

The final stage of the EU-accession game:
The Baltic states – the likely victims of their own success?

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A draft paper for the EUSA conference (March 27-29, 2003), the panel on EU
enlargement

Introduction

The December 13, 2002, date will remain as one of the key dates in the history of the European Union (EU). This was the date when the EU completed accession negotiations with most candidate Central and Eastern European countries (except Bulgaria and Rumania), Cyprus and Malta. The Copenhagen Summit of December 2002 marked the end of an important stage in the process of European integration that has been gradually erasing the former Cold war division of Europe. It paved the way to creating an EU of 25 member states with population of about 450 million and an economy of above \$9.3 trillion.

The completion of EU accession negotiations for Estonia, Latvia and Lithuania has an additional political significance. It symbolizes a successful end of the successive stages of integration into the EU. The beginning of 1990s when the Baltic states regained their independence and soon expressed their intensions of becoming members of the EU was marked by the hesitance of the Union regarding the accession status of the Baltic states. It was only by 1994 when due to combination of international factors, internal EU debates and changes in the Baltic states these countries have been given the status of prospective EU members and joined the group of Central European candidates. In 1995, they officially submitted their applications to join the EU.

Later, when the accession negotiations have been opened first in 1998, Estonia has been invited to start negotiations with the “first wave” countries, while Lithuania and Latvia were left in the “second wave” of the candidate countries. They started negotiations only two years later, in February 2000. The catching up in the accession negotiations to conclude them together with the other best prepared candidates, an increasing level of economic integration between the EU and the Baltic states, the progress in completing the transition reforms and having the fastest growing European economies in recent years are both a story of political success and the new challenges that open up with the next stages of European integration.

¹ I am grateful to Klaudijus Maniokas for comments and suggestions, to Ms. Zanda Grauze from the Latvian Embassy in Lithuania and to Ms. Leena Prozes from the Estonian Embassy in Lithuania for the information, and to the Global Affairs Institute of Syracuse University for the financial support.

This paper focuses on a particular policy issue of European integration rather than a theoretical discourse. It presents the empirical data on the EU accession negotiations with the Baltic states - countries that have been relatively neglected in the literature on the accession of Central and Eastern European countries into the EU. It discusses the main features of accession negotiations, their recent results, likely effects on the ratification of the accession deal and possible further developments after the EU enlargement. Although the main focus is on the Baltic states, many of the observations could be well applied to the analysis of the other candidate CEECs' accession into the EU. Although the European Commission continuously advocated the principle of differentiation of candidate countries, many features of the EU policy of enlargement as well as concrete negotiating demands have been of a horizontal nature and therefore were applied in the same manner to all candidate CEECs. Besides, looking into a group of three countries allows both to identify the factors that account for the divergences and similarities in the outcomes of negotiations.

Although the paper does not aim at providing new theoretical generalizations or the contributions to the theories of enlargement, it employs the arguments of scholarly work on EU accession negotiations, preference formation and linkages between domestic and international levels of politics. Moreover, it suggests a number of refinements to supplement the dominant perspectives applied to the EU accession negotiations. The main arguments of the paper could be summarized as follows:

- (i) the main motives of EU accession (and the willingness to undertake greater adjustment efforts) can not be reduced to the needs of economic interdependence but, as the cases of the Baltic states demonstrate, have to start with the political and security factors;
- (ii) accession into the EU from a purely economic point of view can be seen as a "second best" scenario, in particular if evaluated in terms of trade creation and trade diversion, although in terms of redistributive effects it does create large groups of winners in the candidate countries and in terms of popular opinion privileges the perceived benefits of EU funds;
- (iii) the arguments used and the actors involved in the negotiations depend on the particular issue and the level of bargaining ranging from political arguments and high level policy makers to technocratic arguments and closer involvement of interest groups;
- (iv) the dissatisfaction with the results of negotiations causes spill-overs into the domestic and international politics with different actors involved trying to gain compensations by using the issue-linkage techniques (farmers demanding price regulation or direct financial support by threatening to vote against EU accession) or shifting to the other level of bargaining (leaving the details of Russian transit arrangement to the technocrats);
- (v) the dominance of political elites in the accession process, the significance attached by them to the EU accession and the presence of interest groups dissatisfied with the

redistributive bargains of accession provides tools for the interest groups to demand compensations in the context of approaching popular ratifications in the CEECs;

(vi) finally, the dynamics and the results of accession negotiations depend not only on the willingness of political elites (and interest groups) to undertake adjustment measures, but also on their capacity to negotiate and implement EU norms. The inability of the Baltic states to coordinate their negotiating positions during the first several years of negotiations as well as their limited knowledge of the EU *acquis* and internal coordination problems contributed to higher adjustment costs of accession.

By presenting material on the outcomes of accession negotiations, their likely causes and effects on further developments in the enlarging EU, it provides the insights that could further be developed into more general arguments. The paper concludes with potential developments in the EU after the enlargement.

EU accession negotiations: actors and patterns

From the start of the debates on European integration, its causes and mechanics there have been constant debates between scholars who assigned the dominant role to the political elites and scholars that emphasized the role of the societal groups, which direct their activities to their national governments and/or supranational institutions. Although the similar debates have not emerged yet in the context of EU accession negotiations, it can be argued that one of the defining features of the relations between the Central and Eastern European countries and the EU was the dominance of the political elites in the integrative efforts of these countries.

The start of political changes and the re-establishment of independence in the Baltic states was marked by a wide popular mobilization. However, the more concrete steps of economic reforms as well as undertaking projects like joining the EU have been for most of the decade a preoccupation of political elites and technocrats. The fact that the accession into the EU has become the priority of these countries' policies before the reorientation of trade and increase in informal economic integration illustrates the relative importance of political motives, group behavior and political elites as compared to the demands of economic groups interested in the reduction of transaction costs to boost their competitiveness. The transition reforms undertaken during the 1990s resulted in the break down of previous channels of influence and reduced the capacities of the interest groups to organize and influence the policy making process². In this context of low incentives and low capacities to organize and lobby, the political elites and diplomats have been relatively less constrained in their integrative policies.

