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COUNCIL

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Council

ROADMAP FOR THE ACCESSION OF ISRAEL TO THE OECD CONVENTION

(adopted by the Council at its 1163rd session on 30 November 2007)

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English/French

1. This roadmap implements the Council decisions referred to below and provides a process to enable Member countries to assess the willingness and ability of Israel to assume the obligations of membership. The roadmap aims ultimately at assisting Council in coming, at the end of the accession process, to a decision on the terms and conditions of the invitation to accede to the OECD Convention that it may wish to extend to Israel.

2. Council agreed at its 1155th session on 10-13 May 2007 to A General Procedure for Future Accessions [C(2007)31/FINAL], which sets out a common framework and main elements for carrying out any accession process known as a roadmap.

3. On 16 May 2007, the Council of OECD meeting at Ministerial level adopted a Resolution which contained the following decision [C/MIN(2007)4/FINAL]:

“THE COUNCIL

...

- ii) Decides to open discussions with Chile, Estonia, Israel, The Russian Federation and Slovenia and invites the Secretary-General to set out the terms, conditions and process for the accession of each of these countries to the OECD for subsequent consideration and adoption by Council.”

I. Fundamental values and like-mindedness

4. The Council reaffirms that OECD Membership is committed to fundamental values, which candidate countries are expected to share. These fundamental values serve as the foundation of the like-mindedness of OECD Members and have been expressed in various OECD Ministerial Communiqués. Accepting these values, along with the established body of OECD instruments, standards and benchmarks, is a requirement for membership.

5. These fundamental values include a commitment to pluralist democracy based on the rule of law and the respect of human rights, adherence to open and transparent market economy principles and a shared goal of sustainable development.

6. The OECD is committed to improving policies in both the national and international context, and to be an especially potent instrument of global change and reform. The Council recalls that OECD has unique working methods for advancing international co-operation, which are based on the sharing of experiences and best practices and frank and open dialogue among governments.

7. During the accession process, the Council may raise questions on these values at any time, in particular in light of discussions in the substantive Committees and other bodies. It may also review regularly a candidate country's progress towards these fundamental values and its commitment to OECD's working methods, including in the framework of dedicated meetings in which representatives of the candidate country may be invited to discuss issues of concern. If, in the course of discussions, questions of like-mindedness arise in Council, the Secretary-General would address the matter with the candidate country with a view to resolving the issue of concern. This process would take place concurrently with the examination of the candidate country by the substantive Committees and other bodies, with the two streams of work being interactive and dynamic.

II. Examinations under OECD instruments and policy reviews

A. General description of the process

i) *Overview*

8. In order to allow Council to take an informed decision on whether to invite Israel to accede to the OECD Convention and therefore become a Member, Israel will be requested to position itself vis-à-vis all the legal substantive instruments adopted within the OECD framework prior to its joining the Organisation. This will not only concern instruments already in place at the time of opening of negotiations with Israel but also any new instruments that may be adopted up to the time of accession. In assessing Israel's position, the Council will call on the Secretary-General to advise it on deliberations and formal opinions by OECD Committees and other bodies on the willingness and ability of Israel to assume the obligations of membership in the relevant fields. Israel will not need to position itself on instruments concerning the internal functioning of the Organisation as these must be purely and simply accepted.

9. The accession process will also include the examination of Israel's general economic policies as well as its policies in a certain number of other key areas in which there are few or no OECD legal instruments. The aim is to ensure that there is coherence between these policies and those in place in OECD Members countries. In this endeavour, Council will again be assisted by the Secretary-General to provide the formal opinion as prepared by different OECD bodies on this matter.

10. The list of issues and OECD bodies described below is meant to incorporate those that are relevant to the accession process of candidate countries today. However, in response to changing circumstances, the Council may consider it necessary to introduce changes to the roadmap during the accession process.

ii) *Obligations of membership*¹

11. The main obligations of membership are contained in the Convention on the OECD (as interpreted in the light of the report of the OECD Preparatory Committee of December 1960) and include:

- a) acceptance of the aims of the Organisation, as expressed in Article 1 of the Convention;
- b) the undertakings contained in Article 2 of the Convention;
- c) the commitments in Article 3 of the Convention.

12. OECD membership obligations also include:

- a) acceptance of the Acts of the Organisation in force at the time of the invitation to accede, Israel being nevertheless entitled to refuse to accept certain Acts, make certain declarations in respect thereof, or to make its acceptance subject to reservations;
- b) acceptance of certain rules, standards and benchmarks generally accepted by OECD Members, as appropriate;
- c) the conclusion of an appropriate Agreement on the privileges and immunities of the Organisation.

