted for and those who voted against”).

With the outcome of the referendum now assured, attention now turned to the vote in the Eduskunta.

Photo: Deutsches Bundesarchiv / Wikimedia Commons



XII

THE FINAL FURLONG

There had been speculation for several months as to who would be nominated to be Finland's first Member of the European Commission. It was widely assumed, however, that no formal decision would be taken until after the referendum, in order not to be seen to be prejudging the outcome. There was also an ongoing domestic debate as to whether the constitutional responsibility for the nomination lay with the President or with the Prime Minister. With the referendum now settled, the matter began to acquire some urgency.

Under the new provisions introduced by the Maastricht Treaty, the appointment by the European Council of the President and other Members of the Commission who would take office on 7 January 1995 was now subject to the prior approval of the European Parliament. Moreover, the nomination by Member State Governments of their candidates for the post of Commissioner had to be made in consultation with the person already nominated by the European Council to be President of the Commission. The European Council had decided in July to nominate Luxembourg Prime Minister Jacques Santer to that post – albeit only after much difficulty, both internally and with the European Parliament (whose approval of the nomination was now required). The process of nominating the other Members of the new Commission was meanwhile well advanced. It had been agreed some weeks earlier that Santer would come to Helsinki on 25 October for discussions on the subject with the Finnish Government.

As of mid-September, a wide range of names was still being floated in the Finnish media. The front runners appeared to be Erkki Liikanen, Heikki Havisto and Pertti Salolainen. But several other names were also being mentioned around town, including former Prime Ministers Harri Holkeri and Kalevi Sorsa, as well as Justice Minister Anneli Jäätteenmäki, State Secretary Veli Sundbäck and former Ambassador Jaakko Iilomiemi. We were informed that, provided the referendum was positive, the Council of State¹⁹⁹ would meet immediately thereafter

with a view to agreeing on a name to propose to the President in good time before Santer's visit. It was our understanding that, although the President personally favoured the nomination of Liikanen, he would not press this if there were another name on which the Government could agree unanimously.

The Council of State duly convened on 19 October, but was unable to achieve unanimity. Aho pressed for the nomination of Haavisto (who was reputedly not particularly keen to go to Brussels) but the other Coalition partners were not prepared to support him in this, especially as Santer had ruled out the agriculture portfolio for Finland. The Centre Party ministers were unwilling to support either of the possible Conservative candidates: Salolainen and Parliament Speaker Ilkka Suominen. None of the Coalition partners was prepared to propose Liikanen, a Social Democrat. The decision on the nomination was accordingly postponed to the following Tuesday (the day of Santer's visit). This was generally interpreted as increasing Liikanen's chances, although we were not totally ruling out the possibility of a last minute "dark horse" compromise candidate.

When Santer landed in Helsinki late in the evening of Monday 24 October, there was thus still no agreement on the candidate to be nominated. Santer was met at the airport by PM Aho, who briefed him on latest developments. Jim Cloos²⁰⁰ and I discussed the situation further with Santer at his hotel. Santer's programme the following day involved late morning meetings with both Ahtisaari and Aho, followed by an official lunch in his honour. In the meantime, the Council of State would have met and, it was hoped, reached agreement.

Veli Sundbäck rang me early the following morning to give me the latest update and to outline the scenario for the Council of State's deliberations, so that I was able to brief Santer as fully as possible in advance. Sundbäck promised to get back to me once the meeting was over to me to let me know the outcome. This he did shortly before we left for the Presidential palace. It transpired that the Council of State, when it had met early that morning,

¹⁹⁹ The formal term for the Finnish Cabinet

²⁰⁰ Santer's Chef de Cabinet, who had previously served as Chef de Cabinet to Commissioner Steichen.

had still been unable to reach a unanimous decision on a candidate, since the Ministers of each of the two main parties remained unwilling to abandon support for their party's own candidate. Haavisto had meanwhile indicated to Aho that he no longer wished to be considered for the Brussels post and Aho was instead pressing for Bank of Finland Director Esko Ollila (a former Centre Party minister whom the Swedish People's Party ministers were ready to support). The Conservatives were now pressing for Salolainen. When the Council had subsequently reconvened in the presence of the President, Ahtisaari, having been apprised of the Government's deliberations, had announced that he was nominating Liikanen, justifying his decision in a statement – subsequently made public – entered in the minutes of the Council of State.

