I. Introduction

The EU acquis in the area of border contains the following legal acts:

- Joint Action of 4 March 1996 on airport transit arrangements (OJ Nº L 63 of 13 March 1996);
- Joint Position of 25 October 1996 on pre-frontier assistance and training assignments (OJ Nº L 281 of 31 October 1996);
- Council Regulation Nº 1683/95 of 29 May 1995 lying down a uniform format for visas (OJ Nº L 164 of 14 July 1995);
- Council Regulation Nº 2317/95 of 25-26 September 1995 determining the third countries whose nationals must be in possession of visas when crossing the external border of the Member States (OJ Nº L 234 of 3 October 1995).

(1) Bold print indicates revised text.
(2) Amendments concerning Romania have not yet been included.
After the Treaty of Amsterdam comes into force, the Schengen acquis will become part of the EU acquis. Against this background, it is also significant to refer for the purpose of the present analysis also to the objectives set out for each candidate country by the respective accession partnership (OJ Nº C 202 of 29 June 1998).

II. State of information:

Only little information was received by Member States after the meeting of 18-19 November 1998. New information included in the present document originates from the bilateral screening of the Commission with the accession candidate countries in March 1999 and from the replies to the questionnaire of the Working Group received from the Member States’ Embassies and Commission Delegations in the candidate countries.

The analysis of the different reports received follows the structure given by the Presidency's document 5322/99/2 REV 2 EVAL 5 ELARG 5, taking into account the questions raised in that document. Several of those questions remain, however, still unanswered. Further inquiry and more detailed information by Member States seems therefore necessary for making an overall evaluation of the situation in the applicant countries.

III. Situation regarding external border security in Hungary, Poland and Romania:

1. OBSERVATIONS ON EXTERNAL BORDER SECURITY IN HUNGARY

1.1. General description of the sector

Having borders with Slovakia, Ukraine, Romania, the Federal Republic of Yugoslavia, Croatia and Slovenia means that Hungary is exposed to considerable migratory pressure. It is not only a country of transit for illegal immigrants to Western Europe, but is also increasingly a destination country for those prepared to be smuggled in from Eastern European and Asian States.

The tasks of border control and border policing are carried out by the Hungarian Border Guard which is divided into a national headquarters in Budapest and 10 regional headquarters. In 1997 the Government adopted resolutions on the organisation of the border guards with a view to increasing the efficiency and operationality of the Border Guard.
1.2. Observations

In spite of the above mentioned Government resolutions, the Hungarian border guard is still not a frontier police force, as required by Schengen legislation:

- Since 1990 the Border Guard has been involved in a continuous process of reform. It has not yet been possible to demilitarise the border guard and transform it into a police force.

- Its effectiveness in combating illegal immigrants and international criminals is unsatisfactory and crime prevention and investigation play a subordinate role in its range of tasks.

- Cooperation with the domestic police force is deficient. This is due, on the one hand, to the resistance of the border troops, formerly totalling 14 000, to surrender their independence, but also to the difficulty in transforming former soldiers into efficient investigators.

- The budget allocations for border security are far too low to allow for an efficient system of border protection to be established and maintained.

- The Hungarian border guard does not at present have access to an on-line search system. Only one or two border crossings are electronically linked to regional military headquarters.

- There are marked variations in the technical equipment of the border guard units. Fuel is frequently in short supply.

- Checks at the frontier crossing points which, although systematic and comprehensive, are very static and formal (to stamp passports and record particulars of foreigners and foreign vehicle registration plates).

- Problems also occur in cross-border cooperation with the border authorities of the neighbouring countries.

- In addition, Hungary refuses to secure its borders to a Schengen standard in the case of those of its neighbours which are to accede to the EU in a second stage (Romania and Slovakia).
- As compared with EU rules, one Member State indicates that Hungary refuses to impose a visa requirement on nationals of Ukraine, and Romania. The reason given is consideration for national minorities in those countries.

- According to two others Member States "Hungary was aiming to make its visa policy fully consistent with the EU's as of the time of accession. It hoped soon to receive the relevant documentation on Schengen so that it could make preparations. This had already been promised by the German Presidency. Visa policy vis-à-vis third countries was currently being overhauled. There were no basic obstacles, but it was necessary to be very tactful with neighbouring countries. This problem could not, however, be resolved until the time of accession".

Regarding document security, in September 1998 Hungary began to introduce a new set of documents. New passports have already been introduced, which bear a kinegram and in all probability comply with the requirements of the EU standard. The introduction of new identity cards and driving licences is scheduled for the spring of 1999, though there is likely to be a delay. By 2003 only passports of the new type should be in circulation. Visas do not yet comply with the EU standard.

From the answers to the questionnaire of the Working Group by EU Member States' Embassies in Hungary follows:

- In general border crossing points are quite well protected, however, "green" border is weak though there are moving patrols. Due to a still wrong dislocation of the border guards, the northern and western borders are quite well protected while the eastern and southern borders, where the immigrants come in, suffer from lack of equipment and personnel.