The start of accession negotiations gradually mobilized some of the interest groups to be directly affected by the EU *acquis* and/or businesses already trading with the EU. The role and influence of the domestic societal groups depended on the policy area (and the extensiveness of EU regulations), their incentives and capacities to organize. In the areas

² For more on the role of the technocratic reformers and the changing patterns of interest representation during the times of „extraordinary politics“ see Balcerowicz, L. (1997); Vilpišauskas, R. (2000).

like agriculture where EU regulation is extensive and the difference between EU's and candidate country's norms is significant, the groups are organized and politically visible, their actual or potential role has been significant (though not crucial when confronted with a limited flexibility on the part of the EU).

As some authors argue along the similar lines of liberal intergovernmentalism, the accession process strengthened the executive (negotiating team) in relation to the legislative institutions and general public³. The EU accession negotiations of the Baltic states have been mostly a matter of a small group of diplomats and policy makers motivated to conclude them as soon as possible catching-up with the best prepared Central European candidates. However, as it will be discussed, in some cases where the impact of EU accession has been most visible, where motivated and capable of organizing groups were present the accession negotiations have become a subject of wider debates. The responsiveness of negotiating teams to the wider concerns of legislators and society increased with the changing nature of issues under negotiations (shift from the legal alignment to the redistributive questions), with the need to amend the constitutions and with the popular referendums approaching.

It has been argued that the accession negotiations as well as the overall relations between the EU and the candidate CEECs have been characterized by the conditionality. i.e. the EU linking progress in accession of candidate countries with concrete requirements of meeting membership criteria, in particular the adoption of the *acquis*, often interpreted in a rather broad manner by the Commission⁴. As it is well known, the rule that any country that wishes to join the Union has to accept its body of legal norms and principles (*acquis communautaire*) forms the basic principle of EU enlargement. This principle has been in force since the first enlargement of the EU (then EC) in 1973.

Another well known fact is that the EU has been continuously developing new norms and policies, the important difference now is that this time the *acquis* is larger (making about 80000 pages of text) and more demanding, while the resources (finances, qualifications, etc.) available in the candidate countries undergoing radical transition reforms throughout the 1990s have been more scarce. Still, the EU, represented by the European Commission, insisted that the principle "*acquis and nothing but acquis*" should be enforced like during any other previous enlargement. Although transition periods for a delayed implementation of some of the most costly (i.e. environmental protection) and politically sensitive (sales of agricultural land to foreigners) EU norms have been allowed, the Commission made it clear that the number of transition periods has to be limited.

Moreover, as it is well known, this time the EU had more detailed accession criteria in addition to this classical rule of adopting all EU *acquis*. These criteria are known as Copenhagen criteria and have been presented in 1993. They include political criteria - having in place a democratic system characterized by the rule of law, protection and respect for the human rights and minority rights (the latter not part of the EU *acquis*),

³ Grabbe, H. (2001b); Lippert, B., Umbach, G., Wessels, W. (2001).

⁴ See Grabbe (2001b); Friis, L., Jarosz, A. (2000); Maniokas, K. (1999); Mayhew, A. (2000).

economic criteria – having a functioning market economy and capacity to compete in the EU's internal market, and later supplemented by the criteria of administrative capacity.

Meeting of the first – political criteria – has become a precondition for the opening of the accession negotiations with a particular candidate country, while meeting of the economic criteria as well as implementation of the EU norms has been seen as a precondition for the actual accession. It was the failure of Turkey to meet the political criteria that was used as the main official explanation of the EU's decision to postpone giving the date for the start of Turkey's accession negotiations with the EU to December 2004.

The EU's policy towards Central and Eastern European candidate countries has been based on conditionality (linking the progress in meeting EU criteria with opening accession negotiations and, later, closing the negotiations chapters) and shifting the weight of adjustment to EU norms on the candidate countries (though EU provided financial and technical assistance to help meet EU accession criteria first in the form of Phare and in recent couple of years by introducing ISPA and SAPARD programs for upgrading infrastructure and supporting agricultural sector). The desire of the Central and Eastern European candidate countries to join the EU as soon as possible, the competition between the candidate countries in progressing towards EU accession encouraged by EU's policy of differentiation, and a lack of understanding of EU norms have all reinforced the asymmetry of negotiating power between the EU and candidate countries. This asymmetry gave EU more room in using the conditionality instruments and adding new conditions along the process of accession. These new conditions include a respect for national minorities criteria which is not part of the EU *acquis* but was introduced as a part of political criteria, gradual introduction of nuclear safety issues into the EU *acquis* after it has been brought into the EU agenda by the accession process or the increasing emphasis on the actual implementation of EU norms and its monitoring before the accession⁵.

The nature of EU enlargement and EU's policy towards Central and Eastern Europe meant that the accession negotiations have been limited to a rather narrow set of issue – transition periods for implementing EU norms, and some redistributive issues like support to farmers, less developed regions, border infrastructure or balance between payments and receipts from the EU budget. Therefore many analysts and political actors in the Baltic states regard the EU accession negotiations as being somewhat different from most international negotiations where all parties make concessions and move towards an acceptable compromise⁶. In the case of EU accession, it is often argued, the object of the negotiations is different from most other international negotiations. The body of rules to be adopted is much more extensive, and it is the candidate countries that must make the necessary institutional, economic and other adjustments needed while the EU only makes concessions on time and money needed for the adjustment (with some

⁵ The extensive discussion of the new membership conditions is provided by Maniokas, K. (2002).

⁶ For example, see the web site of the European Committee under the Government of Lithuania with material on accession negotiations (www.euro.lt).

modifications of its policies and institutions undertaken in anticipation of enlargement in the Berlin summit of 1999 or Nice summit of 2000).

However, it can be argued that the accession negotiations in terms of the character of the process are not different from other international negotiations, and the willingness of the parties to adjust has been a function of the anticipated benefits of enlargement. As some scholars recently stated, “those countries that gain the most by engaging in more intense interstate cooperation — more precisely, those for whom cooperation is most attractive relative to unilateral (or mini-lateral) policy-making — have the most intense preferences for agreement”⁷. It is widely agreed that the enlargement is going to be a win-win game with both the EU and the candidate CEECs gaining from it, but the gains from accession will be relatively larger for the candidate countries⁸. Therefore, it should not be surprising that the willingness to adjust by the candidate countries has been larger than in the case of the EU. The EU accession negotiations seen from such a perspective are just like any other international negotiations where the anticipated balance of costs and benefits of the cooperative arrangement determines the willingness to adjust and the bargaining power.