Aho was at pains to present a united front on the issue when he and other Government Ministers met Santer later in the day. In the media, however, the nomination of Liikanen was being generally interpreted as a defeat for Aho, vis-à-vis both the President and his own Coalition partners, in particular the Conservatives. It was clear moreover that the outcome had left the Centre Party, and Aho in particular, in a rather bitter mood. Against that background, Liikanen's immediate announcement that he was appointing Aho's Foreign Affairs advisor, Pekka Huhtaniemi, as his future Chef de Cabinet was, as I reported to Brussels, a politically shrewd "bridge-building" move.

The nomination of Finland's Commissioner was by no means the last cliff-hanger in the nerve-racking final months leading up to Finnish accession. The same was to be the case in even more public and dramatic fashion with the parliamentary vote on the ratification of the Accession Treaty and the related tukipaketti. The debate in the Eduskunta had begun already on 6 September, although the final vote on accession could take place only after the referendum, since the latter was merely advisory and the last word was with the Eduskunta and the President. At the time of Santer's visit to Helsinki, the parliamentary debate had become bogged down in a seemingly endless series of procedural filibusters.

We had long known that the Eduskunta's approval of the Accession Treaty was dependent on the adoption of a domestic agricultural support package (tukipaketti) that was acceptable to the Centre Party. For a large number of Centre Party MPs, the final shape of the tukipaketti would determine which way they would vote on EU accession. Opponents of ratification, moreover, were seeking to keep the debate going until after the Swedish and Norwegian referendums, in the hope that, if either or both of these were negative, it would increase the likelihood of there being sufficient "no" votes in the Eduskunta to prevent Finland's accession. Although Ahtisaari had argued²⁰¹ that the outcome of the referendum was morally and politically binding, and a majority of Members was indeed expected to vote in line with it, the Eduskunta was not legally bound to follow the vote of the people.

There was however an additional issue at stake, namely whether the Eduskunta was constitutionally entitled to take a final vote at all on the ratification of the Accession Treaty in advance of the March 1995 general elections. It was this question, which revolved around the interpretation of certain articles of the Finnish Constitution, that was at the core of the filibustering campaign.

We had long assumed, in line with what Jaakko Kalela had told me back in March 1992,²⁰² that Finnish membership as of 1 January 1995 would necessitate Eduskunta approval of the Accession Treaty on the basis of an "urgency" vote, which required a five-sixths majority. We had, for that reason, noted with some concern that, in the Eduskunta debate on Finland's decision to apply for EU membership, the number of Members in favour had fallen slightly short of that threshold. In the meantime, however, opinions on this issue in Helsinki had evolved.

It is indeed the case that amendments to the Finnish Constitution first require a motion of urgency, passed by a five-sixths majority in the Eduskunta, before they can be voted through in a single parliamentary term. Otherwise the matter has to be voted through by two successive Parliaments, with

²⁰¹ See Chapter IX above

²⁰² See Chapter IV above

a general election in between. In either case, the final vote requires a two-thirds majority. For acts incorporating international treaties into the law of the land a simpler procedure was, however, available,²⁰³ involving a single passage by a two-thirds majority without the requirement for the prior passage of an urgency motion. Was the ratification of the Accession Treaty tantamount to a modification of the Finnish Constitution, or was it just the incorporation of an international treaty? Expert opinion on this delicate question was divided. The matter was considered in early October by the Constitutional Committee of the Eduskunta, which adopted the latter interpretation by a majority of 13 to 5.²⁰⁴

When this was put to the full Eduskunta, it provoked uproar among opponents of EU accession since this factor, more than any other, was in all likelihood going to determine whether or not Finland would accede to the EU. A substantial minority of Members (Rural Party, Christian League, Left Wing Alliance, some Greens) were committed to voting against, despite the outcome of the referendum. They were expected to be joined by at least some Centre Party Members (prominent among them Paavo Väyrynen). There would thus not be the necessary five-sixths majority to pass an urgency motion. If it were to be decided that ratification of the Accession Treaty had to be treated as a constitutional amendment the final vote would consequently have been postponed until after the March 1995 elections. Since the deadline for Finland to deposit her instrument of ratification was 31 December 1994, this would effectively have scuppered Finland's accession to the EU. If, on the other hand, the Accession Treaty was to be treated like any other international treaty, then there was at least a very good chance that the requisite two-thirds majority could be mustered in favour. It was thus hardly surprising that opponents of EU accession tried every trick in the procedural book to prevent the matter being put to such a vote.

