

**THE ANALYSIS OF POLAND'S ACCESSION PROCESS TO  
THE EUROPEAN UNION**

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## **ABSTRACT**

### **THE ANALYSIS OF POLAND’S ACCESSION PROCESS TO THE EUROPEAN UNION**

İlisulu, Başak

M.S. Graduate Programme of European Studies

Supervisor: Prof. Dr. Atila Eralp

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The year of 1989 was a milestone in re-creation of the European continent and the relations between states of Western and Eastern Europe. After the collapse of Eastern Bloc, namely the end of the Cold War era, the relations were reshaped and there was a convergence of the Western and Eastern sides of the continent to common values, rules and political and economic structures.

As a result of these new developments in the continent, the fifth enlargement wave of the European Union occurred. This was a controversial issue for the entire Europe. According to many scholars and researchers, Poland’s political history and geography caused Poland to be perceived as a special case for the European Union.

Poland could be seen as the most difficult candidate for the European Union membership in terms of its population and size. Because of its so-called “special position”, its membership was discussed in terms of whether being a stumbling block in the enlargement process.

The main motivations behind Poland’s goal of being a member of the Union were political and security-related. On the other hand, the challenges of membership were mostly concerning economic effects of membership on “losers” of the process, and social issues.

Accession and integration process was a very difficult and complex period for all candidate countries. Poland created new institutions, bodies and charged many people for this process. The analysis of the organisational structure established in Poland for negotiations and the entire integration process shows that Poland created a well-functioning and efficient structure and was able to execute a stable integration process.

The negotiations were carried out in 31 chapters with each candidate country. While some negotiation chapters could be accepted as easy topics, some of them required a hard “bargaining” in order to close the chapter. Five problematic chapters, free movement of persons, free movement of capital (particularly acquisition of real estate by foreigners), agriculture, environment, financial and budgetary provisions, could be accepted as the examples of tricky and hard negotiation chapters.

As a conclusion, it can be said that Poland achieved NATO and EU membership, which were its twin goals in 1990s. Although, Poland was perceived as one of the most controversial candidates in European Union’s most comprehensive and difficult enlargement movement, the “big bang”, it could constitute well-

functioning coordination mechanisms and conclude the negotiations on time with the other candidate countries. Poland did not become a stumbling block in the enlargement process and concluded its accession process successfully.

Key words: Poland, the European Union, enlargement, accession negotiations.

## ÖZ

### POLONYA’NIN AVRUPA BİRLİĞİNE KATILIM SÜRECİNİN ANALİZİ

İlisulu, Başak

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1989 yılı, Avrupa kıtasının ve Batı ve Doğu Avrupa devletleri arasındaki ilişkilerin yeniden şekillenmesi açısından bir dönüm noktası olmuştur. Doğu Bloğunun çöküşünün ardından, yani Soğuk Savaş döneminin sonunda, ilişkiler yeniden şekillenmiş ve kıtanın doğusu ile batısı arasında ortak değerler, kurallar, siyasi ve ekonomik yapılar çerçevesinde bir yakınlaşma başlamıştır.

Kıtadaki bu yeni gelişmeler neticesinde, Avrupa Birliği’nin beşinci genişleme dalgası ortaya çıkmıştır. Bu genişleme hareketi, tüm Avrupa için tartışmalı bir konu olmuştur.

Pek çok araştırmacı ve düşünür'e göre, Polonya'nın siyasi tarihi ve coğrafyası, Polonya'nın Avrupa Birliği için özel bir konu olarak algılanmasına neden olmuştur. Polonya, nüfusu ve coğrafyası nedeniyle Avrupa Birliği üyeliği için en zor aday olarak görülmüştür. Bu "özel konumu" nedeniyle Polonya'nın üyeliği, genişleme hareketi önündeki bir engel oluşturup oluşturmadığı açısından tartışılmıştır.

Polonya'nın Birliğin bir üyesi olma hedefinin arkasındaki başlıca sebepler siyasi ve güvenlik ile ilgilidir. Diğer yandan üyeliğe ilişkin çekinceler, üyeliğin bazı gruplar için ortaya çıkaracağı olumsuz ekonomik etkiler ve sosyal çekinceler olmuştur.

Katılım ve entegrasyon süreci tüm aday ülkeler için zor ve karmaşık bir dönem olmuştur. Polonya yeni kurumlar ve yapılar oluşturmuş ve pek çok kişiyi bu süreç için görevlendirmiştir. Polonya'da müzakereler ve tüm entegrasyon süreci için oluşturulan kurumsal yapılanma incelendiğinde, Polonya'nın iyi işleyen ve verimli bir yapı oluşturduğu ve istikrarlı bir entegrasyon süreci yürütebildiği görülmektedir.

Müzakereler, her aday ülke ile 31 başlık altında yürütülmüştür. Bazı müzakere başlıkları kolay kabul edilen konulardan oluşurken, bazı müzakere konuları müzakere başlığının kapatılabilmesi için zor bir "pazarlık" süreci gerektirmiştir. Kişilerin serbest dolaşımı, sermayenin serbest dolaşımı (özellikle yabancıların gayrimenkul alımı), tarım, çevre, mali ve bütçesel hükümlerden oluşan beş müzakere başlığı, uzmanlık gerektiren ve zor müzakere başlıklarına örnek olarak kabul edilebilir.

Sonuç olarak, Polonya, 1990'lardaki "ikiz hedef" olan NATO ve AB üyeliğini elde etmiştir. Polonya, Avrupa Birliğinin "büyük patlama" olarak adlandırılan en kapsamlı ve zor genişleme hareketindeki en tartışmalı adaylardan biri

olarak algılanmasına rağmen, iyi işleyen koordinasyon mekanizmalarını oluşturmuş ve müzakereleri diğer aday ülkelerle beraber zamanında tamamlamıştır. Polonya genişleme süreci için bir engel teşkil etmemiştir ve katılım sürecini başarılı bir şekilde sonuçlandırmıştır.

Anahtar kelimeler: Polonya, Avrupa Birliği, genişleme, katılım müzakereleri.



*To My Family...*

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I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

Date: 30/4/2004

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# INTRODUCTION

After the fall of the Iron Curtain, all the countries of the former Soviet Bloc welcomed a “return to Europe” which offered geographical access to the West and also (re-) integration with political and economic structures both in Europe and on the global level (e.g., NATO, IMF, OECD). Poland’s and other Central and Eastern European Countries’ (CEEC) determination of the membership of the European Union as the primary goal of the 1990s was a logical consequence of such developments.

The post-1989 redefinition of the relationship between East and West was intended to help insert the former state-socialist Central and Eastern European Countries into the global economy. By the 1990s, the European Union (EU) was contemplating to extend into the previously forbidden territory of the East. Former COMECON<sup>1</sup> countries were to be allowed to join the West, subject to meeting the economic and political criteria for entry: successful transformations to capitalism and

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<sup>1</sup> **COMECON** was the economic organization from 1949 to 1991, linking the USSR with Bulgaria, Czechoslovakia, Hungary, Poland, Romania, East Germany (1950–90), Mongolia (from 1962), Cuba (from 1972), and Vietnam (from 1978), with Yugoslavia as an associated member. Albania also belonged between 1949 and 1961. Its establishment was prompted by the Marshall Plan. It was agreed in 1987 that official relations should be established with the European Community, and a free-market approach to trading was adopted in 1990. In January 1991 it was agreed that COMECON should be effectively disbanded and it was formally disbanded in June 1991.  
<http://www.tiscali.co.uk/reference/encyclopaedia/hutchinson/m0006083.html>

creation of parliamentary democracies. “Consequently, ‘the EU has emerged as a model of democracy and economic stability to be pursued by the new or newly democratic countries of Europe, and as a symbol of how far they have to go to reach the promised land’.”<sup>2</sup>

Since the beginning of the 1990s the countries in Central and Eastern Europe have had to cope with some degree of tension between the “transformation” of their political, economic and social structures on the one hand, and the process of “integrating” with new global structures on the other. The new global situation following the end of the Cold War resulted in a reorientation of the economic, political and security-related outlook of the CEE countries. Membership of the European Union and NATO became the principal goals of these countries, requiring a major reorientation of the internal structures, institutions and value orientations of the candidate countries. In particular, the integration process preceding membership of the European Union required a great deal of adjustment and placed a great deal of pressure on the institutional and organisational capacities of potential new members.<sup>3</sup>

Poland was generally accepted as a wall against USSR in history and after the collapse of the Eastern Bloc, this state was seen as a frontier of West. Poland was the largest of the Soviet satellite states and it was rightly suspected of pro-Western tendencies. Poland started transition from a centrally-planned economy to the free-

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<sup>2</sup> Ray Hudson, “European Integration and New Forms of Uneven Development: But not the End of Territorially Distinctive Capitalisms in Europe”, **European Urban and Regional Studies**, Vol.10, No.1, January 2003, SAGE Publications, London, 2003, p.51.

<sup>3</sup> Brigitta Widmaier, “Approaching the European Union: Transformation and Integration in Central and Eastern Europe”, **Emergo: Journal of Transforming Economies and Societies**, Vol.6, No.4, Autumn 1999, p.48.

market. Economic “shock therapy”<sup>4</sup> proved a great blessing. Poland was a typical example of how “shock therapy” has been used as a model of transition. Hyperinflation was brought under control; new zloty was held steady; productivity began to pick up; huge foreign debt was paid off.

Poland was one of the few countries under socialist rule, which had a private sector (mainly in agriculture and services) during the entire period of Socialism. “Given the fact that even before 1989 successive reforms of the economic system had undermined the “pure” socialist model, it is not surprising that the share of the private sector in GDP rose considerably from 18% in 1989 to 70% in 1998. Various analyses agree that it has been one of the important driving forces in the Polish transformation process because private initiative was – at least to some degree – rooted in the economy.”<sup>5</sup>

Political stability was also established after the 1989 elections and has become an accepted feature of Polish life. The political transformation in Poland and

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<sup>4</sup> The **shock therapy** programs carried out on the economies of the former Soviet Union and countries of Central and Eastern Europe during the 1990s derived from neoliberal economic theory. The shocks took the form of sudden radical changes to the structure and incentives within economies. Some people consider the effects to be primarily negative, such as unemployment rates ranging from 20-40%, increased crime rates and increased social tensions between the poor and the rich. Others judge that the effects have been positive, and that the theory was inadequately applied. What is not in doubt is that sudden changes to economic structure and incentives require changes to behaviour, financial flows and the structure of the economy that are not as rapid as the shocks that initiate them. It takes time for firms to be formed and built up; it takes time for human capital to change (to acquire the skills) to exploit new circumstances. A developed Western economy rests upon and tends to take for granted a framework of law, regulation and established practice (including between parts of the domestic and international economy) that cannot be instantaneously created in a society that was formerly authoritarian, heavily centralised and subject to state ownership of assets. Even re-defining property law and rights takes time.

[http://encyclopedia.thefreedictionary.com/Shock%20therapy%20\(economics\)](http://encyclopedia.thefreedictionary.com/Shock%20therapy%20(economics))

According to Sachs, the radical strategy for the rapid transformation of Poland to a market economy, that was inception in Poland on January 1, 1990, by the new economic leader, Deputy Prime Minister Leszek Balcerowicz, when the first post-Communist government in Poland came to power in August 1989, has subsequently won the somewhat misleading sobriquet of “shock therapy.” For an evaluation of the first five years of shock therapy in Poland see Jeffrey Sachs, **Shock Therapy in Poland: Perspectives of Five Years**, The Tanner Lectures on Human Values, Delivered at University of Utah, April 6-7, 1994.

<sup>5</sup> Widmaier, op.cit, p.54.

the changes in its Central and East European environment created the conditions for a new, independent foreign policy. Poland's strategic path towards membership of NATO and the European Union was accepted by nearly all politicians. The public climate was also entirely favourable to the change. In less than a decade, the Soviet Union's chief ally was refashioned as a fully accepted member of the Western Community.

Diplomatic relations between the EU and Poland were first established at the end of 1980s. A Trade and Cooperation Agreement was signed in September 1989. The association relationship between the Republic of Poland and the EU was regulated by the Europe Agreement, which was signed on 16 December 1991 and entered into force on 1 February 1994.

By the early to mid-1990s new trade-partnerships had developed and trade between CEE and EU countries had greatly increased. Poland quickly re-oriented its trade. By the mid-1990s, the EU had already emerged as Poland's most important trading partner. The role of Russia in the mid-1980s has now been taken over by Germany.<sup>6</sup>

The eastward expansion of the EU was tied to the prevailing global liberal ideology, so that the virtues of democracy and the market were bound to the idea of EU enlargement. The 'return to Europe' was thus not only a symbol of the transition but also the guarantor of the systemic reconfiguration of the post-communist decade.<sup>7</sup>

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<sup>6</sup> Ibid, p.57.

<sup>7</sup> Jack Bielasiak, "Determinants of Public Opinion Differences on EU Accession in Poland", **Europe-Asia Studies**, University of Glasgow, Vol.54, No.8, December 2002, p. 1241.

For the economies still in transition, the EU was offering a contrasting model of success, which, by definition, was meeting the stability expectations of the Central and Eastern European political elites. At its Copenhagen Summit on 21-22 June 1993, the EU Council drew up clear entry criteria for those countries wishing to join the Union: "The applicant country must have achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; it must have a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the EU; it must have the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union."<sup>8</sup> The Copenhagen European Council made the commitment that the associated countries in Central and Eastern Europe could become members of the EU as soon as they were able to assume the obligations of membership by satisfying the economic and political conditions. After determination of the criteria for membership, Poland's application was made on 5 April 1994.

The "Eastern" enlargement of the European Union was different in various respects from the pattern of previous enlargements. In terms of difficulties in enlargement, these differences can be attributed to two basic factors. First, there was a large number of countries that applied for membership and second, the candidate countries had a relatively low level of economic development which, measured in per capita GDP terms, was lagging behind the average of the present EU and, sometimes also behind the corresponding indicator of the least developed present member countries. The number of countries in question and the wealth differentials existing

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<sup>8</sup> Patricia Bauer, "Eastward Enlargement – Benefits and Costs of EU Entry for the Transition Countries", **Intereconomics: Review of International Trade and Development**, Vol.33, No.1, Hamburg Institute for Economic Research, January/February 1998, p.11.

between the Union's current members and the candidates were the firstly noticed challenges for the EU.

In spite of these difficulties of the enlargement, the Eastern Europe had a special historic meaning for the West. "Rather than constituting 'the other' to Western Europe's identity, the East Europeans constituted the 'kidnapped West'."<sup>9</sup> The importance of the "myth of Yalta", symbolising the failure of the West to prevent the division of Europe, was often stressed in discussion of Western policies towards Eastern Europe.

The notion of a common destiny between East and West Europe was maintained and gradually reinforced throughout the Cold War. Although the iron curtain constituted a border, it was one that was considered imposed by outsiders. This common identity was promoted by the East Europeans themselves, but was systematically echoed in the West. According to Karen Dawisha, Poland was not the nation that was standing between East and West, but rather the one that was the West in the East.<sup>10</sup>

Poland attracts most attention among the acceding countries because of its historical and geographical ground in the Western Europe; its size and complexity.

Poland overcame many obstacles including public approach regarding membership, organisation of the integration process, preparation and conduct of

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<sup>9</sup> The expression is taken from Milan Kundera "The tragedy of Central Europe", **New York Review of Books**, 31.1.1984. The fact that Kundera later turned his back on his own argument and said that it was made "for Western consumption" does not weaken this claim. Rather, it confirms that from the Western perspective, Eastern Europe was seen as "one half of a whole" and that this is an argument which is expected to have resonance in Western Europe. Helene Sjursen, **Why Expand? The Question of Justification in the EU's Enlargement Policy**, ARENA Working Papers, No.6, 2001, p.14.

<sup>10</sup> Karen Dawisha, **Eastern Europe, Gorbachev and Reform**, Cambridge University Press, Cambridge, 1990, p. 75, in Sjursen, op.cit, p.15.

negotiations in its path towards European Union membership and achieved the identity of a member state. It would be a new member of the European Union as of May 1, 2004, after 5-years negotiation process.

A thorough analysis of Poland's accession process to the European Union will be presented in this thesis. The purpose of the first chapter is to evaluate the main motives of Poland to gain European Union membership and the challenges that it confronted. Being a part of NATO alliance was Poland's first but not the only target after the launch of transformation period in 1990s. In the first chapter, initially, the complementary character of membership of NATO and the EU, which were twin goals of Poland in the last decade, will be introduced.

Then, the importance of being a member of the European Union for Poland will be explained beginning with the evaluation of special position of Poland in the entire integration process of CEES with the west part of the continent. Later, the approach of Poland as regards membership will be analysed within the context of costs and benefits of membership. The expectations and challenges of Poland will be translated through a traditional approach based on political, economic, social and cultural perspectives. Following this assessment, the course of Poles' opinion, particularly the decrease of public support during negotiations process will be set forth. As the final section of the chapter, European Union's general view about CEES, especially Poland will be figured.

After determining the targets of Poland in the context of integration, the structure introduced in Poland to achieve these will be demonstrated in the second chapter. In order to evaluate the negotiation process and procedure, firstly, the principles of the negotiations should be understood. Stages before negotiations and

preparations for the opening of negotiations will be explained and the general negotiation procedure will be given. Since the accession negotiations process was very comprehensive and complex, Poland had to create an integration strategy and establish a coordination structure to execute this process. After making a clarification about the concept of negotiations, the coordination policy of Poland will be evaluated, by determining the responsible authorities, and the associated deficiencies in this process. The Union's negotiating structure will also be presented, as the counter dimension of the overall negotiation process.

In the third chapter, selected problematic issues in the negotiations process will be evaluated. Free movement of persons, particularly labour, free movement of capital, specifically acquisition of real estate by foreigners, agriculture, environment, and financial and budgetary provisions chapters will be elaborated from historical, social or financial perspectives respectively. Mutual negotiation positions including requests of transition periods of both parties will be further discussed from a broad membership perspective within the context of Poland's negotiation strategy.

Finally in the conclusion part, a general assessment of Poland's coordination policy regarding negotiations and achievements of Poland at the end of negotiations will be made which might provide an insight for the current and prospective accession countries in establishing their negotiation strategies.



# **CHAPTER I**

## **MOTIVATIONS AND CHALLENGES IN POLAND BEHIND EUROPEAN UNION MEMBERSHIP**

### **1.1 - Twin Goals of Poland**

The extending of NATO and the European Union to the East constituted two parallel but, at the same time complementary and interacting processes, which aimed widening the area of security, stability and well-being to the eastern countries, the so-called new democracies. In Poland, being members of EU and NATO were “twin goals” because this twin membership would provide effective co-operation between these two organisations and would have a positive impact on the future of European security and, equally important, Euro-Atlantic relations.

Considering the fundamental task of ensuring security, it is difficult to envisage a society that would not make national security its own objective, a society, which would not want to ensure it independently, or a society, which would prefer

security to be ensured on its behalf by a protector. Yet, there were only a few communities that were able to carry out this task completely independently. Olechowski<sup>11</sup> mentioned that, Poland was not able to ensure its national security independently, since it lacked sufficient resources and expertise. Also Firlej and Wieczorek indicated the link between NATO and European Union by saying that progress towards meeting the standards required by the NATO<sup>12</sup> alliance would help to smooth Poland's path towards integration with other European structures, especially the European Union.

The only effective though imperfect and slow process that can ensure security of the state was international co-operation whereby each country has a specialised responsibility and contributes to European security. Countries with limited potential, both in Western and Eastern Europe, unable to single-handedly develop significant capacities, have to get involved in international projects and find their specialisation there. Even such European powers as the United Kingdom, France or Germany were not and would never be able to develop independent capacities to react to all possible conflicts.<sup>13</sup> Countries with a weaker military position may offer a significant contribution to especially soft security, e.g., Poland would make contribution to eastern policy of the EU.

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<sup>11</sup> Andrzej Olechowski, "Political System and Foreign Policy: European Union-Polish Project in Progress: An open lecture given at the Polish Institute of International Affairs, February 28, 2001", **The Polish Foreign Affairs Digest**, Quarterly No.1, The Polish Institute of International Affairs, Warsaw, 2001, p.69.

<sup>12</sup> For an evaluation on short and long-term costs of integration with NATO structures, see Elzbieta Firlej and Pawel Wieczorek, "Economic and Financial Aspects of Integration of Poland with NATO Structures", **The Polish Quarterly of International Affairs**, Polish Foundation of International Affairs, Warsaw, 1999, p.29.

<sup>13</sup> Grzegorz Gromadzki and Olaf Osica, **An Overview of European (In)Security**, On the Future of Europe Policy Papers, No.7, Stefan Batory Foundation, Warsaw, June 2002, p.9.

Concerning the relation between NATO and the EU, in terms of security, we can sum up four important reasons to acquire membership of both the European Union and the NATO from Gromadzki and Osica's report<sup>14</sup>, which reflects position of non-governmental organisations. First, double membership of European countries would put an end to what may justly be called political schizophrenia. In discussions between the two organisations, representatives of the same countries usually sit on both sides of the table, yet they often present divergent views and solutions to particular issues depending on whether they represent NATO or the EU in the negotiations. This situation makes difficult talks, concerning for instance access of the EU to the capacities and resources of NATO, unnecessarily complex. Membership of European countries in both the EU and NATO will certainly help Europeans to develop a common position, even if it offers no instant remedy to all difficulties. Second, different membership of two organisations would cause developing separate military capacities for EU needs and for NATO and this would lead duplicating military capacities which would be both a financial, and a political mistake as it would heighten tensions between the EU and NATO. Third, double membership would also help to develop a strong European pillar of the North Atlantic community, one of the main conditions of good relations between Europe and the United States. NATO membership of all EU member states would not subordinate the Common European Security and Defence Policy (CESDP) to NATO; conversely, it would amplify Europe's voice in NATO, which would become a prime forum to discuss security issues between the EU and the USA. And finally, double membership would open the way to co-operation of the armaments industry throughout the North Atlantic region.

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<sup>14</sup> Ibid, p.7.

Being a member of NATO<sup>15</sup> would not entirely eliminate Poland's all security problems. Regrettably, there were good reasons to believe that NATO membership might not be sufficient to secure Poland's independence; it might not satisfactorily guarantee Poland's national survival. NATO on its own does not significantly improve the prospects for stable democratic and economic development in Poland's region. Like any international agreement, NATO too might one day prove to be only transitory; at some point in the future the treaty might terminate and NATO might disintegrate. Moreover, NATO is not able to change the nature of relations on Poland's continent. "Whether peace is a permanent phenomenon in Poland's part of the world will not depend so much on military alliances as on the state of relations between European nations—whether these relations are cooperative and friendly, or rather competing and hostile."<sup>16</sup>

Poland as a member of NATO has ceased being an area for rival superpowers to argue over, but only as a member of the European Union could it more rapidly develop the economic, social and political basis for its stabilising role in the region, enlarge the European Union's internal market, strengthen the EU's demographic potential, enrich the palette of cultural impulses for development, strengthen the EU's competitiveness in the world economy, facilitate the search for an appropriate formula for the Atlantic partnership, help drawing Ukraine, the Russian Federation and Belarus into co-operation.<sup>17</sup>

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<sup>15</sup> Poland became a member of North Atlantic Treaty Organisation in 1999.

<sup>16</sup> Olechowski, loc.cit.

<sup>17</sup> Ryszard Stemplowski, "The President of the Polish Republic in Conversation with the Editor of *The Polish Diplomatic Review*," **The Polish Foreign Affairs Digest**, Quarterly No.1, Polish Institute of International Affairs, Warsaw, 2001, p.8.

In spite of Poland's general preference of double membership, Poles had reservations concerning EU membership rather than NATO membership. A comparison of the poll results revealing the public attitude to the EU and NATO pointed to a sustained growth of the public endorsement of Poland's plans to join western military structures, this support being actually much stronger than that lent to the prospective membership of the EU, an economic organisation. The general declarations ("yes" or "no") proved a very stable level of support and – unlike in the case of the EU – showed a continuing high growth rate of that support.<sup>18</sup> The Poles were, therefore, more settled in their convictions about NATO than about the EU, while the volatility of social opinion measured with the positive/negative assessment of the country's actual developmental course exerts much less impact upon the public acceptance of NATO membership.

## **1.2 – Sense of EU Membership in Poland**

The eastern enlargement of the EU was a challenge and a great chance for the countries involved and for the whole Europe. In the long term its macro-economic consequences should be beneficial for all parties, including also the third countries. In the short and medium term, some professional groups and some strata of population, or some regions, in the incumbent EC states and in the new member countries could be adversely affected, although their losses would be overbalanced by net gains of their economies stemming from the enlargement.

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<sup>18</sup> Elzbieta Skotnicka Illasiewicz, "Poland on Its Way Towards Membership of the EU and NATO: Hopes and Anxieties in a View of Public Opinion Polls," **Yearbook of Polish European Studies**, Vol. 2, Warsaw University, Centre for Europe, Warsaw, 1998, p.252.

### **1.2.1 - Was Poland a Special Case for the EU?**

As mentioned in the introduction, Poland, as the chief ally of the Soviet Union, was generally accepted as a wall against USSR in history and after collapse of Eastern Bloc, this state was seen as a frontier of West.

Poland's political history and geography gave Poland a particular strategic importance in the EU enlargement process. Poland was the first country in the 'old' Eastern Europe to establish a post-communist government in 1989. It was in the first group of countries, along with the Czech Republic and Hungary, to be included in the enlargement of the North Atlantic Treaty Organisation (NATO) in 1999. Poland was simply too important to be treated as 'just one of the candidates' in terms of EU enlargement. Poland was an important candidate for Europe because, it was the largest transition country set to join the EU in the near future. Thus it was a 'test case' for policy-makers and politicians in the EU of their conceptions and their ambitions for an enlarged EU.

From the point of view of Brussels, Poland was the biggest opportunity for the EU (the largest market), while it was also its biggest headache, due to the scale of the country and of its problems. On the one hand, one could hardly imagine any EU eastward enlargement without Poland; yet on the other hand Poland, for the very sake of its size and importance, would require a particularly close and detailed examination during the negotiation debate. It was quite clear that any omission or deficiency in the case of Polish candidacy might result in consequences (political,

financial, macro-economic) incomparably more serious than it would be the case of – for example – one of the Baltic region countries, or even of all of them combined.<sup>19</sup>

Poland, which was generally ranked as a front-runner in the transition process, was seen as the most important of the CEE applicant countries given its size and geopolitical position. When Poland joined the EU, the EU would then include another member state of the size of Spain and one that was in the heart of Europe bordering Germany to the West and with Ukraine, Belarus and Russia as neighbours to the East. The suggestion was increasingly heard that Poland would also be the most difficult one of the first group of applicants to take into the EU, in part to do with the size and complexity of its economy. A somewhat premature discussion even emerged as to “whether other applicants will join the EU ahead of Poland or whether for geopolitical reasons they will have to wait for Poland.”

Thus, we can see that the unquestionable importance of Poland gave rise to some problems. Since Poland was such a big country and was generally perceived as the most difficult candidate, other applicants were eager to stress that their accession to the Union was unproblematic compared to Poland. Instead of “waiting for Poland” they should, therefore, be allowed to accede as quickly as possible. In the academic literature, this special position of Poland was also prominent. Many scholars depict Poland as a stumbling block, which will slow down the overall enlargement process. The European Press was also dominated by the view that Poland was a potential stumbling block. The evaluation of the European Voice was representative: “If ... Warsaw continued to lag behind the others in the early part of the next decade, the Union would face a difficult choice. Could it realistically invite other states to join,

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<sup>19</sup> Bogdan Goralczyk, “Political Dilemmas Behind the EU Eastern Enlargement,” Dariusz Milczarek and Alojzy Z. Nowak (ed.s), **On The Road to The European Union: Applicant Countries’ Perspective**, Warsaw University, Centre for Europe, Warsaw, 2003, p.249.

without Poland when Germany (and possibly France) would not contemplate enlargement without its big eastern neighbour? Or would other applicant countries agree to wait until Poland caught up?”<sup>20</sup>

On the other hand, Friis and Jarosz opposed this argument.<sup>21</sup> This was first of all, due to the fact that Poland was not really in a special position. All the problems that surrounded the Polish case were actually the same time, although of a different magnitude, as those which would complicate the accession of all the other candidates. Secondly, a number of factors would pressurize Poland into signing the accession deal at the same time as the other front-runners. Of central importance here was the fact that Poland was not equipped with a credible alternative to enlargement. As a result Poland would not be willing to run the risk of acceding to the Union when there would be more than fifteen member states sitting around the table.