Although this general argument regarding the character of negotiations is adopted in this paper, several important qualifications are necessary. First, the asymmetry of benefits and therefore the willingness to adjust in the process of negotiations is linked by Moravcsik and Vachudova to the degree of economic interdependence and the benefits arising from the liberalization of trade. However, joining the EU became a foreign policy priority of the Baltic states (and most other applicants) some time before the degree of economic interdependence reached any substantial levels with the EU becoming the main trading partner of those countries.

Second, for the Baltic states, in particular Estonia, which during the early stages of transition established relatively liberal trading regimes, the accession into the EU has a rather unclear balance of trade creation and diversion. Estonia which during the early 1990s eliminated all import duties (and did not apply any transition period when the Free trade agreement with the EU came into force in 1995) will have to increase trade barriers to the imports from the third countries after the accession. Although the accession will open up the EU ‘s internal market for Estonia’s exporters of agricultural products and remove remaining non-tariff barriers, the overall economic benefits from trade are not very obvious (in particular, if the increase of market distortions after introducing the Common Agricultural Policy is taken into account). Although Latvia and Lithuania never abolished all import duties, the average import duties, in particular for agricultural products, of these countries have been lower than the ones applied by the EU. Although it could be argued that the prospects of accession into the EU helped to lock-in liberal trade regimes of the Baltic states, the actual accession into the EU will in some areas require the reversal of economic transition reforms undertaken during the 1990s⁹. This applies not only to the changes in import regimes, but also to the number of re-regulatory

⁷ Moravcsik, A., Vachudova, M. A. (2002).

⁸ See, for example, Baldwin, R., Francois, J. F., Portes, R. (1997); Grabbe, H. (2001a).

⁹ On the discussion of the impact of EU accession on the role of the state and changes in public policies in the candidate countries see Vilpišauskas, R. (2003).

exercises undertaken by these countries as a part of aligning their regulatory rules with EU's *acquis* which will reduce the competitiveness of domestic companies (although benefiting international and exporting business operating in these countries).

To be sure, accession into the EU in addition to changing foreign trade regime and regulatory norms involves direct redistribution in some areas such as agriculture and regional development. Moreover, the dominant rhetoric on the benefits of EU membership in the candidate countries focuses on these benefits from redistribution and it was these issues that attracted most publicity during the final stage of accession negotiations. However, there is no clear evidence of the growth and convergence effects from the use of EU funds, although they do benefit certain interest groups in recipient countries¹⁰.

Therefore it might not be a coincidence that the policy makers in the Baltic states from the outset of integration policies emphasized the political and security benefits of EU accession. Also, the relatively mixed evidence regarding the economic benefits of accession (in particular, in the short term when the most investments into the regulatory harmonization are taken and some of the membership benefits are temporarily restricted) could be taken as one of the explanatory factors for the relatively low level of public support for the EU accession in the Baltic states, in particular in Estonia. However, the examination of the public debates in the Baltic states reveals that the legislators, interest groups and the part of a general public which show skepticism towards the accession emphasize more the discriminatory conditions of EU financial support, potential second class membership status or general mistrust towards the projects of political elite. Still, the public opinion, which can be different from expert estimates, becomes an important factor when the accession deal has to be ratified by a popular vote.

Finally, there is another important aspect of the accession negotiations which is omitted from the application of liberal intergovernmentalism to the EU enlargement. It is the capacity of the accession countries to adjust which is as important as their willingness to exchange investments required for the legal alignment and discriminatory conditions of accession into the more general benefits of EU membership. A more limited knowledge of the EU *acquis*, administrative problems of internal coordination and implementation, inability to solve collective action problems between the candidate countries and instead of competing to coordinate their negotiating positions vis-à-vis the EU have all contributed to more adjustment costs being shifted on the Baltic states' budgets and economies. However, it should also be noted that the administrative capacities is a factor influencing the outcomes of public policies irrespective of EU accession process. The latter actually contributes to strengthening the administrative capacities, although less in the areas which are not covered by the *acquis*. The limited experience and capacities to translate EU norms into domestic practices did contribute to somewhat larger adjustment costs, although it should be acknowledged that the process of learning has been taking place.

¹⁰ For a critical review of the effects of EU regional policies see, for example, Boldrin, M., Canova, F. (2001).

Therefore, the general explanation of adjustments agreed during the negotiations being based on the expected benefits of accession is accepted in this paper. However, a better understanding of the accession negotiations, their results, the ratification and post-accession issues requires taking into account additional factors. These include the compatibility between the progress of economic reforms (and the industrial structure of a country) and accession needs, the group dynamics of the acceding countries and more general negotiating tactics, the level of the negotiations under consideration and corresponding nature of arguments being used, the capacities of the public administration and the variety of attitudes of societal groups. The following discussion of the accession negotiations between the EU and the Baltic states is provided to illustrate the importance of the above mentioned factors.

The changing landscape of issues: from non-negotiations on technicalities to debates about money

The accession negotiations at the beginning resembled more an exchange of information between the EU and each negotiating candidate country on each of the 31 chapters that covered all the *acquis*. The European Commission would first draft a common position of the EU which would be adopted by the member states and would often have a horizontal character and apply to all candidates. The latter would submit their plans on adopting EU norms in particular area while the EU would approve the plans or would ask for some clarifications. The first 2-3 years of accession negotiations have been a process of consultation and clarification rather than negotiations.

The EU first in 1998 started accession negotiations only with the “first wave” countries – Estonia, Czech Republic, Hungary, Poland, Slovenia (and Cyprus). The invitation of Estonia was politically significant to all the Baltic states, although Latvian and Lithuanian policy makers raised criticisms to the European Commission about being unjustifiably considered unprepared to start negotiations. About two years later, in autumn of 1999 the European Commission in its regular reports recommended to extend invitations to start negotiations with the “second wave” group consisting of Latvia, Lithuania, Bulgaria, Slovakia and Rumania (and Malta). After the Helsinki Summit of December 1999 adopted the most recommendations of the Commission, the accession negotiations with these countries were started in February 2000. Soon, after a quick catching-up in negotiations of some of the “second wave” countries it became obvious that ten of these countries are progressing at a somewhat similar speed and the differentiation between them by the EU could not be justified on economic, administrative and even more so – geopolitical – grounds.