²⁰³ Section 69, paragraph 1 of the Parliament Act of 1928

²⁰⁴ See Rosas (1995)

After several weeks of such filibustering, the Act incorporating the Accession Treaty (and the various other EU Treaties) was put to the vote on 18 November. This was five days after Sweden's national referendum, which had produced a narrow majority of 52% to 48% in favour of accession. By then, it looked increasingly likely that there would be a negative result in the Norwegian referendum on 28 November. (Norway did indeed vote against by an equally narrow margin of 52.5% to 47.5%). The outcome of the Eduskunta vote now depended on the position taken by the Members of Aho's Centre Party. Some (including Paavo Väyrynen) were certain to vote against. If they were joined by more than a few further defectors, there would not be the necessary two-thirds majority in favour of ratification.

In the event, the Eduskunta voted in favour of accession by 152 votes to 45, with 1 abstention and 1 absentee, which was comfortably beyond the two thirds majority needed. This paved the way for the formal ratification of the Accession Treaty by President Ahtisaari on 8 December, following the positive outcome of Åland's provincial referendum and the assent of the Åland Lagting.

Finland's accession was not however assured until all EU Member States had also deposited their own instruments of ratification with the Italian Government within the deadline of 31 December 1994 set by the Accession Treaty. A regular check on the state of play regarding the latter was conducted at the weekly meetings of COREPER in Brussels. When the latter took stock at its final meeting of the year on 22 December, no fewer than five ratifications were – rather alarmingly – still outstanding. Four of the Member States concerned (Belgium, Luxembourg, France and Portugal) were able to confirm that their ratifications would be deposited before the end-year deadline. Spain, by contrast, was in difficulty because the Spanish Parliament was linking its approval to the satisfactory resolution of a completely separate issue concerning fishing rights. When I left Helsinki that day, to spend the Christmas vacation with my family in England, I was consequently still uncertain whether I would be returning in January to a newly acceded Member State of the EU or not.

When Spain had joined the EU in 1986, it had done so on terms which (to Spain's deep resentment) had provided, for a lengthy transitional period, only partial access for Spanish fisherman to the full advantages of the EU's Common Fisheries Policy.²⁰⁵ The Council was supposed to have taken, already a year earlier, on the basis of a report from the Commission, a decision on the adjustments to be made to this regime as of 1 January 1996. The matter had, however, become bogged down in the Council, which had been unable to agree to Spanish demands for full integration into the CFP.

The EU's Fisheries Council was convened in emergency session, in parallel with the COREPER meeting of 22 December, to try to break the deadlock. After lengthy and difficult discussions, the Council was finally able to reach overall agreement on the basis of a detailed and complicated compromise, drawn up by the Presidency and the Commission, that provided for the integration of the Spanish and Portuguese fleets into the Common Fisheries Policy as from 1 January 1996. The way was thus cleared for the Spanish Government to proceed with its ratification of the Accession Treaty and to deposit its instrument of ratification in the period between Christmas and New Year. On 30 December the Italian Government duly notified all signatories that all the necessary ratifications²⁰⁶ had been received in due time, thus permitting the Treaty of Accession to enter into force as planned on 1 January 1995. The last hurdle on the way to Finland's EU accession had been cleared.

²⁰⁵ Articles 156–166 of the Act of Accession of 1985 (OJ No L 302 of 15 November 1985, pp 69–73)

²⁰⁶ Apart, of course, from that of Norway.