### **1.2.2 - Costs and Benefits of EU Membership for Poland**

In the governmental report on costs and benefits of Poland's accession to the EU it was emphasised that<sup>22</sup>:

“Obtaining the full membership in the EU is a strategic objective of Poland. Superior benefits will consist in strengthening the security of the country, increasing credibility and authority of Poland and getting a right of co-decision on questions that are of our direct concern.”

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<sup>20</sup> **European Voice**, 20-26 May. 1999.

<sup>21</sup> Lykke Friis and Anna Jarosz, “When the Going Gets Tough: The EU's Enlargement Negotiations with Poland”, **Journal of European Integration**, Vol.23, No.1, Harwood Academic Publishers, 2000, p.30.

<sup>22</sup> Juliusz Kotynski, **Costs and Benefits of EU Eastern Enlargement: Polish Perspective**, Foreign Trade Research Institute Discussion Papers, No.80, Warsaw, 2000, p. 13.



This approach of government confirms the answer of the question that Nowak brings up.<sup>23</sup> Nowak states that the answer to the question of whether Poland should integrate the EU or not, may be reached quite easily, while taking the numbers in terms of GDP of Poland and EU into consideration, if we first answer the question whether Poland desires to belong to creators of modern world or whether it is satisfied with no more than an observer's role. If Poland desires to be creator of modern world, than is to be actively involved in shaping its economic, political, social and other policies, if only to a limited degree, but in any case much higher than it does upon its domestic scale – or on local one at best – then the question whether Poland should access the EU is unambiguous; yes, it should.

During the past decade, Poland underwent a deep transformation, from political upheaval and economic crisis, to democracy and the functioning market economy, developing successively a potential capable of competing with market forces of the European Union. It is generally recognised that the membership in the EU would be the best guarantee of irreversibility of the political and economic transformation and the stability in Poland. It would give a strong stimulus to the process of restructuring, modernisation and growth of the economy. A final success of democratic, market-oriented reforms in Poland and consolidation of its economy was also in political and economic interest of the members of the European Union and other countries of the continent, including the eastern neighbours of Poland.

The picture in Poland was more mixed than other applicants. Poland looked like the UK in its economic approach but more like France in attitudes to the EU – strong general support but also robust on national sovereignty – while it looked

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<sup>23</sup> Alojzy Z. Nowak, "European Union – an opportunity for Poland?" Milczarek and Nowak, op.cit, p.38.

southern in its attitude to transfers.<sup>24</sup> With the predominance of political motivations for accession, Poland looked in some ways more similar to the founding members of the EU than to later entrants like the UK, Denmark or Sweden. However, there was widespread and deep ignorance and lack of understanding about the EU, including among the policy elites. Consequently, an increase in debate and some increase in scepticism were anticipated in Poland as the implications and details of EU membership became clearer and better understood. Nonetheless, Poland would be a net recipient from the EU budget and so might be expected to be more similar in outlook to the Cohesion countries – Greece, Ireland, Portugal and Spain – than such recent entrants as Austria and Sweden.

Governments were all taking the position that EU's eastern enlargement was offering the best way of stabilizing the democratic system and were over-fond of using metaphors portraying Europe as "one single cultural region" or "sphere of civilization."<sup>25</sup>

#### **1.2.2.1 - Political Perceptions**

In terms of international politics, Poland had a specific position in Europe. On the one hand, it was at the heart of Europe where its origins lied. On the other, it attributed great importance to its relations with the US on the far western side and it specified its role in respect of neighbourhood with eastern countries at the new

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<sup>24</sup> Kirsty Hughes, Heather Grabbe and Edward Smith, **Attitudes of the Central and East European Countries to Integration**, IGS Discussion Papers Series, No. 99/3, University of Birmingham, Institute for German Studies, 1999, p.2.

<sup>25</sup> Bauer, loc.cit.

eastern border of the EU. Poland's position as regards Germany was another point that must be touched on.

In Poland, political and security motivations were the driving forces behind the goal of EU accession. Joining the EU was seen as symbolising this country's 'return to Europe'. EU membership was perceived as underpinning political and economic transition and as providing implicit security.

Poland's geographical location between Germany and Russia, and its historical experiences meant that membership of the key European multilateral organisation was seen both as a route to stability and security, and as the means to join or re-join the West and end the division of Europe. Joining the EU was seen as the natural or right goal in the post-1989 Europe. NATO was not seen as an alternative to the EU, rather joining NATO and the EU were complementary and intertwined aims which would jointly underpin political and economic transition, and contribute to stability in economic, political and security terms. Concerns with security, stability and Poland's geopolitical position were driving forces behind the twin aims of joining the EU and NATO.

In the field of foreign policy, Poland aspired to become a regional leader and to achieve a position in which it 'would not only be a client in international politics but would also make a contribution to them'. Poland hoped to make its contribution by striving to eradicate both Cold War-era divisions between East and West and to avoid new ones between the 'ins' and 'outs' of EU/NATO enlargement. As international security increased and regional affairs were stabilised, and as Poland's international position improved, Poland's foreign and economic policies would establish more ambitious goals and have wider geographic horizons.

In respect of relations with Germany, accession would help the final rapprochement between Germany and Poland. The ‘Aussöhnung’<sup>26</sup> between Germany and Poland, where considerable progress has already been made, was as essential a part of European reconciliation as that between Germany and France. This process would be much easier within the Union than outside it.<sup>27</sup> Yet the enlargement of the European Union also had a more profound dimension. To borrow from the vocabulary of German reunification: that which belongs together should grow together.<sup>28</sup>

At a more concrete level, in the Polish-German Treaty on Good Neighbourliness of June 17, 1991 (Art. 8), the government of the Federal Republic of Germany declared that it would support “as far as possible” Polish aspirations to become a member of the European Communities and expressed its positive opinion on “the prospects of Poland’s accession to the European Communities as soon as conditions become suitable”.<sup>29</sup> This expression shows the beginning of Germany’s being the inner supporter of Poland concerning its membership in the Union during enlargement process.

Poland could be expected to be a strong supporter of a common foreign and security policy. There was generally a strong support for the EU’s common foreign

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<sup>26</sup> Aussöhnung: reconciliation.

<sup>27</sup> Alan Mayhew, **Recreating Europe: The European Union’s Policy Towards Central and Eastern Europe**, Cambridge University Press, Cambridge, 1998, p. 186.

<sup>28</sup> Wladyslaw Bartoszewski, “What Belongs Together Should Grow Together,” **Internationale Politik**, Transatlantic Edition, 1/2001, Vol.2, Spring Issue, German Council on Foreign Relations, 2001, p. 13.

<sup>29</sup> Marek A. Cichocki, “Polish-German Relations in the Light of Poland’s Accession to the European Union,” **The Polish Foreign Affairs Digest**, Quarterly No. 2, Polish Institute of International Affairs, Warsaw, 2002, p. 169.

and security policy (CFSP)<sup>30</sup> and for cooperation in justice and home affairs (the second and third ‘pillars’ of the Union). In both areas, Poland could be expected to bring new approaches. On CFSP, it would add a range of interests, particularly concerns about foreign policy in terms of further East. It would welcome multilateral approaches to relations with neighbouring countries.

Given its geographical position and its historical, cultural and economic links with countries further East, notably Ukraine, Belarus and Russia, Poland had a considerable potential to contribute to the formation of the EU foreign policy, specifically as far as the relations with these countries are concerned, and in this respect, it also had the expectation of becoming a player of some significance in its immediate regional area.

Finally, Poland’s relations with United States should be emphasised. In terms of security preferences, Parzymies stresses the difficult choice that Poland would be confronted. The choice for Poland is, whether to remain faithful to the European model of fight for common values, or support American actions in this area, or look for the synthesis of both models. Parzymies<sup>31</sup> mentions that, Poland’s attitude towards transatlantic cooperation in the defence domain should be determined both by its geopolitical situation, historical experience, political and economic interests and by emissions to play in this area of Europe, on the eastern border line of EU and NATO, important part in the international affairs. Poland has too painful historical experiences as regards guaranty for its safety from Western European partners to

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<sup>30</sup> Since negotiations of Maastricht Treaty, member states accomplish Common Foreign and Security Policy and since 1999 (Amsterdam Treaty) within it Common European Security and Defence Policy.

<sup>31</sup> Stanislaw Parzymies, “Eastward Enlargement of the European Union and Its Consequences for International Security,” Milczarek and Nowak, op.cit, p.237.

ignore constancy of alliance with the United States. At all events Central European EU members will act for the benefit of transatlantic solidarity<sup>32</sup> in the face of common treats, as they do it at present, involving themselves, according to their capacities, in joint fight against international terrorism.

#### **1.2.2.2 - Economic Considerations**

In regard to the EU, studies of Western countries found that assessments of personal and national economic benefits were closely related to opinions on European integration. Views that EU enlargement will positively affect the material well-being of one's household or will facilitate economic growth naturally signified strong and steadfast support for the process. In contrast, perceptions of personal economic costs or the equation of economic liberalisation with material pain were translated into rejection of pan-Europeanisation as harmful to individual and national interests.<sup>33</sup>

In economic terms, in the long term, synergic effects of the accession on the rate of economic growth and on the economic structure, on volume and efficiency of investment, on employment, research and development, environment, transport infrastructure and living standards would be highly favourable. However, an immediate impact of the accession on the trade balance and employment – and the effects in specific areas and sectors – would not necessarily be beneficial. Such was

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<sup>32</sup> Also Milczarek recommends a Euro-Atlantic model of security basing upon the integrated European and Atlantic models. For an analysis concerning the optimum European security model see p.262-267 of Dariusz Milczarek, "After the EU and NATO Eastward Enlargement – What Kind of a New European Order? Polish Point of View," Milczarek and Nowak, op.cit, p.259-276.

<sup>33</sup> Bielasiak, op.cit, p. 1245.

also the experience of countries that had earlier joined the EU, especially Spain, Portugal and Greece.

However, as Kotynski underlines,<sup>34</sup> the risk of transitory and sectoral problems should not overshadow the importance of the unique historical chance granted to Poland, of radically shortening her economic and civilisation distance from leading European and world economies during a life span of one generation.

The ability to adopt the *acquis* and the impact of its adoption also relates to the state of economic transition. Poland was in the leading group in economic transition. Poland was one of the economies that were most inherently liberal and entrepreneurial, although also had important counter-tendencies especially in the remaining state-owned sector and agriculture.

Poland's successful economic transition and economic performance should contribute to effective implementation of the EU's *acquis*. There was a general perception that meeting EU requirements and transition requirements were intertwined and difficult to distinguish from each other. There was a strong consensus in Poland on the broad direction of economic policy and an inherent liberalism in its overall policy stance. However, at the same time, there were some contradictions between the strong entrepreneurial private sector and the vested interests in the old state owned enterprises in heavy industry, where privatisation was still required and remained contentious. There was also a powerful trade union lobby. Consequently, there were tensions within the overall direction of Polish economic development. The principle basis of policy was liberal but both in industry and agriculture there were more backward looking and protectionist elements.

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<sup>34</sup> Kotynski, op.cit, p. 12.

As Orlowski<sup>35</sup> summarized the economic benefits for Poland, first, as an EU member Poland would get irrevocable and unlimited access to the West European market. Given the huge differentials in wage levels between Poland and its Western neighbours, this should create tremendous business opportunities for both domestic and foreign investors. Second, EU membership would greatly reduce the investment risk, encouraging long-term capital flows to Poland. Third, membership would help Poland in developing a stable, market-friendly legal framework that will encourage long-term investment. Fourth, Poland, as an EU member, would be eligible for generous structural aid,<sup>36</sup> and Polish agriculture would gain at least some of the Common Agricultural Policy (CAP) benefits.

Right along with the benefits, EU membership was also involving costs for Poland. In adjusting to the demands of the single market Polish producers would have to meet EU product norms, ensuring that a product manufactured in Poland satisfies EU consumer protection rules. Competitive pressure would also greatly increase on the 'domestic' market and the freedom to support Polish firms with public assistance would be severely restricted.

Agriculture was separately a sensitive area economically, politically and culturally. Hidden unemployment in agriculture was considered to be quite high and

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<sup>35</sup> Witold M. Orlowski, "Poland – European Union: The Economics of Accession", George Blazycy and Ryszard Rapacki (eds.), **Poland into the New Millennium**, Edward Elgar Publishing Limited, UK, 2001, p.278.

<sup>36</sup> Concerning the structural funds (e.g., for developing institutions and infrastructure), there was a clear opinion divergence between EU members regarding structural policy. The Commission and the status quo oriented member states, namely the cohesion countries, argued that the funding for the EU-15 members should not be reduced and that the new members were in need of structural aid to a large extent. Contrary to this demand-led approach, the net payers in the EU argued for a concentration of funds on the poorest regions of the enlarged Union, i.e. the candidate countries, and the taking into account of the economic convergence processes in the Union by effective graduation from transfer schemes. Barbara Lippert and Wolfgang Bode, "Financing the Enlargement of the European Union", **Intereconomics: Review of European Economic Policy**, Vol.37, No.2, Hamburg Institute of International Economics, March/April 2002, p.69.



surplus labour has been a key impediment to greater efficiency in CEE agriculture. Employment in agriculture would need to be reduced to a much lower level, both before and after Poland's accession to the EU. This process, however, would be rendered more difficult due to a low labour mobility between agriculture and other, non-agricultural sectors.<sup>37</sup> On the other hand, the benefits that accession would bring to the non-agricultural sectors by EU's provision of substantial assistance in all sectors to help the CEE's prepare for accession, especially for infrastructure improvement, combined with additional investment that would come to Poland, would generate alternative off-farm employment for this surplus labour and also for producers who would not be able to compete in an enlarged EU.

Besides, in the food and agricultural sectors, many producers were increasingly fearful that they would not be able to compete with high-quality EU products in a single market, particularly when the costs of adopting EU regulations raise farmers' production costs. Accession would also mean substantially higher food prices for consumers whose average income was less than half the EU average.<sup>38</sup>

A very important discussion issue on Poland's EU membership was about core-periphery differentiation. Some authors claimed that Poland would not be completely integrated with the European Union as expected, for a long time. As an example, Nowak mentioned that, for a long time the Polish economy will function on the periphery of a strong economic system, first as a country aspiring to the European

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<sup>37</sup> Magdalena Nowicka, "Social and Economic Aspects of the European Union Enlargement to the East: Assessment of Potential Costs and Benefits", **Yearbook of Polish European Studies**, Warsaw University Centre for Europe, Vol. 4/2000, Warsaw, 2000, p.48.

<sup>38</sup> Nancy Cochrane, "Agriculture in Poland & Hungary: Preparing for EU Accession", **Agricultural Outlook**, December 1999, Economic Research Service / USDA, p.20.

Union, and next as a member nation outside the EMU, spoken of in the jargon as an “out.”<sup>39</sup>

When the EC was preparing itself to receive three much poorer countries from southern Europe (Greece, Portugal, Spain), these theories of centre and periphery were popular. They drew their inspiration from the wider family of economic divergence theories, which predict a worsening of inequalities as a result of free trade, and hence a growing economic gap, following the southern enlargement, between the centre of Europe, comprising most of the EC of Nine, and its new southern periphery. Rich countries (or regions) tend to get richer and poor ones poorer with the free interplay of market forces, or so such theories contend. Tsoukalis disagrees this negative impact of enlargement. According to him, the end result has been very different, and this largely explains why the European periphery loves Europe. If anything, the EU seems so far to have acted as a convergence machine, leading to a substantial reduction of inter-country income disparities. This is particularly true of the so-called Cohesion Four, comprising Greece, Ireland, Portugal, and Spain, which have been identified as the main targets and beneficiaries of the Structural and Cohesion Funds.<sup>40</sup>

While Tsoukalis is making an assessment about the results of being periphery and states that EU would improve the periphery's situation, Inotai makes a completely different evaluation concerning the states that constitute the core and the periphery. He finds the most relevant difference between the coming enlargement

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<sup>39</sup> Alojzy Z. Nowak, “The Integration of Poland with the European Union: Possible Scenarios”, Alojzy Z. Nowak and Jeffrey W. Steagall (eds.), **Globalization, European Integration and ...?**, Centre for Europe, Warsaw University & Coggin College of Business, University of North Florida, Warsaw-Jacksonville, 2002, p.235.

<sup>40</sup> Loukas Tsoukalis, **What Kind of Europe?**, Oxford University Press, New York, 2003, p.54.

and the previous ones in its geographic implications and recognises the new comers of the EU as in the core of the continent.

During the last decades, altogether nine countries joined the founding "core group" of the European integration in four "waves". No less than seven of them were located at the geographic periphery of the continent (excepting Denmark and Austria). Europe has reached its well-defined geographic boundaries in the North (excepting Norway), in the West and in the South (excepting Malta and Cyprus). The next enlargement (or enlargements) would bring into the enlarging Union the continental core of the continent, even if, for understandable reasons, the new Eastern borders of the EU will not reach the rather unclear Eastern borders of Europe. The consequences will be (partly are already) felt in the shifting geopolitical balance, and, in a positive scenario, in the emergence of a new growth centre (or centres) in Europe (Central Europe and the Baltic region). More importantly, all of the new member countries will be transit countries, with clear and positive consequences for (two-way) trade and capital flows, more economic investments into the physical infrastructure, more efficient use of the national and community resources available for the development of infrastructure, the cleaning of the environment and the formation of human capital.<sup>41</sup>

Furthermore, although the new member states might be perceived as the periphery of the Union, there has been more to EU membership for them than growth and transfers. Membership has meant opening up to the rest of Europe and the world in more than an economic sense; in other words, greater exposure to modernity. It

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<sup>41</sup> Andras Inotai, "Special Challenges and Tasks of 'Eastern' Enlargement", **Intereconomics: Review of European Economic Policy**, Vol.37, No.4, Hamburg Institute of International Economics, July/August 2002, p.182.

has also meant the consolidation of democracy in countries which had been cut off for shorter or longer periods from Europe's post-war democratic core; and it has meant different benchmarking and the import of higher standards of public and corporate governance.<sup>42</sup>

### 1.2.2.3 - Social and Cultural Challenges

A columnist of the *Niedziela* weekly, which was often critical of the European Union, concluded his article warning against the destruction of “Polishness” in the processes of integration with the declaration: “If we have sense of being Polish, it is due to our culture and family.”<sup>43</sup> As could be understood from this expression, cultural identity was very important for Poles and its being “damaged” because of imposition of European structures would cause a strong opposition to membership idea.

Identities of Western and Eastern people differ from each other. According to Maslowski, type of national states dominant in the West, has relied upon the Enlightenment-derived paradigm of the absolute authority of Reason (understood as rationality), of rule of formalised Law as well as of consciousness of identity defined by citizens’ affiliation and social position. This has been related to the centralising function of political discourse, ensuring coherence of political institutions, law and educational programmes. In Central Europe, instead, due to specific historic reasons, quite a different set of values became the dominant one, namely the Romantic

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<sup>42</sup> Tsoukalis, op.cit, p.55.

<sup>43</sup> Cz. Ryszka, “Entuzjastom Unii Europejskiej”, *Niedziela*, No.21/1999 in Slawomir Sowinski, “A Europe of Nations – but What Kind of Nations? The Nation in the Debate on Poland’s Integration with the European Union”, *The Polish Foreign Affairs Digest*, Quarterly No.3 (4), The Polish Institute of International Affairs, Warsaw, 2002, p. 93.

paradigm of Herderian cultural identity, which is identity of language, custom, and symbolic references. Therefore, for consciousness of identity, an affiliation to a particular cultural community seems the most important factor, rather than citizenship.<sup>44</sup>

National sovereignty was an important challenge for Polish side, which can be evaluated under this title. Apart from Poland, the applicants were small countries and they tended to recognise the benefits that can come from working in a multilateral organisation while at the same time being aware that small countries would have relatively low levels of influence. Although Poland as the largest country will have more influence, it was also likely to be somewhat cautious on sovereignty but at the same time also wanted to be a part of a strong EU.

It is worthwhile to quote a somewhat bitter opinion of Professor Antoni Kuklinski on the balance of benefits and losses associated with Poland's membership in the European Union, expressed as follows:

“... The most important advantage, connected with Poland's full membership in the European Union, is activation and stimulation of the processes of compulsory innovation of the society, the economy and the state. ... The main loss ... is a limitation of our economic and, to some extent, political sovereignty. ... A limited degree of the sovereignty would also mean a limited scope of mistakes to be made and decisions to be taken that do not necessarily take account of the interest of the Republic.”<sup>45</sup>

Agriculture was potentially the most difficult area in accession both due to its size and due to the significance of the land and countryside to Polish culture. Especially, when the reforms were linked to the EU, then the EU came to be seen among some groups as attacking Polish culture.

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<sup>44</sup> Michel Maslowski, “The Future of Cultural Identities in United Europe,” Milczarek and Nowak, op.cit, p.351.

<sup>45</sup> Hughes, Grabbe and Smith, op. cit., p. 12.

These frictions between Poland and the EU raised questions about likely Polish attitudes towards pooling sovereignty and to EU integration process. There clearly were concerns in Poland concerning sovereignty, identity and culture and a reluctance to see hard won independence transferred to Brussels. At the same time, Poland was also well aware of the potential benefits of working together in a strong multilateral organisation particularly with respect to its relations to large neighbours including Germany and Russia. In this sense, the Polish outlook may be quite similar to the French rather than the British – recognising the value of a strong EU but as a mean to promote its own influence and to benefit from cooperation.<sup>46</sup>

#### **1.2.2.4 - Public Opinion**

Historically, Poland enjoyed one of the highest levels of popular support for EU membership among the former communist states of Central and Eastern Europe. However, this did not really represent a conscious and considered declaration of support; public backing for EU membership was, in practice, constructed on extremely shaky foundations. At the beginning of the process, there was a little debate about what being an EU member actually might mean or about the potential costs and benefits of accession. The debate on membership was couched in very abstract and broad historical and geopolitical terms, relating to general notions such as ‘returning to Europe’ and ending the post-war division of Europe into East and West. Consequently, the issue had virtually no resonance in the day-to-day lives of individual Polish citizens at first.

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<sup>46</sup> Ibid, p.88.

Because of this general unconsciousness and strong political motivations behind the membership desire, the issue of EU membership acquired a higher profile when Poland formally submitted its membership application in 1994 and following the opening of accession negotiations in March 1998. However, as the issue moved up the political agenda, the EU also tended to be portrayed in an increasingly negative way, and began to emerge as a focus for both conflict and hostility, which was inevitable to some extent, since the need to conform to the requirements of membership would mean painful economic and social consequences for at least some of Poles. As the prospect of accession became a more realistic one and given the difficult issues that needed to be tackled, the negotiations inevitably focused to a large extent on the concessions that would have to be made by the Polish side.

The negotiations also gave rise to the emergence of EU membership as an issue that divided Polish political elites. The period since the beginning of the accession negotiations saw a marked politicisation of the debate on Polish EU membership, not so much about whether or not the country should join *per se*, but about the terms on which, and the kind of EU that, it should join. Consequently, it slowly began to dawn on Poles that accession was a process that involved losers as well as winners.

“With time, as the reality of EU entry became identified with conditionality issues and problem areas, growing awareness of domestic and personal repercussions turned some groups away from a Euro-enthusiastic to a Euro-realistic or Euro-sceptic<sup>47</sup> position.”<sup>48</sup> The rise in Euroscepticism was being driven by several factors

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<sup>47</sup> Paul Taggart defines the Euroscepticism as a term that expresses the idea of contingent, or qualified opposition, as well as incorporating outright and unqualified opposition to the process of European integration. Then Taggart and Szczerbiak include two categories to this definition. ‘Hard Euroscepticism’ implies outright rejection of the entire project of European political and economic

arising from the process of enlargement, like costs of adjustment, asymmetric power relationship between the EU and Poland, disengagement of regional and local elites from the integration process particularly negotiations etc.<sup>49</sup>

Hughes, Sasse and Gordon identified the opinion of regional and local elites in a different perspective. The approach of subnational elites in Poland toward EU membership was best characterised as Euroambivalence rather than active Euroscepticism. “They were not saying ‘no’ to a ‘return to Europe’, but they were saying ‘maybe.’”<sup>50</sup>

The European Union is an area where agricultural policy takes an especially elaborate form. “The EU spends approximately half of its budget on support measures for agriculture, although this sector provides employment for only some 5% of the EU workforce, while generating, on average, barely 3% of GDP.”<sup>51</sup> Polish farmers saw that agriculture in the European Union was receiving much greater financial support than in Poland, owing to which the income of farmers was many times higher there than in Poland, so the EU agricultural products would be able to compete successfully with Polish domestic products. Therefore, within Poland the

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integration and opposition to their country joining or remaining members of the EU. ‘Soft Euroscepticism,’ in contrast, is defined as involving contingent or qualified opposition to European integration. Kopecky and Mudde point to four weaknesses of this definition. For a different definition of Euroscepticism and for the party positions in Poland, in terms of support for European integration, see Petr Kopecky and Cas Mudde, “The Two Sides of Euroscepticism: Party Positions on European Integration in East Central Europe”, **European Union Politics**, Vol.3, No.3, Sage Publications, London, September 2002, p.297-326.

<sup>48</sup> Bielasiak, op.cit, p. 1241.

<sup>49</sup> For further explanations on reasons behind increase of Eurosceptic attitudes see James Hughes, Gwendolyn Sasse and Claire Gordon, “Saying ‘Maybe’ to the ‘Return to Europe’”, **European Union Politics**, Vol.3, No.3, Sage Publications, London, September 2002, p.327-355.

<sup>50</sup> Ibid, p.348.

<sup>51</sup> Jerzy Wilkin, “Rural Poland in the Process of Systematic Transformation - Attitudes of the Rural Population Towards the Market, State and European Integration”, **Emergo: Journal of Transforming Economies and Societies**, Vol.6, No.4, Autumn 1999, p.80.



majority of peasants believed that EU accession would ruin them – they believed that they would not be able to compete against the modern and efficient farms of Western Europe.

Wilkin evaluates the position of farmers in a wider framework. According to him, the real problem facing Polish rural areas was not that a considerable part of the agricultural sector might be destroyed as a result of integration or that the financial situation of farmers might deteriorate; the threat was lying rather in the possibility that a sizeable portion of the rural population and their farms would become increasingly marginalized in broader economic and social terms.<sup>52</sup>

Besides the outer reason of Polish peasants reluctance concerning membership, which results from the imbalance between them and their European counterparts, farmers' weak position inside Poland was also a factor, which might shape their future position in the Union. Since 1992, it has been a decade of rapid developments, profound systemic change – both in the field of the economy and politics – and accelerated modernisation processes. Farmers and village inhabitants have participated in these changes only to a relatively limited degree. Because of this, the disparity between urban and rural areas has further deepened in many fields, such as: income levels and living standards, access to education, health care and the benefits of the free market, etc. As a result, the vast majority of farmers considered themselves to be losers in the systemic transformation process in Poland.<sup>53</sup> This disappointment about the market and besides inadequate knowledge about the European Union fostered attitudes of reluctance about Poland's integration with the

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<sup>52</sup> Jerzy Wilkin, "Polish Agriculture, Rural Areas and EU Enlargement", George Blazycy and Ryszard Rapacki (eds.), **Poland into the New Millennium**, Edward Elgar Publishing Limited, UK, 2001, p.242.

<sup>53</sup> Wilkin, "Rural Poland in the Process of Systematic Transformation...", op.cit, p.83.

EU among farmers. They identified themselves as the future losers of the integration process.

Inadequate knowledge about the European Union and its impact on Poles day-to-day lives was a general problem of all segments of the public. The results of the Applicant Countries Eurobarometer conducted in October 2001 showed this lack of information problem. Eurobarometer revealed that Polish people generally acknowledged themselves to be ill informed about the workings of the EU and the implications of membership. %63 of the Poles felt not very well or not at all informed about the enlargement of the EU and %61 about the accession process of Poland.<sup>54</sup>

Besides agriculture, difficult areas in adapting to the EU and so in negotiations were steel, coal, environment, telecom, finance and banking, foreign ownership of land, and freedom of movement of people. The people working in the sectors in question were anxious about the accession process because of the high adjustment costs. Foreign ownership of land was an issue particularly for the older generation in a historic perspective, and EU's members states' hesitation on opening their markets to Poles has been seen as a move towards second-class membership.

