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Agenda 2000 - Commission Opinion on Poland's Application for Membership of the European Union

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A. INTRODUCTION

a) Preface

The Application for Membership

Poland presented its application for membership of the European Union on 5 April 1994, and the Council of Ministers decided on 18 April 1995 to implement the procedure laid down in Article O of the Treaty, which provides for consultation of the Commission.

That is the framework in which the Commission submits the present Opinion, responding to the request of the European Council in Madrid in December 1995 to present the Opinion as soon as possible after the conclusion of the Intergovernmental Conference, which commenced in March 1996 and concluded in June 1997.

The Context of the Opinion

The Polish application for membership is being examined at the same time as applications from nine other associated countries. Poland's accession is to be seen as part of an historic process, in which the countries of Central and Eastern Europe overcome the division of the continent which has lasted for more than 40 years, and join the area of peace, stability and prosperity created by the Union.

The European Council in Copenhagen in June 1993 concluded that:

"The associated countries in Central and Eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions. Membership requires:

- that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;

- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries".

This declaration spelled out the political and economic criteria for examining the accession requests of the associated countries of Central and Eastern Europe.

The European Council in Madrid in December 1995 referred to the need, in the context of the pre-accession strategy, "to create the conditions for the gradual, harmonious integration of the applicant countries, particularly through:

- the development of the market economy,
- the adjustment of their administrative structure,
- the creation of a stable economic and monetary environment".

In its Opinion, the Commission analyses the Polish application on its merits, but according to the same criteria as the other applications, on which it is delivering Opinions at the same time. This way of proceeding respects the wish, expressed by the European Council in Madrid, to ensure that the applicant countries are treated on an equal basis.

In addition to the individual Opinions the Commission is presenting separately to the Council, in the framework of its communication "Agenda 2000", a general assessment of the accession requests, and its recommendations concerning the strategy for successful enlargement of the Union. At the same time, it is presenting an evaluation of the impact of enlargement on the Union's policies.

The Contents of the Opinion

The structure of the Opinion takes account of the conclusions of the European Council in Copenhagen. It:

- describes the relations up to now between Poland and the Union, particularly in the framework of the association agreement;
- analyses the situation in respect of the political conditions mentioned by the European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Poland's situation and prospects in respect of the economic conditions mentioned by the European Council (market economy, capacity to cope with competitive pressure);
- addresses the question of Poland's capacity to adopt the obligations of membership, that is the *acquis* of the Union as expressed in the Treaty, the secondary legislation, and the policies of the Union;
- makes finally a general evaluation of Poland's situation and prospects in respect of the conditions for membership of the Union, and a recommendation concerning accession negotiations.

In assessing Poland in respect of the economic criteria and its capacity to assume the *acquis*, the Commission has included a prospective assessment; it has attempted to evaluate the progress which can reasonably be expected on the part of Poland in the coming years, before accession, taking account of the fact that the *acquis* itself will continue to develop. For this purpose, and without prejudging the actual date of accession, the Opinion is based on a medium-term time horizon of approximately five years.

During the preparation of the Opinion, the Commission has obtained a wealth of information on Poland's situation from the Polish authorities, and has utilised many other sources of information, including the Member States and numerous international organisations.

(b) Relations Between the European Union and Poland

Historical and Geopolitical Context

Poland runs from the Baltic Sea to the Carpathian Mountains, with an area of 312 680 km² (making it the ninth largest country in Europe) and a population of 38.6 million. It shares frontiers with seven countries: Slovakia, Russia, Lithuania, Belarus, Ukraine, the Czech Republic and Germany.

Tradition dates the foundation of Poland to 966 when the Prince of Polanie (the plain dwellers) converted to Christianity. In the 15th century Poland became a royal republic with elected monarchs. During the following centuries it developed its political and cultural links with western Europe; but in the 17th and 18th centuries the kingdom declined. From 1795 onwards Poland was divided between the Russian, Prussian and Austrian Empires.

After the First World War the Republic of Poland was founded as a parliamentary democracy. In 1939 Poland was again partitioned and annexed by Germany and the Soviet Union. After the Second World War Poland again recovered its independence. Its redrawn borders included previously German territory. Poland came under the Soviet Union's sphere of influence and control with a Communist constitution and government. During the Communist regime protests at the loss of political and economic freedoms were violently suppressed, notably in 1956 and 1970.

Opposition to the regime grew after the Gdansk strikes of 1979. A period of political upheaval led to declaration of martial law on 13 December 1981. This remained in force until June 1983. Pressure for economic and political change continued throughout the 1980s. In September 1989 Solidarity became the dominant force in government for the first time, under Prime Minister Mazowiecki; and the following year Lech Walesa was elected President. Free parliamentary elections were held in 1991 and 1993. In 1995 President Walesa was succeeded in office by President Kwasniewski.

Poland's Position Concerning the European Union

Integration into Western political and security structures has been the main goal of successive Polish governments since 1989. Membership of the EU remains, as confirmed again by the government on 30 April 1996, a strategic objective of Polish foreign policy. Poland made its application for EU membership on 5 April 1994.

Poland's commitment to integration was underlined in President Kwasniewski's address at the College of Europe in Natolin on 6 November 1996: "the transformation in Poland launched after the historic breakthrough in 1989 consists not only in reform of the economy but also in opening up to the world. Openness is the historical tradition of Poland. Participation in the natural integrative processes of our continent is part of our understanding of Polish sovereignty. For us, the prospect of European integration is a historic challenge. We are thinking not only of the benefits we will gain from accession to the European Union. We are also aware of the obligations incumbent upon us from our role in the unification of the continent".

Contractual Relations

Diplomatic relations between the EU and Poland were first established in September 1988. A Trade and Cooperation Agreement was signed in September 1989. This was a non-preferential agreement providing for reciprocal Most Favoured Nation treatment, which foresaw the gradual abolition by 1994 of quantitative restrictions applied by the Community on imports originating in Poland.

An Association Agreement, to be known as a Europe Agreement, between the European Communities and Poland was signed on 16 December 1991 and entered into force on 1 February 1994. Its trade provisions had already entered into force on 1 March 1992 under an Interim Agreement. This provided for the consolidation of earlier trade concessions as well as the gradual and asymmetrical establishment of a free trade area over ten years.

The Europe Agreement is now the legal basis of Poland's relations with the European Union. Its aim is to provide a framework for political dialogue, promote the expansion of trade and economic relations between the parties, provide a basis for Community technical and financial assistance and an appropriate framework to support Poland's gradual integration into the Union. The institutional framework of the Agreement provides a mechanism for implementation, management and monitoring of all areas of relations. Subcommittees examine questions at a technical level. The Association Committee, at senior official level, provides for discussion of issues and often finds solutions to problems arising under the Agreement. The Association Council, at Ministerial level, examines the overall status of relations and provides the opportunity to review Poland's progress in preparing for accession.

To improve implementation of the Europe Agreement and the development of pre-accession policy, the government reorganised its structures in October 1996. A Ministerial Committee of European Integration, chaired by the Prime Minister, has policy coordination and steering functions and decision-making powers on integration issues. The Office of the Committee for European Integration now screens all legislative proposals for compatibility with EU legislation.

In early 1997, Poland published a National Integration Strategy setting out a plan for preparing for accession to the EU. The document emphasises the importance of a number of key pre-accession policies and identifies, in particular, some five sectors in which Poland considered that it would need to benefit from transitional periods before full application of the *acquis*.

The Pre-accession Strategy

Implementation of the Europe Agreement and the White Paper

The institutional framework of the Europe Agreement is fully operational. The Association Council has met four times. There have also been regular meetings of the Association Committee and a number of sectoral subcommittees and working groups. A Parliamentary Committee has met seven times to link members of the European and Polish parliaments. Establishment of a Joint Committee dealing with issues relating to the Economic and Social Committee's responsibilities is being actively considered.

Activity under the Europe Agreement is intense in all areas of cooperation due to the volume of trade flows and the increasing familiarisation of ministries with trade, economic and approximation requirements. Pending adoption of an additional Protocol (which has been initialled), autonomous measures have been adopted for agricultural products, textiles and fisheries in order to adapt the Europe Agreement to the enlargement of the Union as well as to the conclusions of the Uruguay Round. Implementing rules on undertakings and state aid have been prepared. A new Protocol on rules of origin will allow for pan-European cumulation of rules of origin.

There have been a number of implementation difficulties in the trade field, notably regarding the Polish import surcharge, certification, steel industry restructuring, motor vehicle sector measures, measures in the oil sector and export restrictions on hides and skins. Despite their sensitivity and complexity, solutions have been found or are pending to these problems. In the case of hides and skins, the dispute settlement mechanism was initiated but a solution was found before arbitration was formally started.

The Commission's White Paper of 1995 on the Internal Market set out the legislation which the candidate countries would need to transpose and implement in order to apply the *acquis communautaire*, and identified elements essential to the implementation of the single market (known as Stage I measures) which would need priority attention. Poland has attached importance to this work. Each Ministry has been required to establish an EU Integration Unit; 29 working groups have been set up to work on pre-accession implementation; and Poland published in 1996 a series of legal studies outlining its path to approximation.

Annual programmes of approximation have been prepared since 1994, and a first schedule of White-Paper-related actions was presented to the Commission in 1996. Progress has been achieved in the areas of agriculture, transport, banking, securities, indirect taxation and excise.

The Europe Agreement is being implemented for the most part according to the procedures and timetable set out in it. Poland shows a realistic, open and constructive attitude to solving problems which arise, and an awareness of the dangers of protectionism and of the importance of tackling difficulties through negotiation.

Structured Dialogue

Poland has participated in the Structured Dialogue, seeing it as a priority in its foreign policy. Poland has submitted background documents for a number of Structured Dialogue meetings, and has made proposals to improve the dialogue and to ensure continuity through a sharper focus on accession-related agenda items. In the context of the structured dialogue Poland has played a significant role in work to recreate stability in former Yugoslavia.

Phare

Poland's allocation for 1996 was ECU 203 million, and for 1990-96 overall nearly ECU 1.4 billion. The main sectors are: agriculture, restructuring and privatisation, finance and banking, infrastructure, social programmes and environment. For cross-border programmes PHARE has committed a total of ECU 165 million to support projects in transport, environment, utilities and economic development in border regions with Germany, Denmark, Sweden and Finland.

Initially, PHARE had implementation difficulties in Poland, because of organisational problems in the responsible ministries and a lack of delivery mechanisms. But implementation improved considerably in 1995 and 1996, with an overall contracting rate of 75% achieved by April 1997.

Participation in Community Programmes

An additional Protocol to the Europe Agreement allows for Poland's participation in Community programmes. It is envisaged that Poland will participate in Leonardo, Socrates and Youth for Europe as from 1997.

Trade Relations

Poland is the seventh trade partner of the Union. Since 1989 EU exports to Poland have increased by more than 300%, and amounted to ECU 15 billion in 1995. EU imports from Poland increased by more than 200% over this period, and amounted to ECU 12.2 billion in 1995. The EU had a trade surplus of ECU 2.8 billion in 1995. Machinery and electrical goods were the most important EU exports, providing 27% of the total. Poland's most substantial export to the EU was base metals, which represented 17% of the total. Poland's trade deficit with the EU reflects its re-equipment needs.

In 1995 70% of Polish exports went to the EU and 65% of its imports came from the EU. After an initial period of decline, Polish trade with its central European neighbours has recovered and represented more than 17% of exports and 15% of imports in 1995. Trade with Russia represented nearly 6% of exports and almost 7% of imports in 1995; there have been indications that Poland may consider establishing a free trade arrangement with Russia, once Russia has joined the WTO.

General Evaluation

Since 1989 Poland has actively pursued a policy of strengthening links with the European Union in all fields. The Europe Agreement has been effectively implemented in most sectors. Poland has put significant effort into approximation of its legislation. The number of bilateral trade problems has tended to overshadow the general perception of the bilateral relationship. But most of these problems have been resolved.

B. CRITERIA FOR MEMBERSHIP

1. Political Criteria

The European Council in Copenhagen decided on a number of “political” conditions for accession to be met by the candidate countries in Central and Eastern Europe. These countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”.

In carrying out the assessment required in this connection, the European Commission has drawn on numerous sources of information: answers given by the Polish authorities to the questionnaire sent to them by the Commission services in April 1996, bilateral follow-up meetings, reports from Member States’ embassies and the Commission’s delegation, assessments by international organisations (including the Council of Europe and the OSCE), reports produced by non-governmental organisations, etc.

The following assessment involves a systematic examination of the main ways in which the public authorities are organised and operate, and the steps they have taken to protect fundamental rights. It does not confine itself to a formal description but seeks to assess the extent to which democracy and the rule of law actually operate.

This assessment relates to the situation in June 1997. It does not examine in detail any changes which have taken place since the fall of the Communist regime or which may come about in the future, though it generally takes account of any stated intention to reform a particular sector. The situation of the government is mentioned here only in passing: it will be examined in greater depth in Chapter 4.

1.1 Democracy and the rule of Law

The 1952 Constitution was amended and revised in October 1992 to enable Poland's transition to a parliamentary democracy. A new Constitution was adopted by referendum in May 1997. The analysis of institutional practice below, however, refers to the application of the former Constitution as the new one is yet to enter into force. This does not detract from the following evaluation as the changes adopted in May 1997 have no far-reaching effect on the previous institutional balance. Thus far Poland's institutions have worked smoothly, the various authorities being mindful of the limits of their powers and of the need for cooperation.

Parliament and Legislative Powers: Structure

Parliament consists of two chambers - the Sejm, whose 460 members are elected by proportional representation at national level or within regional constituencies (requiring a minimum 5% of votes to obtain seats), and the Senate, whose 100 members are elected by the simple-majority system within "voivodships". In order to guarantee representation for minorities in the Sejm, there is a provision exempting their lists from the 5% minimum rule by virtue of which four deputies representing the German minority have sat in Parliament since 1993.

Under Article 98 of the new Constitution, the two chambers may be dissolved by a two-thirds majority vote in the Sejm. The President of the Republic also has the power to dissolve Parliament if it fails to approve the formation of a new government or to adopt the budget within the prescribed time limit of four months.

Members of Parliament enjoy a traditional array of immunities which can only be lifted by a two-thirds majority. Although its role and involvement in the workings of the institutions is recognised, the opposition has on occasion complained of its limited means of access to the media. The chambers' powers include setting up parliamentary commissions of inquiry on which the different groups are represented in proportion to their level of representation in the chamber concerned.

The multiparty system is widely ensured in Poland with almost 400 political groupings registered. Approximately 150 parties put up candidates in the last general elections in 1993. Party membership is unrestricted other than for high-ranking officials. The only funding received by parties from the national budget is to finance election campaigns.

Legislative power is vested in the Parliament with the Sejm having the final say over the Senate on legislative and budgetary matters. Both chambers possess the power of initiative which is likewise conferred on the President, the government and a minimum of 100 000 citizens. Regulatory power is exercised solely for the purposes of applying the law or in matters which the law delegates to it. The President possesses a right of veto over laws voted by Parliament although the latter may override this by a majority of two-thirds. Under the new Constitution of 1997, the majority was raised to three-fifths.

Referendums may be organised at the initiative of the Sejm or of the President following approval by the Senate. They may relate to matters of particular importance to the State (Article 125(1) of the new Constitution), notably the ratification of an international agreement or budgetary legislation.

Functioning of Parliament

The general elections of 1991 and 1993 and the Presidential election of 1995 took place in free and fair conditions. They resulted in a handover of power in Parliament in 1993 (see Annex for the results of the last general elections) and a new President in 1995. On both occasions the handover was achieved smoothly.

Parliament functions satisfactorily. Its powers are respected and the opposition plays a full part in its activities.

The Executive: Structure

The President of the Republic is elected for a five-year term by direct universal suffrage on the basis of a simple-majority two-ballot system. The President plays an important part in the functioning of the institutions and in Polish politics.

The President designates the Prime Minister, who forms the Government. Its members are likewise appointed by the President. It was previously the Prime Minister's responsibility to obtain the prior approval of the President to the appointment of the Ministers for Foreign Affairs, Defence and the Interior, but this obligation was removed by the 1997 Constitution. The Government and Ministers, in their capacity as individuals, are accountable to the Sejm.

Poland has recently adopted a "lustration" Act applicable to all executive authorities. Under this, senior politicians and government officials must in future swear an oath to the effect that they did not work for the security services between 1944 and 1990. This would be done under the auspices of a special court answerable to the Supreme Court which would check the accuracy of their statements using, notably, the security services' own archives. An admission of working for the security services would not automatically bar a person from consideration for a post. In contrast, a false declaration would result in that person being barred from the duties specified in the Act for a period of ten years.

Government at regional level is organised on the basis of (49) voivodships, in which the voivod or local governor represents central government.

There are two tiers of local authorities: municipalities (2468), in which the councils are elected by direct universal suffrage every four years and regional assemblies at the level of the voivodships (49) whose members are elected by the municipal councils. The regional assemblies have limited means and no budget of their own. The municipalities have extensive powers but are hamstrung by virtue of financial dependency in that 85% of their financial resources come from the State budget.

Poland has possessed a Civil Service Act since July 1996. Article 51 of the new 1997 Constitution recognises citizens' right of access to administrative documents concerning them.

The army, police and secret services are under civilian control. The civilian authorities have experienced occasional difficulties in connection with the armed forces. The police still lack adequate resources to combat effectively the rise in crime and, in particular, organised crime.

Functioning of the Executive

The central institutions of the State function smoothly.

Local authority autonomy continues to meet with obstacles on numerous fronts and must be further developed, in particular as far as resources are concerned. The proposal to set up an intermediate tier of decentralised administration between the municipalities and the voivodships ("powiats") has been the subject of fierce debates in Poland for several years.

Despite the adoption in July 1996 of a Civil Service Act, Poland continues to experience difficulties with the introduction of a career system. The use of contract workers recruited for political reasons is still rife and is a bar to establishing a degree of continuity in the operation of the administration. Corruption remains a source of concern despite the Government's efforts to curb it, notably through the adoption in 1995 of detailed legislation on public procurement.

Thanks largely to the vigilance of Parliament, the secret services have gradually been brought under the control of the civilian authorities.

The Judiciary: Structure

The independence of the Polish judiciary vis-à-vis other institutions appears secured. Judges are appointed by the President of the Republic on motions of the National Council for the Judiciary, a collegiate body set up in 1989 whose 24 members consist mainly of judges appointed by the jurisdictions to which they belong. The President has the power to block an appointment put forward by the Council (he has not done so thus far) but may not appoint a judge who has not been put forward by the Council. Promotions follow the same procedure and the National Council has sole responsibility in the matter of transfers. The National Council for the Judiciary also appoints Justices of the Supreme Court.

A Tribunal of State, whose members are elected by the Sejm, adjudicates in criminal proceedings against persons holding "supreme offices" within the State apparatus.

The Office of Public Prosecution comes under the authority of the Minister for Justice who holds the office of "Prosecutor General" and appoints prosecutors.

Administrative measures are subject to a "Code of Administrative Procedure" and may be appealed against in the administrative High Court whose decisions can be contested in the administrative chamber of the Supreme Court. In recent years the Supreme Court has developed a body of case-law which closely safeguards citizens' rights. The Supreme Chamber of Control is responsible for financial and administrative monitoring of all government bodies, other bodies financed from the State budget and local authorities. All cases in which its intervention is justified may be referred to it by the President, the Sejm or the Prime Minister or it may act on its own initiative.

Poland has an Ombudsman appointed by the Sejm, with the consent of the Senate, for a four-year term of office. His task is to examine complaints submitted to him by private citizens which he may refer to the Constitutional Tribunal.

The Constitutional Tribunal is responsible for ensuring that laws and other legislative acts conform to the Constitution. It may also issue legally binding interpretations of the laws. Its members are elected by the Sejm for a nine-year, non-renewable term of office.

Functioning of the Judiciary

The main problems affecting the Polish justice system appear to be the time taken to process cases, in particular in the fields of civil or commercial law, and the difficulty enforcing decisions taken by the courts. The relatively low level of judges' salaries is reflected in the numbers who leave to join the private sector, which serves only to diminish further the effectiveness of the judiciary.

Until the entry into force of the new Constitution of 1997, the prerogatives of the Constitutional Tribunal appeared limited to say the least in that reference to it by citizens or the courts was not possible and its decisions on the law could be overturned if two-thirds of the members of the Sejm so decided. The new Constitution does away with these limits (although the provision putting an end to the Sejm's power to overturn its decisions does not enter into force for another two years).

1.2 Human Rights and the Protection of Minorities

Poland has introduced various internal rules designed to ensure respect for human rights and minorities' rights. Such respect may also be guaranteed by the application of certain international conventions, in the forefront of which is the European Convention for the Protection of Human Rights and its main additional protocols. Under Article F of the Treaty on European Union, observance of human rights forms part of the "*acquis*": any State wishing to join the European Union must first have ratified the said texts.

In January 1993 Poland, which has been a member of the Council of Europe since November 1991, ratified the European Convention for the Protection of Human Rights. Most of the additional protocols (with the exception of Protocols No 6, 7 and 11) were ratified between May 1993 and October 1994. Poland also permits individuals to take their case to the European Court if they consider that their rights under this Convention have been violated.

Poland has ratified the convention on the prevention of torture, but only signed the framework convention on minorities and the European Social Charter (only the parts of it compatible with Polish law). It has ratified the main human rights conventions concluded in the framework of the United Nations.

Under Article 91 of the new Constitution a treaty that has been properly ratified is directly applicable in domestic legislation and takes precedence over a law to the contrary.

Civil and Political Rights

Access to the courts is largely unrestricted in Poland. Under its legal aid system individuals are guaranteed the services of a lawyer during court proceedings. However, appeals are still not allowed in the case of disciplinary measures against members of the armed forces, civil servants and medical staff.

Capital punishment is in the process of being repealed. The new Penal Code adopted by the Sejm on its last reading on 6 June 1997 abolished the death penalty in Poland.

The right not to be arbitrarily arrested appears secure as the period of custody is limited to 48 hours and, under the reform of August 1996, may not be extended without the intervention of a judge. However, detainees do not have the right to the services of a lawyer until the public prosecutor has specified the charges against them. The maximum period of remand is two years.

All citizens of 18 years or more have the right to vote.

Freedom of association is guaranteed in Poland. Associations may be freely established and the Supreme Court noted in 1993 that the requirement for them to be registered with courts did not confer the power on the latter to judge the applications submitted to them. There is a very dynamic third sector (some 17 000 NGOs currently exist), despite the financial difficulties that associations are experiencing, with the result that they become dependent to a certain extent on the subsidies they receive from public bodies or international organisations. Polish tax law does not expressly recognise the concept of a non-profit making organisation and associations are allowed limited tax exemptions.

Freedom of assembly is guaranteed.

Freedom of expression is secure despite certain outstanding problems. Firstly, journalists are still subject to Article 270 of the Penal Code which penalises slander and abuse of the State authorities with sentences of up to eight years imprisonment. Similarly, the protection of journalists' sources appears to be inadequately assured as demonstrated by the numerous searches carried out by the Public Prosecutor's Office of the homes of journalists investigating "sensitive matters". A further cause for concern is the decision of the Supreme Court in 1995 which requires journalists to reveal their sources at the request of a tribunal or public prosecutor. However, a legislative amendment guaranteeing professional secrecy for journalists is in the process of being adopted by the Sejm.

In the television sector, public channels continue to play an important role in Poland (2 national channels, 11 local stations) despite the rapid growth of private channels (4 private channels, including 2 at national level, 4 channels on the cable network and 10 on satellite) thanks largely to the financial resources at their disposal. Although the public authorities retain a considerable degree of influence over these channels, freedom of expression is broadly speaking guaranteed.

The right of ownership is nowadays assured in Poland and expropriation is allowed only in the public interest and subject to prior and fair compensation. The question of compensation for persons dispossessed by the Nazis or Communists has yet to be settled.

The Government did, however, adopt an act in February 1997 allowing the return to Jews of the property of the Jewish community seized by the Nazis, although no similar provision exists for the property of private individuals. A number of problems relating to administrative organisation have so far prevented the introduction of a land register containing up-to-date and coherent information.

Certain difficulties persist with regard to respect for privacy and the right to inviolability of the home. Although searches should not normally be conducted without a warrant to that effect, the police still occasionally dispense with that formality on grounds of urgency. Telephone-tapping can be ordered by the Office of Public Prosecution or the Interior and Administration Minister without judicial control although the code of criminal procedure requires a prior decision by a court before surveillance of this type can be carried out. Similarly, the Tax Control Act adopted in November 1996 allows the tax authorities to request information from banks about their clients' accounts without any prior legal procedure.

The situation with regard to asylum seekers is satisfactory - Poland ratified the 1951 Geneva Convention in 1992 and has introduced the national procedures necessary for its implementation. The main problem in this connection is the time taken in examining applications for refugee status which is twelve months on average despite the fact that Polish law lays down a maximum of two months.

No cases of inhuman and degrading treatment appear to have been recorded in Poland.

Economic, Social and Cultural Rights

The right to a minimum means of subsistence is enshrined in the Constitution.

The right to health is affirmed by the new Constitution of 1997, which also establishes the principle of protection for the handicapped and destitute families.

Trade union freedom is guaranteed in Poland with one exception which concerns public service managerial staff who do not have the right to form a union. 318 trade unions are registered in Poland today.

The right to strike is recognised by the law of 1991 except for what are known as the "essential services". On the whole the 1990s have seen a significant fall in the number of strikes compared to the preceding period.

Free access to education and freedom of religion are also guaranteed. On the latter front, the Polish authorities are striving increasingly to combat incidences of anti-Semitism such as occurred several times during the election campaigns when so-called foreign (i.e. of actual or supposed Jewish origin) candidates were discredited. The Polish authorities have shown proof of their determination to deal with this by taking legal action against those making anti-Semitic statements. The new 1997 Constitution affirms freedom of conscience and the principle of the neutrality of the Polish State vis-à-vis the various religions.

Minority Rights and the Protection of Minorities

Minorities account for a tiny fraction of Poland's population (approx. 1.3%) and consist principally of Germans (400 000), Ukrainians (300 000) and Belarusians (250 000). There are an estimated 40 000 Roma (gypsies).

Article 35 of the Constitution guarantees the right of minorities to preserve and develop their language, cultural identity and traditions and to have their own cultural, religious and educational institutions. Minorities also benefit from special electoral rules under which they are allowed to have their representative candidates elected to the Sejm with fewer than the normally required number of votes. Four deputies representing the German minority benefited from this provision at the last elections in 1993.

Minorities do not experience any specific difficulties in Poland.

As far as education is concerned, Poland has tried to develop teaching in minority languages in public educational establishments. However, progress in this direction has been blocked as a result of the shortage of financial resources which has grown worse since 1996 when the municipalities took charge of the running costs of schools.

The Roma (or gypsies), who are few in number in Poland, are sometimes the victims of violence or discrimination. They frequently live in situations of social hardship (unemployment, housing conditions, level of education, health) as a result of a combination of sociological factors and a failure by the authorities to take sufficient account of the special nature of their situation.

1.3 General Evaluation

Poland's political institutions function properly and in conditions of stability. They respect the limits on their competences and cooperate with each other. Legislative elections in 1991 and 1993, and presidential elections in 1995, were free and fair. In 1993 and 1995, when they led to alternation of power, this was properly achieved. The Opposition plays a normal part in the operation of the institutions. Efforts to improve the operation of the judicial system and to intensify the fight against corruption will need to be sustained.

There are no major problems over respect for fundamental rights. There are, however, certain limitations to the freedom of the press. Particular attention will be needed to how a new law limiting access to public service for certain categories of persons is implemented. Poland needs to complete procedures for compensating those whose property was seized by the Nazis or Communists.

Poland presents the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities.

2. Economic Criteria

In examining the economic situation and prospects thereof, the Commission's approach is guided in particular by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires "the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union".

This part of the Opinion therefore gives a concise survey of the economic situation and background, followed by a review of Poland's progress in key areas of economic transformation (liberalisation of the price and trade system, stabilisation of the economy, structural change, reform of the financial sector) as well as its economic and social development. It concludes with a general evaluation of Poland in relation to the criteria mentioned by the European Council and a review of prospects and priorities for further reform.

2.1 The Economic Situation

Background

Poland, with a population of 38.6 million, has a gross domestic product (GDP) of about ECU 200 billion (expressed in purchasing power parity); the size of its population is close to 11% of that of the Union, while the size of its economy is only 3% of that of the Union. GDP per head is about 31% of the EU average, in purchasing power terms. The monthly wage is approximately ECU 250.

Poland joined the OECD in 1996, as the third central European country after Hungary and the Czech Republic. In 1995 Poland became a member of the WTO, having acceded to GATT already in 1967. Poland was a founder member of CEFTA.

Progress inEeconomic Transformation

When Poland started with its "shock therapy" in January 1990, it had lived through a decade of mounting political and economic problems, in which it failed to redress ongoing and past mismanagement. In 1980, food price increases led to a series of strikes, inspired by the Solidarity movement. Poland defaulted on its international debt obligations. The military authorities attempted in vain to restore some form of economic order and, by the end of the 1980s, the Polish economy was clearly heading for collapse. Unable to service one of the highest foreign debts in the world for over a decade, it could not borrow abroad any more. Economic sanctions were imposed by the West, demanding that martial law and the ban on Solidarity should be lifted. The state-controlled part of the economy stagnated completely and acute shortages occurred, even of basic commodities. By the end of the decade, the country was heading for hyperinflation.

Although the original plan with which Poland started its transition (the "Balcerowicz plan") was drastic and quite comprehensive, its implementation did not suffer major reversals despite several changes of government. With hindsight, and in comparison to what happened in other transition economies, Poland suffered a rather limited drop in output and was the first to experience recovery. The Polish economy started to grow in 1992, returned to its pre-transition output level in 1995 and is still growing strongly. In November 1996 Poland became a member of the OECD. Fragmented land ownership is a problem for the restructuring of agriculture. But some improvements have been made in the legal framework to facilitate farmland transactions and attempts have been made to overcome some of the practical consequences of land fragmentation, for instance by allowing for informal renting and leasing arrangements.

One advantage of the Polish economy was that, even under Communism, some part of the economy was in private hands, especially in agriculture. On the brink of change, in 1989, roughly one third of the labour force was employed in the private sector, producing one quarter of GDP. This is one explanation why private sector activity expanded so rapidly after the fall of Communism. The number of private enterprises has increased quite substantially. This has happened much more through the birth of new enterprises than through the formal privatisation of state assets. Close to 65% of the labour force is now employed in the private sector (which now represents 60% of GDP), mostly in small firms. More than 95% of the private enterprises consists of firms with 5 employees or less. The total number of private enterprises is already three times as large as the number of state enterprises, and the growth of the private sector is largely responsible for the boost to exports and investment.

Foreign Direct Investment

In spite of the international appreciation for the Polish shock therapy approach, foreign direct investment (FDI) was off to a slow start during the initial stages of transition. FDI inflows have begun to pick up considerably since 1994. In 1996, the inflow was about 1.8% of GDP. The cumulative FDI inflow since 1989 reached a level of ECU 4.0 billion (source: EBRD), which corresponds to slightly more than ECU 100 per inhabitant (the Polish Government Agency for Foreign Investment (PAIZ) reports that the FDI inflow in 1996 alone has reached more than ECU 4.0 billion. The PAIZ estimates that the cumulative inflow of FDI since 1990 has been about ECU 11 billion). Apart from the potential of domestic demand - Poland is the largest national market in the region in terms of population - the proximity of the German market is a major argument for foreign direct investment.

Economic Structure

In the period since 1989, the share of agriculture in Polish GDP decreased substantially. The share of **agriculture** in total gross value added is now less than 8%. Nevertheless, the much higher share in employment suggests that the restructuring of the agricultural sector has only just got under way. The necessary adjustment has important consequences for the economy as a whole. During transition, agricultural employment performs a buffer function. Today, more than 4 million workers - one quarter of the labour force - still depend in one way or another on income from farming. For some of them this is not the only source of income. A major element of government support to the rural population consists of social security allowances provided by the KRUS fund. In a situation of persistently high unemployment, in which the main impetus to economic growth comes from productivity improvements, it is difficult for agricultural workers to find a job elsewhere in rural areas.

The disparity between the contribution of the agricultural sector to GDP and its share in total employment indicates that agricultural labour productivity is much lower than labour productivity for the economy as a whole. Agricultural production is generally on a small scale and lacks technology. The arable land per farm is 6.7 hectares, but this average obscures the dichotomy between a stable number of small farms and a growing number of units over 15 hectares. If formerly state-owned farms are included, 50% of agricultural land is cultivated by the larger farms. They are located mostly in northern Poland, where the average farm size exceeds 15 hectares. In the south-eastern part of Poland, the average farm size is 4.5 hectares. The immediate prospects for farm restructuring are not good. Whereas the number of people employed solely in agriculture has increased in recent years, only 15 to 20% of farms generate sufficient financial resources of their own to invest in farm enlargement.