Photo: Niccolò Caranti / Flickr.com



EPILOGUE:

IMPRESSIONS AND REALITIES

Before taking up my new duties in Helsinki in March 1993, I made the usual round of pre-departure courtesy calls in Brussels. One of these was to the UK Permanent Representative to the EU, Sir John Kerr. We discussed, amongst other things, the sort of Member State we thought Finland would be when (as both of us assumed would be the case) she joined the EU. I said that, from my own experience of the country, I thought that London had got it wrong. They seemed to be under the impression that Finland and the other two Nordic candidates would be rather like Denmark and would generally tend to sit on the UK side of the supranational/intergovernmental fault line. Whatever the other two might do, I was pretty certain, I said, that this would not be the case for Finland. For her, EU membership was central to the affirmation of her full Western European identity in the post Cold War world. There was no way she was going to be a half-hearted Member or a “wrecker”. Kerr confirmed that the general perception in London was indeed as I had described it. He went on, somewhat to my surprise, to add that he himself did not hold that view but tended on the contrary to share a similar assessment to my own.

I also well remember that, early on in the accession negotiations, Veli Sundbäck and others said to me that Finland would be a difficult negotiator but a good Member State. It was a phrase I repeated to myself on numerous occasions by way of reassurance during some of the more difficult stages in the negotiations. It was not however until the difficulties surrounding the negotiation and ratification of the Treaty of Accession had been surmounted, and accession had become a reality, that the main planks of Finland’s future EU policy began to emerge, prompted in the first instance by the pressure of the ongoing preparations for the 1996 IGC.

A first debate on the guidelines of Finland’s European policy took place in the Eduskunta in mid-February 1995, on the basis of a report from the Aho Government. Although the debate was inevitably overshadowed by the upcoming general elections of March 1995, which were expected to lead to a change of Government, it did serve to put down a first marker that Finland’s pursuit of

her interests within the Union, while determined and consistent, would, first and foremost, be constructive.²⁰⁷ With the swearing in of the Lipponen Government in mid-April, work on the preparations for the IGC began in earnest. When Commissioner Edith Cresson met PM Lipponen in Helsinki on 4 May, Lipponen told her that Finland wanted to be in the mainstream of the future development of the EU and would not be seeking special opt-outs. When Commission Secretary General David Williamson called on him in Helsinki a few days later, Lipponen stressed the importance of EMU and that the new Government’s economic policy was designed to meet the EMU criteria. The following week, he told the local EU Ambassadors that Finland wanted to strengthen the EU, so that it would work effectively and produce results.

Fast forward a decade and a half. Finland is today a fully integrated Member of the EU. She is, unlike Sweden, Denmark and the UK, a founder member of the euro zone. She has (unlike the UK) been a full member of the Schengen passport union since 2001, when the problems arising from the simultaneous existence of the Nordic passport union were finally resolved. Finland has, unlike a number of Member States, no opt-outs or derogations from the EU *acquis*, nor has she ever sought any. Finland’s first EU Presidency in 1999 was instrumental in establishing closer cooperation in the area of Justice and Home Affairs, following the modifications introduced by the Treaty of Amsterdam. Confounding the scepticism expressed at the time of her accession, Finland has been an active and loyal participant in the EU’s Common Foreign and Security Policy. A Finnish General, Gustav Hägglund, was the first Chairman of the EU Military Committee.

In line with those of its predecessors,²⁰⁸ the Government Programme of the recently appointed Katainen Government²⁰⁹ declares Finland to be “a dynamic and proactive Member State of the European Union” that

²⁰⁷ *Guidelines of Finland’s European Policy* (Government Report to Parliament, 14 February 1995), p. 1

²⁰⁸ See e.g. Government Programme of Prime Minister Matti Vanhanen’s second Cabinet, 19 April 2007

²⁰⁹ *Programme of the Finnish Government* (Prime Minister’s Office, 22 June 2011)

“will support the EU’s development, building on the potential of the current Treaties” and “will continue to take part in the Union’s key projects as much as possible”. Recognising recent public criticisms, the document stresses the importance of broad-based civil society participation in the handling of EU affairs, and the need for the operation and financial administration of the Union to be efficient and open. The programme goes on to argue that “activities based on the community method offer the best means of securing stable and balanced operation of the Union and democracy”. Finland will consequently need to pursue a “determined and targeted strategy” in the current enlarged Union “in which intergovernmentalist tendencies have become stronger”. She “will actively work for the development of the EU’s Common Foreign and Security Policy (CFSP) and the common European defence policy in accordance with the opportunities offered by the Lisbon Treaty”.