The negotiations first went through a number of “easy” chapters including science and research, industrial policy, statistics, education and training and some others. Then followed the chapters where some candidate countries had particular issues like fisheries (important for the those bordering the sea), common external policies (important for those that had some preferential trade agreements signed with the third countries that will have to be abolished after the accession), justice and home affairs (most important for

those whose border will be future EU's external border), economic and monetary union and others.

Then there were areas where large investments were required by the candidate countries to meet EU regulatory standards (product norms, environmental protection norms, security of supply norms, norms regulating the financial standing of enterprises or the way services are provided). They include free movement of goods, environment, energy and transport. However, the EU from the outset has been willing to give a number of transition periods for the implementation of the most expensive norms and therefore the negotiations did not cause much controversy.

Similarly, relatively little actual negotiations took place on introducing some transition periods that were justified on the political sensitivity of the issues. For example, EU already in 2001 made it clear that it was going to restrict the movement of labor from Central and Eastern European countries for up to 7 years after the enlargement. The fears of German and Austrian population of possible large migration (though disconfirmed by all the economic studies and the experience of previous enlargements) were the main reason behind this transition period. The transition period in allowing transport companies from CEECs to provide services freely inside EU member states was another example of responding to fears from less competitive companies (mainly German) inside the EU.

Also, the transition periods for removing barriers to purchasing agricultural land in CEECs by residents from EU member states have been agreed by the EU and most candidate countries in response to popular (and again economically poorly justified) fears of farming population. The Baltic states first provisionally closed the chapter on the free movement of capital without requesting transition periods to sales of agricultural land. However, later under the constellation of factors including the pressure from the domestic lobbies, the governments being concerned about the general skepticism of the farming population, the forthcoming attitude of the European Commission and references to the examples set by the other candidates like Poland and Hungary the chapters were reopened and the transition periods agreed during the last weeks of negotiations.

The most difficult and the most publicly debated chapters were left for the last stage of accession negotiations that took place in 2002 under the Spanish and Danish presidencies. These have included mostly redistributive issues such as agricultural support, which are politically sensitive in both EU and candidate states, and some other issues of symbolic political importance (like the introduction of visas to the residents of Kaliningrad region or the closure of nuclear power plants in several candidate countries).

Most debates have focused on the extension of the Common Agricultural policy to the candidate countries. Although the EU on the basis of Commission's *Agenda 2000* has been incrementally moving towards reforming the CAP, the accession of ten new countries some of which like Poland have around 20% of their population employed in farming, raised sensitive questions of how to "redistribute the pie" without exceeding the limits set for the EU budgetary spending (at 1.27% of EU's GDP). The latter point has

been in particular stressed by the main net contributors to the EU budget such as Netherlands and Germany that have been concerned about any possible increase of their financial contributions as a result of EU enlargement. The debates in the EU for some time have been restricted by the need to wait for the elections that were held in France and Germany. Later, the potential linkage of the CAP reform and the need to find a common negotiating position among the member states on the chapter of agriculture was an issue that was further complicating the progress in the accession negotiations (despite the efforts of the Commission to separate those two questions).

Initially the Commission came up with a proposal (supported by most EU member states) to extend to new members only 25% of one of the most important agricultural support instruments – direct payments – from the first year of EU membership in 2004 and then progressively increase this share to reach 100 percent of what the member states receive in 2013. Although the negotiations on the agriculture covered a wide range of issues including the adoption of veterinary, phytosanitary and animal welfare norms, introduction of administrative and monitoring systems, production quotas and other types of support, the extension of direct income payments proved to cause most controversial debates. It was only at the night of December 13 that the final agreement between the EU and candidates (led by Poland) was reached. Although the EU retained the formula of starting at 25% of direct income support payments, it agreed to the possibility of candidate countries to top up the direct payments to the level of 55%, 60% and 65% from 2004 to 2006.

It was also only during the last day of accession negotiations that another, rather peculiar problem was solved. Due to what is called a “budgetary lag” – payments from the EU budget reaching the new member states with a certain time lag, while the contributions from new members starting from the first year of accession – some candidate countries were likely to be net budgetary contributors during the first couple years of membership. Also, this meant that they would be financially worse off than the year before accession, the scenario which has been ruled out by the Commission. To compensate for the this cash flow problem the EU suggested to provide budgetary compensation in the form of lump sums, although the concrete sums have been agreed only during the last day of negotiations.

Thus, the latest days of accession negotiations focused mainly of financial issues such as agricultural support, budgetary compensations, structural support, EU’s support to closing down the nuclear power plants or the border infrastructure. EU committed a total of almost 42 billion euros for the period of 2004-2006, while the contributions of the new members to the EU budget are estimated at about 15 billion euros. The fact that all ten candidate countries that planned to conclude accession negotiations according to the road map provided by the Commission did so was in itself an important outcome of the accession process illustrating the significance of the overall benefits expected from the enlargement.

Each candidate country had its own specific issues originating from the geographical position, industrial structure, progress of the economic reforms, international

commitments and the constellation of domestic interest groups. To be sure, the domestic factors alone can not account for the outcome of negotiations on particular chapters. The bargaining position of the EU (after agreeing it among the member states) as well as its use of different tactics during the negotiations are equally (and in most cases more) important factors. However, this paper focuses on the EU accession negotiations with the Baltic states which can provide useful insights into the process of accession negotiation.

The Baltic states and the EU: bargaining and the bargain

The first year of negotiations between the EU and Estonia, Latvia, and Lithuania could be characterized as a process of learning and consultations on the *acquis* and its interpretations by the EU. The negotiations followed the same logic of starting with the “easy” chapters which posed less questions for the EU and each candidate country. It should be noted, that each Baltic state started accession negotiations with a working date of accession set. For example, Lithuania started its negotiations with an objective of concluding them by the end of 2002 and being ready to join the EU in 2004 (which was also chosen as a working date for when the *acquis* except the cases with transition must be in place).