The prices of most agricultural products in Poland are significantly below those in the EU. The price-cost squeeze caused a fall in production in the early years of transition, when subsidies to the agricultural sector were largely taken away. In 1993, Poland's overall trade surplus on agricultural products turned into a deficit, in spite of the considerable surplus which remained on the trade balance with eastern Europe. The main reason for the persistence of the trade deficit in agricultural products with the West is the difference in the quality of the goods. Improving the quality and realising the potential gains in productivity would require important investments in infrastructure and a radical modernisation of farming.

The Agricultural Market Agency (ARR) was set up by the Polish government in 1990 to stabilise agricultural and food markets and protect farmers' incomes, mirroring the CAP to some extent. The share of consumption expenditure on food is high. The ARR applies a system of minimum prices for wheat, milk and grains, but state intervention has not succeeded in bringing price stability. The share of food and agricultural products in consumption may be declining due to the shift in the consumption patterns of households when they move into higher income brackets, but consumption is shifting to higher-quality import goods.

Industry, which accounts for over 30% of domestic output and about 25% of total employment, is very dynamic and has been the driving force behind the recovery. The manufacturing sector experienced strong productivity growth. Between 1994 and 1996, manufacturing output grew by almost 10% per year, while employment remained roughly constant. In January 1997, the output of the food processing industry, which constitutes one quarter of total manufacturing output, was 25% higher than the monthly average of 1994. Most other manufacturing industries show similar output growth. The manufacturing of motor vehicles, by far the fastest-growing industry, nearly doubled. Several western and east Asian car manufacturers have opened assembly operations in the country. The production of most primary products, on the other hand, has decreased. A particularly troubled sector is coal mining, where prices and wages have increased faster than in the rest of the economy.

Coal will increasingly be substituted by imports of natural gas to satisfy the future needs of the economy. The Polish gas company has signed a 25-year deal with Russia's Gazprom which in the long run is expected to satisfy 40% of Polish energy needs. Important other sectors which need restructuring are steel industry and shipbuilding.

Main indicators of economic structure
(all data for 1996 unless otherwise indicated)

Population	*million*	38.6
GDP per head	*PPS-ECU (1995)*	5300
as % of EU-15 average	*per cent (1995)*	31
Share of Agriculture in:		
gross value added	*per cent (1995)*	6.6
employment	*per cent (1995)*	26.9
Gross foreign debt/GDP	*per cent*	32
Exports of goods & services/GDP	*per cent*	22
Stock of foreign direct investment*	*billion ECU*	4.0
	ECU per head	100

** FDI stock converted at end-1996 exchange rate of 1 ECU = $1.25299*

Source: Commission services, national sources, EBRD

The **services** sector has grown fairly rapidly. Retail trade is almost exclusively in private hands. Franchises of foreign companies have entered the Polish market. However, increasingly foreign retailers and in particular large food chains are present on the market. Although most cities are served by the leading hotel and restaurant chains, there remains scope for development in view of the expected increase in tourist and business activities. Another sector with a high potential for economic growth is that of financial and banking services.

Poland has a substantial **informal sector**. The integration of this part of the economy has received considerable attention in consecutive government programmes. In spite of the buoyancy of the private sector, taxes collected from enterprises have gone down. It is believed that many small enterprises wait until they have reached a sustainable basis for making profits before reporting to the tax authorities.

Other evidence of underreporting of business activities can be found in the importance of unrecorded trade as measured by the currency deposits at private exchange offices, which amounted to ECU 5.5 billion in 1996. But the most significant indication of the existence of a substantial grey zone comes from the Labour Force Survey, which identified 2.4 million jobs (almost exclusively part-time) which are not picked up by the standard employment statistics based on data of registered companies.

Liberalisation

Price Regime

The reform programme began with price and trade liberalisation. Since January 1990, the great majority of prices has been determined by the market, though some important ones remain under administrative control: energy, public transport, rents, pharmaceuticals and spirits. Since they are important items in household consumption, they play a significant part in inflation figures: 23% of the inflation index prices are administered. As mentioned above, price supports apply to certain agricultural products, which also form a sizeable component of the consumption package.

TradeRregime

Foreign trade was liberalised to a very large extent at the start of transition, but since then there has been some backtracking. Most of the tariff and non-tariff barriers to trade were removed in 1990, and many of the remaining ones have been made more transparent. Quantitative restrictions on agricultural imports, for instance, were converted into tariffs in May 1995. However, on occasions, these tariffs were increased rather than reduced. One clear example is the 6% import surcharge which was introduced in 1992 and applied to all goods. It has since been reduced in steps, and the government has completely removed the surcharge at the beginning of 1997. Nevertheless, doubts remain about the government's resolve to withstand mounting pressures for procedural and non-tariff protection. These pressures are particularly strong in the agricultural sector, but there have also been delays in the scaling-down of tariffs on the imports of steel and petrochemicals with reference to the restructuring clause of the Europe Agreement.

To support exporters and banks financing export transactions, the Export Credit Insurance Corporation was established in 1991; it is mainly owned by government departments and state-owned banks. Direct support to exports through credits is relatively limited.

Foreign Exchange Regime

As part of the liberalisation of trade, the zloty was made convertible for trade transactions in 1991, and it achieved full current-account convertibility in 1995. Some restrictions still exist on cross-border capital transactions. The zloty is fixed against a basket of currencies with a band of +/-7%, and the central rate is devalued every month by 1%. The exchange rate thus operates under a clear regime, depreciating in line with announced policy, with few ad hoc adjustments. In 1995, because of the strength of the external position, the market exchange rate appreciated and the central rate had to be revalued.

Exchange rate management became a problematic area of monetary policy in 1996 when short-term capital inflows increased in response to the combination of high interest rates and the expectation of further revaluations. In response, the NBP moved from direct interest rate targeting to reserve money targeting. The exchange rate was also allowed to fluctuate more freely within its band, thus increasing uncertainty and thereby discouraging speculative capital inflows. This provides the monetary authorities with greater flexibility.

Stabilisation of the Economy

Domestic

The costs of reform have not been negligible. The rapid inflation of 1989 and the decline in output in the following two years were accompanied by a decline in real wages and a dramatic fall in investment. Living standards dropped. Unemployment rose sharply. The budget deficit of the government increased.

Main economic trends		**1994**	**1995**	**1996**
Real GDP growth rate	*per cent*	5.2	7.0	6.0
Inflation rate	*per cent*	32.2	27.8	19.9
December on December	*per cent*	29.4	21.9	18.7
Unemployment rate, end-year	*per cent ILO definition*	14.4	13.3	12.4
General government budget balance	*per cent of GDP*	-2.4	-1.9	-2.6
Current account balance	*per cent of GDP*	-1.0	-1.9	
-incl. unclassified transactions			4.6	-1.0
Debt/export ratio	*per cent*	249	192	146
Foreign direct investment	*per cent of GDP*	0.6	1.1	1.8
Source: Commission services, national sources, EBRD				

The situation has improved year after year. Real GDP growth rates have been positive since 1992. In 1995 the economy grew by a record 7% in real terms, and it seems set to continue broadly at this pace. Real wages have been rising since 1994, and the unemployment rate began to decline in 1996. At the end of April 1997, registered unemployment was 2.1 million, which is lower than in the five previous years and corresponds to less than 13% of the labour force. Inflation, which lingered at an annual rate of 20% during much of 1996, is now clearly on a downward track. By April inflation stood at 15.3%. The target of 13% for the end of 1997 is within reach. The budget deficit of the state has been reduced to just below 3% of nominal GDP. This includes government revenue from privatisations and refers to the budget of the central government only. Without a reform of the social security and pension systems which is actively considered in Parliament, the general government balance could be seriously affected by socio-demographic changes in the longer run. The ratio of public debt to nominal GDP has declined and is now 54 %.

External

Poland is a large and increasingly open economy: exports account for roughly one quarter of GDP, which makes the openness of the Polish economy comparable to that of EU Member States of a similar size in terms of population. The official trade deficit amounted to ECU 1.4 billion in 1995. But with the inflows from unrecorded trade, which are estimated to have been ECU 6.0 billion, the trade balance would have been in considerable surplus. Estimates of these flows are included in the current account data since January 1996.

The official current account deficit grew throughout 1995 not only because of the deficit on visible and invisible trade but also because of the resumption of interest payments on foreign debt. The current account deficit rose to ECU 1.8 billion in 1995 compared to ECU 0.8 billion in 1994. Including the balance on unrecorded trade, the current account for 1995 would have shown a 4.2 billion surplus. In 1996, this surplus has turned into a deficit of ECU 1.41 billion, which, as a percentage of GDP, is still a moderate deficit. The trade deficit has widened from ECU 1.4 billion in 1995 to 6.5 billion in 1996, due to the volume of imports rising almost three times as fast as the volume of exports. Still, this was largely offset by the positive balance on unclassified transactions, which decreased from ECU 6.0 billion in 1995 to ECU 5.7 billion in 1996. The largest part of the unrecorded transactions, which were previously included in the financial account as purchases of foreign currencies by private banking agencies, is thought to be related to tourism and trade transactions not covered by customs statistics at the Eastern frontier. A smaller part is related to cross-border shopping at the Western frontier.

In the 1980s, Poland had the fourth-highest foreign debt in the world, and was unable to service it. Debt reduction and rescheduling agreements were reached in 1991 and 1994 with government and commercial creditors, making it possible for Poland to resume debt servicing payments. The debt-servicing burden has lessened and is being steadily reduced by strong export growth: only 10% of earnings from exports went on debt repayment in 1995 compared to 70% (on a due basis) in 1991. Poland has, as a result, regained access to international capital markets.

The external position is strong. Since late 1993, foreign exchange reserves have been growing rapidly because of steady inflows of foreign and portfolio investment. In October 1996 reserves stood at close to ECU 14 billion, which covers 6 to 7 months of imports.

Structural Change

Foreign Trade

Since transition began, there has been a significant reorientation of trade towards Western markets, and in particular to the Union. The shift in trade took place mainly between 1989 and 1993. In 1994 and 1995, the growth in central and east European markets led to an increase of their shares in Polish trade. Moreover, exports to central and eastern Europe recently started to grow faster than the Polish imports from the same region. The EU remains by far the largest trade partner of Poland, accounting for two thirds of exports. Exports to Germany alone account for more than one third of total exports.

Labour Market

The initial decline in output and the restructuring of enterprises resulted in a significant fall in employment. Unemployment therefore increased, rising from negligible levels in the beginning of 1990 to more than 14% of the labour force in 1994. The increase in unemployment has been particularly strong in areas dependent on single large plants or sectors. In 1996, registered unemployment has started to fall and is now down to a level of 12.4% (April 1997). However, the decrease is not matched by a similar increase in employment figures. The official figures show that nearly 65% of employment is in the private sector.

From 1992 onwards, the government was using an excess-wage tax and a lump sum tax on equity to control wages. The excess-wage tax was abolished in April 1994, and a new and a more flexible system of wage control was approved by the President in July 1994, after having been vetoed earlier on. Within the new system of collective bargaining, a Tripartite Commission sets ceilings for the quarterly and yearly growth of real wages in firms with more than 50 employees. In principle, this allows the authorities some discretion in resisting full and automatic indexation.

The government is also making attempts to defer the automatic indexation of government wages, pensions and the economy-wide minimum wage to quarterly inflation. The success up to now is limited, and the system is still very much one of *de facto* indexation.

Public Finances

Fiscal reform was crucial as the role of government was redefined and the revenue sources changed. The reform of the tax system was radical and rapid: corporate and income tax and VAT were introduced by 1993. Changes in the social security system have begun, but further reform is required as the deficits of social security funds continue to increase. The main area in need of reform is the pension system, which is strained not only by the prospect of an ageing population but also by the low statutory retirement age and generous early retirement possibilities.

Attempts to broaden the tax base have repeatedly run into problems. There is little incentive for the smaller firms to be officially registered, except when they are offered tax exemptions or tax shelters in the form of free enterprise zones. This is the reason why, despite a sharp rise in enterprise profits, the share of corporate taxes in total government revenue dropped. Tax evasion and arrears create additional problems for the tax-raising power of the government.

Total government expenditure is about 50% of GDP. Subsidies to firms, which in the 1980s formed a high percentage of government expenditure, still constituted 8% of GDP in 1990. Explicit subsidies in the government budget have since been reduced to less than 2% of GDP. Enterprise support has recently re-emerged in the context of restructuring programs, mainly for the coal sector and for toxic waste containment. The importance of subsidies to enterprises in the government budget should therefore be expected to rise again. Implicit subsidies in the form of tax and social security arrears have also not been completely eliminated and new exemptions are created by the establishment of free economic zones.

Enterprise Sector: Privatisation and Enterprise Restructuring

The move to a market economy is clearly intimately linked with privatisation of state-owned property and the restructuring of production processes. For the economy as a whole, it is estimated that 60% of GDP is generated in the private sector. The "small-scale" privatisation of retail, catering and service sectors was more or less completed between 1990 and 1992. The "large-scale" privatisation, on the other hand, was slow to take off: to date, few of the large enterprises have actually completed the privatisation process. The private sector's share in the creation of industrial output reached 52% in 1996. Privatisation is also slow in the energy and telecommunications sectors, and it is strongly resisted in the area of postal and transport services. The process was given some impetus in 1995 with the launch of the mass privatisation programme through the sale of vouchers.

The relatively slow start of large-scale privatisation does not mean that changes in the economy as a whole have not taken place; indeed some large enterprises have succeeded in restructuring to a certain extent while being state-owned. But the expansion of the private sector has to a large extent come from the birth of new enterprises. This was made possible by the liberal rules on establishing businesses, modest tax incentives, decentralised trade policy and currency convertibility. All this meant businesses could start up with only small amounts of capital, thus side-stepping the problems of high interest rates and the shortage of bank credits.

The speed of restructuring depends in part on the access to financing for new investment. This can be accumulated through retained earnings or borrowed domestically, acquired through sales of shares or brought in from abroad. Because of the slow privatisation of large enterprises, the borrowing of enterprises abroad has been rather limited, but foreign direct investment (FDI) has recently begun to flow into Poland as opportunities for investment expanded.

Financial Sector

The monobank system was dismantled in 1989: the central bank and commercial bank functions were split. The banking sector has since developed quite rapidly. The banking density in Poland remains rather low and the transactions of the private sector in Poland are still largely cash-based, but the performance of banks has clearly improved. In 1995 the banking sector as a whole returned to profitability after two consecutive years of negative results owing mainly to reserves put aside for bad debts. The soundness of the banking system was enhanced through the recapitalisation of the state-owned banks, the improvement of the capital base of private banks and intensified supervision.

A large number of commercial banks operate in Poland under the supervision of the National Bank of Poland (NBP), including state-owned and foreign-owned banks. Between 1991 and the end of 1996 the banking system underwent widespread transformation. The number of commercial banks increased from 76 to 78 while the number of cooperative banks decreased from 1665 to 1394.

Total assets of banks reached 198 billion zloty, i.e. around 57% of GDP. At the end of 1996, the state held just below 50% of the total share capital of the commercial banks. At the same time, foreign share ownership had increased to just below 30%. The state controlled a majority of the shares in 24 banks, whereas 32 others were controlled by Polish shareholders. Foreign shareholders owned a majority in 24 banks. The government policy is to favour the presence of foreign banks through the creation of joint stock companies or by taking up shares in Polish banks. The rationale behind this policy is that it supports the privatisation process and also strengthens the capital base of the banking sector.

During 1993-1995, only four of the nine state-owned, so-called regional commercial banks which emerged from the break-up of the NBP have been privatised. Currently one further bank is being privatised, while the remaining four are to be privatised in 1998. On the other hand, out of the 5 largest Polish banks operating at a national level only one has been fully privatised and a second is currently under privatisation. The deposits market is dominated by these nine regional banks and the big five banks. The loans market is less concentrated.

One indicator of inadequate competition in the banking sector is the spread between deposit and credit interest rates which remains quite large, as banks still have a bad loans problems. The total share of bad loans stood just below 6% at the end of 1996. Since it is estimated by the NBP that less than 4% of the new loans turns bad, the situation can be expected to improve. Indeed, the spread between interest rates on loans and deposits decreased from 12.5 percentage points in 1991 to around 8 points in 1996. The share of loans to private firms in the loan portfolio of banks has been growing but it remains lower than the lending to state enterprises. Most bank loans have a maturity of up to one year.

The Warsaw Stock Exchange opened in 1991. Sessions are held five times a week, but the number of companies that are listed remains rather limited. At the end of 1996, 106 companies were traded with a market capitalisation of about ECU 6.8 billion. Another 25 are expected to gain admission during 1997. Recently, 15 National Investment Funds have been listed, which control 512 formerly state-owned companies privatised through the mass privatisation programme. The development of an over-the-counter market, which can be more flexible than the stock exchange, could facilitate the secondary trading of share certificates, and thereby contribute to the success of the mass privatisation programme. This scheme, launched in August 1995, has met with considerable enthusiasm: nearly 26 million vouchers were distributed and prices on the secondary market have risen sharply.

Treasury bonds dominate the activity in the bond market, while the market for corporate bonds is not much developed. The money market is at an early stage of development although its size increased and its liquidity improved in recent years.

Economic and Social Development

Social Indicators

Poland has a relatively young population with high literacy rates. During the 1970s, there was a significant migration from rural to urban areas. Life expectancy rates are improving, although they remain below the EU average.

The work force is relatively large because of a high participation rate, and is highly skilled. More than one third of the population, and 65% of the working population, has followed at least secondary education. About 10% of the labour force has a university education. At present, approximately 96% of children continue their education at the secondary school level.

Regional and Sectoral Differences

Regional and sectoral planning in Poland used to be such that the interests of powerful industries prevailed over regional interests. Industrial zones were implanted close to big cities that were already well equipped with infrastructure. After 1990, regional policy has remained weak in spite of the devolution of some authority and financial responsibilities to local government, including the larger cities. One of the problems appears to be that the structure of 49 voivodships, created out of larger regions under the Communist regime, does not fit regional identities very well.

The speed of privatisation was highest in the most industrialised regions, where the available and relatively modern capital stock constituted a critical mass and where the necessary infrastructure was in place. Privatisation was also successful in the large urban areas, where it proved to be relatively easy to change the ownership of retail trade firms. The inflow of foreign capital originally concentrated upon the big urban centres and the western part of the country. One third of all joint ventures were located in the voivodship of Warsaw and more than three quarters of the joint ventures were registered in the 10 leading voivodships.

Unemployment is very much a regional issue. In some areas in the northern part of Poland, unemployment is as high as 30%, whereas it is as low as 5% in the area of Warsaw. The labour market is clearly tighter in the city regions of Warsaw, Katowice or Lodz. This applies in particular to the part of the population with post-secondary or secondary vocational training. In more rural areas, unemployment is still increasing.

2.2 The Economy in the Perspective of Membership

Introduction

The European Council in Copenhagen in 1993 defined the conditions that the associated countries in central and eastern Europe need to satisfy for accession. The economic criteria are:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

These criteria are linked. Firstly, a functioning market economy will be better able to cope with competitive pressure. Secondly, in the context of membership of the Union, the functioning market is the internal market. Without integration into the internal market, EU membership would lose its economic meaning, both for Poland and for its partners.

The adoption of the *acquis*, and in particular the internal market *acquis*, is therefore essential for a candidate country, which must commit itself permanently to the economic obligations of membership. This irreversible commitment is needed to provide the certainty that every part of the enlarged EU market will continue to operate by common rules.

The capacity to take on the *acquis* has several dimensions. On the one hand, Poland needs to be capable of taking on the economic obligations of membership, in such a way that the single market functions smoothly and fairly. On the other hand, Poland's capacity to benefit fully from the competitive pressures of the internal market requires that the underlying economic environment be favourable, and that the Polish economy have flexibility and a sufficient level of human and physical capital, especially infrastructure. In their absence, competitive pressures are likely to be considered too intense by some sections of society, and there will be a call for protective measures, which, if implemented, would undermine the single market.

The capacity and determination of a candidate country to adopt and implement the *acquis* will be crucial, since the costs and benefits of doing so may be unevenly spread across time, industries and social groups. The existence of a broad based consensus about the nature of the changes to economic policy which membership of the Union requires, and a sustained record of implementation of economic reforms in the face of interest group pressure reduce the risk that a country will be unable to maintain its commitment to the economic obligations of membership.

At the level of the public authorities, membership of the Union requires the administrative and legal capacity to transpose and implement the wide range of technical legislation needed to remove obstacles to freedom of movement within the Union and so ensure the working of the single market. These aspects are examined in later chapters. At the level of individual firms, the impact on their competitiveness of adopting the *acquis* depends on their capacity to adapt to the new economic environment.

The Existence of a Functioning Market Economy

The existence of a market economy requires that equilibrium between supply and demand is established by the free interplay of market forces. A market economy is functioning when the legal system, including the regulation of property rights, is in place and can be enforced. The performance of a market economy is facilitated and improved by macroeconomic stability and a degree of consensus about the essentials of economic policy. A well-developed financial sector and an absence of significant barriers to market entry and exit help to improve the efficiency with which an economy works.

The Polish economy is functioning as a market economy, although much scope exists for further development. In particular, the housing and land markets are underdeveloped. Even under the Communist regime, part of the Polish economy was functioning as a market economy, though relying primarily on a form of barter trade. The agricultural sector was never completely collectivised and there always existed an informal network of underground businesses. This is one explanation why the transition process has been so dynamic.

The challenge for the Polish authorities is to bring this grey zone into the open, and make it part of the official economy. For legalisation to take place, there must be incentives for businesses to register with the authorities and to pay taxes. Enforcing the system of tax collection and making it attractive to firms to register by offering tax exemptions is not sufficient. The legal framework must be such that firms have an active interest in being registered, for instance because that provides them with the necessary legal protection in case of commercial disputes, or because it will enable them to have easier access to the financial markets.

With the exception of some energy prices, and to a certain extent housing rents and medicine prices, most prices in Poland are market-determined, and no longer publicly administered. Price setting on the coal market is distorted because coal mines are still allowed to operate on a loss-making basis. The government intervenes actively in the markets for agricultural and food products, which form a substantial part of consumption. This intervention consists of price support and other guarantees.

Tariffs on foreign trade were reduced immediately in 1990 and non-tariff barriers were largely eliminated, but the deterioration of the trade balance was used as a reason to raise import tariffs again at the end of 1991. The average tariff returned to the pre-reform level and an import surcharge was imposed in 1993. After several delays, the surcharge was eliminated at the start of 1997. This is illustrative of a tendency to find ways around international trade commitments and the Europe Agreement. A consistent implementation of the Europe Agreement - to the letter as well as in spirit - should help to counter such pressure.

The policy framework for maintaining macroeconomic stability in Poland is largely in place. Monetary policy is skilfully handled and fiscal restraint has received priority in the latest versions of government plans. One difficulty is that the composition of government revenues has shifted dramatically from corporate taxes to VAT and personal income tax. Although this is very desirable in itself, such major shifts can lead to revenue loss during the changeover. Another problem is that the outlays on pensions and benefits have increased sharply due to indexation mechanisms. Performing the double act of reducing inflation and the budget deficit is difficult. The government is, so far successfully, aiming at an adjustment of inflationary expectations in line with its targets. It has also put forward proposals to link the capitalisation of new pension funds to the privatisation of state enterprises, which should ease pressure on the social security funds in the longer term.

The Capacity to Cope with Competitive Pressure and Market Forces

It is difficult, some years ahead of prospective membership, and before Poland has adopted and implemented the larger part of Community law, to form a definitive judgment of the country's ability to fulfil this criterion. Nevertheless, it is possible to identify a number of features of Poland's development which provide some indication of its probable capacity to cope with competitive pressure and market forces within the Union.

The capacity to cope with competitive pressure and market forces within the Union requires a stable macroeconomic framework within which individual economic agents can make decisions in a climate of a reasonable degree of predictability. There must be a sufficient amount of human and physical capital including infrastructure to provide the background so that individual firms have the ability to adapt to face increased competitive pressures in the single market. Firms need to invest to improve their efficiency, so that they can both compete at home and take advantage of economies of scale which flow from access to the single market. This capacity to adapt will be greater, the more firms have access to investment finance, the better the quality of their workforce, and the more successful they are at innovation.

Moreover, an economy will be better able to take on the obligations of membership the higher the degree of economic integration it achieves with the Union ahead of accession. The more integrated a country already is with the Union, the less the further restructuring implied by membership. The level of economic integration is related to both the range and volume of goods traded with member states. Direct benefits from access to the single market may also be greater in sectors where there are a sizeable proportion of small firms, since these are relatively more affected by impediments to trade.

A first indicator of Poland's competitiveness is the degree to which it already has achieved trade integration with the EU. Two thirds of Polish exports are going to the EU, and the corresponding percentage on the import side is similar. The largest part of both imports and exports - again roughly two thirds in both cases - concerns manufactured goods. Poland has a positive trade balance on the lighter manufactured goods. The balance on machinery and transport equipment is negative, but exports as well as imports are sizeable components of overall trade.

Another indicator of competitiveness is the ability of enterprises to adjust. Here, it should first of all be noted that the Polish economy is characterised by a dichotomy between the performance of the private sector, which is dominated by small firms, and the performance of the larger companies, of which the majority is still state-owned. The private sector is thriving. For some of the smaller firms it may be difficult to survive foreign competition, but there will be new opportunities for firms that are specialised in trade and services. The privatisation process for the larger companies is slow.

A number of the state-controlled enterprises are generating losses and many more state enterprises are in need of restructuring. The problems are especially severe in the coal, steel and defence industries. Because of the regional importance of these industries, their transformation has painful consequences for those eastern and southern parts of Poland which depend on a few heavy industries. Other companies which are in trouble are chemical plants and shipyards. The Gdansk shipyard, which has been a symbol of political change in Poland, but which resisted economic adjustment, went into bankruptcy in 1996 and was forced to dismiss its workers. In the sharpest possible contrast, the Szczecin shipyard engaged in deep restructuring early on, and in its privatised form became the sixth largest shipyard in the world.

Although Poland's workforce is relatively highly educated, the market for skilled labour is tight, especially in the larger cities. Improvements in infrastructure, transport and telecommunications could help to spread economic development more equally across the country. R&D expenditure stood at less than 1% of GDP in 1994, which may be partly due to the rather passive role of the larger state enterprises. The government has established a program for technology transfer to small and medium-sized enterprises, which has an explicit objective of regional distribution. Unemployment in Poland is high, and there are important regional differences in unemployment rates. The share of the labour force employed in the agricultural sector is large and the productivity per head is low. But even if the number of farm workers could be reduced, the sector would overall continue to show low productivity due to the small size of the average farm.

Small and medium-sized enterprises gradually find their way to the banks for credit, helped by their recent track record in operating under market conditions. The banking sector is still largely state-owned and there is a lack of training of the staff. Banks have also not been very successful in attracting household savings. As a consequence, the success of Polish exporters on Western markets has on occasions been hampered by lack of funds.

Foreign direct investment in Poland has been relatively modest, but recently has picked up significantly. Opinion polls reveal that this is not the result of a negative attitude among the population at large, although the public is concerned about the competitive position of Polish producers. As the recent experience with car assembly operations has illustrated, pressures can also be exerted in the interest of foreign investors. In addition uncertainties in Poland's taxation regime as well as bureaucratic obstacles have been impediments to higher levels of foreign direct investment. There is a general tendency to bend national legislation and interpret international agreements in such a way that certain producers are favoured over others.

Prospects and Priorities

Successive Polish governments have made serious attempts to improve competitiveness by framing policy in a comprehensive medium-term context, integrating macroeconomic and structural policies as well as preparations for EU accession. The "Strategy for Poland", adopted in June 1994, was an ambitious medium-term programme aiming at export- and investment-led growth, continued disinflation and sound public finance. It envisaged a comprehensive reform, ranging from the reorganisation and decentralisation of public administration to the integration of the shadow economy into the official one. "Package 2000" is a more recent update of the programme, which focuses on the requirements of EU accession, and more specifically on the need for greater fiscal discipline and the channelling of national savings into investment. The reinforcement of tax collection and the engagement of the informal part of the economy are recognised as priorities. The document "Euro 2006" was added to this package in January 1997. It claims that Poland will be ready to join the single currency area in 2006. The National Strategy for Integration, drawn up by the Committee for European Integration, pays more attention to adjustment costs. In April 1996, the Polish Council of Ministers adopted a longer-term view in their "Outline Concept of the Strategy for a Development of Poland up to 2010".

From a macroeconomic point of view, and within the context of Poland's crawling-band exchange rate system, an increase in real wage costs exceeding labour productivity growth could be particularly harmful to the economy. The initially favourable export position of Poland is already partly eroded by the real appreciation of the exchange rate, and the volume of imports is rising much faster than the volume of exports. A rise in real unit labour cost would make it less attractive for foreign investors to invest in the export sector.

An essential element of the strategy to make the government sector both leaner and stronger is the privatisation of state-owned enterprises. Poland has decided to restructure the larger enterprises prior to privatisation, and this has made the process very slow. By the end of 1995, privatisation had started in less than half of the state-owned enterprises that existed in 1990 and had been completed for less than one in five of the enterprises. In June 1996, the Polish Parliament finally adopted the law on the commercialisation and privatisation of state-owned enterprises, of which the first draft had been produced in 1993 by the last Solidarity government. Under the new law, state-owned enterprises first have to be transformed into commercial enterprises, with shareholders and a board of directors. Shares and therefore power will be with the Treasury, leaving substantial scope for political influence on individual privatisation operations.

The largest part of the banking sector is still in the hands of the state and does not offer a wide range of services. Staffing is often qualitatively inadequate, as in other sectors where education is good but not necessarily very market-oriented. However information on banking operations is still insufficient. As in the enterprise sector, much of the attention has gone to consolidation prior to ownership transfer. In the autumn of 1995 some of the remaining state-owned banks and some of the already privatised banks were re-grouped into two holdings. A large part of the shares in those new holdings are to be used by the state to set up and finance pension funds, and to compensate pensioners for incomplete indexation.

Pension reform has been high on the list of priorities, and as such was already included in the Strategy for Poland. Only recently concrete steps have been taken and the government has submitted a series of legislative proposals which is currently being examined. Meanwhile expenditures on pensions have soared in the past five years, when recourse was taken to early retirement and disability pensions to contain the rise in unemployment. The generosity of pension adjustments caused pension outlays to rise to a level of 16% of GDP; much higher than the EU average of about 10%. Demographic pressures will rise even more when the baby boom generation born after World War II will reach retirement age after 2005.

In July 1996 the Constitutional Tribunal ruled that the government's decision to stop adjusting pensions in accordance with the rise in average wages was illegal. Although this has been interpreted as meaning that some form of compensation should be provided, rather than that automatic indexation should be reinstated, it illustrates the difficulty of breaking with indexation mechanisms. At present, the Tripartite Commission of government, employers and employees decides on a normative ceiling for wage rises, which is based on the inflation target of the government but which is adjusted when quarterly inflation turns out to be much higher. This ceiling is in danger of turning into a floor for decentralised wage bargaining and wage bargaining in the smaller firms that do not fall under the Tripartite Commission. As soon as the government succeeds in getting inflation down by more than was expected, there could be a considerable increase in real wages.

2.3 General Evaluation

Poland can be regarded as a functioning market economy. Prices and trade have been liberalised to a large extent. The economy has been successfully stabilised. Commitment to this policy line has been maintained through various changes in government. However, in order to guarantee longer-term stability, pension and social security systems need to be reformed. Financial services are underdeveloped. The banking sector needs further reform.Poland should be well able to cope with competitive pressure and market forces within the Union in the medium term, provided it maintains the pace of restructuring and keeps the economy open. Growth and investment are strong, and the rise in unit labour costs in the manufacturing sector has been moderate.

Recently, inflows of foreign direct investment have accelerated. However, the main problem is that of larger state-owned companies, where management failures in the face of foreign competition could have serious consequences for the economy as a whole. Agriculture needs to be modernised, and there have been some reversals in trade policy.

3. Ability to Assume the Obligations of Membership

The European Council in Copenhagen included among the criteria for accession “the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union”.

In applying for membership on the basis of the Treaty, Poland has accepted without reserve the basic aims of the Union, including its policies and instruments. This chapter examines Poland’s capacity to assume the obligations of membership - that is, the legal and institutional framework, known as the *acquis*, by means of which the Union puts into effect its objectives.

With the development of the Union, the *acquis* has become progressively more onerous, and presents a greater challenge for future accessions than was the case in the past. The ability of Poland to implement the *acquis* will be central to its capacity to function successfully within the Union.

The following sections examine, for each main field of the Union’s activity, the current and prospective situation of Poland. The starting-point of the description and analysis is a brief summary of the *acquis*, with a mention of the provisions of the Europe Agreement and the White Paper, where they are relevant. Finally, for each field of activity there is a brief assessment of Poland’s ability to assume the obligations of membership on a medium-term horizon.

3.1 Internal Market Without Frontiers

Article 7a of the Treaty defines the Union’s internal market as an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured. This internal market, central to the integration process, is based on an open-market economy in which competition and economic and social cohesion must play a full part.

Effective implementation of the liberties enshrined in the Treaty requires not only compliance with such important principles as, for example, non-discrimination or mutual recognition of national regulations - as clarified by Court of Justice rulings - but also concomitant, effective application of a series of common specific provisions. These are designed, in particular, to provide safety, public health, environmental and consumer protection, public confidence in the services sector, appropriately qualified persons to practise certain specialist occupations and, where necessary, introduction or coordination of regulatory and monitoring mechanisms; all systematic checks and inspections necessary to ensure correct application of the rules are carried out within the market, not at frontier crossings.