At the time of writing, the new Government has yet to produce its promised EU Policy Report. I was meanwhile re-reading the report on Finland’s EU policy that the second Vanhanen Government submitted to Parliament in April 2009, which is a remarkably positive and upbeat document. One particular passage caught my eye: “EU membership” it reads “has given us new influence, enhanced the conditions for economic development and, above all, anchored Finland in the European mainstream”.²¹⁰

This one sentence seems to me to encapsulate perfectly where Finland stands these days in relationship to her membership of the EU and to illustrate dramatically just how much has changed compared with the Finland I encountered when I first set foot there just under thirty years ago. Finland may, in geographical terms, still lie at the periphery of Europe; but, in geo-political terms, she has, by contrast, long since “come in from the cold” to sit at the very centre of European developments.

²¹⁰ *Government Report on EU Policy* (Prime Minister’s Office Publications no. 20/2009), p. 9

APPENDIX

TIMELINE OF KEY EVENTS LEADING UP TO FINLAND'S EU MEMBERSHIP

1948		Finland signs FCMA (YYA) Treaty with USSR
1955		Finland joins Nordic Council
1961		Finland becomes Associate Member of EFTA
1973		Finland signs Free Trade Agreements with European Communities
1977		EC-EFTA free trade achieved for most industrial products
1982		European Commission President Gaston Thorn visits Helsinki
1984	Jan	Full industrial free trade achieved between EC and EFTA countries
	Apr	EC-EFTA Luxembourg Declaration
1986		Finland becomes full member of EFTA
1988	Jul	European Commission President Jacques Delors visits Helsinki
	Dec	Sorsa is first Finnish Foreign Minister to visit European Commission
1989	Jan	Delors speech to European Parliament launches EEA initiative
	May	Finland becomes member of Council of Europe
	Jul	Austria applies for EC membership
	Nov	Fall of Berlin Wall
	Dec	Bush-Gorbachev Summit in Malta marks end of Cold War
1990	May	Holkeri is first Finnish PM to visit European Commission
	Jun	Formal launch of EEA negotiations
	Oct	German reunification; Finland unilaterally revokes certain clauses of the 1947 Peace Treaty and the FCMA
1991	Jul	Warsaw Pact officially dissolved; Sweden applies for EC membership
	Aug	Commission Opinion on Austria's application
	Sep	PM Aho visits European Commission in Brussels
	Dec	Maastricht European Council opens door to new accessions; USSR ceases to exist
1992	Jan	FCMA is replaced by a normal CSCE-style bilateral treaty with Russia
	Feb	Signature of Maastricht Treaty on European Union
	Mar	Finland applies for EC membership
	May	Signature of EEA Agreement in Oporto
	Jun	Denmark rejects Maastricht Treaty in national referendum; Lisbon European Council confirms readiness to open negotiations with EFTA applicants once Maastricht Treaty and Delors II package in place
	Jul	Commission Opinion on Sweden's application
	Oct	Koivisto is first Finnish President to visit European Commission
	Nov	Commission Opinion on Finland's application; Norway applies for EC membership
	Dec	Switzerland rejects EEA Agreement in national referendum; Edinburgh European Council paves way for new Danish referendum
1993	Feb	Accession negotiations opened with Finland, Sweden and Austria
	Mar	Accreditation of first Commission Head of Delegation to Finland
	Apr	Accession negotiations opened with Norway; Haavisto appointed as Foreign Minister following Väyrynen's resignation
	Nov	Entry into force of Maastricht Treaty; Koivisto addresses Plenary Session of European Parliament
1994	Jan	EEA Agreement finally enters into force
	Feb	Ahtisaari wins second round of Presidential elections
	Mar	Final ministerial session of accession negotiations
	May	European Parliament assents to accession of the four Candidate Countries
	Jun	Signature of Treaty of Accession in Corfu
	Jul	Delors visits Finland
	Oct	Finnish referendum approves EU membership by 56.9% to 43.1%; Nomination of Erkki Liikanen as Finland's first European Commissioner
	Nov	Eduskunta approves Treaty of Accession by 152 votes to 45
1995	Jan	Finland, Sweden and Austria accede to EU membership