As a general assessment we can say that, there were various groupings that opposed elements of the move towards the EU or oppose entirely. Opposition was

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<sup>54</sup> For further information see European Commission, Directorate-General Press and Communication, **Applicant Countries Eurobarometer: Public Opinion in the Countries Applying for European Union Membership: Results Summary**, Brussels, (Fieldwork October 2001, Release on December 2001), p.9.  
[http://europa.eu.int/comm/public\\_opinion/archives/cceb/2001/aceb20011\\_summary.pdf](http://europa.eu.int/comm/public_opinion/archives/cceb/2001/aceb20011_summary.pdf)

seen as particularly likely to grow among farmers, those working in state owned enterprises, among the old, the unemployed and the less well educated.<sup>55</sup>

Public opinion scale in Poland can be described through “three Polands” approach mentioned by Bielasiaak,<sup>56</sup> which considers how marketisation and democratisation have affected differentially the citizenry of Central Europe. The approach allows the combination of the economic, political, cultural and social elements of Poland’s structure into three distinct 'Polands' characterised by the existence of separate institutional settings that created different logics for socio-economic and political behaviour during the transition.<sup>57</sup> According to division of three Polands, the expectation was that the most supportive contingent for integration would be found among the *private* Poland, since its strategy was geared toward individual, market forces reinforced by EU expansion eastward. The position of the *statist* sector was more complicated, as integration might pose both opportunity and threat to official positions and the rewards derived from them. On balance, the integrative mechanism was likely to strengthen the official sector, at least in the short

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<sup>55</sup> Hughes, Grabbe and Smith, op.cit, p.86.

<sup>56</sup> Bielasiaak, op.cit, p. 1258-1262.

<sup>57</sup> In the concept of this approach, the *private sector* relies on economic and social capital accumulation through investments, with outcome determined by the market function. Selling and buying are determinant of outcomes, with the market acting as the coordinating institution for the distribution of goods and resources. Strategy in the 'private Poland' rests on individual effort and capital, within institutional structures defined by private property and free exchange. The *statist sector* remains attached to public institutions and roles as pay-offs, with performance in official settings rather than market activity as determinant of outcomes. Here bureaucratic standards weigh heavily in the apportionment of benefits, so the state rather than the market is the essential reference point. Internal administrative coordination and clientelistic networks are more important than market forces, and life strategy is geared to self-protection and security. This is best achieved by emphasis on the collective status of roles and positions, as a profession, rather than individual effort. The *welfare sector* depends on benefit entitlements for economic well-being, based on a variety of eligibility criteria. These norms operate to offer 'insurance' to disadvantaged populations who are unlikely to parlay social capital into economic pay-offs, i.e. are unable to use labour as a commodity in exchange for income or to use official standing as economic security. Rather, their status entails either temporary or permanent dependence on state assistance for unemployment or retirement benefits, culminating in a strategy aimed at 'survival' by meeting criteria for entitlements.

term, and thus generate supportive attitudes to integration. The one sector that was unable to adapt and benefit from the opportunities presented by integration was represented by *welfare* Poland, since its inhabitants lacked the social and material capital necessary to benefit from the opening to Europe.' This segment of Poland would be most resistant to the idea of integration. It would be among this population that a greater decline in support for accession was likely to occur, as the process took on more visibility and urgency with time.

However, as the prospects of joining the European community loomed closer, Polish public opinion was continuing to express greater doubts and significant vacillation as to the merits of integration. The growing concern did not seem to affect any one grouping more than the others. Indeed, all three institutional logics demonstrated the same temporal response to the coming prospects of European integration.<sup>58</sup>

### **1.2.3 – The European Union's Perspective**

The enlargement of the European Union to the ten applicant countries of Central and Eastern Europe would significantly increase diversity in the EU. The CEE-10 differ substantially from the current EU-15 and also from one another, in terms of their degree of progress in post-communist transformation; their experiences and perceptions of transition; geopolitical positions and outlooks; contemporary political and economic debates and views; public opinion on political and economic issues; nature and strength of lobbies; senses of national identity; and attitudes towards European integration.

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<sup>58</sup> Bielasiak, op.cit, p. 1262.

The strategic question is whether, and if yes, to what extent, the coming enlargement will be able to improve Europe's political standing and economic strength in the world. Two different answers, but with the same outcome, can be given to this question. Many experts argue that "Eastern" enlargement will not only help the EU to become a more important global player (largest domestic market in the world, additional resources, additional economies-of-scale advantages), but that this factor may become the basic driving force of integration particularly in those areas which used to be characterised by reform deadlock in the last decade (common agricultural policy, institutional reforms, decision-making process, move towards a more federal structure etc.) Others argue in a negative way, saying that nobody knows whether the enlargement will result in a better global position of the EU, particularly not in the first years after enlargement (partly due to the "heavy" financial costs of such a step).<sup>59</sup>

In the most negative scenario, enlargement might add the EU structure a number of countries with weak administrations, corruption in the public and private sectors, some tendencies to interventionist and protectionist attitudes, and with problems in consolidating their democratic systems. In a more positive scenario, these countries may have a dynamic impact on the EU by bringing new attitudes, interests and approaches to many policy areas,<sup>60</sup> including CFSP and Justice and Home Affairs, and bringing new markets and in some cases new entrepreneurial spirit to the EU economy.

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<sup>59</sup> Inotai, op.cit, p.180.

<sup>60</sup> For political implications of enlargement on the EU see Horst Günter Krenzler, **The Geostrategic and International Political Implications of EU Enlargement: Report of the Second Meeting of the Working Group on the Eastern Enlargement of the European Union**, RSC Policy Paper, No.2, European University Institute, March 1998.

For the EU, a primary benefit is a large, integrated European market with 100 million new consumers. The EU also has political and strategic reasons for seeking the accession of its CEE neighbours. This motivation has strengthened as a result of the Kosovo crisis. The EU hopes that enlargement will bring greater prosperity, and with it more stability, to the continent and help solidify democratic institutions.<sup>61</sup>

Faced with the near future diversity, the EU needs to address the questions of how it can ensure the Union's continuing to have common goals and coherence as it enlarges; how to ensure effective, efficient and democratic decision-making; and how to ensure dynamic development of the enlarged EU and not just stasis. These questions can only be properly addressed on the basis of an understanding of the applicant countries and the sort of member states they might become on accession to the EU.

By reason of its size and location, Poland would probably have in many ways the biggest impact on the EU of the CEEC. Poland would be an important, dynamic and assertive new member state of the European Union by 2004. Poland's political system and economic structures and policies are still developing. Poland looks set to be essentially liberal and entrepreneurial but with some protectionist elements and with an outward looking approach to relations beyond the EU. Poland's sense of national identity and national sovereignty means it will not be a strongly integrationist member state but its interests will lie in a reasonably pragmatic approach to supranational institutions and processes.

Although Poland may in the first instance be a cautious member as far as integrationist steps are concerned, over time, as it familiarises itself with EU

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<sup>61</sup> Cochrane, "Agriculture in Poland & Hungary...", loc.cit.

decision-making processes, it is likely to be a reasonably pragmatic, mainstream member concerning specific integration moves. Poland shares the aim of the other applicants of being a full EU member not a second class member, and as such recognises that enlargement may demand some wider use of flexibility but not in ways that could promote second class membership.<sup>62</sup>

Poland will naturally bring its own specific experiences into the community, enriching it in the process. First, Poland and its people have made remarkable progress in the complete reconstruction of the country's politics, economy, and society; the older members of the European Union could also profit from these reform experiences in the most diverse fields. Second, the experience and specialised knowledge Poland developed during its compulsory eastward orientation in communist times can now contribute to developing the Union's "eastern dimension," which is sure to grow in significance in the future.<sup>63</sup>

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<sup>62</sup> Hughes, Grabbe and Smith, *op. cit.*, p. 89.

<sup>63</sup> Bartoszewski, *loc.cit.*

## **CHAPTER II**

# **ORGANISATIONAL STRUCTURE OF THE NEGOTIATIONS**

An analysis of the European Union membership negotiations, which Poland has conducted since 1998, leads one to the conclusion that this subject matter is neither unequivocal nor easy to define. As the negotiation process was a new development in Poland's social, economic and political life, it required its own specific terminology. The understanding of the process should begin with learning the language of the negotiations. Many notions were directly rooted in the Community tradition: *acquis communautaire*, screening, negotiating positions, the opening of a negotiation chapter or its provisional conclusion, transition periods, etc.

### **2.1 - Principles and Characteristics of Negotiations**

The negotiation process was governed by some basic principles. Firstly, it was agreed that positions of Poland and the EU sides in one negotiation area would



not prejudice positions in other areas. Secondly, partial agreements reached during the negotiations should not be treated as final until the agreement had been concluded in its entirety that was until the settlement of the text of the Accession Treaty. Finally, a principle of differentiation in the negotiation process was adopted. Each of the candidates would be evaluated on an individual basis, and the criterion would be the progress in the harmonisation process and implementation of the commitments undertaken in their negotiating positions.

Accession negotiations differed from traditional trade negotiations regarding their specificity and the goals that they are supposed to attain.<sup>64</sup> Firstly, both sides participating in the negotiations were united by a “common goal”: accession of the candidate state to the European Union. The negotiations were aimed at strengthening the state acceding to the EU so as to benefit most by these rights and fulfil the duties arising from membership in the European Union. Secondly, the state applying for EU membership negotiated with the fifteen Member States. The European Commission played the role of an intermediary between the candidates and members. Therefore, it is important to stress the enormous significance of diplomatic activities and lobbying, which were conducted by the candidate states not only in Brussels, but also in the capitals of the Member States. The Member States basically determined the course of the negotiations. Thirdly, the applicant country declared that it was willing to adopt the *acquis communautaire*<sup>65</sup> in its entirety, from the outset. This means that,

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<sup>64</sup> Government Plenipotentiary for Poland’s Accession Negotiations to the European Union: Chancellery of the Prime Minister Republic of Poland, **Accession Negotiations: Poland on the Road to the European Union**, Warsaw, October 2000, p.33.

<sup>65</sup> *Acquis communautaire* of the European Union consists of legal output of the European Communities, consisting of the primary law, i.e. treaties (the Paris Treaty, the Rome Treaties, the Single European Act, the European Union Treaty, the Amsterdam Treaty, Accession Treaties) and of the secondary law laid down by the relevant institutions of the European Union. Secondary law is made up of regulations (binding upon all the Member States and directly applicable within all the

the candidate country was applying for the membership of such a “club” and had to accept its rules at the beginning.

The implementation of EU standards in certain areas would involve considerable financial outlays. This made it necessary to introduce those standards gradually, which might induce the candidates to apply for transition periods.<sup>66</sup> The negotiated transition periods would facilitate complete implementation of EU standards within a time framework beyond the date of the country’s accession to the EU. Requests for transition periods might be submitted either by the candidate state or by the European Union. They would facilitate full preparation of both sides for the situation arising from the enlargement.

However, the target of the accession negotiations was, of course, not only determination of the number, length and nature of transition periods. They were also intended to determine the contribution by the applicant country to the Communities’ budget, to set the participation manner of the new Member State in EU policies, including the system of structural, cohesion and agricultural funds, and to define derogations from the general rules contained in the Treaties if such have been agreed to during the negotiations.

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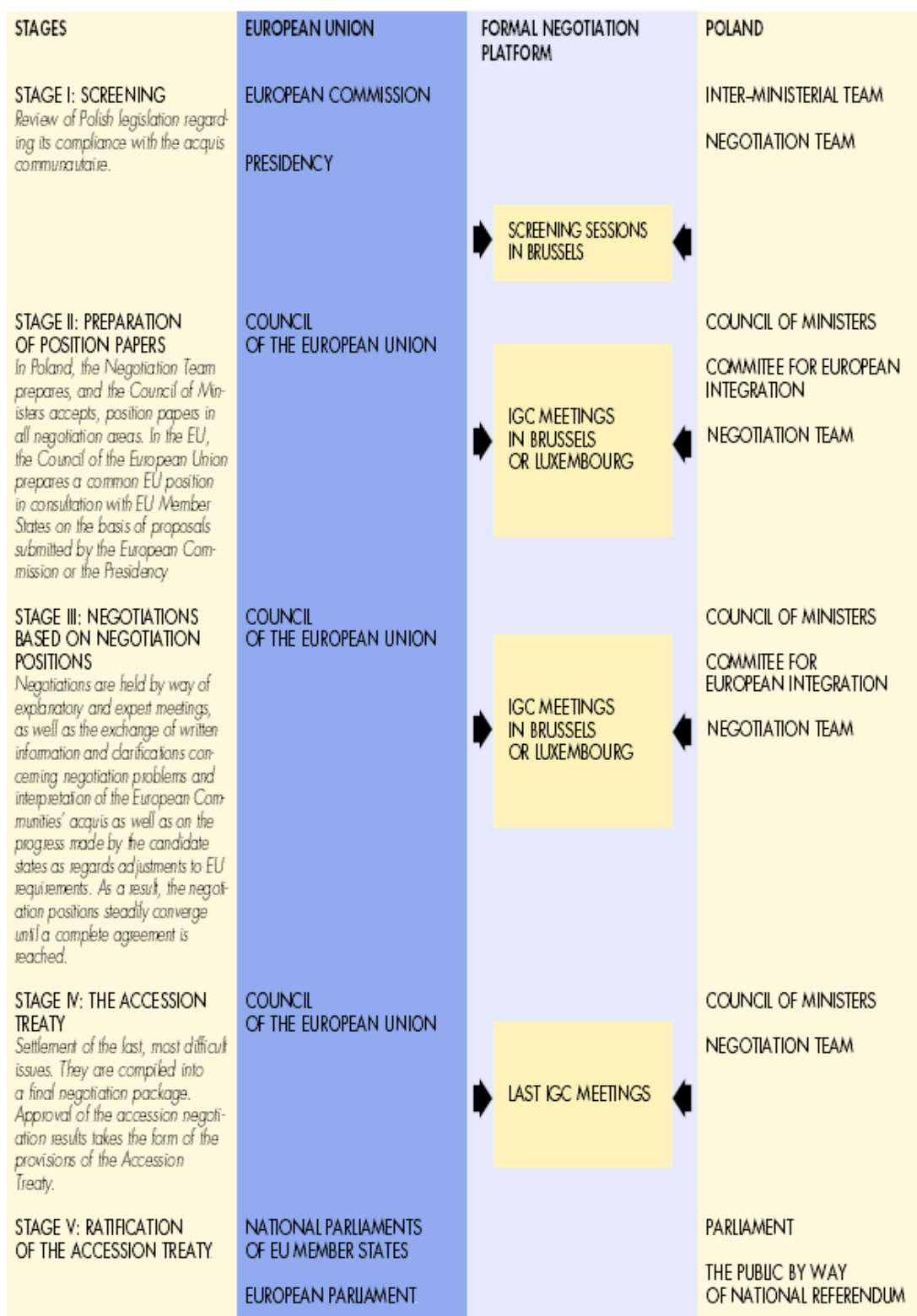
Member States), directives (which can be addressed to any one Member State and do not have to be addressed to all and which are binding as to the end to be achieved while leaving a choice as to form and method of their implementation), decisions (binding in their entirety on those to whom they are addressed), recommendations and opinions (which have no binding force) and other acts of EU institutions (of various nature), as well as judgements of the European Court of Justice. The treaty law has the nature of international public law and any other acts of EC law must comply with it, otherwise the secondary law is considered void. *Acquis communautaire* also comprises international treaties concluded between EU Member States and third parties.

<sup>66</sup> **Transitional period** is the period of time during which a new member of the European Union is temporarily excluded from certain elements of EU legislation. After this period is completed, the provisions of the *acquis communautaire* become fully effective in that country. This occurs when the adoption of a given legal act is by its nature a complex and long-term process, or when it involves substantial costs for the Candidate Country or the Union. The transitional period commences upon the accession of the candidate state to the European Union.

Also, each transition period was of essential significance to Poland's future policy in a given area. The greater the number of transition periods, the worse would be Poland's situation and the more constrained would be its freedom of maneuver. That is why it would be better to introduce transitional periods only in those areas where they are required by national interest.<sup>67</sup>

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<sup>67</sup> Andrzej Stepniak, "Strategy of Poland's Membership in the European Union", **Intereconomics: Review of European Economic Policy**, Vol.37, No.4, Hamburg Institute of International Economics, July/August 2002, p.184.



**Figure 1:** The Process of Poland's Accession Negotiations to the European Union.

**Source:** Government Plenipotentiary for Poland's Accession Negotiations to the European Union: Chancellery of the Prime Minister Republic of Poland, **Accession Negotiations: Poland on the Road to the European Union**, Warsaw, October 2000, p.38.

## 2.2 - Stages Before Opening of the Negotiations

### 2.2.1 - Screening

Like other countries aspiring to membership in the European Union, Poland started its accession negotiations with a review of its law regarding its compliance with the *acquis communautaire* (the so-called “screening”) as the first stage on Poland's route to membership of the European Union. The screening began on 27 April 1998<sup>68</sup>. The screening sessions were chaired by the European Commission and took place in Brussels. The screening sessions pertaining to the subject areas of pillar II and III of the EU were chaired by the European Commission as well as the Presidency (pillar II) and Member States (pillar III). In accordance with the scheme tested during previous EU enlargements, the legislation was divided into thirty-one subject areas.<sup>69</sup> Twenty-nine areas (chapters) were submitted to screening twice, during multilateral and bilateral sessions. The multilateral sessions were attended by delegations from all of the candidate states. During the sessions, Commission experts presented successive legal acts included in a given subject area. The bilateral sessions, to which delegations of individual candidate states were invited, aimed at identifying problems that require further negotiation. In Poland, the bilateral

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<sup>68</sup> See the Schedule of the Screening Sessions in Poland in Appendix A, p.156.

<sup>69</sup> 1.”Free Movement of Goods”; 2.”Freedom of Movement for Persons”; 3.”Freedom to Provide Services”; 4.”Free Movement of Capital”; 5.”Company Law”; 6.”Competition Policy”; 7.”Agriculture”; 8.”Fisheries”; 9.”Transport Policy”; 10.”Taxation”; 11.”Economic and Monetary Union”; 12.”Statistics”; 13.”Social Policy and Employment”; 14.”Energy”; 15.”Industrial Policy”; 16.”Small and Medium-Sized Enterprises”; 17.”Science and Research”; 18.”Education, Training and Youth”; 19.”Telecommunications and Information Technologies”; 20.”Culture and Audiovisual Policy”; 21.”Regional Policy and Co-ordination of Structural Instruments”; 22.”Environment”; 23.”Consumers and Health Protection”; 24.”Justice and Home Affairs”; 25.”Customs Union”; 26.”External Relations”; 27.”Common Foreign and Security Policy”; 28.”Financial Control”; 29.”Financial and Budgetary Provisions”; 30.”Institutions”; 31.”Other”.

screening sessions had been preceded in Poland by settlement meetings<sup>70</sup>, which were aimed at co-ordinating the Polish position concerning implementation deadlines for EU legal acts in given areas. With respect to those areas in which the legislation is very extensive, such as agriculture, environment and transport policy, multilateral and bilateral screening sessions were held several times.

In the screening process, lists of European law in particular spheres were transmitted to the Head of the Negotiating Team. The Secretary of the Negotiating Team transmitted relevant packages to responsible members of the team and to the head of the working subcommittees. A copy of the list was sent to all responsible ministries. In fact, it meant in practice that civil servants in almost all ministries were involved in the screening process through the EU integration departments and units. This was important because integration was a comprehensive process since covering all sectors and authorities of Poland. On the other hand, the employees generally did not have sufficient expertise in EU law and this led to delays at that working stage.

After the screening, a draft report was prepared by the Commission and was sent for approval to Poland. In Poland that document was submitted for debate to the Negotiation Team and it was accepted upon consensus. The Negotiation Team could also suggest corrections to the draft report. Then, the EU considered them and sent a corrected version of the report, which was put through the same process. If the corrections were incorporated, the report was accepted; otherwise the procedure was repeated until a compromise was reached.

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<sup>70</sup> **Settlement meeting** was an internal meeting in Poland during which the Polish common position was established before attending the screening session in Brussels. At the meeting, the answers to the questions of the European Commission were produced. The meeting took place in the enlarged composition of Task Group as part of the Inter-Ministerial Team for the Preparation of Accession Negotiations to the European Union. It was attended by the Secretary of the Negotiation Team who was conducting the meeting, a member of the Negotiation Team responsible for a particular negotiation chapter, the Chairman of a relevant Task Group, representatives and experts from the ministries and central government agencies as well as the representatives of social partners.

Once the screening in a specific area was completed, the head of the Polish delegation sent a signed and complete set of documents from the screening session to the Chairman of the Negotiation Team. All documentation has been collected and entered into the common EUDOS database at the Office for the Committee of European Integration, which has since been available to all ministries and central government offices concerned.<sup>71</sup>

The negotiation chapters “Institutions” and “Other” were not submitted to the screening procedure. The last screening session took place on 5 November 1999.<sup>72</sup>

## **2.2.2 - Negotiation Positions and Their Preparation by Poland and the European Union**

### **2.2.2.1 - Poland**

As a result of the screening, a list of incompatibilities between Polish and EU law was compiled, which constituted a basis for the elaboration of the negotiation position paper of the Polish government. The position paper was a Polish proposal to resolve the incompatibilities and to set a suggested timetable for Poland’s incorporation of EU law. Position paper, as a chapter-specific document, described the legislation in a given field, the extent to which the *acquis* have been transposed into Polish law or the time limit within which a given legal act would be adopted.

The position paper stipulated whether special solutions were recommended, such as

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<sup>71</sup> Government Plenipotentiary for Poland’s Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.35.

<sup>72</sup> Polish delegations spent 130 working days in Brussels for the purposes of the screening. Following this the European Commission reports (totalling 130 pages) were presented to Poland for approval and then sent out to the Member States.

transition periods, derogations or specific clauses to be introduced in the Accession Treaty.

Where for political, budgetary, economic or social reasons a given legal act would not be incorporated into national laws prior to 1 January 2003,<sup>73</sup> the Polish side asked for a transitional period, specifying its duration and the manner of full transposition. Each negotiating position contained the assessment of budgetary, economic and social consequences of the paper's implementation.<sup>74</sup> In the transitional period, lasting between one year and dozen-odd years, area in question would be ruled according to national laws.

The process leading to the adoption of the position paper included several stages. First, the respective Task Sub-Group elaborated a draft position paper. The draft position paper consisted of two basic parts: the main text (synthesis and detailed comments) and the justification. It should be stressed that only the position was submitted to the EU. The justification included confidential information and was written exclusively for the needs of the Polish Council of Ministers. Depending on the complexity of the area, the preparation of a draft position paper usually took from two weeks to a couple of months.<sup>75</sup>

Subsequently, the draft position paper was submitted for debate to the Negotiation Team. The Negotiation Team considered the proposal regarding negotiation strategy, and made the necessary amendments. The draft position paper

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<sup>73</sup> For all chapters of negotiations, as a definition of the time frame for the process of harmonisation and implementation of the Community law, the Government of Poland has adopted 31 December 2002 as the date on which Poland would be prepared for accession to the European Union.

<sup>74</sup> The task sub-groups (32 and 34) made this evaluation. See figure on page 50, and page 49.

<sup>75</sup> Government Plenipotentiary for Poland's Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.36.



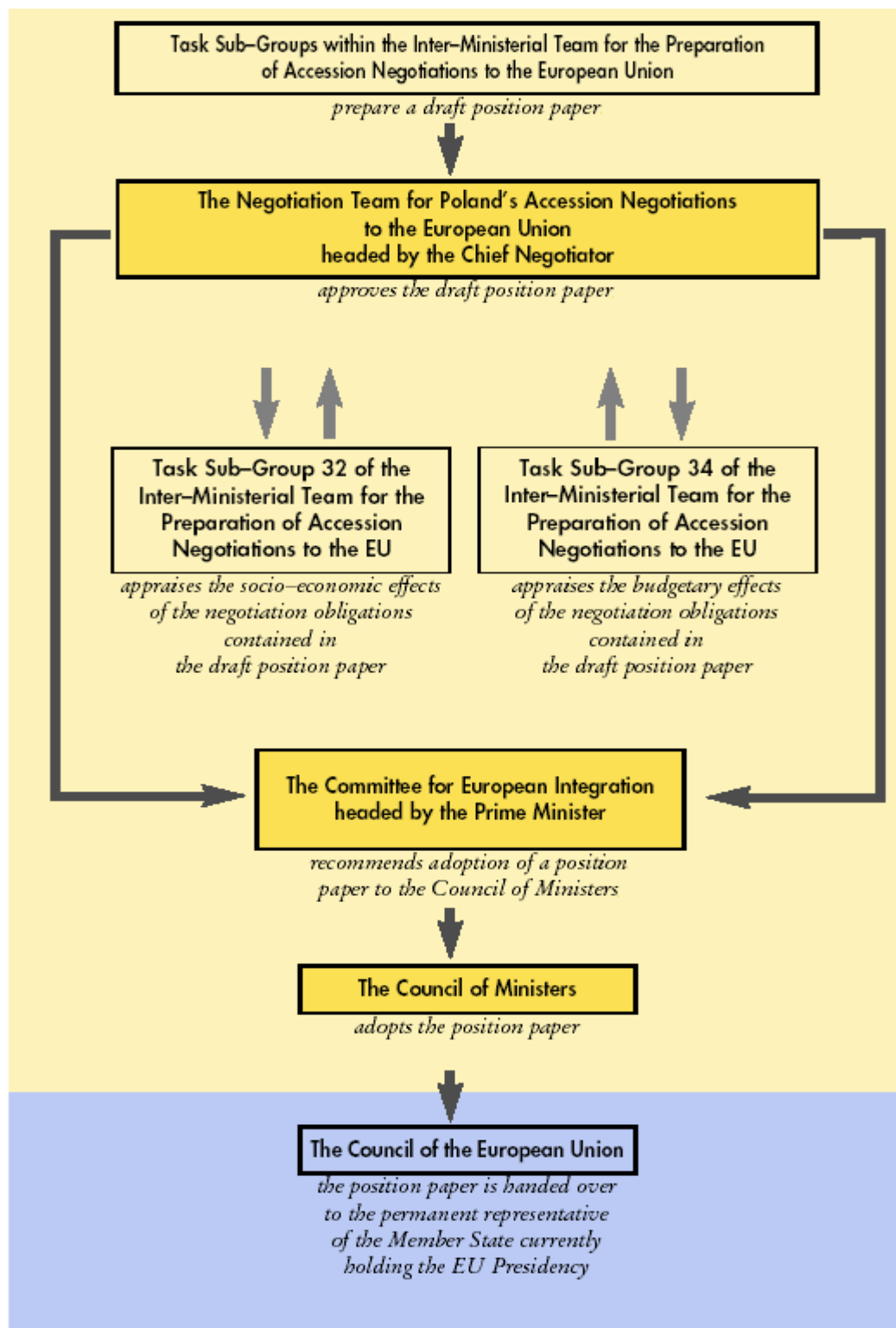
adopted by the Negotiation Team was then sent to Task Sub-Groups 32 (Analysis and Social and Economic Impact Assessment) and 34 (Budget and Financing of Preparations for Negotiations), to appraise, respectively, the social and economic, and budgetary consequences of the obligations contained in the draft paper. Having taken account of the comments presented by Sub-Groups 32 and 34, the Negotiation Team adopted the position paper. Then it was considered by the Committee for European Integration, and afterwards submitted for debate to the Council of Ministers. The Council of Ministers adopted the position paper. As an official government document it was presented to the representative of the Presidency in an English-language version.

Poland had prepared positions in each negotiation area through this procedure and by the end of 1999, as envisioned by the European Commission, the Polish government submitted all twenty-nine position papers.<sup>76</sup> After submitting all the position papers, the Prime Minister decided to make the full content of Polish position papers publicly available.<sup>77</sup>

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<sup>76</sup> Exceptions were the negotiation chapter on “Institutions”, in which negotiations would start after the European Union has carried out internal institutional reforms, and the negotiation chapter named “Other.”

