

Poland 2000

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REGULAR  
REPORT

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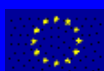
ON

POLAND'S

PROGRESS TOWARDS  
ACCESSION

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8 November 2000



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## A. Introduction

### a) Preface

In Agenda 2000, the Commission said it would report regularly to the European Council on progress made by each of the candidate countries of Central and Eastern Europe in preparations for membership, and that it would submit its first report at the end of 1998.

The European Council in Luxembourg decided that

“From the end of 1998, the Commission will make regular reports to the Council, together with any necessary recommendations for opening bilateral intergovernmental conferences, reviewing the progress of each Central and Eastern European applicant State towards accession in the light of the Copenhagen criteria, in particular the rate at which it is adopting the Union *acquis*” ... “The Commission’s reports will serve as the basis for taking, in the Council context, the necessary decisions on the conduct of the accession negotiations or their extension to other applicants. In that context, the Commission will continue to follow the method adopted by Agenda 2000 in evaluating applicant States’ ability to meet the economic criteria and fulfil the obligations deriving from accession.”

On this basis, the Commission presented a first series of regular reports in October 1998, with a view to the Vienna European Council; a second series was adopted in October 1999, with a view to the Helsinki European Council. The Helsinki European Council noted that the next regular reports would be presented in good time before the European council in December 2000.

The structure followed by this regular report on Poland is largely similar to that of the Commission’s 1997 Opinion and of the subsequent regular reports; however, it differs from that used in previous years on three minor points. Firstly, the part of the present report assessing Poland’s ability to assume the obligations of membership (*Part B.3.1.*) has been structured to follow the list of twenty-nine negotiating chapters covering the *acquis*. Secondly, this part has been broadened to cover also Poland’s administrative capacity to apply the *acquis* under each of the negotiating chapters (previously discussed in a separate section of the report). Thirdly, the report includes, for the first time, a section assessing the progress made by Poland in translating the *acquis* into its official language.

In line with previous regular reports, the present report:

- describes the relations between Poland and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Poland’s situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);

- addresses the question of Poland's capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. This part gives special attention to nuclear safety, as underlined by the Cologne and Helsinki European Councils. It encompasses not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*, as requested by the Madrid and Feira European Councils in December 1995 and June 2000 respectively. At Madrid, the European Council underlined the necessity for the candidate countries to adjust their administrative structures, so as to create the conditions for the harmonious integration of those States. The Feira European Council in June 2000 emphasised the vital importance of the candidate countries' capacity to effectively implement and enforce the *acquis*, and added that this required important efforts by the candidates in strengthening their administrative and judicial structures. The Feira European Council invited the Commission to report to the Council on its findings on the matter.

This report takes into consideration progress since the 1999 regular report. It covers the period until 30<sup>th</sup> September 2000. In some particular cases, however, measures taken after that date are mentioned. It looks at whether intended reforms referred to in the 1999 regular report have been carried out, and examines new initiatives. Furthermore, complementing the assessment of new developments since the last regular report, this report provides also an overall assessment of the global situation for each of the aspects under consideration, setting out for each of them the main steps which remain to be taken by Poland in preparing for accession.

In accordance with this approach, the assessment of progress in meeting the political and *acquis* criteria (including Poland's administrative capacity to implement the *acquis*) focuses on what has been accomplished since the last regular report, complemented with a view of the global situation for each of the aspects discussed. The economic assessment, for its part, is based on a forward-looking evaluation of Poland's economic performance.

The report contains also a separate section examining the extent to which Poland has addressed the short-term Accession Partnership priorities, and has started to address the medium-term priorities set out in this framework.

As has been the case in previous reports, "progress" has been measured on the basis of decisions actually taken, legislation actually adopted, international conventions actually ratified (with due attention being given to implementation), and measures actually implemented. As a matter of principle, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all the candidate countries and permits an objective assessment and comparison between countries in terms of their concrete progress in preparing for accession.

The report draws on numerous sources of information. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last regular report. The National Programmes for the Adoption of the *Acquis* of each of the candidate countries, as well as the information they have provided in the framework of the Association Agreement and in the context of the analytical examination of the *acquis* (screening) and the negotiations, have served as additional sources. Council deliberations and European Parliament reports and

resolutions<sup>1</sup> have been taken into account in the preparations. The Commission has also drawn on assessments made by various international organisations, and in particular the contributions of the Council of Europe, the OSCE and the International Financial Institutions, as well as that of non-governmental organisations.

## **b) Relations between the European Union and Poland**

### *Recent developments under the Association Agreement (including bilateral trade)*

Poland has continued to implement the Europe Agreement and contributed to the smooth functioning of the various joint institutions.

The Association Council met in December 1999 under Polish presidency and again in October 2000 in Brussels under EU presidency. An Association Committee meeting was held in Brussels in June 2000. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Polish and European Parliament met in November 1999 in Brussels and June 2000 in Warsaw.

Bilateral trade continues to grow. In 1999 EC exports to Poland stood at €28.9 billion, with EC imports from Poland amounting to €17.5 billion. The EC trade surplus of €11.4 billion shows a small decrease on the 1998 surplus. As has been the trend for the past decade, bilateral trade with Poland continues to grow faster than the EC's trade with the rest of the world. Poland's share in total EC exports fell slightly to 3.81% while Poland's share in total EC imports remained constant at 2.27%. As a result, 1999 EC imports continued the trend set in 1997 and 1998 and grew faster than EC exports. In consequence the trade gap when expressed as the ratio of exports to imports further decreased in 1999. Concerning trade by product, machinery and electrical goods represent the largest sector for both EC exports to and imports from Poland. On the import side, machinery and electrical goods (19% growth), transport equipment (29% growth), and other manufactures (14% growth) all grew strongly. Textile imports fell in absolute and relative terms.

In March 1999, the Council mandated the Commission to open negotiations with the associated countries with a view to new reciprocal concessions in the field of agriculture. The negotiations, which form a part of the overall accession process, have been carried out on a reciprocal basis and with the aim of leading to a fair equilibrium between the interests of the European Community, the EU Member States and those of Poland. The negotiations have been based on the principle of neutrality with respect to the functioning of the CAP.

The negotiations with Poland were concluded between negotiators in September 2000. As a consequence of the new agreement approximately three quarters of the bilateral trade in agricultural products should benefit from preferences. Negotiations concerning processed agricultural products are ongoing.

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<sup>1</sup> For the European Parliament the *rapporteur* is Jas Gawronski.

In July 2000, the Council mandated the Commission to open negotiations with the associated countries with a view to new reciprocal concessions in the field of fish and fisheries products. Technical discussions and the first round of negotiations took place between the EC and Polish sides in July 2000.

A range of difficulties in the implementation of the Europe Agreement by Poland remain, from complex long standing issues such as steel restructuring and Special Economic Zones to product specific trade issues. However, some issues have been resolved through the functioning of the various joint institutions such as the elimination of export restrictions on non-ferrous scrap in 2000 and moves towards the full implementation of the Agreement on the Protocol on European Conformity Assessment (PECAA).

Although the Europe Agreement provides for entry into its second stage since February 1999, a number of legal requirements have yet to be fulfilled to permit this transition. These were covered in the 1999 regular report. The adoption of the Law on economic activity has removed some of the obstacles and a new horizontal law<sup>2</sup> will deal with most, if not all of the outstanding obligations. Work continues so as to arrive at a speedy resolution of this issue.

The last regular report noted a tendency towards a reversal of the close co-operation on trade matters identified in the Opinion. Since then the situation has been rather mixed. In some areas a close working relationship has led to good results; for example the replacement of the previous system of licences for the import of cars in knocked down kit form with a tariff based system, in others, considerable differences remain. One theme which has reoccurred throughout the year has been the difficulty in ensuring that solutions to specific or general problems have been fully implemented. At a general level there have been a number of “teething problems” with the implementation of the new customs code. More specifically earlier commitments with regards the harmonisation of VAT levels for fruit and the opening of quotas on yoghurts have not been met.

Since the 1999 report there has been marked progress concerning the certification of industrial products. Poland has adapted its list of products requiring mandatory certification in line with its commitments under the PECAA. This should resolve a number of short term market access issues. In doing so Poland has almost fulfilled its obligations under the PECAA: the issue of the automatic issuance of certificates for products subject to producer certification in the EC remains outstanding. The complete fulfilment of these obligations would do much to demonstrate Poland’s desire to prepare for the internal market both economically and politically.

Concerns have been expressed that the Polish language act of October 1999 may impede economic activity because it covers issues such as the language of contracts in a manner which other language laws, for example in France or Slovakia, do not. In order to avoid any impediment, which could constitute a potential breach of the Europe Agreement, the law will need to be implemented in a flexible and sympathetic manner.

The Regulation imposing provisional anti-dumping duties on imports of ammonium nitrate originating *inter alia* in Poland was published on 26 July 2000. A review of the measures imposed in December 1994 on imports of urea ammonium nitrate was initiated

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<sup>2</sup> See Political criteria section for an explanation of the horizontal laws.



in December 1999. It comprises an expiry review under Article 11.2 of the Basic regulation and an interim review under Article 11.3, limited to the form of measures. A verification visit to Poland took place in July 2000. With regard to wooden pallets, the regulation imposing definitive anti-dumping duties published in 1997 was amended in July 2000, following a so-called “newcomer” review of the anti-dumping measures.

### *Accession Partnership / National Programme for the Adoption of the Acquis*

The revised Accession Partnership was adopted in December 1999. Its implementation is reviewed in chapter D of this Report.

In April 2000 Poland submitted a revised National Programme for the Adoption of the *Acquis* (NPAA) to the Commission, in which it outlines its strategy for accession including how to achieve the priorities contained in the Accession Partnerships (*Chapter D below*).

### *Community aid*

Since January 2000, there are three **pre-accession instruments** financed by the European Community to assist the applicant countries of Central Europe in their pre-accession preparations: the **Phare** programme; **SAPARD**, which provides aid for agricultural and rural development; and **ISPA**, which finances infrastructure projects in the fields of environment and transport. These programmes concentrate their support on the Accession Partnership priorities that help the candidate countries to fulfil the criteria for membership.

In the years 2000-2002 total financial assistance to Poland will amount annually to €398 million from Phare, €168.6 million from SAPARD, and between €312 and 385 million from ISPA.

The **Phare** programme has been providing support to the countries of Central Europe since 1989, helping them through a period of massive economic restructuring and political change. Its current “pre-accession” focus was put in place in 1997, in response to the Luxembourg European Council’s launching of the present enlargement process.

Phare provides the applicant countries of Central Europe with support for institution building, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis* and investment in economic and social cohesion. This support comprises co-financing for technical assistance, “twinning” and accompanying investment support projects, to help them in their efforts to adopt the *acquis* and strengthen or create institutions necessary for implementing and enforcing the *acquis*. This also helps the candidate countries develop the mechanisms and institutions that will be needed to implement Structural Funds after accession and is supported by a limited number of measures (investments or grant schemes) with a regional or thematic focus

Around 30% of the Phare allocation is used for “institution building”, while the remaining 70% is used for financing investments.

During the period 1990 – 1999, the Phare programme allocated €2050 million to Poland. The **2000 Phare Programme** for Poland consists of a national allocation of €428 million, concentrated on the following priorities:

- the reinforcement of institutional and administrative capacity in the fields of financial control, public finance, the central bank, the cadastre, tax administration, parliamentary procedures, fisheries, transport, social dialogue, vocational training, SME and export development, regional policy, and statistics (€65 million)
- internal market (customs, certification and standards, competition and consumer protection, intellectual and industrial property rights, and telecommunications) (€21 million)
- the strengthening of co-operation in the field of Justice and Home Affairs (border management, fight against organised crime, visa and migration policies, fight against drugs, border infrastructure) (€89 million)
- institution building in agriculture (for rural development, agri-environment and afforestation, early retirement, veterinary and phytosanitary administration, food safety, and preparation for CAP instruments and common market organisations) (€42 million)
- institution building in environment (for environmental impact assessments and pollution prevention and control at regional level) and air quality monitoring systems (€7 million)
- economic and social cohesion (human resources development, SME development and business related infrastructure in five target regions of the country)(€130 million)
- Participation of Poland in Community programmes (€31 million).
- Participation in ACCESS, a programme to promote NGOs in Poland (€6 million)

An additional €55 million has been allocated for a cross-border co-operation (CBC) programme with Germany, the Czech Republic, Slovakia, and for a special action within the Baltic Sea region.

Poland also participates in and benefits from Phare funded multi-country and horizontal programmes, such as TAIEX and the Small and Medium-sized Enterprises Facility. Furthermore, Poland participates in the following Community programmes: Fifth Framework programme on Research and Technological Development, Leonardo, Socrates, Youth for Europe, SAVE II, and SME. Poland has expressed an interest in participating in the Community's CULTURE 2000 programme. Following the opening of negotiations regarding Poland's participation in the European Environment Agency, an agreement has been reached. Following ratification and entry into force of this agreement, scheduled for early 2001, Poland will become a member of the Agency.

Overall, the impact of Phare has been positive. Effective transfer of know-how, equipment and financial resources has taken place in a number of important fields such as industrial restructuring and privatisation, SME development, trade and investment promotion, energy, land registration, veterinary and phytosanitary administration, environmental investments and institution building, etc. Phare support to transport,

environment, agriculture and SME development has succeeded in developing sector strategies and initiating essential institutional and financial mechanisms servicing enterprises in these sectors.

In Poland, Phare has played a particularly important role in areas including:

- the transport sector, selected sections of construction and renovation of the A4 Motorway project Wroclaw-Katowice-Krakow (126 km) were financed by Phare (€105 million) together with the EIB (€375 million).
- privatisation, where preparatory work, the vouchers for the mass privatisation programme and bad debt work-outs prior to the privatisation of commercial banks, were funded by Phare (€20 million) together with the EBRD.
- a regional development programme, where SME development was funded by Phare (€50 million) which co-financed nearly 200 municipal SME infrastructure projects and co-funded over 1,000 SME investment projects through a grant scheme along with commercial banks. This created over €150 million of public and private investment and generated more than 11,000 jobs in the regions concerned.
- a flood damage reconstruction programme funded by Phare (€65 million) in 1997, which allowed the co-funding of over 500 small infrastructure projects designed to renovate, reconstruct or improve public infrastructure (schools, medical centres, local roads, bridges, etc) in the flooded areas.
- institution building and twinning in the veterinary administration, regional policy administration, and the judicial sector were funded by Phare (€10 million) to reform the sectors concerned and bring these up to the standards in the EU.

A reform of the **Phare management system** took place in 1998 and 1999 to improve the speed, efficiency, effectiveness and transparency of Phare's activities. The recent Phare Review Communication in 2000 continues to refine these basic management structures so as to further prepare for accession and the structural funds. First, management can be fully decentralised from 2002 if the strict pre-conditions set down in the Co-ordination Regulation 1266/99 are met. Second, Phare's programming can be moved onto a multi-annual basis if supporting strategies are in place. Third, the trends introduced in 1997 will continue with an increased role for Delegations, further streamlining of procedures and, lastly, increasing emphasis of management on raising the impact of Phare's projects in institution building, investment in compliance with the *acquis* and economic and social cohesion.

As regards **SAPARD**, the Polish Rural Development Plan received a favourable opinion in the STAR Committee (EC Management Committee on agricultural structures and rural development) in September 2000. The plan was formally approved by the Commission in October 2000.

The programme is based on two major priorities (improvement of the market efficiency of the agri-food sector and improvement of conditions for economic activities and job creation.).

The average annual outlays would amount to €431 million during the period 2000-2006, of which €168.6 (in 1999 prices) million from the SAPARD programme.

The Agency for Restructuring and Modernisation of Agriculture (ARMA), has been designated by the Polish Government as the SAPARD Agency and preparations for its accreditation are underway.

As concerns the **ISPA** programme, the Polish Government has elaborated strategy papers for transport and environment and the priorities for ISPA support expressed in these documents have been integrated in the preliminary National Development Plan of the Polish Government of December 1999. The Commission and the Polish authorities have together established a shortlist of priority projects for ISPA funding in the transport and environment sectors over the period 2000-2006. For transport, these concern the construction and renovation of motorways, national roads and railways on the Trans-European transport network according to European standards. In the case of the environment, the main ISPA priorities for Poland are related to drinking water and waste water, and solid waste treatment for the major cities of Poland. The financial memoranda for three ISPA projects were signed by the Commission in September 2000 (for an amount of €141 million) as part of a programme of transport (€177 million) and environment (€177 million) projects for the year 2000.

Implementation of the ISPA projects will follow the same institutional framework as for the Phare programme, with the National Fund at the Ministry of Finance being in charge of overall financial management and a number of Implementing Agencies responsible for the technical implementation, subject to ex-ante endorsement by the Commission. For the programme and financial management of SAPARD, a different system will apply which reflects the EAGGF (European Agricultural Guidance and Guarantee Fund) rules and is based on a fully decentralised approach through an accredited paying and implementing agency.

In the case of ISPA a first step was taken to strengthen administrative capacity to manage the funds with the creation, in 1999 in the Ministry of Transport and Maritime Economy, of a division responsible for the management of ISPA funds. Upon Poland's accession to the EU this division will be transformed into a body responsible for monitoring and co-ordination of implementation of projects in the area of Trans-European Networks.

### *Twinning*

One of the main challenges the candidate countries continue to face is the need to strengthen their administrative capacity to implement and enforce the *acquis*. As of 1998, the European Commission proposed to mobilise significant human and financial resources to help them in this respect, through the process of twinning of administrations and agencies. The vast body of Member States' expertise is now being made available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions. Thanks to the strong support and response from EU Member States 107 twinning partnerships, funded by Phare 1998 and involving all candidate countries and almost all Member States are operational. Under Phare 1999 a further 107 projects are being implemented and the programming exercise for Phare 2000 includes a further 129 twinning projects. It is estimated that around 250 twinning projects will be operational throughout the candidate countries at any one time.

To start with, twinning focused primarily on the priority sectors of agriculture, environment, public finance, justice and home affairs and preparatory measures for the Structural Funds. It now covers all sectors pursuant to the *acquis*.

In Poland, twinning under the 1998 National Phare programme came into effect in the course of 1999 with the first long term Member States' experts having arrived in Poland in the middle of 1999. Currently eight different projects are on-going with another 17 twinning projects under Phare 1999 to start in the course of the year 2000. New areas covered are *inter alia*, financial control and tax customs, civil service development, and road transport. For Phare 2000, there will be 32 twinning projects with Poland including twinning between regional administrations in order to prepare Poland for regional policy and the management of future structural funds. Statistics show that a considerable range of both Member States involved and policy sectors covered in Poland. Nearly all Member States are or will be engaged in twinning: allowing Poland to benefit from the variety of administrative models and cultures in the European Union.

### *Negotiations / screening*

The analytical examination (screening) of the *acquis* started in April 1998 and was concluded in the autumn of 1999. An update of the screening exercise was commenced in February 2000 to take into account the new *acquis* which had been adopted since March 1998.

Of the 29 chapters now opened with Poland during the course of four negotiating rounds since March 1998, 11 have so far been provisionally put aside, which means that these chapters do not, at this stage, require further negotiation. These are: Economic and Monetary Union, Statistics, Industrial policy, Small and Medium-sized Undertakings, Science and Research, Education, Training and Youth, Telecommunications and Information Technologies, Consumers and Health Protection, External Relations, Common Foreign and Security Policy, Financial Control. Negotiations continue for the remaining chapters.

## **B. Criteria for membership**

### **1. Political criteria**

#### *Introduction*

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”

In the 1999 regular report on Poland’s progress towards accession, the Commission concluded succinctly that:

“Poland fulfils the Copenhagen political criteria. Further efforts are necessary to increase the efficiency of the judiciary. Attention should be paid to the fight against corruption.”

The section below aims to provide an assessment of developments in Poland since the 1999 regular report, as well as of the overall situation in the country, seen from the perspective of the political Copenhagen criteria, including as regards the overall functioning of the country’s executive and its judicial system. Developments in this context are in many ways closely linked to developments regarding Poland’s ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Poland’s ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 – Co-operation in the field of justice and home affairs*) of part *B.3.1.* of this report.

#### *Recent Developments*

The coalition government elected in September 1997 formally came to an end on 6<sup>th</sup> June 2000 after having become the longest serving post-communist government. A minority administration is currently in office.

Presidential elections held on 8<sup>th</sup> October 2000 saw the re-election of the incumbent president.

Throughout the changes Poland’s political institutions have continued to function properly in conditions of institutional stability. The 1997 Constitution has proved to be a stabilising factor since its introduction.

The government continues to support EU membership as a top political priority and a broad consensus on this issue exists across the main political parties.

This commitment to EU membership has in recent months manifested itself in a renewed drive to adopt the necessary legislation to harmonise Polish law with the *acquis*. First manifestations of this renewed vigour were seen in the Sejm debate on European integration which took place in February 2000. There has subsequently been an increase in the amount of draft legislation prepared by the government and submitted to the Parliament.

Efforts have also been directed at speeding up the adoption of legislation within the parliament. Within the parliament new Committees on European Law have been created on a cross party basis in the Sejm and Senate to oversee the adoption of EU related legislation and a new approach designed to speed up this process has been adopted. This approach is based on the concept of horizontal European legislation. The horizontal laws will consist of bundles of legislation, or amendments to legislation, necessary to achieve harmonisation with the *acquis*. The legislation grouped together in this way need not necessarily be related to each other but must be directly necessary for harmonisation with the *acquis*.

This is a new process and it remains to be seen how effective it is in practice, especially the impact on legal transparency of grouping disparate fragments of legislation together in a single act. However, it is a clear statement of the desire of Government and parliament to speed up the process of the adoption of the *acquis*.

## **1.1. Democracy and the Rule of Law**

As mentioned in previous regular reports, Poland has achieved stability of institutions guaranteeing democracy and the rule of law. This section therefore focuses on the most significant developments of the past year.

### *The Parliament*

The Parliamentary process is based on stable institutions and continues to function satisfactorily. Its powers are respected and the opposition plays a full part in its activities.

### *The Executive*

There have been a number of developments in this sector since the last regular report with regards amendments to the Presidential elections act and the implementation of the regional reforms, the civil service act and the Act on Government Departments.

An amendment to the Presidential Elections Act of 27<sup>th</sup> September 1990 was signed into law in May 2000. The amendment introduces over 80 changes to the original bill, aligning its provisions with the Constitution and unifying election rules. The new provisions also comprise anti-corruption regulations pertaining to the financing of political campaigns, aimed at aligning Polish election law with European standards. The new act envisages an extensive system of sanctions for non-compliance with its provisions. It should be noted that very similar anti-corruption provisions proposed for the self-government Elections were rejected by the Sejm in 1998.

The last regular report commented upon the introduction of a new regional administrative structure in Poland. Reform on this scale takes some time to become fully effective. However, it appears at this early stage that the impact to date has on the whole been positive. As was noted in the last regular report, the successful implementation of the new administrative structure will require an adequate allocation of financial revenues and of revenue raising powers in a stable foreseeable framework. The existing legislation which set out the system for an initial two year period has been rolled over for another year with some improvements.

Under the civil service law (see below) only certain officials working at the regional (Voivodship) level, will be accorded civil servant status. The legal, financial and professional provisions for the remainder of the administrative staff responsible for the management of the Voivodship, and all staff at county (Powiat) and commune (Gmina) level are set out in the 1990 law on Self-government employees. This provides for different criteria for staff recruitment and remuneration than the civil service law. Indeed levels of remuneration are frequently higher in local than national government.

The Act on Governmental Departments which was adopted on 1 April 1999 came into force on 10<sup>th</sup> September 1999. This Act regulates the functioning of the Executive, identifying 32 departments of government and providing the Prime Minister with chancellery powers to allocate ministerial portfolios and to combine departmental responsibilities in ministerial portfolios. A first government restructuring under the new law took place in September 1999 and there was a subsequent change in June 2000 when the new administration took office. Changes to date have been rather limited in scope and there has been no wholesale reorganisation of ministries and departments.

The revised law on the Civil Service which came into force on 1<sup>st</sup> July 1999 continues to be implemented in a very gradual manner. All persons working within the governmental administration at the moment of entrance of the law into force became civil service employees but not civil servants. This distinction is important as one consequence is that the current civil service corps has not been recruited on an independent basis and its composition has in part been determined by outside sponsorship. It is envisaged that all senior level posts will be filled with civil servants. This amounts to 1,630 posts in a civil service of over 105,000. At the time of writing there were 349 appointed civil servants. The 349 comprises, apart from persons qualified in the last year's competition, graduates of the National School of Public Administration and persons appointed under the previous law. It is expected that by publication of this Report there will be an increase of approximately 150 due to the new intake of graduates of the National School of Public Administration.

The new selection procedure for posts of civil servants was launched at the time the law was implemented. As a result of the last year's competition (completed in January this year) 42 persons were appointed as civil servants (out of 240 persons who applied). This year's procedure has just started with about 300 applications. Taking into account that - according to the law - the selection is organised only once a year, reaching the expected number of independent civil servants in Polish administration could be a very long process. In the meantime the civil service remains open to outside influence and it remains doubtful if - even in the medium term - the enforcement of the law will be efficient enough to guarantee the political independence and stability of nominations and actions of the civil service. In this context the equal provision of access to the public service will be an important element in ensuring the continuity of the administration in the years ahead.

As was also noted in 1999, the issue of remuneration of civil servants is also addressed in the 1998 Act and will continue to require further attention in the years ahead to ensure the recruitment and retention of a body of experienced officials.



## *The Judiciary*

Since the last regular report there have been a number of developments with respect to the structure, staffing and training of the judiciary.

With regards structural changes, a new layer of jurisdiction has been introduced in January 2000 to deal with petty cases and a law introducing simplified procedures in civil matters was adopted in May 2000. The changes are the first of a number of measures intended to reduce the often chronic delays and the backlog of cases which have dogged the Polish legal system and which were highlighted in the 1999 regular report.

Under the January 2000 changes up to 200 civil-criminal chambers have been set up, covering all the national territory, the final target is for 400 such chambers. These new chambers are competent for petty cases (civil claims below 5000 Zloty), for consumer rights cases, and for fiscal offences of up to 2 years of imprisonment.

The May legislation includes provision for the establishment of a national Penal Register. The purpose of this register is to function as a database concerning personal identity, criminal offences, trials as well as related criminal measures imposed by courts. This register will be managed by a unit within the Ministry of Justice with a special budgetary allocation.

Since the last report overall efficiency in terms of court delays and effective treatment of judicial cases has increased although the backlog persists. In this context, there is a glaring gap between Warsaw, where the situation is still very critical in terms of overburdening of judges and long delays and the rest of the country: the average duration of a criminal/correctional procedure is 6 months nation-wide but reaches 40 months in Warsaw. The situation is similar for commercial cases as well as transactions associated with the land register. Delays for the latter can reach up to 2 full years in the capital, compared to an average of 3.7 months nation-wide, although there has been some improvement with nation-wide delays having fallen from the 1997 figure of 4.8 months.