It is important to incorporate Community legislation into national legislation effectively, but even more important to implement it properly in the field, via the appropriate administrative and judicial structures set up in the Member States and respected by companies. This is an essential precondition for creating the mutual trust indispensable for smooth operation of the internal market.

This chapter must be read in conjunction with, inter alia, the chapters on social policy, the environment, consumer protection and sectoral policies.

The Four Freedoms

A step-by-step approach is being taken to absorption of the *acquis* by the candidate countries:

- The Association Agreement between the Community, its Member States and Poland entered into force on 1 February 1994. With regard to the four freedoms and approximation of legislation, the Agreement provides, in particular, for immediate or gradual application of a number of obligations, some of them reciprocal, covering, in particular, freedom of establishment, national treatment, free trade, intellectual property and public procurement.

- The Commission's 1995 White Paper (COM (95) 163 final), guidelines intended to help the candidate countries prepare for integration into the internal market, gives a closer definition of the legislation concerned. It identifies the "key measures" with a direct effect on the free movement of goods, services, capital and persons and outlines the conditions necessary in order to operate the legislation, including the legal and organisational structures. Twenty-three areas of Community activity are examined, dividing the measures into two stages, in order of priority, to provide a work programme for the pre-accession phase. The Technical Assistance and Information Exchange Office (TAIEX) was set up with the objective of providing complementary and focused technical assistance in the areas of legislation covered in the White Paper. A legislative database has recently been established by the Office.

- The candidate countries will have to transpose and implement all the *acquis*. The "Action plan for the single market" submitted to the Amsterdam European Council gives details of the priority measures necessary to make the single market work better between the Fifteen in preparation for introduction of the single currency. This will inevitably entail changes to the *acquis*.

General Framework

Whatever their field of activity, undertakings must be able to operate on the basis of common rules. These are important since they shape the general framework within which economies operate and, hence, the general conditions of competition. They include the rules on competition (on undertakings and State aid) and tax measures discussed elsewhere in this opinion, the opening-up of public works, supply and service contracts, harmonisation of the rules on intellectual property (including the European patent), harmonisation of the rules on company law and accountancy, protection of personal data, transfer of proceedings and recognition of judgments (Article 220 EC Conventions).

Descriptive Summary

The Polish Act on public procurement was enacted in 1994 with a view to creating a uniform system of public procurement based on the principles of openness, transparency and fair competition. Several implementing texts have been also adopted. An independent Office of Public Procurement is responsible for the various aspects of public procurement in Poland.

In the area of intellectual and industrial property, the Polish legislative system has been substantially overhauled as part of the country's transition to a market economy. New laws have been adopted in respect of all industrial property rights (patents, trademarks, designs and models) and in the area of intellectual property (1994 Act).

The Polish authorities are planning to codify the texts on industrial property and amend them at the same time so as to ensure that they are fully compatible with the Community legislation on industrial property and the agreement on the trade related aspects of intellectual property rights (TRIPs). The entry into force of the code, originally scheduled for 1997, appears to have been put back until 1998. Poland is a party to the TRIPs agreement which will begin to apply there from 1 January 2000.

Polish company law is governed by a number of statutes, principally the Commercial Code. A wide range of forms of company are recognised under Polish law. These include private and public limited companies, of which there are approximately 107 000 currently registered. Public limited companies may issue shares to raise finance, and there are basic provisions in the law which afford shareholders protection. There are minimum capital requirements for companies. Creditors benefit from a basic level of protection. The district court keeps a commercial register in which key information about each company is recorded. The register is open to anyone to consult.

Regarding accountancy law, Poland's Act on Accounting entered into force on 1 January 1995. Several ordinances and regulations have been issued. Rules for consolidated accounts have been issued through a resolution. An Act on Auditors exists (1995) and the National Council of Qualified Auditors issues certificates on rights of qualified auditors and is responsible for their supervision.
As regards data protection, Article 51 of Poland's new Constitution adopted in May 1997 contains basic provisions guaranteeing the protection of personal data. It also stipulates that the principles and procedures for the collection and communication of personal data will be defined by law. A bill has been under discussion by Parliament for several years in which provision is made for the setting-up of an independent control authority to be responsible for supervising the correct application of the law.

Current and Prospective Assessment

In the area of public procurement, the objectives of transparency and openness seem to have been largely achieved in practice, as shown by the great number of notices which have been published. However, the Polish system needs to be further improved to meet all the requirements of the EC legislation.

In particular, utilities within the sense of Directive 93/38 will need to be completely covered by the rules. At present, Polish firms (or EU firms with subsidiaries located inside Poland), obtain preferential treatment as regards the award of public procurement contracts. Firms located in the EU will get equal access only after the expiry of the transition period set out in the Europe Agreement. As regards the system of remedies, the act has created timely review procedures, although further approximation would be needed. In this context, it is expected that new amendments could be adopted sometime in 1997 in order to incorporate the remaining White Paper measures.

Regarding industrial and intellectual property, Poland has already made a substantial legislative effort with a view to setting up a legal system adapted to a market economy and implementing Article 66 of the Europe Agreement. Although many aspects of its legislation already comply with the substance of the directives, the duration of copyright protection poses a problem. The Polish authorities have yet to provide a timetable for full compliance. Poland envisages completing its current system by acceding to certain WIPO conventions. A system of border enforcement is due to enter into force in 1997. It is difficult at the present stage to pass judgment on the practical application of the legislation adopted owing to a shortage of staff and the need for further training of personnel assigned to that work.

With respect to company law, changes were introduced in 1995 with the aim of bringing Poland's legislation largely into line with the First Directive. Measures to achieve full alignment are shortly to be adopted. Second Directive provisions were partly reflected in a law introduced in 1994, but some harmonisation is still required. A comprehensive reform of the law in this area which will result in full compatibility with the Second, Third, Eleventh and Twelfth Directives is intended to be completed by the end of 1997.

All legislative acts in the accounting field have been prepared on the basis of the European Directives and international accounting standards. No further changes are foreseen. Certain transitional problems are in evidence relating to the implementation in practice of the new rules including a shortage of qualified accountants and auditors, but these can be solved in the medium term.
In the area of personal data protection, it is likely that the adoption of the new Constitution will enable the legislative work, already in progress for several years, to be completed.

The situation with regard to civil law appears satisfactory: a new code of civil procedure entered into force on 1 July 1996. In addition, Poland has been invited by the States parties to the Lugano Convention on jurisdiction and enforcement of judgments in civil and commercial matters to accede to that Convention. This provides a clear indication of confidence in Poland’s judicial systems.

Conclusion

Poland has already taken on many important directives of the sectors indicated above. In respect of the latter, implementation of the provisions of the Europe Agreement and the White Paper’s recommendations covering the sectors reviewed, which began poorly has improved and is now generally good.

Regarding public procurement, whilst Poland appears to be moving in the right direction, efforts remain to be made to complete the approximation process. Poland should be capable of adopting the intellectual and industrial property *acquis*. Special attention will be required to ensure that the measures adopted in this field are effectively implemented.

Company law will not provide an obstacle to accession, assuming that current plans are fulfilled. In accounting, no major problems are foreseen. As regards data protection, an effort is needed to fill the legislative gap, which should be realisable now that the new Constitution is in place.

Free Movement of Goods

Free movement of goods can be achieved only by removing measures which restrict trade – not only customs duties and quantitative restrictions but all measures with equivalent, i.e. protectionist, effect, irrespective of whether or not they are specifically aimed at domestic or imported products. Where technical standards are not harmonised, the free movement of goods must be ensured by applying the principle of mutual recognition of national rules and accepting the rule that national specifications should be no more stringent than is required to achieve their legitimate objectives. This rule was established in the *Cassis de Dijon* judgment.

For the purpose of harmonisation, the European Community has developed the "New Approach" which introduces an approach carefully balanced between government and private autonomous bodies and in which European Community legislation and European standards play a distinct complementary role. Thus, instead of imposing technical solutions, European Community legislation is limited to establishing the essential requirements which products must meet. Products manufactured in accordance with European standards are presumed to meet such essential requirements, but European standards are not the only way to prove such conformity.
The "New Approach" works in conjunction with the "Global Approach" on product certification which governs the apposition of the "CE Mark" on the product. For other products such as pharmaceuticals, chemicals, motor vehicles, and food products, European Community directives follow the traditional regulatory pattern of providing fully detailed rules.

The free movement of goods also dictates that a number of Community harmonisation measures be transposed into national law. Implementation of health and safety harmonisation rules is particularly important and requires the establishment of appropriate mechanisms and organisations, both for businesses and the authorities.

Two of the "horizontal" directives essential to smooth running of the single market are the Directive on general product safety and the Directive on liability for defective products. The regulations concerning general product safety are covered in the section on consumer protection.

The rules on agricultural products (compliance with veterinary and plant-health standards) are explained in detail in the section on agriculture.

Descriptive Summary

Poland has made some progress towards establishing the conditions for the free movement of goods. However, Poland's approach to the implementation of these provisions for the free movement of goods and of the Europe Agreement have given rise to a significant number of trade issues in the years since the provisions entered into force. It has already begun to liberalise its price trade and foreign exchange regimes, and put in place legal and commercial rules ensuring legal security and transparency for private economic operators.

In the field of certification of industrial products, a Protocol on European Conformity Assessment Agreement was initialled in March 1997 between the Commission and the Polish authorities. It aims at accelerating the progress of approximation of Polish legislation to the relevant EU legislation and improving the quality of the product conformity system in Poland by providing for the acceptance, in the EU, of products certified to the "CE mark" in Poland.

In this context the Polish Government intends to propose to the Parliament in 1997 the adoption of a new law on testing and certification as well as introducing in Polish legislation the Directives on liability for defective products and on general safety of products. The Polish authorities also intend to introduce many sectoral directives in this field in 1997 and 1998. Moreover, the list of products under mandatory certification when imported into Poland has already been significantly reduced and Poland has undertaken to eliminate before the end of 1997 mandatory certification of products which are not regulated in the Community.

Current and Prospective Assessment

Steady progress is being made in a number of areas affecting circulation of goods.

Poland has speeded up the resolution of a number of remaining obstacles to trade over the last year, and has a reasonable track record for meeting the deadlines established under the Europe Agreement. Nonetheless, further efforts are required for the full adoption and implementation of the *acquis*.

With regard to technical barriers to trade, Poland's previous divergence from the Community's certification regime gave rise to significant impairments. In the meantime, solutions have been determined in the framework of the Europe Agreement, under the form of the above-mentioned Protocol on European Conformity Assessment Agreement, which will facilitate alignment to the *acquis* in the medium term.

According to the National Strategy for Integration, the Polish authorities consider standardisation and adaptation of the conformity assessment procedure as strategic direction of action to accelerate EU integration and economic growth.

Concerning alignment of technical legislation, the revised version of the Polish legislative work programme casts some doubts on the completeness of the process of approximation of laws. Only some New Approach directives are mentioned for future alignment without any details on timing and modalities.

Efforts are still required, in particular to accelerate, develop and complete the program of approximation in a number of key sectors in which current progress is still inadequate including: New Approach Directives, automotive sector, chemicals (detergents and dangerous substances), foodstuffs and pharmaceuticals. It should be borne in mind, in any case, that secondary legislation is often necessary in order to implement the general legislative framework.

With respect to standardisation, the concept of voluntary standards, already introduced in 1993 and designed to replace the legally binding “branch standards”, is still meeting some resistance in the relevant quarters. This is mainly due to the absence of an aligned legislative framework with consequent confusion at institutional level about adopting (voluntary) standards and/or legal provisions, as well as to a limited resources endowment and industry participation in the standardisation activity.

Currently the responsible institutions in the fields of metrology, standardisation and certification are closely linked to the public authorities, whereas full implementation in these fields requires the establishment of authorities with a greater degree of independence. The Polish Committee for Standardisation (PKN) in an affiliate member of the Comité Européen de Normalisation (CEN) and of the Comité Européen de Normalisation Electrotechnique (CENELEC). The creation of market surveillance authorities and mechanisms is also necessary in order to ensure cooperation between the relevant institutions and effective sanctions when products are marketed in breach of rules concerning conformity.
Poland’s civil code contains provisions corresponding to fault liability, but these will need to be amended to meet the EC requirements concerning civil liability for defective products.

In the areas subject to national rules and not covered by Community harmonisation, there is too little information available to assess whether Community legal principles on the free movement of goods are properly applied in Poland.

This situation is explained, in particular, by the fact that the reporting procedures which form part of the internal-market machinery are not yet operational and so cannot be used in the pre-accession period. The most important instruments in this connection are: Directive 83/189, requiring governments to report draft national technical standards and regulations; Decision 3052/95 on measures derogating from the principle of the free movement of goods; procedures by which complaints can be submitted to the Commission; and Article 177 of the Treaty, enabling Member States to ask for preliminary rulings from the Court of Justice. It is also hard to assess whether Poland complies with the principle of mutual recognition; more information is required on its national rules, and on administrative practices, which can have an effect on product sales.

Conclusion

Poland is progressively taking on the *acquis* related to the free movement of goods and implementation of the provisions of the Europe Agreement and the White Paper’s recommendations has significantly improved during the last year.

However efforts will be needed before a sufficiently developed situation exists for enabling a conclusion to the effect that the *acquis* will be fully and effectively implemented by Poland.

The Polish authorities will also have to ensure that national legislation in areas not covered by Community harmonisation is unlikely to pose barriers to trade, notably by verifying that the measures in force are proportional to the objectives they pursue.

Free movement of Capital

The Europe Agreement establishes the principle of the free movement of capital between Poland and the EU. This, as far as the obligations of Poland are concerned, applies from the entry into force of the EA as regards direct investments made by companies already established in Poland and as regards branches and agencies of Community companies (as well as the self-employed), gradually during the transitional period

The White Paper highlights the link between the free movement of capital and the free movement of financial services. It suggests a sequence of capital movements liberalisation starting from medium and long term control movements and those linked to commercial transactions, to short term capital.

Descriptive Summary

Poland's ability to attract Foreign Direct Investment (FDI) has been impressively enhanced in recent years.

In spite of the international appreciation for the Polish shock therapy approach, foreign direct investment (FDI) was off to a slow start during the initial stages of transition. FDI inflows have begun to pick up considerably since 1994. In 1996, the inflow was about 1.8% of GDP. The cumulative FDI inflow since 1989 reached a level of 4 billion ECU, which corresponds to about 100 ECU per inhabitant. The recent increase has helped the restructuring, privatisation and modernisation of Polish industry.

These developments have been in part due to Poland's liberalised policies concerning the free movement of capital in the context of its accession to the OECD in November 1996.

Some restrictions still exist on cross-border capital transactions. However, the zloty was made convertible for trade transactions in 1991, and it achieved full current-account convertibility in 1995. The zloty is fixed against a basket of currencies with a band of +/-7%, and the central rate is devalued every month by 1%. The exchange rate thus operates under a clear regime, depreciating in line with announced policy, with few ad hoc adjustments. In 1995, because of the strength of the external position, the market exchange rate appreciated and the central rate had to be revalued. Current account convertibility was introduced on 1 June 1995. Poland adopted a strategy of gradual liberalisation of capital movements, starting from medium and long-term capital followed by the by the elimination of restrictions on short-term capital.

Following a number of liberalisation measures taken during 1996 the following transactions have been liberalised or partially freed: direct investment, commercial credits, long-term financial credits and loans and personal capital movements. Partial liberalisation was introduced on investment in real estate, operations in securities and the admission of securities to domestic and foreign capital markets.

Current and Prospective Assessment

Given the increasing stabilisation of the Polish economy it is foreseen that foreign direct investment inflows will increase in the medium term. The settlement of trade disputes and the clarification of an investment policy in areas such as the motor vehicle sector, could help to increase foreign direct investment in the short run.

Legislation regarding the ownership of land and related assets by foreign nationals remains inadequate and will require clarification and alignment in the medium term.
The Polish authorities intend to remove remaining restrictions on capital movements in steps, as follows:

- by the end of 1998: the rest of medium and long-term capital movements

- by the end of 1999: all short-term capital movements.

Investments in real estate in Poland, other than foreign direct investment, will be the last item to be liberalised.

Conclusion

The Polish government's efforts to liberalise capital movements have met with considerable success. The recommendations of both the White Paper and the Europe Agreement have largely been implemented. The application of the *acquis* regarding the ownership of land and related assets by foreign nationals may present a significant problem in the medium term.

Further efforts are still required with regard to the liberalisation of capital movements.

Free Movement of Services

The basis of the free movement of services is the prohibition of discrimination, in particular on grounds of nationality, and rules on the alignment of divergent national legislation. These rules often concern both the right of establishment, which comes under the heading of the free movement of persons, and the freedom to provide services. Their implementation implies the establishment of administrative structures (banking control boards, audio-visual control authorities, regulatory bodies) and greater cooperation between Member States in the area of enforcement (mutual recognition arrangements).

A substantial amount of the legislation applicable to the free movement of services relates to financial services. It also concerns the problems relating to the opening-up of national markets in the sectors traditionally dominated by monopolies, e.g. telecommunications and, to a certain extent, energy and transport. These subjects will be dealt with in the sections of the Opinion specifically referring to them.

Descriptive Summary

The five largest banks, all Polish, represent just under half of the total assets and four of them are still in the hands of the State. The banks owned or controlled by the State represent about 50% of total assets, which highlights the fact that the privatisation process is far from being completed, even if the Polish Government has announced that two of the main Polish banks will be privatised in 1997. The supervising authority is the General Inspectorate for Banking Supervision, a Department of the National Bank of Poland.

There is an important Stock Exchange in Warsaw. As regards derivatives, the legal framework for trading in derivatives has been created; the beginning of trading in these instruments is scheduled to start in the second half of 1997.

Brokerage houses must be authorised by the securities supervisory authority. The provisions in force forbid natural and legal persons to hold shares in more than one brokerage house. The above rule does not apply to holdings in credit institutions, which can also conduct brokerage activities under approval of the securities authority (e.g. the Securities Commission which is a central body overseen by the Prime Minister).

The State Insurance Supervision Office (PUNU) examines applications for authorisations, analysis returns and balance-sheets and investigates existing companies. Two former State monopolies remain predominant in the life and non-life markets. There are no subsidiaries of foreign insurance companies but around a third of Polish insurance companies have EU shareholders in their capital. Full freedom for foreign companies to conduct insurance services and uniform licence permits for the activity will not be introduced before 2000.

Current and Prospective Assessment

The banking directives of the first stage are largely if not totally implemented. The solvency ratio is set out in a Regulation 7/93 of the National Bank of Poland. The regulations governing the Solvency ratio in Poland are based on the relevant EU directives and the recommendations of the Basle Committee for Banking Supervision. For obtaining authorisation to conduct banking activities a minimum equity capital of no less than ECU 5 million is required. Credit institutions applying for a foreign exchange license must fulfil some other requirements (higher solvency ratio, a capital base amounting to not less than 120% of the minimum capital requirements for credit institutions).

As regards the deposit guarantee scheme, on 14 January 1994, the Act on the Bank Guarantee Fund was adopted in Poland (as amended on 20 February 1997). This Act sets out the principles for the establishment and operations of statutory and voluntary bank deposit guarantee schemes. The Act provides protection to deposits in Polish or foreign currency, irrespective of the number of contractual agreements the depositor has concluded with the bank. To align fully on the EC requirements, the guarantee threshold would have to be gradually raised.

As regards prevention of money laundering, banks are required to verify the identity of customers and identify transactions which they perform in excess of 20 000 zloty (ECU 5 700) and to notify the public prosecutor’s office if there are justified grounds for suspecting that money laundering is being performed. There is no obligation to identify all holders of bank accounts.
With respect to the second stage directives, the situation is the following: as regards large exposures, two separate limits are specified - one of 10% of a credit institution’s own funds on an exposure arising from a single client, and one of 15% on the bank’s aggregate exposure to a group of related clients; as regards annual accounts, the requirements are basically in line with those stipulated in the relevant EU Directives. Credit institutions which are parent companies were obliged to draw up consolidated accounts for the first time in 1995 and this has been therefore also the first time that the National Bank of Poland analysed the consolidated accounts of banking groups. There is no general regulation concerning capital adequacy for risks other than credit risk.

With respect to the treatment of foreign banks, a foreign bank can open a branch in Poland but this requires the consent of the President of the National Bank of Poland. His ruling may specify the proportion of the bank’s foreign capital. Apart from that, both prudential regulations and the manner in which supervision is performed apply without discrimination to foreign banks provided that the privatisation process is speeded up.

Listed companies and brokerage houses are subject to periodic information requirements to the supervisory authority. Price sensitive information has to be disclosed to the public as soon as possible. Foreign issuers may be admitted to official listing. The adaptation process of the Polish legal system to the EU standards started in 1991 with the adoption of the Act on public trading in securities and trust funds, recently amended in 1994. This Act is intended to meet the fundamental principles laid down in EU Directives concerning public offers of transferable securities, insider dealing, acquisition and disposal of major holdings, collective investment undertakings and investment firms. Furthermore it established the Securities Commission, a central body overseen by the Prime Minister, entrusted with supervisory responsibilities in the securities sector. Right of appeal is granted against any decision taken by the supervisory authority.

On July 1996 Poland signed the OECD Accession Agreement which became effective in November. This has given an impetus to the liberalisation of securities market for foreign investors. A reform is in preparation to improve the present legislation in order to bring it into line with all the EU requirements.

Polish insurance law has in principle been created according to the European Community’s directives on insurance and conforms with Stage 1 requirements. Problems exist regarding the establishment of adequate supervision and controls. Financial requirements are aligned with EU criteria and the solvency margin calculation is in line with the 1st Generation Directives. The access and investment aspects of the Polish market are more restrictive than EU stage 2 legislation allows. The current investment restrictions on insurance companies do not seem compatible with the Treaty of European Union provisions on the free movement of capital (Articles 73(b), (d) and 104(a)) and will have to be amended prior to accession.

Conclusion

A significant improvement in the domain of banking privatisation remains a major priority for accession. Significant progress has been achieved in the banking sector. The First Banking Directive, Solvency Ratio Directive, Directive on Prevention of Money Laundering, all stipulated in the White Paper as stage 1 measures, are already totally or partially incorporated into existing Polish legislation. However, the banking sector needs further reform. Problems are mainly in the field of capital adequacy for market risks, consolidated supervision and special requirements regarding establishment of foreign branches. However, provided harmonisation and privatisation proceed as planned, no major difficulties are foreseen in achieving full approximation in the banking area.

As regards the capital market and the insurance sector, one can have the same assessment, even if not all the relevant directives have been incorporated in the Polish legislation. But both the organised markets and the insurance market are functioning well and developing quickly.

Taken as a whole the Polish financial sector is supervised in a satisfactory way by the competent authorities, and one can expect significant improvement before 2000, which would facilitate the accession process.

Free Movement of Persons

The free movement of persons encompasses two concepts with different logical implications in the Treaty. On the one hand, Article 7a in Part One of the Treaty on 'Principles' mentions the concept in connection with the establishment of the internal market and implies that persons are not to be subject to controls when crossing the internal frontiers between the Member States. On the other hand, Article 8a in Part Two of the Treaty on 'Citizenship of the Union' gives every citizen of the Union the individual right to move and reside freely within the territory of the Member States, subject to certain conditions.

The abolition of frontier checks must apply to all persons, whatever their nationality, if Article 7a is not to be meaningless. While the rights deriving from Article 8a apply in all Member States, those stemming from Article 7a have not yet been fully applied throughout the Union.

(a) Free Movement of Union Citizens, Freedom of Establishment and Mutual Recognition of Diplomas and Qualifications

The Europe Agreement provides for the non-discriminatory treatment of workers that are legally employed (as well as their families). It covers the possibility of cumulating or transferring social security rights, and encourages member states to conclude bilateral agreements with Poland on access to labour markets. During the second phase of the transitional period, the Association Council will examine further ways of improving the movement of workers.

The White Paper considers the legislative requirements in order to achieve a harmonious development of the labour market, whilst simultaneously preventing distortions of competition.

The free movement of workers is one of the fundamental freedoms enshrined in the Treaty; freedom to practise certain professions (e.g. in the legal and health fields) may, however, be subject to certain conditions, such as qualifications. Depending on the case, these may be dealt with through coordination or by applying the principle of mutual recognition. Freedom of establishment is also guaranteed under the Treaty and covers the economic activity of self-employed natural persons and companies.

The free choice of place of residence may thus be subject to minimum conditions as to resources and health insurance where the person does not exercise a profession in the country concerned.

Descriptive Summary

From an early stage of the reform process Poland has maintained a relatively open approach to the movement of persons onto its territory with visa requirements abolished for EU citizens. Right of residence is granted by the visa or a residence card equivalent to a residence permit. A residence permit is a pre-condition for a work permit. Work permits are granted depending on the local labour market conditions and further alignment will be required to improve access to employment for non-Polish nationals. Whilst nationality is not a sufficient reason to refuse work permits to EU citizens, the equal treatment of EU citizens will require further amendments to existing national legislation.

Current and Prospective Assessment

Concerning the mutual recognition of diplomas and qualifications, the *acquis* is only partly and formally achieved. Ministries and public bodies are in place for many professions, but will probably need to be reinforced. Integration with EU professional associations is developing well, for example engineering diplomas already meet the minimum European standards.

Conclusion

Concerning the mutual recognition of qualifications and diplomas, the task of compliance should be achievable in the medium term if current efforts are intensified.

Significant efforts are required to resolve outstanding issues regarding the free movement of persons in the medium term.

(b) <u>Abolition of Checks on Persons at Internal Frontiers</u>

The free movement of persons within the meaning of Article 7a of the EC Treaty, i.e. the abolition of checks on all persons, whatever their nationality, at the internal frontiers has not yet been fully implemented in the Union. Doing away with checks on persons is conditional on the introduction of a large number of accompanying measures, some of which have yet to be approved and implemented by the Member States (see separate section on Justice and Home Affairs). However, that objective has been achieved by a limited number of Member States in accordance with the Schengen Convention (seven Member States already apply it and another six are working towards implementation).

The draft Treaty aims to make that objective easier to achieve within the Union by including a new chapter on an "area of freedom, security and justice" and incorporating the Schengen *acquis* into the EU.

Poland has stated its desire and readiness to fulfil the provisions of the Schengen *acquis*. It has begun preparations to this end and has sought assistance in this connection from Member States, notably in regard to the strengthening of border controls.

General Evaluation

1. Poland's progress in the implementation of legislation relating to the White Paper is summarised in the annex. According to the table, Poland considers that by 30 June 1997 it will have adopted national implementing legislation for 405 of the 899 directives and regulations in the White Paper. That figure covers provisions for which Poland considers it will have adopted implementing legislation or which it will have checked for compatibility with Community rules and does not prejudge actual compatibility as such, on which the Commission is not able at this stage to state an opinion.

2. Poland has made substantial progress with the alignment of its legislation in most of the areas covered in this chapter, with the result that large parts of the *acquis* are already in place. Legislation has been adopted in full or in part to implement many of the measures according to the Polish authorities' assessment, though the Commission cannot at this stage express a position on its total compatibility with Community law. Still, a considerable amount of legislative work remains to be done, not all of which appears at this stage in the legislative programme. Public procurement, data protection and liberalisation of capital movements are areas in which a particular effort remains to be made.

3. Despite the efforts made, practical measures still need to be implemented and an efficient administrative structure set up to back up the genuine progress made in taking over the most recently adopted texts. A substantial effort in that direction is still required in some areas, notably the field of technical regulations and standards. The implementation of the Protocol on European Conformity Assessment Agreement should help speed up the process of approximation in this field. The development of the infrastructure required in order to implement and enforce Community legislation is also linked to a certain extent to the rate of approximation of legislation in the various sectors of the internal market.

As things currently stand, the Commission cannot yet express an opinion on the capacity of companies, particularly small and medium-sized businesses, to implement the *acquis*.

4. Leaving aside certain specific aspects relating to agriculture, checks at the internal frontiers of the Union can only be abolished once sufficient legislative harmonisation has been achieved. This calls for mutual confidence, based in particular on sound administration (e.g. the importance of safety checks on some products at the place of departure). As far as goods are concerned, the completion of the internal market on 1 January 1993 was only achieved by doing away with all the formalities and checks performed by the Member States at the internal borders of the Union. In particular these checks covered technical points (product safety), veterinary, animal-health and plant-health matters, economic and commercial matters (e.g. prevention of counterfeiting of goods), security (weapons, etc.) and environmental aspects (waste, etc.). In most cases, the abolition of checks was only made possible by the adoption and application of Community measures harmonising the rules on movement and placement on the market (particularly as regards product safety) and, where applicable, by shifting the place where controls and formalities within the Member States or on their markets are conducted (in particular as regards VAT and excise duties, veterinary and plant-health checks, and the collection of statistics). A section of Poland's present borders will become the Union's external frontier and this means border checks will need to be stepped up (see separate section on customs).

In view of the overall assessment that can be made of progress achieved to date and the rate at which work is advancing in the various areas concerned, there is currently no reason to doubt that Poland will be able, in the medium term, to take over and implement all the instruments required to abolish internal border checks and to transfer those checks to the Union's external frontier.

5. Poland has already adopted a substantial part of the *acquis* relating to the single market. However, the Commission is not yet able to take a position on every measure whose transposition has been reported by Poland. In any case, further efforts will be needed with regard notably to public procurement and liberalisation of capital movements, areas where progress has been less advanced**.** In many areas, enforcement needs to be strengthened. However, in the medium term, provided that current efforts continue, or are stepped up in areas where progress is lagging, it can be expected that Poland will have adopted and implemented the Single Market *acquis* and made the necessary progress on the mechanisms for enforcement, in order to be able to participate fully in the internal market.

Competition

European Community competition policy derives from Article 3(g) of the Treaty providing that the Community shall have *a system ensuring that competition in the internal market is not distorted*. The main areas of application are anti-trust and state aid.

The Europe Agreement provides for a competition regime to be applied in trade relations between the Community and Poland based on the criteria of Articles 85 and 86 of the EC Treaty (agreements between undertakings/abuses of dominant position) and in Article 92 (State aid) and for implementing rules in these fields to be adopted within three years of the entry into force of the Agreement.

Furthermore, it provides that Poland will make its legislation compatible with that of the Community in the field of competition.

The White Paper refers to the progressive application of the above provisions and those of the Merger Regulation (4064/89) and of Art. 37 and 90 (Monopolies and Special Rights).

Descriptive Summary

The Act of 24February 1990 on ***"Counteracting Monopolistic Practices"*** as amended by the Act of 3 February 1995, provides for a general prohibition of monopolistic practices and indicates examples of prohibited agreements; it contains a general prohibition, sets out a list of abuses of a dominant position, and provides for merger control.

The Polish Office for Competition and Consumer Protection, founded in April 1990, is responsible for the enforcement of competition law. Its duties include registering businesses which have a monopolistic position, counteracting anti-competitive practices, researching concentrations in the economy, and monitoring prices in markets with limited companies. There is also an Antimonopoly Court which has already gained experienced in the competition field.

Exclusive rights have been granted to the state-owned Polish telecommunications company. In the area of voice telephony, this state operator has the exclusive right to provide international services. Moreover, a number of public and private companies enjoy special rights in sectors where business activities require the acquisition of permits or licenses. Such companies operate in particular in the fields of prospecting, mining, shipping, air transport, harbour and airport management, pharmaceuticals, spirits and tobacco product manufacturing, beer wine and vodka trading, non-ferrous metal processing, sound and image recording, trading in pesticides and export/import of a number of products.

The monitoring authority on ***state aid*** is a department within the Ministry of Economic Affairs. It took up its functions only on 1 January 1997 and the legislation necessary for it to control the granting of state aid in Poland still needs to be established. A draft law on the monitoring of state aid is under preparation, but currently no information is available on when it will be adopted.
As regards transparency in the granting of state aid in Poland a first aid inventory was made covering the year 1994. However, this aid inventory includes aid granted by local authorities and indirect forms of aid, in particular aid granted by the Ministry of Finance. A new aid inventory on state aid granted through the Ministry of Finance is about to be established and the monitoring authority on state aid is about to establish a database on existing aid in cooperation with the Ministry of Finance..

A number of export aid schemes exist which are incompatible with the Community *acquis*.

Current and Prospective Assessment

In the field of ***anti-trust*** a legislative framework based on the principles of Community competition law is in place. However, important adjustments are still needed, in particular in the field of merger control, the powers to conduct inspections on the premises of companies suspected of having infringed the law and as regards the adoption of block exemptions. Moreover, further adjustments are needed as regards the provisions in the law concerning abuse of dominant position and in respect of procedures.

As regards ***special or exclusive rights*** certain adjustments are needed in the telecommunication sector to comply with the Community *acquis* on liberalisation of terminal equipment, voice telephony and mobile telephony. Further clarifications are needed as regards the provision of postal services. Furthermore, it seems that the system for granting licences in the sector for oil, tobacco and alcoholic beverages need to be amended to comply with the Community *acquis*.