The first chapters to be closed included statistics, industrial policy, small and medium size business, science and research, education, external relations and common foreign and security policy. As a rule, these were the chapters where the competences of the EU are limited, the *acquis* is not extensive and therefore did not require major investments to be made in adopting it. The main adjustments for the Baltic states included administrative changes and procedures (for example, in the field of collecting statistics) and a review of external agreements. By the end of 2000, Lithuania had total of 7 chapters closed and 9 others opened.

In the case of external relations, it should be noted that initially Lithuania and Latvia made requests for transition periods. One was to preserve a trilateral free trade area of the Baltic states that went deeper in liberalizing industrial and agricultural trade than the association agreements with the EU, in case all three do not join the EU at the same time. Interestingly, Estonia did not request this type of transition period from the EU which could be explained by still prevailing separation of the candidate countries into the first and second waves.

The second request was to have a transition period in phasing out the free trade agreements with Ukraine which did not enjoy similar preferential status in its relations with the EU. However, the EU made it clear that this kind of temporary derogations would not be allowed after the accession (and the issue of preserving the Baltic free trade area lost its importance after Latvia and Lithuania caught up in negotiations with Estonia in 2001).

The chapters that followed included the free movement of services and capital, company law, competition, transport policy, social policy and employment, telecommunications and information technologies, culture and audiovisual policy and environment. Although

some of the *acquis* in these chapters required significant investments (environment, transport) and others later turned out to be politically sensitive (free movement of capital), most of them were closed in the first half of 2001 under the Swedish presidency. Differently from some Central European applicant countries, the Baltic states have been rather quick to close the chapters on competition and free movement of capital without negotiating any transition periods.

Closing of the most chapters required administrative adjustments to be taken by the Baltic states' authorities (like the creation of the regulatory institution in the field of telecommunications). In the chapter on social policy and employment, only Latvia negotiated transition periods all of which were linked to the adoption of the health and safety requirements. In some other cases, transition periods requested by the candidates were not accepted by the EU and these requests have been later withdrawn (these were the areas where no other candidates received transition periods). This was the case for Lithuania with the implementation of the *acquis* on compulsory third party liability insurance of owners and users of motor vehicles and later with excise tax for fuel.

Other chapters like the environment also caused relatively little controversy. The EU from the outset was ready to accept transition periods in adopting the environmental directives requiring significant investments (like water treatment or managing waste). In Estonia some public debates took place on issues like the conservation of wild fauna such as lynx, wolf and bear. These wild species after some negotiations were excluded from the list of species in need of protection due to their abundance in the country.

Transition periods have been agreed by all three countries in the chapters of free movement of services and transport policy where the differences in the level of economic development between the Baltic states and the EU made the adoption of EU minimum norms (on insurance norms, deposit guarantee schemes, financial standing of enterprises or introduction of the recording equipment for the domestic transport carriers) expensive for businesses and could affect negatively their competitiveness. In some cases, like the introduction of mandatory licensing of domestic transport carriers it might have been possible to negotiate an exemption of on the basis of the small scale of their operations that do not affect the internal market thereby avoiding the need for the small transport enterprises to invest into more strict EU norms. However, most probably due to the lack of knowledge regarding the *acquis*, this option has not been seriously attempted by the negotiators of the accession countries, and the option of transition periods has been chosen instead. The transition periods have been negotiated despite the fact that small transport operators have not been effective in organizing while the international carriers were already in compliance with the EU norms of financial standing or the use of recording equipment and were only interested in preventing the EU keeping the market protection measures after the accession.

During the first half of 2001 Lithuania opened 13 chapters and closed 11. Latvia progressed at a similar rate. By the end of June, in terms of chapters closed Latvia and Lithuania were in a similar position as the candidate countries that started accession negotiations two years earlier. This rapid catching up could partly be explained by the

focus of the Swedish presidency on the accession negotiations, and partly by the administrative and political efforts of Lithuanian and Latvian negotiators (though progress in the negotiations does not reveal fully the progress in the actual implementation of the *acquis*). Also, as the process of learning took place, in some cases negotiators from the candidate countries withdrew their requests for transition periods after learning that the EU directives provided for such a possibility (most of those concerned environment and agriculture).

The chapters agreed in 2001 included the free movement of capital, services and goods, economic and monetary union, consumer protection, company law, fisheries, culture and audiovisual policy, environment, and several others. For both Estonia and Latvia in particular, fisheries issues have been relatively high on the agenda in terms of securing access to these resources and their regulation.

It should be noted that chapter on Economic and Monetary Union posed little problems for all three Baltic states. Taking into account that Estonia and Lithuania have well functioning currency board arrangements with fixed exchange rate regimes which are likely to be preserved after the accession, they already now can be considered part of eurozone. Latvia has a fixed exchange rate based on the basket of currencies. Although some of the Maastricht criteria have a different mean in the transition economies, the experience of the several recent years with most indicators being well within the range of convergence criteria provide a strong ground to expect a fast accession of the Baltic states into the eurozone (probably in 2007).

During the second half of 2001, the chapters on free movement of persons, customs union, competition, transport policy and financial control were closed. This list included the chapters where the EU requested transition periods to be applied to the candidate countries. First, there was a transition period of up to 7 years for the free movement of labor, though with a possibility of individual member states opening up their labor markets from the date of accession. Again, in this area there have been attempts on the part of Latvian and Lithuanian negotiators to coordinate their position with Estonia to strengthen the bargaining power but these attempts failed. The lack of interest in coordinatory efforts of Estonia could again be explained by still existing differentiation of the first and second wave countries. Eventually, a number of individual member states – Sweden, Denmark, Netherlands, Ireland and Great Britain - announced that they would remove the restrictions on the movement of labour from the Baltic states from the date of their accession. Also, the EU agreed on a transition period of up to 5 years for the provision of transport services by the carrier companies from the new members inside the territory of other member states.