Given the current concentration of economic activity on Warsaw and the likelihood that most questions of EC law will be channelled through the capital the existing delays present a challenge for the effective and timely implementation of EC law in Poland.

The government is aware of the difficulties faced in Warsaw. The Ministry of Justice unveiled in May its plan to reorganise Warsaw judiciary including the introduction of a number of new courts. However, it is to date unclear how these planned reforms will correspond to the new budgetary allocations for the justice system.

Corruption among the judiciary has been mentioned in some reports. The very long wait for routine court decisions in commercial matters, including in terms of contract enforcement constitutes an incentive for bribery and corruption.

The backlog and the costs of legal action appear to deter many citizens from using the justice system at all. Coupled to the existence of cases of corruption, this contributes to the generally negative perception of justice in Poland by the average citizen who is complaining increasingly about the low level of efficiency of the judicial system to the public Ombudsman.

One measure intended to reduce the delays and the backlog has been the strengthening of the Public Prosecutors office through both training and an increase in staff numbers.

There has been a slight increase in the number of judges ( up to 8,194) as well as in the “referendarz” function (a quasi-judicial function which allows for the performance of certain acts – amendments to the land register- but not adjudication); 295 "referendarz" have been recruited and are currently employed.

The training system for judges based around 36 centres lasts 2 full years and is generally considered to be very costly compared to a would-be centralised system of initial and continued training. Additionally, European Community Law is not compulsory in the curriculum, and it is rarely offered as a specific area of training.

### *Anti-Corruption measures*

The issue of Corruption was set out in last year’s regular report. In the intervening period the issue has jumped up the political agenda and in public consciousness following the publication of a number of critical reports. These reports have been by both external bodies and the Polish government’s Court of Auditors.

The reports have different methodological approaches and were prepared from different standpoints, but all point to a similar series of deficiencies which create an environment in which corruption can flourish: excessive but poorly managed bureaucracy, insufficient controls, lack of transparency and a general lack of accountability amongst others, are all elements, which have been mentioned as contributing factors.

To date the response of the government has been piecemeal: there has been a flurry of activity which has yet to come to fruition. The most significant legislative progress to date has been the ratification in September 2000 of the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions.

On the ground a sustained effort will be required to step up the fight against corruption. Recent data suggest that in 1999 altogether, up to 664 cases of active and passive corruption (as defined by Polish law) have been detected, leading to 320 prosecutions.

At the administrative level a working group has been set up within the Team on “Reducing the burden of bureaucracy” in the Ministry of Economy. The group has produced a series of measures to tackle corruption in all its aspects including a multi-disciplinary strategy integrating the preventive as well as repressive aspects.

What is still crucially lacking is a central, integrated strategy at national level, as was indicated in the 1999 regular report. Any such strategy must be inextricably linked to a sufficiently resourced administrative reform in the individual law enforcement agencies (Border Guard, Police, Customs) as well as in the field of Justice. The rapid implementation of the Civil service law will, increasing an independent open civil service, also greatly contribute to developing a corruption inhibiting environment.

Legislation necessary to ratify the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime has been adopted and a law allowing the ratification of the Council of Europe Criminal and Civil Law conventions on Corruption is close to final adoption.

## 1.2. Human Rights and the Protection of Minorities

As reported in the previous regular reports, Poland continues to respect human rights and freedoms. The following section concentrates on major developments since the last regular report.

Poland has ratified the major Human Rights conventions with the exception of the Council of Europe Framework Convention on the protection of National Minorities (see Annex) and has an established track record of providing appropriate international and constitutional legal safeguards for human rights and protection of minorities.

### *Civil and Political Rights*

Basic rights continue to be respected and some significant developments have been registered since the 1999 Report, notably with regard to the death penalty, the aliens act, and the privacy act. In contrast there are some areas, notably the libel law and prison conditions, which give cause for concern.

The *death penalty* was formally abolished by the Parliament on 14 April 2000 when it adopted the legislation approving ratification of Protocol No 6 the European Convention on Human Rights. The formal act of ratification has not yet taken place.

As concerns *asylum*, the new aliens law has not yet been adopted.

With regards the right to *privacy*, the parliament adopted in January the Classified Information Law which came into force in March. The act regulates the procedures, notably the need for security clearance, which citizens must go through in order to have access to classified information. However, concerns exist about a number of aspects of the legislation and the Ombudsman has already challenged one provision - denial of clearance to a specific individual without the right of appeal - before the Constitutional Court. The issues of privacy raised in the last regular report; surveillance by the state and functioning of the data protection law, remain valid.

Poland continues with the Vetting or "Lustracja" process which provides for the vetting of Government members, senior officials, officers of the state and members of the judicial system regarding the nature of their involvement with the former communist regime. The concerns about the use and possible abuse of the system and the lack of transparency of the process have been highlighted by two high profile cases involving candidates for the recent presidential elections.

Since the last reporting period, concerns have been expressed that the provisions of the Penal code regarding the liability of journalists to prosecution due to "slander and abuse" of the public authorities have acted in some instances as an impediment to *free speech*. Slander of politicians and public servants carries a higher penalty than slander of the public at large. This provision is considered by some observers to contradict the concept within the jurisprudence of the European Court of Human rights that the broadest protection against insult is due to the citizen.

Conditions in Polish *prisons* continue to be poor. Overcrowding is a serious problem: in mid-2000 the prison population of 70,000 was 110% of the notional maximum capacity of the system. In large urban prisons this figure is often exceeded. Violence and

mistreatment appear to be a real problem. A report by the European Committee for the Prevention of Torture has pointed out cases of serious mistreatment in Polish prisons.

External observers are able to point to a number of cases of recent police brutality. However, while these are both unfortunate and too frequent, *degrading treatment* and violence from officers are neither systematic nor systemic.

As was reported in the 1999 regular report instances of *trafficking in human beings* and the number of victims have been on the decline since the mid 1990s. A further decline will come about as and when the social and economic conditions of those parts of Polish society most susceptible to such crime improve.

NGOs continue to play an active role in Polish society with a concentration of organisations in the large cities, in particular in Warsaw. These cover an extensive range of interests and issues: the role of NGOs is increasingly important in shaping public debate and triggers nation-wide discussion around “hot” topics, taboos and other special issues.

The issue of *property ownership* has been a thorny one during the course of the reporting period due to the lengthy parliamentary passage of legislation relating to the restitution of property seized between 1944 and 1962. The law has not been finally adopted and concerns focus upon who will be eligible for compensation.

The role assigned to the *Ombudsman* is to monitor the protection of civic and political rights guaranteed by the Constitution. The Ombudsman can sue public authorities, appear before the courts and tribunals in support of individuals who are victims of violations of their basic rights. The Ombudsman also has an important political role as he can raise awareness of public opinion and state authorities on any issue. The Ombudsman has recently declared his willingness to use any means to enhance the transparency of public life, to guarantee the right to information in order to contribute to fighting corruption efficiently.

### *Economic social and cultural rights*

The issue of *equal opportunities* is a complex one. Polish society, as is true for all societies, reflects a vast array of influences which evolve over time. On the one hand overt discrimination is common practice (gender-specific job advertisements) and the UN-backed project on spousal violence remains suspended by the government, on the other hand other aspects of women’s rights are well protected (new legislation means that Poland will have the second longest maternity leave in Europe). However, it is clear that against the objective criterion of adoption of the *acquis*, Poland has made no progress in this area over the reporting period (*Chapter 13 – Social policy and employment*).

In respect of *children’s rights* a significant development has been the adoption in January 2000 of a law establishing an independent Ombudsman for the rights of children. The role of this new office will be to perform a task very similar to the Ombudsman with a particular emphasis on children’s rights in the field of health protection, the right to be brought up in a family, social conditions as well as education. The new mediator was appointed by the Parliament in June 2000. It is expected that this new office will address the shortcomings regarding child protection which were listed in the Polish Ombudsman’s 1999 report.

## *Minority rights and protection of minorities*

In Poland, respect for and protection of *minorities* continues to be assured.

The 1998 Penal code provisions regarding the use of the mass media to “advocate discord” on national, ethnic, racial or religious grounds also appear to be functioning well. Polish attitudes to foreigners have been surveyed annually since 1993, there has over this period been a reduction in negative attitudes towards minorities.

Considerable attention has been focused on the treatment of the Roma population in Poland over the reporting period. It is true that the economic and social circumstances of the Roma are poor and worse than those of the population in general. Moreover, some acts of discrimination by public authorities and violence against Roma do take place. There is, however, no overt policy of discrimination on the part of the Polish government towards the Roma. While there is no clear national policy on assisting the integration of minorities local initiatives do exist. There are plans for nation-wide television broadcasts with a view to propagating friendly attitudes toward refugees and foreigners.

Legislation regarding the protection of former Nazi concentration camp sites which forbids public meetings, commercial activities and adjacent construction was adopted in 1999. This is a concrete manifestation of the sensitivity with which mainstream state and religious representatives have worked to address the concerns of the Jewish community and others affected by the camps.

### **1.3. General evaluation**

Poland continues to fulfil the Copenhagen political criteria.

With regard the areas for action identified last year, Poland has undertaken initial steps in the reform of the judiciary and in preparing the ground to deal with the most pressing bottlenecks. Such measures are important, as the existence of an effective judiciary is an essential element in the implementation and enforcement of the *acquis*. Similarly with regard to the fight against corruption, initial steps have been taken but further efforts are needed, including the adoption of the necessary legislation. Developments with regard to equal opportunities have been less marked.

These actions will need to be continued and intensified in order to ensure that the necessary measures have been taken by the time of accession. This is particularly important for judicial reform where the priorities set out in the accession partnership are still to be met in the medium term.

## **2. Economic criteria**

### **2.1. Introduction**

In its 1997 Opinion on Poland's application for EU membership, the Commission concluded:

“Poland can be regarded as a functioning market economy; it should be well able to cope with competitive pressure and market forces within the Union in the medium term.”

This finding was confirmed in both the 1998 and 1999 Regular reports. The General Evaluation of the Economic Criteria of the 1999 Regular report concluded:

"Poland is a functioning market economy, with an increasingly thriving private sector and an appropriate legal and institutional environment for economic activity. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided it keeps up the pace of economic restructuring and proceeds with trade liberalisation."

In its annual assessment of the economic developments in Poland since the 1997 Opinion, the Commission's approach is guided 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;
- the capacity to cope with competitive pressures and market forces within the Union.

In the analysis below, the Commission has followed the methodology applied in the Opinion, as well as in the 1998 and 1999 regular reports.

### **2.2. Economic developments**

*The macroeconomic situation in Poland has improved since the last Regular Report. The slowdown in growth, induced primarily by the Russian crisis in 1998, has been reversed since the middle of last year, and the economy is currently experiencing a strong recovery in output, linked to a pick-up in external demand and an acceleration of domestic demand. However, a number of macroeconomic imbalances have developed. The rate of unemployment is high and rising, and inflation picked up significantly in the second half of 1999. Higher growth is not offsetting employment losses associated with economic transformation. Moreover, the current account deficit has widened considerably. Although exports have picked up and FDI inflows remain high, import growth is even more robust, reflecting the rapid increase in domestic demand. In 1999, the public sector deficit was around 3.5% of GDP, with some fiscal loosening during the year, partly due to the difficult implementation of social sector reforms.*

Poland		1996	1997	1998	1999	2000 latest
Real GDP growth rate	Per cent	6.0	6.8	4.8	4.2	5.6 Jan-June
Inflation rate <sup>3</sup>						
- annual average	Per cent	19.9	15.0	11.6	7.2	10.4 <sup>4</sup> Sept
- December-on-December	per cent	18.6	13.2	8.4	9.8	11.3 Sept
Unemployment rate, end-year						
- ILO definition	Per cent	12.3	11.3	10.6	15.3 <sup>5</sup>	16.7 Jan-March
General government budget balance	Per cent of GDP	-2.3	-2.4	-3.0	-3.5	:
Current account balance <sup>6</sup>	Per cent of GDP million €	-2.3 -2571	-4.0 -5,065	-4.4 -6,156	-7.5 -10,855	: -5.877 Jan-June
Foreign debt						
- debt export ratio	Per cent	112.7	103.4	103.6	128.2 E	:
- gross foreign debt	million €	31,023	33,504	41,220	49,116 E	:
Foreign direct investment in flow						
- balance of payments data	Per cent of GDP million €	3.1 3,542	3.4 4,328	4.0 5,678	4.7 6,821	: 2.790 Jan-June

E = Estimates

*Poland continues to register progress in privatisation and structural reforms.* The pace of privatisation has been particularly encouraging, with some 150 enterprises sold through direct privatisation in 1999 and already 50 in the period to the end of April of this year, across a wide range of sectors. Revenues from privatisation are exceeding the assumptions of the budget law, and are boosted further by the completion of the sale of a second tranche of shares in Telekomunikacja Polska. Privatisation revenues are primarily financing social sector reforms, but uncertainties remain as to the future of the enfranchisement programme, which foresees the distribution of shares to the population. There has also been some further restructuring of state-owned enterprises, in particular the coal mining and defence industries. There are, however, delays in privatisation in the steel sector and in the restructuring of agriculture. State-owned enterprises continue to be a burden on overall efficiency and profitability and negatively affect public finances through tax and social contribution arrears. On the other hand, the implementation of pension, health care, education and tax reforms, albeit sometimes difficult and costly in the short-term, are strengthening the basis for future growth.

3 PROXY HICP since 1997 (see methodological notes).

4 Moving 12 month average rate of change.

5 Q4 (permanent survey with quarterly reporting).

6 Data for 1999 are from National Web site source and are on a Cash basis (other years are on a transaction basis).

<b>Main indicators of Economic Structure in 1999</b>		
Population (average)	thousand	38,654
GDP per head <sup>7</sup>	PPS-€	7,806
	Per cent of EU average	37
Share of agriculture <sup>8</sup> in:		
- gross value added	per cent	3.8
- employment	per cent	18.1
Investment-to-GDP ratio <sup>9</sup>	per cent	26.2
Gross foreign debt/GDP <sup>10</sup>	per cent	33.6
Exports of goods & services/GDP	per cent	26.2
Stock of foreign direct investment <sup>11</sup>	million € € per head	19,266 498

### **2.3. Assessment in terms of the Copenhagen criteria**

#### *The existence of a functioning market economy*

The existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

*Poland continues to improve its functioning as an open market economy through prudent macroeconomic policies and implementation of various types of structural reforms.* Poland concluded a Joint Assessment of Medium Term Economic Policy Priorities with the European Commission services in February 2000. The Joint Assessment, which covers the period to 2002, takes into account recently approved sector strategies and the longer term strategy for public finances that had been adopted by the previous Government in June 1999. There is broad political consensus on policies geared towards entrenching the transition process and preparing for EU accession, especially around key issues such as privatisation, support for the development of the private sector and the need for foreign direct investment.

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<sup>7</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>8</sup> Agriculture, hunting, forestry and fishing.

<sup>9</sup> Data refer to Gross fixed capital formation as % of GDP.

<sup>10</sup> Data refer to Gross fixed capital formation as % of GDP.

<sup>11</sup> Data refer to end of 1998.



*There are, nevertheless, divergences as to the speed at which reforms should be conducted.* Pressures for trade protection are exerted in various sectors and the appropriate stance on public finances is heavily debated. The government has delayed decisions on the final liberalisation of capital inflows under Poland's OECD commitments.

*In 1999, the Polish economy expanded by 4.1%, somewhat slower than in the previous year.* However, there was a very significant acceleration of output in the second half of the year (5.6%), continuing into 2000, with GDP growth estimated at some 6% in the first quarter. Industrial production is growing at a faster pace, by almost 10% in the period from January to May 2000, compared with 4.3% in 1999.

*The recovery has been primarily fuelled by domestic demand.* Private consumption expanded by 5% in real terms, while gross fixed capital formation increased by 6.9%. Since the end of last year, the external sector is also contributing to growth. Trade data shows that the volume of exports decreased by 5.1% in the first three-quarters of 1999, but grew by 3.5% in the fourth quarter and 9.2% in the first quarter of 2000.

*The very significant widening of the current account deficit constitutes the most pressing challenge for Poland's economic policy.* The current account deficit represented 7.5% of GDP in 1999, compared to over 4 % in the previous year, and is estimated to have reached some 8% of GDP in the period from January to April 2000. The sharp improvement in the central bank data recorded in April may suggest that an adjustment is taking place. The increase in the trade deficit (to 9.5% of GDP) in 1999 took place in the context of unfavourable external shocks in the past years. In addition to the deterioration of the trade balance, the widening of the current account deficit is due to a sharp decline in the surplus on unclassified transactions (unregistered border trade), which was halved in 1999 compared to the previous year, and a trebling of the deficit in services. The overall deficit is only partially financed by non-debt creating inflows.

*The high level of unemployment represents another significant policy challenge.* Unemployment increased steadily since August 1998 to some 15% in 1999 according to ILO methodology. Whilst the rise in unemployment reflects restructuring and demographic pressures, a number of specific features point at the need to improve the functioning of labour markets: the unemployment rate of persons under the age of 25 is around 30%, unemployment is high for low skilled workers, there are significant regional disparities (unemployment rate between 9% and 20%), and nominal wages in some sectors do not appear very responsive to the recent increases in the level of unemployment.

*Progress in reducing inflation from moderate to lower levels is proving difficult.* In the second half of last year, prices increased sharply as a result of a combination of factors: higher food and fuel prices, the impact of a depreciation of the Polish currency, excise and tariff duty increases and strong growth of household credit linked to the economic recovery. Year-on-year inflation returned to double digits this year. Average inflation was 7.3% in 1999, and it appears likely that the consumer price index at the end of 2000 will be higher than the upper band of the Monetary Policy Council target of 6.8%. The prospect of missing this target for the second year in a row highlights the difficulties of implementing an inflation-targeting framework for monetary policy in Poland. In April 2000, Poland moved to a free float, an exchange rate strategy consistent with the implementation of inflation targeting. The float should help the economy to

accommodate real exchange rate appreciation and capital inflows more easily, and allow for the abolition of the remaining controls on short-term capital movements.

*Since monetary policy is already tight, the combination of a widening current account deficit and persistent inflation put the onus on fiscal policy as the only robust instrument for addressing imbalances.* In 1999, the public sector deficit was estimated at some 3.5% of GDP, with a loosening of the fiscal stance in the course of the year for both cyclical and structural reasons. In the first half of the year, tax receipts have been lower than expected. In addition, transfers to social insurance and healthcare have been higher than expected. The financial situation of the social security office ZUS has been of particular concern. The deficit of some of the state-owned enterprises, for example PKP (railways) is worrisome, and there has been a build up of tax and social security arrears. Despite these difficulties, the target level of 2.8% of GDP for the general government deficit in 2000 appears to be attainable. Pressures on government expenditure will be increasing in 2001 in view of the need to compensate for past inflation and offset higher debt servicing costs. Beyond windfall revenues (notably from the expected sale of UMTS telecom licenses) next year, effective fiscal consolidation of current expenditures is the key to restoring external balance in the medium term.

*Regarding public expenditure management, the main structural weaknesses are the relatively high number of extra-budgetary funds and the need to embed their financial management within the procedures used for state budget expenditure.* In this respect, it is worth noticing that the implementation of territorial reform has not been translated into a greater degree of fiscal federalism. According to the 2000 budget, both revenues (16%) and spending (17.1%) in the local government sector are due to increase, but tax income should remain flat. This implies that local budgets will increasingly rely on a subsidy from the state budget (rising to 21.6% in nominal terms this year).

*Significant progress has been made in the area of tax reform.* The government completed last autumn the parliamentary process for the adoption of a sound and ambitious tax package, consisting of the broadening of the tax base, the lowering of tax rates, the simplification of the code and a reduction in tax breaks. This process, however, led to significant tensions within the previous coalition. Whilst the proposed changes in Corporate Income Tax and VAT were adopted, the government's Personal Income Tax bill was vetoed by the President and will not be re-introduced in the 2001 budget proposal.

*The privatisation programme is being implemented forcefully and successfully.* It foresees that 70% of state-owned enterprises will be sold or wound down by the end of 2002. The private sector accounts for at least two thirds of GDP, for about 70% of total value added and for more than 70% of total employment. There has been acceleration in the privatisation of large state-owned enterprises in a range of industrial sectors. Apart from the financial sector, completed large transactions concern the national airline LOT, the biggest oil company Polski Koncern Naftowy (PKN) S.A., and a first set of power plants. The major deal to be closed this year is the second tranche (35%) of shares in the telecom operator TP S.A., and privatisation in the gas, chemicals, distilleries, sugar and energy distribution sectors are in preparation. Overtime, since 1991, the Agricultural Property Agency has sold some 846,000 hectares of land, or 27% of the total, while another 67% is leased.

*Prices have been largely liberalised, with the exception of prices of electricity and central heating, which are still subject to direct regulation.* To some extent, the

government also continues to influence prices in public transportation, pharmaceuticals and telecommunication services. According to the Polish authorities, administered and regulated prices represent about 24% of the consumer price index basket. The remaining liberalisation of prices is directly linked to progress in the privatisation of the energy sector, now underway. Trade is also largely liberalised. The major exception to price and trade liberalisation remains the agricultural sector.

*There are no significant legal or institutional barriers to the establishment of new firms in Poland.* There was a net creation in 1999 of more than 10 000 registered firms, or some 7% of the total number of such companies. The law on economic activity, signed last December, provides a comprehensive framework for enterprise creation; it expands the scope of entrepreneurship by giving a definition of a small and medium size enterprise, allows equal status to domestic and foreign firms and curbs state intervention in the economy by bringing down the number of sectors in which a license is required to conduct economic operations.

*Barriers still remain to the exit of firms, especially in the case of bankruptcies.* In this area, the judicial system is under strain to ensure an adequate processing of bankruptcy procedures. Amendments to the bankruptcy law are needed to change the balance of protection in favour of creditors, and to add other features, such as a central register for bank collateral and a central register of debtors to the State Treasury. Aside from exit through bankruptcy, a new commercial code is in preparation for possible adoption around the end of this year. The code should facilitate transactions such as mergers and their spin-offs.

*Property rights are clearly established and transferable.* The entrepreneurial and investment climate is good, even though a certain degree of bureaucracy and difficulties with the enforcement of court decisions constitute obstacles to business activity. Serious efforts, supported across the political spectrum, are starting to be made to deal with the problem of corruption.

*The financial sector is developing, albeit from a low base.* Indicators of financial deepening are steadily increasing. Financial intermediation is rising and domestic credit amounted to 28.8% of GDP, from around 20% in the middle of the decade. Commercial bank assets represented some 62.3% of GDP in 1999.

*The banking sector has remained fundamentally sound since the middle of the 1990s.* The “bad loans” problem of the early 1990s was largely overcome through the establishment of efficient regulatory and supervisory frameworks and institutions, some recapitalisation of banks, and a decentralised approach putting the burden of work-outs onto banks themselves, helped by new procedures such as bank-led conciliation and debt-to-equity swaps. These gave banks power over corporate clients and incentives to avoid the emergence of new non-performing assets. Bad loans, however, have grown again recently in the portfolio of banks since the Russian crisis as a result of corporate failures. By the end of last year, 13.4% of commercial banks’ outstanding claims on the non-financial sector were reported as irregular. This reflects poor assessments of corporate credit risk in the past, as well as methodological changes to the reporting of problem loans.

*The advanced stage of privatisation in the banking sector is one of the key features of the Polish economy, and one of its major strengths.* In 1999, private owners controlled 70 out of 77 commercial banks and 39 are in the hands of foreign investors. Foreign ownership

now accounts for 56% of the total capital of Polish banks, and when all types of property links are considered, it is estimated that foreign investors control over 70% of commercial banks' total assets. In 1999 two banks were privatised (Bank Pekao S.A. and Bank Zachodni S.A.) and in April 2000 the first step for the privatisation of the former state savings bank PKO BP was completed with its transformation into a Treasury corporation.

*The present state of the financial sector provides a good basis for future developments.* Real interest rates are high, but the debt-servicing capacity of domestic borrowers should be sustained through high growth. The corporate sector has borrowed extensively, including in foreign currency, and there is no evidence that this financing is hedged. It remains to be seen whether the move to a fully floating currency will influence the behaviour of operators in this respect. Corporate indebtedness, however, is mostly medium and long term and an estimated 32% of liabilities at the end of last year was inter-company loans. Reserve indicators also remain comfortable, with gross official reserves representing more than 7 months of imports of goods and services at the end of June 2000.

*Important market-oriented changes have taken place in the non-bank financial sector.* Privatisation in the insurance sector moved forward last year with the sale of a 30% stake in PZU S.A in November. The sector has been boosted by the reform of the pension system, even though the issue of transferring from the first to the second pillar is unresolved. The insurance market nevertheless experienced two bankruptcies in 1999. Pension reform led to a 71% increase in the market capitalisation of the Warsaw Stock Exchange last year; it now represents around 20% of GDP (13.3% in 1998). Some regulatory changes in the non-bank sector are still needed, and some legal obstacles to effective supervision remain, notably in regard to consolidated supervision.

Poland is a functioning market economy. It has maintained an adequate degree of domestic and external macroeconomic stability, and its growth performance has again been impressive. However, a number of economic imbalances have emerged, and require adequate monitoring and policy measures. Inflation will be above the upper band of the Monetary Policy Council's target for the second year in a row. The current-account deficit has widened to a level that raises issues of sustainability. Ensuring medium term fiscal sustainability also remains a challenge. Both macroeconomic (in particular fiscal measures) and structural policy responses are needed. Among the remaining structural reforms to improve the functioning of markets, the implementation of bankruptcy procedures should be improved, the regulatory and supervisory framework for non-banking financial institutions must be completed and implemented.

*The capacity to cope with competitive pressure and market forces within the Union*

Poland's ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, 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 prior to accession. Both the volume and the range of products traded with EU Member States provide evidence of this.

*Poland's now well-entrenched market economy continues to allow agents to make decisions in a climate of stability and predictability.* The supply side is increasingly modernised as a result of market allocation mechanisms and competitive pressures.

*Poland needs to continue building high quality infrastructure to enhance its competitiveness and to avoid bottlenecks (notably in transport infrastructure) to sustained growth in the medium term.* At 25% of GDP, the investment ratio is high. However, a closer examination of the determinants on the supply side, in particular investment and productivity, suggests that there are still challenges for ensuring the sustainability of current levels of growth. To date, the investment boom that has contributed to rebuilding quantitatively and qualitatively the capital stock has been financed mainly through retained earnings and foreign direct investment. Over the last two years, however, corporate profitability has been deteriorating. Gross profits in the enterprise sector decreased by some 24% in 1999, while there are a number of sectors that are still loss making. In addition, a large share of FDI inflows so far has been related to privatisation. The completion of the current privatisation programme in the next few years will necessitate new strategies to attract more green-field investment.