In the field of ***state aid*** much work still lies ahead. The rules for the monitoring of state aid still need to be established, in particular the power of the monitoring authority to collect all information necessary to examine the compatibility of any aid measure with the Europe Agreement and the obligation to await the opinion of the monitoring authority before the aid is granted.

Transparency in the granting of state aid has not reached a satisfactory level. Work is underway to establish a second and improved aid inventory, but currently no information is available on when this will be finalised and whether credible monitoring of state aid will then be implemented.

Certain aid measures seem to be contingent upon export performance which is clearly not compatible with the Europe Agreement. Moreover, an important part of state aid seems to be granted through indirect forms of state aid, such as tax relief, debt write-offs and tax arrears. These aid measures constitute operating aid which are only allowed under very strict conditions. Due to the lack of transparency it is as yet unclear whether the conditions for granting operating aid are complied with. The future inventory should cover all measures granted by the State, regional or local authorities or through State resources.
In addition to the adoption of legislation sufficiently approximate to that of the EC, ***credible enforcement*** of competition law requires the establishment of effective anti-trust and state aid monitoring authorities. It requires moreover that the judicial system, the public administration and the relevant economic operators have sufficient understanding of competition law and policy.

Conclusion

Approximation in the area of ***anti-trust*** is progressing, although efforts are indispensable to adapt the existing legislation. The Office for Competition and Consumer Protection seems to function rather well and seems sufficiently equipped and skilled to enforce the law.

In the field of ***state aid*** progress has been somewhat limited. Considerable effort will be necessary to fulfil the requirements in the field of state aid control over the medium term, in particular as regards the rules for the functioning of the monitoring authority and the establishment of the necessary degree of transparency. Further support to the monitoring authority to carry out its activities will be necessary to ensure the compatibility of aid granted.

3.2 Innovation

<u>Information Society</u>

Present Situation

The economic and social effects made possible by the combination of information technology and telecommunications are great. In Poland these possibilities were neglected before 1989 although education generally was not. The result seems to be that demand for computers has spurted beyond normal expectation deduced from GDP per capita. The number of PCs was said to be 7.3 per 100 inhabitants in 1994. The existence of host computers on the Internet (1.4 per 1000 inhabitants), as a relative measure of development towards the Information Society, suggests that Poland has not reached the average for the CEECs. This result is not commensurate with the above average level of interest taken by Polish bodies in EC research programmes and it may be because of the enduring shortage of telephone lines coupled with poor quality of service. As the effect of the main public operator's network modernisation comes to be felt, the growth of data traffic can be expected to accelerate. If Internet hosts follow the same pattern of growth found elsewhere in analogous countries, the telecommunications infrastructure, which is at present but ten years behind the EU average, may remain a brake on information society developments.

Conclusion

Although interest has been shown in the country to developments in the information society, increase in access to networks has been slowed down by the slow development of advanced communications.

<u>Education, Training and Youth</u>

Articles 126 and 127 of the EC Treaty provide that the Community shall contribute to the development of quality education and implement a vocational training policy aimed at promoting the European dimension in education and at enhancing industrial adaptation and the responsiveness of the labour market through vocational training policies.

The Europe Agreement provides for cooperation in raising the level of education and professional qualifications. The White Paper includes no measures in this field.

Descriptive Summary

Poland's spending on education amounts to 6.2% of GDP. It takes up 16% of the state budget.

There are 11 universities, 8 700 000 pupils, 800 000 students and 540 000 teachers in Poland.

The quality of Polish education suffered in the years before 1989 from the country's isolation. Overall standards were high, but the education system was under political control. Since 1989, an educational reform programme has liberalised curricula, given headmasters greater autonomy and sought to address more flexible employers' needs. Responsibilities for management and direction of schools was given to the voivodships, which report to the Ministries of National Education.

The Ministry's 'education offensive' strategy, aimed at the upgrading of the level of education in Poland to European educational standards over the next 15 years, lists the main challenges for the Polish education and training system which are: (i) the reform of the vocational education system with the aim of reducing training in the basic vocational schools; (ii) an increase in the number of pupils in secondary education leading to the 'matura' examination; (iii) an increase in the student population of 20% of the 20-24 age group by 1997; (iv) diversification and expansion of post-matura professional training possibilities through, among other things, the introduction of professional higher learning institutions offering the license degree; (v) development of continuing education for the purpose of training and retraining, and making it accessible to all age groups.

The Tempus programme has contributed to the achievement of the goals of higher education reform and created the basis for cooperation with the EU higher education institutions.

Polish youth organisations have been involved in European youth activities since 1990. From 1995, youth cooperation with Poland was included in the Youth for Europe programme.

Current and Prospective Assessment

Poland has made considerable progress during recent years in the fields of education. Further efforts will be needed, especially to meet the requirements of the market economy.

In the vocational training field significant efforts have been undertaken which had mainly an impact on regional, local and institutional levels. Reforms at national level are to follow these developments.

It is foreseen that Poland will participate in the Community's human resource programmes and this will contribute further to the preparation for integration.

Conclusion

In the perspective of accession, no major problems should be expected in these fields.

Research and Technological Development

Research and technological development activities at Community level, as provided for by the Treaty and in the Framework Programme, aim at improving the competitiveness of European industry, the quality of life, as well as supporting sustainable development, environmental protection, and other common policies.

The Europe Agreement and its additional Protocol provides for cooperation in these areas, notably through participation in the Framework Programme. The White Paper includes no direct measures in this field.

Descriptive Summary

The Committee for Scientific Research is the main Polish Science and Technology institution, established in January 1991 and responsible for implementing science and technology policy, managing strategic government programmes and planning, coordinating and financing all state funded activities in this field. Competitive mechanisms for research funding are introduced. Current science expenditure represents 0.8% of GDP since 1992.

Priority areas for 1994-97 are: health and environmental protection; agriculture and food processing; modern technology industries, including defence; development of infrastructure for science, education and technology.
Regular cooperation with the European Community started in 1992 with the 3rd Research and Technology Development Framework Programme. So far, cooperation has mainly concentrated on COPERNICUS (Specific Programme for Cooperation with CECs and NIS) and remains rather low for participation in the 4th Framework Programme. Poland is a member of COST (European cooperation in the field of scientific and technical research) and EUREKA (European Research Coordination Agency).

From 1994 data and statistics in this sector are compatible with OECD standards.

Current and Prospective Assessment

In the research and technological development sector important changes and improvements have already taken place. A big effort has been made in the improvement of the internal structure, liberalisation, financial support. Human resources and potential remain strong despite the cutbacks.

Nevertheless, it is necessary to improve the level of innovativeness in the economy generally and in industry in particular and to enforce the links of research institutes with industry and small and medium enterprises.

Poland is prepared to play an active role in the European research and technological development and allocate the necessary funds to its activity. A part of the Committee for Scientific Research's budget was allocated to cover the participation of Polish scientists in the programmes of the 4th Framework Programme, Eureka and COST. Poland has declared its interest in full association with the 5th Framework Programme.

Conclusion

In the perspective of accession no major problems are expected in this field. Accession would be of mutual benefit.

Telecommunications

The objectives of EU telecommunications policy are the elimination of obstacles to the effective operation of the Single Market in telecommunications equipment, services and networks, the opening of foreign markets to EU companies and the achievement of universally available modern services for EU residents and businesses. These are achieved through harmonisation of the standards and conditions for service offerings the liberalisation of the markets for terminals, services and networks and the adoption of necessary regulatory instruments. The Directives and policies needed to achieve this have now been established, but the liberalisation of public voice telephony and operation of related infrastructure will be deferred for a year or two after 1998 in certain member states.
The Europe Agreement provides for cooperation aimed at enhancing standards and practices towards EU levels in telecommunication and postal policies, standardisation, regulatory approaches and the modernisation of infrastructure. The White Paper focuses on the approximation of regulation, networks and services, followed by further steps ensuring gradual sector liberalisation.

Descriptive Summary

In the late 1980s Poland's penetration rate of telephone lines was one of the lowest in Europe and the network consisted of obsolete equipment. Telecommunications were0 especially weak in rural areas.

A new telecommunications law enacted in 1990 created a new legal personality (Telekomunikacja Polska - Spolka Akcyjna) for the national operator and introduced liberalisation going beyond the minimum required within the EU at that time. The ministry issued many licences to companies wishing to become new local operators. After the change of government in 1993, the policy for the sector reverted to monopolistic practices and other operators have only recently managed to become operational in face of poorly regulated behaviour by TPSA.

TPSA had expanded telephone penetration of the sector to 19 per 100 at the end of 1995. The government's relatively modest aim of having 27 lines by the year 2000, for the moment seems achievable if the independent operators become effective. The government has yet to devise a policy for assuring universal access to services in rural areas, where the penetration rate still remains very low.

The 1990 law still stands with the addition of some new ministerial powers in 1995 resulting in a more rational licensing policy for local operators. Last year, licences were granted to two competing mobile telephone networks using the pan-European digital standard (GSM).

Current and Prospective Assessment

Degree of Liberalisation

The 1990 law introduced liberalisation going beyond the minimum required within the EU at the time by allowing competition in all parts of the sector except for international services. This bold step was not followed through and TPSA, incorporated in 1992, still has a monopoly of both long distance and international traffic and has 98.7% of all local lines. After several lost years, the Ministry has, since 1995, adopted a more measured licensing policy.

However, delays, often related to problems with interconnection, have resulted in local operators only recently becoming operational so that they have contributed less than 3% of the 3 million lines added since the 1990 law was enacted. Restrictions on the extent of foreign ownership, limitations on non-Polish participation in Boards of Directors and the difficulty of dealing with TPSA both for interconnection and as a competitor, act as a barrier to foreign investment in many cases.
Alternative fixed infrastructures can be licensed to provide competing telecommunications services but this has so far been permitted only on a very restricted basis.

By contrast, the mobile sector is highly competitive with one NMT 450 licence, two GSM licences granted in 1996 and a further one expected before the end of 1997.

- Poland's **regulatory policy** for the sector must become considerably more equitable as between TPSA and other operators in order to comply with the ***acquis.***
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Approximation to EC Law

The 1990 Polish Communications Act was amended in 1995. The regulatory framework also contains two other important laws. The first, the Law on Economic Activity with Participation of Foreign Parties, regulates investment. The second, the State Enterprise Privatisation Act, concerns the privatisation of State enterprises. The spirit of these laws generally is to accelerate development by permitting privatisation and investment by foreign companies in Poland. However, the Communications Act sets limits on foreign ownership in some parts of the sector and this is contrary to the *acquis* in so far as it applies to EU companies and nationals.

It is not entirely clear that all operational functions were effectively transferred from the ministry when TPSA, the main public telecommunications operator, was set up. As regulatory functions remained in the ministry, further measures will be needed to demonstrate the separation required by the *acquis*. TPSA holds a statutory monopoly for international traffic. TPSA's monopoly of long distance traffic arises because the government has decided not to license additional entrants. About 24% by number of EU legal documents have been incorporated into Polish law.

Polish legislation permits the government to allow competition in all parts of the sector except international services. Equitable regulatory policies are needed where services have already been liberalised to set rules for interconnection which encourage investment and which promote achievement of universal service**.** Poland probably has the administrative capacity to comply with Community legislation and a new law is in preparation that is intended to complete the task. However, stronger policy initiatives will also be needed to comply with the *acquis* by 2003.

Infrastructure

In the late 1980s the penetration rate of telephone lines was one of the lowest in Europe and the network was both obsolete and poorly designed. The initial aim of the government in 1990 was to expand and to modernise the public telecommunications infrastructure and to improve the quality of services available as soon as possible. The measures taken recognised that Polish circumstances were not comparable with those in even the EU's least developed states and that relying solely on the growth achievable by the existing monopoly operator would not be sufficient.

Between 1991 and 1995 the network grew from 9.3 lines per 100 inhabitants to 17.1 (but the penetration rate remains very low in rural areas) and the government aims to have 30 lines per 100 inhabitants by the year 2000 (to be compared to 44 lines per 100 inhabitants presently as an average in Ireland-Portugal-Greece). There is a large number of unsatisfied requests for lines. The number of subscribers for mobile telephony service currently is about 1.3 lines per 100 inhabitants. Digitisation of the network reached 20% in 1995 (compared to 62.4% in Ireland-Portugal-Greece as an average) and a nation-wide digital SDH backbone network is being implemented by TPSA, including a few digital metropolitan area networks (MANs). TPSA is among the leaders among the applicant countries in preparing to offer ISDN service as widely as possible. 700 CATV networks in operation offer their services to 2 million subscribers.

The target of 30 lines per 100 inhabitants by the year 2000 is modest taking into account the level of unsatisfied demand, but it could be achievable if the independent local operators become more effective. Considerable investment is required to complete the modernisation of the public network.

Competitiveness of the Sector

The productivity of TPSA as measured by the number of employees/1000 lines (12.9) is one of the lowest of the applicant countries. However, the revenue per line (ECU 288 in 1995) should, if sustained, be sufficient to provide effective public services and to modernise. TPSA has begun to reform its management structure and practices, and tariff rebalancing has progressed well. These improvements should release funds for reducing the waiting list for connections and make the company more attractive for foreign investment. Because of the supply situation and the poor quality of service the sector is probably acting as a brake on the economy generally. Completion of the new trunk network will do much to improve this aspect and to make advanced services available, especially in cities.

Conclusion

Polish policy for the sector since 1990 has, so far, failed to deliver the degree of expansion in the basic public infrastructure that has been achieved in some other applicant countries. This was caused by insufficient demonopolisation and privatisation which resulted in poor investment and service performance. Recent, pre-competitive policy measures for licensing and interconnection of local network operators will need to be substantially strengthened if Poland is to show compliance with the *acquis* and to achieve its undoubted potential in the medium term.

Audio-visual

The audio-visual *acquis* aims, in the context of the Internal Market, for the provision and free movement of audio-visual services within the EU as well as the promotion of the European programme industry. The Television Without Frontiers Directive, which is applicable to all broadcasters regardless of the modes of transmission (terrestrial, satellite, cable) or their private or public nature, contains this *acquis*, setting down basic rules concerning transfrontier broadcasting. The main points are: to ensure the free movement of television broadcasts throughout member states; to promote the production and distribution of European audio-visual works (by laying down a minimum proportion of broadcasting time for European works and those by independent producers); to set basic standards in the field of television advertising; to provide for the protection of minors and to allow for the right of reply.

The Europe Agreement provides for cooperation in the promotion and modernisation of the audio-visual industry, and the harmonisation of regulatory aspects of audio-visual policy.

The Television Without Frontiers Directives is a Stage I measure in the White Paper.

Descriptive Summary

The legal framework for the audio-visual sector is determined by the 1992 Radio and Television Act of 1992, which establishes the status of public broadcasters, the licensing of commercial broadcasters, the programming obligations of public and commercial broadcasters, advertising and sponsorship, the registration and retransmission of programme services by cable operators, and the collection and distribution of broadcasting fees.

The main television broadcaster is Polish Television, the public service broadcaster, which is financed by advertising revenues and a licence fee. The rest of the market is divided between a number of Polish (sometimes part foreign-owned) terrestrial and satellite channels, and perhaps 1 000 cable systems, offering up to 30 channels.

Film production in Poland is in the hands of film production companies and studios, including independent producers. Overall Government subsidy for the industry was planned at ECU 9.4 million in 1996. American distributors control nearly the entire Polish film distribution market.

Current and Prospective Assessment

The audio-visual sector in Poland is attempting to re-establish itself after major upheavals in recent years, and is characterised by rapid growth and constant change. Its ability properly to adhere to the *acquis* presupposes an upgrading of the capacity of the programme-making industry to meet the important challenges of an adapted regulatory framework.

While some progress has been made, Polish audio-visual legislation is not fully compatible with EU requirements; deficiencies remain over freedom of reception, the promotion of European works, recent works, and certain advertising provisions.

Conclusion

Provided that a sustained effort to adapt the legal framework is made, and that is accompanied by the necessary structural adaptation of the industry, Poland should be able to meet EU requirements in the audio-visual sector in the medium term.

3.3 Economic and Fiscal Affairs

Economic and Monetary Union

By the time of Poland's accession, the third stage of EMU will have commenced. This will mark important changes for all Member states, including those that do not participate in the euro area. All Member states, including the new ones, will participate fully in the economic and monetary union. Their economic policies will be a matter of common concern and they will be involved in the coordination of economic policies (national convergence programmes, broad economic guidelines, multilateral surveillance, excessive deficit procedure). They will be required to respect the stability and growth pact, to renounce any direct central bank financing of the public sector deficit and privileged access of public authorities to financial institutions, and to have completed the liberalisation of capital movements.

Accession means closer monetary and exchange rate cooperation with the European Union. This will require strengthening structural reforms in the area of monetary and exchange rate policies. Member states not participating in the euro area will be able to conduct an autonomous monetary policy and participate in the European System of Central Banks (ESCB) on a restricted basis. Their central banks have to be independent and have price stability as their primary objective. Monetary policy has to be conducted with market-based instruments and has to be ”efficient” in transmitting its impulses to the real economy. Therefore, reforms need to be pursued to tackle factors that hinder the efficiency of monetary policy, such as the lack of competition in the banking sector, the lack of development of financial markets and the problem of "bad loans" in the banking sector. Finally all Member states shall treat their exchange rate policy as a matter of common interest and be in a position to stabilise their exchange rates in a mechanism yet to be decided.

As membership of the European Union implies acceptance of the goal of EMU, the convergence criteria will have to be fulfilled by Poland, although not necessarily on accession. While the fulfilment of the convergence criteria is not a precondition for EU membership, they remain key points of reference for stability oriented macroeconomic policies, and must in time be fulfilled by new member states on a permanent basis. Hence the successful conclusion of systematic transformation and market oriented structural reforms is essential. Poland's economic situation and progress has already been analysed in preceding chapters of this Opinion.

Current and Prospective Assessment

The Polish Central Bank is independent from the government in terms of the appointment procedure of the Governor. However, the Act on the Central Bank does not explicitly provide the Central Bank with formal independence from the government in the conduct of monetary policy.

The formal objective of the Central Bank is the strengthening of the currency. Finally, the Law is still far from being compatible with the Treaty provision about complete prohibition of central bank budget deficit financing. Moreover, the already loose provisions of the Law are suspended every year by the Annual Budget Law. At present, the Polish authorities are discussing the reform of the Act on the Central Bank. As a result, it should become compatible with the Maastricht Treaty requirements.

Broadly speaking, monetary policy in Poland has been successful in reducing the inflation rate. In 1995, the country experienced a massive capital inflow, mostly in the form of speculative portfolio investment. The reason was not only the improved perspective of the transition process in Poland, but also a monetary policy fuelling real exchange rate appreciation expectations. The 1995 inflation outcome was quite disappointing, with the inflation rate at about the same level as it was in 1994. In 1996, the Central Bank abandoned its policy of interest rate targeting and let the exchange rate move more freely within a wider band. Speculative capital inflows have almost disappeared, money supply growth has been brought under control and the 1996 inflation rate dropped significantly. The efficiency of monetary policy is still hindered by a segmented, state dominated banking sector and bankruptcy procedures are difficult to implement. On the other hand, Poland has been able to successfully launch a 10-year floating rate bond issue in 1995, and financial markets are quite developed. Finally, the restructuring policy of the banking sector seems to have been successful in gradually reducing the bad loans problem.

The exchange rate regime in Poland is a crawling peg, with fluctuation bands around the central parity. In a first phase (October 1991 - March 1995), the exchange rate was used as the nominal anchor of the system. Occasional devaluation episodes aimed at preserving or restoring competitiveness occurred in this period. After March 1995, the exchange rate policy had to face a different challenge: the improving perspectives of the transition process were putting appreciating pressures on the exchange rate. The exchange rate regime became more flexible by introducing bands around the crawling central parity. The width of the bands has been increasingly widened until January 1997 and it appears that the increased flexibility of the exchange rate has helped to stop speculative capital inflows and the ensuing inflationary pressures. Since March 1995, the exchange rate has been stable and remained within the targeted band.

Conclusion

It is premature to judge whether Poland will be in a position, by the time of its accession, to participate in the euro area; that will depend on the success of its structural transformation permitting to attain and to adhere permanently to the convergence criteria, which are not however a condition of accession.

Following the clear switch in the monetary policy regime which occurred in 1996, Poland's participation in the third stage of EMU as a non-participant in the Euro-area should pose no problems in the medium term. However, it is important that central bank legislation is made fully compatible with EC rules and that the stability orientation of current monetary and exchange rate policies is maintained. In addition, the restructuring of the banking sector should be completed.

Taxation

The *acquis* in the area of direct taxation mainly concerns some aspects of corporation taxes and capital duty. The four freedoms of the EC Treaty have a wider impact on national tax systems.

The indirect taxation *acquis* consists primarily of harmonised legislation in the field of Value Added Tax and excise duties. This includes the application of a non-cumulative general tax on consumption (VAT) which is levied on all stages of production and distribution of goods and services. This implies an equal tax treatment of domestic and non-domestic (import) transactions. The VAT *acquis* also contains transitional arrangements for the taxation of transactions within the European Union between taxable persons. In the field of excise duties the *acquis* contains harmonised tax structures and minimum rates of duty together with common rules on the holding and movement of harmonised excisable goods (including the use of fiscal warehouses). As a result of the introduction of the Single Market, all fiscal controls at the Community's internal frontiers were abolished in January 1993.

The mutual assistance between Member State tax authorities is an important feature of administrative cooperation in the Internal Market; the respective Directive covers both direct and indirect taxation.

The Europe Agreement contains provisions on approximation of legislation in the area of indirect taxation.

The White Paper contains as Stage I measures those which make up the main requirements of the indirect taxation *acquis* (essentially, those measures applied in the Community up to 1993), and as Stage II measures those which are in addition necessary to implement the full indirect taxation *acquis*.

Descriptive Summary

Direct Taxation

The two company taxation Directives and the Arbitration Convention provide for a mechanism which applies on the basis of reciprocity. Respective provisions can therefore by definition not be expected to exist before accession.

Indirect Taxation

The overall contribution of VAT and excise duty revenue to the Polish state budget was about 25% and 15% respectively in 1995. This is expected to continue on an upward trend.

Value Added Tax

The current Polish VAT system was introduced in July 1993 replacing the previous Turnover Tax. Poland applies a dual VAT rate system: a standard VAT rate of 22% and a reduced VAT rate of 7%. In addition zero-rating is applied to some extent as a transitional measure till the end of 1998. The reduced rate and the zero-rate are applied to the supply of certain specific goods and services. All other supplies are taxed at the standard rate. In principle imported goods are subject to the same level of VAT as similar domestically produced products. However, certain national produced products are zero-rated, whereas similar imported products are taxed at either the reduced or the standard VAT rate.

Certain activities are exempt from VAT without the right to claim the input credit on such supplies. These exemptions relate mainly to activities in the health and welfare sector, the agricultural sector and the financial and insurance sector. Taxable persons are in principle entitled to deduct VAT incurred on their purchases for business purposes of goods and services.

However, unlike services provided by domestic entities, the tax on imported services is not deductible. As a result such services bear an additional cost of 22% compared to similar domestically provided services. The Polish VAT Act does not contain any provisions enabling tax to be refunded to taxable persons not established within the country.

In addition to the VAT, a further lump sum VAT is charged on the transport of goods and non-regular passenger transport services by vehicles not registered in Poland. The lump sum VAT is levied exclusively on foreign hauliers.

Excise

The current system of excise duty in Poland was introduced at the same time as the VAT system. Excise duties are levied on a wide range of products including products other than those subject to common excise duties within the Community (mineral oils, alcohol and alcoholic beverages and manufactured tobacco). For each product category, the duty is specific in nature, except for certain mineral oils and tobacco products which are chargeable on an ad valorem basis

Mutual Assistance

The tax administration has not yet had to develop its capacity for mutual assistance with the tax authorities of Member States, since mutual assistance is a feature which would only become applicable on accession.

Current and Prospective Assessment

Value Added Tax

The current VAT system in Poland has been based on the main principles of the VAT legislation of the Community. It is a solid starting point in its future alignment with the Community VAT *acquis*. However, it is in some respects discriminatory against imports.

Although foreign entrepreneurs have a legal right to register for VAT in Poland, in practice this is a complicated procedure. Since Poland does not operate any arrangements for the refund of VAT to non-registered foreign taxable persons, VAT represents an increased cost to such traders. The Polish treatment of imports is not in conformity with Community rules and is severely discriminatory when compared to the rules for similar domestically produced supplies. The Polish approach regarding exempt transactions deviates to a large extent from that of the Community legislation both in term of scope and substance. The application of the reduced VAT rate is notably broader in scope compared to the Community approach.

Despite its name, the lump sum VAT has no similarities to VAT. It is neither refundable nor has the Polish contractor the right to deduct this levy as input VAT. It increases the costs of transport services provided by non-Polish hauliers; the charge cannot be avoided by being registered for VAT in Poland. A similar levy on transport services does not exist within the Community with regard to vehicles registered in Poland.

Poland's membership of the European Union would require adjustments to do away with the current discrimination against imports and to bring the VAT legislation into line with the requirements of the Community *acquis* in particular as regards the system of taxation necessary in a Community with no internal frontier controls.

The Polish national strategy plan for implementing the recommendations of the White Paper regarding VAT plans to give priority to the application of rates, including for citrus fruits as of 1 January 1998, during the period 1998 - 2000. The broad scope of exempt transactions, other than unprocessed agricultural products, are to be reviewed. A refund scheme for foreign taxable persons is planned to be in place from 1999. Initiatives to eliminate the current discrimination against imports, including the lump sum VAT, are also envisaged; the present system as it is applied to vehicles entering Poland has caused considerable difficulties at the frontiers.

Excise

There are significant discrepancies between the Polish excise regime and EU requirements.

Firstly, there exists no excise suspension system where goods can move between authorised tax warehouses without payment of duty. Also the registration of traders for excise purposes needs to be reviewed.

Secondly, there are separate tariffs for domestic and imported products which provide for a higher level of taxation on imported products than that imposed on similar domestic products.

In the event of accession, excise duties on products not belonging to the harmonised excise duties within the Community could continue to apply provided, however, that they would not give rise to border-crossing formalities in trade between member states and that they complied with the principles of non-discrimination between national products and products originating from other member states.

In order to ensure a correct application of the Community excise legislation it is essential that Poland sets up a warehousing system based on the Community model as soon as possible, strengthens control procedures and adapts the structure and level of its excise rates in such a way that they comply with the Community principle of non-discrimination between national products and those originating from other member states.

The Polish national strategy plan for implementing the provisions of the White Paper does not provide a clear and detailed timetable for future adjustments of Polish excise legislation. It is planned to incorporate an identification number on fiscal stamps which will show the manufacturer or importer (this is, however, not part of the Community *acquis*). There is also a longer term policy to have two groups only of cigarettes for tax purposes - long and short - and to adapt excise rates on motor fuels to the EU minimum rates. However no full harmonisation of legislation is planned.

Mutual assistance

There would also be a need, on accession, to implement the appropriate arrangements for administrative cooperation and mutual assistance between Member States. These requirements are essential for the functioning of the Internal Market.

Conclusion

The *acquis* in respect of direct taxation should present no significant difficulties.

As regards indirect taxation, provided a sustained effort is made, Poland should be able to comply with the *acquis* concerning VAT and excise duties in the medium term.

It should be possible to start participating in mutual assistance as the tax administration develops its expertise in this respect.

Statistics

The main principles of the Community *acquis* relate to the impartiality, reliability, transparency, confidentiality (of individual information) and dissemination of official statistics. In addition there exists an important body of principles and practices concerning the use of European and international classifications, systems of national accounts, business registers, and various categories of statistics.

The Europe Agreement provides for cooperation to develop effective and reliable statistics, in harmony with international standards and classifications.

The White Paper includes no provisions in this field.

Descriptive Summary

The Central Statistical Office (GUS) is advised by a National Statistical Council (NSC) composed of representatives of various administrations and organisations. The GUS is currently being re-organised to establish a new sharing of responsibility between the headquarters and regional offices. The GUS cooperates with a large number of bodies in the EU. It also plays an important role in transferring knowledge to other countries in the region.

The legal basis for Polish official statistics consists of the 1995 Law.

Current and Prospective Assessment

Polish legislation is fully compatible with the current standards applied within the European Union.

Improvements in statistics are still necessary in some fields. One of the main aspects requiring development in the statistical system concerns the reconstruction of registers.

Conclusion

Poland should be able to comply with EU requirements for official statistics within the next few years.

3.4 Sectoral Policies

Industry

EC industrial policy seeks to enhance competitiveness, thus achieving rising living standards and high rates of employment. It aims at speeding up adjustment to structural change, encouraging an environment favourable to initiative, to the development of undertakings throughout the Community, and to industrial cooperation, and fostering better exploitation of the industrial potential of policies of innovation, research and technological development. EC industrial policy is horizontal by nature. Sectoral communications aim at transposing horizontal concepts into specific sectors. EC industrial policy results from an articulation of instruments from a number of Community policies; it includes both instruments related to the operation of markets (product specification and market access, trade policy, state aids and competitions policy) and measures related to industry's capacity to adapt to change (stable macro-economic environment, technology, training etc.).

In order to cope with competitive pressure and market forces within the Union, the industry of applicant countries needs to have achieved a certain level of competitiveness by the time of accession. The applicant countries need to be seen as pursuing policies aimed at open and competitive markets along the lines set out in Article 130 ("Industry") of the Treaty. Cooperation between the EC and the candidate countries in the fields of industrial cooperation, investment, industrial standardisation and conformity assessment as provided for in the Europe Agreement is also an important indicator of development in the right direction.

Descriptive Summary

Polish industry produced a total output of around ECU 27 billion in 1995, equivalent to four-fifths the industrial production of Sweden, and accounts for about one-third of GDP. Employment in industry is at a level of approximately 3.2 million persons (25% of the Polish workforce). Due to growth rates of 5-7% in 1995 and 1996, industrial production is now exceeding the pre-reform levels of the late 80s.

The transition process was launched in 1989 with a comprehensive reform programme aimed at replacing a centrally planned economy by an open market economy. The transition toward an open demand-led market economy caused strong pressures on industry to adjust to the rapidly changing situation. The resulting economic transformation was accompanied by a collapse in industrial production and major shifts in industrial structure, and the share of industrial output in GDP dropped continuously from 1990 onward to reach 40% by 1995.

Polish industry, main production sectors in 1995

Sectors	Share in industrial employment %	Share in industrial production %
Food products	12.9	18.5
Mechanical electrical engineering (including pressure equipment, medical devices, measuring instruments)	5.7	16.8
Chemical industry, pharmaceuticals	7.6	10.1
Construction	5.5	6
Metallurgy (steel and non ferrous metals)	5.2	5
Textiles, footwear and furniture	10	4
of which: -furniture	3	n.a.
-leather	1	0.5
Cement, glass, ceramics, wood and paper	4.9	n.a.
Automotive industry	3.25	4

S*hare of industry (excluding construction) 33 in total GDP*

Mainly based on the Polish questionnaire response

Agri-food is an important industrial sector in Poland. Production is rapidly increasing and investment in the sector has doubled in 93-95. The food industry features Poland's biggest companies; ninety agri-food enterprises are amongst the top 500 Polish companies, most in public ownership. The privatisation programme is due to be completed within the next three years. The sector is one of the most dynamic of Polish industry, attracting considerable interest through FDI.

The **metal product and mechanical engineering** industries are comparable in size to the industries in Portugal. Production is growing rapidly and is mainly destined for the domestic market. Compared to the EU these sectors are more dispersed, the equipment is older and labour productivity is very low. However, size and growth potential of the domestic market is large enough to sustain production of a relatively wide range of products although fewer than currently produced. Although Poland's competitive edge in metal products is thin, the industry would probably be able to maintain and develop its production. Similarly, mechanical engineering can be expected to be able to adapt to EU-membership by shedding medium-technology products and further specialising in low-range, labour-intensive equipment, its future prosperity depending *inter alia* on how long it can keep wages low and how fast it can upgrade production.

The **chemical** industry consists largely of large state companies of which some may come up for privatisation in 1997. The situation varies in the different chemicals subsectors. Given that privatisation has not been completed and regulatory requirements shelter the industry from imports to a certain extent it is difficult to further assess the competitiveness of the sector. In order to successfully adapt to the conditions of the Internal Market, significant legislative and administrative efforts for the chemical sector will be required.

The **pharmaceutical** industry is a key sector in Polish industry and before transition Poland was exporting pharmaceuticals to most CMEA countries. The pace of privatisation in this sector is slow and the weaknesses of producers primarily consist of a lack of effective marketing policies, poor drugs, and low appeal. Their limited financial resources have led to low investment in R&D, leading to widespread dependence on generics.

However, competition is fierce in the generics market and both Indian and Eastern European producers are threatening Poland's export markets. Foreign pharmaceutical companies spotted the long-term attractiveness of the Polish market at an early stage. Their presence now extends into a significant part of the market.