<sup>77</sup> The Government Plenipotentiary for Poland’s Accession Negotiations to the European Union published the full texts of Poland’s position papers in both Polish and English version (*Poland’s Position Papers for the Accession Negotiations with the European Union* - June 2000). Poland’s position papers were available on the web sites of the Office of the Committee for European Integration ([www.ukie.gov.pl](http://www.ukie.gov.pl)) and the Permanent Representation of the Republic of Poland to the EU ([www.pol-mission-eu.be](http://www.pol-mission-eu.be)). See the bibliography.



**Figure 2:** Preparation of Poland's Position Papers.

**Source:** Government Plenipotentiary for Poland's Accession Negotiations to the European Union: Chancellery of the Prime Minister Republic of Poland, **Accession Negotiations: Poland on the Road to the European Union**, Warsaw, October 2000, p.18.

#### 2.2.2.2 - The European Union

The European Union acquainted itself with the position paper of Poland and prepared a response in the form of a common EU position<sup>78</sup>. The draft common position was prepared by the Enlargement Directorate-General<sup>79</sup> (and earlier by TFAN)<sup>80</sup> on the basis of information provided by the appropriate Directorates-General of the European Commission. The draft was then discussed in the forum of the Enlargement Group of the EU Council. The document agreed on by the Group was accepted by the Ambassadors of the EU Member States at a meeting of COREPER<sup>81</sup>, and formally adopted by the Council of the EU.

The adopted EU common position was individually presented by the EU to the delegation of Poland at a meeting of the Inter-Governmental Conference on

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<sup>78</sup> **EU Common Position** was the negotiation paper of the Member States of the European Union. The first version of the EU common position was formulated by the European Commission as a draft common position of the EU. Next, the draft was referred to the Council of the European Union, where the Member States agreed on the final version of the common position.

<sup>79</sup> **Enlargement Directorate General (Fr.: DG ELARG)** is one of the organisational units of the European Commission established as a result of the structural reform of this institution conducted by Commission President Romano Prodi. DG ELARG deals with issues related to the enlargement of the European Union by inclusion of the countries of Central and Eastern Europe, Cyprus, Malta and Turkey. The Directorate General consists of teams dealing with Accession Negotiations of the twelve applying countries (Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia) and the team for Turkey, which is a candidate for EU membership negotiations. The teams are chaired by senior officials who are negotiators of the European Commission. The work of the DG ELARG was managed by Director General Eneko Landáburu until September 2003 – now he acts as Director General for External Relations-, then by Director General Fabrizio Barbaso, and supervised by Commissioner Günter Verheugen (Commissioner for Enlargement) who is responsible for enlargement issues.

<sup>80</sup> **Task Force for Accession Negotiations (TFAN)** was an administrative unit established within the European Commission, which dealt with the administrative and subject-matter support of membership negotiations with the Luxembourg Group from 1998 until 1999. TFAN consisted of six teams headed by the main negotiators responsible for the six states, which were the first negotiating countries. In November 1999, as part of the structural reforms of the European Commission, TFAN was absorbed into a new unit responsible for EU enlargement, the Enlargement Directorate General.

<sup>81</sup> **Committee of Permanent Representatives (Fr.: COREPER)** has been operating since 1958 and is an auxiliary body of the Council of the European Union. It consists of the representatives of the Member States who are ambassadors to the EU. COREPER is a bridge linking the administration of the Member States with EU administration. It deals with all fields of EU activities. In the accession negotiations COREPER approves the content of position papers (EU common positions) which then are adopted by the Council of the EU.

Accession<sup>82</sup> at the level of heads of delegations or deputy heads of delegations. This denoted the “opening of the negotiations” in a given area.

The first meeting of the Inter-Governmental Conference on Accession at the ministerial level was held in Brussels, on 10 November 1998. Since, the EU planned to start negotiations after concluding the screening, by the end of 1999, it was an undoubted diplomatic success for Poland and the other candidate states who launched a diplomatic campaign in the EU Member States to persuade EU partners to begin formal negotiations prior to the conclusion of the screening. The Polish request was prompted by the need to maintain the momentum of the negotiation process.<sup>83</sup>

### 2.3 - Negotiation Procedure

The accession negotiations took the form of a series of bilateral inter-governmental conferences between the EU and Poland. The pace of the negotiations depended on the preparedness of Poland and the degree of complexity of the issues involved. The negotiations were conducted on the basis of chapters of the *acquis communautaire*.

After submission of initial positions, ahead of Poland and the EU lied the most difficult task: narrowing the differences in the parties' positions until agreement

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<sup>82</sup> **Inter-Governmental Conference on Accession** was an institutional instrument brought into being as a forum for settlement meetings between the Member States and Candidate States. The meetings of the Inter-Governmental Conference on Accession were held at the level of Ministers for Foreign Affairs of EU member states and the candidate states and at the level of the deputy heads of delegations: ambassadors of the member states and chief negotiators of the candidate countries. Meetings at the level of the deputy heads of the delegations were termed in the negotiators' jargon as “deputies”. The decisions made at the level of the deputy heads were then formally approved at the ministerial meeting of the Inter-Governmental Conference on Accession.

<sup>83</sup> Government Plenipotentiary for Poland's Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.37.

was attained. At this stage negotiations moved out of the technical phase and entered the political phase. The measure of success in negotiations was possibly the smallest gap between initial positions and the compromises struck.<sup>84</sup>

After opening negotiations in a given area, Poland prepared and submitted to the EU a reply - an extensive commentary on the EU common position. The document also comprised the information on the advancement of fulfilling negotiation obligations, especially in the sphere of the legal and institution-building areas. The draft document was written by a member of the Negotiation Team in co-operation with an appropriate Task Sub-Group and interested ministries and then adopted by the Negotiation Team. When the proposed solutions transcended the previously accepted Polish negotiation positions, a new solution was presented to the Committee for European Integration and the Council of Ministers as a draft amendment to the position paper. The adopted amendment to the position paper and the replies provided by Poland constituted a basis for the European Commission to create a revised common EU position which was next adopted by the Council of the European Union.

When consensus as to the position paper in a given area was reached, the negotiations in that area were considered “provisionally closed.” This means that the positions were settled but subject to further changes until negotiations in all the areas have been closed. A “complete closure” of negotiations would simultaneously take place in all the areas at the end of the process, following the completion of the previous position papers with new legislative acts of the European Union, which would have been passed during the negotiations.

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<sup>84</sup> Jan Kulakowski, “The European Union Is for Us a Challenge and an Opportunity”, Wizimirska, Barbara (ed.), **Yearbook of Polish Foreign Policy 2000**, Administrative and Maintenance Services, Ministry of Foreign Affairs, Warsaw, 2000, p.41.

A large number of requests for transitional periods, derogations, and other special arrangements have been submitted. The EU position was that transitional arrangements would be considered on an exceptional basis only, limited in time and scope, and accompanied by a plan with clearly defined stages for the application of the *acquis*. They must not involve amendments to the rules or policies of the European Union, must not disrupt their proper functioning, or lead to significant distortions of competition.<sup>85</sup>

## **2.4 - Organisational Structure of the Negotiations**

### **2.4.1 - Negotiation Structure of Poland**

The task of preparing and conducting accession negotiations constituted a major coordination problem for the government and public administrations of Poland since the *acquis* was a voluminous compilation of legal regulations of the EU and did not match the division of tasks established between line ministries and institutions. Policy objectives of all related bodies and actors had to be balanced and interests of actors within and outside the government had to be considered.

An analytical distinction between the policy, political and procedural aspects of coordination was made by Brusis and Emmanouilidis.<sup>86</sup> Policy coordination

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<sup>85</sup> Brendan Kearney, **Enlargement: The Implications for Agriculture**, The Institute of European Affairs, Dublin, Ireland, 2002, p.11.

<sup>86</sup> Martin Brusis and Janis A. Emmanouilidis, **Negotiating EU Accession: Policy Approaches of Advanced Candidate Countries from Central and Eastern Europe**, July 2000, in the context of a project on "Issues and Consequences of Eastern Enlargement," jointly realized by the Bertelsmann Foundation and the Bertelsmann Group for Policy Research, Centre for Applied Policy Research, p.12.

means ensuring that the strategic objectives of a Government are appropriately translated into negotiation positions and successfully represented vis-à-vis the European Commission and the EU member states in the accession negotiations. Political coordination is the task of selecting the strategic objectives and setting the political priorities of the Government for the negotiation process and communicating them to the domestic public and the EU. Process coordination shall be understood as the management of the formulation of negotiation positions, facilitating the optimised participation of all relevant interests and actors at the most appropriate stage of the negotiation process.

In Poland, the Chief Negotiator and the Negotiation Team, both appointed by the Prime Minister, were responsible for policy coordination. Administrative support to the Chief Negotiator was provided by an 'office' instead of a standard 'ministry'. Polish Government's refraining from establishing a standard ministry might have occurred to avoid from hard-functioning of a bureaucratic, huge and awkward institution since in integration process, rapid decisions were required to be taken and coordination was an issue widened to all institutions. For political coordination, Committee for European Integration was established. Also the Prime Minister, the Minister of Foreign Affairs and the Chief Negotiator formed a separate Political Committee which discussed political priorities before they were submitted to the Committee of European Integration. Within the framework of process coordination, Poland has established expert Working Groups according to the 31 individual chapters into which the *acquis communautaire* has been divided, in order to involve domestic experts in the screening process. Also the parliamentary deputies were consulted on the negotiation positions and could articulate their opinions. Apart from the parliamentary consultation, Government also consulted with civil society

organisations, such as business associations, trade unions and professional interest associations. The consultation mechanism had a twofold function: On the one hand, civil society organisations were informed about the ongoing negotiations and enabled to articulate their opinions and concerns. On the other hand, Governments were able to communicate their objectives and build coalitions into society.

The membership of the European Union was the strategic goal of Poland being at the same time one of the major challenges facing the Polish policy and economy, striving to fulfil the provisions of the Europe Agreement and to prepare for the membership. Realisation of undertakings of strategic and long-term character encompassing almost all spheres of state activity and engaging all of the most important national institutions, to which the integration of Poland with the European Union undoubtedly belonged, required co-ordinated actions based upon stable legal foundations and on appropriate programmes.

The Europe Agreement,<sup>87</sup> establishing the association between the Republic of Poland and the European Communities, as well as their Member States, has introduced an appropriate framework for the political dialogue and has specified numerous tasks, which combine to form the adjustment programme for Polish economy and legal system to the requirements of the membership. The realisation of the request for the membership in the EU could be achieved by adjustment programmes in Poland, in line with the membership criteria adopted in 1993 by the Copenhagen European Council. Besides, the actions and processes related to Poland's preparation for the membership in the European Union also had their

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<sup>87</sup> Stawarska states that, in connection with the Europe Agreement, the system of institutions was created in order to Europeanise the politics of Poland and was aimed at aiding the integration of Poland in the EU. Renata Stawarska, "EU Enlargement from the Polish Perspective", Richardson, Jeremy (ed.), **Journal of European Public Policy**, Vol.6, No.5, 1999, p.831.



external aspect: they were the subject of information exchange, promotion, consultations, negotiations and agreements with the institutions of the European Union as well as with its Member States, being at the same time in the last resort subject to their approval.

Since the borderline between internal and external actions in the process of European integration could only be drawn arbitrarily, there was a problem of allocation of competencies between the state institutions in implementing the integration policy. Therefore, a necessity emerged for a thorough analysis of the legal and actual state of the functioning of state institutions in this respect. This was not a specifically Polish problem, and it applied to all the candidate countries, as well as to the Member States of the European Union.

Co-ordination was a formalised process regulated by relevant constitutional legal norms, laws or subordinate legal acts binding all the parties engaged in the shaping of the policy in a given area. A comprehensive co-ordination in this case had to include all the stages of the formulation of such a policy, i.e. programming, decision-making process, realisation, and monitoring. In the light of such an understanding of the notion of co-ordination, the realisation of the adjustment processes to the requirements of the membership in the EU constituted a wide sphere of the policy of the state.

Borkowski, makes a division between internal and external policies concerning European integration process and coordination of these. In the area of Polish foreign policy, including the policy of European integration, its basic stages i.e. programming and decision-making processes remain in the area of the realisation of the adjustment processes with which an organ other than that responsible for the

co-ordination of the external policy could be charged. At the same time, realisation and monitoring of the adjustment processes fall within the domain of agreements with the European Union, thus into the domain of the foreign policy.<sup>88</sup> In practice, this could lead to existence of an area of overlapping competencies of different organs and arising of competence disputes, which could result in parallel actions undertaken without mutual consultations.

Similar competency problems could result in the co-ordination of internal adjustment processes in the economic, social and cultural spheres. The functioning of an organ responsible for the co-ordination of actions of other organs, which have specific competencies regulated by law in different sectors, could lead to infringement of competencies, what in turn causes resistance against the mechanism of co-ordination.

The aim of this chapter is to analyse the role of the major state institutions in implementing the Polish integration policy and to evaluate the legal and organisational framework for carrying out co-ordinated actions both in the domain of foreign policy and in the implementation of the adjustment processes in Poland. The subject to the analysis will be the competencies of the state organs engaged in the realisation of the Polish integration policy as specified in the relevant legal acts as well as the relations between the major actors of this policy.

During years governments did not follow a homogeneous strategy as regards the preparation for membership, the recent evolution showed a considerable amelioration of the situation. A clear and precise institutional framework has been set

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<sup>88</sup> Jan Borkowski, "Co-ordination of Poland's European Integration Policy," **Yearbook of Polish European Studies**, Warsaw University Centre for Europe, Vol.2, Warsaw, 1998, p. 44.

up in 1996 in Poland and the principles of the integration strategy have been defined also.

#### **2.4.1.1 - The Setting up of Political and Ministerial Structures**

Particularly since the entry into force of the Europe Agreement, a continuity of changes is perceived in the EU-related decision-making. Progress is observed in terms of increased efficiency, better coordination between institutions involved in EU-related decision-making as well as a progressively clearer division of key competences.

The Europe Agreement establishing a regular political dialogue between Poland and the Community has at the same time defined its forms and its actors.<sup>89</sup> Consultations began to take place first of all between the President of the Republic of Poland and the Presidency of the European Council and the President of the European Commission. The political dialogue on the ministerial level, in turn takes place within the Association Council which was chaired on the Polish side by the Minister of Foreign Affairs alternately with the relevant Minister of Foreign Affairs, who at that moment presides over the Council of the European Union. Also the Political Director nominated by the Minister of Foreign Affairs, other civil servants, and diplomatic representatives participated in the political dialogue. Later, the forms

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<sup>89</sup> The organs created by the Association participated in the formulation and realisation of the Polish foreign policy. The **Association Council** is the main, supreme organ, supported by the **Association Committee** -The Europe Agreement established the Parliamentary Association Committee which according to the nomenclature in use in the European Parliament bears the name Poland-EU Joint Parliamentary Committee- whose task is, among others, to prepare the meetings of the Council. The Joint Parliamentary Committee acts on the basis of information supplied by the Association Council and the executive organs of the Republic of Poland and the EU. At the same time, it enjoys the right to submit opinions and conclusions to the Council and to give it recommendations. The organs of the Association are formed jointly by Poland and the EU and decisions taken by them are binding for both sides.

of this dialogue have been extended to include the so-called European correspondents within the Ministries of Foreign Affairs and experts and, following that, meetings of the ministers representing particular provinces with their counterparts from the Member States of the EU in the framework of the so-called structural dialogue. Since 1994 the Sejm Speaker participated in the meetings with the presidents of the parliaments of the associated countries organised by the President of the European Parliament. The activities of the Polish Sejm and Senate, including both Parliamentary Committees on External Relations, in the relations with the parliaments of the Member States by their nature also touched upon the issues of the European integration.<sup>90</sup>

The developing political dialogue with the European Union embraces a growing number of representatives of the state organs and the growing scope of issues discussed. This indicates an unavoidable simultaneous engagement of many Polish institutions and spheres of life in the stream of integration processes on a European scale. It creates an increasingly growing need for preparation and co-ordination of foreign visits, and a need to secure the presentation of a unified and coherent position of Poland vis à vis the Union and its Member States.

The entering into force of the Europe Agreement in 1994 was the milestone in the process of adjustment of Polish administration to EU oriented policy. However, the basic structures of the coordination system with regard to the rapprochement with the EU were set up since 1991.<sup>91</sup> The Government Plenipotentiary for European Integration and Foreign Assistance was established

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<sup>90</sup> Borkowski, op.cit, p.46.

<sup>91</sup> C. Błaszczuk, "European Policy-Making in Poland. Institutional and Political Framework ", 1996, B. Lippert, and P. Becker (eds.), "Towards EU-Membership: Transformation and Integration in Poland and the Czech Republic", **Europa Union Verlag**, 1998, p.132.

during the negotiations on the Europe Agreement in January 1991. Its responsibilities included initiating, organising and coordinating measures related to the process of adaptation and integration with the EU. The Committee for European Integration took over the responsibilities of the Government Plenipotentiary in 1996 and has been given increasingly important executive competences in the system of central administration. The Committee executed its tasks through the Office of the Committee for European Integration.

After setting up the Committee for European Integration, the number of bodies involved in European policy increased, and presented several problems of internal co-ordination. The Committee in a certain sense diminished the role of the Minister of Foreign Affairs, which risked fragmenting Polish foreign policy. Some experts argue that a complex administrative structure has never led to an overlapping of competences between the Committee for European Integration and the Ministry of Foreign Affairs, since the first was responsible for EU policy at the internal, national level, whereas the second ensured representation of Poland's foreign policy abroad.<sup>92</sup> However, this opinion simplifies the overall situation, in particular since the beginning of accession negotiations, when negotiation competences were divided between three bodies (MFA, Chancellery of Prime Minister, Office of the Committee for European Integration). It is important to stress that the number of bodies involved does not reflect the number of actors involved. A high degree of centralisation, and importance of few key-actors remain key characteristics of the Polish administration taking part in EU-related decision-making.<sup>93</sup>

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<sup>92</sup> Borkowski made a similar division also. See page 57.

<sup>93</sup> Dorota Pyszna and Krisztina Vida, **The Management of Accession to the European Union in Poland and Hungary**, Working Papers No.128, Institute for World Economics: Hungarian Academy of Sciences, October 2002, p.21.

The reform of the central administration carried out in 1996 has established – what can be concluded from the “National Strategy for Integration” (NSI)<sup>94</sup> – a new institutional arrangement, which described the conditions for co-operation, information exchange and the division of tasks between the ministries and offices engaged in the relations with the EU. Into these subjects the following can be included: the Council of Ministers, the Committee for European Integration, the Ministry of Foreign Affairs, the remaining ministries and central offices, regional and local authorities as well as Polish diplomatic representations, especially in the Member States of the EU and the countries associated with the Communities.

According to the “National Strategy for Integration (NSI)” in the existing institutional system the main co-ordinating function rests upon the Committee for European Integration.<sup>95</sup> It may be assumed that the co-ordination by the CEI is confined exclusively to the internal preparations of Poland for the membership in the EU. However, extension of this co-ordination for the Ministry of Foreign Affairs and Polish diplomatic representations suggests a possibility of entering independently into relations with foreign subjects by the Committee. Whereas, as regards the tasks of the Polish foreign policy, the NSI defines that it is the Ministry of Foreign Affairs and Polish diplomatic representations abroad which will be the basic organs entrusted with the implementation of the tasks ordered by the President, Government and the Committee for European Integration.<sup>96</sup>

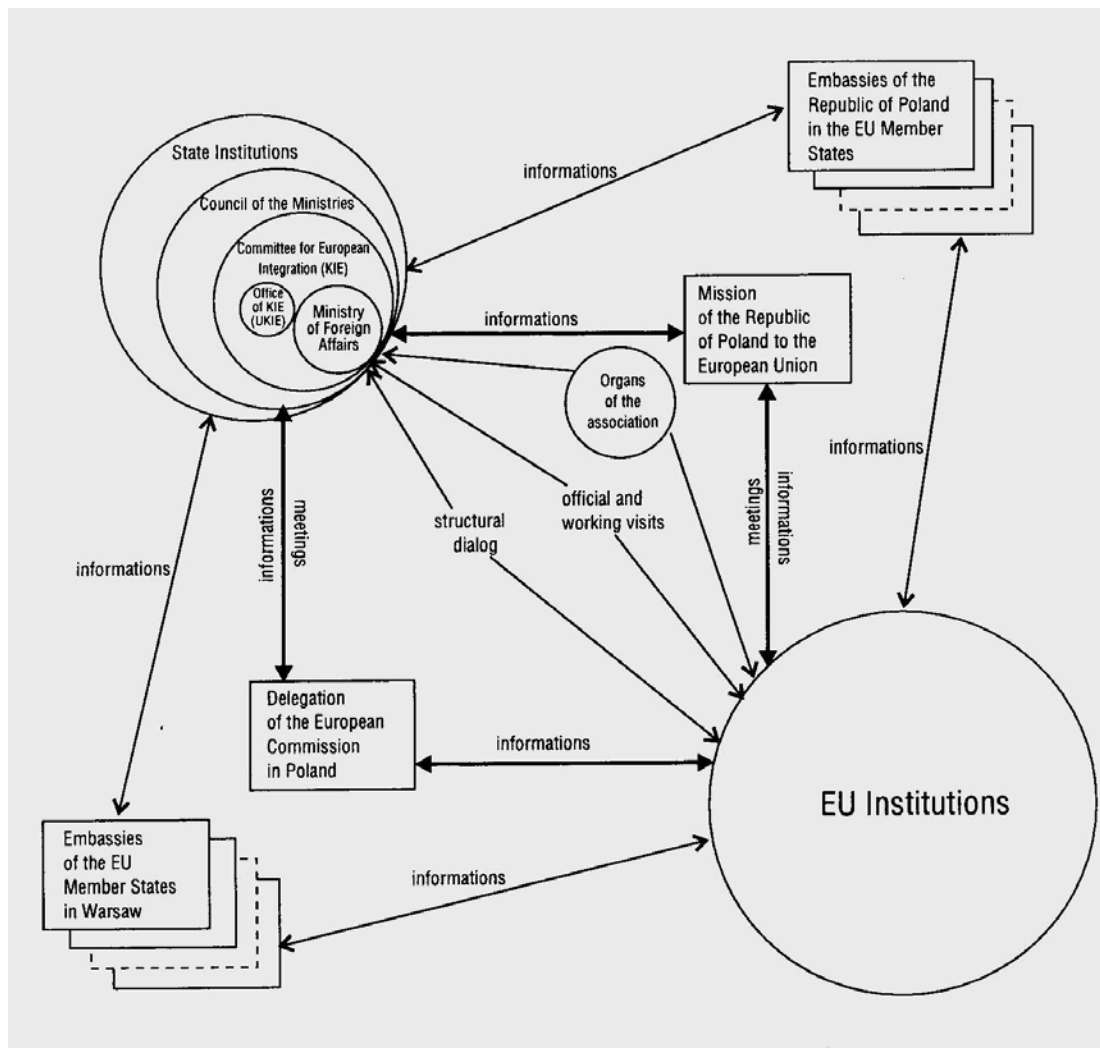
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<sup>94</sup> “National Strategy for Integration” was adopted by the Council of Ministers in January 1997.

<sup>95</sup> The Committee for European Integration, **National Strategy for Integration**, 1997, 4.

<sup>96</sup> Activities undertaken in the area of foreign policy would concern: representing Polish interests in relations with the EU, identifying the positions of EU Member States, identifying potential threats to the process of integration between Poland and the EU and informing the State authorities of the Polish Republic of the EU views and initiatives which were important from the point of view of Poland’s

As can be seen on the table below, the flow of information between the state institutions and the institutions of the EU took place in the form of direct visits and meetings, participation in the ministerial meetings in the framework of the structural dialogue, as well as through the Permanent Representation of Poland by the EU in Brussels, the Permanent Representation of the EU in Warsaw, Polish diplomatic representations in the capitals of the Member States and their representations in Warsaw. A separate and specific form of information exchange and decision-making was provided by the co-operation in the framework of the Association organs.



**Figure 3:** Flow of Information Between the State Institutions of the Republic of Poland and the Institutions of the EU.

**Source:** Jan Borkowski, "Co-ordination of Poland's European Integration Policy," **Yearbook of Polish European Studies**, Warsaw University Centre for Europe, Vol.2, Warsaw, 1998, p.48.

The accession negotiations required the establishment of structures responsible for their progress both in Poland and the European Union. The responsible authorities in the negotiation mechanism in Poland are analysed below.



## **2.4.1.2 - Authorities Involved in the Negotiation Process**

### **2.4.1.2.1 - Prime Minister and Council of Ministers**

Prime Minister<sup>97</sup> managed the work of the Council of Ministers, represented the Council of Ministers and was the official superior of employees of the government administration. Both the domestic and the foreign policies of Poland were implemented by the Council of Ministers. In the area of foreign policy, Council of Ministers' competencies were confined to the general management of the relations with foreign countries and organisations, as well as to concluding, validating and renouncing of international agreements. Internally, the Council of Ministers approved the position papers prepared by the Negotiation Team and recommended to the Council of Ministers by the Committee for European Integration.

Over years the role of the Prime Minister as a key person in the European integration process has increased. In the external relations framework, the Prime Minister participated in the European Council<sup>98</sup> meetings with the Heads of State and Government of applicant countries objective of which was to set up as a forum for political consultation on issues of common interest to the EU member states and the candidate countries. The Prime Minister also participated in the European Conference, which was held at both ministerial and head of state level.

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<sup>97</sup> The Prime Minister was Jerzy Buzek between 1997-2001. After November 2001, Leszek Miller became the Prime Minister. Since 2 May 2004, Marek Belka is the Prime Minister.

<sup>98</sup> The activity of **European Council** consists in regular meetings of heads of governments of EU Member States (and heads of states, in the cases of France and Finland). The main task of the European Council is specifying the political guidelines for EU development. The European Council plays a key role in the creation of political guidelines for the development of Common Foreign and Security Policy. It also makes the final decision on the proposals of EU enlargement.

The political leadership of the negotiations was provided by the Prime Minister, with the support of the Minister of Foreign Affairs, the Secretary of the Committee for European Integration and the Government Plenipotentiary for Poland's Accession Negotiations to the European Union. Concerning the internal coordination of integration policy, as the chairman of the Committee for European Integration the Prime Minister influenced Poland's policy towards the EU, adopted the guiding decisions relating to the negotiation process and appointed the Negotiation Team for Poland's Accession Negotiations with the European Union.

#### **2.4.1.2.2 - Minister for European Integration**

The Minister for European Integration was the Secretary of the Committee for European Integration.<sup>99</sup> There was no Ministry of European Integration. The Minister was a member of the Council of Ministers, and Head of the Office of the Committee for European Integration. Minister for European Integration was responsible for entire European policy coordination.

#### **2.4.1.2.3 - National Council for European Integration**

The Prime Minister Jerzy Buzek set up the National Council for European Integration, as a consultative body subordinated to the Prime Minister, consisting of 47 advisors and experts from NGOs, research institutes and interest groups. Its main function was to support the communication policy of the Government with respect to

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<sup>99</sup> Jaroslaw Pietras was the former Minister for European Integration. Minister Danuta Hübner was appointed as the Secretary of State and Secretary of the Committee for European Integration of the Republic of Poland in November 2001.

accession and to advise the Prime Minister on sensitive political issues related to EU accession.<sup>100</sup> After the change of government in Autumn 2001, this consultative body involving experts independently of their political alignment has not been re-established at the beginning of the new political period.

In 2002, probably it was realised that, existence of the National Council would be helpful to widen the support for EU membership in the public, since dominant groups were presented in this Council.

Therefore, the National Council for European Integration was set up on the strength of a Government Ruling No. 20 issued by the Chairman of the Council of Ministers on 11 February 2002. It is, as before, a consultative body to the Prime Minister. Its tasks are to:

- provide opinions on the process of Poland's accession to the European Union;
- support social dialogue relating to European integration issues;
- act towards reaching social consensus regarding the strategy of European integration.

The Chairman of the Council of Ministers (Prime Minister) appoints the members of the Council from among representatives of social and professional organisations and consultative and scientific circles. The National Council for European Integration presently has 68 members. It is chaired by Chairman of the Council of Ministers (Prime Minister), and vice-chaired by Secretary of the Committee for European Integration.

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<sup>100</sup> Brusis and Emmanouilidis, op.cit, p.10.

The National Council for European Integration also comprises several consultative councils acting within its framework and representing territorial self-government, mass media, business circles, rural communities, scientific circles, non-governmental organisations, youth.