*Foreign direct investment inflows are significant and play a major role in the progressive upgrading of Poland's exports and overall competitiveness.* Polish sources estimate that inflows could have amounted to €8 billion in 1999. Poland, however, did not attract large inflows until 1995, following the agreement on debt restructuring. More than half of cumulative FDI over the last decade occurred after 1997. In view of the lags in the impact of FDI on restructuring and improvements in corporate governance, the current scale of inflows is conducive to increased competitiveness in the medium term. The share of foreign firms in total investment outlays in the manufacturing sector had increased to 56% in 1997. These firms accounted for some 50% of total Polish exports last year. A large share of FDI has been oriented towards non-exporting sectors such as banking, retail trade or construction, partly reflecting the size of the Polish market. In addition, FDI in the services sector can have an indirect beneficial effect on trade by lowering transaction costs and attracting foreign investors in manufacturing.

*In general, Poland's markets have become highly contested and open to competition, reflecting trade liberalisation and growing market access by its preferential trade partners.* However, a number of government policies create market distortions. The presence of state aids is pervasive in both private and state-owned firms and some of the latter do not fully operate under hard budget constraints, including from the point of view of wage setting. Subsidies and accumulations of tax and social security arrears are still present. The presence of non-tariff barriers is also extensive. Poland should resist resorting to instruments of foreign trade policy to address current external imbalances.

*The Polish economy needs to further develop its ability to absorb the shocks of industrial restructuring, building upon its level of infrastructure and human capital.* In this light, investments will continue to be needed in infrastructure. The system of education and vocational training system should be geared towards responding to the needs of the growing enterprise sector. The implementation of structural reforms in agriculture as well as coal and steel will lead to a shake out of labour that needs to be absorbed in other sectors of the economy.

*Active labour market policies appear to have a mixed record on the creation of new employment opportunities, with training being clearly more effective than various forms of subsidised jobs.* Training, education and the creation of non-farm jobs in rural areas are key to absorb the excess labour that will be shed from the steel and agricultural sectors where restructuring has so far been insufficient. However, what matters is to improve the response of the labour market to the job opportunities created by economic growth.

*Trade integration with the EU is extensive and advancing.* The EC accounted for 70.5% of Polish exports last year, compared to 68.3% in 1998. However, the value of Polish exports to the EC, as reported in central bank statistics, increased only marginally last year. Moreover, the increase in the imports of capital equipment, if it is linked to a pick-up in investment and to industrial restructuring, can be expected to lead to a greater capacity to export in the medium term. Wage increases have so far lagged behind productivity increases helping a favourable development in unit labour cost.

*Products with higher value added (machine and electrical engineering goods) represent less than one third of the exports of goods in Poland's trade with the EC.* There are signs, however, of shifts towards more processed goods. The share of manufactured products in total exports to the EC reached close to 80% in 1998. Moreover, changes in the composition of Polish exports to the EC in terms of factor content suggest a shift towards products requiring skilled labour.

*The SME sector is thriving, even though small and medium-sized enterprises still continue to face difficulties in accessing finance.* One of the reasons for this is the lack of availability of collateral acceptable to lending institutions. In this area, guarantee schemes are still underdeveloped. The SME sector represents 99% of the total number of firms. It accounts for half of GDP and value-added in the economy, as well as almost two thirds of total employment (*see also chapter 16 – Small and medium-sized enterprises*).

Poland should be able to cope with competitive pressure and market forces within the Union in the near term, provided it continues and completes its present reform efforts. Progress in structural reforms should help to ease fiscal constraints and allow for high and sustainable growth through increased productivity in the medium term. The pace of privatisation has been particularly encouraging in the last year. There has also been progress in restructuring in sensitive sectors such as the coal and defence industries, but large parts of the state-owned enterprise sector still need to be restructured to increase the efficiency and profitability of the overall economy. There are also delays in privatisation in the steel sector and the restructuring of agriculture. Urgent measures still need to be taken to improve Poland's infrastructure and to improve the response of the labour markets to changing economic conditions.

## **2.4. General Evaluation**

Poland is a functioning market economy and should be able to cope with competitive pressure and market forces within the Union in the near term, provided it continues and completes its present reform efforts.

It has maintained adequate macroeconomic stability, and its growth performance has again been impressive. The pace of privatisation has been encouraging and there has also been further restructuring in sensitive sectors such as the coal and defence industries.

However, a number of economic imbalances have emerged: inflation is high and the current account deficit has widened to a level that raises the issue of sustainability. Ensuring medium term fiscal sustainability remains a challenge. There are delays in privatisation in the steel sector and the restructuring of agriculture. Large parts of the state-owned enterprise sector still need to be restructured.

Both macroeconomic and structural policy responses are needed. Fiscal adjustment must take place and efforts towards the sustainability of public finances must continue. Among the remaining reforms to enhance the functioning of markets are improvements to bankruptcy procedures and the completion of the regulatory and supervisory framework for non-banking financial institutions. Measures still need to be taken to improve Poland's infrastructure and to improve the response of the labour markets to changing economic conditions.

### 3. Ability to assume the obligations of membership

#### *Introduction*

This section aims to update the Commission's 1999 regular report on Poland's ability to assume the obligations of membership - that is, the legal and institutional framework, known as the *acquis*<sup>12</sup>, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 1999 regular report, this section seeks to provide an overall assessment of Poland's ability to assume the obligations of membership, and of what remains to be done. This section has been structured to follow the list of twenty-nine negotiating chapters, and incorporates also an assessment of Poland's administrative capacity to implement the *acquis* in its various aspects (in previous regular reports this had been covered in a separate section). Furthermore, for the first time, a separate section has been included assessing progress made by Poland in translating the *acquis* into its official language.

The European Council in Madrid in December 1995 referred to the need to create the conditions for the gradual, harmonious integration of the candidates, particularly through the adjustment of their administrative structures. Taking up this theme, in Agenda 2000 the Commission underlined the importance of incorporating Community legislation into national legislation effectively, and the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential pre-condition for creating the mutual trust indispensable for future membership, which has become a central issue in the negotiation process.

The European Council in Feira in June 2000 recalled the link between progress in the negotiations and the candidate countries' capacity to effectively implement and enforce the *acquis*, and added that this called for important efforts by the candidate countries in strengthening their administrative and judicial structures. The Feira European Council invited the Commission to report to the Council on its findings on the matter. Building on the assessment of Poland's administrative capacity provided in the 1999 regular report, the present report seeks to add further depth and detail, focusing on the main administrative structures which are required for implementing the *acquis* in its various aspects.

In the 1999 regular report, the Commission concluded that :

“Poland's track record in the free movement of services and capital is good. As regards public procurement and competition (anti-trust and mergers), although alignment needs to be pursued, the decisions taken by the institutions in charge indicate that their effectiveness has increased. Overall, however, there has been little progress in fields which are fundamental for the operation of the internal market, such as industrial and intellectual property, data protection, conformity assessment and certification and state aids. Progress in these areas is urgently required if Poland is to be smoothly integrated into the internal market.

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<sup>12</sup> A description of the *acquis* for each chapter can be found in the Commission's 1997 Opinion on Poland's application for EU membership.



Industrial policy gives rise to serious concern, in particular in the absence of a clear strategy for steel restructuring and in the automobile sector. As regards taxation, the well-structured strategy which has been adopted needs to be implemented effectively.

In the agriculture sector, although progress has been made in the veterinary and phytosanitary *acquis*, the cost of implementation has not been adequately budgeted. Overall, Poland has not yet launched the substantial transformation which is needed, in terms of policy, *acquis* and structures, in the agriculture and fisheries sectors. Given the importance of these sectors to the domestic economy and within the EU, it is essential that a strategy be developed which will facilitate necessary adjustments prior to accession, including a rural and social development plan.

Some progress has been made in the energy sector. In the environment; framework legislation has not been transposed. This combined with a lack of an implementation programme and financial strategy and weaknesses in monitoring point to the need for very substantial efforts in this sector. Good progress has been achieved in road transport alignment. Although the reform of territorial State administration provides a good basis for regional policy, the legal framework and related structures still need to be established. In the social field, efforts have been limited and legislative enforcement is a matter of concern, in particular the capacity of labour institutions.

Progress has been made in the customs area but continued efforts are required in alignment and implementation capacity. Major efforts are necessary also as regards financial control. Some progress has been achieved in justice and home affairs, notably as to the border guards. However, alignment remains limited and considerable improvement is required in law enforcement bodies and judiciary capacity, in particular at the eastern border.

Poland has not progressed significantly in aligning further its legislation and in adapting and strengthening the structures required in a large-sized country in view of accession. In the same manner, Poland has addressed only to a limited extent the Accession Partnership short-term priorities, with a notable lack of progress on certification, State aids and steel restructuring. Continued efforts are needed to set up or strengthen capacities in intellectual property protection, certification, state aids, agriculture and regional policy, social field, customs and justice and home affairs.”

### **3.1. The chapters of the *acquis***

As indicated, the review of Poland’s ability to assume the obligations of membership that is provided below has been structured in accordance with the list of twenty-nine negotiating chapters. Accordingly, this section opens with an assessment of progress related to the so-called “four freedoms”, the cornerstones of the internal market, and continues with a systematic review of progress on each of the chapters, to cover the *acquis* in all its various aspects: sectoral policies, economic and fiscal affairs, economic and social cohesion, innovation, quality of life and environment, justice and home affairs, external policies, and financial questions.

#### ***Chapter 1: Free movement of goods***

The last reporting period has seen significant progress in the adoption of the *acquis*.

Considerable progress has been made as regards **horizontal and procedural measures**; with the adoption of the necessary framework legislation for the New Approach, and amendments to the existing law on testing and certification to further fulfil Poland's obligations under the Agreement on the Protocol on Conformity Assessment (PECAA) in the context of the Europe Agreement.

The adoption of the Law on Conformity Assessment in April 2000 is a crucial step forward toward the implementation of the industrial products *acquis*. This Law establishes the legal framework for the further adoption and implementation of New and Old approach directives. One of the key elements is the separation of accreditation functions from certification activities within the Polish system and the unification of accreditation activities in an independent "Polish Accreditation Centre" (PAC). This separation of accreditation, certification and standardisation functions is an essential step in the creation of the quality infrastructure necessary to apply New Approach directives. Some new PAC accreditation activities will start in January, 2001. PAC is not yet a member of the EA (European Accreditation).

The other elements of the Law are mostly in line with the *acquis*. The core part of the Law will enter into force in January 2001. This legislation will speed up the adoption and implementation of vertical industrial product legislation (both old and new approach), thus facilitating the preparations for the adoption of the new approach and removing in the medium term existing technical obstacles to trade whose origin can be found in the discrepancy between the EC and the Polish legal order. Rapid implementation of new approach directives will also extend the adjustment period available to Polish firms as they prepare to face the competitive pressures of the internal market.

The other pieces of framework legislation, the law on general product safety and the Law on producer liability, were also adopted during the reporting period (*see Chapter 23 – Consumers and health protection*).

The adoption in 1999 of the amendment of the Law on Testing and Certification has been another important step in the right direction as it facilitated the amendment during the reporting period of the list of products requiring mandatory certification in Poland (B Mark) so as to conform with the obligations undertaken under the PECAA. Further secondary legislation has been adopted as regards the issuing of certificates for products subject to mandatory certification and products for which producer certification is acceptable. While for mandatory certification the procedures adopted by the Polish authorities meet the requirement of the PECAA, this is not yet the case for products for which producer declaration of conformity is acceptable.

With regard to standards, the Polish authorities as of March 2000 had adopted 30 % of the total amount of European Standards - still a long way short of the 80% level needed to be member of CEN/CENELEC and ETSI.

As regards the adoption of legislation in **specific sectors** there has been some progress since the last regular report.

In the field of **motor vehicles** the Regulation on type approval of vehicles implementing several EC directives was adopted in November 1999. In October 1999 the Polish authorities also implemented the Directives on the interior fittings of motor vehicles, the behaviour of the steering wheel and column in an impact, on the installation of lighting

and light-signalling devices on wheeled agricultural and forestry tractors and on the lateral protection of certain motor vehicles and their trailers.

No particular development can be reported concerning **non-harmonised areas** and **public procurement**.

### *Overall assessment*

Overall, Poland has achieved a moderate level of alignment with the *acquis*, with most progress having been made over the past year.

Poland has now adopted the necessary framework legislation to be able to implement the new approach on standards and technical regulation with the sole relevant exception of the new Law on Standardisation. The next step must be a concentrated effort to rapidly adopt the legislation implementing EC vertical directives (both new and old approach) and relevant European Standards. Following the adoption of the Law on Conformity Assessment, further implementation is needed. The Polish authorities should also strengthen the infrastructure needed to apply this legislation. Some relevant progress can be recorded in the sector of motor vehicles. Progress can also be registered in the chemical, pharmaceutical and in all the other traditional approach sectors.

Certification and accreditation activities have been functionally separated by the Law on Conformity Assessment although it now needs to be implemented in practice. Accreditation functions will now be transferred from the Polish Institute For Testing and Certification to the Polish Accreditation Centre. Officials of the Conformity Assessment unit of the Ministry of Economy will also participate in the works of the Polish Standardisation Committee.

The progressive implementation of the vertical directives following the adoption of the Law on Conformity Assessment should ensure the creation of a network of specific and independent conformity assessment bodies. Existing conformity assessment capacity should progressively be reinforced. The Polish Committee for Standardisation (PKN) is still a government-controlled public institution (members are appointed and recalled by the Prime Minister) and will therefore have to be seen to operate as an independently functioning body. Market surveillance should be reinforced following the introduction of the notion of producer self-declaration and the foreseen adoption of new approach directives.

Further effort is required in disseminating information on the new legal regulations among the staff of the institutions involved in the conformity assessment system and entrepreneurs.

In the area of standards one means of improving the rate of adoption would be through the so-called “cover method”, a one page explanation of the standard in Polish with the technical text in a Community language. This is one of the objectives of the law modifying the Act on Standardisation which is currently before parliament.

To date there has been no alignment in the area of food safety. Pending legislation may soon provide the framework for this important area of the *acquis*. As for certification, further efforts will need to be devoted to the adoption of the necessary secondary legislation and to the setting up of administrative structures.

In the non-harmonised area, the internal screening of the Polish legislation should lead to the elimination of provisions that may constitute unjustified barriers to trade. Further efforts are required to ensure alignment with the *acquis* on cultural goods.

Regarding public procurement, Poland's legislative situation is to some extent in line with the Community *acquis*. Further alignment will be needed in particular, in terms of specifying the entities covered by the legislation, elimination of the national preference clause and the use of Polish standards. The proposed new legislation should go some way to meeting these concerns. Further efforts will be required to ensure that they are fully addressed. With a view to the new law and the recent administrative and territorial reform in Poland, there is a pressing need for training of staff in public contracting authorities at all administrative levels.

## ***Chapter 2: Free movement of persons***

There has been no progress in the adoption of the *acquis* since the last regular report. There has been some limited progress in reinforcing administrative capacity.

In the area of **mutual recognition of professional qualifications**, no progress has been registered during the last year in terms of adopted legislation. However, the internal distribution of overall responsibilities between different Government bodies has been more precisely defined. The concept of "professional recognition" still does not exist in Polish legislation, which only makes provision for "academic recognition/nostrification".

No concrete progress can be reported on **Citizen's rights**.

In the field of **free movement of workers**, steps have been taken to strengthen the employment offices with a view to full participation in EURES (European Employment Services).

Poland's efforts to prepare its administration for future participation in the system for **co-ordination of social security systems** are continuing. Poland has signed bilateral agreements in this field with the United Kingdom, Sweden and Luxembourg, and there are ongoing talks with some other Member States.

### *Overall assessment*

The overall level of alignment with the *acquis* is very limited. However, in contrast to the situation reported in the 1999 regular report, some preparatory work has been undertaken and some draft legislation is under preparation. These efforts will need to be continued to ensure that there are no provisions in Polish legislation which contradict Community rules, in particular with respect to nationality, residence or language requirements. This is the case in the field of free movement of workers, where legislation is not yet aligned and efforts are required to ensure that all such provisions are removed and that Poland is able to apply effectively EC legislation.

As concerns preparations to participate in the EURES network, continued efforts are required to strengthen public employment services, notably as regards the linguistic training of staff.

The assessment in last year's report that Poland has achieved a limited level of alignment in the field of mutual recognition of diplomas and qualifications remains unchanged.

Legislative proposals regarding some professional qualifications have now been tabled, but relevant draft acts are currently under inter-governmental consultations or at an early stage of Parliamentary proceedings. Serious efforts are required in strengthening the necessary administrative structures in this area in particular concerning the coordination of social security systems and the mutual recognition of professional qualifications.

### ***Chapter 3: Freedom to provide services***

As stated in the 1999 regular report, Poland has already achieved a relatively high level of alignment in the field of freedom to provide services. This trend has been consolidated during the last year by an acceleration of the ongoing bank privatisation and further progress in terms of supervision of financial markets, while legislative work is continuing. Legislative progress has been limited during the reporting period.

In the area of **freedom of establishment and freedom to provide services**, legislative progress has been limited: certain restrictions on foreign entrepreneurs in the film sector have been removed, and discriminatory requirements related to sport joint-stock companies have been revoked. Nationality and residence requirements still remain for small craft industry and craftsman activity, as well as in respect of services provided by bodyguards, sworn translators, tourism services and gambling and mutual bets.

In the field of **financial services**, there have not been any important changes in *banking* and *insurance legislation*. The amendment to the law on insurance activity adopted in August brings the legislation in line with developments in other laws.

In the area of investment services and securities *markets*, several amendments to the Act on Public Trading of Securities and Act on Investment Funds were adopted in form of Governments' decrees, which further Poland's alignment in this area.

Since the last progress report, further acceleration of privatisation in the *banking sector* has taken place (*see economic criteria*).

As in the banking sector, the presence of foreign capital in the *insurance sector* is on the rise with the partial privatisation of the state owned insurance company PZU during the reporting period (*see economic criteria for further details*).

### ***Overall assessment***

In the last regular report, the level of alignment in the area of freedom to provide services was assessed as relatively high. In general terms, this assessment is maintained. There has been little development as regards freedom of establishment, but progress on the ground relating to financial services has continued.

Supervision institutions (General Inspectorate of Banking Supervision, State Office for Insurance Supervision, Securities and Exchanges Commission) have made further progress in assuring stability in their respective areas. Thanks to their efforts, companies have upgraded the quality of their services, by raising levels of capital, consolidation and an increase in technical reserves (in the case of insurers).

The Securities and Exchanges Commission is generally perceived as a very professional and efficient body. The Securities and Exchange Commission is a governmental agency

in charge of supervision of public trading of securities. Since 1998, its responsibilities were broadened and cover also commodity exchanges. The Commission is composed of its chairman (nominated by the Prime Minister), 2 deputies and 6 representatives of ministries. On top of this, the office of the Securities Commission employs 130 persons in 8 departments. In 1999, the Commission met 21 times and made 869 decisions.

According to the law on the National Bank of Poland, the Committee of Banking Supervision is entrusted with responsibility for supervision over the banking institutions. The General Inspectorate of Banking Supervision (GINB) is an executive body of the Committee of Banking Supervision. GINB is an autonomous unit of the National Bank of Poland. The GINB has continued to be perceived as efficient and well-organised institution, in spite of criticism over the recent bankruptcy of Bank Staropolski, which led to the resignation of the General Inspector of Banking Supervision.

Priority has been given to the implementation of existing rules instead of further legal transpositions. The State Office for Insurance Supervision (PUNU) has been reinforced. It now has a staff of 100 persons, all working in the Warsaw headquarters. The main task of the supervision is to protect interests of insured persons. A recent Supreme Chamber of Control report accused PUNU of not reacting early enough to prevent abuses taking place in insurance companies and blamed the insurance watchdog for too few and unnecessary prolonged audits and general low efficiency of PUNU's work. In the period since the last regular report, two insurers lost licences and subsequently went bankrupt: Polisa SA (which in 1998 was 3<sup>rd</sup> largest insurer in the non-life sub-sector, with 7% market share) and Gwarant SA.

The situation has improved also in the most difficult sectors: co-operative banks and insurance. The challenge which the supervision institutions face is the increasing role of multi-sectoral products (e.g. bank-assurance, life insurance with investment fund) and competition from non-regulated markets (pseudo-banking institutions, like co-operative savings-and-loan associations). To this end, supervision institutions should improve co-ordination between themselves.

Although some additional legislative progress has been achieved in the last year, further efforts are required, also in view of passage to the second stage of the transition period foreseen in respect of Art. 44 of the Europe Agreement, involving the abolition of most restrictions listed by Poland in respect of establishment and freedom to provide services. As far as financial services are concerned, the most urgent areas in which legislation should be brought in line with the *acquis* are the capital adequacy of credit institutions, consolidated prudential supervision, and new insurance laws, covering *inter alia* the area of insurance supervision.

In the field of **protection of personal data and the free movement of such data**, Poland has signed the European Council Convention N° 108 of 28 January 1981 on the protection of persons in connection with the automatic processing of personal data. However, further alignment with the *acquis* is still required, notably as concerns personal data protection.

Concerning the **information society directives**, efforts should be stepped up with the aim of achieving full implementation.

## ***Chapter 4: Free movement of capital***

The legal framework for the liberalisation of **capital movements and payments** had, as reported last year, been mainly established by the adoption of the new foreign exchange law. There have been no significant advances as regards the adoption of the *acquis* during the reporting period.

As regards the free movement of short-term capital limitations in the form of authorisation procedures which apply to money market securities transactions and short-term financial loans and credits, it was expected that the remaining short term restrictions would be removed at the start of 2000 as the Government has stated in the context of its commitments vis-à-vis OECD. However, the decision to liberalise was postponed.

As was recorded in the 1999 regular report, other restrictions on capital movements concern foreign investment in such sectors as gambling and mutual bets, insurance, broadcasting, telecommunications, legal services, continue to exist and there has been little positive progress in these areas. Indeed new laws have placed additional restrictions on foreign investors in some sectors. However, further legislation is currently before parliament with the intention to amend those elements which are not compatible with Poland's obligations under the Europe Agreement.

On **payments systems** no progress can be reported in relation to the transposition of the *acquis*.

### *Overall assessment*

The 1999 regular report noted that in the area of capital movements and payments the majority of capital flows between Poland and abroad have been liberalised. This having been said, it further noted that substantial restrictions remain in place, in particular on direct investments from foreign entities in specific economic sectors, real estate acquisitions and short-term transactions.

As far as liberalisation of short-term capital movement is concerned, the postponing of its introduction by the government occurred in a context of current account deficit that was considered inappropriate by the Polish authorities. An improvement in the current account situation should lead to a reappraisal of the timetable for liberalisation.

Open issues also remain with regard to the special rights of the State in privatised companies, restrictions on investment abroad carried out by institutional investors. As reported in earlier years the acquisition of real estate by foreign legal or natural persons requires a permit of the Minister of Internal affairs and Administration. No legal or institutional changes took place in this area.

The most important gap is the absence of legislation in the area of money laundering - a point borne out by the recent report of the Council of Europe on money laundering which gave a negative assessment of the situation in Poland in this respect. The report stressed that in the last five years there were no cases of money laundering in the Polish courts. The rapid adoption of legislation which has passed through the lower chamber of parliament would do much to remove a major obstacle to the adoption of the *acquis*.

With regard to cross border credit transfers, these still face restrictions, which will require specific legislation as well as a change in the existing banking law in order to align with the *acquis*.

Progress in the payment systems' infrastructure was achieved in 1998 with the introduction of a real time gross settlement (RTGS) system. However, further efforts are needed to align Polish legislation to the *acquis* in this area.

### ***Chapter 5: Company law***

During the period covered by this report, Poland has made further progress in this area, in particular as regards the protection of intellectual and industrial property rights which is a short-term priority under the 1999 Accession Partnership. The adoption of a new Copyright and Neighbouring Rights Law is important as this is a key piece of the internal market legislation.. Less progress has been achieved in the area of company law in the strict sense.

Regarding **company law**, the new Act on the Commercial Company Code which is to replace the Commercial Code of 1934 awaits the signature of the president after having been adopted by the parliament in September. It is planned to enter into force in 2001 together with the Act on the National Court Register which was adopted in 1997.

In the field of *accounting law* which is already largely in line with the *acquis*, no new legislation has been adopted over the last year.

Poland has ratified the Lugano Convention on jurisdiction and enforcement of judgements in civil and commercial matters which entered into force in February 2000. Training courses on the Lugano Convention for judges have been started and will be continued.

Concerning **intellectual property rights**, an amendment law to the 1994 Act on Copyright and Neighbouring Rights was adopted on 9 June 2000 which brings Poland's copyright legislation closer to full *acquis* alignment. The new law significantly improves the scope and periods of protection and retro-protection, which renders the Polish legislation to a large extent compliant to the relevant EC Directives in this field. In terms of legal protection of databases, however, no progress has been achieved. This issue requires further amendments of the intellectual property legislation. The new law is introducing stricter penal provisions and allows for prosecution ex officio. The efficient functioning of collective management is an important condition for an adequate exercise and enforcement of the property rights.

In the field of **industrial property rights** a new Act on Industrial Property Rights was adopted in June 2000 which the President refused to sign and, instead, referred to the Polish Constitutional Tribunal for an examination of its constitutionality. This reference relates to one specific article concerning the reallocation of trademarks to domestic producers. The ruling of the constitutional court will therefore apply only to this article and not the legislation as a whole. The new law will bring Polish legislation further into line with the requirements of the Community *acquis*.



## *Overall assessment*

On the whole, Poland's progress so far regarding company law is substantial.

Existing Polish company law has been modelled largely on German company law, and already incorporates most legal forms of companies. Current differences between the Polish legislation and the Company law Directives are few. The Polish legislation nevertheless requires some further amendments with regard to the 1<sup>st</sup> and 2<sup>nd</sup> Company Law Directives, the 11<sup>th</sup> Directive regarding registration requirements for branches of companies, the 3<sup>rd</sup> and 6<sup>th</sup> Directives on mergers and divisions of public limited liability companies respectively and the 12<sup>th</sup> Directive on the single member limited liability company.

New intellectual and industrial property laws implied further adjustments to Community standards in a key sector of the internal market. There is a particular need to ensure an adequate and efficient implementation of both new laws both at administrative and judiciary level, notably with a view to appropriate measures against piracy and counterfeiting. In addition to strengthening the judiciary, improved co-operation between enforcement bodies including border, customs and police services as well as enhanced staff training, will all require further particular attention in the immediate future.

In the field of intellectual property rights further legislative alignment is required as regards the protection of databases. Legislation on the rationalisation of the collective management societies is also required.

In the area of industrial property law further important legislative measures are necessary. The legislation on designs has to be developed and in the field of patents new legislation has to be introduced in order to provide protection for biotechnological inventions and to introduced for "Supplementary Protection Certificates.

Administrative preparations for the entry into force of the new Court Register law, which will provide for a central, universally accessible register of entrepreneurs, companies and insolvent debtors, are underway. Information Technology systems have been developed and tested in five pilot courts in Poland.

## ***Chapter 6: Competition policy***

Since last year's regular report, significant progress has been made in the area of competition in particular with the adoption of the framework state aid Law.