During the year 2002, the most difficult and politically controversial chapters were negotiated. These included taxation, justice and home affairs, institutions, energy, regional policy, agriculture, financial and budgetary issues and other issues. It should be noted, that the institutional questions have already been solved during the negotiations of the Treaty of Nice in 2000, and therefore no substantial new issues have been debated in this field. According to the agreement reached in Nice, after the transition period that

expires in November of 2004 Estonia will have 6, Latvia will have 9 and Lithuania will have 13 seats in the European Parliament. Estonia will have 4 votes, Latvia will have 4 votes and Lithuania will have 7 votes in the Council of Ministers. Each Baltic state will have one Commissioner until the number of the member states reaches 27. They will also be represented in other EU institutions.

Other issues have been linked directly to redistributive issues for both the EU and the Baltic states. The taxation chapter has caused some domestic debates related to the harmonization of excise taxes on fuel in Lithuania where they have been almost twice as low as the minimum set by the EU. Lithuania's request for the transition period for the harmonization of excise tax on fuel was rejected by the EU on the grounds that it would distort competition in the internal market (although it could be argued that setting the absolute minimum tax in the countries with different levels of economic development violates the principle of proportionality). The fact that no other candidate country was granted such a transition period was also used to legitimize the position of the EU and in particular selling the deal domestically. All three Baltic states got transition periods for the harmonization of the excise tax on cigarettes and some exemptions for the application of the VAT norms.

Energy and justice and home affairs covered issues specific to Lithuania such as the closure of the Ignalina nuclear power plant and the movement of Russian citizens to and from Kaliningrad region across the territory of Lithuania. The closure of the Ignalina NPP has been causing increasing political debates inside the country and here the debate during the negotiations focused on the financial support of the EU which has been gradually increased. The transit to Kaliningrad region also raised specific issues since this was the first case in the history of the EU when a part of a third country would be surrounded by the territory of the EU¹¹. Since Lithuania applied preferential visa regime to Kaliningrad residents, the accession into the EU implied adoption of more restrictive visa and transit regimes. This has been increasingly criticized by Russia, and it was only in November 2002 when the EU and Russia reached a compromise (although some of its details remained unclear). For Lithuania, the main concerns included financial implication of a new transit regime and whether this issue would not slow down its full participation in the Schengen area. The negotiations on Russian transit have been taking place on the highest political level, although concrete details have been left for the technocratic deals to be made after the conclusion of negotiations (and proving to be unsuccessful during the first months of 2003). The financing of the border infrastructure was on the agenda of all three countries as they all will become external borders of the EU.

Estonia had some specific concerns related to the oil shale. All three countries also negotiated transition periods for the accumulation of the minimum stocks of liquid oil and oil products.

¹¹ For a more detailed discussion of the impact of EU enagement on Lithuania's relations with Kaliningrad Region of Russian Federation see Joenniemi, P., Lopata, R., Sirutavicius, V., Vilpišauskas, R., (2000).

Other redistributive issues have been of a horizontal nature, i.e. common to all candidate countries, and progress in negotiations to a large extent dependent on EU member states finding a compromise among themselves on financing the new members. To be sure, the size of the agricultural sector in the Baltic states, in particular Lithuania, which currently employs about 16% of working populations and is dominated by small farms, increased the political salience of the agricultural support to be provided from the EU budget after the accession. Like in other candidate countries, the share of the direct payments to be received after the accession has been the most debated issue, although quotas and some other support measures have been subject to negotiations as well. It should be noted that only when the negotiations were approaching the final stage and the prospect of ten countries concluding them at the same time was becoming quite clear, the three Baltic states managed to coordinate their negotiating positions on the agricultural support of the EU. However, the cooperative efforts brought rather modest results when faced with the reluctance of the EU to change its offer (which would have probably required the renegotiation of the internal agreements and the application of the better terms to all candidate countries).

It is in the context of the dissatisfaction of the farming population with the offer of the EU and perceived discriminatory conditions after the accession that the reopening of the chapter of the free movement of capital should be seen. The transition period of up to seven years for the sales of agricultural land to foreigners have been negotiated during the last weeks of negotiations. Interestingly, in summer 2002 only Lithuania requested reopening of this chapter in order to negotiate a transition period on the sale of land to foreigners. However, eventually the same transition periods have been granted to all three Baltic states despite the fact that in Estonia the regulation of land has already been quite liberal. In Lithuania, the policy making process led to the most restrictive arrangement being adopted with both a transition period of up to 7 years and a “safeguard” law which initially was foreseen as an alternative to the transition period and might be judged as disproportional to its regulatory aims by the European Court of Justice.

To sum up, the negotiations between the EU and late comers – Latvia and Lithuania took place 34 months, while the period in the case of Estonia was longer. In the case of Lithuania, there have been 18 meetings of the accession conference organized, 6 of them on the level of ministers, others – on the level of chief negotiators¹². Lithuania negotiated 21 transition periods and 2 derogations in 8 chapters: free movement of goods, free movement of services, free movement of capital, agriculture, transport policy, taxation, energy and environment. The list of transition periods for Latvia is longer (36 transition periods), while in the case of Estonia it was somewhat similar.

For all three countries, the areas where most transition periods have been negotiated include agriculture (harmonization of veterinary norms, some payments for the specific products, the use of uncertified materials, structural requirements for the enterprises), environment (control of emissions, waste treatment, packaging, integrated pollution prevention and control, norms for the large combustion plants), transport (on financial

¹² This and following data received from the European Committee under the Government of Lithuania, January 2003.

standing of enterprises, use of recording equipment and noise of airlines). The main motives behind the transition periods included the significance of investments required for the adoption of the *acquis* (mostly regulatory norms) and political sensitivity of the issues (mostly removal of barriers to the free exchange and resulting increase in competition, also issues related to perceived surrendering of sovereignty and discriminatory financial support). Overall, the transition periods have been used as an instrument to reduce financial and political stress on the candidate countries (and the EU), or to use the term of Putnam, to increase the win-set¹³.

Despite the fact that most of EU's activities concern the regulation of cross-border trade, the focus during the last stage of negotiations and domestic debates on the outcomes of negotiations was on financial issues. They included EU's support to the farming population, regional support, support to the closure of Ignalina nuclear power plant and financing of border infrastructure. The budgetary debates have been less important for the Baltic states than most other candidates since they were expected to be net beneficiaries even with the "budgetary lag" effect (although their negotiators did request compensatory payments and eventually received EU's commitments). The outcomes of the negotiations on financial issues are presented below.