13. A distinction must be made for the purposes of acceptance of the Acts of the Organisation between those which any candidate country must necessarily accept as they stand and those which may be the subject of declarations, exclusions or reservations on its part.

¹ See also for information the document entitled *The Concept of the OECD "Acquis"* [C(2007)30/REV1].

14. The Acts that any candidate must necessarily accept as they stand are those which bind all present Members and in respect of which no reservation would be acceptable, having regard to their object and purpose. These are basically the following:

- The rules applicable to financial and budget matters, the most important ones being the Financial Regulations and Rules;
- The rules applicable to staff matters, the most important ones being the Staff Regulations and Rules applicable to officials;
- The OECD Rules of Procedure, the Council Resolution on Governance, participation of non Member economies, classification of material and, more generally, any other internal decision/resolution/conclusion adopted by Council regarding the functioning of the Organisation.

For completeness, one also would add acceptance of all the judgements of the OECD Administrative Tribunal.

15. In accordance with Article 5 a) and b) of the OECD Convention, the Acts of the Organisation include a significant number of Decisions and Recommendations which concern matters relating to substantive policy in Member countries. Decisions are legally binding, except for Member countries which have abstained at the time of their adoption. Recommendations, in accordance with Article 18 b) of the Rules of Procedure, are "submitted to the Members for consideration in order that they may, if they consider it opportune, provide for their implementation"; although Recommendations are not legally binding, they may have considerable impact on the policies and legislation of Member countries and the position of candidate countries regarding them is taken into account in the accession procedure. Other Acts, also taken under Article 5 a) of the OECD Convention, relate to the functioning of the Organisation.

16. As regards the Acts and instruments focusing on matters that concern the substantive policy in Member countries, a candidate country may adopt, in principle, four different attitudes:

- a) acceptance;
- b) rejection;
- c) acceptance subject to reservations or various kinds of declarations;
- d) acceptance with a specified time frame for implementation.

17. The position adopted by Israel in regard to the various substantive OECD Acts and other relevant instruments will be a crucial element of Council's assessment of Israel's ability and willingness to assume the obligations of membership and hence, for its decision regarding a possible invitation to Israel to accede to the Convention and the terms and conditions thereof. It is expected that candidate countries will use, as sparingly as possible, the options of rejections or acceptance subject to reservations or declarations. Indeed, resorting to such options could affect the final decision of Council.

18. Apart from these Acts, new types of instruments have emerged from the practice of the Organisation, such as Ministerial Declarations (*e.g.* on environment or social policy) and international agreements or arrangements developed in the OECD framework (*e.g.* on anti-bribery, export credits and shipbuilding). These instruments are not Acts of the Organisation in formal terms since they have not been adopted by a body of the OECD, but they have been approved by the Governments of Member countries in

the OECD context and noted by Council. They often lead to monitoring by OECD bodies and play an important part in the life of the Organisation. Account will be taken of the position of Israel towards such instruments as part of the accession procedure. Moreover, a number of rules, standards and benchmarks developed outside the OECD framework but by which the OECD Members generally abide will also be considered as relevant in determining the willingness and ability of Israel to become an OECD Member (e.g. position on major multilateral environmental agreements or in relation to FATF, IMF, WTO or ILO obligations).

19. In practice, the real starting point of the technical discussions concerning the terms and conditions of accession will be the submission by Israel to the Secretary-General of an initial memorandum. This document will specify to what extent it accepts the legal or political obligations resulting from each of the substantive OECD Acts and other relevant instruments and assess the compatibility of its legislation and policies with these obligations. If Israel wishes to accept certain obligations or commitments subject to reservations, the initial memorandum must set them out and briefly explain and justify them. If Israel does not accept an instrument altogether, the document must explain on what grounds. Reservations to the Codes of Liberalisation and exceptions to national treatment must reflect the state of legislation and regulations in force. Other substantive Decisions, Recommendations instruments may be accepted even if Israel's legislation or regulations are not yet in accordance with them, provided that Israel undertakes to make the necessary changes within a reasonable period, to be specified, and justified wherever possible.

20. The position taken by Israel in regard to certain instruments, as expressed in the initial memorandum, possibly amended following Israel's discussions with the Secretariat, will then be submitted to the relevant OECD bodies, as explained in Section II.B. Israel's position with respect to other instruments not to be reviewed by a body will be presented directly to the Council by the Secretary-General together with his analysis thereof. In preparing this analysis, the Secretary-General will consult the Chairs of bodies working in the relevant field. The content of this memorandum, as revised during the examination process, will be incorporated in the statement by Israel. This statement will set out the final position it proposes to adopt with regard to these instruments and, in particular, any exclusion, reservation or declaration it intends to make in this connection, if it is invited to accede to the OECD Convention.

iii) General role of the Secretariat

21. Throughout the process, the Secretariat will:

- assist Israel in complying with the requirements of the procedure and provide its authorities with any clarifications they may seek in this respect;
- provide Members, through the Council or the OECD bodies, with any material they may require for the consideration of Israel's application for membership;
- facilitate coordination between Members and Israel.