In the field of **anti-trust** *acquis* the Polish Government has adopted two executive regulations which have simplified and clarified anti-trust proceedings: firstly in December, 1999 the regulation concerning the detailed requirements for notifications of intended mergers, and secondly in February 2000 the regulation on detailed terms and procedures of conducting controls of entrepreneurs' compliance with the provisions on counteracting monopolistic practices.

In the field of **state aid**, in June 2000 the Parliament adopted the Law on the conditions of admissibility and monitoring of state aid to entrepreneurs that will enter into force in January 2001. The law would contain the basic principles of EC State aid *acquis* providing for a basis for the systematic ex-ante control of aid projects. Following the adoption of the Law, Poland therefore has achieved a relatively high level of legislative

approximation in the field of State aid control. Some disparities still remain. For instance, restructuring aid projects involving large companies would, under the Law, not always have to be scrutinised on a case-by-case basis by the OCCP. This shortcoming needs to be addressed, possibly in connection with the adoption of the relevant secondary legislation.

The Polish legislation in force on the Special Economic Zones (SEZ) includes elements contrary to the *acquis* and Poland's immediate obligations under the Europe agreement. Pending legislation is intended to do away with the elements of operating aid and ensure that aids in the sensitive sector respect the special rules under the *acquis*. However the so-called "acquired rights" of investors, (c.f. tax holidays until 2017) are to be upheld. These rights, which are in apparent contradiction to Poland's earlier obligations under the Europe Agreement are very problematic. The situation is aggravated by the fact that Polish authorities continue to deliver permits under the old legal basis until the entry into force of the amended Law.

As regards transparency of aid, Poland has submitted, in autumn 1999, the Report on state aid granted in the year 1998. This report largely follows the methodology and the presentation of the Community's Survey on State aid and provides for a relatively good level of comparability. The OCCP has also, in April 2000, submitted to the Commission the State aid inventory. Its classification of aid broadly follows the EC practice, thereby enabling the OCCP to keep track on State aid granted. The inventory should however also include information on any individual aid awards granted outside the State aid schemes.

### *Overall assessment*

As regards anti-trust, Polish legislation is to a great extent compliant with EC law. Regarding implementation the main challenge is now to ensure that the Office for competition and consumer policy gives priority to cases that concern the most serious distortions of competition (e.g. cartels). Further alignment is still necessary, especially in view of developments in the *acquis* on vertical restraints.

As regards state aid, Poland has made progress in the field by way of adopting the State Aid Law. The main priority now is to ensure the enforcement of the State aid rules is systematic and includes a swift alignment of existing aid schemes and legislation under which authorities at various levels grant aid. Granting of State aid in Poland has so far not been systematically controlled and the State aid award provisions have only been partially aligned with the Community legislation. The future enforcement practice of the OCCP and progress regarding the aligning of existing aid arrangements with the *acquis*, will be a serious test to the administrative capacity in the State aid field. This can only be expected when the implementation of the Law on state aid is appropriately commenced. In this context it should be ensured that the State aid Department of the OCCP receives adequate overall resources.

In terms of administrative capacity, the OCCP is the national competition authority in Poland. It has faced an expanding role over the last few years as its key activities have been enlarged to cover merger control, counteracting monopolistic practices and consumer protection.

The OCCP will be entrusted with full powers as monitoring authority for supervising state aid pursuant to the entry into force of the new state aid Law in 2001. Furthermore, the OCCP is in charge of the legislative work that contributed to harmonisation of the Polish antimonopoly and consumer protection laws with the European Community legislation.

Given the existing and new responsibilities of the OCCP, it is of crucial importance that the overall resources of the Office are sufficient. The fact that the Office is not classified as a Ministry results in lower levels of remuneration which in turn make it more difficult to retain staff. At the end of 1999, the Office employed 190 persons, of whom 145 hold a university degree. Of these the State Aid Team created in June 1999 is intended to have a staff of 20 by the end of the year

In order to ensure a differentiation of maximum aid intensities in assisted areas, Poland should commence, as a matter of priority, the preparation of a regional aid map in consultation with the Commission.

### ***Chapter 7: Agriculture***

Poland has made limited progress in adopting the *acquis* since the last regular report.

Agriculture (including hunting, forestry and fishing) in Poland accounted for 3.8% of GDP in 1999, as opposed to 4.8% in 1998.<sup>13</sup> Employment in agriculture according to Eurostat figures has declined over the past years accounting for 18 % of total employment in 1999.<sup>14</sup> In 1999, a significant drop in agricultural production (-3.7%) occurred, particularly in plant production (- 11.5 %) due primarily to unfavourable meteorological conditions and to a lesser extent to reduced crop areas. Reduced animal production (- 1.6%)<sup>15</sup> resulted primarily from a decrease in animal stock.

In 1999, EC imports of agricultural products originating in Poland increased by 1 percent to €1080 million. EC exports to Poland decreased by around 10 percent to €1616 million. The trade balance in favour of the Community amounted to €536 million compared to €723 million in 1998, a decline of over a third.<sup>16</sup>

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<sup>13</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified

<sup>14</sup> In order to improve consistency and comparability, the employment figures presented are now defined according to Labour Force Survey definitions (LFS). Agricultural employment is defined in LFS terms as economically active persons who gain a significant part of their income from agriculture. The agricultural census, which was previously a source of employment data in many countries, takes into account all persons nominally active on a farm. There are therefore some significant differences between previous and new figures. Fuller information can be found in the Eurostat publication "Central European Countries' Employment and Labour Market Review" available free of charge through the Eurostat Data Shops. According to Polish data, 4.3 million people are employed in agriculture, which accounts for about 27% of the total employment in 1998. These data are based on a different definition to EU data and include the high share (around 44%) of people declared as farmers but not deriving income from their holding.

<sup>15</sup> Source: FAO

<sup>16</sup> Source: Uruguay Round Agreement definition of agricultural products, figures taken from EUROSTAT COMEXT (see Agriculture in the European Union - statistical and economic information 1999 p. 36 for definition of the products).

Bilateral negotiations between the EC and Poland opened in 1999 with a view to new reciprocal concessions for agricultural products and were concluded between negotiators in September 2000 (*see section A.b. – Relations between the European Union and Poland*).

There have been no major changes in Polish agricultural policy since the last Regular Report. Some strategic documents were adopted of which the Pact for Agriculture is the most important one. Endorsed by the Polish government in early September, it is designed to improve competitiveness and working conditions in agriculture, prepare Poland's integration into the European Union and improve the viability of the socio-economic fabric of rural areas. Support is structured around four pillars: agriculture and its environment, development of entrepreneurship and creating off-farm employment, integrated social policy for rural areas and development of rural environment, partnership and social dialogue. In addition, in early 2000, the Polish Fine Food Programme was adopted aiming at promoting the quality of food originating in Poland. In the context of continuous decline in farm incomes, the Polish government has chosen to continue with intervention in the agricultural markets.

In 2000, the agricultural budget amounts to €1158 million including the loan from the World Bank and appropriations for co-financing of Phare and Sapard programmes. In comparison to 1998, allocations for agriculture, rural development and agricultural markets increased by 20%, and represent 3 % of the State budget.

Legislation in the form of four Regulations of the Minister of State Treasury have been adopted so as to facilitate the sale, lease and exchange of property and the control of the land market. However, restrictions on foreigners purchasing land remain. Privatisation and restructuring of land and state agricultural property has advanced considerably under the lead of the Agricultural Property Agency.

### **Horizontal issues**

In the last year, the main structure of the institutional framework for the management of measures related to the *European Agricultural Guidance and Guarantee Fund (EAGGF)* was decided. The "concept of the operation of paying agencies", adopted in February 2000 divides the main tasks arising from the Common Agricultural Policy (CAP) between two agencies. Thus, Poland has opted for two paying agencies: ARMA (Agency for restructuring and modernisation of agriculture) and AMA (Agricultural Market Agency). ARMA will manage rural development measures under Guarantee and Guidance as well as direct payments. AMA (Agricultural Market Agency) on the other hand, will be responsible for market mechanisms: intervention, market information, supply management instruments. For some market sectors (hops, fruit and vegetables, tobacco, dried fodder), the Inspection for Agricultural Products Purchase and Processing (ISiPAR) is designated as the relevant management body (distribution of production quota, disbursement of payments, monitoring, etc). ISiPAR is also the main body for quality control assessment of agri-food products besides the Central Standardisation Inspectorate (CIS).

As regards preparations to establish the *Integrated Administration and Control System (IACS)* in Poland, a working group has been appointed for its introduction. The institutional structures for the implementation of the system have been defined and a legal basis has partly been provided. Existing tools which may be used for the purpose of

IACS have been identified as well as further needs for the full implementation of the system. The budget for the development of IACS was adopted in July 2000

Concerning *Farm Accountancy Data Network*, a clear institutional framework has been established although the respective legal basis still needs approval. The Institute of Agricultural Economics will be responsible for defining principles for the selection of farmers, for data collection, for verification and submission to the Commission. The selection plan of farms will be approved by the National Committee set up for Farm Accountancy Data Network.

Some progress can be stated for organic farming for the period assessed. An aid scheme has been launched for certified organic producers (€ 126 per ha).

### **Common Market Organisations**

Since last year's regular report, no legislation has been adopted in this area, with the exception of the law on establishment of producer groups and associations thereof, adopted in September 2000 and covering producer groups for fruit and vegetables, hops and tobacco.

However, for the Polish milk sector a development strategy was adopted in early 2000 to improve its competitiveness and capability to adapt the organisation and regime to the Community requirements. It will combine actions for producers and processors of milk and for the organisation of the milk market. Financial support for the milk sector is provided by different sources, EBRD, PHARE, private contributions and SAPARD. As for the key issue of milk quality, at present about 40% of the milk produced is of "extra" quality, thus meeting EC requirements. A new Polish standard "raw milk purchase" came into force in January 2000.

### **Rural Development and Forestry**

No major developments have occurred in the field of rural development and forestry besides the development and submission of the SAPARD programme. The general outline of agri-environment measures and of afforestation was introduced in the SAPARD programme at a pilot project level. Currently support for restructuring and modernisation of agriculture and food processing as well as of services for agriculture is provided by means of subsidies to interest rates on credits granted by banks co-operating with the Agency for the Reconstruction and Modernisation of Agriculture (ARMA).

### **Veterinary and phyto-sanitary**

The legislative process has seen little progress in the **veterinary field** since the last Regular Report. The Regulation of the Minister of Agriculture and Food Economy of October 1999, on the scope of control tests as to infection of animals and the residue of banned chemical and biological substances as well as radioactive contamination in the tissue of slaughter animals, meat, animal-products, inedible raw materials of animal origin, specifying sampling methods and the documentation of the tests, entered into force in December 1999.

With regard to the Organisation of the Polish Veterinary System, the legislative power for veterinary laws lies within the competence of the Ministry of Agriculture. On the other hand, the "Veterinary Inspection" has been established pursuant to the Veterinary

Framework Act and started its activity in January 1999. It is a unit of the state administration managed by the Chief Veterinary Officer (CVO). The CVO is appointed by the Prime Minister at the request of the Minister of Agriculture. The CVO heads the General Veterinary Inspectorate that is the Central Competent Authority for veterinary matters in Poland. There are 35 staff working at the central organ and the rest of the staff work in regional offices in a structure modified to reflect the new administrative division of the country (16 Voivodships, 292 counties, including 27 border veterinary inspectorates).

Pursuant to the Regulation of the Minister of Agriculture and Food Economy of May 1999, the number of border crossings on which border veterinary control was accomplished decreased from 39 to 32 in the reporting period. Upgrading of the inspection arrangements at the future external borders has started but they are not in full compliance with the *acquis*. The adjustment of border control outlets, imports and transit procedures to the veterinary requirements of the European Community will begin only after adopting the new framework act.

In the **phytosanitary sector**, some progress could be reported in adopting legislation: the law on seeds was adopted in September 2000 and the law on fertilisers and fertilisation was signed by the President in August 2000. Their compliance with the *acquis* can be assessed only after the official publication.

### *Overall assessment*

The preparations for the integration of Poland's agricultural sector into the European Union still need considerable efforts at both the legal and institutional levels. The pace of adoption of agriculture-related laws was very slow over the past year though the legislative procedural process accelerated towards the last few months. For the management of Community instruments, basic decisions on the institutional framework have been taken but in many cases still require a legal foundation and further refinement. Adjustment of procedures in the designated institutions for final enforcement of instruments according to Community rules is in its infancy and should be reinforced.

As regards **horizontal issues**, while the basic decisions on the division of tasks between institutions related to the management of *EAGGF* have been taken, further steps have to follow. The adoption of legal grounds for the enlarged or new scope of the two paying agencies, ARMA and AMA, and the other relevant bodies has to be finalised. This will empower these institutions to put into place the necessary structures and to start work on the elaboration of rules and procedures for the enforcement of the *acquis*. For all administrative bodies, including the Ministry of Agriculture and Rural Development, employment of new staff, training, and the purchase of equipment will require further considerable efforts in terms of financial and human resources.

Many preparatory steps have been taken for the implementation of the *integrated administration and control system*. However, its implementation in full compliance with EC requirements needs further considerable efforts. A legal basis has to be laid down. Though the system will partly be based on existing elements, essential parts such as the computerised data base, the farm registration, the plot and animal identification system have still to be developed. Institutional decisions for the management of IACS need to be taken.

Poland is not ready to apply Community *quality policy* to promote products of a specific origin and geographical indication. In addition to the legal basis, the implementation of such a policy would require the setting up of the necessary registration and control bodies. The Polish Fine Food policy does not include such definitions and rules.

For the participation in the *Farm accountancy data network*, a clear institutional framework has been established by charging the Institute of Agricultural Economics with this task. However, the necessary structures, rules and procedures can only be put into place after the pending approval of the respective legal basis.

As regards the implementation of **Common Market Organisations**, the legal implementation has not advanced greatly. AMA has been designated as the intervention body and has started to gradually harmonise intervention mechanisms with EC mechanisms. However, for all sectors, further adjustment of rules and procedures for intervention and foreign trade are necessary. Systems for private storage, for the management of temporary surplus have to be introduced. Methods and quality standards need elaboration, laboratories have to be designated. For all the tasks resulting from the implementation of CMOs, the adaptation of AMA through the adoption of the Law on the establishment of an Intervention Agency is still necessary.

In the area of **rural development and forestry**, efforts were concentrated in the last year on the preparation of the SAPARD programme. It has been decided that ARMA will become the SAPARD Agency and upon accession the body responsible for rural development measures. To this end, ARMA will have to run two different management systems as most probably rural development measures will be implemented under Guidance and Guarantee rules. As for the preparation of the implementation of the different rural development measures, the agri-environmental measures, which will become mandatory upon accession, are in the pilot project stage. The same is the case for afforestation. No progress could be identified for the classification of less-favoured areas

A successful implementation of the rural development strategy needs to be broader than just agricultural restructuring and should be based on the increase of the level of education of rural population. The Rural Education programme, which is essential to accompany rural development policy, is still in the planning stage.

Concerning the **veterinary field** no legislative progress could be assessed even if work on the draft of the new "General Veterinary Act" has been increased during last months. This draft lies in the centre of the Polish activities aiming at the full transposition and implementation of EC veterinary law. The Council of Ministers adopted the final draft on 12 September 2000 but it still has to go through Parliament. Only the adoption on the current time scale of the amended "Veterinary Framework Act" could authorise a real strengthening of the legislative process. Moreover, in view of assuring the full transposition of certain directives the framework law must be accompanied by a series of around 106 technical application provisions, which will be issued as Ministerial decrees. This means that the Polish authorities are only at the first step of the process and have to accelerate the legislative work in the veterinary field.

In the **phytosanitary sector**, no progress could be reported in legislative approximation. As regard the transposition work on the 6 phytosanitary subsectors, the schedule of changes needs acceleration and the adequacy of any new draft legislation aiming at transposing Community directives will be apparent in the table of correspondence

between the national legislation and the relevant phytosanitary *acquis* which the Polish authorities are preparing.

Referring to plant health specifically, Poland places a lot of emphasis on the strengthening of border inspection posts, which seems to go beyond current Community minimum requirements in that respect. On the other hand, Poland seems to underestimate the importance of the preparatory work which is needed to establish an appropriate control system of the domestic production in order to phase out the internal border control at the time of accession.

There are two competent authorities for the phytosanitary sector in Poland: the Plant Protection Inspection Service and the Seed Inspection. Since 1 January 1999, in accordance with the EC requirements, the latter became an independent organ, the Central Inspectorate of Seed Inspection (CISI). CISI is responsible for qualifying seed material and controlling trading in this material in Poland. The Plant Protection Inspection Service is acting on the basis of the Law of 12 July 1995 on crop protection. Its responsibilities comprise crop supervision, preventing harmful organisms crossing state borders, prevention of threats to human and animal health and environmental pollution which might occur as result of marketing and application of pesticides. Work is continuing to improve phytosanitary border controls.

### ***Chapter 8: Fisheries***

Since the last regular report, no major legislative developments have taken place in this field.

In November 1999, the Fisheries Department, which currently has a staff of 18 people, was created in the Ministry of Agriculture and Rural Development.

On **market policy** no progress has been achieved since the last Regular report.

As regards **resource management, inspection and control**, a regulation on the management and protection of sea life, which establishes an upper limit for the number of Polish fishing vessels in the Baltic Sea, has been adopted. Under the Ministry of Agriculture and Rural Development, three Regional Maritime Fisheries Inspectorates have been created in Gdynia, Slupsk and Szczecin which replace the General Inspectorate for Maritime Fisheries. The three inspectorates employ 72 persons, but these appear to have been mainly relocated from the previous administration and the tasks of the inspectorates seem to correspond to previous duties of that administration. Therefore, the administrative development cannot as such be considered as a measure of improved efficiency as regards practical fisheries control activities. €8 million have been allocated to these inspectorates between 2000 and 2002 to increase the number of staff and to improve the availability of technical resources. As regards control, no progress has been achieved in setting up a full scale Vessel Monitoring System in line with the requirements of the *acquis*.

In the field of **structural actions** (including fleet registration) Poland has adopted a structural policy plan for the fishery sector for the years 2000-2006 which could constitute the initial basis for developing programmes for restructuring and modernisation of Polish fishing fleet and fish processing infrastructure. In the reporting year, Poland also adopted a series of secondary legislation to prepare the way for the control of fisheries and the use of fishing quotas. Primary among these is the Ordinance



on “determination of keeping the record and on the rules of marking of fishing vessels, on standard certificates of listing into the register and on issuing fishing signs as well as on the level of fees charged for the entry into the registration”. This regulation lays down the scope of information about fishing vessels entered in the register. It does not, however, foresee the introduction of the Fishing Vessels Register required by the *acquis*, which is scheduled for end 2000.

Poland provides **state aid to the fisheries sector** in the form of Value Added Tax exemption and excise tax on fuels for fishing vessels, and of subsidisation of loans granted for the purchase and storage of sea fish. In July of this year the Parliament adopted an Act, pursuant to which VAT amounting to 3% will be apply to fisheries in 2001.

### *Overall assessment*

In view of the very limited uptake of the *acquis* in this field much remains to be done in all key areas of the Common Fisheries Policy (resource management, control, structures, market). The adoption of the new Fisheries Act planned for end of 2000 is a first, but only a first, step in this direction.

Poland’s implementation capacity is very weak and needs to be strengthened, in particular qualified staff should be recruited and the necessary budget earmarked so as to ensure the implementation of the Common Fisheries Policy upon accession. As regards market policy, this requires *inter alia* controlling the implementation of common marketing standards in ports and on wholesale markets, collecting and transmitting data concerning the price reference regime and data on markets in the representative ports, and applying the recognition conditions for producer organisations.

As concerns resource management, the reorganisation of the three Regional Maritime Fisheries Inspectorates could be an important step forward with regard to the administration of resource management. Because Polish legislation does not yet comprise landing declarations and first sales notes and Poland has not introduced the computerised retrieval of data, there is no possibility of performing crosschecks on the information received from logbooks. Priority should therefore be given to an EC-compliant inspection and control policy, including the setting up of a Vessel Monitoring System. With regard to structural actions, the administrative capacity to implement the management of Community structural actions in fisheries needs to be developed and the setting up of an operational fishing fleet register, in conformity with EC requirements, dealt with as a priority.

With regard to international **fisheries agreements**, Poland has bilateral fisheries agreement with 8 countries and is part of numerous multilateral agreements/organisations.

### ***Chapter 9: Transport policy***

Since last year’s regular report, there has been some progress in the area of transport, especially as regards the adoption of new legislation.

Regarding **horizontal issues**, one positive element has been the adoption of the Law on Economic Activity. This repeals current provisions pertaining to licences for entities

operating transport services and introduces equal operating conditions for domestic and foreign entities, with the exclusion of economic activity in the area of air transport and railways.

In the field of **transport infrastructure**, the main investment efforts have, as in previous years, been concentrated in the development of the four transport corridors on Polish territory. Poland has approved the final report on Transport Infrastructure Needs Assessment (TINA) of October 1999. This should form the basis for extending the Trans-European Networks to Poland.

In the field of **road transport** some progress has been made in adopting secondary legislation: several technical regulations were passed since the 1999 report (three regulations on roadworthiness tests, two regulations on documents certifying the right to drive and the registration and marking of vehicles, and finally a regulation on the procedure of drawing up and making accessible data on the public roads network).. In April 2000, the multilateral INTERBUS programme was initialled by Poland. Its implementation will result in partial alignment with the road passenger transport *acquis*.

With regard to **railway transport**, the institutional changes in the Polish States Railways (PKP) have led to the establishment of independent entities: the Directorate of Railway Infrastructure, the Directorate of Passenger Operations and the Directorate of Railway Freight Operations CARGO.

The law on commercialisation, restructuring and privatisation of PKP (the Polish State Railways) was adopted in September 2000. The law includes provisions on infrastructure, competition and licensing in railway transport, and is aimed at carrying out reforms adjusting PKP to market conditions and the *acquis* requirements and at speeding up privatisation. PKP's debts are a cause for concern: in a number of instances power supplies have been cut due to unpaid bills resulting in the temporary shutdown of services in some areas.

As regards **air transport**, there has been no progress in adopting legislation. The privatisation of the Polish flag carrier, LOT Polish Airlines, started successfully.

In **maritime transport**, there have been both positive and negative developments. The encouraging decrease in detention rates for inspected ships from 6.92% to 5.08% brings Poland closer to the EU average of 3.6%. The gloss has to some extent be taken of this achievement by the (unrelated) decision of the International Association of Classification Societies (ICAS) to terminate the Polish Register of Ships associate status in ICAS due to serious contravention of the ICAS quality system certificate scheme. Regarding administrative structures, the Department of the Maritime Administration in the Ministry of Transport and Maritime Economy is responsible for the preparation and coordination of maritime policy. The three maritime offices located in Gdynia, Slupsk and Szczecin deal with issues of environmental protection and pollution, maritime safety and marine traffic, each office having a division of European integration.

### *Overall assessment*

The overall level of alignment with the *acquis* in the transport sector is limited. Notwithstanding the preparatory work which has been undertaken, much remains to be done in order to adopt and implement the necessary legislation and develop the appropriate administrative structures. The process of transposition of the *acquis* should

be intensified, as in many cases it constitutes the necessary legal basis for introducing the institutional changes.

The administrative capacity in most areas remains weak and will need considerable reinforcement if the *acquis* is to be implemented effectively. This is particularly the case for maritime transport.

In land transport, substantial progress remains to be done. Social legislation in road transport has only been partly introduced; qualitative criteria for admission to the occupation for road transport operators is still pending, which will have a knock-on effect on vocational competence and the establishment of vocational training centres. On road taxes and charges, no progress has been reported regarding the problematic Polish 'vignette' system. Efforts are required towards compliance with the *acquis* on weight limits of trucks. One of the most important shortcomings of the Polish roads is that only 0.5% of the national network fulfil the condition to support 11.5 tonnes-axle-load lorries. The adjustment of roads will require substantial capital investments.

In railway transport, with the adoption of the law on restructuring of PKP, an important step in the transposition of the *acquis* has been taken which paves the way to improvements in the Polish railway sector. It is recommended that Poland intensify its efforts to achieve compliance with the railway *acquis* ahead of accession.

With regard to inland waterway transport, the establishment by the Government of an inland waterway scrapping fund would constitute a step forward. Considerable progress is still required both in respect of legislative alignment and of the reinforcement of the administrative capacity.

In the air transport sector, an early finalisation of negotiations between the EC and Poland should make further efforts to ensure the progressive incorporation of the *acquis* by joining the European Common Aviation Area. Budgetary and structural adaptations appear necessary in the field of air safety. Substantial efforts will be required to complete the restructuring of LOT.

As regards maritime transport, there is a need to improve maritime safety and to reinforce the present administrative capacity. Despite recent improvements in the safety performance of the Polish fleet, the safety record of Polish flagged vessels still does not meet the average record of the EU fleets.

## ***Chapter 10: Taxation***

Since the 1999 Regular report, Poland has achieved further progress in legislative alignment with the *acquis*. Improvements in the tax administration have been much more limited in scope.

In the area of **VAT** the reduced rate of 4% was increased to 7% for the supply of pharmaceutical products and medical equipment. Furthermore, certain supplies, previously exempt from taxation, including municipal transport, sewage disposal, water supplies, street cleaning, refuse collection, chimney sweeping and washing and dry cleaning services have become taxable at the reduced VAT rate of 7%. In addition, exemptions for protected labour establishments, prison-employing establishments and school workshops have been abolished, and thus become taxable.

A VAT refund scheme for foreign tourists and the right of deduction of input VAT for international services have been introduced and the definition of the taxable amount has been amended in order to include transport and insurance costs where this was not already the case.

Finally, the July amendment to the law on tax on goods and services and excise duty has extended the VAT system with regard to agricultural products. The first phase entered into force as in September 2000, whereby a rate of 3% has been introduced on items previously exempt or zero-rated.

Concerning **excise duties**, the most significant progress relates to the introduction of a single combined (specific/ad valorem) duty on cigarettes together with an increase in the duty rate on cigarettes. The duty rates on fuel have also been increased and resulted in unleaded petrol having reached the minimum duty level of the *acquis*.

In the field of alcoholic beverages the taxable scope has been broadened, whereby alcohol with an alcoholic content of 1.2% and beer mixed with non-alcoholic beverages, in which the alcoholic content exceeds 0.5%, have become taxable. The previous special scheme for small breweries, which was discriminating against certain imports, has been abolished. Moreover, the excise duties on both domestically produced and imported chewing gum have been abolished.

As regards the performance of the **tax administration, its co-operation and mutual assistance**, Poland continued its efforts to strengthen the administration, the co-operation with other tax administrations and international bodies.

Some progress has been achieved in rendering the tax administration more taxpayer-friendly. Tax return forms, user instructions and other useful information are now available via internet. Tax declarations and procedures still require significant simplification. Compliance with the tax administration's requirements continues to be a heavy burden for corporate and individual taxpayers. Steps have been taken to establish the Central Office for VAT Information Exchange, which is part of the modernisation process of the Polish tax administration. Furthermore, two persons have been recruited in order to commence the setting up of fiscal warehouses.