#### **2.4.1.2.4 - Minister of Foreign Affairs and Ministry of Foreign Affairs**

In the countries of the European Union, the Minister of Foreign Affairs is one of the essential components of the system of foreign policy co-ordination as regards the integration. It finds its justification in the construction of the prime decision-making organ – the Council of the European Union and especially the General Affairs Council, which fulfils a co-ordinating function for the meetings in which other ministers participate. Therefore, owing to the position of the Polish Minister of Foreign Affairs in both the Association Council and, in the future, in the Council of the EU, but also taking into account its exclusive rights in the issues of Common Foreign and Security Policy (the Second Pillar of the EU), an important role of the Ministry of Foreign Affairs remains unquestionable.<sup>101</sup>

Pursuant to the negotiation procedure as stipulated in the Opening Statement<sup>102</sup> of the EU Presidency of 31 March 1998, the Minister of Foreign Affairs was the Head of the Polish Delegation to the Inter-Governmental Conference (IGC)

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<sup>101</sup> Borkowski, op.cit, p. 50.

<sup>102</sup> **Opening Statement** (the "Address for the Opening of Poland's Negotiations on Membership in the European Union") is the document adopted by the Council of Ministers on 24 March 1998. It was delivered by Polish Minister for Foreign Affairs Bronisław Geremek at the meeting of the Ministers for Foreign Affairs of Candidate Countries for membership in the EU with the EU Council for General Affairs in Brussels on 31 March 1998. Together with the "EU Opening Statement" the Polish Statement opened the Intergovernmental Conference on Accession on Poland's accession to the European Union.

on Accession.<sup>103</sup> The IGC was an official forum for accession negotiations. Ministers of Foreign Affairs from candidate states were partners to Ministers of Foreign Affairs from EU member states who were members of the General Affairs Council which deals with EU enlargement, among other issues.

The Ministry of Foreign Affairs assisted the Minister of Foreign Affairs in his duties of a Head of the Delegation to the IGC on Accession. The division of European Integration within the Ministry of Foreign Affairs was responsible for the issues pertaining to the integration process. The division consisted of the European Union Department, the European Institutions and Regional Policy Department and the Economic Analysis Department.

Diplomatic missions in the Candidate and EU Member States fulfilled a key role in co-ordinating foreign contacts and organising multilateral and bilateral meetings within the frames of the negotiation process and chief negotiators' co-operation. They managed lobbying activities and information flow contributing to the creation of a positive image of Poland's accession negotiations. The role of the Representation of the Republic of Poland to the European Union in Brussels should be emphasized.<sup>104</sup>

Respectful of the legal and functional in terms of the European integration, competencies of the Minister of Foreign Affairs, the "National Strategy for Integration" charged him and the diplomatic representations responsible to him, with the fulfilment of external tasks entrusted to him by the President, the Government, and the Committee for European Integration. The external actions were adjusted to

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<sup>103</sup> See footnote 82.

<sup>104</sup> See page 87.

respective levels on which decisions were taken or positions were formulated in the EU and in Poland and were carried out on the plane of: the EU institutions, its Member States, and international organisations.<sup>105</sup>

Although the Law on the Office of the Minister of Foreign Affairs did not mention the European Union by name in the context of actions related to it, it did not provide for a possibility to transfer its competencies to other principal organs of the state administration. It seemed therefore, no without merit to decide, with regard to the multi-dimensional character of the contacts of Poland with the EU, whether all the decisions of the Council of Ministers should be transmitted to the Community institutions, with the Ministry of Foreign Affairs being informed of and having accepted them or via the Foreign Affairs Ministry. The above law did not answer this question unequivocally and provided only for a universal framework for the realisation of the overall foreign policy.<sup>106</sup>

The indispensable precondition for a transformation of the formal competencies of the Ministry of Foreign Affairs in the area of integration with the European Union into the real ones was the use of all the available instruments of co-ordination both in supporting the ministries and central offices in maintaining the necessary relations with the European Union and in supplying them with competent counselling, taking into account the development of the integration processes. In this context, the Ministry of Foreign Affairs undoubtedly faced with financial, staffing and organisational barriers. It should be underlined, however, that this type of barriers was common to all the state administration units in their striving to meet the

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<sup>105</sup> For the actions undertaken by the Ministry of Foreign Affairs, see footnote 96.

<sup>106</sup> Borkowski, *op.cit.*, p.51.

obligations related to the membership in the EU. Thus, overcoming these barriers with respect to the Ministry of Foreign Affairs would pave the way for analogous adjustments in other ministries and central offices.<sup>107</sup>

#### **2.4.1.2.5 - Committee for European Integration**

The mechanism of co-ordinating the implementation of the Europe Agreement and of steering the process of the European integration in 1991-1996 was based on Government Plenipotentiary Office for European Integration and Foreign Assistance anchored in the structure of the Council of Ministers<sup>108</sup> The wide scope of tasks entrusted to the Government Plenipotentiary Office for European Integration and Foreign Assistance, combined with limited instruments of implementation and accompanied by low effectiveness of the co-ordination process appeared to be an argument strong enough to justify the creation<sup>109</sup> in 1996 of the Committee for European Integration - CEI (Komitet Integracji Europejskiej – KIE).<sup>110</sup>

Committee for European Integration was a supreme organ of state administration charged with programming and co-ordinating the policy of Poland's integration with the European Union and actions Poland took to adjust to European standards, as well as with co-ordination of actions of the state administration as regards the received foreign aid.

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<sup>107</sup> Ibid.

<sup>108</sup> Resolution no 11/91 of the Council of Ministers of 26 January 1991.

<sup>109</sup> Borkowski, op.cit, p. 52.

<sup>110</sup> Committee for European Integration was created by the Law of 8 August 1996 on the Committee for European Integration.

Since July 1998, as a result of internal dissent at the level of high-ranking officials, the Prime Minister became the Head of the Committee (Jerzy Buzek).<sup>111</sup> The great importance of the Committee was secured by being headed by the Prime Minister.

The Committee was composed of the Chairman (Prime Minister), Secretary (Head of the Office of the Committee for European Integration), and the Ministers of Foreign Affairs, Internal Affairs and Administration, Economy, Finance, Labour and Social Policy, Agriculture and Rural Development, and Justice. Additionally, the Chairman of the Committee for European Integration could appoint, as members of the Committee, three experts whose experience or performed functions might have an impact on the implementation of tasks relating to the process of European integration. Owing to the functions it performed, the Committee's meetings might also be attended by the President of the National Bank of Poland and President of the Government Centre for Strategic Studies, as well as other invited ministers and MPs.

The major tasks of the CEI included the resolution of issues relating to the process of Poland's integration with the European Union, presenting a programme of adjustment and integration tasks to the Council of Ministers, as well as drafting legal acts underlying those actions, giving opinions on the conformity of Polish legislation with EU law, the evaluation of progress with regard to law approximation, cooperation with local governments in order to involve them in different institutional structures of the EU. An important responsibility of the CEI was the approval of proposals concerning the allocation of funds from EU grants. The Committee presented to the Council of Ministers reports on the implementation of programmes adapting the Polish economy and its legal system to the standards in force in the

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<sup>111</sup> Pyszna and Vida, op.cit, p.25.



European Union. Moreover, the CEI recommended the adoption of the position papers to the Council of Ministers.<sup>112</sup> The Committee was also responsible for strategy planning, analysis of activities undertaken and the provision of proper information familiarising the whole society with the EU accession process.

The Committee did not replace administrative institutions but co-ordinated their activities. This means that the activities of the units that were in charge of European integration were continued at the level of ministries and government bodies.

The Committee's proceedings had to be related to the National Strategy of Integration with the EU (NIS) as well as to the National Programme for Preparation of Membership (NPPM) developed by the government of Poland, and to the Partnership for Membership.<sup>113</sup>

Borkowski points to the numerous weaknesses of the CEI after almost two years of functioning, in regards to the inter-ministerial co-ordination, which originate in its very construction as provided for in its law.<sup>114</sup> Primarily, CEI was, just like the ministers forming the Council of Ministers, a supreme organ of the Government administration, therefore it could not influence the decisions of ministers in their respective provinces, acting on the basis of separate legal acts. Thus, it became a forum of discussion and information exchange with restricted decision-making competencies, since in each case decisions taken by CEI, which creating legal obligations lack their binding character, as first they had to be approved by the

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<sup>112</sup> Government Plenipotentiary for Poland's Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.20.

<sup>113</sup> Pyszna and Vida, loc.cit.

<sup>114</sup> Borkowski, op.cit, p.53.

Council of Ministers. Although the preparation of documents for the Council of Ministers took place at a high inter-ministerial level, CEI in its basic form was composed of only eight selected ministers, despite the fact that some of the adjustment tasks fell within the competencies of the remaining ministers, as it was required by the Europe Agreement and by the future membership in the EU. The Committee was not able to take binding decisions in the name of the Cabinet.<sup>115</sup> The status of the remaining members and participants of the meetings of CEI varied significantly. This diminished the importance of its decisions and conclusions. As easy as it was to defend the political priority of the issues of European integration when seen from the point of view of the existence of CEI, it was not possible to point to any real advantage of the decisions taken in this forum in comparison to e.g. a permanent Committee for European Integration of the Council of Ministers alternative to CEI.

#### **2.4.1.2.6 - Office of the Committee for European Integration**

The administrative support structure of the Committee for European Integration was the Office of the Committee for European Integration (OCEI), established under the Law of 8 August 1996. The Office has also taken over the tasks and responsibilities of the former Office of the Government Plenipotentiary for European Integration and Foreign Assistance, which functioned from 26 January 1991 to 15 October 1996 within the structure of the Office of the Council of Ministers.<sup>116</sup>

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<sup>115</sup> Brusis and Emmanouilidis, *op.cit*, p.14.

<sup>116</sup> The Office for the Council of Ministers was transformed into the Chancellery of the Prime Minister in 1997.

The OCEI was comprised of the following departments: the Law Harmonisation Department, the Integration Policy Department, the European Legislation Department, the European Documentation Department, the Translation Department, the Analyses of European Relations Department, the European Information and Education Department, the Co-ordination and Monitoring of Foreign Assistance Department, the Institutional Development Programme Department, and the Support of the Accession Negotiations Department designed to serve the Government Plenipotentiary for Poland's Accession Negotiations to the European Union.

The Office of the Committee for European Integration (OCEI) was based on the foundations laid by the former Government Plenipotentiary for European Integration and Foreign Assistance but due to its functions and the scope of responsibilities, it was shaped as a structure similar to the ministries. In fact, the effectiveness of the functioning of the whole Committee depended on its efficiency. Therefore, the methods and instruments of inter-ministerial co-ordination used in OCEI were really important.

According to the provisions of the "National Strategy for Integration" the co-ordination of works related to the preparation of Poland for the membership in the EU carried out by the government administration should continue to be realised on three planes<sup>117</sup>:

- strategic: on the level of the Committee for European Integration,
- operational: on the level of Secretaries or Under-Secretaries of State responsible for the issues of integration in the respective ministries,

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<sup>117</sup> The Committee for European Integration, **National Strategy for Integration**, loc.cit.

- working: on the level of Chiefs of Units for the European Integration (departments and sections) of the respective ministries and offices.

The wide and ever growing spectrum of integration problems which require prompt decisions, indicated the necessity of taking immediate actions in close co-operation between the relevant ministries and central offices on the one side and the co-ordinating organ on the other. The Office of the Committee for European Integration was a specifically Polish structure in terms of the number of staff and the level of assigned competences, unlike in other applicant countries.<sup>118</sup>

“The sheer fact that the decision-making process concentrated increasingly more upon CEI, did not transfer the relevant responsibilities to this organ since in practice it divided the responsibility for the realisation of the current integration processes between the Head and the Office of CEI on one hand and the relevant ministries, on the other hand.”<sup>119</sup> In the context of the inter-ministerial relations, in the existing institutional structure (CEI + ministries and central offices), the precondition for an increase of the effectiveness of the integration actions in Poland, was the improvement of the functional organisation and promotion of professionalism of the Office of CEI, as well as its close co-operation with the specialised units for European integration in all the ministries.

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<sup>118</sup> Pyszna and Vida, loc.cit.

<sup>119</sup> Borkowski, op.cit, p.54.

#### **2.4.1.2.7 - Chief Negotiator - Government Plenipotentiary for Poland's Accession Negotiations to the European Union**

A step towards the establishment of a formal and institutional basis for the Polish negotiation structure was the Decree of the Polish Council of Ministers of 24 March 1998<sup>120</sup> appointing the Government Plenipotentiary for Poland's Accession Negotiations to the European Union (Chief Negotiator). In accordance with this Decree the position of the Plenipotentiary was filled by a secretary of state in the Chancellery of the Prime Minister. That position has been entrusted to Jan Kulakowski,<sup>121</sup> Secretary of State in the Chancellery of the Prime Minister and former Polish Ambassador to the European Communities. He stayed in the role until October 2001.

The tasks of the Plenipotentiary included the conceptual preparation and co-ordination of the negotiation process. A very important function was the preparation of the Accession Treaty between the Republic of Poland and the Member States of the European Union and its negotiation on behalf of the government. The Plenipotentiary has been authorised to present opinions on the drafts of legal acts and documents relating to the process of Poland's membership negotiations with the European Union. Apart from that, with the Prime Minister's consent, the Plenipotentiary may present to the Council of Ministers legal acts regarding the scope of his work. At the same time, the Chief Negotiator was obliged to present regular reports on his activities. The expenses of the Plenipotentiary were covered

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<sup>120</sup> Official Journal No. 39, 26 March 1998.

<sup>121</sup> Kulakowski, an apolitical social-scientist born in 1930, has lived in Belgium since 1944 and studied at the University in Leuven (PhD in law). Between 1954 and 1989 he worked in Trade Unions, and since 1976 was the General Secretary of the World Labour Confederation. He started his diplomatic career in 1990 appointed as an Ambassador, Head of Poland's Mission to the EU (until 1996). Pyszna and Vida, op.cit, p.26.

from the budgets of the Chancellery of the Prime Minister, Ministry of Foreign Affairs, and the Office of the Committee for European Integration.<sup>122</sup>

The institutions that supported the activities of the Chief Negotiator were in particular the Department of Integration and Negotiations with the EU in the Chancellery of the Prime Minister, the Division of European Integration in the Ministry of Foreign Affairs (including the Department of the EU, the Department of EU Institutions and Regional Policy, the Department of Economic Analysis and Diplomatic Bodies); the Office of the Committee for European Integration and in particular the Department of Attendance to the Accession Negotiations, the Department of the Integration Policy and the Department of Law Harmonisation.<sup>123</sup>

From 1998 until 2001, the political leadership of the negotiations has been given by the Prime Minister supported by the Foreign Minister and the Government Plenipotentiary for Poland's Accession Negotiations to the EU.

Jan Kulakowski's successor, Jan Truszczyński<sup>124</sup> took the office of Chief Negotiator on the 19<sup>th</sup> of October 2001, following the change of government. Until November 2001, the Government Plenipotentiary was practically in charge of accession negotiations, whereas the Minister of Foreign Affairs was the Head of the Polish delegation to the accession negotiations. The office of the Chief Negotiator was originally established in the Chancellery of the Prime Minister. Since the 20<sup>th</sup> of

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<sup>122</sup> Government Plenipotentiary for Poland's Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.21.

<sup>123</sup> Pyszna and Vida, op.cit, p.26.

<sup>124</sup> Jan Truszczyński is an economics and European studies graduate. He has accomplished postgraduate studies in German and international public law. In 1972 he has began working at the Ministry of Foreign affairs in charge of European Integration. Ibid, p.30.

October 2001<sup>125</sup> the Chief Negotiator was the Under-Secretary of State in the Ministry of Foreign Affairs and was closer to the Minister of Foreign Affairs and he was not directly responsible to the Prime Minister.

#### **2.4.1.2.8 - Negotiation Team for Poland's Accession Negotiations to the European Union**

Three days after the appointment of the Government Plenipotentiary for Poland's Accession Negotiations to the European Union, on 27 March 1998, the Prime Minister appointed the Negotiation Team for Poland's Accession Negotiations to the European Union, whose primary task was to prepare and conduct membership negotiations. Negotiation Team was headed by the Chairman of the Team, who was the Chief Negotiator (Government Plenipotentiary for Poland's Accession Negotiations to the European Union).

Until October 2001<sup>126</sup>, the Negotiation Team comprised nineteen members, at the level of secretaries and under-secretaries of state from the major ministries, appointed to this position by the Prime Minister. It consisted of a Chairman (the Chief Negotiator), a Secretary of the Negotiation Team (Under-Secretary in the Office of the Committee for European Integration) and 17 members. Size and composition ensured that the most important Ministries and state agencies were directly represented in the negotiation process.

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<sup>125</sup> Regulation of the Council of Ministers on enacting of the Government Plenipotentiary for Accession Negotiations with the European Union dated 20.10.2001.

<sup>126</sup> Until the change of the government.

In accordance with the Ordinance the Team comprised<sup>127</sup>:

- Chief Negotiator - The Government Plenipotentiary for Poland's Accession Negotiations to the European Union (Chairman of the Team);
- Members, in the rank of secretary or under-secretary of state, put forward by the ministries, but nominated personally by the Prime Minister. The institutions concerned are Ministries of Foreign Affairs, Internal Affairs and Administration, Finance, Justice, Economy, Environment, Agriculture and Rural Development, Labour and Social Policy, Transport and Marine Economy, Telecommunications, and the Government Centre for Strategic Studies;
- the Representative of the President of the Office for Competition and Consumer Protection, in the rank of vice-president;
- the Government Plenipotentiary for the Family Affairs;
- the Representative of the Republic of Poland to the European Union;
- the Secretary of the Team;
- Based on Prime Minister's decisions, the Negotiation Team also included a representative of the Chancellery of the Prime Minister (a decision of 3 February 1998), an Under-Secretary of State in the Ministry of Health (2 April 1998) and an Under-Secretary of State to the Ministry of Education (30 April 1999).

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<sup>127</sup> See the names of the members of the Negotiation Team in Government Plenipotentiary for Poland's Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.78.



The operating procedure was defined in the procedural regulations of the Negotiation Team for Poland's Accession Negotiations to the European Union adopted in the form of a Resolution of the Team dated 5 May 1998 pursuant to paragraph 10 of Prime Ministerial Ordinance No. 19 of 27 March 1998.

The tasks of the Negotiation Team included:

- ✓ formulating opinions on European Commission reports from the concluded screening sessions, which constitute an assessment of the degree of adjustment of Polish law to EU law;
- ✓ revising draft negotiation instructions;
- ✓ preparing and approving draft position papers of the Polish government;
- ✓ preparing and approving responses to EU queries within the mandate resulting from the position papers;
- ✓ preparing package deals on the basis of negotiation instructions;
- ✓ co-ordinating the entire negotiation process.

The Negotiation Team did not only negotiate in the operative sense of communicating the country's position to, and arguing with, the representatives of the European Commission and the EU member states. It also served as a consultative body for the formulation of negotiation positions and for strategic and tactical issues of the negotiation process.<sup>128</sup>

Meetings of the Team were convened and chaired by the Team Chairman. In case of his absence, a meeting was chaired by an appointed deputy. Records of every meeting were kept. In justified cases, the chairman of the meeting could invite guests

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<sup>128</sup> Brusis and Emmanouilidis, loc.cit.

of honour. All decisions were reached by consensus, and in cases where this proved impossible, voting was conducted. The Chairman had a casting vote. Members were requested to participate personally in Team meetings.

The primary tasks of the Team Chairman included:

- setting the agenda of Team meetings;
- inviting guests of honour to meetings;
- convening and chairing Team meetings;
- signing resolutions on behalf of the Team;
- supervising the implementation of Team resolutions and decisions;
- external representation of the Team.

Following the changes occurred in Autumn 2001,<sup>129</sup> the number of members of the Negotiating Team has been reduced to 11.<sup>130</sup> Only three members of the former team kept their positions. However a couple of newcomers had a recognised expertise in EU affairs. A reduction in the number of members of the Negotiating Team just to the representatives of most strategic ministries meant in practice an increase of effectiveness of the team's activities, as well as a greater cohesion inside the team. Consequently, it became easier to take decisions in the cabinet.<sup>131</sup>

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<sup>129</sup> After the change of government in October 2001.

<sup>130</sup> Resolution no 129 of the President of the Council of Ministers from 31/10/2001 on the Negotiating Team for Accession Negotiations with the EU. Apart the Chief Negotiator, the Head of the Polish Mission to the EU and the Secretary of the Team, representatives of eight key ministries/organs were included: finances, economy, infrastructure, agriculture, labour, interior, foreign affairs, Committee for European Integration.

<sup>131</sup> Pyszna and Vida, op.cit, p.27.

The Negotiation Team which previously was situated in the Chancellery of the Prime Minister, was shifted in October 2001 to the Ministry of Foreign Affairs. Under the new Chief Negotiator Jan Truszczyński, the role of the Chief Negotiator<sup>132</sup> has become more technical and less autonomous and widespread in the media.<sup>133</sup>

#### **2.4.1.2.9 - Inter-Ministerial Team for the Preparation of Accession Negotiations with the European Union**

The Inter-Ministerial Team for the Preparation of Accession Negotiations with the European Union was an advisory body to the Prime Minister, appointed under the Regulation of 16 July 1998.<sup>134</sup> The Prime Minister was the Head of the Inter-Ministerial Team, while the Chief Negotiator was the Deputy Head.

The Inter-Ministerial Team was supported by the Task Sub-Groups<sup>135</sup>, which were forums for consultation and confrontation of the ministries' interests and opinions in the procedure of elaborating draft position papers. They were comprised of representatives from individual ministries who represent ministerial positions at the Sub-Groups' forums.

Task Sub-Groups prepared the documentation and proposals of negotiation positions and presented them to the Negotiation Team. Since the beginning of the negotiation process, there were 37 Task Sub-Groups within the Inter-Ministerial Team, which gave opinions on the negotiating positions.

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<sup>132</sup> EuroPAP, 23 October 2001 [www.euro.pap.com.pl](http://www.euro.pap.com.pl), in Ibid, p.28.

<sup>133</sup> Ibid.

<sup>134</sup> Regulation No 53 of the President of the Council of Ministers on the Inter-Ministerial Team for the Preparation of Accession Negotiations, 16/07/1998.

<sup>135</sup> See the Task Sub-Groups within the Inter-Ministerial Team for the Preparation of Accession Negotiations to the EU in Appendix B, p.160.

#### **2.4.1.2.10 - Parliament**

In passing the necessary laws, parliament played a very important role in the implementation of Polish negotiation obligations. Collaboration with the Sejm (lower chamber of Parliament) and the Senate (upper chamber of Parliament) of the Republic of Poland gave legitimacy to the actions of the government aimed at attaining Poland's membership to the European Union and underscored the openness of the negotiation process announced by the government. The parliament's active role in European integration contributed to the preparation of the Polish public to a future accession referendum.

In Sejm, there were three parliamentary committees involved in the harmonization of Polish law with EU standards: the European Integration Committee, the Foreign Affairs Committee and the ad hoc European Law Committee. All these committees played an important role in the legislative procedure, but their political role was limited, e.g. no Member of Parliament was represented in the Negotiation Team. "The ad hoc European Law Committee was set up in 2000 in order to speed up the process of adoption of EU law."<sup>136</sup> In the Senate there were two committees: the Foreign Affairs and European Integration Committee and the European Legislation Committee.

In early 2000, the European Integration Committee presented in the Parliament a resolution on expediting legislation, which was adopted on 16 February 2000. It obliged the government and the lower and upper houses to accord priority to

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<sup>136</sup> Pyszna and Vida, op.cit, p.29.

European legislation and to present a detailed timetable for the passage of the related bills.<sup>137</sup>

“Fast-track procedure” began to be executed in Poland during legislative harmonisation process. This procedure gave priority to the laws, which had to be adopted as an EU requirement. Also the Parliament Commission for EU Law started its work on 26 July 2000. This Commission comprised high representatives of all key political parties. Its main objective was to speed up the implementation of EU legislation.

In the process of accession negotiation preparation, the Chief Negotiator and the Members of the Negotiation Team participated in parliamentary debates on European integration. The parliamentary debates pertaining to EU integration played a vital informative role. During the debates the representatives of the government presented before the parliament the status of the accession negotiations and addressed the queries of the MPs. Debates on European integration took place, also in presence of the media. Additionally, the Chief Negotiator and the members of the Negotiation Team addressed the questions of the parliamentarians.

Also, the Sejm was regularly presented with “Information on the Negotiation Process” prepared by the Government Plenipotentiary for Poland’s Accession Negotiations to the EU. It contained information on the negotiation and harmonisation processes and was updated every half a year.

The parliamentary deputies were consulted and could articulate their opinions but they did not participate in the process of formulating and deciding positions. This

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<sup>137</sup> The resolution also required the government and its agencies to synchronise policy and designate one person to be responsible for harmonisation activities and discipline in their execution. Kulakowski, op.cit, p.43.

was usually justified with the argument that the Parliament would participate in the process when ratifying the Accession Treaty.<sup>138</sup> Also, only the summaries of the position papers were presented to the members of the Parliament. Since the Parliament could not participate in preparation and decision stages of the positions, and were not informed about the entire position papers, these points can be criticised in terms of openness and democracy.

The Government Plenipotentiary for Negotiations of Poland's Membership in the European Union regularly attended the meetings of three parliamentary committees: the Sejm European Integration Committee, the Sejm Foreign Affairs Committee, the Senate Foreign Affairs and European Integration Committee. At Committee meetings the Government Plenipotentiary presented reports on the progress of the negotiation process and answered Committee members' questions. The Government Plenipotentiary also responded to MPs' interpellations and queries. There was also a practice of attending the meetings of other Committees dedicated to the issues of Poland's integration with the EU. Negotiation Team members attended Sejm Committee meetings relevant to their respective areas within the scope of the Negotiation Team's activities.<sup>139</sup>

The Chief Negotiator was not directly responsible for Polish law harmonisation with the *acquis communautaire*. However, he monitored the process whenever the interest of accession negotiations rendered this necessary. Hence co-operation with the Parliamentary Commissions and with the Parliament Commission for EU Law was important.

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<sup>138</sup> Brusis and Emmanouilidis, op.cit, p.16.

<sup>139</sup> Government Plenipotentiary for Poland's Accession Negotiations..., **Accession Negotiations: Poland on the Road to the European Union**, op.cit, p.27.

Despite some developments in order to accelerate the process, lack of information and errors of co-ordination of EU oriented policy were explicitly pointed out in the declaration of the Senate Foreign Affairs and European Integration Committee in its position on the role of national parliaments in European architecture (July 2001).<sup>140</sup> The text proposed the creation of new organisational structures in the Polish Parliament, which would enable effective participation in EU-related decision-making.

#### **2.4.1.2.11 - The Representation of the Republic of Poland to the European Union**

The complexity of the negotiation process made it absolutely essential that the CEECs established larger and more powerful missions in Brussels for the duration of the negotiations.<sup>141</sup> The role of the Polish Mission to the European Union was mainly to ensure technical assistance in the negotiation process, carry out political representation activities and provide information.

The Head of the Mission was a member of the Negotiation Team. The members of the diplomatic staff were basically delegated from the Ministry of Foreign Affairs. However, some members of the staff did not have a diplomatic background and were recruited from line ministries.

Role of the Representation of the Republic of Poland to the European Union included mediation in the flow of information and documentation between the Polish

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<sup>140</sup> Pyszna and Vida, loc.cit.

<sup>141</sup> Alan Mayhew, "Preparation of EU and CEEC Institutions for the Accession Negotiations," **Preparing Public Administrations for the European Administrative Space**, Sigma Papers: No. 23, CCNM/SIGMA/PUMA (98)39, 1998, p.87.

Government and EU institutions; subject-matter support for the Chief Negotiator; local organisation of Polish delegations in Brussels; co-operation in matters associated with diplomatic activities; and the information campaign conducted in the EU.

#### **2.4.2 - Negotiation Structure of the European Union**

The nature of the EU negotiations, both internal (among the Member States) and external (including the accession negotiations) was of an intergovernmental character. The primary role in this process was played by the governments of the EU Member States rather than by the European Commission which has a supranational character. During the Inter-Governmental Conference on Accession all states that make up the European Union acted as a collective negotiator. Their positions were represented by the current Presidency, which changes every six months.