22. The Secretariat may be called upon to help Israel prepare the presentation of their formal position, advise them on possible improvements thereto and on its readiness to be examined by appropriate bodies and the OECD Council. In particular, the Secretariat will review the initial memorandum of Israel regarding the acceptance of the relevant instruments. The Secretariat will endeavor to reply to any questions raised in relation to these instruments and help Israel's authorities improve this memorandum so that it responds as much as possible to the OECD Members' expectations.

B. Examination by OECD bodies of Israel's position with respect to OECD instruments or instruments generally accepted by its Members

23. In their field of competence, the following bodies will examine Israel's proposed position with respect to OECD instruments, standards and benchmarks and on the adequacy of Israel's policies taking into account its economic and social situation. Each body will provide the Council with its formal opinion on Israel's ability and willingness to assume the obligations of membership in that field. Appendices A.I to A.XII to this roadmap contain OECD criteria and instruments relevant for each of these bodies. At the same time, the Council may review the evaluation of other bodies, such as the International Energy Agency or the Development Assistance Committee to determine the candidate country's alignment with OECD countries best practices.

These bodies are the:

- Investment Committee;
- Working Group on Bribery in International Business Transactions;
- Committee on Fiscal Affairs
- Chemicals Committee;
- Environment Policy Committee;
- Steering Group on Corporate Governance;
- Committee on Financial Markets;
- Insurance and Private Pensions Committee;
- Competition Committee;
- Committee for Scientific and Technological Policy;
- Committee for Information, Computer and Communications Policy;
- Committee on Consumer Policy.

C. Consideration of Israel's policies by other bodies

24. The accession process will also include the examination of Israel's general economic policies as well as its policies in a certain number of key areas in which there are few or no OECD legal instruments. The aim is to ensure that there is a maximum degree of coherence with Member countries policies. In this examination, Council will rely on the support of the Secretary-General who will contact OECD Committees and other bodies to provide their formal opinion on the matter. The Secretary-General will also be called upon to advise Council on certain other areas where it does not appear necessary or practical to request an OECD body to provide a formal opinion.

25. The following bodies will consider and discuss Israel's policies in areas in which there are few or no OECD legal instruments and provide Council with their formal opinion on the degree of coherence between these policies and those in place in OECD Member countries. Appendices B.I to B.V to this roadmap contain OECD criteria relevant for each of these bodies.

These bodies are the:

- Economic and Development Review Committee;
- Committee on Statistics;
- Employment, Labour and Social Affairs Committee;
- Trade Committee and the Working Party on Export Credits;
- Public Governance Committee;

26. The following sectoral body will consider and discuss Israel's policies in its area of competence:

- Committee for Agriculture.

D. Information on other OECD instruments and scheduled policy reviews

27. The Secretary-General will provide to Council analytical reports on Israel's position on instruments not reviewed by any OECD bodies.

28. Further information on Israel's policies will be available to Council through the reviews already scheduled in the work programmes of certain bodies. In addition, it is possible that some other bodies, in which Israel participates as an observer or a full participant, may wish to discuss certain aspects of its policies in their respective fields as part of normal ongoing relations.

E. Optional participation in OECD bodies or programmes

29. As part of the accession procedure, Israel is invited to state whether it intends to participate in some or all of the Organisation's optional programmes or wishes to be considered for membership in OECD bodies with special membership criteria.² This concerns the International Energy Agency (membership of this Agency implies acceptance of specific obligations in the field of energy and would have to be negotiated directly with the Agency), the NEA (which requires a recommendation of the Steering Committee to Council), the Development Assistance Committee, the Development Center, as well as all the other Part II bodies and programmes. Should Israel express its intention to join some of these activities, the relevant OECD bodies will be involved in the accession procedure.

F. Timing of the examinations by the bodies

30. Consultations of bodies will be carried out in parallel. Appendix C to this roadmap contains an indicative schedule of meetings of OECD Committees and other bodies. The actual timing of the examinations will depend on the availability of the required information and on the progress made by Israel with the necessary work and reforms. It will be determined in close consultation with Israel's authorities and the OECD bodies.