In the field of **direct taxation**, changes in corporate taxation have been introduced allowing for a better efficiency of the tax services and reduction of the taxation burden on business. The new rate of corporate income tax is 30 per cent (instead of 34 per cent previously). In the coming years, tax rates will be gradually reduced (from 28% in 2001 to 22% in 2004). Tax deductions for companies with high investment rate have been abolished. The tax rates in 2000 are 19, 30 and 40 per cent. All existing tax deductions, including those for housing construction of individuals, have been maintained.

### *Overall assessment*

Overall, there has been some progress in fulfilling the legislative requirements necessary for accession. However, this progress has not been mirrored in developments as regards the administrative capacity necessary to run the system: considerable further effort will be required in this respect.

Poland has continued to gradually align its VAT legislation to that of the *acquis*, although efforts are still required. The main problems relate to tax-exempt transactions and the

taxation of the property market. Furthermore, a range of products is taxed differently depending on origin, which results in discrimination against imports. It is important that Poland establishes a well-structured pre-accession strategy, so as to attenuate any negative impact on consumer prices arising out of alignment with the *acquis*.

The efforts made in the field of excise duties further Poland's alignment with the excise duty *acquis*. Additional efforts should, however, be addressed towards meeting the Community's minimum duty levels, in particular in respect of the taxation of cigarettes and mineral oils.

Some efforts have been made to initiate the process of modernising the Polish tax administration. The implementation of the needs identified in this area will be an essential task in Poland's pre-accession strategy. The computerisation of the tax administration should also be addressed more rigorously.

The full computerisation of tax services has not yet been achieved as the POLTAX system is not yet working. In addition, the lack of a wide area network means that tax offices and chambers are not interconnected.

### ***Chapter 11: Economic and monetary union***

A detailed assessment of Poland's economic policy in its various aspects has been given above, in the chapter discussing the economic criteria (B-2). Therefore, the present section is limited to a discussion of those aspects of the Economic and Monetary Union *acquis*--as defined by title VII of the EC treaty and the other relevant texts--which candidate countries should implement by accession at the latest, i.e. the prohibition of direct public sector financing by the central bank, the prohibition of privileged access of the public sector to financial institutions, and independence of the national central bank. As to the process of liberalisation of capital movements, upon the completion of which compliance with the EMU *acquis* is conditional, this aspect has been covered above, in the section on *Chapter 4 – Free movement of capital*.

No legislative developments have taken place in this field during the reporting period.

#### ***Overall assessment***

Poland will participate in EMU upon accession with the status of a country with a derogation as per article 122 of the EC treaty. It will need to implement the necessary changes to its institutional and legal framework by the date of accession.

Overall, Poland has adopted substantial parts of the EMU-related *acquis*. Necessary legislative adjustments are well identified and being prepared.

Remaining legal provisions to be harmonised relate to the independence of the central bank. The National Bank of Poland (NBP) already enjoys a high level of independence. However, the law on the National Bank for Poland needs to be amended with regard to the participation of a government representative in the sessions of the Monetary Policy Council, the financial management of the NBP and the independent audit of the central bank.

## *Chapter 12: Statistics*

During the reporting period Poland has made further progress in this area.

Concerning **statistical infrastructure**, the Polish statistical authorities have continued to align their working methods to EC practices. The necessary resources are available such that the foreseen statistical programme can be implemented. The overall staff supply in terms of quantity is sufficient but not always in terms of qualifications. Some sensitive areas like National Accounts and Information Technology are still understaffed and in addition their turnover remains too high. Following the territorial and administrative reform, the 16 regional statistical offices received new tasks including regional statistics. The co-operation of the Polish statistics sector with Eurostat and the statistics authorities of the Member States has been intensified.

As regards **demographic and social statistics**, preparations for the population census including the underlying law are underway. It is to take place in 2002 (in parallel with the agricultural census) both of which are foreseen in a 4-year budget programme of PLN 600 million (€147 million) covering the budget years 2000-03. Test surveys which met the EC requirements have taken place in several pilot municipalities during May/June 2000.

In the field of **regional statistics**, some progress has been made. The Regulation on NUTS classification was adopted in July 2000, this foresees 2489 municipalities (*gminas*), 373 powiats, 44 groups of powiats (corresponding to NUTS III), 16 voivodships ( corresponding to NUTS II) and the country as a whole.

Concerning **business statistics**, the scope of statistic surveys has been expanded to tourism statistics and prices and products statistics. Estimates have been conducted for the hidden economy. However, products statistics remain an area of concern where further efforts have to be made to adjust the methodology of surveying production (PRODCOM).

**Transport statistics** require further work especially in the field of road transport and vehicle register which is now envisaged only for the year 2005.

As regards **agriculture statistics**, preparations for an agricultural census in 2002 are underway. Full adjustment of surveys with Community standards can be expected after the census. A new structure has been established in the Ministry of Agriculture which is responsible for the co-ordination of surveys with the GUS.

### *Overall assessment*

Poland's legislative framework is, as noted in the 1999 Regular report, largely in compliance with the Community statistical *acquis*.

The foreseen censuses and surveys will contribute to render the sector in line with the *acquis*. Areas where further efforts are needed are business statistics (implementation of PRODCOM) and **trade statistics** where preparations for the introduction of the Community-wide Intrastat system on accession are underway. The co-operation between the statistics sector and other relevant administrations (i.e. customs services) should remain the focus and needs further strengthening.

For external trade further improvements in the customs services are needed in order to relieve the statistical services of data collection and verification.

On administrative capacity the Polish Central Statistical Office could be considered as a professional institution with a clear structure, experienced staff and an informatics system which has been substantially upgraded in recent years. This remains the case, although to ensure that this situation continues into the long term may require further attention to the staffing issues mentioned above.

With regard to resources, it should be ensured that the annual budgets of the forthcoming years actually reflect the planning of the future censuses so that the resources can be made available in time.

### ***Chapter 13: Social policy and employment***

Little progress has been made during the reporting period as regards the adoption of legislation. Only two pieces of legislation, in the field of labour law and occupational health and safety, intended to align Polish legislation with the *acquis* were adopted. There have also been some developments in administrative capacity.

As regards **Labour Law** limited progress has been made during the reporting period through an amendment to the 1994 Act on employment and combating unemployment, adopted in January 2000. This amendment introduces into Polish legislation some of the EC provisions on collective redundancies.

The amended law on pension schemes came into force in April. The amendments should ensure consistency with the provisions on **equal treatment for women and men** in occupational social insurance systems in existing EC legislation (*see also Political Criteria, Economic, social and cultural rights*).

In the field of **health and safety**, a Regulation of the Minister of labour and social policy on the manual handling of loads was adopted in March. This will enter into force within six months except in seaports where it will enter into force after 12 months.

The current number of Inspectors have been slightly increased and is now 1369. Further efforts are required in alignment and administrative capacity.

As was noted in the 1999 regular report, **Social Dialogue** in Poland is dominated by tripartite dialogue. This dialogue, which takes place within the tripartite Commission for social and economic affairs, continues to be hampered by the withdrawal in April 1999 of the OPZZ Union, whose absence means that the Commission's decisions are no longer binding on the government. There has been considerable reflection on how the bipartite dialogue could be developed but with few tangible results during the reporting period. Autonomous social dialogue at sectoral level is still missing while no progress seems to have been registered at enterprise level, with social dialogue not taking place in most new enterprises.

The employment situation deteriorated through 1999. The labour force survey shows that employment fell by more than 4% between February 1999 and February 2000, by which time the employment rate had fallen to 56% - well below the EU 1999 average of over

62%. Over the same period, the unemployment rate rose from 12.5% to 16.7%, despite a further fall in labour force participation.

More recent indicators on employment and unemployment from registration sources suggest that the economic recovery during 2000 has not yet (as of mid-year) translated into an improvement in the labour-market situation.

Although much of the recent increase in unemployment has been cyclical in nature, Poland also continues to face serious structural problems in the labour market (*see economic criteria*). In response to this challenge, a national strategy for employment and human resources development has been adopted by government for the period 2000-2006.

Following the adoption of the “Strategy”, the government has been working on a detailed programme for its implementation. It has been decided that the goals outlined in the document will be realised on the basis of “National Action Plans for Employment Development”(NAP). This document was adopted in June by the Council of Ministers.

The Action Plan is geared to the four pillars of the European Employment Strategy (EES) – employability, adaptability, entrepreneurship and equal opportunities - and structured in line with the 22 “Guidelines for Member States’ Employment policies for the year 2000”.

The regional labour offices subordinated to the National Labour Office were dissolved and their functions were taken over by self-government units and local public administration bodies. The Labour Fund resources, aimed at financing active labour market policy, are divided in half between the National Labour Office (NLO) and the self-government units.

Poland has started to implement the **social security** reform, which began in January 2000. The most serious problem encountered by the reform is the unsuccessful computerisation of the national social insurance fund (ZUS). In the past few months ZUS has significantly improved its administration and transfer of the premiums, thus at least in part overcoming problems in this respect encountered in the first half of 1999. Outstanding debts to ZUS are still an issue which requires further attention as the arrears to the organisation stood at 9.6 billion Zloty (approximately €2.5 billion) at the end of 1999.

In the area of **Public Health** the first of 3 parts of the Amendment to the Regulation on tobacco products was adopted. It concerns the content, patterns and manner of placing warnings, information on the content, the issue of acceptable content, ways of finding the content, and anticipates the introduction of the norm of 12 mg of tar per cigarette.

Poland is continuing the work on its reform of its health system, including the health monitoring system.

### *Overall assessment*

There has been little in the way of alignment with the *acquis* or in developing the necessary administrative capacity to implement it once adopted.



Serious efforts are needed in most areas covered by this chapter, particularly health and safety at work. The issue of equal treatment for women and men was highlighted in the 1998 and 1999 reports as requiring urgent attention.

Much work is still needed on the administrative capacity of the National Labour Office and to labour inspection. The situation as regards ZUS has improved but is still a matter for concern.

Social dialogue requires considerable further effort if it is to be developed so that it facilitates the implementation of the *acquis* at local level. This will also entail the reinforcement of the Government's administrative capacity so as to better follow and motivate autonomous social dialogue.

As concerns **employment**, Poland has made progress in transforming its labour market and adapting its employment system so as to be able to implement the European Employment Strategy. Consistent efforts will be required, however, to ensure full implementation of the measures outlined in its recently adopted strategy (see above). In particular, there should be close monitoring of the capacity of the public employment service, in its newly decentralised form, to contribute to the delivery of a coherent employment strategy at the national level.

Current efforts to prepare for participation in the **European Social Fund** need to be pursued further.

It is too early to judge the impact of the reforms and restructuring which took place at the start of the year, but this task will not be facilitated by the lack of data relating to the functioning of the decentralised bodies.

Legislation transposing the EC directive based on Article 13 of the Treaty relative to **discrimination** on the grounds of race or ethnic origin will have to be introduced and implemented.

### ***Chapter 14: Energy***

Progress in this field since the 1999 regular report has been limited in terms of legislation adopted with no new legislation adopted for most of the sub-sectors. There has been some progress as regards the restructuring and privatisation of some sub-sectors and in the general formulation of policy for the sector.

The Polish Government adopted in February 2000 the document "Assumptions of the State Energy Policy for the period until 2020". The priority targets in preparation for the adoption of the *acquis* are the following: security of supplies, improvement of competitiveness for energy products on domestic and international markets and protection of the environment.

In the reporting year no progress has been made as regards alignment with the *acquis* in the field of **security of supply**. A timetable for full alignment with the **oil stocks** has yet to be developed. Present stocks correspond to approximately 17 days of national consumption and fall considerably short of the *acquis* requirement of 90 days. A schedule of increasing oil security stocks that meet EC requirements has been developed.

As regards **energy competitiveness and the internal energy market**, the Government has approved in May 2000 the “Timetable of Privatisation of the Electricity Sector”. Four energy enterprises have already been privatised, while according to the privatisation timetable all power plants and distribution companies will be privatised by the end of year 2002, the last enterprise to be privatised being the transmission system operator Polish Power Grid Company. In order to allow a smooth privatisation process and avoid “stranded costs”, the Ministry of Economy has elaborated a programme to address long-term contracts between energy producers and the national power grid. This compensation system, which is expected to be implemented by the end of the year 2000 will allow the granting of compensatory payments to energy producers bound by such contracts. The system will also help to develop the Energy Exchange, which started at the beginning of the year 2000 its commercial activity with spot transaction.

In the gas sector, a restructuring programme adopted by the Government opens the first phase of transformation. Four new distribution companies and one exploration and production company will be established with Polish oil and gas company (PGNiG), the current monopoly, as owner. PGNiG will deal with transmission, imports and storage. The state remains owner of PGNiG. By the end of 2000 the Ministry of Treasury will perform an economic and financial analysis of these companies and prepare privatisation strategies.

In the field of solid fuels, in the first four months of the year 2000 Poland produced 9.5% less coal than in the same period in 1999 and the output costs fell by 10% in comparison with last year. In February 2000, the average price of one tonne of coal was for the first time above production costs. However, the debt of the coal sector continues to grow at an alarming rate. The total liabilities have already exceeded PLN 20.6 billion (over €5 billion). In order to respond to this situation the Government agreed in the reporting year corrections to the programme of “Reform of Hard Coal Mining Industry in Poland in the Years 1998-2002”. The amendments have been submitted to the Parliament in February and are now discussed in the committees. The main changes concern provisions for achieving the profitability of coal sales (postponed from 2000 to 2001) and for the entire mining industry (from 2001 to 2002). The privatisation of hard coal mines continued.

In the oil sector, November 1999 saw the privatisation process enter its crucial phase with the introduction of the shares on the Warsaw Stock Exchange and the London Stock Exchange of the new Polish Oil Concern (Polski Koncern Naftowy- PKN, created from the merger of two companies, the Plock refinery representing two third of capacity and the operator of service stations). In June this year further PKN shares were offered for trading on the Warsaw Stock Exchange. The privatisation of the second Polish oil company, Rafineria Gdanska SA (RG SA) is being prepared.

Poland created, through a recent amendment of the Energy Act, a legal basis for adoption of **energy efficiency acquis**. Secondary legislation should subsequently be enacted. The Sejm and the Senate adopted the ratification instruments related to the **Energy Charter Treaty**, while the President has to sign it. The ratification procedure is therefore near to completion.

Poland has no nuclear energy generation plants. The national atomic energy agency is responsible for other nuclear installations (research, medical) in Poland.

## *Overall assessment*

The level of alignment with the energy *acquis* and the preparation for EU membership varies greatly from sub-sector to sub-sector. The internal energy market, oil stocks and the coal restructuring programme need further attention. Two essential documents adopted by the Government during the reporting period - "Assumptions of the State Energy Policy for the period until 2020" and the programme for the restructuring of the Polish oil and gas companies - represent an important move forward in preparation of the energy sector for EU membership

As regards oil, current stocks are far from complying with EC requirements and remain a fundamental problem. The developed schedule of increasing oil security stocks needs to be thoroughly assessed. Furthermore, the creation of an independent agency for the management of the stocks should be considered.

The electricity sub-sector is the most advanced in relation to EC requirements with an already well established Energy Regulatory Authority as well as an on-going privatisation process, which despite initial delays has recently speeded up and the governmental schedule foresees its accomplishment by the end of 2002. The start up of the Energy Exchange is an important achievement on the way to creating a free electricity market. The compensation system recently proposed should bring to an end in the near future the constraints in electricity trade imposed by long-term agreements. However, in this respect, a clear timetable to remove price distortions for electricity and also for gas should be developed. In addition, for both the electricity and the gas sub-sectors, the Energy Regulatory Authority should be reinforced and its independence improved. The largest delay in restructuring remains in the gas sector. The appropriate implementation of the adopted restructuring programme will be crucial for a true restructuring of the sector, particularly as regards the adjustment of the present monopoly, the regime for the network access, the building of new gas interconnections, the modernisation of measurement systems and the improvement of storage capacity.

More complex is the situation in the coal and oil sectors. Both are in the middle of the restructuring process. The latest amendment to the coal sector restructuring programme, deferring its completion by one year, proves that there is still considerable risk of serious delaying of true restructuring. In the oil sector substantive progress was achieved in privatisation. However the privatisation of Rafineria Gdanska will be crucial for the restructuring of the whole sub-sector.

The implementation of such issues as energy efficiency and promotion of renewable energy sources remain neglected. Admittedly, governmental programmes and legal solutions prove that the importance of these issues for the sector as well as for the overall economic development is fully recognised, but any real progress requires financial involvement, which should be foreseen in the national budget.

In terms of administrative structures the energy sector falls under the supervision of the Ministry of Economy. The Department of Energetics is responsible for overall policy formulation and monitoring, security of supplies, as well as for specific aspects of power, gas, oil and renewable energy sub-sectors. The Department of Industry Restructuring is responsible for preparation and implementation of the restructuring programme in - among others- the coal sector. The task of creation and monitoring of rules governing the energy sector, such as licensing, schedules of prices, tariff control, and the development programmes is turned over to the Energy Regulatory Authority. It covers the electricity,

the gas and the heat sub-sectors. The nuclear energy sub-sector is supervised by the National Atomic Energy Agency. Preparations to Euratom safeguards should continue. The specific duties of implementation of restructuring programmes are fulfilled for the coal sector by the State Agency of Coal Restructuring and for the oil sector by Nafta Polska. The obligation of collecting and analysing the statistical data belongs to the Central Statistical Office and the Ministry of Economy (in practice the Agency of Energy Market).

Now that the administrative structure in the sector seems to be established, more attention should be placed on policy formulation and monitoring, in particular in such areas as energy security, strategic stocks, and transformation of oil and gas sub-sectors. In this context, considering the complexity of tasks for which the Ministry of Economy is responsible, the total of 32 persons responsible for all substantial issues in the sector seems not to be sufficient. Improvements are also required in such areas as collection and processing of statistical data.

### ***Chapter 15: Industrial policy***<sup>17</sup>

Poland continued to make progress in this area over the reporting period. Improvement of competitiveness of the Polish economy through modernisation and structural adjustment of industry and services is one of the key areas of the National Development Plan for the years 2000-2002.

Within Poland's overall **industrial policy**, priorities, as set out in the National Development Plan, include: increase of competitiveness of the restructuring sectors of industry and increase in innovation. In the case of innovation, the Polish government adopted *inter alia* a document: "Assumptions of innovation policy until the year 2002". The government is in the process of implementing its pro-export policy based on the document: "Assessment of the current situation and proposed activities for improvement of Poland's foreign trade".

Poland has continued with the process of **restructuring and privatisation**, which has been a major feature of Polish economic development over the last few years. The government's intention has been to privatise in areas of strategic importance to the economy so as to generate dynamic effects for the economy as a whole. This has been most apparent in the banking sector and financial services but the part privatisation in July of the telecommunications company TPSA is another example of this approach as is the growing focus on the energy sector.

The latest update to "Restructuring programme of the Polish **steel** industry" was completed in September 2000, in particular the investment plans and production capacities, foreseen for the sector, were revised. Progress has been made in altering the employment structure of the sector, the European Community has played an active role in support of alleviating any negative social impact of the restructuring process (*see section A.b. Relations between the European Union and Poland*). The problem of indebtedness of the sector has not yet been resolved and the issue of state aid to the sector remains outstanding. In addition individual viability plans remain unrealistic.

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<sup>17</sup> Developments in industrial policy should be seen in relation to developments in the context of SME policy (*see Chapter 16 – Small and medium sized enterprises*).

The restructuring of the **coal** sector is progressing, in particular in the field of social restructuring. This is a very difficult, important and costly reform for both the state and local communities. There are the first signs of improving performance from some mines.

Modifications were made to the commercial regime for **automobiles** in order to no longer give preference to simple assembly operations over complete production lines. Thus, the licensing system for imports of car bodies and chassis used for industrial assembly was replaced at the start of the year by a tariff-based system. Imports from the EC and other preferential sources benefit from a zero tariff.

Progress in the area of adjustment to the **regulatory environment** of the EC has only recently been made, notably with the entry into force of the new law on conformity assessment and other horizontal legislation. The considerable delay deprived Polish producers of gaining experience with regard to EC rules, notably in the field of certification, technical standards, product safety requirements and rules of competition, including state aid and competition (see *Chapter 1 – Free movement of goods and Chapter 6 – Competition policy*). It forced them to continue producing according to different rules for the national and EC market.

### *Overall assessment*

The principles of Poland's industrial policy are overall in line with the concepts and principles of EC industrial policy.

The underlying situation noted in the 1999 Regular Report remains unchanged in Poland. Poland's industrial policy as set out in the Industrial policy guidelines (1999-2002) is based upon the same broad principles which guide the EC's own policy. The policy endorses market-based rules of competition and free enterprise. The central objective of Polish Industrial Policy is to create a proper environment for industrial operators, to improve the international competitiveness of industry, and to facilitate and encourage its adaptation to the business environment and industrial structures in the EU.

Poland has achieved much in the way of creating an appropriate legal environment in which businesses can operate. This has been reflected by the rapid development of the private sector and in the flow of foreign direct investment to Poland. However, in some areas, there is, as was noted in the 1999 regular report, a clear discrepancy between the stated policies and practice. Policies are usually well defined but their implementation has been limited or often postponed. Innovation needs to be further promoted. Polish industry is still characterised by a rather low level of competitiveness.

This is especially true of the restructuring of the steel sector, which has been underway since the beginning of the last decade. These efforts have to date had little impact upon the structure of the sector. In the coal sector more attention should be paid to active social measures such as training, creation of new jobs outside the sector, preferably in small and medium-sized enterprises.

Privatisation of state-owned enterprises has played a very important role in industrial policy. Not only has it brought about ownership changes but also it has speeded up the restructuring processes in enterprises, bringing in strategic foreign investors with know-how, new technologies and new management techniques. Continuing and completing the privatisation process is important from the view of competitiveness of Polish industry. The clear dominance of sectoral policies to accompany restructuring measures in

different sectors should not lead to neglect of the importance of a horizontal industrial policy approach.

Further progress in the adjustment of the regulatory environment to that of the EC is needed.

### ***Chapter 16: Small and medium-sized enterprises<sup>18</sup>***

Poland has made further progress in aligning with the *acquis* during the reporting period.

It is undertaking a wide range of measures to assist SMEs. The government continues to implement the “Government Policy Guidelines for SMEs until 2002” with a budget of over €80 million. About a third of this amount is to come from foreign assistance funds.

The National Development Plan for the years 2000-2002 includes the development of SMEs as a specific priority. Apart from the Ministry of Economy, the Polish Foundation for Promotion and Development of SMEs is a decisive actor in implementing SME policy. It is foreseen that the foundation will be superseded by a new Polish Agency for Entrepreneurship Development.

The **definition** of SMEs was introduced into the Law on Economic Activity, which came into force on 1<sup>st</sup> January 2000. This definition is in line with the recommendation of the European Commission. The Polish government also adopted the regulation concerning collecting the statistical data in the field of the SME sector and tourism, which came into force in October 1999 (*see Chapter 12-Statistics*).

#### *Overall assessment*

Poland’s active policy towards SMEs conforms overall with the principles and objectives of EC enterprise policy.

The adoption of the law on economic activity will reinforce the progress which Poland has achieved in creating a legal environment in which businesses can operate. At the beginning of the transformation process, the Polish economy was dominated by large enterprises. Now, SMEs prevail and constitute the core of the economy employing over 7 million people, i.e. almost two thirds of the total employment in the economy. They account for half of Polish GDP. They also account for 50% of Polish exports and for over 60% of imports. These figures illustrate how important SMEs are for further development and competitiveness of the Polish economy.

The current attention paid by legislators to the SME sector does not always fully reflect this importance. Despite a wide range of efforts undertaken to implement the “Government policy guidelines until 2002”, the main focus of attention often remains large-scale enterprises usually in traditional heavy industries.

SMEs still suffer from problems with bureaucracy, red tape and - as was noted in the 1999 report - access to finance. It is difficult for them to meet the bank requirements in

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<sup>18</sup> Developments in policy towards small and medium sized enterprises should be seen in relation to developments in the context of industrial policy (*see Chapter 15 – Industrial policy*),

order to obtain access to credit and the cost of credit, when available, is much higher than for large enterprises. The National Credit Guarantee Fund and other small local guarantee funds do not meet expectations of the sector. The representation of the business community in Poland is very dispersed with a large number of organisations representing different interest groups and operating on different levels and speaking with different voices. In particular, the interests of SMEs are poorly represented.

The creation of the SME agency will be an important step in enhancing the profile of SMEs and ensuring that the issues which are of particular importance to them are placed on the political agenda notably further improving the business environment. To meet expectations it will, when created, have to be endowed with sufficient resources.

### ***Chapter 17: Science and research***

Poland has made further progress in this area since the last regular report.

Since it joined the 5<sup>th</sup> Framework programme (FP 5) in September 1999, the focus of Polish policy has been to increase Polish participation in the programme. To support this objective, the Polish administration has undertaken two main actions. First, the creation of a network of "Contact Points". The Contact Points are supervised and financed by the State Committee for Scientific Research (KBN). Second, financial assistance from the State Committee for Scientific Research for each project accepted within the 5<sup>th</sup> framework programme. This assistance may be up to 60-90% of the value of the EC grant received.

Within the KBN's Department of International Co-operation and European Integration, a Unit for European Integration has been created with the intention of facilitating the efforts described above. There are currently 9 staff engaged in EU-related work. At the moment there is no direct involvement of KBN (apart from financial support for the successful applications) in attracting Polish entities to apply for EC grants.

#### *Overall assessment*

Important changes and improvements have already taken place. The links of the research sector with the industry and small and medium enterprises need to be strengthened. As Poland is stronger in basic rather than in applied research, the improvement of co-operation between "academic" and "applied" science should take place in order to take full advantage of the possibilities offered by FP 5. Further reform of the administrative system will be needed, notably through reinforcement of the staff responsible for international co-operation within the Ministry dealing with research, and their operational resources.

For the further development of the sector it is essential to have an increase in the gross domestic expenditure in research and development as percentage of GDP which is relatively low (0.74% in 1999). Consequently, further efforts will be needed, including a substantial increase of the business activity in research (which amounted to 0.3% of GDP in 1999), if Poland wishes to take full advantage of the opportunities offered by the Community Programmes.

## ***Chapter 18: Education and training***

Since the last regular report Poland has made no progress in adopting the directive on the **education of children of migrant workers**.

Poland has continued to participate in a number of **Community programmes** (*see bilateral part A*). In addition, the Association Council adopted a decision in July 2000 allowing for participation in the second phase of the Socrates and Leonardo da Vinci programmes (2000-2006). In September 2000, a decision to allow participation in the new Youth programme, which includes European Voluntary Service activities, was adopted.

The education reforms of 1999 continue to be implemented although not without occasional difficulty. In January an amendment was passed to the Teacher's Charter. The bill introduces a new motivational career system, comprised of four grades: junior teacher, contract teacher, appointed teacher and certified teacher. Advancement in this hierarchy requires the attainment of higher qualifications, confirmed by passing an exam, and is linked to higher wages. The bill also provides for changes in regard to working hours.