Out of the around 40 **steel** mills in the CEECs, 23 are located in Poland. Polish steel production and capacity dropped significantly between 1986 and 1995 but a further capacity decline is not expected. The Polish government intends to engage in an ambitious modernisation programme, involving the closure of obsolete plants and new investments. However, so far only $0.6 billion have been invested and there is no sign of strong interest from potential investors and prospects for the steel industry are uncertain. Technical, commercial, and management deficiencies will take time to be solved while environmental problems are abundant. Regional and social problems for any further adjustment complicate further restructuring.

The **textiles and clothing** sectors provide a relatively large contribution to the economy. By 1999 both sectors should be completely privatised. Among the CEECs, Poland is the major trade partner for EU industry in outward processing trade (OPT). Geographical closeness, low wage levels, high quality raw materials demanded by the EU market and non-availability of foreign currency in the CEECs to import such material favoured the development of OPT operations.

The **furniture** industry is one of the more dynamic sectors in Polish industry. Foreign capital participates in nearly one-third of firms. Three-quarters of the production is exported, most of which to the EU. The Polish furniture industry has a considerable production potential with a relatively good manufacturing technology and can be considered one of the most promising industrial sectors in the economy.

Since the transition, Poland has further developed its traditional dominant position in the region for the **automotive** industry. The transition process has been characterised by a large number of different cooperative ventures between EU and Polish manufacturers. Considerable investment has also taken place in the components sector. With the further arrival of Korean and US car manufacturers the risk of over-capacity will further increase, while present capacity utilisation rates are already low. A considerable part of production will be targeted toward the EU, which accounts for most of exports. With limited growth prospects in EU and Eastern European markets, competitive pressures will increase throughout the EU.

The Polish **shipbuilding** industry was hit hard by the collapse of exports to the former USSR Production has a 3 per cent share in world shipbuilding. Productivity is significantly lower than in the EU, and only one shipyard has productivity levels comparable to those of other European yards. However, the industry is internationally competitive, especially due to low wages, and competes directly with the ship repair industry in the EU. Restructuring started in 1993 and the shipyards are working on their own restructuring programs.

The Polish **Information Technology industry** is small but growing. It produces a diversified range of electronic equipment and components. The sector has been able to attract a considerable amount of Foreign Direct Investment. Sparked by the continuing need for restructuring in nearly all industrial sectors, strong demand growth is expected.

Cement, glass, ceramics, wood and paper: Despite over-capacity in some of the sectors, market growth prospects and the fact that they have attracted foreign participation and have so far adapted to (limited) import competition seem to indicate that these sectors are viable in more open markets. Notably for ceramics and the paper sector, however, a number of regulatory import restrictions still exist that prevent EU firms from freely entering the market.

The number of public sector firms dropped, through privatisation or liquidation, from 67 000 in 1990 to 49 000 by end-1995. At the same time, the number of private enterprises (excluding very small enterprises) increased more than twofold, to 160 000. Most private sector firms are small and medium-sized enterprises (SME). In 1995, the Polish government started the long-delayed mass privatisation programme that gives participating Polish citizens a stake in each of the newly established National Investment Funds which control more than 500 enterprises through tradable vouchers.

Some sectors of the Polish industry like construction, building materials, furniture, agro-food, pharmaceuticals and cars, have been mostly privatised and often with the help of foreign investment have been modernised and restructured; these sectors have already achieved international competitiveness, or will do so, in the mid-term, thus allowing them to participate successfully in the internal market. Yet other industrial sectors - such as chemicals, mining, and steel, - are still dominated by state-owned large companies which still await privatisation and restructuring. Unless this transformation is undertaken, there is little prospect for the successful participation of these re-structured industries in the Single Market.

Current and Prospective Assessment

The distinguishing feature of Polish industry is the importance of new firms which are behind the dynamism evident over the last years despite a slow pace of privatisation. Labour productivity in industry has increased by more than 10% p. a. over the last five years and unit labour costs expressed in ecu have fallen. But it is questionable whether growth can continue at this rate. Investment is only moderate (about the EU average) and FDI, while high in absolute terms, is rather small if measured in terms of its contribution to overall investment (about 6%, one of the lowest ratios among applicant countries).

Polish industry is much less open to trade than that of other applicants. While the openness indicator for Poland is not unusually low (exports account for about 22% of GDP, equal to the value for Italy), other applicants are on a considerably higher level, thereby indicating that one cannot rely to the same extent as in other applicants on international competitive pressures to correct policy induced distortions.

The need for restructuring and modernisation is exemplified by the steel sector, as recognised by the Polish authorities and reflected in the measures envisaged in the context of ongoing intensive dialogue on this sector. Several other sectors, including notably pharmaceuticals, face the need for further restructuring.. In the automobile sector, the transition from -assembly lines to a fully fledged auto industry will also require an effort. Privatisation and FDI will play a key role in restructuring, even more so in the sectors with dominant state owned enterprises (chemical, oil, mining, telecom, and metallurgy). The Polish government has so far been less willing than others to address the serious regional and social problems that restructuring will cause. The administrative tightening that has been launched to make government control of state enterprises more effective is desirable, but may, at least on the short run, slow down privatisation.

In its 1997 National Strategy for Integration, the Polish government provides a comprehensive picture of factors influencing and measures needed for, preparation of Polish industry for accession to the EU.

Conclusion on Industrial Competitiveness

Polish industry is characterised by the existence of both a vibrant and expanding new private sector which should be able to compete in the Single Market in the medium term, and other sizeable segments of industry, most of them state-owned, which face the urgent need for restructuring in order to be able to compete.

An evaluation of the *acquis* specific to the free circulation of industrial goods is to be found in the separate section on the internal market.

Agriculture

The Common Agricultural Policy aims to maintain and develop a modern agricultural system ensuring a fair standard of living for the agricultural community and the supply of food at a reasonable price for consumers, and ensuring the free movement of goods within the EC. Special attention is given to the environment and rural development. Common market organisations exist to administer the CAP. These are complemented by regulations on veterinary health, plant health and animal nutrition and by regulations concerning food hygiene. Legislation also exists in the area of structural policy, originally developed primarily to modernise and enlarge agriculture, but more recently with an increasing emphasis on the environment and the regional differentiation of the policy. Since reforms in 1992 increasing contribution to farm support have come from direct aid payments compensating for reduced agricultural support prices.

The Europe Agreement provides the basis for agricultural trade between Poland and the Community and aims to promote cooperation on the modernisation, restructuring and privatisation of Poland's agriculture sector as well as the agro-industrial sector and phytosanitary standards. The White Paper covers the fields of veterinary, plant health and animal nutrition controls, as well as marketing requirements for individual commodities. The purpose of such legislation is to protect consumers, public health and the health of animals and plants.

Descriptive Summary

Agricultural Situation

The value of agricultural production in 1995 was approximately 5.39% of that of the Union.

The economic importance of agriculture is still relatively high. In 1995 agriculture contributed 6.6% to the GDP, down from 12.9% in 1989. There were approximately 4.7 million people working in the agricultural sector in 1995. Out of these, 4.3 million worked full-time in agriculture corresponding to 27% of total employment. Although it fluctuates, the number of people employed in agriculture is decreasing slowly: from 1989 to 1995 employment in agriculture fell by 4.5%.

Out of a total land area of 31 million ha, about 28% is covered by forest. The agricultural area, 19 million ha, represents 60% of the total area. More than three-quarters of the agricultural area is arable land. The most important arable crops are cereals (60% of arable land) and potatoes (11%).

Agricultural production, with the exception of pork and poultry, has declined substantially since transition as a result of the drastic shift in input/output price relations, which in particular hurt the livestock industry. The relative importance of crop and livestock production has shifted towards crop production which represented about 58% of agricultural production in 1995.

Unlike other CEECs, the process of collectivisation of individual farms was never completed in Poland. There are more than two million private farms in Poland of which only 20% are considered to derive their income exclusively from farming. Farm structures are mainly small-sized. The average arable land occupied per farm was 6.7 ha, the average cattle herd was 4 pieces of cattle (of which two cows) and the average pigs herd was 8 pigs. More than 50% of these farms have less than 5 ha and occupy 20% of the total agricultural area, while only 3% have more than 20 ha and also occupying 20% of the agricultural area - the farm size in this category averaging 63 ha.

In addition, former large state-owned farms and cooperatives occupy about 20% of the arable land. Around 10% of the land of the former state farms has been privatised. The process of selling state property to private investors is hampered by the lack of sufficient investment capital, and a large parts of the assets, including 2.8 million ha have been leased. In December 1995, around one million ha remained to be disposed of. In the long-term, average farm size is expected to increase, although the number of very small farms (less than 2 ha) is not expected to decrease substantially.

Despite the general downward trend in agricultural production, Poland is self-sufficient for the main products, partly due to reduced levels of consumption. In 1996 the production of cereals was 25.4 million tonnes, while the production of milk was 11.7 million tonnes, and the production of pork 2 million tonnes (beef: 0.41 million tonnes). In 1995, 56.5% of the total fruit harvest and 8.7% of the vegetable harvest was exported. Poland is a major potato producer with an average production in the last three years of 28.1 million tonnes (about 4.6% of EU production).

The food processing industry accounts for more than one-fifth of the Polish industrial output. However, the technological standard and integration is less advanced than in the EU. In the first stage processing industry productivity is rather low which means that food producers do not fully benefit from increased consumer spending on food.

The agricultural trade balance has sharply deteriorated during the period of transition. In 1995, Poland's agricultural trade represented 10.3% of total exports and 9.5% of total imports. Although exports have increased each year since 1993 to reach ECU 2.1 billion in 1996, imports have continued to increase and have exceeded exports over this period. Agricultural trade with the EU-15 represents about 47% of Polish exports and 46% of imports. States of the former Soviet Union account for 30% of Polish agricultural exports and 4% of imports. Trade with these countries is increasing rapidly. The main imported products were fresh fruit and vegetables (32%), processed fruit and vegetables (24.2%), and non-staple products (e.g. coffee, tobacco, spirits) at 17.9 %. The main exported products were processed fruit and vegetables (34.7%), meat and milk products (26%) and fresh fruit and vegetables (8.8%).

Agricultural Policy

The PSE (producer subsidy equivalent) for Poland, calculated by the OECD, was 21% in 1995 compared to 49% for the EU.

In 1989, Poland went through a major transition in agricultural and food policies. The former policies of input subsidies and consumer subsidies were discontinued leading to substantial price increases for agricultural products with a consequent acceleration of inflation during the transitional period. During the years following the liberalisation of the agriculture markets, stabilisation measures were gradually implemented to achieve a better market balance and to stabilise prices. The general level of support is less than half the level in the EU.

Policy instruments include guaranteed prices, as well as import and export mechanisms for key commodities, notably cereals, milk products, pork and beef, and, as such, are similar to EU market policy instruments. The Agricultural Market Agency (ARR), under the supervision of the Ministry of Agriculture and Food Economy, carries out a broad range of intervention policies (purchase and sale of agricultural products, accumulating and managing state reserves of agricultural products, granting credit guarantees and support for the development of wholesale markets).

For crop products, minimum prices are fixed for wheat and rye for human consumption. Intervention prices are fixed at a higher level - i.e. 10% more in 1995/96. If market prices fall below minimum prices, intervention purchases are carried out by the ARR, which also purchases grain for security stocks. Sales out of intervention can take place on the domestic market or for export on conditions similar to EU arrangements. Since 1994, the sugar sector has been subject to market arrangement similar to the EU market organisation for sugar. Intervention arrangements also apply to the dairy sector. A minimum price is established for milk. The ARR can intervene in the market by purchasing butter and skimmed-milk powder at fixed intervention prices from dairy plants paying the minimum price to farmers. As market prices for milk have been above the minimum price in recent years, market intervention has been limited to seasonal purchases.

Intervention activities in the meat sector have in general been limited to pork which is traditionally the main meat product. Intervention arrangements are also provided for in the beef sector where purchases are currently limited to maintaining state reserves. Market arrangements for other agricultural products are generally limited to import and export arrangements. However the ARR can also apply intervention measures for these products in case of serious market imbalance.

Market and support prices in Poland (with the exception of wheat and pigmeat) are significantly lower than EC prices. Cereal prices in Poland are stabilised closer to the world market price than the EC. The intervention price of wheat and pigmeat was 79% of the EC intervention price in 1995-96, and pigmeat prices were on average 83% of those of the EC between 1993 and 1995. On the other hand the target price for standardised cow's milk was only 50% of the EU in 1995/96, and beef prices were still only 46% of the EC price in 1995.

The budget expenditure for the agricultural sector amounted to ECU 2.3 billion in 1994 representing 9% of the total government budget.

By far the biggest share of the agricultural budget (72% in 1994 increasing from 48% in 1990) is destined for the farmers' social security system, 8.1% for the reduction of inputs costs, while only 4% of the budget was spent on price and income support. With continuing structural employment problems and an ageing rural population (8.6% of the rural population received social support in 1995, as against 4.5% in 1988), this emphasis is likely to remain for the foreseeable future.

Currently, a wide range of activities relating to rural, structural and environmental development are being undertaken (support for land privatisation and ownership transformation in agriculture, integrated rural development and development of technical infrastructure in rural areas, creation of a modern system of financial services to agriculture, modernisation of farms and companies supplying inputs to agriculture and food processing plants, development of agricultural market infrastructure, harmonisation of rural and agricultural policy with environmental protection requirements).

A number of measures, such as assistance to modernisation, structural improvements, establishment of young farmers, farming in less favoured areas, early retirement etc. have been, or are being implemented. These measures are generally similar to EU measures. Structural measures also include support to reduce production costs such as preferential operating credits, improved use of fertilisers and plant protection products, improved livestock breeds and tax relief. The funding and consequently the impact of these policies is, however, limited.

In 1990, the state monopoly of foreign trade was abolished and state-owned enterprises were no longer privileged by specific trade advantages. Poland removed most of its non-tariff protection measures in 1990, maintaining relatively low customs tariffs. As a result, Poland had one of the most liberal customs systems in Europe in the early 1990s. Tariffs for food and agricultural goods were between 5 and 25%. As a response to difficulties in food and agricultural trade, and of deteriorating farm incomes, the Polish government gradually increased border protection and introduced a new tariff schedule for agricultural commodities, including variable import levies on agricultural commodities, along mechanisms similar to the former EU import regime.

With the implementation of the Uruguay Round Agreement the variable levies were transformed into fixed tariffs. Poland has made its commitments in US dollars. The main part of domestic support is the Aggregate Measurement of Support (AMS) which will be limited to $3.3 billion by the year 2000. Poland has adopted the EU tariff nomenclature. Poland has established minimum access quotas with tariff varying from 10-60%, with tariffs outside quotas at significantly higher levels. Poland's commitment is made in such a way that it ensures that no final bound duty rate is lower than the corresponding EU rate. The export subsidy commitments amount to $672 million in the base year. The most important outlays are foreseen for processed fruit and vegetables.

For fresh and processed meat, subsidised quantities (each 50,000 t) exported were small, but had a very high per unit subsidy. Export subsidies for cereals are not permitted under the Commitment.

The trade arrangements under the Europe Agreement, providing in agriculture for mutual import tariff preferences, have been in force since 1992. In the framework of CEFTA (Central European Free Trade Agreement), Poland now has zero tariffs on nearly half of its agri-food imports (non-sensitive products) from Hungary, the Czech Republic, Slovakia and Slovenia.

Poland is in the process of harmonising its legislation in accordance with the White Paper.

Poland has an institutional infrastructure with a certain number of agencies managing different aspects of Polish agricultural policies under the central responsibility of the Ministry of Agriculture, and an emerging structure of farmers organisations which are assisting farmers in various ways and playing an increasing role in agricultural policy formulation and implementation.

Chambers of Agriculture have been established at provincial (voivodship) and national level under the Act of Chambers of Agriculture (April 1996).

There are more than twenty producer associations representing various production sectors. These associations provide members with information and advice on matters pertinent to the sector concerned, carry out promotion activities and participates in the formulation of sector specific policies.

Current and Prospective Assessment

Provided its competitiveness will improve over time, Poland has a substantial potential to increase production from current levels, in particular in sectors where the EU is already self-sufficient or an important exporter. Although domestic consumption, in particular for animal feed, is expected to absorb most of the increase in production for cereals and oilseeds, Polish export of these products is also expected to become significant. Poland may become a small net exporter of cereals in the medium-term. Production is also expected to increase substantially in the livestock sector, although by the year 2000 production levels for milk and beef would still be lower than in 1990. Pigmeat is forecast to have recovered to a similar level while the production of poultry meat is expected to increase about a third to a level well above 1990.

With about a quarter of the work force employed in agriculture and high rural unemployment in some regions, Poland faces a huge task in formulating and implementing a sustainable rural and structural development policy. Privatisation and ownership transformation of land present a major challenge. Disease and pollution damage exists to Polish forests and, in certain areas of the country, groundwater pollution as a result of nitrate run-off is a major problem.

The Polish food processing industry will face strong competition not only in their export markets but also on the domestic market. Some development is also needed to increase the efficiency of the food producer/first processor interface, for example through better marketing channels and enhancing price and quality information. Considerable investment is also needed to bring these facilities (for example abattoirs) up to EU standards. The further processing part of the sector has undergone a considerable amount of privatisation and rationalisation making it a relatively dynamic sector. Further privatisation of certain sectors (such as sugar and fertilisers) would contribute to increased competitiveness.

Poland has the clear policy objective of adapting to EU legislation and new legislation passed in recent years reflects the main elements of the CAP. The administrative institutions carry out tasks similar to some of the tasks carried out by the member states administrations such as intervention, management of reserves, social and retirement payments, etc. Nevertheless major differences still remain between Polish and EU policies related to agriculture.

The state intervention agency (ARR) appears to have active commercial and financial activities in the agricultural markets that go beyond the intended passive roll of intervention agencies under the CAP, notably state reserve procurement, credit financing and a relatively high degree of flexibility in deciding when market intervention shall be activated.

The market support measure in the pigmeat sector, in particular the public intervention measure, would need to be adopted to Community policies. With regard to marketing requirements, Poland is in the process of adapting quality standards for most fruit and vegetables. Classification schemes and marketing standards in the beef, pigmeat and poultry sectors would need to be harmonised to EC standards. Producer organisations exist but may need to be more effectively co-ordinated and wholesale market structures in the fruit and vegetable sector require development.

Certain market policy instruments applied in the EC are not applied in Poland. This includes key instruments such as dairy quotas, key features of the arable crop scheme (base area, set-aside, compensatory payments and premiums in the livestock sector), as well as certain rural and structural development programmes. Management and control of these measures would require relatively sophisticated administrative systems, including an appropriate land register and cattle identification and registration systems, given the large number of small farmers.

It is clear that the administrative capacity would need to be further developed in these areas if these measures were to be applied in Poland.

It is difficult to foresee at this stage what will be the development of agricultural support prices in Poland in the period before accession; this will depend on a number of factors including the domestic economy, the situation on export markets, and the development of price support levels in the Union.

Although progress has been made in adapting rural and structural policies, some of the support measures aimed at reducing the costs of production, in particular input subsidies, appears to be inconsistent with Community policies.

In general, despite a number of trade issues, Poland is correctly applying the provisions of the Europe Agreement concerning trade with the Union in agricultural products.

Poland is making progress in introducing the legislation identified in the White Paper. However, most areas still require adjustments to comply with EU legislation. In the veterinary field, primary legislation (the new Veterinary Act) is in the legislative process. Secondary legislation which can be promulgated by the Government is in preparation independently of the primary legislation but cannot be introduced until the new law is enacted.

The Polish government is in the process of preparing legislation in the fields of national veterinary supervision, animal protection, breeding and reproduction of farm animals and supervision over feeding stuffs, that should bring the legislation in these areas into conformity with the *acquis*.

Negotiations on an equivalency agreement in the veterinary and phytosanitary sectors were formally started in 1995 but progress has been slow while the Polish services have been concentrating on the approximation process.

Poland has a relatively elaborate infrastructure for veterinary control and inspection, both at the borders and internally. The services are undergoing structural changes, including some decentralisation of the services accompanied by a large reduction of official veterinarians, in particular at head offices and the emergence of a private veterinarian sector. Furthermore the increased fragmentation of the livestock's units may make inspection and overall disease control more difficult. The new veterinary Act, when adopted, will establish the legal base for both the private and public veterinary services.

The facilities at border inspection posts are still inadequate for Community veterinary control. Complete facilities for the inspection of live animals and animal products at the border inspection posts are not yet available and most border checks are limited to controls on certificates and other documents, with the majority of physical checks being undertaken at destination. Currently, the Polish situation does not appear to completely comply with the EU import rules from third countries.

As regards internal measures there is a need for the Polish authorities to ensure Poland's animal health status in respect of certain EU requirements. The system of registration of holdings and identification of animals will need to be adjusted to the EU systems. The concept of regionalisation appearsto be only partly applied. Eradication practices regarding notifiable diseases need further exchange of information to establish if they conform to EU legislation.

There will be a need to upgrade certain food processing establishments in particular for the national market to develop acceptable veterinary audit and certification procedures, also for both imports and exports and to maintain an adequately structured, resourced, staffed and trained veterinary sector.

Polish legislation is well developed regarding seed and propagation material and Poland enjoys Community equivalence under Community legislation for a number of products. Poland will need, however, to approximate its legislation to EC requirements for species where equivalency has not been established. A new law on crop protection came into force in July 1995. However, a certain adaptation to EU requirements is still necessary.

In the field of animal nutrition, new legislation is foreseen in 1997, which should adapt Polish legislation to EC requirements. The approximation of legislation in the field of plant health should not create major obstacles, although proper implementation will need to be enforced. The control and inspection arrangements appears to be inadequate to ensure the appropriate level of protection. The above mentioned concerns about enforcement of external border control and disease control in the veterinary field are also largely valid in the plant health sector. However it will be necessary to verify if the institutions are able to implement the new legislation.

Concerning pesticide residues and plant protection products, there is a high level of compliance with EC requirements, though proper implementation will need to be assured. In the area of organic farming, legislation is under development with draft legislation expected by the end of 1998.

Conclusion

Important efforts of alignment to the acquis are still necessary, although significant progress has been made in adopting the measures mentioned in the White Paper.

Particular efforts are needed in relation to :

- establishment of a coherent structural and rural development policy to deal with the problem of Poland's agricultural structure;

- implementation and enforcement of veterinary and phytosanitary requirements and upgrading of establishments to meet EC standards; this is particularly important with regard to the inspection and control arrangements for protecting the EU external borders;

- strengthening of the administrative structures to ensure the necessary capacity to implement and enforce the policy instruments of the CAP;

- further restructuring of the agro-food sector to improve its competitive capacity.

If such progress is accomplished, accession in the medium term should not be accompanied by significant problems in applying the common agricultural policy in an appropriate manner although a solution to Poland's structural problems will require a long-term approach.

Fisheries

The Common Fisheries Policy includes common market organisations, structural policy, agreements with third countries, management and conservation of fish resources, and scientific research in support of these activities.

The Europe Agreement includes provisions concerning trade in fisheries products with the Union. The White Paper includes no measures in this field.

Descriptive Summary

In 1995, Poland's fisheries sector employed 40,000 people and contributed 0.4% to the GDP. Approximately 450,000t of fish valued at ECU 350 million was caught. A total of 36 high-seas factory trawlers (down from 51 in 1993) accounted for 61% of the total catch of the Polish fleet by volume and 90% by value. Most of the catch was Alaskan pollack and depends to a great extent on fishing rights agreed with Russia in the Bering Sea. The high-seas fleet is being run-down due to age and limited access to other countries' fishing zones. The 403 cutter vessels in the Baltic fleet and the 870 boats of the coastal fleet catch, subject to quota, mainly cod, sprat and herring - although the quotas of the last two species are under-utilised. 85% of the Baltic fleet is at least 15 years old and generally outdated and under-powered.

The processing sector is in a restructuring phase. About 40% of the 377 enterprises currently still active in this sector in 1995, have less than ten employees. The high-seas catch is processed on-board and exported directly, making a major contribution to the positive balance of the fisheries sector.

Production of the main inland fishery species, carp and trout, has increased in value from ECU 30 million (27 000 t) in 1993 to ECU 52 million (36 000 t) in 1995. Fish-farming takes place in available ponds and lakes belonging to agricultural and other private holdings rather than in purpose-built units.

Poland's fish production and foreign trade data, when compared to the corresponding EU figures, show that it can be placed in the average category of EU countries. In 1995, Poland produced 4.85% of EU production value and has a positive trade balance (in value terms) with the EU. As a trading partner, Poland represents 1.75% of EU total fish imports and 70% of EU imports of fisheries products from the candidate countries alone (in terms of value). As regards EU exports, Poland receives 3.72% of our total exports of fisheries products and 44.8% of our exports of these products to the candidate countries (in terms of value).

Notwithstanding the Community's and Poland's mutual interest in negotiating reciprocal trading concessions regarding fisheries products, these have not yet been negotiated in the framework of the Europe Agreement due to the fact that on-going negotiations on a fishing agreement on access to resources are not yet finalised. Poland had concluded fisheries agreements with Russia, the USA, Canada, Mauritania and Norway.

Current and Prospective Assessment

Management of the resources in the Baltic is currently accomplished between the EC and Poland in the framework of the International Baltic Sea Fishery Commission (IBSFC). According to the data available, no major problems should be expected with regards to fisheries agreements concluded and Poland's membership to international or regional fisheries organisations.

Poland replaced the former centralised state system by a free market system and the privatisation of enterprises. There is however still a lack of auctions and market structures. The majority of existing processing plants do not conform with the EU's hygiene and sanitary regulations.

It will be necessary for Poland to establish a fisheries administration which is capable of implementing the Common Fisheries Policy - in particular, the management of resources, the keeping of a fishing fleet register, the application of structural policy for the sector, the management of the market scheme and the collection of all statistical data - as well as the EU's policies on health, hygiene and environmental matters.

Efforts are being undertaken with a view to adapting the sector for accession. Polish fishermen, already experiencing more limited opportunities to fish in distant waters, will probably depend more and more on Baltic Sea stocks, for which a certain over-capacity exists. This will lead to a reduction of the whole fleet with effects on the processing industry and accompanying socio-economic problems, and the remaining fleet will require a modernisation programme to make it competitive and respect the EU's multi-annual guidance policy as well as EC regulations covering hygiene and safety.

Conclusion

In the medium term, Poland needs to make further progress in modernising the sector and creating structures which correspond to the features of the EU fishery industry. Once the problems of access to resources and mutual trading concessions are solved, no major problems should be expected.

Energy

Main EU energy policy objectives, as reflected in the Commission White Paper "An energy policy for the EU" include enhancement of competitiveness, security of energy supplies and protection of the environment. Key elements of the energy *acquis* comprise of Treaty provisions and secondary legislation particularly concerning competition and state aids, internal energy market (including directives on electricity, price transparency, gas and electricity transit, hydrocarbons licensing, emergency response including security stock obligations, etc.), nuclear energy, as well as energy efficiency and environmental rules. Development of Trans-European Energy Networks and support for energy R&D are other important elements of energy policy. Ongoing developments include liberalisation of the gas sector, energy efficiency *acquis* and the Auto-oil programme.

In the field of nuclear energy, the Community *acquis* has evolved substantially from the original EAEC Treaty to a framework of legal and political instruments, including international agreements. At present, it addresses issues of health and safety, including radiation protection, safety of nuclear installations, management of radioactive waste, investment including EURATOM financial instruments, promotion of research, nuclear common market, supplies, safeguards, and international relations.

The Europe Agreement provides for cooperation to develop the progressive integration of the energy markets in Europe and includes provisions on assistance within the related policy areas. The White Paper preparing CEECs for the internal energy market underlines the need for full application of key internal market directives in combination with EC competition law. As to the nuclear sector, the White Paper refers to nuclear supply, safeguards and shipments of nuclear waste.

Descriptive Summary

Poland's energy economy is dominated by domestic solid fuels (hard coal, but also lignite), representing three-quarters of the energy balance. Oil represents only 15% of the country's energy needs. Poland is the seventh world producer of hard coal (reserves of 124 billion tons, 4% of world production) producing a quantity equalling total EU levels. Lignite production (68 million tons per annum) is economically viable and is progressively concentrated at one deposit in Central Poland (Belchatow). Due to its economic, social and regional importance (9% of GDP, a large number of workers, close link of coal to the steel sector, concentration of coal in one region), the energy sector is a key issue in the restructuring process.

Poland does not use nuclear power for the production of electricity and does not intend to do so at least before 2010. One state owned Materials Testing Reactor is used for the production of isotopes with fuel procured from Russia.

Energy efficiency is two to three times lower than the EU average, which combined with pollution from the coal sector or oil refineries, cause serious environmental consequences.

Poland is integrating increasingly its networks with those of the EU. The test synchronous electricity connection since 1995 with the Western European UCPTE system should be noted and the future completion of the gas pipeline Russia-Belarus-Poland-EU, will ensure a strategic second inlet for the EU for Russian gas, thus improving the Union's security of gas supply. The Baltic ports could increasingly play a role for oil and gas imports.

Current and Prospective Assessment

Restructuring of the energy sector has been delayed by the late adoption of an overall Polish Energy Policy (1996), which however is in line with EU-energy policy. Objectives of this policy include: introduction of more competition in the sector; ensuring security of energy supplies and protection of the environment. The competition framework in the energy sector is progressively approximating with the directives of the internal energy market in combination with the application of EU competition law. Here the anti-monopoly laws which is partly applicable to the energy sector, and the recently adopted Energy Law (expected to enter into force end 1997) are to be noted. The energy law foresees such matters as the establishment of a regulator on licences, tariffs, access to networks, separation of accounts of production, transmission and distribution activities. Most energy companies are State owned monopolies, although oil trade has been liberalised. The Polish Government has recently introduced import tariffs for oil products in order to protect its oil refineries, being restructured, which in the future will however have to compete on the saturated European market. The import barriers should progressively be dismantled in the near future.

As demonopolisation or privatisation plans are being prepared, it appears that in the electricity sector, new structures will be based on privatised distribution, generation and third party access to grids. There is also a clear link between coal sector restructuring and price setting. In the oil sector prices have been recently liberalised. Energy prices have been increased but particularly those for households (for social reasons) do not yet cover costs.

Domestic solid fuel will also in the future play an important role in the Polish economy. The government's restructuring plan foresees, with the necessary mine closures, a reduction of production and redundancies until 2000. This requires significant redundancies until 2000, whereas productivity should increase by 25%. According to the plan, remaining mines should become profitable by 1998 and debt repayment could start. However, some questions remain unsolved such as the financing of the environmental measures needed to remedy the severe problems related to the use of solid fuels particularly affecting the Katowice Voivodship. In this context equally, the state system for restructuring will have to be assessed against EC competition rules as well as specific ECSC state aid rules.

Poland has adopted an "Act on the State stock reserves and obligatory stock reserves of fuel", whereas present oil stocks are estimated at 30-35 days of consumption. These elements constitute a basis for future compliance with EU *acquis* on emergency preparedness including the obligation to hold ninety days of oil stocks, which however still requires sizeable investments. The energy law, which needs to be implemented, foresees such matters as the establishment of a regulator, rules on licences, tariffs, access to networks, separation of accounts of production, transmission and distribution activities.

Poland has started the development of EU-conform energy efficiency (e.g. labelling appliances, minimum efficiency standards) and environmental norms, but more remains to be done. Particularly the adaptation of the Polish refineries to Community standards need considerable investments.

Nuclear fuel for the material testing reactor is procured from Russia in manufactured form. There is no uranium production or fuel fabrication facility in Poland and spent fuel from the testing reactor is stored in ponds at the reactor site. On the longer term dry storage is under investigation inside the building of the former EWA research reactor, which is under decommissioning.

Although Poland has no nuclear power programme it needs to comply with the provisions of the Euratom Treaty, in particular those related to supply of nuclear material, the nuclear common market, safeguards, health and safety and international agreements. In these fields, Poland is party to all the international regimes and has bilateral agreements with Russia and the US. Poland has a full-scope safeguards agreement with the IAEA, so in this and the other areas above no major difficulties are expected in applying Community legislation, or in integrating Poland into Euratom's international nuclear policies.

Conclusion

Provided that current efforts are maintained, Poland should be in a position to comply with most of the EU energy legislation in the medium term. However, matters such as the adjustment of monopolies including import and export issues, access to adjustment networks, import barriers for oil products, energy pricing, emergency preparedness including the building up of mandatory oil stocks, state interventions in the coal sector, and the development of energy efficiency and fuel quality standards need to be closely followed.

No major difficulties are foreseen for compliance with Euratom provisions.

Transport

Community transport policy consist of policies and initiatives in three fundamental areas:

– Improving quality by developing integrated and competitive transport systems based on advanced technologies which also contribute to environmental and safety objectives.

– Improving the functioning of the single market in order to promote efficiency, choice and user-friendly provision of transport services while safeguarding social standards;

– Broadening the external dimension by improving transport links with third countries and fostering the access of EU operators to other transport markets(The Common Transport Policy Action programme, 1995-2000)[1]

The Europe Agreement provides for approximation of legislation with Community law and cooperation aiming to restructure and modernise transport, the improvement of access to the transport market, the facilitation of transit and the achievement of operating standards comparable to those in the Community. The White Paper focuses on measures for the accomplishment of Internal Market conditions in the transport sector, including such aspects as competition, legislative harmonisation and standards.