² If there are generally applicable OECD Acts adopted by Council in these fields, Israel may need to position itself with respect to those instruments whether it wishes or not to participate in these optional programmes or bodies.

III. Concluding the Accession process

A. Conclusion of the examination of terms of accession

31. When all the formal opinions of the OECD bodies and the reviews by the Secretariat are finalised, the Secretary-General will prepare a document thereon for Council's consideration. Council will then discuss these opinions, reviews and any outstanding fundamental value issues, as mentioned in paragraphs 4 to 7 above, and take a final decision on the terms and conditions of a possible invitation of Israel to accede to the OECD Convention.

32. When the examination of the terms of accession of Israel is complete, Israel's Government will need to send to the Secretary-General a statement:

- a) confirming its interest in accession;
- b) accepting the obligations of membership (as described in paragraphs 11 and 12 above), including in particular acceptance of the Acts of the Organisation, subject to such limits and reservations or observations as specified in the statement;
- c) specifying its position with regard to participation in optional programmes and bodies and with regard to arrangements and instruments which do not formally constitute Acts of the Organisation;
- d) setting out any additional undertakings that may be appropriate in light of the discussions on the terms and conditions of its membership.

B. Invitation to accede to the OECD Convention

33. On the basis of this statement, and having regard to the reports by the competent bodies and the Secretary-General and the outcome of its consideration of the fundamental values issues, the Council will then, decide by unanimity, in accordance with Article 16 of the Convention, whether to invite Israel to accede to the Convention on the terms and conditions which the latter has stated it is ready to accept. After the invitation, an Agreement would be signed between Israel and the Organisation which would incorporate, as its main elements, the statement of Israel and the Council's decision to invite it to accede. This Agreement would be made public.

C. Accession

34. Once an invitation to accede has been extended, it will be for Israel to take the appropriate steps at the national level to accede to the OECD Convention by depositing its instrument of accession with the French Government, the depositary of the Convention.

35. The procedure concludes, following the practice of the Organisation, with a Resolution of the Council noting the accession and the date on which it takes effect.

IV. Resources required for the accession process

36. In accordance with the process described in the *General Procedure for Future Accession*, Israel will be required to pay the non-recurring costs associated with its accession. These costs will include OECD staff time and those associated with missions, meetings, documentation, co-ordination and management, communication and miscellaneous costs.

37. To ensure that the necessary resources are available in time to allow the accession process to proceed, Israel will be asked to make payments in advance of expenditure on the basis of Secretariat estimates of likely costs. These estimates, which will be made annually, will include a margin for unanticipated expenditures during the course of year ahead. These non-recurring costs, including the margin, for the period 2007 to 2009 inclusive are estimated to be M EUR 4.64.

38. However, the amounts to be paid in respect of 2009 and any subsequent years will need to be adjusted in the light of the costs actually incurred in the preceding year. For example, any funds unspent in 2008 will be applied to reduce the amount to be called up in 2009, but if costs incurred in 2008 exceed Israel's payment for that year it may be necessary for Israel to make a larger payment than suggested above in 2009. The total cost of accession may ultimately be greater or less than the amount estimated.

39. Costs for 2007 will be incurred following adoption of this roadmap by Council. Israel will be expected to pay the full amount of the 2007 and 2008 estimates (M EUR 2.90) before 1 January 2008. Payment for 2009 (provisionally estimated at M EUR 1.74) shall be due as of 1 January of that year. Should the time required to complete the accession process extend beyond 2009, additional payments would be needed as of 1 January 2010 and similarly for any subsequent years.

40. The final total amount to be covered by Israel on account of the non-recurring costs will be influenced among other factors by the speed of the process, the position that Israel will take in respect of the obligations of membership and its efficiency in providing required information. At the end of the accession process, an accounting of the final total amount of the non-recurring costs shall be provided by the Secretary-General to Council for its approval and final settlement with Israel. Any outstanding balance shall be paid by Israel or reimbursed by the Organisation as the case may be.

V. Practical arrangements

41. In order to ensure optimal efficiency in the accession process, Israel shall correspond with the Organisation and make all documentation available in one of the official languages of the Organisation or provide official translations of such correspondence or documentation.

42. Israel should also nominate and maintain at all times a key high level contact person entrusted with coordinating national authorities involved in the accession process and facilitating contacts and operational matters arising in connection with the implementation of this process.

full text with appendices can be downloaded from

[http://www.oilis.oecd.org/olis/2007doc.nsf/LinkTo/NT00004872/\\$FILE/JT03237381.PDF](http://www.oilis.oecd.org/olis/2007doc.nsf/LinkTo/NT00004872/$FILE/JT03237381.PDF)