The reform is linked to the process of implementing the National Strategy for Employment and Human Resources Development. It is important in this context that an integrated approach is followed concerning human resources development, which is well connected between national and regional level, and which takes into account skills development in rural areas with high unemployment and industrial restructuring.

### ***Overall assessment***

The limited *acquis* in this field remains to be adopted.

Poland is making good progress as regards its participation in Community programmes. All programmes have seen a considerable increase in their take up since the last regular report and are proving to be a useful tool for integrating Poland into EC networks and preparing for accession.

The real challenge is to fully implement the reforms of 1999 and ensure that the teaching profession retains a cadre of dedicated capable pedagogues. Average monthly salaries in the education sector as a whole in the second quarter of 2000 were PLN 1577.95 (approx. €400) and for the country as a whole PLN 1869.78 (approx. €465). Within the education sector teachers' salaries have historically been 10-15% above the average for the sector. The Teachers charter is intended to address this issue. This has been made more difficult following the budgeting error in the Ministry of Education, which resulted in the necessary funds to honour pay increases not being available.

## ***Chapter 19: Telecommunications and information technologies***

Since the last regular report, very substantial progress in the adoption of the *acquis* has been made.

With regard to the **liberalisation** of the sector, the government has continued the process of privatising the incumbent operator, TPSA, with the selection earlier this year of France



Telecom as a strategic partner. Also, it was decided to license competitors in the domestic long distance part of the sector and this was achieved in July this year.

In the field of **telecommunications regulation**, a great deal of progress in transposing the *acquis* has been made since the last report and the new act on telecommunications was enacted in July 2000. This law is intended to transpose, or to be the basis for transposition, of the current package of EC telecommunications directives. It establishes the Office of Telecommunications Regulation (URT) as a separate independent legal body with wide powers to regulate the sector and subsuming those of the former State Radiocommunications Agency. It also abolishes the exclusive rights presently enjoyed by TPSA and requires the company to operate under licence. It sets up a new regime for authorisation/licensing pursuant to the Licensing Directive and for interconnection pursuant to the Interconnection directive. Limitations are set on the pricing practices permissible for operators having significant market power and there are new provisions that support a policy to secure the availability of universal service in a competitive environment.

The extent to which the law aligns Polish legislation with the *acquis* remains to be determined. For example, it is not clear that the new law compels the provision of carrier selection facilities as soon as new entrants will be allowed to enter the market. These facilities, which are required by the *acquis*, are indispensable to achieving effective competition and any delay in providing them would be damaging to the market.

In order, in part, to address the Universal Service *Acquis*, in May 2000 the Ministry of Posts and Telecommunications elaborated the “Strategy for Development of Rural Telephony for years 2000-2004”. Studies and experiments in different ways of addressing the lack of telecommunications infrastructure in the rural areas have been carried out over the past ten years. The strategy document will now need to be updated to take account of the new telecommunications law.

In respect of the **postal markets** there has been no progress in terms of legislation adopted.

### *Overall assessment*

It is only since 1998 that Polish telecommunications policy has developed strongly along the lines of EC practice and the fixed communications sector still shows a legacy of relative under achievement, particularly in rural areas.

The foundations laid by the new telecommunications Act now need to be built on to secure complete compliance with the *acquis* particularly regarding cost-orientation, interconnection, affordability, universal service and the availability of carrier selection and number portability facilities. In the case of interconnection, the existing regime should, in the meantime, be implemented without further delay. Wherever possible, call-by-call carrier selection needs to be made available by the time long distance competitors are ready to begin operations.

Rapid progress is now needed with the remaining pieces of secondary legislation that are necessary for the market to be regulated properly and fully opened. In particular, the issuance of a TPSA licence will be a vital step towards equal treatment in the market. Moreover, much of the success of the reform of the telecommunications sector will

depend upon the capacity of the URT to oversee and regulate the sector in an efficient and independent manner.

Similar developments might have been expected to occur in the postal sector, but progress has been much slower and there is no regulatory agency for the postal sector.

### ***Chapter 20: Culture and audio-visual policy***

During the period covered by this report, Poland has made significant progress in aligning with the Community audio-visual *acquis*. However some further progress will be needed and Poland has only partially met the 1999 Association partnership priority of completing legislative alignment of the audio-visual *acquis*.

In March 2000 the Sejm adopted the amendment Act on Radio and Television Broadcasting which constitutes a step towards alignment with the *acquis*. However, no progress has been made in eliminating the restrictions for foreign capital. The law came into force in May 2000 and it will be some time before the full impact can be assessed.

In October, Poland ratified the Protocol to the Council of Europe Convention on Transfrontier Television, to which it is already a party.

#### ***Overall Assessment***

On the whole, Poland has made significant progress but has still to launch new legislative initiatives to achieve alignment with the Community *acquis*.

Issues that are not tackled in the new law may suggest that Poland could face some difficulties in fully taking on and implementing the *acquis* in the area of culture and audio-visual policy. Further progress and clarifications will be needed, in particular, with respect to jurisdiction, promotion of European and independent works, right of reply and some advertising provisions. Moreover the issue of foreign investment remains an area of concern. In spite of the new law, the legal situation remained unchanged in this respect; the new law continues in its Art. 35, to set a limit for the share of foreign capital in TV broadcasting stations at 33%. This lack of compatibility of the Polish system with important principles of the EC regime continues to constitute a major obstacle to foreign investment in this sector and to full EC harmonisation in this sector, in general.

Poland is a party to the Council of Europe Convention on transfrontier Television but has not yet ratified the protocol amending the above convention.

Poland's administrative capacity seems adequate with regard to the implementation of the *acquis* in this field. However, Poland has to improve its administrative capacity for implementing the cultural Community Programmes. A more active role of Poland remains hampered by organisational and staff constraints in the Ministry of Culture. The dissemination of information about the programmes to potential cultural circles has to be improved.

### ***Chapter 21: Regional policy and co-ordination of structural instruments***

Significant progress has been achieved since the last Regular Report.

Poland has made further progress regarding its **territorial organisation**. Following the State Administration Reform of 1999, the newly created self-government provincial (*voivodship*) and county (*powiat*) authorities became fully operational and started to carry out important regional policy functions in Poland in the course of the year. In addition, in June 2000, a provisional NUTS classification was adopted by a Council of Ministers Ordinance and this introduced a five level hierarchical structure consisting of 2489 municipalities (*gminas*) (similar to NUTS 5), 373 *powiats* (similar to NUTS 4), 44 groups of *powiats* (corresponding to NUTS 3), 16 voivodships (corresponding to NUTS 2).

Further progress was also made regarding the **legislative framework** with the adoption in May 2000 of a Law on Regional Development. This new law has laid down a number of principles for support towards regional development in Poland, notably regarding programming, management, and institutional structures and, in particular, introduces the concept of the regional contract (voivodship contract) as the fundamental basis for funding of regional development programmes throughout the country. The new law therefore constitutes an important step forward for regional policy development in Poland. Further clarification will however be needed on the implementation of the regional contract and its capacity to participate in Structural Funds operations in Poland.

Regarding **programming**, the Preliminary National Development Plan (PNDP) 2000 – 2002 was approved by the Government in December 1999. This is an intermediate step towards the development of a comprehensive and detailed National Development Plan 2000 – 2006 (NDP). A rural development plan is in the process of being approved by the Commission in view of funding from SAPARD. Poland and Germany have made progress with a joint programming document for Interreg and Cross border co-operation. While good progress has been made over the last year regarding programming, further intensive work in this respect will however be required in the near future as Poland has set itself the ambitious target of finalising its National Development Plan by the end of 2001.

In June 2000, a Council of Ministers Ordinance created a Ministry of Regional Development in Poland, but cross-border co-operation remains within Ministry of Interior's responsibilities. This new ministry should play a leading role in regional development programming. The Law on Regional Development has laid down the rules of **administrative coordination** between central and regional government regarding the government's policy for regional development, inter-ministerial coordination, distribution of competencies and application of the partnership principle, including the advisory role to be played by a Council of state regional policy. All this organisation is subject to practical administrative arrangements to be implemented.

The newly created ministry will also be in charge of **monitoring and evaluation** of programmes, but the latter remains largely at the planning stage for the moment and considerable efforts will be required to establish and develop an adequate monitoring and evaluation system in Poland. The national ISPA co-ordinator has been placed in the Office of the Committee for European Integration.

In **financial and budgetary management**, preparatory work is being undertaken by the Ministry of Finance in the form of a regulation which will create the framework for expenditure within the principles set out in the Law on Regional development and the Law on Public Finance. The Law on Public Finance regulates the principles of budgetary commitment and expenditure control allowing for multi-annual programming. However,

budgetary provisions for regional interventions have yet to be identified both at national and regional levels. Financial participation of sub-regional levels, which has been envisaged, should be carefully examined.

### *Overall assessment*

In the last few years, Poland has made significant progress in developing the necessary structures for the implementation of the Structural Funds after accession. However, some issues remain to be tackled. The Ministry of regional Policy, as well as the newly established inter-ministerial co-ordination structures need to prove their effectiveness in practice. Also, the division of responsibilities between the marshals and the Voivods needs further clarification.

Poland is gradually establishing the required instruments for the implementation of economic and social cohesion. Multi-annual programming still needs to be introduced and further intensive efforts will be needed in programming, notably as regards the National Development Plan. Further secondary legislation will be needed regarding budgetary and financial management. The administrative management and co-ordination structures are in place but need to become operational and considerable training will be required to ensure that these can function effectively.

As to regional **statistics**, data for the determination of eligibility are available for Objective 1 and INTERREG criteria. More importantly, the provision of data necessary to meet the ex-ante evaluation requirements has yet to be assured. For instance, at NUTS 2 level, very limited data exists concerning social indicators and structural business statistics. Data seems to be only available for employment statistics.

### *Chapter 22: Environment*

There has been little legislative progress in this area over the last year.

With regard to the integration of the environment into other policies, over the last year Poland has started to implement the action programme for sustainable development adopted by all Baltic Sea countries in the framework of “Agenda 21 for the Baltic Sea region”

In the field of **horizontal legislation**, the Act on Environmental Impact Assessment and on Access to Information has been adopted by both chambers and should shortly be signed by the president. The draft Act transposes the corresponding EC Directives. Transposition of the environmental impact assessment directive is a short-term priority in the 1999 Accession Partnership.

In the area of **waste**, a Regulation listing types of waste which producers can deliver to physical persons for use entered into force in July 2000.

In the field of **water quality** an Act on Fertilisers has been adopted, which partially transposes the Directive on water pollution caused by nitrates from agricultural sources.

In the field of **nature protection**, preparations to establish the NATURA 2000 network have started with some delay while on the other hand some of the protected areas have been extended.

As regards **industrial pollution control and risk management**, the Ministry of Environment has established a working group on Best Available Techniques (BAT). This will constitute the basis for a future BAT unit.

A ministerial Regulation has been adopted in November 1999, partially transposing the directives on the contained use and the deliberate release of **genetically modified organisms**.

In the field of **radiation protection** (*see also Chapter 14- Energy*), the National Atomic Energy Agency has recently completed a two-year Strategic Governmental Programme on radioactive waste and spent fuel management in the country. This has been conducted in the light of the present situation in Poland and also a possible adoption of a nuclear power programme in the future.

As regards administrative capacity at central level, most EC issues are centralised in the European Integration Unit in the Environment Ministry. The Ministry of Environment employs some 300 persons. The Ministry is composed of fourteen departments, two of which answer directly to the Minister (political office and secretariat). The Ministry of Environment has displayed some shortcomings as regards the administrative capacity to initiate and co-ordinate all EC-related issues in the field of the environment. This also applies to the Unit for European Integration, which centralises most EC issues, but it is now fully staffed. A special unit for financial assistance has been set up within the Department for European Integration but this is not yet official. This unit will primarily deal with Phare and ISPA. Its staff amounts to eight officials.

Implementation of environmental policy is entrusted to the regions (voivodships), counties (powiats) and municipalities (gminas). The division of competence between the voivodships and the powiats depends on the nature of the activity concerned. Voivodships have responsibility for all activities which are particularly harmful to the environment. The powiats and, in certain circumstances the voivodship, are responsible for issuing environmental permits. The municipalities (gminas) bear the main responsibility for carrying out decisions and have direct responsibility for waste management, in particular for municipal waste.

Enforcement of environmental rules is entrusted to the Inspectorate for Environmental Protection which comprises the Chief Inspectorate and 16 Voivodship inspectorates, reorganised from the 49 former voivodships. The Voivodship Inspectorates employ some 600 environmental inspectors. Training is needed as to the requirements of EC environmental directives. During 1999, Voivodship inspectorates conducted 16.000 control among 13.450 permit users. They imposed 6800 fines for non-compliance with environmental protection regulations.

Poland has not improved its environmental monitoring infrastructure. Voivodships are responsible for monitoring but the voivodship funds have not granted priority to monitoring infrastructure although this was identified as a shortcoming in the 1999 Regular report.

Poland's environmental investments have remained stable at some €2 billion, corresponding to 1.7% of national GDP. The National Fund for Environmental Protection has continued to promote investments primarily in air protection and water, but without a comprehensive strategy for implementing EC directives. The main financial instrument for environmental investments are now the voivodships funds. These primarily operate

through soft loans. With ISPA, foreign assistance will amount to some 10% of total environmental investment.

### *Overall assessment*

Poland has achieved very limited progress in aligning with the EC environmental *acquis*. However, a wide range of environmental laws has been prepared and many of these are now in Parliament. Their adoption will significantly improve Poland's compliance with EC environmental directives – which to date remains at a low level. However, given the sheer quantity as well as the economic implications of these laws, further delays seem likely. It is also important to carry out detailed compliance checks of these laws in order to ensure full transposition of EC environmental directives.

Poland has not yet adopted implementation programmes in the field of air, waste, water and industrial pollution. The drafting of such programmes is a short-term priority in the 1999 Accession Partnership with Poland. Current preparation of these programmes proves to be difficult, largely due to the lack of information and data. Also, Polish authorities consider that a legal basis (through the adoption of the various Acts) is necessary before implementation programmes can be prepared. Further delays in implementation are therefore to be expected.

Poland's - considerable - environmental investments should to a larger extent focus on the concrete implementation of EC environmental directives, based on a comprehensive investment strategy.

In general, the administrative capacity at national and regional level remains a matter of concern. The Ministry of Environment needs to be strengthened, as does the capacity of voivodships and powiats to implement EC environmental directives. At the central level, co-ordination between ministries needs to be improved. Whilst the effects of Poland's new territorial organisation are still to be assessed, the administrative capacity of voivodships and powiats to efficiently implement EC directives raises some question marks: They are financially weak and lack knowledge about EC requirements. The municipalities (gminas), with independent financial means collected largely through local taxes, also need to speed up their preparations for EC environmental policy, in particular as regards training.

Poland should also further develop its monitoring capacity.

### *Chapter 23: Consumers and health protection*

Since the 1999 regular report considerable progress has been made in the area of consumer protection.

The Act on General Product **Safety** was adopted in January 2000 and came into force in September 2000. The Act transposes into Polish law the EC Directive on general product safety and contains legal delegation for the Council of Ministers to issue implementing regulations transposing further Community legal acts (toy safety, dangerous imitations, safety and names of textiles, checks on conformity of products imported from third countries, establishing systems of rapid exchange of information on dangerous products and monitoring consumer accidents).

Furthermore, in March the Parliament also passed the bill on the protection of consumer rights and on the liability for damage caused by a dangerous product. The new law transposes the following EC regulations into Polish law: Directive on liability for defective products, Directive concerning contracts negotiated away from business premises, Directive concerning unfair terms in consumer contracts and Directive on distance selling. The Act came into force in July 2000.

The Act amending the Act on combating unfair competition was adopted in March 2000 and came into force in July 2000. The Act is aimed at transposition of the EC Directives on misleading and comparative advertising and contains extension of measures protecting consumers from acts of unfair competition, in particular misleading advertising.

Special civil-legal departments were established in order to settle small claim civil cases, including claims resulting from warranties or quality guarantees

There has also been progress as regards the development of an effective system of **market surveillance**. At the legislative level, secondary legislation has been adopted which will enable the act on Trade Inspection to be implemented. Practical efforts are also being put in place to aid and inform the consumer. These range from the publication of independent test results, through dissemination of leaflets to the creation of consumer advocates at the regional and sub regional level. There are currently 180 such advocates. Their primary function will be to act as an initial contact point for consumers and as a conduit to pass information to the Office for Competition and Consumer Protection (OCCP) about infringements of consumer interests, which may lead to investigation by the Trade Inspection. As to the market surveillance system, the OCCP became an observer in the Transitional Rapid Exchange of information (TRAPEX) system.

In 1999 the Consumer Policy Department (9 employees) and regional offices of the OCCP received 1467 complaints, requests for advice etc. The OCCP have sent 132 summons for abandoning acts of unfair competition, 86 entities complied with the summon, in 46 cases investigations continue, in 5 cases the OCCP addressed the courts. Acts of unfair competition consisted in most cases of inadequate marking of products, misleading or prohibited advertising, imitation of another product and others.

In April 2000 the Council of Ministers approved the Governmental Programme on Consumer Policy for the years 2000-2001 and Report on the implementation of the Programme for the years 1998-1999. The main objectives of the new Programme are; enhancement of the consumers' health and safety, enhancement of economic safety, further adjustment of the Polish consumer protection law to EC standards, improvement of the market surveillance system, provision of legal and financial conditions for development of consumers' movement and ensuring universal access to consumer information and education. These objectives are an accurate summary of the main challenges which Poland faces in the effective adoption and implementation of the *acquis* in this field.

### *Overall assessment*

Poland has achieved a high level of alignment with the *acquis* in the area of consumer protection.

In order to fulfil tasks connected with creation of legal and institutional bases for a market surveillance system, as well as proper functioning of the consumer protection

system in general, it is still necessary to strengthen the competence and potential of the OCCP by legislative changes and by increasing resources both human and budgetary. Further effort is still required in dissemination of information of new legal regulations among the staff of the OCCP, ministries and other governmental institutions, courts, entrepreneurs and consumers.

### *Chapter 24: Co-operation in the field of justice and home affairs*

Since the 1999 regular report, progress has been noted in general in Poland in all the areas covered by co-operation in the field of justice and home affairs". Nevertheless the requirements of the sector are very large and it is only more recently that the size of the task which has to be accomplished has been recognised. The budgetary implications are being calculated more precisely within the emerging "strategic approach" which covers particularly the border guard and the police.

In the area of **data protection**, Polish efforts have been noted during the reporting period to improve the independence of a personal data supervising authority, called the general inspection for personal data protections.

As far as development of the **visa policy** is concerned, the Polish government has now authorised the Minister of Foreign Affairs to start bilateral discussions on the cancelling of visa free travel from Russia, Belarus and the Ukraine. This is an important policy signal, particularly in respect of the Ukraine where currently neither visa nor "voucher" system is required. In line with this, progress has been made over the past twelve months in the further strengthening of administrative capacity so as to be able to align the Polish visa regime. New consular offices have been opened in Russia, Armenia, and Mongolia, and three have been opened in the Ukraine. Upgrading of offices has also taken place in Kaliningrad, Minsk and Brest on the Belarus border. Computerisation of the visa issuing process has begun and is being extended to all consular offices, which will allow for positive vetting controls at the border posts which are already equipped with computerised passport reading technology.

Strengthening **border control** remains a key task to be accomplished in the Justice and Home affairs area in the context of accession. The external pressure on Poland's borders continues to increase. Recent data confirm the steady increase overall of border traffic in Poland in 1999 and early 2000 particularly from the east.

A great stride has been taken this year, in the development of an overall strategy for border management which covers all the agencies active at the border. The Ministry of the Interior as chair of the inter-ministerial group responsible for guiding Border management policy, drafted a comprehensive goal orientated strategy including contributions from all the agencies and indicated the matching budgetary requirements. The strategy, decided by the government in June, also provides for crisis management.

In parallel, border control has been marked in the last 12 months by sustained efforts with a view to making the border guard more efficient, mainly by means of reforming its internal structures, improving its operational efficiency, moving ahead with the building programme and providing additional equipment to the eastern Polish border. Ongoing annual "institution building" support from EU Member States has also been recognised as crucial and the first programme for the strengthening of the eastern border started in October 1999 with a comprehensive situation analysis.



Key indicators seem to suggest that the efforts being made are proving effective since the level of illegal migration continues to fall, down by 17% compared to 1998 on the Eastern border. A similar trend can be observed as to the number of illegal aliens admitted in Poland from Germany under the readmission agreement, down by 27% compared to 1998. These indicators are also confirmed by the decreasing size of the individual groups being apprehended.

Regarding **migration**, during the reporting period staff and financial resources have been allocated to strengthen the administrative capacity.

The **asylum** arrangements over the period were enhanced by the establishment of the second instance board.

In the field of **police co-operation and fight against organised crime**, over the period the need to combat organised crime and economic crime has been widely recognised as a priority in Poland. Whilst the overall average annual rate of increase in crime continues to rise the number of criminal acts of severe physical injury against individual persons actually appeared to decrease, judging from 1999 figures. However, the use of automatic weapons seems to be increasing, as is juvenile crime.

Both economic crime and organised crime are on the increase. Recent developments suggest that new criminal mechanisms are being used in the field of defrauding public funds on large scale (VAT, evasion of fiscal levies on sales of sensitive products as fuel, electronics, cigarettes, alcohol, vehicles). The loss to the state as a result of organised crime was estimated at some €160 million in 1999.

Following severe criticism from the parliament of the lack of strategy in fighting organised crime, a comprehensive analysis was produced in May 2000 on the Security Situation with recommendations as to where improvements needed to be made. The report is quite openly critical in a number of areas, citing for example the lack of co-ordination between law enforcement services, lack of follow through on plans and the problems of corruption. The key recommendation is the setting up of a national criminal intelligence service which would serve the dual purpose of co-ordinating services and sharing information – whilst incidentally forcing the pace of upgrades in the technology of all the services concerned. In parallel the report recommends improving police salaries in particular by rewarding the acquisition of skills. The government accepted these recommendations and took action in July to increase police salaries by an average of 20%.

The police services continued to upgrade their technology and in each of the Voivodships, the main high-speed telecommunications nodes are coming on stream. In the Central Criminal Laboratory, the Fingerprinting System finally became fully computerised in 2000. Budgets, including assistance from the EC, have been allocated to link on the regional Voivodship offices. This has important implications both for international police co-operation and for significantly improving “scene of crime” forensic output.

In parallel the police have now merged the organised crime and narcotics departments so as to provide for a strong single centralised structure to fight against organised crime with 1 600 staff from the outset.

As far as the **fight against fraud and corruption** is concerned, recent reports suggest that corruption across Poland's public administration as well as across Polish society at large has reached a high level. The government is developing a range of measures to deal with the issue. One of the first steps has been the adoption of anti-corruption legislation which allows for the ratification of the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of proceeds from crime. The 1997 OECD Convention on Combating Bribery and Corruption in international business transactions has been ratified. The Council of Europe Criminal Law Convention on Corruption has been signed but not ratified while the Council of Europe Civil Law Convention on Corruption has not yet been signed. (*see also Political criteria*)

In the field of **drugs**, limited progress has been made.

In spite of the higher degree of detection, as indicated by the liquidation early 2000 of 7 clandestine labs producing amphetamines, it is estimated that there are currently between 10 and 20 clandestine amphetamines labs operating in Poland. Similarly, the amount of drugs seized in 1999 from illegal sales has increased to reach a total value of some €4 million.

In terms of demand reduction, the government adopted in September 1999 a "National programme for counteracting drug addiction" in Poland for the period 1999-2001. This programme outlines a number of priorities in the field of prevention as well as on community programmes and co-operation between local authorities and NGOs. This strategy gives a detailed outline of the tasks and responsibilities of the various players at the level of demand reduction (prevention), supply reduction (repression and prosecution) and policy development.

In the field of prosecution and supply reduction, a significant change took place at the level of Headquarters of the police with the merger between the Central Narcotics Bureau and the Organised Crime Bureau on April 2000. This move was motivated by the need to make the structure more efficient and to enhance co-operation between the national HQ level and the regional levels of the 16 Voivodship and 400 field officers.

In respect of **money laundering**, despite much preparatory activity and the adoption of the law allowing for the ratification of the 1990 Council of Europe Convention, the administrative capacity is still not in place to deal with this key element.

As regards customs co-operation there has been no progress in aligning with the *acquis* during the reporting period.

In respect of **judicial co-operation**, the ratification procedure of Protocol no. 7 of the European Convention on Human rights began last March and the Polish Parliament adopted in April the Act on ratification of Protocol no. 6 of the European Convention on Human Rights.

### *Overall assessment*

Some progress has been made in alignment with the *acquis*. Considerable further efforts are required as regards the reinforcement of the necessary infrastructures in order to implement this legislation. This is of vital importance as Poland's geographic position and long borders make it particularly vulnerable to penetration by criminal organisations. Also the rapid growth in the criminal use of sophisticated technology continues to raise

the standard which the Polish law enforcement agencies have to attain. Bearing in mind the high investments required, the organisational implications and the fact that the rate of progress needs to be speeded up significantly, both sustained funding and political commitment will need to be guaranteed.

A serious effort must now be undertaken to deal with corruption comprehensively, since it is recognised as a major problem and barrier to improving administrative efficiency and is hampering the institution building.

In respect of **data protection**, the legislative framework and administrative capacity exist, including a well staffed Supervisory Authority, but they are limited in their application in so far as law enforcement, particularly against organised and international crime, is carried out also by the State Security Office. Ratification is required of the 1981 Council of Europe Convention on the Protection of Individuals with regard to the Automatic Processing of Personal Data, which was signed in April 1999.

**Visa policy** is moving towards alignment though a process of gradual adoption in parallel with the establishment of the necessary administrative capacity aimed at sustaining co-operation at the future external border.

**Border control** is gradually improving, and a major step forward was made with the adoption of the Border Management Strategy. However a number of challenges remain.

Border management is still strongest and most efficient at the Polish-German frontier both at official crossing points and along the green border where joint Polish-German patrols are active. On the future external border, at those locations where border inspection posts have been completely refurbished with modern buildings and equipment, checking seems to be carried out adequately. However, this improvement has yet to be made at all crossing points and railway crossings deserve particular attention. The Border Management Strategy now needs to be implemented with sufficient resources and taking into account the advice and recommendations which are emerging though close co-operation with the EU Member State services through bilateral contacts and “twinning” arrangements. Control of the future green and blue external borders still needs to be greatly improved. Further improvements will also be needed with regard to the data processing needs for accession to Schengen. The development of a National Schengen Information System, when compared to the current state of play, will require considerably greater resources if it is to be completed by the dates of accession being suggested by the Polish government.

In respect of human resources, more officers have to be transferred to the future external borders, there needs to be a review of salary levels and organisational structures revised so as to achieve the necessary high level of professionalism throughout and sustain specialist management resources. Amendments to the law on the border guard support the developments but will, as they come into force, place additional burdens as the geographical area of competence of the border guard is extended, and the use of conscripts phased out.