In accordance with the principles adopted by the Council of the European Union in 1997, the meetings of the Inter-Governmental Conference on Accession were held at the level of the heads of delegations (Ministers of Foreign Affairs of the Candidate States and the Member States) or at the level of the deputy heads of delegations (the chief negotiator and COREPER members). Each session of the Conference covered a separate area of problems of varying degrees of complexity.

The role of the European Commission was to prepare and submit draft position papers of the European Union concerning individual negotiation areas, with the exception of issues relating to Common Foreign and Security Policy and third-pillar issues. In that respect, drafts of EU negotiation positions were elaborated by the EU Council in conjunction with the Member States and the European



Commission. The preparation of all EU common positions (i.e. EU position papers) was preceded by the law review procedure.<sup>142</sup>

The drafts of EU common positions then had to be submitted for inter-institutional consultations within the Enlargement Group in the Council of the European Union, as well as for discussion in the capitals of the Member States. As a result they could later be adopted unanimously by all Member States and thus could become an official position of the European Union presented during the negotiations.

#### **2.4.2.1 - Main Actors**

On the part of the European Union the main actors in the process of enlargement were:

- The Member States which were a party to the negotiations, participated in the preparation and approving of EU common positions, and finally adopted the Accession Treaty.
- The Council of the European Union (including the Presidency) which presented the agreed common positions of the EU and conducted negotiations at the level of Ministers of Foreign Affairs or their Deputies within the framework of the Inter-Governmental Conference on Accession. The EU positions were discussed in the Council's Enlargement Group. The Secretariat of the Council provided technical support for the negotiations.
- The European Commission which carried out the law review procedure, presented proposals of EU common positions, resolved (through close contact

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<sup>142</sup> The review of the law is also called "screening".

with the Member States) problems arising during the negotiations, as well as organised consultative, expert and clarifying meetings.

- The European Parliament, was informed about the course of the negotiations and approved the final text of the Accession Treaty.
- The Economic and Social Committee and the Committee of the Regions which were EU auxiliary bodies providing opinions on European integration from the points of view respectively of employee and business organisations as well as the territorial self-governments.
- Citizens of the European Union who expressed their willingness to enlarge the EU, directly in a referendum or indirectly through their representatives in the national parliaments and in the European Parliament.

#### **2.4.2.2 - Enlargement Directorate-General**

The Enlargement Directorate-General of the European Commission (the so-called DG ELARG) played a special role in the accession negotiations. Its structure comprised the units of the former Directorate-General 1A and TFAN - the Task Force for the Accession Negotiations, which used to be a separate unit in the former structure of the European Commission. TFAN and part of DG 1A have been transformed into twelve teams responsible for the accession negotiations with the twelve candidate states and a team for Turkey.<sup>143</sup> DG ELARG reported to the

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<sup>143</sup> See the web site of the European Commission for further details on the structure of the DG ELARG: [http://europa.eu.int/comm/dgs/enlargement/dgelarg\\_org.pdf](http://europa.eu.int/comm/dgs/enlargement/dgelarg_org.pdf)

Commissioner Günter Verheugen<sup>144</sup> responsible for matters relating to the enlargement of the European Union. Director-General, formerly Eneko Landaburu, currently Fabrizio Barbaso,<sup>145</sup> supervised the work of DG ELARG and was also the Chief Negotiator of the European Commission.

The tasks of DG ELARG included searching for solutions to problems which arised during the negotiation process and mediation among institutions and the Member States of the European Union, and between the European Union and the candidate states. It was the responsibility of the Directorate-General to ensure cohesion between individual common positions in various areas prepared by the Member States.

In particular, DG ELARG:

- Conducted and co-ordinated the law review process;
- Prepared EU draft common positions;
- Prepared draft legal acts relating to the negotiations;

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<sup>144</sup> Günter Verheugen is a German politician, former spokesperson of the SPD party and a member of its board. He is a historian and sociologist. As an MP in the German Bundestag, he was a chairman of a Special Committee for European Integration and a minister in the German Federal Ministry of Foreign Affairs.

<sup>145</sup> Eneko Landaburu, was the Director-General during most of the accession negotiations period. He is a lawyer and an economist. Formerly he was a professor at the Free University of Brussels (ULB/VUB) and an MP to the Basque Parliament. In the European Commission he long held the position of the Director General of the former DG XVI responsible for the regional policy and structural funds. Currently, Fabrizio BARBASO is the Director-General for Enlargement. He has a background education in law. He joined the Commission in 1976. After working in DG III "Internal Market and Industrial Affairs," in 1997, he was appointed Director in the External Relations Directorate dealing with the countries of Southern Europe (including the Balkans), the European Economic Area and Switzerland. Between October 2000 and early July 2002 he was Deputy Director General in the Directorate-General for Agriculture. He was a Principal Advisor on the Mid Term Review of the Common Agricultural Policy in the negotiations. Since September 2003 he is acting Director General of DG Enlargement.

- Represented the Commission in enlargement discussions in the Council of the European Union (and in particular the Council's Enlargement Group);
- Co-ordinated the technical issues pertaining to the enlargement and negotiation processes.

In order to fulfil the above tasks, DG ELARG was working in close contact with other units of the European Commission, with the candidate states and their Negotiating Teams, and with the Member States.

The twelve teams / task groups in the structure of DG ELARG were in charge of the negotiations with the Luxembourg Group states (Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia) and the Helsinki Group states (Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia). In addition to their vertical tasks of preparing the negotiations with the candidate states, the teams have been assigned horizontal responsibilities: members of the teams shared responsibility for negotiations in a given area of Community policy. Thus, each team was in charge of a particular number of negotiation chapters and within these areas it had to cover the negotiation problems of all the candidate states. This dual responsibility was meant to ensure cohesion between EU draft common positions in relation to all candidate states. Each team was chaired by a senior official who was the chief negotiator with a particular candidate state. Françoise Gaudenzi-Aubier<sup>146</sup> was the Chief Negotiator responsible for the negotiations with Poland.

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<sup>146</sup> Françoise Gaudenzi-Aubier is a lawyer and a political scientist. During her career in the Commission she has held many responsible positions, including being a chief adviser in the group in the European Commission preparing the enlargement process.

## **CHAPTER III**

### **SELECTED ISSUES IN THE NEGOTIATIONS**

After Poland's application for membership, both Polish and the EU sides avoided being too committal about the "when and wherefore" of entry. Finally, the Luxembourg Summit (12-13 December 1997) decided to start entry negotiations with these countries in April 1998. However, stress was being laid on the fact that the simultaneous commencement of negotiations would not imply that the negotiations with different countries would be completed at the same time, and that the pace of the admission process would depend on the performance of the countries concerned in the meantime.<sup>147</sup>

Opening of the negotiations was a major success, because membership negotiations took off irrespective of the parallel analytical examination of the *acquis*. In this way, against some member states' proposals, Poland, also the other candidate countries, could sit at the negotiating table without waiting for the final conclusions of the screening exercise.

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<sup>147</sup> EU Commission: Agenda 2000, Vol. I, pp. 82, Bauer, *op.cit*, p.13.

In the period from the commencement of substantive negotiations, i.e. November 1998, to end-1999 nine areas have already been closed. Most of them were areas in which the amount of negotiating matter (*acquis*) was relatively small and adoption of the rules required by the Union did not entail any significant financial outlays.

Moreover, "closure" was not final, but was of a provisional nature, as made clear by the first of the negotiating rules formulated by the Union in 1998 and cited at the start of the EU negotiating position in each area: "Nothing is agreed until everything is agreed".<sup>148</sup> This principle was invoked by the European Commission when it proposed in its Regular Report 1999 "revisiting" chapters in which the candidates had not fulfilled their negotiation commitments.<sup>149</sup> Poland declared deadlines for alignment with the *acquis* concerned in all chapters. In case of a fail in alignment in the mentioned duration, re-visiting of the related chapter come to order and the chapter and commitments are overviewed. Right along with this reason to re-visit certain chapters, there is another aim of re-opening the chapter. After the provisional conclusion of a chapter, new regulations could be made within the chapter in question until the conclusion of all negotiation process. Since, alignment with the EU *acquis* is a "moving target", harmonisation of the new *acquis* was also required by the EU for the finalisation of the negotiation procedure. The chapters were re-visited in order to make the Poland's governments to commit that they would

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<sup>148</sup> "Nothing is agreed until everything is agreed" approach of European Commission was emphasized by Andrzej Ananicz, Ambassador of the Republic of Poland to Turkey, through his lecture on "Poland's Experience on European Union Accession" within the context of Mülkiye Diplomatic Forum meetings organised by Faculty of Political Science of Ankara University on 3 March 2004.

<sup>149</sup> Maciej Popowski, "Poland's Relations with the European Union", Wizimirska, Barbara (ed.), **Yearbook of Polish Foreign Policy 2000**, Administrative and Maintenance Services, Ministry of Foreign Affairs, Warsaw, 2000.

align with the new *acquis* and Poland made this through making addendums to its position papers in related chapters. Besides, for the Polish side, there was another reason to re-open some chapters, which occurred from the necessity to make amendments to position papers for request of additional transition periods or withdrawal of formerly requested transition periods, decided according to the results of analysis made on the implication results of EU *acquis*.

Concerning the negotiation process, chapters can be classified into two groups: Provisional closing of “easy topics” such as "Small and Medium-sized Enterprises", "Research and Development" or "Statistics" was exhausted fairly quickly since these chapters did not present any particular difficulties. However, for “tricky and complex areas” such as “Free Movement of Persons”, “Free Movement of Capital,” “Environment,” several amendments were made in the negotiation positions of both parties, several meetings were held and the durations of negotiations were prolonged.

No sooner were the negotiations in tricky areas opened in 1999, it became apparent that neither Union members nor the European Commission itself were ready, either substantively or politically, to discuss and take decisions on questions involving adoption of transitional periods. Evidence of their unreadiness could be seen in the EU negotiating positions which were basically no more than recapitulations of the points made in the position presented by the candidate country with a host of questions and requests for clarifications and additional information tacked on. Even Poland's request for an 18-year transitional period in the matter of unrestricted acquisition of land<sup>150</sup> was merely “noted.”<sup>151</sup>

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<sup>150</sup> Under this provision non-Polish nationals would require permits for purchases of farming land for a period of 18 years and land for investment purposes for a period of 5 years.

This chapter of the thesis gives an overview of the problematic chapters in which there were historical, political, cultural or financial aspects that affected the negotiations motion.

### **3.1 - Chapter 2: Free Movement of Persons (Free Movement of Workers)**

The subjects embraced by this chapter included mutual recognition of professional qualifications, citizens' rights, visa policy, free movement of workers, the retention of pension rights by migrant workers, coordination of social security systems. Negotiations under this chapter were opened on 26 May 2000 and temporarily closed on 21 December 2001. Poland did not ask for transition periods here, while was proposing that upon becoming an EU citizen each Pole be granted the right to move freely and take up employment, which is one of the four freedoms of the Single Market.

As expected, the most difficult issue on the part of the EU was granting Polish citizens the right to take up employment in EU Member States upon accession. Despite the diversified approach of the Member States to the problem (some of them, including Holland, Ireland, Sweden, and Denmark, approved full freedom of employment), due to objections on the part of Germany and Austria who feared disturbances to their labour markets,<sup>152</sup> the EU adopted a common position on the necessity of applying transitional arrangements.

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<sup>151</sup> Popowski, op.cit.

<sup>152</sup> The Council of Ministers, **Report on the Outcome of Poland's Accession Negotiations to the European Union**, Warsaw, December 2002, p.12.



For Germany and Austria the admission to their labour market of workers from the adjacent countries of Central Europe was a sensitive political issue, in view of domestic unemployment and lower wage-levels in countries such as Poland. “Although the free movement of persons is one of the “four freedoms” of the EU’s single market, it was also excluded from the Europe Agreements before.”<sup>153</sup>

As regards the EU, the first half of 2001 was mainly devoted to framing a common position on free movement of workers. The outcome was that the 7-year transitional period demanded by Germany and Austria was given the relatively flexible shape of a 2+3+2 formula.<sup>154</sup> In the first two years, application of European law, which provides for freedom of movement of workers, would not be mandatory. Obviously, depending on the flexibility of member states' approach to this matter, complete freedom or complete denial of access to labour markets would be equally possible. In the next three years continued, closure of markets would be possible if countries so wished, but so would be application of European law. Generally, the application of the transitional period would cease after five years. But at the specific request and on presentation of arguments indicating a difficult labour market situation, it would be possible to extend it for another, but final, period of two years. The aim of this provision was to give member states a seven-year period in which they would be able to let accession of new comer' citizens to their labour markets in a phased approach.

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<sup>153</sup> Graham Avery, “The Enlargement Negotiations,” Cameron, Fraser (ed.), **The Future of Europe: Enlargement and Integration**, Routledge, London, 2003, p.48. Also presented as “Lessons of the Accession Process,” in the Symposium on Enlargement and Governance in the New Europe, Marburg, 20 September 2003.

<sup>154</sup> Jan Kułakowski and Leszek Jesień, “Poland's Accession Negotiations in 2001”, Wizimirska, Barbara (ed.), **Yearbook of Polish Foreign Policy 2002**, Administrative and Maintenance Services, Ministry of Foreign Affairs, Warsaw, 2002, p.103.

The candidate countries were united in their opposition to any restriction on the right of free movement and their reaction was strong. Their public opinion was unhappy at the idea of having to wait for a long time before enjoying what was seen as one of the main benefits of membership – the right to work elsewhere in the EU. The proposal was perceived as a form of “second-class membership.”<sup>155</sup>

As a counter argument to Germany and Austria’s hesitation, Orlowski states that, Germany and Austria’s fear of a massive emigration was ‘partly’ justified by the EU.<sup>156</sup> First, the history of previous EU enlargements does not confirm the hypothesis that opening borders leads to high flow of migrants from poor to rich countries. Relatively limited labour mobility may be explained by a mix of various cultural, social, linguistic, economic and institutional factors. Second, the successful development of Poland, and its income growth, may reduce the differentials between Poland and the Western Europe over time. Third, the Polish experience also suggests that it may be misleading to consider current income relativities and the relaxation of legal obstacles as the only variables explaining the propensity to migrate.

Candidate countries also rejected German and Austrian demands for restrictions because they were thought to be too long in duration, too vague as to how they would apply in practice and too disproportional to their intended effect. There was also the view that if the candidates would not be granted any derogation, even temporary, to the fundamental EU freedoms, there would hardly be any justification for the EU to ask for such derogations.<sup>157</sup>

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<sup>155</sup> Avery, op.cit, p.49.

<sup>156</sup> Orlowski, op.cit, p.292.

<sup>157</sup> Phedon Nicolaides and Anne-Mieke Den Teuling, “The Enlargement of the European Union: Prerequisites for Successful Conclusion of the Negotiations, (Summary of a conference proceeding, Maastricht, 19-20 February 2001)”, **Eipascope**, No.1, 2001, p.22.

Another point of the issue was the irritation on the candidate countries' side, because of the formulation of the transition period in an identical way for all the Central European countries, without taking into account of their individual situations. Some of the countries, who felt that they were being asked to pay a collective price for a problem that mainly concerned Poland, saw the handling of this chapter as a test-case for the principle of differentiation, and were frustrated that the EU ignored their arguments.<sup>158</sup>

Although the candidates had the common general approach concerning free movement of workers, they appeared to be following different negotiating strategies. Some seemed determined to pursue a line arguing for equality with EU member states, such as Poland, perhaps hoping to gain something else, another concession on a different issue, later on. Some were inclined to argue that any restriction imposed by the EU ought to apply on a country-by-country basis and sector-by-sector case (meaning that no restrictions would be imposed on smaller countries and less sensitive sectors). While a third group appeared willing to consider safeguard solutions in the form of emergency restrictions imposed in cases where a certain threshold of persons entering the EU is exceeded.<sup>159</sup>

Poland did not want to approve EU's transition approach and argued that there was no real danger of Polish citizens causing EU labour market disturbance after accession and that the problem was largely of a psychological and political nature.<sup>160</sup> However, at the later stage, while accepting the EU-proposed transitional

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<sup>158</sup> Avery, loc.cit.

<sup>159</sup> Nicolaides and Den Teuling, op.cit, p.23.

<sup>160</sup> The Council of Ministers, **Report on the Outcome...**, loc.cit.

period for free movement of workers (2+3+2), Poland appealed to member states to liberalise access to their labour markets for Polish nationals and for the earliest possible application of European law.<sup>161</sup>

The following measures related to the free movement of workers from new into current Member States have been agreed<sup>162</sup>:

- a two year period during which national measures will be applied by current Member States to new Member States. Depending on how liberal these national measures are, they may result in full labour market access;
- after this period, reviews will be held: one automatic review before the end of the second year after accession and a further review at the request of the new Member State affected. The procedure includes a report by the Commission, but leaves the decision on whether to apply the *acquis* up to the current Member States;
- the transitional arrangement should in principle come to an end after five years, but may be prolonged for a further two years in those current Member States where there would be serious disturbances of the labour market or a threat of such disruption;
- safeguards may be applied by Member States up to the end of the seventh year.

Besides, Austria and Germany were given the right to apply flanking national measures to address serious disturbances or the threat thereof, in specific sensitive

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<sup>161</sup> Kułakowski and Jesień, op.cit, p.104.

<sup>162</sup> European Commission, **Report on the Results of the Negotiations on the Accession of Cyprus, Malta, Hungary, Poland, the Slovak Republic, Latvia, Estonia, Lithuania, the Czech Republic and Slovenia to the European Union**, p.7.

service sectors on their labour markets, which could arise in certain regions from cross-border provision of services.<sup>163</sup>

In terms of benefits for Poland, a standstill clause would be applied, whereby current member state labour markets would not be more restricted than that prevailing at the time of the signature of the Accession Treaty. Also, current member states will have to give preference to candidate country nationals over non-EU labour. Separately, under the transitional arrangements the rights of nationals from new member states who have already been legally resident and employed in a current member state were protected. The rights of family members were also taken into account consistent with the practice in the case of previous accessions.<sup>164</sup> In addition, during the transitional period Poland will be able to apply the reciprocity principle. This means that if a member state resorts to protection of its labour market from Polish workers, Poland will be free to protect its labour market from this state's nationals.

Despite the introduction of a transitional period for Polish citizens' access to Community labour markets, the general outcome of negotiations under this chapter was accepted as advantageous by the Council of Ministers. Adoption of the above solution was required for the completion of negotiations on free movement of persons. The temporary restriction of access to the EU labour market was needed to relieve the fears among EU electorates (particularly in Germany and Austria, including border regions). Simultaneously it needs to be stressed that many EU states (Sweden, Denmark, Ireland, Greece, and Great Britain) declared their readiness to

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<sup>163</sup> Ibid.

<sup>164</sup> Ibid.

liberalise their labour markets immediately upon Poland's accession to the EU, whereas Italy and France will liberalise their labour markets 2 years after Poland's accession to the EU.<sup>165</sup>

Movement of persons was a specific chapter in which the candidates appeared to feel that they had some bargaining power vis-à-vis the EU because the EU itself was expected to ask for exceptions.<sup>166</sup>

The agreement on free movement of workers had several important consequences. First, it helped to defuse a political problem in Germany and Austria, and avoided enlargement becoming a divisive issue in Germany's elections. Second, it led to a more realistic and sympathetic attitude on the EU side to requests from the applicants. Previously, the EU had been very restrictive on transitional periods; now it was more ready to accept that the immediate application of the *acquis* could pose economic and political problems for the applicants, as it had done for some EU members. From this point of view, the agreement on a relatively long period of up to 7 years to deal with a problem on the EU side represented a psychological turning-point in the negotiations.<sup>167</sup>

### **3.2 - Chapter 4: Free Movement of Capital (Acquisition of Real Estate by Foreigners)**

In Community law, acquisition of real estate by foreign nationals belongs, basically, among what are called "horizontal" issues. It is of fundamental

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<sup>165</sup> The Council of Ministers, **Report on the Outcome** ..., op.cit, p.14.

<sup>166</sup> Nicolaides and Den Teuling, op.cit, p.22.

<sup>167</sup> Avery, op.cit, p.50.

significance, especially for the conduct of economic activities, and consequently for free movement of workers, freedom of establishment, and freedom to provide services.<sup>168</sup>

“Free movement of capital” chapter was opened in 15 July 1999 and closed on 22 March 2002. The problematic part of the chapter was acquisition of real estate by foreigners. Poland’s position *vis-a-vis* the problem of freedom of real estate acquisition was dictated by its specific historical, political and social background, which precludes treatment of the problem paralleling that applied to other negotiation areas.

In Poland’s first position paper in 1999, the Polish Government stated that, in Western Europe the process of European integration was parallel and much contributed to the process of historical reconciliation. In Poland the process of reconciliation has began just a few years ago. Although, today Poland feels its positive outcome, this process must not be exceedingly accelerated. European integration and reconciliation among European nations are processes between people - not just between states or elites of power.<sup>169</sup>

As the Polish side underlined, “real estate acquisition was the only area dominated by political arguments” and the results of negotiations on this issue could

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<sup>168</sup> For the relation of acquisition of real estate by foreigners with workers, establishment, services and capital, see Cezary Mik, “Acquisition of Real Estate by Foreigners Ahead of Poland’s Accession to the European Union,” Jan Barcz and Arkadiusz Michonski (ed.s), **Negotiations on Poland’s Accession to the European Union: Selected Issues**, Ministry of Foreign Affairs, Warsaw, 2002, p. p.39-54.

<sup>169</sup> “Poland’s Position in the Area of Free Movement of Persons,” Adopted by the Council of Ministers of the Republic of Poland on 13 July 1999, Government Plenipotentiary for Poland’s Accession Negotiations to the European Union, Chancellery of the Prime Minister of the Republic of Poland, **Poland’s Position Papers for the Accession Negotiations with the European Union**, Warsaw, June 2000, p.76.

be “a decisive factor for the approval of the future Accession Treaty by Poles”, as the Polish public opinion was particularly sensitive to the issue of land ownership.

Sensitivity of the Polish public opinion in the area ensued from Poland’s history and in particular it resulted from the World War II. After the war, Polish borders were moved westwards and included a part of land of the former German Reich. Having this historical background Poland was participating in the process of European integration. Approval of Poles and other European nations for European integration was a necessary pre-condition for the success of this historical process. This approval was also a necessary pre-condition if the integration process was to encompass the whole continent and thus would help overcome the Yalta division of Europe.<sup>170</sup>

On the political front, there was considerable resistance to possible foreign acquisition of tracts of agricultural land, especially by German citizens in the western areas that has been at one time German territory.

On the practical front, Polish agricultural land was being sold for market prices that were far lower than prices for comparable agricultural land in the EU, and consequently could be easily bought up by wealthier EU nationals. Also, it was argued that allowing foreign ownership would also tend to drive up the price of agricultural land, and make it less affordable for Polish farmers.<sup>171</sup> In addition, there were large differences between the purchasing power of farmers in Poland and in the Member States. The European Union must therefore take full account of these

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<sup>170</sup> Ibid.

<sup>171</sup> Roy L. Prosterman and Leonard Jr. Rolfes, “Agricultural Land Markets In Lithuania, Poland, and Romania: Implications For Accession to The European Union,” **RDI Reports on Foreign Aid and Development**, No.99, October 1999, p.15.



differences in defining, together with the accession countries concerned, a socially sustainable liberalisation process in this field.<sup>172</sup>

Hence the transition periods Poland requested also aimed providing Polish citizens an opportunity to participate adequately in the broadly understood process of European integration. Duration of the transition periods requested by Poland ensued from the assumption that on their completion - due to development of the national economy and an increase in the purchasing power of Polish citizens - opportunities would have become equal, thus dispersing the fears.<sup>173</sup>

In Poland, in practice of real estate acquisition, a foreigner<sup>174</sup> who was willing to purchase real estate or to purchase or take into possession shares or stocks in a commercial company with the seat on the territory of the Republic of Poland, being the owner or perpetual usufructuary of the real estate had to obtain a permission of the Minister of Internal Affairs and Administration with the exception of some cases.<sup>175</sup>

Due to significant historical, political and social considerations mentioned above, Poland requested 5-year transition period for acquisition of real estate for investment purposes, and 18-year transition period for acquisition of agricultural and woodland real estate.

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<sup>172</sup> **Enlargement of the EU: Position Paper of the European Federation of Green Parties**, Adopted by the Council in Budapest, 30th November – 2 December 2001 - financial part changed, [www.europeangreens.org/info/policy/enlargement.html](http://www.europeangreens.org/info/policy/enlargement.html)

<sup>173</sup> “Poland’s Position in the Area of Free Movement of Persons,” Adopted by the Council of Ministers of the Republic of Poland on 13 July 1999, loc.cit.

<sup>174</sup> Foreigner was defined as a natural person with no Polish citizenship, a legal person with the seat abroad, a legal person with the seat on the territory of the Republic of Poland controlled directly or indirectly by persons mentioned above, under the Act of 24 March 1920 on Real Estate Acquisition by Foreign Persons as amended (OJ 054).

<sup>175</sup> For the exceptional cases, see “Poland’s Position in the Area of Free Movement of Persons,” Adopted by the Council of Ministers of the Republic of Poland on 13 July 1999, op.cit, p.81.

The initial EU position on the issue was negative: the Commission rejected the idea of granting transition periods under the chapter of “free movement of capital” as one of the four basic freedoms upon which the common market was based.

The EU’s understanding of this particularly sensitive issue seemed very limited as it for a long time continued to refuse any transitory measures requested by Poland. Unfortunately this tough stance raised further fears and anxiety in a large part of Polish society, conveying the feeling that the EU not only limited Polish rights abroad, in terms of free movement of persons, but was also denying the Polish rights to its own land. A December 2001 CBOS survey found that 82% of Poles continued to support transition periods on the sale of land to foreigners.<sup>176</sup> To many the EU’s stance seemed particularly “unjust” given the fact that in the last enlargement, Austria, Sweden and Finland successfully negotiated 3 and 5-year-long transitional periods in the area of real estate acquisition, while Denmark obtained an opt-out based on resentments regarding German acquisitions, very similar to those referred to by Poland.<sup>177</sup>

According to Stepniak, the length of those transition periods should however be reduced, in particular as far as the purchase of land for investment purposes was concerned. This was important in view of the reduced rate of Poland's economic growth and the necessity to attract further investors from abroad.<sup>178</sup>

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<sup>176</sup> A. Szczerbiak, **After the Election, Nearing the Endgame: The Polish Euro-Debate in the Run up to the 2003 EU Accession Referendum**, Sussex European Institute, May 2002, SEI Working Paper No. 53, in Monika Ewa Kaminska, **L’ingresso della Polonia nell’Unione Europea**, [www.istitutosalvemini.it/m-kaminska.pdf](http://www.istitutosalvemini.it/m-kaminska.pdf), p.12.

<sup>177</sup> K. Kukier, *Problematyka swobodnego przeplywu osób*. Biuletyn Analiz No. 4, Office of the Committee for European Integration, Warsaw, August 2000, in *ibid*.

<sup>178</sup> Stepniak, *loc.cit*.

Later, in the “European Strategy of the Government of Poland,”<sup>179</sup> Polish government endorsed the need for transition periods however, it stated that the duration of the transition periods should be reduced, particularly as concerns purchase of land for investment purposes. That was crucial at a time when Poland’s economic growth has slowed down and there was urgent need to attract new foreign investors.

Poland's position on "Free Movement of Capital" was twice modified. First, on 14 November 2001, the requested transitional period for purchases of farmland was shortened from 18 to 12 years and the government decided to request a seven-year transition period for acquisition of plots for "second homes" by foreigners.<sup>180</sup> It also withdrew the request for a transitional period for sales of land for development purposes. The second change was made on 18 December 2001, when the government decided that self-employed farmers from the EU would be able to acquire ownership of farmland after a period shorter than the transitional period for purchase of farmland.<sup>181</sup> At the same time the government decided to shorten the proposed transitional period for purchases of "second houses" from seven to five years. To a large extent these changes were instrumental in the closure of this chapter in early 2002.<sup>182</sup>

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<sup>179</sup> “The European Strategy of the Government of Poland,” was adopted by the Polish Government on 15 November 2001.

<sup>180</sup> Mik, op.cit, p.59.