Descriptive Summary

Poland is a transit country between Western Europe and the CIS as well as between Northern and Southern Europe and is crossed by four Trans-European Corridors, identified at the Pan-European Transport Conference in Crete. As a consequence, a substantial increase in traffic has taken place since 1990, mostly using road infrastructure which was not built for such heavy traffic. Poland has had to invest in significant improvements to its road network, many of which are still under way, and to develop border crossing infrastructures.

This geographical situation, together with the general improvement of the Polish economy, led (after the opening of the CEECs) to a change in the modal split in the transport sector, with road transport of goods increasing its share, while inland waterways lost more than a third of traffic, and railways more than a half between 1990 and 1995. There has been a slight increase in air traffic in the last five years.

Current and Prospective Assessment

As regards completion of the internal market, Poland has made considerable efforts to adopt the *acquis*. Poland's international transport sector already broadly applies rules similar to the Union's, in particular in the maritime, inland waterways, combined transport and road passenger transport fields. Poland should not meet with any difficulty in adopting and implementing the measures - planned for 1998 - required in the air transport sector to bring itself into line with the *acquis*. In the rail sector, care should be taken to ensure that the *acquis* is effectively applied; the public service aspects and standardisation of accounts will have to be monitored over the coming years. The road haulage sector complies with most of the provisions of the *acquis* relating to international traffic but the operation of its domestic arm poses greater potential risks. This aspect will require close attention and is of particular importance in the context of a future Union without internal borders when road haulage cabotage will be totally unrestricted. If it is to be in a position to enter the Union's internal transport market, Poland will have to make an early start on putting its domestic haulage sector in order both as regards market access conditions and compliance with the safety and social rules. There must also be an end to discrimination against Community hauliers, which is still being applied directly or indirectly by means of the road tax or VAT systems.

The development of an integrated and competitive transport system is an objective of which the Polish authorities are aware; achieving an acceptable level of safety and optimal use of the transport system are probably going to be the two main difficulties. Poland's progress on safety is satisfactory on the whole. In contrast, the objective of coherence in the transport system appears harder to attain. Poland is likely to face a steady rise in the share of road transport and will have to focus its efforts on the use of railways and inland waterways.

In order to improve links with the Member States and its neighbours, Poland is planning to invest about ECU 5 billion of its own budget over the period 1995-99 in transport infrastructure used by international traffic, primarily on trans-European corridors. This sum amounts to about 1.2% of GNP, a respectable enough figure but not necessarily one that will cover needs, in particular as Poland had no motorway infrastructure until 1990. Any reduction in this amount as a result of budgetary constraints might only serve to exacerbate this relative shortcoming.

Conclusion

Poland has made notable progress in the adoption of the *acquis* in the transport sector. Provided that it moves swiftly and decisively on the operation of its domestic road haulage market (in particular on market access, safety rules and tax) and clarifies the procedures for implementing the *acquis* in the rail sector, the transport sector is unlikely to pose major problems as regards adoption of the internal market *acquis*.

It will be necessary to make sure, however, that the resources are available which are needed to lay the foundations for the future trans-European transport network extended to the candidate countries, including transhipment centres such as sea ports and crossing points on the borders with the CIS countries, if these are to become the future external borders of the Union. It would also be advisable for Poland's administrative structures, and in particular bodies supervising areas such as safety, to be rapidly reinforced.

Small and Medium Enterprises

EU enterprise policy aims at encouraging a favourable environment for the development of SMEs throughout the EU, at improving their competitiveness and encouraging their Europeanisation and internationalisation. It is characterised by a high degree of subsidiarity. The complementary role of the Community is defined and implemented through a Multiannual Programme for SMEs in the EU. This programme provides the legal and budgetary basis for the Community's specific SME policy actions. The *acquis* has so far been limited to recommendations on specific areas, although legislation in other sectors also affects SMEs (e.g. competition, environment, company law).

The Europe Agreement provides for cooperation to develop and strengthen SMEs, in particular in the private sector, inter alia through provision of information and assistance on legal, administrative and tax conditions. The White Paper contains no specific measures.

Descriptive Summary

Polish SMEs play an important role in the economy. The figures for 1995 show that 29% of the workforce in industry, construction and services are employed in SMEs with less than 50 employees, 23% in SMEs with 50-250 employees. The number of people employed in SMEs has increased in recent years and is expected to grow as the privatisation process is carried further. The number of enterprises officially registered amount to 2.1 million, about almost all of which belong to the private sector. Small scale privatisation has globally been rather successful. More than 98% of the retail and wholesale businesses and 95% of small companies have been privatised.

Current and Prospective Assessment

There is to date no SME specific regulatory framework. SMEs, are created and operate according to general legislation regarding economic activity. A draft law is being worked out containing the official definition of SMEs. There are specific regulations regarding cooperatives, trust funds and foundations. For the self-employed or for a civil corporation, whose income is below ECU 400 000 simplified procedures of accounting are permitted.

A specific SME policy programme was adopted by the Polish Government in 1995, aiming at the development of SMEs, and recognising that SMEs have a positive influence on the industrial structure. The document proposes new legal, financial and organisational support for SMEs and the extension of institutional aid with regard to the access to information and education. While there is a basic commitment to an SME policy in Poland, there are still some problems with the cooperation between different ministries and structures involved in this policy. While the basic structures are in place, there is a need for better and clearer co-ordination of efforts directed towards SMEs, measures aimed at simplifying legislation to make it more SME friendly, as well as strengthening of the support infrastructure, improvement of the tax environment, and development of SMEs' access to financing.

The on-going efforts to strengthen the SMEs during the pre-accession period will therefore need to be continued.

Conclusion

No particular problems are foreseen for Polish accession with respect to SME policy.

3.5 Economic and Social Cohesion

<u>Employment and Social Affairs</u>

Community social policy has been developed through a variety of instruments such as legal provisions, the European Social Fund and actions focused on specific issues, including public health, poverty and the disabled. The legal *acquis* covers health and safety at work, labour law and working conditions, equal opportunities for men and women, social security co-ordination for migrant workers and tobacco products. Social legislation in the Union has been characterised by laying down minimum standards**.** In addition, the social dialogue at European level is enshrined in the Treaty (Article 118B), and the Protocol on social policy refers to consultation of the social partners and measures to facilitate the social dialogue.

The Europe Agreement provides for approximation of legislation with EC law and cooperation on improving standards of health and safety at work, labour market policies and the modernisation of the social security system. It also provides for Community workers legally employed in Poland to be treated without discrimination on grounds of nationality as regards their working conditions. The White Paper provides for measures for approximation in all the areas of the *acquis*.

Descriptive Summary

Based on a legal framework agreed in 1991, Poland has developed a social dialogue with the participation of the government, employers' and employees' organisations. For employees, Solidarnosc and OPZZ are the key players, while the main employers' organisation is the Confederation of Polish Employers, a member of the Union of Industrial and Employers' Confederation of Europe (UNICE) and the International Organisation of Employers. Tripartite negotiations tend to be the norm. There is not yet a clear division of labour between the social partners and the government. Employers are often represented by representatives from public companies which are not privatised. Genuine private collective negotiations are rare.

A decrease in agricultural workers (still a main sector with 27% of active population) and industrial employment, which was only partially offset by increased private employment in the service sector, led to an unemployment rate of 12.4% in 1996 according to ILO methodology. Regional disparities in unemployment are substantial.

On employment policy, Poland has developed a regionalised employment service structure to handle active labour market policy. This process of creating modern labour market institutions needs to be continued.

New social security schemes are being developed in difficult conditions of fiscal restraint, including the task of modifying the indexation of pensions. The Sejm has recently voted through pension reform bills which means that pensions would come from the present form of insurance, from compulsory and voluntary capital insurance and from additional insurance. Presently, the Labour Fund is the main source of financing unemployment benefits and active labour market measures through the state budget (about 62%), compulsory contributions (36%) and other revenue. In 1995, Poland spent 18% of its GDP on social security. Continued efforts are required to ensure that measures of social protection are developed.

Problematic areas like communicable diseases and blood safety indicate that Poland needs to significantly improve its health system.

Current and Prospective Assessment

In Poland, there is a Labour Code setting out the principles and organisational matters for the protection of safety and health at work. The Ministry for Labour is planning to readapt this Code in the light of a further approximation to the Community *acquis*. Poland has inspection services which are in accordance with ILO Convention N° 81. For a series of specific areas work needs to be continued and completed in order to approximate the standards to the Community *acquis.*

The measures introduced by Poland in the area of labour law nearly bring their legislative situation in line with the EU. There appear to be minor shortcomings, such as Labour offices which do not fulfil their obligations in cases of collective redundancies and in the field of working time, where the minimum annual paid leave appears different from EU requirements. These points, including adjustments to be made to the Polish Labour Code, are likely to be solved without major difficulties. The information and consultation of workers through democratic and efficient workers' representation on company level as requested by a number of EC Directives should be further developed.

On equal opportunity, the basic provisions of EC non discrimination law between women and men are covered by Polish legislation, but the non discrimination principle is not always respected in areas such as equal pay for equal work. The difference in pay between women and men is considerable. Legal adaptation is also necessary for parental leave.

Concerning the right to the free movement of workers, there would appear to be no obstacles to prevent Poland from being able to implement the provisions of the *acquis* in this area. The introduction of the right to free movement will however require changes in the national law, particularly as regards access to employment and a treatment free from discrimination on grounds of nationality.

In the field of social security for migrant workers, accession does not, in principle, pose major problems although some technical adaptations will be necessary. More important is the administrative capacity to apply the detailed co-ordination rules in cooperation with other countries. Poland appears to have many of the administrative structures required to carry out these tasks, but further preparation and training will be necessary before accession.

The two tobacco directives on warning labelling and maximum tar content have not been transposed into national law. But the 1995 Polish Act on Protection of Health provides indications on labelling, a health warning as well as maximum tar and nicotine content.

Conclusion

Many legislative adjustments are still needed in the field of health and safety at work to ensure alignment with EU standards, and efforts to implement the *acquis* effectively will need to be continued. Provided Poland pursues its efforts, in terms of adoption and of application of the EC *acquis*, Poland is likely to be able to take on the social *acquis* in the medium term.

Regional Policy and Cohesion

In accordance with Title XIV of the Treaty, the Community supports the strengthening of cohesion, mainly through the Structural Funds. Poland will have to implement these instruments effectively whilst respecting the principles, objectives and procedures which will be in place at the time of its accession.

The Europe Agreement provides for cooperation on regional development and spatial planning, notably through the exchange of information between local, regional and national authorities and the exchange of civil servants and experts. The White Paper contains no specific provisions.

Descriptive Summary

In 1995, Poland was at some of 31% of EU GDP/cap average. The current unemployment rate is most likely to be slightly below 14%. Polish Labour Force Surveys indicate lower rates than suggested by registered figures and Poland's real unemployment rate most likely ranges between 12 and 14%. Regional disparities as regards unemployment rates are large ranging from 5% in Warsaw to above 28% in Slupsk.

Although a legal basis for regional policy does not yet exist, current thinking is in the direction of a modernised regional policy closer to that of the EU, according to recommendations of a Task Force for Regional Policy adopted by the Polish government at the end of 1996.

The institutional structure of Polish regional policy is constituted of a wide range of bodies. A Governmental sub-committee for regional policy and rural development (KERM), is in charge of drafting proposals and co-ordinating regional development initiatives from the central level. The Ministries of Economy deals with regional policy through their general responsibility for economic issues. Finally, the Polish Agency for Regional Development (PARD), created in 1993, administers foreign assistance within the field of regional policy.

The role of the 49 voivodship administrations is confined to the overall implementation and co-ordination of regional development initiatives from sectoral ministries within their territory. The municipalities, granted rights of self-government in 1990, enjoy a wide range of competence including the formulation of local development programmes partly financed by their semi-autonomous budgets.

Poland's financial instruments at the disposal of regional development initiatives are limited. However, the share of development related expenditures which could constitute potential counterpart funds to EU structural policy cannot yet be determined. Therefore, Poland's co-financing capacity cannot presently be evaluated with sufficient reliability.

Funds are granted for infrastructure investments in municipalities threatened by high employment rates and for local restructuring programmes chosen by the Government. Existing funds at regional or local level cannot be considered as regional expenditures although voivods are taking a growing part in the preparation of plans which give them an influence in the selection of the projects.

Current and Prospective Assessment

Poland has made some progress and gained operational experience with EU Structural Funds type policies. Through their participation in mainly foreign donor financed programmes, notably the EU financed Phare CBC and Struder programmes, the authorities have established strategies very close to the objectives of the Community Regional Policy.

However, some important issues will have to be dealt with. The territorial organisation and institutional structures need to be improved for the future management and implementation of Structural Funds programmes and projects. At the institutional level, the Polish authorities are considering several options of regrouping voivodships, possible redistribution of competencies between municipalities or the creation of additional tiers of self-government.

Proper administrative structures at national level including clear ministerial responsibility and efficient inter-ministerial co-ordination procedures are needed.

Conclusion

The Polish Government is committed to the introduction of a regional policy through its adoption of the recommendations of the Task Force for Regional Policy. Indeed, the implementation of these recommendations would constitute a major step towards adapting to the EU's regional policy and applying an integrated approach to regional development. Subject to the establishment of the appropriate administrative and budgetary structure, Poland should, in the medium-term, be ready to apply the Community rules and channel the funds from the EU structural policies

3.6 Quality of Life and Environment

<u>Environment</u>

The Community's environmental policy, derived from the Treaty, aims towards sustainability based on the integration of environmental protection into EU sectoral policies, preventive action, the polluter pays principle, fighting environmental damage at the source, and shared responsibility. The *acquis* comprises approximately 200 legal acts covering a wide range of matters, including water and air pollution, management of waste and chemicals, biotechnology, radiation protection, and nature protection. Member states are required to ensure that an environmental impact assessment is carried out before development consent is granted for certain public and private projects.

The Europe Agreement stipulates that Polish development policies shall be guided by the principle of sustainable development and should fully incorporate environmental considerations. It also identifies environment as a priority for bilateral cooperation, as well as an area for approximation legislation to that of the Community.

The White Paper covers only a small part of the environmental *acquis*, namely product-related legislation, which is directly related to the free circulation of goods.

Descriptive Summary

Despite developing one of the most sophisticated approaches to environmental management in the region, Poland still faces severe environmental problems, with major challenges in waste water and air pollution.

Industrial pollution, sharply reduced during the recession, has failed to rise at the same rate as the economy, thanks to a large investment programme, industrial restructuring, and the incentive effect of the economic instruments developed after 1989. However, Poland still generates a great deal of industrial waste from coal mining and other heavy and extractive industry. Upper Silesia and the "Black Triangle" bordering the Czech Republic and Germany are particular “hot-spots”. Coal fired power generation is still a problem, with high sulphur levels and particulates from many plants. Non-point source air pollution has received attention in some areas, with coal-to-gas conversion programmes in place.

There has been little progress in hazardous waste management, though the country’s recent accession to the OECD is expected to provide a stimulus for improvement in this area. There has been some success in reducing pollution loads in water. Poland has channelled significant resources to this sector, upgrading or completing some 300 waste water treatment plants since 1989. However, much more investment in this sector will be required, given that all Polish waters flow into the Baltic, a ‘sensitive area’ where high standards of water management are demanded. Regarding policy on radioactive waste, a repository for institutional radioactive waste has been established (hospitals and research centres). Poland retains some areas of great natural value which could represent an asset to the environment of an enlarged Union.

Poland was the first country in the region to develop a new environmental policy after 1989. A National Environmental Policy was adopted in 1991, setting short, medium and long term priorities, and listing policy tools for development. In 1995 a detailed review of policy implementation was published, setting new and detailed targets to the year 2000. An environmental protection law was passed in November 1996. The environmental administration was developed and re-cast in the early 1990s. Permits are granted at the regional level by Regional Environment Inspectorates, according to calculations of ambient air and water quality. Although air emission standards set in 1991 are perceived to be unrealistically high - higher than EU standards - they have formed a useful basis for monitoring and management. Monitoring equipment and procedures have been introduced in some of the worse polluted areas for air and water.

Poland's environmental investment levels as a share of GDP are average for the region. The country has been successful in mobilising financial resources through fees and fines channelled to national and regional environmental funds: in 1995 the National Environmental Fund income was 800 million dollars, most of which was re-invested in reducing industrial and water pollution. However, the Fund's income recently dropped as a result of improved compliance levels and lower fines.

Current and Prospective Assessment

Since 1991, Polish authorities have checked as a matter of priority new legislation for compatibility with EC legislation. This has been a priority for the Ministry, and some cost-compliance work has been carried out. An accession strategy should be ready by the autumn of 1997. Work is progressing on a Water Act to introduce river basin management and strict standards for water discharged to rivers and soil. A law is awaiting adoption on Waste Management, where legal approximation is still low. The approach to reducing air pollution has been dominated by economic instruments and environmental management in selected areas (e.g., a pilot project in tradable permits), rather than legislation, which therefore will need considerable attention. Particular attention should be given to the quick transposition of framework directives dealing with air, waste and water, as well as the establishment of financing strategies for legislation in the water, air and waste sectors requiring major investments. The foundations for the procedures needed under the Integrated Pollution Prevention and Control (IPPC) Directive are to a large extent in place.

The process of transposition should mark significant progress in the medium term. There are however concerns about the pace of legislative work in the Parliament where numerous pieces of environmental legislation are waiting for adoption. The prospects for substantive compliance depend to a large extent on the resources made available by government and enterprises, since very important investment is necessary, while weak implementation and enforcement could be an additional bottle-neck. The country's environmental accession strategy should include implementation timetables for meeting the EU environmental acquis, starting amongst others with implementation of the framework and IPPC directives mentioned above.

Conclusion

Given the recently enhanced efforts and focus on approximation, full transposition of the environmental acquis in Poland could be expected in the medium term. However, effective compliance with a number of pieces of legislation requiring a sustained high level of investment and considerable administrative effort (e.g. urban waste water treatment, drinking water, aspects of waste management and air pollution legislation) could be achieved only in the long term. It will necessitate increased levels of public and private investment.

<u>Consumer Protection</u>

The Community *acquis* covers protection of economic interests of consumers (including control of misleading advertising, indication of prices, consumer credit, unfair contract terms, distance selling, package travel, sales away from business premises and timeshare property) as well as the general safety of goods and the specific sectors of cosmetics, textile names and toys.

The Europe Agreement provides for approximation of legislation with EC law and cooperation with a view to achieving full compatibility between the systems of consumer protection in Poland and the Community. Stage I measures of the White Paper focus on improving product safety, including cosmetics, textiles and toys, and on the protection of the economic interests of consumers, notably measures on misleading advertising, consumer credit, unfair contract terms and indication of prices. Stage II measures relate to package travel, sales away from business premises and time-share property. New EC legislation which has been adopted recently (distance selling) or will be adopted soon (comparative advertising, price indication) will also need to be taken into account.

Descriptive Summary

Poland does not yet have a general Consumer Protection Act. While there are several proposals under discussion in the Parliament, there is no consensus on a single draft. In October 1996, Poland transformed the Anti-Monopoly Office into the "Office for the Protection of Competition and Consumers" with the responsibility of co-ordinating consumer policy. This might help to overcome the conflicts of competence which have hampered the development of consumer policy in Poland. The Office seems willing to give a new impetus to consumer policy in Poland.

Consumers are well represented through a number of active consumer organisations, from the Polish Consumer Federation which is based on regional and local consumer groups to the Association of Polish Consumers, to the Polish Home Economics Association. Since there is no legal framework concerning relations between the government and the consumer movement, the involvement of the latter depends largely on the willingness of the government to consult them. The consumer organisations participate in the Council for testing and certification as well as the Committee on Standardisation.

Current and Prospective Assessment

Consumer protection in Poland has suffered from the absence of an overall strategy, and the result has been fragmentation. Proper legislation to protect the economic interests of the consumer is missing in many important areas, such as unfair contract terms, consumer credit, product safety, timeshare property and distance selling. There is a law on misleading advertisement but it does not fully implement the EC Directive. A new draft law in this area is under discussion. Existing laws on the indication of prices, sales away from business premises and unfair contract terms need to be amended and improved to match the required EC standards of protection. Some progress has been made in drafting a new text on package travel.

The area of general product safety remains unregulated, although a draft law is under preparation. In addition, further efforts are needed to align and implement legislation on cosmetics and toys. A draft law on textile names is expected.

The development of a strong and independent consumer movement, sustained by public authorities, will need to accompany the introduction of the *acquis*.

Conclusion

The level of consumer protection in Poland is insufficient. To meet the requirements of the EC *acquis* on consumer policy, Poland will have to make a substantial effort to adopt a number of new and important laws. Many existing laws need also to be amended to comply with EC standards.

3.7 Justice and Home Affairs

The Present Provisions

The Justice and Home Affairs (JHA) *acquis* principally derives from the framework for cooperation set out in Title VI (Article K) of the Treaty on European Union (TEU), "the third pillar", although certain "first pillar" (EC Treaty) provisions and legislative measures are also closely linked

The EU JHA framework primarily covers: asylum; control of external borders and immigration; customs cooperation and police cooperation against serious crime, including drug trafficking; and judicial cooperation on criminal and civil matters. The TEU stipulates key principles upon which such cooperation is based, notably the European Convention on Human Rights and the 1951 Geneva Convention on the Status of Refugees. It is also based implicitly on a range of international conventions concerning its fields of interest, notably those of the Council of Europe, the United Nations and the Hague Conference. The legislative content of third pillar *acquis* is different from the first pillar; it consists of conventions, joint actions, joint positions and resolutions, (including the agreed elements of draft instruments which are in negotiation). A number of EU conventions (including the 1990 Dublin Convention, and conventions relating to extradition, fraud and EUROPOL) have been agreed by the Council and are now in the process of ratification by national Parliaments; several other conventions, including one on external frontiers are in various stages of negotiation in the Council. The JHA *acquis* involves a high degree of practical cooperation, as well as legislation and its effective implementation.

The New Treaty

For many of the above matters, the entry into force of the Treaty resulting from the Amsterdam Inter-Governmental Conference will mark the end of the current cooperation framework.

Reiterating the objective of developing the Union into an “area of freedom, security and justice”, the new Treaty brings these matters, including the free movement of persons, asylum and immigration, into the Community’s sphere of competence.

On the free movement of persons in particular, the new Treaty provides for the incorporation of the Schengen *acquis* into the framework of the European Union and binds any candidate for EU membership to accept that *acquis* in full.

With regard to matters remaining within the cooperation framework, i.e. policing and criminal justice, the new Treaty provides for the reinforcement of the cooperation system.

The Europe Agreement and the White Paper

The Europe Agreement includes provision for cooperation in the fight against drug abuse and money laundering.

The White Paper does not deal directly with third pillar subjects, but reference is made to first pillar matters such as money laundering and freedom of movement of persons which are closely related to Justice and Home Affairs considerations. Reference is also made to the Brussels and Rome conventions.

Descriptive Summary

General Preconditions for JHA Cooperation

Poland joined the Council of Europe in 1991 and has ratified the most important instruments concerning human rights. The Constitution provides for an independent judiciary according to the rule of law.

Institutional reform in JHA institutions is well under way and significant progress has been made, but there is still considerable work to do to transform them into effective democratic institutions measuring up to the tasks of the JHA *acquis*. The size and geographical position of Poland at a cross-roads of migratory and trade flows in central Europe poses a particular challenge. A new data protection law to be in conformity with EU requirements, is being drafted. Poland has not yet ratified the 1990 data protection convention. (See also separate section on Single Market).

Asylum

Poland has ratified the Geneva Convention and the 1967 Protocol. The Polish constitution provides for asylum. Implementing legislation is currently in the 1963 Aliens act (amended in 1991) and the Polish Administrative procedure code. These are deficient in a number of respects, for example relating to accelerated procedures and safe third countries. A new comprehensive Aliens act to revise asylum legislation as well as more general immigration issues is currently before the Polish Parliament. Refugees and asylum seekers have arrived in Poland from the Arab countries, former Yugoslavia, the newly independent states (NIS) and Asia.

Immigration/Border Control

Some 237 million border crossings were made in 1995. Many illegal migrants, especially from the NIS and increasingly from Asia, are seeking to cross to Germany, but also to stay in Poland, for economic reasons. At present the Polish Government does not have effective control on the residence of migrants and the new Aliens Law currently before Parliament aims to put in place an effective residence control system. Poland allows visa free visits from the West. Visa free access, with an invitation letter, is also allowed from NIS. Poland has in place the necessary legal and administrative measures covering deportation, detention and liability of carriers. Readmission agreements are in place with the Schengen countries, Greece, Bulgaria, Czech Republic, Hungary, Romania, Slovakia and Russia, Ukraine and Belarus. Border control is a particular priority for Poland. Parts of Poland's borders are vulnerable to exploitation by criminal gangs seeking to bring illegal immigrants to the West. Poland is working closely with some EU Member States, on both the Western and Eastern borders, to put in place the necessary procedures and facilities and is keen to develop these to the level that will allow it to accede to the Schengen convention.

Police Cooperation

Organised crime has grown significantly since 1989, especially in the fields of economic crime, drug trafficking and production, counterfeiting, illegal trade in arms, trafficking in women, stolen cars, money laundering and extortion. Partly because of its domestic problems in this field, Poland is very active in international forums, including the UN, to promote measures to tackle organised crime, including the promotion of cooperation, and the development of further legal instruments. Domestic legislation is currently being reformed to tackle organised and financial crime more effectively. An organised crime unit was formed in the police in 1994 and special units also exist in other ministries (Finance, Central Bank, Justice), but internal coordination has been poor. Poland has not yet signed the 1990 Money Laundering Convention but has put in place domestic implementing instruments and mechanisms. (See also separate section on Single Market). Poland has a significant problem with the forced trafficking of women, both from Poland to the west and from the NIS to Poland. The effectiveness of Poland's efforts to tackle all forms of organised crime is hampered by institutional and resource constraints. Poland experiences no specific threat from terrorism, but the Government has taken key measures against terrorism (including ratifying the 1977 Strasbourg Convention).

Drugs

Poland is a significant producer of synthetic drugs, especially for export to Scandinavia, and domestic consumption is also growing. In recent years a number of illegal amphetamine laboratories has been dismantled, and large seizures of heroin and cocaine have been made. Poland is party to the main drugs international conventions. Its domestic legal and institutional framework against drugs is currently being reformed, including putting in place a national drugs prevention programme and information system; creating a central unit in the Ministry of the Interior to coordinate the specialist units working on drugs; and new legislative measures including controlled deliveries (now in place) and an overall law covering drug prevention (in preparation).

Judicial Cooperation

Reform of the Polish judiciary is under way, with emphasis being placed on tackling problems of human resource development. Provision for judicial cooperation in the criminal and civil field exists - Poland has ratified the main international criminal and civil conventions, has bilateral agreements in place (e.g. on the civil side with Germany) and has put in place domestic legislation to allow cooperation to work. Poland has applied for accession to the Lugano Convention. It has acceded to several Hague Conventions but has ratified none of them.

Current and Prospective Assessment

Because of its geographical position (bordering the EU, several Associated countries and the NIS) its size and difficulties with reform in some areas, Poland is facing some significant challenges in the JHA sector. Poland has begun to take major steps to tackle these. For the most part the necessary domestic legislation and international conventions are in place, but important work still needs to be carried out on data protection and issues such as aliens law. Its visa policy towards the NIS is a matter of concern. The current major reform of the Ministry of the Interior is designed to improve the overall effectiveness of JHA institutions within the framework of the rule of law.

But it is still not yet clear whether this will help to improve coordination between responsible services. Major problems also exist in the areas of corruption, accountability and technical effectiveness. The judiciary lack fundamental experience of the rule of law and dealings with the EU. Poland is making significant strides to learn about the effective working of JHA cooperation and some experienced officials are now in place. But a more intensive effort will be required.

Conclusion

Poland is facing significant challenges in the JHA field, particularly concerning drugs, border management, migration and transnational crime. Provided that continuing efforts are made to improve the situation Poland could be able to meet the justice and home affairs *acquis* (present and future) in the next few years.

3.8 External Policies

Trade and International Economic Relations

The *acquis* in this field is made up principally of the Community's multilateral and bilateral commercial policy commitments, and its autonomous commercial defence instruments.

The Europe Agreement includes provisions in several areas requiring parties to act in accordance with WTO/ GATT principles, or other relevant international obligations.

The White Paper includes no provisions in this field.

Descriptive Summary

Poland is a member of the World Trade Organisation (WTO), and is therefore committed to the principles of an open, trading economy. Poland is an active observer in the GATT Civil Aircraft Agreement and, upon accession would have to comply with the obligations of the plurilateral WTO agreements to which the Community is a party.

At present Poland does not maintain quantitative restrictions on any textile or clothing products. On accession the Community textiles policy would be extended to Poland; any Community restrictions still maintained at the date of accession would require adjustment by an appropriate amount to take account of Polish accession.

Current and Prospective Assessment

On accession Poland would have to apply the Community's Common Customs Tariff, and the external trade provisions of the Common Agricultural Policy. The post Uruguay Round weighted average level of most favoured nation duties for industrial products will be 9.9% for Poland and 3.6% for the Community. The progressive implementation of free trade between Poland and the Community by the time of accession will, however, reduce the impact on the domestic industry of applying the lower Community Common Customs Tariff.

In its relations with international organisations, Poland should ensure that its actions and commitments respect the Europe Agreement and ensure a harmonious adoption of its future obligations as a member of the Community.

On accession Poland would become party to the Community's various preferential agreements. Preferential agreements between Poland and third countries would, in general, have to be terminated on accession.

Concerns persist in the field of trade in goods, particularly regarding measures taken or planned by the Polish authorities in the automotive industry and the steel sector. Such measures should be brought into conformity with EC legislation to eliminate trade obstacles.

In the area of trade in services and establishment, there are some differences in the level of treatment offered under the GATS to third countries; Poland has, however, indicated that it is willing to work with the Community to identify and deal with any significant inconsistencies between its GATS commitments and those of the Community.

On accession Poland would have to repeal national legislation in the field of commercial defence instruments, and EC legislation would become applicable there.

Experience from previous accessions has shown that the automatic extension of existing anti-dumping measures to new member states prompts third countries to raise problems in terms of the compatibility of this approach with relevant WTO provisions. It has also shown that accession creates a potential for circumventing measures adopted by the Community under the commercial defence instruments.

This happens when, prior to accession, substantial quantities of the products subject to measures are exported to the territory of the future member state and, on accession, are automatically released for free circulation in the enlarged customs territory. These two problems would have to be addressed during Poland's pre-accession phase.

Poland is a member of three of the four regimes for the non-proliferation of weapons of mass-destruction, and is a candidate for the fourth. Poland is implementing the Community control list of dual-use items. Arms export is also controlled. Indeed, the export control legislation in Poland appears to be stricter than in most Community member states. It will be important to ensure that implementation of the Polish legislation can be maintained at an effective level if trade volume in sensitive goods increases.

Conclusion

Poland is well placed to be able to meet Community requirements in this field within the next few years, provided that they eliminate existing trade barriers in order to align themselves more closely with the Community trade regime.

<u>Development</u>

The *acquis* in the development sector is made up principally of the Lomé Convention, which runs until early 2000.

Neither the Europe Agreement or the White Paper include provisions in this field.
Descriptive summary

Poland has no preferential trade agreements with ACP countries. However, under its GSP scheme Poland grants preferential treatment to a number of countries (including ACP countries) in which the value of the per capita GDP does not exceed that in Poland, as well as to some Least Developed Countries. No duty free access is granted by Poland.

Poland contributes to the International Development Association (US $2 million in 1996). There is also a Council of Ministers General Reserve from which funds have been assigned for humanitarian aid.

Current and Prospective Assessment

On accession, Poland should apply its preferential trade regime to the ACP States and participate, together with the other member states, in the financing of the European Development Fund (EDF), which provides financial aid under the Lomé Convention.

Applying the Lomé trade regime should not generally be a source of difficulties for Poland.
Normally, new member states accede to the Lomé Convention by means of a protocol on the date of their accession to the EU.

Conclusion

Poland is well placed to be able to meet EU requirements in this field in the next few years.

<u>Customs</u>

The *acquis* in this sector is the Community Customs Code and its implementing provisions; the EC's Combined Nomenclature; the Common Customs Tariff including trade preferences, tariff quotas and tariff suspensions; and other customs-related legislation outside the scope of the customs code.

The Europe Agreement covers the establishment of a free trade area with the Community and the progressive removal of customs duties on a wide range of products, according to clear timetables starting from the date of entry into force of the agreement.

The White Paper mentions in Stage I, measures to consolidate and streamline the free trade established under the Europe Agreement, including legislation compatible with the Customs Code, Combined Nomenclature, etc. Stage II concerns the adoption of the full Community legislation, with a view to joining the customs union upon accession.

Descriptive Summary

On accession the Polish customs authorities would be required to assume all the responsibilities necessary for the protection and control of their part of the EU's external border. Besides the provisions on indirect taxation, they would be responsible for the implementation and enforcement at the external border of the Community's common commercial policy, the common agricultural policy, the common fisheries policy etc.