In respect of **migration**, Poland continues to work with the EU Member State services and has established the basic legislation and institutional capacity.

With regard to **asylum** also, the basic legislative and administrative structures in place are gradually being adapted to take account of the growing numbers of claimants and

future permanent residents. Poland should continue to be encouraged to ratify the Dublin Convention. For the future, in view of the increasing numbers involved, some emphasis will need to be given firstly to the integration into society of the asylum seekers positively assessed and secondly to those claimants who are rejected.

In the field of **police co-operation and fight against organised crime**, the challenges are even greater and although some progress is being made, the scale needs to be stepped up considerably. The Security Report is a good starting point and shows the direction but it needs to be taken further towards a wide and comprehensive strategy for improvement including the upgrading and the bringing of the various databases together for the purpose of criminal intelligence gathering and processing. Funding has been erratic in the past and needs to be increased and sustained with justification based on the considerable revenue which is currently lost owing to inadequately resourced law enforcement. Currently recruitment to the Police Force is still hampered by inadequate pay and conditions. Despite this, good candidates can still be found although largely outside Warsaw so that the Police Force is relatively young and potentially open to new ideas and approaches.

Of particular concern currently is the dramatic rise in economic crime which is becoming increasingly sophisticated but for which the police capacity is still quite inadequate. Considerable progress in this field in particular will be needed so as to properly support the needs of the future internal market.

The proper co-ordination of the various law enforcement services is still of some concern and the continuing involvement of the State Security Office hampers progress in international police co-operation.

Also crucial to the above developments in the uniformed services has been the gradual strengthening of the policy development and guidance capacity of the Ministry of the Interior where specific offices are now established with responsibility for law and order and border management.

A very positive sign is that more emphasis is being placed on contacts with the general public and making police stations buildings less sinister so as to emphasise the “service” aspects. In a public opinion survey of September 1999 (CBOS), about half of those persons asked considered that the police worked well.

In respect of combating **drugs**, although significant progress has been achieved in preparing and presenting the relevant legislation on the prevention and prosecution of money laundering, legislation has not yet been adopted by the parliament. Secondary legislation is also still under discussion concerning the establishment of the Council for Counteracting Drug Addiction foreseen under the law of 1997. Also a preventative approach has yet to emerge since the issue is seen rather more from its purely criminal aspects.

Poland continues to be an important drug producing country, mainly of synthetic drugs and amphetamines, as well as a consumer country. The general situation in terms of drug-related organised crime is marked by a steady increase of its share within organised crime activities and criminal offences. Organised crime groupings dominate narcotics activity by means of producing high-quality amphetamines for both export and domestic consumption.

While the new arrangement of combining Drug Combating with combating Organised crime may improve law enforcement efficiency, some have expressed concern that the resources currently dedicated to fight drug-related organised crime may be diverted to address other organised criminal activities. The most important problem is associated with the lack of internal and inter-ministerial co-ordination between the different actors dealing with drugs at the level of demand reduction, supply reduction and policy development; among the different actors are the Police, the Public Prosecutor's office and the Customs Inspectorate for the repression, the Ministry of Health, the Ministry of Finance for prevention and the PM's office for policy development.

As far as the **fight against fraud and corruption** is concerned, a serious effort must now be undertaken to deal with corruption comprehensively, since it is recognised as a major problem and barrier to improving administrative efficiency and is hampering institution building. Concrete steps must be taken to adopt the necessary legislative framework (*see also Section B.1.1. – Democracy and the rule of law*).

In respect of **money laundering**, progress here is urgently needed since a number of issues need to be resolved during implementation such as the independence of the Financial Control unit, its relationships with other law enforcement bodies and training, especially since there are too few specialists familiar with complex financial transactions within existing JHA agencies.

Current draft legislation should provide for: the setting up of a Financial Information unit; a system of prevention of money laundering; the duty to notify any transaction exceeding 10,000 Euros; fines and sanctions in the case of failure to notify such transactions.

The purpose of this legislative package is to bring the Polish system in line with the *acquis* in particular in terms of the confiscation of assets indirectly connected to criminal offences (art 45), international co-operation and mutual assistance in exchanging information, recognition of foreign judgements concerning seizure, forfeiture and confiscation of assets and punishment of corruption of public officials.

Once adopted, the law on money laundering will locate the financial information unit within the Ministry of Finance. The unit will be headed by a General Inspector to be nominated at political level with the ranking as a under-secretary of state.

On **judicial co-operation**, Poland needs to take further steps in order to adopt all the international conventions which constitute the *acquis* in this field, notably the Joint action of December 1998 making it a criminal offence to participate in a criminal organisation and on Joint Action of February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children, the 1970 European convention on the international validity of criminal judgements and the 1972 European convention on the transfer of proceedings in criminal matters.

## ***Chapter 25: Customs union***

Since the last regular report Poland has, to a large extent, adapted its legislation to the *acquis*. A significant step forward has been the government's adoption of a customs business strategy in October 1999. This sets a framework for preparatory work still to be undertaken to render the customs services fully EC compatible. To date much remains to

be done as regards both the implementation of legislation and the reinforcement of the administrative capacity.

Regarding further adoption of the **EC Customs Code and its implementing provisions**, Poland made some progress. Poland has introduced a regulation in order to abolish all customs fees with effect from end of 2001. In the interim, some fees have been eliminated, whereas others are still being applied in contradiction to Poland's obligations under the Europe Agreement. The lack of transparency which on occasion surrounds the application of the customs code in specific cases is also the source of some concern; this is particularly the case as regards the reclassification of products.

Regarding the pan-European system of origin, Poland has agreed to the amendments to the system which will come into force in January 2001.

Some steps have been undertaken to increase the use of simplified customs procedures. Although an increase of authorisations for simplified procedures has recently been achieved, the total number of companies which enjoy this privilege, around 700, remains small. No legislative progress has been achieved in areas identified in the 1999 regular report as having seen little progress notably: duty relief, procedures with economic impact, free zones and dual use of goods. Some progress has been made in Poland's accession to international conventions.

As far as the **administrative and operational capacity to implement the *acquis*** is concerned, some progress can be noted. With the start of the implementation of the business strategy, important efforts have been undertaken in various fields to upgrade the customs services. A wide range of problems remain to be resolved. The most visible among those is probably the continuous problem of long waiting times at borders, which Poland, being a transit country of considerable importance on the West-East-axes of Europe, has to tackle.

Regarding human resources, implementing provisions to the new Law on Customs Service which establishes a particular status for customs officials, are being applied. Staff training schemes have been developed. Corruption continues to be a serious problem. Positive steps in this regard have been the June agreement between the central board of customs and the office of State protection on co-operation in fighting customs fraud, and in September the entry into force of the Code of conduct for customs officials.

Efforts have been undertaken to improve the administrative co-operation with other services. The customs strategy for border management has been included into the overall integrated border management strategy and agreements between customs services and the border guard and police have been renewed during the last year.

Actions are also being undertaken to improve the performance of the customs services in tasks relating to the Common Agricultural Policy. Regarding computerisation, the integrated customs tariff system, compatible with the TARIC system, is in the final stage of implementation. Polish customs have undertaken considerable efforts to co-operate with the public, especially by institutionalised contacts with hauliers and others in the private sector. The implementation of the IT strategy for customs which was adopted in April 2000 has commenced but has not yet borne fruit.

### *Overall assessment*

With the entry-into-force of the Polish Customs Code in January 1998 and additional alignment measures since then, Poland has achieved a relatively high level of legislative alignment, whereas its administrative capacity is lagging behind.

Alignment with the *acquis* still has to be completed, in particular as regards duty relief, customs procedures with economic impact, free zones, dual use of goods and clearance fees. These shortcomings, already identified in previous regular reports, should be addressed as soon as possible.

The administrative and operational capacity of the customs services remains an area of concern. Poland should continue and possibly increase its efforts to implement the business strategy, in a timely and efficient manner. In this context, it is of utmost importance that Poland in the forthcoming years provides sufficient budgetary own resources to facilitate this implementation. As regards shortcomings such as corruption and on-going frequent staff changes, particular attention should be paid to guarantee permanent employment which is independent from political interference, and a stable staff structure in the Polish customs services.

### ***Chapter 26: External relations***

As regards the **Common commercial policy**, since 1999 there has been some progress in alignment of Poland's Commercial policy with that of the EC, for example the replacement of the licensing regime in the automotive sector with a tariff based system. Poland's applied tariffs currently average 16.4% (MFN) on all products, 36.1% on agricultural products, 18.3% on fishery products and 10.9% on industrial products. By comparison, the EC tariffs currently stand at 5.3% on all products, 9.4% on agricultural products, 12.4% on fishery products and 4.2% on industrial products.

Poland is a full and active member of the WTO, a point amply demonstrated by the Trade Policy review of Poland which took place in July 2000 and where the chairman commented "members (also) appreciated Poland's overall commitment to liberal trade and investment policies." Poland needs to align itself with the EC plurilateral and sectoral obligations upon accession. As regards these obligations, Poland is an observer to the plurilateral WTO Government procurement agreement.

With regard to export credits, an amendment to the Act on export contract insurance guaranteed by the State and a draft law on officially supported export and medium term and long term credits have been adopted and are expected to enter into force within 2000.

As regards **bilateral agreements with third countries**, Poland and Turkey concluded a Free trade agreement on 4 October 1999 which entered into force in May 2000. There has been no progress in discussion towards an FTA with Morocco. Otherwise, Poland held neither consultations nor negotiations on new trade agreements in 1999.

Within CEFTA, the member countries, including Poland, signed the Additional Protocol No. 8 on the updated version of the Pan-European cumulation of origin of goods.

Poland has not yet adopted legislation on the control of dual-use goods and technologies.

In 1999 Poland has started collecting tariff and trade data flows in line with the obligations of WTO agreement article 24.

In the field of **development policy and humanitarian aid**, Poland is an active member of the OECD and it is adapting its development practices to the principles laid down by the Development Assistance Committee.

### *Overall assessment*

Where alignment with the Community *acquis* on commercial policy is necessary some progress has been made in the field of export credits.

The EU and Poland have established a framework for co-operation regarding WTO issues both at ministerial and at departmental level. Poland has been supportive of EU policies and positions within the WTO framework, most recently through its Chairmanship of the last Ministerial meeting between the EU and the Candidates countries which took place in July 2000. As regards the new round, Poland concurs with the EU on the need to launch a comprehensive trade round as soon as possible and shares the view that the results of work under the built-in-agenda would be less substantial in its absence.”

Poland is a member of the plurilateral Agreement on Trade in Civil Aircraft and is a signatory to the Information Technology Agreement. However, Poland has not yet acceded to the WTO Government Procurement agreement.

As regards the Agreement for Textiles and Clothing, Poland needs to use the third stage of integration under the ATC to align its integration programmes with those of the EC, while notably avoiding integrating products not yet integrated by the EC. Also, further co-ordination is necessary in order to consolidate the adjustment of the Polish list of commitments in GATS in line with the EC commitments.

In addition to the FTA concluded recently with Turkey, Poland is a member of CEFTA and holds Free Trade Agreements with Estonia, Latvia and Lithuania, the EFTA countries, and Israel. Progress has been made in aligning with the EC’s international trade obligations. Poland should continue to keep the Union fully informed about existing trade agreements or negotiations aimed at the conclusion of any new trade agreements with a third country.

Poland will need to bring in conformity with the *acquis* the Bilateral Investment Treaty concluded with the US. While Poland has committed itself to meeting this obligation, it has not taken specific steps to this end.

Some progress has taken place in the field of export credits. Poland follows the OECD consensus; where medium and long term credits are granted, further alignment with the *acquis* is necessary.

Poland’s alignment with and future participation in the common commercial policy is administered by the Ministry of Economy. The administrative infrastructure which needs to be in place as regards customs services is addressed under the chapter relating to the Customs Union (*Chapter 25 – Customs union*). Development and humanitarian aid are administered by the Ministry of Foreign Affairs. At this stage no specific issues are to be highlighted in terms of administrative capacity in addition to the analysis presented above



in this report (*B. Criteria for membership - 1.1. Democracy and the rule of law – The executive*).

### ***Chapter 27: Common foreign and security policy***

The regular **political dialogue** established by the Europe Agreement is proceeding smoothly and Poland continues to orient its foreign and security policy towards the Union. It continues to participate actively in the framework of the Common Foreign and Security Policy (CFSP), including the meetings at the level of Political Directors, European Correspondents and Working Groups.

Poland has shown a keen interest in the development of **European Security and Defence Policy** as part of CFSP and has actively participated in the exchanges in this context with the EU, in EU + 15 format (i.e. non-EU European NATO members and candidates for accession to the EU) and in EU + 6 format (i.e. non EU European Members of NATO).

As regards **alignment with EU statements and declarations**, Poland has regularly aligned its positions with those of the Union and, when requested to do so, has associated itself with the Union's joint actions and common positions. During the course of 1999 Poland associated itself, together with the other CEECs, with a common action of the EU concerning the contribution of the EU to the fight against accumulation and the destabilising proliferation of lightweight and small calibre firearms. This was made possible by the implementation in September 1999 of the September 1999 ordinance of the Council of Ministers on prohibition and limitations on foreign arms trade. It also associated itself with 11 EU common positions, including 3 on the Federal Republic of Yugoslavia. In the year 2000, as of 30 June, Poland has associated itself with 3 EU common positions.

In terms of political dialogue, Poland participates actively in regional co-operation forums as the Council of Baltic Sea States, the Visegrad group and the Central European Initiative. Of particular importance is the Polish-Ukrainian Standing Conference on European Integration. To date 4 meetings have taken place alternatively in Kiev and Warsaw. Another important area of dialogue is with the Russian enclave of Kaliningrad especially as regards cross border co-operation. A particular effort is made to ensure contact with the regional authorities.

Poland introduced a secure communications system in November 1999. The introduction of this system facilitates the effective exchange of information between Poland and EU member States and candidate countries on CFSP related matters, as well as speedy alignment with EU declarations, démarches and common positions.

#### ***Overall assessment***

The overall progress achieved since 1997 in alignment with the *acquis* in the CFSP is satisfactory. As the *acquis* in the field of foreign policy and security develops further so Poland should maintain the orientation of its foreign policy in line with that of the Union.

Poland adhered to the EU Code of Conduct on Arms Exports, but there is concern that it needs to make more effort to ensure implementation of its criteria.

Following the Kosovo crisis, Poland showed active support for and interest in the Stability Pact. It continues to participate in the SFOR peacekeeping operations in Bosnia-Herzegovina and in KFOR in Kosovo with over 1600 personnel involved in these two operations. Furthermore the UN appointed ombudsman for Kosovo is a Polish national.

Poland works hard to maintain and foster good relations with its neighbours, especially along its eastern border.

The administrative capacity to implement the provisions relating to CFSP is the responsibility of the Ministry of Foreign Affairs. The current structure does not contain a position equivalent to that of the political director. The role of political correspondent also differs from that of EU counterparts being a horizontal function ensuring coordination between the 6 political directors each of whom have sector specific responsibilities. It is foreseen that this structure will change, budget resources permitting.

### ***Chapter 28: Financial control***

During the period covered by this regular report, some progress has been made in this area.

In relation to the **control measures relating to Own Resources**, Poland has put in place this year a business strategy for the further development of the customs authorities and an integrated border management strategy and is currently working on a blueprint for the tax administration, which, when implemented, should enhance the operational and administrative capacity of these units. Poland also established a customs inspectorate in 1999 which has already been able to make important recoveries but which demonstrates at the same time that the customs control procedures will need further strengthening both in terms of computerisation and accounting systems and the further development of its human resources base.

**Regarding structural action expenditure**, Poland adopted a Law on Regional Development in May 2000 and, together with the Public Finance Law, referred to above, this has laid down the principles of the reception and administration of support funds provided by the European Community. But further implementing regulations are required laying down further detailed rules and procedures for state budget funds and funds from foreign sources. Poland has also designated this year, through Council of Ministers ordinances, the units, departments or agencies that will be in charge of ISPA and SAPARD and the National Fund at the Ministry of Finance became fully operational this year. Considerable further efforts are required regarding the accreditation of the SAPARD paying agency.

In the field of **protection of EC financial interests**, Poland has nominated the customs inspectorate as the single contact point for OLAF and a high level anti-corruption advisory group has been established which is preparing an anti-corruption strategy

### ***Overall assessment***

Poland's overall level of alignment with the *acquis* is good. There are clear differences between sectors.

Progress regarding external financial control is substantial. Poland's Supreme Chamber of Control enjoys full independence and has a very high media profile. It already fulfils all major requirements for supreme audit institutions, although further training of staff and the introduction of more detailed audit manuals could be useful in the future.

Further considerable efforts are however required regarding internal financial control. The broad framework for internal financial control was included in the Public Finance Law of last year but executive implementing regulations and an act for public administration audit are not yet adopted. Poland's public **internal financial control system** continues, therefore, to be based on internal financial control units in each ministry, whose functional independence is not assured at the moment in the absence of a unified basis for such a structure. The Polish control authorities will need to establish adequate internal audit legislation and procedures. The responsibilities between budget spending centres/agencies and the Ministry of Finance in relation to ex-ante financial control and internal audit will have to be clearly defined, with special attention to the principle of functional independence of the internal audit function. Relevant staff have to be adequately trained.

The administrative structure for effective internal financial control must be improved and a better audit trail relating to the pre-accession funds has to be developed urgently. Systems for fighting irregularities, fraud, corruption and for recovering lost amounts should be further developed. There is a particular need to further develop the customs inspectorate into a real horizontal anti-fraud structure and the management and control systems of pre-accession funds and future structural funds will require further particular attention in the immediate future.

### ***Chapter 29: Financial and budgetary provisions***

There has been no progress in the adoption of legislation over the past year but other measures have been taken.

**With regard to the national budget and EC co-financing measures** some progress has been made through the inclusion in the 2000 budget of "non-reimbursable foreign funds and expenditure financed from them". This is the first time that such a category has been included. As for **own resources and administrative infrastructure**, some progress has been made in the organisational framework of the Ministry of Finance.

### ***Overall assessment***

There has been a moderate level of alignment with the *acquis* to date. The current budgetary legislation, passed in late 1998, needs still to be further amended and supplemented by stronger regulations and administrative procedures to meet the norms of the EC. The process of consolidating the budget should be continued, with a reduction of the extra-budgetary funds and the standardisation of the rules of financial management. The procedures for multi-annual budgeting, within a medium-term expenditure framework, should be developed. Capital and operational budgeting, for the preparation and the implementation of expenditure programmes need to be more completely integrated. In parallel, the capacity for the appraisal, monitoring and evaluation of programmes and projects should be increased. As noted elsewhere, the central/local

financial relationship needs to be clarified, and probably modifications to the current regulations need to be put in place.

The National Fund is administered by a special Department at the Ministry of Finance, with the responsibility for managing EC pre-accession funds. The operating procedures should be completed.

A very slow pace of progress has been noted in the area of Own Resources where Poland still needs to develop appropriate systems for sugar levies and custom duties. Furthermore, Poland still needs to complete full application of ESA 95 for the proper calculation of the statistical aggregates.

### **3.2. Translation of the *acquis* into the national language**

Applicant countries are to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. The *acquis*, consisting of primary and secondary binding legislation, represents at present a considerable volume of acts, roughly estimated at 60 000-70 000 pages of the Official Journal. To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a centralised Translation Co-ordination Unit has been created in each of the ten candidate countries of central Europe.

The work to translate all the *acquis communautaire* into Polish was launched in 1996, but only in February 2000 were the basic responsibilities of different ministries and central offices defined in a document adopted by the Committee for European Integration. The overall responsibility for the translation and revision process is entrusted to the Translation Co-ordination Unit of the Office of the Committee for European Integration. According to Polish reports, some 26 000 pages had been translated by the end of April 2000, whereas only 4 200 of translated secondary legislation had been revised by the central administration.

According to the NPPM, the main part of translation work is foreseen for the year 2001 with necessary revision taking place in 2002. Urgent additional efforts are required in this area.

### **3.3. General evaluation**

The fresh impetus which can be noted since the Sejm debate on European integration in February and the creation of the Parliamentary Committee on European Law is already beginning to bear fruit with a marked acceleration in the adoption of the *acquis* in comparison to the last reporting period. While much has been done towards regaining momentum these efforts will have to be further intensified and the flow of legislation likewise increased. The need for further effort applies even more to the strengthening of the administrative capacity to adopt the *acquis*. There have been developments in this regard, in particular in the implementation of civil service legislation, but not commensurate with the progress in adopting legislation.

In contrast to the 1999 regular report, there has been progress in adopting legislation in key areas of the internal market *acquis*, standards and certification and state aid. In both cases the necessary framework legislation has been adopted. The emphasis must now turn to the secondary legislation necessary to implement the *acquis* in these areas and the

accompanying administrative capacity. The adoption of new intellectual property legislation is a welcome step although difficulties with the industrial property law remain to be resolved. Legislative progress has also been made in the area of consumer protection. It is still necessary to strengthen the capacity and competence of the relevant structures for enforcement as well as the dissemination of information on the new regulations.

Poland's track record in the free movement of services and capital has been good but there has been little progress over the reporting period. Public procurement and the movement of persons are other areas where progress is urgently required if Poland is to be smoothly integrated into the internal market.

There has been some progress in industrial policy, notably in the automotive sector although the lack of concrete progress in steel restructuring remains a cause for concern.

In the agriculture sector, progress has been made in the elaboration of the rural development plan, however a clear coherent and fully budgetised strategy for the sector remains to be developed. Overall, Poland has not yet launched the substantial transformation which is needed, in terms of policy, *acquis* and structures, in the agriculture and fisheries sectors and in both sectors the necessary legislative work is lagging behind.

In the environment sector despite considerable work on the development of drafts little has been achieved in the way of adopting legislation, similarly for the energy and transport sectors where legislative developments have been limited. Framework legislation has not been transposed. In all three sectors considerable further work is also required to strengthen the administrative capacity.

There have been notable developments with regard to regional policy, again the appropriate structures will need to be developed to implement the national development plan and the application of the NUTS-comparable legislation. In the social field, efforts have been limited and legislative enforcement remains a matter of concern, in particular the capacity of labour institutions.

Some progress has been achieved in justice and home affairs, most notably with regard to the border guards and border management, for which an overall strategy has been developed. Its implementation will require considerable effort and a high degree of co-ordination between the agencies concerned. Efforts are being undertaken to improve the efficiency of the judiciary, these will likewise need to be pursued with vigour. Alignment in some areas remains limited and considerable improvement is required in law enforcement bodies dealing with the fight against organised crime, in particular the police services. In the customs area alignment with the *acquis* and the establishment of an effective implementation capacity both require significant additional efforts as is the case for financial control.

Poland has made notable progress in aligning further its legislation but needs to do more in order to be able to match this effort when adapting and strengthening the structures required with a view to accession. This relates not just to the administrative capacity at the level of central and regional government, although this is clearly primary, but also to the other actors; business operators, NGOs and indeed the public at large, who are all involved in the implementation of the *acquis* in the broadest sense. At the level of the civil service and public administration, it will specifically entail a determined effort to

increase the stability, independence, and efficiency of Poland's administrative capacity as a whole.

This is reflected in the extent to which the short-term priorities of the accession partnership have been addressed. There has been progress in meeting the *acquis* based elements, notably certification and state aids but continued efforts are needed to set up or strengthen capacities in intellectual property protection, certification, state aids, agriculture and regional policy, the social field, customs and justice and home affairs.

Poland has already started to address some of the medium-term Accession Partnership priorities.

## C. Conclusion

Poland continues to fulfil the Copenhagen political criteria.

With regard to the areas for action identified last year, Poland has undertaken initial steps in the reform of the judiciary and in preparing the ground to deal with the most pressing bottlenecks. Such measures are important, as the existence of an effective judiciary is an essential element in the implementation and enforcement of the *acquis*. Similarly with regard to the fight against corruption, initial steps have been taken but further efforts are needed, including the adoption of the necessary legislation. Developments with regard to equal opportunities have been less marked.

These actions will need to be continued and intensified in order to ensure that the necessary measures have been taken by the time of accession. This is particularly important for judicial reform where the priorities set out in the accession partnership are still to be met in the medium term.

Poland is a functioning market economy and should be able to cope with competitive pressure and market forces within the Union in the near term, provided it continues and completes its present reform efforts.

It has maintained adequate macroeconomic stability, and its growth performance has again been impressive. The pace of privatisation has been encouraging and there has also been further restructuring in sensitive sectors such as the coal and defence industries.

However, a number of economic imbalances have emerged: inflation is high and the current account deficit has widened to a level that raises the issue of sustainability. Ensuring medium term fiscal sustainability remains a challenge. There are delays in privatisation in the steel sector and the restructuring of agriculture. Large parts of the state-owned enterprise sector still need to be restructured.

Both macroeconomic and structural policy responses are needed. Fiscal adjustment must take place and efforts towards the sustainability of public finances must continue. Among the remaining reforms to enhance the functioning of markets are improvements to bankruptcy procedures and the completion of the regulatory and supervisory framework for non-banking financial institutions. Measures still need to be taken to improve Poland's infrastructure and to improve the response of the labour markets to changing economic conditions.

The fresh impetus which can be noted since the Sejm debate on European integration in February and the creation of the Parliamentary Committee on European Law is already beginning to bear fruit with a marked acceleration in the adoption of the *acquis* in comparison to the last reporting period. While much has been done towards regaining momentum these efforts will have to be further intensified and the flow of legislation likewise increased. The need for further effort applies even more to the strengthening of the administrative capacity to adopt the *acquis*. There have been developments in this regard, in particular in the implementation of civil service legislation, but not commensurate with the progress in adopting legislation.

In contrast to the 1999 regular report, there has been progress in adopting legislation in key areas of the internal market *acquis*, standards and certification and state aid. In both

cases the necessary framework legislation has been adopted. The emphasis must now turn to the secondary legislation necessary to implement the *acquis* in these areas and the accompanying administrative capacity. The adoption of new intellectual property legislation is a welcome step although difficulties with the industrial property law remain to be resolved. Legislative progress has also been made in the area of consumer protection. It is still necessary to strengthen the capacity and competence of the relevant structures for enforcement as well as the dissemination of information on the new regulations.

Poland's track record in the free movement of services and capital has been good but there has been little progress over the reporting period. Public procurement and the movement of persons are other areas where progress is urgently required if Poland is to be smoothly integrated into the internal market.

There has been some progress in industrial policy, notably in the automotive sector although the lack of concrete progress in steel restructuring remains a cause for concern.

In the agriculture sector, progress has been made in the elaboration of the rural development plan, however a clear coherent and fully budgetised strategy for the sector remains to be developed. Overall, Poland has not yet launched the substantial transformation which is needed, in terms of policy, *acquis* and structures, in the agriculture and fisheries sectors and in both sectors the necessary legislative work is lagging behind.

In the environment sector despite considerable work on the development of drafts little has been achieved in the way of adopting legislation, similarly for the energy and transport sectors where legislative developments have been limited. Framework legislation has not been transposed. In all three sectors considerable further work is also required to strengthen the administrative capacity.