Table 1. The financial package in 2004-2006

	LT	EE	LV	PL	CZ	HU	SL	SK	MT	CY
1. Net financial balance, euro/per capita:	390 (342)	360	350	181	76	136	122	154	340	110
1.1. Transfers from the EU budget	537	525	471	350	325	362	507	327	794	645
1.2. Payments to the EU budget	147	165	121	169	249	226	385	173	454	535
2. EU financial support, euro/per capita	772 (690)	729	691	498	448	505	631	482	923	752
2.1. Support for agriculture	209	181	169	120	109	147	201	116	73	144
2.2. Structural support	394	441	437	294	226	282	203	289	202	126
2.3. Support for internal policies	155	91	74	47	41	55	111	61	52	59
2.4. Compensations	14	15	11	37	72	21	116	16	597	423
3. EU financial support, million euro	2677	1020	1639	1926 5	4613	5100	1262	2603	360	602
% of GDP (2001)	19,99	16,53	19,29	9,79	7,28	8,80	6,02	11,39	7,58	5,91

¹³ Putnam, R. D. (1988).

LT – Lithuania, EE – Estonia, LV – Latvia, PL – Poland, CZ – Czech Republic, HU – Hungary, SL – Slovenia, SK – Slovakia, MT – Malta, CY – Cyprus. The numbers in the brackets for Lithuania indicate amounts without the EU financial support for the closure of Ignalina Nuclear Power Plant.

In the area of agriculture, the Baltic states like other candidate countries can top up the direct payments from the national budget to increase them from 25/30/35% in 2004-2006 to 55/60/65%. Some funds committed to the rural support could also be used for this purpose, although limits we set. During the next financial period of the EU (2007-2013) the direct payments from the EU budget which will be increasing by 10% every year can be topped up by additional 30% from the national budget.

Many of production quotas agreed during the negotiations by the Baltic states have been larger than the current production in the countries. Although the actual quotas agreed were significantly lower than the initial requests of the Baltic states, there have been some increases from the offers of the European Commission. Other financial support measures received were the same like for other candidate countries (for example, payments of 1000 euro for the semi-subsistence farms, with the exception of Poland).

The EU also increased its initial offer of financial support to closing down the Ignalina nuclear power plant (Lithuania has agreed to close the first reactor by 2005 and the second reactor by 2010). The total support of the EU in this field stands at 285 euro for the period of 2004-2006 with a promise of continuation during the next financial period. EU's financial support can be used for the decommissioning of the Ignalina NPP and its personnel, investments into the environment, modernization of thermal power plants, projects to ensure the security of supply.

Lithuania was also assured by the EU that implementation of a new transit regime for the Russian citizens would not hinder or delay Lithuania's membership in the Schengen area. In addition, the EU committed itself to over all additional costs needed for the implementation of this agreement, the exact amount of which are still subject to further investigations by the Commission and Lithuania. Any future decisions regarding the transit will be taken only after Lithuania becomes EU member and with its participation. Both the commitments concerning the Ignalina NPP and the transit regime will be attached to the accession treaty in the form of separate annexes. For Estonia, there was a unilateral declaration on steel agreed. Latvia negotiated the declaration on the possibility to return to the question of the votes in the Council during the next IGC, while the Commission attached the declaration on the support for the protection of environment.

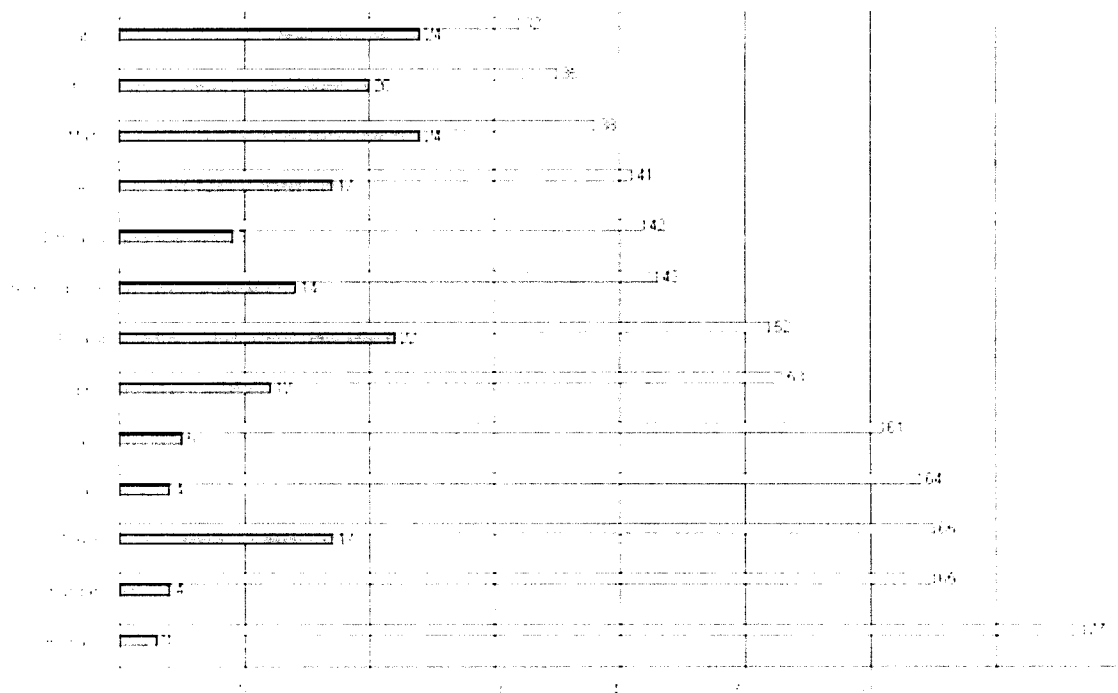
Ratifying the bargains: are the win-sets large enough?

With the accession negotiations completed in December 2002, the popular referendums in the Baltic states and most other candidate countries are the next and possibly the last major step before the actual accession into the EU. The actual preparation of the accession treaty to be signed in April 16, 2003, still caused some debates on the exact formulations of the deals reached with each party trying to interpret them to fit their interests and compensate for the perceived lack of achievements during the negotiations.