Poland's capacity fully to apply the *acquis* presupposes the possibility to adopt and implement the Community legislation; and the existence of an adequate level of infrastructure and equipment, in particular in terms of computerisation and investigation means and the establishment of an efficient customs organisation with a sufficient number of qualified and motivated staff showing a high degree of integrity.

The Polish parliament adopted legislation compatible with the Community's customs code in November 1996. This is due to enter into force on 1 January 1998. Ten implementing regulations for the customs code and legislation on counterfeit and pirated goods, based on Community legislation, will enter into force on the same date.

Poland is aligning its national goods nomenclature to the Community's Combined Nomenclature. At the moment no binding tariff information system exists. But Poland is working on the preparation of an integrated tariff, which should greatly facilitate the comparison of the Polish tariff rates with the Common Customs Tariff rates.

Poland adopted on 1 July 1997 the new system of cumulation of origin between European countries.

Poland became a contracting party to the EC/EFTA Common Transit Convention and to the Convention on Simplification of Formalities on 1 July 1996.

The Commission remains concerned about the level of customs control applied to goods which arrive in Polish ports for transport to the Community, and the arrangements for certification of goods to be imported into the Community at preferential tariff rates.

Current and Prospective Assessment

Poland would need to adapt its national procedures to the Community legislation regarding suspensive arrangements and customs procedures with economic impact, and in particular the regime on processing under customs control which is not currently applied under the present law. At the moment of accession, some technical transitional arrangements would be needed, notably for operations beginning before the date of accession but which are concluded after that date.

It will be important that the Polish customs authorities can participate appropriately in the various computerised systems necessary for the management, in the customs union/internal market, of the customs and indirect tax provisions, as well as the computerised systems for mutual administrative assistance in customs, agricultural and indirect tax matters.

Poland would need on accession to dismantle customs controls at the borders with EU member states and with other acceding countries. The resources needed for the reinforcement of the border posts along its frontiers with non-EU member states should be taken it into account in its strategic planning.

As far as organisation is concerned, Poland is making some effort to align its organisation and staff to the duties that have to be carried out by a modern customs administration, although some differences to EU policy still remain.

A serious misapplication of the Combined Nomenclature regarding the importation of third country motor vehicles raises questions about the Polish authorities' willingness to apply the system uniformly and consistently, as is required of all member states.

Conclusion

If the alignment efforts are continued and reinforced, particularly in relation to project management, especially in the area of computerisation, Poland could be ready to fulfil the responsibilities of an EU customs administration within the next few years.

Common Foreign and Security Policy

Since 1989 Poland has reoriented its foreign and security policy towards European and Euro-Atlantic integration. Improvement of relations with neighbouring countries has also been a priority for successive Polish governments. Poland has been an active participant in the dialogue arrangements provided for under the Union’s Common Foreign and Security Policy and whenever invited has supported EU actions within that framework. Poland is a member of the UN, OSCE, Council of Europe and many other international organisations. It is an associate partner of WEU, a participant in NACC and the PfP; and has made clear its desire to become a member of the WEU and NATO as soon as possible; it has been invited to open negotiations for membership of NATO. It has sent troops to participate in IFOR/SFOR. It also participates in a number of regional organisations including the Council of Baltic Sea States, CEFTA and the CEI.

There are no territorial disputes between Poland and any member State of the Union. Neither does Poland have any territorial or other disputes with neighbouring associated countries. All state frontiers are regulated by treaty arrangements. Border crossing arrangements with Ukraine, Belarus, Lithuania and the Russian oblast of Kaliningrad are less satisfactory than those with Poland's other neighbours. There are significant Polish minorities in Lithuania, Belarus, Ukraine and Russia but their situation does not pose any serious problem. Poland has made particular efforts to improve and intensify relations with Lithuania and Ukraine, for example through the establishment of joint Polish-Lithuanian and Polish-Ukrainian battalions for use in peacekeeping operations.

Poland has a substantial diplomatic service which would permit it as a member of the Union to play a full and effective role. It maintains 67 representations abroad and employs some 700 diplomatic staff.

Poland supports non-proliferation of nuclear, biological and chemical weapons and is a signatory to all relevant international arms control agreements. It exercises strict control concerning the dual use of technology being member of all the major existing export control regimes. Poland’s sizeable armed forces are under democratic control. The defence industrial base has declined sharply in recent years and is in a process of re-organisation.

In its memorandum accompanying its application for membership of the Union, Poland confirmed that it was ready and able to participate fully and actively in the Common Foreign and Security Policy.

The assessment of Polish foreign and security policy to date leads to the expectation that as a member it could effectively fulfil its obligations in this field.

3.9 Financial Questions

Financial Control

The implementation of Community policies, especially for agriculture and the Structural Funds, requires efficient management and control systems for public expenditure, with provisions to fight fraud. Approximation of legislation is moreover needed to allow the system of "own resources" to be introduced, with satisfactory provision for accounting.

The Europe Agreement contains no specific provisions on either audit or financial control. The same applies to the White Paper.

Descriptive Summary

The Supreme Chamber of Control (SCC) is Poland's state audit body and undertakes external control and other audit work ordered by Parliament. The latter's approval of the State budget is only given after it has reviewed the opinion presented by the president of the SCC. The SCC also presents to the Parliament an analysis of the execution of the State budget and of the monetary policy guidelines as well as their annual performance report.

There is no central independent internal control body. Each Ministry/Department is responsible for conducting its own internal control; there is no legal act consistently regulating the internal control in public administration.

The Council of Ministers performs general supervision over fulfilment of the state budget and may issue guidelines on principles of budget implementation. The Minister of Finance has general control over State budget revenues and expenditures and budgetary balances. Separate entities (Ministers and Voivods) supervise and control the total financial management of subordinated organisational units, implementation of budgetary tasks and settlement of subsidies granted by the State budget for these tasks. Treasury control by the Ministry of Finance seems to be concentrated on those industries to which large amounts of budgetary resources are transferred and which have a poor track record for infringement of laws and insufficient care of interest repayments .

The independence of regional governments was enforced by the introduction in 1993 of regional Clearance Chambers thereby allowing for independent supervision over local finances. The Governing Boards of these Chambers have certain budgetary financial management and control duties over the local gminas.

Fraudulent activities and their penalisation are covered by different legal acts according to the nature of the associated crime. There is no central body for fighting fraud. The Public Prosecutor's Office (subordinate to the Minister of Justice, who is also the Attorney General) and the police (reporting to the Chief Commandant, who is subordinate to the Minister of Internal Affairs) are empowered to fight fraud.

Regarding “own resources”, the Polish customs code was adopted by Parliament in November 1996 and will enter into force in 1998. External control in this field is secured by the Supreme Chamber of Control and the Minister of Finance, and internal control is assured by the bureau of Internal Audit of the Central Board of Customs and by the Central Board of Customs departments within the framework of functional supervision.

The customs administration is responsible for establishment and collection of the import duties. Customs in Poland falls under the competence of the Ministry of ~~Economy~~ Finance .

Current and Prospective Assessment

Regarding Structural Funds, there is currently no uniform structural policy, comparable to the EU system; the Council of Ministers is the main decision-making body on structural programmes, and implementation rests with the respective ministries and institutions.

The state and outlook for acquis implementation with regard to Structural Funds in the coming years shows that the system, as it currently exists, provides a solid base for further developments. The general principles for an effective control system also seem to exist in the area of agriculture. There is a mixture of internal and external control, encompassing both regularity and value for money audit.

With regard to the control of fraud, the Polish system for penalising fraud against the financial and economic interest of the country is comparable with those of EU Member States and there are no obstacles to compliance with EC Treaty Article 209(a). The new customs legislation foresees provisions identical to those of the Community regarding incurring the customs debt.

Further cooperation with the Commission is required to establish whether the accounting system presently applied by Poland is compatible with Regulation 1552/89, and how the audits are performed. Internal and external control bodies as such have not yet reached the level of maturity and efficiency which would make them compatible with generally acceptable European standards both at the Member State and Community levels.

Conclusion

Some progress has been made. The process of implementation of financial control systems will need significant efforts by the Polish administration. However, if the necessary resources are made available, Poland should be in a position, in the medium term, to fulfil the EU requirements in this field.

Budgetary Implications

The communication entitled “Agenda 2000” sets out the overall financial framework which should accommodate the budget impact of any future enlargements in the medium term. This is to ensure that any enlargement is compatible with proposed Community policy guidelines within reasonable budget limits.

As things stand, it would be difficult, not to say premature, to attempt precise country-by-country evaluations of the budgetary implications of each of the applicants joining the Union. Exactly what the impact would be may vary considerably depending on a whole series of factors:

- the date on which the applicant country joins;
- developments in Community policies between now and then, in particular the decisions to be taken on further reform of the common agricultural policy and new guidelines for structural measures;
- the progress made by the applicant countries in terms of growth, increasing their competitiveness and productivity and their ability to absorb the *acquis communautaire*;
- the transitional measures that will come out of the negotiations.

Only a few orders of magnitude for certain budget categories and an overall estimate can be given purely as a guide.

Expenditure

If the common agricultural policy were to be reformed along the lines suggested by the Commission, once the reforms were fully up and running and in terms only of market intervention measures, Poland's accession would give rise to additional expenditure of about 5-6% of the corresponding expenditure forecast for the present fifteen Member States.

After a phasing-in period, the allocations to Poland for structural measures would be within about 4% of its GDP.

Application of the other internal Community policies in the new member countries would be likely to involve additional expenditure probably in excess of their relative proportion of Union GNP, since for certain policies the additional implementing costs also depend on the target population, the geographical area covered or the number of Member States involved in the coordination and harmonisation measures. The GNP of Poland is currently 1.8% of the total Union GNP.

By contrast, Poland's accession should not involve significant additional expenditure as far as Union external action is concerned.

It should not be forgotten that when an applicant country joins, the Community budget will no longer have to bear the costs of grants the country was eligible for under the various pre-accession programmes, such as PHARE.

In light of the above, the estimated costs in the three areas mentioned arising from Poland's accession should fall within the range of, annually, ECU 7.5 to 9.5 billion in 2005-06 (at constant 1997 prices).

Revenue

Assuming full application of the own resources system, the new members' contributions to the Community budget should, in terms of total GNP and VAT resources (taking account of the capping rules applying to VAT), be close to the proportion of the Union's GNP they account for, which in Poland's case is about 1.8%. Poland's portion of traditional own resources will depend on the structure of its trade flows at the time of accession.

To ensure that the own resources are established, monitored and made available in line with Community regulations, Poland will have to overhaul its current customs system. In addition, for the purposes of accurately calculating the GNP resource considerable improvements will have to be made to the national accounts to ensure that they are reliable, homogeneous and complete. Improving the statistics will also be essential for drawing up the VAT own resources base, which will mean bringing Poland's VAT system fully into line with the Community directives.

4 Administrative Capacity to Apply the *Acquis*

The European Council in Madrid in December 1995 concluded that the harmonious integration into the EU of the central and eastern European applicant states would, in particular, require the adjustment of their administrative structures. This chapter examines the current state of the public administration in Poland, including relevant aspects of the judicial system, and assesses the current and prospective ability to carry out the functions required of it in a modern, democratic state, with a particular focus on the need to administer matters related to the *acquis*.

4.1 Administrative Structures

A description of Polish constitutional structures, their powers and responsibilities, including those of regional and local government, is given in Chapter 1.

Following the 1996 government reform there are 16 ministries at the central level, including the Chancellery of the President of the Council of Ministers and a number of bodies of equivalent importance such as the European Integration Committee and the Centre for Strategic Studies.

The Civil Service was established on independent, career lines by the 1996 Civil Service Act. Full implementation of the Act will take some time, however, provisions entered into force on 1 January 1997 regulating the status, recruitment, remuneration and disciplinary code of Polish civil servants. It provides for the establishment of a government appointed Civil Service Council to implement the law, and separate Civil Service Commissions regulating Appeals, Discipline and Qualifications.

The political independence of the civil service is generally respected.

Central government employs about 21,000 officials, local government many times more again. In the big towns and in western Poland, civil service pay is low compared to the private sector. In eastern Poland and in rural areas civil service jobs are more attractive to potential recruits.

The reform of the central administration has been a key policy of the current government with comprehensive changes made to the organisation of ministerial responsibilities, the establishment of a coordinating chancellery for the Prime Minister. The administrative bodies assisting the Council of Ministers termed the economic "Centre of Government", have been reformed with effect from 1 January 1997.

On EU matters, an inter-ministerial coordinating committee for European Integration affairs has been created, under the Prime Minister's authority, alongside the creation of European Integration units in every ministry. (See also the section of the Introduction concerning relations between the European Union and Poland).

4.2 Administrative and Judicial Capacity

Poland was administered under central planning during the Communist period. The Communist system rejected the primacy of the rule of law and subjugated the law and the administration to the implementation of Party policy. Against this background, both the administration and the rule of law itself increasingly came to be seen by the public as instruments of political control.

The overall structures of the Polish public administration are broadly satisfactory.

Some parts of the public administration are strong, such as the audit system. But significant weaknesses are also noticeable, for example in the fact of widespread tax evasion, and in inadequate enforcement mechanisms, in areas such as health and safety and the environment.

The legal basis of the civil service is sound and its independence is not seriously in question.

The civil service is, if anything, understaffed, at the policy level but overstaffed at the level of routine administration. There is a great problem in recruiting and retaining high quality young staff with language skills for the key work on integration with the EU and other bodies. In response to this inheritance of the past, the Polish Government has undertaken a far reaching reform of the legal basis of the public service and wide-ranging structural reforms in the economic centre of government. As yet, little has been done to deal with the particular problems which affect the organisation of decentralised government.

Public confidence in the civil service is affected by the legacy of the past. Most public contact is with the more junior civil servants in routine administrative jobs; this is not widely considered to provide an attractive advertisement for the Polish public administration. Corruption exists; where it occurs it is frequently exposed and attacked.

Poland's efforts to restructure and reform the functioning of the public administration at central government level have been well directed . As regards quality of staff, reinforced efforts will be required to ensure that able staff can be recruited and retained, and poor quality staff removed.

The establishment of the Inter-ministerial European Integration Committee and the European integration units in each ministry has been an important development which will facilitate EU-related work in Poland.

Key Areas for the Implementation of the Acquis

The uniform application of EC law: The effective application of the *acquis* presupposes that the judicial authorities of member states are able to apply the provisions of the Treaty dealing with ensuring the unity and application of the *acquis*, and are able to ensure the proper functioning of the Single Market and Community policies in general. A high quality and well trained and resourced judiciary is necessary for the application by the courts of EC law, including cases of direct effect, and cases of referral to the European Court of Justice under the terms of Article 177 EC.

The judicial system in Poland suffers from some deficiencies in resources and relevant expertise. Significant efforts of training and familiarisation with EC law will be required for the system to ensure the effective application of the *acquis*.

Single market: The ability of Poland to ensure the correct application of Community requirements in the Single Market, particularly concerning the free movement of goods and services presupposes the existence of highly developed and effective regulatory, standardisation, certification and supervisory authorities, able to act fully in accordance with EC rules. An analysis of these points is made in Chapter 3.1 (under "The Four Freedoms").

Concerning the administrative capacity in respect of free movement of goods, the situation in Poland is broadly satisfactory, while requiring further efforts to ensure that the *acquis* will be effectively implemented. The responsible institutions in the regulatory field require a greater measure of independence. The creation of market surveillance authorities and mechanisms is also needed. Concerning free movement of services, taken as a whole the Polish financial sector is supervised in a satisfactory way; further improvements are in hand and could be expected to take effect in the next few years. The General Inspectorate for Banking Supervision has 473 staff. The Securities Commission has 125 staff and the State Insurance Supervision Office 65.

In order to meet requirements in this area, despite the fact that much functions well, a need remains to reinforce enforcement structures.

Competition: As explained in Chapter 3.1 (under "Competition") enforcement of competition law requires the establishment of anti-trust and state aid monitoring authorities, and that the judicial system, the public administration and the relevant economic operators have a sufficient understanding of competition law and policy.

In Poland the central authority is the Office for Competition and Consumer Protection which has 140 staff; this is adequate. The level of expertise is good. The administrative structures already exist to implement EC requirements in this field, although they do not currently function with the necessary degree of transparency.

Telecommunications: In order to formulate and implement the many liberalisation regulations contained in the *acquis* in this field it is necessary to have a regulatory and policy making body that is effectively separated from any operating company.

The Regulatory Department of the Ministry of Post and Telecommunications has 45 staff; this is probably adequate.

Indirect taxation: The effective administration of the indirect taxation *acquis* presupposes structures capable of implementing the EC legislation concerning the harmonisation of Valued Added Tax and excise duties in an environment in which fiscal controls at internal EU frontiers have been abolished; and the excise system is based on the tax warehouses, duty being payable at the local rate in the member state at the time the goods are consumed. This requires a highly developed and well trained and resourced service, with a high degree of integrity.

In Poland the relevant authority is the Ministry of Finance (a central Ministry, 79 Treasury Chambers and 326 Tax Offices) with a total of about 4,000 staff. Due to a large turnover of staff, resulting partly from trained staff being recruited by the private sector, it is difficult to assess the capacity of existing staff. In order to ensure the effective administration of the *acquis* in this area it will be necessary to consolidate and improve the overall professional standards of the staff, including training measures and improvements in pay.

Agriculture: The administrative requirements in the agricultural area primarily concern veterinary and phytosanitary control, to protect public health and ensure the free movement of agricultural goods; and the ability to administer the mechanisms and requirements of the CAP, including high standards of financial control and official statistics. These points are dealt with in Chapter 3.4 (under "Agriculture"); general standards in the statistical field are examined in Chapter 3.3 (under "Statistics").

Concerning the administrative capacity in respect of veterinary and phytosanitary controls, Poland has a relatively elaborate infrastructure, both at the borders and internally. Numbers of staff in the food and veterinary inspectorates are not currently available to the Commission. Concerning the administration of general CAP requirements, some adaptation of the current administrative structure will be required.

In order to meet EC requirements in this area some adjustments remain necessary.

Transport: The application of the EC Internal Market and competition requirements to the transport sector, the development of relevant infrastructure products, and other aspects of the transport *acquis* will present administrative challenges to new member states.

The responsible government authority in Poland is the Ministry of Transport (280 staff). There is a shortage of qualified staff. This raises particular concerns with regard to the enforcement of safety controls.

Employment and social policy: A central administrative requirement in respect of the *acquis* in this area is adequate inspection capacity, particularly concerning health and safety at work.

In Poland the National Labour Inspectorate has about 1,700 staff although it is not clear that all of these are involved in strictly labour inspection duties. Reinforcement may well be required.

Regional policy and cohesion: The main administrative requirements in this area are the existence of appropriate and effective administrative bodies , and in particular a high degree of competence and integrity in the administration of Community funds.

In Poland the Ministries of Economy and Central Affairs deal with regional policy. (The number of staff employed in ministries on regional is 105). These arrangements do not yet work entirely adequately. The situation concerning financial control could, with further effort, become satisfactory (see the section, below, on "Financial control").

The effective administration of the *acquis* in this area will require improvements in organisation and coordination to create the necessary administrative and budgetary control framework.

Environment: Because EC environmental policy, involves the integration of environmental protection into EC sectoral policies the administrative requirement is potentially very wide, affecting many bodies not normally associated with environmental protection. However, the main responsibility lies with environment ministries and various subsidiary bodies.

In Poland the Environment Ministry employs 300 staff. Monitoring and enforcement is carried out by the State Environmental Protection Inspectorate and 49 regional inspectorates. These arrangements are adequate. The effective administration of the *acquis* in this area however will require greater investment in human resources (with a particular emphasis on training in EU related issues).

Consumer protection: In this area, the effective administration of the *acquis* requires the allocation of overall responsibility to a specific State body through which the formulation, implementation and enforcement of consumer policy and consumer protection legislation can be undertaken.

In Poland, the main responsibility for consumer policy lies with a competition authority; the Office for Protection of Competition and Consumers (4 staff employed on consumer protection). As regards non-governmental consumer bodies an already strong and independent consumer movement has developed. There remains confusion about the exact scope and objectives of consumer policy. This in part explains difficulties in the effective enforcement of consumer laws; however, other factors which need to be addressed include a lack of expert staff, organisational deficits, and a lack of sensitivity to consumer questions among the judiciary.

Justice and home affairs: Oversight of justice and home affairs questions falls to justice and interior ministries. The administrative structures need to be able to deal effectively with asylum and migration questions, border management, police cooperation and judicial cooperation. There is an overriding need for sufficient and properly trained staff with a high degree of integrity.

In Poland the justice and interior ministries are adequately staffed. The capacity to handle asylum and migration questions is not yet assured since the implementing legislation is not yet fully in place. Border management is weak in some areas, principally, due to poor facilities and lack of competent administrative structures. Specialised police units have been created, but coordination is poor. The judiciary is being reformed, with an emphasis of training and human resources. The effective administration of the *acquis* in these areas will require better coordination (internal and external), further development of human resources, and steps to combat corruption.

Customs: Applying the *acquis* in this area requires an adequate level of infrastructure and equipment, including computerisation and investigation resources, and the establishment of an efficient customs organisation with a sufficient number of qualified and motivated staff showing a high degree of integrity.

In Poland the customs service employs 12,100 staff. Due to a high turnover of staff, it is difficult to estimate their efficiency, and therefore the adequacy of staffing levels. The effective administration of the *acquis* in this area will require the retention of experienced and qualified staff, the creation of more effective structures for internal control, and more technical equipment (especially on the Eastern border).

Financial control: The protection of the Community's financial interests requires the development of anti-fraud services, training of specialised staff (investigators, magistrates) and the reinforcement of systems of specific cooperation. The implementation of Community policies, especially for agriculture and the Structural Funds, requires efficient management and control systems for public expenditure, with provisions to fight fraud. Administratively it is essential to have a clear separation between external and internal control. Police and judicial authorities need to be able effectively to handle complex transnational financial crime (including fraud, corruption and money laundering) which could affect the Community's financial interests.

In Poland the main external control body is the Supreme Chamber of Control employing about 1,500 staff. This is an adequate number. However the effective administration of the *acquis* in this area will require Poland to apply further resources to the adjustment of its systems to specific EU requirements.

4.3 General Evaluation

If Poland continues its comprehensive reform efforts in this area it could be envisaged that the administrative structures would be in a position in the medium term effectively to administer the *acquis*.

The same evaluation applies to the ability of Poland's judicial system to ensure the effective application of Community law.

SUMMARY AND CONCLUSION

Poland submitted its application for membership of the European Union on 5 April 1994. Its request is part of the historic process of ending the division of Europe and consolidating the establishment of democracy across the continent.

In accordance with the provisions of Article O of the Treaty, the Commission has, at the request of the Council, prepared an Opinion on Poland's request for membership.

Poland's preparation for membership is going forward notably on the basis of the **Europe Agreement** which entered into force on 1 February 1994. Implementation of the **White Paper** of May 1995 on the Internal Market, another essential element of the pre-accession strategy, is going ahead on the basis of a National Integration Strategy agreed by the government in January 1997. The government has put in place the necessary mechanisms to coordinate its policies for European integration.

In preparing its Opinion, the Commission has applied the **criteria established at the Copenhagen European Council** of June 1993. The Conclusions of this Council stated that those candidate countries of Central and Eastern Europe who wish to do so shall become members of the Union if they meet the following conditions:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

- the existence of a functioning market economy, as well as the ability to cope with competitive pressures and market forces within the Union;

- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

A judgment on these three groups of criteria - political, economic, and the ability to take on the *acquis* - depends also on the capacity of a country's administrative and legal systems to put into effect the principles of democracy and the market economy and to apply and enforce the *acquis* in practice.

The **method** followed in preparing these Opinions has been to analyse the situation in each candidate country, looking forward to the medium term prospects, and taking into account progress accomplished and reforms already under way. For the political criteria, the Commission has analysed the current situation, going beyond a formal account of the institutions to examine how democracy and the rule of law operate in practice.

1. Political Criteria

Poland's political institutions function properly and in conditions of stability. They respect the limits on their competences and cooperate with each other. Legislative elections in 1991 and 1993, and presidential elections in 1995, were free and fair. In 1993 and 1995, when they led to alternation of power, this was properly achieved. The Opposition plays a normal part in the operation of the institutions. Efforts to improve the operation of the judicial system and to intensify the fight against corruption will need to be sustained.

There are no major problems over respect for fundamental rights. There are, however, certain limitations to freedom of the press. Particular attention will be needed to how a new law limiting access to public service for certain categories of persons is implemented. Poland needs to complete procedures for compensating those whose property was seized by the Nazis or Communists.

Poland presents the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities.

2. Economic Criteria

Before 1989 the Polish economy was suffering seriously from stagnation, inflation and its foreign debt burden. The recovery plan initiated in January 1990 was drastic, but provoked only a limited drop in output (though output had already fallen substantially in the 1980s). By 1992 positive growth had already started, and has continued since (6.0% in 1996). The budget deficit has been reduced to below 3% of GDP; and the debt-servicing burden, after rescheduling was agreed in 1991, is being steadily reduced. Inflation rates have declined over recent years, but still stood at 19.9% in 1996. GDP per head is about 31% of the EU average, for a population of 38.6 million. The agricultural sector employed 27% of the labour force in 1995, and accounted for 6.6% of Gross Value Added. 70% of Poland's exports are directed to the EU, and 65% of its imports originate in the EU.

On the basis of its analysis, the Commission's judgment as to **Poland's ability to meet the economic criteria** established at Copenhagen is as follows:

Poland can be regarded as a functioning **market economy**. Prices and trade have been liberalised to a large extent. The economy has been successfully stabilised. Commitment to this policy line has been maintained through various changes in government. In order to guarantee longer-term stability, pension and social security systems need to be reformed. Financial services are underdeveloped. The banking sector needs further reform.

Poland should be well able to cope with **competitive pressure and market forces** within the Union in the medium term, provided that it maintains the pace of restructuring and keeps the economy open. Growth and investment are strong, and the rise in unit labour costs in the manufacturing sector has been moderate. Recently, inflows of foreign direct investment have accelerated. The main problem is that of the larger state-owned companies, where management failures in the face of foreign competition could have serious consequences. Agriculture needs to be modernised, and there have been some reversals in trade policy.

3. Capacity to take on the obligations of membership

Poland's ability to take on the *acquis* has been evaluated according to a number of indicators:

- the obligations set out in the Europe Agreement, particularly those relating to the right of establishment, national treatment, free circulation of goods, intellectual property and public procurement;

- implementation of the measures set out in the White Paper as essential for establishing the single market;

- progressive transposition of the other parts of the *acquis*.

Poland has already implemented significant elements of the provisions of the Europe Agreement, and for the most part according to the timetable for implementation set out in it. Too many trade-related problems have arisen, though most of them have been able to be resolved. Poland has achieved a satisfactory rate of transposition of the rules and directives identified in the White Paper, though there is still a considerable amount of legislative work left to do.

In respect of provisions relating specifically to the **single market**, substantial progress has been made on intellectual property, company law, taxation, accounting, and financial services. Work is still needed on public procurement, data protection, competition and liberalisation of capital movements.

Notwithstanding the efforts which have been made, the progress made in transposing legislation still needs to be accompanied by concrete measures of implementation, as well as establishment of an effective administrative underpinning. Overall, the administrative infrastructure is either well-established or recently set up and functioning normally. But the work of legislative adaptation is proceeding slowly in the field of technical rules and standards.

As for **the other parts of the *acquis***, Poland should not have difficulty in applying it in the medium term in the following fields: education, training and youth; research and technological development; statistics; small and medium enterprises; development; and customs.

By contrast, substantial efforts will be needed for Poland to be able to apply the *acquis* in the fields of telecommunications; fisheries; and consumer protection.

Polish **industry** is characterised by the existence of both a dynamic new private sector which should be able to compete in the single market in the medium term, and large sectors, mostly state owned, which need restructuring in order to be able to compete.

For the **environment**, very substantial efforts will be needed, including massive investment and strengthening of administrative capacity to enforce legislation. Full compliance with the *acquis* could be expected only in the long term, and would require increased levels of public expenditure.

For **transport**, Poland made notable progress in taking on the *acquis*, but considerable effort and investment will be needed in road transport. Provided that these efforts are made, the transport sector should not pose major problems in the medium term. But investment will be needed to extend the European transport network so as to ensure that the single market functions well.

In order to achieve the **employment and social affairs** *acquis* in the medium term, work is needed to adapt legislation in the field of health and safety at work.

In the field of **regional policy and cohesion**, if Poland implements the recommendations of its Task Force for Regional Policy, this will be a major step towards achieving the acquis. Given the necessary administrative framework, and the substantial improvement needed in the field of financial control, Poland should be able in the medium term to use the Union's regional and structural funds for its development effectively.

For **agriculture**, particular efforts will be needed to establish a coherent structural and rural development policy, and to implement veterinary and phytosanitary requirements and to strengthen the administrative structures necessary to apply the common agricultural policy. Provided these targets can be met, the common agricultural policy could be applied in an appropriate manner on accession in the medium term, although a solution to Poland's structural problems will require a long-term approach.

On **energy**, Poland has no nuclear power programme, and should have no difficulty in complying with the Euratom provisions. Poland should be able to comply with the rest of the energy acquis in the medium term, but this will require work on issues such as energy pricing, import barriers for oil products and state intervention in the coal sector.

On the basis of the analysis of its capacity to apply the *acquis*, Poland could be in a position in the medium term to take and implement the measures necessary for removal of controls at its **borders** with member states of the Union.

Poland's participation in the third stage of **economic and monetary union,** which implies coordination of economic policy and complete liberalisation of capital movements, should pose no problems in the medium term. But it is premature to judge whether Poland will be in a position, by the time of its accession, to participate in the Euro area. That will depend on how far the success of its structural transformation enables it to achieve and sustain permanently the convergence criteria. These are, however, not a condition for membership.

Poland faces significant challenges in the field of **justice and home affairs,** particularly concerning drugs, border management and transnational crime. Provided that continuing efforts are made, Poland could be able to meet the requirements of the *acquis* in the next few years.

Poland should be able to fulfil its obligations in respect of the **common foreign and security policy**.

In addition, Poland has no territorial disputes with any member state or neighbouring candidate country. All its state frontiers are regulated by Treaty.

4. Administrative and legal capacity

If Poland continues its comprehensive reform efforts in this area it could achieve in the medium term the administrative structures necessary for the essential work of applying and enforcing the *acquis* effectively.

The same applies to Poland's judicial system, which has an equally important part to play.

CONCLUSION

In the light of these considerations, the Commission concludes that:

- Poland presents the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities;

- Poland can be regarded as a functioning market economy, and should be able to cope with competitive pressure and market forces within the Union in the medium term;

- if Poland continues its efforts on transposition of the acquis relating particularly to the single market, and intensifies work on its implementation, Poland should become able to participate fully in the single market in the medium term. Particular effort and investment will be needed to meet the *acquis* in sectors such as agriculture, environment and transport. Further administrative reform will be indispensable if Poland is to have the structures to apply and enforce the *acquis* effectively.

In the light of these considerations, the Commission recommends that negotiations for accession should be opened with Poland.

The reinforced pre-accession strategy will help Poland to prepare itself better to meet the obligations of membership, and to take action to improve the shortcomings identified in this Opinion. The Commission will present a report no later than the end of 1998 on the progress Poland has achieved.

ANNEX

COMPOSITION OF PARLIAMENT

RESULTS OF THE LAST GENERAL ELECTIONS (1993)

Sejm

Party	abbrev.	No of seats
Democratic Left Alliance	SLD	168
Polish Peasant Party	PSL	130
Democratic Union	UW	73
Union of Labour	UP	35
Confederation for an Independent Poland	KPN	16
Non-Party Bloc for Reform	BBR	17

Senate

Party	abbrev.	No of seats
Democratic Left Alliance	SLD	37
Solidarity bloc	NSZZ	12
Polish Peasant Party	PSL	34
Independents’ bloc		5
Democratic bloc (mainly UW)		7
Independents		5

SINGLE MARKET : WHITE PAPER MEASURES

This table is based on information provided by the Polish authorities and confirmed by them as correct as at the end of June 1997. It does not indicate the Commission's agreement with their analysis. The table includes directives and regulations cited in the White Paper which total 899. These have been listed in accordance with the categorization used in the White Paper and in relation to the policy areas covered. The table shows the number of measures for which the Polish authorities have notified the existence of adopted legislation having some degree of compatibility with the corresponding White Paper measures.