- Concerning the developments in cooperation with neighbouring countries for establishing/improving border controls problems are especially to be expected with regard to Yugoslavia, as there is no readmission agreement.

- A re-enforcement of the border control will probably not lead to conflicts with neighbouring States in the political field. The ethnic Hungarians living in the Ukraine, Romania, Slovakia and FRY might especially feel as victims in the fight of the EU against immigration from eastern European countries. This might nevertheless in the longer run influence the political climate with the neighbouring states.
- The most urgent problems in the field of border control are at the green border protection. Lack of funds and equipment to do this.

- At the eastern and southern green borders institutions, management systems and administrative arrangements (e.g. staff capacity and training, financial resources, computers, cars, equipment) are not adequate so as to ensure efficient control of borders or an efficient cooperation with Member States authorities. However, meanwhile there has been established a good collaboration with Austria. The collaboration with Slovakia is improving. No severe problems seem to exist in the collaboration with Croatia and Slovenia. Shortcomings are with Romania and the Ukraine. There seems to be no cooperation with FRY at all.

- The most urgent shortcomings are the need for more staff and training, greater financial resources for a better pay. Computer (systems), cars, radio equipment are also needed.

1.3. Conclusions

Hungary is making considerable efforts to take account of the Schengen and EU acquis. However the results are yet tangible.

On the other hand, there is an urgent need for:
- improvements in staffing, technical equipment and training.
- a marked improvement in the exchange of information between Hungary and the EU Member States.
2. OBSERVATIONS ON EXTERNAL BORDER SECURITY IN POLAND:

2.1. General description of the sector

In Poland, the Ministry of Internal Affairs and administration is responsible for the protection of the Polish land and maritime borders as well as border traffic control. The responsible body for the control of the borders is the Border Guard which works in co-operation with the national Police on the border and in the border zone.

However, in response to worrying trends in border crime, from the early 1990s the Polish Government has activated two other forces under the Ministry of the Interior, the Vistula and the Grom Military Units to support the operations of the Border Guards.

The Vistula Group is principally involved in the protection of Government and diplomatic buildings. It also conducts patrols similar to those of the Border Guard and also joint patrols with the latter. For these tasks it is under the control of the Border Guard. GROM is a specialist anti-terrorist unit. Its mission is principally the training of Borders Guards but they also conduct operations in support of the Border Guard.

Cooperation with customs is based on arrangements. There is an agreement between the central authorities and also between the local authorities.

2.2. Observations

On the Green Border, in the opinion of one Member State, Poland has laid crucial foundations for complying with the Schengen acquis and is heading in the right direction: the border guard gives the impression of being an organisation with a rigid and centralistic leadership and motivation. However, Poland is unlikely to be able to meet the Schengen and EU conditions in the near future due to the following structural shortcomings noted principally Member States but also by the Commission:

- soldiers stationed in Eastern Poland have no relevant experience, nor do they have the necessary powers of intervention. Their equipment is inappropriate;

- other than at crossing points, Poland is investing financial resources in the construction of observation towers, an out-mode conception which takes no account of modern techniques based on flexibility and mobility;
- Poland is moving towards achieving security at its external borders in the East by means of unilateral large-scale armament. Cooperation with neighbouring States is apparently neglected or at least not pursued with the necessary priority (according to the Commission's report this cooperation is regular and functional);

- the monitoring border officials do not engage in search interrogation. The equipment at the checkpoint kiosks is dusty and has apparently not been used for some considerable time;

- Poland has not succeeded to date in concluding a readmission agreement with Belarus;

- regarding document security, passports can easily be altered because they have no integrated photograph and no kinegram protection and national driving licences do not correspond to the EU standard. Also the forgery of documents can be extended, according to one Member State to diplomas, legal documents and identity cards.

On the Blue Border, one Member State observed that the Border Guard is well-organised and well equipped, and that the cooperation with the Coast Guard in the Baltic Sea Region is well established. However, more language training is required in order to further improve international cooperation.

2.3. From the answers to the questionnaire of the Working Group to the EU Member States' Embassies in Poland follows:

2.3.1. Situation at Polish Eastern border:

The Polish eastern border is a key geopolitical region of Europe and links Poland with Lithuania, the Russian Federation (Kaliningrad Region), Belarus and Ukraine. Whilst similarities do exist in the respective border regions, it is also fair to point out that many differences are apparent and introduce an element of diversity into the Polish management strategy.
At the moment, the Border Guard strength stands at 10 460 professional officers, 3050 conscripts and 3 700 civilians. There is a move towards greater professionalism of the force and eventually it is anticipated that there will be no conscripts serving on the border. There are also about 1000 men (officers and conscripts) from the Vistula Military Unit working under the command of local border guard commanders in the eastern border (and Warsaw airport). There are about 2000 men at the average age of 30-40 years and 6700 men at the average age of 25-30/40-45 years.

2.3.2. General assessment of the quality of the border control:

From the legislative point of view the situation is satisfactory. Most laws in this field are new and modern, and they provide the authorities with sufficient competencies.