<sup>181</sup> This right would be obtained by EU farmers after leasing the land in question for a period amounting in the case of certain voivodships where situation is particularly sensitive because of the historical resentments and economic interests (Warmińsko- Mazurskie, Pomorskie, Kujawsko-Pomorskie, Lubuskie, Zachodniopomorskie, Dolnośląskie, Opolskie, and Wielkopolskie) to seven years, and in the rest of Poland to three.

<sup>182</sup> Kułakowski and Jesień, op.cit, p.105.

Therefore, in its position paper, Poland put forward a solution which will secure the interests of all concerned parties. On the one hand, it ensured access to real estate - including agricultural one - in Poland to EU nationals in an economically justified extent; on the other hand, it would convince the public opinion that the Polish state authorities were still maintaining control over real estate market in Poland, and would simultaneously give the government time to settle the ownership issues in agriculture and prepare this economy sector for competition in the single market.

As the final agreement, regarding the secondary residences, Poland was granted a five-year transitional arrangement during which it would be able to maintain its national legislation regarding the acquisition of secondary residences. Nationals of the Member States who have been resident in Poland were excluded from the scope of the transitional arrangement, in accordance with specific provisions.<sup>183</sup>

For agricultural land and forests, Poland was granted a twelve-year transitional arrangement during which it would be able to maintain its national legislation regarding the purchase of agricultural land and forests. Nationals of the Member States, who have been self-employed farmers in Poland, were excluded from the scope of the transitional period, in accordance with specific provisions. A general review of the transitional arrangement shall be held before the end of the third year following the date of accession.

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<sup>183</sup> European Commission, **Report on the Results of the Negotiations** ..., op.cit, p.10.

### 3.3 - Chapter 7: Agriculture

Poland has become a battleground for fighting out the explosive issue of European Union agriculture policies. On both sides of the negotiating table, vested interests, social and political realities, and disputes over who will receive the substantial EU subsidies for agriculture all complicated the stage of agriculture negotiations. Negotiations under this chapter were opened on 14 June 2000 and closed on 13 December 2002.

The agricultural aspect of Poland's economy has played a critical and problematic role in the country's negotiations with the European Union. This was chiefly a result of Poland's unique geographic and demographic characteristics, namely its greater potential than European Union members for agricultural production paired with its population's respectively greater portion of agriculturally based employment.

The accession of Poland to the European Union would entail applying programs and institutions, economically custom-tailored for fifteen European Union members, to the new, drastically different and circumstantially varied, accession countries.<sup>184</sup> Enlargement to include the ten candidate countries from Central and Eastern Europe would increase the agricultural area of the European Union by over 40% and more than double the number of people working in agriculture.<sup>185</sup> This was a very important increase since the European Union was spending approximately 40% of its total budget on the CAP. As was to be expected, the topic of agriculture

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<sup>184</sup> Andrea Detjen, **Agricultural Policy in Poland's Accession Treaty Negotiations: A Two-Level Game Approach**, p. 2.  
[http://www.american.edu/academic/depts/sis/sword/Current\\_Issue/essay2.pdf](http://www.american.edu/academic/depts/sis/sword/Current_Issue/essay2.pdf)

<sup>185</sup> "Enlargement – The Impact on Agriculture," **The Nice Treaty: Explaining the Issues**, Institute of European Affairs, Dublin, Ireland, p.1.

policy - specifically, of agricultural subsidies - fuelled contention between Poland and the European Union amidst the treaty negotiations.

Structural reforms introduced in the 1990s, in Poland, failed to modernize farming substantively. The size of the agricultural population has not declined significantly. A substantial proportion of the population was still relying on agricultural incomes. Also progress in developing land markets to create viable farming structures or in privatising domestic food processing industries to improve efficiency and respond to increased demand has been minimal. Farms in the prevalent semi-subsistence sector were below the average EU size and had little agricultural machinery and few funds for investment. After 10 years of transition, the structures that should enhance productivity and competitiveness in factor and product markets - private firms and major individual holdings - have tended to stagnate or decline. Imports from the EU have been used to meet the increase in internal demand and Poland has growing trade deficits with the EU.<sup>186</sup>

Therefore, there was no question that Polish agriculture must change. Poland's 2 million farms average was below 8 hectares while the average EU farm was about 18 hectares; over a third of the country's farms were just 1 to 3 hectares. Only the larger farms had a good chance of surviving accession to the EU. Small farms would have to be consolidated, and infrastructure and services in the countryside must be developed.<sup>187</sup> Such changes were essential, both to increase the

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<sup>186</sup> "EU Accession Challenges CEE Agriculture (Excerpted from reports of Oxford Analytica, Oxford, U.K. and EU Commission and Reuters)", **Transition Newsletter: The Newsletter About Reforming Economies**, 2001, <http://www.worldbank.org/transitionnewsletter/marapr02/pgs1-5.htm>.

<sup>187</sup> Andrzej Rudka, **Rural Reckoning: The vexing issue of agriculture reform centres on Poland**, p.1. <http://archive.tol.cz/transitions/ruralrec.html>

efficiency of the Polish agricultural industry and to dramatically improve the quality of Polish farmers' life.

The difficulty of such modernization was complicated by the fact that the agricultural policies of Brussels themselves also had to be reformed. The CAP has been as much a political as an economic program, and enlargement agreements would have to cope with pressure from such major beneficiaries of the program as France, Germany, and Britain who were against increasing contributions.

The underlying principle in the EU's approach to the negotiations on agriculture, as on other chapters, was that the candidate countries must accept the *acquis communautaire* and be prepared for its effective implementation by developing, before accession, policies and instruments which were as close as possible to those of the CAP.<sup>188</sup> In its negotiating position, Poland declared to introduce, by 31 December 2002, the legal and institutional arrangements enabling the application of Common Agricultural Policy (CAP) instruments.

The most important Polish requests in this chapter included the following<sup>189</sup>:

- Polish market for food and farm produce be incorporated into the European Single Market area,
- Poland be assigned production quotas at a level reflecting the natural potential for environment-friendly agricultural production and guaranteeing stable sources of income for the farm population,

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<sup>188</sup> Kearney, loc.cit.

<sup>189</sup> Ewa Haczyk, "Negotiations on Poland's Membership of the European Union", Wizimirska, Barbara (ed.), **Yearbook of Polish Foreign Policy 2001**, Administrative and Maintenance Services, Ministry of Foreign Affairs, Warsaw, 2001.

- Polish agriculture be covered by the CAP (compensatory payments) and Polish farmers participate in the benefits offered by price, income and structural instruments.

Poland proposed to apply, over 2 years after accession, a mechanism whereby the milk and dairy products which were failing to meet the EU standards would be allowed to trade domestically and on third countries' markets. The longer period, transcending the accession date, for Polish milk suppliers' adjustment to the EU quality standards would help keep dairy cattle production at many farms, which was so important for Polish agriculture. Poland also requested that beef, whose production at meatpacking plants not always meets all EU veterinary requirements, be admitted for trading locally and on third countries' markets.<sup>190</sup>

The EU has not given an explicit response to these requests. The EU has expressed willingness to grant transition periods in areas that would require large investments, but only if these exceptions would not interfere with the functioning of a single market. In addition, if the EU was to agree to proposal to allow lower quality products to be sold on domestic markets, some sort of border controls between the CEEC and the current EU member countries would have to continue. Such controls would be contrary to the idea of a single market.<sup>191</sup>

The EU Common Agricultural Policy was providing for production quotas for milk, sugar, starch, and dried fodder. Agenda 2000 called for continuation of these quotas, although the quotas would rise.<sup>192</sup> For Poland, in accordance with CAP and

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<sup>190</sup> Ibid.

<sup>191</sup> Nancy J. Cochrane, "EU Enlargement: Negotiations Give Rise to New Issues", **Agricultural Outlook**, January-February 2001, Economic Research Service / USDA, p.20.

<sup>192</sup> Ibid, p.21.



Agenda 2000, the weightiest negotiating problems would have to do with production quotas for milk, white sugar and isoglucose, potato starch, dry fodder and tobacco inputs.

The European Union has pointed out that the national quota levels for each product concerned must be determined on the basis of historical production figures during a reference period to be defined.<sup>193</sup> The EU based its quota proposals on the production levels from 1995-99, but Polish negotiators protested that those years, just after the transition from communism, should not be the basis for calculation. Output in that period was still well below its potential because of the shocks brought about by the transition from centrally planned economies. Instead, statisticians, they argued, should take into account the potential of Poland's agricultural sector to produce these products.

Besides quotas, Poland demanded equal treatment with the EU members in terms of direct aid for farmers. The limited amount of CAP funding actually offered to Poland was interpreted as the most glaring evidence that the EU-of-25 in 2004 would actually be a Union of 15 + 10, with the new members maintaining lesser status and thereby deriving fewer benefits from their hard-earned membership. The Polish negotiators saw the European Union's biased treatment of new-versus-old members as a violation of the principle of equal competition under Single Market conditions.

Farmers in some of the member states were worried about competition from their counterparts in the countries negotiating accession treaties, especially Poland, which has the biggest production capacities in Central and Eastern Europe. Hence

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<sup>193</sup> Kearney, op.cit, p.12.

they were exerting pressures to keep the new members' agriculture excluded from all the mechanisms of the CAP as long as possible.<sup>194</sup> Therefore, it was thought that, the EU proposal for long adjustment periods for the agricultural sectors in Central and Eastern Europe had little or nothing to do with preparing them for integration. In fact, the EU might fear competition with its own slowly reforming farms. While continuing the CAP in the EU in a slightly reformed but very expensive form, EU countries appeared unwilling to finance the growth of competitive agricultural sectors. At the same time, Poland also faced growing arguments, particularly from the United States, that Central and East European countries should not adjust their agriculture to the EU's inefficient standards because the present CAP system will be transformed to become more competitive in ten years or so.<sup>195</sup>

This was one of the difficulties encountered by Poland like other candidate countries in preparing for EU membership. Since in recent years the CAP had been changing, it was a "moving target" for both member states and candidate countries. Major reforms were introduced in 1992 (MacSharry Reform) and 1999 (Berlin Agreement of the European Council), with a mid-term review in 2002, and further reform is likely to be necessary for the financial perspective after 2006.<sup>196</sup>

In addition to these principled arguments, the negotiators on the Polish side also saw technical reasons for demanding a comparable amount of CAP support for the agricultural sector. With less funding, Polish farmers would lose any markets

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<sup>194</sup> Janusz Rowinski, "The Agricultural Negotiations (Some of the Main Problems," Jan Barcz and Arkadiusz Michonski (ed.s), **Negotiations on Poland's Accession to the European Union: Selected Issues**, Ministry of Foreign Affairs, Warsaw, 2002, p.111.

<sup>195</sup> Rudka, op.cit, p.4.

<sup>196</sup> For further information on reforms in EU's agricultural policy, see Susan Senior Nello, **Food and Agriculture in an Enlarged EU**, European University Institute Working Papers, No.58, Robert Schuman Centre for Advanced Studies, 2002.

gained during the 1990s. In order to compensate for this, farmers would need to modernise, but few farmers would be able to invest in the necessary improvements.<sup>197</sup> Furthermore, the markets these farmers gained after the fall of communism would be lost to the current member countries, whose farmers would receive full compensation from the CAP. In addition, the relatively small quotas assigned to Poland during the transition would prevent farmers from increasing production to gain back market share or revenue for this much-needed investment.<sup>198</sup>

Besides, many smaller producers and processors would probably be forced out of business, and for this reason an increasing number of CEE producers were opposed to accession. However, the transition might go more smoothly than anticipated if accession generates enough non-agricultural employment to absorb labour released from agriculture.<sup>199</sup>

The basic objectives of the EU Common Agricultural Policy (CAP) are to increase agricultural productivity, ensure a fair standard of living for agricultural workers, stabilized markets, guarantee regular supplies of agricultural products, and ensure reasonable prices to consumers. CAP regulations attempt to equalise competition in agriculture among member states by compensating producers who are less efficient than those in other countries. The Agenda 2000 points out four main concerns: First the need to create a coherent structural and rural development policy; second, to introduce regulations on veterinary and phytosanitary control; third, to

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<sup>197</sup> Department of Agriculture and Rural Development, **Agriculture and the Food Economy in Poland in the context of integration with the European Union**, Warsaw, 2002, p.54, in Detjen, op.cit, p.4.

<sup>198</sup> Ministertwo Rolnictwarolzwoju, **Negotiations with the European Union in the agriculture area**, Warsaw, 2001, 54, in Detjen, op.cit, p.4.

<sup>199</sup> Cochrane, "Agriculture in Poland & Hungary," op.cit, p.26.

strengthen the administrative structures indispensable for executing a common agricultural policy; fourth, to continue the restructuring of the agri-food sector and thus create its competitiveness.<sup>200</sup> Competitiveness was emphasised in both the general approach of CAP and the Agenda 2000.

The ability of CEE agricultural and food producers to compete in an enlarged EU was a serious concern on both sides. CEE farmers and processors worried that a flood of higher quality EU products could drive many of them out of business. EU policy-makers worried about budget implications of extending CAP protection to all CEE producers.<sup>201</sup>

According to the Polish government, the immediate and full application of the CAP upon accession would increase employment and agricultural production.<sup>202</sup> As a result, investment would move from current members to new members, helping decrease the per-capita GDP gap between Poland and current members. Without direct payments, currently enjoyed by EU member producers, which constitute a significant share of farm income in the EU, CEE producers would find it very difficult to compete with EU producers whose substantial direct payments offset high production costs.

The general picture of Poland's and the EU's initial positions were completely different:

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<sup>200</sup> Friedrich Ebert Stiftung, "Accession or Integration? Poland's Road to the European Union," **EU-monitoring II**, Warsaw, 1998, p.74.

<sup>201</sup> Cochrane, "Agriculture in Poland & Hungary," op.cit, p.23.

<sup>202</sup> Brian Ardy, "Agriculture and Enlargement," p.94, Jackie Gower and John Redmond (eds), **Enlarging the European Union: The Way Forward**, Ashgate, England, 2000, p.88-102, in Detjen, op.cit, p. 4.

- The EU proposal: Production quotas would be based on 1995-99 averages, and Polish farmers would not receive any direct payments.

- Polish request: Quotas would be set at the levels of Poland's potential, and Polish farmers would receive 100% of the payments in the first year following accession.

Negotiations under the "Agriculture" chapter were difficult due to the absence of a general EU position on financial issues, including direct payments, until the very last stage of talks. The relevant position was assumed by the EU as late as 24 October 2002. Until that time, the EU maintained the position that Agenda 2000 did not provide for the funding of direct payments for new member states.

In the framework of Agenda 2000, the Commission advocated that direct payments should not be available to farmers in the acceding countries and consequently they were excluded from the calculation of the EU's budgetary deal in Berlin. The weakness in this argument, however, was that direct payments continued to be paid to farmers in the EU, long after the reforms and were part of the agricultural *acquis*, which the EU was urging the applicant countries to apply in all other respects.<sup>203</sup>

Despite what had been agreed in Berlin, the Commission concluded by 2002 that a proposal which included no direct payments would be difficult to reconcile with the EU's principle of no modification of the *acquis* and would be politically unacceptable for the applicant countries.<sup>204</sup> Therefore it preferred to propose a long transitional period to apply direct payments.

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<sup>203</sup> Avery, *op.cit.*, p.54.

<sup>204</sup> *Ibid.*

Thus a far more contentious issue was the level and timetable over which the direct payments enjoyed by farmers in the EU would be extended to farmers in the new member countries. The EU, concerned about the budget impact of enlargement,<sup>205</sup> was proposing to phase in these payments over 10 years, starting with 25 percent in the first year after accession. CEEC refused so far to accept such a proposal, insisting on equal treatment. The outcome of these negotiations would have some effect on levels of agricultural output but an even greater impact on the eventual structure of agriculture in the new member countries.<sup>206</sup>

A related issue was whether new members would be allowed to maintain national-level policies. In the EU, there were no national support programs, only one common agricultural policy. But Poland was providing significant levels of both market price support and a variety of investment aids and direct income support.<sup>207</sup> If Polish farmers would lose the support they enjoyed and then would get only 25 percent of the support going to EU farmers, the result could be a significant loss in net income for farmers.

Candidate countries also created a link between agricultural aid from the EU and budgetary responsibilities of candidates. At a two-day meeting in Brussels in April 2001, the candidates claimed that the EU appeared to be trying to extract

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<sup>205</sup> For the EU's and CEEC's mutual opinions about direct aids in agriculture and budgetary effects of EU's agricultural expenditure for CCs on EU's budget, see Klaus Froberg and Monika Hartmann, "Financing Enlargement: The Case of Agriculture and Rural Development", in **Intereconomics: Review of European Economic Policy**, Vol.37, No.2, Hamburg Institute of International Economics, March/April 2002, p.71-77.

<sup>206</sup> Nancy Cochrane, "EU Enlargement: The End Game Begins", **Agricultural Outlook**, November 2002, Economic Research Service / USDA, p.22.

<sup>207</sup> Ibid.

everything possible under the budget chapter while attempting to limit or delay agricultural and infrastructural aid.

Poland's chief negotiator Jan Truszczyński said that the EU was effectively trying to selectively apply its *acquis communautaire*, the candidates must enact before membership. He was referring to the Commission's proposal in late January 2001 that the direct agricultural subsidies available to farmers in EU member states should not be fully applied to the new member states until 2013.<sup>208</sup> The EU was, while limiting the aid that would be given to the candidate countries on time of their accession, demanding that new members would make full contributions to the community budget from the day of their accession.

At the end of the negotiations, Polish government seemed satisfied with the final agreement concerning production quotas. The quotas Poland was granted for milk, fibre and dried fodder, sugar, tomato, tobacco, isoglucose, potato starch, beef were either at the level it requested or close to its request. Also the EU accepted Poland's several transition period requests.<sup>209</sup>

According to the agreed direct payment schedule, the payments would start at 25% in 2004, 30% in 2005 and 35% in 2006 of the present system and increase by percentage steps to reach 100% of the then applicable EU level in 2013.

The approval for direct payments was accepted as the major negotiation achievement for Poland because such an option was not even considered in the

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<sup>208</sup> "EU Accession Challenges CEE Agriculture (Excerpted from reports of Oxford Analytica, Oxford, U.K. and EU Commission and Reuters)", **Transition Newsletter: The Newsletter About Reforming Economies**, 2001, <http://www.worldbank.org/transitionnewsletter/marapr02/pgs1-5.htm>.

<sup>209</sup> For the issues that Poland was granted transition periods and their durations see The Council of Ministers, **Report on the Outcome ...**, op.cit, p.25-26, and European Commission, **Report on the Results of the Negotiations ...**, op.cit, p.15-23.

original position of the EU, since the EU position based upon the guidelines of Agenda 2000. A particular success was the EU's consent for Poland's request concerning an increase in the level of direct payments through the reallocation of part of the funding for rural development. This required a modification of the EU position consistently rejecting this request.<sup>210</sup>

### **3.4 - Chapter 22: Environment**

The environment chapter was one of the most difficult chapters of the entire negotiation process, both in terms of harmonising Poland's legislation with the *acquis communautaire* and in implementing norms set forth in numerous directives and other Community legal acts.

In Poland, attention was paid to the environmental issues and the development of this sector, which resulted especially from the fact that, this area neglected for a pretty long time had to recover in a relatively short period to meet the requirements imposed by the EU membership. There was also another vital argument: namely the environmental sector revealed serious problems of the national economy, both in terms of the pressure put on the environment by industry and agriculture and the need to allocate more funds to fulfil the obligations imposed by the Community Directives.<sup>211</sup>

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<sup>210</sup> The Council of Ministers, **Report on the Outcome** ..., op.cit, p.26.

<sup>211</sup> Hanna Machinska, "Implementation Process of the Community Environmental Law in the Integral Legal System of the State: Challenges for Poland," Milczarek and Nowak, op.cit, 207-213.



Preparations for membership in environment chapter presented three particular challenges<sup>212</sup>:

- legal: most of the environment *acquis* was in the form of directives requiring transposition into the national legal order;
- administrative: planning, permitting and monitoring was requiring sufficiently staffed and well equipped environment administration at various levels;
- financial: substantial investment in infrastructure and technology in order to make up for lacking or insufficient investments.

The chapter was opened on 7 December 1999. The Polish and the EU sides agreed that Poland was not meeting EU standards and the only area of disagreement was the timeline for making up the arrears. The Union liked Poland to attain EU standards as quickly as possible, preferably before the end of the pre-accession period. Swift closing of this gap was also in Poland's own best interests, but the stumbling block was financial constraints. Many environmental standards in Central and Eastern Europe were below those in the West and compliance with the *acquis* would require costly investments in infrastructure and technology in public and private sectors. Besides the financial problems in Poland, and other candidates, some EU members were even granted transitional periods concerning environmental requirements of the Union.

Negotiations clearly showed that environmental protection in Poland, despite enormous financial outlays in the last decade and an allocation of significant funds from the state budget (1.6 – 1.8% of GDP – one of the highest percentages world-

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<sup>212</sup> European Commission, **Report on the Results of the Negotiations** ..., op.cit, p.45

wide), was requiring further, not fewer, pro-environmental investments with a view to attaining the norms for cleanliness of soil and water as well as air quality provided for in relevant EU directives.<sup>213</sup>

The "Environment" chapter was one of the most complicated chapters since both it comprised an extensive *acquis*, and also it was the area in which Poland has, for obvious reasons in view of its civilisation arrears, asked for the largest number of transitional periods<sup>214</sup> in respect of both other chapters and the demands made in this area by all the other candidate countries.

In the course of negotiations, it began to be recognised that a distinction could be made between the "product-related" aspects of the environmental rules and other areas that would have little or no impact on the single market.<sup>215</sup> This approach eased the conclusion of the negotiations. After the bargaining, the chapter was provisionally closed on 26 October 2001 and as the outcome Poland was granted nine transition periods. Transition periods concerned urban waste water treatment, integrated pollution prevention and control, packaging and packaging waste, the landfill of waste, pollution caused by certain dangerous substances discharged into the aquatic environment of the Community, reduction of the sulphur content of certain liquid fuels, control of volatile organic compounds emissions resulting from

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<sup>213</sup> The Council of Ministers, **Report on the Outcome** ..., op.cit, p.47.

<sup>214</sup> For the transitional periods that Poland requested, see "Poland's Negotiation Position in the Area of Environment," Adopted by the Council of Ministers of the Republic of Poland on 5 October 1999; "Addendum to Poland's Negotiation Position in the Area of Environment," Adopted by the Council of Ministers of the Republic of Poland on 6 February 2001, "Amendment to Poland's Negotiation Position in the Area of Environment," Adopted by the Council of Ministers of the Republic of Poland on 29 March 2001, "Amendment to Poland's Negotiation Position in the Area of Environment," Adopted by the Council of Ministers of the Republic of Poland on 17 July 2001, in Government Plenipotentiary for Poland's Accession Negotiations to the European Union, Chancellery of the Prime Minister of the Republic of Poland, **Poland's Position Papers for the Accession Negotiations with the European Union**, Warsaw, June 2000, p.377-442.

<sup>215</sup> Avery, op.cit, p.48.

the storage of petrol and its distribution from terminals to service stations, health protection of individuals against ionising radiation in relation to medical exposure, the supervision and control of shipments of waste within, into and out of the European Community. The negotiations closed in October 2001 covered the *acquis* in force until the end of 1999. As a result of analyses of the *acquis communautaire* adopted after that date, Poland requested an additional transitional period on the limitation of emissions of certain pollutants into the air from large combustion plants and this was granted to Poland. The transitional arrangements agreed in the negotiations were due to the financial challenges, such as the time needed to establish the necessary infrastructure.

The time of the provisional closure was just after the new coalition took office. In this context, according to Kułakowski and Jesień, there was a special symbolic significance in the fact that two chief negotiators, outgoing and new, attended the concluding session of the "Environment" negotiations, and this gesture was very well received by Poland's EU partners.<sup>216</sup> This might be accepted as a message to the EU side, symbolising the continuity of Poland's general strategy even in case of government's change.

The provisional closing of the environmental chapter of the negotiations with most of the transition periods requested by Poland accepted was evidence that the EU negotiators were sympathetic to the financial argument.<sup>217</sup>

Given the volume of the environment *acquis*, the agreed transitional arrangements were exceptional. Their potential trans-boundary impact was limited.

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<sup>216</sup> Kułakowski and Jesień, op.cit, p.102.

<sup>217</sup> Rowinski, op.cit, p.108.

They did not lead to significant distortions of competition. The transitional arrangements included detailed legally binding intermediate targets. This would ensure a controlled implementation during the entire transition period. The targets were recorded in the Accession Treaty. The scope of transitional arrangements was, wherever possible, specified through lists of individual installations. The transitional arrangements were backed up by detailed financing strategies.<sup>218</sup>

The largest number of transitional periods with regard to 10 Community legal acts covering a total of 23 derogations were granted to Poland under the "Environment" Chapter. The transitional periods for the application of the relevant *acquis communautaire* will help to spread out over a longer period of time the enormous investment efforts needed to implement environment-friendly technologies. It will be in Poland's best interest to use all the transitional periods granted under this Chapter as fully as she can.<sup>219</sup>

### **3.5 - Chapter 29: Financial and Budgetary Provisions**

The EU's demand could strain budgets of the new member states in the first few years following accession. As a result of various administrative hurdles and fiscal rules applied by the EU, what subsidies the new members do receive would not show up in their budgets immediately, yet the candidates' must make their expected contributions to the EU budget early in the year. This could mean that in the first year or two following accession the new members would pay more into the EU

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<sup>218</sup> European Commission, **Report on the Results of the Negotiations**..., loc.cit.

<sup>219</sup> "Completion of Accession Negotiations", [www.poland.gov.pl/?page=2010000001](http://www.poland.gov.pl/?page=2010000001)

budget than they would get back.<sup>220</sup> It is no wonder that thus Poland was seeking a gradual phasing in period before it must pay the full contribution to the EU budget.

Negotiations commenced on 26 May 2000 and Poland declared that in relations with the EU's general budget the country should be a net beneficiary from the first year of membership. This meant that the pattern of EU transfers and Polish contributions to the EU's general budget must be similar to that for the least developed member states-remembering about the country's socio-economic situation, as marked by low per capita GDP and high adjustment costs borne prior to and after accession. Poland was seeking a five-year transition period before it would pay the full contribution to the EU's general budget.

The Polish actual contributions should be reduced by following percentages: 2003: 90%; 2004: 70%; 2005: 50%; 2006: 30%; 2007: 10%. This will ensure an appropriate ratio, from the first month of membership, between the country's contributions to the EU budget and the actual absorption of EU general budget appropriations earmarked for Poland.<sup>221</sup>

The Commission made a limitation to first three years of membership of Poland and other candidate countries. This was because the EU's budgetary deal at Berlin in 1999 related to the period 2000-2006, and there was no *acquis* concerning the subsequent period.

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<sup>220</sup> "EU Accession Challenges CEE Agriculture, **Transition Newsletter: The Newsletter About Reforming Economies**, op.cit.

<sup>221</sup> Haczyk, op.cit.

Negotiations were finally closed on 13 December 2002 at the European Union Summit in Copenhagen in an atmosphere of financial lack in the EU side and psychological pressures on the Polish side.

On the one hand, Anders Fogh Rasmussen, the Danish prime minister and summit host, issued a stark warning that there was no cash left to give the Poles and the nine other candidates when they join in 2004. "At this moment I have no more money," he said. On the Polish side, Leszek Miller, Polish prime minister, flew to Copenhagen under heavy pressure from a suspicious public and vociferous rightwing and Eurosceptic parties fearful that the country was being treated as a second-class member of the club it has waited 10 years to enter. With rising unemployment and sluggish growth to contend with, and a referendum on EU membership to win the following year, he was determined to show that he has fought as hard as possible for Polish interests.<sup>222</sup>

The final agreements reached were based on the principle of acceptance by Poland of the *acquis communautaire* in the field of financial and budgetary provisions. This would imply full participation in the financing of the EC budget from accession. Concerning own resources payments, on account of the expected accession date of 1 May 2004, special technical provisions were included in the Accession Treaty for the calculation of Poland's contribution to the EU budget. Besides, the Union would provide Poland 1,443 million € through a special temporary cash-flow facility in the period of 2004-2006 to improve its budgetary position. This amount includes €1 billion resulting from corresponding reductions in

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<sup>222</sup> Ian Black, "Poland Fights for Bigger Handout: Money is the Bottom Line for 10 Countries Expecting to Join EU," The Guardian, 13 December 2002, <http://www.guardian.co.uk>

the level of structural funds normally available to Poland.<sup>223</sup> Moreover, a number of other facilities with financial implications, like Schengen facility, transition facility for institution building, have been agreed and these were covered under Chapter 31.