BIBLIOGRAPHY

- Antola, E. (2000). Special Relationship: EFTA and the European Community as Actors in European Free Trade. *EFTA Bulletin*, 2000 (2).
- Arter, D. (1995). The EU Referendum in Finland on 16 October 1994: A Vote for the West, not for Maastricht. *Journal of Common Market Studies*, 33 (3), 361–387.
- Baldwin, R. E. (1992). The Economic Logic of EFTA Membership in the EEA and the EC. *EFTA Occasional Paper*.
- Barros, J. (1968). *The Åland Islands Question: Its Settlement by the League of Nations*. Yale University Press.
- Benoit, E. (1961). *Europe at Sixes and Sevens – The Common Market, the Free Trade Association and the United States*. New York: Columbia University Press.
- Dinkelspiel, U. (2009). *Den motvillige europén*. Atlantis.
- Dupont, C. (1998). The Failure of the Next-Best Solution: EC–EFTA Institutional Relationships and the European Economic Area. In V. K. Aggarwal (Ed.), *Institutional designs for a complex world : bargaining, linkages, and nesting*. Cornell University Press.
- EFTA. (2009). *European Economic Area 1994–2009*. EFTA Commemorative Publication.
- Flam, H. (1995). From EEA to EU: Economic consequences for the EFTA countries. *European Economic Review*, 39 (3–4).
- Granell, F. (1995). The European Union's Enlargement Negotiations with Austria, Finland, Norway and Sweden. *Journal of Common Market Studies* (1), 117.
- Greenhill, B., & Giffard, A. (1988). *The British Assault on Finland 1854–1855: A Forgotten Naval War*. London: Conway Maritime Press.
- Gstöhl, S. (1996). The Nordic Countries and the European Economic Area. In L. Miles, *The European Union and the Nordic Countries* (pp. 47–62). Routledge.
- Hayes, E. (1990). The Internal Market and EFTA as viewed from Brussels. In F. Laursen (Ed.), *EFTA and the EC: Implications of 1992*. Maastricht: European Institute of Public Administration.
- Jakobson, M. (1998). *Finland in the New Europe*. Praeger (CSIS – The Washington Papers series).
- Koivisto, M. (1997). *Witness to History*. Hurst, London.
- Kuosmanen, A. (2001). *Finland's Journey to the European Union*. EIPA, Maastricht.
- Laursen, F. (1995). EC–EFTA Relations: A Game–Theory Perspective. In F. Laursen (Ed.), *The Political Economy of European Integration* (pp. 179–210). Kluwer Law International.
- Liikanen, E. (1995). *Brysselin Päiväkirjat*. Otava, Helsinki .
- Lipponen, P. (1994). Finnish Neutrality and EC Membership. In S. Harden (Ed.), *Neutral States and the European Community*. Brassey's (UK).
- Nell, P. G. (1990). EFTA in the 1990s: The Search for a New Identity. *Journal of Common Market Studies*, 28 (4), 327–358.
- Norberg, S. (1992). The Agreement on a European Economic Area. *Common Market Law Review*, 29 (6), 1171–1198.
- Pedersen, T. (1994). *European Union and the EFTA countries : enlargement and integration / Thomas Pedersen*. London: Pinter.
- Reymond, C. (1993). Institutions, decision-making procedure and settlement of disputes in the European Economic Area. *Common Market Law Review*, 30 (3), 449–480.
- Rosas, A. (1995). Finland's Accession to the European Union: Constitutional Aspects. *European Public Law*, 1, 166–170.
- Rosas, A. (1997). The Åland Islands as a Demilitarised and Neutralised Zone. In L. Hannikainen, & F. Horn (Eds.), *Autonomy and Demilitarisation in International Law: Åland Islands in a Changing Europe*. Brill.
- Saarikoski, V. (2002). Between East and West – Finland and Hungary during the Cold War. In O. Vehvilainen (Ed.), *Hungary and Finland in the 20th Century*. SKS–FLS.
- Sevón, L. (1992). The EEA Judicial System and the Supreme Courts of the EFTA States. *European Journal of International Law*, 3, 329.
- Toledano Laredo, A. (1992). The EEA Agreement: An overall view. *Common Market Law Review*, 29 (6), 1199–1213.
- Wallace, H. (1991). *The wider Western Europe : reshaping the EC/EFTA relationship*. London: Royal Institute of International Affairs.