The organisation of the Border Guard is quite effective, but there are still much work to do. The Border Management System at the eastern border is not in EU level. There is also a lack of equipment and people there.

The structure of the Polish Border Guard seems to be still too western oriented. There are more professional border guards in the western part of Poland than in the east. There is also a huge lack of infrastructure in the east and the border guards have to live temporarily in tents in the area of Ukrainian borders.

The Polish border checking operation is not yet in line with the requirements of the Schengen acquis. The lack of an ADP network and allowing border crossings by using special permits (invitations, vouchers etc.) are not necessarily acceptable. Also, some international agreements should be re-evaluated. It is also very important that the requirements set out by the Schengen Agreements have to be taken into consideration while planning the construction of airports, harbours and border crossing points.

In practice, an average border guard is professional, well-disciplined, well-trained and motivated, and the service has a keen "esprit de corps". They are well respected by the local communities from which they come and within they live and work. This assists them in their daily tasks.
2.3.3. Developments with neighbouring countries for establishing / improving border control:

Poland has border agreements with all its eastern neighbours which seem to be functioning well. Poland has also concluded readmission agreements with several countries. Readmission agreements are however lacking with Russia and Belarus. The new Foreigners’ Law, which came into force at the end of 1997 and which tightened the conditions of entry to Poland, caused some tension with Belarus and Russian authorities as well as with the Polish people living at the eastern border area, mainly due to its alleged negative impact on border trade.

2.3.4. The most urgent problems / challenges in the Polish border control:

The biggest challenge for the Polish border control is to build up a border management system at its eastern border. There are very good plans for the future and there seems to be a very strong political will behind these plans. It is not easy to create a new infrastructure and to find motivated employees when there is lack of everything. There is a pressing need to support substantial new-built programmes including accommodation for the personnel of the agencies managing the border. Especially, providing adequate housing for the families of the officers would do much to improve their motivation.

All agencies involved in border management in Poland would benefit from greater exposure to the methods employed by their EU counterparts. In the first instance, much of this training could be related to professional issues such as management techniques, information handling and communication skills. It would also be beneficial for Polish personnel to visit similar units in the Union and see how current EU borders are managed and patrolled. Such exercises are also relevant in relation to developments towards the Schengen regime and the integration into the Schengen Information System.

There is a genuine need for language training and in particular English language training. This requirement is not one for the Border Guard alone but for all agencies involved in border management.
2.4. Conclusions

The most important problems have been observed at the Green Border.

The needs for equipment, training and information in several areas has been noted by the authors of the reports. Such needs can be fulfilled not only by seminars, and courses given by EU specialists but also by training periods ("stages") of Polish officials in EU countries with a view to creating a Polish team of trainers in order to train the Polish border guard.

Such actions could also be useful in order to develop a real Border Guard Organisation and to put an end to possible problems created by the intervention of Vistula and GROM on borders control. Nevertheless any of the reports analyze the relations between the Border Guard, Vistula, GROM and Customs in order to ascertain whether if the future control of the Border only by the Border Guard will create internal problems of an administrative nature.

For its part, the Commission has observed a need to provide support for new-building programs including accommodation for the personnel of the agencies manning the borders and their families.
3. OBSERVATIONS ON EXTERNAL BORDER SECURITY IN ROMANIA:

3.1. General description of the sector

The Romanian border is 3.190 km long with 40% Green Border and 60% Blue Border.

From the institutional point of view there are two different border organisations:
- the Border Police (responsible for the control of border crossing traffic);
- the Border Guard (responsible for border security outside border crossing points along the Green and Blue Border).

In case of criminal offence, a file must be opened, not by the Border Police or the Border Guard, but by the State Police.

3.2. Observations

- Romania needs a new and proper border management legislation;
- the Romanian Border Guard is to be demilitarised and reorganised;
- Border Police and Border Guard are to be united under one single command;
- data information system and connections are needed;
- technical equipment is also an urgent requirement;
- much more training is necessary.

3.3. Conclusions

Apart from the Commission report there is no information on the situation of Romanian Borders. In order to enable a more comprehensive assessment of the crime situation and external border security to be undertaken, on-the-spot visits are required.
IV. General recommendations

1. Visa issues

1.1. Visa Policy
Considering that the approximation of legislation regarding the countries which are on the visa list is a highly political issue, it is recommended that these matters be left for the accession negotiations and that contacts with these associated countries in the Visa Working Party be continued, in order to give technical help and to facilitate this approximation.

1.2. Visa practice
The reports do not contain any information concerning Schengen legislation and practice. It is recommended that an expert mission be undertaken with a view to examining the current legislation and situation in Hungary, Poland and Romania on this matter.

2. External Border Security

It is recommended:

- to analyze in Hungary the Government needs in order to demilitarise the Border Guard.

- to examine in Poland the consequences of discharging Vistula and GROM from their border control tasks.

- a Member State mission in Romania in order to enable a more comprehensive assessment of the crime situation and external border security.