Although the ratification of the accession treaty will have to be undertaken in the current member states' parliaments and the European Parliament, they are unlikely to pose major problems for the enlargement process. There have been some speculations about Netherlands where the large share of the parliament members and population are somewhat skeptical about EU enlargement. The disagreements between the candidate countries and some of the EU member states (France, Germany, Belgium) regarding the policy of the USA towards the Iraq might also complicate the ratification of the accession treaties in these member states. However, it is very unlikely that the political elites would openly vote against the enlargement.

It is referendums in the candidate countries that are likely to attract most attention. The referendums will take place between March 2003 and September. Initially there was an idea in order to increase the probability of the positive outcome, to chose the dates of the referendum so as to start with the countries where the support for the EU membership is the highest. However, with Malta and Slovenia being among the first, this principle was not completely followed, though Lithuania will hold a referendum on May 10-11, Estonia and Latvia will be the last to hold referendums respectively in September 14 and 20.

Diagram 1. The support for EU membership in the candidate countries, October 2002



% for % against

Source: The Eurobarometer, 2002.

According to the recent survey of the Eurobarometer, the level of popular support for the EU accession, or the share of respondents survey who think joining the EU is “a good thing”, have been as low as 32% in Estonia, 35% in Latvia, 43% in Slovenia and in Czech Republic and 48% in Lithuania. It should be noted, however, that at least some countries the numbers of people supporting EU accession have increased in the recent months, most probably reflecting increasing reporting by media about the accession negotiations. For example, the share of people supporting EU accession has been increasing in Lithuania to reach 68% in January 2003. It is also likely that a large share of those who do not have an opinion yet, would vote for joining the EU. However, still two potential problems might arise.

One is the low turnout in the referendums which is particularly important in Lithuania where the minimum requirement for the participation is set in order for the referendum to be valid. For a referendum result to be valid and positive, more than 50% of registered voters have to participate and more than half of those who showed up have to vote “yes” (the latter provision amended in February 2003 from the requirement that 30% of registered voters have to say “yes”). The low turnout in majority of referendums held during the last dozen of years in Lithuania was the main reason of their failure.

The other reason for the concern of political elites is the potential success of some Euro-skeptics in these countries capitalizing on the outcomes of accession negotiations, low level of information on the EU and the general apathy of rural population not only with regard to the EU accession but to any projects of political elite. It is already clear that the discriminatory aspect of direct payments to farmers after the accession is among the main issues raised by the opponents of EU accession (despite the fact that it will be farmers who stand to gain most financially from EU accession). Moreover, the dissatisfaction with the results of negotiations on direct payments led the farmers in the Baltic states to lobby and even to voice public threats of negative vote in order to receive from the governments other temporary benefits such as price regulation or one time subsidies.

Other publicly expressed fears include the potential loss of sovereignty or unfair competitive conditions. Some in Lithuania and particularly in Estonia also raise criticism of having to reintroduce barriers to foreign trade with non-EU countries, more distortionary agricultural policies or more regulations of economic activity. Finally, the recent comments of the president of France on the behavior of “new Europe” with regard to the USA as well as potentially harsh criticisms of the European Commission directed at the candidates because of the problems of the actual implementation of the *acquis* if discovered during the process of monitoring might also affect the balance between those supporting and opposing the accession into the EU.

It is still unclear what impact could the negative outcome of a referendum in one country have on the accession of the others. Although it is unlikely that the failure of ratification in one Baltic state could slow down the accession of the other two, the failed referendum in Poland could pose more barriers to the enlargement. In such a case, the solution would most probably depend on whether referendum fails due to the low turnout (in which case a new referendum could be organized) or due to the lack of support for the EU

membership. In the latter case, there might be a symbolic attempt to renegotiate some of the accession conditions to convince the public to change the opinion. However, the probability of failed referendums is rather low.

Conclusions

If the ratification process proceeds smoothly, in 2004 voters in candidate countries are going to elect their representatives to the European Parliament and in May 2004 the actual accession will take place. It is important to note, that the Copenhagen Summit also made it clear that the candidate countries will take part in the Inter-Governmental Conference which will be convened in 2004 to address the issues of EU reform which are currently debated in the Convention of the Future of Europe. This decision responded to fears of candidate countries that the EU might change just before they have a right to present their own opinions and take part as full members in the process of reform.

Among the key questions in the context of EU accession negotiations are the following: how the enlargement will change the internal bargaining among the member states of EU-25, and how the relaxation of conditionality will change the position of the new member states (and the domestic politics, in particular, the implementation of the *acquis*). Several forecasts can be made on the basis of the analysis of accession negotiations and the previous enlargements of the EU. First, it is very likely that the new member states will form the issue-based coalitions with the current countries. For example, the support of 8 member states and 10 countries of Vilnius group for the position of the USA on the Iraq issue provide the ground to expect similar coalitions forming inside the EU (possibly around the Great Britain and Poland). On other issues, like the reform of agricultural policy the coalition of the pro-reformist member states is likely to be joined by Estonia and Czech Republic, while Poland and Lithuania will probably join the group led by France. In general, the coalitions will depend on the salience of the issue for the domestic interest groups, the positions formed during their interactions with country governments and the capacities of the executives to coordinate and represent national positions. It is quite likely that the executive branches of the governments will remain the key players (although the legislative bodies could increase their influence after the learning exercise of participating in the work of the Convention on the Future of Europe).

Second, the increase in size and diversity of the EU might lead some of the old member states to use more the option of “enhanced cooperation” and to move further in a smaller group inside the EU in integrating new policy areas or reopening old deals. The recent moves of the “Franco-German motor” in the areas of direct taxation, foreign and defense policy and internal affairs point to this direction. At the same time, the transition periods agreed during the negotiations will be obstructing the functioning of the enlarged common market until about 2010. Altogether this might lead to an overall loosening of the EU, concentration on the implementation of the adopted *acquis* rather than initiating new projects.

Overall the main challenge for the EU will be to find a balance between its increased economic, cultural, etc. diversity and common solutions to common problems at the EU

level. It is a search for this balance that is going to dominate EU agenda after the enlargement, be it in the pursuit of conditions for becoming the most competitive economy in the world by 2010 (the “Lisbon goals”) or becoming an important player in the world political affairs.

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