The chief negotiation goals were attained, according to Council of Ministers.<sup>224</sup> The negotiated conditions for Poland's participation in the contributions to and use of the EU general budget signify that as of accession Poland shall receive more from the EU general budget than it will contribute to.

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<sup>223</sup> European Commission, **Report on the Results of the Negotiations** ..., op.cit, p.55

<sup>224</sup> Council of Ministers, **Report on the Outcome** ..., op.cit, p.62.

## CONCLUSION

The fall of Berlin Wall in 1989 was a turning point for the Central and Eastern European Countries' (CEEC) position in the global world in future. All the security perceptions, and the relations between West and East were re-defined after the collapse of the system dominated in the Eastern side of the continent. Besides the preference of new economic system of market economy being established in the CEEC, the political structures and lifestyles were also re-designed in accordance with the Western approach. In this framework, the West, particularly the European Union was a new model for CEEC in terms of democracy, wealthier economy, security and stability. As a result of the attraction of Western model, there occurred a transformation period, from centrally-planned economy to market economy and socialist system to democracy.

In the 1990s, Poland had “twin goals” of membership of the NATO and the EU, symbolising the success of the transformation period continued since 1989, establishment of modern Western system, sustainability of security and re-created structure, and existence as a powerful actor in the global arena. While Poland accepted these two targets as non-separated processes, instead of alternatives, the enlargement of NATO and the European Union to the East were also complementary processes in Western approach, which aimed extending the area of security and



stability to the East. For Poland, another reason of twinning these goals was to create an Atlantist dimension in the EU because of the importance of Euro-Atlantic relations for it and creation of a common perspective for them.

Although, these were twin goals of Poland, they had a differentia in terms of their impact. While NATO could be perceived as a guarantor of particularly security, European Union would promote Poland's political, economic and social stability so its role in the region in a wider context. Since the EU's potential impact was expected to be in a wider area, the challenges concerning Poland's in the EU were more rather than in the NATO.

Poland can be accepted as a special case in the process of European Union's Eastward Enlargement, in historical and geo-strategic context, because of its location between Germany and Russia while taking into consideration the new order established after the 2<sup>nd</sup> World War years. While being perceived as a wall or buffer zone against USSR in history, through the Yalta division of Europe, after 1989, it became the Eastern border of the West. Being in the middle gave it a particular strategic importance in the EU enlargement process.

Poland was also seen as a test case for the EU because of its huge size, high population and complex economic and social structure. Therefore, it was perceived by other candidate countries, as a stumbling block, which would slow down the overall enlargement process. Poland's special position in terms of its historic background can be accepted, but there should be made a division in terms of its importance basing on size and complexity. The criteria that had to be realised for membership were common for all candidates. In this concept, Poland did not face any different condition on its way to membership. However, there can be a

separation between legal responsibilities and implementation. Concerning the harmonisation of the *acquis communautaire*, Poland had to align with the same legislative arrangements with the other candidates, but, on the other hand, these legal responsibilities had to be reflected in the implementation. This was the point on which Poland had or would have difficulty because, it was or would be hard to imply the new legislation in a wide country with a high population (nearly 40 million) with a complex economic structure. But, this was an internal problem of Poland, and might be taken into account by the EU in terms of accession conditions that would be agreed during negotiations in the framework of bilateral relations between Poland and the EU. Moreover, the Union emphasised the differentiation principle in the enlargement process, according to which, each of the candidate countries would be evaluated on an individual basis, in respect of their progress in the harmonisation process and implementation of the commitments undertaken during negotiations.

Joining the EU was seen as symbolising Poland's "return to Europe," which had a deep meaning as being a "part" of the Union instead of having a "partnership" with it. Among the motives behind Poland's desire for membership, the leadings were the political and security motivations, since in area of foreign policy, Poland was seeking to become a leader in its region and to gain a position through which it "would not only be a client in international politics but would also make a contribution to them."

By achieving an important political role, Poland would contribute in shaping further dimensions of the EU's common foreign and security policy towards both the new Eastern neighbours, since EU's old neighbours like Poland would be inside the borders, and further Western partners, particularly the United States. On one hand,

thanks to its geographical position and its historical, cultural and economic links with countries of East, notably Ukraine, Belarus and Russia, Poland would contribute to the formation of the “Eastern dimension,” and on the other hand, given the importance Poland attaches to transatlantic solidarity, it would help to create a strong “Trans-Atlantic dimension” of the EU’s foreign policy.

In economic framework, there would be a positive impact of EU membership on rate of economic growth and on the economic structure, on volume and efficiency of investment, on employment, research and development, environment, transport infrastructure and living standards and it would benefit from EU funds. However, the impact of membership would not be in the same range for all sections of the population and for all sectors. There would be difficulties in terms of lack of efficiency and competitiveness, and over-employment in some sectors such as, state owned enterprises, agriculture. These problems would cause being out of business for some strata of population.

A popular argument about the costs of membership was that Poland would be in the periphery of the European Union for a long time and periphery countries become poorer while rich ones become wealthier in time. There also existed counter-arguments, which claimed that the new comers in the previous enlargements did not stay in the economic periphery of the Union and they benefited from EU. Also, there was a claim that accepted the candidate countries as the geographical core of the continent and because of this it was claimed that they would have many benefits.

However, when we take into consideration that EU-15 will be EU-25 on 1 May 2004, it is a bit difficult to say that all member states would benefit from the membership on the same terms. It would be difficult for the old members to accept

the new comers as equal partners at least for a time if not forever. There are donor and recipient countries in the Union of 15. Since, this “big-bang” enlargement includes a lot of countries, all of which would be new recipients and the donors would stay in the same number, it would be difficult to distribute the benefits, opportunities, and money of the Union.

In socio-cultural terms, “Polishness” was a very important concept for Poles and generally explained by their culture, language and custom. Poles were anxious about that EU membership would destroy their cultural identity and Polishness. It is true that being a member of the Union would cause import of some common values from the Union to Poland in respect of Poles’ lifestyles and create some changes in the public. However, this would happen, even not being a member of the Union, because of being a part of the global world. Since there is interaction between the states and peoples through trade, technology, platforms created by individuals, creation of global approaches for issues over the world, international organisations constituted by states, Polish people would share some global values with peoples of the world. On the other hand, European Union always emphasised the importance of national identities in the Union. The people of EU member states gained “European Union citizenship” but never lost their national identities. European Union prefers more unity in terms of values like democracy, human rights, and common policies of the Union, but more diversity in terms of identities. Variety of cultures and identities were accepted as factors that would enrich the Union and make it a more important actor, since it includes various states and people.

Concerning the public opinion in Poland, as the membership issue occurred as a reality and the negotiations in problematic chapters were opened, conflict on the

issue and anxiety in the public emerged and fear of being a “second-class member” occurred among Poles. This was an inevitable development because at the beginning, the public was not informed sufficiently about the consequences of membership, but later they understood that the need to conform to the requirements of membership would mean painful economic and social consequences for at least some of Poles. The public perceived that there would be both “winners” and “losers” in the accession and integration processes, as were in the transformation period. Opposition was seen as particularly likely to grow among the “victims” of the transformation process who would probably be the losers of the integration process, and among the old, the unemployed and the less well educated.

Poland’s main goal in 1990s was to be a member of the European Union but this accession to the Union required a long and complex process. The general criteria for membership were determined in the Copenhagen Summit in 1993. These criteria showed on one hand, which attracted the CEEC most, that the EU was a region of political and economic stability and was giving the guarantee for the continuity of its existence. On the other hand, one point needs attention, that the EU required the CEEC become stable in terms of democracy and market economy before accession to the Union, as a criterion for membership. This brings us to the conclusion that, the EU was not a mechanism that would include a state with state’s existing structure, and transform it in accordance with Union’s functioning rules, in the framework of democratic and economic stability. Instead, the Union requires the potential member states to transform themselves and reach the required stability level and then takes into the “club.” To sum up, first you have to comply with the rules of the Union, provide the stability, and then you would be a member and would be protected by the Union in the future. Consequently, the state would be the “creator” of the

modernisation and conformation process and the Union would be the “guard” of the created system. This can be seen as the origin of the long accession processes. The candidate countries began the conformation process even before the application for the membership of the Union and continued this during the accession negotiations and since this process covered both harmonisation of national legal system with the *acquis communautaire* and the implementation of the harmonised system, and since realisation of these required a long time, the accession process was a complicated, difficult, tiring process.

Requirements of being an EU member were on the table and conditions of membership were going to be determined through accession negotiations with the EU and its Member States. Therefore, in order to cope with issues of this new process and conduct the accession negotiations, Poland had to create an organisational structure and to charge many people and institutions with special tasks. The shaping of the institutional structure responsible for the creation and realisation of the Polish policy of integration should, be based on clearly determined tasks, defined hierarchy, balance between the responsibilities and competencies, compatibility with the EU institutions. The mechanism created in Poland for negotiations seems satisfactory at first but it had some deficiencies.

Europe Agreement, which was signed in 1991, can be seen as the beginning of Europeanisation of the Polish structure.<sup>225</sup> As the negotiations were expected to

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<sup>225</sup> A working definition of Europeanisation might be domestic change caused by European integration. Radaelli's conception of Europeanisation refers to processes of (a) construction, (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things,' and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourses, identities, political structures and public policies. Maarten Vink, **What is Europeanisation? and Other Questions on a New Research Agenda**, ECPR Publications, <http://www.essex.ac.uk/ECPR/publications/eps/onlineissues/autumn2003/research/vink.htm>

come closer, a reform in the central administration was carried out in 1996 through “National Strategy for Integration” (NSI) which has established a new institutional arrangement, described the conditions for co-operation, information exchange and the division of tasks between the ministries and offices engaged in the relations with the EU.

The Committee for European Integration (CEI) was established and given important executive competences in the system of central administration. After setting up the Committee for European Integration, the number of bodies involved in European policy increased, and this created problems of co-ordination, especially with respect to role of the Minister of Foreign Affairs.

However, NSI made a clarification concerning this competency problem in the co-ordination process. The main co-ordinating function was rested upon the Committee for European Integration, and the Ministry of Foreign Affairs and Polish diplomatic representations abroad were defined as the basic organs entrusted with the implementation of the tasks ordered by the President, Government and the Committee for European Integration, as regards the Polish foreign policy. By this clarification, the policy fields of each body were determined, according to which, the Committee for European Integration was responsible for the entire internal co-ordination of integration policy and political leadership of the negotiations was provided by Prime Minister as the chairman of the Committee, while Ministry of Foreign Affairs was in charge of external tasks. Also, Ministry of Foreign Affairs

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Also see, Heather Grabbe, **Europeanisation Goes East: Power and Uncertainty in the EU Accession Process**, Paper for the ECPR Joint Sessions of Workshops, Turin, 22-27 March 2002 for differences between implications of Europeanisation in old and new Member States.

was connected with CEI, to avoid an independent foreign policy separate from the internal one.

The role of Representation of the Republic of Poland to the European Union in Brussels and the diplomatic missions should be underlined, in terms of lobbying and information flow contributing to the creation of a positive image of Poland's accession negotiations. This was the reflection of a characteristic of negotiations that the accession was a process conducted not only around the negotiation table, also through one-by-one contacts in all Member States and in the institutions of European Union.

In addition to the competency problem between CEI and Ministry of Foreign Affairs, in terms of internal-external dimension of integration policy, there was another issue that needs to assert about the influence of the CEI. Because of being a supreme organ like Council of Ministers, and not being a permanent body, it could not influence the decisions of ministers in their respective provinces, which were acting on the basis of separate legal acts. Decisions taken by CEI had to be approved by the Council of Ministers and this condition lacked the decisions' binding character. The preparation of documents for the Council of Ministers took place at a high inter-ministerial level, since adjustment process of integration included tasks in competency of all ministries. However, CEI was composed of only eight selected ministers and this created problem because some of the adjustment tasks fell within the competencies of the remaining ministers, and the Committee was not able to take binding decisions in the name of the Council of Ministers.

The great importance of the Committee was secured by being headed by the Prime Minister.



The wide and ever growing spectrum of integration problems which required prompt decisions indicated the necessity of taking immediate actions in close co-operation between the relevant institutions and the co-ordinating organ. The Office of the Committee for European Integration (OCEI), which was the administrative support structure of the CEI, provided this close co-operation. Role of the Office was important to avoid diverging opinions presented by different ministries and the jeopardising of Polish interests. Office provided the information necessary to take the right actions by the ministries and stored all the information concerning the relations Poland-European Union. OCEI was shaped as a structure similar to the ministries. The reason behind this kind of structure can be to create a strong and sustainable institutional building. Being similar to ministry may provide institutionalisation of the structure in order to make it more powerful and effective. Also, a ministry would have clear definition of its tasks and professional staff. On the other hand, while being similar to ministry, OCEI was actually an office, since creating a ministry would decrease its efficiency in terms of limited functioning of a bureaucratic structure. This was important because the effectiveness of the functioning of the whole Committee depended on its Office's efficiency. The Office of the Committee for European Integration was a specifically Polish structure in terms of the number of staff and the level of assigned competences, unlike in other applicant countries.

The position and role of the Chief Negotiator and the Negotiation Team changed in time. Chief Negotiator was working under Prime Minister between 1998 and 2001 and his Office was established in the Chancellery of the Prime Minister. Until November 2001, the Chief Negotiator was practically in charge of accession negotiations, whereas the Minister of Foreign Affairs was the Head of the Polish delegation to the accession negotiations. After the change of government, the Chief

Negotiator was the Under-Secretary of State in the Ministry of Foreign Affairs and was closer to the Minister of Foreign Affairs and he was not directly responsible to the Prime Minister. The Negotiation Team, which previously was situated in the Chancellery of the Prime Minister, was also shifted to the Ministry of Foreign Affairs. By this change, the role of the Chief Negotiator has become more technical and less autonomous.

This development can be perceived to have a negative impact on the co-ordination of the integration policy and accession negotiations. Working directly with the Prime Minister is a factor that shows the strong political support to negotiation process since Prime Minister is the official superior of employees of the government administration. However, Minister of Foreign Affairs is just one of the members of Prime Minister's Cabinet. This development seems to be a decrease in the importance of the EU negotiation process. Moreover, the Chief Negotiator has to work with all related ministries and institutions as a requirement of negotiation process. Because of this working style, he has to stand in an equal distance to all ministries and have influence on all of them. But, Minister for Foreign Affairs has the same position with other members of the Cabinet. Being one of the equal partners responsible for entire co-ordination might have a negative impact on the relations with ministries, and might decrease the power of the chief negotiator.

On the other hand, "the changes related to the Polish special EU-related administrative structure at central state level were caused by two kinds of factors. The first one were internal factors, which in the first phase of the relation between Poland and the EU led to an 'adjustment led process' while in the later phase external

factors influenced the ‘negotiation led process’ of structural adaptations.”<sup>226</sup> The last year of negotiations was a political stage and this was a change in terms of shape.

Ambassador of Republic of Poland to Turkey Mr. Andrzej Ananicz also mentions that the change in the structure did not influence the process of negotiations and at the final stage during the summit in December 2002, the Prime Minister was still the only authorised person to take the last decision.<sup>227</sup>

There was a change in the structure of the Negotiation Team also. There was a reduction in the number of members of the Team from 19 to 11 with the change of the government. To limit the number just to the representatives of most strategic ministries meant in practice an increase of effectiveness of the team’s activities, as well as a greater cohesion inside the team. Consequently, it became easier to take decisions in the cabinet.

The Parliament of Poland had an important role in negotiation process. When the slowness of harmonisation process was noticed, a new procedure, namely “Fast-track procedure,” was initialised which gave priority to the laws, which had to be adopted as an EU requirement, in order to accelerate the process.

In the process of accession negotiation preparation, the Chief Negotiator, the Negotiation Team, the representatives of the government participated in parliamentary debates on European integration. These debates and their taking place in presence of media were very important to inform public and the Members of the Parliament, since they were representing the public of Poland.

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<sup>226</sup> “The Management of the Accession Process in Poland (EU-Related Decision-Making)” in **Workshop on Europeanisation of Public Administration in Central and Eastern Europe: The Case of Poland**, organised by the College of Europe – Natolin, the Institut für Europäische Politik – Berlin, the Universität zu Köln and TEPSA, 11 January 2002, Natolin, Warsaw, p.13.

<sup>227</sup> Interview with Ambassador of Republic of Poland to Turkey, Mr. Andrzej Ananicz, at Embassy of the Republic of Poland, 28 May 2004.

On the other hand, there was a lack of Parliament's participation in the process. The parliamentary deputies were consulted about negotiations and could articulate their opinions but they did not participate in the process of formulating and deciding positions. This was usually justified with the argument that the Parliament would participate in the process when ratifying the Accession Treaty. Also, only the summaries of the position papers were presented to the members of the Parliament. Since the Parliament could not participate in preparation and decision stages of the positions, and were not informed about the entire position papers, these points can be criticised as deficiencies in terms of openness and democracy. The parliament's active role in European integration could contribute more to the preparation of the Polish public to a future accession referendum.

The public participation in Poland was provided through the National Council for European Integration, which was a consultative body subordinated to the Prime Minister, consisting of advisors and experts from NGOs, research institutes and interest groups that had the main function of supporting the communication policy of the Government with respect to accession and to advising the Prime Minister on sensitive political issues related to EU accession. Existence of the National Council was important to widen the support for EU membership in the public, since dominant groups were presented in this Council. The National Council for European Integration also comprises several consultative councils acting within its framework and representing territorial self-government, mass media, business circles, rural communities, scientific circles, non-governmental organisations, youth. The consultation mechanism had a twofold function: On the one hand, civil society organisations were informed about the ongoing negotiations and enabled to articulate their opinions and concerns. On the other hand, Governments were able to

communicate their objectives and build coalitions into society. Public participation was provided in this framework.

Existence of National Council had positive meaning regards public participation. However, although Poland underlined in its position papers, that European integration among European nations was a process between people - not just between states or elites of power, it seems that this principle was not given life perfectly in Poland because of lack of Parliament's participation.

The accession negotiations began in 1998. There was no serious problem concerning the "easy topics" but "tricky and complex areas" such as "Free Movement of Persons", "Free Movement of Capital," "Agriculture," "Environment" and "Financial and Budgetary Provisions" caused long negotiations and difficult conciliations. These chapters were difficult because of their historical, political and psychological backgrounds or financial outlays they would cause.

In terms of political economy, "... lobbies in the EU plus unequal relationship between the EU and the CCs led to negotiations in the direction that they more reflected needs of the EU producers and suppliers than the priorities of economic and social development of the CCs. The negotiations were almost totally dominated by technical matters, where size and money meant the most."<sup>228</sup>

Among the applicants, only Poland had the luxury of being able to bargain hard, for Polish negotiators assume that factors like the country's size and geo-political importance would prevent the EU from excluding the country from the first

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<sup>228</sup> Kowalski, Tadeusz, "The Political Economy of Enlargement Negotiations: The Case of Poland," Seminar on Eastern Europe, The Poznan University of Economics, [www.humsamf.auc.dk/eru/staff/wzank/teaching/Prezentacja%20Aalborg%203.ppt](http://www.humsamf.auc.dk/eru/staff/wzank/teaching/Prezentacja%20Aalborg%203.ppt)

group of accessions.<sup>229</sup> Poland used its bargaining power, and the results of negotiations seem to be identified as satisfactory.

An important determinant of conditions of accession was the cost of no-agreement for both the European Union and Poland. If the European Union did not acquire the membership of Poland, then members, would not gain free access to these potentially large consumer markets. The loss of Poland would also create stability problems for the region and perhaps slow or reverse the consolidation of democracy in the country, since EU-membership requirements drove the speed and determined the type of many reforms in Poland following 1989.

For Poland, the alternatives to joining the European Union would also be undesirable. Remaining outside of the institution would limit access to potential markets for Polish goods and might lead to another stint in the Russian sphere of influence. Adopting the European currency would also provide in the country added stability and attractive foreign-investment environments that would be lost if Poland were excluded from the European Union. Overall, most important benefit of being a member of the Union would be the new role of Poland in the region and also in the global context. Instead of being an observer, Poland would shape the policies of the Union, and would have high influence because of its size.

As to conclude, although Poland was a difficult candidate, it did not slow down the wave of enlargement. This was mainly due to the fact that Poland was not equipped with a BATNA (best alternative to negotiated agreement).<sup>230</sup>

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<sup>229</sup> Heather Grabbe, **Europeanisation Goes East: Power and Uncertainty in the EU Accession Process**, Paper for the ECPR Joint Sessions of Workshops, Turin, 22-27 March 2002, p.6.

<sup>230</sup> Friis and Jarosz, op.cit, p.29.

The conclusion of Poland's accession negotiations to the European Union during the European Council Summit in Copenhagen on 13 December 2002, brought the culmination to many years of efforts on the part of all the governments of democratic Poland. In the words of Minister Danuta Hübner:<sup>231</sup>

*“Before Prime Minister Rasmussen of Denmark uttered his memorable formula on the historic birth of a new Europe, Poland had done her utmost to secure stability and a good prospect for growth in the future Union. We could not have ventured any more, since we achieved what we had wanted - we had secured for Poland a solid position as a net beneficiary on accession, we were granted guarantees of macro-economic stability and equal competition conditions for Polish farmers. There is no doubt that the outcome of negotiations is a major success for Poland.”*

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<sup>231</sup> “Completion of Accession Negotiations”, [www.poland.gov.pl/?page=2010000001](http://www.poland.gov.pl/?page=2010000001)

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## APPENDICES

### APPENDIX A

**Table 1: Schedule of the Screening Sessions in Poland.**

No	Negotiation Area	Screening Session
1	Free Movement of Goods	multilateral: 10–12; 15–18 June 1998 bilateral: 1–9 September 1998
2	Freedom of Movement for Persons	multilateral: 6–7 April 1999 bilateral: 8–9 April 199
3	Freedom to Provide Services	multilateral: 1–2 February 1999 bilateral: 11–12 February 1999
4	Free Movement of Capital	multilateral: 4 December 1998 bilateral: 11 December 1998
5	Company Law	multilateral: 2–3 June 1998 bilateral: 22–23 June 1998
6	Competition Policy	multilateral: 9 October 1998 bilateral: 16 October 1998
7	Agriculture: <i>general introduction, field crops (grains, oleaginous plants, protein plants, pulses), fruits and vegetables, fruit and vegetable processing</i>	multilateral: 21–22 September 1998 bilateral: 7–8 October 1998
7	Agriculture: <i>veterinary law, plant protection, seeds and seedlings</i>	multilateral: 14–15 October 1998 bilateral: 22–23 October 1998; 12 April 1999; 23 July 1999

7	Agriculture: <i>structural issues, forestry (and afforestation), rural development, orientation and guarantee funds, structural funds (resources, expenses)</i>	multilateral: 15–17 December 1998 bilateral: 22, 25–26 January 1999
7	Agriculture: <i>milk, milk products, beef, mutton, goat's meat, pork, eggs and poultry, proteins</i>	multilateral: 19–22 February 1999 bilateral: 10–11 May 1999
7	Agriculture: <i>general issues (refunds, certificates, fees, guarantees, interventions, money issues, national assistance, food assistance, freedom of distribution, special actions, other), agricultural statistics, RICA; products not included in Annex II, international agreements, food promotion</i>	multilateral: 26–27 April 1999 bilateral: 10–11 May 1999
7	Agriculture: <i>rice, processed products, feeds, sugar, wine, spirits,, bananas, flowers, tobacco, hops, seeds, potatoes, hay, starch, flax and hemp, silk worms, cotton, olive oil</i>	multilateral: 13 September 1999 bilateral: 22 September 1999
7	Agriculture: <i>Agenda 2000</i>	multilateral: 13 September 1999 bilateral: 22 September 1999
7	Agriculture: <i>phytosanitary issues, feed law</i>	multilateral: 11 October 1999 bilateral: 15, 18 October 1999; 5 November 1999
8	Fisheries	multilateral: 6 July 1998 bilateral: 9 July 1998
9	Transport Policy: <i>horizontal tasks (TEN), air transport, sea transport</i>	multilateral: 4–5 November 1998 bilateral: 10–11 November 1998
10	Taxation	multilateral: 26–29 March 1999 bilateral: 6–7 April 1999
11	Economic and Monetary Union	multilateral: 14 December 1998 bilateral: 22 December 1998

12	Statistics	multilateral: 15 July 1998 bilateral: 17 July 1998
13	Social Policy and Employment	multilateral: 20–23 October 1998 bilateral: 16–19 November 1998
14	Energy	multilateral: 24–25 November 1998 bilateral: 26–27 November 1998
15	Industrial Policy	multilateral: 18 May 1998 bilateral: 20 May 1998
16	Small and Medium-Sized Enterprises	multilateral: 19 May 1998 bilateral: 26 May 1998
17	Science and Research	multilateral: 27 April 1998 bilateral: 28 April 1998
18	Education, Training and Youth	multilateral: 7 May 1998 bilateral: 15 May 1998
19	Telecommunications and Information Technologies	multilateral: 28 April 1998 bilateral: 6 May 1998
20	Culture and Audiovisual Policy	multilateral: 8 May 1998 bilateral: 20 May 1998
21	Regional Policy and Co-ordination of Structural Instruments	multilateral: 20–21 April 1999 bilateral: 6–7 May 1999
21	Regional Policy and Co-ordination of Structural Instruments: <i>Agenda 2000</i>	bilateral: 15 September 1999
22	Environment: <i>horizontal issues, protection of nature, water quality</i>	multilateral: 7–8 January 1999 bilateral: 13–14 January 1999
22	Environment: <i>industrial pollution control, risk management, waste management, chemicals, genetically modified organisms</i>	multilateral: 27–28 January 1999 bilateral: 29 January – 1 February 1999
22	Environment: <i>nuclear safety, protection against radiation</i>	multilateral: 16 February 1999 bilateral: 24 February 1999

23	Consumers and Health Protection	multilateral: 24 June 1998 bilateral: 30 June 1998
24	Justice and Home Affairs	multilateral: 25 February – 1 March 1999 bilateral: 15–17 March 1999
25	Customs Union	multilateral: 23–24 September 1998 bilateral: 12–13 October 1998
26	External Relations	multilateral: 3–4 September 1998 bilateral: 7–8 September 1998
27	Common Foreign and Security Policy	multilateral: 29 May 1998 bilateral: 2 June 1998
28	Financial Control	multilateral: 10 May 1999 bilateral: 18 May 1999
29	Financial and Budgetary Provisions	multilateral: 29 June 1999 bilateral: 1 July 1999
30	Institutions	not subject to screening
31	Other	not subject to screening

**Source:** Government Plenipotentiary for Poland's Accession Negotiations to the European Union: Chancellery of the Prime Minister Republic of Poland, **Accession Negotiations: Poland on the Road to the European Union**, Warsaw, October 2000, p.84-87.

## APPENDIX B

**Table 2: Task Sub-Groups within the Inter-Ministerial Team for the Preparation of Accession Negotiations to the EU**

1. Free Movement of Goods and External Relations
2. Right to Establish Enterprises and Freedom to Provide Services
3. Free Movement of Workers
4. Free Movement of Capital
5. Transport Policy
6. Competition Policy
7. Consumers Protection
8. Science and Research
9. Training and Education
10. Statistics
11. Company Law
12. Social Policy
13. Environment
14. Energy
15. Agriculture
16. Fisheries
17. Tariff Systems
18. Regional Policy and Co-ordination of Structural Instruments (Set up as a result of a merger of former Sub-Groups 18 (Regional Policy) and 19 (Instruments of Structural Policy)).
20. Industrial Policy
21. Taxation
22. Economic and Monetary Policy
23. Foreign and Security Policy
24. Justice and Home Affairs
25. Other Provisions of the Treaty on European Union
26. Finance and Budget
27. Institutions
28. Culture and Audio-Visual Policy
29. Telecommunications and Information Technologies
30. Financial Control
31. Health Protection
32. Analysis and Social and Economic Impact Assessment
33. Applying Member and Associated States Experience
34. Budget and Financing of Preparations for Negotiations
35. Information Strategy
36. Diplomatic Campaign and External Promotion
37. Acquisition of Real Property by Foreigners
38. Protection of Intellectual and Industrial Property