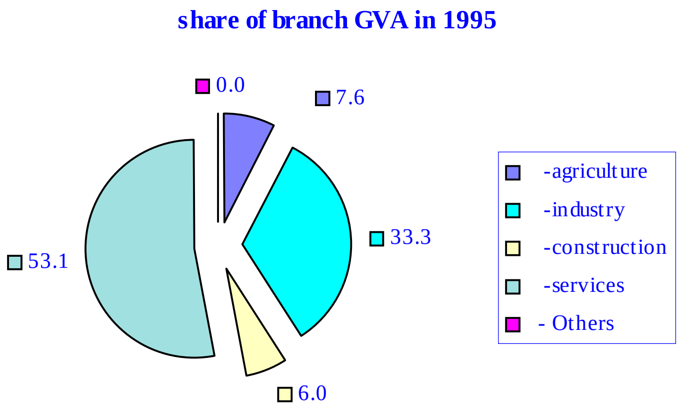
1.1.1.1.1.1.1 White Paper chapters		Directives		Regulations		Total
		Stage I	Stage II/III	Stage I	Stage II/III	
1.Free Movement of Capital	Poland	**3**	**1**	**0**	**0**	**4**
	Number of White Paper measures	3	1	0	0	4
2.FM and Safety of Industrial Products	Poland	**27**	**77**	**3**	**0**	**107**
	Number of White Paper measures	56	104	4	1	165
3.Competition	Poland	**2**	**0**	**1**	**0**	**3**
1.2	Number of White Paper measures	3	0	1	0	4
4.Social policy and action	Poland	**7**	**11**	**0**	**0**	**18**
	Number of White Paper measures	12	15	0	2	29
5.Agriculture	Poland	**75**	**30**	**25**	**0**	**130**
1.2.1	Number of White Paper measures	93	46	62	2	203
6.Transport	Poland	**18**	**7**	**6**	**2**	**33**
1.2.2	Number of White Paper measures	19	15	8	13	55
7.Audiovisual	Poland	**1**	**0**	**0**	**0**	**1**
1.2.3	Number of White Paper measures	1	0	0	0	1
8.Environment	Poland	**9**	**2**	**4**	**0**	**15**
1.2.4	Number of White Paper measures	31	7	7	0	45
9.Telecommunication	Poland	**7**	**2**	**0**	**0**	**9**
1.2.5	Number of White Paper measures	9	7	0	0	16
10.Direct Taxation	Poland	**2**	**1**	**0**	**0**	**3**
1.2.6	Number of White Paper measures	2	2	0	0	4
11.Free movement of goods	Poland	**0**	**0**	**0**	**0**	**0**
1.2.7	Number of White Paper measures	0	0	0	0	0
12.Public Procurement	Poland	**5**	**1**	**0**	**0**	**6**
1.2.8	Number of White Paper measures	5	1	0	0	6
13.Financial services	Poland	**10**	**7**	**0**	**0**	**17**
1.2.9	Number of White Paper measures	13	8	0	0	21
14.Protection of personal data	Poland	**0**	**0**	**0**	**0**	**0**
1.2.10	Number of White Paper measures	0	2	0	0	2
15.Company Law	Poland	**2**	**3**	**0**	**0**	**5**
1.2.11	Number of White Paper measures	2	3	0	1	6
16.Accountancy	Poland	**3**	**2**	**0**	**0**	**5**
1.2.12	Number of White Paper measures	3	2	0	0	5
17.Civil law	Poland	**0**	**1**	**0**	**0**	**1**
1.2.13	Number of White Paper measures	1	1	0	0	2
18.Mutual rec. of prof. Qual.	Poland	**0**	**6**	**0**	**0**	**6**
1.2.14	Number of White Paper measures	2	16	0	0	18
19.Intellectual property	Poland	**5**	**3**	**0**	**0**	**8**
1.2.15	Number of White Paper measures	5	3	0	3	11
20.Energy	Measures taken into account by Poland	**7**	**0**	**0**	**0**	**7**
1.2.16	Number of White Paper measures	10	2	3	0	15
21.Customs law	Poland	**0**	**0**	**13**	**0**	**13**
1.2.17	Number of White Paper measures	2	1	14	184	201
22.Indirect Taxation	Poland	**9**	**0**	**0**	**0**	**9**
1.2.18	Number of White Paper measures	15	54	0	6	75
23.Consumer Protection	Poland	**5**	**0**	**0**	**0**	**5**
1.2.19	Number of White Paper measures	8	3	0	0	11
Total	Poland	**197**	**154**	**52**	**2**	**405**
	Number of White Paper measures	295	293	99	212	899

STATISTICAL DATA

If not explicitly stated otherwise, data contained in this annex are collected from „**Central Statistical Office** (GLÓWNY URZAD STATYSTYCZNY)" with whom Eurostat and Member States' statistical offices are co-operating since several years in the framework of the Phare programme. Regular data collection and dissemination are part of this co-operation process with the aim to enable the application of EU laws and practices in statistics. The data presented below have been compiled as far as possible using EU definitions and standards which in some cases differ from national practices. This may occasionally give rise to differences between the data presented here and those shown elsewhere in the opinion, which are generally based on the individual applicant countries' updated replies to the questionnaire sent to them in April 1996. The exact compatibility with EU standards on statistics and thus the comparability with EU figures can still not be guaranteed, particularly those statistics that have not been supplied through Eurostat, but have been delivered directly by the countries concerned.. Wherever available, methodological notes are given describing content and particularities of statistical data presented in this annex. Data correspond to the information available as of May 1997.

BASIC DATA

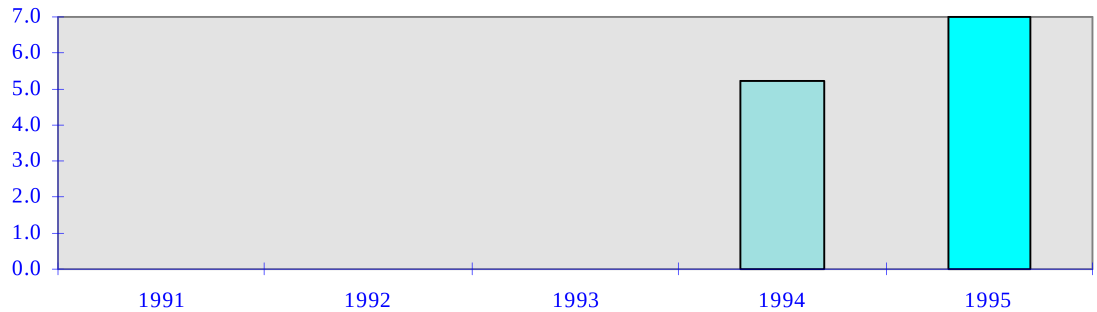
	1990	1992	1993	1994	1995
			1000 hectares		
Total Area			31269	31269	31269
Population (end of the period)			in 1000		
- Total		38418	38505	38581	38609
- Females			19753.1	19792.1	19806.4
- Males			18751.9	18788.9	18802.6
			per 1 km2		
Population density		123	123	123	123
			in % of total population		
Urban Population		61.7	61.8	61.9	61.8
			per 1000 of population		
Deaths rate		10.2	10.2	9.6	10
Births rate		13.4	12.8	12.5	11.2
Income and GDP per capita			European Currency Unit		
-Average monthly wage and salary per employee	85				218
-GDP per capita	1215				2359
Structure of production: share of branch GVA			in % of Total Gross Value Added		
-agriculture					7.6
-industry					33.3
-construction					6.0
-services					53.1



NATIONAL ACCOUNTS

	1990	1991	1992	1993	1994	1995
	in Millions of National Currency					
Gross Domestic Product (Current Prices)	56027.1	80882.9	114944.2	155780.0	210407.3	286025.6
	in Billions of ECU					
Gross Domestic Product (Current Prices)	46.3	61.7	65.0	73.4	77.8	90.2
	in Purchasing Power Standard per capita					
Gross Domestic Product				4331.0	4727.7	5318.1
	% change over the previous year					
Gross Domestic Product					5.2	7.0
Final consumption expenditure					3.9	3.4
-of households and NPISH					4.4	3.6
-of general government					2.2	2.9
Gross fixed capital formation						
Exports of goods and services					13.1	24.3
Imports of goods and services					11.3	23.6
	in % of Gross Domestic Product					
Final consumption expenditure	67.2	82.0	83.3	83.5	83.1	80.7
-of households and NPISH	48.5	60.1	62.6	64.0	65.3	63.1
-of general government	18.7	21.9	20.7	19.5	17.8	17.6
Gross fixed capital formation						18.0
Exports of goods and services	28.6	23.5	23.7	22.9	24.0	25.9
Imports of goods and services	21.5	25.4	22.2	22.0	23.0	24.6

GDP (% Change over the previous year)



MAIN ECONOMIC INDICATORS

	1990	1991	1992	1993	1994	1995	1996
	percentage change over the previous year						
Inflation rate	585.8	70.3	43	35.3	32.2	27.8	19.9
	previous year = 100						
Industrial production volume indices				105.6	113.1	110.2	108.8
Gross agricultural production volume indices				106.8	90.7	110.7	
Unemployment rate (ILO methodology)	in % labour force						
- Total				14	14.4	13.3	12.4
- less then 25 years					32.5	31.2	28.7
- 25 years and more					11.9	10.9	10.1
	in Billions of USD						
Gross Foreign debt	44.156	49.411	40.681	37.28	35.856		
Balance of payments	in millions of USD						
-Exports of goods	15837	14393	13929	13582	17121	23463	
-Imports of goods	-12248	-15104	-14060	-17087	-18930	-26687	
-Trade balance	3589	-711	-131	-3505	-1809	-3224	
-Services, net	353	693	728	570	663	1459	
-Income, net	-3386	-2896	-4167	-3613	-2563	-1995	
-Current account balance	3067	-2146	-3104	-5788	-2590	-4245	
-Capital and fin. acc.(excl. reserves)	-811	2061	3901	5669	4429	12920	
-Reserve assets	-2418	830	-616	-100	-1514	-8431	

Inflation rate: Percentage change of yearly average over the previous year - all items index (data are based on national CPIs which are not strictly comparable)

Industrial production volume indices: Industrial production covers mining and quarrying, manufacturing and electricity, gas and water supply (according to the NACE Classification Sections C,D,E). Data on industrial production relate to sold production (sales) for domestic and external destination as well. Data cover all entities with more than 5 employees.

Gross agricultural production volume indices: Indices based on evaluation of all individual products of gross agricultural production. Constant prices refer to 1992.

Unemployment rate (by ILO methodology): Percentage of the unemployed labour force .This rate is derived from LFSS (Labor Force Survey) observing the following ILO definitions and recommendations.

Labor force employed and unemployed persons in the sense of the ILO definitions stated below.

The employed all persons aged 15+, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of cooperatives or contributing family workers. Members of armed forces and women on child-care leave are included.

The unemployed all persons aged 15+, who concurrently meet all three conditions of the ILO definition for being classified as the unemployed: (i) have no work, (ii) are actively seeking a job and (iii) are ready to take up a job within a fortnight. In Poland, LFSS excludes members of armed forces.

Gross foreign debt: Debt is extracted form the OECD's External Debt Statistics.

Balance of payments: Data is derived from IMF database, their comparability with respective EU statistics can not be guaranteed, but balance of payments is compiled mainly in accordance to IMF standards. Balance in trade of goods in accordance with balance of payments principles. Exports and imports are both in f.o.b. values. Net income includes direct, portfolio and other investment income, compensation of employees. Current account balance by definition of IMF 5th Manual, capital transfers are excluded. Reserve assets: it means changes in reserve assets during the year; (+) signifies an increase, (-) a decrease in reserve assets.

FOREIGN TRADE

	1992	1993	1994	1995	1996
Imports and exports (current prices)	in millions of USD				
- Imports		18769	21569	29049.7	
- Exports		14187	17240	22894.9	
- Balance of trade		-4582	-4329	-6154.8	
External trade volume indices	previous year = 100				
- Imports		118.5	113.4	120.5	
- Exports		98.9	118.3	116.7	
Structure of Import by SITC (current prices)	in % of total Import				
- (0+1) food and live animals, beverage and tobacco	10.6	10.5	9.6	8.8	
- 2 crude materials, inedible	5.4	4.6	5.2	5.4	
- 3 mineral fuels and lubricants	16.8	12.5	10.5	9.1	
- 4 animal and vegetable oils etc.	0.6	0.6	0.7	0.7	
- 5 chemicals and related products	13.5	13.3	14.7	15	
- 6 manufactured goods classified chiefly by material	11.8	18.5	20.2	21.6	
- 7 machinery and transport equipment	29.9	29.4	28.8	29.9	
- 8 miscellaneous manufactured articles	10.3	10.2	9.9	9.3	
- 9 goods not elsewhere classified	1.1	0.4			
Structure of export by SITC (current prices)	in % of total Export				
- (0+1) food and live animals, beverage and tobacco	13.4	11.2	11.5	9.9	
- 2 crude materials, inedible	8.5	5.5	4.7	4.5	
- 3 mineral fuels and lubricants	10.7	9.7	9.1	8.2	
- 4 animal and vegetable oils etc.	0.1	0.1	0.1	0.2	
- 5 chemicals and related products	8.6	6.8	6.7	7.7	
- 6 manufactured goods classified chiefly by material	27.1	26.4	27.5	27.5	
- 7 machinery and transport equipment	19.2	20.9	19.8	21.1	
- 8 miscellaneous manufactured articles	11.7	19.4	20.5	20.8	
- 9 goods not elsewhere classified	0.7	0			
	previous year = 100				
External trade price indices					
- Imports	116.5	116.5	127.2	119.2	
- Exports		125.6	128.8	121.2	

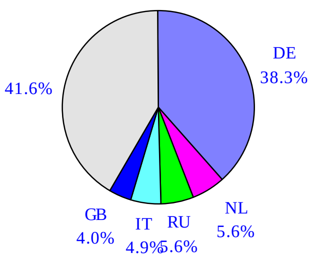
Imports and exports (current prices), External trade volume indices and Structure of external trade by SITC (current prices): Trade data exclude direct re-exports, trade in services and trade with customs free zones as well as licenses, know-how and patents. The data are based upon the special trade system and are regularly updated. ***Trade Classifications***: Poland is using the commodity classification according to the ***Combined Nomenclature***. ***Imports*** are recorded on ***CIF*** basis and are captured in the same way as exports. ***Exports*** are recorded on ***FOB*** basis and are captured with the date on which the commodities cross the customs border. The customs statistics is utilized for monitoring of foreign trade data. Eurostat has converted National Currencies to the US dollar by applying the International Monetary Fund annual average exchange rates.

External trade price indices: Monthly and quarterly transaction prices of imports and exports are calculated as a quotient of turnover value in PLZ and turnover volume (exports - FOB, imports - CIF); annual price indices are obtained on the basis of direct surveys on price changes. The structure of turnover value of the examined year is used for the calculation.

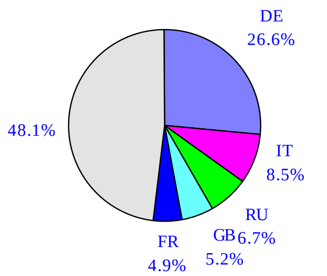
FOREIGN TRADE

	1992		1993		1994		1995		1996	
Structure of imports by main countries (current prices)	in % of total imports									
1st partner	**DE**	23.9	**DE**	28	**DE**	27.4	**DE**	26.6		
2nd partner	**RU**	8.5	**IT**	7.8	**IT**	8.4	**IT**	8.5		
3rd partner	**IT**	6.9	**RU**	6.8	**RU**	6.8	**RU**	6.7		
4th partner	**GB**	6.7	**GB**	5.8	**GB**	5.3	**GB**	5.2		
5th partner	**NL**	4.7	**US**	5.1	**NL**	4.6	**FR**	4.9		
others		49.3		46.5		47.5		48.1		
Structure of exports by main countries (current prices)	in % of total exports									
1st partner	**DE**	31.4	**DE**	36.3	**DE**	35.7	**DE**	38.3		
2nd partner	**NL**	6	**NL**	5.9	**NL**	5.9	**NL**	5.6		
3rd partner	**IT**	5.6	**IT**	5.2	**RU**	5.4	**RU**	5.6		
4th partner	**RU**	5.5	**RU**	4.6	**IT**	4.9	**IT**	4.9		
5th partner	**GB**	4.3	**GB**	4.3	**GB**	4.6	**GB**	4		
others		47.2		43.7		43.5		41.6		

Structure of export by main partners in 1995



Structure of import by main partners in 1995



DE	Germany	NL	Netherlands
FR	France	RU	Russian Federation
GB	United Kingdom	US	United States
IT	Italy		

SOCIAL INDICATORS

	1991	1992	1993	1994	1995
Population on 1 January	thousand				
	38183.2	38309.2	38418.1	38504.7	38581
Proportion of population by age 1 January 1995	in % of total population				
y0_14					23.1
y15_24					15.5
y25_44					30.0
y45_64					20.5
y65_max					10.9
	total number				
Live births	545954	513616	492925	481285	
Deaths	403951	393131	390874	386398	
Infant deaths					
- Less than 1 year	8177	7422	6610	7284	
- Still birth	2754	2511	2549	3813	
Marriages	233206	217240	207674	207689	
Divorces	33823	32024	27891	31574	
	per 1000 of population				
Crude marriage rate	6.1	5.66	5.4	5.39	5.4
Crude divorce rate	1.1	1.1	1.1	2.1	1.0
Natural growth	3.71	3.14	2.65	2.46	
Net migration	-0.42	-0.3	-0.4	-0.49	
Total population growth	3.3	2.84	2.25	1.97	
Total fertility rate	2.05	1.93	1.85	1.8	
Infant mortality rate	14.98	14.45	13.41	15.13	13.6
Late foetal mortality rate	5.02	4.87	5.14	7.86	
Life expectancy	at birth				
- Males		66.7	67.4	67.5	67.6
- Females		75.7	76	76.1	76.4
Life expectancy	at 65 years				
- Males					12.9
- Females					16.6

Proportion of population by age on 1 January 1995: Age of 85 to 89: data only available for 85 years and older.

Net Migration: Including statistical discrepancies.

LABOUR MARKET

	1993	1994	1995	1996
Economic Activity Rate (ILO methodology)	in percent of population age +15			
	60.9	60.2	58.8	58.2
Average employment	in thousand			
	8581	8519	8570	8530
Unemployment rate by age (ILO methodology)	in % of labour force			
- total	14	14.4	13.3	12.4
- less then 25 years		32.5	31.2	28.7
- 25 years and more		11.9	10.9	10.1
Registered unemployment (end of period)	in % of economically active population			
	16.4	16	14.9	13.6

	1993	1994	1995	1996
Average paid employment indices by NACE classes	Previous year = 100			
- Agriculture, hunting, forestry and fishing	79.6	72.9	78.6	102.7
- Mining and quarrying	85.5	92.8	95.5	95.2
- Manufacturing		97.1	101.7	99.7
- Production and distribution of electricity, gas and water		101.8	100.6	99.9
- Construction		87.9	96.2	95.3
- Transport, storage and communication		94.5	98.4	98.9
Monthly nominal wages and salaries indices by NACE classes				
- Agriculture, hunting, forestry and fishing	134.4	137.4	147.8	126.5
- Mining and quarrying	147.1	155.8	125.4	127.7
- Manufacturing	137.9	138.4	134.6	127.1
- Production and distribution of electricity, gas and water	147.5	142.7	128.5	123.5
- Construction	129.1	129.2	133.5	127.3
- Transport, storage and communication	136.9	135	130.5	127
Monthly wages and salaries indices				
- nominal	136.1	137	132.9	126.9
- real	98.7	102.5	103.9	105.8

Economic activity rate (ILO Methodology): Percentage of labor force in the total population aged 15+. This rate is derived from LFSS (Labor Force Survey) observing the following ILO definitions and recommendations:

Labor force employed and unemployed persons in the sense of the ILO definitions stated below.
The employed all persons aged 15+, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of cooperatives or contributing family workers. Members of armed forces and women on child-care leave are included.
The unemployed all persons aged 15+, who concurrently meet all three conditions of the ILO definition for being classified as the unemployed: (i) have no work, (ii) are actively seeking a job and (iii) are ready to take up a job within a fortnight. In Poland, LFSS excludes members of armed forces.

Unemployment rate (by ILO methodology): Percentage of the unemployed labour force. This rate is derived from LFSS (Labor Force Survey) observing the ILO definitions and recommendations (see ILO definitions above).

LFSS excludes members of armed forces.

Average employment and Average paid employment indices by NACE classes: The data for entrepreneurial sphere cover all entities with more than 5 employees. The data cover also all budgetary, subsidised organisations and persons with secondary job are included. Armed forces, apprentices, employees on child-care and additional child-care leaves are excluded.

Registered unemployment (end of period): Registered unemployment in per cent - percentage of unemployed registered in civil economically active population, based on Labour force sample survey (LFSS). Registered Unemployment covers persons registered as looking for a job in Local Labour Offices in the area in which they live.

Monthly wages and salaries indices: Monthly ***real*** wages and salaries indices are derived from ***net*** nominal wages and salaries indices divided by consumer price indices of households of employees and employees possessing farms. The data for entrepreneurial sphere cover all entities with more than 5 employees. The data cover also all budgetary, subsidised organisations and persons with secondary job are included. Armed forces, apprentices, employees on child-care and additional child-care leaves are excluded.

PUBLIC FINANCE

	1990	1991	1992	1993	1994	1995
Government budget	in millions of national currency					
-Consolidated central government revenue					87857	117595
-Grants						
-Consolidated central government expenditure					92754	124019
-Consolidated general government expenditure					105256	140201
-Consolidated central government deficit/surplus					-4897	-6424
-General government deficit/surplus					-4954	-5508
Government budget	in % of Gross Domestic Product					
-Consolidated central government expenditure					44.1	43.4
-Consolidated general government expenditure					50.0	49.0
-Consolidated central government deficit/surplus					-2.3	-2.2
-General government deficit/surplus					-2.4	-1.9

Government budget: These data relate to central and general government as published in the IMF's *Government Finance Statistics Yearbook (1996) (GFSY)*; included also is the country's presentation in the *GFSY.*

Because the *GFSY* does not present statistics for general government, but for individual levels of government separately, the consolidated series presented here were obtained from central and local government data and adjusted in consolidation for the identified intergovernmental transfers.

Even though the statistics cover the central and local government published in *GFSY*, the coverage may not be exhaustive if some central or local government units are not included in that coverage. A measure of the exhaustiveness of the coverage can be obtained by comparing in the *GFSY* the note on the coverage of data for individual countries with the list of central and local government units provided.

It should be noted that the deficit/surplus used here is equal to revenue and grants minus expenditure, and does not take lending minus repayments into account (see further below).

The netting of inter-government transfers carried-out in the attached tables is limited to the current and capital transfers consisting of the identified grants and current and capital subsidies between the levels of government. Other types of transactions occurring between government levels, such as the payments of taxes and employers' social security contributions, and the reciprocal purchases of goods and services are not normally classified as inter-governmental transfers have not been eliminated in the consolidation process. Finally, whether the absence of data for current and capital transfers should be attributed to the absence of transfer or to lack of data is unclear; in all cases absence of information on transfers have been deemed to represent zero-transfers.

a. Government expenditure consists of general government cash expenditures on current and capital goods and services, interest payments and current and capital transfers but excludes non-cash transactions.

b. Deficit/surplus equals cash revenue and cash grants minus cash expenditure. This measure of the deficit/surplus differs from that used in GFS which equals cash revenue and cash grants, minus cash expenditure, minus net lending. This exclusion of net lending(consisting, in the *GFS* methodology, of operations in financial assets and liabilities carried out for specific policy purposes, rather than for liquidity purposes) brings the measure of the deficit/surplus presented here closer to the national accounts concept of net borrowing/net lending. Also, as a result of this exclusion, receipts from privatisation (classified as repayments in the *GFS* methodology) do not enter in the determination of the deficit/surplus presented in the attached tables (and therefore do not reduce the deficit).

FINANCIAL SECTOR

	1990	1991	1992	1993	1994	1995	1996
Monetary aggregates	Billions (10^9) of US Dollars						
- Monetary aggregate M1				9.18	11.28	15.15	17.14
- Quasi money				17.01	20.47	27.11	29.77
Total reserves (gold excluded, end of period)	Millions (10^6) of US Dollars						
				4091.9	5841.8	14774.1	17656.9
Average short term interest rates	% per annum						
- lending rate				35.3	32.8	33.5	26.1
- deposit rate				34	33.4	26.8	20
Official discount rate (end of period)					28	25	22
USD exchange rates	1 USD = ...PLZ						
Average of period	0.95	1.0576	1.3626	1.8115	2.2723	2.425	2.6961
End of period	0.95	1.0957	1.5767	2.1344	2.4372	2.468	2.8755
ECU exchange rates	1 ECU = ...PLZ						
Average of period	1.210	1.311	1.769	2.121	2.703	3.172	
End of period	1.295	1.469	1.909	2.381	2.998	3.244	

Monetary Aggregates: Money (M1) Includes demand deposits and currency outside banks. ***Quasi money (QM)*** Include time, savings and foreign currency deposits. Eurostat has converted National Currencies to the US dollar by applying the International Monetary Fund annual end of period exchange rates.

Average short term interest rates: Data are extracted from the IMF's monthly International Financial Statistics (IFS). Average short-term lending and deposit rates relate to period averages. ***Lending rates*** generally consist of the average interest rate charged on loans granted by reporting banks. ***Deposit rates*** relate to average demand and time deposit rates or average time deposit rates. These rates may not be strictly comparable across countries to the extent the representative value of the reporting banks and the weighting schemes vary.

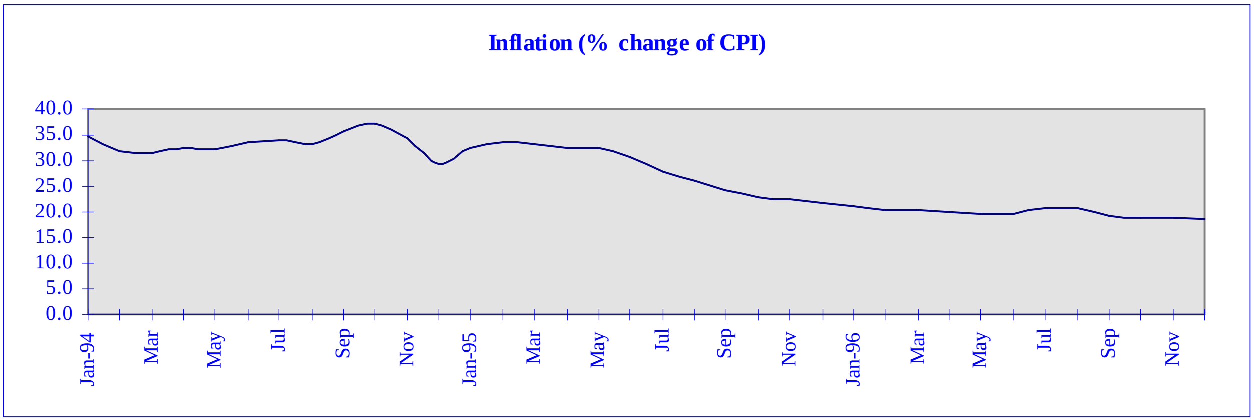
Total reserves (gold excluded, end of period): The statistics on official foreign reserves are extracted from the IMF's monthly International Financial Statistics (IFS). Total reserves (gold excluded) are defined as the sum of central bank holdings of foreign currencies and other (gross) claims on non-residents; this definition excludes claims on residents denominated in foreign currency. According to the definition; official foreign reserves are calculated at market exchange rates and prices in force at the end of the period under consideration. Total reserves (gold excluded) published in IFS may differ from the figures published by the national authorities. Some factors contributing to possible differences are the valuation of the reserve position in the Fund, and a different treatment of claims in non-convertible currencies. Data for 1996 refer to November 1996 data.

USD exchange rates: International Monetary Fund exchange rates as present in the publication: "Statistiques Financieres Internationales".

INFLATION (12 months changes)

Percentage change of the CPIs with the current month compared with the corresponding month of the previous year (t/t-12)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1993												
1994	34.7	31.7	31.6	32.4	32.2	33.4	33.9	33.1	35.7	37.1	34.2	29.4
1995	32.4	33.7	33.2	32.4	32.6	30.9	27.8	26.2	24.4	23.0	22.4	21.9
1996	21.1	20.4	20.2	20.1	19.6	19.6	20.6	20.7	19.4	18.9	18.9	18.7



Inflation (12 months changes): Inflation rates (12 months changes) are percentage changes of the CPIs with the current month compared with the corresponding month of the previous year. Inflation rates are based on national CPIs (as described in the statistical part of the enlargement questionnaire) which are not strictly comparable between candidate countries or with those based on EU HICPs (different methods, concepts, practices in the calculation of CPIs. Inflation rates (12 months changes) based on ILO data.

INDUSTRY

	1993	1994	1995	1996
Structure of GDP by economic activities (NACE, current prices)	in % of Gross Domestic Product			
- Mining and quarrying	3.7	4.4	4.2	
- Manufacturing	25.2	20.7	21	
- Production and distribution of electricity, gas and water	4	3.6	3.7	
Industrial production volume indices by NACE classes	previous year = 100			
- Total	105.6	113.1	110.2	108.8
- Mining and quarrying	88.9	106.1	99.1	100.8
- Manufacturing	112.2	114.9	112.4	111
- Production and distribution of electricity, gas and water	81.2	105	100.6	98.9

	1993Q1	1993Q2	1993Q3	1993Q4	1994Q1	1994Q2	1994Q3	1994Q4
Industrial production volume indices by NACE classes	corresponding period of the previous year = 100							
- Total		109	103	108	110	109.1	119.9	113.1
- Mining and quarrying		89	79	100	99	99.8	117.2	109.9
- Manufacturing		116	109	112	113	110.8	120.9	115.1
- Production and distribution of electricity, gas and water		86	80	90	105	102.3	112.6	102.3

1995Q1	1995Q2	1995Q3	1995Q4	1996Q1	1996Q2	1996Q3	1996Q4
corresponding period of the previous year = 100							
113.7	112	107.1	108.4	108.8	107.4	110.3	108.9
102.7	106.4	100.8	88.6	105.3	97.4	98	101.9
117	113.9	108.7	110.8	109.5	110.2	112.4	111.3
100.4	100.7	96.4	103.9	103.5	93.7	102.6	96.9

Structure of GDP by economic activities (NACE, current prices):. is calculated for 1993 ***at producer prices*** and since 1994 ***at basic prices.***

Industrial production volume indices by NACE classes: Industrial production covers mining and quarrying, manufacturing and electricity, gas and water supply (according to the NACE Classification Sections C,D,E). Data on industrial production relate to sold production (sales) for domestic and external destination as well. Data cover all entities with more than 5 employees.

INFRASTRUCTURE

	1991	1992	1993	1994	1995
	in Km per 1000 Km2				
Railway network	82.7	80.8	79.7	78	77
Railway transport	in million ton/passengers-km				
- freight transport			64359	65788	69116
- passengers transport			30865	27610	26635
	in 1000 of population				
Number of telephone subscribers	93.1	102.5	114.7	177	197
	inhabitants				
Number of inhabitants per passenger car	6	6	5.4	5.4	5.1

AGRICULTURE

	1992	1993	1994	1995	1996
Land area by land-use categories	in 1000 Hectares				
- total	31264	31269	31269	31269	31269
- agricultural land	18664	18642	18648	18622	18474
- forest	8772	8785	8783	8822	8861
- arable land	14337	14305	14300	14286	14087
- permanent meadows and pastures	4044	4047	4055	4047	4125
Agricultural land by legal status	in % of agricultural land				
- state enterprise		13.9	10	7.3	
- Co-operatives		3.3	3.1	2.9	
- others		82.8	86.9	89.8	

	1992	1993	1994	1995	1996
Share of GDP	in % of Gross Domestic Product				
- Agriculture, hunting, forestry and fishing (Nace A+B)		6.7	6.3	6.6	
	Previous year = 100				
Gross agricultural production volume indices		106.8	90.7	110.7	100.3
Main crops by area	in 1000 Hectares				
- Cereals	8441.9	8579	8533.5	8609.7	8651
- of which: wheat	2405.1	2476.9	2407	2406.8	2453
- Potatoes	1757	1761	1697	1522	1349
- Sugar beet	376	399	401	385	451
- Fodder beet	191	195	196	143	
Main crops by yield	in 100 kg/Hectares				
- Cereals	23.5	27.5	25.6	30.2	29.4
- of which: wheat	30.6	33.3	31.8	36.0	35.1
- Potatoes	133.1	206	135.9	163.5	203
- Sugar beet	294.1	391.6	291.5	346.1	387
- Fodder beet	331.6	431.7	359.9	377.2	

	1992	1993	1994	1995	1996
Sales or procurement of animal for slaughter	in 1000 tons of live weight				
- pigs	1194.1	1095.9	914.9	1134.9	959.8
- cattle	446.8	366.6	367.3	346.9	283.5
- poultry	290	242.1	284.2	324.3	379.9
Livestock breeding intensity (end of period)	Heads per 1000 Ha of agricultural land				
- cattle		390	382	386	376
- of which: cows		207	199	191	186
- sheep		52	41	33	
	Heads per 1000 Ha of arable land				
- pigs		1218	1320	1420	1240
- of which: sows		112	122	130	

Share of GDP: is calculated for 1993 ***at producer prices*** and since 1994 ***at basic prices.***

Gross agricultural production volume indices: Indices based on evaluation of all individual products of gross agricultural production. Constant prices refer to 1992.

Sales or procurement of animals for slaughter: The data refer to the ***procurement*** of agricultural products run by legal entities and independent units with legal incapacity. Semi-annual and annual data cover also procurement run by natural persons, when its value exceeds 10 thous. PLZ. As a result of this, the semi-annual and annual data are not the sum of particular quarters.