There have been notable developments with regard to regional policy, again the appropriate structures will need to be developed to implement the national development plan and the application of the NUTS-comparable legislation. In the social field, efforts have been limited and legislative enforcement remains a matter of concern, in particular the capacity of labour institutions.

Some progress has been achieved in justice and home affairs, most notably with regard to the border guards and border management, for which an overall strategy has been developed. Its implementation will require considerable effort and a high degree of co-ordination between the agencies concerned. Efforts are being undertaken to improve the efficiency of the judiciary, these will likewise need to be pursued with vigour. Alignment in some areas remains limited and considerable improvement is required in law enforcement bodies dealing with the fight against organised crime, in particular the police services. In the customs area alignment with the *acquis* and the establishment of an effective implementation capacity both require significant additional efforts as is the case for financial control.

Poland has made notable progress in aligning further its legislation but needs to do more in order to be able to match this effort when adapting and strengthening the structures required with a view to accession. This relates not just to the administrative capacity at the level of central and regional government, although this is clearly primary, but also to the other actors; business operators, NGOs and indeed the public at large, who are all



involved in the implementation of the *acquis* in the broadest sense. At the level of the civil service and public administration, it will specifically entail a determined effort to increase the stability, independence, and efficiency of Poland's administrative capacity as a whole.

This is reflected in the extent to which the short-term priorities of the accession partnership have been addressed. There has been progress in meeting the *acquis* based elements, notably certification and state aids but continued efforts are needed to set up or strengthen capacities in intellectual property protection, certification, state aids, agriculture and regional policy, the social field, customs and justice and home affairs.

Poland has already started to address some of the medium-term Accession Partnership priorities.

## D. Accession Partnership and National Programme for the Adoption of the *Acquis*: Global assessment

The purpose of the Accession Partnership is to set out in a single framework:

- the priority areas for further work identified in the Commission's regular report;
- the financial means available to help candidate countries implement these priorities;
- the conditions which will apply to this assistance.

Each candidate has been invited to adopt a National Programme for the Adoption of the *Acquis*. This sets out how the country in question envisages to deal with the Accession Partnership, the timetable for implementing the Partnership's priorities, and implications in terms of human and financial resources. Both the Accession Partnerships and the National Programmes for the Adoption of the *Acquis* are revised on a regular basis, to take account of progress made, and to allow for new priorities to be set.

### 1. Accession Partnership

In the following assessments the main sub-headings are indicated in bold type and further key concepts taken from the Accession Partnership highlighted in italics.<sup>19</sup>

#### *Short-term priorities*

**Economic Criteria:** *economic stability* has largely been achieved although some concerns exist with regard to the sustainability of the current account deficit. On the ground *steel restructuring* continues to take place primarily through further job losses in the sector. However, the links between the actions of individual firms and the national restructuring plan are often limited and there has been no substantive progress with regard to the restructuring and privatisation of the largest steel mills. This aside, the process of *privatisation* has continued with some notable large scale successes. There has been some, limited, progress towards improving the functioning of the *land register*. However, there has been no progress in *improving bankruptcy procedures*. **There has been good progress in meeting a number of the priorities but others, steel, land register, bankruptcy require considerable further efforts.**

**Internal Market:** Despite progress in the adoption of new legislation on *testing and certification* European Operators still face a range of difficulties in accessing the Polish market. The Polish administration does not appear to have a systematic approach to the identification and *elimination* of such barriers.

There has been some progress as concerns the legislative elements of upgrading *industrial and intellectual property rights* however, much remains to be done on the *administrative* aspects. There has been good progress in the adoption or amendment of primary legislation, but the law on standardisation still awaits amendment. The legal

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<sup>19</sup> For the detailed text of the short and medium term priorities established in the 1999 Accession partnership please refer to Council Decision 1999/851/EC, OJ L 335, 28/12/1999.

conditions have been met for the establishment of an administrative framework in line with the *acquis*. There has been little or no progress in the transposition of *new approach directives*, chemicals framework legislation or the *alignment of traditional technical legislation*.

There has been no progress in meeting the priority concerning *free movement of capital*. With regard to *competition* there has been some progress as concerns the primary legislation. *Administrative structures* still require reinforcement. The alignment of the zones remains outstanding as far as the existing regime is concerned.

The *Telecommunications* law has been adopted and the legal conditions for the new regulatory authority put in place. It has not yet been established in practice. The priority relating to *audio-visual* issues has not yet been met. The priority for *taxation* has only partially been met with a change in the excise regime for cigarettes and a gradual convergence of duties on spirits. The adoption of the *Custom's* strategy has been commenced. The application of the customs code remains variable. **There has been good progress in meeting the legislative aspects of a number of priorities. However where implementation and administrative capacity featured in the priority progress has been less marked.**

**Agriculture:** The *Rural Development Plan* has been developed but implementation is still at a very early stage; *import barriers* have become more not less prevalent, *competitiveness* remains an issue which requires considerable further attention; there has been some limited progress with regard to both alignment and the reinforcement of *inspection arrangements*; there has been some limited progress in the rationalisation and up-grading of *testing and diagnostic facilities*. There has been no *alignment of veterinary and phytosanitary legislation* **Overall there has been limited progress in meeting the short term priorities.**

**Transport:** **There has been no progress in meeting the priority on maritime safety standards.**

**Fisheries:** the preparation of a *coherent fisheries policy* and a *restructuring* programme has indeed been accelerated. However, there has been little progress in putting the necessary administrative structures, *resources and equipment relating to inspection and controls at central and regional level and establish fleet register* in place. **There has been very limited progress in meeting this priority.**

**Employment and Social Affairs:** the *national employment strategy* has been prepared and the *joint review* launched. There has been no progress in meeting the priority concerning the strengthening of the *social partners* through the bi-partite dialogue. **There has been limited progress in meeting this priority.**

**Environment:** there has been little progress in the *transposition and implementation* of specific directives where some drafts have been prepared but have not been adopted. There has been little progress with regard to implementation of the *acquis*. There has been limited progress in developing a *financial investment* plan. But progress has been made with regard to the *Environmental Impact Assessment* directive. The Act on Environmental Impact Assessment transposing this directive has been adopted by both chambers and should shortly be signed by the President. There has been very little progress made in strengthening the environmental administration and its *enforcement*

*capacity* both at national and regional level. **Some draft legislation has been prepared but overall there has been limited progress in meeting this priority.**

**Justice and Home Affairs:** a *national integrated inter-agency border management* strategy has been adopted but considerable further attention will need to be paid to coordination between agencies and the provision of the appropriate *budgetary resources*. There has been some progress in strengthening *co-ordination between law enforcement services*. There has been limited progress in upgrading *institutional capacity* to fight *organised crime and drug trafficking*. There has been limited progress in implementing an *anti-corruption and anti fraud* programme. The government is in the process of developing a coherent approach to the issue of corruption and fraud. The relevant conventions remain un-ratified. **Some progress has been made in achieving the objectives. The early progress with regard to the borders needs to be continued while considerable effort needs to be devoted to the fight against corruption.**

**Reinforcement of administrative and judicial capacity, including the management and control of EC funds:** there has been some progress in meeting this priority in particular with regard to *the National Development Plan and the Rural Development Plan* both of which have been adopted. The legislative framework for *external financial control* is almost complete. With regard to *internal financial control* further work is required on the *audit trail, procurement rules and the establishment of a payments agency for SAPARD*. **To meet this priority further legislative work and a great deal of institution building is required.**

#### *Medium-term priorities*

This section covers those medium term priorities where a degree of progress has been made.

**Economic criteria:** with regard to *competitiveness* some progress has been made in SME policy and the promotion of exports, the implementation of the newly adopted law on economic activity should improve the *legal and commercial environment*.

**Internal Market:** the framework legislation is now in place to facilitate the transposition and implementation of *new approach directives* although the process has not yet started. Further efforts have been made with regard to the strengthening of *regulatory bodies* in the area of capital movements. The new *state aid* legislation lays down the basis for the strengthening of the relevant authority. The new *telecommunications* law provides the legal basis for the new regulatory authority. Similarly for *consumer protection* the legislation is now in place but the institutional capacity must be reinforced.

**Agriculture:** some progress has been made in the upgrading of *meat and dairy* facilities.

**Energy:** some preparatory work has been undertaken with regard to preparation for the *Internal market*.

**Transport:** there have been some developments in the sector mainly in terms of improvements in administrative capacity in specific sub sectors.

**Economic and Social Cohesion:** there has been some progress made in developing *regional structures* and the development of the *national policy*.

**Justice and Home Affairs:** some progress have been made with regard to the administrative capacity of the *judiciary* and more is planned. *Border control* is improving where the necessary investments have been made but this effort needs to be intensified along the future borders of the Union. Efforts continue with regard to the fight against *organised crime*, the alignment of *asylum and migration* and police co-operation.

**Reinforcement of administrative and judicial capacity, including the management of EC funds:** A new procedure has been developed for the accelerated adoption of *EC legislation*, there has been some progress in the reinforcement of *institutions* but further, greater efforts are required.

## **2. National Programme for the Adoption of the Acquis**

Since the 1999 regular report the Polish administration has made a considerable effort to improve the NPAA or National Programme for the Preparation of Membership (NPPM), as it is termed in Poland. The main innovation has been the development of a uniform tabular style for the report which is intended to bring all the relevant information together in a more user friendly manner. Finally in some areas the adoption of the tabular approach, while adding clarity in some respects, does reduce the amount of information on the current state of play making it difficult to judge the base line from which progress can be measured.

The revised NPPM adopted by the Polish Council of Ministers in April 2000 is an improvement on the previous version for the reason set out above but also because it strives to take into account the comments in the 1999 regular report concerning the coherence between commitments, the clear statement of priorities and necessary financial resources.

In all of these respects there have been some improvements although to varying degrees. The coherence between the NPPM and commitments made in the negotiations has been improved although there are still instances where there is discord on points of detail, for example with regard to the implementation of common market organisations (CMOs). There is a greater prioritisation of actions but there is still a tendency to include such a vast range of issues that, as observed in the last report the real priorities remain obscured. Administrative reform is also dealt with in some areas in more detail, for example the environment, although in others (employment and social policy) it remains weak.

The areas where the greatest improvements remain to be made concern the forward looking elements of the report and the financial perspectives. There is still a tendency for the NPPM to reflect what has already happened or at least has already been decided, for example in the context of Phare programming, rather than looking towards future areas of work. This tends to limit the effectiveness of the document as a policy tool for programming future assistance through Phare, Ispa and Sapard.

This is further exacerbated by the continued weakness in the treatment of the financial perspectives themselves. There has been some progress since the last regular report in linking financing needs to the priorities. However in many instances these are either short term perspectives, for example in the case of SMEs or miss out on the broader costs of implementing the *acquis*, e.g. the environment. The preparation of a budgetary impact analysis for the approximation process is an essential issue to be addressed to ensure that both further revisions and Poland's pre-accession strategy will be sustainable. Currently

there is a lack of clarity with regard to the financing in a number of areas, for example the environment.

In October 1999 The Polish Government produced a preliminary National Development Plan as an annex to the NPAA. This made proposals for Phare funding in a limited number of regions of the country, and co-financing and implementation mechanisms, covering the period 2000-2002. The programme has undergone modification to reflect changes in the number of regions requiring assistance. The revision should reflect the lessons which the present Member States have learnt over many years of economic and social cohesion programming inside the Union: for a programme to deliver real sustainable results, funds have to be concentrated over time on the most deserving regions.

On the basis of the revised NPPM and the Regional Development Plan, the Polish government should formulate a Proposal for Phare Support in 2001, covering the three aspects of the Phare programme: Institution Building (including participation in Community programmes), Investment in the *Acquis* (including participation in the 5<sup>th</sup> Framework Programme), and Economic and Social Cohesion.

## **Annexes**

***Human Rights Conventions ratified by the Candidate Countries,  
September 2000***

<i>Parties to following conventions and protocols</i>	<b>BG</b>	<b>CY</b>	<b>CZ</b>	<b>EE</b>	<b>HU</b>	<b>LV</b>	<b>LT</b>	<b>MT</b>	<b>PL</b>	<b>RO</b>	<b>SK</b>	<b>SV</b>	<b>TK</b>
<b>ECHR</b> (European Convention on Human Rights)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 1 (right of property et al.)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 4 (freedom movement et al.)	O	X	X	X	X	X	X	O	X	X	X	X	O
Protocol 6 (death penalty)	X	X	X	X	X	X	X	X	O	X	X	X	O
Protocol 7 (ne bis in idem)	O	X	X	X	X	X	X	O	O	X	X	X	O
<b>European Convention for the Prevention of Torture</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>European Social Charter</b>	O	X	X	O	X	O	O	X	X	O	X	O	X
<b>Revised European Social Charter</b>	X	X	O	X	O	O	O	O	O	X	O	X	O
Additional Protocol to the ESC (system of collective complaints)	O	X	O	O	O	O	O	O	O	O	O	O	O
<b>Framework Convention for National Minorities</b>	X	X	X	X	X	O	X	X	O	X	X	X	O
<b>ICCPR</b> (International Covenant on Civil and Political Rights)	X	X	X	X	X	X	X	X	X	X	X	X	O
Optional Protocol to the ICCPR (right of individual communication)	X	X	X	X	X	X	X	X	X	X	X	X	O
Second Optional Protocol to ICCPR (abolition death penalty)	X	X	O	O	X	O	O	X	O	X	X	X	O
<b>ICESCR</b> (International Covenant on Economic, Social and Cultural Rights)	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CAT</b> (Convention against Torture)	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>CERD</b> (Convention on the Elimination of All Forms of Racial Discrimination)	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CEDAW</b> (Convention on the Elimination of All Forms of Discrimination against Women)	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>CRC</b> (Convention on the Right of the Child)	X	X	X	X	X	X	X	X	X	X	X	X	X

X = Convention ratified  
O = Convention NOT ratified

BG = Bulgaria; CY = Cyprus; CZ = Czech Republic; EE = Estonia; HU = Hungary; LV = Latvia; LT = Lithuania; MT = Malta; PL = Poland; RO = Romania; SK = Slovakia; SV = Slovenia; TK = Turkey



## Statistical data

	1995	1996	1997	1998	1999
<b>Basic data (as of 30 June)</b>	<b>in 1000</b>				
Population (average)	38.588	38.618	38.650	38.666	38.654
	<b>in km<sup>2</sup></b>				
Total area	312.685	312.685	312.685	312.685	312.685

<b>National accounts</b>	<b>1000 Mio Zloty</b>				
Gross domestic product at current prices	308,1	387,8	472,4	553,6	617,0
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	97,2	113,3	127,1	141,3	146,0
	<b>ECU/euro</b>				
Gross domestic product per capita <sup>20</sup> at current prices	2.500	2.900	3.300	3.700	3.800
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	7,0	6,0	6,8	4,8	4,2
	<b>in Purchasing Power Standard</b>				
Gross domestic product per capita <sup>21</sup> at current prices	5.664	6.224	6.889	7.287	7.806
	<b>% of Gross Value Added<sup>22</sup></b>				
Structure of production					
- Agriculture	6,9	6,4	5,5	4,8	3,8
- Industry (excluding construction)	31,7	30,1	29,3	27,6	27,7
- Construction	7,3	7,4	7,9	8,7	8,9
- Services	54,1	56,1	57,2	59,0	59,6
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	77,9	79,7	79,8	79,0	79,4
- household and NPISH	61,2	63,3	63,7	63,6	63,4
- general government	16,8	16,4	16,0	15,4	16,0
- Gross fixed capital formation	18,6	20,7	23,5	25,1	26,2
- Stock variation <sup>23</sup>	1,0	1,1	1,1	1,1	0,9
- Exports of goods and services	25,4	24,3	25,5	28,2	26,2
- Imports of goods and services	23,0	25,8	29,8	33,4	32,7

<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index <sup>24</sup>	27,8	19,9	15,0	11,6	7,2

<sup>20</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>21</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>22</sup> Including FISIM.

<sup>23</sup> These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

<sup>24</sup> Changes in Methodology: PROXY HICP since 1997 (see methodological notes).

<b>Balance of payments<sup>25</sup></b>	<b>Mio ECU/euro</b>				
<b>-Current account</b>	653	-2.571	-5.065	-6.156	-10.855
-Trade balance	-1.258	-5.739	-8.661	-11.450	-13.492
<i>Exports of goods</i>	19.144	21.703	27.099	28.960	24.721
<i>Imports of goods</i>	20.403	27.442	35.760	40.410	38.213
-Net services	2.704	2.681	2.797	3.761	-1.524
-Net income	-1.525	-847	-996	-1.051	-754
-Net current transfers	732	1.334	1.794	2.584	1.505
<i>-of which: government transfers</i>	187	65	106	391	207
- FDI (net) inflows	2.797	3.542	4.328	5.678	6.821

<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-2,0	-2,3	-2,4	-2,1	-2,7

<b>Financial indicators</b>	<b>% of Gross Domestic Product</b>				
Gross foreign debt of the whole economy	30,47	27,38	26,35	29,17	33.65 E
	<b>as % of exports</b>				
Gross foreign debt of the whole economy	120,10	112,72	103,39	103,60	128.24 E
Monetary aggregates	<b>1000 Mio ECU/euro</b>				
- M1	11,5	13,7	18,6	19,9	23,9
- M2	32,1	38,0	45,5	53,9	63,4
Total credit	27,4	35,6	42,1	48,8	57,9
Average short-term interest rates	<b>% per annum</b>				
- Lending rate	:	24,6	25,4	23,6	17,4
- Deposit rate	22,8	17,3	17,2	16,8	10,4
ECU/euro exchange rates	<b>(1 ECU/euro=.. New Zloty)</b>				
- Average of period	3,170	3,422	3,715	3,918	4,227
- End of period	3,247	3,601	3,880	4,089	4,159
- Effective exchange rate index	<b>December 1990=100</b>				
	40,4	37,3	33,7	31,9	29,0
Reserve assets	<b>Mio ECU/euro</b>				
- Reserve assets (including gold)	11.369	14.388	18.741	23.463	25.405
- Reserve assets (excluding gold)	11.230	14.248	18.502	22.648	24.474

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-4.709	-10.001	-14.616	-16.811	-17.404
Exports	17.516	19.251	22.732	25.209	25.709
Imports	22.225	29.253	37.348	42.021	43.112
	<b>previous year = 100</b>				
Terms of trade	101,7	97,3	99,4	104,3	:
	<b>as % of total</b>				
Exports with EC-15	70	66,3	64,2	68,3	70,5
Imports with EC-15	64,6	63,9	63,8	65,9	64,9

<sup>25</sup> Data for 1999 are from National Web site source and are on a Cash basis (other years are on a transaction basis).

<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	1,2	1,1	0,9	0,5	0,0
Net migration rate (including corrections)	-0,5	-0,3	-0,3	-0,3	-0,4
	<b>per 1000 live-births</b>				
Infant mortality rate	13,6	12,2	10,2	9,5	8,9
Life expectancy :	<b>at birth</b>				
Males:	67,6	68,1	68,5	68,9	68,8
Females:	76,4	76,6	77,0	77,3	77,5

<b>Labour market (ILO methodology)</b>	<b>% of labour force</b>				
Economic activity rate	58,8	58,2	57,7	57,4	56,7
Unemployment rate, total <sup>26</sup>	13,3	12,3	11,3	10,6	12,5
Unemployment rate of persons < 25 years	31,2	28,5	24,8	23,2	30,0
Unemployment rate of persons >= 25 years	10,9	10,1	9,4	8,8	10,4
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	22,6	22,1	20,5	19,1	18,1
- Industry (excluding construction)	25,9	25,5	25,3	25	24,6
- Construction	6,1	6,2	6,6	7,0	6,8
- Services	45,4	46,2	47,6	48,9	50,5

<b>Infrastructure</b>	<b>in km per 1000 Km<sup>2</sup></b>				
Railway network	77	75	75	74	73
	<b>km</b>				
Length of motorways	246	258	264	268	268

<b>Industry and agriculture</b>	<b>previous year = 100</b>				
Industrial production volume indices	110,2	109,0	111,2	104,8	104,4
Gross agricultural production volume indices	110,7	100,7	99,8	105,9	94,6

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars	195	208	221	230	240
Telephone subscribers	148	169	197	228	261
Number of Internet connections <sup>27</sup>	:	:	:	2,57	:

E= estimates

<sup>26</sup> In 1999: Q4 (permanent survey with quarterly reporting).

<sup>27</sup> Source: United Nations.



## Methodological Notes

### Inflation

*Consumer price index:* the EU Member States have designed a new consumer price index in order to comply with the obligations of the EC Treaty, as a part of the preparations for the common currency. The aim was to produce CPIs comparable between Member States. The main task was to harmonise methodologies and coverage. The result was the Harmonised Index of Consumer Prices (HICP). A similar exercise has been started with Candidate Countries (CC). In respect to enlargement, it is equally important that their economic performance is assessed on the basis of comparable indices. Some progress has already been made towards adapting the new rules. Since January 1999 CCs report monthly to Eurostat so-called proxy HICPs that are based on national CPIs but adapted to the HICP coverage. Since 1997 the data in the table are these proxy HICPs. Reliable and comparable HICPs are expected to be available in CCs from January 2001 onwards.

### Finance

#### Note on sources:

*General government deficit / surplus:* Candidate Countries are presently unable to provide reliable data on a national accounts basis. Eurostat is working closely with these countries with the aim of improving these statistics. Given the lack of reliable data, an approximation for general government deficit / surplus is derived from the IMF's Government Finance Statistics Yearbook (see explanation below).

*Gross foreign debt:* OECD External Debt Statistics publication has been used as the source. Data for 1999 are estimates.

*Foreign official reserves, monetary aggregates, interest rates, and effective exchange rates:* where possible, Eurostat's reporting form for Candidate Countries is used. Failing this, the IMF's 'International Financial Statistics' publication has been used as the source.

*Exchange rates:* against the ECU (euro). European Commission data is used for ECU rates, European Central Bank data for euro rates.

#### Note on methodology:

*General government deficit / surplus:* approximation of the national accounts definition, derived from data based on the IMF's GFS (government finance statistics) methodology. The general government deficit / surplus is obtained by adding the consolidated central government deficit / surplus (normally including certain extra-budgetary funds) to the local government deficit / surplus. The total is adjusted for net lending / borrowing for specific policy purposes, which is a financing item in the national accounts. GFS data are on a cash basis.

*Gross foreign debt:* of the whole economy; includes both short- and long-term debt. According to the convention, the stock of outstanding debt is converted from US dollars into ECU at end-year exchange rates, whereas GDP is converted into ECU using annual average exchange rates. For the ratio of gross foreign debt to exports, the national accounts definition of exports of goods and services is used.

*Monetary aggregates:* end-year stock data. M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks. Total credit

means domestic credit to the government (net of deposits, including non-financial public enterprises), plus the private non-financial sector, plus other non-monetary financial institutions.

*Interest rates:* annual average rates. Lending rates generally consist of the average rate charged on loans granted by reporting banks. Deposit rates refer to average demand and time deposit rates.

*Exchange rates:* ECU exchange rates are those that were officially notified to the European Commission until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank, where available. The effective exchange rate index (nominal) is weighted by major trading partners, and calculated on a base period of 1995 (annual average), in the case of Poland (December 1990).

*Reserve assets:* end-year stock data. They are defined as the sum of central bank holdings of gold, foreign exchange, and other (gross) claims on non-residents. Gold is valued at end-year market price.

## **External trade**

*Imports and exports (current prices):* recording is based upon the special trade system, according to which; external trade comprises goods crossing the customs border of the country. Trade data excludes direct re-exports, trade in services and trade with customs free zones as well as licenses, know-how and patents. Value of external trade turnover includes the market value of the goods and the additional costs (freight, insurance etc.). The term FOB means that all costs incurred in the course of transport up to the customs frontier are charged to the seller. The term CIF means that the purchaser pays the additional costs. Exports are recorded here on FOB basis. Recording of data is realised with the date on which the commodities cross the customs border. Value of external trade turnover in the case of imports is expressed in terms of CIF.

*Terms of trade:* transaction price indices of exports and imports (in Polish currency terms) are calculated on the basis of observations of prices of selected commodities on the lowest PCN level, utilising data regarding external trade turnover (exports - FOB, imports - CIF). Annual price indices are compiled by utilising the structure of turnover value in the surveyed year as the system of weights. *Terms of trade index presents relation of changes in prices of exported commodities to change in prices of imported commodities.*

*Imports and exports with EC-15:* data declared by the Republic of Poland.

## **Demography**

*Net migration rate.* Crude rate of net migration (recalculated by EUROSTAT) for year X, is: population (X+1) - population (X) - Deaths (X) + Births (X). This assumes that any change in population not attributable to births and deaths is attributable to migration. This indicator includes therefore also administrative corrections (and projection errors if the total population is based on estimates and the births and deaths on registers). Figures are in this case more consistent. Further, most of the difference between the crude rate of net migration provided by a country and the one calculated by Eurostat is caused by an under reporting or delay in reporting of migration.

## **Labour market**

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

- Labour force: employed and unemployed persons according to 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 co-operatives or contributing family workers.

- The unemployed: all persons aged 15+, who concurrently meet all three conditions of the ILO definition for being classified as the unemployed:

have no work,

are actively seeking a job and

are ready to take up a job within a fortnight.

Members of the armed forces living in private households are included in the economically active population. Women on maternity leave are included while persons on child - care leave are excluded.

*Unemployment rate (by ILO methodology)*: percentage of the unemployed in labour force. This rate is derived from LFS (Labour Force Survey) observing the ILO definitions and recommendations (see ILO definitions above).

*Average employment by NACE branches (LFS)*: this indicator is derived from LFS (Labour Force Survey) observing the ILO definitions and recommendations.

## **Infrastructure**

*Railway network*: all railways in a given area. This does not include stretches of road or water even if rolling stock should be conveyed over such routes; e.g. by wagon-carrying trailers or ferries. Lines solely used for tourist purposes during the season are excluded as are railways constructed solely to serve mines; forests or other industrial or agricultural undertakings and which are not open to public traffic. The data considers the construction length of railways.

*Length of motorway*: road, specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(a) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;

(b) does not cross at level with any road, railway or tramway track, or footpath;

(c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

Entry and exit lanes of motorways are included irrespectively of the location of the signposts. Urban motorways are also included.

## **Industry and agriculture**

*Industrial production volume indices*: 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 in constant prices of the year preceding the examined one. The indices of the gross agricultural production are calculated on the basis of the previous year.

## **Standard of living**

*Number of cars.* Passenger car: road motor vehicle, other than a motor cycle, intended for the carriage of passengers and designed to seat no more than nine persons (including the driver).

The term "passenger car" therefore covers microcars (need no permit to be driven), taxis and hired passenger cars, provided that they have less than ten seats. This category may also include pick-ups.

*Telephone subscribers:* excluding mobile phone subscriptions.

## **Sources**

Total area, infrastructure, demography, labour market, industry and agriculture, standard of living (except Internet connections): National sources.

Balance of payment National accounts, inflation rate, external trade, finance: Eurostat.